

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|----------------------------|---|-------------------------------|
| STEPHANIE STEIGERWALD, |) | CASE NO.: 1:17-CV-1516 |
| |) | |
| Plaintiff, |) | JUDGE JAMES S. GWIN |
| |) | MAGISTRATE JUDGE DAVID RUIZ |
| v. |) | |
| |) | |
| NANCY A. BERRYHILL, ACTING |) | |
| COMMISSIONER OF SOCIAL |) | |
| SECURITY, ET AL. |) | DEFENDANTS' MOTION TO DISMISS |
| |) | |
| Defendants. |) | |

Defendants Nancy A. Berryhill, Acting Commissioner of the Social Security Administration and the Social Security Administration (“SSA”) respectfully move this Court, pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, for an order dismissing Plaintiff’s Complaint. This Court lacks subject-matter jurisdiction because Plaintiff’s Complaint does not even allege, much less plausibly claim, that she has met the non-waivable statutory requirement to first present her claim to the SSA before seeking judicial review. *See* 42 U.S.C. §§ 405(g), (h). In addition, once Plaintiff’s claim was made known to the SSA, the agency paid Plaintiff the very benefits for which she sues. Her claim is therefore moot, and for that reason as well, the Court should dismiss this case for lack of subject-matter jurisdiction.

The grounds in support of Defendants' Motion to Dismiss are set forth in the attached Memorandum in Support, which is incorporated herein by reference.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of November, 2017, a copy of the foregoing ***Motion to Dismiss and Memorandum in Support*** was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/Erin E. Brizius
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