

## For Immediate Release

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## Katten Obtains Dismissal of CERCLA Claims on Behalf of Client, Lovejoy Inc.

**CHICAGO - Katten Muchin Rosenman LLP** is pleased to announce that it obtained dismissal of all claims with prejudice in a recent CERCLA lawsuit against its client, Lovejoy Inc., and other defendants. The decision in the case, brought by gear manufacturer Arrow Gear Company, involved environmental litigation that has spanned the last five years. Lovejoy Inc. is a Downers Grove, Ill.-based international market leader in the manufacturing and distribution of power transmission components. The case, argued in the U.S. District Court for the Northern District of Illinois, is *Arrow Gear v. Downers Grove Sanitary District et al.*

In a previous lawsuit, Arrow Gear, Lovejoy and its co-defendants were parties to a CERCLA class action brought by a group of Downers Grove homeowners. The homeowner class alleged that the companies had contaminated the drinking water supplied to their homes by private wells, and the soil and groundwater around their homes, with trichloroethylene (TCE) and perchloroethylene (PCE). After a settlement with the homeowner class, the companies asked the district court to dismiss their CERCLA and state law contribution cross-claims and third-party claims against each other, with prejudice. The court entered final orders of dismissal tendered by Arrow Gear and the defendants, dismissing their CERCLA and state law contribution cross-claims and third party claims, with prejudice.

Two years later, Arrow Gear brought this most recent lawsuit, again asserting CERCLA and contribution claims to recover past and future response costs relating to the TCE and PCE contamination of the Ellsworth Industrial Park. Lovejoy and its co-defendants moved to dismiss, arguing that under principles of *res judicata*, the prior orders of dismissal with prejudice barred Arrow Gear from asserting CERCLA and state law contribution claims which were brought or could have been brought in the original class action. Arrow Gear claimed that settlement agreements among the parties showed that all CERCLA and contribution claims had not been dismissed and that the parties' settlement agreements had carved out costs arising from settlements with the EPA.

Citing Seventh Circuit authority, the district court held that the federal "same transaction" test applied and that the allegations of Arrow Gear's case arose from the "same transaction" at issue in the class action. Therefore, the principle of *res judicata* barred Arrow Gear's claims. The court agreed with Lovejoy and its co-defendants that it lacked jurisdiction to enforce the terms of the parties' settlement agreements because the dismissal orders had been dismissed with prejudice. However, the court also found that even if it did look at the language of the settlement agreements, they contained broad language settling all claims, including cross and third-party claims that were raised or could have been raised in the prior class action.

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Thus, the court noted that contrary to Arrow Gear's claims, the claims it was now asserting had already been settled and released.

[Laura O'Connell](#), [Nancy J. Rich](#) and [Russell B. Selman](#), all partners in Katten's [Environmental Practice](#), represent Lovejoy in this litigation. All are based in the firm's Chicago office.

Katten's Environmental Practice is active in complex environmental litigation and involved in some of the nation's leading cases, including the representation of large manufacturing companies and power utilities in the recovery of multimillion-dollar cleanup costs. The practice's strengths lie in cost recovery, enforcement issues, toxic torts, and citizens' suits. Katten's Environmental Practice also represents clients in defining and allocating environmental liabilities resulting from the acquisition, ownership, use and sale of real property and corporate assets. Its lawyers routinely represent clients in matters involving wetlands, obtaining and challenging permits, and property development, including brownfields.

*Founded in 1974, Katten Muchin Rosenman LLP is a full-service law firm with more than 600 attorneys in locations across the United States and an affiliate in London. The firm's business-savvy professionals provide clients in numerous industries with sophisticated, high-value legal services, with a focus on corporate, financial services, litigation, real estate, commercial finance, intellectual property and trusts and estates. Among our clients are a wide range of public and private companies, including nearly a third of the Fortune 100, as well as a number of government and nonprofit organizations and individuals. For additional information, visit [www.kattenlaw.com](http://www.kattenlaw.com).*

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