

# Bond Case Briefs

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## EMINENT DOMAIN - CALIFORNIA

### Pena v. City of Los Angeles

**United States Court of Appeals, Ninth Circuit - November 4, 2025 - F.4th - 2025 WL 3074588**

Shop owner filed suit against city under § 1983, seeking compensatory damages under Takings Clause for destruction of shop property and inventory when city police fired dozens of tear gas canisters through officers fired dozens of tear gas canisters through the walls, door, roof and windows of shop after armed fugitive that officers were pursuing barricaded himself within shop.

The United States District Court for the Central District of California denied shop owner's motion for partial summary judgment and shop owner appealed.

As matter of first impression, the Court of Appeals held that police officers' destruction of shop property and inventory in course of pursuit of armed fugitive came within "necessity exception" to compensable taking under Takings Clause.

Destruction of shop owner's property and inventory by city police officers during pursuit of armed fugitive who barricaded himself within shop, caused by officers' firing of dozens of tear gas canisters through shop's walls, door, roof, and windows, was necessary for protection of public, and thus, came within "necessity exception" to compensable taking under Takings Clause; shop was seized by hostile force outside city's control, namely, armed fugitive, and city was required to act, or otherwise risk abdication of its role as defender of public safety if it failed to do so.