

News

BCLP LITIGATION LEADER NOTED FOR COLLABORATION ON ROUNDUP PREEMPTION WIN

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BCLP Partner Lee Marshall, Global Department Leader - Litigation & Investigations, was highlighted Aug. 23 in *The American Lawyer* for his continuing work for client Monsanto as it defends its herbicide Roundup for parent company Bayer AG.

Lee was noted as part of the “Litigator of the Week” spotlight. Lee collaborated with David Zions and Mike Imbroscio of Covington & Burling in successfully leading Monsanto’s defense in the Third Circuit U.S. Court of Appeals in Philadelphia recently. The court found in Monsanto’s favor against plaintiff David Schaffner, who alleged that Monsanto violated state law by failing to add a cancer warning to the Roundup label. The Court of Appeals unanimously ruled that Pennsylvania’s state-based failure-to-warn claims brought by plaintiffs are preempted by federal law.

The ruling conflicts with earlier decisions in the Ninth and Eleventh Circuits holding federal law does not preempt state failure-to-warn claims, which could necessitate review by the U.S. Supreme Court to settle this issue of law. The BCLP and Covington teams have been working on the preemption issue, and to force a circuit split, for the last five years.

Pointing to the significance of this latest win for Bayer, the client’s share price jumped by almost 11% – or approximately \$3 billion in market capitalization – after the decision.

The article noted that Lee and Mike are co-leaders of the nationwide Roundup briefing team. David, who argued the appeal, highlighted the great collaboration with the virtual firm representing Monsanto, and particularly with Lee’s team at BCLP.

“We’ve had a great collaborative relationship with a number of firms working on appellate aspects of the Roundup litigation,” David said. “In particular, Covington has worked closely with Lee Marshall’s team at (BCLP), including on the *Schaffner* appeal and the preemption issue more broadly. Lee has been a great partner in this whole effort, especially in developing the overall strategy around preemption.”

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MEET THE TEAM



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