

## Are Sprinklers “Equipment”? Yes They Are.



In the last month the [Virginia Supreme Court](#) decided two cases that should be of interest to contractors, subcontractors and material suppliers in the world of Virginia construction. In this week's Construction Law Musings, I will discuss the first, and you can tune in next week to find out my take on the second. The case that I will be discussing in this post is [Royal Indemnity Co. v. Tyco Fire Products LP](#). In the [Tyco](#) case the Court considered an all important question

under the [Virginia Statute of Repose](#); namely: What is the difference between "equipment" and "ordinary building materials?"

[Tyco](#) involved a fire at an apartment complex that was linked to defects in the sprinkler system. After paying a claim, Royal sought indemnification from Tyco, the manufacturer of the sprinklers, and SimplexGrinnell, the installer of the system. In response to the suit, both parties filed pleas in bar asking the court to dismiss the negligence based claims pursuant to the statute of repose. The Circuit Court agreed with the defendants and dismissed the claims while ruling that the sprinklers were ordinary building materials and therefore the product liability claims relating to those sprinklers were barred.

Interestingly, the Virginia Supreme Court reversed the Circuit Court ruling as to Tyco. In doing so, it determined due to the technical nature of the sprinklers and the fact that the sprinklers were self contained pre-manufactured units (among other factors), the sprinklers installed at the building were equipment (not subject to the statute of repose) and not ordinary building materials (subject to the statute of repose). The Court then went on to state that, because Simplex merely installed the sprinkler equipment, it was in fact able to take advantage of the statute of repose and therefore was properly dismissed from the case by the Circuit Court.

The takeaway? Firstly, in case you didn't think sprinklers were equipment now you have a court ruling to the contrary. More importantly, the Court added one more layer to the statute of repose analysis and gave guidance as to the differences between ordinary building materials and equipment. As you can see, this last distinction can mean the

difference between a successful and relatively inexpensive defense of a claim and drawn out litigation should you be faced with a negligent design claim as a contractor or construction material supplier. The assistance of an [experienced construction attorney](#) can help you wind your way through the various facts and circumstances that allow the distinction to be made.

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