

## CFC Dismisses Takings Claims Based on Allegations of Government Wrongdoing

In [Meschkow v. United States](#), the plaintiff, an attorney, argued that that Government had taken his property without just compensation when it disclosed the contents of an Order to Show Cause that had been sealed as confidential by stipulation in a bankruptcy case in which he represented the debtor. The contents were disclosed in the Government's subsequent motion for disgorgement of his attorneys' fees.

Meschkow's takings argument was that "the Trustee's unsealed filing of the motion for disgorgement breached the terms of the Stipulation and thereby constituted a taking of 'Plaintiff's documents and facts,' facilitated the taking of Plaintiff's money (via the proposed disgorgement), and was being used to 'take away Plaintiff's law practice.'"

But the U.S. Court of Federal Claims noted that complaints about wrongful government action are "not properly presented in the context of a takings claim," quoting an earlier Federal Circuit decision that a "claimant must concede the validity of the government action which is the basis of the taking claim to bring suit under the Tucker Act."

By contrast, allegations of improper conduct by the Government infused all of the claims made by the plaintiff in *Meschkow*. As a result, the complaint lacked an essential element required to make a takings claim.

As if this was not enough, the CFC also found that the property at issue was not actually taken, noting that:

*Mr. Meschkow does not make any allegations that his "facts" and "documents" were taken away or appropriated in such a way as to diminish or preclude his own use thereof. Nor does he actually allege that the Government has taken any money or funds from him by the filing of the unsealed motions.*

And after disposing of plaintiff's other claims as well, the CFC dismissed the entirety of the complaint.

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