

SUPREME COURT OF ALABAMA

Walls v. Alpharma USPD, Inc.

887 So. 2d 881 (Ala. 2004) · No. 1010645 · Decided March 5, 2004

SUMMARY

The Supreme Court of Alabama answered certified questions concerning whether a pharmacist has a duty to warn of risks or side effects associated with a prescription medication and whether any such duty extends to foreseeable third parties. The court held that the learned-intermediary doctrine forecloses such a duty when a pharmacist fills a physician's valid prescription, subject to instructions or warnings expressly required by the prescription or applicable law. Both certified questions were answered in the negative.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Johnstone, Justice; Houston, Justice; See, Justice; Lyons, Justice; Brown, Justice; Harwood, Justice; Woodall, Justice; Stuart, Justice
JURISDICTION	Alabama
DECIDED	March 5, 2004
DOCKET	1010645
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Alabama answered certified questions from the United States District Court for the Northern District of Alabama concerning whether Alabama law imposes a duty on pharmacists to warn about risks associated with prescription medications.
STANDARD OF REVIEW	The court answered questions of Alabama law certified by the federal district court; no conventional appellate standard of review was applied.
PRECEDENTIAL VALUE	published precedential opinion answering certified questions of Alabama law
PARTIES	Judith D. Walls, as mother and natural guardian of Brittany N. Adams v. Alpharma USPD, Inc., formerly known as Barre-National, Inc., Alpharma, Inc., Revco

TOPICS

duty of care

negligence

health law

appellate procedure

PRACTICE AREAS

torts

health law

pharmaceutical liability

appellate procedure

QUESTIONS PRESENTED

1. Whether a pharmacist who fills a prescription has a duty under the Alabama Extended Manufacturer's Liability Doctrine, common-law negligence, or other Alabama law to warn of foreseeable injuries or potential side effects from the prescribed medication.
2. If such a duty exists, whether it extends beyond the pharmacy customer to third parties, including a fetus, whose injuries are reasonably foreseeable when the prescription is filled.
3. Whether the learned-intermediary doctrine forecloses a pharmacist's duty to warn when the prescription is valid and regular on its face.

HOLDINGS

1. The learned-intermediary doctrine forecloses any duty on a pharmacist filling a physician's prescription that is valid and regular on its face to warn the physician's patient, the pharmacist's customer, or any other ultimate consumer of the risks or potential side effects of the prescribed medication, except when the prescription requires the warning or an applicable statute or regulation expressly requires it.
2. To the extent the learned-intermediary doctrine applies, foreseeability of injury does not provide a basis for imposing liability on the pharmacist.
3. To the extent the learned-intermediary doctrine applies, the duty to determine whether the medication as prescribed is dangerously defective is owed by the prescribing physician, not by the pharmacist filling the prescription.

KEY QUOTATIONS

"The learned-intermediary doctrine forecloses any duty upon a pharmacist filling a physician's prescription, valid and regular on its face, to warn the physician's patient, the pharmacist's customer, or any other ultimate consumer of the risks or potential side effects of the prescribed medication except insofar as the prescription orders, or an applicable statute or regulation expressly requires, that an instruction or warning be included on the label of the dispensed medication or be otherwise delivered." (886)

"To the extent that the learned-intermediary doctrine applies, foreseeability of injury is eliminated as a basis for liability upon the pharmacist." (886)

"To the extent that the learned-intermediary doctrine applies, the duty to determine whether the medication as prescribed is dangerously defective is owed by the prescribing physician and not by the pharmacist filling the prescription." (886)

FACTUAL BACKGROUND

In 1986, Judith Walls was pregnant when her husband was prescribed Lindane lotion for scabies by Dr. Cynthia Lucy. After Walls reported that her own treatment was ineffective, Dr. Lucy directed her to use her husband's Lindane lotion, which Walls did during pregnancy. Brittany Adams was born in January 1987 with numerous medical conditions allegedly caused by Walls's use of Lindane, and the plaintiffs sued the drug manufacturers and pharmacies for inadequate warnings and related conduct.

