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 River Inter-Tribal Fish Commission*

**IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF ALASKA**

THE UNITED STATES OF)	
AMERICA,)	
)	
Plaintiff,)	
)	
and)	
)	
KUSKOKWIM RIVER INTER-)	
TRIBAL FISH COMMISSION <i>et al.</i>)	Case No. 1:22-cv-00054-SLG
)	
Intervenor-Plaintiffs,)	
)	
v.)	
)	
THE STATE OF ALASKA <i>et al.</i> ,)	
)	
Defendants.)	
)	

**KUSKOKWIM RIVER INTER-TRIBAL FISH COMMISSION'S
 CONSOLIDATED AND RENEWED MOTION FOR ATTORNEY'S FEES**

KRITFC's Consolidated and Renewed Motion for Attorney's Fees
United States v. State of Alaska, Case No. 1:22-cv-00054-SLG

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INTRODUCTION AND BACKGROUND

As the State of Alaska explained to the Supreme Court during consideration of the *Sturgeon* case, “Congress mandated the subsistence priority to protect the important values embodied by subsistence, and . . . rural Alaskans have depended on this subsistence priority to effectuate those values and preserve their way of life.”¹ This is especially true for the rural, federally recognized Alaska Native Tribes of the Kuskokwim River who—through the Kuskokwim River Inter-Tribal Fish Commission (“Fish Commission”)—co-manage salmon fisheries in the federal waters of the Kuskokwim River with the United States in order to implement ANILCA’s rural subsistence priority and rebuild the salmon stocks that have sustained them since time immemorial.

The State’s 2021 and 2022 emergency orders directly conflicting with federal regulations—underlaid by its legal theory that *Sturgeon* had overturned the Ninth Circuit’s venerable *Katie John* decisions—therefore posed an existential threat to the Fish Commission’s work and federal/tribal co-management of salmon fisheries on the Kuskokwim River. Despite its limited resources as a non-profit intertribal consortium, the Fish Commission undertook extraordinary efforts to address this threat, including intervening as a plaintiff in this action alongside the United States and actively participating in all stages of this litigation.

¹ Br. of Amicus Curiae State of Alaska in Support of Pet’r (Alaska Amicus) at *31–32, *Sturgeon v. Frost*, 587 U.S. 28 (2019), No. 17-949, 2018 WL 4063284.

On March 29, 2024, this Court granted summary judgment in favor of the United States and the intervenors, including the Fish Commission.² Having prevailed on its claims, the Fish Commission (along with the other intervenors) filed an application for attorney’s fees pursuant to 16 U.S.C. § 3117(a), Federal Rule of Civil Procedure 54(d)(2), and Local Civil Rule 54.2.³ This Court granted the Fish Commission’s motion as to liability for fees, concluding that “Intervenor-Plaintiffs may seek attorney’s fees pursuant to 16 U.S.C. § 3117.”⁴

The State then appealed this Court’s grant of summary judgment, and the Ninth Circuit affirmed.⁵

The State then petitioned the Supreme Court for a writ of certiorari, supported by four amicus parties: Idaho and 19 additional States, the Association of Fish & Wildlife Agencies, Safari Club International, and the Alaska Industrial Development and Export Authority. The State’s petition was powerful, presented by one of the Nation’s leading

² Docket 129.

³ Docket 135–136.

⁴ Docket 154 at 10. As noted by the Alaska Federation of Natives in its motion for attorneys’ fees, this Court’s order is law of the case. See Docket 169 at 3. The Court’s order left the issue of the *amount* of fees for resolution after the conclusion of the litigation.

⁵ *United States v. Alaska*, 151 F.4th 1124, 1127–28 (9th Cir. 2025), *cert. denied*, No. 25-320 (U.S. Jan. 12, 2026).

Supreme Court litigation firms, Consovoy McCarthy,⁶ and posed an existential threat to the continuation of federal subsistence fishing rights throughout rural Alaska.

As explained in the attached declarations of Nathaniel Amdur-Clark and Carter Phillips, the Fish Commission retained experienced Supreme Court practitioners at Sidley Austin, LLP for assistance in opposing the State’s petition and its supporting amici. The Fish Commission took the role of primary composer of the draft Brief in Opposition that eventually—and with considerable work in coordination with the other three intervenors—became the foundation for the Intervenors’ Joint Brief in Opposition. The United States also opposed the petition. On January 12, 2026, the intervenors’ extraordinary efforts were rewarded when the Supreme Court denied the State’s petition.⁷

Having prevailed on all claims, the Commission is now entitled to an award of attorney’s fees pursuant to 16 U.S.C. § 3117(a), Federal Rule of Civil Procedure 54(d)(2), Local Civil Rule 54.2, and this Court’s prior order at Docket 154.

ARGUMENT

The Fish Commission renews and incorporates herein its prior motions for attorneys’ fees incurred before this Court in the amount of \$179,820.00, and the Ninth

⁶ See *Practice Areas: Legal Issues and Appeals*, CONSOVOY MCCARTHY <https://consovoymccarthy.com/practice-areas/> (“we have been involved in more than one hundred cases before the Supreme Court of the United States”) (last visited Feb. 25, 2026); John Fritze, This Small, Conservative Law Firm is Landing Big Wins at the Supreme Court, CNN (Feb. 20, 2024, at 07:00 ET), <https://www.cnn.com/2024/02/20/politics/consovoy-mccarthy-supreme-court-wins>.

⁷ *Alaska v. United States*, No. 25-320, 2026 WL 79601, at *1 (U.S. Jan. 12, 2026).

Circuit in the amount of \$165,700.00.⁸ In addition, the Fish Commission now supplements these prior fee motions by requesting attorneys’ fees in the amounts of \$19,980.00 for the work in this Court briefing the original fee application, opposing the State’s motion to stay that application, and preparing this consolidated and renewed application;⁹ and \$7,320.00 for the work in the Ninth Circuit briefing the appellate fee application, including the motion to transfer the fee application from the Ninth Circuit to this Court.¹⁰ Finally, the Fish Commission now seeks fees in the amount of \$287,422.50 for its work in successfully opposing the State’s certiorari petition before the Supreme Court.¹¹

The total amounts the Fish Commission is entitled to are as follows:

District Court	\$199,800.00
Ninth Circuit	\$173,020.00
U.S. Supreme Court	\$287,422.50
TOTAL	\$660,242.50

⁸ Docket 135–136; Docket 162-1.

⁹ The Fish Commission reserves the right to supplement this request to include additional time spent preparing this motion, composing a reply in support of the motion, and engaging in any related motion practice.

¹⁰ Amdur-Clark Decl. ¶ 6.

¹¹ *Id.* ¶ 7.

These fees are entirely reasonable. “The most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate.”¹² An award of attorneys’ fees under fee-shifting statutes “is not cost-based, and . . . the award of prevailing market rates regardless whether the claimant is represented by private counsel or a nonprofit legal services organization should not be viewed as an unjustified ‘windfall’ profit to the attorney.”¹³

As an initial matter, the time spent on this litigation was justified under the circumstances present here. The reasonableness of hours spent on a matter “will always depend on case-specific factors including, among others, the complexity of the legal issues, the procedural history, the size of the record, and when counsel was retained.”¹⁴ “Where a plaintiff has obtained excellent results, his attorney should recover a fully compensatory fee. Normally this will encompass all hours reasonably expended on the litigation.”¹⁵ That principle squarely applies here. First and foremost, this litigation was exceptionally

¹² *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983); *see id.* at 433 n.7 (“The standards set forth in this opinion are generally applicable in all cases in which Congress has authorized an award of fees to a ‘prevailing party.’”).

¹³ *Nadarajah v. Holder*, 569 F.3d 906, 916 (9th Cir. 2009) (first citing *Blum v. Stenson*, 465 U.S. 886, 892-95 (1984), then citing *Hensley*, 461 U.S. at 433 n.7, and then citing *INS v. Jean*, 496 U.S. 154, 161 (1990)). Unless a particular statute specifies otherwise, the same standards are “generally applicable” to all federal fee-shifting statutes. *Hensley*, 461 U.S. at 433 n.7.

¹⁴ *Costa v. Comm’r of Soc. Sec. Admin.*, 690 F.3d 1132, 1136 (9th Cir. 2012).

¹⁵ *United Cook Inlet Drift Ass’n v. Nat’l Marine Fisheries Serv.*, 2018 WL 10509895, at *6 (D. Alaska Sept. 11, 2018) (quoting *Hensley*, 461 U.S. at 435).

important to the rural and principally Alaska Native people who depend on ANILCA’s rural subsistence priority for their very survival and to maintain the ways of life that have sustained them for millennia.¹⁶ Second, the issues presented were extraordinarily complex, including statutory interpretation of a unique federal statute, federal reserved water rights, congressional powers, and procedural issues like issue preclusion and judicial estoppel. Third, not only was the State’s petition powerful and compelling, but the State was supported by four *amici* who added additional arguments demanding thorough vetting and consideration. In other words, it was the State’s own decision to seek certiorari, represented by a preeminent law firm and supported by multiple *amici*, that required the Fish Commission to expend significant efforts to respond. Fourth, the Fish Commission could not substantively coordinate with the United States because the Solicitor General does not enter into joint confidentiality agreements nor otherwise share its drafts with other parties, compelling the Commission and fellow intervenors to draft their opposition as if the United States was not present in the litigation.¹⁷ Fifth, the Fish Commission had to work with three other intervenors to navigate the development of what eventually became a single brief accommodating diverse views, positions and strategies.¹⁸ And last—but obviously not

