



## **CLASS ACTIONS INVOLVING ENVIRONMENTAL CONTAMINATION**

### **Mills v. Stauffer Chemical Co.**, Case No. 97-1197-Civ-T-24A (MD. Fla.)

After briefing and argument before the federal court in Tampa, we were successful in defeating class certification in this environmental contamination action which initially been filed in Florida state court and was removed by us to the federal court.

The action was brought on behalf of a putative class consisting of all those who lived, worked, went to school or owned property in the neighborhood surrounding the site of a former chemical facility. The case sought damages for alleged personal injuries and property damage (including diminution of property value), as well as the creation of a fund for medical monitoring, in connection with the disposal of allegedly toxic chemicals at the site, including phosphorous and a host of other materials. The site, which had been declared a Superfund site, was referred to by public officials as a "public health hazard." After the completion of discovery addressed to certification issues, and the submission of expert reports from toxicologists, statisticians and appraisers, a two hour hearing was held in federal court, after which the Court denied certification.

### **Moore v. MicroFlo Co., et. al.**, Case No. G99-2794 (Fla. Polk Cir. Ct.)

In this environmental contamination class action, we reached a settlement on extremely favorable terms after the close of discovery and briefing on the class certification issue.

We represented one of several companies (specifically, a chemical company) that had operated for a time at what was subsequently declared a Superfund site. The complaint alleged contamination of the air, groundwater and surface water in the surrounding neighborhood. The class sought, among other things, damages for diminution in property value and personal injuries, as well as the imposition of a medical monitoring program. Extensive discovery on the class certification issue was undertaken, including depositions of government environmental officials; and each side retained multiple experts – including environmental experts, as well as statisticians and appraisers – who submitted extensive reports and were deposed.

**Hoyte v. Stauffer Chemical Co.**, 2002 WL 31892830 (Fla. Pinellas Cir. Ct.)

We defeated an effort by former workers at this Superfund site to certify a class that was seeking damages and the creation of a medical monitoring fund as a result of alleged exposures at their workplace (a chemical plant that was now a declared Superfund site).

After briefing, the Court held a four day evidentiary hearing in which testimony was taken from four class representatives, an absent class member, a plant supervisor, and several experts on each side, including toxicologists and experts on environmental disease and medical monitoring. Class certification was denied in a lengthy opinion by the state circuit court that has been cited several times in later decisions.