

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RAMAH NAVAJO CHAPTER, et al. v. DIRK KEMPTHORNE, et al.
No. CIV 90-0957 LH/KBM

Exhibit 3

**In Support of
PLAINTIFFS' MEMORANDUM IN SUPPORT OF THE PARTIES'
THIRD PARTIAL SETTLEMENT**

AND

**COUNSEL'S MEMORANDUM IN SUPPORT OF THEIR
APPLICATION FOR AWARD OF ATTORNEYS' FEES AND
COSTS**

**DECLARATION OF CLASS COUNSEL MICHAEL P. GROSS
IN SUPPORT OF PSA III AND MOTION FOR ATTORNEYS FEES**

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

**RAMAH NAVAJO CHAPTER,
OGLALA SIOUX TRIBE, and
PUEBLO OF ZUNI, for themselves**
And on behalf of a class of persons
Similarly situated,

Plaintiffs,

v.

DIRK A. KEMPTHORNE, Secretary
of the United States Department of
Interior, et al.,

Defendants.

No. CIV 90-0957
LH/KBM ACE

**DECLARATION OF CLASS COUNSEL MICHAEL P. GROSS
IN SUPPORT OF PSA III AND MOTION FOR ATTORNEYS' FEES**

I, Michael P. Gross, declare as follows:

1. This declaration supports the Third Partial Settlement in this case and Class Counsel's Motion for Attorneys' Fees and Expenses.
2. My curriculum vitae is attached as **Exhibit 1**. It includes cases in the field of Indian self-determination contracting I have won since the approval of PSA II. I have an AV rating from Martindale-Hubbell.
3. As lead counsel for the instant case I have been involved in every aspect of the PSA III settlement. My role has been:
 - A. To coordinate and consult with all attorneys and parties in preparing and presenting Plaintiffs' positions and negotiating with opposing parties;

- B. To develop analyses of complicated procedures under Defendants' indirect cost rate system;
- C. To attend and lead most negotiation sessions with Defendants;
- D. To consult and confer with representatives of the Class chosen by the National Council of American Indians (NCAI), a tribal membership organization which has closely followed this litigation;
- E. To negotiate terms and conditions of the settlement agreement;
- F. To draft and oversee the preparation of complex attachments to the settlement agreement and the settlement itself;
- G. To keep informed about all developments of significance with regard to disputed claims and issues.
- H. To hire and supervise the work of a Class expert on indirect cost rates to assist in the negotiations.

TIME SHEETS AND ALLOCATIONS

4. **Exhibit 2** to this declaration is a record of the contemporaneously recorded services I performed in this matter since the approval of PSA I including the date, service performed, and amount of time spent through June 15, 2008, excluding time spent in preparing the fee application. Also excluded is time spent on a related case *Tunica-Biloxi Tribe of Louisiana v. United States*, D.D.C. No. 1:02CV02413, a parallel action challenging the rate-making procedures used in calculating indirect contract support costs on behalf of a putative class of self-determination contractors of Indian Health Service programs. The issues in that case overlap the issues here and discovery in that case

augmented and informed the Plaintiff Class' positions in the negotiations of this PSA III, particularly with respect to carryforwards.

5. My time sheets in Exhibit 2 concern only equitable relief. Work I performed on the cross motions for summary judgment on the caps issue are omitted entirely. Exhibit 2 is divided between work performed on the other-agencies-in-the base issue with which this case began (the so-called calculation or miscalculation claim) for which no additional fee is sought, and work performed on the newly discovered problems associated with carryforwards, which came to light in the course of attempts to fashion equitable relief on the other-agencies problems. The second category also includes time devoted to adoption of the new BIA contract support cost policy which includes Direct Contract Support Costs (DCSC). The DCSC claim was added by amendment after PSA I was approved and along with the Shortfalls claim was partially settled in PSA II.

6. I assign one-half of all undifferentiated time entries to the other-agencies category (non fee eligible) and one-half to the carryforwards and direct contract support costs (fee eligible) category. I do so after reflecting on the allocation method used by Co-Class Counsel Rogers (Affidavit of C. Bryant Rogers, ¶ 62) who divided his undifferentiated time in thirds: other-agencies; carryforwards/double-dipping/DCSC; and combined (drafting other terms of settlement in his characterization). I concluded that my procedure is the more conservative approach, although I do not think Mr. Rogers' approach to be incorrect. I believe if I employed his procedure, my fee-eligible time would be higher than shown. No time for the fee application is shown on my sheets.

7. Under this Court's Order of May 25, 1999, approving PSA I, class counsel Gross and Rogers were obligated for no additional fee to pursue equitable relief for the

other-agencies problem, the subject of the Tenth Circuit's decision in *Ramah Navajo Chapter v. Lujan*, 112 F.3d 1455 (1997). The order was entered before Counsel or the Court were aware of the carryforwards problem and their effect on securing equitable relief for the other-agencies problem.

8. The instant motion for fees and expenses is based on two separate elements of PSA III: 1) work done in advancing the Class' interests in ameliorating the carryforwards defects; and 2) work done in achieving recognition of DCSC through adoption of a BIA policy.

HISTORY OF THESE NEGOTIATIONS

9. Achievement of this settlement has taken approximately eight years. There are three major reasons for the length of time it has taken. First, the Tenth Circuit's decision laid out a relatively simple road map for equitable relief regarding the other-agencies' problem – simply take the non-paying agencies' programs out of the base. But this plan was interrupted by passage of an amendment to ISDA codified as 25 U.S.C. § 450j-3.¹ Defendants took the position that this amendment reverses the Tenth Circuit's ruling. Plaintiffs disagree, but this issue complicated the negotiations.

10. Second, an early pilot program called Benchmarking to address non-paying agencies in the base, approved by the Court in a series of orders (September 21, 1999;

¹ Notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended [25 U.S.C. 450f et seq.], on and after November 29, 1999, funds available to the Department of the Interior for Indian self-determination or self-governance contract or grant support costs may be expended only for costs directly attributable to contracts, grants and compacts pursuant to the Indian Self-Determination Act of 1975 and on and after November 29, 1999, funds appropriated in this title shall not be available for any contract support costs or indirect costs associated with any contract, grant, cooperative agreement, self-governance compact or funding agreement entered into between an Indian tribe or tribal organization and any other entity other than an agency of the Department of the Interior.

October 5, 2000; January 16, 2001; June 1, 2001; August 5, 2002; and June 11, 2003), became severely compromised by the emergence of the carryforwards issues. These problems proved exceptionally difficult to identify, analyze, and quantify. They have to do with the fact that the cognizant agency, the Department of the Interior and its National Business Center (NBC) and its predecessor the Office of Inspector General (OIG), had initiated changes in the carryforward instructions (template), ostensibly to comply with certain provisions in the 1988 amendments (PL 100-472), but which reached much further and created new rate depressions which Plaintiffs believe violate the 1988 amendments, in 25 U.S.C. § 450j-1(d)(1). In addition, an obscure procedure for estimating and reconciling over- and under-recoveries (dubbed double-dipping by Plaintiffs) was discovered late in the day. It proved to be a major factor exacerbating the harmful effects of the template changes.

11. Third, this case was stayed from July 2004 through most of March 2005 to await the outcome of *Cherokee Nation v. Leavitt*, 543 U.S. 631 (2005).

12. Another complication, although it did not contribute to the delay in reaching agreement, was the fact that the carryforwards issues were not pled. The parties reached agreement that this new set of problems was so bound up with the original other-agencies problem that they could reasonably be included in settlement negotiations. The parties' stipulation of October 23, 2006, alludes to the inclusion of carryforwards in the list of remaining issues.

RATE-MAKING FIXES IN PSA III

13. PSA III contains substantive beneficial changes to the NBC rate-making system which applies to all Class Members. The changes are not mandatory and are implemented as options which Class Members may select or not. They are:

A. Special Rates

1. Creation of simplified procedures for Special ISDA Rates which remove other agencies from the base entirely: Under this option Class Members will be able to retain a single administrative structure and thus retain economies of scale by unified administration of all programs. The first step in the Special Rates option is to negotiate the indirect cost pool (numerator) and the direct cost base in the same manner as is now done for a single rate.

2. The ISDA self-determination rate or rates (one for BIA and one for IHS, if so desired by the Class Member) will be established after the indirect cost pool is negotiated. All ISDA programs of the Class Member will make up the base of the ISDA rate(s) and all remaining programs will make up the base of the non-ISDA rate.

3. The negotiated indirect cost pool will then be apportioned to the Special Rate(s) and non-ISDA rate according to the proportions of the negotiated direct cost base of ISDA programs to non-ISDA programs. Example: If BIA/IHS ISDA programs constitute 65% of the base, then the contractor will be able to have a special ISDA rate whose base will be 65% of the total base of all programs and whose pool will be 65% of the

total negotiated pool for all programs. In the initial year, the Special Rate and non-ISDA rate will be the same. After the initial year, separate carryforward calculations will be made for each of the Class Member's rates - the carryforwards for the Special Rate or Rates, if separate BIA and IHS ISDA rates are chosen, will reflect only the experience pertaining to that rate or rates while the non-ISDA rate will have carryforwards reflecting only the experience pertaining to that rate. It is expected that over time Special ISDA rates will rise and more accurately reflect true costs of their operation.

4. Class Members will also have the option to adjust the indirect cost pools of Special Rates by assigning certain indirect costs from the non-ISDA to the ISDA rate(s). This hybrid option may be employed if the Class Member can show that certain indirect costs actually benefit an ISDA program disproportionately. Switching such costs to the ISDA rate will boost that rate, while the non-ISDA rate is decreased.

B. Carryforward Fixes

1. The "shortfall" column into which most underrecoveries are now shunted will be eliminated and new "under-funded" and "over-funded" columns will be substituted. The "shortfall" column was introduced on NBC's predecessor OIG's initiative shortly after the 1988 amendments were enacted. It was adopted, said DOI, in order to guard against rate increases caused by perennial insufficiencies in appropriations for contract support costs. Since 1994 appropriations for BIA contract

support costs have been capped and shortfalls have been experienced in all these years until recently when closer to 100% of the need identified by BIA has been met.² Defendants justify the “shortfall” column by saying it prevents escalating rate increases caused by insufficiencies of appropriations. Even if NBC’s rationale were justifiable, which the Class disputes, the NBC template is not restricted to shortfalls caused by insufficient appropriations. The template does not distinguish the cause of underrecoveries and thus reaches too far. The result is that most underrecoveries including those caused by mathematical errors are routinely slotted into the unrecoverable “shortfall” column.

