

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, <u>et al.</u> ,)	
)	
Plaintiffs,	)	Civil Action No. 96-1285 (JR)
)	
v.)	
)	
DIRK KEMPTHORNE, Secretary of)	
the Department of the Interior,)	
<u>et al.</u> ,)	
)	
Defendants.)	

**DEFENDANTS’ MOTION TO RECONSIDER THAT PART OF THE COURT’S ORDER
OF APRIL 20, 2007 DIRECTING PAYMENT OF ATTORNEY FEES TO PLAINTIFFS**

Defendants respectfully move the Court to reconsider that part of its Order of April 20, 2007, in which it approved the full amount of two fee petitions filed by Plaintiffs. Order of April 20, 2007, at 4-5 [Dkt No. 3312] (“Order”). In that portion of the Order, the Court states that the dollar amounts sought by Plaintiffs had “not been seriously contested” by Defendants. Id. We respectfully request that the Court reconsider its Order, because Defendants in fact raised numerous, specific objections to the amounts requested and proposed alternative fee calculations to the Court that support just a fraction of Plaintiffs’ fee claims. Pursuant to Local Rule 7(m), Defendants conferred with Plaintiffs’ counsel about this motion and counsel indicated that Plaintiffs will oppose the motion.

BACKGROUND

Plaintiffs’ fee requests follow from two orders entered by the Court in 2003. In one

instance, Plaintiffs succeeded on a December 2002 motion to compel an answer from a deposition witness, Donna Erwin, to a question unrelated to the substance of the case. The Court compelled further deposition of Ms. Erwin and authorized Plaintiffs to seek the reasonable fees incurred in pursuing their motion to compel and in conducting the follow-up deposition. Cobell v. Norton, 213 F.R.D. 16, 32 (D.D.C. 2003). Plaintiffs later claimed fees totaling \$162,761.52 purportedly related to those two tasks. Defendants thereupon submitted a 19-page brief and appendix contesting most of the fees, disputing inflated billable rates, and asserting that the 468 hours billed were excessive and involved activities not reimbursable under the Court's sanctions order. See Defendants' Objections to Plaintiffs' Request For Attorney's [sic] Fees and Expenses Pursuant to the Court's February 5, 2003 Ruling (Dec. 14, 2004) [Dkt No. 2783] (Exhibit A hereto). Defendants offered a competing fee calculation, which indicated that Plaintiffs were entitled to \$15,889.50, not the \$162,761.52 they claimed.

The second claim for fees arose from an order imposing sanctions under Federal Rule of Civil Procedure 56(g), based on Defendants' use of a declaration executed by Frank Sapienza, former Director of the General Services Administrations' Indian Trust Accounting Division. Cobell v. Norton, 214 F.R.D. 13 (D.D.C. 2003). Defendants had submitted the declaration to support a motion for partial summary judgment, filed in 2000. Based upon a hearsay statement made without personal knowledge by counsel for the Government Accountability Office in a letter, which appeared to contradict Mr. Sapienza, the Court found Mr. Sapienza's declaration false and authorized an award of fees and costs to "compensate Plaintiffs for any reasonable expenses, including attorneys' fees, incurred . . . as a result of opposing the claims set forth in the Sapienza Affidavit submitted in conjunction with" Defendants' motion. Id. at 22-23.

Plaintiffs thereafter requested \$356,804.12, reflecting 1,165.70 billable hours purportedly related to their 38-page opposition and appendix. Defendants objected to the fee request, filing Defendants' Corrected Objections to Plaintiffs' Statement of Fees and Expenses Filed June 21, 2004 (July 23, 2004) [Dkt No. 2619] (Exhibit B hereto). Defendants argued that Plaintiffs' request was so excessive the Court should deny an award altogether and, in the alternative, proposed a fee calculation demonstrating that Plaintiffs were entitled to no more than \$29,322.50.

The Order of April 27, 2007 does not address Defendants' objections or alternate fee calculations and does not explain the reasonableness of the fees awarded. The Order states that "the government must now pay to plaintiffs' counsel the sum of \$519,565.64," after observing that the "dollar amounts of the [Plaintiffs' fee] statements have not been seriously contested," *id.* at 4, and that the fee requests appeared "reasonable," *id.* at 5. Defendants respectfully move the Court, in the interest of justice, for reconsideration of the award.

ARGUMENT

JUSTICE REQUIRES THAT THE COURT RECONSIDER ITS AWARD OF FEES TO PLAINTIFFS

Federal Rule of Civil Procedure 54(b) "governs reconsideration of orders that do not constitute final judgments in a case." Cobell v. Norton, 224 F.R.D. 266, 271 (D.D.C. 2004). The Court has previously concluded that it "will adhere to the 'as justice requires' standard for determining whether to grant reconsideration of an interlocutory order under Rule 54(b)." *Id.* at 272. Application of this standard "amounts to determining, within the Court's discretion, whether reconsideration is necessary under the relevant circumstances." *Id.* The Court has stated that there "does not seem to be any real distinction" between the "as justice requires"

standard and that employed by other courts, such as the one in Neal v. Honeywell, No. 93-C-1143, 1996 WL 627616 (N.D. Ill. Oct. 25, 1996). Cobell, 224 F.R.D. at 272. In Neal, the court concluded that reconsideration is appropriate when “the Court has patently misunderstood a party, or has made a decision outside the adversarial issues presented to the Court by the parties, or has made an error not of reasoning but of apprehension.” Neal, 1996 WL 627616, at *2-3 (quoting Bank of Waunakee v. Rochester Cheese Sales, Inc., 906 F.2d 1185, 1191 (7th Cir. 1990)). In light of the Court’s observation that the fee requests were not “seriously contested,” Defendants respectfully submit that the Court may have misapprehended Defendants’ objections.

Defendants did, in fact, contest the propriety and reasonableness of the fees claimed by Plaintiffs. As the Court noted in reviewing previous fee requests, “[t]he D.C. Circuit has admonished . . . that ‘where a fee is sought from the United States, which has infinite ability to pay, the court must scrutinize the claim with particular care.’”¹ Cobell v. Babbitt, 188 F.R.D. 122, 125 (D.D.C. 1999) (quoting Copeland v. Marshall, 641 F.2d 880, 888 (D.C. Cir. 1980) (en banc)).

Moreover, regardless of whether the Court decides to approve the full amount requested, reconsideration is necessary in order to set out the Court’s reasons supporting its decision. As

¹ Plaintiffs’ previous fee requests establish a record of inflated claims and so warrant especially careful scrutiny: on Plaintiffs’ petition in connection with the first contempt trial, the Court approved about 26% of Plaintiffs’ request (\$624,643.50 out of \$2,366,684 sought), Cobell v. Babbitt, 188 F.R.D. at 123; on a sanctions award in 2002, the Court approved just over 30% of Plaintiffs’ request (\$125,484.87 out of \$409,038.82 requested), Cobell v. Norton, 231 F. Supp. 2d 295, 299 (D.D.C. 2002); and on Plaintiffs’ interim fee request under the Equal Access to Justice Act, the Court approved approximately 48% of the amount claimed (\$7,066,471.77 out of \$14,528,467.21 requested), Cobell v. Norton, 407 F. Supp. 2d 140, 144-45 (D.D.C. 2005).

the D.C. Circuit has stated, “a meaningful review requires a record that elucidates the factors that contributed to the fee decision and upon which it was based.” Evans v. Sheraton Park Hotel, 503 F.2d 177, 188 (D.C. Cir. 1974); see also Davy v. CIA, 456 F.3d 162, 167 (D.C. Cir. 2006) (“If the district court fails to articulate the basis for its attorney fee decision, we believe remand for adequate explanation of its reasoning is in order.” (citing Copeland v. Marshall, 641 F.2d at 901 n.39)). Thus, we respectfully request that the Court grant reconsideration in order to articulate its reasons for any fees and costs the Court approves upon consideration of Defendants’ objections.

CONCLUSION

For the foregoing reasons, Defendants’ motion for reconsideration of the award of fees granted by the Court in its Order of April 20, 2007 should be granted.

Dated: April 26, 2007

Respectfully submitted,

PETER D. KEISLER
Assistant Attorney General
MICHAEL F. HERTZ
Deputy Assistant Attorney General
J. CHRISTOPHER KOHN
Director

/s/ Robert E. Kirschman, Jr.
ROBERT E. KIRSCHMAN, JR.
Deputy Director
D.C. Bar No. 406635
MICHAEL J. QUINN
Trial Attorney
D.C. Bar No. 401376
Commercial Litigation Branch
Civil Division
P.O. Box 875
Ben Franklin Station
Washington, D.C. 20044-0875
(202) 616-0328

CERTIFICATE OF SERVICE

I hereby certify that, on April 26, 2007 the foregoing *Defendants' Motion to Reconsider That Part of the Court's Order of April 20, 2007 Directing Payment of Attorney Fees to Plaintiffs* was served by Electronic Case Filing, and on the following who is not registered for Electronic Case Filing, by facsimile:

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

/s/ Kevin P. Kingston
Kevin P. Kingston

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,)
)
)
 Plaintiffs,)
)
 v.) Case No. 1:96cv01285 (JR)
)
 DIRK KEMPTHORNE,)
 Secretary of the Interior, et al.,)
)
 Defendants.)

ORDER

This matter comes before the Court on *Defendants' Motion to Reconsider That Part of the Court's Order of April 20, 2007 Directing Payment of Attorney Fees to Plaintiffs* [Dkt. No.]. Upon consideration of said Motion, any opposition and reply thereto, and the entire record of this case, it is hereby

ORDERED, that Defendants' Motion should be and hereby is GRANTED; and it is further

ORDERED, that the one paragraph of Court's Order of April 20, 2007 [3312] addressing Plaintiffs' fee requests and ordering the government to pay \$519,565.64 to Plaintiffs counsel is hereby VACATED, without effect to the remainder of said Order; and it is further

ORDERED, upon consideration of Plaintiffs' fee requests of June and November 2004, [2596] and [2762], and Defendants objections thereto, [2619] and [2783], that the government shall pay to Plaintiffs' counsel the sum of \$_____, for the reasons set forth in the accompanying memorandum.

SO ORDERED.

Dated: _____, 2007

Hon. James Robertson
UNITED STATES DISTRICT JUDGE

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.)
 _____)

**DEFENDANTS’ OBJECTIONS TO PLAINTIFFS’ REQUEST
FOR ATTORNEY’S FEES AND EXPENSES PURSUANT TO
THE COURT’S FEBRUARY 5, 2003 RULING**

In its February 5, 2003 ruling, this Court imposed sanctions under Fed. R. Civ. P. 37 upon certain of defendants’ counsel because the Court found they had improperly asserted the attorney-client privilege as to a question plaintiffs had posed to then-Acting Special Trustee Donna Erwin during her December 20, 2002 deposition. *Cobell v. Norton*, 213 F.R.D. 16 (2003) (the “Feb. 5, 2003 Order”). Specifically, the Court ordered defense counsel to pay plaintiffs for two categories of fees and expenses: (1) “all reasonable expenses, including attorney’s fees, incurred in making plaintiffs’ motion to compel” Donna Erwin to respond the question as to which the privilege had been asserted and (2) “all reasonable expenses, including attorney’s fees, incurred as a result of having to re-depose Donna Erwin.” *Id.* at 32.

On November 15, 2004, plaintiffs filed a “Report on the Status of the Evidence Concerning Defendants’ and the Department of Justice’s Misrepresentations to this Court on December 13 and December 17, 2003 and Request for Attorney’s Fees with Respect Thereto” (Plaintiffs’ “Report”). The title of the filing itself reveals that the plaintiffs have grossly

misconstrued the scope of the Feb. 5, 2003 Order. Defendants have moved to strike the “Report” which was both unauthorized and improper, and any fees associated with the generation of the “Report” should be disallowed. *See* Defendants’ Motion to Strike Plaintiffs’ “Report” Regarding the Erwin Scheduling Matter and Defendants’ Memorandum of Points and Authorities in support thereof (both filed Nov. 29, 2004) (collectively, “Defendant’s Motion to Strike”). While plaintiffs’ fee petition should have been limited to the two categories of work set out in the Feb. 5, 2003 Order, plaintiffs have submitted a petition for fees far beyond that authorized by the Court. Plaintiffs’ claim of \$162,761.52, representing some 468 hours, for a motion to compel on a single unanswered deposition question and the re-posing of that question is facially excessive. Not only do plaintiffs seek fees for categories beyond those for which the Court imposed sanctions, but they seek fees for four different individuals, including three attorneys, for obviously duplicative and non-productive work.

Background

In early December 2002, plaintiffs sought to take the deposition of Donna Erwin, who was then the Acting Special Trustee, as part of the preparation for Trial 1.5. The government sought to defer Ms. Erwin’s deposition, and that of Bert Edwards, until after January 6, 2003, the date the Court had assigned for the government to file its historical accounting plan. As grounds for the motion, the government argued that Ms. Erwin was intensely involved in the creation of the plans and had certain personal obligations in late December 2002 that would make it overly burdensome for her to be deposed before January 6, 2003. The Court held a hearing on the matter on December 13, 2002. A misunderstanding between government counsel and Donna

Erwin and her staff resulted in inaccurate information concerning Ms. Erwin's plans to be in Washington, DC prior to January 6, 2003 being given to the Court at the December 13 hearing. The Court ordered Ms. Erwin to submit to deposition the week following the December 13 hearing, but directed that the deposition be conducted in Albuquerque, New Mexico, where Ms. Erwin resided. Following a subsequent hearing before the Court on December 17, 2002 at which government counsel attempted to explain the misunderstanding regarding Ms. Erwin's schedule, Ms. Erwin was deposed by plaintiffs in Washington, DC on December 20, 2002. Ms. Erwin was not called to appear in person as a witness by either side at Trial 1.5.

Plaintiffs began the December 20, 2002 deposition of Ms. Erwin at approximately 10:30 am and agreed to conclude questioning by 4:30 pm so that Ms. Erwin could make her flight back to Albuquerque. Dec. 20, 2002 Erwin Dep. at 4 (Exhibit A). Shortly before 4:30, having apparently concluded their questioning of Ms. Erwin regarding Trial 1.5 issues, plaintiffs' counsel asked Ms. Erwin regarding the December 13 and 17, 2002 hearings: "And you believe your attorneys have been fully truthful with the Court?" *Id.* at 284; *see also id.* at 289 (noting time of 4:38 pm). Government counsel asserted a privilege and, after a conference with Ms. Erwin, directed her not to answer the question.¹

On or about January 1, 2003, plaintiffs filed a motion to compel Ms. Erwin to answer the question. Defendants filed an opposition to the motion on January 15, 2003, and plaintiffs filed their reply on January 28, 2003. On February 5, 2003, the Court granted the motion. The Court also awarded plaintiffs sanctions for reasonable attorney's fees and costs incurred in presenting

¹Plaintiffs' counsel asked variations on this same question in the ensuing minutes and were met with the same objection by government counsel.

the motion to compel and in re-deposing Ms. Erwin upon the matter she had been directed not to answer. *Cobell v. Norton*, 213 F.R.D. 16, 32-33 (D.D.C. 2003) (the “Feb. 5, 2003 Order”). The Court did not in that order or subsequently authorize or direct the plaintiffs or anyone else to file a “report” regarding the Erwin scheduling matter.

Ms. Erwin retained personal counsel and submitted to re-deposition on February 12 and 13, 2003. She was re-deposed again on October 14, 2004, pursuant to the Court’s September 2, 2004 Memorandum and Order at 7 (“Sept. 2, 2004 Order”).

Argument

The Court’s Feb. 5, 2003 Order very clearly limited plaintiffs’ fee award to time and expenses for the motion to compel and to re-deposing Ms. Erwin on the question about whether she believed the government’s attorneys had made misrepresentations to the Court in the December 13 and 17, 2002 hearings. The purpose of the sanctions award was to compensate plaintiffs, as the successful moving party, for “the reasonable expenses incurred in making the motion, including attorney’s fees. . . .” Fed. R. Civ. P. 37(a)(4)(A). The rule does not provide for punitive damages, and this Court never indicated that it intended to impose any sanctions beyond those authorized by the rule.

A. Application of Legal Standards to Plaintiffs’ Petition

This Court has previously held that “[t]he proper method of awarding attorneys’ fees for a violation of Rule 37 is the lodestar method in which the court multiplies a reasonable hourly rate by a reasonable number of hours expended.” *Cobell v. Norton*, 231 F. Supp. 2d 295, 300 (D.D.C. 2002). As the fee applicants, plaintiffs bear the burden of establishing that their petition

is limited to the scope of the Court's award and is otherwise reasonable. *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983) (“[T]he fee applicant bears the burden of establishing entitlement to an award and documenting the appropriate hours expended and hourly rates.”); *American Petroleum Inst. v. EPA*, 72 F.3d 907, 915 (D.C. Cir. 1995); *In re North*, 59 F.3d 184, 189 (D.C. Cir. 1995); *Cobell*, 231 F. Supp. 2d at 300.

Applying these criteria, as explained below, defendants submit that plaintiffs' fee award should be limited to \$14,428.00.

1. Hourly Rates

Plaintiffs seek fees for their counsel at hourly rates that comport with the *Laffey Matrix*², and defendants do not object to these rates in the computation of the fee award. However, because plaintiffs could have – and should have – completed their re-deposition of Ms. Erwin upon the question that was the subject of their motion to compel in February 2003, defendants submit that plaintiffs' counsel's hourly rates should be those set forth by the *Laffey Matrix* in effect from June 1, 2002 through May 31, 2003. That Matrix is attached as Exhibit J.

Accordingly, defendants do not object to the following hourly rates for plaintiffs' counsel:

Mark Brown:	\$370
Dennis Gingold:	\$370
Keith Harper:	\$265

Defendants do, however, object to the rates sought for non-attorney Geoffrey Rempel.

While the Court has previously awarded plaintiffs fees for Mr. Rempel based upon his

²As this Court has previously observed, 231 F. Supp. 2d at 302, the matrix first developed in *Laffey v. Northwest Airlines*, 746 F.2d 4 (D.C. Cir. 1984), and updated in subsequent years has been accepted in this Circuit as an appropriate standard for prevailing market rates in this community. *Covington v. District of Columbia*, 57 F.3d 1101, 1109 (D.C. Cir. 1995).

qualifications as a certified public accountant (“CPA”), it is clear from the records submitted in the present petition that Mr. Rempel performed no work for which accounting expertise was required, but rather performed paralegal and clerical type work. Accordingly, if the Court awards plaintiffs any compensation at all for Mr. Rempel’s work³, it should be at the paralegal rate set forth by the June 2002-May 2003 *Laffey* Matrix – i.e., \$100.

2. Hours Expended

In addressing a previous fee request made under Rule 37 in this case, this Court observed that “[a] near ‘but for’ relationship must exist between the Rule 37 violation and the activity for which fees and expenses are awarded.” *Cobell*, 231 F. Supp. 2d at 303-04, quoting *Cobell v. Babbitt*, 188 F.R.D. 122, 127 (D.D.C. 1999). Thus, the Court held that plaintiffs could “recover for expenses that directly arise from [the activity for which sanctions were imposed], not for expenses incurred while engaged in other matters.” *Cobell*, 231 F. Supp. 2d at 304. Accordingly, plaintiffs’ fee award should be limited to (a) a reasonable number of hours expended upon the preparation of their motion to compel and their reply to the defendants’ opposition to the motion, as well review of the Court’s Feb. 5, 2003 Order, and (b) a reasonable number of hours to re-depose Ms. Erwin upon the question she was directed not to answer and some time for follow up. *See* Sept. 2, 2004 Order at 4 (“The February 2003 opinion granted plaintiffs prospective relief in the form of a second deposition of Ms. Erwin, and compensatory relief in the form of sanctions for having to redepose Ms. Erwin and file a motion to compel.

³As discussed further below, Mr. Rempel’s work for which plaintiffs seek compensation here was not within the scope of the Court’s fee award and/or was duplicative or unnecessary.

Cobell v. Norton, 213 F.R.D. at 28, 32. Plaintiffs have received all of the relief to which they are entitled.”).

However, in the current petition, plaintiffs seek fees for activities that are far beyond the scope of the Court’s Feb. 5, 2003 Order and for activities they clearly would have engaged in whether or not defense counsel had interposed the privilege objection that was overruled in that Order. These sorts of activities do not meet the “but for” test, and no fees should be allowed for them, as explained further below.

(a) Reasonable Time Expended on Motion to Compel

A summary of the fees plaintiffs seek for work that “directly arise[s] from” their motion to compel Ms. Erwin to respond to the question as to which the privilege had been asserted is set forth below.⁴

Defendants do not object to the fees sought for Mr. Harper’s work on the motion to compel, as it appears from the records that he was the principal drafter of the motion and the reply, and his total time expended on preparing the motion, reviewing the opposition and preparing the reply, and reviewing the Court’s opinion (37.9 hours) is reasonable.

Defendants also do not object to a reasonable amount of time for another of plaintiffs’ counsel – either Mr. Brown or Mr. Gingold, but not both – to review and comment upon Mr. Harper’s draft briefs. Mr. Brown spent 1.166 hours reviewing the motion to compel, and 3.25 hours reviewing the reply and discussing it with Mr. Harper. Defendants believe this time is reasonable. Defendants also do not object to an award to Mr. Brown for one hour to review the

⁴A detailed compilation of plaintiffs’ petition for fees related to this activity is set out in Exhibit B.

Court's Feb. 5, 2003 Order (the same amount of time charged by Mr. Harper), since Mr. Brown took the December 20, 2002 and the February 2003 depositions of Ms. Erwin.⁵

Defendants object to the time charged for Mr. Gingold's participation in the motion to compel. Mr. Harper was an attorney with approximately 9 years of experience, including 7 years on this case, at the time he prepared the motion and reply (Harper Dec. ¶¶ 1, 8), and he therefore did not require supervision by two senior attorneys. *See Davis County Solid Waste Mgmt. and Energy Recovery Special Service Dist. v. EPA*, 169 F.3d 755, 761 (D.C. Cir. 1999) (per curiam) (reducing fee request for duplication of effort, including multiple attorneys reviewing and editing briefs); *Role Models America, Inc. v. Brownlee*, 353 F.3d 962, 972 (D.D.C. 2004) (criticizing fee application for including billings for three senior attorneys). The motion to compel did not address any special or complicated legal questions that required multiple senior attorneys to review it. Accordingly, Mr. Gingold's review of the motion to compel was duplicative of Mr. Brown's and should not be included in the fee award. If plaintiffs wish, in the alternative to seek compensation for Mr. Gingold's review of the motion to compel (totaling 3.5 hours on January 1, 2003) and conferences with Mr. Harper regarding the motion (totaling 1.1 hours on December 21, 2002, December 26, 2002 and January 1, 2003), defendants would not object so long as they do not also obtain fees for Mr. Brown's review of the same motion on December 30, 2002 and

⁵In two entries for February 5, 2003, Mr. Brown charged for reading **two** opinions that the Court issued that day and for conferring with Mr. Harper "re: strategy" for a total of 2.25 hours. *See Exhibit B*. Because it is unclear how much of these activities "directly ar[o]se from" the motion to compel Ms. Erwin's testimony, and it is plaintiffs' burden to establish their entitlement to fees, we submit that it is appropriate for the Court to limit plaintiffs' request in this regard to one hour for Mr. Brown's review of the ruling on the motion to compel. *See Role Models America, Inc. v. Brownlee*, 353 F.3d 962, 970-71 (D.D.C. 2004) (noting difficulties presented when time records lump multiple tasks together).

January 1, 2003 (totaling 1.166 hours). This alternative calculation is shown in the second table below.

Accordingly, defendants submit that plaintiffs' fee award concerning the motion to compel should be computed as follows:

Attorney	Rate	Hours	Fee
Keith Harper	\$265	37.9	\$10,043.50
Mark Brown	\$370	5.416	\$ 2,003.92
TOTAL		43.316	\$12,047.42

OR

Attorney	Rate	Hours	Fee
Keith Harper	\$265	37.9	\$10,043.50
Mark Brown	\$370	4.25	\$ 1,572.50
Dennis Gingold	\$370	4.6	\$ 1,702.00
TOTAL		46.75	\$13,318.00

(b) Reasonable Time to Re-Depose Ms. Erwin

Ms. Erwin was directed not to answer a single question (whether she believed defendants' attorneys had been "entirely truthful" to the Court in the December 13 and 17, 2002 hearings) and a variation on that question (whether she believed defendants' attorneys had made any "misrepresentations" to the Court at those hearings). The plaintiffs themselves acknowledged in their motion to compel that this question had been posed "near[] the close of the deposition for

that day. . . .” Plaintiffs’ Motion to Compel at 3. Ms. Erwin had already sat through 6 hours of deposition when the question arose, and the Rules limited plaintiffs to 7 hours in a single day, absent leave of Court. Fed. R. Civ. P. 30(d)(2). Thus, allowing one hour for lunch, plaintiffs could not have deposed Ms. Erwin on December 20, 2002 for more than an additional two hours even if no objection had been interposed. Indeed, after the Court granted the motion to compel, two hours should have been more than sufficient for plaintiffs to re-pose the question as to which the objection had been made and to conduct reasonable follow up. Further, no additional preparation should have been needed simply to re-pose the same question plaintiffs’ counsel had already asked Ms. Erwin on December 20, 2002.⁶

Defendants do not object to time expended in February 2003 to arrange the date for the re-deposition with government counsel and with Ms. Erwin’s private counsel, although we believe these arrangements could have been accomplished in no more than one hour in total.⁷ Accordingly, plaintiffs should be awarded a maximum of two hours of Mr. Brown’s time to re-pose the question allowed by the Feb. 5, 2003 Order and one hour to arrange the re-deposition, for a total of \$1,110.00 (\$370/hour x 3 hours).⁸

⁶As noted above, defendants do not object to an award of one hour each for Mr. Harper and Mr. Brown to review the Court’s Feb. 5, 2003 Order so that they would be aware of the scope of the Court’s ruling. Review of the Order should have been sufficient preparation for the re-deposition of Ms. Erwin.

⁷Mr. Gingold apparently undertook to arrange the deposition date. *See* Exhibit B (Gingold entries for 2/5/03 and 2/6/03). Since his hourly rate is the same as Mr. Brown’s, defendants have no objection to compensating plaintiffs for one hour of Mr. Gingold’s time in this regard.

⁸Defendants acknowledge that in prior rulings involving fee awards under Rule 37, this Court has held that across-the-board percentage reductions for entire fee awards are the preferred
(continued...)

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Accordingly, plaintiffs' total fee award under the Court's Feb. 5, 2003 Order should be no more than \$14,428.00 (\$13,318.00 + \$1,110.00)

B. The Court Should Deny the Remainder of Plaintiffs' Petition Because It Seeks Fees for Matters That Did Not "Directly Arise" From Defense Counsel's Privilege Objection.

Plaintiffs wish to charge defense counsel with costs having nothing to do with the privilege asserted at the end of the December 20, 2002 Erwin deposition or the subsequent motion to compel. Plaintiffs seek compensation for activities relating to the scheduling and taking of Ms. Erwin's December 20, 2002 deposition – all activities that occurred before the privilege had even been asserted. Those activities, aggregated in Exhibit C, cannot possibly be deemed to have arisen from the privilege assertion or the motion to compel. These activities total 83.043 hours, and plaintiffs' request of \$27,809.91 (at 2002-03 rates) for these activities should be denied in total.

Plaintiffs also seek compensation in connection with document requests that they elected to serve with their notices of deposition upon Ms. Erwin and her assistant, Michelle Singer, after this Court's Feb. 5, 2003 Order was issued. *See* Exhibit E. Time spent on these document requests cannot be compensable because plaintiffs have failed to show a "but for" connection

⁸(...continued)

practice in this Circuit for challenging fee petitions on grounds of excessive time expenditure. *Cobell*, 231 F. Supp. 2d at 305; *Cobell v. Babbitt*, 188 F.R.D. 122, 126 (D.D.C. 1999). In this opposition, however, defendants are making specific objections to specific time entries, and accordingly, we do not propose an across-the-board percentage cut.

between the defendants' objection at the Dec. 20, 2002 deposition of Ms. Erwin and the document requests. At the time plaintiffs originally posed their question to Ms. Erwin on Dec. 20, 2002, they did not have any of the documents they subsequently requested, and indeed they had not even issued a request for those documents. The privilege assertion did not somehow prevent plaintiffs from asking Ms. Erwin about the documents, because plaintiffs had not yet requested them. Accordingly, there is no "but for" connection between the privilege assertion and the document requests. Rather, it appears that plaintiffs' counsel issued the document requests as part of plan to further "investigate" the Erwin scheduling issue after the Court had already ruled upon their motion to compel. Plaintiffs' election to expand the scope of their inquiry was theirs alone: the Court did not direct or authorize them to do this⁹, and it did not include their work on the document requests within the scope of the Rule 37 sanctions order. Defendants responded to the document requests, and plaintiffs never filed any challenge to those responses. Accordingly, compensation sought by plaintiffs for time spent preparing the document requests and reviewing the responses (8.216 hours) should be denied.

Likewise, the time sought by plaintiffs for activities in connection with Michelle Singer's deposition (a total of 25.2 hours) are not compensable under the Feb. 5, 2003 Order. *See* Exhibit F. Plaintiffs never sought to depose Ms. Singer before the issuance of the Feb. 5, 2003 Order, and defendants never objected to producing her. Accordingly, there is no basis to include work associated with her deposition in the Rule 37 fee award, and plaintiffs cannot be compensated for these activities.

⁹Indeed, as argued in Defendants' Motion to Strike, plaintiffs were legally disqualified from acting in the capacity of a special master or special prosecutor in an investigation of their opposing counsel. The Court so held in its Sept. 2, 2004 Order at 4-5.

As noted above, defendants' objection at the Dec. 20, 2002 deposition prevented plaintiffs from questioning Ms. Erwin about the scheduling issue for, at most, two additional hours. At the re-deposition in February 2003, however, plaintiffs decided to depose Ms. Erwin on a variety of matters that had nothing to do with the subject of their motion to compel, including Trial 1.5 issues, the scope of a fiduciary's privileges, and the deliberative process privilege. Both government counsel and Ms. Erwin's personal attorney urged plaintiffs' counsel to restrict their questioning to the matter covered by the Feb. 5, 2003 Order or at least to complete questioning on that matter first before moving on to other topics, but plaintiffs' counsel refused, and the then-Special Master Monitor did not direct them to proceed as suggested. Exhibit A at 503-08 (Feb. 12, 2003); 543-44; 711-12 (Feb. 13, 2003); *see also* Exhibit A at 813-16 (Oct. 14, 2004 Dep.) (colloquy between Ms. Erwin's personal counsel, Mr. Reynolds, and plaintiffs' counsel, Mr. Brown, referencing earlier depositions). Additionally, plaintiffs' counsel spent substantial time both in the two February 2003 deposition sessions and in the October 2004 session questioning Ms. Erwin about documents that had been produced pursuant to the document requests issued after the Feb. 5, 2003 Order. While defendants did not object to the questioning concerning the produced documents, that questioning certainly did not have a "but for" connection to the privilege assertion because, as noted above, plaintiffs had not even issued the document requests at the time defendants interposed the privilege objection at the Dec. 20, 2002 deposition. Significantly, plaintiffs did not even get around to re-posing the particular question that had been the subject of their motion to compel until well into the second session with Ms. Erwin on February 13, 2004. *See* Exhibit A at 627-28; 645-55. Because plaintiffs could have accomplished the limited re-deposition for which they received the sanctions award in

less than half a day in February 2003, the Court should not allow plaintiffs compensation for any time expended in arranging, preparing for and taking the third day of deposition in October 2004.¹⁰ Defense counsel cannot be held liable for plaintiffs' lengthy circumnavigation of the single issue as to which the Court had ordered relief.

Plaintiffs' counsel also seek substantial compensation for "strategizing" and "preparing" for Ms. Erwin's two deposition sessions in February 2003. As noted above, no preparation was required simply to re-pose the question the Court had directed Ms. Erwin to answer in its Feb. 5, 2003 Order, other than reading the Order itself. The "strategizing", "discussing" and "preparing" activities appear related to plaintiffs' decision to question Ms. Erwin about other matters and about the documents that had been produced. Accordingly, plaintiffs have failed to prove that time spent on these activities "ar[ose] directly from" the privilege assertion at the Dec. 20, 2002 deposition, and they should not receive compensation for it. Certainly, plaintiffs have not demonstrated why three lawyers (Messrs. Brown, Gingold and Harper) were needed to "prepare" to ask Ms. Erwin the single question she had previously been directed not to answer, or why Mr.

¹⁰On October 14, 2004, plaintiffs held their third session with Ms. Erwin on the scheduling issue after the Court, having reviewed the transcripts from the two February 2003 sessions, *sua sponte* afforded them a final day of deposition with Ms. Erwin. Sept. 2, 2004 Order at 6, 7. Again, plaintiffs' counsel took well over an hour before finally asking the question defense counsel had objected to at the Dec. 20, 2002 deposition. Exhibit A at 804 (showing start time of 10:03 am); 856 (showing a break from 11:13 to 11:15); 871 (questions regarding whether government counsel were "forthcoming" with the Court at the December 2002 hearings). The time objected to on this ground is included in Exhibit D and totals over 35 hours (Brown entries from 10/10/04 through 10/14/04, totaling over 33 hours; Gingold entries from 9/8/04 to 9/24/04, totaling 1.7 hours), an astounding figure for a deposition that lasted under four hours and should not have been necessary at all. Exhibit A at 938 (showing concluding time of 1:33 pm).

Harper was needed at the deposition.¹¹ In short, the time records and transcripts make clear that plaintiffs' counsel did not intend to limit their interrogation of Ms. Erwin to the question the Court had compelled her to answer in the Feb. 5, 2003 Order. That was plaintiffs' choice, and they cannot look to defense counsel to compensate them for it.

Finally, plaintiffs seek a total of \$37,432.99, representing 96.988 hours at 2002-03 rates, spent by three attorneys compiling and reviewing their "Report on the Status of the Evidence Concerning Defendants' and the Department of Justice's Misrepresentations to this Court on December 13 and December 17, 2003[sic]" – a document which the Court did not ask for, which does not comport with the Federal Rules of Civil Procedure, and which represents a biased "investigation" that plaintiffs' counsel were legally ineligible to undertake against their adversaries in this civil case. *See* Defendants' Motion to Strike. Time related to this activity is assembled in Exhibit H. Plaintiffs' unilateral decision to prepare and file this report is no different from the show cause motion that this Court found outside its Rule 37 order in *Cobell*, 231 F. Supp. 2d at 304. Whether or not the Court grants the Defendants' Motion to Strike plaintiffs' "Report", it is clear that plaintiffs may not be compensated under Rule 37 for generating it.

The balance of the activities for which plaintiffs seek remuneration do not bear a clear "but for" relationship to the two activities for which the Court awarded fees in the Feb. 5, 2003

¹¹Time entries objected to on this ground are also included in Exhibit D and total almost 129 hours. Further, defendants object to all the time sought by plaintiffs for Mr. Rempel's activities. Mr. Rempel was not involved in any way in the motion to compel, and it is clear from his time entries that his work was either duplicative of the attorneys' work or simply cannot be said to have "directly arise[n] from" the privilege assertion and the Court's directive that Ms. Erwin submit to re-deposition upon the question she had been directed not to answer.

Order. As noted above, plaintiffs bear the burden of demonstrating their entitlement to the fees they seek. The activities as to which plaintiffs have failed to make adequate proof are set forth in Exhibit G, and plaintiffs should not receive compensation for those items.¹²

C. Fee Petition

Plaintiffs are entitled to reasonable compensation for preparing their fee petition. However, plaintiffs clearly seek too much in this regard.¹³ The only work for which the Court ordered Rule 37 sanctions was clearly delimited by date (from the day after Ms. Erwin's December 20, 2002 deposition until the filing of plaintiffs' reply brief on January 28, and then time to review the Court's Feb. 5, 2003 Order and to set up and retake Ms. Erwin's deposition pursuant to the Order). Had plaintiffs' counsel limited themselves to the actual scope of the

¹²Numerous items included in other exhibits also fall into this category. For example, plaintiffs should not be compensated for "summariz[ing] Erwin deposition transcripts" because they would have done that in preparation for Trial 1.5 whether or not Ms. Erwin had answered the question as to which privilege was asserted. *See* Exhibit H (Brown entries for 5/21/03 and 5/22/03). Likewise, there has been no showing as to why research regarding "Chinese Walls", conducted after Ms. Erwin's redeposition in February 2003, had anything to do with the question the Court had compelled her to answer in the Feb. 5, 2003 Order. *See* Exhibit D (Brown entries for 2/18/03, 2/19/03, 3/3/03). Similarly, plaintiffs seek compensation for Mr. Brown's three conversations with a court reporter in late December 2002 regarding the Erwin deposition. *See* Exhibit G (totaling .916 hours). But plaintiffs present no evidence that these calls were particularly related to the motion to compel as opposed to the other activities relating to the preparation of the historical accounting plan and Trial 1.5. Also, it is not clear why plaintiffs' counsel should be compensated for discussing the "Erwin situation" with Eloise Cobell when it is unclear that those conversations were limited to the motion to compel and the redeposition of Ms. Erwin upon the one question she had been directed not to answer, as opposed to discussions regarding questions on other, non-compensable matters. *See* Exhibit D (Gingold entry for 1/9/03); Exhibit G (Brown entry for 1/17/03; Gingold entries for 2/5/03 and 2/11/03).

¹³Plaintiffs' request for fees in connection with preparing their fee petition are assembled in Exhibit I.

Court's Feb. 5, 2003 Order, it would not have required a total of over 37 hours by three attorneys and one paralegal to compile and edit the compensable time. Likewise, plaintiffs' counsel have already prepared and submitted declarations concerning their qualifications and rates in connection with earlier fee petitions in this case. It should not have taken them multiple hours to update those declarations for purposes of this petition.

Further, plaintiffs should have asked Ms. Erwin in February 2003 the question the Court had compelled her to answer in its Feb. 5, 2003 Order. For whatever reason, they did not do so. Certainly, there was nothing preventing them from asking that question in the two sessions they had with Ms. Erwin at that time. It was also plaintiffs' decision to wait more than 20 months to file their fee petition. Defendants should not be charged a higher rate simply because of plaintiffs' delay. Accordingly, the rates that should apply to plaintiffs' fees on fees award should be those set out in the 2002-03 *Laffey* Matrix (Exhibit J).

Consistent with this Court's method in *Cobell*, 231 F. Supp. 2d at 307, plaintiffs' request for fees incurred in preparing their fee petition should be reduced in the same proportion as that between their non-compensable time and their compensable time. This method results in a reduction to 10.63% of the total hours plaintiffs seek for their fee petition (37.131 hours), for a total of 3.95 hours, as shown below:

$$\frac{\text{Total Compensable Hours} = 49.75^{14}}{\text{Total Hours Sought} = 468.224^{15}} = 10.63\%$$

¹⁴This figure represents the 46.75 hours shown in the second table in Part A(2)(a) above added to the three hours set forth in Part A(2)(b).

¹⁵This figure is derived from adding together the hours reported by Messrs. Brown, Gingold, Harper and Rempel in the fee petition.

Multiplying the reduced hours (3.95) by the rate of the highest billers for the appropriate time period (\$370) yields a maximum award of \$1,461.50 for plaintiffs' attorneys' work on the fee petition.

Conclusion

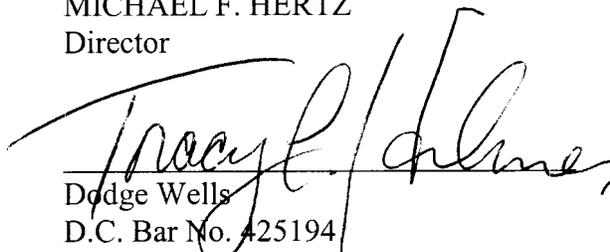
For the reasons set forth above, plaintiffs should receive a maximum of \$15,889.50 (\$14,428.00 + \$1,461.50) for work "directly aris[ing] from" the motion to compel and the Court's Feb. 5, 2003 Order allowing re-deposition of Ms. Erwin upon the question as to which the Court found the privilege had improperly been asserted, including reasonable fees for preparing their fee petition.

Respectfully submitted,

PETER D. KEISLER
Assistant Attorney General

STUART E. SCHIFFER
Deputy Assistant Attorney General

MICHAEL F. HERTZ
Director



Dodge Wells
D.C. Bar No. 425194
Tracy L. Hilmer
D.C. Bar No. 421219
Attorneys
Commercial Litigation Branch
Civil Division
P.O. Box 261

Ben Franklin Station
Washington, D.C. 20044
(202) 307-0474

DATED: December 14, 2004

CERTIFICATE OF SERVICE

I hereby certify that, on December 14, 2004 the foregoing *Defendants' Objections to Plaintiffs' Request for Attorneys' Fees and Expenses Pursuant to with the Court's February 5, 2003 Ruling* was served by Electronic Case Filing, and on the following who is not registered for Electronic Case Filing, by facsimile:

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


Kevin P. Kingston

Transcript of the Testimony of:
DONNA ERWIN

Date: December 20, 2002

Case: CORBELL v DEPT. OF INTERIOR

NEAL R. GROSS & CO., INC.
1323 Rhode Island Ave., NW
Washington, DC 20005-3701

202.234.4433
fax 202.387.7330
info@nealrgross.com

EXHIBIT A
Defendants' Objections to Plaintiffs' Request
for Attorney's Fees and Expenses Pursuant to
the Court's February 5, 2003 Ruling
Page 1 of 39

EXHIBIT A

Defendants' Motion to Reconsider That
Part of the Court's Order of April 20, 2007
Directing Payment of Attorney Fees to Plaintiffs

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

2 (10:35 a.m.)

3 Whereupon,

4 DONNA ERWIN

5 was called as a witness by counsel for the plaintiffs
6 and, having been first duly sworn, was examined and
7 testified as follows:

8 MR. BROWN: Good morning, Ms. Erwin. My
9 name is Mark Brown. I am one of the attorneys for the
10 plaintiffs. I apologize for our late start here. You
11 need to catch a plane and be out of here at 4:30. Is
12 that right?

13 THE WITNESS: Yes.

14 MR. BROWN: All right. We are going to do
15 our best to accommodate you.

16 MS. SPOONER: We really appreciate that.
17 Can I have a moment to put a couple of
18 things on the record?

19 MR. BROWN: Sure.

20 MS. SPOONER: First is to thank you for
21 agreeing to start earlier, although I know that wasn't
22 the detail there, and for agreeing to let Ms. Erwin

EXHIBIT A
Page 2 of 39

EXHIBIT A

1 THE WITNESS: Yes.

2 By MR. BROWN:

3 Q And you believe your attorneys have been
4 fully truthful with the Court?

5 MS. SPOONER: I'm going to object on that
6 on the grounds that it's protected by the attorney-
7 client privilege.

8 MR. BROWN: It can't possibly be.

9 MR. KIEFFER: It's her belief she has
10 about her attorneys. It's not whether her attorney
11 said --

12 MS. SPOONER: Yes, except that we've had
13 a number of discussions about that and I don't
14 believe, as with Ms. Skobell, when Mr. Gingold made
15 objections that she can properly separate her
16 discussions with her attorneys from her beliefs.

17 MR. GINGOLD : We're dealing with a
18 finding by the Court that Ms. Erwin deliberately
19 deceived the Court. That's a finding of fraud with no
20 exceptions to privilege to the extent it exists
21 applies here in the --

22 MS. SPOONER: Absolutely not. I'm

EXHIBIT A
Page 3 of 39

EXHIBIT A

1 THE WITNESS: No.

2 MR. BROWN: Who is your personal counsel?

3 THE WITNESS: I am just in the process of
4 discussing with someone.

5 MR. BROWN: So you have not obtained
6 personal counsel?

7 THE WITNESS: I've not obtained personal
8 counsel. I am in the process.

9 MR. BROWN: Okay. Ms. Erwin, don't you
10 have the opportunity to do that.

11 MS. SPOONER: Ms. Erwin has to go. It's
12 now 4:37 by my clock.

13 MR. BROWN: Well, we've taken that break,
14 so I want to finish that line of questions.

15 MS. SPOONER: We were 5 minutes on that
16 break. It's now 4:38 by my clock.

17 MR. BROWN: Are you instructing her not to
18 answer any further questions?

19 MS. SPOONER: What other lines of
20 questioning do you have?

21 MR. BROWN: We're going to find out.

22 MS. SPOONER: No, given those certain

EXHIBIT A
Page 4 of 39

EXHIBIT A

Transcript of the Testimony of:
DONNA ERWIN

Date: February 12, 2003

Case: COBELL v DEPT. OF INTERIOR

NEAL R. GROSS & CO., INC.
1323 Rhode Island Ave., NW
Washington, DC 20005-3701

202.234.4433
fax 202.387.7330
info@nealrgross.com

EXHIBIT A
Page 5 of 39

EXHIBIT A

Defendants' Motion to Reconsider That
Part of the Court's Order of April 20, 2007
Directing Payment of Attorney Fees to Plaintiffs

1 record.

2 THE WITNESS: I don't believe that's what

3 I testified that Ms. Singer said.

4 BY MR. BROWN:

5 Q How is that inaccurate?

6 A Ms. Singer made a general comment that she
7 thought that as it dealt with records there were some
8 problems there between the records in Justice. I have
9 never had any. I have never had a problem with
10 Justice Department up until this point.

11 MR. BROWN: I think we can probably break
12 at this point.

13 MR. KIEFFER: Right now. What time do you
14 want to start tomorrow morning?

15 MR. BROWN: 10:00 a.m.

16 MR. KIEFFER: She has a 6:00 p.m. plane
17 which means she probably has to leave here about 4:30
18 p.m. You understand the limitation on your time.

19 MR. BROWN: I understand that as to this
20 subject matter.

21 MR. KIEFFER: Okay.

22 MR. WELLS: That's fine with me. I'm

EXHIBIT A
Page 6 of 39

EXHIBIT A

1 going to have at least an hour and a half questions.

2 So I don't know if we start at 10:00 a.m., we'll be

3 finished by 4:30 p.m. You might want to start

4 earlier.

5 MR. KIEFFER: You're going to have

6 questions after he's finished. It may mean you may

7 have to come back another day then. I'm not going to

8 limit his ability to cross examine her because you may

9 have questions.

10 MR. WELLS: I understand that. If we're

11 trying to get done, it should be everybody should have

12 a fair shot while she's here. If it's that

13 complicated, we could start as early as 8:00 a.m. to

14 get this done.

15 MR. KIEFFER: And that's fine with me.

16 MR. HARPER: I don't want to start that

17 early.

18 MR. WELLS: Okay.

19 MR. HARPER: If you want to start at 9:30

20 a.m., that's fine.

21 MR. BROWN: Are you ruling that he

22 absolutely has to ask his questions tomorrow?

EXHIBIT A
Page 7 of 39

EXHIBIT A

1 MR. KIEFFER: No. I'm trying to
2 accommodate both sides here. I want this on the
3 record. We know Ms. Erwin has to leave at 4:30 p.m.
4 from here.

5 MR. REYNOLDS: I'd like to interject
6 another thought for what it's worth which is she has
7 outside counsel to deal with but I think is this part
8 of the deposition. If she comes back it could well be
9 that it's not really something that's going to require
10 outside counsel to be present because it's going to
11 involve a whole lot of what's going on officially in
12 this lawsuit that's not what I'm about. So my point
13 is my strong preference would be to try to wind up a
14 deposition if we can on this point which could save
15 the Government money which I would hope they would
16 want to do and also a lot of time and inconvenience if
17 we could do it. If the rest of the deposition is
18 going to relate to something having nothing to do with
19 my involvement, to bring me back on another day just
20 to tag on to that is not the best use of anybody's
21 time or money.

22 MR. KIEFFER: Mr. Reynolds, it may not

EXHIBIT A
Page 8 of 39

1 have to do with the subject today but it's going to
2 have to do with your client. So I would represent
3 probably that you may want to be here but that's up to
4 you obviously. But we have a limited amount of time.
5 Now I know that at least Mr. Wells has signaled that
6 he has about an hour and a half worth of questions.
7 If you think you only have an hour and a half minus
8 the time between 10:00 a.m. and 4:30 p.m., you only
9 have questions for that amount of time, fine.

10 MR. HARPER: If the Government could say
11 when they could make Ms. Erwin available for
12 subsequent depositions regarding other subject
13 matters, not regarding the scheduling issues that we
14 have been discussing here today, but her role as
15 Acting Special Trustee and specify by tomorrow, then
16 we have no problem agreeing to date subsequent to
17 continue the depositions.

18 MR. WELLS: I thought that we only had a
19 limited amount of time, seven hours, and specifically
20 for her that there was going to be some knowledge of
21 the deposition. We're opening now for a second
22 session.

EXHIBIT A
Page 9 of 39

EXHIBIT A

1 MR. HARPER: Where was that ruling? That
2 there were seven hours of deposition.

3 MR. KIEFFER: I've never said that on
4 someone as significant as Ms. Erwin. In fact if I've
5 said anything I'd say that the time would have to be
6 longer. But I continue this deposition after the
7 first day which was repeatedly delayed.

8 MR. HARPER: Can I raise one more issue,
9 Mr. Kieffer? That is that we received these documents
10 very late and we may be receiving additional documents
11 that are related especially to this issue. After
12 reviewing those documents there may very well be
13 additional questions that we're going to have to ask
14 Ms. Erwin regarding this and other subject matters.
15 So I think that the notion that we can agree today to
16 make tomorrow the last time we're going to depose her
17 on this issue isn't reasonable given how this is
18 playing out. Certainly we have extensive additional
19 questions regarding her role in trust reform and in
20 preparation for the trial 1.5 to commence on May 1,
21 2003.

22 MR. KIEFFER: The only question that I

EXHIBIT A
Page 10 of 39

EXHIBIT A

1 want to know from you is based on every accommodation
2 that I'm trying to put forth for both parties. Do you
3 want to start any earlier than 10:00 a.m.?

4 MR. BROWN: We can start at 9:30 a.m. but
5 I still need to go through these documents.

6 MR. KIEFFER: You will have every
7 opportunity to go through those documents as long as
8 it takes you. If we have to continue the deposition
9 until the documents are presented and you finished all
10 your questions, we'll do that. So we will start at
11 9:30 a.m.

12 THE WITNESS: And Your Honor, I assume
13 we're going to end at 4:30 p.m.

14 MR. KIEFFER: She has a plane to catch at
15 6:00 p.m. I haven't heard anybody say they want her
16 to cancel that.

17 MR. BROWN: We made that accommodation for
18 her.

19 MR. HARPER: Can I have one more thing on
20 the record, Mr. Kieffer. That is there was an
21 objection sustained regarding a question that we had
22 asked but of course we are left in the dark as to why

Transcript of the Testimony of:
DONNA ERWIN

Date: February 13, 2003

Case: COBELL v DEPT. OF INTERIOR

NEAL R. GROSS & CO., INC.
1323 Rhode Island Ave., NW
Washington, DC 20005-3701

202.234.4433
fax 202.387.7330
info@nealgross.com

EXHIBIT A
Page 12 of 39

EXHIBIT A

Defendants' Motion to Reconsider That
Part of the Court's Order of April 20, 2007
Directing Payment of Attorney Fees to Plaintiffs

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

2 9:38 a.m.

3 COURT REPORTER: On the record. Ms.

4 Erwin, I want to advise you that you are still under
5 oath.

6 Whereupon,

7 DONNA ERWIN

8 was called as a witness and, having been previously
9 duly sworn, assumed the witness stand, was examined
10 and testified further as follows:

11 MR. KIEFFER: This is Joseph Kieffer the
12 Special Master. This is the second day of the
13 continuing deposition of Donna Erwin. I would like to
14 put one statement on the record here. Last night
15 there was some debate, discussion about when the
16 Government and Ms. Erwin's personal counsel would have
17 an opportunity to cross examine. I said something to
18 the effect that I was trying to accommodate both
19 parties. I did not mean to indicate that I thought
20 this deposition would be concluded today and that all
21 testimony would have to be taken today.

22 Obviously having read last night the

EXHIBIT A
Page 13 of 39

1 Q Before Thanksgiving?

2 A I don't know. I just know that somewhere
3 I do have a message from Ross Swimmer that said please
4 review this.

5 Q And he sent an attachment?

6 A I don't know if it's an attachment or it's
7 within the e-mail.

8 Q But it's a section of the Plan?

9 A I don't know if it's a section of the Plan
10 or regarding scheduling for the Plan. I would have to
11 look. It is nothing that has trust data on it.

12 Q What do you define as Trust data?

13 MR. WELLS: I would object to the
14 questions. This is outside the scope of the subject
15 matter of this aspect of deposition. She has already
16 said that the Swimmer e-mail had to do with the Plan
17 and not with the controversy that we are here today
18 for.

19 MR. KIEFFER: This deposition isn't
20 limited to this. This is the continuing deposition of
21 Donna Erwin concerning the Plan. Now there was a
22 motion to compel about specific issues that she did

EXHIBIT A
Page 14 of 39

EXHIBIT A

1 not want to answer in her deposition. But I haven't
2 limited and the Court hasn't limited the nature of
3 this deposition from the first day of that deposition.

4 MR. REYNOLDS: I understand that but I
5 guess I would ask since you've said that she's going
6 to be called back for continuing depositions on
7 continuing matters that we have an interest in seeing
8 if we can bring this particular deposition relating to
9 this matter to a close at some reasonable point in
10 time that we make some effort to confine the
11 questioning that relates to this issue to the matter
12 that's on the table. Otherwise we could go on for 15
13 days if we open it up to allow for probing of a whole
14 lot of other issues that might be relevant to a second
15 or third deposition.

16 MR. KIEFFER: This is a continuing
17 deposition that had no limitations on it. The
18 questions that he is asking may well relate back to
19 something that has to do with the communications with
20 her attorneys and I'm going to allow him to go
21 forward.

22 (Question read back.)

EXHIBIT A
Page 15 of 39

EXHIBIT A

1 THE WITNESS: Thank you. (Perusing
2 document.)

3 BY MR. BROWN:

4 Q Have you had a chance to review the
5 document?

6 A Scanned it, yes.

7 Q Can you direct us to the representation in
8 the transcript that upset you?

9 A Page 11. There's two places. There's
10 several places, but let's start there.

11 Q Okay. Let's start there.

12 A Page 11, line 11, "Isn't that
13 astonishing?" And Mr. Petrie says, "Your Honor, on
14 one level, sort of" -- and maybe there was going to be
15 further since he was interrupted, but it sounded like
16 to me that he was confirming that was astonishing. On
17 page 12 --

18 Q Wait a minute. It's astonishing that the
19 news came from Mr. Harper?

20 A Yes.

21 Q Why does that upset you?

22 A Because it sounded like my counsel was

EXHIBIT A
Page 16 of 39

1 unaware of my travel schedule. Page 12 --

2 Q Is there a misrepresentation that Mr.

3 Petrie made on page 11 that you can point to?

4 A No because I think he could have been

5 interrupted when he says, "on one level." We are not

6 sure what he was -- the continuation was.

7 Page 12.

8 Q Okay.

9 MR. WELLS: Is there a question? The

10 question is, looking for misrepresentation. The term

11 "misrepresentation" is argumentative and assumes facts

12 not in evidence.

13 SPECIAL MASTER-MONITOR KIEFFER: All

14 right. Let's try not to characterize a question as

15 argumentative because it is probing, Mr. Wells. It

16 wasn't an argumentative question. He is asking her

17 what on page 12 she found upsetting and possibly

18 misrepresentation. That's the outstanding question.

19 THE WITNESS: I am sorry. Page 11. At

20 the top of page 11, bottom of page 10, starting with

21 line 22, where he states that if these facts had been

22 disclosed to him and Mr. Petrie says he fully agrees.

EXHIBIT A
Page 17 of 39

EXHIBIT A

1 As you sat there, it was your belief that
2 Mr. Petrie had led the court to believe that you had
3 not been forthcoming, correct?

4 A I believe that was that the court was left
5 with that impression.

6 Q And you believe that that was because of
7 what Mr. Petrie said?

8 A I believe that it was a combination of the
9 Friday hearing and the court's understanding as we
10 left the courtroom.

11 Q And you were upset because Mr. Petrie
12 didn't explain that you weren't involved, correct?

13 A Yes.

14 Q The reason you put "I" in quotation marks
15 is to put the emphasis on the fact that the focus was
16 unfairly on you?

17 A Correct.

18 Q Let's go down about halfway down the page,
19 where it says, "To further the matter." I am going to
20 ask you to identify in your statement what
21 misrepresentations you believe are referenced here
22 that Mr. Quinn made to the court.

EXHIBIT A
Page 18 of 39

EXHIBIT A

1 A I don't --

2 MR. WELLS: Object to the form of the
3 question. Lack of foundation, too.

4 THE WITNESS: I don't know where you are.
5 I'm sorry.

6 MR. BROWN: I'm sorry. Halfway down.

7 THE WITNESS: Okay.

8 MR. BROWN: "To further the matter, when
9 the court inquired about my leave, Mr. Quinn
10 responded."

11 THE WITNESS: Everyone plans to continue
12 work, yes.

13 BY MR. BROWN:

14 Q I would like you to read until the end of
15 that paragraph and tell us what words in there you
16 believe to be misrepresentations that you attribute to
17 Mr. Quinn.

18 A I am not saying they are
19 misrepresentations. I want to be clear on that
20 because he does state that this is his understanding.
21 So what I am saying is that I will read. And then we
22 will -- you can ask your question.

EXHIBIT A
Page 19 of 39

EXHIBIT A

1 Mr. Quinn responded, "Ms. Erwin plans to
2 continue work. My understanding from her."

3 Q Is that a misrepresentation?

4 A "From her" disturbed me a bit because it
5 tended to indicate that someone had spoken to me. "As
6 if she can get" --

7 Q If that representation were interpreted by
8 the court as such, it would be a misrepresentation,
9 would it not?

10 MR. WELLS: I think she should be allowed
11 to finish her answer.

12 MR. REYNOLDS: I am going to object to
13 that question because she has already testified that
14 she was not saying it was a misrepresentation since he
15 has said it was his understanding.

16 SPECIAL MASTER-MONITOR KIEFFER: Well, he
17 can count that.

18 MR. REYNOLDS: He certainly can, but he
19 can't mischaracterize her testimony.

20 SPECIAL MASTER-MONITOR KIEFFER: All
21 right. Fine. I am just letting you know I don't
22 think he is. You asked her what do you --

EXHIBIT A
Page 20 of 39

EXHIBIT A

1 MR. REYNOLDS: Then we have no problem.

2 SPECIAL MASTER-MONITOR KIEFFER: What does
3 he think? What does he think or what does she think
4 is wrong with that statement that Mr. Quinn made?

5 MR. REYNOLDS: Okay. Is that the pending
6 question?

7 SPECIAL MASTER-MONITOR KIEFFER: Mr.
8 Brown, ask your question.

9 BY MR. BROWN:

10 Q His statement to the court, you underlined
11 "from her," correct?

12 (No response.)

13 BY MR. BROWN:

14 Q You have to answer audibly.

15 A Yes.

16 Q And you were calling that to the readers'
17 attention, correct?

18 A Yes.

19 Q Because you consider it to be a misleading
20 statement, correct?

21 A I considered it to be a statement that
22 could be misinterpreted.

EXHIBIT A
Page 21 of 39

EXHIBIT A

1 Q Did you not consider it to be misleading?

2 A I am not an attorney. So --

3 Q Attorneys aren't the only ones who could
4 characterize things as misleading.

5 A I understand that. As I said, not that I
6 thought it was a misrepresentation, not that I thought
7 it was misleading. I thought that it could be
8 misinterpreted.

9 Q Well, is it a true statement? Did he get
10 that understanding from you?

11 A Not directly.

12 Q What is your definition of a
13 misrepresentation?

14 A A misrepresentation would be something
15 that was false or you were representing something that
16 was not accurate.

17 Q And is it not accurate that he got that
18 understanding from you?

19 A He probably is perceiving that that was
20 like a fourth hand received from me. My concern would
21 only be that it was not, again, interpreted to be
22 directly from me.

EXHIBIT A
Page 22 of 39

EXHIBIT A

1 Q What is your definition of misleading?

2 A Be led in the wrong direction.

3 Q From the truth?

4 A Yes.

5 Q Well, your definition of misrepresentation
6 is false or not accurate. So let's take that. Let's
7 go through this passage. And you tell me what
8 statements in here you believe that Mr. Quinn made to
9 the court or you understood Mr. Quinn to have made to
10 the court on December 18th were misleading, were false
11 or inaccurate.

12 SPECIAL MASTER-MONITOR KIEFFER: You mean
13 December 13th?

14 MR. BROWN: I'm sorry. No. Let me
15 rephrase the question.

16 BY MR. BROWN:

17 Q When you were sitting on December 18th
18 writing this statement, I would like you to go through
19 your language here and tell me what you believe then
20 or believe now -- if there is a difference, please
21 point it out to us -- what you considered to be false
22 or not accurate?

EXHIBIT A
Page 23 of 39

EXHIBIT A

1 MR. WELLS: Object. Lack of foundation.

2 Assumes facts not in evidence.

3 SPECIAL MASTER-MONITOR KIEFFER: She has

4 already stated what she thinks misrepresentation

5 means. It's false or inaccurate. Now he is asking

6 her what in this statement is false and inaccurate.

7 There is a foundation for it.

8 Go ahead, Mr. Brown.

9 BY MR. BROWN:

10 Q Ma'am?

11 A My understanding from her -- I'm not

12 saying that it is a misrepresentation. it was not

13 directly from me.

14 Q Is that false or inaccurate?

15 MR. WELLS: Objection. Compound.

16 BY MR. BROWN:

17 Q Is it your testimony that --

18 A It is inaccurate that it was directly from

19 me.

20 MR. REYNOLDS: Go off the record.

21 (Whereupon, the foregoing matter went off

22 the record briefly at 12:15 p.m.)

EXHIBIT A
Page 24 of 39

EXHIBIT A

1 THE WITNESS: Am I reading again?

2 BY MR. BROWN:

3 Q You are reading. Read to yourself. And
4 when you come to a passage that is what you believe to
5 be a statement Mr. Quinn that is false or not
6 accurate, please read it out loud to us.

7 MR. WELLS: Let me renew the objection as
8 a compound question.

9 THE WITNESS: Two lines down, it says that
10 the -- "I am taking my son to a special soccer
11 recruiting event in Florida until the 30th. And then
12 she would return back to the office."

13 BY MR. BROWN:

14 Q What is false or inaccurate about that?

15 A It is inaccurate that I was not -- my
16 reservations for return was not until the 31st and
17 that I had complications that might be going to Tulsa
18 even. And so I was not -- did not expect to be back
19 to the office until after the 1st of the year.

20 Q Keep going, please.

21 A Further down, it says, "As far as I
22 understand, Your Honor, she does not plan to be in

EXHIBIT A
Page 25 of 39

EXHIBIT A

1 Washington, D.C. at all until at least after January
2 6. I do not" -- he says he -- that's his
3 understanding, but that would never have been my
4 understanding.

5 Q So you consider it to be false or not
6 accurate?

7 A Not accurate, but it does state it is his
8 understanding. Again, as it states, again, I knew I
9 had reservations that indicated I would not be in the
10 office until after the first of the year. These
11 reservations were made on November the 16th, 2002.

12 Q I'm sorry?

13 A And that's accurate. That is just an
14 explanation of what I just -- reinforcing what I had
15 just said.

16 Q All right. Well, I was asking you to read
17 out loud what you consider to be inaccurate or false.

18 A I'm sorry. Okay.

19 Q So what you just read, you don't have a
20 problem with any of that?

21 A No.

22 Q Okay. Is there any other passage that you

EXHIBIT A
Page 26 of 39

EXHIBIT A

1 consider to be false that is attributed to Mr. Quinn?

2 A No.

3 Q I'm sorry? No?

4 A Is that starting with the -- where did you
5 want me to start in this paragraph, please?

6 Q "To further the matter."

7 A Okay.

8 Q All the way to the end of that paragraph.

9 A I think that would be the only two items.

10 Q Do you interpret what is written here --

11 let me rephrase that.

12 Do you believe Mr. Quinn was suggesting
13 that you led him to believe that you wouldn't be in
14 Washington?

15 A That would be my reading.

16 Q And that was upsetting to you when you
17 learned about it?

18 A Yes.

19 Q Yes?

20 A Yes.

21 Q And is it your interpretation that the

22 underscored language from her is suggesting that he

EXHIBIT A
Page 27 of 39

EXHIBIT A

1 talked to you?

2 A That would have been -- could have been an
3 interpretation.

4 Q Isn't that the most likely interpretation
5 in your mind?

6 A In my mind.

7 Q Now, these reservations being made in
8 November 16, 2002 were for the Florida trip, correct?

9 A Correct.

10 Q When were your reservations made to come
11 to D.C.?

12 A I had told my secretary once she knew they
13 were at the J. W. Marriott. She would have made
14 reservations both at the hotel -- and I don't know
15 when she actually made those. The day we were told
16 about them, I asked her to check on availability. So
17 I don't know the exact dates that those were
18 completed. I understood we had reservations.

19 Q When did you first learn you had
20 reservations?

21 A What I normally do is I would tell her,
22 "We're aware of this trip. Set up reservations." And

EXHIBIT A
Page 28 of 39

EXHIBIT A

1 purpose of the litigation. And I think because of the
2 intermingling of roles, particularly when you're
3 dealing with counsel who's preparing her, who have
4 been trust counsel, if I could use that term.

5 SPECIAL MASTER KIEFFER: That's why we had
6 the voir dire. That's why I asked questions. That's
7 why you asked questions. I could find nothing in what
8 she said that indicated there was a mixing of roles
9 here. Sometimes if you know someone is going to be
10 deposed about something that's specific and technical,
11 you can't use the normal litigation counsel you have
12 because they don't have the background for it. This
13 may have been one of those cases. Mr. Jensen did, but
14 I'm willing if you want me to, to go in-camera on the
15 record and have a full proffer of what discussions
16 were and I'll rule on that. I don't think I have to,
17 but I'm willing to do it.

18 MR. WELLS: Or if I could clear this
19 procedure, we've already spent well over an hour on
20 this particular meeting. I think, as I understand the
21 ruling that was made last week is, discussions in any
22 context that deal with her schedule or her planning

EXHIBIT A
Page 29 of 39

EXHIBIT A

1 are not privilege, and as you've gone through his
2 December 23rd opinion, discussions that deal with
3 certain specified topics under certain conditions are
4 privileged, and I suggest that you just stand on the
5 prior ruling. If he wants to ask questions about
6 planning and scheduling issues that may have been
7 discussed at that meeting, and then move forward to
8 other topics.

9 SPECIAL MASTER KIEFFER: Well, because of
10 the nature of this particular deposition and the
11 particular subjects, I'm giving broad latitude and can
12 ask, because it might be related back to the questions
13 that the judge granted the motion to compel on. If he
14 wants to spend his time this way, that's up to him,
15 but he's running out of time, at least today.

16 MR. BROWN: All right, Your Honor. Well,
17 I'm going to have other questions on that, but in
18 light of your ruling I will move on with that in mind,
19 and we'll see if some of these other questions can
20 flesh this out a little bit.

21 BY MR. BROWN:

22 Q At any time before the deposition started,

EXHIBIT A
Page 30 of 39

EXHIBIT A

Transcript of: **Donna Erwin**

Date: October 14, 2004

Volume:

Case: Cobell v. U.S. DOI

Neal R. Gross & Co., Inc.
Phone: 202-234-4433
Fax: 202-387-7330
Email: info@nealrgross.com
Internet: www.nealrgross.com

EXHIBIT A
Page 31 of 39

EXHIBIT A

Defendants' Motion to Reconsider That
Part of the Court's Order of April 20, 2007
Directing Payment of Attorney Fees to Plaintiffs

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

2 (10:03 a.m.)

3 WHEREUPON,

4 DONNA M. ERWIN

5 was called for examination by Counsel for the
6 Plaintiff and, having been first duly sworn, was
7 examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. BROWN:

10 Q Good morning, Ms. Erwin.

11 A Good morning.

12 Q When did you cease being Acting Special
13 Trustee?

14 A March, approximately March of 2003.

15 Q Can you tell us what subsequent positions
16 you've had since then?

17 A Acting Principal Deputy Special Trustee
18 and Principal Deputy Special Trustee for American
19 Indians.

20 Q Does Ms. Singer still work with you?

21 A Yes, she does.

22 Q I gather you've met with Mr. Reynolds in

EXHIBIT A
Page 32 of 39

EXHIBIT A

1 area, that would have to be done at another time and
2 another occasion with leave of court, because that's
3 not the scope of what the Court granted for the
4 purposes of this deposition.

5 MR. BROWN: Well, let me see if we can cut
6 through all this. Back in December of '02, part of
7 what we were -- and there were a number of
8 interchanges on the record that Mr. Kieffer, the Court
9 Monitor, ruled on. And at that time, issues related
10 to Trial 1.5 were on the table and were being
11 examined.

12 Obviously, those are not on the table
13 anymore, so the scope is considerably narrower. But
14 other than that, I don't read the Court's order as --
15 as excluding anything but Trial 1.5-type questions.

16 For example, is it your position that
17 questions relating to the December 13 or December 17,
18 2002, hearings at which she was questioned on in that
19 deposition that were scheduling-type questions in my
20 mind, are those off limits in your mind?

21 MR. REYNOLDS: For this deposition they
22 are, yes. This deposition is, in essence, a

EXHIBIT A
Page 33 of 39

EXHIBIT A

1 continuation of a deposition that you scheduled and
2 took in February. And the lines were drawn pretty
3 clearly at that deposition and were stated on the
4 record then without objection -- that the deposition
5 was for the purpose of exploring precisely the
6 conversations that Ms. Erwin had with Mr. Petrie, I
7 think it was Mr. Quinn, Ms. Spooner, and others -- Ms.
8 Singer -- as it related to the matter of scheduling
9 her December 2002 deposition, because the issue had
10 come up in colloquy with the Court in a way that the
11 Court was of the view -- may have resulted in some
12 misrepresentation to the Court.

13 And precisely because Plaintiffs were
14 claiming there was misrepresentation made to the
15 Court, the Court allowed for depositions to go into
16 that discrete issue. And it was that discrete issue
17 that was a subject of the deposition that you have
18 asked to be continued, asked the Court to be
19 continued, and the Court has agreed to continue it.

20 And at the time that this request was
21 made, you asked whether you would be permitted to go
22 beyond the scope of -- the narrower scope of the

EXHIBIT A
Page 34 of 39

EXHIBIT A

1 earlier deposition, and the Court said no, that you
2 would be limited to examine, to the extent you felt it
3 necessary, further the matters that he had allowed you
4 to examine initially in connection with this question
5 of scheduling the deposition, and what colloquy or
6 discussions and conversations were had in and around
7 that time.

8 I think the Court is pretty clear on that.
9 If you feel that there is a need to depose Ms. Erwin
10 on other issues, and you are interested in doing so,
11 that would be something that Mr. Wells can speak to
12 and you -- you may have to go back to the Court to do
13 it.

14 But it's clear to me that in terms of my
15 representation of Ms. Erwin that the matters that she
16 can be deposed on today are the matters that you have
17 interrogated her on in the February deposition. And
18 anything that might bear directly on that situation is
19 certainly fair game for this deposition.

20 MR. BROWN: Okay. Well, at the end of
21 that deposition, you made a request that we limit our
22 questioning to things that you thought would pertain

EXHIBIT A
Page 35 of 39

EXHIBIT A

1 to -- for which she would need personal counseling,
2 and you were turned down by Mr. Kieffer.

3 I have no problem limiting this deposition
4 to generally what you were trying to limit it to then.
5 But the statement in the February 5, 2003, opinion of
6 the Court is all questions related to the subject
7 matter of those questions. Now, it's quite clear that
8 the Court was very concerned about whether it had made
9 -- a misrepresentation had been made to it.

10 Now, as long as -- I have no problem
11 conceptually limiting the deposition to things that
12 pertain to that, but I'm not going to have an
13 artificial restriction on it. When I told you we were
14 going to get out of here by 2:00 -- I hope to -- it
15 was based on focusing on those types of questions, not
16 Trial 1.5 questions, not Trial 2 questions. And I
17 understand that.

18 But I understood you earlier to say that
19 questions about the December 13, 2002, hearing, and
20 the December 17, 2002, hearing are somehow beyond the
21 scope of this deposition. Did I hear that correctly?

22 MR. WELLS: You're talking about the

EXHIBIT A
Page 36 of 39

EXHIBIT A

1 that you answer that question insofar as it has to do
2 with any conversations relating to the scheduling of
3 your deposition back in December, that to the extent
4 that there are conversations outside the area of your
5 deposition and the issue that was before the Judge
6 with regard to the conversations leading up to that
7 deposition, I'm going to direct you not to answer.

8 THE WITNESS: Then I need to speak with
9 you a second.

10 (Whereupon, the proceedings in the
11 foregoing matter went off the record at
12 11:13 a.m. and went back on the record at
13 11:15 a.m.)

14 MR. REYNOLDS: Okay. Let's have the
15 question read.

16 (Whereupon, the previous question was
17 played back by the Court Reporter.)

18 MR. BROWN: I don't think that was the
19 question, was it? No.

20 (Whereupon, the requested portion was
21 played back by the Court Reporter.)

22 MR. REYNOLDS: Okay. Go -- right after

EXHIBIT A
Page 37 of 39

EXHIBIT A

1 or should have gone into court on Tuesday and stated,
2 'My understanding was inaccurate,' which in both cases
3 would have been forthcoming and truthful." Do you see
4 that statement?

5 A Yes.

6 Q Is it your position that Mr. Quinn was not
7 forthcoming to the Court?

8 A I believe it would have eliminated the
9 misunderstanding or the miscommunication that was
10 there.

11 Q Do you believe he was not forthcoming with
12 the Court?

13 A I believe that he didn't have all the --
14 Mr. Quinn, are you asking?

15 Q Yes.

16 A I believe Mr. Quinn had the information,
17 as Mr. Petrie stated on the 17th he had the
18 information that he got directly from Mr. Petrie.

19 Q Do you believe Mr. Petrie was not
20 forthcoming to the Court?

21 MR. WELLS: Are you talking about on the
22 17th?

EXHIBIT A
Page 38 of 39

EXHIBIT A

1 MR. BROWN: We'll stipulate that Ms. Erwin
2 will have 30 days from receipt of the transcript by
3 her counsel within which to review, make any changes,
4 and sign. That also has to pertain to the other
5 transcripts as well.

6 MR. REYNOLDS: Okay.

7 MR. BROWN: Okay? So --

8 MR. REYNOLDS: Sure.

9 MR. BROWN: -- all transcripts will be
10 reviewed and signed within 30 days of the receipt of
11 this transcript.

12 And Mr. Wells wants confirmation that this
13 deposition is now concluded, and he shall have it.

14 MR. WELLS: Thank you.

15 (Whereupon, at 1:33 p.m., the taking of
16 deposition in the above-entitled matter
17 was concluded, signature NOT having been
18 waived.)

19

20

21

22

EXHIBIT A
Page 39 of 39

Exhibit B

<i>Date</i>	<i>Task</i>	<i>Hours</i>	<i>Fee</i>
BROWN			
12/30/2002	REVIEW ERWIN MOTION TO COMPEL	0.333	\$123.21
01/01/2003	REVIEW ERWIN MOTION TO COMPEL	0.833	\$308.21
01/28/2003	REVISE ERWIN MOTION TO COMPEL REPLY; TELEPHONE CONFERENCES	3.25	\$1,202.50
02/05/2003	REVIEW 2 COURT OPINIONS RE DELIBERATIVE PROCESS PRIVILEGE AND ERWIN MOTION TO COMPEL; OFFICE CONFERENCE WITH TEAM/KH RE STRATEGY	1.75	\$647.50
02/05/2003	REVIEW 2 COURT OPINIONS RE DELIBERATIVE PROCESS PRIVILEGE AND ERWIN MOTION TO COMPEL; UPDATE DEADLINES RE SAME	0.5	\$185.00
	<i>Subtotal</i>	6.666	2,466.42
GINGOLD			
12/21/2002	TELCOMS. HARPER RE ERWIN DEPOSITION TESTIMONY AND OBSTRUCTION BY SPOONER RE MISREPRESENTATIONS TO COURT ON ERWIN AVAILABILITY IN D.C.	0.4	\$148.00
12/26/2002	TELCOM. HARPER RE MOTION TO COMPEL ERWIN DEPOSITION	0.2	\$74.00
01/01/2003	REVIEW AND REVISE MOTION TO COMPEL AND PROPOSED ORDER.	3.5	\$1,295.00
01/01/2003	TELCOMS. HARPER RE SAME.	0.5	\$185.00
02/05/2003	TELCOM. BRAD REYNOLDS, ERWIN'S PRIVATE COUNSEL, RE SAME.	0.3	\$111.00
02/06/2003	TELCOMS. REYNOLDS RE ERWIN DEPOSITION ISSUES.	0.7	\$259.00
	<i>Subtotal</i>	5.6	2,072.00
HARPER			
12/31/2002	DRAFT MOTION TO COMPEL AND SANCTIONS FOR DEPOSITION OF ERWIN	6.5	\$1,722.50
01/01/2003	FINALIZE ERWIN MOTION TO COMPEL AND PROPOSED ORDER	2.3	\$609.50
01/01/2003	DRAFT MOTION TO COMPEL ERWIN DEPOSITION AND SANCTIONS PURSUANT TO RULE 37; REVIEW CASELAW AND TRANSCRIPTS FOR SAME; DISTRIBUTE FOR COMMENT	5.5	\$1,457.50
01/09/2003	TELEPHONE CALL TO MKB RE: ERWIN BRIEFING AND ADDITIONAL ARGUMENTS	0.3	\$79.50
01/23/2003	REVIEW DEFS' OPPOSITION BRIEF TO MPTION TO COMPEL TESTIMONY OF ERWIN RE: SCHEDULING ETC.	2	\$530.00
01/26/2003	DRAFT BEGIN DRAFTING REPLY BRIEF IN SUPPORT OF MOTION TO COMPEL TESTIMONY OF ERTWIN	7	\$1,855.00
01/27/2003	DRAFT REPLY BRIEF IN SUPPORT OF MOTION TO COMPEL TESTIMONY OF ERWIN	2.9	\$768.50
01/28/2003	PREPARATION FOR REPLY BRIEF IN SUPPORT OF MOTION TO COMPEL TESTIMONY OF ERWIN	1.4	\$371.00
01/28/2003	FINALIZE REPLY BRIEF IN SUPPORT OF MOTION TO COMPEL TESTIMONY OF ERWIN	9	\$2,385.00
02/05/2003	REVIEW OPINION ON ERWIN PRIVILEGE	1	\$265.00
	<i>Subtotal</i>	37.9	10,043.50
	<i>Total</i>	50.166	14581.92

Exhibit B

Tuesday, December 14, 2004

Page 1 of 1

EXHIBIT B
 Defendants' Objections to Plaintiffs' Request
 for Attorney's Fees and Expenses Pursuant to
 the Court's February 5, 2003 Ruling
 on Defendants' Motion to Reconsider That
 Part of the Court's Order of April 20, 2007
 Directing Payment of Attorney Fees to Plaintiffs

Exhibit C

<i>Date</i>	<i>Task</i>	<i>Hours</i>	<i>Fee</i>
BROWN			
12/12/2002	REVIEW SPECIAL MASTER-MONITOR REPORT RE ERWIN DEPOSITION	0.5	\$185.00
12/13/2002	OFFICE CONFERENCE WITH TEAM RE STRATEGY RE COURT HEARING; PREPARE FOR AND ATTEND COURT HEARING RE DISCOVERY; OFFICE CONFERENCE WITH TEAM RE STRATEGY AT COURT HOUSE	1.666	\$616.42
12/13/2002	OFFICE CONFERENCE WITH TEAM/KH RE DISCOVERY STRATEGY	0.333	\$123.21
12/15/2002	PREPARE FOR ERWIN DEPOSITION	1.5	\$555.00
12/15/2002	PREPARE FOR ERWIN DEPOSITION; REVIEW PRIOR DEPOSITION TRANSCRIPT	2.166	\$801.42
12/15/2002	PREPARE FOR ERWIN DEPOSITION	3.083	\$1,140.71
12/16/2002	OFFICE CONFERENCE WITH TEAM RE TRIBAL TASK FORCE MEETING	0.25	\$92.50
12/16/2002	TELEPHONE CONFERENCE WITH KH/ TEAM RE ERWIN BEING IN DC	0.333	\$123.21
12/16/2002	TELEPHONE CONFERENCE WITH GMR/KH/DMG RE TRIBAL TASK FORCE; TELEPHONE CONFERENCE WITH KH RE ERWIN DEPO LOGISTICS	0.5	\$185.00
12/16/2002	PREPARE FOR ERWIN DEPOSITION	1.583	\$585.71
12/16/2002	PREPARE FOR ERWIN DEPOSITION	1.666	\$616.42
12/16/2002	PREPARE FOR ERWIN DEPOSITION	3.666	\$1,356.42
12/17/2002	PREPARE FOR AND ATTEND COURT HEARING RE DEPOS; OFFICE CONFERENCE WITH TEAM	1.25	\$462.50
12/17/2002	TELEPHONE CONFERENCE WITH EPC/TEAM RE ERWIN STATUS	0.5	\$185.00
12/17/2002	PREPARE FOR ERWIN DEPOSITION	2.416	\$893.92
12/17/2002	PREPARE FOR ERWIN DEPOSITION	0.333	\$123.21
12/17/2002	PREPARE FOR ERWIN DEPOSITION	2	\$740.00
12/18/2002	PREPARE FOR ERWIN DEPOSITION	3.666	\$1,356.42
12/18/2002	PREPARE LETTER TO PETRIE RE DEPO LOCATION CHANGE	0.333	\$123.21
12/19/2002	PREPARE FOR ERWIN DEPOSITION	4.75	\$1,757.50
12/19/2002	PREPARE FOR ERWIN DEPOSITION	3.583	\$1,325.71
12/19/2002	PREPARE FOR ERWIN DEPOSITION	1.666	\$616.42
12/20/2002	PREPARE FOR AND ATTEND ERWIN DEPO	8	\$2,960.00
	<i>Subtotal</i>	45.743	16,924.91

Exhibit C

Tuesday, December 14, 2004

Page 1 of 3

EXHIBIT C
 Defendants' Objections to Plaintiffs' Request
 for Attorney Fees and Expenses Pursuant to
 the Court's February 7, 2003 Ruling
 Defendants' Motion to Reconsider That
 Part of the Court's Order of April 20, 2007
 Directing Payment of Attorney Fees to Plaintiffs

Exhibit C

<i>Date</i>	<i>Task</i>	<i>Hours</i>	<i>Fee</i>
GINGOLD			
12/12/2002	TELCOMS. HARPER RE DEFENDANTS' MOTION FOR PROTECTIVE ORDER RE ERWIN DEPOSITION.	0.3	\$111.00
12/13/2002	TELCOM. HARPER RE SAME.	0.1	\$37.00
12/13/2002	REVIEW MATERIALS IN PREPARATION FOR HEARING CONCERNING DEFENDANTS' EFFORTS TO BAR OR LIMIT DEPOSITION OF ERWIN TO ALBUQUERQUE DUE TO WHAT IS REPRESENTED TO THE COURT AND PLAINTIFFS AS HER INABILITY TO BE IN D.C. FOR DEPOSITION DUE TO SCHEDULE CONFLICTS.	1.2	\$444.00
12/13/2002	APPEAR IN COURT FOR HEARING RE SAME.	0.6	\$222.00
12/13/2002	MEET WITH HARPER, REMPEL RE SAME AND DEPOSITION ISSUES.	0.5	\$185.00
12/16/2002	TELCOMS. HARPER RE SAME, STRATEGY AND ACTION RE SAME.	1.1	\$407.00
12/16/2002	CONF CALLS HARPER, REMPEL AND BROWN RE ERWIN DEPOSITION ISSUES, ERWIN'S ATTENDANCE IN DC AT TRIBAL TASK FORCE MEETING..	0.6	\$222.00
12/17/2002	CONF CALL REMPEL, BROWN AND HARPER RE ERWIN HEARING ISSUES.	0.5	\$185.00
12/17/2002	APPEAR IN COURT RE SAME.	0.5	\$185.00
12/17/2002	TELCOMS. HARPER RE SAME, STRATEGY, ETC.	0.7	\$259.00
12/17/2002	TELCOM. COBELL RE ERWIN DEVELOPMENTS.	0.2	\$74.00
12/20/2002	ASSIST BROWN IN ERWIN DEPOSITION.	7.7	\$2,849.00
12/20/2002	TELCOM. HARPER RE SAME.	0.1	\$37.00
	<i>Subtotal</i>	14.1	5,217.00

Exhibit C

Tuesday, December 14, 2004

Page 2 of 3

Exhibit C

<i>Date</i>	<i>Task</i>	<i>Hours</i>	<i>Fee</i>
HARPER			
12/03/2002	CONFERENCE WITH DG RE: DEPOSITIONS NEEDED PRIOR TO JANUARY 6TH; (TO BE CONTINUED)	0.3	\$79.50
12/06/2002	DRAFT NOTICE OF DEPOSITIONS FOR ERWIN, EDWARDS AND EDS	0.8	\$212.00
12/06/2002	CONFERENCE CALL WITH DEPOSITION SCHEDULE - NOTICE OF DEPOSITIONS	0.4	\$106.00
12/11/2002	TELEPHONE CALL FROM PETRIE; MEET AND CONFER RE: DEFS' MOTION FOR PROTECTIVE ORDER RE: EDWARDS ERWIN DEPOSITIONS: FILED WITH KIEFFER	0.2	\$53.00
12/12/2002	REVIEW RECORD IN PREP FOR ORAL ARGUMENT	1.4	\$371.00
12/12/2002	CONFERENCE CALL WITH MASTER MONITOR AND GOV COUNSEL RE: DEPOSITIONS OF ERWIN AND EDWARDS AND PREPARATION FOR SAME	1.6	\$424.00
12/13/2002	REVIEW CT ORDER ON DEPOSITIONS	0.2	\$53.00
12/13/2002	COURT APPEARANCE ORAL ARGUMENT RE: DEFS' MOTION FOR PROTECTIVE ORDER RE ERWIN AND EDWARDS; CONFER WITH CO COUNSEL PRE AND POST; CT DENIED MOTION	0.8	\$212.00
12/13/2002	PREPARATION OF ORAL ARGUMENT BEFORE JUDGE LAMBERTH ON ISSUE OF DEPOSITIONS	2	\$530.00
12/16/2002	CONFERENCE WITH DG RE: REMPEL ATTENDANCE AT MEETING WITH TRIBES	0.4	\$106.00
12/16/2002	TELEPHONE CALL TO REQUEST FOR HEARING AND DISCUSS WITH DG	0.3	\$79.50
12/16/2002	CONFERENCE WITH DG AND GR RE: ATTENDANCE OF ERWIN ACCORDING TO CASON; IPDATE ON MEETING	0.5	\$132.50
12/17/2002	COURT APPEARANCE DEF'S DECEPTION REGARDING ERWIN AND POST DISCUSSION	0.8	\$212.00
12/17/2002	PREPARATION FOR COURT APPEARANCE REGARDING DEFS' MISREPRESENTATIONS	1.5	\$397.50
	<i>Subtotal</i>	11.2	2,968.00
REMPEL			
12/13/2002	PREPARE FOR AND ATTEND HEARING REGARDING DEPOSITION OF DONNA ERWIN AND OTHER TRIAL 1.5 WITNESSS.	1.3	\$292.50
12/13/2002	MEET W/ GINGOLD, HARPER RE ERWIN AND DEPOSITION ISSUES.	0.5	\$112.50
12/16/2002	ATTEND TRUST REFORM TASK FORCE MEETING. AT THIS HEARING I IDENTIFIED DONNA ERWIN AS BEING IN ATTENDANCE.	7	\$1,575.00
12/16/2002	CC W/ GINGOLD, HARPER RE STATUS OF TASK FORCE MEETING; SPECIFICALLY REGARDING ERWIN'S ATTENDANCE AT THE TASK FORCE MEETING. (2 CALLS)	0.6	\$135.00
12/16/2002	DRAFT DECLARATION REGARDING TASK FORCE MEETING AND ERWIN'S ATTENDANCE.	0.3	\$67.50
12/17/2002	CC W/ COBELL, GINGOLD, HARPER, BROWN RE STATUS OF TRIAL 1.5 PREPARATIONS AND HEARING REGARDING ERWIN.	0.5	\$112.50
12/17/2002	PREPARE FOR AND ATTEND HEARING.	0.8	\$180.00
12/20/2002	ATTEND ERWIN DEPOSITION (LEFT EARLY TO CONTINUE TRIAL 1.5 REPORT PREPARATIONS).	1	\$225.00
	<i>Subtotal</i>	12	2,700.00
	<i>Total</i>	83.043	27809.91

Exhibit C

Tuesday, December 14, 2004

Page 3 of 3

Exhibit D

<i>Date</i>	<i>Task</i>	<i>Hours</i>	<i>Fee</i>
BROWN			
01/03/2003	OFFICE CONFERENCE WITH TEAM RE ERWIN DEPOSITION STRATEGY	0.333	\$123.21
01/30/2003	TELEPHONE CONFERENCE WITH MR. LEVITAS RE ERWIN PRIVILEGE ISSUE; OFFICE CONFERENCE WITH DMG	0.333	\$123.21
02/05/2003	OFFICE CONFERENCE WITH TEAM RE ERWIN STRATEGY	0.333	\$123.21
02/05/2003	PREPARE FOR ERWIN DEPOSITION	0.333	\$123.21
02/05/2003	PREPARE FOR ERWIN DEPOSITION	1.583	\$585.71
02/05/2003	PREPARE FOR ERWIN DEPOSITION	1.583	\$585.71
02/05/2003	TELEPHONE CONFERENCE WITH KH/TEAM RE ERWIN STRATEGY	0.166	\$61.42
02/05/2003	TELEPHONE CONFERENCES WITH KH/OFFICE CONFERENCE WITH TEAM RE SUBPENA OF ERWIN STRATEGY	0.333	\$123.21
02/06/2003	TELEPHONE CONFERENCE WITH KH/TEAM RE ERWIN DEFENSE; OCW DMG RE SAME	0.333	\$123.21
02/06/2003	TELEPHONE CONFERENCE WITH TEAM RE DEPO NOTICES; REVIEW SAME	0.583	\$215.71
02/06/2003	PREPARE FOR ERWIN DEPOSITION	1.166	\$431.42
02/06/2003	PREPARE FOR ERWIN DEPOSITION	1.083	\$400.71
02/08/2003	PREPARE FOR ERWIN DEPOSITION	1.25	\$462.50
02/10/2003	PREPARE FOR ERWIN DEPOSITION	3.416	\$1,263.92
02/11/2003	PREPARE FOR ERWIN DEPOSITION	3.083	\$1,140.71
02/11/2003	PREPARE FOR ERWIN DEPOSITION	3.333	\$1,233.21
02/11/2003	PREPARE FOR ERWIN DEPOSITION	3.833	\$1,418.21
02/12/2003	PREPARE FOR AND ATTEND DEPO OF ERWIN	5	\$1,850.00
02/12/2003	PREPARE FOR ERWIN DEPOSITION	2.75	\$1,017.50
02/12/2003	PREPARE FOR ERWIN DEPOSITION	3.833	\$1,418.21
02/13/2003	OFFICE CONFERENCE WITH KH RE ERWIN STRATEGY	0.333	\$123.21
02/13/2003	PREPARE FOR AND ATTEND DEPO OF ERWIN	6.833	\$2,528.21
02/13/2003	TELEPHONE CONFERENCE WITH DMG/KH RE ERWIN DEPO STRATEGY/ATTORNEY-CLIENT PRIVILEGE STRATEGY	1.083	\$400.71
02/15/2003	LEGAL RESEARCH RE ATTORNEY-CLIENT PRIVILEGE IN TRUST CONTEXT RE JENSEN RE MOTION TO COMPEL ERWIN TESTIMONY	2.75	\$1,017.50
02/15/2003	LEGAL RESEARCH RE ATTORNEY-CLIENT PRIVILEGE IN TRUST CONTEXT RE JENSEN RE MOTION TO COMPEL ERWIN TESTIMONY	2.25	\$832.50
02/16/2003	LEGAL RESEARCH RE ATTORNEY-CLIENT PRIVILEGE IN TRUST CONTEXT RE JENSEN RE MOTION TO COMPEL ERWIN TESTIMONY; PREPARE MEMORANDUM RE SAME	3.583	\$1,325.71
02/16/2003	LEGAL RESEARCH RE ATTORNEY-CLIENT PRIVILEGE IN TRUST CONTEXT RE JENSEN RE MOTION TO COMPEL ERWIN TESTIMONY	3.416	\$1,263.92
02/18/2003	LEGAL RESEARCH RE CHINESE WALLS RE ERWIN MOTION TO COMPEL	2.416	\$893.92
02/18/2003	LEGAL RESEARCH RE CHINESE WALLS RE ERWIN MOTION TO COMPEL	3.083	\$1,140.71
02/19/2003	LEGAL RESEARCH RE CHINESE WALLS RE ERWIN MOTION TO COMPEL	1.416	\$523.92
02/19/2003	PREPARE ERWIN MOTION TO COMPEL	2.916	\$1,078.92
02/20/2003	TELEPHONE CONFERENCE WITH KH RE ERWIN STRATEGY	0.333	\$123.21
02/20/2003	TELEPHONE CONFERENCE WITH TEAM/KH RE ERWIN STR/ TRIAL	2	\$740.00
03/03/2003	LEGAL RESEARCH RE CHINESE WALLS	0.333	\$123.21
03/03/2003	REVIEW ERWIN TRANSCRIPT FOR NEXT SESSION OF HER DEPOSITION	3.25	\$1,202.50

Exhibit D

Tuesday, December 14, 2004

Page 1 of 4

EXHIBIT D
 Defendants' Objections to Plaintiffs' Request
 for Attorney Fees and Expenses Pursuant to
 the Court's February 5, 2003 Ruling
 Defendants' Motion to Reconsider That
 Part of the Court's Order of April 20, 2007
 Directing Payment of Attorney Fees to Plaintiffs

Exhibit D

<i>Date</i>	<i>Task</i>	<i>Hours</i>	<i>Fee</i>
03/03/2003	REVIEW ERWIN DOCUMENTS FOR ERWIN/SINGER DEPO	1.666	\$616.42
03/11/2003	REVIEW ERWIN PRIVILEGE LOG LETTER	0.333	\$123.21
10/10/2004	OFFICE CONFERENCE WITH DMG RE ERWIN STRATEGY	0.333	\$129.87
10/10/2004	REVIEW ERWIN DEPOS IN PREPARATION FOR ERWIN DEPO	3.166	\$1,234.74
10/11/2004	LEGAL RESEARCH RE DELIBERATIVE PROCESS PRIVILEGE/PRIVILEGE ISSUES IN PREPARATION FOR ERWIN DEPO	1.583	\$617.37
10/11/2004	REVIEW COURT TRANSCRIPTS AND OPINIONS IN PREPARATION FOR ERWIN DEPO	1.666	\$649.74
10/11/2004	REVIEW ERWIN DEPOSITIONS IN PREPARATION FOR ERWIN DEPO	2.166	\$844.74
10/12/2004	REVIEW DOCS IN PREPARATION FOR ERWIN DEPO	2.916	\$1,137.24
10/12/2004	REVIEW ERWIN DEPOSITIONS IN PREPARATION FOR ERWIN DEPO	2.666	\$1,039.74
10/13/2004	PREPARE FOR ERWIN DEPO	2.416	\$942.24
10/13/2004	PREPARE FOR ERWIN DEPOSITION	3.916	\$1,527.24
10/13/2004	PREPARE FOR ERWIN DEPOSITION	4.333	\$1,689.87
10/14/2004	OFFICE CONFERENCE WITH RUTH HARGROW RE DEPOSITION EXHIBITS	0.333	\$129.87
10/14/2004	PREPARE FOR ERWIN DEPOSITION	2.833	\$1,104.87
10/14/2004	PREPARE FOR AND ATTEND ERWIN DEPOSITION	5	\$1,950.00
	<i>Subtotal</i>	105.981	39,879.51

Exhibit D

Tuesday, December 14, 2004

Page 2 of 4

Exhibit D

<i>Date</i>	<i>Task</i>	<i>Hours</i>	<i>Fee</i>
GINGOLD			
01/09/2003	TELCOM. COBELL RE. ERWIN SITUATION.	0.5	\$185.00
01/14/2003	REVIEW/MARKUP DEFENDANTS' OPPOSITION TO MOTION TO COMPEL.	0.5	\$185.00
02/05/2003	OUTLINE NATURE AND SCOPE OF ERWIN DEPOSITION PER COURT	1.4	\$518.00
02/05/2003	REVIEW/MARKUP COURT MEMORANDUM AND ORDER RE ERWIN AND NEW DEPOSITION.	1	\$370.00
02/05/2003	TELCOMS. HARPER RE SAME AND ISSUES TO BE EXPLORED IN	1	\$370.00
02/06/2003	CONF CALL BROWN, REMPEL, HARPER RE SAME.	0.4	\$148.00
02/06/2003	REVIEW ERWIN CONTEMPT 1 TRIAL TESTIMONY (1.21.99), TRIAL 1 TESTIMONY (6.22-23.99), DEPOSITION TRANSCRIPT TO PREPARE QUESTIONS FOR 2.12.03 DEPOSITION RE 2.5.03 MEMORANDUM AND	9.9	\$3,663.00
02/06/2003	TELCOMS. HARPER RE ABOVE.	1.7	\$629.00
02/07/2003	CONTINUE REVIEW OF ERWIN LITIGATION TESTIMONY RE SAME.	7.9	\$2,923.00
02/08/2003	CONTINUE REVIEW OF ERWIN TESTIMONY RE SAME.	4.2	\$1,554.00
02/09/2003	CONTINUE REVIEW OF ERWIN TESTIMONY RE SAME.	3.2	\$1,184.00
02/11/2003	TELCOMS. REYNOLDS RE ERWIN DEPOSITION ISSUES.	0.2	\$74.00
02/11/2003	TELCOM. HARPER RE SAME.	0.4	\$148.00
02/11/2003	CONF CALL BROWN, HARPER, AND REMPEL RE SAME.	0.1	\$37.00
02/12/2003	TELCOMS. HARPER RE MEMORANDUM TO FILE RE SAME.	0.3	\$111.00
02/12/2003	TELCOM. LEVITAS RE SAME.	0.1	\$37.00
02/12/2003	DISCUSSION WITH REMPEL RE ERWIN MEMORANDUM RE AVAILABILITY FOR DEPOSITION IN WASHINGTON AND DECEPTION.	2	\$740.00
02/12/2003	CONF CALL BROWN, HARPER RE BROWN BRIEFING ON ERWIN	0.3	\$111.00
09/08/2004	TELCOM. REYNOLDS TO SET UP DATE FOR ERWIN DEPOSITION TO COMPLETED IN ACCORDANCE WITH NEW COURT ORDER.	0.3	\$117.00
09/23/2004	TELCOM. REYNOLDS TO WORK OUT DATE FOR ERWIN DEPOSITION AND AGREE TO JOINTLY REQUEST ENLARGEMENT OF TIME WITHIN WHICH TO COMPLETE SAME IN LIGHT OF TIME CONSTRAINT SET FORTH IN COURT ORDER.	0.2	\$78.00
09/24/2004	DRAFT JOINT RE SAME.	0.5	\$195.00
09/24/2004	TELCOMS. REYNOLDS RE SAME, COMMENTS, EDITS.	0.5	\$195.00
09/24/2004	TELCOM. HARPER RE SAME AND INFORMATION TO BE SOUGHT FROM ERWIN.	0.5	\$195.00
<i>Subtotal</i>		37.1	13,767.00

Exhibit D

Tuesday, December 14, 2004

Page 3 of 4

Exhibit D

<i>Date</i>	<i>Task</i>	<i>Hours</i>	<i>Fee</i>
HARPER			
02/05/2003	CONFERENCE WITH IIM TEAM REGARDING COURT'S OPINION ADDRESSING ISSUES RELATED TO ERWIN DEPOSITION SCHEDULING; DEPOSITION; NOTICE ETC.	1	\$265.00
02/05/2003	CONFERENCE CALL WITH DG RE: ERWIN DEPOSITION	0.5	\$132.50
02/06/2003	CONFERENCE WITH DG AND THEN MKB RE: RE-DEPOSITION OF DONNA ERWIN	0.6	\$159.00
02/07/2003	CONFERENCE WITH DG RE: ERWIN DEPOSITION AND WHO ELSE WE MAY NEED TO DEPOSE; PREPARE NOTICE FOR SPOONER; QUINN, PETRIE ETC.	1.5	\$397.50
02/08/2003	CONFERENCE WITH MKB RE: NECESSARY PREP FOR ERWIN DEPOSITION; QUESTIONS; DOCS TO REVIEW	0.3	\$79.50
02/09/2003	REVIEW ERWIN TRANSCRIPT FROM 12/20 IN PREP FOR ERWIN DEPOSITION; DISCUSS PRODUCTION OF DOCS WITH DG	1.2	\$318.00
02/10/2003	REVIEW MATERIAL RE: DONNA ERWIN DEPOSITION	1.4	\$371.00
02/10/2003	CONFERENCE CALL WITH MKB RE: PREPARATION FOR ERWIN DEPOSITION; DISCUSS SAME WITH DG	0.4	\$106.00
02/12/2003	APPEAR AT ERWIN DEPOSITION AND DISCUSSIONS WITH MKB IN PREPARATIONS THEREOF	4	\$1,060.00
02/13/2003	GENERAL DEPOSITION OF DONNA ERWIN RE: GOVT	6	\$1,590.00
	<i>Subtotal</i>	16.9	4,478.50
REMPEL			
02/06/2003	CC W/ BROWN, REMPEL, HARPER RE ERWIN DEPOSITION AND MEMORANDUM AND ORDER.	0.4	\$90.00
02/11/2003	CC W/ BROWN, HARPER, GINGOLD REGARDING ERWIN DEPOSITION	0.1	\$22.50
02/12/2003	REVIEW ERWIN MEMORANDUM TO FILE REGARDING HER DECEMBER DEPOSITIONS AND CONVERSATIONS WITH HER ATTORNEYS.	0.5	\$112.50
02/12/2003	DISCUSS W/ GINGOLD RE ERWIN MEMORANDUM.	2	\$450.00
02/13/2003	CC W/ LITIGATION TEAM RE ERWIN.	1.2	\$270.00
08/19/2004	DRAFT, EDIT NOTICE REGARDING ERWIN TRANSCRIPT (IN RESPONSE TO COURT ORDER).	0.4	\$90.00
	<i>Subtotal</i>	4.6	1,035.00
	<i>Total</i>	164.581	59160.01

Exhibit D

Tuesday, December 14, 2004

Page 4 of 4

Exhibit E

<i>Date</i>	<i>Task</i>	<i>Hours</i>	<i>Fee</i>
BROWN			
02/05/2003	PREPARE DEMAND FOR PRODUCTION OF DOCUMENTS FOR ERWIN	0.916	\$338.92
		<i>Subtotal</i>	0.916 \$338.92
HARPER			
02/05/2003	DRAFT NOTICE OF DEPOSITION-ERWIN	0.8	\$212.00
02/05/2003	FINALIZE RE-DRAFT DEPOSITION NOTICE WITH REQUEST FOR PRODUCTION OF DOCUMENTS; INCLUDE EDITS FROM DG AND MKB; FINALIZE	1.5	\$397.50
02/11/2003	REVIEW DOCUMENTS PRODUCED IN PREP FOR ERWIN DEPOSITION	2	\$530.00
02/19/2003	PREPARATION OF REVIEW DOCUMENTS PRODUCED FOR ERWIN DEPOSITION	3	\$795.00
		<i>Subtotal</i>	7.3 1,934.50
		<i>Total</i>	8.216 2,273.42

Exhibit E

Tuesday, December 14, 2004

Page 1 of 1

EXHIBIT E
Defendants' Objections to Plaintiffs'
Request for Attorney's Fees and
Expenses Pursuant to the Court's
February 3, 2003 Ruling
Defendants' Motion, Reconsideration
Part of the Court's Order of April 20, 2007
Directing Payment of Attorney Fees to Plaintiffs

Exhibit F

<i>Date</i>	<i>Task</i>	<i>Hours</i>	<i>Fee</i>
BROWN			
03/04/2003	PREPARE FOR AND ATTEND SINGER DEPO	4.5	\$1,665.00
		<i>Subtotal</i>	4.5 1,665.00
GINGOLD			
02/15/2003	TELCOMS. HARPER RE SAME AND ISSUES RE SINGER DEPOSITION.	0.7	\$259.00
02/19/2003	TELCOMS. HARPER RE SAME.	0.2	\$74.00
02/19/2003	TELCOMS. REYNOLDS RE DATE, SCOPE OF SINGER DEPOSITION - TENTATIVELY SET FOR 2.27.03.	0.3	\$111.00
03/04/2003	TELCOM. HARPER RE SINGER DEPOSITION TESTIMONY ON THIS DATE.	0.3	\$111.00
		<i>Subtotal</i>	1.5 555.00
HARPER			
02/06/2003	DRAFT AND DISTRIBUTE SINGER DEPOSITION NOTICE AND REQUEST FOR PRODUCTION	0.7	\$185.50
02/15/2003	PREPARATION FOR DEPOSITION OF MICHELE SINGER	2	\$530.00
02/18/2003	CONFERENCE WITH DG (3 TIMES) RE: SCHEDULING OF SINGER	0.5	\$132.50
02/21/2003	REVIEW MATERIAL IN PREP FOR DEPOSITION OF SINGER	2	\$530.00
03/03/2003	PREPARATION FOR DEPOSITION OF MICHELE SINGER; REVIEW DOCUMENTS; REVIEW TRANSCRIPT; DRAFT QUESTIONS	7	\$1,855.00
03/04/2003	APPEAR AT DEPOSITION OF MICHELE SINGER	7	\$1,855.00
		<i>Subtotal</i>	19.2 5,088.00
		<i>Total</i>	25.2 7308

Exhibit F

Tuesday, December 14, 2004

Page 1 of 1

EXHIBIT F
Defendants' Objections to Plaintiffs' Request
for Attorney's Fees and Expenses Pursuant
to the Court's February 5, 2003 Ruling
Part of the Court's Order of April 20, 2007
Directing Payment of Attorney Fees to Plaintiffs

Exhibit G

<i>Date</i>	<i>Task</i>	<i>Hours</i>	<i>Fee</i>
BROWN			
12/23/2002	TELEPHONE CONFERENCES COURT REPORTER RE ERWIN TRANSCRIPT	0.333	\$123.21
12/26/2002	TELEPHONE CONFERENCE WITH COURT REPORTER RE ERWIN	0.25	\$92.50
12/27/2002	TELEPHONE CONFERENCES WITH ERWIN COURT REPORTER	0.333	\$123.21
01/17/2003	TELEPHONE CONFERENCE WITH EPC RE ERWIN	0.083	\$30.71
	<i>Subtotal</i>	0.999	369.63
GINGOLD			
02/05/2003	TELCOMS. COBELL RE SAME.	0.3	\$111.00
02/11/2003	TELCOM. COBELL RE SAME.	0.1	\$37.00
02/13/2003	TELCOM. LEVITAS RE SAME.	0.1	\$37.00
02/13/2003	CONF CALL BROWN, HARPER, REMPEL RE PRIVILEGE AND OTHER ISSUES THAT NEED TO BE ADDRESSED AS A RESULT OF LATEST ERWIN DEPOSITION.	1.2	\$444.00
02/17/2003	TELCOMS. REYNOLDS RE ERWIN, SINGER DEPOSITIONS.	0.2	\$74.00
	<i>Subtotal</i>	1.9	703.00
	<i>Total</i>	2.899	1072.63

Exhibit G

Tuesday, December 14, 2004

Page 1 of 1

EXHIBIT G
Defendants' Objections to Plaintiffs' Request
for Attorney's Fees and Expenses Pursuant to
the Court's February 5, 2003 Ruling
EXHIBIT A
Defendants' Motion to Reconsider That
Part of the Court's Order of April 20, 2007
Directing Payment of Attorney Fees to Plaintiffs

Exhibit H

<i>Date</i>	<i>Task</i>	<i>Hours</i>	<i>Fee</i>
11/15/2004	FINALIZE AND CROSS-REFERENCE EVIDENTIARY SUMMARY	2.416	\$942.24
11/15/2004	PREPARE MEMORANDUM OF POINTS AND AUTHORITIES RE ERWIN; OFFICE CONFERENCES WITH RUTH RE EXHIBITS; OFFICE CONFERENCES WITH DMG RE EVIDENCE	3.166	\$1,234.74
	<i>Subtotal</i>	81.488	31,706.99
GINGOLD			
11/13/2004	REVIEW, REVISE SANCTIONS BRIEF RE SAME.	1.9	\$741.00
11/13/2004	DISCUSSION WITH BROWN RE BRIEF, CULPABILITY OF SPOONER, PETRIE, GRILES, CASON, JENSEN AND APPARENT IGNORANCE OF QUINN; ADVERSE INFERENCES RE PETRIE WARRANTED DUE TO HIS DESTRUCTION OF CRITICAL NOTES.	0.4	\$156.00
11/14/2004	REVIEW, REVISE SATURDAY, RED-LINED MKB BRIEF RE ERWIN	1.5	\$585.00
11/14/2004	TELCOMS. HARPER RE COMMENTS RE SAME.	0.4	\$156.00
11/14/2004	DISCUSSION BROWN RE SAME.	0.3	\$117.00
11/15/2004	REVIEW AND REVISE CURRENT DRAFTS OF REPORT ON STATUS OF EVIDENCE RE ERWIN, SUMMARIES, EVIDENTIARY EXHIBIT, AND DRAFT PROPOSED ORDER RE SAME.	5.2	\$2,028.00
	<i>Subtotal</i>	9.7	3,783.00
HARPER			
11/11/2004	RVW ERWIN DEPOSITION TRANSCRIPT FOR MOTION TO COMPEL SANCTIONS AWARD BRIEF; DISCUSS WITH DG	2.2	\$737.00
11/12/2004	RVW AND EDIT ERWIN DEPOSITION MEMORANDUM AND EVIDENTIARY STATEMENT; DISCUSS WITH DG AND MKB	3.6	\$1,206.00
	<i>Subtotal</i>	5.8	1,943.00
	<i>Total</i>	96.988	37432.99

Exhibit H

Tuesday, December 14, 2004

Page 2 of 2

Exhibit H

<i>Date</i>	<i>Task</i>	<i>Hours</i>	<i>Fee</i>
BROWN			
05/21/2003	SUMMARIZE ERWIN DEPOSITION TRANSCRIPTS	0.333	\$126.54
05/22/2003	SUMMARIZE ERWIN DEPOSITION TRANSCRIPTS	1.5	\$570.00
05/22/2003	SUMMARIZE ERWIN DEPOSITION TRANSCRIPTS	4.75	\$1,805.00
05/22/2003	SUMMARIZE ERWIN DEPOSITION TRANSCRIPTS	0.75	\$285.00
08/18/2004	REVIEW COURT ORDER RE ERWIN DEPO; REVIEW AND ANNOTATE DEPOSITION TRANSCRIPT	0.833	\$324.87
10/26/2004	LOAD ERWIN TRANSCRIPT INTO SUMMATION AND FORMAT	0.25	\$97.50
10/28/2004	PREPARE SUMMARY OF ERWIN EVIDENCE -- VOL II	0.333	\$129.87
10/29/2004	PREPARE SUMMARY OF ERWIN EVIDENCE -- VOL II	0.916	\$357.24
10/29/2004	OFFICE CONFERENCE WITH DMG/KH RE ERWIN APPLICATION	0.75	\$292.50
10/29/2004	PREPARE SUMMARY OF ERWIN EVIDENCE	2.416	\$942.24
10/29/2004	PREPARE SUMMARY OF ERWIN EVIDENCE -- VOL II	1.75	\$682.50
10/30/2004	PREPARE SUMMARY OF ERWIN EVIDENCE -- VOL II	3.583	\$1,397.37
10/30/2004	PREPARE LETTER TO OPPOSING COUNSEL RE PETRIE NOTES	0.333	\$129.87
10/31/2004	PREPARE SUMMARY OF ERWIN EVIDENCE -- VOL II & III	1.166	\$454.74
11/01/2004	OFFICE CONFERENCE WITH DMG; FINALIZE DODGE WELLS LETTER RE PETRIE NOTES; TELEPHONE CONFERENCE WITH NARF	0.583	\$227.37
11/03/2004	PREPARE SUMMARY OF ERWIN EVIDENCE	2.25	\$877.50
11/05/2004	PREPARE SUMMARY OF ERWIN EVIDENCE -- VOL III	3.5	\$1,365.00
11/05/2004	PREPARE SUMMARY OF ERWIN EVIDENCE	2.666	\$1,039.74
11/06/2004	PREPARE SUMMARY OF ERWIN EVIDENCE -- VOL III	2.916	\$1,137.24
11/08/2004	PREPARE SUMMARY OF ERWIN EVIDENCE -- VOL III	2.25	\$877.50
11/08/2004	PREPARE SUMMARY OF ERWIN EVIDENCE; SUMMARIZE ERWIN DEPOSITION TRANSCRIPT IV	3.166	\$1,234.74
11/09/2004	PREPARE SUMMARY OF ERWIN EVIDENCE	3.416	\$1,332.24
11/09/2004	TELEPHONE CONFERENCES RUTH; PREPARE SUMMARY OF ERWIN EVIDENCE; SUMMARIZE ERWIN DEPOSITION TRANSCRIPT IV	4.166	\$1,624.74
11/10/2004	PREPARE SUMMARY OF ERWIN EVIDENCE; REVIEW DOCUMENTS PRODUCED WITH RESPECT THERETO	2.333	\$909.87
11/11/2004	OFFICE CONFERENCE WITH DMG RE ERWIN MATTER	0.25	\$97.50
11/11/2004	PREPARE SUMMARY OF ERWIN EVIDENCE; REVIEW DOCUMENTS PRODUCED WITH RESPECT THERETO	4.083	\$1,592.37
11/12/2004	PREPARE SUMMARY OF ERWIN EVIDENCE; SINGER DEPOSITION	2.166	\$844.74
11/12/2004	PREPARE SUMMARY OF ERWIN EVIDENCE; SINGER DEPOSITION	2.5	\$975.00
11/13/2004	PREPARE SUMMARY OF ERWIN EVIDENCE; SINGER DEPOSITION	3.916	\$1,527.24
11/13/2004	OFFICE CONFERENCE WITH DMG RE ERWIN APPLICATION; INCORPORATE HIS CHANGES IN EVIDENTIARY SUMMARY	1.75	\$682.50
11/14/2004	PREPARE SUMMARY OF ERWIN EVIDENCE; SINGER DEPOSITION; OFFICE CONFERENCES WITH DMG; E-MAIL TO KH RE EVIDENCE	4.75	\$1,852.50
11/14/2004	FINALIZE AND CROSS-REFERENCE EVIDENTIARY SUMMARY	2.666	\$1,039.74
11/14/2004	PREPARE MEMORANDUM OF POINTS AND AUTHORITIES RE ERWIN	2.25	\$877.50
11/14/2004	PREPARE SUMMARY OF ERWIN EVIDENCE; SINGER DEPOSITION	2.333	\$909.87
11/15/2004	PREPARE MEMORANDUM OF POINTS AND AUTHORITIES RE ERWIN	2.333	\$909.87

Exhibit H

Tuesday, December 14, 2004

Page 1 of 2

EXHIBIT H
Defendants' Objections to Plaintiffs' Request
for Attorney's Fees and Expenses Pursuant to
the Court's February 5, 2003 Ruling
EXHIBIT A
Defendants' Motion to Reconsider That
Part of the Court's Order of April 20, 2007
Directing Payment of Attorney Fees to Plaintiffs

Exhibit I

<i>Date</i>	<i>Task</i>	<i>Hours</i>	<i>Fee</i>
BROWN			
10/27/2004	GATHER ERWIN TIME	1.083	\$422.37
10/27/2004	GATHER ERWIN TIME	2.666	\$1,039.74
10/28/2004	GATHER ERWIN TIME; PREPARE MKB AFFIDAVIT	2.416	\$942.24
11/15/2004	PREPARE MKB ERWIN AFFIDAVIT; GATHER TIME	3.666	\$1,429.74
	<i>Subtotal</i>	9.831	3,834.09
GINGOLD			
11/10/2004	TELCOM. HARPER RE ERWIN TIME, PREPARATION OF BRIEF RE SAME, FILING DEADLINE RE SAME.	0.2	\$78.00
11/10/2004	REVIEW, IDENTIFY TIME RECORDS RELEVANT TO PREPARATION OF SANCTIONS RE ERWIN.	5	\$1,950.00
11/10/2004	BEGIN SEGREGATION OF RELEVANT TIME AND RESTATE SAME ON SCHEDULE TO BE APPENDED TO AFFIDAVIT IN SUPPORT OF SANCTIONS TIME TO BE FILED.	2.5	\$975.00
11/11/2004	CONTINUE SEGREGATION AND RESTATEMENT OF RELEVANT TIME RE SAME.	0.3	\$117.00
11/13/2004	CONTINUE IDENTIFICATION AND SEGREGATION OF RELEVANT TIME, COMPARE TO TIME RECORDED RE REMPEL.	0.3	\$117.00
11/13/2004	BEGIN PREPARATION OF AFFIDAVIT RE SAME.	0.6	\$234.00
11/15/2004	DISCUSSIONS WITH BROWN RE SAME, SERVICE ISSUES PER ORDER.	1.2	\$468.00
11/15/2004	REVIEW TIME ENTRIES AND DISCUSS SAME WITH REMPEL RE RELEVANCE TO AND CONFORMITY WITH ERWIN SANCTIONS FEE	0.3	\$117.00
11/15/2004	REVISE DRAFT AFFIDAVIT IN SUPPORT OF SANCTIONS FEE APPLICATION.	1.8	\$702.00
11/15/2004	REVIEW REMPEL DRAFT AFFIDAVIT RE SAME.	0.1	\$39.00
11/15/2004	TELCOMS. HARPER RE SAME.	0.3	\$117.00
	<i>Subtotal</i>	12.6	4,914.00
HARPER			
11/12/2004	RVW TIME RECORDS TO CULL TIME RELATED TO MOTION TO COMPEL DEPOSITION AND RELATED MATTERS	2.2	\$737.00
11/14/2004	RVW FURTHER TIME RECORDS AND ERWIN DEPOSITION SANCTIONS BRIEF AND DISCUSS SAME WITH DG: REVIEW VARIOUS EMAILS FROM DG	2.3	\$770.50
11/15/2004	RVW AND EDIT ERWIN BRIEF AND FEES & EXPENSE STATEMENT; DRAFT AFFIDAVIT AND CALCULATE TIME; TIME REVIEW AND DISCUSS WITH CO-COUNSEL	5.2	\$1,742.00
	<i>Subtotal</i>	9.7	3,249.50
REMPEL			
11/13/2004	COMPILE, EDIT TIME IN ACCORDANCE WITH COURT'S ORDER.	1.5	\$337.50
11/14/2004	COMPILE, EDIT TIME IN ACCORDANCE WITH COURT'S ORDER.	1.5	\$337.50
11/15/2004	FINALIZE TIME. COMPARE TO GINGOLD TIME. DISCUSS W/	2	\$450.00
	<i>Subtotal</i>	5	1,125.00
	<i>Total</i>	37.131	13122.59

Exhibit I

Tuesday, December 14, 2004

Page 1 of 1

EXHIBIT I
Defendants' Objections to Plaintiffs' Request
for Attorney's Fees and Expenses Pursuant
to the Court's February 5, 2003 Ruling
Defendants' Motion to Reconsider That
Part of the Court's Order of April 20, 2007
Directing Payment of Attorney Fees to Plaintiffs



UNITED STATES ATTORNEY'S OFFICE FOR THE DISTRICT OF COLUMBIA

555 4TH STREET, NW
WASHINGTON, DC 20530
(202) 514-7566

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LAFFEY MATRIX 1992 - 2003

Years (Rate for June 1 - May 31, based on prior year's CPI-U)

Experience	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00	00-01	01-02	02-03
20+ years	300	305	310	315	325	330	335	340	350	360	370
11-19 years	265	265	270	275	280	285	290	295	305	315	325
8-10 years	210	215	220	225	230	235	240	245	250	260	265
4-7 years	170	175	180	195	190	195	195	200	205	210	215
1-3 years	130	135	140	145	150	155	155	160	165	170	175
Paralegals & Law Clerk	75	75	80	80	80	85	85	90	90	95	100

Explanatory Notes

1. This matrix of hourly rates for attorneys of varying experience levels and paralegals/law clerks has been prepared by the Civil Division of the United States Attorney's Office for the District of Columbia. The matrix is intended to be used in cases in which a "fee-shifting" statute permits the prevailing party to recover "reasonable" attorney's fees. See, e.g., 42 U.S.C. § 2000e-5(k) (Title VII of the 1964 Civil Rights Act); 5 U.S.C. § 552(a)(4)(E) (Freedom of Information Act); 28 U.S.C. § 2412 (b) (Equal Access to Justice Act). The matrix does not apply in cases in which the hourly rate is limited by statute. See 28 U.S.C. § 2412(d).
2. This matrix is based on the hourly rates allowed by the District Court in *Laffey v. Northwest Airlines, Inc.*, 572 F. Supp. 354 (D.D.C. 1983), *aff'd in part, rev'd in part on other grounds*, 746 F.2d 4 (D.C. Cir. 1984), *cert. denied*, 472 U.S. 1021 (1985). It is commonly referred to by attorneys and federal judges in the District of Columbia as the "Laffey Matrix" or the "United States Attorney's Office Matrix." The column headed "Experience" refers to the years following the attorney's graduation from law school. The various "brackets" are intended to correspond to "junior associates" (1-3 years after law school graduation), "senior associates" (4-7 years), "experienced federal court litigators" (8-10 and 11-19 years), and "very experienced federal court litigators" (20 years or more). See *Laffey*, 572 F. Supp. at 371.
3. The hourly rates approved by the District Court in *Laffey* were for work done principally in 1981-82. The Matrix begins with those rates. See *Laffey*, 572 F. Supp. at 371 (attorney rates) & 386 n.74 (paralegal and law clerk rate). The rates for subsequent yearly periods were determined by adding the change in the cost of living for the Washington, D.C. area to the applicable rate for the prior year, and then rounding to the nearest multiple of \$5 (up if within \$3 of the next multiple of \$5). The result is subject to adjustment if appropriate to ensure that the relationship between the highest rate and the lower rates remains reasonably constant. Changes in the cost of living are measured by the Consumer Price Index for All Urban Consumers (CPI-U) for Washington-Baltimore, DC-MD-VA-WV, as announced by the Bureau of Labor Statistics for May of each year.
4. Use of an updated *Laffey* Matrix was implicitly endorsed by the Court of Appeals in *Save Our Cumberland Mountains v. Hodel*, 857 F.2d 1516, 1525 (D.C. Cir. 1988) (en banc). The Court of Appeals subsequently stated that parties may rely on the updated *Laffey* Matrix prepared by the United States Attorney's Office as evidence of prevailing market rates for litigation counsel in the Washington, D.C. area. See *Covington v. District of Columbia*, 57 F.3d 1101, 1105 & n. 14, 1109 (D.C. Cir. 1995), *cert. denied*, 516 U.S. 1115 (1996). Lower federal courts in the District of Columbia have used this updated *Laffey* Matrix when determining whether fee awards under fee-shifting statutes are reasonable. See, e.g., *Blackman v. District of Columbia*, 59 F. Supp. 2d 37, 43 (D.D.C. 1999); *Jefferson v. Milvets System Technology, Inc.*, 986 F. Supp. 6, 11 (D.D.C. 1997); *Ralph Hoar & Associates v. Nat'l Highway Transportation Safety Admin.*, 985 F. Supp. 1, 9-10 n.3 (D.D.C. 1997); *Martini v. Fed. Nat'l Mtg Ass'n*, 977 F. Supp. 482, 485 n.2 (D.D.C. 1997); *Park v. Howard University*, 881 F. Supp. 653, 654 (D.D.C. 1995).

EXHIBIT J

Defendants' Objections to Plaintiffs' Request
for Attorney's Fees and Expenses Pursuant to
the Court's February 5, 2003 Ruling

EXHIBIT A
Defendants' Motion to Reconsider That
Part of the Court's Order of April 20, 2007

Directing Payment of Attorney Fees to Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

ORDER

This matter comes before the Court on the *Plaintiffs' Report on the Status of the Evidence Concerning Defendants' and the Department of Justice's Misrepresentations To this Court on December 13 and December 17, 2003 and For Attorney's Fees with Respect Thereto*, Dkt # 2762. Upon consideration of Plaintiffs' Statement, Defendants' Objections, any Reply thereto, the applicable law and the entire record of this case, it is hereby

ORDERED that Defendants shall, with in 20 days of this order, pay \$15,889.50 in reasonable Fees and Expenses pursuant to the Court's February 5, 2003 Memorandum and Order, Dkt # 1772.

SO ORDERED.

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

Date: _____

cc:

Michael F. Hertz
Dodge Wells
Tracy L. Hilmer
Commercial Litigation Branch
Civil Division
P.O. Box 261
Ben Franklin Station
Washington, DC 20044
Fax (202)616-3085

Sandra P. Spooner
John T. Stemplewicz
Commercial Litigation Branch
Civil Division
P.O. Box 875
Ben Franklin Station
Washington, D.C. 20044-0875
Fax (202) 514-9163

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

Keith Harper, Esq.
Native American Rights Fund
1712 N Street, NW
Washington, D.C. 20036-2976
Fax (202) 822-0068

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

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

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,)
)
) Plaintiffs,)
)
) v.)
)
)
)
) GALE A. NORTON, Secretary of the)
) Interior, et al.,)
)
)
) Defendants.)
_____)

Case No. 1:96CV01285
(Judge Lamberth)

NOTICE

On July 21, 2004, Defendants filed their Objections To Plaintiffs' Statement Of Fees And Expenses Filed June 21, 2004 ("Defendants' Objections"). Exhibit A to our objections is intended to list all of the fee entries submitted by Plaintiffs that fall outside the scope of the Court's relevant orders, but the version originally filed contains an incomplete listing. As a result, the hours and value of those improper billing entries were erroneously stated in Defendants' Objections (pp. 4, 6) as \$118,716.26. A corrected listing in the attached Exhibit A indicates that the total sum of such entries is \$225,415.32. Calculations concerning Plaintiffs' billable time that is within the scope of the Court's orders and the maximum potential recovery to which Plaintiffs might be entitled were also inaccurately stated in the original filing (pp. 4,8-9), and they too have been corrected. A \$30 error in the calculation of the total fees sought by Plaintiffs (pp. 2,3,5,7) has also been adjusted.

Exhibit C to Defendants' Objections is intended to itemize Plaintiffs' fee entries that are internally inconsistent, but incorrectly indicated that the total for these improper entries was \$12,463.15 for 34.06 hours. The corrected total for the improper entries is \$11,932.15 for 34.549 hours. Some

of the objection descriptions in the table were also modified. Exhibit C, and the reference to the total value of those entries at page 11 of the main text of Defendants' Objections, have been corrected accordingly.

Defendants' original filing also refers (at footnote 14) to Exhibit D, a table that lists all of the billing entries for which Plaintiffs seek recovery and Defendants' applicable objections, but fails to include the actual exhibit. Defendants hereby file the corrected documents and, for the Court's convenience, attach a complete copy of Defendants' Objections in which the aforementioned corrections have been made.

Dated: July 23, 2004

Respectfully submitted,
ROBERT D. McCALLUM, JR.
Associate Attorney General
PETER D. KEISLER
Assistant Attorney General
STUART E. SCHIFFER
Deputy Assistant Attorney General
J. CHRISTOPHER KOHN
Director



SANDRA P. SPOONER
Deputy Director
D.C. Bar No. 261495
JOHN T. STEMPLEWICZ
Senior Trial Counsel
GINO D. VISSICCHIO
Trial Attorney
Commercial Litigation Branch
Civil Division
P.O. Box 875
Ben Franklin Station
Washington, D.C. 20044-0875
(202) 514-7194

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 GALE A. NORTON, Secretary of the)
 Interior, et al.,)
)
 Defendants.)

Case No. 1:96CV01285
(Judge Lamberth)

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

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

PRELIMINARY STATEMENT

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

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

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

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

Plaintiffs have submitted a fee application seeking a staggering \$356,804.12, based on 1,165.7 claimed billable hours, in response to the Court's Order allowing them recovery for the preparation of a single summary judgment opposition brief. In so doing, they disregard the limitation prescribed in the Court's Order, seek reimbursement for other motions and activities for which the Court has not allowed them recovery, and seek unreasonable levels of compensation for the work that they ostensibly performed. Because Plaintiffs have so overreached in seeking reimbursement of fees which they could not reasonably believe the Court allowed them to recover, their entire application should be denied under established law in this Circuit. Alternatively, their total claim should be substantially reduced to \$29,322.50, a reasonable amount in light of the relief contemplated by the Court's Order.

ARGUMENT

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

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

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

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

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

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

Plaintiffs' Statement fits precisely within the "outrageously unreasonable" standard described in Environmental Defense Fund. Aside from the fact that the overall amount claimed by Plaintiffs (1,165.7 hours and fees and expenses totaling \$356,804.12) is grossly excessive in light of the matter for which recovery was allowed, Plaintiffs' Statement is outrageously unreasonable because it seeks substantial sums for work on motions and other tasks for which

they were not authorized to request fees.³ Plaintiffs had no basis to believe that they were entitled to include that work in their present application. Their conduct is aggravated by the fact that they have engaged in this practice *twice* before.⁴ A substantial sanction is appropriate to ensure that this does not happen again.⁵

Based upon the dates and descriptions of work contained in the fee statements attached to Plaintiffs' Statement, the vast majority of the hours for which Plaintiffs seek recovery (at least 713.1 hours, which is 61% of the 1,165.70 total hours claimed) involves work on activities other than preparing and filing their opposition brief to the Third Motion.⁶ See Exh. A (identifying the various activities outside the scope of the Court's Order for which Plaintiffs seek fees). Plaintiffs even go so far as to seek recovery for work on motions as to which they did not prevail, such as

³ Moreover, as discussed in detail in Section II.B.3, infra, there is reason to believe that Plaintiffs have modified their billing records in an effort to increase their fee request. This conduct further militates in favor of denial of their entire fee award.

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

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

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

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

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

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

Plaintiffs' Application far exceeds the relief ordered by the Court. First, Plaintiffs seek reimbursement of fees and expenses for work that was not incurred in connection with preparing and filing their opposition brief to the Third Motion. Second, the fees and expenses that Plaintiffs seek are unreasonable because \$356,804.12, based on 1,165 hours, is a patently excessive amount for the preparation of a single summary judgment opposition brief. The billing

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

entries are also replete with inconsistencies and other improprieties, and include the application of an inappropriate billing rate for non-professional work. Plaintiffs' Fee Statement should be denied insofar as the billing entries included therein suffer from these defects.

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

The Court expressly limited the fees and expenses for which Plaintiffs could seek reimbursement to those "incurred as a result of preparing and filing their opposition brief to the Third Motion." Mem. & Order at 15. Plaintiffs disregard this limitation and seek fees and expenses for a variety of work unrelated to their opposition brief to the Third Motion, including discovery-related activities; summary judgment motions relating to the Phase 1.5 trial; an opposition to Defendants' motion to withdraw three summary judgment motions and Plaintiffs' cross-motions; a motion to amend Plaintiffs' request for contempt orders; and an opposition to Defendants' motion for reconsideration of the Court's sanctions order. See Exh. A. None of these activities can be construed as "preparing and filing their opposition brief" to the Third Motion for summary judgment and, therefore, they are outside the scope of the Court's Order. Indeed, some of the work for which Plaintiffs seek reimbursement was allegedly performed by Mr. Gingold in June and July 2000, and by Mr. Rempel in June 2000, before the Third Motion was even filed.⁸ The total value of fees and expenses claimed by Plaintiffs that are outside the scope of the Court's Order is \$225,415.32.

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

B. Plaintiffs' Application Is Excessive And Unreasonable

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

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

Plaintiffs have requested \$356,804.12 for 1,165.70 hours of billed time. Under no interpretation can such a sum be deemed reasonable for "preparing and filing their opposition to the Third Motion."

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

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

Even looking only at the time Plaintiffs attribute to opposing the Third Motion, which is the only time compensable under the Court's March 11, 2003 and May 25, 2004 Orders, the fees and expenses Plaintiffs seek reach dizzying heights. Plaintiffs claim to have spent 452.83 hours and have billed \$131,389.50 to prepare their 38-page opposition brief to the Third Motion and the accompanying 73-page "evidentiary appendix."⁹ This amounts to \$1183.69 per page!¹⁰ Id. No degree of complexity could justify such overreaching, particularly given the number of years of legal experience possessed by the lawyers who performed the work. Even employing the rate of one hour per page utilized in Mitchell for the work of an *inexperienced* attorney, Plaintiffs'

⁹ This is based on the following individual hours billed by Plaintiffs for work on their opposition brief to the Third Motion: Mr. Brown - 146.23 hours; Mr. Harper - 96.3 hours; Mr. Gingold - 105.2 hours; and Mr. Rempel - 105.1 hours.

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

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

fees for preparing their opposition to the Third Motion still would be reduced to an amount based on 111 hours of work, or 25% of the hours that Plaintiffs have submitted. Reducing the hours to 25% of those submitted by Plaintiffs, the maximum fees to which Plaintiffs would be entitled with respect to opposing the Third Motion are \$29,322.50, consisting of: \$12,810 for Mr. Brown (36.6 hours at \$350/hour); \$4,940.50 for Mr. Harper (24.1 hours at \$205/hour); \$9,205 for Mr. Gingold (26.3 hours at \$350/hour); and \$2,367 for Mr. Rempel (26.3 hours at the paralegal rate of \$90/hour¹¹). Accordingly, any fee award to Plaintiffs for their work in preparing the opposition brief to the Third Motion should not exceed \$29,322.50.

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

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

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

render professional accounting services. And because he is not a lawyer, he cannot be compensated professionally in that capacity either. Rather, Mr. Rempel's role in connection with Plaintiffs' opposition to the Third Motion can properly be deemed to be only that of a paralegal, and his billing rate should be adjusted downward to reflect that status. Under the Laffey matrix, paralegal work performed in the year 2000 (when Plaintiffs prepared their opposition brief) is compensable at the hourly rate of \$90. Accordingly, any fees awarded to Plaintiffs based on work performed by Mr. Rempel in connection with Plaintiffs' opposition to the Third Motion should be reduced by \$135 per hour (\$225-\$90) to reflect the appropriate nature of Mr. Rempel's work.¹²

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

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

¹² As discussed in Section II.A, supra, time billed by Mr. Rempel for activities unrelated to Plaintiffs' opposition to the Third Motion is not compensable under the Court's order. Moreover, as discussed in Section II.B, supra, the hours Mr. Rempel does attribute to Plaintiffs' opposition brief are excessive and must be reduced to a reasonable level, *i.e.*, 25% of the hours he claims.

submitted in connection with the Mona Infield matter. The total value of all time entries included in Plaintiffs' Statement that have been double billed, which are identified in Exhibit B, is \$57,748.50.

Second, in numerous instances, time entries by one member of Plaintiffs' litigation team are not consistent with those of others. For example, Mr. Gingold seeks reimbursement for an alleged conference call of 0.4 hours with Mr. Harper and Mr. Brown on October 28, 2000, but the billing records of neither Mr. Harper nor Mr. Brown indicate that any such conference call took place. Similarly, Mr. Gingold claims to have spent 1.3 hours on March 11, 2002, and 2.3 hours on March 13, 2002, in teleconferences with Mr. Harper, but Mr. Harper's records do not reflect that any such conferences occurred on those dates. Indeed, there are *dozens* of entries in the fee schedules submitted by Plaintiffs that are internally inconsistent. The total value of these improper entries, which are set forth in Exhibit C, is \$11,932.15.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONCLUSION

Based on the foregoing, Defendants respectfully request that the Court issue an order denying Plaintiffs' entire fee application as outrageously unreasonable. In the alternative, any fee award to Plaintiffs for preparing their opposition brief to the Third Motion should be reduced to an amount not exceeding \$29,322.50.

Dated: July 23, 2004

Respectfully submitted,
ROBERT D. McCALLUM, JR.
Associate Attorney General
PETER D. KEISLER
Assistant Attorney General
STUART E. SCHIFFER
Deputy Assistant Attorney General
J. CHRISTOPHER KOHN
Director

SANDRA P. SPOONER
Deputy Director
D.C. Bar No. 261495

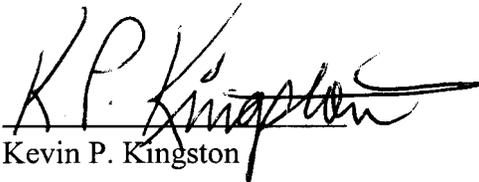
¹⁴ For the Court's convenience, a table reproducing all of the billing entries included in Plaintiffs' Statement, and describing our objections where applicable, is attached as Exhibit D.

JOHN T. STEMPLEWICZ
Senior Trial Counsel
GINO D. VISSICCHIO
Trial Attorney
Commercial Litigation Branch
Civil Division
P.O. Box 875
Ben Franklin Station
Washington, D.C. 20044-0875
(202) 514-7194

CERTIFICATE OF SERVICE

I hereby certify that, on July 23, 2004 the foregoing *Notice and Defendant's Corrected Objections to Plaintiffs' Statement of Fees and Expenses Filed June 21, 2004* was served by Electronic Case Filing, and on the following who is not registered for Electronic Case Filing, by facsimile:

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


Kevin P. Kingston

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

ORDER

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

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

SO ORDERED

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

Date: _____

cc:

Sandra P. Spooner
John T. Stemplewicz
Commercial Litigation Branch
Civil Division
P.O. Box 875
Ben Franklin Station
Washington, D.C. 20044-0875
Fax (202) 514-9163

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

Keith Harper, Esq.
Richard A. Guest, Esq.
Native American Rights Fund
1712 N Street, NW
Washington, D.C. 20036-2976
Fax (202) 822-0068

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

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

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

EXHIBIT A
(Corrected)

Defendants' Objections to Plaintiffs' Statements of Fees and Expenses Filed

EXHIBIT B
Defendants' Motion to Reconsider The
June 21, 2004

Part of the Court's Order of April 20, 2007

Directing Payment of Attorney Fees to Plaintiffs

Page 21 of 122

Brown Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/9/04	Gather and segregate time for Sapienza Fee Application; Prepare MKB Affidavit re fees; Legal Research re Laffey rates	3.666	\$1,393.08	Outside of Scope
6/10/04	Prepare MKB Affidavit re fees	1.916	\$728.08	Outside of Scope
6/10/04	Legal Research re adjusted Laffey rates/McDowell decision	1.25	\$475.00	Outside of Scope
6/10/04	Prepare MKB Affidavit re fees	3.166	\$1,203.08	Outside of Scope
6/11/04	Gather and segregate time for Sapienza Fee Application	0.583	\$221.54	Outside of Scope
6/11/04	Revise MKB Affidavit re fees	2.916	\$1,108.08	Outside of Scope
6/11/04	Revise MKB Affidavit re fees	1.833	\$696.54	Outside of Scope
6/11/04	Revise MKB Affidavit re fees/Prepare Application and Order	3.75	\$1,425.00	Outside of Scope
6/14/04	Revise MKB Affidavit re fees/Prepare Application and Order	4.166	\$1,583.08	Outside of Scope
6/14/04	Finalize MKB Affidavit re fees/Application and Order	1.666	\$633.08	Outside of Scope
6/17/04	Telephone Conference with team re time entries re GAO fee application	1.25	\$475.00	Outside of Scope
Total		70.242	\$25,970.32	

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/2/00	Accompanied by Rempel, met with Master, DOJ, DOI & DOT re. production of accounting docs. relevant to Cobell litigation, including all documentation that purports to represent the settlement of IIM accounts in the custody or control of disbursement officers. Brooks represented that settlement of Disbursing officer accounts also settled IIM accounts. Asst. Secretary of the Treasury Don Hammond confirmed that the settlement of disbursing officer accounts did not result in an accounting of IIM trust accounts.	2.1	\$735.00	Previously Billed/Denied Outside of Scope
6/2/00	Prepare for Special Master meeting re. Defendants misrepresentation re. settlement of Indian disbursing officer accounts as accounting IIM trust accounts.	0.8	\$280.00	Previously Billed/Denied Outside of Scope
6/5/00	Telcom. with Brian Ferrell, DOJ, requesting production of all documents relevant to settlement of IIM accounts in the custody or control of disbursement officers, at least with respect to the named plaintiffs and their predecessors-in-interest in conformity with the representations of Brooks at the 6.2.00 meeting at the Master's office.	0.3	\$105.00	Outside of Scope
6/6/00	Telcoms. with Ferrell re. same. (Document Production & Account Settlement)	0.3	\$105.00	Outside of Scope
7/5/00	Telcoms. Holt re. GAO summary judgment/accounting	0.7	\$245.00	Previously Billed/Denied Outside of Scope
7/25/00	Draft MSJ surreply re. defs' material misrepresentations re. GAO	1.7	\$595.00	Previously Billed/Denied Outside of Scope
2/1/02	Meet and confer with Cynthia Alexander and Matt Fader, DOJ, and object to defendants' motion to withdraw pending motion for partial summary judgement regarding GAO Settlement of Accounts of disbursing officers as discharging the accounting of IIM Trust beneficiaries ("MSJ III").	0.1	\$36.00	Outside of Scope/ Inconsistent with Harper bill
2/1/02	Telcom. Harper re. same.	0.1	\$36.00	Outside of Scope
2/1/02	Telcoms. Cobell re. same	0.3	\$108.00	Outside of Scope

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
2/4/02	Telcom. Cobell re. same, particularly impact false MSJ III was intended to have on class.	0.2	\$72.00	Outside of Scope
2/12/02	Telcoms. Ferrell re. MSJ III issues, intended impact, etc.	0.2	\$72.00	Outside of Scope
2/14/02	Review and revise Plaintiffs' Opposition to Motion to Withdraw Defendants' Motions for Summary Judgment; Plaintiffs' Cross-Motions for Summary Judgment as to (B) The Non-Settlement of accounts to reinforce such settlement of Indian disbursing officer accounts does not constitute an accounting of IIM trust accounts.	8.5	\$3,060.00	Outside of Scope
2/14/02	Telcom. Harper re. same.	0.2	\$72.00	Outside of Scope
2/14/02	Conference call with Cobell and Rempel re. defs' motion to withdraw MSJ III, the intended affect of the motion, the deception practiced on the district court, and reasons for the opposition.	0.4	\$144.00	Outside of Scope
2/15/02	Finalize revisions and refinement of opp. to defs' motion and cross motion re. MSJ III.	6.2	\$2,232.00	Outside of Scope
2/15/02	Conference call with Cobell and Rempel re opp. to motion to withdraw MSJ III and crossmotion for summary judgment.	0.5	\$180.00	Outside of Scope
3/5/02	Review, revise, and redraft reply to consolidated MSJ III cross motion and show cause motion.	11	\$3,960.00	Outside of Scope
3/5/02	Telcom. Harper re. same.	0.6	\$216.00	Outside of Scope/ Inconsistent with Harper bill
3/8/02	Review, revise, and modify current draft of consolidated MSJ III crossmotion.	12	\$4,320.00	Outside of Scope
3/11/02	Conference call with Cobell and Rempel re. consolidated MSJ III crossmotion, accounting implica bad faith, irreparable harm.	1.2	\$432.00	Outside of Scope
3/11/02	Continue revisions and refinement of MSJ III draft in accordance with discussion with Cobell and Rempel, and Harper.	6.6	\$2,376.00	Outside of Scope
3/11/02	Telcom. Harper re. same.	1.3	\$468.00	Outside of Scope/ Inconsistent with Harper bill
3/11/02	Telcom. Cobell re. same.	1.1	\$396.00	Outside of Scope
3/11/02	Discussion with Rempel re. MSJ III reply draft and necessary revisions, additional supporting documents.	0.8	\$288.00	Outside of Scope

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
3/12/02	Continue revisions and refinement of MSJ III reply draft, including factual appendix.	14.5	\$5,220.00	Outside of Scope
3/12/02	Telcom. Harper re. same.	1.1	\$396.00	Outside of Scope/ Inconsistent with Harper bill
3/12/02	Conference call Brown and Harper re. same.	0.8	\$288.00	Outside of Scope/ Inconsistent with Harper bill
3/12/02	Discussion with Rempel re. same.	0.6	\$216.00	Outside of Scope
3/13/02	Finalize revisions and refinement of MSJ III reply draft, including factual appendix; confirm supporting documentation.	13.2	\$4,752.00	Outside of Scope
3/13/02	Telcom. Harper re. same.	2.3	\$828.00	Outside of Scope/ Inconsistent with Harper bill
3/13/02	Telcom. Cobell re. same.	0.5	\$180.00	Outside of Scope
3/13/02	Conference call Cobell and Rempel re. same.	0.4	\$144.00	Outside of Scope/ Inconsistent with Harper bill
4/22/00	Review GAO Gamboa April 19, 2002 letter that confirms knowingly false representations made re. settlement of IIM accounts.	0.5	\$180.00	Outside of Scope
4/22/00	Telcoms. Harper re. same and implications of knowingly false representations to Court and plttfs' and plaintiffs' counsel.	0.6	\$216.00	Outside of Scope
4/23/02	Telcom. Cobell re. same.	0.5	\$180.00	Outside of Scope
4/23/02	Telcom. Harper re. same.	0.4	\$144.00	Outside of Scope/ Inconsistent with Harper bill
4/24/02	Review implications of Gamboa admissions and willful misrepresentations to Court and plttfs' counsel; review all filings by government and plaintiffs related thereto and consider options to rectify consequences of deception.	2.9	\$1,044.00	Outside of Scope
4/24/02	Telcom. Holt re. same.	0.3	\$108.00	Outside of Scope/Denied
4/24/02	Telcom. Levitas re same.	0.7	\$252.00	Outside of Scope/Denied

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
4/24/02	Telcom. Cobell re. same.	0.5	\$180.00	Outside of Scope/Denied
4/24/02	Telcom. Harper re. same.	0.6	\$216.00	Inconsistent with Harper bill; Outside of Scope/Denied
4/24/02	Telcom. Fasold re. same.	0.2	\$72.00	Outside of Scope/Denied
4/25/02	Telcom. Harper re. same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of Scope/Denied
4/25/02	Telcom. Levitas re same.	0.1	\$36.00	Outside of Scope/Denied
5/1/02	Telcom. Craig Lawrence, U.S. Attorney's Office re. Gamboa letter and its implications.	0.2	\$72.00	Previously Billed/Denied; Outside of Scope
5/1/02	Telcoms. Scott Harris, U.S. Attorney's Office, re. same.	0.4	\$144.00	Previously Billed/Denied; Outside of Scope
5/2/02	Telcom. Craig Lawrence, U.S. Attorney's Office, re same.	0.4	\$144.00	Previously Billed/Denied; Outside of Scope
5/2/02	Work on notice of supplemental authority re. Gamboa letter.	0.6	\$216.00	Outside of Scope/Denied
5/2/02	Telcoms. Harper re. discussions with U.S. Attorney's office and notice of supplemental authority re. Gamboa letter.	0.9	\$324.00	Inconsistent with Harper bill; Outside of Scope/Denied
5/3/02	Review and revise consolidated motion for leave to amend plaintiffs' 2.15.02 MSJ III contempt motion and finding pursuant to R 56(g) per newly discovered evidence, i.e., the Gamboa letter.	5.6	\$2,016.00	Outside of Scope/Denied
5/3/02	Telcom. Craig Lawrence, U.S. Attorney's Office, re same.	0.1	\$36.00	Outside of Scope/ Previously Billed/Denied
5/4/02	Work on notice of supp. authority, leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	3.9	\$1,404.00	Outside of Scope/Denied

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
5/5/02	Continue to draft and revise same.	6.3	\$2,268.00	Outside of Scope/Denied
5/5/02	Telcom. Harper re. issues and implications re. same.	0.1	\$36.00	Inconsistent with Harper bill; Outside of Scope/Denied
5/6/02	Telcom. Lawrence re. same.	0.2	\$72.00	Outside of Scope/ Previously Billed/Denied
5/6/02	Work on notice of supp. authority, leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	5.3	\$1,908.00	Outside of Scope/Denied
5/6/02	Telcoms. Harper re. same.	0.2	\$72.00	Inonsistent with Harper bill; Outside of Scope/Denied
5/7/02	Work on motion for leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	3.7	\$1,332.00	Outside of Scope/Denied
5/7/02	Telcoms. Lawrence re. same.	1.2	\$432.00	Outside of Scope/Denied
5/9/02	Telcoms. Harper re. same.	0.3	\$108.00	Inconsistent with Harper bill; Outside of Scope/Denied
5/9/02	Work on motion for leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	5.4	\$1,944.00	Outside of Scope/ Denied
5/10/02	Work on motion for leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	0.2	\$72.00	Outside of Scope/ Denied
5/10/02	Telcom. Lawrence re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/10/02	Telcom. Harper re. same.	0.1	\$36.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/12/02	Telecom. Harper re same.	0.2	\$72.00	Inconsistent with Harper bill; Outside of Scope /Denied

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
5/13/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	2.7	\$972.00	Outside of Scope/ Denied
5/13/02	Telcoms. Harper re. same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/13/02	Telcoms. Levitas re. same.	0.3	\$108.00	Outside of Scope
5/14/02	Telcom with Lawrence re. same.	0.4	\$144.00	Outside of Scope/ Denied
5/14/02	Discussion with Rempel re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/14/02	Telcom. Cobell re. same.	0.4	\$144.00	Outside of Scope/ Denied
5/14/02	Telcom. Levitas re same.	0.5	\$180.00	Outside of Scope/ Denied
5/15/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	1.8	\$648.00	Outside of Scope/ Denied
5/15/02	Telcoms. Harper re. comments to same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/16/02	Telcom. Lawrence re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/16/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	7.4	\$2,664.00	Outside of Scope/ Denied
5/16/02	Telcom. Scott Harris re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/17/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	7	\$2,520.00	Outside of Scope/ Denied
5/18/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	1.9	\$684.00	Outside of Scope/ Denied
5/20/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	2.2	\$792.00	Outside of Scope/ Denied

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
5/24/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	4.7	\$1,692.00	Outside of Scope/ Denied
5/24/02	Telcom. Lawrence re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/24/02	Telcom. Cobell re. same.	0.4	\$144.00	Outside of Scope/ Denied
5/24/02	Telcom. Cobell re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/25/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	4	\$1,440.00	Outside of Scope/ Denied
5/25/02	Telcoms. Harper re. same.	0.2	\$72.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/26/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	7.1	\$2,556.00	Outside of Scope/ Denied
5/27/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	8.8	\$3,168.00	Outside of Scope/ Denied
5/27/02	Telcom. Harper re. same.	0.2	\$72.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/28/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	2.6	\$936.00	Outside of Scope/ Denied
5/28/02	Telcom. Lawrence re. same.	0.2	\$72.00	Outside of Scope/ Denied
5/30/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	2.5	\$900.00	Outside of Scope/ Denied
5/30/02	Telcom. Harper re. same.	0.3	\$108.00	Inconsistent with Harper bill; Outside of Scope
5/31/02	Telcom. Lawrence re. same.	0.1	\$36.00	Outside of Scope/Denied
6/1/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	3.4	\$1,258.00	Outside of Scope/Denied

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/3/02	Telcom. Lawrence re. meet and confer re filing of MSJ III contempt motion.	0.4	\$148.00	Outside of Scope/Denied
6/3/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	2	\$740.00	Outside of Scope/Denied
6/3/02	Discussion with Rempel re. same.	0.5	\$185.00	Outside of Scope/Denied
6/3/02	Telcoms. Harper re. same.	0.3	\$111.00	Inconsistent with Harper bill; Outside of Scope/Denied
6/4/02	Continued telcoms. Lawrence re. meet and confer on MSJ III contempt motion.	0.7	\$259.00	Outside of Scope/Denied
6/4/02	Telcoms. Harper re. same.	0.4	\$148.00	Outside of Scope/Denied
6/4/02	Finalize motion to amend 2.15 02 MSJ III contempt motion, amendment fo MSJ III contempt motion per newly discovered evidence.	8.6	\$3,182.00	Outside of Scope/Denied
6/6/02	Research and analyze complex personal service issues re. nonparties as to same.	4	\$1,480.00	Outside of Scope/Denied
6/6/02	Telcoms. Scott Harris, U.S. Attorney's Office, re. same.	0.4	\$148.00	Outside of Scope/Denied
6/6/02	Telcoms. Lawrence re. same.	0.6	\$222.00	Outside of Scope/Denied
6/6/02	Telcoms. Harper re. same.	0.6	\$222.00	Outside of Scope/Denied
6/7/02	Telcom. Lawrence re. unresolved personal service issues in connection with MSJ III contempt.	0.1	\$37.00	Outside of Scope/Denied
6/7/02	Conference call Rempel, Harper, Brown concerning appealability of contempt re. MSJ III contemnors, officially and individually, including DOJ attorneys.	1.1	\$407.00	Inconsistent with Harper & Brown bills; Outside of Scope/Denied
6/8/02	Telcoms. Lawrence re. MSJ III personal service logistical issues.	0.5	\$185.00	Outside of Scope/Denied
6/8/02	Telcoms. Harper re. same.	1.5	\$555.00	Inconsistent with Harper bill; Outside of Scope/Denied
6/9/02	Telcom. Lawrence re. unresolved personal service issues in connection with MSJ III contempt.	0.1	\$37.00	Outside of Scope/Denied

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/19/02	Telcom. Lawrence re. production of GAO documents referenced in Gamboa letter but withheld by defendants.	0.5	\$185.00	Outside of Scope/Denied
6/20/02	Telcom. Lawrence re. same.	0.1	\$37.00	Outside of Scope/ Previously Billed/Denied
6/20/02	Telcom. Harper re. same.	0.1	\$37.00	Outside of Scope/Denied/Inconsistent with Harper bill
6/21/02	Telcom. Lawrence re. same.	0.1	\$37.00	Previously Billed; Outside of Scope/Denied
6/24/02	Telcoms. Lawrence re. same.	0.3	\$111.00	Previously Billed; Outside of Scope/Denied
6/24/02	Meet with Cobell concerning Gamboa letter and MSJ III.	1	\$370.00	Outside of Scope/Denied
6/25/02	Work on reply to MSJ III, including review of defs' cases and authorities and begin preparation of draft.	5	\$1,850.00	Outside of Scope/Denied
6/25/02	Telcom. Lawrence re. production of GAO documents referenced in Gamboa letter but withheld by defendants.	0.4	\$148.00	Previously Billed; Outside of Scope/Denied
6/26/02	Continue work on Gamboa/MSJ III reply; includes research and draft revisions.	2.2	\$814.00	Outside of Scope/Denied
6/27/02	Continue work on Gamboa/MSJ III reply; includes research and draft revisions.	1.3	\$481.00	Outside of Scope/Denied
6/27/02	Telcom. Harper re. same.	0.1	\$37.00	Inconsistent with Harper bill; Outside of Scope/Denied
6/27/02	Meet with Cobell re. same.	0.4	\$148.00	Outside of Scope/Denied
6/28/02	Continue work on Gamboa/MSJ III reply; includes research and draft revisions. Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in accordance with Newly Discovered Evidence: The April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards).	3.7	\$1,369.00	Outside of Scope/Denied

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

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
1/30/03	Review documents in support of statement of undisputed material facts re. MSJ settlements of Account. Review and revise Plaintiffs' Motion for Partial Summary Judgment as to the NonSettlement of Accounts and Defendants' Failure to Perform the Accounting, in Whole or Part, Ordered by this Court on December 21, 1999 and Plaintiffs' Statement of Material Facts as to Which There is No Genuine Issue in Support of Motion for Partial Summary Judgment.	6.1	\$2,257.00	Outside of Scope
1/31/03	Telcom. Harper re. same.	0.3	\$111.00	Outside of Scope; Inconsistent with Harper bill
1/31/03	Review and revise motion for partial summary judgment and	5.4	\$1,998.00	Outside of Scope
2/3/03	Finalize revisions and refinement of motion for partial summary judgment and undisputed material facts.	6.1	\$2,257.00	Outside of Scope
2/15/03	Telcom. Harper re. same and opp. to defs' motion to strike GAO MSJ.	0.4	\$148.00	Outside of Scope; Inconsistent with Harper bill
2/21/03	Revise and redraft Reply to defs' opp. to GAO MSJ.	3.6	\$1,332.00	Outside of Scope
2/21/03	Telcoms. Harper re. same.	0.4	\$148.00	Outside of Scope; Inconsistent with Harper bill
2/21/03	Telcom. Levitas re same.	0.2	\$74.00	Outside of Scope
2/24/03	Telcom. Harper re. same.	0.4	\$148.00	Outside of Scope; Inconsistent with Harper bill
2/24/03	Telcoms. Levitas re. same.	0.5	\$185.00	Outside of Scope;
2/26/03	Telcom. Levitas re same.	0.1	\$37.00	Outside of Scope

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
2/27/03	Prepare affidavit in support of Plaintiffs' Consolidated Motion to Treat as Conceded Plaintiffs' Motion for Partial Summary Judgment as to the NonSettlement of Accounts and Defendants' Failure to Perform the Accounting, in Whole or Part, Ordered by this Court on December 21, 1999 and to Strike as Untimely Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment as to NonSettlement of Accounts, or in the Alternative, Motion for Enlargement of Time Within Which to Reply to Defendants' Opposition Brief; review and revise motion to strike as conceded Plaintiffs' Motion for Partial Summary Judgment.	4.3	\$1,591.00	Outside of Scope
3/8/03	Review and Revise draft Motion to Continue and Enlargement of Time re. GAO Summary Judgment.	5.5	\$2,035.00	Outside of Scope
3/12/03	Review and revise Plaintiffs' Motion to Continue Defendants' Motions for Summary Judgment Pursuant to Fed. R. Civ. P. 56(f) and to Enlarge Plaintiffs' Time to Respond Thereto and Affidavit of Dennis Gingold in Support Thereof and draft affidavit which avers, among other things, that 8 requests for docs. regarding the April 19, 2002 Gamboa letter remained unsatisfied, affecting plaintiffs' ability to provide fully informed opposition to defs' motion.	4.3	\$1,591.00	Outside of Scope
3/10/03	Review documents and begin draft affidavit in support of Motion to Continue GAO MSJ due to failure of defendants' to produced relevant referenced documents.	3.8	\$1,406.00	Outside of Scope
3/12/03	Continue such review and preparation of affidavit.	0.3	\$111.00	Outside of Scope
3/13/03	Finalize same and prepare affidavit in support of Plaintiffs' Motion to Continue Motions for Summary Judgment due to failure of defendants to produce documents relevant to GAO Settlements issues, including evidence related to Defendants' Statement of Material Facts in Support of Motion for Partial Summary Judgment re. April 19, 2002 Gamboa letter and document references contained therein.	7.4	\$2,738.00	Outside of Scope
3/13/03	Telcom. Harper re. same.	0.3	\$111.00	Outside of Scope
4/7/03	Review and revise Plaintiffs' Reply re. Motion to Continue Defendants' Motions for Summary Judgment Pursuant to Fed. R. Civ. P. 56(f) and to Enlarge Plaintiffs' Time to Respond Thereto due to defs' refusal to comply with relevant doc. production requests.	1.3	\$481.00	Outside of Scope
4/8/03	Review and revise Opposition to Defendants' Latest Motion for Reconsideration with Respect to this Court's March 11, 2003 Memorandum and Order and Request for Enlargement of Time Within Which to Submit Filing Detailing Amount of Reasonable Expenses and Attorneys' Fees Incurred.	2.9	\$1,073.00	Outside of Scope

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
4/9/03	Review and Revise Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment as to the NonSettlement of Accounts.	4.2	\$1,554.00	Outside of Scope
6/7/04	Review relevant memoranda and orders and diary entries, allocate and begin preparation of time	7	\$2,730.00	Outside of Scope
6/7/04	Telcom. Harper re. scope of orders and time allocation issues.	0.4	\$156.00	Outside of Scope
6/8/04	Allocate, review briefs, other filings, affidavits, related briefs, and prepare time in accordance with GAO sanctions decision.	8.3	\$3,237.00	Outside of Scope
6/9/04	Telcoms. Harper re. same.	0.7	\$273.00	Outside of Scope; Inconsistent with Harper bill
6/9/04	Allocate and prepare time in accordance with GAO sanctions decision.	5.1	\$1,989.00	Outside of Scope
6/10/04	Allocate and prepare time in accordance with GAO sanctions decision.	8.4	\$3,276.00	Outside of Scope
6/11/04	Allocate and prepare time in accordance with GAO sanctions decision.	6.5	\$2,535.00	Outside of Scope
6/12/04	Allocate and prepare time in accordance with GAO sanctions decision.	4	\$1,560.00	Outside of Scope
6/13/04	Allocate and prepare time in accordance with GAO sanctions decision.	4.8	\$1,872.00	Outside of Scope
6/14/03	Begin preparation of affidavit in support of fee application. Allocate and prepare time in accordance with GAO sanctions decision.	5.7	\$2,223.00	Outside of Scope
6/14/04	Revise draft affidavit in support of GAO fee request.	1	\$390.00	Outside of Scope
6/14/04	Telcom. Harper re. GAO time and scope of orders	0.2	\$78.00	Outside of Scope; Inconsistent with Harper bill
6/15/04	Allocate and adjust time in accordance with GAO sanctions decision; revise draft affidavit; review Rempel time and affidavit to confirm accuracy and fairness; discuss issues with Rempel re same.	7	\$2,730.00	Outside of Scope
6/16/04	Review and revise GAO Fee Schedule to correct errors and clarify per discussions with Rempel and Harper as to scope of Orders and work performed in connection with defendants' repeated filing of false Sapienza declaration. Revise affidavit to conform to such discussion.	1.6	\$624.00	Outside of Scope

