IN THE UNITED STATES COURT OF FEDERAL CLAIMS

JANE DOE, on behalf of herself and all other individuals similarly situated,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

HEARING REQUESTED

Case No.: 1:25-cv-01942-RMM

Judge Robin M. Meriweather

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

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Plaintiffs, Retired Sergeant First Class Timothy Ploe, Retired Army Staff Sergeant Kyle Montgomery, Retired Army Sergeant Jerry Coleman, and Retired Army Specialist Byron Benitez, by and through their attorneys, respectfully submit this memorandum in support of their motion for class certification under Rule 23 of the Rules of the Court of Federal Claims.

INTRODUCTION

This litigation presents a single, dispositive question: whether the Department of Defense may deny veterans combat-related special compensation ("CRSC") retroactive to the date they first satisfied the statutory eligibility criteria by instead setting the "effective date" as when their application was submitted, as directed by *Interim Guidance on Combat-Related Special Compensation Determinations Pursuant to the United States Supreme Court Decision in* Soto v. United States *and on Effective Dates of Combat-Related Special Compensation Determinations*, issued August 20, 2025 ("August 20th Interim Guidance"), and revised by *Clarifying Guidance on Effective Dates of Combat-Related Special Compensation Determination Pursuant to ASD (M&RA) Memorandum of August 20, 2025*, issued January 30, 2026 ("January 30th Guidance").

This is a purely legal question that can appropriately be resolved on a class-wide basis. Class treatment will permit the Court to resolve the legality of a single, uniform federal policy in one proceeding, rather than through hundreds or thousands of duplicative suits filed by geographically dispersed veterans seeking benefits whose value may not justify the costs of individual litigation.

Plaintiffs were each found eligible for CRSC, but they were denied compensation for years during which they indisputably met the statutory eligibility criteria because of the August 20th Interim Guidance and the January 30th Guidance. This was unlawful. The

CRSC statute ties CRSC eligibility to when the veteran is "entitled to retired pay" and "has a combat-related disability"—not when a CRSC application is received or submitted, or when the CRSC determination is made, or whether the veteran had a pending VA benefit claim. *See* 10 U.S.C. § 1413a(c)(1). And in *Soto v. United States*, 605 U.S. 360 (2025), the Supreme Court unanimously rejected the government's attempt to impose a time-based restriction not found in the statute. Yet in the wake of that decision, DoD adopted a new policy that denies retroactive CRSC to otherwise eligible veterans solely because they submitted their application after August 20, 2025, and did not have a VA claim in process at that time. That policy conflicts with the statute and with *Soto*. For this reason, SFC Ploe, SSG Montgomery, SGT Coleman, and SPC Benitez bring this action under the Tucker Act, 28 U.S.C. § 1491, on behalf of themselves and hundreds of similarly situated veterans, who were granted CRSC but denied retroactive payment under the August 20th Interim Guidance and the January 30th Guidance.

Plaintiffs now move to certify a class of those veterans. Because the proposed class satisfies Rule 23's requirements, the Court should certify the class.

QUESTION PRESENTED

Whether the putative class of veterans who were denied the full extent of their retroactive CRSC as a result of the August 20th Interim Guidance and the January 30th Guidance should be certified, where:

1. the class contains approximately hundreds of members such that joinder of all members is impracticable, *see* RCFC 23(a)(1);
2. there is a question of law common to SFC Ploe, SSG Montgomery, SGT Coleman, SPC Benitez, and the members of the class—namely, whether the

CRSC statute entitles eligible veterans to CRSC retroactive to the first month after the date they first became eligible, *see* RCFC 23(a)(2);

3. this question predominates over the remaining questions of law or fact, *see* RCFC 23(b)(3);

4. a class action is a superior method to resolve this question, given the number of class members, their geographic dispersion, the amounts in controversy, and the dispositive nature of this question with respect to liability, *see id.*;

5. the government has acted or refused to act on grounds generally applicable to the class by denying eligible veterans such retroactive CRSC in accordance with the DoD's August 20th Interim Guidance and the January 30th Guidance, *see* RCFC 23(b)(2);

