

BEFORE THE INDIAN CLAIMS COMMISSION

THE UINTAH UTE INDIANS OF UTAH, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 THE UNITED STATES OF AMERICA, )  
 )  
 Defendant. )

Dockets No. 44 and 45

ORDER ALLOWING FEES TO ATTORNEY FOR THE UINTAH  
UTE INDIANS OF UTAH IN DOCKETS NO. 44 AND 45

Upon consideration of the petition for an allowance of attorney's fee in Dockets No. 44 and 45, filed herein on November 3, 1960, and the defendant having had a copy of said petition served upon it, and no objection thereto was entered; and after a hearing held before said Commission on December 6, 1960, at which the petitioner and the defendant were represented by counsel; and the Commission having received evidence both oral and written, and the Commission having considered the entire record in said docket numbers, including said contracts of employment of said attorney, the Commission makes these additional findings of fact:

1. That the attorney's services were rendered for the Uintah Ute Indians of Utah in said docket numbers pursuant to two contracts between said tribe and the petitioner, Ernest L. Wilkinson, that the contract under which the services were performed for said tribe of Indians in Docket No. 44 was dated May 12, 1949; that the contract for services rendered in connection with Docket No. 45 was dated May 12,

1949; that said contracts were extended at various times covering the entire period beginning May 12, 1949, and extending beyond June 13, 1960, the date when a final determination was made and entered in the said Docket numbers in favor of the said tribe, the Uintah Ute Indians of Utah. That said contracts and the extensions thereof were duly approved by the Secretary of the Interior, as required by law, and were in full force and effect during all of said time.

2. That said contract covering the attorney's employment in Docket No. 44 provided that the compensation of the attorney is to be wholly contingent upon a recovery for the tribe and that said compensations shall not exceed 10 per cent and shall not be less than 7 per cent of any and all sums recovered for said Indians; that said contract covering the attorney's employment in Docket No. 45 provided that the compensation of the attorney is wholly contingent upon a recovery and that said compensation shall not exceed 10 percent of any and all sums recovered for said Indians.

3. That pursuant to the aforesaid contracts of employment, as extended, the attorney prepared and filed on behalf of said Uintah Ute Indians of Utah the claims of said Indian Tribe which were assigned by the Commission Docket Numbers 44 and 45.

4. That the petitions in the two cases were, by agreement of the parties and approved by the Commission, consolidated for trial; and trial was held thereon on the questions of title and liability. Separate Findings, Opinions and Interlocutory Orders were entered in each of said docket numbers.

5. That in Docket No. 44 the issues of title and liability were found in favor of the petitioner, and the Findings and Opinion in said docket number favoring said petitioners were made and entered on the 21st day of February, 1957; and that with respect to lands involved in said docket number the time of the taking of said lands was not fixed, but the Commission found that the defendant is liable to petitioners for the value of all the lands within the boundaries of the area fixed in Finding No. 3 which plaintiffs may hereafter prove were disposed of and acquired by the defendant.

It was also ordered that a time thereafter would be set for hearing of such proof of either party which touches on the deprivation of petitioners of the lands in said area and on various offsets.

It was also provided that hearings as to the value of such land shall not be had until there shall be a determination of the lands which the plaintiffs were deprived of and the time of such deprivations. No hearings have been held for the purpose of taking evidence on when such lands were disposed of or were acquired by the defendant. This was left to a further hearing, or a series of hearings.

Valuation of said lands finally found to be taken would be decided in a subsequent hearing. Later a stipulation that the overall acreage described in Finding No. 3 was 6,369,280 acres was entered into between plaintiffs and defendant and filed herein.

6. In Docket No. 45 the Commission found that the plaintiff should recover from the defendant the value of a half interest of the lands of the said reservation described in said petition and said Findings, as of

August 15, 1882, less such offsets, counterclaims, and other demands as are allowable under the Indian Claims Commission Act. No hearings for the purpose of valuing the lands taken in Docket No. 45 have ever been held.

7. That on May 23, 1960, the parties involved in the above docket numbers filed with the Indian Claims Commission a motion for entry of Final judgment based upon a stipulation for entry of final judgment in the above entitled dockets. The stipulation was executed by Ernest L. Wilkinson, Contract attorney and Attorney of Record for petitioner; Perry W. Morton, Assistant Attorney General; and Keith Browne, attorney for the defendant.

8. The said stipulation, and the compromise settlement which it involved, with respect to the two docket numbers was approved by the said tribe of Indians; and hearings on the motion to have final judgment entered in accordance with said stipulation were held before the Indian Claims Commission; and Findings of Fact, Opinion, and Final Determination in accordance with said stipulation were duly made and entered by said Commission on the 18th day of June, 1960.

9. That said final determination provided that the Uintah Band of Ute Indians should recover from the defendant the sum of \$7,700,000 in said Docket Numbers 44 and 45. This sum was in full settlement of all the matters covered by said stipulation. That the sum of \$7,700,000 was appropriated by the Congress in full settlement of the claims set forth in Dockets 44 and 45; that sum is now deposited in the Treasury of the

United States to the credit of said Indian tribe; said sum is also entered on the records of the Department of Interior to the credit of said Indians.

10. That even though the defendant did not formally oppose the granting of said petition it did file with the Commission the views of the Department of the Interior and the Bureau of Indian Affairs with respect to the subject matter of the petition; that these views were fully set forth in the answer of defendant herein, and they have been fully considered by the Commission along with the rest of the record herein in the making of findings and an award of an attorney fee for services rendered in said docket numbers.

11. That other attorneys were associated in the said Docket numbers with Ernest L. Wilkinson as authorized in said contracts of employment; however, said contracts provided that said attorneys are to be compensated for their services by the said Ernest L. Wilkinson out of any fee or fees awarded him in the prosecution of said claims.

12. Having considered the entire record of these claims and the circumstances surrounding them from the beginning, the Commission now finds that a reasonable and proper attorney fee to be awarded said Ernest L. Wilkinson is  $9\frac{1}{2}$  percent of the \$7,700,000, or the sum of \$731,500.00 for his services as an attorney in said Docket numbers and pursuant to said contracts of employment.

IT IS THEREFORE ORDERED AND ADJUDGED, that Ernest L. Wilkinson is hereby awarded and allowed the sum of \$731,500.00 which sum shall be in full compensation for legal services rendered the Uintah Ute

Indians of Utah in the prosecution of its said claims in Docket No. 44 and 45, and that said sum shall be paid out of the appropriation which the Congress has made to satisfy the final award to said Indian tribe made by this Commission on the 13th day of June, 1960.

Dated at Washington, D. C., this 11th day of January, 1961.

Arthur V. Watkins  
Chief Commissioner

Wm. M. Holt  
Associate Commissioner

T. Harold Scott  
Associate Commissioner