

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

GENERAL ORDER No. 168

DISPOSITIVE REFERRALS OF
SOCIAL SECURITY APPEALS TO
UNITED STATES MAGISTRATE JUDGE

WHEREAS, on April 25, 2018, this Court adopted a Social Security Plan (“the Plan”) that applies to all civil actions commenced under the Social Security Act by an individual seeking judicial review of a final administrative decision of the Commissioner of Social Security (“the Commissioner”) pursuant to 42 U.S.C. § 405(g) (“Social Security appeals”), which went into effect on July 1, 2018, and was continued in effect on January 1, 2021;

WHEREAS, pursuant to the Plan, a single district-wide pool of Social Security appeals has been created to which all Social Security appeals are assigned upon filing and from which they are periodically reassigned to U.S. District Judges and U.S. Magistrate Judges, including active and senior/recall Judges, depending on whether the parties have consented to a U.S. Magistrate Judge’s exercise of jurisdiction to handle all proceedings, including issuing a final decision, under 28 U.S.C. § 636(c);

WHEREAS, following the adoption of the Plan, the United States Attorney for the Western District of New York, on behalf of the Commissioner, and a number of attorneys who represent plaintiffs in social security appeals, on behalf of their respective clients, each executed a Memorandum of Understanding pursuant to which the respective parties agreed to consent to the jurisdiction of a U.S. Magistrate Judge to handle all Social

Security appeals pursuant to 28 U.S.C. § 636(c) while reserving their respective rights to withdraw such consent upon the filing of the complaint or the Commissioner's response to the complaint; and

WHEREAS, plaintiffs represented by certain attorneys are now regularly filing their complaint and electing to withdraw their consent to Magistrate Judge jurisdiction, as is their right under the law and in accordance with the aforementioned Memoranda of Understanding; and

WHEREAS, the circumstances surrounding the unprecedented number of Social Security cases filed in this District are set forth in detail in the Plan, and the Court must take steps to effectuate an efficient distribution of Social Security appeals among the judges; it is hereby

ORDERED, that paragraphs III(B)(2) and (B)(5) of the Plan shall be modified to the extent that in any Social Security appeal pending in this District where the parties have not consented to Magistrate Judge jurisdiction, the Chief Judge of the Court may refer the matter to a U.S. Magistrate Judge for all case management and scheduling proceedings, including the preparation of a Report and Recommendation, pursuant to 28 U.S.C. § 636(b); and it is further

ORDERED, that any Social Security appeal so referred shall not be assigned to a U.S. District Judge at the time the referral is made; and it is further

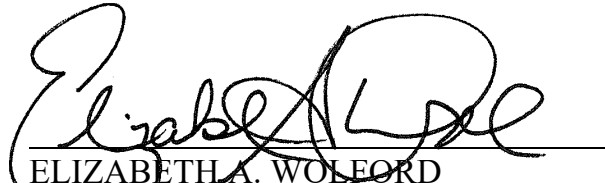
ORDERED, that upon issuance of the Report and Recommendation and the elapse of the requisite time period to file any objections to said Report and Recommendation, the

case will then be assigned to the Chief Judge to take action on the Report and Recommendation in the event that no objections are filed; and it is further

ORDERED, that upon issuance of the Report and Recommendation and the filing of objections to the same, any responses to said objections shall be filed within thirty (30) days of the filing of objections, and the case will be returned to the single district-wide pool of Social Security appeals and remain unassigned until a subsequent assignment in due course to a U.S. District Judge for action upon the Report and Recommendation; and it is further

ORDERED, that all other provisions of the Plan not specifically modified herein shall remain in full force and effect.

IT IS SO ORDERED.


ELIZABETH A. WOLEORD
Chief Judge
United States District Court

Dated: January 6, 2025
Rochester, New York