

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 MARY BLEICK,
TODD BUTLER, AND ALLEN SKIERSKI IN
SUPPORT OF PETITIONER JAN PETERS**

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INTEREST OF AMICUS CURIAE

Pursuant to Supreme Court Rule 37, Mary Bleick, Todd Butler, and Allen Skierski respectfully submit this brief amicus curiae in support of Petitioner Jan Peters.¹²

Amici Curiae, Mary Bleick, Todd Butler, and Allen Skierski are plaintiffs in a pending action in the Court of Common Pleas, Franklin County, Ohio, *Bleick v. Maxfield*, County Court of Common Pleas Case No. 25-CV-005715, challenging the State of Ohio's unconstitutional seizure of private property held in the Ohio Unclaimed Funds Trust Account for the purpose of funding a private sports stadium. Amici are Ohio residents with vested property interests in funds held in trust by the Ohio Division of Unclaimed Funds, pursuant to Ohio Revised Code Chapter 169. They bring this amicus brief to support Petitioner Jan Peters, whose property was seized under California's Unclaimed Property Law (UPL), Cal. Civ. Proc. Code §§ 1300, *et seq.*, without adequate notice or just compensation, in violation of the Due

¹ This brief was authored solely by counsel for amici. No counsel for a party authored this brief in whole or in part, and no party, party counsel, or other person or entity other than amici curiae, their members, or their counsel made a monetary contribution to fund its preparation or submission.

² Counsel for both petitioner and respondent have consented to the filing of this brief notwithstanding the 10 day notice requirement of Rule 37.2.

Process and Takings Clauses of the United States Constitution..

Amici's interest stems from the striking similarity between the unconstitutional practices challenged in *Peters v. Cohen* and those at issue in litigation currently pending in Ohio. Both cases involve state schemes that seize private property under the guise of unclaimed property laws, without providing constitutionally adequate notice or compensation, and divert those funds for purposes that do not serve the public interest. In Ohio, the state recently granted itself the statutory right to appropriate and then liquidate unclaimed property to finance a private sports stadium, a purpose that, like California's practices, lacks a legitimate public purpose and violates fundamental constitutional protections for private property rights, long recognized as a cornerstone of American jurisprudence. Amici's experience in Ohio underscores the national significance of the issues raised in the petition, as states increasingly exploit unclaimed property laws to generate revenue at the expense of property rights of their citizens and others with no connection to the state who also have had their property deposited in Ohio's unclaimed property trust account.

SUMMARY OF ARGUMENT

This Court should grant certiorari to address the critical constitutional questions raised by California's Unclaimed Property Law and similar state schemes, including Ohio's, which systematically deprive property owners of their rights without due process or just compensation. The California UPL, as applied in

Peters v. Cohen, violates the Due Process Clause of the Fourteenth Amendment by failing to provide adequate pre-deprivation notice, relying instead on ineffective methods such as newspaper advertisements and a defective state website. It further violates the Takings Clause of the Fifth Amendment by physically appropriating and liquidating private property without just compensation, often for the state's fiscal benefit rather than any legitimate public purpose.

Ohio's experience, as detailed in *Bleick v. Maxfield*, mirrors these violations. Ohio's legislature recently passed House Bill 96 (HB 96), ostensibly the state's budget bill, which included the wholly unrelated yet fundamental change in Ohio law to authorize the confiscation of unclaimed funds - private property held in trust - to fund a private sports stadium for the Cleveland Browns, without notice to owners or compensation. See Exhibit A (News Article). This action contravenes Ohio's explicit constitutional protections for private property, as articulated in *City of Norwood v. Horney*, 110 Ohio St. 3d 353 (2006), which prohibits takings for private purposes, and *Sogg v. Zurz*, 121 Ohio St. 3d 449 (2009), which affirms that unclaimed funds remain private property. Ohio case law, including *State ex rel. Ohio Acad. of Trial Lawyers v. Sheward*, 86 Ohio St. 3d 451 (1999), further supports the invalidity of such legislative overreach under the Ohio Constitution's single-subject rule. At present, the properties in Ohio's unclaimed funds trust account is valued at nearly \$4.8 billion, demonstrating the inefficiency of the Ohio Division of Unclaimed Funds to reunite the owners with the funds. The inclusion of Ohio's new

permanent escheat provisions in its unrelated budget bill reflects a growing trend where states, drawn by the ease of pilfering dormant assets, prioritize revenue generation over constitutional property protections—raising serious concerns about the erosion of individual ownership rights.

The issues presented are of national importance, as states like California and Ohio exploit unclaimed property laws to seize private assets of private property owners across the country and around the world without notice, undermining the constitutional protections guaranteed by the Fifth and Fourteenth Amendments. This Court’s intervention is critically necessary to establish clear standards for notice and compensation in unclaimed property schemes, protecting millions of Americans from unconstitutional deprivations.

ARGUMENT

I. Certiorari is Warranted to Address The Due Process Violations Inherent in California’s Unclaimed Property Law, Which Parallel Ohio’s Unconstitutional Scheme.

The California UPL’s failure to provide adequate pre-deprivation notice violates the Due Process Clause of the Fourteenth Amendment, as established by 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). Ohio’s analogous scheme, as challenged in *Bleick v. Maxfield*, similarly deprives property owners of due process, reinforcing the need for this Court’s review.

A. California’s UPL Fails to Provide Constitutionally Adequate Notice.

In *Mullane*, this Court held that notice must be “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” 339 U.S. at 314. The California UPL’s reliance on generic newspaper advertisements and a dysfunctional website falls far short of this standard. As noted in the Petition, the state’s website is inoperative, lists owners as “Owner Unknown,” and provides only post-deprivation notice, rendering it ineffective under *Mullane* and *Jones*. In *Jones*, this Court emphasized that when initial notice attempts fail, the state must take “additional reasonable steps” to notify owners before seizing property. 547 U.S. at 225. California’s practice of falsifying addresses, as in Petitioner’s case, and failing to use available databases (e.g., DMV records) further violates this obligation.

B. Ohio’s Unclaimed Funds Scheme Similarly Violates Due Process.

Ohio’s HB 96, enacted on June 30, 2025, authorizes the confiscation of unclaimed funds without any direct notice to property owners, forcing them to “race the clock” to reclaim their property before it escheats to the state on January 1, 2026. *Bleick v. Maxfield*, ¶¶ 20-22. This lack of individualized notice mirrors California’s deficient procedures and violates *Mullane*’s requirement for notice that is reasonably calculated to reach affected parties. Ohio’s failure to notify owners, despite maintaining a database of unclaimed properties,

exacerbates the due process violation, as owners are unaware of the imminent loss of their property rights.

Ohio case law supports the necessity of robust notice. In *Sogg v. Zurz*, the Ohio Supreme Court recognized that unclaimed funds are private property held in trust, not state property, and cannot be used for state purposes without violating owners' rights. 121 Ohio St. 3d 449, ¶ 16 (2009). The court's reasoning aligns with *Mullane*'s insistence on meaningful notice to protect property interests. Similarly, in *State ex rel. Petro v. Mercomp, Inc.*, 99 Ohio St. 3d 143 (2003), the Ohio Supreme Court emphasized the state's fiduciary duty to preserve unclaimed funds for their rightful owners, underscoring the need for notice to prevent unlawful deprivation.

C. The National Scope of The Problem Necessitates Review.

The parallel due process violations in California and Ohio highlight a broader trend of states exploiting unclaimed property laws to generate revenue without adequate notice. As Justices Alito and Thomas noted in *Taylor v. Yee*, 136 S. Ct. 929, 930 (2016), states are "doing less and less to meet their constitutional obligation" to reunite owners with their property. This Court's intervention is critical to establish uniform standards for pre-deprivation notice, ensuring that states like California and Ohio cannot evade their constitutional duties.

II. Certiorari is Warranted to Address The Takings Clause Violations in California's UPL, Which Mirror Ohio's Unconstitutional Taking For Private Purposes.

California's UPL and Ohio's HB 96 effect unconstitutional takings by seizing private property without just compensation and for non-public purposes, in violation of the Fifth Amendment and Ohio's Constitution.

A. California's UPL Constitutes a *Per Se* Taking.

In *Horne v. Department of Agriculture*, this Court held that the physical appropriation of property constitutes a *per se* taking, requiring just compensation. 135 S. Ct. 2419, 2428 (2015). California's UPL physically appropriates property - stocks, safe deposit box contents, and other assets - and liquidates them, often without notice or compensation. The state's claim that owners can recover sale proceeds is inadequate, as sentimental or unique property (e.g., family heirlooms) cannot be adequately compensated post-seizure. *Peters v. Cohen*, Pet. App. 33-34. This practice violates the Fifth Amendment's requirement that compensation be provided at the time of the taking. *Regional Rail Reorganization Act Cases*, 419 U.S. 102, 124-25 (1974).

