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Senate Releases Appropriation Draft Providing SSA Less Funding Than House

Senate Appropriations Committee Chairman Patrick Leahy (D-Vt.) released what is known as the Chairman's mark of the 12 senate appropriations bills on Thursday July 29. The package included nearly \$1.7 trillion fiscal year 2023, including \$653 billion in non-defense discretionary spending, a 10.1 percent increase over fiscal year 2022. The Senate draft, which has not been considered by the Labor HHS Appropriations Subcommittee, contains \$14.243 billion for the Limitation on Administrative Expenses (LAE) for the Social Security Administration (SSA). This is \$800 million less than the President's request and approximately \$200 million less than called for by the House bill.

NOSSCR was once again pleased to see that the SSA received an increase in funding for LAE compared to FY 2022 but the Senate number would make achieving progress on service improvements even more difficult than the funding level recommended by the House.

Committee Report Language

Here is language from the Senate report regarding how its recommended funding level is allocated to SSA activities:

“The Committee recommendation includes \$1,784,000,000

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Revised EM on SSA-1696 Processing at the Hearing & AC Levels

On August 2, 2022, SSA issued [EM-21070 REV](#), which was revised to include instructions for Office of Appellate Operations (OAO) staff, in addition to existing instructions for Office of Hearings Operations (OHO) staff, for processing representative appointments, revocations, withdrawals, and fee-related documents in the Registration Appointment and Services for Representatives (RASR) application for cases at the Appeals Council (AC) or OHO. EM-21070 REV replaces the prior version published in December 2021.

Notably, the revised EM does not change existing procedures for Field Offices (FOs) and confirms SSA's current policy to accept electronic signatures from claimants on appointment forms and other related documents if the e-signature can be verified. The revised EM states as follows,

When staff receive a written notice of appointment with an electronic signature from a claimant:

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NOSSCR News

ENHANCING YOUR CONFERENCE EXPERIENCE: AN UPDATE FROM THE CONFERENCE COMMITTEE

NOSSCR’s new Conference Committee has been busy with initial planning for the 2023 Annual Meeting in Washington, DC. Previously, NOSSCR board members and general membership had no clear avenue for participation in conference planning, including topic or speaker selection. As part of NOSSCR’s reorganization with a focus on member needs, a Conference Committee was established and charged with determining the needs of members and evaluating session proposals for recommendations to the Director and staff. NOSSCR Board Members and general members have volunteered their time to serve on the Conference Committee.

NOSSCR is also in the process of hiring a profes-

sional conference planner. In addition, the revitalized Exhibitor Committee is providing valuable input from our exhibitors – many of whom are also NOSSCR members.

In the next few weeks, you will receive an email with information about the new online process for submitting session proposals for the 2023 Annual Meeting. There will be a longer period of time for submission, and the proposals will be reviewed by members of the Conference Committee.

In addition to the new proposal submission process, **there will be a separate online process to provide general feedback, requests, and suggestions related to the Conference.** Many changes are already planned in response to feedback. For example, the circuit roundtable sessions and first-timers meeting will be restructured, and the continuing education sessions will be presented in various formats. The Conference Committee looks forward to working with the conference planner and NOSSCR staff to ensure the needs of attendees are being met (mobility, visual, auditory, dietary, etc.).

If you are interested in joining the Conference Committee, or volunteering for any other NOSSCR committee, please contact NOSSCR President David Camp at nosscr@nosscr.org.

CIRCUIT REPRESENTATIVE UPDATES

Your NOSSCR board representatives have the following updates and important information. Please contact your circuit representative if you have any questions or information you would like to share.

Third Circuit

- The United States District Court for the Middle District of Pennsylvania has asked Dave Chermol for assistance in expanding the *pro se disability* appeals panel, similar to the program he assisted in establishing in the United States District Court for the Eastern District of Pennsylvania. If you are admitted in USDC for the Middle District of Pennsylvania, have federal court experience, and would like to be on the pro se disability panel, please email Dave Chermol at dave@ssihelp.us.

Listings/Grids Subscriber Update

An update was made to the listings/grids content on August 15 to reflect the addition of 12 new compassionate allowances (CAL) conditions. All current listings/grids subscribers were sent an email notifying them of this update on August 15. Visit NOSSCR’s online store at members.nosscr.org/store to subscribe today!

Contacting NOSSCR

Have questions? The best way to reach us is by email at nosscr@nosscr.org. We are able to respond most quickly to emails. Phone calls or requests sent by fax or mail will be delayed. Please use a descriptive subject line so we can best be of service to you.

Mission Statement

The mission of NOSSCR is to advocate for improvements in Social Security disability programs and to ensure that individuals with disabilities applying for Social Security Disability and SSI benefits have access to quality representation and receive fair decisions.

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National Organization of Social Security Claimants’ Representatives, 1300 I Street NW, Suite 825, Washington, DC 20005
 Telephone: 845-682-1880, email: nosscr@nosscr.org, website: www.NOSSCR.org; Facebook: www.facebook.com/nosscr.org;
 Twitter: @NOSSCRNews

NOSSCR News

Sixth Circuit

- Effective October 1, 2022, the United States District Court for the Eastern District of Michigan will be implementing a pilot program where Social Security appeals cases will be directly assigned to Magistrate Judges. When a Social Security disability case is filed after October 1, 2022, it will be randomly assigned to a Magistrate Judge. If both parties consent, the case remains with the Magistrate Judge; if not, it is randomly reassigned to a District Judge. For more information, please see the [announcement here](#).

SAVE THE DATE – NOSSCR EVENTS

NextGen Fall Retreat NOSSCR's NextGen Committee is hosting a fall retreat from October 6-8 in Madison, WI. The retreat will feature 8 hours of CLEs, networking, and socializing with peers **forty years or younger or in disability practice for ten years or less. Registration is open and more information is available at: members.nosscr.org/calendar/signup/Mjgx**

Annual Conference The NOSSCR 2023 conference will be held the week of May 1, 2023 at the JW Marriott in Washington, DC and at NOSSCR's new office in DC.

Supreme Court Admission NOSSCR is pleased to offer a group admission to the US Supreme Court on May 1, 2023. NOSSCR's group admission will include admission to the U.S. Supreme Court and other special events. We will begin accepting applications in January 2023.

SAVE THE DATE – CIRCUIT CONFERENCES

In addition to the NOSSCR events, NOSSCR members have generously volunteered their time to develop and implement regional events. Detailed information about topics, speakers, and registration will be provided once available.

September 22-23 – 8th Circuit Conference (Omaha, NE)

The 8th Circuit Social Security disability conference will be September 22-23, 2022 at Embassy Suites in La Vista, Nebraska (Omaha area) **or online. Registration is open and more information is available at tinyurl.com/5n6uvt8c.**

The first 100 NOSSCR or Nebraska State Bar Association members to register will receive an additional registration discount, see website for details.

November 11-12 – 5th Circuit Conference (New Orleans, LA)

The 5th Circuit (FOSSCR) Social Security disability conference will be November 11-12, 2022 in New Orleans, Louisiana.

SAVE THE DATE – OTHER EVENTS

In addition to the NOSSCR events, NOSSCR members have generously volunteered their time to develop and implement other events. Please contact the organizers for each event directly for additional information.

NOSSCR Ltd Forum Monthly Roundtable

The NOSSCR LTD Forum holds a roundtable every third Wednesday at noon (ET). Please see the post on the [NOSSCR LTD Forum page](#) for more information. ◇

Senate Appropriation Draft

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for program integrity activities, including CDRs, SSI redeterminations of non-medical eligibility, and Cooperative Disability Investigations units. This includes \$273,000,000 in base funding and \$1,511,000,000 in allocation adjustment funding. The Committee recommendation also includes up to \$141,000,000 for administrative activities funded from user fees. This includes up to \$140,000,000 in fees collected from States that request SSA to administer State SSI supplementary payments and up to \$1,000,000 from fees collected from non-attorney claimant representatives.

In total, the Committee recommendation includes an increase of \$902,069,000 for SSA's administrative expenses, which includes an increase of \$585,000,000 to support estimated increases in fixed costs across SSA, including cost of living adjustments; increased health and benefit costs; grade and step increases; security and guard services; postage; and rent. On top of this amount, the Committee recommendation includes an increase of \$120,000,000 for

Senate Appropriation Draft

Disability Determination Services which will allow SSA to increase staffing at DDSs and process approximately 200,000 more initial disability claims than it did in fiscal year 2022 with an increase of \$125,000,000 to increase staffing for field offices, hearing offices, and teleservice centers, and targeted investments in IT systems, all with the goal of improving and enhancing service delivery to the public across the agency.”

The Senate appropriations draft also contained report language related to NOSSCR’s priorities. As a reminder, report language is not binding but SSA is generally responsive to the Committee’s requests. Here is report language in the Committee’s draft in its entirety:

Addressing Overpayments The Committee recognizes that over- payments can be a significant challenge for individuals returning or attempting to return to work. The Committee strongly supports efforts to reduce administrative complexities, including in the Tick- et to Work program to reduce such challenges. Further, the Committee encourages SSA to take any steps possible to limit the bur- den of overpayments on beneficiaries that were of little or no fault of the beneficiary, particularly those discovered years later. The Committee requests SSA include information in its fiscal year 2024 CJ on any such efforts.

Consent Based Social Security Number Verification [eCBSV] SSA developed eCBSV, which is to be supported by user fees, to prevent financial fraud, including to address increasing rates of synthetic identity fraud. The Committee directs SSA to include in- formation in its fiscal year 2024 CJ on eCBSV, including estimated costs to provide eCBSV, the reasons for any changes in estimated costs, and any changes to the fee structure including the reason for the change.

Cooperative Disability Investigations [CDI] The Committee directs SSA to provide an update in its fiscal year 2024 CJ on CDI units, including updates on the program’s projected savings to SSA’s disability programs, total recovery amounts,

and projected savings to other Federal and State programs. Such updates shall also include suggestions regarding other ways Federal and State agencies may partner on anti-fraud initiatives with respect to Social Security programs.

Digitizing Forms The Committee strongly encourages SSA to accelerate the digitization of paper forms that are currently not available online. A digitization initiative is already underway utilizing advanced intelligent form designs and the Committee encourages SSA to expand this initiative, and to consider creating a centralized online forms hub to provide a seamless customer experience. The Committee directs SSA to include information in its fiscal year 2024 CJ providing an update on this effort.

Disability Case Processing System 2 The Committee appreciates that DCPS2 is an important tool to modernize the disability determination process, including improving the quality, consistency and timeliness of disability decisions. The Committee directs SSA to include information in its fiscal year 2024 CJ on any steps SSA is taking or has taken to address any recommendations from the OIG and related audits, the extent to which States still rely on legacy systems, and current and estimated future costs associated with the DCPS2.

