

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JULIAN M. WHITAKER, M.D., *et al.*,)
)
Plaintiffs,)
)
v.)
)
TOMMY G. THOMPSON, Secretary,)
United States Department of)
Health and Human Services, *et al.*,)
)
Defendants.)

Civil Action No. 00-0123 (PLF)

FILED

APR - 2 2001

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

ORDER

This matter is before the Court on a Joint Notice of Dismissal Without Prejudice to Refiling. The notice is signed by all parties' counsel pursuant to Fed.R.Civ.P. 41(a)(1) and informs the Court that the Defendants have reached an agreement with the Plaintiffs whereby the Defendants have stated their intention to exercise enforcement discretion to permit the Plaintiffs to place on labels and in labeling of their dietary supplements containing Folic Acid, Vitamin B6, and Vitamin B12, the following health claim:

As part of a well-balanced diet that is low in saturated fat and cholesterol, Folic Acid, Vitamin B6 and Vitamin B12 may reduce the risk of vascular disease.*

***FDA evaluated the above claim and found that, while it is known that diets low in saturated fat and cholesterol reduce the risk of heart disease and other vascular diseases, the evidence in support of the above claim is inconclusive.**

The parties agree that the second sentence of the claim (i.e., the disclaimer) must be immediately adjacent to and directly beneath the claim with no intervening material that separates the claim from the disclaimer and must be in the same size, type face and contrast as the first sentence of the claim. The parties further agree that Plaintiffs reserve


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the option to refile their complaint if the Defendants change their decision to permit the health claim. Accordingly, it is this 2nd day of ~~March~~ ^{April} 2001,

ORDERED, that Plaintiffs' complaint in the above referenced action is dismissed without prejudice to refiling.

Dated. April 2, 2001


Paul L. Friedman
United States District Court Judge

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