

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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U.S. DISTRICT COURT
DISTRICT OF COLUMBIA
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ELOUISE PEPION COBELL et al.,

Plaintiffs,
v.

GALE A. NORTON, Secretary of
the Interior, et al.,

Defendants.

NANCY M.
MAYER-WASHINGTON
CLERK
No. 1:96CV01285
(Judge Lamberth)

**INTERIOR DEFENDANTS' MOTION TO ADJUST THE SPECIAL
MASTER-MONITOR'S NOVEMBER AND DECEMBER 2002 COMPENSATION**

The Secretary of the Interior and the Assistant Secretary - Indian Affairs ("Interior Defendants") respectfully object to parts of the compensation requests submitted by Joseph S. Kieffer, III in his capacity as Special Master-Monitor for the months of November and December 2002, and to the Court's Orders of December 3, 2002 and January 2, 2003, directing the Interior Defendants to pay the same. The Interior Defendants have paid the ordered amounts and, therefore, request that a reduction be made in Mr. Kieffer's future compensation to the extent necessary to adjust for the objected to compensation he received as the result of his November and December invoices.

The Interior Defendants were not afforded an opportunity to review or comment on the Special Master-Monitor's compensation requests before the Court ordered that they be paid. As the Court expressly notes in its Orders directing payment, adjustments to Mr. Kieffer's compensation can be made to future compensation requests.

Adjustment to the compensation is necessary for three reasons: (1) the request for November 2002 contains plain errors that resulted in overpayments to Mr. Kieffer; (2) neither of the invoices are sufficiently detailed to permit the Interior Defendants to determine the reasonableness or propriety of all the charges; and (3) some charges on the invoices are not compensable because they relate to activities that are outside the proper scope of the Special Master-Monitor's duties.

The Interior Defendants, therefore, respectfully move this Court for an order granting an adjustment of Mr. Kieffer's future compensation that is equal to the dollar amounts to which the Interior Defendants have objected in connection with Mr. Kieffer's invoices for November and December 2002. Specifically, the Interior Defendants seek an adjustment of \$35,312.50 in compensation relating to the invoice for November and \$27,500 relating to the invoice for December, for a total adjustment of \$62,812.50.

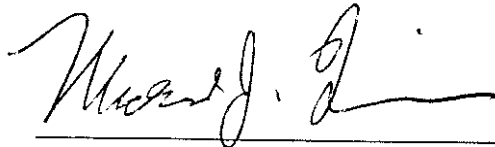
The grounds for this Motion are set forth in the supporting Memorandum and Appendix that accompany this Motion.

Counsel for Interior Defendants conferred with counsel for Plaintiffs about this motion on January 31, 2003, and counsel for Plaintiffs stated that Plaintiffs intend to oppose this motion.

Dated: January 31, 2003

Respectfully submitted,

ROBERT D. McCALLUM, JR.
Assistant Attorney General
STUART E. SCHIFFER
Deputy Assistant Attorney General
J. CHRISTOPHER KOHN
Director



SANDRA P. SPOONER
Deputy Director
D.C. Bar No. 261495
JOHN T. STEMPLEWICZ
Senior Trial Counsel
MICHAEL J. QUINN
Trial Attorney
D.C. Bar No. 401376
Commercial Litigation Branch
Civil Division
P.O. Box 875
Ben Franklin Station
Washington, D.C. 20044-0875

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL et al.,)
)
) Plaintiffs,) No. 1:96CV01285
) (Judge Lamberth)
 v.)
)
 GALE A. NORTON, Secretary of)
 the Interior, et al.,)
)
) Defendants.)
 _____)

**MEMORANDUM IN SUPPORT OF INTERIOR DEFENDANTS'
MOTION TO ADJUST THE SPECIAL MASTER-MONITOR'S
NOVEMBER AND DECEMBER 2002 COMPENSATION**

The Secretary of the Interior and the Assistant Secretary - Indian Affairs ("Interior Defendants") have moved this Court for an adjustment in the compensation paid to Joseph S. Kieffer, III in connection with his services rendered as Special Master-Monitor during the months of November and December 2002. Mr. Kieffer has submitted two letters to the Court as invoices, one for each month's work for November and December 2002. In separate orders, the Court directed the Interior Defendants to satisfy both invoices. See Orders of December 3, 2002 and January 2, 2003. Both Orders indicate that any adjustment that needs to be made to the ordered compensation will be applied against Mr. Kieffer's future compensation. The Interior Defendants, by their motion, seek relief pursuant to the "adjustment" provision in the Court's orders.

