

#100174

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

**FILED**

:

**JUL 15 1998**

:

THIS DOCUMENT RELATES TO  
ALL CASES

**MICHAEL E. KUNZ, Clerk**

By \_\_\_\_\_ Dep. Clerk

PRETRIAL ORDER NO. 175

AND NOW, TO WIT, this 14<sup>th</sup> day of July, 1998, it is

hereby ordered as follows:

The purpose of this Order is to outline the duties as well as the authority of Liaison Counsel representing defense interests in this MDL litigation.

Within the last several weeks the court has completed the acceptance of either the request or the consent of certain attorneys to function as liaison counsel for defense interests in this case. Although those persons have been identified in previous court Orders, for purposes of this Order the court will list them again as follows:

PLAINTIFFS' MANAGEMENT COMMITTEE (PMC)

Arnold Levin, Esquire  
Plaintiffs' Management Committee  
325 Chestnut Street, Suite 200  
Philadelphia, PA 19106

LIAISON COUNSEL FOR PHENTERMINE MANUFACTURERS  
AND SUPPLIERS

Edward W. Madeira, Jr., Esquire  
Nina Gussack, Esquire  
Pepper Hamilton LLP  
3000 Two Logan Square  
18th & Arch Streets  
Philadelphia, PA 19103-2799

LIAISON COUNSEL FOR FENFLURAMINE/DEXFENFLURAMINE  
MANUFACTURERS AND SUPPLIERS

Michael T. Scott, Esquire  
Reed, Smith, Shaw & McClay  
2500 One Liberty Place  
Philadelphia, PA 19103

RETAILERS' LIAISON COUNSEL

Robert Spinelli, Esquire  
Kelley, Jasons, McGuire & Spinelli  
1617 JFK Boulevard, Suite 1400  
One Penn Center  
Philadelphia, PA 19103

DIET CENTER LIAISON COUNSEL

J. Allen Schreiber, Esquire  
Lloyd, Schreiber & Gray  
2 Perimeter Park South, Suite 100  
Birmingham, AL 35243

PHYSICIAN LIAISON COUNSEL

John Fitzpatrick, Esquire  
LeClair and Ryan  
707 East Main Street, 11th Floor  
Richmond, VA 23219

The duties of liaison counsel will be to perform essentially administrative matters. This would include communication between the court and other counsel (including receiving and distributing notices, pleadings, Orders, Motions

and Briefs on behalf of the group represented by a particular liaison counsel as set forth in PTO 19), convening and participating in meetings of counsel where it is appropriate in representation of the group, advising parties within the group of developments in the case and otherwise assisting the coordination of activities and positions. Such counsel may act for the group in communicating with the document depository resolving scheduling conflicts, and participating in discovery scheduling matters. Liaison counsel should work closely with the Special Discovery Master and where necessary will communicate with the representatives of the Plaintiffs' Management Committee (PMC) regarding concerns associated with the group represented by that liaison counsel.

Authority of Liaison Counsel.

The authority of liaison counsel functioning in this limited roll is to speak on behalf of the members of his group as it relates to the administrative functions to be performed including those associated with scheduling, identifying members or new members within the group including their counsel. While personnel in the Court Clerk's Office will do their best, upon inquiry, to notify a party or new party in the case who liaison counsel is, it is suggested that liaison counsel from time to time check the docket in order to determine as nearly as can be determined by that means the presence of new parties here in MDL-

1203 that should be within that liaison counsel's group. Contact should be made with each party as soon as possible after docketing commences in MDL-1203 in order to assure prompt and adequate communication.

Additional Duties

Nothing in this Order will prevent the parties within any group from agreeing with liaison counsel to perform additional duties from time to time under terms agreed to by the group and liaison counsel.

The court may from time to time add additional duties to the function of liaison counsel but only after an opportunity is provided for the court and liaison counsel to confer about the prospect about such additional duties being necessary and counsel's consent to such additional duties as proposed or modified.

Compensation

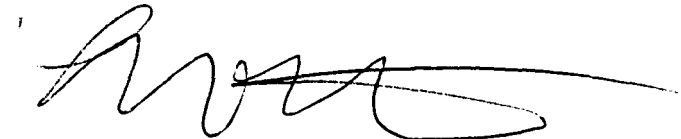
Expenses incurred and fees earned by liaison counsel acting in that capacity are not expected to be born solely by that counsel's clients but are to be shared equitably by all parties benefiting from the services. The preferable procedure would be for the terms and procedures for payment to be established by agreement among counsel representing the parties within a group and that groups' liaison counsel. If the parties cannot arrive at the terms and procedures for payment the court

will exercise its authority to order reimbursement and compensation including the obligation to insure that the amounts are reasonable.

Liaison counsel shall advise the court within 30 days of the date of this Order whether or not the court should take up the question of establishing a procedure to assure the payment of expenses and fees earned by liaison counsel in fulfillment of their duties. In discussing this with the members of the group represented by liaison counsel it should be understood that the court expects liaison counsel to render services as economically as possible under the circumstances and that the court's authority to direct the payment of expenses and fees is limited to those falling within that category.

SO ORDERED.

BY THE COURT:



LOUIS C. BECHTLE, J.