

## Supreme Court Holds That Prior FDA Approval of a Drug Warning Label Does Not Pre-Empt Plaintiff's State Tort Action

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On March 4, 2009, the Supreme Court, in a 6-3 decision, issued its Opinion in *Wyeth v. Levine*, holding that prior approval by the FDA of the warning label for Wyeth's anti-nausea drug, Phenargan, did not preclude a plaintiff's state tort action against Wyeth for failure-to-warn or strict liability.