

## **126 Orig KANSAS V. NEBRASKA AND COLORADO**

DECISION BELOW:

LOWER COURT CASE NUMBER:

QUESTION PRESENTED:

### **KANSAS' EXCEPTIONS**

Kansas excepts to the Report Of The Special Master in two critical respects:

**1.** The Court should reject the Master's invitation to rewrite the accounting procedures contained in the Final Settlement Stipulation that the Court approved in its 2003 Decree. The Final Settlement Stipulation was the result of lengthy, detailed, and unprecedented negotiations in which all parties and the United States were intimately involved. There was no "mutual mistake" that warrants the extraordinary step of this Court reforming the States' agreement.

**2.** The Court should augment the remedies the Master recommends for Nebraska's knowing violations of the Compact because the Master's recommendations are insufficient to ensure future compliance by Nebraska.

**A.** Specific injunctive relief - an order to comply with the Compact and the Final Settlement Stipulation - enforceable in this Court is warranted here.

**B.** Disgorgement of a substantial portion of Nebraska's gains from its knowing compact violations is warranted here.

### **COLORADO'S EXCEPTION TO THE REPORT OF THE SPECIAL MASTER**

The State of Colorado respectfully excepts to the Special Master's recommendation that the measure of damages may take into account Nebraska's gain.

### **NEBRASKA'S EXCEPTIONS**

The State of Nebraska excepts to the Report of the Special Master as follows:

1. Nebraska excepts to the Special Master's recommendation that, in light of Nebraska's violation of the Republican River Compact, Kansas be awarded \$1.8 million, over and above Kansas' actual damages, which "additional amount represents a disgorgement of a portion of the amount by which Nebraska's gain exceeds Kansas' loss." Final Report at 179.

2. Nebraska excepts to the Special Master's conclusion that Nebraska "knowingly failed" to comply with the Republican River Compact. Final Report at 112.

JURISDICTION NOTED 6/9/2014