

UNITED STATES DISTRICT COURT

DISTRICT OF NEW MEXICO

Clerk's Minutes

Before the Honorable C. LeRoy Hansen

CASE NO. CIV 90cv957

DATE: August 26, 2008

TITLE: *Ramah Navajo Chapter v. Kempthorne*

COURTROOM CLERK: Virginia Loman

COURT REPORTER: John De La Rosa

COURT IN SESSION: COURT IN RECESS:

10:04 a.m.

11:50 a.m.

TYPE OF PROCEEDING:

Fairness Hearing on Joint Motion for Preliminary and Final Approval of Third Partial Settlement Agreement and For an Order that Notice Be Sent to the Class (Docket No. 1138) and the Application of Class Counsel and Co-Class Counsel for an Award of Attorneys' Fees and Costs (Docket No. 1144)

COURT'S RULINGS/DISPOSITION:

The Court will grant final approval of the Third Partial Settlement Agreement and will grant the application for attorney's fees and costs.

ORDER CONSISTENT WITH COURT'S RULING TO BE PREPARED BY:

The parties are to review the Court's four proposed orders, confer, and submit final proposed orders and the final judgment by 10:00 a.m. on August 27, 2008.

DEADLINE FOR SUBMISSION OF ORDER TO COURT:

August 27, 2008 at 10:00 a.m.

ATTORNEYS PRESENT FOR PLAINTIFF(S): ATTORNEYS PRESENT FOR DEFENDANT(S):

Michael Gross

James D. Todd

C. Bryant Rogers

Jan Mitchell

Lloyd B. Miller (telephonically appeared)

Sabrina McCarthy

Eric Treisman

John Zavitz

PROCEEDINGS:

10:04 a.m. Court in session. Counsel state appearances. Counsel introduce clients and interested persons in attendance.

10:10 a.m. Court addresses draft order that was handed to counsel prior to hearing.

Plaintiffs have examined draft order. Plaintiffs want to confer shortly after hearing concludes before commenting on the order.

- 10:11 a.m. Mr. Gross addresses the Court. He explains that all Rule 23 requirements have been met. He asserts that, following the requisite notice, there have been no objections from any class members. Mr. Gross addresses the overall structure of the settlement.
- 10:34 a.m. Mr. Rogers addresses the Court. He explains the special rates, carryforwards, and the double-dipping portions of the settlement.
- 10:50 a.m. Mr. Miller addresses the Court. He discusses the direct contract support costs claim (for example, worker's compensation insurance costs for tribal law enforcement).
- 11:01 a.m. Mr. Gross addresses the Court and highlights the remaining portions of the settlement, including training and settlement reserve claims. He explains that the Court retains jurisdiction to enforce the agreement, even though the claims will be dismissed with prejudice.
- 11:10 a.m. Mr. Rogers addresses the Court concerning one clause of the settlement agreement.
- 11:11 a.m. Mr. Todd states that the Government has nothing to add and that the settlement agreement meets all Rule 23 requirements.
- 11:12 a.m. Recess
- 11:25 a.m. Court is back in session. Mr. Gross addresses the application for attorneys' fees and costs. The Court states that it has reviewed the motion and finds the requests to be reasonable. Mr. Gross explains counsels' efforts in the equitable relief issues. Counsel is requesting \$725,000.00 for this particular fee request. Counsel intends to contribute to training for one year and will then apply for

release from their class duties and will make an accounting as to the reserve account.

11:37 a.m. Mr. Todd states that Defendants take no position on the reasonableness of the fees. The Court requests that the parties examine the Court's separate proposed orders concerning the motions. The Court orders counsel to look them over by 3 p.m. Mr. Todd asks for extension of time until tomorrow. The Court orders counsel to submit the orders and final judgment by tomorrow, August 27, 2008, at 10 a.m. The Court compliments efforts of counsel and parties in resolving case.

11:50 a.m. Court in recess.