

WISCONSIN SUPREME COURT HEARS ARGUMENTS IN CASEY SUIT

By Monroe S. Miller

The Wisconsin Supreme Court listened to arguments over the preemptive nature of state and federal laws on September 7th. Ralph Mortier, supported by the Forestry/Rights-of-Way/Turf Coalition argued that they are. The Town of Casey, represented by their own attorney and the Wisconsin Public Intervenor, believes towns — all towns — have the authority to pass laws that regulate and limit the use of pesticides. I spent the morning as an observer of those proceedings.

The green committee chairman at our club is a lawyer and he predicted I would find this trial an interesting experience. He was right.

I've never watched any trial proceedings before — in person, at least. That inexperience added to my already heightened interest in the Casey suit.

The Wisconsin Supreme Court chambers are in the capitol. It's a richly appointed room, just like you'd expect and like it should be. Both sides were represented by two attorneys. In the town's case, they (intervenor Tom Dawson and Linda Monroe) divided the presentation to the justices. For our presentation, Paul Kent made the arguments to the court. Rick Lewandowski remained seated, passing notes and reminders to help Paul. Frankly, their plan (our plan!) worked far better.

I was fortunate to sit next to Russ Weisensel during the arguments to the justices. Russ could have done the job representing us. He knows the facts of the case, the legal principles involved and case precedents. He's confident we're right and understands the chaos that will result if we lose.

Of all that impressed me during the proceeding itself, I was most impressed by the Supreme Court members themselves. They had done their homework and obviously read the briefs. They asked quite a few questions and many were based on issues central to our case. Even a novice like myself picked that up quickly. Our attorneys had the same "cautiously optimistic" feeling — "that the court will follow the major trend in case law and our argument by finding federal preemption." (Quote — Rick Lewandowski).

There was a humorous remark by Dawson that I've got to share with you. And I wasn't the only one grinning when he came up with this line in his

argument to court members. He was talking about how the Casey ordinance was passed to regulate pesticide application and not to ban them. "This is not a banning ordinance," Dawson said. "You don't need to be a scientist to evaluate this information. All it takes to administer this ordinance is good, solid, common sense. . . I think county supervisors have that."

It's for sure I don't want my professional work situation based on the "common sense" of petty politicians. Do you?

Following the case presentation, I went across the street for lunch with our attorneys and other F/RoW/T board members. We discussed the case, handled some coalition business and congratulated Russ, Paul and Rick for a job well done. All the while I was thinking how Russ had said from the very beginning that this case would ultimately be decided in the Supreme Court.

No one is predicting when the Supreme Court will announce its decision. I'll let you know when we hear something.

Wilbur-Ellis

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