

In the Supreme Court of the United States

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STATE OF AMES,

*Petitioner*

*v.*

DANIEL WELLES,

*Respondent*

---

ON WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE AMES CIRCUIT

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**BRIEF FOR THE RESPONDENT**

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*The Charles Fried Memorial Team*

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NOVEMBER 17, 2025  
7:00 P.M.  
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*Oral Argument*

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## QUESTIONS PRESENTED

- I. Whether the Fifth Amendment's Takings Clause provides a cause of action to obtain just compensation.
- II. Whether a state can use sovereign immunity to (1) defeat federal jurisdiction after voluntarily removing to federal court, or (2) refuse to pay just compensation for a Fifth Amendment taking.

## TABLE OF CONTENTS

|                                                                                                                                      |           |
|--------------------------------------------------------------------------------------------------------------------------------------|-----------|
| <b>QUESTIONS PRESENTED .....</b>                                                                                                     | <b>i</b>  |
| <b>TABLE OF CONTENTS .....</b>                                                                                                       | <b>ii</b> |
| <b>TABLE OF AUTHORITIES .....</b>                                                                                                    | <b>iv</b> |
| <b>INTRODUCTION .....</b>                                                                                                            | <b>1</b>  |
| <b>OPINIONS BELOW .....</b>                                                                                                          | <b>1</b>  |
| <b>JURISDICTION .....</b>                                                                                                            | <b>2</b>  |
| <b>RELEVANT PROVISIONS .....</b>                                                                                                     | <b>2</b>  |
| <b>STATEMENT OF THE CASE .....</b>                                                                                                   | <b>2</b>  |
| <b>SUMMARY OF ARGUMENT .....</b>                                                                                                     | <b>4</b>  |
| <b>ARGUMENT.....</b>                                                                                                                 | <b>5</b>  |
| <b>I. WELLES HAS STATED A CAUSE OF ACTION UNDER THE FIFTH<br/>    AMENDMENT .....</b>                                                | <b>5</b>  |
| <b>A. The Takings Clause provides a cause of action.....</b>                                                                         | <b>6</b>  |
| 1. Under the money-mandating inquiry, the Takings Clause<br>provides a cause of action .....                                         | 6         |
| 2. Tucker Act suits demonstrate that the Takings Clause<br>provides a cause of action .....                                          | 11        |
| <b>B. At a minimum, the Takings Clause must provide a cause<br/>        of action when no alternative avenues are available.....</b> | <b>17</b> |
| 1. No alternative avenues are available .....                                                                                        | 18        |
| 2. The Suspension Clause demonstrates that express<br>constitutional remedies must always be accessible .....                        | 19        |
| 3. A cause of action for just compensation has been available as a<br>constitutional backstop since the Founding .....               | 23        |
| <b>II. AMES CANNOT INVOKE SOVEREIGN IMMUNITY AGAINST WELLES’S<br/>    TAKINGS CLAIM .....</b>                                        | <b>28</b> |
| <b>A. Ames waived its sovereign immunity by removing this<br/>        case to federal court.....</b>                                 | <b>29</b> |
| 1. Any voluntary appearance by a state in federal court waives<br>its immunity .....                                                 | 30        |
| 2. A waiver-by-removal rule would be clear and easily<br>administrable .....                                                         | 33        |
| 3. Creating exceptions to the waiver-by-removal rule would give<br>states unfair litigation advantages.....                          | 34        |

|                                                                                                           |           |
|-----------------------------------------------------------------------------------------------------------|-----------|
| 4. A waiver-by-removal rule would not be unfair to states .....                                           | 36        |
| <b>B. The Fourteenth Amendment abrogates Ames’s sovereign immunity. ....</b>                              | <b>39</b> |
| 1. Section One, of its own force, abrogates Ames’s immunity. ....                                         | 39        |
| 2. This Court’s precedents confirm that Section One can abrogate sovereign immunity .....                 | 41        |
| 3. The tax-refund cases demonstrate that Section One abrogates immunity to ensure access to a remedy..... | 42        |
| <b>C. Ames cannot use sovereign immunity to nullify the Takings Clause .....</b>                          | <b>46</b> |
| 1. The Takings Clause’s express text overrides implied sovereign immunity principles.....                 | 46        |
| 2. The history of the Takings Clause confirms that it takes priority over state sovereign immunity .....  | 47        |
| 3. This Court’s precedents require just compensation .....                                                | 50        |
| <b>CONCLUSION .....</b>                                                                                   | <b>53</b> |

## TABLE OF AUTHORITIES

### Cases

|                                                                            |                |
|----------------------------------------------------------------------------|----------------|
| <i>74 Pinehurst LLC v. New York</i> ,                                      |                |
| 59 F.4th 557 (2d Cir. 2023) .....                                          | 43–44          |
| <i>Alden v. Maine</i> ,                                                    |                |
| 527 U.S. 706 (1999) .....                                                  | <i>passim</i>  |
| <i>Alexander v. Sandoval</i> ,                                             |                |
| 532 U.S. 275 (2001) .....                                                  | 7–8, 11, 13    |
| <i>Allen v. Cooper</i> ,                                                   |                |
| 589 U.S. 248 (2020) .....                                                  | 42             |
| <i>Allen v. McCurry</i> ,                                                  |                |
| 499 U.S. 90 (1980) .....                                                   | 36             |
| <i>Arizona v. Navajo Nation</i> ,                                          |                |
| 599 U.S. 555 (2023) .....                                                  | 12             |
| <i>Armstrong v. United States</i> ,                                        |                |
| 364 U.S. 40 (1960) .....                                                   | 22             |
| <i>Atchison, T. &amp; S.F.R. Co. v. O’Connor</i> ,                         |                |
| 223 U.S. 280 (1912) .....                                                  | 43             |
| <i>Baring v. Erdman</i> ,                                                  |                |
| 2 F.Cas. 784 (C.C.E.D.Pa. 1834) .....                                      | 25             |
| <i>Barron v. City of Baltimore</i> ,                                       |                |
| 32 U.S. 243 (1833) .....                                                   | 49             |
| <i>Beekman v. Saratoga &amp; S. R.R. Co.</i> ,                             |                |
| 3 Paige Ch. 45 (N.Y. Ch. 1831) .....                                       | 25–26          |
| <i>Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics</i> , |                |
| 403 U.S. 388 (1971) .....                                                  | 14–15          |
| <i>Blanchard v. City of Kansas</i> ,                                       |                |
| 16 F. 444 (C.C.W.D. Mo. 1883) .....                                        | 27–28          |
| <i>Boumediene v. Bush</i> ,                                                |                |
| 553 U.S. 723 (2008) .....                                                  | 19–20          |
| <i>Cedar Point Nursery v. Hassid</i> ,                                     |                |
| 594 U.S. 139 (2021) .....                                                  | 8              |
| <i>Central Virginia Community College v. Katz</i> ,                        |                |
| 546 U.S. 356 (2006) .....                                                  | 41–42          |
| <i>Chadwick v. Proprietors of Haverhill Bridge</i> ,                       |                |
| 2 Dane’s Abr. 686 (Mass. 1787) .....                                       | 24             |
| <i>Chicago Burlington &amp; Quincy R.R. Co. v. City of Chicago</i> ,       |                |
| 166 U.S. 226 (1897) .....                                                  | 9, 39, 48–49   |
| <i>City of Boerne v. Flores</i> ,                                          |                |
| 521 U.S. 507 (1997) .....                                                  | 39, 41         |
| <i>City of Elgin v. Eaton</i> ,                                            |                |
| 83 Ill. 535 (Ill. 1876) .....                                              | 27             |
| <i>City of Monterey v. Del Monte Dunes at Monterey, Ltd.</i> ,             |                |
| 526 U.S. 687 (1999) .....                                                  | 22, 28, 50, 51 |

|                                                                          |                |
|--------------------------------------------------------------------------|----------------|
| <i>Clark v. Barnard</i> ,                                                |                |
| 108 U.S. 436 (1883) .....                                                | 30, 32         |
| <i>Coll. Sav. Bank v. Fla. Prepaid Postsecondary Educ. Expense Bd.</i> , |                |
| 527 U.S. 666 (1999) .....                                                | 29–30, 35      |
| <i>Commonwealth v. Luzik</i> ,                                           |                |
| 524 S.E.2d 871 (Va. 2000) .....                                          | 35             |
| <i>Davis v. Passman</i> ,                                                |                |
| 442 U.S. 228 (1979) .....                                                | 27             |
| <i>DeVillier v. State</i> ,                                              |                |
| 63 F.4th 416 (5th Cir. 2023) .....                                       | 19             |
| <i>DeVillier v. Texas</i> ,                                              |                |
| 601 U.S. 285 (2024) .....                                                | 5, 26–27       |
| <i>Eaton v. Boston, Concord, &amp; Montreal R.R.</i> ,                   |                |
| 51 N.H. 504 (1872) .....                                                 | 7              |
| <i>Echeverria v. State</i> ,                                             |                |
| 495 P.3d 471 (Nev. 2021) .....                                           | 34             |
| <i>EEE Minerals v. State of North Dakota</i> ,                           |                |
| 81 F.4th 809 (8th Cir. 2023) .....                                       | 44             |
| <i>Egbert v. Boule</i> ,                                                 |                |
| 596 U.S. 482 (2022) .....                                                | 11             |
| <i>Embury v. King</i> ,                                                  |                |
| 361 F.3d 562 (9th Cir. 2004) .....                                       | 31–32          |
| <i>Engage Learning, Inc. v. Salazar</i> ,                                |                |
| 660 F.3d 1346 (Fed. Cir. 2011) .....                                     | 17             |
| <i>Ex parte Bollman</i> ,                                                |                |
| 8 U.S. (4 Cranch) 75 (1807) .....                                        | 20             |
| <i>First Eng. Evangelical Lutheran Church of Glendale v. Los Angeles</i> |                |
| <i>Cnty.</i> , 482 U.S. 304 (1987) .....                                 | <i>passim</i>  |
| <i>Fisher v. United States</i> ,                                         |                |
| 402 F.3d 1167 (Fed. Cir. 2005) .....                                     | 12             |
| <i>Fitzpatrick v. Bitzer</i> ,                                           |                |
| 427 U.S. 445 (1976) .....                                                | 40             |
| <i>Franchise Tax Bd. of California v. Hyatt</i> ,                        |                |
| 587 U.S. 230 (2019) .....                                                | 42             |
| <i>Fulton v. Fulton County Board of Commissioners</i> ,                  |                |
| 148 F.4th 1224 (11th Cir. 2025) .....                                    | 12, 22, 24, 27 |
| <i>Gardner v. New Jersey</i> ,                                           |                |
| 329 U.S. 565 (1947) .....                                                | 30, 32         |
| <i>Gardner v. Trustees of Newburgh</i> ,                                 |                |
| 2 Johns. Ch. 162 (N.Y. Ch. 1816) .....                                   | 48             |
| <i>Gedney v. Inhabitants of Tewsbury</i> ,                               |                |
| 3 Mass. 307 (1807) .....                                                 | 25             |
| <i>Glidden Co. v. Zdanok</i> ,                                           |                |
| 370 U.S. 530 (1962) .....                                                | 10             |

