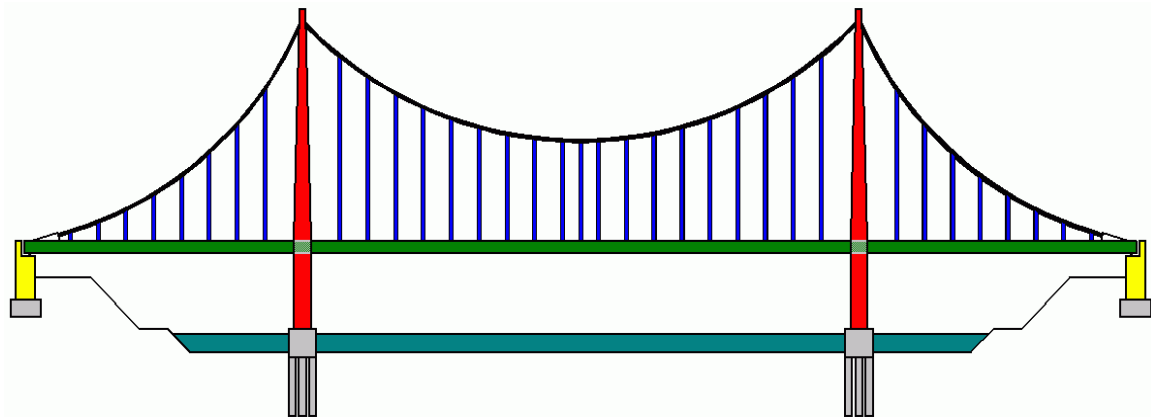




The 22nd Annual

BRIDGE THE GAP



Legal Research Program

Presented by the New Jersey Law Librarians Association

<http://njlla.org>

Saturday, March 29, 2014

Rutgers Center for Law and Justice - Newark

Outreach Education Committee

Andrea Battel, Chairperson

**Kathleen Agno
Karen Brunner
Marjorie Crawford**

**Jay Greenstone
Gayle Lynn-Nelson
Dianne Oster**

**Anne Shulman
Kathy Taggart
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PROGRAM SCHEDULE AND FACULTY - 2014

REGISTRATION 9:00 AM - 9:30 AM

INTRODUCTION/ROLE PLAY 9:30 AM - 9:45 AM

Gayle Lynne-Nelson Senior Librarian Relations Consultant LexisNexis	Kathy Taggart Senior Research Services Librarian Lowenstein Sandler LLP	Jay Greenstone. Senior Research Librarian McCarter & English, LLP
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FEDERAL & STATE CASE LAW 9:45 AM - 10:15 AM

Kathleen Agno
Senior Research Librarian.
Greenberg Traurig, LLP

FEDERAL & STATE STATUTES 10:15 AM - 10:45 AM

Caroline Young
Head of User Services
Rutgers Law Library

BREAK 10:45 AM - 11:00 AM

ADMINISTRATIVE RESOURCES 11:00 AM - 11:30 AM

Dianne Oster
Associate Professor/Serials/Government Documents Librarian/Rodino Archivist
Seton Hall Law Library

SECONDARY SOURCES 11:30 AM - 12:10 PM

Andrea Battel Branch Librarian U.S. Court of Appeals Library 3d Circuit	Kathy Taggart Senior Research Services Librarian Lowenstein Sandler LLP
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USING GOOGLE FOR LEGAL RESEARCH 12:10 PM - 12:30 PM

Kathy Taggart
Senior Research Services Librarian
Lowenstein Sandler LLP

SURVIVAL TIPS 12:30 PM - 1:00 PM

Robert J. Menendez, Esq.
Associate
Lowenstein Sandler LLP

BIOGRAPHIES

Kathleen Agno is a Senior Research Librarian at Greenberg Traurig, LLP in Florham Park, NJ. Kathy has a J.D. from Seton Hall University School of Law and an M.L.I.S. from Rutgers University School of Communication, Information and Library Studies.

Andrea Battel has served as the Branch Librarian at the U.S. Court of Appeals Branch Library in Newark for over 20 years. She is an active member of the American Association of Law Libraries (AALL) and NJLLA. She has been a member of NJLLA's Outreach Education committee for over 15 years, participating in its Basic Legal Reference program and its Bridge the Gap workshops. Andrea has an M.L.S. degree from Rutgers University School of Communication, Information, and Library Studies and an M.A. degree from Fordham University.

Karen B. Brunner is Director of Library Services for Riker Danzig Scherer Hyland Perretti LLP in Morristown. In addition to administrative and reference duties, much of her time is devoted to teaching legal research, organizing CLE seminars and participating on firm committees including managers, technology and library. Karen is an active member of AALL, and chaired the Annual Meeting Program Committee for the 2005 conference in San Antonio. She was the first president of NJLLA and participates on many committees. Karen teaches the course, Information Resources in Law, for Rutgers University School of Communication and Information, where she received her M.L.S. degree.

Marjorie E. Crawford is Head of the Technical and Automated Services Department of Rutgers Law Library – Newark. Marjorie received her M.L.I.S. from Rutgers University School of Communication and Information.

Jay Greenstone is a reference librarian with the law firm of McCarter & English in Newark, NJ. Jay received his M.L.S. from Rutgers University. He received a B.A. degree from Drew University while majoring in history. Jay has over 20 years of experience as a private law firm reference librarian.

Gayle Lynn-Nelson is a Senior Librarian Relations Consultant for the LexisNexis Librarian Relations Group where she serves librarians in New York, New Jersey and Philadelphia. Gayle received her J.D. from Western State University College of Law and her M.L.S. from Rutgers University School of Library and Information Studies. Gayle has over 20 years of professional experience in law firm and court libraries.

Robert J. Menendez, Esq. is an associate in the Corporate Department of Lowenstein Sandler in Roseland. He focuses on a variety of corporate transactions including investment fund formation and public and private merger and acquisition transactions, as well as securities law matters. While in law school, he served as a judicial intern to The Honorable William J. Martini of the U.S. District Court for the District of New Jersey.

Dianne Oster is an Associate Professor and Serials/Government Documents Librarian and the Archivist of the Peter J. Rodino collection at Seton Hall University School of Law. She earned her M.L.S. from Rutgers, The State University, her M.A. from Seton Hal University and a B.A. from Montclair State University.

Anne Shulman is the research librarian at the Morristown law firm, Riker Danzig Scherer Hyland Perretti LLP. Anne obtained her undergraduate degree from Brandeis University, her law degree from Boston College, and her M.L.S. from Rutgers University School of Communication, Information and Library Studies. She has worked as a librarian since 1998 and is an active member of NJLLA.

Kathy Taggart is the Senior Research Services Librarian at Lowenstein Sandler in Roseland. She is actively involved in the New Jersey Law Librarians Association, currently serving as Past President. She has participated in NJLLA's Bridge the Gap and Basic Legal Reference programs, and has spoken on the topics of legal web sites and legal research at NJLA, NJ ICLE, NBI and the Garden State Paralegal Convention. Kathy has a B.A. from Franklin & Marshall College and has taken a number of courses towards an M.L.S. from Rutgers University.

Caroline Young is the Head of User Services at Rutgers Law Library – Newark. She received her J.D. from the Benjamin N. Cardozo School of Law and her M.L.I.S. from Pratt Institute. Caroline teaches Advanced Legal Research and New York Legal Research at Rutgers Law School – Newark. She provides reference services and research instruction, as well as overseeing the library's catalog software and related technologies. Before coming to Rutgers, Caroline worked at a legal research company and was a reference librarian at the New York University School of Medicine.

FACT PATTERN

Mrs. Jane Doe, a 43-year-old New Jersey resident, sustained a fracture in the C5-C6 region of her spinal column. Accordingly, she underwent spinal fusion surgery. During the course of the surgery, the orthopedic surgeon utilized orthopedic bone screws in the pedicles of the spine to secure the fusion.

Orthopedic bone screws, while approved by the FDA for certain uses, are not approved for use in the pedicles of the spine. Following the surgery, the bone screw broke, leaving Mrs. Doe paralyzed.

Mrs. Doe filed suit against our client, Bone Screw, Inc., in New Jersey state court. The case was moved to federal court. Among other things, Mrs. Doe is claiming:

1. Negligence in the use of the screw in the spine
2. Mislabeling of the medical device
3. Fraud on the FDA

Research the claims set forth above. Search both state and federal sources to determine if Mrs. Doe's state claims are preempted by the relevant federal law.

HOW TO FLESH OUT AN ASSIGNMENT:

JUST ASK

J JURISDICTION

What Materials Should You Look At:
Federal or State?
Court or Administrative Decisions?
Legislative or Regulatory Sources?
Or a combination?

U USEFUL TIPS

Are You Reinventing the Wheel? Ask If There Are:
Internal Briefs or Memos Written Already?
An Expert in the Firm?
Any Recent Articles Seen?

S SCOPE OF RESEARCH

How Deep Should You Delve?
Scour the Universe?
Scratch the Surface?

T TERMS OF ART

What Are The Buzz Words?
The Catch Phrases?
What Do They Mean?

A ACRONYMS

M.D.A.?? F.D.A.?? P.L.A.??
W.H.A.T. D.O. T.H.E.Y. M.E.A.N.??

S SOURCES

What Is The "Bible" For Your Topic?
What Is The "Definitive Work?"

K KEY COST CONSTRAINTS

How Much Can You Bill the Client?
Your Time - Hours Add Up \$\$\$
Lexis/Westlaw Costs \$\$\$
Document Retrieval Services \$\$\$
FedEx \$\$\$ Faxes \$\$\$ Messengers \$\$\$



CASE LAW RESEARCH

Sample research issue

- *What happens to an engagement ring when a couple decides to call off their engagement?*

Google

Search Images Maps Play YouTube News Gmail Drive More ▾

Google "new jersey" broken engagement ring

Web Shopping News Images Videos More ▾ Search tools

About 2,510,000 results (0.36 seconds)

What Happens to the Engagement Ring in a Broken ... - Fa...
family.findlaw.com/marriage/what-happens-to-the-engagement-ring-in-a-...
A broken engagement can be a very painful and confusing experience. ... Though the receiver may be able to prove that the engagement ring was a gift, the ring ... Iowa, Kansas, New Jersey, New Mexico, New York, and Wisconsin have all ...

Engagement Ring Laws - Marriage - About.com
marriage.about.com > ... > Second Thoughts ▾
by Sheri Stritof - in 569 Google+ circles
Some states have engagement ring laws that weigh in on this matter. ... of who broke the engagement, the legal system has differing opinions on this issue. Possible ... Minnesota; New Jersey; New Mexico; New York; Pennsylvania; Wisconsin.

When An Engagement Is Broken, Who Is Entitled To The Ri...
www.newjerseyfamilylawblog.com > Marriage ▾
by Victor Rotolo
Apr 30, 2013 - But what happens to that ring if the engagement is broken? ... most states, including New Jersey, classify engagement rings as conditional gifts ...

South Jersey Divorce Attorney - Who Keeps the Engagemen...
www.sjfamilylawyers.com/2012/02/who-keeps-engagement-ring-in-nj/ ▾
by Robert Adinolfi
Feb 13, 2012 - Valentine Marriage Proposals in New Jersey – That Diamond May Not ... If the engagement is broken, the condition will not be met and the ring ...

The Wedding is Off! Who Gets the Engagement Ring? | The...
www.lombardolawoffices.com/.../the-wedding-is-off-who-gets-t-... ▾
by Joseph Lombardo
Mar 26, 2013 - Our New Jersey divorce lawyers explain who gets the engagement ring ... leads to a broken engagement, the wronged party may be quick to ...

Describes ring as a *conditional gift*.

Cites to a case: Aronow v. Silver, 223 N.J. Super. 344 (Ch. Div. 1987)

Digest System

- **Reporters:**
 - Outline of the law
 - Divides the law into over 400 topics
 - Arranged by jurisdiction
 - Federal
 - State
 - Regional
- **Headnotes:** cases are read by editors and they write brief paragraphs which summarize the legal issues and points of law in the case.
- **Key numbers:**
 - Broad topic
 - Subtopic

Parts of a case

- Synopsis: summary of the case (searchable)

- Headnotes (searchable)

Aronow v. Silver, 223 N.J.Super. 344 (1987)
538 A.2d 851

KeyCite Yellow Flag - Negative Treatment
Declined to Follow by Cooper v. Smith, Ohio App. 4 Dist., November 7, 2003

223 N.J.Super. 344
Superior Court of New Jersey, Chancery Division,
Burlington County.

Philip ARONOW, Plaintiff,
v.
Elizabeth SILVER, Defendant.
Robert SILVER and Cybil Silver, his wife,
Third-Party Plaintiffs and Intervenor,
v.
Philip ARONOW, Defendant.

Decided Nov. 17, 1987.

SYNOPSIS

After breakup of engagement, former fiancé brought suit to recover engagement ring, proceeds from stock, and title in condominium. The Superior Court, Burlington County, Chancery Division, Haines, A.J.S.C., held that: (1) engagement ring must be returned to former fiancé, regardless of fault; (2) former fiancé was entitled to sole title in condominium upon discharge of former fiancée's liability on mortgage; (3) stocks and proceeds from stocks held jointly in anticipation of marriage were to be returned to original donors; and (4) former fiancé was not liable to parents of former fiancée for monies expended in preparation of marriage.

So ordered.

West Headnotes (6)

[1] **Gifts**
Qualified or Conditional Gifts
191 Gifts
191I Inter Vivos
191k34 Qualified or Conditional Gifts
Upon termination of engagement to marry, donor was entitled to return of engagement ring, regardless of who caused the breakup;

gift of ring was conditioned upon marriage and upon nonfulfillment of condition, ring must be returned to donor.

15 Cases that cite this headnote

[2] **Breach of Marriage Promise**
Nature, Form, and Right of Action

61 Breach of Marriage Promise
61k14 Nature, Form, and Right of Action
Former fiancé's suit for return of engagement ring and other gifts in anticipation of marriage was not barred by statute abolishing right of action for breach of contract to marry; suit was to recover conditional gifts, not damages. N.J.S.A. 2A:23-1 et seq.

13 Cases that cite this headnote

[3] **Gifts**
Qualified or Conditional Gifts

191 Gifts
191I Inter Vivos
191k34 Qualified or Conditional Gifts
Former fiancé was entitled to sole title in condominium, in which couple had planned to live following marriage, after engagement had been broken, where credible evidence demonstrated all payments toward condominium were made by him, provided former fiancée was removed from liability on condominium's mortgage; fiancée's ownership as tenant in common was a conditional gift.

8 Cases that cite this headnote

[4] **Gifts**
Qualified or Conditional Gifts

191 Gifts
191I Inter Vivos
191k34 Qualified or Conditional Gifts
Former fiancé was entitled to proceeds of stock purchased by him in anticipation of marriage, which was mistakenly put in fiancée's name only, instead of joint ownership, and sold by her after engagement was broken.

3 Cases that cite this headnote



Finding Cases: The Digest Approach

- Method 1: Descriptive Word Search
 - What are your terms?
 - Are there related terms?
- Method 2: Table of Contents
- Method 3: Known Key Number Search
 - Gifts K34

Method 1: Descriptive Word Index

Nothing under

- Engagement ring
- Marriage
- Ring

WEST'S
NEW JERSEY
DIGEST 2d

Volume 25
DESCRIPTIVE - WORD INDEX
DR — G



Mat # 40035034



25 N J D 2d-543

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For references to other topics, see Descriptive-Word Index

⇒30(3). Delivery of certificate or bank book.

N.J.Super.A.D. 1954. Delivery of a chose in action without assignment is regarded as valid, as respects gift, where there is, for instance, in the case of a bank account, the delivery of a pass book.

Poster v. Reiss, 107 A.2d 24, 31 N.J.Super. 496, certification granted 108 A.2d 211, 16 N.J. 221, reversed 112 A.2d 553, 18 N.J. 41, 48 A.L.R.2d 1391.

⇒30(4). Deposit in names of donor and donee.

N.J.Super.A.D. 2002. The creation of a joint account, with a right of survivorship, in a bank or other financial institution does not, by itself, constitute an inter vivos gift by the party depositing assets into the account to the other named party.

Lebitz-Freeman v. Lebitz, 803 A.2d 156, 353 N.J.Super. 432, certification granted 812 A.2d 1110, 175 N.J. 78, appeal dismissed 845 A.2d 105, 179 N.J. 262.

⇒30(5)—32. For other cases see earlier editions of this digest, the Decennial Digests, and WESTLAW.

Library references

C.J.S. Gifts.

⇒32. Gifts of donor's note or check.

⇒32(1). In general.

N.J.Super.A.D. 1976. A check or promissory note drawn or executed by a purported donor may not be subject of a gift.

Scherer v. Hyland, 380 A.2d 704, 153 N.J.Super. 521, affirmed 380 A.2d 698, 75 N.J. 127.

⇒32(2)—33(1). For other cases see earlier editions of this digest, the Decennial Digests, and WESTLAW.

Library references

C.J.S. Gifts.

⇒33. Forgiveness of debt of donee.

⇒33(2). Gift as affected by delivery of obligation to donee.

N.J.Super.Ch. 1955. Even if instrument, which defendant asserted to be evi-

† This Case was not selected for publication in the National Reporter System. For legislative history of cited statutes, see New Jersey Statutes Annotated

GIFTS ⇒34

dence of renunciation by deceased of any claim against defendant for money given defendant, represented an attempted gift, it would fail as an inter vivos gift or a gift causa mortis, in view of fact that the instrument evidencing the obligation remained in deceased's custody in her safe deposit box.

Guerin v. Cassidy, 119 A.2d 780, 38 N.J.Super. 454.

⇒34. Qualified or conditional gifts.

Library references

C.J.S. Gifts §§ 37—40, 64.

N.J.Super.A.D. 1990. Engagement ring is "conditional gift"; condition is marriage and ring is returnable only if engagement is broken.

Winer v. Winer, 575 A.2d 518, 241 N.J.Super. 510.

Engagement ring was not marital property subject to equitable distribution; ring had been conditional gift before marriage and, upon marriage, ring unconditionally became former wife's property and it retained its character as separate property not subject to equitable distribution. **N.J.S.A. 2A:34—23.1.**

Winer v. Winer, 575 A.2d 518, 241 N.J.Super. 510.

N.J.Super.L. 1989. Woman was entitled to receive 12.5 percent of appraised value of her former fiancé's property, less 12.5 percent of principal reductions on mortgage and less cost of capital improvements, where woman contributed 12.5 percent of purchase price of property while she was engaged to her fiancé, the engagement was broken off sometime after closing and it was intention of parties to take title to property as tenants in common and share ownership in proportion to financial contributions; intention that woman would have equal ownership upon marriage represented a gift by fiancé conditioned upon marriage. **N.J.S.A. 46:3—17.**

Asante v. Abban, 568 A.2d 146, 237 N.J.Super. 495.

N.J.Super.Ch. 1987. Upon termination of engagement to marry, donor was entitled to return of engagement ring, regardless of who caused the breakup; gift of ring was conditioned upon marriage

† This Case was not selected for publication in the National Reporter System. For legislative history of cited statutes, see New Jersey Statutes Annotated

⇒34 GIFTS

For later cases, see same Topic and Key Number in Pocket Part

and upon nonfulfillment of condition, ring must be returned to donor.

Aronow v. Silver, 538 A.2d 851, 223 N.J.Super. 344.

Former fiancé was entitled to sole title in condominium, in which couple had planned to live following marriage, after engagement had been broken, where credible evidence demonstrated all payments toward condominium were made by him, provided former fiancée was removed from liability on condominium's mortgage; fiancée's ownership as tenant in common was a conditional gift.

Aronow v. Silver, 538 A.2d 851, 223 N.J.Super. 344.

Former fiancé was entitled to proceeds of stock purchased by him in anticipation of marriage, which was mistakenly put in fiancée's name only, instead of joint ownership, and sold by her after engagement was broken.

Aronow v. Silver, 538 A.2d 851, 223 N.J.Super. 344.

Former fiancée was entitled to sole ownership of stock which was initially owned by her, but transferred to joint ownership with her fiancé, in anticipation of marriage, after engagement was broken.

Aronow v. Silver, 538 A.2d 851, 223 N.J.Super. 344.

N.J.Super.Ch. 1964. Ring given as gift inter vivos to defendant need not be returned by her after annulment of marriage.

Gerard v. Distefano, 202 A.2d 220, 84 N.J.Super. 396.

⇒35. Validity.

Library references

C.J.S. Gifts §§ 13, 31.

⇒36. — In general.

N.J.Super.A.D. 1996. Validity of mortgage given as gift should be determined based on existence of three elements required to prove valid inter vivos gift, without reference to contractual consideration for the conveyance.

Jennings v. Cutler, 672 A.2d 1215, 288 N.J.Super. 553.

Fact that girlfriend who was given gift of mortgage might never have received sums secured by mortgage because prop-

† This Case was not selected for publication in the National Reporter System. For legislative history of cited statutes, see New Jersey Statutes Annotated

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erty might not have been sold or, if sold, might not have generated sufficient proceeds to pay off mortgage did not invalidate gift of mortgage, although it might have disappointed girlfriend's expectations.

Jennings v. Cutler, 672 A.2d 1215, 288 N.J.Super. 553.

N.J.Super.A.D. 1985. Mother's gift of her residence to her son could be invalidated as improvident gift in light of relationship of trust which mother justifiably reposed in her son, inadequate explanation of consequences of her act, and lack of independent legal advice.

Petruccio v. Petruccio, 501 A.2d 593, 205 N.J.Super. 577.

It is not necessary that undue influence must actually be shown to have been exerted before improvident gift can be avoided.

Petruccio v. Petruccio, 501 A.2d 593, 205 N.J.Super. 577.

⇒37. — Mistake and misrepresentation.

For other cases see earlier editions of this digest, the Decennial Digests, and WESTLAW.

⇒38. — Fraud, duress, and undue influence.

N.J. 2008. "Undue influence" is a mental, moral, or physical exertion of a kind and quality that destroys the free will of the testator by preventing that person from following the dictates of his or her own mind as it relates to the disposition of assets, generally by means of a will or inter vivos transfer in lieu thereof.

In re Estate of Stockdale, 953 A.2d 454, 196 N.J. 275.

N.J. 1967. Whenever it appears that the relations between the parties to an inter vivos gift are of such character that in reasonable probability they do not deal with each other on terms of equality because one has given friendship and justifiably reposes confidence in the other, that on the donee's side superior knowledge exists as to the nature of the transaction, proposed by him, as well as the detriment to be suffered by the donor if he engages in it, and the donee fails to see to it that the donor thoroughly understands its na-

† This Case was not selected for publication in the National Reporter System. For legislative history of cited statutes, see New Jersey Statutes Annotated

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Deeds of gift, see DEEDS

Particular personal or confidential relations, effect of, see ATTORNEY AND CLIENT, EXECUTORS AND ADMINISTRATORS, HUSBAND AND WIFE, PARENT AND CHILD

Taxation of gifts, see INTERNAL REVENUE, TAXATION

For detailed references to other topics, see Descriptive-Word Index

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II. CAUSA MORTIS, ¶53-85.

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- ¶53. Requisites in general.
- 53.5. What law governs.
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 - 54.1. — In general.
 55. — Gifts inter vivos.
 56. Property which may be subject of gift.
 57. Time of taking effect.
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 60. Intent.
 61. Necessity for execution.



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For references to other topics, see Descriptive-Word Index

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Method 3: Known Key Number

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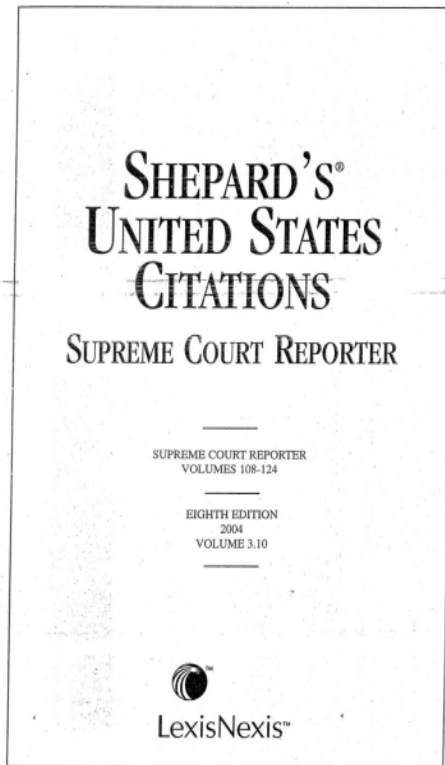
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- Map out your search strategy before you login;
- Watch your spelling;
- Use the smallest database possible;
- Use Segment or Field searching
- Printing – Do you really need it?
- Mix it up

Search Strategies

- Consider what is being asked – jot down the key terms or concepts.
 - Are they terms of art?
 - What are synonyms or related terms?
- Link key terms together
 - Consider the connectors (Within X terms? Within the same sentence? Paragraph?)
 - Start broad, but not too broad!
- Think about what database to search
 - Use smaller databases where it makes sense to do so
 - By jurisdiction or specialization (e.g. Experts, Markman, Real Estate)
- Use a Reference Attorney to get assistance with search construction if you aren't sure or want additional insight.

Useful Search Commands

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 - Westlaw: Atleast5(contract)
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- Westlaw:
 - SY,DI,HE = Synopsis/Digest/Headnote
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 - Example: wp(reasonable)

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1. In re Estate of Link,
328 N.J. Super. 600, 746 A.2d 540, N.J. Super. Ch., November 03, 1999 (NO. MON-P-232-99)

...and complete during the lifetime of the donor, wholly divesting him of the possession, dominion, and control thereof. [8] 191 Gifts 1911I Causa Mortis 191k 62 Delivery 191k 62(1) k. Necessity of Delivery. Alleged donor's purported statement that she wanted alleged recipient to have donor's engagement and wedding rings upon donor's death did not effect "gift causa mortis," as there was no actual, unequivocal, and complete delivery of rings during donor's lifetime which wholly divested her.....

2. Winer v. Winer,
241 N.J. Super. 510, 575 A.2d 518, N.J. Super. A.D., June 07, 1990 (NO. A-4597-88T1)

...husband's sole name and condominium had been purchased exclusively with his own funds. N.J.S.A. 2A:34-23.1 [9] 191 Gifts 191I Inter Vivos 191k 34 k. Qualified or conditional gifts. Engagement ring is "conditional gift"; condition is marriage and ring is returnable only if engagement is broken. [10] 134 Divorce 134V Spousal Support, Allowances, and Disposition of Property 134V(D) Allocation of Property and Liabilities; Equitable Distribution...

...134V(D)2 Property Subject to Distribution or Division 134k 688 Particular Interests as Separate or Marital Property 134k 718 k. Gifts and inheritance. (Formerly 134k719 134k252.3(1) 191 Gifts 191I Inter Vivos 191k 34 k. Qualified or conditional gifts. Engagement ring was not marital property subject to equitable distribution; ring had been conditional gift before marriage and, upon marriage, ring unconditionally became former wife's property and it retained its character as separate property not.....

3. Aronow v. Silver,
223 N.J. Super. 344, 538 A.2d 851, N.J. Super. Ch., November 17, 1987 (NO. C-6821-86)

...not liable to parents of former fiancée for monies expended in preparation of marriage. So ordered. West Headnotes [1] 191 Gifts 191I Inter Vivos 191k 34 k. Qualified or Conditional Gifts. Upon termination of engagement to marry, donor was entitled to return of engagement ring, regardless of who caused the breakup; gift of ring was conditioned upon marriage and upon nonfulfillment of condition, ring must be returned to donor. [2] 61 Breach of Marriage Promise 61k 14 k. Nature, Form, and Right of Action. Former fiancé's suit for return of engagement ring and other gifts in anticipation of marriage was not barred by statute abolishing right of action for breach of contract to marry; suit was to recover conditional gifts, not damages. N.J.S.A. 2A:23-1 et seq. [3] 191 Gifts 191I Inter Vivos 191k 34 k. Qualified or Conditional.....

4. Gerard v. Distefano,
84 N.J. Super. 396, 202 A.2d 220, N.J. Super. Ch., June 12, 1964 (NO. M 3198)

...and void, with result that defendant's subsequent marriage to plaintiff was also void. U.S.C.A. Const. art. 4, § 1 [11] 191 Gifts 191I Inter Vivos 191k 46 Evidence 191k 49 Weight and Sufficiency 191k 49(1) k. In general. Evidence disclosed that ring given to defendant was a gift inter vivos and was not given, as plaintiff claimed, as an engagement ring. [12] 191 Gifts 191I Inter Vivos 191k 34 k. Qualified or conditional gifts. Ring given as gift inter vivos to.....

5. Baberman v. Searl

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Equitable Distribution of Property
[3. Classification, Burden of Proof, Separate Property, Joint Gifts-Engagement Rings and Wedding Presents](#)

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New Jersey Motion
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2011
United States District Court, D. New Jersey.
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New Jersey Motion
[7. GOLDPOLY \(QUANHOU\) SCIENCE...](#)
...Plaintiff, a Chinese entity, placed the Contracts on its letterhead. (Di Pietro Aff., ¶¶ 3 and 4) The Contracts are written in Chinese and in English. (Di Pietro Aff., ¶ 3) MX agreed to

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ALR
1. Rights in Respect of Engagement and Courtship Presents When Marriage Does Not Emerge

Restatement of Property
2. Requirements for Effectuating a Donative Transfer, Accomplishing a Donative Transfer in Donor's Lifetime Without Using a Document of Transfer, Gift of Personal Property in Which the Donor Retains Reversionary Interest

Am. Jur. 2d: Gifts
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Aronow v. Silver
223 N.J.Super. 344, 538 A.2d 851
N.J.Super.Ch., 1987.
November 17, 1987 (Approx. 6 pages)

West Reporter Image (PDF)

223 N.J.Super. 344, 538 A.2d 851

Superior Court of New Jersey, Chancery Division,
Burlington County.
Philip ARONOW, Plaintiff,
v.
Elizabeth SILVER, Defendant.
Robert SILVER and Cybil Silver, his wife, Third-Party Plaintiffs and Intervenor,
v.
Philip ARONOW, Defendant.
Decided Nov. 17, 1987.

SYNOPSIS

After breakup of engagement, former fiancé brought suit to recover engagement ring, proceeds from stock, and title in condominium. The Superior Court, Burlington County, Chancery Division, Haines, A.J.S.C., held that: (1) engagement ring must be returned to former fiancé, regardless of fault; (2) former fiancé was entitled to sole title in condominium upon discharge of former fiancée's liability on mortgage; (3) stocks and proceeds from stocks held jointly in anticipation of marriage were to be returned to original donors; and (4) former fiancé was not liable to parents of former fiancée for monies expended in preparation of marriage.

So ordered.

West Headnotes

[1] KeyCite Citing References for this Headnote

191 Gifts
191 Inter Vivos
191k34 k. Qualified or Conditional Gifts. Most Cited Cases

Upon termination of engagement to marry, donor was entitled to return of engagement ring, regardless of who caused the breakup; gift of ring was conditioned upon marriage and upon nonfulfillment of condition, ring must be returned to donor.

[2] KeyCite Citing References for this Headnote

Headnotes

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- Top Right:** Includes a 'HELP' button and a 'SIGN OFF' button.
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- Positive Cases (U.S.A.):** Lists cases that have examined or discussed the cited case, such as 'Asante v. Abban' and 'Cole v. Tokarz'.
- Cited:** Lists cases that cite the current case, such as 'Sipko v. Koger, Inc.'.

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- ↳ k3 Statutory provisions
- ↳ k4 Requisites in general
- ↳ k5 Gifts distinguished from other transactions
- ↳ k6 Power to make gift
- ↳ k7 Property which may be subject of gift
- ↳ k11 Time of taking effect
- ↳ k12 Parties
- ↳ k15 Intent
- ↳ k16 Necessity for execution
- ↳ k17 Delivery
- ↳ k24 Acceptance in general
- ↳ k25 Parol gift of land
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- ↳ k27 Gift of legacy or distributive share of estate
- ↳ k28 Gifts of rights of action in general
- ↳ k29 Gifts of corporate stock
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- ↳ k33 Forgiveness of debt of donee
- ↳ k34 Qualified or conditional gifts
- ↳ k35 Validity
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1. **Larocco v. Gardella**, DOCKET NO. FM-13-080-02C , SUPERIOR COURT OF NEW JERSEY, CHANCERY DIVISION, FAMILY PART, MONMOUTH COUNTY, 352 N.J. Super. 234; 799 A.2d 742; 2002 N.J. Super. LEXIS 302, January 31, 2002, Decided

OVERVIEW: Where boyfriend was unable to establish cohabitation with his girlfriend, he did not present a principal claim which qualified as a family-type relationship, and venue for his property claims was not property in the chancery division-family part.

CORE TERMS: venue, cohabitation, domestic violence, family-type, domestic, dating, marriage, family life, emotional, married ...

... and characterizes the personal property and money as inter vivos **gifts**, which the Plaintiff bestowed upon her as part of his ...
... personally involves a diamond ring, which he identifies as an **engagement ring**. Therefore, under New Jersey law, he contends it should be returned to him as a conditional **gift**. *Winer v Winer*, 241 N. J. Super. 510, 575 A.2d 518 (App.Div.1990) ...
... The Defendant challenges the classification of the item as an **engagement ring**, and further contends it was purchased through her personal charge ...
... asserts that he gave her the items as inter vivos **gifts**, not contingent upon the event of marriage. *Canova v. Canova*, 146 N. J. Super. 58, 368 A.2d 971 (Ch.Div.1976) ...

2. **Winer v. Winer**, No. A-4597-88T1 , Superior Court of New Jersey, Appellate Division, 241 N.J. Super. 510; 575 A.2d 518; 1990 N.J. Super. LEXIS 196, May 16, 1990, Argued , June 7, 1990, Decided , APPROVED FOR PUBLICATION June 21, 1990.

OVERVIEW: Fact that proposed move impacted non-custodial parent's visitation alone insufficient basis for denial of custodial parent's relocation request and more findings required on whether alternate schedule could mitigate impact.

CORE TERMS: marriage, equitable, best interests, visitation, custodial parent, condominium, marital, visitation schedule, relocation, engagement ring ...

... defendant proposed marriage and presented her with a four-carat **engagement ring**. The ring had been left to defendant by his deceased ...
... marriage, and never offered it in any way as a **gift** to plaintiff, it was excluded from equitable distribution. The court also determined that the **engagement ring** was given to plaintiff as a conditional **gift** subject to actual marriage and was not subject to equitable ...
... on the ability to pay alimony and support, and (13) **gifts** from one spouse to the other during marriage. [*Painter*, 65 N.J. at 211, 320 A.2d 484 ...
... *Barlet v. Frazer*, 218 N.J. Super. 106, 110-11, 526 A.2d 1141 (App.Div.1987). V. Defendant also asserts that the **engagement ring** he gave plaintiff should be subject to equitable distribution. He argues that the **gift** of an **engagement ring** does not become effective until after the marriage ceremony is complete. Therefore, he maintains that the **engagement ring** is marital property. This argument is without merit. An **engagement ring** is a conditional **gift**. See *Aronow v. Silver*, 223 N.J. Super. 344, 347, 538 A.2d 851 (Ch.Div.1987) ...
... stated: [t]he question of the conditional nature of the **gift** became moot upon the marriage when the ring unconditionally became ...
... reasoning of the New York court and hold that the **engagement ring** in question is not subject to equitable distribution. We reject ...
... *Weiss*, 226 N.J. Super. at 287, 543 A.2d 1062. Weiss did not contemplate that an **engagement ring**, traditionally a conditional **gift** for the sole use of a woman, should be considered ...

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▲ Aronow v. Silver, 223 N.J. Super. 344 (Copy w/ Cite) Pages: 11

Issue Analysis

- ALR® (1)
Rights in respect of engagement and courtship presents when marriage does not ensue (44 A.L.R.5th 1)
- Jurisprudences and Witkin (1)
Engagement rings and jewelry (38 Am Jur 2d Gifts § 70)
- Matthew Bender® (1) **RELEVANT**
The Engagement Ring. (1-9 New Jersey Family Law § 9-8)
- Law Reviews (2)
COMMENT: "BUT I CAN'T MARRY YOU": WHO IS ENTITLED TO THE ENGAGEMENT RING WHEN THE CONDITIONAL PERFORMANCE FALLS SHORT OF THE ALTAR? (17 J. Am. Acad. Matrimonial Law. 419)
NOTE: Rules of Engagement (107 Yale L.J. 2583)

Document Outline

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- Case Summary
- Procedural Posture
- Overview
- Outcome
- Core Terms
- LexisNexis® Headnotes
- Counsel
- Judges
- Opinion By
- Opinion

CORE TERMS:

engagement, marriage, engagement ring, fault, broken, ring, stock, gift, mortgage, condominium, partition, dinner ring, telephone, conditional gift, marry, settlement, unjustifiably, conditional, fulfilled, symbolic, breaking, no-fault, ancient, divorce, pledge, broke, woman, purchase price, conditioned, contributed

LEXISNEXIS® HEADNOTES

Contracts Law > Performance > Discharges & Terminations

Contracts Law > Remedies > Restitution

HN1 The majority rule in this country concerning the disposition of engagement rings is a fault rule: the party who unjustifiably breaks the engagement loses the ring. The minority rule rejects fault. The Superior Court of New Jersey joins the minority. [More Like This Headnote](#) | [Shepardize: Restrict By Headnote](#)

Contracts Law > Breach > Causes of Action > General Overview

Torts > Intentional Torts > Interference With Personal Relationships > Defenses

HN2 A suit to recover an engagement ring is not barred by N.J. Stat. Ann. § 2A:23-1 et seq., which abolishes rights of action for breach of contract to marry. It is a suit to recover conditional gifts, not a suit for damages. [More Like This Headnote](#) | [Shepardize: Restrict By Headnote](#)

Contracts Law > Performance > Discharges & Terminations

Contracts Law > Remedies > Restitution

Estate, Gift & Trust Law > Personal Gifts > Lifetime Gifts

HN3 An unconditional inter vivos gift is final, even in an engagement setting. A conditional gift, however, must be returned if the condition is breached. [More Like This Headnote](#) | [Shepardize: Restrict By Headnote](#)

Real Property Law > Estates > Concurrent Ownership > Partition Actions

HN4 The court has the inherent power to shape a partition decision in a way that does equity. New Jersey accepts the principle of owelty, that if one cotenant receives property with a value greater than his proportionate share, he will owe to the other cotenant an amount of money which would equalize the partition. [More Like This Headnote](#) | [Shepardize: Restrict By Headnote](#)

COUNSEL: Robert J. Adinolfi, for plaintiff and third-party defendant.

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Aronow v. Silver, 223 N.J. Super. 344, 538 A.2d 851, 1987 N.J. Super. LEXIS 1450 (Ch.Div. 1987)

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No subsequent appellate history.

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Neutral Analyses: Dissenting Op. (2), Explained (1)

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CITING DECISIONS (28 citing decisions)

NEW JERSEY SUPREME COURT

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Sipko v. Koger, Inc., 214 N.J. 364, 70 A.3d 512, 2013 N.J. LEXIS 602 (2013) LexisNexis Headnotes HN2
214 N.J. 364 p.377
70 A.3d 512 p.519

NEW JERSEY SUPERIOR COURT, APPELLATE DIVISION

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Document Title	Jurisdiction	Court	Date
1. Aronow v. Silver, 223 N.J. Super. 344 ... and their relatives. On three occasions, Elizabeth cancelled the engagement and returned the engagement ring, only to recant. Finally, with the marriage ceremony a few days away, the engagement was broken irretrievably. Each party, in this resulting litigation, faults the other. Each claims the engagement ring, certain shares of stock and a jointly-owned condominium. Robert and The majority rule in this country concerning the disposition of engagement rings is a fault rule: the party who unjustifiably breaks the engagement loses the ring. The minority rule rejects fault. The Superior Court of The majority rule in this country concerning the disposition of engagement rings is a fault rule: the party who unjustifiably breaks the engagement loses the ring. The minority rule rejects fault. See Annotation, "Rights in Respect of Engagement and Courtship Presents When Marriage Does Not Ensur," 46 A.L.R. ... Overview: Former fiancée was ordered to return an engagement ring to former fiance because the ring was a conditional gift and when the engagement was broken, regardless of fault, the condition was not fulfilled.	New Jersey	Burlington County Superior Court	11/17/1987
2. Beberman v. Segal, 6 N.J. Super. 472 Plaintiff ring giver gave defendant ring recipient an engagement ring in contemplation of the parties becoming married. The engagement between the parties ended and defendant refused to return the ring to plaintiff. Plaintiff sought recovery of the ring or damages in the amount of the ring's value in the court and defendant sought to dismiss marry the man who gave it to her. If the engagement is broken the ring should be returned, since it is a conditional gift. An engagement ring is a symbol or pledge of the coming marriage and ... An engagement ring can be recovered by the party who gives the ring to the opposite party, if the agreement to marry is is dissolved by mutual consent, or the recipient of the ring unjustifiably breaks off the engagement, but the engagement ring cannot be recovered by the party who gave the ring if the party who gave the ring unjustifiably breaks the agreement it evidences. Overview: Gentleman was allowed to assert cause of action to recover an engagement ring given to lady in contemplation of marriage after the parties' engagement terminated without marriage.	New Jersey	Superior Court	12/02/1949
3. Sloin v. Lavine, 11 N.J. Misc. 899 Engagement ring given to female was impliedly conditional and therefore the male was entitled to recover the ring after the engagement was broken, particularly when the engagement was broken by the female. After the engagement between the female and the male was broken, the male brought this action seeking return of the engagement ring. The district court ruled in favor of the male, and female appealed. Upon review, the court affirmed, holding that the ring was impliedly conditional and had to be returned, particularly when the engagement was broken by the female. ... and plaintiff were engaged to marry. He gave her an engagement ring and certain other presents of minor value. They	New Jersey	Supreme Court	11/15/1933

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- 1. Arow v. Silver**
Superior Court of New Jersey, Chancery Division, Burlington County. | November 17, 1987 | 223 N.J.Super. 344 | 538 A.2d 851
After breakup of **engagement**, former fiancé brought suit to recover **engagement ring**, proceeds from stock, and title in condominium. The Superior Court, Burlington County, Chancery Division, Haines, A.J.S.C., held that: (1) **engagement ring** must be returned to former fiancé, regardless of fault; (2) former fiancé was entitled to sole title in...
...Our earliest case is *Sloin v. Lavine*, 11 N.J.Misc. 899, 168 A. 849 (Sup.Ct.1933), in which the court, citing the law of foreign jurisdictions, said: So we have on the merits the simple case of an **engagement ring** and **engagement broken** and **ring** not returned....
...Upon termination of **engagement** to marry, donor was entitled to return of **engagement ring**, regardless of who caused the breakup; gift of **ring** was conditioned upon marriage and upon nonfulfillment of condition, **ring** must be returned to donor....
- 2. Albanese v. Indelicato**
Second District Court of Jersey City, New Jersey. | February 01, 1947 | 25 N.J. Misc. 144 | 51 A.2d 110
Action by Michael Albanese against Lucille Indelicato to recover an **engagement ring**, a dinner **ring** and \$50 given by plaintiff to defendant. Judgment for plaintiff for **engagement ring** and judgment for defendant for dinner **ring** and money.
...**Engagement ring** was a symbol or pledge of coming marriage, and where **engagement** was **broken** off, no matter whether by plaintiff or defendant, she was required to return the **ring**, since the gift of the **ring** was conditional on marriage....
...If the **engagement is broken** off the **ring** should be returned since it is a conditional gift....
- 3. Mate v. Abrahams**
Essex County Court, New Jersey. | December 21, 1948 | 62 A.2d 754
Action by Harold Mate against Rhona Wunderman Abrahams to recover an **engagement ring** given defendant by plaintiff. On plaintiff's motion to strike defendant's separate defense that plaintiff, having unjustifiably **broken** the **engagement**, could not recover the **ring**. Order denying the motion.
...Can a man, who has unjustifiably **broken** his **engagement** to marry, recover the **engagement ring** he gave the woman?...
...When agreement to marry is dissolved by parties' mutual consent or the woman unjustifiably breaks **engagement**, **engagement ring** given her by the man can be recovered by him, but a man unjustifiably breaking such an agreement cannot recover the **ring**....
- 4. Sloin v. Lavine**
Supreme Court of New Jersey. | November 15, 1933 | 11 N.J. Misc. 899 | 168 A. 849
Action by Aaron Sloin against Mildred Lavine, by next friend. From the judgment, defendant appeals. Affirmed.
...So we have on the merits the simple case of an **engagement ring** and **engagement broken** and **ring** not returned

RELATED DOCUMENTS

Secondary Sources

I DO! OR DO I? A PRACTICAL GUIDE TO LOVE, COURTSHIP, AND HEARTBREAK IN NEW YORK - OR - WHO GETS THE RING BACK FOLLOWING A BROKEN ENGAGEMENT?
12 Buff. Women's L. J. 47
2004
Buffalo Women's Law Journal
... All too often "[i]n adjudicating the grievances of life and love . . . courts [and legislatures] have needed to address the disputed ownership of an **engagement ring** following a **broken engagement**." ...

