

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

**DEFENDANTS' OBJECTIONS TO PLAINTIFFS'
STATEMENT OF FEES AND EXPENSES FILED JUNE 21, 2004**

Pursuant to the Court's Order of May 25, 2004, Defendants respectfully submit their objections to Plaintiffs' Statement Of Fees And Expenses In Accordance With The Court's March 11, 2003 Order (filed June 21, 2004) ("Plaintiffs' Statement").

PRELIMINARY STATEMENT

On March 11, 2003, the Court issued a Memorandum and Order imposing sanctions against Defendants under Federal Rule of Civil Procedure 56(g) based on the filing of a declaration executed by Frank Sapienza, the former Director of the Indian Trust Accounting Division of the General Services Administration ("Sapienza Declaration").¹ Specifically, the Court ordered Defendants to "compensate Plaintiffs for any reasonable expenses, including attorneys' fees, incurred by plaintiffs as a result of opposing the claims set forth in the Sapienza Affidavit submitted in conjunction with defendants' Third Motion."² Mem. & Order at 15. The

¹ On May 25, 2004, the Court denied our motion to reconsider the sanctions ruling.

² The "Third Motion" refers to Defendants' Third Phase II Motion For Partial Summary Judgment (filed Sept. 19, 2000) ("Third Motion").

Court ordered Plaintiffs to submit an application "detailing the amount of reasonable expenses and attorneys' fees incurred as a result of preparing and filing their opposition brief to the Third Motion." Id.

Plaintiffs have submitted a fee application seeking a staggering \$356,774.12, based on 1,165.7 claimed billable hours, in response to the Court's Order allowing them recovery for the preparation of a single summary judgment opposition brief. In so doing, they disregard the limitation prescribed in the Court's Order, seek reimbursement for other motions and activities for which the Court has not allowed them recovery, and seek unreasonable levels of compensation for the work that they ostensibly performed. Because Plaintiffs have so overreached in seeking reimbursement of fees which they could not reasonably believe the Court allowed them to recover, their entire application should be denied under established law in this Circuit. Alternatively, their total claim should be substantially reduced to \$23,223.50, a reasonable amount in light of the relief contemplated by the Court's Order.

ARGUMENT

I. Because Plaintiffs Improperly Seek Fees And Expenses Based On Work For Which They Have Not Been Awarded Recovery, Their Entire Claim Should Be Disallowed

The Court's March 11, 2003 Memorandum and Order permits the Plaintiffs to seek reimbursement for fees and expenses "incurred as a result of preparing and filing their opposition brief to the Third Motion." Mem. & Order at 15. Viewed against these clear parameters, Plaintiffs' application is so outlandish that it warrants denial in its entirety.

This Court previously has recognized the exacting standards that are to be applied in reviewing fee applications against the government: "The D.C. Circuit has admonished . . . that

'where a fee is sought from the United States, which has infinite ability to pay, the court must scrutinize the claim with particular care.'" Cobell v. Babbitt, 188 F.R.D. 122, 125 (D.D.C. 1999) (quoting Copeland v. Marshall, 641 F.2d 880, 888 (D.C. Cir. 1980)). And, in Environmental Defense Fund v. Reilly, 1 F.3d 1254, 1258 (D.C. Cir. 1993), the D.C. Circuit warned:

We may deny in its entirety a request for an "outrageously unreasonable" amount, lest claimants feel free to make "unreasonable demands, knowing that the only unfavorable consequence of such misconduct would be reduction of their fee to what they should have asked for in the first place."

(quoting Brown v. Stackler, 612 F.2d 1057, 1059 (7th Cir. 1980), and citing Jordan v. Dep't of Justice, 691 F.2d 514, 518 (D.C. Cir. 1982); Trichilo v. Sec'y of Health & Human Servs., 823 F.2d 702, 708 (2d Cir. 1987)). The court also noted that, as an alternative to disallowance of the entire fee request, a court may "impose a lesser sanction, such as awarding a fee below what a 'reasonable' fee would have been in order to discourage fee petitioners from submitting an excessive request." 1 F.3d at 1258. After considering the fees claimed and work performed, the court disallowed the entire fee sought by one of the attorneys for the applicant (but not the others) because of an excessive amount of time claimed for certain tasks. Id.

Plaintiffs' Statement fits precisely within the "outrageously unreasonable" standard described in Environmental Defense Fund. Aside from the fact that the overall amount claimed by Plaintiffs (1,165.7 hours and fees and expenses totaling \$356,774.12) is grossly excessive in light of the matter for which recovery was allowed, Plaintiffs' Statement is outrageously unreasonable because it seeks substantial sums for work on motions and other tasks for which they were not authorized to request fees.³ Plaintiffs had no basis to believe that they were

³ Moreover, as discussed in detail in Section II.B.3, infra, there is reason to believe that Plaintiffs have modified their billing records in an effort to increase their fee request. This

entitled to include that work in their present application. Their conduct is aggravated by the fact that they have engaged in this practice *twice* before.⁴ A substantial sanction is appropriate to ensure that this does not happen again.⁵

Based upon the dates and descriptions of work contained in the fee statements attached to Plaintiffs' Statement, the vast majority of the hours for which Plaintiffs seek recovery (at least 745 hours, which is 64% of the 1,165.70 total hours claimed) involves work on activities other than preparing and filing their opposition brief to the Third Motion.⁶ See Exh. A (identifying the various activities outside the scope of the Court's Order for which Plaintiffs seek fees). Plaintiffs even go so far as to seek recovery for work on motions as to which they did not prevail, such as

conduct further militates in favor of denial of their entire fee award.

⁴ Following the 1999 contempt proceeding, Plaintiffs submitted an application for over \$2.3 million, which the Court reduced to under \$625,000, finding that Plaintiffs included in their application much work on matters beyond the scope of what the Court's decision stated they could recover at that time. Cobell v. Babbitt, 188 F.R.D. at 123, 139-40. On April 29, 2002, Plaintiffs filed a fee statement claiming over \$409,000 for opposing two short discovery motions. The Court substantially reduced that award to \$125,484.87, finding that Plaintiffs again included work beyond the scope of the recovery permitted by the Court. Mem. Op. and Order (Nov. 12, 2002).

⁵ This is particularly important now because Plaintiffs are preparing what is likely to be, based on prior practice, an equally excessive interim fee petition pursuant to EAJA. It bears noting that Plaintiffs have now sought two extensions of time (which the Court has not yet acted upon) in order to compile their "contemporaneous" billing records for that interim petition.

⁶ The actual quantity of inappropriately claimed time may be higher; many of Plaintiffs' time entries include unsegregated tasks and are too vague to clearly identify which activity they involve.

their motion to amend their contempt motion, cross-motions for summary judgment, and their opposition to Defendants' motion to withdraw three summary judgment motions.⁷

Plaintiffs have ignored the Court's clear instruction that their application be limited to those fees and expenses incurred in connection with the preparation and filing of their opposition brief to the Third Motion. Instead, Plaintiffs' Statement is so far afield from these simple parameters that it cannot reasonably have been thought proper. Because Plaintiffs' Statement contains time for so many clearly non-recoverable tasks, we respectfully request that the Court disallow Plaintiffs' request for recovery in its entirety. As the D.C. Circuit recognized in Environmental Defense Fund v. Reilly, 1 F.3d at 1258, that is the only effective way to deter such wrongful conduct.

II. Alternatively, Plaintiffs' Statement Should Be Substantially Reduced Because It Exceeds The Scope Of The Relief Ordered By The Court And Is Grossly Excessive

Plaintiffs' Application far exceeds the relief ordered by the Court. First, Plaintiffs seek reimbursement of fees and expenses for work that was not incurred in connection with preparing and filing their opposition brief to the Third Motion. Second, the fees and expenses that Plaintiffs seek are unreasonable because \$356,774, based on 1,165 hours, is a patently excessive amount for the preparation of a single summary judgment opposition brief. The billing entries are also replete with inconsistencies and other improprieties, and include the application of an

⁷ See Order (Mar. 11, 2003) (denying Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards); Order (Sept. 17, 2002) (denying without prejudice Plaintiffs' Cross-Motions for Summary Judgment as to (A) There Being No Temporal Limit to Defendants' Obligation to Account, and (B) the Non-Settlement of Accounts); Memorandum and Order (Mar. 11, 2002) (granting Defendants' Motion to Withdraw Three Motions for Partial Summary Judgment).

inappropriate billing rate for non-professional work. Plaintiffs' Fee Statement should be denied insofar as the billing entries included therein suffer from these defects.

A. Plaintiffs' Application Goes Beyond The Relief Ordered By The Court

The Court expressly limited the fees and expenses for which Plaintiffs could seek reimbursement to those "incurred as a result of preparing and filing their opposition brief to the Third Motion." Mem. & Order at 15. Plaintiffs disregard this limitation and seek fees and expenses for a variety of work unrelated to their opposition brief to the Third Motion, including discovery-related activities; summary judgment motions relating to the Phase 1.5 trial; an opposition to Defendants' motion to withdraw three summary judgment motions and Plaintiffs' cross-motions; a motion to amend Plaintiffs' request for contempt orders; and an opposition to Defendants' motion for reconsideration of the Court's sanctions order. See Exh. A. None of these activities can be construed as "preparing and filing their opposition brief" to the Third Motion for summary judgment and, therefore, they are outside the scope of the Court's Order. Indeed, some of the work for which Plaintiffs seek reimbursement was allegedly performed by Mr. Gingold in June and July 2000, and by Mr. Rempel in June 2000, before the Third Motion was even filed.⁸ The total value of fees and expenses claimed by Plaintiffs that are outside the scope of the Court's Order is \$118,716.26.

⁸ The Third Motion and accompanying Sapienza Declaration were filed on September 19, 2000.

B. Plaintiffs' Application Is Excessive And Unreasonable

Plaintiffs seek exorbitant compensation for both work ostensibly within the scope of the Court's Order and activities clearly outside the Order's parameters. They also improperly seek to have non-professional services compensated at a professional rate, and base a significant portion of their fee request on inconsistent or otherwise defective billing entries.

1. The Number Of Billable Hours For Which Plaintiffs Seek Compensation Is Unreasonable

Plaintiffs have requested \$356,774.12 for 1,165.70 hours of billed time. Under no interpretation can such a sum be deemed reasonable for "preparing and filing their opposition to the Third Motion."

In a recent decision analyzing the reasonableness of a fee application, this Court found it appropriate to compare the total number of hours worked to the specific document produced. Mitchell v. National R.R. Passenger Corp., 217 F.R.D. 53, 58-60 (D.D.C. 2003) (Facciola, MJ); see also Environmental Defense Fund v. Reilly, 1 F.3d 1254, 1258 (evaluating fee application under Resource Conservation and Recovery Act by multiplying prevailing hourly rate by number of attorney hours reasonably expended). In making this assessment, the Court considered the complexity of the legal issues and factual analysis involved, as well as whether the work was appropriately delegated. Mitchell, 217 F.R.D. at 58. Applying these factors, the Court found that the fee application was unreasonably high. A 16-page motion for which the applicant sought recovery cost \$12,866.25, or \$800 per page, to prepare; other documents for which recovery was sought cost more than \$500 per page. In finding these sums unreasonable, the Court determined that the work performed by a junior lawyer, allowing for necessary research and familiarization

with applicable legal principles, should not exceed one hour per page. The Court further held that a senior lawyer, whose role generally is limited to supervising and editing, should be capable of reviewing a ten-page draft in one hour. Based on these conclusions, the fee award was substantially reduced. Id. at 60.

Even looking only at the time Plaintiffs attribute to opposing the Third Motion, which is the only time compensable under the Court's March 11, 2003 and May 25, 2004 Orders, the fees and expenses Plaintiffs seek reach dizzying heights. Plaintiffs claim to have spent 448.33 hours and have billed \$130,286.30 to prepare their 38-page opposition brief to the Third Motion and the accompanying 73-page "evidentiary appendix."⁹ This amounts to \$1,173.75 per page!¹⁰ Id. No degree of complexity could justify such overreaching, particularly given the number of years of legal experience possessed by the lawyers who performed the work. Even employing the rate of one hour per page utilized in Mitchell for the work of an *inexperienced* attorney, Plaintiffs' fees for preparing their opposition to the Third Motion still would be reduced to an amount based

⁹ This is based on the following individual hours billed by Plaintiffs for work on their opposition brief to the Third Motion: Mr. Brown - 146.23 hours; Mr. Harper - 93.3 hours; Mr. Gingold - 104 hours; and Mr. Rempel - 104.8 hours.

It is not clear that the appendix Plaintiffs filed with their opposition brief, titled "Evidentiary Appendix Filed In Opposition To Defendants' Third Phase II Motion For Partial Summary Judgment (Re: Settlement Of Accounts By Treasury And GAO), should be factored into the fee analysis. But for purposes of computing the maximum award to which Plaintiffs could be entitled, we include it here as work for which fees may be recoverable under the Court's Order.

¹⁰ The time submitted by Plaintiffs for work not within the scope of the Court's orders (and therefore not compensable at all) is similarly extravagant. For example, Plaintiffs claim to have spent 201.5 hours and seek more than \$52,000, or \$4,053 per page, for preparing their 13-page motion to amend their contempt motion, and 134.42 hours and \$29,179, or \$1,621 per page, for opposing Defendants' motion to withdraw summary judgment motions and for preparing cross-motions.

on 111 hours of work, or 20% of the hours that Plaintiffs have submitted. Reducing the hours to 20% of those submitted by Plaintiffs, the maximum fees to which Plaintiffs would be entitled with respect to opposing the Third Motion are \$23,223.50, consisting of: \$10,220 for Mr. Brown (29.2 hours at \$350/hour); \$3,833.50 for Mr. Harper (18.7 hours at \$205/hour); \$7,280 for Mr. Gingold (20.8 hours at \$350/hour); and \$1,890 for Mr. Rempel (21 hours at the paralegal rate of \$90/hour¹¹). Accordingly, any fee award to Plaintiffs for their work in preparing the opposition brief to the Third Motion should not exceed \$23,223.50.

2. Non-Professional Services Rendered By Plaintiffs' Counsel's Consultant Does Not Merit Compensation At A Professional Rate

Plaintiffs improperly seek reimbursement for time billed by non-lawyer Geoffrey Rempel at the professional rate of \$225 per hour, based on an earlier decision of the Court finding that Mr. Rempel had performed professional accounting services in connection with a prior fee application. See Affidavit of Geoffrey Rempel, executed June 21, 2004 and submitted with Plaintiffs' Statement ("Rempel Aff."), at ¶ 20 (citing Memorandum Opinion (Nov. 12, 2002) at 9). Here, however, Mr. Rempel rendered no professional accounting services in connection with Plaintiffs' opposition brief to the Third Motion. Instead, his work consisted primarily of assisting with the drafting of legal papers and providing other litigation support to Plaintiffs' counsel. As a result, he cannot be compensated based on the provision of professional accounting services. Indeed, because he is not actively licensed as a CPA, see Rempel Aff., ¶ 1, he is not authorized to render professional accounting services. And because he is not a lawyer, he cannot be compensated professionally in that capacity either. Rather, Mr. Rempel's role in connection with

¹¹ As discussed in Section II.B.2, infra, Mr. Rempel rendered no professional accounting or legal services that would justify a professional rate of compensation for his work.

