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

NO. 11-5205

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

Kimberly Craven,
Appellant,

v.

KENNETH LEE SALAZAR, Secretary of the Interior, *et al.*,
Appellees.

On Appeal from the United States District Court
For the District of Columbia, No. 1:96-cv-01285 TFH

CIR. R. 12(c) PROVISIONAL CERTIFICATE
AS TO PARTIES, RULINGS, AND RELATED CASES

CENTER FOR CLASS ACTION FAIRNESS LLC
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(DC Cir. application pending)
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Pursuant to the docketing order of this Court issued on August 12, 2011 and Cir. R. 12(c), undersigned counsel certifies the following based on the knowledge and information reasonably available to appellant at this time:

A. Parties and Amici

The named plaintiffs-appellees are Elouise Pepion Cobell; Penny Cleghorn; Thomas Maulson; and James Louis Larose. Earl Old Person is no longer a class representative but remains a member of the class. They represent two certified classes. The Historical Accounting class consists of beneficiaries of Individual Indian Money accounts, alive as of September 30, 2009 (“the record date”) who had an IIM Account open during any period between October 25, 2004 and the record date and had at least one cash transaction credited to it, excluding those who had filed their own actions prior to the filing of the complaint in this case. The Trust Administration class consists of those individual Indian beneficiaries, alive as of the record date, who have or had IIM Accounts in the “Electronic Ledger Era” (from approximately 1985 to the present), as well as individual Indians who had a recorded or other demonstrable ownership interest in land held in trust or restricted status.

The defendants-appellees are Ken Salazar, as Secretary of the Interior; Larry Echohawk, as Assistant Secretary of Interior–Indian Affairs; and Timothy Geithner, as Secretary of Treasury, all named in their official capacities.

Ninety-two class members filed objections in the district court to the settlement on behalf of themselves and various other class members. As of September 2, 2011, Ms. Craven is the only objector class member to appeal. Osage Nation, The Native American Rights Fund, and Mark Kester Brown intervened in the proceeding below. Quapaw Tribe of Oklahoma, National Congress of American Indians, and Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation participated as *amici*. Michael A. Hernandez, Delarick Evans and Verlita Sugar are listed on the docket as interested parties. Leatrice Tanner-Brown; William Warrior; and Harvest Institute Freedman Federation, LLC unsuccessfully moved to intervene, and appealed the denial of their motion to intervene and the final judgment; that appeal is pending in this Court (No. 11-5158).

B. Rulings Under Review

Ms. Craven appeals the final judgment of the district court dated August 4, 2011 (Dkt. No. 3853); the July 27, 2011 order granting final approval of the settlement (Dkt. No. 3850); the December 21, 2010 orders granting preliminary approval of the settlement and certifying the trust administration class (Dkt. Nos. 3667 and 3670); and the June 8, 2011 order striking Ms. Craven's opposition brief to the settling parties' motions for final approval (Dkt. No. 3799). The district court's July 27, 2011 order incorporated the district court's oral ruling from the bench on June 20, 2011 (found at Dkt. No. 3839, Ex. 3).

C. Related Cases

This case has previously been before the Court on the following appeals and writs of mandamus:

- Nos. 08-5500 and 08-5506, *Cobell v. Salazar*, 573 F.3d 808 (D.C. Cir. 2009)
- No. 05-5269, *Cobell v. Kempthorne*, 455 F.3d 317 (D.C. Cir. 2006)
- No. 05-5388, *Cobell v. Kempthorne*, 455 F.3d 301 (D.C. Cir. 2006)
- No. 03-5288, *In re Kempthorne*, 449 F.3d 1265 (D.C. Cir. 2006)
- No. 05-5068, *Cobell v. Norton*, 428 F.3d 1070 (D.C. Cir. 2005)
- No. 03-5314, *Cobell v. Norton*, 392 F.3d 461 (D.C. Cir. 2004)
- Nos. 03-5262 and 04-5084, *Cobell v. Norton*, 391 F.3d 251 (D.C. Cir. 2004)
- Nos. 03-5047 to 03-5050 and 03-5057, *In re Brooks*, 383 F.3d 1036 (D.C. Cir. 2004)
- No. 02-5374, *Cobell v. Norton*, 334 F.3d 1128 (D.C. Cir. 2003)
- Nos. 00-5081, 00-5084, *Cobell v. Norton*, 240 F.3d 1081 (D.C. Cir. 2001)

Appeal No. 11-5158 (D.C. Cir.), involving the failed intervention of two individuals and an organization that were not members of the class, is also pending in this Court. Ms. Craven does not believe that the issues in No. 11-5158—which were previously addressed in *Harvest Inst. Freedmen Fed'n v. United States*, 80 Fed. Cl. 197, 199 (2008), *aff'd*, 324 Fed. App'x 923 (Fed. Cir. 2009); *Harvest Inst. Freedmen Fed'n v. United States*, No. 2:10-cv-449, Dkt. 10 (S.D. Ohio May 25, 2010); and *Harvest Inst. Freedman Fed'n, LLC v. United States*, No. 2:10-cv-1131 (S.D. Ohio) (Jan. 31, 2011), *appeal pending* No. 11-3113 (6th Cir.)—are relevant to Ms. Craven's appeal. Harvest Inst. Freedman Fed'n's Sixth Circuit appeal No. 11-3113 relates to this litigation in that it challenges the constitutionality of the Claims Resolution Act of 2010.

Dated: September 2, 2011

Respectfully submitted,

/s/ Theodore H. Frank

Theodore H. Frank

(DC Cir. application pending)

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CERTIFICATE OF SERVICE

I hereby certify that, on this second day of September, 2011, I electronically filed the foregoing Certificate on the electronic docketing system for the Court of Appeals for the District of Columbia Circuit, thereby effecting service on counsel of record under Cir. R. 25(c).

/s/ Theodore H. Frank _____

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