

S.Ct. 1187 (2009) altered the legal landscape with respect to this issue. *Wyeth* dealt with the issue of whether FDA warnings preempted state failure to warn claims. While the arguments may be similar, they are not identical. Moreover, there is no clear indication in *Wyeth* that would cause this Court to believe that it overruled the Sixth Circuit cases relied upon previously by this Court.

The Court also questions the timeliness of Plaintiff's motion. This Court dismissed the failure to warn claims on August 26, 2008. *Wyeth* was decided on March 4, 2009. Plaintiff, however, did not seek reconsideration in reliance on *Wyeth* until June 30, 2009. By that time, Strong had moved for summary judgment and the briefing of that motion was closed. The motion to vacate was not filed until after all discovery, including expert discovery, had come to a conclusion. As such, aside from the above finding that the motion lacks merit, it appears untimely.

For the reasons stated above, the motion is DENIED.

DATED: October 29, 2009

/s/ John R. Adams
JUDGE JOHN R. ADAMS