

BEFORE THE INDIAN CLAIMS COMMLSSION

UTE INDIAN TRIBE OF THE UINTAH AND )  
OURAY RESERVATION, AN INDIAN REOR- )  
GANIZATION ACT CORPORATION, FOR )  
AND ON BEHALF OF THE UNCOMPAHGRE )  
BAND OF UTE INDIANS, )

Petitioner, )

v. )

Docket No. 349

THE UNITED STATES OF AMERICA, )

Defendant. )

Decided: May 20, 1965

FINDINGS OF FACT ON ATTORNEY FEE

1. The attorney of record, on behalf of the law firm of Wilkinson, Cragun & Barker, the contract attorneys has filed this petition for an award of an attorney fee for services in obtaining a judgment in the amount of \$300,000.00 in favor of the Ute Indian Tribe of the Uintah and Ouray Reservation for and on behalf of the Uncompahgre Band of Ute Indians. The judgment was entered on February 18, 1965, pursuant to a stipulation of compromise and settlement between the attorneys for petitioner and the United States that was approved by the Indians and the Secretary of the Interior, (14 Ind. Cl. Comm. 707).

2. The present contract under which the attorneys have acted on behalf of the petitioner Ute Tribe in prosecuting the Uncompahgre

claim was entered into in May, 1949, between the Tribe and Ernest L. Wilkinson and was subsequently assigned to the law firm. The contract was approved by the Commissioner of Indian Affairs and is still in effect. The contract ratified and confirmed all services performed by the attorneys since 1935 on the claim and provided that compensation should be wholly contingent upon recovery and not to exceed ten percent of the amount recovered.

3. The said Ernest L. Wilkinson and later his law partners and associates actively investigated and formulated the claim of the Uncompahgre Ute Indians arising from the fact that, unlike other Ute Indian bands, they had not received a reservation after the 1880 cession of a major part of the Ute Indian lands in Colorado. The petition in this case was filed in 1951 and since that time the attorneys have been engaged in preliminary proceedings and opposing dispositive motions before this Commission, in preparation of the case for trial, and, at the last, in careful negotiations with the defendant looking to a settlement that would be in their best interest and acceptable to them. It is claimed that thirty-four attorneys have worked directly on the case.

4. The claim of the Uncompahgres involved novel legal questions under the Indian Claims Commission Act. It is claimed that this is the only case where compensation has been obtained for failure of the United States to establish a reservation. Moreover, the judgment of \$300,000 after offsets represents a substantial settlement on the

merits in the light of the unique nature of the claim and the amount of offsets asserted.

5. Substantial time and effort was spent by the attorneys in presenting the proposed settlement to the Indians for their approval in accordance with our Omaha rules.

6. The Commission, after hearing, and having considered the services performed by the attorney, the amount of recovery in light of the nature of the claim and offsets involved, the time spent on the case and the contingent character of the fee, finds the attorneys have earned and are entitled to the full sum allowed by the contract, \$30,000.00. It will be so ordered.

Arthur V. Watkins  
Chief Commissioner

Wm. M. Holt  
Associate Commissioner

T. Harold Scott  
Associate Commissioner