

Wiley Rein Helps Secure Virginia Supreme Court Affirmation of Insurer's Pollution Exclusion in Drywall Case

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The Supreme Court of Virginia ruled that property damage related to drywall made in China is excluded from coverage under a homeowner's insurance policy, in *Travco Insurance Company v. Larry Ward*.

In a victory for TravCo Insurance Co., the Virginia high court unanimously held on November 1 that a homeowner's policy does not cover Chinese drywall claims because of its pollution exclusion and three other exemptions. TravCo had been sued by a homeowner who was denied coverage for damage and corrosion caused by sulfuric gas that emanated from the Chinese drywall.

The high court concluded that "each of the four exclusions" in the homeowner's TravCo policy "is unambiguous and reasonable in its form, scope and application and excludes damage resulting from the Chinese drywall from coverage."

Wiley Rein, led by Insurance Appellate Group Chair Laura A. Foggan and associate Samuel B. Gedge, represented the American Insurance Association (AIA), the National Association of Mutual Insurance Companies (NAMIC), and the Property Casualty Insurers Association of America (PCI) as *amicus curiae* in the state supreme court case.

The *amicus* brief focused on the TravCo policy's pollution exclusion. "AIA's, NAMIC's, and PCI's members have issued to a great many insureds, in Virginia and elsewhere, insurance policies containing pollution exclusions similar to the one at issue here," the associations said in the *amicus* brief filed by Ms. Foggan and Mr. Gedge in

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support of TravCo.

The amicus brief argued that pollution exclusions are not limited to "traditional environmental pollution" under Virginia law. The court agreed, stating in its opinion that the "sulfuric gases at issue in this case were a pollutant within the purview of the exclusion."

The Virginia supreme court's decision can be read [here](#).

Wiley Rein frequently represents insurers in appellate courts on novel and high-profile appellate matters. The Insurance Appellate Practice has represented both individual insurers and industry trade groups in prominent appellate cases in both federal and state courts throughout the United States, including the U.S. Supreme Court.