

UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO
Honorable Marcia S. Krieger

Civil Action No. 05-cv-01046-MSK-BNB

UFCW LOCAL 880-RETAIL FOOD EMPLOYERS JOINT PENSION FUND, on
Behalf of Itself and All Others Similarly Situated.

Plaintiff,

v.

NEWMONT MINING CORP.,
WAYNE W. MURDY,
PIERRE LASSONDE, and
BRUCE D. HANSEN,

Defendants.

consolidated with

Case No. 05-cv-01100-MSK-CBS

JOHN S. CHAPMAN, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

NEWMONT MINING CORP.,
WAYNE W. MURDY,
PIERRE LASSONDE, and
BRUCE D. HANSEN,

Defendants.

consolidated with

Case No. 05-cv-01141-MSK-BNB

ZOE MYERSON, Individually and On Behalf of All Others Similarly Situated,

Plaintiffs,

v.

NEWMONT MINING CORP.,
WAYNE W. MURDY,
PIERRE LASSONDE, and
BRUCE D. HANSEN,

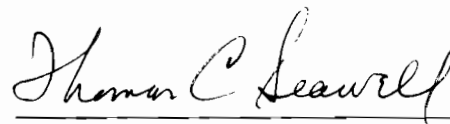
Defendants.

SPECIAL MASTER'S PROCEDURE ORDER NO. 3

THIS MATTER is before the Special Master pursuant to Procedure Order Nos. 1 and 2 and the status and scheduling conference held on February 4, 2008, and having considered the views of the parties, the Special Master hereby

ORDERS that the SPECIAL MASTER'S PROCEDURE AND GUIDELINES FOR FEE AND EXPENSE APPLICATIONS attached hereto are hereby adopted as the Special Master's Procedure Order No. 3.

Dated: February 4, 2008.



Thomas C. Seawell
Special Master

SPECIAL MASTER'S PROCEDURE AND GUIDELINES
FOR FEE AND EXPENSE APPLICATIONS

Pursuant to the Court's Order Appointing Special Master entered January 9, 2008, the following procedures and guidelines are established for the preparation and submission of supplemental applications for attorney's fee awards or reimbursement of expenses ("Applications"). The Applications required hereby are in addition to any similar motions or applications previously filed by any counsel.

Each class counsel firm that seeks to share in a fee awarded by the court or obtain reimbursement of any expenses must file a separate Application and submit the documentary and electronic data described below. All Applications must conform to the guidelines described herein. The Special Master intends to recommend one reasonable fee for the efforts of all class counsel and make no recommendation concerning the division of the fee among the various class counsel firms. To reach an informed decision, all the relevant data must be submitted separately by each firm.

The Special Master has reviewed the Motion for Approval of Application by Lead Plaintiff's Counsel for an Award of Attorneys' Fees and Expenses filed December 20, 2007, and it appears to contain a sufficient discussion of the applicable legal authorities. Lead Plaintiff's Counsel may, but is not required to, submit a supplemental memo discussing the law, its evaluation of the aggregate information contained in the separate applications, suggested fee enhancements such as multipliers and bonuses, and/or any other topic of general application.

The Special Master has reviewed the Opposition filed by Lawrence W. Schonbrun on January 4, 2008, and the Objection filed by Business Litigation Associates, P.C. on January 4, 2008. These two Objectors may, but are not required to, submit a supplemental memo discussing the law, their evaluation of the aggregate information contained in the separate applications, suggested fee enhancements such as multipliers and bonuses, and/or any other topic they deem relevant in view of the Applications.

PROCEDURE

On or before March 10, 2008, each Applicant firm shall submit its Application and supporting documentary and electronic data to the Special Master, the Objectors, and all other Applicants. The Special Master will evaluate the Applications and may pursue questions with each Applicant firm.

On or before March 24, any Applicant or Objector may submit to the Special Master proposed questions to be propounded to any Applicant.

