

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al., )  
 )  
 Plaintiffs, )  
 )  
 v. ) Case No. 1:96cv01285(TFH)  
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 KEN SALAZAR, Secretary of the Interior, )  
 et al., )  
 )  
 Defendants. )  
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**DEFENDANTS’ RESPONSE AND OBJECTIONS TO PLAINTIFFS’ PETITION FOR CLASS COUNSEL FEES, EXPENSES AND COSTS THROUGH SETTLEMENT**

Class counsel’s petition for \$223 million plus expenses is unsupported by and contrary to controlling law, contrary to promises counsel made in the settlement contract, and contrary to representations made to this Court, Congress, and the plaintiff classes. As the Court is aware, class counsel agreed in the class settlement that they would not contend that they were entitled to greater than \$99.9 million in fees. They touted that binding commitment repeatedly to Congress and to class members to persuade Congress to enact the legislation and to reassure class members that settlement funds would go to class members, not to excessive compensation of their lawyers. Even if class counsel’s demand for fees were not otherwise excessive, it should be rejected out-of-hand for this reason.

But class counsel’s fee demand is also excessive and inconsistent with controlling law. Class counsel cannot escape a simple fact: although they enjoyed some early success in this case, they have already been compensated for that success through prior fee petitions. But since their 2001 success in the Court of Appeals, class counsel have lost virtually everything they have tried, being rebuffed in nine consecutive Court of Appeals’ decisions. Throughout that period,

rather than advancing this case to conclusion, class counsel embroiled the Court, class members, and the government in a series of wasteful diversions characterized by ad hominem attacks on government officials and a lack of any discernible benefit to the class. The broader resolution of Individual Indian Money (IIM) management issues and the determination of Congress to bring these issues to a close address claims not pursued by plaintiffs and unconnected to the detours they actually pursued. Class counsel thus cannot justify the fees that they seek.

Finally, class counsel cannot look to their recently mentioned, but until recently unknown and to this day unseen, contingency fee agreement or to controlling law for support. As discussed below, neither the fees class counsel seek nor the fees they claim are prescribed by their contingency agreement, are authorized or compelled by controlling law. Even a fee of \$99.9 million – all class counsel are permitted to seek – is grossly excessive. The award of attorney fees, costs, and expenses to class counsel, as established below, should be limited to \$50 million. Such an award accords with controlling law and the settlement agreement, and is more than fair and reasonable in light of the record in this case.

## **BACKGROUND**

### **I. The Fee Provision**

To reach a settlement with the government, plaintiffs agreed that their motion for attorney fees incurred through December 7, 2009, “shall not assert that Class Counsel be paid more than \$99,900,000.00.” Agreement on Attorneys’ Fees, Expenses, and Costs, ¶4.a (Dec. 7, 2009) (Fee Agreement) (Exhibit (Ex.) 1). It is undisputed that this fee provision was a material term of the settlement. As the United States has explained in multiple fora, it was critical to ensure that, if this longstanding matter was to be resolved, the funds made available for

settlement should, to the maximum extent possible, be paid to the plaintiff class; the parties' agreement on attorney fees was directed to that end.

Plaintiffs and class counsel have themselves repeatedly reaffirmed the meaning, and importance, of the fee provision. In seeking to persuade Congress to enact the settlement legislation, plaintiffs told a committee of the House of Representatives, regarding their class counsel, "They have agreed to limit their petition for fees to under \$100 million." *Proposed Settlement of the Cobell v. Salazar Litig.: Oversight Hearing Before the H. Comm. On Natural Resources* (2010 Oversight Hearing), 111th Cong. 55 (2010) (Statement of Elouise Cobell) (Ex. 4). In seeking this Court's preliminary approval of the settlement, plaintiffs informed the Court that the Fee Agreement provides that they "shall not assert that Class Counsel be paid more than \$99,900,000.00," Joint Mot. for Preliminary Approval at 16 (Dec. 10, 2010) [Dkt. 3660] (Ex. 5), and that "Plaintiffs' motion will request that Class Counsel be paid \$99.9 million." Plaintiffs' Notice Regarding Attorneys' Fees And Incentive Awards at 3 (Dec. 10, 2010) [Dkt. 3661].

To their class members, plaintiffs sent a formal Rule 23 notice asserting that, although they have contingency fee agreements containing a percentage that could, if applied, result in a higher award, "Plaintiffs' petition will assert that Class Counsel *should be* paid \$99.9 million for fees, expenses, and costs through December 7, 2009." Ex. 6 at 14 (Long Form Class Notice) (emphasis added). Despite those representations, counsel now argue that their service to those clients merits a payment of more than twice that amount – further depleting the funds available for payments to class members by more than \$120 million. Pet. at 25. Plaintiffs' proposed order directs that the class's custodian of funds "promptly shall pay to Class Counsel \$223,000,000.00 [in] fees and \$1,276,598 in expenses and costs." [Dkt. 3678-15].

## II. Litigation

The lengthy history of this litigation looms over the fee petition like a tale of two cases, and class counsel have already been compensated for one of them. Plaintiffs won early success in the first phase of the case, when they sought injunctions to enforce the accounting requirement of the American Indian Trust Fund Management Reform Act of 1994. Plaintiffs obtained a favorable ruling at trial, *Cobell v. Babbitt (Cobell V)*, 91 F. Supp. 2d 1 (D.D.C. 1999), which was “generally affirm[ed]” on appeal. *Cobell v. Norton (Cobell VI)*, 240 F.3d 1081, 1086 (D.C. Cir. 2001). They then petitioned under EAJA and obtained an award of over \$7 million in fees and expenses for their work, which the government promptly paid. They also received over \$750,000 in additional fees and expenses relating to discovery disputes. *See Ex. 7.*

After that initial phase, class counsel had little success. The case degenerated into a series of contempt and sanctions motions against 70 people and protracted efforts to shut down the Department of the Interior’s computer systems. The trial court conferred a few temporary victories – a contempt citation against the Secretary of the Interior and an order to disconnect most of Interior’s computer systems – but those were short-lived. After Plaintiffs’ 2001 victory on appeal, they suffered nine straight defeats at the appellate level. *See Cobell v. Kempthorne (Cobell XIX)*, 455 F.3d 317, 320, 330 (D.C. Cir. 2006) (noting that the court had, at that time, heard eight appeals since *Cobell VI*, addressing the historical accounting and collateral matters, such as contempt allegations against senior Interior officials, and had each time set aside a district court order or other action against Interior).<sup>1</sup>

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<sup>1</sup> The Court of Appeals expressly rebuffed class counsel’s effort to dispute their losing streak: “Plaintiff-beneficiaries’ . . . only example of a break in *the constant stream of reversals* is our dismissal with prejudice of a government appeal. They neglect to mention, however, that the order they cite did not affirm on the merits, but instead responded to the government’s motion for voluntary dismissal.” 455 F.3d at 334-35 (emphasis added).

In the last appellate decision, the Court of Appeals held that an historical accounting was possible and vacated the Court's restitution award of \$455.6 million. *Cobell v. Salazar (Cobell XXII)*, 573 F.3d 808 (D.C. Cir. 2009). It noted that "[w]e must not allow the theoretically perfect to render impossible the achievable good," and remanded the case to this Court. *Id.* at 815.

### ARGUMENT

Class counsel's petition asks class members to foot the bill for their years of fruitless digressions from the core issue in the case. Settlement was precipitated not by class counsel's litigation efforts (which, in the years since they were paid for previous work, failed), but by the government's decision to end the litigation on terms that required congressional approval and set a better course for Interior and its relationship with Native Americans. The settlement is a fair one for the parties, but it merits nowhere near one hundred million dollars in attorney fees: the Court of Appeals had just vacated a monetary award to plaintiffs and instructed Interior to provide only "the best accounting possible, in a reasonable time, with the money that Congress is willing to appropriate." *Cobell XXII*, 573 F.3d at 813.

In setting attorney fees, the Court "must 'act as fiduciary for the beneficiaries (who are paying the fee) . . . because few if any, of the action's beneficiaries actually are before the court at the time the fees are set,' and because 'there is no adversary process that can be relied upon in the setting of a reasonable fee.'" *In re Dept. of Veterans Affairs Data Theft Litig.*, 653 F. Supp.2d 58, 60 (D.D.C. 2009) (quoting *Court Awarded Attorney Fees, Report of the Third Circuit Task Force*, 108 F.R.D. 237, 251 (1985)). As the court in *Warnell v. Ford Motor Co.*, 205 F. Supp. 2d 956 (N.D. Ill. 2002), explained:

In a common fund case, however, "once the attorneys secure a settlement for the class, they petition the court for compensation from the same fund. Thus 'their

role changes from one of a fiduciary for the clients to that of a claimant against the fund created for the clients' benefit.' The court becomes the fiduciary and must carefully monitor disbursement to the attorneys by scrutinizing the fee applications."

*Id.* at 960 (quoting *Skelton v. General Motors Corp.*, 860 F.2d 250, 253 (7th Cir. 1988)); *see* *Freeport Partners, L.L.C. v. Allbritton*, Dkt. No. Civ.A. 04-2030(GK), 2006 WL 627140 at \*7 (D.D.C. 2006) (recognizing "the Court's duty to protect the class").

Class counsel's work did not hasten resolution of this case, and the plaintiff class should not be made to pay an exorbitant amount for it. An award of attorney fees, costs, and expenses of \$50 million would be ample consideration on this record, would comply with controlling law and the settlement agreement, and would be fair and reasonable to class members.

**I. The Factors That The Court Must Consider In Determining A Fair And Reasonable Award Of Attorney Fees Dictate An Award Limited to \$50 Million**

In this Circuit, attorney fees in common fund cases are set using a percentage-of-the-fund method. *Swedish Hospital Corp. v. Shalala*, 1 F.3d 1261, 1271 (D.C. Cir. 1993); *Pet.* at 4. This Court has articulated several factors that guide its decision under a percentage-of-the-fund method, including: (1) the size of the fund created and the number of persons benefitted; (2) the presence or absence of substantial objections by members of the class to the settlement terms or fees requested by counsel; (3) the skill and efficiency of the attorneys involved; (4) the complexity and duration of the litigation; (5) the risk of nonpayment; (6) the amount of time devoted to the case by plaintiffs' counsel; and (7) the awards in similar cases. *In re Baan Co. Sec. Litig.*, 288 F. Supp. 2d. 14, 17 (D.D.C. 2003) (citing *In re Lorazepam & Clorazepate Antitrust Litig. (Lorazepam II)*, Dkt. Nos. MDL 1290 (TFH), 99MS276 (TFH), Civ.99-0790

(TFH), 2003 WL 22037741 (D.D.C. June 16, 2003) at \*7); see *In re Vitamins Antitrust Litig.* No. 99-197, MDL No. 1285, 2001 WL 856290 (D.D.C. July 16, 2001) (same).

Class counsel justify their excessive fee petition by inflating both the amount of the fund for which they are responsible and the percentage to which they are entitled. The Court should reject such efforts and find that the controlling factors justify an award limited to \$50 million.

**A. The Size Of The Fund For Which Class Counsel Is Responsible Is Approximately \$360 Million**

In *Swedish Hospital*, counsel for the class sought fees equal to twenty percent of a \$27.8 million settlement fund. The district court reasoned that class counsel could claim credit only to the extent that their efforts enhanced the size of the settlement fund, and awarded fees totaling twenty percent of only about \$10 million of the \$27.8 million settlement fund (or \$2 million). 1 F.3d at 1264. The D.C. Circuit affirmed, holding that the district court acted “within its discretion in basing its fee calculation only on that part of the fund for which counsel was responsible.” *Id.* at 1272 (emphasis added). When class counsel’s litigation efforts were not responsible for a significant portion of a settlement fund, this Court has followed *Swedish Hospital*. E.g., *In re First Databank Antitrust Litig.*, 209 F. Supp.2d 96, 100-101 (D.D.C. 2002) (awarding attorney fees based upon \$8 million of the total \$19 million settlement fund).

Of the \$3.4 billion involved in this settlement, approximately \$1.5 billion will be placed into a settlement account from which the plaintiff classes will be paid. Of that \$1.5 billion, only a portion is allocable to the Historical Accounting Claims that class counsel litigated. Under the terms of the settlement, approximately 360,000 Historical Accounting Class members will each receive \$1,000 in settlement of those claims. See *Cobell v. Kempthorne (Cobell XX)*, 532 F.

Supp.2d 37, 61 (D.D.C. 2008) (noting Interior’s estimate of 364,772 IIM accounts). As a result, only \$360 million of the settlement funds are based on claims that counsel actually litigated.

The remaining funds are the result, not of tens of millions of dollars’ worth of work performed by class counsel, but rather the government’s desire to resolve the claims of the IIM account holders themselves. Indeed, plaintiffs amended their complaint to add Funds Administration Claims and Land Administration Claims – claims that were never a part of this case – only after, and in accordance with, the parties’ December 7 settlement. Contrary to their current argument that “the monetary award for mismanagement was a benefit derived from this suit and the work of class counsel,” prior to the complaint’s December 21, 2010 amendment, plaintiffs repeatedly insisted that they were seeking *neither* money damages *nor* an infusion of money into the IIM trusts. *Cobell v. Babbitt (Cobell I)*, 30 F. Supp. 2d 24, 39-40 (D.D.C. 1998). The Court previously struck their allegations of funds mismanagement or asset dissipation as “clearly irrelevant.” *Id.* at 40 n.18. The Court stated, “Given the allegations contained in the Complaint and, importantly, certain representations of the plaintiffs’ counsel, the Court holds that the retrospective allegations of the Complaint *seek solely an accounting*. Thus, the plaintiffs do not seek money damages.” *Id.* at 39-40 (emphasis added).

Until the Court granted leave to amend the complaint, the only claim in this case was for an accounting:

The plaintiffs’ single “live” cause of action seeks a remedy for this legal breach [failure to provide an accounting], and *the remedy that this Court has fashioned is limited to ensuring that the defendants produce the requisite accounting of the Indian trust*. Nothing in the *Cobell VI* Opinion can be construed to broaden the scope of this case to include issues unrelated to the defendants’ obligation to provide an accounting of the trust, *such as matters related to asset mismanagement or other aspects of trust administration* unrelated to the processes by which records and other documentation of transactions involving



trust assets and the actions of the trustee-delegates are created, stored, preserved, and so forth.

The foregoing discussion makes clear that *this case is only about the rendition of an accounting of the Indian trust.*

*Cobell v. Norton*, 226 F.R.D. 67, 77 (D.D.C. 2005) (emphasis added). Having held the case so limited, the Court invited plaintiffs to “file an amended complaint alleging that the defendants have a statutory duty to use due care in administering trust assets, and stating a statutory claim for breach of that duty.” *Id.* at 81. It concluded that “[u]ntil such a claim is added, however, the Court’s power to act is limited to the single claim over which it retains continuing jurisdiction . . . the plaintiffs’ claim concerning the defendant’s breach of their accounting duty.” *Id.* at 81-82. Plaintiffs never accepted the Court’s invitation and asset mismanagement claims were never litigated. The Court of Appeals confirmed this limited scope, holding that the IIM accounting is the “ultimate relief sought in this case,” and “the ultimate relief sought by the class members.” *Cobell v. Kempthorne (Cobell XVIII)*, 455 F.3d 301, 314-15 (D.C. Cir. 2006).

It was *defendants’* proposal to settle potential claims of funds and land mismanagement that led to the Trust Administration Class and to legislation conferring specific authority upon this Court to resolve those claims. As the settlement agreement plainly states: “Recognizing that individual Indian trust beneficiaries have potential additional claims arising from Defendants’ management of trust funds and trust assets, *Defendants* have an interest in a broad resolution of past differences in order to establish a productive relationship in the future.” Settlement Agreement at 4 (Dec. 7, 2009) (emphasis added) (Ex. 2).

The \$1.9 billion appropriated for land consolidation is likewise not the product of class counsel’s efforts, was not sought in the original or amended complaint, and is simply irrelevant

to the calculation of any common fund. Under *Swedish Hospital*, no basis exists for imposing costs associated with that amount on members of the class. See 1 F.3d at 1265. Interior is to use the \$1.9 billion to further a pre-existing land consolidation program and those funds will be paid only to individuals who own and are willing to sell fractionated land interests. To base a fee award on the \$1.9 billion would unfairly assess a tax against the settlement fund to reward class counsel for a fund which they did not create and which applies to a subset of the classes. At most, therefore, roughly \$360 million might be recognized as representing a common fund that class counsel arguably procured.

**B. Class Counsel Needlessly Generated Much Of The Complexity Of This Case, Prolonging The Litigation By Years, Without Benefit To The Class**

Central to the common benefit theory on which class counsel rely is the principle that the beneficiaries of counsel's labors ought to share in the cost of achieving that benefit. Here, however, significant portions of counsel's fees were incurred on efforts that were either unrelated to, or even affirmatively frustrated, the resolution that plaintiffs sought. Class counsel contend that they "have litigated novel issues and navigated a series of ten interlocutory appellate decisions," Pet. at 18, but after a partial victory in *Cobell VI* (for which they have already been paid), the work for which they now seek fees resulted in nine straight defeats before the D.C. Circuit. *Cobell XIX*, 455 F.3d at 320, 330; *Cobell XXII*, 573 F.3d at 815.

Much of class counsel's efforts over the past decade have been devoted to sideshows having little to do with achieving the historical accounting that plaintiffs sought. Class counsel's skirmishing ran up costs for both sides. As just one example, the IT security trial ran for 59 trial days, with plaintiffs holding some witnesses on the stand for a week. On appeal, the D.C. Circuit first stayed and then vacated the Court's IT injunction, ruling that plaintiffs presented no

evidence of any risk of harm to the accounting. *Cobell XVIII*, 455 F.3d at 315 (“Even if someone did penetrate Interior’s systems and alter IITD [individual Indian trust data], we have been shown no reason to believe that the effects would likely be so extensive as to prevent the class members from receiving the accounting to which they are entitled.”)

The incivility for which the *Cobell* litigation has become known presents no better argument for payment and should not be rewarded.<sup>2</sup> See *Cobell v. Norton (Cobell VIII)*, 334 F.3d 1128, 1146 (D.C. Cir. 2003) (in vacating contempt citations, court agreed that “defendants reasonably characterize [this Court’s] decision as having ‘impose[d] opprobrium’ upon them.”). Class counsel sought to have the Secretary of the Interior held in contempt and expanded this vendetta to virtually every lawyer and official at the Departments of Justice, Interior, and Treasury who had any role in the case, leading to the pendency of contempt or sanctions charges against 70 individual government employees, *of whom 31 were targeted multiple times*. The ploy needlessly interfered with the duties and personal lives of scores of public servants and cost the government more to defend the case because of the collateral attacks, but it garnered nothing for plaintiffs’ case and provided no benefit to the class. Eventually, numerous pending contempt motions were summarily dismissed. *Cobell v. Kempthorne*, Jan. 16, 2007 Order [Dkt. 3283]. Yet class counsel not only cite these unfounded personal attacks to justify their fee request, but demand that defendants, as the price of objecting to that request, divulge fees paid to private attorneys hired to defend individual employees.<sup>3</sup>

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<sup>2</sup> Even in their fee petition, class counsel devote considerable space to irrelevant attacks on the BIA. The reasonableness of the fee award is not a function of rhetoric or BIA history – which counsel distort – but of counsel’s record. Defendants responded to some of plaintiffs’ misleading allegations regarding the BIA in response to Plaintiffs’ Petition for Incentive Awards and Expenses [Dkt. 3679], which parrots the same *ad hominem*s.

<sup>3</sup> Class counsel’s assertions that defendants have “dubious standing” to challenge their fee request and that the Court should strike down the challenges “unless they have produced their

The D.C. Circuit recognized that class counsel’s efforts did little to advance their clients’ cause. The court called the IT issues “collateral” to the historical accounting. *Cobell XVIII*, 455 F.3d at 315. And in *Cobell XIX*, 455 F.3d at 335, the D.C. Circuit admonished class counsel that “[they] would more ably advance their worthy cause by focusing their energies on legal issues rather than on attacking the government and its lawyers.” Aside from the incentives that would be created should class counsel now be rewarded for such a strategy, the plain rulings of the D.C. Circuit demonstrate that class members should not be required to pay for it.

Even worse than the *diversions* from issues in the case is that costs were driven up by tactics that *affirmatively frustrated* the historical accounting that plaintiffs sought. No sooner had Interior begun the historical accounting required by *Cobell V* than class counsel denounced the effort and ultimately repudiated the relief sought in their own complaint. Plaintiffs dismissed Interior’s historical accounting plans and argued that no accounting could be performed, even as evidence to the contrary proved them wrong. Their presentation during the 45-day trial known as “Trial 1.5” in May-July 2003, focused on frustrating any provision of an accounting.<sup>4</sup> And

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time and fee records,” Pet. at 13, n. 28, are frivolous. It is well-settled that the government as a settling defendant may rightly challenge a fee petition. *Swedish Hospital*, 1 F.3d at 1265 n.1. This is especially true here, where defendants serve as fiduciaries of the plaintiff class. Class counsel apparently fail to see the irony in criticizing the government for allegedly not protecting trust funds, on which individual Indians often rely for their basic needs (Pet. at 8), while arguing that the government may not protect those same funds from overreaching by their lawyers. The demand to see the government’s fee records is especially disingenuous given that such expenses were largely attributable to wasteful actions initiated by class counsel.

<sup>4</sup> Of particular note, after the Court held defendants in contempt for failing to produce the documents relating to the accounts of the named plaintiffs and agreed-upon predecessors, defendants conducted a search costing upwards of \$20 million, and produced over 160,000 documents dating back to 1914. *Cobell XX*, 532 F. Supp.2d at 49-50. Defendants introduced a study of the research results during Trial 1.5, which found only small variances in the over 12,600 transactions reviewed. *Id.* at 50. Plaintiffs vigorously attacked the methodology Interior used to analyze the results of the search, but they presented no proof that any of the more than 160,000 documents in the collection was factually incorrect.

their strategy was so apparent that this Court and, later, the Court of Appeals expressly noted plaintiffs' opposition to the very remedy which they purportedly sought. *Cobell v. Norton (Cobell X)*, 283 F. Supp.2d 66, 207 (D.D.C. 2003) (noting plaintiffs' position that "the accounting owed by the United States government and ordered by this Court is impossible"); *Cobell v. Norton (Cobell XVII)*, 428 F.3d 1070, 1072 (D.C. Cir. 2005) ("Even the plaintiffs agree that the injunction [requiring a detailed historical accounting] should not stand because they believe it to be impossible to perform.").

The frustration of plaintiffs' own objectives was not limited to the historical accounting. Their actions, especially the temporary success in shutting down Interior's IT systems, significantly impeded and delayed trust reform. *See, e.g.*, Aug. 1, 2005 Status Report to the Court Number Twenty-Two, Dkt. 3112, at 12-13, 16; Feb. 1, 2007 Status Report to the Court Number Twenty-Eight, Dkt. 3290, at 13, 17, 19, 42, 48-49. The class members should not be taxed tens of millions of dollars to compensate attorneys for efforts that frustrated the very remedy that they purported to seek.

Finally, the work of class counsel was unduly devoted to what the Court early on deemed an effort to "treat the court as a grievance committee" to effect trust reforms that were within the purview of Congress. *Cobell V*, 91 F. Supp. 2d at 6-7; *see id.* (reminding plaintiffs that "this is a lawsuit"). Ten years later, the Court of Appeals echoed this unheeded admonition, holding that the trust accounting was, among other things, subject to "the realities of congressional appropriations." *Cobell XXII*, 573 F.3d at 813.

The failure, again, to focus on the legal issues that could be remedied by the court undermined a timely resolution that would benefit the class. In the end, the Court rejected

plaintiffs' factual allegations, legal theories, and damages model, awarding them only \$455.6 million as restitution. *Cobell v. Kempthorne (Cobell XXI)*, 569 F. Supp.2d 223, 226, 252 (D.D.C. 2008).<sup>5</sup> When plaintiffs appealed that award, it was vacated, and Interior was required only to provide "the best accounting possible, in a reasonable time, with the money that Congress is willing to appropriate." *Cobell XXII*, 573 F.3d at 813. Thus, no monetary relief was forthcoming. *Id.*, at 815. Any payments from this settlement will be the result of an opportunity to turn the page on the litigation, a congressional policy decision to facilitate resolution of this case and a potential next case, and an opportunity to appropriate funds towards a land consolidation program that would benefit Indian country and Interior for years in the future. To bestow a hefty award upon counsel would be an inappropriate use of the plaintiff class's settlement funds.

**C. The Risk Of Nonpayment Was Significantly Mitigated, And No Basis Exists For Applying A Contingency Fee**

To the extent the Court must consider the risk of nonpayment, it was significantly mitigated by the Court's 2005 interim award of attorney fees, costs and expenses under the EAJA. *Cobell v. Norton*, 407 F. Supp.2d 140, 171 (D.D.C. 2005). By 2007, class counsel had been paid approximately \$8.9 million in fees, costs, and expenses. *See Cobell v. Babbitt (Cobell*

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<sup>5</sup> The Court found that, "despite a profusion of evidence and opinion about the unreliability of IIM records, there has been essentially *no direct evidence of funds in the government's coffers that belonged in plaintiffs' accounts.*" *Id.*, at 238 (emphasis added). The Court also found that:

[Plaintiffs' restitution] model *did not make use of the best available evidence and did not make fair or reasonable comparisons of data. Plaintiffs injected bias in their model through use of unfounded adjustments. . . . The plaintiffs' model stands or falls with their legal theory, and it falls.*

*Id.*, at 251-52 (emphasis added).

*IV*), 188 F.R.D. 122 (D.D.C. 1999); Ex. 7. In any event, class counsel must have considered any risk of nonpayment to be well worth taking inasmuch as the Kilpatrick firm alone claims to have employed 200 lawyers and support staff on the case at one time or another. Dorris Aff., ¶5 [Dkt. 3678-10 at 2 of 14].

Class counsel argue that, due to the risk of nonpayment, “Ms. Cobell and other Class Representatives engaged class counsel on a contingent fee basis, which now totals in the aggregate 14.75% of the recovery.” Pet. at 13. Class counsel do not provide copies of the agreements, which D.C. Rule of Professional Conduct 1.5 provides “shall be in writing,” D.C. R. Prof. Conduct 1.5, or indicate the date(s) on which they were executed, stating only that they were “[p]rior to the Settlement Agreement.” Plaintiffs’ Notice at 2. [Dkt. 3661]. The Court has not seen the terms of these purported agreements. Instead, Ms. Cobell avers generally that she “had to engage them on a contingent fee basis.” [Dkt. 3678-7, at 6 of 12].

Assuming that there are, in fact, contingent fee agreements totaling 14.75%, applying that percentage to the proper \$360 million common fund results only in a payment of \$53.1 million. But no basis exists for using that claimed 14.75% percentage at all. First, the Court has neither examined nor approved any written contingency fee agreement. No agreement has been shown to defendants or, apparently, the class members. Second, class counsel’s reliance on the 14.75% rate expressly contradicts previous representations. When seeking to certify the original class in 1996, plaintiffs stated that class counsel “are working on an hourly basis; none has been retained on a contingent fee (though some have agreed to withhold a portion of their hourly charge until a favorable termination of the case).” [Dkt. 5]. In March, 1999, plaintiffs reiterated that no class counsel had been retained on a contingent fee and stated that “Messrs. Gingold, Holt, and

Levitas will apply for such fee, if any, as the Court may award to them under the ‘common fund’ doctrine.” [Dkt. 221]. Because the Court has not seen or approved these purported agreements which are at odds with representations at the start of the case and have not been considered by the plaintiff classes, no basis exists for applying a 14.75% contingency figure to any common fund. *See Klamath & Modoc Tribes v. United States*, 1 Cl. Ct. 378, 379 (1983) (in any fee determination matter, it is necessary to examine the provisions of the contract under which the attorney's services were performed for the tribe); Fed. R. Evid. 1002 (the best evidence rule); *cf. Pete v. United Mine Workers of Am. Welfare & Retirement Fund of 1950*, 517 F.2d 1275, 1291 (D.C. Cir. 1975) (en banc) (affirming court’s rejection of contingency fee agreement where the court had not approved it, the fee was sought from a class lacking sophistication, and was sought late in the litigation after summary judgment was entered).

**D. Class Counsel’s Contentions About The Amount Of Time Devoted To This Case Are Overstated And Not Credible**

Class counsel assert that they have amassed fees that exceed \$90 million using present-day rates that they have quoted, Pet. at 22, but this figure is not credible. First, their total includes billable hours for which counsel have already been paid – or worse, that counsel have claimed and the Court has already rejected. Class counsel’s submitted time log lists hours dating back to the start of the case. Yet, plaintiffs 2004 petition seeking \$14 million as an interim award under EAJA resulted in a \$7 million award in fees and expenses for work through the first phase of the case, which generally ran from case filing to the partial appeal victory, *Cobell VI*, in 2001. They were also separately paid over \$624,000 for time related to the first contempt trial. *Cobell IV*, 188 F.R.D. 122. Those hours are largely claimed again here. Ex. 8 (excerpts of 2010 billing records listing hours worked on Contempt I, Trial I).



Moreover, the Court already rejected many of these fees and expenses. In awarding interim EAJA fees in 2005, for example, the Court found lead counsel's reported time spent reviewing and preparing time records for Trial I "grossly excessive" and reduced those hours by 75%, from 455.9 hours to 113.9 hours. *Cobell*, 407 F. Supp.2d at 163, 190 (Appendix III). Nevertheless, class counsel again cite that "grossly excessive" time in support of their fee request. Pet. at 21-22; *compare* Ex. 9 (excerpt from 2004 billing records describing time as "review, segregate, prepare relevant time re Trial 1 EAJA fee application"), *with* Ex. 10 (excerpt from 2010 billing records describing time as "work on T-1 time").

More recently, plaintiffs sought \$129,642.27 in attorney fees in May 2007, for responding to a motion for reconsideration filed by defendants. [Dkt. 3320]. The Court unequivocally denied that request:

No, sir. *That time is not going to be compensated, not out of this Court. . . . I think responding to this motion for reconsideration, frankly, counsel, is a kind of a self-inflicted wound. You've made some very dramatic over-claims for fees, and having to respond to that motion for reconsideration, I do not consider compensable.*

Tr. at 13-14 (May, 14, 2007) (emphasis added) (Ex. 11). Without explanation, class counsel now include that same attorney time in their billing totals, *Compare* Ex. 12 *with* Ex. 13. Counsel should not be paid twice for the same work, or be permitted to rely on hours that the Court rejected.<sup>6</sup> This Court should exercise its fiduciary obligation to prevent that unwarranted recovery. *Warnell*, 205 F. Supp.2d at 960.

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<sup>6</sup> Class counsel had previously been warned about submitting the same time for payment in different fee petitions, including time that had been previously disallowed by the Court. At one hearing, for example, the Court told class counsel, "With respect to any time that you have previously asked to be reimbursed and have been rejected, take it out of this bill. I don't care whether you can re-categorize it or not; take it out of this bill." Tr. at 13-14 (May, 14, 2007) (Ex. 11).

Even fees that class counsel now submit for the first time are subject to substantial discounting. The record demonstrates that class counsel's fee claims consistently are grossly exaggerated. On plaintiffs' petition in connection with the first contempt trial, the Court approved about 26% of plaintiffs' request (\$624,643.50 out of \$2,366,684 sought). *Cobell IV*, 188 F.R.D. at 123. On a sanctions award in 2002, the Court approved just over 30% of plaintiffs' request (\$125,484.87 out of \$409,038.82 requested). *Cobell v. Norton*, 231 F. Supp.2d 295, 299 (D.D.C. 2002). When plaintiffs presented their interim fee request under EAJA, the Court approved approximately 48% of the amount claimed (\$7,066,471.77 out of \$14,528,467.21 requested). 407 F. Supp.2d at 144-45. In the last fee petition decided by the Court in 2007, the Court reduced the award by more than one-third from that claimed (\$341,728.20 out of \$519,565.64 sought). *Compare* Order of Apr. 20, 2007, at 4-5 [Dkt. 3312], *vacated*, Order of Apr. 27, 2007 [Dkt. 3317] *with* Order of June 5, 2007 [Dkt. 3338] (awarding discounted amount after hearing). If just the smallest previous discount were applied here, class counsel's fees would shrink to \$59.3 million – even before elimination of any double billing.

Finally, the billing rates used to support the fee request demonstrate that they are not entitled to any amount near \$99.9 million. The billing rates are immediately suspect because their fee calculation depends on the use of *current* rates, rather than the rates that the timekeeper in question charged at the time the service was performed – a variation that is significant over thirteen years. Moreover, class counsel assert that they do not have hourly billing arrangements with the named plaintiffs, they only have a contingent fee agreement. Thus, no effective billing rates exist that are actually applicable to this case.

The billing rate claimed by Mr. Gingold also far exceeds the market rate standard this Court has previously authorized, as recently as 2007. *Gingold Aff.*, at 4 [Dkt. 3678-8]. In 2005 and again in 2007, the Court awarded fees at market rate, employing the *Laffey Matrix*. *Cobell*, 407 F. Supp.2d at 171; Tr. at 15 (May, 14, 2007) (Ex. 11). The *Laffey Matrix* currently prescribes an hourly rate of \$709 for Mr. Gingold, as opposed to his claimed rate of \$925 per hour. Ex. 14. Applying this reduced rate to the 48,772.3 hours Mr. Gingold claims alone results in more than a *\$10.5 million reduction* in counsel's fee total.

**E. Awards In Similar Cases Dictate A Percentage Of Well Below Ten Percent**

Fee awards in other common fund cases lack sufficient similarity with this unique case to provide a meaningful basis for comparison. *See In re Cendant Corp. Litig.*, 264 F.3d 201, 284 (3d Cir. 2001). Nevertheless, a review of other mega-fund cases reveals that nothing near a 14.75% award is appropriate here. In *In re Sulzer Hip Prosthesis & Knee Prosthesis Liability Litigation*, 268 F. Supp. 2d 907 (N.D. Ohio 2003), the court approved a fee award of *less than 5%* of the common fund based on an agreement between the parties that the attorneys would receive no more than \$50 million. The court did not even award the full \$50 million, *id.* at 909, despite finding that “the complexity and novelty of the factual and legal issues presented, and the settlement negotiations necessary to resolve those issues, were exceptional.” *Id.* at 939. In *In re Cendant Corp. PRIDES Litig.*, 243 F.3d 722, 737 (3d Cir. 2001), the court's review of mega-fund cases revealed that, in cases where the settlement exceeded \$300 million, the percentages ranged between 5%, and 8.275%. While larger percentages have since been awarded in mega-fund cases, they are commercial cases involving extraordinary success and innovative, efficient

work. *E.g. In re Diet Drugs Litig.*, 582 F.3d 524 (3d Cir. 2009); *In re Vitamins Antitrust Litig.*, 2001 WL 856290. This case is very different.<sup>7</sup>

Unique to this case, Congress has directed that the Court set the appropriate award by giving “due consideration to the special status of Class Members . . . as beneficiaries of a federally created and administered trust.” Claims Resolution Act of 2010, Pub. Law No. 111-291, §101(g)(1)(B), 124 Stat. 3064 (2010) (Ex. 3). Class counsel argue that such consideration warrants an award at the highest end of the spectrum. The record before Congress when it enacted this language compels a very different conclusion. 2010 Oversight Hearing, 111th Cong. 21 (statement of Hon. Michael O. Finley, Chairman of the Inter-Tribal Monitoring Association on Indian Trust Funds) (“[P]eople have a problem with that large amount of money coming out of the settlement itself.”) (Ex. 15); 156 Cong. Rec. S4919 (June 15, 2010) (Letter from President Jefferson Keel, National Congress of American Indians (NCAI), to Chairman Dorgan and Ranking Member Barrasso) (“These attorneys’ fees have generated considerable discussion. . . . Over the years, the Cobell plaintiffs have frequently estimated the size of the damages in the hundreds of billions, so disappointment at the size of the award has combined with views about the size of the attorneys’ fees.”) (Ex. 16).<sup>8</sup> The suggestion that Congress

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<sup>7</sup> If any award at all were appropriate for the funds attributed to the Trust Administration claims – and, as explained above, it is not – it would be in the realm of 1% or lower. By comparison, in *In re Cendant Corp. Litig.*, 243 F. Supp.2d 166, 172-73 (D.N.J. 2003), a case resolved “fairly early in the course of litigation,” the court approved the lead counsel’s negotiated fee request for \$55 million, or 1.7% of the \$3.2 billion award. Here, where the Trust Administration claims were resolved *without* litigation, and in the course of negotiations in which counsel were already engaged, no additional fee is appropriate.

<sup>8</sup> NCAI subsequently adopted a resolution seeking “[f]airness in attorney fees and incentive payments to ensure that they do not unduly diminish the restitution to individual account holders.” NCAI, Resolution #RAP-10-037, *Supporting the Cobell v. Salazar Settlement and Requesting Additional Considerations* (NCAI 2010 Midyear Session) (Ex. 17). Other organizations have made similar calls. *E.g.*, Affiliated Tribes of Northwest Indians, Resolution #10-19, *Supporting Changes to the Proposed Cobell v. Salazar Settlement* (ATNI 2010 Mid-

intended – or that the “special status” of their class requires – that the individual Indian class members be charged more for legal services than controlling law provides is unsupportable.

**F. Litigation Expenses Should Be Included Within the \$50 Million Award**

In an apparent effort to circumvent the Fee Agreement’s \$99.9 million limit, plaintiffs have shifted their efforts to collect over \$10.5 million in litigation expenses to the Class Representatives’ Petition for Incentive Awards and Expenses. [Dkt. 3679]. As explained in our objections to that petition, most of those expenses are unjustified and should be disallowed but, to the extent the Court views them favorably, they should be included as part of counsel’s award of “fees, expenses and costs.” Fee Agreement, ¶4.a.

**II. Class Counsel Are Bound By The Terms Of The Fee Agreement**

Class counsel mistakenly assert that the Fee Agreement’s \$50 to \$99.9 million range is contrary to controlling law. Pet. at 17. The Fee Agreement simply provides for the parties to argue for an award in that range. That is completely consistent with the law and with the intent of the parties and Congress.

Nothing prohibits counsel from entering into a contract in which they agree to accept fees that may be less than what they could recover under controlling law. A settlement agreement is unquestionably a contract. *Bluewater v. Salazar*, 721 F. Supp.2d 7, 19 (D.D.C. 2010) (citing *Makins v. District of Columbia*, 277 F.3d 544, 546-47 (D.C. Cir. 2002)). The Fee Agreement is a material part of the settlement. Absent fraud or duress, parties and their attorneys are bound by

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Year Conference) (calling for attorney fees to be set at \$50 million, which “will free up more funds to flow to Indian beneficiaries”) (Ex. 18); Great Plains Tribal Chairman’s Association, Resolution 29-05-26-10, *To Support Amendments to the Cobell Settlement To Fix and Improve the Proposed Cobell v. Salazar Settlement Agreement and as Included in the Tax Extender Package* (GPTCA) (calling for attorney fees to be set at \$50 million, which “will improve the settlement by allowing more funds for the Individual account holders”) (Ex. 19).

the settlement contracts they sign, regardless of whether they regret their decisions later. *Schmidt v. Shah*, 696 F. Supp.2d 44, 62 (D.D.C. 2010). With two teams of experienced counsel negotiating its terms, plaintiffs do not, and cannot, demonstrate fraud or duress. *See In re Vitamins Antitrust Litigation*, 305 F. Supp.2d 100, 104 (2004) (a “presumption of fairness, adequacy, and reasonableness” applies where experienced, capable counsel negotiate settlement).

Even if their agreed range of \$50 million to \$99.9 million is less than what class counsel now think they deserve, they were free to agree to limit the compensation they would seek as part of the settlement bargain. That is exactly what they did. Keith Harper, one of plaintiffs’ lead counsel, publicly acknowledged their willing compromise shortly after the Fee Agreement was executed:

I think all parties understand that the norm award in most class actions would be higher than the range. *The parties had discussions about it and agreed to this range. We think that the interest of the class is served by it,*” said Kilpatrick Stockton partner Keith Harper, a lead attorney in the case. . . . “Obviously there is concern about attorneys fees. I think it’s fair to say this is well below the norm. *But we felt it was important to make sure that nothing held up the deal for the class. That’s got to be our singular focus. That has always been our focus.*”

*Attorneys Fees In Cobell Case ‘Well Below The Norm’ in Class Actions*, The BLT: The Blog of LegalTimes, (Dec. 18, 2009), <http://legaltimes.typepad.com/blt/2009/12/attorneys-fees-in-cobell-case-well-below-the-norm-in-class-actions.html> (emphasis added) (Ex. 20).

The Court should give effect to the common intent of the parties to the settlement. *Lindell v. Landis Corp. 401(K) Plan*, 640 F. Supp.2d 11, 15 (D.D.C. 2009). Both parties clearly intended that they would litigate within a range of \$50 million to \$99.9 million, even if they may have otherwise had contrary views on the appropriate boundaries. Courts attempt to give

meaning to every part of a contract and seek to avoid rendering a portion of it void. That principle applies to settlement agreements, *Caglioti v. District Hospital Partners*, 933 A.2d 800, 811 (D.C. 2007), including this one.

Class counsel erroneously criticize the Fee Agreement’s fee limitation as a “clear sailing clause.” Pet. at 6. A “clear sailing” agreement is one in which the party paying the fee agrees not to contest the amount to be awarded by the court, so long as the award falls beneath a negotiated ceiling. *Weinberger v. Great Northern Nekoosa Corp.*, 925 F.2d 518, 520 n.1 (1st Cir. 1991). The courts’ concern with such clauses is that “the payor is bound by contract not to contest the application,” and that could “exacerbate[ ] the potential conflict of interest between the plaintiff class and class counsel.” *Id.*, at 524-25. That is not a problem here. The Fee Agreement, ¶4b, provides that “Defendants may submit a memorandum in opposition to plaintiffs’ motion,” and defendants are obviously doing so.<sup>9</sup> Moreover, the concern with “clear sailing” clauses has never been that *class counsel* would be disadvantaged. It is just the opposite: that class counsel – without an adversary to challenge them – will wrest money from the class to obtain an excessive fee. *Id.*, at 524-25. Class counsel turn this concern on its head for their own gain.

Failing to see the irony of their claim, class counsel seek support in Congress’s mandate that the Court consider “the special status of Class Members . . . as beneficiaries of a federally created and administered trust.” Pet. at 6. On the contrary, Congress has mandated that the Court consider the Indians’ status as trust beneficiaries to protect their interests against this sort

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<sup>9</sup> In addition, because the Fee Agreement, Ex. 1, ¶2, and the enabling legislation both call for the Court to exercise its discretion to approve the fee, the core issue raised in *Weinberger* is notably absent here. *See id.* at 525 (“[t]o the extent that the court below felt that the parties’ accord relieved it of any obligation to scrutinize the fee arrangement, it was wrong.”)

of overreaching. This view is consistent with Congress' long-standing desire to protect Indians from excessive fees and charges. *See Quantum Entertainment, Ltd. v. U.S. Dept. of the Interior*, 597 F. Supp.2d 146, 148-49 (D.D.C. 2009) (discussing long history of "legislative protection" through 25 U.S.C. §81, which requires Interior's approval on certain contracts with tribes).

Finally, class counsel's suggestion that the 2010 Act's reference to "controlling law" somehow overrules the Settlement Agreement and frees them to seek any amount they wish is baseless. The statute makes clear that the parties are bound by the Settlement Agreement's terms, so the agreement itself is part of the controlling law. Moreover, the notion that Congress went out of its way to authorize or permit class counsel to seek *higher* fees than those that class counsel pointed to when lobbying Congress finds no basis in the text or legislative history of the statute. *See* 156 Cong. Rec. H4091 (daily ed. May 28, 2010) (statement of Ranking Member Hastings) ("Every dollar paid to the lawyers is a dollar taken out of the pockets of individual Indians.") (Ex. 21); 156 Cong. Rec. S6801 (daily ed. Aug. 5, 2010) (statement of Chairman Dorgan) (lamenting that over a decade, "the case continued in Federal court with more and more money spent on lawyers") (Ex. 22); 156 Cong. Rec. S6803 (daily ed. Aug. 5, 2010) (statement of Ranking Member Barrasso) (calling the difference between the \$1,000 Historical Accounting payment and a potential \$100 million attorney fees award "an incredible disparity") (Ex. 23); 156 Cong. Rec. S4918 (daily ed. June 15, 2010) (statement of Ranking Member Barrasso) (calling the potential for a \$99.9 million fee award a "serious flaw[]" in the settlement, and noting that "Fifty million dollars ... is their number, so it must be fair") (Ex. 24).

If nothing else, class counsel are estopped from claiming more than \$99.9 million. Judicial estoppel arises "where a party assumes a certain position in a legal proceeding, . . .



succeeds in maintaining that position, . . . [and then,] simply because his interests have changed, assume[s] a contrary position.” *Moses v. Howard Univ. Hosp.*, 606 F.3d 789, 798 (D.C. Cir. 2010) (quoting *New Hampshire v. Maine*, 532 U.S. 742, 749 (2001); *Comcast Corp. v. FCC*, 600 F.3d 642, 647 (D.C. Cir. 2010)). Class counsel’s new assertions are clearly contrary to their earlier agreement to seek no more than \$99.9 million. In the Fee Agreement, in their notice to the class, and in the motion for preliminary approval, they represent that they would request to be paid \$99.9 million. Exs. 1, 5, 6. The Court accepted that representation in granting preliminary approval. Because class counsel would otherwise derive an unfair windfall, the Court should apply the estoppel doctrine here. *Moses*, 606 F.3d at 798.

### CONCLUSION

An award limited to \$50 million for fees, costs and expenses would take into account that part of the settlement for which class counsel were responsible, would accord with controlling law, and would satisfy Congress’ expressed intent that an appropriate award give due consideration to the special status of the class members as beneficiaries of a federal trust.

Dated: February 24, 2011

Respectfully submitted,

TONY WEST  
Assistant Attorney General

MICHAEL F. HERTZ  
Deputy Assistant Attorney General

J. CHRISTOPHER KOHN  
Director

/s/ Robert E. Kirschman, Jr.  
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CERTIFICATE OF SERVICE

I hereby certify that, on February 24, 2011, the foregoing *Defendants' Response and Objections to Plaintiffs' Petition for Class Counsel Fees, Expenses and Costs Through Settlement* was served by Electronic Case Filing, and on the following who is not registered for Electronic Case Filing, by facsimile, with exhibits by mail:

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

/s/ Jay St. John

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

---

ELOUISE PEPION COBELL, et al.,

Plaintiffs,

vs.

KEN SALAZAR, Secretary of the Interior, et al.,

Defendants.

---

Case No. 1:96CV01285-JR

Agreement on Attorneys' Fees, Expenses, and  
Costs

December 7, 2009

WHEREAS the Parties entered the Class Action Settlement Agreement, dated December 7, 2009 (“Main Cobell Agreement”); and

WHEREAS the Parties desire that the Class should compensate Class Counsel for reasonable attorney fees and related expenses and costs;

THEREFORE, the Parties hereby enter this Agreement on Attorneys’ Fees, Expenses, and Costs (“Fee Agreement”).

1. Unless otherwise defined herein, this Fee Agreement incorporates all defined terms in the Main Cobell Agreement and shall be interpreted in a manner consistent with the Main Cobell Agreement.

2. The amount of attorneys’ fees, expenses and costs shall be decided by the Court in accordance with controlling law and awarded from the Accounting/Trust Administration Fund.

3. The Parties agree that litigation over attorneys’ fees, expenses, and costs should be conducted with a civility consistent with the Parties’ mutual desire to reach an amicable resolution on all open issues. The Parties agree therefore that all documents filed in connection with the litigation over attorneys’ fees, expenses, and costs shall consist of a short, plain statement of the facts and the law with the goal of informing the Court of relevant information for its consideration.

4. *Attorneys’ Fees, Expenses, and Costs Incurred through December 7, 2009.*

a. Plaintiffs may submit a motion for Class Counsel’s attorney fees, expenses, and costs incurred through December 7, 2009. Such motion shall not assert that Class Counsel be paid more than \$99,900,000.00

above amounts previously paid by Defendants. Unless otherwise ordered by the Court, Plaintiffs' memorandum of points and authorities in support of such claim shall not exceed 25 pages and shall be filed no later than thirty (30) days following Preliminary Approval, and Class Counsel's reply in support of such claim shall not exceed 15 pages.

- b. Defendants may submit a memorandum in opposition to Plaintiffs' motion. Such memorandum shall not assert that Class Counsel be paid less than \$50,000,000.00 above the amounts previously paid by Defendants. Unless otherwise ordered by the Court, Defendant's memorandum shall not exceed 25 pages and shall be filed within 30 days after Plaintiffs' motion.
- c. Concurrently with any motion for fees, expenses, and costs of attorneys through December 7, 2009, Plaintiffs shall file statements regarding Class Counsel's billing rates, as well as contemporaneous, where available, and complete daily time, expense, and cost records supporting this motion. Defendants may also submit an annotated version or summary of the time, expense and cost records in support of their opposition.
- d. Plaintiffs disclosure and filing of the records referenced in the preceding paragraph shall not constitute a waiver of any attorney client privilege or attorney work product protections. Plaintiffs may request the entry of an appropriate protective order regarding such confidential records.
- e. In the event that the Court awards attorneys' fees, expenses, and costs covered by this Paragraph in an amount equal to or greater than

\$50,000,000.00 and equal to or less than \$99,900,000.00, Plaintiffs, Class Counsel and Defendants agree not to file a notice of appeal concerning such award.

5. *Attorneys' Fees, Expenses, and Costs Incurred after December 7, 2009.*

Plaintiffs may submit a motion for Class Counsel's attorneys' fees, expenses, and costs incurred after December 7, 2009, up to \$10,000,000.00. Such motion shall be based solely on attorney hours and actual billing rates and actual expenses and costs incurred, and may not be justified by any other means (such as a percentage of the class recovery). Such motion shall be resolved in such manner as directed by the Court. Concurrently with any motion for post Agreement attorneys' fees, expenses, and costs, Plaintiffs shall file statements regarding Class Counsel's billing rates, as well as complete and contemporaneous daily time, expense, and cost records supporting this motion.

6. Should (a) either party terminate the Main Cobell Agreement pursuant to the terms thereof, (b) the Main Cobell Agreement become null and void because a condition subsequent does not occur, or (c) the Main Cobell Agreement not finally be approved by the Court, this Fee Agreement shall be null and void, and the parties and Class Counsel shall take such steps as are necessary to restore the *status quo ante*.

7. Nothing in this Fee Agreement shall affect the right of any non-party to this Fee Agreement.

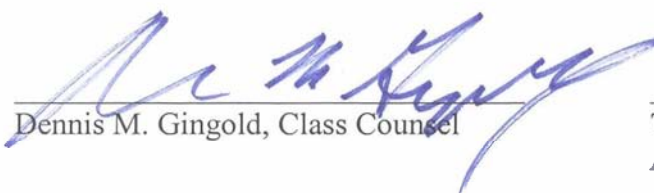
Wherefore, intending to be legally bound in accordance with the terms of this Fee Agreement, the Parties hereby execute this Fee Agreement:

**SIGNATURES**

Wherefore, intending to be legally bound in accordance with the terms of this Agreement, the Parties hereby execute this Agreement:

**FOR PLAINTIFFS:**

**FOR DEFENDANTS:**

  
\_\_\_\_\_  
Dennis M. Gingold, Class Counsel

  
\_\_\_\_\_  
Thomas J. Perrelli  
Associate Attorney General

  
\_\_\_\_\_  
Keith M. Harper, Class Counsel



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

---

**ELOUISE PEPION COBELL, et al.,**

**Plaintiffs,**

**vs.**

**KEN SALAZAR, Secretary of the Interior, et al.,**

**Defendants.**

---

**Case No. 1:96CV01285-JR**

**Class Action Settlement Agreement**

**December 7, 2009**

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The Parties agree that the Settlement is contingent on the enactment of legislation to authorize or confirm specific aspects of the Settlement as set forth below. If such legislation, which will expressly reference this Agreement, is not enacted on or before the Legislation Enactment Deadline as defined in this Agreement, unless such date is mutually agreed to be extended by the Parties, or is enacted with material changes, the Agreement shall automatically become null and void.

## **BACKGROUND**

1. On June 10, 1996, a class action complaint (the “Complaint”) was filed in the United States District Court for the District of Columbia (the “Court”) entitled Elouise Pepion Cobell, et al. v. Bruce Babbitt, Secretary of Interior, et al., No. Civ. 96-1285 (RCL) (currently denominated as Elouise Pepion Cobell v. Ken Salazar, Secretary of Interior, et al., 96-1285 (JR)) (this “Action”), seeking to redress alleged breaches of trust by the United States, and its trustee-delegates the Secretary of Interior, the Assistant Secretary of Interior-Indian Affairs, and the Secretary of the Treasury, regarding the management of Individual Indian Money (“IIM”) Accounts held on behalf of individual Indians.

2. The Complaint sought, among other things, declaratory and injunctive relief construing the trust obligations of the Defendants to members of the Plaintiff class and declaring that Defendants have breached and are in continuing breach of their trust obligations to class members, an order compelling Defendants to perform these legally mandated obligations, and requesting an accounting by Interior Defendants (as hereinafter defined) of individual Indian trust assets. See Cobell v. Babbitt, 52 F.Supp. 2d 11, 19 (D.D.C. 1999) (“Cobell III”).

3. On February 4, 1997, the Court granted Plaintiffs’ Motion for Class Action Certification pursuant to FRCP 23(b)(1)(A) and (b)(2) “on behalf of a plaintiff class consisting of

present and former beneficiaries of IIM Accounts (exclusive of those who prior to the filing of the Complaint herein had filed actions on their own behalf alleging claims included in the Complaint)” (the “February 4, 1997 Class Certification Order”), reserving the jurisdiction to modify the February 4, 1997 Class Certification Order as the interests of justice may require, *id.* at 2-3.

4. On December 21, 1999, the Court held, among other things, that Defendants were then in breach of certain of their respective trust duties, Cobell v. Babbitt, 91 F. Supp. 2d 1, 58 (D.D.C. 1999) (“Cobell V”).

5. On February 23, 2001, the United States Court of Appeals for the District of Columbia Circuit (the “Court of Appeals”) upheld the Court’s determination that Defendants were in breach of their statutory trust duties, Cobell v. Norton, 240 F.3d 1081 (D.C. Cir. 2001) (“Cobell VI”).

6. Subsequently, the Court made determinations that had the effect of modifying the February 4, 1997 Class Certification Order, determining on January 30, 2008, that the right to an accounting accrued on October 25, 1994, “for all then-living IIM beneficiaries: those who hold or at any point in their lives held IIM Accounts.” Cobell v. Kempthorne, 532 F. Supp. 2d 37, 98 (D.D.C. 2008) (“Cobell XX”).

7. The Court and the Court of Appeals have further clarified those individual Indians entitled to the relief requested in the Complaint in the following respects:

- (a) Excluding income derived from individual Indian trust land that was received by an individual Indian beneficiary on a direct pay basis, Cobell XX, 532 F. Supp. 2d at 95-96;
- (b) Excluding income derived from individual Indian trust land where such funds were managed by tribes, *id.*;
- (c) Excluding IIM Accounts closed prior to October 25, 1994, date of passage of the American Indian Trust Fund Management Reform Act of 1994, Pub. L. No. 103-

412, 108 Stat. 4239 codified as amended at 25 U.S.C. § 162a et. seq. (the “Trust Reform Act”), Cobell v. Salazar, 573 F.3d 808, 815 (D.C. Cir. 2009) (Cobell XXII); and

- (d) Excluding heirs to money from closed accounts that were subject to final probate determinations, *id.*

8. On July 24, 2009, the Court of Appeals reaffirmed that “[t]he district court sitting in equity must do everything it can to ensure that [Interior Defendants] provide [plaintiffs] an equitable accounting,” *Id.* at 813.

9. This Action has continued for over 13 years, there is no end anticipated in the foreseeable future, and the Parties are mindful of the admonition of the Court of Appeals that they work together “to resolve this case expeditiously and fairly,” Cobell v. Kempthorne, 455 F.3d 317, 336 (D.C. Cir. 2006), and desire to do so.

10. Recognizing that individual Indian trust beneficiaries have potential additional claims arising from Defendants’ management of trust funds and trust assets, Defendants have an interest in a broad resolution of past differences in order to establish a productive relationship in the future.

11. The Parties recognize that an integral part of trust reform includes accelerating correction of the fractionated ownership of trust or restricted land, which makes administration of the individual Indian trust more difficult.

12. The Parties also recognize that another part of trust reform includes correcting the problems created by the escheatment of certain individual Indians’ ownership of trust or restricted land, which has been held to be unconstitutional (*see* Babbitt v. Youpee, 519 U.S. 234 (1997); Hodel v. Irving, 481 U.S. 704 (1987)) and which makes administration of the individual Indian trust difficult.

13. Plaintiffs believe that further actions are necessary to reform the individual Indian trust, but hope that such further reforms are made without the need for additional litigation. Plaintiffs are also hopeful that the Commission which Secretary Salazar is announcing contemporaneously with the execution of this Agreement will result in the further reform which Plaintiffs believe is needed.

14. The Parties have an interest in as complete a resolution as possible for individual Indian trust-related claims and agree that this necessarily includes establishing a sum certain as a balance for each IIM Account as of a date certain.

15. Defendants deny and continue to deny any and all liability and damages to any individual Indian trust beneficiary with respect to the claims or causes of action asserted in the Litigation or the facts found by the Court in this Litigation. Nonetheless, without admitting or conceding any liability or damages whatsoever and without admitting any wrongdoing, and without conceding the appropriateness of class treatment for claims asserted in any future complaint, Defendants have agreed to settle the Litigation (as hereinafter defined) on the terms and conditions set forth in this Agreement, to avoid the burden, expense, and uncertainty of continuing the case.

16. Class Counsel have conducted appropriate investigations and analyzed and evaluated the merits of the claims made, and judgments rendered, against Defendants in the Litigation, the findings, conclusions and holdings of the Court and Court of Appeals in this Litigation, and the impact of this Settlement on Plaintiffs as well as the impact of no settlement, and based upon their analysis and their evaluation of a number of factors, and recognizing the substantial risks of continued litigation, including the possibility that the Litigation, if not settled now, might not result in any recovery, or might result in a recovery that is less favorable than

that provided for in this Settlement, and that otherwise a fair judgment would not occur for several years, Class Counsel are satisfied that the terms and conditions of this Settlement are fair, reasonable and adequate and that this Settlement is in the best interests of all Class Members.

17. The Parties desire to settle the Litigation and resolve their differences based on the terms set forth in this Agreement.

## **TERMS OF AGREEMENT**

NOW, THEREFORE, in consideration of this Background, the mutual covenants and promises set forth in this Agreement, as well as the good and valuable consideration provided for in this Agreement, the Parties agree to a full and complete settlement of the Litigation on the following terms.

### **A. DEFINITIONS**

1. Accounting/Trust Administration Fund. “Accounting/Trust Administration Fund” shall mean the \$1,412,000,000.00 that Defendants shall pay into a Settlement Account held in the trust department of a Qualified Bank (as hereinafter defined) selected by Plaintiffs and approved by the Court, as well as any interest or investment income earned before distribution. The \$1,412,000,000.00 payment represents the maximum total amount that Defendants are required to pay to settle Historical Accounting Claims, Funds Administration Claims, and Land Administration Claims.

2. Amended Complaint. “Amended Complaint” shall mean the complaint amended by Plaintiffs solely as part of this Agreement, and for the sole purpose of settling this Litigation, to be filed with the Court concurrently with, and attached to, this Agreement.

3. Amount Payable for Each Valid Claim. “Amount Payable for Each Valid Claim” shall mean the amount prescribed in section E.3 and E.4 below.



4. Assigned Value. “Assigned Value” shall have the meaning set forth in subsection E(4)(b)(3) below.

5. Claims Administrator. “Claims Administrator” shall mean The Garden City Group, Inc., which shall provide services to the Parties to facilitate administrative matters and distribution of the Amount Payable for Each Valid Claim in accordance with the terms and conditions of this Agreement.

6. Classes. “Classes” shall mean the classes established for purposes of this Agreement: the Historical Accounting Class and the Trust Administration Class (both as hereinafter defined).

7. Class Counsel. “Class Counsel” shall mean Dennis Gingold, Thaddeus Holt and attorneys from Kilpatrick Stockton LLP, including Elliott H. Levitas, Keith Harper, William Dorris, David Smith, William Austin, Adam Charnes and Justin Guilder.

8. Class Members. “Class Members” shall mean members of the Classes.

9. Contact Information. “Contact Information” shall mean the best and most current information the Department of the Interior (“Interior”) then has available of a beneficiary’s name, social security number, date of birth, and mailing address, and whether Interior’s individual Indian trust records reflect that beneficiary to be a minor, non-compos mentis, an individual under legal disability, an adult in need of assistance or whereabouts unknown.

10. Day. “Day” shall mean a calendar day.

11. Defendants. “Defendants” shall mean Ken Salazar, Secretary of the Interior, Larry Echohawk, Assistant Secretary of the Interior – Indian Affairs, and H. Timothy Geithner, Secretary of the Treasury, and their successors in office, all in their official capacities.

12. Fairness Hearing. “Fairness Hearing” shall mean the hearing on the Joint Motion for Judgment and Final Approval referenced in Paragraph D(4) below.

13. Final Approval. “Final Approval” shall mean the occurrence of the following:

a. Following the Fairness Hearing, the Court has entered Judgment; and

b. The Judgment has become final. “Final” means the later of:

(1) The time for rehearing or reconsideration, appellate review, and review by petition for certiorari has expired, and no motion for rehearing or reconsideration and/or notice of appeal has been filed;

or

(2) If rehearing, reconsideration, or appellate review, or review by petition for certiorari is sought, after any and all avenues of rehearing, reconsideration, appellate review, or review by petition for certiorari have been exhausted, and no further rehearing, reconsideration, appellate review, or review by petition for certiorari is permitted, or the time for seeking such review has expired, and the Judgment has not been modified, amended or reversed in any way.

14. Funds Administration Claims. “Funds Administration Claims” shall mean known and unknown claims that have been or could have been asserted through the Record Date for Defendants’ alleged breach of trust and mismanagement of individual Indian trust funds, and consist of Defendants’ alleged:

a. Failure to collect or credit funds owed under a lease, sale, easement or other transaction, including without limitation, failure to collect or credit

all money due, failure to audit royalties and failure to collect interest on late payments;

- b. Failure to invest;
- c. Underinvestment;
- d. Imprudent management and investment;
- e. Erroneous or improper distributions or disbursements, including to the wrong person or account;
- f. Excessive or improper administrative fees;
- g. Deposits into wrong accounts;
- h. Misappropriation;
- i. Funds withheld unlawfully and in breach of trust;
- j. Loss of funds held in failed depository institutions, including interest;
- k. Failure as trustee to control or investigate allegations of, and obtain compensation for, theft, embezzlement, misappropriation, fraud, trespass, or other misconduct regarding trust assets;
- l. Failure to pay or credit interest, including interest on Indian monies proceeds of labor (IMPL), special deposit accounts, and IIM Accounts;
- m. Loss of funds or investment securities, and the income or proceeds earned from such funds or securities;
- n. Accounting errors;
- o. Failure to deposit and/or disburse funds in a timely fashion; and

- p. Claims of like nature and kind arising out of allegations of Defendants' breach of trust and/or mismanagement of individual Indian trust funds through the Record Date, that have been or could have been asserted.

15. Historical Accounting Claims. "Historical Accounting Claims" shall mean common law or statutory claims, including claims arising under the Trust Reform Act, for a historical accounting through the Record Date of any and all IIM Accounts and any asset held in trust or restricted status, including but not limited to Land (as defined herein) and funds held in any account, and which now are, or have been, beneficially owned or held by an individual Indian trust beneficiary who is a member of the Historical Accounting Class. These claims include the historical accounting through the Record Date of all funds collected and held in trust by Defendants and their financial and fiscal agents in open or closed accounts, as well as interest earned on such funds, whether such funds are deposited in IIM Accounts, or in tribal, special deposit, or government administrative or operating accounts.

16. Historical Accounting Class. "Historical Accounting Class" means those individual Indian beneficiaries (exclusive of those who prior to the filing of the Complaint on June 10, 1996 had filed actions on their own behalf stating a claim for a historical accounting) alive on the Record Date and who had an IIM Account open during any period between October 25, 1994 and the Record Date, which IIM Account had at least one cash transaction credited to it at any time as long as such credits were not later reversed. Beneficiaries deceased as of the Record Date are included in the Historical Accounting Class only if they had an IIM Account that was open as of the Record Date. The estate of any Historical Accounting Class Member who dies after the Record Date but before distribution is in the Historical Accounting Class.

17. IIM Account. “IIM Account” means an IIM account as defined in title 25, Code of Federal Regulations, section 115.002.

18. Interior Defendants. “Interior Defendants” shall mean Ken Salazar, Secretary of the Interior, and Larry Echohawk, Assistant Secretary of the Interior – Indian Affairs, and their successors in office, all in their official capacities.

19. Land. “Land” shall mean land owned by individual Indians and held in trust or restricted status by Interior Defendants, including all resources on, and corresponding subsurface rights, if any, in the land, and water, unless otherwise indicated.

20. Land Consolidation Program. The fractional interest acquisition program authorized in 25 U.S.C. 2201 et seq., including any applicable legislation enacted pursuant to this Agreement.

21. Land Administration Claims. “Land Administration Claims” shall mean known and unknown claims that have been or could have been asserted through the Record Date for Interior Defendants’ alleged breach of trust and fiduciary mismanagement of land, oil, natural gas, mineral, timber, grazing, water and other resources and rights (the “resources”) situated on, in or under Land and consist of Interior Defendants’ alleged:

- a. Failure to lease Land, approve leases or otherwise productively use Lands or assets;
- b. Failure to obtain fair market value for leases, easements, rights-of-way or sales;
- c. Failure to prudently negotiate leases, easements, rights-of-way, sales or other transactions;
- d. Failure to impose and collect penalties for late payments;

- e. Failure to include or enforce terms requiring that Land be conserved, maintained, or improved;
- f. Permitting loss, dissipation, waste, or ruin, including failure to preserve Land whether involving agriculture (including but not limited to failing to control agricultural pests), grazing, harvesting (including but not limited to permitting overly aggressive harvesting), timber lands (including but not limited to failing to plant and cull timber land for maximum yield), and oil, natural gas, mineral resources or other resources (including but not limited to failing to manage oil, natural gas, or mineral resources to maximize total production);
- g. Misappropriation;
- h. Failure to control, investigate allegations of, or obtain relief in equity and at law for, trespass, theft, misappropriation, fraud or misconduct regarding Land;
- i. Failure to correct boundary errors, survey or title record errors, or failure to properly apportion and track allotments; and
- j. Claims of like nature and kind arising out of allegations of Interior Defendants' breach of trust and/or mismanagement of Land through the Record Date, that have been or could have been asserted.

22. Legislation Enactment Deadline. "Legislation Enactment Deadline" shall mean December 31, 2009, 11:59 p.m. Eastern time.

23. Litigation. "Litigation" shall mean that which is stated in the Amended Complaint attached to this Agreement.

24. Named Plaintiffs; Class Representatives. “Named Plaintiffs” shall mean and include Elouise Pepion Cobell (“Lead Plaintiff”), Penny Cleghorn, Thomas Maulson, and James Louis Larose. The Named Plaintiffs are also referred to as the “Class Representatives.”

25. Notice Contractor. “Notice Contractor” shall mean a mutually agreeable entity that shall provide services to the Parties needed to provide notice to the Classes.

26. Order Granting Preliminary Approval. “Order Granting Preliminary Approval” shall mean the Order entered by the Court preliminarily approving the terms set forth in this Agreement, including the manner and timing of providing notice to the Classes, the time period for objections and the date, time and location for a Fairness Hearing.

27. Parties. “Parties” shall mean the Named Plaintiffs, members of the Classes, and Defendants.

28. Preliminary Approval. “Preliminary Approval” shall mean that the Court has entered an Order Granting Preliminary Approval.

29. Qualifying Bank; Qualified Bank. “Qualifying Bank” or “Qualified Bank” shall mean a federally insured depository institution that is "well capitalized," as that term is defined in 12 CFR §325.103, and that is subject to regulation and supervision by the Board of Governors of the Federal Reserve System or the U.S. Comptroller of the Currency under 12 CFR §9.18.

30. Record Date. “Record Date” shall mean September 30, 2009, 11:59 p.m. Eastern time.

31. Settlement Account. “Settlement Account” shall mean the trust account(s) established by Class Counsel in a Qualified Bank approved by the Court for the purpose of effectuating the Settlement and into which the Accounting/Trust Administration Fund shall be

deposited and from which Stage 1 and Stage 2 Distributions, among other things set forth in this Agreement, shall be paid.

32. Special Master. “Special Master” shall be the person appointed by the Court as provided in paragraph E.1.a.

33. Stage 1; Stage 1 Distribution. “Stage 1” and “Stage 1 Distribution” shall mean the distribution to the Historical Accounting Class as provided in paragraph E(3).

34. Stage 2; Stage 2 Distribution. “Stage 2” and “Stage 2 Distribution” shall mean the distribution to the Trust Administration Class as provided in paragraph E(4).

35. Trust Administration Class. “Trust Administration Class” shall mean those individual Indian beneficiaries (exclusive of persons who filed actions on their own behalf, or a group of individuals who were certified as a class in a class action, stating a Funds Administration Claim or a Land Administration Claim prior to the filing of the Amended Complaint) alive as of the Record Date and who have or had IIM Accounts in the “Electronic Ledger Era” (currently available electronic data in systems of the Department of the Interior dating from approximately 1985 to the present), as well as individual Indians who, as of the Record Date, had a recorded or other demonstrable ownership interest in land held in trust or restricted status, regardless of the existence of an IIM Account and regardless of the proceeds, if any, generated from the Land. The Trust Administration Class does not include beneficiaries deceased as of the Record Date, but does include the estate of any deceased beneficiary whose IIM Accounts or other trust assets had been open in probate as of the Record Date. The estate of any Trust Administration Class Member who dies after the Record Date but before distribution is included in the Trust Administration Class.



36. Trust Land Consolidation Fund. “Trust Land Consolidation Fund” shall mean the \$2,000,000,000.00 allocated to Interior Defendants and held in a separate account in Treasury for the purpose of acquiring fractional interests in trust or restricted land and such other purposes as permitted by this Agreement and applicable law.

**B. AMENDED COMPLAINT AND PRELIMINARY APPROVAL**

1. Legislation Required. The Parties agree that the Agreement is contingent on the enactment of legislation to authorize specific aspects of the Agreement. The Parties agree that enactment of this legislation is material and essential to this Agreement and that if such legislation is not enacted into law by the Legislation Enactment Deadline, unless such date is mutually agreed by the Parties in writing to be extended, or is enacted with material changes, the Agreement shall automatically become null and void. In the event this Agreement becomes null and void, nothing in this Agreement may be used against any Party for any purpose.

2. Effect of Material Modifications. A copy of the proposed legislation is attached as Exhibit “A”. If legislation is enacted in any manner at any time prior to Final Approval which alters, expands, narrows or modifies the attached proposed legislation in any material way, this Agreement shall be null and void in its entirety.

3. Amended Complaint.

- a. Amendment of Complaint. Within two business days of enactment of the legislation, or by January 15, 2010, whichever is later, Plaintiffs will file an Amended Complaint to which Defendants will provide written consent provided that such Amended Complaint conforms with the proposed Amended Complaint attached as Exhibit “B” to this Agreement. Defendants’ obligation to answer the Amended Complaint shall be held in abeyance pending Final Approval. Defendants’ written consent to the

filing constitutes neither an admission of liability regarding any Funds Administration Claims and/or Land Administration Claims, nor a waiver of any defense to such claims in any form.

- b. Causes of Action. The Amended Complaint will include (a) a claim for breach of trust with respect to individual Indians and related request for an historical accounting of the IIM Account, (b) a claim for breach of trust seeking equitable restitution to restate the IIM Accounts in accordance with the historical accounting requested, and (c) one or more claims for breach of trust with respect to Defendants' mismanagement of trust funds and trust assets requesting damages, restitution and other monetary relief.
- c. Classes. The Amended Complaint will set forth the Historical Accounting Class and the Accounting/Trust Administration Class as the two plaintiff classes.
- d. Claims. For purposes of settlement only, and only as a provision of this Agreement, the Amended Complaint will include Funds Administration Claims and Land Administration Claims.

4. Preliminary Approval.

- a. Joint Motion. Concurrent with the filing of the Amended Complaint, the Parties shall file a joint motion for Preliminary Approval of this Agreement by the Court and attach a copy of this Agreement and such other documents which the Parties determine are necessary for the Court's consideration.

- b. Class Certification. The joint motion referenced in subparagraph a. above shall include a joint request by the Parties that the Court certify the Trust Administration Class pursuant to FRCP 23(b)(3), and also to amend the February 4, 1997 Order Certifying Class Action under FRCP 23(b)(1)(A) and 23(b)(2), in accordance with this Agreement.

5. Requirement for Notice Acknowledged. The Parties recognize that the Court is required to provide the Historical Accounting Class and the Trust Administration Class, pursuant to FRCP 23(c)(2)(A) and (B), as applicable, with reasonable and appropriate notice of (i) the Action, (ii) the proposed Agreement, and (iii) the opportunity for members of the Trust Administration Class to opt out of the settlement pursuant to the procedures set forth in paragraph C(2)(c), and, pursuant to FRCP 23(h), with reasonable and appropriate notice of attorney fees and costs to be requested by Class Counsel.

6. Joint Motion If Settlement Not Completed. Should (a) either party terminate this Agreement pursuant to the terms hereof, (b) this Agreement become null and void because a condition subsequent does not occur, or (c) this Agreement not finally be approved by the Court, the Parties shall file a joint motion (i) to strike the Amended Complaint, (ii) to vacate any Order of the Court certifying the Amended Complaint as a class action, and (iii) to restore the Parties to the *status quo ante*.

## **C. CLASS NOTICE AND OPT OUT**

### 1. Class Notice.

- a. Commencement of Notice. Upon entry of an Order granting Preliminary Approval, the Notice Contractor, in cooperation with Class Counsel and Interior Defendants, shall notify the Classes of this Agreement.

- b. Direct Notice. The Parties shall use reasonable efforts, and utilize the services of the Notice Contractor and Claims Administrator, as appropriate, to effectuate a Direct Class Notice as soon as practicable following the date of entry of the Order Granting Preliminary Approval.
- c. Published Notice. The Parties shall also use reasonable efforts and the services of the Notice Contractor to effectuate Published Class Notice through the use of media, including targeted mainstream and Native American media (including translation to native language where appropriate) contemporaneous with the mailing of the Direct Class Notice.
- d. Contents of Notice. Pursuant to FRCP 23(c)(2), the notice to the Class Members shall include the following general notice information: the definition of the certified class[es]; a general description of the litigation and its claims, issues, and defenses; material terms of this proposed Agreement; procedures for allocating and distributing funds in the Settlement Account; Class Counsel's request for and amount of attorneys' fees, expenses and costs; Class Representatives' incentive awards, including expenses and costs; options available to settlement Class Members, including the manner, time limits, forum and form of an objection to this proposed Agreement; options available to potential Class Members ("claimants") to participate in a Stage 2 distribution, including the manner, time limits and form for such an application; the right of any Class Member to enter an appearance *pro se* or through an attorney to object to the Agreement or any of its terms; the nature and scope of opt

out rights; actions that are required to opt out of the Agreement; the effect of opt outs on the Agreement; the mailing address and toll-free telephone number of the Claims Administrator for class inquiries and clarifications regarding the Settlement; the date, time, and location of the Final Approval Hearing on Agreement; the binding effect on a Class Member's IIM Account balance as of the Record Date unless the Class Member opts out of the Trust Administration Class; and the binding effect of the Agreement on Class Members.

- e. Interior's Second Notice Option. In addition to the Notice described in section 1.d, above, Interior Defendants reserve the right to issue a Second Notice after the Fairness Hearing, with such Second Notice containing detailed information regarding the Accounting/Trust Administration Fund and the Land Consolidation Program. The cost of this Second Notice would be a separate expense borne by Interior Defendants.

2. Class Member Opt Out.

- a. No Opt Out for Historical Accounting Class. In accordance with FRCP 23(b)(2), no opt out will be available to those Class Members in the Historical Accounting Class.
- b. Deadline for Trust Administration Class Opt Outs. The deadline for those Class Members in the Trust Administration Class to opt out will be sixty (60) days from the first day Notice is sent. Timeliness will be determined using the opt out or objection postmark date.

- c. Opt Out Requirements. To opt out, members of the Trust Administration Class must submit to the Claims Administrator a written request for exclusion. The request for exclusion must include the individual's full name, address, IIM Account number(s), Social Security Number, and a statement of the individual's intention to opt out of the Settlement.
- d. Opt Out List. The Claims Administrator shall compile a list of valid opt outs for submission to the Court and, if the Parties disagree over the validity of any opt out determination, then any such disagreement may be lodged with the Court for a final and binding decision. Through the date Class Members must exercise their option to opt out, the Claims Administrator shall be contractually bound to provide written daily status reports in a format agreeable to the Parties that identifies each and every person who has opted out.
- e. Opt Out Fund Adjustment. When Class Members opt out of the Trust Administration Class, the amount of the Accounting/Trust Administration Fund shall be reduced by the amount such an opting out Class Member would have received in his or her Stage 2 payment, including both the baseline payment and the pro rata amounts. Such amounts for opt outs shall be determined prior to the Stage 2 distribution and paid to Defendants contemporaneous with the distribution of Stage 2 payments.
- f. Kick-Out Option. In the event that the Class Members who do not opt out of the Trust Administration Class represent in the aggregate less than eighty five percent (85%) of the aggregate amount of all Assigned Values,

then Defendants, at their sole option, may elect to withdraw from and fully terminate this Agreement in which case the Parties will be restored to their prior positions as though the Agreement had never been executed, except as provided in paragraph D.7. In exercising such an election to terminate, Defendants must terminate the Agreement in its entirety and may not terminate only parts of the Agreement. Defendants must exercise this election to terminate no later than one day before the Fairness Hearing by filing a notice with the Court with a schedule under seal of Class Members who opted out and their respective Assigned Values. Any disputes regarding an attempt by Defendants to terminate shall be decided by the Court.

**D. MOTION FOR JUDGMENT, FAIRNESS HEARING, AND FINAL APPROVAL**

1. Motion for Judgment. Pursuant to this Agreement and in accordance with the Court's Order Granting Preliminary Approval, the Parties will submit a Joint Motion for Entry of Judgment and Final Approval for consideration by the Court at the Fairness Hearing.

2. Objections to Settlement. A Class Member who wishes to object to the fairness, reasonableness or adequacy of this Agreement or of the Settlement contemplated hereby must file with the Clerk of the Court and serve on the Parties a statement of the objection setting forth the specific reason(s), if any, for the objection, including any legal support that the Class Member wishes to bring to the Court's attention, any evidence that the Class Member wishes to introduce in support of the objection, any grounds to support his or her status as a Class Member, and whether the Class Member intends to appear at the Fairness Hearing. Class Members may act either on their own or through counsel employed at their own expense. Any Class Member

may appear at the Fairness Hearing to object to any aspect of the fairness, reasonableness or adequacy of this Agreement or of the Settlement.

3. Binding Effect. Any Class Member who neither objects to the Agreement nor opts out of the Class as provided in paragraph C(2), shall waive and forfeit any and all rights the Class Member may have to appear separately and/or to object and to opt out and shall be bound by all the terms of the Agreement and by all proceedings, orders and judgments in the Litigation.

4. Fairness Hearing. At the Fairness Hearing, the Parties will request that the Court, among other things:

- a. Grant final certification of the Classes;
- b. Enter Judgment in accordance with this Agreement;
- c. Approve the Settlement as final, fair, reasonable, adequate, and binding on all Class Members who have not timely opted out pursuant to paragraph C(2);
- d. Approve the payment of reasonable attorneys' fees, expenses and costs for Class Counsel;
- e. Approve the incentive awards for Class Representatives, including expenses and costs that were not paid for by attorneys;
- f. Order the Claims Administrator to process and pay all Valid Claims from the Settlement Account;
- g. Order the release of all Class Members' claims pursuant to paragraph I(1)–(9); and
- h. Order Defendants to make the final payment into the Accounting/Trust Administration Fund.



5. Final Approval. The Court's Final Approval shall grant each of those requests.
6. Effect of Failure to Grant Final Approval. If Final Approval does not occur, this Agreement shall be null and void.
7. Return of Remaining Funds in Settlement Account if No Final Approval. If for any reason Final Approval cannot be achieved, the Notice Contractor and Claims Administrator shall be notified to cease work. To the extent any funds remain in the Settlement Account, Class Counsel shall promptly seek a Court order to pay the remaining valid invoices of the Notice Contractor and Claims Administrator and, within thirty (30) days thereafter, the Parties shall jointly seek a Court order to return to Defendants all funds, if any, that then remain in the Settlement Account. Defendants shall not be entitled to recoup from Plaintiffs or Class Counsel any funds already spent from the Settlement Account.

**E. ACCOUNTING/TRUST ADMINISTRATION FUND**

1. General Provisions

- a. Special Master. Upon Final Approval, the Parties shall request that the Court appoint a Rule 53 Special Master, who shall have only the duties referenced in this Agreement when so designated by the Court. The Special Master shall only be involved in taking certain actions or making certain determinations in connection with the distribution of the Accounting/Trust Administration Fund and eligibility of individuals to participate as Class Members. The Special Master shall have no role regarding the distribution of the Trust Land Consolidation Fund. The Special Master shall also have no role in resolving any disputes between (i) the Parties or (ii) a Class Member and Defendants. The Special Master shall be paid out of funds in the Settlement Account, and shall submit

invoices for fees and expenses to Class Counsel, at reasonable intervals, who shall file them with the Court, requesting an order to pay the Special Master. All disputes regarding the Special Master's invoices or compensation shall be decided by the Court. The Parties agree to cooperate to minimize the costs of the Special Master.

- b. Claims Administrator. The Parties agree to cooperate as to all aspects of this Agreement to minimize the costs of the Claims Administrator. All payments to the Claims Administrator must be for reasonable and necessary services in accordance with detailed invoices provided to the Parties and approved by the Court or the Special Master as the Court may designate. Class Counsel shall be responsible for submitting such invoices to the Court and may include invoices for the Claims Administrator's fees, expenses and costs incurred prior to Preliminary Approval.
- c. Qualifying Bank. The Accounting/Trust Administration Fund shall be deposited in, and administered by, the trust department(s) of a Qualified Bank or Qualified Banks. To the extent settlement funds are held in deposit accounts in excess of FDIC insurance coverage, the excess amount shall be collateralized with securities that are U.S. Treasury or other securities that are backed by the full faith and credit of the United States.
- d. Duties. Class Counsel, with the Claims Administrator, shall have responsibility for administering the Accounting/Trust Administration Fund in accordance with this Agreement. Class Counsel shall provide the

necessary account information to Defendants as needed to support deposit of the Accounting/Trust Administration Fund.

