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Lawsuit aims to stop Illinois counties from selling homes over unpaid taxes

By Dennis Rodkin

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A new lawsuit aims to abolish the long-standing practice of Illinois counties selling properties over their unpaid taxes in the wake of a U.S. Supreme Court ruling last year that declared the practice unconstitutional.

"County governments across Illinois have been illegally seizing property value from taxpayers across Illinois for decades," said Daniel Suhr, an attorney with the Chicago-based law firm Hughes & Suhr, which filed the suit. "The US Supreme Court made that eminently clear in its decision, and our lawsuit is an effort to make victims of this unconstitutional policy whole." **(Read the filing below.)**

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At stake is potentially hundreds of millions of dollars in home equity that property owners lost when Illinois counties sold their homes or commercial property for back taxes. A study by the Pacific Legal Foundation estimated that in the years 2014 to 2021, property owners in 11 Illinois counties sacrificed about \$300 million in equity when their properties were sold for tax debt.

"It's equity theft," Suhr said.

The case, filed April 10 in the U.S. District Court for the Southern District of Illinois, follows a similar case filed in November in the Northern District, which encompasses the Chicago area. Both are outgrowths of [the Supreme Court's Tyler decision](#) in May 2023, in which it said the U.S. Constitution prohibits a government from taking someone's property and making a profit on it. [The Fifth Amendment](#) bars "private property be[ing] taken for public use, without just compensation."

The Tyler case, which centered on seizure of a Minneapolis woman's home over unpaid taxes, led to Minnesota's Legislature [agreeing to pay \\$109 million to settle class action lawsuits](#). It's also considering new legislation that would give property owners the right to claim any profit beyond unpaid taxes after a tax-debt sale.



Illinois is [one of 12 states](#) where counties have been committing "home equity theft" via tax-debt sales, according to the Pacific Legal Foundation.

When an Illinois property owner falls behind on the tax bill and the county issues a tax deed taking the property, "the taking of the property is for the entire value of the property, not only the value of the taxes owed," the Hughes & Suhr case says. The surplus value, or the amount of equity left in the property after the county gets its due, "is never returned to the former owner."

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The suit cites as one example an East St. Louis homeowner whose property tax debt on his \$76,000 home was a little over \$14,000 when St. Clair County authorized a tax sale. The difference, over \$60,000, is the "surplus value" that the homeowner lost, the suit claims.

Several Illinois counties are asking a court [to rule that the Tyler case doesn't apply here](#) because in a tax-debt sale, the county doesn't profit. It only gets back the taxes it's owed.

The counties argue that it's the investor that buys the taxes that reaps the "excess value," or the equity that remains in the property.