The Special Master will hold a status and scheduling conference call at 2:00 p.m. MST on March 31, 2008, to consider the advisability of submitting the proposed questions to the designated Applicant(s) and employing any other procedures (such as discovery) relating to the factual matters submitted by the Applications. Keith F. Park shall furnish a list of the name, telephone number and email address of each participant in the February 4, 2008, conference call to all other participants. Mr. Park shall also make arrangements for the March 31, 2008, conference call and furnish access information to all participants in the February 4, 2008, conference call.

Any submission to the Special Master or by the Special Master shall be served on all Applicants and the two Objectors.

The Special Master intends to perform a thorough lodestar analysis of the data submitted with the Applications. That analysis will be included in the Special Master's report to the Court, along with all other appropriate analyses and conclusions. Counsel will be given an opportunity to comment upon and object to the Special Master's proposed findings and recommendations before they are submitted in his report to the Court. All information submitted to the Special Master (*i.e.*, the Applications, objections, supporting data and any additional materials) will be filed with the Court along with the written report.

GUIDELINES

Contents of Applications

Each Application must contain a certification by the Applicant that (a) the information contained in the Application and submitted in connection with it is true and correct; and (b) the hourly rates charged for the services are reasonable and customary rates for similar work done in Applicant's geographical area.

Applications should be self-sufficient and permit review and evaluation of the data without searching for information in other pleadings or documents.

1. Applicant Information must include the following:
 - a. Firm name, identity of the party represented and the time period during which the services were performed and expenses incurred.
 - b. Terms and conditions of employment, including existence and application of any retainer or advance payments.
 - c. Names and hourly rates of all professionals and paraprofessionals on whose services compensation is based, together with a succinct summary of the person's experience level. If rates changed during the course of the

engagement, the relevant times periods should be identified and correlated to the different rates.

- d. A summary showing the total hours and total dollar amount billed by each person, plus a computation of the blended hourly rate for all professionals employed by the applicant; a second, separate computation of the blended hourly rate for all paraprofessionals; and a third, separate computation of the blended hourly rate for all professionals and paraprofessionals combined.
2. Project/Category Format. All time and expenses for which compensation or reimbursement is sought must be identified by projects or categories. To facilitate effective review, all counsel must use the project/category designations set forth in Exhibit A. If an applicant has no time or expenses within a particular category, that fact should simply be stated in the Application.
 3. Project Information. The body of the Application must contain a separate, brief description of each project, including its necessity and/or benefit to the class, together with a table stating the name of each person providing services on the project, the total number of hours spent by each person on the project and the total dollar amount of compensation sought for each such person.
 4. Duplicate Attendance. If more than one person attended a hearing, conference or other event, the Application should explain the need for multiple attendees if compensation is sought for more than one attendee.
 5. Expense Information. The Application must contain enough information for all expenses to permit a determination that such expense was necessary and the amount is reasonable. Where appropriate, expenses should be allocated to particular project categories. In addition to these general principles, Applications should include the following:
 - a. With respect to each expense item, state the date incurred, the amount, a description of the item and, where relevant, identify the person incurring the expense and the purpose of the expense.
 - b. A certification by the applicant that any expense sought to be reimbursed that was paid or incurred to third parties has been limited to the amount actually paid or incurred.
 - c. A certification by the applicant that any expense sought to be reimbursed that constitutes an in-house charge is limited to the same charge made for all applicant's clients.

- d. Whether the expense item is an overhead item. "Overhead" includes all continuous administrative or general costs incident to the operation of the applicant's business and not attributable to an individual client or case.

Supporting Data

Each Application must be accompanied by supporting data, in Microsoft Excel electronic format, consisting of contemporaneously created time entry records with such additional information as set forth herein. The data table must not contain any subtotals. Any multiple-line entries must be included within one record.

Time entry records must be submitted in the template format described in Exhibit B and furnished to each applicant in electronic form by the Special Master. Expense item entries shall be submitted in the template format described in Exhibit C and furnished to each applicant in electronic form by the Special Master.

