

Bond Case Briefs

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Davis v. Jefferson County Election Office

Supreme Court of Montana - February 27, 2018 - P.3d - 2018 WL 1064237 - 2018 MT 32

Mayor and town council members filed application for injunctive relief seeking to prevent recall election.

The District Court granted injunctive and declaratory relief but denied request of mayor and council members for attorney fees and costs. Mayor and council members appealed.

The Supreme Court of Montana held that:

- Award of attorney fees to mayor and council members pursuant to Uniform Declaratory Judgments Act (UDJA) was not warranted;
- County's defense was not frivolous or pursued in bad faith; and
- Award of attorney fees to mayor and council members was not warranted pursuant to statute that permitted award of fees to prevailing party in action for injunction.

Award of attorney fees to mayor and town council members, as prevailing parties, was not warranted pursuant to the Uniform Declaratory Judgments Act (UDJA), in action that sought injunctive and declaratory relief to prevent recall election; mayor and council members could have sought the same relief under the Montana Recall Act and, since the Recall Act did not allow for an award of attorney fees in the case, it would have been inequitable to permit an award under the UDJA.

County's defense was not frivolous or pursued in bad faith, and therefore award of attorney fees to mayor and town council members, as prevailing parties, was not warranted pursuant to statute that allowed recovery of fees in certain circumstances in actions against political subdivisions in action that sought injunctive and declaratory relief to prevent recall election; county official relied on counsel's certification that recall petitions were statutorily sufficient when she permitted their filing.

Award of attorney fees to mayor and town council members, as prevailing parties in action seeking injunctive and declaratory relief against county and resident who filed recall petitions to prevent recall elections, was not warranted pursuant to statute that permitted award of fees to prevailing parties in actions seeking injunctive relief; injunction was never sought or granted against resident who filed recall petitions, rather mayor and council members only sought injunctive relief against county.