

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.

Civil Action No. 16-745 ESH

ORDER APPROVING PLAN OF CLASS NOTICE

WHEREAS, on January 24, 2017, this Court certified the following Class:

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.

Therefore, pursuant to Rule 23(c)(2)(B) of the Federal Rules of Civil Procedure, and based upon the record and Plaintiffs' Unopposed Motion for Approval of Revised Plan of Class Notice and Class Notice Documents ("Plaintiffs' Motion," dkt. #42);

IT IS HEREBY ORDERED THAT:

1. Plaintiffs' Motion is GRANTED.
2. The Revised Email Notice of Pendency of Class Action Lawsuit ("Email Notice"); the Revised Postcard Notice of Pendency of Class Action Lawsuit ("Postcard Notice"); the long-form Notice of Pendency of Class Action available online ("Long-Form Notice"); the printable Exclusion Form; and the online Exclusion Form are hereby approved as to form. *See* Exhibits 1 and 2 to Notice of Filing of Revised Notice Documents ("Notice of Filing," dkt. #43); Exhibits 3, 4, and 5 to Plaintiffs' Motion.

3. To the extent they are not already produced, Defendant shall produce to Plaintiffs' counsel under the terms of the Stipulated Protective Order (dkt. #41) the available names, postal addresses, email addresses, phone numbers, and PACER-assigned account numbers of all individuals and entities who have paid PACER fees ("PACER Fee Database") during the class period. For purposes of this paragraph, "individuals and entities" is defined as all PACER users except the following: (1) any user who, during the quarter billed, is on the master Department of Justice list for that billing quarter; (2) any user with an @uscourts.gov email address extension; or (3) any user whose PACER bill is sent to and whose email address extension is shared with a person or entity that receives PACER bills for more than one account, provided that the shared email address extension is one of the following: @oig.hhs.gov, @sol.doi.gov, @state.gov, @bop.gov, @uspis.gov, @cbp.dhs.gov, @uss.dhs.gov, @irscounsel.treas.gov, @dol.gov, @ci.irs.gov, @ice.dhs.gov, @dhs.gov, @ssa.gov, @psc.uscourts.gov, @sec.gov, @ic.fbi.gov, @irs.gov, and @usdoj.gov.¹

4. On or before the later of (a) thirty days after entry of this Order or (b) thirty days after Plaintiffs receive the PACER Fee Database from Defendant, KCC LLC (the "Claims Administrator") shall cause the Email Notice to be disseminated, in substantially the same form attached as Exhibit 1 to the Notice of Filing, by sending it out via email to potential class members. The Email Notice shall direct potential class members to a website maintained by the Claims Administrator. The sender of the email shall appear to recipients as "PACER Fees Class Action Administrator," and the subject line of the email will be "PACER Fees – Notice of Class Action Lawsuit."

¹ For example, accounting@dol.gov at 200 Constitution Avenue, NW, Washington, DC 20210 receives bills for johndoe1@dol.gov, johndoe2@dol.gov, and janedoe1@dol.gov. None of those email address (accounting@dol.gov, johndoe1@dol.gov, johndoe2@dol.gov, and janedoe1@dol.gov) would receive notice.

5. On or before the later of (a) thirty days after entry of this Order or (b) thirty days after Plaintiffs receive the PACER Fee Database from Defendant, the Claims Administrator shall make available to potential class members automated telephone support to handle any inquiries from potential class members.

6. On or before the later of (a) thirty days after entry of an Order approving this Plan, or (b) thirty days after Plaintiffs receive 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 Long-Form Notice attached to Plaintiffs' Motion as Exhibit 3, the printable Exclusion Request form, the online Exclusion Request form, this Order, Plaintiffs' Class Action Complaint (dkt. #1), Defendant's Answer (dkt. #27), the Order on the Motion for Class Certification (dkt. #32), the Memorandum Opinion on the Motion for Class Certification (dkt. #33), and other relevant documents.

7. On or before the later of (a) forty-five days after entry of this Order or (b) forty-five days after Plaintiffs receive the PACER Fee Database from Defendant, the Claims Administrator shall cause the Postcard Notice to be disseminated, in substantially the same form attached as Exhibit 2 to the Notice of Filing, by sending it out via U.S. mail to all potential class members (1) without an email address and (2) for whom email delivery was unsuccessful. The Postcard Notice shall direct potential class members to the website maintained by the Claims Administrator.

8. On the later of (a) ninety days after entry of this Order or (b) ninety days after Plaintiffs receive the PACER Fee Database from Defendant, the opt-out period shall expire.

9. The Court finds that the dissemination of the Notice under the terms and in the format provided for in Plaintiffs' Motion and this Order constitutes the best notice practicable under the circumstances, that it is due and sufficient notice for all purposes to all persons entitled to such notice, and that it fully satisfies the requirements of due process and all other applicable laws.

IT IS SO ORDERED.

Dated: April 17, 2017

/s/ Ellen Segal Huvelle
The Honorable Ellen Segal Huvelle
United States District Judge