

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

NATIONAL VETERANS LEGAL  
SERVICES PROGRAM, et al  
Plaintiffs

CASE NO. 16-745-ESH  
J: Ellen Huvelle

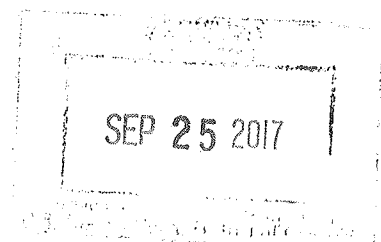
v.  
UNITED STATES OF AMERICA  
Defendant(s)

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**PETITIONER'S VERIFIED MOTION FOR FREE ACCESS  
TO PACER UNTIL FINAL DISPOSITION OF THIS CASE**

COMES NOW, the Petitioner, Don Kozich (Kozich), who files this Verified Motion For Free Access to PACER Until Final Disposition of this Case, and under penalty of perjury, declares that he has read the Motion, and that the facts stated in it are true, and further states:

1. Kozich is a retired disabled veteran living on fixed low income social security and VA pension.
2. In the Florida Court system, the public does not have to pay to see, review or copy the docket, the filed documents or the orders.
3. PACER is a government agency or department that keeps and maintains the Public Access to Court Electronic Records (PACER) (Exhibit "B").
4. Kozich is not an attorney and does not have access to the court's electronic court filing system (ECF). While Kozich has been receiving documents and orders via USPS snail mail, given the fast pace of the federal court system that notice procedure



is much too slow. Therefore, Kozich had to subscribe to PACER in order to keep timely current on the docket, filings and orders.

5. On July 17, 2017 Kozich, as a Limited Class Member and Amicus (Friend of Court), filed his Motion for Leave to File Amicus Curiae Qualifying Complaint and Settlement and to Appear Telephonically at the Next Relevant Hearing [DE49] which apparently is still pending before this court.

6. Kozich says "apparently pending" because on September 13, 2017 the court entered a MINUTE ORDER granting [DE53, 55, 56] Movants' Motions for Leave to File Briefs as Amicus Curiae a copy of which the Clerk had mailed to Kozich. However in a subsequent phone conversation the Clerk confirmed that Kozich's Motion [DE49] was not included in the Court's September 13, 2017 Minute Order and is still pending before the court.

7. Kozich is before this court as a Limited Class Member and Amicus:

a. As a class member because he utilized PACER and paid excessive PACER user fees during the relevant time.

b. As a limited class member and amicus because PACER closed his account and put it into collection because he has an outstanding balance of \$354.60 plus \$94.26 in collection fees for a total of \$448.86 (Exhibit "A") owed to PACER resulting from PACER overcharging on its fees, and not allowing free looks and copy and paste

to pro se persons while allowing attorneys free looks and free copy and paste (Exhibit "B").

8. PACER requires that Kozich obtain an order granting Kozich free access to PACER (Exhibit "B", top of pg. 2.).

9. So that Kozich can keep abreast of this case, Kozich requests the Court grant Kozich free access to PACER until final disposition of this case.

**WHEREFORE**, Kozich respectfully requests an order of court,

1. Granting this Verified Motion for Free Access to Pacer until final disposition of this case.
2. Granting Kozich free access to PACER until final disposition of this case.
3. Or such further and other relief the court deems just and equitable.


### VERIFICATION DECLARATION

I DECLARE under penalty of perjury that the statements made in this <sup>motion</sup> complaint are true and correct to the best of my knowledge.

  
Don Kozich, Class Member and Amicus

I HEREBY CERTIFY that the foregoing was filed with the court on September 22, 2017.

Jackie Francis Case Administrator  
202.354.3174  
202.354.3190

  
Don Kozich, Class Member and Amicus  
PO Box 2032  
Fort Lauderdale, FL 33303-2032  
954.709.0537  
dtkctr@gmail.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on all counsel or parties of record in accordance with the Service List attached.

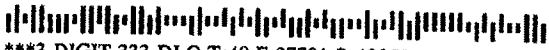
  
Don Kozich, Class Member and Amicus

# PACER Service Center

P.O. Box 71364 Philadelphia, PA 19176-1364

11/19/2015

## DELINQUENCY NOTICE



\*\*\*3-DIGIT 333-DLQ T:49 F:27701 R:13359

DON KOZICH

DON KOZICH

619 No. Andrews Avenue, #408

FT LAUDERDALE, FL 33311-7447

Account Number: 2792766

Amount Past Duc: \$354.60

As of today, we have not received payment for an outstanding balance. If the payment has been remitted, please disregard this notice.

To make a payment by credit card, visit the PACER Service Center website at [pacer.gov](http://pacer.gov). The PACER Service Center accepts Visa, MasterCard, Discover, and American Express. You can also pay by check or money order. Write your account number on your check or money order and mail it to:

PACER Service Center  
P.O. Box 71364  
Philadelphia, PA 19176-1364

To check your account balance, review transaction details, or download a copy of your statement, go to [pacer.gov](http://pacer.gov). From the home page, select Manage My Account; then enter your username and password.

PACER is a service of the United States Judiciary. The PACER Service Center is managed by the Administrative Office of the United States Courts. Your outstanding debt is owed to the federal government and is subject to federal debt collection measures. These measures include, but are not limited to, referral to a private collection agency or the Department of the Treasury.

Please call the PACER Service Center at 800-676-6856 if you have questions regarding your account. Payment in full must be received by 12/07/2015 or further access to PACER will be denied.

This will be your only reminder.

Anna Marie Garcia  
Chief, PACER Support Branch

EX A  
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don kozich <dtkctr@gmail.com>

**ACCOUNT NO. 2792766**

pacermail@psc.uscourts.gov <pacermail@psc.uscourts.gov>  
To: don kozich <dtkctr@gmail.com>

Thu, Jul 13, 2017 at 11:59 AM

The total due with collection fees is \$448.86.

