UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,

Plaintiffs,

v.

GALE A. NORTON, et al.,

Defendants.

Civil Action No. 96-1285 (RCL)

MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO PLAINTIFFS' MOTION FOR AN ORDER TO SHOW CAUSE WHY INTERIOR DEFENDANTS SHOULD NOT BE HELD IN CONTEMPT REGARDING IT SECURITY MATTERS

The United States submits this brief in opposition to *Plaintiffs 'Motionfor an Order to Show Cause Why Secretary Norton and Acting Assistant Secretary Martin Should Not Be Held in Civil Contempt for Violating the December I 7, 2001 Consent Order and Other Orders of the Court Regarding the Protection of Trust Data and Records* (dated June 20, 2003) ("Plaintiffs' Motion"). In their motion, plaintiffs seek a finding of civil contempt against the Secretary and Acting Assistant Secretary-Indian Affairs of the Department of the Interior ("Interior Defendants").[1] Plaintiffs contend that Interior Defendants have somehow violated the December

'Plaintiffs do not specify whether they seek civil contempt against Secretary Norton and Acting Assistant Secretary Martin in their official or personal capacities, but inasmuch as plaintiffs have offered no evidence that Ms. Norton or Ms. Martin had any direct involvement in the matters raised in their motion, there is no legal basis for plaintiffs to proceed against either Ms. Norton or Ms. Martin in her personal capacity. *See Hernandez v. O'Malley*, 98 F.3d 293, 294-95 (7th Cir. 1996) ("We cannot fathom why a person suing to enforce the [consent] decree might want to pursue the officeholders in their personal capacities, except for purposes of harassment, which is hardly a reason the court should approve."). Because the government has received notice of the motion, and because plaintiffs' certificate of service does not indicate that their motion was served upon either Secretary Norton or Acting Assistant Secretary Martin personally or through private counsel retained by them, the motion should be treated as directed

(continued...)

17,2001 Consent Order (the "Consent Order") and other unspecified court orders because a loose cable connection prevented the Special Master's information technology ("IT") contractor from conducting – on a single occasion – a penetration test of an Office of Surface Mining ("OSM") server. Plaintiffs also contend that Interior Defendants have "obstructed" the Special Master's testing of Interior's IT systems. However, as the Court has recently recognized, there is no Court order in place that requires Interior Defendants to permit the Master to conduct the testing upon which plaintiffs base their motion. Hearing Tr. 6/27/03 at 17:20-18:17 (attached as Ex. 3). Accordingly, Plaintiffs' Motion is groundless and should be denied.

I. Background

On November 14, 2001, the Special Master issued a Report and Recommendation Regarding the Security of Trust Data at the Department of the Interior, which identified deficiencies in the security of Interior's IT systems that the Master believed could detrimentally affect the integrity of individual Indian trust data. Following the issuance of the Master's report, the Court entered a temporary restraining order on December 5,2001 that required Interior to disconnect from the Internet all systems housing individual Indian trust data. On December 17, 2001, the Court approved the Consent Order, which established the procedures the Department of the Interior ("Interior")would be required to follow, under the Master's oversight, before reconnecting its systems to the Internet.

Pursuant to the Consent Order, the Interior Defendants have submitted to the Special Master proposals to reconnect various information technology systems that had been

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[1](...continued)
to their official capacities only. See *Kentucky v. Graham*, 473 U.S. 159, 165-66 (1985) ("As long as the government entity receives notice and an opportunity to respond, an official-capacity suit is, in all respects other than name, to be treated as a suit against the entity.").

disconnected from the Internet following the Court's December 5, 2001 Temporary Restraining Order, Among the systems the Special Master has approved for reconnection to the Internet is the Office of Surface Mining ("OSM") system. *See* **Ex.** 1, 2.

With the exception of special procedures applicable to temporary reconnections for testing and the provision of certain necessary services, Consent Order at 6-7, the Consent Order generally provides that Interior Defendants may reconnect systems following notice to the Special Master if such systems (a) do not house or provide access to individual Indian trust data or (b) house or provide access to individual Indian trust data, provided adequate security exists. Consent Order at 5-6, 7. Where the systems house or provide access to individual Indian trust data, the Consent Order provides, "The Special Master shall review the plan [for reconnection] and perform any inquiries he deems necessary to determine if it provides adequate security for individual Indian trust data." Consent Order at 7. Finally, the Consent Order expressly provides that "the Special Master shall verify compliance with this Consent Order and may conduct interviews with Interior personnel or contractors or conduct site visits wherever information technology systems or individual Indian trust data is housed or accessed." Consent Order at 7.

