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A Moral Victory But No Damages Awarded in AIG Bailout Litigation

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The Court of Federal Claims recently held that the coercive terms of the government's $85 billion bailout of AIG were illegal. The victory, however, was merely a moral one because plaintiffs walked away with a $0 damage award. The case, *Starr International v. United States*, turned on whether the government improperly overrode AIG shareholders' rights either in September 2008 when the AIG board approved the initial bailout or in June 2009 when a reverse stock split allowed the government to obtain the share of the company it was promised back in 2008. Starr International alleged that the government broke the law by requiring ownership of 80 percent of AIG and imposing 12 percent interest rate on the loan in its take-it-or-go-bankrupt bailout. The government countered that these demands were justified because the loan was high-risk. The Federal Claims Judge Thomas Wheeler ruled that the government's rationalization for taking equity in AIG in exchange for a bailout loan was "entirely misplaced" and, further, suggested that the Federal Reserve Bank clearly overstepped its legal authority. **Judge Wheeler, however, awarded $0 in damages because without the government's bailout, AIG would have declared bankruptcy and "AIG's shareholders would most likely have lost 100% of their stock value."** While Judge Wheeler's scathing criticisms of the government may give regulators pause when considering similar future bailouts, Judge Wheeler admitted that he found it "troubling" that the government was able to "avoid any damages notwithstanding its plain violations of the Federal Reserve Act." A day after the court's ruling, Starr International announced that it would appeal the court's $0 damage award.

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