

FOR IMPATIENT READERS OF

Make Disability Pay

QUICK START GUIDE

Unless I am mistaken – which I almost never am – what you really want is “*to get this done and over with*” so you don’t have to think about it anymore. You want to file a claim and have the money start rolling in. You want the Social Security Universe secret sauce right NOW, NOW, NOW, and you clicked the link that brought you here to find it. (*Nice to meet you.*)

*“The Odyssey”
is an old Greek poem
about a guy who spends
20 years sailing around, pretty
much lost, on his way home from
the Trojan War. You might
remember it from high school
English.*

To get you started on your own personal Odyssey over the murky depths (which here means the Code of Federal Regulations) leading to Social Security Island (*think, Survivor*); first, establish your beach head: comfy chair/couch/hammock; bowl full of savory snacks; flash

light in case of an emergency power outage and beverage to maintain electrolytes. (*Or, you could just get some Cheetos & Diet Mountain Dew like I would.*)

Pages 5 and 6 show two diagrams. Page 6, with the green and red arrows, shows you what to do at each stop along the way through Social Security Land.

That’s it. There are five steps. You always need to keep in mind that you are the captain of this ship (*Okay, you’re the fearless captain trainee*), and that you need to drive the process and **prove to them** that you are not physically and/or mentally able to do any job you have done in the past 15 years; nor do you have the capacity (*the present ability*) to do *any other*

To make my life easier, I’ll type the actual name of something, *Field Office*, for example. I will follow that up with something like (“FO”).

After that,
I may never type out the proper name *Field Office* again.
But, I might.

job they can think of (and there are some *doozies* out there). Just follow the lines and arrows down from step to step. The text box in the upper-right corner of page 75 is called PROCESS. There are four stages a claim may go through before you might need to make a federal case out of it.

You will see that the *Initial Application* is processed by the Field Office (“FO”) whether you file online, in-person, or over the phone. The Field Office enters the data. Analyst Guy #1 gets the first look at the initial application. He goes down the five steps looking to see if the facts of your case answer the questions: No, the claimant is not working. Yes, the claimant has severe impairments you can see from the medical records. No, the claimant does not have the ability to perform any job the Guy did in the past 15 years because of the impairments. No, there are no other jobs in the regional or national labor market that this Guy can do.

Because the guys who wrote the Code of Federal Regulations had words left over, they decided the Analysts needed one word, *determination*, and Judges needed a different word, *decision*.

One must ask,
“*Why do we really need
two words
for the same thing?*”

“*Hello – Lawyers!*”
They rarely ever use one word when two are available.

If the claim is denied at the *Initial* level, you file an appeal. In that appeal, you are asking Guy #2 to *Reconsider* the law, evidence, and logic that Guy #1 used to deny the claim at the *Initial* level. We call this next level *Reconsideration*. Guy #2 will look at new evidence that you submit in addition to what Guy #1 had and will reconsider the facts in light of the law and make a *sort of* independent determination.

If Guy #2 denies it again after a second look at Guy #1’s determination, you file another appeal, which is called a *Request for Hearing*. The hearing is the only time you will get to talk to a real live person about why they should approve your claim. (There

are a couple of other appeals, but we won’t go there right now.)

At the **Initial** level, 72% to 78% of claims are denied.

At the **Reconsideration** level, 10% to 15% will be denied again.

At the **Hearing** level, about 60% of claims of people who slogged on to see a judge will be approved.¹

People always say “*That guy had to file a claim **three times**.*” This gives me an eye-headache. The real words are: **Initial, Reconsideration, and Hearing**. Those make up one claim. One. Not three. One.

You usually have an option to file an entirely new claim when the judge makes the final win/lose decision. (*Or you can file an appeal.*) There are people who do file claims over and over and over – meaning they live in a perpetual three-year cycle of disappointment. People spend decades spinning in circles. I imagine them saying, “*Why not? Doesn’t cost me nothin’.* *It’s supposed to work like this.*” I imagine myself saying, “*If at first you don’t succeed, perhaps you need a book.*”

There are people who get denied at *Initial*, but don’t go on to file a *Reconsideration*; and there are those who make it through *Reconsideration* who then *give up* and do not ask a “real live expert person who you can talk to” to take a look. DO NOT LET THAT BE YOU. If you miss a deadline, you do not need to file an entirely new claim, contrary to what people at the Field Office (*and others who should know better*) will tell you.

Initial and Reconsideration denials make people feel like the government is saying “*Hey, knucklehead, you are just a lazy slacker! What makes you think your problems are all that bad?*”

¹ Having a lawyer does not tilt the odds in your favor by much, according to government statistics. See pages __. I find that fascinating, don’t you? *More Later.*

You are making this up. It's all in your head. Go away and don't come back until you're in a coma." If this is you, read this next paragraph a couple of times:

The government is not saying any of those things. The government is saying "**Based** on the evidence **we have** ... *you are not disabled, according to our rules.*" They are not saying your claim is no good. They are not making a judgment about you. They are just saying, "Show us more evidence and tell us how your evidence and our rules fit together. **Prove** your case to us."