2. The present “shortfall” column removes most under-recoveries from the carryforward process, thus preventing increases in rates in a future year based on them. The new “under-funded” or “over-funded” columns will include only under- and over-recoveries which are caused by payment-driven factors, not rate-generated factors. (More detail can be found in the Class Expert Marcel Kerkmans’ Declaration and Co-Class Counsel Rogers’ Declaration in support of this settlement.) While these two new columns will also be excluded from carryforward treatment, they will be recoverable through legal remedies by each party.

² While Congress has responded appropriately to fund more of the “need” as determined by DOI, the “need” calculation presented in the President’s Budget is of course not an accurate figure since it is based on defective indirect cost rates. The reforms agreed upon here will lead to a more accurate computation of indirect cost “need” and hopefully increased appropriations as a result.

3. It will, however, be more difficult for BIA to collect “overfunding” than it may at first blush appear. Legal remedies by the BIA will generally be constrained by the provisions of 25 U.S.C. § 13a and 25 U.S.C. § 450j-1(a)(4).³ These sections permit ISDA contractors (and compactors) to use savings or overpayments of their ISDA agreements for ISDA purposes in the next fiscal year. Additionally, there is a one-year statute of limitations on actions for repayment of disallowed costs from date of receipt the annual single agency audit. 25 U.S.C. § 450j-1(f). Amounts in the “under-funded” column will be recoverable

³ 25 U.S.C. § 13a:

Notwithstanding any other provision of law, any funds appropriated pursuant to section 13 of this title, for any fiscal year which are not obligated or expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation or expenditures during such succeeding fiscal year. In the case of amounts made available to a tribal organization under a self-determination contract, if the funds are to be expended in the succeeding fiscal year for the purpose for which they were originally appropriated, contracted or granted, or for which they are authorized to be used pursuant to the provisions of section 450j-1(a)(3)^[1] of this title, no additional justification or documentation of such purposes need be provided by the tribal organization to the Secretary as a condition of receiving or expending such funds.

25 U.S.C. § 450j-1(a)(4):

(4) For each fiscal year during which a self-determination contract is in effect, any savings attributable to the operation of a Federal program, function, service, or activity under a self-determination contract by a tribe or tribal organization (including a cost reimbursement construction contract) shall—

(A) be used to provide additional services or benefits under the contract; or

(B) be expended by the tribe or tribal organization in the succeeding fiscal year, as provided in section 13a of this title.

through legal action by the contractor (Class Member) under the Contract Disputes Act, including under-funded amounts caused by mathematical or similar errors, subject to valid defenses.

4. There will be no “shortfall” column or “under or over-funded” columns in the non-ISDA rate if Special Rates are chosen. Under collections from other agencies included in the non-ISDA rate will be set off against over collections from agencies that allow recovery of the rate holder’s full indirect cost rate. Under the present single rate system, under collections from non-paying other agencies are generally subjected to the “Shortfall” column just as they are for ISDA agencies. That will no longer occur.

5. Removing the “shortfall” column and substituting the two funding columns will treat underrecoveries more evenhandedly in the carryforward process, thus mitigating double-dipping (see subsection C, below) and reducing instances of individual rate-holders’ displaying perennial overrecoveries under existing procedures while experiencing real world shortfalls in recovery of indirect costs.

C. Double-Dipping.

1. During the discovery phase in the *Tunica* case a carryforward practice surfaced which we dubbed double-dipping. If a rate holder receives (collects) more indirect costs than it spends (incurs) in a given year (year 1), the over-recovery is carried forward to reduce the rate in the next cycle two years later (year 3) by deduction from the negotiated pool.

The same over-recovery is then used to reduce the rate in the second succeeding cycle two years after that (year 5) by deduction from the audited “indirect costs incurred” column. In theory this procedure is also applied to under-recoveries. But in practice, because of the “shortfall” column serves as the graveyard for many if not most under collections, very few underrecoveries are carried forward. Over recoveries are magnified; under recoveries are suppressed.

2. Double-dipping reduces the contract price twice in two successive rate cycles for a single over-recovery. This means the government is repaid twice for a single “debt”. While the eventual explanation given by NBC for the practice was that the first dip is an “estimate” and the second dip is the actual “reconciliation”, this explanation makes no sense under ISDA. 25 U.S.C. § 450j-1(a) mandates inclusion of full contract support costs. Yet the indirect cost rate circulars and practices relied on by NBC and BIA do not take this statutory directive into account. Double reduction of contract prices for a single over recovery doubles the payback. This phenomenon helps explain the curious phenomenon experienced by many ISDA contractors: perennial over recoveries in the indirect cost rate calculations accompanied by perennial deficits in the books.

3. Double-dipping is no where expressly authorized in OMB Cir. A-87 or similar documents and is only referenced, not explained, in an early circular. It is not benign. Even if it were authorized by the

circulars, it still violates the command of ISDA regarding full funding of indirect costs. 25 U.S.C. § 450j-1(d)(2). The settlement does not eliminate double-dipping, but by equalizing the treatment of over-funding and under-funding of indirect costs, the one-sided effect of the practice will be ameliorated.

D. Diversions of Program and Tribal Monies

1. After the 1988 amendments, OIG also adopted an indirect costs “collections” column. Ostensibly it did so to guard against prohibited theoretical overrecoveries. But the column sweeps too far and captures amounts paid for indirect costs by Class Members from direct program funds or from diverted tribal funds. Aside from reducing program levels of both contracted programs and tribal governmental programs, such diversions create additional theoretical overrecoveries or “other adverse adjustments to a future year’s rate or amount”. 25 U.S.C. § 450j-1(d)(1). They falsely indicate receipts of contract support costs from the ISDA funding agencies when in actuality the source of the collections is programs or tribal coffers.

2. Although NBC acknowledges that program monies or tribal funds used to pay indirect costs do not have to be reported as collections of indirect costs, it did not tell anyone. As a result many if not most Class Members or their auditors assume that such diversions must be reported as “collected” indirect costs. By doing so, rates are decreased because the

more “collections” there are, the greater “overrecoveries” will be and the smaller “underrecoveries” will be.

3. The present template also incorrectly apportions all incurred indirect costs across the spectrum of programs in the base. Yet collections are recorded only by program source. This practice exaggerates indirect cost collections from BIA while minimizing expenditures.

4. The new template will instruct Class Members that they need not include diversions in the “collected” column and thus reduce the imbalances as well as the total of “collected” indirect costs with consequent rate increases.

OTHER FEATURES OF PSA III

14. The following are some of the other features of the settlement. PSA III itself should be consulted for the rest:

A. Cap years claims are reserved and the Court’s ruling of August 31, 2006, will be appealed.

B. All claims against IHS and other federal agencies are reserved.

C. Mathematical and similar errors are not released and are reserved.

D. Assuming compliance by Defendants with PSA III, the measure of damages for reserved claims arising after the settlement becomes effective will be limited to what would be produced by proper application of the PSA III procedures.

E. IHS can come within the PSA III damages limitation provision in ¶ D above if it accepts and applies PSA III's rate-making procedures. All rate-making claims against NBC with respect to IHS contracts are reserved.

F. The Class releases the Defendants subject to all the reserved claims provisions and subject to the Class' or any Class member's right to seek enforcement of the settlement

ATTORNEYS' FEES AND COSTS

15. Counsel have applied for fees to achieve this settlement in the amount of \$725,000, reimbursement of costs to date in the amount of \$17,873 (**Exhibit 4**); NM gross receipts tax on the fee not to exceed \$57,000 (based on the Santa Fe County GRT rate); and future costs and tax incurred between date of this application and the Fairness Hearing. \$700,000 of the fee is requested upon final approval of the settlement by the Court plus the costs to that date and tax. The remaining \$25,000 and any additional costs and tax will be subject to approval of a supplemental application containing a final accounting of the Class' accounts showing a balance sufficient to pay the supplemental request or so much of it as is available. The justification for the fee and cost request is contained in Plaintiffs' memorandum and declarations of Co-Class Counsel Rogers and Co-Class Counsel for DCSC Miller accompanying the motion for fees and costs.


16. As of May 30, 2008, the latest CRIS Report from the Clerk and Wells Fargo statement showed a total of about \$909,000 available for remaining costs and fees of this settlement. [An additional \$18,000 is reserved for NCAI's contract with the Class.] See **Exhibit 3** (last CRIS reports and Wells Fargo statement).

17. PSA III obligates the Class to contribute \$50,000 to the costs of developing training materials and the expenses of NBC personnel to conduct at least two training sessions. The Defendants agree to provide a matching \$50,000 towards these costs. The Class agrees to reserve another \$50,000 as a contingency to ensure that three training sessions can be conducted.

