



LEE DUGGAN, JR.
JUSTICE (RETIRED)
FIRST DISTRICT COURT OF APPEALS
5571 CANDLEWOOD DRIVE
HOUSTON, TEXAS 77056
(713) 552-0342
Fax: (713) 552-0342

February 13, 2003

FILED
VICKIE EDGERLY
DIST. CLERK, ORANGE CO., TX
FEB 14 2003
AT 2:10 P M
BY *Judy Mingle*
DEPUTY

Ms. Judy Mingle
Court Coordinator
260th District Court
Orange County Courthouse
801 Division
Orange, Texas 77630
Fax: (409) ~~882-7093~~
882-7093

Re: *No. D-000,298-C Benckenstein, et al. v. Stark, et al;*
260th District Court, Orange County, Texas

Dear Ms. Mingle:

Enclosed is my signed Order Granting Recovery of Attorneys' Fees and Costs, dated February 13, 2003, awarding costs and attorneys' fees to Plaintiff and Intervenor.

The Order awards costs and attorneys' fees as follows:

To Plaintiffs:	(a) Costs	\$34,787.75
	(b) Attorneys' Fees	\$458,411.14
To Intervenor:	(a) Costs	\$298.44
	(b) Attorneys' Fees	\$19,491.55

If an appeal is prosecuted to the Court of Appeals:

\$40,000.00 to Plaintiffs
\$5,000 to Intervenor

If a petition for review is filed with the Supreme Court of Texas:

\$7,500.00 to Plaintiffs
\$2,000.00 to Intervenor

Page 2
February 13, 2003
Cause No. D-000,298-C

If a petition for review is granted by the Supreme Court of Texas:

\$20,000.00 to Plaintiffs
\$3,500.00 to Intervenor

If a motion for rehearing is filed in the Supreme Court of Texas:

\$7,500.00 to Plaintiffs
\$2,000.00 to Intervenor

With this Order, together with the Order of July 8, 2002 and the Supplemental Order of August 13, 2002, the judgment finally disposes of all parties, claims, and issues, and the Court's Judgment herein is final and appealable.

I am faxing a copy of this transmittal letter to each attorney listed below.

Yours very truly,

Lee Duggan, Jr.
Lee Duggan, Jr.

cc: Mr. John Cash Smith
Fax: (409) 835-5177

Mr. Kurt Andreason
Fax: (409) 835-5177

Mr. Kevin A. Isern
Fax: (806) 379-7176

Mr. Larry C. Hunter
Fax: (409) 769-0984

Mr. Clay Burgess
Fax: (337) 233-7573
(337) 223-3890

Mr. Tommy Gunn
Fax: (409) 882-0613

James L. Anthony
Fax: (512) 322-0578

Mr. Thomas L. Hanna
Fax: (409) 722-2399

Mr. Louis Dugas
Fax: (409) 883-4844

Mr. Jerry Kacal
Fax: (713) 529-8161

Mr. Jim T. Graves
Fax: (713) 655-0222

Mr. Kevin M. Jordan
Fax: (409) 835-3838

attorneys' fees were incurred by the Plaintiff and by the Intervenor, respectively, for legal services rendered in the above-entitled and numbered declaratory judgment action through the summary disposition of this cause, the amount of which costs and reasonable attorneys' fees constitutes the sole remaining issue herein.

The Court, having previously determined the entitlement of the Plaintiff and the Intervenor to recover their respective costs and reasonable attorneys' fees from Defendants, having considered the testimonial and documentary evidence presented at hearing, and having heard and considered the arguments of all counsel, is of the opinion that the Plaintiff and the Intervenor recover from Defendants costs and attorneys' fees for legal services rendered through the summary disposition of this cause in the following amounts:

<u>Plaintiff:</u> (a) Costs	<u>\$ 34,787.75</u>
(b) Attorneys' Fees	<u>\$ 458,411.14</u>
<u>Intervenor:</u> (a) Costs	<u>\$ 298.44</u>
(b) Attorneys' Fees	<u>\$ 19,491.55</u>

The Court further finds that the foregoing amounts of attorneys' fees are reasonable and necessary in light of the multiplicity of parties, as well as the diversity and complexity of issues presented, and, further, that such costs and fees are equitable and just. IT IS THEREFORE,

ORDERED, ADJUDGED and DECREED that Plaintiff's Eunice R. Benckenstein, Walter R. Riedel III and Roy Wingate, Independent Co-Executors of the Estate of Nelda C. Stark, Deceased, recover from Defendants, Ida Marie Stark, individually and as Independent Executor of the Estate of William H. Stark II, Deceased, William H. Stark III, Randall Hill Stark, and Lynn Marie Stark Barras, costs in the amount of \$34,787.75 together with attorneys' fees in the amount of \$458,411.14 which fees are reasonable and necessary and are equitable and just;

IT IS FURTHER ORDERED, ADJUDGED and DECREED Intervenor, John Cornyn, Attorney General of the State of Texas, recover from Defendants, Ida Marie Stark, individually and as Independent Executor of the Estate of William H. Stark II, Deceased, William H. Stark III, Randall Hill Stark, and Lynn Marie Stark Barras, costs in the amount of \$ 298.44 together with attorneys' fees in the amount of \$ 19,491.55, which fees are reasonable and necessary in this cause and are equitable and just;

IT IS FURTHER ORDERED, ADJUDGED and DECREED that Defendants remit to Plaintiffs and Intervenor, respectively, the following sums in the following circumstances:

If an appeal is prosecuted to the Court of Appeals:

\$ 40,000⁰⁰ to Plaintiffs
\$ 5,000⁰⁰ to Intervenor

If a petition for review is filed with the Supreme Court of Texas:

\$ 7,500⁰⁰ to Plaintiffs
\$ 2,000⁰⁰ to Intervenor

If a petition for review is granted by the Supreme Court of Texas:

\$ 20,000⁰⁰ to Plaintiffs
\$ 3,500⁰⁰ to Intervenor

If a motion for rehearing is filed in the Supreme Court of Texas:

\$ 7,500⁰⁰ to Plaintiffs
\$ 2,000⁰⁰ to Intervenor

Together with this Court's Order of July 8, 2002 and Supplemental Order of August 13, 2002, this judgment finally disposes of all parties, all claims and all remaining issues herein, including the sole remaining issue of the amount of costs and reasonable attorneys' fees awarded to Plaintiff and Intervenor herein, and the Court's judgment herein is final and appealable.

All other relief requested by the parties and not expressly granted herein is DENIED.

SIGNED this 13th day of FEBRUARY, 2003.

Leo Duggan, Jr.
JUDGE PRESIDING