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Haggart v. Woodley

United States Court of Appeals, Federal Circuit - January 8, 2016 - F.3d - 2016 WL 97520

Landowners filed rails-to-trails class action against United States, claiming that National Trails System Act (NTSA) provision, authorizing “railbanking” as alternative to abandonment of railroad right-of-way that would be operated as recreational trail, effected Fifth Amendment taking of landowners’ reversionary rights to property underlying railroad right-of-way.

The United States Court of Federal Claims approved settlement agreement and awarded attorney fees to class counsel under common fund doctrine. Objectors appealed.

The Court of Appeals held that:

- Government had standing to challenge Court of Federal Claims’ award of attorney fees;
- Government did not waive arguments;
- Government was not barred, under doctrine of judicial estoppel, from raising arguments;
- Court of Federal Claims abused its discretion in finding that class counsel’s explanation of methodology used to calculate fair market value for properties was fair, reasonable, and adequate; and
- Fee-shifting statute foreclosed application of common fund doctrine to action.

Government had standing to challenge Court of Federal Claims’ award of attorney fees under common fund doctrine in landowners’ class action against United States, in which taking of landowners’ reversionary right to property underlying railroad right-of-way, in violation of the Fifth Amendment Takings Clause, was alleged, since government possessed institutional interest in assuring that court did not abrogate Congress’s intent by impermissibly substituting common fund doctrine in place of a fee-shifting statute requiring government to assume litigation expenses of counsel in bringing forth takings claims when awarding attorney fees, and in defending Attorney General’s determination that fees determined in accordance with fee-shifting statute constituted reasonable attorney fees.

Government’s failure to take position, before Court of Federal Claims, on issue of class counsel’s disclosure of information to class members or class counsel’s motion for additional attorney fees, in landowners’s class action against United States in which taking of landowners’ reversionary right to property underlying railroad right-of-way, in violation of the Fifth Amendment Takings Clause, was alleged, did not waive government’s argument, on appeal, that class counsel improperly refused to disclose information necessary to allow class members to assess fairness and reasonableness of proposed settlement, or that award of additional attorney fees to class counsel, under common fund doctrine, was improper.

Government was not precluded, under doctrine of judicial estoppel, from arguing, on appeal from Court of Federal Claims’ decision approving settlement and award of additional attorney fees to class counsel under common fund doctrine, in landowners’ class action against United States in which taking of landowners’ reversionary rights to property underlying railroad right-of-way, in

violation of the Fifth Amendment Takings Clause, was alleged, that class counsel improperly refused to disclose information necessary to allow class members to assess fairness and reasonableness of proposed settlement, or that award of additional attorney fees to class counsel was improper, where government did not take position in Court of Federal Claims on issues of proposed settlement agreement or attorney fees.

Court of Federal Claims abused its discretion in finding that class counsel's explanation of methodology used to calculate fair market value for properties, which served as basis for allocation of settlement award among class members in landowners' class action against the United States, in which taking of landowners' reversionary right to property underlying railroad right-of-way, in violation of the Fifth Amendment Takings Clause, was alleged, was fair, reasonable, and adequate, where, due to large number of individual properties, only certain representative properties were appraised, fair market values of non-representative properties were extrapolated from the appraised properties, and class counsel did not provide class members who owned non-appraised properties with information about properties from which their properties' values were extrapolated or how any variable inputs were valued in calculating their fair market values, such that class members were unable to determine whether their individual settlement awards were fair, reasonable, or adequate.

Common fund existed in landowners class action against United States, in which taking of landowners' reversionary right to property underlying railroad right-of-way, in violation of the Fifth Amendment Takings Clause, was alleged, where, under settlement agreement, lump sum was to be paid by government, and each landowner's individual ascertainable claim was fair market value of his property.

Inequity existed with respect to class members in landowners' class action against the United States in which taking of landowners' reversionary right to property underlying railroad right-of-way, in violation of the Fifth Amendment Takings Clause, was alleged, as required for common fund doctrine to apply to action, where approximately 27% of class members signed contingency fee agreements with class counsel prior to certification of the class, and were thus contractually obligated to contribute to payment of attorney fees incurred on their behalf, and approximately 73% of class members did not sign contingency fee agreements with class counsel, and were thus not contractually obligated to contribute to payment of attorney fees incurred on their behalves.

Application of common fund doctrine was foreclosed in settlement of landowners' class action against United States, in which taking of landowners' reversionary right to property underlying railroad right-of-way, in violation of the Fifth Amendment Takings Clause, was alleged, where statute requiring government to assume litigation expenses of counsel in bringing forth takings claims existed, and government, rather than class counsel or members of class, thus bore the reasonable cost of action, such that inequity between class members did not exist.