|                                                                                                   |               |
|---------------------------------------------------------------------------------------------------|---------------|
| <i>Gunter v. Atlantic Coast Line R.R. Co.</i> ,<br>200 U.S. 273 (1906) .....                      | 30, 32, 38–39 |
| <i>Hans v. Louisiana</i> ,<br>134 U.S. 1 (1890) .....                                             | 37, 52        |
| <i>Hastings v. United States</i> ,<br>165 Fed. Cl. 1 (2023) .....                                 | 8             |
| <i>Hinck v. United States</i> ,<br>550 U.S. 501 (2007) .....                                      | 16            |
| <i>Hooe v. United States</i> ,<br>218 U.S. 322 (1910) .....                                       | 15            |
| <i>Hopkins v. Clemson Agricultural College</i> ,<br>221 U.S. 636 (1911) .....                     | 52            |
| <i>Horne v. Department of Agriculture</i> ,<br>576 U.S. 350 (2015) .....                          | 47            |
| <i>Howlett v. Rose</i> ,<br>496 U.S. 356 (1990) .....                                             | 18, 37        |
| <i>I.N.S. v. St. Cyr</i> ,<br>533 U.S. 289 (2001) .....                                           | 20            |
| <i>Johnson v. City of Parkersburg</i> ,<br>16 W.Va. 402 (1880) .....                              | 7–8           |
| <i>Jones v. United States</i> ,<br>440 F. App'x 916 (Fed. Cir. 2011) .....                        | 13            |
| <i>Knick v. Township of Scott</i> ,<br>588 U.S. 180 (2018) .....                                  | <i>passim</i> |
| <i>Ku v. Tennessee</i> ,<br>332 F.3d 431 (6th Cir. 2003) .....                                    | 35            |
| <i>Lapides v. Board of Regents of University System of Georgia</i> ,<br>535 U.S. 613 (2002) ..... | <i>passim</i> |
| <i>Larson v. Domestic &amp; Foreign Commerce Corp.</i> ,<br>337 U.S. 682 (1949) .....             | 14, 51–52     |
| <i>LeaseAmerica Corp. of Wis. v. State</i> ,<br>625 P.2d 68 (Mont. 1981) .....                    | 33–34         |
| <i>Lewis v. Clarke</i> ,<br>581 U.S. 155 (2017) .....                                             | 18            |
| <i>Lynch v. United States</i> ,<br>292 U.S. 571 (1934) .....                                      | 52            |
| <i>Lugar v. Edmondson Oil Co.</i> ,<br>457 U.S. 922 (1982) .....                                  | 9             |
| <i>Maine Community Health Options v. United States</i> ,<br>590 U.S. 296 (2020) .....             | <i>passim</i> |
| <i>Marbury v. Madison</i> ,<br>5 U.S. (1 Cranch) 137 (1803) .....                                 | 28, 41        |
| <i>Martin v. Hunter's Lessee</i> ,<br>14 U.S. 304 (1816) .....                                    | 49            |

|                                                                                                   |        |
|---------------------------------------------------------------------------------------------------|--------|
| <i>McDonald v. Chicago</i> ,<br>561 U.S. 742 (2010) .....                                         | 17     |
| <i>Monongahela Nav. Co. v. United States</i> ,<br>148 U.S. 312 (1893) .....                       | 21     |
| <i>N. Star Steel Co. v. Thomas</i> ,<br>515 U.S. 29 (1995) .....                                  | 9      |
| <i>Nat’l Mut. Ins. Co. of D.C. v. Tidewater Transfer Co.</i> ,<br>337 U.S. 582 (1949) .....       | 12     |
| <i>New York State Rifle &amp; Pistol Ass’n, Inc. v. Bruen</i> ,<br>597 U.S. 1 (2022) .....        | 23     |
| <i>Off. of United States Tr. v. John Q. Hammons Fall 2006, LLC</i> ,<br>602 U.S. 487 (2024) ..... | 45     |
| <i>Omosegbon v. Wells</i> ,<br>335 F.3d 668 (7th Cir. 2003) .....                                 | 33     |
| <i>Pearsons v. United States</i> ,<br>723 F. Supp.3d 825 (C.D. Cal. 2024) .....                   | 17     |
| <i>PennEast Pipeline Company, LLC v. New Jersey</i> ,<br>594 U.S. 482 (2021) .....                | 51     |
| <i>Pennhurst State Sch. &amp; Hosp. v. Halderman</i> ,<br>465 U.S. 89 (1984) .....                | 38     |
| <i>Port Auth. Trans-Hudson Corp. v. Feeney</i> ,<br>495 U.S. 299 (1990) .....                     | 28     |
| <i>Pres. &amp; Coll. of Physicians v. Salmon</i> ,<br>91 Eng. Rep. 1353 (KB 1701) .....           | 28     |
| <i>Ramos v. Louisiana</i> ,<br>590 U.S. 83 (2020) .....                                           | 30     |
| <i>Rayonier Inc. v. United States</i> ,<br>352 U.S. 315 (1957) .....                              | 15     |
| <i>Reich v. Collins</i> ,<br>513 U.S. 106 (1994) .....                                            | 43–45  |
| <i>Rick’s Mushroom Serv., Inc. v. United States</i> ,<br>521 F.3d 1338 (Fed. Cir. 2008) .....     | 12     |
| <i>Ruckelshaus v. Monsanto Co.</i> ,<br>467 U.S. 986 (1984) .....                                 | 15     |
| <i>Seaboard Air Line Ry. Co. v. United States</i> ,<br>261 U.S. 299 (1923) .....                  | 20–21  |
| <i>Seaboard Air Line Ry. Co. v. United States</i> ,<br>261 U.S. 299 (1923) .....                  | 20–21  |
| <i>Seminole Tribe of Fla. v. Florida</i> ,<br>517 U.S. 44 (1996) .....                            | 40, 42 |
| <i>Seven Up Pete Venture v. Schweitzer</i> ,<br>523 F.3d 948 (9th Cir. 2008) .....                | 45     |
| <i>Sinclair v. Blewett</i> ,<br>No. 2:20-cv-1397, 2024 WL 21434 (D. Or. Jan. 2, 2024) .....       | 18     |

|                                                                                        |           |
|----------------------------------------------------------------------------------------|-----------|
| <i>Sinnickson v. Johnson</i> ,<br>17 N.J.L. 129 (N.J. 1839) .....                      | 25        |
| <i>Sosa v. Alvarez-Machain</i> ,<br>542 U.S. 692 (2004) .....                          | 15        |
| <i>Steel Co. v. Citizens for a Better Env't</i> ,<br>523 U.S. 83 (1998) .....          | 14        |
| <i>Surprenant v. Mass. Turnpike Auth.</i> ,<br>768 F.Supp.2d 312 (D. Mass. 2011) ..... | 36        |
| <i>Swain v. Pressley</i> ,<br>430 U.S. 372 (1977) .....                                | 21        |
| <i>Tennessee v. Davis</i> ,<br>100 U.S. (10 Otto) 257 (1879) .....                     | 48        |
| <i>Thacher v. Dartmouth Bridge Co.</i> ,<br>35 Mass. 501 (1836) .....                  | 24        |
| <i>Trankel v. State, Dep't of Mil. Affs.</i> ,<br>938 P.2d 614 (Mont. 1997) .....      | 34        |
| <i>TrinCo Inv. Co. v. United States</i> ,<br>140 Fed. Cl. 530 (Fed. Cl. 2018) .....    | 15        |
| <i>Trump v. CASA, Inc.</i> ,<br>606 U.S. 831 (2025) .....                              | 28        |
| <i>Underhill v. Ellicombe</i> ,<br>148 Eng. Rep. 489 (Ex. 1825) .....                  | 7         |
| <i>United States v. Bormes</i> ,<br>568 U.S. 6 (2012) .....                            | 12, 16    |
| <i>United States v. Causby</i> ,<br>328 U.S. 256 (1946) .....                          | 13, 15    |
| <i>United States v. Clarke</i> ,<br>445 U.S. 253 (1980) .....                          | 27        |
| <i>United States v. Lee</i> ,<br>106 U.S. 196 (1882) .....                             | 20–21, 53 |
| <i>United States v. Mitchell</i> ,<br>463 U.S. 206 (1983) .....                        | 13        |
| <i>United States v. Peters</i> ,<br>9 U.S. (5 Cranch) 115 (1809) .....                 | 46        |
| <i>United States v. Stevens</i> ,<br>559 U.S. 460 (2010) .....                         | 28        |
| <i>United States v. Testan</i> ,<br>424 U.S. 392 (1976) .....                          | 12        |
| <i>United States v. White Mountain Apache Tribe</i> ,<br>537 U.S. 465 (2003) .....     | 12–13     |
| <i>Utility Air Regulatory Group v. EPA</i> ,<br>573 U.S. 302 (2014) .....              | 46        |
| <i>Van Horne's Lessee v. Dorrance</i> ,<br>2 U.S. 304 (1795) .....                     | 48        |

|                                                                                             |        |
|---------------------------------------------------------------------------------------------|--------|
| <i>Virginia Department of Corrections v. Jordan</i> ,<br>921 F.3d 180 (4th Cir. 2019) ..... | 35     |
| <i>Will v. Michigan Dept. of State Police</i> ,<br>491 U.S. 58 (1989) .....                 | 18     |
| <i>Williams v. McCarthy</i> ,<br>129 Ames 402 (2020) .....                                  | 5, 9   |
| <i>Williams v. United States</i> ,<br>289 U.S. 553 (1933) .....                             | 26     |
| <i>Williams v. Utah Department of Correction</i> ,<br>928 F.3d 1209 (10th Cir. 2019) .....  | 44     |
| <i>Willis v. United States</i> ,<br>600 F. Supp. 1407 (N.D. Ill. 1985) .....                | 8–9    |
| <i>Wisconsin Department of Corrections v. Schacht</i> ,<br>524 U.S. 381 (1998) .....        | 35, 38 |
| <i>Wilson v. Republic Iron &amp; Steel Co.</i> ,<br>257 U.S. 92 (1921) .....                | 31     |
| <i>Yaist v. United States</i> ,<br>228 Ct.Cl. 281 (1981) .....                              | 13     |

## Constitutional Provisions

|                                  |        |
|----------------------------------|--------|
| U.S. Const. amend. V .....       | 46     |
| U.S. Const. amend. XI .....      | 31, 46 |
| U.S. Const. amend. XIV § 5 ..... | 40     |

## Statutes

|                              |       |
|------------------------------|-------|
| 28 U.S.C. § 1331 .....       | 14    |
| 28 U.S.C. § 1441(b)(2) ..... | 37    |
| 28 U.S.C. § 1491(a)(1) ..... | 11    |
| 28 U.S.C. § 1346(a)(2) ..... | 17    |
| 42 U.S.C. § 1983 .....       | 9, 18 |

## Other Authorities

|                                                                                                                              |        |
|------------------------------------------------------------------------------------------------------------------------------|--------|
| 1 Annals of Cong. 635 (1789) (J. Gales ed. 1834) .....                                                                       | 21     |
| 1 William Blackstone, Commentaries (1753) .....                                                                              | 47     |
| Anthony Bellia, <i>Article III and the Cause of Action</i> ,<br>89 Iowa L. Rev. 777 (2004) .....                             | 24     |
| Antonin Scalia & Bryan A. Garner, <i>Reading Law: The Interpretation of<br/>Legal Texts</i> (2012) .....                     | 47     |
| Charles Pickney, Article III and the Cause of Action, <i>Observations on<br/>the Plan of Government</i> (May 28, 1787) ..... | 48     |
| Cong. Globe, 39th Cong., 1st Sess. (1866) .....                                                                              | 41, 49 |

|                                                                                                                                   |        |
|-----------------------------------------------------------------------------------------------------------------------------------|--------|
| Eric Berger, <i>The Collision of the Takings and State Sovereign Immunity Doctrines</i> , 63 Wash. & Lee L. Rev. 493 (2006) ..... | 47     |
| Grotius, <i>De Jure Belli et Pacis</i> (1625) .....                                                                               | 47     |
| James W. Herr & Tracy M. Sullivan, <i>Be Careful What You Ask For: You Just Might Get It</i> , Am. Bankr. Inst. J., (2002) .....  | 46     |
| James Madison, Amendments to the Constitution (June 8, 1789),<br>12 The Papers of James Madison 196 .....                         | 23     |
| John Jay, The Selected Papers of John Jay 1:461 (Elizabeth M. Nuxoll<br>ed. 2010) (1778) .....                                    | 23–24  |
| Letter from Federal Farmer No. 4, 2 The Complete Anti-Federalist<br>(Oct. 12, 1787) .....                                         | 48     |
| Robert Brauneis, <i>The First Constitutional Tort</i> ,<br>52 Vand. L. Rev. 57 (1999).....                                        | 24, 25 |
| The Federalist No. 10 (James Madison) (C. Rossiter ed., 1961) .....                                                               | 22     |
| Transcript of Oral Argument, <i>DeVillier v. Texas</i> ,<br>601 U.S. 285 (2024) (No. 22-913) .....                                | 5      |
| Vicki C. Jackson, <i>The Supreme Court, the Eleventh Amendment, and State Sovereign Immunity</i> , 98 Yale L.J. 1 (1988).....     | 50     |
| W. McKechnie, <i>Magna Carta</i> (2d ed. 1914) .....                                                                              | 23     |

## **INTRODUCTION**

The Takings Clause of the Fifth Amendment is an if-then proposition: If a government takes private property for public use, then it must provide the owner just compensation. This case arises because the State of Ames believes that “[n]othing in the Constitution demands this.” Pet.Br.2.

When Ames seizes private property, it provides its citizens no process whatsoever to obtain just compensation. Its legislature has refused to enact any remedial procedure by statute. Its courts have refused to recognize a common-law action to obtain compensation. And its state constitution contains no state-law equivalent of the Takings Clause.

In June 2020, Ames seized Daniel Welles’s private property. It offered him no compensation. With nowhere left to turn under Ames law, Welles filed a claim directly under the Fifth Amendment itself.

Ames asks this Court to put the final nail in the coffin. If this Court were to hold that the Fifth Amendment lacks a cause of action, or that states can invoke sovereign immunity to defeat it, the Takings Clause would be rendered a dead-letter in the State of Ames.

## **OPINIONS BELOW**

The Ames Circuit’s opinion is reproduced on pages 3–12 of the Joint Appendix (JA). The district court’s opinion is reproduced on pages JA-12–13.

## **JURISDICTION**

The Ames Circuit issued its judgment on April 27, 2025. JA-11. This Court granted certiorari on September 1, 2025. JA-2. This Court has jurisdiction under 28 U.S.C. § 1254(1).

## **RELEVANT PROVISIONS**

This case concerns the Fifth, Eleventh, and Fourteenth Amendments of the United States Constitution. Relevant sections of each are reproduced in the Appendix.

## **STATEMENT OF THE CASE**

### *Facts*

Daniel Welles resides in the State of Ames. JA-17. In early 2020, he purchased a gin-manufacturing plant and transformed it into a hand sanitizer factory. JA-3–4. Just as Welles’s factory began operations, COVID-19 swept the globe. JA-4.

In June 2020, the Governor of Ames issued an executive order authorizing the “requisition” of Welles’s factory. JA-18. Three days later, the Ames Department of Health and State Hospital System seized Welles’s factory. JA-4. It offered him no compensation for the taking. *Id.* For the next three years, the State operated Welles’s factory for the public benefit. JA-18. At the end of the emergency, Ames returned Welles’s property. JA-4.

Ames law provides no inverse-condemnation action to its citizens when the government seizes their property. JA-9. This makes Ames the

only state in the Union that does not provide such an action or a functional equivalent. JA-9, 16, 19; Respondent's Appendix at (Res.App'x.) 3.

Nor does Ames provide any administrative process for seeking just compensation. *Id.* Nor does the Ames Constitution secure a state-law right to just compensation. *Id.*

Ames does not dispute that it took possession of Welles's property. Petitioner's Br. at (Pet.Br.) 3; JA-4. But for the last five years, Ames has refused to provide Welles any compensation. JA-4.

#### *Procedural History*

Welles filed a claim for just compensation against Ames directly under the Fifth Amendment in state court. JA-4–5. In response, Ames chose to remove the case to federal court. JA-5. Ames then moved to dismiss Welles's claim. *See* JA-14.

The district court dismissed Welles's claim with prejudice, holding that the Fifth Amendment does not provide a direct cause of action, and that Ames enjoys Eleventh Amendment sovereign immunity from takings claims in federal court. JA-12, 14.

The Court of Appeals for the Ames Circuit reversed, holding that the Takings Clause creates a direct cause of action, and that the Eleventh Amendment does not bar claims brought in federal court directly under the Fifth Amendment. JA-10. The court noted that a

contrary outcome would lead to “absurd results:” States would be able to take property with “impunity” by refusing to offer a state law remedy while invoking sovereign immunity in federal court. JA-10.

Ames now asks this Court to reverse. JA-2.

### **SUMMARY OF ARGUMENT**

*First*, the Takings Clause provides Welles a cause of action. By supplying a substantive right and an express monetary remedy, the Takings Clause gives rise to a cause of action under this Court’s longstanding money-mandating inquiry. Takings claims against the federal government depend on this direct cause of action because these claims are brought under the Tucker Act, which only grants jurisdiction and waives sovereign immunity. History and precedent also make clear that, at a minimum, states must provide some adequate means of obtaining just compensation. Because Welles has nowhere else to turn, the Takings Clause itself lets him vindicate his constitutional right to just compensation.

*Second*, Ames cannot invoke state sovereign immunity to shirk its constitutional obligation to compensate Welles. From the outset, Ames waived its immunity by voluntarily removing this case to federal court. This Court’s precedents establish a clear waiver-by-removal rule that prevents states from using sovereign immunity to contest the very federal jurisdiction that they invoked. Further, the Fourteenth Amendment’s substantive provisions automatically abrogated Ames’s

immunity, even before it removed to federal court. This is because Section One is self-executing, restricts state sovereignty, and incorporates the Takings Clause’s cause of action. Finally, Ames cannot rely on unwritten principles of sovereign immunity to nullify its express obligation to pay just compensation.

## **ARGUMENT**

### **I. WELLES HAS STATED A CAUSE OF ACTION UNDER THE FIFTH AMENDMENT.**

The Justices of this Court recently expressed concerns about a “rogue state” that “refuses to give just compensation” by “withdraw[ing] compensation schemes” and “existing causes of action.” Transcript of Oral Argument at 56, 82, 85, *DeVillier v. Texas*, 601 U.S. 285 (2024) (No. 22-913).

Ames is that “rogue state.” When Ames takes property, its state law provides no method of obtaining just compensation—it provides no inverse-condemnation action, no common-law action, no statutory proceeding, no administrative tribunal to adjudicate takings, and no state-constitution equivalent of the Takings Clause. JA-19; *see Williams v. McCarthy*, 129 Ames 402, 412 (2020); Res.App’x.3.

The Takings Clause keeps the courthouse doors open by providing a cause of action. This is so for two alternative reasons. First, the Takings Clause provides both a right and a remedy, which together give rise to a cause of action. This is required by the longstanding money-

mandating inquiry and decades-long practice of takings claims brought under the Tucker Act. Second, history and precedent confirm that, at a minimum, states must always provide an adequate avenue to obtain constitutionally guaranteed remedies. For either of these reasons, Welles has stated a cause of action to obtain just compensation.

**A. The Takings Clause provides a cause of action.**

Under the well-established money-mandating inquiry, a law that provides a right and a monetary remedy creates a cause of action. The Fifth Amendment does both. Separately, takings claims brought under the Tucker Act depend on the Fifth Amendment providing a cause of action. This is because the Tucker Act only supplies jurisdiction and waives sovereign immunity.

**1. Under the money-mandating inquiry, the Takings Clause provides a cause of action.**

Where a law provides a right and “mandat[es] compensation for damages,” that is “generally both necessary and sufficient” to provide a cause of action for monetary relief. *Me. Cmty. Health Options v. United States*, 590 U.S. 296, 323–24 (2020). When applied to the Takings Clause, this longstanding money-mandating inquiry plainly reveals a cause of action to secure just compensation.

The money-mandating inquiry dates back to the English common law. As one court articulated it:

Generally [the English cases] go to shew, that if a statute prohibits the doing of a thing under a penalty, to be paid to the party grieved . . . and does not prescribe any mode of recovery, this action may, in such case, be maintained by the party grieved, and for that there are many other authorities.

*Underhill v. Ellicombe*, 148 Eng. Rep. 489, 492 (Exch. Div. 1825) (citing, inter alia, *Pres. & Coll. of Physicians v. Salmon*, 91 Eng. Rep. 1353 (KB 1701)). Nineteenth-century courts routinely applied this rule. See, e.g., *Johnson v. City of Parkersburg*, 16 W.Va. 402, 425 (1880) (“The rule is now understood to be well settled, that when a statute gives a right, or forbids the doing of an injury to another, and no action be given therefor in express terms, still the party shall have an action therefor.”); *Eaton v. Boston, Concord, & Montreal R.R.*, 51 N.H. 504, 512 (1872) (same). Thus, in ratifying the Fifth Amendment, the Founders would have known that a right and a monetary remedy would establish a cause of action.

This Court has carried the money-mandating inquiry into its modern jurisprudence. This Court’s test for determining if a law creates a cause of action—as articulated in *Alexander v. Sandoval*—asks whether its text and structure “display[] an intent to create not just a private right but also a private remedy.” 532 U.S. 275, 286 (2001). This means that *Sandoval* treats a “right to receive money” as logically

“display[ing] an intent to provide” a cause of action. *Me. Cmty. Health*, 590 U.S. at 323 n.12. As such, this Court confirmed that *Sandoval* entails “precisely” the same test as the “money-mandating inquiry.” *Id.*

This rule’s logic is not limited to statutes. And for good reason: Without a cause of action, “not only is a mandatory statutory obligation to pay meaningless, so too is a constitutional one.” *Id.* As early courts recognized, constitutional provisions—including state equivalents of the Takings Clause—provide causes of action if they satisfy the money-mandating inquiry. *See, e.g., Johnson*, 16 W.Va. at 425 (“A constitutional prohibition forbidding an injury to the property of a citizen is certainly as effective as a statute framed for the same purpose.”). And modern courts have regularly applied the money-mandating inquiry to the U.S. Constitution. *See, e.g., Hastings v. United States*, 165 Fed. Cl. 1, 6 (2023) (discussing cases applying the rule to the Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Thirteenth, and Fourteenth Amendments).

Although nearly every constitutional right fails to satisfy the money-mandating inquiry, it is “undisputed that the Takings Clause is a money-mandating source.” *Id.* The reason is obvious: The Takings Clause, on its own, establishes a substantive right against “uncompensated takings,” *Knick v. Twp. of Scott*, 588 U.S. 180, 205 (2019), and a monetary remedy that “the government must pay.” *Cedar Point Nursery v. Hassid*, 594 U.S. 139, 148 (2021). Therefore, “on its

face,” the Takings Clause “can fairly be read as creating a cause of action.” *Willis v. United States*, 600 F. Supp. 1407, 1412 (N.D. Ill. 1985).

None of Ames’s reasons for denying a cause of action have merit. First, Ames suggests that the class of potential defendants would be unclear. *See* Pet.Br.25. But because the Takings Clause is incorporated against the states through the Fourteenth Amendment, *see Chicago Burlington & Quincy R.R. Co. v. City of Chicago*, 166 U.S. 226, 236 (1897), the state-action doctrine determines the class of defendants, *see Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 936 (1982). This is simply coextensive with § 1983’s oft-applied “color of state law” test. *Id.* at 929.

Second, Ames argues that the statute of limitations would be unclear. *See* Pet.Br.23–24. But when federal law supplies no statute of limitations, courts use the “most closely analogous” state-law alternative, with no concern about variation among the states. *N. Star Steel Co. v. Thomas*, 515 U.S. 29, 33–34 (1995). The most analogous state-law cause of action for takings claims is the inverse-condemnation action. Ames is the only state that does not provide an inverse-condemnation action or its equivalent. *Compare Williams*, 129 Ames at 412, *with Knick*, 588 U.S. at 188 & n.1. So any ambiguity in this process would be of its own making.

Third, Ames repeatedly invokes Congress’s control over the public fisc. *See* Pet.Br.12–18. But the Appropriations Clause is inapposite here

because it only applies to the federal government, and Welles is suing a state. *See* U.S. Const. Art. I, § 9, cl. 7. And even if the Appropriations Clause presented an independent bar to *recovery*, that does not bear on whether Welles has a *cause of action*. Issuing a judgment that must later be satisfied by legislative appropriation is neither new nor controversial. *See, e.g., Glidden Co. v. Zdanok*, 370 U.S. 530, 570 (1962) (recognizing over a dozen instances where “Congress had refused to pay a judgment”).

Fourth, Ames argues that a cause of action would “threaten[] the diverse systems states have developed for resolving just compensation claims.” *See* Pet.Br.26. But Ames has developed no such system. *See* JA-19; Res.App’x.3. On the other hand, when states have developed such systems, they enjoy sovereign immunity under this Court’s precedents. *See infra* Section II.B–C.

