UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Claimant ID 100187576 v. BP Exploration & Production, Inc.

No. 18-30491, United States Court of Appeals for the Fifth Circuit (February 6, 2019)

SUMMARY

The Fifth Circuit affirmed the district court's denial of discretionary review of an Appeal Panel decision denying a Business Economic Loss claim under the Deepwater Horizon Settlement Agreement. The court held that the district court properly declined review where the claimant raised only a single-claimant accounting error regarding the treatment of customer mix data, not a recurring issue substantially impacting administration of the agreement. The opinion also clarified that the Customer Mix Test requires comparing non-local customer revenue to total revenue from profit-and-loss statements, and that adverse classification of unreconciled data is consistent with the Settlement Agreement.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	KING; HIGGINSON; COSTA
JURISDICTION	Federal
DECIDED	February 6, 2019
DOCKET	18-30491
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the United States District Court for the Eastern District of Louisiana, USDC No. 2:18-CV-2993
STANDARD OF REVIEW	abuse of discretion
PRECEDENTIAL VALUE	unpublished
PARTIES	Claimant ID 100187576 v. BP Exploration & Production, Incorporated; BP America Production Company; BP, P.L.C.

TOPICS

contract interpretation · appellate procedure · standard of review · civil procedure

PRACTICE AREAS

Admiralty Insurance Settlement Agreement

QUESTIONS PRESENTED

1. Whether the district court abused its discretion in declining to review the Appeal Panel's decision affirming the denial of VLCA's BEL claim.

HOLDINGS

1. The district court did not abuse its discretion because the appeal raised only a single-claimant accounting error, not a recurring issue requiring resolution.

KEY QUOTATIONS

> *"the district court may properly decline to answer. The Settlement Agreement does not require the district court 'to spend its limited time correcting all of the claims administrator's alleged accounting errors . . . unless those errors represent a recurring issue on which the Appeal Panels are split and the resolution of the question will substantially impact the administration of the Agreement.'"* (at 5)

> *"VLCA's appeal raises nothing more than 'the correctness of a discretionary administrative decision in the facts of a single claimant's case.'"* (at 5)

FACTUAL BACKGROUND

VLCA, a varicose vein treatment center in Alabama, filed a Business Economic Loss (BEL) claim under the Deepwater Horizon Settlement Agreement. The Claims Administrator denied the claim because VLCA's customer mix data could not be reconciled with its profit and loss statements. Treating the variances adversely to VLCA, the Administrator found that non-local revenue increased by 75% rather than declining by 10% as required. The Appeal Panel affirmed the denial. The district court declined to review the Appeal Panel decision.

PROCEDURAL HISTORY

The Claims Administrator denied VLCA's BEL claim under the Deepwater Horizon Settlement Agreement. The Settlement Agreement Appeal Panel affirmed. The district court declined to review the Appeal Panel decision. VLCA appeals.

DISPOSITION

affirmed

CASES CITED

- In re Oil Spill by Oil Rig Deepwater Horizon in Gulf of Mexico, on Apr. 20, 2010, 910 F. Supp. 2d 891 (E.D. La. 2012)
- In re Deepwater Horizon, 739 F.3d 790 (5th Cir. 2014)
- In re Deepwater Horizon, 632 F. App'x 199 (5th Cir. 2015)
- Holmes Motors, Inc. v. BP Expl. & Prod., Inc., 829 F.3d 313 (5th Cir. 2016)

- Claimant ID 100250022 v. BP Expl. & Prod., Inc., 847 F.3d 167 (5th Cir. 2017)
- Claimant ID 100212278 v. BP Expl. & Prod., Inc., 848 F.3d 407 (5th Cir. 2017)
- Claimant Id 100227611 v. BP Expl. & Prod., Inc., No. 18-30396, 2018 WL 6261854 (5th Cir. Nov. 28, 2018)
- Claimant ID 100123936 v. BP Exploration & Production, Inc., No. 17-02480 (E.D. La. May 5, 2017)