

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**TUNICA-BILOXI TRIBE OF LOUISIANA,
and RAMAH NAVAJO SCHOOL BOARD,**

INC.,

PLAINTIFFS,

vs.

UNITED STATES OF AMERICA, *et al.*

DEFENDANTS.

**No. 1:02CV02413
(RBW/DAR)**

PLAINTIFFS' MOTION FOR ORDER

**(1) DECLARING THE THIRD PARTIAL SETTLEMENT AGREEMENT
IN *RAMAH NAVAJO CHAPTER V. SALAZAR* BINDING ON THE SECRETARY
OF HHS FOR CONTRACTS AWARDED BY HIM; AND**

**(2) REINSTATING PLAINTIFFS' MOTION FOR CERTIFICATION OF A
RULE 23(b)(2) CLASS FOR EQUITABLE RELIEF.**

Pursuant to 28 U.S.C. § 2201 and Rule 23 of the Federal Rules of Civil Procedure,

Plaintiffs move the Court to:

(1) declare the Third Partial Settlement Agreement in *Ramah Navajo Chapter, et al. v. Kenneth L. Salazar, et al.*, U.S. District Court for the District of New Mexico Civil Action No. 90-0957 (Doc. No. 169, Exh. A in this litigation) binding for indirect cost rates approved by the National Business Center used to determine indirect cost

entitlements for Indian Self-Determination Act contracts awarded by the Secretary of Health and Human Services; and

(2) reinstate plaintiffs' motion for class certification to the extent it seeks certification of a Rule 23(b)(2) class for purposes of making the aforesaid declaration enforceable by all Indian Health Service ISDA contractors whose cognizant agency for indirect cost rates is the Secretary of the Interior and his National Business Center;

(3) reserve plaintiffs' right to seek reinstatement of their motion for certification of a Rule 23(b)(3) class; and

(4) certify this case as Rule 23(b)(2) class action for purposes of making the aforesaid declaration enforceable by all Indian Health Service ISDA contractors.

In support of this motion, plaintiffs submit a supporting memorandum of law and further rely on the memorandum of law and exhibits supporting plaintiffs' motion for class certification of April 10, 2003, Doc. No. 21.

WHEREFORE, Plaintiffs pray for an order granting the aforesaid relief.

Defendants' have declined to concur in this motion.

A proposed order granting this motion is filed herewith.

Plaintiffs request oral argument on this motion.

Respectfully submitted,

M.P. GROSS LAW FIRM, P.C.
/s/ Michael P. Gross
MICHAEL P. GROSS
Counsel for Plaintiffs
460 St. Michael's Drive, Suite 401
Santa Fe, New Mexico 87505

GALLEGOS LAW FIRM, P.C.
/s/ J.E. Gallegos
J.E. GALLEGOS
Co-Counsel for Plaintiffs
460 St. Michael's Drive, Bldg. 300
Santa Fe, New Mexico 87505

Telephone: (505) 995-8066
Fax: (505) 989-1096
New Mexico Bar No. 1027

DAN MACMEEKIN, ATTORNEY AT
LAW

/s/ Daniel H. MacMeekin

DANIEL H. MACMEEKIN
1776 Massachusetts Avenue, NW, Suite
801

Washington, DC 20036

Telephone: (202) 223-1717

Fax: (202) 223-1459

D.C. Bar No. 393035

Telephone: (505) 983-6686
Fax: (505) 986-1367
New Mexico Bar No. 897

ERIC TREISMAN

/s/ Eric Treisman

460 St. Michael's Drive, Suite 402
Santa Fe, New Mexico 87505

Telephone: (505) 988-9750

Fax: (505) 986-8305

New Mexico Bar No. 2744