18. I estimate that approximately \$39,000 will be required to pay the expenses of distributing the class notice through REDW – LLC, the cost of publishing the notice in Indian Country Today, and remaining costs of the Class' expert. The balance of \$770,000 or more, depending on the need for the training contingency, will be available to pay fees and supplemental costs including gross receipts taxes to Class Counsel at the rate of 0.079375 (Santa Fe County) or an initial \$55,562 on the initial requested award of \$700,000. It is expected that even if the full contingency amount for a third training session is needed (which is unlikely), there will be approximately \$14,400 remaining in the Class' accounts. Subject to unexpected costs, such as a strongly contested Fairness Hearing requiring expert witnesses, Counsel's request for fees and reimbursement of costs falls within the available budget for the expenses of the remainder of this phase of the case.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Date: June 24, 2008


Michael P. Gross

**Declaration of Class Counsel Michael P. Gross
In Support of PSA III and Motion for Attorneys' Fees**

Exhibit 1

**Cirriculum Vitae
Michael Paul Gross**

M. P. GROSS LAW FIRM, P.C.

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Santa Fe, New Mexico 87505-7602

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June 10, 2008

RESUME'

MICHAEL PAUL GROSS

EDUCATION

- 1968 **LL.B.**, Yale Law School. Founder and editor of The Yale Advocate, the Law School newspaper
- 1965 **B.A.**, Brown University. Magna Cum Laude, Phi Beta Kappa, Francis Wayland Scholar, High Honors in International Relations, Junior Year in Vienna, Austria

PROFESSIONAL MEMBERSHIPS

Arizona Bar and Federal Court, 1969
New Mexico Bar and Federal Court, 1971
U.S. Supreme Court, 1975
Ninth Circuit Court of Appeals, 2001
Tenth Circuit Court of Appeals, 1978
U.S. Tax Court, 1977
U.S. Claims Court, 1982
Eighth Circuit Court of Appeals, 1984
Federal Circuit Court of Appeals, 1999
American Bar Association
American Trial Lawyers Association
New Mexico Trial Lawyers Association
Rocky Mountain Mineral Law Institute

TEACHING EXPERIENCE

University of New Mexico Law School, Fall 2005: Indian Education and Equity with Professor Kenneth Bobroff

Brown University, Spring Semester 2004: Seminar on Indian Education Reform with Professor Evelyn Hu-DeHart, Director, Brown Center for Race and Ethnicity

MICHAEL PAUL GROSS
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Franklin Pierce Law Center, 1974 – 1977, Assistant Professor (started and directed externship program in Santa Fe, New Mexico)

PUBLICATIONS

- 2002 71 The Bar Examiner, No. 3, August 2002.
“New Mexico Pioneers Indian Law on the Bar Exam”
- 1996 New Mexico Trial Lawyers Association (article on land use law)
1991 Brown Alumni Monthly (photos and narrative of the 1966 Meredith March for Freedom in Mississippi)
- 1978 Texas Law Review (history and analysis of The Indian Self-Determination and Education Assistance Act)
- 1973 Notre Dame Lawyer (problems in providing effective legal services to Indians in educational reform)
- 1973 North Dakota Law Review (Indians’ right to control their own schools)

CIVIC

- 2005 (Fall Semester) Guest Instructor, UNM Law School, Albuquerque, New Mexico. Course on “Indian Education and Equity” with Professor Kenneth Bobroff
- 2004 Pro bono Guest Instructor Brown University seminar called “*Brown v. Board of Education: The Indian Perspective*”
- 2003 - Member, New Mexico Civil Legal Services Commission
- 1999 - 07 Member, New Mexico Board of Bar Examiners
- Ongoing Volunteer mediator for First Judicial Circuit, Santa Fe, New Mexico
1992- Brown University Trustee Emeritus
- 1986-92 Brown University Trustee, 1986-1992; Emeritus (1990-1993), Standing Committee on Relations with Tougaloo College, an historically Black college in Mississippi; Chair (1987-1988), Chair, President's Special Committee on Continuing Education (members included Ted Sizer and John Carter Brown)

MICHAEL PAUL GROSS
PAGE 3 OF 3

1985-91 Santa Fe School Board, 1985-1991; President, 1990-91

NOTABLE LEGAL DECISIONS

- 1997 - continuing *Ramah Navajo Chapter v. Lujan*, 112 F.3d 1405 (10th Circuit 1997). (Government Contracts) Lead counsel in Indian class action holding United States liable for underpayments of indirect costs since 1989 from BIA and related agencies; partial settlement concluded and paid in amount of \$82 million, September 1999; second partial settlement of \$29 million approved December 6, 2002. Litigation pending on reserved claims. Class consists of most Indian tribes in the country.
- 1982 *Ramah Navajo School Board v. NM Bureau of Revenue*, 458 U.S. 832 (1982). First U.S. Supreme Court decision on Indian education and self-determination, a case confirming the importance of the Indian self-determination policy by holding projects funded through it exempt from state taxation.
- 1978 *Livingston v. Ewing*, 681 F.2d 1110 (10th Circuit 1979), *cert. den.* 444 U.S. 870. Confirming the right of Indian craftspeople and jewelers to exclusive use of the Portal at the Palace of the Governors in Santa Fe in the face of a reverse discrimination challenge brought by a self-styled "Indian jeweler," an Anglo from New Jersey.

Additional Indian Self-Determination Cases

- 2006 *Crownpoint Institute of Technology v. Norton*, D.N.M. CIV. No. 04-531. Indian Self-Determination Act suit to reverse declination; decision after trial in favor of Plaintiff; \$2,200,000 plus \$400,000 attorneys fees paid to Navajo vocational and technical community college.
- 2008 *Ramah Navajo School Board, Inc. v. Leavitt*, D.N.M., D.N.M. No. 6:07-cv-289. Suit to reverse declination of tribal shares for health services; memorandum opinion and order denying Defendant's motion for summary judgment/dismissal; holding that contract support costs are a contractual and statutory entitlement; declaring insistence by IHS to include waiver of contract support costs illegal.

NATURE OF PRACTICE

Practice primarily devoted to representation of Indian tribes and organizations in regard to the policy of Indian self-determination, 25 U.S.C. 450.

**Declaration of Class Counsel Michael P. Gross
In Support of PSA III and Motion for Attorneys' Fees**

Exhibit 2

**Timesheets
Class Counsel Michael P. Gross**

MICHAEL P. GROSS
TIMESHEET FOR RNC:IDC – PSA III

PAGE 1 OF 29

Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
02.22.99	Preparation of NCAI Task Force correspondence; office conference with B Rogers; telephone conference with Joe Webster regarding “Ramah Fix”		3.00
03.29.99	Telephone conference with Roger LaRouche regarding estimating “Ramah Fix” for NCAI Task Force		1.00
03.30.99	Preparation of correspondence to R LaRouche		1.25
03.31.99	Revision of correspondence to R LaRouche; office conference		1.00
04.19.99	Drafted recommendations on “Ramah Fix” for NCAI Task Force		2.00
04.20.99	Review and revision of “Ramah Fix” recommendations		.75
10.26.99	Conference call with CB Rogers, JW Zavitz and Patti Jamison regarding November 8 th meeting; draft of Position Paper on Section 114		1.50
10.27.99	Review and revision of drafted Position Paper on Section 114		1.50
10.28.99	Office conference with CB Rogers regarding Position Paper on Section 114; review and revision of same		3.00
11.01.99	Revision and finalization of Position Paper on Section 114; telephone conference with Joe Webster and CB Rogers; telephone conference with JW Zavitz; ‘power of order’ maneuver to challenge Section 114 in FY 2000 appropriations bill		3.00
11.03.99	Revision of Position Paper; telephone conference with CB Rogers		3.00
09.25.00	Telephone conferences with Tim Millet of DOJ, Patti Jamison and JW Zavitz		.25
09.28.00	Telephone conferences with CB Rogers, JO Donham and Wm Perry; emails to P Jamison regarding equitable relief, etc.		2.00
01.30.01	Contacts and meetings with carious staff members of Congress while in Washington DC for mediation		2.00

MICHAEL P. GROSS
TIMESHEET FOR RNC:IDC – PSA III

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
02.01.01	Meetings with Congressional staff members		1.00
05.11.01	Worked with CB Rogers on Benchmarking documents		1.25
05.13.01	En route travel to Washington DC		3.50
05.14.01	Meeting with Pati Jamison on Benchmarking issues		3.00
05.15.01	Return travel from Washington DC to Santa Fe		4.00
05.21.01	Worked on final changes for Venchmarking documents; office conference with CB Rogers; proofread and revised Stipulated Order		2.50
02.14.02	Telephone conferences with Greg Anderson and CB Rogers regarding benchmarking	1.25	
04.03.02	Office conference with CB Rogers regarding benchmarking	.25	.25
04.24.02	Travel to Washington DC; conference with CB Rogers en route regarding negotiations on equitable relief	4.50	4.50
04.26.02	Negotiations on equitable relief	3.00	3.00
04.28.02	Return travel from Washington DC to Santa Fe	3.50	3.50
04.29.02	Office conference with CB Rogers regarding benchmarking; worked together on template for benchmarking developed by OIG; telephone conference with Karen Richardson	1.50	1.50
04.30.02	Office conference with CB Rogers regarding benchmarking; conference call with K Richardson, etal.	1.625	1.625
05.01.02	Reworked Model 2 template for benchmarking	3.75	3.75
05.02.02	Continued work on Model 2 for benchmarking	1.25	1.25
05.03.02	Continued work on Model 2 for benchmarking	3.25	3.25
05.06.02	Continued work on Model 2 for benchmarking	1.25	1.25
05.07.02	Continued work on Model 2 for benchmarking	.25	.25

MICHAEL P. GROSS
TIMESHEET FOR RNC:IDC – PSA III

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
06.26.02	Office conference with CB Rogers regarding benchmarking and carryforwards	.375	.375
07.01.02	Conference call with CB Rogers, K Richardson, OIG people, and L Vassar regarding carryforwards and benchmarking	.75	.75
07.02.02	Drafted Stipulated Order to clarify June 1, 2001 Order on benchamrking; telephone conference with CB Rogers	1.25	1.25
07.03.02	Finalized draft of Stipulated Order; worked with CB Rogers	1.25	1.25
07.29.02	Meeting with OIG and counsel in Santa Fe regarding benchmarking/carryforwards issues	2.00	2.00
07.30.02	Meeting with OIG and counsel in Santa Fe regarding benchmarking/carryforwards issues	3.00	3.00
07.31.02	Meeting with OIG and counsel in Santa Fe regarding benchmarking/carryforwards issues	2.00	2.00
10.01.02	Office conference with CB Rogers and M Kerkmans regarding benchmarking issues	1.50	1.50
10.18.02	Office conference with CB Rogers regarding revision of his drafted Memorandum on benchmarking issues	1.375	1.375
10.21.05	Office conference with CB Rogers; drafted introduction to memo on benchmarking; emails to B Parkhurst, C Holmes, and G Anderson	1.50	
10.22.02	Worked with CB Rogers on analyzing interplay of benchmarking and carryforwards; emails to CB Rogers, C Holmes, G Anderson, and B Parkhurst; drafted memo to K Richardson and L Vassar; telephone conference with L Vassar and CB Rogers	5.50	
10.24.02	Office conference with M Kerkmans regarding benchmarking issues	1.25	1.25
10.31.02	Conference with CB Rogers regarding benchmarking/carryforward analysis	.75	

