Japanese Latin American Commission Bill: Court

Friends of Historical Accuracy regarding the ethnic Japanese Evacuation of 1942

http://www.bainbridgehistorians.org/

THURSDAY, JANUARY 25, 2007

Inouye legislation wants to "investigate" with a "commission".

We've seen this before. It's too bad most Americans just don't care.

Here's the latest from Dan Inouye as provided by the AP.

http://the.honoluluadvertiser.com/article/2007/Jan/25/br/br795062843

You may recall Dan Inouye is the Senator from Hawaii who received an affirmative action upgrade to MOH status from Bill Clinton courtesy of legislation introduced by his fellow senator from Hawaii, Dan Akaka (against the advice of the Pentagon's leading historian).

Inouye wants to use taxpayer dollars to *"investigate"* the internment of Japanese from Latin America sent to camps in America during WW2. Here's what Inouye has to say about his new legislation:

"They apparently had only one purpose on U.S. soil — to be used for prisoner exchanges with Japan," he said.

This is nonsense, which is why Dan added the word "apparently". Why would the Americans need to use Japanese enemy aliens from Latin America for prisoner exchanges when there were already thousands Japanese enemy aliens in American at the time? I wonder how Dan would answer.

The Accurate History

With regard to the Latin American Axis nationals, it is generally acknowledged by those who have bothered to check the record that only approx 8,500 Axis nationals (Germans, Italians, and

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Art Jacobs Interview

Japanese)were arrested and interned by 16 Latin American countries during WWII. (Inouye ignores the Germans and Italians, however.)

In accordance with treaty obligations, the U.S. was obligated to accept Axis nationals for internment in the U.S. from those Latin American countries which were unable to establish costly internment programs. (Apparently Inouye does not know this.)

Accordngly, at least twelve Latin American countries deported a total of only 3,000 Axis nationals consisting of just under 2,300 Japanese (500 of whom who had already applied for expatriation to Japan at the Spanish Embassy in Peru) and just over 700 Germans and Italians.

Hence, the U.S. was only involved in the internment of 3,000 Latin American Axis nationals.

Charges of violation of the wartime civil rights of such persons (enemy aliens)by the U.S. is far fetched. Indeed, such persons were specifically excluded from P.L.100-383 which authorized payment to Japanese enemy aliens and Japanese Americans evacuated from the West Coast or interned by the U.S. during the war.

This isn't going to stop the Japanese American Reperations Movement from *investigating* the history with your taxpayer dollars. Hopefully America's politicans will show more common sense than they did in the 1980s. Better yet, why don't they just leave the *investigating to the academics.*

Here's the not so well written blurb. My embelishments are in paranthesis.

Inouye introduces bill to investigate WWII internment

Associated Press

Sen. Daniel Inouye yesterday introduced a bill to create a commission to investigate the relocation, internment and deportation of Latin Americans of Japanese ancestry during World War II and the late 1940s.

"They were taken from their homes in countries such as Brazil, Panama and Peru, stripped of their passports, involuntarily brought to the United States, and interned in American camps,"

Inouye, D-Hawaii, said in a news release issued by his Washington office.

"They apparently had only one purpose on U.S. soil – to be used for prisoner exchanges with Japan," he said.

Sen. Daniel Akaka, D-Hawaii, one of the co-sponsors of the legislation, *(surprise)* said the panel will conduct a thorough examination of the largely unknown aspect of the internment of some 2,300 Latin Americans of Japanese ancestry. *(500 of whom who had already applied for expatriation to Japan at the Spanish Embassy in Peru)*

"We are a great nation, and we should not be afraid of the lessons we can learn from the dark chapters of our history," Akaka said.

Inouye agreed.

"The lessons of history can be painful," he said. "But that pain can also strengthen our nation and our commitment to its democratic ideals, which include equal justice for all."

The other co-sponsors of the bill are Sen. Patrick Leahy, D-Vt., Carl Levin, D-Mich., Robert Bennett, R-Utah, Sen. Lisa Murkowski, R-Alaska, and Sen. Ted Stevens, R-Alaska.

The nine-member commission would be able to recommend remedies, if any, based on what it uncovered. *(Who will stack this commission, Sen. Inouye?)*

In 1942, President Franklin D. Roosevelt authorized the internment of about 120,000 Americans of Japanese ancestry. *(Wrong. Adults were enemy aliens.)* They received a formal apology from President Ronald Reagan in 1988.

posted by Friends of Historical Accuracy @ 2:59 PM 2 comments
links to this post

2 Comments:

At January 26, 2007 9:38 AM, Anonymous said...

This is an outrage. In fact it is almost criminal. Senator Inouye and his staff are fully aware of the internment of Latin Americans of both German and Italian ancestry. I suggest, time permitting to, that as appropriate one should contact Senator Lieberman,

Senator Collins, the ranking member of the committee.

At June 28, 2007 8:16 PM, inouye out said...

Is Inouye out to lunch? This idiot needs to be recalled. How much money shall we waste on garbage like this?

Hawaii ranks 44th in the nation on education. Mississippi has better public schools. (source: Honolulu Advertiser)

Hawaii has a 50% high school drop out rate. (Source: Honolulu Advertiser)

Hawaii ranks 50th in successful collection of child support. (source: Honolulu Advertiser)

Hawaii's homeless population has climbed 28% since 2006. (source Honolulu Advertiser)

Just read the paper here. This place is a mess and it has all happened under his tenure. The schools did not fall apart overnight.....

He out of touch with the issues facing most of his constituents.

Is this what he spends his time on?

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DANIEL K. INOUYE
HAWAII

APPROPRIATIONS
Subcommittee on Defense—Chairman

COMMERCE, SCIENCE AND TRANSPORTATION,
CHAIRMAN

COMMITTEE ON INDIAN AFFAIRS

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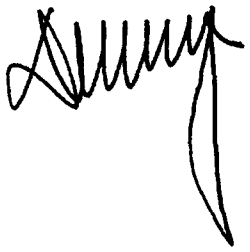
FAX (808) 961–5163

S. 381, A BILL TO ESTABLISH A COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF LATIN AMERICANS OF JAPANESE DESCENT, AND FOR OTHER PURPOSES

Mr. INOUYE. Mr. President, I ask unanimous consent that Senator FEINSTEIN be added as a co-sponsor of S. 381, a bill to provide for the establishment of a fact-finding Commission to determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent, and for other purposes.



Luong, Van (Inouye)

From: Harper, Richard (Feinstein)
Sent: Thursday, August 02, 2007 3:51 PM
To: Luong, Van (Inouye)
Subject: RE: JLA Commission Bill

No question, my boss would like to co-sponsor.

Best,

Rich

From: Luong, Van (Inouye)
Sent: Thursday, August 02, 2007 3:51 PM
To: Harper, Richard (Feinstein)
Subject: JLA Commission Bill

Hi Rich,

I got a message relaying that you had a question regarding the JLA Commission Bill? Please feel free to call me on my direct if I can be of help, x 46055.

Aloha,
Van

Van B. Luong, Esq.
Legislative Assistant

Office of U.S. Senator Daniel K. Inouye
722 Hart Senate Office Building
Washington, DC 20510
Ph: (202) 224-3934
Fax: (202) 224-6747

Luong, Van (Inouye)

From: GRACE SHIMIZU [JPOHP@prodigy.net]
Sent: Tuesday, June 12, 2007 8:45 PM
To: timothy koide; Powell, Lisa (HSGAC); Luong, Van (Inouye); rstoma@earthlink.net; Christine.Oh@mail.house.gov; ohcdcdbg@co.hawaii.hi.us
Cc: Lam, Kristine (HSGAC)
Subject: RE: Question from Committee

Dear folks:
According to NCRR's newsletter, Banner - Fall 2002 Update, here is info provided by DOJ's former Office of Redress Administration officials, Joanne Chiedi and Tink Cooper, and Angela Gantt on Nov. 1, 2002:

145 paid out of CLA funds ($20,000)
(The number 145 should get double checked because earlier
189 JLA claimants were said to be eligible.)
7 paid after the CLA program was terminated ($20,000) through reprogramming of DOJ funds

645 paid under the Mochizuki settlement ($5,000)
145 paid out of the CLA fund
500 after the CLA program was terminated through reprogramming of DOJ funds.

(Thus, total JLAs who got redress payments = 797.....152 eligible under CLA + 645 under Mochizuki settlement)

17 JLAs opted out.

--Notice was sent to JLAs who had submitted redress applications during the years of the CLA redress program. Also, notice was published for one day in one Japanese newspaper and one day in one Peruvian newspaper.

Take care. Grace

At 04:17 PM 6/12/2007, timothy koide wrote:
>According to a DOJ document titled, "Ten Year Program to Compensate
>Japanese Americans Interned During WWII Closes Its Doors" (Feb. 19,
>1999),
>
>"Among the 82,219 individuals paid [pursuant the 1988 CLA], were 189
>Japanese Latin American claimants eligible for the full $20,000 in
>redress compensation under the act because they had the required
>permanent residency status or U.S. citizenship during the defined war
>period...ORA paid $5,000 to 145 Japanese Latin Americans...These
>payments stem from an agreement resolving a 1996 civil suit filed by
>four Japanese Latin Americans...The vast majority of Mochizuki
>claimants have responded so that ORA has successfully resolved almost
>600 claims from approximately 710 applications. To the extent funds
>were remaining under the Act, as required by the settlement, ORA then
>paid a total of 145 claims to the Japanese Latin American class.
>
>I don't know if that is the total number or not. In fact, I don't think
>it is, but it is a start.
>
>Cheers,
>
>Tim Koide
>
>
>>From: "Powell, Lisa (HSGAC)" <Lisa_Powell@hsgac.senate.gov>
>>To: "Luong, Van (Inouye)"
>><Van_Luong@inouye.senate.gov>, "Robin Toma"
>><rstoma@earthlink.net>, "GRACE SHIMIZU" <JPOHP@prodigy.net>,

>>   "Oh, Christine" <Christine.Oh@mail.house.gov>,
>><ohcdcdbg@co.hawaii.hi.us>, "timothy koide" <tenjisama@hotmail.com>
>>CC: "Lam, Kristine (HSGAC)" <Kristine_Lam@hsgac.senate.gov>
>>Subject: RE: Question from Committee
>>Date: Tue, 12 Jun 2007 18:22:44 -0400
>>
>>If there's no easy way to find out, I don't think that it's a serious
>>concern. I think it was a curiosity question that someone asked and I
>>said that I'd try to find out.
>>_____
>>
>>From: Luong, Van (Inouye)
>>Sent: Tuesday, June 12, 2007 6:18 PM
>>To: 'Robin Toma'; 'GRACE SHIMIZU'; 'Oh, Christine';
>>ohcdcdbg@co.hawaii.hi.us; 'timothy koide'
>>Cc: Powell, Lisa (HSGAC); Lam, Kristine (HSGAC)
>>Subject: Question from Committee
>>
>>Hi everyone,
>>Do you have an answer for Lisa? (Lisa, I don't know if there is a
>>ready answer, and if we have the #, my personal concern is regarding
>>notice of opting out...I'm not sure how the notice was published,
>>etc.)
>>
>>Thank you,
>>
>>Van
>>
>>_____
>>
>>From: Powell, Lisa (HSGAC)
>>Sent: Tuesday, June 12, 2007 5:05 PM
>>To: Luong, Van (Inouye)
>>Subject: JLA numbers
>>
>>Do you know how many people received compensation in the settlement of
>>the suit in 1998 and how many opted out of the class? Thanks.
>>
>>Lisa Powell
>>
>>Chief Investigative Counsel
>>
>>Subcommittee on Oversight of Government Management, the Federal
>>Workforce and the District of Columbia
>>
>>Homeland Security and Governmental Affairs Committee
>>
>>Hart 605
>>
>>United States Senate
>>
>>Washington, D.C. 20510
>>
>>tel: 202-224-4551
>>
>>fax: 202-224-2271

Printcases CRS rept. ?.

MOCHIZUKI et al. V. THE UNITED STATES (United States Court of Federal Claims, 1998)
No. 97-294C

The settlement reached in this case ordered the certification of a class of individuals who had not yet received compensation under the 1988 CLA who are persons of Japanese ancestry who were living in Latin America before WWII and who were interned in the United States, or persons who are spouses, children or parents of persons who died after August, 1988 who met the afore mentioned qualifications. All class members had the opportunity to opt out of the class. The court preliminarily approved the Settlement Agreement as fair, reasonable, and adequate with the hope that it would not be a source of litigative dispute in the future. The Clerk of the Court was ordered to deliver a notice of the date and location of the fairness hearing to Kathryn Ray at the DOJ who was then ordered to deliver the notice to all potential class members no later than 25 days after her receipt. The hearing was held November 17, 1998 at the United States Court of Federal Claims to determine the reasonableness, adequacy and fairness of the Settlement Agreement and whether it should be approved by the court. Class members who objected to the equity of the settlement were given opportunity to voice their objection. The court determined that the timeframe given to give notice to class members was sufficient

The court preliminarily ruled that the case could be kept as a class action suit.

Five persons of Japanese ancestry (plaintiffs) filed a proposed class action Complaint in the United States Court of Federal Claims seeking payments under the Civil Liberties Act of 1988 on May 20, 1997.

KAY KATO; JANE YANO; MAKOTO OGURA; SHIZUE OGURA; KENJIRO OGURA; YASUO OGURA, aka Yasuo Okui v. THE UNITED STATES (United States Court of Appeals for the Ninth Circuit, 2001) No. 00-55673. 1 Fed. Appx. 630; 2001 U.S. App. LEXIS 173

The six plaintiffs sought damages under the Federal Tort Claims Act, 28 U.S.C. §§ 1346 (b), 2671 et seq., ans 42 U.S.C. §§ 1981 and 1985 for their internment by the United States. The complaint was file din 1999. The plaintiffs claim that the statute of limitations does not bar them from making their claim because the government's policy of invidious discrimination against persons of Japanese descent even after the internment and therefore are guilty of a continuing violation of their rights. However, the court found that the plaintiffs had no relationship with the government related to those claims since the internment.

The court determined that they need not decide whether the plaintiffs claims fell within any statutory waiver of sovereign immunity and therefore affirmed the decision that their claims were barred by the statute of limitations made by the United States District Court for the Central District of California.

KOSHIO HENRY SHIMA v. JOHN ASHCROFT;DEDE GREENE; UNITED STATES OF AMERICA (United States Court of Appeals for the Ninth Circuit, 2001)
No. 00-56670. 11 Fed. Appx. 923; 2001 U.S. App.Lexis 6713

Henry Shima sought damages under the Federal Torts Claims Act, 28 U.S.C. §§ 346 (b), 2671-2680, and 42 U.S.C. §§ 1981and 1985, for his transport from Peru to the United States and subsequent internment at Crystal City, Texas. Shima filed his complaint in 1998. After transfer to the US Court of Federal Claims, and re-transfer to the district court, the district court dismissed Shima's case because of the statute of limitations.

Shima claimed that he was not barred by the two-year statute of limitations because the United States government maintained as policy of discrimination against Latin Americans of Japanese descent thus qualifying his claim under the continuing violations doctrine. Shima claimed that the government maintained its discriminatory policies from 1942 to 1998. Shima failed to present examples of discrimination by the United States that occurred within the two-year period before he filed his complaint thereby negating the continuing violations doctrine. Thus, the court found that the statute of limitations did, in fact, bar Shima's claims and therefore the court did not need to address whether the United States waived sovereign immunity for the §§ 1985 and 1981 claims. The court denied him oral argument.

Henry Shima passed away in January, 2005.

NATIONAL COALITION FOR REDRESS/REPARATIONS; JOE SUZUKI v. UNITED STATES OF AMERICA (United States Court of Appeals for the Ninth Circuit, 1999)
No. 99-15063. 1999 U.S. App. Lexis 7881

The plaintiff's filed a class action lawsuit in 1998 that charged the government with malfeasance because they did not invest the $1.65 billion redress fund as required under the 1988 CLA. NCRR sought to recover an estimated $200 million in lost interest to the Civil Liberties Public Education Fund for compensation and educational purposes. U.S. District Court Judge Charles Legge dismissed the claims as without standing. The decision was appealed to the Ninth Circuit Court.

The court sought to decide whether the district court, from which the case was appealed, abused its discretion in denying the preliminary injunction or based its decision on an erroneous legal standard or on clearly erroneous findings of fact. The court ruled that the district court did not rely upon an erroneous legal premise or abuse its discretion by denying the National Coalition for Redress/Reparations and Joe Suzuki's request for a preliminary injunction, asking that the district court direct the Secretary of the Treasury

to continue to fund the Civil Liberties Public Education Fund and the Attorney General to keep open the Office of Redress Administration under the Civil Liberties Act of 1988, 50 U.S.C. § 1989; and thus the district court's ruling was affirmed.

The appellants' request for oral argument and decision by a merits panel was denied. The court also claimed no jurisdiction to consider the portion of the appeal relating the district court's order granting the appellee's motion to dismiss with leave to amend because the order was not final and appealable. The court also withheld an expression of opinion on the merits of permanent injunctive relief.

NATIONAL COALITION FOR REDRESS/REPARATIONS; JOE SUZUKI v. UNITED STATES OF AMERICA; JANET RENO; ROBERT E. RUBIN (United States Court of Appeals for the Ninth Circuit, 2000) No. 00-15154. 4 Fed. Appx. 397; 2001 U.S. App. LEXIS 2601.

Joe M. Suzuki and National Coalition for Redress/Reparations (NCRR) appeal the district court's dismissal of their claims. Suzuki's only claim in this case was for the $5,000 available to him under the Mochizuki settlement, which he was already awarded thus the court declared his appeal moot. NCRR's claim pertains to its loss due to the government's alleged failure to invest funds allocated to the Civil Liberties Public Education Fund. The court found the claim not redressable because the fund was terminated along with its administering board. The court affirmed the district court's dismissal of the NCRR's claim because of a lack of standing. The appeal of Joe M. Suzuki was dismissed as moot.

The appeal was dismissed and the judgment of the district court was affirmed.

ISAMU CARLOS SHIBAYAMA, KENICHI JAVIER SHIBAYAMA, TAKESHI JORGE SHIBAYAMA v. UNITED STATES (United States Court of Federal Claims, 2002) No. 00-4C. 55 Fed. Cl. 720; 2002 U.S. Claims LEXIS 374.

The defendant's claim was that the plaintiffs were not permanent residents during the time of the internment and thus their potential eligibility for redress under the 1988 CLA was denied. Mr. Kenichi Shibayama, Mr. Takeshi Shibayama, and Mr. Isamu Shibayama, did not obtain permanent residence status that extended retroactively to the internment period. By letters dated respectively, November 10, 1992, April 22, 1993, and June 28, 1993, the three gentlemen were informed of their ineligibility and also their right to

appeal the decision of the ORA to the Assistant Attorney General of the Civil Rights Division of the DOJ within sixty days of receipt. The Assistant Attorney General's decision would be the final DOJ action in regards to the redress appeal.

Mr. Isamu Shibayama filed an appeal with the Assistant Attorney General for the Civil Rights Division of the DOJ on August 17, 1993. The file of appeal claimed that he was eligible for redress under the CLA because of the established doctrine of PRUCOL (permanently residing under color of law). The appeal also sought redress under the CLA because the plaintiff felt that the DOJ should be stopped from asserting that he was an illegal alien upon arrival in this country.

On October 26, 1994, the Office of the General Counsel for INS reviewed Mr. Kenichi Shibayama and Mr. Takeshi Shibayama's permanent resident alien status. The Office determined that the two men had obtained permanent resident status upon their reentry into the United States after voluntary deportation to Canada in 1955 and 1956. These dates fell outside of the limitations of the CLA, which required former internees to either be permanent residents or citizens between December 7, 1941 and June 30, 1946. The Office of the General Counsel for INS determined in May 1995 that Mr. Isamu Shibayama did not receive permanent residence until 1956.

The plaintiffs' sought injunctive and declaratory relief against the United States. The plaintiffs' complaint requested the Court of Federal Claims to review the ORA's denial of eligibility for restitution under the CLA, declaratory and injunctive relief to order the removal of the "illegal alien" status from their records, and apology and disbursement of funds from the United States for the purpose public education regarding the abduction and internment of Japanese Latin Americans, restitution for excessive income taxes based on their designation as "illegal aliens", and restitution for U.S. actions that violated humanitarian law jus cogens. The plaintiffs also challenge their designation as "illegal aliens" during the internment years and the denial of retroactive residence and subsequent compensation despite members of their own family receiving such status. They claimed that in fact they were legal aliens directly and indirectly by virtue of the color of law, and because their presence in the United States was sanctioned by the United States. At no time, they claimed, did they ever violate an immigration law that was not excused by government despite not formal recognition of their permanent resident status until the 1950's. The plaintiffs claim that their challenge to the ORA's denial of CLA compensation was made under the Administrative Procedure Act n8, and that the actions of the defendant were in violation of the 5th Ammmendment.

The defendant claimed a lack of subject matter jurisdiction because the CLA no longer had available funds from which a judgment can be paid to the plaintiffs. The defendant also claimed that two of the plaintiffs, Mr. Kenichi Shibayama, and Mr. Takeshi Shibayama, failed to exhaust administrative remedies because they did not file a formal appeal with the Assistant Attorney General for the Civil Rights Division of the DOJ, therefore the court again lacks subject jurisdiction. The defendants claimed that the, "CLA and its regulations indicate that claimants must exhaust their claims by filing an original application with the ORA and a redress appeal prior to filing a federal court

complaint." However, the CLA was amended in 1992 to allow judicial review of compensation denial in the US Court of Federal Claims. The defendant also called upon the statute of limitations. This limits the court's jurisdiction to six years subsequent the initial determination of ineligibility by the ORA on November 10, 1993, or the sixty day limitation for filing administrative appeal on January 11, 1993. The defendants also filed a motion to dismiss the plaintiffs for failure to state a claim, and a motion for a summary judgment.

The defendant's motion to dismiss for lack of subject matter jurisdiction, for failure to state a claim granted was denied. The defendant's motion to dismiss Shibayama, and the plaintiff's claims for violation of international humanitarian law, disbursement of funds from the United States for public education concerning the alleged unlawful abduction and detention of Latin Americans of Japanese ancestry by the United States and restitution for excessive income taxes assessed, based on the alleged characterization of the plaintiffs as "illegal aliens," were granted; as well as the defendant's motion for summary judgment.

REPORT NO. 26/06 PETITION 434-03 ADMISSIBILITY ISAMU CARLOS SHIBAYAMA *ET AL.* UNITED STATES (Inter-American Commission on Human Rights, Organization of American States, March 16, 2006)

The Inter-American Commission on Human Rights, subsequent to receiving the Shibayama petition heard the arguments of the United States and the Shibayama brothers in deciding whether the Commission was competent to consider the latter's petition under Articles II, XVII and XXVI of the American Declaration of the Rights and Duties of Man. The Commission decided to declare the petitioners' claims admissible, transmit the report to the parties, continue an analysis of the merits of the case, publish the report and include it in its Annual Report to the General Assembly of the Organization of American States.

The plaintiffs' petition to the Commission claims that their denial of the Mochizuki settlement agreement and the submission of their own suit against the United States was based upon inter alia, the U.S. Constitution, civil rights law, and humanitarian law, seeking declaratory and other equitable remedies. The petitioners claimed that the United States was responsible for violations of their rights according to Articles I (right to life, liberty and personal security), II (right to equality before the law), V (right to protection of honor, personal reputation, and private and family life), VIII (right to residence and movement), XII (right to education), XIV (right to work and to fair remuneration), XVIII (right to a fair trial), XXV (right of protection from arbitrary arrest) and XXVI (right to due process of law).

The petitioners sought the following remedies for the violation of their rights: cessation of continuing violations; a full apology including public acknowledgment of the facts and acceptance of responsibility; commemoration and paying tribute to victims, inclusion of the accurate record of violations in educational materials and curricula, and expungement of the label "illegal alien" from the petitioners' government files.

The State argued that the petitioners' claim fell outside of the jurisdiction of the court because the violations spoken of took place prior to the establishment of the Commission and the passage of the American Declaration. The State also denies the claim that there existed a "continuing policy" of discrimination on the grounds that the internment program ended in 1946 and that an apology was given to Latin American persons of Japanese ancestry who were interned. The State assumed that since no appeal was filed that the petitioners did not exhaust domestic remedies and therefore are without the limits of the jurisdiction of the Commission. The State concluded that the petitioners did not receive redress by their own choice and are, "attempting to use the Commission to circumvent and replace a remedy that the domestic courts found 'fair, reasonable, and adequate."

Luong, Van (Inouye)

From: Oh, Christine [Christine.Oh@mail.house.gov]
Sent: Wednesday, June 20, 2007 12:41 PM
To: 'Floyd Mori'; GRACE SHIMIZU; Robin Toma; Takeda, Ken (Honda); 'timothy koide'
Cc: 'Grace Lowenberg'; Luong, Van (Inouye)
Subject: Tomorrow's Conference meeting

Hi everyone,
Please be reminded that our conference meeting will take place tomorrow, Thursday 21st at 1pm EST/10am PST.

Call in #: 888-592-9605
PASSCODE: 54483

Expected attendees (Please let me know if you won't be able to participate): Floyd, Grace, Stephanie, Robin, Ken, Tim, Van, Christine, Dana Nakano (Honda), Naomi

Agenda

I. Bill update: Senate & House
II. Updates on tasks

Jan Garren (rec.)

Stephanie: Contact Oklahoma and Nebraska contacts
Tim / Grace / Robin / Floyd: Come up with a list of outreach potentials and come up with division of labor; Van and Christine's suggestion is have Tim do initial contact and carbon copy Grace on every follow up emails.
Grace: Changes on website
Robin: Changes on website; contact non-DC organizations
Floyd: Follow up with national organizations in the DC area; Include bill info on JACL website
Tim / Van: Work on memo
Van / Christine: Sort documents that Grace sent and pick out info for bosses & binders
Christine: Send folks draft of charter memo
Everyone: Send Grace suggestions for the website

III. Next steps
IV. Next conference meeting

Christine Oh| Congressman Xavier Becerra| (202) 225-6235| christine.oh@mail.house.gov| Sign up for periodic updates from Rep. Becerra

****
*** TX REPORT ***
****

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TO: Parliamentarian's office

FROM: VAN LUONG **PHONE:** 4-6055

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OFFICE OF SENATOR DANIEL K. INOUYE

TO: Parliamentarian's office

FROM: VAN LUONG **PHONE:** 4-6055

NUMBER OF PAGES FOLLOWING THIS PAGE: _____

DATE: _____ **TIME:** _____

COMMENTS: Japanese Latin American Commission Bill.
and proposed amdt to Immigration Bill

FOR IMMEDIATE RELEASE CR

FRIDAY, JUNE 12, 1998

JAPANESE LATIN AMERICANS TO RECEIVE COMPENSATION

FOR INTERNMENT DURING WORLD WAR II

WASHINGTON, D.C. -- Nearly 600 Japanese Latin Americans who were interned during World War II will each be able to receive $5,000 and an apology under an agreement reached today with the Justice Department.

Today's agreement resolves a 1996 civil suit filed by five Japanese Latin Americans who were deported from their homes in Latin America during World War II and held in internment camps in the United States. The five, who had been denied redress under the Civil Liberties Act of 1988, claimed that they deserved to be compensated along with Japanese American internees during the war.

"This was a tragic chapter in the history of our nation," said Attorney General Janet Reno. "It's time to right this wrong and close the book."

The Civil Liberties Act, which was signed into law on August 10, 1988, acknowledges, apologizes, and makes restitution for the fundamental injustice of the evacuation, relocation and internment of Japanese Americans during World War II.

Under the law, claimants can receive compensation if they were alive at the time of the signing of the law, were a U.S. citizen or permanent resident alien during internment, and are a person of Japanese ancestry or the spouse or parent of a person of Japanese ancestry.

The Justice Department's Office of Redress Administration (ORA) is charged with administering the 10 year program which ends on August 10, 1998.

During the war, Latin American nations deported more than 2,000 of their citizens or residents of Japanese ancestry to the United States to be held in internment camps. Over the past eight years, ORA denied the claims of many of these internees because they were not U.S. citizens or permanent resident aliens during their internment, as the law requires. After ORA's rulings, the five individuals filed suit on behalf of all Japanese Latin Americans who were interned under similar circumstances.

Under today's settlement, these internees will each receive $5,000, to the extent funds are available, as well as an apology.

To date, ORA has received approximately 600 claims from Japanese Latin Americans who have been denied redress under the Act. The plaintiffs estimated that more than 2,000 Japanese Latin Americans were interned during the war, but that only 1,300 may still be living.

The program has paid out nearly $1.65 billion in reparations to 81,664 eligible claimants. More than $11 million now remains in the redress fund.

"Time is running out," said Acting Assistant Attorney General for Civil Rights Bill Lann Lee. "I urge anyone who may be eligible to come forward soon."

In February, Reno announced that six months remained in the redress program and urged any potential claimant to come forward. Since her announcement nearly 400 claimants have been compensated.

"We will work hard to reach any Japanese Latin American who may be eligible under this settlement," said DeDe Greene, ORA Administrator. "As long as there's time, we will keep searching for claimants."

Persons who may be eligible for payments under this settlement but who have not yet come forward will need to postmark their claims by August 10, 1998. Claims must be received by September 4."

To contact ORA for information, please leave a message on the 24 hour, toll-free Help line at 1-888-219-6900, or internationally call 1-202-219-6900; or write the Office of Redress Administration at P.O. Box 66260, Washington, D.C. 20035-6260; or visit the Justice Department web site at:

http://www.usdoj.gov/crt/ora/main.html

ORA requests that individuals provide the following information, if know: full name, name used during the internment period, date of birth and place of birth, place of internment, current address and telephone number.

# # #

98-276

Luong, Van (Inouye)

From: Robin Toma [rstoma@earthlink.net]
Sent: Thursday, June 21, 2007 3:06 PM
To: jpohp@prodigy.net; christine.oh@mail.house.gov; Luong, Van (Inouye); Robin Toma; naomiquinones@email.com
Subject: Urgent: Chance to right a wrong, and make sure it doesn't happen again

Here's the draft of the email that we will blast out to our supporters list.
I welcome your feedback, since it is tricky to convey simply what it is they are telling their Senator with the issue of the bill becoming possibly a rider to the immigration bill.
I also recognize it's long, but the key info is in the first 3-4 sentences, with the bottom half for those who need more info to feel comfortable.
I'm not sure how to frame who it's coming from, since there should be at least a person, not just an organization.
Let's get any feedback and we'll shoot to send it out this weekend.
Robin
==========
Dear friends of the Campaign For Justice,

We urgently need your help in our campaign to right a terrible wrong: the forced uprooting of over 2,200 Japanese Latin Americans from their homes, who were transported by the U.S. via ships, planes and trains to prison camps in the U.S., all for the purpose of being used in a hostage exchange with Japan during World War II.

We need your help to push through federal legislation that would take the first modest but important step of setting up a Congressional Commission to study this episode, recommend actions, so that we won't repeat these tragic actions that violated so many basic human rights.

But time is running out.

As quickly as you can, and no later than Tuesday, July 3rd, we need you to make a phone call, send an email, or fax your Senator to make sure they are doing whatever they can to get this bill passed.

In particular, we ask that you send this request to those people living in the following states [this will come from Christine's email to me which will list the states where Senators have opposed or are not in support of the bill], where the Senators need to hear voices in support if the bill.

The bill is titled "Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act" (H.R. 662 and S. 381), introduced by Congressmember Xavier Becerra and Sen. Daniel K. Inouye, with both Democrats and Republicans co-sponsoring the legisltation in both houses.

These Japanese Latin American men, women and children were robbed of their freedom and removed without due process from nations not directly involved in the war. They were classified as "illegal aliens" by the U.S. government despite being forcibly brought to the U.S., and were subject to deportation during and after the war, in violation of their most fundamental civil and human rights.

This chapter in our history needs to be fully investigated, so that Congress and the American people can understand what happened, and so that we can prevent these grave injustices from ever happening again. Although a previous commission in the 1980's studied the internment of Japanese Americans during the war, there has not been a comprehensive study of the U.S. wartime enemy alien program, and the civil and human rights violations suffered by Japanese Latin Americans. This commission would allow us to hear the voices of those who personally suffered great losses and endured tremendous hardship due to U.S. actions in Latin America during the war, and would give Congress a chance to consider appropriate remedies. The American people and our future generations deserve to know the complete history of our nation's actions during WWII.

Please let us know if you and/or your organization have taken action to join CFJ, JACL, NCRR, ACLU, LCCR, AAJC, OCA, AALDEF, NAPAWF, FCNL, MALDEF, and others in support of this important and timely bill.

Thank you in advance for taking time to stand up for justice, and towards the goal that no others be subjected to such human rights violations by our government.

Sincerely,

Robin Toma & Grace Shimizu
On behalf of the Campaign for Justice

Rstoma@earthlink.net

OFFICE OF SENATOR DANIEL K. INOUYE

TO: Parliamentarian's office

FROM: VAN LUONG **PHONE:** 4.6055

NUMBER OF PAGES FOLLOWING THIS PAGE:

DATE: **TIME:**

COMMENTS: Japanese Latin American Commission bill and proposed amdt to Immigration bill

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*** TX REPORT ***
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Claire Valentin

We seek a world free of war & the threat of war.
We seek a society with equity & justice for all.
We seek a community where every
person's potential may be fulfilled.
We seek an earth restored.

FRIENDS COMMITTEE ON NATIONAL LEGISLATION

(Quakers)

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FRIENDS COMMITTEE ON NATIONAL LEGISLATION

. . . a Quaker lobby in the public interest

September 26, 2007

Senator Daniel K. Inouye
United States Senate
Washington, D.C. 20510

Dear Senator Inouye:

We at Friends Committee on National Legislation wish to express our appreciation for your leadership of the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent (S. 381). For the Friends Committee, this legislation follows our mandate to "seek a society with equity and justice for all." For this reason, we have written to members of the House and Senate who were co-sponsors of the Civil Liberties Act of 1988, urging them to support S. 381 and H.R. 662. For your information, we have enclosed the letter that was sent to 25 members of the House and 25 members of the Senate. We are working with your able staff member, Van Luong, and expect to take further steps to support your legislation.

Thank you again for your support of the Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent. If we can offer any assistance in the future, please call on us.

Sincerely,

Ruth Flower
Legislative Director

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WASHINGTON, DC 20002-5795 USA
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FRIENDS COMMITTEE ON NATIONAL LEGISLATION
. . . a Quaker lobby in the public interest

September 20, 2007

Senator Daniel K. Inouye
United States Senate
Washington, D.C. 20510

Dear Senator Inouye:

> "During World War II the United States expanded its internment program and national security investigations to Latin America on the basis of 'military necessity.' On the government's invitation, approximately 3, 000 residents of Latin America were deported to the United States for internment to secure the Western Hemisphere from internal threats and to supply exchanges for American citizens held by the Axis."
> - Commission on Wartime Relocation and Internment of Civilians, March 1992.

We at the Friends Committee on National Legislation urge you to support S. 381, the "Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act," introduced on January 24th, 2007 by Sen. Daniel K. Inouye (HI) and Rep. Xavier Becerra (CA). This bill would create a nine member commission to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation of Japanese Latin Americans during World War II by the U.S. government. For the Friends Committee, this legislation follows our mandate to "seek a society with equity and justice for all."

As a cosponsor of the Civil Liberties Act of 1988, you helped provide an official apology and modest reparations for the World War II internment of 110,000 Japanese Americans by the U.S. government. However, the Civil Liberties Act of 1988 did not reach *all* those of Japanese ancestry who were brought to U.S. internment camps. The U.S. also brought people from other countries in this hemisphere, and interned them in our camps or deported them to Japan.

According to the findings of the 1982 Commission on Wartime Relocation and Internment of Civilians, approximately 2,300 men, women, and children of Japanese descent were uprooted from their homes in 13 Latin American countries and detained in internment camps in the United States. In some cases, detainees were deported to Japan to enable the United States to conduct prisoner exchanges. The legislation now proposed seeks to establish more information about this facet of our history, and to discern whether U.S. actions were in accordance with U.S. and international law.

We believe that Congress must acknowledge and address this action by the U.S. government. The capture and detention of civilians residing in other countries on the basis of ethnicity was not only wrong in itself, but set a most dangerous precedent. Passage of S. 381 would affirm another important step in assuring that this kind of action will not be taken again, and would demonstrate a national commitment to honor human dignity and international human rights.

Thank you for your support of the Civil Liberties Act of 1988. We urge you to add your name as a cosponsor of S. 381, the "Commission on Wartime Relocation and Internment of Latin Americans of Japanese Descent Act."

Sincerely,

Ruth Flower
Legislative Director

Co-Sponsors of Civil Liberties Act of 1988 currently in Senate

Last Name	First Name	State	Party	Building	Office	Sponsor
Akaka	Daniel K.	HI	D	Hart	141	x
Baucus	Max	MT	D	Hart	511	
Biden	Joseph R.	DE	D	Russell	201	x
Bingaman	Jeff	NM	D	Hart	703	
Boxer	Barbara	CA	D	Hart	112	
Byrd	Robert C.	WV	D	Hart	311	
Cardin	Benjamin	MD	D	Hart	509	
Cochran	Thad	MI	R	Dirksen	113	
Conrad	Kent	ND	D	Hart	530	
Dodd	Christopher	CT	D	Russell	448	
Domenici	Pete V.	NM	R	Hart	328	
Harkin	Tom	IA	D	Hart	731	
Hatch	Orrin G.	UT	R	Hart	104	
Inouye	Daniel K.	HI	D	Hart	722	x
Kennedy	Edward M.	MA	D	Russell	317	
Kerry	John	MA	D	Russell	304	
Lautenberg	Frank R.	NJ	D	Hart	324	
Leahy	Patrick J.	VT	D	Russell	433	x
Levin	Carl	MI	D	Russell	269	x
Lugar	Richard G.	IN	R	Hart	306	
Mikulski	Barbara	MD	D	Hart	503	
Reid	Harry	NV	D	Hart	528	
Rockefeller	John D.	WV	D	Hart	531	
Schumer	Charles E.	NY	D	Hart	313	
Specter	Arlen	PA	R	Hart	711	
Stevens	Ted	AK	R	Hart	522	x

Campaign for Justice: Redress Now for Japanese Latin Americans!
Founding Organizations: American Civil Liberties Union (ACLU) of Southern California
Japanese Peruvian Oral History Project (JPOHP)
Nikkei for Civil Rights and Redress

IMEDIATE RELEASE
7, 2004

Contact: Grace Shimizu
(510) 459-7288

S. State Dept. Gets Extension for Response to Japanese Latin American Petition

panese Peruvians were recently dealt another delay in their quest for redress for injustices suffered Vorld War II. The U.S. State Department requested and received a 30-day extension of its July 18 to respond to the petition sent by the Inter-American Commission on Human Rights (IACHR), a body ganization of American States (OAS), on behalf of Isamu (Art) Shibayama and his two brothers, and Takeshi Shibayama, and the Japanese Peruvian Oral History Project. The United States ent now has until August 17th for rebuttal.

ayamas, along with over 2,200 other Japanese Latin Americans, were abducted from their home in nerica by the U.S. government, brought to this country to be used as hostages in exchange for ns held by Japan, interned, and then classified as "illegal aliens" after the United States stripped ther assports while forcibly bringing them to this country. They were then denied redress under the Civi Act of 1988 that provided an apology and compensation for victims of U.S. relocation programs.

granted a delay, the U.S. is ultimately obligated to respond to OAS/IACHR petitions and abide by it under the OAS charter because the U.S. is an OAS member and all members pledge to recognize lecisions.

ves U.S. citizens and resident aliens an important human rights forum," said JPOHP Director Grace "Since the U.S. hasn't ratified the United Nations Convention on Human Rights, [U.S.] Americans eal to the UN Commission on Human Rights when domestic courts or government agencies don't dequate remedies. This case will be important for others working on domestic civil rights issues and ngoing redress campaign for Japanese Latin Americans and other groups affected by WWII enemy cies."

has sent "pertinent parts" of the petition to the United States government for comments, meaning that considers the claim based on war crimes and crimes against humanity committed against them when children to be reasonably actionable. Remedies sought include proper apology reflecting the severity vernment violations, equitable redress compensation and full disclosure of the facts, including the fate eared individuals in Latin America and Japan.

is a regional body, under the United Nations, for the Americas. The Inter-American Commission on ights, based in Washington, D.C., and it's counterpart in Costa Rica apply the regional law of human claims of violations made against the state by people in the Americas. The IACHR accepted the a petition for further review and sent it to the U.S. State Department in May 2004.

ayama case is part of a redress effort for all Japanese Latin Americans who experienced similar human rights violations during World War II, when 13 Latin American countries became involved in Japanese Latin Americans to the United States for hostage exchange and internment. The redress includes legislation pending in the U.S. House of Representatives, the Wartime Parity and Justice 03. If passed, an estimated 1,200 Japanese Latin Americans and Japanese Americans would receive compensation of $20,000 and a proper apology. The bill also provides for the re-establishment of the

Campaign for Justice: Redress Now for Japanese Latin Americans!
Founding Organizations: American Civil Liberties Union (ACLU) of Southern California
Japanese Peruvian Oral History Project (JPOHP)
Nikkei for Civil Rights and Redress

FOR IMMEDIATE RELEASE	**Contact**: Grace Shimizu
August 7, 2004	(510) 459-7288

U.S. State Dept. Gets Extension for Response to Japanese Latin American Petition

Three Japanese Peruvians were recently dealt another delay in their quest for redress for injustices suffered during World War II. The U.S. State Department requested and received a 30-day extension of its July 18 deadline to respond to the petition sent by the Inter-American Commission on Human Rights (IACHR), a body of the Organization of American States (OAS), on behalf of Isamu (Art) Shibayama and his two brothers, Kenichi and Takeshi Shibayama, and the Japanese Peruvian Oral History Project. The United States government now has until August 17th for rebuttal.

The Shibayamas, along with over 2,200 other Japanese Latin Americans, were abducted from their home in Latin America by the U.S. government, brought to this country to be used as hostages in exchange for Americans held by Japan, interned, and then classified as "illegal aliens" after the United States stripped them of their passports while forcibly bringing them to this country. They were then denied redress under the Civil Liberties Act of 1988 that provided an apology and compensation for victims of U.S. relocation programs.

Though granted a delay, the U.S. is ultimately obligated to respond to OAS/IACHR petitions and abide by its decisions under the OAS charter because the U.S. is an OAS member and all members pledge to recognize IACHR decisions.

"This gives U.S. citizens and resident aliens an important human rights forum," said JPOHP Director Grace Shimizu. "Since the U.S. hasn't ratified the United Nations Convention on Human Rights, [U.S.] Americans can't appeal to the UN Commission on Human Rights when domestic courts or government agencies don't provide adequate remedies. This case will be important for others working on domestic civil rights issues and for the ongoing redress campaign for Japanese Latin Americans and other groups affected by WWII enemy alien policies."

The OAS has sent "pertinent parts" of the petition to the United States government for comments, meaning that the OAS considers the claim based on war crimes and crimes against humanity committed against them when they were children to be reasonably actionable. Remedies sought include proper apology reflecting the severity of the government violations, equitable redress compensation and full disclosure of the facts, including the fate of disappeared individuals in Latin America and Japan.

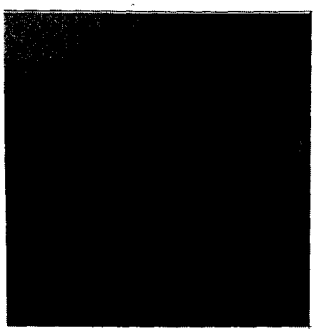
The OAS is a regional body, under the United Nations, for the Americas. The Inter-American Commission on Human Rights, based in Washington, D.C., and it's counterpart in Costa Rica apply the regional law of human rights to claims of violations made against the state by people in the Americas. The IACHR accepted the Shibayama petition for further review and sent it to the U.S. State Department in May 2004.

The Shibayama case is part of a redress effort for all Japanese Latin Americans who experienced similar human and civil rights violations during World War II, when 13 Latin American countries became involved in providing Japanese Latin Americans to the United States for hostage exchange and internment. The redress effort also includes legislation pending in the U.S. House of Representatives, the Wartime Parity and Justice Act of 2003. If passed, an estimated 1,200 Japanese Latin Americans and Japanese Americans would receive symbolic compensation of $20,000 and a proper apology. The bill also provides for the re-establishment of the

Public Education Fund, which would make available $45 million in fulfillment of the educational mandate of the Civil Liberties Act of 1988. ###

CAMPAIGN FOR JUSTICE

REDRESS NOW FOR JAPANESE LATIN AMERICAN INTERNEES!



:one: Japanese Peruvians en route to t Camps. April 2, 1942. U.S. Army ioto. National Archives. Courtesy of se American Historical Society.

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REDRESS FIGHT CONTINUES IN COURT

The fight for justice continues not only in legislation but in litigation as well. Sixty years after the war, the U.S. government is still fighting Japanese American (JA) and Japanese Latin American (JLA) internees in court. The U.S. government continues to deny its own war crime committed against JLAs, and does not fully acknowledge its civil and human rights violations committed against people of Japanese ancestry during the War. The government has also used technicalities to fight internees in court and to keep the U.S. from being held accountable for its own wrongdoing. Let's urge the U.S. government to stop the costly and lengthy court battles and to support a proper apology and redress for JAs and JLAs!

Between 1996 and 1999, five lawsuits were filed on behalf of the former JLA internees. The Mochizuki, et al. v. USA case resulted in a settlement whereby the US government agreed to issue individual apology letters and compensation of $5,000 per internee. While the settlement agreement terminated further litigation, there was a provision that allowed the pursuit of legislation for equitable relief in the US Congress. The other four lawsuits were dismissed by the US courts.

For the JLA internees who rejected the Mochizuki settlement and were unable to secure justice in the US courts, they continue the struggle in the international arena. In June 2003, a petition on behalf of the JLAs was filed with the Inter-American Commission on Human Rights (a body of the Organization of American States) to hold the US government accountable for the ongoing failure to provide redress for war crimes and crimes against humanity. Let's urge the US government to stop the costly and lengthy litigation and to support a proper apology and redress for JLAs.

Kato, Yano, and Ogura v. USA Dismissed by U.S. Court of Appeals

Following a hearing last December, the Ninth Circuit Court of Appeals in January upheld the lower court's dismissal of Kato, Yano, and Ogura. v. USA. The plaintiffs in this consolidated redress case, are 6 claimants of Japanese descent, born in three different countries (the U.S. Japan, and Peru), and who were all wrongly imprisoned in the U.S. during World War II. The plaintiffs charged the U.S. with a continuing policy of discrimination, for violating their fundamental civil rights during the War and then later denying them an apology and redress, but the Court ruled that all legal action was barred by the statute of limitations. Pursuant to the court's argument, the internees had one year after release from prison camp to file a lawsuit against the U.S. government

The attorney, Paul L. Mills of Los Angeles, recently reported that the internees' subsequent petition for en banc review was denied by the Ninth Circuit Court. Mills indicated that that they will be appealing this decision to the U.S. Supreme Court.

Henry Shima Denied Hearing by Ninth Circuit Court of Appeals

On April 4, 2001, the Ninth Circuit U.S. Court of Appeals considered the case of Shima v. USA, refusing to grant the plaintiff, Koshio Henry Shima, oral argument before the court. Shima, 75, is a U.S. citizen of Japanese descent, who was abducted from his home in Peru at the age of 18, put to forced labor in the Panama Canal Zone, and then imprisoned in the U.S. during WWII, without a hearing, for the duration

CAMPAIGN FOR JUSTICE
REDRESS NOW FOR JAPANESE LATIN AMERICAN INTERNEES!

Panama Canal Zone: Japanese Peruvians en route to U.S. Internment Camps. April 2, 1942. U.S. Army Signal Corps Photo. National Archives. Courtesy of National Japanese American Historical Society.

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of the war. Last year, Judge J. Spencer Letts of the U.S. Central District Court of Los Angeles, had dismissed Shima's suit for damages, without allowing oral argument. This subsequent refusal by the Court of Appeals to allow Shima to be heard in court is the third time that Shima has been denied a court hearing by the U.S. government.

Commenting on the government's refusal to allow Shima's voice to be heard in court, attorney Paul Mills stated, "The government's denial of a hearing sends a clear message that the U.S. still refuses to acknowledge its own civil and human rights violations."

The decision of the Court of Appeals is currently pending.

U.S. Court of Appeals Dismisses NCRR & Joe Suzuki v. USA

On February 15, 2001, the Ninth Circuit upheld the dismissal of National Coalition for Redress/Reparations (NCRR) & Joe Suzuki v. USA, a class action lawsuit filed in 1998 that charged the government with malfeasance for failure to invest the $1.65 billion redress fund as required under the Civil Liberties Act of 1988 (CLA). NCRR sought the recovery of an estimated $200 million in lost interest to the Civil Liberties Public Education Fund for purposes of redress compensation and educational programming. In 1999, U.S. District Court Judge Charles Leggae granted the government's motion to dismiss, ruling that NCRR did not have standing to challenge the government's failure to invest the money in the Fund. NCRR appealed this decision, but the dismissal was upheld by the Ninth Circuit Court of Appeals, stating that, "[NCRR's] claim is not redressable because the fund has been terminated and its administering board no long exists."

Former NCRR President Richard Katsuda remarked, "We are extremely disappointed in the court's decision. We had hoped that the government would be held accountable for its wrongful acts and for its failure to carry out what is mandated by the people."

NCRR was represented by McCutchen, Doyle, Brown, and Enerson LLP.

Oral Argument Hearing Date Set for Shibayama v. USA

The plaintiffs in Shibayama v. USA, Isamu Carlos (Art) Shibayama, Kenichi Javier, and Takeshi Jorge, have been scheduled for a court hearing at the U.S. Court of Federal Claims in Washington, D.C., on July 6, 2001. The three brothers, who were all forcibly deported from their home in Peru and incarcerated in camp in Crystal City, Texas during WWII, are seeking redress equity for their civil and human rights violations, including full disclosure of the facts, an apology which matches the U.S. crime against humanity, a declaration of the false "illegal alien" status, redress compensation, and educational programming.

The attorney for the Shibayama brothers, Karen Parker of San Francisco, expressed her outrage at the government's continual denial of the U.S. war crime committed against the Shibayama brothers and other JLAs during the war, "The U.S. took part in an ethnic cleansing scheme - the most serious violation of U.S. and international law. Until the U.S. admits the truth, their violations are ongoing, and our fight for justice continues."

Following the July hearing, U.S. Federal Court of Claims Judge Marian Blank Horn will render her decision on the case.

U.S. State Dept. Argues to Throw Out Japanese Latin American Petition

In June 2003, the three Shibayama brothers (Isamu Art, Kenichi and Takeshi) and the Japanese Peruvian Oral History Project filed a petition with the Inter-American Commission on Human Rights (a body of the Organization of American States). The petition seeks to hold the US government accountable for the ongoing failure to provide redress for war crimes and crimes against humanity. The US government continues to argue that the IACHR does not have jurisdiction over this issue and should not accept the petition. Read the rest of the press release.

No. 97-294 C
Filed: June 11, 1998

CARMEN MOCHIZUKI, et al.,	*	
	*	
Plaintiff,	*	Civil Liberties Act of 1988;
	*	Internment during World War
v.	*	II
	*	
THE UNITED STATES,	*	
	*	
Defendant.	*	

Robin Toma, Los Angeles, CA, with Paul L. Mills, Fred Okrand, Mark D. Rosenbaum, Paul L. Hoffman, Manjusha Kulkarni, for plaintiffs.

Kathryn D. Ray, Washington, D.C., with whom were Vincent M. Garvey, Deputy Director, Federal Programs Branch, Civil Division, U.S. Department of Justice, for Defendant.

ORDER GRANTING PRELIMINARY APPROVAL
OF SETTLEMENT AGREEMENT

The court congratulates both the representatives of the United States and the representatives of the plaintiffs for reaching what the court considers a fair and moral settlement of this case. It reflects well on the moral integrity of our Nation. Settlements, unlike cases, may be much broader than the relief available in court. A judge is circumscribed by both the Constitution and the laws under which the claim is brought. A settlement is an independent agreement of the parties. When the United States is involved, as one of those parties, the court must defer to the representative of the United States as the best exponent of the interests of the United States. While the court may not substitute its judgment for what is in the best interests of the United States, the court is impelled to offer three comments. First, the settlement is not only a good settlement, but appears, preliminarily to be a very fair one. This is a very preliminary judgment in light of the tight time frame. Secondly, absent unusual circumstances, it would seem directly contrary to the statute's purpose and moral intent to include either citizens of the Empire of Japan at the time of the war or employees of the Empire of Japan during that same period. While the court does not condition its approval upon this issue for the reasons stated above, it does

feel constrained to make this qualification in light of the strong position the court has taken favoring this settlement. Third, the court also has some concerns about the definition of internment in the agreement. If the parties believe it is adequate, then the court is satisfied. However, the court does not want to see this as a potential source of litigative dispute in the future.

This matter came before the Court on the parties' Joint Motion for Preliminary Approval of Settlement Agreement. Having considered the Joint Motion and the Settlement Agreement, it is hereby ordered, that:

1. Pursuant to RCFC 23, the Court preliminarily certifies a class consisting of: persons who have not previously received payments under the Civil Liberties Act of 1988 from the Office of Redress Administration, United States Department of Justice, and who are (a) persons of Japanese ancestry who were living in Latin America before World War II and who were interned in the United States at any time during the period from December 7, 1941, to June 30, 1946; **OR** (b) persons who are the spouses, children or parents of persons who died after August 10, 1988, and who met the qualifications of (a) above;

2. Class members as described above shall have the opportunity to opt out of the class in the manner specified in the notices attached as Exhibits 1 and 2 to the parties' Joint Motion for Preliminary Approval of Settlement Agreement and Entry of Judgment;

3. The Court preliminarily approves the Settlement Agreement entered by the parties on June 10, 1998, as fair, reasonable, and adequate;

4. The Notice of Proposed Settlement of Class Action Lawsuit in the form attached as Exhibit 1 to the parties' Joint Motion for Preliminary Approval of Settlement Agreement and for Entry of Judgment is hereby approved. The Clerk of the Court is directed to execute the notice and to insert in the notice the date and location of the fairness hearing as set forth below. The Clerk shall deliver the executed notice to Kathryn Ray, United States Department of Justice, Post Office Box 883, Washington, D.C. 20044. With respect to copies of this notice that are translated into other languages, defendant shall insert the date and location of the fairness hearing, and the Clerk's signature is not required. Not later than twenty-five days after the Clerk's delivery of the notice, defendant shall mail the notice and attached forms to the last known addresses of all potential class members who have applied to the Office of Redress Administration for redress payments under the Civil Liberties Act of 1988, 50 U.S.C. §§ 1989b - 1989b-9;

5. The Notices of Proposed Settlement in Class Action Lawsuit Involving Latin American Japanese attached as Exhibits 2 and 3 to the parties' Joint Motion for Preliminary Approval of Settlement Agreement are hereby approved. Defendant is directed to cause these notices to be published and/or distributed in the manner prescribed in paragraphs 7 through 9 of the Settlement Agreement;

6. A hearing shall be held at the United States Court of Federal Claims at

3:00 p.m. EST, on November 17, 1998, to determine the reasonableness, adequacy and fairness of the Settlement Agreement and whether it should be approved by the Court;

7. Any potential class member who objects to approval of the Settlement Agreement must do so in the manner and within the time specified in the notices referenced in paragraphs 4 and 5 of this Order; and

8. It is hereby determined that the giving of notice as provided in paragraphs 4 and 5 above will

constitute due and sufficient notice pursuant to the Settlement Agreement to all persons entitled to such notice.

LOREN A. SMITH

CHIEF JUDGE

UNITED STATES COURT OF FEDERAL CLAIMS

717 Madison Place, N.W.
Washington, D.C. 20005

FAX MATERIAL - COVER SHEET

DATE: March 13, 2007

FAX TO:

NAME: Christine Oh

AGENCY/COMPANY: Office of Congressman Xavier Becerra

FAX NUMBER: 202-225-2202

FAX FROM:

NAME: Mark Busby

CHAMBER/OFFICE: Clerk's Office

TELEPHONE NUMBER: 202-357-6423

NUMBER OF PAGES THAT FOLLOW THIS COVER SHEET: 32

SPECIAL REMARKS/MESSAGE OR INSTRUCTIONS:

Ms. Ho:
Please find attached documents regarding Case No. 97-274C Mochizuki v. USA:

FOR RETURN FAX 202-357-6401

In the United States Court of Federal Claims

Case No. 97-294C

Filed: JAN 25 1999

* *

CARMEN MOCHIZUKI, et al.,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

* *

Civil Liberties Act of 1988; Internment during World War II

Robin Toma, Los Angeles, CA, with *Fred Okrand*, for plaintiffs.

Elizabeth Strange, Washington, D.C., with whom were *Tink Cooper*, Office of Redress Administration, *Vincent M. Garvey*, Deputy Director, Federal Programs Branch, Civil Division, U.S. Department of Justice, for defendant.

OPINION AND ORDER

SMITH, Chief Judge

The court approves the settlement of this case based upon the moving and eloquent testimony of several of the class members as well as plaintiffs' fine lawyers. The court believes those class members' statements provide valuable insight into the tragic experiences of Latin Americans of Japanese descent who were interned here during World War II. Accordingly the court has decided to append copies of their statements to this order so that their account of those trying times can be more widely known.

No settlement is ever perfect. No compensation is ever equivalent to a serious human loss. Who among us would ever trade our eyes or legs for $5,000 or $20,000 or a hundred times that much? Money damages can never undo the loss of life, false imprisonment or the passage of years. Money, however, is the medium which the law must use as it seeks to right wrongs. It must use this medium with the full recognition that it is never truly adequate.

The Twentieth Century has seen untold human suffering wrought by the hands of human beings. The World War out of which this case came was perhaps a pinnacle of mankind's ability to inflict evil upon fellow human beings. I hope we never reach that level again. The statute enacted by the Congress to compensate Americans of Japanese descent was not perfect, however it was a highly moral action. It was an attempt to right a wrong. As such it marks an important milestone in the long road toward decent and civilized life. Few governments over the millennia have even acknowledged past evil, let alone made serious efforts to correct it. We can be very proud of this country for doing so.

Thus, while the wrong is far from perfectly assuaged, the court must acknowledge this as a fair settlement. The plaintiffs asked for the court's help in ensuring additional funding for the settlement. This is beyond the court's constitutional power. However, the court hopes that the Congress and the President will give due consideration to fully funding the settlement so that all identified class members may be paid the modest amount that will serve as a symbol of restitution rather than actual monetary damages. The court must also commend the attorneys and administrative officials of the United States Department of Justice who have worked hard and diligently to handle this settlement and other aspects of the whole claims process.

Upon consideration of the proceedings heretofore conducted in this case and a hearing having been held to determine the fairness, reasonableness and adequacy of the Settlement Agreement executed by the parties on June 10, 1998, it is by this court hereby ORDERED, ADJUDGED AND DECREED that:

1. Pursuant to RCFC 23, the court determines that it is in the interest of justice to certify a class consisting of:

> Persons who have not previously received payments under the Civil Liberties Act of 1998 from the Office of Redress Administration, United States Department of Justice, and who are (a) persons of Japanese ancestry who were living in Latin America before World War II and who were interned in the United States at any time during the period from December 7, 1941, to June 30, 1946; or (b) persons who are the spouses, children or parents of persons who died after August 10, 1988, and who met the qualifications of (a) above.

