

## Judge Norbert Nadel Rules Rider to State Budget Unconstitutional; Rumpke Wins Case

**October 3, 2008**

Hamilton County Common Pleas Judge Norbert Nadel ruled today in *Rumpke Sanitary Landfill, Inc. v. State of Ohio* that portions of House Bill 562, the Capital Appropriations Bill, are unconstitutional. The bill contained a rider that would disallow private sanitary landfills in counties and townships from seeking public utility status. Rumpke's attorney, Joseph L. Trauth, Jr. of Keating Muething & Klekamp law firm, argued that those riders violated Section 15(D), Article II of the Ohio Constitution which states, "No bill shall contain more than one subject, which shall be clearly expressed in its title."

In a separate case, Rumpke is claiming public utility status in a suit before Hamilton County Court of Common Pleas Judge Ralph Winkler which would mean that they are exempt from zoning laws. Rumpke is the only major landfill in Hamilton County and must expand to accommodate the region's waste disposal needs.

Trauth stated that he "was very pleased that the court determined that these provisions were clearly unconstitutional and an attempt to undermine Rumpke's case before Judge Winkler." This decision also will allow Judge Winkler to decide Rumpke's public utility status. KMK attorneys Thomas M. Tepe, Jr. and Charles M. Miller are members of Rumpke's legal team.

"The General Assembly has a habit of including riders on voluminous budget bills because the bills must pass," Miller explained. "Although this budget bill contains many provisions that could be stricken, we limited the challenge to only the provisions that directly impacted Rumpke."

To obtain a copy of the order in Adobe Acrobat format, please [click here](#).

Joseph L. Trauth, Jr.'s practice is concentrated in areas of civil litigation, zoning and planning law and real estate law. He has been successful in major rezoning for local and national clients and in obtaining real estate property tax reductions for major commercial properties in this region. He also has handled major eminent domain cases and construction cases.

Charles M. Miller's practice is concentrated in litigation. He has experience in appeals, class actions, product liability, financial services, insurance coverage, and personal injury litigation. Mr. Miller also is experienced in Banking Regulation. Prior to joining KMK, Mr. Miller served as a law clerk to the Honorable Justice Maureen O'Connor, Supreme Court of Ohio (2003-2005) and as a litigation associate at Gallagher, Sharp, Fulton & Norman in Cleveland, Ohio (2002-2003). Mr. Miller regularly returns to the Ohio Supreme Court as counsel for appellate litigants. In addition to traditional engagements, Mr. Miller is frequently appointed by the court to represent pro se parties in merit cases on which the court has ordered briefing and oral argument. He received his J.D. from Boston University School of Law, and his B.A. from The Ohio State University (1998).

Thomas M. Tepe, Jr. is involved in the Keating Muething & Klekamp real estate development practice. His representation of real estate developers covers all facets of a property's development. He has successfully litigated zoning cases throughout Ohio, as well as Kentucky and Indiana on behalf of local and national developers. He also has successfully represented land developers in opposing zoning referenda before area Boards of Election. In addition to his zoning practice, Mr. Tepe has been successful in obtaining real estate tax reductions throughout Ohio and in several other states. He has obtained significant reductions for property owners of major office complexes, downtown office buildings, retail/commercial developments and industrial property.

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### *About Keating Muething & Klekamp PLL*

The law firm of Keating Muething & Klekamp, based in Cincinnati, Ohio, was founded in 1954. KMK has approximately 110 lawyers and a support staff of more than 150 employees. For more than 50 years, KMK has contributed to the success of many businesses from Fortune 500 corporations to small start-up companies. Their mission is to provide high quality legal counsel to business clients by meeting their identified needs and developing appropriate solutions. KMK's vision is to excel as a law firm by recruiting and retaining the highest quality attorneys and personnel with diverse social, ethnic and political backgrounds.