

BEFORE THE INDIAN CLAIMS COMMISSION

PUEBLO OF LAGUNA, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 227
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: August 18, 1971

FINDINGS OF FACT ON AWARD OF ATTORNEYS' FEE

On June 11, 1971, Rodney J. Edwards, Attorney of Record for the Indians of the Pueblo of Laguna, plaintiffs herein, filed a petition on behalf of himself and all other contract attorneys having an interest therein for allowance of attorneys' fee, together with a statement of the nature and extent of the services rendered by such attorneys. Having considered the petition and statement, the defendant's response thereto filed August 12, 1971, the contracts of employment under which the attorneys performed their services, and the remainder of the record herein, the Commission makes the following findings of fact:

1. On December 11, 1970, in accord with a settlement agreement by the parties, a final award was entered for the sum of \$900,000.00 in favor of the Indians of Pueblo of Laguna, plaintiffs (24 Ind. Cl. Comm. 197, 207). Funds to satisfy the judgment were appropriated by the Act of May 25, 1971 (85 Stat. 40).

2. The claim in behalf of the plaintiffs was initially prosecuted pursuant to contract No. I-1-ind. 42186, entered into by the Pueblo of Laguna on July 15, 1948, with James E. Curry, Washington, D. C. The contract was approved April 20, 1949, and was for a term of ten years beginning with the date of approval.

A portion of the contract was assigned by Mr. Curry to Messrs. Jay H. Hoag, Rodney J. Edwards, Clarence G. Lindquist, and O. R. McGuire on June 30, 1953. The contract was amended on December 3, 1956, to include the above named persons and Messrs. E. L. Gruber and Henry Weihofen in association in the prosecution of the claim. The amended contract was approved on March 1, 1957, for a period of ten years beginning on the date of approval.

The claim was thereafter prosecuted under contract No. MOOC 14200392, dated January 8, 1968, between the Pueblo of Laguna and Attorneys Curry, Hoag, Edwards and Weihofen, which was conditionally approved on April 4, 1968, for a period of ten years beginning March 1, 1967. The contract provided, inter alia, that the estates of Attorneys Gruber, Lindquist, and McGuire, each of whom had died before the expiration of contract No. I-1-ind. 42186, be compensated by Attorneys Hoag and Edwards for services rendered.

The aforementioned contracts each provided that attorneys' compensation would be such sums as found to be equitably due, but in no event to exceed ten percent of any and all sums recovered on the claim.

3. The Indian Claims Commission Act (60 Stat. 1049, 1053), under which the claim in this case was prosecuted, contains the following provisions pertaining to the allowance of attorneys' fees:

Sec. 15 ... The fees of such attorney or attorneys for all services rendered in prosecuting the claim in question, whether before the Commission or otherwise, shall, unless the amount of such fees is stipulated in the approved contract between the attorney or attorneys and the claimant, be fixed by the Commission at such amount as the Commission, in accordance with standards obtaining for prosecuting similar contingent claims in courts of law, finds to be adequate compensation for services rendered and results obtained, considering the contingent nature of the case, ...; but the amount so fixed by the Commission, exclusive of reimbursements for actual expenses, shall not exceed 10 per centum of the amount recovered in any case.

4. The petition of the Attorney of Record has requested allowance of an attorneys' fee in the amount of \$90,000.00, representing 10 percent of the amount of the final judgment in Docket No. 227.

5. The defendant's response to the petition for allowance of attorneys' fee enclosed a copy of a letter dated July 23, 1971, from the Associate Solicitor of Indian Affairs, Department of the Interior, and a copy of an accompanying memorandum, dated June 23, 1971, from the Acting Deputy Associate Commissioner of Indian Affairs, and indicated that the Department of Justice takes no position with respect to the fee which should be awarded. Among other things, the letter from the Associate Solicitor referred to the memorandum from the Bureau of Indian Affairs and adopted the position as stated therein that it was without sufficient information to make a recommendation with regard to the amount of compensation claimed.

6. On June 14, 1971, a notice of the filing of the petition for attorneys' fee was duly sent to Mr. Tom Dailey, Governor of the Pueblo of Laguna Council, Laguna, New Mexico. Response thereto, dated June 17, 1971, interposed no objection to the allowance of the requested 10 percent attorneys' fee.

7. The claim of the Pueblo of Laguna was filed in an amended petition, dated August 10, 1951, which sought recompense for the alleged wrongful taking by the United States of land and other property, including water rights; the alleged wrongful taking by others than the United States of land and other property which the United States had a fiduciary obligation to protect on behalf of the Pueblo of Laguna; and for an accounting by the United States of its management of funds held in trust for the Pueblo of Laguna.

8. The claims required the determination of the plaintiffs' capacity and right to prosecute the action; the determination of the boundaries of the area of exclusive use and occupancy of the plaintiff tribe as of February 2, 1848, the date of the Treaty of Guadalupe Hidalgo; the determination of the validity and acreage of Mexican and Spanish land grants and other acreage to be deducted from the acreage of the plaintiffs' aboriginal lands; the valuation of land at several dates of taking; the determination of the credit to the United States for reservation lands it provided for the Pueblo of Laguna; the examination and review of General Accounting Office Reports and supporting documents with respect to an accounting by the United States for receipts and disbursement of tribal funds and for the determination of offsets

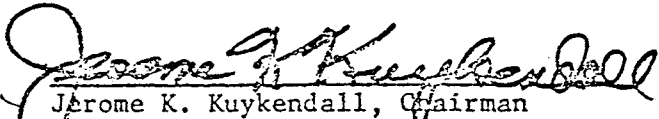
for gratuitous expenditures for the benefit of the Pueblo of Laguna; negotiations with the Department of Justice with respect to settlement; and the submission of the settlement proposal to the Pueblo of Laguna membership, the Commissioner of Indian Affairs, and the Indian Claims Commission for approval.

The activity of the plaintiffs' attorneys herein resulted in the decision of the Commission that the Pueblo of Laguna had the capacity to sue and had aboriginal title to land, subsequently agreed to amount to 287,029.68 acres, appropriated for use by the defendant without the payment of compensation (17 Ind. Cl. Comm. 615). On December 8, 1970, a hearing was held before the Commission as to a proposed compromise settlement which resulted, under the terms and conditions of the stipulations of the parties for settlement, in the entry of a final judgment in favor of the plaintiffs for the sum of \$900,000.00.

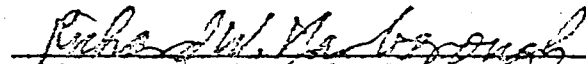
The record discloses that voluminous documentary evidence was presented by the plaintiffs' attorneys with respect to the issues tried before the Commission, that the plaintiffs' attorneys procured and consulted with expert witnesses who testified on behalf of the plaintiffs, and that documented requested findings of fact and briefs on issues of law and fact were filed by the plaintiffs' attorneys.

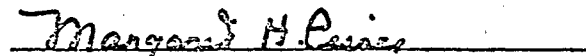
The attorneys for the plaintiffs have rendered valuable legal services in successfully prosecuting their clients' claims and ultimately securing the entry of a final judgment. On the basis of the entire record herein and considering the responsibilities undertaken, the difficult

problems of fact and law involved in this case, the contingent nature of the compensation, the substantial award obtained for the benefit of the plaintiffs herein, all appropriate factors pertinent to the determination of attorneys' fees under the standards established by the Indian Claims Commission Act, and the foregoing findings, the Commission finds that the attorneys for the plaintiffs herein are entitled to an attorneys' fee in the amount of \$90,000.00, and that the payment of this amount to Rodney J. Edwards, Attorney of Record, out of the funds appropriated to pay the aforementioned award, for appropriate distribution by him of the amounts due each of the participating attorneys, will constitute payment in full of all claims for legal services rendered by said attorneys to the Indians of the Pueblo of Laguna in the above-mentioned docket.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner