IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

INTERIOR DEFENDANTS' MOTION TO ADJUST THE COURT MONITOR'S SEPTEMBER 2002 COMPENSATION AND THE SPECIAL MASTER-MONITOR'S SEPTEMBER AND OCTOBER 2002 COMPENSATION

The Secretary of the Interior and the Assistant Secretary - Indian Affairs ("Interior Defendants") respectfully object to parts of the compensation requests submitted by Joseph S. Kieffer, III in his capacity as Court Monitor and, subsequently, Special Master-Monitor for the months of September and October 2002, and to the Court's Orders of October 2, 2002 (entered October 3) and November 1, 2002, directing the Interior Defendants to pay the same. The Interior Defendants have paid the ordered amounts and, therefore, request that a reduction be made in Mr. Kieffer's future compensation to the extent necessary to adjust for the objected to compensation he received as the result of his September and October invoices.

The Interior Defendants were not afforded an opportunity to review or comment on the Court Monitor's or Special Master-Monitor's compensation requests before the Court ordered that they be paid. As the Court expressly notes in its Orders directing payment, adjustments to Mr. Kieffer's compensation can be made to future compensation requests.

Adjustment to the compensation is necessary for three reasons: (1) the requests for September and October 2002 contain plain errors that resulted in overpayments to Mr. Kieffer; (2) the invoices are not sufficiently detailed to permit the Interior Defendants to determine the reasonableness or propriety of all the charges; and (3) some charges on the invoices are not compensable because they relate to activities that are outside the proper scope of the Court Monitor's or Special Master-Monitor's duties.

The Interior Defendants, therefore, respectfully move this Court for an order granting an adjustment of Mr. Kieffer's future compensation that is equal to the dollar amounts to which the Interior Defendants have objected in connection with Mr. Kieffer's invoices for September and October 2002. Specifically, the Interior Defendants seek an adjustment of $38,625 in compensation relating to the invoice for September and $51,764.82 relating to the invoice for October, for a total adjustment of $90,389.82.

The grounds for this Motion are fully set forth in the supporting Memorandum and Appendix that accompany this Motion. Counsel for Interior Defendants conferred with counsel for Plaintiffs about this motion, and counsel for Plaintiffs stated that Plaintiffs oppose this motion.

Dated: November 27, 2002

Respectfully submitted,

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

ORDER

Upon consideration of the Interior Defendants' Motion To Adjust The Court Monitor's September 2002 Compensation And The Special Master-Monitor's September And October 2002 Compensation, Plaintiffs' response thereto, and the entire record in this case, it is hereby ORDERED that Interior Defendants' motion should be and hereby is GRANTED; and it is further

ORDERED that the compensation payable to Joseph S. Kieffer, III as a Special Master-Monitor in this case shall be reduced in the amount of $ 90,389.92 to adjust for overpayments made by the Interior Defendants in satisfying invoices submitted by Mr. Kieffer for the months of September and October 2002. The Interior Defendants may credit this sum against any current unpaid or future invoices from the Special Master-Monitor until the said adjustment is complete.

SO ORDERED this _____ day of _____, 2002.

_____
ROYCE C. LAMBERTH
United States District Judge

cc:

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Plaintiffs,	)	No. 1:96CV01285 (Judge Lamberth)
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MEMORANDUM IN SUPPORT OF INTERIOR DEFENDANTS' MOTION TO ADJUST THE COURT MONITOR'S SEPTEMBER 2002 COMPENSATION AND THE SPECIAL MASTER-MONITOR'S SEPTEMBER & OCTOBER 2002 COMPENSATION

The Secretary of the Interior and the Assistant Secretary - Indian Affairs ("Interior Defendants") have moved this Court for an adjustment of the compensation paid to Joseph S. Kieffer, III in connection with his services rendered as Court Monitor and, subsequently, as Special Master-Monitor during the months of September and October 2002. Mr. Kieffer has submitted two letters to the Court as invoices, one for the full month of September 2002 (erroneously dated September 1, 2002) and one for the month of October, dated October 31, 2002. In separate orders, the Court directed the Interior Defendants to satisfy both invoices. See Orders of October 2, 2002 (entered Oct. 3) and November 1, 2002. Both Orders indicate that any adjustment that needs to be made to the ordered compensation will be applied against Mr. Kieffer's future compensation. The Interior Defendants, by their motion, seek relief pursuant to the "adjustment" provision in the Court's orders.