¹⁶ See, e.g., *Native Vill. of Quinhagak v. United States*, 35 F.3d 388, 394 (9th Cir. 1994) (“Many Alaska natives . . . rely on fishing for subsistence. If their right to fish is destroyed, so too is their traditional way of life.” (quoting *United States v. Alexander*, 938 F.2d 942, 945 (9th Cir. 1991))).

¹⁷ Amdur-Clark Decl. ¶16.

¹⁸ Amdur-Clark decl. ¶15.

least—the Fish Commission and its fellow intervenors won. In securing a denial of certiorari, they prevailed against what some observers considered very serious odds, underscoring the reasonableness of the intervenors’ effort committed to the Supreme Court briefing.¹⁹ In sum, the Fish Commission’s efforts were commensurate with the extraordinary challenges faced in the litigation, the tremendous importance of the issue at hand, and the intervenors’ success in the case.

The requested rates for the Sonosky Chambers firm and the Sidley Austin firm are also reasonable.²⁰ Generally speaking, reasonable fees “are to be calculated according to the prevailing market rates in the relevant community.”²¹ Of course, market rates may vary significantly based on “[t]he type of services rendered by lawyers, as well as their experience, skill and reputation.”²² As detailed in the attached declaration of Mr. Amdur-Clark, the Sonosky Chambers firm is one of the preeminent Indian law firms in the country, having represented Indian tribes and tribal organizations like the Fish Commission for fifty years. Its attorneys have extensive experience in complex matters involving Native

¹⁹ See *Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir. 2008) (explaining that the court should “defer to the winning lawyer’s professional judgment as to how much time he was required to spend on the case; after all, he won, and might not have, had he been more of a slacker”).

²⁰ Unlike some other fee-shifting statutes, § 3117 of ANILCA does not expressly incorporate a particular standard of reasonableness; it simply provides that prevailing parties “shall be awarded their costs and attorney’s fees.”

²¹ *Blum v. Stenson*, 465 U.S. 886, 895 (1984) (assessing reasonable fees under 42 U.S.C. § 1988).

²² *Id.* at 895 n.11.

interests, like this case. Among the attorneys who worked on this case, Mr. Miller brings four decades of litigation experience, including many years of experience in ANILCA-specific work; Mr. Amdur-Clark and Ms. Leonard each bring a decade of experience, including on ANILCA matters. The fees requested here represent a substantial discount from the Sonosky Chambers firm's usual rates in litigation matters involving complex Indian law issues,²³ which are commensurate with market rates for specialized work in this field.

As detailed in the attached declaration of Mr. Phillips, the rates requested for work done by the Sidley Austin firm represent a small discount from Sidley Austin's usual rates for Supreme Court work, and they are commensurate with market rates charged by highly specialized Supreme Court counsel.²⁴ Sidley Austin was the first national firm to establish a specialized Supreme Court practice, founded by Mr. Phillips, and it remains one of the leading firms doing this work.²⁵ Mr. Phillips himself is widely recognized as one of the top Supreme Court litigators in the country, with 91 oral arguments in the Court.²⁶ As Supreme Court practice has become more specialized, it has become the industry standard for law firms to retain Supreme Court counsel for the Supreme Court phase of litigation, as several

²³ Amdur-Clark decl. ¶ 4.

²⁴ Phillips decl. ¶ 6.

²⁵ *Id.* ¶ 3.

²⁶ *Id.* ¶ 7; see, e.g., Adam Feldman, *Who Wins in the Supreme Court? An Examination of Attorney and Law Firm Influence*, 100 MARQ. L. REV. 429, 450 (2016).

of the intervenors did here.²⁷ While the rates charged by Supreme Court experts are higher than the rates customarily charged in some other markets, the rates requested here are reasonable because they are commensurate with prevailing market rates in this highly specialized field.

CONCLUSION

For the foregoing reasons, the Fish Commission is entitled to an award of attorneys' fees in the amount of \$660,242.50.

RESPECTFULLY SUBMITTED this 26th day of February 2026.

/s/ Nathaniel Amdur-Clark

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Certificate of Service

I certify that on February 26, 2026, a copy of the foregoing document was served via ECF on all counsel of record.

/s/ Nathaniel Amdur-Clark

Nathaniel Amdur-Clark

²⁷ See Feldman, *supra*, at 430.