



Court rules in favor of Hiscock & Barclay's client, Superfund Coalition

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The State Supreme Court in Sullivan County has ruled in favor of the New York Superfund Coalition, Inc. against the State Department of Environment Conservation (DEC), in an important decision that defines the cleanup goal of State Superfund sites as well as how the state should determine responsibility for those clean-ups. The Superfund Coalition was represented by Hiscock & Barclay, whose team included Thomas Walsh, Amy Kendall and Danielle Mettler.

State supreme court justice Robert Sackett ruled that clean-ups under the State Superfund Program need to attain conditions protective of human health and the environment by eliminating the "significant threats," the goal for which the Superfund Coalition had argued, and do not have to go farther to remove every last molecule of the contaminant. The State DEC had sought to interpret the statute as requiring the remediation of sites to the pristine, "pre-disposal" condition they were in before contamination. The court noted that the pre-disposal standard only applied to sites created by recent illegal hazardous waste disposal.

The state's authority in determining parties responsible for these clean-ups was limited to state law. The judge ruled that the state DEC's effort to automatically apply federal law to determine liability on a wholesale basis was not justified.

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