

In the United States Court of Federal Claims

No. 19-757 L

Filed: December 18, 2024

4023 SAWYER ROAD I, LLC, <i>et al.</i> ,)
)
<i>Plaintiffs,</i>)
)
v.)
)
THE UNITED STATES,)
)
<i>Defendant.</i>)

ORDER

This case involves 214 Plaintiffs claiming the Government has taken their property. This order addresses how this case will proceed for these Plaintiffs in three groups. In the first group are 124 Plaintiffs who claim that predecessors-in-interest transferred only easements to the railroad in conveyances that the court construed in *Barron v. United States*, No. 25-1179. In that case, the court held that the conveyances to the railroad transferred fee simple title and the adjacent property owners did not suffer any taking of their property. Those plaintiffs have already appealed. Because the appeal will address the construction of deeds, it presents a question of law that will apply equally to these Plaintiffs. Therefore, the court will defer ruling on the claims of these Plaintiffs until the mandate issues from the Federal Circuit in *Barron*. The Plaintiffs in this group are:

1. The 1926 Condemnation Decree Plaintiffs: Dominic D. and Kathleen M. Booth, Sean and Darcy Byrnes, John Ermilio, Steven P. and Linda A. Finehout, Paul W. Hoerning and Courtney Joachim, Gary P. Hurst, Suzanne McDonald, David G. Sadler, David Stebbins, and Patricia E., Richard E., and Jonathan L. Varley;
2. The Burton conveyance Plaintiffs: Lawrence D. and Veronica D. Salzman, Michael J. Bergeron and Richard K. Nelson, Ray and Ella Bontrager, Ralph R. and Dale Marie Braun, Zsolt Csesznok and Marianna Bartus, Joseph and Dorothy D'Angelo, as Trustees of the D'Angelo Family Revocable Trust, Craig B. and Cynthia D. Dickie, Pamela Driggs, Zoila Emanuelli, As Trustee of the Zoila Emanuelli Revocable Trust, Cosimo A. Fragomeni, Cheryl A. Del Pozzo Gallagher, Michelle Garcia, Ann T. Geraghty, GPG Limited LLC, Martin Graber, Trustee, Martin and Carol Frances Graber, Stephen A. Heard, John A. Hobbs, Jr. and Mark F. Marino, Deborah Keck, James and Diane Kostan, Gerald A. Lagace, Lake Sawyer Two LLC, Jactrace, LLC, Keith R. and Mary M. Leeseberg, Douglas P. and Maria A. Luff, Shirley I. Manfredi, Cheryl A. Marchand and

Candace A. Magiera, James J. and Suzanne M. Naiman, Javier Nieto and Maylen Negrin, Barbara A. Nikias, Elmer H. and Lena M. Nolt, Donna M. Perkins, Phyllis H. Perruc, Mindy Piana, Jose Sierra Testi-Martinez and Clara A. Myers, Vinton and Dianne Trefz, As Trustees of the Trefz Living Trust, James J. Tutsock and Mary J. McQueen, Robert J. and Maureen C. Wilson, Theresa A. Wilson, Jennifer Yager, Travis Marc and Elizabeth Marie Yoder, Betty Lou Yutzy, As Trustee of the Betty Lou Yutzy Trust, and Orvie W. and Marie M. Zimmerman and Emery and Mary Ellen Yoder;