Plaintiffs' opposition to the Third Motion can properly be deemed to be only that of a paralegal, and his billing rate should be adjusted downward to reflect that status. Under the Laffey matrix, paralegal work performed in the year 2000 (when Plaintiffs prepared their opposition brief) is compensable at the hourly rate of \$90. Accordingly, any fees awarded to Plaintiffs based on work performed by Mr. Rempel in connection with Plaintiffs' opposition to the Third Motion should be reduced by \$135 per hour (\$225-\$90) to reflect the appropriate nature of Mr. Rempel's work.¹²

3. The Specific Time Entries Submitted
By Plaintiffs Reveal Patent Improperities

Plaintiffs' Statement is replete with improper billing entries that warrant denial of fees claimed for that work. First, Plaintiffs' counsel seek reimbursement of fees and expenses that were already submitted, and rejected, on two prior occasions in connection with Plaintiffs' efforts to hold the Secretary and Assistant Secretary in contempt. See Cobell v. Norton, 334 F.3d 1128, 1133 (D.C.Cir. Jul 18, 2003), Cobell v. Norton, 319 F.Supp.2d 36 (D.D.C. 2004). Having attested to those fees as having been incurred in connection with their contempt charges, Plaintiffs cannot now claim such fees as having been incurred in connection with opposing the Third Motion. Plaintiffs employ similar tactics with respect to time that they previously submitted in connection with the Mona Infield matter. The total value of all time entries

¹² As discussed in Section II.A, supra, time billed by Mr. Rempel for activities unrelated to Plaintiffs' opposition to the Third Motion is not compensable under the Court's order. Moreover, as discussed in Section II.B, supra, the hours Mr. Rempel does attribute to Plaintiffs' opposition brief are excessive and must be reduced to a reasonable level, *i.e.*, 20% of the hours he claims.

included in Plaintiffs' Statement that have been double billed, which are identified in Exhibit B, is \$57,748.50.

Second, in numerous instances, time entries by one member of Plaintiffs' litigation team are not consistent with those of others. For example, Mr. Gingold seeks reimbursement for an alleged conference call of 0.4 hours with Mr. Harper and Mr. Brown on October 28, 2000, but the billing records of neither Mr. Harper nor Mr. Brown indicate that any such conference call took place. Similarly, Mr. Gingold claims to have spent 1.3 hours on March 11, 2002, and 2.3 hours on March 13, 2002, in teleconferences with Mr. Harper, but Mr. Harper's records do not reflect that any such conferences occurred on those dates. Indeed, there are *dozens* of entries in the fee schedules submitted by Plaintiffs that are internally inconsistent. The total value of these improper entries, which are set forth in Exhibit C, is \$12,463.15.

Third, itemized entries included in Plaintiffs' present fee request that were also the subject of previous fee applications made by Plaintiffs in other contexts are not consistent with those prior entries. For example, in the fee application Plaintiffs filed on November 18, 2002, Mr. Gingold sought to be reimbursed for the following billing entry for June 2, 2000:

Appear at Special Master meeting with defendants and their counsel; discuss withheld GAO documents and related memoranda re: DOJ/DOI misrepresentations regarding GAO disbursing officer account audits and discharge of accounting duties in accordance with 12/21/99 Court order.

Affidavit of Dennis M. Gingold, executed Nov. 18, 2002, Att. B (included in Exh. B(1) hereto). However, in Plaintiffs' present fee application, the same (purportedly contemporaneous) billing entry bears little resemblance to the form in which it was previously submitted:

Accompanied by Rempel, met with Master, DOJ, DOI, & DOT re: production of accounting documents relevant to Cobell litigation, including all documentation that purports to represent the settlement of IIM accounts in the custody or control of disbursement officers. Brooks represented that the settlement of Disbursing [sic] officer accounts also settled IIM accounts. Asst. Secretary of the Treasury Don Hammond confirmed that the settlement of disbursing officer accounts did not result in accounting of IIM trust accounts.

Affidavit of Dennis M. Gingold, executed June 21, 2004 ("Gingold Aff."), Schedule (included in Exh. B(1) hereto) (emphasis added). The obvious purpose of the new language apparently added by Mr. Gingold is to match statements he makes in his current affidavit in an effort to justify an award beyond the scope defined in the Court's Order:

However, the attached Schedule does include time spent on this issue from the time this matter first was presented formally to the Special Master four years ago, a matter candidly discussed by the parties and counsel in the presence of the Master on June 2, 2000. During this meeting, Assistant Treasury Secretary Don Hammond explicitly admitted - contrary to knowingly false claims of defense counsel and the Interior defendants - that neither the GAO nor Treasury had settled, or conducted an accounting of, the accounts of individual Indian trust beneficiaries.

Gingold Aff., ¶ 4 (emphasis added). While the foregoing entry is among the most egregious examples in Plaintiffs' Statement, it is only one of over forty billing entries that have been modified by Mr. Gingold to suit the present fee application.¹³

¹³ See Exh. (B)(1), Affidavits of Dennis Gingold of Nov. 5, 2002, Nov. 18, 2002, and June 20, 2004, and compare entries for June 2, 2000 (two entries), July 5, 2000, July 25, 2000, Sept. 24, 2000 (two entries), Sept. 25, 2000 (two entries), Sept. 26, 2000 (three entries), Sept. 28, 2000 (two entries), Sept. 30, 2000, Oct. 1, 2000, Oct. 5, 2000, Oct. 7, 2000 (two entries), Oct. 8, 2000, Oct. 28, 2000, Oct. 29, 2000 (two entries), Oct. 30, 2000, Oct. 31, 2000, Nov. 1, 2000, Nov. 2, 2000, Nov. 3, 2000 (four entries), May 1, 2002 (two entries), June 20, 2002, June 21, 2002, June 24, 2002, June 25, 2002, July 5, 2002, July 11, 2002, July 29, 2002, July 30, 2002, Aug. 6, 2002, and Aug. 7, 2002.

Plaintiffs also makes inconsistent claims with regard to the billing entries of Mr. Rempel. For example, the fee statement submitted in connection with Plaintiffs' second contempt campaign in 2002 included the following entry for Mr. Rempel for September 23, 2000:

Review Defs' Motion for MSJ re: GAO settled accounts for contempt motion.

Affidavit of Geoffrey Rempel, executed Nov. 18, 2002, Schedule (included in Exh.

B(2))(emphasis added). But in Plaintiffs' present fee application, which is limited only to work related to Plaintiffs' opposition to the Third Motion, Mr. Rempel has deleted the reference "for contempt motion" in an apparent attempt to link his work for that day to the scope of the present fee matter. In the present application, his billing entry for September 23, 2000 now reads simply:

Review Defs' Motion for MSJ and exhibits re: GAO settlement of accounts.

Rempel Aff., Schedule. In fact, new language has been added to virtually all of Mr. Rempel's present fee entries that were also the subject of a prior fee application in an apparent effort to make them appear related to the award contemplated by the Court. See, e.g., id. at 9/25/00 (adding the language "begin drafting and preparing response"); id. at 9/29/00 (adding the language "re settlement of accounts process"), id. at 10/5/00, 10/6/00, 10/26/00, 10/27/00, and 10/28/00 (adding the language "for purposes of drafting the opposition" to each entry); see Exh. B(2), Affidavits of Geoffrey Rempel of June 21, 2004 and Nov. 18, 2002, and compare entries for Sept. 25, 2000, Sept. 26, 2000, Sept. 27, 2000, (two entries), Oct 5, 2000, Oct. 6, 2000, Oct. 25, 2000, Oct. 26, 2000, Oct. 27, 2000, Oct. 28, 2000 (two entries) Oct. 29, 2000, Nov. 1, 2000, Nov. 2, 2000, Nov. 3, 2000, May 6, 2000.

This conduct warrants not only disallowance of those fees that are based on the manipulated billing entries, but outright denial of the entire fee application as outrageously unreasonable. See Section I, supra. Both Mr. Gingold and Mr. Rempel swore that their billing entries were made contemporaneously with the tasks allegedly performed. See Gingold Aff. at ¶ 2; Rempel Aff. at ¶ 15. Yet, these representations cannot be reconciled with the subsequent modification of Plaintiffs' bills to better suit their present fee application. A table identifying all of these suspect billing entries is attached hereto as Exhibit B.¹⁴

CONCLUSION

Based on the foregoing, Defendants respectfully request that the Court issue an order denying Plaintiffs' entire fee application as outrageously unreasonable. In the alternative, any fee award to Plaintiffs for preparing their opposition brief to the Third Motion should be reduced to an amount not exceeding \$23,223.50.

Dated: July 21, 2004

Respectfully submitted,
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/s/ Sandra P. Spooner
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¹⁴ For the Court's convenience, a table reproducing all of the billing entries included in Plaintiffs' Statement, and describing our objections where applicable, is attached as Exhibit D.

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CERTIFICATE OF SERVICE

I hereby certify that, on July 21, 2004 the foregoing *Defendants' Objections to Plaintiffs' Statement of Fees and Expenses Filed June 21, 2004* was served by Electronic Case Filing, and on the following who is not registered for Electronic Case Filing, by facsimile:

Earl Old Person (*Pro se*)
Blackfeet Tribe
P.O. Box 850
Browning, MT 59417
Fax (406) 338-7530

/s/ Kevin P. Kingston
Kevin P. Kingston

Brown Entries Outside of Scope of Court Order

2/7/02	Research/Review GAO Report	2.5	\$900.00	Outside of Scope	\$0.00
2/9/02	Legal Research re Cross-motion for MSJ	3.166	\$1,139.76	Outside of Scope	\$0.00
2/11/02	Legal Research re Withdrawing MSJ; Prepare Memorandum of Points and Authorities	3.25	\$1,170.00	Outside of Scope	\$0.00
2/12/02	Revise Opposition to Motion to Withdraw MSJ	1.583	\$569.88	Outside of Scope	\$0.00
2/12/02	Revise Opposition to Motion to Withdraw MSJ	0.333	\$119.88	Outside of Scope	\$0.00
2/13/02	Revise Opposition to Motion to Withdraw MSJ	0.333	\$119.88	Outside of Scope	\$0.00
2/13/02	Revise Summary Judgment Opposition	0.666	\$239.76	Outside of Scope	\$0.00
2/14/02	Revise Memorandum of Points and Authorities re Cross-Motion for Summary Judgment	2.92	\$1,051.20	Outside of Scope	\$0.00
2/14/02	Revise Summary Judgment Opposition	4.916	\$1,769.76	Outside of Scope	\$0.00
2/15/02	Revise Summary Judgment Opposition	0.75	\$270.00	Outside of Scope	\$0.00
2/15/02	Revise Summary Judgment Opposition	3	\$1,080.00	Outside of Scope	\$0.00
2/15/02	Revise Summary Judgment Opposition /miscellaneous re service & filing	1.333	\$479.88	Outside of Scope	\$0.00
3/10/02	Review Opposition to Rule 56(g) Motion	1.666	\$599.76	Outside of Scope	\$0.00
3/13/02	Prepare Reply re Cross-Motion for Summary Judgment	2.75	\$990.00	Outside of Scope	\$0.00
3/13/02	Prepare Reply re Cross-Motion for Summary Judgment	6.916	\$2,489.76	Outside of Scope	\$0.00
5/26/04	Review Court Orders re Sapienza Sanctions; Review File re Same	1.166	\$443.08	Outside of Scope	\$0.00
6/8/04	Gather and segregate time for Sapienza Fee Application	4.916	\$1,868.08	Outside of Scope	\$0.00
6/9/04	Gather and segregate time for Sapienza Fee Application	1.916	\$728.08	Outside of Scope	\$0.00
6/9/04	Gather and segregate time for Sapienza Fee Application; Prepare MKB Affidavit re fees; Legal Research re Laffey rates	3.666	\$1,393.08	Outside of Scope	\$0.00

6/10/04	Prepare MKB Affidavit re fees	1.916	\$728.08	Outside of Scope	\$0.00
6/10/04	Legal Research re adjusted Laffey rates/McDowell decision	1.25	\$475.00	Outside of Scope	\$0.00
6/10/04	Prepare MKB Affidavit re fees	3.166	\$1,203.08	Outside of Scope	\$0.00
6/11/04	Gather and segregate time for Sapienza Fee Application	0.583	\$221.54	Outside of Scope	\$0.00
6/11/04	Revise MKB Affidavit re fees	2.916	\$1,108.08	Outside of Scope	\$0.00
6/11/04	Revise MKB Affidavit re fees	1.833	\$696.54	Outside of Scope	\$0.00
6/11/04	Revise MKB Affidavit re fees/Prepare Application and Order	3.75	\$1,425.00	Outside of Scope	\$0.00
6/14/04	Revise MKB Affidavit re fees/Prepare Application and Order	4.166	\$1,583.08	Outside of Scope	\$0.00
6/14/04	Finalize MKB Affidavit re fees/Application and Order	1.666	\$633.08	Outside of Scope	\$0.00
6/17/04	Telephone Conference with team re time entries re GAO fee application	1.25	\$475.00	Outside of Scope	\$0.00
Total		70.242 hrs	\$25,970.32		\$0.00

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/5/00	Telcom. with Brian Ferrell, DOJ, requesting production of all documents relevant to settlement of IIM accounts in the custody or control of disbursement officers, at least with respect to the named plaintiffs and their predecessors-in-interest ? in conformity with the representations of Brooks at the 6.2.00 meeting at the Master's office.	0.3	\$105.00	Outside of Scope
6/6/00	Telcoms. with Ferrell re. same. (Document Production & Account Settlement)	0.3	\$105.00	Outside of Scope
4/24/02	Review implications of Gamboa admissions and willful misrepresentations to Court and plttfs' counsel; review all filings by government and plaintiffs related thereto and consider options to rectify consequences of deception.	2.9	\$1,044.00	Outside of Scope
4/24/03	Telcom. Holt re. same.	0.3	\$108.00	Outside of Scope/Denied
4/24/03	Telcom. Levitas re same.	0.7	\$252.00	Inconsistent with Levitas bill; Outside of Scope/Denied
4/24/02	Telcom. Cobell re. same.	0.5	\$180.00	Outside of Scope/Denied
4/24/02	Telcom. Harper re. same.	0.6	\$216.00	Inconsistent with Harper bill; Outside of Scope/Denied
4/24/02	Telcom. Fasold re. same.	0.2	\$72.00	Outside of Scope/Denied
4/25/02	Telcom. Harper re. same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of Scope/Denied
4/25/02	Telcom. Levitas re same.	0.1	\$36.00	Inconsistent with Levitas bill; Outside of Scope/Denied
5/1/02	Telcom. Craig Lawrence, U.S. Attorney's Office re. Gamboa letter and its implications.	0.2	\$72.00	Previously Billed/Denied; Outside of Scope
5/1/02	Telcoms. Scott Harris, U.S. Attorney's Office, re. same.	0.4	\$144.00	Previously Billed/Denied; Outside of Scope

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
5/9/02	Work on motion for leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	5.4	\$1,944.00	Outside of Scope/ Denied
5/10/02	Work on motion for leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	0.2	\$72.00	Outside of Scope/ Denied
5/10/02	Telcom. Lawrence re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/10/02	Telcom. Harper re. same.	0.1	\$36.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/13/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	2.7	\$972.00	Outside of Scope/ Denied
5/13/02	Telcoms. Harper re. same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/13/02	Telcoms. Levitas re. same.	0.3	\$108.00	Inconsistent with Levitas bill; Outside of Scope
5/14/02	Telcom with Lawrence re. same.	0.4	\$144.00	Outside of Scope/ Denied
5/14/02	Discussion with Rempel re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/14/02	Telcom. Cobell re. same.	0.4	\$144.00	Outside of Scope/ Denied
5/14/02	Telcom. Levitas re same.	0.5	\$180.00	Inconsistent with Levitas bill; Outside of Scope/ Denied
5/15/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	1.8	\$648.00	Outside of Scope/ Denied
5/15/02	Telcoms. Harper re. comments to same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of Scope/ Denied

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
5/16/02	Telcom. Lawrence re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/16/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	7.4	\$2,664.00	Outside of Scope/ Denied
5/16/02	Telcom. Scott Harris re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/17/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	7	\$2,520.00	Outside of Scope/ Denied
5/18/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	1.9	\$684.00	Outside of Scope/ Denied
5/20/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	2.2	\$792.00	Outside of Scope/ Denied
5/24/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	4.7	\$1,692.00	Outside of Scope/ Denied
5/24/02	Telcom. Lawrence re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/24/02	Telcom. Cobell re. same.	0.4	\$144.00	Outside of Scope/ Denied
5/24/02	Telcom. Cobell re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/25/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	4	\$1,440.00	Outside of Scope/ Denied
5/25/02	Telcoms. Harper re. same.	0.2	\$72.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/26/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	7.1	\$2,556.00	Outside of Scope/ Denied

