

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

NATIONAL VETERANS LEGAL  
SERVICES PROGRAM, NATIONAL  
CONSUMER LAW CENTER, and  
ALLIANCE FOR JUSTICE, for themselves  
and all others similarly situated,

*Plaintiffs,*

v.

UNITED STATES OF AMERICA,  
*Defendant.*

Case No. 1:16-cv-00745-PLF

**DECLARATION OF GIO SANTIAGO REGARDING IMPLEMENTATION OF  
SETTLEMENT NOTICE PROGRAM**

I, Gio Santiago, declare as follows:

1. My name is Gio Santiago. I have personal knowledge of the matters set forth herein.
2. I am a Senior Project Manager of Client Services at KCC Class Action Services, LLC (“KCC”).
3. This declaration details the implementation of the settlement notice program ordered by the Court on May 8, 2023, and described in the Declaration of Christie K. Reed Regarding Notice Procedures (ECF# 141-4, filed on October 11, 2022) and the Supplemental Declaration of Christie K. Reed Regarding Revised Notice Procedures (ECF# 149-5, filed on April 12, 2023) (“Notice Plan”).

**NOTICE PLAN IMPLEMENTATION**

4. KCC previously provided notice to approximately 395,081 individuals and entities,<sup>1</sup> identified via PACER billing records, who paid PACER billing fees between April 21,

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<sup>1</sup> “[I]ndividuals and entities” is defined as all PACER users except the following: (1) any user who, during the quarter billed, is on the master Department of Justice list for that billing quarter; (2) any user with an @uscourts.gov email address extension; or (3) any user whose PACER bill is sent to and whose email address extension is shared with a person or entity that received PACER bills for more than one account, provided that the shared email address extension

2010 and April 21, 2016 (“Original Class Members”). The Parties subsequently agreed to extend the class period through May 31, 2018.

### **Data Analysis**

5. On June 7, 2023, the Defendant provided contact information for approximately 368,966 Original Class Members who paid PACER fees for the first time between April 22, 2010 and April 21, 2016. Defendant also provided additional contact information for approximately 210,267 Class Members who paid PACER fees for the first time between April 22, 2016 and May 31, 2018 (“New Class Members”).

6. KCC used this information to identify the total number of unique Original and New Class Members to create the class mailing list, removing Original Class Members who previously opted out of the Class.

7. KCC identified 368,966 Original Class Members and 138,023 New Class Members on the final Notice List.

### **Individual Notice**

8. Beginning on July 6, 2023, an email notice was sent to 238,040 Original Class Member email addresses and 98,163 New Class Member email addresses identified in the Notice List. The notice content was included in the body of the email, rather than as an attachment, to avoid spam filters and improve deliverability. The email contained a link to the settlement website. The email delivery was attempted three times to maximize the probability that it would be received. Original Class Members who previously received notice and the opportunity to opt out in 2017 were sent an email Notice that provided them with the right to object to the settlement. New Class Members who were not provided with notice in 2017 were sent an email Notice that provided them with the right to opt out or object. A true and correct copy of the Email Notice that was sent to

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is one of the following: @oig.hhs.gov, @sol.doi.gov, @state.gov, @bop.gov, @uspis.gov, @cbp.dhs.gov, @ussss.dhs.gov, @ircounsel.treas.gov, @dol.gov, @ci.irs.gov, @ice.dhs.gov, @ssa.gov, @psc.uscourts.gov, @sec.gov, @ic.fbi.gov, @irs.gov, and @usdoj.gov. For example, accounting@dol.gov at 200 Constitution Avenue, NW, Washington, DC 20210 receives bills for johndoe1@dol.gov, johndoe2@dol.gov, and janedoe1@dol.gov. None of those email addresses (accounting@dol.gov, johndoe1@dol.gov, johndoe2@dol.gov, and janedoe1@dol.gov) would receive notice.

Original Class Members is attached as **Exhibit A**. A true and correct copy of the Email Notice that was sent to New Class Members is attached as **Exhibit B**.

9. Since emailing the Notice to Class Members, KCC has received 70,557 email bounce-backs. These email bounce-backs were matched to the Notice List and a single-postcard notice was mailed to the corresponding postal address for each Class Member.

10. Beginning on July 21, 2023, a single-postcard notice was sent to 79,305 Original Class Members and 20,924 New Class Members. Original Class Members who previously received notice and the opportunity to opt out in 2017 were sent a single-postcard Notice that provided them with the right to object to the settlement. New Class Members who were not provided with notice in 2017 were sent a single-postcard Notice that provided them with the right to opt out or object. A true and correct copy of the single-postcard Notice that was sent to Original Class Members is attached as **Exhibit C**. A true and correct copy of the single-postcard Notice that was sent to New Class Members is attached as **Exhibit D**.

11. Since mailing the single-postcard Notices to Class Members, KCC has received 2,371 Notices returned by the USPS as undeliverable. Of these 1,328 have been re-mailed to new addresses obtained using credit and other public source databases.

#### **Publication Notice**

12. On July 6, 2023, KCC caused a press release to be distributed via Cision PR Newswire. The press release was issued nationwide to a variety of media, as well as to a curated list of journalists who requested to receive and commonly provide news and information about the banking industry. As of August 22, 2023, the press release has been picked up<sup>2</sup> a total of 380 times with exposure to potential audience of 179,636,668. The press release appeared on broadcast media, newspaper and online news websites within industries such as media and information, financial, and general news. A true and correct copy of the press release as it was posted on Cision PR Newswire's website is attached as **Exhibit E**.

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<sup>2</sup> A pick up is a full text posting of the press release online and in social media.

13. On August 11, 2023 and August 25, 2023, KCC caused a notice, consisting of a headline, call to action, and link to the settlement website, to be published in the electronic newsletter of American Bankers Association (“ABA”) *Banking Journal*. The *ABA Banking Journal eNewsletter* is delivered to over 13,250 subscribers. A true and correct copy of the notices as they appeared in *Banking Journal* is attached as **Exhibit F**.

14. Despite KCC’s efforts and those made by Class Counsel, *The Slant* (*Bank Director’s* e-newsletter), refused to publish the class action settlement notice.

### **Complexities & Complications**

15. On July 26, 2023 it was discovered that 184,478 records received notice of pendency of the action in 2017, but had not received notice of the settlement. These records were matches between the 2017 class data and the 2023 original class member data. As a result, these records were considered duplicates in the system and were inadvertently excluded from the notice group. These records should have received the Notice that was sent to Original Class Members. In response, on August 7, 2023, KCC caused the Original Class Member notice (Exhibit A & Exhibit C) to be sent to these class members. Because these individuals had an opportunity to opt out in 2017, this Notice did not contain the option to opt out of the settlement.

16. On July 14, 2023 it was discovered that 53,446 records were mistakenly sent the notice that provided an opportunity to opt out. All of these individuals received notice and an opportunity to opt out in 2017. In response, on August 7, 2023, KCC caused a corrective notice to be emailed to these class members. A true and correct copy of the corrective email notice is attached as **Exhibit G**.

17. KCC researched internally and confirmed ten opt outs were submitted online from Class Members included in these 53,446 records. KCC immediately corrected its records and removed the ability for these Class Members to submit an opt out request online. As a result, seven of the Class Members who opted out received a corrective notice explaining the situation. A true and correct copy of the corrective email notice to opt outs is attached as **Exhibit H**. The remaining

three Class Members were federal agencies and Counsel determined corrective notice was not required. These ten opt outs are not included in the opt out totals in section 21 below.

### **Website**

18. KCC has made continuous updates to the case-specific website that was established during the class certification stage. At the website, [www.pacerfeesclassaction.com](http://www.pacerfeesclassaction.com), Class Members are able to obtain additional information and documents about the settlement, including answers to frequently asked questions, the class notice, and nearly all filings from both the district-court proceedings and the federal circuit at no charge. In addition, users are able to update their address, submit an exclusion request form, designate someone else as the payer of their invoices, notify KCC that they paid fees on someone else's behalf, and dispute when someone claims they paid fees on their behalf.

19. During implementation, it was discovered that PACER changed user account numbers in 2014 from alphanumeric identifiers to seven-digit identifiers. The data that KCC received contained only seven-digit identifiers and the website was set-up accordingly. However, some individuals did not possess the new seven-digit identifiers making it impossible for them to submit a payee designation, payor request or dispute. Upon being notified of this constraint, Class Counsel contacted the Defendant to request a list of all corresponding alphanumeric identifiers. This information has not yet been received. Anticipating receiving the data, KCC added a functionality to the website that allowed people to enter their seven-digit identifiers or alphanumeric identifiers so payee designations, payor requests and disputes may be processed. Once Defendant provides the corresponding alphanumeric identifiers, KCC will match them to the corresponding seven-digit account numbers and distribute an email notifying accountholders of the opportunity to dispute, as appropriate.

### **Toll-Free Number**

20. On June 7, 2023 KCC established a case-specific toll-free number to allow Class Members to call to learn more about the case in the form of frequently asked questions. The toll-

free number also allows Class Members to request to have additional information mailed to them. As of August 24, 2023, KCC has received a total of 247 calls to the telephone line.

### Opt Outs

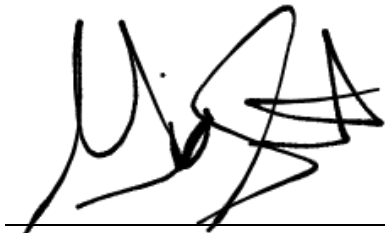
21. The exclusion deadline was August 20, 2023. As of August 24, 2023, KCC has received 39 opt out requests in 2023. Of these, 31 were submitted online and 8 were received via postal mail. One additional request was mailed to the Court. KCC expects additional timely-filed exclusion forms may arrive via postal mail over the next few weeks. A list of the exclusion requests is attached as **Exhibit I**. Of the nine total mailed requests, six were received for accounts that had an opportunity to opt out in 2017, and thus are untimely and not valid. Those requests are noted as untimely in **Exhibit I**.

### Payment Designations & Disputes

22. As of August 24, 2023, KCC has received 419 Payment Designation Requests, of which 386 have been submitted by account holders informing KCC that someone paid PACER fees on their behalf and 33 have been submitted by entities informing KCC that it paid PACER fees on behalf of an account holder. In addition, KCC has received 1 Payment Dispute Notification. KCC expects additional Payment Designation Requests and Payment Dispute Notifications to be filed prior to the Final Approval Hearing.

I, Gio Santiago, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 25, 2023.



\_\_\_\_\_  
Gio Santiago

# EXHIBIT

# A

Account ID: <<Claim8>>

PIN: <<PIN>>

**If you paid fees to access federal court records on PACER at any time between April 21, 2010 and May 31, 2018, a proposed class action settlement may affect your rights.**

Nonprofit groups filed this lawsuit against the United States, claiming that the government has unlawfully charged PACER users more than necessary to cover the cost of providing public access to federal court records. The lawsuit, *National Veterans Legal Services Program, et al. v. United States*, Case No. 1:16-cv-00745-PLF, is pending in the U.S. District Court for the District of Columbia. This notice is to inform you that the parties have decided to settle the case for \$125,000,000. This amount is referred to as the common fund. The settlement has been preliminarily approved by the Court.

