

**U.S. District Court  
District of Connecticut (New Haven)  
CIVIL DOCKET FOR CASE #: 3:18-cv-00372-CSH**

Manker et al v. Spencer  
Assigned to: Judge Charles S. Haight, Jr  
Cause: 05:702 Administrative Procedure Act

Date Filed: 03/02/2018  
Jury Demand: None  
Nature of Suit: 899 Other Statutes:  
Administrative Procedures Act/Review or  
Appeal of Agency Decision  
Jurisdiction: U.S. Government Defendant

**Plaintiff**

**Tyson Manker**  
*on behalf of himself and all others  
similarly situated*

represented by **Jessica A. Martinez**  
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**Plaintiff**

**National Veterans Council for Legal Redress**  
*on behalf of itself, its members, and all others similarly situated*

represented by **Jessica A. Martinez**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Michael J. Wishnie**  
(See above for address)  
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**Aaron Paul Wenzloff**  
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**Nicole Taykhman**  
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**Susan J. Kohlmann**  
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*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**Richard V Spencer**  
*Secretary of the Navy*

represented by **David Christopher Nelson**  
U.S. Attorney's Office-NH  
157 Church St., 25th Floor  
New Haven, CT 06510  
203-821-3700

Date Filed	#	Docket Text
03/02/2018	<u>1</u>	COMPLAINT against Richard V Spencer ( Filing fee \$400 receipt number ACTDC-4739751.), filed by Tyson Manker, National Veterans Council for Legal Redress. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5)(Wishnie, Michael) (Entered: 03/02/2018)
03/02/2018		Request for Clerk to issue summons as to Richard V Spencer. (Wishnie, Michael) (Entered: 03/02/2018)
03/02/2018		Judge Charles S. Haight, Jr added. (Anastasio, F.) (Entered: 03/02/2018)
03/02/2018	<u>2</u>	Order on Pretrial Deadlines: Discovery due by 9/1/2018 Signed by Clerk on 03/02/2018. (Peterson, M) (Entered: 03/05/2018)
03/02/2018	<u>3</u>	ELECTRONIC FILING ORDER – PLEASE ENSURE COMPLIANCE WITH COURTESY COPY REQUIREMENTS IN THIS ORDER Signed by Judge Charles S. Haight, Jr on 03/02/2018. (Peterson, M) (Entered: 03/05/2018)
03/05/2018	<u>4</u>	NOTICE TO COUNSEL/SELF-REPRESENTED PARTIES : Counsel or self-representing parties initiating or removing this action are responsible for serving all parties with attached documents and copies of <u>1</u> Complaint, filed by Tyson Manker, National Veterans Council for Legal Redress, <u>2</u> Order on Pretrial Deadlines, <u>3</u> Electronic Filing Order Signed by Clerk on 03/05/2018. (Peterson, M) (Entered: 03/05/2018)