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
5/27/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	8.8	\$3,168.00	Outside of Scope/ Denied
5/27/02	Telcom. Harper re. same.	0.2	\$72.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/28/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	2.6	\$936.00	Outside of Scope/ Denied
5/28/02	Telcom. Lawrence re. same.	0.2	\$72.00	Outside of Scope/ Denied
5/30/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	2.5	\$900.00	Outside of Scope/ Denied
5/30/02	Telcom. Harper re. same.	0.3	\$108.00	Inconsistent with Harper bill; Outside of Scope
5/31/02	Telcom. Lawrence re. same.	0.1	\$36.00	Outside of Scope/Denied
6/1/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	3.4	\$1,258.00	Outside of Scope/Denied
6/3/02	Telcom. Lawrence re. meet and confer re filing of MSJ III contempt motion.	0.4	\$148.00	Outside of Scope/Denied
6/3/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	2	\$740.00	Outside of Scope/Denied
6/3/02	Discussion with Rempel re. same.	0.5	\$185.00	Outside of Scope/Denied
6/3/02	Telcoms. Harper re. same.	0.3	\$111.00	Inconsistent with Harper bill; Outside of Scope/Denied
6/4/02	Continued telcoms. Lawrence re. meet and confer on MSJ III contempt motion.	0.7	\$259.00	Outside of Scope/Denied

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/4/02	Telcoms. Harper re. same.	0.4	\$148.00	Outside of Scope/Denied
6/4/02	Finalize motion to amend 2.15 02 MSJ III contempt motion, amendment fo MSJ III contempt motion per newly discovered evidence.	8.6	\$3,182.00	Outside of Scope/Denied
6/6/02	Research and analyze complex personal service issues re. nonparties as to same.	4	\$1,480.00	Outside of Scope/Denied
6/6/02	Telcoms. Scott Harris, U.S. Attorney's Office, re. same.	0.4	\$148.00	Outside of Scope/Denied
6/6/02	Telcoms. Lawrence re. same.	0.6	\$222.00	Outside of Scope/Denied
6/6/02	Telcoms. Harper re. same.	0.6	\$222.00	Outside of Scope/Denied
6/7/02	Telcom. Lawrence re. unresolved personal service issues in connection with MSJ III contempt.	0.1	\$37.00	Outside of Scope/Denied
6/7/02	Conference call Rempel, Harper, Brown concerning appealability of contempt re. MSJ III contemnors, officially and individually, including DOJ attorneys.	1.1	\$407.00	Inconsistent with Harper & Brown bills; Outside of Scope/Denied
6/8/02	Telcoms. Lawrence re. MSJ III personal service logistical issues.	0.5	\$185.00	Outside of Scope/Denied
6/8/02	Telcoms. Harper re. same.	1.5	\$555.00	Inconsistent with Harper bill; Outside of Scope/Denied
6/9/02	Telcom. Lawrence re. unresolved personal service issues in connection with MSJ III contempt.	0.1	\$37.00	Outside of Scope/Denied
6/19/02	Telcom. Lawrence re. production of GAO documents referenced in Gamboa letter but withheld by defendants.	0.5	\$185.00	Outside of Scope/Denied
6/20/02	Telcom. Lawrence re. same.	0.1	\$37.00	Previously Billed/Denied
6/20/02	Telcom. Harper re. same.	0.1	\$37.00	Outside of Scope/Denied; Inconsistent with Harper bil;
6/21/02	Telcom. Lawrence re. same.	0.1	\$37.00	Previously Billed; Outside of Scope/Denied

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/24/02	Telcoms. Lawrence re. same.	0.3	\$111.00	Previously Billed; Outside of Scope/Denied
6/24/02	Meet with Cobell concerning Gamboa letter and MSJ III.	1	\$370.00	Outside of Scope/Denied
6/25/02	Work on reply to MSJ III, including review of defs' cases and authorities and begin preparation of draft.	5	\$1,850.00	Outside of Scope/Denied
6/25/02	Telcom. Lawrence re. production of GAO documents referenced in Gamboa letter but withheld by defendants.	0.4	\$148.00	Previously Billed; Outside of Scope/Denied
6/26/02	Continue work on Gamboa/MSJ III reply; includes research and draft revisions.	2.2	\$814.00	Outside of Scope/Denied
6/27/02	Continue work on Gamboa/MSJ III reply; includes research and draft revisions.	1.3	\$481.00	Outside of Scope/Denied
6/27/02	Telcom. Harper re. same.	0.1	\$37.00	Inconsistent with Harper bill; Outside of Scope/Denied
6/27/02	Meet with Cobell re. same.	0.4	\$148.00	Outside of Scope/Denied
6/28/02	Continue work on Gamboa/MSJ III reply; includes research and draft revisions. Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in accordance with Newly Discovered Evidence: The April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards).	3.7	\$1,369.00	Outside of Scope/Denied
6/28/02	Telcom. Harper re. same.	0.4	\$148.00	Inconsistent with Harper bill; Outside of Scope
7/1/02	Telcom. Lawrence re. production of GAO documents referenced in Gamboa letter but withheld by defendants.	0.1	\$37.00	Outside of Scope/Denied

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
7/5/02	Telcom. Lawrence re. continued failure to produce GAO documents referenced, and in connection, with Gamboa letter.	0.2	\$74.00	Previously Billed; Outside of Scope/Denied
7/9/02	Telcom. Lawrence re. continued failure to produce GAO documents referenced, and in connection, with Gamboa letter.	0.5	\$185.00	Previously Billed; Outside of Scope/Denied
7/11/02	Telcom. Lawrence re. continued failure to produce GAO documents referenced, and in connection with Gamboa letter.	0.4	\$148.00	Previously Billed; Outside of Scope/Denied
7/19/02	Prepare letter to Lawrence re. continued failure to produce GAO documents referenced, and in connection with, Gamboa letter, particularly with respect to docs. created, or received, by Interior and Treasury in response to GAO general counsel's opinion that IIM accounts were not settled.	1	\$370.00	Outside of Scope/Denied
7/29/02	Telcom. Lawrence re. same.	0.3	\$111.00	Previously Billed; Outside of Scope/Denied
7/30/02	Prepare letter response to Lawrence re. same.	0.3	\$111.00	Previously Billed; Outside of Scope/Denied
8/6/02	Telcom. Lawrence re. same.	0.3	\$111.00	Previously Billed; Outside of Scope/Denied
8/7/02	Telcom. Lawrence re. same.	0.1	\$37.00	Previously Billed; Outside of Scope/Denied
8/8/02	Review first production of docs. referenced in Gamboa letter further demonstrating bad faith of defs' in filing MSJ III.	1.3	\$481.00	Outside of Scope/Denied
9/13/02	Telcoms. Lawrence re. production of remaining relevant Gamboa related docs.	0.2	\$74.00	Outside of Scope/Denied
9/16/02	Telcom. Lawrence re. same.	0.1	\$37.00	Outside of Scope/Denied
1/28/03	Conference call Harper and Brown re. need to file MSJ declaring settlement of disbursing officer accounts does not settle or constitute accounting of IIM Trust accounts.	0.4	\$148.00	Outside of Scope; Inconsistent with Brown & Harper bills

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
1/30/03	Review documents in support of statement of undisputed material facts re. MSJ settlements of Account. Review and revise Plaintiffs' Motion for Partial Summary Judgment as to the NonSettlement of Accounts and Defendants' Failure to Perform the Accounting, in Whole or Part, Ordered by this Court on December 21, 1999 and Plaintiffs' Statement of Material Facts as to Which There is No Genuine Issue in Support of Motion for Partial Summary Judgment.	6.1	\$2,257.00	Outside of Scope
1/31/03	Telcom. Harper re. same.	0.3	\$111.00	Outside of Scope; Inconsistent with Harper bill
1/31/03	Review and revise motion for partial summary judgment and	5.4	\$1,998.00	Outside of Scope
2/3/03	Finalize revisions and refinement of motion for partial summary judgment and undisputed material facts.	6.1	\$2,257.00	Outside of Scope
2/15/03	Telcom. Harper re. same and opp. to defs' motion to strike GAO MSJ.	0.4	\$148.00	Outside of Scope; Inconsistent with Harper bill
2/21/03	Revise and redraft Reply to defs' opp. to GAO MSJ.	3.6	\$1,332.00	Outside of Scope
2/21/03	Telcoms. Harper re. same.	0.4	\$148.00	Outside of Scope; Inconsistent with Harper bill
2/21/03	Telcom. Levitas re same.	0.2	\$74.00	Outside of Scope; Inconsistent with Levitas bill
2/24/03	Telcom. Harper re. same.	0.4	\$148.00	Outside of Scope; Inconsistent with Harper bill
2/24/03	Telcoms. Levitas re. same.	0.5	\$185.00	Outside of Scope; Inconsistent with Levitas bill

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
2/26/03	Telcom. Levitas re same.	0.1	\$37.00	Outside of Scope; Inconsistent with Levitas bill
2/27/03	Prepare affidavit in support of Plaintiffs' Consolidated Motion to Treat as Conceded Plaintiffs' Motion for Partial Summary Judgment as to the NonSettlement of Accounts and Defendants' Failure to Perform the Accounting, in Whole or Part, Ordered by this Court on December 21, 1999 and to Strike as Untimely Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment as to NonSettlement of Accounts, or in the Alternative, Motion for Enlargement of Time Within Which to Reply to Defendants' Opposition Brief; review and revise motion to strike as conceded Plaintiffs' Motion for Partial Summary Judgment.	4.3	\$1,591.00	Outside of Scope
3/8/03	Review and Revise draft Motion to Continue and Enlargement of Time re. GAO Summary Judgment.	5.5	\$2,035.00	Outside of Scope
3/12/03	Review and revise Plaintiffs' Motion to Continue Defendants' Motions for Summary Judgment Pursuant to Fed. R. Civ. P. 56(f) and to Enlarge Plaintiffs' Time to Respond Thereto and Affidavit of Dennis Gingold in Support Thereof and draft affidavit which avers, among other things, that 8 requests for docs. regarding the April 19, 2002 Gamboa letter remained unsatisfied, affecting plaintiffs' ability to provide fully informed opposition to defs' motion.	4.3	\$1,591.00	Outside of Scope
3/10/03	Review documents and begin draft affidavit in support of Motion to Continue GAO MSJ due to failure of defendants' to produced relevant referenced docuements.	3.8	\$1,406.00	Outside of Scope
3/12/03	Continue such review and preparation of affidavit.	0.3	\$111.00	Outside of Scope
3/13/03	Finalize same and prepare affidavit in support of Plaintiffs' Motion to Continue Motions for Summary Judgment due to failure of defendants to produce documents relevant to GAO Settlements issues, including evidence related to Defendants' Statment of Material Facts in Support of Motion for Partial Summary Judgment re. April 19, 2002 Gamboa letter and document references contained therein.	7.4	\$2,738.00	Outside of Scope
3/13/03	Telcom. Harper re. same.	0.3	\$111.00	Outside of Scope
4/7/03	Review and revise Plaintiffs' Reply re. Motion to Continue Defendants' Motions for Summary Judgment Pursuant to Fed. R. Civ. P. 56(f) and to Enlarge Plaintiffs' Time to Respond Thereto due to defs' refusal to comply with relevant doc. production requests.	1.3	\$481.00	Outside of Scope

Gingold Entries Outside of Scope of Court Order

Date	Matter	Time	Claimed Amount	Objection
4/9/03	Review and Revise Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment as to the NonSettlement of Accounts.	4.2	\$1,554.00	Outside of Scope
Total		210	\$72,566.00	

Rempel Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/2/00	Meet and Confer /w DOI and DOI counsel before Special Master re various motions. Includes discussion w/ Dennis Gingold, Mark Brown between meetings and preparation and review of the existing status of discovery. During the course of this meeting Assistant Secretary Don Hammond confirmed that the settlement of accounts process did not constitute an accounting of the individual Indian trust accounts.	6.5	\$1,462.50	Outside of Scope
12/15/01	Review material, including facsimiles from the Department of Justice and discovery material and prepare for contempt trial.	4.0	\$900.00	Outside of Scope
12/16/01	Review material, including facsimiles from the Department of Justice and discovery material and prepare for contempt trial.	2.5	\$562.50	Outside of Scope
2/4/02	Review Defs' Motion to Withdrawal Motions for Summary Judgment. Edit, draft Opposition to Defs' Motion to Withdraw MSJ.	2.8	\$630.00	Pltfs did not prevail on Opposition to Motion to Withdraw
2/10/02	Edit, draft Opposition to Defs' Motion to Wthdrawal MSJ. Includes review of trial testimony and exhibits attached to original MSJ.	5.9	\$1,327.50	Pltfs did not prevail on Opposition to Motion to Withdraw
2/11/02	Edit, draft Opposition to Defs' Motion to Wthdrawal MSJ.	5.5	\$1,237.50	Pltfs did not prevail on Opposition to Motion to Withdraw
2/12/02	Edit, draft Opposition to Defs' Motion to Wthdrawal MSJ.	9.5	\$2,137.50	Pltfs did not prevail on Opposition to Motion to Withdraw
2/14/02	CC w/ Elouise Cobell, Dennis Gingold re Defs' 3rd MSJ and motion to withdrawal.	0.4	\$90.00	Pltfs did not prevail on Opposition to Motion to Withdraw
2/14/02	Prepare opposition to motion to withdrawal MSJ's and cross-motions for summary judgment and sanctions for seeking to mislead the Court.	8.4	\$1,890.00	Pltfs did not prevail on Opposition to Motion to Withdraw

Rempel Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
2/15/02	CC w/ Elouise Cobell, Dennis Gingold re Defs' 3rd MSJ and motion to withdrawal.	0.5	\$112.50	Pltfs did not prevail on Opposition to Motion to Withdraw
2/15/02	Prepare opposition to motion to withdrawal MSJ's and cross-motions for summary judgment and sanctions for seeking to mislead the Court. File and service opposition.	6.8	\$1,530.00	Pltfs did not prevail on Opposition to Motion to Withdraw
3/5/02	CC w/ Elouise Cobell re Defendants' 3rd MSJ and subsequent withdrawal.	0.3	\$67.50	Pltfs did not prevail on Opposition to Motion to Withdraw
5/9/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	4.5	\$1,012.50	Outside of Scope
5/14/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	3.8	\$855.00	Outside of Scope
5/14/02	Discuss w/ Dennis Gingold re motion to amend GAO Motion for Summary Judgment.	0.1	\$22.50	Outside of Scope
5/15/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	4.8	\$1,080.00	Outside of Scope
5/30/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	1.5	\$337.50	Outside of Scope

Rempel Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/3/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	0.7	\$157.50	Outside of Scope
6/3/02	Discuss w/ Dennis Gingold re motion to amend and Defs' 3 rd MSJ (re settlement of accounts process).	0.5	\$112.50	Outside of Scope
6/4/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards .	6.5	\$1,462.50	Outside of Scope
6/6/02	Discuss w/ Dennis Gingold re GAO motion to amend and sanctions.	0.7	\$157.50	Outside of Scope
6/6/02	CC w/ investigator re service of motion to amend for individuals personally identified in that motion.	0.2	\$45.00	Outside of Scope
6/7/02	CC w/ Mark Brown, Keith Harper, Dennis Gingold re appealability of contempt in the context of GAO sanctions memorandum.	1.1	\$247.50	Outside of Scope
6/22/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	4.5	\$1,012.50	Outside of Scope
6/23/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	5.2	\$1,170.00	Outside of Scope

Rempel Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/24/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	2.1	\$472.50	Outside of Scope
6/24/02	Meet w/ Elouise Cobell re Defs' 3rd MSJ and reply in support of motion to amend.	1.2	\$270.00	Outside of Scope
6/25/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	5.3	\$1,192.50	Outside of Scope
6/25/02	Work with investigator to locate individuals identified in plaintiffs reply in support of motion to amend.	1.5	\$337.50	Outside of Scope
6/26/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	6.4	\$1,440.00	Outside of Scope
6/27/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	5.6	\$1,260.00	Outside of Scope
6/28/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	1.9	\$427.50	Outside of Scope
4/8/03	Draft and edit Opposition to defendants' motion to reconsider the Court's GAO sanctions memorandum opinion awarding plaintiffs' sanctions for the deliberate filing of a false and misleading affidavit (Sapienza).	8.5	\$1,912.50	Outside of Scope

