

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. 16-745-ESH

**PLAINTIFFS' RESPONSE TO DON KOZICH'S VERIFIED MOTION FOR FREE
PACER ACCESS UNTIL FINAL DISPOSITION OF THIS CASE**

Don Kozich, a proposed amicus curiae and absent class member, *see* ECF No. 49, has filed a motion asking this Court to allow free PACER access pending final disposition of this case. *See* ECF No. 64. The reason for his request is so that he may keep abreast of the proceedings without having to pay large amounts in fees to electronically access the case filings.

We sympathize with his situation. There is simply no good reason why Mr. Kozich—a disabled veteran looking to stay informed about this case—should have to pay up to \$3 every time he wants to access any of the 100+ filings to date, or any of the future filings. That is why the plaintiffs (led by the National Veterans Legal Services Program) have filed this lawsuit challenging PACER fees as excessive: the fees vastly exceed the cost of providing records through PACER, in violation of the E-Government Act of 2002, and thus hinder public access to the courts. And it is why several amici have filed briefs supporting our challenge, including the E-Government Act's sponsor, Senator Joe Lieberman, as well as the Reporters Committee for Freedom of the Press and the American Association of Law Libraries. *See* ECF Nos. 59, 61, 63.

Although the plaintiffs do not contend that the E-Government Act requires that PACER access be free, we agree that Mr. Kozich should be able to access the filings in this case without charge. For that reason, class counsel will ensure that all filings in this litigation are freely available at <http://www.pacerfeesclassaction.com/>, under the “Court Documents” tab. (Major filings will be listed at the top, so they can be accessed most easily.) Providing free, timely access should address Mr. Kozich’s (legitimate) concerns, without the need for this Court to rule on the merits of his motion. Class counsel have spoken with Mr. Kozich by phone, and he has authorized us to inform the Court that he agrees with our proposed solution to make all filings freely available.

Respectfully submitted,

/s/ Deepak Gupta
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September 29, 2017

CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2017, I filed this response through this Court's CM/ECF system, which will send a notice of electronic filing to all counsel required to be served.

/s/ Deepak Gupta

Deepak Gupta