- e. Distributions. All distributions from the Accounting/Trust Administration Fund shall be made pursuant to final Order of the Court or the Special Master as the Court may designate. The Amount Payable for Each Valid Claim and the claims process for making such payment shall be in accordance with the terms set forth below.
- f. Reliance on Defendants' Information. Class Counsel and the Claims Administrator shall be entitled to rely on the information provided by the Interior Defendants in making the distributions provided for in this Agreement.
- g. Defendants' Limited Role. Except as specifically provided in this Agreement, Defendants shall have no role in, nor be held responsible or liable in any way for, the Accounting/Trust Administration Fund, the holding or investment of the monies in the Qualifying Bank or the distribution of such monies.
- h. Payments to minors, non-compos mentis, individuals under legal disability, or adults in need of assistance. Class Members who are known to be minors, non-compos mentis, individuals under legal disability, or adults in need of assistance and who have an account open as of the date(s) of distribution shall have their distributions deposited into their IIM Accounts. If necessary, an IIM Account will be opened by Interior Defendants for each of them. Interior Defendants shall receive these

deposits as trust funds for the benefit of the pertinent individual Indian beneficiary.

- i. Payments to “whereabouts unknown”. Class Members who are deemed by Interior Defendants be “whereabouts unknown” and who have an account open as of the date of distribution shall have their distributions deposited into their IIM Accounts. For any Class Member who is designated as a “whereabouts unknown” and is not a minor, non-compos mentis, an individual under legal disability, or an adult in need of assistance, and does not claim any funds deposited in that beneficiary’s IIM Account as a result of this Agreement within five (5) years after the date Defendants first transfer monies for the Accounting/Trust Administration Fund to the Qualifying Bank, the principal amount of the funds deposited pursuant to this Agreement in that beneficiary’s IIM Account shall be paid by Interior Defendants to the Indian Education Scholarship Fund set out in Section G of this Agreement.

2. Payments into the Accounting/Trust Administration Fund

- a. Defendants shall pay \$1,412,000,000.00 to the Accounting/Trust Administration Fund in the Settlement Account. This amount shall be paid in installments from the Judgment Fund, as set forth in subparagraphs b, c and d, below.
- b. Concurrent with the filing of the Amended Complaint, the Parties shall move the Court for an order requiring Defendants to pay \$20,000,000.00 to the Accounting/Trust Administration Fund in the Settlement Account,

to be used by Plaintiffs to retain the Claims Administrator and Notice Contractor for necessary work required before Final Approval.

Defendants shall make this payment upon order of the Court.

- c. The Parties may jointly move the Court to order such further payments to the Accounting/Trust Administration Fund as are necessary to fund the work of the Claims Administrator and/or Notice Contractor before Final Approval. Defendants shall make payments requested in the joint motion upon order of the Court.
- d. Upon Final Approval, Defendants shall pay \$1,412,000,000.00 to the Accounting/Trust Administration Fund, less any amounts paid under paragraphs b and c, above.

3. Stage 1: Payment of Historical Accounting Claims

- a. Per-Person Payment. Each member of the Historical Accounting Class shall be paid a per capita amount of \$1,000.00 after Final Approval. This will be a per-person, not a per-account, payment.
- b. Stage 1 Information from Interior Defendants. Interior Defendants will provide periodic updates on Contact Information on an ongoing basis. Within 30 days after Defendants first transfer monies for the Accounting/Trust Administration Fund to the Qualified Bank, the Claims Administrator will be able to rely on the Contact Information Interior Defendants then have for beneficiaries to make a Stage 1 distribution.
- c. Returned Funds; Remainder Account. For distributions returned from the Stage 1 distribution, the Qualified Bank, working with the Claims

Administrator, shall use its best efforts to ensure that all such funds are deposited into the appropriate individual Indian beneficiary's trust account at Interior, if open, or into a separate interest bearing account at the Qualifying Bank ("Remainder Account") if no such IIM Account exists. The Claims Administrator shall take reasonable steps to locate, and distribute funds to, Class Members whose funds are deposited into the Remainder Account. If a Stage 1 participant whose funds were deposited into the Remainder Account subsequently provides documentation which is sufficient to show that such beneficiary is the Stage 1 participant for whom the returned funds were intended, Class Counsel shall file such documentation with the Court or the Special Master as the Court may designate, requesting an order to pay \$1,000.00 to each such beneficiary from the Remainder account.

4. Stage 2: Payment of Trust Administration Claims
  - a. Final Determination of Class Prior to Payment. No Stage 2 payments shall be made until all Stage 2 Class Members have been identified in accordance with this Agreement and their respective pro rata interests have been calculated.
  - b. Stage 2 Formula. Each individual Indian beneficiary determined to be within the Trust Administration Class in accordance with paragraph A.35 shall be paid after Final Approval a pro rata amount based upon the following formula:

- (1) Baseline Payment. Each individual Indian beneficiary determined to be within the Trust Administration Class shall be paid a baseline amount of \$500.00;
- (2) Amounts Available for Prorating. In addition, each individual Indian beneficiary in the Trust Administration Class who has or had an IIM Account that generated income that was credited to that IIM Account shall be paid an additional pro rata share of the funds remaining in the Accounting/Trust Administration Fund after deducting (a) amounts attributable to opt outs in accordance with paragraph C.2 of this Agreement, (b) all Stage 1 distributions, (c) an amount sufficient to cover a baseline payment to all Stage 2 Class Members, (d) the amount deemed necessary to fund the Reserve Fund provided for in section E.4.e.6; (e) all payments made, or to be made to, Class Counsel in accordance with an Order of the Court, (f) all payments made to, or to be made to, Class Representatives in accordance with an Order of the Court, (g) all payments to cover the costs of notice, administration and distribution of the Accounting/Trust Administration Fund (including but not limited to payments to the Notice Contractor, Claims Administrator, and Qualified Bank), and (g) an amount estimated by the Class Counsel to pay the remaining and future costs to be paid out of the Accounting/Trust Administration Fund for notice, administration and distribution.

(3) Calculation of Pro Rata Share. The additional pro rata share referenced in paragraph E.4 above will be calculated based upon an Assigned Value. The Assigned Value will be the average of the ten (10) highest revenue generating years in each individual Indian's IIM Account, from October 1, 1985 until the Record Date (September 30, 2009). If an account is open fewer than ten (10) years or otherwise reflects fewer than ten (10) years of revenue, the computation of the Assigned Value will utilize a zero dollar amount in each year that no revenue is reflected. For beneficiaries with more than one account during that period, the Assigned Value is calculated on an account by account basis for that Class Member, with each of the resulting calculations added together. Reversed transactions and inter-account transfers between an individual's accounts will not be considered in the calculation. A Class Member's pro rata percentage in the Stage 2 distribution shall be calculated based upon his or her Assigned Value divided by the sum of all Assigned Values for all Trust Administration Class Members. This percentage shall then be applied to the funds available for prorating to determine the Class Member's pro rata payment.

c. Information from Interior Defendants for Stage 2. Interior Defendants shall provide assistance to the Claims Administrator with respect to the preparation and creation of (i) the Contact Information for Stage 2



participants and (ii) the Assigned Value calculations and related Assigned Value percentages described in this Agreement.

- d. Returned Stage 2 Funds. For distributions returned from the Stage 2 distribution, the Qualifying Bank, with assistance from the Claims Administrator, shall use its best efforts to ensure that all such funds are deposited into the appropriate individual Indian beneficiary's trust account at Interior, if open, or into a Remainder Account if no such IIM Account exists. The Claims Administrator shall take reasonable steps to locate, and distribute funds to, the Class Member associated with such returned funds. If a Stage 2 participant whose funds were returned subsequently provides documentation which is sufficient to the Claims Administrator to demonstrate that such beneficiary is the Stage 2 participant for whom the returned funds were intended, Class Counsel shall file such documentation with the Court or the Special Master as the Court may designate, requesting an order to pay amounts due to such beneficiary from the Remainder Account. In the event the documentation is determined insufficient by the Claims Administrator, notice of that determination shall be provided to the person submitting the documentation, who shall then have the right to the reconsideration process set forth in paragraph E(5) below.
- e. Stage 2 Timeline. Stage 2 funds shall be distributed pursuant to the following timeline. The Court in its discretion may extend any Stage 2 deadline upon a showing of good cause.

- (1) Supplementary Notice. The Parties shall direct the Notice Contractor to undertake a supplementary notice campaign as soon as practicable following distribution of the Stage 1 funds. The purpose of this notice is to target potential claimants and provide information related to the Stage 2 distribution. Such notice shall be targeted generally in Native American population centers.
- (2) Standards and Procedures. The Claims Administrator shall prepare standards and procedures for the submission, timing and adequacy of documentation for potential additional Stage 2 participants who self-identify. The Parties shall provide assistance to the Claims Administrator to develop such standards and procedures. The Interior Defendants shall designate a liaison to the Claims Administrator for purposes of verifying documentation or responding to other queries regarding submitted documentation that might not be addressed by the agreed-to standards and procedures. The Claims Administrator may rely upon the Interior liaison's response or, after 14 days, the absence of a response, to the query in evaluating the submitted documentation. The Claims Administrator will take reasonable steps to provide assistance to potential claimants at all phases during the Stage 2 distribution so that they can comply with the agreed-to standards and procedures for the submission of documentation. The Claims Administrator shall maintain adequate records documenting all communications

with Class Members and such records shall be available to the Parties upon reasonable request.

- (3) Self-Identification Period. Potential class members who wish to participate in the Stage 2 distributions shall submit any documentation to the Claims Administrator within 45 days of Final Approval or such later date as the Court may order.
- (4) Initial Determination. The Claims Administrator shall make an initial determination with respect to each claimant's inclusion in the Stage 2 class within 90 days of Final Approval or such later date as the Court may order and shall so inform claimants in writing. If a potential claimant is denied participation as part of the initial determination, the Claims Administrator shall state the basis for its denial and the availability of reconsideration with the submission of additional documentation. Claimants who are denied participation in the Stage 2 distribution may submit additional documentation for reconsideration within 120 days of Final Approval or such later date as the Court may order. A claimant's failure to seek reconsideration will render the Claims Administrator's initial determination final and binding upon the claimant.
- (5) Reconsideration. The Claims Administrator shall make a determination with respect to all claimants' documents submitted in support of their request to reconsider the initial determination.

The Claims Administrator shall make a second determination within 150 days of Final Approval or such later date as the Court may order, and shall so inform each claimant in writing. If a claimant is again denied participation in the Stage 2 distribution, the Claims Administrator shall state the basis of its denial and the availability of appeal to the Court or the Special Master as the Court may designate. Any appeal shall be made within 180 days of Final Approval or such later date as may be ordered by the Court. A claimant's failure to timely appeal will render the Claims Administrator's determination final and binding upon the claimant.

- (6) Creation of Reserve Fund. Prior to the distribution of Stage 2 funds, the Parties shall discuss the timing and funding of a Reserve Fund out of Stage 2 funds to cover beneficiaries who did not receive notice of Stage 2 distributions and come forward after distribution of Stage 2 funds. Any disagreements between the Parties related to the creation and eventual termination of a Reserve Fund shall be presented to the Court.
- (7) Distribution. After Stage 2 Class Members have been substantially identified, Class Counsel may apply to the Court or the Special Master as the Court may designate for permission to commence Stage 2 distribution. Funds will be set aside for any identified Class Members. Completion of distribution of Stage 2 funds shall be no later than 14 days after the Court's decision of the last

claimant's appeal becoming final. The Court's decision shall be binding and final, unless timely appealed by the potential claimant.

(8) Final Disposition of the Accounting/Trust Administration Fund.

Any excess Accounting/Trust Administration Funds remaining after distribution (*e.g.*, funds not expended on administration), or funds in the Remainder Account, shall be paid to the organization selected as the recipient of the Indian Education Scholarship Fund set out in Section G of this Agreement.

**F. TRUST LAND CONSOLIDATION FUND**

1. Distribution. Conditioned on the enactment of the necessary legislation, the Interior Defendants shall distribute the Trust Land Consolidation Fund in accordance with the Land Consolidation Program authorized under 25 U.S.C. §§ 2201 *et seq.*, any other applicable legislation enacted pursuant to this Agreement, and applicable provisions of this Agreement.

2. Purposes of Trust Land Consolidation Fund. The Trust Land Consolidation Fund shall be used solely for the following purposes: (1) acquiring fractional interests in trust or restricted lands; (2) implementing the Land Consolidation Program; and (3) paying the costs related to the work of the Secretarial Commission on Trust Reform, including costs of consultants to the Commission and audits recommended by the Commission. An amount up to a total of no more than fifteen percent (15%) of the Trust Land Consolidation Fund shall be used for purposes (2) and (3) above.

3. Fair Market Value. The Interior Defendants shall offer fair market value in accordance with 25 U.S.C. § 2214 to owners of such fractionated interests. Interior Defendants shall use reasonable efforts to prioritize the consolidation of the most highly fractionated tracts of land.

4. Length of Fund. Interior Defendants shall have no more than ten (10) years from the date of Final Approval of this Agreement to expend the Trust Land Consolidation Fund, at which time any amounts remaining in the Trust Land Consolidation Fund shall be returned to the Treasury.

5. Indian Education Scholarship Holding Fund. Interior Defendants shall make the transfers to and from the Indian Education Scholarship Holding Fund as provided in paragraphs G.2.c and G.2.d.

6. Whereabouts Unknown. For those owners of fractional interests in trust or restricted land whose whereabouts are deemed unknown by Interior Defendants as of the date of Final Approval of this Agreement, Interior Defendants shall undertake the following additional efforts to attempt to locate such owners:

- a. Additional Service. In addition to the class notice requirements under this Agreement, the Interior Defendants shall use due diligence to provide all owners whose whereabouts are unknown with actual notice of the opportunity to convey their fractionated interests through the best means available.
- b. Notice. The Notice shall contain a general description of the Land Consolidation Program, the fractionated interests that the Interior Defendants wish to acquire, the proposed purchase price for such interests, the mailing address and a toll-free number for inquiries and clarifications regarding the Land Consolidation Program, and the process for responding to the offer to purchase.

- c. Returned Notice. In the event the written notice to an owner is returned undelivered, the Interior Defendants shall attempt to obtain a current address for such owner by conducting a reasonable search (including a reasonable search of records maintained by local, State, Federal and tribal governments and agencies) and by inquiring with the Indian tribe with jurisdiction over the subject parcel, and, if different from that tribe, the Indian tribe of which the owner is a member, if applicable, and, if successful in locating any such owner, send written notice in accordance with subparagraphs (a) and (b) above.
- d. Notice by Publication. The Interior Defendants shall give notice to all owners that the Secretary was unable to provide notice pursuant to subparagraphs (a) thru (c) above, by publication of the opportunity to convey fractionated interests as follows:
- (1) at least two (2) times in a newspaper of general circulation in the county or counties where the subject parcel of land is located or, if there is an Indian tribe with jurisdiction over the parcel of land and that tribe publishes a tribal newspaper or newsletter at least once every month, one (1) time in such newspaper of general circulation and one (1) time in such tribal newspaper or newsletter for a period of six (6) months;
  - (2) posting such notice in a conspicuous place in the tribal headquarters or administration building (or such other tribal building determined by the Interior Defendants to be most

appropriate for giving public notice) of the Indian tribe with jurisdiction over the parcel of land, if any; and

- (3) in addition to the foregoing, in the Interior Defendants' discretion, publishing notice in any other place or means that the Interior Defendants determine to be appropriate.

7. Consent for Conveyances. For those owners of fractional interests in trust or restricted land who are not located after Interior Defendants undertake the measures set forth herein and the passage of five (5) years from the date of Final Approval, the owners shall, to the extent authorized by the legislation contemplated by this Agreement, automatically be deemed to have consented to the conveyance of those fractionated interests that are located on a parcel of highly fractionated Indian land to Interior Defendants. The term “parcel of highly fractionated Indian land” is defined at 22 U.S.C. § 2201(6).

8. Deposits in IIM Accounts. All funds expended from the Trust Land Consolidation Fund for the acquisition of fractional interests from owners whose whereabouts are unknown shall be deposited in an IIM Account for such owners, for the benefit of those owners or their heirs or assigns.

## **G. INDIAN EDUCATION SCHOLARSHIPS**

1. Funds for Indian Education Scholarships. Funds for Indian Education Scholarships are being established for the principal purposes of providing an additional incentive for individual Indians to participate in the Land Consolidation Program, beneficially utilizing any remainder of any Accounting/Trust Administration Funds, and providing financial assistance to Native American students to defray the cost of attendance at both post-secondary vocational schools and institutions of higher education.



2. Source of Funds. There will be three initial sources of funding for Indian Education Scholarships, as follows:

- a. Accounting/Trust Administration Fund Balance. In the event that a balance remains in the Accounting/Trust Administration Fund following (1) payment of all settlement distributions to Class Members; (2) payment of all settlement notice and distribution costs, including payments to the Notice Contractor, the Claims Administrator, and the Qualifying Bank; (3) payment of all attorney fees and expenses to Class Counsel as approved by the Court, (4) payment of all Class Representative incentive awards, including expenses and costs that were not paid for by attorneys, as approved by the Court, and (5) payment of any other amounts agreed upon by the Parties or ordered by the Court, such remaining balance shall be transferred by the Qualified Bank in a timely manner upon Order of the Court to the organization selected in paragraph 3 of this section to be governed by the special Board of Trustees (that shall be established pursuant to paragraph 3 of this section).
- b. Unclaimed Whereabouts Unknown Payments. Pursuant to Paragraph E.1.i of this Agreement, for any Class Member who is designated a “whereabouts unknown” and is not a minor, non-compos mentis, an adult under legal disability, or an adult in need of assistance, and does not claim any funds deposited in that beneficiary’s IIM Account within five (5) years after the date of Final Approval, the principal amount of the funds deposited in that beneficiary’s IIM Account from the Accounting/Trust

Administration Fund, shall be transferred in a timely manner by Interior Defendants to the organization selected in paragraph 3 of this section to be governed by the special Board of Trustees (that shall be established pursuant to paragraph 3 of this section), and the United States shall be released from any further obligation to pay that amount to such Class Member.

- c. Consolidation Incentive Payments. To provide an incentive for individual Indians to participate in the Land Consolidation Program, a portion of the Trust Land Consolidation Fund shall be allocated for Indian Education Scholarships. For fractionated interests in trust or restricted lands conveyed by owners pursuant to Section F, contributions not to exceed a total, aggregated amount of \$60,000,000.00 from the Trust Land Consolidation Fund shall be made to a separate account, established at Treasury pursuant to legislation, known as the “Indian Education Scholarship Holding Fund.” No further contributions from the Trust Land Consolidation Fund to the Indian Education Scholarship Holding Fund shall be made once the sum of such contributions reaches a total of \$60,000,000.00. Such contributions shall be made in accordance with the following formula:

- (1) For an interest that Interior Defendants purchase for less than \$200.00, a contribution of \$10.00 shall be made to the Indian Education Scholarship Holding Fund.

- (2) For an interest that Interior Defendants purchase for between \$200.00 and \$500.00, a contribution of \$25.00 shall be made to the Indian Education Scholarship Holding Fund.
- (3) For an interest that Interior Defendants purchase for more than \$500.00, a contribution equal to five percent (5%) of the purchase price shall be made to the Indian Education Scholarship Holding Fund.

d. Transfers From Indian Education Scholarship Holding Fund. The Interior Defendants shall transfer the amounts in the Indian Education Scholarship Holding Fund to the organization identified in paragraph 3 below on a quarterly basis. Accompanying the transfer from the Interior Defendants to the organization shall be a report outlining the number of interests conveyed, the purchase price for each conveyance, and the corresponding contribution to the Indian Education Scholarship Holding Fund. The report shall be available to the public.

3. Recipient Organization. Within 60 days after Preliminary Approval of this Agreement by the Court, Plaintiffs shall recommend to the Secretary at least two and no more than three duly established non-profit organizations to administer the funds for Indian Education Scholarships. Each such organization must have a demonstrated track record and current ability to create and expand academic and vocational educational opportunities for Native Americans. Further, each such organization shall have a history of financial solvency and health, and a strong institutional governance structure that ensures a prudent and fair administration, investment, and distribution of the funds for Indian Education Scholarships. The Secretary of

Interior shall select from this list one organization to be the recipient of the funds for Indian Education Scholarships on the conditions that (a) the organization agrees to create a special Board of Trustees to govern the funds consisting of no more than five (5) members that will include two (2) representatives selected by the Secretary of Interior or his designee and two (2) representatives selected by the Lead Plaintiff or her designee, with the fifth representative selected by the organization; and (b) the organization provides reporting of its activities and access to its records related to the funds for Indian Education Scholarships which is satisfactory to the Secretary of Interior and Lead Plaintiff.

4. Release from Liability. The Parties shall not be liable, individually or collectively, for any claims arising out of or relating to the use, management, administration, distribution or other acts, omissions, or events regarding the funds for Indian Education Scholarships.

5. Removal Authority. The two (2) representatives selected by the Secretary of Interior and two (2) representatives selected by the Lead Plaintiff, as provided in paragraph 3 of this section, shall be empowered by majority vote to remove the funds for Indian Education Scholarships at any time from the selected recipient organization for any reason, including but not limited to, mismanagement of the funds and to select a new administrating entity that meets the qualifications set forth in paragraph 3 above.

#### **H. TAXES AND ELIGIBILITY FOR BENEFITS**

1. Legislation. The Parties contemplate that legislation shall address the treatment for tax purposes and eligibility for benefits of any Settlement Distributions to Class Members.

2. Source and Nature of Payments from Accounting/Trust Administration Fund. Notwithstanding the potential enactment of any legislation regarding taxability contemplated by the preceding paragraph, the Parties agree that the funds distributed pursuant to this Agreement

for the Accounting/Trust Administration Fund include monies derived directly from interests of individual Indians in trust and restricted lands.

3. Source and Nature of Payments from Trust Land Consolidation Fund. The Parties agree that all payments for fractionated or escheated shares of individual Indian trust land purchased pursuant to the Trust Land Consolidation Fund are derived directly from interests of individual Indians in trust and restricted lands.

4. Payments not deemed interest. No portion of payments to Class Members from either the Accounting/Trust Administration Fund or the Trust Land Consolidation Fund is considered payment of interest.

## **I. RELEASES**

1. Release by Historical Accounting Class. Except as provided in this Agreement, upon Final Approval, all members of the Historical Accounting Class and their heirs, administrators, successors, or assigns (collectively, the “Historical Accounting Releasers”), shall be deemed to have released, waived and forever discharged the United States, Defendants, any department, agency, or establishment of the Defendants, and any officers, employees, or successors of Defendants, as well as any contractor, including any tribal contractor, (collectively, the “Releasees”) from the obligation to perform a historical accounting of his or her IIM Account or any individual Indian trust asset, including any right to an accounting in aid of the jurisdiction of a court to render a money judgment, except as provided in paragraph I(7). The Historical Accounting Releasers shall be deemed to be forever barred and precluded from prosecuting any and all claims and/or causes of action for a Historical Accounting Claim that were, or could have been, asserted in the Complaint when it was filed, on behalf of the Historical Accounting Class, by reason of, or with respect to, or in connection with, or which arise out of, any matters stated in the Complaint for a Historical Accounting that the Historical Accounting Releasers, or any of

them, have against the Releasees, or any of them. This release shall include any and all Historical Accounting Claims, however characterized, whether under the common law, at equity, or by statute.

2. Release by Trust Administration Class. Except as provided in this Agreement, upon Final Approval, all members of the Trust Administration Class and their heirs, administrators, successors, or assigns (collectively, the “Mismanagement Releasors”), shall be deemed to have released, waived and forever discharged the Releasees from, and the Mismanagement Releasors shall be deemed to be forever barred and precluded from prosecuting, any and all claims and/or causes of action that were, or should have been, asserted in the Amended Complaint when it was filed, on behalf of the Trust Administration Class, by reason of, or with respect to, or in connection with, or which arise out of, matters stated in the Amended Complaint for Funds Administration Claims or Land Administration Claims that the Mismanagement Releasors, or any of them, have against the Releasees, or any of them.

3. Exclusions From Releases. The releases provided in paragraphs 1 and 2 directly above neither release nor waive (a) claims for the payment of the account balances within existing IIM Accounts, (b) claims for the payment of existing amounts in special deposit accounts, tribal accounts, or judgment fund accounts, (c) claims arising out of or relating to breaches of trust or alleged wrongs after the Record Date, (d) claims for damage to the environment other than those claims expressly identified as Land Administration Claims, (e) claims for trespass or continuing trespass against any or all of the Releasees, where such Releasee is acting in a capacity other than as a fiduciary for Plaintiffs, (f) claims against tribes, contractors, or other third parties (provided that this exception does not apply to agents for the Defendants to the extent such agents had performed Defendants’ fiduciary duties to Plaintiffs),

(g) equitable, injunctive, or other non-monetary claims for correction of boundary and appraisal errors, (h) money damages arising out of boundary and appraisal errors, where such errors occur after the Record Date or where such errors are not corrected within a reasonable time following written notice to Interior after the Record Date, (i) claims arising out of leases, easements, rights-of-way, and similar encumbrances existing as of the Record Date against any or all of the Releasees to the extent such Releasee is acting in a capacity other than as a fiduciary for the plaintiffs, (j) claims against the Releasees arising out of, or relating to, water or water rights, whether adjudicated or unadjudicated, involving the adjudication, quantification, determination, establishment or protection of such rights; provided, however, that this exception does not apply to breach of trust claims for damages, losses, injuries, or accounting for income arising prior to and including the Record Date, other than claims that the Releasees failed to timely enforce such water rights; and (k) health and mortality claims. Nothing within these stated exclusions is meant to limit or shall defeat or void valid defenses, if any, based on statute of limitations, laches, or estoppel.

4. Trust Reform. By accepting this Agreement, Plaintiffs are neither waiving nor releasing any claims or causes of action for future trust reform. Defendants waive no defenses to such claims or causes of action, including res judicata.

5. Escheated Interests Not Released Unless Voluntarily Settled Later. Claims of beneficiaries or former beneficiaries for any interest that has been escheated to tribes, states, municipalities, other political subdivisions, the federal government, and companies, where the escheatment occurred in a manner which is unconstitutional according to decisions of the United States Supreme Court, are not released by this Agreement, except to the extent specific

settlement payments are made and accepted by such beneficiaries or former beneficiaries from the Trust Land Consolidation Fund in accordance with paragraphs F(1) – (8).

6. Osage Headright Owners. The members of the Historical Accounting Class and the members of Trust Administration Class do not include Osage headright owners, except to the extent individual Osage headright owners have, or have had, (i) IIM Accounts in which their Osage headright payments have been deposited, (ii) IIM Accounts for funds other than Osage Headright monies, or (iii) beneficial ownership interests in trust land. Nothing in this Agreement releases claims of individual Osage headright owners regarding their headright interests, except to the extent monies from such headright interests beneficially owned by such individual Indian have been deposited into an IIM Account for the benefit of such individual Indian.

7. Preservation of Claims and Rights by Opt Outs. Notwithstanding the releases stated above (including without limitation the release of Historical Accounting Claims in paragraph I(1), Trust Administration Class Members who properly and timely opt out in accordance with the instructions in paragraph C(2) of this Agreement hereby expressly preserve and do not release, waive or discharge any Funds Administration Claims (including without limitation accounting error claims) and/or Land Administration Claims, whether such claims arise in equity or at law. Further, any such opting-out Class Member retains and shall be entitled to all methods of proof, applicable evidentiary presumptions and inferences (if any), and means of discovery available in any court of competent jurisdiction pursuant to that court's procedural and evidentiary rules applicable to fiduciaries, including without limitation any right to an accounting in aid of the jurisdiction of a court to render judgment.

8. Agreed Balances. Trust Administration Class Members who do not opt out in accordance with paragraph C(2) (c) of this Agreement will be deemed to have waived any right



to an accounting in aid of judgment in connection with Funds Administration Claims and Land Administration Claims. Further, except as provided in the preceding paragraph with respect to Class Members who opt out of the Trust Administration Class, each such Trust Administration Class Member and his or her heirs, successors, and assigns will be deemed to have agreed that the stated balance in his or her last IIM Account periodic statement received from Interior in 2009, prior to the date of this Agreement is accurate and that any IIM Account closed before January 1, 2009, shall be deemed to have a zero balance. Further, if a Trust Administration Class Member did not receive a periodic statement for an open IIM Account in 2009 prior to the date of this Agreement, that Class Member may request written confirmation of his or her IIM Account balance(s) as of the Record Date; such Class Member shall be deemed to have agreed to the balance(s) shown on such written confirmation received from Interior, unless such Class Member opts out of that Class in accordance with this Agreement.

9. Vacatur of Document Retention Orders. Upon Final Approval, all existing document retention orders shall be deemed vacated; provided, however, that Plaintiffs do not release Defendants from any ongoing duty to maintain trust records necessary to prudently manage the individual Indian trust.

**J. ATTORNEYS' FEES**

1. Notice of Amount to be Requested. Prior to the hearing on the Motion for Preliminary Approval of this Agreement, Plaintiffs shall file a notice with the Court stating the amount of attorneys' fees, expenses and costs they will be requesting for Class Counsel through the date of this Agreement. This amount shall be included in the Notice to the class referenced in paragraph C.1.

2. Petition for Attorneys' Fees. Within the time set by the Court, Plaintiffs shall file a petition for fair and reasonable attorneys' fees, expenses and costs through the date of this

Agreement for the Court's approval ("Fee Petition"). Plaintiffs shall post that Fee Petition on their website <http://indiantrust.com/>.

3. Objections. Within the times set by the Court: (a) Class Members may object to the compensation Plaintiffs have requested for attorneys in the Fee Petition, (b) Defendants may submit a response to the Fee Petition, and (c) Plaintiffs may reply to such objections and responses.

4. Post-Agreement Attorneys' Fees, Expenses and Costs. Attorneys' fees, expenses and costs incurred subsequent to the date of this Agreement shall, upon Final Approval, be paid at reasonable intervals as ordered by the Court. Reasonable time spent after this Agreement in representing the Plaintiffs, including but not limited to preparing fee applications, shall be compensated at the actual hourly billing rates. Defendants may respond to, and Class Members may object to, any petitions for post-Agreement attorneys' fees, expenses and costs, and Plaintiffs may reply to such response and objections.

5. Court to Decide. The amount to which Plaintiffs are entitled for attorneys' fees, expenses and costs are within the discretion of the Court in accordance with controlling law, after receipt and consideration of Class Members' objections, Defendants' responses and Plaintiffs' replies.

6. Payment. All payments for attorneys' fees, expenses and costs are to be made following Final Approval from the Settlement Account.

7. Time of Payments. Payment for attorneys' fees, expenses and costs through the date of this Agreement shall be made immediately upon the deposit of the funds in the Settlement Account after Final Approval. Payment of post-Agreement attorneys' fees, expenses and costs are to be made after Final Approval at the times directed by the Court.

8. Release of Attorneys' Fees and Costs. Upon completion of all payments addressed in this Section J, Named Plaintiffs and Class Counsel, on behalf of the Classes and each individual Class Member, will be deemed to have irrevocably and unconditionally released, acquitted, and forever discharged, any claim that they may have against Defendants for attorneys' fees, expenses or costs associated with their representation of Plaintiffs and the Classes in this Litigation. Plaintiffs shall file no further claim against Defendants for attorneys' fees or expenses pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 or costs pursuant to 28 U.S.C. § 1920; this paragraph does not apply to claims by Plaintiffs for payments from the Settlement Account, in accordance with this Agreement, for attorneys' fees, expenses and costs, and Plaintiffs' incentive awards, including costs and expenses.

**K. CLASS REPRESENTATIVES' INCENTIVE AWARDS**

1. Notice of Amounts to be Requested. Prior to the hearing on the Motion for Preliminary Approval of this Agreement, Plaintiffs shall file a notice with the Court stating the amount of incentive awards which will be requested for each Class Representative, including expenses and costs that were not paid for by attorneys, which expenses and costs are expected to be in the range of \$15 million above those paid by Defendants to date. These amounts shall be included in the Notice to the class referenced in paragraph C(1).

2. Petition for Expenses and Incentives. Within the time set by the Court, Plaintiffs shall file a petition for incentive awards, including expenses and costs, of the Class Representatives ("Class Representative Petition"). Plaintiffs shall post that petition on their website <http://indiantrust.com/>.

3. Objections. Within the times set by the Court: (a) Class Members may object to the amounts Plaintiffs have requested in the Class Representative Petition; (b) Defendants may submit a response to the Class Representative Petition; and (c) Plaintiffs may reply to such

objections and responses. Defendants do not consent in any manner to an award of costs, expenses or incentives, except to the extent supported by and consistent with controlling law.

4. Post-Agreement Expenses and Costs of Class Representatives. Class Representatives' expenses and costs incurred subsequent to the date of this Agreement shall, upon Final Approval, be paid at reasonable intervals as ordered by the Court. Defendants may respond to and Class Members may object to any petitions for post-Agreement expenses and costs of Class Representatives. Plaintiffs may reply to such responses and objections.

5. Court to Decide. The amounts to be granted on the Class Representative Petition and any post-Agreement request for expenses and costs are within the discretion of the Court in accordance with controlling law, after timely receipt and consideration of objections received from Class Members and/or Defendants.

6. Payment. All payments of Class Representatives' incentive awards, including expenses and costs, shall be made from the Settlement Account.

7. Time of Payments. Payment of incentive awards, including expenses and costs, shall be made immediately upon the deposit of the funds in the Settlement Account after Final Approval. Payment of post-Agreement expenses and costs are to be made at the times directed by the Court following Final Approval.

8. Complete Compensation. Defendants shall have no additional liability for any incentive awards or expenses and costs of Class Representatives. The payments to Class Representatives under this section K, together with any amounts due them as Class Members under this Agreement, shall be full and complete compensation for the Class Representatives in connection with this Litigation and for any Accounting Claims and Trust Administration Claims the Class Representatives had through the Record Date.

**L. NO FURTHER MONETARY OBLIGATION**

1. Complete Monetary Obligation. The Parties agree and acknowledge that the payments of \$1,412,000,000.00 into the Accounting/Trust Administration Fund and the \$2,000,000,000.00 deposited into the Trust Land Consolidation Fund represents Defendants' complete financial obligation under this Settlement relating to the settlement and compromise of all Historical Accounting and Trust Administration Claims for Class Members.

2. No Further Monetary Obligations. Except for the payments of \$1,412,000,000.00 into the Accounting/Trust Administration Fund and the \$2,000,000,000.00 deposited into the Trust Land Consolidation Fund, the Parties further agree and acknowledge that Defendants shall have no further monetary obligations whatsoever, including but not limited to any monetary obligations with respect to the Class Representatives, the members of the Classes who do not opt out, Class Counsel, Claims Administrator, Notice Contractor, the Qualifying Bank, or the Litigation. Defendants, however, will retain all monetary obligations that exist as a result of the trust relationship that will continue to exist between Defendants and all individual Indian beneficiaries. Likewise, the Parties agree that the Classes, Class Representatives, Class Counsel, Claims Administrator, Notice Contractor, and Qualifying Bank shall have no monetary obligation or incur any liability to Defendants or their agents regarding this Agreement or other matters settled and within the scope of this Agreement.

3. Cooperation. Interior Defendants will in good faith cooperate and make their resources and information available to assist in the distribution of notices and, subsequently, settlement payments. However, Interior Defendants assume no financial responsibility or liability related to the quality of the information to be provided.

**M. ADDITIONAL PROVISIONS**

1. No Assignment. Class Representatives represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof or interest therein, including, but not limited to, any interest in the Litigation or any related action.

2. Non-Admission of Liability. By entering into this Agreement, Defendants in no way admit any liability to Plaintiffs and the Classes, individually or collectively, all such liability being expressly denied. Nor do Defendants admit that a class action is an appropriate vehicle to bring Trust Administration Claims. Rather, Defendants enter into this Agreement to avoid further protracted litigation and resolve and settle all disputes with Plaintiffs and the Classes. The Parties understand and agree that neither this Agreement, nor the negotiations that preceded it, shall be used as evidence with respect to the claims asserted in the Litigation, the propriety of a class action, or in any other proceeding or dispute except to enforce the terms of this Agreement.

3. Cooperation Between The Parties, Further Acts. The Parties shall cooperate fully with each other and shall use their best efforts to obtain the Court's approval of this Agreement and all of its terms.

4. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and (A) with respect to Plaintiffs and the Class Members, their spouses, children, representatives, heirs, administrators, executors, beneficiaries, conservators, and attorneys, and (B) with respect to Defendants, the Releasees.

5. No Third-Party Beneficiaries. This Agreement shall not be construed to create rights in, or to grant remedies to, or delegate any duty, obligation or undertaking established herein to any third party as a beneficiary of this Agreement.

6. Arms Length Transaction; Materiality of Terms. The Parties have negotiated all of the terms and conditions of this Agreement at arms length. All terms and conditions of this Agreement have been relied upon by the Parties in entering this Agreement. If any Class Member petitions the Court for a modification of, addition to or alteration of any material terms or condition of this Agreement and if the Court on such request or *sua sponte* does modify, add to or alter any of the material terms or conditions of this Agreement, this Agreement shall become voidable and of no further effect upon the filing with the Court of a Notice of Withdrawal from settlement by Class Counsel or Defendants' Counsel within five (5) business days of receipt of any order or final statement of the Court modifying, adding to or altering any of the material terms or conditions of this Agreement.

7. Captions. The captions or headings of the sections and paragraphs of this Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.

8. Construction. The determination of the terms and conditions of this Agreement has been by mutual agreement of the Parties. Each Party participated jointly in the drafting of this Agreement and, therefore, the terms and conditions of this Agreement are not intended to be, and shall not be, construed against any Party by virtue of draftsmanship.

9. Applicable Law. This Agreement shall be interpreted in accordance with the laws of the United States without respect to the law of any particular State.

10. Notices Between the Parties. For all documents, notices, and submissions filed with the Court, service of a copy on the other Parties shall be deemed complete when uploaded and docketed with the Court's ECF system.

11. Agreement to Hold Personal Information Confidential. The Parties recognize that this Agreement will require the exchange of individual Indian trust data and/or confidential personal information that is or may be subject to the Privacy Act of 1974, as amended, relating to actual and putative class members. The Parties agree to cooperate in taking all appropriate steps to maintain the confidentiality of all such information. In order to facilitate the prompt exchange of information to facilitate the best practicable notice to the Class, the Parties further agree to file a stipulated motion with the Court promptly upon public announcement of this Agreement requesting the Court to enter an appropriate order to authorize the disclosure of such information by the Interior Defendants or Plaintiffs to the Notice Contractor and Claims Administrator.

12. Petition for Writ of Certiorari. The Parties acknowledge that Plaintiffs' deadline for filing a petition for a writ of certiorari seeking Supreme Court review of Cobell XXII is December 21, 2009, and that the Supreme Court's rules do not permit this deadline to be extended further. To preserve their right to seek Supreme Court review in the event that this Agreement is terminated, becomes null and void, or otherwise is not finally approved, it is understood that Plaintiffs intend to file a petition for a writ of certiorari on or before the deadline.

(Signatures appear on next page)



**SIGNATURES**

Wherefore, intending to be legally bound in accordance with the terms of this Agreement,  
the Parties hereby execute this Agreement:

**FOR PLAINTIFFS:**

**FOR DEFENDANTS:**

\_\_\_\_\_  
Dennis M. Gingold, Class Counsel

\_\_\_\_\_  
Thomas J. Perrelli  
Associate Attorney General

\_\_\_\_\_  
Keith M. Harper, Class Counsel

EXHIBIT “A”

FORM OF LEGISLATION

**EXHIBIT “B”**

**FORM OF AMENDED COMPLAINT**

Public Law 111-291  
111th Congress

An Act

Dec. 8, 2010  
[H.R. 4783]

This Act may be cited as “The Claims Resettlement Act of 2010.”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Claims  
Resolution Act  
of 2010.

42 USC 1305  
note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Claims Resolution Act of 2010”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—INDIVIDUAL INDIAN MONEY ACCOUNT LITIGATION SETTLEMENT**

Sec. 101. Individual Indian Money Account Litigation Settlement.

**TITLE II—FINAL SETTLEMENT OF CLAIMS FROM IN RE BLACK FARMERS DISCRIMINATION LITIGATION**

Sec. 201. Appropriation of funds for final settlement of claims from In re Black Farmers Discrimination Litigation.

**TITLE III—WHITE MOUNTAIN APACHE TRIBE WATER RIGHTS QUANTIFICATION**

Sec. 301. Short title.

Sec. 302. Purposes.

Sec. 303. Definitions.

Sec. 304. Approval of Agreement.

Sec. 305. Water rights.

Sec. 306. Contract.

Sec. 307. Authorization of WMAT rural water system.

Sec. 308. Satisfaction of claims.

Sec. 309. Waivers and releases of claims.

Sec. 310. White Mountain Apache Tribe Water Rights Settlement Subaccount.

Sec. 311. Miscellaneous provisions.

Sec. 312. Funding.

Sec. 313. Antideficiency.

Sec. 314. Compliance with environmental laws.

**TITLE IV—CROW TRIBE WATER RIGHTS SETTLEMENT**

Sec. 401. Short title.

Sec. 402. Purposes.

Sec. 403. Definitions.

Sec. 404. Ratification of Compact.

Sec. 405. Rehabilitation and improvement of Crow Irrigation Project.

Sec. 406. Design and construction of MR&I System.

Sec. 407. Tribal water rights.

Sec. 408. Storage allocation from Bighorn Lake.

Sec. 409. Satisfaction of claims.

Sec. 410. Waivers and releases of claims.

Sec. 411. Crow Settlement Fund.

Sec. 412. Yellowtail Dam, Montana.

Sec. 413. Miscellaneous provisions.

- Sec. 414. Funding.
- Sec. 415. Repeal on failure to meet enforceability date.
- Sec. 416. Antideficiency.

## TITLE V—TAOS PUEBLO INDIAN WATER RIGHTS

- Sec. 501. Short title.
- Sec. 502. Purposes.
- Sec. 503. Definitions.
- Sec. 504. Pueblo rights.
- Sec. 505. Taos Pueblo Water Development Fund.
- Sec. 506. Marketing.
- Sec. 507. Mutual-Benefit Projects.
- Sec. 508. San Juan-Chama Project contracts.
- Sec. 509. Authorizations, ratifications, confirmations, and conditions precedent.
- Sec. 510. Waivers and releases of claims.
- Sec. 511. Interpretation and enforcement.
- Sec. 512. Disclaimer.
- Sec. 513. Antideficiency.

## TITLE VI—AAMODT LITIGATION SETTLEMENT

- Sec. 601. Short title.
- Sec. 602. Definitions.

## Subtitle A—Pojoaque Basin Regional Water System

- Sec. 611. Authorization of Regional Water System.
- Sec. 612. Operating Agreement.
- Sec. 613. Acquisition of Pueblo water supply for Regional Water System.
- Sec. 614. Delivery and allocation of Regional Water System capacity and water.
- Sec. 615. Aamodt Settlement Pueblos' Fund.
- Sec. 616. Environmental compliance.
- Sec. 617. Funding.

## Subtitle B—Pojoaque Basin Indian Water Rights Settlement

- Sec. 621. Settlement Agreement and contract approval.
- Sec. 622. Environmental compliance.
- Sec. 623. Conditions precedent and enforcement date.
- Sec. 624. Waivers and releases of claims.
- Sec. 625. Effect.
- Sec. 626. Antideficiency.

## TITLE VII—RECLAMATION WATER SETTLEMENTS FUND

- Sec. 701. Mandatory appropriation.

## TITLE VIII—GENERAL PROVISIONS

## Subtitle A—Unemployment Compensation Program Integrity

- Sec. 801. Collection of past-due, legally enforceable State debts.
- Sec. 802. Reporting of first day of earnings to directory of new hires.

## Subtitle B—TANF

- Sec. 811. Extension of the Temporary Assistance for Needy Families program.
- Sec. 812. Modifications to TANF data reporting.

## Subtitle C—Customs User Fees; Continued Dumping and Subsidy Offset

- Sec. 821. Customs user fees.
- Sec. 822. Limitation on distributions relating to repeal of continued dumping and subsidy offset.

## Subtitle D—Emergency Fund for Indian Safety and Health

- Sec. 831. Emergency Fund for Indian Safety and Health.

## Subtitle E—Rescission of Funds From WIC Program

- Sec. 841. Rescission of funds from WIC program.

## Subtitle F—Budgetary Effects

- Sec. 851. Budgetary effects.

## TITLE I—INDIVIDUAL INDIAN MONEY ACCOUNT LITIGATION SETTLEMENT

### SEC. 101. INDIVIDUAL INDIAN MONEY ACCOUNT LITIGATION SETTLEMENT.

(a) DEFINITIONS.—In this section:

(1) AGREEMENT ON ATTORNEYS' FEES, EXPENSES, AND COSTS.—The term “Agreement on Attorneys’ Fees, Expenses, and Costs” means the agreement dated December 7, 2009, between Class Counsel (as defined in the Settlement) and the Defendants (as defined in the Settlement) relating to attorneys’ fees, expenses, and costs incurred by Class Counsel in connection with the Litigation and implementation of the Settlement, as modified by the parties to the Litigation.

(2) AMENDED COMPLAINT.—The term “Amended Complaint” means the Amended Complaint attached to the Settlement.

(3) FINAL APPROVAL.—The term “final approval” has the meaning given the term in the Settlement.

(4) LAND CONSOLIDATION PROGRAM.—The term “Land Consolidation Program” means a program conducted in accordance with the Settlement, the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.), and subsection (e)(2) under which the Secretary may purchase fractional interests in trust or restricted land.

(5) LITIGATION.—The term “Litigation” means the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, United States District Court, District of Columbia, Civil Action No. 96-1285 (TFH).

(6) PLAINTIFF.—The term “Plaintiff” means a member of any class certified in the Litigation.

(7) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(8) SETTLEMENT.—The term “Settlement” means the Class Action Settlement Agreement dated December 7, 2009, in the Litigation, as modified by the parties to the Litigation.

(9) TRUST ADMINISTRATION ADJUSTMENT FUND.—The term “Trust Administration Adjustment Fund” means the \$100,000,000 deposited in the Settlement Account (as defined in the Settlement) pursuant to subsection (j)(1) for use in making the adjustments authorized by that subsection.

(10) TRUST ADMINISTRATION CLASS.—The term “Trust Administration Class” means the Trust Administration Class as defined in the Settlement.

(b) PURPOSE.—The purpose of this section is to authorize the Settlement.

(c) AUTHORIZATION.—

(1) IN GENERAL.—The Settlement is authorized, ratified, and confirmed.

(2) AMENDMENTS.—Any amendment to the Settlement is authorized, ratified, and confirmed, to the extent that such amendment is executed to make the Settlement consistent with this section.

(d) JURISDICTIONAL PROVISIONS.—

(1) IN GENERAL.—Notwithstanding the limitation on the jurisdiction of the district courts of the United States in section 1346(a)(2) of title 28, United States Code, the United States

District Court for the District of Columbia shall have jurisdiction of the claims asserted in the Amended Complaint for purposes of the Settlement.

(2) CERTIFICATION OF TRUST ADMINISTRATION CLASS.—

(A) IN GENERAL.—Notwithstanding the requirements of the Federal Rules of Civil Procedure, the court in the Litigation may certify the Trust Administration Class.

(B) TREATMENT.—On certification under subparagraph (A), the Trust Administration Class shall be treated as a class certified under rule 23(b)(3) of the Federal Rules of Civil Procedure for purposes of the Settlement.

(e) TRUST LAND CONSOLIDATION.—

(1) TRUST LAND CONSOLIDATION FUND.—

(A) ESTABLISHMENT.—On final approval of the Settlement, there shall be established in the Treasury of the United States a fund, to be known as the “Trust Land Consolidation Fund”.

(B) AVAILABILITY OF AMOUNTS.—Amounts in the Trust Land Consolidation Fund shall be made available to the Secretary during the 10-year period beginning on the date of final approval of the Settlement—

- (i) to conduct the Land Consolidation Program; and
- (ii) for other costs specified in the Settlement.

(C) DEPOSITS.—

(i) IN GENERAL.—On final approval of the Settlement, the Secretary of the Treasury shall deposit in the Trust Land Consolidation Fund \$1,900,000,000 out of the amounts appropriated to pay final judgments, awards, and compromise settlements under section 1304 of title 31, United States Code.

(ii) CONDITIONS MET.—The conditions described in section 1304 of title 31, United States Code, shall be deemed to be met for purposes of clause (i).

(D) TRANSFERS.—In a manner designed to encourage participation in the Land Consolidation Program, the Secretary may transfer, at the discretion of the Secretary, not more than \$60,000,000 of amounts in the Trust Land Consolidation Fund to the Indian Education Scholarship Holding Fund established under paragraph (3).

(2) OPERATION.—The Secretary shall consult with Indian tribes to identify fractional interests within the respective jurisdictions of the Indian tribes for purchase in a manner that is consistent with the priorities of the Secretary. Consultation.

(3) INDIAN EDUCATION SCHOLARSHIP HOLDING FUND.—

(A) ESTABLISHMENT.—On final approval of the Settlement, there shall be established in the Treasury of the United States a fund, to be known as the “Indian Education Scholarship Holding Fund”.

(B) AVAILABILITY.—Notwithstanding any other provision of law governing competition, public notification, or Federal procurement or assistance, amounts in the Indian Education Scholarship Holding Fund shall be made available, without further appropriation, to the Secretary to contribute to an Indian Education Scholarship Fund, as described in the Settlement, to provide scholarships for Native Americans.

(4) ACQUISITION OF TRUST OR RESTRICTED LAND.—The Secretary may acquire, at the discretion of the Secretary and in accordance with the Land Consolidation Program, any fractional interest in trust or restricted land.

(5) TREATMENT OF UNLOCATABLE PLAINTIFFS.—A Plaintiff, the whereabouts of whom are unknown and who, after reasonable efforts by the Secretary, cannot be located during the 5-year period beginning on the date of final approval of the Settlement, shall be considered to have accepted an offer made pursuant to the Land Consolidation Program.

(f) TAXATION AND OTHER BENEFITS.—

(1) INTERNAL REVENUE CODE.—For purposes of the Internal Revenue Code of 1986, amounts received by an individual Indian as a lump sum or a periodic payment pursuant to the Settlement shall not be—

(A) included in gross income; or

(B) taken into consideration for purposes of applying any provision of the Internal Revenue Code that takes into account excludable income in computing adjusted gross income or modified adjusted gross income, including section 86 of that Code (relating to Social Security and tier 1 railroad retirement benefits).

(2) OTHER BENEFITS.—Notwithstanding any other provision of law, for purposes of determining initial eligibility, ongoing eligibility, or level of benefits under any Federal or federally assisted program, amounts received by an individual Indian as a lump sum or a periodic payment pursuant to the Settlement shall not be treated for any household member, during the 1-year period beginning on the date of receipt—

(A) as income for the month during which the amounts were received; or

(B) as a resource.

(g) INCENTIVE AWARDS AND AWARD OF ATTORNEYS' FEES, EXPENSES, AND COSTS UNDER SETTLEMENT AGREEMENT.—

Determination.

(1) IN GENERAL.—Subject to paragraph (3), the court in the Litigation shall determine the amount to which the Plaintiffs in the Litigation may be entitled for incentive awards and for attorneys' fees, expenses, and costs—

(A) in accordance with controlling law, including, with respect to attorneys' fees, expenses, and costs, any applicable rule of law requiring counsel to produce contemporaneous time, expense, and cost records in support of a motion for such fees, expenses, and costs; and

(B) giving due consideration to the special status of Class Members (as defined in the Settlement) as beneficiaries of a federally created and administered trust.

(2) NOTICE OF AGREEMENT ON ATTORNEYS' FEES, EXPENSES, AND COSTS.—The description of the request of Class Counsel for an amount of attorneys' fees, expenses, and costs required under paragraph C.1.d. of the Settlement shall include a description of all material provisions of the Agreement on Attorneys' Fees, Expenses, and Costs.

(3) EFFECT ON AGREEMENT.—Nothing in this subsection limits or otherwise affects the enforceability of the Agreement on Attorneys' Fees, Expenses, and Costs.

(h) SELECTION OF QUALIFYING BANK.—The United States District Court for the District of Columbia, in exercising the discretion



of the Court to approve the selection of any proposed Qualifying Bank (as defined in the Settlement) under paragraph A.1. of the Settlement, may consider any factors or circumstances regarding the proposed Qualifying Bank that the Court determines to be appropriate to protect the rights and interests of Class Members (as defined in the Settlement) in the amounts to be deposited in the Settlement Account (as defined in the Settlement).

(i) APPOINTEES TO SPECIAL BOARD OF TRUSTEES.—The 2 members of the special board of trustees to be selected by the Secretary under paragraph G.3. of the Settlement shall be selected only after consultation with, and after considering the names of possible candidates timely offered by, federally recognized Indian tribes.

(j) TRUST ADMINISTRATION CLASS ADJUSTMENTS.—

(1) FUNDS.—

(A) IN GENERAL.—In addition to the amounts deposited pursuant to paragraph E.2. of the Settlement, on final approval, the Secretary of the Treasury shall deposit in the Trust Administration Adjustment Fund of the Settlement Account (as defined in the Settlement) \$100,000,000 out of the amounts appropriated to pay final judgments, awards, and compromise settlements under section 1304 of title 31, United States Code, to be allocated and paid by the Claims Administrator (as defined in the Settlement and pursuant to paragraph E.1.e of the Settlement) in accordance with this subsection.

(B) CONDITIONS MET.—The conditions described in section 1304 of title 31, United States Code, shall be deemed to be met for purposes of subparagraph (A).

(2) ADJUSTMENT.—

(A) IN GENERAL.—After the calculation of the pro rata share in Section E.4.b of the Settlement, the Trust Administration Adjustment Fund shall be used to increase the minimum payment to each Trust Administration Class Member whose pro rata share is—

(i) zero; or

(ii) greater than zero, but who would, after adjustment under this subparagraph, otherwise receive a smaller Stage 2 payment than those Trust Administration Class Members described in clause (i).

(B) RESULT.—The amounts in the Trust Administration Adjustment Fund shall be applied in such a manner as to ensure, to the extent practicable (as determined by the court in the Litigation), that each Trust Administration Class Member receiving amounts from the Trust Administration Adjustment Fund receives the same total payment under Stage 2 of the Settlement after making the adjustments required by this subsection.

(3) TIMING OF PAYMENTS.—The payments authorized by this subsection shall be included with the Stage 2 payments under paragraph E.4. of the Settlement.

(k) EFFECT OF ADJUSTMENT PROVISIONS.—Notwithstanding any provision of this section, in the event that a court determines that the application of subsection (j) is unfair to the Trust Administration Class—

(1) subsection (j) shall not go into effect; and

(2) on final approval of the Settlement, in addition to the amounts deposited into the Trust Land Consolidation Fund

pursuant to subsection (e), the Secretary of the Treasury shall deposit in that Fund \$100,000,000 out of amounts appropriated to pay final judgments, awards, and compromise settlements under section 1304 of title 31, United States Code (the conditions of which section shall be deemed to be met for purposes of this paragraph) to be used by the Secretary in accordance with subsection (e).

## TITLE II—FINAL SETTLEMENT OF CLAIMS FROM IN RE BLACK FARMERS DISCRIMINATION LITIGATION

### SEC. 201. APPROPRIATION OF FUNDS FOR FINAL SETTLEMENT OF CLAIMS FROM IN RE BLACK FARMERS DISCRIMINATION LITIGATION.

(a) DEFINITIONS.—In this section:

(1) SETTLEMENT AGREEMENT.—The term “Settlement Agreement” means the settlement agreement dated February 18, 2010 (including any modifications agreed to by the parties and approved by the court under that agreement) between certain plaintiffs, by and through their counsel, and the Secretary of Agriculture to resolve, fully and forever, the claims raised or that could have been raised in the cases consolidated in *In re Black Farmers Discrimination Litigation*, Misc. No. 08-mc-0511 (PLF), including Pigford claims asserted under section 14012 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 2209).

(2) PIGFORD CLAIM.—The term “Pigford claim” has the meaning given that term in section 14012(a)(3) of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 2210).

(b) APPROPRIATION OF FUNDS.—There is appropriated to the Secretary of Agriculture \$1,150,000,000, to remain available until expended, to carry out the terms of the Settlement Agreement if the Settlement Agreement is approved by a court order that is or becomes final and nonappealable, and the court finds that the Settlement Agreement is modified to incorporate the additional terms contained in subsection (g). The funds appropriated by this subsection are in addition to the \$100,000,000 of funds of the Commodity Credit Corporation made available by section 14012(i) of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246; 122 Stat. 2212) and shall be available for obligation only after those Commodity Credit Corporation funds are fully obligated. If the Settlement Agreement is not approved as provided in this subsection, the \$100,000,000 of funds of the Commodity Credit Corporation made available by section 14012(i) of the Food, Conservation, and Energy Act of 2008 shall be the sole funding available for Pigford claims.

(c) USE OF FUNDS.—The use of the funds appropriated by subsection (b) shall be subject to the express terms of the Settlement Agreement.

(d) TREATMENT OF REMAINING FUNDS.—If any of the funds appropriated by subsection (b) are not obligated and expended to carry out the Settlement Agreement, the Secretary of Agriculture shall return the unused funds to the Treasury and may not make

**PROPOSED SETTLEMENT OF THE  
COBELL V. SALAZAR LITIGATION**

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**OVERSIGHT HEARING**

BEFORE THE

COMMITTEE ON NATURAL RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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Wednesday, March 10, 2010

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**Serial No. 111-46**

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are very important to them, and the majority of people are on SSI, on TANF, on food stamps, and we wanted to ensure that those were not disrupted.

And so in this settlement agreement, we will not be held victims to having those go away. I guess maybe the other areas that I wanted to talk about is the trust mismanagement claims.

The government wanted that. The government wanted it, and we sat and talked about them. We actually did a study of how many claims had been filed on land mismanagement by individual Indians. There wasn't that many.

And the reason there isn't that many is because people don't have the money to sue, and that is why I sued the government on behalf of the 500 thousand individual Indians, and not one tribe gave one penny for this litigation. Let me ensure that item to you.

I went out and raised money so that we could have justice, and so I know how difficult it is, and so I know that individuals that want to resolve these trust mismanagement claims that they have the option to. They can opt out.

And I think that has been discussed several times over and over that there is going to be a fairness hearing. Everybody that doesn't like what is happening, then go to the fairness hearing. Be heard, and the Judge will determine.

The Judge played an active role in this. When he called the parties together, he said that you can litigate forever. I don't see any judicial solution, because he knew that we had been in court for 14 years, and we could be in court for another 20 years.

And we don't want to go to the Supreme Court. I mean, that option is open for us, and many of you asked why is there a sense of urgency. There is a sense of urgency because we have timelines, and I know Bill Dorris will discuss that with you, where we lose out on our option to go to the Supreme Court, but that is our next option, is to go to the Supreme Court.

You can do the right thing here. You can act and act quickly, and get this approved so that we can get money to individual Indians that have been abused for so many years. Let us move on. Let us get this behind us, and let us move on, and I urge this Congress to take me seriously.

It has been difficult. It has been a difficult 14 years, and I thought that the hard part was over when we had a legal settlement between the Plaintiffs and the Defendants.

I thought that all we had to do was come up and talk to Congress, because they had so many hearings that they knew about this, and it is almost like Congress sometimes acts oblivious to all the issues that we have talked about, and I am not criticizing, because I need your support to approve this.

[Laughter.]

Ms. COBELL. But I would like to stop there, and just take any questions.

[The prepared statement of Ms. Cobell follows:]

**Statement of Elouise P. Cobell, Lead Plaintiff in *Cobell V. Salazar***

**I. INTRODUCTION**

Good afternoon, and thank you Chairman Rahall, Ranking Member Hastings, and members of the Committee. I am here today representing a class of over 500,000 individual Indians as the lead plaintiff in the case initially entitled Cobell v. Babbitt

and now referred to as *Cobell v. Salazar*, pending in the United States District Court for the District of Columbia and presently presided over by Judge James Robertson. Since virtually its inception more than 13 years ago, Congress has taken keen interest in this litigation and its key objectives—reforming the Individual Indian Trust (“Trust”), ensuring that the government accounts for all Trust assets including all trust funds, land and natural resources, and correcting and restating each individual’s account balance.

By any measure, this litigation has proven exceptional and extraordinary. Not only is it one of the largest class actions ever brought against the United States as it addresses over 120 years of mismanagement of Indian trust assets and involves over 500,000 individual Indians, but the litigation has been intense and contentious. Moreover, there have been more than 3600 docket entries in the district court and over 80 published decisions, including ten appeals—the most recent appellate opinion is referred to as *Cobell XXII*.

On each occasion I have appeared before Congress, I have emphasized my willingness to explore settlement of this case. But of course, resolution takes two parties willing to come to the table to negotiate in good faith and attempt to reach an equitable settlement that would set the foundation for improved trust management and accountability in the future. Until very recently, however, we did not have such a willing partner on the other side. President Obama showed great leadership during the campaign when he committed to seek a fair resolution to this case and, when elected, he followed through and charged Secretary Salazar and Attorney General Holder with carrying out this commitment.

Having been through seven failed settlement efforts before, I was not optimistic at the outset of these negotiations that we would be able to reach agreement. Beginning in the late summer of 2009, though, we sat down in good faith and so did the Administration. Associate Attorney General Tom Perrelli, Interior Deputy Secretary David Hayes, and Interior Solicitor Hillary Tompkins were involved in the day-to-day negotiations. The issues to discuss and resolve were gravely challenging, and I repeatedly felt we had reached impasse. But both my team and the government soldiered on, knowing that resolution was the best thing for the affected individual Indian trust beneficiaries and for a healthier foundation of the trust relationship for the future.

Reaching agreement was certainly not easy, and the settlement from my perspective is not perfect. I would want more for beneficiaries as I think that is what they deserve. But a settlement requires compromise—by definition, you do not get everything you want. This is the bottom line: After months of discussion, I am here to testify that I strongly support this agreement. It is time to look forward, not backward. And though we must never forget the past, this settlement can move us forward together as it represents the best resolution we can hope for under the circumstances.

Although we have reached an historical settlement totaling more than \$3.4 billion, there is little doubt this is far less than the full amount to which individual Indians are entitled. Yes, we could prolong our struggle, fight longer, and, perhaps one day, reach a judgment in the courts that results in a greater benefit to individual Indians. But we are nevertheless compelled to settle now by the sobering reality that members of our class die each year, each month, and every day, forever prevented from receiving that which is theirs. We also face the uncomfortable, but unavoidable fact that a large number of individual Indian trust beneficiaries are among the most vulnerable people in this country, existing in the direst of poverty. This settlement can begin to provide hope and a much needed measure of justice.

In addition, now that the *Cobell* case has brought heightened attention to this matter, I am optimistic that this settlement will lay the foundation for genuine and meaningful reform of the Trust. There remains considerable room for improvement, as Secretary Salazar and Deputy Secretary Hayes have recognized. I am hopeful that the Commission that Secretary Salazar has contemporaneously announced with this settlement will ensure that additional critical reforms are made and that we set the underpinning for safe and sound management of our assets in the future.

The terms of the settlement have been well publicized. We have reached out to Indian Country to insure that beneficiaries are well informed of its terms. I just returned from meeting with beneficiaries in South Dakota, and our class counsel, as we speak, is traveling to meet with beneficiaries in other states. We have met with allottee associations, tribal organizations and landowners and will continue our efforts. Next week, our class counsel will visit Arizona and New Mexico, the following week Montana, Wyoming and North Dakota and the weeks after that Oklahoma, Washington, California and Oregon. Further meetings with beneficiaries will continue throughout Indian Country in March and April to make sure that they are able to receive complete and accurate information about the settlement.

Despite this outreach, there remains misinformation regarding the settlement conveyed by a very small number of individuals, many of whom are not beneficiaries and do not speak for individual Indian beneficiaries. I want to dispel those misunderstandings:

First, there are those who have stated that under this agreement beneficiaries will receive very little. This is not accurate. In fact, most beneficiaries who participate in this settlement will receive at least—and I emphasize at least—\$1,500.00. Many will receive substantially more based on the transactional activity in their IIM account. To those in Indian Country, receipt of this money is critical, both as a recognition of the government's past wrongdoing and as a first step in fulfilling the commitment to reforming the trust system. Many individual Indians are dependent on this money for the basic necessities of life. Its payment should not be further delayed.

Two other points are important with respect to these distributions. First, receipt of these funds shall not be construed as income and thus will not be taxable for beneficiaries. This is only fair because proceeds from trust lands are generally not taxable. Second, and critically important to the poorest among the class, the Cobell settlement funds shall not be considered when determining eligibility for programs such as TANF, SSI and food stamps. The last thing the parties want is to further victimize poorer class members by preventing them from receiving benefits from programs for which they would otherwise be eligible.

Second, there are suggestions that the settlement should not have encompassed claims for trust administration since it is contended the Cobell case did not involve mismanagement of trust assets. This is not correct. The Cobell case has always insisted that the government account for all trust assets—not just money but the land and natural resources that are at the heart of the individual Indian trust. And, the district court invited plaintiffs to amend our complaint to include these claims in the litigation well before these settlement negotiations. In other words, their inclusion should be no surprise. Indeed, while true that there are certain trust damages claims that are now expressly included that were not before, understand that virtually all settlement discussions—including those led by this Committee and the Senate Indian Affairs Committee—have contemplated the inclusion of all such individual claims. The largest and oldest tribal organization, the National Congress of American Indians passed unanimously a resolution in 2006 endorsing inclusion of all trust management claims if, where as here, there is an opt out.

I and others were also counseled on this point by the following sober reality: Very few trust mismanagement cases have ever been filed and those that have are very expensive, extremely time consuming and fraught with risk. There is an obvious reason for this. For most beneficiaries, the claims are relatively modest when compared with the cost of litigating against the government and the legal obstacles in doing so. Legal hindrances abound, such as statute of limitations and jurisdictional restrictions, and together with the cost prohibitive nature of litigation, help explain why so few have been brought. For the great majority of beneficiaries, this settlement represents the only opportunity for them to receive any compensation for the government's mismanagement of their trust assets. For those who wish to pursue those claims independently, they have the opportunity to do so by opting out of the trust administration portion of the settlement. The agreement preserves all legal mechanisms to enable them to do so.

Third, there are those who criticize the amount that the class attorneys may receive by reason of this settlement. That criticism is misplaced. This is not a case where attorneys are attempting to get a fee based on a quick settlement. The attorneys in this case undertook substantial risk in filing and prosecuting this case on behalf of the 500,000 individual Indian beneficiaries in 1996. Many of the attorneys gave up their practices to work solely on it. It has often consumed 18 hour days, seven days a week. They have engaged in 7 major trials, handled countless appeals by the government and reviewed tens of millions of pages of documents. They responded when no one else—not even Congress—was able to correct the wrongdoing that individual Indians endured. As a result of their efforts, for the first time in over 100 years, the government has been held accountable for its mismanagement of the IIM Trust. Moreover, solely as a result of their efforts, reform of the Trust is a real possibility. The benefit to class members from their efforts is considerable. They have agreed to limit their petition for fees to under \$100 million. This is less than 3% of the total settlement—very modest when compared with fees typically awarded in class actions. Class members will have the opportunity to object to the fees and those objections will be considered by the Court before any fee award. The attempt by some such as ITMA to limit the fees further to those available under the Equal Access to Justice Act (EAJA) suffers from two infirmities. First, the government has made clear that it is not open to paying fees through EAJA. Second, if in the end,

lawyer fees are so dramatically curtailed, then how will individual Indians ever obtain the kind of highly competent and dedicated counsel necessary to bring a difficult case like this next time? It is already tragically difficult to attract such lawyers and ITMA would like to make it all the more challenging. This makes no sense.

Fourth, there are those that have even suggested that the named plaintiffs in this case, including me, will profit from this settlement. This again is erroneous. The incentive fee contemplated is an award to named plaintiffs by the Court for their work in assisting in this case and to cover expenses. As you might expect, the work required has been considerable. However, most of the money requested will be for reimbursement of expenses incurred during the 14 years of this litigation. Millions of dollars have been spent in prosecuting this case, including payment of experts, and covering charges for transcripts and other court costs. I have contributed substantial funds to aid in the prosecution of this case. The Blackfeet Reservation Development Fund, a non profit, has used millions of its own funds as well. Furthermore, many of the grants we received are in the form of loans and are repayable. Importantly, any class members not comfortable with the incentive award will have a opportunity to have their views heard by the Court before any payment is made. However, those who have advanced the money to prosecute this case deserve to be reimbursed.

Finally, some who don't understand the reality of the historical data and the lack of reliable information, have criticized the distribution scheme contemplated in this settlement. They say it doesn't track with precision the losses for each beneficiary. The reality is that there is no data to establish actual losses. This is indeed rough justice. But it is the best possible way to achieve three important objectives: (1) being fair so that all receive a meaningful payment of at least \$1,500, while rewarding high dollar accounts that likely suffered the most losses; (2) permitting for a prompt distribution where most beneficiaries will be completely paid within a few months; and (3) will not waste significant money on lawyers, accountants and Special Masters trying to figure out what is owed to each individual. In addition, the Court will hear any objections to the distribution scheme and make a determination on its fairness.

Some have asked to establish an extensive and expensive process where beneficiaries can have essentially mini-trials before a Special Master. This is absolutely and unequivocally foolish. It would waste significant funds on figuring out who gets what and will take years before beneficiaries receive their distributions. Moreover, it will not be advantageous to those beneficiaries who can prove their case since such beneficiaries have the ability to opt out anyway and pursue their claims independently. In short, such a proposal would take years, cost hundreds of millions and be no fairer than the current model. This is precisely why the parties rejected such an approach.

In summary, this settlement will do a lot of good. It will get more than \$3 billion in the hands of beneficiaries. It will provide monies for land consolidation. It will create a \$60 million scholarship fund. Moreover, there will be a Secretarial Commission to recommend additional trust reforms that are desperately needed. And there is an agreement to perform an audit of the Trust. No audit has ever been done. To heal the division between individual Indian trust beneficiaries and the government that is reflected historically and in the nearly 14 years of our litigation and to begin to establish confidence that the IIM Trust is managed in accordance with trust law, transparency is essential. Too many records have been destroyed. Too much deception has occurred. Importantly, this settlement will allow individual Indians to look forward and work collaboratively with their trustee to ensure a better tomorrow.

We know this settlement does not solve many of the serious underlying problems plaguing this Trust. We know that reform must continue and cannot stop here. We will continue our efforts to ensure accountability. We have had to spend too much time looking backwards, trying to address the terrible wrongs of the past. Now, my hope is that we look forward to correct those wrongs so that individual Indian trust beneficiaries finally receive that which rightfully is theirs.

When I embarked on this settlement process, I was skeptical that this result could be achieved. But we were able to reach a resolution. There has been too much discussion about what we would like to achieve for individual Indian beneficiaries. It is now important that we implement this historical settlement. I now ask Congress to swiftly enact the necessary implementing legislation so we can begin to distribute our trust funds without further delay. Hundreds of thousands of individual Indians have waited patiently for far too long.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

<p><b>ELOUISE PEPION COBELL, et al.,</b></p> <p style="text-align: center;"><b>Plaintiffs,</b></p> <p style="text-align: center;">v.</p> <p><b>KEN SALAZAR, Secretary of the Interior, et al.,</b></p> <p style="text-align: center;"><b>Defendants.</b></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><b>No. 1:96CV01285(TFH)</b></p>
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**JOINT MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT**

**December 10, 2010**



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## 9. Attorneys' Fees

The Settlement Agreement provides that the amount to which Plaintiffs are entitled for attorneys' fees, expenses and costs "are within the discretion of the Court in accordance with controlling law."<sup>62</sup> The separate Agreement on Attorneys' Fees, Expenses and Costs ("Agreement on Attorneys' Fees") likewise confirms that "[t]he amount of attorneys' fees, expenses and costs shall be decided by the Court in accordance with controlling law and awarded from the Accounting/Trust Administration Fund."<sup>63</sup> Similarly, the Claims Resolution Act of 2010 provides the amounts to which Plaintiffs are entitled for attorneys' fees, expenses and costs shall be determined "in accordance with controlling law including, with respect to attorneys' fees, expenses, and costs, any applicable rule of law requiring counsel to produce contemporaneous time, expense, and cost records in support of a motion for such fees, expenses, and costs; and . . . giving due consideration to the special status of Class Members . . . as beneficiaries of a federally created and administered trust."<sup>64</sup>

The Settlement Agreement also sets forth a process for the presentation of the attorneys' fees to the Court for decision. For fees, expenses and costs through the date of the Settlement Agreement (*i.e.*, December 7, 2009) and within times set by the Court: (a) Plaintiffs will submit a petition for the fees and post it on their Internet website; (b) Defendants may then respond and Class Members may object to the requested fees; and (c) Plaintiffs will then have a chance to reply.<sup>65</sup> For work, expenses and costs of the attorneys after December 7, 2009, the Settlement Agreement provides that they are to be paid at reasonable intervals following Final Approval at

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<sup>62</sup> *Id.* at J(5).

<sup>63</sup> Exhibit 14 (Fee Agreement) at ¶ 3.

<sup>64</sup> *See* § 101 (g).

<sup>65</sup> Settlement Agreement (Exhibit 2) at J(2) and J(3).

the actual billing rates for the attorneys.<sup>66</sup> The post-Settlement fees must be approved by the Court with due consideration of any objections by Class Members, responses by Defendants, and replies by Plaintiffs.<sup>67</sup>

The Fee Agreement also provides that Plaintiffs' motion for counsel fees, expenses and costs incurred through December 7, 2009 "shall not assert that Class Counsel be paid more than \$99,900,000.00 above amounts previously paid by Defendants."<sup>68</sup> Likewise, in their response, Defendants have agreed that they "shall not assert that Class Counsel be paid less than \$50,000,000.00 above the amounts previously paid by Defendants."<sup>69</sup> The parties have agreed that they will not appeal an award "[i]n the event that the Court awards attorneys' fees, expenses, and costs . . . in an amount equal to or greater than \$50,000,000.00 and equal to or less than \$99,900,000.00."<sup>70</sup> This range for Class Counsel's fees, expenses and costs through December 7, 2009 is not stated as a limitation on the Court's discretion to decide the amount "in accordance with controlling law . . . . [and] giving due consideration to the special status of Class Members as beneficiaries of a federally created and administered trust."<sup>71</sup>

On the other hand, however, the Agreement on Attorneys' Fees sets forth an agreed limit on the amount of post-Settlement fees Class Counsel can receive. The parties initially agreed to a limit of \$10 million on post-Settlement attorneys' fees, expenses and costs,<sup>72</sup> but subsequently

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<sup>66</sup> *Id.* at J(4).

<sup>67</sup> *Id.*

<sup>68</sup> Fee Agreement at ¶4(a).

<sup>69</sup> *Id.* at ¶ 4.b.

<sup>70</sup> *Id.* at ¶ 4.e.

<sup>71</sup> Exhibit 3 (Claims Resolution Act) at (g)(1)(A), and at (g)(1)(B).

<sup>72</sup> Exhibit 14 (Fee Agreement) at ¶5.

increased the limit to \$12 million in recognition of the possible additional unanticipated work resulting from a delay in the enactment of the authorizing legislation.<sup>73</sup>

Finally, the Settlement Agreement requires Plaintiffs to file concurrently with this Motion a Notice setting forth the amount they will request for Class Counsel's fees, expenses and costs through December 7, 2009<sup>74</sup> so that this Notice to the plaintiff classes can include the amount being sought by Class Counsel.<sup>75</sup>

#### **10. Secretarial Commission on Trust Reform**

The parties recognize that the Department of the Interior's trust reform efforts must continue. Accordingly, on December 8, 2009, Secretary Salazar announced the creation of a 5-member Secretarial Commission to make recommendations regarding Interior's future responsibility for management and administration of trust assets maintained for individual Indian trust beneficiaries.<sup>76</sup> The work of this Commission is funded by this settlement.<sup>77</sup>

### **B. THE NOTICE PROGRAM**

#### **1. Characteristics of the Classes Settled by this Agreement**

The identification of beneficiaries presents unique challenges due to, among other things, class size, geographical diversity of class members, and the long time periods involved, as well as the number of individuals whose whereabouts are presently unknown. Currently, "[t]he exact number [of beneficiaries] is not known due to the lack of accurate or comprehensive records,"<sup>78</sup>

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<sup>73</sup> Exhibit 15 (Modification of December 7, 2009 Agreement on Attorneys' Fees, Expenses and Costs) at ¶6.

<sup>74</sup> Exhibit 2 (Settlement Agreement) at J(1).

<sup>75</sup> *Id.*

<sup>76</sup> Secretarial Order 2392 ("Individual Indian Trust Management") is attached as Exhibit 16.

<sup>77</sup> See Settlement Agreement at F(2).

<sup>78</sup> See Notice Program at p. 4.

Respectfully submitted, this 10<sup>th</sup> day of December, 2010.

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Attorneys for Plaintiffs

# Important information about the \$3.4 billion Indian Trust Settlement

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For current or former IIM account holders,  
Owners of land held in trust or restricted status, or their heirs

*A federal court authorized this notice. You are not being sued.*

Para el aviso en español, llame o visite nuestro sitio en internet.

Dinék'ehgo 'il hane' biniiyégo, béesh bee holne' doodago béesh lichí'ii biyi'ji' nihaa nanitah.

- A proposed Settlement has been reached in *Cobell v. Salazar*, a class action lawsuit about individual Indian land, funds and other assets held in trust by the federal government. Courts decided that the federal government has violated its trust duties, including a duty to account for Individual Indian Money trust funds. The Settlement will resolve claims that the government violated its trust duties by (a) mismanaging individual Indian trust funds and other assets, (b) improperly accounting for those funds, and (c) mismanaging trust land and other assets. The individual Indian trust land is called “allotted” land and owners are from time to time referred to as “beneficiaries,” “allottees,” or “landowners.”
- You may be part of this Settlement with certain rights in this Settlement if you are an:
  - Individual Indian Money (“IIM”) account holder (even if the account currently is not active or open),
  - Individual Indian who has or had an ownership interest in land held in trust or in restricted status,
  - Heir to a deceased IIM account holder or individual landowner.
- The Settlement establishes funds worth approximately \$1.5 billion to pay individual Indian trust beneficiaries for past accounting problems and resolve historical asset mismanagement claims. Settlement and administrative expenses, incentive fees and expenses of the Class Representatives, and legal fees and expenses will be paid out of these Settlement funds. Another \$1.9 billion will be used primarily to buy up interests in trust lands that are owned by many people (“fractionated interests”).
- Congress has passed legislation authorizing the Settlement and provided funding for it. The President has signed the legislation into law.

**QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT [WWW.INDIANTRUST.COM](http://WWW.INDIANTRUST.COM).**

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after any appeals are resolved. If the Settlement is approved by the Court, the majority of individual Indian trust beneficiaries will get at least \$1,500.
- The Settlement also creates an Indian Education Scholarship Fund worth up to \$60 million to improve access to higher education for Indian youth.

**Your legal rights are affected whether you act or do not act, so please read this notice carefully.**

<b>These rights and options—and the deadlines to exercise them—are explained in this notice.</b>	
You can object to or comment on the Settlement.	<i>see</i> Question 30
You can go to a hearing and ask the Court to speak about the Settlement.	<i>see</i> Question 36
You may also have the right to exclude yourself from part of the Settlement.	<i>see</i> Question 28

- The full details of the Settlement can be found in a document called the Settlement Agreement, and subsequent modifications to it, which can be found on the web at [www.IndianTrust.com](http://www.IndianTrust.com).

**QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT [WWW.INDIANTRUST.COM](http://www.IndianTrust.com).**



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QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT [WWW.INDIANTRUST.COM](http://WWW.INDIANTRUST.COM).

## BASIC INFORMATION

### 1. Why did I get this notice?

You received this notice because Interior Department records show that: (a) you are now or have been an Individual Indian Money (“IIM”) account holder, or (b) you have an individual interest in trust land, or (c) you have requested that this notice be mailed to you. A Court authorized this notice because you have a right to know about a proposed Settlement of this class action lawsuit and about your options, before the Court decides whether the Settlement is fair and to give final approval to the Settlement. This notice explains the lawsuit, the Settlement, and your legal rights.

Judge Thomas F. Hogan, of the United States District Court for the District of Columbia, is currently overseeing this case. The case is known as *Cobell v. Salazar*, No. 1:96cv01285, and is a class action lawsuit.

In a class action lawsuit, one or more people called Class Representatives (in this case, Elouise Cobell and others) sue on behalf of other people who have similar claims. The people together are called a “Class” or “Class Members.” The people who sued—and all the Class Members like them—are called the Plaintiffs. The people they sued (in this case, the Secretaries of the Interior and Treasury and the Assistant Secretary-Indian Affairs (together called the “federal government”)) are called the Defendants. One court resolves the issues for everyone who remains in the Class.

### 2. What are Individual Indian Money (“IIM”) accounts?

IIM accounts primarily contain money collected by the federal government from farming and grazing leases, timber sales, mining, oil and gas production, and other activities on trust land, as well as certain per capita distributions. The funds in IIM accounts are held in trust by the federal government for the benefit of individual Indians.

### 3. Who is affected by this Settlement?

The Settlement will affect all Class Members (*see* Question 6). Class Members include individual Indian trust beneficiaries, which means those individuals who:

- Had an IIM account anytime from approximately 1985 through September 30, 2009, or
- Had an individual interest in land held in trust or restricted status by the U.S. government as of September 30, 2009.

The estate of a deceased individual described above whose account was open or in probate status as of September 30, 2009 is included. Probate means you have asked a court to transfer ownership of the landowner’s property after he or she died.

This Settlement does not relate to certain historical claims or any future claims of Class Members. It does not relate to claims tribes might have against the federal government.

#### 4. What is this lawsuit about?

The Settlement resolves claims that the federal government violated its trust duties to individual Indian trust beneficiaries. The claims fall into three areas:

- Historical Accounting Claims state that the federal government violated its trust duties by not providing a proper historical accounting relating to IIM accounts and other trust assets.
- Trust Administration Claims include:
  - Fund Administration Claims state that the federal government violated its trust duties and mismanaged individual Indian trust funds.
  - Land Administration Claims state that the federal government violated its trust responsibilities for management of land, oil, natural gas, mineral, timber, grazing, and other resources.

The federal government denies all these claims. It says it has no legal responsibility for these claims and owes nothing to the Class Members.

#### 5. Why is there a Settlement?

The Settlement is an agreement between the Plaintiffs and the federal government. Settlements end lawsuits. This does not mean the Court has ruled in favor of either side. The parties wish to resolve their differences and realize that many Class Members are elderly and dying and need to receive compensation. In addition, large numbers of Class Members currently live in poverty. So, after 14 years of litigation, both sides want to settle the lawsuit so individual Indian trust beneficiaries receive compensation for their claims. The Settlement will also help the federal government reduce future administration expenses and accounting issues. Class Representatives and lawyers representing them believe that the Settlement is reasonable under the circumstances.

### WHO IS IN THE SETTLEMENT?

#### 6. Who is part of the Settlement?

The proposed Settlement affects individual Indians across the country, including members of most federally recognized tribes west of the Mississippi River. The Settlement includes two groups or “Classes.” An individual may be a member of one or both Classes. Most people included in the Settlement are members of both Classes.

##### Historical Accounting Class

- Anyone alive on September 30, 2009,
- Who had an open IIM account anytime between October 25, 1994 and September 30, 2009, and
- Whose account had at least one cash transaction (that was not later reversed).

##### **Note to heirs:**

- The estate of an IIM account holder who was deceased as of September 30, 2009 is included in the Historical Accounting Class if the IIM account (or its related probate account) was open as of that date.

**QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT [WWW.INDIANTRUST.COM](http://WWW.INDIANTRUST.COM).**

- The heirs of any Class Member who died after September 30, 2009, but before distribution of any Settlement funds, will receive that Class Member's Settlement payments through probate.

#### Trust Administration Class

- Anyone alive on September 30, 2009, and who
  - Had an IIM account recorded in currently available electronic data in federal government systems ("Electronic Ledger Era") anytime from approximately 1985 to September 30, 2009, or
  - Can demonstrate ownership interest in trust land or land in restricted status as of September 30, 2009.
- The estate of any deceased beneficiary whose IIM account was open or whose trust assets had been in probate as reflected in the federal government's records as of September 30, 2009.

#### **Note to heirs:**

- The heirs of any Class Member who died after September 30, 2009, but before distribution of any Settlement funds, will receive that Class Member's Settlement payments through probate.

#### **7. Are there exceptions to being included?**

The Historical Accounting Class does not include individuals who filed a separate lawsuit before June 10, 1996, against the federal government making a claim for a complete historical accounting.

The Trust Administration Class does not include individuals who filed a separate lawsuit or who were part of a certified class in a class action lawsuit making a Funds Administration Claim or a Land Administration Claim against the federal government before **December 10, 2010**.

#### **8. If I never had an IIM account or my IIM account is now inactive or closed, does this Settlement affect me?**

It could. If you are included in the Historical Accounting Class and/or the Trust Administration Class as defined in Question 6, this Settlement does affect you.

If you **are NOT currently receiving quarterly or annual IIM account statements**, you should fill out a claim form and mail it to the address on the form. You can also submit your claim form online at [www.IndianTrust.com](http://www.IndianTrust.com). You may be asked to provide additional information to demonstrate your membership in the Historical Accounting Class and/or the Trust Administration Class. Claim forms and documentation will be due within 45 days of the Court's Final Approval of the Settlement (or, at a later date set by the Court). Final Approval will be after the Fairness Hearing. Check the website or call the toll-free number for information on the claims filing deadline.

#### **9. I'm not sure if I'm included in the Settlement.**

If you are not sure whether you are included in one or both Classes or you are unsure if the federal government has your current address, you should call toll-free 1-800-961-6109 with questions or visit [www.IndianTrust.com](http://www.IndianTrust.com). You may also write with questions to Indian Trust Settlement, P.O. Box 9577, Dublin, OH 43017-4877. If you believe that you should be considered a member of either Class, but are not receiving quarterly or annual IIM account statements, you must fill out a claim form and mail it to the address on the form. The deadline for filing claims is explained in Questions 8 and 24.

**QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT [WWW.INDIANTRUST.COM](http://WWW.INDIANTRUST.COM).**

## THE SETTLEMENT BENEFITS—WHAT YOU GET

### 10. What does the Settlement provide?

The Settlement will provide:

- \$1.412 billion Accounting/Trust Administration Fund, plus a \$100 million Trust Administration Adjustment Fund, plus any earned interest, to pay for Historical Accounting and Trust Administration Claims. This money will also pay for the cost of administering and implementing the Settlement, as well as other expenses (*see* Question 13).
- \$1.9 billion Trust Land Consolidation Fund to purchase “fractionated” individual Indian trust lands (*see* Question 11). The program will allow individual Indians to get money for land interests divided among numerous owners. Land sales are voluntary. If you sell your land it will be returned to tribal control.
- Up to \$60 million for an Indian Education Scholarship Fund to help Native Americans attend college or vocational school. This money will come out of the \$1.9 billion Trust Land Consolidation Fund and will be based upon the participation of landowners in selling these fractionated land interests.

More details are in a document called the Settlement Agreement, which is available at [www.IndianTrust.com](http://www.IndianTrust.com).

### 11. What is fractionated land?

Fractionated land is a parcel of land that has many owners, often hundreds of owners. Frequently, owners of highly fractionated land receive very little money from that land.

## ACCOUNTING/TRUST ADMINISTRATION FUND

### 12. How much will my payment be if I’m an Accounting Class Member?

Each member of the Historical Accounting Class will receive \$1,000. This is a per-person, not a per-account, payment.

### 13. How much will my payment be if I’m a Trust Administration Class Member?

It depends on how much income you’ve collected into your IIM account. Each member of the Trust Administration Class will receive a baseline payment of \$500. The \$100 million in the Trust Administration Adjustment Fund will be used to increase the minimum payment for Trust Administration Class Members. The current estimate is that will raise the minimum payment to Trust Administration Class Members to about \$800. Individuals with an IIM account open between 1985 and September 30, 2009 may receive more than \$800. This payment is separate from, and in addition to, the \$1,000 payment to individuals in the Historical Accounting Class.

The payment calculation uses the sum of your 10 highest years of income in your IIM account to determine your share of the Trust Administration Fund. That Fund is estimated to be \$850 million to \$1 billion. The exact dollar amount you will get cannot be known with certainty at this time because it is based on (a) the recorded income deposited to your IIM account over a period of time, and (b) the amount of money that will be left in the Accounting/Trust Administration Fund after deducting:

- All of the \$1,000 payments to Historical Accounting Class Members, and
- Attorneys' fees, their expenses, including expense reimbursements and possibly incentive fees to Class Representatives (*see* Question 33) and the costs of administering and implementing the Settlement.

Congress has determined that payments to Trust Administration Class Members should be increased for individuals whose payments are calculated to be:

- Zero; or
- Greater than zero (but only if you would have received a smaller Stage 2 payment (*see* Question 14) than Trust Administration Class Members whose payment is calculated to be zero).

**For example**, if you were supposed to receive a base payment of \$500, your payment might be increased to \$800. If your neighbor was supposed to receive a base payment of \$600, his payment might be increased to \$800.

The following are estimated calculations and are in addition to the \$1,000 you will receive as a member of the Historical Accounting Class. Your final Trust Administration payment could be more or less.

- If the sum of your 10 highest years of revenue is between \$0 and \$5,000, you may receive between \$800 and \$1,250.00.
- If the sum of your 10 highest years of revenue is between \$5,000.01 and \$15,000, you may receive between \$1,250.01 and \$2,500.
- If the sum of your 10 highest years of revenue is between \$15,000.01 and \$30,000, you may receive between \$2,500.01 and \$5,000.
- If the sum of your 10 highest years of revenue is between \$30,000.01 and \$75,000, you may receive between \$5,000.01 and \$12,000.
- If the sum of your 10 highest years of revenue is between \$75,000.01 and \$750,000, you may receive between \$12,000.01 and \$125,000.
- If the sum of your 10 highest years of revenue is greater than \$750,000.01, you may receive more than \$125,000.

If your account shows fewer than ten years of income, a zero dollar amount will be used in the years for which no income has been recorded. Reversed transactions and transfers between an individual's accounts will not be included in that calculation.

**QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT [WWW.INDIANTRUST.COM](http://WWW.INDIANTRUST.COM).**

#### 14. How will the Accounting/Trust Administration Fund be distributed?

If the Settlement is approved, there will be two distributions.

Stage 1 – The \$1,000 payments to Historical Accounting Class Members will be distributed shortly after the Settlement is approved and the Court’s order becomes final. For those Class Members who cannot be found, their payment will be deposited in a Remainder Account until the Class Member is located and can demonstrate his or her ownership interest. If a Class Member cannot be located prior to the conclusion of the distribution process, his or her funds will be transferred to the Indian Education Scholarship Fund (*see* Question 21).

Stage 2 – Payments to Trust Administration Class Members will be distributed after it is determined that substantially all the Trust Administration Class Members have been identified and the payments have been calculated (*see* Question 13).

#### 15. What happens to any funds left in the Accounting/Trust Administration Fund?

After all payments are made, any money that is left over will be contributed to the Indian Education Scholarship Fund (*see* Question 21).

### TRUST LAND CONSOLIDATION FUND

#### 16. What is the Trust Land Consolidation Fund?

Over time, through generations, Indian trust lands owned by individuals have been fractionated into smaller and smaller undivided (“fractionated”) ownership interests. According to government calculations, owners historically have received very little money and the cost to administer the IIM account frequently has been more than what is paid out to individual Indians.

The \$1.9 billion Trust Land Consolidation Fund will provide individual Indians with an opportunity to get money for the fractionated land. As an additional incentive for owners to sell their land interests, an amount above the fair-market value will be paid into the Indian Education Scholarship Fund (*see* Question 21).

The Trust Land Consolidation Fund will be used for four things: (1) to purchase the fractionated land interests, (2) to carry out the Trust Land Consolidation Program, (3) to further Trust Reform efforts (*see* Question 23), and (4) to set aside up to \$60 million for Indian scholarships. At least 85% of the Fund will be used to purchase land. The Department of the Interior will consult with tribes to identify fractionated interests that the Department may want to consider purchasing.

#### 17. How much money can I get from selling my land?

The Department of the Interior will offer fair market value for fractionated trust land.

**18. How can I sell my land?**

The procedures for selling trust land have not been determined at this point. Once those procedures have been determined, the Department of the Interior will attempt to contact individual Indian trust beneficiaries who own fractionated interests that it wishes to purchase.

**19. What happens to land when owners cannot be located?**

For fractionated interests that the Department of the Interior wishes to purchase, but whose owners cannot be located, Interior will attempt to find missing Class Members, including through the publication of notice in appropriate newspapers and newsletters for a period of at least six months. Five years after the Settlement is granted final approval, Class Members whose whereabouts are unknown, after diligent efforts have been made by the federal government to locate them, will be assumed to have consented to the transfer of their fractionated interests and their Indian Land Consolidation Funds will be deposited into an IIM account.

**20. How long will the Trust Land Consolidation Fund continue?**

The Department of the Interior will have up to 10 years from the date the Settlement is granted final approval to purchase the fractionated trust land. Any money remaining in the Land Consolidation Fund after that time will be returned to the U.S. Treasury.

**INDIAN EDUCATION SCHOLARSHIP FUND**

**21. How will the Indian Education Scholarship Fund work?**

The Indian Education Scholarship Fund will provide money for Native American students to attend college and vocational school. It will be funded in three ways:

- Up to \$60 million will come from the Trust Land Consolidation Fund in connection with the purchase of fractionated interests in trust land. Contributions will be as follows:

<b>Land Purchase Price</b>	<b>Contribution to Fund</b>
Less than \$200	\$10
Between \$200 - \$500	\$25
More than \$500	5% of the purchase price

The amount paid into the Indian Education Scholarship Fund is in addition to the fair market value amount that will be paid to the individual Indian landowner.

- Any remaining funds in the Accounting/Trust Administration Fund, after all distributions and costs relating to the Settlement are paid, will be transferred to the Indian Education Scholarship Fund.
- Any payments for Class Members that remain unclaimed for five years after Settlement is approved will be transferred to the Indian Education Scholarship Fund. This transfer will not occur for money being held for minors and adults who are mentally impaired, legally disabled, or otherwise in need of assistance.

**QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT [WWW.INDIANTRUST.COM](http://WWW.INDIANTRUST.COM).**



**22. How will the Indian Education Scholarship Fund be administered?**

A non-profit organization chosen by the parties will administer the Indian Education Scholarship Fund. A special board of trustees will oversee the Fund. The trustees will be selected by the Secretary of the Interior, the representative Plaintiffs, as well as the non-profit. The Secretary will select his trustees only after consulting with tribes and after considering names of possible candidates timely offered by tribes.

**INDIAN TRUST REFORM**

**23. How does this Settlement affect Indian trust reform?**

Reform of the Indian trust management and accounting system should continue in the future. The Settlement Agreement allows some funds in the Trust Land Consolidation Fund to be used to pay costs related to the work of a commission on Indian trust administration and reform. In the future, Class Members will still be able to bring claims against the federal government for trust reform.

**HOW TO GET A PAYMENT**

**24. How can I get a payment?**

To be eligible for any payments under the Settlement, you must be a member of one or both Classes. If you are not receiving quarterly or annual IIM account statements and you believe you are a member of either Class, you will need to fill out a claim form. The claim form describes what you need to provide to prove your claim and receive a payment. Please read the instructions carefully. Claim forms and documentation will be due within 45 days of the Court's Final Approval of the Settlement (or, at a later date set by the Court). Final Approval will be after the Fairness Hearing. Check the website or call the toll-free number for information on the claims filing deadline. The claim form should be sent to:

Indian Trust Settlement  
P.O. Box 9577  
Dublin, OH 43017-4877

If you are denied participation, there will be an opportunity to submit additional documentation.

**25. When will I get my payment?**

Payments will be made after the Court grants final approval of the Settlement, and any appeals are resolved.

**REMAINING IN THE SETTLEMENT**

**26. Do I need to do anything to remain in the Settlement?**

You do not have to do anything to remain in the Settlement unless you are not receiving quarterly IIM account statements. In that case, you will need to fill out and return a claim form in order to get a payment.

**QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT [WWW.INDIANTRUST.COM](http://WWW.INDIANTRUST.COM).**

## 27. What am I giving up as part of the Settlement?

If the Settlement becomes final, you will give up your right to sue the federal government for the claims being resolved by this Settlement. The specific claims you are giving up against the federal government are described in Section A, paragraphs 14, 15, and 21 of the Settlement Agreement. You will be “releasing” the federal government and all related people as described in Section I of the Settlement Agreement. The Settlement Agreement is available at [www.IndianTrust.com](http://www.IndianTrust.com).

If you did not receive an IIM account statement for 2009, you may request your IIM account balance as of September 30, 2009 by calling 888-678-6836. If you request your IIM account balance, you are agreeing to the balance provided by Interior unless you exclude yourself from the Settlement (*see* Question 28).

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions, you can talk to the law firms listed in Question 32 for free or you can talk to your own lawyer at your own expense.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

### 28. What if I don't want to be in the Settlement?

By law, you cannot exclude yourself from the Historical Accounting Class, if you are a member. You can only exclude yourself from the Trust Administration Class. If you don't want to be in that part of the Settlement, you must take steps to exclude yourself. This is sometimes called “opting out.” By excluding yourself, you keep the right to file your own lawsuit. Or you can join any other person who opted out and bring a separate lawsuit against the federal government on any Trust Fund Administration or Land Administration Claims that you may have.

If you choose to exclude yourself from the Trust Administration Class,

- You will not receive any money for your Fund Administration and Land Administration Claims.
- You will not be bound by the Court's ruling and will keep your right to sue the federal government for these Claims.
- You cannot object to or comment on this aspect of the Settlement as far as it concerns the Trust Administration Class.

If you are a member of the Historical Accounting Class:

- You **cannot** exclude yourself.
- If the Court approves the Settlement, you will not be able to sue the federal government about the Historical Accounting Claims.
- You will receive a \$1,000 payment.
- You can object to and/or comment on the terms of the Settlement.

**QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT [WWW.INDIANTRUST.COM](http://www.IndianTrust.com).**

**29. How do I get out of the Trust Administration Class?**

To exclude yourself, you must send a letter by mail saying that you want to be excluded from *Cobell v. Salazar*. Be sure to include your full name, telephone number, social security number, IIM account number(s) (if any), and your signature. You can't ask to be excluded on the phone or at the website. You must mail your exclusion request so that it is postmarked by **April 20, 2011** to:

Indian Trust Exclusions  
P.O. Box 9419  
Dublin, OH 43017-4519

Please note that the share of money you would have received if you had stayed in the Trust Administration Class will be removed from the \$1.512 billion Accounting/Trust Administration Fund and given back to the federal government.

**OBJECTING TO OR COMMENTING ON THE SETTLEMENT**

**30. How can I object to or comment on the Settlement?**

Any Class Member may comment on or object to the Settlement. However, if you exclude yourself from the Trust Administration Class, you may only object to, or comment on, other parts of the Settlement that you do not like. Also, you may comment on or object to fee and expense requests for Class Counsel and incentive awards and expenses for Class Representatives and other amounts that may be awarded by the Court (*see* Question 33). If you object to any part of the Settlement you must give reasons why. You may also comment favorably on any part of the Settlement. To object or comment, send a letter stating:

- a) The case name (*Cobell v. Salazar*) and case number (1:96cv01285);
- b) Your full name, address, telephone number, IIM Account Number(s) and signature;
- c) Comments you have about any aspect of the Settlement, including (1) fee and expense requests for Class Counsel, (2) incentive awards and expenses for Class Representatives, or (3) other fees and expenses that may be awarded. Your comments must state the specific reasons why you are objecting to the Settlement; and
- d) Any legal support or factual evidence that you wish to bring to the Court's attention, any grounds to support your status as a Class Member, and whether you intend to appear at the Fairness Hearing.

Mail your comments or objection to these three different places postmarked no later than **April 20, 2011**:

COURT	CLASS COUNSEL	DEFENSE COUNSEL
Clerk's Office United States District Court for the District of Columbia 333 Constitution Avenue, N.W. Washington, DC 20001	Cobell Class Counsel 607 14th Street, NW Suite 900 Washington, DC 20005-2018	Robert E. Kirschman, Jr. Dept of Justice, Civil Div. P.O. Box 875 Ben Franklin Station Washington, DC 20044

At your own expense, you may also appear at the Fairness Hearing to comment on or object to any aspect of the fairness, reasonableness, or adequacy of the Settlement (*see* Question 36).

**QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT [WWW.INDIANTRUST.COM](http://WWW.INDIANTRUST.COM).**

**31. What's the difference between objecting to and excluding myself from the Settlement?**

You object to the Settlement when you disagree with some part of it but you wish to remain a Class Member. An objection allows the Court to consider your views. On the other hand, exclusion or "opting out" means that you do not want to be part of the Trust Administration Class or share in the benefits of that part of the Settlement. Once excluded, you lose any right to object to any part of the Settlement that relates to the Trust Fund Administration Claims or the Land Administration Claims, because those parts of the case no longer affect you. If you exclude yourself, you are free to bring your own lawsuit for those claims.

**THE LAWYERS REPRESENTING YOU**

**32. Do I have a lawyer in the case?**

Yes. The Court has appointed lawyers to represent you and other Class Members as "Class Counsel," including:

Dennis Gingold 607 14 <sup>th</sup> Street NW, Suite 900 Washington, DC 20005-2018	Keith Harper Kilpatrick Townsend & Stockton LLP 607 14 <sup>th</sup> Street NW, Suite 900 Washington, DC 20005-2018
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You will not be charged personally for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own personal expense.

**33. How will the lawyers be paid? Do the Class Representatives get paid extra?**

The amount of attorneys' fees, expenses and costs to be paid to Class Counsel will be decided by the Court in accordance with controlling law, giving due consideration to the special status of Class Members as beneficiaries of a federally created and administered trust. The amounts awarded will be paid from the Accounting/Trust Administration Fund.

In accordance with the Settlement Agreement, plaintiffs have filed a Notice with the Court to state the amount of fees, expenses, and costs they will assert through December 7, 2009. Plaintiffs' Notice states the following:

1. On December 7, 2009 the parties signed an Agreement on Attorneys' Fees, Expenses and Costs, stating in their motion for attorneys' fees, expenses and costs that plaintiffs may not assert that Class Counsel should be paid more than an additional \$99,900,000.00. In response, defendants may not assert that Class Counsel should be paid less than \$50,000,000.00. This Agreement is available at [www.IndianTrust.com](http://www.IndianTrust.com).
2. Plaintiffs' petition will assert that Class Counsel should be paid \$99.9 million for fees, expenses, and costs through December 7, 2009.

3. Class Counsel are working pursuant to contingency fee agreements, which provide that Class Counsel shall be paid a combined total of 14.75% of the funds that are created for the benefit of the classes. Applying that percentage to the \$1,512,000,000 to be deposited into the Settlement Account would result in an award of \$223,020,000.00 for Class Counsel.
4. The Court is not bound by any agreed upon or requested amounts, or the contingency fee agreements between Class Representatives and Class Counsel. The Court has discretion to award greater or lesser amounts to Class Counsel in accordance with controlling law, giving due consideration to the special status of Class Members as beneficiaries of a federally created and administered trust.

The Agreement on Attorneys' Fees, Expenses and Costs, as modified, also provides that Class Counsel may be paid up to \$12 million for work, expenses and costs after December 7, 2009. Class Counsel will not be entitled to be paid such amounts unless the Settlement is given final approval by the Court. All such requests for fees, expenses, and costs after December 7, 2009 are to be based on Class Counsel's actual billing rates and are subject to approval of the Court, following an opportunity for Class Members to object and defendants to respond.

Plaintiffs will file a petition for payment of attorneys' fees and a memorandum of points and authorities in support of that request no later than **January 20, 2011**. That petition and memorandum will also be available at [www.IndianTrust.com](http://www.IndianTrust.com). As required by the Agreement on Attorneys' Fees, Expenses and Costs, at the same time Plaintiffs file the petition for attorneys' fees, they will also file statements regarding Class Counsel's billing rates, as well as contemporaneous, where available, and complete daily time, expense, and cost records supporting that petition. Those records will thereafter be available at the Clerk's Office, United States District Court for the District of Columbia, 333 Constitution Ave. NW, Washington, DC 20001.

Plaintiffs have also filed a notice with the Court that they will seek incentive awards and expense reimbursements for the Class Representatives as follows:

Elouise Pepion Cobell	\$2,000,000.00
James Louis Larose	\$ 200,000.00
Thomas Maulson	\$ 150,000.00
Penny Cleghorn	\$ 150,000.00

Plaintiffs will also be requesting \$10.5 million to reimburse the Class Representatives' expenses. The requested amounts are in addition to payments the Class Representatives will be entitled to as Class Members. Any amounts awarded will be paid from the Accounting/Trust Administration Fund.

Plaintiffs will file a petition for payment of those incentive awards and a memorandum of points and authorities in support of that request no later than **January 20, 2011**. That petition and memorandum will also be available at [www.IndianTrust.com](http://www.IndianTrust.com).

Class Members and Defendants may object to or comment on plaintiffs' requests for Class Counsel and Class Representatives (*see* Question 30 above). After considering the objections and comments of Defendants and Class Members, the Court will determine the amounts of (a) attorneys' fees, expenses and costs and (b) plaintiffs' incentive awards and expense reimbursement in accordance with controlling law giving due consideration to the special status of Class Members as beneficiaries of a federally created and administered trust.

## THE COURT'S FAIRNESS HEARING

### 34. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing at 10:00 am on **June 20, 2011**, at the United States District Court for the District of Columbia, 333 Constitution Avenue NW, Washington, DC. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check [www.IndianTrust.com](http://www.IndianTrust.com) or call 1-800-961-6109.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will also consider how much to pay the lawyers representing Class Members and whether to award any additional payment to the Class Representatives. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

### 35. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to come at your own expense. If you send an objection or comment, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay another lawyer to attend on your behalf, but it's not required.

### 36. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Fairness Hearing. You may appear at the Fairness Hearing to comment on or object to any aspect of the fairness, reasonableness, or adequacy of the Settlement.

## GETTING MORE INFORMATION

### 37. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement and the subsequent modifications to it at [www.IndianTrust.com](http://www.IndianTrust.com). You may also write with questions to Indian Trust Settlement, P.O. Box 9577, Dublin, OH 43017-4877. You can also register for updates and get a claim form at the website, or by calling the toll-free number, 1-800-961-6109.

**QUESTIONS? CALL TOLL-FREE 1-800-961-6109 OR VISIT [WWW.INDIANTRUST.COM](http://WWW.INDIANTRUST.COM).**

*COBELL V. SALAZAR*  
SUMMARY OF SANCTIONS and FEES PAID TO PLAINTIFFS

Issue	Amount	Notes
Contempt I	\$624,643.50	Approved Aug. 10, 1999, Dkt. 366
Trade Secrets/E-mail	\$125,484.87	Approved Nov. 12, 2002, Dkt.1603
Infield Retaliation	\$527,490.45	Part of Settlement and Dismissal, see S.M. Order of Jan. 15, 2003, Not Docketed. Approved by the Court Feb. 5, 2003, Dkt. 1788.
Interim EAJA Fees for Trial I Issues		Requested Oct. 9, 2003, Dkt. 2328. Opposition filed Oct. 23, 2004, Dkt.2346. Pltfs Reply filed Nov. 3, 2003, Dkt. 2362. May 27, 2004 Order denied fees for litigation misconduct, granted Fees for Trial 1 and subsequent Trial 1 issues. Fees for Trial 1.5 and facts related to litigation misconduct relied on in Trial 1.5 and facts related to litigation misconduct relied on in Trial 1.5 denied without prejudice, Dkt. 2583. Pltfs Interim EAJA Fees Request (\$9,996,156.60 in Attorney fees and \$4,528,684.00 for Expenses) filed Aug. 17, 2004, Dkt. 2627. Objection filed Sept. 7, 2004, Dkt. 2676. Reply filed Sept. 28, 2004, Dkt. 2705. EAJA Fee Awarded Dec. 19, 2005, Dkt. 3222 and 3223, based on Trial 1 and bad faith, but Pltfs have not demonstrated they are prevailing parties in Contempt II or 1.5 Matters.
Attorney Fees	\$4,534,275.97	
Expenses	\$2,532,195.08	
Erwin Deposition	\$162,761.52	Granted Feb.5, 2003, Dkt. 1772. Fees filed Nov. 15, 2004, Dkt. 2762. Objection filed Dec. 14, 2004, Dkt. 2783. Reply filed Dec. 22, 2004, Dkt. 2793. Def's Surreply filed Jan. 3, 2005, Dkt. 2803. Objection filed Jan. 14, 2005, Dkt. 2814. Reply filed Jan. 25, 2005, Dkt. 2819. Approved Apr. 20, 2007, Dkt. 3312.
Sapienza Declaration	\$384,427.12	Granted Mar. 11, 2003, Dkt. 1898. Motion for Reconsideration denied May 25, 2004, Dkt. 2581. Fees and Costs filed June 21, 2004, Dkt. 2596. Objection filed Jul. 21, 2004, Dkt. 2616. Reply filed Jul. 22, 2004, Dkt. 2617. 2819. Approved Apr. 20, 2007, Dkt. 3312.
Total:	\$8,891,278.51	

Date	Initials	Name	Hours	Description
5/6/1998	DMG	Dennis M. Gingold	0.2	Review defs' proposed order.
5/6/1998	DMG	Dennis M. Gingold	0.5	Telcoms. WSJ re case status.
5/6/1998	DMG	Dennis M. Gingold	0.1	Telcom. Fasold re alternative data sources.
5/6/1998	DMG	Dennis M. Gingold	1.0	Conference call NARF re above.
5/6/1998	DMG	Dennis M. Gingold	0.4	Telcoms counsel to Quinault TB re lost access to IIM trust records.
5/6/1998	TH	Thaddeus Holt	1.9	Telcom Gingold re his discussions with Wiener re depo scheduling; confce call NARF. Gingold re depositions of Andersen Christie, Erwin
5/6/1998	TH	Thaddeus Holt	1.1	Study govt's motion to defer depositions, draft response
5/6/1998	TH	Thaddeus Holt	1.7	Confce calls Gingold, Holt re depositions, case management issues
5/7/1998	DMG	Dennis M. Gingold	4.0	Research evidentiary issues.
5/7/1998	DMG	Dennis M. Gingold	1.3	Conference calls Weiner, Eschen re various pre-trial issues.
5/7/1998	DMG	Dennis M. Gingold	0.7	Telcoms. Weiner re same, e.g., deposition issues.
5/7/1998	DMG	Dennis M. Gingold	3.5	Review docs re Erwin deposition.
5/7/1998	DMG	Dennis M. Gingold	0.2	Review reply brief.
5/7/1998	DMG	Dennis M. Gingold	0.3	Telcom foundation re litigation funding.
5/7/1998	DMG	Dennis M. Gingold	2.1	Telcoms. Holt re deposition issues; reply brief; order.
5/7/1998	DMG	Dennis M. Gingold	0.6	Telcoms. Pollner re deposition issues, strategy.
5/7/1998	DMG	Dennis M. Gingold	0.5	Telcoms. Perego re above.
5/7/1998	DMG	Dennis M. Gingold	0.1	Telcom. Fasold re alternative data sources.
5/7/1998	TH	Thaddeus Holt	2.9	Revise response to govt's motion to postpone depositions, telcoms Gingold and Perego re same, telcoms Gingold re case management
5/8/1998	DMG	Dennis M. Gingold	1.3	Telcoms. Weiner re deposition dates, issues.
5/8/1998	DMG	Dennis M. Gingold	0.5	Review PW questions for Erwin deposition.
5/8/1998	DMG	Dennis M. Gingold	0.2	Prepare memo to Perego re Erwin issues.
5/8/1998	DMG	Dennis M. Gingold	2.4	Telcoms. Holt re transcripts; DOJ filing; deposition issues.
5/8/1998	DMG	Dennis M. Gingold	1.5	Telcoms. Pollner re deposition issues.
5/8/1998	DMG	Dennis M. Gingold	0.8	Telcoms. Harper re deposition issues.
5/8/1998	DMG	Dennis M. Gingold	0.7	Telcoms court reporter re deposition dates.
5/8/1998	DMG	Dennis M. Gingold	3.0	Prepare deposition questions.
5/8/1998	DMG	Dennis M. Gingold	0.1	Telcom court clerk re status conference.
5/8/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Perego re deposition dates.
5/8/1998	DMG	Dennis M. Gingold	0.1	Telcom foundation re litigation funding.
5/8/1998	TH	Thaddeus Holt	1.8	Telcoms, voicemails Gingold re depositions
5/9/1998	DMG	Dennis M. Gingold	0.4	Telcom. Holt re depositions; Lasiter docs.
5/9/1998	DMG	Dennis M. Gingold	6.0	Prepare questions for Christie, Lasiter, Preber depositions.
5/9/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Harper re same.
5/9/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Bardnell re accounting codes; Treasury issues.
5/9/1998	TH	Thaddeus Holt	1.5	Review files for depositions next week, telcom Gingold re govt's time estimates for production
5/10/1998	DMG	Dennis M. Gingold	3.0	Review data clean-up issues; docs.
5/10/1998	DMG	Dennis M. Gingold	3.5	Prepare for depositions.
5/10/1998	DMG	Dennis M. Gingold	0.5	Telcom. Perego re missing docs/data.
5/10/1998	TH	Thaddeus Holt	7	Reviewing Christie affidavits, former notes for Christie, met with Gingold re Christie depo, outlining questions
5/11/1998	DMG	Dennis M. Gingold	2.5	Discussion with Holt deponents; issues; docs.
5/11/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Weiner re depositions.
5/11/1998	DMG	Dennis M. Gingold	0.6	Conference call Holt, Pollner re above; data.
5/11/1998	DMG	Dennis M. Gingold	0.3	Conference call Bardnell, Pollner re same.
5/11/1998	DMG	Dennis M. Gingold	8.9	Review PW documentation/questions re same for depositions.
5/11/1998	DMG	Dennis M. Gingold	0.1	Conference call Holt, Bardnell re data integrity.
5/11/1998	DMG	Dennis M. Gingold	0.1	Telcom. NARF re docs organized for depositions.
5/11/1998	DMG	Dennis M. Gingold	0.4	Telcoms. Pollner re deposition questions.
5/11/1998	DMG	Dennis M. Gingold	0.4	Telcoms. Perego re deposition questions.
5/11/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Bardnell re same; experts.
5/11/1998	DMG	Dennis M. Gingold	0.1	Conference call Holt, Perego re same.
5/11/1998	DMG	Dennis M. Gingold	0.1	Telcoms. Echohawk re foundation funding.
5/11/1998	TH	Thaddeus Holt	7	Working on Christie depo, confces Gingold re same, telcoms Pollner re same
5/12/1998	DMG	Dennis M. Gingold	4.8	Appear/assist at Christie deposition.
5/12/1998	DMG	Dennis M. Gingold	0.8	Work on additional deposition questions.
5/12/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Bardnell re same.
5/12/1998	DMG	Dennis M. Gingold	1.1	Meet with Holt and telcom re deposition post mortem; new information; Qs.
5/12/1998	DMG	Dennis M. Gingold	0.1	Telcom foundation re litigation funding.
5/12/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Ms. Cobell re above.
5/12/1998	DMG	Dennis M. Gingold	0.7	Telcoms. Perego re above.
5/12/1998	DMG	Dennis M. Gingold	0.4	Conference call Harper, Babby re above.
5/12/1998	TH	Thaddeus Holt	9	Christie depo (first day), followup
5/13/1998	DMG	Dennis M. Gingold	0.2	Prepare memo to Weiner requesting production of AA workpapers.
5/13/1998	DMG	Dennis M. Gingold	3.3	Continuing deposition.
5/13/1998	DMG	Dennis M. Gingold	0.5	Telcoms. Rempel re depo transcript; docs re same.
5/13/1998	DMG	Dennis M. Gingold	0.1	Telcom. Holt re Preber workpapers; Bodedeker deposition date; Perlmutter deposition re A/C privilege.
5/13/1998	DMG	Dennis M. Gingold	0.1	Conference call Rempel, Bardnell re deposition issues.
5/13/1998	DMG	Dennis M. Gingold	0.5	Telcoms. Babby re same.
5/13/1998	DMG	Dennis M. Gingold	0.6	Telcoms. Ms. Cobell re Christie deposition.
5/13/1998	DMG	Dennis M. Gingold	0.1	Telcom. Weiner re AA/Preber workpapers.
5/13/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Perego re above.



Date	Initials	Name	Hours	Description
5/13/1998	DMG	Dennis M. Gingold	0.4	Conference call Quinault TB and her counsel re lost access to IIM trust records.
5/13/1998	DMG	Dennis M. Gingold	0.1	Telcom counsel for Quinault TB re same.
5/13/1998	TH	Thaddeus Holt	3.5	Christie depo (second day), followup
5/14/1998	DMG	Dennis M. Gingold	0.3	Telcoms foundation re litigation funding.
5/14/1998	DMG	Dennis M. Gingold	0.1	Telcom. Echohawk re same
5/14/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Weiner re Preber deposition.
5/14/1998	DMG	Dennis M. Gingold	2.3	Review privilege issues.
5/14/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Pollner re Preber depo Q's/issues.
5/14/1998	DMG	Dennis M. Gingold	0.4	Telcoms. Peregoy re above.
5/14/1998	DMG	Dennis M. Gingold	0.5	Telcom. Harper re same.
5/14/1998	DMG	Dennis M. Gingold	0.4	Telcoms. McCarthy re class communications.
5/14/1998	DMG	Dennis M. Gingold	0.2	Telcoms. WSJ re status.
5/14/1998	DMG	Dennis M. Gingold	0.1	Telcom. Holt re Preber deposition.
5/14/1998	TH	Thaddeus Holt	0.1	Voicemail Gingold re depo schedules
5/15/1998	DMG	Dennis M. Gingold	0.7	Telcoms. Weiner re Preber deposition/workpapers.
5/15/1998	DMG	Dennis M. Gingold	0.7	Telcoms. Holt re same.
5/15/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Pollner re same.
5/15/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Rempel re Preber Q's.
5/15/1998	DMG	Dennis M. Gingold	0.2	Telcom. Bardnell re Preber Q's; docs.
5/15/1998	DMG	Dennis M. Gingold	1.5	Research executive/deliberative process privilege.
5/15/1998	DMG	Dennis M. Gingold	0.6	Telcoms. Peregoy re above.
5/15/1998	DMG	Dennis M. Gingold	0.1	Telcom. Babby re same.
5/15/1998	DMG	Dennis M. Gingold	0.1	Telcom. Fasold re alternative data sources.
5/15/1998	DMG	Dennis M. Gingold	0.2	Conference call NARF re same.
5/15/1998	TH	Thaddeus Holt	1.4	Voicemails Gingold re Preber depo, confce call Gingold, NARF re same
5/17/1998	TH	Thaddeus Holt	3	Review Price Waterhouse, Andersen material, Preber affidavit; prepare for Preber depo
5/18/1998	DMG	Dennis M. Gingold	0.1	Telcom court reporter re cancellation of this day's deposition.
5/18/1998	DMG	Dennis M. Gingold	1.8	At PW, meet on deposition issues; questions.
5/18/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Bardnell re same; monthly invoice.
5/18/1998	DMG	Dennis M. Gingold	1.1	Conference call NARF re above
5/18/1998	DMG	Dennis M. Gingold	0.4	Telcoms. Rempel re Bardnell deposition questions.
5/18/1998	DMG	Dennis M. Gingold	0.1	Telcom. NARF re docs for depositions.
5/18/1998	DMG	Dennis M. Gingold	0.1	Telcom foundation re litigation funding.
5/18/1998	DMG	Dennis M. Gingold	0.9	Telcoms. Peregoy re above.
5/18/1998	DMG	Dennis M. Gingold	0.4	Discussion with Holt.
5/18/1998	DMG	Dennis M. Gingold	5.6	Review docs re Preber deposition.
5/18/1998	TH	Thaddeus Holt	10	Preparing for Preber depo: Outlining questions, met with Price Waterhouse with Gingold, confces Gingold, confce call with NARF re strategy and status confce
5/19/1998	DMG	Dennis M. Gingold	6.9	Appear/assist at Preber deposition; meet with Holt, Bardnell Forhez, Rempel re Lasiter deposition and strategic issues re same.
5/19/1998	DMG	Dennis M. Gingold	0.1	Telcom foundation re litigation funding.
5/19/1998	DMG	Dennis M. Gingold	6.4	Review docs re Lasiter deposition.
5/19/1998	TH	Thaddeus Holt	7	Preber depo; followup confce Gingold, Bardnell, other Price Waterhouse personnel re alternative approach to correcting accounts
5/20/1998	DMG	Dennis M. Gingold	1.6	Telcoms. Pollner re Q's for Lasiter deposition; statistical modeling issues.
5/20/1998	DMG	Dennis M. Gingold	0.7	Telcoms. Peregoy re Preber deposition; status conference; statistics;
5/20/1998	DMG	Dennis M. Gingold	0.4	Review transcripts re statistical issues.
5/20/1998	DMG	Dennis M. Gingold	0.2	Telcom. Harper re same.
5/20/1998	DMG	Dennis M. Gingold	0.2	Telcoms court reporter re deposition transcripts; timing.
5/20/1998	DMG	Dennis M. Gingold	0.8	In court, status conference.
5/20/1998	DMG	Dennis M. Gingold	0.8	Meet with Peregoy re above.
5/20/1998	DMG	Dennis M. Gingold	1.0	Meet with Holt and Peregoy re above.
5/20/1998	DMG	Dennis M. Gingold	0.1	Telcom. Holt re same
5/20/1998	DMG	Dennis M. Gingold	5.0	Review docs re Lasiter deposition.
5/20/1998	TH	Thaddeus Holt	10	Met with Pollner re Lasater depo; prepare for Lasater depo; prepare for status confce. attend same ( 2 hours court time)
5/21/1998	DMG	Dennis M. Gingold	0.6	Telcoms. Weiner re expedited Preber docs; Lasiter deposition issues/docs.
5/21/1998	DMG	Dennis M. Gingold	0.3	Conference call Holt, Pollner, Rempel re same.
5/21/1998	DMG	Dennis M. Gingold	1.6	Review trust cases.
5/21/1998	DMG	Dennis M. Gingold	3.6	Draft memo to Pollner re Boedecker deposition.
5/21/1998	DMG	Dennis M. Gingold	1.1	Telcoms. Peregoy re subpoenas; Boedecker deposition; motion to compel; Lasiter docs.
5/21/1998	DMG	Dennis M. Gingold	0.1	Telcom Echohawk re litigation funding.
5/21/1998	DMG	Dennis M. Gingold	0.1	Telcom. Bardnell re Lasiter deposition.
5/21/1998	DMG	Dennis M. Gingold	0.1	Telcom foundation re litigation funding.
5/21/1998	DMG	Dennis M. Gingold	0.1	Telcom foundation re litigation funding.
5/21/1998	DMG	Dennis M. Gingold	0.2	Conference call Quinault TB and her counsel re lost access to IIM trust records.
5/21/1998	DMG	Dennis M. Gingold	0.3	Telcoms counsel for Quinault TB re same.
5/21/1998	DMG	Dennis M. Gingold	0.2	Discussion with Pollner re Christie deposition.
5/21/1998	DMG	Dennis M. Gingold	0.2	Telcoms. WSJ re DOI trust reform budget.
5/21/1998	TH	Thaddeus Holt	7	Lasater depo with prep and followup; Washington-Point Clear
5/22/1998	DMG	Dennis M. Gingold	0.2	Review PW schedule re BIA/Cobell docs.
5/22/1998	DMG	Dennis M. Gingold	1.9	Telcoms. Pollner re 5NP/BIA docs; Erwin docs; Boedecker docs.
5/22/1998	DMG	Dennis M. Gingold	0.1	Telcoms. Holt re above.
5/22/1998	DMG	Dennis M. Gingold	0.4	Telcom. Rempel re BIA docs; Erwin docs.
5/22/1998	DMG	Dennis M. Gingold	2.7	Review materials re Erwin.

Date	Initials	Name	Hours	Description
5/22/1998	DMG	Dennis M. Gingold	0.6	Telcom. BIA staff re Erwin issues.
5/22/1998	DMG	Dennis M. Gingold	0.4	Telcoms. Peregoy re depositions.
5/22/1998	DMG	Dennis M. Gingold	0.2	Telcoms counsel to Quinault TB re lost access to IIM trust records.
5/22/1998	DMG	Dennis M. Gingold	0.1	Telcom court reporter re transcripts.
5/22/1998	DMG	Dennis M. Gingold	0.1	Telcom foundation re litigation funding.
5/22/1998	DMG	Dennis M. Gingold	3.1	Review data clean-up contracts re representations on staffing re trust reform.
5/22/1998	TH	Thaddeus Holt	0.7	Telcoms, voicemails Gingold re Lasater depo
5/23/1998	DMG	Dennis M. Gingold	9.3	Review docs re Lasiter/Boedecker depositions.
5/24/1998	DMG	Dennis M. Gingold	10.4	Review docs re Lasiter/Boedecker depositions.
5/26/1998	DMG	Dennis M. Gingold	2.5	At PW, meet with PW, Harper re Erwin depo/docs.
5/26/1998	DMG	Dennis M. Gingold	0.8	Telcoms. Peregoy re doc requests; 5NP docs; deposition issues.
5/26/1998	DMG	Dennis M. Gingold	0.1	Telcom. Bardnell re 12/10/97 letter.
5/26/1998	DMG	Dennis M. Gingold	0.1	Conference call Harper, Peregoy re defs' 12/27/96 status report to the court, detailing 5NP production; orders.
5/26/1998	DMG	Dennis M. Gingold	0.4	Review privilege issues.
5/26/1998	DMG	Dennis M. Gingold	0.2	Telcoms court reporter re transcripts.
5/26/1998	DMG	Dennis M. Gingold	0.8	Telcoms. Holt re 5/27 Erwin deposition; 5NP production.
5/26/1998	DMG	Dennis M. Gingold	0.4	Telcoms. Pollner re May, June statistical data.
5/26/1998	DMG	Dennis M. Gingold	0.4	Telcoms. Harper re Erwin deposition issues.
5/26/1998	DMG	Dennis M. Gingold	5.0	Review 5NP docs.
5/26/1998	TH	Thaddeus Holt	0.5	Telcom Harper re Erwin depo, related matters
5/26/1998	TH	Thaddeus Holt	0.6	Telcoms, voicemails Gingold re discovery
5/27/1998	DMG	Dennis M. Gingold	1.2	Telcoms. Peregoy re deposition schedule; interrogatories; doc production;
5/27/1998	DMG	Dennis M. Gingold	1.1	Review interrogatories.
5/27/1998	DMG	Dennis M. Gingold	0.3	Conference call Harper, Babby re land consolidation issues.
5/27/1998	DMG	Dennis M. Gingold	0.4	Telcoms. Gooding re MMS data.
5/27/1998	DMG	Dennis M. Gingold	0.1	Telcom Quinault TB re lost access to IIM records.
5/27/1998	DMG	Dennis M. Gingold	7.1	Review Boedecker docs re deposition.
5/28/1998	DMG	Dennis M. Gingold	7.0	Appear/assist Erwin deposition.
5/28/1998	DMG	Dennis M. Gingold	0.2	Telcoms foundation re litigation funding.
5/28/1998	DMG	Dennis M. Gingold	0.1	Telcom. Gooding re Quinault data/doc issues.
5/28/1998	DMG	Dennis M. Gingold	0.2	Review defs' status report to court re compliance with 11/27/96 order.
5/28/1998	DMG	Dennis M. Gingold	0.5	Telcoms. Holt re same; deposition issues.
5/28/1998	DMG	Dennis M. Gingold	0.3	Telcoms Quinault TB re lost acces to IIM records.
5/28/1998	TH	Thaddeus Holt	0.5	Telcoms Gingold re Erwin depo
5/29/1998	DMG	Dennis M. Gingold	4.2	Work on issues re defs' doc production reports.
5/29/1998	DMG	Dennis M. Gingold	4.0	Work on RFP.
5/29/1998	DMG	Dennis M. Gingold	0.5	Telcoms. Pollner re Ervin deposition issues; 5NP production
5/29/1998	DMG	Dennis M. Gingold	0.6	Telcoms. Peregoy re depositions; production; RFP.
5/29/1998	DMG	Dennis M. Gingold	0.5	Discuss with Peregoy receiver for IIM Trust.
5/29/1998	DMG	Dennis M. Gingold	0.1	Telcom foundation re litigation funding.
5/30/1998	DMG	Dennis M. Gingold	0.4	Review updated PW doc production list.
5/30/1998	DMG	Dennis M. Gingold	3.4	Review/revise RFP.
5/30/1998	DMG	Dennis M. Gingold	4.1	Review defs' opposition to deposition of Shields, Cohen, et al and asserted privileges.
5/30/1998	DMG	Dennis M. Gingold	0.1	Telcom. Harper re RFP.
5/31/1998	DMG	Dennis M. Gingold	10.1	Review 5NP production.
6/1/1998	DMG	Dennis M. Gingold	5.6	Work on RFP.
6/1/1998	DMG	Dennis M. Gingold	1.6	Telcoms. Peregoy re 5NP production; legislation.
6/1/1998	DMG	Dennis M. Gingold	0.5	Telcoms. Holt re doc production; conference cal with NARF.
6/1/1998	DMG	Dennis M. Gingold	0.2	Telcoms. NARF re docs.
6/1/1998	DMG	Dennis M. Gingold	0.2	Telcoms foundation re litigation funding.
6/1/1998	DMG	Dennis M. Gingold	0.4	Revise RFP per research.
6/1/1998	TH	Thaddeus Holt	0.7	Telcoms, voicemails Gingold re document production, status confce matters
6/2/1998	DMG	Dennis M. Gingold	0.1	Telcom. Eschen re doc production issues.
6/2/1998	DMG	Dennis M. Gingold	0.2	Telcom foundation re litigation funding.
6/2/1998	DMG	Dennis M. Gingold	0.5	Conference call Harper, Babby re doc production.
6/2/1998	DMG	Dennis M. Gingold	0.1	Telcom. Forhecz re alternative methodology required due to data problems.
6/2/1998	DMG	Dennis M. Gingold	1.0	Telcoms. Peregoy re letter to Glidden; rescheduled conference call.
6/2/1998	DMG	Dennis M. Gingold	0.1	Telcom. Gooding re statistical concerns in view of production issues.
6/2/1998	DMG	Dennis M. Gingold	0.1	Telcom. Pollner re inadequate 5NP production.
6/2/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Holt re doc production problems; conference call.
6/2/1998	DMG	Dennis M. Gingold	0.6	Review/comment on Cong. Young letter.
6/2/1998	DMG	Dennis M. Gingold	2.3	Conference call NARF, Holt re above.
6/2/1998	DMG	Dennis M. Gingold	5.2	Review 5NP production.
6/2/1998	TH	Thaddeus Holt	2.3	Confce call NARF, Gingold re discovery, other matters; review discovery posture, telcom Gingold
6/3/1998	DMG	Dennis M. Gingold	1.1	Review/revise Young draft.
6/3/1998	DMG	Dennis M. Gingold	0.3	Review/revise RFP.
6/3/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Babby re RFP.
6/3/1998	DMG	Dennis M. Gingold	0.3	Review proposed legislation.
6/3/1998	DMG	Dennis M. Gingold	0.1	Conference call Babby, Peregoy re same.
6/3/1998	DMG	Dennis M. Gingold	1.2	Telcoms. Peregoy re same; sections 5BC, 15, & 16 re DOI; 2nd order for production.
6/3/1998	DMG	Dennis M. Gingold	0.5	Draft footnote re Cleghorn response.
6/3/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Holt re doc issues.
6/3/1998	DMG	Dennis M. Gingold	0.4	Telcom. Pollner re same.

Date	Initials	Name	Hours	Description
6/3/1998	DMG	Dennis M. Gingold	0.2	Conference call Peregoy, Babby re doc issues.
6/3/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Bardnell re same.
6/3/1998	TH	Thaddeus Holt	0.3	Telcoms, voicemails Gingold re document production
6/4/1998	DMG	Dennis M. Gingold	2.0	Meet with foundation re litigation funding.
6/4/1998	DMG	Dennis M. Gingold	0.7	Telcoms. Holt re doc production, DOJ notice, Eschen, meeting with Babby.
6/4/1998	DMG	Dennis M. Gingold	0.4	Review RFP; PW comments re same vis-à-vis 5NP production.
6/4/1998	DMG	Dennis M. Gingold	1.9	Telcoms. Bardnell re data/modeling issues.
6/4/1998	DMG	Dennis M. Gingold	1.2	Telcoms. Peregoy re LRIS systemic issues; doc production issues.
6/4/1998	DMG	Dennis M. Gingold	0.1	Telcom. Harper re deposition Q's.
6/4/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Babby re doc production.
6/4/1998	TH	Thaddeus Holt	0.7	Telcoms, voicemails Gingold re PW prem=liminary review of documents produced by govt
6/5/1998	DMG	Dennis M. Gingold	0.4	Telcoms. Ms. Cobell re Lasiter deposition.
6/5/1998	DMG	Dennis M. Gingold	7.8	Review docs re Lasiter deposition.
6/5/1998	DMG	Dennis M. Gingold	0.7	Telcom. Peregoy re court reporter; Lasiter deposition.
6/5/1998	DMG	Dennis M. Gingold	0.4	Telcoms. Harper re Lasiter.
6/5/1998	DMG	Dennis M. Gingold	0.1	Telcom. Bardnell re same.
6/5/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Pollner re same.
6/5/1998	DMG	Dennis M. Gingold	0.8	Telcoms. Babby re same.
6/5/1998	DMG	Dennis M. Gingold	0.1	Telcom. Gooding re Lasiter deposition.
6/6/1998	DMG	Dennis M. Gingold	5.4	Review Christie/Erwin deposition testimony for Q's for Virden deposition.
6/6/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Peregoy re Virden deposition.
6/6/1998	DMG	Dennis M. Gingold	0.1	Conference call Gooding, Pollner re same.
6/7/1998	DMG	Dennis M. Gingold	3.3	Work on Q's for Virden deposition.
6/7/1998	DMG	Dennis M. Gingold	0.4	Telcoms. Peregoy re same; Christie.
6/8/1998	DMG	Dennis M. Gingold	0.1	Telcom. Weiner re DOJ filing.
6/8/1998	DMG	Dennis M. Gingold	0.2	Conference call NARF re all issues.
6/8/1998	DMG	Dennis M. Gingold	0.6	Telcoms foundations re litigation funding.
6/8/1998	DMG	Dennis M. Gingold	0.4	Conference call Harper, Peregoy re privilege claims; motion to compel.
6/8/1998	DMG	Dennis M. Gingold	0.8	Review Rempel Q's re Virden deposition.
6/8/1998	DMG	Dennis M. Gingold	1.7	Telcoms. Rempel re doc request; Virden deposition Q's.
6/8/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Holt re same.
6/8/1998	DMG	Dennis M. Gingold	0.7	Telcoms. Peregoy re above; DOJ filing.
6/8/1998	DMG	Dennis M. Gingold	0.5	Telcom. Babby re privilege issues.
6/8/1998	DMG	Dennis M. Gingold	0.1	Telcom. NARF re doc transfer.
6/9/1998	DMG	Dennis M. Gingold	2.0	Prepare Q's for Virden deposition per Rempel analysis.
6/9/1998	DMG	Dennis M. Gingold	2.5	At PW, meet with PW, Babby re statistical issues.
6/9/1998	DMG	Dennis M. Gingold	0.5	Review privilege memorandum.
6/9/1998	DMG	Dennis M. Gingold	0.5	Conference call Pollner, Babby re Lasiter; interrogatory issues.
6/9/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Ms. Cobell re depositions; class communications.
6/9/1998	DMG	Dennis M. Gingold	0.1	Telcom court reporter re transcripts.
6/9/1998	DMG	Dennis M. Gingold	1.3	Telcoms. Peregoy re Rempel analysis/Virden; Scribner declaration; Virden issues
6/9/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Babby re depositions Q's.
6/10/1998	DMG	Dennis M. Gingold	3.8	Appear/assist re Virden deposition.
6/10/1998	DMG	Dennis M. Gingold	4.0	Work on response to DOJ filing.
6/10/1998	DMG	Dennis M. Gingold	0.3	Telcom. Harper re same.
6/10/1998	DMG	Dennis M. Gingold	0.1	Telcom. Peregoy re same.
6/11/1998	DMG	Dennis M. Gingold	9.5	Appear/assist Scribner deposition.
6/11/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Harper re facts on production; litigation funding.
6/11/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Peregoy re deposition.
6/11/1998	DMG	Dennis M. Gingold	0.1	Telcom foundation re litigation funding.
6/11/1998	DMG	Dennis M. Gingold	0.1	Telcom. Gooding re production data.
6/11/1998	DMG	Dennis M. Gingold	0.3	Telcom. Holt re above.
6/12/1998	DMG	Dennis M. Gingold	4.0	Review/revise drafts V & VII, motion to quash.
6/12/1998	DMG	Dennis M. Gingold	0.1	Telcom. Bardnell re same.
6/12/1998	DMG	Dennis M. Gingold	0.4	Telcoms. Weiner re same; restatement.
6/12/1998	DMG	Dennis M. Gingold	0.4	Revise PW contract.
6/12/1998	DMG	Dennis M. Gingold	0.8	Prepare memo to Ms. Cobell re same.
6/12/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Bardnell re motion to quash.
6/12/1998	DMG	Dennis M. Gingold	0.3	Conference call Rempel, Bardnell re same.
6/12/1998	DMG	Dennis M. Gingold	0.6	Telcoms. Peregoy re depositions; DOJ filing.
6/12/1998	DMG	Dennis M. Gingold	0.6	Telcoms. Holt re motion to defs' motion to quash.
6/12/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Rempel re depositions.
6/12/1998	DMG	Dennis M. Gingold	0.3	Telcom. Babby re DOJ filing.
6/12/1998	DMG	Dennis M. Gingold	0.4	Telcom. NARF lawyers re above.
6/12/1998	DMG	Dennis M. Gingold	0.1	Telcom. Harper re same.
6/12/1998	DMG	Dennis M. Gingold	0.4	Telcoms. Levitas re possibly joining litigation team.
6/13/1998	DMG	Dennis M. Gingold	7.0	At NARF work on opp to defs' motion to quash.
6/14/1998	DMG	Dennis M. Gingold	10.0	Work on opp to motion to quash.
6/15/1998	DMG	Dennis M. Gingold	8.5	Work on opp to defs' motion to quash.
6/15/1998	DMG	Dennis M. Gingold	1.0	Review PW exhibits.
6/15/1998	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re disbursement data.
6/15/1998	DMG	Dennis M. Gingold	0.1	Telcom. Harper re opp to motion to quash.
6/15/1998	DMG	Dennis M. Gingold	0.1	Telcom. Weiner re same.
6/16/1998	DMG	Dennis M. Gingold	6.5	Prepare for status conference.
6/16/1998	DMG	Dennis M. Gingold	1.0	In court, status conference.

Date	Initials	Name	Hours	Description
12/18/1998	DMG	Dennis M. Gingold	0.4	Memo to Holt re above.
12/18/1998	DMG	Dennis M. Gingold	0.5	Telcoms. Holt re same.
12/18/1998	DMG	Dennis M. Gingold	0.7	Telcoms. Ms. Cobell re above.
12/18/1998	DMG	Dennis M. Gingold	2.0	Telcoms. Peregoy re above.
12/18/1998	DMG	Dennis M. Gingold	0.4	Telcoms. Harper re above.
12/18/1998	DMG	Dennis M. Gingold	0.2	Telcoms foundation counsel re litigation funding.
12/18/1998	DMG	Dennis M. Gingold	6.0	Work on opp to motion for reconsideration.
12/18/1998	TH	Thaddeus Holt	0.9	Confce Bicks re contempt hearing, telcom Gingold re same and re judge's order, reviewed order
12/19/1998	DMG	Dennis M. Gingold	6.0	Review witnesses, docs, proofs, order of proof.
12/20/1998	DMG	Dennis M. Gingold	7.2	Review docs re exhibits.
12/21/1998	DMG	Dennis M. Gingold	1.5	Telcoms. Quinault TB and her counsel re tribal appropriation of IIM records.
12/21/1998	DMG	Dennis M. Gingold	0.4	Conference call Quinault TB and Pollner re same.
12/21/1998	DMG	Dennis M. Gingold	0.8	Review docs re exhibits.
12/21/1998	DMG	Dennis M. Gingold	0.1	Telcom. Echohawk re litigation funding.
12/21/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Rempel re production; database; exhibits.
12/21/1998	DMG	Dennis M. Gingold	0.5	Telcoms. Pollner re same; expert issues.
12/21/1998	DMG	Dennis M. Gingold	1.1	Telcoms. Peregoy re above.
12/21/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Harper re same.
12/21/1998	DMG	Dennis M. Gingold	0.4	Prepare memo to file re witnesses.
12/21/1998	DMG	Dennis M. Gingold	0.1	Telcom. TB re scope of class; case status.
12/22/1998	DMG	Dennis M. Gingold	2.1	Review DOJ filing.
12/22/1998	DMG	Dennis M. Gingold	0.4	Telcoms. Eschen re production.
12/22/1998	DMG	Dennis M. Gingold	1.6	Telcoms. Holt re above.
12/22/1998	DMG	Dennis M. Gingold	1.6	Telcoms. Peregoy re same.
12/22/1998	DMG	Dennis M. Gingold	1.0	Review transcripts; responses.
12/22/1998	DMG	Dennis M. Gingold	0.3	Telcoms. Poller re expert issues; production; stat sampling issues.
12/22/1998	DMG	Dennis M. Gingold	0.6	Telcoms. Harper re above.
12/22/1998	DMG	Dennis M. Gingold	0.1	Telcom. McCarthy re class communications.
12/22/1998	TH	Thaddeus Holt	1.1	Review govt's new filing re privilege, telcoms Gingold re same, reviewing transcript of Dec 15 hearing, voicemail Gingold re same
12/23/1998	DMG	Dennis M. Gingold	0.8	Telcoms. Peregoy re above.
12/23/1998	DMG	Dennis M. Gingold	0.1	Telcom. Christie re 5NP collection instructions.
12/23/1998	DMG	Dennis M. Gingold	0.4	Telcom. Babby re above.
12/23/1998	DMG	Dennis M. Gingold	6.0	Review 5NP production.
12/28/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Ms. Cobell re STR unwillingness to certify quarterly reports.
12/28/1998	DMG	Dennis M. Gingold	0.1	Telcom. Cook re production.
12/28/1998	DMG	Dennis M. Gingold	0.6	Telcoms. Holt re above.
12/28/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Peregoy re same.
12/28/1998	DMG	Dennis M. Gingold	0.2	Conference call Cook, judicial clerk re certain issues.
12/28/1998	TH	Thaddeus Holt	0.3	Telcoms Gingold re planning confce call with DOJ, chambers
12/29/1998	DMG	Dennis M. Gingold	1.3	Conference call DOJ re production issues.
12/29/1998	DMG	Dennis M. Gingold	0.1	Telcom. Christie re defs' instructions to ignore court order re collection of 5NP production.
12/29/1998	DMG	Dennis M. Gingold	0.5	Telcoms. Brooks re collection, production issues.
12/29/1998	DMG	Dennis M. Gingold	0.1	Telcom. Thompson re same; accounting issue.
12/29/1998	DMG	Dennis M. Gingold	1.4	Telcoms. Peregoy re above.
12/29/1998	DMG	Dennis M. Gingold	0.7	Telcoms. Weiner re Brooks, Cook issues.
12/29/1998	DMG	Dennis M. Gingold	0.7	Telcoms. Holt re above.
12/29/1998	DMG	Dennis M. Gingold	5.3	Review 5NP docs.
12/29/1998	TH	Thaddeus Holt	0.9	Confce call DOJ, Gingold re contempt hearing with prep and followup
12/30/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Weiner re production.
12/30/1998	DMG	Dennis M. Gingold	0.3	Telcom. Babby re same.
12/30/1998	DMG	Dennis M. Gingold	0.1	Conference call Pollner, Rempel re same; database.
12/30/1998	DMG	Dennis M. Gingold	5.0	Review 5NP docs.
12/31/1998	DMG	Dennis M. Gingold	0.1	Telcom. Shuey, DOJ, re production.
12/31/1998	DMG	Dennis M. Gingold	0.1	Telcom. Echohawk re litigation funding.
12/31/1998	DMG	Dennis M. Gingold	1.0	Conference call Babby, Harper re DOI rejection of GSA space for IIM records storage; no records management report for 12/21/98; above.
12/31/1998	DMG	Dennis M. Gingold	0.3	Telcom. Weiner re same.
12/31/1998	DMG	Dennis M. Gingold	0.1	Telcom. Holt re above.
12/31/1998	DMG	Dennis M. Gingold	1.4	Telcoms. Peregoy re above.
12/31/1998	DMG	Dennis M. Gingold	0.2	Telcoms. Babby re same.
12/31/1998	DMG	Dennis M. Gingold	0.1	Telcom. TB re scope of class; case status.
12/31/1998	DMG	Dennis M. Gingold	0.1	Telcom. Christie re DOI instructions per court orders.
12/31/1998	DMG	Dennis M. Gingold	4.1	Review 5NP docs.
1/1/1999	DMG	Dennis M. Gingold	0.1	Telcom. Peregoy re all issues.
1/2/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Shuey re DOJ issues.
1/2/1999	DMG	Dennis M. Gingold	0.8	Telcoms. Peregoy re above.
1/4/1999	DMG	Dennis M. Gingold	4.5	Meet at NARF re all issues, e.g., defs' doc production.
1/4/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Bardnell re PwC scheduling.
1/4/1999	DMG	Dennis M. Gingold	0.2	Review LR 108; R6 re filing as of 12/30/98.
1/4/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Shuey re paragraph 19 production.
1/4/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Brooks re same.
1/4/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Rempel re same, e.g., defs' representation that all BIA docs have been sent.
1/4/1999	DMG	Dennis M. Gingold	0.1	Conference call Polner and Rempel re same.

Date	Initials	Name	Hours	Description
1/4/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Holt re above.
1/4/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Babby re same.
1/4/1999	DMG	Dennis M. Gingold	0.1	Telcom. Weiner re same.
1/4/1999	DMG	Dennis M. Gingold	1.1	Telcoms. Peregoy re same.
1/4/1999	DMG	Dennis M. Gingold	0.5	Telcom. Pollner re same.
1/4/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Ms. Cobell re above.
1/4/1999	DMG	Dennis M. Gingold	0.2	Telcom beneficiary re IIM/Quinault problems.
1/5/1999	DMG	Dennis M. Gingold	0.6	Conference call Pollner, Rempel re defs' Technology Internal Control Project.
1/5/1999	DMG	Dennis M. Gingold	6.0	Review 4-5 boxes of docs dealing with HLIP, BIA cleanup effort.
1/5/1999	DMG	Dennis M. Gingold	2.0	Begin review of Griffin workpapers.
1/5/1999	DMG	Dennis M. Gingold	0.9	Telcoms. Peregoy re above.
1/5/1999	DMG	Dennis M. Gingold	0.2	Telcom. Babby re same.
1/5/1999	DMG	Dennis M. Gingold	0.1	Telcom. Holt re Ms. Cobell's deposition.
1/6/1999	DMG	Dennis M. Gingold	2.0	In court, show cause hearing.
1/6/1999	DMG	Dennis M. Gingold	3.0	Prepare for same.
1/6/1999	DMG	Dennis M. Gingold	3.0	Review/revise motion to compel, e.g., cases regarding production for contempt proceedings; docs identified for production for more than a year.
1/6/1999	DMG	Dennis M. Gingold	1.0	Telcoms. Peregoy re above.
1/6/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Holt re above.
1/6/1999	DMG	Dennis M. Gingold	0.1	Telcom. Pollner re same.
1/6/1999	DMG	Dennis M. Gingold	0.1	Conference call Babby, Peregoy re same.
1/6/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Bardnell re same.
1/6/1999	DMG	Dennis M. Gingold	0.3	Telcom. Babby re same.
1/6/1999	DMG	Dennis M. Gingold	0.1	Telcom. Wiener re contempt proceeding.
1/6/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re same.
1/6/1999	TH	Thaddeus Holt	7	To from Wash, attend pretrial re contempt hearing on five named plaintiffs production, with prep and followup (1 hour court time)
1/7/1999	DMG	Dennis M. Gingold	6.1	Review 2 new boxes of docs.
1/7/1999	DMG	Dennis M. Gingold	3.2	Telcoms. Peregoy re recent doc production.
1/7/1999	DMG	Dennis M. Gingold	0.3	Conference call Rempel, Forhez, Kawhara re production.
1/7/1999	DMG	Dennis M. Gingold	0.3	Telcom. Babby re same.
1/7/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Holt re same; contempt proceeding; affidavits.
1/7/1999	DMG	Dennis M. Gingold	1.2	Telcoms. Ms. Cobell re above.
1/7/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Patriarca, member of STR advisory board, re contempt proceeding.
1/7/1999	DMG	Dennis M. Gingold	0.1	Telcom. Pollner re production.
1/7/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Bardnell re same.
1/7/1999	TH	Thaddeus Holt	3	Research for reply re protective order on foundations etc
1/7/1999	TH	Thaddeus Holt	0.5	Telcoms Gingold re Homan resignation resulting from reorganization over five named plaintiffs production
1/8/1999	DMG	Dennis M. Gingold	5.0	Prepare for hearing re Miller Report re OST in operation; retaliation; response to government filing, misreps.
1/8/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Eschen re production.
1/8/1999	DMG	Dennis M. Gingold	1.3	Telcoms. Peregoy re same.
1/8/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Babby re same.
1/8/1999	DMG	Dennis M. Gingold	0.9	Telcoms. Rempel re same.
1/8/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Bardnell re same.
1/8/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Ms. Cobell re above.
1/8/1999	DMG	Dennis M. Gingold	0.1	Telcom. Holt re same.
1/9/1999	DMG	Dennis M. Gingold	9.0	Prepare for contempt trial.
1/9/1999	DMG	Dennis M. Gingold	0.8	Telcoms. Rempel re same.
1/9/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Peregoy re same.
1/9/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re same.
1/10/1999	DMG	Dennis M. Gingold	13.8	Prepare for contempt trial.
1/10/1999	DMG	Dennis M. Gingold	1.3	Telcoms. Peregoy re same; reply brief.
1/10/1999	DMG	Dennis M. Gingold	0.1	Telcom. Holt re same.
1/10/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re same.
1/11/1999	DMG	Dennis M. Gingold	2.0	Prepare for contempt trial.
1/11/1999	DMG	Dennis M. Gingold	7.5	In court, contempt trial.
1/11/1999	DMG	Dennis M. Gingold	0.1	Telcom. Peregoy re same.
1/11/1999	DMG	Dennis M. Gingold	0.1	Telcom. Bardnell re same.
1/11/1999	TH	Thaddeus Holt	0.7	Telcoms Gingold, Harper, Peregoy re hearing on contempt, reply re protective order
1/12/1999	DMG	Dennis M. Gingold	2.0	Prepare for contempt trial.
1/12/1999	DMG	Dennis M. Gingold	7.5	In court, contempt trial.
1/12/1999	DMG	Dennis M. Gingold	0.4	Telcom. Holt re same.
1/12/1999	DMG	Dennis M. Gingold	0.5	Conference call Harper, Peregoy, Babby re same.
1/12/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Ms. Cobell re above.
1/12/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Peregoy re same.
1/12/1999	TH	Thaddeus Holt	1.1	Memo for Peregoy re reply to protective order, telcoms Peregoy re same
1/12/1999	TH	Thaddeus Holt	0.2	Telcoms Peregoy and Gingold re contempt hearing re five named plaintiffs production
1/13/1999	DMG	Dennis M. Gingold	7.5	In court, contempt trial.
1/13/1999	DMG	Dennis M. Gingold	2.0	Prepare for contempt trial.
1/13/1999	DMG	Dennis M. Gingold	0.3	Telcom. Weiner re same.
1/13/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Peregoy re same.
1/13/1999	DMG	Dennis M. Gingold	0.5	Conference call Peregoy, LaRose re same.
1/13/1999	DMG	Dennis M. Gingold	0.1	Conference call Babby, Harper re same.

Date	Initials	Name	Hours	Description
1/13/1999	DMG	Dennis M. Gingold	0.2	Telcom. Babby re same.
1/13/1999	DMG	Dennis M. Gingold	0.4	Telcom. Holt re same.
1/13/1999	TH	Thaddeus Holt	0.4	Telcoms Peregoy re reply re protective order, review draft
1/13/1999	TH	Thaddeus Holt	0.2	Telcon Gingold re contempt hearing re production on five named plaintiffs
1/14/1999	DMG	Dennis M. Gingold	7.0	In court, contempt trial.
1/14/1999	DMG	Dennis M. Gingold	1.1	Telcoms. Peregoy re same; independent counsel; civil v. criminal issues.
1/14/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Holt re trial.
1/14/1999	DMG	Dennis M. Gingold	2.0	Prepare for trial.
1/14/1999	TH	Thaddeus Holt	0.5	Telcon Gingold re contempt hearing re five named plaintiffs production
1/15/1999	DMG	Dennis M. Gingold	2.0	Prepare for contempt trial.
1/15/1999	DMG	Dennis M. Gingold	7.5	In court, contempt trial.
1/15/1999	DMG	Dennis M. Gingold	0.9	Telcoms. Peregoy re same.
1/15/1999	DMG	Dennis M. Gingold	0.5	Telcom. Holt re same.
1/15/1999	TH	Thaddeus Holt	0.6	Telcon Gingold re contempt hearing, possible deal with govt re trial date, sanctions re five named plaintiffs production
1/16/1999	DMG	Dennis M. Gingold	16.0	Prepare for contempt trial.
1/17/1999	DMG	Dennis M. Gingold	16.0	Prepare for contempt trial.
1/17/1999	TH	Thaddeus Holt	0.2	Study defs' motion re experts, telcon Peregoy re same, discuss next day's contempt hearing with him
1/17/1999	TH	Thaddeus Holt	0.1	Telcon Peregoy re next day's contempt hearing re five named plaintiffs production
1/18/1999	DMG	Dennis M. Gingold	7.0	Prepare for contempt trial.
1/18/1999	DMG	Dennis M. Gingold	1.0	Meet with Jim Simon, deputy ass't AG, Brooks, Peregoy re settlement.
1/18/1999	DMG	Dennis M. Gingold	1.0	Telcoms. Peregoy re above.
1/18/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Holt re above.
1/18/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Brooks re same.
1/18/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Ms. Cobell re above.
1/18/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re same.
1/18/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Bardnell re same; T-2
1/18/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Pollner re same.
1/18/1999	DMG	Dennis M. Gingold	0.1	Telcom. Harper re contempt.
1/18/1999	TH	Thaddeus Holt	0.3	Voicemails, telcoms Gingold re five named plaintiffs production contempt hearing, settlement proposal
1/19/1999	DMG	Dennis M. Gingold	1.8	Prepare for hearing re Christie, etc.
1/19/1999	DMG	Dennis M. Gingold	7.0	In court, hearing.
1/19/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Holt re same; 5NP issues.
1/19/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Harper re same.
1/19/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Peregoy re same.
1/19/1999	DMG	Dennis M. Gingold	0.1	Telcoms. Ms. Cobell re same.
1/19/1999	TH	Thaddeus Holt	0.5	Telcon Gingold re contempt, sanctions re five named plaintiffs production, today's hearing re same
1/20/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Holt re 5NP issues.
1/20/1999	DMG	Dennis M. Gingold	1.3	Conference call Holt, Ms. Cobell re same.
1/20/1999	DMG	Dennis M. Gingold	2.5	Meet at NARF re same, including 1.7 hr conference call with Holt.
1/20/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Babby re same.
1/20/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re same.
1/20/1999	DMG	Dennis M. Gingold	1.2	Telcoms. Peregoy re same, sovereign immunity issues.
1/20/1999	DMG	Dennis M. Gingold	0.1	Telcom. Brooks re 5NP issues.
1/20/1999	DMG	Dennis M. Gingold	0.1	Telcom. Wiener re same.
1/20/1999	TH	Thaddeus Holt	1.3	Telcon Gingold, Cobell re considerations as to govt's settlement of contempt re five named plaintiffs production
1/20/1999	TH	Thaddeus Holt	1.7	Confce call Gingold, NARF re considerations as to govt's settlement of contempt re five named plaintiffs production
1/21/1999	DMG	Dennis M. Gingold	3.0	Prepare for 5NP trial.
1/21/1999	DMG	Dennis M. Gingold	4.0	In court, trial.
1/21/1999	DMG	Dennis M. Gingold	1.1	Telcoms. Simon re all issues.
1/21/1999	DMG	Dennis M. Gingold	1.6	Telcoms. Peregoy re same; above.
1/21/1999	DMG	Dennis M. Gingold	1.1	Telcoms. Holt re same, including MMS.
1/21/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Ms. Cobell re above.
1/21/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Rempel re same.
1/21/1999	DMG	Dennis M. Gingold	0.1	Telcom. Bardnell re same.
1/21/1999	TH	Thaddeus Holt	0.5	Telcon Gingold re status of five named plaintiffs contempt hearing
1/21/1999	TH	Thaddeus Holt	0.5	Telcon Gingold re today's session re five named plaintiffs con'empt hearing
1/22/1999	DMG	Dennis M. Gingold	2.0	Prepare for trial; prepare for Rossman cross-examination.
1/22/1999	DMG	Dennis M. Gingold	5.5	In court; cross examine Rossman.
1/22/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Holt re same.
1/22/1999	DMG	Dennis M. Gingold	1.0	Telcoms. Peregoy re same.
1/22/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re same.
1/22/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Ms. Cobell re same.
1/22/1999	DMG	Dennis M. Gingold	0.1	Telcom. Brandon Allen re time set for closing arguments.
1/22/1999	TH	Thaddeus Holt	0.3	Telcon Gingold re strategy re contempt hearing on five namec plaintiffs production
1/22/1999	TH	Thaddeus Holt	0.3	Voicemail, telcon Gingold re day's events in five named plaintiffs document production contempt hearing
1/23/1999	DMG	Dennis M. Gingold	10.0	Prepare for closing argument, including meet 4 hrs. with PwC on various issues.
1/23/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Harper re same.
1/23/1999	DMG	Dennis M. Gingold	0.4	Telcom. Rempel re same, including AA estimates, multiple accounts, tribal reconciliations.

Date	Initials	Name	Hours	Description
1/23/1999	DMG	Dennis M. Gingold	0.1	Telcom. Holt re same.
1/23/1999	DMG	Dennis M. Gingold	0.1	Telcom. Peregoy re above.
1/23/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re same.
1/23/1999	TH	Thaddeus Holt	0.4	Telcon Gingold re events at contempt hearing re five named plaintiffs
1/24/1999	DMG	Dennis M. Gingold	0.3	Telcom. Peregoy re above.
1/24/1999	DMG	Dennis M. Gingold	11.0	Prepare for closing argument.
1/25/1999	DMG	Dennis M. Gingold	6.3	Prepare for closing argument.
1/25/1999	DMG	Dennis M. Gingold	2.5	In court, close.
1/25/1999	DMG	Dennis M. Gingold	0.8	Telcoms. Peregoy re same.
1/25/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re same.
1/25/1999	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re same.
1/25/1999	DMG	Dennis M. Gingold	0.1	Telcom. Holt re same.
1/25/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re same.
1/26/1999	TH	Thaddeus Holt	0.2	Telcon Babby re developments, papers I have not received
1/27/1999	DMG	Dennis M. Gingold	2.0	Review contempt trial transcripts.
1/27/1999	DMG	Dennis M. Gingold	0.9	Telcoms. Holt re draft motion to compel.
1/27/1999	DMG	Dennis M. Gingold	1.1	Conference call Holt, NARF re same; trial.
1/27/1999	DMG	Dennis M. Gingold	0.7	Review draft brief, docs re same.
1/27/1999	DMG	Dennis M. Gingold	1.0	Conference call Holt, et al re deposition issues.
1/27/1999	DMG	Dennis M. Gingold	0.4	Conference call NARF re above.
1/27/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Bardnell re deposition.
1/27/1999	DMG	Dennis M. Gingold	0.9	Telcoms. Peregoy re above; deposition scheduling.
1/27/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Harper re same.
1/27/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Brooks re deposition scheduling issues.
1/27/1999	DMG	Dennis M. Gingold	0.2	Telcoms. McCarthy re class communications.
1/27/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Babby re motion to compel.
1/27/1999	TH	Thaddeus Holt	0.2	Telcons Gingold latest govt depo notices
1/27/1999	TH	Thaddeus Holt	1.1	Confce call Gingold, NARF re govt's depo notices, what depos to take
1/28/1999	DMG	Dennis M. Gingold	1.5	Review transcripts; outstand RFP's.
1/28/1999	DMG	Dennis M. Gingold	3.0	Conference call NARF, i.e., Harper, Peregoy et al re case management/assignments/issues.
1/28/1999	DMG	Dennis M. Gingold	0.4	Confrence call Brooks, Edith Blackwell well production; depos.
1/28/1999	DMG	Dennis M. Gingold	0.8	Telcoms. Holt re motion to compel; above.
1/28/1999	DMG	Dennis M. Gingold	0.2	Telcom. Brooks re same.
1/28/1999	DMG	Dennis M. Gingold	0.8	Telcoms. Babby re above.
1/28/1999	DMG	Dennis M. Gingold	2.1	Review/revise motion to compel.
1/28/1999	DMG	Dennis M. Gingold	1.5	Telcoms. Peregoy re above.
1/28/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Bardnell re docs, systems, deadlines.
1/28/1999	DMG	Dennis M. Gingold	0.1	Telcom. Pollner re same.
1/28/1999	DMG	Dennis M. Gingold	0.1	Telcom. Harper re above.
1/28/1999	DMG	Dennis M. Gingold	0.2	Telcom. Ms. Cobell re above
1/28/1999	TH	Thaddeus Holt	0.2	Voicemails Gingold re scheduling of expert depos
1/29/1999	DMG	Dennis M. Gingold	1.1	Review/revise draft response to defs' motion.
1/29/1999	DMG	Dennis M. Gingold	0.3	Review/markup defs' motion.
1/29/1999	DMG	Dennis M. Gingold	0.2	Revise draft joint motion.
1/29/1999	DMG	Dennis M. Gingold	1.1	Telcoms. Holt re above.
1/29/1999	DMG	Dennis M. Gingold	1.3	Telcoms. Brooks re same.
1/29/1999	DMG	Dennis M. Gingold	0.3	Meet with Brooks re same.
1/29/1999	DMG	Dennis M. Gingold	0.1	Conference call Holt, Levitas re same.
1/29/1999	DMG	Dennis M. Gingold	0.9	Telcoms. Babby re above.
1/29/1999	DMG	Dennis M. Gingold	1.5	Telcoms. Peregoy re same.
1/29/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Ms. Cobell re above.
1/29/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Levitas re above.
1/29/1999	DMG	Dennis M. Gingold	4.0	Meet at NARF re case management issues.
1/29/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Harper re same.
1/29/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Pollner re doc issues.
1/29/1999	DMG	Dennis M. Gingold	0.1	Telcom. Bardnell re same.
1/29/1999	TH	Thaddeus Holt	0.7	Telcons Gingold re staffing, telcons seeking Levitas
1/29/1999	TH	Thaddeus Holt	0.3	Study govt's draft motion re new dates for expert depos, suggest revisions, telcon Gingold re same
1/29/1999	TH	Thaddeus Holt	0.5	Telcon Levitas re case, telcon Gingold re same
1/30/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Holt re above.
1/30/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re same.
1/30/1999	DMG	Dennis M. Gingold	0.1	Telcom. Brown re potentially joining lit team.
1/30/1999	TH	Thaddeus Holt	0.3	Telcon Gingold re Levitas
1/31/1999	TH	Thaddeus Holt	0.4	Telcon Levitas re background of case
2/1/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Allen re confirmation of status conference on 2/16 at 4:30PM.
2/1/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Ms. Cobell re Secretarial order.
2/1/1999	DMG	Dennis M. Gingold	0.9	Meet with Levitas re potentially joining litigation team.
2/1/1999	DMG	Dennis M. Gingold	1.6	Telcoms. Holt re same; 5NP issues; production.
2/1/1999	DMG	Dennis M. Gingold	0.9	Telcoms. Harper re same; case management issues.
2/1/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Babby re same.
2/1/1999	DMG	Dennis M. Gingold	1.4	Telcoms. Peregoy re same; HLIP; depositions.
2/1/1999	DMG	Dennis M. Gingold	6.6	Review dispositive motions, Synar Report, foundation issues.
2/1/1999	TH	Thaddeus Holt	1.2	Telcons Gingold re plans, telcon Gingold and Levitas re case generally

Date	Initials	Name	Hours	Description
4/22/1999	DMG	Dennis M. Gingold	0.1	Telcom. Brooks re same.
4/22/1999	DMG	Dennis M. Gingold	0.1	Conference call Brooks, Harper re defs' request for extension of time.
4/22/1999	DMG	Dennis M. Gingold	1.6	Telcoms. Harper re confidentiality agreement depositions.
4/22/1999	DMG	Dennis M. Gingold	0.3	Discussion with Levitas re same.
4/22/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Levitas re same.
4/22/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Forhecz re deposition issues.
4/22/1999	DMG	Dennis M. Gingold	0.3	Meet with Fitzsimmons re deposition.
4/22/1999	DMG	Dennis M. Gingold	0.2	Conference call Gooding, Rempel re deposition issues.
4/22/1999	DMG	Dennis M. Gingold	0.5	Telcoms. McCarthy re class communications.
4/22/1999	DMG	Dennis M. Gingold	3.9	At PwC, review docs.
4/22/1999	TH	Thaddeus Holt	6	Fitzsimmons depo with prep and followup
4/22/1999	TH	Thaddeus Holt	0.2	Debriefing from Gingold re various developments
4/22/1999	TH	Thaddeus Holt	0.6	Telcon Gingold, Harper re settlement confidentiality agreement, revised same
4/23/1999	DMG	Dennis M. Gingold	0.2	Review DOJ revision of confidentiality agreement; compare to original DOJ proposal.
4/23/1999	DMG	Dennis M. Gingold	1.5	Meet with Fitzsimmons, Holt, Polner, Forhecz re deposition issues.
4/23/1999	DMG	Dennis M. Gingold	1.0	Revise draft III, confidentiality agreement.
4/23/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re same.
4/23/1999	DMG	Dennis M. Gingold	2.0	Prepare draft response to Clark.
4/23/1999	DMG	Dennis M. Gingold	0.2	Telcom. Holt re same; confidentiality agreement.
4/23/1999	DMG	Dennis M. Gingold	0.3	Conference call Holt, Levitas re same.
4/23/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Levitas re same; executed engagement letter.
4/23/1999	DMG	Dennis M. Gingold	0.5	Conference call Harper, Babby re doc production re Cook, Clark reps.
4/23/1999	DMG	Dennis M. Gingold	0.1	Telcom. Beard re Christie.
4/23/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Christie re same; declaration of April 21.
4/23/1999	DMG	Dennis M. Gingold	3.5	Work on trial prep issues.
4/23/1999	DMG	Dennis M. Gingold	1.0	Conference call Fitzsimmons, Forhecz, Holt re depositions.
4/23/1999	TH	Thaddeus Holt	0.9	Further revising settlement confidentiality agreement
4/23/1999	TH	Thaddeus Holt	0.4	Confce call Gingold, Levitas re confidentiality agreement, joint pretrial statement
4/23/1999	TH	Thaddeus Holt	1.5	Meeting Gingold, PxC people with followup
4/24/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Harper re above.
4/24/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Babby re above.
4/24/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re confidentiality agreement, etc.
4/24/1999	DMG	Dennis M. Gingold	0.4	Telcoms. SPM re 5NP production.
4/24/1999	DMG	Dennis M. Gingold	9.6	At PwC, review docs.
4/26/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Clark re deposition issues; dispositive motions.
4/26/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Harper re SPM site visits; above.
4/26/1999	DMG	Dennis M. Gingold	3.0	Prepare for T-1.
4/26/1999	DMG	Dennis M. Gingold	0.5	Review Homan deposition re IIM overdrafts.
4/26/1999	DMG	Dennis M. Gingold	0.1	Telcom. Homan re same.
4/26/1999	DMG	Dennis M. Gingold	2.5	Meet at NARF re SPM site visits; HLIP issues; Treasury issues.
4/26/1999	DMG	Dennis M. Gingold	1.5	Telcoms. Levitas re Clark issues; two briefs; above; Trial 1 issues; depositions.
4/26/1999	DMG	Dennis M. Gingold	0.1	Telcom. Holt re above.
4/26/1999	DMG	Dennis M. Gingold	0.1	Conference call Rempel, Babby re production.
4/26/1999	DMG	Dennis M. Gingold	0.5	Conference call Harper, Levitas re above.
4/26/1999	TH	Thaddeus Holt	0.4	Confce call Levitas, Gingold re confidentiality agreement, special master's trip
4/26/1999	TH	Thaddeus Holt	0.1	Telcon Gingold re special master's trip
4/26/1999	TH	Thaddeus Holt	0.2	Telcon Levitas re complaint
4/26/1999	TH	Thaddeus Holt	0.4	Study revised confidentiality agreement, telcon Levitas re same.
4/27/1999	6169	Sarah C. Perez	2.00	Research, review, copy and fax Congressional documents for E. Levitas that relate to Cobell matter including the President's budget for the Bureau of Indian Affairs and the House and Senate language from the supplemental appropriations legislation (1.0); telephone conference with Elliott Levitas regarding task assignment on additional language in appropriations bill and budget language (.5)
4/27/1999	1063	Jill Warner	6.80	Research regarding separation of powers issue.
4/27/1999	6169	Sarah C. Perez	1.30	Conference with Elliott Levitas regarding task assignment for file preparation on pleadings, motions and brief (.3); review Cobell files (1.0)
4/27/1999	6779	Miles J. Alexander	0.30	Telephone conference with Elliott Levitas regarding possible innovative resolution approach regarding Part II of case.
4/27/1999	8800	Elliott H. Levitas	4.50	Telephone conference with Dennis Gingold (.4); meeting with Dennis Gingold, Lorna Babby and Keith Harper regarding settlement issues, confidentiality agreement depositions on settlement issues, report on discussions with Phillip Brooks, DOJ, Mr. Echohawk, Lois Schiffer and Simon (1.3); meeting with Dennis Gingold regarding confidentiality agreement, preparation for Special Master 2nd tour, outline of pre-trial order, parameters of settlement discussions (.8); conference with Sarah Perez regarding task assignment for file preparation on pleadings, motions and briefs (.3); telephone conference with Keith Harper regarding preparation for meeting with Senate Appropriations staff on legislative language (.3); telephone conference with Thad Holt regarding separation of powers (.4); telephone conference with Dennis Gingold regarding judicial supervisions, separation of powers issues (.4); telephone conference with Jill Warner regarding law review cites (.3); telephone conference with Miles Alexander regarding possible innovation settlement approach regarding Part II of case (.3)
4/27/1999	DMG	Dennis M. Gingold	1.4	Meet with TB re Quinault issues; status of case.
4/27/1999	DMG	Dennis M. Gingold	0.1	Telcom TB re same.
4/27/1999	DMG	Dennis M. Gingold	0.4	Review defs' status report to SPM.
4/27/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Brooks re reply brief.



Date	Initials	Name	Hours	Description
4/27/1999	DMG	Dennis M. Gingold	0.1	Telcom. Clark re filings with SPM.
4/27/1999	DMG	Dennis M. Gingold	0.2	Review defs' filing re interrogatories.
4/27/1999	DMG	Dennis M. Gingold	0.8	Conference call Levitas, Babby, Harper re settlement issues.
4/27/1999	DMG	Dennis M. Gingold	1.7	Telcoms. Holt re DOJ filings; all issues.
4/27/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Babby re above; Findlay fee letter.
4/27/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Levitas re above; Shiffer, etc.
4/27/1999	DMG	Dennis M. Gingold	0.6	Meet with Levitas re all issues.
4/27/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Pollner re BLM data.
4/27/1999	DMG	Dennis M. Gingold	1.0	Telcoms. Harper re above; sanctions.
4/27/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re above.
4/27/1999	DMG	Dennis M. Gingold	0.1	Telcom. Forhez re deposition issues.
4/27/1999	DMG	Dennis M. Gingold	0.2	Telcoms. SPM re defs' filings with SPM; copies.
4/27/1999	TH	Thaddeus Holt	0.5	Review govt's letter re time charges, telcon Gingold re same, re case status
4/27/1999	TH	Thaddeus Holt	0.4	Telcon Gingold re fee application, conversation with Brooks, general status
4/27/1999	TH	Thaddeus Holt	0.3	Telcon Gingold re govt's reports to special master; status of consent conversations
4/28/1999	1063	Jill Warner	5.60	Research separation of powers issue.
4/28/1999	2358	Roderick C. Dennehy Jr.	4.50	Conference with Steve Clay (.5); conference with Elliott Levitas (.5); file review (3.5).
4/28/1999	6169	Sarah C. Perez	7.50	Attend Senate Oversight hearing on Bureau of Indian Affairs; provide brief summary to E. Levitas by voice mail; travel to NARF and copy Cobell files; return to office and discuss files with K. Settle.
4/28/1999	7125	A. Stephens Clay	0.40	Conference with Rick Dennehy.
4/28/1999	8800	Elliott H. Levitas	3.90	Review and analyze statement of U.S. on Department of Interior's document production procedures plans and U.S. status report to Special Master of 4/27/99 (.9); review U.S. Response to Plaintiffs' Motion for Preliminary Injunction Against Retaliation (1.2); review billing formats (.3); telephone conference with Jim McCarthy (.2); telephone conference with Dennis Gingold regarding preparation for meeting (.5); telephone conference with Rick Dennehy regarding pre-trial order and task assignment (.5); telephone conference with Robert Kyle, OMB, regarding judgment fund (.3)
4/28/1999	DMG	Dennis M. Gingold	0.9	Review defs' filings re response to anti-retaliation order; enlargement motion for response to supp notice.
4/28/1999	DMG	Dennis M. Gingold	1.7	Prepare draft 1 responst to Findlay re same.
4/28/1999	DMG	Dennis M. Gingold	4.5	Prepare for T-1, e.g., review Griffin III, etc.
4/28/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Holt re page 13 of defs' response; above.
4/28/1999	DMG	Dennis M. Gingold	0.1	Telcom. Clark re deposition issues.
4/28/1999	DMG	Dennis M. Gingold	0.6	Revise draft II, letter response to Findlay.
4/28/1999	DMG	Dennis M. Gingold	1.0	Meet with SPM re site visits; 5NP production.
4/28/1999	DMG	Dennis M. Gingold	0.2	Telcoms. SPM re same.
4/28/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Pollner re deposition issues.
4/28/1999	DMG	Dennis M. Gingold	0.4	Conference call Harper, Babby re above.
4/28/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Babby re above.
4/28/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Harper re above.
4/28/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Levitas re above.
4/28/1999	DMG	Dennis M. Gingold	0.1	Telcom. Peregoy re case management.
4/28/1999	TH	Thaddeus Holt	0.5	Preliminary look at govt's oppo re retaliation injunction, telcon Gingold re same, re general plans
4/29/1999	1063	Jill Warner	2.50	Research regarding separation of powers (2.3); telephone conference with Elliott Levitas regarding same (.2)
4/29/1999	2358	Roderick C. Dennehy Jr.	7.80	File review and research.
4/29/1999	8800	Elliott H. Levitas	3.50	Meeting with Dennis Gingold and Keith Harper regarding preparation for meeting with Senate Appropriations staff (.5); meeting with Dennis Gingold, Keith Harper and Ann McInerney and Senate Appropriations staff regarding fencing language and other restrictions on appropriations (1.5); telephone conference with Jill Warner (.2); further review of separation of powers issues (.6); further research and review of fencing language (.7).
4/29/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Echohawk re litigation funding.
4/29/1999	DMG	Dennis M. Gingold	0.1	Telcom foundation re same.
4/29/1999	DMG	Dennis M. Gingold	0.8	Telcoms. Ms. Cobell re same.
4/29/1999	DMG	Dennis M. Gingold	1.3	Review new DOJ affidavits.
4/29/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Holt re same; Quinault issues.
4/29/1999	DMG	Dennis M. Gingold	0.1	Telcom. Gooding re database issues; model.
4/29/1999	DMG	Dennis M. Gingold	0.1	Telcom. Pollner re same.
4/29/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Peregoy re Quinault.
4/29/1999	DMG	Dennis M. Gingold	0.3	Review memo from counsel to Quinault TB re lost access to IIM records.
4/29/1999	DMG	Dennis M. Gingold	4.0	Prepare for trial 1.
4/29/1999	DMG	Dennis M. Gingold	0.8	Complete review of 1997 Griffin audit report.
4/29/1999	DMG	Dennis M. Gingold	1.5	Meet with Senate approps staff re IIM funding for trust reform.
4/29/1999	DMG	Dennis M. Gingold	0.4	Meet with Harper, Levitas re same.
4/29/1999	DMG	Dennis M. Gingold	0.2	Meet with Harper, Babby re SPM issues.
4/29/1999	DMG	Dennis M. Gingold	1.3	Telcoms. Holt re scope of trial 1; adequacy of funding for trust reform; authorities; PI's; Griffin Report findings.
4/29/1999	DMG	Dennis M. Gingold	0.6	Conference call Harper, Levitas, Babby re same.
4/29/1999	DMG	Dennis M. Gingold	0.4	Conference call Harper, Babby, Kawahara re GAO reports re trust reform.
4/29/1999	DMG	Dennis M. Gingold	1.3	Review report filed by BIA in response to Griffin audit.
4/29/1999	DMG	Dennis M. Gingold	1.1	Telcoms. Harper re above.
4/29/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Ms. Cobell re above.

Date	Initials	Name	Hours	Description
4/29/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Levitas re above.
4/29/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re above.
4/29/1999	DMG	Dennis M. Gingold	0.2	Telcoms. SPM re 5NP production.
4/29/1999	DMG	Dennis M. Gingold	0.1	Telcom. Kawahara re above.
4/29/1999	TH	Thaddeus Holt	0.4	Telcon Gingold re Wiener appeal, DOI appropriation request
4/30/1999	2358	Roderick C. Dennehy Jr.	5.50	File review; conference with Elliott Levitas.
4/30/1999	6169	Sarah C. Perez	0.50	Locate and fax witness list pleadings from 1998 per E. Levitas and fax.
4/30/1999	7125	A. Stephens Clay	0.80	Revise fee retainer agreement; conference with Rick Dennehy regarding trial plan.
4/30/1999	8800	Elliott H. Levitas	3.00	Telephone conference with Jim Simon and Bill Brooks regarding confidentiality Agreement (.5); telephone conference with Thad Holt, Dennis Gingold, Keith Harper and Lorna Babby (.5); meetings with Rick Dennehy regarding background information, pre-trial order, information on litigation, witness lists, theory of case, expert testimony, briefing on recent developments, explanation of bifurcated trial concept, litigation actions. (1.2); research regarding confidentiality agreement (.8)
4/30/1999	DMG	Dennis M. Gingold	5.8	Work on trial exhibits.
4/30/1999	DMG	Dennis M. Gingold	1.0	Review/markup current GAO report re trust reform.
4/30/1999	DMG	Dennis M. Gingold	3.0	Trial prep, identify issues, witnesses for trial 1.
4/30/1999	DMG	Dennis M. Gingold	0.1	Telcom. Brooks re GAO issues.
4/30/1999	DMG	Dennis M. Gingold	1.3	Conference call Holt, Harper, Levitas re above.
4/30/1999	DMG	Dennis M. Gingold	1.1	Telcoms. Holt re above; reply brief.
4/30/1999	DMG	Dennis M. Gingold	1.1	Telcoms. Harper re above; legislative language; doc production/protection.
4/30/1999	DMG	Dennis M. Gingold	0.7	Conference calls Harper, Babby re same
4/30/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re same.
4/30/1999	DMG	Dennis M. Gingold	1.1	Telcoms. Ms. Cobell re above; PwC issues.
4/30/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Pollner re model.
4/30/1999	DMG	Dennis M. Gingold	0.1	Telcom. Gooding re same.
4/30/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Peregoy re case management.
4/30/1999	DMG	Dennis M. Gingold	0.1	Telcom. Christie re retaliation.
4/30/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re above.
4/30/1999	DMG	Dennis M. Gingold	0.1	Telcom. Eva Cobell re docs.
4/30/1999	TH	Thaddeus Holt	4.1	Drafting reply re retaliation injunction
4/30/1999	TH	Thaddeus Holt	0.4	Telcon Gingold re Wiener appeal, new GAO report
4/30/1999	TH	Thaddeus Holt	1.3	Confce call Gingold, Levitas, NARF re Levitas conversations Brooks & Simon; followupwith Gingold, NARF
4/30/1999	TH	Thaddeus Holt	0.2	Followup telcon with Gingold
5/1/1999	DMG	Dennis M. Gingold	0.9	Work on Q's for Hill re Berry.
5/1/1999	DMG	Dennis M. Gingold	3.0	Work on issues/review docs in preparation of Trial 1.
5/1/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Rempel re database issues.
5/1/1999	DMG	Dennis M. Gingold	0.2	Respond to defs' status report to SPM.
5/1/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Holt re above.
5/1/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Pollner re same.
5/1/1999	DMG	Dennis M. Gingold	0.2	Telcoms. SPM re defs' status report; compliance with 11/27/96 order.
5/1/1999	DMG	Dennis M. Gingold	0.4	Conference call Harper, Babby re above.
5/1/1999	DMG	Dennis M. Gingold	0.4	Telcom. Harper re above; GAO report; Griffin audit.
5/1/1999	DMG	Dennis M. Gingold	4.2	Review production re compliance with '96 order.
5/2/1999	8800	Elliott H. Levitas	1.80	Review law review articles on separation of powers issues (1.3); review confidentiality agreement, Thad Holt proposed language, revisions to proposed language (.5).
5/2/1999	DMG	Dennis M. Gingold	3.5	Review pleading files/docs at NARF re compliance.
5/2/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Holt re reply brief; legislative history of '94 Act; Weiner appeal.
5/2/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Brooks re Weiner and GAO.
5/2/1999	DMG	Dennis M. Gingold	1.0	Review defs' \$15 million supplemental Cobell litigation funding.
5/2/1999	DMG	Dennis M. Gingold	2.4	Review/revise reply brief re retaliation; transcript of Williams deposition re same.
5/2/1999	DMG	Dennis M. Gingold	3.0	At NARF, review production re compliance with '96 order.
5/2/1999	TH	Thaddeus Holt	0.4	Telcons Gingold re retaliation reply, revising same
5/2/1999	TH	Thaddeus Holt	0.5	Telcon Levitas re retai reply, language for confidentiality agrt
5/3/1999	2358	Roderick C. Dennehy Jr.	1.50	Joint pre-trial report (.4); memo to Elliott Levitas (.4); telephone conversation with E. Levitas (.4)
5/3/1999	6169	Sarah C. Perez	0.50	Locate and fax appropriations language for K. Harper.
5/3/1999	8800	Elliott H. Levitas	7.70	Review and revise confidentiality agreement (.9); telephone conference with Thad Holt and Keith Harper regarding language and confidentiality agreement; telephone conference with Keith Harper regarding same and analysis of Indian impact (1.2); telephone conference with Keith Harper regarding GAO report release, press release on GAO report, press coverage regarding same; preliminary review of GAO report (.6); telephone conference with Keith Harper regarding legislative language, review and revise memo regarding same and explanation regarding Senate Appropriations Committee follow up, fencing language and appropriations limitation on various appropriations (.7); telephone conference with Dennis Gingold regarding memo to committee, review and revise same, confidentiality agreement language (.5); telephone conference with Jim McCarthy regarding GAO report release, Special Master report release, report on Assistant Secretary Goldberg press conference (.5); telephone conference with Dennis Gingold regarding Gover press conference, response and media coverage (.3); telephone conference with Elouise Cobell regarding resolution discussions, confidentiality agreement, Gover press conference, reports
5/3/1999	DMG	Dennis M. Gingold	3.5	Prepare comments to SPM re defs' 1st status report.
5/3/1999	DMG	Dennis M. Gingold	0.4	Telcom. Anne McInerney, Treasury, re production/compliance
5/3/1999	DMG	Dennis M. Gingold	0.1	Telcom. Thompson re Williams.
5/3/1999	DMG	Dennis M. Gingold	1.6	Review BLM docs.

Date	Initials	Name	Hours	Description
5/3/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Babby re motion for enlargement of time; order; Treasury.
5/3/1999	DMG	Dennis M. Gingold	1.0	Telcoms. Levitas re GAO report/issues; defs' status report.
5/3/1999	DMG	Dennis M. Gingold	1.6	Telcoms. Rempel re production/compliance with '96 order; database issues.
5/3/1999	DMG	Dennis M. Gingold	0.6	Conference call Babby, Harper re Gover; briefs, etc.
5/3/1999	DMG	Dennis M. Gingold	1.0	Redraft GAO report memo re trust reform.
5/3/1999	DMG	Dennis M. Gingold	1.0	Conference call Babby, Harper re Hill issues.
5/3/1999	DMG	Dennis M. Gingold	0.5	Conference call Levitas, Ms. Cobell re above.
5/3/1999	DMG	Dennis M. Gingold	1.1	Telcoms. Harper re above.
5/3/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re Hill issues.
5/3/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re same.
5/3/1999	DMG	Dennis M. Gingold	0.5	Telcoms. SPM re compliance with '96 order/status report.
5/3/1999	DMG	Dennis M. Gingold	0.1	Telcom. Bardnell re depositions.
5/3/1999	TH	Thaddeus Holt	2.1	Review Homan depo, other items for Homan meeting
5/3/1999	TH	Thaddeus Holt	0.5	Telcon Levitas, Harper re language for confidentiality agrt
5/4/1999	2358	Roderick C. Dennehy Jr.	1.50	GAO report, file review.
5/4/1999	6169	Sarah C. Perez	0.50	Xerox and provide copies of Cobell documents to E. Levitas.
5/4/1999	8800	Elliott H. Levitas	4.70	Meeting with Dennis Gingold, Thad Holt, Keith Harper and Lorna Babby regarding preparation of pre-trial, settlement, trial issues, witnesses, exhibits, stipulations, order of proof, government's motions and briefs, and Plaintiffs' response, preparation for meeting with appropriations committee staff (3.5); telephone conference with Dennis Gingold and Elouise Cobell regarding GAO report, activities of Kevin Gover, HLIP and funding issues (4); telephone conference with Jim McCarthy regarding media release of Lou Wiener appeal of the contempt (3); telephone conference with Keith Harper regarding proposed meeting with House appropriations committee and legislative strategy, review government motions, timing and response, issues on Gover press conference (5)
5/4/1999	DMG	Dennis M. Gingold	1.0	Telcom. Clark re all issues.
5/4/1999	DMG	Dennis M. Gingold	0.6	Conference call Harper, Holt re defs' MSJ.
5/4/1999	DMG	Dennis M. Gingold	4.5	Meet at NARF re all issues; case management.
5/4/1999	DMG	Dennis M. Gingold	1.1	Telcoms. Rempel re status/compliance 1st Order for production.
5/4/1999	DMG	Dennis M. Gingold	0.8	Revise draft III, status/compliance 1st order.
5/4/1999	DMG	Dennis M. Gingold	0.6	Revise draft IV, status/compliance 1st order.
5/4/1999	DMG	Dennis M. Gingold	0.5	Conference call Levitas, Ms. Cobell re above.
5/4/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re same.
5/4/1999	DMG	Dennis M. Gingold	0.1	Telcom. Tom Thompson, principal deputy special trustee, re 1st order.
5/4/1999	DMG	Dennis M. Gingold	0.1	Telcom. John Miller, senior deputy special trustee, re same.
5/4/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Levitas re above.
5/4/1999	DMG	Dennis M. Gingold	0.8	Telcoms. Harper re above.
5/4/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Babby re same.
5/4/1999	DMG	Dennis M. Gingold	0.1	Telcom. SPM re compliance with 1st order.
5/4/1999	TH	Thaddeus Holt	3.3	Meeting at NARF with Gingold, Levitas re planning, assignments, etc.
5/4/1999	TH	Thaddeus Holt	1.5	Preliminary look at govt's dispositive motions
5/5/1999	2358	Roderick C. Dennehy Jr.	2.50	File review, review legislative history of '94 Act.
5/5/1999	6169	Sarah C. Perez	1.50	Assist E. Levitas in locating files and copies of pleadings; review Lobbying Registration Act per E. Levitas and K. Harper to distinguish any requirements for Cobell.
5/5/1999	8800	Elliott H. Levitas	4.40	Telephone conference with Jim McCarthy; telephone conference with Keith Harper (2); telephone conference with Rick Dennehy (4); conference with Sarah Perez (3); meeting with Dennis Gingold and Thad Holt (1.0); meeting with Keith Harper; meeting with House Appropriations Committee (2.5)
5/5/1999	DMG	Dennis M. Gingold	2.5	Review pleadings files/exhibits re T-1 prep.
5/5/1999	DMG	Dennis M. Gingold	1.2	Review issues re selection of exhibits/witnesses.
5/5/1999	DMG	Dennis M. Gingold	3.0	Meet with Homan, Holt re trust reform and related issues.
5/5/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Homan re same.
5/5/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Babby re retaliation notice; reply.
5/5/1999	DMG	Dennis M. Gingold	1.1	Conference call Holt, Babby, Harper, Levitas re above.
5/5/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Pollner re data; statistical issues.
5/5/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Harper re exhibits.
5/5/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re above.
5/5/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re relevant law review article.
5/5/1999	TH	Thaddeus Holt	3	Meet with Gingold, Levitas (part of time), Homan
5/5/1999	TH	Thaddeus Holt	0.6	Revise, finalize reply re retaliation
5/5/1999	TH	Thaddeus Holt	3.1	Study govt's dispositive motions, reading cases, begin sketching response
5/6/1999	2358	Roderick C. Dennehy Jr.	3.10	Review defendants' motions for summary judgment (1.1); file review (1.2); conference with Elliott Levitas (8).
5/6/1999	6169	Sarah C. Perez	2.00	File review and organization.
5/6/1999	8800	Elliott H. Levitas	3.20	Review Plaintiffs' Motion to Strike; report to Dennis Gingold and Keith Harper regarding same (4); telephone conference with Elouise Cobell regarding appropriations and litigation support funds, document production (4); telephone conference with Dennis Gingold, Keith Harper, Jeff Rempel and Elouise Cobell regarding Justice Department activities on litigation support, appropriations (8); conference with Keith Harper regarding AO statute of limitation, joint pre-trial statement (3); telephone conference with Keith Harper, Dennis Gingold, Elouise Cobell regarding DOJ contacts and responses (5); conference with Rick Dennehy regarding summary judgment (8).
5/6/1999	DMG	Dennis M. Gingold	8.0	At PwC, doc review; case management meetings with Holt, Rempel, Forchec, Pollnar, Harper.
5/6/1999	DMG	Dennis M. Gingold	1.0	Review potential exhibits.

Date	Initials	Name	Hours	Description
5/6/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Harper re above; GAO legal opinion.
5/6/1999	DMG	Dennis M. Gingold	0.1	Telcom. Holt re above.
5/6/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Babby re above; demotion of Brookshire to GS-15.
5/6/1999	DMG	Dennis M. Gingold	0.3	Review draft retaliation reply brief.
5/6/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re above.
5/6/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re above.
5/6/1999	DMG	Dennis M. Gingold	0.1	Telcom. Pollner re model.
5/6/1999	TH	Thaddeus Holt	3	Meet at PwC with Harper, Gingold to review matters
5/6/1999	TH	Thaddeus Holt	3	Work at NARF library on govt's dispositive motions
5/7/1999	6169	Sarah C. Perez	1.00	Review and update Cobell files.
5/7/1999	7125	A. Stephens Clay	0.80	Meeting with Elliott Levitas regarding developments, staffing, related issues.
5/7/1999	8800	Elliott H. Levitas	1.80	Telephone conference with Jim Simon, Department of Justice (.4); telephone conference with Thad Holt regarding conversation with Jim Simon (.3); telephone conference with Dennis Gingold regarding same (.3); telephone conference with Keith Harper regarding same (.3); telephone conference with Keith Harper and Lorna Babby regarding pre-trial statement, Senate Committee Staff (.3); telephone conference with Keith Harper regarding Melvin (NYT) McCord (.2); conference with Steve Clay regarding developments, staffing and related issues (.8).
5/7/1999	DMG	Dennis M. Gingold	1.3	Draft notice of supplemental authority.
5/7/1999	DMG	Dennis M. Gingold	1.4	Review defs' opp to fee request.
5/7/1999	DMG	Dennis M. Gingold	0.3	Telcom. Clark re Patriarca docs.
5/7/1999	DMG	Dennis M. Gingold	0.1	Review Patriarca filing in response to deposition notice.
5/7/1999	DMG	Dennis M. Gingold	1.3	Conference calls Holt, Harper re judgment fund; fees associated with 3 year delay.
5/7/1999	DMG	Dennis M. Gingold	0.2	Telcom. Findlay re depositions.
5/7/1999	DMG	Dennis M. Gingold	0.3	Telcom. KS paralegal re docs.
5/7/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Harper re judgment fund; discovery; notice of supp authority; fees.
5/7/1999	DMG	Dennis M. Gingold	0.9	Telcoms. Babby re notice of supp authority; Rossman report.
5/7/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Holt re above.
5/7/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Levitas re same.
5/7/1999	DMG	Dennis M. Gingold	0.1	Telcom. Fasold re PwC model.
5/7/1999	DMG	Dennis M. Gingold	5.3	Review docs; 5NP production.
5/7/1999	TH	Thaddeus Holt	3.1	Work on reply to govt dispositive motions
5/7/1999	TH	Thaddeus Holt	0.9	Research on judgment fund
5/7/1999	TH	Thaddeus Holt	1.1	Study govt's response re contempt sanctions, discuss same with Gingold
5/7/1999	TH	Thaddeus Holt	0.3	Telcon Levitas re his telcon with Simon, discuss same with Gingold
5/7/1999	TH	Thaddeus Holt	0.2	Joined Gingold, Harper in confce call re govt oppo re sanctions
5/8/1999	DMG	Dennis M. Gingold	3.4	Work on fee reply brief.
5/8/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re same.
5/8/1999	DMG	Dennis M. Gingold	6.3	Review docs; 5NP production.
5/8/1999	TH	Thaddeus Holt	3.9	Work on oppo to govt's SJ motions
5/9/1999	8800	Elliott H. Levitas	1.40	Review and analyze Defendants' brief on summary judgment motion.
5/9/1999	DMG	Dennis M. Gingold	3.0	At NARF, continue review of pleadings files re potential exhibits.
5/9/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Holt re response to defs' MSJ.
5/9/1999	DMG	Dennis M. Gingold	0.3	Telcom. Harper re same; reply to defs' fee opposition brief.
5/9/1999	DMG	Dennis M. Gingold	7.3	Continue doc review; 5NP
5/9/1999	TH	Thaddeus Holt	4.5	Work on oppo to govt's SJ motions
5/10/1999	2358	Roderick C. Dennehy Jr.	0.50	File review.
5/10/1999	8800	Elliott H. Levitas	3.50	Telephone conference with Jim Simon (.3); telephone conference with Keith Harper and John Echohawk (.6); telephone conference with Dennis Gingold, Thad Holt, John Echohawk regarding confidentiality agreement (1.3); conference with Dennis Gingold and Keith Harper regarding same (.3); review Cobell brief (1.0)
5/10/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Thompson re SOL attorney allegations against Cohen; Williams status.
5/10/1999	DMG	Dennis M. Gingold	1.7	Telcoms. Babby re new BIA production fo 250 boxes of 5NP docs; GAO GC legal opinion.
5/10/1999	DMG	Dennis M. Gingold	6.0	Work on fee reply brief.
5/10/1999	DMG	Dennis M. Gingold	0.9	Telcoms. Levitas re GAO GC opinion; settlement conference.
5/10/1999	DMG	Dennis M. Gingold	0.8	Telcoms. Holt re above; sanctions time.
5/10/1999	DMG	Dennis M. Gingold	1.5	Telcoms. Harper re above.
5/10/1999	DMG	Dennis M. Gingold	0.3	Discuss above with Levitas.
5/10/1999	DMG	Dennis M. Gingold	0.3	Conference call Harper, Ms. Cobell re tribal resolution.
5/10/1999	DMG	Dennis M. Gingold	0.3	Conference call Harper, Echohawk re all issues.
5/10/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Rempel re production; database.
5/10/1999	DMG	Dennis M. Gingold	0.2	Telcom. Paris re OTFM.
5/10/1999	TH	Thaddeus Holt	7	Work on oppo to govt's SJ motions
5/11/1999	2358	Roderick C. Dennehy Jr.	3.50	File review (.4); review decision on motion to dismiss (1.2); review defendants' motions for summary judgment (2.0)
5/11/1999	8800	Elliott H. Levitas	8.80	Review Thompson-Williams email; telephone conference with Dennis Gingold regarding Thompson (.4); conference with John Echohawk, Dennis Gingold, Lorna Babby, Thad Holt regarding preparation of confidentiality statement (2.3); telephone conference with Jim Simon, DOJ, regarding redraft of confidentiality statement (.5); conference with Thad Holt and Dennis Gingold regarding review of briefs, research (.8); review and analyze special master order (.7); review and revise letter regarding settlement issues (.6); resolution conference with Gover, Schiffer, Brooks, Cohen, Echohawk, Treasury and Simon (3.5)
5/11/1999	DMG	Dennis M. Gingold	5.0	Work on reply brief re sanctions.
5/11/1999	DMG	Dennis M. Gingold	0.1	Telcom. Beard re Christie.
5/11/1999	DMG	Dennis M. Gingold	3.6	Meet with Beard at OSC re same.

Date	Initials	Name	Hours	Description
5/11/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Holt re Homan testimony; MSJ; settlement issues.
5/11/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Rempel re contempt/5NP docs.
5/11/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Pollner re model.
5/11/1999	DMG	Dennis M. Gingold	0.5	Work on MSJ reply.
5/11/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Levitas re above.
5/11/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Ms. Cobell re settlement; prior reapraial letter.
5/11/1999	DMG	Dennis M. Gingold	0.1	Telcom. Bardnell re PwC model.
5/11/1999	DMG	Dennis M. Gingold	0.1	Telcom. Christie re retaliation; OSC options.
5/11/1999	DMG	Dennis M. Gingold	0.1	Telcom. Thompson re Williams.
5/11/1999	TH	Thaddeus Holt	13.5	Work on oppo to govt's SJ motions; meet at NARF to plan for settlement meeting; settlement meeting at Interior
5/12/1999	2358	Roderick C. Dennehy Jr.	4.50	Telephone conversation with Elliott Levitas, Lorna Babby; review and analyze Defendants' Motions for Summary Judgment and Oppositions thereto.
5/12/1999	6169	Sarah C. Perez	2.50	File organization, document retrieval and distribution.
5/12/1999	8800	Elliott H. Levitas	2.60	Telephone conference with Keith Harper regarding outline of resolution proposal on judicial supervision (.4); telephone conference with David Zacks (.4); review articles (.8); telephone conference with Rick Dennehy and Lorna Babby regarding Motions for Summary Judgement (1.0)
5/12/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Clark re doc production.
5/12/1999	DMG	Dennis M. Gingold	1.3	Telcoms. Rempel re sanctions fee issues; HLIP; witness list.
5/12/1999	DMG	Dennis M. Gingold	1.3	Telcoms. Babby re defs' status report; Anadarko doc storage problems.
5/12/1999	DMG	Dennis M. Gingold	1.0	Meet with Holt, Levitas re settlement issues.
5/12/1999	DMG	Dennis M. Gingold	0.7	Conference call Harper, Babby, Holt, Echohawk re above.
5/12/1999	DMG	Dennis M. Gingold	0.1	Telcom. Echohawk re same.
5/12/1999	DMG	Dennis M. Gingold	0.1	Telcom. Christie re options, e.g., buy-out/retirement, alternative positions at DOI.
5/12/1999	DMG	Dennis M. Gingold	0.3	Conference call Christie/Harper re same.
5/12/1999	DMG	Dennis M. Gingold	0.8	Conference call Pollner, Rempel re production; data; model.
5/12/1999	DMG	Dennis M. Gingold	0.1	Conference call Pollner, Gooding re same.
5/12/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Pollner re same.
5/12/1999	DMG	Dennis M. Gingold	1.1	Telcoms. Ms. Cobell re settlement; above.
5/12/1999	DMG	Dennis M. Gingold	0.3	Conference call Babby, Harper re fee brief.
5/12/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Harper re above.
5/12/1999	DMG	Dennis M. Gingold	0.1	Telcom. Homan re potential testimony.
5/12/1999	DMG	Dennis M. Gingold	6.0	Work on reply brief.
5/12/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Levitas re settelemt.
5/12/1999	DMG	Dennis M. Gingold	0.1	Telcom. McCarthy re class communications.
5/12/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ames Brown re case management.
5/12/1999	DMG	Dennis M. Gingold	0.1	Telcoms. Peregoy re case management.
5/12/1999	TH	Thaddeus Holt	7	Work on oppo to govt's SJ motions, meet with Levitas and Gingols re settlement meeting, draft letter to Schiffer re Judgment Fund
5/13/1999	2358	Roderick C. Dennehy Jr.	2.50	File review.
5/13/1999	8800	Elliott H. Levitas	2.10	Telephone conference with Thad Holt (.4); telephone conference with Dennis Gingold, Thad Holt, and Keith Harper regarding resolution discussions, confidentiality agreement, press briefing, GAO opinion (.9); telephone conference with Jim Simon (.3); telephone conference with David Zacks regarding billing issues (.5)
5/13/1999	8913	David M. Zacks	0.50	Discussion with Elliott Levitas regarding billing issues.
5/13/1999	DMG	Dennis M. Gingold	8.0	Work on reply brief.
5/13/1999	DMG	Dennis M. Gingold	2.4	Meet at NARF re all briefing issues.
5/13/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Holt re settlement; case management.
5/13/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Gooding re PwC model.
5/13/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Babby re defs' prodcution.
5/13/1999	DMG	Dennis M. Gingold	1.6	Telcoms. Harper re above.
5/13/1999	DMG	Dennis M. Gingold	0.1	Telcom. Clark re depos/docs.
5/13/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re above.
5/13/1999	DMG	Dennis M. Gingold	0.1	Telcom. Homan re testimony.
5/13/1999	DMG	Dennis M. Gingold	0.1	Telcom. SPM re 5NP production.
5/13/1999	TH	Thaddeus Holt	6.5	Work on oppo to govt's SJ motions; review draft with Harper
5/13/1999	TH	Thaddeus Holt	0.5	Meet with, brief Ames Brown re work on case
5/13/1999	TH	Thaddeus Holt	1.6	Study govt's oppo re contempt sanctions, draft affidavit re same
5/14/1999	1477	Tim Carssov	1.20	Telephone Call with Miles J. Alexander and Steve Clay regarding proposed fee agreements and related matters.
5/14/1999	2358	Roderick C. Dennehy Jr.	2.50	File review.
5/14/1999	8800	Elliott H. Levitas	2.00	Several telephone conferences with counsel regarding status, confidentiality agreement, press coverage, Jim Simon (2.0)
5/14/1999	DMG	Dennis M. Gingold	10.5	Work on reply brief.
5/14/1999	DMG	Dennis M. Gingold	0.5	Review draft protective order.
5/14/1999	DMG	Dennis M. Gingold	0.2	Telcom. TB re case status.
5/14/1999	DMG	Dennis M. Gingold	0.1	Conference call Harper, Clark re privilege docs.
5/14/1999	DMG	Dennis M. Gingold	0.1	Conference call Harper, Brooks re same.
5/14/1999	DMG	Dennis M. Gingold	2.6	Conference call Harper re above; draft V, fee letter; Kaplan draft letter, protective order.
5/14/1999	DMG	Dennis M. Gingold	0.4	Review Kaplan draft.
5/14/1999	DMG	Dennis M. Gingold	0.4	Review joint motion.
5/14/1999	DMG	Dennis M. Gingold	0.1	Conference call Cook, Harper re production.
5/14/1999	DMG	Dennis M. Gingold	0.3	Conference call Harper, Babby re above.
5/14/1999	DMG	Dennis M. Gingold	0.2	Conference call Harper, Holt re same.

Date	Initials	Name	Hours	Description
5/14/1999	DMG	Dennis M. Gingold	0.3	Conference call Holt, Levitas re above.
5/14/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Babby re above.
5/14/1999	DMG	Dennis M. Gingold	2.0	Attend defs' press conference re trust reform.
5/14/1999	TH	Thaddeus Holt	8.1	Finish oppo to gov't's main SJ, voicemail Monaghan re same; do support papers, doo Treasury oppos with research and support papers
5/15/1999	DMG	Dennis M. Gingold	7.8	Work on fee reply brief.
5/15/1999	DMG	Dennis M. Gingold	1.5	At NARF, discuss reply issues.
5/15/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Brooks re production; no appellate record.
5/15/1999	DMG	Dennis M. Gingold	1.2	Telcoms. Harper re above.
5/15/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Ms. Cobell re STR advisory board issues.
5/15/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Levitas re above.
5/15/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re above.
5/15/1999	DMG	Dennis M. Gingold	5.5	At PwC, review production.
5/16/1999	DMG	Dennis M. Gingold	8.0	Revise draft 5, reply brief.
5/16/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Harper re same.
5/16/1999	DMG	Dennis M. Gingold	0.2	Telcom. Holt re pretrial meeting with Clark.
5/16/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Babby re reply.
5/16/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Levitas re above.
5/16/1999	TH	Thaddeus Holt	0.4	Telcon Gingold re reply re contempt sanctions, other matters; review papers
5/17/1999	1477	Tim Carsrow	0.50	Telephone Call with A. Stephens Clay and Miles J. Alexander
5/17/1999	7125	A. Stephens Clay	1.50	Preparation for, participate in meeting with Dick Babush regarding fee agreement.
5/17/1999	8800	Elliott H. Levitas	2.00	Conference with Keith Harper, Dennis Gingold and Elouise Cobell (1.5); telephone conference with Vance Hughes regarding alternatives for dealing with Environmental and Natural Resources of DOJ (.5)
5/17/1999	DMG	Dennis M. Gingold	0.7	Telcom. Pollner re affidavit.
5/17/1999	DMG	Dennis M. Gingold	2.0	Meet at NARF all issues.
5/17/1999	DMG	Dennis M. Gingold	13.0	Work on reply brief.
5/17/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Holt re above.
5/17/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Rempel re reply, affidavit.
5/17/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Harper re same.
5/17/1999	TH	Thaddeus Holt	0.2	Telcons Levitas, Gingold re status
5/18/1999	2358	Roderick C. Dennehy Jr.	2.50	Conference call with Elliott Levitas and Lorna Babby regarding joint pretrial report (.4); file review (2.1)
5/18/1999	6779	Miles J. Alexander	1.60	(5/17-18/99) - Review status, staffing, agreement between counsel, etc.; telephone conference with Elliott Levitas; telephone conference with Steve Clay; telephone conference with Dick Babush.
5/18/1999	7125	A. Stephens Clay	0.20	Regarding fee agreement.
5/18/1999	8800	Elliott H. Levitas	6.00	Document review at PriceWaterHouse (3.4); conference with Lorna Babby (.4); telephone conference with Rick Dennehy (.2); telephone conference with Miles Alexander regarding status, staffing issues, KS agreement (.4); further document review (1.6)
5/18/1999	DMG	Dennis M. Gingold	9.5	Review pleadings files/exhibits re T-1 prep.
5/18/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Pollner re deposition transcripts.
5/18/1999	DMG	Dennis M. Gingold	1.0	Telcoms. Harper re response brief; production; depositions.
5/18/1999	DMG	Dennis M. Gingold	0.9	Telcoms. Brooks re discovery.
5/18/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re above.
5/18/1999	DMG	Dennis M. Gingold	0.5	Conference call Holt, Harper re above.
5/18/1999	DMG	Dennis M. Gingold	0.1	Telcom beneficiary re IIM Crow issues.
5/18/1999	DMG	Dennis M. Gingold	0.1	Telcom beneficiary re scope of class; status.
5/18/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re above.
5/18/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re above.
5/19/1999	6779	Miles J. Alexander	0.90	Draft counsel fee agreement; telephone discussion with Steve Clay and conference with David Zacks regarding counsel fee agreement; review draft.
5/19/1999	7125	A. Stephens Clay	0.30	Regarding agreement among counsel, with clients.
5/19/1999	8800	Elliott H. Levitas	4.60	Telephone conference with Jim Simon regarding memo, confidentiality agreement (.8); document review at PriceWaterHouse with Dennis Gingold, Keith Harper, Thad Holt, et al. (1.6); conference with Keith Harper and Jim McCarthy (.5); telephone conference with Lynn Cutler (.4); conference with Lorna Babby regarding report on White House and Simon (1.3).
5/19/1999	DMG	Dennis M. Gingold	9.5	At PwC, doc review.
5/19/1999	DMG	Dennis M. Gingold	1.5	Review computer/IT issues.
5/19/1999	DMG	Dennis M. Gingold	0.6	Telcom. Harper re above.
5/19/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Holt re above.
5/19/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re above.
5/19/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Babby re above.
5/19/1999	DMG	Dennis M. Gingold	0.2	At NARF, doc production.
5/19/1999	DMG	Dennis M. Gingold	0.1	Telcom. Eva Cobell re docs.
5/20/1999	2358	Roderick C. Dennehy Jr.	2.20	Review Opposition to Defendants' Motions for Summary Judgment and supporting affidavits.
5/20/1999	6779	Miles J. Alexander	1.00	Edit draft counsel agreement; E-mail multiple parties; telephone discussions with Thad Holt, Elliott Levitas, David Zacks and Dick Babush.

Date	Initials	Name	Hours	Description
5/20/1999	8800	Elliott H. Levitas	3.70	Telephone conference with Jim Simon (.3); telephone conference with Elouise Cobell regarding witnesses (.4); review confidentiality agreement proposal (.8); conference with Dennis Gingold regarding witness, memo response to DOJ (.3); telephone conference with Elouise Cobell regarding witnesses (.2); conference with Keith Harper regarding response to DOJ, confidentiality agreement and resolution, pre-trial statement (.3); review and analyse information from Jim Simon (.5); conference with Lorna Babby regarding pre-trial statement (.2); conference with Lorna and Dennis Gingold regarding DOJ response (.3); telephone conference with Miles Alexander, Thad Holt, David Zacks and Dick Babush regarding counsel agreement (.4)
5/20/1999	DMG	Dennis M. Gingold	16.5	Meeting on pre-trial statement; AA document review and exhibit list.
5/20/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Holt re same.
5/20/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Rempel re same.
5/20/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Levitas re above; WB II.
5/20/1999	DMG	Dennis M. Gingold	0.1	Telcom. Harper re above.
5/20/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Ms. Cobell re above.
5/20/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re same.
5/20/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Beard re Christie retaliation.
5/21/1999	2358	Roderick C. Dennehy Jr.	0.70	Telephone conversation (2) with Elliott Levitas (.4); Joint Pretrial Report.
5/21/1999	8800	Elliott H. Levitas	4.60	Letter to Jim Simon enclosing final revised version of the confidentiality agreement (.3); conference (2) with Lorna Babb regarding joint pre-trial statement, retaliation order, appeal on privilege (1.4); telephone conference with Rick Dennehy regarding joint pre-trial, summary judgment (.4); conference with Dennis Gingold regarding confidentiality agreement and consent decree, letter to DOJ (.6); telephone conference with Jim Simon regarding confidentiality agreement and settlement issues (.3); telephone conference with Bill Clinger regarding witness (.5); conference with Keith Harper, Dennis Gingold, Lorna Babby, Thad Holt regarding joint pre-trial, witnesses, documents, trial strategy (.7); telephone conference with Rick Dennehy and Audra Dial regarding evidentiary memo task assignment and briefing (.4)
5/21/1999	DMG	Dennis M. Gingold	23.0	Continue AA document review and witness list.
5/22/1999	8913	David M. Zacks	1.00	Review of agreements between client, firm and Cobell firm regarding engaging services of Elliott Levitas and comments regarding same.
5/22/1999	DMG	Dennis M. Gingold	0.1	Telcom. Pollner re same.
5/22/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Levitas re same.
5/22/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re same.
5/23/1999	TH	Thaddeus Holt	3.5	Meet at NARF re pretrial statement
5/24/1999	6169	Sarah C. Perez	2.00	Assist temporary with administrative details of Cobell matter; assist in having documents couriered; review Cobell file documents, xerox and pouch documents to C. Buttram; discuss lobbying registration requirements with E. Levitas, and K. Harper.
5/24/1999	8800	Elliott H. Levitas	2.70	Further review and analysis of Haun deposition (1.3); telephone conference with Sara Perez regarding lobbying registration requirements (.2); further review of counsel agreement (1.2)
5/24/1999	DMG	Dennis M. Gingold	0.8	Telcoms. Beard re Christie retaliation.
5/24/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Christie re same.
5/24/1999	DMG	Dennis M. Gingold	1.0	At NARF, prepare for meet and confer with Justice re pre-trial statement.
5/24/1999	DMG	Dennis M. Gingold	1.3	Meet with DOJ, NARF, Holt re same.
5/24/1999	DMG	Dennis M. Gingold	3.3	Meet with NARF, Holt, Levitas re witness list.
5/24/1999	DMG	Dennis M. Gingold	3.0	Meet with Levitas re evaluation of witness list.
5/24/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Rempel re same.
5/24/1999	DMG	Dennis M. Gingold	0.2	Telcom. Harper re same.
5/24/1999	DMG	Dennis M. Gingold	0.5	Conference call Beard, Christie re retaliation.
5/24/1999	DMG	Dennis M. Gingold	0.1	Telcom. Pollner re witnesses.
5/24/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Ms. Cobell re above.
5/24/1999	DMG	Dennis M. Gingold	0.1	Telcom. Holt re above.
5/24/1999	TH	Thaddeus Holt	13.5	Meet with govt lawyers, plaintiff team re pretrial statement; drafting components of pretrial statement and revisions and discussions of same
5/25/1999	2358	Roderick C. Dennehy Jr.	0.50	Conference with Elliott Levitas and Audra Dial regarding evidentiary research.
5/25/1999	5796	Audra A. Dial	0.60	Meeting to discuss case research.
5/25/1999	6169	Sarah C. Perez	1.00	Assist temporary with organizing Cobell documents.
5/25/1999	8800	Elliott H. Levitas	8.50	Telephone conference with Rick Dennehy and Audra Dial regarding task assignment regarding evidentiary memorandum (.6); letter to Lois Schiffer regarding settlement issues (.4); review and revise Agreement Among Counsel (.3); draft pre-trial statement with Thad Holt, Dennis Gingold, Lorna Babby and Keith Harper (7.2).
5/25/1999	DMG	Dennis M. Gingold	18.0	Review docs re exhibit list.
5/25/1999	DMG	Dennis M. Gingold	0.4	Conference call Rempel, et al. re email docs.
5/25/1999	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re above.
5/25/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Harper re above.
5/25/1999	DMG	Dennis M. Gingold	0.1	Telcom. Pollner re above.
5/25/1999	TH	Thaddeus Holt	8	Working on pretrial statement at NARF with plaintiffs team
5/26/1999	2358	Roderick C. Dennehy Jr.	2.50	Review Gov't Operations Committee Report (.9); review Joint Pretrial Report (1.1); file review (.5).
5/26/1999	5796	Audra A. Dial	5.40	Researching evidence law regarding hearsay exceptions.
5/26/1999	8800	Elliott H. Levitas	9.40	Telephone conference with Elouise Cobell (.2); telephone conference with Jim McCarthy, Keith Harper (.2); preparation of pre-trial statement (9.0)
5/26/1999	DMG	Dennis M. Gingold	1.0	At SPM with PwC re hearing on email destruction.
5/26/1999	DMG	Dennis M. Gingold	0.5	Meet with Holt re various pretrial issues.

Date	Initials	Name	Hours	Description
5/26/1999	DMG	Dennis M. Gingold	15.9	Doc review.
5/26/1999	DMG	Dennis M. Gingold	0.2	Conference call Coates, Beard re Christie.
5/26/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Beard re same.
5/26/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Christie re same.
5/26/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Homan re same; MMS issues.
5/26/1999	DMG	Dennis M. Gingold	0.2	Conference call Pollner, Hot re off-system transactions/TB's.
5/26/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Pollner re same.
5/26/1999	DMG	Dennis M. Gingold	0.5	Draft proposed order re email preservation.
5/26/1999	DMG	Dennis M. Gingold	0.2	Telcom. Harper re above.
5/26/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re above.
5/26/1999	DMG	Dennis M. Gingold	0.1	Telcom. ABA Journal re conduct of defs' counsel.
5/26/1999	DMG	Dennis M. Gingold	0.1	Telcom. SPM re privilege log.
5/26/1999	DMG	Dennis M. Gingold	0.1	Telcom. Echohawk re above..
5/26/1999	TH	Thaddeus Holt	13.1	Meet with govt lawyers, plaintiff team re pretrial statement; reviewing documents for possible exhibits; searching files as to which spurious privilege claims were made by govt; repond to govt's proposed stips
5/27/1999	5796	Audra A. Dial	2.60	Researching case law regarding evidentiary exception to hearsay rule.
5/27/1999	8800	Elliott H. Levitas	11.00	Draft per-trial statement
5/27/1999	DMG	Dennis M. Gingold	15.5	Draft pretrial statement.
5/27/1999	DMG	Dennis M. Gingold	1.0	Draft opposition to defs' email retrieval plan.
5/27/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Rempel re above.
5/27/1999	DMG	Dennis M. Gingold	0.1	Telcom. Harper re same.
5/27/1999	DMG	Dennis M. Gingold	0.1	Telcom. Peregoy re IIM check endorsement issue.
5/27/1999	TH	Thaddeus Holt	14.6	Finishing pretrial statement with team, many telcons with govt lawyers
5/28/1999	2358	Roderick C. Dennehy Jr.	4.10	Research motion to strike defenses (2.1); research trustee duties and liabilities (2.0)
5/28/1999	5796	Audra A. Dial	8.00	Reviewing cases regarding personal knowledge, hearsay privileges, and exceptions for testimony of investigation supervisor; drafting memorandum regarding issues.
5/28/1999	6169	Sarah C. Perez	1.00	Assist with Cobell case document retrieval and distribution; fax Defendant pleading to C. Buttram.
5/28/1999	8800	Elliott H. Levitas	3.90	Meeting with Sandy Harris, Congressman Clinger at NARF (3.0); research motion to strike issues, testimony (.9)
5/28/1999	DMG	Dennis M. Gingold	1.4	Prepare draft I, supp information to SPM.
5/28/1999	DMG	Dennis M. Gingold	1.2	Review amended Treasury expert report.
5/28/1999	DMG	Dennis M. Gingold	0.8	Telcoms. Forhecq re same; new predecessor in interest issues.
5/28/1999	DMG	Dennis M. Gingold	0.2	Conference call Gooding, et al re email issues.
5/28/1999	DMG	Dennis M. Gingold	4.0	At NARF, review AA workpapers re potential exhibits; inventory.
5/28/1999	DMG	Dennis M. Gingold	0.8	Telcoms. Harper re above; reply brief.
5/28/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Rempel re email.
5/28/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re above.
5/28/1999	DMG	Dennis M. Gingold	0.4	Telcom. Babby re above.
5/28/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re above.
5/28/1999	DMG	Dennis M. Gingold	0.1	Telcom. SPM re email destruction.
5/28/1999	TH	Thaddeus Holt	3.4	Followup re pretrial statement, first look at admin record, interview Clinger with Levitas
5/29/1999	DMG	Dennis M. Gingold	5.0	At NARF, review pleadings files for response to defs' email position; discuss same and Treasury summary judgment motion; surreply, etc (with Harper, Babby)
5/29/1999	DMG	Dennis M. Gingold	1.5	Prepare draft I, plttfs' second supp to opposition to defs' retrieval of email.
5/29/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Babby re above.
5/29/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Harper re same.
5/29/1999	DMG	Dennis M. Gingold	4.4	Review 5NP docs.
5/30/1999	DMG	Dennis M. Gingold	5.0	Revise draft II, second supp brief to SPM re email.
5/30/1999	DMG	Dennis M. Gingold	0.5	Telcom. Christie re retaliation.
5/30/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Babby re second supp brief.
5/30/1999	DMG	Dennis M. Gingold	6.0	Review 5NP production.
5/31/1999	1477	Tim Carssow	0.40	Review of Elliott's changes and e-mail to Elliott
5/31/1999	5796	Audra A. Dial	0.70	Revising memorandum regarding evidentiary privileges and hearsay exception.
5/31/1999	8800	Elliott H. Levitas	1.50	Telephone conference with Dennis Gingold regarding memo supporting motion on defenses and discussion about Simon telephone call and response regarding resolution (.4); telephone conference with Thad Holt regarding same (.4); telephone conference with Jim McCarthy regarding press conference transcripts as it relates to resolution meeting (.3); telephone conference with Keith Harper regarding same (.4).
5/31/1999	DMG	Dennis M. Gingold	7.0	Revise drafts III, IV & V or second supp to opp to defs' email retrieval plan.
5/31/1999	DMG	Dennis M. Gingold	0.1	Telcom. Harper re same.
5/31/1999	DMG	Dennis M. Gingold	0.6	Conference call Rempel, Holt re above.
5/31/1999	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re same.
5/31/1999	DMG	Dennis M. Gingold	0.9	Review expert report.
5/31/1999	DMG	Dennis M. Gingold	5.4	Review 5NP docs.
5/31/1999	TH	Thaddeus Holt	5	Draft surreply to Treas SJ, draft oppo to surreply motion re sanctions, look at admin record, telcon Levitas re meeting Clinger, prepare for Homa interview
6/1/1999	2358	Roderick C. Dennehy Jr.	6.30	Research remedies; review Dial memo; research presumptions; research exclusions of "fix it" evidence.
6/1/1999	5796	Audra A. Dial	4.20	Revising memo regarding evidentiary rules and hearsay exceptions.
6/1/1999	6169	Sarah C. Perez	0.50	Fax copy of Joint Pretrial Statement to C. Buttram.



Date	Initials	Name	Hours	Description
6/1/1999	8800	Elliott H. Levitas	9.70	Administrative, document revision; telephone conference with Dennis Gingold, Lorna Babby, Keith Harper (.7); telephone conference with Jim Simon, Keith Harper regarding resolution discussions (.7); conference with Keith Harper (.4); conference with Keith Harper and Thad Holt (.3); telephone conference with Jim McCarthy regarding preparation for press conference, letter to the editor, Cobell response, DOJ email to court (.4); telephone conference with Rick Dennehy regarding summary judgment, briefs and motions (.4); review, revise and analyze memorandum on hearing, evidence, Clinger, Symms report (.5)
6/1/1999	DMG	Dennis M. Gingold	9.0	Review administrative record re witnesses/exhibits.
6/1/1999	DMG	Dennis M. Gingold	0.7	Telcoms. Holt re surreply; Treasury issues; Homan schedule; admin record.
6/1/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Homan re testimony; schedule.
6/1/1999	DMG	Dennis M. Gingold	0.2	Conference call Harper, Babby re dispositive issues.
6/1/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Babby re above.
6/1/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Harper re above.
6/1/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re pre-trial statement.
6/1/1999	TH	Thaddeus Holt	7	Working on Homan materials and outlining testimony
6/2/1999	2358	Roderick C. Dennehy Jr.	5.10	Research exclusion of "fix it" evidence; telephone conversation with Elliott Levitas; research issues concerning Clinger testimony; draft motion to strike defenses; revise Dial memorandum.
6/2/1999	5796	Audra A. Dial	1.60	Researching case law regarding non-supervisor investigative committee member's testimony; meeting to discuss research.
6/2/1999	8800	Elliott H. Levitas	10.20	Conference with Thad Holt, Dennis Gingold; conference with Keith Harper; document review (4.5); trial preparation and document review (3.3); telephone conference with Jim Simon, DOJ, with Phil Brooks, DOJ; telephone conference with Keith Harper regarding DOJ and resolution discussions (.5); telephone conference with Rick Dennehy regarding motion to strike defenses, memo to Audra; telephone conference with Bob Vaughn regarding trust law support for motion to strike defenses (.6); telephone conference with Babbitt regarding Gover tape; conference with Keith Harper (1.3)
6/2/1999	DMG	Dennis M. Gingold	13.0	Review administrative record re witnesses/exhibits.
6/2/1999	DMG	Dennis M. Gingold	0.1	Review draft of opp to file surreply.
6/2/1999	DMG	Dennis M. Gingold	0.1	Telcom. Gooding re witnesses/exhibits.
6/2/1999	DMG	Dennis M. Gingold	0.1	Tecom. Polner re same.
6/2/1999	TH	Thaddeus Holt	9.1	Research on admin record; met with Homan, reviewed exhibits; work on Homan testimony, opening statement
6/3/1999	2358	Roderick C. Dennehy Jr.	1.70	Draft proffer of testimony; research presumption of continuation.
6/3/1999	6169	Sarah C. Perez	1.50	Assist with Cobell file organization and indexing.
6/3/1999	8800	Elliott H. Levitas	7.30	Telephone conference with Kate Vandemor (.2); conference with Congressman Clinger, Sandy Harris regarding witness interviews (5.0); prepare and revise memo on Clinger testimony admissibility (1.3); telephone conference with Kate Vandemor regarding issues and arrangements (.3); telephone conference with Bob Vaughn; conference with Sarah Perez regarding task assignment on evidentiary memo; telephone conference with Rick Dennehy regarding research on fact presumption (.5).
6/3/1999	DMG	Dennis M. Gingold	8.0	Review docs at governemnt doc center.
6/3/1999	DMG	Dennis M. Gingold	0.1	Telcom. Forhecz re same.
6/3/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ignat re PwC model.
6/3/1999	DMG	Dennis M. Gingold	0.1	Telcom holt re privilege issues.
6/3/1999	TH	Thaddeus Holt	9	Meet with Forhecz and Fitzsimmons re their depos; meet with Levitas and Clinger re his testimony; work on Homan testimony
6/4/1999	6169	Sarah C. Perez	1.50	Assist with Cobell file documentation and retrieval; fax various documents to E. Levitas.
6/4/1999	7125	A. Stephens Clay	0.50	Support for Levitas.
6/4/1999	8800	Elliott H. Levitas	7.00	Review memo on Congressional report, cash on resumption (.7); conference with Brooks, Simon, Gover, Echohawk, Harper, Holt regarding resolution discussions (2.0); telephone conference with Keith Harper and John Echohawk regarding follow up strategy (.3); telephone conference with Thad Holt regarding same (.2); regarding time billing for retaliation issues, review and call time sheets for March through May (2.3) review and analyse research on trust breach, future activity or plans as remedy or cure, trust law application, treatise, discussion of "continued existence" presumption, government report and testimony hearing expert (1.5)
6/4/1999	DMG	Dennis M. Gingold	4.4	Work on Christie issues, e.g., time data.
6/4/1999	DMG	Dennis M. Gingold	6.0	Meet at NARF re trial strategy; witnesses, exhibits.
6/4/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Remple re same.
6/4/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Levitas re same.
6/4/1999	DMG	Dennis M. Gingold	0.3	Telcom. TB re IIM Quinault issues.
6/4/1999	DMG	Dennis M. Gingold	0.1	Telcom. TB re case status.
6/4/1999	DMG	Dennis M. Gingold	0.2	Telcom. Babby re trial strategy, witnesses, exhibits.
6/4/1999	DMG	Dennis M. Gingold	0.2	Telcom. Harper re same.
6/4/1999	DMG	Dennis M. Gingold	1.0	Telcom BIA "whistle blower" re doc destruction, etc.
6/4/1999	TH	Thaddeus Holt	3	Meet with Homan re testimony
6/4/1999	TH	Thaddeus Holt	4	Confce Gingold, Harper, and team re trial plans
6/4/1999	TH	Thaddeus Holt	0.7	Confce call Levitas, Harper, Brooks, Simon, Gover re possibe consent decree
6/4/1999	TH	Thaddeus Holt	0.9	Confce Gingold, Harper, and team re selecting exhibits
6/5/1999	8800	Elliott H. Levitas	2.90	Telephone conference with Phil Brooks, DOJ, regarding resolution discussions; telephone conference with Thad Holt, Keith Harper regarding report on Brooks memo, notes on resolution.
6/5/1999	DMG	Dennis M. Gingold	11.8	Review exhibits.

Date	Initials	Name	Hours	Description
6/5/1999	TH	Thaddeus Holt	8.5	Revise Homan testimony outline; confce call re settlement; drafting pretrial brief; review exhibits
6/6/1999	DMG	Dennis M. Gingold	10.0	Review admin record re exhibits/witnesses.
6/6/1999	TH	Thaddeus Holt	10.2	Research at C&B re pretrial brief; confce call re settlement; drafting opening statement; drafting pretrial objections
6/7/1999	2358	Roderick C. Dennehy Jr.	2.80	Telephone conversation with Elliott Levitas (3); review pleadings; research presumption of continuance; research admission of Congressional reports.
6/7/1999	8800	Elliott H. Levitas	5.30	Preparation for pre-trial hearing; review documents, briefs, etc ; coordinate with Thad Holt and Dennis Gingold on pre-trial agenda, pre-trial hearing before Judge Lamberth; post-trial follow up on matters arising from pre-trial hearing; work on documents and preparation for documents at trial (4.3); telephone conference with and interview with potential witness and screening of information; review notes and memo on witnesses (1.0)
6/7/1999	DMG	Dennis M. Gingold	11.5	At NARF, review admin record re exhibits/witnesses.
6/7/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Rempel re doc preservation order.
6/7/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Levitas re above.
6/7/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re same.
6/7/1999	DMG	Dennis M. Gingold	0.2	Telcom. Holt re same.
6/7/1999	DMG	Dennis M. Gingold	0.1	Telcom Harper same.
6/7/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Office of Special Counsel re Christie.
6/7/1999	DMG	Dennis M. Gingold	2.5	Prepare Chistie time re same.
6/7/1999	TH	Thaddeus Holt	7	Pretrial with prep and followup (3 hrs court time)
6/8/1999	2358	Roderick C. Dennehy Jr.	6.20	Telephone conversation with Elliott Levitas; research FRE 602, 701; draft Motion for Sanctions.
6/8/1999	6169	Sarah C. Perez	2.50	Search, download, xerox and distribute Cobell articles, recent court opinions and docket information; discuss with C. Buttram.
6/8/1999	8800	Elliott H. Levitas	9.60	Conference with Cong. Clinger, Sandy Harris, Steve Richardson (.9); regarding and memo regarding 803(8)(c) (2.4); telephone conference with Rick Dennehy (.5); conference with Keith Harper, Lorna Babby regarding preparation for Clinger testimony (3.3); review pre-trial order, analyze impact of pre-trial brief (1.6); telephone conference with Thad Holt regarding order and brief (.3); telephone conference with Dennis Gingold regarding order, Phi Brooks, Treasury proposal and response (.4); memo regarding Bill Clinger (.2).
6/8/1999	DMG	Dennis M. Gingold	9.8	Draft request for SPM to address doc protection/destruction problem.
6/8/1999	DMG	Dennis M. Gingold	4.3	At NARF, review admin record re exhibits/witnesses.
6/8/1999	DMG	Dennis M. Gingold	0.4	Telcom. Harper re above.
6/8/1999	DMG	Dennis M. Gingold	0.2	Telcom. Babby re same.
6/8/1999	DMG	Dennis M. Gingold	0.4	Telcom. Levitas re same.
6/8/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Beard re Christie settlement.
6/8/1999	DMG	Dennis M. Gingold	0.2	Telcom. Christie re same.
6/8/1999	DMG	Dennis M. Gingold	0.1	Telcom. SPM re doc protection order.
6/8/1999	TH	Thaddeus Holt	7	Finish pretrial brief, confce Gingold, Pollner re off the system, did motion amend complaint, confce Levitas re Brooks call, Treasury proposal
6/9/1999	2358	Roderick C. Dennehy Jr.	1.00	Research FRE 602,701
6/9/1999	6169	Sarah C. Perez	2.50	Assist with document retrieval, xeroxing, and distribution; update and organize file information.
6/9/1999	8800	Elliott H. Levitas	8.00	Meeting with Cong. Clinger; trial preparation, review of cases for admissibility on hearsay rule, outline of examination, preparation for readmission of evidence.
6/9/1999	DMG	Dennis M. Gingold	2.3	Revise brief re opp to defs' motion for reconsideration of expert report.
6/9/1999	DMG	Dennis M. Gingold	1.5	At SPM with Harper re hearing on adequacy of defs' doc production.
6/9/1999	DMG	Dennis M. Gingold	5.0	Prepare for Trial 1.
6/9/1999	DMG	Dennis M. Gingold	0.1	Telcom. Haley, deputy clerk U.S. Court of Appeals, re Cobell.
6/9/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Beard re Christie settlement issues.
6/9/1999	DMG	Dennis M. Gingold	0.1	Telcom. Holt re above.
6/9/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Peregoy re case management.
6/9/1999	TH	Thaddeus Holt	7	Misc trial preparations
6/10/1999	6169	Sarah C. Perez	6.50	Attend Cobell trial at US District Court for DC.
6/10/1999	8800	Elliott H. Levitas	12.00	Trial; preparation of documents for trial.
6/10/1999	DMG	Dennis M. Gingold	6.8	Prepare for Trial 1.
6/10/1999	DMG	Dennis M. Gingold	7.0	In Court, trial.
6/10/1999	DMG	Dennis M. Gingold	0.3	Telcom. Harper re ALMARS failure.
6/10/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re above.
6/10/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Beard re Christie.
6/10/1999	TH	Thaddeus Holt	11.6	Trial with prep and followup; opening statement, Homan direct, exhibit selection (5.6 hours court time)
6/11/1999	6169	Sarah C. Perez	3.50	Organize Cobell files; update index.
6/11/1999	8800	Elliott H. Levitas	10.00	Trial; witness preparation.
6/11/1999	DMG	Dennis M. Gingold	7.0	In Court, trial.
6/11/1999	DMG	Dennis M. Gingold	6.0	Prepare for trial.
6/11/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Holt re above.
6/11/1999	DMG	Dennis M. Gingold	0.1	Telcom. Harper re same.
6/11/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re same.
6/11/1999	TH	Thaddeus Holt	7.8	Trial with prep; Homan redirect (5.6 hours court time)
6/12/1999	DMG	Dennis M. Gingold	10.0	Prepare for trial.
6/12/1999	TH	Thaddeus Holt	4	Meet at NARF, discuss strategy
6/13/1999	8800	Elliott H. Levitas	10.50	Meeting at NARF office regarding review of testimony, motions to be filed, assignment of examination of witnesses, review of documents, preparation for witness examination

Date	Initials	Name	Hours	Description
6/13/1999	DMG	Dennis M. Gingold	13.0	Prepare for trial.
6/13/1999	TH	Thaddeus Holt	9	Meet at NARF, review documents, discuss witness order, review Rossman material, draft depo notice re admin record, draft TRO application re doc preservation
6/14/1999	8800	Elliott H. Levitas	10.50	Trial; trial preparation; meeting at NARF regarding witness preparation.
6/14/1999	DMG	Dennis M. Gingold	4.9	Prepare for trial.
6/14/1999	DMG	Dennis M. Gingold	7.5	In Court, trial.
6/14/1999	DMG	Dennis M. Gingold	1.0	Meet with Christie to discuss settlement issues.
6/14/1999	DMG	Dennis M. Gingold	0.1	Telcom. Beard re same.
6/14/1999	TH	Thaddeus Holt	13	Trial; prepare before, meet afterwards, search for potential exhibits re Rossman, records; discuss govt's proposed order of proof, proposed exhibits (5.7 hours court time)
6/15/1999	8800	Elliott H. Levitas	8.00	Trial; witness preparation.
6/15/1999	DMG	Dennis M. Gingold	1.7	Prepare for re-direct Christie.
6/15/1999	DMG	Dennis M. Gingold	7.0	In Court, trial.
6/15/1999	DMG	Dennis M. Gingold	7.3	At NARF, prepare for trial.
6/15/1999	DMG	Dennis M. Gingold	0.3	Meet with Christie re OSC settlement draft.
6/15/1999	TH	Thaddeus Holt	5	Trial (5.0 hours court time)
6/15/1999	TH	Thaddeus Holt	1.5	Prepare for trial
6/15/1999	TH	Thaddeus Holt	2.6	Discuss depo re admin record with Ferrell of govt; research re attorney-client privilege, work product concerning same
6/16/1999	2358	Roderick C. Dennehy Jr.	0.40	File review.
6/16/1999	8800	Elliott H. Levitas	8.30	Trial (3.0); preparation for depositions on administrative record; conference with Thad Holt, Edith Blackwell witness (2.5); preparation of trial resumption, Kevin Gover witness line of questioning (1.3); making evidence relevant; conference with Keith Harper and Dennis Gingold; preparation of exhibits and preparation of test of testimony of Dom Nessi, outline of issues, review of documents and development of charts for display, Jeff Remple (1.5).
6/16/1999	DMG	Dennis M. Gingold	1.2	Prepare for TRO hearing.
6/16/1999	DMG	Dennis M. Gingold	2.5	In Court, TRO hearing.
6/16/1999	DMG	Dennis M. Gingold	5.8	At NARF, prepare for trial.
6/16/1999	DMG	Dennis M. Gingold	0.4	Review/revise Christie draft settlement agreement.
6/16/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Beard re same.
6/16/1999	DMG	Dennis M. Gingold	0.1	Telcom. Christie re same.
6/16/1999	TH	Thaddeus Holt	2.4	Trial with prep and followup (2.1 hours court time)
6/16/1999	TH	Thaddeus Holt	2.5	Depo re admin record, with prep and followup, including confce call with special master
6/17/1999	8800	Elliott H. Levitas	9.50	Trial, meeting at NARF regarding preparation for trial.
6/17/1999	DMG	Dennis M. Gingold	1.5	Prep Harper for Gover examination.
6/17/1999	DMG	Dennis M. Gingold	6.8	In Court, trial.
6/17/1999	DMG	Dennis M. Gingold	5.5	At NARF, prepare for trial.
6/17/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Beard re Christie settlement draft.
6/17/1999	DMG	Dennis M. Gingold	0.2	Review/revise same.
6/17/1999	DMG	Dennis M. Gingold	0.5	Telcom. Christie re same.
6/17/1999	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re trial.
6/17/1999	TH	Thaddeus Holt	8.5	Trial and brief followup discussing cross of Gover (5.7 hours court time)
6/18/1999	2358	Roderick C. Dennehy Jr.	0.30	Telephone conversation with Levitas (2); news article.
6/18/1999	6169	Sarah C. Perez	2.50	Accompany new temp to/from US Court to pick up documents and introduce E. Levitas; deliver information, fax articles; attempt to locate copies of fencing language; fax information to E. Levitas at NARF.
6/18/1999	8800	Elliott H. Levitas	8.00	Trial; meeting at NARF regarding preparation for trial.
6/18/1999	DMG	Dennis M. Gingold	1.3	Prep Harper.
6/18/1999	DMG	Dennis M. Gingold	6.0	In Court, trial.
6/18/1999	DMG	Dennis M. Gingold	1.5	At NARF, prepare for trial.
6/18/1999	DMG	Dennis M. Gingold	0.1	Conference call Harper, Rempel re Harper prep for Gover.
6/18/1999	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re same.
6/18/1999	DMG	Dennis M. Gingold	0.7	Prepare estimated Christie time for OSC.
6/18/1999	DMG	Dennis M. Gingold	0.1	Telcom. Christie re same.
6/18/1999	TH	Thaddeus Holt	4.2	Trial and prep for same (Gover cross) (3.2 hours court time)
6/19/1999	8800	Elliott H. Levitas	0.60	Telephone conference with Stan Brand regarding procedures for certification of House Committee documents and subpoena documents and witness.
6/19/1999	DMG	Dennis M. Gingold	10.3	At NARF, prepare for Erwin examination.
6/20/1999	8800	Elliott H. Levitas	7.50	Meeting at NARF regarding preparation for trial; telephone memo to Rick Dennehy (2).
6/20/1999	DMG	Dennis M. Gingold	6.8	At NARF, prepare for Erwin examination.
6/20/1999	DMG	Dennis M. Gingold	2.3	Work on Christie time per OSC request.
6/20/1999	TH	Thaddeus Holt	5.1	At NARF reviewing documents re TFAS, SEI
6/21/1999	2358	Roderick C. Dennehy Jr.	1.50	Research attorney disqualification issue.
6/21/1999	8800	Elliott H. Levitas	8.50	Trial; meeting at NARF offices regarding preparation and interviewing witnesses.
6/21/1999	DMG	Dennis M. Gingold	5.0	Prepare for Erwin cross examination.
6/21/1999	DMG	Dennis M. Gingold	7.0	In Court, trial.
6/21/1999	DMG	Dennis M. Gingold	0.1	Telcom. Beard re Christie settlement.
6/21/1999	DMG	Dennis M. Gingold	0.1	Telcom. Christie re same.
6/21/1999	TH	Thaddeus Holt	7	Trial and followup (5 hours court time)
6/21/1999	TH	Thaddeus Holt	2.9	Study Rossman, SEI documents
6/22/1999	2358	Roderick C. Dennehy Jr.	0.20	Telephone conversation with Elliott Levitas.
6/22/1999	6169	Sarah C. Perez	1.50	Work with temporary to organize and transfer Cobell files and documents; update file indexes.
6/22/1999	8800	Elliott H. Levitas	7.80	Trial; preparation for trial.

Date	Initials	Name	Hours	Description
6/22/1999	DMG	Dennis M. Gingold	6.5	Prepare for Erwin cross examination.
6/22/1999	DMG	Dennis M. Gingold	5.5	In court, trial.
6/22/1999	DMG	Dennis M. Gingold	0.1	Telcom. SPM re 5NP production.
6/22/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Beard re Christie confidentiality clause.
6/22/1999	DMG	Dennis M. Gingold	0.1	Review/revise same.
6/22/1999	DMG	Dennis M. Gingold	0.1	Telcom. TB re case status/scope of case.
6/22/1999	TH	Thaddeus Holt	4.5	Trial (4.5 hours court time)
6/22/1999	TH	Thaddeus Holt	2.3	Compiling Rossman exhibits, study same, outline cross of McL Lauren
6/23/1999	8800	Elliott H. Levitas	8.50	Trial; trial preparation.
6/23/1999	DMG	Dennis M. Gingold	1.6	Prepare for Erwin cross examination.
6/23/1999	DMG	Dennis M. Gingold	6.5	In trial, x-examin Erwin.
6/23/1999	DMG	Dennis M. Gingold	1.0	Meet with lit team, debriefing re same.
6/23/1999	DMG	Dennis M. Gingold	0.2	Telcom, Beard re confid clause.
6/23/1999	TH	Thaddeus Holt	5.7	Trial; cross-examine McL Lauren (5.7 hours court time)
6/23/1999	TH	Thaddeus Holt	1	Prepare for Rossman cross-examination
6/24/1999	7125	A. Stephens Clay	2.00	Telephone conference with Elliott Levitas regarding cross-exam strategy; contract arranger; strategic development.
6/24/1999	8800	Elliott H. Levitas	8.00	Trial; trial preparation.
6/24/1999	DMG	Dennis M. Gingold	1.5	At NARF, prep Babby for x-examination of Treasury witness.
6/24/1999	DMG	Dennis M. Gingold	0.6	Prepare letter to confirm designated predecessors-in-interest.
6/24/1999	DMG	Dennis M. Gingold	0.2	Telcom. Babby re same.
6/24/1999	DMG	Dennis M. Gingold	0.2	Telcom. SPM re same; 2nd supp filing by defs re doc protection order.
6/24/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Beard re Christie.
6/24/1999	DMG	Dennis M. Gingold	0.2	Telcom. Harper re Treasury checks.
6/24/1999	DMG	Dennis M. Gingold	0.8	Draft affidavit re Christie fees.
6/24/1999	DMG	Dennis M. Gingold	5.9	Review 5NP docs.
6/24/1999	TH	Thaddeus Holt	5.7	Trial; cross-examination of Rossman (5.7 hours trial time)
6/25/1999	1477	Tim Carsow	1.30	Telephone Call with Dick Babush and Steve Clay
6/25/1999	8800	Elliott H. Levitas	6.80	Trial; trial preparation.
6/25/1999	DMG	Dennis M. Gingold	6.5	In court, trial.
6/25/1999	DMG	Dennis M. Gingold	0.4	Conference call Babby, Rempel, Holt re 5NP docs.
6/25/1999	DMG	Dennis M. Gingold	0.2	Telcom. Babby re same.
6/25/1999	DMG	Dennis M. Gingold	0.2	Review current Christie settlement draft.
6/25/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Beard re same.
6/25/1999	DMG	Dennis M. Gingold	4.6	Review 5NP docs.
6/25/1999	TH	Thaddeus Holt	5.7	Trial; cross-examination of Rossman (5.7 hours trial time)
6/25/1999	TH	Thaddeus Holt	1.6	Prep for Rossman cross-examination; followup re document imaging, next steps. cross-examination requirement
6/26/1999	1477	Tim Carsow	1.30	Term Sheet
6/26/1999	DMG	Dennis M. Gingold	1.8	Work on affidavit re Christie time.
6/26/1999	DMG	Dennis M. Gingold	1.2	Prepare for meeting with DOJ, SPM re doc protection.
6/26/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Babby re same; post meeting issues.
6/26/1999	DMG	Dennis M. Gingold	2.3	Meet with DOJ, SPM, Babby et al re doc protection issues.
6/26/1999	DMG	Dennis M. Gingold	5.0	Prepare for trial, e.g., Tom Thompson issues.
6/26/1999	DMG	Dennis M. Gingold	1.5	Draft proposed doc protection order.
6/26/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Rempel re same.
6/26/1999	DMG	Dennis M. Gingold	0.4	Telcom. Holt re Thompsone, etc.
6/26/1999	TH	Thaddeus Holt	2.4	Review material for Lamb cross
6/26/1999	TH	Thaddeus Holt	3.2	Research at C&B re lawyer testifying, Rule 3.7
6/27/1999	8800	Elliott H. Levitas	10.00	Trial preparation, cross examination preparation, document review, memo to sub-retention (Rick Dennehy) regarding scope of cross examination limitation issues.
6/27/1999	DMG	Dennis M. Gingold	9.0	Prep Levitas for x-examination of Nessi.
6/27/1999	TH	Thaddeus Holt	9.9	Gathering potential exhibits for Lamb cross
6/28/1999	2358	Roderick C. Dennehy Jr.	0.60	Research scope of cross examination.
6/28/1999	8800	Elliott H. Levitas	8.00	Trial; trial preparation.
6/28/1999	DMG	Dennis M. Gingold	1.6	At Office of Special Counsel, meet with Beard, OSC personnel expert, Christie re retaliation/settlement.
6/28/1999	DMG	Dennis M. Gingold	2.1	Prepare for trial.
6/28/1999	DMG	Dennis M. Gingold	3.0	Prepare Babby for x-examination of Orr; prep Levitas for Nessi x-exam.
6/28/1999	DMG	Dennis M. Gingold	1.5	At NARF, work on doc protection issues.
6/28/1999	DMG	Dennis M. Gingold	0.1	Telcom. Beard re Christie
6/28/1999	DMG	Dennis M. Gingold	0.1	Telcom. Harper re Orr, Nessi issues.
6/28/1999	TH	Thaddeus Holt	5.7	Trial (5.7 hours court time)
6/28/1999	TH	Thaddeus Holt	3	Strategy conferences, review Lamb material
6/29/1999	1477	Tim Carsow	0.40	Telephone Call with Babush
6/29/1999	8800	Elliott H. Levitas	8.00	Trial; trial preparation.
6/29/1999	DMG	Dennis M. Gingold	8.5	Prepare for trial.
6/29/1999	DMG	Dennis M. Gingold	6.5	In Court, trial.
6/29/1999	DMG	Dennis M. Gingold	1.0	Meet with Homan re all issues.
6/29/1999	TH	Thaddeus Holt	4.5	Trial (4.5 hours court time)
6/29/1999	TH	Thaddeus Holt	2.6	Strategy conference
6/30/1999	1477	Tim Carsow	1.50	Telephone Call with Dick Babush and revision of term sheet.
6/30/1999	8800	Elliott H. Levitas	8.00	Trial; trial preparation.
6/30/1999	DMG	Dennis M. Gingold	7.5	In Court, trial.
6/30/1999	DMG	Dennis M. Gingold	2.0	Meet with Treasury, Justice, Interior, SPM re document protection order.