PLEASE READ THAT PARAGRAPH AGAIN. I'll wait. I will also summarize – because, face it, you're not going to re-read that paragraph. But it is this paragraph that should give you hope. *You're not worthless. Your claim is worth pursuing if you are sure you cannot work.*

There is no room for emotion in this process. *You care about you.* You want to talk about you and why you can't work. What you have to say about your symptoms is not, at the *Initial* and *Reconsideration* levels, going to make a difference. At the *Hearing* level, what you have to say can make a big difference. Until then, save your energy and focus on flying the plane: *Drive* the case; make them see you. There also a chapter all about how hearings work. But remember, this is about their **rules**. This is about your **evidence**. Not about your feelings.

Ready or not, fearless reader, let's get to it.

ENTER SOCIAL SECURITY LAND HERE

If you are insured, SEE PAGE ___
"DIB" DISABILITY INSURANCE BENEFITS
20 Quarters of credit of Credit in 10 years

(YOU MAY BE
ELIGIBLE
FOR BOTH)
↔

If You Are "Indigent," SEE PAGE ___
"SSI"
SUPPLEMENTAL SECURITY INCOME
Poverty Level Resources

THE LAW IN FIVE STEPS: Pay attention to the words in bold, LIKE THIS.

STEP ONE: IS THE CLAIMANT WORKING?



STEP TWO: DOES THE CLAIMANT HAVE A "SEVERE MEDICAL IMPAIRMENT?"



STEP THREE: DOES THE IMPAIRMENT MEET A LISTING?

DOESN'T MATTER RIGHT NOW, GO TO STEP FOUR

STEP FOUR: DOES THE CLAIMANT HAVE THE MENTAL & PHYSICAL ABILITY TO DO ANY WORK HE/SHE HAS DONE IN THE PAST 15 YEARS?



STEP FIVE: DOES THE CLAIMANT HAVE THE CAPACITY TO DO ANY WORK?



ALL LAW PROBLEMS IN THE UNIVERSE
COME DOWN TO WHAT IS THE LAW AND HOW DO YOUR
FACTS FIT INTO IT.

THE LAW	PROCESS
<p>1. You are not WORKING: (SGA See pages __)</p> <p>2. You have one or more MEDICALLY DETERMINABLE IMPAIRMENT(S) (MDI): Chapter __</p> <p>3. If you have a LISTED IMPAIRMENT: Stop; You win. (Benefits, Chapter __)</p> <p>OR CONTINUE THROUGH STEPS 4 and 5:</p> <p>4. You have one or more MDIs that result in your inability to do your PAST RELEVANT WORK; Chapter __</p> <p>5. You lack the CAPACITY to perform OTHER WORK; Chapter __</p>	<p>PROCESS</p> <p>INITIAL APPLICATIONS: File online or at a Field Office (FO). *The claims representatives are not your <i>advocates</i>. They help you file the right papers <i>and that's it</i>.</p> <p>You should hear from <i>Disability Determination Services (DDS)</i> within about 3 weeks. <i>If you don't hear, call.</i></p> <p>ANALYST #1</p> <ul style="list-style-type: none">✓ Gets Medical Records from Initial Application.✓ Sends out a questionnaire✓ Sends you to one of their doctors (maybe) <p>You follow up to make sure they have it. You get a Treating Source Assessment.</p> <p><i>Wait Four to Six Months.</i> Usually approved – Money starts very quickly. If denied, file RECONSIDERATION.</p> <p>ANALYST #2</p> <ul style="list-style-type: none">✓ Looks at Analyst #1's decision✓ Will accept additional evidence✓ Can Overrule Analyst #1 <p><i>Wait Four to Six Months.</i> If denied, REQUEST A HEARING.</p> <p>THERE ARE NO ANALYSTS AFTER REQUESTING A HEARING. IT'S ON YOU AND/OR YOUR ATTORNEY. (Chapter __)</p>

FACTS ABOUT YOUR WORK: EVERY JOB IN THE PRIOR 15 YEARS IS CONSIDERED.

To do any job, you have to be able to do the physical tasks (lift, stand, walk, push, pull, carry) and the mental tasks. There can be postural requirements (kneel, crouch, crawl, bend, stoop, climb); manipulative limitations (using arms, hands, fingers); and environmental factors (heat/cold/fumes/dust).

Heavy Work: Lift up to 50 lbs regularly; stand/walk at least 6 of 8 hours.

Medium Work: Lift up to 50 lbs sometimes, 25 lbs regularly; stand/walk at least 6 of 8 hours.

Light Work: Lift up to 20 lbs sometimes; 10 lbs regularly; stand/walk at least 6 of 8 hours.

Sedentary Work: Sit 6 of 8 hours; lift up to 5 lbs sometimes; light things, like files, regularly.

MENTAL TASKS: *Concentrate* well enough to maintain attention to detail. *Persistence:* Stick with the project until it's finished. *Pace:* Keep up with co-workers so supervisors are satisfied with your work. *Attendance:* Arrive on time, complete the full eight-hour workday, 40-hours per week on a full-time basis, needing less than two weeks' sick-time per year. *Regular breaks:* Need no more than two 10-minute breaks in a 4-hour shift. *Tolerate* working with co-workers, supervisors, and the public. *Behave* appropriately during work hours. *Judgment:* Appropriate to workplace to maintain workplace safety. *Able to Adapt* to workplace changes. *Able to Remember* one- and two-step tasks for unskilled work. *Special Supervision/Instruction* is not necessary to keep you on track.

