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Objection to PACER Class Action Settlement

Aaron Greenspan <aarong@thinkcomputer.com> Thu, Sep 14, 2023 at 12:33 AM
To: DCD_PACERFeesSettlement@dcd.uscourts.gov
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Civil Action No. 16-745-PLF: Objection to Proposed Settlement in National Veterans Legal Services Program, et al. v. United States of America

To The Parties and the Court:

I hereby object to the class-action settlement on behalf of myself as an individual, Think Computer Corporation, and the now closed Think Computer Foundation (the "Think entities"). I realize that I am a day late (as it is still September 13th here in California where I am writing from). I apologize. I'd point out that the Court and the parties took something on the order of seven years to reach this point in the litigation, and then gave barely any notice to object to the proposed settlement. Then you scheduled your deadline three days **before** the corporate tax deadline of September 15th for those with an extension. Three days after would have been much easier to comply with.

Through my company, I run PlainSite (https://www.plainsite.org). PlainSite hosts over 15 million federal and state legal dockets, as well as various other government materials. Not every document that should be available is—because of the unlawful PACER fee structure, which somehow still persists today even as the courts have acknowledged its unlawfulness and pledged to move away from it at some unspecified date, which at this rate will likely outlast my lifetime.

As referenced in ECF No. 158-5 at 3 (paragraph 8), which I only became aware of this evening, I was the plaintiff in one of the only lawsuits—if not the only lawsuit—to ever challenge the PACER fee structure, prior to this one. Generally, my objection to the settlement in this action is that I and the Think entities, which have each amassed significant PACER fees over the years in order to serve the public (see https://www.plainsite.org/about/jointventure.html), should not have had to pay a single penny to the federal government for fees that were unlawfully charged in the first place. Accordingly, all of that money should be refunded in full, and the Administrative Office of the United States Courts should reimburse class counsel's attorney's fees and costs separately from any settlement fund.

I am not naive. I realize that different statutes authorize various types of relief, subject to certain limits, etc. I realize that the Little Tucker Act has a $10,000 statutory limit.

I don't care. Not because I don't care about the rule of law, but because I am incensed.

For years the judiciary has scammed the American public with this obscene scheme, and that is separate and apart from the fact that the judiciary is presently controlled by partisan hacks who wear robes for a living, as recently proven beyond a shadow of a doubt by ProPublica's investigative reporting. See https://www.propublica.org/topics/courts. Put simply, it is clearer than ever that the courts and the Judicial Conference are run by corrupt judges. That's "judges," plural, starting with the Chief Justice. See https://www.nytimes.com/2023/01/31/us/john-roberts-jane-sullivan-roberts.html. To insist (for years) on various legal limitations and restrictions when victims of the judiciary's elaborate scam seek relief (and to be clear, this is not the only or even the largest elaborate scam perpetrated on the public by the courts)—but to have tossed all of that aside as the judiciary carried out the scam for years under the color of law in the first place—is manifestly unjust. Surely, the parties want to move on and counsel would like to proceed onward to more exciting cases. I'm sorry, but none of that matters to me. I want my money—stolen by the courts—back. All of it. And I want the Administrative Office staff and the judges who approved this held accountable, by name, starting with Michel Ishakian.

After more than a decade of observing our justice system through PlainSite, I have lost track of the number of cases where judges, sadly having little to no understanding of modern technology, have made the wrong decision because they were not properly informed and frankly didn't care to be. This case is no different. The settlement here ignores the fundamental fact, which did arise in the plaintiffs' briefing, that the marginal cost of document transmission for PACER is **zero**. By zero, I mean $0.00. Whatever up-front costs CM/ECF and PACER required to develop, those were fully funded ages ago. The E-Government Act of 2002 specifically mandates that the courts cannot charge beyond their marginal cost, and since their marginal cost is zero, that means **they cannot charge**. As I recall, Senator Lieberman even weighed in himself to say so. Yet this went ignored.

I will not belabor this point further, especially since I fear that my objection will not even be considered. Suffice it to say that the plaintiffs are 100% right, the government is 100% wrong, and a settlement that takes $23 million, or any amount,

out of the victims' pool for attorney's fees, when the courts themselves are behind a scam of this magnitude, is completely unjust. PACER, to this day, continues to charge $0.10 per page for error messages. It continues to charge for judicial opinions that have been improperly coded (which is most of them). Any judge who has had anything to do with approving this outrage should be required to pay victims out of their government salaries personally, judicial immunity be damned.

I see what you are all doing, I see what you have done, and I do not approve. I object.

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