

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL  
CIRCUIT, IN AND FOR ST. LUCIE COUNTY, FLORIDA  
CIRCUIT CIVIL DIVISION

BEACH GROUP INVESTMENTS, LLC,  
Plaintiff,

CASE NO.: 56-2011-CA-000702  
JUDGE: DWIGHT L. GEIGER

Vs.

STATE OF FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION,  
Defendant.

---

**ORDER ON PLAINTIFF'S MOTION FOR ATTORNEY'S FEES AND COSTS**

THIS CAUSE is before the Court on motion by Plaintiff for attorney's fees and costs and the Court having considered said motion, evidence admitted and argument of counsel, and being otherwise fully advised in the premises, it is

**ORDERED AND ADJUDGED**

1. That the motion is granted to the extent that
  - a. The stipulation and agreement concerning the taxable costs is approved.
  - b. Attorney's fees are determined and assessed after the Court has considered the following

facts found from the evidence:

(1). Prosecution of this case involved dealing with very novel and difficult legal and factual issues. The evidence produced for Plaintiff at the taking hearing included historical and complex information which was difficult to understand and analyze in order to prove a factual taking. The legal issues in an inverse condemnation cause are novel and difficult because of what must be proven in the taking hearing. At the compensation trial, before the jury, the evidence was complex, involving detailed computations, various methods of valuation and economic factors which changed over time. The application of the law of full compensation was difficult to argue.

(2). The in-court lawyers representing the Plaintiff and Defendant, State of Florida Environmental Protection, are all extremely skilled and very competent to represent their respective

clients. Plaintiff's lawyers specialize and limit their practices to include inverse condemnation cases. Without the level of skill employed by these lawyers, it is very doubtful that the result obtained on behalf of Plaintiff would have occurred.

(3). Plaintiffs were awarded \$10.418 million by jury verdict which translated to \$17.530 million compensation judgment including \$5.112 million in interest. The State made a pre-trial offer of \$5,000.00. The jury award has been characterized as a "home run".

(4). The attorneys representing Plaintiff (and the State as well) shouldered enormous responsibility in order to litigate this very monetarily large and legally important case as described in paragraph 1. b. (1) above.

(5). The attorneys' time and labor described in paragraph 1.c. below were reasonably required to adequately represent the client in relation to the benefit described in paragraph 1.b.(3) above.

(6). The fees described as the lodestar fee rates in paragraph 1.c. below are those customarily charged for legal services of a comparable or similar nature, however without consideration of the exceptional case and truly special circumstances nature of this cause.

(7). Special circumstances making this an exception case include:

(a). The decision of the Florida Department of Environmental Protection (State) involved the making of interpretation and application of a very sophisticated regulatory scheme.

(b). The regulatory rules were changed mid-process.

(c). The regulatory scheme involved dealing with changing natural and man-made terrain features and the effect of natural events such as weather and erosion on those features.

(d). The risk of failure in the litigation process was very real and substantial.

(e). The State has been represented throughout by members of the Complex Litigation unit of the Office of the Attorney General of the State of Florida.

(f). This case involves the private enforcement of civil rights.

(g). Compensation to Plaintiff's attorneys is deferred some four to five years.

(8). If the State were not responsible for the payment of these fees, the Plaintiff

would be expected to pay a contingency fee of 40% of \$10.418 million (\$4.1672 million) to 40% of \$17.530 million (\$7.0120 million)

c. Attorney fees are awarded to Plaintiff for counsel

(1). Ethan J. Loeb, lodestar fee rate of \$375.00 per hour plus truly special circumstances with adjustment of \$600.00 per hour, net rate of \$975.00 per hour for all hours claimed by Mr. Loeb in Plaintiff's Exhibit #1 in evidence. \*

(2). Dan W. Bishop, lodestar fee rate of \$400.00 per hour plus exception case with truly exceptional special circumstances adjustment of \$600.00 per hour, net rate of \$1,000.00 per hour for all hours claimed by Mr. Bishop in Plaintiff's Exhibit #2 in evidence. \*

(3.) David Smolker, lodestar fee rate of \$400.00 per hour plus exceptional case with truly special circumstances adjustment of \$600.00 per hour, net rate of \$1,000.00 per hour all hours claimed by Mr. Smolker in Plaintiff's Exhibit #1 in evidence. \*

(4). Jon P. Tasso, lodestar fee rate of \$325.00 per hour plus exceptional case with truly special circumstances adjustment of \$600.00 per hour, net rate of \$925.00 per hour for all hours claimed by Mr. Tasso in Plaintiff's Exhibit #1 in evidence. \*

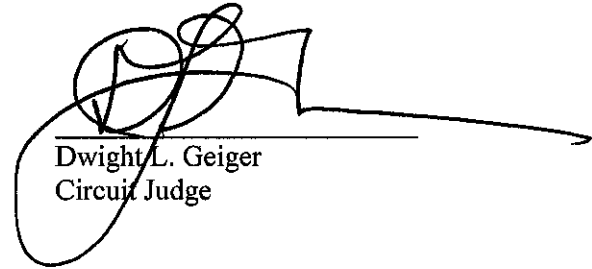
(5). Christina C. Dodds, lodestar fee rate of \$375.00 per hour plus exceptional case with truly special circumstances adjustment of \$600.00 per hour, net rate of \$975 per hour for all hours claimed by Ms. Dodds in Plaintiff's Exhibit #2 in evidence. \*

d. Paralegal fees are awarded to Plaintiff for assistance to counsel: Cynthia Monroe at a rate of \$125.00 per hour for all hours claimed by Ms. Monroe in Plaintiff's Exhibit #1 in evidence less hours agreed to be deleted and Angela Goldberg at a rate of \$125.00 for all hours claimed by Ms. Goldberg in Plaintiff's Exhibit #2 in evidence less hours agreed to be deleted.

2. That these amounts approved and awarded above will be included in a fees and cost judgment.

\*The hours claimed do not include purely travel time during which no services were rendered.

DONE AND ORDERED in Chambers at St. Lucie County, Ft. Pierce, Florida this 5<sup>th</sup> day of  
January, 2015.



Dwight L. Geiger  
Circuit Judge

Copies furnished to:

ETHAN J. LOEB, ESQUIRE  
[ethan@smolkerbartlett.com](mailto:ethan@smolkerbartlett.com)  
[heatherw@smolkerbartlett.com](mailto:heatherw@smolkerbartlett.com)

DAVID SMOLKER, ESQUIRE  
[davids@smolkerbartlett.com](mailto:davids@smolkerbartlett.com)  
[cynthiam@smolkerbartlett.com](mailto:cynthiam@smolkerbartlett.com)

DAN BISHOP  
[dbishop@bishoplondon.com](mailto:dbishop@bishoplondon.com)  
[cdodds@bishoplondon.com](mailto:cdodds@bishoplondon.com)  
[mprice@bishoplondon.com](mailto:mprice@bishoplondon.com)

N. WEST GREGORY, Assistant General Counsel  
[west.gregory@dep.state.fl.us](mailto:west.gregory@dep.state.fl.us)

W. DOUGLAS BEASON, Assistant General Counsel  
[Doug.Beason@dep.state.fl.us](mailto:Doug.Beason@dep.state.fl.us)

JONATHAN A. GLOGAU, Chief Complex Litigation  
[Jon.flofau@myfloridalegal.com](mailto:Jon.flofau@myfloridalegal.com)  
[Joann.Mrazek@myfloridalegal.com](mailto:Joann.Mrazek@myfloridalegal.com)

LISA RALEIGH, SPECIAL COUNSEL  
[Lisa.Raleigh@myfloridalegal.com](mailto:Lisa.Raleigh@myfloridalegal.com)  
[Teresa.Herndon@myfloridalegal.com](mailto:Teresa.Herndon@myfloridalegal.com)

DAVID FROSSMAN, Assistant Attorney General  
[David.Grossman@myfloridalegal.com](mailto:David.Grossman@myfloridalegal.com)

JOSEPH SPEJENKOWSKI, Chief Eminent Domain  
[joseph.spejenkowski@myfloridalegal.com](mailto:joseph.spejenkowski@myfloridalegal.com)  
[Beth.vandenberg@myfloridalegal.com](mailto:Beth.vandenberg@myfloridalegal.com)