The Interior Defendants are mindful that this Court, in its Memorandum and Order, dated September 30, 2002 ("Mem. & Order"), considered and denied the motions for adjustment

that they had previously filed concerning the Court Monitor's invoices for May, June, July and August 2002. See generally Mem. & Order at 1, n.1. The Interior Defendants respectfully contend, however, that they are still entitled, if not obligated, to object to and challenge any new charges or costs taxed against them when a question exists about their reasonableness or propriety, for these expenses are ultimately borne by the public.

The fact that the Court has conferred a new title on Mr. Kieffer pursuant to Fed. R. Civ. P. 53, along with certain other duties concerning discovery does not alter the analysis. There is no reason to render his bills immune from scrutiny, objection, or appropriate adjustment, regardless of his title. Moreover, the instant motion is not to be interpreted as signaling an assent to or approval by the Interior Defendants of Mr. Kieffer's continued (if restyled) role. This motion is limited solely to determining the proper amount of compensation to be paid to a judicial officer, assuming arguendo that appointment itself were otherwise valid.[1]

Only certain charges are at issue on the two most recent invoices. See generally Letter Invoice from Joseph S. Kieffer, III to Hon. Royce C. Lamberth, dated September 1, 2002 [sic][2] (copy attached to the Court's Order of October 2, 2002 (entered Oct. 3, 2002)) [the "September Invoice"]; Letter Invoice from Joseph S. Kieffer, III to Hon. Royce C. Lamberth, dated October 31, 2002 (copy attached to the Court's Order of November 1, 2002) [the "October Invoice"]. The charges are objectionable for three reasons: (1) errors in computation exist; (2) the invoices

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[1]The Interior Defendants reserve the right to further object to Mr. Kieffer's current appointment as they deem appropriate.

[2]This is a typographical error that should probably read October 1, 2002, for this submission covers work done through September 30, 2002.

lack specificity, which prevents the work undertaken and time devoted to the tasks from being fairly examined; and (3) some work involves ex parte contacts, which are not proper. The Interior Defendants have moved for an adjustment of $38,625 in compensation relating to the September Invoice and $51,764.82 relating to the October Invoice, for a total adjustment of $90,389.82.

ARGUMENT

For the record, the Interior Defendants incorporate by reference the points and authorities set forth in their four previous motions and supporting memoranda challenging previous compensation requests submitted by Mr. Kieffer. See Interior Defendants' Motion for Reconsideration of the May 31, 2002 Order to Pay the Court Monitor the Sum of $54,307.34 (filed June 14, 2002); Interior Defendants' Motion for Adjustment of the June 2002 Compensation Request of the Court Monitor (filed July 17, 2002); Interior Defendants' Motion for Adjustment of the July 2002 Compensation Request of the Court Monitor (filed Aug. 6, 2002); and Interior Defendants' Motion for Adjustment of the Court Monitors' August 2002 Compensation Request (filed Sept. 24, 2002).

The Interior Defendants further contend specifically as follows with respect to the September Invoice and October Invoice. The tables in Appendix A, annexed hereto, indicate the line by line objections the Interior Defendants assert with respect to the time billed on each invoice. The tables reproduce verbatim the time entries and task descriptions submitted on the two invoices. See generally Appendix A, Table A-1 (relating to the September Invoice) and Table A-2 (the October Invoice). These tables also contain some additional columns. The first

column indicates whether the Interior Defendants object to the particular entry. If any objection exists, the column is marked with an "x." If the column is blank, there is no objection to the entry. In addition, the third column specifically notes each day's entries, for convenience of reference only, by assigning it a unique item number for that day.

1. Computational Errors Resulted In Overpayment To Mr. Kieffer

On both invoices at issue, patent errors exist in computation which have caused the Interior Defendants to be overcharged and Mr. Kieffer to be overpaid. On the September Invoice, a computational error resulted in an overpayment equal to one quarter hour of billable time. On September 2, the invoice logs 1.25 hours of time for "[r]eview documents and memoranda and prepare correspondence," but bills $375.00 for this work. See Table A-1 (Sept. 2, item 4); September Invoice at 2. One and a quarter hours of time, when billed at a rate of $250 per hour, should result in a charge of $312.50. Thus, the bill amount of $375 overstates the proper amount by $62.50.

Likewise, the October Invoice bills $1,250 for just one hour of work reportedly devoted to "[r]edraft[ing] correspondence." See Table A-2 (Oct. 19, item 1); October Invoice at 5. Since the stated billing rate is $250 per hour, a one hour time charge should be $250, not $1250. The September Invoice, therefore, overcharges the Interior Defendants by $1,000.

Although these overcharges seem to result from computational or, perhaps, typographical errors, they have clearly led to an overcharge on the invoices and to a corresponding overpayment by the Interior Defendants to Mr. Kieffer. The last two entries on Table A-1 and Table A-2 illustrate the resulting discrepancy. The Interior Defendants are entitled to adjustment based upon these overcharges.

2. Many Time Entries On The Recent Invoices Are Too Vague And Generic To Ascertain Their Reasonableness Or Propriety

Most of the time entries on the invoices fail to identify the specific nature of or reason for the task performed. This obscurity makes it impossible for the Interior Defendants to make an independent, reasoned assessment of whether the time billed was reasonable for the task or whether the work undertaken was appropriate in the first instance. Had the invoices been even slightly more detailed (e.g., identifying the precise pleading reviewed or the subject of the legal research), it might have been possible to determine whether those charges were, in fact, fair and reasonable.[3] Given the failure to provide this basic information, the Interior Defendants seek an adjustment in pay that deducts for such vague time entries.

When the Interior Defendants objected to the lack of detail concerning previous invoices, the Court expressed reassurance that it had conducted "an independent determination of the Court Monitor's compensation requests" for those previous invoices and concluded that they were proper. Mem. & Order at 5. No record exists, however, to confirm how such a determination was made in the past or whether any such determination was (or could be) made by the Court before ordering the Interior Defendants to pay the September and October invoices. Compare Order of November 1, 2002 with October Invoice at 1 (date stamp indicating that the

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[3]In its previous Memorandum and Order, the Court expresses concern that more detail in the invoices might reveal too much about a specific individual or conversation and thus risk retaliation or violate confidences with a source. See Mem. & Order at 4-5. There is no apparent reason, however, that a generic entry, such as "Draft Memorandum," cannot be supplemented to identify the type of work involved, such as "Draft five-page Memorandum on protecting trust assets." In the foregoing example, page length permits an assessment of whether, say, a 3 hour time charge is reasonable or excessive; disclosure of the subject likewise confirms its relevance.

invoice was received in Chambers the same day the Order to pay was entered). The invoices themselves are not sufficiently precise to enable a thoughtful review. It is fundamentally unfair to deny the Interior Defendants access to information they need in order to make an informed, independent assessment about the propriety of each item of expense that they are expected to bear.

The Special Master-Monitor claims a sizeable sum for each month of work. The September Invoice logs over 208 hours, or more than 50 hours each week for the month. Similarly, the October Invoice claims 242.75 hours, or more than 60 hours per week for the month. Yet, the time entries barely identify what kind of tasks were done. See, e.g., October Invoice, at 2-4 ($625 for "[l]egal research" on Oct. 2; $1250 to "[d]raft report" on Oct. 6; $750 to "[p]repare correspondence" on Oct. 13); September Invoice, at 5-6 ($875 to "[d]raft memoranda" on Sept. 23); $1812.50 to "[r]eview pleadings and documents and draft report" on Sept. 25) . This scant reporting is wholly insufficient to support a claim for two month's compensation that totals more than $100,000.

Consequently, the Interior Defendants request that the compensation paid to Mr. Kieffer be reduced to omit payment for work not adequately specified on the submitted invoices.[4] See Tables A-1 and A-2.

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[4]In the alternative, the Interior Defendants would request that the Court order Mr. Kieffer to provide more information on revised invoices and allow the Interior Defendants further review and comment.

3. Compensation Is Also Improper Because The Invoices Seek Payment For Unauthorized Ex Parte And Extra-Record Contacts

The third problem concerns ex parte and extra record communications. Although the Court has viewed the matter differently and opined that the Interior Defendants assented to ex parte contacts by the Court Monitor, see Mem. & Order at 4, the Interior Defendants respectfully disagree. The Interior Defendants did not consent to such contacts during the more recent period at issue, for their acceptance of the Court Monitor's re-appointment in April 2002 was subject to several conditions, including a limitation on the Court Monitor's reports to steps taken to rectify the breaches of trust declared by the Court or to steps that would delay an accounting, a condition that was rejected by the Court. See Order, dated April 15, 2002, at 2 ("Defendants' position seeking to limit the scope of the Court Monitor's review to specific breaches is rejected.") In any event, the Court subsequently terminated that order of reappointment and then made Mr. Kieffer the Special Master-Monitor pursuant another order entered on September 17, 2002. That Order of September 17 contains no authorization for ex parte communications by the Special Master-Monitor.