03/05/2018	<u>5</u>	ELECTRONIC SUMMONS ISSUED in accordance with Fed. R. Civ. P. 4 and LR 4 as to *Richard V Spencer* with answer to complaint due within *21* days. Attorney *Michael J. Wishnie* *Jerome N. Frank Legal Services – Wall St / Yale Law School* *127 Wall Street* *New Haven, CT 06511*. (Peterson, M) (Entered: 03/05/2018)
04/30/2018	<u>6</u>	NOTICE of Appearance by David Christopher Nelson on behalf of Richard V Spencer (Nelson, David) (Entered: 04/30/2018)
04/30/2018	<u>7</u>	MOTION for Extension of Time until June 21, 2018 to file a responsive pleading <u>1</u> Complaint, by Richard V Spencer. (Nelson, David) (Entered: 04/30/2018)
05/01/2018	<u>8</u>	ELECTRONIC ORDER granting, for good cause shown and pursuant to Local Rule 7(b), Defendant's unopposed <u>7</u> <i>First Motion for Extension of Time to File a Responsive Pleading</i> . Accordingly, Defendant must file a pleading responsive to the <u>1</u> <i>Complaint</i> not later than <b>Thursday, June 21, 2018</b> . Signed by Judge Charles S. Haight, Jr. on May 1, 2018. (Pskowski, R.) (Entered: 05/01/2018)
05/01/2018	<u>9</u>	NOTICE of Appearance by Aaron Paul Wenzloff on behalf of Tyson Manker, National Veterans Council for Legal Redress (Wenzloff, Aaron) (Entered: 05/01/2018)
05/01/2018	<u>10</u>	Joint MOTION for Proposed Scheduling Order by Tyson Manker, National Veterans Council for Legal Redress. (Wishnie, Michael) (Entered: 05/01/2018)
05/01/2018	<u>11</u>	ELECTRONIC SCHEDULING ORDER granting and adopting the Parties' <u>10</u> <i>Joint Motion for Scheduling Order</i> . Accordingly, Plaintiffs motion for class certification is due no later than <b>May 15, 2018</b> . Defendants opposition to that motion is due on or before <b>June 26, 2018</b> . Plaintiffs may file a brief in reply on or before <b>July 17, 2018</b> . Defendants responsive pleading will not be due until after class certification has been decided, and the present deadline for that filing is hereby STAYED. Signed by Judge Charles S. Haight, Jr. on May 1, 2018. (Pskowski, R.) (Entered: 05/01/2018)
05/01/2018		Answer deadline updated for Richard V Spencer to 6/21/2018. (Freberg, B) (Entered: 05/08/2018)
05/15/2018	<u>12</u>	MOTION to Certify Class by Tyson Manker, National Veterans Council for Legal Redress.Responses due by 6/5/2018 (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration of Michael J. Wishnie, # <u>3</u> Declaration of Susan J. Kohlmann)(Wishnie,

		Michael) (Entered: 05/15/2018)
06/05/2018	<u>13</u>	Joint STIPULATION <i>and Proposed Order Regarding Discovery Plan</i> by Tyson Manker, National Veterans Council for Legal Redress. (Wishnie, Michael) (Entered: 06/05/2018)
06/05/2018	14	ELECTRONIC SCHEDULING ORDER adopting the proposals of the Parties' <u>13</u> <i>Joint Stipulation and Proposed Order Regarding Discovery Plan</i> , filed pursuant to Fed. R. Civ. P. 26(f). Accordingly, Defendant will file a responsive pleading within <b>30 days</b> of the Court's decision on Plaintiffs' pending <u>12</u> <i>Motion for Class Certification</i> . Within <b>45 days</b> of the Court's decision on class certification, the Parties will exchange initial disclosures, as contemplated by Fed. R. Civ. P. 26(a)(1), and file with the Court a proposed schedule for remaining deadlines, in compliance with the provisions of Local Rule 26(f). If either Party appeals the class certification decision, the Parties shall confer and submit a new proposed interim schedule within <b>30 days</b> of the class certification decision. While setting of a full schedule is deferred, pending a decision on class certification, the Parties represent that they do not anticipate fact discovery to take more than 9 months. Signed by Judge Charles S. Haight, Jr. on June 5, 2018. (Pskowski, R.) (Entered: 06/05/2018)
06/22/2018	<u>15</u>	MOTION for Attorney(s) Jeremy M. Creelan to be Admitted Pro Hac Vice (paid \$75 PHV fee; receipt number ACTDC-4878030) by Tyson Manker, National Veterans Council for Legal Redress. (Attachments: # <u>1</u> Exhibit A)(Wishnie, Michael) (Entered: 06/22/2018)
06/22/2018	<u>16</u>	MOTION for Attorney(s) Susan J. Kohlmann to be Admitted Pro Hac Vice (paid \$75 PHV fee; receipt number ACTDC-4878045) by Tyson Manker, National Veterans Council for Legal Redress. (Attachments: # <u>1</u> Exhibit A)(Wishnie, Michael) (Entered: 06/22/2018)
06/22/2018	<u>17</u>	MOTION for Attorney(s) Jessica A. Martinez to be Admitted Pro Hac Vice (paid \$75 PHV fee; receipt number ACTDC-4878047) by Tyson Manker, National Veterans Council for Legal Redress. (Attachments: # <u>1</u> Exhibit A)(Wishnie, Michael) (Entered: 06/22/2018)
06/22/2018	<u>18</u>	MOTION for Attorney(s) Jeremy H. Ershow to be Admitted Pro Hac Vice (paid \$75 PHV fee; receipt number ACTDC-4878054) by Tyson Manker, National Veterans Council for Legal Redress. (Attachments: # <u>1</u> Exhibit A)(Wishnie, Michael) (Entered: 06/22/2018)
06/25/2018	<u>19</u>	RESPONSE re <u>12</u> MOTION to Certify Class filed by Richard V Spencer. (Attachments: # <u>1</u> Exhibits 1 - 4)(Nelson, David) (Entered: 06/25/2018)
06/27/2018	20	ORDER granting <u>15</u> Motion to Appear Pro Hac Vice. Signed by Clerk on 06/27/2018. (Peterson, M) (Entered: 06/27/2018)
06/27/2018	21	ORDER granting <u>16</u> Motion to Appear Pro Hac Vice; granting <u>17</u> Motion to Appear Pro Hac Vice; granting <u>18</u> Motion to Appear Pro Hac Vice. Signed by Clerk on 06/27/2018. (Peterson, M) (Entered: 06/27/2018)
06/28/2018	<u>22</u>	NOTICE of Appearance by Jeremy H. Ershow on behalf of Tyson Manker, National Veterans Council for Legal Redress (Ershow, Jeremy) (Entered: 06/28/2018)
06/29/2018	<u>23</u>	NOTICE of Appearance by Susan J. Kohlmann on behalf of Tyson Manker, National Veterans Council for Legal Redress (Kohlmann, Susan) (Entered: 06/29/2018)
07/16/2018	<u>24</u>	NOTICE of Appearance by Jeremy M. Creelan on behalf of Tyson Manker, National Veterans Council for Legal Redress (Creelan, Jeremy) (Entered: 07/16/2018)
07/16/2018	<u>25</u>	REPLY to Response to <u>12</u> MOTION to Certify Class filed by Tyson Manker, National Veterans Council for Legal Redress. (Kohlmann, Susan) (Entered: 07/16/2018)
07/17/2018	<u>26</u>	MOTION for Aaron Wenzloff to Withdraw as Attorney by Tyson Manker, National Veterans Council for Legal Redress. (Wenzloff, Aaron) (Entered: 07/17/2018)
07/17/2018	27	ORDER granting Attorney Aaron P. Wentzloff's <u>26</u> <i>Motion to Withdraw</i> . Attorney Wentzloff is terminated from the case, and Plaintiffs will continue to be represented in this Court by the remaining attorneys of record. Signed by Judge Charles S. Haight, Jr. on July 17, 2018. (Pskowski, R.) (Entered: 07/17/2018)

