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In re City of Stockton, California

United States Court of Appeals, Ninth Circuit - December 10, 2018 - F.3d - 2018 WL 6442104 - 18 Cal. Daily Op. Serv. 11, 603

Claimant objected to confirmation of city's proposed Chapter 9 plan.

The United States Bankruptcy Court for the Eastern District of California entered order overruling objection and confirming plan, and claimant sought leave to appeal directly to the Court of Appeals, which was granted.

The Court of Appeals held that:

- Appeal from unstayed Chapter 9 plan confirmation order had to be dismissed as equitably moot, and
- Claim which originally arose out of taking of land, but which, following claimant's withdrawal of proposed compensation amount and construction of road, was limited to claim for greater compensation, could be adjusted.

Appeal from unstayed Chapter 9 plan confirmation order had to be dismissed as equitably moot, where appellant had not sought stay from bankruptcy or bankruptcy appellate court, where city's plan had been substantially consummated by the wire transfer of payment to institutional creditors, by transfer of property, and by mailing of checks to former city employees to resolve pension claims, and where relief that appellant sought, the vacation of plan confirmation order based on plan's failure to provide for alleged property-based claim purportedly protected by the Takings Clause, a claim for more than \$1 million, would completely knock the props out from under plan and undermine settlements negotiated with unions, pension plan participants and retirees, bond creditors, and capital market creditors, all of which were built into city's reorganization plan.

Claim which originally arose out of taking of land belonging to claimant's father for use as public road, but which, following claimant's withdrawal of proposed compensation amount and construction of road, was limited to claim for greater compensation, was not tethered to any actual property interest that claimant had when city's Chapter 9 petition was filed, and was correctly categorized as unsecured and adjusted as such, despite claimant's contention that the Fifth Amendment precluded any adjustment of his claim.