

[ORAL ARGUMENT SCHEDULED FOR FEBRUARY 16, 2012]

No. 11-5205

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

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

KIMBERLY CRAVEN,
Objector-Appellant,

v.

KENNETH LEE SALAZAR, *et al.*,
Defendants-Appellees.

JOINT MOTION TO DIVIDE ARGUMENT TIME

Plaintiffs and the Government jointly submit this motion to divide argument time pursuant to D.C. Cir. R. 34(c). On February 2, 2012, the Court entered an order allotting 15 minutes of argument time to the Appellant, an objector from the district court's approval of this class action settlement, and 15 minutes of argument time to the Plaintiffs and the Government as Appellees. The order also provides that only "[o]ne counsel per side to argue." Plaintiffs and the Government respectfully request leave to divide their argument time and each argue for 7.5 minutes.

This Court's rules permit divided argument time for good cause shown. *See* D.C. Cir. R. 34(c). Good cause is present here. In the 15-year history of this lawsuit, Plaintiffs and the Government have been engaged in highly-contentious litigation that has resulted in more than 250 days of hearings and trials, 10 interlocutory appeals, and over 80 published opinions of the district court and this Court. After years of protracted litigation, the parties reached a settlement that was expressly approved by Congress, the President, and the district court below. Objector-Appellant appealed from that final judgment and, as a result, Plaintiffs and the Government both became Appellees in this appeal. However, although both parties support the settlement, their broader interests are not perfectly aligned. Thus, Plaintiffs' counsel cannot be expected to represent the Government's interests and legal position, nor can a Government lawyer represent the interests and legal position of the named plaintiffs and 500,000 class members who spent the last 15 years litigating against the Government.

Accordingly, for good cause shown, Plaintiffs and the Government respectfully request that the Court grant this motion pursuant to D.C. Cir. R. 34(c) and permit Appellees to divide their argument time, with counsel for Plaintiffs and counsel for the Government each allotted 7.5 minutes of argument time.

Respectfully submitted,

/s/ Adam H. Charnes

Adam H. Charnes
David C. Smith
Richard D. Dietz
KILPATRICK TOWNSEND &
STOCKTON LLP
1001 W. Fourth Street
Winston-Salem, North Carolina 27101
Telephone: (336) 607-7300

Dennis M. Gingold
THE LAW OFFICE OF DENNIS M. GINGOLD
607 14th Street, N.W., 9th Floor
Washington, D.C. 20005
Telephone: (202) 824-1448

Keith M. Harper
Michael Alexander Pearl
KILPATRICK TOWNSEND &
STOCKTON LLP
607 14th Street, N.W.
Washington, D.C. 20005
Telephone: (202) 508-5844

William E. Dorris
Elliott Levitas
KILPATRICK TOWNSEND &
STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309
Telephone: (404) 815-6500

Counsel for Plaintiffs-Appellees

/s/ Thomas M. Bondy

Thomas M. Bondy
Adam C. Jed
Brian P. Goldman

Appellate Staff, Civil Division
UNITED STATES DEPARTMENT OF JUSTICE
Room 7535
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530-0001
Telephone: (202) 514-4825

Counsel for Defendants-Appellees

DATED: February 6, 2012

CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2012, I filed a copy of the foregoing
JOINT MOTION TO DIVIDE ARGUMENT TIME with the clerk of court using
the CM/ECF system and served a copy by first class mail on the following:

Theodore H. Frank
CENTER FOR CLASS ACTION FAIRNESS
1718 M Street NW, No. 236
Washington, D.C. 20036

Thomas M. Bondy
Adam C. Jed
Brian P. Goldman
UNITED STATES DEPARTMENT OF JUSTICE
Appellate Staff, Civil Division
950 Pennsylvania Ave., N.W.
Room 7535
Washington, D.C. 20530

/s/ Adam H. Charnes
Adam H. Charnes
KILPATRICK TOWNSEND &
STOCKTON LLP
1001 W. Fourth Street
Winston-Salem, North Carolina 27101
Telephone: (336) 607-7300