

Bond Case Briefs

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EMINENT DOMAIN - ILLINOIS

Kolton v. Frerichs

United States Court of Appeals, Seventh Circuit - August 22, 2017 - F.3d - 2017 WL 3647899

Claimant filed putative class action under § 1983 alleging that state's failure to pay interest on presumed abandoned property in its unclaimed property fund violated Takings Clause.

The United States District Court dismissed complaint, and claimant appealed.

The Court of Appeals held that:

- Claimant's failure to exhaust procedures under state law did not deprive district court of subject matter jurisdiction over action, and
- Claimant did not forfeit his claim.

Claimant's failure to exhaust procedures under state law before filing complaint alleging that state's failure to pay interest on presumed abandoned property in its unclaimed property fund violated Takings Clause did not deprive district court of subject matter jurisdiction over his putative class action.

Claimant did not forfeit contention that state had demonstrated that no compensation would be forthcoming on his claim that state's refusal to pay interest on presumed abandoned property in its unclaimed property fund constituted unlawful taking, where claimant asserted that state's unclaimed property statute precluded state treasurer from turning over interest and other income that had accrued on property in state custody, and cited state supreme court decision upholding statute's validity.