

# Highlights

## SIGNIFICANT TRENDS

This Pamphlet includes cases and materials on the following significant trends in the field of Government Takings, including:

### United States Supreme Court

- Williams v. Reed, 604 U.S. \_\_\_\_, 145 S.Ct. 465 (2025) (state’s administrative-exhaustion requirement was preempted by § 1983) (§ 2:25, n.2; § 3:51, n.1; § 3:54, n.1; § 4:13, n.1).
- Lackey v. Stinnie, 604 U.S. \_\_\_\_, 145 S.Ct. 659 (2025) (plaintiffs are not “prevailing parties,” and hence cannot recover attorney’s fees under 42 U.S.C. § 1988(b), if they merely win a transient victory on a preliminary injunction and external events convert that victory into a lasting one: a plaintiff “prevails” under the statute when a court conclusively resolves a claim that materially alters the legal relationship between the parties) (§ 1:7, n.1; § 3:44, n.1; § 3:45, n.2).

### Lower Federal Courts, State Courts and Additional Materials

- In Baker v. City of McKinney, Texas, in a case in which the United States Supreme Court denied certiorari, the United States Court of Appeals for the Fifth Circuit held that a Fifth Amendment takings claim is available in the fleeing felon setting when police damaged plaintiff’s home, but not if the damage occurred when it was “objectively necessary” for the officers to damage the property in an active emergency to prevent imminent harm to persons (§ 2:14, nn.1, 3; § 12:25, n.20).
- The New Jersey Supreme Court struck down a former state statute that allowed private investors who purchase a municipality’s property tax lien to foreclose and retain the surplus equity of the taxpayer as an unconstitutional taking under the Federal Just Compensation Clause (§ 3:10, n.12; § 3:11, n.6; § 3:16, n.4).
- The Pennsylvania Supreme Court held that a railroad company’s taking of private property where the public was not the “primary and paramount beneficiary” of the taking violated the Federal Just Compensation Clause (§ 2:7, n.20).
- The Nevada Supreme Court held a per se regulatory taking occurred where the landowner was deprived of all economically beneficial use (DEVU) of its property: the denominator (relevant property) was narrowly defined, the taking

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was final because further applications were futile, the landowner's uncontested valuation controlled, and the landowner was entitled to attorney fees, refund of property taxes paid subsequent to the taking, plus prejudgment interest (§ 2:12, n.1; § 3:14, n.2; § 3:16, n.4; § 3:30, n.1; § 3:43, n.5; § 4:14, n.1; § 4:16, n.1).

I would like to thank my wife Karen L. Martinez for her support and encouragement.

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