09/17/2018	<u>28</u>	MOTION for Leave to Appear Law Student Intern Attorney Samantha Peltz. by Tyson Manker, National Veterans Council for Legal Redress. (Attachments: # <u>1</u> Exhibit)(Wishnie, Michael) (Entered: 09/17/2018)
09/17/2018	<u>29</u>	MOTION for Leave to Appear Law Student Intern Attorney Jonathan Petkun. by Tyson Manker, National Veterans Council for Legal Redress. (Attachments: # <u>1</u> Exhibit)(Wishnie, Michael) (Entered: 09/17/2018)
09/17/2018	<u>30</u>	MOTION for Leave to Appear Law Student Intern Attorney Westley Resendes. by Tyson Manker, National Veterans Council for Legal Redress. (Attachments: # <u>1</u> Exhibit)(Wishnie, Michael) (Entered: 09/17/2018)
09/18/2018	31	ELECTRONIC ORDER, granting Plaintiffs' <u>28</u> <u>29</u> <u>30</u> <i>Motions for Leave for Law Student Intern to Appear</i> . "Any eligible law student intern may, with the Court's approval, under supervision by a member of the bar, appear on behalf of any person who has consented in writing to the intern's appearance." D. Conn. L. Civ. R. 83.9(a). The interns have the consent of clients and a supervising attorney, and they also certify they are enrolled in good standing in law school, have completed at least two semesters of credit in legal studies, and are neither employed nor receiving compensation from clients in this case. Docs. <u>28</u> -1, <u>29</u> -1, <u>30</u> -1; <i>see also</i> D. Conn. L. Civ. R. 83.9(c). Accordingly, law student interns Samathan G, Peltz, Jonathan B. Petkun, and Wesley A. Resendes may appear in this matter on behalf of Plaintiffs, subject to the provisions of Rule 83.9 of the District of Connecticut Local Rules of Civil Procedure and under the supervision of attorney Michael J. Wishnie. Signed by Judge Charles S. Haight, Jr. on 09/18/2018. (Chen, C.) (Entered: 09/18/2018)
09/18/2018	<u>32</u>	NOTICE of Appearance by Jessica A. Martinez on behalf of Tyson Manker, National Veterans Council for Legal Redress (Martinez, Jessica) (Entered: 09/18/2018)
11/15/2018	<u>33</u>	RULING (see attached) granting <u>12</u> <i>Plaintiffs' Motion for Class Certification</i> . Accordingly, the Court certifies the following class of veterans who served during the Iraq and Afghanistan Era – defined as the period between October 7, 2001, and the present – who: (a) were discharged from the Navy, Navy Reserve, Marine Corps, or Marine Corps Reserve with less–than–Honorable statuses, including General and Other–than–Honorable discharges but excluding Bad Conduct or Dishonorable discharges; (b) have not received upgrades of their discharge statuses to Honorable from the NDRB; and (c) have diagnoses of PTSD, TBI, or other related mental health conditions, or records documenting one or more symptoms of PTSD, TBI, or other related mental health conditions at the time of discharge, attributable to their military service under the Hagel Memo standards of liberal or special consideration. The Court also reminds parties of its 14 previous order, directing Defendant to file a responsive pleading within <b>thirty (30) days</b> of this decision and parties to exchange initial disclosures and file a proposed schedule for remaining deadlines within <b>forty–five (45) days</b> of this decision. A proposed interim schedule is due within <b>thirty (30) days</b> if either party appeals this decision. Signed by Judge Charles S. Haight, Jr. on 11/15/2018. (Chen, C.) (Entered: 11/15/2018)
12/04/2018	<u>34</u>	MOTION for Extension of Time until January 15, 2019 to file a responsive pleading <u>33</u> Order on Motion to Certify Class,,,,, by Richard V Spencer. (Nelson, David) (Entered: 12/04/2018)
12/05/2018	35	ELECTRONIC ORDER granting <u>34</u> <i>Defendant's Motion for Extension of Time to File a Responsive Pleading Following Class Certification</i> , absent objection and for good cause shown. Accordingly, Defendant's responsive pleading following the Court's <u>33</u> Ruling on <i>Plaintiff's Motion for Class Certification</i> is due on or before <b>January 15, 2019</b> . Signed by Judge Charles S. Haight, Jr. on 12/05/2018. (Chen, C.) (Entered: 12/05/2018)
12/21/2018	<u>36</u>	Joint REPORT of Rule 26(f) Planning Meeting. (Attachments: # <u>1</u> Exhibit Plaintiffs' proposed production specifications)(Wishnie, Michael) (Entered: 12/21/2018)
12/27/2018	37	ELECTRONIC ORDER. Having reviewed <u>36</u> <i>Report of the Parties' Planning Meeting</i> , a scheduling conference is warranted as parties disagree as to whether the federal and local rules of civil procedure exempt this case from the usual discovery procedures, the scope of discovery, and discovery deadlines. Because the Report outlines the parties' positions, parties are not required to exchange and submit briefs addressing these issues. The Court will hold a scheduling conference on <b>January 22</b> ,