Gingold Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/16/04	Conference call Rempel and Harper to confirm accuracy of time entries and scope of action taken in connection with protection of class re. defs' repeated filing of false Sapienza declaration.	2	\$780.00	Outside of Scope; Inconsistent with Harper bill
6/16/04	Conference call Rempel, Harper, and Brown re. same.	1	\$390.00	Outside of Scope; Inconsistent with Harper & Brown bills
6/17/04	Continue revision of affidavit in conformity with same.	0.9	\$351.00	Outside of Scope
6/17/04	Telcom. Harper re. same.	0.2	\$78.00	Outside of Scope
6/19/04	Revise transmittal papers to Court in accordance with comments from Rempel and Harper.	0.8	\$312.00	Outside of Scope
6/19/04	Telcoms. Harper re. same and comments re. affidavits.	0.5	\$195.00	Outside of Scope; Inconsistent with Harper bill
6/20/04	Draft memorandum to Brown re. clarification of Brown affidavit and time.	0.4	\$156.00	Outside of Scope
6/21/04	Telcoms. Harper re. clarification of affidavits and time entries in conformity with order.	0.5	\$195.00	Outside of Scope; Inconsistent with Harper bill
6/21/04	Review Brown revisions.	0.3	\$117.00	Outside of Scope
6/21/04	Provide comments to Brown on additional revision.	0.2	\$78.00	Outside of Scope
6/21/04	Continuing preparation of GAO time.	0.3	\$117.00	Outside of Scope
Total		362.5	\$133,441.00	

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

Rempel Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
2/15/02	CC w/ Elouise Cobell, Dennis Gingold re Defs' 3rd MSJ and motion to withdrawal.	0.5	\$112.50	Outside of Scope; Pltfs did not prevail on Opposition to Motion to Withdraw
2/15/02	Prepare opposition to motion to withdrawal MSJ's and cross-motions for summary judgment and sanctions for seeking to mislead the Court. File and service opposition.	6.8	\$1,530.00	Outside of Scope; Pltfs did not prevail on Opposition to Motion to Withdraw
3/5/02	Review defendants' opposition to plaintiffs MSJ (incl. settlement of accounts) and prepare to draft reply.	5.0	\$1,125.00	Outside of Scope; Adjusted to \$95/hour
3/5/02	CC w/ Elouise Cobell re Defendants' 3rd MSJ and subsequent withdrawal.	0.3	\$67.50	Outside of Scope; Pltfs did not prevail on Opposition to Motion to Withdraw
3/6/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	7.2	\$1,620.00	Outside of Scope; Adjusted to \$95/hour
3/7/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	8.0	\$1,800.00	Outside of Scope; Adjusted to \$95/hour
3/8/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	6.5	\$1,462.50	Outside of Scope; Adjusted to \$95/hour
3/9/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	2.5	\$562.50	Outside of Scope; Adjusted to \$95/hour
3/10/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	1.5	\$337.50	Outside of Scope; Adjusted to \$95/hour
3/11/02	CC with Elouise Cobell, Dennis Gingold re Defs' 3rd MSJ and drafting of reply in support of Plaintiffs' MSJ re settlement of accounts.	1.2	\$270.00	Outside of Scope; Adjusted to \$95/hour

Rempel Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
3/11/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	1.5	\$337.50	Outside of Scope; Adjusted to \$95/hour
3/11/02	Discuss w/ Dennis Gingold re Defendants' 3rd MSJ and drafting of reply in support of Plts' MSJ re settlement of accounts.	0.8	\$180.00	Outside of Scope; Adjusted to \$95/hour
3/12/02	Discuss w/ Dennis Gingold re Defendants' 3rd MSJ and drafting of reply in support of Plts' MSJ re settlement of accounts.	0.6	\$135.00	Outside of Scope; Adjusted to \$95/hour
3/12/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	6.0	\$1,350.00	Outside of Scope; Adjusted to \$95/hour
3/13/02	CC w/ Elouise Cobell, Dennis Gingold re Defs' 3rd MSJ and drafting of reply in support of Plaintiffs' MSJ re settlement of accounts.	0.4	\$90.00	Outside of Scope; Adjusted to \$95/hour
3/13/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts). File and serve reply.	11.2	\$2,520.00	Outside of Scope; Excessive; Time; Gingold bills 13.2 hrs. for "finalizing revisions and refinement" of reply draft
5/6/02	Notice of Supplemental Authority - Draft, prepare, file and serve notice regarding GAO letter from GAO General Counsel to Bert Edwards, Director of OHTA re settlement of accounts process.	2.6	\$585.00	Outside of Scope; Previously Billed
5/9/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	4.5	\$1,012.50	Outside of Scope

Rempel Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
5/14/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	3.8	\$855.00	Outside of Scope
5/14/02	Discuss w/ Dennis Gingold re motion to amend GAO Motion for Summary Judgment.	0.1	\$22.50	Outside of Scope
5/15/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	4.8	\$1,080.00	Outside of Scope
5/30/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	1.5	\$337.50	Outside of Scope
6/3/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	0.7	\$157.50	Outside of Scope
6/3/02	Discuss w/ Dennis Gingold re motion to amend and Defs' 3rd MSJ (re settlement of accounts process).	0.5	\$112.50	Outside of Scope
6/4/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards .	6.5	\$1,462.50	Outside of Scope
6/6/02	Discuss w/ Dennis Gingold re GAO motion to amend and sanctions.	0.7	\$157.50	Outside of Scope
6/6/02	CC w/ investigator re service of motion to amend for individuals personally identified in that motion.	0.2	\$45.00	Outside of Scope
6/7/02	CC w/ Mark Brown, Keith Harper, Dennis Gingold re appealability of contempt in the context of GAO sanctions memorandum.	1.1	\$247.50	Outside of Scope

Rempel Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/22/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	4.5	\$1,012.50	Outside of Scope
6/23/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	5.2	\$1,170.00	Outside of Scope
6/24/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	2.1	\$472.50	Outside of Scope
6/24/02	Meet w/ Elouise Cobell re Defs' 3rd MSJ and reply in support of motion to amend.	1.2	\$270.00	Outside of Scope
6/25/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	5.3	\$1,192.50	Outside of Scope
6/25/02	Work with investigator to locate individuals identified in plaintiffs reply in support of motion to amend.	1.5	\$337.50	Outside of Scope
6/26/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	6.4	\$1,440.00	Outside of Scope
6/27/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	5.6	\$1,260.00	Outside of Scope

Rempel Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/28/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	1.9	\$427.50	Outside of Scope
4/8/03	Draft and edit Opposition to defendants' motion to reconsider the Court's GAO sanctions memorandum opinion awarding plaintiffs' sanctions for the deliberate filing of a false and misleading affidavit (Sapienza).	8.5	\$1,912.50	Outside of Scope
5/26/04	Review GAO Order; Consider order in context delay and year old motion for reconsideration. Review original 3/11/03 sanctions order.	1.5	\$337.50	Outside of Scope; Adjusted to \$105/hr.
5/26/04	Review time sheets for GAO-related material. Begin process of compiling time sheets.	1.5	\$337.50	Outside of Scope; Adjusted to \$105/hr.
6/4/04	Compile GAO Sanctions time. Includes reviewing time sheets and determining whether such time should be included in application.	5.1	\$1,147.50	Outside of Scope; Adjusted to \$105/hr.
6/4/04	Discuss w/ Dennis Gingold regarding GAO fees and application.	0.4	\$90.00	Outside of Scope; Adjusted to \$105/hr.
6/5/04	Compile GAO Sanctions time. Includes reviewing time sheets and determining whether such time should be included in application.	1.2	\$270.00	Outside of Scope; Adjusted to \$105/hr.
6/6/04	Compile GAO Sanctions time. Includes reviewing time sheets and determining whether such time should be included in application.	2.5	\$562.50	Outside of Scope; Adjusted to \$105/hr.
6/6/04	Discuss w/ DG re GAO memorandum opinion and compiling time for application. Includes discussion of affidavits to be included.	0.3	\$67.50	Outside of Scope; Adjusted to \$105/hr.
6/7/04	Compile GAO Sanctions time. Includes reviewing time sheets and determining whether such time should be included in application.	6.1	\$1,372.50	Outside of Scope; Adjusted to \$105/hr.
6/7/04	Draft affidavit in connection with GAO sanctions memorandum \$292.50.	1.3	\$292.50	Outside of Scope; Adjusted to \$105/hr.

Rempel Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/8/04	Compile GAO Sanctions time. Includes reviewing time sheets and determining whether such time should be included in application.	1.5	\$337.50	Outside of Scope; Adjusted to \$105/hr.
6/9/04	Discuss GAO Sanctions and compilation of hours with Dennis Gingold.	1.2	\$270.00	Outside of Scope; Adjusted to \$105/hr.
6/10/04	Discuss GAO Sanctions and compilation of hours with Dennis Gingold.	0.4	\$90.00	Outside of Scope; Adjusted to \$105/hr.
6/10/04	Discuss GAO Sanctions and compilation of hours with Dennis Gingold.	3.1	\$697.50	Outside of Scope; Adjusted to \$105/hr.
6/11/04	Draft affidavit in support of GAO application.	2.1	\$472.50	Outside of Scope; Adjusted to \$105/hr.
6/11/04	Discuss with Dennis Gingold re GAO fee and expense application.	0.4	\$90.00	Outside of Scope; Adjusted to \$105/hr.
6/14/04	Compile time records in support of GAO fee and expense application; includes review of draft cover prepared by Mark Brown.	4.3	\$967.50	Outside of Scope; Adjusted to \$105/hr.
6/15/04	Review Dennis Gingold hours, convert electronic file for editing, correct conversion errors.	2.1	\$472.50	Outside of Scope; Adjusted to \$105/hr.
6/15/04	Review Dennis Gingold affidavit.	0.5	\$112.50	Outside of Scope; Adjusted to \$105/hr.
6/15/04	Review and edit Rempel affidavit.	0.7	\$157.50	Outside of Scope; Adjusted to \$105/hr.
6/15/04	Discuss GAO with Dennis Gingold.	1.1	\$247.50	Outside of Scope; Adjusted to \$105/hr.

Rempel Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/16/04	Compile time records in support of GAO fee and expense application; includes review of draft cover prepared by Mark Brown.	1.8	\$405.00	Outside of Scope; Previously Billed
6/16/04	Discuss w/ Dennis Gingold re GAO application.	0.5	\$112.50	Outside of Scope; Adjusted to \$105/hr.
6/16/04	Review, edit Gingold Time and expense application.	2.2	\$495.00	Outside of Scope; Adjusted to \$105/hr.
6/17/04	CC w/ Keith Harper, Dennis Gingold (Mark Brown some) re GAO application.	2.0	\$450.00	Outside of Scope; Inconsistent with Harper bill
6/17/04	Edit, Dennis Gingold GAO time.	1.6	\$360.00	Outside of Scope; Adjusted to \$105/hr.
6/17/04	Edit, review Rempel time and application.	0.5	\$112.50	Outside of Scope; Adjusted to \$105/hr.
6/17/04	Review Mark Brown time and expense.	2.4	\$540.00	Outside of Scope; Adjusted to \$105/hr.
6/17/04	Discuss w/ Dennis Gingold re GAO time.	0.8	\$180.00	Outside of Scope; Adjusted to \$105/hr.
6/18/04	CC w/ Keith Harper, Dennis Gingold re GAO application and memorandum.	0.2	\$45.00	Outside of Scope; Adjusted to \$105/hr.
6/18/04	Review and edit Gingold Time and expense for GAO application.	0.3	\$67.50	Outside of Scope; Adjusted to \$105/hr.
6/18/04	Update Rempel Affidavit and supporting GAO schedule.	1.1	\$247.50	Outside of Scope; Adjusted to \$105/hr.

Rempel Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/19/04	Discuss GAO application with Dennis Gingold.	0.4	\$90.00	Outside of Scope; Adjusted to \$105/hr.
6/21/04	Review Brown GAO time and affidavit.	0.9	\$202.50	Outside of Scope; Adjusted to \$105/hr.
6/21/04	Finalize edits and serve GAO application.	3.2	\$720.00	Outside of Scope; Adjusted to \$105/hr.
Total		229.9	\$51,727.50	

Harper Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
12/10/00	Review government filings including motion for sanctions and reply motion for summary judgement on the settlement of accounts by GAO Pre-1951	2.5	\$512.50	Outside of scope
2/14/02	Review draft brief in opposition to motion to withdraw and cross motion for summary judgement and discuss same with DG	1.5	\$390.00	Outside of scope
3/6/02	Telephone call from DG re: MSJ withdrawal and sanctions request	0.4	\$104.00	Outside of scope, Inconsistent with Gingold's bill
3/12/02	Review and edit draft MSJ waiver brief and sanctions request reply	2	\$520.00	Outside of scope
6/4/02	Review and edit GAO contempt supplemental and amendment	3.5	\$927.50	Outside of scope
1/29/03	Conference call with IIM team re: response to government's Jan 6 plans and need for GAO summary judgement motion	1.1	\$291.50	Outside of scope
1/31/03	Draft and finalize GAO summary judgement motion; edit; review and add additional authorities; finalize order and statement of incontroverted facts	8	\$2,120.00	Outside of scope
3/12/03	Review opinion of court re: GAO "settlement of Accounts" and false affidavit; sanctions granted	1	\$265.00	Outside of scope
4/8/03	Draft and edit opposition to motion for reconsideration for GAO sanctions award	2.5	\$662.50	Outside of scope
4/12/03	Draft Plaintiffs reply in further support of MSJ on GAO failure to provide accounting	4.5	\$1,192.50	Outside of scope
4/13/03	Draft and edit and discuss with co-counsel-plaintiffs reply in support of MSJ on GAO failure to settle accounts	5	\$1,325.00	Outside of scope
4/14/03	Finalize reply in support of MSJ re: GAO failure to settle accounts	3.3	\$874.00	Outside of scope
6/2/04	Review opinion denying motion for reconsideration for GAO/Sapienza bad faith affidavit fees and expenses	0.4	\$134.00	Outside of scope
6/7/04	Review Time records for GAO/Sapenza statement of fees and expenses	2.5	\$837.50	Outside of scope
6/7/04	Confer with DG re: GAO expenses and cover sheet for GAO/Sapenza bad faith affidavit	0.5	\$167.50	Outside of scope
6/16/04	Review time records to determine what claims court's May 11 order granting fees for GAO MSJ and Sapienza bad faith affidavit	2.1	\$703.50	Outside of scope
6/17/04	Review edit cover memorandum to support fee application in compliance with courts May 11 order granting fees for GAO MSJ and Sapienza bad faith affidavit	3	\$1,005.00	Outside of scope

Harper Entries Outside of Scope of Court Order				
Date	Matter	Time	Claimed Amount	Objection
6/17/04	Conference call to DG and GR to discuss scope of courts May 11th order granting fees for GAO MSJ and Sapienza bad faith affidavit and review time jointly to ensure accuracy	2	\$670.00	Outside of scope; Inconsistent with Gingold's & Rempel's bill
6/18/04	Draft affidavit in support of fee application in compliance with court's May 11 order granting fees for GAO MSJ and Sapienza bad faith affidavit; finalize time record claims; review prior decisions to ensure conformity with prior judicial guidance	4.7	\$1,574.50	Outside of scope
Total		50.5	\$14,276.50	

Total Time and Amount Claimed Outside of Scope of Order			
		Time	Claimed Amount
Total		713.1	\$225,415.32

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

EXHIBIT B-1
(Gingold)

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

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

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

IN THE
 UNITED STATES DISTRICT COURT
 FOR THE
 DISTRICT OF COLUMBIA

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

AFFIDAVIT OF DENNIS M. GINGOLD

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

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

IIM TRUST LITIGATION

Gingold Schedule: GAO Settlement of Accounts Sanctions

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

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

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

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

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

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

IN THE
 UNITED STATES DISTRICT COURT
 FOR THE
 DISTRICT OF COLUMBIA

FILED
 NOV 18 2002
 NANCY MAYER WHITTINGTON, CLERK
 U.S. DISTRICT COURT

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

AFFIDAVIT OF DENNIS M. GINGOLD

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

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

Attachment B

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

Attachment B

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

Attachment B

DATE	TASK	TIME	AMOUNT
07/22/00	Review documents lost records and serious concealed data clean-up issues re. Tribal credit programs.	1.5	\$525.00
07/23/00	Work on above OTSC/fraud issues.	1.3	\$455.00
07/24/00	Work on above OTSC/fraud issues.	2	\$700.00
07/25/00	Work on MSJ surreply re. defs' material misrepresentations on GAO accounting issues.	1.7	\$595.00 -4
08/03/00	Work on opposition to defendants' motion for protective order blocking discovery by plaintiffs.	1	\$350.00
08/04/00	Confer Rempel re. same.	0.1	\$35.00
09/24/00	Work on opposition to defs' GAO Motion for Summary Judgment ("MSJ"), including review of correspondence between me, Ferrell and Brooks re. defs' willfully false representations that the GAO audit of disbursing officers' accounts constituted an accounting' of IIM Trust assets.	0.7	\$245.00 -5 /-6
09/24/00	Voice mail Harper re. same.	0.1	\$35.00
09/25/00	Work on opposition to defs' GAO MSJ.	8.0	\$2,800.00-7
09/25/00	Voice mail exchanges Harper re. same.	0.3	\$105.00 -8
09/26/00	Work on opposition to defs' GAO MSJ,	4.5	\$1,575.00 -9
09/26/00	Telcom. and voice mail Harper re. same.	0.3	\$105.00 -10
09/26/00	Telcom. and voice mail Holt re. same.	0.4	\$140.00-11
09/28/00	Work on opposition to defs' GAO MSJ.	6.2	\$2,170.00-12
09/28/00	Telcom. Harper re. same.	0.4	\$140.00 -13
09/30/00	Work on opposition to defs' GAO MSJ.	5	\$1,750.00 -14
10/01/00	Work on opposition to defs' GAO MSJ.	1	\$350.00 -15
10/04/00	Telcoms. Harper re. opposition to defs' GAO MSJ and fraud on Court re. same.	1.3	\$455.00 -16
10/05/00	Telcom. Interior witness confirming false GAO MSJ.	0.1	\$35.00 -17
10/07/00	Work on opposition to defs' GAO MSJ.	3.8	\$1,330.00 -18
10/07/00	Telcoms. and voice mail exchange Harper re. same.	0.9	\$315.00 -19
10/07/00	Voice mail exchanges Holt re. same.	0.3	\$105.00

Attachment B

DATE	TASK	TIME	AMOUNT
10/08/00	Work on opposition to defs' GAO MSJ. Telcom. Holt re. same.	3.9	\$1,365.00 -20
10/28/00	Work on GAO MSJ issues re. evidence of additional defs' material misreps. to Court.	4.5	\$1,575.00 -21
10/28/00	Voice mail Holt re. same.	0.1	\$35.00
10/28/00	Telcom. and voice mail exchange Harper re. same.	0.6	\$210.00 -22
10/29/00	Work on GAO MSJ issues re. same.	4	\$1,400.00 -23
10/29/00	Voice mail Harper re. same.	0.1	\$35.00 -24
10/30/00	Work on GAO MSJ issues re. same and objections raised by defs re. same.	4.6	\$1,610.00 -25
10/30/00	Conf. call Harper and Brown re. same.	0.5	\$175.00
10/31/00	Work on GAO MSJ issues re. same.	6.9	\$2,415.00 -26
11/01/00	Work on GAO MSJ issues re. same.	6.1	\$2,135.00 -27
11/02/00	Work on GAO MSJ issues re. same.	4.4	\$1,540.00 -28
11/03/00	Work on GAO MSJ issues re. same.	11	\$3,850.00 -29
11/03/00	Voice mail Ferrell re. same.	0.1	\$35.00 -31
11/03/00	Telcoms. and voice mail exchange Harper re. same.	0.5	\$175.00 -30
11/03/00	Telcom. Cobell re. same.	0.3	\$105.00 -32
11/06/00	Telcom. Brown re. sanctions for defs' materially false GAO MSJ.	0.5	\$175.00
11/15/00	Begin preparation of Motion to Reopen Trial I ("MTRO") re. fraud etc. perpetrated on Court.	7.6	\$2,660.00
11/16/00	Work on MTRO.	6.1	\$2,135.00
11/16/00	Telcom. Harper re. same.	0.3	\$105.00
11/16/00	Telcom. Cobell re. same.	0.3	\$105.00
11/17/00	Work on MTRO.	5.9	\$2,065.00
11/17/00	Telcom. Harper re. same.	0.4	\$140.00
11/18/00	Work on MTRO.	5.7	\$1,995.00
11/18/00	Telcoms. Harper re. same.	0.6	\$210.00
11/18/00	Telcom. Holt re. same.	0.2	\$70.00
11/19/00	Work on MTRO.	4.6	\$1,610.00
11/19/00	Telcom. and voice mail Harper re. same.	0.3	\$105.00
11/19/00	Voice mail and telcom. Holt re. same.	0.4	\$140.00

IN THE
 UNITED STATES DISTRICT COURT
 FOR THE
 DISTRICT OF COLUMBIA

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

AFFIDAVIT OF DENNIS M. GINGOLD

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

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

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

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

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

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

EXHIBIT B-2
(REMPEL)

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

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

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

AFFIDAVIT OF GEOFFREY REMPEL

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

IIM TRUST LITIGATION

Rempel Schedule: GAO Settlement of Accounts Sanctions

"Subtotal" Corresponds to Timeframe set forth in Affidavit

Billing Rate \$225.00

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

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

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

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

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

NOV 18 2002

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

ELOUISE PEPION COBELL, et al.,)	
)	
Plaintiffs,)	
	)	Civil Action
v.	)	No. 1:96 CV 01285 RCL
)	
GALE NORTON, et al.,)	
)	
Defendants.)	
)	
)	
-----)	

AFFIDAVIT OF GEOFFREY REMPEL

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

Record Keeping: Time and Expense

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

Attachment B

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

Attachment B

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

Attachment B

DATE	TASK	TIME	AMOUNT
11/01/00	Draft Response to Defs' MSJ III and affidavit -- includes statement of facts.	9.5	\$2,137.50 -19
11/02/00	Draft Response to Defs' MSJ III and affidavit -- includes statement of facts.	13.0	\$2,925.00 -20
11/03/00	Draft Response to Defs' MSJ III and affidavit -- includes statement of facts.	11.5	\$2,587.50 -21
11/06/00	Serve Court and Department of Justice with corrected Motion for Summary Judgment.	1.2	\$270.00
11/07/00	Pick up transcripts and material for motion to reopen Trial I.	0.7	\$157.50
11/08/00	CC w/ DG re: status reports of Reopen research (3 calls)	0.6	\$135.00
11/12/00	Begin research, review and compile materials for motion to reopen T I.	3.5	\$787.50
11/13/00	Discuss w/ DG re: reopening of T I.	0.8	\$180.00
11/13/00	Draft Statement of Facts for Reopening T I. Includes researching materials and trial transcripts as well as compiling facts.	5.0	\$1,125.00
11/13/00	CC w/ TH, EL, DG re: reopening T I.	1.7	\$382.50
11/13/00	CC w/ EC re: status and moving to reopen T 1.	0.4	\$90.00
11/14/00	CC w/ TH re: MSJ III Response.	0.1	\$22.50
11/14/00	Draft Statement of Facts for Reopening T I. Includes researching materials and trial transcripts as well as compiling facts.	7.0	\$1,575.00
11/14/00	Discuss w/ DG, MB, EL re: reopening.	1.3	\$292.50
11/14/00	CC w/ EC, EL, DG, MB re: reopening.	0.4	\$90.00
11/15/00	CC w/ TH re: motion to reopen (2 calls).	0.2	\$45.00
11/15/00	Draft Statement of Facts for Reopening T I. Includes researching materials and trial transcripts as well as compiling facts.	8.0	\$1,800.00
11/16/00	Discuss w/ EL re: reopening of T I.	2.5	\$562.50
11/16/00	Draft Statement of Facts for Reopening T I. Includes researching materials and trial transcripts as well as compiling facts.	2.2	\$495.00
11/16/00	CC w/ TH re: Statement of Facts and reopening.	0.2	\$45.00

Attachment B

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

Brown Internally Inconsistent Entries				
Date	Matter	Time	Claimed Amount	Objection
10/4/00	Telephone Conversations with Keith Harper re MSJ strategy	0.416	\$145.60	Inconsistent with Harper bill
10/30/00	Revise Objections Memorandum; Telephone Conference with Keith Harper/Dennis Gingold re Strategy	1.333	\$466.55	Inconsistent with Harper & Gingold bills
Total		1.749	\$612.15	

EXHIBIT C
(Corrected)

Defendants' Objections to Plaintiffs'
Statement of Fees and Expenses Filed

EXHIBIT B
June 21, 2004
Defendants' Motion to Reconsider
Part of the Court's Order of April 20, 2007
Directing Payment of Attorney Fees to Plaintiffs
Page 81 of 122

Gingold Internally Inconsistent Entries				
Date	Matter	Time	Claimed Amount	Objection
10/28/00	Conference call with Harper and Brown re. status of MSJ III and issues that need to be flushed out.	0.4	\$140.00	Inconsistent with Harper & Brown bills
10/29/00	Telcom. Harper re. defendants' misrepresentations regarding settlement of accounts v. accounting.	0.1	\$35.00	Previously Billed/Denied; Inconsistent with Harper bill
10/30/00	Discussion with Rempel re. MSJ III draft and necessary edits.	0.2	\$70.00	Inconsistent with Rempel bill
10/30/00	Conference call with Harper and Brown re. status of MSJ III.	0.5	\$175.00	Inconsistent with Harper bill
10/30/00	Conference call with Rempel, Harper and Brown re. status of remaining tasks re. MSJ III response including need for Rempel supporting affidavit vis-a-vis admissions of Don Hammond, etc.	1	\$350.00	Inconsistent with Rempel, Harper, & Brown bills
11/6/00	Telcom. Brown re. Sanctions for defs' materially false GAO MSJ III.	0.5	\$175.00	Inconsistent with Brown bill
2/1/02	Telcom. Harper re. same.	0.1	\$36.00	Inconsistent with Harper bill; Outside of scope
3/5/02	Telcoms. Harper re. same.	0.6	\$216.00	Inconsistent with Harper bill; Outside of scope
3/11/02	Telcoms. Harper re. same.	1.3	\$468.00	Inconsistent with Harper bill; Outside of scope
3/12/02	Telcoms. Harper re. same.	1.1	\$396.00	Inconsistent with Harper bill; Outside of scope
3/12/02	Conference call Brown and Harper re. same.	0.8	\$288.00	Inconsistent with Harper & Brown bills; Outside of scope
3/13/02	Telcoms. Harper re. same.	2.3	\$828.00	Inconsistent with Harper bill; Outside of scope
3/13/03	Conference call Cobell and Rempel re. same.	0.4	\$144.00	Inconsistent with Rempel bill; Outside of scope

Gingold Internally Inconsistent Entries				
Date	Matter	Time	Claimed Amount	Objection
4/22/02	Telcoms. Harper re. same and implications of knowingly false representations to Court and plttfs' and plaintiffs' counsel.	0.6	\$216.00	Inconsistent with Harper bill
4/23/02	Telcoms. with Harper re. same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of scope
4/24/02	Telcom. Levitas re same.	0.7	\$252.00	Outside of Scope/Denied
4/24/02	Telcom. Harper re. same.	0.6	\$216.00	Inconsistent with Harper bill; Outside of Scope/Denied
4/25/02	Telcom. Harper re. same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of Scope/Denied
4/25/02	Telcom. Levitas re same.	0.1	\$36.00	Outside of Scope/Denied
5/5/02	Telcom. Harper re. issues and implications re. same.	0.1	\$36.00	Inconsistent with Harper bill; Outside of Scope/Denied
5/6/02	Telcoms. Harper re. same.	0.2	\$72.00	Inonsistent with Harper bill; Outside of Scope/Denied
5/9/02	Telcoms. Harper re. same.	0.3	\$108.00	Inconsistent with Harper bill; Outside of Scope/Denied
5/10/02	Telcom. Harper re. same.	0.1	\$36.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/12/02	Telcom. Harper re. same	0.2	\$72.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/13/02	Telcoms. Harper re. same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/13/02	Telcoms. Levitas re. same.	0.3	\$108.00	Outside of Scope

Gingold Internally Inconsistent Entries				
Date	Matter	Time	Claimed Amount	Objection
5/14/02	Telcom. Levitas re same.	0.5	\$180.00	Outside of Scope/ Denied
5/15/02	Telcoms. Harper re. comments to same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/25/02	Telcoms. Harper re. same.	0.2	\$72.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/27/02	Telcom. Harper re. same.	0.2	\$72.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/30/02	Telcom. Harper re. same.	0.3	\$108.00	Inconsistent with Harper bill; Outside of Scope
6/3/02	Telcoms. Harper re. same.	0.3	\$111.00	Inconsistent with Harper bill; Outside of Scope/Denied
6/7/02	Conference call Rempel, Harper, Brown concerning appealability of contempt re. MSJ III contemnors, officially and individually, including DOJ attorneys.	1.1	\$407.00	Inconsistent with Harper & Brown bills; Outside of Scope/Denied
6/8/02	Telcoms. Harper re. same.	1.5	\$555.00	Inconsistent with Harper bill; Outside of Scope/Denied
6/20/02	Telcom. Harper re. same.	0.1	\$37.00	Outside of Scope/Denied; Inconsistent with Harper bill;
6/27/02	Telcom. Harper re. same.	0.1	\$37.00	Inconsistent with Harper bill; Outside of Scope/Denied
6/28/02	Telcom. Harper re. same.	0.4	\$148.00	Inconsistent with Harper bill; Outside of Scope

Gingold Internally Inconsistent Entries				
Date	Matter	Time	Claimed Amount	Objection
1/28/03	Conference call Harper and Brown re. need to file MSJ declaring settlement of disbursing officer accounts does not settle or constitute accounting of IIM Trust accounts.	0.4	\$148.00	Outside of Scope; Inconsistent with Brown & Harper bills
1/31/03	Telcom. Harper re. same.	0.3	\$111.00	Outside of Scope; Inconsistent with Harper bill
2/15/03	Telcom. Harper re. same and opp. to defs' motion to strike GAO MSJ.	0.4	\$148.00	Outside of Scope; Inconsistent with Harper bill
2/21/03	Telcoms. Harper re. same.	0.4	\$148.00	Outside of Scope; Inconsistent with Harper bill
2/21/03	Telcom. Levitas re same.	0.2	\$74.00	Outside of Scope;
2/24/03	Telcom. Harper re. same.	0.4	\$148.00	Outside of Scope; Inconsistent with Harper bill
2/24/03	Telcoms. Levitas re. same.	0.5	\$185.00	Outside of Scope;
2/26/03	Telcom. Levitas re same.	0.1	\$37.00	Outside of Scope
6/9/04	Telcoms. Harper re. same.	0.7	\$273.00	Inconsistent with Harper bill; Outside of scope
6/14/04	Telcom. Harper re. GAO time and scope of roders	0.2	\$78.00	Inconsistent with Harper bill; Outside of scope
6/16/04	Conference call Rempel and Harper to confirm accuracy of time entries and scope of action taken in connection with protection of class re. defs' repeated filing of false Sapienza declaration.	2	\$780.00	Inconsistent with Harper bill; Outside of scope
6/16/04	Conference call Rempel, Harper, and Brown re. same.	1	\$390.00	Inconsistent with Harper & Brown bills; Outside of scope
6/19/04	Telcoms. Harper re. same and comments re. affidavits.	0.5	\$195.00	Inconsistent with Harper bill; Outside of scope

Gingold Internally Inconsistent Entries				
Date	Matter	Time	Claimed Amount	Objection
6/21/04	Telcoms. Harper re. clarification of affidavits and time entries in conformity with order.	0.5	\$195.00	Inconsistent with Harper bill; Outside of scope
Total		26.4	\$9,686.00	

Rempel Internally Inconsistent Entries					
6/17/04	CC w/ Keith Harper, Dennis Gingold (Mark Brown some) re GAO application.	2.0	\$450.00	Inconsistent with Harper bill; Outside of scope	\$0.00
Total		2	\$450.00		\$0.00

