

Bracewell Secures Win for Denka as US EPA Drops Long-Standing Lawsuit

News Release

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WASHINGTON, DC – Bracewell LLP announced today that it has secured a major win for the firm’s client Denka Performance Elastomer (DPE) in the long-standing, scientifically flawed lawsuit brought by the Biden-era US Environmental Protection Agency (EPA).

Denka is the sole US producer of Neoprene, a popular synthetic rubber used in many products, including autos and trucks, adhesives, medical devices, wetsuits and other applications. The LaPlace, LA-based plant uses the chemical chloroprene in the making of Neoprene.

In February 2023, EPA filed an unprecedented lawsuit against Denka, relying on Section 303 of the Clean Air Act and seeking to shut down DPE’s facility. Bracewell successfully fended off EPA’s motion for preliminary injunction in 2023 and convinced the court to allow targeted discovery over the strenuous objections by EPA. Denka ultimately filed a motion for summary judgment that forced EPA to postpone a March 2024 trial on the merits in order to publish a final rule that singled out Denka’s facility for disparate treatment. In response to EPA’s new rule, Bracewell assisted Denka in obtaining an extension from the Louisiana Department of Environmental Quality (LDEQ) to comply with the rule’s extremely short compliance period and persuaded the Fifth Circuit to grant a stay preventing EPA from disregarding the LDEQ’s extension.

EPA resumed the Imminent and Substantial Endangerment (ISE) litigation last fall and pushed to set a trial date for mid-April 2025. The agreement, announced on Friday, March 7, dismisses EPA’s case without a trial.

“We are extremely pleased to have achieved this result for our client. Defending the company and securing the dismissal exemplifies Bracewell’s excellence in integrating legal, government relations and strategic communications services to achieve successful outcomes on environmental

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matters for our clients,” said **Jason B. Hutt**, partner in Bracewell’s Washington, DC office and chair of the firm’s environment, lands and resources practice.

“This was hard fought, cutting-edge litigation, and it ended with the proper result,” said **David A. Super**, a Bracewell trial partner in Washington, DC.

The result was achieved in close collaboration with Louisiana counsel, Jones Walker.