

Tax Foreclosure Surplus Class Action and Related Litigation

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Regarding: Tax Foreclosure Surplus Class Action and Related Litigation

As a result of the recent US Supreme Court decision rendered in *Tyler v. Hennepin County*, 598 U.S. 631 (2023), plaintiffs, as former owners of foreclosed real property, filed legal action asserting constitutional challenges to state real property tax law seeking the return of surplus funds and other damages resulting from municipal governments' *in rem* tax sales. The number of claims is increasing statewide. Counties are faced with the potential of having to return millions of dollars in surplus sales proceeds resulting from sales occurring many years ago prior to the recent Supreme Court decision.

The Harris Beach team has been retained by twenty (20) Counties to defend against these claims. Todd serves as the lead HB counsel in defending these actions both non-class actions and class actions. The firm believes that it is important for the Counties develop a joint litigation strategy to defend these legal actions to avoid inconsistent and harmful case precedent from individual outlier cases. T

In April 2024, in response to the *Tyler v. Hennepin County* decision, the Governor and the state legislature passed substantive amendments to art. 11 of the New York Real Property Tax Law to allow a foreclosed owner or others with any interest in the property the ability to petition a court for the surplus.

Basically, based on the amendment to RPTL, what each claimant is actually seeking with respect to the surplus is a modification of the Judgment of Foreclosure to restore their interest and other lien holders' interests in the property and their ability to receive surplus. The statute, as discussed, is not clear on the process or implication on the logistics.

Accordingly, the new amendments are presenting challenges both to the state courts and Counties as to each municipality (County, City, Town, or Village) that engages in tax sales to develop a procedure to comply with the new state amended provisions.

In sum, the strategy is to collectively lay the groundwork for a uniform procedure for all Counties. The overall goal is to leverage each of these claims for surplus to support our defense in federal court by developing a record that the real challenge by the plaintiffs is to modify or reverse, in a limited manner, a state court judgment.

We outline below our recommendations for the new procedures to comply with amended provisions to RPTL.

PROPOSED POST-HENNEPIN PROCEDURES

Right to surplus funds with auctions held in May 2023 forward.



Sale Auction Report filed with Court

(A) Process to seek funds

**Surplus
Language
in Notice**

Notice of Claims have been filed with County

Non-Class
19

Notice Provisions
Erie County

Notice to 50-h

Motions with Attorney Affidavit, Judgment of Foreclosure and Title stub search

Motion Declaratory Judgment hybrid

(2) Article 11 – November 2024

Funds paid over to Court

Notice - Notice to Lienholders

(A) Plans – Class Action and Non-Class Actions

Leverage Plaintiffs Factual / Predicate

Mortgage Procedures*

Pre-Hennepin Auctions

Post –Hennepin Auctions

Recent Litigation Updates:

By TEXT Order, the Magistrate Judge, *sua sponte*, has consolidated all cases in N.D.N.Y. non-class action and class action. Court has directed newly added actions to join the pending motions to dismiss with a limited ability to expand any issues already asserted and there is a fifteen (15) page limit in any supplemental motion to dismiss brief.

W.D.N.Y. – In the Gwork Class Action: There was a Conferral conference on October 17, 2024 in preparation of the Rule 16 Conference and a Civil Case Management Plan was jointly filed setting forth a discovery and motion practice schedule.

- (a) Stipulation of Voluntary Dismissal – Named Plaintiffs was also discussed.

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Tyler v. Hennepin Cnty.

Supreme Court of the United States

April 26, 2023, Argued; May 25, 2023, Decided

No. 22-166.

Reporter

143 S. Ct. 1369 *; 215 L. Ed. 2d 564 **; 2023 U.S. LEXIS 2201 ***; 598 U.S. 631; 29 Fla. L. Weekly Fed. S 851

GERALDINE TYLER, PETITIONER v.
HENNEPIN COUNTY, MINNESOTA, ET AL.

County’s retention of the excess value of her home above her tax debt violated the Takings Clause. Pp. 3-14.

Notice: The pagination of this document is subject to change pending release of the final published version.

Prior History: [***1] ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

Tyler v. Hennepin Cnty., 26 F.4th 789, 2022 U.S. App. LEXIS 4207 (8th Cir. Minn., Feb. 16, 2022)

Disposition: 26 F. 4th 789, reversed.

Syllabus

[*1371] Geraldine Tyler owned a condominium in Hennepin County, Minnesota, that accumulated about \$15,000 in unpaid real estate taxes along with interest and penalties. The County seized the condo and sold it for \$40,000, keeping the \$25,000 excess over Tyler’s tax debt for itself. Minn. Stat. §§281.18, 282.07, 282.08. Tyler filed suit, alleging that the County had unconstitutionally retained the excess value of her home above her tax debt in violation of the Takings Clause of the Fifth Amendment and the Excessive Fines Clause of the Eighth Amendment. The District Court dismissed the suit for failure to state a claim, and the Eighth Circuit affirmed.

Held: Tyler plausibly alleges that Hennepin

(a) Tyler’s claim that the County illegally appropriated the \$25,000 surplus constitutes a classic pocketbook injury sufficient to give her standing. TransUnion [*1372] LLC v. Ramirez, 594 U. S. ___, ___, 141 S. Ct. 2190, 210 L. Ed. 2d 568. Even if there are debts on her home, as the County claims, Tyler still plausibly alleges a financial harm, for the County has kept \$25,000 that she could have used to reduce her personal liability for those debts. Pp. 3-4.

(b) Tyler has stated a claim under the Takings Clause, which provides that [***2] “private property [shall not] be taken for public use, without just compensation.” Whether remaining value from a tax sale is property protected under the Takings Clause depends on state law, “traditional property law principles,” historical practice, and the Court’s precedents. Phillips v. Washington Legal Foundation, 524 U. S. 156, 165-168, 118 S. Ct. 1925, 141 L. Ed. 2d 174. Though state law is an important source of property rights, it cannot be the only one because otherwise a State could “sidestep the Takings Clause by disavowing traditional property interests” in assets it wishes to appropriate. Id., at 167, 118 S. Ct. 1925, 141 L. Ed. 2d 174. History and precedent dictate that, while the County had the power to sell Tyler’s home to recover the unpaid property taxes, it could not use the tax debt to confiscate more property than was due. Doing so effected a “classic taking in which the government directly appropriates private property for its own use.” Tahoe-Sierra

Preservation Council, Inc. v. Tahoe Regional Planning Agency, 535 U. S. 302, 324, 122 S. Ct. 1465, 152 L. Ed. 2d 517 (internal quotation marks omitted).

The principle that a government may not take from a taxpayer more than she owes is rooted in English law and can trace its origins at least as far back as the Magna Carta. From the founding, the new Government of the United States could seize and sell only “so much of [a] tract of land . . . as may be necessary to satisfy the taxes due thereon.” Act of July 14, 1798, §13, 1 Stat. 601. Ten States adopted [***3] similar statutes around the same time, and the consensus that a government could not take more property than it was owed held true through the ratification of the *Fourteenth Amendment*. Today, most States and the Federal Government require excess value to be returned to the taxpayer whose property is sold to satisfy outstanding tax debt.

The Court’s precedents have long recognized the principle that a taxpayer is entitled to the surplus in excess of the debt owed. See *United States v. Taylor*, 104 U. S. 216, 26 L. Ed. 721, 17 Ct. Cl. 427; *United States v. Lawton*, 110 U. S. 146, 3 S. Ct. 545, 28 L. Ed. 100, 19 Ct. Cl. 709. *Nelson v. City of New York*, 352 U. S. 103, 77 S. Ct. 195, 1 L. Ed. 2d 171, did not change that. The ordinance challenged there did not “absolutely preclud[e] an owner from obtaining the surplus proceeds of a judicial sale,” but instead simply defined the process through which the owner could claim the surplus. *Id.*, at 110, 77 S. Ct. 195, 1 L. Ed. 2d 171. Minnesota’s scheme, in comparison, provides no opportunity for the taxpayer to recover the excess value from the State.

Significantly, Minnesota law itself recognizes in many other contexts that a property owner is entitled to the surplus in excess of her debt. If a bank forecloses on a mortgaged property, state law entitles the homeowner to the surplus from the sale. And in collecting past due taxes on income or personal property, Minnesota protects the

taxpayer’s right to surplus. Minnesota may not [***4] extinguish a property interest that it recognizes everywhere else to avoid paying just compensation when the State does the taking. *Phillips*, 524 U. S., at 167, 118 S. Ct. 1925, 141 L. Ed. 2d 174. Pp. 4-12.

(c) The Court rejects the County’s argument that Tyler has no property interest in the surplus because she constructively [*1373] abandoned her home by failing to pay her taxes. Abandonment requires the “surrender or relinquishment or disclaimer of” all rights in the property, *Rowe v. Minneapolis*, 49 Minn. 148, 51 N. W. 907, 908. Minnesota’s forfeiture law is not concerned about the taxpayer’s use or abandonment of the property, only her failure to pay taxes. The County cannot frame that failure as abandonment to avoid the demands of the *Takings Clause*. Pp. 12-14.

26 F. 4th 789, reversed.

Counsel: Christina M. Martin argued the cause for petitioner.

Erica L. Ross argued the cause for United States, as amicus curiae.

Neal K. Katyal argued the cause for respondents.

Judges: Roberts, C. J., delivered the opinion for a unanimous Court. Gorsuch, J., filed a concurring opinion, in which Jackson, J., joined.

Opinion by: ROBERTS

Opinion

[**569] CHIEF JUSTICE ROBERTS delivered the opinion of the Court.

Hennepin County, Minnesota, sold Geraldine Tyler’s home for \$40,000 to satisfy a \$15,000 tax bill. Instead of returning the remaining \$25,000, the

County kept it for itself. The question presented is whether this constituted a taking of property without just compensation, in violation of the [Fifth Amendment](#).

I

Hennepin County imposes an annual tax on real property. [Minn. Stat. §273.01](#) (2022). [***5] The taxpayer has one year to pay before the taxes become delinquent. [§279.02](#). If she does not timely pay, the tax accrues interest and penalties, and the County obtains a judgment against the property, transferring limited title to the State. See [§§279.03, 279.18, 280.01](#). The delinquent taxpayer then has three years to redeem the property and regain title by paying all the taxes and late fees. [§§281.17\(a\), 281.18](#). During this time, the taxpayer remains the beneficial owner of the property and can continue to live in her home. See [§281.70](#). But if at the end of three years the bill has not been paid, absolute title vests in the State, and the tax debt is extinguished. [§§281.18, 282.07](#). The State may keep the property for public use or sell it to a private party. [§282.01 subds. 1a, 3](#). If the property is sold, any proceeds in excess of the tax debt and the costs of the sale remain with the County, to be split between it, the town, and the school district. [§282.08](#). The former owner has no opportunity to recover this surplus.

[*1374] Geraldine Tyler is 94 years old. In 1999, she bought a one-bedroom condominium in Minneapolis and lived alone there for more than a decade. But as Tyler aged, she and her family decided that she would be safer in a senior community, so they moved her to one [***6] in 2010. Nobody paid the property taxes on the condo in Tyler's absence and, by 2015, it had accumulated about \$2300 in unpaid taxes and \$13,000 in interest and penalties. Acting under Minnesota's forfeiture procedures, Hennepin County seized the condo and sold it for \$40,000, extinguishing the \$15,000 debt. App. 5. The County kept the remaining \$25,000 for its own use.

Tyler filed a putative class action against Hennepin

County and its officials, asserting that the County had unconstitutionally retained the excess value of her home above her tax debt. As relevant, she brought claims under the [Takings Clause of the Fifth Amendment](#) and the [Excessive Fines Clause of the Eighth Amendment](#).

The District Court dismissed the suit for failure to state a claim. [505 F. Supp. 3d 879, 883 \(Minn. 2020\)](#). The Eighth Circuit affirmed. [26 F. 4th 789, 790 \(2022\)](#). It held that “[w]here state law recognizes no property interest in surplus proceeds from a tax-foreclosure sale conducted after adequate notice to the owner, there is no unconstitutional taking.” *Id.*, at 793. The court also rejected Tyler's claim under the Excessive Fines Clause, adopting the District Court's reasoning that the forfeiture was not a fine because it was intended to remedy the State's tax losses, not to punish delinquent property owners. *Id.*, at 794 (citing [505 F. Supp. 3d, at 895-899](#)).

[**570] We granted certiorari. *598 U. S. ____*, 143 S. Ct. 644, 214 L. Ed. 2d 382 (2023).

II

The County asserts that Tyler [***7] does not have standing to bring her takings claim. To bring suit, a plaintiff must plead an injury in fact attributable to the defendant's conduct and redressable by the court. [Lujan v. Defenders of Wildlife](#), *504 U. S. 555, 560-561, 112 S. Ct. 2130, 119 L. Ed. 2d 351 (1992)*. This case comes to us on a motion to dismiss for failure to state a claim. At this initial stage, we take the facts in the complaint as true. [Warth v. Seldin](#), *422 U. S. 490, 501, 95 S. Ct. 2197, 45 L. Ed. 2d 343 (1975)*. Tyler claims that the County has illegally appropriated the \$25,000 surplus beyond her \$15,000 tax debt. App. 5. This is a classic pocketbook injury sufficient to give her standing. [TransUnion LLC v. Ramirez](#), *594 U. S. ____*, *141 S. Ct. 2190, 210 L. Ed. 2d 568 (2021)* (*slip op.*, at 9).

The County objects that Tyler does not have standing because she did not affirmatively

“disclaim the existence of other debts or encumbrances” on her home worth more than the \$25,000 surplus. Brief for Respondents 12-13, and n. 5. According to the County, public records suggest that the condo may be subject to a \$49,000 mortgage and a \$12,000 lien for unpaid homeowners’ association fees. See *ibid.* The County argues that these potential encumbrances exceed the value of any interest Tyler has in the home above her \$15,000 tax debt, and that she therefore ultimately suffered no financial harm from the sale of her home. Without such harm she would have no standing.

But the County never entered [***8] these records below, nor has it submitted them to this Court. Even if there were encumbrances on the home worth more than the surplus, Tyler still plausibly alleges a financial harm: The County has kept \$25,000 that belongs to her. In Minnesota, a tax sale extinguishes all other liens on a property. See [Minn. Stat. §281.18](#); [County of Blue Earth v. Turtle, 593 N. W. 2d 258, 261 \(Minn. App. 1999\)](#). That sale does not extinguish [*1375] the taxpayer’s debts. Instead, the borrower remains personally liable. See [St. Paul v. St. Anthony Flats Ltd. Partnership, 517 N. W. 2d 58, 62 \(Minn. App. 1994\)](#). Had Tyler received the surplus from the tax sale, she could have at the very least used it to reduce any such liability.

At this initial stage of the case, Tyler need not definitively prove her injury or disprove the County’s defenses. She has plausibly pleaded on the face of her complaint that she suffered financial harm from the County’s action, and that is enough for now. See [Lujan, 504 U. S., at 561, 112 S. Ct. 2130, 119 L. Ed. 2d 351](#).

III

A

The [Takings Clause](#), applicable to the States through the [Fourteenth Amendment](#), provides that “private property [shall not] be taken for public use, without just compensation.” [U. S. Const., Amdt. 5](#).

States have long imposed taxes on property. Such taxes are not themselves a taking, but are a mandated “contribution from individuals . . . for the support of the government . . . for which they receive compensation in the protection which government affords.” [***9] [County of Mobile v. Kimball, 102 U. S. 691, 703, 26 L. Ed. 238 \[**571\] \(1881\)](#). In collecting these taxes, the State may impose interest and late fees. It may also seize and sell property, including land, to recover the amount owed. See [Jones v. Flowers, 547 U. S. 220, 234, 126 S. Ct. 1708, 164 L. Ed. 2d 415 \(2006\)](#). Here there was money remaining after Tyler’s home was seized and sold by the County to satisfy her past due taxes, along with the costs of collecting them. The question is whether that remaining value is property under the [Takings Clause](#), protected from uncompensated appropriation by the State.

The [Takings Clause](#) does not itself define property. [Phillips v. Washington Legal Foundation, 524 U. S. 156, 164, 118 S. Ct. 1925, 141 L. Ed. 2d 174 \(1998\)](#). For that, the Court draws on “existing rules or understandings” about property rights. *Id.* (internal quotation marks omitted). State law is one important source. *Id.*; see also [Stop the Beach Renourishment, Inc. v. Florida Dept. of Environmental Protection, 560 U. S. 702, 707, 130 S. Ct. 2592, 177 L. Ed. 2d 184 \(2010\)](#). But state law cannot be the only source. Otherwise, a State could “sidestep the [Takings Clause](#) by disavowing traditional property interests” in assets it wishes to appropriate. [Phillips, 524 U. S., at 167, 118 S. Ct. 1925, 141 L. Ed. 2d 174](#); see also [Webb’s Fabulous Pharmacies, Inc. v. Beckwith, 449 U. S. 155, 164, 101 S. Ct. 446, 66 L. Ed. 2d 358 \(1980\)](#); [Hall v. Meisner, 51 F. 4th 185, 190 \(CA6 2022\)](#) (Kethledge, J., for the Court) (“[T]he [Takings Clause](#) would be a dead letter if a state could simply exclude from its definition of property any interest that the state wished to take.”). So we also look to “traditional property law principles,” plus historical practice and this Court’s precedents. [Phillips, 524 U. S., at 165-168, 118 S. Ct. 1925, 141 L. Ed. 2d 174](#); see, e.g., [United States v. Causby, 328 U. S. 256, 260-267, 66 S. Ct. 1062, 90](#)

[L. Ed. 1206, 106 Ct. Cl. 854 \(1946\)](#); [Ruckelshaus v. Monsanto Co., 467 U. S. 986, 1001-1004, 104 S. Ct. 2862, 81 L. Ed. 2d 815 \(1984\)](#).

Minnesota recognizes a homeowner's right to real property, [***10] like a house, and to financial interests in that property, like home equity. Cf. *Armstrong v. United States*, 364 U. S. 40, 44, 80 S. Ct. 1563, 4 L. Ed. 2d 1554 (1960) (lien on boats); [Louisville Joint Stock Land Bank v. Radford, 295 U. S. 555, 590, 55 S. Ct. 854, 79 L. Ed. 1593 \(1935\)](#) (mortgage on farm). Historically, Minnesota also recognized that a homeowner whose property has been sold to satisfy delinquent property taxes had an interest in the excess value of her home [***1376] above the debt owed. See [Farnham v. Jones, 32 Minn. 7, 11, 19 N. W. 83, 85 \(1884\)](#). But in 1935, the State purported to extinguish that property interest by enacting a law providing that an owner forfeits her interest in her home when she falls behind on her property taxes. See 1935 Minn. Laws pp. 713-714, §8. This means, the County reasons, that Tyler has no property interest protected by the [Takings Clause](#).

History and precedent say otherwise. The County had the power to sell Tyler's home to recover the unpaid property taxes. But it could not use the toehold of the tax debt to confiscate more property than was due. By doing so, it effected a "classic taking in which the government directly appropriates private property for its own use." [Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency, 535 U. S. 302, 324, 122 S. Ct. 1465, 152 L. Ed. 2d 517 \(2002\)](#) [***572] (internal quotation marks and alteration omitted). Tyler has stated a claim under the [Takings Clause](#) and is entitled to just compensation.

B

The principle that a government may not take more from a taxpayer than she owes can trace its origins at least as far back as Runnymede [***11] in 1215, where King John swore in the Magna Carta that when his sheriff or bailiff came to collect any debts owed him from a dead man, they could

remove property "until the debt which is evident shall be fully paid to us; and the residue shall be left to the executors to fulfil the will of the deceased." W. McKechnie, *Magna Carta, A Commentary on the Great of King John*, ch. 26, p. 322 (rev. 2d ed. 1914) (footnote omitted).

That doctrine became rooted in English law. Parliament gave the Crown the power to seize and sell a taxpayer's property to recover a tax debt, but dictated that any "Overplus" from the sale "be immediately restored to the Owner." 4 W. & M., ch. 1, §12, in 3 Eng. Stat. at Large 488-489 (1692). As Blackstone explained, the common law demanded the same: If a tax collector seized a taxpayer's property, he was "bound by an implied contract in law to restore [the property] on payment of the debt, duty, and expenses, before the time of sale; or, when sold, to render back the overplus." 2 *Commentaries on the Laws of England* 453 (1771).

This principle made its way across the Atlantic. In collecting taxes, the new Government of the United States could seize and sell only "so much of [a] tract of land . . . as may be necessary to [***12] satisfy the taxes due thereon." Act of July 14, 1798, §13, 1 Stat. 601. Ten States adopted similar statutes shortly after the founding.¹ For example, Maryland required that only so much land be sold "as may be sufficient to discharge the taxes thereon due," and provided that if the sale produced more than needed for the taxes, "such overplus of money" shall be paid to the owner. 1797 Md. Laws ch. 90, §§4-5. This Court enforced one such state statute against a Georgia tax collector, reasoning that "if a whole tract of land was sold when a small part of it would have been sufficient for the taxes, which at present appears to be the case, the collector unquestionably

¹ 1796 Conn. Acts p. 356-357, §§32, 36; 1797 Del. Laws p. 1260, §26; 1791 Ga. Laws p. 14; 1801 Ky. Acts pp. 78-79, §4; 1797 Md. Laws ch. 90, §§4-5; 1786 Mass. Acts pp. 360-361; 1792 N. H. Laws p. 194; 1792 N. C. Sess. Laws p. 23, §5; 1801 N. Y. Laws pp. 498-499, §17; 1787 Vt. Acts & Resolves p. 126. Kentucky made an exception for unregistered land, or land that the owner had "fail[ed] to list . . . for taxation," with such land forfeiting to the State. 1801 Ky. Acts p. 80, §5.

exceeded his authority.” *Stead’s Executors v. [*1377]* *Course*, 8 U.S. 403, 4 Cranch 403, 414, 2 L. Ed. 660 (1808) (Marshall, C. J., for the Court).

Like its sister States, Virginia originally provided that the Commonwealth could seize and sell “so much” of the delinquent tracts “as shall be sufficient to discharge the said taxes.” 1781 Va. Acts p. 153, §4. But about a decade later, Virginia enacted a new scheme, which provided for the forfeiture of any delinquent land to the Commonwealth. Virginia passed this harsh forfeiture regime in response to the “loose, cheap and unguarded system of disposing of her public lands” that the Commonwealth had adopted immediately following statehood. *McClure [*573] v. Matiland*, 24 W. Va. 561, 564 (1884). To encourage [*13] settlement, Virginia permitted “any person [to] acquire title to so much . . . unappropriated lands as he or she shall desire to purchase” at the price of 40 pounds per 100 acres. 1779 Va. Acts p. 95, §2. Within two decades, nearly all of Virginia’s land had been claimed, much of it by nonresidents who did not live on or farm the land but instead hoped to sell it for a profit. *McClure*, 24 W. Va., at 564. Many of these nonresidents “wholly neglected to pay the taxes” on the land, *id.*, at 565, so Virginia provided that title to any taxpayer’s land was completely “lost, forfeited and vested in the Commonwealth” if the taxpayer failed to pay taxes within a set period, 1790 Va. Acts p. 5, §5. This solution was short lived, however; the Commonwealth repealed the forfeiture scheme in 1814 and once again sold “so much only of each tract of land . . . as will be sufficient to discharge the” debt. 1813 Va. Acts p. 21, §27. Virginia’s “exceptional” and temporary forfeiture scheme carries little weight against the overwhelming consensus of its sister States. See *Martin v. Snowden*, 59 Va. 100, 138 (1868).

The consensus that a government could not take more property than it was owed held true through the passage of the *Fourteenth Amendment*. States, including Minnesota, continued to require that no more than the minimum amount of land be sold to

satisfy the outstanding [*14] tax debt.² The County identifies just three States that deemed delinquent property entirely forfeited for failure to pay taxes. See 1836 Me. Laws p. 325, §4; 1869 La. Acts p. 159, §63; 1850 Miss. Laws p. 52, §4.³ Two of these laws did not last. Maine amended its law a decade later to permit the former owner to recover the surplus. 1848 Me. Laws p. 56, §4. And Mississippi’s highest court promptly struck down its law for violating the *Due Process and Takings Clauses of the Mississippi Constitution*. See *Griffin v. Mixon*, 38 Miss. 424, 439, 451-452 (Ct. Err. & App. 1860). Louisiana’s statute remained on the books, but the County cites no case showing that the statute was actually enforced against a taxpayer to take his entire property.

[*1378] The minority rule then remains the minority rule today: Thirty-six States and the Federal Government require that the excess value be returned to the taxpayer.

C

Our precedents have also recognized the principle that a taxpayer is entitled to the surplus in excess of the debt owed. In *United States v. Taylor*, 104 U. S. 216, 26 L. Ed. 721, 17 Ct. Cl. 427 (1881), an [*574] Arkansas taxpayer whose property had been sold to satisfy a tax debt sought to recover the surplus from the sale. A nationwide tax had been

²Many of these new States required that the land be sold to whichever buyer would “pay [the tax debt] for the least number of acres” and provided that the land forfeited to the State only if it failed to sell “for want of bidders” because the land was worth less than the taxes owed. 1821 Ohio pp. 27-28, §§7, 10; see also 1837 Ark. Acts pp. 14-17, §§83, 100; 1844 Ill. Laws pp. 13, 18, §§51, 77; 1859 Minn. Laws pp. 58, 61, §§23, 38; 1859 Wis. Laws Ch. 22, pp. 22-23, §§7, 9; cf. Iowa Code pp. 120-121, §§766, 773 (1860) (requiring that property be offered for sale “until all the taxes shall have been paid”); see also *O’Brien v. Coulter*, 2 Blackf. 421, 425 (Ind. 1831) (*per curiam*) (“[S]o much only of the defendant’s property shall be sold at one time, as a sound judgment would dictate to be sufficient to pay the debt.”).

³North Carolina amended its laws in 1842 to permit the forfeiture of unregistered “swamp lands,” 1842 N. C. Sess. Laws p. 64, §1, but otherwise continued to follow the majority rule, see 1792 N. C. Sess. Laws p. 23, §5.

imposed by Congress in 1861 to raise funds for the Civil War. Under that statute, if a taxpayer did not pay, his property would be sold and “the surplus of the proceeds of the sale [would] be paid to the owner.” Act of Aug. 5, 1861, §36, 12 Stat. 304. The next year, Congress added a 50 percent [***15] penalty in the rebelling States, but made no mention of the owner’s right to surplus after a tax sale. See *Act of June 7, 1862, §1, 12 Stat. 422*. Taylor’s property had been sold for failure to pay taxes under the 1862 Act, but he sought to recover the surplus under the 1861 Act. Though the 1862 Act “ma[de] no mention of the right of the owner of the lands to receive the surplus proceeds of their sale,” we held that the taxpayer was entitled to the surplus because nothing in the 1862 Act took “from the owner the right accorded him by the act of 1861, of applying for and receiving from the treasury the surplus proceeds of the sale of his lands.” *Taylor, 104 U. S., at 218-219, 26 L. Ed. 721, 17 Ct. Cl. 427*.

We extended a taxpayer’s right to surplus even further in *United States v. Lawton, 110 U. S. 146, 3 S. Ct. 545, 28 L. Ed. 100, 19 Ct. Cl. 709 (1884)*. The property owner had an unpaid tax bill under the 1862 Act for \$170.50. *Id., at 148, 3 S. Ct. 545, 28 L. Ed. 100, 19 Ct. Cl. 709*. The Federal Government seized the taxpayer’s property and, instead of selling it to a private buyer, kept the property for itself at a value of \$1100. *Ibid*. The property owner sought to recover the excess value from the Government, but the Government refused. *Ibid*. The 1861 Act explicitly provided that any surplus from tax sales to private parties had to be returned to the owner, but it did not mention paying the property owner the excess value [***16] where the Government kept the property for its own use instead of selling it. See 12 Stat. 304. We held that the taxpayer was still entitled to the surplus under the statute, just as if the Government had sold the property. *Lawton, 110 U. S., at 149-150, 3 S. Ct. 545, 28 L. Ed. 100, 19 Ct. Cl. 709*. Though the 1861 statute did not explicitly provide the right to the surplus under such circumstances, “[t]o withhold the surplus from the owner would be to

violate the *Fifth Amendment to the Constitution* and to deprive him of his property without due process of law, or to take his property for public use without just compensation.” *Id., at 150, 3 S. Ct. 545, 28 L. Ed. 100, 19 Ct. Cl. 709*.

The County argues that *Taylor* and *Lawton* were superseded by *Nelson v. City of New York, 352 U. S. 103, 77 S. Ct. 195, 1 L. Ed. 2d 171 (1956)*, but that case is readily distinguished. There New York City foreclosed on properties for unpaid water bills. Under the governing ordinance, a property owner had almost two months after the city filed for foreclosure to pay off the tax debt, and an additional 20 days to ask for the surplus from any tax sale. *Id., at 104-105, n. 1, 77 S. Ct. 195, 1 L. Ed. 2d 171*. No property owner requested his surplus within the required time. The owners later sued the city, claiming that it had denied them due process and equal protection of the laws. *Id., at 109, 77 S. Ct. 195, 1 L. Ed. 2d 171*. In their reply brief before this Court, the owners also argued for the first time that they had been denied just compensation under the [***17] *Takings Clause*. *Ibid*.

[*1379] We rejected this belated argument. [**575] *Lawton* had suggested that withholding the surplus from a property owner always violated the *Fifth Amendment*, but there was no specific procedure there for recovering the surplus. *Nelson, 352 U. S., at 110, 77 S. Ct. 195, 1 L. Ed. 2d 171*. New York City’s ordinance, in comparison, permitted the owner to recover the surplus but required that the owner have “filed a timely answer in [the] foreclosure proceeding, asserting his property had a value substantially exceeding the tax due.” *Ibid.* (citing *New York v. Chapman Docks Co., 1 App. Div. 2d 895, 149 N. Y. S. 2d 679 (1956)*). Had the owners challenging the ordinance done so, “a separate sale” could have taken place “so that [they] might receive the surplus.” *352 U. S., at 110, 77 S. Ct. 195, 1 L. Ed. 2d 171*. The owners did not take advantage of this procedure, so they forfeited their right to the surplus. Because the New York City ordinance did not “absolutely preclud[e] an owner from obtaining the surplus

proceeds of a judicial sale,” but instead simply defined the process through which the owner could claim the surplus, we found no [Takings Clause](#) violation. [Ibid.](#)

Unlike in [Nelson](#), Minnesota’s scheme provides no opportunity for the taxpayer to recover the excess value; once absolute title has transferred to the State, any excess value always remains with the State. The County argues that the delinquent [***18] taxpayer could sell her house to pay her tax debt before the County itself seizes and sells the house. But requiring a taxpayer to sell her house to avoid a taking is not the same as providing her an opportunity to recover the excess value of her house once the State has sold it.

D

Finally, Minnesota law itself recognizes that in other contexts a property owner is entitled to the surplus in excess of her debt. Under state law, a private creditor may enforce a judgment against a debtor by selling her real property, but “[n]o more shall be sold than is sufficient to satisfy” the debt, and the creditor may receive only “so much [of the proceeds] as will satisfy” the debt. [Minn. Stat. §§550.20, 550.08](#) (2022). Likewise, if a bank forecloses on a home because the homeowner fails to pay the mortgage, the homeowner is entitled to the surplus from the sale. [§580.10](#).

In collecting all other taxes, Minnesota protects the taxpayer’s right to surplus. If a taxpayer falls behind on her income tax and the State seizes and sells her property, “[a]ny surplus proceeds . . . shall . . . be credited or refunded” to the owner. [§§270C.7101, 270C.7108, subd. 2](#). So too if a taxpayer does not pay taxes on her personal property, like a car. [§277.21, subd. 13](#). Until 1935, Minnesota followed [***19] the same rule for the sale of real property. The State could sell only the “least quantity” of land sufficient to satisfy the debt, 1859 Minn. Laws p. 58, §23, and “any surplus realized from the sale must revert to the owner,” [Farnham, 32 Minn., at 11, 19 N. W., at 85](#).

The State now makes an exception only for itself, and only for taxes on real property. But “property rights cannot be so easily manipulated.” [Cedar Point Nursery v. Hassid, 594 U. S. , , 141 S. Ct. 2063, 210 L. Ed. 2d 369 \(2021\) \(slip op., at 13\)](#) (internal quotation marks omitted). Minnesota may not extinguish a property interest that it recognizes everywhere else to [***576] avoid paying just compensation when it is the one doing the taking. [Phillips, 524 U. S., at 167, 118 S. Ct. 1925, 141 L. Ed. 2d 174](#).

IV

The County argues that Tyler has no interest in the surplus because she constructively abandoned her home by failing [*1380] to pay her taxes. States and localities have long imposed “reasonable conditions” on property ownership. [Texaco, Inc. v. Short, 454 U. S. 516, 526, 102 S. Ct. 781, 70 L. Ed. 2d 738 \(1982\)](#). In Minnesota, one of those conditions is paying property taxes. By neglecting this reasonable condition, the County argues, the owner can be considered to have abandoned her property and is therefore not entitled to any compensation for its taking. See [Minn. Stat. §282.08](#).