Plaintiffs assert in their motion that the Consent Order essentially permitted the Special Master free rein to scan Interior's information technology systems. *See* Plaintiffs' Motion at 7. Interior Defendants, however, have reasonably taken the position that the Consent Order does not provide authorization for the Special Master to conduct intrusive and potentially destructive "penetration" and "exploitation" testing upon systems whose reconnection the Master has already approved. This Court appears to agree with Interior, as evidenced by the Court's colloquy with government counsel at the June 27, 2003 hearing on plaintiffs' motion for a temporary restraining order on the same issue:

THE COURT:	. . . Now, what is your argument to me, Special Master doesn't have the power to do this or what's your argument?
MR. WARSHAWSKY:	The argument is if we get down to the question does the Special Master have the power, the authority to go and conduct penetration –
THE COURT:	Oh, he can't do [that] without your authorization, I agree.
MR. WARSHAWSKY:	Okay.
THE COURT:	Or mine, maybe. I don't know if I could order it or not, but clearly he is not going to do that unless there is a Court Order to do it.
MR. WARSHAWSKY:	Yes, your Honor, I think it is an interesting academic question whether he could do it without our authorization; but the simple fact is that we have tried to do it collaboratively.
THE COURT:	Right.
MR. WARSHAWSKY:	And, thereby, he has authorization so we don't deal with the 18 USC 1030 issue.
THE COURT:	Right. Right. But he can't do it because the rules of engagement aren't worked *out,* right?
MR. WARSHAWSKY:	The rules of engagement have become inadequate because it appears that the Special Master won't take the word of the trusted points of contact.

TRO Hearing Tr. 6/27/03 at 17:20-18:17 (attached as Ex. 3).

Given the existence of a federal statute prohibiting unauthorized access to government computer systems [2], Interior and the Special Master, beginning in the latter half of 2002,

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[2] 18 U.S.C. § 1030 – to which government counsel referred in the quoted transcript excerpt – makes it a felony for a person to seek to gain unauthorized access to information housed on government computer systems. For example, subsection 1030(a)(2)(B) proscribes a person from "intentionally access[ing] a computer without authorization or [in excess of]

(continued...)

undertook to develop a protocol – later known as the "draft rules of engagement" – to allow penetration testing by the Special Master. *E.g.*, Exhibit **4** (September 2002 Report of Special Master at 2 (Oct. 4,2002) ("In addition, [the Special Master's expert] has been working with [Interior's expert] to develop protocols to safely monitor the security of Interior's computer's systems.")); Exhibit 5 (January 2003 Report of Special Master at 2 (Feb. 3,2003) ("The Special Master and Interior have agreed, in principle, to 'rules of engagement' that would govern [the Special Master's expert's] scans of Interior computer systems. Once a final copy is promulgated, it will be distributed to the Court and parties.")); ***see also*** Exhibit 6 (letter to Special Master from J. Warshawsky (Nov. 22, 2002) (transmitting draft rules of engagement)),

The draft rules of engagement defined various levels of testing, referred to as Phases One, Two, Three, and Four. *E.g.*, Exhibit 6 (first page of letter, pages 3-5 of Interior draft, and first page of Usinternetworking attachment). As the description of these phases confirms, the types of testing under the draft rules of engagement are increasingly intrusive and potentially destructive. *See* Exhibit 6 (first page of Usinternetworking attachment describing "Open-source information gathering," "Network Asset Discovery," "Vulnerability/Penetration Testing," and "Exploitation Limits Testing").[3] Although the draft rules of engagement have not been finalized,

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[2](...continued)
authorized access" and thereby obtaining "information from any department or agency of the United States." 18 U.S.C. § 1030(a)(2)(B); *see also* **18** U.S.C. § 1030(a)(3) (proscribing access to "any nonpublic computer of a department or agency of the United States" and thereby affecting use of the computer "by or for the Government of the United States"); 18 U.S.C. § 1030(a)(5)(B)((iv)-(v) (proscribing "transmission of a program, information, code, or command" that causes or would have caused "a threat to public health or safety" or "damage affecting a computer system used . . . in the administration of justice, national defense, or national security").

[3]USinternetworking, Inc. was the name of a previous contractor retained by the Special Master to perform IT testing. The Master has since substituted Security Assurance Group ("SAG') as his IT testing contractor.

they have nevertheless been utilized to permit the Master's contractors to conduct penetration tests of Interior's systems, including the OSM system.

A feature of the draft rules of engagement is the establishment of "trusted points of contact" ("TPOCs"). Exhibit 6 (page 2 of Interior draft). Before commencing a test, the Master's contractors are to inform the TPOCs of the planned penetration so that potential damage to systems can be minimized or immediately rectified and so that intrusions will not be reported to federal law enforcement authorities as unauthorized. In turn, the TPOCs are not to disclose the penetration test, except as necessary to prevent potential damage to affected systems.

On April 22,2003, the Master's contractor informed the TPOCs of a planned penetration test of several OSM servers. *See* Ex. 7 (Apr. 24,2003 letter from Alan L. Balaran, Special Master, to Glenn Gillett, Department of Justice) **(filed under seal)**.[4] The purpose of the test with respect to one of the servers was to verify a previous test that had exposed certain vulnerabilities in the server. *Id.* When the contractor attempted to conduct the test on April 23,2003, however, it was unable to do so with respect to that server. *Id.* As it turned out, a cable had become dislodged from the server when it was being moved. When OSM discovered the loose cable, it was reconnected. Hearing Tr. 6/5/03 at 8:2-9:18; 22:20-23:9 (testimony of J. Cason) (attached as Ex. 8). Apparently, the Master's contractor had attempted to penetrate during a period when the cable had been dislodged. The Master sent a letter to the Department of Justice informing government counsel that his contractor had been unable to conduct its test on the one OSM server and asking whether any OSM employees had received advance notice of the test. Ex. 7 at 2; Plaintiffs' Motion, Ex. 1 at 2. The TPOCs all stated they had not given any OSM employees

[4]The government's Exhibit 7 is the same letter as Exhibit 1 to Plaintiffs' Motion, but in unredacted form so that the Court will know the identity of the particular server.

advance notice of the test, and Justice counsel reported this to the Master and also reported the cable failure. Ex. **9** (Apr. 24, 2003 letter from G. Gillett, Department of Justice, to **A.** Balaran, Special Master) (server identity redacted from public filing; unredacted letter **filed under seal).** In a series of letters, the Master implicitly questioned the trustworthiness of the Trusted Points of Contact and sought names of all individuals who had access to the server in question as well as personal certifications from Department of Justice counsel that the cable had in fact failed. The correspondence between the Special Master and Interior, some of which plaintiffs have included as Exhibits 2-5 to their motion, thus pertains to the testing under the draft rules of engagement applicable to post-reconnection testing, **not** to the procedures for assessing reconnection proposals under the Consent Order.

The Special Master's reaction to the OSM server cable failure caused Interior to question the efficacy of the TPOC arrangement and therefore to withdraw its consent to further penetration testing until the issues of concern could be discussed and resolved with the Special Master. Plaintiffs' Motion, Ex. 4 (June 19,2003 letter from **S.** Spooner, Department of Justice, to **A.** Balaran, Special Master). While Interior plans to discuss this matter fully with the Master and to reestablish collaboration with him concerning the rules of engagement, there is no order in place that requires Interior to consent to the rules of engagement, the TPOC process or any other aspect of post-reconnection penetration testing the Master may wish to conduct, as the Court acknowledged in the June 27,2003 hearing. Accordingly, none of these matters is a proper basis for a contempt motion.

II. Plaintiffs' Motion Has No Legal Basis.

Standards for civil contempt have been set forth repeatedly in the contempt hearings in this case, *Cobell v. Babbitt,* 37 F. Supp. 2d **6** (D.D.C. 1999) *("Cobell I")*, and *Cobell v. Norton,* 226 F. Supp.2d 1 (D.D.C. 2002) *("Cobell II")*, and the elements have been described **by** controlling authority in other cases in this circuit. The Court of Appeals held in *Armstrong v. Executive Office of the President,* 1F.3d 1274, 1289 (D.C. Cir. 1993):

> "There can be no question that courts have inherent power to enforce compliance with their lawful orders through civil contempt." *Shillitani v. United States,* 384 U.S. **364,** 370 (1966). Nevertheless, "civil contempt will lie only if the putative contemnor has violated an order that is clear and unambiguous," *Project B.A.S.I.C. v. Kemp,* 947 F.2d 11, 16 (1st Cir. 1991), and the violation must be proved by "clear and convincing" evidence. *Washington-Baltimore News paper Guild, Local 35, v. Washington Post Co.,* 626 F.2d 1029, 1031 (D.C. Cir. 1980).

