

U.S. DISTRICT COURT

WESTERN DISTRICT OF NORTH CAROLINA

Attorney Social Security Case Opening and Pleadings Guide Effective 12/1/2022

November 29, 2022

INTRODUCTION

This is a complaint brought by the plaintiff against the Social Security Administration requesting review of an administrative decision pursuant to 42 U.S.C. § 405(g).

Effective December 1, 2022, the National Committee on Rules of Practice and Procedure has implemented a new set of supplemental rules to govern Social Security review actions brought under 42 U.S.C. § 405(g). The Supplemental Rules establish a uniform procedure, provide for simplified pleadings and service, and establish the practice of treating the actions as appeals to be decided on the briefs and administrative record.

The plaintiff will no longer serve a summons and complaint under Civil Rule 4; however, the Court <u>must</u> notify the Commissioner of the commencement of the action by transmitting a Notice of Electronic Filing (NEF) to the appropriate office within the Social Security Administration's Office of General Counsel and to the United States Attorney.

This document will guide you through the process of opening a social security case in ECF, docketing the complaint or other initiating document, and paying the filing fee through Pay.gov.

You must complete the entire process. You will open the new civil case and file your initial document. DO NOT attempt to open the same case twice. As this process used your browser's cookies to store filing information, NEVER click the back button once you begin the filing process or your information may be lost, and your credit card may be billed twice.



CASE OVERVIEW:

STARTING THE SOCIAL SECURITY CASE OPENING PROCESS

To file a new civil case using ECF, log into the system.

Click **[CIVIL]** on the blue menu bar at the top of the CM/ECF screen. Select **[Civil Case – Unassigned]** under the Open a Case Category

Read this screen carefully and Select [Next] to proceed.

If the defendant(s) resides in, or if the action on which the lawsuit is based occurred in one of the counties listed in **Addendum A**, then the case should be filed in that divisional office.

SELECT THE DIVISIONAL OFFICE

Office

The default office is Charlotte – click on the drop-down box to change.

Case type

Select the case type from the drop-down menu according to the table.

cv – Civil

Date Filed

The file date is automatically entered by the system.

Lead case number

For court use only, leave blank.

Association type

Do not enter/change the association type. You should always leave this as "consolidated."

Related cases

Leave blank.

Once all the information has been selected click [Next].

Statistical Screen

As part of the case opening process, statistical information is gathered. Using the Civil Cover Sheet (JS-44) as a guide, fill in the blanks. Note: You do **NOT** need to attach the civil cover sheet.

Jurisdiction

ECF defaults to "3 (Federal Question)" because it is the most common. For social security cases, select 2 (U.S. Government Defendant).

Cause of Action and Nature of Suit

Select the appropriate codes from the drop-down list or use the alpha-numeric codes in the filter fields. For social security complaints you will select from the following:

861: Social Security: HIA
862: Social Security: Black Lung
863: Social Security: DIWC/DIWW
864: Social Security: SSID Tit. XVI
865: Social Security: RSI Tax Suits

Origin

There are twelve options in this selection list. Attorney filers should only select the first ["1 (Original Proceeding"]. All other options are for Court use only.

Citizenship of Plaintiff and Citizenship of Defendant

Leave these fields blank.

Jury Demand Leave these fields blank.

Class Action The default is "n (No Class Action alleged)." Leave the default selection.

Demand Leave this field blank.

Arbitration Code Leave this field blank.

County

There is only one county field on the Statistical Information screen. Enter the name of the county where the **plaintiff** resides at the time of filing.

Fee Status

Select the appropriate code from the drop-down list.

pd (paid) Filing fee is being paid online with this filing.

pend (IFP pending) If submitting a motion to proceed in forma pauperis with filing.

Fee Date and Date Transfer

Leave blank or defaulted values.

After the appropriate information has been entered, click [Next] to begin adding the parties to the case.

Adding Parties

DO NOT enter party names in ALL CAPS. Use upper and lower case letters to input names (Ex: Jane Doe).

DO NOT enter any address information for a party.

SEARCH, SEARCH, SEARCH. In order to avoid the addition of duplicate parties, search the database for existing party names before adding a new name. There will be four parties (Plaintiff, Commissioner of Social Security and (2) Interested Parties: SSA Noticing, US Attorney-Social Security Noticing) searched for in a social security complaint that will be discussed below.

The next screen in the case opening process is the interface for adding parties to the case. The screen is divided into two sections:

- The left pane contains the controls to Add New Party and Create Case and displays the Case Participant Tree.
- The right pane displays the party search fields.



Search for the plaintiff. If the system finds the correct name, highlight the name already in the database to eliminate different versions of the same party name and then click [Select Party]. If no match is found, click the [Create New Party] button.

Add New Party Crease Case Add New Party Crease Case 3:21-cv-????? Search for a party Search Results Search Results Search Add Search Results Search Results Search Results			Query Report	s - Utilities -	Search Logout
Middle New Party Create Case Search for a party Plaintif 2.21-cv-?????? Defendant Sarch Results Smith: AB Smith: AB Smith: AB Smith: Time Common Smith: Time Base Dutendent (BL pr/) DO NOT add address or phone numbers for a party uness that party is proceeding pro se. Smith: AB None Fa </td <td>pen Unassigned Civil C</td> <td>ase</td> <td></td> <td></td> <td></td>	pen Unassigned Civil C	ase			
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When all required information is entered, click the **[Add Party]** button at the bottom of the screen to add the Plaintiff to the case.