The September Invoice and October Invoice, however, both contain multiple charges for time spent on ex parte contacts. Such contacts are not compensable activities because, although they formed part of the authority in the initial order appointing Mr. Kieffer in 2001, that authority was not properly continued past the expiration of that original order, nor does it exist now. Mr. Kieffer has continued to bill the Interior Defendants for the cost of off-the-record discussions with unknown third parties. See, e.g., October Invoice, at 3-8 (time entries for

October 8, 9, 16, 17, 18, 21, 28, 31); September Invoice, at 2-3, 5-7 (time entries for Sept. 3, 5, 6, 10, 23, 27, 30).

Mr. Kieffer also appears to have charged for time he took to prepare for and deliver a speech at an Inter-Tribal Monitoring Association ("ITMA") meeting in October. See, e.g., Invoice at 4&5 (time entries for October 13 & 15). He also billed $835.27 in expenses for his trip to Las Vegas in connection with the speech. Id. at 8-9. On information and belief, Mr. Kieffer gave a talk at that event during which he commented publicly on this case.[5] Such public presentations are outside the scope of duties that could be delegated to the Special Master-Monitor. See United States v. Microsoft Corp., 253 F.3d 34, 113 (D.C. Cir.), cert. denied, 122 S. Ct. 350 (2001); Canon 3 A(6) of the Code of Conduct for United States Judges ("[a] judge should avoid public comment on the merits of a pending or impending action, requiring similar restraint by court personnel subject to the judge's direction and control").

Ex parte contacts also reflect adversely on the appearance of impartiality required of a judicial officer. See Jenkins v. Sterlacci, 849 F.2d 627, 630-31 (D.C. Cir. 1988) (special masters held to same high ethical standards as judges); Canon 3 A(4) of the Code of Conduct for United States Judges (a judge should "neither initiate nor consider ex parte communications on the merits, or procedures affecting the merits, of a pending or impending proceeding"). Since the Special Master-Monitor has no authority to undertake such contacts, he should not be

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[5]The Interior Defendants have asked Mr. Kieffer twice to provide materials concerning his presentation to ITMA. He refused and insisted that the Interior Defendants not inquire about this subject again. The Interior Defendants have subpoenaed ITMA for records and information relating to the event in question.

reimbursed his Las Vegas travel expenses, nor should any time devoted to such activities be compensated.

Substantive off the record discussions with the Court are subject to similar prohibition. Edgar v. K.L., 93 F.3d 256 (7th Cir. 1996)(court-appointed experts and judge violated 28 U.S.C. §455 when judge met privately with the experts), cert. denied, 519 U.S. 1111 (1997); see also United States v. Craven, 239 F.3d 91, 102 (1st Cir. 2001)("most ex parte contacts between a trial judge and another participant in the proceedings risk harm"). Therefore, the Interior Defendants object to paying for any time billed by Mr. Kieffer in connection with extra-record conferences he has had with the Court. See, e.g., September Invoice at 1, 2, 4 and 6-7 (entries for Sept. 1, 3, 17, 18, 24, 30).

Accordingly, the Interior Defendants have respectfully moved the Court for an adjustment to Mr. Kieffer's compensation that offsets for prior charges improperly included on the September Invoice or October Invoice and that are due to any of the following (1) computational errors, (2) insufficiently detailed time entries, or (3) ex parte contacts with third parties or the Court.

CONCLUSION

For the foregoing reasons, the Court should grant the Interior Defendants' Motion to Adjust The Court Monitor's September 2002 Compensation And The Special Master-Monitor's September And October 2002 Compensation.

Dated: November 27, 2002

Respectfully submitted,

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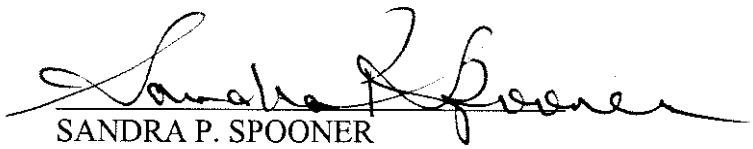
Director



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APPENDIX A

TABLE A-1: Invoice for September 2002

Obj.	Day	Item	Description	Time	Charge
x	9/1	1	Review documents, pleadings and depositions	2.25	$562.50
x		2	Review court reports	1.00	250.00
x		3	Review and revise memoranda	1.50	375.00
x		4	Prepare for and attend meeting with Court	3.50	875.00
x	9/2	1	Review documents, pleadings and court memoranda and orders	4.00	1000.00
		2	Review of Anti-Retaliation and Reprisal Orders and pleadings	1.50	375.00
		3	Review correspondence and court orders re: Court Monitor referral and Rule 54 discovery	1.00	250.00
x		4	Review documents and memoranda and prepare correspondence	1.25	375.00
x	9/3	1	Telcons with DOI officials and third parties	1.50	375.00
		2	Review pleadings re: contempt trial	1.00	250.00
x		3	Review documents and draft memorandum	1.50	375.00
x		4	Prepare for and meet with Court	0.50	125.00
	9/4	1	Review pleadings re: contempt trial	2.00	500.00
		2	Review documents re: NIAD [sic] motion to intervene	1.50	375.00
		3	Review documents, pleadings and correspondence re: discovery	1.50	375.00
	9/5	1	Prepare for attendance at Tribal Task Force meeting	1.25	312.50
x		2	Prepare for and conduct interview of third party	1.50	375.00
		3	Prepare notes	0.50	125.00
x	9/6	1	Prepare for and conduct interview of third party	1.00	250.00
		2	Review documents re: Tribal Task Force Meeting and DOI/ Tribal draft legislation	1.50	375.00
		3	Attend Tribal Task Force meeting	3.00	750.00
x		4	Review pleadings	1.00	250.00
x		5	Draft memorandum	1.50	375.00
x	9/7	1	Review pleadings	1.00	250.00

TABLE A-1: Invoice for September 2002

x		2	Redraft memorandum	0.75	187.50
		3	Review discovery requests	1.50	375.00
x		4	Draft talking paper for court	1.00	250.00
	9/8	1	Review documents and correspondence re: discovery	2.00	500.00
x		2	Review and revise memorandum	0.50	125.00
x		3	Draft correspondence re: pleadings	0.75	187.50
x	9/9	1	Review pleadings and correspondence	0.75	187.50
x		2	Redraft talking paper	1.00	250.00
		3	Review EDS status reports and "as is" plan	1.50	375.00
		4	Review Tribal Task Force (TTF) meeting summary and related documents	1.50	375.00
x	9/10	1	Court-ordered research	1.25	312.50
		2	Prepare for and attend TTF meeting	1.50	375.00
		3	Review documents re: TTF	1.50	375.00
x		4	Telcons with third parties	0.75	187.50
x		5	Draft memorandum	1.00	250.00
x		6	Review pleadings	1.00	250.00
	9/11	1	Review documents re: TTF	2.00	500.00
x		2	Redraft memorandum	2.50	625.00
x		3	Review pleadings	1.00	250.00
x	9/12	1	Review and revise memorandum	0.75	187.50
		2	Review documents re: TTF	1.75	437.50
x		3	Review of correspondence and pleadings	1.50	375.00
x	9/13	1	Review correspondence and prepare responses	1.50	375.00
x		2	Review documents and pleadings	1.25	312.50
x		3	Draft report outline	1.50	375.00
x	9/14	1	Review correspondence and redraft memorandum	1.75	437.50

TABLE A-1: Invoice for September 2002

x		2	Review documents	1.50	375.00
x		3	Draft report outline	1.00	250.00
	9/16	1	Review documents, TTF meeting notes, and Congressional testimony re: BITAM	3.50	875.00
x		2	Draft report	2.50	625.00
x	9/17	1	Review documents and correspondence	2.00	500.00
x		2	Draft report	2.50	625.00
x		3	Prepare for and meet with Court	3.00	750.00
x		4	Redraft correspondence	0.5	125.00
x	9/18	1	Review court decisions	0.75	187.50
x		2	Review documents	2.50	625.00
x		3	Prepare for and attend meeting with Court	1.50	375.00
x		4	Review pleadings and correspondence	2.50	625.00
x		5	Draft report	3.50	875.00
x	9/19	1	Review documents	2.75	687.50
x		2	Draft report	3.50	875.00
x		3	Legal research	2.50	625.00
x		4	Review pleadings	1.00	250.00
x	9/20	1	Review motions and opposition	2.50	625.00
x		2	Legal research	1.50	375.00
x		3	Redraft correspondence	0.50	125.00
x	9/22	1	Review pleadings	1.50	375.00
x		2	Legal research	3.50	875.00
x		3	Redraft correspondence	1.25	312.50
x		4	Draft report	1.50	375.00
x		5	Prepare for meetings	0.50	125.00
x	9/23	1	Finalize correspondence	0.50	125.00

TABLE A-1: Invoice for September 2002

x		2	Interview with DOI official	0.75	187.50
x		3	Legal research	2.50	625.00
x		4	Draft report	2.50	625.00
x		5	Draft memoranda	3.50	875.00
x		6	Review pleadings	1.00	250.00
	9/24	1	Attend Senate Indian Affairs Hearing	1.50	375.00
x		2	Review pleadings	2.00	500.00
x		3	Review documents	1.25	312.50
x		4	Legal research	2.50	625.00
x		5	Prepare for and meet with Court	1.25	312.50
		6	Review correspondence and discovery motions	1.50	375.00
x		7	Prepare correspondence	0.75	187.50
x		8	Review pleadings and draft report	1.25	312.50
	9/25	1	Prepare for and attend Tribal Task Force Caucus	7.00	1750.00
x		2	Review pleadings and documents and draft report	7.25	1812.50
	9/26	1	Prepare for and attend Tribal Task Force meeting	7.00	1750.00
x		2	Review pleadings, correspondence and documents	2.00	500.00
x		3	Draft report	3.75	937.50
x		4	Draft correspondence	2.00	500.00
x	9/27	1	Review documents and revise memorandum	1.50	375.00
		2	Prepare Report for filing	0.50	125.00
x		3	Review counsel correspondence and reply	1.50	375.00
x		4	Meet with third parties	1.50	375.00
x		5	Review documents and pleadings	2.00	500.00
x		6	Review motions and correspondence and draft correspondence and report	3.75	937.50
x	9/28	1	Review motions, documents and pleadings	2.50	625.00

TABLE A-1: Invoice for September 2002

x		2	Draft reports	6.25	1562.50
x		3	Redraft correspondence	1.50	375.00
x	9/29	1	Review pleadings and documents	2.00	500.00
x		2	Legal research	1.50	375.00
x		3	Redraft report	1.00	250.00
x		4	Redraft correspondence	0.75	187.50
		5	Prepare for conference with parties	1.50	375.00
	9/30	1	Review pleadings and correspondence re: sealed document	1.50	375.00
x		2	Draft correspondence	0.75	187.50
x		3	Prepare for ITMA meeting	1.00	250.00
		4	Review docket for outstanding motions	0.50	125.00
x		5	Review and draft correspondence	1.25	312.50
x		6	Prepare for and meet with court	1.00	250.00
		7	Prepare for scheduling conference	1.50	375.00
			Kieffer's Total:	*208.50*	*$52125.00*
			CORRECTED TOTAL USING ACTUAL TIME LOGGED:	**208.25**	**$52062.50**
			Amount of Computational Overcharge:		**$62.50**
			Additional Time Overcharges Based on Objectionable Entries:		**$38562.50**
			Objectionable Reimbursed Expenses:		**0**
			TOTAL ADJUSTMENT NEEDED:		**$38625.00**

TABLE A-2: Invoice for October 2002

Obj.	Day	Item	Description	Time	Charge
x	10/1	1	Review correspondence and draft correspondence	2.00	$500.00
x		2	Redraft report	3.75	937.50
x		3	Legal research	1.50	375.00
		4	Prepare for discovery hearing	2.00	500.00
x		5	Review pleadings and court opinions	2.50	625.00
x	10/2	1	Review and revise Report	1.50	375.00
x		2	Draft and revise correspondence	1.75	437.50
x		3	Legal Research	2.50	625.00
x		4	Review correspondence and motions and answer correspondence	3.00	750.00
		5	Review discovery plans, schedules, motions, and court opinions re: discovery conference	3.50	875.00
		6	Prepare for discovery conference	2.00	500.00
x		7	Review court opinions, Special Master orders and opinions and correspondence	2.00	500.00
		8	Review correspondence and pleadings and prepare for discovery conference	1.50	375.00
	10/3	1	Prepare for and attend discovery scheduling hearing	8.25	2062.50
x		2	Review and draft correspondence	0.75	187.50
		3	Review motions, correspondence and Court and Special Master Orders and Opinions re: discovery	1.00	250.00
x		4	Redraft correspondence	0.75	187.50
x		5	Draft Report	1.75	437.50
x	10/4	1	Redraft Report	0.75	187.50
x		2	Redraft correspondence	0.5	125.00
x		3	Draft Report	1.00	250.00
x		4	Review conference notes and outline	2.00	500.00

