

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

**PLAINTIFFS' UNOPPOSED MOTION
FOR APPROVAL OF PLAN OF CLASS NOTICE**

In accordance with the Court's January 24, 2017 Order (Dkt. #32), Plaintiffs National Veterans Legal Services Program, National Consumer Law Center, and Alliance for Justice, on behalf of themselves and the Plaintiff Class, hereby submit the following Plan of Class Notice ("Plan"). Plaintiffs request that the Court approve the following Plan and the attached forms of notice. The parties have conferred, and Defendant does not oppose this Motion.

BACKGROUND

On January 24, 2017, the Court certified a class defined as:

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.

(Dkt. #32). Plaintiffs believe that identifying the class members through the PACER billing records will be relatively straightforward, and should require only the compilation of existing data.

With respect to identifying class members and creating a class mailing list, Federal Rule of Civil Procedure 23(c)(2)(B) provides that the Court must "direct to class members the best notice practicable under the circumstances, including individual notice to all members who can be

identified through reasonable effort.” Defendant shall provide to Plaintiffs a database including at least the names, postal addresses, email addresses, phone numbers, and PACER-assigned account numbers of all individuals or entities who have paid PACER fees (“PACER Fee Database”) during the class period. There are no other records necessary to identify potential class members.

Plaintiffs have retained KCC LLC (“KCC”) to serve as claims administrator. KCC has executed more than 100 notice programs in the United States and Canada, and has served as claims administrator for a wide variety of cases, including ones involving state governments and the federal government.

PROPOSED PLAN

1. On or before the later of (a) 30 days after entry of an Order approving this Plan, or (b) 30 days after KCC receives the PACER Fee Database from Defendant, Plaintiffs, through KCC, will send by email a notice of pendency of class action lawsuit in the form attached hereto as Exhibit 1 to all email addresses identified in the PACER Fee Database.

2. On or before the later of (a) 45 days after entry of an Order approving this Plan, or (b) 45 days after KCC receives the PACER Fee Database from Defendant, Plaintiffs, through KCC, will send by first class mail a postcard notice of pendency of class action lawsuit in the form attached hereto as Exhibit 2 to (1) all persons without an email address in the PACER Fee Database; and (2) all persons for whom email delivery was unsuccessful.

3. On or before the later of (a) 30 days after entry of an Order approving this Plan, or (b) 30 days after KCC receives the PACER Fee Database from Defendant, Plaintiffs, through KCC, will establish and maintain a website in order to respond to inquiries by potential class members. The website shall include the complete text of the notice attached hereto as Exhibit 3, and other relevant documents.

4. On or before the later of (a) 30 days after entry of an Order approving this Plan, or (b) 30 days after KCC receives the PACER Fee Database from Defendant, Plaintiffs, through KCC, will make available to potential class members automated telephone support to handle any inquiries from potential class members.

5. On or before the later of (a) 90 days after entry of an Order approving this Plan, or (b) 90 days after KCC receives the PACER Fee Database from Defendant, the opt-out period will expire.

6. Pursuant to Federal Rule of Civil Procedure 23(c)(2)(B), this Plan sets forth the best notice that is practicable under the circumstances, including individual notice to all members of the Class who can be identified through reasonable effort. This Plan and the Exhibits hereto comply with the requirements of Federal Rule of Civil Procedure 23(c)(2)(B)(i)-(vii) and satisfy due process.

Dated: February 23, 2017

Respectfully submitted,

By: /s/ William H. Narwold
MOTLEY RICE LLC

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Class Counsel

CERTIFICATE OF SERVICE

I, William H. Narwold, declare that I am over the age of eighteen (18) and not a party to the entitled action. I am a principal of the law firm MOTLEY RICE LLC, and my office is located at One Corporate Center, 20 Church Street, 17th Floor, Hartford, CT 06103.

On February 23, 2017, I caused to be filed the following in the above-captioned case:

Unopposed Motion for Approval of Plan of Class Notice

with the Clerk of Court using the Official Court Electronic Document Filing System, which served copies on all interested parties registered for electronic filing.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 23, 2017

Respectfully submitted,

By: /s/ William H. Narwold
William H. Narwold
MOTLEY RICE LLC