

# **Bond Case Briefs**

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## **EMINENT DOMAIN - IDAHO**

### **Munden v. Bannock County**

**Supreme Court of Idaho, Boise, September 2021 Term - December 15, 2021 - P.3d - 2021 WL 5912332**

Landowners brought action against county asserting claims for declaratory relief and inverse condemnation concerning purported public road that landowners used as a private agricultural road, arising from county's enactment of ordinance restricting winter usage of road to snowmobile use only.

The Sixth Judicial District Court entered ex parte temporary restraining order (TRO) prohibiting enforcement of ordinance, but later dissolved TRO, dismissed complaint, and awarded county attorney fees and costs. Landowners appealed.

The Supreme Court held that:

- Trial court acted within its discretion in dissolving TRO;
- County was entitled to attorney fees and costs incurred in seeking dissolution of TRO;
- A rebuttable presumption exists that amount of bond posted by a plaintiff seeking an ex parte TRO is adequate;
- A petition for initiation of validation or abandonment proceedings with county was required before landowners could file suit concerning status of road;
- Dismissal without, rather than with, prejudice was required; and
- Landowners did not invite error in trial court's award of attorney fees to county for defending motions to clarify multiple non-final judgments;
- Trial court prematurely issued writ of execution for county's attorney fees before there was a final appealable judgment.