Due to the new service requirements, in lieu of the issuance of civil summons, 2 separate interested parties must be added at case opening. SEARCH for **SSA Noticing** and **US Attorney-Social Security Noticing**. Change both "role" types to "Interested Party." **DO NOT CREATE NEW PARTIES BUT SEARCH FOR THE NAME AS LISTED ABOVE.**

As each party is added, the party's name will appear in the panel on the left side of the screen. The information on the left side is referred to as the Case Participant Tree.

Search for and add Defendant and Interested Parties to the case WITHOUT creating new parties:

- Commissioner of Social Security (Defendant)
- SSA Noticing (Interested Party)
- US Attorney-Social Security Noticing (Interested Party)

The defendant in **ALL** Social Security cases will be the **Commissioner of Social Security**. <u>Do not use the individual</u> <u>name of the Acting Commissioner of Social Security</u>.

Creating the Case

When all parties have been added and appear correctly in the Case Participant Tree, click [Create Case] on the left panel.

Open Unassigned Civil Case				
Add New Party	Create Case	Search for a party		
Collapse All	Expand All	(O Plaintiff O Defendant O	Any)	
-3:22-cv-?????		Last / Business Name	First Name	Middle Name
🖻 John Doe 🏻 pla 🥖 😣		Prisoner ID		
Alias 😫		Search		
Corporate Parent or other affiliate 😤				
-Attorney 😤 🕒				
Commissioner of Social Security dft	/ 😸			
Alias 😫				
Corporate Parent or other affiliate 😤				
-Attorney 😤 🕒				
US Attorney-Social Security Noticing	ip 🥖 😸			
-Alias 😫				
Corporate Parent or other affiliate 😤				
-Attorney 😤 🕒				
🖹 SSA Noticing 🛛 ip 🥒 😣				
Alias 😤				
Corporate Parent or other affiliate 😤				
Attorney 😫 🕒				

Docketing the Lead Event



After opening a case in ECF, click on [Docket Lead Event] from the Open Unassigned Civil Case. From the list of

Available Events choose Complaint.

ECF will display the case number.

Complaints and Oth	her Initiating Documents
Civil Case Number	
3:21-cv-24	
Next Clear	

ECF will display the case caption and number, click [Next].

Selecting the Filer(s)

ECF will prompt you to choose the filer of the complaint: Plaintiff.

Attorney/Party Association Screen

The next screen creates the attorney/party association. Do NOT uncheck the box.

Selecting Party that filing is against

The next screen will prompt you to choose the defendant. Choose **Commissioner of Social Security** as the party that this filing is against.

Uploading Complaint

You are now ready to browse and attach your case initiating documents. All documents that you intend to file in ECF must be in PDF format and 50 MB or less. Click on the **[Browse]** button. Navigate to the appropriate directory and file name to select the PDF document you wish to e-file (always open the PDF file to verify that you are attaching the correct PDF **BEFORE FILING**). Click **[Next]** to proceed.

Filing Fee, Motion IFP or USA Filer

ECF will prompt you with questions about a jury demand and filing fee:

- Select 'No' for Jury Demand.
- Check Appropriate Box regarding fee.

Click [Next].

Online Credit Card Payment

Complaints and Other Initiating Documents 3:21-cv-00024 Smith v. ABC Company

WARNING - <u>Do Not</u> use the BACK BUTTON located on your browser after submitting your Credit Card Payment - this will result in DUPLICATE CHARGES! Next Clear

*NOTE: CM/ECF will temporarily route the filer to the government's Pay.gov website for collection of fees. IMPORTANT: DO NOT use the internet browser's back button from this point forward in the transaction.

On the credit card entry screen, some data fields are pre-populated with information from ECF. The remaining "required" fields will need to be entered. The "required" fields are noted with a red asterisk (*) to the right of each field.

	Pay.go
NCWD CM ECF	
Please provide the Credit or Debit Card Info Indicates required fields	rmation below
Agency Tracking ID: 0419-4853840	Note:
Payment Amount: \$402.00	Some data fields are
* Country: [United States]	information from ECF. The
* Billing Address: [123 Street]	remaining required fields will need to be entered.
Billing Address 2:	OR
* City: Charlotte	If the attorney filing is not the
State/Province: NC	account holder of the credit
ZIP/Postal Code: 28202	information will need to be
* Account Holder Name: T Attorney	upusteu.
VISA ෩ 🔤 🕎 🚮 🔛	0
* Card Number: [1111222233334444]	2
* Expiration Date: [12] [2050]	
* Card Security Code: [000]	
Canad	

After the "required" fields have been entered and reviewed, click the [Continue] button.

Authorization Screen

The credit card process will display Address Information, Account Information, and Payment Information for you to review. In the Authorization and Disclosure section, you must check the authorization check box. Click on the **[Continue]** button to submit the transaction.

