

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NATIONAL VETERANS LEGAL)	
SERVICES PROGRAM, <u>et al.</u> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 16-745 ESH
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	
_____)	

UNOPPOSED MOTION FOR AN ENLARGEMENT OF TIME,
AND MEMORANDUM IN SUPPORT THEREOF

Defendant hereby moves, pursuant to Fed. R. Civ. P. 6(b)(1), for an enlargement of time to respond to Plaintiffs' Motion For Class Certification in this action, up to and including two weeks after the answer is currently due. This would make the response due on July 11, 2016. Counsel attempted to reach counsel for plaintiffs, Deepak Gupta, Esq., by telephone and email in an effort to ascertain Plaintiffs' position on this motion. According to his Associate, Jon Taylor, Mr. Gupta has agreed to he requested enlargement of time.

Plaintiffs' Complaint seeks recovery of funds from the United States and a declaration that the funds they have paid for PACER fees are excessive. They seek to include as plaintiffs a class of "[a]ll individuals and entities who have paid fees for the use of PACER within the past six years, excluding class counsel and agencies of

the federal government.” Complaint, ¶ 27. Undersigned counsel is in the process of investigating the claims and defenses available in the case, and whether the case should be treated as part of a similar class action already pending in the Court of Federal Claims. See Bryndon Fischer v. United States, Case No. 1:15-cv-01575-TCW.¹

In the relatively brief time since service of the Complaint and undersigned counsel’s receipt of the May 2, 2016 motion for class certification, counsel has been unable to gather sufficient facts and to investigate the legal issues sufficiently to allow him to prepare a response to the motion for class certification. This is due, in large part, to the need for him to first complete the drafting of numerous motions and responses in filings in both this Court and the Court of Appeals. Defendant believes that after he has gathered the information needed to complete a response to the Complaint (currently due June 27, 2016), he will be in a position to complete Defendant’s response to the motion for class certification.

¹ Mr. Fisher’s action also seeks class certification of alleged overcharges paid for use of PACER. Although the theory of overcharging appears to be slightly different, counsel intends to assess whether the claims here would or should be part of that action.

For these reasons, Defendant asks for an enlargement of time to file a response to the pending motion for class certification in the case up to and including July 11, 2016. A proposed order accompanies this motion.

Respectfully submitted,

CHANNING D. PHILLIPS, DC Bar #415793
United States Attorney

DANIEL F. VAN HORN, DC Bar #924092
Chief, Civil Division

By: _____ /s/
W. MARK NEBEKER, DC Bar #396739
Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the foregoing Unopposed Motion For An Enlargement Of Time, And Memorandum In Support Thereof, and a proposed Order has been made through the Court's electronic transmission facilities on this 16th day of May, 2016.

/s/
W. MARK NEBEKER, DC Bar #396739
Assistant United States Attorney
555 4th Street, N.W.
Washington, DC 20530
(202) 252-2536
mark.nebeker@usdoj.gov