

Westrock CP, LLC v. Lexington Insurance Company and Indian Harbor Insurance Company

Year: 2024

Court: Appellate Court of Illinois, First Judicial District

Case Number: 1-23-1631

In its amicus brief, United Policyholders addresses the novel issue of when pollution conditions should be considered “related” under a pollution legal liability policy.

An insured paper mill experienced two pollution “incidents” resulting from different processes at the paper mill (the pulping of paper vs. the treatment and storage of wastewater), involving different pollutants, and occurring at different locations. But the trial court determined that the incidents were “related” because all the pollution “originated from operation of the mill.”

United Policyholders argues that the trial court erred by interpreting “related” overly broadly so as to undermine the objectively reasonable expectations of the policyholder. Under the trial court’s rule, practically any and every pollution loss from the mill would necessarily be related. Such a rule renders the additional limits of liability for separate “incidents” a nullity and is clearly wrong.

Robert Muriel and Jay Zenker of Hoke LLC