

BEFORE THE INDIAN CLAIMS COMMISSION

OTTAWA-CHIPPEWA TRIBE OF MICHIGAN,)	
as represented by Nora Chartrand)	
Greenhalgh, a member of said)	
tribe,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 364
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: May 9, 1973

FINDINGS OF FACT

Based upon its own records and other matters of which it can take judicial notice, the Commission makes the following findings of fact:

1. Identity of the plaintiffs in Dockets 364 and 58.

The claims in Docket 364 were presented to this Commission on behalf of the Indian group identified as the Indian party to the treaty of July 31, 1855, 11 Stat. 621. The said Indian group is the same entity which was party to the treaty of July 6, 1820, 7 Stat. 202, and to the treaty of March 28, 1836, 7 Stat. 491. The claims in Docket 58 were presented to this Commission on behalf of the Indian group identified as the Indian party to the said treaties of 1820 and 1836. Accordingly, the real Indian party in interest is identical in Dockets 364 and 58.

2. Ottawa and Chippewa Indians of Michigan constitute an identifiable group of American Indians known by various names.

Said party is an identifiable group of American Indians residing within the territorial limits of the United States within the meaning of Section 2 of the Indian Claims Commission Act. It is known variously as the Ottawa and Chippewa Nations of Indians of the State of Michigan, the Ottawa-Chippewa Tribe of Michigan, the Ottawa and Chippewa Indians of Michigan, and by several abbreviations and combinations of the aforesaid titles.

3. Ottawa and Chippewa Indians of Michigan have no tribal organization.

The group referred to in finding 2 has no tribal organization.

4. Representative presenting claims in Docket 364.

The claims in Docket 364 were presented by Nora Chartrand Greenhalgh as representative of the group identified in findings 1 and 2, above. It has been suggested to the Commission that Mrs. Greenhalgh is now dead.

5. Attorney in Docket 364.

Rosemary Scott of Grand Rapids, Michigan, is the only attorney who has ever appeared in Docket 364. The first contract authorizing her to act in this matter was with Jacob Walker Cobmoosa. It was dated March 27, 1951, and was approved, with conditions, by the Commissioner of Indian Affairs on April 10, 1951. The scope of Miss Scott's authority is set out in the third paragraph, which reads:

It shall be the duty of the attorney to advise and to represent the said tribe in connection with properly investigating and formulating the claims of the Ottawa-Chippewa Tribe

of Michigan, based on the Treaty of 1855 with the Ottawa-Chippewa Tribe, against the United States pursuant to the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049) with respect to which she is authorized to institute suit, except claim or claims under treaties prior to 1846 prosecuted by Messrs. Rogers and Honnold under their contract with representatives of the Ottawa-Chippewa Tribe.

Miss Scott filed another attorney contract with the Commission on August 23, 1951, ten days after filing the petition in Docket 364. This contract states:

That Nora Chartrand Greenalgh [sic] and Rosemary Scott agree to the substitution of Nora Chartrand Greenhalgh as representative of the Ottawa-Chippewa Tribe of Michigan in the place of Jacob Walker Cobmoosa, who died at the City of Grand Rapids . . . on the 17th day of July, 1951 and who was the father of said Nora Chartrand Greenhalgh. . . .

The new contract goes on to incorporate the Cobmoosa contract as the subsisting agreement between the parties. The new contract is dated August 2, 1951, and was approved by the Commissioner of Indian Affairs on August 7, 1951.

Miss Scott's attorney contract of March 27, 1951, recites that it is for a term of ten years beginning with the date of its approval by the Commissioner of Indian Affairs, "provided that an extension by the Commissioner of Indian Affairs may be granted at the request of the attorney for additional five-year periods if the claim has not been prosecuted to a conclusion". There is no evidence of extension or renewal of the Cobmoosa or Greenhalgh contracts in the Commission's records.

The last communication from Miss Scott in our files is a letter dated February 25, 1972, addressed to Mr. Norman E. Timko, deputy clerk of the Commission. The following is its text in full:

May I tell you that the contract that you have of mine may have expired some time ago. However, my client has passed away and it was my understanding that the clerk in this matter wished me to proceed with the file as it then stood. I am sorry to say I cannot get a renewed contract in accordance with your rules.

Sincerely yours,

/s/ Rosemary Scott

6. Representatives presenting claims in Docket 58.

The claims in Docket 58 were presented by Robert Dominic and 58 other individuals as representatives of the group identified in findings 1 and 2, above.

7. Attorneys in Docket 58.

Currently the plaintiffs in Docket 58 are represented by Rodney J. Edwards and James R. Fitzharris, attorneys, who act under authority of a contract, No. F50C14200361, dated June 17, 1967. The other parties to said contract, designated parties of the first part, are Robert Dominic, Waunetta Dominic, and Grace Mulholland, acting for and on behalf of the Ottawa and Chippewa Indians of Michigan and individual members thereof. The term of said contract is for ten years from the date of its approval by the Secretary of the Interior or his authorized representative. The contract was approved by said authorized representative on February 8, 1968. Section 1 of said contract reads as follows:

1. It shall be the duty of said attorneys to represent the parties of the first part in connection with properly investigating, formulating, filing and prosecuting the claims of said parties of the first part against the United States of America however arising under Treaty of June 16, 1820, July 6, 1820, March 28, 1836, July 31, 1855 and August 2, 1855.

8. Docket 364 includes claims under Treaty of July 31, 1855.


The petition in Docket 364 includes four claims arising in whole or in part under the treaty of July 31, 1855, 11 Stat. 621. Such claims are not duplicated in any other case decided by or pending before the Commission.

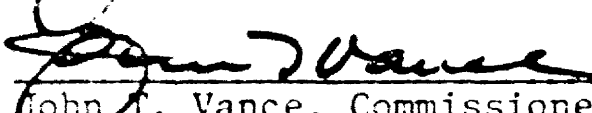
9. Plaintiff inactive in Docket 364.

The last filing by either party in Docket 364 is the defendant's motion to dismiss for lack of prosecution, filed March 11, 1968. On April 9, 1968, the Commission ordered that unless the plaintiff filed a response within 60 days the motion would be considered. The plaintiff has still not responded. The Commission referred the case to the Investigation Division for preparation of a report by order entered July 7, 1971. Such a report has now been prepared and has been considered by the Commission.


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarbrough, Commissioner