

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

IN RE: DIET DRUGS (PHENTERMINE/ :
FENFLURAMINE/DEXFENFLURAMINE) : MDL DOCKET NO. 1203
PRODUCTS LIABILITY LITIGATION :

PRETRIAL ORDER NO. 418
(Product Identification Discovery)

This Order will govern Product Identification Discovery in all cases that are part of this coordinated proceeding.

Product Identification Discovery

To facilitate product identification, effective immediately, Plaintiffs are expected to promptly undertake product identification discovery if informal requests for information from pharmacies, physicians, or other dispensers of their diet medications do not provide reliable product identification information. To facilitate that discovery, the time limitations of PTO 292 for noticing depositions do not apply to product identification-related depositions, and such discovery may be taken pursuant to the time limitations of the Federal Rules of Civil Procedure, with the exception of depositions of prescribing physicians. Since depositions of prescribing physicians may also involve areas of inquiry other than product identification, such depositions should be taken on at least twenty (20) days notice, absent stipulation to a shorter time by all parties to the case.

Within twenty (20) days from this date, phentermine Defendants shall provide to the Plaintiff's Management Committee ("PMC") a consolidated chart of all phentermine products manufactured and/or distributed by the Phentermine Defendants in the period from January 1, 1994 to the present, including, but not limited to, those products listed in Section VI(G) of the Plaintiff's Fact Sheet, shall include identification of the defendant manufacturer(s) and/or Defendant

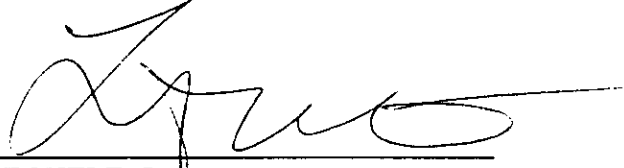
distributor(s) of each product and, to the extent discoverable by reasonably inquiry by the Defendants, information regarding the geographical distribution areas for each product, if such product was distributed on less than a national basis. If a product was distributed nationally, or Defendants cannot determine the geographical area in which a product was distributed, they will so indicate. To the extent photographs of the products are not contained in the Physician Desk Reference ("PDR") for the relevant period, each Defendant shall provide the PMC with a color photograph of each product they manufactured or distributed listed in the above-referenced chart in the aforementioned time period.

**ADDITIONAL PROCEDURE CONCERNING
PRODUCT IDENTIFICATION**

In any case where a Plaintiff has not identified the product upon which the claim is based within thirty (30) days of the entry of this Order, or within sixty (60) days of the Discovery Initiation Date ("DID"), the Plaintiff shall notify the Special Discovery Master of such fact in writing. This notice shall include a description of the efforts made by Plaintiff to identify such product and whether there is a legal basis for allowing the Plaintiff's claim to proceed in the absence of specific evidence demonstrating the Plaintiff's use of the named Defendant's product. The Special Discovery Master shall determine whether or not to convene a conference with that Plaintiff's counsel and others, including Defendants that may be involved in that claim, for the purpose of developing a prompt procedure to obtain the requisite product identification information or to establish the lack thereof, as soon as possible.

The Special Discovery Master, by this Order, is granted leave to suspend any deadlines or time constraints in any pretrial order in order to expedite product identification. The Special Discovery Master is also authorized to involve any other procedures within his authority to allow the prompt determination of product identification. If the Special Discovery Master determines after a reasonable period, presumably thirty (30) to sixty (60) days after receipt of the written notice referred to above, that all efforts within his authority have been exhausted to achieve product identification, he shall notify the court and request that a hearing be convened so that the court may consider the views of the parties on what should be the further disposition of the case on the claim in respect to which product identification cannot be achieved.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Bechtle', written over a horizontal line.

BECHTLE, J.

1/6/99

FILED JAN 6 1999

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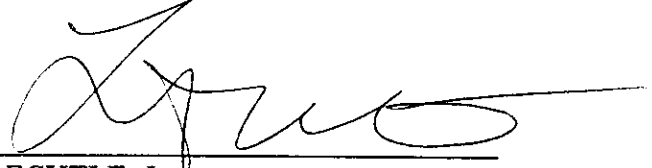
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BY THE COURT:



BECHTLE, J.
1/6/99

ENTERED: 1-7-99

CLERK OF COURT