FSU UNDERGRADUATE RESEARCH OPPORTUNITY PROGRAM
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PRODUCT LIABILITY LAW IN THE U.S.

An Analysis of its History

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References

Abstract

This project aims to answer the question of how the history of pharmaceutical liability law in the United States has evolved over time. This research is being conducted in the hopes that it will eventually become part of a larger work about the history of medicine in America as well as to gather information about a topic that has very little documentation the further back in time one goes. The project was accomplished by using a variety of online sources provided to the researcher through Florida State University and other publicly available sources such as the national archives. These sources were all stored, analyzed, and ordered in a comprehensive timeline to map out the history of product liability law. This provided the researcher with a timeline of not only important laws and court cases pertaining to this topic over time but also how legal arguments in these cases have evolved. The results suggest that legal practices in these cases have become more systematic and group-oriented. Class-action lawsuits as well as lawyers meeting and strategizing before court cases are much more common than before. Further studies could be done to investigate even further back in time or to predict the future of these legal practices.

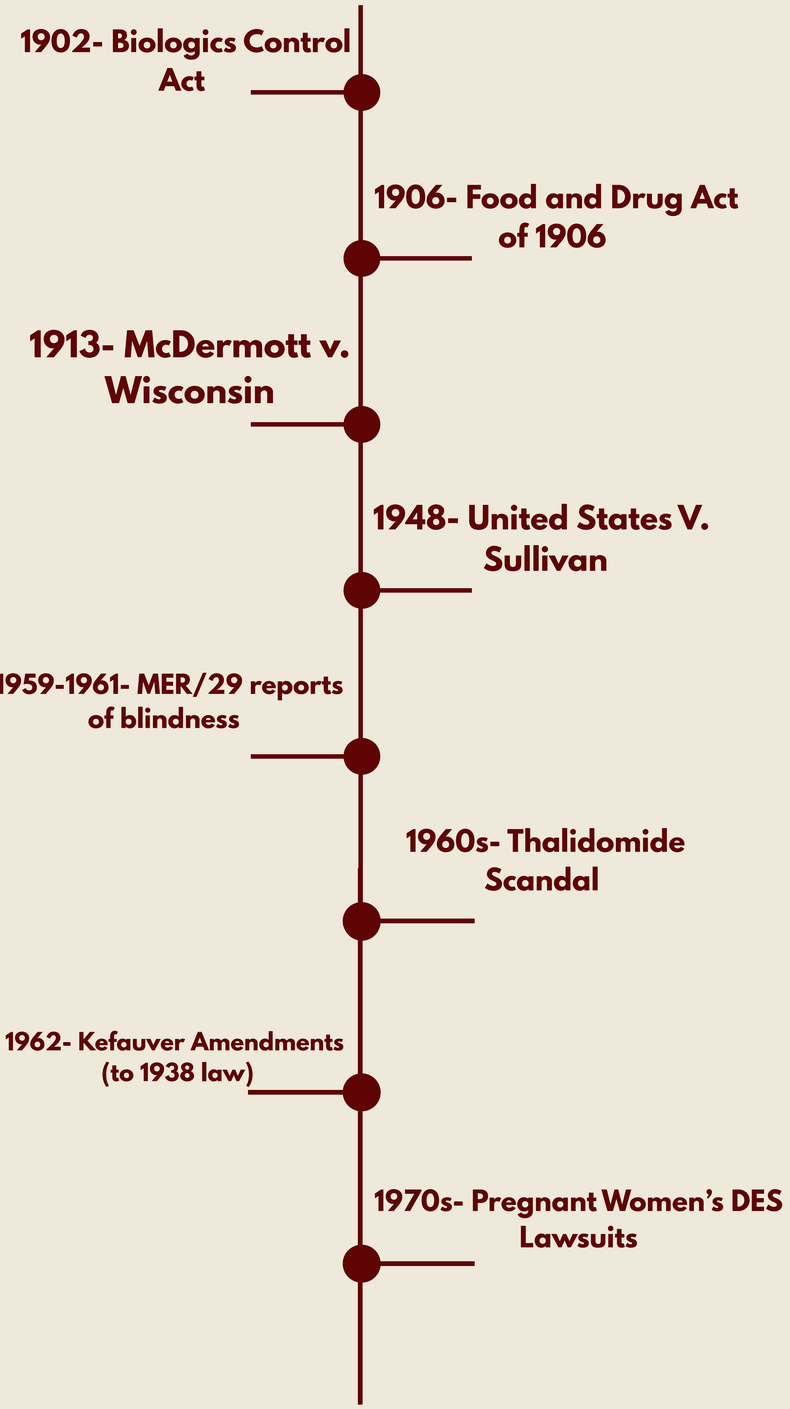
Results

Throughout the project and while examining the changes in legal arguments used throughout the research timeframe, the following can be concluded:

- It is undeniable that there has been a trend of increasing the amount of rules and regulations on drugs with each important case that is brought to court. The opposite is rarely seen if at all.
- Over time, there was also a greater degree of separation that developed between drugs and cosmetics. Although laws were often passed that would consider these two product types as one in the same, more recent law deals with them separately.
- Certain cases such as the MER/29 lawsuits throughout the nation have contributed to trends that are more commonly seen today, namely the practice of lawyers working on separate cases that will travel to meet each other and discuss their arguments rather than developing their cases individually.

Limitations of this research involve being unable to find several court cases regarding the jurisdiction of laws such as the 1938 Food, Drug, and Cosmetics act or regarding drugs such as Thalidomide despite several sources claiming there are a plethora of these cases. That being said, further research could be done to find the legal response to these laws and drug scandals as they fit into the context of product liability law.

Important Laws/ Cases



Background

In terms of pharmaceutical liability law, there is a clear disparity in the level of documentation as one goes forward in time. This project explores the historical development of pharmaceutical product liability law in the United States, namely how courts have redefined risk and culpability through time (mostly 1920s-1980s). During this period, the American legal system went through rapid growth in the pharmaceutical industry with research and medical breakthroughs, leading to a series of high-profile safety controversies. As medical research became more complex and medications more widely distributed, courts were forced to keep up and reconsider traditional legal trends in order to adapt to a modern landscape. By examining landmark court cases across these decades this research was able to properly examine how legal arguments regarding negligence, strict liability, and the overall role of federal regulation evolved over time. It also analyzes how judges and litigants framed questions of manufacturer responsibility. Ultimately, this study highlights how pharmaceutical liability law developed through simultaneous and continuous dialogue between courts, manufacturers, the public, etc.

Methods

This project utilized qualitative legal research methods in order to gauge the development of product liability law. Primary sources often consisted of medical records and judicial opinions from federal and state courts, with a significant amount of time spent on court cases between the public and drug manufacturers that would help shape the legal doctrine regarding drugs in the future. These cases and records were accessed through a multitude of databases such as the National Archives, HeinOnline, and Nexis Uni. With these platforms, full-text cases, opinions, and medical commentaries were able to be located. The research began with keyword searches such as “pharmaceutical liability”, “drug manufacturing”, etc. From there, any relevant court cases could be analyzed, and citations from previous court cases allowed the researcher to work backwards in time to find relevant statutes and legal arguments. Cases were selected based on legal significance and relevance to evolving standards of culpability. After selecting an appropriate case, each was analyzed for its central legal question and its decision’s impact on subsequent judicial matters.