

**U.S. District Court  
District of Columbia (Washington, DC)  
CIVIL DOCKET FOR CASE #: 1:99-cv-00177-JR**

PUBLIC CITIZEN HEAL. v. FDA  
Assigned to: Judge James Robertson  
Demand: \$0  
Cause: 05:552 Freedom of Information Act

Date Filed: 01/21/1999  
Date Terminated: 03/07/2000  
Jury Demand: Defendant  
Nature of Suit: 895 Freedom of  
Information Act  
Jurisdiction: U.S. Government  
Defendant

**Plaintiff**

**PUBLIC CITIZEN HEALTH  
RESEARCH GROUP**

represented by **Allison Marcy Zieve**  
PUBLIC CITIZEN LITIGATION  
GROUP  
1600 20th Street NW  
Washington, DC 20009  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**FOOD & DRUG ADMINISTRATION**

represented by **Fred Elmore Haynes**  
U.S. ATTORNEY'S OFFICE  
555 Fourth Street, NW  
Washington, DC 20530  
(202) 252-2550  
Email: [fred.haynes@usdoj.gov](mailto:fred.haynes@usdoj.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Intervenor Defendant**

**G. D. SEARLE & COMPANY**

represented by **John F. Cooney**  
VENABLE LLP  
575 7th Street, NW  
Washington, DC 20004  
(202)-344-4812  
Fax: (202) 344-8300  
Email: [jfcooney@venable.com](mailto:jfcooney@venable.com)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Intervenor Defendant****PHARMACEUTICAL  
MANUFACTURERS ASSOCIATION**represented by **Bruce Neil Kuhlik**  
MERCK & CO., INC  
One Merck Drive  
Suite WS 3A-15  
Whitehouse Station, NJ 08889  
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Fax: 908-735-1244  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
01/21/1999	1	COMPLAINT filed by plaintiff PUBLIC CITIZEN HEAL. (jf) (Entered: 01/27/1999)
01/21/1999		SUMMONS (1) issued to federal party(s) federal defendant FDA , and non-parties: U.S. Attorney and U.S. Attorney General. (jf) (Entered: 01/27/1999)
02/22/1999	2	ANSWER TO COMPLAINT [1-1] by federal defendant FDA . (tw) (Entered: 02/23/1999)
02/26/1999	3	ORDER by Judge James Robertson : defendant's dispositive motions due within 30 days or, in the alternative, to file a report setting forth the schedule it will complete its production of documents to plaintiff ; (N) (jeb) (Entered: 02/26/1999)
03/16/1999	4	MOTION filed by plaintiff PUBLIC CITIZEN HEAL. for Amanda Frost to appear pro hac vice ( Public Citizen Litigation Group, 1600 20th Street, NW, Washington, DC 20009, (202) 588-1000) (jf) (Entered: 03/17/1999)
03/17/1999	5	ORDER by Judge James Robertson : granting motion for Amanda Frost to appear pro hac vice ( Public Citizen Litigation Group, 1600 20th Street, NW, Washington, DC 20009, (202) 588-1000) [4-1] by PUBLIC CITIZEN HEAL. (N) (jeb) (Entered: 03/17/1999)
03/29/1999	6	STATUS REPORT by federal defendant FDA pursuant to Court's order dated 02/25/99 (jf) (Entered: 03/30/1999)
04/07/1999	7	ORDER by Judge James Robertson : extending time to 4/19/99 for defendant to file its motion for summary judgment, together with its Vaughn Index; plaintiff to file its opposition to the motion for summary judgment within 30 days thereafter. (N) (jeb) (Entered: 04/07/1999)
04/19/1999	8	MOTION (CONSENT) filed by federal defendant FDA to extend time to 4/29/99 to file a motion for summary judgment together with a vaughn declaration (jf) (Entered: 04/21/1999)
04/21/1999	9	ORDER by Judge James Robertson : granting motion to extend time to 4/29/99 to file a motion for summary judgment together with a vaughn declaration [8-1] by FDA; plaintiff to file its opposition to the motion for summary judgment within 30 days thereafter. (N) (jeb) (Entered: 04/21/1999)

04/27/1999	10	MOTION filed for G.D. SEARLE & CO. to intervene as defendant ; EXHIBIT (answer) (jf) (Entered: 04/28/1999)
04/28/1999	11	RESPONSE (OPPOSITIONS) by plaintiff PUBLIC CITIZEN HEAL. to motion for G.D. SEARLE & CO. to intervene as defendant [10-1], motion to extend time to 4/29/99 to file a motion for summary judgment together with a vaughn declaration [8-1] by FDA (tb) (Entered: 04/29/1999)
04/29/1999	12	MOTION filed by federal defendant FDA to extend time to 5/3/99 to file a motion for partial summary judgment as to Count I of the complaint , and to extend time to 5/17/99 to file a motion for summary judgment on Counts II and III of the complaint with Vaughn declaration (jf) (Entered: 05/03/1999)
04/30/1999	13	REPLY by movant G.D. SEARLE & CO. in support of motion for G.D. SEARLE & CO. to intervene as defendant [10-1] (jf) (Entered: 05/03/1999)
04/30/1999	14	MOTION filed by movant G.D. SEARLE & CO. to extend time of the briefing schedule (jf) (Entered: 05/03/1999)
05/03/1999	15	ORDER by Judge James Robertson : granting motion for G.D. SEARLE & CO. to intervene as defendant [10-1]; extending time to 5/10/99 for defendant to file its summary judgment motion on the FOIA claim; denying the motion for an extension of time by the defendant to file its motion as to the FACA claim (Count 1); directing the defendant FDA to file its motion on the FACA claim forthwith. (N) (jeb) Modified on 05/04/1999 (Entered: 05/04/1999)
05/03/1999	17	NOTICE OF FILING by federal defendant FDA of court regarding the filing of defendant's motion for summary judgment on Count I (jf) (Entered: 05/06/1999)
05/04/1999	16	MOTION filed by federal defendant FDA for partial summary judgment ; exhibits (4) (jf) (Entered: 05/05/1999)
05/04/1999	32	ANSWER TO COMPLAINT [1-1] by intervenor-defendant G.D. SEARLE & CO. . (jf) (Entered: 06/25/1999)
05/04/1999	33	RULE 109 Certificate of disclosure of corporate affiliations and financial interests by intervenor-defendant G.D. SEARLE & CO. (jf) (Entered: 06/25/1999)
05/10/1999	18	MOTION filed by federal defendant FDA to extend time to file a motion for summary judgment on Counts II and III (jf) (Entered: 05/11/1999)
05/10/1999	19	MOTION filed by movant G.D. SEARLE & CO. for summary judgment ; exhibits (2) (jf) (Entered: 05/11/1999)
05/11/1999	20	ORDER by Judge James Robertson : granting motion to extend time to file a motion for summary judgment on Counts II and III [18-1] by FDA; motion for summary judgment due by 5/11/99 ; (N) (jeb) (Entered: 05/11/1999)
05/11/1999	21	MOTION filed by federal defendant FDA for summary judgment on Counts II and III of the complaint ; Exhibit. (lkn) (Entered: 05/12/1999)