Persons who have timely opted out of the class are not included as class members. The court further determines that, for the purposes of settlement, certification of this class is appropriate due to the number of potential class members, the predominance of common questions over questions affecting individual class members, the expiration of the statutory program at issue in this case, and the fact that the current plaintiffs and their attorneys are adequate representatives of the class.

2. The Settlement Agreement executed by the parties on June 10, 1998, is adjudged to be fair, reasonable, and adequate, and its terms are hereby approved.

3. The Second Amended Complaint is dismissed with prejudice.

4. The court shall retain jurisdiction of this action for a period of 180 days after entry of this order and judgment solely for the purpose of adjudicating any claim of a material breach of the Settlement Agreement.

5. In accordance with this order, judgment is hereby entered approving the settlement as proposed in all respects and dismissing the Second Amended Complaint with prejudice.

IT IS SO ORDERED

LOREN A. SMITH
CHIEF JUDGE

APPENDIX

consisting of the declarations of Carmen Mochizuki, Kazuo Matsubayashi, Rose A. Nishimura, Saduharu Sakamoto, and Grace Shimizu regarding the reaction of members of the class to the Settlement Agreement.

Declaration of Carmen Mochizuki

I, Carmen Mochizuki, have personal knowledge of the facts stated herein. If called to testify, I could and would competently testify as follows:

1. My name is Carmen Higa Mochizuki. I am one of the named plaintiffs in this lawsuit, *Mochizuki, et al. v. U.S.*. I appreciate the chance to let Chief Judge Smith know how I feel about the agreement, why I agreed to it, and what my concerns are today.
2. I was born on December 9, 1932 in Callao, Peru . My parents, Rensuke and Kamado Higa, raised me along with my nine brothers and sisters on a large farm. I am now 67 years old and use my husband's surname.
2. During World War II, in March, 1944, my family and I were abducted and forcibly removed from Peru and taken to Crystal City, Texas where we lived for almost two years in an internment camp.
3. In Peru, my father had been a successful farmer. He was well respected as an accomplished horseman and was a leader in the community. I am informed and believe that it was because of my father's leadership in the community, that he was targeted for arrest by the United States and the Peruvian governments.
4. I was 11 years old at that time. The Peruvian police came to my school and demanded that I take them to my father. They walked with me to my home and I told them that I would have to go around to the back of the house to open the door. I warned my father who then escaped out a back window.
5. He evaded arrest for one year, but when he was threatened with life imprisonment with no contact with his family, he turned himself in to the F.B.I. The government took control of all of the family's assets. We lost everything. We were shipped to Crystal

City internment camp. I remember in New Orleans, after we got off the ship, how embarassed I felt as a little girl when they made my mother and the children remove all of our clothing so that they could spray us with some insecticide.

6. In December, 1945, after the war ended, the family was deported to war-devastated Japan. The family nearly starved. In order to get a pound of sweet potatoes or a pound of rice, we exchanged a pair of shoes or a dress.

7. My parents are the ones who suffered so much, but now they are gone. My father died in Okinawa a few years after the war's end. He was only 63 years old. My mother must have felt so helpless not being able to explain the suffering that we were going through. I feel so sorry when I think of my parents, and I'll feel that until I die. I eventually returned to the U.S. and married a U.S. citizen.

8. Today when I see the homeless, the suffering people in this country, I know what they are suffering. If I didn't go through that in Japan, I would be a different person today.

9. I tell this painful story in remembrance of my family, so that others will know how devastating this event was for us. Although I was just a young girl, I know that what happened to us was a grave injustice and it should never occur again in a civilized world. I hope with all of my heart that no group will ever have to undergo such an experience.

10. I support the decision to settle the class action lawsuit of *Carmen Mochizuki vs. the United States of America*, however, with reservations. Although my family and others suffered the loss of liberty, freedom and assets as a direct result of the action of the United States of America, we can never be adequately repaid. The United States government has seen fit to compound the travesty by offering to settle this case for

less than was deemed necessary for others interned under the same conditions.

11 The United States government has issued an official apology and determined a set amount as redress to its citizens whom it illegally and wrongfully deprived of freedom and livelihood. Why would the people, although not citizens of the United States of America at that time, who were kidnapped from their own country, and interned in the United States by the United States, be entitled to any less?

12 Also, I am very worried about many, and maybe all, of the Japanese Latin Americans not receiving the $5,000 redress payment, which was the main purpose of the settlement agreement. I was very upset to find out that the U.S. government broke the law and did not pay interest on the redress monies, and because of it, so many of us who have suffered and waited so long for justice, may end up not receiving any redress payment at all.

13 The process of seeking justice and closure for this dark period of time has drained me. Reliving the terror and loss has produced this end. It is under this strain and with these reservations that I thankfully and gratefully accept the settlement as a tribute to the efforts of those who have diligently and righteously fought for what is true, right and just.

I swear under the penalty of perjury of the laws of the United States that the foregoing is true and correct, and that this declaration was executed on January 5, 1999, at Los Angeles, California.

Carmen Mochizuki

Carmen Mochizuki

DECLARATION OF KAZUO MATSUBAYASHI

I, Kazuo Matsubayashi, do declare as follows:

1. If called to testify, I could and would do so competently on the matters stated in this declaration, which are based on personal knowledge or information and belief. This declaration was done in connection with the case, Mochizuki v. U.S. (Case No. 97-294C), in the U.S. Court of Federal Claims.

2. I appreciate the opportunity to tell the Court my story. I think it will help you understand my feelings about the Settlement Agreement in this case.

3. I was born in Lima, Peru in 1937.

4. I had two uncles, Shigezo Matsubayashi and Fukuichi Ikeda, who went to Peru as immigrants probably in the early 1920s, first as farm workers. It was a hard life, they said, and they soon ran away from the farm. They became very successful businessmen.

5. I had many cousins in Peru, 11 altogether, and had many wonderful picnics, birthday parties, and other gatherings.

6. The earliest vivid memory in my life is the day my father was arrested on January 7th, 1943. My mother took me to the police station where my father and many Japanese men were being loaded on trucks. I remember my father shouting something to us from the back of the truck as it left the compound, but I could not

hear what he was saying. Even at the age of less than six, I felt some invisible force was changing our lives. We did not know where my father went or why he was taken for several weeks until, one day, we received a letter from him saying he was in the United States.

7. Eight months after my father's disappearance, we were shipped to New Orleans through Panama Canal, and one hot summer afternoon in 1943, we joined my father at the Crystal City Concentration Camp in Western Texas. My Uncle Fukuichi Ikeda and his family had been arrested right after the war broke out, and they were sent to Japan as part of the prisoner exchange between the U.S. and Japan.

8. In those days, I remember my younger brother who was just a little over two and half years old then, was very sickly since his birth, and my mother feared he would not survive the ordeals.

9. These experiences really hit me strongly when I had my own little daughters. I often thought about how I would have felt if I were the one on that truck in that police station in Lima and being driven away to somewhere unknown and not to be able to see my wife and children for eight months. My father did say that they thought they were going to be taken away somewhere to be killed. My mother was very young, only 25 years old, and did not speak Spanish nor English.

10. Perhaps all these little stories are meaningless in the context of the war

where millions of people were killed and suffered. My father used to tell me that it was totally stupid for Japan to start the war, and many Japanese in the camp even felt guilty being Japanese. But it is also true that many did felt great injustice was done to them without knowing whom to blame. I am now older than my uncle Shigezo when he died, and I can imagine the despair he must have felt.

11. We all probably have different memories of life in the camp. The tall barb wire fence and watch towers with the shadows of guards were always present, and we were told never to touch the fence otherwise we will be shot by the guards. Beyond the fence was vast western Texas desert. I recall the black widows, Texas horn toads, scorpions, grasshoppers and large centipedes, and rattle snakes. There were torrential storms with most incredible lightening and loud thundering. The barracks were built by exposed two-by-four construction with only sheet rock enclosure, so these storms were quite frightening.

12. My youngest brother was born in the camp as well another cousin. It is ironic that these two -- who have no memory of the camp, or suffered the deprivations and trauma of being uprooted from Peru -- received redress. The law is about fairness, but it seems rather odd that the distinction is quite arbitrarily made for simplicity disregarding the real life of individuals.

13. As the war came to an end, going back to Peru was out of question for our

family. In December of 1945, we were deported to Japan. My uncle was not able to find work and died of cancer leaving eight children. None of the children was able to go to college. The older ones had to skip schooling, and go to work right away. Even today, the oldest son does not talk to the rest of family because of the division within the family. He went to work in a factory at the age of 16, and I am told that he is generally bitter about life. They had much stress and tension in the family because of heir experience.

14. In conclusion, I must say I have ambivalent feelings sitting here telling about my personal story. My value system is shaped partly by Japanese cultures which view negatively about telling one's personal matter in public. We do not want to sound as though we are complaining, and asking for something.

15. Of course, now we know more about the history. I called my mother in Japan two weeks ago. I asked her, "Now knowing the true story, do you think it was fair that the uncle Shigezo died in despair?" She said, "it was not, but what can one do?" I pointed out that our youngest brother who has no memory of prison camp was compensated $20,000, and my mother did not receive anything. "Is it fair?" She said, "Well, life is not that simple. Whatever amount people think is fair is fine with me." Then she said "I will not be bitter even if I would not receive anything."

16. I am told there are some Peruvian Japanese who are demanding the full

redress as the other American Japanese received. I agree with them, although I also agree with my family and cousins who all accepted being part of the settlement agreement. I do believe the Peruvian Japanese were just as wrongfully treated as the American Japanese, and some suffered a great deal. A sense of justice and fairness is one critical American ideal that my father admired, and I learned a lot from him, he was a very fair person. I wonder what he would think if he knew why we were taken from Peru.

17. I also want to pass the sentiments from my cousin, Michie Miyagi, in Japan, who recently said in a Christmas card of my father and her parents that they "worked so hard under very difficult conditions to build a life, and yet their fortune was instantly and completely wiped out. They received a great blow both economically and mentally. I often think, if only we had not been sent to camp I cannot forgive it. We are justly entitled to receive a Presidential apology and due compensation."

18. Again I thank you for you patience and listening to my personal story. I do hope it adds to your understanding of this forgotten chapter of American history.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Washington, D.C., on January 6, 1999.

Kazuo Matsubayashi

Declaration of Sadaharu Sakamoto

I, Sadaharu Sakamoto, hereby declare the following:

1. The matters stated herein are based on personal knowledge, or upon information and belief. If called to testify, I could and would do so competently.

2. When I was 22 years old, I was abducted from Bolivia, where I had lived for nearly three years. I was living with my brother, with whom I operated a business. My brother, whose name was Jorge Yamane, passed away in Bolivia. Another brother of mine was also living in Bolivia at the time. I remember 140 to 150 other Japanese were living in La Paz, Bolivia.

3. I am 79 years old. I was born on October 29, 1921 in the Saitama Prefecture of Japan.

4. I am currently a citizen and resident of Japan. For reasons of privacy, I prefer not stating the location of my residence.

5. I wish to make the following statement in connection to the court hearing on the settlement of the class action lawsuit, Carmen Mochizuki, et al. v. United States of America (Case No. 884C).

6. I support the settlement. However, I do feel bad about it because I think we should receive the same amount, if not more, as everyone else imprisoned in the U.S. By explaining what happened to me, it will help the Court to understand why I have mixed feelings about the settlement agreement.

7. I had immigrated to Bolivia to join my brother who was operating an import, wholesale and retail business. I lived in Bolivia for over two and a half years. I was enjoying my life in Bolivia and considered it my home. Because Japanese in Bolivia were largely involved in the import business, the Bolivian government treated us well.

