

**PROCEDURES IN SOCIAL SECURITY DISABILITY APPEALS
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

Unless otherwise ordered by the court, the following procedures will be used in all Social Security Disability Appeals filed on or after August 1, 2014.

- (a) **Commencing an Action.** Social Security Disability appeals are appeals from decisions of an administrative agency. As in all other appeals, the party appealing—in this case, the plaintiff—will first be required to file a complaint/petition. Please see the form complaint accompanying these instructions. The plaintiff is obliged to include within the complaint the full social security number of the worker whose wage record forms the basis of the benefit application underlying the suit. A form complaint may be accessed [HERE](#).

- (b) **Service of the Complaint.** The plaintiff must serve a copy of the complaint/petition on the Attorney General of the United States, the United States Attorney for the Eastern District of Wisconsin, and the Commissioner of Social Security. The addresses for these offices may be accessed [HERE](#).

- (c) **Answer.** Within 60 days after proof of service is filed, the transcript of the administrative proceedings and a Notice of Filing of the Certified Administrative Record should be filed with the court and served on the plaintiff as the Commissioner's Answer. If the Commissioner does not raise any affirmative defenses at the time that the record is filed and served, those defenses are deemed waived. Before substantive briefs are filed, see Section (d), immediately below, plaintiff's counsel is encouraged to contact counsel for the Commissioner to discuss cases that appear highly likely, upon consultation, to be subject to voluntary remand. See contact information for the Office of the Regional Chief Counsel [HERE](#).

- (d) **Briefing Schedule.** These cases are in the nature of appeals from a final administrative agency decision, and for that reason, the process for filing summary judgment motions is not applicable, and no summary judgment motions shall be filed. Unless otherwise ordered, the court will issue a scheduling order establishing that the plaintiff's brief, identifying the specific grounds for appeal, must be filed within 40 days after the filing of the transcript together with appropriate supplemental materials; that the Commissioner will file a response, which may include additional relevant issues not raised by plaintiff together with appropriate supplemental materials, within 40 days of the filing of the plaintiff's brief; and that the plaintiff may file a reply brief within 15 days of the filing of the Commissioner's brief. This schedule may be modified only for good cause and with the judge's consent. When all briefing is completed, the court will be in a position to decide the appeal.

- (e) **Length of Briefs.** Unless otherwise ordered, the initial briefs of the plaintiff and the Commissioner shall not exceed 30 double-spaced pages each, and the reply brief of the plaintiff shall not exceed 15 double-spaced pages.
- (f) **EAJA Fees.** The parties are encouraged to resolve any requests for payment under the Equal Access to Justice Act (EAJA) informally. Plaintiff's counsel is encouraged to make an informal request for fees prior to filing a motion for fees with the court. Informal requests should be directed to the Regional Chief Counsel and should be supported by the assignment agreement as well as a detailed itemization of all attorney's fees. If the parties resolve the EAJA fees matter without further litigation, plaintiff's counsel should file the fee stipulation and proposed order and supporting documents. Based upon *Astrue v. Ratliff*, 560 U.S. 586 (2010), any fees paid belong to plaintiff and not his/her attorney, and the fees can be offset to satisfy pre-existing debt that the litigant owes to the United States. Model forms may be accessed [HERE](#).

Effective Date August 1, 2014

INSTRUCTIONS FOR FILING A PRO SE COMPLAINT FOR REVIEW OF A FINAL DECISION BY THE COMMISSIONER OF THE SOCIAL SECURITY ADMINISTRATION

