

## **Pennsylvania Manufacturer's Ass'n Ins. Co. v. Johnson Matthey, Inc. et al**

Year: 2017

Court: Pennsylvania Supreme Court

Case Number: 24 MAP 2017

UP appeared with other amici (Alco Industries, Inc., Allegheny Technologies, Inc. Ampco-Pittsburgh Corporation Arkema Inc., Bimbo Bakeries USA, Inc. Braskem America, Inc., CBS Corporation, ultimate successor to Westinghouse Electric Corporation, Consolidated Rail Corporation, Exelon Generation Company, LLC International Paper Company, Mine Safety Appliances Company, LLC MPLX LP, Parker Hannifin Corporation, PECO Energy Company, Seco/Warwick Corporation, The Boeing Company, UGI Utilities, Inc., United Technologies Corporation US Steel Corporation, and Waste Management, Inc., and Whittaker Corporation) to urge the Court to reject the “manifestation trigger” approach advocated by the insurer and its amici that would deprive policyholders of insurance coverage for historical environmental liabilities throughout the state of Pennsylvania. UP reminded the Court in its brief that insurance coverage is necessary to fund environmental remediation where responsible entities are defunct or otherwise unable to pay. The purpose of liability insurance, after all, is to indemnify the insured in case it is found to be responsible for loss or damage to third parties. Pennsylvania has traditionally adopted a “continuous trigger” of coverage for long-term, latent environmental liabilities. This approach is consistent with the policy language and public policy to facilitate environmental remediation. Before the 1986 “absolute pollution exclusion” became part of the standard “CGL” (Comprehensive General Liability) policy, CGL policies issued to businesses. were intended to cover environmental claims. Accordingly, the insurer’s position that there is no coverage if the claim is not manifest before 1986, must be rejected.

UP's brief was authored pro bono by Andrew M. Roman, Esq. and Richard A. Ejzak, Esq. of Cohen and Grigsby, P.C.

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