

FILED
at Santa Fe, NM

SEP 30 2002

ROBERT M. MARCH, Clerk
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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,

No. CIV 90-0957 LH/WWD ACE

vs.

GALE NORTON, Secretary of the
Interior, in her official capacity,
UNITED STATES DEPARTMENT OF
INTERIOR, NEIL McCALEB, Assistant
Secretary of Interior for Indian Affairs,
in his official capacity, EARL DEVANEY,
Inspector General, in his official capacity,
and UNITED STATES OF AMERICA,

Defendants.

AFFIDAVIT OF MARVIN AMIOTTE
IN SUPPORT OF APPLICATION FOR
AWARD OF ATTORNEY'S FEES AND COSTS

I, Marvin G. Amiotte, after being first duly sworn upon my oath, do depose and state as follows:

1. I am a member of South Dakota Bar and have been authorized to practice law in the State of South Dakota.
2. I received as B.S. from Black Hills State University, Spearfish, South Dakota in 1961. I received my Masters Degree in Counselor Ed. from the University of Pittsburgh, Pittsburgh, Pa. in 1969, and a J.D. from the University of South Dakota, Vermillion, South Dakota in 1974.
3. I have served as General Counsel for the Oglala Sioux Tribe of Indians since 1976.

4. While not co-counsel in the Ramah Class action I was fortunate to be allowed to attend class strategy and negotiation sessions by Mike Gross, Ramah Class Counsel.

5. I now serve as co-counsel as the Oglala Sioux Tribe is now a named plaintiff in the class action Ramah Navajo Chapter vs. Gale Norton, et. al. My present contract with the Oglala Sioux Tribe provides for an hourly rate of \$80.00 per hour. I have a higher fee for non-tribal legal services. However, my commitment to the Oglala Sioux Tribe at the present time prevents me from taking other legal service contracts.

6. I have participated in this case in the area of consultation, strategy planning, and settlement negotiations, review of the issues in the application for the settlement agreement.

7. Exhibit A to this affidavit is a record of the services I have performed in this matter since December 2, 2998.

8. I am an enrolled member of the Oglala Sioux Tribe. I reside in the Pine Ridge Indian Reservation, Shannon County, South Dakota, which has been identified as the poorest county in the nation since 1980. Only recently have we gone from Number 1 to Number 2. As a member of the tribe and resident of the reservation I have not billed the Tribe more than \$80.00/hr. I have rejected several offers for a more lucrative practice.

9. The attached list sets forth hours and labor services in connection with pursuing claims of the Oglala Sioux Tribe, now a named plaintiff of the Class which were outside of the First Partial Settlement Agreement.

10. That I will now, pursuant to my attorney contract with the Oglala Sioux Tribe and authorization of the Oglala Sioux Tribe Executive Committee; submit to the Oglala Sioux Tribe a billing for legal services provided in the above entitled matter for the period of 12/18/98 to the present. I have not submitted the billing prior to this date due to the financial condition of the Oglala Sioux Tribe.

More Affiant Sayeth Not.

Dated this 24 day of Sept., 2002.


Marvin G. Amiotte

<u>Date</u>	<u>Activity</u>	<u>Hours</u>
9/8-10/02	Albuquerque, New Mexico – Court hearing motion to settle – Judge Hansen	17
01/02/02	Cross-motion partial summary judgment	8
12/26/01	Plaintiff's response to defendant cross motion	6
12/13/01	Plaintiff's response to cross motion	6
12/13/01	Response to Plaintiff to defendant statement of material fact	8
12/13/01	Plaintiff reply to defendant response to statement of uncontested facts	4
12/13/01	Plaintiffs reply to motion for partial summary judgment and answer to defendants cross motion for summary judgment	10
12/12/01	cross motion for partial summary judgment, amended motion for partial summary Judgment	10
12/18/01	Response by Plaintiff to motion for partial summary judgment	6
11/19/01	response by Defendant to Plaintiffs statement of uncontested facts	4
11/14/01	Cross motion by Defendant for partial summary judgment and response to Plaintiff amended motion for partial summary judgment and Zuni	6
11/14/01	Cross motion by Defendant for partial summary judgment and Zuni	8
11/05/01	Cross motion by Defendant for partial summary judgment	4
11/01/01	Notice by Defendant of statement of material facts not in dispute	3

10/12/01	Zuni memorandum in support of Ramah-Oglala	6
08/14/01	Stipulated order briefing schedule	1
08/20/01	Attachments to Plaintiffs amendment for partial summary judgment	45
08/10/01	Service of amended motion and memorandum to opposing counsel	1
08/10/01	Memorandum by Ramah	12
08/11/01	Amended Motion Ramah-Oglala for partial summary judgment	10
08/08/01	Stipulated Order granting Plaintiff motion to exceed page limits	1
08/04/01	Motion by Plaintiff to exceed page limit and memorandum	3
08/03/01	Notice of hearing status conf. on 1/15 Judge Hansen	1
8/14-16/01	Travel to Albuquerque hearing status	24
06/03/01	Certificate of service of removal interrogatives, productions and admission	4
06/20-23/01	Plaintiffs Mediation Notebook – Los Angeles, California	16
04/14/01	Certificate of motion and memorandum in support of motion to amend complaint	6
04/06/01	Stipulation	1
04/16/01	Memorandum by Ramah Navajo in support of motions to amend complaint by intervention	8
04/16/01	Motion by Ramah to amend complaint	3
02/27/01	Settlement	24
01/24/01	Plaintiffs position paper	8

11/04/00	Motion and memo in support of motion by OST to amend complaint in intervention	12
11/19-22/00	Negotiating sessions – Washington, D.C.	32
07/05-8/00	Settlement discussions – Albuquerque, NM	32
02/29/00	Order granting Plaintiff stipulated motion to amend caption to reflect OST intervention	1
02/23/00	Stipulated order to amend caption	3
02/23/00	Order granting Plaintiffs to exceed page limits and permitting Plaintiff to file motion for partial summary judgment with exhibits	1
02/18/00	Motion to amend caption, for partial summary judgment with memo	6
02/18/00	Memorandum of Plaintiffs in support of motion for summary judgment with supporting exhibits	18
02/15/00	Answer by Defendant to amendment of intervention by OST	4
01/27/00	Amendment by intervention of OST complaint by intervention	6
01/27/00	Judge Hansen Order granting Plaintiffs, OST's amended motion to amend complaint in intervention	1
11/06/99	Amended motion and memorandum in support to award OST to amend complaint in intervention	12
11/10/99	Certificate of service by OST amended motion and memo	2
11/01/99	Answer of Defendant to OST Intervenors complaint	10

10/25/99	Service of request for production admissions.	4	
10/08/99	Intervenors Civil Complaint by OST	20	
10/08/99	Amendment of Ramah to 1 st amended complaint by intervention	6	
10/08/99	Service by Ramah of first amended complaint by intervention, OST civil complaint	24	
9/29-30/99	Judge Hansen Order granting Ramah motion to amend complaint	1	
09/23/99	Notice with attachments by Defendant of supplemental authority on Plaintiffs motion to amend and OST motion in intervene	8	
09/28/99	Notice of hearing before Judge Battey on Plaintiffs OST motion to amend and OST motion to intervene	8	
08/19/99	Consolidated reply by Plaintiff's to respond to motion to amend complaint	6	
08/05/99	Response in opposition by Defendant's to Ramah motion to amend complaint and OST motion to intervene	8	
	08/05/99	Judge Hansen Order	3
	08/05/99	Judge Hansen Order	3
	08/04/99	Motion by Defendant for order to consolidate briefing	1
	07/28/99	Motion by Defendant for extension of time	1
	07/06/99	OST motion to intervene and memo in support, Ramah motion to amend and memo in support	24
	07/06/99	Order Magistrate granting motion for extension of time and response to OST motion to intervene	6

06/30/99	Motion of D's to respond to Plaintiff's motion to amend complaint and intervene	6
06/28/99	Motion by Ramah to amend complaint	4
06/28/99	Ramah memorandum in support of motion to amend complaint	12
06/28/99	Motion by intervenor OST to intervene	4
06/28/99	Memorandum in Support of motion to intervene	12
TOTAL	575 hours @ \$80.00 per hour = \$46,000.00	