The County portrays this as just another example in the long tradition of States taking title to abandoned property. We upheld one such statutory scheme in [Texaco](#). There, Indiana law dictated [***20] that a mineral interest automatically reverted to the owner of the land if not used for 20 years. [454 U. S., at 518, 102 S. Ct. 781, 70 L. Ed. 2d 738](#). Use included excavating minerals, renting out the right to excavate, paying taxes, or simply filing a “statement of claim with the local recorder of deeds.” [Id., at 519, 102 S. Ct. 781, 70 L. Ed. 2d 738](#). Owners who lost their mineral interests challenged the statute as unconstitutional. We held that the statute did not violate the [Takings Clause](#) because the State “has the power to condition the permanent retention of [a] property right on the performance of reasonable conditions that indicate a present intention to retain the interest.” [Id., at](#)

[526, 102 S. Ct. 781, 70 L. Ed. 2d 738](#) (emphasis added). Indiana reasonably “treat[ed] a mineral interest that ha[d] not been used for 20 years and for which no statement of claim ha[d] been filed as abandoned.” *Id.*, at 530, [102 S. Ct. 781, 70 L. Ed. 2d 738](#). There was thus no taking, for “after abandonment, the former owner retain[ed] no interest for which he may claim compensation.” *Ibid.*

The County suggests that here, too, Tyler constructively abandoned her property by failing to comply with a reasonable condition imposed by the State. But the County cites no case suggesting that failing to pay property taxes is itself sufficient for abandonment. Cf. [Kureger v. Market, 124 Minn. 393, 397, 145 N.W. 30, 32 \(1914\)](#) (owner did not abandon property despite [***21] failing to pay taxes for 30 years). Abandonment requires the “surrender or relinquishment or disclaimer of ” all rights in the property. [Rowe v. Minneapolis, 49 Minn. 148, 157, 51 N. W. 907, 908 \(1892\)](#). “It is the owner’s failure to make *any* use of the property”—and for a lengthy period of time—“that causes the lapse of the property right.” [Texaco, 454 U. S., at 530, 102 S. Ct. 781, 70 L. Ed. 2d 738](#) (emphasis added). In [Texaco](#), the owners lost their property because they made *no* use of their interest for 20 years and then failed to take the simple step of filing paperwork indicating that they still claimed ownership over the interest. In comparison, Minnesota’s forfeiture scheme is not about abandonment at all. It gives no weight to the taxpayer’s use of the property. Indeed, the delinquent taxpayer can continue to live in her house for years after falling behind in taxes, up until the government sells it. See [§281.70](#). Minnesota cares only about the taxpayer’s failure to contribute [**577] her share to the public fisc. The County cannot frame that failure as abandonment to avoid the demands of the [Takings Clause](#).

The [Takings Clause](#) “was designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and

justice, should be borne by the public as a whole.” [Armstrong, 364 U. S., at 49, 80 S. Ct. 1563, 4 L. Ed. 2d 1554](#). A taxpayer who loses her \$40,000 house to the State to [***22] fulfill a \$15,000 tax debt has made a far greater contribution to the public fisc than she owed. The taxpayer must render unto Caesar what is Caesar’s, but no more.

[*1381] Because we find that Tyler has plausibly alleged a taking under the [Fifth Amendment](#), and she agrees that relief under “the [Takings Clause](#) would fully remedy [her] harm,” we need not decide whether she has also alleged an excessive fine under the [Eighth Amendment](#). Tr. of Oral Arg. 27. The judgment of the Court of Appeals for the Eighth Circuit is reversed.

It is so ordered.

Concur by: GORSUCH

Concur

JUSTICE GORSUCH, with whom JUSTICE JACKSON joins, concurring.

The Court reverses the Eighth Circuit’s dismissal of Geraldine Tyler’s suit and holds that she has plausibly alleged a violation of the Fifth Amendment’s Takings Clause. I agree. Given its [Takings Clause](#) holding, the Court understandably declines to pass on the question whether the Eighth Circuit committed a further error when it dismissed Ms. Tyler’s claim under the [Eighth Amendment’s Excessive Fines Clause](#). *Ante*, at 14. But even a cursory review of the District Court’s excessive-fines analysis—which the Eighth Circuit adopted as “well-reasoned,” [26 F. 4th 789, 794 \(2022\)](#)—reveals that it too contains mistakes future lower courts should not be quick to emulate.

First, the District Court concluded that the Minnesota tax-forfeiture scheme is not [***23] punitive because “its primary purpose” is “remedial”—aimed, in other words, at “compensat[ing] the government for lost revenues

due to the non-payment of taxes.” [505 F. Supp. 3d 879, 896 \(Minn. 2020\)](#). That primary-purpose test finds no support in our law. Because “sanctions frequently serve more than one purpose,” this Court has said that the Excessive Fines Clause applies to *any* statutory scheme that “serv[es] *in part* to punish.” [Austin v. United States, 509 U. S. 602, 610, 113 S. Ct. 2801, 125 L. Ed. 2d 488 \(1993\)](#) (emphasis added). It matters not whether the scheme has a remedial purpose, even a predominantly remedial purpose. So long as the law “cannot fairly be said *solely* to serve a remedial purpose,” the Excessive Fines Clause applies. *Ibid.* (emphasis added; internal quotation marks omitted). Nor, this Court has held, is it appropriate to label sanctions as “remedial” when (as here) they bear “no correlation to any damages sustained by society or to the cost of enforcing the law,” and “any relationship between the Government’s actual costs and the amount of the sanction is merely coincidental.” [Id., at 621-622, 113 S. Ct. 2801, 125 L. Ed. 2d 488](#), and n. 14.

[**578] *Second*, the District Court asserted that the Minnesota tax-forfeiture scheme cannot “be punitive because it actually confers a windfall on the delinquent taxpayer when the value of the property that is forfeited is less than the amount [***24] of taxes owed.” [505 F. Supp. 3d, at 896](#). That observation may be factually true, but it is legally irrelevant. Some prisoners better themselves behind bars; some addicts credit court-ordered rehabilitation with saving their lives. But punishment remains punishment all the same. See Tr. of Oral Arg. 61. Of course, no one thinks that an individual who profits from an economic penalty has a *winning* excessive-fines claim. But nor has this Court ever held that a scheme producing fines that punishes some individuals can escape constitutional scrutiny merely because it does not punish others.


Third, the District Court appears to have inferred that the Minnesota scheme is not “punitive” because it does not turn on the “culpability” of the individual property owner. [505 F. Supp. 3d, at 897](#).

But while a focus on “culpability” can sometimes make a provision “look more like punishment,” this Court has never endorsed the converse view. [Austin, 509 U. S., at 619, 113 S. Ct. 2801, 125 L. Ed. 2d 488](#). Even without emphasizing culpability, this Court has [*1382] said a statutory scheme may still be punitive where it serves another “goal of punishment,” such as “[d]eterrence.” [United States v. Bajakajian, 524 U. S. 321, 329, 118 S. Ct. 2028, 141 L. Ed. 2d 314 \(1998\)](#). And the District Court expressly approved the Minnesota tax-forfeiture scheme in this case in large part because “the ultimate possibility [***25] of loss of property serves as a *deterrent* to those taxpayers considering tax delinquency.” [505 F. Supp. 3d, at 899](#) (emphasis added). Economic penalties imposed to deter willful noncompliance with the law are fines by any other name. And the Constitution has something to say about them: They cannot be excessive.

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Table Of Authorities:None Applied

Shepard's®:  [Tyler v. Hennepin Cnty.](#), 598 U.S. 631,143 S. Ct. 1369,215 L. Ed. 2d 564,2023 U.S. LEXIS 2201,29 Fla. L. Weekly Fed. S. 851: (U.S. May 25, 2023)


No subsequent appellate history. [Prior history](#) available.

Appellate History (6)


Prior

1. [Tyler v. Hennepin Cnty.](#), 505 F. Supp. 3d 879, 2020 U.S. Dist. LEXIS 228081, 2020 WL 7129894 

Court: D. Minn. | **Date:** December 4, 2020

2. **Affirmed by and
Motion granted by:**
[Tyler v. Hennepin Cnty.](#), 26 F.4th 789, 2022 U.S. App. LEXIS 4207, 2022 WL 468801 

Court: 8th Cir. Minn. | **Date:** February 16, 2022

3. **Rehearing denied by and
En banc and
Rehearing denied by:**
[Tyler v. Minnesota](#), 2022 U.S. App. LEXIS 7844 

Court: 8th Cir. Minn. | **Date:** March 24, 2022

4. **Writ of certiorari granted:**
[Tyler v. Hennepin Cnty.](#), 143 S. Ct. 644, 214 L. Ed. 2d 382, 2023 U.S. LEXIS 406, 2023 WL 178396 

Court: U.S. | **Date:** January 13, 2023

5. **Motion granted by:**

Shepard's®: Tyler v. Hennepin Cnty.,598 US 631

[Tyler v. Hennepin Cnty.](#), 143 S. Ct. 1443, 215 L. Ed. 2d 646, 2023 U.S. LEXIS 1501, 2023 WL 2939578



Court: U.S. | **Date:** April 14, 2023

6.



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Reversed by:

[Tyler v. Hennepin Cnty.](#), 598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201, 29 Fla. L. Weekly Fed. S. 851 ▲

Court: U.S. | **Date:** May 25, 2023

Citing Decisions (46)

U.S. Supreme Court


1. [Moore v. Harper](#), 600 U.S. 1, 143 S. Ct. 2065, 216 L. Ed. 2d 729, 2023 U.S. LEXIS 2787, 29 Fla. L. Weekly Fed. S. 1088 

LB Cited by: 143 S. Ct. 2065 p.2088; 216 L. Ed. 2d 729 p.754

... that this Court must respect. As in other areas where the exercise of federal authority or the vindication of federal rights implicates questions of state law, we have an obligation to ensure that state court interpretations of that law do not evade federal law. State law, for example, "is one important source" for defining property rights.

Tylerv.Hennepin County, 598 U. S. ___, ___,143 S. Ct. 1369, 215 L. Ed. 2d 564, 571(2023) ; see also Board of Regents of State Colleges v. ...

Discussion:  | **Court:** U.S. | **Date:** June 27, 2023


2. [Fair v. Cont'l Res.](#), 143 S. Ct. 2580, 216 L. Ed. 2d 1191, 2023 U.S. LEXIS 2382, 91 U.S.L.W. 3316, 2023 WL 3798629 

LB Cited by: 143 S. Ct. 2580 p.2580; 216 L. Ed. 2d 1191 p.1191

... granted. On petition for writ of certiorari to the Supreme Court of Nebraska . Petition for writ of certiorari granted. Judgment vacated, and case remanded to the Supreme Court of Nebraska for further consideration in light of **Tylerv.Hennepin County, 598 U. S. ___,2023 U.S. LEXIS 2201(2023)**


Discussion:  | **Court:** U.S. | **Date:** June 5, 2023

1st Circuit - Court of Appeals

3. [Toney v. Guerriero](#), 2023 U.S. App. LEXIS 29875, 2023 WL 7321897 

Y Distinguished by:

... 2018 U.S. Dist. LEXIS 16571, 2018 WL 662482, at *8 . So that decision is not a game-changer for Plaintiff. In a post-briefing letter, see Fed. R. App. P. 28(j) , Plaintiff claims that a recent Supreme Court opinion — **Tyler v. Hennepin Cnty., 598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564(2023)** — helps his cause. But Tyler is a takings-clause case, not a procedural-due-process case involving the Parratt/Hudson doctrine. See Tyler , 598 U.S. at 634 (framing "[t]he question ...

Discussion:  | **Court:** 1st Cir. | **Date:** September 1, 2023

1st Circuit - U.S. District Courts

4. [United States v. Newman](#), 2023 U.S. Dist. LEXIS 201221, 2023 WL 7413349 


Y Distinguished by:

... Second, Mr. Newman contends that, based on the Government's "grossly incorrect estimate of home value," the sale of 13 Annies Way would "violate the Fifth Amendment's 'Takings' clause as the Defendant will not receive just compensation." Id. at 3. Citing **Tyler v. Hennepin County, Minnesota, 598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564(2023)** , Mr. Newman observes that "Courts support just compensation if a public entity is moving to seize personal property." Id. Mr. Newman estimates ...


Discussion:  | **Court:** Dist. Maine | **Date:** November 9, 2023

2nd Circuit - Court of Appeals


5. [Duvall v. Cnty. of Ontario](#), 83 F.4th 147, 2023 U.S. App. LEXIS 25804, 72 Bankr. Ct. Dec. (LRP) 233, 2023 WL

6323123 **G** Followed by: 83 F.4th 147 p.155

... Bankruptcy Court 's decision, the County explains that New York state law permitted it to keep the approximately \$69,000 in surplus funds from the sale of the Property. But that defense is now unavailable in light of **Tyler v. Hennepin County**, **143 S. Ct. 1369**, **1380**, **215 L. Ed. 2d 564(2023)** , which held that Fundamental Rights, Eminent Domain & Takings Involuntary Acquisition & Diminution of Value, Takings Collection of Tax, Tax Deeds & Tax Sales Nonmortgage Liens, Tax Liens HN12 There ...


Discussion:  | **Court:** 2d Cir. | **Date:** September 29, 2023

3rd Circuit - Court of Appeals

6. [Lutter v. JNESO](#), 86 F.4th 111, 2023 U.S. App. LEXIS 29489 

LB Cited by: 86 F.4th 111 p.127

... ("[P]rivate use of the challenged state procedures with the help of state officials constitutes state action for purposes of the Fourteenth Amendment ."). The invasion of that interest is actual since the funds were taken out of her paycheck against her wishes and used by JNESO. See **Tyler v. Hennepin County**, **598 U.S. 631**, **636**, **143 S. Ct. 1369**, **215 L. Ed. 2d 564(2023)** (recognizing a claim that one party kept money that it was not entitled to was "a classic pocketbook injury sufficient ...

Discussion:  | **Court:** 3d Cir. N.J. | **Date:** November 6, 2023

3rd Circuit - U.S. District Courts

7. [Toyota Motor Credit Corp. v. Borough of Wyoming](#), 2023 U.S. Dist. LEXIS 202071 

LB Cited by:

... takes their property without paying for it, and thereafter may bring their claim in federal court under § 1983 . See *Knick v. Twp. of Scott, Pennsylvania* , 139 S. Ct. 2162 , 204 L. Ed. 2d 558 (2019) . See also **Tyler v. Hennepin Cnty., Minnesota**, **598 U.S. 631**, **143 S. Ct. 1369**, **215 L. Ed. 2d 564, (2023)** (Government's retention of the money remaining after disputedly abandoned property was sold was a classic taking for which taxpayer was entitled to just compensation). As previously ...

Discussion:  | **Court:** Middle Dist. Pa. | **Date:** November 9, 2023

8. [Stephanatos v. Wayne Twp.](#), 2023 U.S. Dist. LEXIS 153086, 2023 WL 5605564 

Y Distinguished by:

... Since Plaintiff's Complaint was dismissed in 2013, Plaintiff has made numerous attempts to relitigate and appeal, all of which have been rejected. D.E. 85, 88, 111. Plaintiff seeks to reopen this matter now because of the Supreme Court 's recent decision in **Tyler v. Hennepin County**, **598 U.S. 631**, **143 S. Ct. 1369**, **215 L. Ed. 2d 564(2023)** . See Plf. Br. at 3. Plaintiff contends that his case should be reopened pursuant to Federal Rules of Civil Procedure 60(b)(4) , (b)(5) , and (b)(6) ...

Court: Dist. N.J. | **Date:** August 30, 2023

3rd Circuit - U.S. Bankruptcy Courts

9. [Heidt v. BV001 Reo Blocker LLC \(In re Heidt\)](#), 2023 Bankr. LEXIS 3034 


LB Cited by:

... , for the proposition that a homeowner's remedy under 11 U.S.C. § 548 is not limited to a homestead exemption under 11 U.S.C. § 522(h) . They noted that the Second Circuit opined that "[b]ut that defense is now unavailable in light of *Tyler v. Hennepin County* , 598 U.S. 631 , **143 S. Ct. 1369**, **215 L. Ed. 2d 564(2023)** , which held that there is an unconstitutional taking in violation of the Takings Clause when a county keeps surplus funds accrued

from a tax foreclosure." DuVall , 83 ...

Discussion:  **Court:** Bankr. Dist. N.J. **Date:** November 3, 2023 **Headnotes:** HN7, HN8, HN9

4th Circuit - U.S. District Courts


10. [Garcia v. Richland Cnty. Treasury](#), 2023 U.S. Dist. LEXIS 194104, 2023 WL 7287171 

LB Cited by:

... tax may be challenged in state court, and finding an available remedy within the meaning of the Tax Injunction Act is not inadequate because the challenger may not obtain their desired relief). Additionally, Plaintiff has not shown there has been a taking in this case. Although Plaintiff cites **Tyler v. Hennepin County, MN, 598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564(2023)** , the case does not apply to the facts at hand. In Tyler , the Supreme Court held that the State's retention ...


Discussion:  **Court:** Dist. S.C. **Date:** September 27, 2023

5th Circuit - Court of Appeals


11. [Baker v. City of McKinney](#), 84 F.4th 378, 2023 U.S. App. LEXIS 26988 

LB Cited by: 84 F.4th 378 p.383

... Takings Clause of the Fifth Amendment to the United States Constitution . Fourth, the Court has increasingly intimated that history and tradition, including historical precedents, are of central importance when determining the meaning of the Takings Clause . See **Tyler v. Hennepin County, 598 U.S. 631, 637-44, 143 S. Ct. 1369, 215 L. Ed. 2d 564(2023)** (determining the applicability of the Takings Clause from "[h]istory and precedent" reaching back to the Magna Carta); Horne v. Department ...

Discussion:  **Court:** 5th Cir. Tex. **Date:** October 11, 2023 **Headnotes:** HN13

5th Circuit - U.S. District Courts

12. [Ambriz v. Hegar](#), 2023 U.S. Dist. LEXIS 133137 

LB Cited by:

... , which held the failure to compensate with interest for the time the property was in the state's possession was a taking without compensation. After briefing was completed, Ambriz filed a motion for leave to file a notice of supplemental authority to inform the court of **Tyler v. Hennepin Cnty., Minnesota, 598 U.S. 631, 143 S. Ct. 1369, 1374, 215 L. Ed. 2d 564(May 25, 2023)** . Ambriz contends Tyler provides new and compelling support for his arguments. Clark held the constitution does ...


Court: Western Dist. Tex. **Date:** June 20, 2023

6th Circuit - Court of Appeals

13. [Freed v. Thomas](#), 81 F.4th 655, 2023 U.S. App. LEXIS 23639, 2023 FED App. 0208P, 2023 FED App. 208P (6th Cir.) 

LB Cited by: 81 F.4th 655 p.658

... a . The Supreme Court recently resolved a case with similar facts. Hennepin County , Minnesota , sold the delinquent taxpayer's house "for \$40,000 to satisfy a \$15,000 tax bill" and kept the remaining \$25,000. **Tyler v. Hennepin County, 598 U.S. 631, 634, 143 S. Ct. 1369, 215 L. Ed. 2d 564(2023)** . The district court there dismissed for failure to state a claim, and the Eighth Circuit affirmed. Id. at 636 . The Supreme Court unanimously reversed, affirming "the principle that ...

Discussion:  **Court:** 6th Cir. Mich. **Date:** September 6, 2023 **Headnotes:** HN8


6th Circuit - U.S. District Courts

14. [Fox v. Cnty. of Saginaw](#), 2023 U.S. Dist. LEXIS 189919, 2023 WL 6978518 

LB Cited by:

... Constitution. See *Rafaeli, LLC v. Oakland Cnty.*, 505 Mich. 429, 952 N.W.2d 434 (Mich. 2020) (holding a county's retention of surplus proceeds from a tax-foreclosure sale violates the Michigan Constitution); **Tyler v. Hennepin Cnty., Minn., 598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564(2023)** (holding a county's retention of surplus proceeds from a tax-foreclosure sale violates the Fifth Amendment of the U.S. Constitution). In September 2023, the Sixth Circuit determined the ...

Discussion:  | **Court:** Eastern Dist. Mich. | **Date:** October 23, 2023

15. [Tr. Constr. Inc. v. Summit Cnty.](#), 2023 U.S. Dist. LEXIS 170988, 2023 WL 6258612 

LB Cited by:


... filed this suit alleging a due process violation and takings claims under both federal and state law. On December 15, 2022, the County moved for summary judgment on all three claims. TR Construction opposed the motion, and the County replied in support. On June 10, 2023, both parties filed supplemental briefing on the impact of the Supreme Court's decision in in **Tyler v. Hennepin County, Minnesota, 143 S.Ct. 1369, 215 L. Ed. 2d 564(2023)**. The Court now resolves the parties' arguments. ...

Discussion:  | **Court:** Northern Dist. Ohio | **Date:** September 26, 2023

16. [Santana v. Cnty. of Wayne](#), 2023 U.S. Dist. LEXIS 154454, 2023 WL 5655511

LB Cited by:

... (holding that foreclosing county was "required to return the surplus proceeds to plaintiffs and that [the County's] failure to do so constitutes a government taking under the Michigan Constitution entitling plaintiffs to just compensation"); **Tyler v. Hennepin Cnty., Minn., 598 U.S. 631, 639(2023)** ("The County had the power to sell Tyler's home to recover the unpaid property taxes. But it could not use the toehold of the tax debt to confiscate more property than was due. By doing so, ...

Discussion:  | **Court:** Eastern Dist. Mich. | **Date:** August 31, 2023


17. [Sinclair v. Meisner](#), 2023 U.S. Dist. LEXIS 98308, 2023 WL 3854068 

LB Cited by:

... . Since then, they have also filed a petition for certiorari from the Sixth Circuit's decision in this case, No. 22-894. ECF No. 75. On May 25, 2023, the Supreme Court issued a written opinion resolving **Tyler, No. 22-166, S. Ct. , 598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201, 2023 WL 3632754 (May 25, 2023)**. II. LEGAL STANDARD A court has inherent power to stay proceedings. See *Landis v. N. Am. Co.*, 299 U.S. 248, 254, 57 S. Ct. 163, 81 ...

Discussion:  | **Court:** Eastern Dist. Mich. | **Date:** June 6, 2023 | **Headnotes:** HN5, HN7

6th Circuit - U.S. Bankruptcy Courts

18. [Reinhardt v. Prince \(In re Reinhardt\)](#), 2023 Bankr. LEXIS 2770, 73 Bankr. Ct. Dec. (LRP) 27, 2023 WL 8011108 

Y Distinguished by:

... (6th Cir. 2022). To complete the report of this area of the law, the United States Supreme Court found that a similar Minnesota foreclosure procedure violated the takings clause of the United States Constitution. **Tyler v. Hennepin Cnty., 143 S.Ct. 1369, 598 U.S. 631, 215 L. Ed. 2d 564(2023)**. The Michigan Legislature reacted to *Rafaeli*, *Lowry*, and a number of individual and class action lawsuits against county treasurers by changing the tax forfeiture and foreclosure procedures. ...


Discussion:  | **Court:** Bankr. Eastern Dist. Mich. | **Date:** November 17, 2023

7th Circuit - Court of Appeals

19. [United States Bank Trust N.A. v. Walworth Cnty.](#), 2023 U.S. App. LEXIS 22123, 2023 WL 5344345 

LB Cited by:

... Andrew T. Phillips , Attorney, ATTOLLES LAW, S.C., Milwaukee , WI . KENNETH F. RIPPLE , Circuit Judge, ILANA DIAMOND ROVNER , Circuit Judge, MICHAEL B. BRENNAN , Circuit Judge. ORDER In light of the Supreme Court's decision in **Tyler v. Hennepin County, Minnesota, 143 S. Ct. 1369, 215 L. Ed. 2d 564(2023)** , we vacate the district court's judgment and remand for de novo reconsideration. ...


Discussion:  | **Court:** 7th Cir. Wis. | **Date:** August 16, 2023

7th Circuit - U.S. District Courts

20. [Daoud v. City of Chicago](#), 2023 U.S. Dist. LEXIS 146735

LB Cited by:

... should not apply because neither Sonna nor Wow Chicago was a party to the state lawsuit brought by Royal Ice Cream . "To bring suit, a plaintiff must plead an injury in fact attributable to the defendant's conduct and redressable by the court." **Tyler v. Hennepin Cty., Minnesota , U.S. , 143 S. Ct. 1369 , 1374 , 215 L. Ed. 2d 564 (2023)** (citing Lujan v. Defenders of Wildlife , 504 U.S. 555 , 560-61 , 112 S. Ct. 2130 , 119 L. Ed. 2d 351 (1992)). "At the pleading stage, 'general ...


Discussion:  | **Court:** Northern Dist. Ill. | **Date:** August 22, 2023 | **Headnotes:** HN1

9th Circuit - Court of Appeals


21. [Rancho Mirage Mobilehome Cmty., LP v. Coachella Valley Water Dist.](#), 2023 U.S. App. LEXIS 28728, 2023 WL 7123771 

LB Cited by:

... , provides that private property shall not be taken for public use, without just compensation. It is beyond dispute, however, that taxes and user fees are not takings. "The Takings Clause , applicable to the States through the Fourteenth Amendment , provides that 'private property [shall not] be taken for public use, without just compensation.'" **Tyler v. Hennepin County, 598 U.S. 631, 637, 143 S. Ct. 1369, 215 L. Ed. 2d 564(2023)** (quoting U.S. Const. amend. V) (alteration in original). ...

Discussion:  | **Court:** 9th Cir. Cal. | **Date:** October 30, 2023

9th Circuit - U.S. District Courts

22. [Griffin v. Breed](#), 2023 U.S. Dist. LEXIS 209151, 2023 WL 8113896 

G Followed by:

... Because Plaintiff fails to allege that she has a legally protected interest in the Property, Plaintiff does not have standing to pursue the claims in the Third Amended Complaint. See 2023 U.S. Dist. LEXIS 149892, [WL] at *2 (quoting **Tyler v. Hennepin Cnty., 598 U.S. 631, 143 S. Ct. 1369, 1374, 215 L. Ed. 2d 564(2023)** ; Van v. LLR, Inc. , 61 F.4th 1053 , 1063 (9th Cir. 2023)). Because Plaintiff does not have standing, she does not present a "case or controversy," and therefore ...

Discussion:  | **Court:** Dist. Haw. | **Date:** November 22, 2023

23. [Sullivan Equity Partners, LLC v. City of Los Angeles](#), 2023 U.S. Dist. LEXIS 167510, 2023 WL 6130615 

Y Distinguished by:

... property at issue, and, as concluded above, plaintiff has failed to show that the revocation of its permits violated


its right to due process. Accordingly, the revocation of plaintiff's permits occurred through lawful government action, and plaintiff cannot now argue that it has a right to be compensated for a measure meant to penalize it. See *Bennis*, 516 U.S. at 442. Plaintiff cites to a recent Supreme Court decision, **Tyler v. Hennepin Cnty**, 143 S. Ct. 1369, 215 L. Ed. 2d 564(2023) ...

Discussion:  | **Court:** Central Dist. Cal. | **Date:** September 15, 2023

24. [Griffin v. Breed](#), 2023 U.S. Dist. LEXIS 149892, 2023 WL 5508097 

LB Cited by:

... federal court therefore lacks subject matter jurisdiction.") (citation omitted))). To have standing, i.e., "[t]o bring suit, a plaintiff must plead an injury in fact attributable to the defendant's conduct and redressable by the court." **Tyler v. Hennepin Cnty.**, 143 S. Ct. 1369, 1374, 215 L. Ed. 2d 564(2023) (citation omitted). "An 'injury in fact' is 'an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical.'" ...

Discussion:  | **Court:** Dist. Haw. | **Date:** August 25, 2023 | **Headnotes:** HN1

25. [Sahm v. Ali](#), 2023 U.S. Dist. LEXIS 143794, 2023 WL 5278661 

LB Cited by:

... Plaintiff for refusing to vacate the Property at issue, is therefore "impersonating an officer." Dkt. #75 at 2. Plaintiff argues that the writ of restitution Commissioner Moore signed is thereby a "criminal" act and as such an "illegal and unlawful taking under the recent Supreme Court case *Tyler v. Minnesota* No. 12-166." The Court has reviewed **Tyler v. Hennepin Cnty., Minnesota**, 598 U.S. 631(2023), in which a taxpayer brought an action against Hennepin County in Minnesota state court ...

Court: Western Dist. Wash. | **Date:** August 16, 2023


26. [AOAO Maalaea Yacht Marina v. Dep't of Planning for the Cnty. of Maui](#), 2023 U.S. Dist. LEXIS 113892, 2023 WL 4305183 

LB Cited by:

... Plaintiff points to a recent United States Supreme Court opinion that reasoned that state law is one important source to define property rights, but that state law cannot be the only source. ECF No. 44 at 11 (citing **Tyler v. Hennepin Cnty., Minnesota**, 598 U.S. 631, 143 S. Ct. 1369, 1375, 215 L. Ed. 2d 564(2023)). Plaintiff thus argues that "examination of Plaintiff's property interest may be necessary for purposes of its takings and due process claims regardless of its vested rights ...

Discussion:  | **Court:** Dist. Haw. | **Date:** June 30, 2023

11th Circuit - Court of Appeals

27. [Clement v. United States AG](#), 75 F.4th 1193, 2023 U.S. App. LEXIS 19534, 29 Fla. L. Weekly Fed. C 2793 

LB Cited by: 75 F.4th 1193 p.1202

... Likewise, a criminal defendant forfeits the right to the assistance of counsel by failing to secure counsel in a reasonable time. See *United States v. Fowler*, 605 F.2d 181, 183 (5th Cir. 1979). So too in civil cases may a person forfeit a constitutional right merely by failing to comply with a statutory requirement. See, e.g., **Tyler v. Hennepin Cnty.**, 598 U.S. 631, 143 S. Ct. 1369, 1378-79, 215 L. Ed. 2d 564(2023) (explaining that property owners in *Nelson v. City of New* ...


Discussion:  | **Court:** 11th Cir. | **Date:** July 28, 2023

D.C. Circuit - Court of Appeals

28. [Valancourt Books, LLC v. Garland](#), 82 F.4th 1222, 2023 U.S. App. LEXIS 22715 

LB Cited by: 82 F.4th 1222 p.1231

... to possess, use and dispose of them. A government demand to turn over personal property is of such a unique character that it is a taking without regard to other factors that a court might ordinarily examine. By requiring copyright owners to provide physical copies of books, the mandatory deposit provision "effect[s] a 'classic taking in which the government directly appropriates private property for its own use.'" **Tyler v. Hennepin Cnty.**, 143 S. Ct. 1369, 1376, 215 L. Ed. 2d 564(2023) ...

Discussion:  | Court: D.C. Cir. Ct. of App. | Date: August 29, 2023 | Headnotes:: HN7

D.C. Circuit - U.S. District Court


29. [Ctr. for Biological Diversity v. United States EPA](#), 2023 U.S. Dist. LEXIS 137361, 53 Env'tl. L. Rep. 20127, 2023 WL 5035782

LB Cited by:

... populations of specific species in Washington since EPA approved the state's water criteria and about the potential impact on cyanide toxicity due to climate change. See Compl. ¶¶ 98-99. These facts must be treated as true at this stage of litigation. See **Tyler v. Hennepin Cty., Minn.**, 143 S. Ct. 1369, 1374, 215 L. Ed. 2d 564(2023) ("This case comes to us on a motion to dismiss for failure to state a claim. At this initial stage, we take the facts in the complaint as true."). Further, ...

Discussion:  | Court: District of D.C. | Date: August 8, 2023

Federal Circuit - Court of Appeals

30. [Jenkins v. United States](#), 71 F.4th 1367, 2023 U.S. App. LEXIS 16296 

LB Cited by: 71 F.4th 1367 p.1376

... A recent Supreme Court case suggests that the retention of the proceeds of the sale over and above any legal charges (or, here, permitting a third party to retain such proceeds) itself presents a takings issue. See **Tyler v. Hennepin County**, 598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564, slip op. at 5-6 (U.S. 2023) . The government's apparent theory here is that it had no responsibility for the impound lot's actions and that, in any event, Mr. Jenkins abandoned the vehicles. 7 In a citation ...

Discussion:  | Court: Fed. Cir. | Date: June 28, 2023

31. [Ideker Farms, Inc. v. United States](#), 71 F.4th 964, 2023 U.S. App. LEXIS 15005 

LB Cited by: 71 F.4th 964 p.988

... took both a permanent flowage easement on Plaintiffs' land and destroyed Plaintiffs' crops. 10 Even though state law generally determines the scope of the property interest, Cedar Point , 141 S. Ct. at 2075-76 ; cf. **Tyler v. Hennepin Cnty.**, 598 U.S. 631, 143 S. Ct. 1369, 1375, 215 L. Ed. 2d 564(2023) (explaining that other sources of law may govern what "property" is protected from takings), whether the crops are considered a part of the value of the real estate or separate personal ...

Discussion:  | Court: Fed. Cir. | Date: June 16, 2023

32. [May v. United States](#), 2023 U.S. App. LEXIS 13964, 2023 WL 3836088 

Y Distinguished by:

... "[T]here was a single agreement that was [allegedly] breached on a single occasion," a circumstance outside the

continuing-claims doctrine. Tamerlane , 550 F.3d at 1146 . 1 Mr. May calls our attention to the Supreme Court's recent decision in **Tyler v. Hennepin County, Minnesota, No. 22-166,598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201, 2023 WL 3632754(U.S. May 25, 2023)** . The decision in Tyler , though it involves a takings claim, does not involve a statute-of-limitations ...

Discussion:  | **Court:** Fed. Cir. | **Date:** June 6, 2023


Federal Claims Court

33. [Livingston v. United States](#), 167 Fed. Cl. 604, 2023 U.S. Claims LEXIS 2406

LB Cited by:

... 90 L. Ed. 1206 , 106 Ct. Cl. 854 (1946) ; Ruckelshaus v. Monsanto Co. , 467 U.S. 986 , 1001-1004 , 104 S. Ct. 2862 , 81 L. Ed. 2d 815 (1984) . **Tyler v. Hennepin Cnty., Minn., 143 S. Ct. 1369, 1375, 215 L. Ed. 2d 564(2023)** . In addition to "having identified a valid property interest, the court must determine whether the governmental action at issue amounted to a compensable taking of that property interest." Huntleigh USA Corp. v. United States ...