1. You must fill out the complaint form in the space provided. Part II is the **ONLY** place you can use extra space, as instructed, to describe any previous cases you have filed.
2. Your complaint must be neatly printed or typed. You must sign the complaint, which states under penalty of perjury that the facts you have stated are true. “Under penalty of perjury” means that any false statement of a material fact may result in criminal penalties.
3. Do not present arguments in the complaint. If the case proceeds, the Court will issue a schedule for filing briefs that will allow you the opportunity to state your arguments.
4. The cost of filing this case is \$400.00, which includes a \$350.00 filing fee and a \$50.00 administrative fee. The full \$400.00 cost is due when you file your complaint and can be paid with a check or by credit card. A check should be made payable to “Clerk of Court.”
5. If you cannot afford the filing fee, you may file a request to proceed without it. To do so, complete and sign, under penalty of perjury, a request to proceed in district court without prepaying the filing fee.
6. You must file the original complaint with the Clerk of Court. Keep a copy of all papers you file or receive in this case.
7. **MAIL OR BRING COMPLETED FORM(S) TO:**
Clerk, United States District Court
Room 362 Federal Courthouse
517 E. Wisconsin Avenue
Milwaukee, WI 53202
8. The Court will notify you by mail of everything that happens in your case, so you must provide the address where you receive your mail. If that address changes, notify the Court of the new address immediately.
9. The Clerk of Court has a guide, *Answers to Pro Se Litigants’ Common Questions*, which may be helpful if you have questions. Not everything covered in the guide will apply to your case. You can pick up a copy in the Clerk’s Office, Room 362, Federal Courthouse, or call the Clerk’s Office at (414) 297-3372 and ask that one be mailed to you. The guide is also available at the District Court’s website www.wied.uscourts.gov under Pro Se Resources.
10. You may be able to get legal assistance from the Eastern District of Wisconsin Bar Association Pro Se Federal Civil Litigant Help Line. Before a volunteer lawyer can help you, you must read and sign an agreement form. You can pick up this form at the Clerk’s Office, Room 362, Federal Courthouse, or you can call the Clerk’s Office at (414) 297-3372 or the Eastern District of Wisconsin Bar Association at (414) 276-5933 and ask that a copy be mailed to you. You may also complete the form online at www.edwba.org or by using the link to the helpline at www.wied.uscourts.gov under Pro Se Resources.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

Plaintiff: your full name and the full name of any person on whose behalf you are filing this case; **use initials instead of the full name for a child under age 18.**

v.

Case No. _____
(supplied by Clerk after case is filed)

Commissioner of the Social Security Administration,
Defendant.

**COMPLAINT FOR REVIEW OF A FINAL DECISION BY THE COMMISSIONER OF THE
SOCIAL SECURITY ADMINISTRATION**

I. Parties

A. Plaintiff (your name): _____
If you are filing this case on behalf of someone else, include that person's full name and

relationship to you. **Use initials instead of the full name for a child under age 18.**

B. The Social Security Number used by the Social Security Administration in this case:

C. Your mailing address, including the county where you reside, and phone number (with area code):

D. Defendant:
**Commissioner of the Social Security Administration
c/o Office of General Counsel, SSA
200 W. Adams Street, 30th Floor
Chicago, Illinois 60606-5208**

II. Previous Lawsuits

A. Have you filed any other case in state or federal court related to the same facts involved in this case?

YES NO

B. Have you filed any other case in state or federal court, even if it was not related to the facts involved in this case?

YES NO

C. If your answer to A or B is YES, provide the requested information below. **If you filed more than one case, describe each additional case on a separate sheet of paper using the format below. DO NOT USE THE BACK OF THIS FORM.**

1. Parties to the previous case:

Plaintiff(s): _____

Defendant(s): _____

2. Court in which the case was filed (for federal courts, name the district; for state courts, name the county):

3. Case number: _____

4. Current status (for example: open, closed, on appeal): _____

5. Approximate date the case was filed: _____

6. Approximate date the case ended: _____

III. Statement of Claim

A. The type of Social Security benefits that you, or the person on whose behalf you are filing this case, seek in this case (check all that apply):

Supplemental Security Income (SSI)

and/or

Disability Insurance (SSDI or Widow/Widower)

and/or

Other (explain): _____

B. I seek review of an unfavorable final decision of the Commissioner of the Social Security Administration under 42 U.S.C. § 405(g) and/or 42 U.S.C. § 1383(c)(3).

I have received a decision from the Administrative Law Judge, and it is dated:

If you have a copy of the Administrative Law Judge’s decision, attach it to this complaint.

I have received an Appeals Council’s notice or determination, and it is dated:

If you have a copy of the Appeals Council’s notice or determination, attach it to this complaint.

I, or the person on whose behalf I am filing this case, was disabled during the time period included in this case. I believe the Commissioner’s unfavorable conclusions and findings of fact are not supported by substantial evidence; and/or are contrary to law and regulation.

