

## **F.R.Civ.P. 16. Pretrial Conferences; Scheduling; Management**

### **LRCiv 16.1**

#### **PROCEDURE IN SOCIAL SECURITY CASES**

In cases pursuant to 42 U.S.C. § 405(g) that present an individual claim seeking judicial review of decisions by the Commissioner of Social Security, the parties must observe the following briefing procedures, rather than filing motions/cross-motions for summary judgment:

(a) **Certified Administrative Record.** The Certified Administrative Record shall serve as the Commissioner's Answer, unless a separate answer is timely filed.

(b) **Opening Brief.** Within thirty (30) days after the answer is filed or thirty (30) days after entry of an order disposing of the last remaining motion filed under Rule 4(c) of the Supplemental Social Security Rules, whichever is later, Plaintiff must file an opening brief addressing why the Commissioner's decision is not supported by substantial evidence or why the decision should otherwise be reversed or the case remanded. Plaintiff's opening brief must set forth all alleged errors. The brief must also contain, under appropriate headings and in the order indicated below, the following:

(1) A statement of the issues presented for review, set forth in separate numbered paragraphs.

(2) A statement of the case. This statement should indicate briefly the course of the proceedings and its disposition at the administrative level.

(3) A statement of facts. This statement of the facts must include Plaintiff's age, education, and work experience; a summary of the physical and mental impairments alleged; a brief outline of the medical evidence; and a brief summary of other relevant evidence of record. Each statement of fact must be supported by reference to the page in the record where the evidence may be found.

(4) An argument. The argument, which may be preceded by a summary, must be divided into sections separately treating each issue. Each contention must be supported by specific reference to the portion of the record relied upon and by citations to statutes, regulations, and cases supporting Plaintiff's position. If any requested remand is

for the purpose of taking additional evidence, such evidence must be described in the opening brief, and Plaintiff's argument must show that the additional evidence is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding. If such additional evidence is in the form of a consultation examination sought at Government expense, Plaintiff's opening brief must make a proffer of the nature of the evidence to be obtained.

(5) A short conclusion stating the relief sought.

(c) **Answering Brief.** Defendant must file an answering brief within thirty (30) days after service of Plaintiff's opening brief. Defendant's brief must (1) respond specifically to each issue raised by Plaintiff and (2) conform to the requirements set forth above for Plaintiff's brief, except that a statement of the issues and a statement of the case and a statement of the facts need not be made unless Defendant is dissatisfied with Plaintiff's statement thereof.

(d) **Reply Brief.** Plaintiff may file a reply brief within fourteen (14) days after service of Defendant's brief.

(e) **Length of Briefs.** Unless otherwise ordered by the Court, the opening and answering briefs may not exceed twenty-five (25) pages, including any statement of facts, with the reply brief limited to eleven (11) pages. The case will be deemed submitted as of the date on which Plaintiff's reply brief is filed or due.

(f) **Oral Argument.** If either party desires oral argument, it must be requested in the manner prescribed by Rule 7.2(f) of the Local Rules of Civil Procedure upon the filing of the opening or answering brief. Whether to allow oral argument is at the discretion of the Court.