



Posted On: **February 22, 2011** by **Patrick A. Malone**

## Parents Lose Vaccine Case in Supreme Court

The Supreme Court says parents whose children allegedly are injured by vaccine shots cannot sue the manufacturer in court even if the special federal panel set up to compensate vaccine injury victims rejects their claim.

Robalee and Russell Bruesewitz of Pittsburgh, filed a lawsuit for their daughter, Hannah, after their claim in the federal vaccine court was rejected. They say she was a healthy infant until she received the diphtheria, tetanus and pertussis (DTP) vaccine in April 1992. The vaccine was made by Wyeth, now owned by Pfizer, Inc. Within hours of

Patrick A. Malone  
Patrick Malone & Associates, P.C.  
1331 H Street N.W.  
Suite 902  
Washington, DC 20005

[pmalone@patrickmalonelaw.com](mailto:pmalone@patrickmalonelaw.com)  
[www.patrickmalonelaw.com](http://www.patrickmalonelaw.com)  
202-742-1500  
202-742-1515 (fax)

getting the DPT shot, the third in a series of five, the baby suffered a series of debilitating seizures. Hannah continues to suffer from residual seizure disorder and has developmental problems and cannot care for herself.

Congress set up a special federal "no fault" compensation system in 1986, putting a small tax on each unit of vaccine sold. The system has paid \$1.9 billion to families since then, but the vaccine court ruled that the Bruesewitz family didn't have enough evidence that their daughter's seizures were caused by the vaccine.

That form of the DTP vaccine was later taken off the market.

Justice Antonin Scalia, writing for six justices, said Congress intended to bar all suits against manufacturers other than the non-fault cases in the federal vaccine court. Two other justices, Ruth Bader Ginsburg and Sonia Sotomayor, disagreed. Nothing in the 1986 law "remotely suggests that Congress intended such a result," Sotomayor wrote.

David Frederick, who represented the Bruesewitz family at the Supreme Court, said, "I'm disappointed for the families of victims of defectively designed vaccines, who now have no remedy at law for their injuries."

*Families interested in learning more about our firm's legal services, including legal representation for children who have suffered serious injuries in Washington, D.C., Maryland and Virginia due to medical malpractice, defective products, birth-related trauma or other injuries, may ask questions or send us information about a particular case by phone or email. There is no charge for contacting us regarding your inquiry. An attorney will respond within 24 hours.*

Patrick A. Malone  
Patrick Malone & Associates, P.C.  
1331 H Street N.W.  
Suite 902  
Washington, DC 20005

[pmalone@patrickmalonelaw.com](mailto:pmalone@patrickmalonelaw.com)  
[www.patrickmalonelaw.com](http://www.patrickmalonelaw.com)  
202-742-1500  
202-742-1515 (fax)

*All contents copyrighted 2010 **Patrick Malone & Associates** except where copyright held by others. Reproduction in any form prohibited except where expressly granted.*

Patrick A. Malone  
Patrick Malone & Associates, P.C.  
1331 H Street N.W.  
Suite 902  
Washington, DC 20005

[pmalone@patrickmalonelaw.com](mailto:pmalone@patrickmalonelaw.com)  
[www.patrickmalonelaw.com](http://www.patrickmalonelaw.com)  
202-742-1500  
202-742-1515 (fax)

Copyright 2010 Patrick Malone