

They've Got Next: Consumer Litigation Fresh Face Lee Popkin

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Proskauer Rose partner Lee Popkin is known for her strategic instincts, substantive versatility, and record of winning challenging cases.

In December 2021, Popkin had a hand in securing a victory as trial counsel for Monsanto, now part of Bayer, in a lawsuit brought by a woman claiming that its herbicide, Roundup, caused her non-Hodgkin's lymphoma.

Popkin handled four of the witnesses at the monthslong trial before Judge Gilbert Ochoa in the California Superior Court of San Bernardino County, including a key direct examination, cross-examination of the plaintiff's granddaughter, and two crucial expert witnesses.

It was the second defense verdict for Monsanto, but it was the first defense verdict based on "general causation," meaning the jury decided that Roundup doesn't present a cancer risk, not just that it didn't cause the plaintiff's cancer in that case.

Prior trials involving plaintiffs who claimed health complications as a result of using Roundup had resulted in high-dollar verdicts against Monsanto, ranging from \$80 million to over \$2 billion.

A litigator in the firm's commercial litigation, product liability, and intellectual property groups, Popkin has "extraordinary skills," said Proskauer partner Bart H. Williams.

She "can see around corners," Williams said, describing Popkin's ability to anticipate what the other side is going to do like a chess player.

Williams has worked with Popkin for the last six years and said that it has been one of the more rewarding experiences of his career to see Popkin grow with the firm. Popkin joined the firm in November 2012.

"She builds trust, the judge can rely on her—no hyperbole, just what happened—in keeping with the theme that we're the truth tellers," Williams said. "And she's that."

Popkin has a future as a first chair trial lawyer on major cases, Williams said. She has been a student of trial practice since the beginning of her career, reading biographies of renowned litigators in her spare time and constantly working to hone her skills, he added.

“As cheesy as it sounds, I had to pinch myself in the morning,” Popkin said, describing her experience during the Monsanto trial.

Because of the pandemic, Popkin and her team weren’t physically in the courtroom every day, but they were still showing up virtually for their clients in court, she said.

Popkin said she has always had an appetite for litigation and trial practice and has seized every opportunity provided to her to get into the courtroom.

She recalled the first time she was assigned a witness at trial early in her third year at the firm. Brendan O’Rourke, a senior partner and leader of the firm’s false advertising and trademark practice group, encouraged her to take on a witness at the trial over alleged trademark infringement, she said.

They were representing Crown Royal, owned by Diageo plc, which was suing a company called Mexcor Inc. before Judge David Hittner in the U.S. District Court for the Southern District of Texas over its use of Crown Royal’s trademark purple drawstring bags for its own state-themed “Crown Club” whiskey. Following a seven-day jury trial in December 2014, Diageo won.

The jury found that Mexcor unintentionally caused a likelihood of confusion in the market place, resulting in a judgment awarding \$401,228, or the profits the jury concluded Mexcor had earned as a result of the confusion, and injunctive relief.

“Get your first witness, take your first deposition, and it snowballs, then you’ve done it,” she said. “And you’ll get another opportunity—you’re not so much as a gamble as the first time.”

After graduating from Harvard Law School in 2011, Popkin clerked for U.S. District Judge Sarah S. Vance of the Eastern District of Louisiana.

“As a clerk, you get to dive in, in a way that is often hard for junior associates,” she said. Vance was brilliant, demanding, and taught her a lot, Popkin said.

Popkin also attributes her success to seizing every opportunity provided to her.

“When it comes to building your brand, it’s important to do both internally and externally,” she said.

For junior associates, the immediate “client” is often a senior associate or partner, she said, and it’s important to build those internal relationships.

Building those relationships led to Popkin being elected partner in November 2020.

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