

# **Bond Case Briefs**

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**EMINENT DOMAIN - NEW YORK**

## **National R.R. Passenger Corp. v. McDonald**

**United States District Court, S.D. New York - September 26, 2013 - F.Supp.2d - 2013 WL 5434618**

The question presented by this case was whether New York State has the authority to condemn property owned by National Railroad Passenger Corporation, known as Amtrak, in the face of certain federal statutes that created Amtrak and govern the use of its property.

Amtrak brought an action against the Commissioner of the New York State Department of Transportation, asserting that the Commissioner's effort to condemn Amtrak-owned property along the Bronx River is preempted by federal law. The State had already condemned six parcels of Amtrak property, and had plans to condemn one additional parcel, as part of the "Bronx River Greenway" project - a joint New York State, New York City, and federal redevelopment project to restore the riverfront, which includes the development of parks, bike paths, and running and walking trails along the Bronx River.

Amtrak had no interest in the subject property and was willing to part with it for the same amount of money that the State has placed in escrow for that very purpose. The only live issue was whether acquisition was properly effected by eminent domain, or whether the State had to buy the property from Amtrak. "Amtrak, having chosen not to raise the preemption issue in the eminent domain proceeding, belatedly brings it before this Court."

The court concluded that Amtrak's claims with respect to the Amtrak Bronx Rail Property are barred by the Eleventh Amendment (as to the six condemned parcels) and the statute of limitations (as to Parcel 178),