Date	Initials	Name	Hours	Description
6/30/1999	DMG	Dennis M. Gingold	3.5	Prepare Babby for x-examination.
6/30/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Babby re same.
6/30/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Holt re above.
6/30/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Rempel re above.
6/30/1999	DMG	Dennis M. Gingold	0.2	Telcom. Harper re above.
6/30/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re above.
6/30/1999	TH	Thaddeus Holt	5.5	Trial (5.5 hours court time)
6/30/1999	TH	Thaddeus Holt	1.5	Strategy conference after trial
7/1/1999	8800	Elliott H. Levitas	8.00	Trial; trial preparation.
7/1/1999	DMG	Dennis M. Gingold	6.5	In court, trial.
7/1/1999	DMG	Dennis M. Gingold	3.5	At NARF, prepare for trial.
7/1/1999	TH	Thaddeus Holt	5.5	Trial (5.5 hours court time)
7/1/1999	TH	Thaddeus Holt	4.5	Strategy conference after trial
7/2/1999	8800	Elliott H. Levitas	7.00	Trial; trial preparation.
7/2/1999	DMG	Dennis M. Gingold	4.5	In Court, trial.
7/2/1999	DMG	Dennis M. Gingold	0.5	Post-mortem discussion with trial team.
7/2/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Babby re issues related to imaging of 5NP docs.
7/2/1999	DMG	Dennis M. Gingold	7.0	Review 5NP docs.
7/2/1999	TH	Thaddeus Holt	2	Trial (2.0 hours court time)
7/2/1999	TH	Thaddeus Holt	1.6	Meet with judge in jury room, confces re rebuttal, new Lamb exhibit
7/3/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ferrell re Treasury docs.
7/4/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ferrell re Treasury docs.
7/4/1999	DMG	Dennis M. Gingold	8.0	Prepare for x-exams.
7/5/1999	8800	Elliott H. Levitas	3.50	Trial preparation and strategy session.
7/5/1999	DMG	Dennis M. Gingold	8.0	Prepare for x-exams; discuss trial strategy with lit team.
7/5/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Ferrell re Treasury stipulations.
7/5/1999	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re same.
7/5/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re same.
7/5/1999	TH	Thaddeus Holt	3.1	Strategy conference
7/6/1999	6169	Sarah C. Perez	2.00	Research and travel to and from court house to provide copy of Senate Interior Appropriations report to E. Levitas for entry as evidence.
7/6/1999	8800	Elliott H. Levitas	8.00	Trial (6.0); conference with expert witness, Thad Holt, Keith Harper, Dennis Gingold, Lorna Babby.
7/6/1999	DMG	Dennis M. Gingold	4.3	Prepare for trial.
7/6/1999	DMG	Dennis M. Gingold	6.8	In court, trial.
7/6/1999	DMG	Dennis M. Gingold	1.4	Meet with Fitzsimmons re testimony.
7/6/1999	DMG	Dennis M. Gingold	0.1	Telcom. TB re IIM Quinault issues.
7/6/1999	TH	Thaddeus Holt	5.7	Trial (5.7 hours court time)
7/6/1999	TH	Thaddeus Holt	3.3	Strategy conferences; met with PwC to discuss testimony
7/6/1999	TH	Thaddeus Holt	5.2	Trial (5.2 hours court time)
7/6/1999	TH	Thaddeus Holt	4.3	Strategizing with Levitas, rest of team re Babbitt
7/7/1999	2358	Roderick C. Dennehy Jr.	2.50	Review transcripts and backup support.
7/7/1999	8800	Elliott H. Levitas	7.00	Trial; trial preparation.
7/7/1999	DMG	Dennis M. Gingold	4.1	Prep for trial; meet with PwC, Levitas, Babby re strategic issues/x-exam targets.
7/7/1999	DMG	Dennis M. Gingold	6.5	In Court, trial.
7/7/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re same.
7/7/1999	DMG	Dennis M. Gingold	0.1	Telcom. Harper re same.
7/7/1999	TH	Thaddeus Holt	5.5	Trial (5.5 hours court time)
7/7/1999	TH	Thaddeus Holt	1.4	Strategizing
7/8/1999	8800	Elliott H. Levitas	8.00	Trial; trial preparation.
7/8/1999	DMG	Dennis M. Gingold	4.0	Prepare Levitas for Babbitt cross.
7/8/1999	DMG	Dennis M. Gingold	6.8	In Court, trial.
7/8/1999	DMG	Dennis M. Gingold	0.2	Conference call Holt, Harper re same.
7/8/1999	DMG	Dennis M. Gingold	0.3	Telcom. Homan re testimony.
7/8/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re Babbitt.
7/8/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re above.
7/8/1999	DMG	Dennis M. Gingold	0.1	Telcom. TB re case status.
7/8/1999	TH	Thaddeus Holt	5.4	Trial (5.4 hours court time)
7/8/1999	TH	Thaddeus Holt	4.1	Strategizing
7/9/1999	8800	Elliott H. Levitas	10.00	Trial; trial preparation.
7/9/1999	DMG	Dennis M. Gingold	10.0	In Court, trial.
7/9/1999	DMG	Dennis M. Gingold	0.3	Meet with trial team re post-mortem.
7/9/1999	TH	Thaddeus Holt	2.1	preparation and follup re Babbitt
7/9/1999	TH	Thaddeus Holt	8.5	Trial (8.5 hours court time)
7/10/1999	8800	Elliott H. Levitas	2.30	Trial; trial preparation.
7/10/1999	DMG	Dennis M. Gingold	3.0	In court, trial, i.e., continuing Babbitt cross.
7/10/1999	DMG	Dennis M. Gingold	2.5	Meet with trial team at NARF re strategy; meeting in chambers with DOJ.
7/10/1999	TH	Thaddeus Holt	2.5	Trial (2.5 hours trial time)
7/10/1999	TH	Thaddeus Holt	0.5	Chambers conference and followup
7/10/1999	TH	Thaddeus Holt	1	Strategy confce at NARF
7/11/1999	DMG	Dennis M. Gingold	5.0	Work on closing issues; discovery issues.
7/11/1999	DMG	Dennis M. Gingold	1.0	Telcom. Holt re same; witnesses to call.
7/11/1999	DMG	Dennis M. Gingold	3.0	Review 5NP docs
7/11/1999	TH	Thaddeus Holt	0.5	Telcoms Gingold re developments
7/12/1999	2358	Roderick C. Dennehy Jr.	0.30	Telephone conversation with E. Levitas.

Date	Initials	Name	Hours	Description
7/12/1999	6169	Sarah C. Perez	1.00	Copy, fax and distribute press and newspaper articles on Cobell; copy and distribute Confidentiality agreement per E. Levitas.
7/12/1999	8800	Elliott H. Levitas	5.80	Preparation for hearing before Judge Lamberth (1.5); hearing with Judge Lamberth in chambers and proceedings in open court (2.3); conference with counsel, preparation for witnesses, cross examination and related matters (2.0).
7/12/1999	DMG	Dennis M. Gingold	2.0	In chambers, meet with defs regarding settlement.
7/12/1999	DMG	Dennis M. Gingold	5.3	Meet with NARF re same; prepare experts.
7/12/1999	DMG	Dennis M. Gingold	1.8	Meet with Holt re same.
7/12/1999	DMG	Dennis M. Gingold	3.4	Prepare for direct examination of experts, e.g., review Fitzsimmons deposition transcript re same.
7/12/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Ignat re same.
7/12/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Pollner re same.
7/12/1999	DMG	Dennis M. Gingold	0.1	Telcom Babby re same.
7/12/1999	DMG	Dennis M. Gingold	0.2	Telcoms. LaRose re settlement issues.
7/12/1999	DMG	Dennis M. Gingold	0.5	Telcom. Rempel re above.
7/12/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Harper re same; strategic issues.
7/12/1999	DMG	Dennis M. Gingold	0.3	Telcom. TB re case status.
7/12/1999	TH	Thaddeus Holt	2	Conference in chambers (2 hours court time)
7/12/1999	TH	Thaddeus Holt	3.5	Prep and followup chambers confce
7/13/1999	2358	Roderick C. Dennehy Jr.	1.10	Research separation of powers cases; file review.
7/13/1999	8800	Elliott H. Levitas	6.00	Trial; trial preparation.
7/13/1999	DMG	Dennis M. Gingold	10.5	Prepare Fitzsimmons, Forhecz for expert testimony.
7/13/1999	DMG	Dennis M. Gingold	0.1	Telcom. Harper re same.
7/13/1999	TH	Thaddeus Holt	4.7	Trial (4.7 hours court time)
7/13/1999	TH	Thaddeus Holt	1	Final prep for Lamb cross
7/13/1999	TH	Thaddeus Holt	3	Confce with PwC experts re testimony
7/14/1999	2358	Roderick C. Dennehy Jr.	0.50	Research sequestration issues.
7/14/1999	6169	Sarah C. Perez	3.00	Attend Joint Senate Hearing on Indian matters and GAO report on trust fund issues; draft and submit memo and material to E. Levitas.
7/14/1999	7125	A. Stephens Clay	0.60	Telephone conference with Elliott Levitas regarding Babbitt examination.
7/14/1999	8800	Elliott H. Levitas	5.30	Trial; trial preparation (5.0); telephone conference with Rick Dennehy regarding evidentiary and witness sequestration issues (3).
7/14/1999	DMG	Dennis M. Gingold	5.6	Prepare for examinations of Fitzsimmons; Forhecz.
7/14/1999	DMG	Dennis M. Gingold	6.5	In court, trial.
7/14/1999	TH	Thaddeus Holt	5.7	Trial (5.7 hours court time)
7/14/1999	TH	Thaddeus Holt	1	Followup re Fitzsimmons first day
7/15/1999	6169	Sarah C. Perez	1.50	Organize and update Cobell files.
7/15/1999	8800	Elliott H. Levitas	6.30	Trial; trial preparation conference at NARF with counsel and experts.
7/15/1999	DMG	Dennis M. Gingold	2.2	In Court, trial.
7/15/1999	DMG	Dennis M. Gingold	0.5	In chambers, settlement conference.
7/15/1999	DMG	Dennis M. Gingold	5.0	At NARF, discuss strategic issues, doc protection order, e.g., backup docs, etc.
7/15/1999	DMG	Dennis M. Gingold	0.1	Telcom. Pollner re same.
7/15/1999	DMG	Dennis M. Gingold	0.3	Telcom. Harper re findings and conclusions.
7/15/1999	TH	Thaddeus Holt	2	Trial (2.0 hours court time)
7/15/1999	TH	Thaddeus Holt	4.4	Strategy meeting re possible consent decree
7/16/1999	2358	Roderick C. Dennehy Jr.	0.40	Telephone conversation with Levitas (2)
7/16/1999	8800	Elliott H. Levitas	1.00	Conference with counsel regarding findings and conclusions; telephone conference with Rick Dennehy regarding task assignment.
7/16/1999	DMG	Dennis M. Gingold	5.2	Work on findings and conclusions.
7/16/1999	DMG	Dennis M. Gingold	0.2	Review Findlay letter re Treasury doc imaging issues.
7/16/1999	DMG	Dennis M. Gingold	0.8	Telcoms. Babby re same; doc production order, certifications.
7/16/1999	DMG	Dennis M. Gingold	1.0	Telcoms. Rempel re F&C's.
7/16/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Levitas re same.
7/16/1999	DMG	Dennis M. Gingold	3.4	Telcoms. Harper re same; PII, doc production order.
7/16/1999	DMG	Dennis M. Gingold	0.1	Telcom. Holt re closing argument; F&C's.
7/16/1999	DMG	Dennis M. Gingold	0.3	Telcoms. Ms. Cobell re same; logistics.
7/16/1999	DMG	Dennis M. Gingold	0.1	Telcom. TB re case status.
7/16/1999	DMG	Dennis M. Gingold	0.4	Telcom. Homan re Preber.
7/16/1999	DMG	Dennis M. Gingold	0.1	Telcom. SPM re Findlay letter; Oct '98 transcript.
7/16/1999	TH	Thaddeus Holt	7	Review transcript for findings
7/17/1999	DMG	Dennis M. Gingold	6.0	Work on F&C's, including discussions with Rempel, Babby re same.
7/17/1999	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re same.
7/17/1999	DMG	Dennis M. Gingold	0.1	Telcom. Holt re same.
7/17/1999	DMG	Dennis M. Gingold	0.1	Telcom. SPM re 5NP production.
7/17/1999	TH	Thaddeus Holt	7	Review transcript for findings
7/18/1999	DMG	Dennis M. Gingold	7.0	Prepare for Fitzsimmons examination.
7/18/1999	DMG	Dennis M. Gingold	0.3	Telcom. Holt re same.
7/18/1999	DMG	Dennis M. Gingold	0.3	Telcom. Babby re same, e.g., relevant docs.
7/18/1999	DMG	Dennis M. Gingold	1.0	Meet with Holt, PwC, Babby, Harper, re F&C issues.
7/18/1999	TH	Thaddeus Holt	7	Review transcript for findings
7/19/1999	8800	Elliott H. Levitas	8.00	Trial (3.5); trial preparation and follow up (4.5).
7/19/1999	DMG	Dennis M. Gingold	8.3	Prepare for Fitzsimmons examination.
7/19/1999	DMG	Dennis M. Gingold	1.9	In court, Fitzsimmons examination.
7/19/1999	DMG	Dennis M. Gingold	0.6	Telcom; meet with Holt re same.
7/19/1999	DMG	Dennis M. Gingold	0.1	Conference call Beard, Don Harris re Christie.

Date	Initials	Name	Hours	Description
7/19/1999	DMG	Dennis M. Gingold	0.4	Telcom. SPM re 5NP production.
7/19/1999	TH	Thaddeus Holt	2	Trial (2.0 hours court time)
7/19/1999	TH	Thaddeus Holt	5	Review transcript for findings
7/20/1999	1477	Tim Carsow	1.50	Telephone Call with Elliott Levitas and Dick Babush
7/20/1999	8800	Elliott H. Levitas	7.00	Trial; trial preparation and follow up.
7/20/1999	DMG	Dennis M. Gingold	7.0	In court, Fitzsimmons examination.
7/20/1999	DMG	Dennis M. Gingold	1.5	Prep for same.
7/20/1999	DMG	Dennis M. Gingold	4.5	Prepare Fitzsimmons for testimony.
7/20/1999	TH	Thaddeus Holt	7	Review transcript for findings
7/20/1999	TH	Thaddeus Holt	3.7	Strategy confce re newly produced documents
7/21/1999	8800	Elliott H. Levitas	8.00	Trial; trial preparation and follow up.
7/21/1999	DMG	Dennis M. Gingold	1.3	Prepare for trial.
7/21/1999	DMG	Dennis M. Gingold	6.5	In court, trial.
7/21/1999	DMG	Dennis M. Gingold	1.0	Meet with trial team; post-mortem/strategy.
7/21/1999	DMG	Dennis M. Gingold	0.1	Telcom. TB re IIM Quinault issues.
7/21/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Babby re docs; Treasury issues.
7/21/1999	TH	Thaddeus Holt	5.7	Trial (5.7 hours court time)
7/22/1999	2358	Roderick C. Dennehy Jr.	0.30	Telephone conversation with Levitas.
7/22/1999	8800	Elliott H. Levitas	8.00	Trial; trial preparation and follow up.
7/22/1999	DMG	Dennis M. Gingold	1.3	Prepare for Fitzsimmons examination.
7/22/1999	DMG	Dennis M. Gingold	1.5	In court, Fitzsimmons examination; cleanup issues.
7/22/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Don Harris re Christie issues/concerns.
7/22/1999	DMG	Dennis M. Gingold	4.5	Meet at NARF re closing arguments; docs; Billings TAAMS problems.
7/22/1999	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re closing arguments; Billings.
7/22/1999	TH	Thaddeus Holt	2	Trial (2.0 hours court time)
7/22/1999	TH	Thaddeus Holt	6.6	Planning closing argument, reviewing record
7/23/1999	8800	Elliott H. Levitas	7.00	Trial; trial preparation and follow up.
7/23/1999	DMG	Dennis M. Gingold	7.5	At NARF, work on F&C's.
7/23/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Quinault TB re Indian Land Working Group issues.
7/23/1999	DMG	Dennis M. Gingold	0.2	Telcom. Levitas re TAAMS problems in Billings.
7/23/1999	DMG	Dennis M. Gingold	0.1	Telcom. Homan. Re F&C's.
7/23/1999	TH	Thaddeus Holt	3	Trial; closing arguments (3.0 hours court time)
7/23/1999	TH	Thaddeus Holt	3.2	Misc file cleanup and reorganization at end of case
7/24/1999	DMG	Dennis M. Gingold	9.0	Work on F&C's.
7/24/1999	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re same.
7/24/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ignat re same.
7/25/1999	DMG	Dennis M. Gingold	7.0	Work on F&C's.
7/26/1999	2358	Roderick C. Dennehy Jr.	5.00	Review of trial transcripts and summaries thereof; discuss findings of facts and conclusions of law.
7/26/1999	8800	Elliott H. Levitas	4.20	Telephone conference with Teresa Sorensen regarding court report (.4); telephone conference with Dennis Gingold and Geoff Rimpel regarding findings and conclusions (.7); review transcripts, memoranda for finds and order (1.3); review transcripts and IIM credit program issue; telephone conference with Lorna Babby; telephone conference with Dennis Gingold regarding credit program notion, evidence from lawyer Davis (.9); conference with Rick Dennehy regarding task assignment, transcript, separation of powers (.9).
7/26/1999	DMG	Dennis M. Gingold	13.5	Work on F&C's.
7/26/1999	DMG	Dennis M. Gingold	0.1	Telcom. Don Harris re Christie.
7/26/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re F&C's.
7/26/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re same.
7/26/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Rempel re same.
7/27/1999	2358	Roderick C. Dennehy Jr.	4.00	Telephone conversation with Levitas; review transcript; consider proposed Orders.
7/27/1999	8800	Elliott H. Levitas	6.40	Conference with Dennis Gingold, Lorna Babby, PriceWaterHouse, Keith Harper regarding preparation for proposed findings, etc., order, relending program (F. Peck) issues and follow up (5.0) telephone conference with Rick Dennehy (3_) regarding task assignment regarding order, review transcripts and prior orders, trustee representation list (1.4).
7/27/1999	DMG	Dennis M. Gingold	14.1	Work on F&C's.
7/27/1999	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re same.
7/28/1999	2358	Roderick C. Dennehy Jr.	8.50	Research separation of powers issues; proposed orders.
7/28/1999	8800	Elliott H. Levitas	1.50	Telephone conference with Rick Dennehy regarding transcripts, orders, etc.
7/28/1999	DMG	Dennis M. Gingold	17.0	Work on F&C's.
7/29/1999	1477	Tim Carsow	0.80	Telephone Call with Dick Babush and Elliott Levitas
7/29/1999	2358	Roderick C. Dennehy Jr.	7.50	Research separation of powers issues; proposed orders.
7/29/1999	6169	Sarah C. Perez	1.00	Duplicate Cobell press file for E. Levitas; discuss articles to be sent to K. Vest and D. Payne.
7/29/1999	8800	Elliott H. Levitas	5.80	Review transcripts; telephone conference with Dennis Gingold regarding findings and order; telephone conference with Keith Harper regarding findings and order; billings meeting (1.8); draft alternative orders; review and revise (2.5); telephone conference with Rick Dennehy regarding task assignment and discussion of separation of powers memo, various alternative orders; telephone conference with Thad Holt regarding alternative orders, receivership issues, findings (.7).
7/29/1999	DMG	Dennis M. Gingold	12.5	Work on F&C's.
7/29/1999	DMG	Dennis M. Gingold	2.5	Meet with Treasury, SPM re doc protection order.
7/29/1999	DMG	Dennis M. Gingold	0.2	Telcoms. SPM re same; PII.
7/29/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Babby re above.

Date	Initials	Name	Hours	Description
7/30/1999	2358	Roderick C. Dennehy Jr.	6.00	Research separation of powers issues; memo to Elliott Levitas; proposed orders.
7/30/1999	6169	Sarah C. Perez	1.00	Review files for brief; receive and fax brief to R. Dennehy.
7/30/1999	8800	Elliott H. Levitas	6.50	Draft and revise findings of facts and conclusions of law; draft order; conference with Dennis Gingold, Thad Holt, Lorna Babby, Rempel; telephone conference with Thad Holt regarding same.
7/30/1999	DMG	Dennis M. Gingold	13.5	Work on F&C's.
7/30/1999	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re same.
7/31/1999	8800	Elliott H. Levitas	6.50	Draft and revise findings of facts and conclusions of law; draft order; conference with Dennis Gingold, Thad Holt, Lorna Babby, Rempel.
7/31/1999	DMG	Dennis M. Gingold	12.5	Work on F&C's.
8/1/1999	DMG	Dennis M. Gingold	13.9	Work on F&C's.
8/1/1999	TH	Thaddeus Holt	2.5	Misc telcons with co-counsel re findings and conclusions
8/2/1999	6169	Sarah C. Perez	2.00	Reorganize and reassemble the Cobell newspaper clippings file and index.
8/2/1999	8800	Elliott H. Levitas	8.00	Draft and revise findings of fact and conclusions of law (3.0); meetings at NARF regarding same (5.0)
8/2/1999	DMG	Dennis M. Gingold	14.0	Work on F&C's.
8/2/1999	TH	Thaddeus Holt	1.1	Misc telcons with co-counsel re findings and conclusions
8/3/1999	72	J. Michael Wiggins	11.50	Research regarding the powers of special masters and separation of powers issues; review of alternative proposed orders.
8/3/1999	8800	Elliott H. Levitas	8.00	Further revisions to documents (7.1); conference with Mike Wiggins regarding revisions to findings of fact and conclusions of law (.9)
8/3/1999	DMG	Dennis M. Gingold	19.0	Work on F&C's.
8/3/1999	TH	Thaddeus Holt	0.7	Misc telcons with co-counsel re findings and conclusions
8/4/1999	72	J. Michael Wiggins	7.00	Continued research regarding powers of special masters and separation of powers (3.0); discussions with Elliott Levitas regarding proposed orders (.8); draft, edit and revise memorandum regarding powers of special masters in the context of supervision of court orders affecting executive branch agencies and the concomitant separation of powers issues, and including proposed revisions to draft orders (3.2).
8/4/1999	6169	Sarah C. Perez	1.50	Revise, organize and update article file and index.
8/4/1999	8800	Elliott H. Levitas	8.00	Telephone conference with Thad Holt, Dennis Gingold, Lorna Babby, Keith Harper, and PriceWaterhouse people (1.2); further revisions to documents (6.0); conference with Mike Wiggins regarding proposed orders (.8)
8/4/1999	DMG	Dennis M. Gingold	14.5	Work on F&C's
8/4/1999	DMG	Dennis M. Gingold	0.2	Telcoms. Rempel re same.
8/5/1999	8800	Elliott H. Levitas	6.00	Further revisions to proposed orders (4.1); various telephone conferences with counsel regarding same (1.9).
8/5/1999	DMG	Dennis M. Gingold	4.0	Work on F&C's.
8/5/1999	DMG	Dennis M. Gingold	2.5	Work on F&C's reply.
8/5/1999	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re above.
8/6/1999	8800	Elliott H. Levitas	6.10	Further revisions to proposed orders (4.1); various telephone conferences with counsel regarding same (2.0).
8/6/1999	DMG	Dennis M. Gingold	9.0	Work on F&C response.
8/6/1999	DMG	Dennis M. Gingold	0.1	Telcom. Holt re same.
8/6/1999	DMG	Dennis M. Gingold	0.1	Telcom. Don Harris re Christie.
8/6/1999	TH	Thaddeus Holt	3.5	Reviewing both sides' proposed findings and conclusions
8/7/1999	DMG	Dennis M. Gingold	19.3	Work on F&C response.
8/7/1999	TH	Thaddeus Holt	4.4	Misc telcons with co-counsel re reply findings and conclusions drafting input for same
8/8/1999	DMG	Dennis M. Gingold	16.0	Work on F&C response.
8/8/1999	TH	Thaddeus Holt	5.3	Misc telcons with co-counsel re reply findings and conclusions drafting input for same
8/9/1999	8800	Elliott H. Levitas	5.00	Further revisions to proposed orders (4.1); various telephone conferences with counsel regarding same (.9)
8/9/1999	DMG	Dennis M. Gingold	15.0	Work on F&C response
8/9/1999	DMG	Dennis M. Gingold	0.1	Telcom. Babby re Supreme Court petition; above.
8/9/1999	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re F&C response.
8/10/1999	DMG	Dennis M. Gingold	0.2	Telcom. Holt re F&C's, etc.
8/10/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Harper re same.
8/10/1999	DMG	Dennis M. Gingold	0.4	Telcoms. Levitas re same.
8/10/1999	DMG	Dennis M. Gingold	0.1	Telcom. SPM re production.
8/11/1999	6169	Sarah C. Perez	1.50	Copy, distribute and fax newspaper clippings; download and distribute Judge Lamberth's opinion; discuss with C. Buttram.
8/11/1999	8800	Elliott H. Levitas	3.20	Filing of supplement to brief relating to additional case to be cited (.2); telephone conference with Lorna Babby regarding arrangements for filing response to Government's response on Billings matter (.4) telephone conference with Jim McCarthy regarding media coverage on court order (.4); review Judge Lamberth's opinion (.6); various telephone conferences with counsel regarding same (1.6)
8/11/1999	DMG	Dennis M. Gingold	0.5	Telcoms. Levitas re F&C's.
8/11/1999	DMG	Dennis M. Gingold	1.4	Telcoms. Holt re same.
8/11/1999	DMG	Dennis M. Gingold	0.5	Meet with Babby re motion for leave to reopen F&C's.
8/11/1999	DMG	Dennis M. Gingold	0.6	Telcoms. Babby re same; funding letter from NARF and BRDF; SPM; amended response.
8/11/1999	DMG	Dennis M. Gingold	2.9	Review Cunningham; related issues.
8/11/1999	TH	Thaddeus Holt	1.3	Telcons and voicemails Gingold re findings and conclusions and related issues
8/12/1999	6169	Sarah C. Perez	2.00	Reorganize and update Cobell pleading files and index.



# IIM TRUST LITIGATION

## Gingold Schedule: EAJA Petition Time

DATE	TASK	TIME	EAJA	LAFHEY	MARKET
4.24.96	Telcom. Cobell re. outline of cause of action, schedules, personnel, status of complaint.	1.0	\$125.00	\$315.00	\$424.00
4.25.96	Discussions with Thad Holt re. jurisdictional issues; review cases relevant to same.	4.0	\$500.00	\$1,260.00	\$1,696.00
4.26.96	Continue review of jurisdictional issues regarding Artifice III Court; equitable jurisdiction and discuss with Holt.	3.0	\$375.00	\$945.00	\$1,272.00
4.27.96	Continue review of cases and authorities on jurisdictional issues.	4.5	\$562.50	\$1,417.50	\$1,908.00
4.28.96	Continue review of cases and authorities re. same, including Abel, Kizas and Mitchell.	1.0	\$125.00	\$315.00	\$424.00
4.29.96	Continue review of cases and authorities re. same, e.g., damages v. equitable relief; restitution, recovery of own money and sovereign immunity limitations and waivers. Telcom. Rick Dauphinais, NARF, re. same.	8.0	\$1,000.00	\$2,520.00	\$3,392.00
4.30.96	Meet with Holt and discuss cases and authorities re. jurisdiction, particularly jurisdictional and class action issues. Continue review of cases and authorities re. same.	8.0	\$1,000.00	\$2,520.00	\$3,392.00
5.1.96	Continue research re. same.	2.0	\$250.00	\$630.00	\$848.00
5.2.96	Continue research re. same.	1.5	\$187.50	\$472.50	\$636.00
5.3.96	Continue research re. same.	1.0	\$125.00	\$315.00	\$424.00
5.4.96	Continue research re. same.	1.0	\$125.00	\$315.00	\$424.00
5.5.96	[excludes 6 hours re representation of oil company]	0.0	\$0.00	\$0.00	\$0.00
5.6.96	[excludes 6 hours re representation of oil company]	0.0	\$0.00	\$0.00	\$0.00
5.7.96	[excludes 5.0 hours re representation of oil company]	0.0	\$0.00	\$0.00	\$0.00
5.8.96	[excludes 6.0 hours re representation of oil company]	0.0	\$0.00	\$0.00	\$0.00
5.9.96	[excludes 5.3 hours re representation of oil company]	0.0	\$0.00	\$0.00	\$0.00
5.10.96	[excludes 5.3 hours re representation of oil company]	0.0	\$0.00	\$0.00	\$0.00
5.13.96	Continue research and begin drafting of portions of the complaint.	8.0	\$1,000.00	\$2,520.00	\$3,392.00
5.14.96	Continue research re. same and continue drafting complaint.	8.0	\$1,000.00	\$2,520.00	\$3,392.00

DATE	TASK	TIME	EAJA	LAFREY	MARKET
6.3.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (6.8); meet with Rempel, Harper, Levitas re same (1.2); telcom. Harper re same (.3); telcom. Levitas re same (.1).	8.4	\$1,248.41	\$3,276.00	\$4,620.00
6.4.00	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (6.8).	6.8	\$1,010.62	\$2,652.00	\$3,740.00
6.5.04	Identify/review documents re defendants' and their counsel's deceptive and unethical conduct, including filings, findings, and testimony evidencing bad faith defense of Trial 1 re preparation of EAJA fee application (9.6); telcom. Levitas re same (.1).	9.7	\$1,441.61	\$3,783.00	\$5,335.00
6.6.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (1.1); telcom. Cobell re same (.5).	1.6	\$237.79	\$624.00	\$880.00
6.7.04	Conf call Harper, Levitas re Trial 1 fee application scope (.7).	0.7	\$104.03	\$273.00	\$385.00
6.11.04	Telcom. Harper re motion for enlargement of time for filing Trial 1 EAJA fee application (.1).	0.1	\$14.86	\$39.00	\$55.00
6.12.04	Review/revise motion for enlargement of time for filing Trial 1 EAJA fee application (1.7); telcoms. Harper re same (1.0).	2.7	\$401.27	\$1,053.00	\$1,485.00
6.14.04	Meet and confer with Warshawsky re motion for enlargement of time for filing Trial 1 EAJA fee application (.2); telcom. Harper re bad faith documentation (.4).	0.6	\$89.17	\$234.00	\$330.00
6.16.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (5.5).	5.5	\$817.41	\$2,145.00	\$3,025.00
6.17.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (2.3).	2.3	\$341.83	\$897.00	\$1,265.00
6.18.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (5.9).	5.9	\$876.86	\$2,301.00	\$3,245.00
6.19.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (7.4).	7.4	\$1,099.79	\$2,886.00	\$4,070.00
6.20.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (5.4).	5.4	\$802.55	\$2,106.00	\$2,970.00
6.21.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (4.4).	4.4	\$653.93	\$1,716.00	\$2,420.00
6.22.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (7.9).	7.9	\$1,174.10	\$3,081.00	\$4,345.00

DATE	TASK	TIME	EAJA	LAFHEY	MARKET
6.23.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (6.6).	6.6	\$980.89	\$2,574.00	\$3,630.00
6.24.04	Conf call Harper, Rempel re bad faith issues re fee application (.8); review, segregate, prepare relevant time re Trial 1 EAJA fee application (7.1); telcom. Harper re same (.1).	8.0	\$1,188.96	\$3,120.00	\$4,400.00
6.25.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (8.7).	8.7	\$1,292.99	\$3,393.00	\$4,785.00
6.26.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (7.0).	7.0	\$1,040.34	\$2,730.00	\$3,850.00
6.27.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (6.5).	6.5	\$966.03	\$2,535.00	\$3,575.00
6.28.04	Conf call Rempel, Holt re scope of Trial 1 EAJA fee application (1.0); telcoms. Harper re same (.8); telcom. Holt re same (.3); review, segregate, prepare relevant time re Trial 1 EAJA fee application (5.3).	7.4	\$1,099.79	\$2,886.00	\$4,070.00
6.29.04	Review, revise reply to defendants' opposition to motion for enlargement of time re Trial 1 EAJA fee application (.7); review, segregate, prepare relevant time re Trial 1 EAJA fee application (7.0).	7.7	\$1,144.37	\$3,003.00	\$4,235.00
6.30.04	Review/discuss conf call Holt, Rempel re draft I Holt affidavit in support of Trial 1 fee application (.5); review, segregate, prepare relevant time re Trial 1 EAJA fee application (6.6).	7.1	\$1,055.20	\$2,769.00	\$3,905.00
7.1.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (6.9) telcom. Harper re same (.3).	7.2	\$1,070.06	\$2,808.00	\$3,960.00
7.2.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (7.8).	7.8	\$1,159.24	\$3,042.00	\$4,290.00
7.3.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (8.0).	8.0	\$1,188.96	\$3,120.00	\$4,400.00
7.4.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (9.1); telcom. Harper re same (.8).	9.9	\$1,471.34	\$3,861.00	\$5,445.00
7.5.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (9.5); telcoms. Harper re same, bad faith issues (.3).	9.8	\$1,456.48	\$3,822.00	\$5,390.00
7.6.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (8.3); conf call Rempel, Harper re same (.4); telcoms. Harper re same (.3).	9.0	\$1,337.58	\$3,510.00	\$4,950.00

DATE	TASK	TIME	EAJA	LAFFEY	MARKET
7.7.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (7.5); telcom. Harper re same (.3); conf call Rempel, Harper re same (.3). Conf call Holt, Harper, Levitas, Rempel re Trial 1 EAJA fee application (.8);	8.1	\$1,203.82	\$3,159.00	\$4,455.00
7.8.04	review, segregate, prepare relevant time re Trial 1 EAJA fee application (10.3); telcom. Harper re same (.1).	11.2	\$1,664.54	\$4,368.00	\$6,160.00
7.9.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (6.4); telcom. Harper re same (.5).	6.9	\$1,025.48	\$2,691.00	\$3,795.00
7.10.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (8.9); telcom. Harper re same (.4).	9.3	\$1,382.17	\$3,627.00	\$5,115.00
7.11.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (8.7).	8.7	\$1,292.99	\$3,393.00	\$4,785.00
7.12.04	Telcoms. Harper re Trial 1 EAJA fee application, market rates (.9); telcoms. Levitas re same (.4); conf call Rempel, expert re same (.3); conf call Ron Rader, Levitas, Rempel re same (.3); review, segregate, prepare relevant time re Trial 1 EAJA fee application (7.2).	9.1	\$1,352.44	\$3,549.00	\$5,005.00
7.13.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (8.0); telcoms. Levitas re same (.6); telcoms. Harper re same (.5).	9.1	\$1,352.44	\$3,549.00	\$5,005.00
7.14.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (9.0); telcoms. Harper re same, bad faith (.5).	9.5	\$1,411.89	\$3,705.00	\$5,225.00
7.15.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (8.4); telcom. Harper re same (.4).	8.8	\$1,307.86	\$3,432.00	\$4,840.00
7.16.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (10.1); telcom. Bardnell re PwC Trial 1 EAJA expenses (.2).	10.3	\$1,530.79	\$4,017.00	\$5,665.00
7.17.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (5.5); telcom. Harper re same (.1); conf call Harper, Rempel re same (.4).	6.0	\$891.72	\$2,340.00	\$3,300.00
7.18.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (7.1).	7.1	\$1,055.20	\$2,769.00	\$3,905.00
7.19.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (7.9).	7.9	\$1,174.10	\$3,081.00	\$4,345.00
7.20.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (5.9).	5.9	\$876.86	\$2,301.00	\$3,245.00
7.21.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (7.1).	7.1	\$1,055.20	\$2,769.00	\$3,905.00

DATE	TASK	TIME	EAJA	LAFHEY	MARKET
7.22.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (6.8); telcom. Harper re same (.3).	7.1	\$1,055.20	\$2,769.00	\$3,905.00
7.23.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (9.6); telcom. Ron Rader re same (.1); telcom Harper re same, bad faith (.4).	10.1	\$1,501.06	\$3,939.00	\$5,555.00
7.24.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (9.4).	9.4	\$1,397.03	\$3,666.00	\$5,170.00
7.25.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (6.7).	6.7	\$995.75	\$2,613.00	\$3,685.00
7.26.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (10.0); conf call Rader, Rempel, Harper re same (.7); telcom. Harper re same (.1).	10.8	\$1,605.10	\$4,212.00	\$5,940.00
7.27.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (10.5).	10.5	\$1,560.51	\$4,095.00	\$5,775.00
7.28.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (9.9); telcoms. Harper re same (.6).	10.5	\$1,560.51	\$4,095.00	\$5,775.00
7.29.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (5.4).	5.4	\$802.55	\$2,106.00	\$2,970.00
7.30.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (10.0).	10.0	\$1,486.20	\$3,900.00	\$5,500.00
7.31.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (8.8).	8.8	\$1,307.86	\$3,432.00	\$4,840.00
8.1.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (7.7).	7.7	\$1,144.37	\$3,003.00	\$4,235.00
8.2.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (3.4).	3.4	\$505.31	\$1,326.00	\$1,870.00
8.3.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (4.2).	4.2	\$624.20	\$1,638.00	\$2,310.00
8.4.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (7.3); telcoms. Harper re same (.4).	7.7	\$1,144.37	\$3,003.00	\$4,235.00
8.5.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (7.4); telcoms. Harper re same (.5).	7.9	\$1,174.10	\$3,081.00	\$4,345.00
8.6.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (3.8); telcom. Harper re same (.6).	4.4	\$653.93	\$1,716.00	\$2,420.00

DATE	TASK	TIME	EAJA	LAFFEY	MARKET
8.7.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (8.1); telcoms. Harper re same (.2).	8.3	\$1,233.55	\$3,237.00	\$4,565.00
8.8.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (8.6).	8.6	\$1,278.13	\$3,354.00	\$4,730.00
8.9.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (8.7); review bad faith memorandum re same (1.0); conf call Holt, Levitas re same (.3); telcom; Harper re same (.4).	10.4	\$1,545.65	\$4,056.00	\$5,720.00
8.10.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (8.0); telcom. Ron Rader re same (.1); conf call Rader, Harper, Rempel re same (.5); telcoms. Harper re same (.4); review documentation re bad faith (.9).	9.9	\$1,471.34	\$3,861.00	\$5,445.00
8.11.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (5.0); telcom. Holt re same (.1); telcom. Harper re same (.2); conf call Rempel, Harper re same (.6).	5.9	\$876.86	\$2,301.00	\$3,245.00
8.12.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (4.0); telcoms Harper re same (.9); telcom. Holt re same (.1); telcom Levitas re same (.1).	5.1	\$757.96	\$1,989.00	\$2,805.00
8.13.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (8.9); telcoms. Harper re same (1.5).	10.4	\$1,545.65	\$4,056.00	\$5,720.00
8.14.04	Review, segregate, prepare relevant time re Trial 1 EAJA fee application (6.1); telcoms. Harper re same (.6).	6.7	\$995.75	\$2,613.00	\$3,685.00
8.15.04	Draft section of EAJA cover memorandum re specific acts of bad faith (10.6); telcoms. Harper re same (.9); begin draft affidavit in support of fees (.7).	12.2	\$1,813.16	\$4,758.00	\$6,710.00
8.16.04	Draft section of cover memorandum for EAJA fee petition (4.4); draft affidavit in support of fee petition (8.1); telecoms Harper re same (.6)	13.1	\$1,946.92	\$5,109.00	\$7,205.00
		<u>8,703.2</u>	<u>\$1,265,810.99</u>	<u>\$3,280,298.00</u>	<u>\$4,644,226.70</u>

Date	Initials	Name	Hours	Description
6/17/2004	DMG	Dennis M. Gingold	1.1	Conference calls Harper, Levitas, and Rempel re mediation issues.
6/17/2004	DMG	Dennis M. Gingold	0.3	Telcoms. Levitas re GAO mediation.
6/17/2004	DMG	Dennis M. Gingold	1.0	Confer with Levy re GAO fee issues.
6/17/2004	DMG	Dennis M. Gingold	0.1	Telcom. Austin re appellate issues.
6/17/2004	DMG	Dennis M. Gingold	0.1	Telcom. Applegate re same.
6/17/2004	DMG	Dennis M. Gingold	0.1	Telcom. Echohawk re mediation issues.
6/17/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Harper re GAO fee issues.
6/17/2004	DMG	Dennis M. Gingold	0.3	Conference call Harper, Rempel re same.
6/17/2004	DMG	Dennis M. Gingold	3.1	Review/assess mediation issues/options.
6/18/2004	3304	Hilliard Barnett Hardman	3.40	Research regarding government misconduct.
6/18/2004	4673	G. William Austin	5.20	Finalize IT security briefs (including JA cites) for filing and service on June 21st (2.8); conference with Alexis Applegate (.70); review and reply to Elliott Levitas' e-mails regarding mediation (.60); conference with Elliott Levitas (.30); conference with co-counsel (.80).
6/18/2004	5133	Alexis Applegate	5.00	Review media coverage and dockets (.30); finalization of IT security brief (3.50); conference with Bill Austin regarding same (.70) research Laffey matrix per Ron Raider's request (.50)
6/18/2004	5307	Ron L. Raider	2.40	Draft Levitas declaration.
6/18/2004	6282	Katie D. Nowell	2.50	Finalization of IT Security brief.
6/18/2004	6929	Michael W. Tyler	4.20	Research.
6/18/2004	8800	Elliott H. Levitas	3.00	Telephone conference with co-counsel regarding possible meeting with Charles Renfrew and regarding mediator agreement with government (.4); draft letter to mediators regarding mediation progress (1.2); telephone conference with David Zacks regarding same (.5); review comments regarding draft letter to mediators (.4); review media coverage (.5);
6/18/2004	8913	David M. Zacks	4.00	Review of briefs regarding plan for determining accurate balances in the individual Indian trusts in preparation for meeting with Renfrew; extensive telephone conference with Dennis Geingold and later with Jeffrey regarding mediation process and bullet point descriptions of areas for future progress.
6/18/2004	GR	Geoffrey Rempel	0.20	CC w/ Keith Harper, Dennis Gingold re GAO application and memorandum.
6/18/2004	GR	Geoffrey Rempel	0.70	CC w/ DZ, DG re mediation.
6/18/2004	GR	Geoffrey Rempel	0.10	Meet and Confer with DOJ re Attachment C.
6/18/2004	GR	Geoffrey Rempel	0.40	Discuss w/ DG re Attachment C.
6/18/2004	GR	Geoffrey Rempel	0.30	Review and edit Dennis Gingold's Time and Expense for GAO application
6/18/2004	GR	Geoffrey Rempel	2.50	Review Attachment C material as a result of M&C with Kresse - DOJ.
6/18/2004	GR	Geoffrey Rempel	1.10	Update Rempel Affidavit and supporting GAO schedule.
6/18/2004	DMG	Dennis M. Gingold	1.1	Conference call Zacks, Rempel re gov't opp to interim relief.
6/18/2004	DMG	Dennis M. Gingold	0.6	Prepare summary re defs' positions re same.
6/18/2004	DMG	Dennis M. Gingold	0.2	Meet and confer Kresse re motion to compel.
6/18/2004	DMG	Dennis M. Gingold	0.2	Telcoms. Zacks re mediation.
6/18/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Austin re mediation; appellate issues.
6/18/2004	DMG	Dennis M. Gingold	5.9	Continue work on Trial 1 fee issues.
6/18/2004	DMG	Dennis M. Gingold	1.1	Work on GAO time.
6/18/2004	DMG	Dennis M. Gingold	0.2	Telcoms. Harper re mediation.
6/18/2004	DMG	Dennis M. Gingold	0.2	Conference call Rempel, Harper re GAO time issues.
6/19/2004	4673	G. William Austin	1.70	Review and reply to Dennis Gingold's e-mail re preparation for September 2004 oral arguments (.20); review of IT security documents cited in reply brief (1.50).
6/19/2004	5307	Ron L. Raider	4.30	Fact research and draft Levitas declaration.
6/19/2004	8800	Elliott H. Levitas	1.40	Further draft and revise letter to mediators regarding mediation progress (.6); telephone conference with Ron Raider regarding declaration and draft revisions in EAJA fee application (.5); review revised declaration (.3).
6/19/2004	GR	Geoffrey Rempel	2.40	Download, review docket. Review DOJ letter regarding Attachment C.
6/19/2004	GR	Geoffrey Rempel	0.80	Discuss Attachment C w/ DG.
6/19/2004	GR	Geoffrey Rempel	0.40	Discuss GAO application with Dennis Gingold.
6/19/2004	DMG	Dennis M. Gingold	8.5	Work on T-1 time.
6/19/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Harper re GAO affidavit; mediation.
6/19/2004	DMG	Dennis M. Gingold	0.8	Revise transmittal letter re GAO time.
6/20/2004	8800	Elliott H. Levitas	1.00	Revisions to draft letter to mediators (1.0).
6/20/2004	DMG	Dennis M. Gingold	5.3	Work on T-1 time.
6/20/2004	DMG	Dennis M. Gingold	0.4	Draft memo to Brown re GAO time issues.
6/21/2004	3304	Hilliard Barnett Hardman	0.70	Research concerning government misconduct.
6/21/2004	4673	G. William Austin	6.80	Conference with Alexis Applegate regarding filing of Appellees' "final" IT security brief (.30); e-mail to Alexis Applegate regarding adding JA cites to the 1.5 brief (.20); conference with co-counsel (.80); review of FY 2005 Appropriations Bill and related materials (1.20); review of IT security materials cited in Appellee's Brief and Appellants' reply (3.8); e-mail to Alexis Applegate regarding further activities (.50).
6/21/2004	5133	Alexis Applegate	6.90	Review media coverage and dockets (.40); file and serve IT security brief (2.50); review correspondence and edits regarding fee application (1.70); research of debate and committee report for the Interior appropriations bill (1.50); document review and management per Elliott Levitas request (.80).
6/21/2004	5307	Ron L. Raider	2.80	Prepare issues and meeting with Elliott Levitas regarding declaration.
6/21/2004	6282	Katie D. Nowell	2.50	Finalize, file and served Final IT Security briefs.
6/21/2004	6929	Michael W. Tyler	3.50	Research.

Date	Initials	Name	Hours	Description
6/21/2004	8800	Elliott H. Levitas	4.10	Telephone conference with Alexis Applegate regarding Rahall amendment, review documents regarding mediation (.4); memo to Charles Renfrew regarding possible meeting in Washington this week (.2); several telephone conference with Dennis Gingold regarding schedule Renfrew meeting, mediation progress; several telephone conferences with David Zacks regarding same and regarding drafting of letter to mediators (2.0); review previous memos regarding mediation and mediator agreements, and further revisions to draft letter to mediators (1.0); telephone conference with David Zacks regarding further revisions to mediator letter, arrangements for meeting with Renfrew; telephone conference with Dennis Gingold and David Zacks regarding same (.5);
6/21/2004	8913	David M. Zacks	4.80	Telephone conferences with Elliott Levitas regarding New York travel and meeting with Judge Renfrew; redraft correspondence to Judge Renfrew regarding disapproval in process; telephone conference with Dennis Geingold regarding planned meeting with Judge Renfrew; mid-day conference with Elliott Levitas regarding language in written communication to Renfrew and other issues pertaining to Midnight Rider provision in Congress; conference call with Elliott and Dennis Geingold regarding same issues; continued work and revision on letter to Judge Renfrew; telephone conference with Elliott Levitas regarding plan to have one-on-one meeting with Renfrew; review of communication from Eloise Cobell to constituents; suggested changes reported to Elliott Levitas; review of final letter to mediators; review of House passes Interior budget article.
6/21/2004	GR	Geoffrey Rempel	0.90	Review Brown GAO time and affidavit.
6/21/2004	GR	Geoffrey Rempel	2.10	Contact clerk, followup on Attachment C status, draft letter regarding Attachment C.
6/21/2004	GR	Geoffrey Rempel	3.20	Finalize edits and serve GAO application
6/21/2004	GR	Geoffrey Rempel	2.50	Review Statements of Account material (notice to beneficiaries).
6/21/2004	DMG	Dennis M. Gingold	2.4	Review/revise letter to Kresse re Attachment C.
6/21/2004	DMG	Dennis M. Gingold	0.3	Conference call Zacks, Levitas re same.
6/21/2004	DMG	Dennis M. Gingold	0.4	Conference call Zacks, Levitas re mediation.
6/21/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Levitas re "Midnight" rider; GAO transmittal letter.
6/21/2004	DMG	Dennis M. Gingold	0.3	Telcoms. Zacks re Renfrew; mediation.
6/21/2004	DMG	Dennis M. Gingold	1.1	Telcoms. Austin re mediation; Pierce affidavit.
6/21/2004	DMG	Dennis M. Gingold	0.1	Telcom. Brown re GAO affidavit issues.
6/21/2004	DMG	Dennis M. Gingold	0.3	Review/comment draft Brown affidavit.
6/21/2004	DMG	Dennis M. Gingold	0.2	Prepare memo to Brown re same
6/21/2004	DMG	Dennis M. Gingold	0.5	Telcom. Lewis re continuing problems protecting appraisal records that are transferred out of OTR.
6/21/2004	DMG	Dennis M. Gingold	0.6	Telcoms. Harper re mediation; GAO time
6/21/2004	DMG	Dennis M. Gingold	4.4	Continue work on Trial 1 fee issues.
6/22/2004	4673	G. William Austin	6.80	Conference with Alexis Applegate and Katie Nowell regarding adding JA cites to 1.5 brief (.50); review of revised HLIP and 1st Quarter Report regarding quotes at pp. 40-41 of brief (.50); conference with Elliott Levitas (.40); review of Eloise Cobell's "open letter" and related article (.30); conferences with co-counsel Dennis Gingold (1.30); conference with Dennis Gingold and David Zacks regarding proposed meeting with Judge Renfrew on June 27 (.30); review IT security materials (3.50).
6/22/2004	5133	Alexis Applegate	5.30	Review media coverage and dockets per Elliott Levitas' request (.20); conference with Bill Austin and Katie Nowell regarding JA cites (.50); review and research HLIP language (.90); review and add cites to final brief per Bill Austin's request (2.50); review opposition to enlargement of time (.40); review and forward filed IT briefs to team (.30); further review of appropriations language (.50)
6/22/2004	5307	Ron L. Raider	3.80	Revise declaration.
6/22/2004	6282	Katie D. Nowell	3.60	Reviewed Joint Appendix materials for changing cites in Phase 1.5 brief.
6/22/2004	8800	Elliott H. Levitas	1.00	Telephone conference with David Zacks regarding scheduling meeting with Renfrew (.3); finalize structural injunction brief (.2); review media coverage (.5);
6/22/2004	8913	David M. Zacks	4.00	Extensive telephone conference with Dennis Geingold regarding lack of progress in mediation and plans for weeks ahead; continued discussions with Dennis Geingold and Elliot Levitas; review of materials and outline of thoughts and preparation for call to Judge Renfrew; coordinate travel to New York; review of Indian Affairs articles; telephone conference with Judge Renfrew regarding dinner meeting.
6/22/2004	GR	Geoffrey Rempel	1.20	Discuss EAJA w/ DG.
6/22/2004	GR	Geoffrey Rempel	1.90	Review Statements of Account material (notice to beneficiaries).
6/22/2004	DMG	Dennis M. Gingold	0.1	Continue meet and confer with Kresse re motion to compel compliance; motion to seal; motion to expedite.
6/22/2004	DMG	Dennis M. Gingold	10.1	Work on T-1 time.
6/22/2004	DMG	Dennis M. Gingold	0.6	Conference call Austin, Levitas re Renfrew.
6/22/2004	DMG	Dennis M. Gingold	2.1	Telcoms. Austin re mediation issues.
6/22/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Zacks re same.
6/22/2004	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re same.
6/23/2004	4673	G. William Austin	7.70	Conference with co-counsel Keith Harper regarding 2/25/00 revised HLIP quote on 1.5 brief (.50); conference with Alexis Applegate regarding this matter (.50); participate in meeting with Mark Levy and Elliott Levitas regarding 28(j) issues and other matters (.70); participate in conference call with Elliott Levitas, David Zacks and co-counsel regarding June 25 meeting with Judge Renfrew (1.50); review of 1.5 brief with JA cites added (4.0); review IT security materials (.50).
6/23/2004	5133	Alexis Applegate	7.50	Review media coverage and dockets per Elliott Levitas' request (.40); conference with Bill Austin regarding HLIP quote (.50); research regarding HLIP quote (1.70); conference with team regarding 28j (.50); final review of 1.5 brief with edits and JA cites (3.80); research regarding senate appropriations actions (.50).



Date	Initials	Name	Hours	Description
6/23/2004	5307	Ron L. Raider	1.10	Draft Levitas declaration.
6/23/2004	6447	Mark I. Levy	1.00	Read materials regarding Interior appropriations bill; office conference with E. Levitas and B. Austin regarding Rule 28 (j) letter on Norton v. Southern Utah and Interior appropriations bill.
6/23/2004	8800	Elliott H. Levitas	3.80	Various telephone conferences with Dennis Gingold, David Zacks, Keith Harper, Bill Austin regarding mediation process and preparation for meeting with Judge Renfrew (3.0); meeting with Bill Austin and Mark Levy regarding Rule 28(j) letter regarding Southern Utah decision and appropriations bill Committee report language on IT security and absence of midnight rider language (.3) review media coverage (.5)
6/23/2004	8913	David M. Zacks	3.00	Preparation for meeting with Judge Renfrew, to include telephone conferences with Elliott Levitas; review of materials; outline of concept points and extensive telephone conference with Bill Austin, Elliott Levitas, Keith Harper, Dennis Geingold and Geoffrey Rempel.
6/23/2004	GR	Geoffrey Rempel	3.50	Draft, edit motion for enlargement re statements to beneficiaries.
6/23/2004	GR	Geoffrey Rempel	4.70	Review Statements of Account material (notice to beneficiaries). Includes review of discovery to SMM re what is an accounting.
6/23/2004	DMG	Dennis M. Gingold	1.1	Conference call Rempel, Zacks, Levitas, Harper re mediation issues.
6/23/2004	DMG	Dennis M. Gingold	0.3	Review/revise letter to Spooner re compliance with 5/28/04 order.
6/23/2004	DMG	Dennis M. Gingold	1.3	Telcoms. Harper re Attachment C; opp to defs' motion to compel re Attachment C.
6/23/2004	DMG	Dennis M. Gingold	0.3	Telcoms. Austin re mediation.
6/23/2004	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re same.
6/23/2004	DMG	Dennis M. Gingold	7.6	Work on T-1 time.
6/24/2004	3304	Hilliard Barnett Hardman	6.50	Research concerning government misconduct.
6/24/2004	4673	G. William Austin	5.50	Review draft of "final" 1.5 brief (1.5); e-mail to Katie Nowell regarding execution of brief (.20); conference with Dennis Gingold and Mark Levy regarding Supreme Court's decision in In re Cheney (.40); review of Cheney decision (1.0); conference with Elliott Levitas (.40); review of IT security matters cited in brief (2.0).
6/24/2004	6447	Mark I. Levy	1.00	Telephone conference with B. Austin and D. Gingold regarding Cheney decision; read Cheney decision.
6/24/2004	8800	Elliott H. Levitas	3.20	Telephone conference with Mark Levy regarding Cheney decision, mandamus issue and analysis of impact on Cobell case (.3); initial review of Cheney decision (.5); conference with Ron Raider regarding EAJA fee application (.4); further review of significant brief (.5); telephone conference with David Zacks regarding preparation for mediator meeting with Charles Renfrew, review of issues (.4); telephone conference with Bill Austin regarding Joint Appendix issues, revised HLIP 2002 (.4); telephone conference with Dennis Gingold and Geoff Rempel regarding mediation meeting and preparation (.3); review "bad faith" language (.4)
6/24/2004	8800	Elliott H. Levitas	1.00	Review, analyze and annotate U.S. Supreme Court decision on Cheney (.6); telephone conference with Bill Austin regarding analysis of same as it relates to Cobell case (.4).
6/24/2004	8913	David M. Zacks	10.50	Drafting and prioritizing bullet points on disappointments in mediation process and solutions for success; travel from Atlanta to New York for meeting with Judge Renfrew; conference call with Keith Harper and Dennis Geingold; meeting with Judge Renfrew discussing issues; dictation of memo regarding same.
6/24/2004	GR	Geoffrey Rempel	0.80	CC w/ DG, KH re EAJA
6/24/2004	GR	Geoffrey Rempel	0.20	CC w/ EL, DG re mediation.
6/24/2004	GR	Geoffrey Rempel	6.90	Review Statements of Account material (notice to beneficiaries). Includes review of discovery to SMM re what is an accounting.
6/24/2004	GR	Geoffrey Rempel	2.40	Review, edit, serve motion for enlargement.
6/24/2004	DMG	Dennis M. Gingold	0.8	Conference call Harper, Rempel re bad faith issues.
6/24/2004	DMG	Dennis M. Gingold	0.8	Conference calls Zacks, Harper re mediation; Renfrew issues.
6/24/2004	DMG	Dennis M. Gingold	0.2	Conference call Rempel, Levitas re mediation.
6/24/2004	DMG	Dennis M. Gingold	0.9	Review/revise plf's motion for enlargement to file comments to defs' submissions in compliance with 5/28/04 order.
6/24/2004	DMG	Dennis M. Gingold	8.0	Work on T-1 time.
6/24/2004	DMG	Dennis M. Gingold	0.7	Conference call Levy, Austin re appellate issues; mandamus; discovery orders.
6/24/2004	DMG	Dennis M. Gingold	0.7	Telcoms. Austin e appellate issues; mediation.
6/24/2004	DMG	Dennis M. Gingold	0.2	Telcom. Harper re mediation.
6/24/2004	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re appellate issues.
6/25/2004	3304	Hilliard Barnett Hardman	4.50	Research regarding government misconduct.
6/25/2004	4673	G. William Austin	8.00	Review of e-mails (1.0); participate in conference calls with co-counsel (2.0); finalize IT security brief (5.0).
6/25/2004	5133	Alexis Applegate	3.30	review media and dockets per Elliott Levitas' request (.30) Preparation and finalization of the Phase 1.5 brief (1.70); conference call with Cobell team regarding mediation (1.30);
6/25/2004	5307	Ron L. Raider	1.20	Review time records.
6/25/2004	6282	Katie D. Nowell	1.30	Conference with Bill Austin and co-counsel regarding finalization of 1.5 brief and other outstanding issues.
6/25/2004	6282	Katie D. Nowell	2.00	Finalization of Phase 1.5 brief.

Date	Initials	Name	Hours	Description
6/25/2004	8800	Elliott H. Levitas	6.20	Several telephone conferences with David Zacks, Dennis Gingold, Geoff Rempel, Bill Austin regarding report on meeting with Charles Renfrew, analysis and status of mediation, development of mediation positions, discussion of strategy for pursuing settlement and issues that must be addressed prior to resolution and procedures and schedule for future mediation (1.3) several follow up telephone conferences with Dennis Gingold regarding same (.8); telephone conference with Dennis Gingold and David Zacks regarding same (.5); telephone conference with John Bickerman regarding problems with mediation process. Bickerman's suggestions for modification and improvement, including regular meetings and reports, meetings with Congressional Committees, mediation agreement, problems with GAO, future meetings, retreat, etc. (.6); telephone conference with Dennis Gingold regarding report on discussion with Bickerman, schedule, approach to take with mediators (.7); telephone conference with telephone conference with Ron Raider regarding revisions to declaration, clarification of questions regarding EAJA fee application (.3); review, analyz
6/25/2004	8913	David M. Zacks	6.00	Continued work on memo regarding Renfrew meeting; extensive conference call with trial team; return travel from New York to Atlanta.
6/25/2004	8913	David M. Zacks	0.70	Conference call with trial team regarding implications of conference with Judge Renfrew and John Bickerman followup call.
6/25/2004	GR	Geoffrey Rempel	1.20	CC w/ DG, DZ, EL, BA, KH re mediation.
6/25/2004	GR	Geoffrey Rempel	0.60	Discuss Mediation w/ DG.
6/25/2004	GR	Geoffrey Rempel	7.10	Review Statements of Account material (notice to beneficiaries). Includes review of discovery to SMM re what is an accounting.
6/25/2004	DMG	Dennis M. Gingold	0.2	Meet and confer Cynthia Alexander re motion for enlargement.
6/25/2004	DMG	Dennis M. Gingold	0.9	Revise motion for enlargement to file comments on defs' 1st submissions per 5/28/04 order re historical statements of account.
6/25/2004	DMG	Dennis M. Gingold	8.7	Work on T-1 time.
6/25/2004	DMG	Dennis M. Gingold	0.5	Telcoms. Austin re mediation; deferred appendix re HLIP 2/25/ v 2/28.
6/25/2004	DMG	Dennis M. Gingold	0.7	Conference call Levitas, Zacks re mediation issues.
6/25/2004	DMG	Dennis M. Gingold	0.5	Conference call Harper, Levitas re Renfrew letter.
6/25/2004	DMG	Dennis M. Gingold	1.3	Conference call Rempel, Austin, Harper, Zacks, Levitas re meeting with Renfrew, mediation issues.
6/25/2004	DMG	Dennis M. Gingold	1.7	Telcoms. Harper re Pierce issues; mediation; Renfrew.
6/25/2004	DMG	Dennis M. Gingold	0.1	Review Zacks memo re Renfrew.
6/25/2004	DMG	Dennis M. Gingold	0.2	Telcom. Levitas re mediation.
6/26/2004	8800	Elliott H. Levitas	1.00	Receive and initial review of Law Review article regarding Lambert; telephone conference with Dennis Gingold regarding same and regarding dissemination and notation of Law Review article to Cobell Team (1.0).
6/26/2004	8913	David M. Zacks	0.50	Communicating with Elliott Levitas and Dennis Gingold regarding issues in coordination for work with mediators.
6/26/2004	DMG	Dennis M. Gingold	7.7	Work on T-1 time.
6/26/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Harper re Treasury issues.
6/26/2004	DMG	Dennis M. Gingold	0.3	Telcom. Levitas re Pierce.
6/26/2004	DMG	Dennis M. Gingold	0.1	Conference call Levitas, Zacks re Renfrew.
6/27/2004	8800	Elliott H. Levitas	2.50	Further review and analysis of Law Review article regarding Judge Lamberth (1.6); telephone conference with Dennis Gingold regarding same, confidentiality, release of article to Lamberth and others, strategic use of article (.5); telephone conference with David Zacks regarding mediation process, involvement of Carter Center (.2); telephone conference with David Zacks regarding Law Review article and utilization of the article, providing road maps for Judge Renfrew and others (.2).
6/27/2004	8913	David M. Zacks	2.00	Outlining thoughts for mediation progress and discussion of same with Dennis Gingold.
6/27/2004	DMG	Dennis M. Gingold	7.6	Work on T-1 time.
6/27/2004	DMG	Dennis M. Gingold	0.6	Telcoms. Levitas re Am. Admin. L. Rev; Pierce re Lamberth.
6/27/2004	DMG	Dennis M. Gingold	1.1	Telcom. Zacks re same; mediation.
6/27/2004	DMG	Dennis M. Gingold	0.6	Telcoms. Harper re R-17; Admin. L. Rev.
6/27/2004	TH	Thaddeus Holt	4.1	Preparing affidavit for interim fee application; detailed review of individual time entries
6/28/2004	3304	Hilliard Barnett Hardman	2.20	Research concerning government misconduct.
6/28/2004	4673	G. William Austin	8.50	Review of e-mails re mediation (1.0); review of Pierce L. Review article (1.0); participate in conference call with Messrs. Levitas, Zacks, Gingold, Harper and Rempel (1.50); review of the government's 28(j) letters (.30); conference with Dennis Gingold and Keith Harper regarding 28(j) letters and Appellees' response (.50); e-mail to Mark Levy regarding drafting of responses (.20); conference with Elliott Levitas and David Zacks.
6/28/2004	5133	Alexis Applegate	3.50	Review media coverage and dockets per Elliott Levitas' request (.30); review law review article (.90); perform edits on 28J submissions and prepare for filing (.50); review of correspondence regarding mediation (1.20); review Thad Holt's fee application materials (.60);
6/28/2004	6282	Katie D. Nowell	2.50	Finalize, file, and served Final Phase 1.5 briefs.
6/28/2004	6282	Katie D. Nowell	0.80	Scanned our brief to route electronically to co-counsel.
6/28/2004	6447	Mark I. Levy	0.30	Read government's 28 (j) letters regarding Norton v. Southern Utah.

Date	Initials	Name	Hours	Description
6/28/2004	8800	Elliott H. Levitas	6.10	Telephone conference with Dennis Gingold, David Zacks, Keith Harper regarding mediation process (.8); review memo from John Bickerman regarding response to 6/21 letter to mediators (.4); review John Bickerman memo to the Hill regarding 7/6 meeting and update on mediation progress (.4); various telephone calls with Dennis Gingold, Keith Harper and David Zacks regarding Bickerman letters regarding mediation process and analysis and discussion of response to same (.6); review and revise draft declaration for EAJA fee application (.3); review and analyze David Zacks memo regarding Renfrew meeting regarding mediation process (.3); telephone conference with David Zacks, Dennis Gingold, Geoff Rempel and Bill Austin regarding mediation issues, Bickerman letters regarding mediation, scheduling and agenda items for meeting (1.5); telephone conference with David Zacks, Dennis Gingold, Geoff Rempel and Bill Austin regarding Pierce Law Review article, distribution and road map (.3); telephone conference with John Bickerman, David Zacks, Geoff Rempel and Bill Austin regarding mediation issues, scheduling and agenda for July 6 meeting (.8); telephone conference with Bill Austin regarding mediation scheduling
6/28/2004	8913	David M. Zacks	2.50	Conference call with team regarding letter to Hill; telephone conferences with Elliott Levitas and Dennis Gingold regarding response; review of Bickerman letter to us and Hill; conference call regarding Bickerman's communications and continuation of mediation.
6/28/2004	GR	Geoffrey Rempel	0.80	CC w/ DG, KH re Quapaw
6/28/2004	GR	Geoffrey Rempel	0.20	CC w/ TH, DG re EAJA.
6/28/2004	GR	Geoffrey Rempel	0.20	CC w/ DG, KH re mediation.
6/28/2004	GR	Geoffrey Rempel	0.10	Discuss EAJA w/ Laura - PWC.
6/28/2004	GR	Geoffrey Rempel	0.10	Left msg. Laura - PWC.
6/28/2004	GR	Geoffrey Rempel	1.50	CC w/ rteam re mediation.
6/28/2004	GR	Geoffrey Rempel	1.00	CC w/ DG, TH, re EAJA.
6/28/2004	GR	Geoffrey Rempel	0.50	CC w/ BA, DG re mediation.
6/28/2004	GR	Geoffrey Rempel	3.20	Compile EAJA hours.
6/28/2004	GR	Geoffrey Rempel	1.20	Review Statements of Account material (notice to beneficiaries). Includes review of discovery to SMM re what is an accounting.
6/28/2004	DMG	Dennis M. Gingold	0.6	Conference call Rempel, Harper, Austin, Zacks, Levitas re mediation.
6/28/2004	DMG	Dennis M. Gingold	0.4	Conference call Levitas, Zacks, Austin, Harper re same.
6/28/2004	DMG	Dennis M. Gingold	0.8	Conference call Harper, Rempel, Zacks re Renfrew.
6/28/2004	DMG	Dennis M. Gingold	1.0	Conference call Rempel, Holt re T-1 issues.
6/28/2004	DMG	Dennis M. Gingold	0.7	Conference call Austin, Harper re 28J, So. Ute.
6/28/2004	DMG	Dennis M. Gingold	2.0	Telcoms. Austin re mediation issues.
6/28/2004	DMG	Dennis M. Gingold	2.1	Telcoms. Harper re same; 28J; mediation letter; Bickerman telcom.
6/28/2004	DMG	Dennis M. Gingold	0.3	Telcoms. Holt re Renfrew, T-1 issues.
6/28/2004	DMG	Dennis M. Gingold	0.2	Telcoms. Levitas re mediation.
6/28/2004	DMG	Dennis M. Gingold	8.0	Work on T-1 time.
6/28/2004	TH	Thaddeus Holt	2.2	Preparing affidavit for interim fee application, detailed review of individual time entries
6/28/2004	TH	Thaddeus Holt	1	Telcon Gingold, Rempel re specific matters to be excluded or included in interim fee application
6/28/2004	TH	Thaddeus Holt	0.2	Telcon Blake re possible affidavit re market rates for interim fee application
6/29/2004	3304	Hilliard Barnett Hardman	1.40	Research regarding government misconduct.
6/29/2004	4673	G. William Austin	8.80	Conference with David Zacks, Elliott Levitas and co-counsel regarding mediation developments, the proposed contract with the Carter Center, etc. (1.50); review of Mark Levy's draft 28(j) letter (.50); e-mail regarding comments (.30); review and respond to comments of Elliott Levitas and Mark Levy (.50); review of 1.5 materials (4.0).
6/29/2004	5133	Alexis Applegate	5.40	Review media coverage and dockets per Elliott Levitas' request (.30); conference call with David Zack, Bill Austin and Elliott Levitas regarding mediation (1.50); review draft 28j letter (.30); pull case law and research in preparation for oral argument per Elliott LEvitas' request (1.90) research regarding Kieffer and his appointment per Elliott Levitas' request (1.40).
6/29/2004	6282	Katie D. Nowell	0.80	Scanned opposing briefs to be electronically routed to co-counsel.
6/29/2004	6447	Mark I. Levy	6.00	Draft and revise response to government's 28 (j) letters regarding Norton v. Southern Utah; telephone conference with E. Levitas and B. Austin regarding response; review revised draft from E. Levitas.
6/29/2004	8800	Elliott H. Levitas	4.00	Telephone conference with Thad Holt regarding EAJA fee application, criteria for including or excluding activities in application, expert affidavit (.5); telephone conference with David Zacks regarding mediation issues (.2); telephone conference with Bill Austin and Keith Harper regarding mediation issues, Carter involvement in mediation as consultant and Bickerman response regarding meetings (.6); telephone conference with Bill Austin regarding mediation issues, response to Bickerman letter and IT settlement process (.6); conference with Alexis Applegate regarding _____; telephone conference with Keith Harper and Alexis Applegate regarding same (.8); telephone conference with Bill Austin and Mark Levy regarding 28(j) submission; review same (.8); review media coverage (.5).
6/29/2004	8913	David M. Zacks	2.30	Telephone conference with Elliott Levitas; telephone conference with Dennis Gingold regarding Carter Center approach; strategy conference with Keith Harper, Elliott Levitas, and Bill Austin regarding communication to Bickerman and mediation next steps; telephone conference with Bill Austin regarding meeting with Congressional aides.
6/29/2004	GR	Geoffrey Rempel	0.10	Left msg for EC.
6/29/2004	GR	Geoffrey Rempel	0.20	CC w/ EC re PRCG.
6/29/2004	GR	Geoffrey Rempel	3.20	Draft, edit reply re enlargement for EAJA.
6/29/2004	GR	Geoffrey Rempel	0.40	Discuss w/ DG re mediation.
6/29/2004	GR	Geoffrey Rempel	4.10	Compile EAJA hours. Eliminate duplication from prior decisions.
6/29/2004	DMG	Dennis M. Gingold	7.0	Work on T-1 time.
6/29/2004	DMG	Dennis M. Gingold	0.7	Review/Comment reply re EAJA.

Date	Initials	Name	Hours	Description
6/29/2004	DMG	Dennis M. Gingold	0.6	Telcoms. Zacks re mediation; Pierce.
6/29/2004	DMG	Dennis M. Gingold	1.1	Telcoms. Harper re Pierce; mediation.
6/29/2004	DMG	Dennis M. Gingold	0.5	Telcom. Ms. Cobell re same.
6/29/2004	DMG	Dennis M. Gingold	0.1	Telcom. Austin re same.
6/29/2004	TH	Thaddeus Holt	1.5	Finalizing affidavit and exhibits for interim fee application
6/30/2004	4673	G. William Austin	8.00	Prepare for and participate in meeting with Elliott Levitas regarding oral argument on June 15 in 1.5 appeal (2.50); review of IT security appeal materials and outline points for September 14 oral argument (1.50); conference with David Zacks regarding Carter Center appointment on July 14, 2004 (.30); conference with Messrs. Levitas and Gingold regarding this issue (.60); meeting with Messrs. Levitas, Levy and co-counsel regarding 28(j) oppositions (.60); participate in conference call with Elliott Levitas and John Bickerman (1.0); conference with Keith Harper and Geoffrey Rempel following the conference call (.80); conference with Keith Harper regarding changes to 28(j) submissions (.05); conference with Alexis Applegate regarding changes to submissions (.20).
6/30/2004	5133	Alexis Applegate	1.70	Review media coverage and dockets per Elliott Levitas' request (.40); finalize, file and serve both 28j submission (1.30).
6/30/2004	6447	Mark I. Levy	2.50	Read law review article on Cobell from B. Austin; draft e-mail memorandum regarding same; telephone conference with E. Levitas and B. Austin regarding 28(j) letter on Norton v. Southern Utah; edit draft of letter; telephone conference with E. Levitas, B. Austin, K. Harper, and D. Gingold regarding response to government's 28(j) letters.
6/30/2004	8800	Elliott H. Levitas	3.60	Review and revise draft 28(j) letter by Mark Levy (.8); telephone conference with Keith Harper, Mark Levy, Bill Austin, Alexis Applegate regarding finalizing 28(j) response (.4); telephone conference with John Bickerman regarding mediation agenda for 7/6/04 mediation meeting, problems with mediation letter to Hill (.5); telephone conference with John Bickerman, Bill Austin regarding direction of mediation, global or broader issues, reduction of number of accounts (.9); conference with Bill Austin regarding Court of Appeals oral arguments (.5); review media coverage (.5)
6/30/2004	8913	David M. Zacks	1.00	Telephone conference with Carter Center regarding July 14 meeting; briefing Dennis Gingold, Elliott Levitas and Bill Austin regarding same; discussion with Bill Austin concerning material to leave with President Carter.
6/30/2004	GR	Geoffrey Rempel	0.30	CC w/ TH, DG re EAJA.
6/30/2004	GR	Geoffrey Rempel	0.40	CC w/ PRCG, EC re contract.
6/30/2004	GR	Geoffrey Rempel	0.30	CC w/ EL re mediation.
6/30/2004	GR	Geoffrey Rempel	1.50	CC w/ EL, DZ, KH re mediation.
6/30/2004	GR	Geoffrey Rempel	6.20	Compile EAJA hours. Eliminate duplication from prior decisions.
6/30/2004	DMG	Dennis M. Gingold	0.5	Review Holt affidavit re T-1 time.
6/30/2004	DMG	Dennis M. Gingold	9.4	Work on T-1 time.
6/30/2004	DMG	Dennis M. Gingold	0.1	Conference call Austin, Levitas re 28J.
6/30/2004	DMG	Dennis M. Gingold	0.2	Conference call Levy, Austin, Levitas, Harper re 28J.
6/30/2004	DMG	Dennis M. Gingold	0.5	Telcom. Ms. Cobell re mediation.
6/30/2004	DMG	Dennis M. Gingold	0.6	Telcoms. Austin re 28J; opp brief.
6/30/2004	DMG	Dennis M. Gingold	0.2	Telcoms. Harper re APA; 28J; response to Pierce.
6/30/2004	DMG	Dennis M. Gingold	0.1	Telcom. Holt re 28J.
6/30/2004	DMG	Dennis M. Gingold	0.1	Telcom. Zacks re Jimmie Carter/mediation.
7/1/2004	3304	Hilliard Barnett Hardman	4.40	Research concerning government misconduct.
7/1/2004	4673	G. William Austin	5.20	Conference with co-counsel Dennis Gingold (.50); conference with Elliott Levitas (.30); review of 28(j) submissions filed on June 30 (.30); review of IT security materials (3.8); review of John Bickerman's e-mail re July 6 meeting (.30).
7/1/2004	5133	Alexis Applegate	2.00	Review media coverage and dockets per Elliott Levitas' request (.30); conference call regarding mediation (1.00); disburse appellate filings to team (.20); research regarding treasury appropriations (.50)
7/1/2004	6282	Katie D. Nowell	2.00	Document review and management of Court of Appeals pleadings files.
7/1/2004	8800	Elliott H. Levitas	0.40	Telephone conference with David Zacks regarding preparation for conference call regarding mediation issues (.4)
7/1/2004	8800	Elliott H. Levitas	1.50	Telephone conference with David Zacks, Geoff Rempel, Keith Harper, Dennis Gingold (briefly), Alexis Applegate (briefly) regarding mediation issues (1.5).
7/1/2004	8913	David M. Zacks	1.50	Telephone conference with Elliott Levitas regarding his conversations with John Bickerman; joint conference call with group in preparation for meeting with mediators and Congressional staff on July 6.
7/1/2004	GR	Geoffrey Rempel	4.50	Compile EAJA hours. Eliminate duplication from prior decisions.
7/1/2004	GR	Geoffrey Rempel	3.20	Draft, edit opp to compel Attachment C.
7/1/2004	GR	Geoffrey Rempel	1.10	Discuss mediation w/ DG.
7/1/2004	DMG	Dennis M. Gingold	10.2	Work on T-1 time.
7/1/2004	DMG	Dennis M. Gingold	2.0	Telcoms. Harper re mediation.
7/1/2004	DMG	Dennis M. Gingold	1.0	Meet with Austin re mediation issues.
7/1/2004	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re mediation.
7/1/2004	DMG	Dennis M. Gingold	0.1	Telcom. Infield re retaliation issue.
7/2/2004	6779	Miles J. Alexander	0.50	(7/2-5/04) - Start on Judge Lambeth's article "Reign of Terror at the Justice Department" and consider counter steps.
7/2/2004	8800	Elliott H. Levitas	3.10	Telephone conference with David Zacks regarding agenda for 7/6 mediation meeting (.5); telephone conference with Dennis Gingold regarding mediation issues, preparation for 7/6 mediation meeting (1.2); review, analyze and revise draft declaration for EAJA fee application (1.4).
7/2/2004	8913	David M. Zacks	0.50	Conference with Elliott Levitas in preparation for his meeting with Congressional staff.

Date	Initials	Name	Hours	Description
7/2/2004	GR	Geoffrey Rempel	4.20	Compile EAJA hours. Eliminate duplication from prior decisions.
7/2/2004	GR	Geoffrey Rempel	3.90	Draft, edit opp to compel Attachment C.
7/2/2004	GR	Geoffrey Rempel	2.70	Review material in preparation for mediation.
7/2/2004	DMG	Dennis M. Gingold	7.8	Work on T-1 time.
7/2/2004	DMG	Dennis M. Gingold	1.4	Review/revise opp to motion to compel removal of references to Attachment C from Pliffs' website.
7/2/2004	DMG	Dennis M. Gingold	0.6	Telcoms. Harper same; Pierce.
7/2/2004	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re same.
7/2/2004	DMG	Dennis M. Gingold	0.5	Telcoms. Lewis re further Navajo appraisal problems.
7/3/2004	5307	Ron L. Raider	4.40	Draft Levitas declaration.
7/3/2004	DMG	Dennis M. Gingold	8.3	Work on T-1 time.
7/3/2004	DMG	Dennis M. Gingold	0.2	Telcom. Harper re Pierce; IT security.
7/3/2004	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re Pierce; mediation.
7/4/2004	DMG	Dennis M. Gingold	9.1	Work on T-1 time.
7/4/2004	DMG	Dennis M. Gingold	0.8	Telcom. Harper re same.
7/5/2004	4673	G. William Austin	4.10	Review of e-mails regarding July 6th mediation meeting (.50); review and reply to Elliott Levitas' message regarding scheduling change (.30); review of John Bickerman's e-mails (.50); review of 1.5 matters (2.8).
7/5/2004	5307	Ron L. Raider	1.80	Draft Levitas declaration.
7/5/2004	GR	Geoffrey Rempel	2.30	Prepare for mediation - meeting with team.
7/5/2004	GR	Geoffrey Rempel	3.80	Compile EAJA hours. Eliminate duplication from prior decisions.
7/5/2004	DMG	Dennis M. Gingold	9.5	Work on T-1 time.
7/5/2004	DMG	Dennis M. Gingold	0.3	Telcoms. Harper re same; EAJA bad faith.
7/6/2004	3304	Hilliard Barnett Hardman	2.20	Research regarding government misconduct.
7/6/2004	4673	G. William Austin	11.50	Prepare for and attend meeting on the Hill with mediators, plaintiffs' representatives and government (3.50); conference with Elliott Levitas and co-counsel upon returning from the meeting (1.50); review of 5/4/04 mediation document (.50); review of IT security brief (1.50); review of IT security matters (3.50).
7/6/2004	5133	Alexis Applegate	6.90	Review media coverage per Elliott Levitas' request (.30); preparation for meeting with mediators and co-counsel prior to meeting on the Hill (1.50); preparation for and meeting with mediators, government, and staffers (4.10); compilation of notes from meeting (1.00)
7/6/2004	8800	Elliott H. Levitas	6.30	Preparation for mediation meeting (.3); conference with Judge Renfrew, John Bickerman, Keith Harper, Alexis Applegate regarding scope of mediation, mediation agreement and experts, and mediator's role (1.6); mediation session with Judge Renfrew, John Bickerman, Cason, et al., Boyle et al., Moorhead et al., Keith Harper, Dennis Gingold, Geoff Rempel (3.8); follow up discussions regarding mediation meetings, strategy (1.6).
7/6/2004	GR	Geoffrey Rempel	6.50	Mediation
7/6/2004	GR	Geoffrey Rempel	3.00	Discuss mediation meeting w/ team.
7/6/2004	DMG	Dennis M. Gingold	7.3	Work on T-1 time.
7/6/2004	DMG	Dennis M. Gingold	0.1	Meet and confer Kresse.
7/6/2004	DMG	Dennis M. Gingold	0.2	Review opp to defs' motion to seal.
7/6/2004	DMG	Dennis M. Gingold	0.1	Review opp to defs' motion for expediated consideration.
7/6/2004	DMG	Dennis M. Gingold	0.8	Meet with Austin, Levitas, Rempel re mediation.
7/6/2004	DMG	Dennis M. Gingold	0.9	Telcoms. Harper re mediation; Lewis appraisal issues; T-1 time.
7/6/2004	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re Attachment C.
7/6/2004	DMG	Dennis M. Gingold	0.2	Telcoms. Austin re mediation.
7/6/2004	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re T-1 time.
7/6/2004	DMG	Dennis M. Gingold	0.4	Telcoms beneficiaries re land sale issues; case status.
7/7/2004	4673	G. William Austin	8.80	Prepare for and attend follow-up mediation meeting regarding IT security (2.50); conference with co-counsel and Elliott Levitas following the meeting (3.80); conference with co-counsel regarding oral argument preparation (1.50); review of 1.5 trial testimony (2.0).
7/7/2004	5133	Alexis Applegate	6.70	Review media coverage and dockets per Elliott Levitas' request (.30); preparation for mediation meeting at Interior and meeting regarding expert discussion (2.30); follow-up meeting with co-counsel (.60); compilation of notes per Elliott Levitas' request (1.60); document management per Elliott Levitas' request (1.40); review GAO report per Elliott Levitas' request (.50).
7/7/2004	8800	Elliott H. Levitas	2.20	Preparation for expert selection meeting; telephone conference with Alexis Applegate regarding same (.4); Meeting with Geoff Rempel, Keith Harper, Bill Austin, Dennis Gingold, Alexis Applegate regarding expert selection meeting and preparation for next mediation session (.6); telephone conference with Bill Austin regarding strategy for involving Treasury and mediators (.5); telephone conference with Dennis Gingold regarding same (.2); telephone conference with Dennis Gingold and Bill Austin regarding same (.5)
7/7/2004	GR	Geoffrey Rempel	0.90	CC BA, KH re mediation
7/7/2004	GR	Geoffrey Rempel	2.50	Review Hammond Tr. re mediation.
7/7/2004	GR	Geoffrey Rempel	1.30	Mediation meeting.
7/7/2004	GR	Geoffrey Rempel	0.20	CC w/ Nelson re IT Sec experts - mediation.
7/7/2004	GR	Geoffrey Rempel	2.10	Discuss mediation w/ DG
7/7/2004	GR	Geoffrey Rempel	0.30	CC w/ DG, EL, BA, AA re mediation.
7/7/2004	GR	Geoffrey Rempel	0.40	CC w/ Foundstone re IT Sec.
7/7/2004	GR	Geoffrey Rempel	1.20	Research IT Sec firms for mediation.
7/7/2004	DMG	Dennis M. Gingold	3.1	Review Quawpaw docs; Berry attempt to compromise class.
7/7/2004	DMG	Dennis M. Gingold	11.5	Work on T-1 time.
7/7/2004	DMG	Dennis M. Gingold	1.1	Telcoms. Austin re mediation issues.
7/7/2004	DMG	Dennis M. Gingold	1.4	Telcoms. Harper re same; T-1 time.

