

Bond Case Briefs

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EMINENT DOMAIN - GEORGIA

eCBI Warner, LLC v. Patrick

Court of Appeals of Georgia - June 24, 2025 - S.E.2d - 2025 WL 1742187

City contractors, which contracted with city to create a fiber optic wide area network, filed petition for writ of mandamus against city and related individual defendants to obtain right-of-way access permits to 48 fiber optic lines that contractors had placed that were seemingly not addressed by parties' contract.

After contractors dismissed with prejudice their federal action against the same defendants, city terminated lease agreement between city development authority and one of the contractors for 12 additional fiber optic lines, and contractors amended their complaint to include facts and claims based on the lease termination, seeking appointment of a receiver, a permanent injunction, and a writ of mandamus and asserting claims for inverse condemnation, breach of contract, nuisance, and expenses of litigation.

The Superior Court, Houston County granted defendants' motion for summary judgment. Contractors appealed. The Court of Appeals affirmed in part and reversed in part. On remand, the Superior Court granted defendants' motion to dismiss. Contractors appealed.

The Court of Appeals held that:

- Contractors stated a new claim for inverse condemnation of the 12 leased lines that was not barred by res judicata based on the dismissal with prejudice of the federal action;
- Contractors failed to state a claim for private nuisance based on the lease termination;
- Issuance of writ of mandamus requiring city to acknowledge that contractors owned originally asserted 48 lines was not warranted;
- Issuance of writ of mandamus requiring city to acknowledge the lease was not warranted; and
- Final judgment in federal action precluded the assertion in state court of any claims, federal or state, that were asserted in the federal action or were related to claims asserted therein.