

Nos. 11-5270, 11-5271, 11-5272

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

ELOUISE PEPION COBELL, *et al.*,
Plaintiffs-Appellees,

CAROL EVE GOOD BEAR, CHARLES COLOMBE,
and MARY AURELIA JOHNS,
Objectors-Appellants,

v.

KENNETH LEE SALAZAR, *et al.*,
Defendants-Appellees.

PLAINTIFFS' MOTION FOR ATTORNEYS' FEES AND COSTS

Plaintiffs-Appellees respectfully move to recover their attorneys' fees and costs from Appellants and their counsel pursuant to 28 U.S.C. §§ 1912 and 1927 and Rule 38 of the Federal Rules of Appellate Procedure.

Appellants Carol Eve Good Bear, Charles Colombe, and Mary Aurelia Johns (collectively, "Objectors") brought this appeal from the district court's approval of a historic settlement ending more than sixteen years of litigation between the government and Individual Indian Trust beneficiaries. This litigation now is in its seventeenth year and settlement was executed two and one-half years ago. Objectors raised four arguments on appeal for why the district court should not

have approved the settlement but only superficially addressed each one, dedicating a total of only six pages to all four arguments. Of those four arguments, Objectors were aware that two already had been raised in detail before this Court by the other class objector-appellant. This Court found Objectors' remaining two arguments "utterly without merit," "contrary to all precedent and to common sense," and based on a "blatant mischaracterization" of the record. *See* Exhibit A.

This appeal was frivolous, duplicative, and served only to unreasonably and unconscionably delay the settlement in this historic class action lawsuit between the United States and 500,000 Indian trust beneficiaries. The Court should award Plaintiffs their attorneys' fees and costs in defeating this frivolous appeal.

BACKGROUND

I. The *Cobell* Litigation

This lawsuit began more than sixteen years ago when Plaintiffs, representing a class of individual Indians whose land and related natural resources are held in trust by the United States, sued the government to enforce trust duties it owes to class members, including without limitation an accounting of trust assets. In December 2009, after years of protracted litigation, the parties reached a landmark \$3.4 billion settlement. After the parties signed the settlement agreement, Congress enacted and the President signed the Claims Resolution Act of 2010, which expressly "authorized, ratified, and confirmed" the settlement and payments

to class members. Claims Resolution Act of 2010, Pub. L. No. 111-291, 124 Stat. 3064 (Dec. 8, 2010). The district court approved the settlement on June 20, 2011, entered a final order on July 27, 2011 (Doc. 3850), and entered final judgment on August 4, 2011 (Doc. 3853).

II. Right to Opt-Out and the Fairness Hearing

Prior to the district court's approval of the settlement, all class members received notice of their right to opt out of the Trust Administration Class and to submit objections to the settlement. Of the 500,000 class members, the district court received only 92 objections and 1,824 opt outs, the overwhelming majority of which were from one tribe. (Doc. 3839-3 at 60; Doc. 3850 at 6.) All three Objectors filed timely objections and two, Good Bear and Colombe, opted out of the Trust Administration Class. (Doc. 3850-1 at 3.)

On June 20, 2011, the district court held a fairness hearing. Good Bear and Johns appeared at the hearing and opposed the settlement. After hearing from the objectors and their counsel, the district court approved the settlement, finding it "fair, reasonable, and adequate." (Doc. 3839-3 at 53-65; Doc. 3850 at 7.)

III. The Objectors' Frivolous Appeal

Objectors appealed the district court's approval of the settlement. The three objectors, each represented by the same counsel, filed their notices of appeal at the same time. This Court consolidated those three appeals *sua sponte*. Objectors then

filed a “Motion to Sever Case No. 11-5270 From Consolidated Appeals,” seeking to sever the appeals so that the objectors did not have to “share briefing space and argument time.”¹ (App. Doc. 1342385 at 4.) The Court denied that motion and granted Plaintiffs’ motion to expedite the briefing and oral argument.

Objectors brief purported to raise four arguments, addressed under four separate headings. However, the argument section of Objectors’ brief devoted only six pages to these arguments. Further, the arguments raised were entirely devoid of citations to governing legal authority or record evidence. (*See* App. Doc. 1356026 at 25-31.) Two of Objectors’ arguments were previously briefed by the only other class objector-appellant, Kimberly Craven, in her appeal before this Court. Craven sought the same relief as Objectors: reversal of the district court’s approval of the settlement. (*Compare* App. Doc. 1335908 *with* App. Doc. 1356026.) Objectors were aware of Craven’s appeal and even acknowledged in their brief that some of the arguments they raised (in an exceedingly cursory manner) were the same arguments raised by Craven. (App. Doc. 1356026 at 6.)

The Court scheduled the case for oral argument but later canceled the argument pursuant to D.C. Cir. R. 34. On May 22, 2012, this Court affirmed the district court in an unpublished, *per curiam* order. (App. Doc. 1374911.) The

¹ This contention is specious in that Objector’s Opening Brief contained only 4,705 words compared to the 14,000 permitted under local rules; it is especially so considering the 28,000 words Objectors sought in their motion to sever.

Court determined that, of Objectors' four arguments, two were identical to Craven's and foreclosed by the decision in that appeal. The Court also determined that Objectors' other two arguments, the only original arguments Objectors made, were "utterly without merit." (*Id.*) The Court held that Objectors' first new argument—that reaching a settlement agreement removes the adverseness required for an Article III case or controversy—was "contrary to all precedent and to common sense." (*Id.*) The Court held that Objectors' second new argument—that the district judge should have recused himself—was "based upon the blatant mischaracterization that certain statements made by the district judge at a status conference were made 'out of court.'" (*Id.*)

ARGUMENT

I. The Court should award Plaintiffs their attorneys' fees and costs incurred in opposing Objectors' appeal.

A. Objectors' appeal was frivolous

This Court should award Plaintiffs their attorneys' fees and costs incurred in opposing this frivolous appeal. The Court can assess attorneys' fees and costs against Objectors under both Rule 38 of the Federal Rules of Appellate Procedure and 28 U.S.C. § 1912. "[D]amages are awarded by the court in its discretion in the case of a frivolous appeal as a matter of justice to the appellee and as a penalty against the appellant." Fed. R. App. P. 38 Advisory Committee Note. An appeal is considered frivolous, and thus worthy of awarding damages, when its disposition

is “obvious” and the legal arguments are “wholly without merit.” *Reliance Ins. Co. v. Sweeney Corp., Md.*, 792 F.2d 1137, 1138 (D.C. Cir. 1986).

This appeal readily satisfies that standard. Only two arguments asserted by Objectors were not already raised (and later rejected by this Court) in an appeal by another class objector. The Court found both of those two new arguments “utterly without merit.” (App. Doc. 1374911.) First, Objectors’ argued that the district court lacked jurisdiction because the settlement of a class action lawsuit removes the adverseness required to create an Article III case or controversy. (App. Doc. 1356026 at 25-26.) As the Court found, this argument is not merely wrong, but “contrary to all precedent and to common sense.” (App. Doc. 1374911.)

Second, Objectors argued that the district judge should have recused himself based on statements he made “out-of-court” concerning the merits of the case. (App. Doc. 1356026 at 27.) This Court rejected that argument as a “blatant mischaracterization” of the trial record. (App. Doc. 1374911.) As Plaintiffs demonstrated by citing to the official transcript of the proceeding (which Objectors ignored in their opening brief), the district court’s statements were not made “out-of-court.” Rather, those statements were part of findings at a status conference supporting the court’s decision that the case should remain stayed pending approval of the settlement by Congress. In those findings, the district judge indicated that he believed the settlement had a strong chance of ultimate approval

at the fairness hearing. (App. Doc. 1365414 at 164.) Inexplicably, Objectors repeatedly misrepresented the district judge's statements on the record at that status conference as "out-of-court" statements, and Objectors cited to an obscure internet blog as evidence of those statements, rather than citing to the actual transcript from the status conference. (App. Doc. 1356026 at 27.) In sum, both of Objectors' non-duplicative arguments were frivolous and warrant sanctions. *See Octocom Sys., Inc. v. Houston Computer Servs., Inc.*, 918 F.2d 937, 943 (Fed. Cir. 1990) (damages are warranted "[w]here a party blindly disregards long established authority and raises arguments with no factual foundation.").

Objectors' other two arguments, which were addressed in a related appeal before this Court, also support awarding damages. First, even if these two arguments were non-frivolous when raised in the other appeal, that does not preclude Rule 38 sanctions in this appeal, which included the additional, frivolous claims described above. *See In re Perry*, 918 F.2d 931, 934-35 (Fed. Cir. 1990) (a "non-frivolous argument, if there were one, would not preclude the Rule 38 sanction imposed in this case. 'It would be strange if by the happenstance of including one colorable (though losing) claim amidst an ocean of frivolous ones, a litigant could ward off all sanctions.'" (quoting *Hill v. Norfolk & W. Ry. Co.*, 814 F.2d 1192, 1200 (7th Cir. 1987))).

Second, Objectors' cursory treatment of the two duplicative arguments rendered them frivolous. Indeed, Objectors failed to cite *any* record evidence to support those two claims. (App. Doc. 1356026 at 28-29.) Instead, their argument consisted of vague, unsupported assertions that are factually inaccurate and legally wrong. For example, Objectors pointed to a separate, unrelated lawsuit in which one of the Objectors, Good Bear, is a putative class member, *Two Shields v. United States*, No. 11-31-L (Fed. Cl.), to argue that "the writing is on the wall." (Obj. Br. 18.) Objectors never explained what "the writing is on the wall" means, nor did they explain how the *Cobell* settlement would affect the *Two Shields* case. Indeed, because Good Bear opted out of the *Cobell* Trust Administration Class, the *Cobell* settlement would not in any way prevent her from pursuing her *Two Shields* claims.

Objectors also argued that the "approval of this settlement is inconsistent with the recent teaching of the Supreme Court in *Wal-Mart v. Dukes*," but failed to explain why *Wal-Mart* purportedly supports their arguments. (*Id.* at 30-31.) Objectors instead relied entirely on conclusory statements, completely devoid of legal citations, explanations, or analysis. This Court repeatedly has held that it will not "consider cursory arguments" that fail to explain or support the issue raised. *Doe v. Exxon Mobil Corp.*, 654 F.3d 11, 49 n.37 (D.C. Cir. 2011). As the Court

has explained, “[i]t is not enough merely to mention a possible argument in the most skeletal way, leaving the court to do counsel’s work.” *Id.*

Moreover, Objectors were aware that these arguments were already made by the only other objector-appellant and that any decision on those arguments in that appeal would bind all class members. (Obj. Br. 6.) Instead of attempting to join that appeal or consolidate their appeals with it, Objectors pursued their own appeal that simply repeated the claims in that other appeal in cursory fashion and added other, utterly frivolous and deceptive arguments. Accordingly, Objectors appeal as a whole is sanctionable under Rule 38.