TABLE A-2: Invoice for October 2002

		5	Draft discovery schedule	1.00	250.00
		6	Review motion and opposition, court and Special Master Orders and opinions re: defendants' discovery	2.50	625.00
	10/5	1	Review correspondence and court opinions re: discovery	2.50	625.00
		2	Draft discovery schedule	1.50	375.00
	10/6	1	Draft discovery schedule Report and order	1.00	250.00
x		2	Review and revise correspondence	0.75	187.50
x		3	Draft report	5.00	1250.00
x		4	Review correspondence and pleadings	1.00	250.00
x		5	Legal research	1.5	375.00
x	10/7	1	Review and revise Report	3.00	750.00
x		2	Review pleadings and court opinions	1.25	312.50
x		3	Review correspondence and draft reply	0.75	187.50
x		4	Draft Report	3.50	875.00
x	10/8	1	Review correspondence and prepare responses	1.50	375.00
x		2	Legal research	1.75	437.50
x		3	Draft Report	2.50	625.00
x		4	Review documents	1.5	375.00
x		5	Prepare for interviews	2.00	500.00
x		6	Telcons with third parties	1.00	250.00
x	10/9	1	Legal research	1.00	250.00
		2	Telcons with plaintiffs' and defendants' counsel	0.75	187.50
x		3	Review documents and notes	2.75	687.50
		4	Review and compare ITMA amicus pleadings	1.00	250.00
x		5	Telcon with third party	0.25	62.50
		6	Review conference transcript	1.50	375.00
x		7	Review correspondence and prepare responses	2.00	500.00

TABLE A-2: Invoice for October 2002

	10/10	1	Review conference transcript and notes	1.50	375.00
x		2	Review correspondence	1.00	250.00
x		3	Legal research	2.00	500.00
x	10/11	1	Review correspondence	1.50	375.00
		2	Review discovery conference transcript	1.50	375.00
x	10/12	1	Review correspondence	1.50	375.00
x	10/13	1	Review correspondence and discovery conference transcript	2.50	625.00
x		2	Prepare correspondence	3.00	750.00
		3	Redraft discovery schedule	0.50	125.00
x		4	Prepare for ITMA conference	1.50	375.00
x	10/14	1	Review correspondence, pleadings and court opinions	3.00	750.00
x		2	Redraft correspondence	2.00	500.00
x		3	Redraft Report	1.75	437.50
x		4	Legal research	2.00	500.00
x	10/15	1	Prepare for and attend ITMA conference	4.00	1000.00
x		2	Review conference documents and prepare notes	1.50	375.00
x		3	Review correspondence	1.50	375.00
x	10/16	1	Review notes and documents	1.50	375.00
x		2	Draft memorandum	1.25	312.50
x		3	Prepare for and attend meeting with third party	2.00	500.00
x		4	Review correspondence and pleadings	1.50	375.00
x	10/17	1	Review correspondence and pleadings	0.75	187.50
x		2	Prepare for and attend third party meeting	2.00	500.00
		3	Prepare for status conference	4.50	1125.00
		4	Review DOI documents	1.50	375.00
x		5	Redraft Report	1.50	375.00

