

News

BCLP ADVISES ON SUPREME COURT RULING RESHAPING ROUNDUP LITIGATION LANDSCAPE

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International law firm BCLP represented Bayer and its subsidiary Monsanto in connection with a closely watched U.S. Supreme Court decision in *Monsanto Co. v. Durnell*, a ruling that reshapes the national Roundup litigation landscape.

In a 7–2 decision, the court held that federal pesticide law preempts state law failure-to-warn claims, meaning plaintiffs cannot argue that Monsanto was required to include a cancer warning on glyphosate-based products where the U.S. Environmental Protection Agency has not required one. The decision removes a central theory underpinning much of the Roundup litigation and materially narrows the scope of pending and future claims.

The ruling resolves a long-standing circuit split and confirms the preemption argument advanced by Bayer’s counsel, including BCLP, that has been central to the defense strategy in Roundup litigation – that the Federal Insecticide, Fungicide and Rodenticide Act overrides state law claims alleging Monsanto should have warned of cancer risks despite the EPA’s consistent position that such warnings would be false and misleading.

BCLP’s Roundup Appellate Team has played a central role in shaping the pathway to this outcome. Led by Global Department Leader – Litigation & Investigations Lee Marshall, the team developed the preemption arguments at issue, helped (with Covington) to create the circuit split now resolved by the court, and identified the Missouri case selected for Supreme Court review. In addition, the BCLP team worked on the winning brief with the teams at Covington and Clement & Murphy.

The BCLP team has included Stefani Wittenauer, Randy Soriano, Tim Hasken, Sam Hofmeier, Alex Whitworth, Jed White, Aileen Hunter, Christian Poland, Helen Goodman, Alison Krashen, Linda Hsu, Tim Davis, Mike Hofmann, Barbara Smith and others across offices and practices. The Missouri case was handled at trial and on appeal by Andrew Tauber, Tim Hasken, Lauren Simon and Cayce Good.

Approximately 165,000 claims have been filed through the years alleging that glyphosate causes non-Hodgkin's lymphoma. By eliminating failure-to-warn claims as a viable theory and casting

significant doubt on other claims, the court’s decision significantly reduces litigation exposure and is expected to influence the trajectory of cases nationwide, including those currently pending.

Related Capabilities

- Litigation & Dispute Resolution
- Appellate

Meet The Team



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