Discussion:  | **Court:** Fed. Cl. | **Date:** September 29, 2023 | **Headnotes:** HN5

34. [Reid v. United States](#), 167 Fed. Cl. 539, 2023 U.S. Claims LEXIS 2074 

LB Cited by: 167 Fed. Cl. 539 p.543

... In their reply brief, plaintiffs changed their position, in part, arguing that their takings claim, Count I, survives Fairholme because intervening precedent from the Supreme Court invalidates the takings analysis set forth in the Fairholme decision. Plaintiffs assert that "in light of the Supreme Court's decision in **Tyler [v. Hennepin County, 143 S. Ct. 1369, 215 L. Ed. 2d 564(2023)]** , this Court is no longer bound by the Federal Circuit 's decision in Fairholme on the merits of ...

Discussion:  | **Court:** Fed. Cl. | **Date:** September 1, 2023

35. [Fisher v. United States](#), 167 Fed. Cl. 535, 2023 U.S. Claims LEXIS 2072, 2023 WL 5663240 

LB Cited by: 167 Fed. Cl. 535 p.539

... In their reply brief, plaintiffs changed their position, in part, arguing that their takings claim, Count I, survives Fairholme because intervening precedent from the Supreme Court invalidates the takings analysis set forth in the Fairholme decision. Plaintiffs assert that "in light of the Supreme Court's decision in **Tyler [v. Hennepin County, 143 S. Ct. 1369, 215 L. Ed. 2d 564(2023)]** , this Court is no longer bound by the Federal Circuit 's decision in Fairholme on the merits of ...

Discussion:  | **Court:** Fed. Cl. | **Date:** September 1, 2023


36. [Elec. Welfare Trust Fund v. United States](#), 166 Fed. Cl. 709, 2023 U.S. Claims LEXIS 1589 

LB Cited by: 166 Fed. Cl. 709 p.715

... , the court must identify the property interest that was allegedly taken and determine whether such a property interest is cognizable under the Takings Clause of the Fifth Amendment . Adams , 391 F.3d at 1218 ; see **Tyler v. Hennepin Cnty., 598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564(2023)** (analyzing a Fifth Amendment taking claim by first identifying the plaintiff's interest in the appropriated property). Second , "[o]nce a property right has been established, the court must ...


Discussion:  | **Court:** Fed. Cl. | **Date:** July 7, 2023

Iowa Supreme Court

37. [Livingood v. City of Des Moines](#), 991 N.W.2d 733, 2023 Iowa Sup. LEXIS 62 

LB Cited by: 991 N.W.2d 733 p.741

... (Fed. Cir. 1995) . The purpose of the takings clause is "to bar the Government 'from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.'" **Tyler v. Hennepin Cnty.**, 598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201(2023) (quoting *Armstrong v. United States* , 364 U.S. 40 , 49 , 80 S. Ct. 1563 , 4 L. Ed. 2d 1554 (1960)). Here, the city is not taking property for a public use. It is not ...

Discussion:  | **Court:** Iowa | **Date:** June 9, 2023 | **Headnotes::** HN13

Michigan Court of Appeals

38. [Yono v. Cnty. of Ingham](#), 2023 Mich. App. LEXIS 9587 

LB Cited by:

... 471 Mich 445 ; 684 NW2d 765 (2004) ; see also Jackson , Mich App at ; 2023 Mich. App. LEXIS 2010 . Additionally, the United States Supreme Court essentially adopted the reasoning set forth in Hall when it issued **Tyler v Hennepin Co, Minn, 598 U.S. 631, 638 ; 143 S Ct 1369 ; 215 L Ed 2d 564(2023)** . There, the Supreme Court stated that unjust taking occurs in the federal context if the government takes a person's property and keeps it instead of holding a foreclosure ...

Discussion:  | **Court:** Mich. Ct. App. | **Date:** December 28, 2023

39. [Muskegon Cnty. Treasurer v. Beeman \(In re Muskegon Cnty. Treasurer for Foreclosure\)](#), 2023 Mich. App. LEXIS 7760 

LB Cited by:

... , our Legislature rectified this constitutional infirmity with 2020 PA 256, and respondents have not shown that the act wrote their constitutionally protected property rights out of existence by imposing a notice requirement. Respondents urge this Court to follow a recent decision of the federal Supreme Court decision of **Tyler v Hennepin Co, Minnesota , 598 U.S. 631 ; 143 S Ct 1369 ; 215 L. Ed. 2d 564 (2023)** . Tyler is not, however, factually similar to the present case; rather, it is similar ...

Discussion:  | **Court:** Mich. Ct. App. | **Date:** October 26, 2023 | **Headnotes::** HN7


40. [Jackson v. Southfield Neighborhood Revitalization Initiative](#), 2023 Mich. App. LEXIS 6834 

LB Cited by:

... [], 51 F.4th [at] 190 (Kethledge , J., for the Court) ("[T]he Takings Clause would be a dead letter if a state could simply exclude from its definition of property any interest that the state wished to take."). [**Tyler v Hennepin Cnty.**, 598 U.S. ____,143 S. Ct. 1369 ; 215 L Ed 2d 564(2023) .] While the Supreme Court 's citation to and quotation of Hall certainly should not be considered a validation of all of its holdings, the Tyler opinion also impliedly adopted the reasoning in ...

Discussion:  | **Court:** Mich. Ct. App. | **Date:** September 21, 2023 | **Headnotes::** HN5


Minnesota Tax Court

41. [Wendell v. Comm'r of Revenue](#), 2023 Minn. Tax LEXIS 25, 2023 WL 4441638 

LB Cited by:

... . The excessive fines clauses are not limited to criminal proceedings. Wilson , 656 N.W.2d at 552 . And as recently restated by the United States Supreme Court , "[e]conomic penalties imposed to deter willful

noncompliance with the law ... cannot be excessive." **Tyler v. Hennepin Cnty.**, 598 U.S. 631, 143 S. Ct. 1369, 1382, 215 L. Ed. 2d 564(2023) (Gorsuch, J., concurring). The Minnesota Supreme Court, in Wilson, outlined the test for determining a fine's constitutionality. 656 ...


Discussion:  | **Court:** Minn. T.C. | **Date:** July 10, 2023


New Jersey Superior Court, Appellate Division

42. [257-261 20th Ave. Realty, LLC v. Roberto](#), 2023 N.J. Super. LEXIS 121, 2023 WL 8359623

G Followed by:

... and Perez Friscia. PEREZ FRISCIA The opinion of the court was delivered by PEREZ FRISCIA, J.S.C. (temporarily assigned). In this tax sale foreclosure appeal, we address whether the United States Supreme Court's recent decision in **Tyler v. Hennepin County**, 598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564(2023), which declared a taxing authority's confiscation of a property owner's equity violated the Fifth Amendment Takings Clause, bars a third-party tax sale certificate holder's foreclosure ...

Discussion:  | **Court:** New Jersey Superior Court-Appellate Division | **Date:** December 4, 2023
Headnotes: HN4, HN7, HN13

43. [Ace Holding v. Corr](#), 2023 N.J. Super. Unpub. LEXIS 1303, 2023 WL 4770872 

Y Distinguished by:

... argument when they failed to demonstrate exceptional circumstances). Perceiving no abuse of discretion in the judge's denial of defendant's motion, we affirm. We acknowledge defendant's post-argument submission of **Tyler v. Hennepin County**, U.S. , 143 S. Ct. 1369, 215 L. Ed. 2d 564 (2023). Tyler, unlike this case, involved allegations of a governmental entity's unconstitutional taking of property without just compensation in violation of the Fifth Amendment. In this case, ...

Discussion:  | **Court:** New Jersey Superior Court-Appellate Division | **Date:** July 27, 2023

New Mexico Court of Appeals

44. [State ex rel. Dearborn v. Clarke](#), 2024-NMCA-002, 2023 N.M. App. LEXIS 79, 2023 WL 6527774

LB Cited by:

... confirmed that a property owner whose property is sold by the state for delinquent taxes is entitled under the Takings Clause of the Fifth Amendment to the United States Constitution to any amount received in excess of the property owner's debt to the state. See **Tyler v. Hennepin Cnty.**, Minn., 598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564(2023) (concluding that a delinquent taxpayer has a property interest for purposes of the Takings Clause in any surplus exceeding the taxpayer's ...

Discussion:  | **Court:** N.M. Ct. App. | **Date:** October 5, 2023

Virginia Supreme Court

45. [McKeithen v. City of Richmond](#), 893 S.E.2d 369, 2023 Va. LEXIS 44 

LB Cited by: 893 S.E.2d 369 p.375

... 118 S. Ct. 1925, 141 L. Ed. 2d 174 (1998) (citation omitted). If allowed to do so, government could simply "sidestep the Takings Clause by disavowing traditional property interests' in assets it wishes to appropriate." **Tyler v. Hennepin Cnty.**, 598 U.S. 631, 638, 143 S. Ct. 1369, 215 L. Ed. 2d 564(2023) (citation omitted). "This is the very kind of thing," the United States Supreme Court has said, "that the Taking Clause of the Fifth Amendment was meant to prevent." Webb's ...

Discussion:  | **Court:** Va. | **Date:** October 19, 2023 | **Headnotes:** HN5

Wisconsin Court of Appeals

46. **Selk v. Herrick**, 2023 WI App 44, 409 Wis. 2d 93, 995 N.W.2d 497, 2023 Wisc. App. LEXIS 780

LB Cited by: 409 Wis. 2d 93 p.93; 995 N.W.2d 497 p.497

Court: Wis. Ct. App. | **Date:** July 20, 2023

Other Citing Sources: (77)

Annotated Statutes

1. [U.S. Const. Amend. 5](#)

... Tyler v. Hennepin Cty., 26 F.4th 789 , 2022 U.S. App. LEXIS 4207 (8th Cir. 2022) , reh'g denied en banc 2022 U.S. App. LEXIS 7844 (8th Cir. Mar. 24, 2022) , cert. granted, 143 S. Ct. 644 , 214 L. Ed. 2d 382 , 2023 U.S. LEXIS 406 (2023) , rev'd,**598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564 , 29 Fla. L. Weekly Fed. S. 851 , 2023 U.S. LEXIS 2201 (2023)**. District court did not violate defendant's substantive due process rights by committing him to additional restoration treatment ...

Content: Statutes

2. [U.S. Const. Amend. 14](#)

... Tyler v. Hennepin Cty., 26 F.4th 789 , 2022 U.S. App. LEXIS 4207 (8th Cir. 2022) , reh'g denied en banc 2022 U.S. App. LEXIS 7844 (8th Cir. Mar. 24, 2022) , cert. granted, 143 S. Ct. 644 , 214 L. Ed. 2d 382 , 2023 U.S. LEXIS 406 (2023) , rev'd,**598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564 , 29 Fla. L. Weekly Fed. S. 851 , 2023 U.S. LEXIS 2201 (2023)**. 232. What constitutes "deprivation" or "taking" of property Taking by state of private property of one person or corporation ...

Content: Statutes

3. [Minn. Const. Art. 1, @ 13](#)

... . The Minnesota takings clause also encompasses takings in which the government destroyed or damaged property. Tyler v. Hennepin Cty., 26 F.4th 789 , 2022 U.S. App. LEXIS 4207 (8th Cir. Minn. 2022) , rev'd,**143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201(U.S. 2023)**. Overview: As a city ordinance did not infringe any right to exclude others from entering and ...

Content: Statutes

4. [Minn. Stat. sec. 270C.7101](#)

... Minn. Stat. §§ 270C.7101 and 270C.7108 , subd. 2. So too if a taxpayer does not pay taxes on her personal property, like a car. Minn. Stat. § 277.21 , subd. 13.**Tyler v. Hennepin Cnty.,143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201(U.S. 2023)**. Tax Law: State & Local Taxes: Income Tax: Individuals, Estates & Trusts: Imposition of Tax ...

Content: Statutes

5. [Minn. Stat. sec. 279.03](#)

... . The transaction occurs at a judgment sale; the title vests in the State subject only to the rights of redemption allowed by statute. Minn. Stat. § 280.41 . Tyler v. Hennepin Cty., 26 F.4th 789 , 2022 U.S. App. LEXIS 4207 (8th Cir. Minn. 2022) , rev'd,**598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201(U.S. 2023)**. Tax Law: State & Local Taxes: Real Property Tax: General Overview Amendment to Minn. Stat. § 279.03 in 1990, which added ...

Content: Statutes

6. [Minn. Stat. sec. 281.18](#)

... tax-forfeiture plan does not allow the former owner to recover any proceeds of the sale that exceed her tax debt. Tyler v. Hennepin Cnty., 26 F.4th 789, 2022 U.S. App. LEXIS 4207 (8th Cir. Minn. 2022), rev'd, 143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201 (U.S. 2023). Legal Periodicals 21 Hamline L. Rev. 469. TREATISES AND ANALYTICAL MATERIALS 45 Dunnell Minn. Digest TAXATION § 12.02, Volume 45 Taxation, TAXATION, ...

Content: Statutes

7. [Minn. Stat. sec. 550.08](#)

..., 550.08 (2022). Likewise, if a bank forecloses on a home because the homeowner fails to pay the mortgage, the homeowner is entitled to the surplus from the sale. Minn. Stat. § 580.10. **Tyler v. Hennepin Cnty., 143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201 (U.S. 2023)**. TREATISES AND ANALYTICAL MATERIALS 21 Dunnell Minn. Digest EXECUTION, Volume 21 Evidence § § 6.00-14.11 to Execution, EXECUTION, Scope. 21 Dunnell Minn. ...

Content: Statutes

8. [Minn. Stat. sec. 550.20](#)

..., 550.08 (2022). Likewise, if a bank forecloses on a home because the homeowner fails to pay the mortgage, the homeowner is entitled to the surplus from the sale. Minn. Stat. § 580.10. **Tyler v. Hennepin Cnty., 143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201 (U.S. 2023)**. Legal Periodicals 21 Hamline L. Rev. 395. TREATISES AND ANALYTICAL MATERIALS 21 Dunnell Minn. Digest EXECUTION, Volume 21 Evidence § § 6.00-14.11 to Execution, ...

Content: Statutes

9. [Minn. Stat. sec. 580.10](#)

..., 550.08 (2022). Likewise, if a bank forecloses on a home because the homeowner fails to pay the mortgage, the homeowner is entitled to the surplus from the sale. Minn. Stat. § 580.10. **Tyler v. Hennepin Cnty., 143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201 (U.S. 2023)**. Real Property Law: Financing: Mortgages & Other Security Instruments: Satisfaction & Termination: General Overview Because Minn. Stat. § 580.10 did not ...

Content: Statutes

Practical Guidance

10. [U.S. Supreme Court Bankruptcy Roundup](#)

... **Tyler v. Hennepin County, 143 S. Ct. 1369 (U.S. May 25, 2023)**, that a real estate tax foreclosure proceeding in which a local taxing authority refused to pay the surplus realized from the sale to the homeowner violated the Takings Clause of the Fifth Amendment to the U.S. Constitution. In so ruling, the Court reversed a 2022 decision by the U.S. Court of Appeals for the Eighth Circuit that a real estate tax foreclosure proceeding in which a local taxing authority refused to pay the sale surplus ...

Content: Practical Guidance

Law Reviews and Periodicals

11. [ARTICLE: HARSH CREDITOR REMEDIES AND THE ROLE OF THE REDEEMER](#), 92 Fordham L. Rev. 935

... jurisdictions allowed for local governments to acquire the property by strict foreclosure, sell the property, and

keep the surplus. This was the plight faced by Geraldine Tyler, who racked up a tax debt of \$15,000 and lost a \$40,000 home to Hennepin County in Minneapolis, without seeing a penny of the surplus. 70 See **Tyler v. Hennepin Cnty.**, **143 S. Ct. 1369, 1373(2023)**. In 2022, the U.S. Supreme Court held that the windfall to Minnesota was an unconstitutional taking. 71 Id. at 1380(2023)...

Content: Law Reviews | **Date:** December 1, 2023

12. [**ARTICLE: ARTICLE III, THE BILL OF RIGHTS, AND ADMINISTRATIVE ADJUDICATION**](#), 92 Fordham L. Rev. 397

... The Eighth Amendment can also demand an Article III court's involvement in certain types of cases. In particular, when a federal administrative agency seeks to impose punitive fines or career bans that impact an individual in significant, life-altering ways, agency action may implicate the Eighth Amendment bar against "excessive fines" 72 U.S. CONST. amend. VIII ; see also **Tyler v. Hennepin Cnty.**, **143 S. Ct. 1369, 1382(2023)**(Gorsuch, J., concurring) ("Economic penalties imposed to deter ...