B. Ohio's Seizure of Unclaimed Funds For a Private Stadium Violates The Takings Clause.

Ohio's HB 96 authorizes the seizure of unclaimed funds to finance a private stadium for the Cleveland

Browns, a for-profit enterprise owned by Haslam Sports Group. *Bleick v. Maxfield*, ¶¶ 36-40. This constitutes an unconstitutional taking under both the U.S. and Ohio Constitutions. In *City of Norwood v. Horney*, the Ohio Supreme Court held that takings for private economic development, absent a clear public purpose, violate Article I, Section 19 of the Ohio Constitution. 110 Ohio St. 3d 353, ¶ 9 (2006). The court emphasized that “economic benefits to the government and community, standing alone, do not satisfy the public-use requirement.” *Id.* Ohio’s diversion of unclaimed funds to a private venture lacks any public purpose, as confirmed by the Legislative Service Commission’s analysis, which found “little to no tangible impacts” from publicly funded stadiums. *Bleick v. Maxfield*, ¶ 41.

C. Ohio Case Law Reinforces The Unconstitutionality of Takings For Private Purposes.

Ohio courts have consistently protected property rights against takings for private benefit. In *State ex rel. Ohio History Connection v. Moundbuilders Country Club Co.*, 171 Ohio St. 3d 518 (2022), the Ohio Supreme Court reaffirmed that takings must serve a legitimate public purpose, not merely economic gain for private entities. Similarly, in *State ex rel. Duncan v. Mentor City Council*, 105 Ohio St. 3d 372 (2005), the court invalidated a taking that primarily benefited a private developer, emphasizing the sanctity of private property under Ohio law. These precedents align with this Court’s holding in *Kelo v. City of New London*, 545 U.S. 469, 477-78 (2005), which permits takings only for a clear public purpose, not pretextual economic benefits. A mere recitation

that a taking is for a public purpose is insufficient to shield an otherwise unconstitutional taking where no such purpose actually exists.

Ohio's scheme, like California's, exploits unclaimed property laws to fund private enterprises, undermining the constitutional protections articulated in *Norwood* and *Sogg*. This Court's review is essential to curb nationwide abuse.

III. Ohio's Single-Subject Rule Violation Further Supports The Need For Review.

Ohio's HB 96 violates the Ohio Constitution's single-subject rule, Article II, Section 15(D), by embedding a controversial property seizure provision in a general budget bill. *Bleick v. Maxfield*, ¶¶ 115-121. *In State ex rel. Ohio Acad. of Trial Lawyers v. Sheward*, the Ohio Supreme Court invalidated legislation that combined unrelated subjects, noting that the single-subject rule ensures transparency and prevents legislative overreach. 86 Ohio St. 3d 451, 495 (1999). HB 96's inclusion of stadium funding in a budget bill obscures the taking from public scrutiny, denying owners fair notice and deliberation. *Bleick v. Maxfield*, ¶ 120.

This violation parallels California's lack of transparency in its UPL scheme, where inadequate notice and falsified addresses obscure the seizure process. Both states' actions reflect a pattern of circumventing constitutional protections through procedural manipulation, warranting this Court's intervention to protect property owners' rights.

IV. This Case is an Ideal Vehicle to Address Nationwide Constitutional Violations.

The constitutional issues in *Peters v. Cohen* are not isolated to California but reflect a growing trend among states, including Ohio, to exploit unclaimed property laws for revenue. The extreme facts of this case - falsified addresses, nonexistent notice, and liquidation of valuable property - make it an ideal vehicle for this Court to clarify the constitutional standards for notice and compensation. As Amici's Ohio litigation demonstrates, these issues affect millions of Americans, necessitating uniform federal standards to prevent states from abusing their custodial roles.

CONCLUSION

This Court should grant the Petition for Writ of Certiorari to address the unconstitutional practices of California's UPL and similar state schemes, including Ohio's. The systematic deprivation of property without adequate notice or just compensation violates the Due Process and Takings Clauses of the U.S. Constitution, as well as Ohio's robust property protections. By granting review, this Court can protect the rights of millions of Americans and curb the growing misuse of unclaimed property laws.

Respectfully submitted.

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