Supreme Court Ruling is a Victory for Consumers Injured by Dangerous Drugs, Says Hissey Kientz, LLP

A ruling this week by the U.S. Supreme Court will protect the rights of consumers who are injured by dangerous drugs, according to Hissey Kientz, LLP. "The Supreme Court's ruling this week is an important victory for plaintiffs who have been hurt by dangerous or defective drugs," said attorney Robert Kientz.

Austin, TX (Vocus) March 6, 2009 -- A ruling this week by the U.S. Supreme Court will protect the rights of consumers who are injured by dangerous drugs, according to Hissey Kientz, LLP. The court rejected the argument that individuals should be barred from filing lawsuits over inadequate drug labels that were approved by the Food and Drug Administration. This legal doctrine -- known as "preemption" -- would have applied even in cases when the manufacturers of these drugs failed to warn the public about the serious and potentially deadly side effects of their products.

"The Supreme Court's ruling this week is an important victory for consumers who have been hurt by dangerous or defective drugs," said attorney Robert Kientz of Hissey Kientz, LLP. "This decision will not only guarantee the right of these individuals to receive fair compensation for their injuries, but will help to protect other consumers from the harmful effects of these dangerous products after they have gone on the market."

In the case Wyeth v. Levine (06-1249), Vermont plaintiff Diane Levine's arm developed gangrene and was amputated after her doctor used a technique known as "IV push" to give her an injection of the anti-nausea drug Phenergan. Administering Phenergan by the IV push method can increase the risk of infection. Ms. Levine sued the drug's manufacturer, Wyeth Pharmaceuticals, alleging that the drug's label did not warn physicians to use an alternate method of drug administration to prevent infection.

A jury agreed that Ms. Levine's injury would not have occurred if the drug's label included an adequate warning about the IV push delivery method and awarded her a verdict of $7.4 million. Wyeth Pharmaceuticals appealed the jury verdict, arguing that it should be protected from all lawsuits regarding the labeling of Phenergan because the label had received prior approval from the federal Food and Drug Administration.

In a 6-3 decision, the United States Supreme Court upheld the jury verdict in favor of Ms. Levine and held that a drug manufacturer bears ultimate responsibility for the content of its label, even if the label has been previously approved by the FDA.

In reviewing the legislative history of the Food, Drug and Cosmetic Act that governs drug safety and labeling requirements, the court found "powerful evidence" that Congress did not intend FDA oversight to be the exclusive method of ensuring drug safety and effectiveness.

"The FDA has limited resources to monitor the 11,000 drugs on the market, and manufacturers have superior access to information about their drugs, especially in the postmarketing phase as new risks emerge," wrote Justice John Paul Stevens. "State tort suits uncover unknown drug hazards and provide incentives for drug manufacturers to disclose safety risks promptly."

Many legal experts had feared that a ruling in Wyeth's favor would have shielded drugmakers from any responsibility for the injuries caused by their products, even in cases where these companies had deliberately withheld information about the safety risks of their products from the public.

"This ruling affirms that it is the responsibility of the manufacturer—not the FDA—to alert consumers about the possible health risks associated with its products," said Kientz. "When the drug companies fail to do this, they should be held responsible in a court of law."

About Hissey Kientz, LLP

Hissey Kientz, LLP is currently accepting cases involving individuals who may have contracted mesothelioma, asbestosis or lung cancer as a result of asbestos exposure, as well as those injured by the Ortho Evra patch, digoxin toxicity from Digitek, PPH caused by Fen-Phen, the Composix Kugel mesh hernia patch, renal failure caused by Trasylol, the Duragesic or fentanyl pain patch, FELA railroad injuries, gadolinium MRI contrast dyes or other defective drugs and devices. To learn more about the firm and other drug cases, visit Hissey Kientz, LLP (www.hkllp.com) or call toll-free at (866) 275-4454.

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