

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

2003 APR 25 PM 9: 37

HANCY M.
MAYER-WHITTINGTON
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ELOUISE PEPION COBELL, et al.,)
)
Plaintiffs,)
)
v.)
)
GALE A. NORTON, Secretary of the Interior, et al.,)
)
Defendants.)
_____)

Case No. 1:96CV01285 (RCL)
(Judge Lamberth)

**INTERIOR DEFENDANTS' MOTION FOR
EXPEDITED CONSIDERATION OF CERTAIN PRE-TRIAL MOTIONS**

Interior Defendants respectfully move for expedited consideration of the following pre-trial motions:¹

1. Defendants' Motion For Partial Summary Judgment That Interior's Historical Accounting Plan Comports With Their Obligation To Perform An Accounting (Jan. 31, 2003).
2. Defendants' Motion For Partial Summary Judgment That Interior's Trust Management Plan Comports With Their Obligation To Perform An Accounting (Jan. 31, 2003).
3. Defendants' Motion For Partial Summary Judgment Regarding Statute of Limitations And Laches (Jan. 31, 2003).
4. Interior Defendants' Motion In Limine To Exclude Plaintiffs' Plan For Determining Accurate Balances In The Individual Indian Trust And All Evidence Offered In Support (Apr. 18, 2003).

¹ In accordance with Local Civil Rule 7.1(m), counsel for Interior Defendants conferred with Plaintiffs' counsel regarding this motion. Counsel for Plaintiffs stated that Plaintiffs oppose this motion.

5. Interior Defendants' Motion In Limine With Regard to Expert Testimony and Report in Support of Plaintiffs' Plan for Determining Accurate Balances in the Individual Indian Trust (Apr. 18, 2003).
6. Interior Defendants' Motion In Limine as to Plaintiffs' Proffered Expert Testimony and Report Regarding the Reliability and Relevance of Methodologies Employed in Plaintiffs' Plan (Apr. 21, 2003).
7. Plaintiffs' Motion For Order Requiring Defendants To Bear The Cost Responding To Interior Defendants' Request For Production Of Documents, Dated February 21, 2003 And To Interior Defendants' Set Of Interrogatories, Dated February 21, 2003 And To Grant Plaintiffs An Enlargement Of Time Within Which To Respond Thereto (Mar. 24, 2003).²
8. Plaintiffs' Motion For Protective Order: (1) Directing Defendants To Withdraw Or Limit Their Improper Subpoena Of Joe Christie To Produce Documents At His Expert Witness Deposition Not Reasonably Related To His Expert Testimony; (2) Limit His Testimony At Deposition To Matters Reasonably Related To His Expert Testimony At Deposition To Matters Reasonably Related To His Expert Testimony At Trial 1.5 and (3) That Mr. Christie's Deposition Be Held In Washington, D.C. (Apr. 1, 2003).
9. Interior Defendants' Motion To Compel Discovery From Joe Christie (Apr. 14, 2003).³

Expedited consideration of these motions is needed because each one affects the nature and scope of the Phase 1.5 trial scheduled to commence on May 1, 2003. The first three motions listed above are motions for partial summary judgment, the resolution of which will necessarily affect the scope of the trial. Briefing on these motions will be complete when Defendants' reply briefs are filed this date.

² Plaintiffs filed this motion before Special Master-Monitor Kieffer. In light of the D.C. Circuit's April 24, 2003 Order staying Mr. Kieffer's participation in this case, the motion should be decided in the first instance by the Court.

³ This motion is consolidated with Interior Defendants' Opposition To Plaintiffs' And Joe Christie's Motion For A Protective Order, filed April 14, 2003.

The fourth, fifth, and sixth motions listed above are motions in limine, the resolution of which will affect the admissibility of certain evidence and testimony at trial, including Plaintiffs' Plan For Determining Accurate Balances In The Individual Indian Trust and the opinions proffered by Plaintiffs' experts. Briefing on these motions is not yet complete.