Fifth, Ames spills much ink suggesting that litigants can bring suits only under “an express cause of action.” *See* Pet.Br.7, 20–29. But this Court has “repeatedly rejected” the notion that a law “could never provide a cause of action for damages absent magic words explicitly inviting suit.” *Me. Cmty. Health*, 590 U.S. at 323 n.12. Nor would the money-mandating inquiry revive the pre-*Sandoval* “*ancien regime*” of implying “desirable” causes of action as a “policy matter.” 532 U.S. at 287–88. *Contra* Pet.Br.7. The money-mandating inquiry considers

neither “policy” nor a law’s “purpose.” *Sandoval*, 532 U.S. at 287–88. It is instead based solely on the law’s “text and structure,” just as *Sandoval* requires. *Id.*

Finally, acknowledging the Takings Clause’s cause of action would not “extend *Bivens*.” *Contra* Pet.Br.21. Extending *Bivens* is “a disfavored judicial activity” because it requires courts to answer the policy question of whether to create a new remedy, and “Congress is better positioned to create remedies.” *Egbert v. Boule*, 596 U.S. 482, 491, 494 (2022). But the money-mandating inquiry does not create a remedy—it identifies a cause of action when a remedy already exists in the text. *See Sandoval*, 532 U.S. at 286–87. And, as this Court has repeatedly said about the Takings Clause, “it is the Constitution that dictates the remedy.” *First Eng. Evangelical Lutheran Church of Glendale v. Los Angeles Cnty.*, 482 U.S. 304, 316 n.9 (1987); *accord* Pet.Br.23 (“The Takings Clause specifies a remedy—just compensation[.]”). This Court would “create” nothing by requiring that Ames do what the text commands.

## **2. Tucker Act suits demonstrate that the Takings Clause provides a cause of action.**

Takings claims against the federal government are brought directly under the Fifth Amendment. The Tucker Act provides jurisdiction and waives sovereign immunity for these claims. 28 U.S.C. § 1491(a)(1). But as Ames concedes, it does not “suppl[y] a cause of action

for just compensation.” Pet.Br.19. Thus, it must be the case that “claims under the Tucker Act proceed with the Takings Clause directly supplying the cause of action.” *Fulton v. Fulton Cnty. Bd. of Comm’rs*, 148 F.4th 1224,1263 (11th Cir. 2025).

It is “hornbook law” that the Tucker Act provides only “two things:” (1) a “jurisdictional grant” and (2) an “accompanying immunity waiver.” *United States v. Bormes*, 568 U.S. 6, 18 (2012); *Fisher v. United States*, 402 F.3d 1167, 1172 (Fed. Cir. 2005). As such, the Tucker Act provides neither a “substantive right,” *United States v. Testan*, 424 U.S. 392, 398 (1976), nor “any right of action,” *Me. Cmty. Health*, 590 U.S. at 330 (Alito, J., dissenting); accord *Fisher*, 402 F.3d at 1172; *Arizona v. Navajo Nation*, 599 U.S. 555, 594–95 (2023) (Gorsuch, J., dissenting). This means that a “plaintiff must look beyond the Tucker Act to identify” a “right to recovery of money damages.” *Rick’s Mushroom Serv., Inc. v. United States*, 521 F.3d 1338, 1343 (Fed. Cir. 2008). In short, the Tucker Act “simply opens [the] courts to plaintiffs *already possessed* of a cause of action.” *Nat’l Mut. Ins. Co. of D.C. v. Tidewater Transfer Co.*, 337 U.S. 582, 594 n.22 (1949) (plurality opinion) (emphasis added).

This Court uses the “fair interpretation” test to identify a cause of action in the Tucker Act context. *United States v. White Mountain Apache Tribe*, 537 U.S. 465, 472 (2003). There have been various articulations of this test. Compare *id.* at 473 (whether a statute is

“reasonably amenable” to a right to damages), *with United States v. Mitchell*, 463 U.S. 206, 218 (1983) (right to seek damages under Tucker Act is “not lightly inferred”). But this court recently clarified that the “fair interpretation” test is “precisely” the same “money-mandating inquiry” that *Sandoval* prescribes for identifying causes of action. *See Me. Cmty. Health*, 590 U.S. at 323 n.12. “Rarely has the Court determined” that a law satisfies this restrictive test, but the Takings Clause “is one of th[ose] rare laws.” *Id.* at 323 n.12, 324.

Unsurprisingly, the Court of Claims has made clear that “a cause of action arises for the plaintiff under the Fifth Amendment” itself. *Yaist v. United States*, 228 Ct. Cl. 281, 286 (1981). Takings claims are “founded upon the Constitution,” *United States v. Causby*, 328 U.S. 256, 267 (1946), which on its own provides a substantive right and an express remedy, *see Sandoval*, 532 U.S. at 286. Because it has these two elements, “the takings clause of the Fifth Amendment is a money-mandating source” that provides a cause of action. *Jones v. United States*, 440 F. App’x 916, 918 (Fed. Cir. 2011).

This puts Ames in an awkward position: If the Takings Clause does not create a cause of action, then nothing explains how plaintiffs bring takings claims under the Tucker Act. On Ames’s reading, the Court of Federal Claims has been erroneously hearing takings claims for decades.

Ames first attempts to evade this conclusion by positing a novel “combination” theory. Pet.Br.19. Ames argues—without citation—that “the combination of the Takings Clause’s substantive right and the Tucker Act’s procedural vehicle” is what “enable[s] takings lawsuits.” *Id.* Common sense and precedent suggest otherwise. The Tucker Act only provides jurisdiction and a sovereign immunity waiver, neither of which is an ingredient of a cause of action. *See Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 89 (1998) (“[T]he absence of a valid . . . cause of action does not implicate subject-matter jurisdiction[.]”). Ames cannot manufacture a cause of action by combining (1) no cause of action under the Tucker Act, and (2) no cause of action under the Takings Clause. Zero plus zero does not equal one.

Moreover, adopting Ames’s theory that a plaintiff can sue by “combining” a substantive right, jurisdiction, and a sovereign immunity waiver would allow federal courts to “extend *Bivens*.” Pet.Br.21. For example, if plaintiffs can sue by combining Fourth Amendment rights, federal question jurisdiction, 28 U.S.C. § 1331, and sovereign immunity exceptions against individual officers, *see Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 690 (1949), *Bivens*-type suits would become commonplace. In fact, Justice Harlan used this exact combination theory to justify the outcome of *Bivens* itself. *See Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388,

405 (1971) (Harlan, J., concurring) (arguing that the federal question jurisdiction statute “is sufficient to empower a federal court to grant a traditional remedy at law”). And Ames’s “combination” logic would risk destabilizing other statutes like the Federal Tort Claims Act, which—just like the Tucker Act—provides only jurisdiction and an immunity waiver, but no cause of action. *See Rayonier, Inc. v. United States*, 352 U.S. 315, 317 (1957). It is no surprise that this Court has emphatically denied that jurisdictional statutes confer the “power to mold substantive law.” *Sosa v. Alvarez-Machain*, 542 U.S. 692, 713 (2004).

No case cited in Ames’s brief supports its “combination” theory. Ames characterized *TrinCo Inv. Co. v. United States* as “rejecting” the argument that the Takings Clause provides a cause of action. Pet.Br.9. But *TrinCo* offered no alternative explanation as to how Takings Claims can proceed under the Tucker Act. *See* 140 Fed. Cl. 530, 534 (2018). And Ames’s reliance on *Hooe v. United States* to argue that takings claims do not rest “exclusively on the Constitution” is rife with error. Pet.Br.8. *Hooe* theorized that takings claims are based on an “implied contract.” 218 U.S. 322, 334 (1910). But *Causby* and its progeny later rejected this “implied contract” theory. *See, e.g., Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1016–17 (1984) (“If there is a taking, the claim is ‘founded upon the Constitution[.]’”) (quoting *Causby*, 328 U.S. at 267).

Ames also makes the bold argument that *no* lawsuit before the Court of Federal Claims involves a cause of action. *See* Pet.Br.19. This mistaken logic rests on cherry-picked language from *United States v. Bormes*, 568 U.S. 6 (2012). *See* Pet.Br.19 (“Tucker Act suits must be based on a substantive source of law that ‘imposes an obligation but *does not provide the elements of a cause of action.*’” (quoting *Bormes*, 568 U.S. at 16)). But that takes *Bormes* entirely out of context. *Bormes* simply held that plaintiffs cannot proceed under the Tucker Act when a cause of action comes pre-packaged with a “detailed remedial scheme,” and specifies a “forum for adjudication” other than the Court of Federal Claims. *Bormes*, 568 U.S. at 14 (quoting *Hinck v. United States*, 550 U.S. 501, 506 (2007)). This merely reflects the presumption that Congress intends for more specific remedial schemes to supersede the Tucker Act’s general one. *See Hinck*, 550 U.S. at 506. Because the Takings Clause does not provide a “detailed remedial scheme,” *see* Pet.Br.5, 7, the *Bormes* “exception to the Tucker Act” does not apply here. *Me. Cmty. Health*, 590 U.S. at 324–25.

Finally, Ames observes that the Court of Federal Claims is an Article I court rather than an Article III court. *See* Pet.Br.19–20. How this establishes that the Takings Clause lacks a cause of action is a mystery. Plaintiffs who “fail[] to state a proper cause of action” in the Court of Federal Claims will face an adverse “judgment on the merits.”

*Engage Learning, Inc. v. Salazar*, 660 F.3d 1346, 1353 (Fed. Cir. 2011). In any event, Article III district courts hear takings cases under the Little Tucker Act, 28 U.S.C § 1346(a)(2), and plaintiffs must have a cause of action to appear before those courts, *see, e.g., Pearsons v. United States*, 723 F. Supp. 3d 825, 834 (C.D. Cal. 2024).

Leaving Tucker Act suits intact while blocking this one would split the Takings Clause in two—supplying a cause of action against the federal government, but not the states. This Court has “abandoned” such notions of incorporating a “watered-down” right against the states. *McDonald v. City of Chicago*, 561 U.S. 742, 765 (2010).

Either the decades-long practice of hearing takings claims under the Tucker Act has been unlawful, or the Takings Clause creates a cause of action.

**B. At a minimum, the Takings Clause must provide a cause of action when no alternative avenues are available.**

Welles can turn nowhere else to receive just compensation. Ames speculates that several adequate “alternative remedies” exist. *See* Pet.Br.27–28. But none do.

Therefore, the Fifth Amendment must provide a cause of action. This is demonstrated by (1) this Court’s treatment of the only other express constitutional remedy, habeas corpus, and (2) centuries of history showing that the just compensation remedy has always been accessible.

**1. No alternative avenues are available.**

Ames is the only state whose law provides no inverse-condemnation action or an equivalent. *See supra* Section I.A.1, p.9. Now, after denying Welles compensation for five years, *see* JA-4, Ames surprisingly claims that adequate remedies have been available all along. *See* Pet.Br-27–28, 42. But Ames cannot even say with confidence that they exist. *See id.* at 43 n.7. And indeed, they do not.

First, a § 1983 lawsuit would have been barred several times over. *Contra* Pet.Br.27. The state of Ames is not a “person” liable to suit under § 1983. *See Will v. Mich. Dept. of State Police*, 491 U.S. 58, 71 (1989); 42 U.S.C. § 1983. Nor is the State Hospital System, because it is an “arm[] of the State.” *Howlett v. Rose*, 496 U.S. 356, 383 (1990); JA-18, 22. Nor could Welles have brought an individual-capacity suit against the state hospital employees. They seized his property for Ames’s benefit, so “the relief sought” would have effectively been against “the sovereign itself.” *Lewis v. Clarke*, 581 U.S. 155, 161–63 (2017) (citing *Will*, 491 U.S. at 71). Regardless, qualified immunity would have barred any § 1983 claim: Courts “around the country” have found that qualified immunity barred similar takings claims during the COVID-19 pandemic due to its “unprecedented nature.” *See, e.g., Sinclair v. Blewett*, 2024 WL 21434, at \*1–2 (D. Or. Jan. 2, 2024) (collecting cases).

