

# **Bond Case Briefs**

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## **IMMUNITY - TEXAS**

### **Tercero v. Texas Southmost College District**

**United States Court of Appeals, Fifth Circuit - February 24, 2021 - F.3d - 2021 WL 709569 - 2021 IER Cases 65,916**

Former employee of state junior college district brought action against district, asserting a procedural due process claim under § 1983 and a breach of contract claim under state law, arising out of her termination.

Following jury verdict for employee, the United States District Court vacated jury's verdict on employee's breach of contract claim and reduced damages award on her procedural due process claim to \$1. Employee appealed.

The Court of Appeals held that:

- Texas Legislature's abrogation of governmental immunity owed to local governmental entities for purpose of breach of contract claims applied to former employee's breach of contract claim; abrogating *Olford v. City of Hous.*, 2018 WL 3208196; *Smith v. Hous. Indep. Sch. Dist.*, 229 F. Supp. 3d 571; *Scherff v. S. Tex. Coll.*, 2017 WL 3783042; *Nationwide Pub. Ins. Adjusters, Inc. v. Edcouch-Elsa Indep. Sch. Dist.*, 913 F. Supp. 2d 305;
- Employee was only entitled to recover nominal damages for district's violations of her due process rights; and
- District court abused its discretion in vacating former employee's attorney fees award on her breach of contract claim.

Texas Legislature's abrogation of governmental immunity owed to local governmental entities for purpose of breach of contract claims applied to former employee's breach of contract claim against state junior college district, brought in federal court under its supplemental jurisdiction, notwithstanding provision in immunity-waiver statute that purportedly excluded suits brought in federal court from the waiver; state did not have power to limit federal jurisdiction; abrogating *Olford v. City of Hous.*, 2018 WL 3208196; *Smith v. Hous. Indep. Sch. Dist.*, 229 F. Supp. 3d 571; *Scherff v. S. Tex. Coll.*, 2017 WL 3783042; *Nationwide Pub. Ins. Adjusters, Inc. v. Edcouch-Elsa Indep. Sch. Dist.*, 913 F. Supp. 2d 305.