

Bond Case Briefs

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INVERSE CONDEMNATION - MONTANA

Weaver v. State

Supreme Court of Montana - September 3, 2013 - P.3d - 2013 MT 247

Real property owners filed claims of negligence and inverse condemnation against state to recover for damage to their property allegedly resulting from procedures used by state to contain wildland fire. The District Court entered judgment on jury verdict awarding owners \$730,000 in damages on negligence claim and denied owners' posttrial motion for discovery sanctions. Both sides appealed.

The Supreme Court of Montana held that:

- Statement in owners' trial brief, that it was a reasonable and necessary decision for state to let wildland fire move across owners' property to flatter, more defensible space, did not constitute a judicial admission with respect to negligence claim;
- District court did not abuse its discretion in striking a defense under public duty doctrine that state first raised in its trial brief, filed three weeks before trial; and
- Trial court did not abuse its discretion in denying owners' posttrial motion for sanctions.