

BEFORE THE INDIAN CLAIMS COMMISSION

THE OTTAWA TRIBE AND GUY JENNISON,)
BRONSON EDWARDS AND GENE JENNISON,)
as representatives of the Ottawa)
Tribe,)
Plaintiffs,)
v.) Docket No. 305
THE UNITED STATES OF AMERICA,)
Defendant.)

Decided: February 2, 1977

FINDINGS OF FACT AND ORDER ALLOWING
REIMBURSEMENT OF ATTORNEYS' EXPENSES

HAVING CONSIDERED the application for reimbursement of expenses filed June 18, 1974, by Allan Hull, Esquire, attorney of record herein for the plaintiffs, the supporting record of expenditures, vouchers and other documentation, the defendant's response to said application, filed October 11, 1974; the employment contracts, and the record in its entirety, the Commission finds that:

1. Award. Docket 305 was completed on April 25, 1973, with the entry of final judgment in favor of the plaintiffs herein in the amount of \$80,585.76 (30 Ind. Cl. Comm. 208). Funds to satisfy the judgment were appropriated by the Act of January 3, 1974 (87 Stat. 1071). On September 4, 1974, the Commission issued an order for attorneys' fees in the amount of \$8,058.57, the same being ten per centum (10%) of the final award (35 Ind. Cl. Comm. 4).

2. Application. A petition for reimbursement of allowable attorneys' expenses was filed on June 18, 1974, by Allan Hull, attorney of record. The petition requests reimbursement of \$1,975.12, as the sum expended on behalf of the plaintiffs in this docket for the prosecution of their claim before the Commission.

3. Attorney Contract. The claim herein was prosecuted under contract No. I-1-ind. 42181, dated March 7, 1949, between Guy Jennison, Fred King, Bronson Edwards and Gene Jennison, representing the Ottawa Tribe of Indians, and the law firm of Harrison, Thomas, Spangenberg and Hull. The contract was approved on July 14, 1949, for a ten-year period beginning with the date of approval. A five-year extension of this contract beginning July 14, 1959, was approved on July 28, 1959. Another extension was later approved on May 26, 1964, extending the terms of the contract, as amended, to July 14, 1974.

The original contract, and the extensions thereof, entered into by the law firm and the plaintiff tribe provided, in pertinent part, for reimbursement to the firm of all reasonable expenses incurred in the prosecution of the claim, provided all said expenditures be itemized and verified by the attorneys and supported by proper vouchers.

4. Notice to Parties. By letter dated June 25, 1974, the Commission notified all interested parties of the filing of the petition, requesting their comments and any other information for the Commission's

consideration in determining the reasonableness of the expenses claimed. The plaintiffs did not respond to the notice. The Department of Justice, advised the Commission that it adopted no position regarding the application for reimbursement. Incorporated in the defendant's reply was a memorandum from the Acting Deputy Commissioner of Indian Affairs stating that the items appear to fall within those categories of expenses proper for reimbursement, but that various items for which a receipted bill could have been obtained were not properly identified by either cancelled checks or ledger entries.

5. Determination of Expenses. On January 14, 1975, the attorney of record was requested to furnish further information and documentation regarding certain claimed attorney expenses. No reply has been received.

Based upon the entire record, the Commission finds and concludes that the petitioner is entitled to receive as proper and reasonable reimbursable expenses incurred in the prosecution of this claim the amount herein claimed less deductions made therefrom for the reason:

(a) that the following claimed attorney expenses have not been properly identified as having been incurred in the prosecution of this claim.

<u>Item</u>	<u>Payee, expense</u>	<u>Amount denied</u>
31	Ohio Bell, L. D. calls	\$ 4.85
32	Certified Corp. & Office Supply, folders	2.60
		<u>\$ 7.45</u>

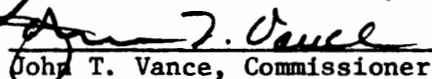
(b) that the following claimed attorney expenses are considered to have been incurred for the personal benefit of the attorney and not in the interest of the Indian plaintiffs.

<u>Item</u>	<u>Payee, expense</u>	<u>Amount denied</u>
6	Stouffers, night meals	\$ 2.48
21	The Theatrical, night meals	10.43
22	Stouffers, night meals	51.82
23	Stouffers, night meals	15.62
24	The Theatrical, night meals	4.66
25	Stouffers, night meals	5.50
28	Stouffers, night meals	23.70
29	The Theatrical, night meals	17.56
33	Stouffers, night work, meals	5.50
		<u>\$137.27</u>

According, we find the petitioner entitled to recover as reimbursable expenses the sum of \$1,975.12 less \$144.72, or the sum of \$1,830.40.

IT IS THEREFORE ORDERED that out of the funds appropriated to pay the final award entered herein on April 25, 1973, there shall be disbursed to Allan Hull, attorney of record, the sum of \$1,830.40, for distribution by him to all parties having an interest therein, as reimbursement in full for expenditures made in the prosecution of this claim.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarbrough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner