

Mealey's Resources

A Vital Part of the LexisNexis™ Total Research System

Mealey editors provide the 360-degree view of litigation issues you've been seeking! You get more than case law...much more...from suit filings (with some links to actual complaints and answers) to verdicts, settlements and in-depth details on appellate activity. Plus view hard-to-find court decisions and orders, motions to disqualify, and thousands of other pleadings.

Mealey Publications for Litigation at www.lexis.com

The Big Picture...the Up-Close Look...and Every Aspect In Between

Mealey editors follow every angle of a litigation issue and bring you the total picture with **unbiased news stories, case summaries, case lists, attorney lists and commentaries** by guest authors. Plus, they add links to **PDF court opinions, arbitration awards, important discovery material, pleadings, briefs, motions** and other documents of interest so you can:

- Research judges' rationale and opposing counsel positioning
- Pinpoint pleadings and motions you can use as examples
- Check conflicts of interest
- Investigate what's happening in a court or jurisdiction
- Determine what's possible in jury awards and out-of-court settlements
- Find out how issues are being discussed in pleadings
- Discover arguments that work and don't work for judges and juries
- Find and evaluate expert witnesses
- And so much more.

It's all assembled for you...in one location for one research session. Just choose your topic and go!

Mealey's E-Mail News Service

Recent Reports...Delivered to Your PC, Complete With Vital Research Links

Once you have background provided by the deep archive of Mealey Publications, count on receiving the latest news...automatically. Choose Mealey's E-mail Service for any of 46 reports and/or eight areas of law—Drug & Medical Device Litigation, Health Law, Insurance, Intellectual Property, Labor & Employment, Product Liability, Securities and Toxic Torts. Get the latest report issue—pushed to your desk the moment the report is released. (Most are monthly.) Ask your LexisNexis™ account executive how to subscribe.

Turn the page to find out how you can use Mealey's resources. And learn more about how Mealey's reports work hand-in-hand with your other LexisNexis resources, including Martindale-Hubbell®, Shepard's® Citations Service and LexisNexis™ CourtLink®.

Mealey Publications for Litigation at www.lexis.com

Here's How to Research:

At www.lexis.com, find Mealey's Publications under the LEGAL TAB. Click on Mealey Publications.

1. Select your Mealey's report.
Find more than 45 reports covering 60 publication topics or jurisdictions, including Combined Reports for searching multiple sources simultaneously. For coverage details on a report, click the "i" link next to the report title.

2. Enter your search. For example, to find details on appeal notices in class-action litigation:

SOURCE: Class Actions: Mealey's Litigation Reports

SEARCH: *appeals /10 notice*

The screenshot shows the LexisNexis search results page. At the top, there is a navigation bar with options like 'Company Dossier', 'Practice Area Pages', 'Change Client', 'Options', 'Feedback', 'Sign Off', and 'Help'. Below this is a search bar with 'Search Advisor' and 'Get a Document' buttons. The search results are displayed in a table with columns for 'View', 'Date', and 'Text'. The first result is 'Mealey's Litigation Report: Class Actions December 5, 2002'. The report details include the headline 'Appeal Filed Over Disallowed Diet Drug Matrix Claims', the dateline 'PHILADELPHIA -', and the body text which discusses a notice of appeal filed in the Third Circuit U.S. Court of Appeals. The body text mentions that the court's finding of a lack of reasonable medical basis was plain legal error and that the firms argue that U.S. Judge Harvey Bartle III of the Eastern District of Pennsylvania also erred by dismissing the claims in aggregate.

LexisNexis™ The Total Research System

Company Dossier | Practice Area Pages | Change Client | Options | Feedback | Sign Off | Help

Search | Search Advisor | Get a Document | Shepard's® - Check a Citation | ECLIPSE™ | History

View: [Cite](#) | [KWIC](#) | [Full](#) | [Custom](#) | 1 of 23 | [NEXT](#) | [FAST Print ...](#) | [Print](#) | [Download](#) | [Fax](#) | [Email](#) | [Text Only](#)

[FOCUS™](#) | [Save As ECLIPSE](#) | [More Like This](#) | [More Like Selected Text](#)

Pages: 2

Mealey's Litigation Report: Class Actions December 5, 2002

Copyright 2002 LexisNexis, Division of Reed Elsevier Inc.
Mealey's Litigation Report: Class Actions

December 5, 2002

HEADLINE: Appeal Filed Over Disallowed Diet Drug Matrix Claims

DATELINE: PHILADELPHIA -

BODY:
Saying the diet drug MDL judge committed "plain legal error" in disallowing matrix claims filed by 78 of their clients, two New York state law firms have filed a **notice of appeal** in the Third Circuit U.S. Court of Appeals (In Re: Diet Drugs [Phentermine/Fenfluramine/Dexfenfluramine] Products Liability Litigation, MDL Docket No. 1203, Sheila Brown, et al. v. American Home Products Corp., No. 99-20593, E.D. Pa.).

"The court's finding of a lack of reasonable medical basis was plain legal error: the 'mere fact that medical experts have opinions that are widely divergent' does not necessarily mean that one of their conclusions lacks a reasonable basis. See, e.g., [Gallagher v. Latrobe Brewing Co., 31 F.R.D. 36, 40](#) (W.D. Pa. 1962.)," the law firms of Napoli, Kaiser, Bern & Associates in Mineola and Hariton & D'Angelo in Great River say in their Dec. 4 motion for expedited appeal. "The Settlement Agreement itself forbids the Trust from denying a claim simply because its own doctor would have reached a different conclusion. "In violation of the Settlement Agreement and of the legal definition of reasoned medical judgment to which courts around the country adhere, the district court accepted [trust expert] Dr. Dent's testimony as correct and banished all other opinions," they say. "The court credited Dr. Dent even though all agree that he conducted his review of the Hariton and Napoli Firms' clients claims using a different definition of 'heart disease' than that set forth in the Settlement Agreement. Moreover, the court rejected a scientific method of echocardiographic examination that all of the experts and textbooks agree is the most reliable method for assessing a component of Fen-Phen-related heart disease."

The firms argue that U.S. Judge Harvey Bartle III of the Eastern District of Pennsylvania also erred by dismissing the claims in aggregate, rather than considering the individual merits of each claim.

Judge Bartle on Nov. 14 disallowed 78 claims submitted by the two firms and suspended payments to and ordered audits of all their other claims and those attested to by the two physicians who attested to the claims. Less than two weeks later, the judge ordered audits of all 30,000 matrix claims submitted to the Settlement Trust, saying the number and nature of the claims were so far from what was predicted in the fairness hearing to the settlement as to constitute just cause for increasing the audits.

The firms argue that expedited appeal is called for because Judge Bartle's orders put hundreds of additional claims in doubt.

For more information, call editor David Eldreth at 1-800-MEALEYS, ext. 3161, or e-mail him at David.Eldreth@lexisnexis.com.

(♦ [The notice of appeal is available 35-021212-104X](#))

(♦ [The motion for expedited appeal is available 35-021212-105M](#))

Contact Mealey Publications and Conferences at 1-800-MEALEYS.

LOAD-DATE: December 05, 2002

Explore | Page | Select a Reporter | Doc | 1 of 23 | Term | 4

Need more information? Expand your research

(without leaving your desk):

- Link to current court document PDFs shown in the report!
- Click on report cite links and move to the full-text case, code, regulations and more at www.lexis.com. Verify cited documents—and find additional law—with *Shepard's* Citations Service.
- Get more details on plaintiff and defense counsel via Martindale-Hubbell® Law Directories. Go to Legal tab > Reference > Martindale-Hubbell
- Find listed expert witnesses in directories at Legal tab > Litigation > Legal Reference Materials
- Find more court documents from a specific judge's docket or via your CourtLink® connection.
- Add more expertise to your position; review Matthew Bender® treatises under the Legal tab.

Mealey's E-Mail News Service

Once you subscribe, the latest report comes right to your e-mail address. You can browse, store and/or research further.

Here's How to Research:

Browse the e-mail table of contents and link to articles of interest. Link directly to court documents in PDF—orders, memoranda, briefs and more—or to www.lexis.com and the full text of cited opinions. Research links are already set up for you. (Links vary slightly by report.) Just click and you can:

View Stories & Docs on LexisNexis @ www.lexis.com

Double your reach; get the latest issue and the report issued just before it (a month's worth for weekly or bi-weekly updates). Browse articles; use the FOCUS™ feature to pinpoint a particular issue. You can also print, download or e-mail single or multiple articles!

Search this Publication on LexisNexis @ www.lexis.com

Research the entire available archive for the report at www.lexis.com, including referenced court documents offered by Mealey's (from April 2002 forward). Find details on expert witnesses, counsel or judges as well as points of law and fact patterns. Then use the FOCUS feature, or, since you have a broad archive, highlight on-point text or on-point articles and use the More Like Selected Text or More Like This feature to retrieve additional, similar articles.

Go to the LexisNexis™ Practice Area Page

Find the practice-area resources to bolster your research—everything from U.S. and state statutes, regulations, legislation and administrative materials to in-depth Matthew Bender treatises, forms and judicial profiles. You can even find access to *Shepard's* Citations Service and public records.

Search Case Docket Information on LexisNexis CourtLink

Find additional court docket documents—whether you're monitoring the case, the issue, the counsel or the judge. Not only can you search current online docket information, you can set up a CourtLink Alert to notify you automatically of newly filed documents.

Attorney Contact Information

Go directly to the Martindale-Hubbell® Lawyer Locator for background and contact information on counsel. Find corporate counsel and government attorneys too! And get details on expert witnesses.

Go to Mealeys.com

Are there any new publications to assist you? What about CLE conferences with legal experts on your issue? Go here to find out.

Click on the [Mealey's Publications](#) link at www.lexis.com and discover:

All Mealey's Litigation Publications

Arsenic & CCA Report: Mealey's Litigation Report
Asbestos Bankruptcy: Mealey's Litigation Report
Asbestos International Report: Mealey's Litigation Report
Asbestos: Mealey's Litigation Report
Automotive Product Liability: Mealey's Litigation Report
Baycol: Mealey's Litigation Report
Business Interruption Insurance: Mealey's Litigation Report
California: Mealey's Litigation News
California Insurance: Mealey's Litigation Report
California Section 17200: Mealey's Litigation Report
Class Actions: Mealey's Litigation Report
Construction Defects: Mealey's Litigation Report
Copyright: Mealey's Litigation Report
Cyber Tech & E-Commerce: Mealey's Litigation Report
Daubert: Mealey's Litigation Report
Diabetes Drugs: Mealey's Litigation Report
Disability Insurance: Mealey's Litigation Report
Emerging Drugs & Devices: Mealey's Litigation Report
Emerging Insurance Disputes: Mealey's Litigation Report
Emerging Securities: Mealey's Litigation Report
Emerging Toxic Torts: Mealey's Litigation Report
Employee Compensation: Mealey's Litigation Report
Employer Liability Insurance: Mealey's Litigation Report
Environment: Mealey's Combined Reports
Ephedra & PPA: Mealey's Litigation Report
ERISA: Mealey's Litigation Report
Fen-Phen/Redux: Mealey's Litigation Report
Florida: Mealey's Litigation News
Georgia: Mealey's Litigation News
Insurance Bad Faith: Mealey's Litigation Report
Insurance Fraud: Mealey's Litigation Report
Insurance Insolvency: Mealey's Litigation Report
Insurance Pleadings: Mealey's Litigation Report
Insurance: Mealey's Litigation Report

Intellectual Property: Mealey's Litigation Report
International Arbitration: Mealey's Litigation Report
Health & Medical: Mealey's Combined Reports
Illinois: Mealey's Litigation News
Insurance: Mealey's Combined Reports
Intellectual Property: Mealey's Combined Reports
Latex: Mealey's Litigation Report
Lead: Mealey's Litigation Report
Litigation: Mealey's Combined Reports
Louisiana: Mealey's Litigation News
Managed Care Liability: Mealey's Litigation Report
Maryland: Mealey's Litigation News
Mass. Torts Verdicts & Settlements:
 Mealey's Litigation Report
Massachusetts: Mealey's Litigation News
Michigan: Mealey's Litigation News
Mold: Mealey's Litigation Report
MTBE: Mealey's Litigation Report
New Jersey: Mealey's Litigation News
New York: Mealey's Litigation News
Nursing Homes: Mealey's Litigation Report
Ohio: Mealey's Litigation News
Patents: Mealey's Litigation Report
Pennsylvania: Mealey's Litigation News
Pollution Liability: Mealey's Litigation Report
Product Liability & Risk: Mealey's Litigation Report
Propulsid: Mealey's Litigation Report
Reinsurance: Mealey's Litigation Report
Silica: Mealey's Litigation Report
Texas: Mealey's Litigation News
Thimerosal & Vaccines
Tobacco: Mealey's Litigation Report
Torts: Mealey's Combined Reports
Trademarks: Mealey's Litigation Report

LexisNexis, FOCUS, and the Knowledge Burst logo are trademarks, and Martindale-Hubbell and Shepard's are registered trademarks of Reed Elsevier Properties Inc., used under license. It's How You Know is a trademark of LexisNexis, a division of Reed Elsevier Inc. CourtLink is a registered trademark of LexisNexis CourtLink, Inc. Matthew Bender is a registered trademark of Matthew Bender Properties Inc. Other products or services may be trademarks or registered trademarks of their respective companies.
© 2003 LexisNexis, a division of Reed Elsevier Inc. All rights reserved. L012670-0 0303