

# Bailey Glasser Achieves Favorable Settlement in Constitutional Claim Against the Commonwealth of Kentucky

12.03.2020

On December 1, 2020, Kentucky officials rescinded a regulation Bailey Glasser challenged on behalf of its client, Foresight Coal Sales, LLC. According to Foresight, the regulation issued by the Kentucky Public Service Commission (PSC) unconstitutionally granted Kentucky coal producers a 4.5% price credit in competitive bidding for public utility coal supply contracts.

Foresight's operations in Illinois received no price credit under the regulation. Foresight challenged the rule as a violation of the dormant Commerce Clause under Article 1, Section 8, Clause 3 of the US Constitution, which prohibits discrimination against interstate commerce in favor of in-state interests. Under the agreement with Kentucky officials, the PSC immediately suspended the operation of the regulation and will formally delete it from the books on or before December 15, 2020.

Bailey Glasser lawyers Nicholas Johnson, Joshua Hammack, and Christopher Smith represented Foresight in this case.

## **Attorneys**

Joshua I. Hammack  
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## **Practice Areas**

Appellate and Supreme Court Practice

BAILEY GLASSER ACHIEVES FAVORABLE SETTLEMENT IN CONSTITUTIONAL CLAIM  
AGAINST THE COMMONWEALTH OF KENTUCKY

Commercial Litigation

Environmental