

THE LARGEST JURY VERDICTS OF 2002

Section B

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\$6.8 MILLION

MERKUR STEEL SUPPLY, INC.
V. CITY OF DETROIT

A cause of action alleging inverse condemnation was the sixth largest verdict.

A Wayne County jury awarded \$6.8 million to a steel supply company that claimed the defendant, the City of Detroit, had taken its property rights for more than 10 years.

According to plaintiff's counsel, Mark S. Demorest, Merkur Steel Supply leased approximately 11 acres of real estate in Detroit adjacent to Detroit City Airport on a long-term basis. A large building once used as a Chrysler plant is located on the property. The existing building is fully occupied, but approximately three and one-half acres of the property leased by the plaintiff were vacant and available for expansion.

Allegedly, for more than 10 years, the defendant had taken the plaintiff's property rights without paying for them. The plaintiff had been attempting for more than 10 years to build a new building (or an addition to the existing building) on the vacant portion of the property, in order to expand its business.

However, Demorest said the defendant repeatedly interfered with these efforts, and the plaintiff was never been able to build the building. As a result, the plaintiff lost 10 years of business that could have been conducted from the building, as well as all that

could have been done there in the future.

Demorest added that the defendant interfered with Merkur's use of the property because of the defendant's own selfish financial interests. The defendant filed an airport layout plan with the Federal Aviation Administration and the Michigan Bureau of Aeronautics, stating that it plans to expand Detroit City Airport and to acquire the plaintiff's property as part of that expansion.

Demorest commented that the defendant tried to prevent the further development of the plaintiff's property to keep the price of the property down. By preventing construction of a new building on the property, the defendant made its future condemnation or purchase of the property less expensive, at the expense of the plaintiff. Therefore, Demorest stated, Merkur was entitled to receive just compensation for the defendant's actions that caused a reduction in value of the plaintiff's leasehold interest in the property.

Demorest argued a claim of inverse condemnation, a de facto taking of the plaintiff's property rights for the defendant. He further argued that the defendant may not require a property owner or tenant to refrain indefinitely and without compensation from fully using and enjoying the property, as a means of depressing the value of the property which the defendant may at some future date desire to take under the power of eminent domain.

The jury agreed and held the defendant responsible to the tune of \$6.8 million.

Demorest told Lawyers Weekly that many factors helped him succeed, including:

- thorough discovery (many of the most damaging documents were not produced during discovery, and were obtained through FOIA requests to the FAA and the State of Michigan);
- careful organization and indexing of documents so there was no fumbling in front of the jury;
- use of an Elmo document camera (well worth the expense of renting the camera and the screen because it helped the jury understand the evidence);
- bifurcation of trial into two phases, liability and just compensation (by finding out the date of the taking first, the presentation of evidence in the second phase of the trial was streamlined); and
- admissions by city witnesses.