		Pay.gov
NCW	D CM ECF	
Review and submit payme	nt	
Agency Tracking ID:	0419-4853840	
Payment Amount:	\$402.00	
Payment Method:	Plastic Card	
Account Holder Name:	T Attorney	
Card Type:	MASTERCARD	
Card Number:	***************************************	
Billing Address:	123 Street	
Billing Address 2:		
City:	Charlotte	
Country:	United States	
State/Province:	NC	
ZIP/Postal Code:	28202	
with my card issuer agreement.	card account for the above amount in accordance	
Previous Ca	Continue	

Receipt and Additional Docket Text

When you click the "Continue" button on the payment screen, Pay.gov returns you to CM/ECF to complete the filing transaction. Click **[Next]** to proceed to the Docket Text Modification screen. **DO NOT** add text to the Free Text Box.

	FICE TEXT DOX
Complaints and Other Initia	ting Documents
Docket Text: Modify as Appropriate.	
COMPLAINT	against ABC Company with Jury Demand (Filing fee \$ 402 receipt number 0419-4853840) ,
filed by Adam Smith, (Attachn	nents: # (1) Exhibit A - Right to Sue, # (2) Exhibit B - Evaluations) (Attorney, T)

Final Docket Text Screen

The Final Text screen is your last chance to review the submission, click **[Next]** to submit the filing. Once **Next** is clicked, the filing is submitted to the Court and immediately available on the docket report.

Additional Pleadings Guide

In lieu of service via means of summons, the Court will issue notice to the Commissioner upon payment of the filing fee or at the granting of the IFP application by entering a **Notice: Social Security Case Service** to the appropriate office within the Social Security Administration's Office of General Counsel and to the United States Attorney via the CM/ECF system.

Pursuant to the Supplemental Rules for Social Security Actions under 42 U.S.C. § 405(g), Rule 3; The Clerk has issued a Notice of Electronic Filing (NEF) using the Case Management and Electronic Case Filing (CM/ECF) system, notifying the appropriate Regional Social Security Administration Office of the General Counsel and the United States Attorney's Office of the case. No summonses shall issue.

Also, upon payment of the filing fee or at the granting of the IFP application, the Clerk's office will issue a **Notice to Answer SSA Complaint:**

Notice to answer Social Security Complaint: Answer due from Commissioner of the Social Security Administration on or by <u>(60 days from the filing of this notice).</u>

The Answer may be limited to a certified copy of the administrative record, and to any affirmative defenses under Civil Rule 8(c). The Commissioner will docket the Administrative Record/Answer-Social Security event located under: Civil Events \rightarrow Other Filings \rightarrow Social Security Documents \rightarrow Administrative Record/Answer-Social Security.

If the Commissioner wishes to file an answer in addition to the Administrative Record. The Commissioner will still use the **Administrative Record/Answer-Social Security** event; however, the main document will be the Answer and the attachments to this event will be the Administrative Record.

Motions under Civil Rule 12 must be made within 60 days after the notice of the action is given under Rule 3. The events for these motions will be located under the Civil Events \rightarrow Motions and Related Filings \rightarrow Motions.

Upon the filing of the Administrative Record/Answer the clerk will issue the Social Security Scheduling Order. The Text-Only Order will appear as follows:

TEXT-ONLY Social Security Scheduling Order. It appearing to the Court that the Defendant Commissioner has filed an answer and/or the administrative record herein, the issues are ripe for this Court's review. Pursuant to the Supplemental Rules for Social Security Actions and Local Civil Rule 7.2, the Plaintiff's Brief shall be due within 30 days. The Defendant Commissioner's Brief shall be due 30 days after service of the Plaintiff's SS Brief. The Plaintiff may file a Reply Brief within 14 days of the Defendant Commissioner's Brief. Plaintiff SS Brief due______.

The filing of the new SS Briefs is located under Civil → Other Filings → Social Security Documents →

- SS Brief Plaintiff (30 days after the filing of the Social Security Scheduling Order is filed).
- SS Brief Defendant (30 days after the filing of the Plaintiff's Brief).
- SS Reply Brief Plaintiff (14 days after the filing of the Defendant's Brief (but not required)).

The filing of each brief will terminate the current deadline and set the next required brief deadline. Any motions to extend time to file these briefs will be located under the regular extension of time motion: Civil \rightarrow Motions & Related Filings \rightarrow Motions \rightarrow Extension of Time. The motion will prompt as to what type of extension is being sought. Choose appropriate extension type: of Social Security Briefing Deadlines.

ADDENDUM A:

Asheville	Charlotte	Statesville
Avery	Anson	Alexander
Buncombe	Gaston	Alleghany
Burke	Union	Ashe
Cherokee	Mecklenburg	Caldwell
Clay		Catawba
Cleveland		Iredell
Graham		Lincoln
Haywood		Watauga
Henderson		Wilkes
Jackson		
Macon		
Madison		
McDowell		
Mitchell		
Polk		
Rutherfordton		
Swain		
Transylvania		
Yancey		

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