§ 2:9. Gifts in contemplation of marriage
North Carolina Family Law Practice
1 N.C. Family Law Practice § 2:9
...A majority of jurisdictions have adopted a fault-based approach to determine disputed ownership of the **engagement ring** when an **engagement is broken**....

Rights in respect of engagement and courtship presents when marriage does not ensue
44 A.L.R.5th 1 (Originally published in 1996)
The ALR databases are made current by the weekly addition of relevant new cases.
American Law Reports ALR5th
...Donor of **engagement ring** was entitled to return of the **ring** from former fiancé, under no-fault approach to resolution of **engagement ring**

Bloomberg Law

The screenshot shows the Bloomberg Law search interface. At the top, there is a navigation bar with options like 'Workspaces', 'Research Trail', 'Downloads', 'Saved Searches & Alerts', 'Client Matter (None Selected)', 'KATHY AGNO', 'Help', and 'Logout'. Below this is the Bloomberg Law logo and a search bar containing the text 'Find cases, news, companies, people and more...'. A secondary navigation bar includes 'Home', 'Search & Browse', 'Practice Centers', 'Litigation & Dockets', 'Transactional Law', 'Legislative & Regulatory', 'Legal Analysis & News', and 'Companies & Markets'. The main search area shows the keywords 'engagement ring' /p marriage /p brok and a 'Search' button. On the left, there are sections for 'SEARCH CRITERIA' (Source: All New Jersey State Court Opinions, Keywords: 'engagement ring' /p marriage /p brok, Date: No Date Selection) and 'FILTER YOUR RESULTS' (Court: New Jersey Superior Court (5), New Jersey County Court (1); Topic: Damages & Remedies (2), Family Law (2), Contracts (1), Real Property (1), Personal Property (1); Judge: BIGELOW (1), EASTWOOD (1)). The main results area displays 1-6 of 6 results, each with a checkbox, a plus icon, the case name, citation, date, and a brief summary of the case content. The results are: 1. Winer v. Winer, 241 N.J. Super. 510, 575 A.2d 518 (Super. Ct. App. Div. 1990), Court Opinion (06/07/1990); 2. Asante v. Abban, 237 N.J. Super. 495, 568 A.2d 146 (Super. Ct. Law. Div. 1989), Court Opinion (07/26/1989); 3. Aronow v. Silver, 223 N.J. Super. 344, 538 A.2d 851 (Super. Ct. Ch. Div. 1987), Court Opinion (11/17/1987); 4. Mandelbaum v. Weiss, 11 N.J. Super. 27, 77 A.2d 493 (Super. Ct. App. Div. 1950), Court Opinion (12/20/1950).

Workspaces Research Trail Downloads Saved Searches & Alerts Client Matter (None Selected) KATHY AGNO Help Logout

Bloomberg LAW Find cases, news, companies, people and more... **GO**

Home Search & Browse Practice Centers Litigation & Dockets Transactional Law Legislative & Regulatory Legal Analysis & News Companies & Markets

Search & Browse > Court Opinions > Search Results >

Keywords "engagement ring" /p marriage /p brok **Search** Search Help

SEARCH CRITERIA **Modify**

Source
All New Jersey State Court Opinions

Keywords
"engagement ring" /p marriage /p brok

Date
No Date Selection **GO**

Create Search Alert >
Add Search to Workspace >

FILTER YOUR RESULTS

Court
 New Jersey Superior Court (5)
 New Jersey County Court (1)

Topic
 Damages & Remedies (2)
 Family Law (2)
 Contracts (1)
 Real Property (1)
 Personal Property (1)
Select More...

Judge
 BIGELOW (1)
 EASTWOOD (1)

1 - 6 of 6 Results Sort Date Details Show

Select All Open Print/Download Email + Workspace + Queue

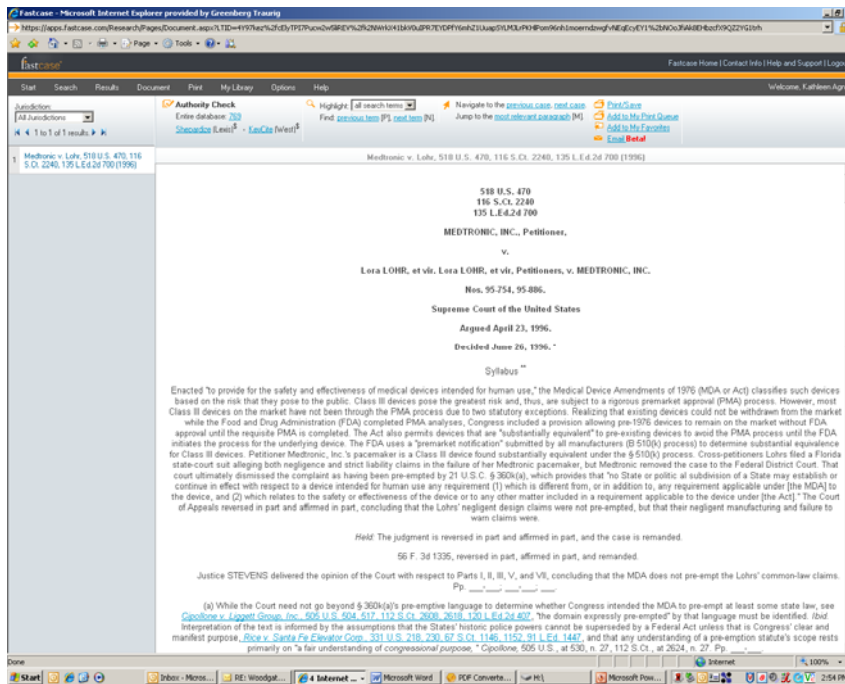
1. **+** **Winer v. Winer**, 241 N.J. Super. 510, 575 A.2d 518 (Super. Ct. App. Div. 1990), Court Opinion (06/07/1990)
1980 defendant proposed **marriage** and presented her with a four carat **engagement ring** The **ring** had been left to defendant by his deceased mother During the parties **engagement** and throughout their **marriage** the **ring** was kept in a safe deposit box due to its value and was only
Topic(s) Family Law

2. **+** **Asante v. Abban**, 237 N.J. Super. 495, 568 A.2d 146 (Super. Ct. Law. Div. 1989), Court Opinion (07/26/1989)
the gift of equal ownership was conditioned upon **marriage** The court in Aronow stated that Nothing suggests the purchase amounted to a joint investment for other than **marriage** purposes The condominium must be treated in the same manner as the **engagement ring**
Topic(s) Real Property, Mortgages & Liens

3. **+** **Aronow v. Silver**, 223 N.J. Super. 344, 538 A.2d 851 (Super. Ct. Ch. Div. 1987), Court Opinion (11/17/1987)
On three occasions Elizabeth cancelled the **engagement** and returned the **engagement ring** only to recant Finally with the **marriage** ceremony a few days away the **engagement** was **broken** irretrievably Each party in this resulting litigation faults the other Each
Topic(s) Damages & Remedies

4. **+** **Mandelbaum v. Weiss**, 11 N.J. Super. 27, 77 A.2d 493 (Super. Ct. App. Div. 1950), Court Opinion (12/20/1950)
broken The evidence as to the exact date of the disengagement is somewhat inconclusive However it is apparent that the parting was by mutual consent and the prospective bride returned the **engagement ring** to her previously intended husband Mr Weiss apparently did
Topic(s) Personal Property

fastcase



- **Free to NJSBA Members**
 - US Supreme Court Cases
 - NJ Supreme Court Cases
 - NJ Appellate Division Cases
 - NJ Superior Court Cases published in A.2d
 - Federal Court of Appeals for the Third Circuit Cases
 - New Jersey Codes and Rules
- **Authority Check**
 - **Not a citator!**
 - **It does not include editorial information telling you whether your case is still good law!**



Current Awareness

- New Jersey Law Journal: Daily Decision Alert
- News
 - Law360
 - Wall Street Journal
- Shepard's/KeyCite Alerts
- Continuing Legal Education (CLE)

Statutory Research

Bridge the Gap 2014

Rutgers University Center for
Law & Justice

Prof. Caroline Young, J.D., M.L.I.S.
Head of Circulation
Reference and Technology Librarian
Rutgers University Center for Law & Justice

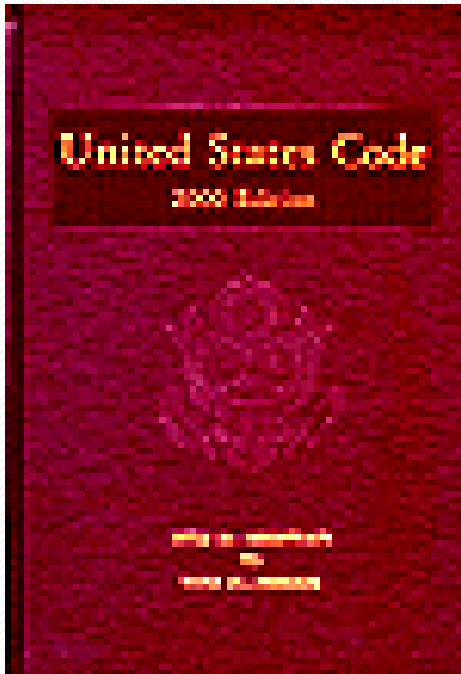
Types of Statutory Materials

- **Constitutions**
- **Laws/Statutes/Codes**
- **Treaties**
- **Municipal Ordinances**
- **Court Rules**

The Importance of Statutory Research

- Always check to see if there is a controlling statute(s) on point when you begin your research
- The trend: More legislatures are enacting statutes in areas that were traditionally controlled by common law

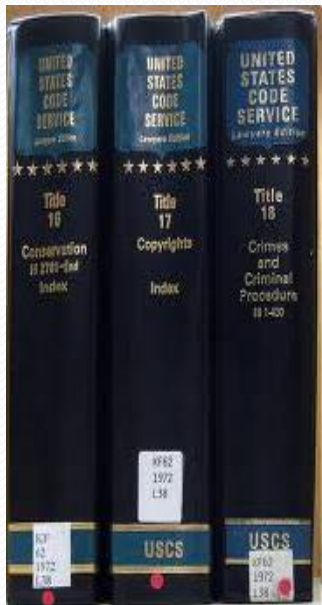
Where to Start: Print or Electronic?



U.S.C. vs. U.S.C.A. vs. U.S.C.S

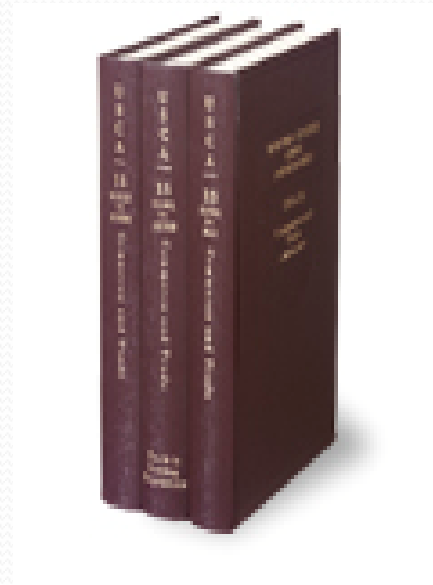
Which one?

USE AN ANNOTATED VERSION!



USCS

OR



USCA

West USCA vs. Lexis USCS

Which one?

Overriding Process

- **Find the Statute(s)**
- Use the tools provided to you with the annotations (print or electronic)

Find the Statute

- Check a secondary source if you are unfamiliar with key words/topic
- Use the index
- Review TOC
- Check popular name table if you know the name of an Act
-

Use the Annotations and Tools

- Review the text of statute
- Note cross references, secondary sources and historical note
- Check for relevant regulations
- Always check the pocket part/update electronically
- Shepardize/KeyCite

The Statutory Research Process

Your problem involves issues relating to mislabeling of medical devices, products liability, and negligence. What do you do first?

Identify Key Words

- Bone screw?
- Medical Devices?
- Product Liability?

How Do You Identify Key Words?

- Consult a secondary source

How do You Find the Right Statute?

- Finding Aids

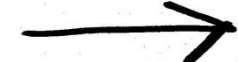
Finding Aids

- Index
- Table of Contents
- Popular Name Table (in all codes)
- Shepard's Acts and Cases by Popular Name
- Secondary Source
- Keyword Search-last resort!

Indexes

- Hard Copy
- Westlaw Next

UNITED STATES
CODE
ANNOTATED



GENERAL INDEX

J to R



THOMSON
WEST

Mat #40413026

Index
volume
from
USCA

Index

- Start by looking up the term 'medical devices'
- Browse the 'medical devices' section until you find a relevant section

	See Popular Name Table
	MEDICAL DEVICES
	Generally, 21 § 351 et seq.
	Access,
37	Children and minors, 21 § 393a
	Investigational drugs or devices, 21 § 360bbb
	Accreditation,
	Classification, 21 §§ 360m, 374
	Inspection and inspectors, 21 § 374
al-	Actions and proceedings,
	Biomaterials, 21 § 1601 et seq.
	Classification, 21 § 360c et seq.
	Performance standards, 21 § 360d
	Presumptions, 21 § 379a
	Adjustments, premarket applications, fees, 21 § 379j
ts,	Administrative restraint, seized devices, 21 § 334
	Adulteration and misbranding, 21 § 351 et seq.
	Actions and proceedings, 21 § 337
	Advertisements, 21 § 321
	Analysis, 21 §§ 334, 374
	Class II, performance standards, 21 §§ 351, 352
	Class III, premarket approval, 21 § 351



WestlawNext Index

The screenshot displays the WestlawNext interface for the United States Code Annotated (USCA). At the top, there is a navigation bar with 'All Content' and 'United States Code Annotated (USCA)' tabs. A search bar contains the text 'Search United States Code Annotated (USCA)' and a 'SEARCH' button. The main content area lists the USCA titles, with 'USCA Index' highlighted in a sidebar on the right.

WestlawNext™

All Content United States Code Annotated (USCA)

YOUNG CAROLINE Folders History Sign

Q Search United States Code Annotated (USCA) SEARCH advanced Caroline's Rese... (1

Home > Statutes & Court Rules

United States Code Annotated (USCA) | ★

Includes current version of United States Code Annotated. Browse Table of Contents below or search above. ⓘ

Search all content Specify content to search

The Organic Laws of the United States of America

- Constitution of the United States
- Title 1. General Provisions
- Title 2. The Congress
- Title 3. The President
- Title 4. Flag and Seal, Seat of Government, and the States
- Title 5. Government Organization and Employees
- Title 6. Domestic Security
- Title 7. Agriculture
- Title 8. Aliens and Nationality
- Title 9. Arbitration
- Title 10. Armed Forces
- Title 11. Bankruptcy
- Bankruptcy Rules
- Official and Procedural Bankruptcy Forms
- Title 12. Banks and Banking
- Title 13. Census
- Title 14. Coast Guard
- Title 15. Commerce and Trade

TOOLS & RESOURCES

- USCA Find Template
- USCA - Historical
- USCA Index**
- USCA Popular Name Table
- Federal Local Court Rules
- Federal Rules Update Orders
- Federal Rules Decisions Rules
- United States Code Unannotated
- Federal Bill Tracking

TOC

- Hard Copy
- Westlaw Next
- Lexis Advance

CHAPTER 9—FEDERAL FOOD, DRUG, AND COSMETIC ACT

Sections 301 to 356c appear in this Volume

SUBCHAPTER I—SHORT TITLE

Sec.
301. Short title.

SUBCHAPTER II—DEFINITIONS

321. Definitions; generally.
321a. "Butter" defined.
321b. "Package" defined.
321c. Nonfat dry milk; "milk" defined.

SUBCHAPTER III—PROHIBITED ACTS AND PENALTIES

331. Prohibited acts.
332. Injunction proceedings.
333. Penalties.
333a. Repealed.
334. Seizure.
335. Hearing before report of criminal violation.
335a. Debarment, temporary denial of approval, and suspension.
335b. Civil penalties.
335c. Authority to withdraw approval of abbreviated drug applications.
336. Report of minor violations.
337. Proceedings in name of United States; provision as to subpoenas.

SUBCHAPTER IV—FOOD

341. Definitions and standards for food.
342. Adulterated food.
343. Misbranded food.
343-1. National uniform nutrition labeling.
343-2. Dietary supplement labeling exemptions.
343-3. Disclosure.
343a. Health risks presented by use of saccharin.
344. Emergency permit control.
345. Regulations making exemptions.
346. Tolerances for poisonous or deleterious substances in food regulations.
346a. Tolerances and exemptions for pesticide chemical residues.
346b. Authorization of appropriations.
347. Intrastate sales of colored oleomargarine.
347a. Congressional declaration of policy regarding oleomargarine sales.
347b. Contravention of State laws.
348. Food additives.
349. Bottled drinking water standards; publication in Federal Register.
350. Vitamins and minerals.
350a. Infant formulas.
350b. New dietary ingredients.

Using the Table of Contents

Look at the beginning of a section in the code to get a sense of how the law is organized.

Sec.

SUBCHAPTER V—DRUGS AND DEVICES

PART A—DRUGS AND DEVICES

- 351. Adulterated drugs and devices.
- 352. Misbranded drugs and devices. ←
- 353. Exemptions and consideration for certain drugs, devices, and biological products.
- 353a. Pharmacy compounding.
- 354. Veterinary feed directive drugs.
- 355. New drugs.
- 355a. Pediatric studies of drugs.
- 356. Fast track products.
- 356a. Manufacturing changes.
- 356b. Reports of postmarketing studies.
- 356c. Discontinuance of a life saving product.
- 357. Repealed.
- 358. Authority to designate official names.
- 359. Nonapplicability of subchapter to cosmetics.
- 360. Registration of producers of drugs or devices.
- 360a. Repealed.
- 360b. New animal drugs.
- 360c. Classification of devices intended for human use.
- 360d. Performance standards.
- 360e. Premarket approval.
- 360f. Banned devices.
- 360g. Judicial review.
- 360h. Notification and other remedies.
- 360i. Records and reports on devices.
- 360j. General provisions respecting control of devices intended for human use.
- 360k. State and local requirements respecting devices.
- 360l. Postmarket surveillance.
- 360m. Accredited persons.

PART B—DRUGS FOR RARE DISEASES OR CONDITIONS

- 360aa. Recommendations for investigations of drugs for rare diseases or conditions.
- 360bb. Designation of drugs for rare diseases or conditions.
- 360cc. Protection for drugs for rare diseases or conditions.
- 360dd. Open protocols for investigations of drugs for rare diseases or conditions.
- 360ee. Grants and contracts for development of drugs for rare diseases and conditions.

PART C—ELECTRONIC PRODUCT RADIATION CONTROL

- 360gg. Omitted.
- 360hh. Definitions.
- 360ii. Program of control.
- 360jj. Studies by Secretary.
- 360kk. Performance standards for electronic products.
- 360ll. Notification of defects in and repair or replacement of electronic products.
- 360mm. Imports.

Sec. 352:

Misbranded drugs and devices

Westlaw Next - TOC

The screenshot displays the WestlawNext interface with a 'Table of Contents' window open. The window title is 'Table of Contents' and it includes a search bar labeled 'Search headings' and a 'Download Table of Contents' button. The table of contents lists the following sections:

- SUBCHAPTER V—DRUGS AND DEVICES
 - Part A—Drugs and Devices
 - 21 USCA Ch. 9, Subch. V, Pt. A, Refs & Annos
 - § 351. Adulterated drugs and devices
 - § 352. Misbranded drugs and devices**
 - § 353. Exemptions and consideration for certain drugs, devices, and biological products
 - § 353a. Pharmacy compounding
 - § 353a-1. Enhanced communication
 - § 353b. Outsourcing facilities
 - § 353c. Prereview of television advertisements
 - § 354. Veterinary feed directive drugs
 - § 355. New drugs
 - § 355-1. Risk evaluation and mitigation strategies
 - § 355a. Pediatric studies of drugs

The background shows the WestlawNext interface with a document titled '§ 352. Misbranded drugs and devices' and a sidebar with navigation options like 'Document' and 'Notes of Decisions'. A 'Close' button is visible at the bottom of the TOC window.