B. Objectors’ frivolous appeal unjustly harmed the 500,000 class members in this historic lawsuit.

Attorneys’ fees and costs are particularly appropriate in this case because Plaintiffs’ fees and costs incurred in defending against this frivolous appeal will be paid to Class Counsel by class members out of their settlement funds. After Plaintiffs and the government reached their historic \$3.4 billion settlement in this lawsuit, now in its seventeenth year, they agreed that any attorneys’ fees incurred after the settlement would be subject to a separate, not-yet-submitted, attorneys’ fees request. (Doc. 3660-17 at 3.) Those attorneys’ fees are eligible to be paid out of the \$3.4 billion settlement fund. (*Id.*)

Thus, the attorneys’ fees incurred to defend the settlement against Objectors’ frivolous lawsuit may be paid directly from funds that would otherwise be paid to

the 500,000 Indian class members in this case. Those settlement funds are crucial to the day-to-day lives of class members. As the district court found, “many of the Indian beneficiaries depend on their IIM trust income for the basic staples of life.” *See Cobell v. Norton*, 394 F. Supp. 2d 164, 273 (D.D.C. 2005). In short, the class members in this landmark settlement, many of whom are among the poorest people in the nation, should not be forced to pay the cost of defeating this frivolous appeal.

C. Plaintiffs incurred \$221,259.68 in attorneys’ fees and costs to defeat Objectors’ frivolous appeal.

Plaintiffs total expenses incurred to defeat Objectors’ frivolous appeal are \$221,259.68.² Plaintiffs’ counsel expended 402 hours on this appeal through June 16, 2012, as documented and verified in the accompanying declarations. *See* Charnes Decl. at ¶ 6 (attached as Exhibit B). Counsel have applied their customary hourly rates to these hours worked, which are consistent with rates in the market. *See Covad Commc’ns Co. v. Revonet, Inc.*, 267 F.R.D. 14, 29 (D.D.C. 2010) (holding an attorney’s usual hourly rate is presumptively the reasonable rate, provided it is in line with the prevailing rates in the community). Applying those customary rates, Plaintiffs’ total attorneys’ fees incurred to respond to this

² Plaintiffs respectfully reserve their right to seek additional sanctions should these Objectors and their counsel pursue further utterly frivolous appeals in this court, *i.e.* reconsideration and *en banc* review.

frivolous appeal are \$215,966.00. Plaintiffs also incurred costs such as copying, on-line legal research, and filing expenses of \$5,293.68. *See* Charnes Decl. at ¶ 7.

The time Plaintiffs' counsel invested in defending this frivolous appeal was reasonable considering the high stakes involved in any challenge to this landmark settlement. Plaintiffs' counsel had to treat Objectors' frivolous appeal as it would any other appeal, given the importance of this settlement as perhaps the only reasonable solution to this protracted litigation, and the only means to ensure that all 500,000 class members obtain monetary relief for the government's long-standing breaches of trust. It was therefore reasonable for Plaintiffs' counsel to spend 402 hours defending the settlement in this appeal. Counsel has provided this Court with a detailed account of those hours, as well as the usual and customary hourly rates it charges. *See* Charnes Decl. at ¶ 6; Gingold Decl. at ¶ 13 (attached as Exhibit C); Remple Decl. at ¶ 6 (attached as Exhibit D). Applying those hours to its usual and customary hourly rates and awarding \$221,259.68 is a reasonable and proper award of expenses incurred by Plaintiffs to ensure that their landmark settlement is properly protected.

II. The Court also should award attorneys' fees and costs against Objectors' counsel, David Harrison.

This Court should also award attorneys' fees against Objectors' counsel of record, David Harrison, and hold him jointly and severally liable with Objectors.

Under 28 U.S.C. § 1927, federal courts may assess damages and costs directly

against an attorney who “multiplies the proceedings in any case unreasonably and vexatiously.” This standard is met “when an attorney knows or reasonably should know that a claim pursued is frivolous.” *Tareco Props., Inc. v. Morriss*, 321 F.3d 545, 550 (6th Cir. 2003); *see also South Star Commc’ns, Inc. v. FCC*, 949 F.2d 450, 452 (D.C. Cir. 1991) (directing attorney to pay sanctions awarded pursuant to Rule 38 for frivolous appeal).

Objectors’ counsel was aware that a previous appeal pending before the Court had already raised two of the four issues addressed in Objectors’ appeal. Instead of attempting to join that appeal, Objectors’ counsel filed a separate appeal, raising two duplicative arguments in a cursory fashion without citation to legal authority or the trial record, and asserting two additional, utterly frivolous arguments. Moreover, Objectors’ counsel initially sought to sever the three Objectors’ appeals, which the Court had consolidated *sua sponte*, so that he could submit separate briefs. Plaintiffs were forced to file a response opposing that motion to sever and to separately move to expedite the consolidated appeal which Objectors also opposed. (*See App. Docs. 1344570 & 1342287.*) In addition, although Plaintiffs opposed using the deferred appendix option in this case, Objectors’ counsel unilaterally informed the Court that he would be filing a deferred appendix, without first consulting Plaintiffs’ counsel.

In short, filing this appeal served no legitimate purpose, but it did unreasonably multiply these proceedings without adding *any* value or raising a *single* meritorious argument. Objectors' counsel knew, or should have known, that arguments that are "utterly without merit," "contrary to all precedent and to common sense," and based on a "blatant mischaracterization" of the trial record, *see* Exhibit A, are not only frivolous, but vexatious, and would needlessly multiply these proceedings and burden both the parties to this historic settlement agreement as well as the Court. Accordingly, the Court should construe the appeal as filed in bad faith and hold Objectors' counsel jointly and severally liable for Plaintiffs' attorneys' fees. *See* 28 U.S.C. § 1927; *Hilmon Co. (V.I.) Inc. v. Hyatt Int'l*, 899 F.2d 250, 254 (3d Cir. 1990).

CONCLUSION

Plaintiffs respectfully request that the Court enter an order awarding Plaintiffs their attorneys' fees and costs in the amount of \$221,259.68 jointly and severally against Appellants Carol Eve Good Bear, Charles Colombe, and Mary Aurelia Johns, and against their counsel, David Harrison.

Respectfully submitted,

/s/ Adam H. Charnes
Adam H. Charnes
David C. Smith
Richard D. Dietz
KILPATRICK TOWNSEND &

STOCKTON LLP
1001 W. Fourth Street
Winston-Salem, North Carolina 27101
Telephone: (336) 607-7300

Dennis M. Gingold
THE LAW OFFICE OF DENNIS M. GINGOLD
607 14th Street, N.W., 9th Floor
Washington, D.C. 20005
Telephone: (202) 824-1448

Keith M. Harper
KILPATRICK TOWNSEND &
STOCKTON LLP
607 14th Street, N.W.
Washington, D.C. 20005
Telephone: (202) 508-5844

William E. Dorris
Elliott Levitas
KILPATRICK TOWNSEND &
STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309
Telephone: (404) 815-6500

June 19, 2012

CERTIFICATE OF SERVICE

I hereby certify that on June 19, 2012, I filed a copy of the foregoing
PLAINTIFFS' MOTION FOR ATTORNEYS' FEES AND COSTS with the clerk
of court using the CM/ECF system and served a copy by first class mail on the
following:

David C. Harrison
LAW OFFICES OF DAVID C. HARRISON
Two Park Square
6565 Americas Pkwy., Suite 200
Albuquerque, NM 87110

Thomas M. Bondy
Brian P. Goldman
UNITED STATES DEPARTMENT OF JUSTICE
Appellate Staff, Civil Division
950 Pennsylvania Ave., N.W.
Room 7535
Washington, D.C. 20530

/s/ Adam H. Charnes
Adam H. Charnes
KILPATRICK TOWNSEND &
STOCKTON LLP
1001 W. Fourth Street
Winston-Salem, North Carolina 27101
Telephone: (336) 607-7300

EXHIBIT A

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11-5270

September Term, 2011

FILED ON: MAY 22, 2012

ELOUISE PEPION COBELL, ET AL.,
APPELLEES

CAROL EVE GOOD BEAR, ET AL.,
APPELLANTS

v.

KENNETH LEE SALAZAR, SECRETARY OF THE INTERIOR, ET AL.,
APPELLEES

Consolidated with 11-5271, 11-5272

Appeals from the United States District Court
for the District of Columbia
(No. 1:96-cv-01285)

Before: BROWN and GRIFFITH, *Circuit Judges*, and GINSBURG, *Senior Circuit Judge*.

J U D G M E N T

This appeal was considered on the record from the district court and on the briefs and the oral arguments of the parties. Although the issues presented occasion no need for a published opinion, they have been accorded full consideration by the Court. See Fed. R. App. P. 36; D.C. Cir. Rule 36(d). For the reasons stated below, it is

ORDERED and **ADJUDGED** that the orders of the District Court be affirmed.

The appellants raise four objections to the multi-billion dollar settlement of this class action. Two of these arguments are foreclosed by another decision of this court, *Cobell v. Salazar*, No. 11-5205 (D.C. Cir. May 22, 2012),* in which the court concluded that the settlement at issue in this case is fair and comports with the requirements of due process and of Federal Rule of Civil Procedure 23, *see id.*, slip op. at 12–13, 16–22.

* The relevant facts are as stated in that opinion.

The appellants' other two arguments, that the district court lacked jurisdiction and that the district judge should have recused himself, are utterly without merit. As to the first, the appellants' claim that the adverseness required for an Article III case or controversy ends when the parties to a dispute reach a settlement subject to court approval is contrary to all precedent and to common sense. As to the second, it is based upon the blatant mischaracterization that certain statements made by the district judge at a status conference were made "out of court."

The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/
Jennifer M. Clark
Deputy Clerk

EXHIBIT B

Nos. 11-5270, 11-5271, 11-5272

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

ELOUISE PEPION COBELL, *et al.*,
Plaintiffs-Appellees,

CAROL EVE GOOD BEAR, CHARLES COLOMBE,
and MARY AURELIA JOHNS,
Objectors-Appellants,

v.

