

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.)
)
UNITED STATES OF AMERICA; *et al*)
)
Defendants.)
_____)

Case No. CIV 01-1046 WJ/WPL
Filed Electronically

**PLAINTIFF’S COMBINED RULE 37(a)(2)(B) MOTION TO COMPEL DISCOVERY
REGARDING INDIAN HEALTH SERVICE SHORTFALL DATA, AND TO ENLARGE
TIME FOR FILING SAID MOTION PURSUANT TO LOCAL RULE 26.6**

Pursuant to Rule 37(a)(2)(B) of the Federal Rules of Civil Procedure and D.N.M.LR-Civ.

37.1 of the Local Rules, Plaintiff Pueblo of Zuni, by and through undersigned counsel, hereby moves
for an Order –

(1) compelling answers to certain questions posed at the deposition of Douglas Black conducted September 20, 2005 (at pages 154-168) and the deposition of Ronald Demaray conducted September 22, 2005 (at pages 108-168) (*see* Exhibits 2 and 3, respectively); and

(2) compelling the production of documents and answers to interrogatories to which the Defendants have objected. *See* Exhibit 4, Defendants’ Objections and Responses to Plaintiff’s Request for Production (Requests for Production Nos. 2, 3, 5(4), 5(5) & 6); and Exhibit 5, Defendants’ Objections and Responses to Plaintiff’s Third Set of Discovery Requests to Defendants (Interrogatories Nos. 23-25 and Request for Production No. 23),

all pertaining to the Indian Health Service’s contract support cost shortfall data.

As reflected in the Certificate accompanying this Motion, Plaintiff’s counsel has in good faith conferred with Defendants’ counsel in an attempt to resolve these matters without court intervention

and within the time frame set forth in the Local Rules.

This Motion is filed within 20 days of the two depositions prompting this Motion, and within 20 days of receipt (plus service) of Defendants' Objections and Responses to Plaintiff's Third Set of Discovery Requests, but more than 20 days from the date of the Defendants' objections to the specified earlier discovery requests. Given the inter-relatedness of the issues raised, and the fact that Plaintiff did not learn of Defendants' failure to provide certain discovery until the pertinent facts were adduced in the depositions of Defendants' officials, Plaintiff hereby also moves the Court to extend the 20-day period specified in D.N.M.LR-Civ. 26.6 for the filing of that portion of this Motion which pertains to Defendants' objections to those earlier discovery requests.

In support of this Motion, the Court is respectfully referred to the accompanying Memorandum, the Exhibits attached thereto, and the Affidavit and accompanying exhibits of Dr. David Trigg Mather.

Respectfully submitted this 11th day of October 2005.

SONOSKY, CHAMBERS, SACHSE,
ENDRESON & MIELKE, LLP
/s/ Lloyd B. Miller

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of October 2005, I sent by electronic mail, or caused to be sent by electronic mail, a true and correct copy of the **Plaintiff's Combined Rule 37(a)(2)(B) Motion to Compel Discovery Regarding Indian Health Service Shortfall Data, and to Enlarge Time for Filing Said Motion Pursuant to Local Rule 26.6** to the following attorneys of record (or their co-counsel) for Defendants:

Rachel J. Hines, Trial Attorney
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/s/ Elizabeth Tempel
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