

**U.S. District Court  
District of Columbia (Washington, DC)  
CIVIL DOCKET FOR CASE #: 1:94-cv-00018-RCL**

PUBLIC CITIZEN HEAL. v. FDA  
Assigned to: Chief Judge Royce C. Lamberth  
Demand: \$0  
Cause: 05:552 Freedom of Information Act

Date Filed: 01/05/1994  
Date Terminated: 11/10/2003  
Jury Demand: None  
Nature of Suit: 895 Freedom of Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff**

**PUBLIC CITIZEN HEALTH  
RESEARCH GROUP**

represented by **Brian Wolfman**  
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**LEAD ATTORNEY**  
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V.

**Defendant**

**FOOD & DRUG ADMINISTRATION**

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**TERMINATED: 02/25/1994**  
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V.

**Intervenor Defendant**

**SCHERING CORPORATION**

represented by **Kinsey S. Reagan**  
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**Intervenor**

**HOECHST MARION RUSSEL, INC.,**

represented by **Kinsey S. Reagan**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Prescott Moore Lassman**  
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**Intervenor**

**R.W. JOHNSON  
PHARMACEUTICAL**

represented by **James Ray Phelps**  
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Date Filed	#	Docket Text
01/05/1994	1	COMPLAINT filed (mlp) (Entered: 01/07/1994)
01/05/1994		SUMMONS issued to federal party defendant FDA , and non-parties: U.S. Attorney and U.S. Attorney General. (mlp) (Entered: 01/07/1994)
01/13/1994	2	RETURN OF SERVICE/AFFIDAVIT executed upon defendant FDA on 1/10/94, via certified mail; attachment (dot) (Entered: 01/14/1994)
01/13/1994	3	RETURN OF SERVICE/AFFIDAVIT executed upon U. S. Attorney on 1/5/94 (dot) (Entered: 01/14/1994)
01/13/1994	4	RETURN OF SERVICE/AFFIDAVIT executed upon U. S. Attorney General on 1/10/94, via certified mail; attachment (dot) (Entered: 01/14/1994)
02/04/1994	5	ATTORNEY APPEARANCE for defendant FDA by Susan Ann Nellor (dot) (Entered: 02/07/1994)
02/04/1994	6	MOTION filed by defendant FDA to extend time to answer the complaint [1-1] to 3/4/94. (dot) (Entered: 02/07/1994)
02/25/1994	7	ORDER by Judge Royce C. Lamberth : granting motion to extend time to answer the complaint [1-1] to 3/4/94. [6-1] by FDA (N) (fle) (Entered: 02/25/1994)
02/25/1994	11	SUBSTITUTION OF COUNSEL for defendant FDA , substituting Marina Utgoff Braswell for attorney Susan Ann Nellor for FDA (dot) (Entered: 03/28/1994)
03/04/1994	8	MOTION filed by defendant FDA to dismiss , or in the alternative for summary judgment ; attachment; exhibits (2) (dot) (Entered: 03/07/1994)
03/11/1994	9	RESPONSE by plaintiff(s) PUBLIC CITIZEN HEAL. in opposition to motion to dismiss [8-1] by FDA, motion for summary judgment [8-2] by FDA; declaration (1). (dot) (Entered: 03/14/1994)
03/21/1994	10	REPLY by defendant FDA to response to motion to dismiss [8-1] by FDA, motion for summary judgment [8-2] by FDA (dot) (Entered: 03/24/1994)
06/06/1995	12	MEMORANDUM by plaintiff PUBLIC CITIZEN HEAL. in opposition to motion to dismiss [8-1] or, in the alternative, motion for summary judgment [8-2] by FDA (ja) (Entered: 06/07/1995)
02/09/1996	13	MEMORANDUM AND ORDER by Judge Royce C. Lamberth: denying motion to dismiss [8-1] by FDA, denying motion for summary judgment [8-2] by FDA (pob) (Entered: 02/13/1996)
03/11/1996	14	NOTICE OF FILING by defendant FDA to the Court pursuant to the Court's order dated 2/9/96, counsel for the parties to this Freedom of Information Act case met in person with agency counsel representing the agency FOIA personnel and agreed to the attached proposed order to govern further proceeding in this case (bjsp) (Entered: 03/12/1996)
03/12/1996	15	ORDER by Judge Royce C. Lamberth : staying case until 9/13/96. (N) (fle) (Entered: 03/13/1996)
05/14/1996	16	MOTION (UNOPPOSED) filed by defendant FDA to extend time to 5/12/96 to respond to plaintiff's Freedom of Information Act request. (st) Modified on 05/15/1996 (Entered: 05/15/1996)
05/24/1996	17	ORDER by Judge Royce C. Lamberth : granting motion to extend time to 5/14/96 to respond to plaintiff's Freedom of Information Act request. [16-1] by FDA; nunc pro tunc (N) (fle) (Entered: 05/28/1996)

09/13/1996	18	MOTION (UNOPPOSED) filed by defendant FDA to extend time to 9/20/96 to make a final response to plaintiff's freedom of information act request (st) (Entered: 09/16/1996)
09/17/1996	19	ORDER by Judge Royce C. Lamberth : granting motion to extend time to 9/20/96 to make a final response to plaintiff's freedom of information act request [18-1] by FDA (N) (fle) (Entered: 09/18/1996)
10/23/1996	20	RESPONSE by defendant FDA to order [15-1] submit a proposed briefing schedule for filing cross-motions for summary judgment (st) (Entered: 10/24/1996)
11/05/1996	21	SCHEDULING ORDER by Judge Royce C. Lamberth motion for summary judgment due 1/24/97 ;plaintiff will oppose and file cross motion for summary judgment within 30 days thereafter; defendant and any intervenors will file their opposition/reply brief within 30 days after plaintiff files its motion; and plaintiff's reply, if any, due 20 days after the filing of defendant and intervenors opposition/reply briefs. (N) (fle) (Entered: 11/06/1996)
11/22/1996	22	MOTION filed by intervenor HOECHST MARION for leave to intervene as a defendant exhibit answer of intervenor-defendant. (st) (Entered: 11/26/1996)
11/22/1996	23	RULE 109 Certificate of disclosure of corporate affiliations and financial interests by intervenor HOECHST MARION (st) (Entered: 11/26/1996)
12/09/1996	24	MOTION filed by intervenor THE R.W. JOHNSON PHARMACEUTICAL for leave to intervene as a defendant (st) (Entered: 12/10/1996)
12/09/1996	25	RULE 109 Certificate of disclosure of corporate affiliations and financial interests by intervenor THE R.W. JOHNSON (st) (Entered: 12/10/1996)
12/24/1996	26	MOTION (UNOPPOSED) filed by defendant FDA to extend time to 12/24/96 to file its answer to the complaint (st) (Entered: 12/26/1996)
12/24/1996	27	ANSWER TO COMPLAINT [1-1] by defendant FDA . (st) (Entered: 12/26/1996)
12/30/1996	28	ORDER by Judge Royce C. Lamberth : granting motion to extend time to 12/24/96 to file its answer to the complaint [26-1] by FDA; nunc pro tunc. (N) (fle) (Entered: 12/31/1996)
01/06/1997	29	ORDER by Judge Royce C. Lamberth : granting motion for leave to intervene as a defendant [22-1] by HOECHST MARION Further ordered, the answer lodged with the clerk on 12/9/96 shall be filed this date.(N) (lpp) (Entered: 01/07/1997)
01/06/1997	61	ANSWER TO COMPLAINT [1-1] by intervenor-defendant SCHERING CORPORATION . (JMF) (Entered: 09/26/1997)
01/16/1997	30	MOTION filed by intervenor SCHERING CORPORATION for to intervene exhibit (answer) (st) (Entered: 01/17/1997)
01/16/1997	31	RULE 109 Certificate of disclosure of corporate affiliations and financial interests by intervenor-defendant SCHERING CORPORATION (st) (Entered: 01/17/1997)
01/17/1997	32	JOINT MOTION by plaintiff PUBLIC CITIZEN HEAL., defendant FDA to extend time to 2/28/97 to file dispositive motions (st) (Entered: 01/21/1997)
01/21/1997		Text not available. (Entered: 01/27/1997)
01/21/1997	33	ORDER by Judge Royce C. Lamberth : Granting Motion for Schering Corporation to intervene; the clerk shall file the answer submitted with the motion (N) (lpp) (Entered: 01/27/1997)
01/22/1997	34	ORDER by Judge Royce C. Lamberth : granting joint motion to extend time to 2/28/97 to file dispositive motions [32-1] by FDA, PUBLIC CITIZEN HEAL. dispositive motions due by 2/28/97 ; (N) (lpp) (Entered: 01/27/1997)
01/27/1997	62	ANSWER TO COMPLAINT [1-1] by intervenor-defendant SCHERING CORPORATION . (JMF) (Entered: 09/26/1997)
02/21/1997	35	JOINT MOTION by plaintiff, defendant, intervenor, intervenor-defendant to extend time to 3/21/97 for defendant and defendant-intervenors to file dispositive

		motion. (st) (Entered: 02/24/1997)
03/18/1997	36	JOINT MOTION by defendant FDA, intervenor HOECHST MARION, intervenor THE R.W. JOHNSON to extend time to 4/4/97 to file their dispositive motions (st) (Entered: 03/19/1997)
03/27/1997	37	MOTION filed by intervenor THE R.W. JOHNSON to extend time to 4/18/97 to file their dispositive motions. (tw) (Entered: 03/28/1997)
03/27/1997	38	ORDER by Judge Royce C. Lamberth : granting joint motion to extend time to 4/4/97, to file their dispositive motions [36-1] by THE R.W. JOHNSON, HOECHST MARION, FDA dispositive motions due by 4/4/97, nunc pro tunc ; (N) (lpp) (Entered: 04/04/1997)
03/27/1997	39	ORDER by Judge Royce C. Lamberth : granting joint motion to extend time to 4/4/97 to file their dispositive motions [36-1] by THE R.W. JOHNSON, HOECHST MARION, FDA dispositive motions due by 4/18/97 ; (N) (lpp) (Entered: 04/04/1997)
04/18/1997	40	MOTION filed by defendant FDA to extend time to 4/21/97 to file dispositive motion (st) (Entered: 04/21/1997)
04/18/1997	41	MOTION filed by intervenor HOECHST MARION for summary judgment attachments (3) (st) (Entered: 04/21/1997)
04/18/1997	42	MOTION filed by intervenor-defendant SCHERING CORPORATION for summary judgment attachments (st) (Entered: 04/21/1997)
04/21/1997	43	MOTION filed by defendant FDA for summary judgment (st) (Entered: 04/22/1997)
04/22/1997	44	ORDER by Judge Royce C. Lamberth : granting motion to extend time to 4/21/97 to file dispositive motion [40-1] by FDA dispositive motions due by 4/21/97 ; (N) (lin) (Entered: 04/22/1997)
04/22/1997	45	STIPULATED ORDER dismissing R.W. Johnson as a party to this action by Judge Royce C. Lamberth : (N) (lin) (Entered: 04/22/1997)
05/15/1997	46	MOTION filed by plaintiff PUBLIC CITIZEN HEAL. to extend time to 6/10/97 to file cross-motion for summary judgment and opposition to defendant's and defendant-intervenors' motions for summary judgment (mlp) (Entered: 05/16/1997)
05/23/1997	47	ORDER by Judge Royce C. Lamberth : granting motion to extend time to 6/10/97 to file cross-motion for summary judgment and opposition to defendant's and defendant-intervenors' motions for summary judgment [46-1] by PUBLIC CITIZEN HEAL. motion for summary judgment due by 6/10/97 ; (N) (mon) (Entered: 05/27/1997)
06/10/1997	48	CROSS MOTION by plaintiff PUBLIC CITIZEN HEAL. for summary judgment (st) (Entered: 06/11/1997)
07/09/1997	49	MOTION (UNOPPOSED) filed by intervenor-defendant SCHERING CORPORATION to extend time to 7/30/97 to file respective responses to plaintiff's dispositive motion. (st) (Entered: 07/10/1997)
07/11/1997	50	ORDER by Judge Royce C. Lamberth : granting motion to extend time to 7/30/97 to file respective responses to plaintiff's dispositive motion. [49-1] by SCHERING CORPORATION response to dispositive motions due by 7/30/97 ; (N) (mon) (Entered: 07/14/1997)
07/14/1997	51	MOTION (UNOPPOSED) filed by plaintiff PUBLIC CITIZEN HEAL. to extend time to 7/30/97 to file its reply in support of its cross-motion for summary judgement (st) (Entered: 07/15/1997)
07/29/1997	52	ORDER by Judge Royce C. Lamberth : granting motion to extend time to 8/29/97 to file its reply in support of its cross-motion for summary judgement [51-1] by PUBLIC CITIZEN HEAL. reply to cross motions due by 8/29/97 ; (N) (mon) (Entered: 07/31/1997)

07/30/1997	53	REPLY by intervenor HOECHST MARION in support of its motion for summary judgment [41-1] by HOECHST MARION (st) (Entered: 07/31/1997)
07/30/1997	54	RESPONSE by intervenor HOECHST MARION in opposition to cross motion for summary judgment [48-1] by PUBLIC CITIZEN HEAL. . (st) (Entered: 07/31/1997)
07/30/1997	55	RESPONSE by intervenor-defendant SCHERING CORPORATION in opposition to cross motion for summary judgment [48-1] by PUBLIC CITIZEN HEAL. . (st) (Entered: 07/31/1997)
07/30/1997	56	REPLY by intervenor-defendant SCHERING CORPORATION to in support of motion for summary judgment [42-1] by SCHERING CORPORATION (st) (Entered: 07/31/1997)
07/30/1997	57	RESPONSE (OPPOSITIONS) by intervenor-defendant SCHERING CORPORATION to cross motion for summary judgment statement of material facts not in dispute. [48-1] by PUBLIC CITIZEN HEAL. (st) (Entered: 07/31/1997)
07/30/1997	58	MEMORANDUM by defendant FDA in opposition to cross motion for summary judgment [48-1] by PUBLIC CITIZEN HEAL. (st) (Entered: 07/31/1997)
07/30/1997	59	REPLY by defendant FDA to plaintiff's opposition to defendant's motion for summary judgment [43-1] by FDA (st) (Entered: 07/31/1997)
08/29/1997	60	REPLY by plaintiff PUBLIC CITIZEN HEAL. in support of cross motion for summary judgment [48-1] by PUBLIC CITIZEN HEAL. (st) (Entered: 09/02/1997)
03/03/1998	65	NOTICE OF CHANGE OF ADDRESS by Robert Philip Reznick representing intervenor-defendant SCHERING CORPORATION . New address: HUGHES HUBBARD & REED LLP 1775 I Street, NW Washington, DC 20006 (202) 721-4600. (st) (Entered: 03/16/1998)
03/11/1998	63	MEMORANDUM OPINION by Judge Royce C. Lamberth (N) (emh) (Entered: 03/13/1998)
03/11/1998	64	ORDER by Judge Royce C. Lamberth : granting in part, denying in part plaintiff's cross motion for summary judgment [48-1], granting in part, denying in part motion of FDA for summary judgment [43-1], denying motion of defendant-intervenor for summary judgment [42-1] by SCHERING CORPORATION, granting motion defendant-intervenor for summary judgment [41-1] by HOECHST MARION; directing defendant to release to plaintiff the records at issue in this case relevant to defendant-intervenor Schering Corporation and that all other records are properly withheld; entering judgment on the above. all other records (N) (emh) (Entered: 03/13/1998)
03/25/1998	66	MOTION filed by plaintiff PUBLIC CITIZEN HEAL. for attorney fee (st) (Entered: 03/26/1998)
03/25/1998	67	MOTION (UNOPPOSED) filed by defendant FDA, intervenor-defendant SCHERING CORPORATION to stay case pending appeal (st) (Entered: 03/26/1998)
03/26/1998	70	ORDER by Judge Royce C. Lamberth : granting motion to stay case pending appeal [67-1] by SCHERING CORPORATION, FDA (N) (lin) (Entered: 04/01/1998)
03/30/1998	68	MOTION filed by defendant FDA to extend time to respond to plaintiff's motion for attorney's fees (st) (Entered: 03/31/1998)
03/31/1998	69	ORDER by Judge Royce C. Lamberth : granting motion to extend time to respond to plaintiff's motion for attorney's fees [68-1] by FDA up to and including two weeks after either(a) the termination of the 60 day period in which federal defendant may notice an appeal or (b) disposition by the Court of Appeals for this Circuit of any appeal filed in this case. (N) (emh) (Entered: 04/01/1998)

05/06/1998	71	NOTICE OF APPEAL by intervenor-defendant SCHERING CORPORATION from order [64-1] , entered on: 3/13/98. fees not paid, copies mailed (st) (Entered: 05/07/1998)
05/07/1998		TRANSMITTED PRELIMINARY RECORD on appeal [71-1] by SCHERING CORPORATION to U.S. Court of Appeals (st) (Entered: 05/07/1998)
05/11/1998	72	NOTICE OF APPEAL by defendant FDA from order [64-1] , entered on: 3/13/98 denying in part granting in part motion for summary judgment. (st) (Entered: 05/12/1998)
05/12/1998		TRANSMITTED PRELIMINARY RECORD on appeal [72-1] by FDA to U.S. Court of Appeals (st) (Entered: 05/12/1998)
05/19/1998	73	NOTICE OF CROSS APPEAL by plaintiff PUBLIC CITIZEN HEAL. from order [64-1] , entered on: 3/13/98 fees not paid, copies mailed. (st) Modified on 05/26/1998 (Entered: 05/20/1998)
05/20/1998		TRANSMITTED PRELIMINARY RECORD on cross appeal [73-1] by PUBLIC CITIZEN HEAL. to U.S. Court of Appeals (st) (Entered: 05/20/1998)
05/22/1998		USDC appeal fee of \$5.00 and USCA docketing fee of \$100.00 received, for appeal [73-1] by PUBLIC CITIZEN HEAL. TIZEN HEAL. . USCA notified. (st) (Entered: 05/26/1998)
05/26/1998		TRANSMITTED PRELIMINARY (AMENDED) RECORD on cross- appeal [73-1] by PUBLIC CITIZEN HEAL. to U.S. Court of Appeals (st) (Entered: 05/26/1998)
05/26/1998		USCA # 98-5163 assigned for appeal [73-1] by PUBLIC CITIZEN HEAL. (st) (Entered: 05/27/1998)
05/26/1998		USCA # 98-5162 assigned for appeal [71-1] by SCHERING CORPORATION (st) (Entered: 05/27/1998)
05/26/1998		USCA # 98-5161 assigned for appeal [72-1] by FDA (st) (Entered: 05/27/1998)
05/29/1998		USCA # 98-5162 assigned for appeal [71-1] by SCHERING CORPORATION (st) (Entered: 07/16/1998)
12/14/1998	74	MOTION filed by plaintiff PUBLIC CITIZEN HEAL. to dismiss appeal [73-1] (st) (Entered: 12/15/1998)
01/04/1999	75	CERTIFIED COPY of order filed in USCA dated 12/31/98, on appeal [73-1] , dismissing appeal . USCA # 98-5163 only (cjp) (Entered: 01/06/1999)
09/08/1999	76	ORDER by Judge Royce C. Lamberth : denying motion for attorney fee [66-1] by PUBLIC CITIZEN HEAL. (N) (mon) (Entered: 09/23/1999)
09/27/1999	77	CERTIFIED COPY of judgment filed in USCA dated 8/6/99, on appeal [72-1], appeal [71-1] , reversing the judgment of USDC in part , and affirming the judgment of USDC in part , and remanding for further proceedings. OPINION USCA # 98-5161 &98-5162 (cjp) (Entered: 09/27/1999)
10/23/1999		Case Reopened (mon) (Entered: 10/23/1999)
02/25/2000	78	STIPULATION filed and fiated by Judge Royce C. Lamberth regarding settlement. (N) (mon) (Entered: 02/28/2000)
03/03/2000	79	MOTION filed by plaintiff PUBLIC CITIZEN HEAL. for attorney fee (bjsp) (Entered: 03/06/2000)
03/17/2000	80	MOTION (UNOPPOSED) filed by defendant FDA to extend time to 3/17/00 to file a response to plaintiff's motion for attorney's fees and costs (bjsp) (Entered: 03/20/2000)
03/20/2000	81	ORDER by Judge Royce C. Lamberth : granting motion to extend time to file a response to plaintiff's motion for attorney's fees and costs [80-1] by FDA response to motion(s) due by 4/7/00 ; (N) (mon) (Entered: 03/20/2000)

03/27/2000	<u>82</u>	STIPULATED ORDER approved by Judge Royce C. Lamberth : Dismissing this action against Schering Corp with prejudice. (N) (mon) (Entered: 03/28/2000)
04/07/2000	83	MOTION (UNOPPOSED) filed by defendant FDA to extend time to 4/28/00 to file a response to plaintiff's motion for attorney's fees and costs (jf) (Entered: 04/10/2000)
04/11/2000	<u>84</u>	ORDER by Judge Royce C. Lamberth : granting motion to extend time to 4/28/00 to file a response to plaintiff's motion for attorney's fees and costs [83-1] by FDA; response due by 4/28/00 (N) (jaw) (Entered: 04/12/2000)
05/19/2000	<u>85</u>	STIPULATION filed and fiated by Judge Royce C. Lamberth regarding settlement and dismissal of this action with prejudice."Approved" (N) (mon) (Entered: 05/19/2000)