**Why am I receiving this notice?** You are receiving this notice because you may have paid PACER fees between April 21, 2010 and May 31, 2018. This notice explains that the parties have entered into a proposed class action settlement that may affect you. You may have legal rights and options that you may exercise before the Court decides to grant final approval of the settlement.

**What is this lawsuit about?** The lawsuit alleges that federal courts have been charging unlawfully excessive PACER fees. It alleges that Congress has authorized the federal courts to charge PACER fees only to the extent necessary to cover the costs of providing public access to federal court records, and that the fees for use of PACER exceed its costs. The lawsuit further alleges that the excess PACER fees have been used to pay for projects unrelated to PACER. The government denies these claims and contends that the fees are lawful. The parties have agreed to settle.

**Who represents me?** The Court has appointed Gupta Wessler PLLC and Motley Rice LLC to represent the Class as Class Counsel. You do not have to pay Class Counsel or anyone else in order to participate. Class Counsel's fees and expenses will be deducted from the common settlement fund. You may hire your own attorney, if you wish, at your own expense.

**What are my options?**

**OPTION 1. Do nothing.** If you are an account holder and directly paid your own PACER fees, you do not have to do anything to receive money from the settlement. You will automatically receive a check for your share of the common fund assuming the Court grants final approval of the settlement. If someone directly paid PACER fees on your behalf, you should direct your payment to that individual or entity at [www.pacerfeesclassaction.com](http://www.pacerfeesclassaction.com) no later than Tuesday, September 5th, 2023. If you accept payment of any settlement proceeds, you are verifying that you paid the PACER fees and are the proper recipient of the settlement funds.

**OPTION 2. Object or go to a hearing.** If you paid PACER fees, you may object to any aspect of the proposed settlement. Your written objection must be sent by Tuesday, September 12th, 2023 and submitted as set out in the *Notice of Proposed Class Action Settlement* referred to below. You also may request in writing to appear at the Fairness Hearing on Thursday, October 12th, 2023.

**How do I get more information?** This is only a summary of the proposed settlement. For a more detailed *Notice of Proposed Class Action Settlement*, additional information on the lawsuit and proposed settlement, and a copy of the Settlement Agreement, visit [www.pacerfeesclassaction.com](http://www.pacerfeesclassaction.com), call 866-952-1928, or write to: PACER Fees Class Action Administrator, P.O. Box 301134, Los Angeles, CA, 90030-1134.



# EXHIBIT

# B

Account ID: <<Claim8>>

PIN: <<PIN>>

**If you paid fees to access federal court records on PACER at any time between April 21, 2010 and May 31, 2018, a proposed class action settlement may affect your rights.**

Nonprofit groups filed this lawsuit against the United States, claiming that the government has unlawfully charged users of PACER (the Public Access to Court Electronic Records system) more than necessary to cover the cost of providing public access to federal court records. The lawsuit, *National Veterans Legal Services Program, et al. v. United States*, Case No. 1:16-cv-00745-PLF, is pending in the U.S. District Court for the District of Columbia. This notice is to inform you that the parties have decided to settle the case for \$125,000,000. This amount is referred to as the common fund. The settlement has been preliminarily approved by the Court.

**Why am I receiving this notice?** You are receiving this notice because you may have first paid PACER fees between April 22, 2016 and May 31, 2018. This notice explains that the parties have entered into a proposed class action settlement that may affect you. You may have legal rights and options that you may exercise before the Court decides to grant final approval to the settlement.

**What is this lawsuit about?** The lawsuit alleges that federal courts have been charging unlawfully excessive PACER fees. It alleges that Congress has authorized the federal courts to charge PACER fees only to the extent necessary to cover the costs of providing public access to federal court records, and that the fees for use of PACER exceed its costs. The lawsuit further alleges that the excess PACER fees have been used to pay for projects unrelated to PACER. The government denies these claims and contends that the fees are lawful. The parties have agreed to settle.

**Who represents me?** The Court has appointed Gupta Wessler PLLC and Motley Rice LLC to represent the Class as Class Counsel. You do not have to pay Class Counsel or anyone else to participate. Class Counsel's fees and expenses will be deducted from the common fund. By participating in the Class, you agree to pay Class Counsel up to 30 percent of the total recovery in attorneys' fees and expenses with the total amount to be determined by the Court. You may hire your own attorney, if you wish, at your own expense.

**What are my options?**

**OPTION 1. Do nothing. Stay in the settlement.** By doing nothing, you remain part of this class action settlement. If you are an account holder and directly paid your own PACER fees, you do not have to do anything further to receive money from the settlement. You will be legally bound by all orders and judgments of this Court, and will automatically receive a check for your share of the common fund assuming the Court grants final approval of the settlement. By doing nothing you give up any rights to sue the United States government separately about the same claims in this lawsuit. If someone directly paid PACER fees on your behalf, you should direct your payment to that individual or entity at [www.pacerfeesclassaction.com](http://www.pacerfeesclassaction.com) no later than Tuesday, September 5th, 2023. If you accept payment of any settlement proceeds, you are verifying that you paid the PACER fees and are the proper recipient of the settlement funds.

**OPTION 2. Exclude yourself from the settlement.** Alternatively, you have the right to not be part of this settlement by excluding yourself or "opting out" of the settlement and Class. If you exclude yourself, you cannot get any money from the settlement, but you will keep your right to separately sue the United States government over the legal issues in this case. If you do not wish to stay in the Class, you must request exclusion in one of the following ways:

1. Send an "Exclusion Request" in the form of a letter sent by mail, stating that you want to be excluded from *National Veterans Legal Services Program, et al. v. United States*, Case No. 1:16-cv-00745-PLF. Be sure to include your name, address, telephone number, email address, and signature. You must mail your Exclusion Request, **postmarked by Sunday, August 20th, 2023** to: PACER Fees Class Action Administrator, P.O. Box 301134, Los Angeles, CA 90030-1134.
2. Complete and submit online the Exclusion Request form found [\[here\]](#) by Sunday, August 20th, 2023.
3. Send an "Exclusion Request" Form, available [\[here\]](#), by mail. You must mail your Exclusion Request form, **postmarked by Sunday, August 20th, 2023** to: PACER Fees Class Action Administrator, P.O. Box 301134, Los Angeles, CA 90030-1134.

If you choose to exclude yourself from the lawsuit, you should decide soon whether to pursue your own case because your claims may be subject to a statute of limitations which sets a deadline for filing the lawsuit within a certain period of time.

**OPTION 3. Stay in the Class and object or go to a hearing.** If you paid PACER fees and do not opt out of the settlement, you may object to any aspect of the proposed settlement. Your written objection must be **sent by Tuesday, September 12th, 2023** and submitted as set out in the *Notice of Proposed Class Action Settlement* referred to below. You also may request in writing to appear at the Fairness Hearing on Thursday, October 12th, 2023.

**How do I get more information?** This is only a summary of the proposed settlement. For a more detailed *Notice of Proposed Class Action Settlement*, additional information on the lawsuit and proposed settlement, and a copy of the Settlement Agreement, visit [www.pacerfeesclassaction.com](http://www.pacerfeesclassaction.com), call 866-952-1928, or write to: PACER Fees Class Action Administrator, P.O. Box 301134, Los Angeles, CA 90030-1134.

□ □ □ **I** □ **I** □ □ □ □ □

PACER Fees Class Action Administrator  
P.O. Box 301134  
Los Angeles, CA 90030-1134

**To All PACER Users Who Paid  
Fees to Access Federal Court  
Records Between April 21, 2010  
and May 31, 2018.**

**Your Rights Might Be Affected  
By a Proposed Class Action  
Settlement.**

The back of this card provides a  
summary of the action.



VISIT THE SETTLEMENT  
WEBSITE BY SCANNING  
THE PROVIDED QR CODE

**USO**

«Barcode»

Postal Service: Please do not mark barcode

Account ID: <<Claim8>>

PIN: <<PIN>>

USO-«Claim8»-«CkDig»

«FirstName» «LastName»

«Addr1» «Addr2»

«City», «State»«FProv» «Zip»«FZip»

«FCountry»

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

*National Veterans Legal Services Program, et al. v. United States, 1:16-cv-00745-PLF*

Nonprofit groups filed a class action lawsuit against the United States claiming that the government has unlawfully charged PACER users more than necessary to cover the costs of providing public access to federal court records through PACER. This notice is to inform you that the parties have decided to settle the case for \$125,000,000. This amount is referred to as the common fund. The settlement has been preliminarily approved by the Court.

**Why am I receiving this notice?** You are receiving this notice because you may have paid PACER fees between April 21, 2010 and May 31, 2018. This notice explains that the parties have entered into a proposed class action settlement that may affect you. You may have legal rights and options that you may exercise before the Court decides to grant final approval to the settlement.

**What is this lawsuit about?** The lawsuit alleges that federal courts have been charging unlawfully excessive PACER fees. It alleges that Congress has authorized the federal courts to charge PACER fees only to the extent necessary to cover the costs of providing public access to federal court records, and that the fees for use of PACER exceed its costs. The lawsuit further alleges that the excess PACER fees have been used to pay for projects unrelated to PACER. The government denies these claims and contends that the fees are lawful. The parties have agreed to settle.

**Who represents me?** The Court has appointed Gupta Wessler PLLC and Motley Rice LLC as Class Counsel. You may hire your own attorney, if you wish, at your own expense.

**What are my options?** If you are an accountholder and directly paid your own PACER fees, you do not have to do anything to receive a share of the common fund. You will automatically receive a check for your share of the common fund assuming the Court grants final approval of the settlement. If someone directly paid PACER fees on your behalf, you should direct your payment to that individual or entity at the website below no later than Tuesday, September 4th, 2023. If you accept payment of any settlement proceeds, you are verifying that you paid the PACER fees and are the proper recipient of the settlement funds. You may object to any aspect of the proposed settlement. You must object by Tuesday, September 12th, 2023. If you object, you may also request to appear at the Fairness Hearing on Thursday, October 12th, 2023.

**For more information: 866-952-1928 or [www.pacerfeesclassaction.com](http://www.pacerfeesclassaction.com)**

By Order of the U.S. District Court, Dated: May 8, 2023



**I**  **I**

PACER Fees Class Action Administrator  
P.O. Box 301134  
Los Angeles, CA 90030-1134

**To All PACER Users Who Paid  
Fees to Access Federal Court  
Records Between April 22, 2016  
and May 31, 2018.**

**Your Rights Might Be Affected  
By a Proposed Class Action  
Settlement.**

The back of this card provides a  
summary of the action.



VISIT THE SETTLEMENT  
WEBSITE BY SCANNING  
THE PROVIDED QR CODE

«Barcode»

Postal Service: Please do not mark barcode

Account ID: <<Claim8>>

PIN: <<PIN>>

USO-«Claim8»-«CkDig»

«FirstName» «LastName»

«Addr1» «Addr2»

«City», «State»«FProv» «Zip»«FZip»

«FCountry»

**USO**



NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

***National Veterans Legal Services Program, et al. v. United States, 1:16-cv-00745-PLF***

Nonprofit groups filed a class action lawsuit against the United States claiming that the government has unlawfully charged PACER users more than necessary to cover the costs of providing public access to federal court records through PACER. This notice is to inform you that the parties have decided to settle the case for \$125,000,000. This amount is referred to as the common fund. The settlement has been preliminarily approved by the Court.