LexisAdvance - TOC

21 USCS 352 x 21 USCS § 352 x United States Cod... x

[Terms & Conditions](#)

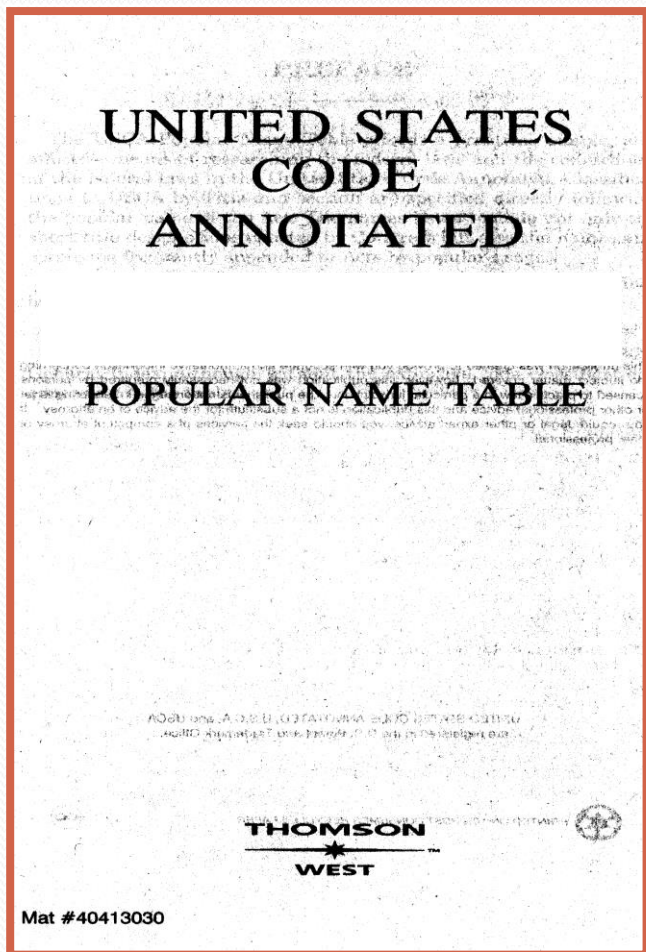
▼ DRUGS AND DEVICES

▼ DRUGS AND DEVICES

- § 351. Adulterated drugs and devices
- § 352. Misbranded drugs and devices
- § 353. Exemptions and consideration for certain drugs, devices, and biological products [Caution: See prospective amendment note below.]
- § 353a. Pharmacy compounding
- § 353a-1. Enhanced communication
- § 353b. Outsourcing facilities.
- § 353c. Prereview of television advertisements
- § 354. Veterinary feed directive drugs
- § 355. New drugs
- § 355-1. Risk evaluation and mitigation strategies
- § 355a. Pediatric studies of drugs
- § 355b. Adverse-event reporting
- § 355c. Research into pediatric uses for drugs and biological products
- § 355c-1. Report
- § 355d. Internal committee for review of pediatric plans, assessments, deferrals, deferral extensions, and waivers
- § 355e. Pharmaceutical security
- § 355f. Extension of exclusivity period for new qualified infectious disease products
- § 356. Expedited approval of drugs for serious or life-threatening diseases or conditions
- § 356-1. Accelerated approval of priority countermeasures
- § 356a. Manufacturing changes
- § 356b. Reports of postmarketing studies

Popular Name Table

- Hard Copy
- Westlaw Next
- Lexis Advance (sort of)
- Shepard's Acts and Cases by Popular Name



UCSA Popular Name Table

Popular Name Table

Medical Device Amendments

Medical Device Amendments of 1976

Short title, see 21 USCA § 301 note

Pub.L. 94-295, May 28, 1976, 90 Stat. 539 (15 § 55; 21 §§ 321, 331, 334, 351, 352, 358, 360, 360c to 360k, 374, 379, 379a, 381; 42 § 3512)

Medical Device Amendments of 1992

Short title, see 21 USCA § 301 note

Pub.L. 102-300, June 16, 1992, 106 Stat. 238 (21 §§ 301 note, 321, 331, 334, 346a, 352, 353, 356, 357, 360c, 360d, 360g, 360h, 360i, 360i notes, 360l, 360mm, 371, 372, 372a, 376, 381; 42 § 262)

Pub.L. 103-80, § 4(b), Aug. 13, 1993, 107 Stat. 779 (21 § 321)

WestlawNext Popular Name Table

The screenshot shows the WestlawNext interface for the United States Code Annotated (USCA). The top navigation bar includes 'All Content', 'United States Code Annotated (USCA)', and user options like 'YOUNG CAROLINE', 'Folders', 'History', and 'Sign Out'. A search bar is present with the text 'Search United States Code Annotated (USCA)' and a 'SEARCH' button. Below the search bar, there are radio buttons for 'Search all content' (selected) and 'Specify content to search'. The main content area lists various titles of the US Code, such as 'The Organic Laws of the United States of America', 'Constitution of the United States', and 'Title 1. General Provisions' through 'Title 15. Commerce and Trade'. On the right side, a 'TOOLS & RESOURCES' menu is visible, with 'USCA Popular Name Table' highlighted by a yellow box. Other items in the menu include 'USCA Find Template', 'USCA - Historical', 'USCA Index', 'Federal Local Court Rules', 'Federal Rules Update Orders', 'Federal Rules Decisions Rules', 'United States Code Unannotated', and 'Federal Bill Tracking'.

SHEPARD'S
ACTS AND CASES
BY
POPULAR NAMES

FEDERAL AND STATE

A compilation of popular names by which federal and state acts and cases have been referred to or cited together with an identification of each act in terms of its constitutional or statutory references and each case in terms of the volume and page reference where the text of the decision may be found.

FIFTH EDITION ----- 1999, PART 2

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FEB 29 2000

If you know the name of
an Act --

Shepard's Acts and
Cases by Popular Names
is a good finding aid

FEDERAL AND STATE ACTS CITED BY POPULAR NAME

Med

<p>Medical Care Recovery Act Sept. 25, 1962, P.L. 87-693, 76 Stat. 593, 42 U.S. Code §§ 2651 to 2653 D.C. Code Ann., § 4-501 et seq.</p>	<p>Minn. Stat. Ann., 319A.01 et seq. N.Y. Public Health Law 1953 (Consol. Laws Ch. 45), § 4400 et seq. S.D. Codified Laws 1967, 47-11-1 et seq.</p>
<p>Medical Care Savings Account Act Ga. Code Ann., 33-20B-1 et seq. Ida. Code 1947, 41-5301 et seq. Ill. Comp. Stat. 1992, Ch. 820, § 152/1 Mich. Comp. Laws Ann., 550.981 et seq. Mont. Laws 1995, Ch. 295 N.M. Stat. Ann., 59A-23D-1 et seq. Pa. Purdon's Stat., Title 72, § 3402a.2 et seq.</p>	<p>Medical Corporation Act (Non-Profit Health Maintenance Organization) N.Y. Public Health Law 1953 (Consol. Laws Ch. 45), § 4400 et seq.</p>
<p>Medical Center Act P.R. Laws Ann. 1954, Title 24, § 49a et seq.</p>	<p>Medical Cost Advisory Committee Act Ill. Rev. Stat. 1991, Ch. 23, § 5090 et seq.</p>
<p>Medical Center Act (Chicago) Ill. Rev. Stat. 1991, Ch. 111 1/2 § 5000 et seq.</p>	<p>Medical Database Commission Act N.C. Gen. Stat. 1943, § 131E-210 et seq.</p>
<p>Medical Center District Act Ill. Rev. Stat. 1991, Ch. 111 1/2, § 5000 et seq.</p>	<p>Medical, Dental and Hospital Service Corporation Readable Insurance Certificate Act N.C. Gen. Stat. 1943, § 58-66-1 et seq.</p>
<p>Medical Center Quota Act Ark. Code Ann. 1987, 6-64-505 et seq.</p>	<p>Medical, Dental, Optometric and Hospital Service Corporation Act Ariz. Rev. Stat. 1956, § 20-821 et seq.</p>
<p>Medical Clinic Act Ala. Code 1975, § 11-58-1 et seq.</p>	<p>Medical Device Amendments of 1992 June 16, 1992, P.L. 102-300, 21 U.S. Code § 301 nt.</p>
<p>Medical College Act Mo. Rev. Stat., 334.160</p>	<p>Medical Disaster Insurance Fund Act Colo. Rev. Stat., 8-46-301 et seq., 8-65-101 et seq.</p>
<p>Medical Conduct Reform Act (Professional) N.J. Stat. Ann., 45:9-19.4 et seq.</p>	<p>Medical Disciplinary Act S.C. Code Ann. 1976, § 40-47-200 et seq.</p>
<p>Medical Consent Law Fla. Stat. Ann., 766.103</p>	<p>Medical Disciplinary Board Act Wash. Rev. Code Ann., 18.72.010 et seq.</p>
<p>Medical Contribution Act (Employee) Ga. Code Ann., 31-9-1 et seq. Ill. Rev. Stat. 1991, Ch. 48, § 35a et seq. La. Rev. Stat. Ann., 40:1299.50 et seq.</p>	<p>Medical Education and Tertiary Care Act Fla. Stat. Ann., 395.60 et seq., 395.801 et seq.</p>
<p>Medical Corporation Act Ark. Code Ann. 1987, 4-29-301 et seq. Cal. Business and Professions Code § 2500 et seq. Ill. Rev. Stat. 1991, Ch. 32, § 631 et seq. La. Rev. Stat. Ann., 12:901 et seq.</p>	<p>Medical Education Facilities Bond Act N.J. Laws 1977, Ch. 235</p>
	<p>Medical Emergencies Act (Coal Mine) Ill. Comp. Stat. 1992, Ch. 410, § 15/1 et seq.</p>
	<p>Medical Emergency Services Act Tex. Health and Safety Code, § 773.001 et seq.</p>

← 21 USC 301 note

Inside the Statute

powered by WestSearch™

WestlawNext™ All Federal SEARCH advanced Test (4)

YOUNG CAROLINE | Folders | History | Alerts | Sign Off

§ 352. Misbranded drugs and devices
United States Code Annotated | Title 21. Food and Drugs | Effective: November 27, 2013 (Approx. 7 pages)

Document | Notes of Decisions (383) | History (132) | Citing References (13,522) | Context & Analysis (110) | Powered by KeyCite

Table of Contents

United States Code Annotated
Title 21. Food and Drugs (Refs & Annos)
Chapter 9. Federal Food, Drug, and Cosmetic Act (Refs & Annos)
Subchapter V. Drugs and Devices
Part A. Drugs and Devices (Refs & Annos)

Proposed Legislation

Effective: November 27, 2013

21 U.S.C.A. § 352

§ 352. Misbranded drugs and devices

Currentness

A drug or device shall be deemed to be misbranded--

NOTES OF DECISIONS (383)

- Accompanying matter, labeling
- Adequate directions for use
- Advertising literature, labeling
- Bulk shipments, packages subject to labeling requirements
- Burden of proof
- Circulars within package, labeling
- Clinical studies
- Common or usual name, name of drug
- Conspicuous placement, labeling
- Constitutionality
- Construction
- Construction with other laws
- Dangerous when used as prescribed
- Derivatives
- Designation by name not in

Credits – Source of law

WestlawNext™ powered by WestSearch™

YOUNG CAROLINE | Folders ▾ | History ▾ | Alerts | Sign Off

Q Enter search terms, citations, databases, anything ... All Federal SEARCH advanced Test (4)

§ 352. Misbranded drugs and devices
United States Code Annotated | Title 21. Food and Drugs | Effective: November 27, 2013 (Approx. 7 pages)

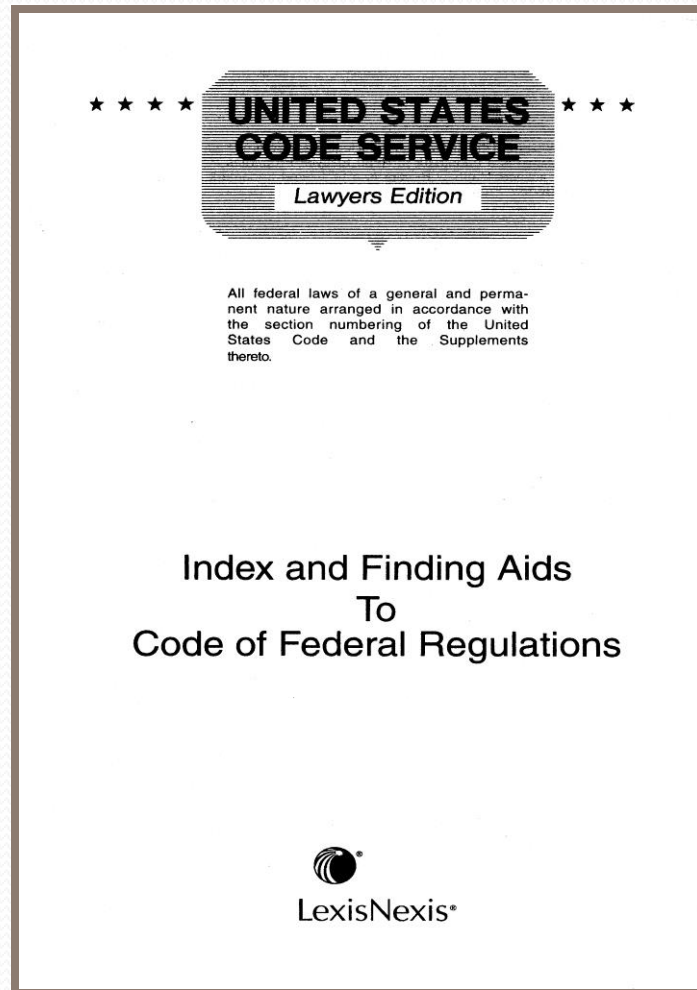
Document | Notes of Decisions (383) | History (132) ▾ | Citing References (13,523) | Context & Analysis (110) ▾ | Powered by KeyCite

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CREDIT(S)

(June 25, 1938, c. 675, § 502, 52 Stat. 1050; June 23, 1939, c. 242, § 3, 53 Stat. 854; 1940 Reorg. Plan No. IV, §§ 12, 13, eff. June 30, 1940, 5 F.R. 2422, 54 Stat. 1237; Dec. 22, 1941, c. 613, § 2, 55 Stat. 851; July 6, 1945, c. 281, § 2, 59 Stat. 463; Mar. 10, 1947, c. 16, § 2, 61 Stat. 11; July 13, 1949, c. 305, § 1, 63 Stat. 409; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 5, 1953, c. 334, § 1, 67 Stat. 389; July 12, 1960, Pub.L. 86-618, Title I, § 102(b)(2), 74 Stat. 398; Oct. 10, 1962, Pub.L. 87-781, Title I, §§ 105(c), 112(a), (b), 131(a), Title III, § 305, 76 Stat. 785, 790, 791, 795; July 13, 1968, Pub.L. 90-399, § 105(a), 82 Stat. 352; Dec. 30, 1970, Pub.L. 91-601, § 7(d), 84 Stat. 1673; Dec. 30, 1970, Pub.L. 91-601, § 6(d), formerly § 7(d), 84 Stat. 1673; renumbered § 6(d), Aug. 13, 1981, Pub.L. 97-35, Title XII, § 1205(c), 95 Stat. 716; amended May 28, 1976, Pub.L. 94-295, §§ 3(e), 4(b)(2), 5(a), 9(b)(2), 90 Stat. 577, 580, 583; Nov. 10, 1978, Pub.L. 95-633, Title I, § 111, 92 Stat. 3773; June 16, 1992, Pub.L. 102-300, § 3(a)(2), 106 Stat. 239; Oct. 29, 1992, Pub.L. 102-571, Title I, § 107(9), 106 Stat. 4499; Aug. 13, 1993, Pub.L. 103-80, § 3(m), 107 Stat. 777; Nov. 21, 1997, Pub.L. 105-115, Title I, §§ 114(a), 125(a)(2)(B), (b)(2)(D), 126(b), Title IV, § 412(c), 111 Stat. 2312, 2325, 2327, 2375; Oct. 26, 2002, Pub.L. 107-250, Title II, § 206, Title III, §§ 301(a), 302(a)(1), 116 Stat. 1613, 1616; Apr. 1, 2004, Pub.L. 108-214, § 2(b)(2)(B), (c)(1), 118 Stat. 575; Aug. 2, 2004, Pub.L. 108-282, Title I, § 102(b)(5)(E), 118 Stat. 902; Aug. 1, 2005, Pub.L. 109-43, § 2(c)(1), 119 Stat. 441; Dec. 22, 2006, Pub.L. 109-462, § 2(d), 120 Stat. 3472; Sept. 27, 2007, Pub.L. 110-85, Title IX, §§ 901(d)(3)(A), (6), 902(a), 906(a), 121 Stat. 940, 942, 943, 949; Pub.L. 112-144, Title III, § 306, Title VII, §§ 702(a), 714(c), July 9, 2012, 126 Stat. 1024, 1065, 1074; Pub.L. 112-193, § 2(a), Oct. 5, 2012, 126 Stat. 1443; Pub.L. 113-54, Title I, § 103(b), Title II, § 206(b), Nov. 27, 2013, 127 Stat. 597, 639.)

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§ 352. Misbranded drugs and devices
United States Code Annotated Title 21. Food and Drugs Effective: November 27, 2013 (Approx. 7 pages)

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Patents, extension of patent term, see 35 USCA § 156.

Code Of Federal Regulations (6)

Labeling, generally, see 21 CFR § 201.1 et seq.

Labeling medical devices, see 21 CFR § 801.1 et seq.

Official and established drug names, see 21 CFR § 299.3.

Prescription drug advertising, see 21 CFR § 202.1.

Prescription drugs not misbranded, see 21 CFR § 361.1 et seq.

Warnings on over-the-counter drugs and devices for humans, see 21 CFR § 369.1 et seq.

Law Review Commentaries (5)

Update the Statute-Check the pocket part!

appropriate, shall provide assistance on request, to the extent resources are available, to the Secretary for the purposes of carrying out this section.

(June 25, 1938, c. 675, § 416, as added Aug. 10, 2005, Pub.L. 109-59, Title VII, § 7202(b), 119 Stat. 2191.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

2005 Acts. House Conference Report No. 109-203, see 2005 U.S. Code Cong. and Adm. News, p. 452.

Statement by President, see 2005 U.S. Code Cong. and Adm. News, p. S24.

Effective and Applicability Provisions

2005 Acts. Amendments by Pub.L. 109-59, §§ 7201 to 7204, effective Oct. 1, 2005, see Pub.L. 109-59, § 7204, set out as a note under 21 U.S.C.A. § 331.

SUBCHAPTER V—DRUGS AND DEVICES

PART A—DRUGS AND DEVICES

§ 351. Adulterated drugs and devices

A drug or device shall be deemed to be adulterated—

[See main volume for text of (a) to (e)]

(f) Certain class III devices

[See main volume for text of (1)]

(2)(A) In the case of a device classified under section 360c(f) of this title into class III and intended solely for investigational use, paragraph 1 (1)(B) shall not apply with respect to such device during the period ending on the ninetieth day after the date of the promulgation of the regulations prescribing the procedures and conditions required by section 360j(g)(2) of this title.

(B) In the case of a device subject to a regulation promulgated under subsection (b) of section 360e of this title, paragraph 1 (1) shall not apply with respect to such device during the period ending—

(i) on the last day of the thirtieth calendar month beginning after the month in which the classification of the device in class III became effective under section 360c of this title, or

(ii) on the ninetieth day after the date of the promulgation of such regulation,

whichever occurs later.

[See main volume for text of (g) to (i)]

¹ So in original. Probably should be "subparagraph".

LAW REVIEW AND JOURNAL COMMENTARIES

A modest proposal to rename the FDA: Apologists for carcinogens, teratogens, and adulterated drugs. Mark Klock, 36 *Ariz. St. L.J.* 1161 (2004).

LIBRARY REFERENCES

American Digest System
Drugs and Narcotics ¶2 to 4.

CJS Drugs and Narcotics § 115, Weight and Sufficiency.

Corpus Juris Secundum

CJS Drugs and Narcotics § 14, Adulteration; Manufacturing Practices.

Research References

ALR Library

133 ALR, Fed. 229, What is "New Drug" Within Meaning of § 201(P) of Federal Food, Drug, and Cosmetic Act (21 U.S.C.A. § 321(P)).

43 ALR, Fed. 320, Necessity of Formal Hearing Prior to Issuance of Regulations Under

§ 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.A. § 371(E)).

12 ALR, Fed. 475, Validity, Construction, and Application of Color Additive Provisions of Federal Food, Drug, and Cosmetic Act, as Amended (21 U.S.C.A. §§ 321(T, U), 362(A, E), 376), and of Implementing Regulations.

13 ALR, Fed. 747, Regulation of Health Devices Under Federal Food, Drug, and Cosmetic Act (21 U.S.C.A. §§ 301 et seq.) as Affected by Religious Guaranties of First Amendment.

129 ALR, Fed. 1, Construction and Application of National Childhood Vaccine Injury Act (42 U.S.C.A. §§ 302aa et seq.).

88 ALR, Fed. 124, Federal Pre-emption of State Common-Law Products Liability Claims Pertaining to Drugs, Medical Devices, and Other Health-Related Items.

