

Bond Case Briefs

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EMINENT DOMAIN - MONTANA

City of Missoula v. Mountain Water Company

Supreme Court of Montana - May 8, 2018 - P.3d - 2018 WL 2111928 - 2018 MT 114

Owner of water delivery system brought motion in condemnation action, seeking post-summons interest from the date that city served owner with summons to the date that city took possession of the system.

The District Court denied motion. Owner appealed.

The Supreme Court of Montana held that:

- City did not obtain interlocutory possession of owner's water delivery system through statute, which outlined procedures for putting condemnor in possession of condemned property during pendency of condemnation action, and thus, owner was not entitled to post-summons statutory interest, and
- Owner was not completely deprived of all economical use of its system during proceedings in which city sought condemnation of the system, and thus, award of discretionary interest to owner was not warranted.

City did not obtain interlocutory possession of owner's water delivery system through statute, which outlined procedures for putting condemnor in possession of condemned property during pendency of condemnation action, and thus, owner was not entitled to post-summons statutory interest from the date that summons was served to the date that city took possession of the system, where city took possession based upon agreed upon method in settlement agreement, city paid amount agreed upon in settlement agreement to owner directly, and owner retained possession of the system until entry of final judgment in condemnation action.

Owner of water system was not completely deprived of all economical use of its system during proceedings in which city sought condemnation of the system, and thus, award of discretionary interest to owner from the date that summons was served to the date that city took possession of the system was not warranted, where city did not take constructive possession of the condemned property, owner was entitled to all economic use, including revenue derived from the property, during the proceedings, and owner was compensated for any improvements made to the property during the proceedings.