**Why am I receiving this notice?** You are receiving this notice because you may have paid PACER fees for the first time between April 22, 2016 and May 31, 2018. This notice explains that the parties have entered into a proposed class action settlement that may affect you. You may have legal rights and options that you may exercise before the Court decides to grant final approval to the settlement.

**What is this case about?** The lawsuit alleges that federal courts have been charging unlawfully excessive PACER fees. It alleges that Congress has authorized the federal courts to charge PACER fees only to the extent necessary to cover the costs of providing public access to federal court records, and that the fees for use of PACER exceed its costs. The lawsuit further alleges that the excess PACER fees have been used to pay for projects unrelated to PACER. The government denies these claims and contends that the fees are lawful. The parties have agreed to settle.

**Who represents me?** The Court has appointed Gupta Wessler PLLC and Motley Rice LLC as Class Counsel. You may hire your own attorney, if you wish, at your own expense. By participating in the Class, you agree to pay Class Counsel up to 30 percent of the total recovery in attorneys' fees and expenses with the total amount to be determined by the Court.

**What are my options?** If you are an accountholder and directly paid your own PACER fees, you do not have to do anything to receive a share of the common fund. You will receive a check for your share of the common fund assuming the Court grants final approval of the settlement. If someone directly paid PACER fees on your behalf, you should direct your payment to that individual or entity at the website below no later than Monday, September 4th, 2023. If you accept payment of any settlement proceeds, you are verifying that you paid the PACER fees and are the proper recipient of the settlement funds. By participating in the settlement, you will be legally bound by all orders and judgments of the Court, and you will give up any rights to sue the United States separately about the same claims in this lawsuit. *If you do not want to be part of the settlement and the Class*, you must ask to be excluded by Sunday, August 20th, 2023. If you ask to be excluded, you will not be able to get any money from this lawsuit. You will not be bound by any of the Court's decisions and you will keep your right to sue the United States separately about the claims in this lawsuit. If you do not ask to be excluded, you may object to any aspect of the proposed settlement. You must object by Tuesday, September 12th, 2023. You may also request to appear at the Fairness Hearing on Thursday, October 12th, 2023.

**For more information: 866-952-1928 or [www.pacerfeesclassaction.com](http://www.pacerfeesclassaction.com)**

By Order of the U.S. District Court, Dated: May 8, 2023



**I**  **I**

If you paid fees to access federal court records on PACER at any time between April 21, 2010 and May 31, 2018, a proposed class action settlement may affect your rights.

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NEWS PROVIDED BY

**PACER Fees Class Action Administrator →**

06 Jul, 2023, 08:00 ET

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WASHINGTON, July 6, 2023 /PRNewswire/ -- The following statement is being issued by the PACER Fees Class Action Administrator regarding notice of proposed class action settlement in *National Veterans Legal Services Program, et al. v. United States*:

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure and Order of the United States District Court for the District of Columbia, that the parties in *National Veterans Legal Services Program, et al. v. United States* have reached a settlement for \$125,000,000, and your rights may be affected. The Court has not granted final approval of this settlement.

The Court previously certified a class of "all 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." Members of that class were provided an opportunity to opt out in 2017.

**If you paid PACER fees between April 21, 2010 and April 21, 2016**, you may appear at the fairness hearing on October 12, 2023 to object to the settlement if you choose, and you may receive a settlement payment.

**If you paid PACER fees for the first time between April 22, 2016 and May 31, 2018**, you may choose to exclude yourself from the settlement, or you may remain a member of the class. If you choose to remain a member of the class, you may appear at the fairness hearing on October 12, 2023 to object to the settlement, and you may receive a settlement payment, but you give up your right to sue the United States government about the same claims in this lawsuit. If you exclude yourself, you cannot get any money from the settlement, but you will keep your right to separately sue the United States government over the legal issues in this case. More information about how to request exclusion and an exclusion request form can be found on the website at [www.pacerfeesclassaction.com](http://www.pacerfeesclassaction.com).

**Settlement Payments:** Settlement payments will be made by a settlement claims administrator based on PACER billing records reflecting accountholder information maintained by the Administrative Office of the U.S. Courts. If you are not a PACER accountholder, but directly paid PACER fees on behalf of someone else (e.g., a law firm or company paying fees on behalf of employees), you may be a class member, and may notify the claims administrator that you paid PACER fees on someone else's behalf [www.pacerfeesclassaction.com](http://www.pacerfeesclassaction.com). That notification must be made no later than September 5, 2023. If you are an accountholder and someone else directly paid your PACER fees on your behalf, you should direct payment to that person or entity at [www.pacerfeesclassaction.com](http://www.pacerfeesclassaction.com). You must direct payment no later than September 5, 2023. If you are an accountholder and directly paid your own PACER fees, you will automatically be mailed a check. If you accept payment of any settlement proceeds, you are verifying that you paid the PACER fees and are the proper recipient of the settlement funds.

Each class member (i.e., payer of PACER fees) will receive a minimum payment amount equal to the lesser of \$350 or the total amount paid in PACER fees by that class member for use of PACER during the Class Period (April 21, 2010 through and including May 31, 2018). The remainder will be allocated pro rata (based on the amount of PACER fees paid in excess of \$350 during the Class Period) to all class members who paid more than \$350 in PACER fees during the Class Period.