Disability Claims and Hearings Backlogs The Committee commends SSA for the progress it has made reducing the average disability hearing processing time and the disability hearing backlog. At the same time, average processing times for initial disability claims and reconsiderations, and related pending case levels, have significantly increased. Further, SSA estimates there will be an in- crease in initial disability claims in fiscal years 2022 and 2023. The Committee recommendation will support hiring at DDSs to help address the growing backlog but given current projections it will be a multi-year effort to reduce processing times and pending claims to their pre-pandemic levels. The Committee directs SSA to provide monthly reports to the Committees on Appropriation on key agency performance metrics, including but not limited to initial disability claims,

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reconsiderations, and hearings, and to provide quarterly briefings to the Committees on Appropriations on its progress towards reducing the initial disability claims and hearings backlogs, as well as addressing other service delivery challenges.

Expanding Outreach to People with Disabilities Over the past 2 years there has been a significant decrease in initial disability claims, which is at least in part attributable to challenges applying for benefits during the pandemic. Further, the complexity of the SSI application process, coupled with field office closures due to the pandemic, made it increasingly more difficult for individuals to submit SSI claims, which had a significant impact on individuals facing barriers, including those experiencing homelessness, diagnosed with a terminal illness, and disabled veterans. The Committee strongly encourages SSA to expand outreach to potential beneficiaries, prioritizing underserved communities and individuals most likely to need support. This could include grants to community-based organizations familiar with SSA programs for the purpose of assisting individuals with disabilities apply for benefits, including supporting them throughout the process.

Express Appointments The Committee commends SSA for the creation of innovative service delivery improvements implemented during the pandemic. Given SSA's stated plans to expand the number of visitors that are served at field offices since the pandemic, the Committee directs SSA to report to the Committees on Appropriations within 60 days of enactment of this act detailing the agency's plans for expansion of Express Services, including the expected timeline of such expansion, mechanisms for providing such services, and planned national availability and capacity.

Medical Consultants The Committee is concerned about the rise in the initial claims and reconsiderations processing times for SSDI and SSI benefit claims. The COVID-19 pandemic has created significant challenges, including a decrease in qualified medical experts available to evaluate

medical evidence which has contributed to these backlogs. The Committee directs SSA to include information in its fiscal year 2024 CJ on efforts to improve initial and reconsideration processing times, including encouraging States to expand their hiring and training of qualified medical consultants, and potential regulatory and legislative changes to improve processing times.

Occupational Information System [OIS] The Committee commends SSA's progress in implementing OIS using BLS ORA data, O*NET, and other DOL-derived occupational statistics. The Committee supports such efforts to modernize vocational and occupational data, as well as medical disability eligibility criteria, to reflect the 21st century labor market. The Committee directs SSA to include information in its fiscal year 2024 CJ detailing such efforts, the status of implementation, to what extent OIS is fully operational, a timeline for moving from the Dictionary of Occupational Titles entirely to OIS, and an action plan to accomplish said timeline.

Social Security Advisory Board The Committee recommendation includes not less than \$2,700,000 for the Social Security Advisory Board. This board advises the Commissioner of Social Security and makes recommendations to Congress and the President on policies relating to the OASI, DI, and SSI programs.

SSI Application Simplification SSA has made steps to reduce barriers to filing SSI benefits. In March 2022, SSA released its Electronic Social Security Protective Filing Tool [eSPF] to allow individuals to request an appointment to file for Social Security benefits and establish the individual's protected filing date. This feature will provide flexibility for claimants to secure the earliest filing date if a field office cannot provide same-day service. The Committee directs SSA to include information in its fiscal year 2024 CJ on SSA's efforts to simplify the SSI application, including a list of potential regulatory and legislative changes for individuals seeking to file for SSI benefits.

Work Incentives Planning and Assistance [WIPA] and Protection and

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Advocacy for Beneficiaries of Social Security [PABSS] The Committee recommendation includes \$23,000,000 for WIPA and \$10,000,000 for PABSS, the same as the comparable fiscal year 2022 levels, respectively. These programs provide valuable services to help Social Security disability beneficiaries return to work. The Committee notes that delayed suitability determinations have in some cases significantly affected the ability of PABSS grantees to carry out their mission to protect the rights and best interests of individuals with disabilities.

The language in the House report, as passed out of the full House Appropriations Committee, is different than the language in the Senate report. The House report language was included in its entirety in the July edition of the Forum for comparison purposes. The language in the two reports will need to be reconciled prior to final passage of the appropriations bills.

Next Steps for Appropriations

It is not expected that any of the appropriations bills will be passed through regular order. The first step in the appropriations process in the Senate, if regular order were to be followed, would be for the Senate Labor HHS Subcommittee to vote on the draft report and then proceed to the full Senate Appropriations Committee for consideration. It is not clear when or if the Appropriations Committee will take up the draft package. The House bill was passed out of the full Appropriations Committee on June 29 and is awaiting consideration by the full House of Representatives.

Rather than following regular order, it is expected that congress will pass a continuing resolution (CR) to fund the government when FY2022 ends on September 30th. It is not clear, however, how long that CR might last. It is expected to last at least through the midterm elections but could last longer, even possibly extending into the new year. ◇

Revised EM on SSA-1696

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- **OHO staff will** verify signatures received at the hearing level following current temporary policy and procedure prior to attempting to add the representative in RASR (see [EM-20022 REV 3](#)). If unable to verify a signature, staff will send an assistance request to the FO (see Section C.2, above). The FO will update RASR if the claimant confirms the intent to sign the appointment document. If an administrative law judge already held a hearing for the case and verified the appointment on-the-record, then the claimant's electronic signature on the form SSA-1696 does not require further verification by the FO (see [EM-20022 REV 3](#)).
- **OAO staff will** verify signatures received at the appeals level and, in limited circumstances, signatures received at the hearing level, prior to attempting to add the representative in RASR. If an appointment notice was received at the hearing level, but the appointment was not recognized, OAO staff will determine whether the signature required further verification by OHO staff or the FO (see [EM-20022 REV 3](#)). If necessary, staff will request assistance from the FO (see Section C.2, above). The FO will update RASR if the claimant confirms the intent to sign the appointment document. ◇



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SSA, SSDI and SSI
delivered to your inbox
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week to sign-up

Elections to the NOSSCR Board of Directors

NOSSCR's Nominations and Elections Committee has announced the nominations for Circuit representatives to the NOSSCR Board of Directors, and voting is now live! The candidates are,

1st Circuit (2 open seats)

Mark Bronstein
Ron Belluso
Christopher O'Connor
David Ferrari
David Spunzo

2nd Circuit (2 open seats)

Brian Eisner
Crysti Farra
Rezwanul Islam
Benjamin Shapiro

3rd Circuit (2 open seats)

Thomas Sutton
Richard Weishaupt
Thomas Giordano Jr.
Karl Osterhout

4th Circuit (3 open seats)

Rick Fleming
Rob Wendt Jr.
Laura Beth Waller

5th Circuit (2 open seats)

Paul Burkhalter
Patrick O'Neal
Leeanna McKenzie

6th Circuit (3 open seats)

Natalie Keeve
Michael Liner
Scott Smith
Nathan Craig

7th Circuit (1 open seat)

David Klain

8th Circuit (2 open seats)

Ted Norwood
Nick Coleman
Julie Burkett

9th Circuit (2 open seats)

Kevin Kerr
Maren Bam

10th Circuit (2 open seats)

Miles Mitzner
Feliz Martone
Gary Jones

NOSSCR uses electronic voting. On August 5 ballots were emailed according to Circuit. The email came from vote@simplyvoting.com. You have access to the ballot, candidate statements, and voting through a link provided in the email (unless you are in the 11th Circuit, where there is no election this year). Electronic voting will end on August 31. If you did not receive your email, please contact us at nosscr@nosscr.org.

Election results will be announced at NOSSCR's virtual business meeting scheduled for September 2 at 12:00 pm (noon) Eastern Time.

TO: 1st Circuit NOSSCR members,
FROM: Mark Bronstein
RE: 2022 1st Circuit NOSSCR Board Candidate Statement

Please consider this my Statement in support of my candidacy for election as one of two positions on the NOSSCR Board of Directors to which our circuit is now entitled.

In the interests of brevity, I have attached a copy of the candidate's statement submitted in 2020 when I ran and was reelected to my second two-year term as the 1st Circuit Board representative.

I have basically continued working on the same projects as I mentioned there including chairing the NOSSCR technology committee, helping to modernize NOSSCR's tech systems to improve our internal communications and information systems, the case referral system, the NOSSCR website and soon to be rolled out changes to our newsletter production and distribution to bring it into the 21st century.

Also on the geek front, I have continued to develop and manage NOSSCR's growing online discussion forum platform which currently includes one for the Mentorship program (now in its 2nd year) the brand-new LTD Interest Group forum which was announce a week ago and already has over 50 people participating. Finally, there is our just launched 1st Circuit discussion forum which I am confident will become a useful resource to us here in New England and could prove to be the cornerstone of building a more vibrant local community of advocates and encourage and enable interaction and support not just in the digital work but also IRL, as the kids say.

Finally, I am particularly excited by is our circuit having become entitled to a second board seat. This means that you will get to select two individuals to the Board for the next two years. Having two reps will allow us to continue to make an impact on the national board (in cahoots with Heather Freeman and Pedro Cruz-Sanchez who are 1st Circuit members, and who serve on the board as at large members.) But in addition, the additional person will allow a much stronger effort to improve the services we provide locally as I mentioned above.

I have also co-presented at the past two national conferences and am very involved in the current major transition NOSSCR is going through including hiring a new Executive Director, moving the national office to DC, as well trying to reform our internal governance structure which has been limited by its original role as a very hands off advisory body to the Executive Director, to a modern active governing board taking advantage of current non-profit governance best practices. Let me close by saying I hope you will see fit to allow me to continue my work as a on of our Circuit reps on the board for a third (and final!) term.

Thanks.

Mark

Name: Mark Bronstein

Employer: Law Office of Mark Bronstein
288 Walnut St, Ste 120, Newton, MA 02466, Tel: 617-244-5551
Email: mark@bronsteinlaw.com

Are you an attorney? YES Admitted to practice: Massachusetts
Are you a Regular or Sustaining member of NOSSCR? Sustaining
How many years have you been a NOSSCR member? 38
How many years have you been in practice? 40
How many years have you handled Social Security cases? 39
How much of your practice is devoted to Social Security? 70%
Do you take *Pro Bono* cases: YES

Other Professional Organizations:

Throughout my career I have consulted with, and provided training on disability-related topics to numerous chronic illness support organizations, health care provider organizations, and have been a regular presenter for many years at the yearly ½ to full day SS trainings through the Massachusetts CLE organization

Narrative Statement:

I have spent my two year term as 1st Circuit rep focused on being an active participant at the national board level and trying to get up to speed on the many financial, procedural and business practice issues facing us as SS reps. And that was before COVID 19!

