

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

LUCAS CALIXTO, *et al.*,

Plaintiffs,

v.

**UNITED STATES DEPARTMENT OF
THE ARMY, *et al.*,**

Defendants.

Civil Action No. 18-1551 (ESH)

ORDER

As discussed at the status conference held on June 24, 2019, it is hereby

ORDERED that the status conference currently scheduled for July 31, 2019, at 12 pm is reset for **July 31, 2019, at 2 pm** in Courtroom 23A; it is further

ORDERED that plaintiffs shall file a supplemental pleading of no more than 10 pages by **July 8, 2019, at 12 pm** regarding their motion for class certification, addressing defendants' argument that the separation procedures described in AR 135-178, which govern DTPs, do not govern separation procedures for DEPs discharged for non-MSSD reasons. Defendants may file a response of no more than 10 pages by **July 22, 2019, at 12 pm**; it is further

ORDERED that defendants shall provide discovery to plaintiffs' counsel on a rolling basis, consisting of separation-related files for the first 2 or 3 DTPs discharged each month for non-MSSD reasons between June 1, 2017 and May 30, 2019. If there is any month in which fewer than 2 DTPs were discharged for non-MSSD reasons, files shall be randomly selected from another month to ensure that defendants shall provide plaintiffs with no fewer than 25 files of DTPs discharged for non-MSSD reasons between June 1, 2017 and May 30, 2018, and no

fewer than 25 files of DTPs discharged for non-MSSD reasons between June 1, 2018 and May 30, 2019. Defendants must provide all 50 files to plaintiffs' counsel by no later than **July 19, 2019, at 12 pm**; it is further

ORDERED that plaintiffs shall file a supplemental pleading of no more than 10 pages by **July 24, 2019, at 12 pm**, regarding their motion for class certification—addressing Rule 23's requirements of numerosity, typicality, and adequacy—as informed by the discovery they received from defendants. Plaintiffs' filing should also include a signed declaration or affidavit from named plaintiff Yisheng Dai. Defendants may file a response of no more than 10 pages by **July 29, 2019, at 12 pm**; it is further

ORDERED that the following four plaintiffs named in the Second Amended Complaint are no longer proper plaintiffs, as they are currently in the military, have received favorable MSSDs, and there is no indication of any intent by the military to discharge them in the foreseeable future: **Bright Izudike, Hembashima Sambe, Emeka Udeigwe, and Xing Lu**; it is further

ORDERED that if any MAVNI soldier expresses a desire to waive their procedural rights afforded under the October 26, 2018 Memo, ECF No. 50-1, they shall be provided 30 days within which to contact a lawyer prior to any waiver of rights, and they shall be provided with the contact information for plaintiffs' counsel, Jennifer Wollenberg; and it is further

ORDERED that defendants shall not have any direct contact with the remaining 7 named plaintiffs about any matter related to the lawsuit.



Ellen S. Huvelle

ELLEN S. HUVELLE

United States District Judge

Date: June 25, 2019