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# PACER Fees Unlawfully High, Nonprofits Say in New Class Action

Lawsuit accuses federal judiciary of overcharging for court records searches.

Zoe Tillman, The National Law Journal

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The federal judiciary is overcharging users for access to the public online database of court records known as PACER, a group of nonprofits alleged in a class action filed on Thursday in Washington.

The Public Access to Court Electronic Records system, known as PACER, generally charges users 10 cents per page for court records, with a maximum charge of three dollars per record. The plaintiffs—National Veterans Legal Services Program, National Consumer Law Center and Alliance for Justice—claim the fees more than cover the cost of maintaining of the system, and that the extra money is used for unrelated expenses in violation of the federal E-Government Act of 2002.

“This noncompliance with the E-Government Act has inhibited public understanding of the courts and thwarted equal access to justice,” the nonprofits argued, [in a complaint](#) filed in the U.S. District Court for the District of Columbia.

A spokesman for the Administrative Office declined to comment.

This isn't the first time that unhappy PACER users have tried to sue over fees. But the nonprofits, represented by D.C. firms Gupta Wessler and Motley Rice and the Institute for Public Representation at Georgetown University Law Center, contend their suit is different. A 2014 lawsuit filed in the federal district court in San Jose, California, was dismissed on “jurisdictional grounds” that the nonprofits say won't be an issue in their case.

Earlier this year, two lawsuits were filed—one in the D.C. federal district court, and the other in the U.S. Court of Federal Claims—claiming that computer error [caused the PACER system to overcharge users](#). Those cases don't challenge the legality of the fees charged.

Congress authorized the federal judiciary to charge fees to support the online records system. The E-Government Act, the nonprofits said, allowed the judiciary to charge fees to support PACER “only to the extent necessary.” Over time, the nonprofits alleged, the judiciary used surplus money from PACER fees to pay for other expenses, including courtroom audio systems and flat-screen televisions in jury boxes.

In an interview with The National Law Journal on Thursday, Deepak Gupta of Gupta Wessler said that although the judiciary has long faced complaints about PACER fees, opponents struggled to identify a legal pathway to take the issue to court. The judiciary is exempt from the Administrative Procedure Act, Gupta said, which would normally provide a way for individuals or groups to sue an agency they believed was violating federal law.

The nonprofits' lawsuit is filed under the Little Tucker Act, which "provides jurisdiction to recover an illegal exaction by government officials when the exaction is based on an asserted statutory power," according to the complaint.

The nonprofits want a judge to declare the fees "excessive" and to order the judiciary to pay back any allegedly unlawful surplus fees.

"It's quite apparent from information that's publicly available that the judiciary is collecting far more than it needs to run the service and is using the funds for a variety of expenses that are unrelated to the service," Gupta told The NLJ.

*The complaint in National Veterans Legal Services Program v. United States is posted below.*

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