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The United States Supreme Court has struck a decisive blow for justice and for consumers. Its 6-3 opinion in *Wyeth v. Levine* yesterday resoundingly rejected Big Pharma's "federal preemption" defense in pharmaceutical "failure to warn" cases.

Relying on a last-minute modification of proposed FDA labeling rules, inserted at the urging of the Bush administration after the period for public comment had passed, Wyeth had argued that FDA approval of a drug established "both a floor and a ceiling for drug regulation." The Court soundly rejected this plea, commenting that the "most glaring problem with this argument is that all evidence of Congress' purpose is to the contrary."

Emphasizing that federal regulation and state tort suits are complementary pieces in an overall system of consumer protection, the Court reaffirmed that ". . . it has remained a central premise of federal drug regulation that the manufacturer bears responsibility for the content of its label at all times." As Andrew Cohen, the Chief Legal Analyst for CBS has commented, "[i]n the longer term . . . the threat of these sorts of lawsuits – now made more tangible and forceful by the Supreme Court – may generate more safety more quickly for more consumers than the FDA and the companies have so far been unable and unwilling to guarantee on their own." The Court's holding should result in safer products for consumers, which is why FDA was created in the first place.

JusticeSeeker Lanny Vickery was actively involved in the overall effort to present this important issue to the Supreme Court, particularly by working with a broad spectrum of parties who filed amicus briefs in support of Diana Levine. Today's decision should clear the path to justice for many of our firms clients with pharmaceutical cases.

For more reaction to the decision, see
<http://www.justice.org/cps/rde/xchg/justice/hs.xsl/7803.htm>.