

Bond Case Briefs

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PUBLIC UTILITIES - CALIFORNIA

Wilson v. Southern California Edison Company

Court of Appeal, Second District, Division 4, California - February 9, 2015 - Cal.Rptr.3d - 15 Cal. Daily Op. Serv. 1425

Homeowner brought action against electrical utility for nuisance, negligence, and intentional infliction of emotional distress, alleging that utility failed to properly supervise, secure, operate, maintain, or control electrical substation next door to her home, which allowed uncontrolled stray electrical currents to enter the home. The Superior Court entered judgment on jury verdict for homeowner which awarded compensatory (\$1 mil.) and punitive damages (\$3 mil.), and utility appealed.

The Court of Appeal held that:

- Issue of whether statute governing judicial review of Public Utilities Commission (PUC) applied was an issue of subject matter jurisdiction that could not be waived;
- PUC did not have exclusive authority over homeowner's tort claims;
- Evidence was insufficient to show that stray voltage caused homeowner's physical injuries;
- Utility's conduct was not extreme and outrageous;
- Utility did not breach any duty of care to homeowner in connection with stray voltage;
- Jury's improper consideration of homeowner's physical injuries required remand of nuisance claim for retrial; and
- Conduct allegedly ratified by utility's managing agents was not despicable.

Issue of whether statute governing judicial review of PUC applied in homeowner's tort action against electrical utility regarding stray voltage from substation was an issue of subject matter jurisdiction that could not be waived by electrical utility's failure to raise the issue as an affirmative defense in its answer. The statute divested trial courts of jurisdiction to entertain lawsuits that would interfere with the PUC's regulation of utilities.

PUC did not have exclusive authority over homeowner's tort claims against electrical utility regarding stray voltage from neighboring substation, although PUC had issued regulations requiring grounding of substations. It was possible that utility could comply with grounding regulations and still mitigate the stray voltage resulting from grounding, it was unclear whether litigation would hinder or interfere with PUC's regulatory policy, and there was no indication that PUC had investigated or regulated the issue of stray voltage, or that stray voltage could not be mitigated without violating the grounding regulation.

Jury's improper consideration of homeowner's physical injuries, which were not proven to be caused by stray voltage from nearby electrical substation, required remand of nuisance claim against electrical utility for retrial. While absence of evidence of physical injuries would not preclude recovery, under homeowner's theory of the case, her physical injuries were an integral part of the harm she purportedly suffered.

