

January 30, 2023

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**BY: Michael Trujillo
DEPUTY

THE HONORABLE ANNE T. BERTON §
 § **ALL SOCIAL SECURITY APPEALS**
 §

STANDING ORDER REGARDING SOCIAL SECURITY APPEALS

This Standing Order is to inform counsel and parties of the courtroom practices and procedures before the undersigned in all social security appeals brought pursuant to 42 U.S.C. § 405(g) for review on the record of a final decision of the Commissioner of Social Security Administration that presents only an individual claim. Counsel and parties should carefully **REVIEW** and must **COMPLY** with the following:

1. The Commissioner's Deadline to Answer

The Commissioner's deadline to serve and file an answer or a Federal Rule of Civil Procedure 12 motion as provided under Rule 4 of the Supplemental Rules of Social Security Actions of the Federal Rules of Civil Procedure (hereinafter, the Supplemental Rules) **IS TRIGGERED** by a **Notice of Electronic Filing** that (a) is sent by the Court or its Clerk's Office to the appropriate office within the Administration's Office of General Counsel and to the United States Attorney for this District and (b) **substantially states**, "The Commissioner's Answer is due within 60 days of the date of this Notice of Electronic Filing."

Note

In an action where a plaintiff files an application to proceed *in forma pauperis* or otherwise fails to submit the requisite filing fee when the appeal is initially filed, the Court must address the application and the plaintiff must make payment, if any determined by the Court—before a Notice of Electronic Filing (NEF) as described above is sent. In such a case in particular and in all other cases, other NEFs may be sent, at the time of the initial filing of an appeal or thereafter, that do not substantially state, "The Commissioner's Answer is due within 60 days of the date of this Notice of Electronic Filing," and therefore, they do not trigger the Commissioner's deadline under Rule 4 of the Supplemental Rules.

2. Briefing Schedule

The deadlines for the plaintiff's opening brief, the Commissioner's response in opposition, and the plaintiff's reply brief are governed respectively by Rules 6, 7, and 8 of the Supplemental Rules. Absent leave of court, no further briefs are allowed.

3. Additional Requirements for the Plaintiff's Opening Brief

The plaintiff's opening brief must contain:

- (a) **A statement of the case.** This statement must briefly describe the procedural history, including any disposition, at the administrative level and must set forth a concise statement of the case setting out the facts relevant to the issues submitted for review. Each statement of fact shall be supported by reference to the page in the record where the evidence may be found.
- (b) **A statement of the issues for review.** This statement should include a list of specific errors which the plaintiff claims were committed by the Administrative Law Judge or the Appeals Council.
- (c) **A Summary of Arguments.** The summary must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief, and which must not merely repeat the argument headings.
- (d) **Arguments.** This section of the brief must contain the plaintiff's contentions and the reasons for them, with citations to the authorities and parts of the record on which the plaintiff relies.

So ORDERED and SIGNED this 30th day of January 2023.

A handwritten signature in black ink, appearing to read 'Anne T. Berton', written over a horizontal line.

**ANNE T. BERTON
UNITED STATES MAGISTRATE JUDGE**