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

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

INTERIOR DEFENDANTS' REPLY TO PLAINTIFFS' OPPOSITION TO INTERIOR DEFENDANTS' MOTION TO STRIKE PLAINTIFFS' REQUEST FOR PERSONAL SANCTIONS IN PLAINTIFFS' COMMENTS TO THE JANUARY 27, 2003 CORRECTED REPORT AND RECOMMENDATION OF THE SPECIAL MASTER

Interior Defendants submit this reply to Plaintiffs' Opposition to Interior Defendants' Motion to Strike Plaintiffs' Request for Personal Sanctions in Plaintiffs' Comments to the January 27, 2003 Corrected Report and Recommendation of the Special Master ("Opposition") filed March 4, 2003. Plaintiffs' Opposition asserts that their Comments to the January 27, 2003 Corrected Report and Recommendation of the Special Master ("Comments") did not contain a request for personal sanctions. Opposition at 2. Thus, we respectfully request that the Court strike all but the first and last paragraphs of Plaintiffs' Comments because a fair reading shows that they are nothing more than personal attacks made in support of such personal sanctions.[1]

[1] Plaintiffs' characterization of their allegations as "statements of fact," Opposition at 2 n.2, is a misnomer. Being unsupported in the Corrected Report or elsewhere, they are anything but. Additionally, Plaintiffs' statement that "what truly is scandalous here are the disgraceful attacks by defendants and their counsel on this Court and its judicial officers, as well as the malfeasance that they practice on 500,000 individual Indian trust beneficiaries every single day" is untrue and completely irrelevant to Interior's Motion to Strike.

Among other things, Plaintiffs' Comments state as follows:

> Sanctions for citizen McCaleb are clearly appropriate and warranted. Unless this Court holds contemnors accountable for their malfeasance [footnote regarding Court's recent imposition of personal sanctions], there will be no end to the contemptuous behavior of government officials and their counsel in this case - and there will be no end to the harm that they inflict on 500,000 individual Indian trust beneficiaries. In this light, as this Court considers sanctions for citizen McCaleb, plaintiffs urge the Court to consider personal sanctions for each of the following individuals who have aided and abetted Mr. McCaleb.

Comments at 1-2 (emphasis added). This is followed by two pages of specific allegations against six named individuals and general comments regarding past conduct in this litigation. Nevertheless, Plaintiffs now submit that their Comments "contain no such request for sanctions . . . ." Opposition at 2. This concession renders the personal attacks all the more immaterial, impertinent, and gratuitous as they were made in a context in which Plaintiffs sought no related relief.[2]

Finally, Plaintiffs' "request" that the Court "consider . . . appropriate personal sanctions" against each attorney of record on the Motion to Strike, Opposition at 2 n.2, is unfounded and inappropriate inasmuch as the Motion to Strike is an appropriate response to the reckless, intemperate language employed in Plaintiffs' Comments.

Dated: March 14, 2003

Respectfully submitted,

ROBERT D. McCALLUM, JR.

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[2] If the Court were to view Plaintiffs' current concession that they do not request sanctions as rendering Interior's Motion to Strike moot, Plaintiffs' allegations against the named individuals would still remain in the record. Recognizing the necessary high standard to succeed in a motion to strike, for all the reasons stated in Interior's Motion to Strike, and especially in light of Plaintiffs' current position, those allegations remain immaterial, impertinent, and scandalous.

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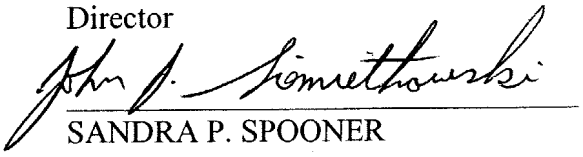

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CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on March 14, 2003 I served the foregoing *Interior Defendants' Reply to Plaintiffs' Opposition to Interior Defendants' Motion to Strike Plaintiffs' Request for Personal Sanctions in Plaintiffs' Comments to the January 27, 2003 Corrected Report and Recommendation of the Special Master* by facsimile in accordance with their written request of October 31, 2001 upon:

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