Content: Law Reviews | **Date:** November 1, 2023

13. [**ARTICLE: ARTICLE III, THE BILL OF RIGHTS, AND ADMINISTRATIVE ADJUDICATION**](#), 92 Fordham L. Rev. 397

... The Eighth Amendment can also demand an Article III court's involvement in certain types of cases. In particular, when a federal administrative agency seeks to impose punitive fines or career bans that impact an individual in significant, life-altering ways, agency action may implicate the Eighth Amendment bar against "excessive fines" 72 U.S. CONST. amend. VIII ; see also **Tyler v. Hennepin Cnty.**, **143 S. Ct. 1369, 1382(2023)**(Gorsuch, J., concurring) ("Economic penalties imposed to deter ...

Content: Law Reviews | **Date:** November 1, 2023

14. [**ARTICLE: LEADING CASE: CONSTITUTIONAL LAW: Fifth Amendment Takings Clause Tyler v. Hennepin County**](#), 137 Harv. L. Rev. 310

... In response, the Supreme Court has diminished the role of state law in defining the relevant interest, instead appealing to what resembles a "general law of property": jurisdictionless understandings of history and tradition, as well as other states' laws. 6 Maureen E. Brady, *The Illusory Promise of General Property Law* , 132 YALE L.J.F. 1010 , 1015(2023). This past Term, in *Tyler v. Hennepin County* , **7143 S. Ct. 1369(2023)**. the Supreme Court unanimously held that a Minnesota statutory ...

Content: Law Reviews | **Date:** November 1, 2023

15. [**ARTICLE: LEADING CASE: CONSTITUTIONAL LAW: Elections Clause Independent State Legislature Theory Moore v. Harper**](#), 137 Harv. L. Rev. 290

... The majority framed this as simply applying federal courts' "duty to safeguard" the Federal Constitution, 76 Id. at 2088-89 . in line with "other areas" in which federal courts claim ultimate supervisory authority over state law. 77 Id. at 2088 (citing, inter alia, **Tyler v. Hennepin County**, **143 S. Ct. 1369, 1375(2023)**(Takings Clause); *Gen. Motors Corp. v. Romein*, 503 U.S. 181 , 187 (1992) (Contracts Clause)). These areas of federal interference are intended to be exceptions. Cf. ...

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16. [**ARTICLE: TAX FORFEITURES AND THE EXCESSIVE FINES MUDDLE**](#), 118 Nw. U. L. Rev. Online 170

... case centered on Hennepin County's foreclosure of the condominium home of Tyler, a 94-year-old widow, after

she failed to pay her delinquent property taxes. 7 Tyler , 143 S. Ct. at 1374 . Tyler owed approximately \$2,300 in taxes and \$12,700 in statutory interest, penalties, and costs associated with her debt. 8 See Petition for Writ of Certiorari at 3, Tyler ,**143 S. Ct. 1369(2023)**(No. 22-166). The county sold her home for \$40,000, but rather than returning to her the \$25,000 worth of ...

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17. [Articles: Constraining and Licensing Arbitrariness: The Stakes in Debates about Substantive-Procedural Due Process](#), 76 SMU L. Rev. 613

... Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 , 541 (1985) . The Takings Clause has its own jurisprudence. See, e.g. , Kelo v. City of New London, 545 U.S. 469 (2005) San Remo Hotel, L.P. v. City and Cnty. of San Francisco, 545 U.S. 323 (2005) **Tyler v. Hennepin Cnty.,598 U.S. 631(2023)** . As Justices explained in several rulings, the point was not only to respect and protect individuals, but also to sustain the legitimacy of governments by requiring fair and open process. A ...

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18. [ARTICLES: TOWARD PRINCIPLED BACKGROUND PRINCIPLES IN TAKINGS LAW](#), 10 Tex. A&M L. Rev. 427

... This means that a property owner may only challenge an access regulation within a few years of its promulgation. The Supreme Court's most recent Takings Clause opinion, its unanimous 2023 ruling in **Tyler v. Hennepin County** , 210 **Tyler v. Hennepin County,143 S. Ct. 1369(2023)** . illustrates the contemporary Court's understanding that valid takings claims can still be time-barred if a landowner misses even a brief window to invoke their rights. In that case, Hennepin County tried to justify ...

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19. [ARTICLE: REVIEW: KEEPING OUR REPUBLIC](#), 2023 Harv. J.L. & Pub. Pol'y Per Curiam 1

... a panel on federalism, we will explore the curious and sometimes nebulous line between federal and state governments. We will consider how common law adjudication in states relates to the legislation we demand to make law at the federal level. We will examine how states may regulate the content of substantive rights and whether state regulation may transcend state borders. 12 See e.g. , **Tyler v. Hennepin County,598 U.S. 631(2023)** ; National Pork Producers v. Ross, 143 S. Ct. 1142 (2023) ...

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20. [Post-Hearing Evaluation.](#), 1 IL Zoning, Eminent Domain and Land Use Manual @ 7.10

... But state law cannot be the only source; otherwise, a State could sidestep the Takings Clause by disavowing traditional property interests. 203 **Tyler v. Hennepin County**, ___ U.S. ___, ___,**143 S.Ct. 1369, 215 L.Ed. 2d 564** (May 25, 2023, sl. op at 5). So the U.S. Supreme Court also looks to traditional property law principles plus historical practice and the Court's precedents. 204 **Tyler v. Hennepin County**, ___ U.S. ___, ___,**143 S.Ct. 1369, 215 L.Ed. 2d 564** (May 25, 2023, sl. op at ...

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21. [Constitutional Guarantee of Just Compensation.](#), 1 IL Zoning, Eminent Domain and Land Use Manual @ 8.02

... is to bar government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole. 50 Armstrong v. United States, 364 U.S. 40 , 49 , 80 S.Ct. 1563 , 4 L. Ed. 2d 1554 (1960) ; **Tyler v. Hennepin County**, ___ U.S. ___, ___,**143 S.Ct. 1369, 215 L.Ed. 2d 564** (May 25,

2023, sl. op at 14); Northern Ill. Home Bldrs. Ass'n v. County of Du Page, 165 Ill. 2d 25 , 31–32 , 649 N.E.2d 384 , 388 (1995), citing Dolan v. City ...

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22. [No Title](#), Moore's Federal Rules Pamphlet Publication Update

... Allegations that a county illegally appropriated the excess proceeds of a foreclosure sale after satisfaction of delinquent property taxes were sufficient to plausibly allege both standing to sue under Article III and to state a claim for relief under the Takings Clause . **Tyler v. Hennepin Cty., 143 S. Ct. 1369, 215 L. Ed. 2d 564, 1375–1381(2023)** (Part 1, Civil Rule 12). To bring a fraud claim under 15 U.S.C. § 77k , the plaintiff must plead and prove that the securities at issue are ...

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23. [Rule 8\(a\); Pleading Claim for Relief](#), 1 Moore's Federal Rules Pamphlet @ 8.4

... In re Schering-Plough Corp. Intron/Temodar Consumer Class Action , 678 F.3d 235 , 243–244 (3d Cir. 2012) ; Amidax Trading Group v. S.W.I.F.T. SCRL , 671 F.3d 140 , 145 (2d Cir. 2011) ; see **Tyler v. Hennepin Cty., 598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564, 570(2023)** (applying rule without stating it; allegation that county illegally appropriated excess proceeds of foreclosure sale after satisfaction of delinquent property taxes stated “classic pocketbook injury” sufficient ...

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24. [Rule 12\(b\); Raising of Defenses by Pre-Answer Motion](#), 1 Moore's Federal Rules Pamphlet @ 12.4

... (7th Cir. 2015) ; In re Schering-Plough Corp. Intron/Temodar Consumer Class Action , 678 F.3d 235 , 243–244 (3d Cir. 2012) ; Amidax Trading Group v. S.W.I.F.T. SCRL , 671 F.3d 140 , 145 (2d Cir. 2011) ; see **Tyler v. Hennepin Cty., 598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564, 570(2023)** (applying rule without stating it; allegation that county illegally appropriated excess proceeds of foreclosure sale after satisfaction of delinquent property taxes stated “classic pocketbook ...

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25. [NEW DEVELOPMENTS](#), 1 Antieau on Local Government Law, Second Edition Special Alert

... right to speak freely.” The Court also noted that determining what qualifies as expressive activity protected by the First Amendment can sometimes raise difficult questions, but in this case, however, the parties had stipulated that Ms. Smith sought to engage in expressive activity. In **Tyler v. Hennepin County, Minnesota, 143 S. Ct. 1369(2023)** , the U.S. Supreme Court unanimously reversed the dismissal of a homeowner’s suit, and held that the homeowner had plausibly alleged a violation ...

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26. [No Title](#), 1 Collier Pamphlet Edition 11 U.S.C. @ 548

... calculus do these procedures convey to the debtor value that is substantially comparable to the worth of the transferred property. Therefore, the transfer pursuant to the RPTL is subject to avoidance under section 548. Gunsalus v. Cty. of Ontario, 37 F.4th 859 (2d Cir. 2022) . Accord Lowry v. Southfield Neighborhood Revitalization Initiative (In re Lowry), 2021 U.S. App. LEXIS 13042 (6th Cir. Dec. 27, 2021) . See also **Tyler v. Hennepin Cnty., 598 U.S. ___, 143 S. Ct. 1369(2023)** ...

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27. [Partial and Total Destruction](#), 1AptI Condominium Law and Practice: Forms @ 69.02
- ... extraordinary insurance expense (or conversely, a windfall) upon later discovery. Additionally, for complete insurance protection, the board of managers should be advised to periodically revise their insurance picture, keeping abreast of changes in project values and the costs of materials. [4] Constitutional Issues There are many constitutional issues in eminent domain law. 62 See generally **Tyler v. Hennepin County**, 598 U.S. ___,143 S. Ct. 1369, 1376, 1379, 215 L. Ed. 2d 564, 571(2023) ...
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28. [U.S. Supreme Court Decisions, Both Decided May 25, 2023, Protect Private Property Owners from Overreach by Local \(Tax Sale\) and Federal \(Wetlands\) Regulators: Tyler v. Hennepin County and Sackett v. EPA](#)[Cite as Michael Allan Wolf, Powell on Real Property®, U.S. Supreme Court Decisions, Both Decided May 25, 2023, Protect Private Property Owners from Overreach by Local \(Tax Sale\) and Federal \(Wetlands\) Regulators: Tyler v. Hennepin County and Sackett v. EPA \(LexisNexis Matthew Bender 2023\). The author thanks Nancy Greening for her invaluable insights and advice. This Special Alert is excerpted from Michael Allan Wolf, Powell on Real Property® \(LexisNexis Matthew Bender\) with permission.](#), 1 Land Use Law Special Alert
- ... while neither case featured a dissenting opinion denying that landowner rights had been violated, an intriguing combination of concurring justices offered owner-friendly alternatives to the majorities' rationales, which is perhaps a sign that in the current iteration of the Roberts Court partisan divides are not set in stone, at least not in the important area of property rights protection. I. Tyler v. Hennepin County In Tyler v. Hennepin County , 2 **Tyler v. Hennepin Cnty.**,143 S. Ct. 1369(2023) ...
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29. [Elements of Claim for Inverse Condemnation*Authored by Kevin Shirey, Esq. except for §?4.01 which was contributed by Michael Allan Wolf, Author of Powell on Real Property®. Updates \(except in §?4.01\) contributed by Coulter Boesch, Esq.](#), 1 LNPG: Minnesota Real Estate Litigation @ 4.15
- ... **Tyler v. Hennepin Cnty.**, 215 L. Ed. 2d 564(2023)] . There, the court observed: The Takings Clause does not itself define property. For that, the Court draws on “existing rules or understandings” about property rights. But state law cannot be the only source. Otherwise, a State could “sidestep the Takings Clause by disavowing traditional property interests” in assets it wishes to appropriate. So we also look to “traditional property law principles,” plus historical practice and this Court’s ...
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30. [Overview of Real Estate Security Interests*Authored by Edward E. Robinson, Esq.](#), 1 LNPG: Minnesota Real Estate Litigation @ 5.03
- ... is among a minority of jurisdictions that deem delinquent property forfeited in its entirety for the owner’s failure to pay property taxes. Most states, in contrast, impose restrictions on tax foreclosure sales, either by requiring that no more than the minimum amount of land be sold to satisfy the outstanding tax debt, or by requiring that surplus proceeds from the tax sale be returned to the taxpayer. In **Tyler v. Hennepin Cnty.**, ___ U.S. ___,143 S. Ct. 1369, 215 L. Ed. 2d 564(2023) , ...
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31. [Pleading Jurisdiction](#), 1 Manual of Federal Practice @ 3.08
- ... (7th Cir. 2015) ; In re Schering-Plough Corp. Intron/Temodar Consumer Class Action , 678 F.3d 235 , 243–244

(3d Cir. 2012) ; *Amidax Trading Group v. S.W.I.F.T. SCRL* , 671 F.3d 140 , 145 (2d Cir. 2011) . **Tyler v. Hennepin Cty.**, 598 U.S. ___, 143 S. Ct. 1369, 215 L. Ed. 2d 564, 570(2023) (allegation that county illegally appropriated excess proceeds of foreclosure sale after satisfaction of delinquent property taxes stated “classic pocketbook injury” sufficient to plausibly allege ...

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32. [Failure to State Claim](#), 1 Manual of Federal Practice @ 4.24

... (when complaint alleged antitrust conspiracy, mere conclusory allegations that parallel action resulted from illegal agreement were insufficient). The plausibility requirement of the *Twombly/Iqbal* line of authority does not require detailed fact pleading or offering evidence to support the claims. **Tyler v. Hennepin Cty.**, 598 U.S. ___, 143 S. Ct. 1369, 215 L. Ed. 2d 564, 1375–1381(2023) (allegations that county illegally appropriated excess proceeds of foreclosure sale after satisfaction ...

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33. [Failure to State Claim? Rule 12\(b\)\(6\) Motion](#), 2 Moore's Federal Practice - Civil Sec. 12.34

... Accordingly, a motion to dismiss for failure to state a claim must now be judged according to the “plausibility” standard set out in the *Twombly* decision. 6.3 Courts must apply plausibility standard of *Twombly* decision. **Tyler v. Hennepin Cty.**, 598 U.S. ___, 143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201, at *8–*10 (2023) (allegations that county illegally appropriated excess proceeds of foreclosure sale after satisfaction of delinquent property taxes were sufficient to plausibly ...

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34. [Lack of Subject-Matter Jurisdiction](#), 2 Moore's Federal Practice - Civil Sec. 12.30

... fact is insufficient regardless of whether it relates to a claim for relief or a basis for jurisdiction. Jurisdictional allegations are therefore subject to the same plausibility requirement that applies to allegations of a claim for relief under the *Twombly/Iqbal* line of authority (see § 12.34[1]). 13.1 Plausibility requirement applies to jurisdictional allegations. See **Tyler v. Hennepin Cty.**, 598 U.S. ___, 143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201, at *6–*8 (2023) ...

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35. [Constitutional Basis of Right of Eminent Domain](#), 13 Moore's Federal Practice - Civil Sec. 71.1.02

... *Chicago, Burlington & Quincy R.R. v. Chicago*, 166 U.S. 226 , 239 , 17 S. Ct. 581 , 41 L. Ed. 979 (1897) (condemnation by state of private lands require just compensation under Fourteenth Amendment); see **Tyler v. Hennepin County**, 598 U.S. 631, 143 S. Ct. 1369, 215 L. Ed. 2d 564, 570–575, 577(2023) (local government’s retention, after tax sale, of excess value of taxpayer’s home over amount of tax debt violated Fifth Amendment’s Takings Clause , which is applicable to states ...

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36. [The Right of Former Owners in Tax Deeded Property](#), 16 NH Prac. Series: Municipal Taxation & Road Law @ 43.13

... regardless of whether the former owner took steps to correct the consequences of the tax delinquency, whenever a municipality acquires property by tax deed and the equity in the property exceeds the amount owed. 77 *Polonsky v. Town of Bedford*, 173 N.H. 226 , 238 A.3d 1102 , 2020 N.H. LEXIS 48 (2020) . This result is consistent with the holding of the United States Supreme Court in its 2023 opinion in *Tyler v. Hennepin County*. 77.1 **Tyler v.**

Hennepin County,143 S. Ct. 1369, 2023 U.S. LEXIS 2201 ...**Content:** Treatises37. [Statewide Procedures](#), 3 NY Practice Guide Real Estate @ 19.01

... ordinance did not ‘absolutely preclud[e] an owner from obtaining the surplus proceeds of a judicial sale,’ but instead simply defined the process through which the owner could claim the surplus, we found no Takings Clause violation.” **Tyler v. HennepinCnty.,143 S. Ct. 1369, 215 L. Ed. 2d 564, 575, 2023 U.S. LEXIS 2201, *17(2023)** . Ironically, only days before Tyler was decided, the Appellate Division, Second Department held that, based on earlier precedent, that “where, as here, ...