The Interior Defendants have already made a similar motion concerning the invoices submitted by Mr. Kieffer for the months of September and October 2002 and desire to incorporate by reference the objections as well as the points and authorities asserted in

connection with that motion. See Memorandum in Support of Interior Defendants' Motion To Adjust The Court Monitor's September 2002 Compensation And The Special Master-Monitor's September & October 2002 Compensation (filed Nov. 27, 2002). The remainder of this memorandum will address matters specific to the November and December 2002 invoices.

Only certain charges are at issue on the two most recent invoices. See generally Letter Invoice from Joseph S. Kieffer, III, to Hon. Royce C. Lamberth, dated October 31, 2002 [sic]¹ (copy attached to the Court's Order of December 3, 2002) [the "November Invoice"]; Letter Invoice from Joseph S. Kieffer, III, to Hon. Royce C. Lamberth, dated December 31, 2002 (copy attached to the Court's Order of January 2, 2003) [the "December Invoice"]. The charges are objectionable for three reasons: (1) errors in computation exist; (2) the invoices lack specificity, which prevents the work undertaken and time devoted to the tasks from being fairly examined; and (3) some work involves activities which the Special Master-Monitor is not authorized to undertake. The Interior Defendants have moved for an adjustment of \$35,312.50 in compensation relating to the November Invoice and \$27,500 relating to the December Invoice, for a total adjustment of \$62,812.50 in connection with this motion.

ARGUMENT

For the record, the Interior Defendants here incorporate by reference the objections, points and authorities set forth in their previous motion and supporting memoranda challenging the compensation requests submitted by Mr. Kieffer for September and October 2002. See Interior Defendants' Motion To Adjust The Court Monitor's September 2002 Compensation And

¹This is a typographical error that should probably read November 30, 2002, for this submission covers work done through the end of November 2002.

The Special Master-Monitor's September And October 2002 Compensation (filed Nov. 27, 2002) and Memorandum in support thereof.

The Interior Defendants further contend specifically as follows with respect to the November and December Invoices. The tables in Appendix A, annexed hereto, indicate the line by line objections the Interior Defendants assert with respect to the time billed on each invoice. The tables reproduce verbatim the time entries and task descriptions submitted on the two invoices. See generally App. A, Table A-1 (relating to the November Invoice) and Table A-2 (the December Invoice). These tables also contain some additional columns. The first column indicates whether the Interior Defendants object to the particular entry. If any objection exists, the column is marked with an "x." If the column is blank, there is no objection to the entry. In addition, a third column specifically notes each day's entries, for convenience of reference only, by assigning it a unique item number for that day.

1. **Computational Error Resulted In Overpayment To Mr. Kieffer**

Computational errors exists once more, this time on the November Invoice, which have caused the Interior Defendants to be overcharged and Mr. Kieffer to be overpaid. For November 16, the invoice records 2.25 hours for "[r]eview" of "pleadings and court opinions," but charges \$625 for this time. See App. A, Table A-1 at 3 (Nov. 16, item 1); November Invoice at 4. For November 25, 2002, the invoice logs one-quarter hour of time to "[p]repare correspondence," but bills \$125.00 for this work. See id. at 5 (Nov. 25, item 2); November Invoice at 6. At a billable rate of \$250 per hour, a 2.25 hour charge should result in a \$562.50 bill, while a one quarter hour charge should lead to a billed amount of \$62.50. Thus, the billed

amounts of \$625 and \$125, respectively, for each entry reflect an overcharge of \$62.50 for each.

The Interior Defendants are entitled to adjustment of \$125 based upon these overcharges.

