

15-1509 U.S. Bank N.A. V. Village at Lakeridge

DECISION BELOW: 814 F.3d 993

LOWER COURT CASE NUMBER: 13-60038, 13-60039

QUESTION PRESENTED:

Bankruptcy courts can only confirm a chapter 11 plan of reorganization over a secured creditor's objection if at least one impaired, consenting class of creditors votes to accept the plan (excluding the votes of insiders). 11 U.S.C. § 1129(a)(10). This is known as "cramdown."

This case presents the following questions:

1. Whether an assignee of an insider claim acquires the original claimant's insider status, such that his or her vote to confirm a cramdown plan cannot be counted under 11 U.S.C. § 1129(a)(10);
2. Whether the appropriate standard of review for determining non-statutory insider status is the *de novo* standard of review applied by the Third, Seventh and Tenth Circuit Courts of Appeal, or the clearly erroneous standard of review adopted for the first time by the Ninth Circuit Court of Appeal in this action; and
3. Whether the proper test for determining non-statutory insider status requires bankruptcy courts to conduct an "arm's length" analysis as applied by the Third, Seventh and Tenth Circuit Courts of Appeal, or to apply a "functional equivalent" test which looks to factors comparable to those enumerated for statutory insider classifications as erroneously applied for the first time by the Ninth Circuit Court of Appeal in this action.

GRANTED LIMITED TO QUESTION 2 PRESENTED BY THE PETITION.

CERT. GRANTED 3/27/2017