Thus, a party seeking a finding of civil contempt must initially show, by clear and convincing evidence, that (1) a court order was in effect, *(2)* the order clearly and unambiguously required certain conduct by the respondent, and (3) the respondent failed to comply with the court's order. *SEC v. Bilzerian,* 112 F. Supp. 2d 12, 16 (D.D.C. *2000); Petties v. District of Columbia,* 897 F. Supp. 626,629 (D.D.C. 1995).

Civil contempt sanctions are used either to obtain compliance with a court order or to compensate for damages sustained as a result of noncompliance. *Food Lion, Inc. v. United Food & Commercial Workers Int'l Union,* 103 F.3d 1007, 1016 (D.C. Cir. 1997). Therefore, the party seeking a civil contempt finding must articulate some legally available form of relief for the injury it claims to have suffered as a result of the alleged contumacy.

A. Plaintiffs Fail to Cite a Violation by Interior Defendants of A "Clear and Unambiguous" Court Order.

Plaintiffs' Motion fails as a matter of law because it identifies no action by Interior Defendants that can be shown to have violated a "clear and unambiguous" court order. As explained in *Project B.A.S.I.C.*:

> A court order, then, must not only be specific about what is to be done or avoided, but can only compel action from those who have adequate notice that they are within the order's ambit. For a party to be held in contempt, it must have violated a clear and unambiguous order that left no reasonable doubt as to what behavior was expected and who was expected to behave in the indicated fashion. "In determining specificity, the party enjoined must be able to ascertain from the four comers of the order precisely what acts are forbidden."

947 F.2d at 17 (internal citation omitted).

The Consent Order does not "clear[ly] and unambiguous[ly]" permit the Special Master to conduct post-reconnection penetration testing of Interior's systems. Indeed, the Court has recognized that the Master needs further authorization to conduct such testing, either through Interior Defendants' consent or perhaps through a separate court order. Hearing Tr. 6/27/03 at 17:20-18:17 (quoted *supra* in Section 1). Accordingly, plaintiffs cannot establish by clear and convincing evidence that Interiors' withdrawal of consent to the draft rules of engagement violated the Consent Order. This failure is sufficient by itself to require that Plaintiffs' Motion be denied.

B. Plaintiffs Fail to Identify Any Form of Relief They Could Obtain From Contempt Sanctions, And There Are None.

Plaintiffs ask the Court to hold Interior Defendants in civil contempt without specifying any relief they could possibly obtain from a civil contempt finding. This failure, too, is fatal to their motion.

The goal of a civil contempt order is not to punish, but to exert only so much of the court's authority as is required to assure compliance. *Petties,* 897 F. Supp. at 629. "Civil contempt does not exist to punish the contemnor or to vindicate the court's integrity." *Morgan v. Barry*, 596 F. Supp. 897, 899 (D.D.C. 1984)) (citing *National Labor Relations Board v. Blevins Popcorn Co.*, 659 F.2d 1173 (D.C. Cir. 1981)). Plaintiffs make no attempt to identify either coercive or compensatory sanctions that would be appropriate for either the OSM cable failure or Interior's withdrawal of consent to the Special Master's post-reconnection system penetration tests. The dislodged cable was promptly reconnected, even before the Master's contractor had informed Interior of the difficulty it experienced conducting its test. The contractor later conducted the same test and verified the same vulnerabilities it had discovered before. *See* Hearing Tr. 6/5/03 at 8:2-9:18; 22:20-23:9 (testimony of J. Cason); Ex. 10 at 4 (Apr. 29, 2003 report by SAG re: Internet Assessment of DOI/OSM Networks) **(filed under seal)**. Accordingly, there is no basis to coerce Interior to **fix** the cable problem or to permit retesting.

A fundamental concept of civil contempt is that the contemnor "carries the key of his prison in his own pocket." *Gompers v. Bucks Stove & Range Co.,* 221 U.S. 418, 442 (1911), *cited in International Union, United Mine Workers of America v. Bagwell,* 512 U.S. 821, 828 (1994). Thus, the individual found in civil contempt must be afforded the opportunity to purge the contempt. *See Bagwell,* 512 U.S. 821, 829 (1994) ("Where a fine is not compensatory, it is civil only if the contemnor is afforded an opportunity to purge."). Additionally, the remedial purpose of **a** contempt order cannot be served where, as here, the allegedly violative act cannot be corrected. *See In re Sealed Case,* 250 F.3d 764, 770 (D.C. Cir. 2001) ("Because the Government could not undo the July 18 disclosure [of grand jury material], holding the Government in civil contempt would serve no useful purpose. . . "). The Court thus cannot

impose any meaningful purgation conditions here because (a) the cable problem has been fixed; (b) the test has been conducted; and (c) the Court has acknowledged that Interior's consent may be required to permit the Master to conduct post-reconnection testing.

