

# **Bond Case Briefs**

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## **EMINENT DOMAIN - WISCONSIN**

### **Antosh v. Village of Mount Pleasant**

**United States Court of Appeals, Seventh Circuit - April 25, 2024 - F.4th - 2024 WL 1786287**

Property owners brought action challenging village's use of its eminent domain power to acquire their property.

The United States District Court for the Eastern District of Wisconsin granted village's motion to dismiss, and owners appealed.

The Court of Appeals held that:

- Owners' state and federal actions were parallel for purposes of Colorado River abstention, and
- District court did not abuse its discretion in dismissing action on basis of Colorado River abstention.

Property owners' state and federal actions challenging village's use of its eminent domain power to acquire their property were parallel for purposes of Colorado River abstention, even though state action contested amount of compensation they were owed, and federal action challenged validity of using eminent domain for private purpose; owners did not file federal action until two years after commencing state court, only after state court issued evidentiary ruling that limited compensation they could recover did they decide to file federal complaint, it was unlikely that owners were unaware of their Fifth Amendment claim prior to that ruling, and owners pled identical equal protection claims in both actions.

District court did not abuse its discretion in dismissing property owners' action challenging village's use of its eminent domain power to acquire their property on basis of Colorado River abstention; owners filed state action two years before federal action and did not file federal complaint until four days before trial and until after evidentiary ruling that limited compensation they could recover, both suits were about rights in same real property, village had already built road across property, and nothing would have prevented owners from asserting public-use takings claim in state action.