

Demolition Contractors, Inc. d/b/a Pitsch Wrecking Co. vs. Westchester Surplus Lines Insurance Company

Year: 2008

Court: U.S. Court of Appeals, 6th Circuit

Case Number: 09-1582

Do “voluntary payment” and “no action” terms bar payment by insurance company. Courts in Michigan and throughout the United States have held that, with regard to coverage, it makes no difference whether a policyholder voluntarily cleans up the contamination for which it is responsible before the government demand or until after the governmental intervention. Expenditures for environmental clean-up and remediation do not constitute voluntary payments for a company facing liability. Further, in the absence of prejudice, a voluntary payment clause will not bar a policyholder from recovering from their insurance company. The “no action” clause functions to bar third party claims. It does not prevent policyholders from suing their insurance companies.

UP's brief was written pro bono by William G. Passannante, Esq.

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