PROCEDURAL HISTORY

The federal district court accepted the plaintiffs' claims against the pharmacies under the Alabama Extended Manufacturer's Liability Doctrine and common-law negligence theories, after determining that the Alabama Medical Liability Act did not apply because there was no patient-healthcare-provider relationship. Judith Walls's claims were dismissed on statute-of-limitations grounds, while Brittany Adams's claims remained. The federal court certified two questions to the Alabama Supreme Court regarding a pharmacist's duty to warn the customer and foreseeable third parties.

DISPOSITION

other

CASES CITED

- Thomasson v. Diethelm, 457 So. 2d 397 (Ala. 1984)
- Toole v. Baxter Healthcare Corp., 235 F.3d 1307 (11th Cir. 2000)
- Stone v. Smith, Kline & French Laboratories, 447 So. 2d 1301 (Ala. 1984)
- Reyes v. Wyeth Laboratories, 498 F.2d 1264 (5th Cir. 1974)
- Timm v. Upjohn Co., 624 F.2d 536 (5th Cir. 1980)
- Nichols v. Central Merchandise, Inc., 16 Kan. App. 2d 65, 817 P.2d 1131 (1991)
- Cottam v. CVS Pharmacy, 436 Mass. 316, 764 N.E.2d 814 (2002)
- Moore ex rel. Moore v. Memorial Hospital of Gulfport, 825 So. 2d 658 (Miss. 2002)
- Coyle v. Richardson-Merrell, Inc., 526 Pa. 208, 584 A.2d 1383 (1991)
- Johnson v. Walgreen Co., 675 So. 2d 1036 (Fla. Dist. Ct. App. 1996)
- Walker v. Jack Eckerd Corp., 209 Ga. App. 517, 434 S.E.2d 63 (1993)
- Fakhouri v. Taylor, 248 Ill. App. 3d 328, 187 Ill. Dec. 927, 618 N.E.2d 518 (1993)
- Kinney v. Hutchinson, 449 So. 2d 696 (La. Ct. App. 1984)
- Adkins v. Mong, 168 Mich. App. 726, 425 N.W.2d 151 (1988)
- Ferguson v. Williams, 101 N.C. App. 265, 399 S.E.2d 389 (1991)
- Griffith v. Blatt, 158 Or. App. 204, 973 P.2d 385 (1999)
- Morgan v. Wal-Mart Stores, Inc., 30 S.W.3d 455 (Tex. App. 2000)
- Silves v. King, 93 Wash. App. 873, 970 P.2d 790 (1999)
- McKee v. American Home Products Corp., 113 Wash. 2d 701, 782 P.2d 1045 (1989)
- Young v. Key Pharmaceuticals, Inc., 112 Wash. 2d 216, 770 P.2d 182 (1989)

- Pysz v. Henry's Drug Store, 457 So. 2d 561 (Fla. Dist. Ct. App. 1984)
- Eldridge v. Eli Lilly & Co., 138 Ill. App. 3d 124, 92 Ill. Dec. 740, 485 N.E.2d 551 (1985)
- Ingram v. Hook's Drugs, Inc., 476 N.E.2d 881 (Ind. App. 1985)
- Stebbins v. Concord Wrigley Drugs, Inc., 164 Mich. App. 204, 416 N.W.2d 381 (1987)
- Makripodis v. Merrell-Dow Pharmaceuticals, Inc., 361 Pa. Super. 589, 523 A.2d 374 (1987)
- Ramirez v. Richardson-Merrell, Inc., 628 F. Supp. 85 (E.D. Pa. 1986)
- Wooderson v. Ortho Pharmaceutical Corp., 235 Kan. 387, 681 P.2d 1038 (1984), cert. denied, 469 U.S. 965 (1984)
- Humes v. Clinton, 246 Kan. 590, 792 P.2d 1032 (1990)