

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

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

Assigned to: Judge Ellen S. Huvelle

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

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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, 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 Sur-Reply, # <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 <i>Sur-Reply</i> : 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' <i>Sur-Reply</i> . A <i>sur-reply</i> 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 http://www.dcd.uscourts.gov/node/110 Transcript Order Form<P></P><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

		<p>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>NOTICE RE REDACTION OF TRANSCRIPTS: 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)</p>
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)

			10/02/2017)
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 (zgd). (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	76		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 Transcript Order Form<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> NOTICE RE REDACTION OF TRANSCRIPTS: 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 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 Transcript Order Form<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> NOTICE RE REDACTION OF TRANSCRIPTS: 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 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)
07/18/2018			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 Transcript Order Form<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> NOTICE RE REDACTION OF TRANSCRIPTS: 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>	26	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)

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

NOTICE OF GRANT OF PERMISSION TO APPEAL UNDER 28 U.S.C. § 1292(B)

Notice is hereby given on this 28 day of November, 2018, that the plaintiffs' petition for permission to appeal the order entered on March 31, 2018 (ECF. No. 88) was granted by the United States Court of Appeals for the Federal Circuit. Both parties filed petitions for permission to appeal on August 22, 2018 (Fed. Cir. Nos. 18-154, 18-155), which were granted on October 16, 2018 (Fed. Cir. Nos. 19-1081, 19-1083). The order granting permission to appeal is attached.

Pursuant to Fed. R. App. P. Rule 5(d), plaintiffs file this notice to effect payment of the filing fee for the appeal.

Respectfully submitted,

/s/ Meghan S.B. Oliver

Meghan S.B. Oliver (D.C. Bar No. 493416)

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November 28, 2018

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on November 28, 2018, I filed this notice through this Court's CM/ECF system, and that all parties required to be served have been thereby served.

/s/ Meghan S.B. Oliver

Meghan S.B. Oliver

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

**NATIONAL VETERANS LEGAL SERVICES
PROGRAM, NATIONAL CONSUMER LAW
CENTER, ALLIANCE FOR JUSTICE,**
Plaintiffs-Respondents

v.

UNITED STATES,
Defendant-Petitioner

2018-154

On Petition for Permission to Appeal pursuant to 28 U.S.C. Section 1292(b) from the United States District Court for the District of Columbia in No. 1:16-cv-00745-ESH, Judge Ellen S. Huvelle.

**NATIONAL VETERANS LEGAL SERVICES
PROGRAM, NATIONAL CONSUMER LAW
CENTER, ALLIANCE FOR JUSTICE,**
Plaintiffs-Petitioners

v.

UNITED STATES,
Defendant-Respondent

2018-155

On Petition for Permission to Appeal pursuant to 28 U.S.C. Section 1292(b) from the United States District Court for the District of Columbia in No. 1:16-cv-00745-ESH, Judge Ellen S. Huvelle.

ON PETITION

Before PROST, *Chief Judge*, NEWMAN and LOURIE, *Circuit Judges*.

LOURIE, *Circuit Judge*.

ORDER

The parties both petition for permission to appeal an order of the United States District Court for the District of Columbia concerning the extent to which fee revenue generated by the federal judiciary’s Public Access to Court Electronic Records (“PACER”) system may be used for purposes other than the operation of PACER.

This case arises out of a class action brought by National Veterans Legal Services Program, National Consumer Law Center, and Alliance for Justice (collectively, “the plaintiffs”) against the United States, alleging that fees charged for using PACER from 2010 to 2016 violated 28 U.S.C. § 1913 note, as amended by the E-Government Act of 2002. That provision states, in relevant part, “[t]he Judicial Conference may, only to the extent necessary, prescribe reasonable fees . . . for collection by the courts . . . for access to information available through automatic data processing equipment. . . . [These fees] shall be deposited as offsetting collections to the Judiciary Automation fund . . . to reimburse expenses incurred in providing these services.” 28 U.S.C. § 1913 note.

After the district court denied the United States' motion to dismiss the complaint for failing to establish a cognizable claim for damages under the Little Tucker Act, 28 U.S.C. § 1346(a), the parties filed cross-motions for summary judgment of liability. The plaintiffs argued that the E-Government Act barred the judiciary from using PACER fees for anything other than the marginal cost of operating PACER. The government asserted that PACER fees can be spent on any expenditure involving the dissemination of information through electronic means.

The district court adopted neither party's position. Instead, it determined that revenue from the PACER system may be used only for "expenses incurred in providing services . . . that are part of providing the public with access to electronic information maintained and stored by the federal courts on its CM/ECF docketing system." *Nat'l Veterans Legal Servs. Program v. United States*, 291 F. Supp. 3d 123, 149 (D.D.C. Mar. 31, 2018). On this basis, the district court ruled that several categories of the judiciary's expenditures were impermissible but also rejected the plaintiffs' position that the class was entitled to fees paid in excess of the amount necessary to recoup the total marginal cost of operating PACER.

At the request of both parties, the district court certified its summary judgment order for interlocutory appeal and stayed further proceedings. The district court noted that the issue to be appealed was a purely legal one, that the issue was one of first impression, and that interlocutory appeal would materially advance the litigation because "before proceeding to a potentially lengthy and complicated damages phase based on an interpretation of the statute that could be later reversed on appeal, it is more efficient to allow the Federal Circuit an opportunity first to determine what the statute means."

Under 28 U.S.C. § 1292(b), a district court may certify that an order that is not otherwise appealable is one involving a controlling question of law as to which there is

substantial ground for difference of opinion and for which an immediate appeal may materially advance the ultimate termination of the litigation. Ultimately, this court must exercise its own discretion in deciding whether it will grant permission to appeal an interlocutory order. *See In re Convertible Rowing Exerciser Patent Litig.*, 903 F.2d 822, 822 (Fed. Cir. 1990). Having considered the petitions, we agree with the parties and the district court that interlocutory review is appropriate here.

Accordingly,

IT IS ORDERED THAT:

The petitions are granted.

FOR THE COURT

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

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