KENNETH LEE SALAZAR, *et al.*,
Defendants-Appellees.

DECLARATION OF ADAM H. CHARNES

1. I am class counsel for the plaintiffs in this action, in conjunction with other attorneys at Kilpatrick Townsend & Stockton LLP (formerly Kilpatrick Stockton LLP) (the “Firm”), including Elliott Levitas, William Dorris, David Smith and Keith Harper, and with co-counsel Dennis M. Gingold and Thaddeus Holt.

2. I had primary responsibility at the Firm for responding to the appeal in this matter by the Appellants Carol Eve Good Bear, Charles Colombe, and Mary Aurelia Johns (collectively, “Objectors”).

3. During the course of the appeal, three partners, one senior counsel, six associates, one senior government relations advisor, and three paralegals associated with Kilpatrick Townsend performed services on behalf of the Plaintiff class. I have attached hereto as Exhibit 1 a list of the attorney's names, positions, current hourly rates and length of experience. Attached as Exhibit 2 is a list of the paralegals' and the senior government relations advisor's names, positions and current hourly rates. Attached as Exhibit 3 are biographical descriptions of class counsel with the Firm who worked on the Objectors' appeal.

4. The Firm has policies and procedures to ensure accurate records are maintained of work performed on client matters. Attorneys, paralegals and other staff are required to record their time and enter it, currently on a weekly basis, into the Firm's electronic recordkeeping system. The Firm closes those time entries on a monthly basis and a record of those entries, and any expenses charged to the client, are provided to the supervising attorney to review.

5. Exhibit 4 reflects time spent on this litigation by Kilpatrick Townsend attorneys and paralegals billed at current rates. The time entries for Kilpatrick Townsend attorneys and employees as reflected on this list were carefully reviewed by both the supervising partner and the individual timekeeper for accuracy. Rates charged by the Firm for its attorneys, paralegals and other staff are determined on an annual basis by the Firm's Operating Committee. That

Committee reviews reports and studies of prevailing rates for attorneys and legal staff to ensure that fees charged are reasonable and in accordance with the legal market in which the attorney or other employee works. Prevailing rates are ascertained by reviewing annual independent third party surveys of law firms similar to our firm in every region in the United States. Citibank and Wells Fargo are two examples of firms that produce these survey data. The rates for attorneys and other staff reflected in Exhibit 1 and Exhibit 2 for Kilpatrick Townsend attorneys and staff are reasonable based on the experience and expertise of the individual performing those services.

6. A total of 305.9 hours were expended in defending Objectors' appeal by Kilpatrick Townsend attorneys and paralegals. The work of our co-counsel Dennis Gingold and Mr. Geoffrey Rempel brings the total hours worked to 402. (*See Exhibit 5.*) The value of those services provided by Kilpatrick Townsend attorneys and paralegals, based on the Firm's current billing rates, is \$144,533.50. When including the work performed by Mr. Gingold and Mr. Rempel, the total value of services rendered is \$215,966.00. (*See Exhibit 5.*)

7. During the course of the appeal, the firm advanced expenses which were reasonably necessary for defending the appeal. The total value of those expenses is \$5,293.68. Attached hereto as Exhibit 6 is a summary of the expenses advanced by the Firm.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 19th day of June, 2012.

A handwritten signature in black ink, appearing to read "Adam H. Charnes". The signature is written in a cursive style with a large initial "A" and "C".

ADAM H. CHARNES

**EXHIBIT 1 TO
DECLARATION OF ADAM H. CHARNES
KILPATRICK TOWNSEND ATTORNEYS**

Name	Title	Year First Admitted to Bar	Rate
Charnes, Adam H.	Partner	1993	\$570
Comerford, Kristen N.	Associate	2011	\$285
Dietz, Richard R.	Associate	2002	\$400
Dorris, William E.	Partner	1979	\$720
Levitas, Elliott H.	Senior Counsel	1955	\$765
McCurry, Katherine A.	Associate	2011	\$285
Pearl, Michael Alexander	Associate	2007	\$390
Smith, David C.	Partner	1984	\$550
Vandergriff, Daniel M.	Associate	2010	\$315
Webb, Thurston	Associate	2009	\$285

**EXHIBIT 2 TO
DECLARATION OF ADAM H. CHARNES
KILPATRICK TOWNSEND NON-ATTORNEYS**

Name	Title	Rate
Burns, Joseph V.	Paralegal	\$260
Chick, Shawn R.	Paralegal	\$210
Dawson, Kathy J.	Paralegal	\$230
Loving, John-Claude F.	Senior Government Relations Advisor	\$528

**EXHIBIT 3 TO
DECLARATION OF ADAM H. CHARNES**

**BIOGRAPHICAL DESCRIPTIONS OF
KILPATRICK CLASS COUNSEL WORKING ON OBJECTOR'S APPEAL**

Adam H. Charnes – Mr. Charnes is a partner with Kilpatrick. He graduated summa cum laude from Princeton University in 1988 and magna cum laude from Harvard Law School in 1991. He clerked for the Honorable J. Harvie Wilkinson, III, on the U.S. Court of Appeals for the Fourth Circuit and Justice Anthony M. Kennedy on the United States Supreme Court. He was licensed in the State of Pennsylvania (currently inactive) in 1993, the District of Columbia in 1994 and the State of North Carolina in 2003. He was admitted to practice before the United States Supreme Court in 1997 and the United States Court of Appeals for the D.C. Circuit in 1993, among others. From 2002 – 2003 he was the Principal Deputy Assistant Attorney General for the Office of Legal Policy at the United States Department of Justice. He was awarded the Attorney General's Distinguished Service Award in July 2003. He currently practices principally in the area of complex commercial litigation. Over the years he has worked on the *Cobell* litigation on appellate matters. For several years he has been recognized in *The Best Lawyers in America* for Appellate Law and Commercial Litigation as well as being listed in *Chambers USA: America's Leading Lawyers for Business* in the area of General Commercial Litigation.

David C. Smith – Mr. Smith is a partner with Kilpatrick. He graduated cum laude from Wake Forest University in 1981 and cum laude from Wake Forest University School of Law in 1984. He has practiced law since 1984 and is licensed in the States of North Carolina, Maine, Maryland and the District of Columbia. He has worked on the *Cobell* litigation since March 2005. He is also admitted to practice before the Supreme Court of the United States, the United States Court of Appeals for the D.C. Circuit, the United States Court of Appeals for the Fourth Circuit, the federal district courts in the State of North Carolina, the federal district court for the District of Columbia and the Federal Court of Claims. He practices principally in the areas of Complex Business Litigation and Native American Affairs. He has been recognized in *The Best Lawyers in America* for Commercial Litigation for many years. He serves as an adjunct professor of law at Wake Forest University School of Law and Washington and Lee University School of Law where he teaches Native American Law.

Elliot H. Levitas – Mr. Levitas is a senior counsel with Kilpatrick. He graduated from Emory University in 1952, Emory University School of Law in 1956, and received a M.A. from the University of Oxford in 1956. He has practiced law since 1955 and is licensed in the State of Georgia and the District of Columbia. Prior to joining the firm, Mr. Levitas spent five consecutive terms as a Representative from Dekalb County in the Georgia General Assembly, followed by five consecutive terms representing Georgia's 4th Congressional District in the United States House of Representatives. He practices principally in the areas of Complex Business Litigation and Government and Regulatory law and has worked on the *Cobell* litigation since 1999. Mr. Levitas has received many professional accolades, including the Thomas B. Murphy Lifetime Achievement Award from the Democratic Party

of Georgia in 2008, was recognized in *The Best Lawyers of America* for Government Relations law in 2012 and the five years immediately preceding, and has been recognized as one of Georgia's "Legal Elite for Governmental Affairs" in *Georgia Trend Magazine*.

William E. Dorris – Mr. Dorris is a partner with Kilpatrick. He earned a J.D. with distinction from the University of Kentucky in 1979 and a B.A. with distinction from the University of Kentucky in 1976. He has practiced law since 1979 and is licensed in the States of Georgia and Kentucky. Over the years he has worked on the *Cobell* litigation, as well as many matters involving construction and infrastructure. Mr. Dorris has received many professional accolades, including recognition for six years in *The Best Lawyers in America* for Construction Law, was listed in *Chambers USA: America's Leading Lawyers for Business* in the area of Construction Law, *The International Who's Who of Business Lawyers* and in *The International Who's Who of Construction Lawyers*.

**EXHIBIT 4 TO
DECLARATION OF ADAM H. CHARNES**

**HOURS WORKED AND VALUE OF THOSE SERVICES BY KILPATRICK
TOWNSEND ATTORNEYS AND STAFF**

Name	Hours	Amount
Charnes, Adam H.	89.3	\$50,901.00
Comerford, Kristen N.	3.3	\$940.50
Dietz, Richard R.	87.0	\$34,800.00
Dorris, William E.	3.5	\$2,520.00
Levitas, Elliott H.	25.7	\$19,660.50
McCurry, Katherine A.	3.7	\$1,054.50
Pearl, Michael Alexander	12.8	\$4,992.00
Smith, David C.	22.9	\$12,595.00
Vandergriff, Daniel M.	13.3	\$4,189.50
Webb, Thurston	36.3	\$10,345.50
Burns, Joseph V.	1.4	\$364.00
Chick, Shawn R.	2.1	\$441.00
Dawson, Kathy J.	1.4	\$322.00
Loving, John-Claude F.	3.2	\$1,408.00