I have served as chair of the Elections Committee, Co-Chair of the Technology Committee, as part of which I set up a confidential online discussion forum to facilitate the work of the Board of Directors. I also assisted the the new NOSSCR Mentorship Program (founded and led by our own Heather Freeman) by creating a similar forum for the mentorship program's participants. Most recently I was appointed to be member of a newly formed board committee tasked with figuring how to make the upcoming national conference in October be as valuable as possible while still keeping everyone safe.

On the local level, while we did recently hold our first webinar which over 20 members attended, I did not get to my plans to set up a local 1st Cir. online discussion forum to make it easier for all of us to share experiences, expertise, and resources related to our practices, and local issues in particular. I still think this would be a useful mechanism for our local community, particularly given the almost day to day changes in practice at our OHO's and FO's.

I hope you will consider electing me for another term so I can continue to build on the work I have done over the past two years. Please do not hesitate to get in touch, if you have any questions or concerns you may have about my candidacy, or the ongoing work of NOSSCR.

Candidate Statement

Name: Ronald F. Belluso, Esq.

Employer: Keches Law Group, P.C., 2 Lakeshore Ave, Bridgewater, MA 02760

Are you an attorney? Yes, MA Licensed.

Are you a Regular or Sustaining member of NOSSCR? Sustaining Membership

How long have you been a NOSSCR member? Since 2014

How long have you handled Social Security cases? Since 2006

How much of your practice is devoted to Social Security? 75%, 25% workers comp.

NARRATIVE STATEMENT:

Dear Board of Directors:

Thank you for this opportunity to be considered for a 1st Circuit Board of Directors seat. NOSSCR has amazing potential now and in the future to grow as an organization to strengthen the relationship between practitioners and the SSA administration, among other things.

Essentially, it is my belief that NOSSCR, while being a great resource for reps, has an even greater opportunity to shape how Social Security Administrative will change rules, laws, and policy to enhance how representatives are paid, and given incentives for doing the tedious work which will bring fresh, young attorney's and reps into the fold. If policy and rules continue to be tightened, an erosion of the financial incentives required to run this type of practice could cause firms to do less SS work, or even worse, close completely. While I am not all about financials, I do think that NOSSCR has the power to show SSA that policies which continue to incentives the representatives will streamline the application process, ultimately saving the Administration time and money. Getting that message across to them clearly could see vast improvements in 1) e-signature, 2) 5 month waiting removal, and 3) continued virtual and telephonic hearings, 4) stability to vocational grid rules and other claimant friendly policy.

In terms of my experience, I have handled thousands of cases between 2006 and present. At Keches Law, I have worked since 2011 to grow our SSDI practice and scale our operations in Massachusetts. I manage our SSDI practice, overseeing 8 lawyers and thousands of active files presently. Our firm has 50 lawyers and is considered the largest plaintiff personal injury firm in Massachusetts.

It would be an honor and great opportunity to serve on the NOSSCR Board of Directors and I look forward to learning more as I am considered for this position.

Respectfully,

Ron Belluso

Candidate Statement

Name: **Christopher O'Connor**

Employer: **Citizens Disability, LLC, 1050 Winter Street, Waltham, MA 02451**

Are you an attorney? **Yes (Massachusetts)**

Are you a Regular or Sustaining member of NOSSCR? **Regular**

How long have you been a NOSSCR member? **10+ Years**

How long have you handled Social Security cases? **27 years**

How much of your practice is devoted to Social Security? **100%**

NARRATIVE STATEMENT:

I received by BA from Bates College in 1991 and my JD from Quinnipiac University School of Law in 1994. Since being admitted to the Massachusetts Bar, I have spent my entire career representing and advocating for injured and disabled clients in the context of personal injury, products liability, medical malpractice, workers' compensation and SSDI/SSI. Since 2010, I have focused 100% of my work on SSDI and SSI cases.

From 2000 until 2010 I was a Partner at Rainer & O'Connor, LLP, a personal injury firm outside of Boston, Massachusetts. Our practice including a spectrum of personal injury, workers' compensation and SSDI/SSI claims. In 2010 I left my partnership to co-found Citizens Disability LLC where I currently serve as General Counsel and Managing Advocate. 100% of our work at Citizens is advocating on behalf of claimants seeking disability benefits before the SSA. In the 10 years since we started Citizens my focus has been on developing and implementing, at scale, strategies and tools that allow for better, more consistent and higher quality advocacy for claimants. We have approached this task using study, collaboration with other practitioners, practice, and leveraging data to give our claimants their best chance of success.

CANDIDATE STATEMENT:

Name: L. David Ferrari

Employer: Law Office of Iannella and Mummolo

Address: 55 Court St. 5th floor Boston, Mass. 02108-2104

Phone Number: 617-227-1538; cell 617-312-2799; email: ferrarilaw@gmail.com

Are you an attorney? YES

If so, in which state(s) are you admitted to practice: Massachusetts

Are you a Sustaining member of NOSSCR? Sustaining since 2009

How many years have you been a NOSSCR member? 14

How many years have you been in practice? 18

How many years have you handled Social Security cases? 17

How much of your practice is devoted to Social Security? 99%

Do you take *Pro Bono* cases: YES (voluntarily and involuntarily)

Other Professional Organizations: Federal Bar Association, also a member of the Massachusetts FBA chapter and national FBA Social Security Law Section; Federal First Circuit Bar; Federal District of Massachusetts Bar.

Officer? Chairman of the Federal Bar Association Social Security Law Section National Board, 2015 to 2018; former Secretary of the Board. Current Board Member.

NARRATIVE STATEMENT:

Dear Colleagues:

As the Chair of the Federal Bar Association's Social Security Law Section Fee Committee, I led the way to the FBA to giving its 100 year old, 14,000+ member endorsement to raising our fee as a national priority of the FBA-for the first time in over a decade. While I believe NOSSCR is due the greatest share in our fee increase victory, FBA influence could have been secondary among many supporters. This is one of the ways I have served our branch of law over the last few years.

As a First Circuit Representative, I hope to explore a regional Fall mini conference and state practice groups. Also, regular quarterly meetings with the regional judge will be pursued and reported to you.

Since my first conference in May 2009 in Washington DC when I recommended to the Board we form a PAC, I have been actively involved in NOSSCR. I kept calling for a PAC until it was

formed in 2012. I advocated changes in our election process for representatives, going to NOSSCR headquarters to observe manual ballot tabulations, which lead to our current internet voting. While serving as a moderator for a NOSSCR conference seminar I allowed the question of HITECH (low cost electronic medical records retrieval) to be addressed, and it lead to a seminar on it at the next conference. The changes above were implemented by Board members, seminar leaders and staff, showing they will respond to new ideas. If elected as a First Circuit Representative to the Board, I expect to contribute in all ways as a Board member does, and help NOSSCR grow.

Directly, I have lobbied Congress for the PAC and contributed financially to it. I was the Vice Chair of a national environmental PAC pre law, and a Pro Bono lobbyist for clean air in DC. I am the co-author of the 16th Edition of The Social Security Advocate's Handbook. I believe we need to support SSA more vigorously in their budget requests, while fearlessly advocating just policy changes with them. To that end, I would like to investigate a NOSSCR litigation committee.

For the past 8 years, I was a solo practitioner with one or two paralegals or law clerks and now I work with one other SSD lawyer. Formerly, I was at a larger firm, going to 46 states for hearings. This diversity of experience and my contacts as former Chairman of the FBA Social Security Law Section-where appropriate, can make NOSSCR stronger.

I respectfully ask for your vote for First Circuit Representative. Call or email me with any questions at any time. Thank you for your consideration.

Sincerely yours,

L. David Ferrari

ferrarilaw@gmail.com

cell 617-312-2799

Candidate Statement

Name: David Spunzo

Employer: Green & Greenberg

Are you an attorney? Yes – Admitted RI, MA, NY

Are you a Regular or Sustaining member of NOSSCR? Regular Member

How long have you been a NOSSCR member? Five Years

How long have you handled Social Security cases? Seven Years

How much of your practice is devoted to Social Security? 100%

NARRATIVE STATEMENT:

I could not be more excited to represent the First Circuit on the NOSSCR Board. My practice is dedicated to Social Security Disability and SSI Claims, and I will bring a unique perspective to this area of law.

For five years before law school, I worked as a substitute teacher and got to experience all areas of school functioning including the limitations that students with disabilities experience. I retain a teacher's certificate in Social Studies (RI Cert. #42851). At the same time, I worked part-time at a psychiatric group home. I helped to dispense medications, bring clients to AA/NA and other treatment, and cooked for the house. It's given me a unique perspective as to levels of mental functioning and the nature of a "least restrictive environment."

In my practice, I have recently turned from exclusively hearing practice to predominantly appellate practice. From this position, I have been able to see the strengths and weaknesses of First Circuit caselaw vis-à-vis the rest of the circuits. I have also gotten to know the magistrates and district judges in Rhode Island well. If we as a Circuit wanted to attempt to mount any kind of concerted challenges to certain caselaw or regulations, I would be able to help organize such challenges as Circuit Rep.

I am also a century club contributor to NOSSCR PAC and have been for the past three years. The political landscape being what it is requires continued vigilance on our part to ensure that the Social Security Act and its amendments continue to serve the most vulnerable members of our society. It is the uniqueness of our shared field of law that we get to hold the government to account for the promises that we have made to one another. This is not just the job of the PAC. It is the job of every representative each time one of us takes a client's case to hearing, to the Appeals Council, to Federal Court, or even simply before a state agency.

I am proud of the shared legal vocation that I share with all of you, and I look forward to help represent all of us on NOSSCR's board.

Candidate Statement

Name: Brian C. Eisner, Esq.

Employer: Fusco, Brandenstein, & Rada, P.C.

Are you an attorney?: Yes

Are you a Regular or Sustaining member of NOSSCR? Regular

How long have you been a NOSSCR member? Since 2019

How long have you handled Social Security cases? 5 years

How much of your practice is devoted to Social Security? Approximately 95%. The other 5% is Long Term Disability/ERISA law.

NARRATIVE STATEMENT:

My name is Brian Eisner and I thank you for considering my candidacy for NOSSCR’s Second Circuit Board. I have been a practicing attorney focusing on Social Security Disability and Supplemental Security Income cases since 2017. It has always been my goal and intention to not only try and help all individuals navigate the arduous and—at times frustrating—process of obtaining SSD or SSI benefits, but to also help educate everyone on the intricacies of the system.

In addition to my desire to help each person who comes through my door (or, more precisely these last two years, speaks with me on the phone) individually, I am also very interested in advocating for positive changes to the various systems and mechanisms needed to help obtain more just results and to obtain more logical benefits (i.e. elimination of the Medicare waiting period).

