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WLF Asks Ninth Circuit to Reject California's Attempt to Compel False and Misleading Speech

(*Nat'l Ass'n of Wheat Growers v. Bonta*)

“The State as ventriloquist is no less offensive to the First Amendment than the State as censor.”

—Cory Andrews, WLF General Counsel & Vice President of Litigation

WASHINGTON, DC—Washington Legal Foundation (WLF) today filed an *amicus curiae* brief urging the U.S. Court of Appeals for the Ninth Circuit to affirm a trial court decision permanently enjoining the State of California from requiring a safety warning under the State’s controversial Proposition 65 (Prop 65) regime.

Adopted as an initiative measure in 1985, Prop 65 requires businesses using products that contain one of more than 900 listed chemicals to display a “clear and reasonable warning” of exposure to chemicals “known to cause cancer.” The law further provides for private enforcement by for-profit “bounty hunter” plaintiffs.

Glyphosate is a popular herbicide used worldwide in the cultivation of crops. In 2018, California added glyphosate to Prop 65’s list of chemicals “known to cause cancer.” But no government regulator on the planet, including the International Agency for Research on Cancer (on which California relies), has uncovered evidence that glyphosate causes cancer at use levels. And the World Health Organization, the Environmental Protection Agency (EPA), and government regulators from a half-dozen countries have all concluded that glyphosate poses no risk of cancer.

At best, any claim of a causal link between exposure to glyphosate and cancer is misleading and thus highly controversial. As WLF’s *amicus* brief explains, a law compelling speech is no less pernicious than one banning it. Under longstanding Supreme Court precedent, the First Amendment does not permit the government to force private speakers to utter false, misleading, or controversial speech.

Celebrating its 44th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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