

Bond Case Briefs

Municipal Finance Law Since 1971

INDUSTRIAL REVENUE BONDS - NEW MEXICO

Midway Leasing, Inc. v. Wagner Equipment Co.

United States Court of Appeals, Tenth Circuit - January 8, 2021 - Fed.Appx. - 2021 WL 71254

"This case involves an effort to obtain tax relief through a county's issuance of industrial revenue bonds. The taxpayer, Wagner Equipment Company, hired Midway Leasing, Inc. to lobby the county for legislative approval of the bonds. Midway Leasing prepared the bond application and met with county officials to support passage. The effort succeeded, and Wagner Equipment obtained the bonds, which resulted in considerable savings in taxes. In light of these savings, Midway Leasing sought payment for its lobbying work. But the parties disputed the amount, and Midway Leasing sued for breach of contract, quantum meruit, and unjust enrichment. For these claims, Midway Leasing alleged a contract for a contingency fee, to be computed as a percentage of Wagner Equipment's tax savings."

The Court of Appeals held that:

- New Mexico law prohibits enforcement of an agreement to pay contingency fees for legislative lobbying, and thus the district court properly awarded summary judgment to Wagner Equipment on the claim for breach of contract.
- On the quantum meruit and unjust enrichment claims, the court upheld the award to Midway Leasing of \$175,000 based on what it had charged another taxpayer for similar lobbying efforts.