05/27/1999	22	CROSS MOTIONS by plaintiff PUBLIC CITIZEN HEAL. for summary judgment on Count I of the complaint ; Exhibits (8). (lkn) (Entered: 05/28/1999)
06/10/1999	23	CROSS MOTIONS by plaintiff PUBLIC CITIZEN HEAL. for summary judgment on Counts II and III of the complaint ; exhibits (4) (jf) (Entered: 06/11/1999)
06/10/1999	24	MOTION filed by federal defendant FDA to extend time to 6/17/99 to file a opposition to plaintiff's cross-motion for summary judgment and its reply memorandum in support of motion for summary judgment (jf) (Entered: 06/14/1999)
06/14/1999	25	ORDER by Judge James Robertson : granting motion to extend time to 6/17/99 to file a opposition to plaintiff's cross-motion for summary judgment and its reply memorandum in support of motion for summary judgment [24-1] by FDA (N) (jeb) (Entered: 06/14/1999)
06/17/1999	26	MOTION filed by federal defendant FDA to extend time to 6/21/99 to file opposition to plaintiff's cross-motion for summary judgment and reply memorandum in support of motion for summary judgment (jf) (Entered: 06/18/1999)
06/21/1999	<a href="#">27</a>	ORDER by Judge James Robertson : granting motion to extend time to 6/21/99 to file opposition to plaintiff's cross-motion for summary judgment and reply memorandum in support of motion for summary judgment [26-1] by FDA. (N) (mlp) (Entered: 06/21/1999)
06/21/1999	28	MOTION (CONSENT) filed by federal defendant FDA to extend time to 6/25/99 to file opposition to plaintiff's cross-motion for summary judgment on Count I (jf) (Entered: 06/23/1999)
06/22/1999	29	MOTION (UNOPPOSED) filed by movant G.D. SEARLE & CO. to extend time to 7/12/99 to file a opposition to plaintiff's cross-motion for summary judgment and reply brief in support of Searle's motion for summary judgment on Counts 2 and 3 (jf) (Entered: 06/23/1999)
06/22/1999	30	ORDER by Judge James Robertson : granting motion to extend time to 6/25/99 to file opposition to plaintiff's cross-motion for summary judgment on Count I [28-1] by FDA ; response to cross motions due by 6/25/99 ; reply to motion for summary judgment due by 6/25/99 ; (N) (jaw) (Entered: 06/25/1999)
06/23/1999	<a href="#">34</a>	ORDER by Judge James Robertson : granting motion to extend time to 7/12/99 to file a opposition to plaintiff's cross-motion for summary judgment and reply brief in support of Searle's motion for summary judgment on Counts 2 and 3 [29-1] by G.D. SEARLE & CO. (N) (mlp) (Entered: 06/25/1999)
06/24/1999	31	MOTION (CONSENT) filed by federal defendant FDA to extend time to 7/12/99 to file a opposition to plaintiff's cross-motion for summary judgment on Counts II and III and a reply memorandum in support of motion for summary judgment (jf) (Entered: 06/25/1999)

06/25/1999	<a href="#">35</a>	ORDER by Judge James Robertson : granting motion to extend time to 7/12/99 to file a opposition to plaintiff's cross-motion for summary judgment on Counts II and III and a reply memorandum in support of motion for summary judgment [31-1] by FDA. (N) (mlp) (Entered: 06/25/1999)
06/25/1999	36	MOTION (CONSENT) filed by federal defendant FDA to extend time to 7/9/99 to file opposition to plaintiff's cross-motion for summary judgment on count I and it's reply memorandum in support of motion for summary judgment on count I (tb) Modified on 06/28/1999 (Entered: 06/28/1999)
06/30/1999	<a href="#">37</a>	ORDER by Judge James Robertson : granting motion to extend time to 7/9/99 to file opposition to plaintiff's cross-motion for summary judgment on count I and it's reply memorandum in support of motion for summary judgment on count II [36-1] by FDA (N) (jeb) (Entered: 06/30/1999)
07/06/1999	38	JOINT MOTION by plaintiff PUBLIC CITIZEN HEAL., federal defendant FDA to stay proceedings (lkn) (Entered: 07/07/1999)
07/09/1999	39	ORDER by Judge James Robertson : granting joint motion to stay proceedings [38-1] by FDA, PUBLIC CITIZEN HEAL.; staying case until 8/27/99 with respect to Count 1 of the plaintiff's complaint; directing if parties are unable to resolve Count I of this lawsuit, defendant to file within ten days after expiration or dissolution of the stay its opposition to plaintiff's cross motion for summary judgment on Count I of the complaint and reply to plaintiff's opposition to defendant's motion for summary judgment on Count I. (N) (jeb) (Entered: 07/09/1999)
07/09/1999	40	STIPULATED ORDER by Judge James Robertson: for partial settlement of Count 1(N) (jeb) (Entered: 07/09/1999)
07/12/1999	41	MOTION filed by federal defendant FDA to extend time to 7/14/99 to file a opposition to plaintiff's cross-motion for summary judgment on Counts II and III and reply in support of motion for summary judgment on Counts II and III (jf) (Entered: 07/14/1999)
07/12/1999	42	REPLY by intervenor-defendant G.D. SEARLE & CO. in support of motion for summary judgment [19-1]; exhibits (3) (jf) (Entered: 07/14/1999)
07/12/1999	43	RESPONSE by intervenor-defendant G.D. SEARLE & CO. in opposition to cross motion for summary judgment on Counts II and III of the complaint [23-1] by PUBLIC CITIZEN HEAL.; exhibits (3) . (jf) (Entered: 07/14/1999)
07/13/1999	44	ORDER by Judge James Robertson : granting motion to extend time to 7/14/99 to file a opposition to plaintiff's cross-motion for summary judgment on Counts II and III and reply in support of motion for summary judgment on Counts II and III [41-1] by FDA (N) (jeb) (Entered: 07/14/1999)
07/14/1999	45	REPLY by federal defendant FDA in support of motion for summary judgment on Counts II and III of the complaint [21-1] by FDA (tb) (Entered: 07/15/1999)
07/14/1999	46	RESPONSE by federal defendant FDA in opposition to cross motion for summary judgment on Counts II and III of the complaint [23-1] by PUBLIC CITIZEN HEAL. . (tb) (Entered: 07/15/1999)

