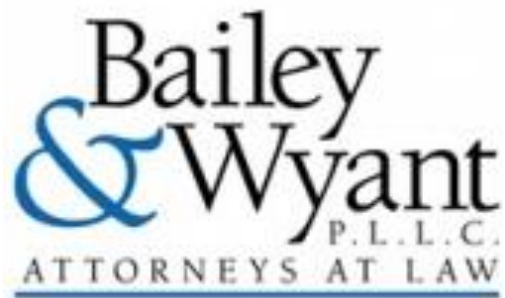


# West Virginia



**James Marshall III**

**Michael Taylor**

## **Favorable Ruling from Supreme Court of Appeals of WV**

Bailey & Wyant PLLC,s Members James Marshall and Michael W. Taylor received a favorable ruling from the Supreme Court of Appeals of West Virginia. In the case the Plaintiff alleged that a former Correctional Officer was negligent in the supervision of an inmate who was incarcerated at Eastern Regional Jail. As a result of this alleged failed supervision, the inmate committed suicide.

A motion to dismiss was filed on behalf the Officer arguing that the complaint failed to meet the heightened pleading standard applicable to claims against the government and governmental officials. On appeal, the Supreme Court agreed and confirmed that a heightened pleading standard exists for claims against the government and governmental officials. As a result, the matter was remanded with instructions to the trial court to consider the allegations under this heightened pleading standard.

This case is a significant victory for governmental entities and officials as it requires plaintiffs to make more than bare bone allegations against these types of defendants in a complaint. Prior to this decision, there was a question as to whether such a heightened pleading standard existed, which permitted courts to allow cases to move into discovery while passing on addressing certain legal defenses, such as qualified immunity. Now, a plaintiff must plead sufficient facts on the face of the complaint to overcome these legal defenses or face a dismissal of the complaint