

F. Scott Fitzgerald and the U.S. Court of Federal Claims

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One might think it impossible to use F. Scott Fitzgerald and the U.S. Court of Claims in the same sentence but a recent decision issued by the Court now allows one to do just that. The case involved a challenge to the Army's decision to award four blanket-purchase agreements under its Aviation and Missile Life Cycle Command and Expedited Professional and Engineering Services Programs to the Intuitive Research and Technology Corporation. One of the unsuccessful bidders, Sigmatech, Inc., sued in the U.S. Court of Federal Claims, challenging the awards. Because of the lawsuit, the Government terminated the blanket purchase agreements it had awarded, and moved to dismiss the lawsuit as moot. Sigmatech agreed to the dismissal.

But Intuitive Research, which had intervened, moved to dismiss Sigmatech's lawsuit under 28 U.S.C. § 1500, arguing that the Court had no jurisdiction over the lawsuit because Sigmatech had previously sued in district court on the same procurement. And although Intuitive Research did not disagree that the case was moot, it wanted the Court to dismiss the case based on the merits of its motion to dismiss. Or in the words of the Court, Intuitive Research "urges the court to bring the complaint back to life . . . before killing it for a different reason. . . ."

The Court refused, holding that as Plaintiff, Sigmatech has the right under Rule 41 to voluntarily dismiss its lawsuit, and the only party that might have a right to object is the Defendant, the United States, depending on whether it had answered the complaint or counterclaimed. But under the rule, the Court explained, intervenors have no such right. And although the Court denied Intuitive Research's motion to dismiss, the Court complemented Intuitive Research on demonstrating first-rate intellect, quoting F. Scott Fitzgerald who wrote: "[T]he test of a first-rate intelligence is the ability to hold two opposed ideas in mind at the same time, and still retain the ability to function."

Read full decision [here](#).