Prior to working in my current field, I worked in Workers’ Compensation law. I am a graduate of St. John’s School of Law where I was the Executive Notes and Comments Editor for the Journal of Civil Rights and Economic Development (JCRED). During my time at JCRED, I had my note, “Being a Transgender Student: An Uphill Fight for Equality”, published.

Candidate Statement

Name: Crysti D. Farra

Employer: Law Office of Crysti D. Farra

Are you an attorney? Yes

Are you a Regular or Sustaining member of NOSSCR? Sustaining

How long have you been a NOSSCR member? 10+ years

How long have you handled Social Security cases? 10+ years

How much of your practice is devoted to Social Security? 100%

NARRATIVE STATEMENT: I am a current board member, serving as one of 2nd Circuit Representatives. I have enjoyed my last year 1/2 in the role and would enjoy continuing in same capacity. I have been in practice, strictly in the Social Security Disability realm for 12 years. I started my career working for a firm who handled both Social Security and Workmen's Compensation claims. But after 5 years I hung a shingle and now have a solo practice, with 1 full and 2 part-time employees and I absolutely LOVE advocating for my clients.

During the past 6+ months NOSSCR has seen a big transition, and I am proud to have been a part of this new vision and want to continue the good fight!

Please consider continuing my seat on the board as a 2nd Circuit Representative.

Your support is appreciated.

Sincerely,

Crysti D. Farra, Esq.

Candidate Statement

Name: Rezwanul Islam

Employer: Nassau Suffolk Law Services Committee Inc. (NSLS)

Are you an attorney? Yes

Are you a Regular or Sustaining member of NOSSCR? Regular

How long have you been a NOSSCR member? 6

How long have you handled Social Security cases? 8

How much of your practice is devoted to Social Security? 100%

NARRATIVE STATEMENT:

I am a legal services attorney that has served as a representative from the Second Circuit to NOSSCR's Board of Directors since 2020. Over the last two years I have worked with the team at NOSSCR and practitioners around the circuit to help deliver important updates through numerous Second Circuit roundtable updates held over Zoom. I participated in the Social Security Administration's 2021 National Disability Forum, where I stressed the importance of in person services and the disparate impact remote services were having on some of the most vulnerable members of society.

As we transition our operations to Washington DC, I would like the opportunity to continue to represent you and work with the rest of the board to ensure that we continue to pursue NOSSCR's mission to "...ensure that individuals with disabilities applying for SSD and SSI benefits have access to highly qualified representation and receive fair decisions." We must not lose sight of what makes NOSSCR's an indispensable resource for the entire community. NOSSCR's ability to harness an incredible network of dedicated social security practitioners from all around the country is unparalleled.

As we build back from the pandemic and the uncertainty it has brought, the need for qualified representation is at an all-time high. NOSSCR will continue to play an invaluable role in shaping a path forward that is fair to the claimant while affording the representative every opportunity for effective advocacy.

In addition to my work on the board, I have had the great pleasure of serving on NOSSCR's Technology Committee where I have been able to utilize my experience helping to manage similar technology in my role at NSLS. We are hoping to address important technology related issues facing NOSSCR as we transition to Washington DC. We will work with the NOSSCR staff to help improve the experience of all members across the country. I believe the work being done in this committee is vitally important for the future of NOSSCR.

I would like to continue to offer my unique perspectives as someone who works with SSI populations in the Long Island area to better assist you in your practice and serve as a staunch advocate in presenting your concerns to the Board. I reaffirm my request for your support and ask that you vote for me to represent the Second Circuit on the NOSSCR Board.

Candidate Statement

Name: Benjamin Shapiro

Employer:

Law Office of Ivan M. Katz

Are you an attorney?

Yes I am.

Are you a Regular or Sustaining member of NOSSCR?

I am a sustaining member

How long have you been a NOSSCR member?

I have been a NOSSCR member for four years.

How long have you handled Social Security cases?

In practice, for twelve years, but I worked for Social Security prior to that.

How much of your practice is devoted to Social Security?

100% of my practice is Social Security. I do nothing else.

NARRATIVE STATEMENT:

I am honored for you to consider my candidacy for a board seat of our organization. I have been actively representing disability claimants for the last twelve years and worked as a hearing monitor for Social Security disability hearings before that. This is the only field of law that I practice, and I am invested in seeing this remain a viable practice for decades to come.

Coming into this position I bring a unique perspective having been a solo practitioner, worked with the large law firms, managed a Social Security department of a firm, and now as an associate in one of the busiest Social Security firms in Connecticut. My experience gives me the perspective to understand the needs of each different practice model, and allows me to advocate for and help any of my colleagues.

As NOSSCR continues to evolve, it is my hope to be a part of that change and help build a sustainable future for the organization and for each of its members.

Candidate's Statement

Third Circuit

Name: Thomas D. Sutton

Employer: Leventhal Sutton & Gornstein

Address: 3800 Horizon Blvd. Ste 101, Trevoose PA 19053

Phone Number: (215)357-3300

Are you an attorney? YES NO
If so, in which state(s) are you admitted to practice:
PA, GA (inactive)

Are you a Regular or Sustaining member of NOSSCR? Reg Sus
How many years have you been a NOSSCR member? 28
How many years have you been in practice? 38
How many years have you handled Social Security cases? 35
How much of your practice is devoted to Social Security? 100%
Do you take *Pro Bono* cases: YES NO
Other Professional Organizations: American Bar Association, Education Law Center of Pennsylvania, University of Pennsylvania Law School Inn of Court

Officer? Co-Chair, ABA Administrative & Regulatory Law Section
Committee on Benefits; Board Member, Education Law Center of Pennsylvania

NARRATIVE STATEMENT:

I have served on the board for over twenty years and as Past President 17 years ago, so I have a lot of experience with the issues we face on the board. I continue to represent clients at phone and online video hearings, and continue to litigate numerous issues in the federal courts, most notably the Appointments Clause issue which I successfully litigated in the Third Circuit, and on which I helped produce NOSSCR's successful amicus brief in the Supreme Court. I have been in the minority with respect to major decisions taken by the board recently, but I think my perspective is valuable and intend to press my long-held view that NOSSCR's success in representing the interests of our members is directly related to the extent that we are (and are seen by SSA and Congress) as representing the interests of the claimants we serve. I would be honored to continue to serve on the board for the next two years.

Candidate Statement

Name: Richard P. Weishaupt

Employer: Community Legal Services of Philadelphia

Are you an attorney? Yes

Are you a Regular or Sustaining member of NOSSCR? I am a regular member.

How long have you been a NOSSCR member? Approximately 7 years

How long have you handled Social Security cases? 45 years

How much of your practice is devoted to Social Security? About 80%

NARRATIVE STATEMENT:

Richard Weishaupt is a Senior Attorney at Community Legal Services of Philadelphia, one of the nation's pre-eminent legal services programs, doing a combination of individual representation and an imposing array of sophisticated systemic advocacy, litigating over 50 class actions in his career and engaging in administrative and legislative advocacy including Social Security cases. He has met with approximately 10 SSA Commissioners and numerous staff. He is a graduate of Harvard Law School *cum laude* and Fordham University *summa cum laude*. Richard successfully argued the landmark SSI case of *Sullivan v. Zebley* before the Supreme Court, described as the biggest judicial victory for poor people in the history of the Court and winning billions of dollars of SSI benefits for disabled children. He is a nationally-recognized and published expert in Social Security and social welfare policy and law and is consulted by educators, advocates, government officials, and other policymakers. He is a NOSSCR Board member for the Third Circuit and has worked to increase public interest lawyer representation in NOSSCR and to create a section for that group and improve professional relationships.

Candidate Statement

Name: **Thomas Giordano, Jr.**

Employer: **Pond Lehocky Giordano LLP**

Are you an attorney? **Yes**

Are you a Regular or Sustaining member of NOSSCR? **Sustaining**

How long have you been a NOSSCR member? **10 years**

How long have you handled Social Security cases? **10 years**

How much of your practice is devoted to Social Security? **90%**

NARRATIVE STATEMENT:

I am experienced as a board member with effective associations, including the Pennsylvania Trial Lawyers Association, Pennsylvania Association for Justice, and Kids Chance Pennsylvania. I am a former board member of the Epilepsy Foundation of Eastern PA, and the Lupus Foundation—Pennsylvania Tri State Chapter.

I can bring to NOSSCR a modernized understanding of communications, business practices, and the political strength of my association with trial lawyers. I have grown a Social Security practice with these tools, a passion for the work, and an efficient, client-focused group of attorneys at my firm. I hope to bring these skills to NOSSCR's board, helping it continue a transition to greater effectiveness.

As we have seen so far this year, NOSSCR is making great progress—and I want to help. We can honor the past, but this is a time for change, with new leadership fighting for the success of this area of law. NOSSCR needs to continue to transition to political effectiveness and a stronger approach to SSA. We must defend the right to quality representation, and I would do so on NOSSCR's board.

Candidate Statement

Name: Karl Osterhout

Employer: Osterhout Berger Disability Law, LLC

Are you an attorney? Yes

Are you a Regular or Sustaining member of NOSSCR? Sustaining

How long have you been a NOSSCR member? 37 years

How long have you handled Social Security cases? 38 years

How much of your practice is devoted to Social Security? 60 to 70%

NARRATIVE STATEMENT:

I was extremely impressed with the Austin Conference and in particular with the forward thinking, proactive direction I see NOSSCR leadership taking with respect to issues that matter the most to our clients and to our practices. I am especially committed to taking stands with respect to SSA that leverage modern technology, frequently technology which already exists and which can easily be adopted to make the lives of our clients, our practices, and even SSA's day-to-day operations, easier and more focused on the SSA mission of making sure that the truly disabled claimant is being awarded and paid benefits as fast as possible (a great example of this is the effort to get SSA to use already existing medical system portals to obtain medical records very quickly and free of charge). Not only do I support these types of efforts wholeheartedly, I feel like the time is come for me to put some chips on the table and try to help NOSSCR, which has given me so much over the years.

I am also on the Board at the National Association of Disability Representatives (NADR). I've seen firsthand, on both sides, the "bad blood" between these two organizations, both of which have been incredibly important to my professional development and my law firm's success, and I hope to serve as a liaison between the two organizations to find ways to collaborate and cooperate on issues which matter to disability claimants and to the health of our practices. While there are differences between the two organizations, and some difference of focus, what I feel certain we can all agree upon is that we are united in our commitment to making the lives of our clients more secure, and I would like to promote and hopefully enable the ability of NOSSCR and NADR to work together on making this happen.