Date	Initials	Name	Hours	Description
7/7/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Armat re IIM Quawpaw issues.
7/7/2004	DMG	Dennis M. Gingold	0.6	Conference calls Rempel, Harper re same; mediation.
7/8/2004	4673	G. William Austin	9.00	Review of revised Mediation Agreement proposed by John Bickerman (1.50); e-mail to co-counsel regarding proposed changes (.70); review proposed revisions to draft letter to Bickerman regarding expert selection (.70); review of 1.5 trial transcript (4.50); e-mail to Elliott Levitas and David Zacks regarding proposed global settlement to mediation issues (1.0); further review of 5/4/04 mediation document signed by client (.50); exchange e-mails regarding proposed July 14 meeting regarding oral argument preparation (.30).
7/8/2004	5133	Alexis Applegate	5.40	Review media coverage per Elliott Levitas' request (.20); conference call with co-counsel regarding fee applications (.70); conference call with mediation team regarding understandings from yesterday's meeting (.30); preparation for 3-day mediation conference and conference with Bill Austin regarding same (1.90); review of correspondence regarding fee applications (.40); document management per Elliott Levitas' request (1.90);
7/8/2004	5307	Ron L. Raider	2.70	Conference with Elliott Levitas, Dennis Gingold, Thad Holt, Geoff Rempel and Mark Brown regarding the EAJA fee application; research market rates; review EAJA decisions from the DC Circuit.
7/8/2004	8800	Elliott H. Levitas	2.40	Conference call with Thad Holt, Dennis Gingold, Geoff Rempel, Keith Harper, Ron Raider and Alexis Applegate regarding EAJA fee application criteria and issues (.7); mediation follow up on meeting with mediators and government on experts; review and revise draft letters regarding mediation (.5); review proposed mediation agreement (.4); discussions regarding preparation for oral argument (.8)
7/8/2004	GR	Geoffrey Rempel	0.30	CC w/ TH re EAJA application.
7/8/2004	GR	Geoffrey Rempel	0.30	CC w/ Barbin re IT Sec - mediation.
7/8/2004	GR	Geoffrey Rempel	3.20	Draft letter to Bickerman.
7/8/2004	GR	Geoffrey Rempel	1.00	CC w/ KH, DG re mediation.
7/8/2004	GR	Geoffrey Rempel	1.20	Discuss mediation w/ DG.
7/8/2004	GR	Geoffrey Rempel	1.10	CC w/ team re EAJA application and compensable time.
7/8/2004	GR	Geoffrey Rempel	1.00	CC w/ Rob Stevens re IT Sec.
7/8/2004	DMG	Dennis M. Gingold	10.3	Work on T-1 time.
7/8/2004	DMG	Dennis M. Gingold	0.5	Telcom. Ms. Cobell re mediation.
7/8/2004	DMG	Dennis M. Gingold	0.9	Telcoms. Harper re same. T-1 time.
7/8/2004	DMG	Dennis M. Gingold	1.0	Telcom. Austin re mediation issues.
7/8/2004	DMG	Dennis M. Gingold	0.8	Conference call Holt, Levitas, Rempel Harper re EAJA issues.
7/8/2004	DMG	Dennis M. Gingold	1.0	Conference call Austin, Harper, Rempel re T-1 time.
7/8/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Ferrell re Treasury issues
7/8/2004	DMG	Dennis M. Gingold	0.1	Telcom trust beneficiary re land sale issues; case status.
7/9/2004	4673	G. William Austin	10.50	Review of Geoffrey Rempel's comments regarding mediation agreement (.30); conference with co-counsel regarding the proposed agreement and changes thereto (1.20); conference with mediator John Bickerman regarding this issue (1.50); conference with Elliott Levitas and co-counsel Dennis Gingold and Keith Harper regarding contract with the mediator (1.0); preparation of e-mail to the mediator regarding plaintiffs' comments regarding the draft mediation agreement (3.50).
7/9/2004	5133	Alexis Applegate	4.00	Review media and dockets per Elliott Levitas' request (.30); document management per Elliott Levitas' request (1.90); review of mediation correspondence and conference call regarding same (1.20); review Elliott's fee affidavit (.60)
7/9/2004	6282	Katie D. Nowell	2.30	Document review and management of Court of Appeals pleadings files.
7/9/2004	8800	Elliott H. Levitas	3.10	Review and revise mediation agreement; propose changes; telephone conference with Bill Austin regarding same and regarding expert selection and accounting; review Bill Austin and Keith Harper proposed changes to mediation agreement (1.1); review mediation agreement changes and confidentiality issues (.8); discussion regarding EAJA fee application, EAJA cost of living adjustment (1.2).
7/9/2004	8913	David M. Zacks	3.00	Review of various status reports and e-mails on progress (or lack of progress) of mediation; review of reign of terror article; analysis of Bill Austin's e-mail regarding goals of mediation rather than focus on I.T. security issues
7/9/2004	GR	Geoffrey Rempel	0.60	CC w/ BA, DG re mediation.
7/9/2004	GR	Geoffrey Rempel	0.10	CC w/ Foundstone re IT Sec.
7/9/2004	GR	Geoffrey Rempel	0.30	CC w/ KH re mediation (2 calls).
7/9/2004	GR	Geoffrey Rempel	0.20	Left msgs. For Bickerman (2).
7/9/2004	GR	Geoffrey Rempel	0.30	CC w/ John Kerr re IT Sec.
7/9/2004	GR	Geoffrey Rempel	1.10	Discuss mediation w/ DG.
7/9/2004	GR	Geoffrey Rempel	0.20	CC w/ BA re IT appeal.
7/9/2004	GR	Geoffrey Rempel	0.80	CC w/ BA, DG, KH re IT Sec mediation.
7/9/2004	GR	Geoffrey Rempel	0.30	CC w/ Verisign re IT Sec - mediation.
7/9/2004	GR	Geoffrey Rempel	0.30	CC w/ Red Cliff
7/9/2004	GR	Geoffrey Rempel	1.80	Review IT Security material for mediation.
7/9/2004	GR	Geoffrey Rempel	2.00	Review and edit declaration and time schedules in preparation for EAJA application.
7/9/2004	DMG	Dennis M. Gingold	10.1	Work on T-1 time.
7/9/2004	DMG	Dennis M. Gingold	1.3	Telcoms. Austin re Bickerman discussion; mediation.
7/9/2004	DMG	Dennis M. Gingold	0.5	Telcom. Harper re T-1 time
7/9/2004	DMG	Dennis M. Gingold	0.5	Telcom. Levitas re mediation.
7/9/2004	DMG	Dennis M. Gingold	0.5	Conference call Austin, Harper, Rempel re mediation agreement.
7/10/2004	4673	G. William Austin	3.00	Review of 1.5 transcript (2.50); review of reply to e-mails (.50).
7/10/2004	DMG	Dennis M. Gingold	0.7	Telcoms Harper re T-1 time; class communications issues.
7/10/2004	DMG	Dennis M. Gingold	10.4	Work on T-1 time.

Date	Initials	Name	Hours	Description
7/11/2004	DMG	Dennis M. Gingold	7.3	Work on T-1 time.
7/12/2004	3304	Hilliard Barnett Hardman	2.30	Research concerning government misconduct in Cobell case.
7/12/2004	4673	G. William Austin	4.10	Review of 1.5 trial transcript (3.50); review and reply to e-mails regarding case (.60).
7/12/2004	5307	Ron L. Raider	1.30	Research regarding market rate surveys.
7/12/2004	6282	Katie D. Nowell	3.50	Document review and management of Court of Appeals pleadings files.
7/12/2004	8800	Elliott H. Levitas	4.00	Telephone conference with Bill Austin regarding development of proposal regarding mediation regarding transfer of certain functions from Interior to Treasury (.4); meeting with David Zacks regarding mediation proposals and involvement of Carter Center to consult on mediation issues and preparation for meeting with Carter Center regarding same (.7); telephone conference with David Zacks regarding mediation issues (.3); telephone conference with Ron Raider regarding EAJA fee application (.3); telephone conference with Keith Harper and Dennis Gingold regarding mediation issues, Carter Center (.8); further discussion regarding mediation, confidentiality; review of Senger book (.6); telephone conference with Ron Raider regarding EAJA fee application; telephone conference with Dennis Gingold and Geoff Rempel regarding same (.5); discussions regarding confidential statement on historical accounting (.4)
7/12/2004	8913	David M. Zacks	1.20	Telephone conference with Dennis Geingold regarding planned meeting with John Hardman of Carter Center; conference with Elliott Levitas regarding plans for continuation of D.C. mediation process.
7/12/2004	GR	Geoffrey Rempel	0.10	Lft msg. for Verisign.
7/12/2004	GR	Geoffrey Rempel	0.10	Lft msg. for Kevin Mandeira re IT Sec.
7/12/2004	GR	Geoffrey Rempel	1.30	Draft ltrs to mediators.
7/12/2004	GR	Geoffrey Rempel	0.50	CC w/ Rabinhorst (possible expert to attest to billing rates) re EAJA application
7/12/2004	GR	Geoffrey Rempel	0.10	Left msg. for John Kerr re IT Sec.
7/12/2004	GR	Geoffrey Rempel	0.10	CC w/ John Kerr re IT Sec.
7/12/2004	GR	Geoffrey Rempel	0.50	CC w/ Red Cliff re IT Sec.
7/12/2004	GR	Geoffrey Rempel	0.10	CC w/ Barone re IT Sec.
7/12/2004	GR	Geoffrey Rempel	0.10	CC w/ PwC re EAJA application and preparation of declaration.
7/12/2004	GR	Geoffrey Rempel	0.60	CC w/ Rabenhorst, DG re EAJA application.
7/12/2004	GR	Geoffrey Rempel	0.20	CC w/ EL, DG re EAJA application.
7/12/2004	GR	Geoffrey Rempel	0.20	CC w/ EC re EAJA Application.
7/12/2004	GR	Geoffrey Rempel	4.70	Review and edit declaration and time schedules in preparation for EAJA application.
7/12/2004	DMG	Dennis M. Gingold	7.2	Work on T-1 time.
7/12/2004	DMG	Dennis M. Gingold	1.1	Telcoms. Raskin re response to Pierce attacks on Judge Lamberth.
7/12/2004	DMG	Dennis M. Gingold	1.2	Telcoms. Harper re Raskin/Pierce; T-1 time.
7/12/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Zacks re mediation; Raskin/Pierce.
7/12/2004	DMG	Dennis M. Gingold	0.5	Telcoms. Levitas re mediation; T-1 time; Raskin/Pierce.
7/12/2004	DMG	Dennis M. Gingold	0.2	Conference call Rempel, Rader, Levitas re T-1 time; transcripts.
7/12/2004	DMG	Dennis M. Gingold	0.6	Telcom. Rempel re precedent setting hourly rates re T-1 time.
7/12/2004	DMG	Dennis M. Gingold	0.8	Review "Reign of Terror" article by
7/12/2004	DMG	Dennis M. Gingold	0.1	Telcom. Homan re mediation issues.
7/13/2004	3304	Hilliard Barnett Hardman	0.80	Research regarding government misconduct.
7/13/2004	4673	G. William Austin	9.10	Conference with Geoffrey Rempel regarding IT security expert candidates (1.0); review of draft letter regarding plaintiffs' choices (1.0); conference with Geoffrey Rempel regarding the government's failure to disclose its choices (.50); conference with John Bickerman and Jeffrey Senger regarding this matter (.50); conference with Elliott Levitas and co-counsel regarding this development (.30); conference with Keith Harper regarding proposed role of theory in trust administration (.80); review of 9/25/03 accounting opinion (3.50); review of IT security materials for 9/14/04 oral argument (1.50).
7/13/2004	5307	Ron L. Raider	4.20	Prepare for and attend meeting with Elliott Levitas and Charlotte Buttram regarding the draft declaration and the KS time entries.
7/13/2004	8800	Elliott H. Levitas	3.70	Meeting with Ron Raider and Charlotte Buttram regarding EAJA fee application, draft declaration language (3.5); telephone conference with Bill Austin regarding scheduling meeting regarding accounting (.2)
7/13/2004	8913	David M. Zacks	2.00	Strategy meeting with Elliott Levitas; preparation for meeting with John Hardman; telephone conferences with Elliott Levitas; telephone conferences with Bill Austin in preparation for continuation of mediation in D.C. next week.
7/13/2004	8913	David M. Zacks	1.50	Receipt of information regarding Government's failure to provide list of Government experts; extensive telephone conference with Bill Austin and Dennis Gingold; outline of Carter topics.
7/13/2004	GR	Geoffrey Rempel	0.30	CC w/ Barone re IT Sec.
7/13/2004	GR	Geoffrey Rempel	0.30	Draft e-mail to mediators.
7/13/2004	GR	Geoffrey Rempel	0.10	Left message for PwC re EAJA application.
7/13/2004	GR	Geoffrey Rempel	0.10	CC w/ PwC re EAJA application.
7/13/2004	GR	Geoffrey Rempel	0.10	Draft e-mails to Rabenhorst re EAJA application and his assistance in preparing the application.
7/13/2004	GR	Geoffrey Rempel	0.30	Discuss PwC EAJA application w/ DG.
7/13/2004	GR	Geoffrey Rempel	0.50	CC w/ KH re mediation letters (2 calls).
7/13/2004	GR	Geoffrey Rempel	0.10	CC w/ Red Cliff re IT Sec.
7/13/2004	GR	Geoffrey Rempel	6.70	Review and edit declaration and time schedules in preparation for EAJA application.
7/13/2004	GR	Geoffrey Rempel	0.20	CC w/ BA, DG, re IT Sec experts.
7/13/2004	DMG	Dennis M. Gingold	8.0	Work on T-1 time.
7/13/2004	DMG	Dennis M. Gingold	0.5	Conference call Austin, Zacks re DOJ refusal to pay expert depo fees.
7/13/2004	DMG	Dennis M. Gingold	1.4	Telcoms. Austin re mediation issues.
7/13/2004	DMG	Dennis M. Gingold	0.9	Telcoms. Harper re Pierce; T-1 time.

Date	Initials	Name	Hours	Description
7/13/2004	DMG	Dennis M. Gingold	0.7	Telcoms. Levitas re T-1 time.
7/13/2004	DMG	Dennis M. Gingold	0.3	Telcom. Rempel re mediation issues.
7/14/2004	4673	G. William Austin	10.10	Review of drafts of Geoffrey Rempel's letter to the mediator regarding the failure of the government to comply with the parties' June 7 agreement regarding IT security (1.0); conference with mediator John Bickerman on several occasions regarding this issue (1.50); review of the government's June 23 letter deciding to comply (.30); review of the government's June 24 letter regarding five names rather than 3 (.50); conference with co-counsel regarding this development (.50); review of Geoffrey Rempel's drafts regarding the government's further non-compliance (.60); conference with Keith Harper regarding mediation tasks (.50); review of IT security materials for 9/14/04 oral argument (4.50); conference with Elliott Levitas and David Zacks regarding mediation issues (.70).
7/14/2004	5133	Alexis Applegate	3.70	Review media coverage per Elliott Levitas' request (.20); review materials relating to IT mediation experts and conference call regarding same (1.30); review of further correspondence regarding same (.90); document management per Elliott Levitas request (.60); compilation of mediation documents per Elliott Levitas' request (.70).
7/14/2004	5307	Ron L. Raider	1.30	Research regarding Equal Access to Justice Act cases.
7/14/2004	8800	Elliott H. Levitas	4.20	Review and comment on letter from plaintiffs' to government and mediators regarding experts (.3); review and analyze government's letters to mediators and plaintiffs' regarding experts (.4); meeting with David Zacks and Dr. John Hardman regarding mediation process (1.0); preparation for and telephone conference with David Zacks, Dennis Gingold and Bill Austin regarding Carter Center, mediation, experts (1.2); review Geoff Rempel draft letter to mediators regarding expert selection problems (.3); preparation for oral argument (.5); review memos regarding expert selection, bad faith (.4);
7/14/2004	8913	David M. Zacks	4.20	Prepare for meeting with John Hardman; travel to the Carter Center and conference with Hardman and Elliott Levitas; private meeting with John Hardman at conclusion of same; review and respond to various e-mails regarding mediation process and Government's conduct with respect to naming experts; telephone conference with Dennis Gingold, as well as Bill Austin throughout day; conference call with entire team in planning next steps with Carter Center and discussing mediation process for next week; e-mail group regarding Eloise Cobell's presence at meeting with President Carter.
7/14/2004	GR	Geoffrey Rempel	0.80	CC w/ BA re mediation (5 calls)
7/14/2004	GR	Geoffrey Rempel	0.50	Discuss mediation w/ DG.
7/14/2004	GR	Geoffrey Rempel	4.30	Draft letter to mediators (2 letters).
7/14/2004	GR	Geoffrey Rempel	0.10	CC w/ Red Cliff re IT Sec.
7/14/2004	GR	Geoffrey Rempel	0.20	CC w/ Rolf Mouton re IT Sec.
7/14/2004	GR	Geoffrey Rempel	0.10	CC w/ EC re EAJA application.
7/14/2004	GR	Geoffrey Rempel	0.10	Left message for Defs' proposed IT Sec expert.
7/14/2004	GR	Geoffrey Rempel	0.20	CC w/ Mary Kendall - IG's office re IT Sec experts.
7/14/2004	GR	Geoffrey Rempel	0.10	CC w/ Mitre re IT Sec.
7/14/2004	GR	Geoffrey Rempel	3.20	Review and edit declaration and time schedules in preparation for EAJA application.
7/14/2004	DMG	Dennis M. Gingold	13.1	Work on T-1 time.
7/14/2004	DMG	Dennis M. Gingold	0.3	Revise letter to Bickerman.
7/14/2004	DMG	Dennis M. Gingold	0.6	Conference call Levitas, Zacks, Austin re mediation.
7/14/2004	DMG	Dennis M. Gingold	0.1	Conference call Austin, Rempel re same.
7/14/2004	DMG	Dennis M. Gingold	1.7	Telcoms. Harper re bad faith; PW issues; EAJA; mediation; "midnight rider."
7/14/2004	DMG	Dennis M. Gingold	1.2	Telcom. Rempel bad faith; mediation.
7/14/2004	DMG	Dennis M. Gingold	0.3	Telcom. Levitas re mediation.
7/14/2004	DMG	Dennis M. Gingold	0.1	Telcom. Holmes re mediation.
7/15/2004	2821	Leetra J. Harris	0.20	Telephone call with Austin regarding research needs.
7/15/2004	3304	Hilliard Barnett Hardman	2.10	Research regarding government misconduct in Cobell case.
7/15/2004	4673	G. William Austin	13.50	Prepare for and attend meeting with Elliott Levitas, Alexis Applegate and Katie Nowell regarding oral argument preparation (3.50); prepare Agenda for use at the meeting (1.0); review of July 16 draft of Mediation Agreement received from John Bickerman (.50); participate in conference calls with John Bickerman and Geoffrey Rempel regarding expert list exchange (.70); review of Geoffrey Rempel's draft of plaintiffs' objections (.60); prepare for and participate in conference call with Keith Harper, Elliott Levitas and David Zacks regarding July 19-21 mediation proceedings and plaintiffs' positions therein (1.0); conference with co-counsel Dennis Gingold regarding these issues (.50); review of July 15 draft (.50); preparation of e-mail to mediators (5.0).
7/15/2004	5133	Alexis Applegate	5.40	Review media coverage per Elliott Levitas' request (.20); preparation and participation in meeting regarding upcoming oral arguments (3.40); review correspondence from inspector general (.20); review further correspondence regarding IT expert for mediators (.40); review response to government's IT expert agreement (.60); preparation for upcoming mediation meetings (.60)
7/15/2004	5307	Ron L. Raider	0.90	Review draft declaration.
7/15/2004	6282	Katie D. Nowell	2.80	Meeting with Bill Austin, Elliott Levitas and Alexis Applegate to discuss necessary preparation and research for September oral argument
7/15/2004	8800	Elliott H. Levitas	2.60	Telephone conference with Keith Harper, Bill Austin, David Zacks regarding mediation issues, Carter role (.8); telephone conference with Keith Harper, Bill Austin regarding mediation issues, mediation agreement, breach of agreement by government, e.g. naming of experts, preparation for mediation meeting (1.8).
7/15/2004	GR	Geoffrey Rempel	0.70	CC w/ Rolf Mouton, DG, SG re IT Sec.
7/15/2004	GR	Geoffrey Rempel	0.50	CC w/ Mitre re IT Sec.
7/15/2004	GR	Geoffrey Rempel	0.90	CC w/ BA re IT Sec (4 calls).



Date	Initials	Name	Hours	Description
7/15/2004	GR	Geoffrey Rempel	0.90	CC w/ JB, BA re Mediation.
7/15/2004	GR	Geoffrey Rempel	0.20	CC w/ EC re mediation.
7/15/2004	GR	Geoffrey Rempel	0.20	CC w/ Hansen re IT Sec.
7/15/2004	GR	Geoffrey Rempel	2.50	Draft letter to mediators re IT Sec.
7/15/2004	GR	Geoffrey Rempel	5.60	Review and edit declaration and time schedules in preparation for EAJA application.
7/15/2004	GR	Geoffrey Rempel	0.80	Discuss EAJA application w/ DG.
7/15/2004	DMG	Dennis M. Gingold	0.7	Conference call Rempel, defs' IT security expert.
7/15/2004	DMG	Dennis M. Gingold	0.7	Telcom. Raskin re Pierce rebuttal.
7/15/2004	DMG	Dennis M. Gingold	0.4	Telcom. Harper re records problems.
7/15/2004	DMG	Dennis M. Gingold	0.2	Telcom. Levitas re mediation.
7/15/2004	DMG	Dennis M. Gingold	0.1	Telcom. Austin re same.
7/15/2004	DMG	Dennis M. Gingold	0.5	Telcom. Mitre Tech re IT security mediation issues.
7/15/2004	DMG	Dennis M. Gingold	11.3	Work on T-1 time.
7/16/2004	3304	Hilliard Barnett Hardman	2.80	Research regarding government misconduct.
7/16/2004	4673	G. William Austin	12.60	Review of John Bickerman's e-mail to counsel of 7/15/04 (.50); conference with Elliott Levitas and co-counsel regarding this correspondence and outline of plaintiffs' response (1.50); conference with David Zacks (.30); conference with Geoffrey Rempel regarding draft of plaintiffs' objections to the government's IT security experts (.70); preparation of draft letter to John Bickerman regarding plaintiffs' good faith (6.0); e-mail to co-counsel circulating draft (.20); conference with Elliott Levitas and co-counsel regarding changes to draft (1.0); finalize the letter to the mediator (.50); review of Geoffrey Rempel's letter regarding expert assignment (.50); review of draft letter regarding historical accounting (.30); conference with Keith Harper and Elliott Levitas regarding the draft letter (.30); review of draft "expert" agreement (.50); e-mail to Geoffrey Rempel, et al. regarding the latest draft received from Mediator Bickerman (.30).
7/16/2004	5133	Alexis Applegate	4.90	Review media coverage and dockets per Elliott Levitas' request (.30); review accounting statement per Geoff Rempel's request (.50); review correspondence relating to mediation (.80); review revised mediation agreement (.70); document management per Elliott Levitas' request (.90); caselaw research per Bill Austin's request (1.30); review letter to John Bickerman (.40);
7/16/2004	8800	Elliott H. Levitas	3.70	Review memo to mediators regarding response to their bad faith assertion (.2); telephone conference with Bill Austin regarding same (.8); discussions with co-counsel regarding same (.9); discussions with co-counsel regarding Carter Center involvement, review information regarding same (.9); review draft submission to mediators regarding statement on historical accounting (.3); discussions regarding same (.4); review letter from DOJ regarding Geoff Rempel contact with DOJ personnel (.2);
7/16/2004	8800	Elliott H. Levitas	1.70	(add 1.1 to the first part of the previous entry regarding review of draft memos to Bickerman, telephone conference with Bill Austin regarding mediation and IT security issues and accounting methodology); telephone conference with Keith Harper regarding mediation (.3); telephone conference with David Zacks regarding mediation issues, Bickerman memo (.3).
7/16/2004	8913	David M. Zacks	3.20	Review of various e-mails and correspondence regarding mediation agreement; examination of Bill Austin's proposed changes; responding with respect to allegations that we are also part of the problem in getting an agreement signed; telephone conference with Bill Austin regarding response to mediator Bickerman's letter on our failure to sign a mediation agreement which we have already signed; telephone conference with Bill Austin; telephone conference with Elliott Levitas; review of communication and correspondence between team and John Bickerman; prepare for mediation.
7/16/2004	GR	Geoffrey Rempel	0.70	CC w/ DG, BA (3 calls).
7/16/2004	GR	Geoffrey Rempel	1.60	Discuss w/ DG re mediation.
7/16/2004	GR	Geoffrey Rempel	0.10	CC w/ JB re IT Sec.
7/16/2004	GR	Geoffrey Rempel	1.10	Draft letters to mediators.
7/16/2004	GR	Geoffrey Rempel	0.70	Draft letter to Warshawsky.
7/16/2004	GR	Geoffrey Rempel	0.70	Conduct due diligence for mediation - IT Sec.
7/16/2004	GR	Geoffrey Rempel	4.00	Review and edit declaration and time schedules in preparation for EAJA application.
7/16/2004	DMG	Dennis M. Gingold	1.0	Review/revise letter to Bickerman re IT security experts for mediation.
7/16/2004	DMG	Dennis M. Gingold	0.4	Review/revise letter to Bickerman re good faith.
7/16/2004	DMG	Dennis M. Gingold	0.2	Telcom. Bardnell re PW T-1 time.
7/16/2004	DMG	Dennis M. Gingold	0.2	Telcom. Raskin re Pierce rebuttal.
7/16/2004	DMG	Dennis M. Gingold	1.0	Conference call Austin, Rempe re mediation.
7/16/2004	DMG	Dennis M. Gingold	0.5	Review/revise Levitas markup of Raskin rebutta.
7/16/2004	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re Bickerman letter.
7/16/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Harper re mediation issues.
7/16/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Levitas re same; Bickerman letter; Raskin rebuttal.
7/16/2004	DMG	Dennis M. Gingold	0.6	Telcoms. Austin re same.
7/16/2004	DMG	Dennis M. Gingold	10.3	Work on T-1 time.
7/17/2004	GR	Geoffrey Rempel	1.40	Draft letter to mediators re IT Sec.
7/17/2004	GR	Geoffrey Rempel	2.10	Review and edit declaration and time schedules in preparation for EAJA application.
7/17/2004	GR	Geoffrey Rempel	0.20	Discuss EAJA application w/ DG.
7/17/2004	GR	Geoffrey Rempel	0.40	CC w/ DG, KH re mediation IT Sec.
7/17/2004	DMG	Dennis M. Gingold	5.5	Work on T-1 time.
7/17/2004	DMG	Dennis M. Gingold	0.8	Prepare letter to Bickerman re defs' non-objection to pltfs' recommendation on IT security.
7/17/2004	DMG	Dennis M. Gingold	0.2	Telcom. Levitas re same.
7/17/2004	DMG	Dennis M. Gingold	0.4	Conference call Harper et al. re mediation.
7/17/2004	DMG	Dennis M. Gingold	0.1	Telcom. Harper re same.

Date	Initials	Name	Hours	Description
7/18/2004	8913	David M. Zacks	4.00	Review materials in preparation for mediation; travel from Atlanta to Washington, D.C.
7/18/2004	GR	Geoffrey Rempel	3.50	Review and edit declaration and time schedules in preparation for EAJA application.
7/18/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Harper re mediation.
7/18/2004	DMG	Dennis M. Gingold	7.1	Work on T-1 time.
7/19/2004	3304	Hilliard Barnett Hardman	1.10	Research concerning government misconduct.
7/19/2004	4673	G. William Austin	12.00	Prepare for and attend day of joint mediation meetings (9.0); review and reply to mediator Bickerman's e-mails in advance of the meetings (.50); e-mails to other team members analyzing the proposed IT security expert agreement (.50); conference with Elliott Levitas and co-counsel (1.0).
7/19/2004	5133	Alexis Applegate	9.80	Preparation, participation and recap of mediation meeting with government, mediators and plaintiffs.
7/19/2004	5307	Ron L. Raider	1.40	Draft declaration for Elliott Levitas and fact research regarding various issues.
7/19/2004	6282	Katie D. Nowell	2.90	Document review of 8/11/03 DOI submissions in preparation for oral argument.
7/19/2004	8800	Elliott H. Levitas	10.50	Mediation session (6.8); conference with Keith Harper, Bill Austin, David Zacks, Geoff Rempel and Dennis Gingold regarding matters covered during mediation meeting and preparation for follow up meeting, including expert agreement, confidential, mediation agreement (1.2); meeting with David Zacks, John Bickerman and Charles Renfrew regarding mediation issues and proposals (2.5).
7/19/2004	8913	David M. Zacks	12.00	Participate in mediation on behalf of client; preparation of communication and information to be forwarded to former President Carter; working dinner meeting with Judge Renfrew and John Bickerman.
7/19/2004	GR	Geoffrey Rempel	0.20	CC w/ PRCG, DZ re mediation.
7/19/2004	GR	Geoffrey Rempel	10.20	Mediation meeting.
7/19/2004	DMG	Dennis M. Gingold	7.9	Work on T-1 time.
7/19/2004	DMG	Dennis M. Gingold	0.3	Review mediation language re 2 agreements; contract to retain experts.
7/19/2004	DMG	Dennis M. Gingold	0.8	Revise reply re motion for additional enlargement.
7/19/2004	DMG	Dennis M. Gingold	1.4	In mediation, meet with mediators re settlement.
7/19/2004	DMG	Dennis M. Gingold	0.1	Telcom. Harper re mediation.
7/20/2004	3304	Hilliard Barnett Hardman	1.30	Research concerning government misconduct.
7/20/2004	4673	G. William Austin	11.00	Prepare for and attend second day of joint mediation session (8.70); review of plaintiffs' 1/6/03 accounting plan and the district court's 9/25/03 accounting opinion (2.0); review of Keith Harper's 7/16/04 letter regarding plaintiffs' settlement proposal as to the accounting issue (.30).
7/20/2004	5133	Alexis Applegate	8.90	Review media coverage and dockets per Elliott Levitas' request (.30); document management per Elliott Levitas' request (.90) Preparation, participation and recap of mediation meeting with government, mediators and plaintiffs (7.70).
7/20/2004	5307	Ron L. Raider	1.20	Review and revise the draft Levitas declaration.
7/20/2004	6282	Katie D. Nowell	3.20	Document review of DOI's Submissions and certifications in compliance to Preliminary Injunction in preparation for Oral Argument.
7/20/2004	8800	Elliott H. Levitas	0.80	Telephone conference with Dennis Gingold and Bill Austin regarding mediation, settlement issues (.8).
7/20/2004	8800	Elliott H. Levitas	0.70	Telephone conference with David Zacks regarding mediation issues, preparation for next mediation meeting (.4); telephone conference with Bill Austin regarding preparation for next mediation meeting and mediation agreement (.3).
7/20/2004	8800	Elliott H. Levitas	0.40	Review time entries for February and March 2001 for applicable time to be included in EAJA fee application (.4).
7/20/2004	8913	David M. Zacks	12.00	Conference with trial team outlining proposals from mediators; participate in day 2 of mediation; private conference with Bickerman and Renfrew communicating offer subject to approval of client; conference with Dennis Gingold and trial team; telephone conferences with Bill Austin; communicate with Elliott Levitas regarding message to Carter; telephone conference with John Hardman; return travel from D.C. to Atlanta.
7/20/2004	GR	Geoffrey Rempel	0.10	Left msg EC re EAJA application.
7/20/2004	GR	Geoffrey Rempel	0.20	CC w/ Red Cliff re IT Sec.
7/20/2004	GR	Geoffrey Rempel	2.50	Discuss mediation with team.
7/20/2004	GR	Geoffrey Rempel	3.00	Review and edit declaration and time schedules in preparation for EAJA application.
7/20/2004	DMG	Dennis M. Gingold	5.5	Work on mediation issues; meet with Levitas, Zacks, Austin, and Rempel re same, including review of transcripts, findings and conclusions re same.
7/20/2004	DMG	Dennis M. Gingold	10.8	Work on T-1 time.
7/20/2004	DMG	Dennis M. Gingold	0.2	Telcom. Harper re mediation.
7/20/2004	DMG	Dennis M. Gingold	0.2	Telcoms. Austin re same.
7/20/2004	DMG	Dennis M. Gingold	2.5	Revise opp to defs' motion to seal.
7/21/2004	2821	Leetra J. Harris	0.20	Telephone call with Applegate regarding status of case summary information and other case management issues.
7/21/2004	3304	Hilliard Barnett Hardman	1.10	Research concerning government misconduct.
7/21/2004	4673	G. William Austin	8.80	Preparation of draft letter withdrawing the suggestion of "bad faith" as to plaintiffs (1.0); e-mail transmitting draft to mediator John Bickerman (1.20); review of notes regarding the oral withdrawal of Mr. Bickerman's July 15 statement during the mediation session of July 19 (.50); review of oral argument materials (3.0); conference with David Zacks regarding mediator's concerns about July 20 motion for enlargement (.30); conference with co-counsel regarding the motion and footnotes therein (1.0); e-mail to David Zacks (.50); review of Keith Harper's draft letter regarding this issue (.30); conference with Elliott Levitas and co-counsel (1.0).

Date	Initials	Name	Hours	Description
7/21/2004	5133	Alexis Applegate	5.40	Review media coverage and dockets per Elliott Levitas' request (.40); review draft of affidavit to adjoin the EAJA filing (.40); document management per Elliott Levitas' request (1.50); compilation of mediation documents per Elliott Levitas' request (.50); compilation of notes from mediation meetings (2.60).
7/21/2004	6282	Katie D. Nowell	5.00	Document review of DOI's submissions and certifications in compliance to Preliminary Injunction in preparation for Oral Argument.
7/21/2004	7125	A. Stephens Clay	0.30	Conference with D. Zacks regarding settlement issues.
7/21/2004	8800	Elliott H. Levitas	0.70	Several telephone conferences with David Zacks regarding "footnote 3" mediation issues. Carter Center issues (.7);
7/21/2004	8800	Elliott H. Levitas	2.60	Telephone conference with Bill Austin regarding draft memo to John Bickerman regarding exparte mediation communication (.4); review draft of memo (.2); review response from mediators regarding "bad faith" comment (.2); further discussions with Cobell team and co-counsel regarding mediation issues, bad faith, mediation agreement (1.8)
7/21/2004	8913	David M. Zacks	4.60	Telephone conferences with Judge Renfrew and John Bickerman regarding their future roles as mediators; discussion with respect to footnote 3 issues in our recent filing with Federal Court; discussion of same with Bill Austin and Elliott Levitas; telephone conference with John Hardman regarding deferral of request for assistance of President Carter; continued discussions with Carter Center; working telephone conferences with Dennis Gingold and Bill Austin; extensive telephone conference with Elliott Levitas regarding future plans for mediation and preparing for same; discussion with trial team regarding proposed response to Bickerman's questions regarding putting his retraction in writing; coordinate with Elliott Levitas plans for Carter response.
7/21/2004	GR	Geoffrey Rempel	5.30	Review and edit declaration and time schedules in preparation for EAJA application.
7/21/2004	GR	Geoffrey Rempel	0.90	Discuss mediation with DG.
7/21/2004	GR	Geoffrey Rempel	2.50	Draft Lannan update.
7/21/2004	GR	Geoffrey Rempel	1.50	Review PwC EAJA application time.
7/21/2004	DMG	Dennis M. Gingold	0.4	Conference call Harpe, Austin re mediation issues.
7/21/2004	DMG	Dennis M. Gingold	1.6	Meet with Levitas, Austin, Zacks re same.
7/21/2004	DMG	Dennis M. Gingold	1.0	Meet with Harper, Austin re same.
7/21/2004	DMG	Dennis M. Gingold	1.2	Telcoms. Austin re mediation.
7/21/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Levitas re same.
7/21/2004	DMG	Dennis M. Gingold	7.1	Work on T-1 time.
7/22/2004	3304	Hilliard Barnett Hardman	1.30	Research regarding government misconduct.
7/22/2004	4673	G. William Austin	6.10	Conference with Elliott Levitas, David Zacks and co-counsel regarding the mediators' July 21 dinner meeting with government representatives (1.50); conference with Elliott Levitas and David Zacks (1.0); conference with Alexis Applegate (.50); review of Keith Harper's e-mail (.20); conference with Dennis Gingold and Keith Harper regarding proposed involvement of Treasury in final administration of the trust (.50); review of 1.5 and IT security materials for oral argument (2.4).
7/22/2004	5133	Alexis Applegate	3.40	Review media coverage per Elliott Levitas' request (.20); preparation of materials for oral argument per Bill Austin's request (2.70); review correspondence relating to mediation (.50)
7/22/2004	8800	Elliott H. Levitas	2.50	Telephone conference with Dennis Gingold, Keith Harper, David Zacks, Bill Austin, Geoff Rempel regarding Lamberth complaint resolution (.4); telephone conference regarding report on mediators meeting (7/21) with government and response, mediation agreements, conflicts (1.6); telephone conference with David Zacks and Charles Renfrew regarding mediation issues and report on meeting with government on mediation and Bickerman letter (.5).
7/22/2004	8800	Elliott H. Levitas	4.60	Telephone conference with Bill Austin, Dennis Gingold, Geoff Rempel, Keith Harper regarding various mediation issues, mediation strategy, anonymous information regarding IT security (1.4); telephone conference with Bill Austin, et al. and David Zacks regarding same (1.0); follow up discussions with Bill Austin regarding same (.8); telephone conference with Keith Harper regarding preparation for oral argument (.4); telephone conference with Dennis Gingold, Ron Raider, Keith Harper regarding EAJA fee application, fee rates (.3); further telephone conference with Bill Austin regarding conversation with John Bickerman's office, footnote 3 issues (.4); further telephone conference with Bill Austin regarding conversation with John Bickerman (.3)
7/22/2004	8913	David M. Zacks	2.70	Conference call with trial team discussing Carter involvement, anonymous information regarding Department of Interior system security issues and footnote 3 matters; team conference call regarding mediation issues; extensive discussion with Dennis Gingold regarding global settlement issues.
7/22/2004	GR	Geoffrey Rempel	2.50	Review defendants' response to GAO application.
7/22/2004	GR	Geoffrey Rempel	0.80	Discuss defs' response with DG.
7/22/2004	GR	Geoffrey Rempel	0.10	CC w/ KH
7/22/2004	GR	Geoffrey Rempel	0.20	CC w/ KH, DG.
7/22/2004	GR	Geoffrey Rempel	2.40	CC w/ team re mediation.
7/22/2004	GR	Geoffrey Rempel	0.20	Left msg. for Rabenhorst re EAJA application (2 messages).
7/22/2004	GR	Geoffrey Rempel	0.30	CC w/ DG, EC, KH re EAJA.
7/22/2004	GR	Geoffrey Rempel	1.20	Review PwC EAJA application time.
7/22/2004	GR	Geoffrey Rempel	0.10	CC w/ Lisa Smith (potential expert re billing rates) re EAJA application.
7/22/2004	DMG	Dennis M. Gingold	1.7	Conference call Zacks, Austin, Harper, Rempel re mediation issues.
7/22/2004	DMG	Dennis M. Gingold	0.3	Telcoms. Bardnell re T-1 time.
7/22/2004	DMG	Dennis M. Gingold	0.5	Review/markup defs' GAO objections.
7/22/2004	DMG	Dennis M. Gingold	6.7	Work on T-1 time.
7/22/2004	DMG	Dennis M. Gingold	1.3	Telcoms. Harper re defs' GAO objections; mediation issues.

Date	Initials	Name	Hours	Description
7/22/2004	DMG	Dennis M. Gingold	0.3	Telcoms. Ms. Cobell re mediation.
7/22/2004	DMG	Dennis M. Gingold	0.7	Telcoms. Zacks re same.
7/22/2004	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re same.
7/23/2004	2821	Leetra J. Harris	1.60	Conference with Levitas regarding the proper format for the case summaries being prepared for use at oral arguments; review case briefs in preparation of drafting case summaries.
7/23/2004	3304	Hilliard Barnett Hardman	2.90	Research concerning government misconduct.
7/23/2004	4673	G. William Austin	6.80	Conference with Elliott Levitas, David Zacks and co-counsel regarding status of mediation (1.0); conference with Alexis Applegate (.30); review of IT security materials in preparation for oral argument on 9/14/04 (3.0); review of John Bickerman's e-mails (.50); messages to team members transmitting Bickerman's messages (.50); conference with Elliott Levitas, David Zacks and co-counsel regarding the necessity for further responses (1.50).
7/23/2004	5133	Alexis Applegate	5.40	Review media coverage and dockets per Elliott Levitas' request (.20); conference with Leetra Harris and Elliott Levitas regarding oral argument preparation and forwarding of essential documents (.80); preparation of trial notebooks for oral argument per Elliott Levitas' request (2.20); compilation of mediation documents (1.20); review correspondence related to mediation (.50); document management per Elliott Levitas' request (.50).
7/23/2004	6282	Katie D. Nowell	2.10	Document review of 8/11/03 DOI submissions in preparation for oral argument.
7/23/2004	8800	Elliott H. Levitas	2.90	Conference with Letra Harris and Alexis Applegate regarding preparation for oral argument (.5); telephone conference with Alexis Applegate regarding oral argument, mediation (.3); telephone conference with Dennis Gingold regarding response to Pierce article, support for bad faith by government, and support for EAJA filing (.4); telephone conference with Dennis Gingold regarding mediation issues, anonymous call from government regarding IT issues, strategy (.5); telephone conference with Bill Austin and David Zacks regarding mediation agreement, issues and anonymous call regarding IT issues (1.2)
7/23/2004	8800	Elliott H. Levitas	1.00	Telephone conference with Judge Renfrew regarding IT security issues and information regarding government's actions, David Zacks discussion (.7); preliminary review of judicial misconduct order and related papers (.3).
7/23/2004	8913	David M. Zacks	3.00	Conference with John Hardman regarding President Carter issue; various conference calls with team regarding footnote 3, I.T. security communication issue, and further communication with mediators regarding mediation agreement and confidentiality issues.
7/23/2004	GR	Geoffrey Rempel	0.10	Left message PwC re EAJA application.
7/23/2004	GR	Geoffrey Rempel	0.20	CC w/ PwC re EAJA application.
7/23/2004	GR	Geoffrey Rempel	0.10	Left msg. for Lisa Smith re EAJA application.
7/23/2004	GR	Geoffrey Rempel	0.30	CC w/ Lisa Smith re EAJA application.
7/23/2004	GR	Geoffrey Rempel	4.60	Review and edit declaration and time schedules in preparation for EAJA application.
7/23/2004	GR	Geoffrey Rempel	0.20	CC w/ PRCG re contact.
7/23/2004	GR	Geoffrey Rempel	0.10	CC w/ Eva re Lannan update.
7/23/2004	DMG	Dennis M. Gingold	1.0	Review Pierce materials.
7/23/2004	DMG	Dennis M. Gingold	0.5	Telcoms. Austin re same.
7/23/2004	DMG	Dennis M. Gingold	0.5	Conference call Levitas, Austin re Pierce.
7/23/2004	DMG	Dennis M. Gingold	0.5	Telcoms. Harper re Pierce; bad faith fees.
7/23/2004	DMG	Dennis M. Gingold	0.3	Telcom. Bramwell re IT security mediation issue.
7/23/2004	DMG	Dennis M. Gingold	0.6	Telcoms. Levitas re same.
7/23/2004	DMG	Dennis M. Gingold	0.1	Telcom. Rader re T-1 fees.
7/23/2004	DMG	Dennis M. Gingold	0.1	Telcom beneficiary re land sale issues; case status.
7/23/2004	DMG	Dennis M. Gingold	10.3	Work on T-1 time.
7/24/2004	DMG	Dennis M. Gingold	1.6	Telcom. Fasold re mediation data.
7/24/2004	DMG	Dennis M. Gingold	12.0	Work on T-1 time.
7/25/2004	4673	G. William Austin	3.50	Preparation of e-mail to mediator John Bickerman regarding status of Mediation Agreement negotiations (1.5); review of Judge Lamberth's response to the Pierce complaint and Judge Statelle's dismissal thereof (1.50); review of co-counsel's e-mails and Elliott Levitas' responses (.50).
7/25/2004	8800	Elliott H. Levitas	1.10	Review and analyze Notice regarding Response to Defendants' Notice of Corrected Objections to Plaintiffs' Statement of Fees and Expenses Filed June 21, 2004 (2616) with attachments and proposed order (.5); memo to Dennis Gingold, Keith Harper, David Zacks and Cobell team regarding mediation agreement and process (.6).
7/25/2004	8800	Elliott H. Levitas	1.20	Telephone conference with Dennis Gingold regarding mediation process and consideration of changes, use of information on government misconduct (1.2).
7/25/2004	8913	David M. Zacks	0.50	Review e-mails regarding mediation strategies responding to Bickerman; review matters on IT security issues.
7/25/2004	DMG	Dennis M. Gingold	0.1	Telcom. Austin re mediation.
7/25/2004	DMG	Dennis M. Gingold	1.0	Prepare memorandum to litigation team re mediation issues.
7/25/2004	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re same.
7/25/2004	DMG	Dennis M. Gingold	8.9	Work on T-1 time.
7/26/2004	3304	Hilliard Barnett Hardman	4.40	Research concerning government misconduct.

Date	Initials	Name	Hours	Description
7/26/2004	4673	G. William Austin	7.60	Review of draft of Geoffrey Rempel's letter to John Bickerman regarding IT security expert (.50); review of Elliott Levitas' revised draft (.30); participate in conference call with Elliott Levitas and team members regarding the draft (.90); e-mail to Elliott Levitas regarding revised draft (.40); review letter re-drafted by Dennis Gingold and signed by Keith Harper (.30); e-mail to Elliott Levitas (.40); review of Judge Lamberth's response to the Pierce complaint (1.50); review of IT security matters (3.0); exchange e-mails with Katie Nowell regarding review of the government's 8/11/03 submissions in the IT security appeals (.30).
7/26/2004	5133	Alexis Applegate	6.70	Review media coverage per Elliott Levitas' request (.20); compilation of mediation meeting notes and correspondence (3.80); further research in preparation for oral argument (1.60); document management per Elliott Levitas' request (1.10)
7/26/2004	5307	Ron L. Raider	0.70	Interview possible expert on market rates for lawyers with Dennis Gingold; Geoff Harper; and Keith Harper.
7/26/2004	6282	Katie D. Nowell	3.00	Document review of 8/11/03 submissions from the DOI in preparation for Oral Argument.
7/26/2004	8800	Elliott H. Levitas	3.90	Discussions regarding supplemental authority (.4); review media coverage (.5); extensive discussions with co-counsel and KS Cobell team regarding IT security/mediation issues, mediation agreement, mediation strategy (3.0)
7/26/2004	8800	Elliott H. Levitas	1.40	Preparation for oral argument, continued review of breifs and cases regarding same (1.4)
7/26/2004	GR	Geoffrey Rempel	0.70	CC w/ DG, EL, KH, Lisa Smith re EAJA application.
7/26/2004	GR	Geoffrey Rempel	0.10	CC w/ PwC re EAJA application.
7/26/2004	GR	Geoffrey Rempel	3.40	Draft letter to mediators re IT Sec.
7/26/2004	GR	Geoffrey Rempel	0.90	CC w/ BA, DG, KH, EC re IT Sec.
7/26/2004	GR	Geoffrey Rempel	3.00	Review and edit declaration and time schedules in preparation for EAJA application.
7/26/2004	DMG	Dennis M. Gingold	10.0	Work on T-1 time.
7/26/2004	DMG	Dennis M. Gingold	0.9	Telcoms. Austin re mediation issues.
7/26/2004	DMG	Dennis M. Gingold	1.0	Meet with Austin re same.
7/26/2004	DMG	Dennis M. Gingold	1.0	Conference call Levitas, Harper, Rempel, Austin re same.
7/26/2004	DMG	Dennis M. Gingold	1.1	Review/revise letter to Bickerman re IT security.
7/26/2004	DMG	Dennis M. Gingold	0.2	Telcom. Zacks re mediation.
7/26/2004	DMG	Dennis M. Gingold	0.5	Telcom. Harper re mediation.
7/26/2004	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re mediation.
7/26/2004	DMG	Dennis M. Gingold	0.7	Conference call Rempel, Rader, Harper re T-1 rate issues.
7/27/2004	3304	Hilliard Barnett Hardman	2.10	Research concerning government misconduct.
7/27/2004	4673	G. William Austin	5.80	Conference with David Zacks regarding August 3 mediation (.30); conference with Elliott Levitas (.50); conference with Elliott Levitas and Dennis Gingold regarding mediation issues (.50); review of e-mails regarding IT security (.50); review of IT security materials for oral argument (3.0); conference with co-counsel Dennis Gingold (1.0).
7/27/2004	5133	Alexis Applegate	4.00	Review media coverage and dockets per Elliott Levitas' request (.30); review draft of mediation memo regarding IT security and monitor comments regarding same (.80); research memorandum sent by Bickerman per David Zacks request (.40); research and compilation of documents in preparation of oral argument (1.90); research House version of Interior Appropriations and conference with Elliott Levitas regarding same (.60).
7/27/2004	6282	Katie D. Nowell	3.40	Document review of 8/11/03 submissions from the DOI in preparation for Oral Argument.
7/27/2004	7125	A. Stephens Clay	0.20	Confer with D. Zacks regarding settlement.
7/27/2004	8800	Elliott H. Levitas	1.40	Review and analysis of Judicial Complaint against Judge Lamberth, response, ruling and exhibits; preparation for oral argument (1.0); telephone conference with Dennis Gingold regarding trust reform issue for oral argument (.4).
7/27/2004	8800	Elliott H. Levitas	6.70	Telephone conference with David Zacks and Dennis Gingold regarding Bickerman/Renfrew and IT security letter (.3); review memos regarding same (.8); review draft letter from Pombo to Taylor (.4); review and analyze Lamberth disqualification proceedings (1.8); preparation for oral argument (2.2); telephone conference with Abe Eisenberg and Dennis Gingold regarding EAJA application, market rates, experts (1.2);
7/27/2004	8913	David M. Zacks	2.50	Continued discussions and review of materials regarding I.T. security issues; draft response to John Bickerman regarding same; communicate with team members on topic; conference call with Dennis Gingold and Elliott Levitas regarding communication on I.T. security to mediators; redrafting same.
7/27/2004	GR	Geoffrey Rempel	0.30	CC w/ DG, KH (part) re EAJA application.
7/27/2004	GR	Geoffrey Rempel	6.10	Review and edit declaration and time schedules in preparation for EAJA application.
7/27/2004	DMG	Dennis M. Gingold	10.5	Work on T-1 time, including exclusions pursuant to scope set forth in order.
7/27/2004	DMG	Dennis M. Gingold	1.3	Telcoms. Austin re mediation issues; appellate issues.
7/27/2004	DMG	Dennis M. Gingold	1.0	Telcoms. Levitas re rider; oral argument appellate issues.
7/27/2004	DMG	Dennis M. Gingold	0.3	Conference call Zacks, Levitas re mediation.
7/27/2004	DMG	Dennis M. Gingold	0.7	Telcoms. Harper re mediation.
7/28/2004	3304	Hilliard Barnett Hardman	6.10	Put together list of all government misconduct found in Cobell case.
7/28/2004	4673	G. William Austin	4.70	Review of John Bickerman's e-mail regarding David Zacks' July 27 e-mail (.30); participate in conference call with David Zacks, Elliott Levitas, Alexis Applegate and co-counsel (.30); review of IT security materials (.50); conference with Elliott Levitas and Dennis Gingold regarding APA related issues (.50); e-mail to Mark Levy regarding proposed notice of supplemental authority (.20); conference with Geoffrey Rempel regarding GAO report (.20); review of proposed draft to John Bickerman and further suggested changes (.30); conference with David Zacks (.20); review of IT security materials (2.50).

Date	Initials	Name	Hours	Description
7/28/2004	5133	Alexis Applegate	4.80	Review press materials and dockets per Elliott Levitas' request (.30); review of Phase 1.5 trial transcripts and conference with Elliott Levitas regarding same (.80); preparation for upcoming mediation meetings per Elliott Levitas' request (.90); conference with team regarding correspondence with mediators and creation of memorandum to mediator per David Zacks' request (1.40); compilation of caselaw for both appeals in preparation for oral argument (1.40).
7/28/2004	6282	Katie D. Nowell	1.50	Document review of 8/11/03 DOI Submissions in preparation for Oral Argument.
7/28/2004	6447	Mark I. Levy	0.50	Office conference with E. Levitas regarding appellate argument.
7/28/2004	8800	Elliott H. Levitas	4.40	Telephone conference with Dennis Gingold and Bill Austin regarding oral argument, jurisdiction of the court, SUA APA case, trust as part of complaint (.8); telephone conference with Alexis Applegate regarding materials from joint appendix concerning Langbein testimony (.3); complete review and analysis of Judicial Complaint and preparation for oral argument (.8); review memo from John Bickerman regarding experts, discussions with co-counsel regarding response (.8); preliminary review of GAO report (.3); review and discussion of bullet points for discussion with mediators (.2); discussions and review of response memo to mediators regarding IT security issues (1.2).
7/28/2004	8800	Elliott H. Levitas	1.30	Telephone conference with Charles Renfrew and John Bickerman and David Zacks regarding mediation session, IT security, experts, other mediation issues (.9); telephone conference with Mark Levy regarding supplemental authority, SUWA, APA issue and Cobell VI (.4).
7/28/2004	8913	David M. Zacks	3.50	Extensive team conference call; reviewing e-mail from John Bickerman; discussions with respect to response to same; discussions with Elliott Levitas regarding efforts to reach Judge Renfrew on I.T. security topics; preparation for and participating in conference call with mediators and Elliott Levitas.
7/28/2004	GR	Geoffrey Rempel	0.60	CC w/ team re mediation.
7/28/2004	GR	Geoffrey Rempel	1.30	Review IT Security report (GAO).
7/28/2004	GR	Geoffrey Rempel	3.50	Review NIST standards, research and write up memorandum.
7/28/2004	GR	Geoffrey Rempel	1.50	Draft notice to court re report.
7/28/2004	GR	Geoffrey Rempel	2.10	Review and edit declaration and time schedules in preparation for EAJA application.
7/28/2004	GR	Geoffrey Rempel	0.50	Draft mediatoin IT bullet points.
7/28/2004	DMG	Dennis M. Gingold	11.2	Work on T-1 time, including exclusions pursuant to scope set forth in order.
7/28/2004	DMG	Dennis M. Gingold	0.6	Conference call Austin, Levitas re appellate oral argument.
7/28/2004	DMG	Dennis M. Gingold	0.3	Telcoms. Austin re same. APA.
7/28/2004	DMG	Dennis M. Gingold	0.2	Telcom. Harper re same.
7/29/2004	2821	Leetra J. Harris	4.40	Draft case summaries for use at oral arguments for the Structural Injunction.
7/29/2004	3304	Hilliard Barnett Hardman	7.70	Research concerning government misconduct.
7/29/2004	4673	G. William Austin	8.70	Review of GAO report (6/28/04) (1.5); e-mail to Dennis Gingold and Geoffrey Rempel (1.8); review of Dennis Gingold's message (.30); e-mail to Mark Levy regarding Committee Report/Harry Dell as 28j candidates (.80); conference with co-counsel regarding 28j submissions on IT security and 1.5 appeal (1.0); conference with co-counsel and Elliott Levitas regarding e-mails from John Bickerman (.60); review of draft contract received from John Bickerman (.50); review of IT security materials (2.5).
7/29/2004	5133	Alexis Applegate	4.10	Review media coverage per Elliott Levitas' request (.20); participation in conference call with team (.60) preparation of materials for both oral arguments (1.20); compilation of notes from mediation meetings (2.10).
7/29/2004	6447	Mark I. Levy	3.00	Read House report and bill on 2005 Interior appropriations; review complaint for E. Levitas regarding APA; draft e-mail regarding same; read Judge Lambarth's response to judicial misconduct complaint.
7/29/2004	8800	Elliott H. Levitas	2.90	Review memo regarding complaint with respect to the issue of the APA/SUWA, discussions regarding same (.7); further review of GAO report (.6); preparation for oral argument, review materials, case summary (1.3); discussions regarding supplemental authority (.3);
7/29/2004	8800	Elliott H. Levitas	1.30	Telephone conference with Dennis Gingold regarding mediation, Treasury (.3); telephone conference with David Zacks regarding preparation for report on mediation (.3); telephone conference with Dennis Gingold, David Zacks, Keith Harper, Geoff Rempel, Bill Austin and Alexis Applegate regarding report on mediation meeting, proposals and procedures, Treasury role and proposal, preparation for mediation meeting (.7).
7/29/2004	8913	David M. Zacks	2.00	Extensive telephone conference with trial team outlining conference call with Renfrew and Bickerman, extensive telephone conference with Elliott Levitas regarding same.
7/29/2004	8913	David M. Zacks	0.50	Receipt and review of e-mail from Bickerman regarding hiring of I.T. experts; discussion with group regarding response; communicate response to Bickerman.
7/29/2004	GR	Geoffrey Rempel	0.70	CC w/ team re mediation.
7/29/2004	GR	Geoffrey Rempel	0.90	CC w/ BA, DG, re IT appeal.
7/29/2004	GR	Geoffrey Rempel	5.50	Draft memorandum and research material for IT appeal notice.
7/29/2004	GR	Geoffrey Rempel	1.50	Discuss IT security notice with DG.
7/29/2004	GR	Geoffrey Rempel	1.90	Review and edit declaration and time schedules in preparation for EAJA application.
7/29/2004	DMG	Dennis M. Gingold	1.0	Conference call Austin, Rempel re IT security.
7/29/2004	DMG	Dennis M. Gingold	1.0	Telcoms. Austin re same; mediation.
7/29/2004	DMG	Dennis M. Gingold	0.1	Conference call Austin, Rempel re PI appeal.
7/29/2004	DMG	Dennis M. Gingold	0.1	Conference call Austin, Harper re Bickerman.
7/29/2004	DMG	Dennis M. Gingold	0.7	Conference call Austin, Zacks Harper, Levitas re mediation.
7/29/2004	DMG	Dennis M. Gingold	1.3	Telcoms. Harper re mediation.
7/29/2004	DMG	Dennis M. Gingold	0.1	Telcom. Zacks re mediation.
7/29/2004	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re same.

Date	Initials	Name	Hours	Description
7/29/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Levitas re same.
7/29/2004	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re same.
7/29/2004	DMG	Dennis M. Gingold	1.5	Review/revise scope, notice of supp authority re 3/04 PI; GAO report.
7/29/2004	DMG	Dennis M. Gingold	0.5	Telcoms beneficiaries re land sale issues; case status.
7/29/2004	DMG	Dennis M. Gingold	10.9	Work on T-1 time, including exclusions pursuant to scope set forth in order.
7/30/2004	2821	Leetra J. Harris	2.80	Draft case summaries for use at oral arguments for the Structural Injunction appeal.
7/30/2004	3304	Hilliard Barnett Hardman	7.10	Put together list of all government misconduct found in Cobell materials.
7/30/2004	4673	G. William Austin	6.40	Conference with Elliott Levitas regarding moot court arrangements (.40); conference with Alexis Applegate (.20); conference with co-counsel regarding IT security issues (.50); e-mails to Mark Levy regarding Rule 28(j) materials (.50); review and reply to Mark Levy (.30); review of cases cited in IT security brief (4.50).
7/30/2004	5133	Alexis Applegate	5.10	Review media coverage per Elliott Levitas' request (.20) review new GAO report (.80) compile and review documents in preparation for oral argument (3.20); review transcripts from Phase 1.5 trial (.90)
7/30/2004	5307	Ron L. Raider	1.60	Research recent case law upwardly adjusting the lodestar in class action lawsuits and discuss retention of Linda Smith with Elliott Levitas.
7/30/2004	6447	Mark I. Levy	5.00	Read GAO report and NIST guide on information security; read and draft e-mails regarding same.
7/30/2004	8800	Elliott H. Levitas	3.60	Telephone conference with Bill Austin regarding moot court arrangements, preparation for oral argument (.4); arrangements for moot court in preparation for oral argument (.4); conference with Ron Raider regarding EAJA fee application (.2); review Bickerman memo regarding update on IT Contract with Red Cliff, discussions with co-counsel regarding same, review draft Red Cliff contract and discussions regarding same; review revised Red Cliff contract and discussions regarding same (2.1); scheduling of mediation meetings (.2); discussions regarding scheduling of moot court in preparation for oral argument (.3)
7/30/2004	8913	David M. Zacks	1.50	Conference with Elliott Levitas regarding inquiry and response to Bickerman regarding I.T. experts; extensive telephone conference with Dennis Gingold regarding his discussions with Treasury Department.
7/30/2004	GR	Geoffrey Rempel	1.20	Discuss IT notice w/ DG.
7/30/2004	GR	Geoffrey Rempel	0.50	CC w/ DZ re mediation.
7/30/2004	GR	Geoffrey Rempel	6.50	Review and edit declaration and time schedules in preparation for EAJA application.
7/30/2004	DMG	Dennis M. Gingold	10.0	Work on T-1 time, including exclusions pursuant to scope set forth in order.
7/30/2004	DMG	Dennis M. Gingold	0.8	Telcom. Ms. Cobell re all issues.
7/30/2004	DMG	Dennis M. Gingold	0.6	Telcoms. Ferrell re Treasury mediation issues.
7/30/2004	DMG	Dennis M. Gingold	0.8	Telcoms. Levitas re mediation.
7/30/2004	DMG	Dennis M. Gingold	0.9	Telcoms. Zacks re same.
7/30/2004	DMG	Dennis M. Gingold	0.1	Telcom. Austin re same.
7/30/2004	DMG	Dennis M. Gingold	0.1	Telcom. Rader re T-1 fees.
7/30/2004	DMG	Dennis M. Gingold	0.2	Telcom. Harper re mediation.
7/31/2004	4673	G. William Austin	3.50	E-mail to Elliott Levitas regarding August 3-5 mediation schedule (.50); e-mail to Dennis Gingold regarding contact with Treasury (.30); review of Dennis Gingold's reply (.20); further e-mail to Dennis Gingold (.50); review of NIST publication (1.8); review of e-mail from Mark Levy regarding 28j (.20).
7/31/2004	DMG	Dennis M. Gingold	8.8	Work on T-1 time, including exclusions pursuant to scope set forth in order.
8/1/2004	4673	G. William Austin	4.00	Review of draft contract with Red Cliff (.30); e-mail to Messrs. Levitas and Zacks regarding the draft expert contract (.50); review of July 20, 2004 expert retention agreement (.30); e-mail to Dennis Gingold regarding July 19 meeting agreement points (.40); review of IT security materials (2.50).
8/1/2004	8800	Elliott H. Levitas	2.30	Preparation for oral argument, review briefs, record and cases (2.3)
8/1/2004	DMG	Dennis M. Gingold	0.4	Telcom. Austin re mediation.
8/1/2004	DMG	Dennis M. Gingold	7.7	Work on T-1 time, including exclusions pursuant to scope set forth in order.
8/2/2004	2821	Leetra J. Harris	7.10	Review cases chiefly relied on by both parties for content and in preparation of drafting case summaries; draft case summaries for use at oral argument.
8/2/2004	4673	G. William Austin	5.50	E-mail to Geoffrey Rempel regarding the mediators' proposed contract with Red Cliff (.30); review of Geoffrey Rempel's contacts (.30); e-mail to team members regarding August 3-5 mediation schedule (.30); review of responses (.40); review of GAO report (1.50); review of Mark Levy's e-mail (.20); review of IT security materials (2.50).
8/2/2004	5133	Alexis Applegate	1.90	Review media coverage per Elliott Levitas' request (.20); begin compiling materials for moot court notebooks (1.00); forward letter to Miles Alexander (.40); preparation for mediation meetings (.30)
8/2/2004	6779	Miles J. Alexander	0.50	Review anonymous report; discussions with Elliott Levitas regarding alternatives - report to Court, report to Mediator; report to Inspector General, report to Ethics Panel, report to Judicial Conference, report to House or Senate Committee, et al.; recommend going to Senate/House staff.
8/2/2004	8800	Elliott H. Levitas	1.80	Review memos regarding mediation meetings (.4); preparation for oral argument (1.2); further arrangements for moot court (.2).
8/2/2004	8913	David M. Zacks	8.00	Travel from Atlanta to D.C.; meeting with Elliott Levitas, Dennis Gingold and others in preparation for mediation session; messages to Bill Austin; preparation.
8/2/2004	GR	Geoffrey Rempel	1.40	Discuss mediation status with team.
8/2/2004	GR	Geoffrey Rempel	0.50	CC w/ DG, DZ re mediation.
8/2/2004	GR	Geoffrey Rempel	6.50	Review and edit declaration and time schedules in preparation for EAJA application.
8/2/2004	DMG	Dennis M. Gingold	2.1	Work on mediation term settlement term sheet.
8/2/2004	DMG	Dennis M. Gingold	0.4	Conference call Zacks, Levitas, Rempel re same; mediation.
8/2/2004	DMG	Dennis M. Gingold	2.8	Meet with Zacks re mediation issues, term sheet.
8/2/2004	DMG	Dennis M. Gingold	0.3	Telcoms. Levitas re same.

Date	Initials	Name	Hours	Description
8/2/2004	DMG	Dennis M. Gingold	6.8	Work on T-1 time, including exclusions pursuant to scope set forth in order.
8/2/2004	DMG	Dennis M. Gingold	0.1	Telcom beneficiary re land sale issues; case status.
8/3/2004	2821	Leetra J. Harris	6.00	Review cases chiefly relied on by both parties for content and in preparation of drafting case summaries; draft case summaries for use at oral argument.
8/3/2004	4673	G. William Austin	3.00	Review of e-mails regarding mediation (.50); e-mails to co-counsel and David Zacks (.50); review of NIST 800-37 publication (2.0).
8/3/2004	5133	Alexis Applegate	6.50	Review media coverage and dockets per Elliott Levitas' request (.30); preparation for and participation in meeting with mediators (3.00); post-mediation conference with team members (1.10); assisted in preparation of fee application affidavit per Elliott Levitas' request (2.10).
8/3/2004	8800	Elliott H. Levitas	5.50	Telephone conference with Dennis Gingold, David Zacks, Geoff Rempel regarding preparation for mediation session (.4); telephone conference with Miles Alexander regarding misconduct report (.2); preparation for oral argument, telephone conference with Dennis Gingold and Keith Harper regarding same and regarding Trust vs. APA issue (.7); mediation session with mediators, Geoff Rempel, David Zacks, Keith Harper and Alexis Applegate (2.9); follow up meeting with Dennis Gingold, Keith Harper, David Zacks (.8); conference with Alexis Applegate regarding documents and charts for oral argument (.5).
8/3/2004	8913	David M. Zacks	5.00	Preliminary meeting with trial team; attend mediation before Judge Renfrew and John Bickerman on behalf of client.
8/3/2004	GR	Geoffrey Rempel	0.50	Discuss appeal with DG, KH.
8/3/2004	GR	Geoffrey Rempel	1.10	Discuss mediation w/ DG.
8/3/2004	GR	Geoffrey Rempel	4.50	Review and edit declaration and time schedules in preparation for EAJA application.
8/3/2004	DMG	Dennis M. Gingold	7.8	Work on T-1 time, including exclusions pursuant to scope set forth in order.
8/3/2004	DMG	Dennis M. Gingold	1.3	Meet with Harper, Levitas, Rempel re mediation/appellate issues.
8/3/2004	DMG	Dennis M. Gingold	1.0	Telcoms. Ferrell re Treasury mediation issues.
8/3/2004	DMG	Dennis M. Gingold	0.5	Conference call Harper, Rempel, Zacks, Levitas re same.
8/3/2004	DMG	Dennis M. Gingold	0.1	Telcom. Rader re T-1 fees.
8/3/2004	DMG	Dennis M. Gingold	0.7	Telcom beneficiary re auction of trust lands by BIA at Anadarko agency.
8/4/2004	2821	Leetra J. Harris	7.10	Review cases chiefly relied on by both parties for content and in preparation of drafting case summaries; draft case summaries for use at oral argument.
8/4/2004	4673	G. William Austin	6.80	Meeting with Mark Levy regarding proposed 28j letter addressing GAO and NIST (.50); review of Committee Report, etc. (1.0); conference with Mark Levy regarding these materials (.20); conference with Elliott Levitas and Alexis Applegate regarding status of mediation following August 3 meeting with mediator Renfrew and Bickerman (1.0); conference with co-counsel (.60); review of IT security matters for oral argument on 9/14/04 (3.0); conference with Elliott Levitas and Alexis Applegate regarding mock argument arrangement (.50).
8/4/2004	5133	Alexis Applegate	5.80	Review media coverage per Elliott Levitas' request (.20); finalize schedule for mock arguments (.50); review most recent interior IG report per Bill Austin's request (1.70); compilation of information for moot court participants per Elliott Levitas' request (3.20); compile case summaries for inclusion in notebooks (.20).
8/4/2004	6282	Katie D. Nowell	0.80	Document review and management of Court of Appeals pleadings file per Elliott Levitas' request.
8/4/2004	6447	Mark I. Levy	1.50	Review Interior appropriations and GAO/NIST reports; office conference with B. Austin regarding Rule 28 (j) letters.
8/4/2004	8800	Elliott H. Levitas	3.90	Telephone conference with Dennis Gingold and Bill Austin regarding mediation issues and response from mediators, preparation for mediation session, strategy and outline of positions (.8); telephone conference with Bill Austin and Dennis Gingold regarding oral argument, trust case vs. APA (.4); telephone conference with Keith Harper regarding trust issues, oral argument, trust case vs. APA, report on conversation with Bill Austin and Dennis Gingold regarding mediation issues (.4); telephone conference with Keith Harper regarding preparation for Congressional staff conference on informants report on government misconduct (.4); further preparation for oral argument (1.1); review and discussion of memo from mediators regarding scheduling of future mediation sessions (.8).
8/4/2004	8800	Elliott H. Levitas	1.60	Review and analyze memorandum for oral argument preparation (1.6).
8/4/2004	GR	Geoffrey Rempel	0.20	Disc w/ DG re EAJA application.
8/4/2004	GR	Geoffrey Rempel	0.40	Discuss mediatoin w/ DG q
8/4/2004	GR	Geoffrey Rempel	1.20	Review and edit declaration and time schedules in preparation for EAJA application.
8/4/2004	DMG	Dennis M. Gingold	7.9	Work on T-1 time, including exclusions pursuant to scope set forth in order.
8/4/2004	DMG	Dennis M. Gingold	1.3	Conference call Austin, Levitas re mediation; appellate issues.
8/4/2004	DMG	Dennis M. Gingold	0.2	Telcoms. Ms. Cobell re same.
8/4/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Harper re same.
8/4/2004	DMG	Dennis M. Gingold	0.1	Telcom. Austin re appellate issues.
8/5/2004	2821	Leetra J. Harris	5.10	Review cases chiefly relied on by both parties for content and in preparation of drafting case summaries; draft case summaries for use at oral argument.
8/5/2004	4673	G. William Austin	8.20	Conference with co-counsel regarding oral argument preparation (1.0); e-mail to Elliott Levitas (.30); participate in conference call with Keith Harper and Elliott Levitas (.07); review and reply to Elliott Levitas (.30); review and revise Mark Levy's draft 28j letter regarding GAO report, etc. (.50); conference with Mark Levy (.30); review of later draft (.30); e-mails to Messrs. Levy and Levitas (1.0); conference with Alexis Applegate regarding mock argument (.30); e-mail to Keith Harper (.50); conference with Dennis Gingold (1.0); review of IT security materials (2.0).



Date	Initials	Name	Hours	Description
8/5/2004	5133	Alexis Applegate	7.40	Review media coverage and dockets per Elliott Levitas' request (.20); completion of the compilation of information for moot court participants per Elliott Levitas' request (2.10); further case law research per Elliott Levitas' request (.60); review notes from mediation meeting (.70); conference with Keith Harper regarding fact research (.20) update of oral argument information per Elliott Levitas' requests (.40); preparation for moot court (.70); assisted in preparation of fee application per Elliott Levitas' request (1.10); review pierce law review article (1.40)
8/5/2004	6447	Mark I. Levy	4.00	Draft and edit Rule 28 (j) letters regarding GAO and NIST reports; review edits from B. Austin; draft and read e-mails regarding same.
8/5/2004	6779	Miles J. Alexander	0.80	Review confidential term sheet for mediation prepared by Dennis Gingold; telephone and e-mail Elliott Levitas, et al. regarding my concerns; prepared at David Zacks' request; update on mediation approach; our concerns regarding Renfroe inattention; need for Congressional involvement to progress.
8/5/2004	8800	Elliott H. Levitas	2.70	Preparation for oral argument; telephone conference with Keith Harper, Bill Austin, Dennis Gingold regarding common law, APA (1.8); discussions and memos between Bickerman and Cobell team (.5); review and discussion of draft 28(j) letter (.4)
8/5/2004	DMG	Dennis M. Gingold	7.4	Work on T-1, including exclusions pursuant to scope set forth in order.
8/5/2004	DMG	Dennis M. Gingold	0.5	Telcoms. Harper re mediation; oral argument re appellate issues; T-1 time, 28Js
8/5/2004	DMG	Dennis M. Gingold	1.1	Conf call lit team re mediation; oral argument.
8/5/2004	DMG	Dennis M. Gingold	0.5	Telcoms. Austin re mediation; oral argument; 28js.
8/5/2004	DMG	Dennis M. Gingold	1.3	Conference call Austin, Harper re same.
8/5/2004	DMG	Dennis M. Gingold	0.6	Conference call Austin, Levitas, Harper re oral argument.
8/6/2004	2821	Leetra J. Harris	6.00	Review cases chiefly relied on by both parties for content and in preparation of drafting case summaries; draft case summaries for use at oral argument.
8/6/2004	4673	G. William Austin	8.50	Review and revise 28j regarding IT security (GAO/NIST material) (.50); conference with Mark Levy and co-counsel regarding proposed changes (.50); preparation of draft 28j submission for 1.5 appeal (1.50); conference with Alexis Applegate (.40); participate in conference call with Elliott Levitas, Keith Harper, Dennis Gingold and Geoffrey Rempel on Pierce material and potential copyright issue (1.1); e-mail to Mark Levy regarding ethical issue (1.0); review of IT security materials (4.0).
8/6/2004	5133	Alexis Applegate	5.70	Review media coverage and dockets per Elliott Levitas' request (.20); preparation, filing and service of 28J letter in IT security appeal (2.10); further research of information for Elliott Levitas' declaration in fee application (1.10); conference with Elliott Levitas regarding further research for oral argument preparation and research regarding same (1.90) further review of pierce law review article (.50).
8/6/2004	6447	Mark I. Levy	5.00	Edit Rule 28(j) letters regarding GAO and NIST reports; read and draft e-mails regarding same; read materials regarding judicial complaint for Rule 28(j) letter; review revised draft of Rule 28(j) letter regarding GAO and NIST reports; telephone conferences with Geoffrey Rempel regarding judicial misconduct; office conferences with B. Austin regarding Rule 28(j) letters.
8/6/2004	8800	Elliott H. Levitas	1.80	Telephone conference with Bill Austin, Dennis Gingold and Geoff Rempel (Keith Harper on part of conversation) regarding 28j letter to be filed in various proceedings before the Court of Appeals and the District Court relating to the filing of judicial complaint as supplemental authority and implications of such a filing (1.3); review media coverage (.5)
8/6/2004	GR	Geoffrey Rempel	0.30	CC w/ ML re 28J appeal notice.
8/6/2004	GR	Geoffrey Rempel	0.30	CC w/ EC, DG re status of case.
8/6/2004	GR	Geoffrey Rempel	0.40	CC w/ BA, DG re 28J appeal.
8/6/2004	GR	Geoffrey Rempel	1.30	CC w/ team re 28J appeal.
8/6/2004	GR	Geoffrey Rempel	1.50	Review material in support of 28J appeal.
8/6/2004	DMG	Dennis M. Gingold	3.6	Work on T-1 time, including exclusions pursuant to scope set forth in order.
8/6/2004	DMG	Dennis M. Gingold	1.0	Telcoms. Austin re 28j, IT security; PI appeal.
8/6/2004	DMG	Dennis M. Gingold	0.3	Conference call Austin, Rempel re 28j.
8/6/2004	DMG	Dennis M. Gingold	0.4	Meet with Austin, Rempel re same; mediation.
8/6/2004	DMG	Dennis M. Gingold	0.6	Revise draft II, 28j re NIST/GAO report.
8/6/2004	DMG	Dennis M. Gingold	0.2	Discuss same with Rempel.
8/6/2004	DMG	Dennis M. Gingold	3.1	Review/Revise opp to defs' motion to communicate directly with class.
8/6/2004	DMG	Dennis M. Gingold	1.3	Conference call Levitas, Harper, Rempel, Austin re mediation issues.
8/6/2004	DMG	Dennis M. Gingold	0.3	Conference call Rempel, Ms. Cobell re mediation.
8/6/2004	DMG	Dennis M. Gingold	0.2	Telcoms. Zacks re mediation.
8/6/2004	DMG	Dennis M. Gingold	1.1	Telcoms. Harper re above.
8/6/2004	DMG	Dennis M. Gingold	0.6	Revise draft IV, 28j.
8/7/2004	4673	G. William Austin	2.50	Review of materials regarding September 14 oral argument.
8/7/2004	DMG	Dennis M. Gingold	8.1	Work on T-1 time, including exclusions pursuant to scope set forth in order.
8/7/2004	DMG	Dennis M. Gingold	0.1	Telcom. Harper re same.
8/8/2004	8800	Elliott H. Levitas	2.20	Review, analyze and approve 28j letter on IT security for 1.5 appeal (.6); telephone conference with Dennis Gingold regarding 28j letter on Pierce complaint (.3); preparation for oral argument (1.3)
8/8/2004	8913	David M. Zacks	0.50	Review of e-mails and correspondence regarding mediation issues.
8/8/2004	DMG	Dennis M. Gingold	0.4	Telcom. Raskin re Pierce rebuttal.
8/8/2004	DMG	Dennis M. Gingold	8.9	Work on T-1 time, including exclusions pursuant to scope set forth in order.
8/9/2004	2821	Leetra J. Harris	6.90	Review cases chiefly relied on by both parties for content and in preparation of drafting case summaries; draft case summaries for use at oral argument; draft e-mail to Levitas and Austin attaching case summaries for their review.

Date	Initials	Name	Hours	Description
8/9/2004	4673	G. William Austin	5.40	Review of Dennis Gingold's e-mail regarding Rider information for Professor Raskin article (.20); e-mails to Mark Levy (.30); review of Mark Levy's reply and proposed attachment (.30); review of draft 28j for 1.5 appeal (.30); review of e-mails regarding this matter (.30); exchange e-mails with Mark Levy regarding Piece material regarding proposed 28j (.50); review of IT security materials for September 14 oral argument (3.50).
8/9/2004	5133	Alexis Applegate	4.40	Review media coverage and dockets per Elliott Levitas' request (.30); further preparation of documents per Elliott Levitas' request (.50); preparation, filing and service of 28J letter in Phase 1.5 appeal (1.10); forward filings to the team (.20); review memorandum regarding government misconduct (2.10); review Mark Levy's correspondence regarding further 28J letters (.20);
8/9/2004	6282	Katie D. Nowell	8.60	Document review and research in preparation for oral argument.
8/9/2004	6447	Mark I. Levy	5.30	Read e-mails regarding Rule 28(j) letter; read IG report regarding Department of Interior misconduct; draft e-mail memorandum regarding same; read and draft e-mails regarding Rule 28(j) letter; prepare materials for Professor Raskin regarding midnight rider; legal research regarding judicial misconduct procedures.
8/9/2004	8800	Elliott H. Levitas	5.80	Telephone conference with Dennis Gingold regarding Indian political issues (.4); telephone conference with Alexis Applegate regarding information for meeting with Congressional staff, materials for oral argument, discussion with Keith Harper (.3); telephone conference with Alexis Applegate regarding 28 letters (.2); telephone conference with Keith Harper and Alexis Applegate regarding Indian political issues and oral argument (.3); further preparation for oral argument (1.4); review and comment on draft press release; telephone conference with Keith Harper, Dennis Gingold and David Zacks (separately) regarding same (.6); telephone conference with Dennis Gingold, Geoff Rempel, Keith Harper, Mr. Haggler regarding same (.4); review, revise draft EAJA application (2.2)
8/9/2004	8913	David M. Zacks	1.00	Extensive telephone conference with Elliott Levitas and Dennis Gingold regarding appellate argument, and strategies and tactics during interim.
8/9/2004	GR	Geoffrey Rempel	8.30	Review and edit declaration and time schedules in preparation for EAJA application.
8/9/2004	DMG	Dennis M. Gingold	8.7	Work on T-1 time, including exclusions pursuant to scope set forth in order.
8/9/2004	DMG	Dennis M. Gingold	1.0	Review/revise bad faith memo.
8/9/2004	DMG	Dennis M. Gingold	1.1	Telcoms. Harper re bad faith issues; mediation.
8/9/2004	DMG	Dennis M. Gingold	0.3	Conference call Zacks, Levitas re mediation.
8/9/2004	DMG	Dennis M. Gingold	0.5	Conference call Ms. Cobell, Harper re BRDF invoices re Cobell litigation.
8/9/2004	DMG	Dennis M. Gingold	0.3	Telcom. Levitas re mediation; opp to Quaw Paw intervention.
8/9/2004	DMG	Dennis M. Gingold	0.2	Telcoms. Zacks re mediation.
8/9/2004	DMG	Dennis M. Gingold	0.2	Review/revise 28j.
8/9/2004	DMG	Dennis M. Gingold	0.9	Conference call, Harper, Rempel, Levitas, Kawahara re mediation.
8/10/2004	2821	Leetra J. Harris	8.40	Review cases chiefly relied on by both parties for content and in preparation of drafting case summaries; draft case summaries for use at oral argument.
8/10/2004	4673	G. William Austin	6.70	Conference with Mark Levy regarding Pierce complaint and Section 455 issues related thereto (.50); review of Mark Levy's e-mail (.20); review of draft of Professor Raskin response to Pierce (1.5); conference with co-counsel (.20); review of IT security materials for September 14 oral argument (3.50); review and reply to Leetia Harris regarding summary of key cases (.20); review of research (.60).
8/10/2004	5133	Alexis Applegate	4.90	Review media coverage per Elliott Levitas' request (.20); compilation of documents in preparation for oral argument per Elliott Levitas' request (2.80); preparation for meeting with co-counsel regarding oral argument (.80); prepare and forward mediation notes to John Bickerman's office (.30); research regarding Elliott Levitas' declaration for the fee application (80).
8/10/2004	6282	Katie D. Nowell	8.60	Document review and research in preparation for oral argument per Elliott Levitas' request.
8/10/2004	6447	Mark I. Levy	1.00	Office conference with Bill Austin regarding judicial misconduct proceeding and 28(j) letter in structural injunction appeal; draft e-mail memorandum regarding same.
8/10/2004	6779	Miles J. Alexander	1.10	Review James Raskin's refutation of Pierce "Reign of Error" article on Judge; follow-up on Gingold outline.
8/10/2004	8800	Elliott H. Levitas	1.30	Telephone conference with Dennis Gingold e mediation issues (.5), and regarding EAJA fee application (.2); review draft of Raskin article (.6)
8/10/2004	GR	Geoffrey Rempel	0.50	CC w/ Ron Raider (KS), DG, KH re EAJA application.
8/10/2004	GR	Geoffrey Rempel	5.20	Edit DG time and application in preparation for EAJA application.
8/10/2004	GR	Geoffrey Rempel	4.20	Review and edit declaration and time schedules in preparation for EAJA application.
8/10/2004	DMG	Dennis M. Gingold	8.0	Work on T-1 time, including exclusions pursuant to scope set forth in order.
8/10/2004	DMG	Dennis M. Gingold	0.5	Conference call Harper, Rader, Rempel re T-1 time.
8/10/2004	DMG	Dennis M. Gingold	0.2	Review/revise motion to reopen re bad faith.
8/10/2004	DMG	Dennis M. Gingold	0.4	Telcoms. Harper re T-1 issues; bad faith.
8/10/2004	DMG	Dennis M. Gingold	0.1	Telcom. Rader re T-1 fees.
8/10/2004	DMG	Dennis M. Gingold	0.5	Telcom. Holt re T-1 time.
8/10/2004	DMG	Dennis M. Gingold	0.6	Review memo re market rate issues.
8/11/2004	2821	Leetra J. Harris	3.60	Review cases chiefly relied on by both parties for content and in preparation of drafting case summaries; draft case summaries for use at oral argument.
8/11/2004	4673	G. William Austin	5.00	Review and reply to Mark Levy regarding Raskin draft article (.40); conference with Mark Levy regarding selected points (.20); conference with Elliott Levitas regarding proposed footnoted additions to the draft article (.30); review of Alexis Applegate's e-mail regarding changes (.20); review of proposed contempt findings and other IT security materials for September 14 oral argument (2.50); review of e-mail received from Bickerman's office regarding proposed August 23 meeting regarding IT security (.20); review of notes of mediation sessions in July 2004 (1.20).

Date	Initials	Name	Hours	Description
8/11/2004	5133	Alexis Applegate	5.20	Review media coverage and dockets per Elliott Levitas' request (.30); conference with Elliott Levitas regarding Jamin Raskin' article and revisions regarding same (1.20); review testimony of langbein in Trial 1.5 per Elliott Levitas' request (.50); review case summaries prepared by Leetra Harris (.60); compile further information for mock argument participants (.50); further research on history of trust reform in preparation for oral argument per Elliott Levitas' request (2.10)
8/11/2004	5307	Ron L. Raider	2.20	Review the Levitas Declaration and Exhibit B (time entries) thereto.
8/11/2004	6282	Katie D. Nowell	3.70	Document review and research for Oral Argument per Elliott Levitas' request.
8/11/2004	6447	Mark I. Levy	1.00	Read draft of article by Professor Raskin; draft e-mail regarding same.
8/11/2004	8800	Elliott H. Levitas	6.00	Preparation for oral Argument (3.9); review draft declaration for EAJA fee application (.3); review draft of Raskin article, telephone conference with Dennis Gingold regarding analysis and comment on same, and use in preparation for oral argument (1.8)
8/11/2004	GR	Geoffrey Rempel	0.60	CC w/ KH, DG re EAJA application.
8/11/2004	GR	Geoffrey Rempel	7.30	Review and edit declaration and time schedules in preparation for EAJA application.
8/11/2004	GR	Geoffrey Rempel	3.20	Review, edit Raskin law review article.
8/11/2004	DMG	Dennis M. Gingold	5.0	Work on T-1 time, including exclusions pursuant to scope set forth in order.
8/11/2004	DMG	Dennis M. Gingold	0.3	Telcoms. Harper re EAJA issues; T-1 time; GAO time.
8/11/2004	DMG	Dennis M. Gingold	0.6	Conference Harper, Rempel re same.
8/11/2004	DMG	Dennis M. Gingold	0.1	Telcom. Austin re appellate issues.
8/11/2004	DMG	Dennis M. Gingold	0.1	Telcom. Holt re GAO time; T-1 time.
8/11/2004	DMG	Dennis M. Gingold	0.1	Telcom. Zacks re mediation.
8/12/2004	2821	Leetra J. Harris	2.10	Review cases chiefly relied on by both parties for content and in preparation of drafting case summaries; draft case summaries for use at oral argument.
8/12/2004	4673	G. William Austin	8.50	Conference with Mark Levy regarding Pierce complaint and Sentelle involvement (.02); e-mail to co-counsel Dennis Gingold regarding the issue (.20); review of 1.5 order and opinions (2.50); review of Keith Harper's "introductory" material regarding trust case (.50); prepare for and participate in prep session with Elliott Levitas and co-counsel (4.50); conference with Messrs. Levitas and Gingold regarding mediators' proposal to meet on August 23 regarding IT security (.40); review and reply to David Zack's message (.20).
8/12/2004	5133	Alexis Applegate	7.70	Review media coverage per Elliott Levitas' request (.20); review and make changes to Jamin Raskin's response to the Pierce article per Elliott Levitas' request (3.20); review information on the elements of trust cases prepared by Keith Harper (.60); participation in oral argument preparation meeting (3.30); conference with Elliott Levitas relating to documents for his review (.40).
8/12/2004	5307	Ron L. Raider	0.30	Telephone conference with Keith Harper regarding the fee application request.
8/12/2004	6282	Katie D. Nowell	1.80	Research in preparation for Oral Argument.
8/12/2004	8800	Elliott H. Levitas	6.40	Review and finalizing draft declaration, review further time entries and determination of market rates (2.4); meeting with Cobell team regarding preparation for oral argument, review of issues, record, arguments and citations (4.0).
8/12/2004	DMG	Dennis M. Gingold	3.4	Work on T-1 brief.
8/12/2004	DMG	Dennis M. Gingold	1.4	Work on T-1 time; review Treasury mediation/settlement issues.
8/12/2004	DMG	Dennis M. Gingold	0.4	Telcom. Raskin re Pierce rebuttal.
8/12/2004	DMG	Dennis M. Gingold	0.5	Telcoms. Harper re T-1 time; settlement issues.
8/12/2004	DMG	Dennis M. Gingold	0.1	Telcom. Holt re T-1 time.
8/12/2004	DMG	Dennis M. Gingold	0.1	Telcom. Ms. Cobell re mediation.
8/12/2004	DMG	Dennis M. Gingold	0.1	Telcom. Austin re appellate issues.
8/12/2004	DMG	Dennis M. Gingold	4.0	Meet with Levitas, Austin, Rempel re settlement issues.
8/13/2004	2821	Leetra J. Harris	3.60	Review cases chiefly relied on by both parties for content and in preparation of drafting case summaries; draft case summaries for use at oral argument.
8/13/2004	4673	G. William Austin	4.20	Conference with Alexis Applegate (.20); conference with Elliott Levitas (.50); e-mails regarding the proposed August 23 mediation session (.50); review of IT security materials for September 14 oral argument (3.0).
8/13/2004	5133	Alexis Applegate	1.00	Conference with Elliott Levitas regarding law review article, review of article and conference with Jamin Raskin.
8/13/2004	5307	Ron L. Raider	0.80	Finalize the Declaration and supporting exhibits.
8/13/2004	8800	Elliott H. Levitas	0.40	Discussions regarding scheduling of next meeting with mediators (.4)
8/13/2004	DMG	Dennis M. Gingold	10.9	Work on T-1 time, including exclusions pursuant to scope set forth in order; affidavit issues.
8/13/2004	DMG	Dennis M. Gingold	1.5	Telcoms. Harper re same; mediation.
8/13/2004	DMG	Dennis M. Gingold	0.8	Telcom. Ms. Cobell re mediation issues.
8/13/2004	DMG	Dennis M. Gingold	0.1	Telcom. Levitas re same.
8/14/2004	DMG	Dennis M. Gingold	0.6	Telcoms. Harper re cases/authorities re T-1 time.
8/14/2004	DMG	Dennis M. Gingold	6.1	Work on T-1 time, including exclusions pursuant to scope set forth in order.
8/15/2004	6282	Katie D. Nowell	2.00	Document review and research of government reports in preparation for Oral Argument.
8/15/2004	GR	Geoffrey Rempel	2.00	Review and edit declaration and time schedules in preparation for EAJA application.
8/15/2004	DMG	Dennis M. Gingold	0.7	Prepare affidavit in support of T-1 time.
8/15/2004	DMG	Dennis M. Gingold	7.2	Continue preparation of bad faith memo re specific conduct.
8/15/2004	DMG	Dennis M. Gingold	0.9	Telcoms. Harper re T-1 time; bad faith incidents.
8/16/2004	2821	Leetra J. Harris	0.50	Review cases chiefly relied on by both parties for content and in preparation of drafting case summaries; draft case summaries for use at oral argument.
8/16/2004	4673	G. William Austin	7.50	Review of case summaries and briefs regarding the IT security appeal to be argued (7.0); review of e-mails regarding case developments (.50).

Date	Initials	Name	Hours	Description
8/16/2004	5133	Alexis Applegate	10.50	Review media coverage and dockets per Elliott Levitas' request (.30); research and collect documents for Elliott Levitas to review per his request (2.10); conference with Elliott Levitas and Charlotte Buttram regarding same (.30); review Leetra Harris' case summaries (.40) preparation of Elliott Levitas, Thad Holt and Mark Brown's portions of the fee application (7.40)
8/16/2004	6282	Katie D. Nowell	7.30	Document review and research in preparation for oral argument.
8/16/2004	8800	Elliott H. Levitas	3.50	Preparation for oral argument, review briefs and relevant information (3.5).
8/16/2004	8800	Elliott H. Levitas	1.50	Review Law Review article on structural injunction and other issues, review and analyze and relate same to oral argument (1.5)
8/16/2004	8913	David M. Zacks	0.50	Conference with Elliott Levitas regarding mediation; discussion of motion to reopen trial one appendix.
8/16/2004	GR	Geoffrey Rempel	0.30	CC w/ KH, DG re EAJA application
8/16/2004	GR	Geoffrey Rempel	0.10	Left msg. for PwC re EAJA application
8/16/2004	GR	Geoffrey Rempel	0.70	CC w/ PwC re EAJA application (3 calls).
8/16/2004	GR	Geoffrey Rempel	7.70	Review, edit, revise, finalize EAJA petition.
8/16/2004	GR	Geoffrey Rempel	3.40	Review, edit, finalize affidavit and supporting schedules.
8/16/2004	GR	Geoffrey Rempel	0.40	Discuss EAJA w/ DG.
8/16/2004	DMG	Dennis M. Gingold	7.1	Continue work on affidavit in support of T-1 fees.
8/16/2004	DMG	Dennis M. Gingold	1.2	Meet at NARF re T-1 issues.
8/16/2004	DMG	Dennis M. Gingold	0.9	Telcoms. Harper re above.
8/16/2004	DMG	Dennis M. Gingold	4.4	Revise EAJA cover memorandum.
8/16/2004	DMG	Dennis M. Gingold	0.2	Work on appendix re same.
8/16/2004	DMG	Dennis M. Gingold	0.1	Telcom beneficiary re land sale issues; case status.
8/17/2004	4673	G. William Austin	7.50	Review of Joint Appendix materials regarding IT security appeals (6.80); review of e-mails regarding case developments (.50); conference with Charlotte Buttram regarding August 16 filing (.20).
8/17/2004	5133	Alexis Applegate	7.00	Review media coverage (.20); review interior appropriations for expenditures on trust reform per Elliott Levitas request (2.80); review revised Quarterly Reports and Revised HLIP in preparation for oral argument per Elliott Levitas' request (1.80); conferences with team members and research regarding filing of fee application and review of errata per Ron Raider's request (1.50); partially prepare Form 72's for Levitas and Austin (.40); research regarding email for John Bickerman per Bill Austin's request (.30)
8/17/2004	6282	Katie D. Nowell	0.90	Document review and management of Court of Appeals pleadings files.
8/17/2004	GR	Geoffrey Rempel	0.50	CC w/ PRCG
8/17/2004	GR	Geoffrey Rempel	0.60	Discuss w/ DG re mediation.
8/17/2004	DMG	Dennis M. Gingold	6.6	Work on TRO re Anadarko agency auction of IIM trust lands.
8/17/2004	DMG	Dennis M. Gingold	0.5	Telcom. Raskin re Pierce rebuttal.
8/17/2004	DMG	Dennis M. Gingold	0.2	Telcom. Harper re above.
8/17/2004	DMG	Dennis M. Gingold	0.1	Telcom beneficiary re land sale issues; case status.
8/18/2004	4673	G. William Austin	8.80	Conference with Geoffrey Rempel regarding August 23 meeting with John Bickerman and the IT security experts (.40); conference with co-counsel Dennis Gingold (1.0); review and revise draft letter to John Bickerman (1.0); conference with David Zacks (.30); participate in conference call with co-counsel regarding the proposed letter (.50); review of Alexis Applegate's notes regarding the August 3 meeting (.60); review of John Bickerman's invoice for June-July 2004 (.50); conference with Geoffrey Rempel regarding further revisions to the letter to mediator Bickerman (.50); incorporate further changes (1.50); e-mails to Geoffrey Rempel regarding this matter (.50); review of IT security materials for the September 14 oral argument (2.0).
8/18/2004	5133	Alexis Applegate	6.10	Review media coverage per Elliott Levitas' request (.20); research and conferences with Ron Raider and Charlotte Buttram regarding expenses on the fee application (.90); further review of interior appropriations per Elliott Levitas' request (1.70); review revised HLIP in preparation for oral argument (2.10); review letter to John Bickerman and correspondence regarding same (.30); make arrangements for mediation meeting (.40); review and forward Bickerman invoice (.50);
8/18/2004	6282	Katie D. Nowell	2.10	Document review and management of Court of Appeals pleadings files.
8/18/2004	8913	David M. Zacks	1.00	Telephone conference with Bill Austin after reviewing letter to Bickerman regarding agreed-to mediation items; review of drafts regarding mediation process and disappointment in same; communicate with Bill Austin regarding suggestions and changes.
8/18/2004	GR	Geoffrey Rempel	0.50	CC w/ BA, DG, KH re mediation.
8/18/2004	GR	Geoffrey Rempel	0.40	CC w/ BA re mediation (3 calls).
8/18/2004	GR	Geoffrey Rempel	6.20	Draft, edit letter re mediation.
8/18/2004	DMG	Dennis M. Gingold	6.0	Work on TRO re Anadarko agency auction of IIM trust lands.
8/18/2004	DMG	Dennis M. Gingold	0.5	Conference call Austin, Rempel, Harper re mediation issues.
8/18/2004	DMG	Dennis M. Gingold	0.2	Review/revise letter to mediators re written procedures for mediation process.
8/18/2004	DMG	Dennis M. Gingold	0.3	Telcom. Harper, Rempel re Sonofsky Chambers issues re Fort Pectk.
8/18/2004	DMG	Dennis M. Gingold	0.1	Telcom. Austin re appellate issues.
8/18/2004	DMG	Dennis M. Gingold	1.0	Meet with Austin re same.
8/19/2004	4673	G. William Austin	8.50	Further revisions to draft letter to the mediators regarding outstanding questions (3.0); conference with David Zacks (.30); conference with co-counsel Dennis Gingold (1.0); e-mail accompanying revised draft to Cobell team (0.2); e-mail regarding finalizing the letter to mediators Renfrew and Bickerman (.02); review of IT security materials for September 14 oral argument (3.50); conference with Alexis Applegate (.30).

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al., : Civil Action 96-1285  
:   
Plaintiffs :   
:   
v. : Washington, D.C.   
:   
DEPARTMENT OF THE INTERIOR, : Monday, May 14, 2007  
et al. :   
:   
:   
Defendants : 3:00 p.m.

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TRANSCRIPT OF PREHEARING CONFERENCE  
BEFORE THE HONORABLE JAMES ROBERTSON  
UNITED STATES DISTRICT JUDGE

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Proceedings reported by machine shorthand, transcript produced  
by computer-aided transcription.

1 P R O C E E D I N G S

2 COURTROOM DEPUTY: This is Civil Action Number 96-1285,  
3 Cobell et al. versus Gover.

4 If counsel who will be arguing would please identify  
5 themselves for the record.

6 MR. KIRSCHMAN: Your Honor, Robert Kirschman,  
7 Department of Justice, for defendants. Also arguing today on  
8 the motion to vacate the 2001 consent order will be  
9 John Warshawsky, and arguing the attorneys' fees issues will be  
10 Michael Quinn. Both gentlemen are with the Department of  
11 Justice.

12 MR. GINGOLD: Your Honor, my name is Dennis Gingold.  
13 I'm counsel for plaintiffs. With me is Keith Harper of  
14 Kilpatrick Stockton; Bill Dorris, Kilpatrick Stockton; Elliott  
15 Levitas, Kilpatrick; Jeffrey Rempel, our expert; and David Smith  
16 of Kilpatrick Stockton.

17 THE COURT: Okay. In my organization of this  
18 proceeding today, we have three basic topic headings to cover,  
19 the fee issues, the consent order issue, and the October  
20 hearing.

21 I want to start with the fee issue. I've lost my  
22 innocence in this case. I don't think we're going to put it  
23 behind us. The purpose of my short omnibus order recently was  
24 to try to put all this behind us. I have to say, I clearly,  
25 obviously, did not find in the morass that is the docket of this

1 case all of the memoranda and objections to fees that were  
2 lurking there.

3 But I have to say at the same time that I'm frankly  
4 disappointed in both parties on this particular issue. I had,  
5 as you all know, two ex parte meetings, one with plaintiffs, one  
6 with the defendants, to try to orient myself in this case. And  
7 I was reminded by plaintiffs of these outstanding fee matters,  
8 and resolved to take them up, discuss them -- I thought I  
9 discussed them with defendants, and the discussion we had was  
10 kind of a shrug on the part of the defendants, which led me into  
11 the erroneous belief that the defendants really weren't making a  
12 substantive opposition to the fee petitions.

13 Now, obviously, there is a very substantive set of  
14 oppositions to it. And again, as you all know, these fee  
15 matters can eat up an enormous amount of time and energy on  
16 everybody's part, and the Court of Appeals requires detailed  
17 rulings on these subjects. And I suppose what I've done is to  
18 sentence myself to sit down on a couple of weekends and crawl  
19 through these billing statements. I don't really want to do  
20 that, but it appears that I have to do it.

21 I asked the parties to respond on the defense's motion  
22 for reconsideration. I asked the plaintiffs to respond to a few  
23 points. And let me tell you where I am so far on this subject.  
24 Unless I am very much mistaken, the plaintiffs have put in  
25 billing statements of something like 83 hours, or \$28,000, just



1 for scheduling the December 20th, 2002 deposition, at which the  
2 claim of privilege was made that was later held by  
3 Judge Lamberth to be improper.

4 They can't claim that money here. That was before  
5 these events happened, and I can't understand why the plaintiffs  
6 made that claim. There may be other dollar figures in this bill  
7 for actually taking that December 20th, 2002 deposition. Again,  
8 I can't understand why that was billed.

9 There is a substantial amount of money claimed for the  
10 Singer deposition. The relationship of the Singer deposition to  
11 the Erwin deposition escapes me.

12 And there's a very substantial claim made for preparing  
13 something called a "Report on the Status of the Evidence," that  
14 wasn't asked for, and I don't know how it can be billed under  
15 Judge Lamberth's order, which allowed "reasonable fees and  
16 expenses incurred in making plaintiffs' motion to compel the  
17 deposition of Donna Erwin, to respond to the question as to  
18 which privilege was improperly asserted, and as a result of  
19 having to re-depose Ms. Erwin."

20 So those are at least four elements of the claims in  
21 the Erwin deposition that I'm going to disallow, and there's a  
22 substantial amount of money involved in them.

23 There are a number of other objections that have been  
24 made by the government that I'm going to overrule. They've  
25 objected to Mr. Rempel's fee of \$225. It's too late in the day

1 for me to mess around with that. Judge Lamberth approved that  
2 on previous occasions. I don't care what particular work  
3 Mr. Rempel was doing in this area or in the Sapienza area. His  
4 fees, the rate of his fees, have been previously approved. I'm  
5 not going to change that.

6 Nor am I going to sustain the government's objection  
7 generally to the scope of the second Erwin deposition, or to the  
8 fact that parts of the deposition were taken much later in 2004.  
9 I understand that Judge Lamberth sua sponte ordered that.

10 Nor am I going to get into deciding whether it was  
11 proper for both Mr. Brown and Mr. Gingold to review a motion to  
12 compel, or to what I consider frankly kind of flyspeck  
13 objections like Mr. Brown's spending two and a quarter hours  
14 reviewing a ruling of the Court, or to time spent preparing the  
15 fee petition, with one exception:

16 The latest filing made by the plaintiffs today, I  
17 think, indicates that they've cranked up the clock and there's  
18 another \$129,000. No, sir. That time is not going to be  
19 compensated, not out of this Court.

20 The only reason we're compensating the earlier time is  
21 because it was all done under the rubric of Judge Lamberth's  
22 order. But I think responding to this motion for  
23 reconsideration, frankly, counsel, is a kind of a self-inflicted  
24 wound. You've made some very dramatic over-claims for fees, and  
25 having to respond to that motion for reconsideration, I do not

1 consider compensable.

2 Now, on the Sapienza affidavit, that's a much broader  
3 order of Judge Lamberth. The order allows "reasonable expenses  
4 incurred by plaintiffs as a result of opposing the claims set  
5 forth in the Sapienza affidavit." That is a much broader fee  
6 award, concept of a fee award, than was the Erwin deposition.

7 But I think the government is correct that no fees  
8 should be granted for work performed in June and July 2000,  
9 before the third motion for summary judgment was even filed,  
10 that contained the affidavit of Sapienza that was the subject of  
11 all of this Sturm and Drang.

12 And I think the government is correct that the  
13 plaintiffs cannot properly collect fees that were rejected on  
14 prior occasions concerning efforts to hold the Secretary and the  
15 Assistant Secretary in contempt, or for the Mona Infield matter.  
16 I am not worried about inconsistencies between the bills of  
17 Mr. Gingold, Mr. Harper, Mr. Brown.

18 I am, frankly, quite concerned about the assertion made  
19 in the government's motion, and I want a specific response from  
20 the plaintiffs. I don't think -- now, you're going to tell me I  
21 got this a long time ago, and if I did, then I've missed it  
22 again. But I don't think I've had a response yet to the  
23 suggestion in the government's "Corrected Objections to  
24 Statement of Fees and Expenses," filed on April 26th, that  
25 Mr. Gingold rewrote time entries to fit the Sapienza fee award.

1 MR. QUINN: Good afternoon, Your Honor. I would not  
2 have, I think, much to add beyond the four corners of the brief.  
3 I think that the thrust of the government's argument and the  
4 concern here is that the government not be billed twice for the  
5 same work.

6 Plaintiffs in their response brief seem to make the  
7 assertion that it doesn't matter if they billed twice if it was  
8 billed toward a contempt action; and now, because they didn't  
9 recover on that fee petition, can re-bill it here.

10 THE COURT: Are you saying that, Mr. Gingold?

11 MR. GINGOLD: It doesn't matter if it can fit in both  
12 categories, Your Honor. It matters -- if we were paying, we  
13 would have no right to bill and collect for it. If the matter  
14 is within the scope of two other matters -- for example, Your  
15 Honor, let me give you an illustration. I don't want to talk  
16 about this too much, because we're dealing with --

17 THE COURT: I want to talk about it a lot.

18 MR. GINGOLD: Okay. We're dealing, for example, with  
19 the Enfield situation. When we sat down and we talked, and both  
20 the government and we accepted the Special Master as the  
21 arbitrator in that dispute, the Special Master sat down with us  
22 specifically ex parte, and with the government ex parte, to  
23 resolve it in what he felt was a mutually acceptable manner.

24 We raised with the Special Master matters that we had  
25 filed with regard to contempt, the show cause motion that was

1 vacated by the Court of Appeals, matters that were raised in  
2 other issues. And the Master said, "I don't know where this is  
3 going to come out. Put them in and I will decide how to resolve  
4 it."

5 We explicitly had that discussion with the Master, and  
6 he said he wasn't going to make any decisions on it. He said it  
7 was appropriate to put it in, and we did, Your Honor. How he  
8 was going to come out with it, we have no idea. If we were paid  
9 for it, we wouldn't have submitted it. But we had that specific  
10 discussion before even filing that, Your Honor.

11 THE COURT: All right, look. I said I want to talk a  
12 lot about it, but actually it won't bear a lot of discussion.  
13 Here's the ruling on that point:

14 I'm not going to go back and undo what Judge Lamberth  
15 has said about your rewriting time records, not in the past.  
16 But from this point forward, a time record is a time record.  
17 It's not something that is embroidered, added to, subtracted  
18 from, categorized, et cetera, later on. A time record is a time  
19 record. If it's sufficiently clear, you may collect on it. If  
20 it's not, you won't. But there's not going to be any -- from  
21 this point forward, don't come to me with any edited time  
22 records.

23 Second: With respect to any time that you have  
24 previously asked to be reimbursed and have been rejected, take  
25 it out of this bill. I don't care whether you can re-categorize

1 it or not; take it out of this bill.

2 MR. GINGOLD: Your Honor?

3 THE COURT: Yes.

4 MR. GINGOLD: One of the bills that we submitted and  
5 were paid, for example, was the interim fee award for equal  
6 access to justice. The Court denied time, not because it was  
7 denied on the merits, but because it didn't fit within the scope  
8 of that fee award. And he explicitly stated that time could be  
9 resubmitted in other matters.

10 THE COURT: If you're going to resubmit that time, flag  
11 it carefully so that we can all understand which hours you're  
12 talking about.

13 MR. GINGOLD: But we had situations like that. For  
14 example, in each fee award, the Court indicated that time did  
15 not fit within that category, it wasn't within the scope of that  
16 award. Because sometimes the orders weren't as clear as we  
17 would have liked. And we submitted the fees, and decisions were  
18 made not on the merits, but with respect to what the Court felt  
19 were the scope of the particular award.

20 Therefore, what the Court said is, within his scope it  
21 wasn't appropriate. He did not say it wasn't appropriate to  
22 otherwise submit. And Your Honor, that is a situation in every  
23 one of the contentions made by the government.

24 THE COURT: All I'm saying is, if you're going to  
25 resubmit time that has previously been submitted and rejected,

1 flag it so we that know which is which.

2 MR. GINGOLD: Yes, Your Honor.

3 THE COURT: Now, just let me review the bidding here.

4 On the Erwin deposition, no fees for the December 20th, 2002  
5 deposition, either scheduling it or taking it; no fees for the  
6 Singer deposition, anything having to do with the Singer  
7 deposition; no fees for the report on status of the evidence.

8 As far as this Laffey rate thing is concerned, I  
9 understand the government's objection to your claiming the later  
10 Laffey rate for preparing a fee petition at a later time than it  
11 was expected. But by the same token, if they had prepared it  
12 earlier, they arguably would have had to pay it earlier. So I'm  
13 not worried about that.

14 I'm not worried about Rempel's fee. I'm not worried  
15 about the scope of the Erwin deposition, or the length of it, or  
16 even that it took place in October 2004.

17 I'm not worried about two or three people reviewing the  
18 same material, or inconsistencies in the time between who -- you  
19 know, it doesn't bother me if one person claimed time meeting  
20 with -- if A claims time meeting with B and C, and there's no  
21 claim by B and C for the same time. Life isn't perfect and  
22 neither is billing, and I'm not going to worry about that.

23 Nor, except for the latest claim for fees relating to  
24 the preparation of a fee petition, am I going to worry about  
25 that, because that's classically and typically compensable.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

\_\_\_\_\_  
 ELOUISE PEPION COBELL, et al., )  
 on their own behalf and on behalf of )  
 all persons similarly situated, )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 DIRK KEMPTHORNE, Secretary of )  
 the Interior, et al., )  
 )  
 Defendants. )  
 \_\_\_\_\_

Case No. 96CV1285  
(Judge Robertson)

**PLAINTIFFS' RESPONSE TO THIS COURT'S ORDER, DATED APRIL 27, 2007,  
DIRECTING A RESPONSE TO DEFENDANTS' OBJECTIONS TO BOTH  
PLAINTIFFS' STATEMENT OF FEES AND EXPENSES IN ACCORDANCE WITH  
THE COURT'S MARCH 11, 2003 ORDER (DATED JUNE 21, 2004) AND PLAINTIFFS'  
REQUEST FOR ATTORNEYS' FEES WITH RESPECT TO DEPARTMENT OF  
JUSTICE'S MISREPRESENTATIONS TO THIS COURT ON DECEMBER 13 AND  
DECEMBER 17, 2002 (DECEMBER 22, 2004)**

*The government cannot litigate tenaciously and then be heard to complain about the  
time necessarily spent by the plaintiff in response.<sup>1</sup>*

<sup>1</sup> *Copeland v. Marshall*, 641 F.2d 880, 904 (D.C. Cir. 1980) (*en banc*).



is restated in its entirety and, but for a brief note below, plaintiffs will not discuss that reply further.

In that regard, the *Erwin Fee Application* too is supported by sworn affidavits under penalty of perjury. Again, in conflict with standards set forth by this Court that govern objections to fee applications in this litigation, defendants' objections are not. Nor do defendants' objections provide other detailed countervailing evidence. Thus, here too, their objections are ineffective with respect to factual issues they purport to dispute, including the reasonableness of stated hours and hourly rates that have been attested to by plaintiffs. *See, e.g., National Ass'n of Concerned Veterans*, 675 F.2d at 1326 ("Once the fee applicant has provided support for the request rate, the burden falls on the government to go forward with evidence that the rate is erroneous. And when the Government attempts to rebut the case for a requested rate, it must do so by **equally specific countervailing evidence.**") (emphasis added).

#### IV. FEES

In order to make plaintiffs' whole for the time and resources spent in opposing defendants' false claims regarding the GAO settlement of accounts and defendants' misconduct regarding the Erwin incident – matters for which sanctions were granted by this Court in February and March 2003, [1898] and [1772] – the sum of \$649,207.91 is requested for payment. This represents the amount that plaintiffs' had documented and submitted in their fee applications in June and November 2004, [2596] and [2762] (\$519,565.64) as well as fees for the additional time spent by plaintiffs in the instant response to defendants' objections (\$129,642.27). Such additional time is also documented by affidavit in accordance with standards set forth by this Court.<sup>72</sup>

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<sup>72</sup> See Plaintiffs' Exhibit 14 at 3-4, ¶ 8; Plaintiffs' Exhibit 15 at 5, ¶ 14; Plaintiffs' Exhibit 16 ¶ 7; and Plaintiffs' Exhibit 17 at 4-5, ¶¶ 5-6; Plaintiffs' Exhibit 18 (Affidavit of David Smith) at 1-2, ¶¶ 2-3; and Plaintiffs' Exhibit 19 (Affidavit of Justin Guildler) at 1-2, ¶ 2-3. With respect to the hourly rate applied to the time spent by plaintiffs' counsel, plaintiffs employed the revised

## V. CONCLUSION.

Defendants' objections lack merit. At best, given the complete absence of legal authority and requisite affidavits, declarations or other detailed countervailing evidence, the objections are little more than unsupported personal attacks on opposing counsel.<sup>73</sup> However they are construed by this Court, they should be rejected because they do not comply with explicit standards set forth by this Court that govern objections to fee awards in this litigation. Accordingly, plaintiffs respectfully request that this Court order defendants forthwith to pay plaintiffs the fees and expenses detailed in their fee applications in addition to the total of such fees and expenses incurred in opposing defendants' objections to the GAO fee application, such that the total award to plaintiffs should be \$649,207.91.

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Laffey Matrix that has been adopted by this Court. *See Smith v. District of Columbia*, 466 F. Supp. 2d 151, 156 (D.D.C. 2006) (finding "the use of the updated Laffey Matrix is reasonable and consistent with previous precedent from our Court of Appeals, as well as from this Court . . . , it [is] also more accurate"); *Salazar v. District of Columbia*, 123 F. Supp. 2d 8, 15 (D.D.C. 2000) ("[T]he Court concludes that the updated *Laffey* matrix more accurately reflects the prevailing rates for legal services in the D.C. community."). *See also Interfaith Cmty. Org. v. Honeywell Intern., Inc.*, 426 F.3d 694, 710 (3d Cir. 2005) (finding that the District Court's reliance on the updated Laffey Matrix was "not clearly erroneous"). *But see M.R.S. Enters., Inc. v. Sheet Metal Workers' Int'l Ass'n*, No. 05-1823, 2007 WL 950071, at \*4 (D.D.C. Mar. 29, 2007) (Facciola, Mag.) (despite applying the USAO *Laffey* rates, the court concluded that prior applications of "the updated *Laffey* rate w[ere] not unreasonable or clearly erroneous").

<sup>73</sup> Defendants' repeated cry that plaintiffs' GAO application is "outrageously unreasonable" is puzzling. Scores of Justice, Interior and Treasury Department attorneys have prepared papers for hearings, status conferences, and trials held by this Court in this litigation. This army of government attorneys does not even include more than fifty-four law firms paid for by defendants to represent the personal interests of officials implicated in sanctionable conduct.

The government's defense of the Erwin incident is a perfect example. In addition to various government counsel who defended Erwin in her official capacity, defendants paid a local law firm, Howrey & Simon, to represent both Ms. Erwin and Ms. Singer personally. Defendants do not explain how their "outrageously unreasonable" claim or their "overstaffing" claim should be construed as serious where, as here, the government defended its misconduct in the Erwin incident with more attorneys than plaintiffs have on their combined trial and appellate teams. In light of defendants' allegation that plaintiffs have "outrageously" overstaffed this litigation, it is also important to note that the Department of Justice alone (excluding Interior and Treasury) has spent more than **\$300 million** defending the conduct of the government as well as the behavior of its officials in this litigation. *See, e.g., Plaintiffs' Exhibit 20.* (March 29, 2007 *Global Gazette*).

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 (JR)
	)	
DIRK KEMPTHORNE, Secretary of the	)	
Interior, <u>et al.</u> ,	)	
	)	
<u>Defendants.</u>	)	

---

SECOND AFFIDAVIT OF DENNIS M. GINGOLD

1. My name is Dennis M. Gingold. I am a member of the Bar of this Court and 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 have again reviewed that facts attested to in my June 21, 2004 affidavit ("First GAO Gingold Affidavit") that plaintiffs filed with this Court in support of their fee application referenced in ¶ 1 above. I hereby restate that facts stated therein on June 21, 2004, including

without limitation those attested to in ¶¶ 2-3 therein were true and correct at that time and are true and correct today.

3. I have reviewed my time records and found nothing that indicates I have been paid or compensated for time or expenses in opposing false claims set forth in the Sapienza Affidavit.

4. I have reviewed the items that defendants have identified in their objections as inconsistent with the time submitted by Messrs. Rempel, Harper and Brown (collectively the "Declarants"). I have compared my time entries with theirs and again conclude that many differences in our time entries reflect errors in omission.

5. With respect to time that had been omitted in statements of any of the Declarants, there are no inconsistencies between their time and that which I recorded and submitted in support of plaintiffs' GAO fee application. In our review of plaintiffs' statement of fees and expenses prior to its submission to this Court, Messrs. Rempel, Harper and I had discussed in detail -- in fact -- line-by-line, that certain of our time entries were not identical and coextensive and concluded and agreed that each of the differences in omitted time reflected either the inadvertent omission of corresponding time entries or the inability to conclude with sufficient certainty the meaning of particular entries or the precise relationship certain entries had to the GAO fee application. As an abundance of caution and to avoid charges of manipulation or orchestration of our billing statements, we decided not to correct such omissions or correct and restate such entries unless they were material to the fee application and supported fairly in the records of each declarant whose time had been omitted.

5. None of the Declarants had been involved in, or worked on, anything during the periods reflected in time entries questioned by defendants that was, or is, inconsistent with anyone else's affirmative time entries. In fact, each of us concluded that affirmative entries were accurate and, as a result of various omissions, time had been understated in the GAO fee application.

6. The time that I spent on tasks reflected in time entries submitted to this Court is both reasonable and necessary given my responsibility as lead counsel for plaintiffs in this litigation; the complexity and importance of the false claims issue to the integrity of this litigation; the research involved; the documents reviewed; the devastating impact such false claims, if accepted by this Court, would have had on plaintiffs; defendants' repeated requests for reconsideration of this Court's decisions related thereto, and defendants' repeated reassertion and re-litigation of such false claims notwithstanding this Court's admonition and decisions in that regard.

7. Mr. Rempel, a certified public account, is retained by plaintiffs and plaintiffs' counsel, and relied on by plaintiffs' counsel, as an expert litigation consultant because of his expertise and his experience with regard to the most critical issues in this litigation. He is not employed as a paralegal. All work that he has performed regarding the GAO fee application was necessary and had been rendered as an expert litigation consultant.

8. Since this Court entered its April 27, 2007 Order requesting that plaintiffs respond to defendants' objections, with Geoffrey Rempel and the assistance of Justin Guilder, an associate in the Washington, D.C. office of Kilpatrick Stockton, and the careful review and comments of



**ATTACHMENT A****Time Entries For Preparation of Response to Objections Re: GAO Fees**

4.25.07	Telcom. Harper re defs' motion for reconsideration of Order re award of GAO and Erwin fees	.3 hrs.
4.26.07	Discussion with Rempel re Order and GAO response	.4 hrs.
4.27.07	Review/markup Order entered by Court instructing plaintiffs' to respond to defendants' objections.	.3 hrs.
	Discussion Rempel and conf. with litigation team re same.	2.7 hrs.
	Discussions Rempel re defs' motion re reconsideration/scope	.5 hrs.
4.28.07	Begin review/markup of documents, affidavits, time sheets referenced in defs' objections for preparation of response.	5.6 hrs.
	Conference call Rempel/litigation team re same	.4 hrs.
4.29.07	Continue review/markup docs, decisions, referenced sanctions orders, Infield settlement agreement, dairy entries, motions, opps, replies.	5.3 hrs.
	Conf call Rempel/lit team re scope	.3 hrs.
4.30.07	Continue said doc/decision/filing review/comments and begin drafting Intro to response to objections.	10.7 hrs.
	Telcom. Harper re same.	.2 hrs.
	Telcom. Bill Dorris re same.	.3 hrs.
	Discussions Rempel re same	.4 hrs.
5.1.07	Prepare draft II of Intro and continue docs/filings/decisions re scope, inconsistencies, previously submitted fees, review/markup Rempel draft re background for inclusion in draft response.	13.9 hrs.
	Telcoms. Harper re same.	.5 hrs.
	Discussions Rempel same	.4 hrs.
5.2.07	Prepare drafts III and IV of response; continue filings review	2.7 hrs.
	Telcoms. Harper re same.	.3 hrs.
	Discussions Rempel re same	.6 hrs.
5.3.07	Prepare draft V of response.	7.6 hrs.
	Telcom. Cobell re same.	.3 hrs.
	Telcoms. Harper re same.	.4 hrs.
5.4.07	Prepare/revise 1 <sup>st</sup> consolidated draft of response.	12.5 hrs.
	Discussions Rempel re same	.4 hrs.
	Conf Harper re same	.3 hrs.

5.5.07	Prepare/revise drafts IV, V, and VI of consolidated draft response. Discussions Rempel re same	6.2 hrs. .3 hrs.
5.6.07	Revise draft VI of consolidated response. Discussion Rempel re same Conf Harper re same	8.8 hrs. .2 hrs. .4 hrs.
5.7.07	Revise drafts VII, VIII, IX & X of consolidated response Telcom. Guilder re scope issues Telcom. Harper re status of draft same Discussions Rempel re above	10.8 hrs. .2 hrs. .4 hrs. .4 hrs.
5.8.07	Draft proposed order; prepare drafts 1-3 of second affidavit, prepare and revise drafts XI & XII of consolidated response Telcoms. Harper re second draft affidavit/review same Telcoms. Guilder re same/scope issues Discussion Rempel re above	8.3 hrs. .6 hrs .4 hrs. .4 hrs.
5.9.07	Revise drafts XII, XIII & XIV and refine consolidated response; revise drafts IV & V of second affidavit. Prepare time for preparation of response. Adjust time to include omissions per Harper/Rempel Review time for consistency with Rempel Review Mark Brown second Affidavit Review Harper Affidavit Conference call Harper/Guilder re response issues Discussions Rempel re same Telcoms. Harper re above	6.4 hrs. 1.5 hrs. .5 hrs. .1 hrs. .1 hrs. .1 hrs. .2 hrs. .5 hrs.
5.10.07	Review Brown's revised affidavit and comment Prepare/revise fee insert as new section IV of brief Telcoms. Harper re Harper affidavit/revised Laffey Matrix Telcoms. Guilder re fee insert/district court decisions re revised Laffey Matrix and Guilder affidavit; Infield Settlement Agreement; draft II re proposed order Review and discuss Rempel affidavit re supported hourly rate Meet with Guilder & Rempel for final review Review and finalize draft response for filing	.2 hrs. 1.3 hrs. .2 hrs. .7 hrs. .3 hrs. .2 hrs. 1.4 hrs.
<hr/> <b>Total Hours</b>		<b>118.4 hrs.</b>
<b>Hourly Rate (per adjusted Laffey Matrix):</b>		<b>\$614.00</b>
<b>Fees:</b>		<b>\$72,697.60</b>





false Sapienza Affidavit preceded this Court's March 11, 2003 sanctions order by two-and-one-half years).

12. Plaintiffs' editing of records is considered helpful by this Court, which considered such objections to be "meritless."<sup>6</sup> However, in order to further facilitate this Court's review, I have compiled a schedule of the "inconsistent claims" identified by defendants on page 13 of their Objections. That schedule is attached hereto as Attachment D. Again, the only reason to supplement these entries was to facilitate this Court's review.
13. I have incurred an additional 83.3 hours (\$24,990.00) in preparing the instant reply. That schedule is attached hereto as Attachment D.
14. Plaintiffs are seeking an award for my time in the amount of \$105,225.00 to include: (1) the fees claimed in my June 21, 2004 affidavit (\$75,375.00); (2) the fees included in my November 15, 2004 affidavit (\$4,860.00), and (3) the fees incurred in filing the instant reply (\$24,990.00).

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 10, 2007.

/s/

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GEOFFREY REMPEL

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<sup>6</sup> *Cobell v. Norton*, 407 F.Supp.2d 140, 155 ("The Court finds defendants' objections to plaintiffs' practice of transferring records from one medium to another and clarifying records to facilitate judicial review, meritless.").

# Attachment A

<u>Date</u>	<u>Task</u>	<u>Time</u>	<u>Rate</u>	<u>Total</u>
April 26, 2007	Disc. Mot reconsideration w/ DG.	0.4	\$300.00	\$120.00
April 27, 2007	Disc granting of reconsideration w/ DG and team (multiple).	2.7	\$300.00	\$810.00
April 27, 2007	Disc. Mot reconsideration w/ DG.	0.5	\$300.00	\$150.00
April 28, 2007	CC w/ DG re reconsideration and fee reply.	0.4	\$300.00	\$120.00
April 28, 2007	Review material in preparation for response to court order re granting of sanctions reconsideration.	1.7	\$300.00	\$510.00
April 29, 2007	CC w/ DG re reconsideration and fee reply.	0.3	\$300.00	\$90.00
April 29, 2007	Review material in preparation for response to court order re granting of sanctions reconsideration.	2.2	\$300.00	\$660.00
April 30, 2007	Draft, edit Reply in support of fees (per court order).	8.9	\$300.00	\$2,670.00
April 30, 2007	Disc. w/ DG re Reply.	0.4	\$300.00	\$120.00
May 1, 2007	Draft, edit Reply in support of fees (per court order).	6.7	\$300.00	\$2,010.00
May 1, 2007	Disc. w/ DG re fee response.	0.4	\$300.00	\$120.00
May 2, 2007	Draft, edit Reply in support of fees (per court order).	4.8	\$300.00	\$1,440.00
May 2, 2007	Disc. w/ DG re fee response.	0.6	\$300.00	\$180.00
May 3, 2007	Draft, edit Reply in support of fees (per court order).	6.9	\$300.00	\$2,070.00
May 4, 2007	Disc. w/ DG re fee response.	0.4	\$300.00	\$120.00
May 4, 2007	Draft, edit Reply in support of fees (per court order).	7.5	\$300.00	\$2,250.00
May 5, 2007	Disc. w/ DG re fee response.	0.3	\$300.00	\$90.00
May 5, 2007	Draft, edit Reply in support of fees (per court order).	5.2	\$300.00	\$1,560.00
May 6, 2007	Disc. w/ DG re fee response.	0.2	\$300.00	\$60.00
May 6, 2007	Review Reply draft.	0.4	\$300.00	\$120.00
May 7, 2007	Begin drafting affidavit.	1.2	\$300.00	\$360.00
May 7, 2007	Draft, edit Reply in support of fees (per court order).	6.5	\$300.00	\$1,950.00
May 7, 2007	Disc. w/ DG re fee response.	0.4	\$300.00	\$120.00
May 8, 2007	Draft, edit Reply in support of fees (per court order).	8.3	\$300.00	\$2,490.00
May 8, 2007	Disc. w/ DG re fee response.	0.4	\$300.00	\$120.00

## Attachment A

<u>Date</u>	<u>Task</u>	<u>Time</u>	<u>Rate</u>	<u>Total</u>
May 9, 2007	Draft, edit Reply in support of fees (per court order). Estimate one hour to finalize draft.	6.5	\$300.00	\$1,950.00
May 9, 2007	Disc. w/ DG re fee response.	0.2	\$300.00	\$60.00
May 9, 2007	Draft affidavit.	2.2	\$300.00	\$660.00
May 10, 2007	Finalize edits in meeting w/ JG, DG.	0.2	\$300.00	\$60.00
May 10, 2007	Draft, edit Reply in support of fees (per court order).	1.3	\$300.00	\$390.00
May 10, 2007	Finalize affidavit.	5.2	\$300.00	\$1,560.00
<b>Subtotal</b>		<b>83.3</b>		<b>\$24,990.00</b>
June 21, 2004 Affidavit				\$75,375.00
November 15, 2004 Affidavit				\$4,860.00
<b>Total Application</b>				<b>\$105,225.00</b>

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

<b>ELOUISE PEPION COBELL, et al.,</b>	)
	)
<b>Plaintiffs,</b>	)
	)
<b>vs.</b>	)
	)
<b>DIRK KEMPTHORNE, Secretary of</b>	)
<b>the Interior, et al.,</b>	)
	)
<b>Defendants.</b>	)

**Civil Action  
No. 1:96 CV 01285 (JR)**

**AFFIDAVIT OF KEITH M. HARPER**

1. My name is Keith M. Harper. I am a member of the Bar of this Court and a partner at Kilpatrick Stockton LLP. I am class counsel for plaintiffs in this action and have been counsel since the inception of this case in 1996. 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 have again reviewed the facts stated in my June 21, 2004 affidavit ("First GAO Harper Affidavit") that plaintiffs filed with this Court in support of their fee application referenced in paragraph 1 above. I again state with certainty that the facts stated therein on June 21, 2004 were true and correct at that time and they remain true and correct today.
3. I have not been paid or compensated in any manner for the time I spent or the expenses I incurred in opposing false claims set forth in the Sapienza Affidavit.

4. I have reviewed the items that defendants have identified in their objections as inconsistent with the time submitted by Messrs. Rempel, Gingold and Brown. I have compared my time entries with theirs and again conclude that the differences in our time entries reflect errors in omission.
5. There are numerous instances when I have omitted time, even though it would be relevant to the conduct for which defendants and their counsel were sanctioned. This occurs for a number reasons. First, if I entered time but the description was somewhat ambiguous or unclear, I did not claim the time for the GAO Fee Statement, even if it more likely than not was claimable. If a colleague had a description that was more clear, then they very well may have claimed that time, even if I did not. Second, often times, especially during the many busy periods of this litigation, I would simply not record time I spent on a matter. Although such time would be compensable, since I did not record it, I did not claim it. Accordingly, if a more diligent colleague may record time that describes an interaction with me but for which I have no recorded time. Accordingly, any "inconsistency" in time between me and a colleague is not the result of trying to claim time not expended; rather it reflects an appropriately cautious approach of only claiming fees when the particular recorder has assurance that the time fits the scope and is supported by sufficiently clear contemporaneous records.
6. I maintain contemporaneous, daily records of the time I work on a particular task or activity categorized by a specific billing code designated for that case or matter. On weekly or monthly basis, I enter this time onto a computer database (Carpe Diem). The time expended is broken down and recorded in 1/10<sup>th</sup> of an hour increments (*i.e.*, six minute intervals). The time I have expended on this case has been compiled in this

manner and these records are the primary basis for the time Kilpatrick Stockton LLP is claiming as set forth in Paragraph 7 below. Time entered is identifiable by date, type of activity, and a description of the work performed.

7. I have worked additional hours to develop a reply in support of plaintiffs' fee request and this affidavit. This time was necessary to properly respond to defendants opposition to our fee statement. The total hours expended are: 22.10 ( see Attachment A to this Affidavit. The appropriate *Laffey* Rate for my time is \$509 per hour (see Attachment B to this Affidavit) since I have over 11 years experience as a litigator. Accordingly, I am claiming a total additional award of \$ 11,248.90.

I declare under penalty of perjury that the foregoing is true and correct.

  
Keith M. Harper

Executed on May 10, 2007.

## ATTACHMENT A

<u>Date</u>	<u>Total</u>	<u>Description of work performed related to GAO Fee Statement</u>
04/25/07	.30	Confer with Dennis Gingold re: defendants' motion for reconsideration of Order re: award of GAO and Erwin fees
04/27/07	2.20	Research caselaw on motion for reconsideration fee order (.6); meet with Justin Guilder on Opposition to motion for reconsideration (.4); review Order of District Court District of Columbia denying motion to compel and granting defendants' motion for reconsideration of fees (.3); conference with Dennis Gingold, David Smith, Justin Guilder on need to file brief re GAO fee award (.9).
04/30/07	1.80	Review Defendant's original objections regarding GAO Fee Statement (1.3); conference with Dennis Gingold on GAO sanctions reply (2 calls) (.5).
05/01/07	1.30	Conference with Dennis Gingold on Reply Brief in Support of GAO Fee Application and issues related to Mark Brown submissions (.5); review my original affidavit and fee statement (.8)
05/02/07	1.10	Review preliminarily defendant's objection to Reply Brief in Support of GAO Fee Application related objections and Schedule of Fees and discuss with Dennis Gingold (1.1).
05/03/07	.40	Confer with Dennis Gingold re: draft V of response.
05/04/07	0.50	Conference with Dennis Gingold on Reply Brief in Support of GAO Fee Application (.3); review email exchange on Reply Brief in Support of GAO Fee and respond (.2).
05/06/07	2.30	Conference with Dennis Gingold on Reply Brief in Support of GAO Fee Statement (.4); review defendant's original objection to Reply Brief in Support of GAO Fee Application Schedule of Fees and scope issues, and commence draft of responses to objections (1.9).



05/07/07	1.50	Review draft 9 of Reply Brief in Support of GAO Fee, and make limited revisions and discuss with Dennis Gingold (1.1); discuss with Dennis Gingold Reply Brief in Support of GAO Fee affidavits' contents (.4).
05/08/07	5.40	Review two drafts of Dennis Gingold Affidavit and provide comments (.7); review draft 12 of Reply Brief in Support of GAO Fee Application completed and make revisions (1.9); conference with Justin Guildler on Reply Brief in Support of GAO Fee Application (.3); conference with Dennis Gingold on Reply Brief in Support of GAO Fee Application including scope issues (2 calls) (.6); draft Harper Affidavit (2 drafts) (1.6); review Affidavit of Mark Brown (.3).
05/09/07	5.30	Finish Harper Affidavit regarding Reply Brief in Support of GAO Fee (1.1); review, edit and revise Reply Brief in Support of GAO Fee Application (3.6); conference with Dennis Gingold on Reply Brief in Support of GAO Fee Application (.3); review draft proposed order for Reply Brief in Support of GAO Fee Application (.1); review Affidavit of Rempel (.2).
<b>Total</b>	<b>22.10</b>	

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action
	)	No. 1:96 CV 01285 (JR)
	)	
GALE NORTON, <i>et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	

**SUPPLEMENTAL AFFIDAVIT OF MARK KESTER BROWN IN SUPPORT OF  
PLAINTIFFS' RESPONSE RE THEIR FEE APPLICATION WITH RESPECT TO THE  
COURT'S MARCH 11, 2003 ORDER re DEFENDANTS' THIRD MOTION FOR  
SUMMARY JUDGMENT – PURSUANT TO COURT ORDER OF APRIL 27, 2007**

1. I am a member of the Bar of this Court, and am one of the attorneys representing plaintiffs in this action. I have been an attorney specializing in litigation for the last 26 years. I make this affidavit in support of plaintiffs' Response (the "Response") filed concurrently herewith re their fee application (the "GAO Fee Application") with respect to the Court's March 11, 2003 order re defendants' third motion for partial summary judgment filed September 19, 2000 (the "MSJ" or the "Motion").
  
2. This affidavit is made pursuant to this Court's order of April 27, 2007 in which it requested that plaintiffs and their counsel be prepared to address the GAO Fee Application at the status conference originally set for May 9, 2007 (and now rescheduled for May 14, 2007). This affidavit supplements my earlier declaration filed with respect to the GAO Fee Application, which was executed on June 18, 2004 and filed on or about that date.
  
3. As to the specifics of how I record my time contemporaneously and prepare fee applications for submission to this Court, and how I exercised business judgment in the process, I have set forth such specifics in my earlier June 18, 2004 declaration. Such specifics remain true today and apply to the preparation of this Supplemental Affidavit.

reasons set forth in plaintiffs’ accompanying Response memorandum of points and authorities – and in plaintiffs’ previously filed Reply with respect to the accompanying Erwin Fee Application, including the case of *Hudson v. Moore Business Forms, Inc.*, 898 F.2d 684 (9th Cir. 1990) – I respectfully request that there be no deduction because Defendants’ “outside the scope” argument is not well-taken.

5. I have compared the time entries that I submitted as part of the Mona Infield fee application with those time entries I submitted with respect to the instant GAO fee application. Based on that review, I have submitted **no** time in the instant GAO fee application that was previously submitted (and perforce none that was paid) pursuant to the Infield fee application.

**FURTHER PROOF FEES**

I have incurred the following fees in preparing this Affidavit and the accompanying Response.

Date	Description	Hours	Amount
04/29/07	Review Court’s 4/27 Order and Erwin and GAO Attorney’s Fees filings; e-mail to DMG/KH	3.250	\$1,995.50
05/03/07	Prepare MKB Supplemental Affidavit re GAO Fee Response	2.250	\$1,381.50
05/07/07	Revise Response brief re GAO fees	2.666	\$1,636.92

Date	Description	Hours	Amount
05/08/07	Revise Reply brief re GAO fees; Prepare MKB Supplemental Affidavit	2.916	\$1,790.42
05/09/07	Final revisions to MKB Supplemental Affidavit	0.666	\$408.92
	TOTAL	11.748	\$7,213.27

6. According to the currently published Laffey Matrix, my time set forth in the prior table is compensable at the rate of \$614 per hour. *See* <http://www.laffeymatrix.com/see.html>.
  
7. None of my entries directly or indirectly contain any travel time.

I declare under penalty of perjury under the laws of the United States of America that this affidavit was executed on May 10, 2007 and that the foregoing is true and correct.




---

MARK KESTER BROWN

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL et al., on  
their own behalf and on behalf of  
all persons similarly situated,

Plaintiffs,

v.

DIRK KEMPTHORNE, Secretary of the  
Interior, et al.,

Defendants.

Case No. 96 - 1285  
(Judge Robertson)

AFFIDAVIT OF DAVID C. SMITH

David C. Smith, being first duly sworn, deposes and says as follows:

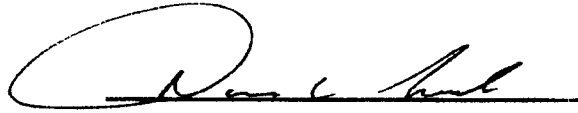
1. I am an attorney duly licensed to practice law in the State of North Carolina. I have been practicing law since 1984 and am currently a partner with the law firm of Kilpatrick Stockton LLP. I have been admitted *pro hac vice* to represent the plaintiffs in this matter along with my co-counsel, Dennis Gingold, and other members of my firm. 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.

2. According to the Updated Laffey Matrix, the reasonable and customary rate for my services is \$614 per hour.

3. I spent one and one-half hours reviewing and revising plaintiffs' response to this Court's order dated April 27, 2007, for total fees incurred of \$921.00.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 9, 2007

A handwritten signature in black ink, appearing to read "David C. Smith", is written over a solid horizontal line. The signature is cursive and includes a large, looping initial "D".

DAVID C. SMITH

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**ELOUISE PEPION COBELL, et al.,** )  
)  
**Plaintiffs,** )  
)  
**vs.** )  
)  
**DIRK KEMPTHORNE, Secretary of** )  
**the Interior, et al.,** )  
)  
**Defendants.** )  
)

**Civil Action  
No. 1:96 CV 01285 (JR)**

**AFFIDAVIT OF JUSTIN M. GUILDER**

1. My name is Justin M. Guilder. My application to the Bar of this Court's jurisdiction is currently pending. I am an attorney duly licensed to practice law in the State of Virginia. I have been practicing law since 2006 and am an associate at Kilpatrick Stockton LLP and a member of the Cobell litigation team. I have been admitted *pro hac vice* to represent the plaintiffs in this matter. 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 contemporaneous, daily records of the time I work on a particular task or activity categorized by a specific billing code designated for that case or matter. On daily or weekly basis, I enter this time onto a computer database (Carpe Diem). The time expended is broken down and recorded in 1/10<sup>th</sup> of an hour increments (*i.e.*, six minute intervals). The time I have expended on this case has been compiled in this manner and these records are the primary basis for the time Kilpatrick Stockton LLP is claiming in



Plaintiffs' Statement of Fees and Expenses. Time entered is identifiable by date, type of activity, and a description of the work performed.

3. I have worked additional hours to develop a reply in support of plaintiffs' fee request and this affidavit. This time was necessary to properly respond to defendants opposition to our fee statement. The total hours expended are: 49.30, as set forth in Attachment A to this Affidavit. The appropriate *Laffey* Rate for my time is \$255 per hour. Accordingly, I am claiming \$12,571.50.

I declare under penalty of perjury that the foregoing is true and correct.

  
Justin M. Guilder

Executed on May 10, 2007.

**ATTACHMENT A**

<u>Date</u>	<u>Total</u>	<u>Description of work performed related to GAO Fee Statement</u>
04/24/07	1.50	Research meaning of forthwith to determine meaning of "now" in April 20 memorandum order granting fees
04/27/07	.80	Review fee applications, objections and replies in order to draft opposition to motion for reconsideration (2); conference with D. Smith, K. Harper, G. Rempel and D. Gingold to discuss opposition to motion for reconsideration (.2); conference with D. Smith, K. Harper, G. Rempel and D. Gingold to discuss order granting defendants' motion for reconsideration (.4)
04/28/07	3.00	Review statement of fees for Erwin deposition, defendants' objections thereto, and our reply in order to ensure that we addressed every objection in light of Dkt # 3317, order by Robertson directing us to reply to objections and draft correspondence detailing review (3).
04/29/07	5.00	Research regarding objections to fee applications and the requirement for affidavits (2.5); review research and draft correspondence discussing findings (1.5); review correspondence related to fee issue and trial issues (1)
05/02/07	.80	Research the scope of fees awarded under Rule 56(g)
05/03/07	5.20	Research Rule 56 fees scope issue (3); research Rule 37 scope (2.2).
05/04/07	7.00	Research Rule 56 fees scope issue
05/07/07	4.00	Research requirements for affidavits in objecting to attorney's fees (3); discuss cases requiring affidavits in objecting to attorney's fees with Dennis Gingold and Geoffrey Rempel

05/08/07	5.80	Research scope of Rule 37 sanctions (1.2); research requirements for objections to attorneys fees (1.6); draft and revise section of brief detailing the requirements for objections to attorneys fees (2.7); review prior affidavits of K. Harper to assist the completion of the reply on fees (.3)
05/09/07	6.50	Revise and review reply to defendants' objections to reply to GAO fees (6); prepare affidavit (.4); research current Laffey matrix (.1)
05/10/07	9.70	Finalize exhibits, affidavits, and brief for filing (7.5); research use of updated Laffey matrix (1); draft section regarding updated Laffey matrix (.2) review time associated with defendants' objections to reply to GAO fees (.8); conference with Dennis Gingold and Geoffrey Rempel to finalize edits of reply to defendants' objections to reply to GAO fees (.2)
<b>Total</b>	<b>49.30</b>	

Date	Initials	Name	Hours	Description
4/23/2007	1801	Justin M. Guilder	7.90	Review witness correspondence regarding security at BIA (.1); review witness correspondence regarding efforts to reconnect (.2); review potential accounting witness' cv (.3); discuss with K. Harper documents sent by trust beneficiary, and potential contacts that could assist and allottee association formation (.4); draft memorandum listing issues mentioned at strategy session that must be discussed further (.4); conference with K. Harper, D. Smith, D. Gingold, and G. Rempel to draft, revise, and file motion to compel February 12 RFP in light of the district court's April 20 order (5.2); conference with K. Harper, D. Smith, D. Gingold, and G. Rempel to strategically plan case direction and issues that must be resolved in light of the district court's April 20 order (.8); call with trust beneficiary regarding allottee association (.5).
4/23/2007	3871	David C. Smith	8.00	E-mails regarding conference call on may 9 hearing .2; review CV for expert .2; conference call regarding motion to compel 2.1; prepare status report for Mr. Garland .75; e-mail to Mr. Dorris regarding May 9 hearing .1; e-mails regarding experts .3; work on response to motion to vacate 4.3.
4/23/2007	5133	Alexis Applegate	2.90	Review media coverage and dockets per Elliott Levitas' request (.30); research various deposition transcripts and obtain copies from NARF per Justin Guilder's request (.90); answer Cobell Beneficiary Line per Keith Harper's request (1.70).
4/23/2007	9330	Daniel R. Taylor, Jr.	1.00	Further services relative to identification of expert witnesses.
4/23/2007	9444	Lynn M. Charbonneau	0.50	Conference related to assistance at trial.
4/23/2007	GR	Geoffrey Rempel	5.50	Motion to Compel, final edits and meeting.
4/23/2007	GR	Geoffrey Rempel	2.20	Disc w/ DG re order and next steps.
4/23/2007	GR	Geoffrey Rempel	0.20	Contact experts re upcoming hearing.
4/23/2007	GR	Geoffrey Rempel	0.20	CC w/ KH, DG re mediators.
4/23/2007	GR	Geoffrey Rempel	0.40	PR
4/23/2007	DMG	Dennis M. Gingold	7.0	Review all issues raised in 4/23 order; review Smith memorandum re 5/9 deadlines re same.
4/23/2007	DMG	Dennis M. Gingold	2.0	Confer Rempel, Smith, Guilder, Harper re same.
4/23/2007	DMG	Dennis M. Gingold	0.7	Telcom. Tyler re motion to compel.
4/23/2007	DMG	Dennis M. Gingold	0.3	Telcoms. Rice re affidavits.
4/23/2007	DMG	Dennis M. Gingold	0.3	Telcom. Infield re motion to compel.
4/23/2007	DMG	Dennis M. Gingold	0.3	Telcom. Smith re above.
4/23/2007	DMG	Dennis M. Gingold	0.1	Telcom. Guilder re same.
4/23/2007	DMG	Dennis M. Gingold	0.6	Telcom trust beneficiary re land sale issues.
4/24/2007	4673	G. William Austin	0.80	Review of articles regarding October 10 trial date (.30); exchange e-mails with David Zacks regarding proposed follow-up with mediator John Bickerman regarding \$7-9 billion valuation testimony (.20); conference with Justin Guilder regarding Trustee-Delegates' possible strategies to delay the scheduled accounting trial (.30).
4/24/2007	8800	Elliott H. Levitas	0.80	Conference with Dennis Gingold, Keith Harper, David Smith, Geoff Rempel regarding Oct. 10 trial and issues involving expert witnesses for trial (.8)
4/24/2007	1385	Marie T. Perry	1.00	Communication with case paralegal regarding preparation for May 9th hearing
4/24/2007	1701	Keith Harper	5.00	Prepare update for presentation to ITCA (1.7); deliver remarks to ITCA re: Cobell update (1.1); conference call Dennis Gingold, Bill Dorris, David Smith, Geoffrey Rempel, Justin Guilder on Court's Order of 4/20 setting trial date (2.0); call R. Kirschman - motion for reconsideration (.2);
4/24/2007	1801	Justin M. Guilder	7.70	Conference call with D. Smith, K. Harper, D. Gingold, and G. Rempel discussing April 20 memorandum order and upcoming work (2.4); review correspondence to witnesses regarding new affidavits (.1); review correspondence regarding a potential witness that knows the Lenexa facility (.1); research meaning of forthwith to determine meaning of "now" in April 20 memorandum order granting fees (1.5); research various issues related to case management, discovery schedules, trial dates, and continuances (3.6).
4/24/2007	3871	David C. Smith	7.70	Review resumes of proposed experts .6; e-mails with Mr. Taylor regarding experts .3; e-mail to Mr. Guilder regarding Special Master research .2; discussions with Ms. Charbonneau and Ms. Applegate regarding documents .5; telephone conversation with Ms. Applegate .2; e-mail to Mr. Harper regarding Introspect database .3; e-mail with Ms. Applegate regarding confidentiality agreement for people working on trial .2; e-mails regarding Lenexa site visit .2; e-mail regarding paralegal to work on trial .2; conference call regarding May 9 hearing 1.75; work on response to motion to vacate consent order 3.2.
4/24/2007	5133	Alexis Applegate	2.20	Review media coverage and dockets per Elliott Levitas' request (.20); answer Cobell Beneficiary Line per Keith Harper's request (1.50); research confidentiality agreement and forward to David Smith per his request (.50).
4/24/2007	9444	Lynn M. Charbonneau	1.00	Conferences with IT department related to specifications for production of documents.
4/24/2007	GR	Geoffrey Rempel	2.30	CC w/ team re strategy for upcoming hearing/trial.
4/24/2007	GR	Geoffrey Rempel	1.20	Draft, edit discovery.
4/24/2007	GR	Geoffrey Rempel	0.50	CC w/ DG, DS re upcoming hearing and related.
4/24/2007	GR	Geoffrey Rempel	1.80	Review Cobell V in preparation for upcoming hearing.
4/24/2007	GR	Geoffrey Rempel	0.80	Disc DG re upcoming hearing (multiple).
4/24/2007	DMG	Dennis M. Gingold	1.5	Prepare for 9:00AM conference call re 5/9 status conference and 10/10 trial.
4/24/2007	DMG	Dennis M. Gingold	2.2	Conference call re same with Harper, Rempel and Smith.
4/24/2007	DMG	Dennis M. Gingold	0.6	Telcoms. Harper re same.
4/24/2007	DMG	Dennis M. Gingold	0.6	Conference call Dwight Duncan, Rempel re expert testimony for October trial.
4/24/2007	DMG	Dennis M. Gingold	0.5	Telcoms. Tyler re motion to compel; affidavits.
4/24/2007	DMG	Dennis M. Gingold	0.2	Telcoms. Infield re same.
4/24/2007	DMG	Dennis M. Gingold	0.4	Telcom. Rice re same.
4/24/2007	DMG	Dennis M. Gingold	1.1	Conference call litigation team re above.

Date	Initials	Name	Hours	Description
4/24/2007	DMG	Dennis M. Gingold	4.9	Review issues/experts re October 10 trial.
4/25/2007	4673	G. William Austin	0.80	Conference with Elliott Levitas regarding IT and other issues (.50); conference with Elliott Levitas and Keith Harper regarding JB issues (.30).
4/25/2007	5133	Alexis Applegate	1.00	File management in preparation for documents coming from the Native American rights fund.
4/25/2007	8800	Elliott H. Levitas	1.70	Conference with Keith Harper and Bill Austin regarding preparation for October trial and division of labor, task assignments (.7); conference with Keith Harper and Geoff Rempel regarding John Bickerman meeting and review of his work papers (.5); review media coverage (.5).
4/25/2007	1701	Keith Harper	6.60	Research and draft brief setting forth appropriate Phase II trial schedule brief for May 9 Hearing (5.5); discuss Phase II trial scheduling brief with Dennis Gingold (.3); Conference with Justin Guilder on Administrative Procedures Act for pre-trial scheduling brief (.5); call with Austin Nunez re: update (.3).
4/25/2007	1801	Justin M. Guilder	7.80	Research the effect of the resignation or replacement of a special master (2); review APA memorandum in preparation for meeting with K. Harper (.8); discuss remedies available to a district court in the APA context with K. Harper for road map brief (.5); review draft global discovery order by G. Rempel (.2); review prior evidence related to ZANTAZ that is relevant to various current issues (.4); research effect of denial of continuance of trial date, especially in the 'rocket docket,' in preparation for government's motion for continuance (3.9).
4/25/2007	3871	David C. Smith	3.50	Work on reply to motion to vacate 3.; review Ross Swimmer document from Mr. Harper .2; review draft global discovery order .3.
4/25/2007	5133	Alexis Applegate	1.70	Review media coverage and dockets per Elliott Levitas' request (.20); conference with vendor regarding document management (.20); research Griffin Report per Geoffrey Rempel's request (.30); answer Cobell Beneficiary Line per Keith Harper's request (1.00).
4/25/2007	9444	Lynn M. Charbonneau	0.80	Draft document production specifications; send same to IT for review.
4/25/2007	GR	Geoffrey Rempel	0.30	CC w/ MI re affidavits (2 calls).
4/25/2007	GR	Geoffrey Rempel	1.20	Disc DG re upcoming hearing and documents.
4/25/2007	GR	Geoffrey Rempel	0.20	Disc. Mot reconsideration w/ DG.
4/25/2007	GR	Geoffrey Rempel	6.40	Document review in preparation for hearing
4/25/2007	DMG	Dennis M. Gingold	1.0	Review/revise draft II, proposed discovery order.
4/25/2007	DMG	Dennis M. Gingold	0.2	Confer Rempel, Harper restitutionary issues re Bowen.
4/25/2007	DMG	Dennis M. Gingold	0.2	telcom. Harper re defs' motion for reconsideration of GAO/Erwin sanctions.
4/25/2007	DMG	Dennis M. Gingold	0.3	Discussion Rempel re same.
4/25/2007	DMG	Dennis M. Gingold	5.0	Review/review draft II, second Tyler affidavit.
4/25/2007	DMG	Dennis M. Gingold	0.2	Telcoms. Infield re same.
4/25/2007	DMG	Dennis M. Gingold	0.1	Conference call Rempel, Infield re same, discovery order.
4/25/2007	DMG	Dennis M. Gingold	0.5	Telcom. Ms. Cobell re above.
4/25/2007	DMG	Dennis M. Gingold	0.2	Telcom. Guilder re same.
4/25/2007	DMG	Dennis M. Gingold	0.1	Telcom. Tyler re above.
4/25/2007	DMG	Dennis M. Gingold	0.1	Telcom. Smith re above.
4/25/2007	DMG	Dennis M. Gingold	1.0	Telcom. Duncan expert testimony for October trial, including Treasury issues.
4/26/2007	4673	G. William Austin	1.30	Review of government's motion for reconsideration (1.0); conference with Elliott Levitas (.30).
4/26/2007	1701	Keith Harper	9.10	Draft pre-trial schedule brief for submission to Court before May 9 Hearing(7.5); Conference with Dennis Gingold on introduction of trial schedule brief (2 times) (.6); review motion for reconsideration of fees and discuss with Dennis Gingold our response.
4/26/2007	1801	Justin M. Guilder	4.90	Research elements of jurisdiction against United States for K. Harper to put in road map brief (.5); research the effect of resignation of special master (1); discuss special master issue for opposition to defendants' motion to vacate with D. Smith (.3); review affidavits for opposition to defendants' motion to vacate (.4); discuss opposition to defendant's motion for reconsideration with K. Harper (.3); research various issues related to case management, discovery schedules, trial dates, and continuances (2.4).
4/26/2007	1801	Justin M. Guilder	1.50	Review cases cited by defendants in their motion for reconsideration of fees for reply (1.5).
4/26/2007	3871	David C. Smith	7.00	Work on reply to motion to vacate 5.2; telephone conversation with Mr. Gingold .6; telephone conversation with Mr. Harper regarding motion .2; telephone conversation with Mr. Guilder regarding Special Master research .3; review motion for reconsideration of attorneys fees .7.
4/26/2007	5133	Alexis Applegate	2.70	Review media coverage and dockets per Elliott Levitas' request (.20); answer Cobell Beneficiary Line per Keith Harper's request (2.50).
4/26/2007	9444	Lynn M. Charbonneau	0.50	Continued refinement of document production specifications
4/26/2007	GR	Geoffrey Rempel	0.40	Disc. Mot reconsideration w/ DG.
4/26/2007	GR	Geoffrey Rempel	7.40	Review, edit opp to vacate consent order.
4/26/2007	GR	Geoffrey Rempel	0.30	Disc. Opp to vacate consent order w/ DG.
4/26/2007	DMG	Dennis M. Gingold	5.4	Review/revise draft VI, opposition to defs' objections re RFP.
4/26/2007	DMG	Dennis M. Gingold	0.3	Telcoms. Harper re same.
4/26/2007	DMG	Dennis M. Gingold	0.6	Telcoms. Tyler re IT security affidavits.
4/26/2007	DMG	Dennis M. Gingold	0.2	Telcom. Infield re same.
4/26/2007	DMG	Dennis M. Gingold	0.2	Telcom. Rice re Rice affidavit.
4/26/2007	DMG	Dennis M. Gingold	6.0	Revise Rice affidavit per telcom data/docs.
4/27/2007	4673	G. William Austin	4.20	Review of April 27 order of district court (.30); conference with Elliott Levitas regarding the court's order regarding IT issues (.40); preparation of e-mail to co-counsel Dennis Gingold regarding this matter (2.30); conference with Dennis Gingold (1.0); exchange e-mails regarding order with David Smith (.20).

Date	Initials	Name	Hours	Description
4/27/2007	7125	A. Stephens Clay	0.20	Fee application.
4/27/2007	8800	Elliott H. Levitas	1.70	Review, analyze and annotate 4/27 Order; telephone conference with Bill Austin regarding same; telephone conference with Bill Dorris (2) regarding same (1.2); review media coverage (.5)
4/27/2007	8913	David M. Zacks	0.50	Discussion with Elliott Levitas on scheduled hearing and its impact on a legislative solution.
4/27/2007	1701	Keith Harper	2.40	Research caselaw on motion for reconsideration fee order (.6); meet with Justin Guilder on Opposition to motion for reconsideration (.4); review Order of District Court District of Columbia denying motion to compel and granting defendants' motion for reconsideration of fees (.3); Conference with Dennis Gingold, David Smith, Justin Guilder on motion for reconsideration (.9); Conference with Justin Guilder on witness (.2).
4/27/2007	1801	Justin M. Guilder	8.90	Review and draft correspondence, and research related to drafting, regarding OMB Circular A-130 for opposition to defendants' motion to vacate (.8); research effect of special master's resignation on the validity of the consent order (2.5); draft correspondence detailing special master research (.6); review fee applications, objections and replies in order to draft opposition to motion for reconsideration (2); research various issues related to case management, discovery schedules, trial dates, and continuances (2); conference with D. Smith, K. Harper, G. Rempel and D. Gingold to discuss opposition to motion for reconsideration (.2); conference with D. Smith, K. Harper, G. Rempel and D. Gingold to discuss order granting defendants' motion for reconsideration (.4) call Dakota Legal services for beneficiary (.4).
4/27/2007	3871	David C. Smith	9.10	Review e-mail from Mr. Austin regarding April 27 order .3; review April 27 order of Judge Robertson .3; conference with Mr. Gingold 1.2; review replies to attorneys fees requests mentioned in order .3; telephone conversation with clerk regarding order .3; review Tyler affidavit .3; e-mails with Mr. Guilder regarding research on resignation of Special Master and affect on consent order for motion to vacate .4; work on response to motion to vacate 6.
4/27/2007	5133	Alexis Applegate	3.20	Review media coverage and dockets per Elliott Levitas' request (.20); answer Cobelli Beneficiary Line per Keith Harper's request (3.00).
4/27/2007	GR	Geoffrey Rempel	2.70	Disc granting of reconsideration w/ DG and team (multiple).
4/27/2007	GR	Geoffrey Rempel	0.50	Disc. Mot reconsideration w/ DG.
4/27/2007	GR	Geoffrey Rempel	4.70	Review, edit opp to vacate consent order.
4/27/2007	DMG	Dennis M. Gingold	1.2	Meet with Bill Austin re all issues for 10/10 trial.
4/27/2007	DMG	Dennis M. Gingold	1.3	Review/verify additional averments re Tyler affidavit.
4/27/2007	DMG	Dennis M. Gingold	0.5	Review/revise new government order (4/27) re reconsideration of GAO/Erwin fees.
4/27/2007	DMG	Dennis M. Gingold	2.1	Revise Smith draft II, opposition to defs' motion to vacate consent order.
4/27/2007	DMG	Dennis M. Gingold	4.1	Revise draft III intro, background and facts; draft IV & VII same.
4/27/2007	DMG	Dennis M. Gingold	0.4	Telcoms. Tyler re above.
4/27/2007	DMG	Dennis M. Gingold	0.4	Telcom. Dorris re above.
4/27/2007	DMG	Dennis M. Gingold	0.3	Telcom. Smith re same.
4/27/2007	DMG	Dennis M. Gingold	0.1	Telcom. Guilder re same.
4/27/2007	DMG	Dennis M. Gingold	1.2	Conference call litigation team re above.
4/28/2007	1801	Justin M. Guilder	3.00	Review statement of fees for Erwin deposition, defendants' objections thereto, and our reply in order to ensure that we addressed every objection in light of Dkt # 3317, order by Robertson directing us to reply to objections and draft correspondence detailing review (3).
4/28/2007	3871	David C. Smith	5.50	Work on response to motion to vacate consent order.
4/28/2007	GR	Geoffrey Rempel	0.40	CC w/ DG.
4/28/2007	GR	Geoffrey Rempel	1.70	Review material in preparation for response to court order re granting of sanctions reconsideration.
4/28/2007	DMG	Dennis M. Gingold	5.5	Per 4/27 order, work on GAO fee reply.
4/28/2007	DMG	Dennis M. Gingold	0.3	Telcom. Rempel re same.
4/28/2007	DMG	Dennis M. Gingold	0.1	Telcom. Harper re same.
4/29/2007	1701	Keith Harper	2.40	Draft case management brief (1.9); Conference with Dennis Gingold on case management brief.
4/29/2007	1801	Justin M. Guilder	5.00	Research regarding objections to fee applications and the requirement for affidavits (2.5); review research and draft correspondence discussing findings (1.5); review correspondence related to fee issue and trial issues (1)
4/29/2007	1801	Justin M. Guilder	0.10	Research cases discussing 36 CFR 1234.26 (.1).
4/29/2007	3871	David C. Smith	6.00	Work on response to motion to vacate consent order.
4/29/2007	GR	Geoffrey Rempel	0.30	CC w/ DG.
4/29/2007	GR	Geoffrey Rempel	2.20	Review material in preparation for response to court order re granting of sanctions reconsideration.
4/29/2007	DMG	Dennis M. Gingold	5.4	Conduct doc review per 4/27 order re GAO fee reply; defs' objections re same; continue drafting reply.
4/29/2007	DMG	Dennis M. Gingold	0.8	Telcoms. Harper re same, MSJ's, motion in limine, etc. re 10/10 trial.
4/30/2007	4673	G. William Austin	0.70	Review of draft web site posting (.20); review of Elliott Levitas' suggested changes (.20); review of David Zacks' e-mail regarding Thad Holt's comments (.10); review of Holt e-mail received from Elliott Levitas (.20).
4/30/2007	8800	Elliott H. Levitas	0.90	Review and revise draft letter for website; email same to Bill McAllister (.4); review media coverage (.5)
4/30/2007	1350	William E. Dorris	1.30	Working on response to Court's order regarding argument on the IT issues in the case; telephone conference with Dennis Gingold.

Date	Initials	Name	Hours	Description
4/30/2007	1701	Keith Harper	9.30	Draft brief setting forth proposed trial schedule (7.1); review GAO original objections and Court Order to identify reply issues (1.3); Conference with Dennis Gingold and Geoffrey Rempel on Phase II trial (.4); Conference with Dennis Gingold on GAO sanctions reply (.5).
4/30/2007	1801	Justin M. Guilder	0.30	Research cases discussing 36 CFR 1234.26 (.3)
4/30/2007	1801	Justin M. Guilder	6.60	Research diversity actions of trust law to develop arguments on the equitable powers of federal courts (3); review appellate briefs in IT security injunction appeal to develop arguments for road map brief regarding 36 CFR 1234.26 and FRE 803(8) and draft correspondence to K. Harper discussing research (1); research various issues related to case management, discovery schedules, trial dates, and continuances (2.6).
4/30/2007	3871	David C. Smith	10.40	Work on reply to motion to vacate 9.7; review requirements for electronic production .2; e-mail regarding format for electronic production .1; e-mail draft motion to vacate .1; e-mail regarding accounting expert .3.
4/30/2007	5133	Alexis Applegate	5.90	Review media coverage and dockets per Elliott Levitas' request (.20); answer Cobell Beneficiary Line per Keith Harper's request (5.70).
4/30/2007	9444	Lynn M. Charbonneau	1.00	Review of document production specifications; forward same to David Smith.
4/30/2007	GR	Geoffrey Rempel	8.90	Draft, edit Reply in support of fees (per court order).
4/30/2007	GR	Geoffrey Rempel	0.40	Disc. w/ DG re Reply.
4/30/2007	DMG	Dennis M. Gingold	5.5	Continue exhibit redaction review/comments/objections re exhs. IT security trial per order, including Rempel's review/comments re allocated exhs.
4/30/2007	DMG	Dennis M. Gingold	0.8	Telcom. Harper re same.
4/30/2007	DMG	Dennis M. Gingold	11.7	Continue work on GAO/Erwin fee reply per 2/27 order; doc review related thereto; prepare draft I in context of F&C's.
4/30/2007	DMG	Dennis M. Gingold	0.2	Telcom. Harper re same.
4/30/2007	DMG	Dennis M. Gingold	0.5	Telcom. Dorris re 5/9 hearing issues.
5/1/2007	4673	G. William Austin	0.70	Conference with Keith Harper regarding rescheduling of May 9 hearing before Judge Robertson (.03); exchange messages with Elliott Levitas (.20); conference with Elliott Levitas regarding Thad Holt's e-mail points (.20).
5/1/2007	1350	William E. Dorris	1.10	Reviewing draft of case management plan brief and emails regarding same.
5/1/2007	1701	Keith Harper	7.20	Conference with Dennis Gingold, Geoffrey Rempel on motion to vacate (.5); draft case management brief (6.7).
5/1/2007	1801	Justin M. Guilder	9.80	Draft and revise opposition to defendants' motion to vacate (9); review and draft correspondence dealing with appealability of a denial of a motion to vacate a consent order (.8).
5/1/2007	3871	David C. Smith	5.50	Travel to DC 3; review Mr. Harper's case management plan 2.5.
5/1/2007	5133	Alexis Applegate	2.10	Review media coverage and dockets per Elliott Levitas' request (.20); answer Cobell Beneficiary Line per Keith Harper's request (1.70).
5/1/2007	GR	Geoffrey Rempel	6.70	Draft, edit Reply in support of fees (per court order).
5/1/2007	GR	Geoffrey Rempel	0.40	Disc. w/ DG re fee response.
5/1/2007	GR	Geoffrey Rempel	4.80	Draft, edit Reply in support of fees (per court order).
5/1/2007	DMG	Dennis M. Gingold	4.8	Prepare draft II, response re GAO fees, including consideration of scope/consistency re prior submissions.
5/1/2007	DMG	Dennis M. Gingold	5.5	Review background information/documentation re same.
5/1/2007	DMG	Dennis M. Gingold	0.5	Telcoms. Harper re same.
5/1/2007	DMG	Dennis M. Gingold	1.0	Telcoms. Dorris re 5/9 hearing issues; opposition to defs' motion to vacate consent order.
5/1/2007	DMG	Dennis M. Gingold	0.2	Telcom. Infield re motion to vacate consent order.
5/2/2007	4673	G. William Austin	0.20	Conference with Alexis Applegate (.10); review of articles on Indian.com regarding rescheduling of May 9 hearing before Judge Robertson (.10).
5/2/2007	7125	A. Stephens Clay	0.30	Conference with Boies, Sullivan attorney and P. Verkuil regarding Indian litigation.
5/2/2007	8800	Elliott H. Levitas	0.50	Review media coverage (.5)
5/2/2007	1701	Keith Harper	4.20	Research appeal as of right, email exchange (.5); review motion to vacate opposition (3.7).
5/2/2007	1801	Justin M. Guilder	9.00	Draft and revise opposition to defendants' motion to vacate (1); conference with K. Harper, D. Gingold, and D. Smith to discuss strategy for the opposition to motion to vacate (1); research whether the appointment of a special master to enforce a consent order is appealable as a modification of an injunction (3.5); research related to Frew v. Hawkins and the ability of a federal court to enforce consent orders despite subsequent change in the law (2); call attorney to assist a trust beneficiary who is providing helpful evidence (.2); research the scope of fees awarded under Rule 56(g) (.8); correct dates and docket numbers on motion (.5).
5/2/2007	3871	David C. Smith	6.60	Review Rice affidavit for motion to vacate .4; e-mail to Mr. Gingold regarding Rice affidavit .1; telephone conversation with Mr. Harper regarding opposition to motion to vacate .2; conference with Mr. Harper, Mr. Guilder and Mr. Gingold regarding opposition motion to vacate 1.1; review changes to opposition .4; conference with Mr. Guilder regarding research on effect of resignation of Special Master .3; review cases on effect of resignation of Special Master .5; work on opposition to motion to vacate 3; work on memorandum on scheduling order .6.
5/2/2007	5133	Alexis Applegate	2.00	Review media coverage and dockets per Elliott Levitas' request (.20); conferences with David Smith and Sarah Bazen regarding box removal (.30); answer Cobell Beneficiary Line per Keith Harper's request (1.50).
5/2/2007	GR	Geoffrey Rempel	0.60	Disc. w/ DG re fee response.
5/2/2007	DMG	Dennis M. Gingold	6.8	Prepare draft III & IV, reply re GAO fees.
5/2/2007	DMG	Dennis M. Gingold	2.7	Review/revise all supporting affidavits re opposition to defs' motion to vacate consent order.
5/2/2007	DMG	Dennis M. Gingold	1.1	Meet with Harper, Smith re opposition to motion to vacate consent order.
5/2/2007	DMG	Dennis M. Gingold	0.3	Telcoms. Harper re above.

