



Ankin Law Office LLC

Protecting the Rights of Injured Workers

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US Supreme Court Considers Validity of Lawsuits Against Vaccine Producers



In March we [discussed](#) the pending United States Supreme Court case, *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.

Earlier this month, the Supreme Court heard oral arguments in this case about whether lawsuits could proceed against companies that produce childhood vaccines.

At issue was whether legislation passed by Congress 24 years ago shields vaccine producers from lawsuits alleging that serious injuries resulted from the administration of childhood vaccines. The law, [National Childhood Vaccine Injury Act](#), was intended to limit the ability to seek recovery for injuries related to vaccines. 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 there will occasionally be negative reactions to these life saving vaccines.

At issue in *Bruesewitz* is whether the Act protects companies that produce vaccines where the vaccine design defects and subsequent injuries were likely due to negligence in the preparation and storage of the vaccine, as opposed to unavoidable side effects unrelated to quality control in the production of the vaccine?

How the case will be decided is anyone's guess, since during oral arguments the Court seemed split, as explained in this Chicago Tribune [article](#):

Justices [Sonia Sotomayor](#) and [Ruth Bader Ginsburg](#) took the family's side, arguing that because a safer vaccine was available in the early 1990s, the drug maker could be sued for selling a more dangerous type of vaccine.

But Justices Anthony M. Kennedy and [Antonin Scalia](#) said Congress had passed the law to shield manufacturers from lawsuits. "There is a tremendous expense" to defending against lawsuits, Kennedy said. The worry was that vaccine makers would get out of the business if they were exposed to massive lawsuits, he said.

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As we explained previously, this is an important case and one that may have negative long term ramifications should the court rule in favor of vaccine producers and conclude that the Act covers all design defects, regardless of their cause.

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By [admin](#)

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