

Kim Jackson and Randy Bryant Win Coverage Declaratory Judgment Action

By October 16, 2017

A tragic industrial accident at an asphalt plant resulted in the release of hydrogen sulfide gas. Several workers were seriously injured and one passed away. Claims were made against the plant operators and owners, including a wrongful death claim. BKBM attorneys **Kim Jackson** and **Randy Bryant** filed a declaratory judgment action and had the underlying wrongful death action stayed pending the outcome of the case. BKBM argued that its client's primary and excess insurance policies did not provide coverage for the incident due to each policy's hazardous materials exclusion and pollution exclusion.

Although pollution exclusions have been heavily litigated in Georgia, there was no guiding case law on the interpretation of the policies' hazardous materials exclusions. Nonetheless, the Superior Court of Douglas County granted summary judgment to BKBM's insurance company client on the basis that the hazardous materials exclusion applied to all potential claims and all potential insureds. The ruling is not expected to be appealed.