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SUPREME COURT ADOPTS LEARNED INTERMEDIARY DOCTRINE FOR CLAIMS AGAINST PRESCRIPTION DRUG MANUFACTURER

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Watts v. Medicis Pharmaceutical Corp.
Arizona Supreme Court, January 21, 2016

Watts, a minor, sought medical treatment for acne and her doctor gave her a prescription for Solodyn, a drug manufactured by Medicis. Medicis' full informational materials warned that the long-term use of minocycline, an ingredient in Solodyn, had been associated with drug-induced lupus-like syndrome, autoimmune hepatitis and vasculitis, and that patients experiencing fever, rash, and other side effects should discontinue the product and seek medical help. Watts apparently did not receive this full prescribing information, but did receive two other publications about the drug that contained some warnings. Watts ultimately developed drug-induced lupus, and sued Medicis alleging consumer fraud and product liability. She claimed Medicis misrepresented and omitted facts in the information she did receive, and that the drug was defective and unreasonably dangerous.

The trial court dismissed Watts' claim pursuant to the "learned intermediary doctrine" (which the Supreme Court had not yet addressed). To establish a product liability claim, a plaintiff must prove that the manufacturer had a duty to warn of the product's dangerous propensities and that the lack of an adequate warning made the product dangerous and unreasonably defective. In certain contexts, the manufacturer fulfills the duty by providing adequate warning to a "learned intermediary," who then must pass along the warning to the end user. In the prescription drug context, since the product can only be obtained through a prescribing physician, who is in a position to understand and evaluate the risks and benefits, the manufacturer fulfills the duty to warn by providing adequate warnings to the physician; and the physician then has the duty to give the patient such information as is deemed appropriate under the circumstances so the patient can make an informed choice. Not only does the manufacturer lack the means to effectively communicate with each patient, but doing so would unduly interfere with the physician-patient relationship.

The court of appeals reinstated Watts's case against Medicis, ruling that the learned intermediary doctrine is inconsistent with the Uniform Contribution Among Tortfeasors' Act, and its underlying rationale "not persuasive now."

The Supreme Court vacated the court of appeals' decision, adopted the learned intermediary doctrine ("LID"), and held that the LID applies to prescription drug manufacturers. The court rejected the argument that the LID "creates a blanket immunity for pharmaceutical manufacturers," because the manufacturer who fails to give adequate warning to the physician can still be liable. The court also rejected the notion that the LID is incompatible with the Uniform Contribution Among Tortfeasors' Act. UCATA simply requires the apportionment of damages based on degrees of fault; and under the LID, the manufacturer that gives adequate warnings to the learned intermediary is simply not at fault. Finally, the court rejected Watts's argument that the doctrine violates the anti-abrogation clause in Arizona's constitution, because (a) the LID is a common law doctrine, not a statutory limitation and (b) the LID does not prevent a plaintiff from bringing a claim; it provides a means for the manufacturer to fulfill its duty. The court remanded for a determination of whether Medicis gave adequate warnings to the physician.

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