

APPEAL,STAYED,TYPE-E

**U.S. District Court  
District of Columbia (Washington, DC)  
CIVIL DOCKET FOR CASE #: 1:16-cv-00745-PLF  
*Internal Use Only***

NATIONAL VETERANS LEGAL SERVICES PROGRAM et al v. UNITED STATES OF AMERICA

Assigned to: Judge Paul L. Friedman

Case in other court: USCA for the Federal Circuit,  
19-01083-SJ

USCA for the Federal Circuit,  
18-00154-CP

USCA for the Federal Circuit,  
18-00155-CP

USCA for the Federal Circuit,  
19-01081-SJ

Date Filed: 04/21/2016

Jury Demand: None

Nature of Suit: 890 Other Statutory  
Actions

Jurisdiction: U.S. Government Defendant

Cause: 28:1346 Tort Claim

**Plaintiff**

**NATIONAL VETERANS LEGAL  
SERVICES PROGRAM**

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**Plaintiff**

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**Deepak Gupta**  
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V.

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*TERMINATED: 06/03/2021*

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V.

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**Interested Party**

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**Movant**

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**Movant**

**MICHAEL T. PINES**

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**Amicus**

**REPORTERS COMMITTEE FOR  
FREEDOM OF THE PRESS**

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**ASSOCIATED PRESS MEDIA  
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**DARRELL ISSA**  
*Congressman*

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Date Filed	#	Page	Docket Text
04/21/2016	<u>1</u>		COMPLAINT against All Defendants <i>United States of America</i> ( Filing fee \$ 400 receipt number 0090-4495374) filed by NATIONAL VETERANS LEGAL SERVICES PROGRAM, ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons to United States Attorney General, # <u>3</u> Summons to U.S. Attorney for the District of Columbia)(Gupta, Deepak) (Entered: 04/21/2016)
04/21/2016	<u>2</u>		LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM (Gupta, Deepak) (Entered: 04/21/2016)
04/21/2016			Case Assigned to Judge Ellen S. Huvelle. (jd) (Entered: 04/22/2016)
04/22/2016	<u>3</u>		SUMMONS (2) Issued Electronically as to UNITED STATES OF AMERICA, U.S. Attorney and U.S. Attorney General (Attachment: # <u>1</u> Consent Forms)(jd) (Entered: 04/22/2016)
04/26/2016	<u>4</u>		RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 4/26/2016. Answer



			due for ALL FEDERAL DEFENDANTS by 6/25/2016. (Gupta, Deepak) (Entered: 04/26/2016)
04/26/2016	<u>5</u>		NOTICE of Appearance by Elizabeth S. Smith on behalf of All Plaintiffs (Smith, Elizabeth) (Entered: 04/26/2016)
04/26/2016	<u>6</u>		MOTION for Leave to Appear Pro Hac Vice :Attorney Name– William H. Narwold, :Firm– Motley Rice LLC, :Address– 20 Church Street, 17th Floor, Hartford, CT 06103. Phone No. – 860–882–1676. Fax No. – 860–882–1682 Filing fee \$ 100, receipt number 0090–4500590. Fee Status: Fee Paid. by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM (Attachments: # <u>1</u> Declaration, # <u>2</u> Text of Proposed Order)(Smith, Elizabeth) (Entered: 04/26/2016)
04/26/2016			MINUTE ORDER granting <u>6</u> Motion for Leave to Appear Pro Hac Vice: It is hereby ORDERED that the motion for leave to appear pro hac vice is GRANTED; and it is further ORDERED that William H. Narwold is admitted pro hac vice for the purpose of appearing in the above–captioned case. Signed by Judge Ellen S. Huvelle on April 26, 2016. (AG) (Entered: 04/26/2016)
05/02/2016	<u>7</u>		RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 05/02/2016. (Gupta, Deepak) (Entered: 05/02/2016)
05/02/2016	<u>8</u>		MOTION to Certify Class by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM (Attachments: # <u>1</u> Declaration of Deepak Gupta, # <u>2</u> Declaration of William Narwold, # <u>3</u> Declaration of Jonathan Taylor, # <u>4</u> Text of Proposed Order)(Gupta, Deepak) (Entered: 05/02/2016)
05/16/2016	<u>9</u>		NOTICE of Appearance by William Mark Nebeker on behalf of UNITED STATES OF AMERICA (Nebeker, William) (Entered: 05/16/2016)
05/16/2016	<u>10</u>		Unopposed MOTION for Extension of Time to File Response/Reply as to <u>8</u> MOTION to Certify Class by UNITED STATES OF AMERICA (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 05/16/2016)
05/17/2016			MINUTE ORDER: It is hereby ORDERED that defendant's unopposed <u>10</u> Motion for Extension of Time to File Response/Reply is GRANTED, and defendant's Response is due by July 11, 2016. Signed by Judge Ellen S. Huvelle on May 17, 2016. (lcesh2 ) (Entered: 05/17/2016)
06/27/2016	<u>11</u>		MOTION to Dismiss <i>Or, In The Alternative</i> , MOTION for Summary Judgment by UNITED STATES OF AMERICA (Attachments: # <u>1</u> Exhibit (1 through 5), # <u>2</u> Text of Proposed Order)(Nebeker, William) (Entered: 06/27/2016)

07/08/2016	<u>12</u>		Joint MOTION for Extension of Time to File Response/Reply as to <u>8</u> MOTION to Certify Class , <u>11</u> MOTION to Dismiss <i>Or, In The Alternative</i> MOTION for Summary Judgment by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM (Attachments: # <u>1</u> Text of Proposed Order)(Gupta, Deepak) (Entered: 07/08/2016)
07/08/2016			MINUTE ORDER granting <u>12</u> Motion for Extension of Time to File Response re <u>8</u> MOTION to Certify Class and <u>11</u> MOTION to Dismiss: Upon consideration of the parties' joint motion to extend the briefing schedule, it is hereby ORDERED that the motion is GRANTED; it is FURTHER ORDERED that the time within which the defendant may file a memorandum of points and authorities in response to plaintiffs' motion for class certification is further extended though July 25, 2016, and no additional extensions shall be granted; and it is FURTHER ORDERED that the time within which the plaintiffs may file a memorandum of points and authorities in response to defendant's motion to dismiss is initially extended though July 29, 2016. Signed by Judge Ellen S. Huvelle on July 7, 2016. (AG) (Entered: 07/08/2016)
07/25/2016	<u>13</u>		Memorandum in opposition to re <u>8</u> MOTION to Certify Class filed by UNITED STATES OF AMERICA. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Declaration Garcia, # <u>3</u> Text of Proposed Order)(Nebeker, William) (Entered: 07/25/2016)
07/26/2016	<u>14</u>		MOTION to Stay <i>Discovery</i> by UNITED STATES OF AMERICA (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 07/26/2016)
07/29/2016	<u>15</u>		RESPONSE re <u>11</u> MOTION to Dismiss <i>Or, In The Alternative</i> MOTION for Summary Judgment filed by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Attachments: # <u>1</u> Exhibit Govt's MTD in Fisher, # <u>2</u> Exhibit Complaint in NVLSP v. USA, # <u>3</u> Exhibit Complaint in Fisher)(Gupta, Deepak) (Entered: 07/29/2016)
08/04/2016	<u>16</u>		Unopposed MOTION for Extension of Time to File Response/Reply as to <u>11</u> MOTION to Dismiss <i>Or, In The Alternative</i> MOTION for Summary Judgment by UNITED STATES OF AMERICA (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 08/04/2016)
08/04/2016	<u>17</u>		REPLY to opposition to motion re <u>8</u> MOTION to Certify Class filed by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Gupta, Deepak) (Entered: 08/04/2016)
08/05/2016			MINUTE ORDER granting <u>16</u> Unopposed Motion for Extension of Time to File Reply re <u>11</u> MOTION to Dismiss <i>Or,</i>

			<i>In The Alternative</i> , MOTION for Summary Judgment : Upon consideration of the Unopposed Motion For An Enlargement Of Time, And Memorandum In Support Thereof, and for the reasons set forth in support thereof, it is hereby ORDERED that the motion is GRANTED; and it is FURTHER ORDERED that the time within which Defendant may file a reply to Plaintiffs' opposition to the pending Motion To Dismiss Or, In The Alternative, For Summary Judgment is enlarged up to and including August 16, 2016. Signed by Judge Ellen S. Huvelle on August 5, 2016. (AG) (Entered: 08/05/2016)
08/09/2016	<u>18</u>		Joint MOTION for Scheduling Order by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM (Attachments: # <u>1</u> Text of Proposed Order)(Narwold, William) (Entered: 08/09/2016)
08/16/2016			MINUTE ORDER: It is hereby ORDERED that the <u>18</u> Joint Motion for Scheduling Order is GRANTED. Signed by Judge Ellen S. Huvelle on August 16, 2016. (lcesh2) (Entered: 08/16/2016)
08/16/2016			MINUTE ORDER: It is hereby ORDERED that defendant's <u>14</u> Motion to Stay is DENIED as moot. Signed by Judge Ellen S. Huvelle on August 16, 2016. (lcesh2) (Entered: 08/16/2016)
08/16/2016	<u>19</u>		SCHEDULING ORDER: The parties' <u>18</u> Joint Motion for Proposed Phased Schedule is hereby GRANTED. See Order for details. Signed by Judge Ellen S. Huvelle on August 16, 2016. (lcesh2) (Entered: 08/16/2016)
08/16/2016	<u>20</u>		REPLY to opposition to motion re <u>11</u> MOTION to Dismiss <i>Or, In The Alternative</i> MOTION for Summary Judgment filed by UNITED STATES OF AMERICA. (Attachments: # <u>1</u> Declaration Second Garcia)(Nebeker, William) (Entered: 08/16/2016)
08/17/2016	<u>21</u>		MOTION for Leave to File <i>Sur-Reply</i> by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM (Attachments: # <u>1</u> Exhibit <i>Sur-Reply</i> , # <u>2</u> Statement of Facts, # <u>3</u> Text of Proposed Order)(Gupta, Deepak) (Entered: 08/17/2016)
08/17/2016	<u>22</u>		RESPONSE re <u>21</u> MOTION for Leave to File <i>Sur-Reply</i> filed by UNITED STATES OF AMERICA. (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 08/17/2016)
10/01/2016	<u>23</u>		NOTICE OF SUPPLEMENTAL AUTHORITY by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM (Attachments: # <u>1</u> Exhibit Opinion in Fisher v. United States)(Gupta, Deepak) (Entered: 10/01/2016)
12/05/2016			

			MINUTE ORDER granting in part and denying in part <u>21</u> Plaintiffs' Motion for Leave to File Sur-Reply: It is hereby ORDERED that plaintiffs may file [21-2] Plaintiffs' Concise Statement of Genuine Issues of Material Fact, but plaintiffs may not file [21-1] Plaintiffs' Sur-Reply. A sur-reply is unnecessary because plaintiffs seek to reply to a statement that defendant originally presented in its motion to dismiss. Signed by Judge Ellen S. Huvelle on December 5, 2016. (lcesh2) (Entered: 12/05/2016)
12/05/2016	<u>24</u>		ORDER denying <u>11</u> Defendant's Motion to Dismiss or, in the Alternative, Motion for Summary Judgment for the reasons stated in the accompanying Memorandum Opinion. Signed by Judge Ellen S. Huvelle on December 5, 2016. (lcesh2) (Entered: 12/05/2016)
12/05/2016	<u>25</u>		MEMORANDUM OPINION in support of <u>24</u> Order Denying <u>11</u> Defendant's Motion to Dismiss or, in the Alternative, Motion for Summary Judgment. Signed by Judge Ellen S. Huvelle on December 5, 2016. (lcesh2) (Entered: 12/05/2016)
12/05/2016	<u>26</u>		SUPPLEMENTAL MEMORANDUM (Statement of Genuine Issues of Material Fact) to re <u>11</u> MOTION to Dismiss <i>Or, In The Alternative</i> MOTION for Summary Judgment filed by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (znmw) (Entered: 12/06/2016)
12/15/2016			MINUTE ORDER Setting Hearing on Motion: It is hereby ORDERED that a motion hearing on <u>8</u> Plaintiffs' MOTION to Certify Class is set for 1/18/2017 at 02:30 PM in Courtroom 23A before Judge Ellen S. Huvelle. Signed by Judge Ellen S. Huvelle on December 15, 2016. (lcesh2) (Entered: 12/15/2016)
12/19/2016	<u>27</u>		ANSWER to Complaint by UNITED STATES OF AMERICA.(Nebeker, William) (Entered: 12/19/2016)
01/18/2017			Minute Entry for proceedings held before Judge Ellen S. Huvelle: Motion Hearing held on 1/18/2017, re <u>8</u> MOTION to Certify Class, heard and taken under advisement. (Court Reporter Scott Wallace) (gdf) (Entered: 01/18/2017)
01/20/2017	<u>28</u>		AFFIDAVIT re <u>8</u> MOTION to Certify Class of <i>Daniel L. Goldberg</i> by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Gupta, Deepak) (Entered: 01/20/2017)
01/20/2017	<u>29</u>		AFFIDAVIT re <u>8</u> MOTION to Certify Class of <i>Stuart Rossman</i> by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Gupta, Deepak) (Entered: 01/20/2017)
01/20/2017	<u>30</u>		

			AFFIDAVIT re <u>8</u> MOTION to Certify Class of <i>Barton F. Stichman</i> by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Gupta, Deepak) (Entered: 01/20/2017)
01/20/2017	<u>31</u>		AFFIDAVIT re <u>8</u> MOTION to Certify Class of <i>Deepak Gupta (Second)</i> by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F)(Gupta, Deepak) (Entered: 01/20/2017)
01/24/2017	<u>32</u>		ORDER granting <u>8</u> Plaintiffs' Motion to Certify Class for the reasons stated in the accompanying Memorandum Opinion. See Order for details. Signed by Judge Ellen S. Huvelle on January 24, 2017. (lcesh2) (Entered: 01/24/2017)
01/24/2017	<u>33</u>		MEMORANDUM OPINION in support of <u>32</u> Order Granting <u>8</u> Plaintiffs' Motion to Certify Class. Signed by Judge Ellen S. Huvelle on January 24, 2017. (lcesh2) (Entered: 01/24/2017)
01/24/2017	<u>34</u>		SCHEDULING ORDER: See Order for deadlines and details. Signed by Judge Ellen S. Huvelle on January 24, 2017. (lcesh2) (Entered: 01/24/2017)
02/14/2017	<u>35</u>		TRANSCRIPT OF PROCEEDINGS before Judge Ellen S. Huvelle held on 1-18-17; Page Numbers: (1-29). Date of Issuance:1-29-17. Court Reporter/Transcriber Scott Wallace, Telephone number 202-354-3196, Transcripts may be ordered by submitting the <a href="http://www.dcd.uscourts.gov/node/110">Transcript Order Form</a><P></P><P></P>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.<P> <b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.<P></P>Redaction Request due 3/7/2017. Redacted Transcript Deadline set for 3/17/2017. Release of Transcript Restriction set for 5/15/2017.(Wallace, Scott) (Entered: 02/14/2017)
02/21/2017	<u>36</u>		NOTICE of Appearance by Brian J. Field on behalf of All Defendants (Field, Brian) (Entered: 02/21/2017)
02/23/2017	<u>37</u>		

			Unopposed MOTION For Approval of Plan of Class Notice by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM (Attachments: # <u>1</u> Exhibit 1 – Email Notice, # <u>2</u> Exhibit 2 – Postcard Notice, # <u>3</u> Exhibit 2 – Website Notice, # <u>4</u> Text of Proposed Order)(Narwold, William) (Entered: 02/23/2017)
02/28/2017	<u>38</u>		RESPONSE re <u>37</u> Unopposed MOTION For Approval of Plan of Class Notice filed by UNITED STATES OF AMERICA. (Nebeker, William) (Entered: 02/28/2017)
03/31/2017	<u>39</u>		NOTICE of Joint Filing of Proposed Order by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM re <u>37</u> Unopposed MOTION For Approval of Plan of Class Notice (Attachments: # <u>1</u> Text of Proposed Order)(Narwold, William) (Entered: 03/31/2017)
03/31/2017	<u>40</u>		Consent MOTION for Protective Order by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM (Attachments: # <u>1</u> Text of Proposed Order)(Narwold, William) (Entered: 03/31/2017)
04/03/2017	<u>41</u>		STIPULATED PROTECTIVE ORDER granting <u>40</u> Motion for Protective Order. Signed by Judge Ellen S. Huvelle on April 3, 2017. (lcesh2) (Entered: 04/03/2017)
04/13/2017	<u>42</u>		Unopposed MOTION for Approval of Revised Plan of Class Notice and Class Notice Documents by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM (Attachments: # <u>1</u> Exhibit 1 – Email Notice, # <u>2</u> Exhibit 1–A – BLACKLINE Email Notice, # <u>3</u> Exhibit 2 – Postcard Notice, # <u>4</u> Exhibit 2–A – BLACKLINE Postcard Notice, # <u>5</u> Exhibit 3 – Website Notice, # <u>6</u> Exhibit 3–A – BLACKLINE Website Notice, # <u>7</u> Exhibit 4 – Online Exclusion, # <u>8</u> Exhibit 5 – Printable Exclusion, # <u>9</u> Exhibit 6 – Proposed Order, # <u>10</u> Exhibit 6–A – BLACKLINE Proposed Order)(Narwold, William) (Entered: 04/13/2017)
04/14/2017	<u>43</u>		NOTICE of Filing of Revised Notice Documents by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM (Attachments: # <u>1</u> Exhibit 1 Revised Email Notice, # <u>2</u> Exhibit 1A Revised and Blacklined Email Notice, # <u>3</u> Exhibit 2 Revised Postcard Notice, # <u>4</u> Exhibit 2A Revised and Blacklined Postcard Notice)(Narwold, William) (Entered: 04/14/2017)
04/17/2017	<u>44</u>		ORDER granting <u>42</u> Plaintiffs' Unopposed Motion for Approval of Revised Plan of Class Notice and Class Notice Documents: See Order for details. Signed by Judge Ellen S.



			Huvelle on April 17, 2017. (lcesh2) (Entered: 04/17/2017)
04/17/2017			MINUTE ORDER finding as moot <u>37</u> Motion for Approval of Class Notice in light of approval of <u>42</u> Motion for Approval of Revised Class Notice. Signed by Judge Ellen S. Huvelle on April 17, 2017. (AG) (Entered: 04/17/2017)
05/22/2017	<u>45</u>		NOTICE to Exclude by ROSEMARIE HOWELL re <u>44</u> ORDER granting <u>42</u> Plaintiffs' Unopposed Motion for Approval of Revised Plan of Class Notice and Class Notice Documents (jf) (Entered: 05/24/2017)
06/15/2017	<u>46</u>		MOTION for Order for Exclusion by ROB RAWSON. "Let this be filed" signed by Judge Ellen Segal Huvelle on 06/09/2017 (jf) Modified event title on 6/16/2017 (znmw). (Entered: 06/15/2017)
06/15/2017			MINUTE ORDER: It is hereby ORDERED that the Clerk shall mail a copy of <u>46</u> NOTICE of and MOTION For An Order For Exclusion filed by ROB RAWSON to the PACER Fees Class Action Administrator, P.O. Box 43434, Providence, RI 02940-3434. Signed by Judge Ellen S. Huvelle on June 15, 2017. (lcesh2) (Entered: 06/15/2017)
07/05/2017	<u>47</u>		NOTICE of Change of Address by Deepak Gupta (Gupta, Deepak) (Entered: 07/05/2017)
07/05/2017	<u>48</u>		Unopposed MOTION for Extension of Time to File <i>Motion for Summary Judgment</i> by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM (Attachments: # <u>1</u> Text of Proposed Order)(Gupta, Deepak) (Entered: 07/05/2017)
07/05/2017			MINUTE ORDER granting <u>48</u> Unopposed Motion for Extension of Time to File Motion for Summary Judgment: Upon consideration of the plaintiffs' unopposed motion to extend the briefing schedule, it is hereby ORDERED that the motion is GRANTED; and it is FURTHER ORDERED that the time within which the plaintiffs may file their motion for summary judgment solely on the issue of liability, i.e., whether the fees charged to access records through PACER violate the E-Government Act of 2002, Pub. L. No. 107-347, § 205(e), 116 Stat. 2899, 2915 (Dec. 17, 2002) (28 U.S.C. § 1913 note), is extended through August 28, 2017; and it is FURTHER ORDERED that the defendant shall file its opposition 20 days after this date, on September 18, 2017, and the plaintiffs' reply is due 10 days after that, on September 28, 2017, consistent with this Courts scheduling order entered on January 24, 2017. Signed by Judge Ellen S. Huvelle on July 5, 2017. (AG) (Entered: 07/05/2017)
07/07/2017			Set/Reset Deadlines: Plaintiff's Summary Judgment motion due by 8/28/2017. Response to Motion for Summary Judgment due by 9/18/2017. Plaintiff's Reply in support of Motion for

			Summary Judgment due by 9/28/2017. (hs) (Entered: 07/07/2017)
07/17/2017	<u>49</u>		MOTION for Leave to File Amicus Curiae, MOTION to Appear by Phone, by DON KOZICH (Attachments: # <u>1</u> Exhibit Application to Proceed In Forma Pauperis)(jf) Modified text on 7/19/2017 (znmw). (Entered: 07/18/2017)
07/19/2017	<u>50</u>		SUPPLEMENT re <u>45</u> NOTICE to Exclude by ROSEMARIE HOWELL re <u>44</u> ORDER granting 42 Plaintiffs' Unopposed Motion for Approval of Revised Plan of Class Notice and Class Notice Documents filed by ROSEMARIE HOWELL. (jf) (Entered: 07/19/2017)
08/24/2017	<u>51</u>		NOTICE of Change of Address by Elizabeth S. Smith (Smith, Elizabeth) (Entered: 08/24/2017)
08/28/2017	<u>52</u>		MOTION for Summary Judgment <i>as to Liability</i> by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM (Attachments: # <u>1</u> Declaration Declaration of Jonathan Taylor, # <u>2</u> Exhibit Exhibit A, # <u>3</u> Exhibit Exhibit B, # <u>4</u> Exhibit Exhibit C, # <u>5</u> Exhibit Exhibit D, # <u>6</u> Exhibit Exhibit E, # <u>7</u> Exhibit Exhibit F, # <u>8</u> Exhibit Exhibit G, # <u>9</u> Exhibit Exhibit H, # <u>10</u> Exhibit Exhibit I, # <u>11</u> Exhibit Exhibit J, # <u>12</u> Exhibit Exhibit K, # <u>13</u> Exhibit Exhibit L, # <u>14</u> Exhibit Exhibit M, # <u>15</u> Declaration Declaration of Thomas Lee and Michael Lissner, # <u>16</u> Statement of Facts Plaintiffs' Statement of Undisputed Material Facts)(Gupta, Deepak) (Entered: 08/28/2017)
09/05/2017	<u>53</u>		MOTION for Leave to File <i>Amicus Curiae Brief</i> by REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS (Attachments: # <u>1</u> Exhibit Proposed Amicus Brief, # <u>2</u> Proposed Order, # <u>3</u> Certificate of Corporate Disclosure)(Brown, Bruce) (Entered: 09/05/2017)
09/05/2017	<u>54</u>		NOTICE of Appearance by Sasha Samberg–Champion on behalf of AMERICAN ASSOCIATION OF LAW LIBRARIES (Samberg–Champion, Sasha) (Entered: 09/05/2017)
09/05/2017	<u>55</u>		MOTION for Leave to File <i>Brief Amici Curiae</i> by AMERICAN ASSOCIATION OF LAW LIBRARIES (Attachments: # <u>1</u> Proposed Brief, # <u>2</u> Text of Proposed Order)(Samberg–Champion, Sasha) (Entered: 09/05/2017)
09/05/2017	<u>56</u>		MOTION for Leave to File <i>Amicus Curiae Brief</i> by JOSEPH I. LIEBERMAN (Attachments: # <u>1</u> Exhibit Proposed Amicus Brief, # <u>2</u> Text of Proposed Order)(Bailen, Mark) (Entered: 09/05/2017)
09/13/2017	<u>57</u>		MOTION for Extension of Time to File Response/Reply by UNITED STATES OF AMERICA (Field, Brian) (Entered: 09/13/2017)



09/13/2017			MINUTE ORDER granting <u>53</u> <u>55</u> <u>56</u> Movants' Motions for Leave to File Briefs as Amicus Curiae: Upon consideration of the above-referenced motions, plaintiffs' consent and defendant's representation that it will not oppose, it is hereby ORDERED that the motions are GRANTED and movants are granted leave to file briefs as amicus curiae. Signed by Judge Ellen S. Huvelle on September 13, 2017. (AG) (Entered: 09/13/2017)
09/13/2017	<u>58</u>		RESPONSE re <u>57</u> MOTION for Extension of Time to File Response/Reply filed by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Gupta, Deepak) (Entered: 09/13/2017)
09/13/2017	<u>59</u>		AMICUS BRIEF by REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS, AMERICAN SOCIETY OF NEWSPAPER EDITORS, ASSOCIATED PRESS MEDIA EDITORS, ASSOCIATION OF ALTERNATIVE NEWS MEDIA, CENTER FOR INVESTIGATIVE REPORTING, FIRST AMENDMENT COALITION, FIRST LOOK MEDIA WORKS, INC., INTERNATIONAL DOCUMENTARY ASSOCIATION, INVESTIGATIVE REPORTING WORKSHOP, MEDIA CONSORTIUM, MPA, NATIONAL PRESS PHOTOGRAPHERS ASSOCIATION, ONLINE NEWS ASSOCIATION, RADIO TELEVISION DIGITAL NEWS ASSOCIATION, REPORTERS WITHOUT BORDERS, SEATTLE TIMES COMPANY, SOCIETY OF PROFESSIONAL JOURNALISTS, TULLY CENTER FOR FREE SPEECH. (znmw) (Entered: 09/14/2017)
09/13/2017	<u>60</u>		LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by AMERICAN SOCIETY OF NEWSPAPER EDITORS, ASSOCIATED PRESS MEDIA EDITORS, ASSOCIATION OF ALTERNATIVE NEWS MEDIA, CENTER FOR INVESTIGATIVE REPORTING, FIRST AMENDMENT COALITION, FIRST LOOK MEDIA WORKS, INC., INTERNATIONAL DOCUMENTARY ASSOCIATION, INVESTIGATIVE REPORTING WORKSHOP, MEDIA CONSORTIUM, MPA, NATIONAL PRESS PHOTOGRAPHERS ASSOCIATION, ONLINE NEWS ASSOCIATION, RADIO TELEVISION DIGITAL NEWS ASSOCIATION, REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS, REPORTERS WITHOUT BORDERS, SEATTLE TIMES COMPANY, SOCIETY OF PROFESSIONAL JOURNALISTS, TULLY CENTER FOR FREE SPEECH identifying Other Affiliate SYRACUSE UNIVERSITY for TULLY CENTER FOR FREE SPEECH; Other Affiliate AMERICAN UNIVERSITY SCHOOL OF COMMUNICATION for INVESTIGATIVE REPORTING WORKSHOP; Corporate Parent MCCLATCHY COMPANY for SEATTLE TIMES COMPANY. (znmw) (Entered: 09/14/2017)

09/13/2017	<u>61</u>		AMICUS BRIEF by AMERICAN ASSOCIATION OF LAW LIBRARIES, DEBORAH BEIM, THOMAS BRUCE, PHILLIP MALONE, JONATHAN ZITTRAIN. (znmw) (Entered: 09/14/2017)
09/13/2017	62		LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by AMERICAN ASSOCIATION OF LAW LIBRARIES. (See Docket Entry <u>61</u> to view document). (znmw) (Entered: 09/14/2017)
09/13/2017	<u>63</u>		AMICUS BRIEF by JOSEPH I. LIEBERMAN, DARRELL ISSA. (znmw) (Entered: 09/14/2017)
09/14/2017			MINUTE ORDER granting in part and denying in part <u>57</u> defendant's Motion for Extension of Time to File Response re <u>52</u> plaintiffs' MOTION for Summary Judgment <i>as to Liability</i> : Upon consideration of defendant's motion, plaintiff's partial consent and partial opposition thereto, and the entire record herein, it is hereby ORDERED that the motion is GRANTED; and it is further ORDERED that defendant shall have until November 2, 2017, to file its response to plaintiffs' motion for summary judgment; and it is further ORDERED that plaintiffs reply is due by November 13, 2017. Signed by Judge Ellen S. Huvelle on September 14, 2017. (AG) (Entered: 09/14/2017)
09/25/2017	<u>64</u>		Verified MOTION For Free Access To Pacer by DON KOZICH (jf) (Entered: 09/27/2017)
09/29/2017	<u>65</u>		RESPONSE re <u>64</u> MOTION For Free Access To Pacer filed by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Gupta, Deepak) (Entered: 09/29/2017)
10/02/2017	<u>66</u>		ORDER DENYING as moot <u>64</u> Motion for Free Access to PACER Until Final Disposition of this Case. Signed by Judge Ellen S. Huvelle on October 2, 2017. (lcesh2,) (Entered: 10/02/2017)
10/10/2017	<u>67</u>		MOTION to Clarify Minute Order dated 09/13/2017 by DON KOZICH (jf) (Entered: 10/13/2017)
10/17/2017	<u>68</u>		ORDER denying <u>49</u> Motion for Leave to File Amicus Brief and to Appear Telephonically; denying as moot <u>67</u> Motion to Clarify: see Order for details. Signed by Judge Ellen S. Huvelle on October 17, 2017. (lcesh2) (Entered: 10/17/2017)
10/30/2017	<u>69</u>		Unopposed MOTION for Extension of Time to File Response/Reply as to <u>52</u> MOTION for Summary Judgment <i>as to Liability</i> by UNITED STATES OF AMERICA (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 10/30/2017)
10/30/2017	<u>72</u>		STRIKEN PURSUANT TO MINUTE ORDER FILED ON 11/9/17.....Verified MOTION with Briefing by ROSEMARIE HOWELL (Attachments: # <u>1</u> Appendix 1, # <u>2</u> Appendix 2, # <u>3</u>

		Appendix 3)(jf) Modified on 11/12/2017 (zgdf). (Entered: 11/08/2017)
10/31/2017		MINUTE ORDER granting <u>69</u> Unopposed Motion for Extension of Time to File Response re <u>52</u> MOTION for Summary Judgment as to Liability: Upon Consideration of the Unopposed Motion For An Enlargement Of Time, AndMemorandum In Support Thereof in response thereto, and for the reasons set forth in support thereof, it is hereby ORDERED that the motion should be and is hereby GRANTED; and it is FURTHER ORDERED that Defendant file its opposition to Plaintiff's Motion For Summary Judgment As To Liability (ECF No. <u>52</u> ) on or before November 17, 2017; and it is FURTHER ORDERED that Plaintiffs may respond to Defendant's filing on or before December 5, 2017. Signed by Judge Ellen S. Huvelle on October 31, 2017. (AG) (Entered: 10/31/2017)
10/31/2017	<u>70</u>	MOTION for Reconsideration re <u>68</u> Order on Motion for Miscellaneous Relief, Order on Motion for Leave to File, Order on Motion to Clarify by DON KOZICH (Attachments: # <u>1</u> Exhibit)(jf) (Entered: 11/01/2017)
11/06/2017	<u>71</u>	ORDER denying <u>70</u> Motion for Reconsideration of October 17, 2017 Order Denying Petitioners Motion for Clarification of September 13, 2017 Order and Denying Petitioners Motion to File Amicus Curiae; and granting Movant access to documents filed in this case. See Order for details. Signed by Judge Ellen S. Huvelle on November 6, 2017. (lcesh2) (Entered: 11/06/2017)
11/09/2017		MINUTE ORDER: It is hereby ORDERED that Rosemarie Howell's Verified Motion with Briefing <u>72</u> is STRICKEN from the docket as filed without leave of Court; it is further ORDERED that leave to file is denied because Rosemarie Howell has opted out of the class, see ECF 45; and it is further ORDERED that the Clerk shall return the motion to Rosemarie Howell, along with a copy of this Minute Order. Signed by Judge Ellen S. Huvelle on November 9, 2017. (lcesh2) (Entered: 11/09/2017)
11/17/2017	<u>73</u>	Cross MOTION for Summary Judgment by UNITED STATES OF AMERICA (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration Decl. of W. Skidgel, # <u>3</u> Statement of Facts, # <u>4</u> Text of Proposed Order)(Field, Brian) (Entered: 11/17/2017)
11/17/2017	<u>74</u>	Memorandum in opposition to re <u>52</u> MOTION for Summary Judgment <i>as to Liability</i> filed by UNITED STATES OF AMERICA. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration Decl. of W. Skidgel, # <u>3</u> Statement of Facts, # <u>4</u> Text of Proposed Order)(Field, Brian) (Entered: 11/17/2017)
12/05/2017	<u>75</u>	REPLY to opposition to motion re <u>52</u> MOTION for Summary Judgment <i>as to Liability</i> , filed by ALLIANCE FOR JUSTICE,

			NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Attachments: # <u>1</u> Statement of Facts Response to Defendant's Statement of Facts)(Gupta, Deepak) Modified to remove link on 12/6/2017 (znmw). (Entered: 12/05/2017)
12/05/2017	<u>76</u>		Memorandum in opposition to re <u>73</u> Cross MOTION for Summary Judgment filed by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (See Docket Entry <u>75</u> to view document). (znmw) (Entered: 12/06/2017)
12/08/2017	<u>77</u>		MOTION for Extension of Time to File Response/Reply as to <u>73</u> Cross MOTION for Summary Judgment by UNITED STATES OF AMERICA (Field, Brian) (Entered: 12/08/2017)
12/08/2017			MINUTE ORDER granting in part and denying in part <u>77</u> defendant's opposed Motion for Extension of Time to File Reply re <u>73</u> Cross Motion for Summary Judgment: Upon consideration of the above-referenced motion, and the entire record herein, it is hereby ORDERED that the motion is GRANTED IN PART AND DENIED IN PART; and it is further ORDERED that defendant shall have until January 5, 2018, to file its reply in support of its cross-motion for summary judgment. Signed by Judge Ellen S. Huvelle on December 8, 2017. (lcesh2) (Entered: 12/08/2017)
12/12/2017	<u>78</u>		LEAVE TO FILE DENIED- Declaration of Amended Service. This document is unavailable as the Court denied its filing. "Leave To File Denied" Signed by Judge Ellen S. Huvelle on 12/12/2017. (jf) (Entered: 12/15/2017)
01/05/2018	<u>79</u>		REPLY to opposition to motion re <u>73</u> Cross MOTION for Summary Judgment filed by UNITED STATES OF AMERICA. (Field, Brian) (Entered: 01/05/2018)
02/27/2018			MINUTE ORDER Setting Hearing on Motions: It is hereby ORDERED that a hearing on <u>52</u> plaintiffs' MOTION for Summary Judgment as to Liability and <u>73</u> defendant's Cross MOTION for Summary Judgment is set for Monday, March 19, 2017, at 11:00 a.m. in Courtroom 23A before Judge Ellen S. Huvelle. Signed by Judge Ellen S. Huvelle on February 27, 2018. (AG) (Entered: 02/27/2018)
03/01/2018	<u>80</u>		Consent MOTION to Continue <i>Motions Hearing</i> by UNITED STATES OF AMERICA (Field, Brian) (Entered: 03/01/2018)
03/02/2018			MINUTE ORDER granting in part and denying in part <u>80</u> Consent Motion to Continue: Upon consideration of the Consent Motion to Continue, it is hereby ORDERED that the motion is granted in part and denied in part; and it is further ORDERED that the Summary Judgment Motions Hearing presently set for 3/19/2018 is CONTINUED TO 3/21/2018 at 11:00 AM in Courtroom 23A. Signed by Judge Ellen S. Huvelle on March 2, 2018. (AG) (Entered: 03/02/2018)

03/15/2018	<u>81</u>		NOTICE <i>Of Filing</i> by UNITED STATES OF AMERICA re <u>52</u> MOTION for Summary Judgment <i>as to Liability</i> , Order Setting Hearing on Motion, <u>73</u> Cross MOTION for Summary Judgment (Attachments: # <u>1</u> Exhibit Tabs 1 through 40)(Nebeker, William) (Entered: 03/15/2018)
03/21/2018	<u>82</u>		Unopposed MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Meghan Oliver, :Firm– Motley Rice LLC, :Address– 28 Bridgeside Blvd, Mt. Pleasant, SC 29464. Phone No. – 843–216–9492. Fax No. – 843–216–9430 Filing fee \$ 100, receipt number 0090–5382765. Fee Status: Fee Paid. by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM (Attachments: # <u>1</u> Declaration Declaration of Meghan Oliver, # <u>2</u> Text of Proposed Order Proposed Order)(Smith, Elizabeth) (Entered: 03/21/2018)
03/21/2018			MINUTE ORDER: It is hereby ORDERED that the hearing on plaintiffs' MOTION for Summary Judgment as to Liability and defendant's Cross MOTION for Summary Judgment is CONTINUED from Wednesday, March 21, 2018, to Friday, March 23, 2018, at 1:30 p.m. in Courtroom 23A before Judge Ellen S. Huvelle. Signed by Judge Ellen S. Huvelle on March 21, 2018. (AG) (Entered: 03/21/2018)
03/21/2018			MINUTE ORDER granting <u>82</u> Unopposed Motion for Leave to Appear Pro Hac Vice: Upon consideration of the above–referenced motion, it is hereby ORDERED that the motion is GRANTED; and it is further ORDERED that Meghan Oliver is admitted pro hac vice for the purpose of appearing in the above–captioned case. Signed by Judge Ellen S. Huvelle on March 21, 2018. (AG) (Entered: 03/21/2018)
03/21/2018	<u>83</u>		Unopposed MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Jonathan Taylor, :Firm– Gupta Wessler PLLC, :Address– jon@guptawessler.com. Phone No. – 2028881741. Fax No. – 2028887792 Address: 1900 L Street NW, Suite 312, Washington DC 20036 Filing fee \$ 100, receipt number 0090–5383035. Fee Status: Fee Paid. by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM (Attachments: # <u>1</u> Declaration of Jonathan Taylor, # <u>2</u> Text of Proposed Order)(Gupta, Deepak) (Entered: 03/21/2018)
03/21/2018			MINUTE ORDER granting <u>83</u> Unopposed Motion for Leave to Appear Pro Hac Vice: Upon consideration of the Unopposed MOTION for Leave to Appear Pro Hac Vice, it is hereby ORDERED that the motion is GRANTED; and it is further ORDERED that Jonathan Taylor is admitted pro hac vice for the purpose of appearing in proceedings in the above–captioned case. Counsel is reminded that pursuant to LCvR 83.2(c)(2) "An attorney who engages in the practice of law from an office located in the District of Columbia must be a member of the

			District of Columbia Bar and the Bar of this Court to file papers in this Court." Signed by Judge Ellen S. Huvelle on March 21, 2018. (AG) (Entered: 03/21/2018)
03/22/2018			Set/Reset Hearings: Motion Hearing set for 3/23/2018 at 1:30 PM in Courtroom 23A before Judge Ellen S. Huvelle. (gdf) (Entered: 03/22/2018)
03/23/2018			Minute Entry; for proceedings held before Judge Ellen S. Huvelle: Oral Arguments held on 3/23/2018. Plaintiffs' <u>52</u> MOTION for Summary Judgment as to Liability and Defendant's <u>73</u> Cross MOTION for Summary Judgment; heard and Taken Under Advisement. (Court Reporter Lisa Griffith) (hs) (Entered: 03/23/2018)
03/24/2018	<u>84</u>		NOTICE by UNITED STATES OF AMERICA (Attachments: # <u>1</u> Exhibit Ex. A, # <u>2</u> Exhibit Ex. B, # <u>3</u> Exhibit Ex. C, # <u>4</u> Exhibit Ex. D, # <u>5</u> Exhibit Ex. E, # <u>6</u> Exhibit Ex. F, # <u>7</u> Exhibit Ex. G)(Field, Brian) (Entered: 03/24/2018)
03/28/2018	<u>85</u>		RESPONSE to Defendant's supplemental authority by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM re <u>84</u> Notice (Other) (Gupta, Deepak) Modified event title on 3/29/2018 (znmw). (Entered: 03/28/2018)
03/29/2018	<u>86</u>		RESPONSE re <u>85</u> Notice (Other) filed by UNITED STATES OF AMERICA. (Field, Brian) (Entered: 03/29/2018)
03/29/2018	<u>87</u>		REPLY re <u>86</u> Response to Document filed by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Gupta, Deepak) (Entered: 03/29/2018)
03/31/2018	<u>88</u>		ORDER denying <u>52</u> plaintiffs' Motion for Summary Judgment; granting in part and denying in part <u>73</u> defendant's Motion for Summary Judgment; and setting Status Conference for 4/18/2018 at 03:00 PM in Courtroom 23A. Joint status report due by April 16, 2018. Signed by Judge Ellen S. Huvelle on March 31, 2018. (AG) (Entered: 03/31/2018)
03/31/2018	<u>89</u>		MEMORANDUM OPINION accompanying Order, ECF No. <u>88</u> , denying <u>52</u> plaintiffs' Motion for Summary Judgment and granting in part and denying in part defendant's Cross-Motion for Summary Judgment. Signed by Judge Ellen S. Huvelle on March 31, 2018. (AG) Modified on 4/2/2018 to remove attachment. Attachment docketed separately for opinion posting purposes.(ztnr) (Entered: 03/31/2018)
03/31/2018	<u>90</u>		ATTACHMENT to <u>89</u> Memorandum & Opinion Signed by Judge Ellen S. Huvelle on March 31, 2018. (ztnr) (Entered: 04/02/2018)
04/02/2018			Set/Reset Deadlines: Joint Status Report due by 4/16/2018. (gdf) (Entered: 04/02/2018)



04/16/2018	<u>91</u>		Joint STATUS REPORT <i>Proposing a Schedule to Govern Further Proceedings</i> by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Narwold, William) (Entered: 04/16/2018)
04/18/2018			Minute Entry for proceedings held before Judge Ellen S. Huvelle: Status Conference held on 4/18/2018. Status Report due by 5/11/2018. Status Conference set for 5/18/2018 at 1:30 PM in Courtroom 23A before Judge Ellen S. Huvelle. (Court Reporter Lisa Griffith) (gdf) (Entered: 04/18/2018)
04/18/2018	<u>92</u>		ORDER setting Status Conference for May 18, 2018, at 1:30 p.m. in Courtroom 23A. Joint Status Report due by May 11, 2018. See order for details. Signed by Judge Ellen S. Huvelle on April 18, 2018. (AG) (Entered: 04/18/2018)
04/26/2018	<u>93</u>		MOTION for Extension of Time to <i>File Status Report</i> , MOTION to Continue <i>Status Conference</i> by UNITED STATES OF AMERICA (Attachments: # <u>1</u> Exhibit, # <u>2</u> Text of Proposed Order)(Field, Brian) (Entered: 04/26/2018)
04/27/2018			MINUTE ORDER denying <u>93</u> Motion for Extension of Time to file Status Report; granting in part and denying in part <u>93</u> Motion to Continue Status Conference: Upon consideration of defendant's motion, plaintiffs' opposition thereto, and the entire record herein, it is hereby ORDERED that defendant's motion for an extension of time to file a status report is DENIED; and it is further ORDERED that defendant's motion to continue the Status Conference presently set for May 18, 2018, is GRANTED IN PART AND DENIED IN PART; and it is further ORDERED that the Status Conference presently scheduled for May 18, 2018, is RESCHEDULED to May 17, 2018, at 11:00 a.m. in Courtroom 23A. Signed by Judge Ellen S. Huvelle on April 27, 2018. (AG) (Entered: 04/27/2018)
05/11/2018	<u>94</u>		Joint STATUS REPORT by UNITED STATES OF AMERICA. (Field, Brian) (Entered: 05/11/2018)
05/17/2018	<u>95</u>		TRANSCRIPT OF PROCEEDINGS before Judge Ellen S. Huvelle held on 3-23-18; Page Numbers: 1-121. Date of Issuance:5-17-18. Court Reporter/Transcriber Lisa Griffith, Telephone number (202) 354-3247, Transcripts may be ordered by submitting the <a href="http://www.dcd.uscourts.gov/node/110">Transcript Order Form</a> For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter. <b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> The parties have twenty-one days to file with the court and the court reporter any request to redact

			personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at <a href="http://www.dcd.uscourts.gov">www.dcd.uscourts.gov</a> .<P></P>Redaction Request due 6/7/2018. Redacted Transcript Deadline set for 6/17/2018. Release of Transcript Restriction set for 8/15/2018.(Griffith, Lisa) (Entered: 05/17/2018)
05/17/2018	<u>96</u>		TRANSCRIPT OF PROCEEDINGS before Judge Ellen S. Huvelle held on 4-18-18; Page Numbers: 1-38. Date of Issuance:5-17-18. Court Reporter/Transcriber Lisa Griffith, Telephone number (202) 354-3247, Transcripts may be ordered by submitting the <a href="http://www.dcd.uscourts.gov/node/110">Transcript Order Form</a><P></P><P></P>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.<P> <b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at <a href="http://www.dcd.uscourts.gov">www.dcd.uscourts.gov</a> .<P></P>Redaction Request due 6/7/2018. Redacted Transcript Deadline set for 6/17/2018. Release of Transcript Restriction set for 8/15/2018.(Griffith, Lisa) (Entered: 05/17/2018)
05/17/2018			Minute Entry for proceedings held before Judge Ellen S. Huvelle on 5/17/18 : Status Conference held. Order to be issued. Joint Status Report due by 7/13/18. Further Status Conference set for 7/18/18 at 12:00 PM in Courtroom 23A before Judge Ellen S. Huvelle. (Court Reporter: Lisa Griffith) (kk) (Entered: 05/17/2018)
05/17/2018	<u>97</u>		ORDER re discovery and future proceedings. Joint Status Report due by 7/13/2018. Status Conference set for 7/18/2018 at 12:00 PM in Courtroom 23A before Judge Ellen S. Huvelle. See order for details. Signed by Judge Ellen S. Huvelle on May 17, 2018. (AG) (Entered: 05/17/2018)
07/13/2018	<u>98</u>		Joint STATUS REPORT by UNITED STATES OF AMERICA. (Field, Brian) (Entered: 07/13/2018)
07/13/2018	<u>99</u>		MOTION for Certification for interlocutory appeal, MOTION to Stay by UNITED STATES OF AMERICA (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order)(Field, Brian). Added MOTION to Stay on 7/17/2018 (jf). (Entered: 07/13/2018)



		07/13/2018)
07/18/2018		Minute Entry for proceedings held before Judge Ellen S. Huvelle: Status Conference held on 7/18/2018. Parties should submit a report by the C.O.B. on Friday, 7/20/18. (Court Reporter: Scott Wallace) (gdf) (Entered: 07/19/2018)
07/20/2018	<u>100</u>	NOTICE <i>Regarding Annual Courtroom Technology Expenditures</i> by UNITED STATES OF AMERICA (Field, Brian) (Entered: 07/20/2018)
07/20/2018	<u>101</u>	Joint STATUS REPORT by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Gupta, Deepak) (Entered: 07/20/2018)
07/27/2018	<u>102</u>	RESPONSE re <u>99</u> MOTION for Certification for interlocutory appeal MOTION to Stay filed by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Gupta, Deepak) (Entered: 07/27/2018)
08/02/2018	<u>103</u>	REPLY to opposition to motion re <u>99</u> MOTION for Certification for interlocutory appeal MOTION to Stay filed by UNITED STATES OF AMERICA. (Field, Brian) (Entered: 08/02/2018)
08/13/2018	<u>104</u>	ORDER granting in part and denying in part <u>99</u> defendant's Motion for to Certify Orders for Interlocutory Appeal; amending Order filed on March 31, 2018, ECF No. <u>88</u> , to certify for interlocutory appeal for the reasons stated in an accompanying Memorandum Opinion, ECF No. <u>105</u> ; and granting <u>99</u> unopposed Motion to Stay. See order for details. Signed by Judge Ellen S. Huvelle on August 13, 2018. (AG) (Entered: 08/13/2018)
08/13/2018	<u>105</u>	MEMORANDUM OPINION accompanying August 13, 2018 Order, ECF No. <u>104</u> , re certification of March 31, 2018 Order, ECF No. <u>88</u> for interlocutory appeal. Signed by Judge Ellen S. Huvelle on August 13, 2018. (AG) (Entered: 08/13/2018)
08/20/2018	<u>106</u>	TRANSCRIPT OF PROCEEDINGS before Judge Ellen S. Huvelle held on 7-18-18; Page Numbers: 1-21. Date of Issuance:7-18-18. Court Reporter/Transcriber Scott Wallace, Telephone number 202-354-3196, Transcripts may be ordered by submitting the <a href="http://www.dcd.uscourts.gov/node/110">Transcript Order Form</a><P></P><P></P>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.<P> <b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> The parties have twenty-one days to file

			with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.<P></P> Redaction Request due 9/10/2018. Redacted Transcript Deadline set for 9/20/2018. Release of Transcript Restriction set for 11/18/2018.(Wallace, Scott) (Entered: 08/20/2018)
08/23/2018			USCA for the Federal Circuit Case Number 18-154-CP (zrdj) (Entered: 08/23/2018)
08/23/2018			USCA for the Federal Circuit Case Number 18-155-CP (zrdj) (Entered: 08/23/2018)
10/16/2018			USCA for the Federal Circuit Case Number 19-1081-SJ (zrdj) (Entered: 10/18/2018)
10/16/2018			USCA for the Federal Circuit Case Number 19-1083-SJ (zrdj) (Entered: 10/18/2018)
11/28/2018	<u>107</u>		NOTICE OF GRANT OF PERMISSION TO APPEAL UNDER 28 U.S.C. § 1292(B)by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. Filing fee \$ 505, receipt number 0090-5811958. Fee Status: Fee Paid. Parties have been notified. (Attachments: # <u>1</u> USCA Order)(Narwold, William) Modified on 11/29/2018 to correct docket event/text (jf). (Entered: 11/28/2018)
11/29/2018	<u>108</u>		Transmission of the Notice of Grant of Permission to Appeal Under 28 U.S.C. § 1292(B)and Docket Sheet to Federal Circuit. The appeal fee was paid this date re <u>107</u> Notice of Appeal to the Federal Circuit. (jf) (Entered: 11/29/2018)
09/10/2020	<u>109</u>		ENTERED IN ERROR.....Case randomly reassigned to Judge Christopher R. Cooper. Judge Ellen S. Huvelle is no longer assigned to the case. (rj) Modified on 9/11/2020 (rj). (Entered: 09/11/2020)
09/10/2020	<u>110</u>		Case directly reassigned to Judge Paul L. Friedman by consent. Judge Christopher R. Cooper is no longer assigned to the case. (rj) (Entered: 09/11/2020)
09/28/2020	<u>111</u>		MANDATE of USCA as to <u>107</u> Notice of Appeal to the Federal Circuit, filed by ALLIANCE FOR JUSTICE, NATIONAL VETERANS LEGAL SERVICES PROGRAM, NATIONAL CONSUMER LAW CENTER ; USCA Case Number 19-1081, 19-1083. (Attachments: # <u>1</u> USCA Judgment)(zrdj) (Entered: 09/29/2020)
12/11/2020			MINUTE ORDER: In view of the recent decision by the United States Court of Appeals for the Federal Circuit remanding this case for further proceedings, it is ORDERED that the parties

			file a joint status report on or before December 23, 2020 addressing how they wish to proceed. Signed by Judge Paul L. Friedman on 12/11/2020. (lceg) (Entered: 12/11/2020)
12/23/2020	<u>112</u>		Joint STATUS REPORT by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Gupta, Deepak) (Entered: 12/23/2020)
12/29/2020			MINUTE ORDER: In light of the parties joint status report <u>112</u> , this matter is STAYED until June 25, 2021. The parties shall file a joint status report on or before June 18, 2021 updating the Court on the status of any mediation. Signed by Judge Paul L. Friedman on 12/29/2020. (lceg) (Entered: 12/29/2020)
12/29/2020			Set/Reset Deadlines: Status Report due by 6/18/2021. (tj) (Entered: 12/29/2020)
06/02/2021	<u>113</u>		NOTICE OF SUBSTITUTION OF COUNSEL by Robert Aaron Caplen on behalf of UNITED STATES OF AMERICA Substituting for attorney W. Mark Nebeker (Caplen, Robert) (Entered: 06/02/2021)
06/03/2021	<u>114</u>		NOTICE OF SUBSTITUTION OF COUNSEL by Jeremy S. Simon on behalf of UNITED STATES OF AMERICA Substituting for attorney Brian J. Field (Simon, Jeremy) (Entered: 06/03/2021)
06/16/2021	<u>115</u>		Joint STATUS REPORT by NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Narwold, William) (Entered: 06/16/2021)
06/16/2021			MINUTE ORDER: In light of <u>115</u> the parties' joint status report, this matter is STAYED until September 23, 2021. The parties shall file a joint status report on or before September 16, 2021, updating the Court on the progress of their discussions. Signed by Judge Paul L. Friedman on June 16, 2021. (lcaf) (Entered: 06/16/2021)
08/26/2021	<u>116</u>		MOTION to Intervene, MOTION to Modify by MICHAEL T. PINES. (Attachments: # <u>1</u> Declaration redacted)(ztd); ("Leave to file Granted" signed 8/26/2021 by Judge Paul L. Friedman) Modified on 10/1/2021 (znmw). Added MOTION for Sanctions on 10/1/2021 (znmw). (Entered: 08/27/2021)
08/26/2021	<u>117</u>		SEALED DOCUMENT (MOTION FOR INTERVENTION AND LEAVE TO FILE) filed by MICHAEL T. PINES. (This document is SEALED and only available to authorized persons.) (Attachments: # <u>1</u> Declaration)(ztd);("Leave to File Granted – Document Under Seal" signed 8/26/2021 by Judge Paul L. Friedman) (Entered: 08/27/2021)
08/27/2021			MINUTE ORDER: Counsel for the parties are directed to file responses to <u>116</u> Mr. Pines' motion to intervene on or before September 10, 2021. Signed by Judge Paul L. Friedman on

		August 27, 2021. (lcaf) (Entered: 08/27/2021)
09/08/2021	<u>118</u>	MOTION for Extension of Time to <i>File Response to Motion for Intervention, to Modify Class Certification Order, and for Sanctions</i> by UNITED STATES OF AMERICA. (Attachments: # <u>1</u> Proposed Order)(Simon, Jeremy) Modified event on 9/9/2021 (ztd). (Entered: 09/08/2021)
09/09/2021	<u>119</u>	ORDER granting <u>118</u> defendant's motion for extension of time up to and including October 1, 2021 within which to respond to motion for intervention, to modify class certification order and for sanctions. Signed by Judge Paul L. Friedman on September 9, 2021. (MA) (Entered: 09/09/2021)
09/09/2021	<u>120</u>	Memorandum in opposition to re <u>118</u> MOTION for Extension of Time to File Response/Reply filed by MICHAEL T. PINES. (ztd) (Entered: 09/10/2021)
09/09/2021	<u>121</u>	NOTICE by MICHAEL T. PINES (ztd) (Entered: 09/10/2021)
09/10/2021	<u>122</u>	RESPONSE re <u>116</u> MOTION to Intervene MOTION for Leave to File filed by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Gupta, Deepak) (Entered: 09/10/2021)
09/14/2021		MINUTE ORDER: The Court has reviewed <u>121</u> Mr. Pines' notice requesting reconsideration of <u>119</u> the Court's order granting the government an extension of time up to October 1, 2021 in which to respond to the motion to intervene. The Court concludes that Mr. Pines has not demonstrated that he will suffer prejudice as a result of the extension of time, and the government has established good cause for the extension of time. The Court therefore will not alter the deadline for the government's response to the motion to intervene. The government, in its response to the motion to intervene, is directed to also address the concerns about delay raised in <u>120</u> <u>121</u> Mr. Pines' notices. Signed by Judge Paul L. Friedman on September 14, 2021. (lcaf) (Entered: 09/14/2021)
09/15/2021	<u>123</u>	Joint STATUS REPORT by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Narwold, William) (Entered: 09/15/2021)
09/17/2021		MINUTE ORDER: In light of the parties' representations concerning settlement discussions in <u>123</u> the joint status report, the stay in this case is extended through November 22, 2021. The parties shall file a joint status report on or before November 15, 2021, notifying the Court of the progress of their discussions. Signed by Judge Paul L. Friedman on September 17, 2021. (lcaf) (Entered: 09/17/2021)
10/01/2021	<u>124</u>	RESPONSE re <u>116</u> MOTION to Intervene MOTION for Leave to File filed by UNITED STATES OF AMERICA. (Simon,

			Jeremy) (Entered: 10/01/2021)
10/12/2021			MINUTE ORDER: The Court has reviewed the parties' briefs <u>122</u> <u>124</u> in opposition to <u>116</u> Mr. Pines's Motion for Intervention, Motion to Modify Class Certification Order, and for Sanctions. On or before October 26, 2021, the parties are directed to file supplemental briefs addressing (1) whether, to the parties' knowledge, Mr. Pines is in fact a member of the class in this case; (2) if so, whether Mr. Pines has opted out of the class, and noting any applicable deadlines for opting out; and (3) setting forth the legal standard for a motion for intervention by a class member. Signed by Judge Paul L. Friedman on October 12, 2021. (lcaa) (Entered: 10/12/2021)
10/21/2021	<u>125</u>		Emergency MOTION for Order to Reactivate PACER Account by MICHAEL T. PINES. "Let this be filed," signed by Judge Paul L. Friedman on 10/21/2021. (znmw) (Entered: 10/25/2021)
10/26/2021	<u>126</u>		SUPPLEMENTAL MEMORANDUM to re Order,, ( <i>Supplemental Brief In Response To Court Order Dated October 12, 2021</i> ) filed by UNITED STATES OF AMERICA. (Simon, Jeremy) (Entered: 10/26/2021)
10/26/2021	<u>127</u>		RESPONSE TO ORDER OF THE COURT re Order,, <i>REGARDING MICHAEL PINESS MOTION FOR INTERVENTION, TO MODIFY THE CLASS DEFINITION, AND FOR SANCTIONS</i> filed by NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Gupta, Deepak) (Entered: 10/26/2021)
11/01/2021	<u>128</u>		RESPONSE re <u>125</u> MOTION for Order ( <i>Defendant's Response to Michael Pines' Motion to Reactivate Pines' PACER Account</i> ) filed by UNITED STATES OF AMERICA. (Simon, Jeremy) (Entered: 11/01/2021)
11/15/2021	<u>129</u>		Joint STATUS REPORT by ALLIANCE FOR JUSTICE, NATIONAL CONSUMER LAW CENTER, NATIONAL VETERANS LEGAL SERVICES PROGRAM. (Narwold, William) (Entered: 11/15/2021)
11/15/2021	<u>131</u>		PER CURIAM ORDER of USCA (certified copy) filed re: petitioner Michael T. Pines, granting motion for in forma pauperis; dismissing petition for writ of mandamus; dismissing as moot motion to reactivate Pacer account; USCA Case Number 21-5204. (znmw) (Entered: 11/16/2021)
11/16/2021			MINUTE ORDER: In light of the parties' representations concerning settlement discussions in <u>129</u> the Joint Status Report, the stay in this case is extended through January 27, 2022. The parties shall file a further joint status report on or before January 20, 2022 notifying the Court of the progress of their settlement efforts. Signed by Judge Paul L. Friedman on November 16, 2021. (lcaa) (Entered: 11/16/2021)

11/16/2021	<u>130</u>		MEMORANDUM OPINION AND ORDER denying <u>116</u> Mr. Pines pro se Motion for Intervention and for Leave to File Complaint in Intervention, Motion to Modify Class Certification Order, and for Sanctions; denying as moot Mr. Pines Motion for Pretrial Conference and to Appoint a Special Master; denying as moot <u>125</u> Mr. Pines Emergency Motion for Order to Reactivate PACER Account; and granting Mr. Pines Application to Proceed in District Court Without Prepaying Fees or Costs. The Clerk of the Court is directed to file that application on the docket in this case. Signed by Judge Paul L. Friedman on November 16, 2021. (MA) (Entered: 11/16/2021)
11/16/2021			Set/Reset Deadlines: Joint Status Report due by 1/20/2022 (hs) (Entered: 11/16/2021)
12/16/2021	<u>132</u>		NOTICE OF APPEAL as to <u>130</u> Memorandum & Opinion by MICHAEL T. PINES. Fee Status: No Fee Paid. Parties have been notified. (znmw) (Entered: 12/17/2021)

1 Michael T. Pines  
2 12303 Harbour Pointe Blvd.  
3 #N-203  
4 Mukilteo, WA 98275  
5 619-771-5302  
6 magicalmichael100@gmail.com

7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF COLUMBIA**

<p>10 NATIONAL VETERANS LEGAL 11 SERVICES PROGRAM, et. al.</p> <p>12 Plaintiffs</p> <p>13 v.</p> <p>14 UNITED STATES OF AMERICA,</p> <p>15 Defendant</p>	<p>Case No. 1:16-cv-00745-PLF</p> <p><b>NOTICE OF APPEAL</b></p>
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17  
18 Michael T. Pines appeals to the United States Court of Appeals for the District of  
19 Columbia from the order denying the Motions to Intervene and For Leave To File A Complaint In  
20 Intervention, Motion to Modify Class Certification Order, and for Sanctions entered on  
21 November 16, 2021.  
22

23  
24  
25 Dated: December 16, 2021

/s/ Michael T. Pines



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
NATIONAL VETERANS LEGAL	)	
SERVICES PROGRAM, <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 16-0745 (PLF)
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	
_____	)	

MEMORANDUM OPINION AND ORDER

The Court has before it a pro se Motion for Intervention and for Leave to File Complaint in Intervention, Motion to Modify Class Certification Order, and for Sanctions (“Pines Mot.”) [Dkt. No. 116], filed by putative plaintiff-intervenor Michael T. Pines. Plaintiffs National Veterans Legal Services Program, et al., and defendant the United States oppose the motion. See Plaintiffs’ Response to Michael Pines’s Motion for Intervention, to Modify the Class Definition, and for Sanctions (“Pl. Opp.”) [Dkt. No. 122]; Defendant’s Response to Michael Pines’s Motion for Intervention, to Modify the Class Certification Order, and for Sanctions (“Def. Opp.”) [Dkt. No. 124]. Upon careful consideration of the parties’ papers, the relevant rules, and the applicable case law, the Court will deny Mr. Pines’s motion in all respects.

Mr. Pines has also submitted via email to the Clerk’s Office several additional requests for relief, which he suggests are related to this case. Because the Court concludes that Mr. Pines is not entitled to intervene, it will deny as moot his other requests, with the exception of his application to proceed without prepaying fees or costs, which the Court will grant.



## I. BACKGROUND

This case is proceeding as a class action on behalf of “[a]ll individuals and entities who have paid fees for the use of PACER between April 21, 2010, and April 21, 2016, excluding class counsel in this case and federal government entities.” Nat’l Veterans Legal Servs. Program v. United States (“NVLSP Class Cert. Op.”), 235 F. Supp. 3d 32, 39 (D.D.C. 2017). The United States confirms that Mr. Pines paid PACER fees during the class period and therefore is a member of the class. Defendant’s Supplemental Brief in Response to Court Order Dated October 12, 2021 (“Def. Suppl.”) [Dkt. No. 126] at 1. Plaintiffs represent that “[c]lass notice was successfully sent to the email address associated with Michael Pines’s PACER account on May 19, 2017,” and that Mr. Pines did not opt out by the deadline provided in that notice. Plaintiffs’ Supplemental Brief in Response to This Court’s Order (“Pl. Suppl.”) [Dkt. No. 127] at 1-2.

Mr. Pines asserts that he learned of the class action sometime in August of 2020. Pines Mot. at 10, 12. He seeks to intervene because, he says, he “was precluded from negotiations so any settlement based on previous discussions would be improper as not negotiated fairly,” id. at 10, and “the class action attorneys will not even allow him to participate in discussions outside of court or cooperate in other ways,” id. at 12. He expresses concern that if the Court approves a class settlement, he may face “questions regarding res judicata and the scope of the class release” if he “raises similar claims – or claims based on similar facts – in a subsequent case.” Id. at 9. Mr. Pines asserts that he is entitled to intervene as of right pursuant to Rule 24(a) of the Federal Rules of Civil Procedure, and in the alternative, that the Court should authorize permissive intervention pursuant to Rule 24(b) of the Federal Rules of Civil Procedure. Id. at 11-12.

Mr. Pines also seeks to modify the class certification order, arguing that a class action is not “superior to other types of actions” in this case, Pines Mot. at 5, because “[t]he obvious way to calculate damages in light of court rulings to date,” id. at 3, “would not result in

the class members receiving appropriate compensation,” *id.* at 4. He further argues that “potential plaintiffs may have all kinds of claims against the government related to the operation of Pacer, and . . . there is not even a way to calculate the type of damages the class action seeks.” *Id.* at 10. Finally, Mr. Pines asks the Court to award \$25,000 in sanctions “against both plaintiff and defense counsel,” because he was not “given the opportunity to participate when he demanded it in August 2020,” and as a result, “he will have to spend large amounts of time” getting up to speed on the case. *Id.* at 13.

## II. DISCUSSION

### *A. Intervention of Right*

Rule 24(a)(2) of the Federal Rules of Civil Procedure grants a right of intervention to a party who, upon timely motion, “claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant’s ability to protect its interest, unless existing parties adequately represent that interest.” FED. R. CIV. P. 24(a)(2). Courts consider four factors in deciding whether a party has a right to intervene: (1) the timeliness of the motion; (2) whether the party claims an interest relating to the subject of the action; (3) whether disposition of the action without the party may impair or impede the applicant’s ability to protect that interest; and (4) whether the party’s interest is adequately represented by the existing parties. Fund for Animals, Inc. v. Norton, 322 F.3d 728, 731-32 (D.C. Cir. 2003).

When a class member moves to intervene in a class action, the issue is “correctly framed . . . as whether the would-be intervenors [a]re adequately represented.” Twelve John Does v. District of Columbia, 117 F.3d 571, 575 (D.C. Cir. 1997); see also In re Cmty. Bank of N. Va., 418 F.3d 277, 314 (3d Cir. 2005) (“In the class action context, the second and third prongs of

the Rule 24(a)(2) inquiry [concerning interest in the litigation and impairment of that interest] are satisfied by the very nature of Rule 23 representative litigation.”). To prevail, therefore, Mr. Pines must show that “the named plaintiffs cannot [adequately] represent his interests,” Barnes v. District of Columbia, 274 F.R.D. 314, 319 (D.D.C. 2011), either because they “have antagonistic or conflicting interests with the unnamed members of the class” or because they do not “appear able to vigorously prosecute the interests of the class through qualified counsel,” Twelve John Does v. District of Columbia, 117 F.3d at 575.

Mr. Pines has not made such a showing. “When the Court certified the class in this case [], it necessarily found that ‘the representative parties will fairly and adequately protect the interests of the class.’” Barnes v. District of Columbia, 274 F.R.D. at 316 (quoting FED. R. CIV. P. 23(a)(4)). Judge Huvelle, who presided over this case prior to her retirement, concluded that “the nonprofit organizations who are named plaintiffs in this case make particularly good class representatives,” because “[t]hey are interested in reducing PACER fees not only for themselves but also for their constituents . . . . [they] exist to advocate for consumers, veterans, and other public-interest causes . . . . [and] organizational representatives with experience can provide more vigilant and consistent representation than individual representatives.” NVLSP Class Cert. Op., 235 F. Supp. 3d at 42 (quotation marks omitted).

These characteristics remain salient to representing the interests of the class today. The class representatives have vigorously and effectively advocated on behalf of the class during the course of this litigation. They obtained a finding of liability against the United States in this Court, which the Federal Circuit affirmed on appeal. See Nat’l Veterans Legal Servs. Program v. United States, 291 F. Supp. 3d 123, 140 (D.D.C. 2018) (“[T]he Court . . . finds the defendant liable for certain costs that post-date the passage of the E-Government Act.”); Nat’l Veterans Legal Servs. Program v. United States, 968 F.3d 1340, 1357 (Fed. Cir. 2020) (“[W]e agree with

the district court's determination that the government is liable for the amount of [PACER] fees used to cover [certain categories of] expenses." The parties now are engaged in settlement discussions and recently represented that they "have reached an agreement in principle on proposed terms to resolve the matter, subject to Defendant obtaining approval of the proposed terms of settlement from the United States Department of Justice." Nov. 15, 2021 Joint Status Report [Dkt. No. 129] at 1. Nothing in Mr. Pines's submissions indicates that the named plaintiffs are in any way failing to fulfill their role on behalf of the class.

Mr. Pines's motion focuses instead on his desire to provide input on settlement negotiations and case strategy. Mr. Pines asserts that he "has been trying to work with counsel" and has "tried to discuss [a] settlement," but that "the class action attorneys will not even allow him to participate in discussions outside of court or cooperate in other ways." Pines Mot. at 12; see also Declaration of Michael T. Pines in Support of Motions to Modify Class Certification and to Intervene and for Sanctions ("Pines Decl.") [Dkt. No. 116-1] ¶ 96 ("Had I been permitted to be involved in settlement discussions, I had some ideas that might have been helpful."). As a class member, Mr. Pines is entitled to receive certain information about the class action, including information about opting out of the class and about any settlement or compromise. See FED. R. CIV. P. 23(c)(2), (e)(1). Mr. Pines "will have the right to object to any settlement [that] the parties may reach." Pl. Opp. at 3; see also FED. R. CIV. P. 23(e)(5). He is not, however, entitled to "work with counsel," Pines Mot. at 12, or "be involved in settlement discussions," Pines Decl. ¶ 96. The fact that Mr. Pines may disagree with class counsel's approach does not mean that class representation is inadequate, because a class action by its nature entails delegating certain litigation functions to class representatives and class counsel.

Mr. Pines also appears to disagree with the scope of the claims being pursued, noting that "people have suffered other types of damages caused by Pacer which the action does

not seek to redress.” Pines Mot. at 2; see also id. at 8. Yet Judge Huvelle certified a single class claim in this case: “that the fees charged for accessing court records through the PACER system are higher than necessary to operate PACER and thus violate the E-Government Act, entitling plaintiffs to monetary relief from the excessive fees under the Little Tucker Act.” Jan. 24, 2017 Order [Dkt. No. 32] at 1. The fact that class counsel have not pursued other arguments that go beyond the certified claim does not suggest that their representation is deficient.

Even if Mr. Pines could show that class counsel and the named plaintiffs do not adequately represent his interests in this case, his motion is not timely. “A nonparty must timely move for intervention once it becomes clear that failure to intervene would jeopardize her interest in the action.” Harrington v. Sessions (In re Brewer), 863 F.3d 861, 872 (D.C. Cir. 2017). According to plaintiffs, “[c]lass notice was successfully sent to the email address associated with Michael Pines’s PACER account on May 19, 2017.” Mr. Pines therefore should have been aware of this class action more than four years before he moved to intervene.

Mr. Pines asserts that he “only found out about this action in August 2020.” Pines Mot. at 12. Even if Mr. Pines could show that he was not properly notified on May 19, 2017, he still allowed a year to elapse before seeking to intervene on August 11, 2021. He suggests that when he “heard nothing” from counsel, Pines Decl. ¶ 54, he “decided to take a new legal approach,” id. ¶ 55, implying that he moved to intervene after it became apparent that he would not achieve his desired result by contacting class counsel. This does not justify a twelve-month delay while the case progressed and the parties engaged in settlement negotiations. See In re Lorazepam & Clorazepate Antitrust Litig. v. Mylan Labs (“In re Lorazepam”), 205 F.R.D. 363, 368 (D.D.C. 2001) (finding motion to intervene untimely where the purported intervenor “waited nine months to file th[e] motion, pointing to Class Counsel’s [] refusals to cooperate as its only explanation for doing so”); Allen v. Bedolla, 787 F.3d 1218, 1222 (9th

Cir. 2015) (finding a motion to intervene untimely that was “filed after four years of ongoing litigation, on the eve of settlement, and threatened to prejudice settling parties by potentially derailing settlement talks”).

Mr. Pines is not entitled to intervene as of right under Rule 24(a)(2) because he has not demonstrated that his interests are inadequately represented and because his motion to intervene is not timely.

### *B. Permissive Intervention*

Pursuant to Rule 24(b)(1)(B) of the Federal Rules of Civil Procedure, a court has discretion to permit a party to intervene upon timely motion where the intervening party “has a claim or defense that shares with the main action a common question of law or fact.” FED. R. CIV. P. 24(b)(1)(B). The D.C. Circuit has articulated three requirements that a putative intervenor ordinarily must meet: “(1) an independent ground for subject matter jurisdiction; (2) a timely motion; and (3) a claim or defense that has a question of law or fact in common with the main action.” E.E.O.C. v. Nat’l Children’s Ctr., Inc., 146 F.3d 1042, 1046 (D.C. Cir. 1998); see also Env’tl. Defense v. Leavitt, 329 F. Supp. 2d 55, 66 (D.D.C. 2004). A court’s decision pursuant to Rule 24(b) is discretionary and a district court may “deny a motion for permissive intervention even if the movant establishe[s]” all three of these requirements. E.E.O.C. v. Nat’l Children’s Ctr., Inc., 146 F.3d at 1048. In exercising its discretion, “the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties’ rights.” FED. R. CIV. P. 24(b)(3).

The Court concludes that permissive intervention is not warranted under Rule 24(b). First, Mr. Pines’s motion is not timely for the reasons set forth above. Second, while Mr. Pines’s submission may share some “question[s] of law or fact in common with the main



action,” E.E.O.C. v. Nat’l Children’s Ctr., Inc., 146 F.3d at 1046, he also raises numerous issues and arguments that that go far beyond the scope of the class claim. See Pines Mot. at 8 (“[P]laintiffs who have claims against Pacer might have many varied claims . . . . They should have all their fees reimbursed.”); Pines Decl. ¶ 94 (seeking \$10,000 for each time Mr. Pines logged into PACER during the class period); Pines Decl. ¶¶ 3-6 (“I have been exposing bad conduct by the ‘Too Big To Fail Banks’ and the complicity of the federal and state governments since about 2010 . . . . As a result, I was disbarred, put in jail, prison, and mental hospitals but was innocent of any wrongdoing. The proposed legal action concerns this.”); see also id. ¶¶ 39-42 (describing eviction action and subsequent court proceedings).

In addition, allowing Mr. Pines to intervene could seriously disrupt the settlement discussions, which may resolve this case, and therefore could derail a final resolution of the parties’ rights. In the context of a motion to intervene in a class action, “the Court must strike [] a ‘balance between keeping class litigation manageable and allowing affected parties to be adequately heard.’” In re Lorazepam, 205 F.R.D. at 367 (quoting Twelve John Does v. District of Columbia, 117 F.3d at 575). As plaintiffs explain, this case has proceeded through class certification, summary judgment on liability, and an appeal to the Federal Circuit, and the parties are now engaged in mediation toward “a potential global settlement.” Pl. Opp. at 1-2. Mr. Pines “now asks the Court to undo all this,” id. at 2, by seeking to modify the class certification order despite “not identify[ing] any defect in the class definition or class claim,” id. at 3.

Mr. Pines “has already shown [] willingness . . . to delay the proceedings,” including by moving to decertify the class, seek sanctions, and raise factual issues and legal arguments outside the scope of the class claim. Barnes v. District of Columbia, 274 F.R.D. at 319 (finding that intervention would “unduly delay the adjudication of the original parties’ rights” where the putative intervenor had filed a motion for declaratory judgment, a motion to stay

proceedings pending adjudication of his motions, and had requested “essentially all of the discovery” in the case). Mr. Pines suggests that if allowed to intervene he would “subpoena any and all emails by and among counsel to find out what they have said and what has happened,” and acknowledges that “[i]t is difficult for Pines to determine what amount of excess costs and expenses he will incur.” Pines Mot. at 13. He also suggests that he “intend[s] to object to any settlement and [counsel] might be wasting time and energy trying to settle until after the court heard the motion to decertify.” Pines Decl. ¶ 52.

Given the advanced posture of this case, the nature of the intervention that Mr. Pines states that he intends to pursue, and the fact that Mr. Pines has not established that he is inadequately represented, the Court concludes that the “balance between keeping class litigation manageable and allowing affected parties to be adequately heard,” In re Lorazepam, 205 F.R.D. at 367, weighs against intervention. The Court therefore will deny Mr. Pines’s request.

*C. Modification of Class Certification Order, Sanctions, and Other Relief*

Because the Court concludes that Mr. Pines may not intervene in this case, it will deny as moot his requests to modify the class certification order and for sanctions.

Mr. Pines also submitted via email to the Clerk’s Office a Motion for Pretrial Conference and to Appoint a Special Master, an Application to Proceed in District Court Without Prepaying Fees or Costs, and an Emergency Motion for Order to Reactivate PACER Account [Dkt. No. 125], which the Court granted leave to be filed on the docket. Because the Court denies Mr. Pines’s motion to intervene, and Mr. Pines therefore is not a party to this case, it also denies as moot the motion for pretrial conference and to appoint a special master, and the motion to reactivate PACER account.



The Court will grant Mr. Pines's application to proceed without prepaying costs and will direct the Clerk's Office to file that application on the docket. That application would not be moot if Mr. Pines seeks to appeal this order. In addition, the Court finds that Mr. Pines has shown that he is unable to pay the filing fees in the court of appeals. See 28 U.S.C. § 1915(a)(1).

### III. CONCLUSION

For the foregoing reasons, it is hereby

ORDERED that Mr. Pines's pro se Motion for Intervention and for Leave to File Complaint in Intervention, Motion to Modify Class Certification Order, and for Sanctions [Dkt. No. 116] is DENIED; it is

FURTHER ORDERED that Mr. Pines's Motion for Pretrial Conference and to Appoint a Special Master is DENIED as moot; it is

FURTHER ORDERED that Mr. Pines's Emergency Motion for Order to Reactivate PACER Account [Dkt. No. 125] is DENIED as moot; and it is

FURTHER ORDERED that Mr. Pines's Application to Proceed in District Court Without Prepaying Fees or Costs is GRANTED and the Clerk of the Court is directed to file that application on the docket in this case.

SO ORDERED.

  
PAUL L. FRIEDMAN  
United States District Judge

DATE: 11/16/21