

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

DECLARATION OF JONATHAN E. TAYLOR

I, Jonathan E. Taylor, declare as follows:

1. I am a principal at Gupta Wessler PLLC and am one of the lead attorneys for the plaintiffs.
2. Attached as Exhibit A is a true and correct copy of the Electronic Public Access fee schedule, effective December 1, 2013. I obtained the schedule from PACER's website: https://www.pacer.gov/documents/epa_feesched.pdf.
3. Attached as Exhibit B is an authentic copy of the Administrative Office of the United States Courts' discussion draft on Electronic Case Files (ECF), dated March 1997. It describes the goals, issues, and action plan for implementing an ECF system, including the "cost savings and efficiencies" such a system would generate for "people who use the courts." I obtained this document from the National Technical Reports Library of the Department of Commerce: <https://ntrlnnis.gov/NTRL/dashboard/searchResults/titleDetail/PB99151243.xhtml>

4. Attached as Exhibit C is an authentic copy of the chronology of the EPA program from 1989 to 2004. I obtained this document from PACER's website: <https://www.pacer.gov/documents/epachron.pdf>.

5. Attached as Exhibit D is a true and correct extract from the Committee of Governmental Affairs Report on S. 803, now known as the E-Government Act of 2002. The extract describes the purpose and summary of the Act. I obtained the report from <https://www.congress.gov/107/crpt/srpt174/CRPT-107srpt174.pdf>.

6. Attached as Exhibit E is a true and correct copy of the Administrative Office's memorandum to chief justices and clerks, dated October 21, 2004, notifying them of an EPA fee increase from seven cents per page to eight cents per page, effective January 1, 2005. I obtained this memorandum from the website of the District Court of Massachusetts: <http://www.mad.uscourts.gov/general/pdf/a2004/EPAfees.pdf>.

7. Attached as Exhibit F is an authentic copy of the FY 2006 annual report for the Judiciary Information Technology Fund, which receives fee collections from the EPA program. I obtained this report from Public.Resource.org: https://public.resource.org/jitf_annual_report_2006.pdf.

8. Attached as Exhibit G is a true and correct copy of a letter from Senator Lieberman to Senators Richard Durbin and Susan Collins, dated March 25, 2010, expressing "concerns about how the Administrative Office of the Courts is interpreting a key provision of the E-Government Act relating to public access to Court records." I obtained the letter from the website of the U.S. Senate Committee on Homeland Security & Governmental Affairs: <http://1.usa.gov/1NQ6u0v>.

9. Attached as Exhibit H is a true and correct copy of a letter from Senator Joseph Lieberman to Judge Lee Rosenthal, dated February 27, 2009, in which Senator

Lieberman asks whether the PACER system—which generates revenue that is “well higher than the cost of dissemination”—complies with the E-Government Act of 2002. I obtained the letter from Public.Resource.org: <https://public.resource.org/scribd/13252410.pdf>.

10. Attached as Exhibit I is a true and correct copy of Judge Rosenthal and Director James C. Duff's joint response to Senator Lieberman, dated March 26, 2009, in which Director Duff “assure[s] [him] that the Judiciary is charging PACER fees only to the extent necessary.” I obtained the letter from Public.Resource.org: <https://public.resource.org/scribd/13838758.pdf>.

11. Attached as Exhibit J is an authentic copy of an EPA program summary from the Administrative Office, dated December 2012, in which it describes and justifies PACER fees. I obtained this document from PACER's website: <https://www.pacer.gov/documents/epasum2012.pdf>.

12. Attached as Exhibit K is a true and correct copy of a table from the Judiciary's FY 2014 Budget Summary, in which the utilization of EPA receipts is provided. This table is located on page 538 of *Part 2: FY 2014 Budget Justifications, Financial Services and General Government Appropriations for 2014, Hearings Before a Subcommittee of the House Committee on Appropriations*, 113th Cong. (2013), <https://perma.cc/7WAC-6SQU>.

13. Attached as Exhibit L is an authentic copy of the summary of resources of a FY 2010 quarterly report from the Public Access and Records Management Division. This document was provided to me by counsel for the defendant.

14. Attached as Exhibit M is the defendant's response to the plaintiffs' first set of interrogatories in the district court. This document was provided to me by counsel for the defendant.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed on August 28, 2017.

/s/ Jonathan E. Taylor

Jonathan E. Taylor