Rempel Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
Total		119.7	\$26,932.50	

Harper Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/4/02	Review and edit GAO contempt supplemental and amendment	3.5	\$927.50	Outside of scope
1/29/03	Conference call with IIM team re: response to government's Jan 6 plans and need for GAO summary judgement motion	1.1	\$291.50	Outside of scope
1/31/03	Draft and finalize GAO summary judgement motion; edit; review and add additional authorities; finalize order and statement of incontroverted facts	8	\$2,120.00	Outside of scope
3/12/03	Review opinion of court re: GAO "settlement of Accounts" and false affidavit; sanctions granted	1	\$265.00	Outside of scope
4/8/03	Draft and edit opposition to motion for reconsideration for GAO sanctions award	2.5	\$662.50	Outside of scope
4/12/03	Draft Plaintiffs reply in further support of MSJ on GAO failure to provide accounting	4.5	\$1,192.50	Outside of scope
4/13/03	Draft and edit and discuss with co-counsel-plaintiffs reply in support of MSJ on GAO failure to settle accounts	5	\$1,325.00	Outside of scope
4/14/03	Finalize reply in support of MSJ re: GAO failure to settle accounts	3.3	\$874.00	Outside of scope
Total		28.9	\$7,658.00	

REVIEW OF GINGOLD SCHEDULE: FEES PREVIOUSLY SUBMITTED						
06/21/04, 11/18/02 & 11/05/02 Affidavits Items #	Date	Matter	Time	Claimed Amount	Objection	Adjusted Amount
1	6/2/00	Prepare for Special Master meeting re. Defendants misrepresentation re. settlement of Indian disbursing officer accounts as accounting IIM trust accounts	0.8	\$280.00	Previously Billed / Denied	\$0.00
2	6/2/00	Accompanied by Rempel, met with Master, DOJ, DOI, & DOT re. production of accounting docs. relevant to Cobell litigation, including all documentation that purports to represent the settlement of IIM accounts in the custody or control of disbursement officers. Brooks represented that the settlement of Disbursing officer accounts also settled IIM accounts. Asst. Secretary of the Treasury Don Hammond confirmed that the settlement of disbursing officer accounts did not result in an accounting of IIM trust accounts.	2.1	\$735.00	Previously Billed / Denied	\$0.00
3	7/5/00	Telcoms. Holt re. GAO summary judgment/accounting	0.7	\$245.00	Previously Billed / Denied	\$0.00
4	7/25/00	Draft MSJ surreply re. Defs' material misrepresentations re. GAO	1.7	\$595.00	Previously Billed / Denied	\$0.00
5	9/24/00	Review MSJ, note defs' claims, identify responses, and assess authorities in opposition to such claims.	0.7	\$245.00	Previously Billed / Denied	\$0.00
6	9/24/00	Review relevant documents and prepare letters to Brooks and Ferrell concerning same and in response to letters defending MSJ claims.	2.2	\$770.00	Previously Billed / Denied	\$0.00
7	9/25/00	Work on MSJ III response; begin review legal authorities, e.g., "Law of Appropriations" and cases and Comptroller General discussion of nature and scope of settlement of accounts process and legal impact; begin review of documents related thereto.	8	\$2,800.00	Previously Billed / Denied	\$0.00
8	9/25/00	Telcoms. Harper re. nature and scope of settlements-of-account process per Comptroller General.	0.3	\$105.00	Previously Billed / Denied	\$0.00
9	9/26/00	Continue document review, revisions, legal research for MSJ III response.	4.5	\$1,575.00	Previously Billed / Denied	\$0.00
10	9/26/00	Telcom. Harper re. MSJ III draft.	0.2	\$70.00	Previously Billed / Denied	\$0.00
11	9/26/00	Telcom. Holt re. same.	0.3	\$105.00	Previously Billed / Denied	\$0.00

REVIEW OF GINGOLD SCHEDULE: FEES PREVIOUSLY SUBMITTED						
06/21/04, 11/18/02 & 11/05/02 Affidavits Items #	Date	Matter	Time	Claimed Amount	Objection	Adjusted Amount
12	9/28/00	Continue document review, revisions, legal research for MSJ III response	6.2	\$2,170.00	Previously Billed / Denied	\$0.00
13	9/28/00	Telcom. Harper re. MSJ III draft.	0.4	\$140.00	Previously Billed / Denied	\$0.00
14	9/30/00	Continue document review, revisions, legal research for MSJ III response	5	\$1,750.00	Previously Billed / Denied	\$0.00
15	10/1/00	Continue document review, revisions, legal research for MSJ III response	1	\$350.00	Previously Billed / Denied	\$0.00
16	10/4/00	Telcoms. with Harper re. MSJ III response.	1.4	\$490.00	Previously Billed / Denied	\$0.00
17	10/5/00	Telcom. Interior witness confirming false GAO MSJ.	0.1	\$35.00	Previously Billed / Denied	\$0.00
18	10/7/00	Continue work on MSJ III response; continue review of legal authorities; documents, including data reports, oil & gas reports, and assessments of nature and scope of settlements process re. the class.	9.1	\$3,185.00	Previously Billed / Denied	\$0.00
19	10/7/00	Telcoms. with Harper re. MSJ III documentation issues given the refusal of Interior and Treasury to produce documents to support their settlement of account claims.	0.9	\$315.00	Previously Billed / Denied	\$0.00
20	10/8/00	Continue document review, revisions, legal research for MSJ III response. Includes review of data reports, oil & gas reports, and assessments of nature and scope of settlements process re. the class; compare "accounting" to desk audits by GAO and Treasury of disbursing officer reports.	3.9	\$1,365.00	Previously Billed / Denied	\$0.00
21	10/28/00	Revise and redraft draft opposition to MSJ III.	4.5	\$1,575.00	Previously Billed / Denied	\$0.00
22	10/28/00	Telcom. Harper re. MSJ III issues.	0.5	\$175.00	Previously Billed / Denied	\$0.00
23	10/29/00	Revise and redraft draft opposition to MSJ III.	4	\$1,400.00	Previously Billed / Denied	\$0.00
24	10/29/00	Telcom. Harper re. defendants' misrepresentations regarding settlement of accounts v. accounting.	0.1	\$35.00	Previously Billed / Denied	\$0.00
25	10/30/00	Continue revisions of MSJ III draft response.	4.6	\$1,610.00	Previously Billed / Denied	\$0.00

REVIEW OF GINGOLD SCHEDULE: FEES PREVIOUSLY SUBMITTED						
06/21/04, 11/18/02 & 11/05/02 Affidavits Items #	Date	Matter	Time	Claimed Amount	Objection	Adjusted Amount
26	10/31/00	Revise and redraft opposition to MSJ III.	6.9	\$2,415.00	Previously Billed / Denied	\$0.00
27	11/1/00	Revise and redraft draft opposition to MSJ III based on Rempel additions.	6.1	\$2,135.00	Previously Billed / Denied	\$0.00
28	11/2/00	Continue revisions of Rempel additions to MSJ III draft response and review and comment on Rempel affidavit in support of certain factual statements including admissions of Hammond.	4.4	\$1,540.00	Previously Billed / Denied	\$0.00
29	11/3/00	Finalize Plaintiffs' Opposition to Defendants' Third Phase II Motion for Partial Summary Judgement (Re: Settlement of Accounts by Treasury and GAO).	11.6	\$4,060.00	Previously Billed / Denied	\$0.00
30	11/3/00	Telcoms. with Harper re. finalization of MSJ III opposition.	0.4	\$140.00	Previously Billed / Denied	\$0.00
31	11/3/00	Telcom. Ferrell re. service of MSJ III opposition.	0.1	\$35.00	Previously Billed / Denied	\$0.00
32	11/3/00	Telcom. Cobell re. MSJ III issues.	0.3	\$105.00	Previously Billed / Denied	\$0.00
33	5/1/02	Telcom. Craig Lawrence, U.S. Attorney's Office re. Gamboa letter and its implications.	0.2	\$72.00	Previously Billed / Denied	\$0.00
34	5/1/02	Telcoms. Scott Harris, U.S. Attorney's Office, re. same.	0.4	\$144.00	Previously Billed / Denied	\$0.00
35	6/20/02	Telcom. Lawrence re. same.	0.1	\$37.00	Previously Billed	\$0.00
36	6/21/02	Telcom. Lawrence re. same.	0.1	\$37.00	Previously Billed	\$0.00
37	6/24/02	Telcoms. Lawrence re. same.	0.3	\$111.00	Previously Billed	\$0.00
38	6/25/02	Telcom. Lawrence re. production of GAO documents referenced in Gamboa letter but withheld by defendants.	0.4	\$148.00	Previously Billed	\$0.00
39	7/5/02	Telcom. Lawrence re. continued failure to produce GAO documents referenced, and in connection, with Gamboa letter.	0.2	\$74.00	Previously Billed	\$0.00
40	7/9/02	Telcom. Lawrence re. continued failure to produce GAO documents referenced, and in connection, with Gamboa letter.	0.5	\$185.00	Previously Billed	\$0.00

REVIEW OF GINGOLD SCHEDULE: FEES PREVIOUSLY SUBMITTED						
06/21/04, 11/18/02 & 11/05/02 Affidavits Items #	Date	Matter	Time	Claimed Amount	Objection	Adjusted Amount
41	7/11/02	Telcom. Lawrence re. continued failure to produce GAO documents referenced, and in connection with Gamboa letter.	0.4	\$148.00	Previously Billed	\$0.00
42	7/29/02	Telcom. Lawrence re. same.	0.3	\$111.00	Previously Billed	\$0.00
43	7/30/02	Prepare letter response to Lawrence re. same.	0.3	\$111.00	Previously Billed	\$0.00
44	8/6/02	Telcom. Lawrence re. same.	0.3	\$111.00	Previously Billed	\$0.00
45	8/7/02	Telcom. Lawrence re. same.	0.1	\$37.00	Previously Billed	\$0.00
	Total		96.6	\$33,876.00		\$0.00

IN THE
UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, <u>et al.</u> , on)	
their own behalf and on behalf of)	
all persons similarly situated,)	
)	
<u>Plaintiffs.</u>)	
	)	Civil Action
v.	)	No. 96-1285 (RCL)
)	
GALE NORTON, Secretary of the)	
Interior, <u>et al.</u> ,)	
)	
<u>Defendants.</u>)	

AFFIDAVIT OF DENNIS M. GINGOLD

1. My name is Dennis M. Gingold. I am a member of the Bar of this Court and am lead attorney for plaintiffs in this action. I make this affidavit in support of plaintiffs' request for fees and expenses in connection with certain sanctionable conduct of defendants as outlined in this Court's March 11, 2003 Memorandum and Order and reaffirmed in its May 25, 2004 Memorandum and Order (collectively the "Orders").

2. I maintain my time records in annual, hard copy diaries. Contemporaneous with the completion of a particular task or activity, I manually enter the time charged on the date the professional service is rendered; the specific matter or task; the time expended, to the tenth of an hour; and a brief description of the work performed. From this diary, I enter my time

IIM TRUST LITIGATION

Gingold Schedule: GAO Settlement of Accounts Sanctions

<u>DATE</u>	<u>TIME</u>	<u>SUBJECT MATTER</u>	<u>RATE</u>	<u>AMOUNT</u>
6.2.00	2.1	Accompanied by Rempel, met with Master, DOJ, DOI, & DOT re. production of accounting docs. relevant to Cobell litigation, including all documentation that purports to represent the settlement of IIM accounts in the custody or control of disbursement officers. Brooks represented that the settlement of Disbursing officer accounts also settled IIM accounts. Asst. Secretary of the Treasury Don Hammond confirmed that the settlement of disbursing officer accounts did not result in an accounting of IIM trust accounts.	\$350.00	\$735.00-2
	0.8	Prepare for Special Master meeting re. Defendants misrepresentation re. settlement of Indian disbursing officer accounts as accounting IIM trust accounts.	\$350.00	\$280.00 -1
6.5.00	0.3	Telcom. with Brian Ferrell, DOJ, requesting production of all documents relevant to settlement of IIM accounts in the custody or control of disbursement officers, at least with respect to the named plaintiffs and their predecessors-in-interest in conformity with the representations of Brooks at the 6.2.00 meeting at the Master's office.	\$350.00	\$105.00
6.6.00	0.3	Telcoms. with Ferrell re. same.	\$350.00	\$105.00
7.5.00	0.7	Telcoms. Holt re. GAO summary judgment/accounting.	\$350.00	\$245.00-3
7.25.00	1.7	Draft MSJ surreply re. defs' material misrepresentations re. GAO accounting issues.	\$350.00	\$595.00 -4
9.19.00	0.2	Telcom. Harper re. GAO settlement issues and action to take regarding Brooks delivery of threat to file motion for summary judgment claiming falsely that the settlement of disbursing officers' accounts for 30 years discharges defs' accounting duty from 1921-1950.	\$350.00	\$70.00
9.20.00	0.3	Telcom. with Harper re. same.	\$350.00	\$105.00
9.22.00	0.8	Telcoms. with Ferrell re. GAO settlements of account issues and conflicting representations of Brooks and Hammond.	\$350.00	\$280.00
	0.6	Meet with Rempel re. Defendants Third Phase II Motion for Partial Summary Judgment (Re: Settlement of Accounts by Treasury and GAO) ("MSJ III") and in response collect documents in create factual appendix to explicitly refute misrepresentations, including opinion of Don Hammond.	\$350.00	\$210.00
9.24.00	0.7	Review MSJ, note defs' claims, identify responses, and assess authorities in opposition to such claims.	\$350.00	\$245.00 -5
	2.2	Review relevant documents and prepare letters to Brooks and Ferrell concerning same and in response to letters defending MSJ claims.	\$350.00	\$770.00 -6

<u>DATE</u>	<u>TIME</u>	<u>SUBJECT MATTER</u>	<u>RATE</u>	<u>AMOUNT</u>
9.25.00	8.0	Work on MSJ III response; begin review legal authorities, e.g., "Law of Appropriations" and cases and Comptroller General discussion of nature and scope of settlement of accounts process and legal impact; begin review of documents related thereto.	\$350.00	\$2,800.00 -7
	0.4	Telcom. with Ferrell re. same.	\$350.00	\$140.00
	0.3	Telcoms. Harper re. nature and scope of settlements-of-account process per Comptroller General.	\$350.00	\$105.00 -8
9.26.00	4.5	Continue document review, revisions, legal research for MSJ III response.	\$350.00	\$1,575.00-9
	0.2	Telcom. Harper re. MSJ III draft.	\$350.00	\$70.00 -10
	0.3	Telcom. Holt re. same.	\$350.00	\$105.00 -11
9.27.00	5.0	Continue document review, revisions, legal research for MSJ III response.	\$350.00	\$1,750.00
9.28.00	6.2	Continue document review, revisions, legal research for MSJ III response.	\$350.00	\$2,170.00-12
	0.4	Telcom. Harper re. MSJ III draft.	\$350.00	\$140.00 -13
9.30.00	5.0	Continue document review, revisions, legal research for MSJ III response.	\$350.00	\$1,750.00 -14
10.1.00	1.0	Continue document review, revisions, legal research for MSJ III response.	\$350.00	\$350.00 -15
10.4.00	1.4	Telcoms. with Harper re. MSJ III response.	\$350.00	\$490.00-16
	0.1	Telcom. Holt re. MSJ III issues.	\$350.00	\$35.00
	0.8	Review relevant authorities; documentation.	\$350.00	\$280.00
10.5.00	4.9	Continue work on MSJ III response; continue review of legal authorities; documents.	\$350.00	\$1,715.00
	0.1	Telcom. Interior witness confirming false GAO MSJ.	\$350.00	\$35.00 -17
10.6.00	0.2	Discussion with Rempel re. relevance of BIA regs. to MSJ III and Trial 1 testimony and exhibits related thereto for reference in opposition to MSJ III.	\$350.00	\$70.00
10.7.00	9.1	Continue work on MSJ III response; continue review of legal authorities; documents, including data reports, oil & gas reports, and assessments of nature and scope of settlements process re. the class.	\$350.00	\$3,185.00 -18
	0.9	Telcoms. with Harper re. MSJ III documentation issues given the refusal of Interior and Treasury to produce documents to support their settlement of account claims.	\$350.00	\$315.00 -19
10.8.00	3.9	Continue document review, revisions, legal research for MSJ III response. Includes review of data reports, oil & gas reports, and assessments of nature and scope of settlements process re. the class; compare "accounting" to desk audits by GAO and Treasury of disbursing officer reports.	\$350.00	\$1,365.00 -20
10.28.00	4.5	Revise and redraft draft opposition to MSJ III.	\$350.00	\$1,575.00-21
	0.4	Conference call with Harper and Brown re. status of MSJ III and issues that need to be flushed out.	\$350.00	\$140.00
	1.2	Discussion with Rempel re. MSJ III draft and necessary edits.	\$350.00	\$420.00
	0.5	Telcom. Harper re. MSJ III issues.	\$350.00	\$175.00 -22

