

53rd ANNUAL SCCAI LITIGATION SEMINAR

A perfect way to end the day ...

a lawyer talking about (1) recent cases that might possibly (okay, probably will not) be interesting to appraisers and (2) his take on *People v. Sanchez*.

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Blame it on COVID . . .



There Ain't All That Many New Cases This Year That Are Likely to be Interesting to Appraisers

Even from my delusional perspective that there are often new cases that appraisers would find interesting, this has been a light year.

So, we are mostly going to talk about some legal trends and issues that (I think) are interesting.



An overview of what we will cover.

- *Knick* recap.
- *People v. Weiss*.
- Appraisers as arbitrators. And the definition of “fair market value.”
- *People v. Sanchez*.

Knick v. Township of Scott



The Doors to the Federal Courts are Opened
(Maybe) for Takings Claims

This is last year's U. S. Supreme Court case.

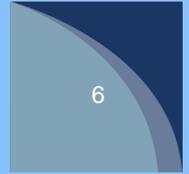
But appraisers should know what is going on
with it and what it may mean to their litigation
practices.

Knick v. Township of Scott



A few details about the case.

Knick v. Township of Scott



Some of the cases growing from it.
And some of the limitations and issues that
are arising.

Weiss v. People ex rel. Department of Transportation



Holds that Inverse Condemnation Cases and Eminent Domain Cases are not Mirror Images of each other.

Weiss v. People ex rel. Department of Transportation



Basics of the Case.

*Weiss v. People ex rel. Department of
Transportation*



Significance Going Forward.



Appraisers as Arbitrators

- Typically three appraisers.
- How/why these are arbitrations?
- So why is it significant that these are arbitrations?
- What definition of “fair market value” applies?



Appraisers as Arbitrators

- How/why these are arbitrations?
- Code of Civil Procedure section 1281, subdivision (a):
"Agreement' includes but is not limited to agreements providing for valuations, appraisals and similar proceedings." (See also, e.g., *Cheng-Canindin v. Renaissance Hotel Assoc.* (1996) 50 Cal.App.4th 676, 684-685.)
- A Court may compel compliance with that process. (Code Civ. Proc. §§ 1281.2, 1281.6.)

Appraisers as Arbitrators

12

- So why is it significant that these are arbitrations?
- Some examples.
- Some issues.



Appraisers as Arbitrators

- What definition of “fair market value” applies?
- The California Supreme Court, in *Sacramento S. R.R. Co. v. Heilbron* (1909) 156 Cal. 408, 409, established that the standard under California law for determining “fair market value” is the “highest price” definition in all cases.
- That standard is now codified in Code of Civil Procedure section 1263.320.
- As the Legislative Committee Comments to section 1263.320 explain: “the standard provided in Section 1263.320 is the usual standard normally applied to valuation of property whether for eminent domain or for any other purpose. (See also *Forty-Niner Truck Plaza, Inc. v. Union Oil Company of California* (1997) 58 Cal.App.4th 1261, 1282.)

People v. Sanchez

- The basics.
- The ruling.
- Why the ruling is probably not life changing for litigation appraisers. But it does require careful attention and preparation.

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For random thoughts in case I need to fill time to get you your full continuing education credits.

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