

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

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IN RE: DIET DRUGS (Phentermine/ Fenfluramine/Dexfenfluramine) PRODUCTS LIABILITY LITIGATION	:	MDL DOCKET NO. 1203
THIS DOCUMENT RELATES TO:	:	
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DON CONSTANTINE, et al.	:	
v.	:	CIVIL ACTION NO. 04-20259
WYETH, et al.	:	

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PRETRIAL ORDER NO. 5528

AND NOW, this 15th day of August, 2005, it is hereby  
ORDERED that:

- (1) the motion of plaintiffs to remand in the above-captioned action is DENIED; and
- (2) all defendants in the above-captioned action except Wyeth, Wyeth-Ayerst Laboratories, and A.H. Robins Company, Inc. are DISMISSED.


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Plaintiffs' complaint was originally filed by four Texas citizens in the District Court of Galveston County Texas on May 30, 2003, more than five years after the diet drugs Pondimin and Redux were withdrawn from the market in September, 1997. The defendants include Wyeth, the manufacturer of these diet drugs, as well as Wyeth's related companies, Wyeth-Ayerst Laboratories, and A.H. Robins Company, Inc. Plaintiffs have also named as defendants their prescribing physicians, Wyeth's managerial employee Clayton Lacy, various named sales representative

employees of Wyeth, and nine unnamed "John-Doe" defendants who were allegedly sales representative employees of Wyeth. Wyeth and its related companies are of diverse citizenship from plaintiffs, while the remaining defendants are not. There are no federal claims alleged. Wyeth timely removed this action to the United States District Court for the Southern District of Texas. Wyeth contends that all of the non-diverse defendants are fraudulently joined. This action was then transferred to this court as part of MDL 1203.

For the reasons set forth in Memorandum and Pretrial Order No. 3666 in Accadia, et al. v. Wyeth, et al., CIV. A. No. 03-20546 (E.D. Pa. June 29, 2004), we find and conclude that all defendants except Wyeth are fraudulently joined to avoid federal subject matter jurisdiction. Accordingly, we are denying plaintiffs' motion to remand.

BY THE COURT:

  
J.