

RECEIVED
U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

2003 AUG 18 PM 4: 32

NANCY M.
HAYER-WHITTINGTON
CLERK

_____))	
ELOUISE PEPION COBELL, et al.,))	
))	
Plaintiffs,))	Civil Action No. 96-1285 (RCL)
))	
v.))	(Special Master Alan L. Balaran)
))	
GALE A. NORTON, et al.,))	
))	
Defendants.))	
_____))	

**UNITED STATES' REPLY TO PLAINTIFFS' OPPOSITION
TO NAMED INDIVIDUALS' RESPONSES TO
BILLS OF PARTICULARS RELATING TO PLAINTIFFS'
OCTOBER 19, 2001 MOTION FOR ORDER TO SHOW CAUSE**

Plaintiffs' opposition to the responses filed by the Named Individuals in their official and personal capacities fails to correct the critical deficiencies of their bills of particulars. More surprisingly, plaintiffs have completely ignored the impact on these proceedings of the Court of Appeals' July 18, 2003 decision. *See Cobell v. Norton*, 334 F.3d 1128 (D.C. Cir. 2003). Yet plaintiffs do not dispute that the charges they seek to bring against the Named Individuals derive from the same matters upon which the District Court based its now-vacated contempt decision, *Cobell v. Norton*, 226 F. Supp. 2d 1 (D.D.C. 2002) (the "September 17, 2002 decision"). The Court of Appeals' ruling, coupled with the legal deficiencies of plaintiffs' claims, requires that these proceedings be terminated forthwith.

I. The Court of Appeals' Ruling Requires Termination of These Proceedings.

The Court of Appeals has now definitively declared that the specifications upon which plaintiffs base their allegations against the Named Individuals cannot serve as a platform for a civil contempt proceeding. *Cobell*, 334 F.3d at 1146 (treating District Court's contempt citations

on all five specifications as "criminal in nature"). As the Court of Appeals explained: "Although one may be held in civil contempt for refusing to comply with a court order, a sanction for one's past failure to comply with an order is criminal in nature." *Id.* at 1146-47. The bills of particulars, like the September 17, 2002 decision, seek to impose punitive sanctions, rather than a coercive or compensatory measure, and therefore lack the essential characteristics of a civil contempt proceeding.

As we pointed out in our June 2, 2003 opposition to plaintiffs' bills of particulars, the Named Individuals are not in a position to purge any of the supposed contempts of which plaintiffs have accused them, nor have plaintiffs even bothered to seek purgation conditions. *See* United States Opp. at 7-9, 19. Further, the Court of Appeals has made clear that merely seeking reimbursement of attorneys' fees incurred by plaintiffs' counsel in the contempt trial "cannot be considered relief for the underlying contempt" (*Cobell*, 334 F.3d at 1145-46) and therefore cannot convert this essentially criminal proceeding into a civil one.¹

Plaintiffs have offered no explanation for persisting in their contention that these proceedings should be treated as civil in nature and subject to the lesser standards of civil contempt and the wide-ranging discovery practices of civil proceedings. Notwithstanding plaintiffs' intentional blindness, however, the Court of Appeals decision leaves no room for doubt that the proceedings arising from plaintiffs' October 19, 2001 show cause motion cannot be civil in nature.

¹Indeed, if it were otherwise, a party seeking purely punitive sanctions could deprive another of due process rights guaranteed by the Constitution simply by inserting a claim for attorneys' fees incurred in filing and pursuing the show cause motion. The Court of Appeals decision makes clear that such an attempt to subvert individual Constitutional rights would be improper.

Because these proceedings have potential criminal ramifications, and the allegedly contumacious conduct occurred outside the presence of the District Court, the Named Individuals are entitled to all the due process protections guaranteed by the Constitution, including trial by jury and proof beyond a reasonable doubt. *Cobell*, 334 F.3d at 1147. Likewise, as we argued in our June 2 opposition, the Special Master may not conduct an investigation or order discovery because the Federal Rules of Criminal Procedure do not provide for such activities. The Special Master's role is limited, at most, to a legal review of the plaintiffs' bills of particulars.²

In short, the matters raised in plaintiffs' motion and bills of particulars cannot be continued under the guise of a civil proceeding, and these proceedings must accordingly be terminated.

²It should be noted that on May 29, 2003, Interior Defendants filed a motion seeking the recusal of the Special Master based on the accumulation and use of *ex parte* materials and the hiring of an interested party to work on an interim report. That interim report involved Interior's Eighth Quarterly Report to the District Court, which the District Court had addressed in the September 17, 2002 decision. Accordingly, the Master's reliance upon *ex parte* information and the retention of a biased individual to work on the interim report should disqualify him from reviewing plaintiffs' bills of particulars. Additionally, the Master has retained two individuals identified only by the initials "AW" and "JW" who have worked on the contempt matters referred by the District Court and for whose services the Court has ordered the government to pay in excess of \$20,000. *See* Ex. 1-A to 1-C. We have twice asked the Master to disclose the identities and affiliations of these individuals, but those requests remain unanswered. Ex. 2-A and 2-B. The failure to make these disclosures violates the due process rights of the Named Individuals, personally and officially, to the assurance of a review of the charges against them by an unbiased judicial officer, *see Jenkins v. Sterlacci*, 849 F.2d 627, 630-32 & n.1 (D.C. Cir. 1988) (holding that 28 U.S.C. § 455 applies to special masters), and is another basis for the government's objection to the Master's continued participation in these proceedings.

II. Plaintiffs Have Failed to Support Their Claims of Contempt.

Plaintiffs' opposition makes no effort whatsoever to correct any of the serious deficiencies in the bills of particulars noted by the government and the Named Individuals in their personal capacities. Having failed to supply a factual basis for their claims – nearly two years after first accusing these people of contempt – plaintiffs' demand for a show cause order must be rejected as legally deficient. As we demonstrated in our June 2 opposition, plaintiffs failed to make out a claim for civil contempt, much less to meet the higher criminal standards that the Court of Appeals has declared applicable to the matters raised in the bills. Plaintiffs' bills are not sufficiently particular to demonstrate an intentional violation of a reasonably clear and specific order beyond a reasonable doubt.³ For these reasons, too, the present proceedings should be terminated immediately.

The utter failure of plaintiffs and their attorneys to support the extremely serious and personally damaging charges with which they have assailed the Named Individuals in pleadings filed on the public record and broadcast over the Internet reflects both the mean-spiritedness that has unfortunately characterized their handling of this difficult case and an astonishing lack of

³Plaintiffs make another desperate attempt to shift the burden of proof to the Named Individuals and even go so far as to claim that any who did not file a response to the bills of particulars should be subjected to a contempt trial. *Plaintiffs' Opposition to Named Individuals' Motions to Dismiss Plaintiffs' Bills of Particulars* at 1 & n.1 (filed Aug. 4, 2003). As an initial matter, plaintiffs are simply wrong in claiming that Sabrina McCarthy and Edith Blackwell did not file responses to their bills of particulars. Both did, in their official and personal capacities. Former Interior Assistant Secretary Kevin Gover, who filed a response in his official capacity only, retains the right to be considered innocent until proven guilty and to invoke the Fifth Amendment's protection against potential self-incrimination. Plaintiffs cannot perpetuate these proceedings (nor can their attorneys continue to churn their billings) without the requisite quantum of evidence and without regard to the Named Individuals' due process rights. The absence of an adequate factual basis upon which a *criminal contempt finding* could be based requires the rejection of plaintiffs' show cause motion as to Mr. Gover and all the other Named Individuals.

professionalism. Plaintiffs filed the motion upon which these proceedings are based almost two years ago. Some 17 months ago, in March 2002, the District Court ordered plaintiffs to lay out their allegations individual by individual. Despite the Court's admonishment, plaintiffs had filed only one bill of particulars (against Edith Blackwell) within the next year after the Court's directive. Thus, for almost two years, 37 individuals have been hanging in limbo waiting for a resolution of the serious charges leveled against them by the plaintiffs. These individuals have had to hire private counsel to represent them, particularly since plaintiffs claims have always included charges of criminal misconduct. Although they have had far more time to lay out their charges against these people than the Speedy Trial Act of 1974, 18 U.S.C. § 3161 *et seq.*, would allow, the plaintiffs and their attorneys complain that they have been too pressed for time to identify the actual grounds for their claims of contempt. This is unacceptable and indicates that plaintiffs and their attorneys never conducted the reasonable inquiry required by Fed. R. Civ. P. 11 before they launched their assault on these 37 individuals. At a very minimum, the plaintiffs' show cause motion should be rejected.

CONCLUSION

For the reasons stated above, the government urges that the proceedings against the Named Individuals be terminated forthwith.

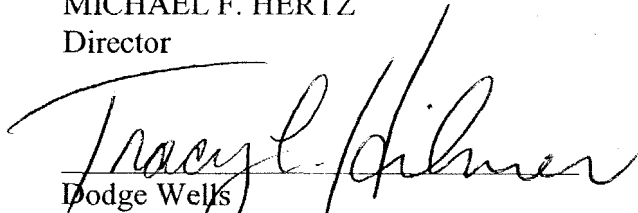
Respectfully submitted,

ROBERT D. McCALLUM, JR.
Associate Attorney General

PETER D. KEISLER
Assistant Attorney General

STUART E. SCHIFFER
Deputy Assistant Attorney General

MICHAEL F. HERTZ
Director



Dodge Wells
Senior Trial Counsel
D.C. Bar No. 425194
Tracy L. Hilmer
D.C. Bar No. 421219
Trial Attorney
Commercial Litigation Branch
Civil Division
P.O. Box 261
Ben Franklin Station
Washington, D.C. 20044
(202) 307-0474

DATED: August 18, 2003

LAW OFFICE

ALAN L. BALARAN, P.L.L.C.

ADMITTED IN DC AND MD

1717 PENNSYLVANIA AVE., N.W.
THIRTEENTH FLOOR
WASHINGTON, D.C. 20006
TELEPHONE (202) 466-5010
FAX (202) 986-8477
E-MAIL abalaran@erols.com

Invoice submitted to:
Cobell, et al. v. Norton, et al.
United States District Court for the
District of Columbia
333 Constitution Avenue, NW
Washington DC 20001

June 02, 2003

Invoice #39

Professional Services

		<u>Hrs/Rate</u>	<u>Amount</u>
4/23/2003	JW Analysis of Contract OST02CT0010 and Binder Review	1.00 135.00/hr	135.00
5/1/2003	ALB Review NPS request to move non Indian non trust records	0.30 200.00/hr	60.00
5/5/2003	ALB Review Plaintiffs-Appellees' Motion to Modify Stay	0.20 200.00/hr	40.00
	ALB Review Fenster letter regarding appellate argument	0.10 200.00/hr	20.00
	ALB Review correspondence regarding RFP 7	0.10 200.00/hr	20.00
	ALB Review Notice of Filing of 13th Status (Quarterly) Report; Notice of Filling and Trust Management Plan; AS-IS Plan	7.60 200.00/hr	1,520.00
	ALB Review correspondence regarding Christie and draft line to counsel indicating no further intention to retain his services	0.20 200.00/hr	40.00
	ALB Review response to Gillett concerning my inquiry into OSM and Draft letter to G. Gillett (incorrectly dated April 24) regarding OSM servers and requesting information regarding "cable failure"	0.60 200.00/hr	120.00
	ALB Review Plaintiffs' Motion to Dismiss Consolidated Appeals	0.20 200.00/hr	40.00
5/6/2003	ALB Review Defendants' Rebuttal to Plaintiffs' Review of Facts and Further Statement of Facts	0.20 200.00/hr	40.00

			<u>Hrs/Rate</u>	<u>Amount</u>
5/6/2003	ALB	Draft letter to Kessler regarding undredacted information in training manual	0.20 200.00/hr	40.00
	ALB	Review Notice of Filing of 13th Status (Quarterly) Report; Notice of Filing and Trust Management Plan; AS-IS Plan	5.50 200.00/hr	1,100.00
	ALB	Draft Letter to Mary Clark ;regarding Allen Roit deposition	0.10 200.00/hr	20.00
	ALB	Draft Letter to A. Kessler regarding possible distribution of IIM information during OTR training	0.30 200.00/hr	60.00
	ALB	Review Office of Field Solicitor request to move documents	0.30 200.00/hr	60.00
5/7/2003	ALB	Review documents responsive to request for TMIP Steering Committee Depositions records	2.20 200.00/hr	440.00
	ALB	Review Plaintiffs' -Appellees' Motion to Dismiss Consolidated Appeals	0.20 200.00/hr	40.00
	ALB	Review Plaintiffs' Opposition to D's Motion in Limine with Regard to Expert Testimony and Report in Support of Plaintiffs' Plan for Determining Accurate Balances in the Individual Indian Trust	0.20 200.00/hr	40.00
	ALB	Review Interior Defendants' Objections to and Motion to Quash Plaintiffs' Subpoena of May 1, 2003	0.30 200.00/hr	60.00
5/8/2003	ALB	Review Interior's Motion to require compliance with Court's Orders Concerning Attachment C	0.20 200.00/hr	40.00
	ALB	Research case law in support of Protective Order RFP7 Report and Recommendation regarding Defendants' Request for Protective Order	5.30 200.00/hr	1,060.00
	ALB	Draft letter to M. Clark regarding Chickasaw investigation informing of pending document requests upon receipt of deposition transcripts	0.20 200.00/hr	40.00
5/9/2003	ALB	Review Interior Defendants' Motion for Expedited Consideration of Certain Pre-Trial Motions; Reply in Support of Motion for Partial Summary Judgment that Trust Plan Comports with Obligation to Perform Accounting; that Historical Accounting Plan comports with obligations; to File Under Seal Papers Related to Partial Summary Judgment regarding SOL and Laches; opposition and Reply thereto; Rebuttal to Plaintiffs' Review of Defendants' Facts regarding SOL and Laches; Notice of Filing of Redacted version in support of Partial Summary Judgment; Reply in Support of Motion for Reconsideration of 3/11/03 M&O regarding Sanctions; Plaintiffs' Opposition to Motion for Partial Summary Judgment that Trust Management Plan Comports with Obligations and Opposition to Motion for Partial Summary Judgment regarding Historical Accounting Plan ; Motion for Leave to File Supplemental Authority in Support of Motion to Strike request for Personal Sanctions	8.60 200.00/hr	1,720.00

			<u>Hrs/Rate</u>	<u>Amount</u>
5/9/2003	ALB	Review Motion for Reconsideration of D's Motion in Limine to Exclude Expert Testimony of Homan as Other than a Rebuttal Witness	0.30 200.00/hr	60.00
	ALB	Finalize RFP7 Report and Recommendation regarding Defendants' Request for Protective Order	4.70 200.00/hr	940.00
	ALB	Review BOR and NPS request to move documents	0.30 200.00/hr	60.00
5/10/2003	ALB	Review Case law regarding contempt; whether contempt can be grounded on S.M. Order; the specificity required to issue orders to show cause etc.	5.50 200.00/hr	1,100.00
5/11/2003	ALB	Draft Opinion regarding Named Individuals and e-mail contempt	4.80 200.00/hr	960.00
5/12/2003	JW	Research Case law related to contempt individual/official capacity - draft section for e-mail opinion	6.00 135.00/hr	810.00
	ALB	Review request for moving BOR/NPS Inactive Non Indian/Non Trust Records	0.40 200.00/hr	80.00
	ALB	Review Interior Defendants' Motion in Limine to Exclude Testimony of Mike Smith	0.20 200.00/hr	40.00
	ALB	Review Supplemental Appellate Authority	0.10 200.00/hr	20.00
	ALB	Review Request by BOR to move Inactive Indian Trust Records	0.40 200.00/hr	80.00
	ALB	Review Transcripts of Hanna, Kemp, Belgarde and others in preparation for Roit interview	3.30 200.00/hr	660.00
	ALB	Draft Letter to Gillett granting approval for Interior to reconnect to test Albuquerque DMZ solution; review Kerr's recommendations and discuss with SAG	0.60 200.00/hr	120.00
	ALB	Review Kessler correspondence and documentation related to BOR request to move "inactive non-Indian/non trust records."	0.40 200.00/hr	80.00
5/13/2003	JW	Research Case law related to contempt individual/official capacity/ necessity for specificity in pleadings - draft section for e-mail opinion	4.08 135.00/hr	550.80
	ALB	Review Interior's Motion to Defer Ruling on Plaintiffs' Application for Fees	0.30 200.00/hr	60.00
	ALB	Review transcripts of contempt proceedings of April 23 and 25 and begin drafting opinion as to whether discovery should follow for Schiffer; Simon, Blackwell, Cohen, Findlay and Brooks. Draft opinion dismissing Perlmutter as stated in oral argument	5.50 200.00/hr	1,100.00

			<u>Hrs/Rate</u>	<u>Amount</u>
5/13/2003	ALB	Review Case law regarding contempt; whether contempt can be grounded on S.M. Order; the specificity required to issue orders to show cause etc.	3.80 200.00/hr	760.00
	ALB	Draft Letter to M. Clark with document request for Chickasaw Investigative Report	0.80 200.00/hr	160.00
	ALB	Draft Letter to Spooner in response to correspondence received informing of instruction to Kerr to cease involvement with Interior IT solutions while Interior contemplates an "appropriate course of action."	0.30 200.00/hr	60.00
5/14/2003	JW	Draft portion of contempt opinion related to sovereign immunity	3.50 135.00/hr	472.50
	ALB	Preparation for deposition of A. Roit; review deposition transcripts of Hanna, Belgarde, Tully, Phillips and Kemp; prepare questions; draft letters to Clark; t/conference with same regarding rescheduling to include Burns, to limit scope and to allow for review of documents	4.60 200.00/hr	920.00
	ALB	Review filings by Named Individuals Regarding Phase II of contempt proceedings	1.50 200.00/hr	300.00
	ALB	Review Gillett letter clarifying events related to Boise; draft letter in response.	0.20 200.00/hr	40.00
	ALB	Review transcripts of Chickasaw depositions; index same; draft letter to Clark requesting interview of Biran Burns	3.30 200.00/hr	660.00
	ALB	Draft Letter to Kessler in response to May 13 correspondence requesting additional information verifying statements made in April Activity Report regarding redaction of trust information contained in training materials	0.70 200.00/hr	140.00
	AW	Review contempt motions and transcripts regarding Named Individuals - e-mail contempt	3.70 175.00/hr	647.50
5/15/2003	JW	Review case law related to weight associated with Special Master Orders and contempt	6.40 135.00/hr	864.00
	ALB	Draft Opinion regarding Motion for Proctective Order for SAS-70 Report	3.80 200.00/hr	760.00
	ALB	Draft letter to Kessler regarding encoding of information for Labat in response to Activity Report	0.20 200.00/hr	40.00
	ALB	Draft Opinion regarding Named Individuals and E-mail Contempt	2.60 200.00/hr	520.00
5/16/2003	ALB	Draft RFP7 Report and Recommendation regarding Defendants' Request for Protective Order	5.30 200.00/hr	1,060.00