6. the claims that Plaintiffs bring are typical of those of the class, *see* RCFC 23(a)(3); and

7. Plaintiffs will fairly and adequately protect the interests of the class, *see* RCFC 23(a)(4).

BACKGROUND

I. The CRSC Statute and *Soto v. United States*

Congress created CRSC for certain retired servicemembers with combat-related disabilities. 10 U.S.C. § 1413a. A veteran is entitled to CRSC if he or she: (1) is retired from the uniformed services due to longevity or disability and entitled to retired pay, *id.* § 1413a(c)(1); (2) has been awarded service-connected disability compensation by the Department of Veterans Affairs ("VA") with a combined disability rating of at least 10%, *see id.* § 1413a(e); 38 U.S.C. § 1155; 38 C.F.R. § 4.31; and (3) has a "combat-related" disability

as defined by statute, *see* 10 U.S.C. § 1413a. CRSC is paid in addition to both military retired pay and VA disability compensation. *Id.* The statute contains no deadline for applying for CRSC and does not limit awards to prospective payments. *See id.*

Before August 20, 2025, DoD calculated retroactive CRSC by determining when the veteran first became eligible, setting the "effective date" as the first day of the following month, and paying benefits for each month thereafter. *See* U.S. Dep't of Def., *Financial Management Regulation*, DoD 7000.14-R, vol. 7B, ch. 63, § 3.1, at 63-6 (June 2024), https://tinyurl.com/bdeyuxzz. In addition, DoD applied the six-year statute of limitations in the Barring Act to cap retroactive payments at six years. *See Soto*, 605 U.S. at 366 (describing the government's position that "CRSC is subject to the Barring Act's 6-year statute of limitations" (citation modified)). Thus, if a veteran became eligible less than six years before applying, DoD paid full retroactive CRSC back to the first month after the date of eligibility. If the veteran became eligible more than six years before applying, DoD set the effective date as the first month after six years before the application date—rather than the date eligibility began—yet even then veterans were provided six years of retroactive CRSC payments.

In June 2025, the Supreme Court in *Soto* unanimously rejected the application of the Barring Act to CRSC claims. *Id.* at 370. The Court observed that the CRSC statute does not "expressly limit the number of months for which an applicant may obtain payment." *Id.* at 365. It added that "where, as here, the statutory scheme involves a small group of particularly deserving claimants, it is not extraordinary to think that Congress wished to forgo a limitations period." *Id.* at 371. And it noted that "the CRSC statute clearly authorizes the Secretary concerned to determine CRSC claimants' eligibility according to specific criteria, and those criteria say nothing about time limits." *Id.* at 372 (citing 10 U.S.C. § 1413a(a), (c),

(d)). "Under these circumstances," the Court concluded, "the most reasonable inference is that the process of 'determin[ing] upon the validity' of a CRSC claim simply does not involve applying a defined period of recovery." *Id.* (alteration in original).

II. Post-*Soto* Guidance

On August 20, 2025, Acting Assistant Secretary of Defense for Manpower and Reserve Affairs William G. Fitzhugh issued interim guidance addressing CRSC awards in light of *Soto*. *See* First Am. Compl. Ex. 1, Dkt. No. 13-1. The memorandum directs the military departments to "cease applying the Barring Act to limit compensation in CRSC award decisions" and provides instructions for determining effective dates. *Id.* at 1.

The August 20th Interim Guidance adopts two different rules. For awards made through August 19, 2025, it outlines procedures for recalculating benefits where the Barring Act had been applied. But for "CRSC eligibility determinations made on or after the date of this memorandum," it directs that "the effective date for CRSC payments is the date on which the Secretary concerned first received the completed application." *Id.* at 2 (emphasis omitted).

That directive marked a sharp departure from the prior practice for calculating the effective date for retroactive CRSC. For decisions made before August 20, 2025, DoD set CRSC effective dates as beginning the first full month after the veteran became eligible. For decisions made on or after August 20, however, DoD set the effective date as the first full month after the veteran submitted a completed application.

