ANKIN LAW OFFICE LLC

OFFICE LOCATION
Ankin Law Office
162 W Grand Ave
Chicago, IL 60654

Tel: 312-346-8780
Fax: 312-346-8781

PRACTICE AREAS

Workers Compensation
Personal Injury
Motor Vehicle Accidents
Wrongful Death

Should the government protect drug companies from vaccine-related injury lawsuits?

3/17/2010

The United States Supreme Court will soon hear Bruesewitz v. Wyeth, No. 09-152, a case in which the parents of a child who suffered injuries after receiving her 6-month DPT vaccine are seeking to overturn the current administrative processes established for lawsuits of this type. (Hat tip: Day on Torts)

Most people are unaware of the fact that the ability to seek recovery for injuries related to vaccines is limited by the National Childhood Vaccine Injury Act. This Act sets forth an administrative process that must be followed for claims stemming from vaccine-related injuries. The intent behind the Act was to ensure a stable market supply, and to provide cost-effective arbitration for vaccine injury claims.

The rationale behind the passage of this Act boils down to balancing our societal interest in reducing the occurrences of childhood diseases against the likelihood that that there will occasionally be negative reactions to these life saving vaccines.

The issue in Brueswitz is:

Whether Section 22(b)(1) of the National Childhood Vaccine Injury Act of 1986 — which expressly preempts certain design defect claims against vaccine manufacturers "if the injury or death resulted from side effects that were unavoidable even though the vaccine was properly prepared and was accompanied by proper directions and warning" — preempts all vaccine design defect claims, regardless whether the vaccine's side effects were unavoidable.

In other words, should the Act protect companies that produce vaccines where the vaccine design defects and subsequent injuries were likely due to negligence in the preparation and storage of the

ANKIN LAW OFFICE LLC

OFFICE LOCATION
Ankin Law Office
162 W Grand Ave
Chicago, IL 60654

Tel: 312-346-8780
Fax: 312-346-8781

vaccine, as opposed to unavoidable side effects unrelated to quality control in the production of the vaccine?

Another interesting issue is whether a decision in favor of the defendant would essentially give pharmaceutical companies the green light to lower standards in vaccine production.

This is definitely a case worthy of note and one that may have negative long term ramifications should the court conclude that the Act covers all design defects, regardless of their cause.

PRACTICE AREAS

Workers Compensation
Personal Injury
Motor Vehicle Accidents
Wrongful Death