

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - ALABAMA**

### **Ex parte Advanced Disposal Services South, LLC**

**Supreme Court of Alabama - December 14, 2018 - So.3d - 2018 WL 6583837**

Water user brought action against city utilities board, disposal companies, which operated a landfill and which sent leachate from the landfill to be treated by the city, and fictitiously named defendants for monetary damages and injunctive relief regarding exposure to allegedly contaminated water that had been discharged into river and ultimately sold by utilities board for consumption.

The Circuit Court denied motion to dismiss for water user's failure to join city as a necessary and indispensable party. Disposal companies petitioned for a writ of mandamus. The Supreme Court determined that city was a necessary party and issued the writ. Water user applied for rehearing.

The Supreme Court of Alabama held that city was a necessary party, despite argument that water user only sought to enjoin the quantity of leachate that a disposal company deposited into the city stabilization pond.

City was a necessary party to water user's action against city utilities board, disposal companies, and fictitiously named defendants for monetary damages and injunctive relief regarding exposure to allegedly contaminated water that had been discharged into river and ultimately sold by the utilities board for consumption, despite argument that water user only sought to enjoin the quantity of leachate that a disposal company deposited into the city stabilization pond; water user's complaint made clear that his claims concerned not only the leachate that the city received from one of the disposal companies, but also substantial amounts of waste that the city received from other sources, and water user did not dispute in the trial court disposal company's argument that its leachate constituted only 2% of pond's total volume.