

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **PUBLIC UTILITIES - TEXAS**

### **Quadvest, L.P. v. San Jacinto River Authority**

**United States Court of Appeals, Fifth Circuit - August 3, 2021 - F.4th - 2021 WL 3362470**

Investor-owned water utilities brought action against San Jacinto River Authority (SJRA), state entity, alleging that SJRA violated Sherman Act when it entered into and enforced contracts relating to purchase of wholesale water in Montgomery County, Texas.

The United States District Court for the Southern District of Texas denied SJRA's motion to dismiss based upon state-action immunity. SJRA filed interlocutory appeal.

The Court of Appeals held that:

- SJRA invoked state-action immunity as state entity, and therefore interlocutory appeal of denial SJRA's motion to dismiss based upon state-action immunity was proper, and
- SJRA was not entitled to state-action immunity at pleading stage.

San Jacinto River Authority (SJRA) invoked state-action immunity as state entity, in action brought by investor-owned water utilities alleging that SJRA violated Sherman Act when it entered into and enforced contracts relating to purchase of wholesale water in Montgomery County, Texas, and therefore interlocutory appeal of denial SJRA's motion to dismiss based upon state-action immunity was proper, since SJRA was active participant in market over which it purportedly exerted anticompetitive control.

Texas Legislature did not authorize entry of San Jacinto River Authority (SJRA), as state entity, into, and enforcement of, challenged provisions of groundwater reduction plan (GRP) contract with intent to displace competition in market for wholesale raw water in Montgomery County, Texas, and therefore SJRA was not entitled to state-action immunity at pleading stage of action brought by investor-owned water utilities alleging that SJRA violated Sherman Act, since statutory authority to sell surface water would not inherently, logically, or ordinarily result in displacement of competition in market for allegedly cheaper, plentiful groundwater.