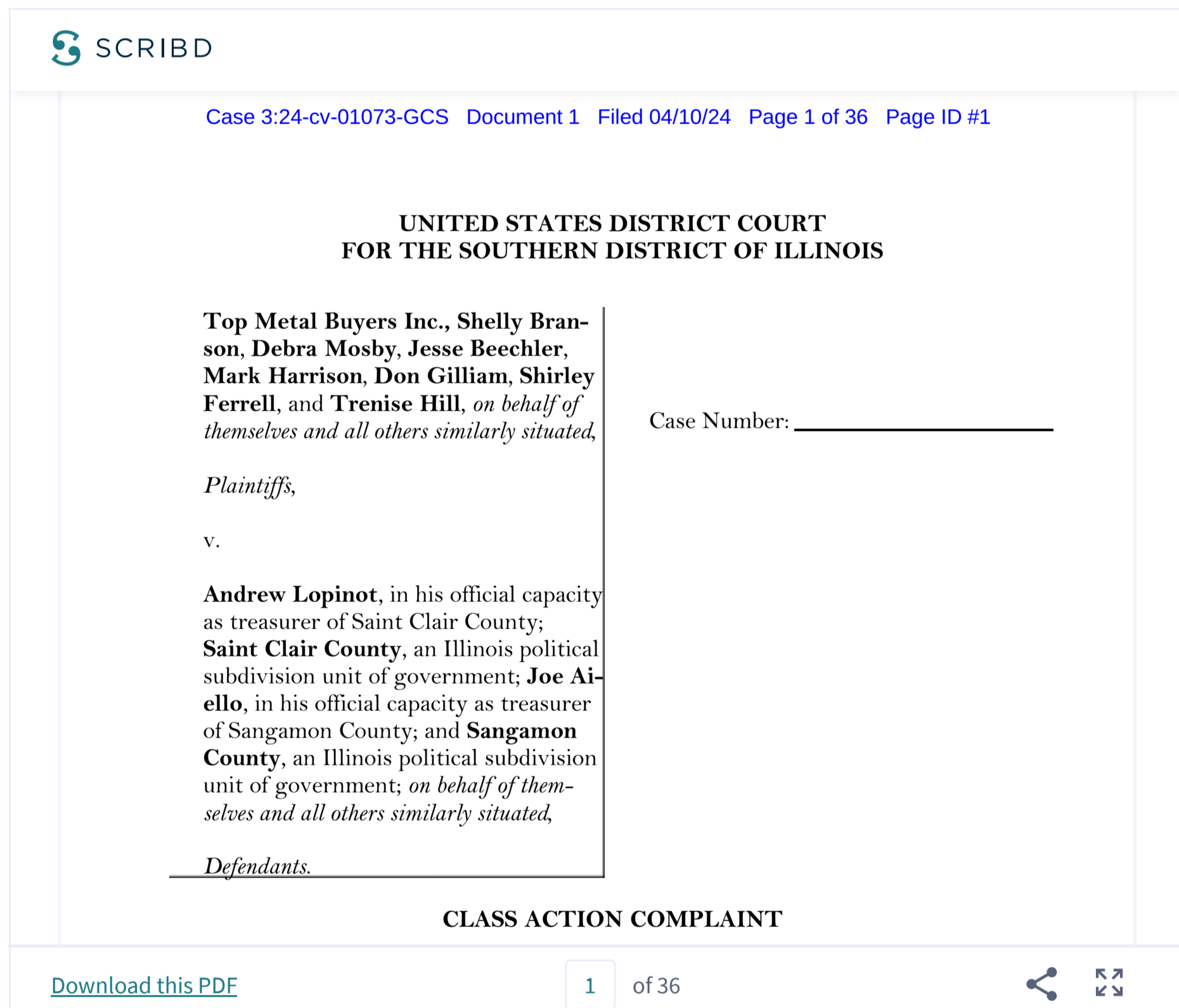
That exemption has yet to be decided by the court, but Suhr rejected the idea. "This isn't tax investment companies taking the property," he said. "They don't have that power. It's only the county government that has the power to issue a deed that takes my property and gives it to someone else."

Both [the northern Illinois case filed in November](#) and this new southern Illinois case seek to be given class action status for the plaintiffs, property owners in their respective regions whose property has been sold for taxes. In the southern Illinois case, the attorneys are also asking the judge to certify a class of defendants, the county officials statewide who manage the tax debt sales.

"We're asking the court to say, rather than deal with it county by county, we want a statewide standard of compensation," Suhr said.

The impact of the tax sale system is "overwhelmingly found in communities of color, and low-income areas," Suhr said. "People who have a hard time navigating complex government systems fall behind on their taxes," and they wind up "losing their house and their equity in it" in the event of a tax sale.

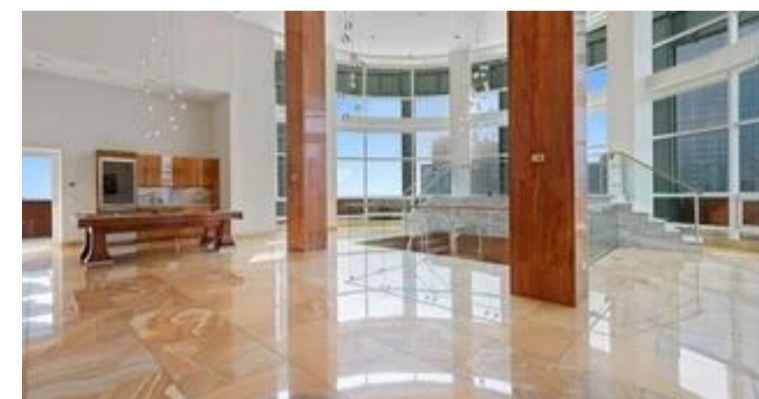
[Tax Sale Class Action Lawsuit by Ann Dwyer on Scribd](#)



By Dennis Rodkin
Dennis Rodkin is a senior reporter covering residential real estate for Crain's Chicago Business. He joined Crain's in 2014 and has been covering real estate in Chicago since 1991.

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