<u>DATE</u>	<u>TIME</u>	<u>SUBJECT MATTER</u>	<u>RATE</u>	<u>AMOUNT</u>
10.29.00	4.0	Revise and redraft draft opposition to MSJ III.	\$350.00	\$1,400.00 -23
	0.1	Telcom. Harper re. defendants' misrepresentations regarding settlement of accounts v. accounting.	\$350.00	\$35.00 -24
	0.2	Discussion with Rempel re. MSJ III draft and necessary edits.	\$350.00	\$70.00
10.30.00	0.5	Conference call with Harper and Brown re. status of MSJ III.	\$350.00	\$175.00
	1.0	Conference call with Rempel, Harper and Brown re. status of remaining tasks re. MSJ III response including need for Rempel supporting affidavit vis-a-vis admissions of Don Hammond, etc.	\$350.00	\$350.00
	4.6	Continue revisions of MSJ III draft response.	\$350.00	\$1,610.00-25
10.31.00	6.9	Revise and redraft opposition to MSJ III.	\$350.00	\$2,415.00-26
11.1.00	6.1	Revise and redraft draft opposition to MSJ III based on Rempel additions.	\$350.00	\$2,135.00-27
11.2.00	4.4	Continue revisions of Rempel additions to MSJ III draft response and review and comment on Rempel affidavit in support of certain factual statements including admissions of Hammond.	\$350.00	\$1,540.00 -28
	0.4	Conference call with Rempel, Harper and Brown re. status of remaining tasks and text of Rempel affidavit.	\$350.00	\$140.00
11.3.00	11.6	Finalize Plaintiffs' Opposition to Defendants' Third Phase II Motion for Partial Summary Judgement (Re: Settlement of Accounts by Treasury and GAO).	\$350.00	\$4,060.00 -29
	0.4	Telcoms. with Harper re. finalization of MSJ III opposition.	\$350.00	\$140.00 -30
	0.1	Telcom. Ferrell re. service of MSJ III opposition.	\$350.00	\$35.00 -31
	0.3	Telcom. Cobell re. MSJ III issues.	\$350.00	\$105.00 -32
11.6.00	0.5	Telcom. Brown re. Sanctions for defs' materially false GAO MSJ III.	\$350.00	\$175.00
2.1.02	0.1	Meet and confer with Cynthia Alexander and Matt Fader, DOJ, and object to defendants' motion to withdraw pending motion for partial summary judgement regarding GAO Settlement of Accounts of disbursing officers as discharging the accounting of IIM Trust beneficiaries ("MSJ III").	\$360.00	\$36.00
	0.1	Telcom. Harper re. same.	\$360.00	\$36.00
	0.3	Telcoms. Cobell re. same.	\$360.00	\$108.00
2.4.02	0.2	Telcom. Cobell re. same, particularly impact false MSJ III was intended to have on class.	\$360.00	\$72.00
2.12.02	0.2	Telcoms. Ferrell re. MSJ III issues, intended impact, etc.	\$360.00	\$72.00
2.14.02	8.5	Review and revise Plaintiffs' Opposition to Motion to Withdraw Defendants' Motions for Summary Judgment; Plaintiffs' Cross-Motions for Summary Judgment as to (B) The Non-Settlement of accounts to reinforce such settlement of Indian disbursing officer accounts does not constitute an accounting of IIM trust accounts.	\$360.00	\$3,060.00
	0.2	Telcoms. Harper re. same.	\$360.00	\$72.00
	0.4	Conference call with Cobell and Rempel re. defs' motion to withdraw MSJ III, the intended affect of	\$360.00	\$144.00

<u>DATE</u>	<u>TIME</u>	<u>SUBJECT MATTER</u>	<u>RATE</u>	<u>AMOUNT</u>
	0.2	Telcom. Fasold re. same.	\$360.00	\$72.00
4.25.02	0.4	Telcom. Harper re. same.	\$360.00	\$144.00
	0.1	Telcom. Levitas re same.	\$360.00	\$36.00
5.1.02	0.2	Telcom. Craig Lawrence, U.S. Attorney's Office re. Gamboa letter and its implications.	\$360.00	\$72.00-33
	0.4	Telcoms. Scott Harris, U.S. Attorney's Office, re. same.	\$360.00	\$144.00-34
5.2.02	0.4	Telcom. Craig Lawrence, U.S. Attorney's Office, re same.	\$360.00	\$144.00
	0.6	Work on notice of supplemental authority re. Gamboa letter.	\$360.00	\$216.00
	0.9	Telcoms. Harper re. discussions with U.S. Attorney's office and notice of supplemental authority re. Gamboa letter.	\$360.00	\$324.00
5.3.02	5.6	Review and revise consolidated motion for leave to amend plaintiffs' 2.15.02 MSJ III contempt motion and finding pursuant to R 56(g) per newly discovered evidence, i.e., the Gamboa letter.	\$360.00	\$2,016.00
	0.1	Telcom. Craig Lawrence, U.S. Attorney's Office, re same.	\$360.00	\$36.00
5.4.02	3.9	Work on notice of supp. authority, leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	\$360.00	\$1,404.00
5.5.02	6.3	Continue to draft and revise same.	\$360.00	\$2,268.00
	0.1	Telcom. Harper re. issues and implications re. same.	\$360.00	\$36.00
5.6.02	0.2	Telcom. Lawrence re. same.	\$360.00	\$72.00
	5.3	Work on notice of supp. authority, leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	\$360.00	\$1,908.00
	0.2	Telcoms. Harper re. same.	\$360.00	\$72.00
5.7.02	3.7	Work on motion for leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	\$360.00	\$1,332.00
	1.2	Telcoms. Lawrence re. same.	\$360.00	\$432.00
5.9.02	0.3	Telcoms. Harper re. same.	\$360.00	\$108.00
	5.4	Work on motion for leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	\$360.00	\$1,944.00
5.10.02	0.2	Work on motion for leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	\$360.00	\$72.00
	0.1	Telcom. Lawrence re. same.	\$360.00	\$36.00
	0.1	Telcom. Harper re. same.	\$360.00	\$36.00
5.12.02	0.2	Telcom. Harper re. same.	\$360.00	\$72.00
5.13.02	2.7	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	\$360.00	\$972.00
	0.4	Telcoms. Harper re. same.	\$360.00	\$144.00
	0.3	Telcoms. Levitas re. same.	\$360.00	\$108.00
5.14.02	0.4	Telcom with Lawrence re. same.	\$360.00	\$144.00
	0.1	Discussion with Rempel re. same.	\$360.00	\$36.00
	0.4	Telcom. Cobell re. same.	\$360.00	\$144.00
	0.5	Telcom. Levitas re same.	\$360.00	\$180.00

<u>DATE</u>	<u>TIME</u>	<u>SUBJECT MATTER</u>	<u>RATE</u>	<u>AMOUNT</u>
	2.0	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	\$370.00	\$740.00
	0.5	Discussion with Rempel re. same.	\$370.00	\$185.00
	0.3	Telcoms. Harper re. same.	\$370.00	\$111.00
6.4.02	0.7	Continued telcoms. Lawrence re. meet and confer on MSJ III contempt motion.	\$370.00	\$259.00
	0.4	Telcoms. Harper re. same.	\$370.00	\$148.00
	8.6	Finalize motion to amend 2.15 02 MSJ III contempt motion, amendment fo MSJ III contempt motion per newly discovered evidence.	\$370.00	\$3,182.00
6.6.02	4.0	Research and analyze complex personal service issues re. non-parties as to same.	\$370.00	\$1,480.00
	0.4	Telcoms. Scott Harris, U.S. Attorney's Office, re. same.	\$370.00	\$148.00
	0.6	Telcoms. Lawrence re. same.	\$370.00	\$222.00
	0.6	Telcoms. Harper re. same.	\$370.00	\$222.00
6.7.02	0.1	Telcom. Lawrence re. unresolved personal service issues in connection with MSJ III contempt..	\$370.00	\$37.00
	1.1	Conference call Rempel, Harper, Brown concerning appealability of contempt re. MSJ III contemnors, officially and individually, including DOJ attorneys.	\$370.00	\$407.00
6.8.02	0.5	Telcoms. Lawrence re. MSJ III personal service logistical issues.	\$370.00	\$185.00
	1.5	Telcoms. Harper re. same.	\$370.00	\$555.00
6.9.02	0.1	Telcom. Lawrence re. unresolved personal service issues in connection with MSJ III contempt..	\$370.00	\$37.00
6.19.02	0.5	Telcom. Lawrence re. production of GAO documents referenced in Gamboa letter but withheld by defendants.	\$370.00	\$185.00
6.20.02	0.1	Telcom. Lawrence re. same.	\$370.00	\$37.00 -35
	0.1	Telcom. Harper re. same.	\$370.00	\$37.00
6.21.02	0.1	Telcom. Lawrence re. same.	\$370.00	\$37.00 -36
6.24.02	0.3	Telcoms. Lawrence re. same.	\$370.00	\$111.00 -37
	1.0	Meet with Cobell concerning Gamboa letter and MSJ III.	\$370.00	\$370.00
6.25.02	5.0	Work on reply to MSJ III, including review of defs' cases and authorities and begin preparation of draft.	\$370.00	\$1,850.00
	0.4	Telcom. Lawrence re. production of GAO documents referenced in Gamboa letter but withheld by defendants.	\$370.00	\$148.00-38
6.26.02	2.2	Continue work on Gamboa/MSJ III reply; includes research and draft revisions.	\$370.00	\$814.00
6.27.02	1.3	Continue work on Gamboa/MSJ III reply; includes research and draft revisions.	\$370.00	\$481.00
	0.1	Telcom. Harper re. same.	\$370.00	\$37.00
	0.4	Meet with Cobell re.same.	\$370.00	\$148.00
6.28.02	3.7	Continue work on Gamboa/MSJ III reply; includes research and draft revisions. Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary	\$370.00	\$1,369.00

<u>DATE</u>	<u>TIME</u>	<u>SUBJECT MATTER</u>	<u>RATE</u>	<u>AMOUNT</u>
		Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in accordance with Newly Discovered Evidence: The April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards).		
	0.4	Telcom. Harper re. same.	\$370.00	\$148.00
7.1.02	0.1	Telcom. Lawrence re. production of GAO documents referenced in Gamboa letter but withheld by defendants.	\$370.00	\$37.00
7.5.02	0.2	Telcom. Lawrence re. continued failure to produce GAO documents referenced, and in connection, with Gamboa letter.	\$370.00	\$74.00 -39
7.9.02	0.5	Telcom. Lawrence re. continued failure to produce GAO documents referenced, and in connection, with Gamboa letter.	\$370.00	\$185.00 -40
7.11.02	0.4	Telcom. Lawrence re. continued failure to produce GAO documents referenced, and in connection with Gamboa letter.	\$370.00	\$148.00 -41
7.19.02	1.0	Prepare letter to Lawrence re. continued failure to produce GAO documents referenced, and in connection with, Gamboa letter, particularly with respect to docs. created, or received, by Interior and Treasury in response to GAO general counsel's opinion that IIM accounts were not settled.	\$370.00	\$370.00
7.29.02	0.3	Telcom. Lawrence re. same.	\$370.00	\$111.00 -42
7.30.02	0.3	Prepare letter response to Lawrence re. same.	\$370.00	\$111.00 -43
8.6.02	0.3	Telcoms. Lawrence re. same.	\$370.00	\$111.00 -44
8.7.02	0.1	Telcom. Lawrence re. same.	\$370.00	\$37.00 -45
8.8.02	1.3	Review first production of docs. referenced in Gamboa letter further demonstrating bad faith of defs' in filing MSJ III.	\$370.00	\$481.00
9.13.02	0.2	Telcoms. Lawrence re. production of remaining relevant Gamboa related docs.	\$370.00	\$74.00
9.16.02	0.1	Telcom. Lawrence re. same.	\$370.00	\$37.00
1.28.03	0.4	Conference call Harper and Brown re. need to file MSJ declaring settlement of disbursing officer accounts does not settle or constitute accounting of IIM Trust accounts.	\$370.00	\$148.00
1.30.03	6.1	Review documents in support of statement of undisputed material facts re. MSJ settlements of Account. Review and revise Plaintiffs' Motion for Partial Summary Judgment as to the Non-Settlement of Accounts and Defendants' Failure to Perform the Accounting, in Whole or Part, Ordered by this Court on December 21, 1999 and Plaintiffs' Statement of Material Facts as to Which There is No Genuine Issue in Support of Motion for Partial Summary Judgment.	\$370.00	\$2,257.00
	0.3	Telcom. Harper re. same.	\$370.00	\$111.00
1.31.03	5.4	Review and revise motion for partial summary judgment and	\$370.00	\$1,998.00

IN THE
UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF COLUMBIA

FILED

NOV 18 2002

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

ELOUISE PEPION COBELL, et al., on)
their own behalf and on behalf of)
all persons similarly situated,)
)
Plaintiffs,)
) Civil Action
v.) No. 96-1285 (RCL)
)
GALE NORTON, Secretary of the)
Interior, et al.,)
)
Defendants.)

AFFIDAVIT OF DENNIS M. GINGOLD

1. My name is Dennis M. Gingold. I am a member of the Bar of this Court and am lead attorney for plaintiffs in this action. I make this affidavit in support of Plaintiffs' Application for Fees and Expenses Related to the Sanctionable Conduct of Defendants and Their Counsel and Incurred as a Result of Having to Litigate the 2nd Contempt Trial.

