

# **If you paid fees to access federal court records on PACER at any time between April 21, 2010 and April 21, 2016, a class action lawsuit may affect your rights.**

*A court authorized this notice. This is not a solicitation from a lawyer.*

- Nonprofit groups have sued the United States government alleging that the United States government has unlawfully charged users of the Public Access to Court Electronic Records (“PACER”) system more than necessary to cover the costs of providing public access to federal court records.
- The Court has allowed the lawsuit to be a class action on behalf of all individuals or entities that paid PACER fees between April 21, 2010 and April 21, 2016, excluding class counsel in this case and federal government entities.
- The Court has not decided whether the fees were excessive, or whether the United States government did anything wrong. There is no money now, and no guarantee there will be any recovery. However, your legal rights are affected, and you have a choice to make now:

<b>LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT</b>	
<b>DO NOTHING</b>	<p><b>Stay in this lawsuit. Await the outcome. Give up certain rights.</b></p> <p>By doing nothing, you keep the possibility of getting money or benefits that may come from a judgment or settlement. But, you give up any rights to sue the United States government separately about the same claims in this lawsuit.</p>
<b>ASK TO BE EXCLUDED</b>	<p><b>Get out of this lawsuit. Get no benefits from it. Keep rights.</b></p> <p>If you ask to be excluded and money and benefits are later awarded, you won't share in those things. But, you keep any rights to sue the United States government separately about the legal claims in this lawsuit.</p>

- Your options are explained in this notice. To ask to be excluded, you must act before **July 17, 2017**.
- Lawyers must prove the claims against the United States government in future court proceedings. If you do nothing and money or benefits are obtained from the United States government, you will be notified about how to ask for your share.
- **Any questions? Read on or call 1-844-660-2215.**

## WHAT THIS NOTICE CONTAINS

**BASIC INFORMATION** ..... PAGE 3

1. Why is this notice being provided?
2. What is this lawsuit about?
3. What is a class action and who is involved?
4. Why is this lawsuit a class action?

**THE CLAIMS IN THE LAWSUIT** ..... PAGE 4

5. What does the lawsuit complain about?
6. How does the United States government answer?
7. Has the Court decided who is right?
8. What are the Plaintiffs asking for?
9. Is there any money available now?

**WHO IS IN THE CLASS** ..... PAGE 4

10. Am I part of this Class?
11. I'm still not sure if I am included.

**CLASS MEMBERS' RIGHTS AND OPTIONS** ..... PAGE 4

12. What happens if I am a Class Member and I do nothing?
13. If I am a Class Member, why would I ask to be excluded?
14. If I am a Class Member, how do I ask the Court to exclude me from the Class?

**THE LAWYERS REPRESENTING THE CLASS** ..... PAGE 5

15. Do Class Members have a lawyer in this case?
16. If I am a Class Member, should I get my own lawyer?
17. How will the lawyers be paid?

**THE TRIAL** ..... PAGE 6

18. How and when will the Court decide who is right?
19. Do Class Members have to come to the trial?
20. Will Class Members get money after the trial or other resolution?

**GETTING MORE INFORMATION** ..... PAGE 6

21. Are more details available?

## BASIC INFORMATION

### 1. Why is this notice being provided?

According to the records of the Administrative Office of the United States Courts, which runs PACER, individuals and entities receiving this notice have paid PACER fees between April 21, 2010 and April 21, 2016. This notice explains that the Court has allowed, or “certified,” a class action lawsuit that may affect you. You may have legal rights and options that you may exercise before the Court decides who wins the case. The Court will decide whether the claims being made against the United States are valid. Judge Ellen Huvelle of the United States District Court for the District of Columbia is overseeing this class action. The lawsuit is known as *National Veterans Legal Services Program, et al. v. United States*, Civil Action No. 1:16-cv-00745-ESH.

### 2. What is this lawsuit about?

This lawsuit is about whether the federal courts have charged PACER users more than necessary to cover the costs of providing public access to federal court records through PACER, and if so, whether those excessive fees are unlawful.

### 3. What is a class action and who is involved?

In a class action lawsuit, entities called “Class Representatives” (in this case the National Veterans Legal Services Program, the National Consumer Law Center, and the Alliance for Justice) sue on behalf of other people and entities who have similar claims. The people and entities together are a “Class” or “Class Members.” The entities who sued—and all the Class Members like them—are called the Plaintiffs. The United States government, which they sued, is called the Defendant. One court resolves the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class.

### 4. Why is this lawsuit a class action?

The Court decided that this lawsuit can be a class action and move towards a trial because it meets the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal district courts. Specifically, the Court found that:

- The Class is so numerous that joining all Class Members is impracticable;
- There are legal questions and facts that are common to the Class;
- The Class Representatives’ claims are typical of the claims of the rest of the Class;
- The Class Representatives and the lawyers representing the Class will fairly and adequately represent the Class’s interests;
- The common legal questions and facts are more important than questions that affect only individuals; and
- This class action will be more efficient than having many individual lawsuits.

More information about why the Court is allowing this lawsuit to be a class action is in the Court’s ruling on Motion for Class Certification, which is available [here](#).

## THE CLAIMS IN THE LAWSUIT

### 5. What does the lawsuit complain about?

In the lawsuit, the Plaintiffs say that Congress authorized the Administrative Office of the U.S. Courts to charge PACER fees only to the extent necessary to cover the costs of providing the service, but that the federal courts are charging more than that. Plaintiffs seek to recover any excessive PACER fees collected by the Administrative Office. You can read the Plaintiffs' Class Action Complaint [here](#).

### 6. How does the United States government answer?

The United States government denies Plaintiffs' allegations, including that the PACER fees are excessive; denies any wrongdoing; and denies any liability to Plaintiffs or any member of the Class. The government's Answer to the Class Action Complaint is available [here](#).

### 7. Has the Court decided who is right?

The Court hasn't decided whether the United States government or the Plaintiffs are correct. By establishing the Class and issuing this notice, the Court is not suggesting that the Plaintiffs will win or lose this case. The Plaintiffs will attempt to prove their claims in court proceedings that have not yet been scheduled. (See "The Trial" below on page 6.)

### 8. What are the Plaintiffs asking for?

The Plaintiffs seek the recovery of the excessive portion of the PACER fees.

### 9. Is there any money available now?

No money or benefits are available now because the Court has not yet decided whether the United States government did anything wrong, and the two sides have not settled the case. There is no guarantee that money or benefits ever will be obtained. If they are, you will be notified about how to ask for your share.

## WHO IS IN THE CLASS

You need to determine whether you are affected by this lawsuit.

### 10. Am I part of this Class?

The Court decided: All persons who paid PACER Fees between April 21, 2010 and April 21, 2016, excluding class counsel in this case and federal government entities, are Class Members.

### 11. I'm still not sure if I am included.

If you are still not sure whether you are included, you can get free help at [www.PACERFeesClassAction.com](http://www.PACERFeesClassAction.com), or by calling or writing to the class administrator in this case, at the phone number or address listed in question 21.

## CLASS MEMBERS' RIGHTS AND OPTIONS

If you are a Class Member, you have to decide whether to stay in the Class or ask to be excluded before the Court decides who wins, and you have to decide this by July 17, 2017.

## **12. What happens if I am a Class Member and I do nothing?**

You don't have to do anything now if you want to keep the possibility of getting money or benefits from this lawsuit. By doing nothing you are staying in the Class. If you stay in the Class and the Plaintiffs obtain money or benefits, either as a result of a court ruling or a settlement, you will be notified about how to apply for your share (or how to ask to be excluded from any settlement). Keep in mind that if you do nothing now, regardless of whether the Plaintiffs win or lose the case, you will not be able to sue, or continue to sue, the United States government or Administrative Office—as part of any other lawsuit—about the same legal claims that are the subject of this lawsuit. This means that you will not be able to sue the government or the Administrative Office of the U.S. Courts for any PACER fees paid between April 21, 2010 and April 21, 2016. You will also be legally bound by all of the Orders the Court issues and judgments the Court makes in this class action.

## **13. If I am a Class Member, why would I ask to be excluded?**

If you exclude yourself from the Class—which also means to remove yourself from the Class, and is sometimes called “opting out” of the Class—you won't get any money or benefits from this lawsuit even if the Plaintiffs obtain them as a result of a court ruling or from any settlement (that may or may not be reached) between Plaintiffs and the United States government. However, you may then be able to sue or continue to sue the government for the PACER fees at issue in this case. If you exclude yourself, you will not be legally bound by the Court's judgments in this class action.