Thank you,  
Judi

PACER Service Center  
Phone: 210-301-6440  
Toll Free: 800-676-6856  
For Frequently Asked Questions: <http://www.pacer.gov/psc/hfaq.html>  
For Account Information: <https://www.pacer.gov/psc/cgi-bin/psclogin.pl>

From: don kozich <dtkctr@gmail.com>  
To: pacermail@psc.uscourts.gov  
Date: 07/13/2017 10:04 AM  
Subject: Re: ACCOUNT NO. 2792766

[Quoted text hidden]

EX A  
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## Pacer User Says Billing Error Causes Overcharges

By [Dani Meyer](#)

Law360, New York (January 5, 2016, 1:52 PM EST) -- A glitch in the Public Access to Court Electronic Records billing system is causing it to overcharge users accessing certain docket reports, according to a proposed class action filed in the U.S. Court of Federal Claims.

Pacer is only supposed to charge 10 cents for each page of a docket report up to a maximum charge of \$3 per transaction, but Bryndon Fisher alleged in his Dec. 28 complaint that users are systematically overcharged because of an error in Pacer's billing system that miscalculates the number of extracted bytes in certain docket reports accessed in the default HTML format.

"Plaintiff's investigation determined that the source of this overcharge lies in the case caption, the portion of a docket report that contains basic information about a case (e.g., the case number, parties and attorneys of record). Instead of counting the number bytes in the case caption once, Pacer actually counts these bytes approximately five times," Fisher said.

Pacer, a service that allows users to obtain federal case and docket information online, displays docket reports in HTML format by default, according to the complaint.

In order to determine the number of billable pages, Pacer uses a formula based on the number of bytes in a docket to calculate the number of billable pages. One billable page is 4,320 extracted bytes.

But an investigation into Pacer's billing practices by Fisher's counsel revealed that Pacer actually miscalculates the number of extracted bytes, resulting in an overcharge for accessing the docket reports.

"If a user accesses an HTML docket report, and the case caption for that docket is more than 850 characters, the systemic billing error manifests itself. This is because when the caption contains 850 or more characters, the caption contains enough bytes that when overcounted by five times, it triggers at least one additional \$0.10 charge to the user," Fisher said.

During the past two years, Fisher has accessed 184 court docket reports and was charged a total of \$109.40, according to the complaint. But based on the formula laid out by Pacer, Fisher should have been charged only \$72.40.

resulting in a \$37 overcharge.

Fisher said that the Pacer system used in the U.S. district courts, U.S. bankruptcy courts and the U.S. Court of Federal Claims is affected by the billing error.

He seeks the certification of a class of all Pacer users in the last six years who were overcharged for at least one docket report in HTML format that has a case caption of 850 or more characters.

The suit asserts claims for breach of contract and illegal exaction and asks for compensatory damages and any other damages authorized by the court, prejudgment and post-judgment interest and attorneys' fees and costs.

A representative for Fisher declined to comment on Tuesday, and representatives for Pacer didn't immediately respond to a request for comment.

Fisher is represented by Noah M. Schubert, Robert C. Schubert and Miranda P. Kolbe of Schubert Jonckheer & Kolbe LLP.

Counsel information for the government wasn't immediately available on Tuesday.

The case is Fisher v. The United States of America, case number 1:15-cv-01575, in the U.S. Court of Federal Claims.

--Editing by Stephen Berg.

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## Frequently Asked Questions

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- How do I register for PACER?
- How often am I billed and how can I pay?
- What should I put in the Client Code field?
- Can I use one account but track charges separately for different clients/users?
- What is the PACER Service Center's tax identification number?
- Where do I go to view my transactions?
- What are some examples of per page charges?
- Why does PACER charge a fee?
- Can PACER perform the search for me?
- Are all government agencies exempt from charges?
- How do I request credit to my PACER account?
- How do I get a refund for an overpayment?
- How do I sort my statement by client code?

C 1/2

I was granted *in forma pauperis* status in my case. Will I receive free PACER access?

***In forma pauperis* status does not automatically entitle you to free access to PACER. Users must petition the court separately to request free access to PACER.**

- How do I access the details of my statement?
- What about the bankruptcy rules requiring Social Security numbers on court documents?
- Do the courts redact information in case files?
- Why is a tax ID required to register for PACER?
- How is the attorney billed for PACER usage?
- Can I receive case information via phone?
- What are the PACER policies and procedures?
- Are there any limits to PACER usage?
- Do I have to be an attorney to use PACER?

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This site is maintained by the Administrative Office of the U.S. Courts, PACER Service Center.  
The purpose of this site is to provide information about locating and filing cases in U.S. federal courts.

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Plaintiffs

CASE NO. 16-745-ESH  
J: Ellen Huvelle

v.  
UNITED STATES OF AMERICA  
Defendant(s)

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

EFF: 170922

Alliance for Justice

Attorney General of the United States

Georgetown University Law Center

Gupta Deepak

Gupta Wessler PLLC

Institute for Public Representation

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Motley Rice LLC

Narwold William

National Consumer Law Center

National Veterans Legal Services Program

Nebeker W. Mark

Taylor Jonathan E.

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v.  
UNITED STATES OF AMERICA  
Defendant(s)

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

United States Attorney

I HEREBY CERTIFY that the foregoing was filed with the court and a copy served to  
all Parties on 9/22, 2017.



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UNITED STATES DISTRICT COURT  
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NATIONAL VETERANS LEGAL  
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Plaintiffs

CASE NO. 16-745-ESH  
J. Ellen Huvelle

v.

UNITED STATES OF AMERICA  
Defendant(s)

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