93 ALR 5th 103, Products Liability: Statements in Advertisements as Affecting Liability of Manufacturers or Sellers for Injury Caused by Product Other Than Tobacco.

75 ALR 4th 13, Liability for Retaliation Against At-Will Employees for Public Complaints or Efforts Relating to Health or Safety.

1 ALR 4th 921, Products Liability in Connection With Prosthesis or Other Products Designed to be Surgically Implanted in Patient's Body.

94 ALR 3rd 748, Liability of Manufacturer or Seller for Injury or Death Allegedly Caused by Failure to Warn Regarding Danger in Use of Vaccine or Prescription Drug.

94 ALR 3rd 1080, Promotional Efforts Directed Toward Prescribing Physician as Affecting Prescription Drug Manufacturer's Liability for Product-Caused Injury.

Encyclopedias

42 Am. Jur. Proof of Facts 2d 97, Cosmetics Injuries.

49 Am. Jur. Proof of Facts 2d 125, Teratogenic Drugs.

7 Am. Jur. Proof of Facts 3d 1, Injuries from Drugs.

§ 352. Misbranded drugs and devices

A drug or device shall be deemed to be misbranded—

[See main volume for text of (a) to (e)]

(f) Directions for use and warnings on label

Unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users, except that where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the Secretary shall promulgate regulations exempting such drug or device from such requirement. Required labeling for prescription devices intended for use in health care facilities or by a health care professional and required labeling for in vitro diagnostic devices intended for use by health care professionals or in blood establishments may be made available solely by electronic means, provided that the labeling complies with all applicable requirements of law, and that the manufacturer affords such users the opportunity to request the labeling in paper form, and after such request, promptly provides the requested information without additional cost.

[See main volume for text of (g) to (i)]

(v)¹ Single-use medical devices; required statements on labeling

If it is a reprocessed single-use device, unless all labeling of the device prominently and conspicuously bears the statement "Reprocessed device for single use.

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 ▸ **§ 352. Misbranded drugs and devices**

A drug or device shall be deemed to be misbranded--

(a) False or misleading label

If its labeling is false or misleading in any particular. Health care economic information provided to a formulary committee, or other similar entity, in the course of the committee or the entity carrying out its responsibilities for the selection of drugs for managed care or other similar organizations, shall not be considered to be false or misleading under this paragraph if the health care economic information directly relates to an indication approved under [section 355](#) or under [section 262\(a\) of Title 42](#) for such drug and is based on competent and reliable scientific evidence. The requirements set forth in [section 355\(a\)](#) of this title or in [section 262\(a\) of Title 42](#) shall not apply to health care economic information provided to such a committee or entity in accordance with this paragraph. Information that is relevant to the substantiation of the health care economic information presented pursuant to this paragraph shall be made available to the Secretary upon request. In this paragraph, the term "health care economic information" means any analysis that identifies, measures, or compares the economic consequences, including the costs of the represented health outcomes, of the use of a drug to the use of another drug, to another health care intervention, or to no intervention.

(b) Package form; contents of label

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1. 5 U.S.C.A. § 704
UNITED STATES CODE ANNOTATED TITLE 5. GOVERNMENT ORGANIZATION AND EMPLOYEES PART I--THE AGENCIES GENERALLY CHAPTER 7--JUDICIAL REVIEW § 704. Actions reviewable

... the Health Care Financing Administration (HCFA) to plaintiffs who received settlement in products liability class action against manufacturers of orthopedic **bone screws**, which letters asserted right to recover settlement proceeds as repayment for Medicare costs under the Medicare Secondary Payer (MSP) statute, ...

... Payer (MSP) statute, constituted "final agency action" subject to judicial review under the Administrative Procedures Act (APA). In re Orthopedic **Bone Screw** Products Liability Litigation, E.D.Pa.2001, 202 F.R.D. 154, reversed 346 F.3d 386, certiorari denied 124 S.Ct. 2872, 542 U.S. 919, 159 ...

2. 21 U.S.C.A. § 337
UNITED STATES CODE ANNOTATED TITLE 21. FOOD AND DRUGS CHAPTER 9--FEDERAL FOOD, DRUG, AND COSMETIC ACT SUBCHAPTER III--PROHIBITED ACTS AND PENALTIES § 337. Proceedings in name of United States; provision as to subpoenas

... Food, Drug, and Cosmetic Act (FDCA), which imposes criminal penalties, but creates no private right of action. In re Orthopedic **Bone Screw** Products Liability Litigation, C.A.3 (Pa.) 1999, 193 F.3d 781. Conspiracy ⇐ 1.1 There is no private right of action for ...

3. 21 U.S.C.A. § 360e
UNITED STATES CODE ANNOTATED TITLE 21. FOOD AND DRUGS CHAPTER 9--FEDERAL FOOD, DRUG, AND COSMETIC ACT SUBCHAPTER V--DRUGS AND DEVICES PART A--DRUGS AND DEVICES § 360e. Premarket approval

... based on statements allegedly made to Food and Drug Administration (FDA) in course of seeking premarket approval exception for orthopedic **bone screws** as substantially

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New Jersey Practice, Volume 52, Elements of an Action

§ 46:6

ELEMENTS OF AN ACTION

grounded on misrepresentation and negligent misrepresentation.² Negligent misrepresentation exists where the representation made by the defendant is one which an ordinarily careful person would not have made under the circumstances.³

§ 46:7 Choice of law and forum

The law of more than one state may be involved where recovery is sought from the manufacturer or the seller of a product for injury to person or property allegedly caused by the product. The product in question may have been manufactured in one state, sold by the manufacturer in another, sold by a retailer in a third, and used by the purchaser in a fourth. The products liability action may be brought in still another state. Where a products liability case has multi-state aspects, it may become necessary for the court to decide what law applies to the case. This may result in applying the law of more than one state, where the suit is grounded on different theories calling for the application of the law of different jurisdictions.¹

§ 46:8 New Jersey product liability and punitive damage statutes

The legislature of the State of New Jersey found that there was an urgent need for remedial legislation to establish clear rules with respect to certain matters relating to actions for damages for harm caused by products, including certain principles under which liability is imposed and the standards and procedures for the award of punitive damages.¹ As a result, the legislature has enacted several statutes dealing with product liability in New Jersey and punitive damage awards in product liability actions.²

Thus, a manufacturer or seller of a product will be liable in a product liability action³ only if the claimant⁴ proves by a

²Am. Jur. 2d, Products Liability § 586.

³Am. Jur. 2d, Products Liability § 591.

[Section 46:7]

¹Am. Jur. 2d, Products Liability § 866.

[Section 46:8]

¹See N.J.S.A. 2A:58C-1(a).

²See N.J.S.A. 2A:58C-1 to 2A:58C-7. The statutes are not in

tended to codify all issues relating to product liability, but only to deal with matters that require clarification. N.J.S.A. 2A:58C-1(a). Also, except as otherwise provided in the statutes, the statutes are not intended to establish any rule, or alter any existing rule, with respect to the burden of proof in a product liability action. N.J.S.A. 2A:58C-7.

³Product liability actions⁴ means any claim or action brought by a claimant for harm caused by a prod-

PRODUCTS LIABILITY

§ 46:8

preponderance of the evidence that the product causing the harm⁵ was not reasonably fit, suitable, or safe for its intended purpose because it: (a) deviated from the design specifications, formulae, or performance standards of the manufacturer or from otherwise identical units manufactured to the same manufacturing specifications or formulae, (b) failed to contain adequate warnings or instructions, or (c) was designed in a defective manner.⁶

In addition to establishing these standards for imposing product liability in New Jersey, the statutes also set forth a number of defenses and exceptions to such liability. Thus, a manufacturer or seller will not be liable for harm allegedly caused by a product that was designed in a defective manner if: (1) at the time the product left the control of the manufacturer, there was not a practical and technically feasible alternative design that would have prevented the harm without substantially impairing the reasonably anticipated or intended function of the product;⁷ (2) the characteristics of the product are known to the ordinary consumer or user, and the harm was caused by an unsafe aspect of the product that is an inherent characteristic of the product and that would be recognized by the ordinary person who uses or consumes the product with the ordinary knowledge common to the class of persons for whom the product is intended;⁸ or (3) the harm was caused by an unavoidably unsafe aspect of the product and the product was accompanied by an adequate warning or

uct, irrespective of the theory underlying the claim, except actions for harm caused by breach of an express warranty. N.J.S.A. 2A:58C-1(b)(3). The statutes do not apply to any environmental tort action, which is defined as a civil action seeking damages for harm where the cause of the harm is exposure to toxic chemicals or substances, but does not mean actions involving drugs or products intended for personal consumption or use. See N.J.S.A. 2A:58C-1(b)(4), 2A:58C-6.

⁴"Claimant" means any person who brings a product liability action, and if such an action is brought through or on behalf of an estate, the term includes the person's decedent, or if an action is brought through or on behalf of a minor, the term includes the person's parent or guardian. N.J.S.A. 2A:58C-1(b)(1).

⁵"Harm" means (a) physical damage to property, other than the product itself; (b) personal physical illness, injury or death; (c) pain and suffering, mental anguish, or emotional harm; and (d) any loss of consortium or services or other loss deriving from any type of harm described in (a) through (c) above. N.J.S.A. 2A:58C-1(b)(2).

⁶N.J.S.A. 2A:58C-2.

⁷N.J.S.A. 2A:58C-3(a)(1).

⁸N.J.S.A. 2A:58C-3(a)(2). This exception does not apply to industrial machinery or other equipment used in the workplace, nor is it intended to apply to dangers posed by products such as machinery or equipment that can feasibly be eliminated without impairing the usefulness of the product. N.J.S.A. 2A:58C-3(a)(2).

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New Jersey Products Liability Statute

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2A:58C-9. Identification of manufacturer; strict liability of product supplier.
2A:58C-10. Additional definitions; health care providers.
2A:58C-11. Medical devices; liability of provider.

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United States Supreme Court

Due process, punitive damages, grossly excessive awards, lawful conduct of defendant outside state, see BMW of North

America, Inc. v. Gore, 1996, 116 S.Ct. 1539, 517 U.S. 559, 134 L.Ed.2d 809, on remand 701 So.2d 507, rehearing denied.

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2A:58C-1. Legislative findings; definitions

a. The Legislature finds that there is an urgent need for remedial legislation to establish clear rules with respect to certain matters relating to actions for damages for harm caused by products, including certain principles under which liability is imposed and the standards and procedures for the award of punitive damages. This act is not intended to codify all issues relating to product liability, but only to deal with matters that require clarification. The Legislature further finds that such sponsors' or committee statements that may be adopted or included in the legislative history of this act shall be consulted in the interpretation and construction of this act.

b. As used in this act:

(1) "Claimant" means any person who brings a product liability action, and if such an action is brought through or on behalf of an estate, the term includes the person's decedent, or if an action is brought through or on behalf of a minor, the term includes the person's parent or guardian.

(2) "Harm" means (a) physical damage to property, other than to the product itself; (b) personal physical illness, injury or death; (c) pain and suffering, mental anguish or emotional harm; and (d) any loss of consortium or services or other loss deriving from any type of harm described in subparagraphs (a) through (c) of this paragraph.

(3) "Product liability action" means any claim or action brought by a claimant for harm caused by a product, irrespective of the theory underlying the claim, except actions for harm caused by breach of an express warranty.

(4) "Environmental tort action" means a civil action seeking damages for harm where the cause of the harm is exposure to toxic chemicals or substances, but does not mean actions involving drugs or products intended for personal consumption or use.

L.1987, c. 197, § 1, eff. July 22, 1987.

Senate Judiciary Committee Statement
Senate, No. 2805—L.1987, c. 197

Subsection a. of section 1 sets forth a declaration of legislative purpose. The act is intended as a remedial measure to clarify certain matters pertaining to the rules governing actions for harm caused by products and to establish statutory standards and procedures for the imposition of punitive damages.

Subsection b. of section 1 contains definitions of the terms "claimant," "harm," and "product liability action" and "environmental tort action." These definitions establish the scope of the act, which is intended to apply to all actions for harm caused by products, except actions for harm caused by breach of an express warranty.

Sections 2 through 4 contain provisions dealing with actions for damages for harm caused by products. These sections are intended to establish clear rules with respect to specific matters as to which the decisions of the courts in New Jersey have created uncertainty, while reserving the concept that manufacturers may be held strictly liable for harm caused by products that are defective. The provisions of sections 2 through 4 are not intended to codify all issues relating to product liability, but only to deal with matters that require clarification. These sections do not, for example, affect existing statutory and common law rules concerning contributory negligence and comparative fault or other matters not expressly addressed by this legislation. In particular, sections 2 through 4 are not intended to affect the holding in *Suter v. San Angelo Foundry & Machine Company*, 81 N.J. 150 (1979), with respect to the application of the principle of comparative fault in cases involving workplace injuries.

Section 2 identifies the theories under which a manufacturer or seller may be held liable for harm caused by a product. These comprise manufacturing defects, warning defects, and design defects. Except as modified by the provisions of sections 3 and 4, the elements of these causes of action are to be determined according to the existing common law of the State.

Section 3 clarifies certain matters relating to liability for harm caused by an alleged design defect. Paragraph (1) of subsection a. of section 3 provides that a manufacturer or seller is not liable if at the time the product left the manufacturer's control there was not available a practical and feasible alternative design that would have prevented the harm without substantially impairing the usefulness or intended function of the product. Under recent decisions of the New Jersey courts, it is clear that evidence concerning the availability of alternative designs (sometimes referred to as the "state of the art") is relevant in determining whether a product is defective in design, but it is unclear what effect is to be given to a determination that no safer alternative design was feasible when a product was manufactured. This provision makes clear that such a determination precludes liability in a design-defect case not falling within the exception provided for in subsection b. of section 3.

Paragraph (2) of subsection a. of section 3 applies to products whose characteristics are known to the ordinary consumer. It provides

that such a product is not defective in design if harm results from an inherent characteristic of the product that is known to the ordinary person who uses or consumes it with the knowledge common to the class of persons for whom the product is intended. This provision, which adopts the rule established by comment i to section 402A of the American Law Institute's Restatement (Second) of Torts, recognizes that there are many common products, such as foods and other consumer products, whose use necessarily involves some risk of harm. For example, use of butter may conceivably affect cholesterol levels in the arteries and be linked to heart disease, but the product is not for this reason "defective." This "consumer expectations" test has been recognized by the New Jersey courts. See *O'Brien v. Muskin Corp.*, 94 N.J. 169 (1983), *Suter v. San Angelo Foundry & Machine Company*, 81 N.J. 150 (1979), *Whitehead v. St. Joe Lead Co., Inc.*, 729 F.2d 238 (3d Cir.1984). This rule is intended to apply to familiar consumer products of the kind identified in comment i to section 402A of the Restatement (Second) of Torts. It is not intended to apply to other products, such as machinery or other equipment encountered in the workplace. Similarly, it is not intended to apply to dangers posed by products such as machinery or equipment that can feasibly be eliminated without impairing the usefulness of the products, because such dangers are not "inherent."

Paragraph (3) of subsection a. of section 3 provides that a manufacturer or seller is not liable for a design defect if harm results from an unavoidably unsafe aspect of a product and the product was accompanied by an adequate warning or instruction, as provided in section 4 of the act. This provision is based on comment k to section 402A of the Restatement (Second) of Torts and is intended to be applied principally in cases involving prescription pharmaceuticals and vaccines. The use of such products ordinarily entails some risk of side effects, and it is intended that such products shall not be found "defective" if they are properly manufactured and are accompanied by proper warnings or instructions.

Subsection b. of section 3 establishes a limited exception to the provisions of paragraph (1) of subsection a. concerning compliance with the state of the art. In an extraordinary case, a court may conclude that the state-of-the-art provision does not apply if the court makes all of the following determinations: (1) that a product is egregiously unsafe or ultrahazardous; (2) that the ordinary user or consumer of the product cannot reasonably be expected to have knowledge of the product's risks, or the product poses a risk of serious injury to persons other than the user or consumer; and (3) that the product has little or no usefulness. It is intended that such a finding would be made only in genuinely extraordinary cases—for example, in the case of a deadly toy marketed for use by young children, or of a product marketed for use in dangerous criminal activities.

Section 4 provides that a manufacturer or seller is not liable in a warning-defect case if an adequate warning is given when the product has left the control of the manufacturer or seller or, in the case of dangers discovered after the product has left control, if an adequate warning is then given by the manufacturer or seller. The

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N.J. Stat. § 2A:58C-1 (Copy citation)

This section is current through New Jersey 215th Legislature Second Annual Session, P.L. 2013 c. 268 and JR 14State Constitution current through Nov. 2013 Election

[New Jersey Statutes](#) > [TITLE 2A. ADMINISTRATION OF CIVIL AND CRIMINAL JUSTICE](#) > [SUBTITLE 6. SPECIFIC CIVIL ACTIONS](#) > [CHAPTER 58C. PRODUCT LIABILITY](#)

§ 2A:58C-1. Findings; definitions

- a.** The Legislature finds that there is an urgent need for remedial legislation to establish clear rules with respect to certain matters relating to actions for damages for harm caused by products, including certain principles under which liability is imposed and the standards and procedures for the award of punitive damages. This act is not intended to codify all issues relating to product liability, but only to deal with matters that require clarification. The Legislature further finds that such sponsors' or committee statements that may be adopted or included in the legislative history of this act shall be consulted in the interpretation and construction of this act.
- b.** As used in this act:
- (1) "Claimant" means any person who brings a product liability action, and if such an action is brought through or on behalf of an estate, the term includes the person's decedent, or if an action is brought through or on behalf of a minor, the term includes the person's parent or guardian.
 - (2) "Harm" means (a) physical damage to property, other than to the product itself; (b)

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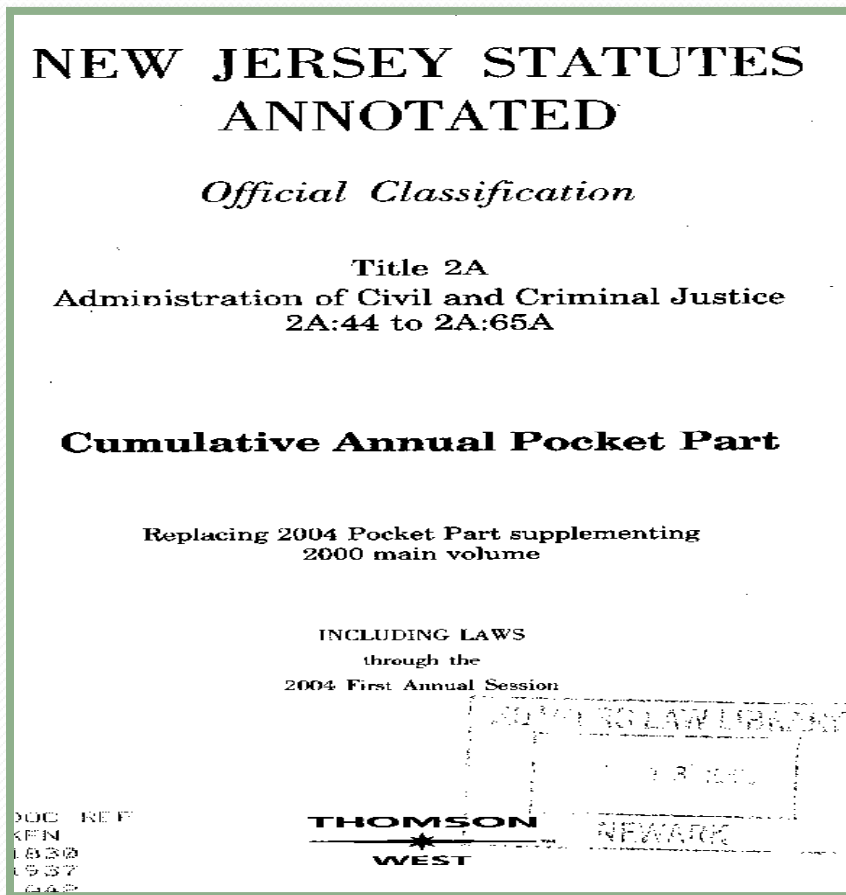
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 * **2A:58C-1. Legislative findings; definitions**

a. The Legislature finds that there is an urgent need for remedial legislation to establish clear rules with respect to certain matters relating to actions for damages for harm caused by products, including certain principles under which liability is imposed and the standards and procedures for the award of punitive damages. This act is not intended to codify all issues relating to product liability, but only to deal with matters that require clarification. The Legislature further finds that such sponsors' or committee statements that may be adopted or included in the legislative history of this act shall be consulted in the interpretation and construction of this act.

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	2.	<input type="checkbox"/> Cited by	Kendall v. Hoffman-La Roche, Inc. ▲ 209 N.J. 173, 36 A.3d 541, 2012 N.J. LEXIS 160, CCH Prod. Liab. Rep. P18799 Cited by: 209 N.J. 173 p.179, p.194; 36 A.3d 541 p.544, p.554 The PLA, N.J.S.A. 2A:58C-1 to -11 , The Product Liability Act (PLA), N.J.S.A. §§ 2A:58C-1 to 2A:58C-11 , has been enacted as a remedial measure to limit the liability of manufacturers by establishing clear rules with respect to certain matters including certain principles under which liability is imposed and the standards and procedures for the award of punitive damages. N.J.S.A. § 2A:58C-1(a) . In particular, in enacting the PLA, the New Jersey Legislature intends to reduce the burden ...	N.J.	2012	
	3.	<input type="checkbox"/> Cited in Dissenting Opinion at <input type="checkbox"/> Followed by <input type="checkbox"/> Interpreted or	Dean v. Barrett Homes, Inc. ▲ 204 N.J. 286, 8 A.3d 766, 2010 N.J. LEXIS 1219, CCH Prod. Liab. Rep. P18523 Cited in Dissenting Opinion at: 204 N.J. 286 p.306; 8 A.3d 766 p.778 Followed by: 204 N.J. 286 p.303; 8 A.3d 766 p.776 Interpreted or construed by: 204 N.J. 286 p.304, p.309; 8 A.3d 766 p.770, p.773	N.J.	2010	



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travel industry, as well as the FAA and Pipeline and Hazardous Materials Safety Administration. The ARC now seeks input from the general public, and is particularly interested in feedback from entities subject to passenger notification regulations promulgated by U.S. Hazardous Materials (49 CFR 175.25). We note that operators transporting passengers in commerce under 14 CFR parts 135 and 31 are subject to the noted 49 CFR regulation, and it is important that a final AC provide a clear, acceptable, and effective means for these operators to communicate hazardous materials regulations to their passengers.

