



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
U.S. COURTHOUSE
700 STEWART STREET, ROOM 14229
SEATTLE, WASHINGTON 98101

MARSHA J. PECHMAN
CHIEF DISTRICT JUDGE

(206) 370-8820

November 24, 2014

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Dear Mr. Dellert, Ms. Johnson, and Mr. Pyle,

Thank you for participating in the District's Bench-Bar Social Security Committee. The Court created the Committee to address the dramatic increase over the last four years in the number of Social Security cases filed in the Western District of Washington. In this time span, the number of Social Security cases increased 171% from 298 cases in 2010, to 807 cases in 2013; in 2013, Social Security cases constituted 22.7% of the district's civil caseload.

The challenges created by the size of the district's Social Security caseload are substantial, and not susceptible to easy solutions. The Court thus truly appreciates the many hours each of you has spent on discussing and making concrete proposals to address the very large number of Social Security cases filed in the district. The Court also greatly appreciates your willingness to work in a coordinated fashion on systemic improvements that would resolve Social Security cases more efficiently.

The Court is moving forward with a number of the suggestions discussed by the Committee or raised at the November 6, 2014 Bench-Bar CLE. The Court's decision on each is discussed below.

A. Scheduling Order

The Court thanks you for the input each of you has provided on the form and substance of the Court's scheduling order. As to the use of a model scheduling order, virtually all chambers are using an order that closely resembles the one attached to this letter. As mentioned

at the CLE, the Court is moving forward with uniformly reducing the briefing page limits. **The Court will apply the reduced page limits to all first scheduling orders filed on January 5, 2015, onward.** Although each judge may make minor tweaks to the order's specific language, each judge's order uniformly sets forth the following requirements:

(1) Opening and response briefs shall be limited to 18 pages, and optional reply briefs shall be limited to 9 pages. The Court understands the plaintiffs' bar is opposed to reducing the current page limits of 24 for opening briefs and 12 pages for reply briefs. However, the Court's new briefing page limits are comparable to other jurisdictions facing large caseloads. The Eastern District of Washington, for instance, imposes a 20 page limit and requires use of a 14 point font. Additionally, the new page limit is based on the existing patterns in this jurisdiction. In reviewing the briefs filed in 300 Social Security cases in this district, the average length of an opening brief was approximately 18 pages.

(2) Opening briefs are due 28 days from the day the scheduling order is filed; response briefs are due 28 days thereafter, and reply briefs are due 14 days thereafter. This reflects the briefing schedule utilized for many years, and based on the input of the Committee, it appears that no changes to this schedule are necessary.

(3) Motions for extensions or overlength briefs must be noted on the Court's calendar prior to the due date pursuant to the briefing schedules established in LCR 10(g) and LCR 7, respectively. This maintains the practice utilized in the district for many years. The Court has considered the suggestion that each party automatically be granted a first extension of 28 days but concluded each Judge should retain the discretion to grant or deny motions to extend the briefing schedule or motions to submit an overlength brief.

(4) Beginning on page one, plaintiff will list the errors alleged, followed by a clear statement of the relief requested. This reflects the briefing schedule utilized by the district's Magistrate Judges for many years now and based on the input of the Committee it appears that no changes to this schedule are necessary.

B. Magistrate Judge Consent Jurisdiction

The Court has considered whether the initial time to consent of 21 days should be reduced, and whether a party should be able to consent at any time. At this point, the Court concludes it should maintain the current initial time to consent of 21 days. In weighing concerns regarding potential judge-shopping, the Court believes it should not throw open the doors and permit a party to consent at anytime, with the exception of filing a consent as part of a **stipulated motion to remand for further proceedings under sentence four of 42 U.S.C § 405(g), or for EAJA fees.** The Court also understands the Committee is exploring whether it would be possible for plaintiffs' counsel to have a "standing order of consent."

C. Matters Requiring Further Discussion

The Court understands the Committee is still exploring several additional projects that are in the works: the implementation of a pilot e-service project that would permit service of the complaint and summons to be performed electronically, and the promulgation of a general order that would permit the filing of the administrative record to serve as the answer and which dispenses with the need to file a "Notice of Filing Paper Material" in cases in which the record is filed electronically. The Court understands that these projects may help the Bar by providing a more streamlined and cost-effective method of presenting and moving Social Security cases forward. The Court looks forward to receiving in the near future concrete proposals on these projects.

The Court is greatly encouraged by the work of the Committee and is particularly thankful for the willingness of the Bar to involve itself in moving forward in a constructive

fashion. All of our efforts to address the large number of Social Security cases filed in this district come none-to-soon in light of the projection that the number of Social Security cases will increase 24% in 2016. In many ways, our work is just beginning. In that regard, I request your continued participation on the Committee, including meeting again in the Spring of 2015, to review the changes above and to consider additional ways to improve the handling and processing of these extremely important cases.

Again, on behalf of the Court I thank the efforts of the Bar and the work of the Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Marsha J. Pechman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Marsha J. Pechman
United States Chief District Judge

cc: District and Magistrate Judges, WAWD