

1 David W. Oesting
2 DAVIS WRIGHT TREMAINE LLP
3 701 West 8th Avenue, Suite 800
4 Anchorage, AK 99501
(907) 257-5300

5 Lead Counsel for Plaintiffs

6 Lloyd B. Miller
7 SONOSKY, CHAMBERS, SACHSE,
8 MILLER & MUNSON
9 900 West 5th Avenue, Suite 700
10 Anchorage, AK 99501
11 (907) 258-6377

12 Liaison Counsel for Plaintiffs

Honorable H. Russel Holland

13
14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE DISTRICT OF ALASKA

16 In re:)
17) Case No. 3:89-cv-00095-HRH
18 The EXXON VALDEZ) (Consolidated)
_____)

19)
20 THIS DOCUMENT RELATES TO)
ALL CASES)
_____)

21
22 LEAD COUNSEL'S FOURTH APPLICATION FOR AN ORDER DISTRIBUTING
23 EXXON QUALIFIED SETTLEMENT PUNITIVE DAMAGE FUNDS TO AREA
24 BUSINESS, NON-NATIVE SUBSISTENCE, TENDER, PERSONAL INJURY,
25 PERSONAL PROPERTY, AQUACULTURE AND NATIVE CORPORATION
CLAIMANTS AND THEIR ATTORNEYS

Davis Wright Tremaine LLP

LAW OFFICES

Suite 800 · 701 West 8th Avenue
Anchorage, Alaska 99501
(907) 257-5300 · Fax: (907) 257-5399

1 This is the fourth in a series of applications for authority to distribute portions of
2 the \$383,349,750.00 plaintiffs received from Exxon in August 2008, as a partial payment
3 on the punitive damages judgment entered by the United States Supreme Court. The
4 issues involving costs and interest continue to be unresolved in the Ninth Circuit.
5 Nonetheless Lead Counsel wishes to continue to distribute as much of the amount
6 received as reasonably possible.
7

8 This motion addresses claimants in seven claim categories, five of which have not
9 been the subject of prior motions requesting that punitive damages be distributed.
10

11 One of the categories discussed in the Third Application involves Aquaculture
12 Associations. The Administrator has determined that one of the three associations is
13 ready to be paid, and proposes to allocate \$22,674.45 to the Kodiak Regional
14 Aquaculture Association. A second category discussed in the Third Application is that
15 for Native Corporations, for which there is just a sole claimant, Seldovia Native
16 Association (SNA). Though SNA was discussed in the Third Application, the gross
17 amount it was slated to receive was not set out in the Order signed by the court through
18 an oversight of counsel. Exhibit A hereto covers both of these claims. See Declaration
19 of Lynn Sarko, (Sarko Declaration) Page 2, nn. 1-2.
20
21
22
23
24
25

LEAD COUNSEL'S FOURTH APPLICATION FOR AN ORDER DISTRIBUTING EXXON
QUALIFIED SETTLEMENT PUNITIVE DAMAGE FUNDS TO AREA BUSINESS, NON-
NATIVE SUBSISTENCE, TENDER, PERSONAL INJURY, PERSONAL PROPERTY,
AQUACULTURE AND NATIVE CORPORATION CLAIMANTS AND THEIR
ATTORNEYS - 2

In re the Exxon Valdez, Case No. 3:89-cv-095-HRH

1 The five new categories are Area Business, Non-Native Subsistence, Tender,
2 Personal Injury and Personal Property. Mr. Sarko performed the same analysis as was
3 discussed in paragraphs 4 – 14 of his October 29, 2008 declaration to determine the
4 portion of the \$383,349,750.00 to which they are entitled. He calculated that the amounts
5 that should go to the five new claim categories that are the subject of this application as
6 set out in Exhibit A to his declaration, total approximately \$2,642,849.24 of the
7 \$246,263,667.34 available to all fifty-one categories.¹ As the attached declaration of
8 EQSF Administrator indicates, there are 443 claims that fall within these five new claim
9 categories. To facilitate an orderly distribution of this portion of the Punitive Damages
10 recovery as expeditiously as possible, claimants listed in Exhibit A are those whose
11 claims are *not* currently encumbered by liens, levies or assignments or any other
12 impairment in these five categories. Because claimants' files in these five categories with
13 liens, levies, assignments or further impairments in the five new categories require
14 detailed individual attention, Lead Counsel anticipates filing subsequent distribution
15 applications to those claimants in these five categories. The dollar figures provided in
16 Exhibit A for claimants in these five categories are gross dollar allocations to claimants
17
18
19
20
21
22

23 ¹ Sarko Declaration, Par. 3

24
25 LEAD COUNSEL'S FOURTH APPLICATION FOR AN ORDER DISTRIBUTING EXXON
QUALIFIED SETTLEMENT PUNITIVE DAMAGE FUNDS TO AREA BUSINESS, NON-
NATIVE SUBSISTENCE, TENDER, PERSONAL INJURY, PERSONAL PROPERTY,
AQUACULTURE AND NATIVE CORPORATION CLAIMANTS AND THEIR
ATTORNEYS - 3

1 prior to any deductions for attorneys' fees. The total gross dollar amount listed in Exhibit
2 A is \$ \$3,955,453.14 for all seven categories.

3
4 This submission does not cover any of the remaining claim categories, which will
5 be covered in future applications.

6 Respectfully submitted this 4th day of May 2009.

7
8 s/ David W. Oesting
9 DAVIS WRIGHT TREMAINE LLP
10 701 West 8th Avenue, Suite 800
11 Anchorage, AK 99501
12 Telephone: (907) 257-5300
13 Facsimile: (907) 257-5399
14 ABA No. 8106041
15 E-mail: daveoesting@dwt.com

16 Certificate of Service

17 The undersigned certifies that on May 4, 2009, a true and correct copy of the foregoing
18 LEAD COUNSEL'S FOURTH APPLICATION FOR AN ORDER DISTRIBUTING
19 EXXON QUALIFIED SETTLEMENT PUNITIVE DAMAGE FUNDS TO AREA
20 BUSINESS, NON-NATIVE SUBSISTENCE, TENDER, PERSONAL INJURY,
21 PERSONAL PROPERTY, AQUACULTURE AND NATIVE CORPORATION
22 CLAIMANTS AND THEIR ATTORNEYS was served on the following attorneys
23 or parties of record by the court's ECF system:

24 Douglas J. Serdahely
25 PATTON BOGGS LLP
601 West 5th Avenue, Suite 700
Anchorage, AK 99501
E-mail: dserdahely@pattonboggs.com

Lloyd B. Miller
SONOSKY, CHAMBERS, SACHSE,
MILLER & MUNSON
900 West 5th Avenue, Suite 700
Anchorage, AK 99501
E-mail: lloyd@sonosky.net

By: s/ David W. Oesting

26 LEAD COUNSEL'S FOURTH APPLICATION FOR AN ORDER DISTRIBUTING EXXON
27 QUALIFIED SETTLEMENT PUNITIVE DAMAGE FUNDS TO AREA BUSINESS, NON-
28 NATIVE SUBSISTENCE, TENDER, PERSONAL INJURY, PERSONAL PROPERTY,
29 AQUACULTURE AND NATIVE CORPORATION CLAIMANTS AND THEIR
30 ATTORNEYS - 4

Davis Wright Tremaine LLP
LAW OFFICES
Suite 800 · 701 West 8th Avenue
Anchorage, Alaska 99501
(907) 257-5300 · Fax: (907) 257-5399