

BEFORE THE INDIAN CLAIMS COMMISSION

THE MOHAVE TRIBE OF INDIANS OF)	
ARIZONA, CALIFORNIA AND NEVADA,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 295-A
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: August 16, 1978

FINDINGS OF FACT AND ORDER ALLOWING ATTORNEYS' EXPENSES

UPON CONSIDERATION of the petition for reimbursement of expenses filed January 17, 1978, by Raymond C. Simpson, attorney of record for the plaintiff in this docket and R. J. Kilpatrick, an attorney associated with him in the prosecution of this claim, the documents submitted in support thereof, the contracts of employment in this case and the records thereof, the Commission finds and orders as follows:

1. Award. The Commission granted the parties' joint motion for entry of final judgment filed on May 1, 1975. On September 18, 1975, the Commission entered a final award in favor of the plaintiffs in the amount of \$550,000 (36 Ind. Cl. Comm. 452). Funds to pay the award are included in funds appropriated under section 1302 of the Supplemental Appropriation Act, 1957, 31 U.S.C. §724a as amended by Title II, Section 201, of the Supplemental Appropriations Act, 1978 (92 Stat. 107, 116-117).

2. Attorneys' Contract. By the tribal resolution of December 12, 1964, the Fort Mohave Tribal Council employed Raymond C. Simpson as attorney to represent the Fort Mohave Tribe in Dockets 295 and 295-A before the Indian Claims Commission. Pursuant thereto, claims contract 14-20-0450, No. 5276, dated December 12, 1964, was entered into between the Fort Mohave Tribe of Indians and Attorney Simpson and was approved on March 23, 1965, for a period of 5 years commencing with the date of approval. This contract was extended three times; the first extension was for a 2 year period from March 22, 1970, the second was for a 2 year period from March 22, 1972, and the third extension on March 27, 1973, was to March 21, 1982, or until the matters pending before the Commission are concluded. The contract was in force and effect at the time the claimed expenses were incurred and it authorized Mr. Simpson to associate other attorneys with him in the prosecution of this claim and it further provided for reimbursement of expenses incurred in connection with this claim.

3. Application. Petition for reimbursement of expenses was filed on January 17, 1978, by Raymond C. Simpson and R. J. Kilpatrick. Claim is made for expenses incurred in the amount of \$9,841.55.

4. Notice to the Parties. Pursuant to the Commission's rules, notices of the filing of the petition for expenses was mailed by the Clerk of the Commission on January 20, 1978, to the following:

Mr. Llewellyn Barrackman, Chairman
Fort Mohave Tribal Council
P. O. Box 798
Needles, California 92363

Honorable Forrest Gerard
Assistant Secretary of the Interior for
Indian Affairs
Attn: Louise Perkins, Tribal Operations
U. S. Department of the Interior
1951 Constitution Avenue, N. W.
Washington, D. C. 20240

Honorable James W. Moorman
Acting Assistant Attorney General
Land and Natural Resources Division
Attn: Richard Beal, Attorney
Indian Claims Section
U. S. Department of Justice
Washington, D. C. 20530

The Commission requested the interested parties to make such comments or give such information they felt the Commission should consider before making its determination on the petition.

5. Response of Parties. No response was received from the tribal representatives. The Department of Justice responded by letter dated May 12, 1978. Incorporated therein was a memorandum from the Assistant Secretary, Indian Affairs, to the Solicitor, Department of Interior, taking certain exceptions to the petition. The Associate Solicitor, Division of Indian Affairs, by letter dated April 20, 1978, forwarded those exceptions to the Department of Justice which concurs in the recommendations made by the Associate Solicitor.

6. Determination of Reimbursable Expenses. Upon examination of the petition and documents filed in support thereof, the Commission determines the petitioners are entitled to be reimbursed for expenses incurred except for the following items for the reasons herein stated:

Statement No. 1, Raymond C. Simpson

<u>Date</u>	<u>Item</u>	<u>Amount</u>	<u>Determination</u>
1-14-65	Round trip to Phoenix	\$ 63.63	Prior to date of contract approval
1-26-65	Letter and Xerox	12.50	Prior to date of contract approval
10-20-65	Xerox (Exhibit I)	3.00	Previously allowed in Docket 295
11-5-65	Xerox	5.75	Previously allowed in Docket 295
12-29-65	Conference, Needles Tribal council meeting	50.09	Previously allowed in Docket 295
12-29-65	Auto rental	36.19	Previously allowed in Docket 295
1-25-65	Round trip to Phoenix	63.63	Ticket dated 1-25-66 and allowed in Docket 295
11-19-66	Round trip to Phoenix	63.63	Previously allowed in Docket 295
2-22-68	Round trip, Washington	320.25	Previously allowed in Docket 295
2-22-68	Lodging and meals	859.72	Submitted and determined in Docket 295
1-25-70	Round trip, Washington	266.18	Previously allowed in Docket 295
1-25-70	Hotel accomodations	79.80	Previously allowed in Docket 295
2-26-70	Transcript	81.85	Item relates to claim in Dockets 283 and 295
10-15-72	Airfare to Washington	297.00	Previously allowed in Docket 295
10-15-72	Lodging and meals	77.52	Previously allowed in Docket 295
1-5-73	Filing Record on Appeal	10.00	Previously allowed in Docket 295
2-4-73	Round trip, Washington	414.00	Previously allowed in Docket 295
2-4-73	Hotel accomodations	179.60	Previously allowed in Docket 295
2-25-73	Round trip, Washington	414.00	Previously allowed in Docket 295
2-25-73	Lodging and meals	524.07	Previously allowed in Docket 295
9-10-73	Round trip, Washington	415.27	Previously allowed in Docket 295
9-10-73	Hotel accomodations	165.36	Previously allowed in Docket 295
5-5-75	Travel to Needles	51.90	Excess mileage charge
9-23-75	Round trip to Phoenix for settlement negotiations	181.46	Expense dated after date of final award
	Total	\$4,636.40	

The following expense items submitted by Mr. Simpson are disallowed for reimbursement in the absence of receipts for the same or the affidavit of the applicant that these expenses were incurred and that he is unable to supply receipts or other evidence of their incurrence.

<u>Date</u>	<u>Item</u>	<u>Amount</u>
9-8-72	Airfare to Phoenix	\$ 90.00
2-6-74	Travel, lodging & meals, Needles	<u>263.61</u>
		\$ 353.61

Statement No. 2, Robert J. Kilpatrick

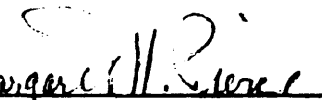
<u>Date</u>	<u>Item</u>	<u>Amount</u>	<u>Determination</u>
3-19-74	Travel, lodging & meals Blythe, investigation	\$ 25.00	Excess mileage charge
6-6-74	Travel, lodging, meals, phone, Needles	51.90	Excess mileage charge
5-7-75	Travel, lodging, meals, tips, Needles	29.55	Excess mileage charge
9-23-75	Airfare to Phoenix	90.73	Voucher shows trip not on 9-23-75 but on <u>7-2-75</u> for <u>Mrs. Kilpatrick</u>
10-23-75	Telephone	2.17	Incurred after date of award
2-4-76	Document Delivery	13.60	Incurred after date of award
2-4-76	Document Pickup	4.50	Incurred after date of award
3-31	Phone charge	.30	Date given is incomplete, chronological sequence does indicate after date of award
	Total	<u>\$217.75</u>	

The total amount of the expenses disallowed for reimbursement for the reasons given above is as follows:


\$4,636.40
353.61
<u>217.75</u>
\$5,207.76

7. Conclusion. Pursuant to Section 15 of the Indian Claims Commission Act, 25 U.S.C.A. 70n., and Rule 34(b) of the Commission's Rules of Procedure (25 C.F.R. §503.34(b)), as amended, 39 Fed. Reg. 41173 (1974), the findings of fact entered herein, the employment contracts between the parties, and the entire record of expenses incurred in the prosecution of this case, the Commission concludes that so much of the items described in finding of fact No. 6, supra, are disallowed for reimbursement. The balance of the items herein claimed in the amount of \$4,633.79 are reasonable and proper for reimbursement.

IT IS THEREFORE ORDERED that out of the funds appropriated to pay the award in this docket there shall be disbursed to Raymond C. Simpson, attorney of record in this case, the sum of \$4,633.79 as reimbursement in full for expenses incurred in this docket, said sum to be disbursed by Raymond C. Simpson to all parties having an interest in this application.


 Margaret H. Pierce, Commissioner


 Brantley Blue, Commissioner


 Jerome K. Kuykendall, Chairman

John T. Vance, Commissioner


 Richard W. Yarborough, Commissioner