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Water Wars:
Interstate Compacts And
The Supreme Court's
Equitable Apportionment
Jurisprudence

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CONTENTS / MAY / JUNE 2025

WATER WARS: INTERSTATE COMPACTS AND THE SUPREME COURT'S EQUITABLE APPORTIONMENT JURISPRUDENCE

By: Thomas E. Powers III, Senior Assistant City Attorney, Charlotte, North Carolina and Elizabeth Fadl, Law Clerk, North Carolina Court of Appeals, Raleigh, North Carolina

Few resources are more critical to the vitality of local communities than adequate fresh water. Where more than one state seeks to tap an interstate river, comprehensive sharing arrangements are essential. As our authors explain, the paths to enforceability are lengthy and complex, and lead to resolution before the Supreme Court.

PAGE 6

VEXATIOUS RECORDS REQUESTS: THE WEAPONIZATION OF OPEN RECORDS LAWS

By: Joseph G. Lauber, Managing Member, and Lindsey Kolisch, Associate Attorney, Lauber Municipal Law, Lee's Summit, Missouri

At the heart of democratic transparency is the public's right to receive and review governmental records. But that prerogative can quickly become a vehicle for harassment and confrontation, saddling localities with contentious and costly document demands. Governments are responding accordingly, enacting reasonable limits and curbing undue burden.

PAGE 12



DEPARTMENTS

18 THOMPSON SCHOLARSHIP WINNER Indiana and Discretion in the Realm of Property Rights:

A Primer for Mayors
By: R. Colby Wicker, University of Indiana Maurer School of Law, Bloomington, Indiana
Perspectives on annexation, eminent domain, and zoning.

22 OP ED The Case for Capping Damages in Section 1983 Reversed Conviction Lawsuits

By: Avi Kamionski, Founder, Nathan & Kamionski, LLP, Chicago, Illinois
A proposal to curb runaway awards.

24 INSIDE CANADA
Continuing Omissions, Cannabis Licenses, and Re-Zoning Bylaws
By: ACM Consulting and Legal Services, Edmonton, Alberta
Recent Canadian cases of interest.

26 FIRST AMENDMENT
Time Restrictions on Adult Entertainment: Crime Prevention Lessons from Dallas
By: John L. Worrall, Ph.D., Director of Graduate Studies, Criminology and Criminal Justice Program, University of Texas, Dallas, Texas
The probative value of studies demonstrating secondary crime.

32 PRACTICE TIPS
Coexisting with Special Districts and Franchised Utilities after Annexation
By: John Dorman, Of Counsel, Spencer Fane LLP, Oklahoma City, Oklahoma
When annexation becomes contentious.

34 IMLA MID-YEAR AND AMICUS AWARDS
Recognizing Our Pro Bono Contributors
By: Erich Eiselt, Editor
IMLA's perennial DC gathering and amicus award proceedings

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Water Wars: Interstate Compacts and the Supreme Court's Equitable Apportionment Jurisprudence

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In your state, a farmer relies on an interstate river to irrigate his fields. However, during the last few years, the river has been supplying less and less water to the farmer's land. He suspects that Big City, a rapidly-growing metropolis upstream in the adjacent state, has been appropriating more than its fair share of water to serve its booming population. The farmer grows agitated after harvesting a particularly low yield this year and calls the County Commissioners to complain; his grievance is echoed by many others in the community. The Commissioners come to you, wanting to address the plight of these constituents and ensure that the interstate waters are being fairly allocated for everyone's benefit.

I. Can the interstate river be divided up to benefit the farmer and the residents of Big City?

Yes, there are several options for allocating the water between the farmer and the residents of Big City. Each will require engagement with state officials to facilitate a potential resolution of the farmer's problem and will likely depend on which states are involved.

