

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

<u>IN RE: DIET DRUGS (Phentermine/ Fenfluramine/Dexfenfluramine) PRODUCTS LIABILITY LITIGATION</u>	:	MDL DOCKET NO. 1203
<u>THIS DOCUMENT RELATES TO:</u>	:	
BRINDA D. JONES, et al.	:	
v.	:	
WYETH, INC., et al.	:	CIVIL ACTION NO. 03-20250
	:	

PRETRIAL ORDER NO. 5014

AND NOW, this 18<sup>th</sup> day of April, 2005, for the reasons set forth herein, it is hereby ORDERED that:

(1) the motion of defendant Dr. Russell Belenchia to dismiss (Doc. #9) is GRANTED;

(2) the motion of defendant David Richardson, M.D. for substitution of counsel (Doc. #7) is DENIED as moot;

(3) all defendants in the above-captioned action except Wyeth, Wyeth Pharmaceuticals, and A.H. Robins Co., Inc. are DISMISSED; and

(4) the unopposed notice of dismissal by plaintiffs Rosetta Anderson, Jennifer Ann Bishop, Mary Blakes, Myle Claiborne, Betty Davis, Teresa Ann Achols, Peggy Sue Greer, Lonnie Hamlin-April, Mary E. Johnson, Brinda D. Jones, Linda Faye King, Sandra King, Tamara Marks, Holly Lyell McNamara, Charlotte D. Nicholson, Frednia Perkins, Mary Ann Pierce, and Esta L.

Rigdon as to defendant Rosemont Pharmaceutical Corporation (Doc. #8) is DENIED as moot.

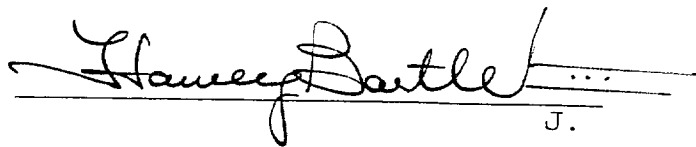
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The complaint was originally filed by Mississippi citizens in the Circuit Court of Hinds County, Mississippi, on December 31, 2002, more than five years after Wyeth's diet drugs Pondimin and Redux were withdrawn from the market in September, 1997. The defendants include Wyeth and its related companies Wyeth Pharmaceuticals and A.H. Robins Co. Plaintiffs have also named as defendants physicians who have allegedly prescribed the diet drugs for plaintiffs and various phentermine manufacturers and distributors. Some of the defendants, including Wyeth and its related companies, are of diverse citizenship while others are not. There are no federal claims alleged. Wyeth timely removed this action to the federal district court for the Southern District of Mississippi. Wyeth contends that all non-diverse defendants are fraudulently joined. Plaintiffs have not filed a remand motion. This case was ultimately transferred to this court as part of MDL 1203.

For the reasons set forth in Memorandum and Pretrial Order ("PTO") No. 3281 in French, et al. v. Wyeth, et al., CIV. A. No. 03-20353 (E.D. Pa. Feb. 18, 2004) with respect to the physician defendants, and Memorandum and PTO No. 2567 in Anderson v. American Home Products Corp., 220 F. Supp. 2d 414 (E.D. Pa. 2002) with respect to the phentermine defendants, we find and conclude that all defendants except Wyeth and its related

companies are fraudulently joined to avoid federal subject matter jurisdiction. Accordingly, we are granting the motion of defendant Russell Belenchia to dismiss and are dismissing the complaint as to all defendants except Wyeth and its related companies.

BY THE COURT:

  
\_\_\_\_\_ J.