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
11.04.02	Worked with CB Rogers and M Kerkmans on carryforwards issue; telephone conference with Jay Moolenijzer	2.50	
11.05.02	Conference with CB Rogers on equitable relief; telephone conference with M Kerkmans		.50
11.06.02	Worked with CB Rogers on costs of application regarding benchmarking		1.50
11.12.02	Receipt and review of CB Rogers' latest carryforward memo; office and telephone conferences with CB Rogers	1.75	1.75
01.15.03	Travel to Washington DC for negotiations with government counsel on benchmarking issues; preparation for meetings; discussions with co-counsel		14.00
01.06.03	Negotiation meeting on benchmarking issues with government counsel		8.00
01.17.03	Continued negotiation meetings with government counsel		10.00
01.24.03	Telephone/email negotiations with K Richardson regarding benchmarking issues	1.625	1.625
01.28.03	Receipt and review of K Richardson letter on IDC rates; draft of response to same; telephone conferences with B Parkhurst; M Kerkmans	.50	.50
01.31.03	Office conference with K Keckler and CB Rogers regarding benchmarking/carryforward issues; telephone conferences with M Kerkmans and B Parkhurst regarding same	3.00	
02.06.03	Telephone conference with CB Rogers and K Richardson regarding response to Richardson's correspondence	.25	.25
02.07.03	Analysis of CB Rogers' draft response to K Richardson's correspondence of 01.24.03 regarding benchmarking issues; drafted reply to pp. 4-5 of her letter; receipt and review of G Anderson and M Kerkman comments	1.75	1.75

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
02.08.03	Conference with CB Rogers and M Kerkmans regarding benchmarking	1.50	1.50
02.09.03	Review and revision of letter response to K Richardson letter of 01.24.03	.75	.75
02.10.03	Review and revision of drafts of CB Rogers' letter and my letter in response to K Richardson's of 01.24.03; telephone conferences with M Kerkmans and CB Rogers	1.50	1.50
02.11.03	Receipt and review of CB Rogers' latest response to K Richardson; emails to/from LB Miller regarding benchmarking issues; redraft of letter to K Richardson	1.00	1.00
02.12.03	Receipt, review, and revision of drafted letter to K Richardson	1.25	1.25
02.17.03	Analysis of email exchange regarding benchmarking issues; telephone conference with M Kerkmans	1.50	1.50
02.28.03	Telephone conferences regarding benchmarking issues with CB Rogers and LB Miller	.25	.25
03.11.03	Conference call on benchmarking issues with K Richardson, et al, and CB Rogers; preparation for conference call; follow-up to conference call	1.50	1.50
03.17.03	Receipt, review and revision of CB Rogers' drafted letter to K Richardson proposing settlement of equitable issues; emails and telephone conferences with CB Rogers and LB Miller	2.875	2.875
03.19.03	Continued review and revision of proposed settlement letter to K Richardson; telephone conferences with LB Miller; office conference with CB Rogers; various emails regarding revision of letter	2.00	2.00
03.20.03	Continued review and revision of proposed settlement letter to K Richardson	2.25	2.25
03.21.03	Telephone conferences with K Richardson, LB Miller, and CB Rogers; emails to/from K Richardson	1.25	1.25
03.24.03	Conference call with K Richardson, R Myers and CB Rogers; follow-up calls regarding negotiated settlement	.50	.50

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
04.01.03	Review and revision of Third Stipulated Order on Benchmarking	.50	.50
04.02.03	Continued review and revision of Third Stipulated Order on Benchmarking	.50	.50
04.03.03	Continued review and revision of Third Stipulated Order on Benchmarking;		
	telephone conference with M Kerkmans; drafted order	.50	.50
04.04.03	Continued review and revision of Third Stipulated Order on Benchmarking	.375	.375
05.02.03	Office conference with CB Rogers on benchmarking	1.00	1.00
05.09.03	Office conference with CB Rogers on benchmarking; emails to K Richardson, et al.	.375	.375
05.20.03	Office conference with CB Rogers on benchmarking; conference call with K Richardson	1.50	1.50
06.02.03	Continued review and revision of Third Stipulated Order on Benchmarking	.625	.625
06.03.03	Finalized Third Stipulated Order on Benchmarking and transmitted to Judge Hansen	.625	.625
06.27.03	Conference with CB Rogers on benchmarking issues	1.25	1.25
06.30.03	Conference with CB Rogers on benchmarking issues and templates	.75	.75
07.02.03	Emails and telephone calls regarding benchmarking and the NBC website	.375	.375
08.20.03	Telephone conferences with LB Miller and CB Rogers regarding DCSC negotiations and BIA meetings	1.00	
08.27.03	Travel to/from Albuquerque; attended conferences sponsored by BIA on Direct Contract Support Costs	8.00	
09.02.03	Travel to Minneapolis to attend BIA conferences on Direct Contract Support Costs	5.50	

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
09.03.03	Attended BIA conferences in Direct Contact Support Costs; return travel from Minneapolis to Santa Fe	10.00	
09.10.03	Worked on draft global settlement agreement on benchmarking issues	1.00	1.00
09.11.03	Revision of global settlement agreement on benchmarking issues; emailed to CB Rogers and LB Miller for input	.50	.50
09.12.03	Telephone conference with NCAI and LB Miller regarding status report of contract support cases and issues	.50	.50
09.18.03	Preparation for global settlement negotiation; telephone conferences with M Kerkmans and CB Rogers	.75	.75
09.19.03	Continued preparation for global settlement negotiation; conference with CB Rogers; conference call with CB Rogers, LB Miller, M Kerkmans	1.75	1.75
09.20.03	Worked on outline of issues and agenda for global settlement negotiation	.75	.75
09.21.03	Travel to Sacramento CA for global settlement negotiation	3.75	3.75
09.22.03	Global settlement negotiations on benchmarking	5.25	5.25
09.23.03	Global settlement negotiations on benchmarking	4.50	4.50
09.24.03	Return travel from Sacramento to Santa Fe	3.50	3.50
09.25.03	Follow-up to negotiations; drafted letter on meeting to participants	1.00	1.00
09.26.03	Finalized letter to meeting participants; emailed to co-counsel for input	.50	.50
10.07.03	Telephone conferences with CB Rogers and LB Miller regarding equitable relief	.25	.25
10.14.03	Travel to Washington DC from Providence RI; attended meeting with NCAI regarding DCSC issues	5.00	
10.15.03	Attended IHS Workgroup meeting in Washington DC	1.00	1.00
10.16.03	Attended IHS Workgroup meeting in Washington DC	1.75	1.75
10.16.03	Return travel from Washington DC to Santa Fe	2.00	2.00
11.13.03	Travel to Albuquerque; attended BIA Workgroup meeting on DCSC	8.75	

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
11.14.03	Attended BIA Workgroup meeting on DCSC	7.00	
11.15.03	Attended BIA Workgroup meeting on DCSC; return travel to Santa Fe	4.00	
12.22.03	Conference with CB Rogers and E Treisman regarding PSA II issue of Petition for Cert in <i>Thompson</i> ; follow-up discussion		1.75
01.22.04	Conference with CB Rogers regarding equitable relief; telephone conferences with LB Miller, K Richardson regarding preparation for negotiations scheduled for next week	.75	.75
01.25.04	Travel to Washington DC for equitable relief discussions with DOJ, BIA and OIG	4.00	4.00
01.26.04	Negotiations on equitable relief	4.00	4.00
01.27.04	Negotiations on equitable relief	2.00	2.00
01.27.04	Return travel from Washington DC to Santa Fe	1.50	1.50
01.31.04	Multiple notes and emails on equitable relief	.25	.25
06.29.04	Telephone conference with M Kerkmans and CB Rogers regarding emails from G Anderson and B Parkhurst on benchmarking/carryforwards issue	.50	
06.30.04	Conference with CB Rogers; various emails regarding benchmarking	.375	.375
08.27.04	DCSC draft policy review and email to LB Miller and CB Rogers	2.00	
09.20.04	Review of decisions filed in various cases on equitable relief with CB Rogers	2.50	2.50
11.04.04	Telephone conference with M Kerkmans regarding multiple rates	.50	
01.21.05	Meeting with CB Rogers and M Kerkmans regarding equitable relief; follow-up emails regarding resumption of negotiations	4.50	

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
02.06.05	Travel to Seattle for meetings with legal team	3.00	3.00
02.07.05	Meetings with legal team	4.00	4.00
02.08.05	Meetings with legal team	2.00	2.00
02.08.05	Return travel from Seattle to Santa Fe	3.00	3.00
03.07.05	Conference call with CB Rogers, M Kerkmans, E Treisman; office conference with M Kerkmans	.50	.50
03.08.05	Intense negotiations on equitable relief with co-counsel and government counsel	4.50	4.50
03.09.05	Intense negotiations on equitable relief with co-counsel and government counsel	5.00	5.00
03.10.05	Travel to/from Albuquerque; meeting with CB Rogers and LB Miller regarding equitable relief/DCSC issues	1.875	1.875
03.22.05	Telephone conference with CB Rogers regarding DCSC issue and stay; telephone conference with K Richardson regarding stay	2.00	
03.23.05	Telephone conferences with CB Rogers; K Richardson; LB Miller	.625	.625
03.25.05	Telephone calls and conferences with LB Miller; R Hines; K Richardson; D MacMeekin regarding procedural issues	1.625	1.625
07.21.05	Telephone conferences with Samantha Whitetail Eagle and Earla Begay regarding research on contract disputes filed by RNC; telephone conference with CB Rogers	.50	.50
07.21.05	Telephone conference with K Richardson; office conference with CB Rogers regarding carryforwards; telephone conference with M Kerkmans regarding carryforwards and contract disputes	2.00	
07.22.05	Research on exhaustion; telephone conferences with CB Rogers; M Kerkmans	1.50	

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
07.25.05	Research of files for missing contract disputes; located under “CDA jurisdiction” dated September 21, 2001' copies made and new file opened; scanned documents and emailed to Earla Begay	1.25	1.25
07.26.05	Research and writing on contract dispute claim form; telephone conference with E Begay	1.25	1.25
08.01.05	Travel to/from Albuquerque; meeting with E Begay and M Kerkmans regarding updated contract disputes for RNC and others	2.50	2.50
08.02.05	Revision fo contract dispute form; telephone conference with M Kerkmans; conference with CB Rogers	1.25	1.25
08.25.05	Telephone conference with M Kerkmans regarding contract dispute form; receipt and review of spreadsheet processed by E Begay	.75	.75
08.26.05	Worked with E Begay and M Kerkmans on contract dispute form; telephone conference with John Donham regarding same for RNSB	1.50	1.50
09.06.05	Telephone conference with M Kerkmans regarding status of contract disputes; progress report; drafted letter to accompany spreadsheet	.75	.75
09.07.05	Telephone conference with M Kerkmans regarding RNC spreadsheet review and edits; follow-up telephone conference with M Kerkmans with later revisions to spreadsheet; telephone conference with J Donhan regarding spreadsheets for RNSB	1.00	1.00
09.09.05	Telephone conference with M Kerkmans regarding contract dispute forms	.25	.25
09.17.05	Revised form letters for contract dispute filings	.50	.50
09.19.05	Worked with M Kerkmans to finalize contract dispute spreadsheets, etc.	1.00	1.00
09.19.05	Finalized and emailed contract dispute forms for final review	.50	.50
09.20.05	Continued revision of contract dispute forms with S Whitetail Eagle	.75	.75
09.21.05	Finalized delivery of contract dispute documents	.50	.50

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
11.02.05	Review of proposed BIA policy on CSC; telephone conference with CB Rogers	1.00	
11.03.05	Conference call with CB Rogers and LB Miller regarding equitable relief and oral argument	.50	.50
12.13.05	Prepared letter to K Richardson regarding AFA language on on-liability over appropriations	1.00	1.00
12.19.05	Emails on AFA language; receipt and review of BIA drafts	1.00	1.00
03.28.06	Telephone conference with Lisa Reider, Cooke Inlet, regarding DCSC negotiations and carryforwards, telephone conference with CB Rogers	2.00	
03.31.06	Cook Inlet - conference call with CB Rogers and Lisa Reider regarding carryforward adjustment	.50	
04.03.06	Cook Inlet - conference call with CB Rogers and Lisa Reider regarding carryforward adjustment	.50	
05.15.06	Review of carryforwards issue and contract disputes with CB Rogers and D MacMeekin	.75	
05.24.06	Travel to/from Albuquerque for meeting with Slyvia Yazzie, new comptroller, to give her a briefing on RNC:IDC	1.50	1.50
06.04.06	Emailed memo to RNC and RNSB regarding contract dispute updating	.25	.25
06.12.06	Receipt, review, and email exchanges about new DCSC policy to/from LB Miller, CB Rogers, and myself	1.50	
06.22.06	Final review and revision of status report on DCSC; emails to/from CB Rogers and LB Miller	1.00	

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
09.04.06	Telephone conference with CB Rogers regarding carryforwards and RNC position with <i>Zuni</i> and <i>Tunica</i>	1.00	
09.07.06	Discussions with CB Rogers, LB Miller, and K Richardson regarding extension of deadline to advise court of remaining issues in the case; telephone conference with Brian DeVeau regarding meeting in Seattle on September 25 th ; telephone conferences with CB Rogers regarding 450j-3 and other substantive issues	1.50	
09.08.06	Conference with CB Rogers regarding carryforwards and September 25 th conference in Seattle	1.00	
09.22.06	Preparation for Seattle meeting; telephone conferences with Geoff Strommer, Steve Osborne, CB Rogers, B DeVeau; discussion of Miller/DeVeau episode	3.50	
09.24.06	Travel to Seattle with M Kerkmans to attend strategy session	7.00	
09.24.06	Preparation for Seattle strategy meeting; dinner meeting in Seattle with M Kerkmans	5.00	
09.25.06	Seattle conferences at Moss-Adams regarding issues remaining and strategy; dinner meeting with CB Rogers and M Kerkmans following conference	10.00	
09.26.06	Return travel from Seattle to Santa Fe	7.00	
10.19.06	Review of jurisdictional issues with D MacMeekin, CB Rogers, and E Treisman; research on “same set of operative facts”; telephone conference with K Richardson regarding remaining issues list [referred by CB Rogers to me]; various emails on same	2.625	2.625
10.20.06	Worked with CB Rogers on changes to remain issues list; arranged to send RNC and RNSB amendments to LB Miller and CB Rogers	1.25	1.25

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
10.22.06	Worked with CB Rogers in revision of remaining issues list; emails to/from CB Rogers and LB Miller; conference with CB Rogers at home and emails to/from K Richardson	2.625	2.625
10.30.06	Wrote Notice of Exhaustion of Administrative Remedies; emailed to LB Miller and CB Rogers for review; emailed to K Richardson; return email with her approval without changes and stating that she would not file anything in response	.50	.50
11.10.06	Emails to all counsel regarding negotiations dates	.25	.25
12.04.06	Office conference with CB Rogers and M Kerkmans regarding negotiations on equitable relief	.75	.75
12.05.06	Worked with CB Rogers and M Kerkmans on plans for equitable relief negotiations	1.50	1.50
12.05.06	Preparation for and conduct of negotiations with BIA and NBC on equitable relief	2.75	2.75
12.06.06	Preparation for and conduct of negotiations with BIA and NBC on equitable relief	4.50	4.50
12.07.06	Preparation for and conduct of negotiations with BIA and NBC on equitable relief	4.50	4.50
12.08.06	Discussions with CB Rogers regarding double-dipping issue with IHS	.25	
01.23.07	Travel to Washington DC for negotiations on equitable relief issues	3.75	3.75
01.23.07	Dinner meeting with CB Rogers, D MacMeekin, and M Kerkmans	2.00	
01.24.07	All day negotiations followed by dinner meeting	6.00	6.00
01.25.07	All day negotiations	5.00	5.00
01.26.07	Return travel from Washington DC to Santa Fe	5.00	5.00
01.28.07	Legal research on cases regarding double-dipping; set offs - contract debts	1.75	

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
02.07.07	Legal research on rate calculations and documents; review and revision of drafted letter to K Richardson on double-dipping	5.25	
02.08.07	Legal research on double-dipping and contractual offers; telephone conferences with D MacMeekin; office conference with CB Rogers regarding double-dipping letter to K Richardson	1.75	
02.08.07	Email exchange with our team on next steps and double-dipping issue	.50	
02.09.07	Finalized and sent letter to K Richardson on double-dipping; legal research on accounting phase and set offs; conference with E Treisman to discuss response brief	4.50	
02.11.07	Drafted terms for settlement sheet	.50	.50
02.13.07	Worked with CB Rogers in terms for settlement	1.125	1.125
02.17.07	Conference with D MacMeekin regarding multiple rate analysis; review of CB Rogers' terms for settlement sheet; drafted responsive comments and emailed; worked on mathematical formula to achieve multiple rates	3.00	
02.19.07	Prepared for travel to Sacramento for third settlement negotiations; gathered materials and read CB Rogers' revised memo on terms for settlement	1.00	1.00
02.19.07	Travel to Sacramento for negotiations on equitable relief	4.00	4.00
02.20.07	Negotiations at NBC offices in Sacramento followed by dinner meeting with CB Rogers and M Kerkmans	5.25	5.25
02.21.07	Negotiations at NBC offices	2.50	2.50
02.21.07	Return travel from Sacramento to Santa Fe	4.50	4.50
03.04.07	Drafted settlement terms	1.50	1.50
04.08.07	Worked with CB Rogers on settlement language	.75	.75
04.12.07	Worked with CB Rogers in settlement agreement for equitable relief	2.50	2.50

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
04.14.07	Emailed draft memo to LB Miller et al regarding Melanie Osbourne's summary of February 20-21 negotiations regarding correction of errors	.75	.75
04.25.07	Review and revision of draft of third settlement agreement	.75	.75
04.26.07	Review and revision of draft of third settlement agreement	.75	.75
04.29.07	Review and revision of draft of third settlement agreement	.75	.75
05.02.07	Telephone conference with K Richardson regarding schedule for next negotiation session and some substantive issues; emails to team regarding same; telephone conference with CB Rogers	.50	.50
05.08.07	Worked with CB Rogers on edits to draft settlement on rate reforms	2.00	2.00
05.09.07	Review and edits to draft settlement for PSA III	1.75	1.75
05.10.07	Continued edits and revision of settlement draft	.25	.25
05.12.07	Continued edits and revision of settlement draft; emails to/from CB Rogers	1.25	1.25
05.13.07	Telephone conference with CB Rogers and M Kerkmans regarding appendices for settlement agreement; worked on SB Rogers' redline of settlement agreement	.875	.875
05.14.07	Continued edits and revisions of settlement draft with CB Rogers; emails to/from LB Miller, M Osbourne, etc.	1.00	1.00
05.17.07	Telephone conference with CB Rogers regarding draft settlement agreement; responded to LB Miller email regarding same	.25	.25
05.18.07	Met with CB Rogers to go over draft settlement agreement; emails to/from LB Miller, CB Rogers, and K Richardson; revisions to draft and email to K Richardson	2.50	2.50
05.20.07	Met with CB Rogers to go over Appendix A for PSA III	.50	.50
05.22.07	Telephone conference to discuss draft of PSA II with CB Rogers and LB Miller	.75	.75
05.24.07	Travel to Albuquerque for settlement negotiations	.50	.50

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
05.24.07	Settlement negotiations in Albuquerque with K Richardson and CB Rogers; telephone conferences with LB Miller	4.75	4.75
05.25.07	Settlement negotiations in Albuquerque with K Richardson and CB Rogers; telephone conferences with LB Miller	4.00	4.00
05.25.07	Return travel from Albuquerque to Santa Fe	.50	.50
05.25.07	Review and revision of PSA III	1.25	1.25
05.28.07	Review and revision of PSA III: emailed to CB Rogers	1.125	1.125
05.29.07	Emailed latest draft of PSA III; telephone conferences with CB Rogers; emails to/from K Richardson et al	2.625	2.625
05.30.07	Continued review and revision of latest draft of PSA III; emailed revisions to K Richardson et al	3.25	3.25
05.31.07	Receipt and review of K Richardson's latest edits of settlement draft; telephone conferences with D MacMeekin and E Treisman	.75	.75
06.01.07	Telephone conference with CB Rogers regarding results of negotiations with K Richardson	.25	.25
06.02.07	Preparations for negotiations on equitable relief with CB Rogers; reviewed draft settlement agreement; telephone conference with D MacMeekin	1.25	1.25
06.03.07	Preparations for negotiations on equitable relief	1.00	1.00
06.03.07	Travel to Sacramento	3.00	3.00
06.04.07	Negotiations on equitable relief with K Richardson, Deborah Moberly, Doris Jensen, M Kerkmans, Greg Anderson, and CB Rogers	4.50	4.50
06.05.07	Negotiations on equitable relief with K Richardson, Deborah Moberly, Doris Jensen, M Kerkmans, Greg Anderson, and CB Rogers	4.25	4.25
06.06.07	Travel from Sacramento to Seattle for further negotiations on equitable relief	2.50	2.50
06.06.07	Review and revision of draft settlement agreement	.375	.375
06.07.07	Negotiations with K Richardson, CB Rogers, and LB Miller	2.00	2.00
06.08.07	Negotiations with K Richardson, CB Rogers, and LB Miller	2.625	2.625

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
06.08.07	Return travel from Seattle to Santa Fe	3.375	3.375
06.10.07	Review and revision of Motion for Extension of Time to September 17, 2007	.25	.25
06.10.07	Conference with CB Rogers regarding Motion for Extension and latest settlement agreement draft	.375	.375
06.11.07	Worked with CB Rogers and LB Miller by email on NCAI contracts, reports and reconciliation	.50	.50
06.12.07	Telephone conference with LB Miller regarding NCAI funds in settlement accounts	.125	.125
06.20.07	Conference call with K Richardson and CB Rogers regarding settlement	.25	.25
06.22.07	Discussion with E Treisman regarding class notice for settlement on equitable issues	.25	.25
07.29.07	Drafted final judgment and order approving PSA III	.75	.75
07.31.07	Telephone call from Darnell Maria regarding new BIA contract support case committee or work group - no class counsel or representative for NBC present	.125	.125
08.14.07	Telephone conference with Richard Phelps, Falmouth Institute, regarding indirect cost rate negotiations and procedures with NBC	.25	.25
08.14.07	Prepared memo via email to CB Rogers and LB Miller regarding issues for settlement; research on issues in Newberg	1.50	1.50
08.14.07	Telephone conference with CB Rogers regarding result of the day's negotiations with DOJ and BIA on equitable relief; progress made	.25	.25
08.15.07	Drafted revisions to proposed judgment and motion for preliminary approval; emailed to CB Rogers and LB Miller; research in files on opt-out issue and (b)(2) class; telephone conference with D MacMeekin and E Treisman on (b)(2) issue of opt-outs; emails to CB Rogers and LB Miller regarding same	1.75	1.75

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
08.15.07	Telephone conference with D MacMeekin regarding release and (b)(2) issues	.125	.125
08.15.07	Telephone conference with CB Rogers debriefing on day's negotiations with DOJ and BIA	.25	.25
08.16.07	Telephone conference with CB Rogers regarding IHS shortfall report; telephone conferences with D MacMeekin to see if he can locate latest report on IHS shortfalls; emails to co-counsel	.375	.375
08.17.07	Telephone conference with CB Rogers regarding settlement negotiations and need for order granting preliminary approval	.125	.125
08.19.07	Met with CB Rogers for debriefing on settlement negotiations last week in Washington DC; reviewed latest revisions of settlement agreement	1.75	1.75
08.20.07	Review and revision of Appendices A and B of settlement agreement; telephone conference with CB Rogers regarding K Richardson's concern about claim waivers, etc; emails	1.00	1.00
08.21.07	Email exchange with CB Rogers and LB Miller regarding protocol and scheduling of teleconferences	.625	.625
08.22.07	Telephone conference with LB Miller and NCIA representative regarding class contracts with BCAI	.25	.25
08.23.07	Telephone conference with CB Rogers regarding Draft #10 to release legislative issues; telephone conference with LB miller; emails regarding both calls	.375	.375
08.24.07	Review and revision of Draft #10 of PSA III; conference with CB Rogers and LB Miller regarding NCAI issues; telephone conference with CB Rogers	1.25	1.25
08.25.07	Continued review and revision of Draft #10 of PSA III	1.875	1.875
08.26.07	Continued review and revision of Draft #10 of PSA III	3.625	3.625
08.27.07	Review and revision of draft of Class Notice; sent our comparison documents of Draft #10 of PSA III; emails regarding scheduling telephone conference with CB Rogers	1.25	1.25

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
08.30.07	Telephone conferences and emails to D MacMeekin regarding PSA III and questions raised about release, protection of <i>Tunica</i> case, attorney's fees, etc.	1.00	1.00
08.31.07	Preparation for conference call with CB Rogers and LB Miller on PSAIII - K Richardson draft; telephone conferences with D MacMeekin	2.25	2.25
09.04.07	Worked on revisions to CB Roger's "compare" draft dated 08.31.07; worked with D MacMeekin on his changes to create a single MPG/DM redline for distribution to CB Rogers and LB Miller	2.25	2.25
09.05.07	Worked on revisions to latest PSA III draft; telephone conferences with CB Rogers and LB Miller; conferences with D MacMeekin and E Treisman; drafted motion for extension of time to file settlement	3.75	3.75
09.07.07	Receipt and review of emails regarding PSA III draft and class notice; review of LB Miller edits	.75	.75
09.08.07	Review and revision of Release, Appendix D, and Class Notice	.50	.50
09.10.07	Revision of appendices, especially class notice; various telephone calls to arrange conference call for tomorrow; telephone conference with CB Rogers	2.75	2.75
09.11.07	Preparation for conference call regarding Draft #10 of PSA III; conference call with K Richardson, CB Rogers, Sabrina (BIA); follow-up on motion for extension of deadlines	2.50	2.50
09.12.07	Luncheon meeting with CB Rogers to review notes and issues from yesterday's conference call	2.00	2.00
09.13.07	Conference call with CB Rogers and LB Miller regarding draft settlement; various other calls during the day to set up conference call	.75	.75
09.17.07	Preparation for conference call with K Richardson, CB Rogers, and LB Miller; telephone conference with D MacMeekin to review issues; conference call 12:30 pm to 3:00 pm; follow-up with CB Rogers; draft explanation for double recovery theory	2.75	2.75

MICHAEL P. GROSS
TIMESHEET FOR RNC:IDC – PSA III

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
09.18.07	Worked with CB Rogers, D MacMeekin, and E Treisman on changes to PSA III; receipt and review of master draft #12 sent by K Richardson; worked on revisions to III.5.2 and IV.A	3.25	3.25
09.20.07	Worked on changes to release/reserved claims section of PSA III with CB Rogers; rewrite of section; telephone conference with CB Rogers; emails relating to changes to LB Miller, CB Rogers, and K Richardson	2.50	2.50
09.21.07	Telephone conference with M Kerkmans regarding Appendices A and B of PSA III; telephone conference with CB Rogers regarding same	.75	.75
09.21.07	Receipt and review of emails concerning Appendices A and B of PSA III	.125	.125
09.21.07	Further discussions with CB Rogers, D MacMeekin, and E Treisman regarding CA issue and shortfall request issues; review and revision of Motion to Extend Deadline for October 22 to December 17; approved language of motion and sent to counsel fo filing	.875	.875
09.24.07	Telephone conference with D MacMeekin regarding double recovery issue	.50	
09.25.07	Review and revision of motion to amend scheduling order; email	.125	.125
09.25.07	Telephone conference with M Kerkmans regarding double recovery and CDA	1.00	
10.03.07	Telephone conference with CB Rogers regarding double recovery issue	.50	
10.17.07	Conference calls with M Kerkmans, D MacMeekin, and E Treisman regarding CDA double recovery issue	1.25	
10.18.07	Worked with M Kerkmans, D MacMeekin, CB Rogers, and E Treisman on analysis and tactics regarding double recovery issue as to CDA	4.00	
10.19.07	Telephone conference with CB Rogers, D MacMeekin, and E Treisman regarding impact of <i>Southern Ute</i> decision on caps issue		1.00
10.24.07	Worked on cover letter to K Richardson regarding double recovery/CDA problem; drafted letter; conferred with D MacMeekin and E Treisman; conferred with CB Rogers; review and revision of LB Miller's memo on the subject	3.50	

MICHAEL P. GROSS
TIMESHEET FOR RNC:IDC – PSA III

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
10.25.07	Continued revision to cover letter on CDA double recovery issue and samples with CB Rogers and LB Miller; received final documents and emailed K Richardson, et al	4.50	
11.02.07	Telephone conference with K Richardson; email regarding Seattle negotiations on November 13-14; telephone conference with Judy Tixier; conference with E Treisman and D MacMeekin	.50	.50
11.09.07	Conference with D MacMeekin and E Treisman regarding release issues in PSA III	.75	.75
11.12.07	Travel to Seattle for negotiations on equitable relief	3.75	3.75
11.13.07	Meeting/negotiations with Defendants on equitable relief; debriefing with co-counsel	6.00	6.00
11.14.07	Return travel from Seattle to Santa Fe with M Kerkmans; discussed issues during return flight	4.25	4.25
11.15.07	Office conference with E Treisman regarding Seattle negotiations; review new proposal	.25	.25
11.21.07	Conference call with M Kerkmans to review new settlement proposal	.50	.50
11.24.07	Wrote up mu thoughts on the government's new settlement proposal following discussions with M Kerkmans of November 21	1.00	1.00
11.25.07	Review and revision of memo on recent settlement negotiations in Seattle; sent draft to M Kerkmans for review	.625	.625
11.25.07	Telephone conference with M Kerkmans regarding memo on settlement negotiations; edits to draft	1.00	1.00
11.26.07	Analysis and discussion with E Treisman and M Kerkmans regarding government's new proposal of settlement; edits to draft memo	.75	.75
11.27.07	Continued review and revision of drafted memo on settlement	1.25	1.25
11.28.07	Worked on Notice to Class; emails regarding templates and dates for next meeting; telephone conference with CB Rogers	.75	.75

