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May 2008 Congressional Hearing On Federal Preemption Of Drug And Medical Device Lawsuits

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POSTED: Monday, May 12, 2008

FROM BLOG: [Drug Injury Watch](#) - Prescription Drug Side Effects News and Information from Attorney Tom Lamb

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Committee Will Hear From A Diverse Set Of Witnesses On The Various Aspects Of This Controversial Legal Doctrine

(Posted by Tom Lamb at [DrugInjuryWatch.com](#))

On May 14, 2008 the House of Representative's Committee on Oversight and Government Reform will convene a hearing to explore the legal doctrine of federal preemption in the context of product liability lawsuits involving FDA-approved drugs and medical devices.

The [announcement for this May 14 federal preemption hearing](#) is currently on the Committee on Oversight and Government Reform web site (accessed 5/12/08):

Should FDA Drug and Medical Device Regulation Bar State Liability Claims?

Committee on Oversight and Government Reform

Wednesday, May 14, 2008, 10:00 AM at 2154 Rayburn House Office Building

It is expected that the Committee should offer live streaming video of this hearing on their website: <http://www.oversight.house.gov>

At this May 2008 hearing, members of Congress and those in attendance will likely hear from each of these scheduled witnesses:

- Actor Dennis Quaid and his wife Kimberly, parents of newborn twins, Thomas Boone Quaid and Zoe Grace Quaid, who were victims of a heparin overdose;
- William Maisel, director of the Medical Device Safety Institute, Department of Medicine, Beth Israel Deaconess Medical Center, Boston;
- Aaron Kesselheim of the Harvard Medical School's Division of Pharmacoepidemiology; David Kessler, professor of pediatrics and epidemiology and biostatistics at the School of Medicine, University of

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California, San Francisco;

- David Vladeck, professor of law at the Georgetown University Law Center;
- Gregory Curfman, editor of the New England Journal of Medicine;
- Christine Ruther, president and chief engineer for C&R Engineering, Inc.; and,
- Utah State Representative David Clark (R) of the National Conference of State Legislatures.


As you may know, the U.S. Supreme Court's ruling in *Riegel v. Medtronic* this past February dealt American patients a serious set-back in terms of holding medical device companies legally liable for their unsafe products when, in an 8-to-1 vote, the Supreme Court held that state tort claims regarding medical devices were preempted if the FDA had granted premarket approval for a medical device.

Looking forward, in October 2008 (what will likely still be) the same Supreme Court hears oral arguments in the case *Wyeth v. Levine*, relating to the issue of whether the federal preemption doctrine ought to prohibit drug injury cases.

For reasons I have written about previously, [I believe that patients should not be preempted, or prohibited, from filing lawsuits against medical device and pharmaceutical companies.](#)

Let us know what you think about this federal preemption doctrine in the context of medical device and drug injury cases by submitting a Comment to this article, below, or by taking part in a poll on this issue -- "[What if you were hurt by a drug and couldn't sue?](#)" -- over on the HeyMonkeyBrain! part of Squidoo.

[Read more from this blogger at Drug Injury Watch](#) | [Let us know what you think of this feature](#)

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