Western states mostly follow the doctrine of "prior appropriation" while the eastern, midwestern, and southern states primarily follow the "riparian" doctrine. The prior appropriation doctrine states that "water rights are acquired by diverting water and applying it for a beneficial purpose. A distinctive feature of the prior appropriation doctrine is the rule of priority, under which the relative rights of water users are ranked in the order of their

seniority."¹ The riparian doctrine states "the owner of land contiguous to a watercourse is entitled to have the stream flow by or through his land undiminished in quantity and unpolluted in quality, except that any . . . use of the water . . . is reasonable with respect to the needs of other appropriators."²

A further discussion of these options follows.

II. Option 1: Interstate Compact

A. Background

The Constitution states in Article I that "*No State shall, without the Consent of Congress, . . . enter into any Agreement or Compact with another State, . . .*"³

This clause refers to an interstate compact. As the name suggests, this is a legislative approach where you would advise the Commissioners that the Governor will need to take the lead on

securing an agreement allocating the water between the adjoining states. This strategy has been produced several interstate compacts that may provide a framework for the Commissioners and Governor.

In the 1930s, Colorado, New Mexico, and Texas signed the Rio Grande Compact⁴ with New Mexico having an obligation to deliver water to the Elephant Butte Reservoir in New Mexico, which was just outside of its border with Texas.⁵ It was subsequently approved by Congress.⁶

In 1943, Kansas, Nebraska, and Colorado negotiated and ratified the Republican River Compact.⁷ The Republican River originates in Colorado, crosses the northwestern corner of Kansas into Nebraska, flows through much of southwestern Nebraska, and finally cuts back into northern Kansas.⁸ The Republican River Basin is a 24,900 square mile watershed that contains substantial farmland.⁹ This compact governed the "virgin water supply" or more specifically "the water supply within the Basin, in both the River and its tributaries, undepleted by the activities of man."¹⁰ It was subsequently approved by Congress.¹¹

In 1951, Montana, Wyoming, and North Dakota agreed to the Yellowstone River Compact, nearly twenty years after Congress authorized the three states to negotiate a compact.¹² Starting

in Wyoming and flowing nearly 700 miles northeast, the Yellowstone River crosses into Montana then North Dakota before joining with the Missouri River.¹³ Similarly, several tributaries also begin in Wyoming before crossing into Montana and joining the Yellowstone River.¹⁴ The Yellowstone Compact provided for appropriative rights to the beneficial uses existing as of January 1, 1950, the quantity of water for supplemental water supplies, and the percentage allocation of the remaining water in specific rivers to Wyoming and Montana.¹⁵

Essential components of an interstate compact include: multiple states as parties to the agreement; a large watershed governed by the agreement; and a description of the obligations and responsibilities for using water by the parties. Although these interstate compacts occurred between the 1930 and 1951 and involved several western states, this framework would apply in 2025 and in other parts of the United States.

B. United States Supreme Court Litigation Involving Interstate Compacts

i. *Texas v. New Mexico*¹⁶

In 2014, Texas petitioned the Court,¹⁷ alleging that New Mexico allowed its users to siphon water below the Elephant Butte Reservoir, thereby depriving Texas of its water allocation under the Rio Grande Compact.¹⁸ The United States managed the Elephant Butte Reservoir and sought to intervene to uphold the Rio Grande Compact.¹⁹

In 2024, Texas and New Mexico sought to resolve the litigation and to create a methodology for determining each state's share of the Rio Grande River.²⁰ The United States opposed it because the proposed agreement would dispose of a claim that New Mexico's groundwater pumping violated the compact.²¹ A five-justice majority agreed with the United States and rejected the proposed agreement because it would impermissibly settle the United States' claim.²² The dissenting opinion, however, would have accepted the agreement as

recommended by the Special Master because it was the best possible outcome given the limited water in question and would have conformed to the unofficial policy of encouraging states to resolve these issues among themselves.²³

ii. *Kansas v. Nebraska*²⁴

In 1998, Kansas alleged that Nebraska increased the pumping of groundwater in violation of the Republican River Compact.²⁵ By 2002, Kansas and Nebraska settled the matter by signing a Final Settlement Stipulation²⁶ that included a provision allowing either state, which overconsumed one year, to under-consume the next.²⁷ In 2011, Kansas petitioned the Court after failing to resolve a dispute through the Final Settlement Stipulation's dispute resolution process,²⁸ alleging that Nebraska used more than its share of the Republican River Basin.²⁹ Nebraska maintained that the Final Settlement Stipulation's method of calculating consumption meant that Nebraska was being charged with water that was imported from the Platte River and was not virgin water from the Republican River Basin.³⁰

