



TAYLOR AND WALKER P.C.

PRESS RELEASE

Taylor & Walker wins landmark pollution exclusion insurance case.

July 11, 2006

Norfolk - Two hundred and thirteen women sued the City of Chesapeake claiming that their miscarriages were caused by trihalomethanes in the City's water system. The Supreme Court of Virginia held that the claims were barred by sovereign immunity. The City then sued States Self-Insurers Risk Retention Group with whom it had a Public Entity Excess Liability Insurance Policy claiming that States wrongfully denied it a defense of the women's claims and that States was required to reimburse the City for its attorney fees and costs. Taylor & Walker's James E. Brydges, Jr., represented States and asserted that the pollution exclusion in the insurance policy excluded coverage for the women's claims. The U.S. District Court for the Eastern District of Virginia certified the question to the Supreme Court of Virginia. The certified question was: Was coverage excluded under the pollution exclusion in the policy for claims made in suits filed by 213 women who alleged that they suffered one or more miscarriages resulting from exposure to trihalomethanes in the City of Chesapeake's water supply? The dispute, and the certified question, involved the pollution exclusion provision in the policy. The Supreme Court found that by definition, the trihalomethanes involved in the previous action were "contaminants." Therefore, according to the plain language of the insurance policy, because they were "contaminants," they were "pollutants." The court found that the allegations in the underlying suit brought it and its associated legal fees and costs at issue in the certified question into the ambit of the exclusion provision, because the legal fees and costs were from a suit involving "bodily injury arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants." The court found the policy excluded coverage for the claims. The case is the first time the Virginia Supreme Court has applied such a pollution exclusion to exclude coverage for a personal injury claim.

Taylor & Walker attorneys handle insurance coverage issues in federal and state courts throughout Virginia and offer coverage opinions to clients.

###

NORFOLK
1300 FIRST VIRGINIA TOWER
555 MAIN STREET
POST OFFICE BOX 3490
NORFOLK, VIRGINIA 23510
T 757 625-7300
F 757 625-1504

RICHMOND
6802 PARAGON PLACE
SUITE 126
RICHMOND, VIRGINIA 23230
T 804 673-0341
F 804 673-2001

WWW.TAYLORWALKERLAW.COM