

**[ORAL ARGUMENT SCHEDULED FOR MAY 15, 2012]**

Nos. 11-5270, 11-5271, 11-5272

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

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

CAROL EVE GOOD BEAR, *et al.*,  
Objectors-Appellants,

v.

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

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**JOINT MOTION TO DIVIDE ARGUMENT TIME**

Appellees Plaintiffs and the Government jointly submit this motion to divide argument time pursuant to D.C. Cir. R. 34(c). On May 2, 2012, the Court entered an order allotting 10 minutes of argument time to the Appellants, objectors from the district court's approval of this class action settlement, and 10 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 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. Objectors-Appellants 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.

Plaintiffs and the Government filed a similar motion to divide argument time in a related appeal by another objector, *Cobell v. Salazar*, No. 11-5205 (D.C. Cir.), argued February 16, 2012, and the Court granted that request. 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 5 minutes of argument time.

Respectfully submitted,

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DATED: May 3, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that on May 3, 2012, I filed a copy of the foregoing with the clerk of court using the CM/ECF system and served a copy by first class mail on the following:

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