On January 30, 2026, Assistant Secretary of Defense for Manpower and Reserve Affairs Timothy D. Dill issued the January 30th Guidance. The January 30th Guidance does not affect the claims of SFC Ploe, SSG Montgomery, SGT Coleman, SPC Benitez, or the

class.[1] That guidance states that "[t]he effective date for CRSC applications submitted after August 20, 2025, that did not have a VA claim in process at that time remains unchanged." First Am. Compl. Ex. 2, at 2. Thus, the January 30th Guidance carved out only two groups of veterans from the effective-date policy stated in the August 20th Interim Guidance: those who submitted their CRSC applications before August 20, 2025 (as opposed to those whose applications were decided on or after August 20), and those who had applications with pending VA disability claims on that date. The January 30th Guidance affirms that the policy continues to withhold benefits to which Plaintiffs and members of the class are statutorily entitled.

In sum, although *Soto* held that the Barring Act does not limit retroactive CRSC awards, DoD responded by eliminating retroactive payments for new submissions altogether. Veterans who were eligible for CRSC for months or years before applying now receive no compensation for the period prior to their applications.

III. Plaintiffs' Military Service

A. SFC Ploe

SFC Ploe served honorably in the Army from 2001 to 2018, including as an Infantryman in the 2-12th "Lethal Warriors" Infantry Regiment and as a Recruiter. *See* Bobroff Decl. Ex. 1, at 4. He retired with the rank of Sergeant First Class. *See id*. He deployed

[1] Pursuant to the memorandum "[a]ny CRSC application submitted before the August 20, 2025, memorandum or any application with a pending Department of Veterans Affairs (VA) disability compensation claim at that time that later results in a finding of combat-related disability should be treated as if the determination was made before the August 20, 2025, memorandum." First Am. Compl. Ex. 2, at 1, Dkt. No. 13-2. Plaintiffs did not submit their CRSC claims before August 20, 2025, nor did they have claims pending with the VA, so this change does not affect their claims.

twice to Iraq and once to Afghanistan. *See id*. The Army awarded him the Purple Heart, the Bronze Star, and the Combat Infantryman Badge, among other commendations. *See id*.

SFC Ploe was medically retired on April 26, 2018, and became entitled to retired pay at that time. *See id.* at 7. On May 16, 2018, the VA issued a rating decision awarding him disability compensation for various service-connected conditions rated at 10% or more, effective April 27, 2018. *See id*.

B. SSG Montgomery

SSG Montgomery served honorably in the National Guard from 2011 to 2015 and in the Army from 2015 to 2023. *See* Bobroff Decl. Ex. 2 at 6. After completing Special Forces Assessment and Selection, he served honorably with the 75th Ranger Regiment and retired as a Staff Sergeant. *See id*. He deployed three times to Afghanistan. The Army awarded him the Purple Heart, the Combat Infantryman Badge, and the Joint Service Commendation Medal with Combat Device, among other commendations. *See id*.

SSG Montgomery was medically retired on September 20, 2023, and became entitled to retired pay at that time. *See id.* at 8 . On September 26, 2023, the VA issued a rating decision awarding him disability compensation for various service-connected conditions rated at 10% or more, effective September 21, 2023. *See id*.

C. SGT Coleman

SGT Coleman served honorably in the National Guard from 1996 to 2001 and in the Army from 2001 to 2007. *See* Bobroff Decl. Ex. 3 at 4. He then served as a Fire Direction Specialist for the multiple launch rocket system in the 1-39th "Speed in Action" Field Artillery Regiment and deployed to Kuwait and Iraq in that role. *See id.* at 4. He retired with the rank

of Sergeant. *See id.* at 4. For his service, he was awarded the Army Commendation Medal and multiple Army Achievement Medals, among other commendations. *See id*.

SGT Coleman was medically retired on December 27, 2007, and became entitled to retired pay at that time. *See id.* The VA granted him service connected disability compensation for at least one combat-related condition rated at 10%, effective December 28, 2007; an additional combat-related condition was granted VA service connection with an effective date of February 9, 2020. *See id.* at 5.

D. SPC Benitez

SPC Benitez served honorably in the Army from 2002 to 2006, including as a Tanker on an M1A1 Abrams tank in support of Operation Iraqi Freedom. *See* Bobroff Decl. Ex. 4, at at 4. He retired with the rank of Specialist. *See id.* For his service, he received the Combat Action Badge and the Army Commendation Medal, among other awards. *See id.*

In 2025, SPC Benitez was retroactively deemed to have been medically retired as of January 28, 2006, by the Army Board for Correction of Military Records, and he became eligible for retired pay on that date. *See id.* at 5.[2] On October 13, 2006, the VA issued a rating decision awarding Benitez disability compensation for various service-connected conditions rated at 10% or more, effective January 28, 2006. *See id.* at 9.

[2] Originally, the Army separated Benitez erroneously under Army Regulation 635-200, para. 5-17 on January 27, 2006. *See id.* at 3. In subsequent proceedings, the Army Board for the Correction of Military Records recommended, and the Secretary of the Army ordered, that the Army correct Benitez's record to reflect that he was medically retired for permanent disability, effective January 27, 2006. *See id.*

IV. Plaintiffs' CRSC Applications

A. SFC Ploe

On August 29, 2025, the Army received SFC Ploe's application for CRSC based on his combat-related, service-connected disabilities. *See* Bobroff Decl. Ex. 1, at 1. On December 15, the Army granted his application. *See id.* But it set his CRSC effective date as September 1, 2025—the first day of the month after his application was received—even though he had met all statutory eligibility criteria as of April 27, 2018, the effective date of his VA disability ratings. *See id.* at 1, 7. As a result, he did not receive retroactive CRSC for the more than seven years during which he was eligible before his application was received. *See id.*

B. SSG Montgomery

On August 20, 2025, the Army received SSG Montgomery's application for CRSC based on his combat-related, service-connected disabilities. *See* Bobroff Decl. Ex. 2, at 1. On December 9, the Army granted his application. *See id.* But it set his CRSC effective date as September 1, 2025—the first day of the month after his application was received—even though he had met all statutory eligibility criteria as of September 21, 2023, the effective date of his VA disability ratings. *See id.* at 1, 8. As a result, he did not receive retroactive CRSC for the nearly two years during which he was eligible before his application was received. *See id.*

C. SGT Coleman

On September 9, 2025, the Army received SGT Coleman's application for CRSC based on his combat-related, service-connected disabilities. *See* Bobroff Decl. Ex. 3, at 1. On December 31, the Army granted his application. *See id.* But it set his CRSC effective date as October 1, 2025—the first day of the month after his application was received—even though SGT Coleman had met all statutory eligibility criteria as of December 28, 2007, and thus his

effective date should have been the date CRSC became available to medical retirees: January 1, 2008. *See id.* at 1, 6. As a result, he was deprived of more than 17 years worth of retroactive CRSC. *See id.*

D. SPC Benitez

On August 22, 2025, the Army received SPC Benitez's application for CRSC. *See* Bobroff Decl. Ex. 4, at 1. On December 11, the Army granted his application but also set his effective date as September 1, 2025, even though SPC Benitez had met all statutory eligibility criteria as of January 28, 2006, and thus his effective date should have been the date CRSC became available to medical retirees: January 1, 2008. *See id.* at 1, 9. As a result, he was deprived of more than 17 years worth of retroactive CRSC. *See id.*

PROPOSED CLASS

Plaintiffs bring this suit to vindicate their rights to retroactive CRSC and the rights of other veterans who have served our Nation and have similarly been denied retroactive CRSC to which they are entitled. They seek to represent the following class:

> All former servicemembers of the Army, Navy, Air Force, Marine Corps, Coast Guard, and Space Force whose CRSC applications under 10 U.S.C. § 1413a were granted, but who were denied CRSC for the periods preceding their applications and during which they met the eligibility requirements under 10 U.S.C. § 1413a(c) for such payments, as a result of the government unlawfully specifying that their CRSC was effective only upon receipt of their completed applications.

Plaintiffs now seek certification of the class under Rule 23.

LEGAL STANDARD

Plaintiffs seeking class certification must satisfy all four requirements of Rule 23(a):

(1) the class is so numerous that joinder of all members is impracticable;

(2) there are questions of law or fact common to the class;

(3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and

(4) the representative parties will fairly and adequately protect the interests of the class.

RCFC 23(a).

The proposed class must also satisfy Rule 23(b). As relevant here, Rule 23(b) requires that "the United States has acted or refused to act on grounds generally applicable to the class"; "the questions of law or fact common to class members predominate over any questions affecting only individual members"; and "a class action is superior to other available methods for fairly and efficiently adjudicating the controversy." RCFC 23(b)(2)–(3).

Courts have summarized these requirements as five elements: "(1) numerosity, (2) commonality, (3) typicality, (4) adequacy, and (5) superiority." *Silver Buckle Mines, Inc. v. United States*, 132 Fed. Cl. 77, 96 (2017). Rule 23 of this Court's Rules is "patterned after" Federal Rule of Civil Procedure 23, with one key difference: class actions in this Court proceed only on an opt-in basis. *Id.* at 95 n.16. Because of the substantial similarity between the rules, this Court may look to case law addressing Federal Rule of Civil Procedure 23 for guidance in applying Rule 23 of this Court. *See id.*

ARGUMENT

Certification is warranted because the proposed class satisfies each requirement of Rule 23. Through the August 20th Interim Guidance and the January 30th Guidance, the government has adopted a uniform effective-date policy that applies across the military departments. Its policy and practice affect a large, geographically dispersed group of veterans, making joinder impracticable, and present a single, purely legal question: whether the

government may deny retroactive CRSC to an otherwise eligible veteran by tying the "effective date" of payment to the date that their application was received, and not the date on which the veteran became statutorily eligible for CRSC. Plaintiffs' claims arise from the same course of conduct and seek identical relief that is formulaic in nature. And resolving liability on a class-wide basis is far more efficient than litigating hundreds or thousands of materially identical cases.

I. The Class Is So Numerous That Joinder Is Impracticable.

Rule 23(a)(1) requires a showing that "the class is so numerous that joinder of all members is impracticable." RCFC 23(a)(1). Joinder need not be "impossible." *Filosa v. United States*, 70 Fed. Cl. 609, 616 (2006). Although a plaintiff does not have to "allege the exact number or identity of the class members," the plaintiff must provide "more than mere speculation as to the number." *King v. United States*, 84 Fed. Cl. 120, 124–25 (2008) (finding numerosity where plaintiffs reasonably estimated the number of potential class members based on a Government Accountability Office report). "In evaluating numerosity, courts consider the number of potential class members, the geographic dispersal of the potential class members, and the size of each potential class member's claim. The number of potential class members is the most important factor." *Silver Buckle Mines*, 132 Fed. Cl. at 98; *see also Kane County v. United States*, 137 Fed. Cl. 653, 656 (2018); *King*, 84 Fed. Cl. at 124–25; *Filosa*, 70 Fed. Cl. at 615.

The proposed class here readily satisfies this standard. Publicly available DoD data provides a reasonable basis to estimate the size of the class. DoD's Office of the Actuary periodically reports the number of military retirees receiving CRSC. *See, e.g.*, U.S. Dep't of Def., Off. of the Actuary, *Statistical Report on the Military Report System* 25, 68 (2023),

https://tinyurl.com/3w5jv6y7. The 2023 report (covering fiscal year 2022) states that 52,304 disability retirees received CRSC. *Id.* The 2022 report (covering fiscal year 2021) stated that there were 50,302 recipients. *See* U.S. Dep't of Def., Off. of the Actuary, *Statistical Report on the Military Report System* 25, 68 (2022), https://tinyurl.com/yujkz2fn. The difference—2,002 retirees—reflects at least 2,002 newly approved CRSC recipients over that one-year period. That figure likely understates new approvals given the likelihood that some prior recipients may have passed away during the year. Even taking the conservative figure of 2,002 new approvals annually, that equates to approximately 167 new CRSC approvals per month. At that pace, during the sixth-month period since DoD issued the August 20th Interim Guidance, at least hundreds of veterans likely were approved for CRSC benefits with the new policy in place. The number of impacted veterans is expected to increase as the government continues to apply the policy.

An estimated class of hundreds of members easily satisfies numerosity. Judges in this Court have found the requirement met with far smaller classes. *See, e.g.*, *Filosa*, 70 Fed. Cl. at 615–17 (45 individuals sufficient); *King*, 84 Fed. Cl. at 124–25 (152 potential plaintiffs sufficient).

Further, the geographical dispersion of the potential class members supports a finding of impracticability. *See Kane County*, 137 Fed. Cl. at 656. CRSC recipients reside nationwide and in other countries. Servicemembers retire and return to communities across the country, and nothing about DoD's uniform effective-date policy is geographically limited. The *Soto* class included approximately 9,100 veterans as of September 2020 with claims of unpaid retroactive CRSC who were spread across all fifty states and the District of Columbia. *See, e.g.,* Wexler Declaration ¶ 7, *Carey v. United States,* No. 21-cv-1268 (Fed. Cl. Jan 23, 2023),

Dkt. No. 52-6. There is no reason to believe that veterans affected by the August 20th Interim Guidance and the January 30th Guidance are any less geographically dispersed.

Taken together, the likely size of the class and its nationwide dispersion establish that joinder is impracticable. The numerosity requirement is therefore satisfied.

II. Questions of Law or Fact Common to the Class Predominate.

Commonality under Rule 23 entails three related inquiries: "First, are there factual or legal issues common to the proposed class? Second, do these common issues predominate over issues that are not common to the proposed class? And third, has the government acted or refused to act on grounds applicable to the entire proposed class?" *Common Ground Healthcare Coop. v. United States*, 137 Fed. Cl. 630, 638 (2018) (citations omitted). "The threshold for satisfying this requirement is not high: the requirement 'is met when there is at least one issue whose resolution will affect all or a significant number of the putative class members.'" *Mercier v. United States*, 138 Fed. Cl. 265, 270–71 (2018) (quoting *King*, 84 Fed. Cl. at 125–26). Class members need not be identically situated. *See Starr Int'l Co. v. United States*, 109 Fed. Cl. 628, 633 (2013). Predominance is satisfied where common issues can be resolved through generalized proof and are "more substantial than specific, individualized issues." *Id.*

These requirements are satisfied here.

First, at the center of every class member's claim is the same legal question: whether DoD may lawfully deny retroactive CRSC to statutorily eligible veterans by setting the effective date for CRSC based on the date that the application was received, as directed by the August 20th Interim Guidance and the January 30th Guidance, and not the date on which the veteran became statutorily eligible. That question is "central" to all class members' claims

and can be resolved "in one stroke." *Common Ground Healthcare*, 137 Fed. Cl. at 638–39 (quoting *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011)). Either the receipt-based effective date is lawful, or it is not. The answer will apply uniformly to all veterans whose CRSC effective dates were determined in accordance with the August 20th Interim Guidance and the January 30th Guidance. This is thus a textbook challenge to "a system-wide practice or policy that affects all of the putative class members." *Id.* (quoting *King*, 84 Fed. Cl. at 126). Plaintiffs do not challenge individual eligibility determinations. The only dispute concerns the legality of the government's uniform effective-date rule.

Second, this common legal issue predominates. Liability rises or falls on the answer to "the same core legal question." *Starr Int'l*, 109 Fed. Cl at 634. If calculating the effective date consistent with the August 20th Interim Guidance and January 30th Guidance violates 10 U.S.C. § 1413a, then all class members are entitled to additional CRSC. If it does not, then no class member may recover. *Cf. Curry v. United States*, 81 Fed. Cl. 328, 334 (2008) ("Clearly, the predominant question in this case is whether the VHA has failed, on a system-wide basis, to pay certain categories of employees premium pay to which they are entitled when they take paid leave.").

Any remaining issues are ministerial. Once the legality of how the government sets the effective date is resolved, calculating relief requires determining (1) the date on which each veteran satisfied the statutory eligibility criteria and (2) the amount of CRSC payable between that date and the receipt date. This information is maintained in government records and calculated pursuant to established formulas. Determining what each class member is owed will therefore be "essentially a mechanical process." *Mercier*, 138 Fed. Cl. at 272; *see also Kane*

County, 137 Fed. Cl. at 656–57 (predominance satisfied where remaining issues reduced to mathematical calculations).

The mere need to compute individualized damages does not defeat certification. "'[T]hat damage awards will ultimately require individualized fact determinations is insufficient, by itself,' to defeat a class action." *Curry*, 81 Fed. Cl. at 334–35 (quoting *McCarthy v. Kleindienst*, 741 F.2d 1406, 1415 (D.C. Cir. 1984)) (alteration in original). This principle applies with particular force where, as here, damages are derived from agency records and statutory formulas. Indeed, *Soto* and *Carey* both required individualized computations after the common legal question was resolved, and classes were certified in both cases.

Third, Rule 23(b)'s requirement that the government act on grounds generally applicable to the class is satisfied here because DoD adopted a uniform, department-wide directive governing effective dates for all CRSC submissions made after August 20, 2025. The challenged conduct is not discretionary or individualized; it is the application of a common policy across the armed services.

Because this case challenges a single, uniform federal policy and turns on a common question of statutory interpretation whose resolution will determine liability for every class member, Rule 23's commonality and predominance requirements are satisfied.

III. Plaintiffs' Claims Are Typical of the Class Claims.[3]

Typicality exists when plaintiffs are similarly situated to absent class members by virtue of (1) jurisdiction under the same statute and (2) allegations of the same statutory violation. *See Curry*, 81 Fed. Cl. at 334–35. This requirement is "modest" and satisfied where

[3] Although the "commonality and typicality requirements ... tend to merge," *Dukes*, 564 U.S. at 349 n.5 (citation modified), each requirement is addressed here for the sake of completeness.

"the named representatives' claims share the same essential characteristics as the claims of the class at large." *Id.* (quoting *Fisher v. United States*, 69 Fed. Cl. 193, 200 (2006)). Courts routinely find typicality where the named plaintiffs challenge the same policy and seek the same relief as the class.

That is precisely the case here. SFC Ploe, SSG Montgomery, SGT Coleman, and SPC Benitez:

- applied for CRSC under 10 U.S.C. § 1413a;
- were found eligible for CRSC;
- had their effective dates set pursuant to the August 20th Interim Guidance and were unaffected by the January 30th Guidance; and
- were denied retroactive CRSC for periods during which they satisfied the statutory eligibility criteria.

Their claims arise from the same uniform policy challenged on behalf of the class and present the same legal theory: that the government may not lawfully tie CRSC effective dates to the submission date of an application where eligibility existed earlier. They seek identical relief—payment of retroactive CRSC owed under the statute.

Because their claims "share the same essential characteristics" as those of the proposed class, the typicality requirement is satisfied.

IV. Plaintiffs and Their Counsel Will Fairly and Adequately Protect the Class.

Adequacy turns on two considerations: (1) whether class counsel are "qualified, experienced[,] and generally able to conduct the litigation," and (2) whether the named plaintiffs have interests "antagonistic" to those of the class. *Curry*, 81 Fed. Cl. at 336 (citation omitted); *see King*, 84 Fed. Cl. at 127. Both requirements are met.

First, class counsel possess extensive experience in complex litigation, class actions, and veterans' benefits matters.

Several members of the team represented the certified class in *Soto v. United States*, successfully litigating that case from the Southern District of Texas through a unanimous victory at the Supreme Court. Lead counsel Tacy Flint successfully argued the case before the Supreme Court. *See* Flint Decl. ¶ 5(a).

Sidley Austin LLP Pro Bono Counsel Emily Wexler coordinates Sidley's Veterans Advocacy Project and has focused her practice on veterans law for more than eighteen years, including pursuing CRSC petitions before military boards and in federal court, as well as litigating class actions including but not limited to *Soto*. *See id.* ¶ 5(b).

Counsel Christopher Eiswerth has substantial experience in government-facing litigation, including prior service in the Federal Programs Branch of the Department of Justice's Civil Division, where he litigated complex constitutional, statutory, and administrative law matters. *See id.* ¶ 5(c).

Rochelle Bobroff, Director of Lawyers Serving Warriors®, a pro bono program of the National Veterans Legal Services Program ("NVLSP"), has led systemic reform litigation and authored numerous Supreme Court and federal appellate amicus briefs. *See* Bobroff Decl. ¶¶ 1, 4–9. She has focused her practice on veterans law for more than eight years, including pursuing CRSC petitions before military boards and in federal court, as well as litigating class actions including but not limited to *Soto*. *See id.* ¶¶ 4–6.

Counsel have investigated Plaintiffs' claims, researched the governing statutory framework, and prepared the amended class complaint. Sidley and NVLSP possess the

resources and institutional capacity to litigate this matter through judgment on behalf of a nationwide class. *See* Flint Decl. ¶ 6; Bobroff Decl. ¶¶ 10–12.

Second, Plaintiffs' interests fully align with those of the class. Plaintiffs share the same interest as every absent class member: establishing the unlawfulness of the government's effective-date policy and obtaining retroactive CRSC owed under Section 1413a. There is no conflict—actual or potential—between the named Plaintiffs and the class. All seek the same legal determination and the same form of relief. Adequacy is therefore satisfied.

V. A Class Action Is Superior to Other Methods.

A class action is superior where it "would achieve economies of time, effort, and expenses, and promote uniformity while not sacrificing procedural fairness or bringing about other undesirable results." *Mercier*, 138 Fed. Cl. at 274 (citation modified); *see also King*, 84 Fed. Cl. at 128. Courts consider, among other factors: (1) class members' interests in individually controlling separate actions, (2) the extent of existing parallel litigation, (3) manageability, and (4) the size of individual claims. *See* RCFC 23(b)(3); *Mercier*, 138 Fed. Cl. at 274; *Bell v. United States*, 123 Fed. Cl. 390, 396–97 (2015).

Each factor favors certification.

First, adjudicating the legality of a single, uniform federal policy in one proceeding will conserve judicial resources and avoid inconsistent outcomes. Resolving the same statutory question hundreds or thousands of times would be inefficient and unnecessary.

Second, there is no indication that class members have initiated separate suits challenging the August 20th Interim Guidance or the January 30th Guidance, nor is there reason to believe they have a strong interest in doing so individually.

Third, while individual claims may exceed $10,000, those amounts remain modest relative to the cost and complexity of federal litigation. As this Court has recognized, when individual claims are comparatively small, class treatment is particularly appropriate. *See Silver Buckle Mines*, 132 Fed. Cl. at 103.

Fourth, the proposed class is readily manageable. Class membership can be identified from government records reflecting (1) approved CRSC applications and (2) the effective date assigned under the August 20th Interim Guidance and January 30th Guidance. CRSC calculations are formula-driven and based on information already maintained by DoD and the military departments. As in other benefit matters before this Court, determining individual amounts owed will be "essentially a mechanical process." *Mercier*, 138 Fed. Cl. at 272.

CONCLUSION

For the foregoing reasons, SFC Ploe, SSG Montgomery, SGT Coleman, and SPC Benitez respectfully request that the Court grant their motion for class certification.

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Respectfully submitted,

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