People always say, “*That Guy had to file a claim three times.*” Irritates me beyond words. The real words are: *Initial, Reconsideration and Hearing.* Those make up one claim. One. Not three. One. (There are people who do file entire claims over-and-over-and-over – meaning they go.) There are people who get denied at *Initial* but don’t go on to file *Reconsideration* and do not request a *Hearing*. Do not let this be you. I will not malign all the very good Analysts out there. There are a few who just don’t seem to understand the law. An Administrative Law Judge (Social Security judge) once said to me, “Why were these two claims even here?” (They really were no-brainer cases. More about that type of case in the book.) “Do these guys just not understand the rules?” It struck me then that perhaps they don’t. I decided to write a little ditty in the “closing remarks” section in the book that explains the most important facts and the rules that apply. Interestingly, more of my clients were approved pre-hearing; a trend which continues.

Initial Claims

In my humble (*so, when I say “humble,” I meant “showy and superior”*) opinion, *You do not want to file your claim in person or over the phone if you can avoid it.* They will listen to you, but they won’t understand everything you have to say. They will not use your words. They will streamline it so it makes sense to them. What makes sense to the Field Office does not make sense to Guy #1 and Guy #2. You can get all angry and stamp your feet, gnash your teeth, call them names, wail and whine about how unfair it is. (*Because, yep, it feels sort of is unfair*) But that is a huge waste of your

If you absolutely *must* go into a Field Office, here’s what to look for.

There is a Security Guy with a badge and a gun. Keep yourself cool, or you will end up getting banned from federal buildings everywhere. Do not move toward the security Guy or anyone else while raising your voice.

time and energy. I will grant you that it is very hard to control your emotions about this. But there is no need to make yourself miserable.

Not kidding about the Security Guy thing. These Guys are federal law enforcement.

I'd say chances are good that you will be confused by what they are telling you. It's stressful, you're waiting a long time — then there's the whole mental and physical pain problem.

It is perfectly okay to *be* angry. It is not okay to *act* angry.

Put it behind you and go get more evidence. Do not freak out at a pre-hearing level. *(There is only one legitimate time to freak out. See Chapter ____.)*

Filing online gives **you** control of your claim. Field Offices will help explain things. The national 1-800 number is a good place to go for information, too. Call 800-772-1213 from 7:00 a.m.

Eastern Standard Time to 7:00 p.m. Pacific Standard Time. Your best bet for shorter hold times is right after 7 a.m. Eastern; and

about 6:00 p.m. (You want to hit it right at the time everyone else is busy with something: commuting, eating, barely out of the shower.)

The other place to go for information is www.ssa.gov. They have a great search box function. Everything you want to know is there somewhere. The Field Office (“FO”) is the building nearest you with “Social Security” painted on the outside, probably in a baby-puke beige. This is where you go to do business in person. *(Get a new SSN for a baby, change name on a SS card, get a replacement card, etc.)* To find your local field office, Google, “find a social security office near me.” Usually you get a direct phone number to your local office. If the number is 1-800-772-1213, you will know that does not go directly to a local field office. It's the national number. *More about that later.*

To get a live FO Claims Representative, press 1 for English or 2 for Spanish. *(They have a Language Line they can use for almost every other language you can think of. Explain the language you need as best you can in English.)* Listen to whatever the message is after you press

2. (*You probably don't care at this point. You can find all that stuff at www.ssa.gov.*) So when it says, "to continue with your call," you can press 2.

Then it will say, "Please listen carefully, as our menu options have changed." Press 0 or wait for it to cycle through until it says "Press 0" to speak to an operator. That should get you to a live person after listening to about 15 minutes of truly horrible hold music. (*Perhaps it's only horrible if you have to listen to it day after day after day.*) Your best bet is to call the FO number at the stroke of 9:01 a.m. (Pacific) to be one of the first callers. *Easy, peasy.*

TIMING: Assume that *every month that goes by is one month of cash benefit you are giving up.* File November 30th get \$1,000-ish. File December 1st, get bupkis for November. If you want them to save the November 30th date, but you are not ready to finish completing the forms and press the "send" button, there is a point (explained below) where you can click "Save and Exit." When you click that, it tells them you want to file and gives you 6 months to finish. You get the benefit of setting the date today and the ease of being able to finish it in small pieces over 6 months.

If you are age 61 years, 9 months old, you can file for early retirement, so you can start getting money today and file for disability at the same time. **If you are retiring because you cannot do your past work, you have a good disability claim.** If you lose, you will be stuck with the early retirement benefit amount.

But if you are reading this book, I'm pretty sure you'll be stuck at that rate anyway. The older you get, the easier it is to get disability. *See Chapter__ for an explanation.*

You will get a screen with a receipt you can print or save as a PDF. It will have a "Re-entry Number." **Do Not Lose That Number.** Tattoo it on your forehead, Super Glue a Post-it to your armpit, or print three copies and save them in different places. The only place the re-entry number appears is on that receipt. Lose it, and you start over. If you start over, you could lose all of those retro benefits. For information about when the money clock starts and stops, see Chapter ____.

You want to get this done NOW, NOW, NOW, which is normal. But doing it NOW, NOW, NOW is why 78% of the people get denied. If you sit down and try to do it all at one time, you will get really tired. You will leave out stuff. Leave stuff out, and you'll probably get denied. It is time-consuming and tedious, but it is not difficult. You *know* this stuff. This is the story of your life. *If you could do this lickety-split, you wouldn't be filing in the first place.* It is very hard to fix problems that are caused by an incomplete application. This book is all about doing it right, not doing it fast – measure twice, cut once.

What to Expect When You File Online

The first step is to go to www.ssa.gov/benefits/disability. You will be directed to a different page after you hit start and you will find a new *very irritating*, step² which makes using the online application way harder than it needs to be. (*Why they can't just leave stuff that is working fine alone? I hate that.*) They want you to create a “My Social Security” account, which you do at www.ssa.gov/myaccount.

Why? Because you don't have enough stuff to keep track of in your head. I know they want everybody to do as much as they can online. You may remember the green 1/2 pamphlet & 1/2 magazine form days of yore. It listed all these numbers which in those days were sort of *meh* to me. I'd think, “*Well, Ok, why do I need this.*” I have now learned that on the inside of the second page was a little box that explained the benefit amount and all those numbers were showing how much you made in each year. That information is important. But *really, why make*

²*Are you listening, web designers? Hello! Stop bouncing people back and forth. Put that button “File for Disability” back on the home page.* I do this for a living, and it took me 45 minutes just to find the link for disability. There was a glitch and it kept taking me to retirement. If you want us all to create a My Social Security account – which you obviously do – do it at the end. Also, there are tons of people who do not want to have that information online no matter how secure you say it is.

everybody do this now? If you need to file for disability, you've got a whole lot more on your mind. It's very hard to do. Plan on being frustrated. Plan on having the computer kick you out and make you crazy. It can be exhausting, even for me. (*Ok, for me, I'm helping someone and it is pull-my-hair-out frustrating.*)

Having a *My Social Security* account theoretically gives you access to see what is happening with your claim. *This webpage is not always up to date.* If it's been a while and you're anxious, call DDS (Disability Determination Services, *see how to find their phone number in Chapter __*) or call the FO (Field Office).

After you create your account, go back and *start* the disability application. The first section is your basic information. They care about marriages that lasted ten years or longer because of the way benefits are calculated. They care about kids, because minors will be eligible for benefits. They ask three different ways if you are a citizen. When you finish with all of the basic details, **STOP AND CLICK SAVE**. They will give you a Re-Entry Number. Write it down, tattoo it to your forehead (*go to the hair guy and have it shaved into your hair*), mail yourself a copy – *whatever*, but just don't lose it.

From the date the Re-entry Number is generated, you have six months to file an application, which will give you six months to finish it; like an extension a teacher gave for homework assignment. You won't need six months, but it will be there. The money clock starts from the day you click save, but **only** if you have the Re-entry Number.

Creating a "MY SOCIAL SECURITY" Account

1) GO TO www.ssa.gov/myaccount. You will need to create a username and password. Have those in your head and ready before you start.

2) Verify your identity by answering a bunch of really annoying multiple-choice questions. When you see the question, look at the four choices first and ask yourself, “*Did I ever have ___*” or “*Was I ever associated with ___?*” Eliminate every “No” answer. What you are left with is the answer to the question.

What color was your 1986 Town & Country Van? It’s pretty hard if 1986 is thirty-years ago and you had more than one van in your life. *Which of the following credit cards did you have in 1993?* You may not know that your husband/wife/mother/second cousin twice-removed *added you* as an authorized user to a JCPenney credit card account. Then there’s the *None of the Above* choice. Turning the question around in your head: *Did you have any of these?* Rather than “*which of these did you have?*” is easier. It lets you check *Yes* or *No* in your head. For example, *I did not own a van ever. I did not own a Mazda.* I hope these tips help.

Remember, get one answer wrong doing the *My Social Security* account, and you’ll need to call the Field Office or the National Helpline to create a *My Social Security* account. Remember, you ***do not*** want to start your disability claim with them in person or on the phone if you can avoid it. Thank them for the help. Tell them that you will finish the process online. Then go get it done.³

Finally, finally, you will get to the screen that says, “File for Disability benefits.” This application is going to a person. This is your introduction to the person who will decide your case. The *Initial* application is where you tell them what to look for. If you have trouble spelling; or with where to put periods and things like that, don’t try to “fix it.” This is you. You want them

³ It just occurred to me that you could avoid all that *create the My Social Security account* online by just calling them to set it up before you file. Don’t tell them that you want to file a disability claim: just “I want to create a *My Social Security account.*” 1-800-772-1213

to see *you*, not someone who won the fifth-grade spelling bee; unless of course, you actually did win the fifth-grade spelling bee, in which case, enjoy your expansive vocabulary.

Hop onto www.ssa.gov/benefits/disability. Every question needs to be filled out correctly and completely. It asks about marriages lasting 10 years or longer because if you had one you may be able to collect on that spouse's benefits as well as your own. It asks about minor kids because there may be a separate benefit for them. I run into grandparents who have custody of their minor grandkids. Add those kids. *There will have to be a formal adoption for this to work; a rule that needs to be changed.*

The first section is about your conditions. Everything – we're talking all of it, no matter if it's a big deal (lung transplant) or a little deal (a knee you screwed up in high school but you're

Skilled or Semi-Skilled Work

For people age 55 and older, if your past work was skilled (doctor, HVAC) or semi-skilled (bookkeeper, back-flow inspector) and something makes it very difficult to concentrate and your job; *like chemo-fog; chronic pain; fatigue* all cause depression (whether you'll admit it or not) means you cannot do your past work.

If you cannot do your past work, and you are 55 and over, you have a better claim than people under 50 because of Social Security's rules.

still gimping around a bit). Most people do not think of both physical *and* mental issues. People with mental illnesses usually focus on the mental aspect, because that is what is giving them the most problems. *(It is really hard to concentrate if there's a voice in your head telling you crazy things, or if sometimes when you look at people they look like demons, or when you cry all the time for no*

particular reason, or you can't leave your house.)

There are definitely times when psychological conditions are “disabling for purposes of the Social Security Act.” Typically, however, psychological problems most people experience *alone* won't get it done; ***except - see text box***. So the more jacked-up your body is, the better I

like it.⁴ There are millions of people out there with bad-sounding conditions (schizoaffective disorder, paranoid personality disorder, bipolar disorder with psychotic features) who manage their condition with medication and life adjustments. They do just fine. You'll never know who

TIMING - HOW LONG SHOULD THIS TAKE?

*DAY ONE - Go online. Create a My Social Security account. Start a Disability Application. Click **SAVE** and **keep** the Re-Entry Number in a safe place! The money clock starts now.*

*DAY TWO
Get everything ready.
Doctors & tests.
List of ALL medical conditions,
List of ALL jobs in the past 15 yrs*

Within SIX MONTHS of Day One, finish the App. Sign and Send the 827 Form. Click "Save & Send."

You will be able to print or save a copy of what you did (they call it Receipt). You'll want that later.

they are, because they look and act pretty much like everybody else when they're out in the world. Social Security expects that if you really wanted to, you could manage your disease, too. We will discuss how to make your psychological claim stand out a bit. However, even less significant things, like depression and anxiety can interfere with your ability to concentrate and keep up with other workers in the same job. If you would get fired because of that kind of mental sluggishness, it is an important factor in your claim.

The second section in the initial application is about work. *Don't just blow this off as stupid.* If you

need to take a while to think about it so your answer is complete, click "Save," write your answers down, and go back to it later. But include each and every job, whether it's for someone else or self-employed.

There is a table on page ____ which shows the "physical tasks" (*stuff you have to do to keep the job*) for each job you worked. They are sit, stand, walk, lift, kneel, crouch, crawl, stoop,

⁴ I used to joke about cancer, "Hey, if you get really lucky, you'll get cancer. Sucks for you. Works for me." But yesterday when preparing a client for a hearing, he told me that he just found out he has cancer. He had all these dark spots that looked to him like moles. He was scheduled for emergency dermatological surgery because there were so many. This does not bode well. Please, if you've got darkening or quickly changing moles, don't use WebMD. Have your treating doctor Guy check it out. Get to it early.

bend and climb, reach, and probably other stuff I can't remember off the top of my head. It will ask how many hours of each activity you do during a workday. You want the total number of hours to be 8 per workday. If you were *standing* and *walking* (like normal people do, which is what makes the question seem stupid), you will not be able to figure out how much time you did either of those. Just put 4 hours for one and 4 hours for the other. You will have to subtract the time you sit (hours standing *plus* hours walking *plus* hours sitting = 8 hours). The amount of time you kneel/crouch/crawl could be zero for you; then put zero.

If you install tile and/or carpet, you will be spending a lot of time kneeling, crouching and crawling. So for you, it's standing hours *plus* walking hours *plus* sitting (which could be zero) *plus* kneeling, crouching, etc. **I cannot stress enough how important it is that you fill this out in as much detail as you can.**

Lifting and carrying. See page ___ for a list of examples about how much common things weigh. Don't just slap 10 pounds on every line, like most people do. It is important here that you give a full explanation. Even though everybody should know what a painter does, you need to explain it. Were you using a spray gun? Did you have to reach up to tape everything off? Did you have to work up an estimate of how much time you would need, and the cost of the materials?

The third section of the *Initial* is about your doctors. You will not remember the names, addresses and phone numbers of all your doctors. *Why? Because nobody ever does.* Before you go to your computer to file, you need to sit down and make a timeline of your life. The dates here do not need to be exact. You need a time frame to help you. I do it by cars. (*Just roll with me here. It will make sense.*)

Start with the first car you owned or drove and put the year next to it. Then go car-by-car over the years. Then think about what was happening to you (your medical conditions and treatment) when you drove each car. And, *viola*, you have a list of your treatment. If cars doesn't work, try thinking about it in terms of birthdays, anniversaries, or seasons. *"I know it was winter and I was driving a red Toyota when my knee blew out the first time. I know I had the red Toyota in 2018. I know I had three surgeries. I know they were six months apart. So pain started the winter of 2018, surgeries were in June of 2018 to October of 2018."* I hope that makes sense, because it's all I've got.

They will want you to list all the tests you've ever had. I know from the above that there were at least three images, probably more in 2018. If you don't remember the name of the doctors, well, go find it. It's important. Do a Google search. Ask your mom, your wife, your friend (*moms tend to know everything*). Call your doctor's office. *"Hey, you sent me to a neurologist in 2016, what was that guy's name?"* If you want to, you will find a way to get that done. If you don't put the right addresses with the right doctors, Social Security cannot get the right records. *That would be Bad. Sure-fire way to lose.* An easy way to do this is to get cards from all of your doctors if you can, spread them out like a game of solitaire, and enter them into the computer one at a time. If you do not find your doctors names and addresses, no one will. Which means: You lose.

The last section is called *Remarks*. If you have problems with memory due to depression, add it here. If you ever had a head injury (*even if you did not report it or get treatment, as so many victims of domestic violence will not*) tell them, "I need a full psychological evaluation with cognitive testing."

