

Bond Case Briefs

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Modacure v. B&B Vehicle Processing, Inc.

Court of Appeal, First District, Division 5, California. December 21, 2018 - Cal.Rptr.3d - 2018 WL 6715870 - 18 Cal. Daily Op. Serv. 12, 008 - 2018 Daily Journal D.A.R. 12, 238

Vehicle owner brought action against city and towing and storage businesses for conspiracy and denial of due process regarding the seizure and subsequent sale of owner's impounded vehicle.

The Superior Court sustained defendants' demurrers without leave to amend and dismissed the case. Owner appealed.

The Court of Appeal held that:

- Owner failed to state claim that city and businesses conspired to seize vehicle and keep surplus proceeds from sale instead of applying the proceeds to unpaid parking tickets, and
- Owner stated a claim under § 1983 by alleging city's and businesses' failure to apply sale proceeds to unpaid parking tickets.

Vehicle owner failed to state claim that city and towing and storage businesses conspired to seize and impound vehicles and keep surplus proceeds from subsequent vehicle sales instead of applying the proceeds to unpaid parking tickets, where complaint alleged that owner's vehicle was sold before alleged conspiratorial meetings occurred.

Vehicle owner stated a claim under § 1983 by alleging city's and towing and storage businesses' failure to apply impounded vehicle sale proceeds to unpaid parking tickets, which allegedly resulted in misallocation of sale proceeds, was violation of right to due process.