

BEFORE THE INDIAN CLAIMS COMMISSION

KLAMATH AND MODOC TRIBES, et al.,)

Plaintiff,)

v.)

THE UNITED STATES OF AMERICA,)

Defendant.)

Docket No. 100-A

Decided: OCT 29 1969

FINDINGS OF FACT ON AWARD OF ATTORNEY FEE

On October 20, 1969 Glen A. Wilkinson, the attorney of record for the plaintiff, filed a petition with the Commission to allow an attorney fee of \$374,669.35 as provided in the contract between the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians and Wilkinson, Cragun & Barker. The Commission, having considered the said contract, makes the following findings of fact:

1. The original contract under which Mr. Ernest L. Wilkinson represented the Klamath Tribe was approved by the Secretary of the Interior on March 29, 1941. It provided for payment of a retainer fee of \$10,000. That payment has been made.

2. Paragraph 5 of the attorney contract was amended by the Klamath Executive Committee on May 10, 1961 and the Klamath General Council on May 15, 1961. The amendment was executed by the Chairman and Secretary of the tribe on May 15, 1961, and by Mr. Ernest L. Wilkinson, then the contract attorney, on May 15, 1961; and it was approved by the Solicitor

of the Department of the Interior on June 19, 1961. Amended paragraph 5 provides as follows:

"5. The Attorney shall receive, as compensation for services rendered, nine per centum (9%) of any and all sums or of the value of all property recovered or procured for or saved to the Tribe through the efforts in whole or in part by the Attorney whether by suit, action of any Department of the Government, or the Congress of the United States, or otherwise; Provided, that the retainer fee paid under the contract approved March 29, 1941, shall, to the extent of the amount paid, be considered as a payment upon, and thereby deducted from the first fee which may be due the Attorney hereunder."

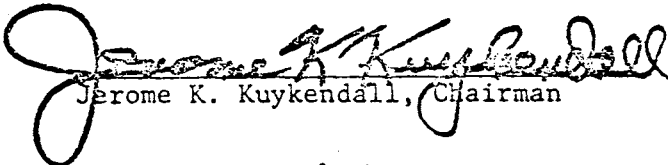
The \$10,000 retainer fee was deducted from the total fee awarded to the contract attorneys in Docket No. 100 (13 Ind. Cl. Comm. 41, 70-72). The final judgment herein provides for payment of \$4,162,992.80 to the Klamath Tribe. Nine percent of the judgment is \$374,669.35.

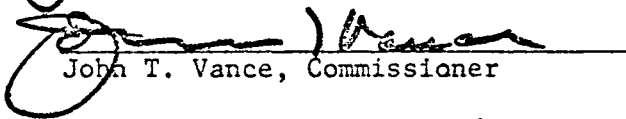
3. By an agreement approved by the Klamath Tribal Executive Committee on May 10, 1961, the contract of employment between the Klamath Tribe and Ernest L. Wilkinson was assigned from Ernest L. Wilkinson to Wilkinson, Cragun & Barker. Such assignment was approved by the Solicitor of the Department of the Interior on June 8, 1961.

4. Throughout the contract period - March 29, 1941 to the present - Ernest L. Wilkinson and Wilkinson, Cragun & Barker have been entirely and solely responsible for prosecuting the claim involved. No other attorneys have recorded or unrecorded interests in any fee payable.

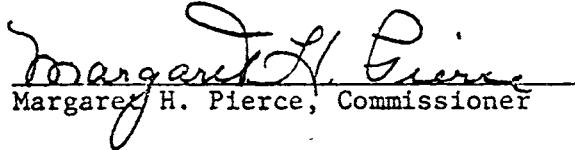
5. No request is made for reimbursement of expenses. All necessary and proper expenses have been reimbursed to the attorneys by the Klamath Tribe as the litigation has progressed. Any remaining unreimbursed expenses will be reimbursed in a similar manner.

6. The Commission finds that Wilkinson, Cragun & Barker are entitled to an attorney fee in the amount of \$374,669.35. An order will be so entered.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner

Brantley Blue, Commissioner