

# The Formal Argument



A formal argument is a written case presentation identifying the cause and affect of a claimant's impairment. You can also think of a formal argument as a way to execute your case strategy. The argument is your opportunity to bring forth issues that may not have been properly addressed at the Initial or first appeal levels.

Unknown to most disability advocates, the formal argument is the most important correspondence used in a Social Security disability claim. If used properly, a case argument can significantly increase your chances of winning a case.

## Objective of the Formal Argument

The primary objective of a Formal Argument is to make the claimant appear as disabled as possible without altering the facts of the case. In reality, you are organizing the facts of a case into a chronological presentation that demonstrates the path of the client's impairment. You are not required to write a formal argument. We create formal arguments to make it easier for SSA to agree with our position in the case. If you present SSA with a logical argument supported by the medical evidence, your chances of winning are significantly increased.

## Argument Quality Counts

The quality of a formal argument is not just about sentence structure and good grammar. The most important issues within an argument are those that help the client to win. What helps the client to win is your ability to present their case in chronological order. You start from the date the claimant stopped working and move forward in time to the present date. This approach also enables you to attach dated evidence to support the claimant's alleged time-line of disability.

## Things to Mention in a Formal Argument

Present the facts within a Formal Argument in chronological order based on the claimant's

impairment history. Important elements to include are:

- Claimant's identifying information
- Brief introduction and case history.
- Brief discussion of the reason for the previous denial if applicable.
- List each impairment and prepare to explain how each limits claimant.
- List all favorable medical sources with a discussion of their contribution, opinions, etc.
- Present a brief but concise discussion of case issues.
- Discuss the limiting effects of the claimant's impairment and references supporting evidence.
- Brief vocational presentation indicating claimant's inability to do past or other work.
- Reference materials relevant to the description of the claimant's impairments.
- Your opinion of the claimant's condition as supported by the medical findings. Point out reasonable physical, mental, educational or age-related limitations that are directly supported by the evidence.

## Preparing a Formal Argument

The primary duty of a disability advocate is to create the most effective formal argument possible given the evidence in the case. Once you acquire the claimant's evidence, you must extract those key-points that support the claimant's alleged impairment. If you are not comfortable with reviewing medical evidence, please visit our key-point extraction segment in module two of this course.

To build a good argument, start collecting the right information early in the case. You must decide during the Initial Interview and Case Assessment process if the case is worth accepting. What you learn in these early stages of a case often figure prominently when formulating a final argument. In fact, early data may end up determining the entire outcome of the case! Here are the seven most important categories of fact which have the greatest impact on case outcome:

1. Claimant age
2. Claimant educational level
3. Claimant's past work history
4. Claimant's transferable skills
5. Debilitating effects of the disease
6. Specific medical findings in the case
7. Claimant's perception of and response to his/her condition

**Claimant's Age Criteria:** Several internal SSA policies allow clients with certain characteristics to enjoy a more liberal interpretation of their disabling condition. One of the most important of these liberalizing criteria is age. If the claimant is under age eighteen, SSA uses the more liberal childhood medical listings and age-appropriate-activity criteria to determine disability.

Now, if the claimant is between the ages of twenty-one to forty-nine, disability requirements are more stringent. In order to win the case for a person in this age range, you must almost always argue for a less than sedentary RFC to win.

If the claimant is between the ages of fifty to sixty-four, SSA disability criteria eases as age advances. After age fifty you may not need to lower the claimant's RFC to less than sedentary to win. The criteria is more liberal and you may begin winning cases even at a sedentary RFC.

How do you know what RFC level will be necessary for an allowance decision? The most common way to determine this is by using the SSA Vocational Rules Table (The Grid).

**Note:** There is a copy of the Vocational Rules Table in the Syllabus of our Advocate Training Program Module 1. Click on the link marked "The Grid" to access. The Voc Rules Table indicates how low the RFC must go in a given case for an allowance decision. Criteria are the claimant's age, education, skill level and remaining skill transferability.

**For example:** If your client is fifty-five, has eleven years of education and no transferable skills, Voc Rule 201.02 will direct a decision of disabled on an RFC of sedentary work. Of course, a less than sedentary RFC would give the same result.

**Claimant educational level:** The poorer a claimant's education, the more likely he does not have transferable skills to less demanding work. Therefore, a poor education increases a claimant's chances of winning benefits.

**Claimant's past work history:** A claimant's past work is used by SSA to determine step 4 of sequential analysis process. SSA looks at your diagnosis, signs and symptoms and formulates an RFC. They then compare the RFC to the duties of his/her past work. If it appears that despite the claimant's impairment, he/she can still perform the duties of the past work, the case is denied.

**Debilitating effects of the disease:** Limitations caused by the claimant's primary impairment is used to determine if the claimant can perform past or other less

demanding work.

**Specific medical findings in the case:** These are the facts extracted from the client's medical evidence. These facts are used to support the claimant's alleged limitations.

**Claimant's perception of and response to his/her condition:** Believe it or not, how the claimant responds to his impairment can make a difference in a disability claim. If a claimant stayed active despite his impairment, he will be perceived as being less limited resulting in a denial.

As you can see, Vocational Analysis, Module 4 is closely related to argument creation. That's because the majority of the cases you win will be based on medical-vocational issues.

### Auto-Argument creation

Within your olivia prime software, you will find a tool called the MW Composer. This is the new version of our Memo-write argument creator. The composer is built into Olivia and will enable you to create arguments faster and with much less effort.

We will also continue your access to the old memowrite online training course because it still contains what we consider to be extremely important data on how to successfully write an SSA argument on behalf of a client. [Click here](#) to access.