07/26/1999	47	REPLY by plaintiff PUBLIC CITIZEN HEAL. in support of cross motion for summary judgment on Counts II and III of the complaint [23-1] by PUBLIC CITIZEN HEAL; exhibits (7) (tb) (Entered: 07/27/1999)
07/29/1999	48	MOTION filed for PHARMACEUTICAL to intervene as a defendant ; EXHIBIT (rule 109 and answer) (jf) (Entered: 07/30/1999)
08/05/1999	49	MOTION filed by plaintiff PUBLIC CITIZEN HEAL. to extend time to two-days to file a response to the motion by PhRMA for leave to intervene as a defendant (jf) (Entered: 08/06/1999)
08/06/1999	50	ORDER by Judge James Robertson : granting motion to extend time to two-days to file a response to the motion by PhRMA for leave to intervene as a defendant [49-1] by PUBLIC CITIZEN HEAL.; response to motion(s) due by 8/11/99. (N) (mlp) (Entered: 08/09/1999)
08/09/1999	52	MOTION (CONSENT) filed by federal defendant FDA to extend time to 8/9/99 to respond to motion to intervene filed by PhRMA (jf) (Entered: 08/11/1999)
08/10/1999	51	ORDER by Judge James Robertson : extending time to 8/10/99 for defendant FDA to file its response to the motion by the Pharmaceutical Research and Manufacturers of America for leave to intervene. (N) (jeb) (Entered: 08/10/1999)
08/10/1999	53	MOTION filed by federal defendant FDA to extend time to 8/11/99 to respond to the motion PHRMA for leave to intervene as a defendant (jf) (Entered: 08/12/1999)
08/11/1999	54	RESPONSE by federal defendant FDA to motion for PHARMACEUTICAL to intervene as a defendant [48-1] (jf) (Entered: 08/12/1999)
08/11/1999	55	RESPONSE by plaintiff PUBLIC CITIZEN HEAL. in opposition to motion for PHARMACEUTICAL to intervene as a defendant [48-1] . (jf) (Entered: 08/12/1999)
08/16/1999	56	ORDER, nunc pro tunc to 8/10/99, by Judge Henry H. Kennedy for Judge James Robertson : granting motion to extend time to 8/11/99 to respond to the motion PHRMA for leave to intervene as a defendant [53-1]. (N) (mlp) (Entered: 08/16/1999)
08/18/1999	57	REPLY by movant PHARMACEUTICAL to opposition to motion for PHARMACEUTICAL to intervene as a defendant [48-1] (jf) (Entered: 08/19/1999)
09/01/1999		SCHEDULING NOTICE: motion hearing set for 2:00 9/8/99 before Judge James Robertson in Courtroom 16, 6th Floor. (mlp) (Entered: 09/01/1999)
09/03/1999	59	SUPPLEMENTAL MEMORANDUM by plaintiff PUBLIC CITIZEN HEAL. in support of cross-motion for summary judgment on Counts II and III (jf) (Entered: 09/08/1999)
09/03/1999	60	SUPPLEMENTAL MEMORANDUM by federal defendant FDA on Public Citizen v. FDA (DC Cir 08/06/99) (jf) (Entered: 09/08/1999)
09/07/1999	58	SUPPLEMENTAL MEMORANDUM by intervenor-defendant G.D. SEARLE & CO. concerning the impact of recent D.C. Circuit decision (jf) (Entered: 09/08/1999)

