

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA

KEY WEST DIVISION

CASE NO. 08-10084-CIV-BROWN

PETER HALMOS, et al.,

Plaintiffs,

vs.

INSURANCE COMPANY OF NORTH  
AMERICA, et al.,

Defendants.

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**REPLY TO INA'S RESPONSE (DE 1034) TO MOTION  
TO CONTINUE EVIDENTIARY HEARING (DE 1028)**

Several months ago, Judge Alan Gold of this Court set a major evidentiary hearing for October 10, 2010, starting at 9:00 A.M. in a case involving the federal and state governments, the Miccosukee Tribe of Indians, a gaggle of environmental groups, and a number of agricultural interests in the Everglades Agricultural Area (EAA).<sup>1</sup> Judge Gold has commanded, among others, that a cabinet level officer of the Obama Administration be in attendance. Lead counsel for the corporate plaintiffs<sup>2</sup> in this action is also lead counsel for two of the largest agricultural interests, Okeelanta Corporation and New Hope Sugar Company.

As the Court is aware, it has much more recently set an evidentiary hearing involving the Plaintiffs' motion seeking sanctions against INA regarding Mr. Engerrand's improper coaching – foot tapping -- of a witness during deposition questioning. The

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<sup>1</sup> *Miccosukee Tribe of Indians of Florida v. United States of America, et al.*, Case No. 04-21448-CIV-GOLD/McALILEY (the "Judge Gold Hearing").

<sup>2</sup> International Yachting Charters, Inc. ("IYC") and High Plains Capital ("HPC") (collectively referred to as "the Plaintiffs").

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Court has set an evidentiary hearing for the same date beginning at 10:00 a.m. The Plaintiffs have asked the Court to reset that hearing for a different time in deference to Judge Gold's earlier set hearing. INA objects to the continuance asserting that all Plaintiffs wish to do is to litigate this matter in the media, that travel arrangements were already made, and finally that no questioning will be allowed by the Court, thus, there is no need to have lead counsel at the hearing. While travel arrangements may take precedence in some instances, it would not be appropriate to place those consideration ahead of the Judge Gold hearing, nor is there any traction to INA's argument that they can pick who will represent the Plaintiffs at that hearing or that the Court is going to dominate the entire hearing to the point that counsel become mere spectators.<sup>3</sup>

This matter is a very serious one and the Plaintiffs wish to have Mr. Klock at the hearing as lead counsel. In addition, as to timing, Plaintiffs have requested that Mr. Engerrand's *pro hac vice* status be revoked, and that his law firm be sanctioned for condoning such actions by disqualifying the firm from this action. To that end, having the evidentiary hearing after Brown Sims and Mr. Engerrand represent INA at the hearing scheduled for October 4, 5 and 6<sup>th</sup> 2010 would serve Plaintiffs little justice.

Based upon the foregoing reasons, Plaintiffs suggest that to have any effect, the hearing should be on October 4, 2010, *prior to Brown Sims and Mr. Engerrand's representation of INA at the hearing for repayment/reimbursement issues submitted for this Court's determination.* As the Court was gracious enough to set aside three days for the "repayment/reimbursement" hearing – taking the first two hours to determine Mr.

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<sup>3</sup> The position regarding trying the matter in the media is a bit disconcerting, as Plaintiffs have done nothing to promote the story. Any wind in the sails of the story has been self-generated by the seriousness of the allegations.

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Engerrand's impropriety will not put much of a dent on the remaining time allotted for the "repayment/reimbursement" hearing.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 23, 2010, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: s/Juan Carlos Antorcha

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