

## 12-1173 BRANDT REVOCABLE TRUST V. UNITED STATES

DECISION BELOW: 496 Fed.Appx. 822

LOWER COURT CASE NUMBER: 09-8047

### QUESTION PRESENTED:

This case involves the General Railroad Right-of-Way Act of 1875 ("1875 Act"), under which thousands of miles of rights-of-way exist across the United States. In *Great Northern Ry. Co. v. United States*, 315 U.S. 262 (1942), this Court held that 1875 Act rights-of-way are easements and not limited fees with an implied reversionary interest. Based upon the 1875 Act and this Court's decisions, the Federal and Seventh Circuits have concluded that the United States did not retain an implied reversionary interest in 1875 Act rights-of-way after the underlying lands were patented into private ownership. In this case, the Tenth Circuit reached the opposite conclusion and acknowledged that its decision would continue a circuit split. The question presented is:

Did the United States retain an implied reversionary interest in 1875 Act rights-of way after the underlying lands were patented into private ownership?

CERT. GRANTED 10/1/2013