



# LIBERTY SCENE

Liberty and Property Rights Coalition

**FOR IMMEDIATE RELEASE: 6.18.2013**

## **U.S. Supreme Court Denies Hage Takings Case Petition**

(WASHINGTON, DC) Monday the U.S. Supreme Court denied the Hage family's petition for *certiorari* in their Constitutional Fifth Amendment takings case, Estate of E. Wayne and Jean Hage v. U.S. The Hages appealed a narrowly worded reversal by the Federal Circuit Court of Appeals to determine if a permit was required to conduct routine maintenance on a vested 1866 Mining Act right-of-way.

The 22-year-old case involved the Hages seeking just compensation for the government's temporary taking of their historic vested water rights, rights-of-ways, and range improvements on their central Nevada Pine Creek Ranch. The last procedural step for the Hages involves the case being remanded back to the U.S. Court of Federal Claims for a hearing and final order consistent with the Federal Circuit ruling bringing this multi-generation saga to a close.

Wayne N. Hage, son of late property rights advocate and author, E. Wayne Hage, commented from the family's ranch. "We of course are disappointed the Court failed to settle a dispute so central to the road and water way infrastructure of the West. However, the question before the Supreme Court involved only a very small part of the eight published decisions issued by Judge Loren Smith and its impact on our ranching operation is minimal."

Hage summarized by saying, "All of Judge Smith's property findings and most of the original \$2.8-million judgment remain intact. Also important to ranchers is that the Federal Circuit found that we must be guaranteed access to our vested stock water rights."

In a related case, on May 24 Chief Judge Robert C. Jones of the Federal District Court of Nevada issued a historic 104-page ruling in the related case, U.S. v. Hage. Two agencies of the federal government were found to have entered into a "literal, intentional conspiracy to deprive the Hages not only of their permits but also their vested water rights. This behavior shocks the conscience of the Court and provides a sufficient bases for a finding of irreparable harm" to support permanent injunctive relief.

The Jones ruling follows a 21-day trial in Reno, Nev., in the Spring of 2012 wherein attorney Mark Pollot represented the estate, and Hage, unable to afford an attorney represented himself *pro se*.

Pollot, who is the lead attorney for both cases, remarked, "I am unaware of any case in recent history where federal agency employees have been found by a court to have engaged in a conspiracy. In light of the recent revelations about the IRS, Justice Department, Health and Human Services and the State Department, the Jones ruling is truly timely. Unfortunately, the only reason the Forest Service and BLM find themselves in this position is because they repeatedly ignored the rulings from Judge Smith, for what Judge Jones determined to be 'vindictive' reasons."

Judge Jones specifically noted that the Department of Justice, representing the BLM and USFS, brought the most recent case, filed in 2007, because they were "unsatisfied with the outcome" in the ongoing related takings case in the Court of Federal Claims.

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Fallout from the District Court's interpretation of BLM and USFS actions is surfacing. Agency officials were found to be in contempt of court by Judge Jones for witness intimidation and referred to the U.S. attorney for possible criminal prosecution. In August 2012, in a three-day show cause hearing for contempt of court, agency brass turned up in Reno to defend the agency personnel charged with contempt. USFS Regional Director Harv Forsgren was found by the court to be "prevaricating" and USFS State Director Jeannie Higgins was deemed not entirely truthful. Both took unscheduled retirements shortly after the hearing. BLM manager Tom Seley, specifically found to be in contempt and owing monetary compensation to the Hages, retired May 31.

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U.S. v. Hage Decision (2:07-cv-01154-RCJ-VCF) or other Hage decisions available upon request by contacting [rhmorrison@sbcglobal.net](mailto:rhmorrison@sbcglobal.net).

**Contact information:**

Mark Pollot, Attorney for Estate of E. Wayne Hage, Constitutional Resource Center,  
(208) 867-4335, [mpollot.CRC@centurylink.net](mailto:mpollot.CRC@centurylink.net)

Ramona Morrison, Executive Director, Liberty and Property Rights Coalition,  
(772) 722-2517, [rhmorrison@sbcglobal.net](mailto:rhmorrison@sbcglobal.net)

The Liberty and Property Rights Coalition is committed to promoting and preserving Constitutional rights to liberty and property in public policy and the law.

*A service of Liberty and Property Rights Coalition, 2013.*

*News release via **RANGE** magazine, Summer 2013*