

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

OCT 20 1999

IN RE: DIET DRUGS  
(PHENTERMINE/FENFLURAMINE  
DEXFENFLURAMINE) PRODUCTS  
LIABILITY LITIGATION

OCT 20 1999  
E.D. PA.

No. 98-CV-20490 (E.D.Pa.)

This document relates to:  
DONNA JARRELL, On behalf of herself  
and others similarly situated  
Plaintiff,  
v.  
EON LABS, INC.  
Defendant.

**STIPULATION FOR DISMISSAL WITHOUT PREJUDICE  
AND PRETRIAL ORDER NO. 1044 APPROVING SAME**

AND NOW, this 3<sup>rd</sup> day of JAN, 2000, 1999, it is hereby STIPULATED,

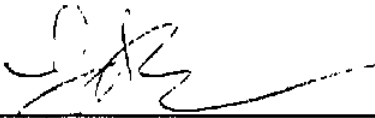
ORDERED, ADJUDGED AND DECREED pursuant to Federal Rules of Civil Procedure 23(d), (e) and 41(a)(1)(ii), that the claims in the complaint in the above captioned matter, including the claims for "limited fund" class action relief pursuant to Federal Rule of Civil Procedure 23(b)(1)(B), are hereby dismissed without prejudice as to Eon Labs, Inc., the only named defendant in the case, with each party to bear its own costs and counsel fees, and without the need for plaintiff to provide class notice to the putative class alleged in the complaint. Plaintiff's counsel certifies to the Court, pursuant to Pretrial Order No. 266 relating to the dismissals of a putative class action case, that based on the present state of the record, the allegation that this case proceed as a "limited fund" class cannot succeed pursuant to the requirements set forth in *Ortiz v. Fiberboard Corporation*, 119 S.Ct. 2295 (1999), and as discussed in this Court's Pretrial Order No. 884 relating to the proposed limited fund class

action in the case of *Wish v. Interneuron Pharmaceuticals, Inc.*, Civil Action No. 98-20594. Plaintiff's counsel certifies that at present it does not appear that the total of the aggregated liquidated claims against defendant Eon Labs, Inc. and the funds available for satisfying them, demonstrate the inadequacy of the fund to pay all the claims. Plaintiff's counsel makes this certification without prejudice to the right to renew the request for a limited fund class action in the event new facts and/or information develops that would support class certification.

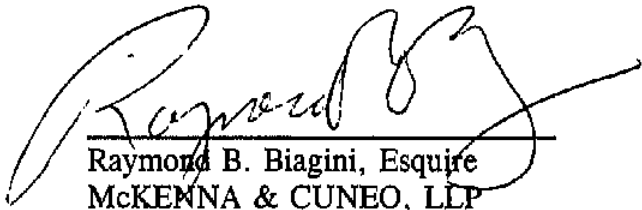
Further, the plaintiff agrees that should she decide to institute a case in the future for personal injuries relating to the diet drug litigation, plaintiff shall file said case in federal court.

Plaintiff certifies that she has complied with Pretrial Order No. 22 by producing a completed fact sheet, list of medical providers and properly executed authorization forms.

This stipulation is filed on behalf of plaintiff and the only defendant who has been named in this case and who has appeared in this matter, that being Eon Labs, Inc., against whom the claims in the complaint shall be dismissed in their entirety by the Court's approval of this stipulation.

  
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Laurence S. Berman  
LEVIN, FISHBEIN, SEDRAN & BERMAN  
510 Walnut Street, Suite 500  
Philadelphia, PA 19106  
(215) 592-1500

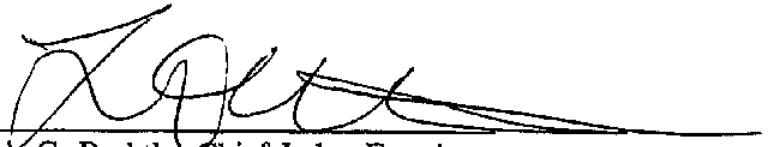
**Counsel for Plaintiff**  
**Donna Jarrell**

  
\_\_\_\_\_  
Raymond B. Biagini, Esquire  
McKENNA & CUNEO, LLP  
1900 K Street, N.W.  
Washington, D.C. 20006-1108  
(202) 496-7687

**Counsel for Defendant**  
**Eon Labs, Inc.**

APPROVED AND SO ORDERED:

APPROVED AND SO ORDERED:



Louis C. Bechtle, Chief Judge Emeritus

Roger P. Brosnahan, Esquire  
Elizabeth J. Cabraser, Esquire  
Stanley M. Chesley, Esquire  
John J. Cummings, III, Esquire  
Michael D. Hausfeld, Esquire  
Will S. Kemp, Esquire  
Arnold Levin, Esquire  
Dianne M. Nast, Esquire  
J. Michael Papantonio, Esquire  
John M. Restaino, Jr., Esquire  
Darryl J. Tschirn, Esquire

By

  
Arnold Levin  
John J. Cummings, III

PLAINTIFFS' MANAGEMENT COMMITTEE  
BASED UPON INFORMATION PROVIDED  
BY INDIVIDUAL PLAINTIFF(S) COUNSEL

THE PLAINTIFFS'  
MANAGEMENT COMMITTEE  
TAKES NO POSITION ON THE  
MERITS OF THIS FILING.