The Court granted the petition and appointed a Special Master,³¹ who found that Nebraska knowingly failed to comply with the Final Settlement Stipulation³² and awarded \$3.7 million in damages to Kansas, and an additional \$1.8 million in a partial disgorgement of Nebraska's gains.³³ The Court agreed with the Special Master's recommendation because Nebraska could have anticipated that it overconsumed from the Republican River and exceeded its allotment for three years in a row.³⁴ Additionally, Nebraska knew its conservation efforts would not effectively cull its overconsumption³⁵ because its water management plans sought a five percent reduction in groundwater pumping but lacked an enforcement mechanism to achieve that goal.³⁶

The Court's majority also held

that disgorgement was an appropriate remedy where the breaching party deliberately breaches the contract; here, Nebraska's "knowing" violation was effectively a deliberate one.³⁷ Additionally, in equitable apportionment cases, disgorgement is appropriate "when one State gambles with another State's rights to a scarce natural resource," and actual damages alone are an insufficient remedy.³⁸ The majority separately held that the methodology of calculating water usage was incorrect because it included "imported water" in Nebraska's share.³⁹ It subsequently adopted the Special Master's new calculation methodology to correct the mistake.⁴⁰

The primary dissent, written by Justice Thomas, joined in full by Justice Scalia and in part by Chief Justice Roberts, would have applied contract principles.⁴¹ They opined that the Court should not change the contractual terms unless the principles of contract law warrant it,

Continued on page 8



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because the interstate compact had been approved by Congress.⁴² Furthermore, they maintained that disgorgement was inappropriate because Nebraska did not deliberately violate the compact; the majority erred by equating “knowingly” with “deliberately.”⁴³

iii. *Montana v. Wyoming*⁴⁴

In 2008, Montana alleged the Yellowstone River Compact had been breached because Wyoming allowed its senior water users to appropriate water for reasons not included in the compact.⁴⁵ Wyoming had changed its irrigation system from flood irrigation to sprinkler irrigation on existing agricultural uses.⁴⁶ This improved efficiency but also increased consumption and led to less runoff returning to the River for Montana’s users.⁴⁷ The Special Master recommended denying Wyoming’s motion to dismiss because Montana alleged a claim for relief in some of its allegations.⁴⁸ However, the Special Master also found that Montana did not state a claim for relief concerning the efficiency improvements.⁴⁹

After an exception was filed,⁵⁰ the Court’s majority decided that changing to a more efficient irrigation system was within the senior users’ existing appropriative rights.⁵¹ It reasoned that the change in condition did not interfere with the flow of the Yellowstone River and was not a material injury to the junior appropriators’ rights.⁵² Furthermore, under the Yellowstone River Compact, the senior users could recapture and reuse their own runoff, which would have a similar effect as changing to the new irrigation system that resulted in less runoff.⁵³

Alone in dissent, Justice Scalia would have held that Wyoming could only lay claim to its users’ net consumption of the water – that is, the volume of water diverted minus the volume that returned to the River.⁵⁴ So the

question should have been whether the beneficial users depleted the water in the Yellowstone River, which was impermissible under the Yellowstone River Compact.⁵⁵ While the Court’s majority read “depleted” to be the same as “diverted,” Justice Scalia opined that there was a distinction between the two that made Wyoming’s conduct impermissible.⁵⁶

C. Summary

Interstate compacts create a foundation for resolving future claims because the Court will adjudicate any dispute based on the language of the compact. This approach is not without complexities, one being time. The Commissioners and Governor should be apprised that the compact approach will require a significant time commitment to secure an agreement that could be congressionally approved. For example, the Yellowstone Compact was agreed to nearly twenty years after being authorized by Congress. Therefore, any work undertaken by the Commissioners and/or Governor may outlast their administrations or political staff. It will also require more political will and the apparatus of the executive branch to achieve this goal. The task is further complicated by the will and/or appetite of Congress and the President to get any proposed interstate compact into law.

But interstate compacts are durable: each of the aforementioned compacts was agreed to between 1930 and 1951 and continued in effect through litigation by the respective states between 1998 and 2024. This chronology underscores the enduring nature of the interstate compacts on the allocation of water between states.

III. Option 2: Equitable

Apportionment

A. Background

Equitable apportionment is a judicial

approach where you will advise the Commissioners that your state must sue the other state to secure a fair allocation of interstate water. Your research will also reveal several equitable apportionment cases to support a potential litigation strategy lead by the governor or attorney general.

When two states sue to equitably apportion an interstate water source, Article III vests original jurisdiction with the United States Supreme Court.⁵⁷ The Court adjudicates this claim under the principle of equitable apportionment to determine what is the fair share of interstate water for each state and to decree that each cannot use more than that amount. As a doctrine of federal common law, the ultimate goal is a just and equitable apportionment “without quibbling over formulas” through the “exercise of an informed judgment on a consideration of many factors.”⁵⁸

One party, typically the downstream state, alleges that the upstream state overconsumed its allocation of the shared water source. The downstream state, as the plaintiff, can name other parties if those entities’ conduct is at the heart of the complaint.⁵⁹ If one state sues a municipal entity, the Court will typically require the municipality’s state to be party to the suit.⁶⁰ The downstream state, as the plaintiff, must demonstrate that it has been materially injured by not having enough water for its needs, and that this has been caused by the defendant-state’s conduct.⁶¹ In other words, the plaintiff must show that its injuries can effectively be redressed by limiting a defendant’s consumption of the interstate water in question.⁶² Any complaining state has a “heavy burden” to show that it was substantially injured by the upstream state, and that the benefits from any equitable apportionment of the water would be greater than the harm to the other state or party.⁶³ Again, the Court only decides how much water from a shared source each state is entitled to use.

If the plaintiff state can meet this burden, then the Court will seek to “arrive at a just and equitable apportionment of an interstate stream” by considering “all relevant factors”⁶⁴ such as:

- (1) “physical and climactic conditions” of the water.
- (2) “the consumptive uses of the water.”
- (3) “the character and rate of return flows.”
- (4) “the extent of established uses.”
- (5) “the availability of storage water.”
- (6) “the practical effect of wasteful uses on downstream areas.”
- (7) “the damage to upstream areas as compared to the benefits to downstream areas if a limitation is imposed” on the downstream state.⁶⁵

The purpose of the doctrine of equitable apportionment is to protect reasonable uses of water, especially in states where water is scarce.⁶⁶ Equitable apportionment offers no protection for wasteful or inefficient uses of water.⁶⁷ The Court has emphasized that state law is not controlling⁶⁸ but also that laws of the plaintiff state and defendant state are an important consideration and, where both states recognize the same doctrine, become a guiding principle for the Court.⁶⁹ The Court, however, is often reluctant to use its power to fashion an apportionment decree.⁷⁰ Its preference is to have states resolve any disputes about how the water should be divided and memorialized as an interstate compact.⁷¹

B. United States Supreme Court Litigation Involving Equitable Apportionment

*i. Nebraska v. Wyoming*⁷²

In 1934, Nebraska sued Wyoming⁷³ over the North Platte River, with Colorado impleading as a defendant and the United States intervening

as well.⁷⁴ The North Platte River rises in Northern Colorado in the mountainous region known as North Park then proceeds in a northerly direction on the east side of the Continental Divide, enters Wyoming west of Cheyenne, continues in a northerly direction to the vicinity of Casper, turns east across the Great Plains, then proceeds easterly and southerly across Nebraska.⁷⁵

The Court directed the parties to implement its decision through a decree⁷⁶ and imposed restrictions on storage and diversion by the upstream states, established priority among federal storage reservoirs and certain canals, and apportioned the so-called ‘pivotal’ reach of the North Platte between Whalen, Wyoming, and the Tri-State Dam.⁷⁷ It also held that “the natural irrigation-season flows of the North Platte River was apportioned 75% to Nebraska and 25% to Wyoming.”⁷⁸ The resulting decree allowed for modification to meet changed circumstances.⁷⁹

In 1986, Nebraska again sued Wyoming, alleging that Wyoming’s construction on two of the North Platte tributaries threatened to violate the decree.⁸⁰ Wyoming countersued, alleging that Nebraska had circumvented the decree “by demanding and diverting water from above the Tri-State Dam for uses below Tri-State.”⁸¹ Wyoming contended that Nebraska was seeking to modify the decree and change the apportionment of the river,⁸² which required a showing of a substantial injury by Nebraska and would involve the same analytical steps as an equitable apportionment case absent an agreement.⁸³ The Court agreed with Wyoming’s contention⁸⁴ and found that Nebraska failed to demonstrate a substantial injury.⁸⁵

In 1995, further litigation ensued, with Nebraska and Wyoming each seeking to amend their petitions with additional allegations of wrongdoing by the other. The Special Master

recommended granting leave to Nebraska and Wyoming for a majority of their requests.⁸⁶ The Court subsequently denied their challenges to the Special Master’s recommendations.⁸⁷

In 2001, the litigation was ultimately resolved by a Final Settlement Stipulation and a modified decree.⁸⁸

ii. Idaho ex rel. Evans v. Oregon

In 1976, Idaho sued Oregon and Washington over fish migration, specifically salmon and trout, through the Columbia-Snake River system.^{89,90} As background, chinook salmon and steelhead trout spawn in Idaho, then as adolescent fish travel through the Snake River to the Pacific Ocean.⁹¹ After maturing to adulthood, the fish return to the Snake River and back to Idaho to breed the next generation.⁹² This journey is fatal to most of the fish, and the dams along the river contribute significantly to that outcome.⁹³ Washington and Oregon entered into the Oregon-Washington Columbia River Fish Compact to ensure uniform standards for fishing to help prevent excessive depletion of the fish populations.⁹⁴ Idaho was denied entry into that compact.⁹⁵

The Special Master conducted a trial then issued a final report⁹⁶ recommending dismissal without prejudice because Idaho did not suffer an injury by other states’ fishing conduct and that a decree apportioning the fish would be impossible to fashion even if Idaho had been injured.⁹⁷ The Court decided that the principles of equitable apportionment applied here.⁹⁸ Upstream overfishing would deprive a downstream state of fish that it would otherwise receive, much like how upstream overconsumption of water would deprive a downstream state of water that it needs.⁹⁹ The Court decided that Idaho did not have a legal

Continued on page 10

right to the fish merely because they spawned within Idaho's borders,¹⁰⁰ but did have a right to a fair distribution of the fish.¹⁰¹

But the Court held that Idaho did not demonstrate an injury sufficient to justify a decree¹⁰² because it had harvested the majority of fish in the five years immediately preceding the litigation.¹⁰³ Even if the other states had harvested too much before that period, equitable apportionment was about prospective relief, and not remedying past injuries.¹⁰⁴ The dissent would have looked beyond the past five-year period for the most equitable outcome and would have held that Idaho was injured by the other states' conduct.¹⁰⁵