If you exclude yourself, you may represent yourself or hire a lawyer to represent you in your own lawsuit against the government or the Administrative Office of the U.S. Courts. If you exclude yourself and bring your own lawsuit, you'll have to prove your own claims, and will no longer be represented by class counsel. If you choose to exclude yourself so you can start or continue your own lawsuit against the government, you should decide soon whether to pursue your own case because your claims may be subject to a statute of limitations.

## **14. If I am a Class Member, how do I ask the Court to exclude me from the Class?**

To ask to be excluded from the Class, you must request exclusion in one of the following ways:

1. Send an “Exclusion Request” in the form of a letter sent by mail, stating that you want to be excluded from *National Veterans Legal Services Program v. United States* Case No. 1:16-cv-00745-ESH. Be sure to include your name, address, telephone number, email address, and signature. You must mail your Exclusion Request, **postmarked by July 17, 2017**, to: PACER Fees Class Action Administrator, P.O. Box 43434, Providence, RI 02940-3434.
2. Complete and submit online the Exclusion Request Form found [here](#) by **July 17, 2017**.
3. Send an Exclusion Request Form, available [here](#), by mail. You must mail your Exclusion Request Form, **postmarked by July 17, 2017**, to: PACER Fees Class Action Administrator, P.O. Box 43434, Providence, RI 02940-3434.

## **THE LAWYERS REPRESENTING THE CLASS**

### **15. Do Class Members have a lawyer in this case?**

Yes, the Court decided that the law firms of Gupta Wessler PLLC of Washington, D.C. and Motley Rice LLC of Mount Pleasant, South Carolina are qualified to represent all Class Members. These law firms are called “Class Counsel.” They are experienced in handling other class actions. More information about Gupta Wessler and Motley Rice, their practices, and their lawyers' experience is available at [www.guptawessler.com](http://www.guptawessler.com) and [www.motleyrice.com](http://www.motleyrice.com).

**16. If I am a Class Member, should I get my own lawyer?**

You do not need to hire your own lawyer because Class Counsel are working on your behalf. But, if you want your own lawyer, you will have to pay that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

**17. How will the lawyers be paid?**

If Class Counsel get money or benefits for the Class, they may ask the Court for fees and expenses. If the Court grants Class Counsel's request, Class Counsel's and their co-counsel's fees and expenses would be paid by the United States government or deducted from any money obtained for the Class. By participating in the Class, you agree to pay Class Counsel up to 30 percent of the total recovery in attorneys' fees and expenses with the total amount to be determined by the Court.

## THE TRIAL

The Court has not yet scheduled a trial to decide who is right in this case. There may not be a trial because the Court may decide the case based on documents filed with the Court.

**18. How and when will the Court decide who is right?**

As long as the case isn't resolved by a settlement, Class Counsel will have to prove the Plaintiffs' claims in court. A trial date has not been scheduled. The judge will make a decision about whether the Plaintiffs or the United States government is right about the claims in the lawsuit. There is no guarantee that the Plaintiffs will win, or that they will get any money for the Class.

**19. Do Class Members have to come to the trial?**

If there is a trial, Class Members do not need to attend it. Class Counsel will present the case for the Class, and the government will present the defenses. You or your own lawyer are welcome to come at your own expense.

**20. Will Class Members get money after the trial or other resolution?**

If the Plaintiffs obtain money or benefits as a result of a court decision or a settlement, Class Members will be notified about how to obtain a share. We do not know how long this will take.

## GETTING MORE INFORMATION

**21. Are more details available?**

Visit the website, [www.PACERFeesClassAction.com](http://www.PACERFeesClassAction.com), where you will find the Court's Order Certifying the Class, the Complaint that the Plaintiffs filed, the Defendant's Answer to the Complaint, as well as an Exclusion Request Form. You may also obtain more information by calling 1-844-660-2215, or by writing to: PACER Fees Class Action Administrator, P.O. Box 43434, Providence, RI 02940-3434. You may speak to one of the lawyers by calling 1-866-274-6615.

DATE: April 17, 2017