3. The Clough conveyance Plaintiffs: Amos and Anna S. Fisher, William B. and Debra I. Pruett, and Donald and Meredith Jeanne Ruth;
4. The Neihardt conveyance Plaintiffs: 3153 Novus Court, LLC, Crabapple Enterprise LLC, Michael A. and Janel K. Huckleberry, Brian J. and Cheryl A. Key, Tammy Lynn, William Martell, III, and Michael McLaughlin; and
5. The Sarasota Land Company conveyance Plaintiffs: Izmirlan Properties LLC, Douglas and Cynthia Abbott, Nicole J. Altergott, Troy Alvis, Neal and Jo Atchley, David R. and Joy S. Bailey, as Trustees of the Joy S. Bailey and David R. Bailey Revocable Trust, Kerwin and Judy Baker, James R. and Mary Ellen Bishop, Steve E. Bishop, Ersila Borchert, Carole M. Bowns, Karen E. Bowser, Cynthia J. Burnell, Carol Caldwell, James M. and Jeneve S. Cawley, Amy Roseann Coats and Darrin Lee Johnson, Frank T. Crotsley, Carl G. and Tobie L. Desantis, Wanda Donner, as Trustee of the Wanda Donner Living Trust, Lesley Dwyer and Barbara S. Hair, Bernadette Feragola, Michael R. and Editha D. Fettig, Sharon L. Gallagher, as Trustee of the Sharon L. Gallagher Rev. Trust, Donald L. Geary, As Trustee of the Donald L. Geary Revocable Trust, Roman T. and Carolyn F. Graber, As Trustees of the Roman and Carolyn Graber Revocable Trust, Renate B. Harkavy, Alvin L. and Michelle L. Harrell, Jr., Garnett D. and Stephanie S. Hayes, Wayne A. and Joyce O. Hibbs, Jr., Paul K. and Daphne J. Hutchison, Linda L. Jones, Myrtle Krause, Saul Alberto Lopez and Liz Janette Martinez-Ramos, Linda Lyon, Kim A. and Sheila E. Marshall, As Trustees of the Kim A. and Sheila E. Marshall Trust, Mast Investments, LLC, Michael L. Morgan, Julie Morris, Gregory B. Nowak, Robert N. O'Neill, as Trustee of the Robert N. O'Neill Living Trust, and Heather H. Pennington, as Trustee of the Heather H. Pennington Rev. Living Tr., Ryan R. Parker, Phillippi Pines, LLC, Barbara Sue Schrock, Leroy and Ruby Schrock, Ruby Schrock, As Trustee of the Ruby Schrock Revocable Trust, Sandra Elaine Schrock, Brian N. Seymour, Wilbur O. Smith, Vera Straniere, Suzanne M. Thornburg, Mildred L. Tufford (Kandel), Chad Waites, Lance and Helene Warrick, Paul Wicha, Brad D. and Patricia T. Wilson, Linda A. Yarbrough, Jonathan R. and C. Joy Yutzy, as Trustees of the Jonathan R. Yutzy and C. Joy Yutzy Revocable Living Trust, Timothy J. and Dana Zizak, Mark T. and Angela D. Flaherty, Timothy G. and Alisa J. Herring, and Robert E. and Michelle S. Messick.

The second group covers the forty-seven Plaintiffs that claim that their predecessor-in-interest—Adrian Honoré—only conveyed an easement to the railroad. Like in *Barron*, the

Government does not contest that Mr. Honoré conveyed only an easement to the railroad and this group of Plaintiffs have valid takings claims. The court, therefore, **GRANTS** Plaintiffs' motion to bifurcate the Honoré Plaintiffs, ECF No. 134, to permit those Plaintiffs to begin discovery along with the Honoré plaintiffs in *Barron v. United States*, No. 21-2181. As discussed during oral argument, counsel should meet and confer on an updated schedule to accommodate discovery for the additional forty-seven Plaintiffs in this matter. For the avoidance of doubt, the forty-seven Honoré Plaintiffs are the following:

4023 Sawyer Road 1, LLC, Julia R. Adkins and Austin C. Murphy, Randal S. and Joyce S. Albritton, Louis L. Alderman, Jr., as Trustee of the Louis L. Alderman 2013 Revocable Trust, Bradley S. and Susan B. Anderson, Geoffrey L. Bolton, Nicholas J. and Danette L. Boris, Endia K. and Gary Callahan, Martin Carrillo-Plata, John and Joanne Cisler, Steven R. and Virginia M. Courtenay, Elise J. Duranceau, William and Brooke Grames, Vincent and Karen Guglielmini, Noel K. Harris, Angelo and Sarah J. Hoag, Larry E. Hudspeth, Daniel L. and Kristin Jadush, Judy H. Johnson, Kenneth J. and Margaret A. Kellner, Joseph R. Knight, Patrick J. and Lisa A. Loyet, Kassandra Luebke and Elaine Luebke, Thomas W. Marchese, Reuben S. and Kathy J. Martin, Jason J. and Karen McGuire, Sue Moulton, Timothy and Mary Murphy, James Kirt, Nicholas James, and Christopher Andrew Nalefski, Perry M. and Pamela S. O'Connor, Sueko O'Connor, Michele and Dorothy Ann Paradiso, Thomas Pearson, Todd A. and Carmen Perna, Patricia Lynne Pitts-Hamilton, Pro Properties, LLC, Justin M. Reslan, Allen B. and Mary Ann E. Rieke, Michael A. Ritchie, Chad, Grace, and Robert Schaeffer, Faith H. Simolari, As Trustee of the Philip Simolari Revocable Trust, Russell S. Strayer, James H. and Glenda G. Thornton, Kenneth D. and Susan K. Wells, David A. and Anna I. Ruiz-Welsher, Zbigniew and Wislawa Wrobel, and Stephen and Margaret Zawacki.

The third group covers the remaining forty-three Plaintiffs:

1. The Palmer conveyance Plaintiffs: Thomas M. and Joyce R. Fay;
2. The Florida Mortgage and Investment Company 532 conveyance Plaintiffs: John M. Alvis, Catherine Teresa Gray, Joshua Carroll Hackney, Joe R. Hembree, As Trustee of the Joe R. Hembree Revocable Trust, Michael and Vivian Kravchak, Lewma Enterprise, Inc., Cameron W. and Carol T. McGough, Rickey Smull, Irvin J. and Cynthia P. Spiegel, and William A. and Jill Booth;
3. The Florida Mortgage and Investment Company 536 conveyance Plaintiffs: John L. and Mary Allgyer and Levi and Tammy L. Lantz, Jr., JB Holdings of Sarasota, LLC, Bob Allen and Lori Ann Jefferson, Bonnie A. Klein, Earnest R. Locklear, Carolyn B. Barclay and Steven H. Locklear, Shannon Lugannani and Helen Elena Emegbagha, Callie Parsons, Marc and Leann Schlabach, John and Jaana

Avramidis, David and Cynthia Gaul, Andrew and Jennifer Heath, Anna Marie Martin, Thomas McCall and Susan Coakley, Susan Schmitt, as Trustee of the Schmitt Revocable Trust, Raymond and Linda Wenck, Thomas and Michelle M. Dodson, Kimberly Dawn Hewitt, As Trustee for the Kimberly Dawn Hewitt Revocable Trust, The Oaks at Woodland Park Homeowners Assoc., Anthony and Karen Puccio, Keith E. Rollins and Lisa J. Paxson-Rollins, and Brian T. Sanborn;

4. The Pendley document Plaintiffs: Jeffrey Doyle, as Trustee of the Wallace David Brunton Testamentary Trust, and Mabel Brunton, and Gary L. Cathey and Victoria L. Goodrich;
5. The Ringling conveyance Plaintiffs: Denise Doucette Erb and Lorraine E. Colby, Joyce P. and Julie Gwen Hardie, David Ivanov, as Trustee of the 2976 Poplar Street Land Trust, Lakewood Venture Capital LLC, Faye M. Rood, and Sarasota County Agricultural Fair Association; and
6. The “Possession” Plaintiffs: John W. and Christine L. Fordham, Bradley Blum Morrison, and Shirley P. Ramsey.

To ensure the court can timely resolve the claims of the remaining forty-three Plaintiffs, the Parties should meet and confer regarding the Government’s Notice, ECF No. 135, to determine whether the Pendley document, ECF No. 111-12, Pls.’ Ex. 4, or the Florida Mortgage & Investment Company 536 conveyance, ECF No. 111-18, Pls.’ Ex. 16-A, governs the claims of Plaintiffs Jeffrey Doyle, as Trustee of the Wallace David Brunton Testamentary Trust, and Mabel Brunton (“Doyle”); and Gary L. Cathey and Victoria L. Goodrich (“Cathey-Goodrich”). The Parties shall file a notice with the court as soon as possible regarding the document that governs the claims of the Doyle and Cathey-Goodrich Plaintiffs. The court will issue a decision on the remaining forty-three Plaintiffs’ claims as promptly as possible, and no later than the end of January 2025.

It is so ORDERED.

s/ Edward H. Meyers
Edward H. Meyers
Judge