If there are unclaimed or undistributed funds, there will be a second distribution. The only class members who are eligible for a second distribution are those who: (1) paid a total amount of more than \$350 in PACER fees for use of PACER during the Class Period; and (2) deposited or otherwise collected their payment from the first distribution. The administrator shall determine how many class members meet this requirement, and then distribute to each class member an equal allocation of the unclaimed or undistributed funds. No class member may receive a total recovery (combining the first and second distributions) that exceeds the total amount of PACER fees that the class member paid for use of PACER during the Class Period.

This is only a summary of the proposed settlement. For a more detailed *Notice of Proposed Class Action Settlement*, additional information on the lawsuit and proposed settlement, and a copy of the settlement agreement, visit [www.pacerfeesclassaction.com](http://www.pacerfeesclassaction.com), call 1-866-952-1928, or write to: PACER Fees Class Action Administrator, P.O. Box 301134, Los Angeles, CA 90030-1134.

DATED: July 6, 2023

BY ORDER OF THE UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

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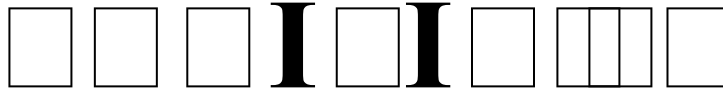
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# ABA BANKING JOURNAL

August 11, 2023

This *ABA Banking Journal* newsletter is a free, twice-monthly supplement to the *ABA Banking Journal* magazine intended to help you stay on top of industry and policy news. You can also stay abreast of banking news by visiting [aba.com/BankingJournal](http://aba.com/BankingJournal), home to ABA Daily Newsbytes and other email bulletins.



## ServiceLink State of Homebuying Report

ServiceLink has compiled data from 1,000 potential homebuyers and homeowners to understand: how they make refinancing, home equity and homebuying decisions; how and why they rely on mortgage technology; and what they expect throughout the process.

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## Industry News

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### Democratic senators urge Fed to review bank merger policy

Senate Banking Committee Chairman Sherrod Brown (D-Ohio) and three Democratic committee members recently urged the Federal Reserve to review and reconsider its approach to large bank mergers, including the agency's framework for evaluating a merger's impact on financial stability.

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### State bankers associations urge CFPB to delay 1071 implementation

The CFPB should extend a court-ordered stay of its Section 1071 final rule to cover all FDIC-insured banks while the U.S. Supreme Court considers a separate legal challenge concerning the bureau, 50 state bankers associations said.

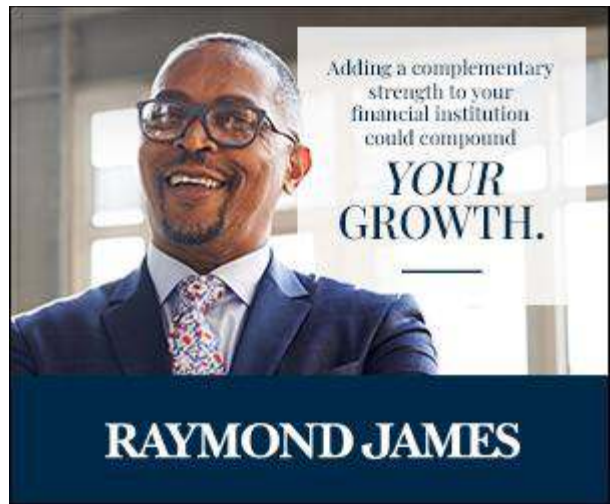
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### Fed announces new supervisory program for crypto, nonbank partnerships

The Federal Reserve announced that the banks it supervises must first receive a written notification of supervisory nonobjection from the agency before engaging with tokens using distributed ledger technology or similar technologies to facilitate payments.

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### FinCEN to launch contact center, guide for BOI reporting compliance

FinCEN will establish a contact center to assist small business owners in filing beneficial ownership reports, respond to questions from the public, and reduce regulatory burden, U.S. Treasury Undersecretary for Terrorism and Financial Intelligence Brian Nelson said.

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### FHFA weighing changes to rollout for new credit score models

The Federal Housing Finance Agency this week responded to recent industry communications expressing concerns about implementation timeframes for credit score reforms.

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### ABA, associations: Proposed auditor standards vague, overly broad

A group of 20 trade associations, including ABA, joined together to raise concerns with a proposal to expand the requirements for auditors to identify, evaluate and communicate all company violations of laws and regulations.

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### Let's Make Banking Easier

And safer. As the heartbeat of your community, your business is built on relationships, trust, and doing the right thing – whatever it takes. Helping you unlock your potential is our commitment to you. For nearly half a century, we've put you and the people you serve at the center of our innovation.

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## Policy News

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### DOJ proposes rule on digital accessibility for state, local governments

The Justice Department recently week issued a notice of proposed rulemaking to revise the regulation implementing Title II of the Americans with Disabilities Act to establish specific requirements for making state and local governments' web content and mobile applications accessible.

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### **Fed's Bowman: Further rate hikes likely**

Additional increases in the federal funds rate will likely be needed to lower inflation to the Federal Reserve's 2% goal, Fed Governor Michelle Bowman said.

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### **ABA, TBA ask CFPB to delay 1071 compliance dates for all banks**

In the wake of a judge's order delaying compliance dates with the CFPB's Section 1071 final rule for Texas Bankers Association and ABA members, TBA and ABA today asked CFPB Director Rohit Chopra to use his discretion to apply the stay to all FDIC-insured banks.

[Learn More...](#)



### **Fed's Harker suggests holding rates at current level**

The economy may have reached the point where the Federal Open Markets Committee can hold off further increases in the federal funds rate and let the monetary policy actions it has already taken run their course, said Patrick Harker, president of the Federal Reserve Bank of Philadelphia.

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### **Missouri associations: Credit card routing bill seeks big government intervention**

The Credit Card Competition Act would leave consumers with fewer choices and decreased access to credit while local banks and credit unions would be harmed by even more government intervention, the top executives of three Missouri banker and credit union associations said in an op-ed for The Missouri Times.

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### **FHA proposes removing face-to-face requirement for borrowers in default**

The Federal Housing Administration proposed making permanent a pandemic-related rule that waives the Department of Housing and Urban Development's requirement for mortgagees to meet in person with borrowers who are in default on their mortgage payments.

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## Notice of Proposed Class Action Settlement in PACER Fees Class Action

If you paid fees to access federal court records on PACER at any time between April 21, 2010 and May 31, 2018, a proposed class action settlement may affect your rights.

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## Training

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### August 14 - September 8

Facilitated Training: [Marketing Planning](#)

### August 17

Webinar: [Techniques for Building a Powerful Fraud Network](#)

### August 22

Webinar: [Making a Difference in Rural Communities and Overlooked Areas](#)

### August 23

Webinar: [2023 Lights, Camera, Save! Contest](#)

### August 29

Webinar: [#BanksNeverAskThat – Everything You Need to Know](#)

### August 30

Webinar: [ABA's Guide to Section 1071 – A Quick Recap and a Deeper Dive](#)

### September 4 - November 26

Facilitated Training: [IRA Online Institute](#)

### September 7

Webinar: [Estate Planning for the Family-Owned Business Part 2 \(Tax Planning\)](#)

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August 25, 2023

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## Industry News

### Keeping bankers smart on cybersecurity

Reinforcing employee cyber risk awareness is as critical to the maturity of your program as the products in your cyber tool set.

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### How the rating agencies missed the mark: Reassessing recent analyses of the banking sector

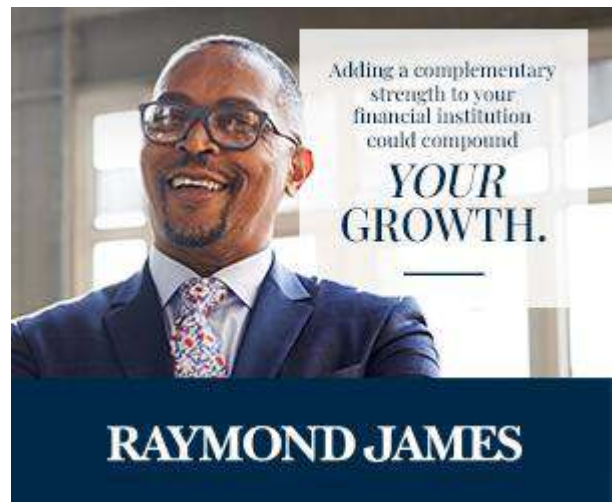
In light of the August 2023 downgrade by Moody's of several U.S. banks, as well as commentary by Fitch Ratings on the banking sector, ABA's Office of the Chief Economist is providing a brief assessment of the rating agency comments and highlighting critical flaws in some of the assumptions impacting their analyses.

[Learn More...](#)

### NFIB: Small business concern about bank health fades

Small-business owners' concerns about the health of their bank have eased significantly in recent months, with more than half saying they are not concerned at all, according to a new survey of small-business attitudes about banking by the National Federation of Independent Business.

[Learn More...](#)



## Survey: The changing role of bank marketing

The role of the bank marketing function is continuing to evolve to become more critical to overall enterprise, according to a new ABA survey of bank marketers. However, a considerable gap still exists between the broad and growing responsibilities of the function compared to how marketing is measured and evaluated.

[Learn More...](#)

## Rising rates lead banks to rethink credit and liquidity

Banks are taking steps to reexamine their relationships with depositors, borrowers.

[Learn More...](#)

## ABA Data Bank: Consumers believe Fed policies are driving disinflation

Consumers believe supply-side issues were the most important factors driving the pandemic-era surge in inflation, according to a recent Liberty Street Economics blog post.

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## Policy News

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### ABA, BPI caution against CRA rule changes

Two recent policy developments could fundamentally alter banks' Community Reinvestment Act programs, and policymakers should avoid finalizing proposed changes to the CRA rules until these issues are resolved, ABA and the Bank Policy Institute said in a letter to regulators.

[Learn More...](#)

### Bipartisan support grows for ABA-backed ACRE Act

Nearly two dozen lawmakers from both political parties have signed on as cosponsors to ABA-backed legislation that would make it easier for farmers, ranchers and rural families to access affordable real estate credit.

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### ABA: Proposed quality control rule for AVMs would overburden banks

A proposed interagency rule to regulate the quality of algorithmic models used in real estate valuations would likely overburden — and therefore discourage — the very technology it is seeking to regulate, ABA said.

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### ABA urges proper implementation of new ISSB climate standard

ABA urged the ISSB to focus on the development of resources and coordination of industry-specific activities related to implementing recently released corporate disclosure standards on general sustainability and climate-related issues.

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### SEC to reopen public comment on investment advisers proposal

The Securities and Exchange Commission announced it would reopen public comment for a proposed rule that seeks to enhance protections of customer assets managed by registered investment advisers.

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### ABA urges support for affordable housing tax credit bills

Bipartisan legislation to create a neighborhood homes tax credit would address the needs of families throughout the country who are struggling to purchase homes as costs continue to rise and the supply of homes remains limited, ABA said in comments to committee leaders in the House and Senate.

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## Training

**August 29**

Webinar: [Mid-Year Bank Risk Review: Analyzing Challenges and Opportunities](#)

**August 29**

Webinar: [#BanksNeverAskThat – Everything You Need to Know](#)

**August 30**

Webinar: [ABA's Guide to Section 1071 – A Quick Recap and a Deeper Dive](#)

**September 4 - November 26**

Facilitated Training: [IRA Online Institute](#)

**September 6**

Webinar: [Simplifying ATM Security Through an As a Service Strategy](#)

**September 7**

Webinar: [Estate Planning for the Family-Owned Business Part 2 \(Tax Planning\)](#)

**September 11 - October 27**

Facilitated Training: [Analyzing Bank Performance](#)

**September 11 - November 10**

Facilitated Training: [Legal Foundations in Banking](#)

**September 12**

Webinar: [ABA Fall Outlook Webinar](#)

**September 14**

Virtual Conference: [Diversity, Equity and Inclusion Summit](#)

**September 21**

Webinar: [How to Create an Inclusive Client Experience](#)

**September 26**

Webinar: [Pentegra Talks About the Benefits of Fiduciary Benchmarking Reports](#)

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Account ID: <<Claim8>>

PIN: <<PIN>>

On July 6th, 2023, you received notice informing you of the proposed class action settlement in *National Veterans Legal Services Program, et al. v. United States*, Case No. 1:16-CV-00745-PLF. You were inadvertently sent the notice intended for accounts that paid PACER fees for the first time between April 22, 2016 and May 31, 2018. Because you paid PACER fees between April 21, 2010 and April 21, 2016, you should have received the below notice instead.

**If you paid fees to access federal court records on PACER at any time between April 21, 2010 and May 31, 2018, a proposed class action settlement may affect your rights.**

Nonprofit groups filed this lawsuit against the United States, claiming that the government has unlawfully charged PACER users more than necessary to cover the cost of providing public access to federal court records. The lawsuit, *National Veterans Legal Services Program, et al. v. United States*, Case No. 1:16-cv-00745-PLF, is pending in the U.S. District Court for the District of Columbia. This notice is to inform you that the parties have decided to settle the case for \$125,000,000. This amount is referred to as the common fund. The settlement has been preliminarily approved by the Court.

**Why am I receiving this notice?** You are receiving this notice because you may have paid PACER fees between April 21, 2010 and May 31, 2018. This notice explains that the parties have entered into a proposed class action settlement that may affect you. You may have legal rights and options that you may exercise before the Court decides to grant final approval of the settlement.

**What is this lawsuit about?** The lawsuit alleges that federal courts have been charging unlawfully excessive PACER fees. It alleges that Congress has authorized the federal courts to charge PACER fees only to the extent necessary to cover the costs of providing public access to federal court records, and that the fees for use of PACER exceed its costs. The lawsuit further alleges that the excess PACER fees have been used to pay for projects unrelated to PACER. The government denies these claims and contends that the fees are lawful. The parties have agreed to settle.

**Who represents me?** The Court has appointed Gupta Wessler PLLC and Motley Rice LLC to represent the Class as Class Counsel. You do not have to pay Class Counsel or anyone else in order to participate. Class Counsel's fees and expenses will be deducted from the common settlement fund. You may hire your own attorney, if you wish, at your own expense.

**What are my options?**

**OPTION 1. Do nothing.** If you are an accountholder and directly paid your own PACER fees, you do not have to do anything to receive money from the settlement. You will automatically receive a check for your share of the common fund assuming the Court grants final approval of the settlement. If someone directly paid PACER fees on your behalf, you should direct your payment to that individual or entity at [www.pacerfeesclassaction.com](http://www.pacerfeesclassaction.com) no later than Tuesday, September 5th, 2023. If you accept payment of any settlement proceeds, you are verifying that you paid the PACER fees and are the proper recipient of the settlement funds.

**OPTION 2. Object or go to a hearing.** If you paid PACER fees, you may object to any aspect of the proposed settlement. Your written objection must be sent by Tuesday, September 12th, 2023 and submitted as set out in the *Notice of Proposed Class Action Settlement* referred to below. You also may request in writing to appear at the Fairness Hearing on Thursday, October 12th, 2023.

**How do I get more information?** This is only a summary of the proposed settlement. For a more detailed *Notice of Proposed Class Action Settlement*, additional information on the lawsuit and proposed settlement, and a copy of the Settlement Agreement, visit [www.pacerfeesclassaction.com](http://www.pacerfeesclassaction.com), call 866-952-1928, or write to: PACER Fees Class Action Administrator, P.O. Box 301134, Los Angeles, CA 90030-1134.



**I**  **I**

Account ID: <<Claim8>>

PIN: <<PIN>>

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ClaimID	Year First Notice Sent	Timeliness
10034328-7	2023	Timely
10035184-0	2023	Timely
10037459-0	2023	Timely
10040932-6	2023	Timely
10041843-0	2023	Timely
10049120-0	2023	Timely
10049953-8	2023	Timely
10061501-5	2023	Timely
10065649-8	2023	Timely
10066366-4	2023	Timely
10083140-0	2023	Timely
10084333-6	2023	Timely
10085991-7	2023	Timely
10095277-1	2023	Timely
10113350-2	2023	Timely
10116080-1	2023	Timely
10118614-2	2023	Timely
10132009-4	2023	Timely
10133913-5	2023	Timely
10141727-6	2023	Timely
10147158-0	2023	Timely
10152565-6	2023	Timely
10173016-0	2023	Timely
10176126-0	2023	Timely
10182150-6	2023	Timely
10185685-7	2023	Timely
10189089-3	2023	Timely
10192998-6	2023	Timely
10196979-1	2023	Timely
10197284-9	2023	Timely
10203395-1	2023	Timely
10010161-5	2017	Untimely
10016846-9	2023	Timely
10052120-7	2023	Timely
10133913-5	2023	Timely
10156028-1	2017	Untimely
10162264-3	2017	Untimely
10274162-0	2017	Untimely
10192346-5	2017	Untimely
10320639-6	2017	Untimely