

## Court Certifies Class Action in Takings Case Arising from Government's Takeover of AIG

The U.S. Court of Federal Claims recently agreed to certify a class in a takings case, *Starr International v. United States*.

*Starr* involves claims by shareholders of American International Group (AIG). Their lawsuit alleges that taking of their property occurred when on September 28, 2008 the Government imposed a Credit Agreement on AIG, which resulted in the Government obtaining a 79.9%-equity interest in the company, and also when it engineered a reverse stock split on June 30, 2009, which denied shareholders a separate vote.

The case was initiated by Maurice “Hank” Greenberg, the former CEO of AIG, and seeks \$25 billion in alleged losses caused by the government’s bailout of the insurer. STARR International, controlled by Greenberg, was the largest shareholder in AIG. Greenberg previously sued the Federal Reserve Bank of New York in a related action, but that suit—dismissed in November 2012—is currently on appeal, as [reported](#) by Reuters.

The plaintiffs in *Starr* sought certification of two separate classes, one for shareholders on the date of the Credit Agreement, and the second for shareholders on the date of the reverse stock split. Plaintiff’s counsel estimated that the class size “may number more than tens of thousands”. The CFC granted certification of both classes and appointed Greenberg’s attorney David Boies, of Boies, Schiller & Flexner LLP, as common class counsel, listing the following reasons for its decision:

The claims are based on the same exact government action;

- The same core legal question applies to all class members, namely whether the Credit Agreement, and the reverse stock split, were government action for which just compensation is due;
- Resolution can be achieved through generalized proof;
- Starr’s claim is typical of the class, as both derive from the same government action and a common legal theory;
- No conflict exists between the classes; and
- Economies of scale will be achieved in time, effort, and expense.

These rationale support class certification as required under Rule 23 of the CFC.

As noted in *Starr*, RCFC 23 also requires “that the United States has ‘acted or refused to act on grounds generally applicable to the class,’ common questions of law and fact predominate, and a class action is superior to other methods for adjudication of the controversy.”

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