I use this basic paragraph in all remarks sections in something that uses lawyer-words. This is a sample to get you going. Of course, do not use it verbatim. Put your situation in your own words.⁵

I am ___ years old. I had ___ years of education. I can speak/write in English (or not). I (was or was not) trained on the job. The easiest jobs I've done requires lifting ___ pounds. The most I had to lift at the easiest job was ___ pounds. I can't do that. All/Most of the work I have done (included a tool belt or whatever). I can't do _____, or _____ or even _____. I can't concentrate because of (pain, headaches, fatigue, stuff I hear in my head, etc.). My problem is all of those things combine, and I can't keep up with other workers. I could never get or keep a job doing that. In fact, in my old job my friends helped me out so I wouldn't lose the job. (If they did – which happens a lot.) They would cover if I needed an extra break and/or help me lift. I actually took time off work a few times before going back. I had to file FMLA, Workers Compensation, long-term or short-term disability from my employer. Because of all of that, I think I can't work and you should pay disability benefits.

Here's the Deal. The *Remarks* is the place to tell your story. It is your life. Don't just slap something together at the computer before you've thought about it. Take some time with this. People absolutely agonize about writing stuff. I hear you say, "*But I can't write.*" When people say that, what they mean is "*I can't write like you,*" Duh. If you could write like me, you wouldn't need the book. So, don't write like me. *I don't write like me. I have an editor.* If you can talk, you can write.

Record a conversation with yourself/friend/social worker/cat/therapist about your work history and lack of being able to do that today. Play back the recording and write it down. Don't

⁵ The words in this example are my words, not your words. They are **only an example** to show you what has worked for me in the past. Use your own words!

change it as you put it in the *Initial* remarks. Don't cross out, edit, reread, blah, blah. If you put it in a text document first, you can cut and paste right into the *Remarks* text box. Handwrite it if you can't type. There are programs that will type as you talk.

Attach Form 827; CLICK "SAVE and SEND" and let your journey begin.

Form 827

This is the first thing they must have, and is called, "Authorization to Release Information to the Social Security Administration." This is you saying, "*Sure, please go get my medical records so you can approve my case.*" To find the form, go to www.ssa.gov/forms/ssa-827.pdf. You should be able to submit this online along with your online application. I think. (Things change, *did I mention that?*) Sign it, scan it, and up load it. But, if you don't or can't submit it with the application, you should get a letter saying, "*Hey, Snoozer, did you not read the book? Send us a Form 827!*" You may get that letter anyway. The mail is really, really slow. Be sure to keep a copy of what you mail.

As soon as you click "Save and Send" for the application, it's like turning on a big machine. Form letters are generated and mailed. It never hurts to send them another Form 827. (*And for the love of Cheetos and Apple Pie, OPEN YOUR MAIL until this entire process is complete!*)

The State Agency Decision Makers ⁶

Remember in *Butch Cassidy and the Sundance Kid* when Butch and Sundance are trying to get away from the Pinkerton's, who are just relentless? Butch or Sundance asks, "WHO ARE THESE GUYS?" Yep, that's the Guys we're talking about.

The Social Security Agency has some kind of arrangement with the State Department of Health and Services (DHHS) in each state. In the scheme of things, the location of a state DDS (Disability Determination Services) office doesn't matter. A DDS in, say, Alabama can handle claims of people living in Utah. Usually you deal with a DDS office near you, but not always. As a practical matter, the DDS office could be on Mars. You'll never go there anyway.

The people who make these decisions work on a time/quota thing. I think. It certainly seems that way. They only have so much time to do what it needs to be done in X number of cases, or they get a cream pie in the face. It is much better to use the text box on page 5 to chart your progress and where your case is than it is to use the *My Social Security* account page. *Why? Because I said so.* (The webpage is a bunch of ones and zeros reported by a computer named *Hal*. Seriously, who are you going to trust - what you know you did, or *Hal*?)

DDS Questionnaires

HEADS UP! When you see the size of the envelope and the ½-inch stack of questions in the envelope, you will immediately become overwhelmed; probably throw them in the air; then drink yourself into caffeine/nicotine/alcohol and/or doped-up stupor. Cool your jets and put it

⁶ It gets a bit complicated, because the federal people and the state people do this jointly. The state agencies are called DDS (Disability Determination Services).

down on the table until you have a quiet moment to look at them. *And for the love of Cheetos and Apple Pie*, do not *take the staples out until I tell you to in Chapter ____*. You now have a real live person assigned to your case.

On the top-left corner of the *cover letter*, you will see your name and your DDS case number. Take a picture of that with your phone, tattoo it on your knee, put it in several safe places and/or mail it to yourself again. You will want that number. Middle of the cover letter: “You have 10 days to return these forms to us, or the world will come to an end and we may deny your case.” If the letter is dated the 1st and you get it on the 10th, DO NOT FREAK OUT.

Near the end of the cover letter it will give you the name of DDS Guy #1. (*Heh, funny story. If the name is “Shelf,” that’s not a person. It means the case is still on a shelf and no Analyst has been assigned. Silly me. How was I to know?*) Next to the name or underneath will be a phone number dedicated to DDS Guy #1. Take a picture of the name and phone number, and *voila*, someone to talk to. Some of these people are better at returning calls than others. Some let their voicemail box stay full all of the time. But generally speaking, you should get a call in 48 hours. Please do not call more often than 72 hours – voicemail boxes are likely to get full.

