

UNITED STATES COURT OF APPEALS  
For the Fifth Circuit

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No. 98-20109

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CELIA SCHWARZ, Individually as next friend of Erica Greenstein  
and Jared Greenstein, Minors; ERICA GREENSTEIN; SEYMOUR  
GREENSTEIN; JARED GREENSTEIN

Plaintiffs-Appellants,

VERSUS

BLOCK DRUG CO. INC.; ET AL,

Defendants,

BLOCK DRUG CO. INC.; BLOCK DRUG CORP.

Defendants-Appellees.

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Appeal from the United States District Court  
for the Southern District of Texas  
(H-96-CV-3055)

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April 15, 1999

Before GARWOOD, DAVIS, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

After reviewing the record and considering the briefs and arguments of counsel, we conclude that the Plaintiffs produced no evidence that the Defendant drug manufacturer knew or should have known its product was likely to cause brain tumors in children. Under comment K of the Restatement of Torts (Second) § 402A, a drug manufacturer is responsible in damages only if it failed to warn of

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\*Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

a defect of which it knew or should have known. Therefore, the district court correctly granted summary judgment.

AFFIRMED.