

Adams and Reese Appellate Team Obtains Reversal of \$1.75M Judgment in Louisiana Crawfish Litigation

In April 2009, the Louisiana Third Circuit Court of Appeal reversed a \$1.75 million judgment on a verdict against Bayer CropScience LP, holding the company not responsible for the claims of buyers and processors of farm-raised crawfish. Six months later, that decision became final when the Louisiana Supreme Court declined to review the Third Circuit's decision. And on January 8, 2010, the Court refused to consider the buyers-processors' motion for rehearing.

In *Patrick E. Phillips, Jr. v. G&H Seed Company, Inc.*, buyers and processors of farm-raised crawfish filed a class action against Bayer alleging that crawfish crops were damaged and their businesses adversely affected by the use of ICON, a pesticide manufactured by Bayer's predecessor and used by Louisiana farmers in rice fields where crawfish were also raised. The case was later converted to a consolidation of the claims of 64 crawfish-buying businesses. In the summer of 2007, a trial of three representative plaintiffs' claims led to a \$1.75 million verdict against Bayer.

Adams and Reese LLP represented Bayer as appellate counsel. In April 2009, a 4-1 majority of the Third Circuit reversed that jury award, finding Bayer's duty to avoid damaging the crawfish crop did not extend beyond the farmers who owned the crawfish.

"The plaintiffs in this case have failed to prove a proprietary interest in the crawfish crop destroyed by the use of ICON," Judge Elizabeth A. Pickett wrote for the majority. "Therefore, the plaintiff's cause must fail." That decision became final and definitive on October 30 when the Louisiana Supreme Court denied plaintiffs' petition to review the Third Circuit decision.

"This was a very important victory for our client," said Adams and Reese Partner [Mary L. Meyer](#), who was joined on the firm's appellate team with [Louis C. LaCour, Jr.](#), [Ray Ward](#), [Christine Fortunato](#) and [Lauren Delery](#). LaCour handled the original oral argument before the 3-judge panel and the argument on rehearing before a 5-judge panel. "Bayer CropScience is pleased with the outcome, and looks forward to bringing this prolonged litigation to an end," said Bruce Mackintosh, General Counsel for Bayer.