2. Many Time Entries On The Recent Invoices Are Too Vague And Generic To Ascertain Their Reasonableness Or Propriety

The Special Master-Monitor continues to ignore the government's demand for more specific identification of the tasks for which he bills. By contrast, Special Master Balaran has supplied sufficient detail in his statement of charges month after month, so surely the Special Master-Monitor is equally capable of providing this kind of reasonable disclosure. Still, most time entries on the invoices repeatedly fail to identify the specific nature of or reason for the task performed. This obscurity makes it impossible for the Interior Defendants to make an independent, reasoned assessment of whether the time billed was reasonable for the task or whether the work undertaken was appropriate in the first instance. Given the failure to provide this basic information, the Interior Defendants must again seek an adjustment in pay that deducts for such vague time entries.

The Special Master-Monitor claims a sizeable sum for each month of work but affords virtually no way to judge the propriety of the hours spent or the work undertaken. His entries for November 25 serve as a prime example. The November Invoice charges for eleven (11) hours work that day, but what work was actually done is left to surmise. The *entire* description on the invoice is as follows: review correspondence, prepare correspondence, review pleadings, legal research, review and revise report, and telecons with third parties. See App. A., Table A-1 at 5 (entries for Nov. 25); November Invoice at 6-7. No identification exists to know what types of letters were read or written, who was on Mr. Kieffer's conference calls, or whether the legal

research undertaken was appropriate. Such scant reporting is wholly insufficient to support a claim for two month's compensation that exceeds \$88,000.

Consequently, the Interior Defendants request that the compensation paid to Mr. Kieffer be reduced to omit payment for work not adequately specified on the submitted invoices.² See App. A, Tables A-1 and A-2.

3. Compensation Is Also Improper Because The Invoices Appear To Seek Payment For Unauthorized Activities

The third problem concerns charges for what appear to be unauthorized activities engaged in by the Special Master-Monitor. The unauthorized activities include ex parte contacts extra record communications, and potentially other activities undertaken by him in his capacity as Special Master-Monitor that are not part of his duties.

The November Invoice contains multiple charges for time spent on ex parte contacts. Such contacts are not compensable activities because that authority, if it ever existed in the past, does not exist under his appointing order of September 17, 2002. Mr. Kieffer has, however, continued to bill for the cost of off-the-record discussions with unknown third parties. See App. A, Table A-1 (entries for Nov. 8, item 5; Nov. 12, item 6; Nov. 13, item 3; Nov. 17, item 3 and Nov. 25, item 6).

Second, substantive off the record discussions with the Court are subject to similar prohibition. The Interior Defendants object to paying for any time billed by Mr. Kieffer in

²In the alternative, the Interior Defendants would request that the Court order Mr. Kieffer to provide more information on revised invoices and allow the Interior Defendants further review and comment.

connection with extra-record conferences he has had with the Court. See App. A, Table A-1 (entry for Nov. 22, item 5).

Third, Mr. Kieffer has also engaged in certain activities in his capacity as Special Master-Monitor that are not properly part of his duties, and for which the Interior Defendants object to being charged. As one example, Mr. Kieffer has recently taken an active interest in the legal representation afforded at government expense to former Special Trustee Thomas Slonaker. Mr. Kieffer has written several letters – as Special Master-Monitor – to the Department of Justice inquiring about the status of Mr. Slonaker's legal representation. Lobbying for legal representation on behalf of former officials is not within Mr. Kieffer's duties by any stretch. Given the vagueness of Mr. Kieffer's time entries, however, it is impossible to determine whether charges for "preparing" or "reviewing" any "correspondence" involves any part of this writing campaign. To the extent that it might include such charges, and because the entries are inadequate to make such a determination, the Interior Defendants must object to all such entries on the Invoices.³

Accordingly, the Interior Defendants have respectfully moved the Court for an adjustment to Mr. Kieffer's compensation that offsets for prior charges improperly included on the November Invoice or December Invoice and that are due to any of the following (1) computational errors, (2) insufficiently detailed time entries, or (3) unauthorized activities,

