

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - CALIFORNIA**

### **Seacrist v. Southern California Edison Company**

**Court of Appeal, Fourth District, Division 2, California - January 27, 2016 - 244 Cal.App.4th 308 - 197 Cal.Rptr.3d 834 - 16 Cal. Daily Op. Serv. 1100 - 2016 Daily Journal D.A.R. 948**

Homeowners sued electric company for negligence, nuisance, trespass, strict products liability, breach implied warranty of fitness, strict liability based on ultra hazardous activity, and intentional infliction of emotional distress, alleging that stray electrical currents from company's substation were causing homeowners to suffer various medical issues. The Superior Court sustained company's demurrer without leave to amend. Homeowners appealed.

The Court of Appeal held that:

- Homeowners were not bound by theory that trial court's jurisdiction was based upon company's violation of rule prohibiting utilities from using ground or earth as a normal neutral to return electricity along the circuit;
- Trial court had authority to decide whether electric company was negligent;
- Trial court had authority to determine nuisance, trespass, and intentional infliction of emotional distress claims; and
- Trial court had authority to determine products liability, breach of implied warranty of fitness, and ultra hazardous activity claims.

Homeowners were not bound by theory that trial court's jurisdiction was based on violation of rule prohibiting utilities from using the ground or earth as a normal neutral to return electricity along the circuit on appeal from trial court's decision sustaining electric company's demurrer in homeowners' action stemming from allegation that stray electric currents were causing homeowners to suffer medical issues. Homeowners' comments about violations of rule were not made in format that would cause them to be judicial admissions, and facts and legal theories upon which homeowners asserted on appeal were found in homeowners' complaint.

Trial court had authority to decide whether electric company was negligent in its operation of substation in homeowners' action against company, alleging that stray electrical currents from substation were causing homeowners to suffer various medical issues. Negligence claims would not have hindered or interfered with Public Utility Commission (PUC) policy, as element of test used to determine whether claim fell within PUC's exclusive jurisdiction.

Trial court had authority to determine homeowners' claims against electric company for nuisance, trespass, and intentional infliction of emotional distress, alleging that stray electrical currents from company's substation near homeowners' property were entering their property, causing homeowners to suffer health issues and distress, discomfort, anxiety, fear, and anguish. Stray voltage litigation would not have hindered or interfered with Public Utility Commission (PUC) policy, as element of test used to determine whether claim fell within PUC's exclusive jurisdiction.

Trial court had authority to determine homeowners' claims against electric company for strict products liability, breach of implied warranty of fitness, and strict liability based on ultra hazardous

activity, stemming from allegation that stray voltage from company's substation caused homeowners to suffer health issues, since stray voltage litigation would not have hindered or interfered with Public Utility Commission (PUC) policy, as element of test used to determine whether claim fell within PUC's exclusive jurisdiction.