The ARC will review all comments received and consider them in its final recommendation to the FAA.

Issued in Washington, DC, on February 26, 2014.

Christopher Glaw, Director, Office of Hazardous Materials Safety.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 15

[Docket No. FDA-2013-0745]

Action Plan for the Collection, Analysis, and Availability of Demographic Subgroup Data in Applications for Approval of Food and Drug Administration-Regulated Medical Products; Notice of Public Hearing; Request for Comments

AGENCY: Food and Drug Administration, HHS. ACTION: Notification of public hearing; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public hearing to obtain input on the issues and challenges associated with the collection, analysis, and availability of demographic subgroup data in applications for approval of FDA-regulated human medical products.

DATES: The public hearing will be held on April 1, 2014, from 9 a.m. to 3 p.m. Submit electronic or written requests to make oral presentations at the hearing by March 21, 2014. Electronic or written comments will be accepted after the hearing until May 16, 2014.

ADDRESSES: The public hearing will be held at FDA's White Oak Campus, 10905 New Hampshire Ave., Bldg. 31,

Conference Center, the Great Room (Rm. 1503A), Silver Spring, MD 20990. Entrances for the public hearing participants (from FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to <http://www.fda.gov/AboutFDA/Workings/FDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm141740.htm>.

Submit electronic comments to <http://www.regulations.gov>. Submit written comments to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the corresponding docket number for the public meeting as follows: "Docket No. FDA-2013-0745, Action Plan for the Collection, Analysis, and Availability of Demographic Subgroup Data in Applications for Approval of FDA-Regulated Human Medical Products, Public Hearing."

FOR FURTHER INFORMATION CONTACT: Brenda Evelyn, Office of the Commissioner, Office of Minority Health, Food and Drug Administration, 10905 New Hampshire Ave., Bldg. 32, Rm. 2303, Silver Spring, MD 20993; 240-402-4201, e-mail: FDASAS07@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

1. Background. In section 907 of the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112-144), the U.S. Congress directs FDA to produce a report that addressed the extent to which clinical trial participation and the inclusion of safety and effectiveness data by demographic subgroups, including sex, age, race, and ethnicity, is included in applications submitted to FDA. Specifically, Congress asks FDA to consider four key topic areas: (1) A description of existing tools to ensure submission of demographic information along with how information about differences in safety and effectiveness of medical products according to demographic subgroup is made available to health care providers, researchers, and patients; (2) an analysis of the extent to which demographic data subset analyses are presented in applications; (3) an analysis of demographic subgroup representation in clinical trials submitted to FDA in support of product applications; and (4) a summary of product safety and effectiveness data by demographic subgroup is made available to the public

in product labeling or on FDA's Web site.

To comply with that request, in August 2013, FDA published a report "Collection, Analysis, and Availability of Demographic Subgroup Data for FDA-Approved Medical Products."¹ The report describes the Agency's evaluation of 72 applications approved during 2011 for new molecular entity drug products, original biologics, and class III devices (premarket approval).

Regarding collection of data, although there was variation by product area, the evaluation found FDA's statutory and regulatory requirements, guidance, policies, and procedures generally informed sponsors about including tabulations of the demographic data on clinical trial participants and demographic subset analyses in their medical product applications.

Similarly, tools (e.g., application review templates and FDA standard operating policies and procedures) guide regulatory review staff in the assessment of marketing applications to ensure that demographic data and subset analyses are included in the information FDA uses in its review and approval processes.

However, the extent to which demographic subset data were analyzed varied across medical product types (drugs, biologics, and devices). Applications for drugs and biologics uniformly addressed subset analyses by sex, race, and age—that is, the applications mentioned demographic subsets in some way. The report noted that FDA's new drug application regulations (21 CFR part 314, specifically § 314.50) call for demographic analysis in all applications in the integrated summaries of safety and effectiveness. Guidance and standard operating procedures for drugs and biologics also emphasize the importance of such analyses. There are no regulations requiring demographic analysis for device applications. Nonetheless, the majority of the device applications contained a subset analysis for age and sex, with a lower percentage of applications containing a subset analysis for race and ethnicity. Inclusion did not necessarily mean that the data on patient subgroups was sufficient for meaningful analysis or to detect relevant subgroup effects.

The report stated that all biologics, drugs, and the majority of the medical

¹FDA, "Collection, Analysis, and Availability of Demographic Subgroup Data for FDA-Approved Medical Products," August 2013, available at <http://www.fda.gov/oc/ohrt/analyticalinformation/legislation/healthcarelegislationandaction/130814demographicdataandbasicsuccess14.pdf>.

Regulations.gov (current) is a one stop site to comment on proposed federal regulations. It also provides easy access to proposed regulations by agency, by topic, or by keyword.

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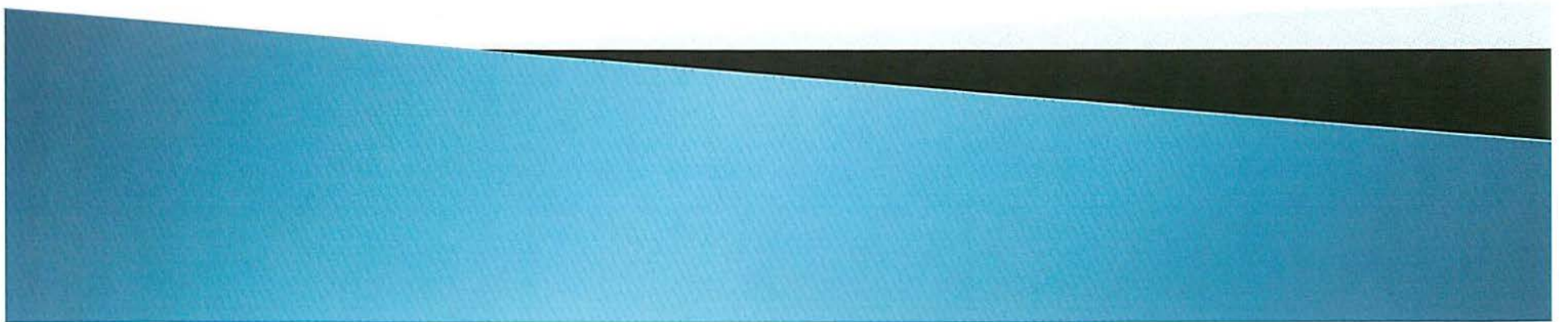
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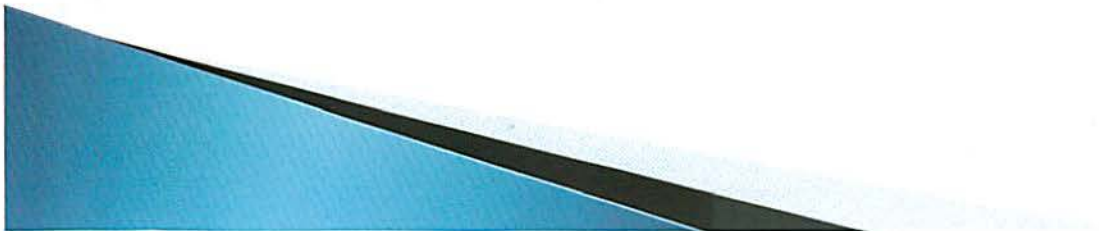
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"property" whose damage gives rise to a claim under the Act. *Rispens*, 621 N.E.2d at 1089. That result, apparently accepted by the legislature, dictates disallowance of the claim for damage to the defective product, whether or not accompanied by other damage. Thus, for the same reasons given in *Progressive*, we hold that damage caused to other property by a defective product does not create a claim for damage to the product itself. We also think there are other persuasive reasons to reject the *Dutsch* rule. If recovery hinges on the presence of other damage, many cases will be launched into quests for some collateral damage. An oil stain on a garage floor from a failed engine or a burnt blade of grass from a fire should not create a claim where none existed.

We conclude that it was error for the trial court to refuse to instruct the jury that damage to the product itself, *i.e.*, the motor home, was not recoverable under the Products Liability Act. In reviewing a trial court's decision to give or refuse tendered instructions, the Court considers: (1) whether the instruction correctly states the law; (2) whether there was evidence in the record to support the giving of the instruction; and (3) whether the substance of the tendered instruction is covered by other instructions which are given. *Wooley v. State*, 716 N.E.2d 919, 926 (Ind. 1999). An erroneous instruction merits reversal if it could have formed the basis for the jury's verdict. *Canfield v. Sandock*, 563 N.E.2d 1279, 1282 (Ind. 1990).

Here, it is clear that Indiana Pattern Instruction No. 11.40 left the jury with the mistaken impression that it should award full damages for the motor home to *Progressive* if it determined that Fleetwood was liable to *Progressive* in *Progressive's* products liability claim, and that the trial court erred in refusing to give Fleetwood's instruction. Ordinarily, a new trial would be

required. However, where, as here, liability was determined by the jury and the basis of the jury's damages award is apparent, it is appropriate to vacate the portion of the damages award not recoverable as a matter of Indiana law. See Ind. Appellate Rule 15(N)(5) (*now* App. R. 66(C)(4)) ("The court, with respect to all or some of the parties or upon all or some of the issues, may order: . . . (6) In the case of excessive or inadequate damages, entry of final judgment on the evidence for the amount of the proper damages . . .").

No challenge is raised to the award of prejudgment interest beyond a challenge to the underlying judgment. Accordingly, prejudgment interest should be awarded in proportion to the amount of the judgment that is affirmed.

CONCLUSION

We affirm the jury's award of damages in the amount of \$6,587.89, reverse the damages award in the amount of \$162,500, and remand with direction that judgment be entered for the plaintiff in the amount of \$6,587.89 plus prejudgment interest of \$1,826.56.

SHEPARD, Chief Justice, and SULLIVAN, Justice, concur. RUCKER, Justice, concurs in result with separate opinion in which DICKSON, Justice, concurs.

[Concurrence]

RUCKER, Justice, concurring in result: Because of the doctrine of *stare decisis*, I concur in the result reached by the majority. Both *Martin Rispens & Son v. Hall Farms, Inc.*, 621 N.E.2d 1078 (Ind. 1993), and *Reed v. Central Soya Co., Inc.*, 621 N.E.2d 1069 (Ind. 1993), compel the outcome in this case.

DICKSON, Justice, concurs.

¶ 16,119 BUCKMAN CO., Petitioner v. PLAINTIFFS' LEGAL COMMITTEE, Respondent.

U.S. Supreme Court; 98-1768; February 21, 2001. 531 US 341, 121 Sct 1012, 148 LEd2d 854. Appeal from the U.S. Court of Appeals, 3d Circuit; 97-1783; Stapleton, Circuit Judge. Reversed.

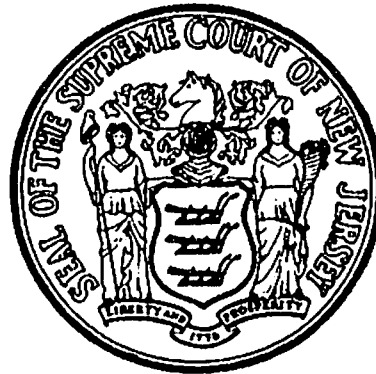
The opinion of the U.S. Court of Appeals, 3d Circuit, appears at CCH PRODUCTS LIABILITY REPRTS ¶ 15,408.

Preemption Doctrine: Pedicle Screws: Medical Device Amendments: Implied Preemption: Fraud on FDA.—State-law fraud-on-the-FDA claims regarding off-label use of bone screws in the surgery of spinal pedicles conflicted with the powers granted to the FDA to deter fraud and balance varied statutory objectives; therefore the claims were impliedly preempted by the Federal Food, Drug, and Cosmetic Act and the Act's Medical Device Amendments. The screws were approved by the FDA as being substantially equivalent to devices that were already on the market prior to the Amendments' enactment in 1976. The federal statutory scheme empowered the FDA to punish and deter fraud against the agency, which had at its disposal a variety of enforcement options that allow it to make a measured response to suspected fraud. Compliance with state tort law in addition to the FDA's detailed regulatory regime would increase the burdens facing medical device manufacturers. Furthermore, the fraud-on-the-FDA claims, if successful, could have judged

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4:50-2. Time of Motion

The motion shall be made within a reasonable time, and for reasons (a), (b) and (c) of R. 4:50-1 not more than one year after the judgment, order or proceeding was entered or taken.

Note: Source—R.R. 4:62-2 (second sentence).

COMMENT

1. Generally.
2. Void Judgments.
3. Reasonable Time.

1. Generally. The basic scheme of the rule is to require that a R. 4:50-1 motion be made within a reasonable time under the circumstances, and to impose an outer limit of one year on motions made pursuant to subsection (a) mistake, inadvertence, surprise, or excusable neglect; subsection (b) newly discovered evidence; and subsection (c) fraud, misrepresentation, or misconduct. See *Orner v. Liu*, 419 N.J. Super. 431, 437 n.7 (App. Div. 2011); *Bascom Corp. v. Chase Manhattan*, 363 N.J. Super. 334, 340 (App. Div. 2003), certif. den. 178 N.J. 453 (2004) certif. den. 178 N.J. 453 (2004).

Where the order or judgment from which relief is sought is not served or otherwise transmitted to the party complaining of it, the timeliness of the application is measured by when the party had actual notice. *Farrell v. TCI of Northern N.J.*, 378 N.J. Super. 341, 353-354 (App. Div. 2005).

2. Void Judgments. The ordinary rule is that a motion pursuant to subsection (d) must be made within a reasonable time despite the voidness of the judgment or order. See *United Pacific Ins. Co. v. Lamanna's Estate*, 181 N.J. Super. 149 (Law Div. 1981); *Last v. Audubon Park Associates*, 227 N.J. Super. 602 (App. Div. 1988), certif. den. 114 N.J. 491 (1989); *Citibank, N.A. v. Russo*, 334 N.J. Super. 346, 353 (App. Div. 2000). But see contra, *Berger v. Paterson Veterans Taxi*, 244 N.J. Super. 200 (App. Div. 1990), holding that a void judgment not entitled to enforcement or execution may be moved against under this rule at any time. Nevertheless, where defendant failed to seek relief under this rule and intervening rights of an innocent third person arose in the meantime, relief will be denied. *City of Newark v. (497) Block 1854*, 244 N.J. Super. 402 (App. Div. 1990); *Friedman v. Monaco and Brown Corp.*, 258 N.J. Super. 539, 545 (App. Div. 1992); *Reaves v. Egg Harbor Tp.*, 277 N.J. Super. 360 (Ch. Div. 1994).

3. Reasonable Time. What constitutes a reasonable time is, of course, dependent on the totality of the circumstances. See *Moore v. Hafeeza*, 212 N.J. Super. 399 (Ch. Div. 1986) (an application by the mother of a child born out of wedlock seeking reconsideration of a paternity decision 16 years after the birth based on developments in HLA testing failed to meet the reasonable time standard); *Mt. Olive Com. v. Tp. of Mt. Olive*, 340 N.J. Super. 511, 531 (App. Div. 2001), reaff'd after remand 356 N.J. Super. 500 (App. Div.), certif. den. 176 N.J. 73 (2003) (laches is a relevant consideration in the decision to modify or refuse to enforce a consent decree in public interest litigation). Note that the one-year limitation for reasons (a), (b) and (c) of the Rule does not mean that filing within one year automatically qualifies as within a reasonable time. *Orner v. Liu*, 419 N.J. Super. 431, 436-437 (App. Div. 2011).

4:50-3. Effect of Motion

A motion under R. 4:50 does not suspend the operation of any judgment, order or proceeding or affect the finality of a final judgment, nor does this rule limit the power of a court to set aside a judgment, order or proceeding

4:50-2. Time of Motion

The motion shall be made within a reasonable time, and for reasons (a), (b) and (c) of R. 4:50-1 not more than one year after the judgment, order or proceeding was entered or taken.

Note: Source__R.R. 4:62-2 (second sentence).

COMMENT**What's New?**

1. Generally. The basic scheme of the rule is to require that a R. 4:50-1 motion be made within a reasonable time under the circumstances, and to impose an outer limit of one year on motions made pursuant to subsection (a) mistake, inadvertence, surprise, or excusable neglect; subsection (b) newly discovered evidence; and subsection (c) fraud, misrepresentation, or misconduct. See Orner v. Liu, 419 N.J. Super. 431, 437 n.7 (App. Div. 2011); Bascom Corp. v. Chase Manhattan, 363 N.J. Super. 334, 340 (App. Div. 2003), certif. den. 178 N.J. 453 (2004) certif. den. 178 N.J. 453 (2004).

Where the order or judgment from which relief is sought is not served or otherwise transmitted to the party complaining of it, the timeliness of the application is measured by when the party had actual notice. Farrell v. TCI of Northern N.J., 378 N.J. Super. 341, 353-354 (App. Div. 2005).

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What's New?

3. Reasonable Time. What constitutes a reasonable time is, of course, dependent on the totality of the circumstances. See Moore v. Hafeeza, 212 N.J. Super. 399 (Ch. Div. 1986)(an application by the mother of a child born out of wedlock seeking reconsideration of a paternity decision 16 years after the birth based on developments in HLA testing failed to meet the reasonable time

standard); *Mt. Olive Com. v. Tp. of Mt. Olive*, 340 N.J. Super. 511, 531 (App. Div. 2001), *reaff'd after remand* 356 N.J. Super. 500 (App. Div.), *certif. den.* 176 N.J. 73 (2003) (laches is a relevant consideration in the decision to modify or refuse to enforce a consent decree in public interest litigation). Note that the one-year limitation for reasons (a), (b) and (c) of the Rule does not mean that filing within one year automatically qualifies as within a reasonable time. *Orner v. Liu*, 419 N.J. Super. 431, 436-437 (App. Div. 2011).

4:50-3. Effect of Motion

A motion under R. 4:50 does not suspend the operation of any judgment, order or proceeding or affect the finality of a final judgment, nor does this rule limit the power of a court to set aside a judgment, order or proceeding for fraud upon the court or to entertain an independent action to relieve a party from a judgment, order or proceeding.

Note: Source__R.R. 4:62-2 (third and fourth sentences).

4:50-2



4:50-3

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Chapter 46

Products Liability

- § 46:1 Summary of law
- § 46:2 Bases of liability
- § 46:3 Negligence
- § 46:4 Breach of warranty
- § 46:5 Strict liability in tort
- § 46:6 Fraud, deceit, and misrepresentation
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- § 46:9 Breach of warranty regarding new vehicle
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- § 46:12 Presumptions
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§ 46:1 Summary of law

The term “products liability” refers to the liability of a manufacturer, processor, or non-manufacturing seller for injury to the person or property of a buyer or third party caused by a product, which has been sold.¹

There are several federal acts that may have great importance in any products liability case. These include the Consumer Product Safety Act,² the Flammable Fabrics Act,³ the Hazardous Substances Act,⁴ and the Special Packaging of Household Substances

[Section 46:1]

¹Am. Jur. 2d, Products Liability
§ 1.

²15 U.S.C.A. §§ 2051 et seq.

³15 U.S.C.A. §§ 1191 et seq.

⁴15 U.S.C.A. §§ 1261 et seq.

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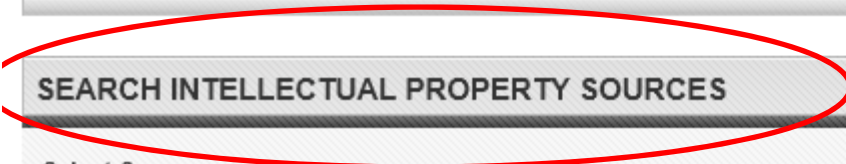
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Closing Private M&A Transactions Checklist

Resource type: Checklist

Status: **Maintained**

Jurisdiction: USA

This Checklist summarizes the key steps that need to be taken and the issues that need to be considered when preparing a private M&A transaction for closing. This Checklist is not intended to be exhaustive. It covers those steps and issues that are common to most private M&A transactions. There may be additional steps or issues depending on the complexity of a particular deal.

PLG Corporate & Securities

This Checklist assumes that the signing of the principal transaction document precedes the closing of the transaction. Although some transactions do have a simultaneous signing and closing, most M&A transactions have the closing follow a period of time after the signing. There are usually various regulatory, corporate and third-party consents that need to be obtained before completing a transaction. The parties, particularly the seller, may not want to begin the process of obtaining these consents until they have a signed agreement. In some cases, they may not be able to start the process without a signed agreement. For more information on M&A transactions, see [Practice Note, Signing and Closing M&A Transactions: Signing and Closing: Simultaneous or Gap?](#).

