

# **Bond Case Briefs**

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## **QUIET TITLE - NEW MEXICO**

### **Nash v. Board of County Commissioners of Catron County**

**Supreme Court of New Mexico - October 19, 2020 - P.3d - 2020 WL 6144594**

Landowners brought separate actions to quiet title to real estate located in two counties, and defendant counties asserted sovereign immunity.

The District Court denied county's motion to dismiss, and the county appealed. The District Court granted the county's motion to dismiss, and the landowners appealed. Appeals were consolidated. The Court of Appeals affirmed in part, reversed in part, and remanded, holding that the State and its political subdivisions are immune from quiet title actions. Landowners petitioned for writ of certiorari.

The Supreme Court held that:

- Legislature intended statute to create a limited waiver of governmental immunity from being named a defendant in actions to quiet title, and
- It would decline to exercise its discretionary authority to reach landowners' constitutional argument.

Legislature intended statute to create a limited waiver of governmental immunity from being named a defendant in actions to quiet title; title of statute clarified legislative intent to create a limited waiver of immunity requiring consent of the state to be named in a lawsuit where the state holds or claims a lien against real or personal property and where that lien is being adjudicated or foreclosed, full title of enrolled and engrossed bill was included as an annotation when the law was originally codified, that annotation was likewise included without alteration or amendment when the statute was recompiled, and when legislature enacted statute to effectively establish statutory immunity, it did so aware of the limited waiver it had previously granted.

Supreme Court would decline to exercise its discretionary authority to reach landowners' constitutional due process argument regarding claims to quiet title against counties, where landowners did not present an appropriately developed case, one where sovereign immunity, interposed to bar quiet title actions, had denied landowners a remedy for the taking of property without compensation.