		<b>2019, at 10:30am.</b> A separate calendar notice will issue. All case deadlines, including the filing of Defendant's intended Motion to Dismiss and/or for Remand, are STAYED. In addition, the Court finds there is good cause to delay issue of the scheduling order until discovery issues are resolved. <i>See</i> Fed. R. Civ. P. 16(b)(2) ([U]nless the judge finds good cause for delay, the judge must issue [the scheduling order] within the earlier of 90 days....). Signed by Judge Charles S. Haight, Jr. on 12/27/2018. (Chen, C.) (Entered: 12/27/2018)
12/27/2018	38	NOTICE OF SCHEDULING CONFERENCE. A scheduling conference will be held on <b>January 22, 2019, at 10:30am</b> in the Courtroom on the 17th Floor of the Connecticut Financial Building, 157 Church Street, New Haven, Connecticut, to resolve discovery issues raised in the <u>36 Report of the Parties' Planning Meeting</u> . Out-of-state counsel need not appear in person and may participate by phone. ALL PERSONS ENTERING THE COURTHOUSE MUST PRESENT PHOTO IDENTIFICATION. Signed by Judge Charles S. Haight, Jr. on 12/27/2018. (Chen, C.) (Entered: 12/27/2018)
01/14/2019	<u>39</u>	MOTION for Attorney(s) Nicole Taykhman to be Admitted Pro Hac Vice (paid \$75 PHV fee; receipt number ACTDC-5120436) by Tyson Manker, National Veterans Council for Legal Redress. (Attachments: # <u>1</u> Affidavit of Nicole Taykhman)(Wishnie, Michael) (Entered: 01/14/2019)
01/15/2019	40	ORDER granting <u>39</u> MOTION for Attorney Nicole Taykhman to be Admitted Pro Hac Vice. Signed by Clerk on 1/15/2019. (Reis, Julia) (Entered: 01/15/2019)
01/15/2019	<u>41</u>	MOTION to Continue <i>January 22, 2019 hearing because of lapse in Government Appropriations</i> by Richard V Spencer. (Nelson, David) (Entered: 01/15/2019)
01/16/2019	<u>42</u>	NOTICE of Appearance by Nicole Taykhman on behalf of Tyson Manker, National Veterans Council for Legal Redress (Taykhman, Nicole) (Entered: 01/16/2019)
01/16/2019	<u>43</u>	Memorandum in Opposition re <u>41</u> MOTION to Continue <i>January 22, 2019 hearing because of lapse in Government Appropriations</i> filed by Tyson Manker, National Veterans Council for Legal Redress. (Wishnie, Michael) (Entered: 01/16/2019)
01/18/2019	<u>44</u>	ORDER (see attached) granting AS MODIFIED Defendant's <u>41 Motion to Continue Hearing Based on the Lapse of Government Appropriations</u> , to which Plaintiffs object. Accordingly, the scheduling conference that was to be held on <b>January 22, 2019</b> , <i>see</i> Doc. 38, is continued to <b>February 5, 2019 at 10:30 a.m.</b> in Courtroom 2 in the Richard C. Lee U.S. Courthouse, 141 Church Street, New Haven, CT, if the U.S. Attorney's office is funded and AUSA Nelson recalled from furlough. If this contingency does not come to pass and AUSA Nelson remains furloughed on February 5, 2019, the occupants of AUSA Nelson's chain of command are directed to file by <b>February 5, 2019</b> , a brief responding to <u>43 Plaintiffs' Opposition to Motion to Continue Hearing</u> . If so advised, Plaintiffs may file a reply brief by <b>February 12, 2019</b> . The Court will then decide if any further stay or continue should be granted in this case. Signed by Judge Charles S. Haight, Jr. on 01/18/2019. (Chen, C.) (Entered: 01/18/2019)
01/18/2019	<u>45</u>	MOTION to allow use of ASL Interpreting Team by Tyson Manker, National Veterans Council for Legal Redress.Responses due by 2/8/2019 (Wishnie, Michael) (Entered: 01/18/2019)
01/22/2019	46	ELECTRONIC ORDER granting Plaintiffs' <u>45 Motion to Allow Use of American Sign Language Interpreting Team</u> . One of the law student interns representing Plaintiffs, Mr. Resendes, is deaf and asks for a reasonable accommodation. Accordingly, Mr. Resendes may use his American Sign Language interpreting team from Yale Law School for the scheduling conference to be held on <b>February 5, 2019</b> , <i>see</i> Doc. 44, and at any future proceedings. Signed by Judge Charles S. Haight, Jr. on 01/22/2019. (Chen, C.) (Entered: 01/22/2019)
01/24/2019	47	NOTICE OF E-FILED CALENDAR: THIS IS THE ONLY NOTICE COUNSEL/THE PARTIES WILL RECEIVE.ALL PERSONS ENTERING THE COURTHOUSE MUST PRESENT PHOTO IDENTIFICATION. In-Person Scheduling Conference set for 2/5/2019 at 10:30 AM in Courtroom Two, 141 Church St., New Haven, CT before Judge Charles S. Haight Jr. (Freberg, B) (Entered: 01/24/2019)

