

DEC 05 2022

TONY R. MOORE, CLERK  
BY: \_\_\_\_\_  
DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA

**Standing Order – SO 1.72**

Standing Order SO 1.72 is amended to read as follows:

SO 1.72 Disposition of Social Security Appeals

The Court having determined that the disposition of social security appeals will be enhanced by treating them as appeals, rather than ordinary civil actions, and in accordance with accordance with the Supplemental Rules for Social Security Actions Under 42 U.S.C. § 405(g), the procedures set out herein shall be effective in all social security actions filed in this District. Accordingly,

IT IS ORDERED that effective immediately upon the filing of this Order:

I. Summary Opinions:

A judicial officer within this district, when charged with the review of a determination made by an administrative tribunal, may affirm that determination, without further explanation, when the officer finds that the decision of the administrative agency is supported by substantial evidence on the record as a whole.

II. Scheduling Order:

As soon as the complaint is entered into the record<sup>1</sup>, the Clerk shall issue a Scheduling Order directing the appellee, Secretary of Health and Human Services, to file the transcript of the administrative proceedings with the Clerk within a prescribed period. Deadlines for the filing of the appellant's brief on the merits, the appellee's opposition brief, and any reply brief by appellant shall also be set in the Scheduling Order, along with requirements for the form, content and length of the briefs. A form for the Scheduling Order, which may be modified from time to time by the Clerk at the direction of the Court is attached hereto as Appendix A.

III. Notice of Opportunity to Consent:

Along with the Scheduling Order, the Clerk shall send a "Notice, Consent, and Reference of a Civil Action to a Magistrate Judge" form (AO Form 85), with instructions to the appellant that, if consent is given, the form should be executed and delivered to the office

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<sup>1</sup> Rule 3 of the Supplemental Rules for Social Security Actions Under 42 U.S.C. § 405(g) states that "the plaintiff need not serve a summons and complaint under Civil Rule 4 [Fed.R.Civ.P.]" as service is effected by the transmission of a Notice of Electronic Filing by the court upon the entering of the complaint into the court's electronic filing system.

of the United States Attorney so that the consent of the government can be added if appropriate. A form for use by the Clerk is attached as Appendix B.

IV. Dispositions:

After the transcript has been filed and the time for filing briefs has elapsed, the Clerk shall notify the Magistrate Judge assigned to the case who shall promptly issue a report and recommendation or opinion, as appropriate.

SO 1.72 is effective December 1, 2022.

Monroe, Louisiana on this 5<sup>th</sup> day of December 2022.



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Chief Judge Terry A. Doughty

**APPENDIX A**

**ATTORNEY'S HHS CASE DEADLINES WORKSHEET**

Complaint served on \_\_\_/\_\_\_/\_\_\_\_ + 60 days = Transcript due deadline: \_\_\_/\_\_\_/\_\_\_\_

Time extended, new deadline: \_\_\_/\_\_\_/\_\_\_\_

Transcript filed \_\_\_/\_\_\_/\_\_\_\_ + 30 days = Plaintiff's brief deadline: \_\_\_/\_\_\_/\_\_\_\_

**(A bound copy of the transcript shall be sent to the clerk.)**

Time extended, new deadline: \_\_\_/\_\_\_/\_\_\_\_

Pltf's brief filed \_\_\_/\_\_\_/\_\_\_\_ + 30 days = Defendant's brief deadline: \_\_\_/\_\_\_/\_\_\_\_

Time extended, new deadline: \_\_\_/\_\_\_/\_\_\_\_

Deft's brief filed \_\_\_/\_\_\_/\_\_\_\_ + 14 days = Plaintiff's reply brief deadline: \_\_\_/\_\_\_/\_\_\_\_

Time extended, new deadline: \_\_\_/\_\_\_/\_\_\_\_

**REMINDER: Only one extension per party may be granted by the magistrate judge upon a showing of good cause. Any additional requests for extensions must be directed to the district judge.**

**In any case where the brief or reply brief is not timely received, the magistrate judge shall treat the matter as unopposed and submitted to the court immediately for final determination.**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA**

**SCHEDULING ORDER**

The plaintiff has filed this action pursuant to 42 U.S.C. §405(g) seeking review of a decision by the Secretary of Health and Human Services. The following appeal procedures shall be followed:

**I. BRIEFING PROCEDURES:**

- (1) **FILING OF TRANSCRIPT AND NOTICE THEREOF.** Within sixty (60) days following service of the petition,<sup>2</sup> defendant shall electronically file with the Clerk a Notice of Filing of Transcript, along with a certified copy of the transcript of administrative proceedings. **In addition to the electronic version, a bound copy of the transcript shall also be provided by the defendant to the clerk.**
  
- (2) **PLAINTIFF'S BRIEF.** Within thirty (30) days after service of the notice and transcript, plaintiff shall file and serve upon defendant a memorandum brief which shall comply with the following requirements:
  - (a) **Statement of the case.** This statement shall briefly outline the course of the proceedings and its disposition at the administrative level and shall set forth a brief statement of pertinent facts. This statement of facts shall include plaintiff's age, education and work experience, a summary of the physical and mental impairments alleged; and a brief outline of the pertinent factual, medical and/or vocational evidence of record. Each statement of fact shall be supported by reference to the page(s) in the record where the evidence may be located.
  
