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CLIENT ALERT

Texas Supreme Court Recognizes "Learned Intermediary" Prescription Drug Defense

June 13, 2012

In a highly-anticipated opinion delivered June 8, 2012, the Texas Supreme Court has for the first time recognized the so-called "learned intermediary" doctrine as a defense to pharmaceutical product liability claims, overturning a $3.8 million dollar plaintiff's verdict in the process. Texas is the second largest state in the nation in terms of population. It was the largest state whose highest court had yet to rule on the learned intermediary doctrine in the prescription drugs context. Only 15 other state courts have yet to embrace this doctrine for prescription drugs.

Under the learned intermediary doctrine, the manufacturer of a pharmaceutical product satisfies its duty to warn the end user of its product's potential risks by providing an adequate warning to a "learned intermediary"—typically, the prescribing physician—who then assumes the duty to pass on the necessary warnings to the end user patient. The Texas Supreme Court held that this doctrine applies in the context of a physician-patient relationship and that the lower courts had erred by creating an exception to that doctrine based on direct-to-consumer (DTC) advertising. The drug at issue was Remicade, a treatment for Crohn's Disease, manufactured by Centocor, Inc., a subsidiary of Johnson & Johnson.

"[A] prescription drug manufacturer fulfills its duty to warn its product's end users by providing an adequate warning to the prescribing physician," the Texas Supreme Court held. Since in this case, all of plaintiffs' claims were premised on their theory that Centocor failed to adequately warn the end user patient and her prescribing physicians of the risks, the Court ruled that plaintiffs "failed to meet their burden of proof on the causation element of their claims, as a matter of law, their claims fail."

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Keith J. Harrison
Partner – Washington, D.C.
Phone: +1.202.624.2560
Email: kharrison@crowell.com