

No. 141, Original

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In the  
SUPREME COURT OF THE UNITED STATES

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STATE OF TEXAS,

Plaintiff,

v.

STATE OF NEW MEXICO and  
STATE OF COLORADO,

Defendants.

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FINAL MOTION OF THE FORMER SPECIAL MASTER  
FOR ALLOWANCE OF FEES AND DISBURSEMENTS

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April 16, 2018

**FINAL MOTION OF THE FORMER SPECIAL MASTER  
FOR ALLOWANCE OF FEES AND DISBURSEMENTS**

MAY IT PLEASE THE COURT:

This Final Motion (“Motion”) covers the fees and expenses incurred during the thirteen months since my Third Interim Motion, filed herein on March 13, 2017, that is, from March 13, 2017, to April 2, 2018.

**PROCEEDINGS SINCE MARCH 13, 2017<sup>1</sup>**

During the period covered by this Motion, I entertained a request made by the State of Texas, on October 23, 2017, to require the State of New Mexico and the State of Colorado to file answers to Texas’ complaint and also to the United States’ complaint in intervention. I reviewed the parties’ letter briefs on this issue (SM Rec. Doc. Nos. 55-57) and heard oral argument by telephone (SM Rec. Doc. No. 60). I denied this request, owing in part to this Court’s imminent oral argument on certain exceptions to my First Interim Report (filed February 13, 2017, SM Rec. Doc. No. 54) and the usefulness of having this Court’s guidance in its resulting opinion before requiring any responsive pleadings. SM Rec. Doc. Nos. 59, 60.

I attended oral argument in this matter in this Court on January 8, 2017. (I did not charge the parties for my travel or time.) I reviewed this Court’s opinion of March 5, 2017. On March 23, 2017, I conducted a telephone conference with the parties to set deadlines for the filing of answers and for the submission of a draft Comprehensive Case Management Plan (“CCMP”) for my review and approval. I

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<sup>1</sup> All filings made with me, transcripts of any proceedings before me, and my orders can be found at <http://www.ca8.uscourts.gov/texas-v-new-mexico-and-colorado-no-141-original>. All record documents referenced in this Final Motion for Allowance of Fees and Disbursements are identified as “SM Rec. Doc.”

studied several CCMP's in other original jurisdiction cases involving disputes over water rights. My staff updated the service list.

I have conferred by telephone and by email with the newly appointed Special Master, Judge Melloy, and with Mr. Michael Gans to ensure a smooth hand-off of this case. I did not charge the parties for any time spent on these activities. I remain at Judge's Melloy's disposal (free of charge) should he have any further questions on this matter.

### FEES AND DISBURSEMENTS

In performing my duties, I have had the assistance, as law clerk and case manager, of Alex B. Rothenberg, a *magna cum laude* graduate of Tulane Law School, the former Senior Articles Editor of the Tulane Law Review, and law clerk to the Hon. Nannette Jolivette Brown of the United States District Court for the Eastern District of Louisiana.

The time records of my firm, which are attached hereto as Appendix A, show that a total of 17.50 hours of my time, 5.60 hours of Mr. Rothenberg's time, and 12.65 hours of paralegal time were expended through April 2, 2018. As reflected in the transcript of the status conference of January 6, 2015, *see* SM Rec. Doc. No. 12, and in Case Management Order No. 2, *see* SM Rec. Doc. No. 10, the parties have agreed to the following hourly rates: \$400 per hour for my time, and \$100 per hour for paralegal time. As reflected in the transcript of the status conference of June 30, 2016, *see* SM Rec. Doc. 50, the parties have agreed to the rate of \$300 per hour for Mr. Rothenberg's time.

In these circumstances, it is my judgment that a professional fee of \$9,838.75 represents an appropriate Special Master's fee in this action for the period covered. Disbursements for costs detailed in Appendix A to this Motion amount to \$263.11, which in my judgment are also reasonable.

At a telephone status conference of April 23, 2015, *see* SM Rec. Doc. No. 34, the parties advised me that they have agreed to the following allocation of fees and costs:

Texas	37.5%
New Mexico	37.5%
United States	20%
Colorado	5%

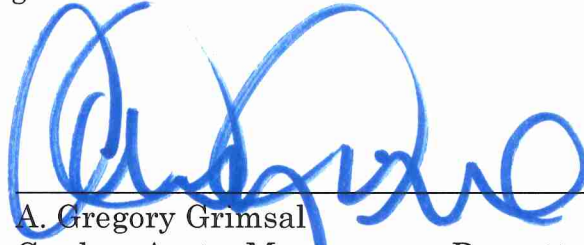
Accordingly, I respectfully request that the Court award fees and disbursements in the total sum of \$10,101.86, to be paid to my law firm, Gordon, Arata, Montgomery, Barnett, McCollam, Duplantis & Eagan, LLC, to be divided as follows:

Texas	\$3,788.20
New Mexico	\$3,788.20
United States	\$2,020.37
Colorado	\$505.09

I have forwarded a copy of this Motion to the parties electronically, and I have advised them to make any comments or objections to the Court without copying me.

It has been an honor to serve as Special Master in this case. I am grateful to the Court for my appointment. I wish to express particular thanks to Mr. Harris and Ms. Rapp for their assistance and guidance.

Dated: April 16, 2018.



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