



CAPTION

Patsy Lance, Administratrix for the Estate of Catherine Ruth Lance, Deceased, Appellee

v.

Wyeth, formerly known as American Home Products Corporation, Appellant

CASE INFORMATION

Initiating Document: Order Granting Petition for Allowance of Appeal

Case Status: Decided/Active

Journal Number: J-69A-2011 September 13, 2011

Case Category: Civil Case Type(s): Tort

CONSOLIDATED CASES

RELATED CASES

| Docket No / Reason | Type |
|----------------------------|--------------|
| 18 EAP 2011 Court Order | Consolidated |

COUNSEL INFORMATION

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Pro Se: No

IFP Status:

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Pro Se: No

IFP Status:

Attorney: Leone, Judy L.
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Representing: Wyeth, Appellant

Pro Se: No

IFP Status:



COUNSEL INFORMATION

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 Pro Se: No
 IFP Status:

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 Representing: THE PRODUCT LIABILITY ADVISORY COUNCIL, INC., Appellant Amicus Curiae
 Pro Se: No
 IFP Status:

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 Representing: THE PRODUCT LIABILITY ADVISORY COUNCIL, INC., Appellant Amicus Curiae
 Pro Se: No
 IFP Status:

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 Representing: THE PRODUCT LIABILITY ADVISORY COUNCIL, INC., Appellant Amicus Curiae
 Pro Se: No
 IFP Status:

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 Pro Se: No
 IFP Status:



COUNSEL INFORMATION

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Representing: Lance, Patsy, Appellee
Pro Se: No
IFP Status:

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Portland, OR 97225--6681
Phone No: (503) 295-2924
Representing: Lance, Patsy, Appellee
Pro Se: No
IFP Status:

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Rieders, Travis, Humphrey, Harris, Waters & Waffenschmidt
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Phone No: (570) 323-8711
Representing: American Association for Justice and Pennsylvania Association for Justice , Appellee Amicus
Curiae
Pro Se: No
IFP Status:



SUPREME COURT INFORMATION

Appeal From: the Judgment of Superior Court entered on 08/02/2010 at No 2905 EDA 2008, (reargument denied on 10/01/2010) affirming in part, reversing in part, and remanding in part the Judgment entered on 09/19/2008 in the Court of Common Pleas, Philadelphia County, Civil Division at No. 0926, November Term 2006.

Probable Jurisdiction

Noted:

Docketed Date: March 15, 2011

Allocatur Granted: March 15, 2011

Allocatur Docket No: 600 EAL 2010

Allocatur Grant Order: AND NOW, this 15th day of March 2011, these Cross Petitions for Allowance of Appeal are GRANTED and CONSOLIDATED. For purposes of briefing and argument, petitioner in No. 600 EAL 2010, Wyeth, shall be listed as appellant, and petitioner in No. 610 EAL 2010, Patsy Lance, shall be listed as cross-appellant.

The issues in No. 600 EAL 2010, as stated by petitioner/appellant Wyeth are:

- (1) Whether the Superior Court erred in creating a new claim for negligent design defect of a prescription drug, despite Plaintiff-Respondent Patsy Lance's repeated waiver of that claim?
- (2) Whether the Superior Court's creation of a new cause of action for negligent design defect conflicts with this Court's settled precedent limiting product liability claims against manufacturers and sellers of prescription drugs?
- (3) Whether the Superior Court's creation of a new cause of action for negligent design defect should properly be argued before this Court because it may affect hundreds or thousands of cases and ignores that: (a) plaintiffs in design defect cases must plead and prove a feasible alternative design; and (b) there should be deference to regulatory authorities?

The issues in No. 610 EAL 2010, as stated by petitioner/cross-appellant Lance are:

- (1) Did the Superior Court err in holding, in an acknowledged conflict with the U.S. Court of Appeals for the Third Circuit's prediction of Pennsylvania law, that Pennsylvania law would not recognize a claim against a prescription drug manufacturer for negligent failure to test to discover a prescription drug's actual harmful side-effects?
- (2) Did the Superior Court err in holding that Pennsylvania law would not recognize claims against a manufacturer of a prescription drug, which the federal Food and Drug Administration ultimately ordered withdrawn from the market as too dangerous for any potential users, for negligently marketing that drug and for negligently failing to withdraw that drug from the market?