The seventh and eighth motions listed above are motions by which Plaintiffs seek to preclude or limit Interior Defendants' discovery regarding Plaintiffs' plans and one of Plaintiffs' expert witnesses; the ninth motion is Interior Defendants' motion to compel discovery from that expert.⁴ If these motions are resolved in Interior Defendants' favor, they will take discovery necessary for the Phase 1.5 trial. If Interior Defendants are precluded from taking such discovery, they may need to file additional pre-trial motions. Briefing is complete on the seventh and eighth⁵ motions; briefing is not yet complete on the ninth motion.

Because the resolution of all of the motions listed above will necessarily affect the nature and scope of the Phase 1.5 trial, and because that trial is scheduled to begin on May 1, 2003,

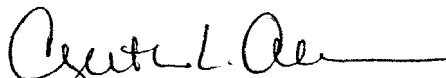
⁴ This motion was consolidated with Interior Defendants' Opposition To Plaintiffs' And Joe Christie's Motion For A Protective Order in a single filing on April 14, 2003.

⁵ Plaintiffs have not filed a reply to Interior Defendants' Motion to Compel Discovery From Joe Christie; the time for filing such a reply expired on April 24, 2003.

Interior Defendants respectfully request that the Court enter the attached order granting expedited consideration of these motions.

Respectfully submitted,

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Dated: April 25, 2003

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

ORDER

Upon consideration of Interior Defendants' Motion for Expedited Consideration of Certain Pre-Trial Motions, filed April 25, 2003, and any responses thereto, it is hereby

ORDERED, that Interior Defendants' Motion for Expedited Consideration is **GRANTED** as to the following pre-trial motions:

1. Defendants' Motion For Partial Summary Judgment That Interior's Historical Accounting Plan Comports With Their Obligation To Perform An Accounting (Jan. 31, 2003).
2. Defendants' Motion For Partial Summary Judgment That Interior's Trust Management Plan Comports With Their Obligation To Perform An Accounting (Jan. 31, 2003).
3. Defendants' Motion For Partial Summary Judgment Regarding Statute of Limitations And Laches (Jan. 31, 2003).
4. Interior Defendants' Motion In Limine To Exclude Plaintiffs' Plan For Determining Accurate Balances In The Individual Indian Trust And All Evidence Offered In Support (Apr. 18, 2003).
5. Interior Defendants' Motion In Limine With Regard to Expert Testimony and Report in Support of Plaintiffs' Plan for Determining Accurate Balances in the Individual Indian Trust (Apr. 18, 2003).

6. Interior Defendants' Motion In Limine as to Plaintiffs' Proffered Expert Testimony and Report Regarding the Reliability and Relevance of Methodologies Employed in Plaintiffs' Plan (Apr. 21, 2003).
7. Plaintiffs' Motion For Order Requiring Defendants To Bear The Cost Responding To Interior Defendants' Request For Production Of Documents, Dated February 21, 2003 And To Interior Defendants' Set Of Interrogatories, Dated February 21, 2003 And To Grant Plaintiffs An Enlargement Of Time Within Which To Respond Thereto (Mar. 24, 2003).
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9. Interior Defendants' Motion To Compel Discovery From Joe Christie (Apr. 14, 2003).

SO ORDERED this ____ day of _____, 2003.

ROYCE C. LAMBERTH
United States District Judge

cc:

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CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on April 25, 2003 I served the foregoing *Interior Defendants' Motion for Expedited Consideration of Certain Pre-Trial Motions* by facsimile in accordance with their written request of October 31, 2001.

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Per the Court's Order of April 17, 2003
by facsimile and U.S. Mail upon:

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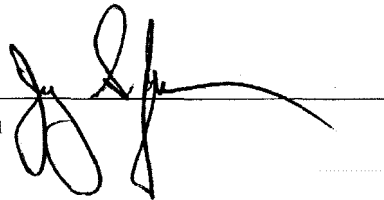
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Jay St. John

A handwritten signature in black ink, appearing to read "Jay St. John", is written over a horizontal line. The signature is stylized and cursive.