

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

PUEBLO OF ZUNI, on behalf of itself  
and all others similarly situated,

Plaintiff,

v.

Case No. CV 01-1046 WJ/WPL

UNITED STATES OF AMERICA; et al.,

Defendants.

**ORDER [Proposed] GRANTING PLAINTIFF'S MOTION FOR  
CLASS CERTIFICATION AND DIRECTING NOTICE TO CLASS MEMBERS**

In accordance with the findings and conclusions contained in the Opinion filed concurrently with this Order, it is ORDERED:

1. Class Certification. Civil Action No. CV 01-1046 WJ/WPL, styled Pueblo of Zuni v. United States, et al., shall be maintained as a class action on behalf of the following class of plaintiffs:

All Indian Tribes and Tribal organizations that have contracted with the Indian Health Service under the Indian Self-Determination Act, 25 U.S.C. §§ 450 - 458aaa-18, at any time from fiscal year 1993 to the present (including FY 2005).

with respect to the following claims:

1. Claims under the ISDA for statutory or contractual damages relating to contracts in effect at any time during fiscal year 1995 to the present and arising out of the Defendants' common course of conduct of denying full funding of contract support cost requirements associated with "new or expanded" contracts.
2. Claims under the ISDA for statutory or contractual damages relating to contracts in effect at any time during fiscal year 1995 to the present and arising out of the

Defendants' common course of conduct of denying full funding of contract support cost requirements associated with "ongoing" contracts.

3. Claims under the ISDA for statutory or contractual damages relating to contracts in effect at any time during fiscal year 1995 to the present and arising out of Defendants' common course of conduct of denying full funding of contract support costs by use of a methodology for determining indirect administrative contract support costs that undercalculates those costs.

4. Claims falling substantively within either Claims 1, 2 and/or 3, but relating to contracts in effect for fiscal years 1993 or 1994.

2. Class Representative; Class Counsel. Subject to further order of the Court, the Pueblo of Zuni, of Zuni, New Mexico, is designated as class representative and Lloyd B. Miller of the law firm of Sonosky, Chambers, Sachse, Endreson & Mielke, LLP is designated as counsel for the class.

3. Notice. Defendants shall within 14 days from the date of this Order furnish to Plaintiff's counsel, in Wordperfect, Word or Excel format, an electronic mailing list of all known Tribes and Tribal organizations that had contracts or compacts with the Indian Health Service at any time during the period fiscal year 1993 to the present. Class counsel shall within 28 days from the date of this Order:

(a) cause to be mailed in the name of the Clerk of Court by first class mail, postage prepaid, to all class members who can be identified through reasonable efforts, a Notice written in plain language and substantially in the form appearing in Plaintiff's Exhibit 1a; and

(b) cause to be published in no fewer than two publications of general circulation to Native American communities, an abbreviated notice in substantially the same style and format as the illustrative summary notices posted on the "Class Action Notices" page of the Federal Judicial Center's Web site ([www.fjc.gov](http://www.fjc.gov)).

4. Exclusion. The notice to class members shall inform class members as to how they may exclude themselves from the class.

5. List of Class Members. Class counsel shall file with the Clerk of Court within 75 days from the date of this Order an affidavit identifying the Tribes or Tribal organizations to whom notice has been mailed, the manner in which published notice was provided, and the Tribes or Tribal organizations (if any) that have timely requested exclusion.

SO ORDERED this \_\_\_ day of \_\_\_\_\_ 2006.

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The Honorable William P. Johnson  
United States District Court Judge