

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:

RHONDA S. DRENNON and
RAYMOND DRENNON

C.A. NO. 99-20566

v.

WYETH-AYERST LABORATORIES,
INC.,

FILED MAR 31 1999

PRETRIAL ORDER NO. 541

AND NOW, TO WIT, this *31st* day of March, 1999,
presently before the court is a Motion of the Plaintiff to Vacate
the Conditional Transfer Order in this case. The grounds
advanced are that there lacks subject matter jurisdiction
inasmuch as Plaintiffs are citizens of the State of Georgia and
Rugby Laboratories, Inc., one of the Defendants, is also a
citizen of the State of Georgia by reason of its principal place
of business being located there. The Plaintiffs have based this
assertion on the fact that Rugby Laboratories, Inc. has
affirmatively stated in response to pleadings in this action that
its principal place of business is in the State of Georgia.

The within Motion was filed with this court on February
8, 1999, and was served on the appropriate parties according to

the Certificate of Service accompanying the Motion.

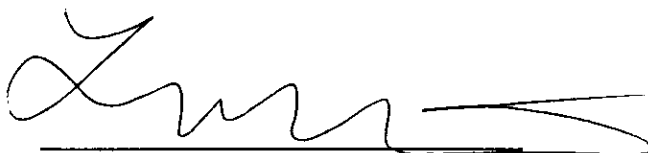
It appears from the moving papers that the plaintiff has also filed and served a Motion to Dismiss this action, without prejudice, with the United States District Court for the Northern District of Georgia at the Atlanta Division.

The Conditional Order transferring this case and issued by the Panel for Multidistrict Litigation when filed here, vests the jurisdiction in this court which occurred on August 19, 1998. The court only mentions this because procedurally the within Motion could have been, and should have been styled as a Motion to Dismiss this case, without prejudice, because of a lack of subject matter jurisdiction because of the common citizenship of the Plaintiff and Defendant Rugby Laboratories, Inc. The same Motion should not have been filed in the District Court in Georgia.

The court will grant this unopposed Motion and dismiss Plaintiffs' case without prejudice because of a lack of diversity of citizenship between the Plaintiffs and all of the Defendants.

SO ORDERED.

BY THE COURT:



LOUIS C. BECHTLE, J.

ENTERED:

3-31-99

CLERK OF COURT