Candidate Statement

Fourth & DC Circuits

Name: **Rick W. Fleming**

Employer: **James Scott Farrin, PC**

Are you an attorney? **Yes**

Are you a Regular or Sustaining member of NOSSCR? **Sustaining**

How long have you been a NOSSCR member? **21 years**

How long have you handled Social Security cases? **21 years**

How much of your practice is devoted to Social Security? **100%**

NARRATIVE STATEMENT:

I am the incumbent Fourth and DC Circuits representative as well as being the current Treasurer. I strongly believe in the mission of NOSSCR, and I believe that it is now well positioned to be a voice for both disabled citizens and those who represent them. I wish to remain a Board member so that I may continue to assist in NOSSCR's work. I am also a member of the NOSSCR PAC and believe in its work and what we will target in this election cycle. I have the experience necessary to continue representing Social Security Disability Representatives before the NOSSCR Board and beyond. These are challenging times for Social Security Disability claimants and those of us who represent them. As your Circuit representative I will continue to work for you and for our clients.

Candidate Statement

Name: Robertson H. Wendt, Jr. "Rob" *Fourth & DC Circuits*

Employer: Finkel Law Firm LLC, managing member
Charleston, SC

Are you an attorney? Yes

Are you a Regular or Sustaining member of NOSSCR? Yes – sustaining member

How long have you been a NOSSCR member? 34 years

How long have you handled Social Security cases? 39 years

How much of your practice is devoted to Social Security? 100%

NARRATIVE STATEMENT:

I currently serve as one of the Fourth & DC Circuit representatives on the NOSSCR Board. I fully supported the restructuring of our organization and our move to Washington, DC to better advocate for the interests of our clients and the Social Security disability bar. In fact, I've supported and actively advocated for these changes for over 25 years.

NOSSCR has long needed a more energetic, professional, and effective Washington presence to advance legislation, regulations and policies to help our clients and our law practices. Now NOSSCR is positioned to do just that.

I've been involved in politics throughout my legal career, not only in political parties and campaigns, including a run for political office myself, but also as a board member, and section or committee chair for multiple bar organizations at the local, state, and national levels. A lot of that experience involved political fundraising and working with politicians and their staff to advance bar-related goals.

I'm ready to put that experience to good use now that NOSSCR has made bold moves to become more politically effective and would like the opportunity to serve a second term as a Fourth & DC Circuit representative on the NOSSCR board.

Candidate Statement

Name: Laura Beth Waller

Employer: Martin, Jones, & Piemonte

Are you an attorney? Yes

Are you a Regular or Sustaining member of NOSSCR? Regular

How long have you been a NOSSCR member? 3 years

How long have you handled Social Security cases? 10 years

How much of your practice is devoted to Social Security? 100%

NARRATIVE STATEMENT:

I am an Associate Attorney at Martin, Jones, & Piemonte, and I focus my practice on federal district court matters in the Fourth and Eleventh Circuits. Previously, I was self-employed but spent five years working with Dellert Baird Law Offices handling federal district court matters in the Ninth Circuit. I received my BA in Political Science with minors in Spanish and International Affairs from UNC-Wilmington and my JD from NCCU School of Law in Durham. I received my LL.M. in Taxation from the University of Washington in Seattle.

I am a member of North Carolina Advocates for Justice. I have served for the past two years as the Disability Advocacy Section Education Co-chair, where I helped plan five full-day CLE programs. I am the incoming Secretary.

I am currently co-chair of the NextGen Committee, which has thrived under my joint leadership. In this role, I've planned periodic NextGen virtual Happy Hours, including during the virtual conferences. In addition, I helped plan NextGen's first retreat in Boulder in March 2022. The retreat was a huge success, with all attendees rating the event "excellent" or "very good" and reporting they would be very likely to return. During the retreat, I sat on a CLE panel where we presented on "360 Hearing Perspective." I also co-presented a CLE at the Austin conference on "Often Overlooked Appealable Issues."

I hope you will allow me to serve as a Fourth Circuit Board representative. I will bring a fresh perspective to the Board and the same dedication and drive I've demonstrated as NextGen co-chair.

Thank you,

Laura Beth Waller

Candidate's Statement

Fifth Circuit

Name: Paul Burkhalter
 Employer: Morgan & Weisbrod, LLP
 Address: PO Box 821329, Dallas TX 75382-1329
 Phone Number: 214-373-3761 fax 214-666-6032

Are you an attorney? YES NO

If so, in which state(s) are you admitted to practice:

Texas

Are you a Regular or Sustaining member of NOSSCR? Reg Sus

How many years have you been a NOSSCR member? 29

How many years have you been in practice? 30

How many years have you handled Social Security cases? 30

How much of your practice is devoted to Social Security? 80%

Do you take *Pro Bono* cases: YES NO

Other Professional Organizations: FOSSCR, Dallas Association of Social Security Claimants' Attorneys (former president), National Organization of Veterans' Advocates, former member of Houston Bar Association – Social Security Section (former chair), previously member of the San Antonio Social Security Representatives Group

NARRATIVE STATEMENT:

I have been honored to represent the Fifth Circuit on the NOSSCR Board for last two years (as well as a prior period of service in the 2000s). These last two years have been transformative for NOSSCR (in reorienting our advocacy mission) as well for our practice area of law. As NOSSCR undergoes its greatest transition since its founding and continues to face a period of time where the future of our law practices and the disability program itself are under greater threat than ever before, I want be here to hear your concerns and advocate for our clients.

As you may be aware, due to being your elected representative, I am currently an officer on the Board in line to become president. This, of course, gives our Circuit a strong voice in determining NOSSCR's future as well as advancing our legislative and legal agenda to improve our practice and the lives of our clients.

I am dedicated to continuing our Circuit's tradition of FOSSCR conferences. Our Circuit is only one of a few that has such a robust circuit organization and a tradition of local conferences; this should continue. (And other Circuits are starting to look to us as a model). I am looking forward to the next FOSSCR conference this fall in New Orleans.

Even though NOSSCR has won a major victory in getting the fee cap increased, a priority remains to push legislation that will lead to an automatic cost-of-living increase to the fee cap instead of having it remain at the sole discretion of the Commissioner.

I want to hear from you about where you like future NOSSCR conferences to be held and whether we should continue to have some virtual conferences.

As always, my greatest commitment continues to be to the disabled individuals that we represent. As I have stated before my family tree includes refinery workers, teachers, soldiers, industrial construction workers, small shopkeepers, river boat crews, preachers, and farmers; exactly the types of people we have the privilege of representing. I want to be sure that NOSSCR remains a strong voice for those hard-working individuals that become disabled as well as continuing to work to make sure our practice area remains a viable business so we can perform our work. Thanks! Paul

Candidate Statement

Name: **Patrick J. O'Neal**

Employer: **McDonald Law Firm**

Are you an attorney? **Yes**

Are you a Regular or Sustaining member of NOSSCR? **Regular**

How long have you been a NOSSCR member? **7 years**

How long have you handled Social Security cases? **12 years**

How much of your practice is devoted to Social Security? **100%**

NARRATIVE STATEMENT:

I specialize in Social Security disability cases, both DIB and SSI. I began at McDonald Law Firm in 2015 as the senior disability attorney. In 2017, I became the managing attorney for a nationwide disability practice, and I continue in that role to date. From 2010 until 2015, I was a disability attorney for Robert A. Higgins & Associates. I was there at beginning of what is now the Assure network. I was the first attorney to attend hearings for other firms under the Assure banner. I have attended over 1000 disability hearings and written over 2000 hearing briefs.

I have been a NOSSCR member for approximately 7 years and gave a presentation on effective brief writing techniques at the June 2017 NOSSCR conference.

Prior to practicing disability law, I was litigation case manager for Baron & Budd, handling thousands of asbestos cases throughout the country. From 1994-1998, I was a Senior Trial Prosecutor in the Bernalillo County District Attorney's Office in Albuquerque, NM. For three of the four years, I prosecuted felony child abuse cases. Upon graduation from Paul M. Hebert Law School, Louisiana State University in 1991, I clerked for Judge Ulysses Gene Thibodeaux, in the Louisiana Third Circuit Court of Appeals. I received my B.S. from McNeese State University in Wildlife Management in 1986.

Candidate Statement

Name: Leeanna McKenzie

Employer: Laster & McKenzie, Attorneys at Law

Are you an attorney? Yes

Are you a Regular or Sustaining member of NOSSCR? Regular

How long have you been a NOSSCR member? Since 1991

How long have you handled Social Security cases? Since 1991

How much of your practice is devoted to Social Security? 100%

NARRATIVE STATEMENT: I have been handling Social Security cases, including SSDI, SSI, Overpayment, Disabled Children, Disabled Adult Children, Disabled Widow's cases for over 30 years. I have belonged to the Social Security Section of the Houston Bar Association since it's inception in 1992. I have held the positions of council member, secretary/treasurer, and Chair in that organization. I have been a member of FOSSCR for over 20 years. I would be honored to serve on the NOSSCR board as one of the representatives for the 5th Circuit.

Candidate Statement

Name: Natalie Keeve

Employer: Nyman Turkish PC

Are you an attorney? Yes

Are you a Regular or Sustaining member of NOSSCR? Sustaining

How long have you been a NOSSCR member? Since 2017

How long have you handled Social Security cases? Since 2017

How much of your practice is devoted to Social Security? 100%

NARRATIVE STATEMENT:

I have been practicing Social Security disability law and representing disabled clients since 2017. Prior to working in this field, I have held leadership roles in a number of non-profit organizations, including membership associations, and have focused on economic development, program development, training, advocacy and policy initiatives. As a Social Security representative, I have come to rely on the expertise and leadership of NOSSCR in the areas of education, information and advocacy. In addition to taking advantage of NOSSCR's education and training to improve my representation of clients, NOSSCR's national leadership has resulted in advances to this field as a whole and I am aware that there are many significant developments and strategic priorities on the horizon. I can offer my experience and insight in order to contribute to NOSSCR's initiatives and advancement in this field.

NOSSCR is an incredibly important resource for representatives and NOSSCR's advocacy for Social Security representatives and claimants is critical to advance the practice and to provide support for representatives and claimants. I would be honored to be part of the Board of Directors to help lead the organization forward.

Candidate's Statement

Sixth Circuit

Name: Michael Liner

Employer: Liner Legal, LLC
4269 Pearl Road, Suite 104
Cleveland, OH 44109

Are you an attorney? X YES ___NO

Are you a Regular or Sustaining member of NOSSCR? Reg X Sus ___

How many years have you been a NOSSCR member? 11
How many years have you been in practice? 12
How many years have you handled Social Security cases? 11
How much of your practice is devoted to Social Security? 100%
Do you take *Pro Bono* cases: X YES ___NO
Other Professional Organizations: NADR, AAJ, Cleveland Metropolitan Bar Ass'n (CMBA)

Officer? Past Section Chair, CMBA Disability Section

NARRATIVE STATEMENT:

I would be honored to continue serving another term as a NOSSCR 6th Circuit representative. Over the past 4 years I served as Chair and Co-Chair of the NextGen committee, working to increase the involvement of NOSSCR's younger members. We successfully transitioned NextGen from being a conference meetup group to being an active group with regular events and interactions all year long. I created and planned a successful NextGen retreat in Boulder that established a cohesive group of younger attorneys who now regularly interact amongst each other, with many of those members now planning on applying for leadership roles within NOSSCR (including board seats) and a follow-up retreat is currently being planned in the fall in Madison, WI. I am looking forward to continuing to host 6th Circuit meetups via Zoom and now that we are finally pulling out of the pandemic I would love to explore the possibility of planning a regional conference with CLE.

