

# **Bond Case Briefs**

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## **EMINENT DOMAIN - CALIFORNIA**

### **Mojave Pistachios, LLC v. Superior Court of Orange County**

**Court of Appeal, Fourth District, Division 3, California - February 8, 2024 - Cal.Rptr.3d - 2024 WL 489446**

Limited liability company (LLC) that operated a pistachio orchard in the desert filed an action against local water agency, alleging that agency violated LLC's common law and constitutional rights to water by granting groundwater pumping allotments to other users but not to LLC, and that agency's actions amounted to a taking.

The Superior Court sustained agency's demurrer. LLC petitioned for a writ of mandate.

The Court of Appeal held that:

- As a matter of first impression, a person challenging a groundwater fee imposed under the Sustainable Groundwater Management Act (SGMA) must first pay the fee before bringing an action for a refund;
- LLC was required to first pay the assessed groundwater replenishment fee before bringing any cause of action challenging the fee;
- LLC was required to pay the groundwater basin replenishment fee before it could challenge the local water agency's exempted pumping allotments; and
- LLC's challenge to agency's implementation actions other than the replenishment fee did not support a cause of action for a taking.