

# **Nucor Corporation v. Employers Insurance Company of Wausau and Hartford Accident & Indemnity Company**

Year: 2012

Court: Arizona Supreme Court

Case Number: CV-12-0403-PR

Mariposa County property owners brought suit against Nucor for the loss in value of their properties alleging that Nucor negligently let the toxic trichloroethylene, a cleaning solvent, leak into their soil and pollute their groundwater. Nucor settled the claims and then sought reimbursement from its comprehensive general liability (“CGL”) insurer, Employers Insurance of Wausau (“Wausau”). The Arizona Court of Appeals held that there was no coverage for economic losses without physical damage to the properties and upheld the trial judge’s holding that the plaintiffs were not paid for physical injury to the properties but were paid for diminution in property value which is an intangible loss. The Court of Appeals held that stigma damage claims were too unrelated to property damage to require CGL policy coverage but this overlooked the fact that the groundwater of the properties was polluted and thus damaged. The stigma damages were a result of actual damages to the properties. UP pointed out that the Court of Appeals holding defeated the insured’s reasonable expectations of coverage and indemnity and overlooked the history and purpose of CGL coverage. The purpose of CGL insurance is to protect businesses’ from liability arising from their commercial operations. Businesses should be able to count on their CGL policies to protect them against liabilities that arise from their regular operations.

UP’s brief was drafted pro bono by Stanley G. Feldman of Haralson, Miller, Pitt, Feldman & McAnally, P.L.C., David L. Abney of Knapp & Roberts, P.C. and Amy Bach, Esq.

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