

BEFORE THE INDIAN CLAIMS COMMISSION

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| THE QUILLEUTE TRIBE OF INDIANS, et al., |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Docket No. 155 |
| |) | |
| THE UNITED STATES OF AMERICA, |) | |
| |) | |
| Defendant. |) | |

FINDINGS ON ATTORNEY FEES

This matter was submitted, without hearing, on petition of attorneys filed herein on March 17, 1964, for the allowance of attorney's fee and the response of the defendant with attached letter and memorandum from the Office of the Solicitor of the Department of Interior filed June 10, 1964.

The record discloses this litigation was originally instituted on behalf of petitioner tribe by Kenneth R. L. Simmons of Billings, Montana, under a ten-year contract between the said Kenneth R. L. Simmons and the Tribal Council of the Quileute Tribe of the Quileute Indian Reservation on behalf of the Quileute Indian Tribe executed October 21, 1950, and conditionally approved by the Commissioner of Indian Affairs on February 26, 1951, which conditions were accepted by said Quileute Tribe of Indians on March 19, 1951, and by said Kenneth R. L. Simmons. That on July 16, 1951, the said Kenneth R. L. Simmons assigned a one-sixth interest in said contract to the law

firm of Wilkinson, Boyden & Cragun, which assignment was approved by the Acting Commissioner of Indian Affairs on November 16, 1951. Said contract provided upon the death of Kenneth R. L. Simmons leaving surviving him associate counsel holding an interest in the contract such associate counsel became entitled to carry out that contract in all its terms and provisions; that Kenneth R. L. Simmons departed this life on April 13, 1953, and the law firm of Wilkinson, Boyden & Cragun (now known as Wilkinson, Cragun & Barker) succeeded to the interests and obligations of Kenneth R. L. Simmons under the contract. Thereafter, on February 26, 1961, the Quileute Tribe of the Quileute Indian Reservation and the law firm of Wilkinson, Cragun & Barker entered into a contract conditionally approved by the Deputy Solicitor of the Department of Interior on April 11, 1962, which conditions were accepted by the Quileute Tribal Council on May 21, 1962, and by said law firm on May 14, 1962. Under said contract the employment of said attorneys under assignment of an interest in the earlier contract of October 21, 1950, continues in full force and effect.

The record discloses the said Kenneth R. L. Simmons left him surviving certain heirs at law; that Newton Day Simmons and Sara Simmons Hertz, as such heirs at law next of kin and distributees of the estate of said descendant are entitled to participate in the award hereafter entered as compensation for services rendered under the aforesaid contracts.

Said contract of October 21, 1950, provided for the association of other attorneys with Kenneth R. L. Simmons, in which event said Associate Attorneys were to be paid by said Simmons, and by reason thereof there is no obligation on part of petitioner to compensate said Associate Attorneys for any services rendered by them in connection with this litigation. The record also discloses certain other attorneys have associated with the law firm of Wilkinson, Cragun & Barker in the prosecution of these matters under the two above described contracts of employment; that in each instance such associates have no interest in either contract and are not entitled to participate as payee in the award hereafter entered.

Each of said contracts provided any compensation received by said attorneys for services rendered thereunder was wholly contingent upon a recovery in behalf of the petitioner tribe and should in no event exceed 10% of any recovery or settlement realized by said tribe.

The record discloses the petition in this matter was filed July 23, 1951; that an amended petition and numerous other pleadings were prepared and filed; that detailed research respecting the aboriginal status of said petitioner tribe, its aboriginal area of occupancy, and treaties and statutes were conducted; consultations were held with attorneys representing over-lap claims and with prospective expert witnesses. Trial was had and proper proposed findings of fact and briefs prepared. A separate hearing was had respecting a claim asserted by the Kallam Tribe

to lands claimed by petitioner tribe. Various motions were briefed and argued, work was commenced on an appeal brief, and negotiations were conducted with defendant looking toward a compromise of claimed offsets and a final compromise of all issues was arrived at which was approved by this Commission on July 9, 1962, at which time there was awarded the Quileute Tribe of Indians (including the Hoh Tribe or Band) a total of \$112,152.60. Said amount has been appropriated by Congress and is now held in the United States Treasury.

Considering the services performed by the attorneys, the contingent nature of compensation the results achieved and fidelity demonstrated by the attorneys, and defendant having no objection thereto, the Commission is of the opinion the sum of \$11,215.26 is a proper fee for allowance herein and for payment from the appropriation Congress has made to satisfy the final award of this Commission as entered July 9, 1962.

Dated at Washington, D. C., this 24th day of July, 1964.

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner