

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. 285

WHEREAS, this Court provided in Pretrial Order No. 22 herein that "plaintiffs' attorneys in state court actions involving fenfluramine, dexfenfluramine and/or phentermine will be entitled to review documents in the [Plaintiffs' Management Committee] depository provided that such plaintiffs' counsel agree to be bound by the terms of the Confidentiality Order governing MDL Docket No. 1203 or by the terms of a Protective Order of comparable scope entered in the state court litigation" (at ¶ 6[D]); and

WHEREAS, this Court provided in Pretrial Order No. 41 herein that the "inadvertent production or disclosure of an attorney-client privileged or protected work product document shall not be deemed either a general waiver of privilege or work product protection by the producing party or a waiver of privilege or work product protection as to the document inadvertently produced or disclosed," and established a mechanism for the return to the producing party of inadvertently produced privileged or protected work product documents in appropriate circumstances; and

WHEREAS, it is the intention of the Court that the protections of Pretrial Order No. 41 should apply with equal force and effect to all litigants who are entitled to review documents in the PMC depository; it is hereby

ORDERED, that Paragraph 6(D) of Pretrial Order No. 22 is hereby amended

to provide as follows (new material in boldface):

(D) The detailed provisions concerning the operation of, and access to, the PMC depository will be the subject of a future Order of the Court. The Court's Order will assure, inter alia, that plaintiffs' attorneys in state court actions involving fenfluramine, dexfenfluramine, and/or phentermine will be entitled to review documents in the PMC depository at no cost to the reviewing attorney and will be able to obtain copies of such documents at a price which will not exceed the reasonable cost of reproduction, provided that such plaintiffs' counsel agree to be bound by the terms of (a) the Confidentiality Order governing MDL Docket No. 1203, and (b) **the terms of Pretrial Order No. 41 regarding inadvertent production of privileged or protected work product documents, or by the terms of a Protective Order of comparable scope to those two orders entered in the state court litigation.**

Dated: Philadelphia, Pennsylvania
September 16, 1998

BY THE COURT:



Louis C. Bechtle
Chief Judge Emeritus