

# **Bond Case Briefs**

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## **EMINENT DOMAIN - LOUISIANA**

### **St. Bernard Parish Government v. United States**

**United States Court of Appeals, Federal Circuit - April 20, 2018 - F.3d - 2018 WL 1882913**

Owners of real property in City of New Orleans brought action against United States, under Tucker Act, claiming Fifth Amendment taking, alleging that government was liable for flood damage to their properties caused by Hurricane Katrina and other hurricanes because government had failed to properly maintain or modify the Mississippi River-Gulf Outlet channel and because of government construction and operation of the channel.

Following bench trial, the United States Court of Federal Claims entered judgment in property owners' favor and awarded compensation. Government appealed and property owners cross-appealed, alleging that the compensation award was inadequate.

The Court of Appeals held that:

- Government's failure to properly maintain Mississippi River-Gulf Outlet channel could not be basis for takings liability, and
- Owners failed to establish that government's construction and operation of channel caused damage to their properties.

Government's failure to properly maintain Mississippi River-Gulf Outlet channel or to modify the channel could not be basis for takings liability in action brought by owners of real property in City of New Orleans, alleging that government was liable for flood damage to their properties caused by Hurricane Katrina and other hurricanes.

Owners of real property in City of New Orleans failed to establish that government action, i.e., construction and operation of Mississippi River-Gulf Outlet channel, caused damage to their properties, and thus failed to establish takings claim alleging that government was liable for flood damage to their properties caused by Hurricane Katrina and other hurricanes; property owners failed to consider government's construction of vast system of levees to protect against hurricane damage, which was directed to decreasing the very flood risk that was allegedly increased by the channel project, and which mitigated the impact of the channel and may have placed the owners in a better position than if the government had taken no action at all.