

# Court Declines to Dismiss Constitutional Challenge to Delaware's Unclaimed Property Law

## **Client Alert**

03.16.2015

On March 11, 2015, the United States District Court for the District of Delaware issued an opinion and order denying, in large part, the State of Delaware's motion to dismiss a lawsuit challenging, on federal constitutional grounds, Delaware's methodology for determining unclaimed property liability for periods in which the holder's records are insufficient to determine the actual amounts due.

In *Temple-Inland, Inc. v. Cook*, Temple-Inland filed suit against the State of Delaware's Secretary of Finance, State Escheator and Audit Manager challenging the constitutionality of Delaware's use of a statistical model to extrapolate and estimate the company's unclaimed property liability for periods where the company lacked adequate records. Ruling on the State's motion to dismiss the complaint and Temple-Inland's cross motion for summary judgment, the Court sided with the State on Temple-Inland's federal preemption claim, finding that the U.S. Supreme Court precedents cited by Temple-Inland apply only to disputes between states and not between a private party and a state. Addressing Temple-Inland's remaining claims, the Court denied both the State's motion to dismiss and Temple-Inland's motion for summary judgment, stating that the Court would benefit from a more complete factual record. As a result, Temple-Inland will be permitted to proceed with its claims that the State's methodology for extrapolating and estimating unclaimed property liability violates substantive due process under the Fourteenth Amendment and the Ex Post Facto, Takings, Commerce and Full Faith and Credit Clauses of the United States Constitution.

**Click here** to download a copy of the court's opinion.

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**PRACTICE AREAS**

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