

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

BANK OF AMERICA, N.A.,

Plaintiff,

vs.

THE FALLON PAIUTE-SHOSHONE
TRIBE, THE FALLON BUSINESS
COUNCIL, DONNA COSSETTE, ALVIN
MOYLE, SOSAN WILLIE, EUGENE
JACK, TERESA MONTGOMERY, NEVADA
IVERSEN, BRENDA WICKS, LENORA
RODGERS, MARIE LOFER, VALERIE
HENRY, MARCELLE RUSK, ROSAMONA
NARRUJO, BARBARA CULBERTSON,
and JUDITH MACIAS,

Defendants.

CV-N-01-0715-HDM(vpc)

ORDER

MINUTES OF THE COURT

DATED: March 17, 2004

FILED
04 MAR 17 PM 2:23
LANCE S. WILSON
CLERK

PRESENT:

THE HONORABLE HOWARD D. MCKIBBEN UNITED STATES DISTRICT JUDGE

DEPUTY CLERK: MARCIA COOPER REPORTER: NONE APPEARING

COUNSEL FOR PLAINTIFF(S): NONE APPEARING

COUNSEL FOR DEFENDANT(S): NONE APPEARING

MINUTE ORDER IN CHAMBERS:

This court's order (#87) entered March 12, 2004, inadvertently contained the wrong caption. Therefore, by this minute order, the caption is amended to include the proper parties. In all other respects the order of March 12, 2004 adopting the Magistrate Judge's Report and Recommendation is affirmed.

It is so ORDERED.

LANCE S. WILSON, CLERK

By: M. Cooper
Deputy Clerk

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DISTRICT OF NEVADA
CLERK OF COURT
MAR 15 2004
CLERK

FILED
04 MAR 12 PM 3:20
LANCE S. WILSON
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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BANK OF AMERICA,

CV-N-01-0715-HDM(VPC)

Plaintiff,

vs.

CRAIG PARWELI, et al.,

ORDER ADOPTING
MAGISTRATE JUDGE'S
REPORT AND
RECOMMENDATION

Defendants.

The court has considered the report and recommendation of the United States Magistrate Judge [85] filed on February 10, 2004, in which the Magistrate Judge recommends that Cossette group's motion to enforce settlement agreement (#79) be granted, that Cossette group's motion for sanctions/fees (#79) be denied and further recommends that the parties submit the stipulation and order dismissing this case with prejudice within ten days of the date of this order. No objections to the report and recommendation have been filed and the time for filing any objections has expired. The court has considered the pleadings and memoranda of the parties and other relevant matters of record and has made a review and determination in accordance with the requirements of 28 U.S.C. § 636 and applicable case law, and good cause appearing, the court hereby

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ADOPTS AND ACCEPTS the report and recommendation of the United States Magistrate Judge (#85). Therefore, Cossette group's motion to enforce settlement agreement (#79) is granted, Cossette group's motion for sanctions/fees (#79) is denied and the parties are directed to submit the stipulation and order dismissing this case with prejudice within ten days of the date of this order.

It is so ORDERED.

Dated this 17th day of March, 2004.


UNITED STATES DISTRICT JUDGE

**SETTLEMENT AGREEMENT AND MUTUAL RELEASE RE: BANK OF
AMERICA VS. THE FALLON PAIUTE-SHOSSHONE TRIBE ET AL. CASE NO.
CV-N-01-0715-HDM-VPC**

This Settlement Agreement and Mutual Release (hereinafter "AGREEMENT") is made as of the date set forth below, by and between Donna Cossette, Alvin Moyle, Susan Willie, Nevada Iversen, Rochanne Downs, Steven Frank and Len George (the Cossette Group), and Lenora Rogers, Marie Loper, Valerie Henry, Rosanna Maturajo, Marcelle Rusk, Barbara Culbertson and Judith Macias (the Rogers Group). This Agreement settles and resolves the action where the Cossette Group and Rogers Group are defendants in Case No. CV-N-01-0715-HDM-VPC before the United States District Court, District of Nevada ("Interpleader Action").

PREAMBLE

This matter between the Cossette Group and Rogers Group (hereinafter collectively referred to as the "PARTIES") arises out of an ongoing dispute between the PARTIES. As a result of this dispute the Bank of America, which holds monies in several bank accounts for the Fallon Paiute-Shoshone Tribe (hereinafter the "Tribe") filed a Complaint in Interpleader with the U.S. District Court, District of Nevada.

RECITALS

- A. This AGREEMENT is a compromise and a settlement of any and all claims arising out of the dispute between the PARTIES as they relate to the subject matter of this AGREEMENT, and shall not be construed as an admission of liability on the part of either Party, nor shall this AGREEMENT be construed as anything more than the PARTIES' desire to have peace for the Tribe and it's Members.
- B. The PARTIES represent and warrant that they have not assigned any of their rights or obligations arising out of this case and have the legal right to enter into this AGREEMENT.
- C. By executing this AGREEMENT, the PARTIES desire and intend to resolve their differences as it is in the best interests of the Tribe and its Members.
- D. By executing this AGREEMENT, the PARTIES commit to reestablish the Rule of Law and confirm that the Fallon Paiute-Shoshone Tribe's Tribal Court is a proper forum for resolving legal issues of the Tribe and it's Members. The PARTIES additionally confirm, that depending upon the nature of an action, the Tribal Council, Tribal Appellate Court, Bureau of Indian Affairs (BIA), Interior Board of Indian Appeals, and Federal Court may also be proper forums for resolution of conflicts among parties.
- E. The PARTIES commit and encourage Tribal Members not to participate or engage in activities or conduct that circumvent and undermine the Rule of Law and established procedures for Tribal governance.
- F. The PARTIES commit that this AGREEMENT will be made public to insure that all Tribal Members and employees of the Tribe understand the scope and intent of this AGREEMENT and the PARTIES commitment to it.

NOW THEREFORE, in consideration of the mutual promises made herein, the **PARTIES** hereby agree as follows:

AGREEMENT

1. **BANK OF AMERICA ACCOUNTS.** The **PARTIES** agree that upon execution of this **AGREEMENT** and for and in consideration of the welfare of the Tribe and its Members, a stipulation will be entered by the **PARTIES** where an Order may be issued finding that the Cossette Group is the proper party to have access to the funds at issue in this Interpleader action. Once the Cossette Group receives the monies from the individual accounts subject to this Interpleader action, they shall close each account as requested by the Bank of America. The Cossette Group retains the right to direct the Bank of America to keep and not liquidate or disburse any funds in any Certificate of Deposit (CD) that have not yet matured so that no penalty is assessed for any early withdrawal, but once the CD has matured on May 27, 2003, the CD is to be closed and the funds are to be disbursed as stated above.

2. **MONETARY SETTLEMENT.** Upon receipt of the funds listed above in paragraph 1, the sum of SEVENTEEN THOUSAND DOLLARS AND NO CENTS (\$17,000.00) shall be paid to the law firm of Belanger & Plimpton who shall then be responsible for disbursing any applicable portions of said funds to their clients according to any agreement or obligation they have as to or with their clients. Said sum includes full and complete settlement of any and all claims by either the Rogers Group, and/or any of its individuals, or the law firm of Belanger & Plimpton, that any of them may have to date, known or unknown, including but not limited to, any claims for any personal injury, emotional distress, per capita withholdings, fuel tax refunds, Fox Peak profit sharing funds, City of Fallon monetary settlements with the Tribe, attorney fees and costs, back wages and vacation time or monies, filed or unfiled in any court or tribunal by the Rogers Group, and/or any of its individual members and the law firm of Belanger & Plimpton.

3. **COMPOSITION OF THE TRIBAL BUSINESS COUNCIL.** The **PARTIES** agree that the Cossette Group for purposes of conducting business on behalf of the Tribe and its Members is hereby deemed the lawful Tribal Council (a.k.a. The Fallon Business Council), and that it is further understood and agreed that as of this date this group is comprised of the following individuals: Donna Cossette, Chairperson, Alvin Moyle, Vice-Chairman, Susan Willie, Secretary, Nevada Iversen, Treasurer, Rochanne Downs, Member, Steven Frank, Member, and Len George, Member.

4. **JURISDICTION OF THE TRIBAL COURT AND TRIBAL APPELLATE COURT PROCESS.** The **PARTIES** hereby agree and acknowledge the jurisdiction and authority of the Tribal Court. Attached hereto as Exhibits "A, B, and C" are: 1) a list of current Tribal Court Judges; 2) a list of current Tribal Appellate Court Judges; and 3) an explanation concerning the current Tribal Appellate Court process and procedures. The **PARTIES** also acknowledge that notwithstanding this disclosure, the Tribal Council may determine in the near future to once again utilize the Inter-Tribal Court of Appeals for Tribal appellate matters.

5. **LEGAL ISSUES.** The **PARTIES** agree and understand that the Tribal Court is a proper forum to address legal issues, including the withholding of per capita. In the event a Tribal Member's per capita payment is withheld, recourse is available through the Tribal Court should there be a question regarding the authority of any such withholding as they may wish with any other legal issue. In the event of any withholding, the Tribal Member(s) should first address the Tribal Council on the matter prior to proceeding to the