

It's Too Late

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In *Ramona Two Shields v. United States*, two Native Americans filed a breach of trust claim in the U.S. Court of Federal Claims, alleging the United States breached its “fiduciary duty to prudently manage their mineral rights.” The underlying dispute involves Plaintiffs’ allotments located in the Fort Berthold Indian Reservation, an area identified as a “sweet spot” for development of the valuable Bakken shale oil formation resources. According to recent estimates, the Bakken formation has over 7 billion barrels of recoverable oil. The Bureau of Indian Affairs is responsible for the management of trust lands, including Plaintiffs’ land. Two Shields argued that the BIA breached its fiduciary duty owed to them by rubber stamping oil and gas lease agreements that were not in the best interests of the Indian land owners.

In its defense, the Government argued that BIA’s alleged misdeeds were immaterial because Two Shields’ claims had been litigated and settled in the *Cobell* class action suit in the \$3.4 billion settlement. By failing to opt out of the trust accounting class, the Government argued that Two Shields forfeited the right to pursue their claims. The Government therefore moved to dismiss or in the alternative for summary judgment.

Rejecting Two Shields’ arguments that the claims before the CFC were entirely different from the claims at issue in *Cobell*, that the payment mechanics of the release agreement did not encompass Two Shields’ claims, and that Two Shields lacked fair notice of the settlement, the trial court granted summary judgment in favor of the Government and granted the motion to dismiss the lawsuit.

In explaining its decision, the CFC explained that Two Shields were part of the Trust Administration Class created in *Cobell*, a class that included landowners with a “demonstrable ownership interest in land held in trust before or at the time of the Record Date,” September 30, 2009. The Cobell Settlement Agreement broadly provided that “land administration claims” include “known and unknown claims that could have been asserted through the Record Date for alleged breach of trust and fiduciary mismanagement of land, oil, natural gas, mineral, timber situated on, in or under Land.”

Because Two Shields failed to timely opt out of the class, Two Shields is “barred and precluded from prosecuting, any and all claims . . . that were, or should have been, asserted in the Amended Complaint when it was filed, on behalf of the Trust Administration Class.”

Read full decision [here](#).