



People With Disabilities Foundation

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February 1, 2016 (Rev. 3/9/16 to correct typos)

Michael Pyle, Assistant US Attorney,
United States Attorney's Office, Northern District of California
150 Almaden Blvd., Ste. 950
San Jose, CA 95113- via U.S. Mail and email

Re: *Davis v. Astrue*, Case 3:06-cv-06108 EMC (NC)
Training at SSA –February 2, 2016

Dear Mr. Pyle:

We look forward to meeting with Social Security Administration (SSA) Claims Specialist Frances Hernandez and Technical Expert Shelton Fong on Tuesday, February 2, 2016 pursuant to the “Stipulation for Compromise Settlement and Releases; Order of Dismissal” in *Davis v. Astrue*, Case 3:06-cv-06108 EMC (NC), jurisdiction of which is retained by Hon. Edmond Chen, p. 11-12 ¶ 16, executed on June 19, 2012.

As you may know, when SSA's prior assigned Claims representative (CR) met with Mr. Davis's professional(s) in 2012 for training on effective communication¹ with Mr. Davis, that meeting was recorded. Please note that we also plan to record the session on February 2, 2016, per POMS GN 00203.001.

We would hope the SSA would also be interested in recording and saving these sessions in order to provide Mr. Davis with ongoing equal, meaningful program access. Had SSA had such a procedure and done this in 2012 when Dr. Irwin Shapiro, Mr. Davis' prior treating psychiatrist and a doctor contracted with SSA for about 25 years, conducted the training; SSA would already be prepared for what was inevitable; i.e., having a CR leave or retire. Moreover, the information from Mr. Davis's psychiatrist and psychotherapist about his functional limitations with respect to effective communication, his medical charts, the information from his initial application in 1985 and CDRs would easily and efficiently be available.

¹ Effective communication is the operative legal regulatory phrase, See 45 C.F.R., Part 85.

Once SSA has developed this process, we suggested that the Assigned and Backup Assigned program experts be aware of it and use it prudently. Given that the law requires effective communication between the SSA and mentally and/or developmentally disabled individuals, this training is not unanticipated by SSA. Does the SSA not believe after its Section 504 Self Evaluation, which was announced by the Commissioner in October, that this reasonable accommodation is worth being part of the Administration's permanent process? In August 2013 the SSA announced general POMS, DI 11005.076 "Interviewing People with a Mental Impairment(s)" regarding training such as "...respond to questions in a calm and relaxed manner, even to odd or peculiar questions," which is clearly not likely to benefit any particular individual. Do you disagree?

This process is extremely important to the over 3.5 million people who receive benefits based on mental disorders,² who may have trouble understanding complicated policies, procedures, and practices. It would be to everyone's benefit, i.e., disabled beneficiaries and the SSA, to use this type of information and process to ensure equal opportunity (meaningful program access) in the SSA disability programs (SSDI and SSI).

Thank you in advance for your cooperation and we look forward to meeting with Ms. Hernandez and Mr. Fong on February 2, 2016.

Sincerely,

/s/

Steven Bruce, Legal Director
Attorney for Plaintiff

Cc: Mr. Douglas Brown, District Manager –U.S. Mail and fax
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Deborah Stachel, Acting Regional Chief Counsel, Social Security Administration,
Region IX -via email

² Social Security Administration, "Annual Statistical Report on the Social Security Disability Insurance Program, 2014" p. 25, *available at* https://www.ssa.gov/policy/docs/statcomps/di_asr/2014/sect01b.pdf (last visited January 29, 2016).