³ Mr. Kieffer's first letter to the Justice Department on this subject is dated January 2, 2003, so it is possible that work leading to this correspondence may have occurred in December.

including ex parte contacts with third parties, extra record communications with the Court, or other conduct not within his enumerated responsibilities.⁴

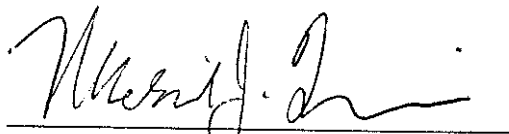
CONCLUSION

For the foregoing reasons, the Court should grant the Interior Defendants' Motion to Adjust The Special Master-Monitor's November And December 2002 Compensation.

Dated: January 31, 2003

Respectfully submitted,

ROBERT D. McCALLUM, JR.
Assistant Attorney General
STUART E. SCHIFFER
Deputy Assistant Attorney General
J. CHRISTOPHER KOHN
Director



SANDRA P. SPOONER
Deputy Director
D.C. Bar No. 261495
JOHN T. STEMPLEWICZ
Senior Trial Counsel
MICHAEL J. QUINN
Trial Attorney
D.C. Bar 401376
Commercial Litigation Branch
Civil Division
P.O. Box 875
Ben Franklin Station
Washington, D.C. 20044-0875
(202) 514-7194

⁴ The Interior Defendants do note that the Special Master Monitor included \$1,062.50 in "adjustments" on his December Invoice, apparently relating to some of the past overcharges on his September and October Invoices. See December Invoice at 6-7. These adjustments, however, do not correct for the overcharges identified in this motion.

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GALE A. NORTON, Secretary of the Interior, et al.,)
)
Defendants.)
_____)

Case No. 1:96CV01285
(Judge Lamberth)

ORDER

Upon consideration of the Interior Defendants' Motion to Adjust The Special Master-Monitor's November And December 2002 Compensation, Plaintiffs' response thereto, and the entire record in this case, it is hereby ORDERED that Interior Defendants' motion should be and hereby is GRANTED; and it is further

ORDERED that the compensation payable to Joseph S. Kieffer, III as a Special Master-Monitor in this case shall be reduced in the amount of \$62,812.50 to adjust for overpayments made by the Interior Defendants in satisfying invoices submitted by Mr. Kieffer for the months of November and December 2002. The Interior Defendants may credit this sum against any current unpaid or future invoices from the Special Master-Monitor until the said adjustment is complete.

SO ORDERED this _____ day of _____, 2003.

ROYCE C. LAMBERTH
United States District Judge

cc:

Sandra P. Spooner
John T. Stemplewicz
Commercial Litigation Branch
Civil Division
P.O. Box 875
Ben Franklin Station
Washington, D.C. 20044-0875
Fax (202) 514-9163

Dennis M Gingold, Esq.
Mark Brown, Esq.
1275 Pennsylvania Avenue, N.W.
Ninth Floor
Washington, D.C. 20004
Fax (202) 318-2372

Keith Harper, Esq.
Native American Rights Fund
1712 N Street, NW
Washington, D.C. 20036-2976
Fax (202) 822-0068

Elliott Levitas, Esq.
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309-4530

Joseph S. Kieffer, III
Special Master-Monitor
420 - 7th Street, N.W.
Apartment 705
Washington, D.C. 20004
Fax (202) 478-1958