Candidate Statement

Name: Scott F. Smith

Employer: Smith Godios Sorensen

Are you an attorney? Yes

Are you a Regular or Sustaining member of NOSSCR? Sustaining

How long have you been a NOSSCR member? 24 years

How long have you handled Social Security cases? 24 years

How much of your practice is devoted to Social Security? 95%

NARRATIVE STATEMENT:

I have been the Sixth Circuit representative for a number of years. I believe strongly in the practice of Social Security Law. I have advocated for changes in this organization including a move to Washington D.C. and stronger lobbying efforts. I will continue to work for the membership and claimants to ensure that the business of practicing Social Security Disability Law improves and, actually, attracts new members.

Candidate Statement

Name: **Nathan A. Craig**

Employer: **Richardson & Craig**

Are you an attorney? **Yes**

Are you a Regular or Sustaining member of NOSSCR? **Sustaining Member**

How long have you been a NOSSCR member? **16 years**

How long have you handled Social Security cases? **18 years**

How much of your practice is devoted to Social Security? **100%**

NARRATIVE STATEMENT:

Having been a Sustaining Member of NOSSCR for many years, I believe in the mission of providing high quality representation of clients in their claims for Social Security Disability benefits. NOSSCR has provided me and my legal practice the knowledge, skill, and expertise to become a successful disability attorney. I have dedicated my career to helping those that need the most help in taking on a government agency that has become addicted to wrongly denying meritorious claims for benefits. I have always believed that NOSSCR has led the charge to provide representatives and practitioners the tools they need to effectively represent Social Security Disability claimants. For an organization that has given me those tools, I want to give back to NOSSCR and its members who are on the front lines in helping those who are most vulnerable. I feel that I have a voice to lend to help NOSSCR continue to make positive and lasting changes that will help us to become the advocates our client's need. I bring dedication, commitment, and the knowledge and experience to that effort. I would be honored to be your Circuit Representative for NOSSCR's Board of Directors for the Sixth Circuit.

Candidate Statement

Name: **David Klain**

Employer: **Klain & Associates**

Are you an attorney? **Yes**

Are you a Regular or Sustaining member of NOSSCR? **Sustaining**

How long have you been a NOSSCR member? **11 years**

How long have you handled Social Security cases? **15 years**

How much of your practice is devoted to Social Security? **90%**

NARRATIVE STATEMENT:

For many years I have been a NOSSCR sustaining member, and I am excited to see the organization move in a new and positive direction. I am a strong supporter of NOSSCR's move to Washington DC, along with a refresh in leadership. I am seeking a position on NOSSCR's board because I want to help the organization become more involved and effective in political activity, while continuing to advocate for the essential role of representation in the disability process.

I have represented thousands of claimants, and although my firm has grown over the years, I continue to represent claimants in hearings regularly. This work is essential, but we must organize and advocate as an association to protect our future. I would be honored to serve on NOSSCR's board.

Candidate Statement

Name: Ted Norwood

Employer: Norwood Disability and Integrated Benefits, Inc.

Are you an attorney? Yes

Are you a Regular or Sustaining member of NOSSCR? Sustaining

How long have you been a NOSSCR member? Over 10 years

How long have you handled Social Security cases? Since 2007

How much of your practice is devoted to Social Security? Virtually all of it. 98%

NARRATIVE STATEMENT:

I'm running for reelection after serving last year for the first time. I am working with other board members to increase NOSSCR's influence so that we can better advance the interests of our clients and our practices. I served on multiple committees and presented at the NOSSCR Conference in Austin in May.

With my encouragement, NOSSCR has added a second seat for the 8th Circuit. I think this will help us speak for our region and connect further with the members in the region.

NOSSCR was instrumental in raising the fee cap, set to go in effect later this year. Hopefully we can keep that momentum and make further improvements for our membership.

Candidate Statement

Name: Nicholas "Nick" Coleman

Employer: Coleman Law Firm

Are you an attorney? Yes

Are you a Regular or Sustaining member of NOSSCR? Regular

How long have you been a NOSSCR member? 9 years

How long have you handled Social Security cases? 9 years

How much of your practice is devoted to Social Security? 90%

NARRATIVE STATEMENT:

Right after passing the bar, I began practicing at a high-volume Social Security Disability practice in Fayetteville, Arkansas, for four years, participating in nearly 1000+ administrative hearings in Arkansas and the surrounding states while also handling hundreds of District Court appeals.

In late 2018, I started my own law firm, focusing exclusively on personal injury and Social Security appeals in the Eastern and Western Districts of Arkansas and the Eighth Circuit Court of Appeals. I have achieved a high success rate with my federal district court appeal work while also attaining a rare remand and published decision from the Eighth Circuit Court of Appeals in July 2021. Along with my appellate work, I am a frequent contributor to the NOSSCR Forum, having several cases published in the Forum's case materials. Because of my experience, reputation, and high success rate, attorneys throughout Arkansas often call on me for guidance and refer over such cases.

My charismatic personality and passion for Social Security Disability law would make for an excellent addition to the recently opened NOSSCR Eighth Circuit board seat.

Candidate Statement

Name: **Julie Burkett**

Employer: **Burkett Law Firm, LLC (solo practitioner)**

Are you an attorney? **Yes**

Are you a Regular or Sustaining member of NOSSCR? **Sustaining**

How long have you been a NOSSCR member? **Since 2013**

How long have you handled Social Security cases? **I handled my first SSA disability case in 2007. In late 2010, I began building my SSA practice. Around 2013, I shifted my practice to almost exclusively SSA disability work.**

How much of your practice is devoted to Social Security? **95%**

NARRATIVE STATEMENT:

I am grateful for the advocacy, guidance, and support I have received from NOSSCR as a disability attorney. NOSSCR membership has been an invaluable tool to establishing and growing my practice. While I still have a lot to learn, I appreciate the potential opportunity to serve NOSSCR and its members as a part of the Board of Directors. I view service on the Board as an opportunity to give back to the community of attorneys, staff, and representatives that have assisted me.

I am passionate about this area of law. As all who practice in this area can attest, the impact of a successful (or unsuccessful) disability law claim has a great impact on individuals, families, and even the community. Through NOSSCR, I volunteer with AppalReD Legal Aid to assist *pro bono* individuals impacted by the Eric Conn case.

On a personal note, I've experienced the devastation and uncertainty an unexpected disability claim can have on a family. Not long after I graduated from high school, my father suffered a debilitating heart attack. He applied for SSA disability benefits and was denied. After exhausting savings, our family relied on family members and our church food pantry while we waited for my father's disability hearing. College book money came from loans from grandparents. Fortunately, his claim was approved after a life-changing hearing. However, I will never forget the stress and anxiety our family suffered during the long wait.

I am currently a solo practitioner attorney who practices almost exclusively in the area of Social Security Administration disability law. My practice is based in the Saint Louis, Missouri area.

Candidate Statement

Name: Kevin Kerr

Employer: Kerr Robichaux & Carroll Law

Are you an attorney? Yes

Are you a Regular or Sustaining member of NOSSCR? Regular

How long have you been a NOSSCR member? 7 years

How long have you handled Social Security cases? 13 years

How much of your practice is devoted to Social Security? 98%

NARRATIVE STATEMENT: I am committed to fighting for benefits for the disabled. I have had the privilege of doing over 3000 ALJ hearings and I am happy to share my experience by presenting at NOSSCR and on online listserves, so as to make us all better advocates. I also litigate extensively in the Ninth Circuit; my firm and I have won several precedential cases in the Ninth Circuit and I believe I have effectively lead the Ninth Circuit roundtable at the last two conferences. It is important that those litigating in the Ninth Circuit are communicating well in order to reduce the risk of making bad law.

Candidate Statement

Name: Maren Miller Bam

Employer: Salus Law, PLLC

Are you an attorney? Yes

Are you a Regular or Sustaining member of NOSSCR? Sustaining

How long have you been a NOSSCR member? 3 years

How long have you handled Social Security cases? 9 years

How much of your practice is devoted to Social Security? 95%

NARRATIVE STATEMENT:

I am an experienced Social Security Attorney who trained at Dickinson Law's Disability Law Clinic under Professor Robert Rains and attended my first NOSSCR conference as a law student. From that point forward my entire career has centered on working as a Social Security Attorney.

While in law school, I had the opportunity to participate in the drafting of NOSSCR's amicus brief to the Supreme Court in the Windsor Case (Defense of Marriage Case).

I started my career drafting federal court briefs for Social Security cases, but quickly shifted to working for a non-profit managing their Social Security Post-Entitlement Program. I eventually went into private practice and opened my firm, Salus Law, PLLC in 2017.

I am a zealous advocate who is willing to think outside the box. I work tirelessly for my clients and have even done hearings within 24 hours of giving birth. I've also lobbied for legislation to pay timely benefits, backpay, and fees to claimants and representatives alike. The 2020 Cares Act contains the directive language I drafted and fought for.

My firm uses an entirely virtual model and I've presented several times on the use of technology in legal practice and using technology to improve customer service and efficiency in the Social Security Practice Area. Many of my presentations can be found on ProLawCie, Lawline, and Quimbee.

I am a member of NOSSCR's NextGen Committee and was a part of the planning for the inaugural NextGen Event in 2022. I had the opportunity to co-present with Michael Liner and David Camp on "The Journey": Bootstrapping a Disability Practice from the Ground Up.

I was named as a Favorite Female Founder in 2021 by Taylored Living Magazine, and Entrepreneur of the Year by my local Rotary Club. I've also received a NAMI Citizenship award for my work with mentally ill individuals.

Candidate Statement

Name: Miles L. Mitzner

Employer: The Mitzner law Firm, PLLC

Are you an attorney? Yes.

Are you a Regular or Sustaining member of NOSSCR? Yes.

How long have you been a NOSSCR member? 30+ years.

How long have you handled Social Security cases? 35 years.

How much of your practice is devoted to Social Security? 100%

NARRATIVE STATEMENT:

We are a hometown firm with a national reach. We have handled cases from California to Maine, Washington to Puerto Rico. We are licensed in many of the central states because we handle a significant amount of Federal Court referrals nationwide from our referral partners. We use the term “Disability Professionals” because that is what we are about—delivering the utmost services to the least of those, the disabled. We love to assist the disabled in any of their disability needs with any entity: railroad, long term, state, teachers, or other such entities that disability benefits are available.

