

Useful Resources for the Social Security Disability Attorney

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Useful Resources

Today, even compared to ten years ago, useful resources for the Social Security Disability/SSI attorney are everywhere. The cost can range from nothing for readily available materials on the internet to hundreds of dollars for multi-volume treatises. Apart from traditional resource material (paper or electronic), an attorney now also has more wide-ranging opportunities to connect to other attorneys and professionals practicing disability law or an allied profession. None of the resources mentioned below are meant as an advertisement or endorsement, but are exemplary, with the realization that many more probably exist that are equally good.

With the knowledge of what was just mentioned about endorsements, I always recommend one book to those that are going to represent disability claimant. The book is *Social Security Laws* published by West Group and is a compilation of selected statutes and regulations. Even though almost all of the material can be found on the internet in some form or fashion, this relatively inexpensive book has most of the statutes and regulations in one place that an attorney is going to need to handle 80% of his or her cases. It is easy to take to hearings and can be marked up, tabbed, highlighted, etc. making it very user-friendly. I once had an ALJ in another jurisdiction remark to me that he breathes a little easier when the attorney walks in with the *Social Security Laws*.

A rudimentary understanding of medicine is necessary for a disability attorney. More and more this information can be cheaply found online, but there still is a place in the paper library for medical treatises. Some examples are *The Merck Manual*, *Stedman's*, *Tabor's*, *Attorney's Dictionary of Medicine*, or *Dorland's Illustrated Medical Dictionary*. Also, a medical Abbreviations book is always handy. *Diagnostic & Statistical Manual of Mental Disorders, 5th Edition (DSM-V)* – American Psychiatric Association.

As a social security attorney's volume grows, serious consideration should be given to a multi-volume treatise either in paper or eBook. Some examples are *Social Security Disability Claim, Practice & Procedure*, *Social Security Disability Practice*, or *Social Security Issues Annotated*. These treatises (and their yearly supplements) can be pricey, but they usually cover everything and anything involved in a social security disability practice.

Thought can be given to the *Dictionary of Occupational Titles*, but, in all honesty, this is something that the electronic-based systems have surpassed in ease of use. There is also *The Revised Handbook for Analyzing Jobs* from the Department of Labor, *Standard Occupational Classification Manual*, *The Transitional Classification of Jobs*, and *Occupational Employment Quarterly II*.

As with everything in life, technology has changed the way attorneys practice Social Security Disability law. In fact, most files are now fully electronic and can be accessed on ERE along

with the representative report. In my belief, technology has lowered the cost of valuable information and streamlines representation. I previously discussed case management in early sections of the CLE, but it is just one example of an extremely useful and valuable resource.

Vocational information is an area where technological resources are abundant. There are computer programs such as *OccuBrowse*, *OASYS*, *Westlaw's Social Security CD Library*, and *Job Browser Pro*. Useful internet sites are www.tn.gov/labor-wfd/labor_figures/ (Tennessee and National); www.bls.gov/soc/home.htm; and www.bls.gov/oes, just to name a few.

There are many websites to recommend, but the first and most important is www.ssa.gov. The following is just a short list of other useful sites:

- WebMD
- Medline
- www.benefits.va.gov
- www.ama-assn.org
- www.nosscr.org
- <http://health.state.tn.us/Licensure/default.aspx>

There are quite a few organizations that can provide resources to Social Security attorneys. Many of them often have listserves for their members that are invaluable. Some

organizations are NOSSCR, American Association for Justice (they have an SSD section), Tennessee Association for Justice (or other state equivalents), WILG, and other state and local bar organizations.

Similar to the connections gleaned from these larger organizations, are the connections made with other attorneys in the locales where you practice. Find a few that are highly qualified and go to lunch periodically or brainstorm on the phone or by e-mail. You can learn a lot about ALJs or VEs by just talking to others in the area. Get to know your VEs. Use them on WC or PI cases.

Lastly, your office should be turned into a resource. Track your results, keep databases on ALJs, compile CVs on doctors, record who completes assessments, costs, etc.

TEN COMMON REASONS A HEARING OR COURT APPEAL MAY BE LOST

1. Failure to formulate a complete and detailed theory of the case, covering ALL FIVE steps of the sequential evaluation.
2. Failure to ask for the DOT codes for all jobs mentioned at the hearing, including past relevant work (PRW).
3. Failure to prove the specific functional limitations precluding past relevant work, and to verify which work is PRW by verifying recency, SGA-level earnings, and duration satisfying the SVP (specific vocational preparation) requirement.

4. Failure to get claimant testimony identifying functions necessary for past-relevant and other work the claimant can no longer do, and why.
5. Failure to get treating physician opinion(s) showing that the claimant cannot do functions required for past relevant and other work, and why.
6. Failure to find evidence that could give rise to negative inferences, and show why they do not disprove disability. This includes statements like "Needs work excuse" or "May be engaged in drug-seeking" in medical records, post-alleged onset date earnings, etc.
7. Failure to present hypothetical questions showing that each disabling limitation precludes work. If the claimant describes three symptoms that individually preclude work, each should be presented separately to the VE so that all must be rejected to deny.
8. Failure to get consultative examinations when required. The burden of proving disability is on the claimant, not the ALJ.
9. Failure to get school records. There is no evidence with as high a cost/benefit ratio.
10. Failure to establish limitations on admitted activities, allowing the ALJ to compile an unchallenged laundry list of activities the claimant has done. When claimants say they read novels, find out how long it takes and whether they remember what they read. If they go fishing, find out how long and how

often. Prepare for this by comparing the difference between their current life and their pre-impairment life.



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