

GORDON & REES LLP

Agricultural Chemicals & Pesticides Group



Table of Contents

- Practice Overview
- Litigation Experience
- Transactional Experience
- Environmental Experience
- Practice Team
- National Platform
- Gordon & Rees Offices

Practice Overview

Gordon & Rees's Agricultural Chemicals & Pesticides Group represents companies involved in the chemical industry in transactions, regulatory compliance, environmental claims, and lawsuits and has done so for the past 20 years. Through this representation, the practice group has gained extensive knowledge and experience in the regulations regarding chemical products, including pesticides, herbicides, fungicides, and other related products, and also the science, application, and industry practice regarding most classes of these chemicals (e.g., FIFRA, CERCLA, RCRA, and state statutory regimes).

Our expertise has served clients well in conducting early evaluation in either the pre-litigation or early litigation phases of matters. In every matter, it is our goal to achieve as early an exit or resolution for the client as possible, in order to avoid unnecessary litigation costs. However, if necessary, the team is well-equipped to proceed through trial. In addition, the practice group has wide-ranging transactions and regulatory capabilities.

Mergers and Acquisitions: Represented major agricultural and chemical companies in stock or asset acquisition and divestiture of various assets/liabilities, including, without limitation, product lines, plant and facilities, intellectual property, and regulatory registrations.

Well-Proven Litigation Record: The practice group's attorneys have defended hundreds of litigation and pre-litigation matters involving claims of crop loss, business litigation, and product liability over the last decade.

Significant Regulatory Compliance Experience: As in-house and external counsel, our attorneys have handled federal and state regulatory compliance issues for all aspects of our clients' business.

National Transactional Experience: Members of the practice group have handled commercial and corporate transactions, including supply and distribution agreements, testing and data development agreements, strategic alliance agreements, and many others for clients across the industry.

Industry-Leading Clients: Our clients include the leading manufacturers of pesticides (including herbicides, insecticides, rodenticides, and fungicides), distributors of these products, and property and premises owners. The firm currently represents multiple distinct companies in the industry.

West Coast and Southwest: We have defended matters in California, the Pacific Northwest and the Southwest, as well as crop and pesticide personal injury claims throughout the U.S.

Litigation Experience

Representative matters over recent years have included:

- Represented pesticide manufacturer in a business loss matter brought by one of the largest apple growers in Washington claiming over \$4 million damage to an apple crop in central Washington. Resolved during litigation.
- Represented pesticide manufacturers and distributors of glyphosate and 2,4-D in crop loss claims and litigation from pesticide drift in Missouri, Arkansas, and Kansas.
- Represented pesticide manufacturers and distributors in general crop loss claims and litigation in Montana, New York, Pennsylvania, North Carolina, South Carolina, North Dakota, Washington, Wisconsin, Texas, Arizona, New Mexico, and Nevada.
- Represented pesticide manufacturer in a crop loss matter brought by a property owner claiming significant monetary damage to raisin grapes in central California. Obtained dismissal after demonstrating lack of causation and applicator error.
- Represented pesticide manufacturer in a business loss matter claiming damage to a cherry crop in central California. Obtained nuisance value settlement pending motion for summary judgment.
- Represented pesticide manufacturer against claims of business loss and property damage by a restaurant in Southern California. Obtained dismissal by quickly verifying applicator error.
- Represented multiple manufacturers in numerous chemical exposure matters wherein plaintiffs claimed occupational exposure caused a wide array of disease endpoints to include Parkinson's Disease, multiple sclerosis, chemical sensitivity, various forms of cancer (including leiomyosarcoma, leukemias, lymphomas, kidney cancer, and liver cancer), pulmonary disease, and various forms of neuropathy. Consistently obtained dismissals and/or favorable resolutions on behalf of a number of industry clients based on plaintiff's inability to provide evidentiary support of exposure and/or causation.

