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West Branch woman sues fen-phen sellers

■ She says diet drug mix almost killed her and the sellers should pay

By Helen Lounsbury
TIMES WRITER

WEST BRANCH — Judy Zettle tried all the diets, from soup to grapefruit, exercise included. Her 30 excess pounds didn't budge.

Then news reports announced that a new diet pill combination — dubbed fen-phen — was achieving resounding weight loss success. So Zettle, of West Branch, did the sensible thing. She asked her doctor if the pill "cocktail" was appropriate for her.

He gave her a 30-day prescription. Then another, and a third. Zettle shed weight like loose pants: 25 pounds in five months of intermittent fen-phen use.

But the trouble had already started. After three months on the diet pills — in February 1996 — Zettle started feeling her chest tighten and her breath shorten on her daily two-mile hikes.

Concerned, the young mother visited her doctor. After a battery of tests, specialists found that Zettle had two deadly illnesses: heart valve damage and primary pulmonary hypertension.

That July, surgeons ordered her in for open-heart surgery. Sawing through her breast bone, they replaced the bad heart valve with a synthetic one.

Nearly three years later, Zettle is suing fen-phen makers. Her attorneys say the West Branch mom is a textbook case of what's wrong with the diet pill combination.

Specifically, researchers have found that fen-phen takers suffer disproportionately from rare heart valve damage and pulmonary hypertension — Zettle's precise ailments. The latter, a lung disease, is fatal. Its sufferers develop an enlarged heart that can't pump blood properly to the lungs.

"For a long time I just told my husband I'm happy to be alive," says Zettle, a local school cafeteria worker and mother of three. "But I started to get angry. I saw reports that the drug companies knew the health risks but

See FEN-PHEN, 2A

From 1A

ignored them. They wanted to make their millions first."

Fen-phen is named for two drugs: fenfluramine and phentermine. The pill combination ignited a national craze because of its weight-loss effectiveness, first reported in 1992.

Fenfluramine is an appetite suppressant. Taken with phentermine, a mild stimulant, bulge battlers held a powerful new weight loss drug.

But while the U.S. Food and Drug Administration approved fenfluramine and phentermine individually, it did not in combination. Still, doctors prescribed the pills in tandem widely. An estimated 6 million people nationwide, mostly women, used the prescription pills or their combinations, Zettle's attorneys say.

The pills' manufacturers, too, listed no associated health risks for the drug combination, her attorneys add.

Not until September 1997 — nearly two years after Zettle started taking fen-phen — did the FDA ask drug makers to withdraw fenfluramine and the related dexfenfluramine, popularly called "Redux," from the market. Mayo Clinic and other researchers were reporting dozens of rare valvular heart disease cases in women fen-phen users.



Dick Van Nostrand ■ Times Photo

▲ Judy Zettle begins her daily walk at her West Branch home.

FEN-PHEN use almost kills West Branch woman, she claims, so she's suing the sellers

Zettle, demure in manner, is unreserved in her criticism for the diet pill makers, such as Wyeth-Ayerst Laboratories, a division of American Home Products Corp. She alleges in her suit that their products caused her heart and lung diseases.

"I have absolutely no doubt that the pills were the direct cause," she says. "I've been healthy my whole life. My family is healthy. I've been robbed of my health because someone was greedy."

Zettle's suit fingers fen-phen makers for more villainy than negligence. Her complaint charges the drug makers with cover-up. Companies such as Wyeth-Ayerst didn't properly warn about health risks, even after makers knew of evidence suggesting the pill combination dangers, her suit states.

"The evidence is clear that the manufacturers had warning that their drugs were causing problems, and they chose to tell no one about it," said Zoe Littlepage, a Texas lawyer representing Zettle along with West Branch attorney William Engemann. "It's a classic case of putting profits above people."

The suit charges that fen-phen makers "conspired to actively encourage ... the combination use of these drugs" knowing their pairing was "was especially hazardous, not recommended, and not systematically tested by appropriate clinical trials."

Zettle's suit asks for punitive damages for her physical, emotional and wage losses. In addition to what she's already suffered, Zettle's health will continue to plague her, doctors say. She must restrict her activity, take blood thinners and undergo bi-weekly blood tests. She also must live with the uncertainty of how long her heart will last and increased chances she'll suffer a stroke.

"With three kids, I don't let it ruin my life. I

can't," Zettle said. "But I've lost a sense of security I used to have."

Fen-phen makers, for their part, deny charges of negligence and cover-up. Wyeth-Ayerst, for example, defends itself by saying the company met all FDA reporting requirements and the federal agency approved their drugs. The company's attorneys also point out that primary pulmonary hypertension is a well-understood danger with diet drugs. Users like Zettle assumed the risk when they took the drugs.

Zettle counters that she took the drugs primarily for health — not vanity reasons. Being overweight, after all, creates its own heart risk, she says.

"I never received the first health warning," Zettle said. "If I had, I wouldn't have used the pills. My family is too important to me."

Fen-phen makers such as Wyeth face lawsuits similar to Zettle's nationwide. The company has chosen to settle at least a handful. Dozens more cases have come together in a class action suit now tied up in federal court.

Zettle's suit stands on its own. Defense attorneys tried to move the case to federal court, but U.S. Judge Robert Cleland of Bay City sent the suit back to state court, in West Branch. He reasoned that the suit legitimately targets in-state defendants: namely, the local Rite-Aid pharmacy and pharmacist.

"We're glad the case is staying local," said William Engemann, Zettle's West Branch attorney. "Moving to federal court would have destroyed Judy's individual complaint. We want people to see this isn't a faceless person out to take advantage of a rich drug company. This is about someone whose life was changed, for the worse, by someone who promised it would change for the better."

Zettle's suit comes up for a pretrial hearing on May 13 in Ogemaw County Circuit Court. At the hearing, Judge Michael Baumgartner may decide whether the case should go to mediation — likely at least six months after the May hearing.

If the suit moves to mediation, a panel of three area attorneys will hear all sides of case, then set a value on the lawsuit's worth. If both sides agree on the amount, they settle. If one party rejects, the case goes to trial.

Either way, the lawsuit has the potential of becoming the biggest plaintiff case ever to visit Ogemaw Circuit Court, county officials say.

Zettle, whose suit asks only for an amount over \$25,000, wants her case to do more than punish fen-phen makers and dispensers. She hopes it moves other diet pill users to get checked by their doctors.



Dick Van Nostrand ■ Times Photo

▲ Judy Zettle enjoys an Easter plant, a gift from her husband and children, in her West Branch home.

"The damage that fen-phen did was hidden," she said. "A simple cold led me to go see my doctor as soon as I did. I worry about the women who have no symptoms. They may have a clock ticking inside."

Zettle says she's also learned a simple truth.

"There is no miracle weight loss pill," she said. "Dieting is a long-term proposition: Eat right and exercise."