iii. Florida v. Georgia

In 2013, Florida sued Georgia about the use of the Apalachicola-Chattahoochee-Flint River system.¹⁰⁶ As background, the Apalachicola-Chattahoochee-Flint River Basin drains more than twenty thousand square miles across the southeastern United States.¹⁰⁷ Each river forms the capital letter "Y," with the Chattahoochee River forming the western branch of the "Y" and the Flint River forming the eastern branch of the "Y".¹⁰⁸ These rivers mix at Lake Seminole before proceeding southward to the Woodruff Dam and the Apalachicola River into the Florida Panhandle.¹⁰⁹ The Army Corps of Engineers ("Corps") controlled the dams in the system, and thus controlled the flow into Florida.¹¹⁰ In drought operations, the Corps had to release a minimum of 5,000 cubic feet per second (cfs) from the dams.¹¹¹ One compact between the states expired in 2003 because their negotiations proved fruitless.¹¹² Florida was chiefly concerned about the health of its oyster fisheries and sought a limitation on Georgia's water use to aid in the recovery and maintenance of its

fisheries after a previous drought.¹¹³

The Court reversed the Special Master's recommendation to dismiss because Florida had "not proven by clear and convincing evidence that its injury can be redressed by an order equitably apportioning the waters . . ." ¹¹⁴ and remanded for additional findings of fact on all of the evidentiary issues in the case – specifically, whether Florida was injured by Georgia's conduct.¹¹⁵ The Court's majority reasoned that a cap on Georgia's consumption could delay whether the Corps had to enter into drought protocol at all, so equitable apportionment was potentially a fair outcome.¹¹⁶ After a remand, the Special Master again recommended dismissing the case.¹¹⁷ The Court unanimously agreed because it was impossible to determine whether Florida's oyster population had been harmed by Georgia.¹¹⁸ Florida's own evidence showed that it was harvesting more oysters than ever before and that it had failed to nurture the growth of its oyster populations.¹¹⁹ One Florida expert predicted that capping Georgia's consumption at Florida's proposed amount would only increase Florida's oyster population by slightly more than one percent.¹²⁰ Therefore, Florida failed to demonstrate by clear and convincing evidence that it was injured due to the other state's overconsumption.¹²¹

iv. Mississippi v. Tennessee

In 2014, Mississippi sued Tennessee, the City of Memphis, and the Memphis Light, Gas, and Water Division, alleging that they were pumping water out of the Middle Claiborne Aquifer.¹²² Mississippi only sought monetary and injunctive relief, but did not seek equitable apportionment of the Middle Claiborne Aquifer.¹²³ The Special Master recommended dismissing the complaint with leave to amend.¹²⁴ In a unanimous decision, the Court dismissed the case and declined to grant Mississippi leave to amend.¹²⁵ The Court first decided that

equitable apportionment would be the appropriate remedy:¹²⁶ the water in the Middle Claiborne Aquifer was shared among several states, including states that were not parties to the current action,¹²⁷ and the water flowed naturally into Tennessee, albeit much more slowly than a river.¹²⁸ However, Mississippi could not prove by clear and convincing evidence that it was substantially injured by Tennessee's conduct.¹²⁹ And because it only sought remedies under tort principles, Mississippi's posture in the case did not conform to the parameters of an equitable apportionment case for review by the Court.¹³⁰ Furthermore, Mississippi had disavowed equitable apportionment as the proper remedy, so the Court had no reason to think that Mississippi would amend its complaint to seek to equitably apportion the Middle Claiborne Aquifer.¹³¹

C. Summary

Unlike the legislative approach through an interstate compact, the equitable apportionment remedy requires litigation before the United States Supreme Court. As part of your legal guidance, you should evaluate numerous considerations if pursuing this strategy for your Commissioners.

First, the Court is exercising its original jurisdiction in adjudicating an equitable apportionment case. It is important to remember that the Court will appoint a Special Master to adjudicate the claims, with the parties filing exceptions to the Special Master's recommendation or report in order to bring matters before the Court. You should further consult the current version of the Rules of the Supreme Court of the United States¹³² and familiarize yourself with the Special Master provisions found in Rule 53 of the Federal Rules of Civil Procedure.

Second, identify the necessary parties. In an equitable apportionment case which has a dam/reservoir operated

by the United States on the river, the United States must be named as a party to withstand a motion to dismiss.¹³³ Moreover, no municipality or subdivision of a state should be a named plaintiff or the sole named defendant.¹³⁴ At best, the City of Memphis was one of the many named defendants in *Mississippi v. Tennessee*. The same holds for our hypothetical: without the state being a named plaintiff, it will be hard to pursue claims against the Big City. Thus, it is crucial for the Commissioners to enlist the support of the governor or attorney general for any strategy pursuing equitable apportionment.

Third, before seeking an equitable apportionment a plaintiff must assess whether it can demonstrate with clear and convincing evidence that it has been substantially injured by the defendant. If the plaintiff seeks relief under tort principles in the manner of *Mississippi v. Tennessee* or cannot demonstrate its injury to the Court's satisfaction as occurred in *Florida v. Georgia*, then the complaint will be dismissed.

Fourth, consider the potential duration of the litigation. These cases in various forms can last for more than 65 years as demonstrated by *Nebraska v. Wyoming* or as little as seven years as evidenced by *Idaho ex rel. Evans v. Oregon* or *Mississippi v. Tennessee*. The time and effort needed to pursue this litigation must be evaluated to ascertain the costs and benefits of pursuing such a course of action.

IV. Final Thoughts

Resolution of the farmer's complaints will be a slow process either by pursuing an interstate compact or by seeking an equitable apportionment from the United States Supreme Court. Your legal guidance concerning this federal jurisprudence will aid your decision makers in resolving the water concerns of the farmer and ensuring continued access to an indispensable resource. **ML**

NOTES

1. *Colorado v. New Mexico*, 459 U.S. 176, 179 (1982).
2. *Id.*
3. U.S. Const. art. I, §10, cl. 3.
4. *Texas v. New Mexico*, 583 U.S.407, 409 (2018).
5. *Id.* at 409.
6. *Id.* at 410.
7. 574 U.S. 445 (2015).
8. *Id.* at 449.
9. *Id.* at 449.
10. *Id.* at 449-450.
11. *Id.* at 449.
12. *Montana v. Wyoming*, 563 U.S. 368, 370 (2011).
13. *Id.* at 371-372.
14. *Id.*
15. *Id.*
16. *Texas v. New Mexico*, 583 U.S. 407 (2018).
17. *Texas v. New Mexico*, 571 U.S. 1173 (2014).
18. *Texas v. New Mexico*, 583 U.S. 407, 411.
19. *Id.* at 410-411,
20. *Texas v. New Mexico*, 602 U.S. 943, 947 (2024).
21. *Id.* at 947-948.
22. *Id.* at 953-965.
23. *Id.* at 977-979, Gorsuch, J., dissenting).
24. 574 U.S. 445 (2015).
25. *Id.*
26. *Id.* at 451.
27. *Id.*
28. *Id.* at 452.
29. *Id.*
30. *Id.*
31. *Kansas v. Nebraska*, 563 U.S. 915 (2011).
32. *Kansas v. Nebraska*, 574 U.S. 445, 457 (2015).
33. *Id.*
34. *Id.* at 459-460.
35. *Id.*
36. *Id.* at 459.
37. *Id.* at 461-62.
38. *Id.* at 462-63.
39. *Id.* at 468-74.
40. *Id.* at 474.
41. *Id.* at 476-79. (Thomas, J., dissenting).
42. *Id.*
43. *Id.* at 481-84.
46. *Montana v. Wyoming*, 563 U.S. 368 (2011).
47. *Id.* at 371.
48. *Id.* at 373.
49. *Id.*
50. *Id.* at 374.
51. *Id.* at 379-80,
52. *Id.*
53. *Id.* at 379-80,
54. *Id.* at 389-90 (Scalia, J., dissenting).
55. *Id.* at 394 (Scalia, J., dissenting).
56. *Id.* at 392.
57. U.S. CONST. art. III, § 2.
58. *Colorado v. New Mexico*, 459 U.S. 176, 183 (1982).
59. *E.g.*, *New Jersey v. New York*, 283 U.S. 336 (1931). (New Jersey sued the State of New York and the City of New York alleging that the City's proposed diversion of interstate water would materially injure New Jersey).
60. *E.g.*, *Mississippi v. Tennessee*, 595 U.S. 15 (2021) (the Court dismissed Mississippi's first complaint because it only named the City of Memphis and Memphis Water and Gas District as parties, and not the State of Tennessee).
61. *South Carolina v. North Carolina*, 558 U.S. 256 (2010).
62. *Florida v. Georgia*, 585 U.S. 817-18 (2018).
63. *Florida v Georgia*, 592 U.S. 433, 438 (2021).
64. *South Carolina v. North Carolina*, 558 U.S. 256, 271 (2010) (quoting *Colorado v. New Mexico*, 459 U.S. 176, 183 (1982)).
65. *Colorado v. New Mexico*, 459 U.S. 176 (1982).
66. *Id.* at 184.
67. *Id.*
68. *Id.*
69. *Id.*
70. *See Texas v. New Mexico*, 602 U.S. 943, 976 (Gorsuch, J., dissenting).
71. *Id.* *See also* U.S. Const. art. I, § 10, cl. 3.
72. *Nebraska v. Wyoming*, 325 U.S. 589 (1945).
73. *Id.* at 591.
74. *Id.*
75. *Id.* at 593.
76. *Nebraska v. Wyoming*, 507 U.S. 584, 588 (1993).

Continued on page 21

77. *Id.*
78. *Nebraska v. Wyoming*, 515 U.S. 1 (1995).
79. *Id.*
80. *Nebraska v. Wyoming*, 507 U.S. 584, 589 (1993).
81. *Id.*
82. *Nebraska v. Wyoming*, 515 U.S. 1 (1995).
83. *Nebraska v. Wyoming*, 507 U.S. 584, 592-3 (1993).
84. *Id.* at 591-2.
85. *Id.* at 596-602.
86. *Nebraska v. Wyoming*, 515 U.S. 1 (1995).
87. *Id.* at 7-8.
88. *Nebraska v. Wyoming*, 534 U.S. 40 (2001).
89. *Idaho ex rel. Andrus v. Oregon & Washington*, 429 U.S. 163 (1976).
90. *Idaho ex rel. Evans v. Oregon*, 462 U.S. 1017, 1023 (1983).
91. *Id.* at 1019-20 (1983).
92. *Id.* at 1020-21.
93. *Id.*
94. *Id.* at 1022.
95. *Id.*
96. *Idaho ex rel. Evans v. Oregon*, 462 U.S. 1017, 1024 (1983).
97. *Id.*
98. *Id.* at 1025-27.
99. *Id.*
100. *Id.* at 1025.
101. *Id.*
102. *Id.* at 1026-27.
103. *Id.* at 1028.
104. *Id.* at 1028.
105. *Id.* at 1034-37. (O'Connor, J., dissenting).
106. *Florida v. Georgia*, 585 U.S. 803 (2018).
107. *Id.* at 807.
108. *Id.*
109. *Id.* at 808.
110. *Id.* at 807-08.
111. *Id.* at 831.
112. *Id.* at 809.
113. *Id.* at 808.
114. *Id.* at 806.
115. *Id.* at 811-14.
116. *Id.* at 832-38.
117. *Florida v. Georgia*, 592 U.S. 433 (2021).
118. *Id.* at 435.
119. *Id.* at 440.
120. *Id.* at 441.
121. *Id.* at 443.
122. *Mississippi v. Tennessee*, 595 U.S. 15, 18 (2021).
123. *Id.* at 18, 28.
124. *Id.*
125. *Id.* at 28-29.
126. *Id.* at 26.
127. *Id.* at 19, 25.
128. *Id.* at 25.
129. *Id.* at 28-29.
130. *Id.*
131. *Id.*
132. <https://www.supremecourt.gov/filingandrules/2023RulesoftheCourt.pdf>
133. *See e.g. Texas v. New Mexico*, 583 U.S. 407 (2018).
134. *See e.g. Mississippi v. Tennessee*, 595 U.S. 15 (2021).

