

Bond Case Briefs

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EMINENT DOMAIN - MONTANA

Deschner v. State of Montana, Department of Highways

Supreme Court of Montana - February 28, 2017 - P.3d - 2017 WL 772735 - 2017 MT 37

Property owners brought action against state, asserting claims for negligence and inverse condemnation and alleging that construction and placement of state highway and culvert caused unnatural increase in amount of water that ran off highway onto rockfall site, ultimately causing a slab of rock to fall onto owners' home.

Following a jury trial, the District Court entered judgment in favor of state. Owners appealed.

The Supreme Court of Montana held that trial court's decision to give jury instruction that required property owners to prove elements to their inverse condemnation claim beyond that which case law and state constitution's eminent-domain section required rather than giving either of property owners' proposed jury instructions did not constitute reversible error in action against state for negligence and inverse condemnation, although jury did not reach issue of causation in inverse condemnation claim; owners were required to prove that state caused their damages, jury found state contributed 0% to the cause of owners' damages in negligence claim, and damages in negligence claim and inverse condemnation claim were indistinct.