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

REVIEW OF BROWN SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
Opposition to Defendants' Third Phase II Motion for Summary Judgment & Evidentiary Appendix				
9/25/00	Review Transcripts re Opposition to MSJ3	3.833	\$1,341.55	
9/27/00	Legal Research re Evidentiary Objections re Sapienza Affidavit (Sapienza Table)	0.833	\$291.55	
9/29/00	Prepare Objections to Sapienza Affidavit; Legal Research re Ancient Documents (Sapienza Table)	1.25	\$437.50	
9/30/00	Prepare Memorandum re Evidentiary Objections re MSJ (Sapienza Table)	3.25	\$1,137.50	
10/3/00	Review and Analyze Sapienza Affidavit re objections (Sapienza Table)	2.166	\$758.10	
10/4/00	Telephone Conversations with Keith Harper re MSJ strategy	0.416	\$145.60	Inconsistent with Harper bill
10/5/00	Legal Research re Evidentiary Issues; Revise Memorandum re Same re MSJ	0.333	\$116.55	
10/5/00	Legal Research re Best Evidence Rule; Prepare Objections re Same	4.083	\$1,429.05	
10/6/00	Revise Best Evidence Rule Memorandum re MSJ	1.25	\$437.50	
10/6/00	Legal Research re Authentication Issues re MSJ	1.166	\$408.10	
10/7/00	Legal Research at NARF re Authentication; Prepare Memorandum re Same re MSJ	3.5	\$1,225.00	
10/7/00	Legal Research at NARF re Authentication; Prepare Memorandum re Same re MSJ	2.666	\$933.10	
10/8/00	Revise Memorandum re Authentications Issues;	3.833	\$1,341.55	
10/8/00	Legal Research re Expert Witness Deficiencies of Sapienza Affidavit (Part IV)	1.166	\$408.10	
10/10/00	Review Arthur Andersen 1992 Tribal Trust Report re MSJ	2.666	\$933.10	
10/10/00	Revise Objection to Sapienza Affidavit re MSJ (Sapienza Table)	2.416	\$845.60	
10/11/00	Revise Memorandum re Expert Testimony (Part IV)	2.833	\$991.55	
10/12/00	Legal Research re Expert's Need for Personal Knowledge (Part IV)	3.333	\$1,166.55	
10/12/00	Prepare Chart of Objections to Exhibits re MSJ	4.583	\$1,604.05	
10/13/00	Legal Research re Expert's Ability to Opine on Regulations; Review Fed Evid Digest for Cases Fitting Fact Pattern (Part IV)	4.583	\$1,604.05	

10/13/00	Prepare Objections to Sapienza Affidavit (Sapienza Table)	3.916	\$1,370.60	
10/14/00	Revise Evidentiary Memorandum	3.166	\$1,108.10	
10/15/00	Revise Evidentiary Memorandum	2.333	\$816.55	
10/15/00	Legal Research re Form of Objections (Sapienza Table)	0.25	\$87.50	
10/16/00	Further Legal Research re Interplay of Expert's Use of Hearsay Evidence That Has Not Been Authenticated (Part IV)	2.5	\$875.00	
10/16/00	Revise Evidentiary Memorandum re MSJ; Further Legal Research as noted above (Part IV)	5.25	\$1,837.50	
10/17/00	Legal Research re additional Hearsay cases; Revise Objections Memorandum	3.083	\$1,079.05	
10/17/00	Revise Objections Memorandum	3.833	\$1,341.55	
10/18/00	Prepare Objections to Sapienza Affidavit (Sapienza Table)	2.25	\$787.50	
10/18/00	Legal Research re 'Implicit Hearsay'	0.583	\$204.05	
10/18/00	Prepare Objections to Sapienza Affidavit (Sapienza Table)	2.416	\$845.60	
10/19/00	Prepare Objections to Sapienza Affidavit (Sapienza Table)	1.75	\$612.50	
10/19/00	Prepare Objections to Sapienza Affidavit (Sapienza Table)	1.083	\$379.05	
10/20/00	Prepare Objections to Sapienza Affidavit (Sapienza Table)	1.166	\$408.10	
10/23/00	Prepare Objections to Sapienza Affidavit (Sapienza Table)	1.5	\$525.00	
10/23/00	Prepare Objections to Sapienza Affidavit (Sapienza Table)	1	\$350.00	
10/24/00	Legal Research re Expert Opinion re Legal Issues; Revise Memorandum (Part IV)	1.166	\$408.10	
10/25/00	Revise Objections to MSJ with Cites to Exhibits (Sapienza Table)	1.25	\$437.50	
10/25/00	Revise Memorandum of Points and Authorities re Evidentiary Issues re MSJ (Part IV)	2.916	\$1,020.60	
10/26/00	Revise Objections; Convert for Transmission to Counsel (Sapienza Table)	1.166	\$408.10	
10/28/00	Revise Objections to Evidence (Sapienza Table)	1.416	\$495.60	
10/29/00	Revise Keith Harper Introduction to MSJ Opposition	1	\$350.00	
10/30/00	Revise Objections Memorandum; Telephone Conference with Keith Harper/Dennis Gingold re Strategy	1.333	\$466.55	Inconsistent with Harper & Gingold bills
10/30/00	Revise Objections Memorandum	2.25	\$787.50	
10/30/00	Telephone Conference with Team/Keith Harper re MSJ Opposition	1	\$350.00	
10/30/00	Revise Objections Memorandum	1.083	\$379.05	

10/31/00	Revise Rempel Declaration re MSJ	0.25	\$87.50	
10/31/00	Review Database re Proving Government Admissions re Inability to Account	1.75	\$612.50	
10/31/00	Review Database re Proving Government Admissions re Inability to Account	2.416	\$845.60	
10/31/00	Revise Keith Harper MSJ Insert	2.5	\$875.00	
11/1/00	Revise Keith Harper MSJ Insert	2.75	\$962.50	
11/1/00	Revise Keith Harper MSJ Insert	1.583	\$554.05	
11/1/00	Revise Opposition to MSJ (Part IV)	3.833	\$1,341.55	
11/1/00	Legal Research re Expert Testimony as Basis for MSJ (Part IV)	1.25	\$437.50	
11/1/00	Further Legal Research re Expert Testimony as Basis for MSJ (Part IV)	1.75	\$612.50	
11/2/00	Telephone Conference with Mr. Levitas re Evidentiary Memorandum of Points and Authorities	0.166	\$58.10	
11/2/00	Prepare Memorandum re Expert Issues in MSJ Context (Part IV)	0.75	\$262.50	
11/2/00	Revise Keith Harper Legal Argument re MSJ	0.666	\$233.10	
11/2/00	Prepare Memorandum re Expert Issues in MSJ Context (Part IV)	1.333	\$466.55	
11/2/00	Telephone Conference with S. Philippi re Expert Witnesses Evidentiary Issues (Part IV)	1.333	\$466.55	
11/2/00	Prepare Memorandum re Expert Issues in MSJ Context (Part IV)	1.666	\$583.10	
11/2/00	Prepare Memorandum re Expert Issues in MSJ Context; Revise MSJ Opposition (Part IV)	4.083	\$1,429.05	
11/2/00	Revise MSJ Opposition	3.333	\$1,166.55	
11/3/00	Revise MSJ Opposition (cont. after midnight)	2.166	\$758.10	
11/3/00	Prepare MSJ Opposition	3.666	\$1,283.10	

11/3/00	Prepare MSJ Opposition; Legal Research re Right to Confront Witnesses (Part IV)	6.25	\$2,187.50	
11/3/00	Finalize/proofread MSJ Opposition	1.916	\$670.60	
	TOTALS for Opposition to MSJ	146.228	\$51,179.80	
Motion to Withdraw & Cross-Motions for Summary Judgment and Sanctions				
2/7/02	Research/Review GAO Report	2.5	\$900.00	
2/9/02	Legal Research re Cross-motion for MSJ	3.166	\$1,139.76	Outside of Scope
2/11/02	Legal Research re Withdrawing MSJ; Prepare Memorandum of Points and Authorities	3.25	\$1,170.00	Outside of Scope
2/12/02	Revise Opposition to Motion to Withdraw MSJ	1.583	\$569.88	Outside of Scope
2/12/02	Revise Opposition to Motion to Withdraw MSJ	0.333	\$119.88	Outside of Scope
2/13/02	Revise Opposition to Motion to Withdraw MSJ	0.333	\$119.88	Outside of Scope
2/13/02	Revise Summary Judgment Opposition	0.666	\$239.76	Outside of Scope
2/14/02	Revise Memorandum of Points and Authorities re Cross-Motion for Summary Judgment	2.92	\$1,051.20	Outside of Scope
2/14/02	Revise Summary Judgment Opposition	4.916	\$1,769.76	Outside of Scope
2/15/02	Revise Summary Judgment Opposition	0.75	\$270.00	Outside of Scope
2/15/02	Revise Summary Judgment Opposition	3	\$1,080.00	Outside of Scope
2/15/02	Revise Summary Judgment Opposition /miscellaneous re service & filing	1.333	\$479.88	Partial Award
	Subtotal (Time re Rule 56(g) Motion)	24.75	\$8,910.00	
3/10/02	Review Opposition to Rule 56(g) Motion	1.666	\$599.76	
3/13/02	Prepare Reply re Cross-Motion for Summary Judgment	2.75	\$990.00	Outside of Scope
3/13/02	Prepare Reply re Cross-Motion for Summary Judgment	6.916	\$2,489.76	Outside of Scope
	Subtotal (Time re Rule 56(g) Reply)	11.332	\$4,079.52	
	TOTAL	36.082	\$12,989.52	
Proof Fees				
5/26/04	Review Court Orders re Sapienza Sanctions; Review File re Same	1.166	\$443.08	
6/8/04	Gather and segregate time for Sapienza Fee Application	4.916	\$1,868.08	
6/9/04	Gather and segregate time for Sapienza Fee Application	1.916	\$728.08	

6/9/04	Gather and segregate time for Sapienza Fee Application; Prepare MKB Affidavit re fees; Legal Research re Laffey rates	3.666	\$1,393.08	
6/10/04	Prepare MKB Affidavit re fees	1.916	\$728.08	
6/10/04	Legal Research re adjusted Laffey rates/McDowell decision	1.25	\$475.00	
6/10/04	Prepare MKB Affidavit re fees	3.166	\$1,203.08	
6/11/04	Gather and segregate time for Sapienza Fee Application	0.583	\$221.54	
6/11/04	Revise MKB Affidavit re fees	2.916	\$1,108.08	
6/11/04	Revise MKB Affidavit re fees	1.833	\$696.54	
6/11/04	Revise MKB Affidavit re fees/Prepare Application and Order	3.75	\$1,425.00	
6/14/04	Revise MKB Affidavit re fees/Prepare Application and Order	4.166	\$1,583.08	
6/14/04	Finalize MKB Affidavit re fees/Application and Order	1.666	\$633.08	
6/17/04	Telephone Conference with team re time entries re GAO fee application	1.25	\$475.00	
	TOTAL Proof fees	34.16	\$12,980.80	

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
6/2/00	Accompanied by Rempel, met with Master, DOJ, DOI, & DOT re. production of accounting docs. relevant to Cobell litigation, including all documentation that purports to represent the settlement of IIM accounts in the custody or control of disbursement officers. Brooks represented that the settlement of Disbursing officer accounts also settled IIM accounts. Asst. Secretary of the Treasury Don Hammond confirmed that the settlement of disbursing officer accounts did not result in an accounting of IIM trust accounts.	2.1	\$735.00	Previously Billed/Denied Outside of Scope
6/2/00	Prepare for Special Master meeting re. Defendants misrepresentation re. settlement of Indian disbursing officer accounts as accounting IIM trust accounts	0.8	\$280.00	Previously Billed/Denied Outside of Scope
6/5/00	Telcom. with Brian Ferrell, DOJ, requesting production of all documents relevant to settlement of IIM accounts in the custody or control of disbursement officers, at least with respect to the named plaintiffs and their predecessors-in-interes ? in conformity with the representations of Brooks at the 6.2.00 meeting at the Master's office.	0.3	\$105.00	Outside of Scope
6/6/00	Telcoms. with Ferrell re. same. (Document Production & Account Settlement)	0.3	\$105.00	Outside of Scope
7/5/00	Telcoms. Holt re. GAO summary judgment/accounting	0.7	\$245.00	Previously Billed/Denied Outside of Scope
7/25/00	Draft MSJ surreply re. Defs' material misrepresentations re. GAO	1.7	\$595.00	Previously Billed/Denied Outside of Scope
9/19/00	Telcom. Harper re. GAO settlement issues and action to take regarding Brooks delivery of threat to file motion for summary judgment claiming falsely that the settlement of disbursing officers' accounts for 30 years discharges defs' accounting duty from 1921-1950.	0.2	\$70.00	
9/20/00	Telcom. with Harper re. same.	0.3	\$105.00	
9/22/00	Telcoms. with Ferrell re. GAO settlements of account issues and conflicting representations Brooks and Hammond.	0.8	\$280.00	
9/22/00	Meet with Rempel re. Defendants Third Phase II Motion for Partial Summary Judgment (Re: Settlement of Accounts by Treasury and GAO) ("MSJ III") and in response collect documents in create factual appendix to explicitly refute misrepresentations, including opinion of Don Hammond.	0.6	\$210.00	

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
9/24/00	Review MSJ, note defs' claims, identify responses, and assess authorities in opposition to such claims.	0.7	\$245.00	Previously Billed/Denied
9/24/00	Review relevant documents and prepare letters to Brooks and Ferrell concerning same and in response to letters defending MSJ claims.	2.2	\$770.00	Previously Billed/Denied
9/25/00	Work on MSJ III response; begin review legal authorities, e.g., "Law of Appropriations" and cases and Comptroller General discussion of nature and scope of settlement of accounts process and legal impact; begin review of documents related thereto.	8	\$2,800.00	Previously Billed/Denied
9/26/00	Telcoms. Harper re. nature and scope of settlements-of-account process per Comptroller General.	0.3	\$105.00	Previously Billed/Denied
9/26/00	Continue document review, revisions, legal research for MSJ III response.	4.5	\$1,575.00	Previously Billed/Denied
9/26/00	Telcom. Harper re. MSJ III draft.	0.2	\$70.00	Previously Billed/Denied
9/26/00	Telcom. Holt re. same.	0.3	\$105.00	Previously Billed/Denied
9/27/00	Continue document review, revisions, legal research for MSJ III response.	5	\$1,750.00	
9/28/00	Continue document review, revisions, legal research for MSJ III response	6.2	\$2,170.00	Previously Billed/Denied
9/28/00	Telcom. Harper re. MSJ III draft.	0.4	\$140.00	Previously Billed/Denied
9/30/00	Continue document review, revisions, legal research for MSJ III response	5	\$1,750.00	Previously Billed/Denied
10/1/00	Continue document review, revisions, legal research for MSJ III response	1	\$350.00	Previously Billed/Denied
10/4/00	Telcoms. with Harper re. MSJ III response.	1.4	\$490.00	Previously Billed/Denied
10/4/00	Telcom. Holt re. MSJ III issues.	0.1	\$35.00	
10/4/00	Review relevant authorities; documentation.	0.8	\$280.00	
10/5/00	Continue work on MSJ III response; continue review of legal authorities; documents.	4.9	\$1,715.00	
10/5/00	Telcom. Interior witness confirming false GAO MSJ.	0.1	\$35.00	Previously Billed/Denied
10/6/00	Discussion with Rempel re. relevance of BIA regs. to MSJ III and Trial 1 testimony and exhibits related thereto for reference in opposition to MSJ III.	0.2	\$70.00	

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
10/7/00	Continue work on MSJ III response; continue review of legal authorities; documents, including data reports, oil & gas reports, and assessments of nature and scope of settlements process re. the class.	9.1	\$3,185.00	Previously Billed/Denied
10/7/00	Telcoms. with Harper re. MSJ III documentation issues given the refusal of Interior and Treasury to produce documents to support their settlement of account claims.	0.9	\$315.00	Previously Billed/Denied
10/8/00	Continue document review, revisions, legal research for MSJ III response. Includes review of data reports, oil & gas reports, and assessments of nature and scope of settlements process re. the class; compare "accounting" to desk audits by GAO and Treasury of disbursing officer reports.	3.9	\$1,365.00	Previously Billed/Denied
10/28/00	Revise and redraft draft opposition to MSJ III.	4.5	\$1,575.00	Previously Billed/Denied
10/28/00	Conference call with Harper and Brown re. status of MSJ III and issues that need to be flushed out.	0.4	\$140.00	Inconsistent with Harper & Brown bills
10/28/00	Discussion with Rempel re. MSJ III draft and necessary edits.	1.2	\$420.00	
10/28/00	Telcom. Harper re. MSJ III issues.	0.5	\$175.00	Previously Billed/Denied
10/29/00	Revise and redraft draft opposition to MSJ III.	4	\$1,400.00	Previously Billed/Denied
10/29/00	Telcom. Harper re. defendants' misrepresentations regarding settlement of accounts v. accounting.	0.1	\$35.00	Previously Billed/Denied; Inconsistent with Harper bill
10/30/00	Discussion with Rempel re. MSJ III draft and necessary edits.	0.2	\$70.00	Inconsistent with Rempel bill
10/30/00	Conference call with Harper and Brown re. status of MSJ III.	0.5	\$175.00	Inconsistent with Harper bill
10/30/00	Conference call with Rempel, Harper and Brown re. status of remaining tasks re. MSJ III response including need for Rempel supporting affidavit vis-a-vis admissions of Don Hammond, etc.	1	\$350.00	Inconsistent with Rempel, Harper, & Brown bills
10/30/00	Continue revisions of MSJ III draft response.	4.6	\$1,610.00	Previously Billed/Denied
10/31/00	Revise and redraft opposition to MSJ III.	6.9	\$2,415.00	Previously Billed/Denied
11/1/00	Revise and redraft draft opposition to MSJ III based on Rempel additions.	6.1	\$2,135.00	Previously Billed/Denied

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
11/2/00	Continue revisions of Rempel additions to MSJ III draft response and review and comment on Rempel affidavit in support of certain factual statements including admissions of Hammond.	4.4	\$1,540.00	Previously Billed/Denied
11/2/00	Conference call with Rempel, Harper and Brown re. status of remaining tasks and text of Rempel affidavit.	0.4	\$140.00	
11/3/00	Finalize Plaintiffs' Opposition to Defendants' Third Phase II Motion for Partial Summary Judgment (Re: Settlement of Accounts by Treasury and GAO).	11.6	\$4,060.00	Previously Billed/Denied
11/3/00	Telcoms. with Harper re. finalization of MSJ III opposition.	0.4	\$140.00	Previously Billed/Denied
11/3/00	Telcom. Ferrell re. service of MSJ III opposition.	0.1	\$35.00	Previously Billed/Denied
11/3/00	Telcom. Cobell re. MSJ III issues.	0.3	\$105.00	Previously Billed/Denied
11/6/00	Telcom. Brown re. Sanctions for defs' materially false GAO MSJ III.	0.5	\$175.00	Inconsistent with Brown bill
2/1/02	Meet and confer with Cynthia Alexander and Matt Fader, DOJ, and object to defendants' motion to withdraw pending motion for partial summary judgment regarding GAO Settlement of Accounts of disbursing officers as discharging the accounting of IIM Trust beneficiaries ("MSJ III").	0.1	\$36.00	
2/1/02	Telcom. Harper re. same.	0.1	\$36.00	Inconsistent with Harper bill
2/1/02	Telcoms. Cobell re. same.	0.3	\$108.00	
2/4/02	Telcom. Cobell re. same, particularly impact false MSJ III was intended to have on class.	0.2	\$72.00	
2/12/02	Telcoms. Ferrell re. MSJ III issues, intended impact, etc.	0.2	\$72.00	
2/14/02	Review and revise Plaintiffs' Opposition to Motion to Withdraw Defendants' Motions for Summary Judgment; Plaintiffs' Cross-Motions for Summary Judgment as to (B) The Non-Settlement of accounts to reinforce such settlement of Indian disbursing officer accounts does not constitute an accounting of IIM trust accounts.	8.5	\$3,060.00	Partial Recovery
2/14/02	Telcoms. Harper re. same.	0.2	\$72.00	Partial Recovery
2/14/02	Conference call with Cobell and Rempel re. defs' motion to withdraw MSJ III, the intended affect of the motion, the deception practiced on the district court, and reasons for the opposition.	0.4	\$144.00	Partial Recovery

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
2/15/02	Finalize revisions and refinement of opp. to defs' motion and cross motion re. MSJ III.	6.2	\$2,232.00	Partial Recovery
2/15/02	Conference call with Cobell and Rempel re opp. to motion to withdraw MSJ III and crossmotion for summary judgment.	0.5	\$180.00	Partial Recovery
3/5/02	Review, revise, and redraft reply to consolidated MSJ III cross motion and show cause motion.	11	\$3,960.00	Partial Recovery
3/5/02	Telcoms. Harper re. same.	0.6	\$216.00	Inconsistent with Harper bill
3/8/02	Review, revise, and modify current draft of consolidated MSJ III crossmotion.	1.2	\$4,320.00	Partial Recovery
3/11/02	Conference call with Cobell and Rempel re. consolidated MSJ III crossmotion, accounting implica bad faith, irreparable harm.	1.2	\$432.00	Partial Recovery
3/11/02	Continue revisions and refinement of MSJ III draft in accordance with discussion with Cobell and Rempel, and Harper.	6.6	\$2,376.00	Partial Recovery
3/11/02	Telcoms. Harper re. same.	1.3	\$468.00	Inconsistent with Harper bill
3/11/02	Telcoms. Cobell re. same.	1.1	\$396.00	Partial Recovery
3/11/02	Discussion with Rempel re. MSJ III reply draft and necessary revisions, additional supporting documents.	0.8	\$288.00	Partial Recovery
3/12/02	Continue revisions and refinement of MSJ III reply draft, including factual appendix.	14.5	\$5,222.00	Partial Recovery
3/12/02	Telcoms. Harper re. same.	1.1	\$396.00	Inconsistent with Harper bill
3/12/02	Conference call Brown and Harper re. same.	0.8	\$288.00	Inconsistent with Harper & Brown bills
3/12/02	Discussion with Rempel re. same.	0.6	\$216.00	Partial Recovery
3/13/02	Finalize revisions and refinement of MSJ III reply draft, including factual appendix; confirm supporting documentation.	13.2	\$4,752.00	Partial Recovery
3/13/02	Telcoms. Harper re. same.	2.3	\$828.00	Inconsistent with Harper bill
3/13/02	Telcoms. Cobell re. same.	0.5	\$180.00	Partial Recovery
3/13/03	Conference call Cobell and Rempel re. same.	0.4	\$144.00	Inconsistent with Rempel bill
4/22/00	Review GAO Gamboa April 19, 2002 letter that confirms knowingly false representations made re. settlement of IIM accounts.	0.5	\$180.00	Partial Recovery

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
4/22/02	Telcoms. Harper re. same and implications of knowingly false representations to Court and plttfs' and plaintiffs' counsel.	0.6	\$216.00	Inconsistent with Harper bill
4/23/02	Telcoms. with Cobell re. same.	0.5	\$180.00	Partial Recovery
4/23/02	Telcoms. with Harper re. same.	0.4	\$144.00	Inconsistent with Harper bill
4/24/02	Review implications of Gamboa admissions and willful misrepresentations to Court and plttfs' counsel; review all filings by government and plaintiffs related thereto and consider options to rectify consequences of deception.	2.9	\$1,044.00	Outside of Scope
4/24/03	Telcom. Holt re. same.	0.3	\$108.00	Outside of Scope/Denied
4/24/03	Telcom. Levitas re same.	0.7	\$252.00	Inconsistent with Levitas bill; Outside of Scope/Denied
4/24/02	Telcom. Cobell re. same.	0.5	\$180.00	Outside of Scope/Denied
4/24/02	Telcom. Harper re. same.	0.6	\$216.00	Inconsistent with Harper bill; Outside of Scope/Denied
4/24/02	Telcom. Fasold re. same.	0.2	\$72.00	Outside of Scope/Denied
4/25/02	Telcom. Harper re. same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of Scope/Denied
4/25/02	Telcom. Levitas re same.	0.1	\$36.00	Inconsistent with Levitas bill; Outside of Scope/Denied
5/1/02	Telcom. Craig Lawrence, U.S. Attorney's Office re. Gamboa letter and its implications.	0.2	\$72.00	Previously Billed/Denied; Outside of Scope
5/1/02	Telcoms. Scott Harris, U.S. Attorney's Office, re. same.	0.4	\$144.00	Previously Billed/Denied; Outside of Scope
5/2/02	Telcom. Craig Lawrence, U.S. Attorney's Office, re same.	0.4	\$144.00	Previously Billed/Denied; Outside of Scope

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
5/2/02	Work on notice of supplemental authority re. Gamboa letter.	0.6	\$216.00	Outside of Scope/Denied
5/2/02	Telcoms. Harper re. discussions with U.S. Attorney's office and notice of supplemental authority re. Gamboa letter.	0.9	\$324.00	Inconsistent with Harper bill; Outside of Scope/Denied
5/3/02	Review and revise consolidated motion for leave to amend plaintiffs' 2.15.02 MSJ III contempt motion and finding pursuant to R 56(g) per newly discovered evidence, i.e., the Gamboa letter.	5.6	\$2,016.00	Outside of Scope/Denied
5/3/02	Telcom. Craig Lawrence, U.S. Attorney's Office, re same.	0.1	\$36.00	Previously Billed/Denied
5/4/02	Work on notice of supp. authority, leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	3.9	\$1,404.00	Outside of Scope/Denied
5/5/02	Continue to draft and revise same.	6.3	\$2,268.00	Outside of Scope/Denied
5/5/02	Telcom. Harper re. issues and implications re. same.	0.1	\$36.00	Inconsistent with Harper bill; Outside of Scope/Denied
5/6/02	Telcom. Lawrence re. same.	0.2	\$72.00	Previously Billed/Denied
5/6/02	Work on notice of supp. authority, leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	5.3	\$1,908.00	Outside of Scope/Denied
5/6/02	Telcoms. Harper re. same.	0.2	\$72.00	Inconsistent with Harper bill; Outside of Scope/Denied
5/7/02	Work on motion for leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	3.7	\$1,332.00	Outside of Scope/Denied
5/7/02	Telcoms. Lawrence re. same.	1.2	\$432.00	Outside of Scope/Denied
5/9/02	Telcoms. Harper re. same.	0.3	\$108.00	Inconsistent with Harper bill; Outside of Scope/Denied
5/9/02	Work on motion for leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	5.4	\$1,944.00	Outside of Scope/Denied

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
5/10/02	Work on motion for leave to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	0.2	\$72.00	Outside of Scope/ Denied
5/10/02	Telcom. Lawrence re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/10/02	Telcom. Harper re. same.	0.1	\$36.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/12/02	Telcom. Harper re. same	0.2	\$72.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/13/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	2.7	\$972.00	Outside of Scope/ Denied
5/13/02	Telcoms. Harper re. same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/13/02	Telcoms. Levitas re. same.	0.3	\$108.00	Inconsistent with Levitas bill; Outside of Scope
5/14/02	Telcom with Lawrence re. same.	0.4	\$144.00	Outside of Scope/ Denied
5/14/02	Discussion with Rempel re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/14/02	Telcom. Cobell re. same.	0.4	\$144.00	Outside of Scope/ Denied
5/14/02	Telcom. Levitas re same.	0.5	\$180.00	Inconsistent with Levitas bill; Outside of Scope/ Denied
5/15/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	1.8	\$648.00	Outside of Scope/ Denied
5/15/02	Telcoms. Harper re. comments to same.	0.4	\$144.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/16/02	Telcom. Lawrence re. same.	0.1	\$36.00	Outside of Scope/ Denied

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
5/16/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	7.4	\$2,664.00	Outside of Scope/ Denied
5/16/02	Telcom. Scott Harris re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/17/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	7	\$2,520.00	Outside of Scope/ Denied
5/18/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	1.9	\$684.00	Outside of Scope/ Denied
5/20/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	2.2	\$792.00	Outside of Scope/ Denied
5/24/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	4.7	\$1,692.00	Outside of Scope/ Denied
5/24/02	Telcom. Lawrence re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/24/02	Telcom. Cobell re. same.	0.4	\$144.00	Outside of Scope/ Denied
5/24/02	Telcom. Cobell re. same.	0.1	\$36.00	Outside of Scope/ Denied
5/25/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	4	\$1,440.00	Outside of Scope/ Denied
5/25/02	Telcoms. Harper re. same.	0.2	\$72.00	Inconsistent with Harper bill; Outside of Scope/ Denied
5/26/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	7.1	\$2,556.00	Outside of Scope/ Denied
5/27/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	8.8	\$3,168.00	Outside of Scope/ Denied
5/27/02	Telcom. Harper re. same.	0.2	\$72.00	Inconsistent with Harper bill; Outside of Scope/ Denied

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
5/28/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	2.6	\$936.00	Outside of Scope/ Denied
5/28/02	Telcom. Lawrence re. same.	0.2	\$72.00	Outside of Scope/ Denied
5/30/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	2.5	\$900.00	Outside of Scope/ Denied
5/30/02	Telcom. Harper re. same.	0.3	\$108.00	Inconsistent with Harper bill; Outside of Scope
5/31/02	Telcom. Lawrence re. same.	0.1	\$36.00	Outside of Scope/Denied
6/1/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	3.4	\$1,258.00	Outside of Scope/Denied
6/3/02	Telcom. Lawrence re. meet and confer re filing of MSJ III contempt motion.	0.4	\$148.00	Outside of Scope/Denied
6/3/02	Work on motion to amend 2.15.02 MSJ III contempt motion, amendment of MSJ III contempt motion per newly discovered evidence.	2	\$740.00	Outside of Scope/Denied
6/3/02	Discussion with Rempel re. same.	0.5	\$185.00	Outside of Scope/Denied
6/3/02	Telcoms. Harper re. same.	0.3	\$111.00	Inconsistent with Harper bill; Outside of Scope/Denied
6/4/02	Continued telcoms. Lawrence re. meet and confer on MSJ III contempt motion.	0.7	\$259.00	Outside of Scope/Denied
6/4/02	Telcoms. Harper re. same.	0.4	\$148.00	Outside of Scope/Denied
6/4/02	Finalize motion to amend 2.15.02 MSJ III contempt motion, amendment fo MSJ III contempt motion per newly discovered evidence.	8.6	\$3,182.00	Outside of Scope/Denied
6/6/02	Research and analyze complex personal service issues re. nonparties as to same.	4	\$1,480.00	Outside of Scope/Denied
6/6/02	Telcoms. Scott Harris, U.S. Attorney's Office, re. same.	0.4	\$148.00	Outside of Scope/Denied
6/6/02	Telcoms. Lawrence re. same.	0.6	\$222.00	Outside of Scope/Denied

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
6/6/02	Telcoms. Harper re. same.	0.6	\$222.00	Outside of Scope/Denied
6/7/02	Telcom. Lawrence re. unresolved personal service issues in connection with MSJ III contempt.	0.1	\$37.00	Outside of Scope/Denied
6/7/02	Conference call Rempel, Harper, Brown concerning appealability of contempt re. MSJ III contemnors, officially and individually, including DOJ attorneys.	1.1	\$407.00	Inconsistent with Harper & Brown bills; Outside of Scope/Denied
6/8/02	Telcoms. Lawrence re. MSJ III personal service logistical issues.	0.5	\$185.00	Outside of Scope/Denied
6/8/02	Telcoms. Harper re. same.	1.5	\$555.00	Inconsistent with Harper bill; Outside of Scope/Denied
6/9/02	Telcom. Lawrence re. unresolved personal service issues in connection with MSJ III contempt.	0.1	\$37.00	Outside of Scope/Denied
6/19/02	Telcom. Lawrence re. production of GAO documents referenced in Gamboa letter but withheld by defendants.	0.5	\$185.00	Outside of Scope/Denied
6/20/02	Telcom. Lawrence re. same.	0.1	\$37.00	Previously Billed/Denied
6/20/02	Telcom. Harper re. same.	0.1	\$37.00	Outside of Scope/Denied; Inconsistent with Harper bil;
6/21/02	Telcom. Lawrence re. same.	0.1	\$37.00	Previously Billed; Outside of Scope/Denied
6/24/02	Telcoms. Lawrence re. same.	0.3	\$111.00	Previously Billed; Outside of Scope/Denied
6/24/02	Meet with Cobell concerning Gamboa letter and MSJ III.	1	\$370.00	Outside of Scope/Denied
6/25/02	Work on reply to MSJ III, including review of defs' cases and authorities and begin preparation of draft.	5	\$1,850.00	Outside of Scope/Denied
6/25/02	Telcom. Lawrence re. production of GAO documents referenced in Gamboa letter but withheld by defendants.	0.4	\$148.00	Previously Billed; Outside of Scope/Denied
6/26/02	Continue work on Gamboa/MSJ III reply; includes research and draft revisions.	2.2	\$814.00	Outside of Scope/Denied