			<u>Hrs/Rate</u>	<u>Amount</u>
5/16/2003	ALB	Draft Opinion regarding Named Individuals and E-mail Contempt	1.50 200.00/hr	300.00
	AW	Review contempt motions and transcripts regarding Named Individuals - e-mail contempt	1.20 175.00/hr	210.00
5/17/2003	ALB	Draft Opinion regarding Named Individuals and E-mail Contempt; review historical antecedents of contempt for individual v.official capacity	5.50 200.00/hr	1,100.00
5/18/2003	ALB	Review Gillett letter dated May 16 demanding "immediate response" and respond accordingly	0.20 200.00/hr	40.00
	ALB	Draft Opinion regarding Defendants' Request for Protective Order Regarding SAS-70	6.00 200.00/hr	1,200.00
5/19/2003	ALB	Draft Opinion regarding pending e-mail contempt against Named Individuals; review transcripts of proceedings; filings, objections and responses.	7.80 200.00/hr	1,560.00
	AW	Review contempt motions and transcripts regarding Named Individuals - e-mail contempt	2.50 175.00/hr	437.50
5/20/2003	ALB	Review Gillett letter of May 19 and draft and transmit response	0.60 200.00/hr	120.00
	ALB	Draft Opinion regarding pending e-mail contempt against Named Individuals; review transcripts of proceedings; filings, objections and responses.	6.30 200.00/hr	1,260.00
	AW	Draft summary of claims and defenses	2.00 175.00/hr	350.00
5/21/2003	ALB	Draft Letter to M. Clark requesting documents concerning Chickasaw/Wewoka events	0.10 200.00/hr	20.00
	ALB	Review request to move NBC and other documents including trust records to FRC; t/conference w/Kessler regarding same and notifying that additional time will be needed to review information	1.50 200.00/hr	300.00
	ALB	Draft Opinion regarding pending e-mail contempt against Named Individuals; review transcripts of proceedings; filings, objections and responses.	8.50 200.00/hr	1,700.00
	ALB	Review Emergency Motion for Stay of Contempt Proceedings filed by Babbitt, Cohen, Leshy and Blackwell	0.30 200.00/hr	60.00
	ALB	Review Memorandum and Order concerning payment to judicial officers	0.30 200.00/hr	60.00
	AW	Draft summary of claims and defenses; legal research of the law of contempt	6.70 175.00/hr	1,172.50

			<u>Hrs/Rate</u>	<u>Amount</u>
5/22/2003	ALB	Review Kessler correspondence regarding question posed concerning determination of "inactive" status of records pertaining to MMS request	0.20 200.00/hr	40.00
	ALB	Draft Opinion regarding SAS-70 Protective Order; review pleadings and case law	7.90 200.00/hr	1,580.00
	ALB	Review Reply to Motion to Dismiss	0.20 200.00/hr	40.00
	AW	Review more pleadings of parties; draft summary of claims and defenses	6.80 175.00/hr	1,190.00
5/23/2003	ALB	Review documents produced responsive to Chickasaw investigation	2.10 200.00/hr	420.00
	ALB	Draft Opinion regarding pending e-mail contempt against Named Individuals; review transcripts of proceedings; filings, objections and responses.	5.00 200.00/hr	1,000.00
	ALB	Review Plaintiffs' Opposition to Emergency Motion to Stay Contempt Proceedings	0.40 200.00/hr	80.00
	AW	Draft summary of claims and defenses; review pleadings of the parties	4.00 175.00/hr	700.00
5/24/2003	ALB	Draft Opinion regarding pending e-mail contempt against Named Individuals; review transcripts of proceedings; filings, objections and responses.	6.20 200.00/hr	1,240.00
5/25/2003	ALB	Draft Opinion regarding pending e-mail contempt against Named Individuals; review transcripts of proceedings; filings, objections and responses.	8.10 200.00/hr	1,620.00
5/26/2003	JW	Assist with drafting of Contempt opinion	8.00 135.00/hr	1,080.00
	ALB	Review Pleadings by Named individuals responding to failure of plaintiffs to file Bills of Particulars; review case law regarding necessity for dismissal with prejudice of such claims especially in criminal context	4.00 200.00/hr	800.00
5/27/2003	JW	Assist with drafting of Contempt opinion	6.70 135.00/hr	904.50
	ALB	Review list of records cited in Notification of Proposed Records Movement including BOR, OTR, NBC and NPS records`	1.60 200.00/hr	320.00
	ALB	Review Correspondence by Siemietkowski/Ferrell regarding hardware/e-mail failure at Treasury's Departmental Office; draft letter requesting additional information be forwarded to J. Kerr	0.70 200.00/hr	140.00

			<u>Hrs/Rate</u>	<u>Amount</u>
5/27/2003	ALB	Review Interior Defendants' Reply Memorandum in Further Support of Their Motion to Defer Ruling on Plaintiffs' Application for Fees and Expenses	0.20 200.00/hr	40.00
	ALB	Review Siemietkowski's letter regarding Treasury Departmental Offices hardware and e-mail failure and draft letter in response; discuss with J. Kerr	0.80 200.00/hr	160.00
	AW	Review more pleadings of parties; draft summary of claims and defenses	4.50 175.00/hr	787.50
5/28/2003	JW	Assist with editing of first draft of contempt opinion	3.50 135.00/hr	472.50
	ALB	Review documents produced responsive to Chickasaw investigation	6.40 200.00/hr	1,280.00
	AW	Draft summary of claims and defenses	4.30 175.00/hr	752.50
5/29/2003	ALB	Review Interior Defendants' Motion to Disqualify Special Master Balaran	0.30 200.00/hr	60.00
	ALB	Review Interior Defendants' Motion and Memorandum to Adopt May 23, 2003 Report and Recommendation of the Special Master Granting Defendants' Motion for Protective Order	0.10 200.00/hr	20.00
	ALB	Draft Letter to M. Clark setting deadline for production of all documents and privilege logs	0.20 200.00/hr	40.00
	ALB	Review and Revise Treasury Opinion Regarding 1001 Interrogatories	4.60 200.00/hr	920.00
	AW	Draft summary of claims and defenses	4.00 175.00/hr	700.00
5/30/2003	ALB	Review Interior's Motion to Disqualify Special Master	0.20 200.00/hr	40.00
	ALB	Review Gillett Letter regarding Phase I Testing	0.10 200.00/hr	20.00
5/31/2003	ALB	Review BOR's request to move seven sets of Inactive Non-Indian/Non-Trust Records and Inactive Non-Trust Records	0.60 200.00/hr	120.00
For professional services rendered			254.38	\$47,336.80

Additional Charges :

	<u>Amount</u>
4/22/2003 Round-trip taxi ride from 1717 Pennsylvania to the DC District Courthouse to deliver Interim Report on 8 QR	14.00
5/5/2003 Courier Services delivery to Justice, Plaintiffs and Court of Monthly Report	20.63
5/22/2003 Airline Expense -- Tulsa	663.00
5/30/2003 Hotel in Tulsa -- Chickasaw Investigation	237.75
Rental Car in Tulsa -- Chickasaw Investigation	128.63
Meals in Tulsa -- Chickasaw Investigation	44.74
Gasoline in Tulsa -- Chickisaw Investigation	8.00
Total costs	<u>\$1,116.75</u>
Total amount of this bill	\$48,453.55
Previous balance	\$61,950.96
5/31/2003 Payment - thank you	<u>(\$61,950.96)</u>
Total payments and adjustments	(\$61,950.96)
Balance due	<u><u>\$48,453.55</u></u>

LAW OFFICE

ALAN L. BALARAN, P.L.L.C.

ADMITTED IN DC AND MD

1717 PENNSYLVANIA AVE., N.W.
THIRTEENTH FLOOR
WASHINGTON, D.C. 20006
TELEPHONE (202) 466-5010
FAX (202) 986-8477
E-MAIL abalaran@erols.com

Invoice submitted to:
Cobell, et al. v. Norton, et al.
United States District Court for the
District of Columbia
333 Constitution Avenue, NW
Washington DC 20001

July 01, 2003

Invoice #42

Professional Services

			<u>Hrs/Rate</u>	<u>Amount</u>
6/2/2003	ALB	Draft Monthly Report	1.00 200.00/hr	200.00
	ALB	Review OSM request to move inactive non-Indian non-trust records and attachments	0.20 200.00/hr	40.00
	ALB	Review IT Security Reports and forward to parties and Court	1.40 200.00/hr	280.00
	AW	Review transcript of oral argument; summarize arguments in draft	2.50 150.00/hr	375.00
6/3/2003	ALB	Review attached documentation to 5/22 request to move BOR documents from Mid-Pacific Region, Phoenix Area office; Denver; Indian trust records from Albuquerque to Iron Mountain; OS NBC Denver	2.50 200.00/hr	500.00
	AW	Review oral argument transcript, draft summary of arguments for use in draft opinion	3.70 150.00/hr	555.00
	ALB	Review Brooks and Carr Bill of Particulars (II) and response thereto; generate outline for oral argument	2.70 200.00/hr	540.00
6/4/2003	ALB	Review Wewoka Chicksaw document production responsive to request No. 4; draft memo to file and questions related thereto	3.00 200.00/hr	600.00
	AW	Review briefs for Named Individual Cohen	5.20 150.00/hr	780.00

			<u>Hrs/Rate</u>	<u>Amount</u>
6/4/2003	ALB	Draft summary of arguments related to two of the Named Individuals	3.30 200.00/hr	660.00
	ALB	Status Conference with J. Kerr	1.00 200.00/hr	200.00
6/5/2003	ALB	Review OIG Report regarding MMS Audits/Review OIG Investigative Report; Draft Letter to Kessler regarding MMS Documents	3.30 200.00/hr	660.00
	ALB	Draft Letter to Gillett regarding SAG invoice; review Gillett correspondence; t/conference w/Kerr regarding same	0.30 200.00/hr	60.00
	ALB	Review Cason testimony Transcript;Draft Letter to Spooner requesting telephone conference	1.60 200.00/hr	320.00
6/6/2003	ALB	Draft summary of arguments -- Named Individuals Cohen, Blackwell	3.20 200.00/hr	640.00
	ALB	Review Emergency Motion of Babbitt, Cohen and E. Blackwell to Stay Contempt Proceedings	0.30 200.00/hr	60.00
	ALB	Review Himmelhoch and McCarthy filings regarding Bills of Particulars II	2.50 200.00/hr	500.00
6/7/2003	ALB	Review Transcript of first day's opening and first second and third days of Homan testimony	4.50 200.00/hr	900.00
	ALB	Draft summary of arguments; review additional briefs	3.70 200.00/hr	740.00
6/8/2003	ALB	Review Days 4 and 5 of Homan direct and cross	3.70 200.00/hr	740.00
	ALB	Draft opinion regarding e-mail contempt issues	8.70 200.00/hr	1,740.00
6/9/2003	ALB	Review Wewoka Chickasaw production responsive to requests No. 2 & 7	3.50 200.00/hr	700.00
	ALB	Review end of Homan testimony and Fitzgerald testimoy (days 7 & 8	4.20 200.00/hr	840.00
	ALB	Draft summary of arguments for use in draft regarding final two Named Individuals	2.30 200.00/hr	460.00
6/10/2003	ALB	Review Hammond and Fasold (days 9-12)	5.60 200.00/hr	1,120.00
6/11/2003	ALB	Telephone conference w/Cason, Gillett & Spooner regarding OSM	0.40 200.00/hr	80.00

		<u>Hrs/Rate</u>	<u>Amount</u>
6/11/2003	AW Research -- criminal contempt	2.00 150.00/hr	300.00
6/12/2003	AW Research-criminal contempt	3.00 150.00/hr	450.00
6/13/2003	ALB Review Notice of Filing by DOI of Federal Register Notices Related to the Collection of Indian Trust Related Records from Third Parties	0.40 200.00/hr	80.00
6/14/2003	ALB Review testimony of John Wright, Landy Stinnett and Alan Graham McQuillan (through day 15)	4.80 200.00/hr	960.00
	ALB Edit opinion regarding e-mail contempt issues	3.80 200.00/hr	760.00
	AW Legal Research --criminal contempt	2.70 150.00/hr	405.00
	ALB Review Plaintiffs' Motion for Enlargement of time to file opposition to disqualify	0.10 200.00/hr	20.00
	ALB Review Brief regarding admissibility of depositions of defendants' experts as party admissions	0.30 200.00/hr	60.00
6/15/2003	ALB Draft letter to Gillett regarding visit to OSM after reviewing invitation	0.20 200.00/hr	40.00
	ALB Draft Letter to Gillett responding to his letter of June 11 regarding OSM	0.40 200.00/hr	80.00
	ALB Review request to move NBC and NPS records and attached documentation	1.00 200.00/hr	200.00
	ALB Review Duncan testimony (days 16, 17 and 18)	3.70 200.00/hr	740.00
	ALB Edit e-mail contempt opinion	2.50 200.00/hr	500.00
	AW Legal Research -- civil contempt	3.00 150.00/hr	450.00
6/16/2003	ALB Draft Letter to Kessler responding to letter seeking clarification of scope of MMS documents request	0.50 200.00/hr	100.00
	ALB Review oral argument requesting judgment; and Langbein testimony (direct and cross)	3.00 200.00/hr	600.00
	ALB Finalize e-mail contempt analysis	5.50 200.00/hr	1,100.00

			<u>Hrs/Rate</u>	<u>Amount</u>
6/16/2003	AW	Legal Research -- civil contempt	2.30 150.00/hr	345.00
	ALB	Review Defendants' Opposition Brief regarding admissibility of depositions of defendants' experts as party admissions	0.20 200.00/hr	40.00
6/17/2003	ALB	Draft Letter to Siemietkowski regarding Treasury's e-mail systems (requesting update)	0.10 200.00/hr	20.00
	ALB	Draft Letter to Gillett regarding rules of engagement and Ty Gast e-mail	1.00 200.00/hr	200.00
	ALB	Review transcript testimony of Associate Deputy Secretary Cason and Michelle Herman (days 21-24)	4.00 200.00/hr	800.00
	ALB	Draft opinion regarding e-mail contempt issues	2.00 200.00/hr	400.00
	ALB	Status Conference with J. Kerr	1.50 200.00/hr	300.00
6/18/2003	ALB	Review testimony of Brunner and Rosenbaum (through day 26 (before Angel))	4.60 200.00/hr	920.00
	ALB	Finalize contempt opinion	3.80 200.00/hr	760.00
	AW	Legal Research -- civil contempt	1.80 150.00/hr	270.00
6/19/2003	ALB	Cite check contempt opinion; review law review article concerning issues relevant to respondeat superior/contempt	4.20 200.00/hr	840.00
	AW	Legal Research -- fraud on court; orders	2.50 150.00/hr	375.00
6/20/2003	ALB	Review documents produced responsive to Wewoka/Chickasaw requests 2, 3, 4 and written responses to 8 & 9	2.50 200.00/hr	500.00
	ALB	Review Angel testimony (up to day 29)	5.00 200.00/hr	1,000.00
	ALB	Status Conference with J. Kerr	0.70 200.00/hr	140.00
6/21/2003	ALB	Review OSM Pittsburgh revisit report; forward to counseesl	1.20 200.00/hr	240.00
	ALB	Review Wewoka Chickasaw documents responsive to May 13 requests no. 2 & 4	3.80 200.00/hr	760.00

			<u>Hrs/Rate</u>	<u>Amount</u>
6/21/2003	ALB	Review Notice of Filing of Fourteenth Quarterly Report for Treasury	0.60 200.00/hr	120.00
6/22/2003	ALB	Review Newell testimony (days 21 and 22)	3.50 200.00/hr	700.00
	ALB	Finalize contempt opinion	3.80 200.00/hr	760.00
6/23/2003	ALB	Review Letter from M. Clark regarding Wewoka Chickasaw; draft letter to Seligman requesting final delivery of documents for Wewoka as well as NAID	0.50 200.00/hr	100.00
	ALB	Review Interior defendants' motion to reconsider admissibility of defense exhibits 105-111	0.20 200.00/hr	40.00
	ALB	Review testimony of Hermann and Brunner	3.30 200.00/hr	660.00
6/24/2003	ALB	Review Seligman response to Wewoka/NAID document request; draft letter in response setting production deadlines	1.00 200.00/hr	200.00
6/25/2003	ALB	Review Letter from J. Siemietkowski regarding supplemental production of documents regarding OST IT Security since 8/01	0.10 200.00/hr	20.00
	ALB	Review DOI's expedited consideration to disqualify	0.10 200.00/hr	20.00
	ALB	Review testimony of Rosenbaum	4.60 200.00/hr	920.00
	ALB	Review MMS public documents regarding oil and gas leases to generate list for production	4.60 200.00/hr	920.00
6/26/2003	ALB	Draft Letter to Gillett requesting status regarding OSM/Pittsburgh	0.30 200.00/hr	60.00
	ALB	Review Zimmerman resume; interview; draft Letter to Gillett regarding OIRM visit and appending resume of Zimmerman -- physical security expert	0.80 200.00/hr	160.00
6/27/2003	ALB	Draft Letter to Seligman regarding receipt of NAID documents and responding to his concerns regarding investigation; undertake cursory review of production	2.40 200.00/hr	480.00
	ALB	Review Plaintiffs' Consolidated Motion for a TRO and PI regarding IIM Data	0.20 200.00/hr	40.00
6/28/2003	ALB	Review MMS public documents regarding oil and gas leases to generate list for production	4.50 200.00/hr	900.00

	<u>Hrs/Rate</u>	<u>Amount</u>
6/29/2003 ALB Review request to move BOR and F&W records and attachments thereto; draft letter to Vissicchio consenting to request	0.60 200.00/hr	120.00
6/30/2003 ALB Review request to move two sets of National Park Service records, four sets of Office of Surface Mining records, three sets of Fish and Wildlife records and fifty-one sets of National Business Center records and attachments; send letter of approval to Vissicchio	0.70 200.00/hr	140.00
ALB Review Notification of Proposed Records Movement	1.20 200.00/hr	240.00
ALB Review SAIC/DOJ March 2003 Scan Data Report	0.70 200.00/hr	140.00
ALB Draft letters to Vissicchio regarding various request to move documents; review requests and attachments; focus on MMS request for 5 inactive trust boxes and request inventories	0.70 200.00/hr	140.00
For professional services rendered	<u>186.80</u>	<u>\$35,925.00</u>
Previous balance		\$48,453.55
6/10/2003 Payment - thank you		<u>(\$48,453.55)</u>
Total payments and adjustments		<u>(\$48,453.55)</u>
Balance due		<u><u>\$35,925.00</u></u>

LAW OFFICE

ALAN L. BALARAN, P.L.L.C.

ADMITTED IN DC AND MD

1717 PENNSYLVANIA AVE., N.W.
THIRTEENTH FLOOR
WASHINGTON, D.C. 20006
TELEPHONE (202) 466-5010
FAX (202) 986-8477
E-MAIL abalaran@erols.com

Invoice submitted to:
Cobell, et al. v. Norton, et al.
United States District Court for the
District of Columbia
333 Constitution Avenue, NW
Washington DC 20001

August 04, 2003

Invoice #44

Professional Services

		<u>Hrs/Rate</u>	<u>Amount</u>
7/1/2003	ALB Review FIMO Report; draft letter to Curley requesting redaction; draft memo to file regarding loss of trust data	1.50 200.00/hr	300.00
	ALB Review Status report regarding system closures	0.30 200.00/hr	60.00
	ALB T/conference w/J. Warshowsky (DOJ) regarding possible meeting w/Cason	0.30 200.00/hr	60.00
	ALB Review Warshowsky letter with attached summary of Inovis server situation	0.30 200.00/hr	60.00
	ALB Draft Monthly Report; review attachments for inclusion	1.00 200.00/hr	200.00
	ALB Review Spooner letter regarding request for meeting; draft response thereto; review reply	0.70 200.00/hr	140.00
	ALB Review documentation and begin inventory of documents provided in response to NAID request	2.50 200.00/hr	500.00
	AW Legal Research	3.00 150.00/hr	450.00
	ALB Draft Letter to Curley regarding FIMO document destruction report; memo to file regarding report and list principal players	1.30 200.00/hr	260.00

		<u>Hrs/Rate</u>	<u>Amount</u>
7/2/2003	ALB Review Praeipce and Opposition thereto to dismiss claims against 22 Named Individuals against whom plaintiffs did not file Bills of Particulars on time. Draft opinion recommending that motion for order to show cause be vacated.	2.20 200.00/hr	440.00
	ALB Review Newell and Lassiter testimony	1.50 200.00/hr	300.00
	ALB Review Status of IT shutdowns in response to TRO; t/conference w/Kerr regarding same and discussion concerning OIRM Herndon physical walkthrough	0.60 200.00/hr	120.00
	ALB Review log of record move notifications graciously provided by G. Vissicchio	0.20 200.00/hr	40.00
	AW Draft report on motion for contempt	2.40 150.00/hr	360.00
7/3/2003	AW Legal Research	2.50 150.00/hr	375.00
	AW Draft report on contempt motion	4.40 150.00/hr	660.00
	ALB Review Swimmer testimony	3.50 200.00/hr	700.00
7/4/2003	AW Draft report on contempt motion	4.00 150.00/hr	600.00
	AW Legal Research	3.83 150.00/hr	574.50
7/5/2003	AW Draft report on contempt motion	8.70 150.00/hr	1,305.00
7/6/2003	AW Legal Research	3.50 150.00/hr	525.00
	AW Draft	3.30 150.00/hr	495.00
	ALB Review Swimmer testimony	4.50 200.00/hr	900.00
7/7/2003	ALB Review letters by Spooner and Gillett; respond accordingly	0.40 200.00/hr	80.00
	ALB Review testimony of Ross Swimmer	2.30 200.00/hr	460.00

			<u>Hrs/Rate</u>	<u>Amount</u>
7/7/2003	ALB	Review U.S. Department of the Treasury E-Mail Archival Solution Review; draft letter to parties	0.30 200.00/hr	60.00
	AW	Conference with Special Master on draft	0.80 150.00/hr	120.00
	ALB	Draft Letter to Siemietkowski regarding Treasury Report from SAG; conference w/SAG regarding same	1.00 200.00/hr	200.00
	ALB	Draft Letter to Gillett regarding OSM-Pittsburgh	0.10 200.00/hr	20.00
7/8/2003	ALB	Review Swimmer testimony; extract issues related to leases and "fair market value"	4.50 200.00/hr	900.00
	ALB	Review 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 re:IT Security Matters	1.30 200.00/hr	260.00
	ALB	Review Interior Defendants' Motion and Memorandum to File Under Seal Discussion and Documents relating to Protected Information	1.00 200.00/hr	200.00
	ALB	Review Gillett letter regarding scheduling of IT site visits	0.10 200.00/hr	20.00
	ALB	Review Siemietkowski's letter regarding Solicitor's office discovery of additional BIA e-mail server	0.20 200.00/hr	40.00
7/9/2003	JW	Began inputting data from Box 1 of NAID Production	9.00 60.00/hr	540.00
	ALB	Draft Letter to S. Spooner regarding meeting to discuss TRO issues	0.10 200.00/hr	20.00
	ALB	Review Duncan testimony	3.00 200.00/hr	600.00
	ALB	Draft and Revise Site Visit Report regarding document retention at Appraisal Office	4.50 200.00/hr	900.00
7/10/2003	JW	Continue inputting data from Box 1 of NAID Production	5.00 60.00/hr	300.00
	JW	Inputting information of NAID Production from Word document into Excel spreadsheet	3.00 60.00/hr	180.00
	GB	Input Data from Box 2 of NAID production.	6.00 60.00/hr	360.00
	ALB	Draft and Revise Site Visit Report regarding document retention at Appraisal Office	5.60 200.00/hr	1,120.00

		<u>Hrs/Rate</u>	<u>Amount</u>	
7/11/2003	JW	Inputting information of NAID Production from Word document into Excel spreadsheet	2.00 60.00/hr	120.00
	GB	Input Data from Box 2 of NAID production.	7.50 60.00/hr	450.00
	ALB	Draft and Revise Site Visit Report regarding document retention at Appraisal Office	4.00 200.00/hr	800.00
	ALB	Review Incident response plan provided to Justice by OSM	0.30 200.00/hr	60.00
	ALB	Review Notice of Intention of the Office of Solicitor to Connect Interim Network to Internet and attached declaration of N. Colodney	0.20 200.00/hr	40.00
7/12/2003	ALB	Draft and Revise Site Visit Report regarding document retention at Appraisal Office	6.50 200.00/hr	1,300.00
7/13/2003	ALB	Organize and review NAID information produced by Interior for Final Report	5.40 200.00/hr	1,080.00
7/14/2003	JW	Input data from Box 1 of NAID Production	8.75 60.00/hr	525.00
	JW	Input data from Box 1 of NAID Production	8.75 60.00/hr	525.00
	GB	Input Data from Box 2 of NAID production.	6.00 60.00/hr	360.00
	AW	Legal research	3.00 150.00/hr	450.00
	AW	Draft report on contempt motion	1.70 150.00/hr	255.00
	AW	Draft report on contempt motion	2.50 150.00/hr	375.00
	ALB	Organize and review NAID information produced by Interior for Final Report	6.30 200.00/hr	1,260.00
7/15/2003	ALB	Conference with DOJ, DOI, SOL and Ps regarding weekly meetings and penetration testing; memo to file	1.50 200.00/hr	300.00
	JW	Input data from Box 1 of NAID production into Excel Spreadsheet	2.25 60.00/hr	135.00
	JW	Reviewed spreadsheet with Box 2 inventory of NAID Production	0.25 60.00/hr	15.00

		<u>Hrs/Rate</u>	<u>Amount</u>
7/15/2003	JW	2.50 60.00/hr	150.00
	JW	1.25 60.00/hr	75.00
	JW	1.75 60.00/hr	105.00
	GB	6.50 60.00/hr	390.00
	ALB	5.50 200.00/hr	1,100.00
	ALB	0.20 200.00/hr	40.00
7/16/2003	ALB	2.10 200.00/hr	420.00
	ALB	0.30 200.00/hr	60.00
	ALB	0.70 200.00/hr	140.00
	ALB	2.80 200.00/hr	560.00
	JW	1.00 60.00/hr	60.00
	JW	7.00 60.00/hr	420.00
	GB	7.25 60.00/hr	435.00
	ALB	1.50 200.00/hr	300.00
7/17/2003	JW	8.50 60.00/hr	510.00
	GB	8.00 60.00/hr	480.00
	ALB	0.80 200.00/hr	160.00

			<u>Hrs/Rate</u>	<u>Amount</u>
7/17/2003	ALB	Draft Letter to Warshawsky regarding meeting concerning Draft Rules of Engagement (responding to letter of July 16)	0.70 200.00/hr	140.00
	ALB	Organize and review NAID information produced by Interior for Final Report	4.20 200.00/hr	840.00
7/18/2003	JW	Continue inputting data from Box 3 of NAID Production	7.00 60.00/hr	420.00
	GB	Input Data from Box 2 of NAID production.	6.50 60.00/hr	390.00
	AW	Legal Research	2.30 150.00/hr	345.00
	AW	Draft report on contempt	5.80 150.00/hr	870.00
	ALB	Review Cobell v. Norton (Circuit Opinion)	1.50 200.00/hr	NO CHARGE
	ALB	Review response to Court's Inquiries During Closing Arguments	0.20 200.00/hr	40.00
7/19/2003	ALB	Organize and review NAID information produced by Interior for Final Report	5.30 200.00/hr	1,060.00
7/20/2003	ALB	Organize and review NAID information produced by Interior for Final Report	6.60 200.00/hr	1,320.00
7/21/2003	GB	Continue inputting Data from Box 2 of NAID production.	7.00 60.00/hr	420.00
	JW	Input data from Box 3 of NAID production	8.00 60.00/hr	480.00
	AW	Draft report on contempt motion	3.80 150.00/hr	570.00
	ALB	Review Opposition to Plaintiffs' Motion to Compel Compliance with this Court's May 21, 2003 Memorandum and Order; Motion	0.30 200.00/hr	60.00
	ALB	Draft and Finalize Contempt Report and Recommendation against Named Individuals	5.50 200.00/hr	1,100.00
7/22/2003	GB	Continue inputting Data from Box 2 of NAID production.	7.00 60.00/hr	420.00
	JW	Input data from Box 3 of NAID production	8.50 60.00/hr	510.00

		<u>Hrs/Rate</u>	<u>Amount</u>
7/22/2003	AW Draft report on contempt motion	1.60 150.00/hr	240.00
	ALB Draft Letter to J. Warshawsky responding to letter of 7/16 concerning meeting of 7/21	0.80 200.00/hr	160.00
	ALB Draft and Finalize Contempt Report and Recommendation against Named Individuals	6.30 200.00/hr	1,260.00
7/23/2003	JW Continue inputting data from Box 3 of NAID production.	8.50 60.00/hr	510.00
	GB Continue inputting Data from Box 2 of NAID production.	7.50 60.00/hr	450.00
	AW Draft report on contempt motion	2.00 150.00/hr	300.00
	ALB Review Jacobs' Motion for Leave to File Amicus Curiae Pro Se and Defendants' Opposition Thereto	0.60 200.00/hr	120.00
	ALB Draft letter to Warshawsky regarding McDivitt Declaration	0.20 200.00/hr	40.00
	ALB Draft and Finalize Contempt Report and Recommendation against Named Individuals	3.00 200.00/hr	600.00
7/24/2003	GB Continue inputting Data from Box 4 of NAID production.	3.50 60.00/hr	210.00
	JW Continue inputting data from Box 3 of NAID Production	6.50 60.00/hr	390.00
	JW Edit Site Visit Report to the Eastern Region Navajo Office	2.00 60.00/hr	120.00
	ALB Review Request to Move three sets of Fish and Wildlife Service Inactive Non-Indian/Non-Trust records	0.60 200.00/hr	120.00
7/25/2003	GB Continue inputting Data from Box 4 of NAID production.	6.50 60.00/hr	390.00
	JW Make corrections to Site Visit Report	1.00 60.00/hr	60.00
	JW Input data from Box 3 of NAID production	7.00 60.00/hr	420.00
	ALB Review Interior's Supplemental Opposition to Plaintiffs' Motion for Preliminary Injunction	1.00 200.00/hr	200.00