APPENDIX A

Table A-1: Invoice for November 2002

<u>Obj.</u>	<u>Date</u>	<u>Item</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
x	11/1	1	Review draft Reports	0.75	\$187.50
x	"	2	Draft correspondence	1.00	\$250.00
	"	3	Prepare for and attend Court hearing	1.50	\$375.00
x	"	4	Review pleadings	1.00	\$250.00
	"	5	Review Quarterly Report Number 11	1.50	\$375.00
x	"	6	Legal research	1.75	\$437.50
	11/2	1	Review Quarterly Report Number 11	2.00	\$500.00
x	"	2	Review pleadings	1.00	\$250.00
x	"	3	Review and revise Report	1.50	\$375.00
x	11/4	1	Review court opinions	0.50	\$125.00
x	"	2	Review correspondence	0.50	\$125.00
x	"	3	Review pleadings	1.00	\$250.00
	"	4	Prepare for deposition	1.00	\$250.00
x	11/5	1	Redraft Report	1.00	\$250.00
	"	2	Prepare for and attend deposition	2.50	\$625.00
	"	3	Prepare for and attend Court hearing	1.50	\$375.00
x	"	4	Review pleadings	1.00	\$250.00
	"	5	Review discovery correspondence, transcripts, and Report and prepare correspondence	1.00	\$250.00
x	"	6	Review and revise Report	1.50	\$375.00
x	11/6	1	Review correspondence and pleadings	1.50	\$375.00
x	"	2	Redraft Report	2.00	\$500.00
	"	3	Prepare for deposition	0.50	\$125.00
	11/7	1	Prepare for and attend deposition	8.50	\$2,125.00
x	"	2	Review correspondence and pleadings	0.75	\$187.50

APPENDIX A

Table A-1: Invoice for November 2002

<u>Obj.</u>	<u>Date</u>	<u>Item</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
	11/8	1	Review Eleventh Quarterly Report	1.50	\$375.00
	"	2	Review EDS reports	1.00	\$250.00
x	"	3	Review Report and pleadings	1.00	\$250.00
x	"	4	Review correspondence	0.75	\$187.50
x	"	5	Telcons with third parties	0.25	\$62.50
x	11/10	1	Review pleadings and correspondence	2.00	\$500.00
x	"	2	Draft correspondence	1.00	\$250.00
x	"	3	Review and revise Report	1.50	\$375.00
x	11/11	1	Review pleadings and hearing transcripts	1.50	\$375.00
x	"	2	Review and revise correspondence	1.00	\$250.00
x	"	3	Prepare correspondence	1.00	\$250.00
x	"	4	Research	2.00	\$500.00
x	"	5	Review pleadings and correspondence	0.75	\$187.50
x	11/12	1	Review pleadings	1.50	\$375.00
x	"	2	Legal research	2.00	\$500.00
x	"	3	Redraft Report	1.00	\$250.00
x	"	4	Prepare correspondence	1.50	\$375.00
x	"	5	Revise correspondence	1.00	\$250.00
x	"	6	Telcons with third parties	1.50	\$375.00
x	"	7	Review correspondence and pleadings	1.50	\$375.00
x	"	8	Review court memoranda and opinions	1.00	\$250.00
	11/13	1	Review hearing transcripts, court orders, and correspondence	1.25	\$312.50
x	"	2	Prepare correspondence	1.50	\$375.00
x	"	3	Telcons with third parties	1.00	\$250.00

APPENDIX A

Table A-1: Invoice for November 2002

<i>Obj.</i>	<i>Date</i>	<i>Item</i>	<i>Description</i>	<i>Hours</i>	<i>Amount</i>
x	"	4	Legal research	2.75	\$687.50
x	"	5	Redraft Report	3.50	\$875.00
	"	6	Prepare for and conduct telephone conference with plaintiffs' and defendants' counsel	2.00	\$500.00
x	"	7	Draft Report	2.50	\$625.00
x	11/14	1	Review transcripts and correspondence	1.75	\$437.50
x	"	2	Prepare correspondence	0.75	\$187.50
	"	3	Review telcon transcript and correspondence	2.50	\$625.00
x	"	4	Legal research	2.75	\$687.50
x	"	5	Draft Report	5.25	\$1,312.50
x	11/15	1	Legal research	2.00	\$500.00
x	"	2	Review correspondence and transcripts	1.50	\$375.00
x	"	3	Redraft Report	4.00	\$1,000.00
	"	4	Review EDS reports	0.50	\$125.00
x	11/16	1	Review pleadings and court opinions	2.25	\$625.00
x	"	2	Legal research	1.50	\$375.00
x	"	3	Review and revise Report	1.00	\$250.00
x	"	4	Review correspondence	1.00	\$250.00
x	"	5	Review pleadings and court opinions	1.50	\$375.00
x	"	6	Prepare correspondence	1.50	\$375.00
x	"	7	Draft Report	3.00	\$750.00
x	11/17	1	Legal research	4.00	\$1,000.00
x	"	2	Draft Report	4.50	\$1,125.00
x	"	3	Telcons with third parties	0.75	\$187.50
x	11/18	1	Review and revise correspondence	1.00	\$250.00

