

NOTE: This order is nonprecedential.

## United States Court of Appeals for the Federal Circuit

2008-1532

ARCTIC SLOPE NATIVE ASSOCIATION, LTD.,

Appellant,

v.

Kathleen Sebelius,  
SECRETARY OF HEALTH AND HUMAN SERVICES,

Appellee.

Appeal from the Civilian Board of Contract Appeals in case nos. 190-ISDA and 289-ISDA through 293-ISDA, Administrative Judge Candida S. Steel.

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2008-1607, 2009-1004

CONFEDERATED TRIBES OF COOS, LOWER UMPQUA,  
AND SIUSLAW INDIANS,

Appellant,

v.

Kathleen Sebelius,  
SECRETARY OF HEALTH AND HUMAN SERVICES,

Appellee.

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METLAKATLA INDIAN COMMUNITY,

Appellant,

v.

Kathleen Sebelius,  
SECRETARY OF HEALTH AND HUMAN SERVICES,

Appellee.

Appeals from the Civilian Board of Contract Appeals in case nos. 235-ISDA, 236-ISDA,  
280-ISDA, and 281-ISDA, Administrative Judge Candida S. Steel.

ON MOTION

Before NEWMAN, Circuit Judge.

ORDER

The Secretary of Health and Human Services moves to consolidate appeal no. 2008-1532 with appeal nos. 2008-1607, 2009-1004. The appellants oppose. The court considers whether the appeals should be treated as companion cases. The Secretary replies.

The Secretary states that these appeals involve the same issue, whether the requirement in the Contract Disputes Act that a contractor submit a certified claim to the contracting officer within six years of the claim's accrual is subject to equitable tolling or class action tolling. The appellants argue that consolidation is not appropriate but agree that having a single panel hear argument is appropriate.

Because briefing is completed in the above-captioned appeals, consolidation is not proper. However, the court determines that these appeals should be treated as companion cases, i.e., the cases will be submitted to the same merits panel. The parties may submit to the merits panel their requests concerning allocation of oral argument after this case is assigned to a calendar.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to consolidate is denied.
- (2) The above-captioned appeals will be treated as companion cases, i.e., the cases will be submitted to the same merits panel.
- (3) The caption in 2008-1607, 2009-1004 is revised to reflect the new Secretary of Health and Human Services.
- (4) A copy of this order shall be transmitted to the merits panel assigned to hear these appeals.

FOR THE COURT

**MAY 20 2009**

Date

/s/ Jan Horbaly

Jan Horbaly  
Clerk

**FILED**  
U.S. COURT OF APPEALS FOR  
THE FEDERAL CIRCUIT

cc: Lloyd Benton Miller, Esq.  
Geoffrey D. Strommer, Esq.  
Robert E. Chandler, Esq.

**MAY 20 2009**

**JAN HORBALY  
CLERK**

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