  - (b) **Statement of errors.** This statement shall set forth in separate numbered paragraphs the **specific errors** committed at the administrative level which entitle plaintiff to relief. The court will consider only those errors **specifically identified** in the briefs. A general allegation that the ALJ's findings are unsupported by substantial evidence, standing alone, is insufficient to invoke the appellate function of the federal court.

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<sup>2</sup> The plaintiff's petition for judicial review will be treated as an appeal regardless of the style of the action.

- (c) Argument. The argument shall be divided into sections separately addressing each issue and shall set forth the contentions of plaintiff with respect to each issue and the reasons therefor.

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. Cases from other districts and circuits should be cited only in conjunction with relevant cases from this jurisdiction, or if authority on point from this jurisdiction does not exist. Citations to unreported district court opinions shall be accompanied by a copy of the opinion.

- (d) Conclusion. The plaintiff's brief shall conclude with a short statement of the relief sought.

- (3) DEFENDANT'S BRIEF. Within thirty (30) days after service of plaintiff's brief, defendant shall file and serve upon opposing counsel a brief which responds specifically to each issue raised by the plaintiff. The response shall not address matters not put at issue by the plaintiff. Defendant shall not include a "statement of the case", described above, unless plaintiff's statement is inaccurate or incomplete. In that event, defendant need only address those limited areas.
- (4) PLAINTIFF'S REPLY BRIEF. Plaintiff may file and serve upon defendant a brief in reply to the brief of defendant within fourteen (14) days of the filing of defendant's brief.
- (5) PAGE LIMITATIONS. Original briefs may not exceed ten (10) double-spaced pages, and reply briefs may not exceed five (5) double-spaced pages, unless the court grants an exception for good cause shown.
- (6) EXTENSIONS OF TIME. Only one extension of time per party may be granted by the magistrate judge upon a showing of good cause. Any additional requests for extensions must be directed to the district judge.<sup>3</sup>
- (7) UNTIMELY BRIEFS. In any case where the brief or objection is not timely received, the magistrate judge will treat the matter as unopposed and submit it to the court immediately for final determination.<sup>4</sup>

## II. NOTICE OF OPPORTUNITY TO CONSENT

The parties are hereby notified of the opportunity to consent to the disposition by a Magistrate Judge. The "Notice, Consent, and Reference of a Civil Action to a Magistrate Judge" form (AO Form 85) is available from the U. S. Court's website, [www.uscourts.gov](http://www.uscourts.gov).

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<sup>3</sup> See the Civil Justice Expense and Delay Reduction Plan for the W.D.La. effective December 1, 1993, p.3.

<sup>4</sup> Id.

If all parties consent, pro se plaintiffs or plaintiff's counsel shall sign the consent form within thirty (30) days, and shall forward it to the designated Assistant United States Attorney. The Assistant United States Attorney assigned to the case may sign the consent form and submit it to the Clerk's mail list for consent forms at lawdml\_consent@lawd.uscourts.gov within seven (7) days.

If this case is referred to the magistrate judge by consent, all proceedings and the entry of a final judgment shall be in accordance with 28 U. S. C. § 636(c) and Fed. R. Civ. P. 73.

BY ORDER OF THE COURT

**APPENDIX B**

AO 85 (Rev. 02/17) Notice, Consent, and Reference of a Civil Action to a Magistrate Judge

**UNITED STATES DISTRICT COURT**  
for the

_____ )	
<i>Plaintiff</i> )	
v. )	Civil Action No.
_____ )	
<i>Defendant</i> )	

**NOTICE, CONSENT, AND REFERENCE OF A CIVIL ACTION TO A MAGISTRATE JUDGE**

*Notice of a magistrate judge’s availability.* A United States magistrate judge of this court is available to conduct all proceedings in this civil action (including a jury or nonjury trial) and to order the entry of a final judgment. The judgment may then be appealed directly to the United States court of appeals like any other judgment of this court. A magistrate judge may exercise this authority only if all parties voluntarily consent.

You may consent to have your case referred to a magistrate judge, or you may withhold your consent without adverse substantive consequences. The name of any party withholding consent will not be revealed to any judge who may otherwise be involved with your case.

*Consent to a magistrate judge’s authority.* The following parties consent to have a United States magistrate judge conduct all proceedings in this case including trial, the entry of final judgment, and all post-trial proceedings.

<i>Printed names of parties and attorneys</i>	<i>Signatures of parties or attorneys</i>	<i>Dates</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Reference Order**

**IT IS ORDERED:** This case is referred to a United States magistrate judge to conduct all proceedings and order the entry of a final judgment in accordance with 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73.

Date: \_\_\_\_\_

\_\_\_\_\_ *District Judge’s signature*

\_\_\_\_\_ *Printed name and title*

Note: Return this form to the clerk of court only if you are consenting to the exercise of jurisdiction by a United States magistrate judge. Do not return this form to a judge.