			<u>Hrs/Rate</u>	<u>Amount</u>
7/25/2003	ALB	Review Petitioners' Motion for Scheduling Order to Govern further Proceedings	0.30 200.00/hr	60.00
	ALB	Review Notice of Filing/Motion and Memorandum to File Under Seal Discussion and Documents Relating to Protected Information	0.30 200.00/hr	60.00
	ALB	t/conference w/D.Riess -- collect correspondence regarding IT security; transcript of 7/15 meeting for court's review	0.60 200.00/hr	120.00
7/26/2003	AW	Draft report on contempt motion	2.00 150.00/hr	300.00
	ALB	Review Interior's Motion for Leave to File Supplemental Opposition to Plaintiffs' Motion for PI and Supplemental Opposition; Interior's Statement of Supplemental Authority for Motion to Disqualify Special Master Balaran	0.50 200.00/hr	100.00
	ALB	Draft and Finalize Contempt Report and Recommendation against Named Individuals	6.50 200.00/hr	1,300.00
7/27/2003	AW	Draft report on contempt motion	4.50 150.00/hr	675.00
	ALB	Draft and Finalize Contempt Report and Recommendation against Named Individuals	5.00 200.00/hr	1,000.00
	ALB	Draft and Finalize Contempt Report and Recommendation against Named Individuals	5.00 200.00/hr	1,000.00
7/28/2003	ALB	Review request to move records by BIA; MMS; Fish and Wildlife; NPS and BOR	2.20 200.00/hr	440.00
	GB	Continue inputting Data from Box 4 of NAID production.	7.50 60.00/hr	450.00
	JW	Completed inputting data from Box 3 of NAID production	8.50 60.00/hr	510.00
	AW	Draft report on contempt motion	4.20 150.00/hr	630.00
	ALB	Review Court's opinion regarding preliminary injunction	1.50 200.00/hr	300.00
7/29/2003	GB	Continue inputting Data from Box 4 of NAID production.	7.50 60.00/hr	450.00
	JW	Begin inputting data from Box 5 of NAID production	8.00 60.00/hr	480.00
	AW	Draft report on contempt motion	3.00 150.00/hr	450.00

		<u>Hrs/Rate</u>	<u>Amount</u>
7/29/2003	ALB Draft and Finalize Contempt Report and Recommendation against Named Individuals	6.30 200.00/hr	1,260.00
7/30/2003	GB Continue inputting Data from Box 4 of NAID production.	5.00 60.00/hr	300.00
	ALB Review Filing of Redacted Version of July 25, 2003 Letter with Attachments to Daniel Reiss	0.70 200.00/hr	140.00
	ALB Draft and Finalize Contempt Report and Recommendation against Named Individuals	4.20 200.00/hr	840.00
	JW Continue inputting data from Box 5 of NAID production	8.00 60.00/hr	480.00
7/31/2003	GB Continue inputting Data from Box 4 of NAID production.	7.50 60.00/hr	450.00
	AW Draft report on contempt	2.50 150.00/hr	375.00
	ALB Draft Letter to Siemietkowski requesting MMS Documents	0.30 200.00/hr	60.00
	JW Continue inputting data from Box 5 of NAID production	8.00 60.00/hr	480.00
8/1/2003	ALB Review Notice of Filing of Interior's 14th QR - Review sections related to IT; Records; Training; Appraisals etc.	2.70 200.00/hr	540.00
	GB Continue inputting Data from Box 4 of NAID production.	7.50 60.00/hr	450.00
	JW Continue inputting data from Box 5 of NAID production	8.50 60.00/hr	510.00
8/3/2003	ALB Draft Monthly Report; review timesheets for assistants; cite check and put exhibits together for site visit report; cite check Contempt decision	4.60 200.00/hr	920.00
	For professional services rendered	500.48	\$58,964.50
	Additional Charges :		
7/11/2003	Copying cost for MMS articles and public documents		268.07
7/15/2003	Copying		268.07
7/30/2003	Court Report and Transcript for Wewoka/Chickasaw Depositions		1,096.24



U.S. Department of Justice

Civil Division

MFH:THilmer
DJ: 145-7-1468

Atty: Tracy L. Hilmer
Tel: (202) 307-0474
Post Office Box 261
Benjamin Franklin Station
Washington, D.C. 20044

June 6, 2003

By Facsimile (202)986-8477

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

Re: *Cobell v. Norton*, Civ. Action No. 96-1285 (RCL) (D.D.C.)

Dear Mr. Balaran:

In reviewing the compensation request attached as Exhibit 5 to your May 2003 Report, we noted that you seek payment for work performed by individuals identified only as "JW" and "AW." These individuals are apparently assisting you with the backup tape contempt matter that was argued before you on April 23 and 25, 2003. As you know, the government has in the past raised objections to proposals to "subcontract" work on the contempt matters that the Court has referred to you as the Special Master. In order that we may determine whether the employment of "JW" and "AW" raises any conflict of interest issues or is otherwise objectionable, we request that you inform us of the identities of these individuals, their legal qualifications and any affiliations they may have other than their employment by you in this matter.

Thank you for your attention to this matter.

Sincerely,

Tracy L. Hilmer
Trial Attorney

Commercial Litigation Branch

cc: Attached service list

cc:

By facsimile, pursuant to written agreement:

Keith Harper, Esq.
Native American Rights Fund
1712 N Street, N.W.
Washington, D.C. 20036-2976
(202) 822-0068
Counsel for Plaintiffs

Dennis M Gingold, Esq.
Mark Kester Brown, Esq.
607 - 14th Street, NW
Box 6
Washington, D.C. 20005
(202) 318-2372
Counsel for Plaintiffs

and by U.S. Mail upon:

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

By email to:

Mary Lou Soller, Esq.
Adam Feinberg, Esq.
Miller & Chevalier
655 15th Street, N.W., Suite 900
Washington, D.C. 20005
Counsel for Chester Mills and Terence Virden

Earl J. Silbert, Esq.
Robert A. Salerno, Esq.
Adam Hoffinger, Esq.
Piper Rudnick LLP
1200 19th Street, N.W., 7th Floor,
Washington, D.C. 20036
*Counsel for John Cruden, Jack Haugrud
and Sarah Himmelhoch*

David S. Krakoff, Esq.
Alessio D. Evangelista
Jamie Abrams
Christine Stroop
Beveridge & Diamond, P.C.
1350 I Street, N.W.
Suite 700
Washington, D.C. 20005-3311
Counsel for Daryl White

Amy Berman Jackson, Esq.
Trout & Richards
1100 Connecticut Avenue, N.W.
Suite 730
Washington, D.C. 20036
Counsel for Edith Blackwell

William H. Briggs, Jr., Esq.
Marc E. Rindner, Esq.
Ross, Dixon & Bell
2001 K Street, N.W.
Washington, D.C. 20006-1040
Counsel for Phillip Brooks

Michael Bromwich, Esq.
Anne Perry, Esq.
Fried Frank Harris Shriver & Jacobson
1001 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20004-2505
Counsel for Sharon Blackwell

B. Michael Rauh, Esq.
Julie Campbell, Esq.
Manatt, Phelps & Phillips, LLP
1501 M Street, N.W.
Suite 700
Washington, D.C. 20005
Counsel for Neal McCaleb

Barry Boss, Esq.
Asbill, Junkin, Moffitt & Boss
1615 New Hampshire Ave., N.W.
Suite 200
Washington, D.C. 20009
Counsel for Stephen Swanson

William Gardner, Esq.
Morgan, Lewis & Bockius
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Counsel for Willa Perlmutter

Barbara Van Gelder, Esq.
Eric Lyttle, Esq.
Wiley, Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006-2304
and

Erika C. Birg, Esq.
Paul, Weiss, Rifkind, Wharton & Garrison
1615 L Street, NW, Suite 1300
Washington, DC 20036
Counsel for James Eichner

Roger Zuckerman, Esq.
Leslie Kiernan, Esq.
William Taylor, Esq.
Zuckerman, Spader, Goldstein, Taylor &
Kolker, LLP
1201 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20036
Counsel for Robert Lamb and Hilda Manuel

Christopher Mead, Esq.
London & Mead
1225 19th Street, N.W.
Suite 320
Washington, D.C. 20036
Counsel for Ken Rossman

Robert Luskin, Esq.
David Tafairi, Esq.
Patton Boggs
2550 M St., Suite 500
Washington, D.C. 20037-1350
*Counsel for Edward Cohen, Bruce Babbitt
and John Leshy*

Plato Cacheris, Esq.
John F. Hundley, Esq.
Sydney J. Hoffmann, Esq.
Baker & McKenzie
815 Connecticut Avenue, N.W.
Washington, D.C. 20006
Counsel for John Berry and Glen Schumaker

R. Christopher Cook, Esq.
Jones Day Reaves & Pogue
51 Louisiana Ave, N.W.
Washington, D.C. 20001-2113

Counsel for Michael Carr

Kathleen E. Voelker, Esq.
1101 Connecticut Avenue, N.W., Suite 1000
Washington, D.C. 20036
Counsel for James Douglas

Martha Rogers, Esq.
Leon Rodriguez, Esq.
Ober, Kaler, Grimes & Shriver
1410 H Street, N.W., Suite 500
Washington, D.C. 20005
Counsel for Timothy Elliott

Herbert Fenster, Esq.
Jane Ann Neiswender, Esq.
Daniel G. Jarcho, Esq.
McKenna, Long & Aldridge, LLP
370 Seventeenth Street, Suite 4800
Denver, Colorado 80202
Counsel for Gale Norton

James Johnson, Esq.
Jamie Levitt, Esq.
Morrison & Foerster
1290 Sixth Avenue
New York, NY 10104
Counsel for Sabrina McCarthy

