

# **Bond Case Briefs**

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## **PUBLIC RECORDS - MONTANA**

### **Unidentified Police Officers 1 v. City of Billings**

**Supreme Court of Montana - December 31, 2019 - P.3d - 2019 WL 7374361 - 2019 MT 299**

Following issuance of temporary restraining orders (TROs) and order of protection in favor of police officers who had been investigated and disciplined for having sexual relations with a city employee, which prohibited media companies from releasing officers' identities, media companies moved to intervene in officers' TRO actions and filed counterclaim and cross-claim against the city, seeking declaration that public's right to know clearly outweighed officers' alleged privacy interests and an order making documents available for inspection to media companies and requesting attorney fees and costs for enforcing the public's right to know.

Following show-cause hearing, the District Court ordered release of officers' identities and subsequently granted media companies' request for fees and costs in the amount of \$10,052.70. City appealed.

The Supreme Court held that:

- District court did not abuse its discretion in making statutory award of fees to media companies as prevailing parties, but
- Award of attorney fees for time spent by media companies recovering fees was not authorized on appeal.

District court did not abuse its discretion in making statutory award of attorney fees to media companies as prevailing parties in action against city seeking declaration that public's right to know identities of police officers who had been investigated and disciplined for having sexual relations with a city employee clearly outweighed officers' alleged privacy interests and an order making documents about investigation available for inspection; city's actions in stipulating to officers' requests for temporary restraining orders (TROs) to protect their identities led to additional litigation that could have been avoided, and media companies prevailed in securing release of public information.

Award of attorney fees for time spent by media companies recovering fees incurred in action against city seeking declaration that public's right to know identities of police officers who had been investigated and disciplined for having sexual relations with a city employee clearly outweighed officers' alleged privacy interests and an order making documents about investigation available for inspection was not authorized on appeal, where district court held that media companies were not entitled to fees for time spent recovering their fees, and companies did not appeal that ruling.