

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

<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 10px;"></div> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p style="text-align: center;">COMMISSIONER OF SOCIAL SECURITY,</p> <p style="text-align: center;">Defendant.</p>	<p>CASE NO.</p> <p>DISTRICT JUDGE</p> <p>MAGISTRATE JUDGE JAMES E. GRIMES JR.</p> <p><b>SOCIAL SECURITY INITIAL ORDER</b></p>
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Plaintiff brings this action under 42 U.S.C. § 405(g). It is before this Court either for entry of a Report and Recommended Decision or, upon consent of the parties, for entry of final judgment. I ORDER the following:

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

1. Plaintiff's counsel must (a) immediately email the case name, case number, and Plaintiff's social security number to the United States Attorney's Office USAOHN.SSACOMPL@usdoj.gov and ch.il.ogc.ndohio@ssa.gov, and (b) file notice of the disclosure with the Court, as required by Local Rule 9.1.

**Answer and Transcript**

2. Within 60 days after notice of the complaint is sent by CM/ECF, Defendant must file the certified administrative record. No extensions will be granted beyond this 60-day period unless defendant shows good cause. Under Federal Rule of Civil Procedure 5.2(b)(2) and (5) and Local Rule 8.1(d), transcripts of the administrative record are not available online and may be filed without redaction.

**Plaintiff's Brief on the Merits**

3. Within 45 days<sup>1</sup> of the filing of the answer and transcript, Plaintiff must file his or her primary submission. That filing must be captioned

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<sup>1</sup> The Court notes that Rules 6 & 7 of the Supplemental Rules for Social Security Review Actions Under 42 U.S.C. § 405(g) (effective Dec. 1, 2022)

*Plaintiff's Brief on the Merits*. The *Plaintiff's Brief on the Merits* must state with particularity both the grounds for any relief sought and the legal arguments in support of those grounds for relief. It must include a "Conclusion" setting forth the specific relief sought.

4. Although Local Rule 16.3.1(e)(1) provides plaintiff a 45-day period to file the *Plaintiff's Brief on the Merits*, this Court expects that Plaintiff will file the brief at the earliest possible date. If Plaintiff fails to file the *Plaintiff's Brief on the Merits* within 45 days after the answer (and a motion for extension has not been granted), the case may be dismissed for want of prosecution without further notice.

### **Defendant's Brief on the Merits**

5. Within 45 days after Plaintiff files the *Plaintiff's Brief on the Merits*, Defendant must file a response, captioned *Defendant's Brief on the Merits*. If Defendant fails to file *Defendant's Brief on the Merits* within that time (and a motion for extension has not been granted), this Court may undertake review based only on Plaintiff's brief.

### **Reply Brief**

6. If Plaintiff chooses to respond to *Defendant's Brief on the Merits*, Plaintiff may file a reply brief, captioned *Plaintiff's Reply Brief*, within 14 days from the date Defendant files the *Defendant's Brief on the Merits*. Plaintiff's reply brief must only address issues raised in Defendant's Brief and must not reiterate arguments previously presented.

### **Extensions for Briefs**

7. The Court will not grant extensions to file briefs except on showing of good cause. Any extension request must be attested to and specifically explain why an extension is necessary. The request must list briefing deadlines, with case names and numbers, for other cases for which counsel is primarily responsible and must include an explanation for why those cases must take priority over this case. An extension request generally asserting the press of other business is insufficient to show good cause. Any request for an extension of time must be filed *at least five days before* the filing deadline. Extension requests that do not comply with these requirements will be denied.

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provides a different schedule than Local Rule 16.3.1. Nonetheless, the Court will follow the Local Rule.

## Requirements for Briefs

8. Briefs on the merits may not exceed 25 double-spaced pages in length. A reply brief may not exceed ten double-spaced pages in length. No brief may use less than 12-point font or have margins of less than one inch. Footnotes must use the same font size as text in the body of a brief.

9. *Plaintiff's Brief on the Merits* must first set forth a list of "Legal Issues," followed by a recitation of facts in a "Facts" section, and then an "Argument" or "Analysis" section. Every fact asserted in the *Facts* section must be supported by citation to an exact and specific transcript page number. For example, if citing a medical finding found on a single page of a 20-page exhibit, the brief must cite the specific page, not generally to the 20-page Exhibit. Citations to the transcript must refer to the page number indicated on the lower right-hand corner of the document, and NOT to the PageID # at the top of the document. All facts relevant to the legal issues and discussion must be set forth in the *Facts* section.

10. Plaintiff's *Argument* section must address each of the Commissioner's findings that Plaintiff claims is not supported by substantial evidence by specifically citing evidence in the transcript that supports Plaintiff's arguments.

11. *Defendant's Brief on the Merits* must specifically address the legal issues and facts cited by Plaintiff and must cite, by exact and specific transcript page number, all relevant facts in a "Facts" section. Defendant's *Facts* section should be followed by an "Argument" or "Analysis" section.

12. The *Facts* section of both briefs must accurately recite the record without argument, coloring, or spin. A party's arguments should be in the *Argument* or *Analysis* section of the brief, not in the *Facts* section, and must include introductory headings identifying the claimed errors.

13. Each introductory heading in the Argument or Analysis section of a brief must correspond to the argument presented under the heading. Failure to comply with this requirement may result in (a) waiver of the arguments in the heading and in the text following the heading; (b) striking of the offending brief; and (c) other appropriate sanctions. Similarly, bald assertions of error—those unsupported by explanation and argument—will be deemed waived.

14. The parties must fully and fairly present all relevant evidence, both favorable and unfavorable, in the record. Briefs must cite concisely the relevant statutory authority and case law supporting the party's position. Any facts recited in support of the *Argument* or *Analysis* section of a brief must also be

set forth in the *Facts* section of the brief. The Court will not consider facts referenced in a party's argument unless those facts have been set out in the *Facts* section of the party's brief. Any factual allegation or argument that relies on the record but that is not supported by a specific citation to the record will not be considered by the Court. Likewise, if the portion of the record cited to support a factual allegation or argument does not support the allegation or argument, the allegation or argument will not be considered by the Court. The Court will deem waived a party's reliance on any evidence not included in the party's brief(s).

Dated:

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James E. Grimes Jr.  
U.S. Magistrate Judge