2. I maintain my time records first in a diary dedicated to this purpose. Contemporaneous with the completion of a particular task or activity, I enter in the diary the time charged on the date the service was rendered; identify the client; the matter; the hours expended, to the tenth of an hour; and a description of the work performed. From this diary, I enter my time

Attachment B

DATE	TASK	TIME	AMOUNT
05/31/00	Work on above OTSC/fraud issues.	6.3	\$2,142.00
05/31/00	Telcom. Cobell re. above.	0.3	\$102.00
06/01/00	Conf. calls Interior witnesses confirming defendants' false declarations and other reps. re. TAAMS, BIA data clean-up and accounting status.	0.9	\$315.00
06/01/00	Voice mail Infield re. above.	0.1	\$35.00
06/01/00	Work on OTSC/fraud issues.	10.7	\$3,745.00
06/02/00	Voice mail Babby re. above.	0.1	\$35.00
06/02/00	Prepare for Special Master meeting re. defs' misreps. Re. above stated GAO audit/accounting issues.	0.8	\$280.00 -11
06/02/00	Appear at Special Master meeting with defendants and their counsel; discuss withheld GAO documents and related memoranda re. DOJ/DOI misrepresentations regarding GAO disbursing officer account audits and discharge of accounting duties in accordance with 12/21/99 Court order.	0.5	\$175.00 -22
06/03/00	Work on above OTSC/fraud issues.	3.8	\$1,330.00
06/04/00	Work on above OTSC/fraud issues.	6	\$2,100.00
06/05/00	Work on above OTSC/fraud issues.	2.6	\$910.00
06/06/00	Work on draft re. above OTSC/fraud issues.	6.1	\$2,135.00
06/07/00	Work on draft re. above OTSC/fraud issues.	6.5	\$2,275.00
06/08/00	Re. same review recent decision on attorney misconduct and fraud on Court.	0.5	\$175.00
06/08/00	Work on draft re. above OTSC/fraud issues.	6.1	\$2,135.00
06/08/00	Telcom. Cobell re. above.	0.2	\$70.00
06/09/00	Telcom. Infield re. security misrepresentations by defendants, including material omissions in McDivitt declaration.	0.6	\$210.00
06/10/00	Work on draft re. above OTSC/fraud issues.	4.9	\$1,715.00
06/10/00	Voice mail Holt re. same.	0.1	\$35.00
06/11/00	Work on draft re. above OTSC/fraud issues.	3.6	\$1,260.00

Attachment B

DATE	TASK	TIME	AMOUNT
06/25/00	Voice mail exchange Holt re. contempt accounting issues and defendants motions for summary judgment re. same (e.g., GAO issues).	0.2	\$70.00
06/25/00	Work on OTSC/fraud issues.	6.5	\$2,275.00
06/27/00	Telcom. Holt re. GAO Summary Judgment issues re. above.	0.5	\$175.00
06/27/00	Work on above OTSC/fraud issues.	6.2	\$2,170.00
06/27/00	Voice mail Cobell re. above.	0.1	\$35.00
06/28/00	Voice mails and telcom. Interior witnesses confirming continuing TAAMS failure and cover-up and data clean-up problems and cover-up.	0.4	\$140.00
06/28/00	Work on OTSC/fraud re. same.	8.7	\$3,045.00
06/29/00	Telcom. Interior witness. confirming OTSC/fraud facts.	0.4	\$140.00
06/29/00	Voice mail Holt re. above summary judgment issues.	0.1	\$35.00
06/29/00	Meet with Interior witness to confirm same.	2	\$700.00
06/30/00	Telcom. and voice mail Holt re. above.	0.6	\$210.00
06/30/00	Conf. call Interior witnesses re. above.	0.8	\$280.00
06/30/00	Work on above OTSC contempt issues.	7.2	\$2,520.00
07/01/00	Work on above OTSC/fraud issues.	3.3	\$1,155.00
07/02/00	Work on above OTSC/fraud issues.	5.6	\$1,960.00
07/03/00	Telcom. and voice mail Holt re. GAO related summary judgment issues re. accounting contempt.	0.4	\$140.00
07/03/00	Work on OTSC/fraud.	5.8	\$2,030.00
07/05/00	Review documents re. OTSC/fraud.	12.6	\$4,410.00
07/05/00	Telcoms. Holt re. GAO related summary judgment issues/accounting contempt.	0.7	\$245.00 -3
07/06/00	Work on OTSC/fraud issues.	16.5	\$5,775.00
07/07/00	Work on OTSC/fraud issues.	8.5	\$2,975.00
07/10/00	Prepare memorandum re. newly discovered TAAMS and data clean-up problems; continuing fraud.	0.5	\$175.00
07/12/00	Work on OTSC/fraud issues.	1.9	\$665.00

Attachment B

DATE	TASK	TIME	AMOUNT
07/22/00	Review documents lost records and serious concealed data clean-up issues re. Tribal credit programs.	1.5	\$525.00
07/23/00	Work on above OTSC/fraud issues.	1.3	\$455.00
07/24/00	Work on above OTSC/fraud issues.	2	\$700.00
07/25/00	Work on MSJ surreply re. defs' material misrepresentations on GAO accounting issues.	1.7	\$595.00 -44
08/03/00	Work on opposition to defendants' motion for protective order blocking discovery by plaintiffs.	1	\$350.00
08/04/00	Confer Rempel re. same.	0.1	\$35.00
09/24/00	Work on opposition to defs' GAO Motion for Summary Judgment ("MSJ"), including review of correspondence between me, Ferrell and Brooks re. defs' willfully false representations that the GAO audit of disbursing officers' accounts constituted an accounting of IIM Trust assets.	0.7	\$245.00 -5//6
09/24/00	Voice mail Harper re. same.	0.1	\$35.00
09/25/00	Work on opposition to defs' GAO MSJ.	8.0	\$2,800.00-77
09/25/00	Voice mail exchanges Harper re. same.	0.3	\$105.00-8
09/26/00	Work on opposition to defs' GAO MSJ,	4.5	\$1,575.00 -9
09/26/00	Telcom. and voice mail Harper re. same.	0.3	\$105.00 -10
09/26/00	Telcom. and voice mail Holt re. same.	0.4	\$140.00-11
09/28/00	Work on opposition to defs' GAO MSJ.	6.2	\$2,170.00-12
09/28/00	Telcom. Harper re. same.	0.4	\$140.00 -13
09/30/00	Work on opposition to defs' GAO MSJ.	5	\$1,750.00 -14
10/01/00	Work on opposition to defs' GAO MSJ.	1	\$350.00 -15
10/04/00	Telcoms. Harper re. opposition to defs' GAO MSJ and fraud on Court re. same.	1.3	\$455.00 -16
10/05/00	Telcom. Interior witness confirming false GAO MSJ.	0.1	\$35.00 -17
10/07/00	Work on opposition to defs' GAO MSJ.	3.8	\$1,330.00 -18
10/07/00	Telcoms. and voice mail exchange Harper re. same.	0.9	\$315.00 -19
10/07/00	Voice mail exchanges Holt re. same.	0.3	\$105.00

Attachment B

DATE	TASK	TIME	AMOUNT
10/08/00	Work on opposition to defs' GAO MSJ. Telcom. Holt re. same.	3.9	\$1,365.00- 200
10/28/00	Work on GAO MSJ issues re. evidence of additional defs' material misreps. to Court.	4.5	\$1,575.00- 211
10/28/00	Voice mail Holt re. same.	0.1	\$35.00
10/28/00	Telcom. and voice mail exchange Harper re. same.	0.6	\$210.00- 222
10/29/00	Work on GAO MSJ issues re. same.	4	\$1,400.00- 223
10/29/00	Voice mail Harper re. same.	0.1	\$35.00- 224
10/30/00	Work on GAO MSJ issues re. same and objections raised by defs re. same.	4.6	\$1,610.00- 225
10/30/00	Conf. call Harper and Brown re. same.	0.5	\$175.00
10/31/00	Work on GAO MSJ issues re. same.	6.9	\$2,415.00- 226
11/01/00	Work on GAO MSJ issues re. same.	6.1	\$2,135.00- 227
11/02/00	Work on GAO MSJ issues re. same.	4.4	\$1,540.00- 228
11/03/00	Work on GAO MSJ issues re. same.	11	\$3,850.00- 229
11/03/00	Voice mail Ferrell re. same.	0.1	\$35.00- 311
11/03/00	Telcoms. and voice mail exchange Harper re. same.	0.5	\$175.00- 300
11/03/00	Telcom. Cobell re. same.	0.3	\$105.00- 322
11/06/00	Telcom. Brown re. sanctions for defs' materially false GAO MSJ.	0.5	\$175.00
11/15/00	Begin preparation of Motion to Reopen Trial I ("MTRO") re. fraud etc. perpetrated on Court.	7.6	\$2,660.00
11/16/00	Work on MTRO.	6.1	\$2,135.00
11/16/00	Telcom. Harper re. same.	0.3	\$105.00
11/16/00	Telcom. Cobell re. same.	0.3	\$105.00
11/17/00	Work on MTRO.	5.9	\$2,065.00
11/17/00	Telcom. Harper re. same.	0.4	\$140.00
11/18/00	Work on MTRO.	5.7	\$1,995.00
11/18/00	Telcoms. Harper re. same.	0.6	\$210.00
11/18/00	Telcom. Holt re. same.	0.2	\$70.00
11/19/00	Work on MTRO.	4.6	\$1,610.00
11/19/00	Telcom. and voice mail Harper re. same.	0.3	\$105.00
11/19/00	Voice mail and telcom. Holt re. same.	0.4	\$140.00

IN THE
UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, <u>et al.</u> , on)	
their own behalf and on behalf of)	
all persons similarly situated,)	
)	
<u>Plaintiffs,</u>)	
	)	Civil Action
v.	)	No. 96-1285 (RCL)
	)	(Hon. Alan Balaran, Special Master)
GALE NORTON, Secretary of the)	
Interior, <u>et al.</u> ,)	
)	
<u>Defendants.</u>)	

AFFIDAVIT OF DENNIS M. GINGOLD

1. My name is Dennis M. Gingold. I am a member of the Bar of this Court and am lead attorney for plaintiffs in this action. I make this affidavit in support of (a) plaintiffs' statement of fees and expenses in partial settlement of claims related to the order to show cause entered by the Court for defendants' violation of the Anti-Retaliation Order and (b) Mona Infield's statement of fees and expenses in partial settlement of the complaint filed with the Office of Special Counsel, OSC File No. MA-00-1024 (collectively "Statement of Fees").

2. I maintain my time records first in a diary dedicated to this purpose. Contemporaneous with the completion of a particular task or activity, I enter in this diary the time charged on the date the service was rendered; identify the relevant client; the matter; the

DATE	TASK	TIME	AMOUNT
		6	\$2,550.00
	Work on Infield draft contempt time per discussion		
04/21/02	with Scott Harris re. potential settlement.		
04/22/02	No relevant time.	0	\$0.00
04/23/02	Voice mail Scott Harris re. above.	0.1	\$42.50
04/24/02	Voice mail exchanges Scott Harris re. above.	0.3	\$127.50
	Telcom Cobell re. same.	0.5	\$212.50
04/25/02	No relevant time.	0	\$0.00
04/26/02	Telcom. Scott Harris re. above.	0.5	\$212.50
04/27/02	No time.	0	\$0.00
04/28/02	No relevant time.	0	\$0.00
04/29/02	No relevant time.	0	\$0.00
04/30/02	Voice mail Scott Harris re. above.	0.1	\$42.50
	Telcom. Infield re. above.	0.3	\$127.50
05/01/02		4.2	\$1,785.00
	Prepare Infield draft time for U.S. Attorney's Office.		
	Telcoms. and voice mail exchange Scott Harris re. settlement issues.	0.6	\$255.00 -34
	Telcom. Lawrence re. same.	0.1	\$42.50 -33
05/02/02	Telcom. Infield re. status and settlement options re. U.S. Attorney's Office.	0.6	\$255.00
		4.3	\$1,827.50
	Prepare Infield draft time for U.S. Attorney's Office.		
05/03/02		1.9	\$807.50
	Prepare Infield draft time for U.S. Attorney's Office.		
05/04/02	No relevant time.	0.0	\$0.00
05/05/02	Telcom. and voice mail Infield re. status and settlement options re. U.S. Attorney's Office.	0.4	\$170.00
05/06/02		0.6	\$255.00
	Telcoms. and voice mail Harper re. Infield issues.		
	Review Babby time re. Infield.	0.5	\$212.50
	Telcom. and voice mail exchange Scott Harris re. Infield issues.	0.4	\$170.00
05/07/02		0.9	\$382.50
	Telcoms. and voice mail exchange Harper re. same.		

DATE	TASK	TIME	AMOUNT
06/16/02	No relevant time.	0.0	\$0.00
06/17/02	No relevant time.	0.0	\$0.00
06/18/02	No relevant time.	0.0	\$0.00
06/19/02	Voice mail Lawrence re. above.	0.1	\$42.50
06/20/02	Voice mail Lawrence re. above.	0.1	\$42.50- 35
06/21/02	Voice mail Lawrence re. above.	0.1	\$42.50- 36
06/22/02	No relevant time.	0.0	\$0.00
06/23/02	No relevant time.	0.0	\$0.00
06/24/02	Voice mail exchange Lawrence re. above.	0.2	\$85.00- 37
06/25/02	Telcom. Lawrence re. same.	0.4	\$170.00- 38
06/26/02	No relevant time.	0.0	\$0.00
06/27/02	No relevant time.	0.0	\$0.00
06/28/02		0.4	\$170.00
	Voice mail exchange and telcom. Infield re. above.		
06/29/02	No relevant time.	0.0	\$0.00
06/30/02	No relevant time.	0.0	\$0.00
07/01/02	No relevant time.	0.0	\$0.00
07/02/02	Voice mail Lawrence re. above.	0.0	\$0.00
07/03/02	Voice mail Lawrence re. above.	0.1	\$42.50
07/04/02	No relevant time.	0.0	\$0.00
07/05/02	Telcom. Lawrence re. same.	0.2	\$85.00- 39
07/06/02	No relevant time.	0.0	\$0.00
07/07/02	No relevant time.	0.0	\$0.00
07/08/02	No relevant time.	0.0	\$0.00
07/09/02	Telcom. Lawrence re. same.	0.5	\$212.50- 40
07/10/02	No relevant time.	0.0	\$0.00
07/11/02		0.4	\$170.00
	Telcom. and voice mail exchange Lawrence re. above.		
		0.5	\$212.50- 41
	Telcom. and voice mail exchange Infield re. same.		
07/12/02	Telcom. Cobell re. same.	0.2	\$85.00
07/13/02	No relevant time.	0.0	\$0.00
07/14/02	No relevant time.	0.0	\$0.00
07/15/02	No relevant time.	0.0	\$0.00
07/16/02	No relevant time.	0.0	\$0.00

DATE	TASK	TIME	AMOUNT
07/17/02	No relevant time.	0.0	\$0.00
07/18/02	No relevant time.	0.0	\$0.00
07/19/02	Prepare letter to Lawrence re. defs' failure to resolve Infield matter and request return of materials provided to defs. in accordance with agreement with U.S. Attorney's Office.	2.5	\$1,062.50
	Telcom. Lawrence re. same.	0.3	\$127.50
07/20/02	No relevant time.	0.0	\$0.00
07/21/02	No relevant time.	0.0	\$0.00
07/22/02	Review defs' motion re. Infield.	0.8	\$340.00
07/23/02	No relevant time.	0.0	\$0.00
07/24/02	No relevant time.	0.0	\$0.00
07/25/02	No relevant time.	0.0	\$0.00
07/26/02	No relevant time.	0.0	\$0.00
07/27/02	No relevant time.	0.0	\$0.00
07/28/02	No relevant time.	0.0	\$0.00
07/29/02	Voice mail and telcom. Lawrence re. above.	0.4	\$170.00-42
	Telcom. Cobell re. same.	0.1	\$42.50
07/30/02	Work on Infield response to Lawrence.	0.6	\$255.00-43
	Telcom. Cobell re. same.	0.2	\$85.00
07/31/02	No relevant time.	0.0	\$0.00
08/01/02	No relevant time.	0.0	\$0.00
08/02/02	No relevant time.	0.0	\$0.00
08/03/02	No relevant time.	0.0	\$0.00
08/04/02	No relevant time.	0.0	\$0.00
08/05/02	No relevant time.	0.0	\$0.00
08/06/02	Telcoms. and voice mail Lawrence re. above.	0.4	\$170.00-44
08/07/02	Telcom. Lawrence re. same.	0.1	\$42.50-45
	Telcom. Infield re. same.	0.2	\$85.00
08/08/02	No relevant time.	0.0	\$0.00
08/09/02	No relevant time.	0.0	\$0.00
08/10/02	No relevant time.	0.0	\$0.00
08/11/02	No relevant time.	0.0	\$0.00
08/12/02	No relevant time.	0.0	\$0.00
08/13/02	No relevant time.	0.0	\$0.00

