

No. 25-41

IN THE
Supreme Court of the United States

JAN PETERS,

Petitioner,

v.

MALIA M. COHEN, INDIVIDUALLY AND IN HER
OFFICIAL CAPACITY AS STATE CONTROLLER OF THE
STATE OF CALIFORNIA, AND AS TRUSTEE OF THE
UNCLAIMED PROPERTY FUND,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO
THE U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT

**BRIEF AMICUS CURIAE OF CHOICE PLUS
LLC IN SUPPORT OF PETITIONER**

MICHAEL UFFERMAN
MICHAEL UFFERMAN LAW
2022-1 RAYMOND DIEHL RD.
TALLAHASSEE, FL 32308
(850) 386-2345
UFFERMAN@
UFFERMANLAW.COM
**Counsel of Record*

JASON B. BLANK
HABER BLANK, LLP
888 S. ANDREWS AVE.
SUITE 201
FORT LAUDERDALE, FL 33316
(954) 767-0300
JBLANK@HABERBLANK.COM

Dated: August 11, 2025

TABLE OF CONTENTS

TABLE OF CONTENTS	i
TABLE OF AUTHORITIES	ii
IDENTITY AND INTEREST OF AMICUS CURIAE	1
SUMMARY OF ARGUMENT.....	2
ARGUMENT	3
I. The Court Should Grant Certiorari Because California's Unclaimed Property Law Violates the Due Process Clause by Failing to Provide Adequate Pre-Deprivation Notice.....	3
A. California's Notice Procedures Fall Below the Constitutional Minimum Established in <i>Mullane</i> and <i>Jones</i>	4
B. The Scheme's Reliance on Post-Deprivation Remedies Is Inadequate. .	5
II. The Court Should Grant Certiorari Because California's Scheme Effects Unconstitutional Takings Without Just Compensation.....	5
III. This Case Presents an Ideal Vehicle for Resolving Recurring Constitutional Questions Affecting Millions of Property Owners Nationwide.	6
CONCLUSION	7

TABLE OF AUTHORITIES

United States Constitution

Fifth Amendment2

Fourteenth Amendment2

Cases

Cerajeski v. Zoeller,
735 F.3d 577, 583 (7th Cir. 2013)..... 6

Delaware v. Pennsylvania,
143 S.Ct. 696 (2023)..... 7

Garcia-Rubiera v. Fortuno,
665 F.3d 261 (1st Cir. 2011) 4

Horne v. Department of Agriculture,
135 S. Ct. 2419 (2015)..... 2, 5

Jones v. Flowers,
547 U.S. 220 (2006)..... 2, 4, 5

Mullane v. Cent. Hanover Bank & Trust Co.,
339 U.S. 306 (1950)..... 2, 3, 4, 5

Sterling Hotels, LLC v. McKay,
71 F.4th 463 (6th Cir. 2023) 4, 5

Suever v. Connell,
579 F.3d 1047, 1059 (9th Cir. 2009)..... 3

Taylor v. Westly,
402 F.3d 924 (9th Cir. 2005) 3

Taylor v. Yee,
136 S.Ct. 929 (2016)..... 2, 6

<i>Texaco, Inc. v. Short</i> , 454 U.S. 516 (1982)	6
Statutes	
28 U.S.C. § 1257(a)	3
Codes	
Cal. Civ. Proc. Code §§ 1300, <i>et seq</i>	1
Cal. Civ. Proc. Code § 1300(c)	5
Other Authorities	
Taylor, Mac, <i>Unclaimed Property: Rethinking the State’s Lost & Found Program</i> , LEGISLATIVE ANALYST’S OFFICE (Feb. 10, 2015), at pp. 16– 17, https://lao.ca.gov/reports/2015/finance/ Unclaimed-Property/unclaimed-property- 021015.pdf	4, 7, 9

IDENTITY AND INTEREST OF AMICUS CURIAE

Pursuant to Supreme Court Rule 37, the Choice Plus, LLC, respectfully submits this brief amicus curiae in support of Petitioner Jan Peters.

Choice Plus LLC is a leading consumer advocacy and property recovery firm dedicated to assisting individuals and businesses in locating and reclaiming unclaimed property held by state governments. Founded in 2010, Choice Plus has helped thousands of clients recover millions of dollars in unclaimed assets, including bank accounts, stocks, insurance proceeds, and safe deposit box contents. Our work involves navigating complex state unclaimed property laws, educating the public on their rights, and advocating for fair and transparent processes that protect property owners from unwarranted government seizures.

Choice Plus has a direct interest in this case because California's Unclaimed Property Law (UPL), Cal. Civ. Proc. Code § 1300 *et seq.*, exemplifies systemic flaws in state escheatment regimes that hinder our ability to reunite owners with the full value of their property. Inadequate notice and premature sales under such laws result in permanent deprivations, frustrating our mission and harming the property owners we serve. We have observed firsthand how California's practices - such as accepting holder reports with addresses that are obviously inaccurate, aggregating small accounts without identification, and relying on ineffective post-deprivation mechanisms - violate fundamental

constitutional protections. This brief supports the Petitioner to urge the Court to grant certiorari and address these violations, which affect not only California but similar schemes nationwide. No party or counsel to a party authored or funded this brief in whole or in part.

SUMMARY OF ARGUMENT

The Court should grant certiorari to review the Ninth Circuit's decision upholding California's UPL, which deprives property owners of due process and effects uncompensated takings in violation of the Fourteenth and Fifth Amendments. California's scheme seizes and sells private property without adequate pre-deprivation notice, relying instead on generic newspaper ads, a dysfunctional website, and no notice for low-value items. This conflicts with this Court's precedents in *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), and *Jones v. Flowers*, 547 U.S. 220 (2006), which require notice reasonably calculated to inform owners before deprivation. The scheme also constitutes a per se taking under *Horne v. Dep't of Agric.*, 576 U.S. 350 (2015), as the State appropriates and liquidates property without just compensation, offering only sale proceeds - if claimed - while destroying irreplaceable value.

This case is an ideal vehicle for review, as it presents clean constitutional questions amid a circuit split and nationwide proliferation of similar laws. As Justice Alito noted in denying certiorari in *Taylor v. Yee*, 136 S. Ct. 929, 930 (2016) (Alito, J., concurring, joined by Thomas, J.), the constitutionality of such

escheat laws merits scrutiny. Granting certiorari will protect millions of property owners and clarify states' obligations under the Constitution.

ARGUMENT

I. The Court Should Grant Certiorari Because California's Unclaimed Property Law Violates the Due Process Clause by Failing to Provide Adequate Pre-Deprivation Notice.

Certiorari is warranted under 28 U.S.C. § 1257(a) to resolve the Ninth Circuit's conflict with this Court's due process jurisprudence and decisions from other circuits. California's UPL deprives owners of property without notice "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action." *Mullane*, 339 U.S. at 314. As detailed in the petition, the State seizes assets after a mere three-year dormancy period, provides no individualized notice for items under \$50, and relies on ineffective methods for others - such as mailing to known stale addresses or obviously inaccurate ones, as in Petitioner's case where his German address was altered to "Munich, CA 00000."

This scheme echoes the concerns raised by four prior Ninth Circuit panels that found similar iterations unconstitutional. *See Taylor v. Westly*, 402 F.3d 924, 930 (9th Cir. 2005) (holding pre-deprivation notice required); *Suever v. Connell*, 579 F.3d 1047, 1057 (9th Cir. 2009) (same). Yet the court below diverged, immunizing the State under the Eleventh Amendment and ignoring due process mandates. This intra-circuit tension alone warrants review, but the broader conflicts demand it.

A. California's Notice Procedures Fall Below the Constitutional Minimum Established in *Mullane* and *Jones*.

In *Mullane*, this Court invalidated notice by publication for known beneficiaries, holding that due process requires methods that “one desirous of actually informing the absentee might reasonably adopt.” 339 U.S. at 315. California’s generic newspaper ads - often published on low-readership days like Thanksgiving - and broken website fail this test. Owners have no reason to scan California papers or search a database listing 76 million accounts, many as “Owner Unknown” or aggregated without identifiers. For foreign owners like Petitioner, such notice is illusory.

Jones reinforces this: When normal notice fails (e.g., returned mail), the State must take “additional reasonable steps” before selling property. 547 U.S. at 225. California knows its methods fail - millions of accounts remain unclaimed, and the UPF has ballooned to \$13 billion - yet it takes no further steps. Instead, it accepts holder reports with obviously inaccurate addresses to ensure failure, as internal emails reveal. This is not “zealous” protection of owners but self-interested revenue generation, condemned in *Jones*. *Id.* at 239.