Disability is all we do and it is in our DNA. We have been a law firm since 1990, but helping the disabled since 1987. I am proud to lead this law firm of professionals, and would be honored if you considered me for the Board. I have handled well over 20,000 cases. I am a past Board member and am known to be a very willing helper by email if you ever have a question about anything disability. I have been working with our President over the past year of my term to effect change in NOSSCR for the betterment of NOSSCR and its members. I would be most appreciative of your vote.

miles@mitzner.com

Candidate Statement

Name: Ms. Feliz MariSol Martone

Employer: Self-employed owner of Martone Law Firm, PA

Are you an attorney? Yes, since 2005.

Are you a Regular or Sustaining member of NOSSCR? Sustaining member.

How long have you been a NOSSCR member? I have been a sustaining member since 2008.

How long have you handled Social Security cases? I have handled Social Security Cases from October 2008 to the present, for almost 14 years.

How much of your practice is devoted to Social Security? 100% devoted to Social Security disability until January 2022, I expanded my practice to include estate planning. I've seen a benefit to my disability clients to have the ability to provide special needs trusts, and other estate planning documents.

NARRATIVE STATEMENT:

My name is Feliz Martone. I am an attorney in Albuquerque, New Mexico. I am a mom of three and I enjoy volunteering at my kids' school, supporting other female entrepreneurs, as well as spend time with friends and family. I have been practicing law for 17 years, 14 years exclusively Social Security Disability. I am the owner of Martone Law Firm, a small firm with two attorneys and three support staff. We love what we do for a living and the reward of helping those in need. I have attended about a dozen NOSSCR conferences over the years, most recently in Austin, Texas. I feel that the quality of programs that NOSSCR offers could be substantially improved. As a long-term practitioner there was not a lot of substance in the recent conference. It would be nice to have a variety of formats and additional accommodations for those attending who may have disabilities.

I would love for NOSSCR to return to twice a year conferences, which contain a wealth of information at any level of experience, and to have them in various areas of the country. It would be beneficial to get feedback from the NOSSCR membership as to what types of programs they want to see NOSSCR present. I also thought providing a continental breakfast and coffee to participants of the conference is a good way to connect with others, as well as the happy hours that there used to be.

Also, we used to have annual 10th Circuit meetings, usually over the Valentine's Day weekend in Oklahoma. We once had it here in New Mexico. It is beneficial for federal court practitioner's like myself to attend the 10th Circuit meetings. It would be beneficial to hold them in a different state or poll the membership as to where the most people will attend, and offer a variety of options to attend. SSA has figured out video conferencing, I'm sure we can adapt for NOSSCR to have the latest abilities to reach more members.

I attended the 10th Circuit update meeting in Austin with Miles Mitzner, and I agreed with a lot of what Mr. Mitzner had to say about improving NOSSCR now and for the future. I'd be happy to work on the board to accomplish many things that will improve the lives of our claimants and help our practice. I've been wanting to get the State of New Mexico to revise the costs of obtaining medical records for claimants. It would be nice to have NOSSCR spearhead an effort to remove the cost for disability claimants across the US, many states have no cost. There should also be improvement in discouraging and training Social Security employees not to give legal advice to claimants or make comments about a claimant obtaining representation.

The SSA cost of living increase for 2022 was a welcome increase, as is the 20% increase in representative fees. As a NOSSCR member I want to see advocacy continue, with a focus on SSI recipients. Too many times SSI beneficiaries are without a way to advance their living situations without risking losing the benefits they need to survive. In my practice I've become knowledgeable about the ABLÉ accounts and Special Needs Trusts that SSA allows for some SSI beneficiaries to use as a method to save. These are inadequate resources with too many restrictions. It is important that SSA continues to provide for those most vulnerable in our society. The SSI income and resources amount should be increased to reflect our current economy, the restrictions on marriage and couples should be lifted, as should the other archaic penalties our SSI clients suffer. I've incorporated estate planning into my disability practice to help SSI beneficiaries protect their public benefits and educate others in ways to plan for their future.

I am committed to this practice and to continuing to maintain my NOSSCR membership. I hope to become a part of the board to initiate some improvements and provide my perspectives and experience to the board.

Thoughtfully,

Feliz Martone

Martone Law Firm, PA
2500 Louisiana Blvd NE
Suite 510
Albuquerque, NM 87110

www.martonelawfirm.com

Ph. 505-883-1260
Fax 505-837-2512

Candidate Statement

Name: Gary Jones

Employer: The Law Center for Social Security Disability

Are you an attorney? Yes, licensed in Oklahoma #14644 and Texas # 24118062

Are you a Regular or Sustaining member of NOSSCR? Sustaining

How long have you been a NOSSCR member? 15 plus years

How long have you handled Social Security cases? 29 years

How much of your practice is devoted to Social Security? 95%

NARRATIVE STATEMENT: I am Gary Jones and I have a solo Social Security Disability law practice in Oklahoma City. I maintain about 250 new clients per year. In my solo practice it is my responsibility to interview new clients, prepare appeals, help the clients prepare for a hearing, draft briefs and conduct the hearing. I also spend a great deal of time educating my clients so that they have realistic expectations. Finally, when we win, I am elated for my client because now they have the resources to care for themselves and plan for the future.

I entered into a Social Security Disability Law practice in 1992 with my mentor, Robert Grove, in Oklahoma City. My first assignment was to write an Appeals Council brief. It took me almost a week to write the brief because I had to learn about the area of law first. I began the brief with the five step sequential evaluation process and went through each step. That was my indoctrination into Social Security Disability Law. After about 6 months I achieved a remand. Now I had my first hearing scheduled. So, I went with Mr. Grove to multiple hearings as an observer to learn how to conduct a hearing. The big day came and the client and I began a journey into Social Security Disability Law. It is satisfying to help people obtain an income that allows them to take care of their families.

I grew up in Hereford, Texas and went to Texas Christian University. I graduated with a Business degree. I then attended Oklahoma City University and achieved a law degree in 1992. I live in Oklahoma City with my wife. We have two adult children.

As a future NOSSCR board member, I hope to move the organization in a bipartisan direction. I believe that this will allow NOSSCR to achieve power with the Social Security Administration, the President, Senate and Congress, regardless which party is in power. This will allow all NOSSCR members to better represent our clients and put forth beneficial regulations and policies.



NOSSCR PAC

POLITICAL
ACTION
COMMITTEE

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Key: **CAP= Capitol Club**, \$5,000/monthly contribution of \$416
PC= Platinum Club, \$2,500-\$4,999/ monthly contribution of \$208-415
DC=Diamond Club, \$1,000-\$2,499/monthly contribution of \$83-207
CC= Century Club, \$100-\$999
C=Contributor, all other contributions

Identifying Information for Fees Paid by Direct Deposit

When deciding how to receive direct payment of fees from SSA (via paper check or direct deposit) there are several things to consider. In general, direct deposit is preferable because it is safer and faster than being mailed a paper check, especially given the recent problems with mail delivery. However, the one factor in favor of receiving paper checks from SSA is that they include the full name and SSN of the claimant that the fee is being paid for, regardless of which bank you use.

For fees paid by direct deposit, SSA (via the Department of the Treasury) provides all banks with the same identifying information and then each bank decides which information to provide to their account holders. In a section entitled “Do Representatives Have the Option to Receive Fee Payments via Direct Deposit?” on [SSA’s webpage](#), the agency states:

The financial institution receiving the direct deposit is provided with information which may assist representatives to identify the source of the payment. This information includes the first four letters of the claimants’ first name, the first thirteen letters of the claimants’ last name, any suffix to the claimants’ name, the claimants’ SSN, and the payment amount. It is at the discretion of the financial institution to provide this information to representatives and other account holders. You can learn more at [Direct Deposit of Fees Factsheet: Social Security Expands Its Use of Prearranged Payment and Deposit \(PPD+\) Format For Direct Deposit of Representative Fee Payments](#).

As such, it is within each bank’s discretion to provide the identifying information for each deposit. Claimants’ representatives report that Chase and Truist provide the least amount of identifying information (no SSNs) while Bank of America and U.S. Bank provide the claimant’s full name and SSN. However, some banks may provide the omitted information by calling customer service and asking for the “addendum” information for each deposit individually or requesting that the account defaults be modified ◇.

12 New Conditions Added to Compassionate Allowances List

In a [Press Release](#) issued on August 15, 2022, Acting Commissioner Kilolo Kijakazi announced the addition of 12 new Compassionate Allowances (CAL) conditions: Angioimmunoblastic T-cell Lymphoma, Blastic Plasmacytoid Dendritic Cell Neoplasm, Gerstmann-Straussler-Scheinker Disease, Microvillus Inclusion Disease – Child, Mowat-Wilson Syndrome, Myelodysplastic Syndrome with Excess Blasts, NUT Carcinoma, Pfeiffer Syndrome - Types II and III, Pontocerebellar Hypoplasia, Posterior Cortical Atrophy, Renal Amyloidosis – AL Type, and Sarcomatoid Mesothelioma.

According to the Press Release, “The Compassionate Allowances program quickly identifies claims where the applicant’s condition or disease clearly meets Social Security’s statutory standard for disability. Due to the severe nature of many of these conditions, these claims are often allowed based on medical confirmation of the diagnosis alone. To date, more than 800,000 people with severe disabilities have been approved through this accelerated, policy-compliant disability process, which has grown to a total of 266 conditions.”

The complete list of CAL conditions can be viewed at [SSA Compassionate Allowances Conditions](#) or [POMS DI 23022.080](#). For more information on how the CAL process is implemented, *see e.g.*, [HAL-LEX I-2-1-40A.4](#), (“Critical Cases”) and [POMS DI 11005.604](#) (“Processing Compassionate Allowances (CAL) in the Field Office (FO)”). Even if a CAL case is denied, it retains priority status at all levels of adjudication. *See* Sections F & G of POMS DI 11005.604.

All current listings/grids subscribers were sent an email about this update on August 15, 2022. To purchase a subscription to NOSSCR’s online listings/grids manual, please visit the [NOSSCR online store](#). ◇

Available Materials

2284. Weight of Medical Evidence

The Court applied the credit-as-true rule and remanded the claim for an award of benefits, finding that the ALJ improperly rejected the opinions of four medical sources, the claimant's testimony, and the claimant's mother's lay witness opinion.

De La Cruz applied for benefits after March 27, 2017, subsequent to the SSA's change to the rules regarding weight of the evidence and the hierarchy of medical opinions. On April 22, 2022, the Ninth Circuit held that the 2017 changes to the regulations displaced longstanding case law requiring an ALJ to provide "specific and legitimate" reasons for rejecting an examining or treating physician's opinion. *Woods v. Kijakazi*, 32 F.4th 785 (9th Cir. 2022). The Ninth Circuit held that an ALJ's reasons for rejecting any medical opinion "must simply be supported by substantial evidence."