Further, plaintiffs have not identified any monetary damage they may have suffered. It is noteworthy that the Special Master approved the reconnection of OSM's systems to the Internet some 18 months ago. *See* Ex. **2.** If plaintiffs had an issue with the criteria applied by the Master to authorize the reconnection, they should have brought their concerns to the Special Master at that time, not waited a year and a half to file a show cause motion. In any event, the doctrine of sovereign immunity bars the imposition of fines, penalties or monetary damages against the government, except to the extent that the United States has explicitly consented to such sanctions. The doctrine of sovereign immunity "stands as an obstacle to virtually all direct assaults against the public fisc, save only those incursions from time to time authorized by Congress." *United States* v. *Horn,* 29 F.3d 754, 761 (1st Cir. 1994). **A** waiver of sovereign immunity must be definitively and unequivocally expressed and must appear in the text of the statute itself. *Id.* at 762 (citing *United States v. Mitchell,* 445 U.S. 535, 538 (1980), and *United States v. Nordic Village, Inc.*, 503 U.S. 30 (1992)).

The determinations in this case that sovereign immunity does not bar either plaintiffs' claim for prospective action or their claim for retrospective relief in the form of an accounting[5] have no bearing on the separate issue of whether the government has waived sovereign immunity for money damages for civil contempt. **A** waiver of sovereign immunity as to one available

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[5] *See Cobell v. Babbitt,* 30 F. Supp. 2d. 24, 31-33, 38-42 (D.D.C. 1998) (denying defendants' motion for judgment on the pleadings); *Cobell v. Babbitt,* 52 F. Supp. 2d 11, 21 (D.D.C. 1999) (denying defendants' motion for summary judgment); *see also Cobell v. Norton,* 240 F.3d 1081, 1094-95 (D.C. Cir. 2001) (agreeing that plaintiffs' action was not barred by sovereign immunity).

remedy does not, by implication, waive sovereign immunity as to other remedies. *See Brown v. Secretary of the **Army,*** 918 F.2d 214 (D.C. Cir. 1990) (waiver of sovereign immunity as to back pay awards for discriminatory denial of promotion did not waive sovereign immunity for prejudgment interest on such back pay awards), *cert. denied,* 502 U.S. 810 (1991). The United States has not waived sovereign immunity from citation for court-imposed fines for civil contempt.[6] *Coleman v. Espy,* 986 F.2d 1184, 1191 (8th Cir.), *cert. denied,* 510 U.S. 913 (1993); *United States v. Horn,* 29 F.3d at 763.

Because the availability of a remedy "for the benefit of the complainant" is an essential component of a civil contempt proceeding, *Bagwell*, 512 U.S. at 827 (quoting *Gompers,* 221 U.S. at 441), and Plaintiffs' Motion fails to identify any remedial measure the Court could properly order, the motion should be denied.

11. There is No Factual Basis for a Show Cause Motion

Since Plaintiffs' Motion fails to demonstrate that the Consent Order "clear[ly] and unambiguous[ly]" required Interior to submit its systems to post-reconnection penetration testing by the Special Master, the "facts" that plaintiffs cite concerning the April 23, 2003 OSM test cannot conceivably set forth a contempt under that order. Nevertheless, the recklessness with which plaintiffs have leveled their charges compels a response.

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[6] As the Court noted in *Cobell II*, whether a court can order the government to compensate a party for losses sustained as a result of the government's contempt has not been decided by the Court of Appeals in this Circuit. 226 F. Supp. 2d at 154 n. 163. The District Court in *United States v. Waksberg*, 881 F. Supp. 36, 41 (D.D.C. 1995), *vacated and remanded,* 112 F.3d 1225 (D.C. Cir. 1997), held that sovereign immunity barred recovery of damages as compensation for the government's violation of an injunctive order. The Court of Appeals vacated and remanded with directions to withhold a ruling on the sovereign immunity issue pending a determination on whether Waksberg had incurred damages. 112 F.3d at 1228.

