

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

DOCKETING STATEMENT

Case Number: 23-1363

Short Case Caption: Ablan v. US

Filing Party/Entity: United States

Instructions: Complete each section or check the box if a section is intentionally blank or not applicable. Attach additional pages as needed. Refer to the court's Mediation Guidelines for filing requirements. An amended docketing statement is required for each new appeal or cross-appeal consolidated after first filing.

Case Origin	Originating Number	Type of Case
U.S. Court of Federal Claims	1:17cv1409	Fifth Amendment taking

Relief sought on appeal: None/Not Applicable

Reversal of the trial court's judgment of liability and award of compensation.

Relief awarded below (if damages, specify): None/Not Applicable

Plaintiffs Todd and Cristina Banker were awarded \$195,549.86 plus interest at the rate of 3.62% compounded semi-annually from August 30, 2017 until the date of payment.

Briefly describe the judgment/order appealed from:

Trial court held the government liable for a taking of plaintiffs' property by flooding from the Corps' operation of a dam/reservoir project in response to Hurricane Harvey.

Nature of judgment (select one):

Date of judgment: 10/28/22

Final Judgment, 28 USC § 1295

Rule 54(b)

Interlocutory Order (specify type) _____

Other (explain) _____

Name and docket number of any related cases pending before this court, and the name of the writing judge if an opinion was issued. None/Not Applicable

23-1365, Abdou v. United States;
23-1366, Micu v. United States; Hon. Charles F. Lettow

Issues to be raised on appeal: None/Not Applicable

Whether the trial court erred in holding the government liable for a Fifth Amendment taking of plaintiffs' property and awarding compensation.

Have there been discussions with other parties relating to settlement of this case?

Yes No

If "yes," when were the last such discussions?

- Before the case was filed below
- During the pendency of the case below
- Following the judgment/order appealed from

If "yes," were the settlement discussions mediated? Yes No

If they were mediated, by whom?

[Empty box for mediation details]

Do you believe that this case may be amenable to mediation? Yes No

Explain.

These appeals over six bellwether plaintiffs' claims raise important legal issues that are expected to help resolve hundreds of remaining claims still pending before the trial court. A decision on those legal issues must precede any negotiation.

Provide any other information relevant to the inclusion of this case in the court's mediation program.

Settling the present appeals would not resolve the underlying dispute, which involves many other non-bellwether plaintiffs represented by other counsel.

Date: February 9, 2023 Signature: /s/ Brian C. Toth

Name: Brian C. Toth