

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2008-5117

RONALD C. PRATI and MARY G. PRATI,

Plaintiffs-Appellants,

v.

UNITED STATES,

Defendant-Appellee.

Appeal from the United States Court of Federal Claims in 02-CV-060,
Judge Lawrence J. Block.

2008-5129

EDWARD J. DEEGAN and JOAN S. DEEGAN,

Plaintiffs-Appellants,

v.

UNITED STATES,

Defendant-Appellee.

Appeal from the United States Court of Federal Claims in 06-CV-594,
Judge Lawrence J. Block.

ON MOTION

Before BRYSON, Circuit Judge.

ORDER

The United States moves to summarily affirm the judgment of the United States Court of Federal Claims in Prati v. United States, Court of Federal Claims Docket No.

02-CV-060, and Deegan v. United States, Court of Federal Claims Docket No. 06-CV-594. The appellants oppose. The United States replies. The appellants move to lift the stay of the briefing schedule in Prati v. United States, 2008-5117, and to allow the case to proceed to briefing. The United States opposes. The appellants reply. The appellants move to remand for further proceedings in Deegan v. United States, 2008-5129. The United States opposes. The appellants reply.

The court previously stayed proceedings in the above-captioned cases and more than 50 other cases pending disposition of Keener v. United States, 551 F.3d 1358 (Fed. Cir. 2009). The United States argues that Keener controls the disposition of all of the previously stayed cases. Counsel for the appellants argues that Keener does not control disposition of those cases.

In the two above-captioned cases, the court deems it appropriate to permit the appellants to raise their arguments in their briefs why this court's decision in Keener does not control the disposition of these cases and the other cases stayed pending disposition of Keener. Counsel for the appellants argues that Prati and the other pending appeals are not controlled by Keener. Counsel for the appellants also identified Deegan as one of the cases that she believes is distinguishable from Keener, inter alia, because it involves "non-settled" partners.

The court will continue the stay of proceedings in all of the other previously stayed cases, pending further disposition of Prati and Deegan. A copy of this order shall be transmitted to the merits panel that hears Prati and Deegan to inform that panel that its decision, if precedential, may control the disposition of more than 50 other related appeals pending in this court.

Accordingly,

IT IS ORDERED THAT:

- (1) The appellants' motion to lift the stay of proceedings in Prati is granted. The appellants' opening brief in Prati is due within 40 days of the date of filing of this order. The stay of proceedings is also lifted in Deegan. The appellants' opening brief in Deegan is due within 40 days of the date of filing of this order. No extensions should be anticipated.
- (2) The United States' motions to summarily affirm are denied without prejudice. The appellants' motion to remand in Deegan is denied without prejudice. Instead, the parties should address the issues in their briefs.
- (3) Any other pending motions are moot.
- (4) The above-captioned cases shall be treated as companion cases for purposes of oral argument, i.e., they will be argued consecutively before the same merits panel.
- (5) A copy of this order will be transmitted to the merits panel assigned to hear these two appeals.

FOR THE COURT

JUN 17 2009

Date

/s/ Jan Horbaly
Jan Horbaly
Clerk

cc: Sallie W. Gladney, Esq.
Deborah K. Snyder, Esq.

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FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

JUN 17 2009

JAN HORBALY
CLERK