APPENDIX A

Table A-1: Invoice for November 2002

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<u>Obj.</u>	<u>Date</u>	<u>Item</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
x	"	2	Legal research	4.50	\$1,125.00
x	"	3	Draft Report	2.50	\$625.00
x	"	4	Prepare memorandum outline	1.25	\$312.50
x	"	5	Prepare for interviews	1.75	\$437.50
	"	6	Prepare for deposition hearing	1.00	\$250.00
	11/19	1	Prepare for and attend deposition	7.25	\$1,812.50
x	"	2	Review correspondence and pleadings	1.25	\$312.50
x	"	3	Prepare correspondence	0.25	\$62.50
x	"	4	Review documents	1.50	\$375.00
	11/20	1	Prepare for and attend deposition	7.50	\$1,875.00
x	"	2	Review pleadings and correspondence	1.50	\$375.00
x	"	3	Review court Orders and opinions	0.50	\$125.00
x	"	4	Draft Report	2.50	\$625.00
x	11/21	1	Draft Report	1.00	\$250.00
x	"	2	Review and revise Report	0.50	\$125.00
x	"	3	Review pleadings and correspondence	2.00	\$500.00
x	"	4	Review documents	2.25	\$562.50
x	"	5	Legal Research	1.75	\$437.50
x	"	6	Draft Report	2.50	\$625.00
x	11/22	1	Review pleadings and correspondence	1.00	\$250.00
x	"	2	Prepare correspondence	0.75	\$187.50
x	"	3	Legal research	1.75	\$437.50
x	"	4	Redraft Report	2.50	\$625.00
x	"	5	Prepare for and meet with Court	1.00	\$250.00

APPENDIX A

Table A-1: Invoice for November 2002

<u>Obj.</u>	<u>Date</u>	<u>Item</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
x	11/23	1	Legal research	1.00	\$250.00
x	"	2	Review correspondence and documents	1.50	\$375.00
x	"	3	Review pleadings	1.75	\$437.50
x	11/24	1	Review pleadings and court opinions	1.50	\$375.00
x	"	2	Legal research	1.75	\$437.50
x	"	3	Redraft Report	2.00	\$500.00
x	11/25	1	Review correspondence	1.00	\$250.00
x	"	2	Prepare correspondence	0.25	\$125.00
x	"	3	Review pleadings	0.50	\$125.00
x	"	4	Legal research	0.50	\$125.00
x	"	5	Review and revise Report	0.50	\$125.00
x	"	6	Telcons with third parties	1.25	\$312.50
	11/27	1	Prepare for and hold telephonic discovery conference	1.00	\$250.00
x	"	2	Review correspondence	0.50	\$125.00
x	"	3	Review Report	0.50	\$125.00
			<i>Mr. Kieffer's Invoiced Total:</i>	<i>186.75</i>	<i>\$46,687.50</i>
			CORRECTED TOTAL USING ACTUAL TIME LOGGED:	186.25	\$46,562.50
			Amount of Computational Overcharge:	0.50	\$125.00
			Additional Time Overcharges Based on Objectionable Entries:	140.75	\$35,187.50
			TOTAL ADJUSTMENT NEEDED:		\$35,312.50