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... neither case featured a dissenting opinion denying that landowner rights had been violated, an intriguing combination of concurring justices offered owner-friendly alternatives to the majorities’ rationales, which is perhaps a sign that in the current iteration of the Roberts Court partisan divides are not set in stone, at least not in the important area of property rights protection. I. Tyler v. Hennepin County In Tyler v. Hennepin County , 2 **Tyler v. Hennepin Cnty.,143 S. Ct. 1369(2023)**. ...

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... of the company holding the funds under our common-law rules due to recordkeeping gaps, then it is sufficiently “similar” to a money order to fall presumptively within the FDA. Such is the case with the Disputed Instruments. 12 Delaware , 143 S. Ct. at 712 . Those Disputed Instruments did not fit within the statutory exception of “third party bank checks,” despite Delaware ’s argument. TYLER V. HENNIPIN COUNTY In Tyler v. Hennepin County , 13 Tyler v. Hennepin Cnty., **143 S. Ct. 1369(2023)** ...

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... Hall v. Meisner, 51 F.4th 185 , 188 (6th Cir. 2022) . The Eighth Circuit, in a terrible decision, upheld Minnesota ’s almost identical real estate tax-forfeiture scheme, but the Supreme Court reversed in a powerful unanimous decision. **Tyler v. Hennepin Cnty.,143 S. Ct. 1369, 215 L. Ed. 2d 564(2023)** . At oral argument, all the justices pummeled Hennepin County ’s outstanding Supreme Court lawyer, seeing no merit in any of the county’s many arguments. The Court held that Hennepin County’s ...

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... ’s real property tax-forfeiture scheme did not violate the Excessive Fines Clause because its “primary purpose” is “remedial”—aimed at “compensating the government for lost revenues due to the non-payment of taxes.” But, in an excellent concurring opinion in Tyler v. Hennepin Cnty. , 10.2 **143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201(May 25, 2023)** . The Court unanimously held that Minnesota ’s scheme violated the Takings Clause ; accordingly, it did not have to decide Ms. Tyler’s ...

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42. [No Title](#), 7 New York Real Property Forms Annotated FORM 699

... ordinance did not ‘absolutely preclud[e] an owner from obtaining the surplus proceeds of a judicial sale,’ but instead simply defined the process through which the owner could claim the surplus, we found no Takings Clause violation.” **Tyler v. Hennepin Cnty.**,143 S. Ct. 1369, 215 L. Ed. 2d 564, 575, 2023 U.S. LEXIS 2201, at *17(2023) . The owner’s tax liability is not extinguished by a tax sale which is subsequently vacated by the court as invalid. Matter of County of Seneca v. Maxim ...

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43. [No Title](#), 7 New York Real Property Forms Annotated FORM 703

... ordinance did not ‘absolutely preclud[e] an owner from obtaining the surplus proceeds of a judicial sale,’ but instead simply defined the process through which the owner could claim the surplus, we found no Takings Clause violation.” **Tyler v. Hennepin Cnty.**,143 S. Ct. 1369, 215 L. Ed. 2d 564, 575, 2023 U.S. LEXIS 2201, at *17(2023) . Ironically, only days before Tyler was decided, the Appellate Division, Second Department held that, based on earlier precedent, “where, as here, the ...

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44. [CONDEMNATION](#), 1 Virginia Civil Benchbook @ 11.01

... Such other facilities necessary to the construction, maintenance, or operation of a public facility. [2] Constitutional and statutory considerations U.S. Const. amend. V Va. Const. art. I, § 11 [a] Private property shall not be taken for public use without just compensation. [i] **Tyler v. Hennepin Cnty.**,143 S. Ct. 1369(2023) Murr v. Wisconsin, 137 S. Ct. 1933 (2017) Pennsylvania Coal Co. v. Mahon, 260 U.S. 393 (1922) Board of Supervisors v. Route 29, LLC, 301 Va. 134 (2022) The unconstitutional ...

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45. [Enforcing Tax Liens](#), 13 Warren's Weed New York Real Property @ 133.23

... , 199 , 1 L. Ed. 2d 171 , 176 , 1956 U.S. LEXIS 34 , * 14 (1956) . On the other hand, in Tyler v. Hennepin Cnty ., 61.3 **143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201(2023)** . the Supreme Court found that where a municipality retained the surplus after a tax sale, the taxpayer plausibly asserted a Takings Clause violation. The Court observed that most states refund the surplus to the taxpayer. Addressing its earlier determination in ...

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46. [Determining Nature and Effect of Tax Titles](#), 13 Warren's Weed New York Real Property @ 134.05

... Matter of Ellis v City of Rochester, 227 AD2d 904 , 643 N.Y.S.2d 279 (4th Dept. 1996) . The constitutionality of New York ’s tax foreclosure or tax lien sales systems is called into question by Tyler v. Hennepin Cnty., 164.3 **143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201(2023)** . in which the Supreme Court found that where a municipality retained the surplus after a tax sale, the taxpayer plausibly asserted a Takings Clause violation. The Court observed that most states ...

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47. [Anticipating Effect of Irregularities and Jurisdictional Defects in Tax Titles](#), 13 Warren's Weed New York Real

Property @ 134.06

... with an assessed value of \$52,000 were lost for failure to pay water taxes in the amount of \$879.50—a trusted bookkeeper failed to make the payment and the owner did not receive actual notice of that failure until after the period to redeem had passed. *Nelson v. City of New York*, 352 U.S. 103, 77 S. Ct. 195, 1 L. Ed. 2d 171 (1956). On the other hand, in **Tyler v. Hennepin Cnty.,143 S. Ct. 1369, 215 L. Ed. 2d 564, 2023 U.S. LEXIS 2201(2023)**, the Supreme Court found that where a ...

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48. [Interests remaining after foreclosure.](#), 17 Michigan Digest, Taxes @ 499

... for just compensation where the county (pursuant to the tax foreclosure scheme under Minnesota law) retained the \$25,000 excess over the owner's delinquent property tax debt of \$15,000 after selling the property for \$40,000 at a tax foreclosure sale. **Tyler v. Hennepin County,2023 U.S. LEXIS 2201(2023)**. Op Atty Gen. Liens for future installments of special assessments levied by townships are not extinguished by tax foreclosure proceedings under the General Property Tax Act (MCLS §§ 211.78–78p ...

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49. [Disposition of Proceeds from Sales](#), 30 M.L.P. 2d Taxation @ 347

... for just compensation where the county (pursuant to the tax foreclosure scheme under Minnesota law) retained the \$25,000 excess over the owner's delinquent property tax debt of \$15,000 after selling the property for \$40,000 at a tax foreclosure sale.—**Tyler v. Hennepin County,2023 U.S. LEXIS 2201(2023)**. The former property owners have a “deep rooted” common law property interest in the surplus funds that continue to exist even after the fee simple title to the property vests with the government ...

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50. [SHEETZ v. COUNTY OF EL DORADO](#), 2023 U.S. S. Ct. Briefs LEXIS 4217

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51. [CHONG v. CITY OF SEATTLE](#), 2023 U.S. S. Ct. Briefs LEXIS 4198

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... Sheetz v. Cnty. of El Dorado, 300 Cal. Rptr. 3d 308 (Cal. Ct. App. 2022) Stop the Beach Renourishment, Inc. v. Fla. Dep't of Env't Prot., 560 U.S. 702 (2010) Town of Flower Mound v. Stafford Ests. Ltd. P'ship, 135 S.W.3d 620 (Tex. 2004)**Tyler v. Hennepin County,598 U.S. 631(2023)**Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926) Walker v. City of San Clemente, 192 Cal. Rptr. 3d (Cal. Ct . App. 2015) Wolf Ranch LLC v. City of Colorado Springs, ...

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57. [DEVILLIER v. TEXAS](#), 2023 U.S. S. Ct. Briefs LEXIS 3560

... 520 U.S. 725 (1997) Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Planning Agency, 535 U.S. 302 (2002) Tanzin v. Tanvir, 141 S.Ct. 486 (2020) TrinCo Inv. Co. v. United States, 140 Fed.Cl. 530 (2018)**Tyler v. Hennepin Cnty.,598 U.S. 631(2023)**In re Venoco LLC, 998 F.3d 94 (3d Cir. 2021) Ex parte Virginia, 100 U.S. 339 (1879) Wallace v. Jaffree, 472 U.S. 38 (1985) Yearsley v. W.A. Ross Constr. Co., 309 U.S. 18 ...

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58. [MCELRATH v. GEORGIA](#), 2023 U.S. S. Ct. Briefs LEXIS 3104
 ... 38 Ark. 550 (1882) State v. Odell, 4 Blackf. 156 (Ind. 1836) State v. Ross, 367 Or. 560 (2021) Stop the Beach Renourishment, Inc. v. Fla. Dep't of Env't Prot., 560 U.S. 702 (2010)**Tyler v. Hennepin Cnty.,143 S. Ct. 1369(2023)**United States v. Ball, 163 U.S. 662 (1896) United States v. DiFrancesco, 449 U.S. 117 (1980) United States v. Gaudin, 515 U.S. 506 (1995) United States v. Martin Linen Supply Co., 430 U.S. 564 ...
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59. [MOORE v. UNITED STATES](#), 2023 U.S. S. Ct. Briefs LEXIS 3072
 ... 240 U.S. 1 (1916) Commissioner v. Glenshaw Glass Co., 348 U.S. 426 (1955) Eisner v. Macomber, 252 U.S. 189 (1920) Kelo v. City of New London, Conn., 545 U.S. 469 (2005)**Tyler v. Hennepin County, Minn.,598 U.S. 631(2023)**United States v. Lewis, 340 U.S. 590 (1951) CONSTITUTIONAL PROVISIONS U.S. Const. Amend. V U.S. Const. Amend. XVI OTHER SOURCES Boris I. Bittker and Lawrence Lokken, Federal Taxation of Income, Estates and Gifts ...
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60. [CHONG v. CITY OF SEATTLE](#), 2023 U.S. S. Ct. Briefs LEXIS 2886
 ... 2023 WL 5659040 (S.D.W.V. Aug. 31, 2023) Thurston v. Union Pac. Ry. Co., 23 F. Cas. 1192 (C.C.D. Neb. 1877) Tovey v. Levy, 401 Ill. 393 (1948) Trump v. Hawaii, 138 S.Ct. 2392 (2018)**Tyler v. Hennepin Cnty.,143 S.Ct. 1369(2023)**United States v. Carlton, 512 U.S. 26 (1994) United States v. Davis, 867 F.3d 1021 (8th Cir. 2017) United States v. Edwards, 944 F.3d 631 (7th Cir. 2019) United States v. James Daniel Good Real Prop., 510 U.S. ...
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61. [BROWN v. Fannie Mae](#), 2023 U.S. S. Ct. Briefs LEXIS 2885
 ... 222 (1974) SELLA LAW LLC v. CFPB 591 U.S. (2020) SISTI v. FED. HOUS. FIN. AGENCY, 324 F. SUPP. 3D 273 , 277 (D.R.I. 2018) SNIADACH V. FAMILY FINANCE CORP. 395 U.S. 337 (1969)**TYLER V HENNEPIN COUNTY598 U.S. 631(2023)**UNITED STATES V. RICHARDSON, 418 U.S. 166 , 188 (1974) UNITED STATES V. SMILEY, 553 F.3D 1137, (8TH CIR. 2009) U.S. v. THROCKMORTON 98 U.S. 61 (1878) UTILITY AIR REGULATORY GROUP V EPA 573 U.S. 1 U.S. 302 (2014) ...
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62. [335-7 LLC v. CITY OF NEW YORK](#), 2023 U.S. S. Ct. Briefs LEXIS 2639
 ... 533 U.S. 606 (2001) Penn Cent. Transp. Co. v. City of New York, 438 U.S. 104 (1978) Pa. Coal Co. v. Mahon, 260 U.S. 393 (1922) Rizzo v. DHCR, 789 N.Y.S.2d 139 (N.Y. App. Div. 2005)**Tyler v. Hennepin Cnty.,598 U.S. 631(2023)**Verizon Commc'ns, Inc. v. F.C.C., 535 U.S. 467 (2002) Yee v. City of Escondido, 503 U.S. 519 (1992) STATUTORY PROVISIONS NYC ADMIN. CODE § 26-511(c)(9)(b) N.Y. COMP. CODES R. & REGS. TIT. 9, § 2522.4(b) ...
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63. [OTTAWA OH v. PANDORA DISTRIBUTION](#), 2023 U.S. S. Ct. Briefs LEXIS 2588
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64. [BURNS v. IOWA](#), 2023 U.S. S. Ct. Briefs LEXIS 2565
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65. [335-7 LLC v. CITY OF NEW YORK](#), 2023 U.S. S. Ct. Briefs LEXIS 2428
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66. [ASTRAZENECA UK LTD. v. ATCHLEY](#), 2023 U.S. S. Ct. Briefs LEXIS 2250
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67. [NEWELL-DAVIS v. PHILLIPS](#), 2023 U.S. S. Ct. Briefs LEXIS 2045
 ... The Case of the Tailors of Ipswich, 77 Eng. Rep. 1218 (K.B. 1610) The Pocket Veto Case, 279 U.S. 655 (1929) Timbs v. Indiana, 139 S. Ct. 682 (2019) Tiwari v. Friedlander, 26 F.4th 355 (6th Cir. 2022) **Tyler v. Hennepin County,143 S. Ct. 1369(2023)** United States v. Carolene Products, 304 U.S. 144 (1938) United States v. Vaello-Madero, 142 S. Ct. 1539 (2022) Washington v. Glucksberg, 521 U.S. 702 (1997) Whole Woman's Health v. Hellerstedt, ...
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68. [CAO v. PFP DORSEY INVS.](#), 2023 AZ S. Ct. Briefs LEXIS 213
 ... 50 years ago, PLF is the most experienced legal organization of its kind. PLF attorneys have participated as lead counsel in many landmark United States Supreme Court cases in defense of the right to make reasonable use of one's property, and the corollary right to obtain just compensation when that right is infringed. See, e.g., **Tyler v. Hennepin Cnty., 143 S. Ct. 1369(2023)**; Sackett v. Env't Prot. Agency, 598 U.S. 651 (2023); Wilkins v. United States, 598 U.S. 152 (2023) ...
Content: Court Filings **Date:** September 26, 2023

69. [CAO v. PFP DORSEY INVS.](#), 2023 AZ S. Ct. Briefs LEXIS 211
 ... recently confirmed that although state law is one source for understanding property rights, "state law cannot be

the only source. Otherwise, a State could sidestep the Takings Clause by disavowing traditional property interests in assets it wishes to appropriate." **Tyler v. Hennepin Cnty.**, 598 U.S. 631, 638(2023) (quotation marks omitted). Here, the fact that condominium purchasers might know about A.R.S. § 33-1228 before purchasing does not mean that the eradication of the property ...

Content: Court Filings **Date:** September 12, 2023

70. [APR CONSTR., INC. v. CITY OF SAN DIEGO](#), 2023 CA App. Ct. Briefs LEXIS 4866

... Constitution. Thus, it held due process considerations bar governmental entities from claiming that sovereign immunity shields them from liability if they obtain such improper financial benefits at the expense of others. Recently, that court focused on these issues in **Tyler v. Hennepin Cnty.**, (May 28, 2023) 598 U.S. ___,143 S. Ct. 1369, 1371 . The appellant, Geraldine Tyler, owned a condominium which had accumulated unpaid real estate taxes, interest and penalties. After the county seized ...

Content: Court Filings **Date:** October 12, 2023

71. [GEDNEY v. COUNTY OF ORANGE](#), 2023 CA App. Ct. Briefs LEXIS 3007

... I. THE NOTICE THE ASSESSOR GAVE TO THE TRUSTEE OF THE GEDNEY BYPASS AND SURVIVOR'S TRUSTS AND NOT THE GEDNEY FAMILY 1978 TRUST NOTED ON THE GRANT DEED WAS IMPROPER AND CONSTITUTES AN UNCONSTITUTIONAL TAKING UNDER THE FIFTH AMENDMENT In the recently published case of **Tyler v. Hennepin County, Minnesota (2023) U.S.** , 143 S.Ct. 1369 (" Tyler "), the Supreme Court reviewed the history of the Fifth Amendment Takings clause and how it is to be applied in situations involving the ...

Content: Court Filings **Date:** July 3, 2023

72. [BA HOTEL & RESORT v. BUENA PARK](#), 2023 CA App. Ct. Briefs LEXIS 2840

... for damages. As noted above, the Avidity case rejects this argument where the government itself has interfered with performance. Furthermore, in a case decided by the United States Supreme Court after the underlying case had been determined, **Tyler v. Hennepin County**, 143 S.Ct. 1369(May 25, 2023) , a unanimous Supreme Court held that it constitutes an unconstitutional taking for a government entity to take property and keep the excess of what the property is worth. Even under ...

Content: Court Filings **Date:** June 26, 2023

73. [KOPLOW v. URREA](#), 2023 FL S.Ct. Briefs LEXIS 405

... " § 72.9 ("[t]he creditor may not apply the payment to a debt for which the payor is not liable, as, for example, the debt owed by a spouse of the payor or by a corporation owned or controlled by the payor")(citations omitted). See also **Tyler v. Hennepin County** , U.S. , 143 S. Ct. 1369 , 1377 (May 25, 2023) (the Court held that the judgment creditor "could not use the toehold of the tax debt to confiscate more property than was due"). The courts' holdings in the purported ...

Content: Court Filings **Date:** July 6, 2023

74. [Johansen Constr. Co. v. Revitalization](#), 2023 WA App. Ct. Briefs LEXIS 1453

... dispute regarding the receiver's interest in property. Here, there is no bona fide dispute over the Receiver's interest in Castle Walls ' bank account. See Section A.1 supra . C. The Turnover Order Is Not an Unconstitutional Taking of Johansen's Property . **Tyler v. Hennepin County**, 598 U.S. 631, 143 S.Ct. 1369, 215 L.Ed.2d 564(2023) is inapposite. Tyler involved a situation where a county, which foreclosed on a real estate

lien, kept the excess proceeds from the sale ...

Content: Court Filings **Date:** September 22, 2023

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75. [In the Receivership v. Claimant Johansen Constr. Co., LLC, Appellant.](#), 2023 WA App. Ct. Briefs LEXIS 1269

... The February 2023 Revision Order imposes an unconstitutional taking, minimally of the funds Johansen's joint checks directed to AW. The U.S. Supreme Court this past May ruled that individuals' property rights are to be protected and their seizure, or unjustified retention, can constitute an unconstitutional taking. See **Tyler v. Hennepin County, 598 U.S. 631, (2023)** (reversing dismissal of 94-year-old taxpayer's takings claim where the state "retained" \$ 25,000 of "surplus proceeds" after ...

Content: Court Filings **Date:** August 23, 2023

-
76. [In the Receivership](#), 2023 WA App. Ct. Briefs LEXIS 1764

... The February 2023 Revision Order imposes an unconstitutional taking, minimally of the funds Johansen's joint checks directed to AW. The U.S. Supreme Court this past May ruled that individuals' property rights are to be protected and their seizure, or unjustified retention, can constitute an unconstitutional taking. See **Tyler v. Hennepin County, 598 U.S. 631, (2023)** (reversing dismissal of 94-year-old taxpayer's takings claim where the state "retained" \$ 25,000 of "surplus proceeds" ...

Content: Court Filings **Date:** August 21, 2023

Motions


77. [Msp Recovery Claims Series](#), 2022 U.S. Dist. Ct. Motions LEXIS 610095

... is a primary payer responsible for payment and/or reimbursement of J.M.'s accident-related expenses." Id. ¶ 44 (emphasis added). Case 1:22-cv-01238-WCG Filed 09/29/23 Page 4 of 6 Document 30 9. These allegations sufficiently alleged Plaintiff's injury and causation for standing. See, e.g., **Tyler v. Hennepin Cty., Minn., 598 U.S. 631, 636 -37 (2023)** ("This is a classic pocketbook injury sufficient to give [plaintiff] standing At this initial stage of the case, [plaintiff] need not definitively ...

Content: Court Filings **Date:** October 20, 2022

Table Of Authorities (34)


U.S. Supreme Court

1. [Lujan v. Defenders of Wildlife](#), 504 U.S. 555, 112 S. Ct. 2130, 119 L. Ed. 2d 351, 1992 U.S. LEXIS 3543, 15 Immigr. Cas. Rep. A1-147, 60 U.S.L.W. 4495, 6 Fla. L. Weekly Fed. S 374, 92 Cal. Daily Op. Service 4985, 92 D.A.R. 7876, 92 D.A.R. 8967, 34 Env't Rep. Cas. (BNA) 1785, 22 Env'tl. L. Rep. 20913 

Citing

First Ref: 143 S. Ct. 1369 at p.1374


Discussion:  | **Court:** U.S. | **Date:** June 12, 1992

2. [Warth v. Seldin](#), 422 U.S. 490, 95 S. Ct. 2197, 45 L. Ed. 2d 343, 1975 U.S. LEXIS 76 

Citing

First Ref: 143 S. Ct. 1369 at p.1374


Discussion:  | **Court:** U.S. | **Date:** June 25, 1975

3. [TransUnion LLC v. Ramirez](#), 141 S. Ct. 2190, 210 L. Ed. 2d 568, 2021 U.S. LEXIS 3401, 28 Fla. L. Weekly Fed. S 1005, 2021 WL 2599472 

Citing

First Ref: 143 S. Ct. 1369 at p.1374


Discussion:  | **Court:** U.S. | **Date:** June 25, 2021

4. [Stop the Beach Renourishment, Inc. v. Fla. Dep't of Env'tl. Prot.](#), 560 U.S. 702, 130 S. Ct. 2592, 177 L. Ed. 2d 184, 2010 U.S. LEXIS 4971, 78 U.S.L.W. 4578, 22 Fla. L. Weekly Fed. S 484, 70 Env't Rep. Cas. (BNA) 1505, 40 Env'tl. L. Rep. 20160 

Citing

First Ref: 143 S. Ct. 1369 at p.1375


Discussion:  | **Court:** U.S. | **Date:** June 17, 2010

5. [Jones v. Flowers](#), 547 U.S. 220, 126 S. Ct. 1708, 164 L. Ed. 2d 415, 2006 U.S. LEXIS 3451, 74 U.S.L.W. 4200, 19 Fla. L. Weekly Fed. S. 158 


Citing

First Ref: 143 S. Ct. 1369 at p.1375

Discussion:  | **Court:** U.S. | **Date:** April 26, 2006

6. [Phillips v. Washington Legal Found.](#), 524 U.S. 156, 118 S. Ct. 1925, 141 L. Ed. 2d 174, 1998 U.S. LEXIS 4003, 66 U.S.L.W. 4468, 11 Fla. L. Weekly Fed. S 634, 98 Cal. Daily Op. Service 4563, 1998 Colo. J. C.A.R. 3102, 98 D.A.R. 6227 


LB Citing**First Ref:**143 S. Ct. 1369 at p.1375**Discussion:**  | **Court:** U.S. | **Date:** June 15, 1998

7. [Ruckelshaus v. Monsanto Co.](#), 467 U.S. 986, 104 S. Ct. 2862, 81 L. Ed. 2d 815, 1984 U.S. LEXIS 124, 52 U.S.L.W. 4886, 21 Env't Rep. Cas. (BNA) 1062, 14 Envtl. L. Rep. 20539 


LB Citing**First Ref:**143 S. Ct. 1369 at p.1375**Discussion:**  | **Court:** U.S. | **Date:** June 26, 1984

8. [Webb's Fabulous Pharmacies, Inc. v. Beckwith](#), 449 U.S. 155, 101 S. Ct. 446, 66 L. Ed. 2d 358, 1980 U.S. LEXIS 157, 49 U.S.L.W. 4033 


LB Citing**First Ref:**143 S. Ct. 1369 at p.1375**Discussion:**  | **Court:** U.S. | **Date:** December 9, 1980

9. [Armstrong v. United States](#), 364 U.S. 40, 80 S. Ct. 1563, 4 L. Ed. 2d 1554, 1960 U.S. LEXIS 1860 

LB Citing**First Ref:**143 S. Ct. 1369 at p.1375**Discussion:**  | **Court:** U.S. | **Date:** June 27, 1960

10. [United States v. Causby](#), 328 U.S. 256, 66 S. Ct. 1062, 90 L. Ed. 1206, 1946 U.S. LEXIS 3008, 106 Ct. Cl. 854 


LB Citing**First Ref:**143 S. Ct. 1369 at p.1375**Court:** U.S. | **Date:** May 27, 1946

11. [Louisville Joint Stock Land Bank v. Radford](#), 295 U.S. 555, 55 S. Ct. 854, 79 L. Ed. 1593, 1935 U.S. LEXIS 1127, 2 Ohio Op. 537, 28 Am. B.R. (n.s.) 397, 97 A.L.R. 1106 

LB Citing

First Ref:143 S. Ct. 1369 at p.1375


Discussion:  | **Court:** U.S. | **Date:** May 27, 1935

12. [County of Mobile v. Kimball](#), 102 U.S. 691, 12 Otto 691, 26 L. Ed. 238, 1880 U.S. LEXIS 2080 

LB Citing

First Ref:143 S. Ct. 1369 at p.1375

Discussion:  | **Court:** U.S. | **Date:** January 10, 1881

13. [Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l Planning Agency](#), 535 U.S. 302, 122 S. Ct. 1465, 152 L. Ed. 2d 517, 2002 U.S. LEXIS 3028, 70 U.S.L.W. 4260, 15 Fla. L. Weekly Fed. S 203, 2002 Cal. Daily Op. Service 3495, 54 Env't Rep. Cas. (BNA) 1129, 32 Env'tl. L. Rep. 20627, 10 A.L.R. Fed. 2d 681 

LB Citing

First Ref:143 S. Ct. 1369 at p.1376

Discussion:  | **Court:** U.S. | **Date:** April 23, 2002

14. [Stead's Ex'rs v. Course](#), 8 U.S. 403, 4 Cranch 403, 2 L. Ed. 660, 1807 U.S. LEXIS 400 

LB Citing

First Ref:143 S. Ct. 1369 at p.1376

Discussion:  | **Court:** U.S. | **Date:** March 14, 1807


15. [Nelson v. New York](#), 352 U.S. 103, 77 S. Ct. 195, 1 L. Ed. 2d 171, 1956 U.S. LEXIS 34 

Y Distinguishing

B Explaining

First Ref:143 S. Ct. 1369 at p.1378


Discussion:  | **Court:** U.S. | **Date:** December 10, 1956

16. [United States v. Lawton](#), 110 U.S. 146, 3 S. Ct. 545, 28 L. Ed. 100, 1884 U.S. LEXIS 1666, 19 Ct. Cl. 709 


B Explaining

First Ref:143 S. Ct. 1369 at p.1378


Discussion:  | **Court:** U.S. | **Date:** January 21, 1884

17. [United States v. Taylor](#), 104 U.S. 216, 14 Otto 216, 26 L. Ed. 721, 1881 U.S. LEXIS 1993, 17 Ct. Cl. 427 


B Explaining**First Ref:** 143 S. Ct. 1369 at p.1378**Discussion:**  **Court:** U.S. | **Date:** December 5, 1881

18. [Cedar Point Nursery v. Hassid](#), 141 S. Ct. 2063, 210 L. Ed. 2d 369, 2021 U.S. LEXIS 3394, 28 Fla. L. Weekly Fed. S 960, 2021 WL 2557070 


LB Citing**First Ref:** 143 S. Ct. 1369 at p.1379**Discussion:**  **Court:** U.S. | **Date:** June 23, 2021

19. [Texaco, Inc. v. Short](#), 454 U.S. 516, 102 S. Ct. 781, 70 L. Ed. 2d 738, 1982 U.S. LEXIS 23, 50 U.S.L.W. 4117, 72 Oil & Gas Rep. 217 

Y Distinguishing**First Ref:** 143 S. Ct. 1369 at p.1380**Discussion:**  **Court:** U.S. | **Date:** January 12, 1982

20. [Austin v. United States](#), 509 U.S. 602, 113 S. Ct. 2801, 125 L. Ed. 2d 488, 1993 U.S. LEXIS 4407, 61 U.S.L.W. 4811, 7 Fla. L. Weekly Fed. S 572, 93 Cal. Daily Op. Service 4820, 93 D.A.R. 8138, 1994 A.M.C. 1206 


B Concurring opinion citing**First Ref:** 143 S. Ct. 1369 at p.1381**Discussion:**  **Court:** U.S. | **Date:** June 28, 1993

21. [United States v. Bajakajian](#), 524 U.S. 321, 118 S. Ct. 2028, 141 L. Ed. 2d 314, 1998 U.S. LEXIS 4172, 66 U.S.L.W. 4514, 11 Fla. L. Weekly Fed. S 662, 98 Cal. Daily Op. Service 4757, 1998 Colo. J. C.A.R. 3239, 98 D.A.R. 6736, 172 A.L.R. Fed. 705 


B Concurring opinion citing**First Ref:** 143 S. Ct. 1369 at p.1382**Discussion:**  **Court:** U.S. | **Date:** June 22, 1998**6th Circuit - Court of Appeals**

22. [Hall v. Meisner](#), 51 F.4th 185, 2022 U.S. App. LEXIS 28474, 2022 FED App. 226P (6th Cir.), 2022 FED App. 0226P, 2022 WL 7366694 

LB Citing**First Ref:** 143 S. Ct. 1369 at p.1375

Discussion:  | **Court:** 6th Cir. Mich. | **Date:** October 13, 2022


8th Circuit - Court of Appeals

23. [Tyler v. Hennepin Cty.](#), 26 F.4th 789, 2022 U.S. App. LEXIS 4207, 2022 WL 468801 

LB Citing

Discussion:  | **Court:** 8th Cir. Minn. | **Date:** February 16, 2022

8th Circuit - U.S. District Courts

24. [Tyler v. Hennepin Cty.](#), 505 F. Supp. 3d 879, 2020 U.S. Dist. LEXIS 228081, 2020 WL 7129894 

B Concurring opinion citing

First Ref: 143 S. Ct. 1369 at p.1374


Discussion:  | **Court:** Dist. Minn. | **Date:** December 4, 2020

Indiana Supreme Court


25. [O'Brien v. Coulter](#), 2 Blackf. 421, 1831 Ind. LEXIS 12 

LB Citing

First Ref: 143 S. Ct. 1369 at p.1377

Discussion:  | **Court:** Indiana Supreme Court | **Date:** November 8, 1831


Minnesota Supreme Court

26. [Farnham v. Jones](#), 32 Minn. 7, 19 N.W. 83, 1884 Minn. LEXIS 73 

LB Citing

First Ref: 143 S. Ct. 1369 at p.1376


Discussion:  | **Court:** Minn. | **Date:** April 2, 1884

27. [Kureger v. Market](#), 124 Minn. 393, 145 N.W. 30, 1914 Minn. LEXIS 539 

LB Citing

First Ref: 143 S. Ct. 1369 at p.1380

Discussion:  | **Court:** Minn. | **Date:** January 23, 1914


28. [Rowe v. Minneapolis](#), 49 Minn. 148, 51 N.W. 907, 1892 Minn. LEXIS 151 

LB Citing

First Ref: 143 S. Ct. 1369 at p.1380


Discussion:  | **Court:** Minn. | **Date:** March 23, 1892

Minnesota Court of Appeals

29. [County of Blue Earth v. Turtle](#), 593 N.W.2d 258, 1999 Minn. App. LEXIS 491, 3 No. 18 Minn. Lawyer 29 

LB Citing


First Ref: 143 S. Ct. 1369 at p.1374

Discussion:  | **Court:** Minn. Ct. App. | **Date:** May 4, 1999

30. [City of St. Paul by Housing & Redevelopment Auth. v. St. Anthony Flats Ltd. Partnership](#), 517 N.W.2d 58, 1994 Minn. App. LEXIS 495 

LB Citing

First Ref: 143 S. Ct. 1369 at p.1375

Discussion:  | **Court:** Minn. Ct. App. | **Date:** May 31, 1994

Mississippi Supreme Court


31. [Griffin v. Mixon](#), 38 Miss. 424, 1860 Miss. LEXIS 16 

LB Citing

First Ref: 143 S. Ct. 1369 at p.1377

Discussion:  | **Court:** Miss. | **Date:** April 1, 1860

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32. [In re Foreclosure of Tax Liens](#), 1 A.D.2d 895, 149 N.Y.S.2d 679, 1956 N.Y. App. Div. LEXIS 6115 

LB Citing

First Ref: 143 S. Ct. 1369 at p.1379

Discussion:  | **Court:** N.Y. App. Div. 2d Dep't | **Date:** March 12, 1956

Virginia Supreme Court


33. [Martin v. Snowden](#), 59 Va. 100, 18 Gratt. 100, 1868 Va. LEXIS 6 

LB Citing

First Ref: 143 S. Ct. 1369 at p.1377

Discussion:  | **Court:** Va. | **Date:** 1868

West Virginia Supreme Ct. of Appeals














34. [McClure v. Matiland](#), 24 W. Va. 561, 1884 W. Va. LEXIS 83 

LB Citing

First Ref: 143 S. Ct. 1369 at p.1377

Discussion:  | **Court:** W. Va. | **Date:** September 20, 1884

Legend

	Warning - Negative Treatment is Indicated		Red - Warning Level Phrase
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	Caution - Possible negative treatment		Yellow - Caution Level Phrase
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	Analysis - Citing Refs. With Analysis Available		Blue - Neutral Level Phrase
	Cited - Citation information available		Light Blue - No Analysis Phrase
	Warning - Negative case treatment is indicated for statute		