



Update from Washington

Linda A. Lipsen

CEO, AMERICAN ASSOCIATION FOR JUSTICE

Pesticide immunity and a retracted study on Roundup

ASSOCIATION ALSO WORKING ON EXPANSIVE USE OF JUDICIAL ESTOPPEL AGAINST PLAINTIFFS IN PI CASES

AAJ launched the new year by publishing a new research report, *The Case for Raising Auto Insurance Minimums – January 2026 Update*. The report:

- Finds states that recently raised outdated auto insurance minimums did not see auto insurance premiums spike. In fact, states that recently took legislative action on auto insurance minimums saw average drivers' premiums rise at a *slower rate* than the average premiums nationwide.
- Builds on our 2024 report, providing even more leverage for state trial lawyer associations' (TLAs) legislative efforts to raise outdated auto insurance minimums.

AAJ issued a press release and posted about the research report on our social media platforms. Follow us on LinkedIn, Facebook, Instagram, and X.

Blocking pesticide immunity

Throughout 2025 and pushing into the beginning of 2026, there have been attempts in Congress to include pesticide immunity in must-pass federal legislation.

- The House Interior Appropriations Act for fiscal year 2026 was passed out of Committee in July (2025) with a poison-pill provision that would have immunized the pesticide industry.
- While that measure was not ultimately included in a compromise appropriations bill, additional efforts to include a pesticide immunity provision in a House version of the farm bill are expected this year.

AAJ will continue to advocate against any pesticide immunity law, whether in a must-pass legislative vehicle or as a standalone bill. AAJ has also been tracking this issue in the courts; the U.S. Supreme Court has accepted the cert petition to consider whether federal law shields Bayer – the manufacturer of Roundup – from lawsuits.

A retracted study on the herbicide Roundup

In December, a seminal study on glyphosate safety was retracted. The editor-in-chief of *Regulatory Toxicology and*

Pharmacology formally retracted a 2000 study on Roundup after “serious ethical concerns” were raised about “the authorship of this paper, validity of the research findings in the context of misrepresentation of the contributions by the authors and the study sponsor, and potential conflicts of interest of the authors.”

The New York Times published a story online on January 2, noting that the study's retraction has “led to calls for the E.P.A. to reassess the widely used chemical.”

Bayer (a German conglomerate that purchased Roundup manufacturer Monsanto in 2018) will likely continue to spend extraordinary amounts of money on its aggressive federal, state, and legal campaign to avoid accountability.

In 2025, Modern Ag Alliance (MAA), a group founded to support Bayer's pesticide immunity campaign, pushed for this legislation in 12 states (FL, GA, IA, ID, MO, MS, MT, NC, ND, OK, TN, WY). It was defeated everywhere but Georgia and North Dakota.

MAA reported \$1.65 million in lobbying-related expenses in Tennessee alone in 2025.

In a December 2025 interview, MAA's executive director confirmed they will push this legislation in 8-10 states in 2026 and will work at the federal level.

AAJ urges Supreme Court to reject expansive use of judicial estoppel

On December 19, 2025, AAJ filed an amicus brief in *Keathley v. Buddy Ayers Construction, Inc.*, urging the Supreme Court to reject the Fifth Circuit's expansive view of judicial estoppel and protect plaintiffs from forfeiting personal-injury claims because they failed, in good faith, to disclose their lawsuits during pending bankruptcy proceedings.

- AAJ's brief explains that the circuit court's ruling threatens to deny injured people their day in court, undermining access to justice nationwide.
- The case presents a critical opportunity for the Court to clarify and constrain the application of judicial estoppel so that plaintiffs are not unfairly penalized

for procedural missteps unrelated to the merits of their claims.

AAJ's website provides access to all our amicus curiae briefs. To request an AAJ amicus brief in your case, use our online form or email Legal Affairs.

Legal Affairs: Federal Rules update

AAJ closely monitors proposed amendments to the Federal Rules of Civil Procedure, Federal Rules of Appellate Procedure, Federal Rules of Evidence, and other rules governing court procedure. When changes to the federal rules are proposed, AAJ ensures that plaintiff attorneys are represented by advocating for rules that are fair, balanced, and efficient. Many states use the federal rules as a pattern for their own state rules.

On January 12, AAJ filed a Rules Suggestion on FRCP 35 (compulsory medical examinations), proposing that the Advisory Committee consider rule amendments that would:

- Allow a party to have a representative present during the exam.
- Permit a recording of the exam.

Since the exam would occur only if the party to be examined authorizes it, there would be no privacy violation. States like California and Florida provide for these accommodations in their state rules, which has resulted in a reduction in abusive tactics from doctors employed by the insurance companies that conduct these examinations.

The first hearing on proposed Rule 707 (Machine-Generated Evidence) was held on January 15. AAJ will testify at a second hearing scheduled for January 29. The defense bar, AAJ, and its members have problems with the proposal, but for different reasons.

AAJ is concerned that the overly broad rule will lead to Daubert-style fights over evidence that is routinely accepted now, such as geolocation data, text messages, trucking logs, and electronic health records. The defense bar believes the new rule will lead to admission of evidence that isn't reliable and requires expert testimony. Both sides agree that the rule is poorly drafted and that the definition and scope of what is meant by the phrase “machine-generated evidence” are unclear. 