But What Will Happen to Court TV?

By Reg P. Wydeven
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The Wacky Warning Label Contest is an annual competition sponsored by the Michigan Lawsuit Abuse Watch, an anti-lawsuit group. The winner for 2004 was a sign on a toilet brush that cautioned "Do not use for personal hygiene."

Second place was a label on a children's scooter that warned, "This product moves when used," while third prize went to a digital thermometer's label that admonished "Once used rectally, the thermometer should not be used orally."

M.L.A.W. was organized to expose how excessive lawsuits and concern about lawsuits 'have created a need for common sense warnings on products." Because many Americans share this viewpoint, President Bush and congressional Republicans are attempting to put caps and other limits on jury awards in liability cases.

Commonly called "tort reform", the White House and Congress hope to cut back on punitive damages and restrict class actions. While these two elected branches of the federal government have had little success with tort reform in the past, the appointed Justices on the U.S. Supreme Court have actually carried out some of some of President Bush's goals.

Last week two important cases came before the Supreme Court that may have a strong impact on what many believe to be our 'litigation-happy' society. In its role as interpreter of statutes, the Supreme Court will have the final say on two laws that took a crack at tort reform. In the ultimate case of irony, in both cases the Court will have to decipher statutes that contain ambiguous language, which could result in drastically more lawsuits, not less.

In the first case, the Court will have to interpret the Private Securities Litigation Reform Act of 1995. This law requires that a shareholder, before suing the company that issued its stock, prove that the harm they are seeking damages for was actually caused by the corporation. The corporation that is the subject of the suit is appealing an earlier ruling that allowed shareholders to prevail by merely showing the corporation's action "touches upon" the reasons for the losses suffered.

The corporation, backed by the Bush administration and much of the securities industry, opposes such a standard. They claim that if it is upheld, the floodgates would open for far too many lawsuits against companies whose stock prices fall for reasons unrelated to any wrongdoing, such as the post-9/11 economic recession or the crash of tech stocks.

In the second case, the Court must decrypt by the Federal Insecticide, Fungicide, and Rodenticide Act, which prevents states from imposing labeling requirements on pesticides other than those set by the Environmental Protection Agency. Dow, a huge chemical manufacturer, requested the federal court in the Northern District of Texas to rule that state lawsuits were pre-empted by the Act.

The court declined to make such a ruling. If it had, hundred of Texas peanut farmers that used Dow's pesticide to kill weeds would be precluded from suing Dow under Texas law after they inadvertently killed all their crops.

Dow is appealing decision, claiming it could lead to different labeling requirements in all 50 states. President Bush is also supporting Dow, which is a radical shift from the Clinton Administration that backed the farmers in previous similar lawsuits.

The Court will use these two cases, which are expected to be decided by June, to try to draw the fine line between discouraging frivolous lawsuits and preventing legitimately injured parties from having their day in court.