

Diet Drug Litigation

By Order dated July 17, 2003, the Supreme Court centralized the management of all pending and future litigation statewide involving the diet drugs Redux (a combination of dexfen-fluramine and phentermine) and Fen-Phen (fenfluramine and phentermine), and transferred those matters for case management and discovery purposes to the Bergen Vicinage, to be handled by the Hon. Charles J. Walsh. These matters are being filed by litigants who opted out of a federal class action settlement under *F.R.C.P.* 23(b)(3).

Previously, the Supreme Court had in 1997 centralized the management of all pending and future diet drug cases filed in the New Jersey state courts and transferred them to the Middlesex Vicinage to be handled by the Hon. Marina Corodemus. The manufacturer of the diet drugs, American Home Products, has since become Wyeth. Those earlier actions sought damages for personal injuries or class action certification and medical monitoring. Judge Corodemus granted class certification pursuant to *R.* 4:32(b)(2) to a group of asymptomatic plaintiffs seeking medical monitoring. That medical monitoring class action, involving over 100,000 New Jersey residents, was thereafter settled. Judge Corodemus also settled 403 personal injury suits. Further, twelve other cases in which all pretrial activities had been completed were transferred back to their original counties of venue for trial. As a result of the settlement of the medical monitoring class action, the settlement of four hundred personal injury suits, and the transfer of other cases back to the original county of venue for trial, the Supreme Court in February 2002 terminated its 1997 Order.

Also in 1997, the federal Judicial Panel on Multidistrict Litigation pursuant to 28 *U.S.C.* Section 1407 transferred all similar diet drug suits pending in the federal courts to the Hon. Louis C. Bechtel sitting in the U.S. District Court for the Eastern District of Pennsylvania. Judge Bechtel granted class

action certification pursuant to *F.R.C.P.* 23(B)(3). That class action was subsequently settled but permitted claimants to opt out of the terms of the settlement. It is those federal opt out claims that the Supreme Court by its July 17, 2003 order centralized for case management and discovery purposes and assigned to Judge Walsh in the Bergen Vicinage.

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