APPENDIX A

Table A-2: Invoice for December 2002

<u>Obj.</u>	<u>Date</u>	<u>Item</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
x	12/2	1	Review correspondence	1.75	\$437.50
x	"	2	Review pleadings	2.50	\$625.00
	"	3	Review Reports and Recommendations And discovery conference transcripts	2.00	\$500.00
x	12/3	1	Review pleadings	2.25	\$562.50
x	"	2	Review correspondence	1.00	\$250.00
	"	3	Review discovery conference transcripts	1.75	\$437.50
x	"	4	Prepare correspondence	1.50	\$375.00
	"	5	Prepare for and hold telephonic discovery conference	1.50	\$375.00
	12/4	1	Prepare for and attend Cobell deposition	7.75	\$1,937.50
x	"	2	Review pleadings	1.50	\$375.00
	"	3	Review correspondence and discovery conference transcripts	2.25	\$562.50
x	"	4	Draft Report outline	0.50	\$125.00
	12/5	1	Prepare for and attend Cobell deposition	7.50	\$1,875.00
x	"	2	Review correspondence	0.50	\$125.00
x	"	3	Prepare correspondence	0.75	\$187.50
x	"	4	Review pleadings	2.00	\$500.00
x	"	5	Draft Report outline	1.50	\$375.00
x	12/8	1	Review pleadings	2.00	\$500.00
x	"	2	Review correspondence	1.50	\$375.00
x	"	3	Draft Report	6.00	\$1,500.00
x	12/9	1	Legal research	2.50	\$625.00
x	"	2	Review pleadings	3.00	\$750.00

APPENDIX A

Table A-2: Invoice for December 2002

<i>Obj.</i>	Date	Item	Description	Hours	Amount
x	"	3	Draft Report	3.50	\$875.00
x	"	4	Review correspondence	0.25	\$62.50
x	"	5	Prepare correspondence	0.75	\$187.50
x	12/10	1	Legal research	2.50	\$625.00
x	"	2	Review correspondence	0.75	\$187.50
x	"	3	Review pleadings	2.00	\$500.00
x	"	4	Draft Report	3.50	\$875.00
x	12/11	1	Legal research	2.50	\$625.00
x	"	2	Review pleadings	2.00	\$500.00
x	"	3	Draft Report	3.50	\$875.00
x	"	4	Redraft Report	1.50	\$375.00
x	"	5	Draft Order	1.25	\$312.50
	"	6	Review Motion for Protective Order	0.50	\$125.00
x	"	7	Review correspondence and prepare correspondence	0.75	\$187.50
x	"	8	Draft outline for Report	1.50	\$375.00
	12/12	1	Prepare for and hold teleconference	1.50	\$375.00
x	"	2	Draft Report	2.50	\$625.00
x	"	3	Draft Order	0.50	\$125.00
x	"	4	Review and revise Report and Order	1.00	\$250.00
x	"	5	Legal research	1.00	\$250.00
x	"	6	Redraft Report	1.25	\$312.50
x	12/13	1	Legal research	1.25	\$312.50
x	"	2	Review pleadings	0.75	\$187.50
x	"	3	Redraft Report	2.00	\$500.00

APPENDIX A

Table A-2: Invoice for December 2002

<u>Obj.</u>	<u>Date</u>	<u>Item</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
	"	4	Attend Court hearing re: depositions	0.50	\$125.00
x	"	5	Review correspondence	1.25	\$312.50
x	"	6	Review and revise Report	1.50	\$375.00
x	12/15	1	Review documents	1.75	\$437.50
x	"	2	Review and revise Report	1.00	\$250.00
	"	3	Review reorganization plan and Tribal Task Force meeting documents	1.50	\$375.00
x	12/16	1	Review and revise Report	1.75	\$437.50
x	"	2	Review correspondence	0.75	\$187.50
x	"	3	Review pleadings	1.50	\$375.00
x	"	4	Review transcripts	1.00	\$250.00
	"	5	Review plaintiffs' interrogatories and document requests	1.25	\$312.50
	"	6	Review Quarterly Report Number Eleven	1.00	\$250.00
	12/17	1	Prepare for and attend Court hearing re: Erwin depositions	0.75	\$187.50
x	"	2	Review transcripts	0.25	\$62.50
x	"	3	Review pleadings and correspondence	0.75	\$187.50
x	"	4	Prepare correspondence	0.50	\$125.00
	"	5	Review documents re: historical accounting	1.50	\$375.00
	"	6	Review documents re: "as is" EDS project	1.00	\$250.00
	12/18	1	Prepare for and attend Edwards deposition	8.50	\$2,125.00
	"	2	Prepare notes re: deposition	1.00	\$250.00
x	"	3	Review correspondence	0.50	\$125.00
x	"	4	Review pleadings	2.00	\$500.00

