

ATTORNEYS' FEES RAISE BROWS

Claims Layers Asking \$5.1 Million Additional

Alaska's Native Claims Act, passed last year, set a \$2 million ceiling on payments to the lawyers involved. Or so everyone thought. But now, some of the lawyers are saying there should be no limit to how much they should get.

The difficulty comes from a small but controversial section of the Act, concerning attorneys' and consultants' fees. It says, apparently clearly enough, "The amounts allowed for services rendered shall not exceed in the aggregate \$2 million, of which not more than \$100,000 shall be available for the payment of consultants' fees."

However, Congress felt that this amount would not cover the expenses that some of the law firms run up. So it provided a means by which the court of claims commissioner could deal with cost overruns.

The Congressional law states "If the approved claims exceed the aggregate amounts allowable, the chief commissioner shall authorize payment of the claims on a pro rata (proportional) basis."

So now the bills for the land claims settlement are coming in, and the lawyers are asking for more than the specified \$2 million. About \$5.1 million more. And some of them would be quite willing to take as much as they could get.

"I believe they're incorrect and the court of claims will prove them so," said John Sackett, president of the Tanana Chiefs Conference. The TCC is

one of the largest of the 12 corporations in terms of land mass.

The commissioner's job is defined by the Act as weeding out invalid claims for fees and expenses. He must then determine what portions of the money should go to which lawyers. Each one would then get his piece of the \$2 million pie.

But some Seattle lawyers aren't satisfied with the arrangement. Citing the "pro rata basis" wording of the law, they claim, "if the award exceeds \$2 million, the distribution is to be made proportionately and the chief commissioner clearly is not limited to the \$2 million withheld."

One such is Frederick Paul, the Seattle lawyer who worked with the Arctic Slope Native Association. Paul, a Tlingit Indian, is asking, along with his law firm, for \$3.5 million in legal fees. And they do not approve of limiting the lawyers' payments.

"In fixing fees, many, many items go into what is fair to the lawyers and fair to the client," Paul said Monday morning. The factors involved are varied, as he pointed out.

"In our particular situation," he continued, "we have to consider who would be competitors for the land." Listing the State of Alaska, the BLM and the oil companies as three top contenders, he said, "They have unlimited expense accounts,

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Claims Attorneys . . .

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they have unlimited contacts. In my particular situation, the the Natives wanted to be paid out of the North Slope too. The reason and the amount was was because of the North Slope.

"When you consider the results, we believe that 40 million acres and the better part of a billion dollars is a substantial amount. And our team contributed substantially to that. I stood alone back in 1966 and said the Natives should be paid in land and money."

Calling the Claims Settlement Act, "the first time Native people have been treated halfway decently," Paul listed the policy his firm developed as a third factor in determining fees.

The policy included such items as wanting payment because the Natives had a legal right to it, not because they were poor, and the team's refusal to compromise on anything they really wanted. The expertise needed for such a job was another factor, as was the time involved.

"My legal team has over 15,000 hours invested and we have not been paid a penny, he said. "When you divide seven or eight years into that kind of money, you're not talking about a great annual compensation." He cited other Indian claims bills where the

lawyers are paid 10 per cent of the recovery.

"When you consider the recovery we have had here, the \$2 million gross limitation of statutes is not fair to the lawyers," he concluded.

Some Alaskans have a different view of the matter. Joe Upicksoun, former director of the Arctic Slope Native Association, said "We have the Section we and the plans that our lawyers have submitted to the court of claims and we have a committee reviewing the claims now being submitted. As far as I can say, we'd have to thoroughly look at what our lawyers have submitted" before deciding what they think is fair.

And Sen. Ted Stevens also said the courts would have to settle the problem. But he added that some legislators who had worked with the land claims bill feel it unfair for "big city lawyers" who have only entered the fight at the last minute to get the same fees as lawyers who have been in on it from the start.

Sen. Stevens said that he and others had tried, and failed, to get the law phrased so that long-term attorneys would have priority over those who just recently got involved. But now, as he said, it's up to the courts.