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## In WLF Success, Ninth Circuit Rejects California's Attempt to Compel False and Misleading Speech (*Nat'l Ass'n of Wheat Growers v. Bonta*)

**“Today’s ruling confirms that the State as ventriloquist is no less offensive to the First Amendment than the State as censor.”**

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

WASHINGTON, DC—The U.S. Court of Appeals for the Ninth Circuit today affirmed 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. The decision was a victory for Washington Legal Foundation, which filed an amicus brief in the case.

The appeal arose over the constitutional limits of California’s Prop 65 law, which 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.” In 2018, California added the popular herbicide glyphosate to Prop 65’s list of chemicals “known to cause cancer.” But no government regulator on the planet 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.

As WLF’s amicus brief explained, any claim of a causal link between exposure to glyphosate and cancer would be misleading and thus highly controversial. Under the First Amendment, California has no valid interest in compelling false, misleading, and highly controversial speech. The Ninth Circuit agreed. California’s proposed warning, the court held, “requires plaintiffs to convey a controversial, fiercely contested message that they fundamentally disagree with.” And because California “had less burdensome ways to convey its message than to compel plaintiffs to convey it,” any Prop 65 warning for glyphosate would be unconstitutional.

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