02/05/2019	<u>48</u>	ELECTRONIC ORDER. Parties are directed to exchange and submit a brief on the discovery issues raised in the <u>36</u> <i>Report of the Parties' Planning Meeting</i> and discussed in today's scheduling conference no more than <b>fifteen (15) days</b> after the parties and this Court have been furnished a transcript of today's proceedings. If so advised, the parties may exchange and submit reply briefs <b>seven (7) days</b> after submission of the main briefs. Signed by Judge Charles S. Haight, Jr. on 02/05/2019. (Chen, C.) (Entered: 02/05/2019)
02/05/2019	<u>49</u>	Minute Entry for proceedings held before Judge Charles S. Haight, Jr: In-Person Scheduling Conference held on 2/5/2019. Total Time: 1 hours and 13 minutes(Court Reporter Tracy Gow.) (Freberg, B) (Entered: 02/05/2019)
02/15/2019	<u>50</u>	TRANSCRIPT of Proceedings: Type of Hearing: Scheduling Conference. Held on February 5, 2019 before Judge Charles S. Haight, Jr.. Court Reporter: Tracy Gow. <b>IMPORTANT NOTICE – REDACTION OF TRANSCRIPTS:</b> To remove personal identifier information from the transcript, a party must electronically file a Notice of Intent to Request Redaction with the Clerk's Office within seven (7) calendar days of this date. If no such Notice is filed, the court will assume redaction of personal identifiers is not necessary and the transcript will be made available through PACER without redaction 90 days from today's date. The transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. The policy governing the redaction of personal information is located on the court website at <a href="http://www.ctd.uscourts.gov">www.ctd.uscourts.gov</a> . Redaction Request due 3/8/2019. Redacted Transcript Deadline set for 3/18/2019. Release of Transcript Restriction set for 5/16/2019. (Gow, T.) (Entered: 02/15/2019)
03/04/2019	<u>51</u>	RESPONSE re <u>36</u> Report of Rule 26(f) Planning Meeting <i>re Request for Discovery</i> filed by Tyson Manker, National Veterans Council for Legal Redress. (Wishnie, Michael) (Entered: 03/04/2019)
03/04/2019	<u>52</u>	RESPONSE re <u>36</u> Report of Rule 26(f) Planning Meeting filed by Richard V Spencer. (Nelson, David) (Entered: 03/04/2019)
03/11/2019	<u>53</u>	RESPONSE re <u>36</u> Report of Rule 26(f) Planning Meeting, <u>51</u> Response filed by Richard V Spencer. (Nelson, David) (Entered: 03/11/2019)
03/11/2019	<u>54</u>	RESPONSE re <u>36</u> Report of Rule 26(f) Planning Meeting, <u>52</u> Response filed by Tyson Manker, National Veterans Council for Legal Redress. (Creelan, Jeremy) (Entered: 03/11/2019)