
EMINENT DOMAIN - MISSISSIPPI

High v. Kuhn

Supreme Court of Mississippi - December 14, 2017 - So.3d - 2017 WL 6379168

Landlocked property owner filed petition for establishment of private road over neighbor's property, for purposes of ingress and egress.

The Special Court of Eminent Domain denied neighbor's motion to dismiss, and then granted petition. Neighbor appealed, and the Supreme Court reversed. Neighbor filed a motion for an award of attorney's fees. The Special Court of Eminent Domain denied neighbor's motion, and neighbor appealed.

The Supreme Court of Mississippi held that statute allowing a prevailing defendant to recover expenses in an eminent domain proceeding applied to neighbor who prevailed on appeal of action in which landlocked property owner sought establishment of private road over neighbor's property. Legislature's intent was that an action for a private condemnation, to the extent possible, would be just like an action for a public condemnation, and it was property owner who pursued the statutory remedy of eminent domain rather than common law remedies.

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