

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

02 SEP 30 PM 1:26

Robert M. Mansel
CLERK-SANTA FE

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

Plaintiffs,

vs.

No. CIV 90-0957 LH/WWD ACE

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

**APPLICATION OF CLASS COUNSEL AND CO-CLASS COUNSEL
FOR AN AWARD OF ATTORNEY'S FEES AND COSTS**

Michael P. Gross, Class Counsel, C. Bryant Rogers, Co-Class Counsel, and Lloyd B. Miller, Co-Class Counsel for the DCSC Claim, for themselves and on behalf of the Roth, VanAmberg, Rogers, Ortiz, Fairbanks & Yepa Law Firm, the Sonosky Law Firm, Eric Treisman, Marvin Amiotte, and Steven L. Tucker, (hereinafter "Movants") hereby apply for an award of attorney's fees and reimbursement of costs incurred in representing the Class.

1. Upon approval of the Second Partial Settlement Agreement, Movants apply for an award of attorney's fees in the amount of \$5,800,000 (20% of the Settlement Amount of \$29,000,000.00) plus gross receipts tax and post-judgment interest. Movants also apply for an award of costs in the approximate sum of \$270,000.00, plus post-judgment interest, with the right to file a supplemental cost bill before the approval hearing.

2. Pursuant to the Second Partial Settlement Agreement, Movants request that the Order awarding attorney's fees and costs provide that the entire amount awarded for fees and costs, plus applicable gross receipts tax, shall be paid to Movants within ten (10) days after the date on which Defendants make the payment of the Settlement Amount required under the Second Partial Settlement Agreement.

3. The attorneys working with Michael P. Gross, Class Counsel, in the presentation of the case on behalf of their clients and the Class, namely, C. Bryant Rogers, Lloyd B. Miller, Eric Treisman, Marvin Amiotte, Steven L. Tucker, and their respective law firms have each entered into agreements with Class Counsel whereby their fees and expenses will be distributed among them by Class Counsel, according to agreed formulas, from the amounts awarded to Movants by the Court.

4. For no additional remuneration from this Second Partial Settlement Agreement, Class Counsel and the lawyers and law firms listed in this Application shall:

A. Defend against any appeal of this Court's approval of the Second Partial Settlement Agreement;

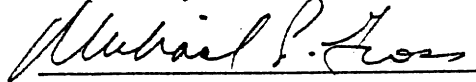
B. Supervise administration and distribution of the Common Fund under Appendix F of this Second Partial Settlement Agreement;

C. Subject to the further order of the Court, continue to seek equitable relief, as Class Counsel Gross and Co-Class Counsel Rogers stipulated they would do (Docket No. 283), and undertake a study of the Benchmarking system pursuant to the Court's Orders of June 1, 2001 (Docket No. 557) and August 5, 2002 (Docket No. 666), respecting the methodological defect found illegal in the Tenth Circuit's decision in this case, 112 F.3d 1455 (10th Cir. 1997); and

D. Defend the Class against any recoupment attempt by the Government under the purported authority of the Contract Disputes Act, 41 U.S.C. §612(c).

5. In support of this Application, Movants would respectfully refer the Court to (a) the Affidavits of the above-named counsel, (b) the Memorandum of Law in Support of Application of Class Counsel for Award of Attorney's Fees and Costs for the First Partial Settlement in this case (Docket No.201), (c) the Memorandum of Law in Support of Approval of (the instant) Second Partial Settlement Agreement and this Application for Fees, and (d) the Second Partial Settlement Agreement itself, all of which have been separately filed.

Respectfully submitted,



MICHAEL P. GROSS

Class Counsel

M. P. GROSS & ASSOCIATES, P.C.

460 St. Michael's Drive, #300

Santa Fe, New Mexico 87505

Telephone (505) 983-6686

Fax (505) 989-1096



C. BRYANT ROGERS

Co-Class Counsel

ROTH, VAN AMBERG, ROGERS,

ORTIZ, FAIRBANKS & YEPA. LLP

P. O. Box 1447

Santa Fe, NM 87504-1447

Telephone (505) 988-8979

Fax (505) 983-7508



LLOYD B. MILLER

Co-Class Counsel for DCSC CLaim

SONOSKY, CHAMBERS, SACHSE,

MILLER & MUNSON

900 West Fifth Avenue, Suite 700

Anchorage, AK 99501

Telephone (907) 258-6377

Fax (907) 272-8332