March 26, 2026

The Honorable Robert Callahan
Administrative Law Judge
Office of Hearings Operations
1100 Commerce St, Suite 500
Dallas, TX 75242

Re: **Claimant:** Jane Smith
SS#: 123-45-6789
Type of Claim: Concurrent

Prehearing Memorandum in Support of a Favorable Decision

Your Honor:

Please accept this letter as the outline and proposed findings of fact in the case of Jane Smith. This case is set to be heard by Your Honor on June 18th, 2025. Where possible, citations have been made to the record as it exists in the electronic file.

<u>Introduction</u>

Ms. Smith is a 46-year-old woman with a GED who worked as a CNA. Her ability to work ended after a January 29th, 2023 motor vehicle crash caused a large left pneumothorax, bilateral rib fractures, a grade 2 splenic laceration, and acute blood loss anemia on chronic anemia. Exhibit 2F p. 66. The very next day, therapy documented that she needed moderate assistance for bed mobility and could manage only “1 step fwd/back & L,” underscoring how abruptly these severe impairments ended her ability to sustain work. Exhibit 2F pp. 111-112. Ms. Smith's impairments meet or medically equal a Listed Impairment and, alternatively, her functional limitations erode the occupational base to the point where no sustained competitive employment remains available.

On November 1st, 2023, Ms. Smith protectively filed concurrent applications for Title II and Title XVI disability benefits, alleging an onset of disability on January 28th, 2023; she has a date last insured of March 31st, 2024. It is anticipated that her past work as a CNA will be classified as medium in exertion and semiskilled.

<u>Step One</u>

In applying the sequential analysis, we respectfully submit the following:

Ms. Smith has not engaged in substantial gainful activity over the period at issue.

Step Two

Ms. Smith does indeed suffer from medically determinable impairments that are severe, including:

- **Symptomatic iron deficiency anemia**, Exhibit 9F pp. 6, 8, 85
- **Major depressive disorder, recurrent, severe with psychotic features**, Exhibit 10F p. 11; Exhibit 12F pp. 17, 20
- **Posttraumatic stress disorder**, Exhibit 10F p. 35; Exhibit 12F p. 20
- **Moderate cervical spondylosis with multilevel degenerative disc disease**, Exhibit 7F p. 90
- **Non-ST elevation myocardial infarction**, Exhibit 2F pp. 16, 36, 39
- **Large left pneumothorax**, Exhibit 2F pp. 66, 91
- **Bilateral rib fractures**, Exhibit 2F pp. 91, 93; Exhibit 5F p. 2
- **Morbid obesity**, Exhibit 2F p. 114; Exhibit 5F p. 5
- **Grade 2 splenic laceration**, Exhibit 2F pp. 92-93

SSA's own reviewers previously found the following conditions severe, a meaningful concession from the agency itself. If the Agency now asks the Court to treat any of these conditions as non-severe, it must explain why its own reviewers were wrong.

Musculoskeletal and chest wall: upper extremity fracture residuals; bilateral rib fractures; residual chest wall trauma with chronic chest wall pain; retained chest hardware; major joint abnormality in an extremity; deconditioning.

Respiratory: left-sided pneumothorax; chronic breathing problems and shortness of breath; pleural effusion; subcutaneous emphysema.

Hematologic: chronic anemia requiring transfusion.

Cardiovascular: prior heart attack; mitral regurgitation; tricuspid regurgitation; reduced left ventricular ejection fraction of 50 to 55 percent.

Mental health: depression; anxiety.

Abdominal and gastrointestinal: splenic laceration; liver lesion; hiatal hernia.

Gynecologic: ovarian or adnexal cyst.

Other: obesity.

Other agency records reflect a prior SSA DIB disallowance coded F2 for an onset of January 28th, 2023 and filing date of November 1st, 2023, and confirm that the request for hearing remained pending before the Dallas (North) OHO. Exhibit 4D p. 1; Exhibit 9D p. 1.

Note: the list above is only representative of some of the conditions impacting the claimant and is not meant to be an exhaustive list.

Ms. Smith's disabling course began on January 29th, 2023, when she was involved in a motor vehicle crash and sustained a large left pneumothorax, a small right pneumothorax, bilateral rib fractures, a grade 2 splenic laceration, and acute blood loss anemia on chronic anemia. Exhibit 2F p. 66. The same admission documented chronic profound anemia secondary to menstruation, confirming that her hematologic impairment predated and compounded the trauma. Id. at p. 67. Imaging also showed multilevel degenerative changes in the cervical spine with loss of cervical lordosis with mild reversal, an early objective correlate for the cervical condition later formally diagnosed. Exhibit 2F p. 94.

By January 30th, 2023, therapy documented how little function remained after the crash. Ms. Smith needed moderate assistance for bed mobility, moderate assistance from supine to sit, minimum assistance to stand, and contact guard assistance to sit. Exhibit 2F pp. 111, 114. She could manage only “1 step fwd/back & L,” and was “unwilling to take more steps 2/2 10/10 pain.” Exhibit 2F p. 112. The therapist also recorded “Significant pain /c sitting and standing--c/o 10/10 pain and poor tolerance,” along with fatigue, decreased endurance, decreased gait, and pain that limited function. Id. at pp. 111-113. Morbid obesity was documented during the same hospitalization. Id. at p. 114.

Less than one month after the March 31st, 2024 DLI, Ms. Smith was hospitalized again for chest pain and shortness of breath. Treaters diagnosed chronic and severe microcytic anemia, probable type II NSTEMI, obesity, and history of motor vehicle trauma complicated by pneumothorax. Exhibit 9F pp. 85, 111. Her troponins remained elevated at 0.613, then 0.514, then 0.485, while hemoglobin reached a low point of 6.3. Exhibit 9F p. 85. The admission included blood crossmatch for severe anemia. Exhibit 2F p. 19. Cardiac testing showed ejection fraction of 50 to 55 percent and a small area of ischemic change involving the anterior septal wall near the apex. Exhibit 9F pp. 106, 109. During this same admission, the record stated, “The patient has been disabled since her injury.” Exhibit 2F p. 7.

The anemia continued after the insured period. On October 10th, 2024, Ms. Smith presented with weakness and lightheadedness from low iron and low blood counts, with pain rated 9 out of 10. Exhibit 11F p. 73. Her hemoglobin was 7.0, blood transfusion was indicated, and she received 1 unit of packed red blood cells in the emergency department. Exhibit 11F p. 74; Exhibit 8F p. 60. Repeated transfusions are consistent with the chronic severe anemia documented before and immediately after the DLI.

At the November 16th, 2024 consultative examination, the examiner observed that Ms. Smith came with a rolling walker, needed it for short and long distances and uneven terrain, could walk around the room only “in a very limited fashion,” and was unable to rise from a sitting position without assistance. Exhibit 5F pp. 2, 5-7. She also had difficulty getting up and down from the examination table because of obesity and deconditioning. Id. at p. 6. Although the report also included broad checked statements of no sitting, standing, or walking limits, those statements do not fit the examiner's own observations or the January 2023 therapy findings showing only one step of gait because of 10 out of 10 pain. Exhibit 5F p. 7; Exhibit 2F p. 112.

Spinal complaints also persisted. On March 4th, 2025, cervical imaging showed moderate cervical spondylosis with multilevel degenerative disc disease, worst at C5-6, with disc space narrowing and posterior osteophytes slightly encroaching on the spinal canal. Exhibit 7F p. 90. That imaging is consistent with the January 29th, 2023 trauma CT, which already showed multilevel degenerative changes and loss of cervical lordosis with mild reversal. Exhibit 2F p. 94.

Mental symptoms likewise required escalating treatment. Although the most detailed psychiatric treatment appears after the DLI, the record had already noted Ms. Smith was depressed, fatigued, and had delayed, mumbling speech during the January 30th, 2023 hospitalization. Exhibit 2F p. 110. By March 27th, 2025, she required inpatient psychiatric care for suicidal ideation with plan, major depressive disorder, recurrent, severe with psychotic features, visual hallucinations, and posttraumatic stress disorder. Exhibit 10F pp. 11, 35. On April 1st, 2025, the record described severe depression, suicidal ideation, and “severely impaired executive functioning.” Exhibit 10F p. 4. Follow-up treatment continued to document elevated anxiety, rocking back and forth in her chair, psychotic symptoms, and ongoing medication management with duloxetine, hydroxyzine, and trazodone. Exhibit 12F pp. 13, 20.

The most recent hematology record shows the condition remained severe. On April 17th, 2025, Ms. Smith presented with symptomatic iron deficiency anemia and blood loss anemia. Her hemoglobin was 6.7 and hematocrit 26.5. Exhibit 9F pp. 6, 8. She reported “significant issues with dizziness upon standing,” that she gets “very short of breath with any kind of exertion,” and intermittent chest pain with exertion. Exhibit 9F p. 7. She again required a unit of blood. Exhibit 9F p. 6. She also explained that oral iron made her feel “jittery” and like she was “hopped up on speed,” so IV iron was being considered. Exhibit 9F pp. 6-8. The longitudinal record is consistent, severe anemia, trauma-related chest and mobility limitations, cervical degeneration, obesity, and serious mental illness continued despite repeated attempts to obtain relief.

Step Three

Ms. Smith reserves the right to offer a listing argument at hearing and respectfully requests that all applicable listings be considered, including Listing 12.04. The medical evidence supports that Ms. Smith's impairments medically equal Listing 12.04.

- As documented above, the file contains medical documentation of a depressive disorder with psychotic features, along with suicidal ideation with plan, visual hallucinations, anxiety, PTSD, and sleep disturbance, a symptom constellation squarely within the severity contemplated by Listing 12.04. Exhibit 10F p. 35; Exhibit 12F p. 13.
- Her illness escalated to inpatient-level psychiatric care, where providers assessed severe depression, suicidal ideation, and severely impaired executive functioning, and noted drug therapy requiring intensive monitoring, evidence of a decompensated condition far beyond routine outpatient symptoms. Exhibit 10F p. 4.
- The psychiatric abnormalities were clinically observed, not merely self-reported: providers documented poor eye contact, guarded behavior, depressed mood, restricted affect, nail-picking, short low-volume speech, and observable anxiety with rocking back and forth during session. Exhibit 10F p. 13; Exhibit 12F p. 13.
- The record also shows ongoing, serious, and persistent symptoms after hospitalization, including recurrent severe major depressive disorder, PTSD, unresolved grief, psychotic symptoms, visual hallucinations, and continued psychiatric follow-up with medication management. Exhibit 10F p. 35; Exhibit 12F pp. 13, 20.
- Although the most detailed psychiatric evidence appears after the DLI, it relates back to the insured period because Ms. Smith was already documented as depressed, fatigued, and speaking in a delayed, mumbling manner during her earlier hospitalization, which is consistent with the later formal psychiatric diagnoses rather than a new post-DLI condition. Exhibit 2F p. 110; Exhibit 10F p. 11.
- When these mental impairments are considered together with the chronic pain, fatigue, and severe anemia discussed above, the overall functional picture is at least equivalent in severity to Listing 12.04, particularly in concentration, persistence, or pace and in adapting or managing oneself. Exhibit 10F p. 4; Exhibit 12F p. 13; Exhibit 9F pp. 7-8.

Step Four

Notwithstanding the position taken in Step Three, Ms. Smith cannot perform her past relevant work. Even as she actually performed it, her CNA work required lifting, pushing, pulling, and assisting residents with grooming, showers, and feeding, which conflicts with her walker use, inability to rise independently, and sedentary limit. As generally performed, the medium, semiskilled job also exceeds her impaired concentration and stress tolerance for

sustained resident care, 20 CFR § 404.1567(c); 20 CFR § 416.967(c); 20 CFR § 404.1568(b); 20 CFR § 416.968(b).

Step Five

Ms. Smith's functional limitations prevent her from performing any other work available in the national or regional economies, including even sedentary, unskilled occupations. The most consequential limitations are as follows:

- Ambulation was limited to very short distances, and the consultative examiner observed that she needed a rolling walker for short and long distances and uneven terrain, and could walk around the room only in a very limited fashion (consultative examination, Exhibit 5F pp. 5-7)
- She was unable to rise from a sitting position without assistance, and had difficulty getting on and off the examination table because of obesity and deconditioning (consultative examination, Exhibit 5F p. 6)
- Standing and walking were tolerated only minimally, with therapy documenting only one step forward, back, and left, refusal of further ambulation because of 10 out of 10 pain, and decreased endurance and gait (objective therapy findings, Exhibit 2F pp. 111-113)
- Symptomatic iron deficiency anemia caused dizziness upon standing, shortness of breath with any exertion, intermittent exertional chest pain, and transfusion-level hemoglobin values, reflecting poor and unreliable exertional tolerance even at low levels of activity (treating hematology and hospital records, Exhibit 9F pp. 6-8, 85; Exhibit 11F pp. 73-74)
- Severe depression with psychotic features, including severely impaired executive functioning and visual hallucinations, materially limited concentration, pace, and the ability to complete a normal workday without interruption from symptoms (psychiatric treatment, Exhibit 10F pp. 4, 11, 35)
- Ongoing PTSD and anxiety, including rocking back and forth in her chair and continued psychotropic medication management, materially limited her ability to respond appropriately to ordinary work stress, coworkers, and changes in routine (psychiatric treatment, Exhibit 12F pp. 13, 20)

These limitations support a residual functional capacity of no more than sedentary work.

These limitations significantly erode the sedentary occupational base. See SSR 96-9p. A person who can ambulate only minimally, needs a rolling walker even for short distances, cannot rise from sitting without assistance, experiences dizziness and shortness of breath with exertion from transfusion-level anemia, and has severe deficits in executive functioning, concentration, and stress tolerance from depression, psychosis, and PTSD cannot sustain the demands of even unskilled sedentary work on a regular and continuing basis. The documented combination of

recurrent symptomatic anemia and severe psychiatric symptoms would also reasonably result in repeated work absences or off-task time exceeding normal employer tolerances, rendering sustained work activity impossible. Accordingly, the sedentary occupational base has been eroded to the point that a finding of disability is required.

Conclusion

Ms. Smith suffers from a disability as her medical condition precludes performance of any type of work available in the national or regional economy. Such disability has continued since at least the alleged onset date. Thank you for your consideration in this matter.

Respectfully submitted,

[Attorney Name]
Attorney for Jane Smith