

Catherine Walters Attains Unanimous Supreme Court Ruling on Important Public Finance and Prevailing Wage Case

On Wednesday, February 21, 2024, the Pennsylvania Supreme Court issued its Opinion in *Ursinus College (Appellee) v. Prevailing Wage Appeals Board, IBEW Local 98 (Appellant)*, affirming the Commonwealth Court’s 2022 decision in favor of Ursinus College. The Court held that a project undertaken by Ursinus, financed by tax-exempt bonds issued by a public body and paid for using exclusively private money, did not constitute a “public work” within the meaning of the Pennsylvania Prevailing Wage Act because it was not “paid for in whole or in part out of the funds of a public body.”

Bybel Rutledge partner Catherine Walters represented Ursinus College from the inception of this matter before the PA Bureau of Labor Law Compliance through the final Decision of the PA Supreme Court. Catherine and Ursinus College were joined by four impressive *Amicus Curiae* groups at both the Commonwealth Court and Supreme Court levels.

The Court held that conduit financing provided by a public body through issuance of tax-exempt bonds, purchased using exclusively private money, does not transform a private project into a public project subject to PA’s Prevailing Wage Act where no funds flow in, out or through the coffers of the public body; no public or taxpayer funds are used to secure the bonds; and no risk or liability attaches to the public body or taxpayers relative to the bonds. Here, the public body simply served as a conduit for financing a private project in accordance with the public body’s enabling legislation.

The case, closely watched by multiple sectors involved with public finance, including issuers, borrowers, underwriters, investors and contractors, is important for many reasons, not the least of which are retention of important projects here in Pennsylvania and avoidance of substantially higher project costs that might have otherwise been incurred by non-profit entities utilizing tax-exempt bond financing.

Please find a copy of the Supreme Court Decision here:

<https://www.pacourts.us/assets/opinions/SUPREME/out/J-52-2023mo%20-%20105840279255864227.pdf>