FEE INFORMATION

| Fee Dt | Fee Name | Fee Amt | Receipt Dt | Receipt No | Receipt Amt |
|--------|----------|---------|------------|------------|-------------|
|--------|----------|---------|------------|------------|-------------|

INTERMEDIATE APPELLATE COURT INFORMATION

| | | | |
|--------------------------------------|---|--------------------------|-----------------|
| Court Name: | Superior | Docket Number: | 2905 EDA 2008 |
| Date of Order: | August 2, 2010 | Rearg/Recon Disp Date: | October 1, 2010 |
| | | Rearg/Recon Disposition: | Denied |
| Judge(s): | Stevens, Correale F. Gantman, Susan Peikes Allen, Cheryl Lynn | | |
| Intermediate Appellate Court Action: | Affirmed/Reversed/Remanded | | |
| Referring Court: | | | |

Supreme Court of Pennsylvania



Appeal Docket Sheet

Docket Number: 17 EAP 2011

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January 21, 2014

AGENCY/TRIAL COURT INFORMATION

Court Below: Philadelphia County Court of Common Pleas
 County: Philadelphia Division: Philadelphia County Civil Division
 Date of Agency/Trial Court Order: September 19, 2008
 Order Type: Judgment
 OTN(s):
 Lower Ct Docket No(s): November Term, 2006 - No. 000926
 Lower Ct Judge(s): Tereshko, Allan L.
 Judge

ORIGINAL RECORD CONTENT

| Original Record Item | Filed Date | Content/Description |
|-----------------------|----------------|---------------------|
| 1 part & 1 env of exh | March 16, 2011 | |

Record Remittal:

BRIEFING SCHEDULE

| | | | |
|---|------------------------|--|---------------------|
| Appellant | | Appellee | |
| Wyeth | | Lance, Patsy | |
| Brief | | Brief | |
| Due: May 2, 2011 | Filed: May 2, 2011 | Due: July 6, 2011 | Filed: July 6, 2011 |
| Reply Brief | | Appellee Amicus Curiae | |
| Due: August 18, 2011 | Filed: August 18, 2011 | American Association for Justice and Pennsylvania Association for Justice | |
| Reproduced Record | | Brief | |
| Due: May 2, 2011 | Filed: May 2, 2011 | Due: July 6, 2011 | Filed: July 6, 2011 |
| Appellant Amicus Curiae | | | |
| THE PRODUCT LIABILITY ADVISORY COUNCIL, INC. | | | |
| Brief | | | |
| Due: May 2, 2011 | Filed: May 2, 2011 | | |

SESSION INFORMATION

Journal Number: J-69A-2011
 Listed/Submitted Date: September 13, 2011
 Consideration Type: Oral Argument Supreme Ct.

DISPOSITION INFORMATION

| | | | |
|-----------------------|-------------------------|---------------------|-------------------|
| Related Journal No: | J-69A-2011 | Judgment Date: | January 21, 2014 |
| Category: | Decided | Disposition Author: | Saylor, Thomas G. |
| Disposition: | Affirmed/Reversed | Disposition Date: | January 21, 2014 |
| Dispositional Filing: | Majority Opinion | Author: | Saylor, Thomas G. |
| Filed Date: | January 21, 2014 | | |



DISPOSITION INFORMATION

| | | | |
|-----------------------|---------------------------|---------|---|
| Justice: | Baer, Max | Vote: | Join Majority Opinion |
| Justice: | Todd, Debra | Vote: | Join Majority Opinion |
| Justice: | McCaffery, Seamus P. | Vote: | Join Majority Opinion |
| Justice: | Orie Melvin, Joan | Vote: | Did Not Participate in the Decision of the Case |
| Dispositional Filing: | Dissenting Opinion | Author: | Eakin, J. Michael |
| Filed Date: | January 21, 2014 | | |
| Justice: | Castille, Ronald D. | Vote: | Join Dissenting Opinion |

DOCKET ENTRY

| Filed Date | Docket Entry / Representing | Participant Type | Filed By |
|-----------------------|-----------------------------|------------------|------------|
| March 15, 2011 | Allocatur Granted | | Per Curiam |

Comments:

AND NOW, this 15th day of March 2011, these Cross Petitions for Allowance of Appeal are GRANTED and CONSOLIDATED. For purposes of briefing and argument, petitioner in No. 600 EAL 2010, Wyeth, shall be listed as appellant, and petitioner in No. 610 EAL 2010, Patsy Lance, shall be listed as cross-appellant.

The issues in No. 600 EAL 2010, as stated by petitioner/appellant Wyeth are:

- (1) Whether the Superior Court erred in creating a new claim for negligent design defect of a prescription drug, despite Plaintiff-Respondent Patsy Lance's repeated waiver of that claim?
- (2) Whether the Superior Court's creation of a new cause of action for negligent design defect conflicts with this Court's settled precedent limiting product liability claims against manufacturers and sellers of prescription drugs?
- (3) Whether the Superior Court's creation of a new cause of action for negligent design defect should properly be argued before this Court because it may affect hundreds or thousands of cases and ignores that: (a) plaintiffs in design defect cases must plead and prove a feasible alternative design; and (b) there should be deference to regulatory authorities?

The issues in No. 610 EAL 2010, as stated by petitioner/cross-appellant Lance are:

- (1) Did the Superior Court err in holding, in an acknowledged conflict with the U.S. Court of Appeals for the Third Circuit's prediction of Pennsylvania law, that Pennsylvania law would not recognize a claim against a prescription drug manufacturer for negligent failure to test to discover a prescription drug's actual harmful side-effects?
- (2) Did the Superior Court err in holding that Pennsylvania law would not recognize claims against a manufacturer of a prescription drug, which the federal Food and Drug Administration ultimately ordered withdrawn from the market as too dangerous for any potential users, for negligently marketing that drug and for negligently failing to withdraw that drug from the market?

| | | | |
|-----------------------|-------------------------------------|-----------|--------------------------------|
| March 16, 2011 | Superior Ct. Record Received | | Superior Court of Pennsylvania |
| May 2, 2011 | Appellant's Brief | Appellant | Wyeth |



DOCKET ENTRY

| Filed Date | Docket Entry / Representing | Participant Type | Filed By |
|--|--|-------------------------|---|
| May 2, 2011 | Reproduced Record Filed | Appellant | Wyeth |
| May 2, 2011 | Appellant Amicus Curiae Brief | Appellant Amicus Curiae | THE PRODUCT LIABILITY ADVISORY COUNCIL, INC. |
| May 20, 2011 | Application for Extension of Time to File Brief - First Request | Appellee | Lance, Patsy |
| Comments: (UNOPPOSED - for 30 days - until 07/06/2011) | | | |
| May 25, 2011 | Order Granting Application for Extension of Time to File Appellee Brief | | Person, John W., Jr. |
| Comments: AND NOW, this 25th day of May, 2011, Uncontested Motion for 30-Day Extension of the Due Date for Appellee/Cross-Appellant is GRANTED. Appellee/Cross-Appellant's Brief is due on or before 07/06/2011. | | | |
| May 25, 2011 | Order Exited | | Office of the Prothonotary |
| July 6, 2011 | Appellee Amicus Curiae Brief | Appellee Amicus Curiae | American Association for Justice and Pennsylvania Association for Justice |
| July 6, 2011 | Appellee's Brief | Appellee | Lance, Patsy |
| July 19, 2011 | Application for Extension of Time to File Brief - First Request | Appellant | Wyeth |
| Comments: (For 30 days - until 09/08/2011) | | | |
| July 27, 2011 | Order Regarding Application for Extension of Time to File Brief | | Person, John W., Jr. |
| Comments: AND NOW, this 27th day of July, 2011, Unopposed Application for Extension of Time to File Reply Brief for Appellant/Brief for Cross-Appellee is GRANTED in part. The Brief for Appellant/Cross-Appellee is due on or before 08/18/2011. | | | |
| July 27, 2011 | Order Exited | | Office of the Prothonotary |
| August 1, 2011 | Acknowledgement of Argument Notice Lance, Patsy | Appellee | Bashman, Howard Jonathan |
| August 4, 2011 | Acknowledgement of Argument Notice THE PRODUCT LIABILITY ADVISORY COUNCIL, INC. | Appellant Amicus Curiae | Varner, Chilton D. |



DOCKET ENTRY

| Filed Date | Docket Entry / Representing | Participant Type | Filed By |
|---------------------------|--|------------------------|-------------------------------|
| August 5, 2011 | Acknowledgement of Argument Notice American Association for Justice and Pennsylvania Association for Justice | Appellee Amicus Curiae | Rieders, Clifford Alan |
| August 10, 2011 | Acknowledgement of Argument Notice Wyeth | Appellant | Williams, Raymond Michael |
| August 11, 2011 | Acknowledgement of Argument Notice Lance, Patsy | Appellee | Millrood, Tobias Lael |
| August 15, 2011 | Acknowledgement of Argument Notice Wyeth | Appellant | Leone, Judy L. |
| August 18, 2011 | Appellant's Reply Brief | Appellant | Wyeth |
| August 25, 2011 | Acknowledgement of Argument Notice Lance, Patsy | Appellee | Williams, Michael L. |
| September 13, 2011 | Argued | | Supreme Court of Pennsylvania |
| July 9, 2013 | Rule 2501(a) Application for Leave to Submit Supplemental Authority | Appellant | Wyeth |
| July 26, 2013 | Answer in Opposition to Application for Leave to Submit Supplemental Authority | Appellee | Lance, Patsy |
| January 21, 2014 | Order Exited | | Office of the Prothonotary |
| January 21, 2014 | Affirmed/Reversed | | Saylor, Thomas G. |

Comments:

The order of the Superior Court is affirmed in part and reversed in part, per the terms of this opinion.

Former Justice Orié Melvin did not participate in the decision of the case.

Mr. Justice Baer, Madame Justice Todd, and Mr. Justice McCaffery join the opinion.

Mr. Justice Eakin files a dissenting opinion in which Mr. Chief Justice Castille joins.

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|-------------------------|-------------------------|----------------------------|
| January 21, 2014 | Judgment Entered | Office of the Prothonotary |
|-------------------------|-------------------------|----------------------------|

CROSS COURT ACTIONS

| | |
|----------------|---------------|
| Docket Number: | 18 EAP 2011 |
| Docket Number: | 202 ET 2010 |
| Docket Number: | 2905 EDA 2008 |
| Docket Number: | 600 EAL 2010 |
| Docket Number: | 610 EAL 2010 |