**EXHIBIT 5 TO
DECLARATION OF ADAM H. CHARNES**

FEES FOR GOOD BEAR APPEAL

Date	Name	Hours	Amount	Narrative
10/13/2011	Chick, Shawn R.	1.1	\$ 231.00	Receive filing notifications regarding appellate fees for Good Bear, Colombe and Johns, download Supplemental Record on Appeal, email to litigation team, update pleading index and case file (0.9); emails with C. Marshall regarding same (0.2).
10/14/2011	Charnes, Adam H.	2	\$ 1,140.00	Telephone conference with David Harrison (objector's counsel) regarding expediting appeal and related procedural issues.
10/14/2011	Gingold, Dennis	0.2	\$ 185.00	Telcom. Charnes re Good Bear, Johns, Colombe appellate issues.
10/14/2011	Gingold, Dennis	0.2	\$ 185.00	Telcom. Levitas re same.
10/17/2011	Gingold, Dennis	0.2	\$ 185.00	Telcom. Pearl re Harrison appeal.
10/18/2011	Gingold, Dennis	0.2	\$ 185.00	Telcom. Harper re above.
10/18/2011	Gingold, Dennis	0.1	\$ 92.50	Telcom. Levitas re same.
10/18/2011	Gingold, Dennis	0.5	\$ 462.50	Telcoms. TB's re appeals.
10/20/2011	Gingold, Dennis	0.4	\$ 370.00	Telcom. TB re case status.
10/26/2011	Gingold, Dennis	0.2	\$ 185.00	Telcom. TB re status of case; delay caused by appeals.
10/27/2011	Gingold, Dennis	0.2	\$ 185.00	Telcom. Dorris re appellate issues.
10/31/2011	Charnes, Adam H.	4	\$ 2,280.00	Address issues regarding Good Bear appeal.
10/31/2011	Gingold, Dennis	0.2	\$ 185.00	Telcoms. TB's re status of case.
11/2/2011	Gingold, Dennis	0.3	\$ 277.50	Telcoms. Telcom. TB's re case status.
11/4/2011	Gingold, Dennis	0.2	\$ 185.00	Telcom. TB re status; delay caused by appeal.
11/7/2011	Chick, Shawn R.	0.6	\$ 126.00	Update ECF information for Good Bear, Colombe and Johns consolidated matter.
11/7/2011	Gingold, Dennis	0.2	\$ 185.00	Telcoms. TB's re status of case; delay caused by appeal.
11/8/2011	Dietz, Richard D.	3	\$ 1,200.00	Draft motion to expedite Good Bear/Colombe/Johns appeals (2.8); discuss same with Mr. Charnes (0.2).
11/8/2011	Gingold, Dennis	0.2	\$ 185.00	Review/revise Good Bear, et al. motion to expedite appellate review.
11/8/2011	Gingold, Dennis	0.3	\$ 277.50	Telcoms. TB's re status of case; appellate issues; delay.
11/9/2011	Gingold, Dennis	0.2	\$ 185.00	Telcom. TB re case status; impact of delay caused by appeal.
11/9/2011	Smith, David C.	0.3	\$ 165.00	Review proposed motion for expedited appeal regarding Good Bear and correspondence in regard thereto.
11/10/2011	Smith, David C.	0.2	\$ 110.00	Review motion in relation to Good Bear.
11/11/2011	Gingold, Dennis	0.2	\$ 185.00	Telcoms. TB's re status of case; appellate delay.
11/16/2011	Dietz, Richard D.	0.7	\$ 280.00	Prepare and file motion to expedite Good Bear appeal.

Date	Name	Hours	Amount	Narrative
11/16/2011	Gingold, Dennis	0.2	\$ 185.00	Telcoms. Harper re Good Bear appeals, including motion to expedite.
11/16/2011	Gingold, Dennis	0.2	\$ 185.00	Telcom. Dorris re Harrison issues presented.
11/16/2011	Gingold, Dennis	0.2	\$ 185.00	Telcom. Levitas re same.
11/16/2011	Gingold, Dennis	1.1	\$ 1,017.50	Review Harrison's appellate filings, including issues presented and compare to objections raised timely by his clients.
11/16/2011	Smith, David C.	0.2	\$ 110.00	Correspondence with Mr. Charnes regarding appeal by Harrison.
11/17/2011	Charnes, Adam H.	6.5	\$ 3,705.00	Review Good Bear's motion to sever; research issues related to motion and Plaintiff's response; conference with Mr. Dietz regarding motion and response.
11/17/2011	Gingold, Dennis	0.3	\$ 277.50	Review Harrison's two latest motions; one to sever Good Bear from consolidated appeal and the second to "unconsolidated" Good Bear.
11/17/2011	Smith, David C.	0.1	\$ 55.00	Review motion to sever filed by Harrison.
11/21/2011	Gingold, Dennis	0.1	\$ 92.50	Telcom. Levitas re Good Bear appeals, e.g., issues presented that were not raised as objections in trial court.
11/21/2011	Levitas, Elliott H.	1.10	\$ 841.50	Telephone conference with Mr. Charnes regarding motion to expedite the Good Bear and related parties issues on appeal and briefing schedules, DOJ position on briefing schedules (.7); identify the specifications of issues by Good Bear and Harrison and procedure for addressing failure to raise issues in lower court (.4).
11/22/2011	Gingold, Dennis	0.1	\$ 92.50	Review 9 th circuit AOL class action decision.
11/22/2011	Gingold, Dennis	0.1	\$ 92.50	Telcom. Levitas re same.
11/23/2011	Gingold, Dennis	0.1	\$ 92.50	Review Kirschman's email and attachments re Colombe; review 4/15/11 exclusion letter re same.
11/23/2011	Gingold, Dennis	0.2	\$ 185.00	Telcom. Charnes re same; issues.
11/23/2011	Gingold, Dennis	0.3	\$ 277.50	Telcom. Levitas re above.
11/25/2011	Dietz, Richard D.	4.5	\$ 1,800.00	Draft response to Good Bear's motion to sever (3.2); research regarding same (1.3).
11/27/2011	Smith, David C.	1.5	\$ 825.00	Research and work on Good Bear motion to sever.
11/28/2011	Charnes, Adam H.	0.5	\$ 285.00	Teleconferences with Mr. Gingold and Mr. Dorris regarding Good Bear appeal.
11/28/2011	Dietz, Richard D.	1.3	\$ 520.00	Revise opposition to Good Bear's motion to sever (1.1); review e-mail correspondence regarding same (0.2).
11/28/2011	Gingold, Dennis	0.1	\$ 92.50	Conference call Charnes, Dorris re Good Bear issues.
11/28/2011	Gingold, Dennis	0.2	\$ 185.00	Telcom. Dorris re Good Bear issues.
11/28/2011	Gingold, Dennis	0.1	\$ 92.50	Review Harper edits re response to Good Bear motion to unconsolidated appeal.
11/28/2011	Gingold, Dennis	0.8	\$ 740.00	Telcom. Levitas re Good Bear issues.
11/28/2011	Gingold, Dennis	0.3	\$ 277.50	Telcom. TB re status of appeal; issues; delay consequences.

Date	Name	Hours	Amount	Narrative
11/28/2011	Gingold, Dennis	0.3	\$ 277.50	Review/revise same.
11/28/2011	Levitas, Elliott H.	0.8	\$ 612.00	Review and analyze proposed changes to Opposition to Motion to Sever (including D. Smith, D. Gingold, K. Harper) and email comment regarding format of Opposition.
11/28/2011	Pearl, Michael Alexander	0.7	\$ 273.00	Review draft response to Good Bear's Motion to Sever.
11/28/2011	Smith, David C.	0.2	\$ 110.00	Review final draft of response to motion to sever.
11/29/2011	Charnes, Adam H.	0.6	\$ 342.00	Telephone conference with Messrs. Gingold, Dorris, Harper, and Rempel regarding Good Bear appeal issues.
11/29/2011	Dietz, Richard D.	2.8	\$ 1,120.00	Revise response to Good Bear's motion to sever (2.5); e-mail correspondence regarding supporting affidavit (0.3).
11/29/2011	Dorris, William E.	0.4	\$ 288.00	Telephone conference with D. Harrison (0.2); telephone conference with Dennis Gingold regarding Good Bear appeal (0.2).
11/29/2011	Gingold, Dennis	0.6	\$ 555.00	Conference call Dorris, Rempel, Harper, Charnes re Good Bear, et al. issues.
11/29/2011	Gingold, Dennis	0.4	\$ 370.00	Telcoms. Dorris re same.
11/30/2011	Dietz, Richard D.	0.5	\$ 200.00	Review Good Bear's opposition to motion to expedite.
11/30/2011	Gingold, Dennis	0.2	\$ 185.00	Telcom. TB re delay and impact of same re appeals and distribution.
12/1/2011	Gingold, Dennis	0.2	\$ 185.00	Review government's opposition to Good Bear motion sever.
12/1/2011	Gingold, Dennis	0.2	\$ 185.00	Telcom. Charnes re same.
12/1/2011	Gingold, Dennis	0.1	\$ 92.50	Telcom. Harper re same.
12/1/2011	Gingold, Dennis	0.1	\$ 92.50	Review Good Bear opposition to motion expedite.
12/5/2011	Webb, Thurston	7.5	\$ 2,137.50	Drafting Reply motion to Objector Good Bear; researching issues for the brief before the D.C. Circuit.
12/6/2011	Dietz, Richard D.	2.00	\$ 800.00	Revise reply in support of motion to expedite Good Bear appeal.
12/7/2011	Gingold, Dennis	0.3	\$ 277.50	Telcom. Charnes re reply for motion to expedite briefing for Good Bear et al.; review/revise Good Bear reply.
12/7/2011	Pearl, Michael Alexander	0.6	\$ 234.00	Review motion to expedite Good Bear appeal.
12/9/2011	Gingold, Dennis	0.1	\$ 92.50	Telcom. Levitas re Good Bear reply.
12/9/2011	Smith, David C.	0.3	\$ 165.00	Review reply by Good Bear and emails regarding same.
12/13/2011	Dorris, William E.	0.5	\$ 360.00	Conference with Dennis Gingold regarding Good Bear appeal.
12/16/2011	Gingold, Dennis	0.1	\$ 92.50	Telcom. TB re status of case.
12/16/2011	Levitas, Elliott H.	0.5	\$ 382.50	Final review of Good Bear brief.
1/4/2012	Gingold, Dennis	0.1	\$ 92.50	Review order scheduling Good Bear oral argument; order re briefing of Good Bear.
1/4/2012	Gingold, Dennis	0.4	\$ 370.00	Telcom. Dorris re above.
1/4/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Harper re same.

