

CASE STUDIES

Supreme Court Rules in Favor of Memphis and Memphis, Light, Gas & Water in Water-Rights Fight

Governmental Entities

Clients: Engineering and Design Firm

Client industry: Governmental Entities

Result: Unanimous Defense Judgment – Supreme Court of the United States

Baker Donelson Bearman Caldwell & Berkowitz (the Firm) prevailed on behalf of clients the City of Memphis, Tennessee (the City) and the City's utility, Memphis, Light, Gas & Water (MLGW) in an original action before the U.S. Supreme Court involving a long-standing water rights dispute filed in 2014 by the State of Mississippi against the Firm's clients and the State of Tennessee.

Mississippi sought more than \$615 million in monetary damages plus injunctive relief, arguing that, by pumping groundwater in Tennessee, defendants were stealing Mississippi's water from the Middle Claiborne Aquifer, an underground water resource lying beneath portions of Mississippi, Tennessee and six other states.

All parties stipulated that MLGW's groundwater wells were located entirely within Tennessee and did not cross into Mississippi. However, Mississippi argued that under its theory of sovereign ownership, MLGW's pumping caused water located beneath Mississippi's territory to be pulled into Tennessee. Mississippi alleged that more than 400 billion gallons of groundwater were pulled across the border by MLGW's pumping since 1965. Defendants argued that the Middle Claiborne Aquifer was an interstate resource and that the question of allocating the resource should be determined by the doctrine of equitable apportionment, a doctrine which, up to this point, had been applied only to disputes over rights to interstate surface water and migrating fish. In contrast to Mississippi's sovereign ownership theory, based solely on state boundaries, equitable apportionment requires the Supreme Court to consider every relevant factor.

The Supreme Court unanimously agreed with Defendants and rejected Mississippi's position. The Court's opinion, authored by Chief Justice John Roberts, held that while some of the aquifer lies beneath Mississippi, Mississippi did not "own" the groundwater. Rather, "flowing interstate waters" are subject to the equitable apportionment doctrine. Based on its analysis, the Court dismissed Mississippi's case.

The case marked the first time the Supreme Court considered whether equitable apportionment applies to interstate groundwater. The Court's holding set an important precedent for the doctrine's application to groundwater and potentially other interstate natural resources in the future.