

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 10-12533

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT OCTOBER 26, 2011 JOHN LEY CLERK

D. C. Docket No. 2:07-cv-01928-RDP

LAURA FAUGHT,
STEVEN FAUGHT,
on behalf of themselves and all others similarly situated,

Plaintiffs-Appellees

JOHN HOWE, et al.,

Intervenors-Plaintiffs,

MIRIAM CHAPON,
JOHN CHAPON,

Intervenor-Plaintiffs-
Appellants,

versus

AMERICAN HOME SHIELD CORPORATION,

Defendant-Appellee,

TODD PETTITT,
SHARON LEE,

Interested-Parties-Appellants.

Appeal from the United States District Court
for the Northern District of Alabama

(October 26, 2011)

Before DUBINA, Chief Judge, CARNES, Circuit Judge, and SANDS, *District Judge.

PER CURIAM:

Consolidated Objecting Class Members (the “objectors”) appeal the district court’s order denying an award of attorneys’ fees and costs.

Even putting aside timeliness issues presented by the Appellees, the objectors are entitled to attorneys’ fees only in the event that they can show either (1) that they conferred some benefit on the class or (2) that they substantially improved the settlement under consideration. *See, e.g., Uselton v. Commercial Lovelace, Inc.*, 9 F.3d 849, 855 (10th Cir. 1993); *City of Detroit v. Grinnell Corp.*, 560 F.2d 1093, 1098 (2d Cir. 1977). The burden is on the objectors to show one of these criteria has been met. The district court, in a well reasoned opinion, concluded that they had not carried that burden.

*Honorable W. Louis Sands, United States District Judge for the Middle District of Georgia, sitting by designation.

This court reviews such findings for abuse of discretion. *Haitian Refugee Ctr. v. Meese*, 791 F.2d 1489, 1496 (11th Cir. 1986). The district court laid out in detail how the objectors' claims were based on speculation that is unsupported by the record. We agree with these findings; therefore, we conclude that the district court did not abuse its discretion and affirm the denial of attorneys' fees and costs.

AFFIRMED.

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

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

John Ley
Clerk of Court

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October 26, 2011

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 10-12533-AA
Case Style: Laura Faught, et al v. Todd Pettitt, et al
District Court Docket No: 2:07-cv-01928-RDP

Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the CRIMINAL JUSTICE ACT must file a CJA voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for a writ of certiorari (whichever is later).

Pursuant to Fed.R.App.P. 39, costs taxed against appellants.

For questions concerning the issuance of the decision of this court, please call the number referenced in the signature block below. For all other questions, please call Eleanor M. Dixon, AA at (404) 335-6172.

Sincerely,

JOHN LEY, Clerk of Court

Reply to: Jeff R. Patch
Phone #: 404-335-6161

OPIN-1A Issuance of Opinion With Costs