Use the space below to state any additional facts that may explain why you or the person on whose behalf you are filing this case are/is entitled to relief. **Use only the space provided below—keep the facts short and to the point.**

IV. Relief Sought

I request all such relief as is proper under the Social Security Act and as the Court otherwise deems appropriate, including costs.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this _____ day of _____, 20 _____.

Signature of Plaintiff/Legal Representative

SERVICE ADDRESSES
SOCIAL SECURITY DISABILITY APPEALS

Pursuant to Fed. R. Civ. P. 4(i)(1) & (2) and 79 Fed. Reg. 4519-04 (Jan. 28, 2014), the following offices must be served:

The Attorney General of the United States
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530-0001

The United States Attorney
530 Federal Courthouse
517 E. Wisconsin Ave.
Milwaukee, WI 53202

Commissioner of the Social Security Administration
c/o Office of the Regional Chief Counsel, Region V
Social Security Administration
200 West Adams Street, 30th Floor
Chicago, IL 60606-5208

CONTACT INFORMATION
OFFICE OF THE REGIONAL CHIEF COUNSEL

Office of the Regional Chief Counsel
200 W. Adams Street, 30th Floor
Chicago, Illinois 60606-5208
Tele. No. 877-800-7578

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

_____ ,

Plaintiff,

Case No. _____

v.

COMMISSIONER OF THE SOCIAL SECURITY ADMINISTRATION,

Defendant.

**STIPULATION FOR ATTORNEY FEES PURSUANT
TO THE EQUAL ACCESS TO JUSTICE ACT**

Plaintiff, _____, by and through his/her attorney, _____, and Defendant, Commissioner of the Social Security Administration, by and through attorneys, Matthew D. Krueger, United States Attorney for the Eastern District of Wisconsin, and Brian E. Pawlak, Assistant United States Attorney, for said district, HEREBY JOINTLY STIPULATE that the Court award attorney fees and expenses under the Equal Access to Justice Act, 28 U.S.C. § 2412, to Plaintiff in the amount of \$_____, and costs in the amount of \$_____. Plaintiff agrees that he/she shall accept this award in full satisfaction of any claims for fees, expenses, or costs pursuant to the EAJA. Any fees paid belong to Plaintiff and not his/her attorney and can be offset to satisfy pre-existing debt that the litigant owes to the United States under *Astrue v. Ratliff*, 560 U.S. 586 (2010).

After the Court enters this award, if counsel for the parties can verify that Plaintiff owes no pre-existing debt subject to offset, or if there is a remainder from the offset, Defendant will

direct that the award be made payable to Plaintiff's attorney pursuant to the EAJA assignment duly signed by Plaintiff and counsel, and the award shall be mailed to the attorney's office.

Submitted herewith are the supporting document(s).

WHEREFORE, the parties hereby request that the Court enter an order awarding Plaintiff attorney fees and expenses in the amount of \$_____, and costs in the amount of \$_____, in settlement of any and all claims he/she may have in the matter pursuant to the EAJA.

MATTHEW D. KRUEGER
United States Attorney

By:

Attorney for Plaintiff
Firm Name _____
Street Address _____
City _____
Phone: (414) _____
Facsimile: (414) _____
Email: _____
State Bar: _____

BRIAN E. PAWLAK
Assistant United States Attorney
Attorneys for Defendant
530 Federal Building
517 E. Wisconsin Ave.
Milwaukee, WI 53202
Phone: (414) 297-4134
Facsimile: (414) 297-4394
brian.pawlak@usdoj.gov
State Bar: 1009916

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

_____ ,

Plaintiff,

Case No. _____

v.

COMMISSIONER OF THE SOCIAL SECURITY ADMINISTRATION,

Defendant.

ORDER FOR EAJA FEES

This matter coming before the Court on the parties' Stipulation for Attorney Fees Pursuant to the Equal Access to Justice Act, and the Court being fully informed, it is **HEREBY ORDERED** that the Stipulation for an award of \$ _____ for attorney's fees and expenses, and \$ _____ for costs, be granted. After the Court enters this award, if the parties can verify that Plaintiff owes no pre-existing debt subject to offset, or if there is a remainder from the offset, Defendant will direct that the award be made payable to Plaintiff's attorney pursuant to the agreement duly signed by Plaintiff and counsel and the award shall be mailed to the attorney's office.

SO ORDERED this ____ day of _____, 20__.

United States District or Magistrate Judge