Other circuits apply *Mullane* and *Jones* strictly. The First Circuit in *Garcia-Rubiera v. Fortuño* invalidated Puerto Rico's escheat scheme for lacking clear notice of reimbursement procedures. 665 F.3d 261, 276 (1st Cir. 2011). The Sixth Circuit in *Sterling Hotels, LLC v. McKay* held even temporary property impairments require pre-deprivation notice. 71 F.4th

463, 467 (6th Cir. 2023). California’s permanent deprivations without notice conflict with these rulings.

B. The Scheme's Reliance on Post-Deprivation Remedies Is Inadequate.

California’s post-seizure website and claims process shift the burden to owners, violating *Jones*’s pre-deprivation mandate. Aggregated low-value items are untraceable, and sold assets lose appreciation value (e.g., Petitioner’s Amazon stock sold for \$1,603 but now worth over \$4,000). This is “process which is a mere gesture.” *Mullane*, 339 U.S. at 315.

Granting certiorari will harmonize the law and protect vulnerable owners, including the elderly and low-income, whom Choice Plus frequently assists.

II. The Court Should Grant Certiorari Because California’s Scheme Effects Unconstitutional Takings Without Just Compensation.

The UPL also violates the Takings Clause by physically appropriating and liquidating property without compensation. Under *Horne*, physical seizures are per se takings, regardless of post-hoc remedies. 576 U.S. at 360. California takes title to assets (§ 1300(c)), sells them (e.g., stocks after 18 months, safe deposit contents on eBay), and loans proceeds interest-free to its General Fund. Owners recover only sale proceeds - if claimed - with no interest or appreciation.

This is no “custodial” hold; it’s a taking. Safe deposit heirlooms are destroyed, stocks lose growth

(e.g., Berkshire Hathaway sold at \$700 now at \$700,000+). California's defense under *Texaco, Inc. v. Short*, 454 U.S. 516 (1982) - equating this to mineral lapse statutes - misapplies that case, which involved conditional interests in minerals, not absolute ownership of bank accounts or stocks. *See Id.* at 529.

The Seventh Circuit in *Cerajeski v. Zoeller* rejected similar arguments, holding states cannot retain interest on unclaimed property without compensation. 735 F.3d 577, 583 (7th Cir. 2013). California's scheme goes further, appropriating principal and denying full value.

Review is urgent: Unclaimed property is states' fifth-largest revenue source, incentivizing abuse. Certiorari will clarify that escheat laws cannot evade the Takings Clause.

III. This Case Presents an Ideal Vehicle for Resolving Recurring Constitutional Questions Affecting Millions of Property Owners Nationwide.

As Justice Alito observed in *Taylor v. Yee*, escheat laws' constitutionality "may merit review in a future case." 136 S. Ct. at 930. This is that case. The petition presents pure questions of law on undisputed facts: obviously inaccurate addresses, no notice, and sales without compensation. Related cases in New Jersey, Arizona, Alaska, and Delaware underscore the national scope. *See Pet.* at ii.

Nationwide, states hold over \$50 billion in unclaimed property, per the National Association of Unclaimed Property Administrators (NAUPA) (2024). Per NAUPA Annual Report Fiscal Year 2020 48

states reported remitting \$7.12 billion and returning \$2.87 billion (40.33%). California's fund alone grew from \$2.7 billion in 2011 to \$13 billion today, affecting 76 million accounts. *See* Legislative Analyst's Office Report (2015). This illustrates how lucrative unclaimed property programs are. Choice Plus sees similar issues in other states, where inadequate notice leads to permanent losses.

Granting certiorari aligns with *Delaware v. Pennsylvania*, 143 S. Ct. 696 (2023), which addressed escheat disputes but not constitutional notice. This case fills that gap, guiding all states.

CONCLUSION

For the reasons stated above, the Petition for Writ of Certiorari should be granted.

Respectfully submitted.

MICHAEL UFFERMAN
MICHAEL UFFERMAN LAW
2022-1 RAYMOND DIEHL RD.
TALLAHASSEE, FL 32308
(850) 386-2345
UFFERMAN@
UFFERMANLAW.COM
**Counsel of Record*

JASON B. BLANK
HABER BLANK, LLP
888 S. ANDREWS AVE.
SUITE 201
FORT LAUDERDALE, FL 33316
(954) 767-0300
JBLANK@HABERBLANK.COM