

# **Bond Case Briefs**

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## **EMINENT DOMAIN - MISSISSIPPI**

### **City of Tupelo v. Patterson**

**Supreme Court of Mississippi - January 19, 2017 - So.3d - 2017 WL 238410**

Property owners brought inverse condemnation action against city under the Takings Clause of the state constitution, seeking compensation for both personal injuries and property loss arising out of erosion of city drainage ditch that caused significant property damage and mold-related health issues.

City filed motion for summary judgment. The Circuit Court denied motion. City filed interlocutory appeal.

The Supreme Court of Mississippi held that:

- The general three-year limitations period applies to claims under the state constitutional Takings Clause;
- Action accrued, for limitations purposes, at the latest, when property owner filed his first formal claim against city, acknowledging the injury and his right to sue;
- Physical takings under the Takings Clause are not continuous in nature, for statute of limitations purposes; and
- Property owners could not recover for personal injury under Takings Clause.

Property owner's inverse condemnation action against city under the Takings Clause of the state constitution, seeking compensation for loss arising out of erosion of city drainage ditch that caused significant property damage, accrued, for purposes of applicable three-year limitations period, at the latest, when property owner recognized his walls were pulling apart and his home was taking on water and then filed his first formal claim against city, acknowledging the injury and his right to sue.

Damage levied on private property outside of city's prescriptive rights, as the result of erosion of city drainage ditch due to heavy rain, was compensable under state constitutional Takings Clause.

If property owner obtaining recovery in a takings action alleges additional damage to his property, that damage will be included under the original complaint so long as the harm suffered was the predictable result of the government's action, and the description of the damage incurred is pleaded sufficiently to include the extended damage.

Property owners' personal-injury claims against city, alleging mold-related health issues arising out of water damage to property caused by erosion of city drainage ditch, were rooted in the common law and could not be recovered for under state constitutional Takings Clause.