Second, no common law cause of action was available. *Contra* Pet.Br.27. States have freedom to define state-law causes of action

however they please. And Ames cannot tell this Court with any certainty that its trespass and conversion actions are proper vehicles for takings claims against the state. Instead, Ames only cites a case from the Colorado Supreme Court. *See* Pet.Br.27–28. *But see* JA-15 (complaint filed in the State of Ames).

Third, an injunction would not give Welles just compensation, which is “required by the Constitution” even for a temporary taking. *First English*, 482 U.S. at 309.

Finally, lobbying would be an inadequate remedy. *Contra* Br-28. The constitutional duty to pay just compensation does not depend on the sovereign’s mood. “[T]he political branches” do not “have the power to switch the Constitution on or off at will.” *Boumediene v. Bush*, 553 U.S. 723, 765 (2008).

**2. The Suspension Clause demonstrates that express constitutional remedies must always be accessible.**

The Suspension Clause and the Takings Clause are the only provisions in the Constitution that expressly provide a remedy. *See* William Baude, et al., Hart & Wechsler’s *The Federal Courts and the Federal System* 462–63 (8th ed. 2025). “That sets these two constitutional rights apart from others and at least suggests these two rights . . . have special protections[.]” *DeVillier v. State*, 63 F.4th 416, 440 (5th Cir. 2023) (Oldham, J., dissenting from denial of rehearing en banc).

Indeed, the Supreme Court has held that the Suspension Clause does have “special protections:” It creates an affirmative cause of action to habeas review or guarantees access to an adequate substitute. *See Boumediene*, 553 U.S. at 746, 791–92. Therefore, if Congress enacts “an inadequate substitute for habeas corpus” by narrowing the remedy, an affirmative right to sue for the full “constitutionally required remedy” “remain[s] available as a last resort.” *Id.* at 788, 791–92. That is because “the [Suspension] Clause was intended to preclude any possibility that ‘the privilege itself would be lost’ by either the inaction or the action of Congress.” *INS v. St. Cyr*, 533 U.S. 289, 304 n.24 (2001) (quoting *Ex parte Bollman*, 8 U.S. (4 Cranch) 75, 95 (1807)). In other words, absent an adequate substitute, the Constitution itself provides a cause of action to redress an unlawful detention.

It is only logical that the Constitution’s one other express remedy would include a cause of action. Indeed, over a century ago, this Court reasoned that if the Suspension Clause “is a sufficient authority for the court to interfere to rescue a prisoner . . . what reason is there that the same courts shall not give remedy to the citizen whose property has been . . . devoted to public use without just compensation?” *United States v. Lee*, 106 U.S. 196, 218 (1882). Just as the habeas remedy is supplied by the Constitution and cannot be taken away, “[j]ust compensation is provided for by the Constitution and the right to it cannot be taken

away.” *Seaboard Air Line Ry. Co. v. United States*, 261 U.S. 299, 304 (1923).

Ames unconvincingly tries to distinguish habeas from the Takings Clause, arguing that “unlike just compensation,” habeas is “an inherently judicial instrument.” Pet.Br.11. But this distinction is illusory—both just compensation and habeas have been provided by Article III and non-Article III tribunals. In *Swain v. Pressley*, this Court made clear that even non-Article III officials can provide constitutionally adequate habeas review. *See* 430 U.S. 372, 375, 381 (1977). And, with respect to compensation-seeking claims against the government, James Madison expressed the orthodoxy that “deciding upon the lawfulness and justice of [such] claims . . . partakes strongly of the judicial character.” 1 Annals of Cong. 635–36 (J. Gales ed. 1834). Unsurprisingly, this Court has long recognized both habeas and just compensation as judicially enforceable remedies. *See Lee*, 106 U.S. at 220 (“[B]oth were intended to be enforced by the judiciary.”); *Monongahela Nav. Co. v. United States*, 148 U.S. 312, 327 (1893) (“The constitution has declared that just compensation shall be paid, and the ascertainment of that is a judicial inquiry.”).

Ames also argues that habeas is different because the “Founders placed special weight on the writ” compared to the Takings Clause. Pet.Br.11. But Ames proves the opposite. To argue that habeas was

“essential,” Ames points out that the Founders *considered* “protecting the writ of habeas corpus as inviolate,” but ultimately let Congress suspend it during times of rebellion. *See id.*; *see also* U.S. Const. Art. I, § 9, cl. 2. By contrast, the Framers never considered any exceptions to the Takings Clause. Instead, the Framers regarded the protection of property as “the first object of government,” The Federalist No. 10, at 78 (James Madison) (Clinton Rossiter ed., 1961), and they enshrined an unqualified “obligation to pay just compensation,” *Armstrong v. United States*, 364 U.S. 40, 49 (1960). By Ames’s own logic, the Takings Clause was given more “special weight” than habeas because it actually was made “inviolate.” Pet.Br.11.<sup>1</sup>

Ames is under an unyielding obligation to pay Welles just compensation for the taking of his property. As the Suspension Clause demonstrates, Ames has some discretion to decide how to fulfill this obligation. But, when it repudiates its duty, the Constitution intervenes to provide a judicial remedy.

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<sup>1</sup> Although habeas actions run against individual officers, while takings claims run against the government itself, this is also a hollow distinction. As Ames points out, habeas is an action “[a]t common law,” not equity, *see* Pet.Br.10, so it is “legal relief” that requires a cause of action—just like a takings suit. *See City of Monterey v. Del Monte Dunes at Monterey, Ltd.*, 526 U.S. 687, 710–11 (1999); *Fulton*, 148 F.4th at 1239.

**3. A cause of action for just compensation has been available as a constitutional backstop since the Founding.**

History reveals a “long, unbroken line of . . . precedent stretching from Bracton to Blackstone” and into the present confirming that the Takings Clause provides a cause of action. *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1, 35 (2022).

The Takings Clause preserves a pre-existing right that traces its roots at least 800 years back to Magna Carta. The Great Charter prohibited crown officials from taking property “from any one without immediately tendering money therefor, unless he can have postponement thereof by permission of the seller.” Cls. 28 (1215), in W. McKechnie, *Magna Carta, A Commentary on the Great Charter of King John* 329 (2d ed. 1914).

When the Framers codified this right in the Takings Clause—and the states did the same in their own constitutions—they rejected Ames’s idea that the political branches could be trusted to “exclusively address[] takings claims.” *Contra* Pet.Br.15. Madison argued that “independent tribunals of justice” would be an “impenetrable bulwark” prepared to “resist every encroachment upon rights expressly stipulated . . . by the [bill] of rights.” James Madison, *Amendments to the Constitution* (June 8, 1789), 12 *The Papers of James Madison* 196–210 (Hobson ed. 1979). And John Jay envisioned that takings clauses in particular would enable “many who now severely feel this kind of oppression,” from

uncompensated takings to “*bring Actions* and recover Damages.” John Jay, *The Selected Papers of John Jay* 1:461–63 (Elizabeth M. Nuxoll ed. 2010) (1778) (emphasis added).

Although the Takings Clause guaranteed just compensation, legal rights at the Founding could only be vindicated “if a specific form of action provided a remedy for the particular injury that the plaintiff had suffered.” Anthony Bellia, *Article III and the Cause of Action*, 89 Iowa L. Rev. 777, 838 (2004). This “specific form of action” was known as a “writ,” and it carried “rigid . . . prerequisites for suits and damages” foreign to our modern pleading system. *Fulton*, 148 F.4th at 1250.

Nevertheless, the writ of trespass provided a vehicle for vindicating the Takings Clause. This writ supplied a damages remedy for the deprivation of property. *See, e.g., Thacher v. Dartmouth Bridge Co.*, 35 Mass. 501, 502 (1836) (citing *Chadwick v. Proprietors of Haverhill Bridge*, 2 Dane’s Abr. 686 (Mass. 1787)) (sustaining a trespass action on the “settled principle” that where an act sanctioned a taking “without providing . . . for the payment of an adequate indemnity,” the “consequence would be, that the party damaged would be remitted to his remedy at common law”). As such, the Founders knew that “a pre-existing . . . damages remedy” to secure just compensation was available through actions at law. Robert Brauneis, *The First Constitutional Tort*, 52 Vand. L. Rev. 57, 140 (1999).

Critically, Founding-era courts made clear that the writ of trespass—or some other form of action at law—must always be available to provide just compensation. Founding-era wisdom was that “the legislature was not competent to foreclose” access to a form of action “if such a foreclosure would leave an owner whose property had been taken without just compensation.” *Id.* For instance, Justice Baldwin applied Pennsylvania’s takings clause and remarked that, because the just compensation “obligation is a constitutional one, it is not impaired by the omission to provide for [a cause of action] by the law,” and “it can be enforced by action for damages in courts of law and injunction in those of equity.” *Baring v. Erdman*, 2 F.Cas. 784, 791 (C.C.E.D.Pa. 1834). Other Founding-era courts agreed that “if no [just] compensation is provided for, the plaintiff has a right to seek his remedy through courts of justice by suit.” *Sinnickson v. Johnson*, 17 N.J.L. 129, 153 (N.J. 1839); *see also Gedney v. Inhabitants of Tewsbury*, 3 Mass. 307, 310 (1807) (holding that if the legislature denies a plaintiff’s motion for just compensation, “he may apply here for another remedy”).

Ames provides no Founding-era history to the contrary. Ames cites *Beekman v. Saratoga & S. R.R. Co.*, 3 Paige Ch. 45 (N.Y. Ch. 1831), for the proposition that legislatures had “discretion” to choose whether to remedy a taking. *See* Pet.Br.10. But that plainly mischaracterizes *Beekman*. Instead, *Beekman* reaffirms what has already been said: The

Framers “intended to leave that subject [just compensation] to be *regulated by law, as it had been before that time*; or in such other manner as the legislature, in their discretion, might deem best.” 3 Paige Ch. at 70 (emphasis added). In other words, the legislature could provide a different legal avenue to vindicate the Takings Clause—but its “discretion” did not allow it to withdraw the remedy entirely.<sup>2</sup>

Legal forms of action to vindicate the Takings Clause existed throughout the first century of the Republic. That is why, as this Court explained in *DeVillier*, “the absence of a case relying on the Takings Clause for a cause of action does not by itself prove there is [today] no cause of action.” 601 U.S. at 292.

As states began to abolish the old writ system, courts ensured that their doors remained open to takings claims by recognizing “rights of action” directly “under the state equivalents of the Takings Clause.” *Knick*, 588 U.S. at 200. For example, Justice Miller did so while riding circuit: “[S]ince the positive declaration of the constitution is that private property shall not be taken or damaged for public use without just compensation, [the State] is bound in some way to make that just

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<sup>2</sup> *Williams v. United States*, 289 U.S. 553 (1933), proves this point. There, the Court held that there was no “right to a judicial remedy” as an exclusive forum because takings claims are “susceptible of legislative or executive determination.” *Id.* at 579–81. Ames commits the same error with *Williams* as it does with *Beekman*, suggesting that “discretion” means that the government can eliminate all access to just compensation. *See* Pet.Br.10.

compensation, and that *the law shall compel it to do it.*” *Blanchard v. City of Kansas*, 16 F. 444, 446 (C.C.W.D. Mo. 1883) (emphasis added); *see also City of Elgin v. Eaton*, 83 Ill. 535, 536–37 (1876) (holding that “the right to recover damages was given by the [state] constitution . . . . Failing to provide compensation for the damages, the city became liable to an action.”).

Time and again, this Court has reaffirmed the historical view—the law must provide some method of vindicating the Takings Clause. *See, e.g., Davis v. Passman*, 442 U.S. 228, 243 n.20 (1979) (“[A] plaintiff who allege[s] that his property ha[s] been taken by the United States for public use without just compensation could bring suit directly under the Fifth Amendment.”); *United States v. Clarke*, 445 U.S. 253, 257 (1980) (“[A] landowner is entitled to bring” a “cause of action against a governmental defendant to recover the value of property which has been taken” because of “the self-executing character of the constitutional provision with respect to compensation.”); *DeVillier*, 601 U.S. at 292 (noting that “constitutional concerns” may be present if property owners lack “other ways to seek just compensation”); *see also Fulton*, 148 F.4th at 1255 (“[T]he text, structure, and history of the Constitution all lead to the conclusion that the Takings Clause contains a direct cause of action.”).

It has always been true that “[w]hen the government condemns property for public use,” “a forum for seeking just compensation” is “required by the Constitution.” *City of Monterey*, 526 U.S. at 714.

\* \* \*

Ames believes that “the law prohibits the Judiciary from” ordering payment of just compensation. Pet.Br.29 (quoting *Trump v. CASA, Inc.*, 606 U.S. 831, 858 (2025)). But text, precedent, and centuries of history suggest precisely the opposite: When Ames takes property, it must pay just compensation, and “the law shall compel it to do it.” *Blanchard*, 16 F. at 446.

## **II. AMES CANNOT INVOKE SOVEREIGN IMMUNITY AGAINST WELLES’S TAKINGS CLAIM.**

Alternatively, Ames argues that it can avoid paying Welles just compensation by invoking its sovereign immunity under the Eleventh Amendment. But Ames cannot erase its express constitutional obligation so easily. “The Constitution is not a document ‘prescribing limits, and declaring that those limits may be passed at pleasure.’” *United States v. Stevens*, 559 U.S. 460, 470 (2010) (quoting *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 178 (1803)). Instead, this Court has made clear that the Eleventh Amendment “is not absolute.” *Port Auth. Trans-Hudson Corp. v. Feeney*, 495 U.S. 299, 304 (1990). Several of its limits apply here.

First, Ames waived its immunity by choosing to remove this case

from state court to federal court. Second, the Fourteenth Amendment acts of its own force to abrogate Ames’s immunity against Welles’s takings claim. And third, Ames cannot use sovereign immunity as a sword to take property with impunity.

Any one of these reasons is sufficient to vindicate what “th[is] Court has frequently repeated:” “[I]n the event of a taking, the compensation remedy is required by the Constitution.” *First English*, 482 U.S. at 316.

**A. Ames waived its sovereign immunity by removing this case to federal court.**

It is an “unremarkable proposition that a State waives its sovereign immunity by voluntarily invoking the jurisdiction of the federal courts.” *Coll. Sav. Bank v. Fla. Prepaid Postsecondary Educ. Expense Bd.*, 527 U.S. 666, 681 n.3 (1999). In *Lapides v. Board of Regents*, this Court applied that “general principle,” holding that “removal is a form of voluntary invocation of a federal court’s jurisdiction” that “waive[s]” sovereign immunity. 535 U.S. 613, 621, 623–24 (2002). That rule plainly controls this case.

Ames tries to cabin *Lapides* to its facts. *Lapides* involved a state that had already waived its immunity before removing to federal court. *Id.* at 617–18. Ames therefore argues that *Lapides* only applies where immunity was “waived or abrogated” before removal. *See* Pet.Br.47–50. But this fact played no role in *Lapides*’s reasoning. And when it comes

to this Court’s precedents, “the result *and the reasoning* each independently have precedential force.” *Ramos v. Louisiana*, 590 U.S. 83, 125 n.6 (2020) (Kavanaugh, J., concurring) (emphasis added).

*Lapides* should instead be read to adopt a categorical waiver-by-removal rule. This would (1) best reflect *Lapides*’s reasoning that a state waives its immunity by voluntarily invoking federal jurisdiction, (2) provide a clear and easily administrable rule, and (3) prevent states from gaining unfair litigation advantages.

**1. Any voluntary appearance by a state in federal court waives its immunity.**

For over a century, this Court has held that a state waives its immunity whenever it “voluntarily invokes [federal] jurisdiction.” *Fla. Prepaid*, 527 U.S. at 675–76. Three foundational cases establish this principle. First, *Clark v. Barnard* held that Rhode Island’s “voluntary appearance” in an interpleader action waived its immunity. 108 U.S. 436, 447–48 (1883). Second, *Gunter v. Atlantic Coast Line R.R. Co.* found waiver when South Carolina’s attorney general intervened in a federal case on the state’s behalf. 200 U.S. 273, 278, 284 (1906). And third, *Gardner v. New Jersey* found waiver when New Jersey filed a proof of claim in a bankruptcy proceeding. 329 U.S. 565, 573–74 (1947).

According to *Lapides*, that “line of authority” stands for a simple proposition: “[A] State’s voluntary appearance in federal court amount[s] to a waiver of its Eleventh Amendment immunity.” 535 U.S.

at 619, 623. *Lapides* did nothing more than apply this “general ‘voluntary invocation’ principle” to conclude that a “State’s act of removing a lawsuit from state court to federal court waives [its] immunity.” *Id.* at 616, 621. As this Court noted, there was nothing “special about removal” that required “abandon[ing] the general principle.” *Id.* at 620.

*Lapides* explained why this “voluntary invocation” principle makes sense. The Eleventh Amendment speaks in jurisdictional terms, stating that “[t]he Judicial power of the United States” shall not extend to certain suits against states. U.S. Const. amend. XI; *Lapides*, 535 U.S. at 618. And, when a state removes a case to federal court, it bears the burden of establishing that federal jurisdiction is proper. *See Wilson v. Republic Iron & Steel Co.*, 257 U.S. 92, 97 (1921). So, when a state “invoke[s] federal jurisdiction” by removing, it affirmatively represents that “the ‘Judicial power of the United States’ extends to the case at hand.” *Lapides*, 535 U.S. at 619. Therefore, this Court thought it would be “anomalous,” “inconsistent,” and “unfair” if, after removing, a state could then “deny[] that the ‘Judicial power’” reaches the case. *Id.* (emphasis added). As the Ninth Circuit artfully put it, “[a]llowing a State to waive immunity to remove a case to federal court, then ‘unwaive’ it to assert that the federal court could not act, would create a new definition ofchutzpah.” *Embury v. King*, 361 F.3d 562, 566 (9th Cir.

2004).

*Lapides*'s reasoning plainly reveals that Ames waived its immunity by removing to federal court. In response, Ames whistles past the graveyard. Although Ames purports to explain *Lapides*'s reasoning, see Pet.Br.47–49, it never mentions *Lapides*'s reliance on the broader “voluntary invocation” principle expressed in *Clark*, *Gunter*, and *Gardner*. In fact, Ames entirely omits the latter two cases from its brief. See Pet.Br.vi–vii.

Worse still, Ames suggests that *Lapides* was a “different scenario” from *Clark* because the state in *Lapides* “was *involuntarily* subjected to suit.” Pet.Br.47. But neither case was about whether a state was voluntarily made a *defendant*—they were about whether a state “voluntarily invoked the federal court’s jurisdiction.” *Lapides*, 535 U.S. at 620. And Ames indisputably did so here.

More fundamentally, Ames’s approach cannot be squared with *Clark*, *Gunter*, or *Gardner*. Each treated the “voluntary invocation” of federal jurisdiction as sufficient to waive immunity. See *Clark*, 108 U.S. at 447–48; *Gunter*, 200 U.S. at 284–87; *Gardner*, 329 U.S. at 574. None required a pre-existing waiver, as Ames suggests. Imposing such a requirement on removal—and removal alone—would disregard this Court’s insistence that there is nothing “special about removal.” *Lapides*, 535 U.S. at 620.

**2. A waiver-by-removal rule would be clear and easily administrable.**

*Lapides* stressed that its rule is “a clear one” that can be “easily applied by both federal courts and the States themselves.” *Id.* at 623–24. An unqualified waiver-by-removal rule accomplishes this objective.

Ames’s preferred approach, by contrast, fails to keep *Lapides*’s rule clear. According to Ames, every time a state removes to federal court, judges must add “an extra layer to [the] sovereign immunity analysis” to determine whether the state waived immunity before removal. *Omoegbon v. Wells*, 335 F.3d 668, 673 (7th Cir. 2003). Under this Court’s precedents, that requires looking to state-court interpretations of state statutes that waive sovereign immunity. *See, e.g., Alden v. Maine*, 527 U.S. 706, 757–58 (1999). Thus, Ames’s approach injects an “*Erie* guess” into every *Lapides* analysis. *See, e.g., Omoegbon*, 335 F.3d at 673 (adopting Ames’s reading of *Lapides* and performing an *Erie* guess).

Those *Erie* guesses would not be easy. Take, for instance, the Montana Constitution, which waives sovereign immunity “from suit for injury to a person or property.” Mont. Const. art. II, § 18. Despite this seemingly clear language, the Montana courts have developed an esoteric waiver doctrine. *Compare, e.g., LeaseAmerica Corp. of Wis. v. Montana*, 625 P.2d 68, 71 (Mont. 1981) (exempting contract claims because of statements made by Montana Constitutional Convention

Delegate Otto Habedank), *with Trankel v. Mont. Dep't of Mil. Affs.*, 938 P.2d 614, 622 (1997) (*not* exempting service-member negligence claims because Delegate Habedank unsuccessfully “moved that [a sentence] be deleted” during the Convention). Requiring federal courts to fill in the gaps creates an unnecessary risk of error.

Nor will certifying questions to state courts provide a desirable alternative. This option would unnecessarily prolong federal litigation. *See, e.g., Echeverria v. State*, 495 P.3d 471 (Nev. 2021) (14-month delay in litigation while Nevada’s Supreme Court answered a certified question about Nevada’s sovereign immunity waiver).

The clearest rule is the one that *Lapides* announced: A “state’s act of removing a lawsuit from state court to federal court waives [its] immunity.” 535 U.S. at 616.

### **3. Creating exceptions to the waiver-by-removal rule would give states unfair litigation advantages.**

*Lapides* also warned against letting states use removal jurisdiction “to achieve unfair tactical advantages.” *Id.* at 613. Anything other than the waiver-by-removal rule could create “the unfairness of allowing one who has invoked federal jurisdiction subsequently to challenge that jurisdiction.” *Id.*

For example, states could turn the Eleventh Amendment into a game of “heads I win, tails you lose.” Several federal circuits consider the merits *before* immunity arguments, allowing states to

simultaneously (1) seek a merits judgment, but (2) keep the Eleventh Amendment “as a backstop” in case they lose on the merits. *See, e.g., Va. Dep’t of Corr. v. Jordan*, 921 F.3d 180, 188 (4th Cir. 2019). Not all states have courts that permit this maneuver. *See, e.g., Commonwealth v. Luzik*, 524 S.E.2d 871, 876–77 (Va. 2000) (considering immunity arguments *before* the merits). But on Ames’s reading of *Lapides*, some of these states could remove to federal courts where the maneuver *is* permitted. This would let them seek a merits judgment with *res judicata* effect, yet face no “real risk of adverse consequences.” *Wis. Dep’t of Corr. v. Schacht*, 524 U.S. 381, 394 (1998) (Kennedy, J., concurring). When a state argues on the merits but keeps “its fingers crossed behind its metaphorical back the whole time,” that “creates the same kind of ‘inconsistency and unfairness’ [this Court] was concerned with in *Lapides*.” *Ku v. Tennessee*, 322 F.3d 431, 435 (6th Cir. 2003).<sup>3</sup>

Further, states could exploit removal to secure more favorable sovereign immunity rulings than they may otherwise receive in their own courts. Out of federalism concerns, federal courts “indulge every reasonable presumption against waiver” of state sovereign immunity. *Fla. Prepaid*, 527 U.S. at 628. When there is no on-point state supreme

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<sup>3</sup> The Ames Circuit currently permits this maneuver. In this case, when Ames simultaneously raised merits and immunity arguments, the district court considered the merits first and dismissed Welles’s takings claim with prejudice. *See* JA-13–14. By invoking its immunity as a backstop, Ames tried to receive all the benefits of arguing on the merits with none of the risk.

court precedent interpreting a state-law immunity waiver, district courts often hold that “[a]ny hesitation must be strictly resolved in favor of the” state. *See, e.g., Surprenant v. Mass. Tpk. Auth.*, 768 F. Supp. 2d 312, 318 (D. Mass. 2011). So, a state could always reap the benefits of this “hesitation” by perpetually removing cases to federal court and preventing its own supreme court from resolving the issue.

In any event, whether a state’s motive is benign in a given case “cannot make the critical difference.” *Lapides*, 535 U.S. at 621. “Motives are difficult to evaluate,” but “jurisdictional rules should be clear.” *Id.* Anything other than a waiver-by-removal rule “would permit States to achieve unfair tactical advantages, if not in this case, in others.” *Id.*

#### **4. A waiver-by-removal rule would not be unfair to states.**

Ames’s concerns about treating states unfairly are misplaced. *Contra* Pet.Br.49–50. First, *Lapides* already made clear that the “voluntary invocation” principle does not rest upon “a State’s actual preference or desire” to maintain immunity. 535 U.S. at 620.

Second, taking *Lapides* at face value would not unfairly divest states of a “right of removal.” *Contra* Pet.Br.49. The only “conceivable basis” for such a right is “a general distrust of the capacity of the state courts to render correct decisions.” *Allen v. McCurry*, 449 U.S. 90, 105 (1980). But, if anything, state courts have more expertise interpreting state-law immunity waivers. *See supra* Section II.A.2. Further, federal

law expects parties with a “home-field advantage” to present their arguments in state court. *See* 28 U.S.C. § 1441(b)(2) (limiting removal when the defendant resides in the forum state). It is eminently reasonable to expect this of Ames, given the “great latitude” it has “to establish the structure and jurisdiction” of its own courts. *Howlett v. Rose*, 496 U.S. 356, 372 (1990).

Third, a waiver-by-removal rule would not unfairly strip states of an affirmative defense. *Contra* Pet.Br.50. The Eleventh Amendment, by its nature, recognizes an “immunity from suit” that prohibits a court from “entertain[ing] an action against a nonconsenting State.” *Alden*, 527 U.S. at 713, 740. As such, it is an objection to the *forum* itself: It protects a state from being “called at the bar of the federal court,” *id.* at 555–56, and grants immunity against “new and strange jurisdictions,” *Hans v. Louisiana*, 134 U.S. 1, 18 (1890). Ames recognizes as much, repeatedly referring to the Eleventh Amendment as an objection to a federal forum. *See, e.g.*, Pet.Br.43 (“[T]his suit cannot remain in federal court.”). By haling *itself* into federal court, Ames has waived its objection.

Nevertheless, Ames attempts to recharacterize sovereign immunity as a form of “personal jurisdiction.” *See* Pet.Br.49. As support, Ames cites a concurring opinion by Justice Kennedy to argue that immunity “should not be waived by removal.” *Id.* But that could not be

further from what Justice Kennedy said. Instead, he endorsed “a rule of waiver in *every case* where the State, through its attorneys, consents to removal.” *Schacht*, 524 U.S. at 397 (Kennedy, J., concurring) (emphasis added).

Ames also attempts to frame the Eleventh Amendment as a “substantive defense” that grants an “immunity from liability.” Pet.Br.49–50.<sup>4</sup> But this Court’s precedents lend no support to this characterization. To the contrary, they make clear that the “constitutional privilege” of sovereign immunity does not excuse states from their “obligations imposed by the Constitution.” *Alden*, 527 U.S. at 755. Indeed, Ames understands the distinction between immunity from a *forum* and immunity from *liability*: Even as it argues against litigating in a federal forum, it admits that it “has an obligation to pay [Welles] just compensation.” Pet.Br.29.

By removing this case, Ames asked for “the experience, solicitude, and hope of uniformity that a federal forum offers.” Pet.Br.49. But now that the circuit below has ruled against it, Ames insists that “this suit cannot remain in federal court.” *Id.* at 43. Unfortunately for Ames, it “cannot escape the result of its own voluntary act by invoking the

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<sup>4</sup> Ames suggests that *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89 (1984), supports this theory. See Pet.Br.47. Not so. *Pennhurst* simply noted that a waiver of immunity in state court does not necessarily waive “immunity in the federal courts.” See 465 U.S. at 99 n.9.

prohibitions of the Eleventh Amendment.” *Gunter*, 200 U.S. at 284 (1906).

**B. The Fourteenth Amendment abrogates Ames’s sovereign immunity.**

Even under Ames’s narrow reading of *Lapides*, Ames still enjoys no immunity. Before Ames removed to federal court, its Eleventh Amendment immunity had already been “waived or abrogated.” *Contra* Pet.Br.48.

Because Ames offers no adequate avenue to obtain just compensation, the Fourteenth Amendment directly abrogates its sovereign immunity against the Takings Clause’s cause of action. Section One of the Fourteenth Amendment is a self-executing limitation on state sovereignty. And because Section One incorporates the Takings Clause’s cause of action against the states, no congressional action is needed to ensure access to a constitutionally required remedy.

**1. Section One, of its own force, abrogates Ames’s immunity.**

“[T]he Fourteenth Amendment confers substantive rights against the States.” *City of Boerne v. Flores*, 521 U.S. 507, 524 (1997). One of those is the right to just compensation for the taking of property, which is incorporated against the states through Section One’s Due Process Clause. *See Chicago B. & Q. R.R. Co.*, 166 U.S. at 236. And because the Takings Clause provides a cause of action, Section One incorporates that cause of action against the states. *See supra* Section I.

Two properties of Section One demonstrate that it automatically abrogates Ames’s immunity against the Takings Clause’s cause of action.

First, Section One allowed “federal power” to “intrude upon the province of the Eleventh Amendment.” *Seminole Tribe of Fla. v. Fla.*, 517 U.S. 44, 59 (1996). Recognizing as much, this Court held in *Fitzpatrick v. Bitzer* that Congress can abrogate state sovereign immunity pursuant to the enforcement provision in Section Five of the Fourteenth Amendment. *See* 427 U.S. 445, 454–56 (1976). However, *Fitzpatrick*’s reasoning did not rest on Section Five alone. Indeed, Section Five’s text says nothing about state sovereign immunity. *See* U.S. Const. Amend. XIV, § 5 (“The Congress shall have power to enforce by appropriate legislation, the provisions of this article.”). *Fitzpatrick* instead read Section Five *alongside* the “substantive provisions” of Section One, which “are by express terms directed at the States” and embody a “diminution of state sovereignty.” 427 U.S. at 453. It is Section One’s prefatory language—“No State shall”—that *Fitzpatrick* recognized as “quite clearly contemplat[ing] limitations on [state] authority.” *Id.* Therefore, Congress can abrogate state sovereign immunity under Section Five precisely because the Fourteenth Amendment’s “*other sections* by their own terms embody limitations on state authority.” *Id.* at 456 (emphasis added).

Second, Section One “impose[s] self-executing limits on the States,” meaning that it operates even without congressional action. *City of Boerne*, 521 U.S. at 522–24. When Congress created Section One, it “provide[d] safeguards to be enforced by the courts, and not to be exercised by the Legislature.” Cong. Globe, 39th Cong., 1st Sess. 1063 (1866) (statement of Rep. Hale). And the “power to interpret” the substantive provisions of Section One “remains in the Judiciary” without the need for any further legislation. *City of Boerne*, 521 U.S. at 524.

Putting these ideas together leads to a straightforward result: Because Section One incorporates the Takings Clause against the states, its abrogating power and self-executing nature allow the Takings Clause’s cause of action to operate “free and clear of [Ames’s] claim of sovereign immunity.” *Cent. Va. Cmty. Coll. v. Katz*, 546 U.S. 356, 361 (2006). To hold that *Congress* could abrogate Ames’s immunity, but the *Constitution* cannot, would undo a foundational principle of American law: “[T]he constitution is superior to any ordinary act of the legislature.” *Marbury*, 5 U.S. at 178.

## **2. This Court’s precedents confirm that Section One can abrogate sovereign immunity.**

On multiple occasions, this Court has identified individual constitutional provisions that abrogate state sovereign immunity by their own force.

First, this Court held that the Bankruptcy Clause directly abrogates immunity in certain bankruptcy proceedings. *Katz*, 546 U.S. at 373–78. *Katz* was emphatic that “[t]he relevant question [was] not whether *Congress* ha[d] ‘abrogated’ States’ immunity.” *Id.* at 379. Rather, the “relevant ‘abrogation’” was effected by “the Bankruptcy Clause itself.” *Id.*; *see also Allen v. Cooper*, 589 U.S. 248, 258 (2020) (“[T]he *Bankruptcy Clause itself* did the abrogating.” (emphasis in original)).

Second, this Court has explained that Article III directly “abrogated certain aspects of [states’] traditional immunity” by providing a “neutral federal forum in which the States agreed to be amenable to suits brought by other States” and the United States. *Franchise Tax Bd. of Cal. v. Hyatt*, 587 U.S. 230, 241 (2019).

The same conclusion should apply here. Indeed, if there were ever a good case for interpreting a constitutional provision to directly abrogate state sovereign immunity, it would be Section One of the Fourteenth Amendment—a provision that altered the “pre-existing balance between state and federal power” “at the expense of state autonomy.” *Seminole Tribe*, 517 U.S. at 59.

**3. The tax-refund cases demonstrate that Section One abrogates immunity to ensure access to a remedy.**

This Court has already held that state sovereign immunity cannot nullify remedies mandated by Section One—and circuit courts

have taken notice.

In *Reich v. Collins*, this Court reaffirmed “a long line of cases” establishing “that due process requires a ‘clear and certain remedy’ for taxes collected in violation of federal law.” 513 U.S. 106, 108 (1994) (quoting *Atchison, T. & S.F.R. Co v. O’Connor*, 223 U.S. 280, 285 (1912)). To be sure, states have “flexibility to provide that remedy” through adequate procedures of their choosing. *See id.* But critically, this Court made clear that where “no such remedy exists,” state courts must provide “meaningful backward-looking relief,” “the sovereign immunity States traditionally enjoy in their own courts *notwithstanding*.” *Id.* at 108, 110–11 (emphasis added).

Ames points out that, although *Reich* displaced sovereign immunity in state court, it preserved “the sovereign immunity States enjoy in federal court.” Pet.Br.40. But that is irrelevant here, as Ames removed this case from state court to federal court. So, even on Ames’s narrow reading of *Lapides*, it enjoys no immunity in federal court because *Reich* abrogated Ames’s immunity in state court. *See* Pet.Br.48.

In light of *Reich*, all nine federal circuits to consider the clash between the Takings Clause and the Eleventh Amendment have operated under the assumption that states must provide meaningful access to just compensation, unimpeded by state sovereign immunity. *See, e.g., 74 Pinehurst LLC v. New York*, 59 F.4th 557, 570 n.7 (2d Cir.

2023) (collecting cases). Some have even “directed the parties to brief” whether “state courts would be available to adjudicate” takings claims before considering sovereign immunity arguments. *See, e.g., Williams v. Utah Department of Correction*, 928 F.3d 1209, 1214 (10th Cir. 2019). And several have explicitly applied the *Reich* principle to takings claims, requiring that state courts “entertain suits against a State” for just compensation. *See, e.g., EEE Minerals v. North Dakota*, 81 F.4th 809, 816 (8th Cir. 2023).

Despite this circuit practice, Ames suggests that the “court below stands alone” in rejecting the State’s sovereign immunity against a takings claim. Pet.Br.30. Not quite. Had the court held the other way, it would have departed from a sea of circuit precedent and become the first to bless a state’s use of sovereign immunity to refuse all access to just compensation.

Ames offers several arguments against applying *Reich* here, but each falls flat. First, Ames argues that *Alden* prohibits “[c]onditioning federal [court] sovereign immunity on state court remedies.” Pet.Br.41. But *Alden* simply held that Congress cannot abrogate immunity in state courts with its Article I powers. 527 U.S. at 753–54. It said nothing about the Due Process Clause. To the contrary, *Alden* reaffirmed *Reich*’s principle that the obligation to provide a state-court remedy “arises from the Constitution itself.” *Id.* at 740.

Second, Ames argues that *Reich*'s holding is "tax-specific," pointing to *Off. of United States Tr. v. John Q. Hammons Fall 2006, LLC*, 602 U.S. 487, 503 (2024). Pet.Br.41. But *Hammons* simply held that *Reich*'s state-court remedy requirement for *involuntary* taxes did not extend to *voluntary* payments, such as bankruptcy fees—a distinction inapposite to the seizure of Welles's property. See 602 U.S. at 503.

