

BEFORE THE INDIAN CLAIMS COMMISSION

THE NORTHERN TONTO APACHE, et al.,)	
)	
Plaintiffs,)	
v.)	Docket No. 22-J
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER ALLOWING REIMBURSEMENT OF ATTORNEYS' EXPENSES

Having considered the petition filed on May 6, 1976, by the law firm of Weissbrodt & Weissbrodt for reimbursement of expenses incurred and paid on behalf of the plaintiffs in connection with the prosecution of the claims in Docket 22-J, the expense schedules, vouchers, and other supporting documentation; the response to the petition filed on July 13, 1976, by the United States Department of Justice, and the contracts under which counsel prosecuted these claims, the Commission finds as follows:

1. Award.

By order of September 12, 1972, the Commission entered its final judgment awarding the sum of \$685,800.00 to the plaintiffs, the Yavapai-Apache Indian Community, the Fort McDowell Mohave-Apache Community, the San Carlos Apache Tribe, and the White Mountain Apache Tribe, for and on behalf of the Northern Tonto Indians. 28 Ind. Cl. Comm. 399, 423. Funds to cover the award were appropriated by the Act of October 31, 1972, Pub. L. No. 92-607, 86 Stat. 1498.

The claims in Docket 22-J were first set forth in the petition in Docket 22, filed on February 3, 1948, by several individual Indians on behalf of the Apache Nation and by the Apache Tribe of the Mescalero Reservation. The Yavapai-Apache Indian Community, the Fort McDowell Mohave-Apache Community, the San Carlos Apache Tribe, the White Mountain Apache Tribe and additional individual Indians joined the Mescalero Apaches in the first amended petition in Docket 22 filed on October 18, 1950. The claims in Docket 22 were later set forth in nine separate amended petitions designated Dockets 22-A through 22-H and 22-J pursuant to orders of the Commission. The claims in Docket 22-J which had been included in Docket 22-D were separated therefrom by Commission order of October 10, 1961.

2. Attorneys' Contracts.

The claims in subject docket were prosecuted pursuant to separate contracts with the plaintiffs which are present-day organized tribes, the Yavapai-Apache Indian Community, the Fort McDowell Mohave-Apache Indian Community, the San Carlos Apache Tribe, and the White Mountain Apache Tribe.

The contracts are identified in the Commission's finding no. 2 in its order of November 29, 1972, allowing attorneys' fee in this docket. 29 Ind. Cl. Comm. 175. The contracts currently in force are: for the Yavapai-Apache Indian Community, Symbol 14-20-0450, Contract No. 5839; for the Fort McDowell Mohave-Apache Community, Symbol 14-20-0450, Contract No. 5836; for the San Carlos Apache Tribe of Arizona, Symbol 14-20-0450, Contract No. 5833; for the White Mountain Apache Tribe of the Fort Apache Indian Reservation, Symbol 04-20-0450, Contract No. 5830. The contracts provide for reimbursement from the amount of the recovery of actual expenses incurred by the attorneys.

3. Petition for Reimbursement of Expenses.

During the early years of prosecution of subject claims, before Docket 22 was separated into the nine dockets identified above, counsel for the plaintiffs did not allocate costs and expenses to particular claims but listed all expenses in Docket 22 together. These expenses are itemized in Expense Exhibit I. Since the Docket 22 claims were separated into nine dockets, counsel for the plaintiffs regarded the allocation to Docket 22-J of one-ninth of the total of such expenses as reasonable and appropriate.

Expense Exhibit II itemizes the additional expenses incurred by the attorneys which are applicable to the claims in Docket 22-J.

Vouchers and other evidence in support of the expenses in both exhibits have been filed with the Commission. The petition requests reimbursement of the following expenses:

\$ 146.49, being one-ninth of the total of
expenses shown in Expense Exhibit I.

8,733.67, being the total of the expenses shown
in Expense Exhibit II.

Total \$ 8,880.16

4. Notice.

By letters of May 11, 1976, the Commission notified all parties of the filing of this petition for the reimbursement of expenses and allowed two weeks' time for the filing of replies. The Commission has received no response to the notice from the plaintiff tribes.

5. Responses.

The Department of Justice took no position regarding subject petition. It forwarded to the Commission a copy of a letter of June 30, 1976, from the Associate Solicitor, Division of Indian Affairs and a memorandum of June 25, 1976, from the Commissioner of Indian Affairs to the Solicitor. The Associate

Solicitor had no objection to allowance of the expenses claimed. The Commissioner's memorandum stated that a representative of the Bureau of Indian Affairs examined the petition and supporting documents and concluded that the expenses for which reimbursement was requested were supported, generally, by invoices, receipts, canceled checks, ledger entries, and like evidence filed by the petitioner. The Commissioner of Indian Affairs concluded that the method of allocating expenses was reasonable and fair and found no objection to allowance of the expenses claimed.

6. Determination of Expenses.

Section 15 of the Indian Claims Commission Act (60 Stat. 1049) provides for the reimbursement of attorneys for reasonable expenses incurred in the prosecution of the claim.


After the examination of the petition herein, the record of expenditures by the attorneys in prosecuting the claims, and the supporting evidence, the Commission concludes that the expenses in subject petition are reasonable and permissible expenses which should be allowed.

7. Conclusion.

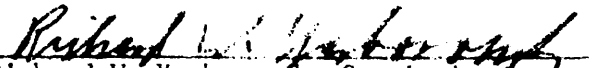
On the basis of the foregoing findings, the Commission concludes that the sum of \$8,880.16 is reasonable and proper for reimbursement of the expenses of litigation herein.


IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award entered herein on September 12, 1972, there shall be disbursed to the law firm of Weissbrodt and Weissbrodt the sum of \$8,880.16 as full reimbursement for expenditures incurred in the prosecution of this case.

Dated at Washington, D. C., this 2nd day of September 1976.


Jerome K. Kuykendall, Chairman

John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner