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U.S. Supreme Court Special Master Issues Report in Favor of Tennessee, Memphis and Memphis Light Gas and Water

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Since 2005, Leo Bearman Jr., David Bearman and Kristine Roberts have led the efforts advocating for the City of Memphis and Memphis Light Gas and Water in *Mississippi v. Tennessee*. At issue has been groundwater in the Memphis-Sparta or Middle Claiborne Aquifer, which underlies parts of Tennessee, Mississippi and several other states. Mississippi sought roughly \$1 billion in compensation as it asserted that Memphis was "stealing" its groundwater, and in 2014, Mississippi sued Tennessee, Memphis, and Memphis Light Gas and Water (MLGW) in an original action before the U.S. Supreme Court.

The Supreme Court appointed a Special Master in 2015 to hear the case and take evidence on the facts at issue. After discovery, motion practice, an evidentiary hearing, briefing on the issues and closing arguments, the Special Master **issued a report** agreeing with MLGW and Tennessee that the water at issue is an interstate resource. In addition, under well-settled Supreme Court precedents, the appropriate remedy for a dispute between states over interstate resources is an equitable apportionment action, which is a remedy that does not involve any money damages but seeks to allocate use of an interstate natural resource based on facts and circumstances including historical use and needs. Based on his analysis, the Special Master recommended dismissal of the case, with leave to Mississippi to seek an equitable apportionment, a remedy that Mississippi has so far disclaimed any interest in pursuing. This significant ruling is a wonderful tribute to Leo's extraordinary career.