The Closing Checklist

The first step towards a successful closing of a private M&A transaction is the preparation of a comprehensive **closing checklist**. This is a list assigning responsibility for actions to be taken and documents to be delivered at or before the closing. It is important to an organized closing and should be

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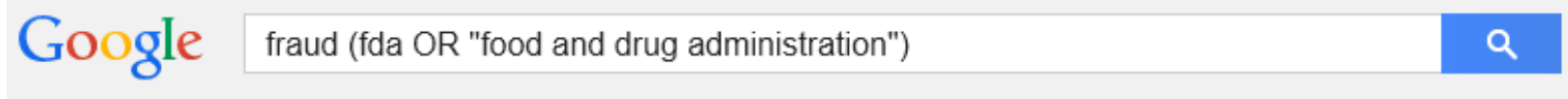
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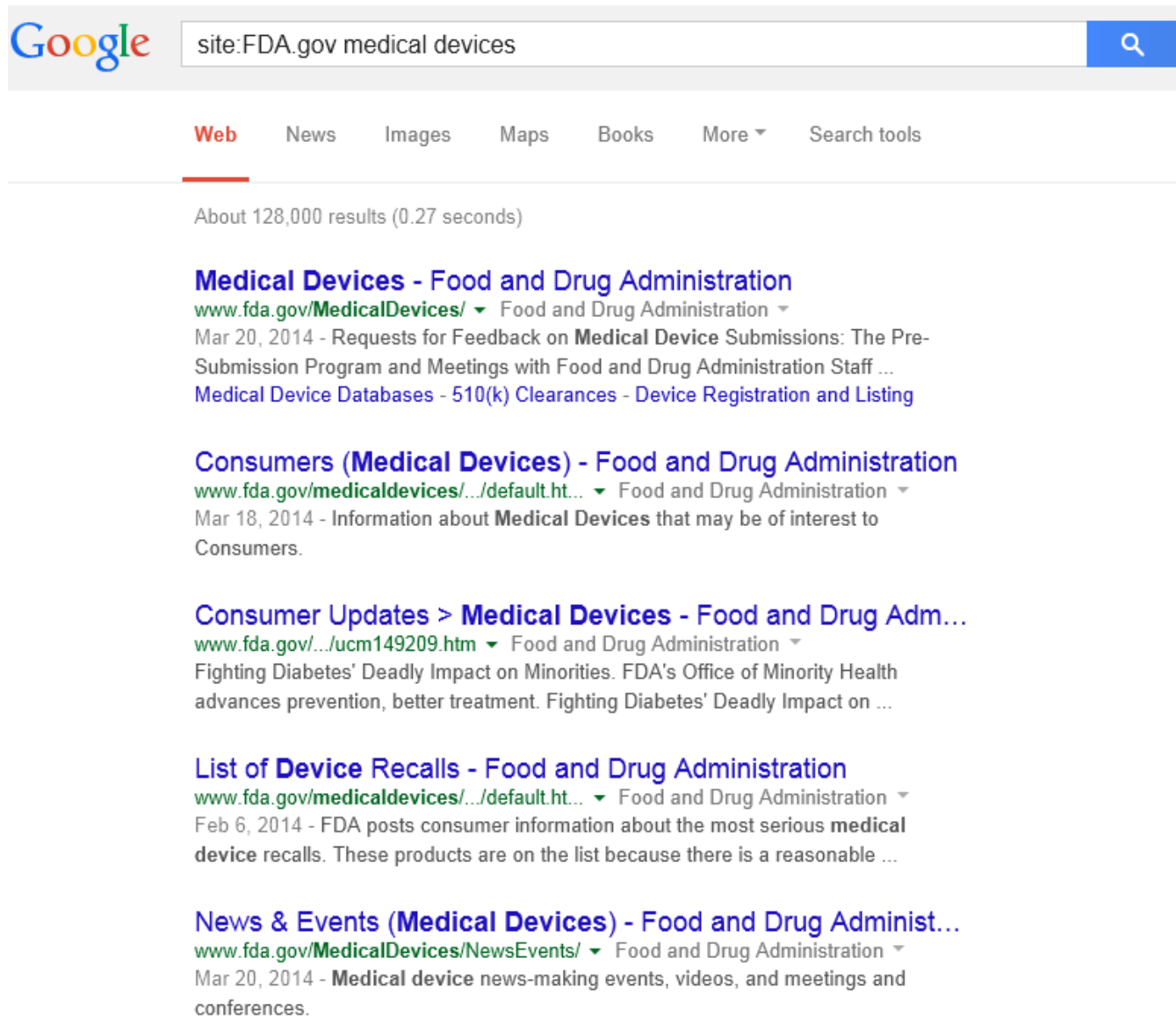
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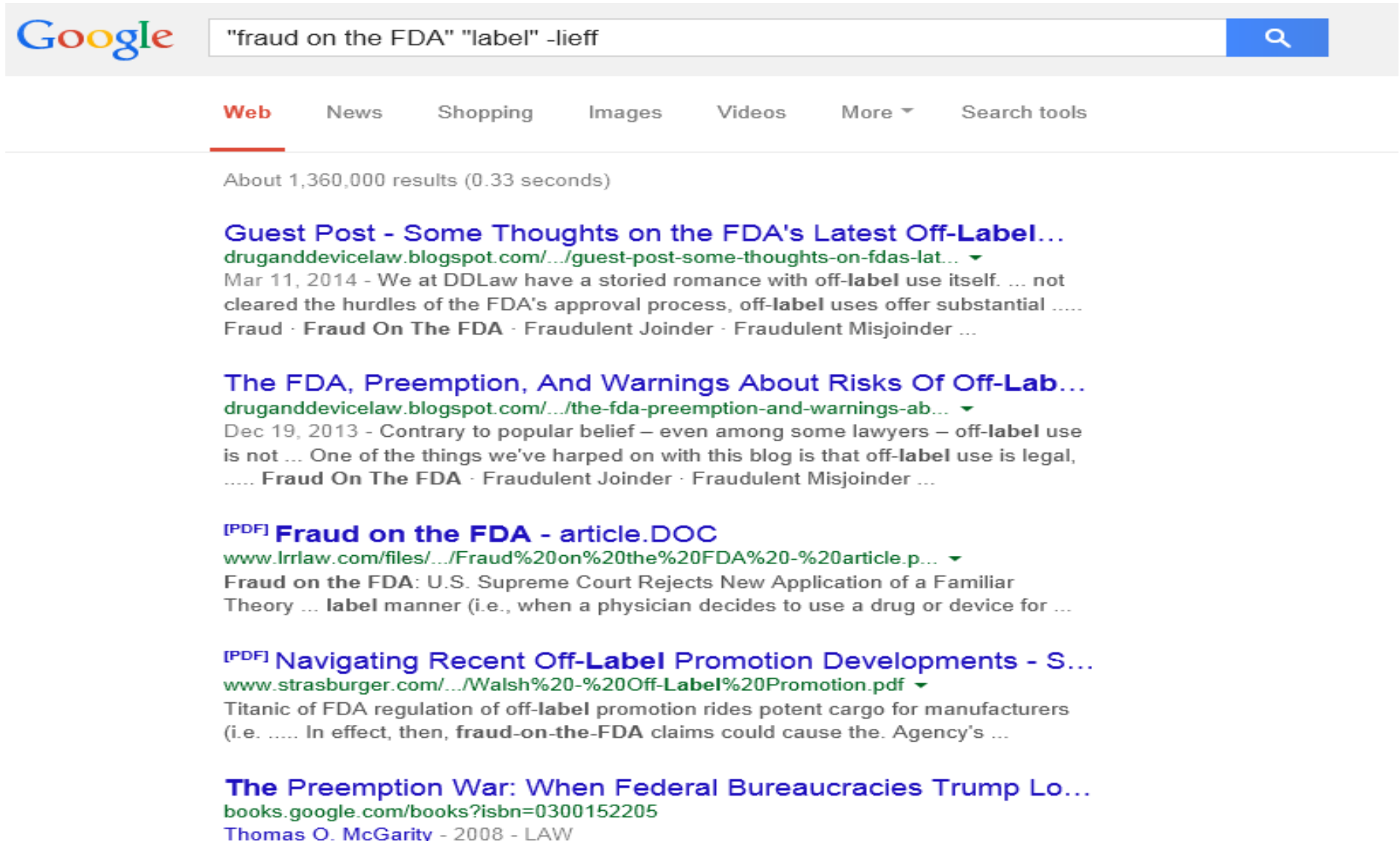
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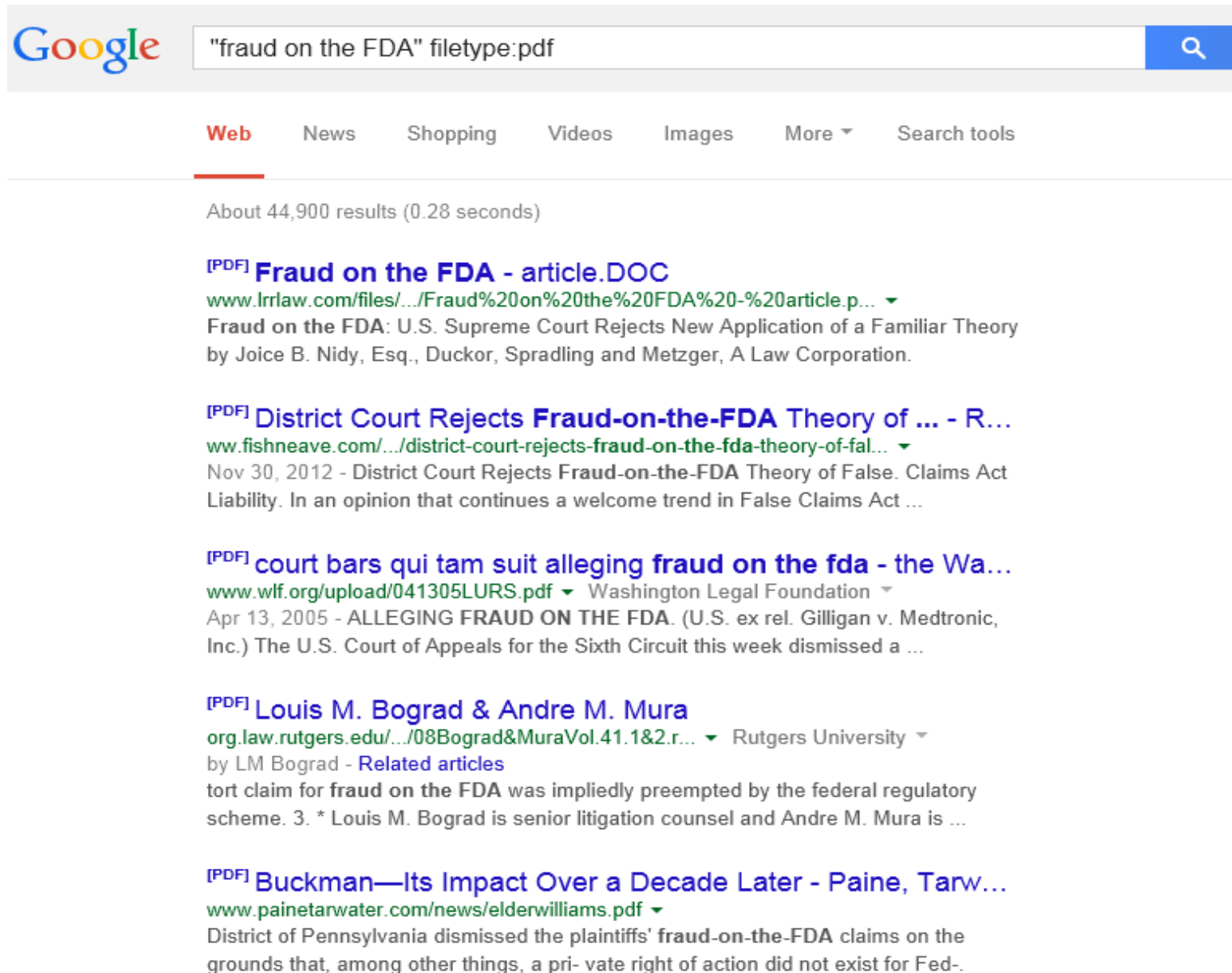
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The image shows a Google search interface. The search bar contains the text "fraud on the FDA" filetype:pdf. Below the search bar, there are navigation tabs for "Web", "News", "Shopping", "Videos", "Images", "More", and "Search tools". The "Web" tab is selected. Below the tabs, it says "About 44,900 results (0.28 seconds)". There are five search results listed, each with a "[PDF]" icon, a blue title link, a green URL, and a brief description.

Google

"fraud on the FDA" filetype:pdf

Web News Shopping Videos Images More Search tools

About 44,900 results (0.28 seconds)

[PDF] [Fraud on the FDA - article.DOC](#)
www.lrrlaw.com/files/.../Fraud%20on%20the%20FDA%20-%20article.p...
Fraud on the FDA: U.S. Supreme Court Rejects New Application of a Familiar Theory by Joice B. Nidy, Esq., Duckor, Spradling and Metzger, A Law Corporation.

[PDF] [District Court Rejects Fraud-on-the-FDA Theory of ... - R...](#)
www.fishneave.com/.../district-court-rejects-fraud-on-the-fda-theory-of-fal...
Nov 30, 2012 - District Court Rejects Fraud-on-the-FDA Theory of False Claims Act Liability. In an opinion that continues a welcome trend in False Claims Act ...

[PDF] [court bars qui tam suit alleging fraud on the fda - the Wa...](#)
www.wlf.org/upload/041305LURS.pdf Washington Legal Foundation
Apr 13, 2005 - ALLEGING FRAUD ON THE FDA. (U.S. ex rel. Gilligan v. Medtronic, Inc.) The U.S. Court of Appeals for the Sixth Circuit this week dismissed a ...

[PDF] [Louis M. Bograd & Andre M. Mura](#)
org.law.rutgers.edu/.../08Bograd&MuraVol.41.1&2.r... Rutgers University
by LM Bograd - [Related articles](#)
tort claim for fraud on the FDA was impliedly preempted by the federal regulatory scheme. 3. * Louis M. Bograd is senior litigation counsel and Andre M. Mura is ...

[PDF] [Buckman—Its Impact Over a Decade Later - Paine, Tarw...](#)
www.painetarwater.com/news/elderwilliams.pdf
District of Pennsylvania dismissed the plaintiffs' fraud-on-the-FDA claims on the grounds that, among other things, a private right of action did not exist for Fed-

Finding Search Features

The image shows a Google search interface. At the top left is the Google logo. The search bar contains the text "fraud on the fda" filetype:pdf. To the right of the search bar is a blue search button with a magnifying glass icon. Further right is a grid icon and a blue "Sign in" button. Below the search bar are navigation tabs: "Web" (highlighted with a red underline), "News", "Shopping", "Videos", "Images", "More" (with a dropdown arrow), and "Search tools". Below the tabs, it says "About 44,900 results (0.23 seconds)". The first search result is a PDF document titled "Fraud on the FDA - article.DOC" from www.lrrlaw.com. The result text reads: "Fraud on the FDA: U.S. Supreme Court Rejects New Application of a Familiar Theory by Joice B. Nidy, Esq., Duckor, Spradling and Metzger, A Law Corporation." In the top right corner, there is a gear icon. A blue arrow points from this gear icon to a dropdown menu that appears below it. The menu contains the following options: "Search settings", "Languages", "Turn on SafeSearch", "Advanced search", "Web history", and "Search help".

When you click on this wheel (after you run a search), these options appear

- Search settings
- Languages
- Turn on SafeSearch
- Advanced search
- Web history
- Search help

Search Settings

- Change things like search predictions and number of results per page

Google Instant predictions

When should we show you **results as you type**?

- Only when my computer is fast enough.
Instant is currently on for web search. Manually change it below.
- Always show Instant results.
- Never show Instant results.

Results per page



Advanced Search

- From this page, use all the search operators we discussed, plus more (language, where terms appear (in title only, in text only), etc.

Then narrow your results
by...

language:

any language

region:

any region

last update:

anytime

site or domain:

terms appearing:

anywhere in the page

Narrow results by time



"fraud on the fda"

Web

News

Shopping

Videos

Images

More

Search tools

Any time

All results

Roseland, NJ

- ✓ Any time
- Past hour
- Past 24 hours
- Past week
- Past month
- Past year
- Custom range...

FDA" Failure to Warn Claims Are ... - Sedgwick...

[n-the-fda-failure-to-warn-claims-are-preempted-...](#)

"on-the-FDA" Failure to Warn Claims Are Preempted by
Statistical Law Update. March 2012. The extent to which ...

FDA - article.DOC

[Fraud%20on%20the%20FDA%20-%20article.p...](#)

Supreme Court Rejects New Application of a Familiar Theory
Duckor, Spradling and Metzger, A Law Corporation.

Buckman Co. v. Plaintiffs' Legal Comm. - Wikipedia, the free ...



"fraud on the fda"



Web

News

Shopping

Videos

Images

More ▾

Search tools

Past week ▾

Sorted by relevance ▾

All results ▾

Clear

Drug and Device Law: Breaking News – Fosamax Preemptio...

druganddevicelaw.blogspot.com/.../breaking-news-fosamax-preemption-... ▾

2 days ago - Instead, Plaintiffs' contention appears to be a **fraud-on-the-FDA** theory which was rejected by the Supreme Court in [Buckman], or alternatively, is based largely ...

Drug and Device Law: Preemption Applies Even Though the...

druganddevicelaw.blogspot.com/.../preemption-applies-even-though-dev... ▾

4 days ago - ... Forum Non Conveniens · Fosamax · Fraud · **Fraud On The FDA** · Fraudulent Joinder · Fraudulent Misjoinder · Gadolinium · Generic Drugs · Genetics · Georgia ...

Drug and Device Law: Better Late than Never: We Look Back...

druganddevicelaw.blogspot.com/.../better-late-than-never-we-look-back-... ▾

2 days ago - ... Forum Non Conveniens · Fosamax · Fraud · **Fraud On The FDA** · Fraudulent Joinder · Fraudulent Misjoinder · Gadolinium · Generic Drugs · Genetics · Georgia ...

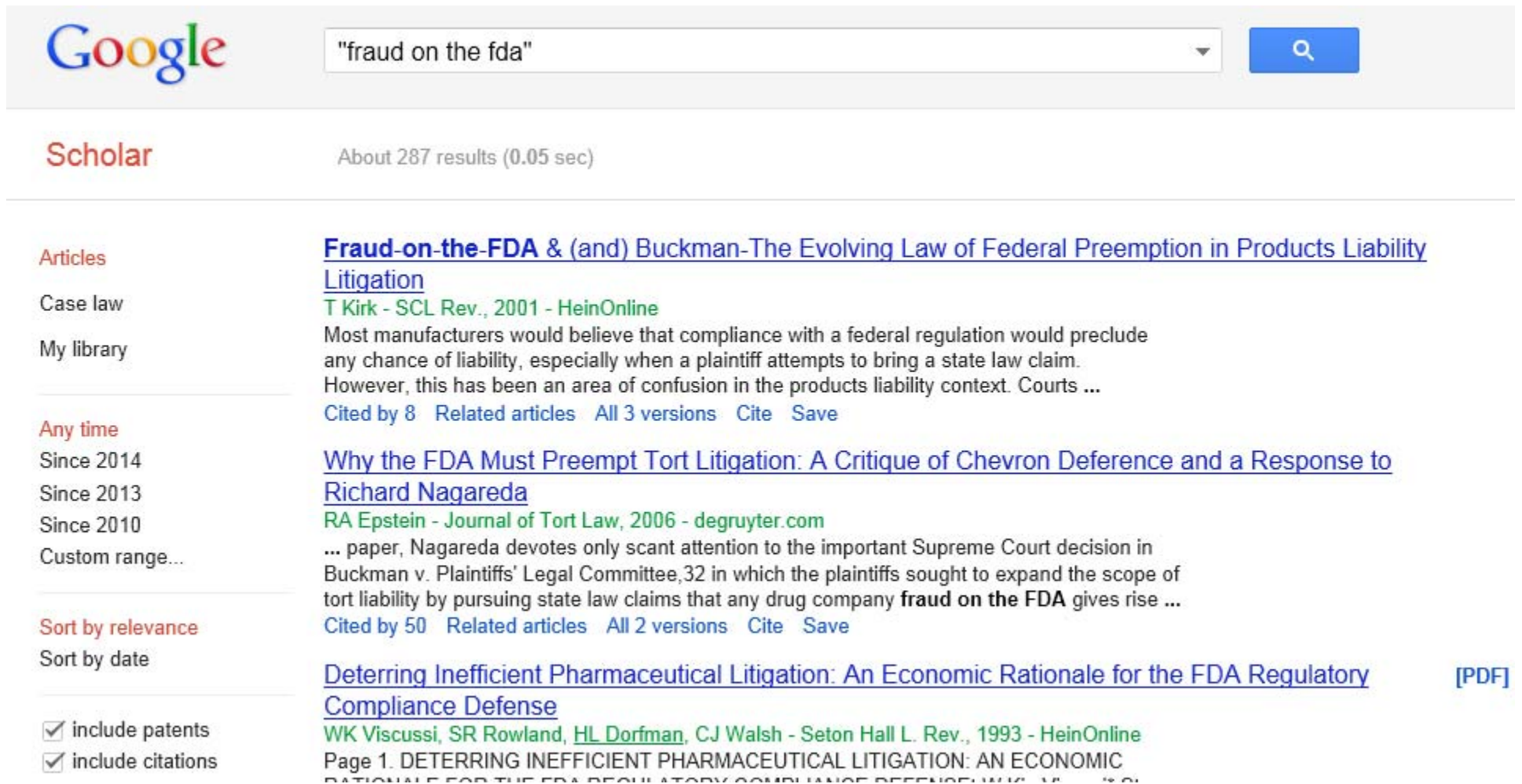
[PDF] 1 NOT FOR PUBLICATION UNITED STATES ... - Reed S...

www.reedsmith.com/files/uploads/.../Fosamax_MDL-wide.pd... ▾ Reed Smith ▾

2 days ago - state law causes of action merely required some proof of **fraud on the FDA** but such ... **fraud on the FDA** claims are preempted did not apply to automatically ...

Use Google Scholar

- <http://scholar.google.com>



The screenshot shows the Google Scholar interface. At the top, the Google logo is on the left, and a search bar contains the text "fraud on the fda" with a search button on the right. Below the search bar, the word "Scholar" is displayed in red, followed by "About 287 results (0.05 sec)".

On the left side, there are several filters and options:

- Articles** (selected)
- Case law
- My library

- Any time**
- Since 2014
- Since 2013
- Since 2010
- Custom range...

- Sort by relevance** (selected)
- Sort by date

- include patents
- include citations

The main content area displays search results:

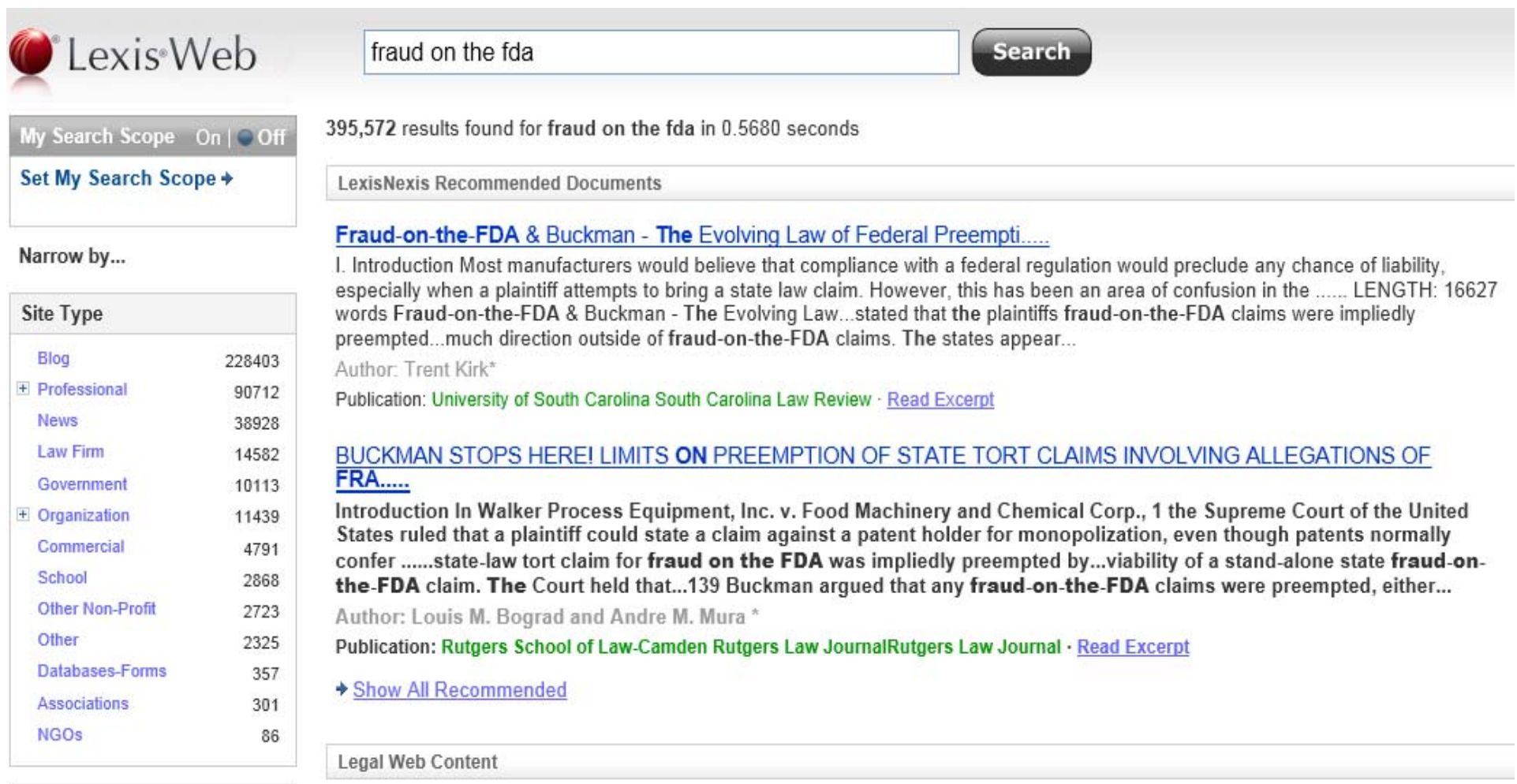
[Fraud-on-the-FDA & \(and\) Buckman-The Evolving Law of Federal Preemption in Products Liability Litigation](#)
[T Kirk - SCL Rev., 2001 - HeinOnline](#)
Most manufacturers would believe that compliance with a federal regulation would preclude any chance of liability, especially when a plaintiff attempts to bring a state law claim. However, this has been an area of confusion in the products liability context. Courts ...
[Cited by 8](#) [Related articles](#) [All 3 versions](#) [Cite](#) [Save](#)

[Why the FDA Must Preempt Tort Litigation: A Critique of Chevron Deference and a Response to Richard Nagareda](#)
[RA Epstein - Journal of Tort Law, 2006 - degruyter.com](#)
... paper, Nagareda devotes only scant attention to the important Supreme Court decision in *Buckman v. Plaintiffs' Legal Committee*,³² in which the plaintiffs sought to expand the scope of tort liability by pursuing state law claims that any drug company **fraud on the FDA** gives rise ...
[Cited by 50](#) [Related articles](#) [All 2 versions](#) [Cite](#) [Save](#)

[Deterring Inefficient Pharmaceutical Litigation: An Economic Rationale for the FDA Regulatory Compliance Defense](#) [\[PDF\]](#)
[WK Viscussi, SR Rowland, HL Dorfman, CJ Walsh - Seton Hall L. Rev., 1993 - HeinOnline](#)
Page 1. DETERRING INEFFICIENT PHARMACEUTICAL LITIGATION: AN ECONOMIC RATIONALE FOR THE FDA REGULATORY COMPLIANCE DEFENSE WIKI ...

Use Lexis Web

- <http://lexisweb.com>



The screenshot shows the LexisWeb search interface. At the top left is the LexisWeb logo. A search bar contains the text 'fraud on the fda' and a 'Search' button. Below the search bar, it indicates '395,572 results found for fraud on the fda in 0.5680 seconds'. On the left side, there is a 'My Search Scope' section with 'On' selected and a 'Set My Search Scope' link. Below that is a 'Narrow by...' section with a 'Site Type' table.

Site Type	Count
Blog	228403
Professional	90712
News	38928
Law Firm	14582
Government	10113
Organization	11439
Commercial	4791
School	2868
Other Non-Profit	2723
Other	2325
Databases-Forms	357
Associations	301
NGOs	86

The main content area shows 'LexisNexis Recommended Documents'. The first document is titled 'Fraud-on-the-FDA & Buckman - The Evolving Law of Federal Preempti.....'. The text below the title reads: 'I. Introduction Most manufacturers would believe that compliance with a federal regulation would preclude any chance of liability, especially when a plaintiff attempts to bring a state law claim. However, this has been an area of confusion in the LENGTH: 16627 words Fraud-on-the-FDA & Buckman - The Evolving Law...stated that the plaintiffs fraud-on-the-FDA claims were impliedly preempted...much direction outside of fraud-on-the-FDA claims. The states appear...'. The author is Trent Kirk* and the publication is University of South Carolina South Carolina Law Review. A 'Read Excerpt' link is provided.

The second document is titled 'BUCKMAN STOPS HERE! LIMITS ON PREEMPTION OF STATE TORT CLAIMS INVOLVING ALLEGATIONS OF FRA.....'. The text below the title reads: 'Introduction In Walker Process Equipment, Inc. v. Food Machinery and Chemical Corp., 1 the Supreme Court of the United States ruled that a plaintiff could state a claim against a patent holder for monopolization, even though patents normally conferstate-law tort claim for fraud on the FDA was impliedly preempted by...viability of a stand-alone state fraud-on-the-FDA claim. The Court held that...139 Buckman argued that any fraud-on-the-FDA claims were preempted, either...'. The author is Louis M. Bograd and Andre M. Mura * and the publication is Rutgers School of Law-Camden Rutgers Law Journal. A 'Read Excerpt' link is provided.

At the bottom of the main content area, there is a link 'Show All Recommended' and a 'Legal Web Content' section.

Use Google Images

Google

pedical screws



Web

Images

Shopping

Videos

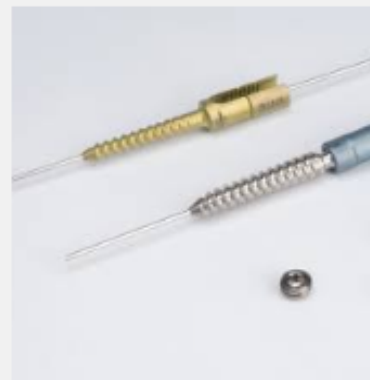
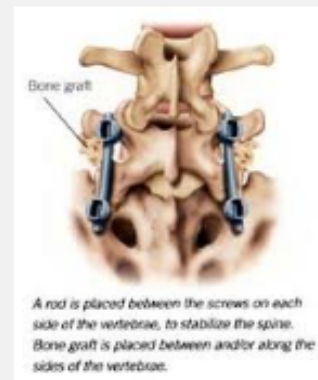
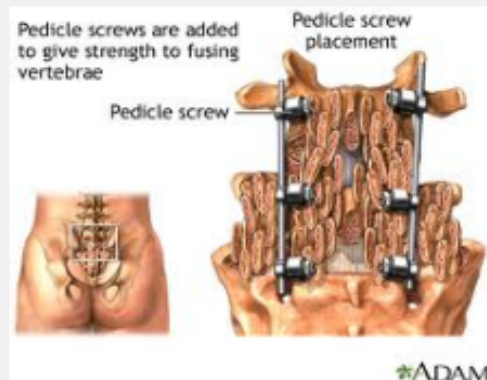
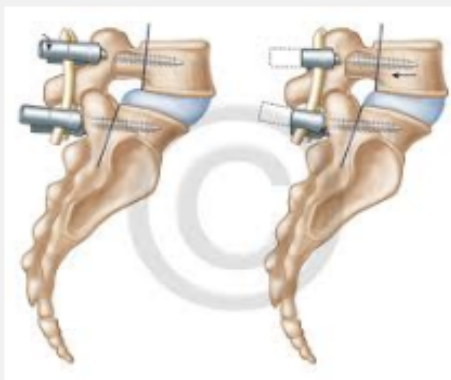
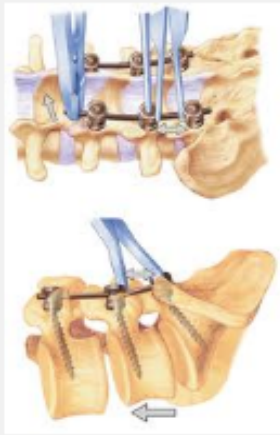
News

More ▾

Search tools

Showing results for **pedicle screws**

Search instead for [pedical screws](#)



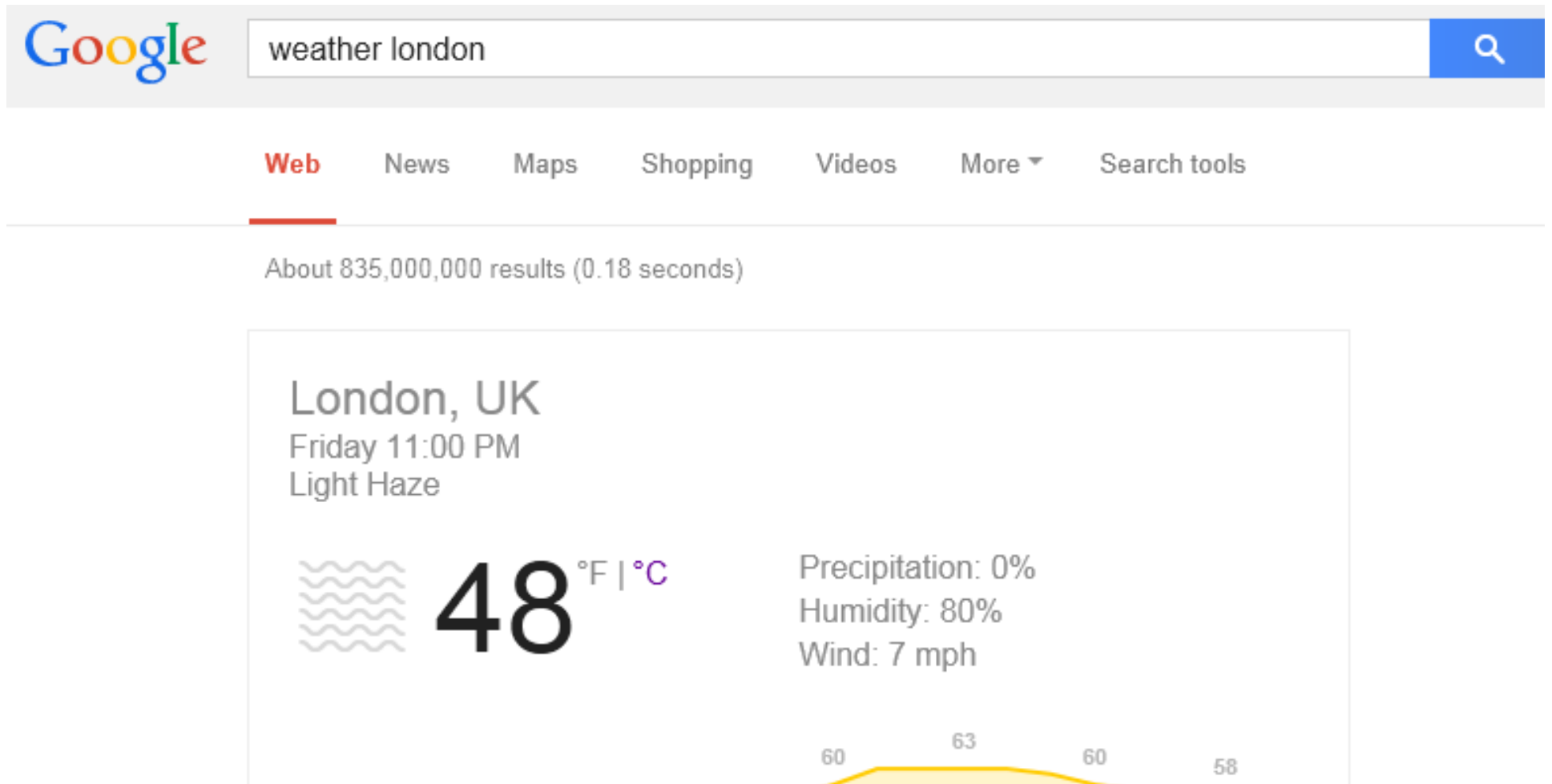
Use Google Maps

- Useful in researching parties in litigation
- Does company exist? What does the location look like? Use Satellite View
- Street View – if available, can see details of buildings, car ownership, etc.



Other Specialized Functions

- Weather



The image shows a Google search interface. The search bar contains the text "weather london" and a magnifying glass icon. Below the search bar are navigation links: "Web" (highlighted with a red underline), "News", "Maps", "Shopping", "Videos", "More", and "Search tools". Below the navigation links, it says "About 835,000,000 results (0.18 seconds)". The main content area displays a weather widget for "London, UK". The widget shows the current time as "Friday 11:00 PM" and the weather as "Light Haze". The temperature is displayed as "48°F | °C" with a wavy icon representing haze. To the right of the temperature, it shows "Precipitation: 0%", "Humidity: 80%", and "Wind: 7 mph". At the bottom of the widget, there is a small line graph showing temperature fluctuations with values 60, 63, 60, and 58.

Google weather london

Web News Maps Shopping Videos More Search tools

About 835,000,000 results (0.18 seconds)

London, UK
Friday 11:00 PM
Light Haze

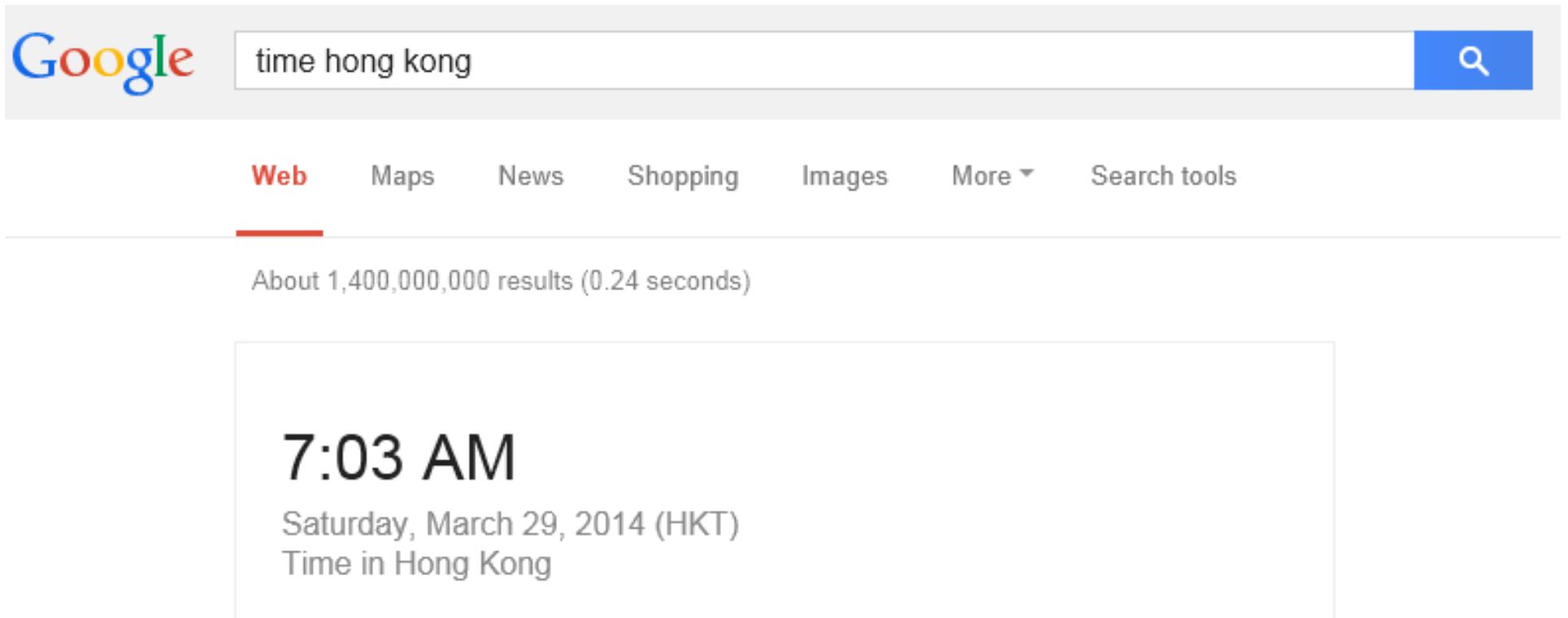
48°F | °C

Precipitation: 0%
Humidity: 80%
Wind: 7 mph

60 63 60 58

Other Specialized Functions

- Time



The image shows a Google search interface. The search bar contains the text "time hong kong" and a blue search button with a magnifying glass icon. Below the search bar, there are navigation links for "Web", "Maps", "News", "Shopping", "Images", "More", and "Search tools". The "Web" link is highlighted with a red underline. Below the navigation links, the search results are displayed, showing "About 1,400,000,000 results (0.24 seconds)". The main result is a box containing the time "7:03 AM" in large font, followed by "Saturday, March 29, 2014 (HKT)" and "Time in Hong Kong" in smaller font.

Google

time hong kong

Web Maps News Shopping Images More Search tools

About 1,400,000,000 results (0.24 seconds)

7:03 AM
Saturday, March 29, 2014 (HKT)
Time in Hong Kong

Wikipedia?

- Use only as a starting point – go to original sources and do your own analysis
-

Riegel v. Medtronic, Inc.

From Wikipedia, the free encyclopedia

Riegel v. Medtronic, Inc., 552 U.S. 312 [↗](#) (2008), is a [United States Supreme Court](#) case in which the Court held that the pre-emption clause of the [Medical Device Amendment](#) bars state common-law claims that challenges the effectiveness or safety of a medical device marketed in a form that received premarket approval from the [Food and Drug Administration](#).

It modified the rule in *Medtronic, Inc. v. Lohr*, 518 U.S. 470 [↗](#) (1996).

See also [\[edit\]](#)

- *Eli Lilly & Co. v. Medtronic, Inc.*
- FDA Preemption
- [List of United States Supreme Court cases, volume 552](#)

Further reading [\[edit\]](#)

- [Syllabus and opinion in printable format from Justia.com](#) [↗](#)
- Korobkin, Russell (2007). "Who Should Protect the Public? The Supreme Court and Medical Device Regulation". *New England Journal of Medicine* 357 (17): 1680–1681. doi:10.1056/NEJMp078142 [↗](#). PMID 17960010 [↗](#).

Tales of Woe

- Be careful what you use! You are responsible for your work product and its accuracy, currency and reliability
- Let me tell you about.....
 - Jersey corporation law
 - Wikipedia vs. US Code

Getting Creative

- Use other search engines such as Yahoo, Bing, Exalead, SearchLion (video, twitter), and more (see <http://www.philb.com/whichengine.htm>)
- Search Twitter using Topsy or Snapbird
- For long shots, use search engine Millionshort to remove top million (or 100k or 10k) most popular sites from its index

Good luck!

Kathy Taggart

ktaggart@lowenstein.com