As this Court has also noted, "the 'extraordinary nature' of the remedy of civil contempt leads courts to 'impose it with caution.'" *SEC v. Life Partners, Inc.*, 912 F. Supp. 4, 11 (D.D.C. 1996) (quoting *Joshi v. Professional Health Services, Inc.*, 817 F.2d *877,* 879 n.2 (D.C. Cir. 1987)). The party seeking a contempt finding bears the burden of establishing its claim by the heightened clear and convincing evidence standard. *SEC v. Bilzerian*, 112 F. Supp. 2d 12, 16 (D.D.C. 2000); *Petties*, 897 F. Supp. at 629. Further, in light of the severity of the contempt sanction, it should not be resorted to "if there are any grounds for doubt as to the wrongfulness of the defendants' conduct." *Life Partners,* 912 F. Supp. at 11 (citing *MAC Corp. v. Williams Patent Crusher & Pulverizer Co.*, 767 F.2d 882, 885 (Fed. Cir. 1985)).

Plaintiffs' charges are based entirely on speculation and as such cannot meet the clear and convincing evidence standard. Plaintiffs accuse the TPOCs of having "breached the confidentiality agreement and informed OSM of the pending tests." Plaintiffs' Motion at 4. Plaintiffs' also characterize Interior's explanation that the test had been prevented by a cable failure as a "specious claim." *Id.* at 5. But what evidence do they proffer in support of these serious accusations? None. There is no indication that plaintiffs' counsel even bothered to conduct a reasonable factual inquiry before accusing Interior and the TPOCs of contempt, breach of agreement and outright falsification. In fact, the only evidence plaintiffs have adduced on the subject was the testimony of Associate Secretary of the Interior James Cason upon cross-examination by plaintiffs' counsel during Trial I.5. Ex. 8. Mr. Cason's testimony clearly did not support the accusations plaintiffs have made in their motion. Rather, the testimony was entirely consistent with the representations that the government had made earlier to the Special Master. *See* Ex. 9 **(unredacted version filed under seal);** Ex. 11 **(filed under seal).** Additionally, the

report issued by the Master's contractor corroborated the government's representations. The report indicated that the contractor not only completed the test on a later date, but that it confirmed the same vulnerabilities it had intended to test for in the failed penetration effort on April 23. Ex. 10 **(filed under seal).** In other words, just as Mr. Cason explained during his cross-examination by plaintiffs' counsel (Ex. **8** at 22:20-23:9), the test was done a few days after the initial attempt, and results indicated that Interior had not altered the system in the interim.[7]

When they filed their motion on June 20, 2003, plaintiffs had in hand Mr. Cason's testimony and the contractor's report. Plaintiffs did not develop any contradictory evidence. Instead, having nothing to go on but their own imaginations, plaintiffs have publicly accused Interior – and the TPOCs specifically – of lying and violating Court orders. Plaintiffs' tactic of using baseless show cause motions to harass and intimidate is on full display here.

CONCLUSION

Plainly, there is neither a legal nor factual basis for Plaintiffs' Motion. For the reasons stated above, the Court should deny Plaintiffs' Motion and admonish plaintiffs against filing such frivolous pleadings in the future.

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7 **[REDACTED MATERIAL]**

Respectfully submitted,

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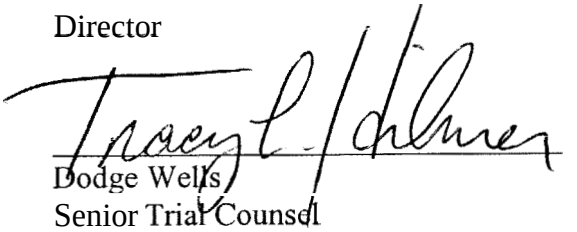

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DATED: July 7, 2003

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

ELOUISE PEPION COBELL, et al.,	)	
Plaintiffs,	)	Civil Action No. 96-CV-1285 (RCL)
v.	)	
GALE **A.** NORTON, et al.,	)	
Defendants.	)	

ORDER

Upon consideration of *Plaintiffs' Motion for Order to Show Cause Why Secretary Norton and Acting Assistant Secretary Martin Should Not Be Held in Civil Contempt for Violating the December 17, 2001 Consent Order and Other Orders of the Court Regarding the Protection of Trust Data and Records* (dated June 20, 2003), Interior Defendants' opposition thereto and the entire record in this case, it is this _____ day of _____, 2003, hereby

ORDERED that Plaintiffs' Motion be, and hereby is, DENIED.

_____
HON. ROYCE C. LAMBERTH
United States District Judge

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