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**Burt Neuborne**  
*Inez Milholland Professor of Civil Liberties  
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December 19, 2005

Hon. Edward R. Korman  
Chief Judge  
United States District Court  
for the Eastern District of New York  
United States Courthouse  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: In re Holocaust Victim Assets Litigation  
Civ. 96-4849 (ERK)

Your Honor:

I have now served the plaintiff-classes as Lead Settlement Counsel for almost seven years. Since the bulk of my legal tasks have been concluded, I believe that it is appropriate to request an award of counsel fees. Accordingly, I enclose a petition for an award of counsel fees in connection with legal services rendered to the plaintiff-classes from January 29, 1999 - September 30, 2005.

As you may recall, in January, 1999, because of the unique nature of this litigation, I waived any "common fund" fees attributable to my efforts in helping to achieve the \$1.25 billion settlement on behalf of Holocaust victims with claims against Swiss banks. Shortly after the execution of the settlement agreement in late January, 1999, I agreed, at your request and at the urging of my co-counsel, to serve as Lead Settlement Counsel. Once it became clear that service as Lead Settlement Counsel would entail an enormous commitment of time and intellectual energy, you suggested, and I agreed, that hourly lodestar compensation should be paid to Lead Settlement Counsel in a manner similar to the hourly payments to Special Masters under Rule 53(h).

I have reviewed the hourly compensation paid to the several Special Masters, and enclose 27 Quarterly Statements covering the period from January 1999 - September 30, 2005 that parallel the form of statements submitted by the Special Masters. In addition, I enclose a detailed fee petition describing the nature of my legal work for the settlement classes, and detailing the contemporaneously recorded time charges associated with each task. The fee petition contains a time-line summarizing my activities as Lead Settlement Counsel in chronological order, and my contemporaneously maintained time records associated with each task. In addition, I have assembled a representative selection of documents bound in sixteen loose leaf volumes that illustrate the scope and nature of my legal work over the past 81 months. The loose leaf volumes are at the Court's disposal, and are referred to in the fee petition as Exhibit D.

Under current Second Circuit practice, the deferred payment of hourly fees does not carry an interest component. Instead, counsel is authorized to seek fees for past services at current hourly rates. *Le Blanc-Sternberg v. Fletcher*, 143 F.3d 748, 764 (2<sup>nd</sup> Cir. 1998). See also *Missouri v. Jenkins*, 491 U.S. 274 (1989). Current hourly rates are set at the prevailing market rate for lawyers of comparable skill and standing in the pertinent legal community. *Kirsch v. Fleet Street, Ltd.*, 148 F. 3d 149 (2<sup>nd</sup> Cir. 1998).

The enclosed Quarterly Statements reflect my time charges in connection with each of the legal tasks involved. My current hourly fee, which is reflective of fees charged by lawyers of comparable skill and standing in the New York legal community, is \$700 per hour. As with the Special Masters, however, I believe that the unique nature of this litigation warrants a substantial discount of approximately 25% in my lodestar. Therefore, I request the following fees for the time charges reflected in the Quarterly Statements:

<u>Year</u>	<u>Hours</u>	<u>Undiscounted Fee</u>	<u>Discounted Fee</u>
1999	805 hrs.....	\$ 553,500.....	\$402,500
2000	1,808 hrs.....	\$1,265,600.....	\$904,000
2001	1,088 hrs.....	\$761,600.....	\$544,000
2002	1,248 hrs.....	\$873,600.....	\$624,000
2003	1,180.5hrs....	\$826,000.....	\$590,000
2004	1,765.5hrs....	\$1,235,500.....	\$882,500
2005	283.5 hrs....	\$198,100.....	\$141,500
Total	8,178.5 hrs..	\$5,731,900.....	\$4,088,500

Having waived millions of dollars in fees for helping to achieve the settlement in 1999; and having played a major role in increasing the settlement

fund by a minimum of \$35 million as a result of my service as Lead Settlement Counsel, I do not believe it appropriate to further discount my fees. I acknowledge, of course, that as with any payment to a Special Master, the Court is empowered to set the final fee. I believe, however, that this letter, the enclosed petition, and the Quarterly Statements reflect the fee properly payable to Lead Settlement Counsel herein.

Sincerely yours,

A handwritten signature in black ink, appearing to read "BN", written over the typed name "Burt Neuborne".

Burt Neuborne

cc: Special Master Gribetz  
Settlement Counsel