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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TILLIE HARDWICK, et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

Case No. [79-cv-01710-EMC](#)

**ORDER DENYING PLAINTIFF'S
MOTION FOR SANCTIONS**

Docket No. 392

Following this Court's Order granting a motion by the Buena Vista Rancheria of Me-Wuk Indians ("the Tribe") to require the United States to take restored lands into trust pursuant to the 1983 Stipulated Judgment (Docket No. 364), the Tribe now moves for sanctions, arguing that the Government's refusal to take the Tribe's land into trust for years, until this Court ordered it, is sanctionable under the Court's inherent powers. Docket No. 392. As stated at the hearing, the Court **DENIES** the motion but schedules a status conference to ensure compliance with the Court's order granting the Motion to Enforce.

I. BACKGROUND

The Tribe previously attempted to convey the Rancheria to the BIA under the mandatory provision of Paragraph 8 on two separate occasions, in 1996 and 2010.

On July 30, 1996, the Tribe's then-principal spokesperson (Ms. Donna Marie Potts) exercised the mandatory trust election provision under paragraph 8 of the 1983 Judgment, executing and recording a grant deed to the United States. Mot. to Enforce Judgment (Docket No. 364) at 16; Pope Decl. (Docket No. 364-1) ¶ 4. The BIA returned the trust application, citing the

1 need for the Tribe to comply with the BIA’s discretionary fee-to-trust procedures described at 25
2 C.F.R. Part 151. Pope Decl. ¶ 5; Refusal Letter, Docket No. 364-1 Ex. 4.

3 On July 7, 2010, the Tribe met with the BIA Sacramento Regional Office and made an in-
4 person request that BIA restore the Rancheria lands to trust status pursuant to the 1983 Judgment.
5 Pope Decl. ¶ 16. The Tribe alleges that BIA officials agreed that the conveyance of the Rancheria
6 to the Government was mandatory but expressed reservations about expending political capital.
7 Mot. at 3-4. In 2018, BIA denied the request. Pope Decl. ¶ 45. The Tribe appealed the decision
8 to the Interior Board of Indian Appeals (“IBIA”). Pope Decl. ¶ 46. On April 18, 2019, the BIA
9 Regional Solicitor remanded the matter back to the BIA. On October 23, 2020, while the motion
10 before this Court was pending, the BIA reached a final decision, holding that the Tribe’s
11 conveyance was governed by paragraph 7 of the 1983 Stipulated Judgment, and that BIA therefore
12 lacked the authority to acquire the Rancheria through the mandatory trust acquisition provision of
13 paragraph 8. BIA Decision Letter, Docket No. 388-1 at 5-7.

14 II. DISCUSSION

15 A. Legal Standard for the Court’s Inherent Sanctions Authority

16 “Three primary sources of authority enable courts to sanction parties or their lawyers for
17 improper conduct: (1) Federal Rule of Civil Procedure 11, which applies to signed writings filed
18 with the court, (2) 28 U.S.C. § 1927, which is aimed at penalizing conduct that unreasonably and
19 vexatiously multiplies the proceedings, and (3) the court’s inherent power.” *Fink v. Gomez*, 239
20 F.3d 989, 991 (9th Cir. 2001). Here, the Tribe bases its motion only on the Court’s inherent power
21 to impose sanctions. *See* Mot. at 2-3.

22 With respect to the Court’s inherent sanctions power, “a court may assess attorney’s fees
23 as a sanction for the willful disobedience of a court order ... [and] when a party has acted in bad
24 faith, vexatiously, wantonly, or for oppressive reasons.” *Chambers v. NASCO, Inc.*, 501 U.S. 32,
25 45-46, 111 S. Ct. 2123, 2133 (1991); *Fink v. Gomez*, 239 F.3d 989, 991 (9th Cir. 2001). A party
26 acts in bad faith “by delaying or disrupting the litigation or by hampering enforcement of a court
27 order.” *Chambers*, 501 U.S. at 46. However, *Chambers* also cautions that “[a] court must ...
28 exercise caution in invoking its inherent power, and it must comply with the mandates of due

1 process, both in determining that the requisite bad faith exists and in assessing fees.” *Id.* at 50.

2 Bad faith requires willful conduct or conduct tantamount thereto. The Ninth Circuit has
3 held that:

4 “mere recklessness, without more, does not justify sanctions under a
5 court's inherent power. But ... sanctions are available if the court
6 specifically finds bad faith or conduct tantamount to bad faith.
7 Sanctions are available for a variety of types of willful actions,
8 including recklessness when combined with an additional factor
9 such as frivolousness, harassment, or an improper purpose.
10 Therefore, we hold that an attorney’s reckless misstatements of law
11 and fact, when coupled with an improper purpose, such as an
12 attempt to influence or manipulate proceedings in one case in order
13 to gain tactical advantage in another case, are sanctionable under a
14 court's inherent power.”

15 *Fink*, 239 F.3d at 993-94. *Cf. B.K.B. v. Maui Police Dep’t*, 276 F.3d 1091, 1108 (9th Cir. 2002)
16 (attorney’s knowing and reckless introduction of inadmissible evidence was “tantamount to bad
17 faith and therefore sanctionable under the court's inherent power”).

18 B. The Government’s Conduct Under the *Fink* Standard

19 Applying *Fink*, the Court finds that the Government’s conduct is not sanctionable under its
20 inherent power. At the motion hearing, the Tribe stated that the Government acted in bad faith by
21 consistently delaying its response to the Tribe’s request to convey the Buena Vista Rancheria into
22 trust as a mandatory acquisition. This argument is based on the ten-year delay between the Tribe’s
23 attempted conveyance in 2010 and the decision letter which the Tribe received in 2020, which
24 denied the Tribe’s request to take the Buena Vista Rancheria into trust as a mandatory acquisition
25 and instructed the Tribe to proceed through the discretionary process. Docket No. 388.

26 However, the Government’s official position (that it had no mandatory duty to take the
27 Rancheria into trust) has been consistent. The Tribe has to show that the Government has made
28 “reckless misstatements of law and fact” in so interpreting the 1983 Stipulated Judgment. *Fink*,
239 F.3d at 993-94. While the Court disagreed with the Government’s interpretation of the 1983
Judgment, it cannot say that its position was without legal basis or frivolous. As the Government
noted in its Opposition to the Tribe’s Motion for Sanctions, its interpretation of the 1983 Judgment
was grounded in the IBIA’s holding in *Santana* that “[i]f community-owned lands could be
transferred into individual ownership at any time, with BIA being required to treat those lands as

1 then falling under paragraph 8 of the stipulated judgment, paragraph 7 would be rendered a
2 nullity.” *Santana v. Sacramento Area Director*, 33 IBIA 135, 1999 I.D. LEXIS 10, *19. While the
3 Court found the Government’s reasoning unpersuasive, it cannot say that this argument was
4 entirely without reason.

5 In its ruling, this Court had to interpret the 1983 Judgment to determine that the Tribe was
6 a “successor in interest” as defined in Paragraph 2 and a “class member” under Paragraph 8. The
7 Court cannot say that the Government’s argument to the contrary was a reckless misstatement of
8 facts or the law. The Government’s interpretation was not only on *Santana*, but also in part on a
9 2004 Order by Judge Fogel and 1987 Stipulated Judgments approved by Judge Williams (who also
10 approved the 1983 Judgment). *See* Order by Judge Jeremy D. Fogel Denying Motion for
11 Reconsideration, Docket No. 296 at 3 (interpreting the 1987 Stipulated Judgments to find that the
12 Picayune Rancheria could not be considered a “successor-in-interest” because the “original
13 distributees [who received the land pursuant to the California Rancheria Act of 1958] sold the six
14 parcels in question to non-Indians, and the Tribe was able to purchase those parcels back between
15 1995 and 2002”). Because the Government has had a consistent, non-frivolous interpretation of
16 the 1983 Judgment, which was based on IBIA precedent and prior orders from this Court
17 concerning the term “successor in interest” in paragraph 2, the Court does not find that the
18 Government’s conduct is sanctionable under *Fink*.

19 **III. CONCLUSION**

20 The Court therefore **DENIES** the Tribe’s Motion for Sanctions. However, the Court
21 schedules a status conference for February 18, 2021 in order to receive an update on the
22 Government’s compliance with the Court’s order granting the Tribe’s motion to enforce the 1983

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Stipulated Judgment. The Government is directed to provide a timeline by February 11, 2021, providing an exact date for when it expects to take the Buena Vista Rancheria into trust as a mandatory acquisition.

This order disposes of Docket No. 392.

IT IS SO ORDERED.

Dated: January 25, 2021


EDWARD M. CHEN
United States District Judge