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
6/27/02	Continue work on Gamboa/MSJ III reply; includes research and draft revisions.	1.3	\$481.00	Outside of Scope/Denied
6/27/02	Telcom. Harper re. same.	0.1	\$37.00	Inconsistent with Harper bill; Outside of Scope/Denied
6/27/02	Meet with Cobell re. same.	0.4	\$148.00	Outside of Scope/Denied
6/28/02	Continue work on Gamboa/MSJ III reply; includes research and draft revisions. Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in accordance with Newly Discovered Evidence: The April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards).	3.7	\$1,369.00	Outside of Scope/Denied
6/28/02	Telcom. Harper re. same.	0.4	\$148.00	Inconsistent with Harper bill; Outside of Scope
7/1/02	Telcom. Lawrence re. production of GAO documents referenced in Gamboa letter but withheld by defendants.	0.1	\$37.00	Outside of Scope/Denied
7/5/02	Telcom. Lawrence re. continued failure to produce GAO documents referenced, and in connection, with Gamboa letter.	0.2	\$74.00	Previously Billed; Outside of Scope/Denied
7/9/02	Telcom. Lawrence re. continued failure to produce GAO documents referenced, and in connection, with Gamboa letter.	0.5	\$185.00	Previously Billed; Outside of Scope/Denied
7/11/02	Telcom. Lawrence re. continued failure to produce GAO documents referenced, and in connection with Gamboa letter.	0.4	\$148.00	Previously Billed; Outside of Scope/Denied
7/19/02	Prepare letter to Lawrence re. continued failure to produce GAO documents referenced, and in connection with, Gamboa letter, particularly with respect to docs. created, or received, by Interior and Treasury in response to GAO general counsel's opinion that IIM accounts were not settled.	1	\$370.00	Outside of Scope/Denied
7/29/02	Telcom. Lawrence re. same.	0.3	\$111.00	Previously Billed; Outside of Scope/Denied
7/30/02	Prepare letter response to Lawrence re. same.	0.3	\$111.00	Previously Billed; Outside of Scope/Denied

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
8/6/02	Telcom. Lawrence re. same.	0.3	\$111.00	Previously Billed; Outside of Scope/Denied
8/7/02	Telcom. Lawrence re. same.	0.1	\$37.00	Previously Billed; Outside of Scope/Denied
8/8/02	Review first production of docs. referenced in Gamboa letter further demonstrating bad faith of defs' in filing MSJ III.	1.3	\$481.00	Outside of Scope/Denied
9/13/02	Telcoms. Lawrence re. production of remaining relevant Gamboa related docs.	0.2	\$74.00	Outside of Scope/Denied
9/16/02	Telcom. Lawrence re. same.	0.1	\$37.00	Outside of Scope/Denied
1/28/03	Conference call Harper and Brown re. need to file MSJ declaring settlement of disbursing officer accounts does not settle or constitute accounting of IIM Trust accounts.	0.4	\$148.00	Outside of Scope; Inconsistent with Brown & Harper bills
1/30/03	Review documents in support of statement of undisputed material facts re. MSJ settlements of Account. Review and revise Plaintiffs' Motion for Partial Summary Judgment as to the NonSettlement of Accounts and Defendants' Failure to Perform the Accounting, in Whole or Part, Ordered by this Court on December 21, 1999 and Plaintiffs' Statement of Material Facts as to Which There is No Genuine Issue in Support of Motion for Partial Summary Judgment.	6.1	\$2,257.00	Outside of Scope
1/31/03	Telcom. Harper re. same.	0.3	\$111.00	Outside of Scope; Inconsistent with Harper bill
1/31/03	Review and revise motion for partial summary judgment and	5.4	\$1,998.00	Outside of Scope
2/3/03	Finalize revisions and refinement of motion for partial summary judgment and undisputed material facts.	6.1	\$2,257.00	Outside of Scope
2/15/03	Telcom. Harper re. same and opp. to defs' motion to strike GAO MSJ.	0.4	\$148.00	Outside of Scope; Inconsistent with Harper bill
2/21/03	Revise and redraft Reply to defs' opp. to GAO MSJ.	3.6	\$1,332.00	Outside of Scope
2/21/03	Telcoms. Harper re. same.	0.4	\$148.00	Outside of Scope; Inconsistent with Harper bill
2/21/03	Telcom. Levitas re same.	0.2	\$74.00	Outside of Scope; Inconsistent with Levitas bill

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
2/24/03	Telcom. Harper re. same.	0.4	\$148.00	Outside of Scope; Inconsistent with Harper bill
2/24/03	Telcoms. Levitas re. same.	0.5	\$185.00	Outside of Scope; Inconsistent with Levitas bill
2/26/03	Telcom. Levitas re same.	0.1	\$37.00	Outside of Scope; Inconsistent with Levitas bill
2/27/03	Prepare affidavit in support of Plaintiffs' Consolidated Motion to Treat as Conceded Plaintiffs' Motion for Partial Summary Judgment as to the NonSettlement of Accounts and Defendants' Failure to Perform the Accounting, in Whole or Part, Ordered by this Court on December 21, 1999 and to Strike as Untimely Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment as to NonSettlement of Accounts, or in the Alternative, Motion for Enlargement of Time Within Which to Reply to Defendants' Opposition Brief; review and revise motion to strike as conceded Plaintiffs' Motion for Partial Summary Judgment.	4.3	\$1,591.00	Outside of Scope
3/8/03	Review and Revise draft Motion to Continue and Enlargement of Time re. GAO Summary Judgment.	5.5	\$2,035.00	Outside of Scope
3/12/03	Review and revise Plaintiffs' Motion to Continue Defendants' Motions for Summary Judgment Pursuant to Fed. R. Civ. P. 56(f) and to Enlarge Plaintiffs' Time to Respond Thereto and Affidavit of Dennis Gingold in Support Thereof and draft affidavit which avers, among other things, that 8 requests for docs. regarding the April 19, 2002 Gamboa letter remained unsatisfied, affecting plaintiffs' ability to provide fully informed opposition to defs' motion.	4.3	\$1,591.00	Outside of Scope
3/10/03	Review documents and begin draft affidavit in support of Motion to Continue GAO MSJ due to failure of defendants' to produced relevant referenced documents.	3.8	\$1,406.00	Outside of Scope
3/12/03	Continue such review and preparation of affidavit.	0.3	\$111.00	Outside of Scope
3/13/03	Finalize same and prepare affidavit in support of Plaintiffs' Motion to Continue Motions for Summary Judgment due to failure of defendants to produce documents relevant to GAO Settlements issues, including evidence related to Defendants' Statement of Material Facts in Support of Motion for Partial Summary Judgment re. April 19, 2002 Gamboa letter and document references contained therein.	7.4	\$2,738.00	Outside of Scope
3/13/03	Telcom. Harper re. same.	0.3	\$111.00	Outside of Scope

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
4/7/03	Review and revise Plaintiffs' Reply re. Motion to Continue Defendants' Motions for Summary Judgment Pursuant to Fed. R. Civ. P. 56(f) and to Enlarge Plaintiffs' Time to Respond Thereto due to defs' refusal to comply with relevant doc. production requests.	1.3	\$481.00	Outside of Scope
4/8/03	Review and revise Opposition to Defendants' Latest Motion for Reconsideration with Respect to this Court's March 11, 2003 Memorandum and Order and Request for Enlargement of Time Within Which to Submit Filing Detailing Amount of Reasonable Expenses and Attorneys' Fees Incurred.	2.9	\$1,073.00	
4/9/03	Review and Revise Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment as to the NonSettlement of Accounts.	4.2	\$1,554.00	Outside of Scope
6/7/04	Review relevant memoranda and orders and diary entries, allocate and begin preparation of time	7	\$2,730.00	
6/7/04	Telcom. Harper re. scope of orders and time allocation issues.	0.4	\$156.00	
6/8/04	Allocate, review briefs, other filings, affidavits, related briefs, and prepare time in accordance with GAO sanctions decision.	8.3	\$3,237.00	
6/9/04	Telcoms. Harper re. same.	0.7	\$273.00	Inconsistent with Harper bill
6/9/04	Allocate and prepare time in accordance with GAO sanctions decision.	5.1	\$1,989.00	
6/10/04	Allocate and prepare time in accordance with GAO sanctions decision.	8.4	\$3,276.00	
6/11/04	Allocate and prepare time in accordance with GAO sanctions decision.	6.5	\$2,535.00	
6/12/04	Allocate and prepare time in accordance with GAO sanctions decision.	4	\$1,560.00	
6/13/04	Allocate and prepare time in accordance with GAO sanctions decision.	4.8	\$1,872.00	
6/14/03	Begin preparation of affidavit in support of fee application. Allocate and prepare time in accordance with GAO sanctions decision.	5.7	\$2,223.00	
6/14/04	Revise draft affidavit in support of GAO fee request.	1	\$390.00	
6/14/04	Telcom. Harper re. GAO time and scope of roders	0.2	\$78.00	Inconsistent with Harper bill
6/15/04	Allocate and adjust time in accordance with GAO sanctions decision; revise draft affidavit; review Rempel time and affidavit to confirm accuracy and fairness; discuss issues with Rempel re same.	7	\$2,730.00	

REVIEW OF GINGOLD SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
6/16/04	Review and revise GAO Fee Schedule to correct errors and clarify per discussions with Rempel and Harper as to scope of Orders and work performed in connection with defendants' repeated filing of false Sapienza declaration. Revise affidavit to conform to such discussion.	1.6	\$624.00	
6/16/04	Conference call Rempel and Harper to confirm accuracy of time entries and scope of action taken in connection with protection of class re. defs' repeated filing of false Sapienza declaration.	2	\$780.00	Inconsistent with Harper bill
6/16/04	Conference call Rempel, Harper, and Brown re. same.	1	\$390.00	Inconsistent with Harper & Brown bills
6/17/04	Continue revision of affidavit in conformity with same.	0.9	\$351.00	
6/17/04	Telcom. Harper re. same.	0.2	\$78.00	
6/19/04	Revise transmittal papers to Court in accordance with comments from Rempel and Harper.	0.8	\$312.00	
6/19/04	Telcoms. Harper re. same and comments re. affidavits.	0.5	\$195.00	Inconsistent with Harper bill
6/20/04	Draft memorandum to Brown re. clarification of Brown affidavit and time.	0.4	\$156.00	
6/21/04	Telcoms. Harper re. clarification of affidavits and time entries in conformity with order.	0.5	\$195.00	Inconsistent with Harper bill
6/21/04	Review Brown revisions.	0.3	\$117.00	
6/21/04	Provide comments to Brown on additional revision.	0.2	\$78.00	
6/21/04	Continuing preparation of GAO time.	0.3	\$117.00	
Total		455.6	\$170,123.00	

REVIEW OF REMPEL SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
6/2/00	Meet and Confer /w DOI and DOI counsel before Special Master re various motions. Includes discussion w/ Dennis Gingold, Mark Brown between meetings and preparation and review of the existing status of discovery. During the course of this meeting Assistant Secretary Don Hammond confirmed that the settlement of accounts process did not constitute an accounting of the individual Indian trust accounts.	6.5	\$1,462.50	Outside of Scope
9/22/00	CC w/ Rick Fasold re : Defs' Third Motion for Summary Judgment (GAO settlement of accounts) and available material available to refute; compile information for opposition.	0.3	\$67.50	
9/22/00	Discussion w/ Dennis Gingold re DOT and GAO settlement of accounts and defendants' 3rd Motion for Summary Judgment.	0.6	\$135.00	Adjusted to \$90/hour
9/23/00	Review Defs' Motion for MSJ and exhibits re: GAO settlement of accounts.	1.7	\$382.50	Previously billed
9/25/00	Review Defs' Motion for MSJ and exhibits re: GAO settlement of accounts; begin drafting and preparing response.	5.5	\$1,237.50	Previously billed
9/26/00	Review Defs' Motion for MSJ and exhibits re: GAO settlement of accounts; begin drafting and preparing response.	9.5	\$2,137.50	Previously billed
9/27/00	Review Mildred Cleghorn documentation for settled accounts as it relates to Defs' 3rd MSJ (settlement of accounts process).	4.2	\$945.00	Previously billed
9/28/00	CC w/ Rick Fasold re : BIA documentation reviewed. Conference call in context of Defs' 3rd MSJ and availability of information to refute defendants' contention that the GAO settled the IIM accounts.	0.1	\$22.50	Previously billed
9/28/00	Review Defs' Motion for MSJ and exhibits re: GAO settlement of accounts; begin drafting and preparing response.	7.2	\$1,620.00	Previously billed
9/29/00	Draft, edit response to Defendants' 3rd MSJ (re. settlement of accounts process).	1.9	\$427.50	Previously billed
9/29/00	Draft preliminary statement of facts for opposition to Defs' MSJ (re. settlement of accounts process).	3.5	\$787.50	Previously billed
10/5/00	CC with Lorna Babby re: production of policy and procedure boxes. This conference call was initiated for the purpose of ascertaining whether there was an information contained in prior discovery (policy and procedures boxes) that might assist in drafting the opposition to Defs' 3rd MSJ (settlement of accounts process).	0.3	\$67.50	

REVIEW OF REMPEL SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
10/5/00	Draft statement of facts for Response to Defs' MSJ III (re. settlement of accounts process). Includes reviewing Defs' documentation as well as plaintiffs' pertinent trial 1 exhibits and testimony for purposes of drafting the opposition.	1.8	\$405.00	Previously billed
10/6/00	Discuss w/ DG re: BIA regulations and Defs' 3rd MSJ (re. settlement of accounts process). Includes discussion of drafting opposition and research on historical regulations at DOI/DOT/GAO.	0.2	\$45.00	Adjusted to \$90/hour
10/6/00	Draft statement of facts for Response to Defs. MSJ III (re. settlement of accounts process). Includes reviewing Defs' documentation as well as plaintiffs' pertinent trial 1 exhibits and testimony for purposes of drafting the opposition.	7.4	\$1,665.00	Previously billed
10/25/00	Draft statement of facts for Response to Defs. MSJ III (re. settlement of accounts process). Includes reviewing Defs' documentation (exhibits) and drafting response in light of uncontested facts.	2.5	\$562.50	Previously billed
10/26/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process).	8.5	\$1,912.50	Previously billed
10/27/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process).	3.3	\$742.50	Previously billed
10/28/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process).	3.0	\$675.00	Previously billed
10/28/00	Discussion w/ Dennis Gingold re: Defs' MSJ III and edits to draft.	1.2	\$270.00	Previously billed
10/29/00	CC with Dennis Gingold re: Defs' MSJ III and edits.	0.2	\$45.00	Previously billed
10/30/00	CC w/ Dennis Gingold, Mark Brown, Keith Harper re: Response to Defs' MSJ III and tasks.	1.0	\$225.00	Previously billed
10/30/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process). Begin drafting Rempel affidavit in support of response.	7.0	\$1,575.00	Previously billed
11/1/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process). Includes drafting Rempel affidavit in support of response.	9.5	\$2,137.50	Previously billed
11/2/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process). Includes drafting Rempel affidavit in support of response.	13.0	\$2,925.00	Previously billed
11/2/00	CC w/ DG, MB, KH re Rempel GAO affidavit.	0.2	\$45.00	Inconsistent with Brown & Harper bills

REVIEW OF REMPEL SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
11/3/00	Draft Response and statement of facts to Defs' MSJ III (settlement of accounts process). Includes drafting Rempel affidavit in support of response. File and serve response.	11.5	\$2,587.50	Previously billed
12/15/01	Review material, including facsimiles from the Department of Justice and discovery material and prepare for contempt trial.	4.0	\$900.00	Outside of Scope
12/16/01	Review material, including facsimiles from the Department of Justice and discovery material and prepare for contempt trial.	2.5	\$562.50	Outside of Scope
2/4/02	Review Defs' Motion to Withdrawal Motions for Summary Judgment. Edit, draft Opposition to Defs' Motion to Withdraw MSJ.	2.8	\$630.00	Pltfs did not prevail on Opposition to Motion to Withdraw
2/10/02	Edit, draft Opposition to Defs' Motion to Withdrawal MSJ. Includes review of trial testimony and exhibits attached to original MSJ.	5.9	\$1,327.50	Pltfs did not prevail on Opposition to Motion to Withdraw
2/11/02	Edit, draft Opposition to Defs' Motion to Withdrawal MSJ.	5.5	\$1,237.50	Pltfs did not prevail on Opposition to Motion to Withdraw
2/12/02	Edit, draft Opposition to Defs' Motion to Withdrawal MSJ.	9.5	\$2,137.50	Pltfs did not prevail on Opposition to Motion to Withdraw
2/14/02	CC w/ Elouise Cobell, Dennis Gingold re Defs' 3rd MSJ and motion to withdrawal.	0.4	\$90.00	Pltfs did not prevail on Opposition to Motion to Withdraw
2/14/02	Prepare opposition to motion to withdrawal MSJ's and cross-motions for summary judgment and sanctions for seeking to mislead the Court.	8.4	\$1,890.00	Pltfs did not prevail on Opposition to Motion to Withdraw
2/15/02	CC w/ Elouise Cobell, Dennis Gingold re Defs' 3rd MSJ and motion to withdrawal.	0.5	\$112.50	Pltfs did not prevail on Opposition to Motion to Withdraw

REVIEW OF REMPEL SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
2/15/02	Prepare opposition to motion to withdrawal MSJ's and cross-motions for summary judgment and sanctions for seeking to mislead the Court. File and service opposition.	6.8	\$1,530.00	Pltfs did not prevail on Opposition to Motion to Withdraw
3/5/02	Review defendants' opposition to plaintiffs MSJ (incl. settlement of accounts) and prepare to draft reply.	5.0	\$1,125.00	Adjusted to \$95/hour
3/5/02	CC w/ Elouise Cobell re Defendants' 3rd MSJ and subsequent withdrawal.	0.3	\$67.50	Pltfs did not prevail on Opposition to Motion to Withdraw
3/6/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	7.2	\$1,620.00	Adjusted to \$95/hour
3/7/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	8.0	\$1,800.00	Adjusted to \$95/hour
3/8/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	6.5	\$1,462.50	Adjusted to \$95/hour
3/9/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	2.5	\$562.50	Adjusted to \$95/hour
3/10/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	1.5	\$337.50	Adjusted to \$95/hour
3/11/02	CC with Elouise Cobell, Dennis Gingold re Defs' 3rd MSJ and drafting of reply in support of Plaintiffs' MSJ re settlement of accounts.	1.2	\$270.00	Adjusted to \$95/hour
3/11/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	1.5	\$337.50	Adjusted to \$95/hour
3/11/02	Discuss w/ Dennis Gingold re Defendants' 3rd MSJ and drafting of reply in support of Plts' MSJ re settlement of accounts.	0.8	\$180.00	Adjusted to \$95/hour
3/12/02	Discuss w/ Dennis Gingold re Defendants' 3rd MSJ and drafting of reply in support of Plts' MSJ re settlement of accounts.	0.6	\$135.00	Adjusted to \$95/hour
3/12/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts).	6.0	\$1,350.00	Adjusted to \$95/hour
3/13/02	CC w/ Elouise Cobell, Dennis Gingold re Defs' 3rd MSJ and drafting of reply in support of Plaintiffs' MSJ re settlement of accounts.	0.4	\$90.00	Adjusted to \$95/hour

REVIEW OF REMPEL SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
3/13/02	Draft and edit reply to defendants' opposition to plaintiffs' MSJ (incl. settlement of accounts). File and serve reply.	11.2	\$2,520.00	Excessive; Time; Gingold bills 13.2 hrs. for "finalizing revisions and refinement" of reply draft
5/6/02	Notice of Supplemental Authority - Draft, prepare, file and serve notice regarding GAO letter from GAO General Counsel to Bert Edwards, Director of OHTA re settlement of accounts process.	2.6	\$585.00	Previously Billed
5/9/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	4.5	\$1,012.50	Outside of Scope
5/14/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	3.8	\$855.00	Outside of Scope
5/14/02	Discuss w/ Dennis Gingold re motion to amend GAO Motion for Summary Judgment.	0.1	\$22.50	Outside of Scope
5/15/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	4.8	\$1,080.00	Outside of Scope
5/30/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	1.5	\$337.50	Outside of Scope

REVIEW OF REMPEL SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
6/3/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	0.7	\$157.50	Outside of Scope
6/3/02	Discuss w/ Dennis Gingold re motion to amend and Defs' 3rd MSJ (re settlement of accounts process).	0.5	\$112.50	Outside of Scope
6/4/02	Draft and edit Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards .	6.5	\$1,462.50	Outside of Scope
6/6/02	Discuss w/ Dennis Gingold re GAO motion to amend and sanctions.	0.7	\$157.50	Outside of Scope
6/6/02	CC w/ investigator re service of motion to amend for individuals personally identified in that motion.	0.2	\$45.00	Outside of Scope
6/7/02	CC w/ Mark Brown, Keith Harper, Dennis Gingold re appealability of contempt in the context of GAO sanctions memorandum.	1.1	\$247.50	Outside of Scope
6/22/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	4.5	\$1,012.50	Outside of Scope
6/23/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	5.2	\$1,170.00	Outside of Scope
6/24/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	2.1	\$472.50	Outside of Scope

REVIEW OF REMPEL SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
6/24/02	Meet w/ Elouise Cobell re Defs' 3rd MSJ and reply in support of motion to amend.	1.2	\$270.00	Outside of Scope
6/25/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	5.3	\$1,192.50	Outside of Scope
6/25/02	Work with investigator to locate individuals identified in plaintiffs reply in support of motion to amend.	1.5	\$337.50	Outside of Scope
6/26/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	6.4	\$1,440.00	Outside of Scope
6/27/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	5.6	\$1,260.00	Outside of Scope
6/28/02	Draft and edit Reply in support of Plaintiffs' Consolidated Motion for Leave to Amend and Motion to Amend Plaintiffs' February 15, 2002 Summary Judgment Contempt Motion and a Contempt Finding Pursuant to F.R.C.P. 56(g) in Accordance with Newly Discovered Evidence: the April 19, 2002 Letter of GAO General Counsel Anthony Gamboa to OHTA Director Bert Edwards.	1.9	\$427.50	Outside of Scope
4/8/03	Draft and edit Opposition to defendants' motion to reconsider the Court's GAO sanctions memorandum opinion awarding plaintiffs' sanctions for the deliberate filing of a false and misleading affidavit (Sapienza).	8.5	\$1,912.50	Outside of Scope
5/26/04	Review GAO Order, Consider order in context delay and year old motion for reconsideration. Review original 3/11/03 sanctions order.	1.5	\$337.50	Adjusted to \$105/hr.
5/26/04	Review time sheets for GAO-related material. Begin process of compiling time sheets.	1.5	\$337.50	Adjusted to \$105/hr.
6/4/04	Compile GAO Sanctions time. Includes reviewing time sheets and determining whether such time should be included in application.	5.1	\$1,147.50	Adjusted to \$105/hr.

REVIEW OF REMPEL SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
6/4/04	Discuss w/ Dennis Gingold regarding GAO fees and application.	0.4	\$90.00	Adjusted to \$105/hr.
6/5/04	Compile GAO Sanctions time. Includes reviewing time sheets and determining whether such time should be included in application.	1.2	\$270.00	Adjusted to \$105/hr.
6/6/04	Compile GAO Sanctions time. Includes reviewing time sheets and determining whether such time should be included in application.	2.5	\$562.50	Adjusted to \$105/hr.
6/6/04	Discuss w/ DG re GAO memorandum opinion and compiling time for application. Includes discussion of affidavits to be included.	0.3	\$67.50	Adjusted to \$105/hr.
6/7/04	Compile GAO Sanctions time. Includes reviewing time sheets and determining whether such time should be included in application.	6.1	\$1,372.50	Adjusted to \$105/hr.
6/7/04	Draft affidavit in connection with GAO sanctions memorandum \$292.50.	1.3	\$292.50	Adjusted to \$105/hr.
6/8/04	Compile GAO Sanctions time. Includes reviewing time sheets and determining whether such time should be included in application.	1.5	\$337.50	Adjusted to \$105/hr.
6/9/04	Discuss GAO Sanctions and compilation of hours with Dennis Gingold.	1.2	\$270.00	Adjusted to \$105/hr.
6/10/04	Discuss GAO Sanctions and compilation of hours with Dennis Gingold.	0.4	\$90.00	Adjusted to \$105/hr.
6/10/04	Discuss GAO Sanctions and compilation of hours with Dennis Gingold.	3.1	\$697.50	Adjusted to \$105/hr.
6/11/04	Draft affidavit in support of GAO application.	2.1	\$472.50	Adjusted to \$105/hr.
6/11/04	Discuss with Dennis Gingold re GAO fee and expense application.	0.4	\$90.00	Adjusted to \$105/hr.
6/14/04	Compile time records in support of GAO fee and expense application; includes review of draft cover prepared by Mark Brown.	4.3	\$967.50	Adjusted to \$105/hr.
6/15/04	Review Dennis Gingold hours, convert electronic file for editing, correct conversion errors.	2.1	\$472.50	Adjusted to \$105/hr.
6/15/04	Review Dennis Gingold affidavit.	0.5	\$112.50	Adjusted to \$105/hr.
6/15/04	Review and edit Rempel affidavit.	0.7	\$157.50	Adjusted to \$105/hr.

REVIEW OF REMPEL SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
6/15/04	Discuss GAO with Dennis Gingold.	1.1	\$247.50	Adjusted to \$105/hr.
6/16/04	Compile time records in support of GAO fee and expense application; includes review of draft cover prepared by Mark Brown.	1.8	\$405.00	Previously Billed
6/16/04	Discuss w/ Dennis Gingold re GAO application.	0.5	\$112.50	Adjusted to \$105/hr.
6/16/04	Review, edit Gingold Time and expense application.	2.2	\$495.00	Adjusted to \$105/hr.
6/17/04	CC w/ Keith Harper, Dennis Gingold (Mark Brown some) re GAO application.	2.0	\$450.00	Inconsistnet with Harper bill
6/17/04	Edit, Dennis Gingold GAO time.	1.6	\$360.00	Adjusted to \$105/hr.
6/17/04	Edit, review Rempel time and application.	0.5	\$112.50	Adjusted to \$105/hr.
6/17/04	Review Mark Brown time and expense.	2.4	\$540.00	Adjusted to \$105/hr.
6/17/04	Discuss w/ Dennis Gingold re GAO time.	0.8	\$180.00	Adjusted to \$105/hr.
6/18/04	CC w/ Keith Harper, Dennis Gingold re GAO application and memorandum.	0.2	\$45.00	Adjusted to \$105/hr.
6/18/04	Review and edit Gingold Time and expense for GAO application.	0.3	\$67.50	Adjusted to \$105/hr.
6/18/04	Update Rempel Affidavit and supporting GAO schedule.	1.1	\$247.50	Adjusted to \$105/hr.
6/19/04	Discuss GAO application with Dennis Gingold.	0.4	\$90.00	Adjusted to \$105/hr.
6/21/04	Review Brown GAO time and affidavit.	0.9	\$202.50	Adjusted to \$105/hr.
6/21/04	Finalize edits and serve GAO application.	3.2	\$720.00	Adjusted to \$105/hr.
Total		335	\$75,375.00	

REVIEW OF HARPER SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
9/21/00	Review cases cited in Defs' motion for summary judgement on settle of accounts by GAO Pre-1951	2.0	\$410.00	
9/21/00	Conference with DG re: Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	.60	\$123.00	Inconsistent with Gingold bill
9/21/00	Review and study Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-195; Review cases cited and attachments	5.0	\$1,025.00	
9/26/00	Research case law for Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951; Review cases cited and attachments	4.0	\$820.00	
9/27/00	Research cases discussed Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	3.4	\$697.00	
9/27/00	Telephone call to Spinner Re: Motion for Enlargement of Time to Respond to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951; meet and confer; Discuss same with DG	.50	\$102.50	
9/27/00	Research case law for Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951; Review cases cited and attachments	2.2	\$451.00	
9/28/00	Draft motion for Extension of Time for Opposition to Defendants' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951; circulate; edit; file.	1.8	\$369.00	
9/29/00	Review cases re: Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	1.5	\$307.50	
10/3/00	Conference with Lorna re: Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	.40	\$82.00	
10/3/00	Review Westlaw search for Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	2.50	\$512.50	
10/4/00	Research for Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	3.50	\$717.50	
10/4/00	Telephone call to DG (MSG - 2 calls) to discuss Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	.20	\$41.00	
10/5/00	Research for Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	3.0	\$615.00	

REVIEW OF HARPER SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
10/5/00	Conference with EL re: Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	.40	\$82.00	
10/5/00	Conference with Lorna on Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	.20	\$41.00	
10/6/00	Research case law for Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	4.0	\$820.00	
10/7/00	Telephone call from and to DG (3 calls) re: Opposition to Defendants' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	.90	\$184.50	
10/9/00	Telephone call from and to DG (2 calls) re: settlement possibilities; discussions with Interior, SMJ III; extension of time;	.40	\$82.00	Inconsistent with Gingold's bill
10/9/00	Draft motion for enlargement of time to respond to SMJ III	1.8	\$339.00	
10/11/00	Prepare and file motion for enlargement until Nov 3 for Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	1.5	\$307.50	
10/11/00	Draft revise motion for enlargement to SMJ III to Nov 3	0.5	\$102.50	
10/25/00	Draft Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	4.0	\$820.00	
10/26/00	Draft Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	7.0	\$1,435.00	
10/27/00	Telephone call to DG and or GR (4 calls) to discuss Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	1.0	\$205.00	Inconsistent with Gingold's & Rempel's bill
10/27/00	Draft Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	9.0	\$1,845.00	
10/29/00	Draft Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	4.2	\$861.00	
10/31/00	Draft Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	9.5	\$1,947.50	
11/1/00	Draft Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951	12.50	\$2,562.50	
11/2/00	Finalize Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951; review brief, comment and edit; discuss with counsel	4.5	\$922.50	

REVIEW OF HARPER SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
11/3/00	Finalize Opposition to Defs' Motion for Summary Judgement on the Settlement of Accounts by GAO Pre-1951; comments to DG and confer with same	3.2	\$656.00	
11/6/00	Review final and files draft response to SMJ III	1.1	\$225.50	
12/10/00	Review government filings including motion for sanctions and reply motion for summary judgement on the settlement of accounts by GAO Pre-1951	2.5	\$512.50	
2/14/02	Review draft brief in opposition to motion to withdraw and cross motion for summary judgement and discuss same with DG	1.5	\$390.00	
3/6/02	Telephone call from DG re: MSJ withdrawal and sanctions request	.40	\$104.00	Inconsistent with Gingold's bill
3/12/02	Review and edit draft MSJ waiver brief and sanctions request reply	2.0	\$520.00	
6/4/02	Review and edit GAO contempt supplemental and amendment	3.5	\$927.50	Outside of scope
1/29/03	Conference call with IIM team re: response to government's Jan 6 plans and need for GAO summary judgement motion	1.1	\$291.50	Outside of scope
1/31/03	Draft and finalize GAO summary judgement motion; edit; review and add additional authorities; finalize order and statement of incontroverted facts	8	\$2,120.00	Outside of scope
3/12/03	Review opinion of court re: GAO "settlement of Accounts" and false affidavit; sanctions granted	1.0	\$265.00	Outside of scope
4/8/03	Draft and edit opposition to motion for reconsideration for GAO sanctions award	2.5	\$662.50	Outside of scope
4/12/03	Draft Plaintiffs reply in further support of MSJ on GAO failure to provide accounting	4.5	\$1,192.50	Outside of scope
4/13/03	Draft and edit and discuss with co-counsel-plaintiffs reply in support of MSJ on GAO failure to settle accounts	5.0	\$1,325.00	Outside of scope
4/14/03	Finalize reply in support of MSJ re: GAO failure to settle accounts	3.3	\$874.00	Outside of scope
6/2/04	Review opinion denying motion for reconsideration for GAO/Sapienza bad faith affidavit fees and expenses	.40	\$134.00	
6/7/04	Review Time records for GAO/Sapienza statement of fees and expenses	2.5	\$837.50	
6/7/04	Confer with DG re: GAO expenses and cover sheet for GAO/Sapienza bad faith affidavit	0.5	\$167.50	

REVIEW OF HARPER SCHEDULE: GAO SETTLEMENT OF ACCOUNTS SANCTIONS				
Date	Matter	Time	Claimed Amount	Objection
6/16/04	Review time records to determine what claims court's May 11 order granting fees for GAO MSJ and Sapienza bad faith affidavit	2.1	\$703.50	
6/17/04	Review edit cover memorandum to support fee application in compliance with courts May 11 order granting fees for GAO MSJ and Sapienza bad faith affidavit	3	\$1,005.00	
6/17/04	Conference call to DG and GR to discuss scope of courts May 11th order granting fees for GAO MSJ and Sapienza bad faith affidavit and review time jointly to ensure accuracy	2.0	\$670.00	Inconsistent with Gingold's & Rempel's bill
6/18/04	Draft affidavit in support of fee application in compliance with court's May 11 order granting fees for GAO MSJ and Sapienza bad faith affidavit; finalize time record claims; review prior decisions to ensure conformity with prior judicial guidance	4.7	\$1,574.50	
Total		146.8	\$33,988.00	