

Awards

LEE MARSHALL RECOGNIZED AMONG LAW.COM'S LITIGATORS OF THE WEEK

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BCLP was named among Law.com's Litigators of the Week as part of the team that secured a victory for Bayer subsidiary Monsanto at the U.S. Supreme Court in June. Lee Marshall, Global Department Leader - Litigation and Investigations, was recognized alongside Paul Clement of Clement & Murphy and David Zionts of Covington & Burling.

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 Roundup litigation includes tens of thousands of cases with dozens of cases having already been tried to date. As you might expect, the team across the virtual firm that Bayer uses is extremely large," Lee told Law.com. "The BCLP team includes dozens of great lawyers, but key members of the BCLP team include Stefani Wittenauer, Tim Hasken, Alex Whitworth, Sam Hofmeier, Justin Benson and Randy Soriano. Those lawyers, in particular, have done a great job and have been working with me nearly every step of the way."

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.

"I've seen the lows and the highs of this litigation. I was in the courtroom when the first verdict was delivered and when a \$2 billion verdict came back in the third trial. Those are moments you don't forget," Lee told Law.com. "But this client and the in-house legal team have had incredible resilience in dealing with this litigation of unprecedented scope. This is a company and people who strongly believe—quite rightly—in the safety of this product. When we got our circuit split, we called the in-house lawyer who has handled the litigation from the beginning to let her know. We reached her as she was at the airport headed out to yet another trial, and you could hear some of that

pressure she was under release and you could hear the hope that we had a path forward reenter her voice. Most of all, I won't forget that phone call. "

Related Capabilities

- Litigation & Dispute Resolution
- Appellate

Meet The Team



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