MICHAEL P. GROSS
TIMESHEET FOR RNC:IDC – PSA III

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
11.29.07	Continued review and revision of settlement memo; receipt and review of CB Roger's redline; emails	.75	.75
11.30.07	Telephone conference with CB Rogers and M Kerkmans regarding my analysis of new settlement proposal by K Richardson; follow-up emails scheduling next negotiation in Washington DC for December 13	1.50	1.50
12.01.07	Review and revision of draft Class Notice; telephone conference with CB Rogers; emailed new draft to CB Rogers and LB Miller	1.25	1.25
12.02.07	Receipt and review of Class Notice redraft; emails to D MacMeekin and E Treisman; receipt and review of master draft #15 from K Richardson	1.25	1.25
12.03.07	Telephone conference with B Rogers regarding draft #15 and travel arrangements to Washington DC on December 11 th to meet with K Richardson; office conference with E Treisman regarding Notice to Class on settlement	.375	.375
12.04.07	Review and revision of Notice to Class	.50	.50
12.07.07	Conferred with CB Rogers regarding new settlement proposal's benefit elements, and counteroffer we should make; wrote email to summarize the discussion to CB Rogers and M Kerkmans	1.00	1.00
12.11.07	Travel to Washington DC; discussion and review of PSA III draft #15 with CB Rogers en route	3.50	3.50
12.12.07	All day meetings with K Richardson to negotiate changes to PSA III draft #15	4.25	4.25
12.13.07	Wrapped up negotiations with K Richardson	1.00	1.00
12.13.07	Return travel from Washington DC to Santa Fe	4.50	4.50
12.19.07	Telephone conferences with Steve Osborne to discuss status of IDC and IHS cases in regard to <i>American Pipe</i> settlement	.25	.25
12.20.07	Review and revision of D MacMeekin edits and comments on PSA III draft #17	.75	.75

MICHAEL P. GROSS
TIMESHEET FOR RNC:IDC – PSA III

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
12.26.07	Worked with CB Rogers on changes to PSA III draft #17; began inputting changes by CB Rogers and MP Gross	2.00	2.00
12.27.07	Continued work inputting CBR/MPG edits to DM edits on K Richardson draft #17; telephone conference with CB Rogers to discuss edits	1.50	1.50
12.28.07	Continued revisions of PSA III draft #17	1.75	1.75
12.29.07	Continued revisions of PSA III draft #17	1.375	1.375
12.31.07	Continued revisions of PSA III draft #17; review of revisions on compared documents and continued edits	1.00	1.00
01.02.08	Worked with CB Rogers on edits to last draft of settlement documents; telephone conference with CB Rogers and LB Miller	2.75	2.75
01.03.08	Worked with CB Rogers, D MacMeekin, and LB Miller on edits to K Richardson draft #17	4.25	4.25
01.04.08	Input changed from yesterday's discussions with CB Rogers and LB Miller into our response to K Richardson draft #17	1.75	1.75
01.08.08	Receipt and review of comparison documents of K Richardson draft #17; emailed to K Richardson and our team; emailed Appendices A and B comments to John Donham for review	.625	.625
01.10.08	Receipt and review of Appendices A and B; telephone conference with M Kerkmans and CB Rogers to discuss edits of 01.02.08 draft	1.00	1.00
01.11.08	Telephone conference with K Richardson regarding latest draft; drafted motion to amend scheduling order	.75	.75
01.12.08	Review and revision of draft motion to amend scheduling order	.25	.25
01.16.08	Transmitted latest drafts of appendices to co-counsel	.25	.25
01.24.08	Conferred with CB Rogers and telephone conference with M Kerkmans regarding Appendices A and B	.75	.75
01.24.08	Telephone conference with CB Rogers as follow-up on earlier discussions on Appendices A and B; review of Notice to Class draft	.25	.25

MICHAEL P. GROSS
TIMESHEET FOR RNC:IDC – PSA III

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
01.25.08	Conference with CB Rogers, K Richardson, and Sacramento NBC representative	.625	.625
01.30.08	Travel to Washington DC for negotiations with DOJ	4.25	4.25
01.30.08	Telephone conference with D MacMeekin, CB Rogers, and M Kerkmans regarding effects of acceptance of proposed IDC rate	.25	.25
01.31.08	Washington DC negotiations with DOJ to settle equitable claims	4.00	4.00
02.01.08	Washington DC negotiations with DOJ to settle equitable claims	2.75	2.75
02.01.08	Return travel from Washington DC to Santa Fe	6.00	6.00
02.02.08	Worked on assembling draft #23 and sending it to CB Rogers and LB Miller; telephone conference with CB Rogers regarding OMB provision	.375	.375
02.04.08	Telephone conference with CB Rogers and emails regarding jurisdiction to enter into agreement and related issues	.375	.375
02.05.08	Telephone conference with CB Rogers regarding tomorrow's conference call with K Richardson et al; telephone conference with M Kerkmans regarding Appendices A and B	.325	.325
02.05.08	Downloaded and studied Doris Jensen's Appendices A and B	.125	.125
02.06.08	Met with M Kerkmans and CB Rogers to prepare for conference call with K Richardson about settlement agreement PSA III; conference call with K Richardson; de-briefing after conference call	1.50	1.50
02.07.08	Discussion with E Treisman and D MacMeekin regarding OMB issue; telephone conference with CB Rogers; new evidence draft changes by CB Rogers	.75	.75
02.07.08	Telephone conference with CB Rogers regarding changes to XVII of the draft settlement; modifications; conference with E Treisman, JE Gallegos, and D MacMeekin (by phone) regarding same	1.00	1.00
02.08.08	Preparation for conference call on settlement; conference call with K Richardson; post call amendments to Appendices and emailed them to all parties	3.00	3.00

MICHAEL P. GROSS
TIMESHEET FOR RNC:IDC – PSA III

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
02.09.08	Worked on Appendices A and B; telephone conference with CB Rogers	1.00	1.00
02.10.08	Continued work on Appendices A and B edits with M Kerkmans and CB Rogers; emailed amended versions to government counsel and our team	.875	.875
02.11.08	Worked with M Kerkmans on Appendices A and B; telephone conferences with M Kerkmans and CB Rogers	1.00	1.00
02.12.08	Worked on settlement; analyzed documents for conference call and copies them for M Kerkmans and CB Rogers; pre-conference call meeting with M Kerkmans, CB Rogers, and E Treisman; conference call with K Richardson, D Moberly, D Jensen, CB Rogers, M Kerkmans, and E Treisman	2.25	2.25
02.13.08	Research on OMB duty under AFA; telephone conferences with D MacMeekin; emails; legal research	1.125	1.125
02.15.08	Receipt and review of <i>City of Rio Rancho v. Lujan</i> from Bulletin 47408, Feb. 8, 2008, on statutory construction	.25	.25
02.21.08	Call from K Richardson regarding various issues on equitable relief settlement	1.125	1.125
02.22.08	Telephone conference with K Richardson regarding remaining concerns in equitable relief settlement; suggested solutions; emails to team and to K Richardson on progress and transmittal of K Richardson draft #24	1.00	1.00
02.25.08	Telephone conference with G Strommer, Marsha Kostura, and D MacMeekin regarding released used as close out instruments by IHS	.375	.375
02.25.08	Drafted motion for extension and order	.375	.375
02.25.08	Began review of draft #24 of equitable relief settlement documents	.375	.375
02.25.08	Drafted and made changes based on comments of motion for extension of time in connection with equitable settlement; reviewed and made hand edits to draft #24 of the agreement; numerous emails and telephone conferences with K Richardson	2.875	2.875

MICHAEL P. GROSS
TIMESHEET FOR RNC:IDC – PSA III

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
02.27.08	Worked on edits to PSA III draft #24 and revisions to Appendices D, E, and F; review and revision of motion for preliminary approval	2.875	2.875
02.28.08	Telephone conference with CB Rogers and M Kerkmans regarding equitable relief and Appendices A and B	.625	.625
02.28.08	Preparation for telephone conference call tomorrow; review and analysis of Appendices A and B	1.125	1.125
02.29.08	Preparation for and held conference call with K Richardson and Class team (LB Miller, G Anderson, B Parkhurst, and CB Rogers)	2.75	2.75
03.01.08	Worked on edits to agreement and Appendices A and B changes per team discussion yesterday	1.00	1.00
03.03.08	Worked with CB Rogers and K Richardson on changes to agreement, Appendices A and B, Notice, Preliminary Approval, and Final Judgment; entered agreed changes in drafts of foregoing and emailed them to CB Rogers and LB Miller for review	2.625	2.625
03.04.08	Conference call/negotiation with K Richardson, NBC personnel, CB Rogers, and LB Miller	1.375	1.375
03.04.08	Sent Appendices E and G to K Richardson, CB Rogers, and LB Miller	.125	.125
03.05.08	Worked on edits and corrections to PSA III and Appendices A & B with CB Rogers and D MacMeekin	2.25	2.25
03.06.08	Telephone conferences and emails with CB Rogers regarding final changes to PSA III and transmittal to K Richardson	.375	.375
03.07.08	Telephone conference with K Richardson regarding Appendices A & B and other remaining issues in settlement; telephone conference with CB Rogers	.75	.75
03.09.08	Receipt and review of draft #27; telephone conference with CB Rogers	.125	.125
03.11.08	Conference call with K Richardson and CB Rogers regarding last changes to PSA III	1.625	1.625