TABLE A-2: Invoice for October 2002

	10/18	1	Prepare for and attend status conference	2.50	625.00
x		2	Review pleadings	1.00	250.00
x		3	Review correspondence	1.00	250.00
x		4	Review and revise Report	2.00	500.00
x		5	Meet with third party	0.75	187.50
x		6	Draft correspondence	1.50	375.00
x	10/19	1	Redraft correspondence	1.00	1250.00
x		2	Review pleadings	0.75	187.50
x	10/20	1	Review correspondence	1.50	375.00
x		2	Draft memorandum	2.00	500.00
x		3	Review pleadings and documents	1.75	437.50
x		4	Legal research	2.00	500.00
x	10/21	1	Redraft memorandum	1.00	250.00
x		2	Review documents	1.50	375.00
x		3	Review pleadings	1.75	437.50
x		4	Telcon with third party	0.75	187.50
x		5	Review document	0.50	125.00
x		6	Legal research	2.00	500.00
x	10/22	1	Legal research	3.00	750.00
x		2	Review documents	2.50	625.00
x		3	Draft outline for Report	1.00	250.00
x	10/23	1	Review pleadings and documents	3.00	750.00
x		2	Legal research	3.50	875.00
x		3	Draft Report	2.25	562.50
x	10/24	1	Legal research	3.75	937.50
x		2	Review document and pleadings	2.00	500.00

TABLE A-2: Invoice for October 2002

x		3	Draft Report	5.50	1375.00
		4	Telcon with plaintiffs' and defendants' counsel re: discovery disputes	0.50	125.00
x		5	Review and prepare correspondence	1.50	375.00
x	10/25	1	Legal research	1.75	437.50
x		2	Redraft Report	2.50	625.00
x		3	Review correspondence	1.25	312.50
x		4	Draft correspondence	1.50	375.00
x	10/26	1	Review pleadings	1.50	375.00
x		2	Legal research	1.25	312.50
x		3	Redraft Report	2.50	625.00
x		4	Review documents	1.75	437.50
x	10/27	1	Review pleadings	1.75	437.50
x		2	Review and revise Report	1.75	437.50
x		3	Review correspondence	1.50	375.00
x	10/28	1	Redraft Report	0.75	187.50
x		2	Review correspondence and documents	2.00	500.00
x		3	Review pleadings	1.50	375.00
x		4	Telcons with third parties	1.00	250.00
x	10/29	1	Review correspondence	0.75	187.50
		2	Telephone conference with plaintiffs; and Defendants [sic] counsel re: discovery issues	0.50	125.00
x		3	Review pleadings	1.50	375.00
x		4	Prepare correspondence	1.00	250.00
x		5	Review Special Master and Court opinions	2.00	500.00
x		6	Legal research	1.50	375.00
x	10/30	1	Review of pleadings, Court and Special Master opinions	1.50	375.00

APPENDIX A

TABLE A-2: Invoice for October 2002

x		2	Legal research	2.00	500.00
x		3	Redraft Report	1.50	375.00
x		4	Review and redraft notes	1.00	250.00
x		5	Telcons with third parties	1.25	312.50
x		6	Review pleadings	1.50	375.00
x	10/31	1	Prepare for and attend third party meeting	2.50	625.00
x		2	Review pleadings and correspondence	1.50	375.00
x		3	Draft Report	1.00	250.00
			Mr. Kieffer's Invoiced Total:	*242.75*	*$60687.50*
			CORRECTED TOTAL USING ACTUAL TIME LOGGED:	**238.75**	**$59687.50**
			Amount of Computational Overcharge:	**4.00**	**$1000.00**
			Additional Time Overcharges Based on Objectionable Entries:		**$49937.50**
			Objectionable Reimbursed Expenses:		**$827.32**
			TOTAL ADJUSTMENT NEEDED:		**$51764.82**

CERTIFICATE OF SERVICE

I declare under penalty of perjury that, on November 27, 2002, I served the foregoing *Interior Defendants' Motion to Adjust the Court Monitor's September 2002 Compensation and the Special Master-Monitor's September and October 2002 Compensation* and *Memorandum in Support of Interior Defendants' Motion to Adjust the Court Monitor's September 2002 Compensation and the Special Master-Monitor's September and October 2002 Compensation* by facsimile, in accordance with their written request of October 31, 2001 upon:

Keith Harper, Esq.
Native American Rights Fund
1712 N Street, NW
Washington, DC 20036-2976
202-822-0068

Dennis M Gingold, Esq.
Mark Brown, Esq.
1275 Pennsylvania Avenue, NW
Ninth Floor
Washington, DC 20004
202-318-2372

and by U.S. Mail upon:

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

and by U.S. Mail and by facsimile upon:

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

Joseph S. Kieffer, III, Esq.
Special Master-Monitor
420 7th Street, NW
Apt 705
Washington, DC 20004
202-478-1958

Sean P. Schmergel