Expense items of more than \$500 must also be supported by appropriate documentation (bills, receipts, etc.) accompanying the Application.

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NEWMONT MINING CLASS ACTION

Projects/Categories

Category	Abbreviation	Notes
Background	BKGRND	Initial client contacts, fact gathering, retainer agreements
General Administration	GEN	Administrative matters not allocable to a specific project
Class Administration	CLASS_ADM	All work involved in claims, communications and other class administrative matters
Complaint Preparation	COMP	Conferences, factual research, legal research resulting in filing of Complaint
Lead Counsel Selection	LEAD	All work relating to the order designating Lead Plaintiffs and Lead Co-Counsel
Motion to Dismiss	MOT_DISMISS	All work relating to defense of the motion to dismiss
Intervenors	INT	All working relating to the actions of the intervenors
Continuing Factual Investigation	CONT_FACT	Factual investigation continuing after the filing of the Complaint
Mediation	MED	All work involved in preparing for and participating in the mediation process
Settlement	SETT	All work involved in negotiating and obtaining court approval of the settlement
Confirmatory Discovery	DISC_WRIT	All work involved with the post-settlement confirmatory discovery
Miscellaneous	MISC	Any miscellaneous work not involved in another specifically identified project

Exhibit A

NEWMONT MINING CLASS ACTION

Time Entry Records – Field (Column) Specifications

Field Name	Data Description	Notes	Example
Date	Date service performed		04/07/01
Firm	Initials of applicant firm	All caps, letters only (no spaces, underscores or punctuation)	HR
Lawyer	Initials of lawyer performing service	All caps, letters only (no spaces, underscores or punctuation)	JFW or JW
Services	Description of services performed		
Hours	Number of hours	Two decimal points	1.00
Rate	Hourly rate for the services	No decimal points	250
Amount	Total dollar charge for the services	Two decimal points; no dollar sign; convert all formulas to values	250.00
Category	Project/category to which the services are connected	All caps; letters only except use underscores for spaces	SUM_JUDG

All rows (records) and columns (fields) must be **contiguous**; no blank rows or blank columns.

Exhibit B

NEWMONT MINING CLASS ACTION

Expense Item Records – Field (Column) Specifications

Field Name	Data Description	Notes	Example
Date	Date expense incurred		04/07/01
Firm	Initials of applicant firm	All caps, letters only (no spaces, underscores or punctuation)	HR
Lawyer	Initials of person incurring expense	All caps, letters only (no spaces, underscores or punctuation)	JFW or JW
Item	Description of item		
Amount	Total dollar amount of the expense	Two decimal points; no dollar sign	250.00
Category	Project/category to which the expense is connected	All caps; letters only except use underscores for spaces	SUM_JUDG; Use GEN if expense not allocable to a particular project/category

All rows (records) and columns (fields) must be **contiguous**; no blank rows or blank columns.

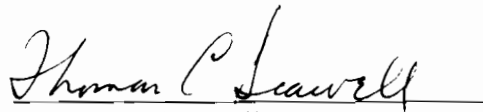
Exhibit C

CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses contained on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the law of the United States of America that the foregoing is true and correct.

Dated: February 4, 2008.

A handwritten signature in black ink, reading "Thomas C. Seawell", written over a horizontal line.

Thomas C. Seawell
Special Master

Mailing Information for a Case 1:05-cv-01046-MSK-BNB

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **James Wilmer Anderson , Jr**
janderfox@sbeglobal.net,janderfox@yahoo.com
- **Gerald L. Bader , Jr**
gbader@bader-associates.com,cpoeppe1@bader-associates.com
- **Jeffrey Allen Berens**
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- **Joy Ann Bull**
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- **F. James Donnelly**
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- **Thomas C. Seawell**
tseawell@qwestoffice.net

- **Kip Brian Shuman**
kip@shumanlawfirm.com.lisa@shumanlawfirm.com
- **Renee Beth Taylor**
rtaylor@bader-associates.com.cpoepfel@bader-associates.com

Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

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Clifford Whitehill

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