MICHAEL P. GROSS
TIMESHEET FOR RNC:IDC – PSA III

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
03.12.08	Conference call with K Richardson and CB Rogers regarding draft #29; discussions with CB Rogers, D MacMeekin and E Treisman thereafter on draft #29	2.50	2.50
03.12.08	Receipt of and response to Geoff Strommer's query about theoretical over-recoveries; telephone conference with K Richardson regarding logistics and time constraints for completion of settlement; research DCA and Red Lake agreements not to be class members	1.25	1.25
03.13.08	Conference with CB Rogers regarding draft #29; email to G Strommer on theoretical over-recoveries; conference call with K Richardson	1.75	1.75
03.17.08	Worked on new language for VI.A.2 and B; telephone conference with CB Rogers	.50	.50
03.19.08	Met with Samantha Whitetail Eagle and Ramah controller to discuss settlement of equitable claims; receipt and review of CB Roger's redraft of VI.A.2 and VI.B	1.125	1.125
03.25.08	Sent three versions of waiver provision in VI.A.2 and VI.B to K Richardson, etal.	.125	.125
03.26.08	Travel to/from Las Vegas NV to present on class action and IDC settlement for Falmouth Institute; travel time 6.0 hours / conference time 5.0 hours	5.50	5.50
03.27.08	Travel to/from Las Vegas NV to present on class action and IDC settlement for Falmouth Institute ; travel time 6.0 hours / conference time 5.0 hours	5.50	5.50
03.29.08	Receipt, review, and edit of K Richardson's master draft #30; email to CB Rogers with critical edits	1.75	1.75
03.30.08	Receipt and review of revised Appendices A & B	.375	.375
03.31.08	Receipt and review of edits to Draft #30 and Appendices A & B from CB Rogers; several telephone discussions with D MacMeekin; conference call with LB Miller and CB Rogers; receipt and review of edits from D MacMeekin	2.75	2.75

MICHAEL P. GROSS
TIMESHEET FOR RNC:IDC – PSA III

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
04.01.08	Negotiated 'final' changes to PSA III and Appendices A, B and F with K Richardson	3.125	3.125
04.02.08	Telephone conference with Mike Her Many Horses; emails to Samantha Whitetail Eagle and Mike Her Many Horses regarding settlement; emails to K Richardson regarding settlement final corrections	.625	.625
04.03.08	Final drafts of settlement agreement and Appendices A & B; emails to all concerned regarding details of class lists	1.25	1.25
04.08.08	Discussion with CB Rogers and LB Miller on issues involving final judgment of both settlement and cases (possibility of simultaneous appeals)	.375	.375
04.09.08	Met with Ramah Navajo Chapter representatives Darnell Maria and Jeanette Quintero to review settlement and discuss item rate proposal for 2006, 2007 and 2008; emails to K Richardson and LB Miller regarding same	2.50	2.50
05.14.08	Travel to Pine Ridge, SD to report to Oglala Sioux Tribe on PSA III and obtain Tribe's approval	5.00	5.00
05.15.08	Meetings with Oglala Sioux Tribe representatives	5.00	5.00
05.16.08	Return travel from Pine Ridge to Santa Fe	5.00	5.00
05.20.08	Telephone conferences with CB Rogers regarding Court conference call	.25	.25
05.21.08	Telephone conference with Juan Gonzales, Judge Hansen's clerk, regarding possible telephone conference hearing with Judge Hansen; telephone conference with CB Rogers; emails to LB Miller, K Richardson, CB Rogers; lunch meeting with Susan Hansen of REDW regarding Class Notice and website	2.50	2.50

MICHAEL P. GROSS
TIMESHEET FOR RNC:IDC – PSA III

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Date:	Task:	Carryforwards & DCSC Hours:	Ramah Base Hours:
05.23.08	Discussion with B Wooldridge regarding publication of Notice to Class; conference with M Kerkmans and CB Rogers regarding new examples of carryforward changes (benefits) for training and presentation on Class website	2.75	2.75
05.24.08	Telephone conference with CB Rogers regarding draft and rewrite of decision and judgment from PSA I	.50	.50
05.26.08	Worked with M Kerkmans on his affidavit in support of PSA III	1.25	1.25
05.27.08	Emailed draft of Kerkmans declaration to D MacMeekin and E Treisman	.125	.125
05.29.08	Conferred with CB Rogers regarding examples being prepared by M Kerkmans	.375	.375
05.30.08	Worked with M Kerkmans on his declaration in support of PSA III; telephone conference with CB Rogers	2.00	2.00
06.02.08	Began review of new examples; telephone conference with CB Rogers	.25	.25
TOTALS:		659.575	582.575

**Declaration of Class Counsel Michael P. Gross
In Support of PSA III and Motion for Attorneys' Fees**

Exhibit 3

**CRIS Report dated May 30, 2008
and
Wells Fargo Account Statement dated May 31, 2008**

United States District Court
District of New Mexico
Office of the Clerk



Matthew J. Dykman
Clerk of Court

Pete V. Domenici United States Courthouse

333 Lomas Blvd. N.W. - Suite 270
Albuquerque, New Mexico 87102
(505) 348-2000 - Fax (505) 348-2028

Divisional Offices
120 South Federal Place
P.O. Box 2384
Santa Fe, NM 87504-2384
(505) 988-6481
Fax (505) 988-6473

200 East Griggs
Las Cruces, NM 88001
(505) 528-1400
Fax (505) 528-1425

Facsimile Transmittal Cover Sheet

TO: Bryant Rodgers 505-983-7508 (fax) **DATE:** May 30, 2008
Mike Gross 505-989-1096 (fax)
John Zavitz 505-346-7205 (fax)
Susan Hansen 505-998-3333 (fax)
(Rogoff)

PAGES: 30, including this cover page

FROM: Denise Barela, Financial Specialist

SUBJECT: Weekly CRIS Report

COMMENTS: CIV 90-09571 H. Ramah Navajo Chapter, et al. v. Bruce Rabbitt, et al.

1. CRIS Weekly Report of Deposits and Disbursements faxed to USDC, SC of Texas, Houston.
DATE OF REPORT 05/01/08-05/28/08
2. CRIS District Summary Allocation Report, Liquidity Pool.
PERIOD 05/01/08 To 05/28/08
3. CRIS Asset Report, Liquidity Pool.
PERIOD ENDING 05/28/08

If there are any problems with this transmission, or you have any questions, please call (505)348-2077 and ask for Denise.

**Court Registry Investment System
 District Summary Allocation Report
 Liquidity Pool**

U.S. District Court
 District Of New Mexico
 Period : 05/22/2008 -- 05/28/2008

D10NMX

Number of Cases - 3

PRINCIPAL

Beginning Balance		104,282.96
Transferred In	0.00	
Transferred Out	0.00	
Period Change		0.00
Ending Principal Balance		104,282.96

EARNINGS

Beginning Balance		814,090.43
Transferred In	0.00	
Allocations	110.73	
Transferred Out	0.00	
Period Change		110.73
Ending Earnings Balance		814,201.16

ENDING BALANCE

918,484.12

Current Registry Fee

2.84

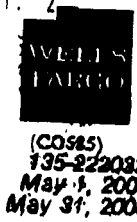
JUN. 19. 2008 2:14PM REDW LLC

NO. 395 P. 2

WELLS FARGO BANK, N.A.
 LOMAS OFFICE
 200 LOMAS BOULEVARD NW
 ALBUQUERQUE, NM 87102

Page 1 of 2

Account Number: 42350
 Statement Period:



RAMAH NAVAJO CHAPTER CLASS ACTION
 SETTLEMENT FUND
 PO BOX 93659
 ALBUQUERQUE NM 87199-3659

For Customer Assistance:
 Call 800-225-5885 (1-800-CALL-WELLS).

Account Number	Beginning Balance	Total Credits	Total Debits	Ending Balance
Business Cash Mgmt Acct Interest Pf 735-2220320	14,604.09	1.11	0.28	14,604.85

Moves from Wells Fargo

Credits

Electronic Deposits/ Bank Credits

Effective Date	Posted Date	Amount	Transaction Detail
May 31	May 30	1.11	Interest Payment
		1.11	Total Electronic Deposits/ Bank Credits
		1.11	Total Credits

Debits

Electronic Debits/ Bank Debits

Effective Date	Posted Date	Amount	Transaction Detail
	May 20	0.28	Client Analysis Srvc Chrg 080510 Svc Chge 0408 000001352220320
		0.28	Total Electronic Debits/ Bank Debits
		0.28	Total Debits

Daily Ledger Balance Summary

Date	Balance	Date	Balance
Apr 30	14,604.09	May 20	14,603.74
		May 30	14,604.85
Average Daily Ledger Balance		14,603.95	

Continued on next page

**Declaration of Class Counsel Michael P. Gross
In Support of PSA III and Motion for Attorneys' Fees**

Exhibit 4

**Expenses & Advanced Costs
Class Counsel Michael P. Gross**

MICHAEL P. GROSS
EXPENSES & ADVANCED COSTS
RNC:IDC – PSA III

PAGE 1 OF 1

06.30.07	Client Fax Charges	11.50	*
06.30.07	Office Copies	4.40	*
06.30.07	Postage	1.31	
07.31.07	Office Copies	5.60	*
08.30.07	Client Fax Charges	19.50	*
08.30.07	Office Copies	26.00	*
09.30.07	Client Fax Charges	4.50	*
09.30.07	Office Copies	3.80	*
10.28.07	Long Distance Telephone Costs	471.53	
10.28.07	Long Distance Telephone Costs	373.56	
10.31.07	Office Copies	20.00	*
11.13.07	Travel Expenses: Seattle WA	933.92	
11.30.07	Client Fax Charges	2.00	*
11.30.07	Office Copies	1.40	*
12.13.07	Travel Expenses: Washington DC	632.94	
12.31.07	Client Fax Charges	7.00	*
12.31.07	Office Copies	1.40	*
01.31.08	Client Fax Charges	13.50	*
01.31.08	Office Copies	.60	*
02.01.08	Travel Expenses: Washington DC	980.04	
02.29.08	Westlaw Legal Research	89.99	
02.29.08	Client Fax Charges	36.00	*
02.29.08	Office Copies	18.40	*
03.27.08	Travel Expenses: Las Vegas NV	285.00	
03.28.08	Long Distance Telephone Costs	521.61	
03.31.08	Client Fax Charges	13.00	*
04.02.08	Westlaw Legal Research	192.28	
04.30.08	Westlaw Legal Research	441.83	
04.30.08	Client Fax Charges	14.00	*
04.30.08	Office Copies	4.60	*
05.17.08	Travel Expenses: Pine Ridge SD	1,347.03	
05.30.08	Client Fax Charges	1.50	*
05.30.08	Office Copies	29.80	*
	* Gross Receipts Tax	<u>18.93</u>	
	TOTAL:	\$ 6,528.47	