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A Connecticut law banning product liability claims against commercial producers of blood-components has been upheld by the U.S. Court of Appeals for the Second Circuit.

The ban was challenged by a Connecticut couple, John T. Coffee and his wife, Meg, after Mr. Coffee, a hemophiliac, alleged he contracted acquired immune deficiency syndrome (AIDS) after taking an anti-hemophilia blood product of Cutter Biological and Miles Laboratories. He died last year.

Different Claim Pending

The couple also have a pending negligence claim against the producers in the U.S. District Court for the District of Connecticut before Judge Ellen Bree Burns. The same judge dismissed the products-liability claim last year.

The Circuit Court affirmed Judge Burns's dismissal of the products liability claims in a ruling handed down last week in *Coffee v. Cutter Biological and Miles Laboratories*, 86-7583, Jan. 13. Judge Roger J. Miner wrote an eleven-page opinion with which Judge Frank X. Altimari concurred. Under a Court rule, only two judges decided the appeal.

The Coffees had sued in 1985, basing their claims on Connecticut's product-liability law. They alleged Mr. Coffee received the product while he was a patient at Norwalk Hospital. They claimed it was in a defective and dangerous condition when administered because it was contaminated by the AIDS virus.

Judge Burns found the products-liability claim was barred by Connecticut's blood-shield law, which provides that implied warranties of merchantability and fitness are not applicable to the sale of blood, blood plasma or other human tissue or organs. Such transactions are to be considered the provision of medical services.

Law's Intent

The law's intent, Judge Miner found, was to "preclude the assertion of product-liability claims arising out of a contract for the sale of blood components.

"The plain and unambiguous words of the statute itself clearly state that supplying blood or blood derivatives is to be considered a medical service ... Because transactions involving blood and blood components are to be considered medical services, as opposed to sales, they are outside the purview of Connecticut's product-liability statute."

On appeal, the Coffees were represented by William R. Davis and Kathryn Calibey, of Riscassi & Davis, Hartford, Conn. The defendants' lawyers were R. Cornelius Danaher Jr. and John K. Henderson Jr., of Danaher, O'Connell, Attmore, Tedford & Flaherty, Hartford, and Duncan Barr, of O'Connor, Cohn, Dillon & Barr, San Francisco.