

## Gianvi Lawsuits Against The Drug Companies Still Possible After 2011 Supreme Court Preemption Ruling Re: Generic Drug Injury Lawsuits

### Reason Is That Bayer Has Been Supplying Teva And Barr With The Product For Their Gianvi Pills Since December 2010 (Agreement Is Similar To Ocella Deal)

(Posted by Tom Lamb at [www.DrugInjuryWatch.com](http://www.DrugInjuryWatch.com) on February 6, 2011; see <http://bit.ly/zWD18E> )

Gianvi, a generic version of YAZ, is marketed by Teva Pharmaceuticals and Barr Laboratories, which are commonly referred to as generic drug companies. Likewise, Ocella is a generic version of Yasmin that is sold by Teva and Barr.

Unfortunately, most women who used the Gianvi birth control pills and suffered a pulmonary embolism (PE), deep vein thrombosis (DVT), stroke (CVA), or heart attack (MI) have heard from lawyers and others that they cannot file any personal injury (or wrongful death) lawsuit against these generic drug companies because of a legal defense called "federal preemption".

In more detail, the *Pliva, Inc., et al. v. Mensing* case was decided by the Supreme Court of the United States (SCOTUS) on June 23, 2011. Justice Clarence Thomas delivered the majority opinion of the Court, concluding that federal drug regulations applicable to generic drug manufacturers directly conflict with, and thus pre-empt, state law claims (see pp. 4 to 14 and pp. 17 to 20 of the [Pliva v. Mensing opinion](#)).

The bottom line is that the US Supreme Court ruled in favor of the generic drug company and against the injured patient such that at the present time any "failure to warn" lawsuit involving a generic drug would be dismissed based on this *Mensing* case ruling.

It turns out, however, that there may still be a legal claim available for some women who experienced a serious Gianvi side effect because Bayer has been manufacturing the Gianvi birth control pills for Barr **and** Bayer may share some of the legal liability for drug injury lawsuits involving Gianvi, as seen below. This is similar to the arrangement that Bayer has with Teva and Barr with regard to Ocella, which Bayer makes for those generic drug companies, also.

The following information comes from [the Bayer Annual Report for 2010](#) (last updated: February 28, 2011):

- In June 2010, Teva announced that it had commercially launched Gianvi™, a generic version of YAZ™, in the United States. Litigation between Bayer and Teva/Barr in several U.S. federal courts on infringement of certain of Bayer's patents by the distribution of Gianvi™ was settled in December 2010. ...and Bayer has supplied Barr with the product for Gianvi™ since December 2010.
- As of February 1, 2011, there were about 6,850 lawsuits pending in the United States served upon Bayer on behalf of persons alleged to have suffered personal injuries, some of them fatal, from the use of Bayer's oral contraceptive products Yasmin™ and/or YAZ™ or from the use of Ocella™ and/or Gianvi™, generic versions of Yasmin™ and YAZ™, respectively, marketed by Barr Laboratories, Inc. in the United States.... Pursuant to agreements in 2008 and 2010, Bayer manages product liability litigation for Ocella™ and Gianvi™, Bayer retains product liability for Ocella™ product supplied by Bayer with certain exceptions, and the parties have allocated potential future product liability relating to Gianvi™ product supplied by Bayer.

This arrangement whereby Bayer is manufacturing the Gianvi for Teva can also be seen in [the Package Insert, or drug label, for Gianvi](#) (accessed 2/6/2012).

We have been investigating possible Gianvi cases for women who developed serious blood clot side effects like a PE or DVT since this generic version of YAZ first came on the market in June 2010 and we represent numerous individuals for their intended Gianvi lawsuits.

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Attorney [Tom Lamb](#) represents people in personal injury and wrongful death cases involving unsafe prescription drugs or medication errors. The above article was posted originally on his blog, **Drug Injury Watch** – with live links and readers' Comments.  
<http://www.DrugInjuryWatch.com>