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SOCIAL SECURITY DISABILITY  
WORKERS' COMPENSATION

July 9, 2014

Hon. John Case  
Social Security Administration  
1232 Premier Dr., Suite 200  
Chattanooga, TN 37421-3707

RE: xxx-xx-xxxx  
Jane Smith

Dear Judge Case:

I represent Jane Smith with regard to her claim for SSDI benefits. A hearing in this matter is scheduled before your Honor on Thursday, July 10, 2014 in ----, Georgia. Please allow this letter to serve as my pre-hearing brief.

Claimant Smith is a 59 year old female with a high school education. She stands 5'4" and weighs approximately 180 lbs. Her date of birth is May 30, 1955, meaning that her 50<sup>th</sup> birthday was on May 30, 2005 and her 55<sup>th</sup> birthday was on May 30, 2010. The claimant was 2 months shy of her 56<sup>th</sup> birthday as of her alleged onset date of March 23, 2011.

The claimant applied for benefits on October 12, 2011 and her date last insured is December 31, 2015.

The claimant's past work over the past 15 years has been as a machine operator in the carpet industry. Her work history includes:

- machine operator for ABC Carpets (2002-6/2011)
- weaving/creeling machine operator for DEF Industries (2002-2006)
- creeler machine operator for GHI Carpets (6/1997-4/2002)

Claimant Smith contends that she is not able to work due to multiple medical conditions, including musculoskeletal pain, degenerative damage to her knees bilaterally, diverticulitis, bladder incontinence, chest pain, rapid heartbeat, headaches with facial numbness, depression, and bi-polar disorder.

We do not contend that she meets a listing. We do contend that she meets the requirements of Grid Rule 202.06 (light work, claimant age 55, high school graduate, skilled or semi-skilled work background with no transferrable skills and no capacity to enter directly into skilled work.).

In the alternative, we contend that claimant's medical impairments, when considered in combination, erode her capacity to reliably function in any competitive work environment.

### **Grid Rule Argument**

The claimant's medical record reflects consistent treatment for physical impairments that would reduce her residual functional capacity to light work or less.

A review of the Dictionary of Occupational Titles indicates that the claimant's past work as a machine operator in the carpet manufacturing industry was performed at a medium exertional level. The claimant will testify that her past work involved repetitive movements, frequent standing, and frequent lifting of 50+ pounds.

Prior to the alleged onset date of March 23, 2011 the claimant had sought medical treatment for knee pain and back pain. In January, 2011, the claimant reported to Dr. Alan B----- at the H--- Clinic that she had experienced knee pain for the past 2 years, and that an ankle fracture from 2009 had not healed properly (4F/11). Dr. B----- noted degenerative arthritis in the left knee, probably most significant in the patellofemoral articulation (4F/12).

In April, 2011, the claimant's primary care physician, Dr. L-----, referred her to orthopedist C----- for evaluation and treatment of back pain and bilateral leg pain. Dr. C----- noted degenerative changes likely due to "long hours" and "heavy lifting" and referred the claimant to physical therapy. The claimant also underwent epidural steroid injections. Dr. C-----'s diagnosis was low back pain with associated bilateral radiculopathy (2F/5).

An MRI on May 19, 2011 did not show any disc herniation but did show multi-level degenerative end plate, disc and facet disease including some bilateral neural foraminal stenosis at L4/5.

In addition to the epidural injections the claimant was prescribed various pain medications to manage her symptoms. The claimant also began to ambulate with a cane.

In May, 2012 the claimant met with neurosurgeon John C---- for a second opinion regarding possible spine surgery. Dr. C----- agreed with Dr. C---- that the claimant was not a surgical candidate and suggested that there was an element of depression going along with Ms. Smith's chronic pain syndrome (17F/2).

The claimant has continued to report severe back pain to her physicians at the H----- Clinic to the present day. In August, 2013, for example the claimant reported difficulties with activities of daily living due to her back (25F/49). In November, 2013, Dr. H----- of the H----- Clinic noted that the claimant used a walker to ambulate (25F/25). In February, 2014, Dr. F---- of the H----- Clinic noted that the claimant “has some restricted mobility because of some lower extremity degenerative problems, and she uses a cane” (25F/13).

While the claimant is not a surgical candidate, she does have chronic back pain that necessitates the use of a cane or walker for ambulation, and thus would not be able to perform the duties of light work.

The medical record does reflect degenerative changes in the claimant’s hands, bilaterally (25F/55). The claimant will also testify that she has reduced grip strength in her hands bilaterally and therefore would not be able to lift 10 lbs. frequently or 20 lbs. occasionally.

### **Functional Capacity Argument**

In addition to the musculoskeletal issues describe above, the claimant’s record reflects several other medical impairments that would likely erode her capacity for competitive work. These complaints include both medical and mental health concerns.

A consultative psychological evaluation on February 28, 2012 by psychologist D----- includes a diagnosis of bi-polar disorder and mood disorder and concludes that while the claimant is able to understand simple to complex instructions in a work environment, she may have difficulty initiating tasks, pacing herself or completing activities consistently due to her pain related concerns and rapid cycling mood states (10F/8). If accepted by the court these impediments would preclude competitive work. The claimant will testify that she experiences episodes of depression due to her chronic pain and because of concerns about other medical issues such as possible heart disease and incontinence.

The claimant will also testify that she has had diverticulitis since 2008 (4F/18) and that she experiences frequent episodes of both urinary and fecal incontinence. The claimant will testify that she frequently soils her clothes and that she must be near a restroom at all times.

We contend that the claimants genitourinary issues would result in excessive unscheduled breaks during a workday and thus would disqualify her from competitive work.

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**Conclusions**

Claimant Jane Smith has a long and consistent work history but can no longer fulfil the obligations of full time work because her physical and mental health problems have given rise to a variety of work activity limitations. Thank you for your consideration of claimant Smith's request for disability benefits.

VERY TRULY YOURS,

GINSBERG LAW OFFICES, P.C.

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by: JONATHAN C. GINSBERG

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