



Client:	Black & Veatch Corp.
Industry:	Construction
Area of Law:	Insurance
Venue:	U.S. Court of Appeals for the Tenth Circuit
Result:	Client able to pursue coverage from insurers

Setting Precedent in Construction Insurance Law

A Pillsbury team secured an important appellate victory for global engineering, consulting and construction company Black & Veatch in February 2018. The case involved alleged design and construction issues across multiple power plant projects, and it involved cutting-edge issues of insurance law.

A Tenth U.S. Circuit Court of Appeals panel ruled that Black & Veatch had the right to seek coverage from its insurers for liabilities related to subcontractors' mistakes. The panel reversed a lower court's finding that Black & Veatch was not entitled to coverage under state law in New York for damages suffered due to alleged poor work by its subcontractors at power plants in Ohio and Indiana. The appeals court held that damages resulting from poor workmanship constitute an occurrence triggering coverage under a commercial general liability policy.

The decision is an important development in the construction insurance industry. It goes against decades of lower court rulings in New York finding that defective workmanship can never give rise to an occurrence triggering coverage under a CGL policy. And although the decision is not binding on New York courts, it will have an impact on coverage cases in New York and beyond. It has already been cited in state, district and circuit courts around the country.

“We conclude the damages constitute an ‘occurrence’ under the policy because they were accidental and harmed a third party’s property.”

—Judge Scott Matheson Jr., writing for the majority, Tenth U.S. Circuit Court of Appeals