E. Lawrence Barcella, Jr.
Scharn Robinson, Esq.
Paul, Hastings, Janofsky & Walker LLP
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2400
Counsel for William Myers

Stephen M. Byers, Esq.
Miguel Rodriguez, Esq.
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2595
Counsel for Dominic Nessi

Elizabeth Wallace Fleming, Esq.
Trout & Richards PLLC
1100 Connecticut Ave. NW, Suite 730
Washington, DC 20036
Counsel for Michael Rossetti

Jeffrey D. Robinson, Esq.
Dwight Bostwick, Esq.
Melissa McNiven, Esq.
Baach, Robinson & Lewis
One Thomas Circle, Suite 200
Washington, D.C. 20005
Counsel for Lois Schiffer and Anne Shields

Steven J. Roman, Esq.
John A. Gibbons, Esq.
Dickstein, Shapiro, Morin & Oshinsky
2101 L Street NW
Washington, DC 20037-1526
Counsel for David Shilton and John Bryson

Michael Goodstein, Esq.
Deanna Chang, Esq.
Resolution Law Group, P.C.
5335 Wisconsin Avenue, Suite 350
Washington, D.C. 20015
Counsel for Tom Clark

Stanley Brand, Esq.
Andrew D. Herman, Esq.
Brand & Frulla
923 Fifteenth Street, N.W.
Washington, D.C. 20005
Counsel for Peter Coppelman

Hamilton P. Fox III, Esq.
Kathleen M. Devereaux, Esq.
Gregory S. Smith, Esq.
Sutherland, Asbill & Brennan LLP
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2415
Counsel for Charles Findlay

Thomas E. Wilson, Esq.
John A. Ordway, Esq.
Berliner, Corcoran & Rowe, LLP
1101 17th Street, N.W., Suite 1100
Washington, D.C. 20036
Counsel for John Most

Larry A. Nathans, Esq.
Robert W. Biddle, Esq.
Bennett & Nathans, LLP
210 East Lexington Street, Suite 301
Baltimore, MD 21202
Counsel for David Shuey

Eugene R. Fidell, Esq.
Matthew S. Freedus, Esq.
Feldesman, Tucker, Leifur, Fidell & Bank LLP
2001 L Street, N.W., 2nd Floor
Washington, D.C. 20036
Counsel for James Simon

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO	1640	
CONNECTION TEL		99868477
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FROM: Department of Justice
Civil Division
Cobell Litigation Support

Fax No. (202)353-3303
Voice No. (202)307-3013



SENT BY: John O'Connor

TO: Alan Balaran

FAX No. 202.986.8477

NUMBER OF PAGES SENT (INCLUDING COVER PAGE): 6

SPECIAL INSTRUCTIONS: Tracy Hilmer letter of 06/06/03 re: May report



U.S. Department of Justice

Civil Division

MFH:THilmer
DJ: 145-7-1468

Atty: Tracy L. Hilmer
Tel: (202) 307-0474

Post Office Box 261
Benjamin Franklin Station
Washington, D.C. 20044

July 9, 2003

By Facsimile (202)986-8477

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

Re: Cobell v. Norton, Civ. Action No. 96-1285 (RCL) (D.D.C.)

Dear Mr. Balaran:

On June 6, 2003, I sent you a letter requesting information about two individuals identified only by the initials "JW" and "AW" who were listed in the invoice included in your May 2003 Report as having assisted you with the backup tape contempt matter. Possibly, my letter went astray in the press of other business. I am attaching a copy of it to this letter. We noted that "AW" was listed again in the invoice included in your June 2003 Report. At this time, we again request the information sought in my June 6, 2003 letter.

Thank you for your attention to this matter.

Sincerely,

Tracy L. Hilmer
Trial Attorney

Commercial Litigation Branch

cc: Attached service list



U.S. Department of Justice

Civil Division

MFH:THilmer
DJ: 145-7-1468

Atty: Tracy L. Hilmer
Tel: (202) 307-0474
Post Office Box 261
Benjamin Franklin Station
Washington, D.C. 20044

June 6, 2003

By Facsimile (202)986-8477

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

Re: *Cobell v. Norton*, Civ. Action No. 96-1285 (RCL) (D.D.C.)

Dear Mr. Balaran:

In reviewing the compensation request attached as Exhibit 5 to your May 2003 Report, we noted that you seek payment for work performed by individuals identified only as "JW" and "AW." These individuals are apparently assisting you with the backup tape contempt matter that was argued before you on April 23 and 25, 2003. As you know, the government has in the past raised objections to proposals to "subcontract" work on the contempt matters that the Court has referred to you as the Special Master. In order that we may determine whether the employment of "JW" and "AW" raises any conflict of interest issues or is otherwise objectionable, we request that you inform us of the identities of these individuals, their legal qualifications and any affiliations they may have other than their employment by you in this matter.

Thank you for your attention to this matter.

Sincerely,

Tracy L. Hilmer
Trial Attorney

Commercial Litigation Branch

cc: Attached service list

cc:

By facsimile, pursuant to written agreement:

Keith Harper, Esq.
Native American Rights Fund
1712 N Street, N.W.
Washington, D.C. 20036-2976
(202) 822-0068
Counsel for Plaintiffs

Dennis M Gingold, Esq.
Mark Kester Brown, Esq.
607 - 14th Street, NW
Box 6
Washington, D.C. 20005
(202) 318-2372
Counsel for Plaintiffs

and by U.S. Mail upon:

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

By email to:

Mary Lou Soller, Esq.
Adam Feinberg, Esq.
Miller & Chevalier
655 15th Street, N.W., Suite 900
Washington, D.C. 20005
*Counsel for Chester Mills and Terence
Virden*

Earl J. Silbert, Esq.
Robert A. Salerno, Esq.
Adam Hoffinger, Esq.
Piper Rudnick LLP
1200 19th Street, N.W., 7th Floor,
Washington, D.C. 20036
*Counsel for John Cruden, Jack Haugrud
and Sarah Himmelhoch*

David S. Krakoff, Esq.
Alessio D. Evangelista
Jamie Abrams
Christine Stroop
Beveridge & Diamond, P.C.
1350 I Street, N.W.
Suite 700
Washington, D.C. 20005-3311
Counsel for Daryl White

Amy Berman Jackson, Esq.
Trout & Richards
1100 Connecticut Avenue, N.W.
Suite 730
Washington, D.C. 20036
Counsel for Edith Blackwell

William H. Briggs, Jr., Esq.
Marc E. Rindner, Esq.
Ross, Dixon & Bell
2001 K Street, N.W.
Washington, D.C. 20006-1040
Counsel for Phillip Brooks

Michael Bromwich, Esq.
Anne Perry, Esq.
Fried Frank Harris Shriver & Jacobson
1001 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20004-2505
Counsel for Sharon Blackwell

B. Michael Rauh, Esq.
Manatt, Phelps & Phillips, LLP
1501 M Street, N.W.
Suite 700
Washington, D.C. 20005
Counsel for Neal McCaleb

Barry Boss, Esq.
Asbill, Junkin, Moffitt & Boss
1615 New Hampshire Ave., N.W.
Suite 200
Washington, D.C. 20009
Counsel for Stephen Swanson

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Washington, D.C. 20004
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Wiley, Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006-2304
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Paul, Weiss, Rifkind, Wharton & Garrison
1615 L Street, NW, Suite 1300
Washington, DC 20036
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Kolker, LLP
1201 Connecticut Avenue, N.W.
Suite 700
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Suite 320
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Patton Boggs
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51 Louisiana Ave, N.W.
Washington, D.C. 20001-2113

Counsel for Michael Carr

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1101 Connecticut Avenue, N.W., Suite 1000
Washington, D.C. 20036
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1410 H Street, N.W., Suite 500
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Daniel G. Jarcho, Esq.
McKenna, Long & Aldridge, LLP
370 Seventeenth Street, Suite 4800
Denver, Colorado 80202
Counsel for Gale Norton

James Johnson, Esq.
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1290 Sixth Avenue
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Counsel for Sabrina McCarthy

E. Lawrence Barcella, Jr.
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Paul, Hastings, Janofsky & Walker LLP
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2400
Counsel for William Myers

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Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2595
Counsel for Dominic Nessi

Elizabeth Wallace Fleming, Esq.
Trout & Richards PLLC
1100 Connecticut Ave. NW, Suite 730
Washington, DC 20036
Counsel for Michael Rossetti

Jeffrey D. Robinson, Esq.
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Melissa McNiven, Esq.
Baach, Robinson & Lewis
One Thomas Circle, Suite 200
Washington, D.C. 20005
Counsel for Lois Schiffer and Anne Shields

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John A. Gibbons, Esq.
Dickstein, Shapiro, Morin & Oshinsky
2101 L Street NW
Washington, DC 20037-1526
Counsel for David Shilton and John Bryson

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Deanna Chang, Esq.
Resolution Law Group, P.C.
5335 Wisconsin Avenue, Suite 350
Washington, D.C. 20015
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Stanley Brand, Esq.
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923 Fifteenth Street, N.W.
Washington, D.C. 20005
Counsel for Peter Coppelman

Hamilton P. Fox III, Esq.
Kathleen M. Devereaux, Esq.
Gregory S. Smith, Esq.
Sutherland, Asbill & Brennan LLP
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2415
Counsel for Charles Findlay

Thomas E. Wilson, Esq.
John A. Ordway, Esq.
Berliner, Corcoran & Rowe, LLP
1101 17th Street, N.W., Suite 1100
Washington, D.C. 20036
Counsel for John Most

Larry A. Nathans, Esq.
Robert W. Biddle, Esq.
Bennett & Nathans, LLP
210 East Lexington Street, Suite 301
Baltimore, MD 21202
Counsel for David Shuey

Eugene R. Fidell, Esq.
Matthew S. Freedus, Esq.
Feldesman, Tucker, Leifur, Fidell & Bank LLP
2001 L Street, N.W., 2nd Floor
Washington, D.C. 20036
Counsel for James Simon

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO	1720	
CONNECTION TEL		99868477
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U.S. Department of Justice

Civil Division

MPH:THilmer
DJ: 145-7-1468

Atty. Tracy L. Hilmer
Tel: (202) 307-0474
Post Office Box 261
Benjamin Franklin Station
Washington, D.C. 20044

July 9, 2003

By Facsimile (202)986-8477

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

Re: *Cobell v. Norton*, Civ. Action No. 96-1285 (RCL) (D.D.C.)