The ALJ in De La Cruz rejected the opinions of two treating sources and two examining sources in favor of the opinions of the non-examining state agency consultants and the non-examining psychologist who testified at De La Cruz's hearing. All the rejected opinions supported a finding of disability.

The Court held the ALJ failed to provide reasons supported by substantial evidence for rejecting the treating and examining source opinions. The Court applied the credit-as-true rule and remanded for an award of benefits. Specifically, the Court held that (1) the record was fully developed, and further administrative proceedings would serve no useful purpose; (2) the ALJ failed to provide legally sufficient reasons for rejecting the opinions of four medical sources, the claimant's testimony, and the claimant's mother's opinion; and (3) if the evidence were credited, the ALJ would be required to find the claimant disabled.

The Plaintiff was represented by Kyle Kitson, Homeless Action Center, Berkeley, CA; and Suzanne Zalev, Bay Area Legal Aid, Oakland CA (formerly Homeless Action Center, Berkeley, CA).

No. 2284. *De La Cruz v. Kijakazi*, 2022 WL 1556411, Case No. 20-cv-05852-MMC (N.D. Cal. May 17, 2022)

To purchase available materials, [click here](#).

Do you have a successful case you would like to share

with readers of the NOSSCR Forum? Please send submissions to Lea.Robbins@nosscr.org, making sure to redact PII from all materials. ◇

Selected Cases

WEIGHT OF MEDICAL EVIDENCE

Richards v. Kijakazi, 554 F.Supp.3d 242 (D.Mass. 2021)

The ALJ used an incorrect filing date when adjudicating the claim and consequently applied the incorrect standard for evaluating the medical opinions of record, which requires remand for further administrative proceedings. Specifically, in a prior claim that was appealed to the Appeals Council, the AC's decision denying review stated that the claimant would be entitled to a protective filing date of June 17, 2016 if she filed a new disability claim within six months, which she did. Because of this, the ALJ should have applied the treating physician rule, which is applicable to claims filed before March 27, 2017. Despite the Commissioner's assertion, the claimant did not waive this argument by failing to raise the issue before the ALJ, which would have made no sense for her to do and is not required per the Supreme Court's decision in *Carr v. Saul*, 141 S. Ct. 1352 (2021), which extended the holding in *Sims v. Apfel*, 530 U.S. 103 (2000) that a claimant does not waive an argument where he or she omits it from a request for AC review in at least certain cases at administrative hearings. The ALJ's failure to apply the proper legal standard for evaluating medical opinions is not harmless, as the ALJ failed to consider the additional factors required under the treating physician rule, which may have warranted the doctor's opinion being given additional weight. Consequently, this may have also corroborated the claimant's subjective symptoms, which should also be reconsidered on remand.

ALJ'S DUTIES

Hardy v. Com'r of Social Sec., 554 F.Supp.3d 900 (E.D.Mich. 2021)

In a claim filed after March 27, 2017, the ALJ failed to sufficiently articulate her reasons for finding the opinions of the claimant's treating physicians "unpersuasive." While the new regulatory standard for evaluating medical opinions is plainly less demanding, "they still require that the ALJ provide a coherent explanation of her reasoning." In rejecting

both treating physicians' opinions, the ALJ cherry-picked the record and did not explain why she chose to accept the findings that undercut the opinions and reject the findings that supported them.

“Because of the greater latitude afforded ALJs under the new regulations, the importance of cogent explanations is perhaps even more important. And where, as here, the record contains no opinion that the ALJ found persuasive which supports the non-disability finding, faithful adherence to the ‘articulation’ requirement of the new regulations is vital to maintaining the guarantee of the rule of law... The administrative adjudicator has the obligation in the first instance to show his or her work, i.e., to explain in detail *how the factors actually were applied* in each case, to each medical source. Resorting to boilerplate language to support a finding of unpersuasiveness does not satisfy that obligation. In some instances, the failure to apply the rules properly can be harmless error, such as where ‘a treating source’s opinion is so patently deficient that the Commissioner could not possibly credit it,’ or where the Commissioner ‘has met the goal of... the procedural safeguard of reasons.’ *Wilson*, 378 F.3d [541] at 547 [(6th Cir. 2004)]. Neither instance exists here.” Therefore, remand is required. ◇

SSA Revises EM on Evaluating COVID Cases

On August 9, 2022, SSA issued [EM-21032 REV](#), Evaluating Cases with Coronavirus Disease 2019 (COVID-19), which revises and replaces the prior version issued on April 16, 2021.

The EM was revised to provide background information on Long COVID in Section B; to provide common examples of Long COVID symptoms in Section C.5.; and to include specific reference to the childhood listing for respiratory failure (103.14), in addition to the adult listing (3.14), and clarify that the “administration of supplemental oxygen is not sufficient to establish listing-level severity of a respiratory disorder” in Section C.6. ◇

Change of Address

*NOSSCR's offices have moved
please note our new address
1300 I Street NW, Suite 825,
Washington, DC 20005*

*Voting for Circuit representatives to
the NOSSCR Board of Directors ends
Wednesday August 31*

Upcoming NOSSCR Events

*Annual Conference 2023
Washington, DC; JW Marriott Hotel
May 3-6, 2023*

**Caseload Analysis Report
July 2022**

CASELOAD ANALYSIS REPORT

NATIONAL

Month Ending: 07/29/2022 Run Date: 08/09/2022

ODAR WORKLOAD AND PERFORMANCE SUMMARY

	FY21	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	FY22
Work Days	248	24	18	19	23	19	20	25	20	18	24			210
ALJs Duty	1325.00	1270.00	1266.00	1261.00	1229.00	1222.00	1219.00	1207.00	1203.00	1195.00	1189.00			1226.10
ALJs Avail	1234.76	1178.30	1174.20	1172.60	1145.50	1130.60	1131.75	1121.85	1113.85	1107.60	1108.75			1138.50
Adjusted Receipts	382870	35970	26390	26875	32855	26573	27747	34639	26162	23103	31268			291582
Receipts Total	383650	36034	26443	26907	32902	26614	27788	34681	26210	23148	31327			292054
VH Opt Out	80860	6422	4726	4782	4829	4314	4079	5083	4044	3277	4286			45842
Receipts Daily	1546.98	1501.42	1469.06	1416.16	1430.52	1400.74	1389.40	1387.24	1310.50	1286.00	1305.29			1390.73
Receipts Daily Per Available ALJ	1.25	1.27	1.25	1.21	1.25	1.24	1.23	1.24	1.18	1.16	1.18			1.22
Transfers In	91081	5211	6858	7021	6525	8155	6010	8826	6118	5195	10082			70001
Transfers Out	91079	5211	6858	7019	6525	8155	6010	8826	6118	5195	10082			69999
Dispos Total	451046	35243	25857	28150	35911	29562	31194	33843	27393	23903	31285			302341
Dispos Daily	1818.73	1468.46	1436.50	1481.58	1561.35	1555.89	1559.70	1353.72	1369.65	1327.94	1303.54			1439.72
ALJ Dispos Total	449584	35221	25791	28061	35788	29460	31094	33722	27292	23808	31157			301394
ALJ Dispos Daily	1812.84	1467.54	1432.83	1476.89	1556.00	1550.53	1554.70	1348.88	1364.60	1322.67	1298.21			1435.21
ALJ Dispos Daily Per Avail ALJ	1.47	1.25	1.22	1.26	1.36	1.37	1.37	1.20	1.23	1.19	1.17			1.26
Attorney Adj Dispos Total	1462	22	66	89	123	102	100	121	101	95	128			947
Attorney Adj Dispos Daily	5.90	.92	3.67	4.68	5.35	5.37	5.00	4.84	5.05	5.28	5.33			4.51
DISP/REC Ratio	118	98	98	105	109	111	112	98	105	103	100			104
DISP/ADJ Receipts	118	98	98	105	109	111	112	98	105	103	100			104
Prod Index	69.95	59.06	62.77	64.21	65.90	61.12	61.82	55.84	55.77	55.72	56.22			59.70
Total O/T Hours	205205.86	16069.75	20858.00	15460.00	27781.25	23142.75	23619.25	30745.00	24238.90	18893.00	29257.25			230065.15
Average Proc Time	326	308	306	305	315	313	309	319	324	327	352			318
Opening Pending	418313	350137	350864	351397	350122	347066	344077	340630	341426	340195	339395			350137
Closing Pending Total	350137	350864	351397	350122	347066	344077	340630	341426	340195	339395	339378			339378
Closing Pending Per Duty ALJ	273.33	276.27	277.56	277.65	282.40	281.57	279.43	282.87	282.79	284.01	285.43			285.43
Pending Over 120 Days	235326	238484	241763	242094	240650	240082	237783	235922	234972	237609	240630			240630
% Pending Over 120 Days	67	68	69	69	69	70	70	69	69	70	71			71
Pending Over 180 Days	180398	183718	188827	190879	191412	190360	188011	189471	188496	191223	191795			191795
% Pending Over 180 Days	52	52	54	55	55	55	55	55	55	56	57			57
Pending Over 270 Days	130130	130113	132132	134876	136621	138363	138603	140159	140322	141918	143046			143046
% Pending Over 270 Days	37	37	38	39	39	40	41	41	41	42	42			42
Pending Over 365 Days	103108	102737	103855	104321	103853	104284	105297	107313	108792	110751	111463			111463
% Pending Over 365 Days	29	29	30	30	30	30	31	31	32	33	33			33
Pending > 365 Per Duty ALJ	80.49	80.90	82.03	82.73	84.50	85.34	86.38	88.91	90.43	92.68	93.75			93.75
Pending 750 and Over Days	32816	37062	40097	42694	45341	48045	51168	53327	54001	54645	54351			54351
% Pending 750 and Over Days	9	11	11	12	13	14	15	16	16	16	16			16
Pending 800 and Over Days	25742	29059	31885	35085	38584	41037	42839	46176	48800	50169	50546			50546
% Pending 800 and Over Days	7	8	9	10	11	12	13	14	14	15	15			15
Pending 850 and Over Days	19832	22778	25052	27749	31154	33989	36705	39004	40936	43934	46166			46166
% Pending 850 and Over Days	6	6	7	8	9	10	11	11	12	13	14			14
Pending 900 and Over Days	15182	17501	19421	21635	24561	26888	29780	32910	35035	36881	39437			39437
% Pending 900 and Over Days	4	5	6	6	7	8	9	10	10	11	12			12
Pending 1000 and Over Days	8829	10067	11348	12834	14881	16551	18599	21058	23277	25581	28255			28255
% Pending 1000 and Over Days	3	3	3	4	4	5	5	6	7	8	8			8

Per-ALJ calculations exclude 947 dispositions for Attorney Adjudicator Cases; there are 7 cases pending for Attorney Adjudicators.
To date, 474 cases have been deleted.



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