

# **Bond Case Briefs**

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## **CREDITORS' REMEDIES - ALASKA**

### **Beecher v. City of Cordova**

**Supreme Court of Alaska - January 19, 2018 - P.3d - 2018 WL 473373**

City, which had been granted a money judgment against former commercial tenants it had evicted from city-owned land, and had pursued collection for several years before suspending its efforts, resumed its efforts to collect, and tenants moved for an accounting of left-behind property and the amount still owing on the judgment.

The Superior Court allowed execution to continue without an accounting, and former tenants appealed.

The Supreme Court of Alaska held that:

- Burden was on city to explain what happened to former tenant's personal property after city took possession of leased premises;
- City was not required to execute against individual pieces of personal property identified in its creditor's affidavit; but
- Genuine issues of material fact about whether city was estopped from contending that its judgment against former commercial tenants remained unsatisfied precluded trial court from accepting city's accounting and allowing execution against former tenant's personal property to continue.

Burden was on city to explain what happened to former tenant's personal property after city took possession of leased premises, even though it may have placed a considerable burden on city to render a proper accounting given the passage of the time since the original judgment in favor of city; city did not dispute that it had a creditor-debtor relationship with former tenants, former tenants submitted evidence that tended to show city held their personal property without accounting for its value, and city did not dispute that former tenants left behind property they identified in their motion for an accounting.

City was not required to execute against individual pieces of personal property identified in its creditor's affidavit after it received a writ of execution against judgment debtors, former commercial tenants of city, and thus, acted within its grant of authority when it executed on judgment debtors' bank accounts; the writ of execution issued by the court against the property of the judgment debtors did not direct the particular property to be sold, but instead, simply authorized the city to satisfy the judgment with any personal property subject to execution.

Genuine issues of material fact about whether city was estopped from contending that its judgment against former commercial tenants remained unsatisfied precluded trial court from accepting city's accounting and allowing execution against former tenant's personal property to continue; city, in its creditor's affidavits, said it would attempt to satisfy its judgment by levying against certain property, and if it in fact retained former tenants' property for its own use, without accounting for its value, it may have been unjustly enriched to the detriment of former tenants, which could be relevant to the prejudice, interests of justice, and unconscionability elements of the estoppel doctrines.

