

BEFORE THE INDIAN CLAIMS COMMISSION

THE CHEMEHUEVI TRIBE OF INDIANS, et al.,)	
)	
Petitioners,)	
)	
v.)	Docket Nos. 351 and 351-A
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: August 1t, 1965

FINDINGS OF FACT IN THE MATTER OF THE ALLOWANCE OF ATTORNEYS FEES AND EXPENSES

1. Arthur Lazarus, Jr., attorney of record for the petitioners in Docket Nos. 351 and 351-A, on behalf of himself and all other attorneys having an interest in this litigation, hereby petitions the Commission, pursuant to Section 15 of the Act of August 13, 1946, c. 959, 60 Stat. 1049, 1053, 25 U.S.C. 70n, and in accordance with the claims contract between counsel and the petitioners, for the allowance of attorneys' fees in the amount of \$99,683.48 and expenses in the amount of \$2506.96, or a total award of \$102,190.44.

2. Final judgment in the above-entitled cases was entered on January 18, 1965, in the net sum of \$996,834.81. This petition is based upon the entire record and proceedings in Docket Nos. 351 and 351-A, and consolidated Docket Nos. 88 and 330.

3. These cases were instituted on August 11, 1951, by the filing of a petition seeking, in the first cause of action, damages for the

taking by the United States of land in the present States of California, Arizona and Nevada to which the Chemehuevi Tribe claimed original Indian title, and in the second cause of action, an accounting and other relief. After over 13 years of litigation, a final judgment was entered in favor of petitioners on January 18, 1965, in the net amount of \$996,834.81.

4. On July 13, 1951, the Chemehuevi Indian Business Organization entered into a contract with the law firm of Marks & Marks, Phoenix, Arizona, for the prosecution of the claims of the Chemehuevi Tribe. This contract, which was approved by the Commissioner of Indian Affairs on August 2, 1951 (Symbol No. 42531, recorded in Vol. 19 of Miscellaneous Records of the Bureau of Indian Affairs at p. 4), recited in part:

"It is agreed that the compensation of the parties of the Second Part /the attorneys/ for the services to be rendered under the terms of this contract, is to be wholly contingent upon a recovery for the Tribe. The parties of the Second Part shall receive as such compensation ten per centum (10%) of any and all sums recovered or procured, through efforts, in whole or in part, for the said Indians, whether by award of the Indian Claims Commission, suit, action of any department of the Government or of the Congress of the United States, or otherwise, plus reasonable expenses incurred in the prosecution of the claims: * * *."

5. The above-mentioned 1951 attorneys' contract further provided that Marks & Marks "may associate with them as their assistants under this contract, the following named attorneys of Washington, D.C., namely: Arthur Lazarus, Jr., Marvin J. Sonosky and Louis L. Rochmes: * * *." Marks & Marks in fact did agree with the three named attorneys jointly to work on the Chemehuevi claims, and actual services were performed by them

beginning in July of 1951, but the Bureau of Indian Affairs later construed the language of the contract as not vesting in Washington counsel any interest in the prospective fees. Accordingly, on October 17, 1953, the Chemehuevi Tribe of Indians, acting through the Chemehuevi Indian Business Organization, executed an amended attorneys' contract with Marks & Marks, Arthur Lazarus, Jr., Marvin J. Sonosky and Louis L. Rochmes, as parties.

6. The 1953 contract again provided that the attorneys be paid as compensation for their services "ten per centum (10%) of any and all sums recovered" for the Chemehuevi Tribe. This contract was conditionally approved by the Commissioner of Indian Affairs on May 24, 1954 -- the condition relating to a change in the agreement governing the reimbursement of expenses. On August 12, 1954, the Acting Commissioner of Indian Affairs withdrew this condition and approved the attorneys' contract: (a) "as a representative contract rather than a tribal contract"; and (b) "if the contract is modified so as to fix the compensation of the attorneys on a contingent basis not to exceed 10% of the recovery." Neither the Chemehuevi Indians nor the attorneys acted upon the Commissioner's proposal, and the 1953 agreement never became operative.

7. On January 12, 1959, the Chemehuevi Tribe of Indians entered into a new amended attorneys' contract with Marks & Marks, Louis L. Rochmes, Marvin J. Sonosky, and Strasser, Spiegelberg, Fried & Frank (of which Arthur Lazarus, Jr., was and is a member). In view of the Acting

