

## Syllabus

WARNER-LAMBERT CO., LLC, ET AL. *v.* KENT ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE SECOND CIRCUIT

No. 06–1498. Argued February 25, 2008—Decided March 3, 2008

467 F. 3d 85, affirmed by an equally divided Court.

*Carter G. Phillips* argued the cause for petitioners. With him on the briefs were *Daniel E. Troy*, *Rebecca K. Wood*, *Eamon P. Joyce*, *Quin M. Sorenson*, *David Klingsberg*, and *Steven Glickstein*.

*Daryl Joseffer* argued the cause for the United States as *amicus curiae* urging reversal. With him on the brief were *Solicitor General Clement*, *Acting Assistant Attorney General Bucholtz*, *Deputy Solicitor General Kneedler*, *Douglas N. Letter*, *Daniel Meron*, *Gerald F. Masoudi*, and *Eric M. Blumberg*.

*Allison M. Zieve* argued the cause for respondents. With her on the brief were *David R. Parker*, *Brian Wolfman*, *Scott L. Nelson*, *Theodore Goldberg*, and *David Bennet Rhodes*.\*

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\*Briefs of *amici curiae* urging reversal were filed for the Chamber of Commerce of the United States of America by *Kenneth S. Geller*, *David M. Gossett*, *Robin S. Conrad*, and *Amar D. Sarwal*; for the Generic Pharmaceutical Association by *Jay P. Lefkowitz*; for Pharmaceutical Research and Manufacturers of America by *Bert W. Rein*; and for the Product Liability Advisory Council by *Robert N. Weiner*.

Briefs of *amici curiae* urging affirmance were filed for the State of Kansas et al. by *Paul J. Morrison*, Attorney General of Kansas, *Stephen R. McAllister*, Solicitor General, and *Jared S. Maag*, Deputy Solicitor General, and by the Attorneys General for their respective States as follows: *Talis J. Colberg* of Alaska, *Terry Goddard* of Arizona, *Bill McCollum* of Florida, *Lawrence G. Wasden* of Idaho, *Lisa Madigan* of Illinois, *Tom Miller* of Iowa, *Jack Conway* of Kentucky, *Michael A. Cox* of Michigan, *Lori Swanson* of Minnesota, *Jim Hood* of Mississippi, *Jeremiah W. (Jay) Nixon* of Missouri, *Mike McGrath* of Montana, *Catherine Cortez Masto* of Nevada, *Kelly A. Ayotte* of New Hampshire, *Anne Milgram* of New Jer-

Per Curiam

PER CURIAM.

The judgment is affirmed by an equally divided Court.

THE CHIEF JUSTICE took no part in the consideration or decision of this case.

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sey, *Gary K. King* of New Mexico, *Andrew M. Cuomo* of New York, *Wayne Stenehjem* of North Dakota, *Marc Dann* of Ohio, *W. A. Drew Edmondson* of Oklahoma, *Hardy Myers* of Oregon, *Henry McMaster* of South Carolina, *Lawrence E. Long* of South Dakota, *Mark L. Shurtleff* of Utah, *William H. Sorrell* of Vermont, *Robert F. McDonnell* of Virginia, *Robert M. McKenna* of Washington, and *Darrell V. McGraw, Jr.*, of West Virginia; for AARP by *David C. Vladeck* and *Bruce Vignery*; for the American Association for Justice by *Francine A. Hochberg* and *Kathleen Flynn Peterson*; for the National Conference of State Legislatures et al. by *Richard Ruda* and *Steven H. Goldblatt*; and for Public Justice, P. C., by *Leslie A. Brueckner*, *David J. Arkush*, and *Arthur H. Bryant*.

*Eric G. Lasker*, *Daniel J. Popeo*, and *Richard A. Samp* filed a brief for the Washington Legal Foundation as *amicus curiae*.