Dear Mr. Balaran:

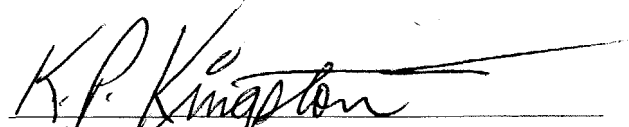
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Thank you for your attention to this matter.

Sincerely,

CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on August 18, 2003, I served the foregoing *United States' Reply to Plaintiffs' Opposition to Named Individuals' Responses to Bills of Particulars Relating to Plaintiffs' October 19, 2001 Motion for Order to Show Cause* in the manner stated upon the persons listed on the attached service list.


Kevin P. Kingston

By Hand Delivery and by facsimile:

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

By facsimile, pursuant to written agreement:

Keith Harper, Esq.
Native American Rights Fund
1712 N Street, N.W.
Washington, D.C. 20036-2976
(202) 822-0068
Counsel for Plaintiffs

Dennis M Gingold, Esq.
Mark Kester Brown, Esq.
607 - 14th Street, NW
Box 6
Washington, D.C. 20005
(202) 318-2372
Counsel for Plaintiffs

and by U.S. Mail upon:

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

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

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

By first-class mail, postage prepaid, and/or
by facsimile or email pursuant to written
agreement:

Mary Lou Soller, Esq.
Adam Feinberg, Esq.
Miller & Chevalier
655 15th Street, N.W., Suite 900
Washington, D.C. 20005
By First Class Mail
*Counsel for Chester Mills and Terence
Viriden*

Earl J. Silbert, Esq.
Robert A. Salerno, Esq.
Adam Hoffinger, Esq.
Piper Rudnick LLP
1200 19th Street, N.W., 7th Floor,
Washington, D.C. 20036
By Email to: earl.silbert@piperrudnick.com
By Email to:
robert.salerno@piperrudnick.com
By Email to:
adam.hoffinger@piperrudnick.com
*Counsel for John Cruden, Jack Haugrud
and Sarah Himmelhoch*

David S. Krakoff, Esq.
Alessio D. Evangelista
Jamie Abrams
Christine Stroop
Beveridge & Diamond, P.C.
1350 I Street, N.W.
Suite 700
Washington, D.C. 20005-3311
By Email to: dkrakoff@bdlaw.com
By Email to: aevangelista@bdlaw.com
By Email to: jabrams@bdlaw.com
By Email to: cstroop@bdlaw.com
Counsel for Daryl White

Amy Berman Jackson, Esq.
Trout & Richards
1350 Connecticut Avenue, N.W.
Suite 1220
Washington, D.C. 20036
By Email to: abj@troutrichards.com
Counsel for Edith Blackwell

Michael Bromwich, Esq.
Anne Perry, Esq.
Fried Frank Harris Shriver & Jacobson
1001 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20004-2505
By Email to:
Michael_Bromwich@ffhsj.com
By Email to: perryan@ffhsj.com
Counsel for Sharon Blackwell

B. Michael Rauh, Esq.
Manatt, Phelps & Phillips, LLP
1501 M Street, N.W.
Suite 700
Washington, D.C. 20005
By Email to: mrauh@manatt.com
Counsel for Neal McCaleb

Barry Boss, Esq.
Asbill, Junkin, Moffitt & Boss
1615 New Hampshire Ave., N.W.
Suite 200
Washington, D.C. 20009
By Fax: 202-332-6480
Counsel for Stephen Swanson

William Gardner, Esq.
Morgan, Lewis & Bockius
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
By Fax: 202-739-3001
Counsel for Willa Perlmutter

William H. Briggs, Jr., Esq.
Marc E. Rindner, Esq.
Ross, Dixon & Bell
2001 K Street, N.W.
Washington, D.C. 20006-1040
By Email to: bbriggs@rdbl原因.com
By Email to: mrindner@rdbl原因.com
Counsel for Phillip Brooks

Barbara Van Gelder, Esq.
Eric Lyttle, Esq.
Wiley, Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006-2304
By Fax: 202-719-7049
and
Erika C. Birg, Esq.
Paul, Weiss, Rifkind, Wharton & Garrison
1615 L Street, NW, Suite 1300
Washington, DC 20036
By Email to: ebirg@paulweiss.com
Counsel for James Eichner

Roger Zuckerman, Esq.
Leslie Kiernan, Esq.
William Taylor, Esq.
Zuckerman, Spader, Goldstein, Taylor &
Kolker, LLP
1201 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20036
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Christopher Mead, Esq.
London & Mead
1225 19th Street, N.W.
Suite 320
Washington, D.C. 20036
By Fax: 202-785-4280
Counsel for Ken Rossman

Robert Luskin, Esq.
Patton Boggs
2550 M St., Suite 500
Washington, D.C. 20037-1350
By Email to: RLuskin@PattonBoggs.com
*Counsel for Edward Cohen, Bruce Babbitt
and John Lesly*

Plato Cacheris, Esq.
John F. Hundley, Esq.
Sydney J. Hoffmann, Esq.
Baker & McKenzie
815 Connecticut Avenue, N.W.
Washington, D.C. 20006
By Email to:
carolyn.j.coffman@bakernet.com
By Email to: sydneyhoffman@aol.com
Counsel for John Berry and Glen Schumaker

R. Christopher Cook, Esq.
Jones Day Reaves & Pogue
51 Louisiana Ave, N.W.
Washington, D.C. 20001-2113
By Email to:
christophercook@JonesDay.com
Counsel for Michael Carr

Kathleen E. Voelker, Esq.
1101 Connecticut Avenue, N.W., Suite 1000
Washington, D.C. 20036
By Email to: kathleenvoelker@aol.com
Counsel for James Douglas

Martha Rogers, Esq.
Leon Rodriguez, Esq.
Ober, Kaler, Grimes & Shriver
1410 H Street, N.W., Suite 500
Washington, D.C. 20005
By Email to: mprogers@ober.com
By Email to: lrodriguez@ober.com
Counsel for Timothy Elliott

Herbert Fenster, Esq.
Jane Ann Neiswender, Esq.
Daniel G. Jarcho, Esq.
McKenna, Long & Aldridge, LLP
370 Seventeenth Street, Suite 4800
Denver, Colorado 80202
By Email to: hfenster@mckennalong.com
By Email to:
jneiswender@mckennalong.com
By Email to: djarcho@mckennalong.com
Counsel for Gale Norton

James Johnson, Esq.
Jamie Levitt, Esq.
Morrison & Foerster
1290 Sixth Avenue
New York, NY 10104
By Email to: jamesjohnson@mofocom
By Email to: jlevitt@mofocom
Counsel for Sabrina McCarthy

E. Lawrence Barcella, Jr.
Scharn Robinson, Esq.
Paul, Hastings, Janofsky & Walker LLP
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2400
By Fax: 202-508-9700
Counsel for William Myers

Stephen M. Byers, Esq.
Miguel Rodriguez, Esq.
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2595
By Email to: sbyers@crowell.com
By Email to: mrodriguez@crowell.com
Counsel for Dominic Nessi

Elizabeth Wallace Fleming, Esq.
Trout & Richards PLLC
1350 Connecticut Ave. NW, Suite 1220
Washington, DC 20036
By First Class Mail
Counsel for Michael Rossetti

Jeffrey D. Robinson, Esq.
Dwight Bostwick, Esq.
Melissa McNiven, Esq.
Baach, Robinson & Lewis
One Thomas Circle, Suite 200
Washington, D.C. 20005
By Email to: jeffrey.robinson@baachrobinson.com
By Email to: dwightbostwick@baachrobinson.com
By Email to: melissa.mcniven@baachrobinson.com
Counsel for Lois Schiffer and Anne Shields

Steven J. Roman, Esq.
John A. Gibbons, Esq.
Dickstein, Shapiro, Morin & Oshinshy
2101 L Street NW
Washington, DC 20037-1526
By Email to: romanS@dsmo.com
By Email to: gibbonsj@dsmo.com
Counsel for David Shilton and John Bryson

Michael Goodstein, Esq.
Deanna Chang, Esq.
Resolution Law Group, P.C.
5335 Wisconsin Avenue, Suite 350
Washington, D.C. 20015
By Fax: 202-686-4843
Counsel for Tom Clark

Stanley Brand, Esq.
Andrew D. Herman, Esq.
Brand & Frulla
923 Fifteenth Street, N.W.
Washington, D.C. 20005
By First Class Mail
Counsel for Peter Coppelman

Hamilton P. Fox III, Esq.
Kathleen M. Devereaux, Esq.
Gregory S. Smith, Esq.
Sutherland, Asbill & Brennan LLP
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2415
By Fax: 202-637-3593
Counsel for Charles Findlay

Thomas E. Wilson, Esq.
John A. Ordway, Esq.
Berliner, Corcoran & Rowe, LLP
1101 17th Street, N.W., Suite 1100
Washington, D.C. 20036
By Email to: bjones@bcr-dc.com
By Email to: jao@bcr-dc.com
Counsel for John Most

Larry A. Nathans, Esq.
Robert W. Biddle, Esq.
Bennett & Nathans, LLP
210 East Lexington Street, Suite 301
Baltimore, MD 21202
By First Class Mail
Counsel for David Shuey

Eugene R. Fidell, Esq.
Matthew S. Freedus, Esq.
Feldesman, Tucker, Leifur, Fidell & Bank
LLP
2001 L Street, N.W., 2nd Floor
Washington, D.C. 20036
By Email to: efidell@feldesmantucker.com
By Email to:
mfreedus@feldesmantucker.com
Counsel for James Simon