Third, Ames argues that its "courts will necessarily be open"—thereby satisfying the *Reich* principle—if this Court were to hold that the Takings Clause provides a cause of action. Pet.Br.43. But, if Ames's idea of its courts being "open" is that Welles could walk in, file a claim, and then immediately be kicked out because of sovereign immunity, then Ames misses the point of *Reich* entirely. *Reich* was emphatic that a remedy must be available, "sovereign immunity . . . notwithstanding." *Id.* at 110; see also *Seven Up Pete Venture*, 523 F.3d 948, 954 (9th Cir. 2008) (finding that for a court to be open, "sovereign immunity may not stand in the way of recovery"). Ames nowhere suggests that it will refrain from invoking immunity against future takings claims in state court. That is telling.

Finally, Ames suggests that, even if this Court applies the *Reich* principle to the Takings Clause, this Court should "remand[] to state court to craft appropriate relief." Pet.Br.42, n.6. But this Court need not

“stand on the dock and wave goodbye as [Ames] embarks on this multiyear voyage of discovery.” *Utility Air Regulatory Group v. EPA*, 573 U.S. 302, 328 (2014). Ames already asked to litigate Welles’s claim in federal court by removing from state court. *See James W. Herr & Tracy M. Sullivan, Be Careful What You Ask For: You Just Might Get It*, Am. Bankr. Inst. J., at 22 (Sept. 2002).

**C. Ames cannot use sovereign immunity to nullify the Takings Clause.**

Finally, the Constitution’s text, history, and this Court’s precedents independently prohibit Ames from using sovereign immunity to deny Welles just compensation. If states can “destroy the rights acquired under [this Court’s] judgments, the constitution itself becomes a solemn mockery.” *United States v. Peters*, 9 U.S. (5 Cranch) 115, 136 (1809).

**1. The Takings Clause’s express text overrides implied sovereign immunity principles.**

The Takings Clause is unambiguous: Private property shall not “be taken for public use, without just compensation.” U.S. Const. amend. V. This is a simple if-then proposition: If a government takes private property, then “the compensation remedy is required by the Constitution.” *First English*, 482 U.S. at 316.

The text of the Eleventh Amendment, by contrast, only prohibits diversity suits against states in federal court. *See* U.S. Const. amend. XI. For their broader sovereign immunity protections, states instead

rely upon unwritten “fundamental postulates implicit in the constitutional design.” *Alden*, 527 U.S. at 728–29.

When the express constitutional obligation to pay just compensation conflicts with implied principles of sovereign immunity, the implied must yield to the express. *See* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 183 (2012). Indeed, “it would be very strange for the essentially common law sovereign immunity to prevent damages” for Takings Clause violations. Eric Berger, *The Collision of the Takings and State Sovereign Immunity Doctrines*, 63 Wash. & Lee L. Rev., 493, 524 (2006).

## **2. The history of the Takings Clause confirms that it takes priority over state sovereign immunity.**

Since Magna Carta, the sovereign’s power to seize property has always faced one fundamental limit: It must pay just compensation. *See, e.g.*, 1 William Blackstone, *Commentaries on the Laws of England* \*139 (1753) (the legislature could exact a taking only “by giving a full indemnification and equivalent for the injury thereby sustained”); Grotius, *De Jure Belli et Pacis*, lib. iii. C. 20. (1625) (the “State is bound to make good the loss to those who lose their property”).

Well-versed in this history, “[t]he colonists brought the principle of Magna Carta with them to the New World, including that charter’s protection against uncompensated takings of personal property.” *Horne v. Department of Agriculture*, 576 U.S. 350, 359 (2015). But the Framers

did not leave it to chance—they made just compensation a constitutional guarantee. The Fifth Amendment is “absolutely decisive of the sense of the people of this country.” *Gardner v. Trustees of Newburgh*, 2 Johns. Ch. 162, 167 (N.Y. Ch. 1816) (Chancellor Kent).

Further, “when the national government was formed, some of the attributes of State sovereignty” were “surrendered.” *Tennessee v. Davis*, 100 U.S. (10 Otto) 257, 266 (1879). Before 1787, the states had shown “a disposition to evade [the] performance of their Federal Duties” under the Articles of Confederation. Charles Pickney, *Observations on the Plan of Government* (May 28, 1787). To prevent states from doing so, the Founders wrote a Constitution that “entirely abolish[ed]” those “ancient customs” and laws that were “incompatible” with the new Union. Letter from Federal Farmer No. 4, in 2 *The Complete Anti-Federalist* (Oct. 12, 1787). And the taking of property without just compensation was surely incompatible with the Framers’ vision. As Justice Patterson put it, such a taking would be “a monster in legislation” that would “shock all mankind.” *Van Horne’s Lessee v. Dorrance*, 2 U.S. 304, 310 (1795).

To be sure, states have not always vindicated their own takings clauses. Ames points to nineteenth-century practice upholding sovereign immunity against state-law takings claims. See Pet.Br.31–37. But all of its authorities predate 1897, which is when the *federal* duty to pay just compensation was incorporated against the states. See *Chicago*

*B. & Q. R.R.*, 166 U.S. at 226. And Ames simply ignores that the nineteenth-century delinquency of states to pay just compensation animated the ratification of the Fourteenth Amendment. On the floor of Congress, Representative John Bingham, a principal architect of the amendment, was asked to cite an example where constitutional rights had been denied. Cong. Globe, 39th Cong., 1st Sess. 1089 (1866). Representative Bingham cited none other than *Barron v. City of Baltimore*, 32 U.S. 243, 247 (1833), which held that the Takings Clause was inapplicable to the states. After quoting from the opinion, he then asked, rhetorically, “What have gentlemen to say to that?” Cong. Globe, 39th Cong., 1st Sess. 1089–1090.

The drafters of the Fourteenth Amendment sought to extinguish the states’ flagrant disregard of property rights. They would find themselves shocked if state sovereignty—an unwritten “postulate[] implicit in the constitutional design”—could defeat the express principle of Magna Carta that they enshrined. *See Alden*, 527 U.S. at 728–29. After all, “[t]he Constitution of the United States was ordained and established, not by the states in their sovereign capacities, but emphatically, as the preamble of the constitution declares, by ‘the people of the United States.’” *Martin v. Hunter’s Lessee*, 14 U.S. 304, 324 (1816) (Story, J.).

**3. This Court’s precedents require just compensation.**

This Court has already confirmed what text and history suggest: The unwritten principle of sovereign immunity cannot be used to nullify the express right to just compensation. It said as much in *First English*. There, the U.S. Solicitor General argued that in light of “principles of sovereign immunity,” the Takings Clause cannot act as a “remedial provision” against the government. *First English*, 482 U.S. at 316 n.9. This Court considered and firmly rejected that position, reaffirming that “it is the Constitution that dictates the remedy” for a taking. *Id.* Many have interpreted *First English* to “strongly suggest[]” that sovereign immunity does not shield states from providing just compensation. *See, e.g.,* Vicki C. Jackson, *The Supreme Court, the Eleventh Amendment, and State Sovereign Immunity*, 98 Yale L.J. 1, 115 n.454 (1988).

Ames believes that this Court’s own statements in *First English* are “irrelevant” and “can’t bear much weight.” Pet.Br.38. But this Court has since cited the *First English* passage to cast doubt on whether sovereign immunity “retains its vitality” against the Takings Clause. *See City of Monterey*, 526 U.S. at 714 (citing *First English*, 482 U.S. at 316 n.9). And it cited the passage again to “reaffirm[] that ‘in the event of a taking, the compensation remedy is *required* by the Constitution.’” *Knick*, 588 U.S. at 193 (citing *First English*, 482 U.S. at 316 n.9) (emphasis added).

The ideas undergirding *First English* also animated this Court in *PennEast Pipeline Company, LLC v. New Jersey*, 594 U.S. 482 (2021). There, this Court recognized that states had “renounced their right” to the “highest dominion in the lands” by ratifying the Constitution. *Id.* at 502. Therefore, the states could not invoke sovereign immunity to “thwart” the “eminent domain authority of the federal sovereign.” *Id.* at 496, 503. If state sovereign immunity cannot thwart the federal sovereign, then surely it cannot be used to thwart an even higher sovereign—the People themselves—who have constitutionalized a right to just compensation. *See Alden*, 527 U.S. at 759 (“[T]he Constitution begins with the principle that sovereignty rests with the people[.]”).

To be sure, Ames could regain the privilege of sovereign immunity if it began to offer some meaningful opportunity to obtain just compensation. As this Court stated in *Larson v. Domestic & Foreign Commerce Corp.*, “the availability of a remedy” for violations of the Takings Clause may “be relevant to the question of sovereign immunity.” 337 U.S. 682, 697 n.18 (1949). But so long as Ames “repudiates” its duty by “denying just compensation” or “by refusing to provide procedures through which compensation may be sought, it violates the Constitution” and its “actions are not only unconstitutional but unlawful and tortious as well.” *City of Monterey*, 526 U.S. at 717.

Even the precedent that Ames cites supports the *First English*

principle that sovereign immunity cannot nullify just compensation. *See* Pet.Br.37. In *Hans v. Louisiana*, this Court sought to “avoid misapprehension” of its holding by warning that “any attempt” by a state “to violate property or rights acquired under its contracts may be judicially resisted.” 132 U.S. at 20–21. In *Hopkins v. Clemson Agric. Coll.*, the Court took care to note that, if a state had authorized the taking of property “without compensation, the Constitution would have substituted liability for the attempted” taking. 221 U.S. 636, 646 (1911). And in *Lynch v. United States*, this Court merely articulated the same principle as in *Larson*: Takings claims need not be “remed[ied] through the courts” “so long as” the sovereign provides “administrative remedies” to receive just compensation. 292 U.S. 571, 582 (1934). Here, Ames has provided nothing.

The text, history, and precedent surrounding the Takings Clause make one thing clear: When Ames takes private property, there is nothing that can “relieve it of the duty to provide compensation.” *Knick*, 588 U.S. at 192 (quoting *First English*, 482 U.S. at 321). That includes state sovereign immunity.

\* \* \*

Ames haled itself into federal court. It now argues that this “suit cannot proceed in federal court.” Pet.Br.51. That is unsurprising, as Ames has attempted to deny Welles just compensation at every turn.

States cannot use the privilege of sovereign immunity to systematically evade their express obligations under the Takings Clause. Preventing the courts from “giv[ing] remedy when the citizen has been deprived of his property by force . . . without any compensation . . . sanctions a tyranny which has no existence in the monarchies of Europe, nor in any other government which has a just claim to well-regulated liberty and the protection of personal rights.” *United States v. Lee*, 106 U.S. at 220–21.

### CONCLUSION

This Court should affirm the judgment of the court of appeals.

October 28, 2025

Respectfully submitted,

*The Charles Fried Memorial Team*

/s/ Nathalie Beauchamps

/s/ Joe Caplis

/s/ Joshua Grambow

/s/ Nicholas Nelson

/s/ Paneez Oliai

/s/ Coy Ozias

## **APPENDIX**

### **U.S. Const. amend. V**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

### **U.S. Const. amend. XI**

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

### **U.S. Const. amend. XIV, § 1**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of

the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

**U.S. Const. amend. XIV, § 5**

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

**28 U.S.C. § 1491(a)(1)**

The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort. For the purpose of this paragraph, an express or implied contract with the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration shall be considered an express or implied contract with the United States.

## Answers to Questions to the Record

1. **Q:** What is the statute of limitations on personal injury actions in the state of Ames? What is the statute of limitations on actions for the recovery of personal and/or real property in the state of Ames?  
**A.** The limitations period for both is five years.
2. **Q:** The second question presented asks whether state sovereign immunity applies “absent a waiver.” Supreme Court precedent has often referred to *any* exception to state sovereign immunity as a form of “waiver.” By the phrase “absent a waiver” in the question presented, are respondents only prohibited from arguing that there is an *express* waiver of sovereign immunity (e.g., waiver by Ames statute)? Or are there other forms of waiver that are also off the table?  
**A.** Respondents are only prohibited from arguing there was an express waiver.
3. **Q:** Does Ames have any administrative bodies that hear claims for just compensation?  
**A.** No
4. **Q:** Does Ames state law have an equivalent to the Takings Clause and, if so, is there a corresponding cause of action for inverse condemnation or any other way to obtain just compensation pursuant to it?  
**A.** No.