Date	Initials	Name	Hours	Description
5/2/2007	DMG	Dennis M. Gingold	1.2	Confer Rempel re issues opposition to defs' motion to vacate consent order vis-à-vis Cobell XII.
5/2/2007	DMG	Dennis M. Gingold	1.0	Telcom. Infield re same.
5/3/2007	4673	G. William Austin	1.30	Conference with Elliott Levitas (.40); conference with Keith Harper regarding IT briefing in prior appeal (.20); review of IT materials; review of filings and articles (.40).
5/3/2007	1701	Keith Harper	3.20	Conference with Dennis Gingold on motion to vacate and review sections (1.8); research Administrative Procedures Act waiver of immunity for case management brief to beef up section on jurisdiction (1.4).
5/3/2007	1801	Justin M. Guilder	8.50	Research the enforceability of consent order (1); review 29th status report (1); research Rule 56 fees scope issue (3); research the scope of sanctions under Rule 37 (2.2); draft and revise correspondence discussing the effect that the special master's resignation may have on the consent order (1.3).
5/3/2007	3871	David C. Smith	7.80	Prepare section of response to Motion to Vacate on Master's resignation 1.6; research on Master's resignation 1; research regarding AAA and consent order 2.2; conference with Mr. Harper regarding expert witnesses .25; conference with Mr. Gingold regarding expert witness .5; work on response to Motion to Vacate 2.3.
5/3/2007	5133	Alexis Applegate	3.60	Review media coverage and dockets per Elliott Levitas' request (.30); conference with Dennis Gingold (.20); review and organize files and conference with vendor regarding same (1.50); answer Cobell Beneficiary Line per Keith Harper's request (1.60).
5/3/2007	9330	Daniel R. Taylor, Jr.	1.00	Various discussions with Steve O'Brien and David Smith regarding experts.
5/3/2007	GR	Geoffrey Rempel	1.60	Meet w/ KH, DG re experts in upcoming hearing.
5/3/2007	GR	Geoffrey Rempel	6.90	Draft, edit Reply in support of fees (per court order).
5/3/2007	GR	Geoffrey Rempel	0.40	Disc. w/ DG re fee response.
5/3/2007	DMG	Dennis M. Gingold	2.0	Prepare draft V, reply re GAO fees.
5/3/2007	DMG	Dennis M. Gingold	5.6	Review/revise/comment current draft Rice affidavit.
5/3/2007	DMG	Dennis M. Gingold	1.6	Meet with Hareper, Rempel re issues in May 14th status conference; October 10 trial, including expert proofs.
5/3/2007	DMG	Dennis M. Gingold	0.3	Telcom. Ms. Cobell re above.
5/3/2007	DMG	Dennis M. Gingold	0.4	Telcoms. Harper re same.
5/4/2007	8800	Elliott H. Levitas	2.80	Review, analyze and annotate 29th Status Report (2.3); review media coverage (.5)
5/4/2007	1350	William E. Dorris	1.30	Working on time of arguments for the May 14 hearing regarding the need for discovery of IT security.
5/4/2007	1701	Keith Harper	7.50	Draft case mgmt. brief including duties section and law of the case.
5/4/2007	1801	Justin M. Guilder	8.80	Research Rule 56(g) fees scope issue (8); draft and review correspondence regarding scope of rule 56(g) (.8).
5/4/2007	3871	David C. Smith	9.70	Conference with Mr. Gingold regarding motion to vacate and review affidavit of Rice .4; e-mail to Mr. Guilder regarding research on Frew v. Hawkins 1.; conference with Mr. Harper and Mr. Gingold regarding Frew v. Hawkins .3; review second Rice affidavit .4; conference with Mr. Guilder regarding Frew research .4; conference with Mr. Guilder regarding revision to response to motion to vacate .2; review/revise response to motion to vacate 9.
5/4/2007	5133	Alexis Applegate	2.50	Review media coverage and dockets per Elliott Levitas' request (.20); answer Cobell Beneficiary Line per Keith Harper's request (1.10); conference with vendor regarding document retention (.20); review recent filings per Bill Austin's request (1.00).
5/4/2007	GR	Geoffrey Rempel	7.50	Draft, edit Reply in support of fees (per court order).
5/4/2007	GR	Geoffrey Rempel	0.30	Disc. w/ DG re fee response.
5/4/2007	DMG	Dennis M. Gingold	0.5	Review 36 CFR 1234 in preparation for 5/14 status conference.
5/4/2007	DMG	Dennis M. Gingold	0.3	Telcoms. Infield re same.
5/4/2007	DMG	Dennis M. Gingold	0.2	Telcom. Guilder re same.
5/4/2007	DMG	Dennis M. Gingold	0.7	Telcoms. Harper re same.
5/4/2007	DMG	Dennis M. Gingold	0.2	Telcom. Smith re opposition to defs' motion to vacate consent order.
5/4/2007	DMG	Dennis M. Gingold	0.7	Review defs' opposition to motion for GAO sanctions.
5/4/2007	DMG	Dennis M. Gingold	11.9	Review/revise consolidated draft II, GAO fee/sanction reply.
5/5/2007	1350	William E. Dorris	1.80	Revising response to Government's motion to vacate and emails to co-counsel regarding suggested revisions (1.2); working on plans for assistance from paralegals and associates for trial preparation (.6).
5/5/2007	1701	Keith Harper	5.20	Draft case management brief (3.1); review and edit motion to vacate (2.1).
5/5/2007	3871	David C. Smith	5.00	Travel to Winston-Salem from DC 3; telephone conversation with Mr. Harper regarding preparation for trial .3.
5/5/2007	GR	Geoffrey Rempel	5.20	Draft, edit Reply in support of fees (per court order).
5/5/2007	GR	Geoffrey Rempel	0.20	Disc. w/ DG re fee response.
5/5/2007	DMG	Dennis M. Gingold	6.2	Revise draft VI, sectional GAO reply.
5/5/2007	DMG	Dennis M. Gingold	0.5	Revise opposition to motion to vacate consent order.
5/5/2007	DMG	Dennis M. Gingold	0.8	Telcoms. Dorris re discovery; Cobell XII.
5/5/2007	DMG	Dennis M. Gingold	0.2	Telcom. Smith re opposition to defs' motion to vacate consent order.
5/6/2007	1350	William E. Dorris	9.80	Reviewing and revising our response to the motion to vacate the consent order (7.7); reviewing and making suggestions for revisions of the draft response to the Government's opposition to our fee proposals on the GAO and false affidavit issue (2.1)
5/6/2007	1701	Keith Harper	4.70	Review, edit, research and draft motion to vacate opposition (3.7); meet Bill Dorris and Dennis Gingold on motion to vacate and trial brief (1.0)
5/6/2007	1801	Justin M. Guilder	0.50	Draft and review correspondence to and from K. Harper discussing research issues related to court's power to determine trust duties (.5).
5/6/2007	3871	David C. Smith	1.00	Telephone conversation with Mr. Harper regarding response to motion to vacate .25; e-mail to Mr. Dorris regarding changes in response to vacate .75.
5/6/2007	GR	Geoffrey Rempel	0.40	Review Reply draft.



Date	Initials	Name	Hours	Description
5/6/2007	DMG	Dennis M. Gingold	8.8	Continue draft VI GAO reply revisions.
5/7/2007	4673	G. William Austin	0.50	Review of Elliott Levitas' e-mail regarding the 29th Quarterly Report filed by the government regarding trust reform (.30); e-mail to Elliott Levitas (.20).
5/7/2007	8800	Elliott H. Levitas	3.00	Further review and analysis of 29th Status Report; telephone conference with Geoff Rempel regarding accounting questions; draft and revise memo to Cobell team regarding status report (2.5); review media coverage (.5)
5/7/2007	1350	William E. Dorris	1.30	Preparing for May 14 hearing, including identifying additional discovery that is needed and additional briefing that would be appropriate.
5/7/2007	1701	Keith Harper	4.40	Review material on GAO Summ. Judgment and fees (.6); review GAO fees draft - make revisions (1.2); review edit and aid finalization of motion to vacate opposition (2.6)
5/7/2007	1801	Justin M. Guilder	9.70	Draft correspondence to K. Harper that discusses the Cobell V and Cobell VI sections regarding the duty to account (.5); review and forward fax from Elouise Cobell regarding Senate questions (.5); review, revise and finalize memorandum in opposition to defendants' motion to vacate consent order (4); draft correspondence to K. Harper that discusses the GAO summary judgment decision (.2); draft correspondence to G. Rempel that discusses the equal access to justice fee decision (.2); review correspondence from E. Levitas that discusses defendants' 29th quarterly report (.3); research requirements for affidavits in objecting to attorney's fees (3); discuss cases requiring affidavits in objecting to attorney's fees with D. Gingold and G. Rempel (1).
5/7/2007	3871	David C. Smith	7.00	Work on motion to vacate.
5/7/2007	5133	Alexis Applegate	4.50	Review media coverage and dockets per Elliott Levitas' request (.30); review Plaintiffs' opposition to motion to vacate information security consent order per Elliott Levitas' request (2.40) draft e-mail to Bill Austin regarding 29th Quarterly Report (.10); answer Cobell Beneficiary Line and return messages per Keith Harper's request (1.70).
5/7/2007	GR	Geoffrey Rempel	1.20	Begin drafting affidavit.
5/7/2007	GR	Geoffrey Rempel	6.50	Draft, edit Reply in support of fees (per court order).
5/7/2007	GR	Geoffrey Rempel	0.40	Disc. w/ DG re fee response.
5/7/2007	DMG	Dennis M. Gingold	11.4	Prepare drafts VII, VIII and IX GAO reply.
5/7/2007	DMG	Dennis M. Gingold	0.3	Telcoms. Harper re same and IT security affidavits
5/7/2007	DMG	Dennis M. Gingold	0.9	Telcoms. Smith re same, R-37 issues, opposition to defs' motion to vacate consent order.
5/7/2007	DMG	Dennis M. Gingold	0.2	Telcoms. Guilder re R-37 scope issues; opposition to defs' motion to vacate consent order.
5/7/2007	DMG	Dennis M. Gingold	0.2	Review final opp. Brief.
5/7/2007	DMG	Dennis M. Gingold	0.3	Telcoms. Rice re IT security affidavits.
5/8/2007	8800	Elliott H. Levitas	1.70	Review, analyze and annotate Plaintiffs' Opposition to Defendant's Motion to Vacate Consent Order regarding IT Security (1.7)
5/8/2007	1701	Keith Harper	4.60	Review and edit GAO Statement of Fees and reply brief, prepare Affidavit (1.1); Conference with Dennis Gingold on GAO fees issue (.3); Conference with Justin Guilder on GAO fees issue (.2); research Cobell X- law of the case, decided issues in the litigation (3.0).
5/8/2007	1801	Justin M. Guilder	6.80	Research scope of Rule 37 sanctions (1.6); research requirements for objections to attorneys fees (1.6); draft and revise section of brief detailing the requirements for objections to attorneys fees (2.7); review prior affidavits of K. Harper to assist the completion of the reply on fees (.3); review correspondence from M. Brown discussing fee application (.2); draft and review correspondence to and from G. Rempel that discusses the equal access to justice fee decision (.2); draft and revise correspondence to Cobell team discussing helpful language found during research that applies to fee application (.2).
5/8/2007	3871	David C. Smith	15.60	Drive to DC 6.5; review fee issues 1.3; prepare affidavit 1.2; review e-mails from Mr. Guilder regarding quotes from Cobell decision on findings of unreasonable delay .2; review Messano and Maloney depositions in preparation for hearing 6.4.
5/8/2007	5133	Alexis Applegate	5.70	Review media coverage and dockets per Elliott Levitas' request (.30); further review Plaintiffs' opposition to motion to vacate information security consent order per Elliott Levitas' request (.90); draft e-mail to David Smith regarding IT security documents (.10); review Maloney Deposition and forward to David Smith per his request (.60); answer Cobell Beneficiary Line and update list per Keith Harper's request (1.70); prepare for removal of IT security documents and speak to vendor regarding same (1.20); begin draft of overview of case for possible use with beneficiaries who call in (.90).
5/8/2007	GR	Geoffrey Rempel	8.30	Draft, edit Reply in support of fees (per court order).
5/8/2007	GR	Geoffrey Rempel	0.40	Disc. w/ DG re fee response.
5/8/2007	DMG	Dennis M. Gingold	3.2	Prepare draft I, II, & III affidavit in support of GAO brief.
5/8/2007	DMG	Dennis M. Gingold	0.3	Prepare draft proposed order.
5/8/2007	DMG	Dennis M. Gingold	0.2	Review Harper draft II affidavit.
5/8/2007	DMG	Dennis M. Gingold	5.6	Prepare draft XI & XII; revise facts/scope
5/8/2007	DMG	Dennis M. Gingold	0.4	Telcoms. Guilder re above.
5/9/2007	4673	G. William Austin	0.80	Review and reply to David Smith regarding district court determinations of unreasonable delay (.50); e-mail to Elliott Levitas (.30).
5/9/2007	8800	Elliott H. Levitas	2.90	Telephone conference with Bill Austin regarding APA project, motion to vacate (.4); telephone conference with Dennis Gingold regarding motion to vacate, APA project, accounting trial preparation (.6); telephone conference with Mark Levy regarding APA project (.4); telephone conference with Keith Harper regarding same (.4); telephone conference with David Smith regarding same (.4); telephone conference with David Zacks regarding same, and regarding motion to vacate and accounting trial preparation (.5); telephone conference with Justin Guilder regarding APA project (.5).

Date	Initials	Name	Hours	Description
5/9/2007	8913	David M. Zacks	0.70	Extensive telephone conference with Elliott Levitas regarding current status of matter in preparation for hearing for before Judge Robertson and seeking advice regarding staffing and other issues.
5/9/2007	1350	William E. Dorris	1.60	Working on discovery issues which may be raised at the May 14 hearing.
5/9/2007	1701	Keith Harper	3.20	Prepare GAO fees submission, review and edit (2.7); review and edit my affidavit - make revisions, research caselaw on power of court sitting in equity for Case Management Brief ( .5).
5/9/2007	1801	Justin M. Guilder	8.50	Discuss summer associate assignment with E. Levitas ( .5); review prior cobell decisions for language regarding continuing unreasonable delay for road map brief APA argument (1); revise and review reply to government's fee objections (6.5); prepare affidavit for reply ( .4) review current Laffey matrix ( .1)
5/9/2007	3871	David C. Smith	8.90	Conference with Mr. Harper regarding May 14 hearing .2; prepare revised affidavit on fees .5; e-mail to Mr. Austin regarding opinions from Judge Lamberthon subsequent undue delay .3; conference with Mr. Guilder regarding bench memorandum .2; review response on GAO fees 1.2; e-mail to Mr. Dorris on issues to handle for May 14 hearing .1; review Marshall affidavit for argument at May 14 hearing .3; prepare argument for bench memorandum 6.1.
5/9/2007	5133	Alexis Applegate	5.70	Review media coverage and dockets per Elliott Levitas' request ( .20); monitor removal of IT security documents per David Smith's request (2.70); conference with David Smith regarding same ( .20); correspond with Justin Guilder regarding Cobell docket ( .20); answer Cobell Beneficiary Line per Keith Harper's request (1.40); file management of previous trial documents per David Smith's request (1.00)
5/9/2007	GR	Geoffrey Rempel	7.50	Draft, edit Reply in support of fees (per court order).
5/9/2007	GR	Geoffrey Rempel	0.20	Disc. w/ DG re fee response.
5/9/2007	DMG	Dennis M. Gingold	0.9	Revise draft III & VI DMG affidavit in support of GAO brief.
5/9/2007	DMG	Dennis M. Gingold	0.3	Discussion Smith re 5/14 status conference issues.
5/9/2007	DMG	Dennis M. Gingold	10.3	Revise drafts XIII and IV re GAO reply.
5/9/2007	DMG	Dennis M. Gingold	0.1	Telcom. Harper re draft XII re same.
5/9/2007	DMG	Dennis M. Gingold	0.1	Telcom. Harper re second affidavit in support of same.
5/9/2007	DMG	Dennis M. Gingold	0.3	Telcom. Tyler re IT security affidavits.
5/9/2007	DMG	Dennis M. Gingold	0.1	Telcom. Infield re same.
5/9/2007	DMG	Dennis M. Gingold	0.5	Telcom. Dorris re above.
5/10/2007	4673	G. William Austin	2.10	Review of plaintiffs' opposition to motion to set aside 12/17/01 Consent Order (1.0); e-mail to co-counsel Dennis Gingold (.30); message to co-counsel regarding brief in opposition (.20); e-mail to David Smith (.30); exchange messages with Elliott Levitas (.30).
5/10/2007	1701	Keith Harper	2.50	Draft Case Management Brief and discuss remedies with Dennis Gingold.
5/10/2007	1801	Justin M. Guilder	10.60	Research use of updated Laffey Matrix (1); draft section applying updated laffey matrix (.2); draft and review correspondence to and from Cobell team regarding use of updated laffey matrix (.3); draft and revise correspondence to and from A. Applegate regarding the cobell docket available through the firm (.2); review correspondence from witness (.1); review GAO summary judgment for pincite (.2); draft and review correspondence to and from K. Harper detailing results of research regarding GAO summary judgment (.1); finalize exhibits, affidavits, and brief for filing (7.5); review time associated with defendants' objections to reply to GAO fees (.8); conference with D. Gingold and G. Rempel to finalize edits of reply to defendants' objections to reply to GAO fees (.2).
5/10/2007	1801	Justin M. Guilder	0.10	Send D. Gingold and G. Rempel finalized version of brief (.1).
5/10/2007	3871	David C. Smith	7.20	Work on bench memorandum.
5/10/2007	5133	Alexis Applegate	6.70	Review media coverage and dockets per Elliott Levitas' request (.20); research and review earlier filed affidavits per David Smith's request (.90); monitor removal of IT security documents per David Smith's request (3.50); review Plaintiffs' Response to court's 4/27/07 Order and review 4/27/07 order per Elliott Levitas' request (2.10).
5/10/2007	8800	Elliott H. Levitas	1.50	Review Plaintiffs' Opposition to Defendant's Motion to Vacate Consent Order Regarding Information Technology Security
5/10/2007	GR	Geoffrey Rempel	0.20	Finalize edits in meeting w/ JG, DG.
5/10/2007	GR	Geoffrey Rempel	1.30	Draft, edit Reply in support of fees (per court order).
5/10/2007	GR	Geoffrey Rempel	4.20	Finalize affidavit.
5/10/2007	DMG	Dennis M. Gingold	1.2	Prepare insert and finalize brief.
5/10/2007	DMG	Dennis M. Gingold	0.9	Telcoms. Guilder re same; issues for 5/14 status conference.
5/10/2007	DMG	Dennis M. Gingold	0.2	Meeting Rempel, Guilder re same.
5/10/2007	DMG	Dennis M. Gingold	0.4	Telcoms. Harper re above and Harper second affidavit.
5/10/2007	DMG	Dennis M. Gingold	1.0	Telecom and discussion Smith re insert in final reply; status conference issues for 5/14.
5/10/2007	DMG	Dennis M. Gingold	0.2	Conference Guilder, Smith re final insert, reply brief.
5/10/2007	DMG	Dennis M. Gingold	0.1	Telcom. Rempel re Rempel affidavit.
5/10/2007	DMG	Dennis M. Gingold	0.2	Review Brown affidavit re same.
5/10/2007	DMG	Dennis M. Gingold	0.2	Telcoms. Infield re It security affidavits.
5/10/2007	DMG	Dennis M. Gingold	10.3	Prepare for 5/14 status conference.
5/10/2007	DMG	Dennis M. Gingold	0.5	Telcom. Ms. Cobell re above.
5/11/2007	4673	G. William Austin	1.40	Conference with Elliott Levitas regarding May 14 hearing, May 15 meeting to discuss APA/trust law research project and other issues (.40); review of filings in district court (1.0).
5/11/2007	7125	A. Stephens Clay	0.20	Regarding fee application issues.
5/11/2007	8800	Elliott H. Levitas	1.30	Review REPLY regarding Order on Motion to Compel, Order on Motion for Reconsideration (.8); review media coverage (.5);
5/11/2007	1350	William E. Dorris	3.40	Studying government's Bench Memorandum (0.9); outlining responsive brief (0.8); begin preparing response (1.7).

Date	Initials	Name	Hours	Description
5/11/2007	1701	Keith Harper	7.40	Draft case management brief concentrating on section regarding duties deterred and law of the case as well as jurisdiction (5.3); conference call Bill Dorris, David Smith, Geoffrey Rempel, Dennis Gingold, Justin Guilder on case management brief and general trial strategy (1.0); review government's bench memorandum (1.4).
5/11/2007	1801	Justin M. Guilder	1.50	Conference call with D. Smith, B. Dorris, K. Harper, G. Rempel and D. Gingold to discuss trial strategy
5/11/2007	3871	David C. Smith	9.10	Drive to Winston-Salem from DC 6.5; conference call regarding employee retaliation .3; conference call regarding May 14 hearing 1.; review scheduling order .6; conference call regarding scheduling order and plans for May 14 hearing .7.
5/11/2007	GR	Geoffrey Rempel	2.90	CC w/ team re upcoming trial (2 calls)
5/11/2007	GR	Geoffrey Rempel	0.50	CC w/ team re Tyler retaliation.
5/11/2007	GR	Geoffrey Rempel	0.90	Review Opp to Vacate Consent order and reply.
5/11/2007	GR	Geoffrey Rempel	4.50	Review Trial brief.
5/11/2007	DMG	Dennis M. Gingold	2.3	Review/revise Tyler draft affidavit re retaliation; review documents related thereto.
5/11/2007	DMG	Dennis M. Gingold	1.7	Conference call Dorris, Harper, Smith, Guilder, Rempel re same; 5/14 status conference; 10/10 trial.
5/11/2007	DMG	Dennis M. Gingold	0.2	Telcoms. Tyler re retaliation.
5/11/2007	DMG	Dennis M. Gingold	1.5	Conference call Dorris, Smith, Rempel, Harper re 5/14 status conference issues.
5/11/2007	DMG	Dennis M. Gingold	0.5	Telcoms. Smith re above.
5/11/2007	DMG	Dennis M. Gingold	0.5	Telcom. Dorris re same.
5/11/2007	DMG	Dennis M. Gingold	0.1	Telcom. Holt re 5/14 status conference.
5/11/2007	DMG	Dennis M. Gingold	0.2	Telcoms. Infield re Tyler retaliation.
5/11/2007	DMG	Dennis M. Gingold	0.4	Telcoms. Harper re above.
5/11/2007	DMG	Dennis M. Gingold	0.5	Telcoms corroborating witness re Tyler retaliation.
5/11/2007	DMG	Dennis M. Gingold	2.2	Meet with Homan re 5/14 status conference issues.
5/11/2007	DMG	Dennis M. Gingold	0.1	Meet & confer Kirschman re Tyler retaliation issues.
5/12/2007	4673	G. William Austin	1.80	Review of plaintiffs' reply regarding motion to compel (1.0); review of exhibits thereto (.80).
5/12/2007	1350	William E. Dorris	8.20	Continued preparation of response to government's bench memorandum.
5/12/2007	1701	Keith Harper	9.40	Conference call on case management brief (.7); draft pre-status conference brief - case management brief including section on imputed yields and law of the case. Also edit introduction and Administrative Procedures Act and revise Statute of limitations perks (8.1); Conference with Dennis Gingold and Geoffrey Rempel on case management brief (.6).
5/12/2007	3871	David C. Smith	6.50	Drive to DC.
5/12/2007	GR	Geoffrey Rempel	7.40	Review Trial brief.
5/12/2007	GR	Geoffrey Rempel	0.50	CC w/ JT re notice and retaliation.
5/12/2007	GR	Geoffrey Rempel	0.80	Update notice and affidavit based on CC with JT.
5/12/2007	GR	Geoffrey Rempel	1.10	CC w/ KH, BD (two calls) re Trial Brief.
5/13/2007	1350	William E. Dorris	7.40	Completed preparing responsive brief to defendants bench memorandum.
5/13/2007	1701	Keith Harper	3.10	Review Bill Dorris's version shortened of pre-trial brief (1.1); draft and revise shortened pre-status conference brief (1.3); review material on Tyler filing (.7).
5/13/2007	1801	Justin M. Guilder	5.30	Review affidavit from witness regarding retaliation (.3); research notice pleading and draft correspondence to K. Harper discussing research results as it relates to original Cobell complaint (2); revise and review response to defendants' bench memorandum (3).
5/13/2007	3871	David C. Smith	4.10	Prepare for May 14 hearing with Judge Robertson.
5/13/2007	GR	Geoffrey Rempel	2.30	Review Trial brief.
5/13/2007	GR	Geoffrey Rempel	0.40	CC w/ KH re Trial Brief.
5/13/2007	GR	Geoffrey Rempel	0.40	CC w/ JT re notice and retaliation.
5/13/2007	GR	Geoffrey Rempel	1.40	Update notice and affidavit based on CC with JT.
5/14/2007	4673	G. William Austin	6.80	Review of the parties filings regarding issues to be addressed by the Court; attend hearing before Judge Robertson regarding fee, IT security and October 10 issues (2.50); return to office for follow-up conferences with other Cobell team members (1.40); e-mail to Bill Dorris regarding document request issue (.60); conference with Elliott Levitas regarding hearing and other issues (.30).
5/14/2007	5133	Alexis Applegate	1.20	review settlement and mediation files per Elliott Levitas' request
5/14/2007	8800	Elliott H. Levitas	7.30	Revise press release and telephone conference with Bill McAllister (.3); preparation for hearing status conference; review motions, filings, outline questions and issues diverse with co-counsel (2.5); attending hearing before Judge Robertson (2.3); conference with Cobell team, Dennis Gingold, Bill Dorris, Justin Heineman; task assignments regarding strategy (1.5); review of document and telephone conference with Keith Harper regarding Notice of Protection of Joan Tyler Under May 21, 1999 Anti-Retaliation Order (.7)
5/14/2007	1350	William E. Dorris	9.50	Preparing for and attending hearing before Judge Robertson; team meeting to plan work which has to be done as a result of the hearing.
5/14/2007	1701	Keith Harper	11.10	Finish pre-hearing brief; edit and finalize (2.1); Conference with Dennis Gingold, Bill Dorris, David Smith, Justin Guilder on status conference (1.0); prepare for status conference especially presentation of accounting issues, exclusive and proceed on pre-trial (2.8); status conference with Judge Robertson pre October trial (2.5); draft and review scheduling order (.8); Conference with co-counsel to debrief after status conference (1.5); Conference with Elouise Cobell on status conference (.4).
5/14/2007	1801	Justin M. Guilder	10.60	Review, revise and finalize brief in response to defendants bench memorandum (4.6); pre-hearing strategy session with Cobell team (1); attend status conference (3); strategy and debriefing session with Cobell team regarding hearing (2).

# LAFFEY MATRIX

[History](#)
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Year	Adjustmt Factor**	Paralegal/ Law Clerk	Years Out of Law School *				
			1-3	4-7	8-10	11-19	20 +
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05- 5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04- 5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03- 6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02- 5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01- 5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00- 5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99- 5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98- 5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97- 5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96- 5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95- 5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94- 5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been

Exhibit 14

approved in a number of cases. See, e.g., McDowell v. District of Columbia, Civ. A. No. 00-594 (RCL), LEXSEE 2001 U.S. Dist. LEXIS 8114 (D.D.C. June 4, 2001); Salazar v. Dist. of Col., 123 F.Supp.2d 8 (D.D.C. 2000).

\* "Years Out of Law School" is calculated from June 1 of each year, when most law students graduate. "1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). "4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier "1-3" from June 1, 1996 until May 31, 1999, would move into tier "4-7" on June 1, 1999, and tier "8-10" on June 1, 2003.

\*\* The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

**PROPOSED SETTLEMENT OF THE  
COBELL V. SALAZAR LITIGATION**

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**OVERSIGHT HEARING**

BEFORE THE

COMMITTEE ON NATURAL RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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Wednesday, March 10, 2010

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**Serial No. 111-46**

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administrative process should be allowed for the trust administration class. Would you please explain why the ability to opt out of the class to pursue the claims individually is not sufficient?

Mr. FINLEY. Well, the real reason why is that we tried to get out to people who fell through the cracks. Our hope is that the parties would recognize the problem and rectify it, and making the money available for this third option that we proposed within our suggestions and in the written testimony that you have.

And so I guess it being an emotional issue, people want emotional closure. I think that would give them an opportunity to be heard, and to hopefully see some compensation for their losses that they incurred over the years.

The CHAIRMAN. Are you aware of the Equal Access Justice Act being used in other litigation settlements against the United States?

Mr. FINLEY. Yes. Offhand, I don't really know of any others other than the one that was previously done in this case. We have heard that individuals would prefer that the attorney fees come from some other means?

I think a lot of the concerns that we have heard throughout Indian Country, and it has been mentioned here today, that people have a problem with that large amount of money coming out of the settlement itself.

The CHAIRMAN. All right. Let me ask Chairman Nunez. Upon Congressional enactment of the proposed legislation the Department of the Interior will begin implementation of the Secretarial Commission on Trust Reform. Do you have any recommendations as to how the Commission should operate?

Mr. NUNEZ. Yes, sir. It certainly should include Indian trust landowners, if at all possible, and to make sure that there is certainly transparency, and that continual education and information be provided to the landowners.

The CHAIRMAN. Thank you for that. Professor Monette, you testified that the United States has spent approximately a hundred-million dollars per year on attorney costs to litigate this matter.

Yet, you question the Plaintiffs' attorneys' fees, in the range of 50 to a hundred million dollars, and that is what you question, for the same 14 years. Why do you think the United States spent 14 times more for attorneys' fees than the Plaintiffs?

Mr. MONETTE. I am sorry, I don't understand the question, Mr. Chairman.

The CHAIRMAN. Well, according to your testimony, you say that the United States has spent approximately a hundred-million dollars per year on attorney costs to litigate this matter.

And yet you are questioning the Plaintiffs' attorney fees in the range of 50 to a hundred-million dollars. Is that correct?

Mr. MONETTE. Well, it is not correct. I have not really questioned the attorneys' fees, although I share the concerns that the other panelists have raised. The hundred-million dollars that the Department has told us is that what they have spent for doing this special trustee work every year out of the money that they have otherwise gotten.

And so what I pointed out is that it is a hundred-million dollars for 14 years, which adds up to \$1.4 billion, which is the exact

amendment does not void the agreement; it does not void the settlement. Plaintiffs have the ability to void the settlement if they don't believe the changes are in the best interests of the class members. The administration can void it if they don't believe there should be financial standards for selection of the bank that will hold and manage \$1.4 billion of settlement funds. By passing this amendment, we will not void the agreement.

Congress has the obligation to never rubberstamp an agreement and to not rubberstamp this agreement.

Adopting my amendment is the right thing to do.

I yield the floor.

EXHIBIT 1

NATIONAL CONGRESS  
OF AMERICAN INDIANS,  
*Washington, DC, June 11, 2010.*

Re Cobell Settlement and Senator Barrasso's Amendment 4313 to the American Jobs and Closing Tax Loopholes Act of 2010.

Hon. BYRON DORGAN,  
*Chair, Committee on Indian Affairs, U.S. Senate, Washington, DC.*

Hon. JOHN BARRASSO,  
*Vice Chair, Committee on Indian Affairs, U.S. Senate, Washington, DC.*

DEAR CHAIRMAN DORGAN AND VICE CHAIRMAN BARRASSO: As you know, a very important vote may soon occur in the Senate. Currently the Senate is considering H.R. 4213, the American Jobs and Closing Tax Loopholes Act of 2010. For Indian people across the country the most important provision in the legislation is Section 607, which would authorize the settlement of the Cobell v. Salazar litigation over federal mismanagement of Indian trust funds. Senator Barrasso has proposed an amendment that would address some concerns about the settlement that have been raised by tribal leaders and Indian people. These are legitimate concerns that have come from the grassroots in Indian country, and it is our hope that the parties and the Senate try to find common ground on these concerns.

The National Congress of American Indians has long supported a settlement of this litigation because it is time to bring justice to Indian people and because the contentious litigation has distracted from efforts to address the many other issues that Indian country faces. When the settlement was first announced in December of 2009, there was a general feeling of elation and relief throughout Indian country. We are extremely grateful to the Administration and to Eloise Cobell and her team for working so hard on this settlement and bringing it to the brink of resolution.

However, we also believe that Ms. Cobell described it well when she said that this is a "bittersweet victory" for Indian country. There is no doubt that the injuries to Indian people have been much greater than the compensation they will receive. In addition, over the past several months, Indian tribes and Indian people have had an opportunity to more closely examine the details of the settlement. Hearings have been held in Congress, and meetings have taken place on reservations across the country. As might be expected with a class action settlement of this size and complexity, the details have generated considerable discussion and some disagreements.

Senator Barrasso has solicited the views of tribal leaders on the details of the settlement and has filed a proposed amendment. The Affiliated Tribes of Northwest Indians and the Great Plains Tribal Chairman's As-

sociation, two large and well respected regional tribal organizations, have both passed resolutions favoring Senator Barrasso's amendment. A similar resolution has been submitted to NCAI for consideration during our Midyear Session during the week of June 20. However, NCAI's consideration of the resolution may happen after Congress has voted.

As you know, both the Administration and the Cobell plaintiffs have raised concerns that any amendments to the Cobell settlement legislation would render the settlement null and void. We understand the need for the parties to a difficult settlement to adopt this posture. However, we have little doubt that if Congress were to make modest and reasonable adjustments, the parties will readily amend the settlement agreement to conform to the implementing legislation.

NCAI's interest is that Congress passes a settlement that is responsive to legitimate concerns raised by tribal leaders and members of the class, and that a contested floor vote on these issues may not be conducive to our shared goal of settling the litigation. I will briefly address the elements of Senator Barrasso's amendment. Amendment 4313 would:

1. Cap attorneys' fees at \$50 million and incentive awards at expenses up to \$15 million. The settlement was accompanied by a side agreement that the federal government would not contest an award of attorney's fees in a range between \$50 to \$100 million. These attorneys' fees have generated considerable discussion. Most account holders will receive an award in the range of \$1500, which is less than what was expected. Over the years, the Cobell plaintiffs have frequently estimated the size of the damages in the hundreds of billions, so disappointment at the size of the award has combined with views about the size of the attorneys' fees. This is a difficult issue because we also recognize that the Cobell attorneys have worked very hard on the litigation for the last 14 years, and class action attorneys in Indian law cases should be fairly compensated on a par with similar class actions. We suggest that the numbers are not far apart, and an accommodation could be reached.

2. Require that a special master select the bank that will handle the \$1.4 billion award. The settlement agreement indicates that the award will be deposited in a bank selected by the plaintiffs and approved by the court. Senator Barrasso's amendment would require that court should consider certain criteria for experience in the handling of large deposits, compliance with banking laws, and competitiveness of fees. This appears to be a reasonable provision to ensure competent and efficient management of the funds.

3. Allow tribes to participate in the land consolidation program that will occur on their reservations. NCAI strongly supports Senator Barrasso's proposal to permit tribes to participate in the land consolidation program that will be funded by the settlement. Land consolidation is critical for addressing trust management problems created by fractionation and preventing future mismanagement. However, Indian tribes have had concerns about the ability of the Bureau of Indian Affairs to administer the land consolidation program on the scale and in the timeframe required by the settlement. Since 1975, Indian tribes have been able to contract with the BIA to manage BIA programs on their reservations. The Indian Land Consolidation Program is one of the few programs that does not allow tribal participation in this way. We believe that allowing tribal governments to participate in land consolidation will greatly benefit the program because tribes have the greatest interest in its suc-

cess, and because tribes know the local conditions on their reservations much better than a centrally-located BIA.

4. Set aside a \$50 million fund for class members who may not be fairly compensated by the formula distribution. The inclusion of natural resource mismanagement claims within the settlement has been controversial within Indian country because it was not a part of the original Cobell claim, and because the formula would be unfair to some landowners. Although the resource mismanagement settlement allows an opt-out, it would be extraordinarily difficult for Indian landowners to pursue mismanagement claims on their own. Senator Barrasso's amendment would set-aside \$50 million out of the settlement to make equitable adjustments for certain landowners who would not be adequately compensated by the formula. So long as it does not substantially slow down the operation of the formula distribution, we believe it is reasonable to set aside a small portion of the settlement to smooth out some of the inequities of the formula system.

Thank you very much for considering our views on this important issue. We greatly appreciate the enormous efforts that all of you have put into resolving the Indian trust funds litigation.

Sincerely,

JEFFERSON KEEL,  
*NCAI President.*

Mr. BARRASSO. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. KAUFMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KAUFMAN. Madam President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARTHUR S. FLEMMING AWARDS 2009

Mr. KAUFMAN. Madam President, I rise today once again to recognize some of our Nation's great Federal employees.

This week, the Trachtenberg School at the George Washington University announced the winners of the annual Arthur S. Flemming Awards. These distinguished awards for public service have been bestowed upon outstanding Federal employees for the past 61 years. The Flemming Awards recognize career Federal employees, both civilian and military, who have served between 3 and 15 years in government. Nominees come from across the many departments, agencies, and service branches. Notable winners include former Senators Elizabeth Dole and Daniel Patrick Moynihan, Defense Secretary Robert Gates, former Federal Reserve Chairman Paul Volcker, astronaut Neil Armstrong, among others.

The awards are named for Arthur S. Flemming, who had a long and exemplary career in public service which spanned from 1939 until his death in 1996. He served in a number of important roles, including Secretary of Health, Education, and Welfare under President Eisenhower.





NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians  
Resolution #RAP-10-037

**TITLE: Supporting the *Cobell v. Salazar* Settlement and Requesting Additional Considerations**

**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, the national class action case of *Cobell v. Salazar* has been pending since 1996 and the Plaintiffs have demonstrated gross mismanagement of Indian trust fund accounts; and

**WHEREAS**, the Plaintiffs and the United States have entered into a settlement agreement in the amount of \$3.4 billion representing the best achievable resolution for plaintiffs’ accounting, restitution and damages claims after considering the risks associated with litigation, and the decision by the Court of Appeals in *Cobell XXII* to require the government to provide only for “the best accounting possible, in a reasonable time, with the money that Congress is willing to appropriate,” and concluding that “our precedents do not clearly point to any exit from this complicated legal morass;” and

**WHEREAS**, \$1.4 billion of the \$3.4 billion total settlement amount will be set aside for the resolution of the historical accounting and trust mismanagement claims of the individual landowners; and

**WHEREAS**, \$2 billion of the \$3.4 billion total settlement amount will be set aside to address the longstanding challenge of the increasing fractionation of individual Indian lands through the purchase of fractionated lands that will be restored to the land of the Indian tribe, thus placing additional funds in the hands of individual Indians and allowing the land to be put to more productive use; and

**WHEREAS**, a \$60 million scholarship fund will be created from the \$2 billion set aside for land consolidation, which will support post-secondary academic and vocational scholarships for Indian youth; and

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**Joe Garcia**  
*Ohkay Owingeh*

**WESTERN**  
**Irene Cuch**  
*Ute Indian Tribe*

**EXECUTIVE DIRECTOR**  
**Jacqueline Johnson Pata**  
*Tlingit*

**NCAI HEADQUARTERS**  
1516 P Street, N.W.  
Washington, DC 20005  
202.466.7767  
202.466.7797 fax  
www.ncai.org

**WHEREAS**, a Secretarial Commission will be created to recommend additional trust reforms and to perform an audit of the Trust, which provides a mechanism that will minimize the possibility of future mismanagement of the accounts; and

**WHEREAS**, the policy of the NCAI since 2006, as unanimously adopted in Resolution SAC-06-033, has been to support a global settlement of the *Cobell* litigation; and

**WHEREAS**, tribal leaders strongly desire to achieve greater justice for account holders, and move past the embattled litigation; and the Cobell Settlement is the first step in resolving longstanding trust mismanagement claims and moving forward on substantive reforms to the future of the trust land system; and

**WHEREAS**, tribal governments greatly appreciate the Senate Committee on Indian Affairs and the House Natural Resources Committee for working with tribal leaders to identify areas where action by Congress and the Administration can ensure greater fairness for Indian land owners and improve Indian land management.

**NOW THEREFORE BE IT RESOLVED**, that the NCAI strongly supports the settlement and urges Congress to immediately pass the authorizing legislation that will implement the *Cobell* settlement; and

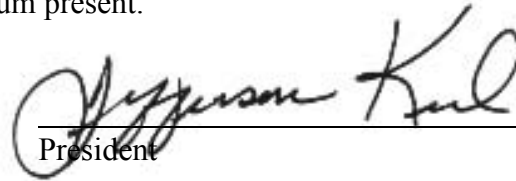
**BE IT FURTHER RESOLVED**, that NCAI desires to see the following changes incorporated in the settlement agreement by the appropriate forum, whether it is Congress, the Administration and the Plaintiffs, or the federal courts:

- Tribal participation in planning, designing, and implementing the \$2 billion land consolidation program including allowing tribes to contract or compact program funds without any time limit for the expense of this money;
- Oversight to assure that Indian land owners are treated fairly and equitably under the distribution and to consider additional action if necessary.
- Qualifications of the bank to administer the distribution;
- Fairness in attorney fees and incentive payments to ensure that they do not unduly diminish the restitution to individual account holders;
- Consideration of environmental damages to Indian lands and remediation of environmental damages;
- Impartial administration of the scholarship fund and concurrence with tribal leaders on the appointment of the Board of Trustees;
- Separate legislation to restore tribal control over land management and land consolidation, to diminish delays in land transactions, and to strengthen the federal trust responsibility to support economic development; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of the NCAI until it is withdrawn or modified by subsequent resolution.

**CERTIFICATION**

The foregoing resolution was adopted by the General Assembly at the 2010 Mid-Year Session of the National Congress of American Indians, held at the Rushmore Plaza Civic Center in Rapid City, South Dakota on June 20-23, 2010, with a quorum present.

  
\_\_\_\_\_  
President

**ATTEST:**

  
\_\_\_\_\_  
Recording Secretary



## 2010 Mid-Year Conference Grand Ronde, Oregon

### RESOLUTION #10 - 19

**“SUPPORTING CHANGES TO THE PROPOSED *COBELL V. SALAZAR* SETTLEMENT”**

### **PREAMBLE**

We, the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants rights secured under Indian Treaties and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the welfare of the Indian people, do hereby establish and submit the following resolution:

**WHEREAS**, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

**WHEREAS**, ATNI is a regional organization comprised of American Indians/Alaska Natives in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

**WHEREAS**, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of ATNI; and

**WHEREAS**, at its 2010 Winter Session, ATNI enacted Resolution #10-07, which demanded transparency and time for Indian country to understand the proposed *Cobell v. Salazar* settlement and demanded that Congress conduct hearings to ensure that Indian country has time to consider the fairness of the proposed implementing legislation; and

**WHEREAS**, on March 10, 2010, the House Committee on Natural Resources held an oversight hearing on the proposed settlement and all of the tribal witnesses at that hearing expressed questions and concerns about the fairness of proposed settlement; and

**WHEREAS**, on April 27, 2010, Senator John Barrasso, Vice-Chairman of the Senate Committee on Indian Affairs, sent a letter to tribal leaders that proposed five changes to the *Cobell v. Salazar* settlement that address many of the questions and concerns that have been raised by Indian country, specifically:

- (1) capping pre-settlement dates attorneys fees, expenses and costs at \$50 million;
- (2) limiting any “incentive awards” under the settlement to named plaintiffs to actual, unreimbursed out-of-pocket expenses incurred by that plaintiff;
- (3) having the court-appointed Special Master, after receiving recommendations from the parties and subject to the Court’s approval, select the bank that the settlement proposes for holding the settlement funds based on the bank’s experience, institutional capacity to administer large deposits of this nature, competitive rates of interest, and other relevant factors;
- (4) require the Department of the Interior to consult with Indian tribes in planning, designing, and setting the priorities for the \$2 billion fractional interest acquisition program under the settlement and to allow Indian tribes to participate or assist in implementing the program;
- (5) setting aside \$50 million from the \$1.412 billion settlement monies as a reserve fund and authorize the Special Master to increase settlement payments to the members of the new “Trust Administration Class” that would be created pursuant to the settlement, to address specific instances where the Special Master determines the formula payment is insufficient or unfair.

; and

**WHEREAS**, these changes, if incorporated into the *Cobell v. Salazar* settlement, will free up more funds to flow to Indian beneficiaries and ensure that beneficiaries that may not be treated fairly under the settlement as proposed have an opportunity to have their particular circumstances considered; now

**THEREFORE BE IT RESOLVED**, that ATNI supports these five changes to the proposed *Cobell v. Salazar* settlement and hereby requests that Congress take whatever steps necessary to ensure that they are incorporated prior to passage of the settlement by the U.S. House of Representatives and the U.S. Senate; and

**BE IT FURTHER RESOLVED**, that ATNI specifically requests that if these changes are not included in the *Cobell vs. Salazar* settlement prior to consideration of the settlement by the full United States Senate, that the Senate delegations of each state that represents ATNI member tribes sponsor or co-sponsor an amendment to incorporate the changes.

**CERTIFICATION**

The foregoing resolution was adopted at the 2010 Mid-Year Conference of the Affiliated Tribes of Northwest Indians, held at the Spirit Mountain Casino, Grand Ronde, Oregon, May 17-20, 2010 with a quorum present.



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Brian Cladoosby, President



---

Norma Jean Louie, Secretary



# GREAT PLAINS TRIBAL CHAIRMAN'S ASSOCIATION

1926 Stirling St, Rapid City, SD 57702

Phone: 605-388-5375 Fax: 605-343-3074

## **GREAT PLAINS TRIBAL CHAIRMAN'S ASSOCIATION (GPTCA)**

### **Resolution No. 29-05-26-10**

#### **To Support Amendments to the Cobell Settlement to fix and improve the proposed Cobell v. Salazar settlement agreement and as included in the Tax Extender package. (H.R. 4213)**

- WHEREAS,** the Great Plains Tribal Chairman's Association (hereafter "GPTCA") is composed of the elected Chairs and Presidents of the federally recognized sovereign Indian Tribes and Nations within the Great Plains Region of the Bureau of Indian Affairs; and
- WHEREAS,** the Great Plains Tribal Chairman's Association was formed to promote the common interests of the Sovereign Tribes and Nations who are members of the GPTCA; and
- WHEREAS,** the United States has obligated itself to ensure the well-being of sovereign Tribes and Nations of the Great Plains Region both through Treaties and federal statutes, including the Snyder Act of 1921 as amended, the Indian Self-Determination Act of 1976 as amended, and the Indian Health Care Improvement Act of 1976 as amended; and
- WHEREAS,** the GPTCA recognizes its responsibility to act to advance the goals of the Tribes and their Members and to promote improvements to the health, safety welfare, education, economic development and preservation of the spiritual, cultural and natural resources of its member Tribes and Nations; and
- WHEREAS,** on December 7, 2009 a settlement was announced between the US and Eloise Cobell, the lead Plaintiff in the class action suit brought on behalf of Individual Indian Money (IIM) account holders, (not including Tribes) regarding the lawsuit Eloise Cobell filed in federal court in Washington DC, in 1996; and
- WHEREAS,** to be effective, the proposed settlement has to be approved by Congress and the Court; and
- WHEREAS,** in a series of hearings and meeting held in the Great Plains and elsewhere, the Great Plains Tribes have demanded transparency regarding the proposed settlement in the Cobell case so that individual Land Owners and IIM account

holders could be educated about the contents of the proposed settlement; and

**WHEREAS,** Ms. Cobell and her attorneys held several meetings on several of the Reservations in the Great Plains Region and in Rapid City, SD; and

**WHEREAS,** on March 10, 2010, the House Committee on Natural Resources held an oversight hearing on the proposed settlement and all of the tribal witnesses at that hearing expressed questions and concerns about the fairness of proposed settlement; and

**WHEREAS,** on April 27, 2010 the Vice-Chairman of the Senate Committee on Indian Affairs, Senator John Barrasso of Wyoming sent a Dear Tribal Leader letter to Tribal Leaders proposing five Amendments to the Settlement, which included:

- (1) capping pre-settlement dates attorneys fees, expenses and costs at \$50 million;
- (2) limiting any “incentive awards” under the settlement to named plaintiffs to actual, unreimbursed out-of-pocket expenses incurred by that plaintiff;
- (3) having the court-appointed Special Master, after receiving recommendations from the parties and subject to the Court’s approval, select the bank that the settlement proposes for holding the settlement funds based on the bank’s experience, institutional capacity to administer large deposits of this nature, competitive rates of interest, and other relevant factors;
- (4) require the Department of the Interior to consult with Indian tribes in planning, designing, and setting the priorities for the \$2 billion fractional interest acquisition program under the settlement and to allow Indian tribes to participate or assist in implementing the program;
- (5) setting aside \$50 million from the \$1.412 billion settlement monies as a reserve fund and authorize the Special Master to increase settlement payments to the members of the new “Trust Administration Class” that would be created pursuant to the settlement, to address specific instances where the Special Master determines the formula payment is insufficient or unfair; and

**WHEREAS,** on May 24, 2010, House Natural Resources Committee Ranking Member Doc Hastings (WA-04) seeking to also improve the Cobell Settlement authorized in Section 607 of H.R. 4213, delivered the following statement before the Rules Committee regarding his amendment to Cobell v. Salazar settlement agreement: " **The amendment addresses a number of concerns expressed by Indians and will help ensure that they receive the most from this settlement. My amendment makes these five improvements.**" which are the Amendments as proposed by Sen. John Barrasso; and

**WHEREAS,** the GPTCA believes these changes and amendments will improve the settlement by allowing more funds for the Individual Indian account holders, provide a better opportunity for fair treatment and greater consideration of the individual circumstances of individual account holders.

**NOW THEREFORE BE IT RESOLVED,** that the GPTCA supports these five changes to the proposed *Cobell v. Salazar* settlement and hereby requests that Congress and the Courts take whatever steps necessary to ensure that the best interests of the Individual Indian Account holders are met in the final Cobell settlement and that their interests are considered a priority; and



**NOW, THEREFORE BE IF FURTHER RESOLVED**, the GPTCA requests the Congressional Delegations of ND, SD & Nebraska support these amendments and co-sponsor amendments incorporating these changes, and

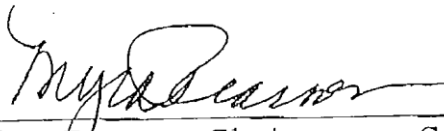
**NOW, THEREFORE BE IT FINALLY RESOLVED** that this resolution shall be the policy and recommendations of the Great Plains Tribal Chairman's Association until otherwise amended or rescinded or until the goals of this resolution have been accomplished.

**Resolution No. 29-05-26-10**

### **CERTIFICATION**

**This resolution was enacted at a special called meeting of the Great Plains Tribal Chairman's Association held at the Holiday Inn, Rapid City, SD on May 26, 2010, in which official action was taken with a vote of 8 Tribal Chairman voting in favor and 0 voting against.**

ATTEST:



Myra Pearson, Chairperson, Spirit Lake Sioux Tribe  
Secretary,  
Great Plains Tribal Chairman's Association



Theresa Two Bulls, President, Oglala Sioux Tribe  
Chairperson,  
Great Plains Tribal Chairman's Association

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LAW AND LOBBYING IN THE NATION'S CAPITAL

December 18, 2009

### Attorneys Fees in Cobell Case 'Well Below the Norm' in Class Actions

The lawyers suing the government in the Indian trust litigation in federal district court in Washington agreed to a range of legal fees that is well below the norm for class actions in hope of making the deal more palatable to the class, a lead attorney for the plaintiffs said.

The Justice Department earlier this month reached a tentative settlement with the plaintiffs in *Cobell v. Salazar*, a suit that has dragged on for more than 13 years with no end in sight. The more than 300,000 class members are seeking an historical accounting of the government's handling of billions of dollars in royalties flowing from Indian land.

The \$1.41 billion settlement, a far cry from the billions the plaintiffs had been seeking, requires authorization from Congress—and, ultimately, approval from the presiding trial judge, James Robertson, in the U.S. District Court for the District of Columbia. Justice attorneys and counsel for the plaintiffs say Robertson was integral in supervising settlement negotiations, which ramped up in July following an appellate court ruling that kicked the case back to the trial court.

The plaintiffs lawyers, including a team of Kilpatrick Stockton attorneys and D.C. solo practitioner Dennis Gingold, agreed to argue for fees in the range of \$50 million to nearly \$100 million—roughly between about 3 and 7 percent of the \$1.4 billion settlement. The lawyers in the case declined to say whether they asked for more than \$100 million. Class action lawyers in Washington have said that the Cobell case—based on the length and complexity of the litigation—could have earned the lawyers more than \$100 million.

Sen. John Barrasso (R-WY) raised the question of legal fees at yesterday's Senate Indian Affairs Committee oversight hearing. Convincing the class members to support hundreds of millions in attorney fees could have proven a challenge.

"I think all parties understand that the norm award in most class actions would be higher than the range. The parties had discussions about it and agreed to this range. We think that the interest of the class is served by it," said Kilpatrick Stockton partner Keith Harper, a lead attorney in the case (pictured above, next to lead plaintiff Elouise Cobell). "Obviously there is concern about attorneys fees. I think it's fair to say this is well below the norm. But we felt it was important to make sure that nothing held up the deal for the class. That's got to be our singular focus. That has always been our focus."

Harper said there has been a "great risk for a large firm to put in this much money of an investment over this kind of length of time." Kilpatrick partners have said that the firm has invested tens of millions of dollars in the case.



Elouise Cobell

“I think we made a commitment to Ms. Cobell and we made a commitment to the class that we going see this to the end,” Harper said in an interview. “I’ve not had a single one of my partners ever ask me whether or not we should abandon it or anything like that. They’ve all been unanimously supportive. I’m happy to be with this firm because of that. We made a commitment and we carried it out.”

Cobell’s lawyers and the Justice Department negotiating team, including Associate Attorney General Thomas Perrelli, did not ultimately agree on attorneys fees. Perrelli

acknowledged Barrasso’s concern about fees but said that litigating the case any longer potentially exposed the government to paying a greater dollar amount.



“We agreed on a process for litigating it, but the judge has discretion to do what he wants,” Perrelli (pictured to the left) said in an interview after the hearing. “The court can choose whatever fee it wishes to choose, and individual plaintiffs in the class can come in and say whatever they want.”

The payment of legal fees was “a central issue of concern for us as we drove down to the final goal line on reaching this settlement,” Interior Department Secretary Ken Salazar said at the hearing.

Cobell has called the dollar amount in the settlement unfair. But she has repeatedly said that the class feels compelled to settle now, rather than continuing the litigation to achieve a potentially greater monetary victory, because the class is growing smaller as elders die. The suit has been simmering--boiling at times--since 1996.

At yesterday’s oversight hearing, which lasted about 90 minutes, Cobell said she was skeptical that the opposing sides could reach a settlement. Settlement talks over the years have repeated failed as the sides remained far apart on dollars and cents. In July, the U.S. Court of Appeals for the D.C. Circuit rejected a \$455.6 million deal and tossed the case back to the trial court.

Senate Indian Affairs Chairman Byron Dorgan (D-ND) asked Cobell about the reaction from the plaintiffs to the settlement. “I assume there are differences of opinion. How significant are those differences?” he said.

“Well, I think out of every 10 people that I hear from it’s maybe one that is negative,” Cobell responded. By and large, she said, people she’s talked with have been supportive. “Everybody’s been ecstatic. I go into the grocery store and everybody runs and shakes my hand and thanks me for fighting for justice for them.”

Beyond the issue of attorneys fees, Cobell’s lawyers say they are “cautiously optimistic” that Congress will pass legislation by Dec. 31 to authorize the settlement. The House has gone into recess, and the Senate is consumed in debate on health care reform.

“I’m a little concerned about going back home and telling everybody again, well, sorry, we’re going to be delayed again,” Cobell said. “People just get tired of that.”

Dorgan said in a brief interview after the hearing that he does not know yet how the legislation will be introduced. "We've got to find a vehicle. My hope is that it can be done. I hope this can be done by the end of the year," Dorgan said. "That will be the responsible thing to do."

Cobell's lawyers and the Justice attorneys can mutually agree to extend the congressional authorization deadline. Kilpatrick's Harper defended the squeeze on Congress, saying that the plaintiffs did not want to put off approval of the deal months down the road. Harper noted that a petition for certiorari—challenging the recent D.C. Circuit opinion—is due next week.

"We wanted to send the message the further you go out the calculus changes. New things can occur," Harper said. "We want to emphasize to all parties that this deal was based on a certain timeline. If there is a change in the timeline then there may have to be ... some pieces that get negotiated depending on how far out we go."

Posted by Mike Scarcella on December 18, 2009 at 10:01 AM in [Current Affairs](#), [Justice Department](#), [Politics and Government](#) | [Permalink](#)  
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say, We're Democrats. I do recall saying to somebody yesterday with pride that we are Democrats, and I am proud that we are Democrats. We are the people who are trying to take care of the people without jobs in this country and to make the climate right to create more.

Now, before I yield to my next speaker, I want to let Members know that I will be offering an amendment to the rule at the end of the debate. The amendment makes three changes to the text that has been posted on the Rules Committee Web site since Thursday, May 20. It strikes two sections from the House amendment—section 511, section 516—and it changes the effective date and the carried interest provision making it effective on December 31, 2010, instead of the date of enactment.

The amendment provides for a separate vote on section 523, which is the SGR, the so-called doc fix, and a vote on the remainder of the modified House amendment. This does not add money, Mr. Speaker. It subtracts it.

I am pleased to yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I want to thank the chairwoman of the Rules Committee for yielding, and I urge support for the rule, as amended.

For far too long, Members on both sides of the aisle have talked about the need to reform the way we pay physicians under Medicare and provide them with a fair and reliable reimbursement. Today, unless we act, physicians are facing a 21 percent cut in their reimbursement, and such a drastic cut will drive physicians out of the Medicare program and make it harder for seniors to see a doctor.

Mr. Speaker, if we fail to act, people will be harmed. I've already seen it take place back in my district. I've had patients call me to say that their doctors will no longer take Medicare because of the cuts they are faced with. House Democrats have tried to prevent this from happening. Last year, we passed a bill that would have permanently repealed the flawed formula that results in these annual cuts and replaced it with a more stable payment system. But that bill passed the House with only the support of one Republican, and, unfortunately, the Senate was not able to find the support for a permanent fix.

So we've been forced back to legislating by patchwork, a 6-month extension here, a 60-day extension there. But if our Senate colleagues cannot find the votes for a permanent repeal, then we need to provide the longest relief that we can. This bill will provide doctors with a positive update for the rest of this year and next year that will help doctors cover their growing costs and continue to serve Medicare patients, and it will give those of us in Congress more time to work with the physician community to find a workable solution that can pass both the

House and the Senate, hopefully with Republican support.

The policy in this bill is not everything I hoped for. I know the physician community wanted more, but it's important to pass this to make sure we do no harm, by preventing those drastic cuts from taking effect.

So I urge my colleagues on both sides of the aisle to vote "yes." This is a very important piece of legislation.

Mr. SESSIONS. Mr. Speaker, at this time I yield 3 minutes to the distinguished gentleman from Pasco, Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. Mr. Speaker, I want to thank my good friend from Texas for yielding me the time.

Mr. Speaker, I am disappointed that Democrat leaders have decided not to allow the House to vote on my amendment to improve the proposed Cobell Indian settlement, a settlement that benefits individual Indians across the country.

The amendment I offered was simple and addressed improvements requested of Congress by individual Indians, tribal leaders, and an association of more than 50 federally recognized tribes in the Northwest.

Mr. Speaker, I want to make it very clear, a settlement on this issue is long overdue, but the agreement negotiated by the Obama administration and the plaintiffs' lawyers can be improved by Congress to benefit individual Indians. And let me explain why.

While most of the Indians will get between a \$500 and a \$1,000 check, the lead plaintiff could receive \$15 million or more as an incentive award. A handful of lawyers could be paid over \$100 million, which is almost one-third of the value of the claims that they litigated.

Two months ago, the plaintiffs' attorneys were asked to provide Congress with documents to justify their large fees and expenses. After repeated inquiries, Mr. Speaker, the attorneys have provided no information to this date. Instead of responding with documents to justify how much they should be paid, the attorneys have instead threatened to kill the entire deal if they are denied the ability to get the \$100 million.

Mr. Speaker, I want to emphasize this. Every dollar paid to the lawyers is a dollar taken out of the pockets of individual Indians. My amendment caps attorneys' fees at \$50 million, and by doing so, it reduces the payments to lawyers to increase payments to individual Indians. My amendment would also benefit individual Indians by correcting several other flaws that were identified by Indian country. The committee has the ability to fix these flaws on a bipartisan basis.

The settlement has been changed by the administration and the plaintiffs four times already. While the House won't be allowed to vote on this amendment to improve the settlement to better benefit individual Indians,

Mr. Speaker, I am hopeful that the Senate will act to make the improvements that Indians, tribal leaders, and respected tribal organizations are asking Congress to make.

Congress should be afforded the opportunity to fix the settlement in response to requests from our Indian constituents. By refusing to make my amendment in order, Democrat leaders have turned their back on these requests.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. I thank the gentlelady for yielding.

So here's one of the issues before the House today. Say you have an American company that owners live here and they decide that they can make more money by sending their jobs to Asia or south of the border, out of the country, and they do. And they bring the money home and enjoy it here, but the jobs go overseas. And they figure out a way to game the tax laws so they don't pay taxes for that business to the United States Treasury. So the profits come home, the jobs go overseas, and the tax revenue doesn't flow into the Treasury. This bill closes that loophole. It says, if you outsource our jobs from this country, you don't get off the hook when it comes to the IRS.

Now, what does it use the money for? Well, if an American business goes into a bank today and the bank says, you know, we would make this loan to you to expand your business but we just need a little more collateral, a little more guarantee, this bill says the Small Business Administration can step in and make that loan happen and create those jobs. Or a woman running a software company or a biosciences company says, I've got a real opportunity here to hire more scientists and researchers, but I just can't quite find the capital.

□ 0945

This bill says she can hire five scientists for the price of four because of the research and development tax credit, or the mayor and council of a town is saying we could fix our antiquated clean water system. We could build a new water treatment system and have cleaner water and more jobs for people in our town, but the interest rates are just a little bit too high for us. If we could borrow the money just a little bit less expensively, we could create more jobs.

This bill says that they can do that. This bill creates jobs, and it pays for the creation of those jobs by saying that those who outsource our jobs can't get off the hook and have to pay their fair share of taxes. Now I know this discomferts some on the minority side. I know it goes against their philosophy that whatever corporate America does, it is okay. We think if you outsource

we are obligated to do our best getting relief to those who deserve it. It is time to make these claimants right and move forward into a new era of civil rights in the Department of Agriculture.

I look forward to the time we can get this done. I plead with my colleagues, as the Senator from Arkansas pleaded, to get this done right now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I add my voice in support of coming to closure on this important issue. I thank Senator DORGAN and Senator LINCOLN for their extraordinary leadership for the Pigford and Cobell claimants. We are very close to settling a grave injustice that has gone on in two communities, one the Native-American community and the other the African-American community. I surely hope we can find a way forward in the next few hours, before we leave, to get this done; if not, that it would be one of the first orders of business when we return.

Explanations have been made beautifully on both sides. I represent 1,000 African-American farmers. I am going to fight for them and advocate for them and continue to bring their cases before this body until we get justice.

People in Louisiana generally, of many different races, understand systematic injustice. Talking about oil moneys not coming the way they should, there are many people in Louisiana right now shaking their heads in great sympathy with the stories the Senator from North Dakota shared with us about Native Americans.

I support the Pigford settlement. I support the Cobell settlement. I hope we can find the \$5 billion, approximately, so that it does not affect the deficit, paid for in a responsible way to end this discrimination and to provide some hope and support to these families.

I was proud to send Clarence Hawkins' name to run the USDA in Louisiana, the first African-American administrator to do so, former mayor of Bastrop. The President appointed him at my suggestion. We are making some headway in Louisiana to rectify past injustices.

Again, I thank Senators DORGAN and LINCOLN for their leadership.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, Senator BARRASSO and I, as chairman and vice chairmen of the Indian Affairs Committee, have been working on this issue for a long while. Senator KYL, Senator BAUCUS—we have had discussions. Senator KYL had to leave the floor, but I believe he will return. He very much wants to find a way to resolve these issues, as do I and others.

This is not complicated. This is a case where the Federal Government said to American Indians in the late 1800s: We are going to break up these

tribal lands and give you personal ownership of these lands. And then we will manage the lands for you and take care of it for you in trust, and the income that comes off those lands will be yours. We will manage your trust accounts.

The fact is, they took control of the lands and created trust accounts. And the Indians got bilked, looted. Grand theft occurred.

Let me show one more photograph. This fellow is still alive. His name is James Kennerly. He is a Blackfoot Indian, standing in front of his rather humble home. He is hoping that Congress will resolve this by approving the settlement. His father was a World War I veteran, wounded, disabled in combat. The family lives on land that has considerable oil and gas leases. Thousands of barrels a week were pumped off that land. Years later, the oil wells still continue to pump, but all the lease documents have disappeared. This family lives in a humble home despite having had oil interests on their property.

Another person waiting for justice, Johnson Martinez, a Navajo Indian in his seventies, lives in a rundown trailer house near Bloomfield, NM. He has no running water and no electricity. At night, he builds a fire to keep himself and his dogs warm. He lives yards away from where the gas pipelines cross his family's land. He lives off the right-of-way fees for the gas pipeline. One month, he got a check for \$80. Sometimes he gets a check for a few cents. A court-appointed investigator found that non-Indians were receiving 20 times more than Navajo Indians such as Johnson Martinez were receiving in the same circumstances.

And then there is Esther and Sam Valdez—Navajo Indians—they live 100 feet from natural gas wells. They have been producing natural gas for a long while. Yet this family has trouble putting food on the table. They receive checks for \$6 and \$8. Sometimes the checks come, sometimes they don't. The Federal Government can never explain to them what happens to the money. This is grand theft.

For more than a century, American Indians were cheated. Yes, there is some incompetence here. That is the comfortable word. But there is also looting and theft involved in having these folks cheated.

The lawsuit was filed 15 years ago. Ten years ago, the Federal court said the Federal Government is completely without merit and violated its trust. The court found in favor of the plaintiffs, saying that they have been bilked. That was 10 years ago. But, the case continued in Federal court with more and more money spent on lawyers.

Finally, at long last, Interior Secretary Salazar and Attorney General Holder, and the plaintiffs in this case negotiated an agreement, and the Federal judge in the case said: This looks like justice to me. This settlement was sent to the Congress for approval and

to provide the funding for this agreement.

I came to the floor to offer a unanimous consent request to see if at long last we might put the Cobell litigation behind us and do the fair thing. I understand a unanimous consent request would be objected to at this moment because of what is called the "pay-for." So we have a disagreement about that. But I also understand from discussions we have held that there is the possibility and the potential that this afternoon we might find a way to reach agreement on the "pay-for" portion of this and have the Senate finally approve the Cobell settlement, and also the Pigford settlement so that we can move beyond on this.

In the situation that led to the Cobell case, there are people who should hang their head in shame, many of them now departed, who have bilked the Indians out of so much money over so many years.

I would finally say this about the Cobell matter and the American Indians involved. This is a chart that shows the 10 poorest counties in America, the 10 counties with the most significant poverty in our country. Madam President, 8 of the 10 counties have Indian reservations in them—8 of them. We know that. We know what is going on.

Then I talk about these people, American Indians, who live in humble homes with no money, with six oil wells on their land. Somebody is getting the money, but the Indians are not. Who is cheating them? Who cheated them a decade ago, five decades ago, ten decades ago? Will we ever settle our account here? Will this country ever deal responsibly with what I call a shame?

Well, my colleague, Senator BARRASSO, and I have worked on this a long while. He has had some concern about certain aspects of the settlement, but I do not think there is a disagreement between us at all about the need to move forward to resolve this issue. My hope is we can do that very soon.

As I said, I was intending to seek a unanimous consent request, but I think I will stop short of that at this moment because there is the potential, perhaps later this afternoon, for us to reach agreement on the "pay-for" and a couple of other elements and get a unanimous consent request agreed to, which would be a very significant achievement in this body today.

I know Senator BARRASSO from Wyoming wishes to seek recognition. Let me yield the floor so that might happen.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Wyoming is recognized.

Mr. BARRASSO. Mr. President, I appreciate the hard work done by my colleague from North Dakota and his commitment as chairman of the Indian Affairs Committee to try to come to a solution in the Cobell settlement.

He is absolutely right. We still need to work on some policy issues, as well

judges who have actually presided over the 14-year history of this case.

Mr. BARRASSO. So there are issues of policy dealing with transparency, dealing with the production of records by the attorneys who are involved in this. When you read one of these editorials, the one in today's Hill, "Unconscionable Cobell," written by a law professor at the University of Wisconsin-Madison:

Number of published court opinions in the case: 80-plus

Amount awarded to plaintiffs by courts at present: \$0

Amount to attorneys under settlement: \$100 Million. . . .

Amount to each account holder under [this] settlement:

We are talking now about those who have been affected by this—  
\$1,000.00

What an incredible disparity.

Well, if we were all to take the time to look through these two editorials, the changes to the settlement I have been proposing would not only seem reasonable, they would be absolutely necessary. They point out several real problems with the settlement, including the way the attorneys' fees are handled. I am continuing to work with my colleagues on dealing with that. These are the blunt facts.

So I agree with my colleague from North Dakota, the problems with the Cobell settlement are by no means insurmountable. They can and they must be resolved. In fact, I do not think it would be difficult to resolve the differences we have regarding the Cobell settlement. We can sit down, and we plan to do that, to discuss the issues directly. I think we can get beyond this impasse, and that is what I am committed to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, as I indicated, I intend to withhold the unanimous consent request because it would clearly be objected to. There are some people who disagree with the method by which this settlement would be paid for.

But I also wish to mention that I have some hope that later today, finally at long last, we may be able to come to the floor of the Senate with an agreement that would be able to withstand the unanimous consent request. If we do that before we break, we would have resolved a very longstanding issue, not just 15 years of litigation, or a century of mismanagement, but also since last December, when this agreement was reached and the Congress was given time to approve it, but then that deadline had to be extended six times. At long last, perhaps we will be able to decide we can do this together.

I very much appreciate the work Senator BARRASSO is doing and Senator KYL and Senator BAUCUS and others. My hope is that later this afternoon I will be able to come to the floor with such a unanimous consent request.

Mr. CARDIN. Mr. President, I rise today to talk about the Pigford II settlement pending full action by the U.S. Senate.

We all know that farming is a difficult occupation. The hours are long, the weather is unpredictable, and the challenge of competing in a global marketplace is intense. Tens of thousands of Black farmers have had to face all those normal challenges. Tragically, they have also had to deal with a challenge that was unique to them based solely on race. The U.S. Department of Agriculture, USDA, was discriminating against them.

More than 12 years ago, Black farmers across America brought a class action suit against the USDA for racial discrimination. The history of that discrimination is a sad one, and it is well documented. Farmers, like all businesses, need access to loans. They need to borrow money for expensive equipment and they need funding to help them when droughts strike or when markets collapse. The Congress has recognized this need for decades, and we have established special loan programs in the USDA to support these special needs. But when it came to lending, tens of thousands of Black farmers were the victims of systemic discrimination. During the 1980s and 1990s, the average processing time for a loan application by White farmers was 30 days; the average time for a loan application by Black farmers was 387 days. Black farmers had to wait 12 times as long to receive a loan. This discrimination earned the USDA the regrettable nickname "the Last Plantation."

Black farmers finally sought justice through a class action lawsuit in 1997. More than 20,000 farmers initiated claims citing racial discrimination in the USDA farm loan programs. Two years after the action was initiated, the U.S. District Court for the District of Columbia entered a consent decree approving a class action settlement to compensate these farmers for years of racial discrimination by the USDA. Each farmer who could prove discrimination was entitled to damages. Out of the initial 20,000 farmers, 15,000 were meritorious in the claims they brought.

As the legal process continued, additional farmers began to join the class action and filed their own claims. Approximately 80,000 farmers eventually brought claims. Unfortunately, many of these farmers did not know about the class action suit, and by the time they learned of its existence, the filing deadline had passed.

In 2008, Congress recognizing the injustice of stopping 80 percent or more of the farmers who potentially suffered discrimination by our government—decided to take action and created a new cause of action for farmers previously denied access to justice. In the 2008 farm bill, with bipartisan support, Congress included \$100 million for payments and debt relief as a downpay-

ment to satisfy the claims filed by deserving claimants denied participation in the original settlement because of timeliness issues.

After years of litigation and negotiation between the Department of Justice, which represented the USDA, and lawyers for the farmers, a settlement was finally reached in February 2010. The Pigford II settlement agreement will provide \$1.25 billion, which is contingent on appropriation by Congress, to African-American farmers who can show they suffered racial discrimination in USDA farm loan programs. Once the money is appropriated farmers can pursue their individual claims through the same nonjudicial process used in the first case.

To address this funding need, President Obama included \$1.15 billion in additional funding for his fiscal year 2010 and fiscal year 2011 budgets. Both Chambers of Congress have worked to pass appropriations to fulfill the settlement agreement since February. The House of Representatives has passed funding language for the Pigford case twice; once as part of the war supplemental and the other on a tax extenders bill. But the Senate has not been able to do the same. Despite the majority leader's efforts in finding ways to pay for the legislation and move the legislation for full Senate consideration, we have been unable to proceed to a rollcall vote. This bill has come before the Senate a half dozen times. There are no known objections to the settlement, yet we have failed to pass the funding therefore denying the process for funding to these farmers who were discriminated against by our own government.

We must move to appropriate these funds. The settlement that was reached is only valid until August 18, 2010. Failure to appropriate the money by then could cause the agreement to be voided. William Gladstone once said that "justice delayed is justice denied." Let us not be in the business of delaying and denying justice for African-American farmers. Let us be in the business of allowing the justice system to work and provide them with adequate redress. I urge my colleagues to support this funding.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I think my friends and colleagues on the other side have blocked out some time. If they would not mind, I would be very grateful if I could take 5 or 6 minutes to make some comments about the Kagan nomination. I see heads nodding affirmatively, so I appreciate it.

#### EXECUTIVE SESSION

NOMINATION OF ELENA KAGAN TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES—Resumed

The PRESIDING OFFICER. The Senate will proceed to executive session to

Mr. BARRASSO. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARRASSO. Madam President, the tax extenders bill includes a settlement that involves a class action lawsuit that is known as Cobell v. Salazar. The total cost of this settlement is about \$3.4 billion. This settlement will affect hundreds of thousands of Indian people across the United States who are class members in this lawsuit. It was signed last December by the Obama administration with the lead plaintiffs and their attorneys. Part of the settlement provides \$1.4 billion to individual Indians whose trust assets have been mismanaged by the Federal Government for over 100 years. Another \$2 billion would be used by the Department of the Interior to consolidate Indian land ownership to prevent a repeat of these claims.

On Wednesday, June 9, 2010, Attorney General Holder and Secretary Salazar sent letters to the Senate leaders opposing an amendment I filed on Tuesday, June 8. My amendment corrects serious flaws in the settlement. I am going to respond to their letter as well as explain my amendment.

The Attorney General and the Secretary argue that the amendment makes material changes to the settlement that would render it void. To begin with, I must point out that the parties have changed their settlement in material ways several times—several times—since it was announced that the agreement had been reached. Whenever they deem fit, they change it. For the reasons I am about to go into, they should change it again. If they don't, then Congress should act.

In their letter to leadership, the Attorney General and Secretary Salazar say:

The nature of any settlement agreement is that no one gets everything they asked for.

I know the Cobell case has waged on and on in the courts for 14 years. It has been up and down on appeal many times—too many times. In fact, it is on appeal right now. So I support settling this case. I support providing fair compensation to people harmed by decades of Federal mismanagement. I support consolidating the fractionated ownership of land to prevent the recurrence of problems that led to this court case. But I cannot support the settlement as drafted by the administration. It has flaws, and I believe some of them are very serious. All of them can and should be fixed without making major changes to its overall structure. Leaders in Indian country agree.

I ask unanimous consent that a letter dated June 11, 2010, from the National Congress of American Indians to Senator DORGAN and to me be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BARRASSO. Madam President, the National Congress of American In-

dians' letter states that the changes in my amendment address legitimate concerns that have been raised by tribal leaders and Indian people. The NCAI letter references resolutions passed by the Affiliated Tribes of Northwest Indians and the Great Plains Tribal Chairmen's Association supporting my amendment.

So what does my amendment do? It addresses five significant weaknesses in the settlement. The first issue is attorneys fees. This settlement was signed by the Department of Justice and two of the plaintiffs on December 7, 2009. Originally, the settlement said that Congress had to approve it in 24 days—by New Year's Eve. Well, supporters said there was no time for a hearing; Congress had to act immediately. I disagreed. Any \$3.4 billion settlement paid for by taxpayers that affects the lives of hundreds of thousands of people should have a hearing before Congress.

I requested that the Committee on Indian Affairs hold a hearing on the settlement. Chairman DORGAN scheduled one nearly 6 months ago and that hearing was December 17, 2009. During the hearing, it was disclosed that the parties had entered into a separate agreement covering attorneys fees. In the side agreement, the plaintiffs' lawyers agreed not to ask the court for more than \$99.9 million in presettlement attorneys' fees and costs, and the administration agreed not to argue that the attorneys should get anything less than \$50 million. So, in effect, the two parties quietly agreed that the plaintiffs' attorneys should be paid between \$50 million and \$100 million.

This separate agreement also provided that when attorneys asked the court for presettlement fees, the attorneys must provide contemporaneous time records, but they said only "where available." This is a very remarkable agreement, especially for a court case that was pretty much all about inadequate government record-keeping in the first place.

What the government has done is agreed not to demand contemporaneously prepared time records when the attorneys ask the court for their fees—fees that will be taken directly out of the funds that are supposed to be distributed to the class members in the suit. This settlement should be about compensating the individual Indians who were harmed by government mismanagement. My amendment requires production of contemporaneous records and it caps the fees at \$50 million. Fifty million dollars is an amount that both parties agreed would not be appealed. It is their number, so it must be fair.

Besides the issue of attorneys fees, there have been other concerns raised about the settlement—about the possibility of a multimillion dollar incentive award to named plaintiffs; about the qualification of the bank where the money will be deposited; about the role

of Indian tribes and the land consolidation aspect of the settlement; and about the formula for distributing the money. My amendment addresses each of these issues.

The amendment would also require that any "incentive awards" to named plaintiffs be justified by documented expenses. Leading the case of Indian landowners against the government for 14 years has undoubtedly been an exhausting burden and an expensive burden. The named plaintiffs should be allowed to ask the court to have those expenses reimbursed. My amendment would limit any such award to an aggregate amount of \$15 million and only for the expenses incurred by the class representatives. This is the amount the plaintiffs told us is their total estimated out-of-pocket expenses. The amendment would allow full reimbursement of these expenses.

My amendment also addresses the selection of the bank that will hold the \$1.4 billion in settlement funds. The settlement is especially lax in setting standards to ensure the safety of these funds—lax, I believe, to the point of being irresponsible. My amendment simply requires the court to consider certain factors when approving a proposed bank: experience, a history of regulatory compliance, plus competitive interest rates and fees. These factors are important because if anything happens to the money, then the class members bear the risk of the loss. I cannot fathom why asking the court to simply consider these commonsense protections will void the settlement.

The amendment I have offered will require the Secretary of the Interior to consult with Indian tribes on implementation of the Indian land consolidation program. In order for this \$2 billion consolidation program to succeed, the tribal governments should be partners in implementation. The amendment would require that to happen.

Finally, my amendment would provide relief for certain class members for whom the pro rata formula used in the settlement does not work. This formula is simple and will be easy to use. That is why the administration likes it. In many cases, the formula won't work and will lead to unfair results. It is necessary that we create a system for individual class members with unique circumstances to petition the court for a nonstandard settlement payment.

Under my amendment, the court would be provided with broad flexibility to make discretionary awards in appropriate cases.

In closing, I urge Members of the Senate to support this amendment to the Cobell settlement provisions in this measure. My amendment doesn't change the structure of the settlement. It does improve, however, the agreement for the hundreds of thousands of class members covered by the settlement.

What my amendment doesn't do is void the agreement. Let me repeat, my