REVIEW OF REMPEL SCHEDULE: FEES PREVIOUSLY SUBMITTED						
06/21/04 & 11/18/02 Affidavits Items #	Date	Matter	Time	Claimed Amount	Objection	Adjusted Amount
1	9/23/00	Review Defs' Motion for MSJ and exhibits re: GAO settlement of accounts.	1.7	\$382.50	Previously Billed /Denied	\$0.00
2	9/25/00	Review Defs' Motion for MSJ and exhibits re: GAO settlement of accounts; begin drafting and preparing response.	5.5	\$1,237.50	Previously Billed /Denied	\$0.00
3	9/26/00	Review Defs' Motion for MSJ and exhibits re: GAO settlement of accounts; begin drafting and preparing response.	9.5	\$2,137.50	Previously Billed /Denied	\$0.00
4	9/27/00	Review Mildred Cleghorn documentation for settled accounts as it relates to Defs' 3rd MSJ (settlement of accounts process).	4.2	\$945.00	Previously Billed /Denied	\$0.00
5	9/28/00	CC w/ Rick Fasold re : BIA documentation reviewed. Conference call in context of Defs' 3rd MSJ and availability of information to refute defendants' contention that the GAO settled the IIM accounts.	0.1	\$22.50	Previously Billed /Denied	\$0.00
6	9/28/00	Review Defs' Motion for MSJ and exhibits re: GAO settlement of accounts; begin drafting and preparing response.	7.2	\$1,620.00	Previously Billed /Denied	\$0.00
7	9/29/00	Draft, edit response to Defendants' 3rd MSJ (re. settlement of accounts process).	1.9	\$427.50	Previously Billed /Denied	\$0.00
8	9/29/00	Draft preliminary statement of facts for opposition to Defs' MSJ (re. settlement of accounts process).	3.5	\$787.50	Previously Billed /Denied	\$0.00
9	10/5/00	Draft statement of facts for Response to Defs' MSJ III (re. settlement of accounts process). Includes reviewing Defs' documentation as well as plaintiffs' pertinent trial 1 exhibits and testimony for purposes of drafting the opposition.	1.8	\$405.00	Previously Billed /Denied	\$0.00

REVIEW OF REMPEL SCHEDULE: FEES PREVIOUSLY SUBMITTED						
06/21/04 & 11/18/02 Affidavits Items #	Date	Matter	Time	Claimed Amount	Objection	Adjusted Amount
10	10/6/00	Draft statement of facts for Response to Defs. MSJ III (re. settlement of accounts process). Includes reviewing Defs' documentation as well as plaintiffs' pertinent trial 1 exhibits and testimony for purposes of drafting the opposition.	7.4	\$1,665.00	Previously Billed /Denied	\$0.00
11	10/25/00	Draft statement of facts for Response to Defs. MSJ III (re. settlement of accounts process). Includes reviewing Defs' documentation (exhibits) and drafting response in light of uncontested facts.	2.5	\$562.50	Previously Billed /Denied	\$0.00
12	10/26/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process).	8.5	\$1,912.50	Previously Billed /Denied	\$0.00
13	10/27/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process).	3.3	\$742.50	Previously Billed /Denied	\$0.00
14	10/28/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process).	3.0	\$675.00	Previously Billed /Denied	\$0.00
15	10/28/00	Discussion w/ Dennis Gingold re: Defs' MSJ III and edits to draft.	1.2	\$270.00	Previously Billed /Denied	\$0.00
16	10/29/00	CC with Dennis Gingold re: Defs' MSJ III and edits.	0.2	\$45.00	Previously Billed /Denied	\$0.00
17	10/30/00	CC w/ Dennis Gingold, Mark Brown, Keith Harper re: Response to Defs' MSJ III and tasks.	1.0	\$225.00	Previously Billed /Denied	\$0.00
18	10/30/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process). Begin drafting Rempel affidavit in support of response.	7.0	\$1,575.00	Previously Billed /Denied	\$0.00

REVIEW OF REMPEL SCHEDULE: FEES PREVIOUSLY SUBMITTED						
06/21/04 & 11/18/02 Affidavits Items #	Date	Matter	Time	Claimed Amount	Objection	Adjusted Amount
19	11/1/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process). Includes drafting Rempel affidavit in support of response.	9.5	\$2,137.50	Previously Billed /Denied	\$0.00
20	11/2/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process). Includes drafting Rempel affidavit in support of response.	13.0	\$2,925.00	Previously Billed /Denied	\$0.00
21	11/3/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process). Includes drafting Rempel affidavit in support of response. File and serve response.	11.5	\$2,587.50	Previously Billed /Denied	\$0.00
22	5/6/02	Notice of Supplemental Authority - Draft, prepare, file and serve notice regarding GAO letter from GAO General Counsel to Bert Edwards, Director of OHTA re settlement of accounts process.	2.6	\$585.00	Previously Billed /Denied	\$0.00
	Total		106.1	\$23,872.50		\$0.00

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,)	
)	
Plaintiffs,)	
	)	Civil Action
v.	)	No. I:96 CV 01285 RCL
)	
GALE NORTON, et al.,)	
)	
Defendants.)	
)	
)	
_____)	

AFFIDAVIT OF GEOFFREY REMPEL

1. My name is Geoffrey Rempel. I am a Certified Public Accountant (inactive) and I am engaged as a member of plaintiffs’ litigation team. I have been involved in this matter for almost eight years, including almost three-and-one-half years at PricewaterhouseCoopers L.L.P. I make this affidavit in support of plaintiffs’ submission of reasonable expenses, including attorneys fees, as ordered in the Court’s March 11, 2003 Memorandum and Order and the Court’s May 25, 2004 Order (collectively “Orders”).
2. *Defendants’ Third Phase II Motion for Partial Summary Judgment (Re: Settlement of Accounts by Treasury and GAO* (“Defendants’ MSJ”) was served on plaintiffs and filed with the Court on September 19, 2000. In support of Defendants’ MSJ, defendants attached the Affidavit of Frank Sapienza. This affidavit (and the motion for summary judgment based upon that affidavit) were

IIM TRUST LITIGATION

Rempel Schedule: GAO Settlement of Accounts Sanctions

"Subtotal" Corresponds to Timeframe set forth in Affidavit

Billing Rate **\$225.00**

DATE	TASK	TIME	AMOUNT	SUBTOTAL
06/02/00	Meet and Confer w/ DOI and DOI counsel before Special Master re: various motions. Includes discussion w/ Dennis Gingold, Mark Brown between meetings and preparation and review of the existing status of discovery. During the course of this meeting Assistant Secretary Don Hammond confirmed that the settlement of accounts process did not constitute an accounting of the individual Indian trust accounts	6.5	\$1,462.50	
09/22/00	CC w/ Rick Fasold re: Defs' Third Motion for Summary Judgment (GAO settlement of accounts) and available material available to refute; compile information for opposition.	0.3	\$67.50	
09/22/00	Discussion w/ Dennis Gingold re: DOT and GAO settlement of accounts and defendants' 3rd Motion for Summary Judgment.	0.6	\$135.00	
09/23/00	Review Defs' Motion for MSJ and exhibits re: GAO settlement of accounts.	1.7	\$382.50	-1
09/25/00	Review Defs' Motion for MSJ and exhibits re: GAO settlement of accounts; begin drafting and preparing response.	5.5	\$1,237.50	-2
09/26/00	Review Defs' Motion for MSJ and exhibits re: GAO settlement of accounts; begin drafting and preparing response.	9.5	\$2,137.50	-3
09/27/00	Review Mildred Cleghorn documentation for settled accounts as it relates to Defs' 3rd MSJ (settlement of accounts process).	4.2	\$945.00	-4
09/28/00	CC w/ Rick Fasold re: BIA documentation reviewed. Conference call in context of Defs' 3rd MSJ and availability of information to refute defendants' contention that the GAO settled the IIM accounts.	0.1	\$22.50	-5
09/28/00	Review Defs' Motion for MSJ and exhibits re: GAO settlement of accounts; begin drafting and preparing response.	7.2	\$1,620.00	-6
09/29/00	Draft, edit response to Defendants' 3rd MSJ (re. settlement of accounts process).	1.9	\$427.50	-7
09/29/00	Draft preliminary statement of facts for opposition to Defs' MSJ (re. settlement of accounts process).	3.5	\$787.50	-8

DATE	TASK	TIME	AMOUNT	SUBTOTAL
10/05/00	CC w/ Lorna Babby re: production of policy and procedure boxes. This conference call was initiated for the purpose of ascertaining whether there was an information contained in prior discovery (policy and procedures boxes) that might assist in drafting the opposition to Defs' 3rd MSJ (settlement of accounts process).	0.3	\$67.50	
10/05/00	Draft statement of facts for Response to Defs. MSJ III (re. settlement of accounts process). Includes reviewing Defs' documentation as well as plaintiffs' pertinent trial 1 exhibits and testimony for purposes of drafting the opposition.	1.8	\$405.00	-9
10/06/00	Discuss w/ DG re: BIA regulations and Defs' 3rd MSJ (re. settlement of accounts process). Includes discussion of drafting opposition and research on historical regulations at DOI/DOT/GAO.	0.2	\$45.00	
10/06/00	Draft statement of facts for Response to Defs. MSJ III (re. settlement of accounts process). Includes reviewing Defs' documentation as well as plaintiffs' pertinent trial 1 exhibits and testimony for purposes of drafting the opposition.	7.4	\$1,665.00	-10
10/25/00	Draft statement of facts for Response to Defs. MSJ III (re. settlement of accounts process). Includes reviewing Defs' documentation (exhibits) and drafting response in light of uncontested facts.	2.5	\$562.50	-11
10/26/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process).	8.5	\$1,912.50	-12
10/27/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process).	3.3	\$742.50	-13
10/28/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process).	3.0	\$675.00	-14
10/28/00	Discussion w/ Dennis Gingold re: Response to Defs' MSJ III and edits to draft.	1.2	\$270.00	-15
10/29/00	CC w/ Dennis Gingold re: Defs' MSJ III and edits.	0.2	\$45.00	-16
10/30/00	CC w/ Dennis Gingold, Mark Brown, Keith Harper re: Response to Defs' MSJ III and tasks.	1.0	\$225.00	-17
10/30/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process). Begin drafting Rempel affidavit in support of response.	7.0	\$1,575.00	-18
11/01/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process). Includes drafting Rempel affidavit in support of response.	9.5	\$2,137.50	-19
11/02/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process). Includes drafting Rempel affidavit in support of response.	13.0	\$2,925.00	-20
11/02/00	CC w/ DG, MB, KH re Rempel GAO affidavit.	0.2	\$45.00	

DATE	TASK	TIME	AMOUNT	SUBTOTAL
11/03/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process). Includes drafting Rempel affidavit in support of response. File and serve response.	11.5	\$2,587.50	-21 \$25,110.00
12/15/01	Review material, including facsimiles from the Department of Justice and discovery material and prepare for contempt trial.	4.0	\$900.00	
12/16/01	Review material, including facsimiles from the Department of Justice and discovery material and prepare for contempt trial.	2.5	\$562.50	\$1,462.50
02/04/02	Review Defs' Motion to Withdrawal Motions for Summary Judgment. Edit, draft Opposition to Defs' Motion to Wthdrawal MSJ.	2.8	\$630.00	
02/10/02	Edit, draft Opposition to Defs' Motion to Wthdrawal MSJ. Includes review of trial testimony and exhibits attached to original MSJ.	5.9	\$1,327.50	
02/11/02	Edit, draft Opposition to Defs' Motion to Wthdrawal MSJ.	5.5	\$1,237.50	
02/12/02	Edit, draft Opposition to Defs' Motion to Wthdrawal MSJ.	9.5	\$2,137.50	
02/14/02	CC w/ Elouise Cobell, Dennis Gingold re Defs' 3rd MSJ and motion to withdrawal.	0.4	\$90.00	
02/14/02	Prepare opposition to motion to withdrawal MSJ's and cross-motions for summary judgment and sanctions for seeking to mislead the Court.	8.4	\$1,890.00	
02/15/02	CC w/ Elouise Cobell, Dennis Gingold re Defs' 3rd MSJ and motion to withdrawal.	0.5	\$112.50	
02/15/02	Prepare opposition to motion to withdrawal MSJ's and cross-motions for summary judgment and sanctions for seeking to mislead the Court. File and service opposition.	6.8	\$1,530.00	\$8,955.00
03/05/02	Review defendants' opposition to plaintiffs MSJ (incl. settlement of accounts) and prepare to draft reply.	5.0	\$1,125.00	
03/05/02	CC w/ Elouise Cobell re Defendants' 3rd MSJ and subsequent withdrawal.	0.3	\$67.50	
03/06/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	7.2	\$1,620.00	
03/07/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	8.0	\$1,800.00	
03/08/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	6.5	\$1,462.50	
03/09/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	2.5	\$562.50	

DATE	TASK	TIME	AMOUNT	SUBTOTAL
03/10/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts). CC w/ Elouise Cobell, Dennis Gingold re Defs' 3rd MSJ	1.5	\$337.50	
03/11/02	and drafting of reply in support of Plaintiffs' MSJ re settlement of accounts.	1.2	\$270.00	
03/11/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	1.5	\$337.50	
03/11/02	Discuss w/ Dennis Gingold re Defendants' 3rd MSJ and drafting of reply in support of Plfs' MSJ re settlement of accounts.	0.8	\$180.00	
03/12/02	Discuss w/ Dennis Gingold re Defendants' 3rd MSJ and drafting of reply in support of Plfs' MSJ re settlement of accounts.	0.6	\$135.00	
03/12/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts). CC w/ Elouise Cobell, Dennis Gingold re Defs' 3rd MSJ	6.0	\$1,350.00	
03/13/02	and drafting of reply in support of Plaintiffs' MSJ re settlement of accounts.	0.4	\$90.00	
03/13/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts). File and serve reply.	11.2	\$2,520.00	<i>\$11,857.50</i>
05/06/02	Notice of Supplemental Authority - Draft, prepare, file and serve notice regarding GAO letter from GAO- General Counsel to Bert Edwards, Director of OHTA re settlement of accounts process.	2.6	\$585.00	-22
05/09/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April19, 2002 Letter of Gao General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	4.5	\$1,012.50	
05/14/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April19, 2002 Letter of Gao General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	3.8	\$855.00	
05/14/02	Discuss w/ Dennis Gingold re motion to amend GAO Motion for Summary Judgment.	0.1	\$22.50	
05/15/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April19, 2002 Letter of Gao General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	4.8	\$1,080.00	

FOR THE DISTRICT OF COLUMBIA

NOV 18 2002 -

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

ELOUISE PEPION COBELL, et al.,)
)
) Plaintiffs,)
))
v.) Civil Action
) No. I:96 CV 01285 RCL
)
GALE NORTON, et al.,)
)
) Defendants.)
)
)
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AFFIDAVIT OF GEOFFREY REMPEL

1. My name is Geoffrey Rempel. I am a Certified Public Accountant (inactive) and a full time member of plaintiffs' litigation team. I have been involved in this matter for almost six years, including almost three-and-one-half years at PricewaterhouseCoopers L.L.P. ("PwC"). I make this affidavit in support of plaintiffs' fee application filed in accordance with this Court's September 17, 2002 opinion and order.