You should feel free to talk with DDS as often as you would like (*see the 72-hour rule*), but please resist the impulse to yell at them. If for some reason you think they can “go faster” than they are, *well, you’re wrong*. If you think you *want* them to go faster, you’re being short-sighted. You want them to look at it correctly and completely; not quickly to keep up with some cases-per-hour quota. If you do not understand that *you catch more flies with honey than vinegar*, you may need to go visit my anonymous Mother.

When, why, what, and how to say things to DDS Guys so your meaning does not get lost in translation is covered in Chapter __. *These are all pretty nice people (with one notable exception). So, be nice. If you are having a problem, ask to speak to the supervisor. One big thing to take to a supervisor is if the guy is badgering you even though you have a lawyer. One reason they may call is because your lawyer is not replying to the DDS's phone requests for more information. (If you can't get through to your lawyer, well, ask yourself if the Guy is really being helpful.)*

What to Expect From DDS

At the *Initial* and *Reconsideration* levels, DDS does pretty much the same thing – gather evidence. There is no DDS at the hearing level. *You* need to be your own advocate when it gets to the hearing level whether you have a lawyer or not. Think about all your doctors you have ever seen for anything. Let the lawyer figure out what to do with the information. If you have a lawyer, you might as well use the Guy. I've had several cases where people had skin conditions so bad (30% of their body and more – hands, feet, arms, genitalia) and which they've tried to get rid of, but it just won't go away, which is a very big deal. I hate finding this out a couple days before a hearing. That shouldn't happen, but it does.

Good lawyers can't read your mind. If you don't tell them, no one will. Before the hearing, you or your lawyer will get a copy of the file the judge will be looking at for the hearing. READ IT!!! "*Why?*" you ask. *So you will know that everything that should be there is there.* Even if you have a lawyer, this is still the single biggest thing in your life. Financial survival depends on it. *You* need to be sure it's correct. If things don't feel right to you as you are walking into the hearing room, tell the judge that you want to think about getting a different

lawyer. The judge will give you more time to do that. There is a website in progress that may help www.finddisabilitylawyernear.me. The goal is to have every lawyer (who qualifies) in every state and territory to have a lawyer within driving distance. It could happen. One might hope.

Questionnaires

As you may have guessed from my earlier description, these things are intimidating *and* annoying. Intimidating because it's just such a big stack of paper and it looks so foreign. And annoying because it will seem to you like they are the same questions you spent HOURS answering just a few weeks ago when you filed the application.

Non-Examining Medical Examiner ("M.E.")

Yes, you read that correctly. There are non-examining medical examiners. Called "MEs." These are doctors and psychologists who are paid by DDS to review medical records and give opinions based solely on the medical records about what physical and mental tasks a claimant is capable of doing. This person's opinion is critical to the direction the case takes. DDS Guy #1 will ask an ME for advice. This is why we want our *Initial* remarks to be very clear. We want to show DDS Guy #1 what he needs to ask the ME: "*Hey, Chuckles, Look at This.*"

Bad results occur when a claimant says the big problem is *diabetes*, when the big problem really is kidney failure and dialysis *because of diabetes*. Describe all the wounds you've had that don't heal. Describe all the times you've been hospitalized for a flare. You need to make sure the ME has all the evidence.

Consultative Examinations

A *consultation* is a face-to-face meeting. A *Consultative Examiner* (“CE”) is a person who is a medical professional who has been educated in Social Security Land. The doctor will meet with you, ask you questions, perhaps measure things, and then write a report for DDS called (*surprise!*) a Consultative Examination Report.

This is a big part of our problem. Unless you take it with you, the CE will not have your medical records. The CE will not want to listen to much of what you have to say. The CE may tell you, “*Oh, yes, you’re disabled,*” then turn around and write a report supporting a denial. “*Why?*” you ask. “*Well,*” says I, “*It is because the CEs do not know what ‘work’ is.*” At this point, neither do you. You may understand what “work” is in Normal Land, but you are not in Normal Land and neither is the CE.

You have to *prove* that you are disabled. Sometimes this means we have to discredit the CE Report. The very best way to do that is to get a statement from your primary treating physician called (*surprise*) *Treating Source Assessment* (“TSA”). See Chapter _____. Sometimes, however, DDS will look at a report that clearly shows a case should be approved and deny it anyway. Some analysts are better than others. This is why there is such a thing as *Reconsideration*.

After all of the evidence is in, the DDS Guy makes a determination. They send the determination to the FO. However, it can get pulled by a federal review panel. Remember, DDS is a state agency, but Social Security is a federal program. The feds send determinations out to the states, but then have a federal Quality Review (“QR”) so the feds can be sure the states are doing it correctly. You can tell that your case is with QR by looking at the time it takes from

Initial application. If it's longer than six months, it's a good bet that Quality Review has it. Call the FO or DDS.

Your Medical Records

So sorry to say, this is just not a topic I can summarize. This is the very essence of your case. This is how you prove disability. *See Chapter ____*

The short answer: Go to every doctor/clinic/hospital you've ever been, go to the Health Information Office and ask them how to get your records. Some states require records be given for free to Social Security claimants. Some providers always send out records for free. Your health-care provider will want you to give them a release of information. Most hospitals have a copy of the release they like to use on their website. But going to the Health Information guy is always your best bet. That Guy will be able to tell you exactly what you need to get different records.

What Evidence Do You Need?

