

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
MAHLON KIRWA, et al.,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	Civil Action No. 1:17-cv-01793-ESH-RMM
)	The Honorable Ellen Segal Huvelle
UNITED STATES DEPARTMENT OF)	
DEFENSE and MARK T. ESPER,)	
in his official capacity as Acting Secretary)	
of Defense,)	
)	
<i>Defendants.</i>)	
_____)	

JOINT STATUS REPORT

In an August 30, 2019 Minute Order, the Court directed the parties to file a Joint Status Report on or before October 30, 2019, regarding the parties’ progress in developing a plan for bringing this case to a close. To that end, the parties have conferred in an attempt to develop a joint approach by which this case could become substantially moot. These conversations have been cordial and productive, but the parties have not yet reached agreement on a plan.

The parties are continuing to discuss topics, such as (1) ways to jointly identify all potential class members, (2) ways to narrow that list to the sub-set of soldiers who have not received an accurately-certified and USCIS-acceptable N-426, (3) whether and how to determine (if possible from existing records held by the parties) why the remaining soldiers have yet to receive such an N-426, (4) appropriate steps (e.g., notification by the Army, contact by class counsel, etc.) for the parties to feel comfortable that class members have been informed of their rights and have the opportunity to seek and receive an accurately-certified N-426, and (5) the implications for this case of the Army’s determination that only 18 DTP MAVNI soldiers have been discharged for non-MSSD reasons since September 30, 2016, and the implications for these

discussions of the Army's intention to offer reinstatement to those DTP soldiers for purposes of receiving the procedures described in AR 135-178. *See, e.g.,* St. Clair Dec., ¶ 4, ECF 122-1, *Calixto v. U.S. Dep't of the Army*, Case No. 18-1551 (ESH) (D. D.C.); Defendants' Status Report, ECF 125, *Calixto*.

The parties have not reached any agreements with respect to any of these topics but discussions are expected to continue. However, the parties have determined that, given the linkage between this case and the related *Nio* action, discussions will be more productive when the *Nio* case is closer to settlement. The parties are aware that Defendants in the *Nio* action have a class-wide report due in mid-December 2019 and that the Court has ordered a status hearing for the *Nio* action on January 21, 2020, and therefore jointly request additional time, up to and including January 10, 2020, to file a joint status report with the Court advising of the status of the parties' progress at that time.

Respectfully submitted,

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