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1. Verizon Communication v. FCC, 121 S.Ct. 877 (U.S., January 22, 2001) (the U.S. Supreme Court granted a petition for certiorari in this and several other cases involving the implementation of the Telecommunications Act of 1996, to address whether the Takings Clause requires the FCC to consider a telephone company's historical costs (as opposed to its hypothetical efficient costs) in setting the rates the company can charge competitors for access to its local network).

2. Franklin County Convention Facilities Authority v. American Premier Underwriters, Inc., 2002 WL 118155 (6th Cir., February 13, 2001) (in apparently the first post- Eastern Enterprises decision to address the issue, the 6th Circuit held that the retroactive effect of CERCLA does not violate either the Due Process Clause or the Takings Clause; the court said that the split analysis in Eastern Enterprises means that the Supreme Court's ruling creates no binding precedent; the court upheld CERCLA's constitutionality because the Act assigns liability based directly on past acts of pollution).

3. Columbia Gas Transmission Corp. v. Drain, 237 F.3d 366 (4th Circuit, January 8, 2001) (in an interesting case, the Fourth Circuit ruled that the federal district court had subject matter jurisdiction over a declaratory judgment action brought by a gas company (which had statutory powers of eminent domain) seeking a determination that the company's claim of a 50-foot right-of-way did not effect a taking under the Fifth Amendment; the Court did not specifically discuss Williamson County but the ruling implicitly raises the question whether the court's analysis provides takings defendants (actual or prospective) a way of obtaining federal court resolution of takings claims that would ordinarily have to be litigated in the first instance in federal court).

4. Consolidated Edison Co v. United States, 234 F.3d 642 (Fed. Cir., December 5, 2000) (on certification from the federal District Court for the Southern District of New York, the Federal Circuit, in a 2 to 1 ruling (with Gajarsa, J., dissenting) concluded that utilities could challenge the uranium clean-up fees under the Energy Policy Act in a suit for declaratory and injunctive relief under the Takings Clause and the Due Process Clause, that the suit was authorized by the APA, and that the suit did not improperly circumvent the jurisdiction of the Court of Federal Claims; this jurisdictional ruling apparently allows the utilities to relitigate the same argument over the constitutionality of the fees the utilities previously lost in the Yankee Atomic case before the Federal Circuit).

5. Washington Legal Foundation v. Legal Foundation of Washington, 236 F.3d 1097 (9th Cir., January 10, 2001) (the 9th Circuit ruled that the Washington State IOLTA program, under which interest on lawyers' trust accounts is used to support legal services for low-income persons, effects a per se physical occupation of private property under the Takings Clause; this ruling conflicts with a decision by a federal District Court in the Phillips case rejecting the takings challenge to the Texas IOLTA program, which is now being appealed to the 5th Circuit).

6. Washlefske v. Winston, 234 F.3d 179 (4th Cir., December 6, 2000) (disagreeing with the 9th Circuit's 1998 ruling in the Schneider case, the 4th Circuit ruled that Virginia prison officials did not effect a taking by not crediting plaintiff for the interest earned on his prison bank account; the court reasoned that an inmate has no property interest in an account created by statute and therefore is not entitled to the benefit of the general rule that interest follows principal in determining title to money).

7. Vulcan Materials Co. v. City of Tehuacana, 2001 WL 15616 (Fifth Circuit, January 23, 2001) (the 5th Circuit recognized that even though a claim under the federal Takings Clause filed in federal District Court is not ripe if the plaintiff has not exhausted available state compensa- tion procedures, nonetheless the federal court has diversity jurisdiction over a taking claim arising under state law on the same basis as any other state law claim).

8. Echevarrieta v. City of Rancho Palos Verdes, 103 Cal.Rptr. 165 (January 3, 2001) (California court of appeals affirmed rejection of as applied Lucas and physical occupation takings challenge to view-protection ordinance prohibiting land owners from significantly impairing neighbors' views by allowing trees to grow above a certain height).

9. Benchmark Land Company v. City of Battleground, 2000 WL 1839745 (Wash.App., December 15, 2000) (on reconsideration following Del Monte Dunes, the Washington Court of Appeals held that the Dolan rough proportionality test applies not only to exactions of real property but also to exactions of money to pay for road improvements adjacent to proposed development; the ruling seems to conflict with the conclusion by a majority of the Supreme Court in Eastern Enterprises that assessments of financial liability by the government are outside the scope of the Takings Clause).

10. Frevach Land Co. v. Multnomah County, 2000 WL 1875839 (D.Or., December 21, 2000) (in a complex order, the federal District Court rejected the county's motion for summary judgment on a taking claim challenging an illegal stop work order based on the 9th Circuit's Chevron ruling that the alleged failure of a governmental action to substantially advance a legitimate interest states a viable takings claim).

11. Conti v. United States, 2001 WL 29235 (Fed.Cl., Jan.11, 2001) (dismissing taking claim by sword fisher- man operating pursuant to a NMFS permit who objected to new regulation prohibiting sword-fishing with gill nets; court reasoned that NMFS permit granted plaintiff no property right to engage in fishing with gill nets).

12. Banner v. United States, 2001 WL 69230 (Fed. Cir., January 29, 2001) (rejecting takings claim by former lessees on Indian reservation who claimed that congressional legislation settling indian land claims effected a taking of their property, court ruled that 2nd Circuit had previously rejected claim that plaintiffs possessed a protected property right to renew their leases; plaintiff's taking claim with respect to improvements on land failed because, upon expiration of the leases, the improvements became the property of the fee owner, the Seneca Nation).

