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NEWS RELEASE

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Public Justice Joins U.S. Supreme Court Battle against Pharmaceutical Companies' Bid for Complete Immunity from Failure-to-Warn Lawsuits

**Eliminating Tort Liability against Pharmaceutical Industry Would Place Public at Grave Risk,
Argues Amicus Brief on Behalf of Editors, Authors at *New England Journal of Medicine***

Arguing that FDA approval should not exempt drug manufacturers from liability for inadequate drug labels, Public Justice Thursday joined a high-profile case before the U.S. Supreme Court that will decide whether federal law preempts failure-to-warn claims for prescription drugs.

Public Justice's *amicus* brief in *Wyeth v. Levine* was filed on behalf of 10 current and former editors and contributing authors of the *New England Journal of Medicine* (NEJM). The brief argues that allowing federal preemption of prescription drug failure-to-warn claims poses a serious threat to public health and safety because the resource-strapped U.S. Food and Drug Administration (FDA) relies on the pharmaceutical industry itself for information about the risks of prescription drugs.

"The drug industry is seeking total immunity from lawsuits involving defective warning labels," said Gerson H. Smoger of Dallas, Tex., and Oakland, Calif., lead counsel on the brief. "We are committed to stopping this grave threat to public health and safety."

The brief includes case studies of three drugs – Pondimin/Redux, Vioxx, and Trasyolol – whose manufacturers withheld key information from the FDA while ardently lobbying against stricter label warnings and while continuing to market their unsafe drugs to an unsuspecting public.

The NEJM brief asserts that the common-law tort system serves as an essential counterweight to such self-serving actions, by unearthing key information that assists the FDA in evaluating the benefits and risks of prescription drugs and by creating a potent deterrent against pharmaceutical company misconduct.

The NEJM brief was principally authored by Smoger, with assistance from Public Justice Staff Attorney Leslie Brueckner and Executive Director Arthur H. Bryant.

The brief is available on the Public Justice website at http://www.publicjustice.net/briefs/WyethvLevine_081408.pdf

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Public Justice is America's public interest law firm, supported by – and calling on – a nationwide network of more than 3,000 of the nation's top lawyers to pursue precedent-setting and socially significant litigation. It has a wide-ranging litigation docket in the areas of consumer rights, worker safety, civil rights and liberties, toxic torts, environmental protection, and access to the courts. Public Justice is the principal project of the Public Justice Foundation, a not-for-profit membership organization headquartered in Washington, DC, with a West Coast office in Oakland, California. The Public Justice web site address is www.publicjustice.net.