

# **Bond Case Briefs**

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## **EMINENT DOMAIN - ALABAMA**

### **Ex parte Cooper**

**Supreme Court of Alabama - August 25, 2023 - So.3d - 2023 WL 5492465**

Toll bridge operator, which was a private company, brought action against Director of the Alabama Department of Transportation (ALDOT), in his official capacity, and company that ALDOT had hired to build a nearby bridge.

In the action, toll bridge operator asserted a bad-faith claim for an injunction to the nearby bridge's construction and an inverse-condemnation claim for compensation from the State for the value of the toll bridge.

The Circuit Court entered order compelling Director to respond to certain discovery requests, entered preliminary injunction to halt bridge's construction, and dismissed as a defendant the company hired to build the nearby bridge. Director appealed as to the injunction and sought mandamus relief from the discovery order. Company hired to build the nearby bridge filed its own appeal.

The Supreme Court held that:

- State immunity barred the bad-faith claim;
- Director's recovery under the preliminary-injunction bond would be limited to the \$100,000 bond amount; and
- Company hired to build the nearby bridge would not be entitled recover its damages for being wrongfully enjoined.

State immunity barred bad-faith claim that toll bridge operator had asserted against Director of the Alabama Department of Transportation (ALDOT) in his official capacity, which claim was the basis for operator's request for a preliminary injunction halting the construction of a nearby bridge; the claim sought to directly affect a State contract right by sinking the State's contract for the construction of the nearby bridge.

Toll bridge operator's inverse-condemnation claim for compensation from the State for the value of the toll bridge, which claim stemmed from State having another company build a nearby bridge, was ripe; despite argument that operator was not in immediate danger of sustaining a legally cognizable injury, such an argument was a challenge to the claim's merits, and toll bridge operator's allegation that it faced an imminent injury, i.e., the total loss of the value of its property, caused by a government action that was redressable by the payment of compensation for the value of that property was sufficient to assert a ripe claim.

Following appellate determination that circuit court, due to the existence of State immunity, lacked subject-matter jurisdiction to enter a preliminary injunction against Director of the Alabama Department of Transportation (ALDOT), in his official capacity, to halt the construction of a bridge in the vicinity of a toll bridge operated by a private company, Director's recovery under the preliminary-injunction bond would be limited to the \$100,000 bond amount, absent a finding by the

trial court that toll bridge operator sought the injunction in bad faith.

Despite appellate determination that circuit court, due to the existence of State immunity, lacked subject-matter jurisdiction to enter a preliminary injunction against Director of the Alabama Department of Transportation (ALDOT), in his official capacity, to halt the construction of a bridge in the vicinity of a toll bridge operated by a private company, the company that the State hired to build the bridge would not be entitled to recover its damages for being wrongfully enjoined; the preliminary-injunction bond bound toll bridge operator only unto Director, and altering the bond's terms to allow the bridge construction company to recover under the bond would effectively increase toll bridge operator's exposure beyond what it agreed to when the injunction was entered.