APPENDIX A

Table A-2: Invoice for December 2002

<u>Obj.</u>	<u>Date</u>	<u>Item</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
	12/19	1	Prepare for and attend EDS deposition	5.00	\$1,250.00
	"	2	Prepare notes re: deposition	0.50	\$125.00
x	"	3	Review correspondence	0.75	\$187.50
	12/20	1	Prepare for and attend Erwin deposition	8.25	\$2,062.50
	"	2	Prepare notes re: deposition	0.50	\$125.00
x	"	3	Review correspondence	1.50	\$375.00
x	"	4	Review pleadings	1.00	\$250.00
x	12/21	1	Review pleadings	0.75	\$187.50
x	"	2	Review deposition transcripts	1.50	\$375.00
x	"	3	Prepare correspondence	0.75	\$187.50
x	12/22	1	Review deposition transcripts	0.50	\$125.00
x	"	2	Review and revise correspondence	0.25	\$62.50
	"	3	Review EDS status reports	0.75	\$187.50
x	12/23	1	Review correspondence	0.50	\$125.00
x	"	2	Review court opinions	1.00	\$250.00
x	"	3	Review deposition transcripts	1.50	\$375.00
x	12/24	1	Review deposition transcripts	2.00	\$500.00
x	"	2	Prepare notes	1.25	\$312.50
	12/27	1	Review Eleventh Quarterly Report	1.00	\$250.00
	"	2	Review OHTA Report	1.50	\$375.00
x	12/29	1	Review Court opinions and pleadings	1.25	\$312.50
x	"	2	Review deposition transcripts	2.50	\$625.00
x	"	3	Prepare notes	0.75	\$187.50
x	12/30	1	Review correspondence	0.50	\$125.00

APPENDIX A

Table A-2: Invoice for December 2002

<i>Obj.</i>	Date	Item	Description	Hours	Amount
x	"	2	Redraft correspondence	0.75	\$187.50
x	"	3	Review deposition transcripts	2.75	\$687.50
x	"	4	Legal research	1.50	\$375.00
x	12/31	1	Review pleadings	1.50	\$375.00
x	"	2	Review correspondence	1.00	\$250.00
x	"	3	Review Court opinions	1.75	\$437.50
x	"	4	Review deposition transcripts	0.75	\$187.50
	"	5	Prepare correspondence	2.00	\$500.00
			<i>Mr. Kieffer's Invoiced Total (exclusive of expenses and prior month adjustments):</i>	<i>171.25</i>	<i>\$42,812.50</i>
			Time Overcharges Based on Objectionable Entries:	110.00	\$27,500.00
			TOTAL ADJUSTMENT NEEDED:		\$27,500.00

CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on January 31, 2003, I served the foregoing *Interior Defendants' Motion to Adjust the Special Master-Monitor's November and December 2002 Compensation* by facsimile, in accordance with their written request of October 31, 2001 upon:

Keith Harper, Esq.
Native American Rights Fund
1712 N Street, NW
Washington, DC 20036-2976
202-822-0068

Dennis M Gingold, Esq.
Mark Brown, Esq.
1275 Pennsylvania Avenue, NW
Ninth Floor
Washington, DC 20004
202-318-2372

and by U.S. Mail upon:

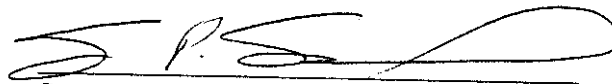
Elliott Levitas, Esq.
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309-4530

and by U.S. Mail and by facsimile upon:

Alan L. Balaran, Esq.
Special Master
1717 Pennsylvania Ave., NW
12th Floor
Washington, DC 20006
202-986-8477

and by Hand Delivery upon:

Joseph S. Kieffer, III, Esq.
Special Master-Monitor
420 7th Street, NW
Apt 705
Washington, DC 20004
202-478-1958



Sean P. Schmergel