

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

IN RE: DIET DRUGS (Phentermine/ Fenfluramine/Dexfenfluramine) PRODUCTS LIABILITY LITIGATION	:	MDL DOCKET NO. 1203
THIS DOCUMENT RELATES TO:	:	
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CELINA OSUNA, et al.	:	
v.	:	CIVIL ACTION NO. 05-21060
WYETH, et al.	:	

PRETRIAL ORDER NO. 5534

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

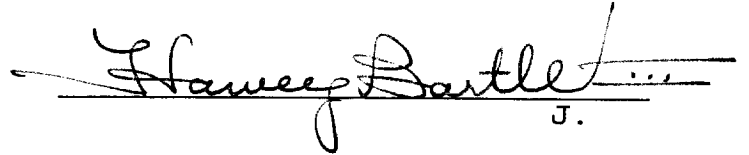
- (1) plaintiffs' motion to remand in the above-captioned action is DENIED; and
- (2) the claims against all defendants except Wyeth are DISMISSED.

Plaintiffs' complaint was originally filed by Texas citizens in Texas state court on May 29, 2003, more than five years after the diet drugs Pondimin and Redux were withdrawn from the market in September, 1997.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 plaintiffs' non-diverse prescribing physicians. Wyeth is of diverse citizenship while the physician defendants are not. There are no federal claims. Wyeth timely removed this action to the United States District Court for the Northern District of Texas. This action was then transferred to this court as part of MDL 1203. Wyeth

contends that the non-diverse physician defendants are fraudulently joined.

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 the physician defendants are fraudulently joined to avoid federal subject matter jurisdiction. Accordingly, we are denying plaintiffs' motion to remand.

BY THE COURT:


J.