

# **Bond Case Briefs**

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## **UTILITIES - NEW HAMPSHIRE**

### **Aranosian Oil Co., Inc. v. State**

**Supreme Court of New Hampshire - October 27, 2015 - A.3d - 2015 WL 6473550**

Oil importers and distributors brought action against State, seeking declaration that fees paid by importers and distributors into excess insurance fund were unconstitutional.

After bench trial, the Hillsborough Superior Court denied petition. Importers and distributors appealed.

The Supreme Court of New Hampshire held that:

- Fees paid into fund did not become unconstitutional taxes as result of State's recovery in unrelated litigation, despite argument that State obtained alternative source of funds that addressed same expense as fee program, and
- Equitable subrogation and unjust enrichment claims were barred by sovereign immunity.

Fees paid by oil importers and distributors into statutorily-created excess insurance fund for disposal and cleanup of underground storage tanks did not become unconstitutional taxes as result of State's recovery in litigation against gasoline suppliers, pursuant to which State was awarded damages, despite argument that State's recovery rendered fees disproportionate because State obtained alternative source of funds that addressed the same expense as fee program.

Oil importers' and distributors' equitable subrogation and unjust enrichment claims against State, challenging fees paid by importers and distributors into excess insurance fund for disposal and cleanup of underground storage tanks, were barred by sovereign immunity, where equitable claims were unrelated to alleged constitutional deficiency in fees, and constitutional claims that plaintiffs did make were unsuccessful.