8. On April 13, 1943, I was returning home one evening from having coffee at a friend's house when I found two plainclothes police waiting for me. I was surprised. I knew the government had been arresting the Japanese who were company presidents, but since I wasn't one, I did not expect they would come after me. They told me to pack two suitcases, to go to the police station. I was taken to a nearby jail, where I joined 28 other men of Japanese ancestry, where we were imprisoned for 4 or 5 days. Many of the other men have already passed away. (I know that six of them are still alive and they told me they had applied for redress to the U.S. government.) We were not given a reason for our arrest. They just ordered us to come with them. No explanation was given. The police watched as we packed our belongings.

9. We were then taken to an airport in La Paz where we were herded onto DC3 airplanes marked with American symbols. The windows of the plane were boarded up and we were not told where we were being taken. We were guarded by armed U.S. military personnel who were Mexican Americans who spoke Spanish, but could not tell us why people were being arrested and transported.

10. We landed in Peru where we spent one night. We were then flown to the Panama Canal Zone where we were incarcerated for what seemed like two months.

11. During those two months, we were put into a camp behind barbed wire. We were forced to cut grass and bushes with machetes in tremendous heat. It was oppressive and unbearable. We were always being watched by guards who had their guns pointed at us. It was the most eerie and frightening experience of my life. I remember that the Germans cooked the food, and got to sleep in single beds, not bunks as we did.

12. From the Panama Canal Zone, we were put on a U.S. destroyer and shipped without explanation, along with wives and children from Peru, to a New Orleans port, via an U.S.

military base in the Caribbean. In New Orleans, we were made to take our clothes off, and we were sprayed with what I know understand was DDT. The U.S. authorities confiscated my passport in New Orleans or before. From there, we were placed on trains and taken to a concentration camp in Kennedy, Texas.

13. I lived in Kennedy for three or four months. There were other Latin Americans of Japanese descent who had suffered similar experiences. We were all single men. We found out later that the men with families were sent to a concentration camp in Crystal City, Texas, where they joined other family members. Kennedy was also a place of oppressive heat.

14. From Kennedy, I was sent to a concentration camp in Santa Fe, New Mexico, where I stayed for just over one year, until the end of war. I remember it was very hot there. There were barracks with about 50 to 60 beds. The steel bed frames got very hot.

15. I was able to stay with an acquaintance in Seattle, Washington, until late November of 1945 when I went to Japan. I was never able to return to Bolivia to live.

16. Because of all this, I feel bad about not being paid the full redress. We have suffered so much, having been taken from our country, lost the business my brothers and I had worked hard to establish, and never able to return. I don't understand why we were taken.

17. However, I still support the settlement, since I understand that it is the best we can hope for. The reality of the matter is that we are aging rapidly and, having had many friends pass away already, I feel the need for a speedy resolution to this injustice.

I swear under the penalty of perjury of the laws of the United States that the foregoing is true and correct, and that this declaration was executed on December 20, 1998 at Setagaya District, Japan and translated to English in Los Angeles, California.

Jan. 6 1999

Sadaharu Sakamoto

Ayako Hagihara, translator

DECLARATION OF ROSE A. NISHIMURA

I, Rose Akiko Nishimura, declare:

If called as a witness, I could and would testify as follows:

1. I am now a citizen of the United States. I was born in Lima, Peru. My parents had a successful business importing textiles and manufacturing dress shirts. My grandparents owned a department store in Callao, Peru and during World War II they were among the first Japanese Peruvians to be taken hostage. They were used in one of the exchanges for American civilians trapped in Asia and sent to Japanese controlled territories. We never got to see them again. I have always felt terrible about that.

2. After the first Japanese Peruvian hostages were placed on a U.S. Army transport and shipped to an unknown destination, some of the Japanese Peruvian men went into hiding, including our father, whenever a U.S. transport arrived in the harbor. The police came looking for him several times and after not finding him, they arrested my mother and placed her in jail to force my father out of hiding. Our oldest sister, who was 11 years old, went with her because she did not want our mother to be alone. When word of this reached my father, he gave himself up.

3. We were then put on a U.S. Army transport called Cuba. We were guarded by U.S. military personnel with rifles, machine guns and

whips. I was only nine years old at the time. It was so scary. Passports were confiscated. The women and children were put in a small cabin. There were 6 of us: our mother and 5 children. Another family of 4 was placed in the same cabin. So many of us had to sleep on the floor. The men and the older boys, 13 years and older, were put down below and were only allowed to go on deck twice a day for 10 minutes. During those 10 minutes, the women and children had to remain in their cabins. It caused me so much anxiety that our families were separated and were unable to see each other during the entire trip, which took 21 days.

4. When we arrived in New Orleans, the women and children were led off the ship first and marched to a warehouse. We were ordered to strip and stand in line naked. We were then sprayed in mass with insecticide. I was humilliated having to take my clothes off in front of boys my age. I also realize how awful this must have been for my mother, whose modesty was violated by her having to be naked in front of strangers, including boys. The men and older boys went through the same procedure separately.

5. We were put on a train and for the first time the families were finally reunited. It took two days for us to arrive at Crystal City, Texas. One of my sisters believed that we were going to be killed at the end of the train ride.

6. They put us in a camp with barbed wire fences and we were guarded by U.S. soldiers with machine guns in guard towers. It was scary because we were told if we got near the fences we would be shot. They put 8 of us in 2 rooms of a 3 room barrack.

7. In the camp our parents sent us to Japanese school because there were only Japanese and English schools. There were no Spanish schools, and English was rarely used in Peru, in those days.

8. After 2 ½ years in Crystal City there were reports that the camp was going to be closed. We wanted to return to Peru but the Peruvian government. would not allow us. The only way the U.S. would allow us to get out of the prison camp was to be paroled as "illegal aliens" to Seabrook Farms in N.J. There my father worked packaging frozen foods. But the amount he received was not enough to provide for our family of six and my mother was pregnant. So my oldest brother and sister, instead of going to school, had to go to work. We had difficulty communicating with the other workers because we did not speak English.

9. After working 2 ½ years in Seabrook, waiting for the chance to return to our homeland in Peru, my father finally gave up all hope of returning there. So we moved to Chicago in March, 1949.

10. Three of my brothers were drafted into and served in the U.S.

Army, even though they were considered "illegal aliens." In 1953, my oldest brother, Art Shibayama, while serving in Europe, his warrant officer tried to get him his United States citizenship. He was denied because the government claimed he had not entered the United States legally. Upon returning to the U.S., he was faced with deportation proceedings. Art was told by INS officials that he should go to Canada and reenter in order to get legal entry. He followed those instructions, and as a result, he got legal residency, but not retroactive, so he was denied redress. Ironically, one of my sisters did not want to take the chance of leaving the U.S. and not be able to get back in. She ended up getting residency, and, under the 1988 law, she received redress.

11. We did not want to come to this land. We were forcibly brought here by the United States government on a United States military transport and put in a barbed wire enclosed camp administered by the Immigration & Naturalization Service of theUnited States. So how can it be said we were illegal aliens?

12. Though the amount proposed by the settlement is not fair, I support it because, hopefully, at least some of the older persons will receive a little recognition of the injustice that had been inflicted upon us. But I don't understand why we are receiving less than the Japanese Americans. We

suffered equally as they did. Indeed, when you think about it, perhaps even more because we were snatched from our own country and brought to a strange land whose language we did not know. Deciding whether to accept the settlement has been so difficult that it divided our family; while I and my sister chose to accept it, my brothers have chosen not to. However, we support each others' decisions.

13. I am very worried about the funds running out so that many or all of us Japanese Latin Americans may not even receive the redress payment. I was disturbed to hear that the government had not invested the money as the law required. I hope the U.S. government will correct its mistake.

14. I find it very difficult to talk about this experience. When the lawyers asked me to come to Washington to testify, I had to decline because I knew I would break down and cry, and be unable to tell the story. I hope the judge will forgive my absence.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Saratoga, California on January 6, 1999.

Rose Akiko Nishimura

Rose AKIKO Nishimura

Declaration of Grace Shimizu

I, Grace Shimizu, declare that if called to testify to the following, I could and would do so competently, as follows:

1. I am the daughter of a Japanese Peruvian internee, Susumu Shimizu, who at age 92 years is one of the oldest survivors of the US-initiated program of forcible deportation of civilians from their homes in Latin America and incarceration in internment camps in Panama and the United States for the purpose of hostage exchange during World War II.

2. I am also the Coordinator of the Japanese Peruvian Oral History Project, which is a non-profit organization founded by internees and their families to preserve family histories and to educate the public about this little known chapter with the hopes that such violations of civil and human rights not be repeated by any government during times of peace or war. Approximately 80% of the 2,264 Japanese Latin Americans who were forcibly deported from their home countries in Latin America and incarcerated in the United States during WWII were Japanese Peruvians.

3. Since 1991, our Project has conducted and collected over 50 oral history interviews in the United States, Japan, Okinawa and Peru. We have been able to not only preserve our family experiences, but also to document first hand accounts which have been able to verify and elaborate on what little has been researched about this episode. Due to the courage and generosity of these internees, we continue to learn more about the lengths to which governments went to use civilians as human trade during time of war, how lives were changed forever, and how years later the effects of the traumatic experience are still being felt and passed onto later generations. Similar to the Japanese American experience, we are also gaining insight into how the struggle for truth and justice has begun a healing process for our families. We are bringing to light and giving a human face to a part of history, which might have been suppressed by the US government, had it not been for the victims themselves speaking out.

4. After the Settlement Agreement was signed, I traveled to six cities in three countries in about eighteen days, and discussed the provisions of the Settlement Agreement with over 100 Japanese Latin American internees and their families. I would like to share their responses, and how difficult it was for many of them to make the decision whether to accept or reject the *Mochizuki* Settlement Agreement.

5. For many internees, it meant remembering personal and family experiences, opening up old wounds, and sometimes reliving the terror, fear, instability and poverty. One internee recalled the terrible conditions in the US military camp in Panama where he was forced to perform hard labor in intensely hot weather in violation of the Geneva Convention and wiping up the blood of another internee who had been shot by guards. Another internee, who was deported to Japan after the end of the war, recounted facing starvation conditions and pulling weeds for her children to eat so that there would be something in their stomachs and later having to bury her youngest child whom had died of malnutrition.

6. For some internees it was the first time in decades to confront their past. And for others they may not have ever verbalized their feelings or shared their memories, even with their own family members. For some it meant finding the courage to make themselves visible to the governments which had violated them and to communities where they had experienced prejudice, discrimination and violence in the past. For others they grappled with the realization that they have been victims of war crimes.

7. For many internees, it meant coming to terms with one's own hopes and expectations and the reality of one's treatment in the political and legal system. And some also expressed the weight of responsibility in realizing that any decision affected not only one's self or family, but also has consequences for other internees and their families and could set a precedent for redress for other people around the world.

8. Among Japanese Latin American internees and their families, there are mixed emotions and reactions regarding the Settlement Agreement. No internee expressed unqualified satisfaction with the Settlement nor characterized it as a "triumph for justice." Most felt that it is for each internee to decide from his/her own heart and that such decisions would be respected and supported.

9. The majority of internees I spoke with voiced that the Settlement was a "bittersweet victory" and "the best we could get." Some believed the apology is sincere and a major achievement. Some had no or little expectation of redress and did not believe that the same government that abused them would ever acknowledge or apologize. Thus, some considered that getting the US government to apologize, let alone the promise of possible compensation payments, was a great surprise and achievement. One said she felt that honor and dignity has been restored.

10. Others felt that after a hard struggle this agreement was the best this US government would ever agree to. They underscored the significance of the apology and considered the usage of particular words to be significant: "profound regret" that the US government denied "fundamental liberties" and committed "a grave injustice" due to "racial prejudice and wartime hysteria." They weighed the apology and promise of $5,000 compensation payments against an uncertain lawsuit, which could take years to resolve and in the meantime many internees, may pass away. Many of these internees believed the repeated assertions by US government officials that there would be sufficient funding in the redress fund for all Japanese Latin Americans.

11. A minority of the internees, particularly living today in Peru, with whom I spoke to about the Settlement Agreement felt it was an insulting gesture and does not restore any honor or dignity in memory of those passed away or those still alive. These internees recognized that the Settlement does not include Japanese Latin Americans under the Civil Liberties Act of 1988 and does not give them equal treatment with Japanese Americans.

12. Some criticized the content of the apology letter because it does not make any reference to "Japanese" or "Latin America," is perfunctory and generic in tone, and does not refer to the scope and severity of human rights violations committed. Others expressed the belief that the apology is insincere because the Settlement did not give enough time for internees living throughout the world to be notified and then apply for redress. Others objected to the lack of guarantee of compensation to all the internees. Some felt insulted that Japanese Latin Americans must wait until all Japanese Americans have been compensated and would only be granted what they viewed as "left-over" monies.

13. Some also stated that it is unfair that redress is denied to approximately 7 children born US citizens in the internment camp after June 30, 1946 and the many internees who died before August 10, 1988. Many also believe that given all the problems and concerns with the provisions of the Settlement, as expressed above, this is a dangerous precedent for redress of clear human rights violations committed by governments.

14. Japanese Latin American internees are now being informed that there will very likely be insufficient redress funds for both Japanese Americans and Japanese Latin Americans due to the government's failure to invest the redress funds as required under the Civil Liberties Act of 1988. Some internees have questioned why the Office of Redress Administration had made repeated assurances at community meetings that there would be sufficient funds, and then recently announced the likelihood that there will be insufficient funds to pay any of the Japanese Latin American internees. Some internees do not understand how the US government could have failed to invest the redress funds when it was required by law. Some internees continue to assert belief in the President's promise to help secure additional funding and have faith in the President and US Congress. Other internees have expressed disgust and are cynical about the US government's redress efforts.

15. In conclusion, the majority of internees have chosen to accept the *Mochizuki* Settlement, based on the initial assurances of sufficient redress funds and the belief that the US president and Congress would secure additional funding if necessary. Therefore, many internees feel it is better to compromise and get something as soon as possible rather than to get nothing. Most internees expressed their intention to accept the Settlement despite concerns. Those internees who believe that the risk of receiving nothing is better than accepting an unjust Agreement have largely "opted out." All internees expressed strong support for continued efforts which would ensure that all Japanese Latin American internees receive equal treatment with Japanese Americans, including redress payments of $20,000 as Japanese Americans have been granted.

I swear under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at Washington, D.C. on January 7, 1999.

Grace Shimizu

Grace Shimizu

ORIGINAL

In the United States Court of Federal Claims

No. 97-294 C
Filed: June 12, 1998

CARMEN MOCHIZUKI, et al.,	*	
	*	
Plaintiffs,	*	Civil Liberties Act of 1988;
	*	Internment during World War II
v.	*	
	*	
THE UNITED STATES,	*	
	*	
Defendant.	*	
	*	

Robin Toma, Los Angeles, CA, with Paul L. Mills, Fred Oakrand, Mark D. Rosenbaum, Paul L. Hoffman, Manjusha Kulkarni, for plaintiffs.

Kathryn D. Ray, Washington, D.C., with whom were Vincent M. Garvey, Deputy Director, Federal Programs Branch, Civil Division, U.S. Department of Justice, for Defendant.

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT

To: Persons who have not previously received payments under the Civil Liberties Act of 1988 from the Office of Redress Administration, United States Department of Justice, and who are: (a) persons of Japanese ancestry who were living in Latin America before World War II and who were interned in the United States at any time during the period December 7, 1941, to June 30, 1946; or (b) persons who are the spouses, children or parents of persons who died after August 10, 1988, and who met the requirements of (a) above.

From: Clerk of the United States Court of Federal Claims

Re: Proposed settlement of litigation seeking payments for Latin American Japanese under the Civil Liberties Act of 1988.

PLEASE READ THIS NOTICE IN FULL.
IT CONTAINS INFORMATION REGARDING LEGAL RIGHTS.

Background

This notice is to advise you that a proposed settlement agreement has been reached in this case, Mochizuki, et al. v. United States, No. 97-294C. If you meet the requirements stated in the first paragraph of this notice, your legal rights may be affected by this settlement agreement.

On May 20, 1997, five persons of Japanese ancestry (referred to in this Notice as "plaintiffs") who were living in Latin America before World War II and who were interned in the United States during the war filed a proposed class action Complaint in the United States Court of Federal Claims seeking payments under the Civil Liberties Act of 1988. The Civil Liberties Act of 1988 provides for payments of $20,000 to each eligible individual.

Among other things, the Act requires that, to be eligible, an individual must have been a United States citizen or permanent resident alien during the period from December 7, 1941 to June 30, 1946. Also, an individual must not have relocated during the period December 7, 1941 to September 2, 1945 to a country with which the United States was at war. Plaintiffs claimed that these provisions should not be applied to prevent them from receiving payments under the Civil Liberties Act of 1988. The United States (referred to in this Notice as "defendant") does not agree that plaintiffs are eligible for payments. The Court has not yet made any decision on plaintiffs' claims.

To be eligible, an individual also must have been alive on August 10, 1988. If an eligible individual died after that date, his or her spouse, children or parents may in certain cases receive payment.

The Civil Liberties Act of 1988 established a fund, called the Civil Liberties Public Education Fund, to make payments to eligible individuals. The Civil Liberties Public Education Fund terminates when the funds are depleted or on August 10, 1998, whichever occurs earlier.

Proposed Settlement

The plaintiffs have entered into a settlement agreement with defendant, and the settlement agreement has been submitted to the United States Court of Federal Claims for approval. The Court has preliminarily ruled that this case may be maintained as a class action. The class includes those persons described in the first paragraph of this Notice, who will be referred to in this Notice as "class members." In considering whether to approve the settlement, the Court must decide whether the settlement is fair, reasonable and adequate. This notice describes the main terms of the proposed settlement. It also gives the options of individuals who may be affected by the settlement, and tells how to get more information on the settlement.

The main terms of the proposed settlement are:

* Class members who were interned and who are living at the time of payment are entitled to payments of $5,000, to the extent that funds are available in the Civil Liberties Public Education Fund.

* Class members who are spouses, children or parents of former internees who were alive on August 10, 1988, but who are now deceased, may be entitled to a payment or to share in a payment of $5,000, to the extent that funds are available in the Civil Liberties Public Education Fund.

* Class members are entitled to a letter of apology from the President of the United States.

* Those class members who do not file a request to be excluded from the class are bound by the settlement, and they release the United States from any claims they might have brought in the lawsuit other than claims based on the terms of the settlement.

* A class member's acceptance of payment under the Settlement Agreement will be in full satisfaction of all claims against the United States relating to his or her internment (or, in the case of an heir to an individual who was interned, the internment of the class member's spouse, parent or child).

If you would like a copy of the proposed settlement or more information, please write, fax or call the plaintiffs' lawyer, Robin S. Toma, ATTN: Mochizuki Lawyers, c/o Susan Simpson, ACLU, 1616 Beverly Blvd., Los Angeles, CA 90026, Fax: (213) 250-3919, Telephone: (213) 974-7640 (English and Spanish), or call Ayako Hagihara at (310) 344-1893 (Japanese).

Your Options

If you meet the qualifications stated in the first paragraph of this Notice, you have the following options:

1) **You may remain a member of the class**. If you wish to remain a class member and participate in any final settlement, you should complete the enclosed INFORMATION FORM to ensure that the parties and the Court can locate you. You should complete this form and send it to the following address:

United States Department of Justice
Civil Rights Division
Office of Redress Administration
ATTENTION: Latin American Claims
P.O. Box 66260
Washington, D.C. 20035-6260.

Your INFORMATION FORM should be postmarked by August 10, 1998. If you complete the INFORMATION FORM in English, it will greatly assist in keeping

records on the information you provide.

If you wish to remain a class member, DO NOT complete the attached REQUEST FOR EXCLUSION form. You will be included in the class, and any final settlement and judgment in this case will be binding on you if you decide not to be excluded.
The following attorneys are currently representing the plaintiffs and class members:

Attorney of Record: Robin S. Toma
Of Counsel: Paul L. Mills, Fred Okrand, Mark D. Rosenbaum, Paul L. Hoffman, Manjusha P. Kulkarni.

If you wish, you may appear in this action through your own attorney. Your attorney must file a notice of entry of appearance in English by **September 10, 1998** with the Clerk, United States Court of Federal Claims, 717 Madison Place, N.W., Washington, D.C., 20005, and send a copy to the attorneys of record for the plaintiffs and defendant whose addresses are given at the end of this notice.

If you wish to remain a class member and you object to the proposed settlement agreement, you may present your objections in the manner provided for in the next section of this notice, entitled "HEARING ON PROPOSED SETTLEMENT."

2) **You may request exclusion from the class**. If you wish to be excluded from the class, you must complete the attached REQUEST FOR EXCLUSION FORM and mail it to the address provided below so that it is postmarked on or before **September 10, 1998.**

United States Department of Justice
Civil Rights Division
Office of Redress Administration
ATTENTION: Latin American Claims
P.O. Box 66260
Washington, D.C. 20035-6260

If you complete the REQUEST FOR EXCLUSION FORM in English, it will greatly assist in keeping records on your request.

If you choose to be excluded from the class, you will not be included in any settlement, disposition or judgment in this case. If you choose to be excluded from the class, you may have the right to bring your own lawsuit against the defendant. Before you file a request to be excluded from the class, you may wish to consult with an attorney of your choice or with attorney for the class, Paul Mills (in English or Spanish) by writing to: Paul Mills, Esq., 3435 Wilshire Blvd., Suite 2900, Los Angeles, CA 90010, or by faxing Paul Mills at (310) 837-3399.

Hearing on the Proposed Settlement

Chief Judge Loren A. Smith will hold a hearing on the proposed settlement on the 17th day of November, 1998, at 3:00 p.m. EST, in Courtroom 4, United States Court of Federal Claims, 717 Madison Place, N.W., Washington, D.C., 20005. The purpose of this hearing is to decide if the settlement is fair and reasonable. Any class member who does not request to be excluded from the class and who wishes to object to the proposed settlement must file written comments by October 26, 1998. Your comments must be in English and must be received by the Court by **October 26, 1998**. Your written comments must include a statement of why you object to the settlement and why you believe the settlement applies to you. Written objections must be sent to all three of the following addresses:

Honorable Loren A. Smith
Chief Judge
U.S. Court of Federal Claims
717 Madison Place, N.W.
Washington, D.C. 20005

Kathryn Ray - Atty. of Record for Defendant
U.S. Department of Justice
901 E Street, N.W. Rm 936
P.O. Box 883
Washington, D.C. 20044

Robin S. Toma - Atty. of Record for Plaintiffs
c/o Susan Simpson
1616 Beverly Blvd.
Los Angeles, CA 90026

If you file written objections on time, you or your attorney may also appear at the hearing to object to the settlement. You are not required to appear at the hearing for the Court to consider your objections.

Date: June 12, 1998

Clerk
United States Court of Federal Claims

INFORMATION FORM

1. NAME (please print clearly): _____

2. CURRENT HOME ADDRESS: _____

_____

_____

3. CURRENT HOME PHONE NUMBER: _____

4. NUMBER WHERE YOU CAN BE REACHED DURING THE DAY (if different from above): _____

If you wish to be included in the class settlement, you should complete this form, send it to the following address and make sure it is postmarked by **August 10, 1998.**

United States Department of Justice
Civil Rights Division
Office of Redress Administration
ATTENTION: Latin American Claims
P.O. Box 66260
Washington, D.C. 20035-6260.

REQUEST FOR EXCLUSION

The undersigned does not wish to be a member of the plaintiff class in Mochizuki, et al. v. United States, No. 97-294C, pending in the United States Court of Federal Claims.

Date: _____

_____
(Name)

_____
(Address)

_____

_____

_____
(Signature)

If you wish to exclude yourself from the class, this completed form must be postmarked by **September 10, 1998** and sent to the following address:

United States Department of Justice
Civil Rights Division
Office of Redress Administration
ATTENTION: Latin American Claims
P.O. Box 66260
Washington, D.C. 20035-6260.