

Gretchen Harris Sperry Discusses Illinois Supreme Court Case Regarding Liability Over Drug Manufacturers’ Warning Labels

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In a *Law360* article reporting on “Illinois Cases To Watch In 2023,” Hinshaw partner Gretchen Harris Sperry discussed a case in which the Illinois Supreme Court must decide whether a woman suing a drug manufacturer over allegedly insufficient warning labels can take her claims to trial. The ruling could weaken drug makers’ ability to rely on the learned intermediary doctrine to insulate themselves from liability based on doctors’ prescribing decisions in product liability failure-to-warn cases.

Sperry explained that an intermediate Illinois panel reversed the drug maker’s summary judgment win, finding that the court should have applied an objective standard to determine whether a reasonable doctor in that situation would have made the same prescribing decision, rather than a subjective standard focused on whether the defendant doctor would have made the same decision with a different warning based on this patient’s condition. “From a procedural perspective, it basically turned the analysis on its head” and conflates the standard for analyzing medical malpractice claims with product liability claims, Sperry said. “It puts pharmaceutical manufacturers in an extraordinarily difficult position to write drug labels and not be able to rely on the doctors to interpret them.”

Sperry described the intermediate panel’s decision as “a real departure” from the analysis typically applied to patients’ failure-to-warn claims against drug makers, upending decades of case law on the subject, and noted that the state high court would send a shockwave through the legal system if it backed the panel.

[Read the full article](#) (subscription required)

“Illinois Cases To Watch In 2023” was published by *Law360* on January 2, 2023

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