Date	Name	Hours	Amount	Narrative
1/11/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. TB re case status; issues
1/12/2012	Gingold, Dennis	0.2	\$ 185.00	Telcoms. TB re status of case; appeal issues, appellants, delay.
1/17/2012	Gingold, Dennis	0.2	\$ 185.00	Discussion Rempel re inquiries by TB's re distribution delays; causes.
1/26/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. Dorris re Harrison/Good Bear issues.
1/27/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Levitas re same.
2/1/2012	Charnes, Adam H.	2	\$ 1,140.00	Review Good Bear brief (1.0); research regarding same (1.0).
2/1/2012	Dietz, Richard D.	3.50	\$ 1,400.00	Review Good Bear brief (2.2); research regarding constitutionality of settlement classes (1.3).
2/1/2012	Dorris, William E.	0.6	\$ 432.00	Reviewing the Good Bear appellate brief.
2/1/2012	Gingold, Dennis	0.2	\$ 185.00	Review Good Bear opening brief.
2/1/2012	Pearl, Michael Alexander	4	\$ 1,560.00	Review brief filed by Harrison, make notes, analyze and assess arguments, provide comments to Mr. Gingold.
2/1/2012	Smith, David C.	1	\$ 550.00	Review Good Bear brief.
2/1/2012	Webb, Thurston	1.3	\$ 370.50	Researching issues related to appeal before the D.C. Circuit Court of Appeals (0.9); reviewing brief of Good Bear (0.4).
2/2/2012	Charnes, Adam H.	1.5	\$ 855.00	Study and address issues and emails regarding Good Bear brief.
2/2/2012	Dietz, Richard D.	7.50	\$ 3,000.00	Draft Good Bear response brief.
2/2/2012	Gingold, Dennis	0.5	\$ 462.50	Review Good Bear, et al. objections and compare to opening brief.
2/2/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Dorris re same.
2/2/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. Harper re same.
2/2/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. TB re delayed distribution per appeals.
2/2/2012	Levitas, Elliott H.	1.5	\$ 1,147.50	Review, analyze and annotate Harrison opening brief (.5); email comments on Harrison brief (.3); discuss Harrison analysis of two Shields decision and case or controversy issues (.2); discuss two Shields issue and provide explanation of Harrison brief regarding same (.3); discuss Devlin claims resolution Act and Wal-Mart decision (.2).
2/2/2012	Smith, David C.	0.4	\$ 220.00	Outline of Good Bear argument and emails to Mr. Charnes, Mr. Dietz and Mr. Gingold.
2/6/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. TB re status of case.
2/7/2012	Gingold, Dennis	0.2	\$ 185.00	Discussions Rempel re Good Bear appeal.
2/7/2012	Gingold, Dennis	0.5	\$ 462.50	Meet with JP Morgan, Rempel re status of case; time lines; appeal process.
2/8/2012	Dietz, Richard D.	3.2	\$ 1,280.00	Draft Good Bear response brief
2/9/2012	Dietz, Richard D.	2.5	\$ 1,000.00	Draft Good Bear response brief.
2/10/2012	Dietz, Richard D.	2.6	\$ 1,040.00	Draft Good Bear brief (1.2); research regarding recusal standard (1.4).
2/10/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. Levitas re Good Bear issues.
2/10/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. TB re case status.

Date	Name	Hours	Amount	Narrative
2/10/2012	Levitas, Elliott H.	0.20	153.00	Discussion with Mr. Dietz regarding Good Bear appeal issues.
2/12/2012	Dietz, Richard D.	3.50	\$ 1,400.00	Draft Good Bear response brief.
2/13/2012	Dietz, Richard D.	1.5	\$ 600.00	Draft Good Bear response brief.
2/14/2012	Gingold, Dennis	0.5	\$ 462.50	Meet with TB re status of the case; impact of appellate delay on class members; appellate issues.
2/14/2012	Webb, Thurston	2.8	\$ 798.00	Researching issues related to appeal before the D.C. Circuit Court of Appeals.
2/15/2012	Dietz, Richard D.	3	\$ 1,200.00	Draft Good Bear response brief.
2/16/2012	Dietz, Richard D.	1.2	\$ 480.00	Review documents for Good Bear response brief.
2/16/2012	Dorris, William E.	0.9	\$ 648.00	Reviewing Good Bear opening brief on recusal issue and preparing email to team regarding the recusal argument.
2/17/2012	Charnes, Adam H.	1	\$ 570.00	Miscellaneous efforts regarding Good Bear appeal.
2/17/2012	Dietz, Richard D.	3.2	\$ 1,280.00	Draft Good Bear response brief.
2/17/2012	Gingold, Dennis	0.3	\$ 277.50	Telcom. TB re appellate issues; Good Bear; timing; continuing delay.
2/17/2012	Webb, Thurston	0.2	\$ 57.00	Researching issues related to appeal before the D.C. Circuit Court of Appeals.
2/18/2012	Dietz, Richard D.	5	\$ 2,000.00	Draft Good Bear response brief.
2/19/2012	Dietz, Richard D.	4.50	1,800.00	Draft and revise Good Bear brief.
2/20/2012	Charnes, Adam H.	2	\$ 1,140.00	Revise and edit Good Bear brief.
2/20/2012	Dietz, Richard D.	5.5	\$ 2,200.00	Draft and revise Good Bear response brief.
2/21/2012	Charnes, Adam H.	3	\$ 1,710.00	Revise and edit Good Bear brief.
2/21/2012	Gingold, Dennis	0.4	\$ 370.00	Beer v. US re R-23 issues; due process.
2/21/2012	Gingold, Dennis	5	\$ 4,625.00	Review/revise draft II, Good Bear response on the merits.
2/21/2012	Gingold, Dennis	0.3	\$ 277.50	Telcoms. Dorris re same.
2/21/2012	Gingold, Dennis	0.4	\$ 370.00	Telcom. Levitas re same.
2/21/2012	Pearl, Michael Alexander	2	\$ 780.00	Review draft response in Good Bear appeal.
2/21/2012	Rempel, Geoffrey	4.3	\$ 2,042.50	Review Good Bear appeal brief and plfs' opp. including opp and disc with D. Gingold.
2/21/2012	Smith, David C.	1	\$ 550.00	Review draft brief in Good Bear appeal.
2/21/2012	Webb, Thurston	3	\$ 855.00	Researching issues related to appeal before the D.C. Circuit Court of Appeals (2.2); reviewing draft of brief (0.8).
2/22/2012	Charnes, Adam H.	1.7	\$ 969.00	Review edits from Mr. Gingold (0.5); telephone conferences with Mr. Gingold regarding Good Bear brief (0.7); review hearing transcript and related material regarding brief (0.5).
2/22/2012	Gingold, Dennis	0.7	\$ 647.50	Discussions Rempel re low hanging fruit re Good Bear response.
2/22/2012	Gingold, Dennis	0.4	\$ 370.00	Telcoms. Charnes re same.
2/22/2012	Gingold, Dennis	0.1	\$ 92.50	Review revised recusal section of Good Bear response.

Date	Name	Hours	Amount	Narrative
2/22/2012	Levitas, Elliott H.	2.7	\$ 2,065.50	Review draft of Response on Reply Brief to Good Bear (1.0); review redline revision of Reply to Good Bear (1.7).
2/22/2012	Rempel, Geoffrey	8.9	\$ 4,227.50	Review Good Bear appeal brief and plfs' opp. including opp and disc with D. Gingold and A. Pearl.
2/23/2012	Charnes, Adam H.	0.3	\$ 171.00	Teleconference with Mr. Levitas regarding Good Bear brief.
2/23/2012	Dietz, Richard D.	4.5	\$ 1,800.00	Review October 15 hearing transcript and revise Good Bear response brief.
2/23/2012	Gingold, Dennis	0.5	\$ 462.50	Review Rempel edits to Good Bear response.
2/23/2012	Levitas, Elliott H.	3.50	\$ 2,677.50	Telephone conference with Mr. Holt regarding draft reply brief to Good Bear and discussion of case or controversy issue and recusal issue (.7); review and annotate draft Charnes brief and review and annotate Mr. Gingold redlined brief (2.0); telephone conference with Mr. Charnes regarding briefs, misplaced trust, inclusion (.8).
2/23/2012	Rempel, Geoffrey	5.8	\$ 2,755.00	Review Good Bear appeal brief and plfs' opp. including opp and disc with D. Gingold and A. Pearl.
2/24/2012	Dietz, Richard D.	3.5	\$ 1,400.00	Revise Good Bear response brief (2.5); telephone calls with DOJ attorneys regarding transcripts in the record (0.5); discuss same with Mr. Charnes (0.5).
2/24/2012	Dorris, William E.	0.7	\$ 504.00	Emails and telecon with David Harrison regarding transcript from 10/15/2009 status conference before Judge Hogan.
2/24/2012	Gingold, Dennis	0.5	\$ 462.50	Telcom. Levitas re transcript of district court 10/15 status conference and Good Bear response.
2/24/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Rempel re transcript/record issues.
2/24/2012	Gingold, Dennis	1.9	\$ 1,757.50	Review/revise current draft of Good Bear response.
2/24/2012	Rempel, Geoffrey	1.1	\$ 522.50	Coordinate filing of transcript. Incl related discus with D. Gingold.
2/26/2012	Dietz, Richard D.	1	\$ 400.00	Revise Good Bear response brief.
2/27/2012	Charnes, Adam H.	1.2	\$ 684.00	Revise and edit Good Bear brief (0.3); conferences with Mr Dietz regarding same (0.5); review and respond to emails regarding same (0.4).
2/27/2012	Gingold, Dennis	0.7	\$ 647.50	Review/comment on Rempel edits to Good Bear response; discuss with Rempel.
2/27/2012	Rempel, Geoffrey	4.2	\$ 1,995.00	Edit Good Bear draft.
2/27/2012	Webb, Thurston	3.4	\$ 969.00	Editing, cite checking and researching issues related to appeal before the D.C. Circuit Court of Appeals.
2/28/2012	Gingold, Dennis	2.7	\$ 2,497.50	Review/revise AM Good Bear draft.
2/28/2012	Gingold, Dennis	0.3	\$ 277.50	Telcom. Dorris re same.
2/28/2012	Pearl, Michael Alexander	2	\$ 780.00	Review recent draft of brief in Good Bear appeal.

Date	Name	Hours	Amount	Narrative
2/28/2012	Smith, David C.	3.4	\$ 1,870.00	Research and work on brief in Good Bear; emails with Mr. Dietz regarding same.
2/29/2012	Charnes, Adam H.	1	\$ 570.00	Revise and edit Good Bear brief.
2/29/2012	Dietz, Richard D.	2.8	\$ 1,120.00	Revise Good Bear brief (2.5); e-mail correspondence with DOJ counsel regarding transcript (0.3).
2/29/2012	Gingold, Dennis	0.5	\$ 462.50	Discuss various appellate issues with Rempel.
2/29/2012	Gingold, Dennis	0.9	\$ 832.50	Review/revise final draft of Good Bear response on the merits.
2/29/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. Levitas re same.
2/29/2012	Vandergriff, Daniel	5.8	\$ 1,827.00	Cite checking appellees' response brief in Good Bear appeal.
3/1/2012	Dietz, Richard D.	3.2	\$ 1,280.00	Revise Good Bear response brief and prepare for filing.
3/1/2012	McCurry, Katherine A.	1.5	\$ 427.50	Proof read appellate brief.
3/1/2012	Pearl, Michael Alexander	1.5	\$ 585.00	Conference with Indian Land Tenure Foundation regarding amicus.
3/1/2012	Rempel, Geoffrey	3.9	\$ 1,852.50	Edit Good bear draft.
3/1/2012	Vandergriff, Daniel	7.5	\$ 2,362.50	Finalizing cite check of cases, statutes, and docket entries, polishing spacing and punctuation, and final editing of Appellees Brief in Response to Good Bear appeal.
3/1/2012	Webb, Thurston	0.3	\$ 85.50	Cite check Good Bear brief and discuss issues with Mr. Vandergriff.
3/2/2012	Dietz, Richard D.	2.8	\$ 1,120.00	Review and prepare Good Bear response brief for filing.
3/2/2012	Gingold, Dennis	0.6	\$ 555.00	Review final-final plaintiffs'-appellees' opposition to Good Bear.
3/2/2012	Gingold, Dennis	0.4	\$ 370.00	Telcom. Pearl re above; ILTF amicus brief in support of plaintiffs' opposition to Good Bear.
3/2/2012	Gingold, Dennis	0.6	\$ 555.00	Discussions Rempel re above.
3/2/2012	McCurry, Katherine A.	2.2	\$ 627.00	Proof read appellate brief.
3/2/2012	Smith, David C.	0.7	\$ 385.00	Review Government's brief in Good Bear.
3/5/2012	Gingold, Dennis	0.5	\$ 462.50	Review government's brief in opposition to Good Bear.
3/5/2012	Gingold, Dennis	0.1	\$ 92.50	Review ILTF amicus notice.
3/5/2012	Levitas, Elliott H.	3.4	\$ 2,601.00	Telephone conference with M. Alexander regarding Article 3 issues and plenary power of Congress and telephone conference with T. Holt on Article 3 issues; review, annotate government's brief in Good Bear appeal.
3/5/2012	Rempel, Geoffrey	1.4	\$ 665.00	Review gov't appeals brief; discuss with D. Gingold.
3/7/2012	Gingold, Dennis	0.3	\$ 277.50	Telcoms. Dorris re Good Bear appellate issues.
3/8/2012	Gingold, Dennis	0.5	\$ 462.50	Review ILTF amicus brief re Good Bear appeal.
3/8/2012	Rempel, Geoffrey	1.2	\$ 570.00	Review amicus. Incl disc with D. Gingold.
3/12/2012	Charnes, Adam H.	1	\$ 570.00	Review Government's Good Bear brief.
3/12/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. TB re case status; Good Bear appeal.

Date	Name	Hours	Amount	Narrative
3/12/2012	Levitas, Elliott H.	0.3	\$ 229.50	Telephone conference with G. Rempel regarding status of appellant's reply brief and deferred appendix in Good Bear matter.
3/13/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. TB re status of case.
3/14/2012	Dawson, Kathy J.	1.4	\$ 322.00	Confer with Mr. Dietz and review Initial Brief of Plaintiffs-Appellees for citations (0.2); create chart listing same and research PACER to obtain description of all docket cites (1.2).
3/14/2012	Dietz, Richard D.	1.8	\$ 720.00	Review designations for joint appendix and prepare e-mail to Good Bear's counsel.
3/15/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. TB re case status; appellate issues; procedures; timing.
3/16/2012	Charnes, Adam H.	1	\$ 570.00	Review Good Bear's reply brief.
3/16/2012	Dietz, Richard D.	1.2	\$ 480.00	Review Good Bear reply brief.
3/16/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Levitas re Good Bear appeal.
3/16/2012	Gingold, Dennis	0.4	\$ 370.00	Review Good Bear reply brief.
3/16/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. Dorris re same.
3/16/2012	Loving, John-Claude F.	1.2	\$ 528.00	Reviewed parts of Harrison brief.
3/16/2012	Pearl, Michael Alexander	2	\$ 780.00	Review Harrison reply brief.
3/19/2012	Gingold, Dennis	0.3	\$ 277.50	Telcoms. TB's re appellate status/issues; delay impact.
3/19/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Levitas re Good Bear reply.
3/19/2012	Levitas, Elliott H.	1	\$ 765.00	Review, analyze and annotate Good Bear Reply Brief.
3/19/2012	Loving, John-Claude F.	1.5	\$ 660.00	Review of Harrison reply brief. (1.1) Discussion with co-counsel on brief. (.4)
3/20/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. Levitas re same.
3/23/2012	Gingold, Dennis	0.1	\$ 92.50	Review notice of filed Good Bear appendix; review issue with Charnes/Dietz.
3/28/2012	Comerford, Kristen N.	3.3	\$ 940.50	Strategic discussion with Mr. Dietz regarding review of Final Brief of Plaintiffs-Appellees (.20); review and analysis of Final Brief of Plaintiff-Appellees to ensure citations comply with court requirements (3.10).
3/29/2012	Webb, Thurston	2.4	\$ 684.00	Cite check and insert appendix citations for motion before the D.C. Circuit Court of Appeals in case involving Good Bear.
3/30/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Levitas re final briefs submitted by Good Bear.
4/9/2012	Gingold, Dennis	0.4	\$ 370.00	Telcom. TB re status of case; appellate issues; consequences of reversal.
4/10/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. Dorris re Harrison (Good Bear) issues.
4/13/2012	Smith, David C.	0.3	\$ 165.00	Arrange argument preparation for Good Bear appeal.
4/15/2012	Charnes, Adam H.	2	\$ 1,140.00	Prepare for oral argument.
4/22/2012	Smith, David C.	0.2	\$ 110.00	Email regarding Good Bear appeal to Mr Burns (0.1); email to Ms. Chick (0.1).
4/25/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. TB re status of case; appellate process.
4/26/2012	Charnes, Adam H.	5	\$ 2,850.00	Prepare for oral argument.

Date	Name	Hours	Amount	Narrative
4/27/2012	Burns, Joseph V.	1.4	\$ 364.00	Prepare Good Bear appeal briefs/case law reference notebooks for oral argument, per Mr. Smith.
4/27/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. TB re status of case; appellate process; timing.
4/27/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Levitas re Good Bear issues.
5/1/2012	Charnes, Adam H.	7	\$ 3,990.00	Prepare for oral argument.
5/1/2012	Dietz, Richard D.	3.5	\$ 1,400.00	Draft outline of possible arguments for Good Bear appeal (2.5); review Good Bear appellate briefs (1.0).
5/2/2012	Charnes, Adam H.	5.5	\$ 3,135.00	Prepare for oral argument.
5/2/2012	Gingold, Dennis	0.4	\$ 370.00	Review/revise outline for Good Bear oral argument prep session.
5/3/2012	Charnes, Adam H.	10	\$ 5,700.00	Prepare for oral argument (7); travel to DC for argument prep meeting (3).
5/3/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. TB re status of case.
5/3/2012	Levitas, Elliott H.	2	\$ 1,530.00	Preparation of memo regarding series of questions and issues to be raised at preparation session.
5/3/2012	Levitas, Elliott H.	2	\$ 1,530.00	Travel to Washington.
5/3/2012	Smith, David C.	4.3	\$ 2,365.00	Review cases and briefs in preparation for argument preparation (4.2); email with Mr. Dietz (0.10).
5/4/2012	Charnes, Adam H.	8	\$ 4,560.00	Prepare for and attend oral argument prep (6); return travel (2).
5/4/2012	Gingold, Dennis	0.8	\$ 740.00	Review issues for Good Bear prep.
5/4/2012	Gingold, Dennis	2	\$ 1,850.00	Meet with Charnes, Levitas, Rempel, Harper, Pearl for oral argument prep of Charnes.
5/4/2012	Gingold, Dennis	0.2	\$ 185.00	Telcoms. TB's re status of case; appellate process and issues.
5/4/2012	Levitas, Elliott H.	4	\$ 3,060.00	Preparation session with Messrs. Charnes, Smith, Gingold, Rempel and Harper (3.0); session with Mr. Gingold reviewing preparation session and evaluation and assessment of major points to be discussed prior to oral argument (1.0).
5/4/2012	Levitas, Elliott H.	2	\$ 1,530.00	Travel from Washington.
5/4/2012	Smith, David C.	4.7	\$ 2,585.00	Review cases in preparation for argument preparation (3.1); attend argument prep (1.6).
5/6/2012	Charnes, Adam H.	3	\$ 1,710.00	Prepare for oral argument.
5/7/2012	Charnes, Adam H.	9	\$ 5,130.00	Prepare for oral argument.
5/7/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. TB re status of case.
5/7/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Dorris re Good Bear issues.
5/7/2012	Gingold, Dennis	0.1	\$ 92.50	Review Harrison form 72 filed on behalf of Good Bear.
5/8/2012	Charnes, Adam H.	6	\$ 3,420.00	Prepare for oral argument.
5/8/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Levitas re Good Bear issues.
5/9/2012	Charnes, Adam H.	3	\$ 1,710.00	Prepare for oral argument (2.0); teleconferences with co-counsel regarding order canceling oral argument (1.0).