13. Appeal of Campaign for Ratepayer Rights, 2001 WL 32655 (N.H., January 16, 2001) (in a suit by utility ratepayers challenging a PUC order allowing an electric utility to recover so-called stranded costs, the New Hampshire Supreme Court affirmed dismissal of the takings claim on the ground that the plaintiffs were not entitled to challenge the stranded cost recovery provision in isolation but could only challenge the rate order as whole; analyzed in that broader context, the court concluded that the takings challenge failed because plaintiffs failed to demonstrate that the rate order was unjust or unreasonable).

14. Coast Federal Bank v. United States, 48 Fed.Cl. 402 (Ct.Fed.Cls., December 28, 2000) (in a complex Winstar order, the Court of Federal Claims ruled, among other things, that a breach of contract claim cannot be asserted as a taking claim where the property allegedly taken is identical to the subject of the contract).

15. SGB Financial Services, Inc. v. Consolidated City of Indianapolis-Marion County, Indiana, 235 F.3d 1036 (7th Cir., December 20, 2000) (in an otherwise ordinary decision affirming federal district court dismissal of a takings suit for failure to exhaust available state remedies, the 7th Circuit (per Easterbrook, J.) eloquently explains that Williamson County is "one of many federal doctrines routing suits to state court").

16. In the Award of Damages to Dennis Rapp, 2001 WL 37850 (Minn. Ct. Apps., January 16, 2001) (voiding a county's condemnation of land on the ground that a state statute which authorized land condemnation without providing the condemnee an opportunity to contest the public purpose and necessity of the taking violated both the Fifth Amendment and the Takings Clause of the Minnesota Constitution.)

17. Brace v. United States, 48 Fed.Cl. 272 (Ct.Fed.Cls., December 1, 2000) (rejecting government's motion for summary judgment in a takings suit challenging an Army Corps order prohibiting plaintiff from maintaining and operating a drainage system on his property in order to drain wetlands; court ruled that character and expectations factors weighed in favor of defendant but that U.S. was not entitled to summary judgment absent information about the total extent of plaintiff's property and, therefore, about the actual effects of the cease and desist order on the value of the plaintiff's property).

18. Galland v. Clovis, 2001 WL 92218 (Calif., February 5, 2001) (California Supreme Court, over two dissents, extended its prior decision in Kavanau by ruling that section 1983 plaintiffs challenging mobile home park rent ceilings as confiscatory are only entitled to a future rent adjustment (not monetary damages), so long as future adjustments are adequate to compensate for the exces- sively low rents; due process challenge to rent adjustment procedure that was allegedly unduly time consuming is governed by a deferential "deliberate flouting of the law" standard).

19. Simplex Technologies v. Town of Newington, 2001 WL 65752 (N.H., January 29, 2001) (the New Hampshire Supreme Court significantly relaxed the standards land owners must meet to establish entitlement to a hardship variance; under the prior rule, owners had to show that denial of a variance would bar "any reasonable use" of the

property; under the new rule, owners can establish "unnecessary hardship" by showing "that (1) a zoning restriction as applied to their property interferes with their reasonable use of the property, considering the unique setting of the property in its environment; (2) no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction of the property; (3) the variance would not injure the public or private rights of others;" the court did not directly address the constitutional issues in the case but interpreted the state zoning statutes in light of the "constitutional protections" for landowners as previously articulated by the court).

20. Casa de Cambio v. United States, 48 Fed.Cl. 137 (Ct.Fed Cls., October 27, 2000) (the Court of Federal Claims rejected the claim that the United States effected a taking when the Federal Reserve Bank, at the request of the Treasury Department, recouped funds that had been credited to the claimant's bank on the basis of a check that turned out to be forged; the court ruled that while it was foreseeable that the Federal Reserve Bank's action would lead the claimant's bank to debit his account, the government's involvement in that action was not sufficiently "direct and substantial" to support a taking claim).

21. Schneider v. United States, 97 F.R.D. 397 (D.Neb., July 21, 2000) (federal District Court order affirming a magistrate's recommendation, in a takings suit challenging rails-to-trails conversions, that a class be certified consisting of Nebraska residents who own land included in railroad corridors and who were damaged in the amount of $10,000 or less).

22. Madison v. Graham, 2001 WL 27883 (D.Mont., January 4, 2001) (dismissing land owners' substantive due process challenge to Montana Stream Access Law on the merits as well various procedural grounds, including statute of limitations, res judicata, and Rooker-Feldman doctrine; relying on the 9th Circuit's Armendariz decision, the court said that the claim could only be asserted as a taking claim, not a due process claim, and that the allegations were insufficient to support a claim under the "failure to substantially advance" test; in the alternative, the court ruled that if the allegations could be interpreted to assert a claim under the Due Process Clause they were insufficient to support the conclusion that the stream access law lacked a rational basis).

23. Ultimate Sportsbar, Inc v. United States, 2001 WL 96551 (Ct.Fl Cl., Jan 31, 2001) (rejecting taking claim by lessee who lost property interest as a result of landlord's initiation of chapter 11 bankruptcy proceedings prompted in part by EPA superfund clean up order; court held that lessee's total taking and physical occupation claims were not barred by a lack of investment-backed expectations under the Federal Circuit's Palm Beach Isles decision; nonetheless, the court rejected the taking claim on the merits because government filing of a regulatory enforcement claim in bankruptcy did not support a viable taking claim).