Transactional Experience

Transactional capabilities include:

- Mergers and acquisitions
- Basic contractual documents used throughout the U.S. by an agricultural multinational, enabling the business to restructure its method of going to market and reduce its financial risk
- Ethics Officer and General Counsel for AgChem business
- Guidance for manufacturer and importer on U.S. EPA import regulations and in initiating duty-exemption legislations which realized significant savings
- Research and technology agreements between agrichemical manufacturers and public and private universities
- Engineering, design, construction management and procurement service agreements for owner and contractor clients
- Negotiating clients' membership in Task Force agreements
- General counsel service in all environmental and compliance issues
- Antitrust and claims handling seminars
- Supply and distribution agreements
- Supplemental registration agreements
- Product repackaging agreements
- Confidentiality/non-disclosure agreements
- FIFRA data compensation negotiations and agreements
- Product GLP laboratory testing and data development agreements
- Sales invoice and purchase order terms and conditions
- Materials transfer and evaluation agreements
- Product toll manufacturing agreements
- Product consignment agreements
- FIFRA data rights transfer agreements
- Product strategic alliance agreements
- Specialty manufacturer's contracts

Environmental Experience

Environmental Statutes

We are thoroughly familiar with all major environmental statutes, including:

- Federal Clean Water Act (CWA)
- Clean Air Act (CAA)
- Resource Conservation and Recovery Act (RCRA)
- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund)
- Federal Insecticide, Fungicide, Rodenticide Act (FIFRA)
- Endangered Species Act (ESA)
- Toxic Substances Control Act (TSCA)
- Emergency Planning and Community Right-to-Know Act (EPCRA)
- Pipeline Safety Improvement Act of 2020 (PSIA)
- National Environmental Policy Act (NEPA)
- National Historic Preservation Act (NHPA)
- Marine Protection, Research and Sanctuary Act (MPRSA)
- Migratory Bird Treaty Act (MBTA).

Wide Variety of Environmental Claims

Our track record of successful results includes matters involving the insured's property, third party bodily injury and property damage claims (including natural resource damage claims), including crop loss, pollution incidents resulting from transportation and waste storage and disposal activities, underground and above-ground storage tanks release incidents, indoor air quality, contaminated drinking water, hazardous substance and oil spills, on-site and off-site remediation, cost recovery, natural resource damage claims, claims relating to medical, biological, infectious and pathological wastes, and governmental environmental regulatory enforcement proceedings on local, state, and federal levels.

Environmental Experience

Federal and State Experience

Our AgChem attorneys are familiar with both federal and state issues involving site assessment, clean-up/regulatory compliance, administrative and judicial enforcement, and Superfund cost recovery and contribution claims.

Regulatory Knowledge

We have substantial government regulatory compliance, contract review and regulatory counseling capabilities, and frequently represent clients in regulatory proceedings that require extensive negotiations to develop the most cost-effective permitting and soil and groundwater investigative and remedial strategies. Our team works with the EPA, DOJ, Department of the Interior, US Fish and Wildlife Service, as well as numerous State regulatory agencies and local air pollution control districts regarding permit enforcement and citizen challenge proceedings, cleanup and abatement orders, cost recovery actions, natural resource damage claims, voluntary cleanups, and the securing of no further action assurances.

Network of National Experts and Consultants

Gordon & Rees has a well established network of experts and consultants available for necessary services to assist in the evaluation and defense of environmental exposures and liabilities, and to provide risk management, regulatory compliance, voluntary and government-mandated cleanups, and preparation for privileged internal and government investigations and other actions.

Practice Team



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Lawyers Admitted in 38 Key Jurisdictions

■ States in which Gordon & Rees attorneys are admitted to practice.

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San Francisco

Colorado

Denver

Connecticut

Hartford

Florida

Miami

Georgia

Atlanta

Illinois

Chicago

Maryland

Baltimore

Missouri

St. Louis

Nevada

Las Vegas

New Jersey

Florham Park

New York

Long Island

New York

Oregon

Portland

Pennsylvania

Philadelphia

Pittsburgh

South Dakota

Rapid City

Texas

Austin

Dallas

Houston

Virginia

Tysons Corner

Washington

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Including the District of Columbia

Gordon & Rees attorneys are also admitted in Canada, England and Wales, and Hong Kong.

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