Date	Name	Hours	Amount	Narrative
5/9/2012	Chick, Shawn R.	0.4	\$ 84.00	Receive and review order canceling oral argument, update docketing system regarding same.
5/9/2012	Gingold, Dennis	0.1	\$ 92.50	Review Court of Appeals order canceling Good Bear oral argument.
5/9/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Dorris re same.
5/9/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. Levitas re same.
5/9/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Charnes re same.
5/9/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Rempel re same.
5/9/2012	Gingold, Dennis	0.1	\$ 92.50	Review Rule 34(j) re same.
5/9/2012	Gingold, Dennis	0.1	\$ 92.50	Discussion Pearl, Loving re same.
5/10/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. TB re status of appeals; appellate process; timing.
5/10/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Levitas re Good Bear issues.
5/17/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. TB re status of case.
5/22/2012	Charnes, Adam H.	0.5	\$ 285.00	Review and analyze DC Circuit decision (0.2); teleconference with co-counsel regarding same (0.3).
5/22/2012	Dorris, William E.	0.4	\$ 288.00	Review appellate decision (0.2); telephone call with Dennis Gingold and Adam Charnes regarding decision (0.2).
5/22/2012	Gingold, Dennis	0.1	\$ 92.50	Review/markup Good Bear decision/order.
5/22/2012	Gingold, Dennis	0.2	\$ 185.00	Conference call Dorris, Harper, Rempel, Loving, Charnes re same.
5/22/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Levitas re same.
5/22/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. TB re same.
5/22/2012	Gingold, Dennis	0.1	\$ 92.50	Review/revise press release re same.
5/22/2012	Gingold, Dennis	0.2	\$ 185.00	Telcoms. Loving re above.
5/22/2012	Gingold, Dennis	0.2	\$ 185.00	Discussions Rempel re above.
5/22/2012	Gingold, Dennis	0.2	\$ 185.00	Conference Rempel, Loving re above.
5/22/2012	Gingold, Dennis	0.2	\$ 185.00	Telcoms. Dorris re above.
5/22/2012	Levitas, Elliott H.	0.7	\$ 535.50	Review and analysis of Court of Appeals decision (0.2); telephone conference discussion of Court of Appeals opinion with Mr. Gingold (.3); review and edit various draft press releases regarding Court of Appeals decision (.2).
5/22/2012	Loving, John-Claude F.	0.5	\$ 220.00	Thorough review of Good Bear judgment from Court of Appeals. (0.2); analysis of opinion with post settlement team (0.3).
5/22/2012	Rempel, Geoffrey	3.4	\$ 1,615.00	Review appeals decision and discuss with D. Gingold and others.
5/22/2012	Smith, David C.	0.2	\$ 110.00	Review judgment from Court of Appeals (0.2).
5/22/2012	Webb, Thurston	0.2	\$ 57.00	Review judgment in Good Bear.
5/23/2012	Gingold, Dennis	0.3	\$ 277.50	Telcom. Dorris re Good Bear appellate issues.
5/23/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. TB re same; timing.
5/23/2012	Gingold, Dennis	0.2	\$ 185.00	Telcoms. Loving re above.
5/23/2012	Gingold, Dennis	0.2	\$ 185.00	Discussions Rempel re same.
5/23/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. Levitas re above.

Date	Name	Hours	Amount	Narrative
5/23/2012	Gingold, Dennis	0.6	\$ 555.00	Telcoms. TB re appellate process; timing.
5/24/2012	Gingold, Dennis	0.3	\$ 277.50	Telcom Harper re Good Bear issues.
5/24/2012	Gingold, Dennis	0.3	\$ 277.50	Telcoms. TB's re appellate process; timing.
5/24/2012	Gingold, Dennis	0.1	\$ 92.50	Prepare written response to TB re same.
5/24/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. Dorris re above.
5/24/2012	Gingold, Dennis	0.1	\$ 92.50	Discussion Rempel re same.
5/25/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. TB re appellate process; delayed payments; timing; options.
5/25/2012	Smith, David C.	0.1	\$ 55.00	Emails regarding Good Bear appeal.
5/29/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. TB re appellate process; timing.
5/29/2012	Gingold, Dennis	0.2	\$ 185.00	Conference call Rempel, Loving, Dorris re Good Bear issues.
5/31/2012	Gingold, Dennis	0.3	\$ 277.50	Telcoms. TB's re Good Bear issues; appellate process; timing.
5/31/2012	Gingold, Dennis	0.2	\$ 185.00	Review 5/31 3 rd circuit decision re class certification; settlements; Devlin issue, etc.
6/1/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Levitas re Harrison issues.
6/4/2012	Dietz, Richard D.	1.2	\$ 480.00	E-mail correspondence regarding Good Bear attorneys' fees motion (.5); review Good Bear brief and Court opinion (.7).
6/4/2012	Gingold, Dennis	0.1	\$ 92.50	Conference call Rempel, Dietz re Good Bear issues.
6/4/2012	Gingold, Dennis	0.5	\$ 462.50	Telcoms. Levitas re same.
6/4/2012	Webb, Thurston	1.5	\$ 427.50	Draft motion for attorney's fees and costs from Good Bear.
6/5/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Dorris re Good Bear issues.
6/5/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. TB re appellate issues; cert petitions; timing.
6/5/2012	Webb, Thurston	3.2	\$ 912.00	Draft motion for fees from Good Bear; research issues related to motion for fees.
6/6/2012	Gingold, Dennis	1	\$ 925.00	Telcoms. Dorris re Good Bear appellate intentions; options.
6/6/2012	Gingold, Dennis	0.5	\$ 462.50	Confer with Loving, Rempel re same.
6/6/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. Senate staff re status of appeals; finality; distribution delays.
6/6/2012	Smith, David C.	0.3	\$ 165.00	Telephone conversation with Mr. Dorris regarding of status of Goodbear (0.1); emails with Mr. Webb and Ms. Chick regarding Goodbear (0.1); communications with Mr. Dietz and Mr. Charnes (0.1).
6/6/2012	Webb, Thurston	4.4	\$ 1,254.00	Research issues related to cost motion from Good Bear; draft cost motion from Good Bear.
6/7/2012	Gingold, Dennis	0.1	\$ 92.50	Conference call Levitas, Loving re Good Bear issues.
6/7/2012	Webb, Thurston	0.7	\$ 199.50	Edit motion for fees from Good Bear; draft Declaration from Mr. Charnes to attach to motion for fees from Good Bear.
6/8/2012	Gingold, Dennis	0.1	\$ 92.50	Discussion Rempel re Good Bear issues.
6/11/2012	Gingold, Dennis	0.1	\$ 92.50	Conference call Loving, Rempel re Good Bear issues.
6/11/2012	Gingold, Dennis	0.1	\$ 92.50	Conference call Dorris, Rempel re same.

Date	Name	Hours	Amount	Narrative
6/11/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Dorris re Harrison issues.
6/11/2012	Webb, Thurston	0.2	\$ 57.00	Edit declarations attached to motion for cost from Good Bear.
6/12/2012	Charnes, Adam H.	1	\$ 570.00	Revise and edit Rule 38 motion and conferences with Mr. Dietz regarding same.
6/12/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Dorris re Good Bear issues.
6/12/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. Levitas re same.
6/12/2012	Gingold, Dennis	0.6	\$ 555.00	Review/revise draft I, plaintiffs' motion for appellate sanctions re Good Bear, Colombe, Johns, and Harrison.
6/12/2012	Gingold, Dennis	0.2	\$ 185.00	Prepare draft affidavit in support of R-38 sanctions re Harrison et al.
6/12/2012	Gingold, Dennis	0.2	\$ 185.00	Telcom. Dorris re Good Bear issue.
6/12/2012	Rempel, Geoffrey	2.6	\$ 1,235.00	Review sanctions mot (Harrison) and discuss with D. Gingold; incl review of opening/reply and research.
6/13/2012	Gingold, Dennis	0.6	\$ 555.00	Telcoms. Dorris re Good Bear issues.
6/13/2012	Gingold, Dennis	0.1	\$ 92.50	Discussion Smith re R38 sanctions re Harrison.
6/13/2012	Rempel, Geoffrey	0.3	\$ 142.50	Disc with D. Gingold re Harrison
6/13/2012	Smith, David C.	3.5	\$ 1,925.00	Review and revise Good Bear sanctions brief (1.0); review all time entries for Good Bear appeal for submission to court (2.3); discussions with Ms. Chick in regard thereto (0.1); emails with Mr. Webb and Mr. Dietz regarding Good Bear brief (0.1).
6/13/2012	Webb, Thurston	0.3	\$ 85.50	Edit motion for fees from Good Bear.
6/14/2012	Gingold, Dennis	3.9	\$ 3,607.50	Prepare time statement re same, including review of all time recorded and confirmation of correct allocation.
6/14/2012	Gingold, Dennis	0.5	\$ 462.50	Telcom. Dorris re same.
6/14/2012	Gingold, Dennis	0.5	\$ 462.50	Revise draft affidavit re same.
6/14/2012	Gingold, Dennis	0.1	\$ 92.50	Telcom. TB re appellate issues; delay; timing
6/14/2012	Rempel, Geoffrey	1.7	\$ 807.50	Draft edit affidavit. Review time for Harrison sanctions.
6/14/2012	Webb, Thurston	2	\$ 570.00	Edit motion for fees from Good Bear; review and edit declarations and fee schedules for motion for fees from Good Bear.
6/15/2012	Webb, Thurston	2.9	\$ 826.50	Edit and compile data for Good Bear fee filing; email correspondence with Ms. Chick and Mr. Smith regarding Good Bear motion.
6/16/2012	Gingold, Dennis	0.2	\$ 185.00	Telcoms. TB's re status of case; appellate process; cancellation of Good Bear argument
		402	\$ 215,966.00	

**EXHIBIT 6 TO
DECLARATION OF ADAM H. CHARNES
EXPENSES FOR GOOD BEAR APPEAL**

Date	Name	Amount	Narrative
11/17/2011	Charnes, Adam H.	\$ 1,095.64	Westlaw On-Line Legal Research
11/17/2011	Charnes, Adam H.	\$ 84.70	Westlaw On-Line Legal Research
11/25/2011	Dietz, Richard D.	\$ 59.05	Westlaw On-Line Legal Research
11/29/2011	Dietz, Richard D.	\$ 19.67	Westlaw On-Line Legal Research
12/5/2011	Webb, Thurston	\$ 151.80	Westlaw On-Line Legal Research
12/6/2011	Dietz, Richard D.	\$ 209.19	Westlaw On-Line Legal Research
2/10/2012	Dietz, Richard D.	\$ 104.58	Westlaw On-Line Legal Research
2/17/2012	Dietz, Richard D.	\$ 147.00	Westlaw On-Line Legal Research
2/18/2012	Dietz, Richard D.	\$ 363.62	Westlaw On-Line Legal Research
2/20/2012	Dietz, Richard D.	\$ 5.40	Westlaw On-Line Legal Research
2/24/2012	Dietz, Richard D.	\$ 93.37	Westlaw On-Line Legal Research
2/27/2012	Webb, Thurston	\$ 94.60	Westlaw On-Line Legal Research
3/2/2012	Dietz, Richard D.	\$ 234.75	Westlaw On-Line Legal Research
3/2/2012	Firm, KS	\$ 150.50	Binding and Reproduction - Initial Brief
3/29/2012	Webb, Thurston	\$ 101.75	Westlaw On-Line Legal Research
3/30/2012	Firm, KS	\$ 150.50	Binding and Reproduction - Final Brief
5/3/2012	Adam H. Charnes	\$ 955.60	Airfare - Travel expense of Adam H. Charnes for a trip to Washington, DC
5/3/2012	Charnes, Adam H.	\$ 416.43	Hotel - Travel expense of Adam H. Charnes for a trip to Washington, DC
5/4/2012	Charnes, Adam H.	\$ 16.93	Meal - Travel expense of Adam H. Charnes for a trip to Washington, DC
5/3/2012	Elliott Levitas	\$ 430.60	Airfare - Travel expense of Elliott H. Levitas for a trip to Washington, DC
5/3/2012	Elliott Levitas	\$ 388.16	Hotel - Travel expense of Elliott H. Levitas for a trip to Washington, DC
5/3/2012	Elliott Levitas	\$ 19.84	Meal - Travel expense of Elliott H. Levitas for a trip to Washington, DC
		\$ 5,293.68	

EXHIBIT C

Nos. 11-5270, 11-5271, 11-5272

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

ELOUISE PEPION COBELL, *et al.*,
Plaintiffs-Appellees,

CAROL EVE GOOD BEAR, CHARLES COLOMBE, and MARY AURELIA
JOHNS,
Objectors-Appellants,

v.

KENNETH LEE SALAZAR, *et al.*,
Defendants-Appellees.

DECLARATION OF DENNIS M. GINGOLD

1. My name is Dennis M. Gingold. I am a member in good standing of the Bar of this Court, the Bar of the United States District Court for the District of Columbia, and the Bar of the United States Supreme Court. I am also admitted to practice law and I am in good standing in the District of Columbia, New Jersey, and Colorado (inactive) and in various other federal trial and appellate courts.
2. I am lead counsel for plaintiffs in Cobell v. Salazaar, No. 1:96 CV 01285, an action in equity against the United States that has been in litigation in the United States District Court for the District of Columbia since June 10, 1996.
3. I make this declaration in support of the Plaintiffs'-Appellees' request for fees and costs pursuant to 28 U.S.C. §§ 1912 and 1927 and Rule 38 of the Federal Rules of

Appellate Procedure.

Professional Information

4. I have been a member of the bar and in good standing since 1974 (New Jersey by examination).

5. Cases that I have developed and led for major clients have been tried and argued successfully on the merits in various federal courts, including the United States Supreme Court.

6. For 29 years, I have been recognized as one of the top 20 banking lawyers in the United States. I am also recognized as one of the top civil litigators in this country. See, e.g., National Law Journal, December 1983; The American Lawyer, February 2010. In 1995, immediately prior to accepting the representation of the Cobell plaintiffs, I was identified as one of nine individuals – and the only lawyer in private practice – who would have the most influence on banking in 1996. American Banker Washington Watch, December 1995. However, I suspended my banking practice and accepted the Cobell engagement because of the urgency and compelling nature of the human issues at stake.

7. From 1976 through 1995, first as a Treasury Department lawyer and thereafter in private practice, I specialized in complex, cutting-edge domestic banking and financial matters, including the development of bundled financial products and institutional mechanisms to deliver financial services more effectively in an increasingly competitive market. Following my entry into private practice in 1980, my clients included major national and international commercial banks, regional commercial banks and holding

companies, merchant banks, commercial leasing companies, and life insurance companies.

8. Furthermore, I designed and implemented the strategy and led the legal team that neutralized interstate banking barriers, using the “non-bank bank” to avoid geographical constraints, by defeating the Independent Bankers Association of America in the 7th Circuit and the Board of Governors of Federal Reserve System in the U.S. Court of Appeals for the 10th Circuit. The 7th Circuit decision stood without further appeal and the 10th Circuit decision was affirmed without dissent in 1985 by the United States Supreme Court in Dimension Financial Corporation v. Board of Governors of the Federal Reserve System. Interstate constraints promulgated by the Federal Reserve Board in Regulation Y were struck down and interstate banking evolved into what it is today.

9. I designed the strategy and led the legal team in a hostile takeover of Baltimore Bancorp, then a publicly held parent of a multi-billion dollar federally insured depository institution, defeating the anti-takeover defenses of Sullivan & Cromwell in the 4th Circuit and completing acquisition of control for the insurgents within six months.

10. At the request of the District Attorney for New York County, I provided counsel to the DA in his assessment, investigation, and prosecution of fraud and corruption in the management and operation of First American Banks through the Bank of Credit and Commerce International (“BCCI”).

11. I designed and defended the institutional mechanism relied on by the U.S. Comptroller of the Currency to approve bank of deposit powers for general business corporations organized in accordance with D.C. law, which allowed such companies to engage in banking business, the deposits of which are insured by the FDIC, at the same

time the companies remained exempt from ownership, product, and geographical restrictions imposed by the Federal Reserve Board under the Bank Holding Company Act of 1956, as amended), e.g., Treasury Bank.

12. Finally, I created and designed a tax-deferred, annuitized core commercial bank deposit, which was insured by the FDIC and approved by the U.S. Comptroller of the Currency.

Governing Hourly Rate

13. My current hourly rate is \$925.00, which is the minimum rate that I charge and am paid for professional services. This hourly rate is the same rate that I charge to, and am paid by, all clients. It is consistent with, and conforms to, hourly rates charged by, and paid currently to, similarly experienced senior partners of law firms whose major clients engage them for complex and significant banking and financial matters. Available time for such engagements is limited, however, because Ms. Cobell, from the outset, recognized and understood many of the difficulties in this litigation and requested that I undertake no other representation if there is any possibility that such representation would interfere with that which must be done to conduct the most effective prosecution of this case. I do not discount my current rate. Nor is it otherwise negotiable (downward). Nor is any portion of the rate deferred or contingent on an event or occurrence. Success bonuses, if any, would be added to the base rate, depending on results achieved in any such engagement.

Time Records

14. I maintain time records in annual, hardcopy diaries and electronically in a Microsoft Excel software file. Contemporaneously with each particular identified task,

activity, or event, I enter a description of specific matter(s) or task(s) undertaken and performed; time expended to the tenth of an hour; and the identity of individuals or entities relevant to the referenced matter(s) or task(s).

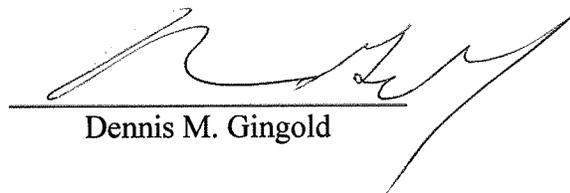
15. From the aforementioned diaries, no later than the close of each business day, I enter my time electronically into a software file exclusive of confidential and privileged information that is noted in my diaries. My time entries are included in Class Counsel's Combined Time Records, which are submitted to this Court in support of Plaintiffs'-Appellees' request for fees and costs. To the extent information is not available or is unreadable to me in the diaries, I did not enter into it in the electronic format and it is not included in Plaintiffs'-Appellees' request for fees and costs. Further, I have excluded from this request all time that is not directly relevant and attributable to the meritless appeals filed by Good Bear, et al. For example, to the extent discussions, telephone conversations, written communications, and legal analysis also involved non-Good Bear matters, I divided that time accordingly and excluded non-Good Bear time from this request.

16. My time records reflect actual recorded time. I have not modified or otherwise manipulated my time records to conform my entries to those of co-counsel or Mr. Rempel. Differences with respect to individuals identified and time recorded by co-counsel and me during conference calls, in meetings or on various matters may reflect differences in the amount of time each person had participated in such calls, meetings, or matters. For example, from time to time, participants would join conference calls and meetings in progress and withdraw from conference calls and meetings prior to their conclusion. Such withdrawals would be announced or unannounced. Other differences

may reflect an inadvertent omission to record time in whole or part due to a particularly heavy work-load at the time, which required immediate attendance in meetings or required an immediate refocus on the preparation, review and revision of various matters related to this litigation. Still other differences may reflect the fact that individuals on conference calls did not always identify themselves or actively participate in such calls.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 18, 2012.



Dennis M. Gingold

EXHIBIT D

Nos. 11-5270, 11-5271, 11-5272

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

ELOUISE PEPION COBELL, *et al.*,
Plaintiffs-Appellees,

CAROL EVE GOOD BEAR, CHARLES COLOMBE,
and MARY AURELIA JOHNS,
Objectors-Appellants,

v.

KENNETH LEE SALAZAR, *et al.*,
Defendants-Appellees.

DECLARATION OF GEOFFREY REMPEL

1. My name is Geoffrey Rempel. I am a Certified Public Accountant and I am engaged as a member of plaintiffs' litigation team in Cobell v. Salazaar, No. 1:96 CV 01285, an action in equity that has been in litigation in the United States District Court for the District of Columbia and this Court since June 10, 1996. I have been involved in this matter since 1996.
2. I make this affidavit in support of the Plaintiffs'-Appellees' motion for fees and costs pursuant to 28 U.S.C. §§ 1912 and 1927 and Rule 38 of the Federal Rules of Appellate Procedure.

Time Records

3. I maintain time records in an electronic spreadsheet file that is dedicated solely to recording and tracking my Cobell time. The entries submitted to this Court in support of Plaintiffs'-Appellees' request reflect the day a particular task or service was rendered; a

description of that task or service and the amount of time incurred. I maintain these records in tenths of an hour and no task covers time for more than one day.

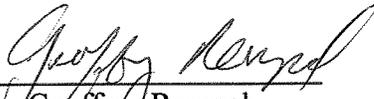
4. My time records reflect actual recorded time. I have not modified or otherwise manipulated my time records to conform my entries to those of co-counsel or Mr. Gingold. I am precise and diligent in recording my time in this case and my records state the actual time expended on a particular task. I did not include non-productive, wasteful or duplicative time.
5. The time spent on telephone calls, telephone conference calls and meeting with other attorneys was not synchronized or orchestrated. Differences in recorded time among team members may reflect differences in the time of participation on calls or meetings, time spent preparing for a meeting or call, or time spent compiling my notes or other information following a meeting or call.

Governing Hourly Rate

6. My current hourly rate is \$475.00. This rate is consistent with the current market conditions in Washington, D.C. area for litigation professionals with similar experience who are involved in complex litigation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 18, 2012.



Geoffrey Rempel
