

## 9.1 SOCIAL SECURITY PRACTICE

- (a) **The Complaint.** To obtain review of a final decision of the Commissioner of Social Security, a party must file a complaint. The caption of the complaint must include the name of each party seeking review, the name of the defendant designated in the applicable statute, and identify the final decision or part of the final decision to be reviewed. The complaint must contain a citation to the statute by which jurisdiction is claimed, a short and plain statement of the claim showing that the plaintiff is entitled to relief, and a demand for the relief the plaintiff seeks. If two or more persons are entitled to seek judicial review of the same order and their interests are such as to make joinder proper, they may file a joint complaint. The plaintiff may use his or her own complaint, or the form provided by the Clerk.
- (b) **The Answer.** The defendant must file an answer to the complaint within the time limit prescribed by Fed. R. Civ. P. 12(a)(2).
- (c) **The Record.**
1. **Timing.** Unless the Court orders otherwise, the defendant must file the record within 90 days after the complaint is served.
  2. **Composition.** Unless the Court orders otherwise, the record in Social Security cases comprises all decisions by an Administrative Law Judge and all pleadings, evidence and orders.
  3. **Omissions from, or Misstatements in, the Record on Review.** If a party discovers a material omission from, or misstatement in, the record:
    - A. The discovering party must immediately notify the Court and all other parties;
    - B. The parties may supply the omission or correct the misstatement by stipulation; and
    - C. The Court may order a party to correct the omission or misstatement and, if necessary, prepare and file a supplemental record.
- (d) **Suggestions.**
1. **Considerations in Ruling on Motions.** In ruling upon a Social Security complaint, the Court must consider the record, supporting suggestions, opposing suggestions, and reply suggestions. The Court may, but need not, order oral argument.
  2. **Composition.** Suggestions must be divided into “Facts” and “Argument” sections, with each issue separately designated in the Argument section.
  3. **Timing of Suggestions.** Unless the Court orders otherwise:

- a. Within 40 days after the complaint is served, the plaintiff must file suggestions supporting the complaint.
  - b. Within 40 days after the supporting suggestions are filed, the defendant must file suggestions opposing the complaint.
  - c. Within 21 days after the opposing suggestions are filed, the plaintiff may file reply suggestions.
- (e) **Applicability of Other Rules.** This Rule supersedes any Local Rule in conflict.