

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

|                                         |   |                                             |
|-----------------------------------------|---|---------------------------------------------|
|                                         | ) | Case No.                                    |
|                                         | ) |                                             |
| Plaintiff,                              | ) | United States District Judge                |
|                                         | ) |                                             |
| v.                                      | ) |                                             |
|                                         | ) | Magistrate Judge                            |
| <u>Commissioner of Social Security,</u> | ) | Jennifer Dowdell Armstrong                  |
|                                         | ) |                                             |
| Defendant.                              | ) | <b><u>SOCIAL SECURITY INITIAL ORDER</u></b> |
|                                         | ) |                                             |

The plaintiff brings this action under 42 U.S.C. § 405(g) and/or 42 U.S.C. § 1383(c). It is before the Court either for entry of a Report and Recommendation or, upon consent of the parties, for entry of final judgment.

**IT IS HEREBY ORDERED:**

**Plaintiff's Mandatory Notice to the Government**

1. Plaintiff's counsel must (a) promptly email the case name, case number, and the social security number of the claimant (or the worker on whose wage record the application for benefits was filed) to the United States Attorney's Office at [USAOHN.SSACOMPL@usdoj.gov](mailto:USAOHN.SSACOMPL@usdoj.gov) and [ogc.ndoh@ssa.gov](mailto:ogc.ndoh@ssa.gov) and (b) file a certificate with this Court confirming that such notice has been sent, either by separate filing or as an allegation in the complaint. *See* LR 9.1, 16.3.1(c).

**Initial Considerations**

2. Unless otherwise ordered, proceedings and filings in this action are to proceed in accordance with LR 16.3.1.

3. The parties are strongly encouraged to discuss the potential abandonment of claims or defenses, the possibility of a joint motion for remand, the potential to consent to the jurisdiction

of the magistrate judge pursuant to 28 U.S.C. § 636(c), and any other matter that could advance the efficient resolution of this appeal.

### **Response to the Complaint**

4. Unless a motion to dismiss is filed, the defendant must file a copy of the certified administrative record within 60 days of being served with the complaint. The filing of the transcript will suffice as the agency's answer to the complaint. *See* LR 16.3.1(d). No extensions will be granted beyond this 60-day period unless the defendant shows extraordinary circumstances. Transcripts of the administrative record are not available online and may be filed without redactions, pursuant to LR 8.1(d). *See also* Fed. R. Civ. P. 5.2(b)(2), (c).

### **Merits Briefing – Initial Considerations**

5. The Court expects the parties to fully and fairly present all relevant evidence in the record—both favorable and unfavorable—in their briefing. The parties must identify in their briefs all the evidence they believe to be relevant to their claims or defenses.

6. Citations to the administrative record must be to the *exact* and *specific* transcript page number.<sup>1</sup> If a factual assertion or legal argument relying upon the record is offered without citation, the Court likely will not consider it.

7. A party's briefing must *concisely* set forth the relevant statutes, regulations, caselaw, and other authority supportive of their position. Any facts relied upon in the argument or analysis section of a brief must be set forth in the facts section.

8. Briefs must conform to the formatting requirements of LR 10.1, including in that the main body of the text must be double-spaced except for quoted material. Additionally, briefs must be in 12-point font. Footnotes may be single-spaced but must be at least in 11-point font.

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<sup>1</sup> Do not cite to the electronic PageID# at the top of the document.

9. A party seeking an extension of any briefing deadline must file a motion at least three business days before the deadline date; the motion must state whether the request is opposed. The Court will not grant extensions as a matter of routine; parties must show good cause for their requests. Indeed, the Court strongly encourages the parties to file their submissions at the earliest feasible date.

#### **Merits Briefing – Plaintiff’s Brief on the Merits**

10. Within 45 days of the filing of the certified administrative record, the plaintiff must file their primary submission captioned “Plaintiff’s Brief on the Merits.” *See* LR 16.3.1(e)(1). If the plaintiff fails to file their primary submission on time, the case may be subject to dismissal for want of prosecution without further notice.

11. The brief must include (a) a list of the legal issues presented for decision; (b) a statement of the relevant facts with specific citations to the record; and (c) a legal analysis providing specific arguments in support of each issue presented, supported by specific references and citations to the relevant evidence, statutes, caselaw, and other materials supportive of the plaintiff’s position. The submission shall state with particularity the grounds for any relief sought and the legal arguments in support, and shall conclude with a statement of the relief sought.

12. The plaintiff’s submission may not exceed 25 pages. *See* LR 16.3.1(e)(4).

#### **Merits Briefing – Defendant’s Brief on the Merits**

13. Within 45 days of the filing of the plaintiff’s brief on the merits, the defendant must file a response to the plaintiff’s primary submission captioned “Defendant’s Brief on the Merits.” *See* LR 16.3.1(e)(2). If the defendant fails to file a responsive submission on time, review may be undertaken based on the plaintiff’s brief only.

14. The defense brief must include (a) a statement of the relevant facts with specific citations to the record and (b) a legal analysis providing specific arguments in response to each issue presented in the plaintiff's brief, supported by specific references and citations to the relevant evidence, statutes, caselaw, and other materials supportive of the defendant's position.

15. The defendant's submission may not exceed 25 pages. *See* LR 16.3.1(e)(4).

**Merits Briefing – Optional Reply Brief**

16. If the plaintiff chooses to respond to the defendant's brief, the plaintiff must file the response—captioned as “Plaintiff's Reply Brief”—within 14 days of the filing of the defendant's brief. *See* LR 16.3.1(e)(3).

17. The reply brief may not exceed 10 pages. *See* LR 16.3.1(e)(4).

Dated: \_\_\_\_\_

/s/ Jennifer Dowdell Armstrong  
JENNIFER DOWDELL ARMSTRONG  
UNITED STATES MAGISTRATE JUDGE