

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Wallace G. Dickson, on behalf of)
himself and all others similarly)
situated,)

Plaintiff,)

v.)

United States of America,)

Defendant.)

Civil Action No.: 1:14-cv-02221-RCL

Adam Steele and Brittany Montrois,)
on behalf of themselves and all)
others similarly situated,)

Plaintiffs,)

v.)

United States of America,)

Defendant.)

Civil Action No.: 1:14-cv-01523-RCL

RESPONSE OF PLAINTIFFS STEELE AND MONTROIS TO
NOTICE OF SUPPLEMENTAL AUTHORITY

RESPONSE TO NOTICE OF SUPPLEMENTAL AUTHORITY

The recent Court of Federal Claims decision in *Starr v. United States* does not support the Hausfeld Group's motion for appointment as interim co-lead counsel.

FIRST, *Starr* was an unusual case whose relevance is tangential at best: The plaintiffs sought \$25 billion in damages, arguing that the government's bailout of AIG constituted an unlawful taking. The discrete legal question was "whether the Federal Reserve Bank of New York possessed the legal authority to acquire a borrower's equity when making a loan under Section 13(3) of the Federal Reserve Act." Dkt. 24-1 in No. 1:14-cv-02221-RCL, at 3. The trial of that issue provides no special expertise here. As for the Hausfeld Group's repeated claim of expertise in "illegal exaction" cases (i.e., *Starr*)—a relatively straightforward area of law with a handful of guiding cases—the Motley Rice Group's extensive work in governmental litigation is far more relevant experience than *Starr*. See Dkt. 28-1 in No. 1:14-cv-01523-RCL, at 13-14.

SECOND, from the perspective of Rule 23(g), which asks which team is "best able to represent the interests of the class," the ability to deliver for the class is all that should matter. Counsel in *Starr* recovered nothing for their clients. In an action for damages, that is a complete loss, unless one measures litigation on the basis of scoring ideological points against the government—which we do not.

THIRD, not one of the fifteen Boies Schiller lawyers listed on the *Starr* decision is part of a proposed team in this case. See Dkt. 28-1 in No. 1:14-cv-01523, at 24. In any event, peripheral work on that single matter could hardly make up for the mismatch in experience and expertise between the two proposed teams here—particularly when it comes to expertise in the specific Internal Revenue Code authorities at issue, delivering results in litigation against the federal

government, or first-chair trial experience. On every Rule 23(g) factor—the work done in identifying or investigating the potential claims, relevant experience, knowledge of the applicable law, and resources—the Motley Rice Group comes out on top. And, if there still is any doubt, the first-filed rule breaks the tie.

Dated: June 23, 2015

Respectfully submitted,

By: s/ William H. Narwold

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*Attorneys for Plaintiffs Adam Steele,
Brittany Montrois, and the Proposed Class*

CERTIFICATE OF SERVICE

I, William H. Narwold, declare that I am over the age of eighteen (18) and not a party to the entitled action. I am a member of the law firm MOTLEY RICE LLC, and my office is located at 20 Church Street, 17th Floor, Hartford, CT 06103.

On June 23, 2015, I caused to be filed the following in the above-captioned case:

**RESPONSE OF PLAINTIFFS STEELE AND MONTROIS TO
NOTICE OF SUPPLEMENTAL AUTHORITY**

with the Clerk of Court using the Official Court Electronic Document Filing System, which served copies on all interested parties registered for electronic filing in *Dickson v. United States*, No. 1:14-cv-02221-RCL (D.D.C.), and *Steele v. United States*, 1:14-cv-01523-RCL (D.D.C.).

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 23, 2015

Respectfully submitted,

By: s/ William H. Narwold
William H. Narwold
MOTLEY RICE LLC