

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11-5270

September Term, 2011

FILED ON: MAY 22, 2012

ELOUISE PEPION COBELL, ET AL.,
APPELLEES

CAROL EVE GOOD BEAR, ET AL.,
APPELLANTS

v.

KENNETH LEE SALAZAR, SECRETARY OF THE INTERIOR, ET AL.,
APPELLEES

Consolidated with 11-5271, 11-5272

Appeals from the United States District Court
for the District of Columbia
(No. 1:96-cv-01285)

Before: BROWN and GRIFFITH, *Circuit Judges*, and GINSBURG, *Senior Circuit Judge*.

J U D G M E N T

This appeal was considered on the record from the district court and on the briefs and the oral arguments of the parties. Although the issues presented occasion no need for a published opinion, they have been accorded full consideration by the Court. See Fed. R. App. P. 36; D.C. Cir. Rule 36(d). For the reasons stated below, it is

ORDERED and **ADJUDGED** that the orders of the District Court be affirmed.

The appellants raise four objections to the multi-billion dollar settlement of this class action. Two of these arguments are foreclosed by another decision of this court, *Cobell v. Salazar*, No. 11-5205 (D.C. Cir. May 22, 2012),* in which the court concluded that the settlement at issue in this case is fair and comports with the requirements of due process and of Federal Rule of Civil Procedure 23, *see id.*, slip op. at 12–13, 16–22.

* The relevant facts are as stated in that opinion.

The appellants' other two arguments, that the district court lacked jurisdiction and that the district judge should have recused himself, are utterly without merit. As to the first, the appellants' claim that the adverseness required for an Article III case or controversy ends when the parties to a dispute reach a settlement subject to court approval is contrary to all precedent and to common sense. As to the second, it is based upon the blatant mischaracterization that certain statements made by the district judge at a status conference were made "out of court."

The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Jennifer M. Clark

Deputy Clerk