



Posted On: **June 24, 2011** by [Patrick A. Malone](#)

## **Supreme Court Strikes Two Blows Against Patient Safety**

On one side you have what Justice Hugo Black evocatively called "organized money" -- the corporate interests dressed, in this case, in the garb of drug manufacturers: White coats with hundred dollar bills stuffed in the pockets.

On the other side: Regular folks: consumers, patients, and individual doctors.

Who wins in the U.S. Supreme Court? This week, organized money won: twice.

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By 5-4 votes in both cases, the Supreme Court decided:

\* Generic drug manufacturers are immune from lawsuits for defective and misleading labeling on their products even if patients are injured.

\* Drug manufacturers have a constitutional right to collect data on individual doctors' prescription-writing habits, to help them market to those doctors more effectively.

The second decision will help "Big Pharma," brand name manufacturers who work hard to goose sales of their drugs while still under patent, before the generics bring in cut-rate look-alike products. So in a way, the court was balanced: One bone thrown to the brand name drug makers, and the other to the generics. But consumers were on the short end of both cases.

Why is the drug marketing case bad for consumers and for patient safety? Because the state of Vermont, whose law was overturned by the Supreme Court ruling on "free speech", was trying to give some breathing space for doctors to make decisions about what drugs are safest and most effective for their individual patients, without having the manufacturers' sales people in essence spying on the doctors by tallying up their weekly patterns of drugs prescribed. Read more on this drug marketing case from [Merrill Goozner's blog](#).

The other decision is even more obviously bad for consumers. This ruling, based on a bizarre interpretation of the federal law that lets generics copy brand name drugs once the patent has expired, gives generics absolute immunity from lawsuits by injured

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consumers -- so the generic companies will have no incentive to follow the safety records of the drugs they profit from and put out corrected labels. Read more on this one from the [American Association for Justice](#).

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