Once again, there is no way to do justice to this topic in summary form. The short answer is: *The evidence you need depends on what you are trying to prove.* Read Chapters 1 - 5 for that information. If you are doing this before the book comes out, for you *evidence* means *everything*. Don't try to sort out what is "relevant" because that word means different things at different times.

Hearings

This is your chance to meet and speak to a live person. So, your efforts at *Reconsideration* failed; you were denied. Do you lose hope and give up? Nope. You remind yourself that 60% of people who proceed to the hearing level are approved. You still have to *prove your case*. This is no time to slack off. If you have a lawyer, your lawyer should help you continue to submit updated evidence to the hearing office.

Within about three weeks of the date you file the *Request for Hearing*, you will get a “receipt” letter. (*Something like: We have received your request for hearing.*) Enclosed with that

The biggest mistake that people who've lost a case without a lawyer & have decided to hire one is they DO NOT REVIEW THE EXHIBITS THE JUDGE HAS. Each piece of evidence submitted (medical records, statements, etc.) are made a part of an official file called (*surprise!*) Exhibits.

The only way for *you to be sure* the judge has all available evidence is for you to review it. You have the burden to prove this case. Thus, You have the burden to make sure the Exhibits are complete.

I suggest you take a look at the exhibits even if you have a lawyer.

You are your own best advocate.

letter is a form about whether you are willing to agree to have your hearing by video conference. (In the COVID era, you have a choice to wait for an in-person hearing, proceed by video or telephone.) *If you want to have an in-person hearing, you must return that form.* As a practical matter, if you request an in-person hearing now, you can always change your mind later and tell them you will agree to have a hearing by video or telephone. But if you do not return the form, you will give up that right to have an in-person hearing.

The form letter will also let you know that they will not schedule your hearing without giving you at

least 75 days' notice. They are *not* saying you will have a hearing in 75 days. They are informing you that if you do not get 75 days' notice, you can object and say “*Hey! I didn't have*

enough time to get ready,” and they will reschedule it. It is worth repeating: OPEN YOUR MAIL!

When they are getting to the point that they plan to schedule your hearing, you will get something (*where?*) in the mail. They should automatically send you an encrypted CD with all of the exhibits in a more-or-less user friendly matter. If you do not have a CD by the time they schedule your hearing, get one. On all of the hearing office mail, in the upper right-hand corner, there will be a telephone number and a fax number. Because I am paranoid, when I submit documents, I only use a method where I can prove I sent it and prove they received it; which means fax, U.S. mail return receipt requested, one of the mail services that track items, (UPS, FedEx, etc.) or by hand. (All hearing offices are closed for the foreseeable future due to COVID, so hand delivery is probably out.)

So, there you are. Your hearing is scheduled.

There is too much information about how I do hearings and how hearings work. Contrary to advice given by any lawyer pretty much anywhere in any field of law, and probably regarding disability too (*I've not talked with other lawyers about their views on this because, well, I don't care what others do*) the hearing is not the time to limit your answers to yes and no. The first part of any hearing is about you. This is where you show the judge who you are; your struggles; your pain; your desire to go back to work and stop feeling like you're worthless because you are not able to support your family the way you feel like you should. This is where emotion comes into it. The emotion needs to be channeled and that's all about hearing prep. My most favorite hearings are the ones where the claimants explain themselves (as opposed to my having to pull it out of them like teeth). You can't "prepare your testimony in advance." If you do, you'll end up sounding like a recording. Hearings are conversations with judges the majority

of whom really do care and have compassion. I believe lots of claims are denied that judges would like to approve, but there isn't (*what?*) enough evidence.

The second half of the hearing is not about *you*. It is called, "*Step Five*." This is at the top of the *strange, odd, arcane* concepts in all of Legal Land; including the Rule Against Perpetuities; *Marbury v. Madison*; and Implied Reciprocal Servitude (*which is not another phrase for Common Law marriage, if that's what you were thinking*).

Someone called a vocational expert testifies about the kinds of jobs that are available in the national economy: how much does a commercial baker lift (*about 100 pounds, way more than I could on my best day*); to perform the job, what does a commercial truck driver have to do, lift/carry/push/pull/kneel/crouch/crawl? What's the difference between a "keg bartender" and a "wine steward" or "night-club mixologist" (*other than the kind of alcohol they serve*)? You might be surprised that the mixologist is a highly skilled person, but the keg bartender is not. Mixologist, lifting no more than 20 pounds; keg bartender, up to 100. The vocational expert is the Guy who knows this stuff.

This Guy will talk about DOT codes, SVP numbers, and whether there is "one-armed work," meaning work for a guy who has no significant use of the dominant hand/arm, but good use of the non-dominant hand/arm. Some VE-Guys will say, "*Yes, of course, they can work as a furniture store salesman. DOT Code 270.357-030, Light SVP 4.*" Others may, "*Bakery Cake Inspector. DOT Code 624.687-022, Light, SVP 2*" (Somebody who looks at decorated cakes from a commercial bakery to decide if the roses and curly-Qs are good enough to sell). Others will say, "*Duh, no. How's the Guy going to move the furniture or smooth cake frosting as it rolls down the assembly line?*"

I tell my clients to just zone out from when the Judge says: “Assume a hypothetical individual who blah, blah, blah.” Until the VE guy says, “No jobs.”

OK, TO INFINITY and BEYOND!

(By which I mean, back to Chapter One.)