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1. Vulcan Materials Co. v. City of Tehuacana, 2004 WL 982155, (5th Cir., May 21, 2004) (in a quite extreme ruling, the U.S. Court of Appeals for the Fifth Circuit reversed the district court's dismissal of a taking claim by a mining company under the Texas Constitution (in federal court under federal diversity jurisdiction), based on a city ordinance barring limestone mining within the city limits; the court ruled that the order effected a Lucas taking of the company's lease rights to conduct mining, based on the conclusion that unrestricted, adjacent areas covered by the same lease but outside the city limits were properly excluded from the relevant parcel for the purpose of takings analysis; the court of appeals also ruled that the district court had erred in granting summary judgment to the city on its nuisance defense and remanded the case for trial on that issue).

2. Ventura Mobilehome Communities Owners Association v. City of San Buenaventura, 2004 WL 1276975, (9th Cir., June 10, 2004) (the U.S. Court of Appeals for the Ninth Circuit affirmed district court's rejection on ripeness grounds of takings claims by mobile home park operators challenging municipal mobile home rent control law, given that the plaintiffs had not sought administrative relief nor sued for compensation in state court; while recognizing that (in the Ninth Circuit) the requirement to pursue available state compensation remedies did not apply to the extent plaintiffs were asserting substantially advance takings claims, the court ruled that the substantially advance claims were properly dismissed in this case as a matter of law because plaintiffs failed to establish that the ordinance was not "reasonably related" to the ordinance's stated purpose of protecting mobilehome owners' investments in their homes and protecting them from unreasonable rent increases).

3. Republic of Austria v. Altmann, 2004 WL 1238028, (US, June 7, 2004) (in a decision holding that the Foreign Sovereign Immunities Act applies to alleged takings in violation of international law that occurred prior to the statute's enactment, Justice Breyer filed a concurring opinion stating that, in order to demonstrate a violation of international law, "a plaintiff may have to show an absence of remedies in the foreign country sufficient to

compensate for any taking," citing Del Monte Dunes for the proposition that exhaustion of post-deprivation remedies is required before a taking claim can be brought under US law).

4. Moreno v. City of Sacramento, 2004 WL 1166530, (9th Cir., May 19, 2004) (in an unpublished decision, the US Court of Appeals for the Ninth Circuit affirmed rejection of a taking claim based on municipal officials' physical destruction of plaintiff's nuisance property; the court ruled that plaintiff's claim was not ripe because he had not exhausted available state compensation procedures and that mere "uncertainty about the existence" of a state compensation remedy was not sufficient to excuse the plaintiff from its obligation to pursue state remedies rather than filing suit directly in federal court).

5. Cane Tennessee, Inc. v. United States, 2004 WL 1179340, (Fed. Cl., May 28, 2004) (in a complicated case involving takings claims by owners of coal properties, based on designation of their properties as unsuitable for mining under the Surface Mining Control & Reclamation Act, the Court of Federal Claims granted summary judgment to the government as to the claims of certain claimants based on the parcel-as-a-whole rule; but the court found a total Lucas taking of certain plaintiffs' 3.5 percent royalty interests in certain properties; in addressing the latter claims, the court did not directly address the question (apparently raised by the Supreme Court's Tahoe Sierra decision) of whether the Lucas total-taking rule is limited to total takings of fee interests in real property).

6. Dallas Independent School District v. Calvary Hills Cemetery, 2004 WL 246731, (N. Dist. TX, February 4, 2004) (federal district court dismissed as unripe property owner's takings challenge under the federal Takings Clause to planned exercise of eminent domain, in case in which public entity commenced state condemnation proceeding, landowner filed state and federal takings counter claims, and counterclaim defendants removed the case to federal district court).

7. Henderson County Drainage District, No. 3 v. United States, (Ct. Fed. Cls., May 26, 2004) (in a long and exhaustive opinion, the Court of Federal Claims rejected claims by drainage districts and riparian land

owners that the Army Corps of Engineers effected a taking of their property as a result of the operation and maintenance of a navigation channel along the Mississippi and Missouri rivers; the court ruled that releases signed by the plaintiffs did not bar their claims, but that the claims were time-barred under the six-year statute of limitations and, in any event, plaintiffs failed to carry their burden of establishing a taking).