Record Keeping: Time and Expense

2. I maintain my time records on a electronic spreadsheet application that is dedicated solely to recording my time. This spreadsheet is updated monthly based upon contemporaneous journal entries made in my daily planner. These entries reflect the day a particular task or service was

Attachment B

DATE	TASK	TIME	AMOUNT
09/20/00	Prepare and draft TAAMS review based on GAO report; compiled in preparation of contempt motion.	3.1	\$697.50
09/21/00	Prepare and draft TAAMS review based on GAO report; compiled in preparation of contempt motion.	6.0	\$1,350.00
09/22/00	CC w/ Rick Fasold re: Defs' Third Motion for Summary Judgment (GAO settlement of accounts) and material available to refute; compile information for contempt motion.	0.3	\$67.50
09/22/00	Prepare and draft TAAMS review based on GAO report; compiled in preparation of contempt motion.	2.2	\$495.00
09/23/00	Review Defs' Motion for MSJ re: GAO settled accounts for contempt motion.	1.7	\$382.50 -1
09/25/00	Review Defs' Motion for MSJ including exhibits re: settled accounts in preparation of response.	5.5	\$1,237.50 -2
09/26/00	Review Defs' Motion for MSJ including exhibits re: settled accounts in preparation of response.	9.5	\$2,137.50 -3
09/27/00	Review Mildred Cleghorn documentation for settled accounts as it relates to Defs' 3rd MSJ.	4.2	\$945.00 -4
09/28/00	Conference call with Interior witnesses regarding e-mail videotape. DOI preservation of e-mail.	0.3	\$67.50
09/28/00	CC w/ Rick Fasold re: BIA documentation in context of Defs' 3rd MSJ.	0.1	\$22.50 -5
09/28/00	Review Defs' Motion for MSJ including exhibits re: settled accounts in preparation of response.	7.2	\$1,620.00 -6
09/29/00	Review Defs' Motion for MSJ including exhibits re: settled accounts in preparation of response.	1.9	\$427.50 -7
09/29/00	Draft preliminary statement of facts for MSJ.	3.5	\$787.50 -8
10/05/00	Draft statement of facts for Response to Defs. MSJ III. Includes review Defs' documentation as well as plaintiffs' pertinent trial exhibits and testimony.	1.8	\$405.00 -9

Attachment B

DATE	TASK	TIME	AMOUNT	
10/06/00	Draft statement of facts for Response to Defs. MSJ III. Includes review Defs' documentation as well as plaintiffs' pertinent trial exhibits and testimony.	7.4	\$1,665.00	-10
10/12/00	Discuss w/ DG re: contempt motion and scheduling going forward.	1.5	\$337.50	
10/12/00	CC w/ Mona Infield re: TAAMS deployment and GAO report (3 calls). Discussion in context of misreporting and pending contempt motion.	1.2	\$270.00	
10/13/00	Conference call with Interior witnesses regarding electronic information (e-mail) preservation and security. Context of conversation was in Defs' false representations and pending contempt motion.	0.8	\$180.00	
10/13/00	Conference call with Gingold regarding update of my conversation with Interior witnesses (see above CC).	0.3	\$67.50	
10/25/00	Review Defs' MSJ (GAO acc'ts) and update contempt notes and facts.	2.5	\$562.50	-11
10/26/00	Draft Response, statement of facts to Defs' MSJ III.	8.5	\$1,912.50	-12
10/27/00	Draft Response, statement of facts to Defs' MSJ III.	3.3	\$742.50	-13
10/28/00	Draft Response, statement of facts to Defs' MSJ III.	3.0	\$675.00	-14
10/28/00	Discussion w/ DG re: Response to Defs' MSJ III.	1.2	\$270.00	-15
10/29/00	CC w/ DG re: Defs' MSJ III.	0.2	\$45.00	-16
10/30/00	CC w/ DG, MB, KH re: Response to Defs' MSJ III.	1.0	\$225.00	-17
10/30/00	Review Defs' MSJ III and draft response and affidavit.	7.0	\$1,575.00	-18
10/31/00	CC w/ EC re: update on MSJ III and settlement negotiations.	0.4	\$90.00	
10/31/00	Draft Response to Defs' MSJ III and affidavit -- includes statement of facts.	12.5	\$2,812.50	

Attachment B

DATE	TASK	TIME	AMOUNT
11/01/00	Draft Response to Defs' MSJ III and affidavit -- includes statement of facts.	9.5	\$2,137.50 -119
11/02/00	Draft Response to Defs' MSJ III and affidavit -- includes statement of facts.	13.0	\$2,925.00 -200
11/03/00	Draft Response to Defs' MSJ III and affidavit -- includes statement of facts.	11.5	\$2,587.50 -211
11/06/00	Serve Court and Department of Justice with corrected Motion for Summary Judgment.	1.2	\$270.00
11/07/00	Pick up transcripts and material for motion to reopen Trial I.	0.7	\$157.50
11/08/00	CC w/ DG re: status reports of Reopen research (3 calls)	0.6	\$135.00
11/12/00	Begin research, review and compile materials for motion to reopen T I.	3.5	\$787.50
11/13/00	Discuss w/ DG re: reopening of T I.	0.8	\$180.00
11/13/00	Draft Statement of Facts for Reopening T I. Includes researching materials and trial transcripts as well as compiling facts.	5.0	\$1,125.00
11/13/00	CC w/ TH, EL, DG re: reopening T I.	1.7	\$382.50
11/13/00	CC w/ EC re: status and moving to reopen T I.	0.4	\$90.00
11/14/00	CC w/ TH re: MSJ III Response.	0.1	\$22.50
11/14/00	Draft Statement of Facts for Reopening T I. Includes researching materials and trial transcripts as well as compiling facts.	7.0	\$1,575.00
11/14/00	Discuss w/ DG, MB, EL re: reopening.	1.3	\$292.50
11/14/00	CC w/ EC, EL, DG, MB re: reopening.	0.4	\$90.00
11/15/00	CC w/ TH re: motion to reopen (2 calls).	0.2	\$45.00
11/15/00	Draft Statement of Facts for Reopening T I. Includes researching materials and trial transcripts as well as compiling facts.	8.0	\$1,800.00
11/16/00	Discuss w/ EL re: reopening of T I.	2.5	\$562.50
11/16/00	Draft Statement of Facts for Reopening T I. Includes researching materials and trial transcripts as well as compiling facts.	2.2	\$495.00
11/16/00	CC w/ TH re: Statement of Facts and reopening.	0.2	\$45.00

Attachment B

DATE	TASK	TIME	AMOUNT
11/27/01	Review individuals oppositions to MSC; compile information and representations for pending contempt trial.	0.8	\$180.00
05/06/02	Notice of Supplemental Authority - Draft, prepare, file and serve (deputy special trustee drafted a memo that was filed with the Court in support of plaintiffs motion to show cause for the completed contempt trial.	2.6	\$585.00 -22
06/19/02	Draft, edit Notice of Supplemental Authority (Def's filed a motion to recuse the Court Monitor, therein they admitted that the 12/21/99 order regarding an accounting was in fact an order contrary to their assertions during the contempt trial - filed in support of plaintiffs' findings and conclusions).	2.5	\$562.50
07/31/02	Draft, edit and file notices to the Court (notice filed in support of OST resignation; relevant to contempt trial in light of suppression of testimony damaging to defendants' contempt trial defense).	4.2	\$945.00
08/01/02	Draft, edit and file notices to the Court (notice filed in support of OST resignation; relevant to contempt trial in light of suppression of testimony damaging to defendants' contempt trial defense).	3.0	\$675.00
09/05/02	Draft, edit notice of supplemental authority - findings and conclusions (NAID quarterly report contractor provides this Court information with respect to ongoing false quarterly reporting).	2.1	\$472.50
09/17/02	Retrieve and review opinion from Courthouse.	2.2	\$495.00
09/17/02	CC w/ reporters re contempt opinion.	2.5	\$562.50
09/17/02	Discuss opinion w/ DG, MB.	4.2	\$945.00
09/18/02	Review Opinion.	6.5	\$1,462.50
09/18/02	Discuss w/ DG, MB re Contempt Opinion.	2.1	\$472.50
09/18/02	CC w/ EC, DG re contempt opinion (2 calls).	0.5	\$112.50

Brown Internally Inconsistent Entries

Date	Matter	Time	Claimed Amount	Objection
10/4/00	Telephone Conversations with Keith Harper re MSJ strategy	0.416	\$145.60	Inconsistent with Harper bill
10/30/00	Revise Objections Memorandum; Telephone Conference with Keith Harper/Dennis Gingold re Strategy	1.333	\$466.55	Inconsistent with Harper & Gingold bills
Total		1.76	\$612.15	

Gingold Internally Inconsistent Entries				
Date	Matter	Time	Claimed Amount	Objection
10/28/00	Conference call with Harper and Brown re. status of MSJ III and issues that need to be flushed out.	0.4	\$140.00	Inconsistent with Harper & Brown bills
10/29/00	Telcom. Harper re. defendants' misrepresentations regarding settlement of accounts v. accounting.	0.1	\$35.00	Previously Billed/Denied ; Inconsistent with Harper bill
10/30/00	Discussion with Rempel re. MSJ III draft and necessary edits.	0.2	\$70.00	Inconsistent with Rempel bill
10/30/00	Conference call with Harper and Brown re. status of MSJ III.	0.5	\$175.00	Inconsistent with Harper bill
10/30/00	Conference call with Rempel, Harper and Brown re. status of remaining tasks re. MSJ III response including need for Rempel supporting affidavit vis-a-vis admissions of Don Hammond, etc.	1	\$350.00	Inconsistent with Rempel, Harper, & Brown bills
11/6/00	Telcom. Brown re. Sanctions for defs' materially false GAO MSJ III.	0.5	\$175.00	Inconsistent with Brown bill
2/1/02	Telcom. Harper re. same.	0.1	\$36.00	Inconsistent with Harper bill
3/5/02	Telcoms. Harper re. same.	0.6	\$216.00	Inconsistent with Harper bill
3/11/02	Telcoms. Harper re. same.	1.3	\$468.00	Inconsistent with Harper bill
3/12/02	Telcoms. Harper re. same.	1.1	\$396.00	Inconsistent with Harper bill
3/12/02	Conference call Brown and Harper re. same.	0.8	\$288.00	Inconsistent with Harper & Brown bills
3/13/02	Telcoms. Harper re. same.	2.3	\$828.00	Inconsistent with Harper bill

Gingold Internally Inconsistent Entries

Date	Matter	Time	Claimed Amount	Objection
3/13/03	Conference call Cobell and Rempel re. same.	0.4	\$144.00	Inconsistent with Rempel bill
4/22/02	Telcoms. Harper re. same and implications of knowingly false representations to Court and plttfs' and plaintiffs' counsel.	0.6	\$216.00	Inconsistent with Harper bill
4/23/02	Telcoms. with Harper re. same.	0.4	\$144.00	Inconsistent with Harper bill
4/24/03	Telcom. Levitas re same.	0.7	\$252.00	Inconsistent with Levitas bill; Outside of Scope/Denied
4/24/02	Telcom. Harper re. same.	0.6	\$216.00	Inconsistent with Harper bill; Outside of Scope/Denied
4/25/02	Telcom. Harper re. same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of Scope/Denied
4/25/02	Telcom. Levitas re same.	0.1	\$36.00	Inconsistent with Levitas bill; Outside of Scope/Denied
5/5/02	Telcom. Harper re. issues and implications re. same.	0.1	\$36.00	Inconsistent with Harper bill; Outside of Scope/Denied
5/6/02	Telcoms. Harper re. same.	0.2	\$72.00	Inonsistent with Harper bill; Outside of Scope/Denied
5/9/02	Telcoms. Harper re. same.	0.3	\$108.00	Inconsistent with Harper bill; Outside of Scope/Denied

Gingold Internally Inconsistent Entries

Date	Matter	Time	Claimed Amount	Objection
5/10/02	Telcom. Harper re. same.	0.1	\$36.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/12/02	Telcom. Harper re. same	0.2	\$72.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/13/02	Telcoms. Harper re. same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/13/02	Telcoms. Levitas re. same.	0.3	\$108.00	Inconsistent with Levitas bill; Outside of Scope
5/14/02	Telcom. Levitas re same.	0.5	\$180.00	Inconsistent with Levitas bill; Outside of Scope/ Denied
5/15/02	Telcoms. Harper re. comments to same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/25/02	Telcoms. Harper re. same.	0.2	\$72.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/27/02	Telcom. Harper re. same.	0.2	\$72.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/30/02	Telcom. Harper re. same.	0.3	\$108.00	Inconsistent with Harper bill; Outside of Scope
6/3/02	Telcoms. Harper re. same.	0.3	\$111.00	Inconsistent with Harper bill; Outside of Scope/Denied

Gingold Internally Inconsistent Entries

Date	Matter	Time	Claimed Amount	Objection
6/7/02	Conference call Rempel, Harper, Brown concerning appealability of contempt re. MSJ III contemnors, officially and individually, including DOJ attorneys.	1.1	\$407.00	Inconsistent with Harper & Brown bills; Outside of Scope/Denied
6/8/02	Telcoms. Harper re. same.	1.5	\$555.00	Inconsistent with Harper bill; Outside of Scope/Denied
6/20/02	Telcom. Harper re. same.	0.1	\$37.00	Outside of Scope/Denied ; Inconsistent with Harper bil;
6/27/02	Telcom. Harper re. same.	0.1	\$37.00	Inconsistent with Harper bill; Outside of Scope/Denied
6/28/02	Telcom. Harper re. same.	0.4	\$148.00	Inconsistent with Harper bill; Outside of Scope
1/28/03	Conference call Harper and Brown re. need to file MSJ declaring settlement of disbursing officer accounts does not settle or constitute accounting of IIM Trust accounts.	0.4	\$148.00	Outside of Scope; Inconsistent with Brown & Harper bills
1/31/03	Telcom. Harper re. same.	0.3	\$111.00	Outside of Scope; Inconsistent with Harper bill
2/15/03	Telcom. Harper re. same and opp. to defs' motion to strike GAO MSJ.	0.4	\$148.00	Outside of Scope; Inconsistent with Harper bill
2/21/03	Telcoms. Harper re. same.	0.4	\$148.00	Outside of Scope; Inconsistent with Harper bill

Gingold Internally Inconsistent Entries

Date	Matter	Time	Claimed Amount	Objection
2/21/03	Telcom. Levitas re same.	0.2	\$74.00	Outside of Scope; Inconsistent with Levitas bill
2/24/03	Telcom. Harper re. same.	0.4	\$148.00	Outside of Scope; Inconsistent with Harper bill
2/24/03	Telcoms. Levitas re. same.	0.5	\$185.00	Outside of Scope; Inconsistent with Levitas bill
2/26/03	Telcom. Levitas re same.	0.1	\$37.00	Outside of Scope; Inconsistent with Levitas bill
6/9/04	Telcoms. Harper re. same.	0.7	\$273.00	Inconsistent with Harper bill
6/14/04	Telcom. Harper re. GAO time and scope of roders	0.2	\$78.00	Inconsistent with Harper bill
6/16/04	Conference call Rempel and Harper to confirm accuracy of time entries and scope of action taken in connection with protection of class re. defs' repeated filing of false Sapienza declaration.	2	\$780.00	Inconsistent with Harper bill
6/16/04	Conference call Rempel, Harper, and Brown re. same.	1	\$390.00	Inconsistent with Harper & Brown bills
6/19/04	Telcoms. Harper re. same and comments re. affidavits.	0.5	\$195.00	Inconsistent with Harper bill
6/21/04	Telcoms. Harper re. clarification of affidavits and time entries in conformity with order.	0.5	\$195.00	Inconsistent with Harper bill
Total		25.9 hrs	\$9,491.00	

Rempel Internally Inconsistent Entries				
Date	Matter	Time	Claimed Amount	Objection
6/17/04	CC w/ Keith Harper, Dennis Gingold (Mark Brown some) re GAO application.	2.0	\$450.00	Inconsistent with Harper bill
Total		2	\$450.00	

Harper Internally Inconsistent Entries				
Date	Matter	Time	Claimed Amount	Objection
9/21/00	Conference with DG re: Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	0.6	\$123.00	Inconsistent with Gingold's bill
10/9/00	Telephone call from and to DG (2 calls) re: settlement possibilities; discussions with Interior; SMJ III; extension of time;	0.4	\$82.00	Inconsistent with Gingold's bill
10/27/00	Telephone call to DG and or GR (4 calls) to discuss Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	1	\$205.00	Inconsistent with Gingold's & Rempel's bill
3/6/02	Telephone call from DG re: MSJ withdrawal and sanctions request	0.4	\$104.00	Inconsistent with Gingold's bill
6/17/04	Conference call to DG and GR to discuss scope of courts May 11th order granting fees for GAO MSJ and Sapienza bad faith affidavit and review time jointly to ensure accuracy	2.0	\$670.00	Inconsistent with Gingold's & Rempel's bill
Total		4.4	\$1,184.00	

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

ORDER

This matter comes before the Court on the *Plaintiffs' Statement of Fees and Expenses in Accordance with the Court's March 11, 2003 Order, Dkt # 2596*. Upon consideration of Plaintiffs' Statement, Defendants' Objections, any Reply thereto, the applicable law and the entire record of this case, it is hereby

ORDERED that Plaintiffs' Statement of Fees and Expenses is, DENIED.

SO ORDERED

Hon. Royce C. Lamberth
UNITED STATES DISTRICT JUDGE
United States District Court for the
District of Columbia

Date: _____

cc:

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