09/08/1999		MOTION HEARING before Judge James Robertson: motion for PHARMACEUTICAL to intervene as a defendant [48-1]heard and granted by PUBLIC CITIZEN HEAL.; cross motion for summary judgment on Counts II and III of the complaint [23-1]heard and taken under advisement by PUBLIC CITIZEN HEAL.; cross motion for summary judgment on Count I of the complaint [22-1]heard and taken under advisement by FDA motion for summary judgment on Counts II and III of complaint [21-1]heard and taken under advisement by G.D. SEARLE & CO.; motion for summary judgment [19-1], heard and taken under advisement by FDA motion for partial summary judgment [16-1] Reporter: Dennis Dinkel (jeb) Modified on 09/08/1999 (Entered: 09/08/1999)
09/08/1999	64	RULE 109 Certificate of disclosure of corporate affiliations and financial interests by intervenor-defendant PHARMACEUTICAL (jf) (Entered: 09/21/1999)
09/08/1999	65	ANSWER TO COMPLAINT [1-1] by intervenor-defendant PHARMACEUTICAL . (jf) (Entered: 09/21/1999)
09/13/1999	61	STATEMENT filed by plaintiff PUBLIC CITIZEN HEAL. , regarding: post hearing submission. (jf) (Entered: 09/15/1999)
09/13/1999	62	MOTION (CONSENT) filed by federal defendant FDA to extend time to 9/20/99 to respond to the plaintiff's motion for summary judgment on Count I (jf) (Entered: 09/15/1999)
09/17/1999	<a href="#">68</a>	ORDER by Judge Royce C. Lamberth by Judge James Robertson : granting motion to extend time to 9/20/99 to respond to the plaintiff's motion for summary judgment on Count I [62-1] by FDA (N) (jeb) (Entered: 09/22/1999)
09/20/1999	63	MOTION (CONSENT) filed by federal defendant FDA to extend time to 9/24/99 to respond to the motion for summary judgment on Count I (jf) (Entered: 09/20/1999)
09/21/1999	<a href="#">66</a>	ORDER by Judge James Robertson : granting motion to extend time to 9/24/99 to respond to the motion for summary judgment on Count I [63-1] by FDA (N) (gew) (Entered: 09/21/1999)
09/21/1999	67	STATEMENT filed by intervenor-defendant G.D. SEARLE & CO. , regarding: post-hearing submission of defendant G.D. Searle & Co. (jf) (Entered: 09/22/1999)
09/27/1999	69	STIPULATION filed and fiated by Judge James Robertson regarding settlement of remainder of Count 1. (N) (gew) (Entered: 09/27/1999)
09/30/1999	70	TRANSCRIPT filed for a motions hearing held on date(s) of September 08, 1999. Reporter: Dennis A. Dinkel (jf) (Entered: 10/01/1999)
10/04/1999	71	ADMINISTRATIVE RECORD by federal defendant FDA; (REDACTED) (jf) (Entered: 10/05/1999)
12/07/1999	72	NOTICE OF SUPPLEMENTAL AUTHORITY RE: Journal of the American Medical Association and Biochemical Journal articles by plaintiff PUBLIC CITIZEN HEAL; exhibits (2). (tb) (Entered: 12/08/1999)
12/17/1999	73	RESPONSE by intervenor-defendant G.D. SEARLE & CO. to notice [72-1] by PUBLIC CITIZEN HEAL. (tb) (Entered: 12/20/1999)

