

BEFORE THE INDIAN CLAIMS COMMISSION

THE SAC AND FOX TRIBE OF INDIANS OF)	
OKLAHOMA, et al., THE SAC AND FOX OF)	
MISSOURI, et al., and SAC AND FOX OF)	
THE MISSISSIPPI IN IOWA, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 95
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER ALLOWING EXPENSES INCURRED BY ATTORNEYS
FOR THE SAC AND FOX TRIBE OF INDIANS OF OKLAHOMA

HAVING CONSIDERED the application for reimbursement of attorneys' expenses in the amount of \$1,389.18 filed on February 14, 1975, by George B. Pletsch, one of the contract attorneys and partner in the firm of Schiff Hardin & Waite (formerly known as Pam, Hurd & Reichmann), attorneys of record in this docket; the expense schedules, vouchers, and other supporting documentation; the response to the application filed on July 10, 1975, by the United States Department of Justice; and the contract under which counsel prosecuted this claim, the Commission finds as follows:

1. Award. On September 25, 1974, the Commission entered a final award in favor of the plaintiff tribe (Sac and Fox Tribe of Oklahoma) and other plaintiffs in this consolidated case in the amount of \$20,421.78, which represents the amount of the Commission's interlocutory award to plaintiffs of December 27, 1971 (35 Ind. Cl. Comm. 14). Funds to satisfy the award were appropriated by P. L. 94-32, approved June 12, 1975.

2. Attorneys Contracts. The Sac and Fox Tribe of Oklahoma entered into contract No. I-1-ind. 42249, dated October 29, 1949, with the law firm of Pam, Hurd and Reichmann (now Schiff Hardin and Waite). It was approved on February 13, 1950, by the Department of the Interior for a period of ten years beginning with the date of approval. An extension of the contract for a period of five years beginning on February 13, 1960, was approved on October 3, 1960.

The same parties entered into contract Symbol 14-20-0200 No. 1879, dated December 12, 1964, which was approved on February 15, 1965, for a period of five years beginning with the date of approval. This contract was extended twice for periods of three years each. The last, which was approved on November 17, 1972, extended the contract until February 14, 1976. The provision in the contract on reimbursement of attorney expenses was:

changed by an amendment approved on February 24, 1965. It now provides for reimbursement of attorney expenses as provided in Section 15 of the Act of August 13, 1946 (60 Stat. 1049).

3. Application for Reimbursement of Expenses. In their application of February 14, 1975, petitioners allege that since their engagement as attorneys for the Oklahoma Sac and Fox they have advanced all of the moneys necessary to pay the reasonable expenses allocable to the Oklahoma Sac and Fox which have been incurred in the prosecution of the claims which have been filed on their behalf. Petitioners have not received payment for any of the expenses which are the subject of this petition from the Oklahoma Sac and Fox or from any officer or agency of the United States or from any other source.

The expenses listed on Schedule A attached to their petition relate solely to Docket 95. Various expenses have been shared with attorneys for other tribes and some items show a shared cost to reflect these arrangements.

The attorneys' contract provides that stenographic assistance may be employed as deemed necessary. Petitioners have included payments made for stenographic assistance rendered after usual office hours, with the Oklahoma Sac and Fox one-third share being \$19.35.

The other expense items include costs of printing and mailing, xeroxing, telephone tolls, a filing fee, and transportation and related expenses for an oral argument in Washington, D. C.

4. Notification. Pursuant to Rule 34b(c) of our General Rules of Procedure (25 C.F.R. 503.34b(c)), the Clerk of the Commission timely notified the appropriate parties including the tribal client (Oklahoma Sac and Fox) and the United States Departments of Justice and Interior respecting the filing of the application. The tribal client has filed no response to date.

The Department of Justice responded to the notice on July 10, 1975, stating that it takes no position in respect thereto.

Enclosed with the response was a copy of a letter dated April 15, 1975, from the Assistant Solicitor, Division of Indian Affairs, U. S. Department of the Interior, transmitting a copy of a memorandum dated March 21, 1975, from the Commissioner of Indian Affairs. The Commissioner was satisfied as to the reasonableness of the total expenses claimed that are proper for reimbursement.


5. Determination of Expenses.

Section 15 of the Indian Claims Commission Act (60 Stat. 1049) provides for the reimbursement of attorneys for actual, reasonable expenses incurred in the prosecution of the claim. After an examination of the application, the supporting documentation, and the entire record of expenditures incurred by the attorneys in the prosecution of the claim, the Commission concludes that the claimed items of expenses are reasonable and proper expenses of litigation and should be allowed with the exception of \$26.67 (Item A-14, p. 2) covering one-third of the total cost (\$80.00) of a courier trip from Chicago, Illinois, to Washington, D. C., presumably to file 70 copies of an appeal brief to the United States Court of Claims. Although regular and special mailings are allowed, a courier trip for the mere personal benefit and convenience of meeting a filing deadline is not a reasonable or proper item for reimbursement.

6. Conclusion. On the basis of the foregoing findings, and after deducting the disallowed expense of \$26.67 from the total of \$1,389.18, the amount claimed, the Commission concludes that the sum of \$1,362.51 is reasonable and proper for reimbursement.


IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award entered herein on September 25, 1974, there shall be disbursed to the law firm of Schiff Hardin and Waite, attorneys of record, the sum of \$1,362.51 as full reimbursement for expenditures incurred in the prosecution of this case.

Dated at Washington, D. C., this 6th day of August 1975


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner