

## BEFORE THE INDIAN CLAIMS COMMISSION

THE GILA RIVER PIMA-MARICOPA	)	
INDIAN COMMUNITY, et al.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Docket Nos. 236-A and 236-B
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

FINDINGS OF FACT AND ORDER ALLOWING ATTORNEY FEES

HAVING CONSIDERED the petition for attorney fees filed on May 2, 1977, by Z. Simpson Cox, attorney of record for the plaintiff in these dockets; the defendant's response to the petition and the remainder of the record herein; the Commission finds:

1. Award. The Commission entered a final award in these dockets on September 30, 1976, 39 Ind. Cl. Comm. 87, providing for plaintiff's recovery from the defendant in the sum of \$1,569,396.20 in Docket 236-A, and the sum of \$6,069.70 in Docket 236-B, said amounts to be in full satisfaction of all claims asserted in these dockets. Funds to satisfy the awards were appropriated by the Act of May 4, 1977, 91 Stat. 61.

2. Attorney's Contract. The claims herein have been prosecuted under claims contract No. I-1-Ind. 42533, dated February 7, 1951, subsequently amended and extended. The amendments, duly approved by the Secretary of the Interior, relate to provisions governing the reimbursement of expenses, the approval of the association of several attorneys as associate claims counsel, and to attorneys' fees. Since 1962, this contract has been extended twice and is effective until February 7, 1983.

With respect to fees, the current contract No. 42533 provides as follows:

Second Party agrees to perform services hereunder contingent upon recovery for First Party or upon compensation being paid to First Party for claims. It has been contemplated by the Parties hereto that ten percent of any amounts recovered, exclusive of reimbursement for actual expenses, would be reasonable compensation for Second Party; in view of work performed by Second Party it is agreed that ten percent of any amounts recovered, exclusive of reimbursement for actual expenses, is and will be reasonable compensation for Second Party. Approval of the contract by the Secretary of the Interior or his duly authorized representative shall not be construed as a concurrence in the recital in the last sentence in paragraph 4 to the effect that the parties to the contract agree that a fee of 10 % of the amount recovered is reasonable compensation for the attorneys.

In addition to Z. Simpson Cox, designated as Chief Claims Attorney in the current contract, the contract also provides for the employment of L. J. Cox, Jr., Ira I. Schneier, and Alfred S. Cox as Associate Claims Attorneys.

3. Claimed Fee. This petition filed pursuant to §15 of the Indian Claims Commission Act of August 13, 1946, 60 Stat. 1049, 1053; the Rules of the Commission, 25 C.F.R. §503.34 (b); and the aforementioned contracts of employment, requests a fee in the amount of \$157,546.59 for all legal services rendered in connection with the prosecution of the claims in these dockets. The fee sought by the attorney of record represents ten percent of the final award made to plaintiff.

4. Notice to Parties. By letter dated May 5, 1977, the Clerk of the Commission notified interested parties of the petition for allowance of attorney fees. By a letter received by the Commission on May 18, 1977, Mr. Alexander Louis, Sr., Governor of plaintiff tribe,

stated that the tribe had agreed to a ten percent fee in this case and had not changed its position in that regard.

The Department of Justice responded to the notice on June 28, 1977, stating that it takes no position with respect to the fee petition herein. Attached to this response was a copy of a letter to the Justice Department from the Acting Associate Solicitor, Division of Indian Affairs, Department of the Interior, and a memorandum dated June 10, 1977, from the Acting Deputy Commissioner of Indian Affairs, Department of the Interior. The Commissioner's memorandum, with which the Solicitor concurred, stated, after a recital of the contract terms, as follows:


"While the total fee allowable in the case as compensation earned by the attorneys is not to exceed \$157,546.59, this Bureau did not participate in the litigation; thus, we do not have sufficient detailed information upon which to make a recommendation as to the amount of compensation earned by the claims attorneys."

5. Attorneys' Services. Pursuant to their contract with the plaintiff, the attorneys performed valuable legal services in the successful prosecution of these claims before the Commission. The attorneys conducted a detailed preliminary investigation prior to the filing of the petition before the Commission on August 8, 1951. The subsequent prosecution of these claims included, in addition to a number of procedural matters, trials before the Commission in 1968 and 1969 on the liability issues, and trials in 1973 on the damage issues. By their cross appeal, the attorneys represented the plaintiff in the defendant's appeal to the U. S. Court of Claims in 1972, which substantially affirmed the Commission's decision on liability except for that portion dealing with offsets. The attorneys then participated in proceedings leading to the final award.

6. Determination of Fee. Pursuant to section 15 of our act, the findings entered herein, the contract of employment, and in full consideration of the services rendered by the attorneys in these proceedings, the time involved in the litigation, the complexity of the issues involved, and the results obtained, the Commission concludes that an attorneys' fee in the amount of \$157,546.59, which is ten percent of the combined total final awards in these dockets, is a reasonable fee for legal services rendered in these cases.

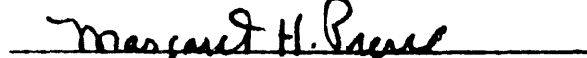
IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award herein entered on September 30, 1976, there shall be disbursed the sum of \$157,546.59 to Z. Simpson Cox, attorney of record herein, in full satisfaction of any and all claims for legal services in Docket 236-A and Docket 236-B, to be distributed by him to the participating attorneys in accordance with whatever interest they may have therein.

Dated at Washington, D. C., this 14th day of July 1977.

  
Jerome K. Kuykendall, Chairman

  
John T. Vance, Commissioner

  
Richard W. Yarborough, Commissioner

  
Margaret H. Pierce, Commissioner

  
Brantley Blue, Commissioner