12/20/1999	74	NOTICE OF SUPPLEMENTAL AUTHORITY RE: article published regarding celecoxib in Lancet 12/18/99 by plaintiff PUBLIC CITIZEN HEAL.; exhibit (1) (tb) (Entered: 12/21/1999)
01/05/2000	75	RESPONSE by intervenor-defendant G.D. SEARLE & CO. to notice [74-1] by PUBLIC CITIZEN HEAL. (tb) (Entered: 01/06/2000)
01/19/2000	<a href="#">76</a>	MEMORANDUM OPINION by Judge James Robertson (N) (jeb) (Entered: 01/19/2000)
01/19/2000	<a href="#">77</a>	ORDER by Judge James Robertson denying in part and granting in part the motions of Searle and the FDA for partial summary judgment on counts II and III of the complaint, [# 19,# 21]; granting in part and denying in part the HRG's motion for partial summary judgment on Copunts II and III of the complaint [#23]; directing the parties to submit in writing what remains to be decided due 2/4/00; directing the FDA to promptly release to HRG certain test results. (N) (jeb) Modified on 01/19/2000 (Entered: 01/19/2000)
02/02/2000	78	MOTION filed by intervenor-defendant G.D. SEARLE & CO. to stay pending appeal (tb) (Entered: 02/03/2000)
02/03/2000	<a href="#">79</a>	ORDER by Judge James Robertson: granting motion to stay by FDA, the Court's Order of 1/19/00 is stayed insofar as it requires deft. FDA to release certain documents to pltf., pending a decision by the govt. as to whether or not an appeal of the Court's order will be taken and pending the disposition of any appeal taken. (N) (mlp) (Entered: 02/04/2000)
02/04/2000	80	STATUS REPORT by plaintiff PUBLIC CITIZEN HEAL., federal defendant FDA, intervenor-defendant G.D. SEARLE & CO. (tb) (Entered: 02/07/2000)
02/14/2000	<a href="#">81</a>	ORDER by Judge James Robertson: parties are to confer and to attempt to reach agreement on fee issues; pltf. may have an extension of time for filing its motion under FRCivP 54(2)(d)(B) until deft. decides whether or not to appeal; parties to advise the Court by 4/10/00 whether settlement of any or all aspects of the fee matter has been reached, and if there has been an appeal, whether the parties have agreed that the fee issues in whole or in part should be held in abeyance pending the outcome of the appeal. (N) (mlp) (Entered: 02/14/2000)
04/12/2000	<a href="#">82</a>	ORDER by Judge James Robertson: granting motion by deft. Food & Drug Administration for an enlargement of time on consent to report the status of this case; status report due: 4/20/00 for FDA. (N) (mlp) (Entered: 04/12/2000)
04/13/2000	83	MOTION (consent) filed by federal defendant FDA to extend time to 4/20/00 for the parties to report to the Court on the status of this case "Let this be filed, 4/13/00" Robertson, J. (fiat) (mlp) (Entered: 04/14/2000)
04/20/2000	84	STATUS REPORT by plaintiff PUBLIC CITIZEN HEAL., federal defendant FDA (tth) (Entered: 04/21/2000)
05/11/2000	<a href="#">85</a>	ORDER by Judge James Robertson: that this case be and the same is hereby dismissed. This is a final, appealable order. [1-1] (N) (kmk) (Entered: 05/11/2000)
05/17/2000	86	STIPULATED ORDER by Judge James Robertson: of settlement of attorney's fees and costs. (N) (kmk) (Entered: 06/06/2000)



07/31/2000		ADMINISTRATIVE RECORD [71-1] filed by federal defendant FDA returned by Clerk. (cjp) (Entered: 09/25/2000)
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