

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA**

IN RE: SOCIAL SECURITY CASES

**STANDING ORDER
NUMBER 4**

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The following procedures shall apply to all actions under 42 U.S.C. § 405(g) seeking a review on the record of a final decision of the Commissioner of Social Security that presents only an individual claim:

1. The Clerk of Court will notify the Commissioner of the commencement of the action by transmitting a “Notice of Social Security Action Commenced” to the Social Security Administration’s Office of General Counsel and to the United States Attorney for the Southern District of Alabama. The plaintiff need not serve a summons and complaint. The Clerk of Court will docket and transmit the Notice after the complaint is filed and either (i) the applicable filing fee is paid, or (ii) the Court grants the plaintiff leave to proceed *in forma pauperis*.
2. The Commissioner of Social Security shall file an answer within 60 days after the Notice of Social Security Action Commenced is transmitted by the Clerk of Court. The answer may be limited to a certified copy of the administrative record, and to any affirmative defenses under Civil Rule 8(c). The Commissioner may, but is not required to, answer any allegations that the Commissioner may wish to address in the pleadings.
3. The Commissioner must file any motion under Federal Rule of Civil Procedure 12 within 60 days after the Notice of Social Security Action Commenced is transmitted by the Clerk of Court. The filing of a Rule 12 motion alters the time to answer as provided by Federal Rule of Civil Procedure 12(a)(4), unless the Court sets a different time.

4. The plaintiff must file and serve on the Commissioner a Brief for the requested relief within 30 days after the answer is filed or 30 days after entry of an order disposing of the last remaining Federal Rule of Civil Procedure 12 motion, whichever is later. The Brief must list the specific errors upon which plaintiff seeks reversal of the Commissioner's decision (see sample Brief, Attachment A). Plaintiff's Brief shall not exceed twenty (20) pages in length, exclusive of any caption, cover page, table of contents, table of authorities, signature block, and appendices.

5. The Commissioner must file and serve on the plaintiff a Brief within 30 days after service of the plaintiff's Brief. The Commissioner's Brief must specifically address the errors identified by plaintiff, and shall not exceed fifteen (15) pages in length, exclusive of any caption, cover page, table of contents, table of authorities, signature block, and appendices.

6. The plaintiff may file and serve on the Commissioner a Reply Brief within 14 days after service of the Commissioner's Brief. The plaintiff's Reply Brief shall not exceed eight (8) pages in length, exclusive of any caption, cover page, table of contents, table of authorities, signature block, and appendices.

7. The Briefs must support assertions of fact by citations to particular parts of the record. The Briefs must also cite all statutes, regulations, and cases relied upon in the conclusions of law that are presented. If a party references a particular regulation, Social Security Ruling, recently-enacted statutory amendment, or unpublished opinion that is not readily available on Internet legal websites, a copy shall be attached to the Brief as an Appendix. This Appendix should also contain a copy of any referenced materials not mentioned specifically herein that could not reasonably be expected to be readily available to the Court.

8. After the plaintiff's Reply Brief is filed or the time for such filing expires, the

action will be scheduled for oral argument upon 20 days' notice unless either (i) the parties waive oral argument, or (ii) the Court in its discretion determines that oral argument is not necessary.

9. At oral argument, each party will be afforded fifteen (15) minutes to present arguments to the Court. Additional time may be permitted in the Court's discretion for good cause shown. Counsel for plaintiff shall identify the specific errors about which plaintiff complains. Counsel for defendant will then have an opportunity to set forth reasons why the Commissioner's decision should be affirmed.

10. A scheduling order shall be entered by the Clerk of Court in each Social Security action upon receipt of the complaint and filing fee, or the granting of an IFP motion.

11. The effective date of this Standing Order shall be January 27, 2023. It supersedes all previous standing orders governing the procedures to be employed by this Court to resolve appeals of decisions of the Commissioner of Social Security.

Done this 27 day of January, 2023.



SONJA F. DAVINS
UNITED STATES MAGISTRATE JUDGE



KATHERINE P. NELSON
UNITED STATES MAGISTRATE JUDGE



P. BRADLEY MURRAY
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

JOHN DOE,	:
	:
Plaintiff,	:
	:
vs.	: CIVIL ACTION 00-0000-XX-X
	:
COMMISSIONER OF SOCIAL	:
SECURITY,	:
	:
Defendant.	:

(Sample)

PLAINTIFF'S/DEFENDANT'S BRIEF

Procedural History

[Briefly and succinctly discuss the procedural history at the administrative level. Provide a description of the type of claims (DIB/SSI), and alleged impairments (note: only those impairments properly raised at the administrative level will be considered on appeal), and list filing and hearing dates. Summarize the relevant findings of the ALJ and Appeals Council and provide the dates of these decisions.]

Claims on Appeal

[List all non-frivolous claims reviewable on appeal, e.g.:

1. Plaintiff asserts that the ALJ/Commissioner committed error by...
2. Etc.
3. Etc.]

Findings of Fact and Conclusions of Law

[For each separate claim, identify the relevant facts relied upon to support the claim and relate the facts to a record citation (the Court will not give any weight to facts which are not supported by a record citation). Then, for each separate claim, briefly and succinctly discuss the law as it applies to the claim and the facts related to that claim.]

Conclusion

[State the recommended conclusion, e.g.:

Based upon the foregoing, the decision of the Commissioner should be affirmed/reversed/ remanded for]

Submitted this ____ day of _____, 2008.

Counsel for Plaintiff/Defendant

Certificate of Service

I hereby certify . . .

Counsel for Plaintiff/Defendant