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Battling Goliath: Inside a \$22 Billion Legal Scandal

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If you didn't know it was real, you might think it was an episode of *Law and Order*. Fraud, threats, back alley pacts and over 400,000 victims. But, sadly, this story is the real thing. In the '90s, six million Americans took fen-phen, a diet pill combo that was billed as being "magic."

Turned out there was nothing magical about it, unless you consider almost half a million people suffering dire consequences magical. One man, attorney Kip Petroff, decided that the drug company who made the drug, Wyeth Ayerst Pharmaceuticals, had to pay.

Petroff spent more than a decade fighting. After battles that would make even Hollywood gasp, [he won](#) a \$23 million verdict that led to 100,000 potential cases just in his firm.

And that wasn't the end. The more than 400,000 victims who registered for the original Class Action Settlement can still file for compensation "if their heart valve disease progresses to certain conditions by the earlier of December 31, 2011, or 15 years after their last date of diet drug usage."

As the founder and senior partner of Dallas-based Petroff & Associates and a board certified civil and personal injury trial lawyer, Petroff has been fighting against the big dogs for the little guys for more than twenty-five years.

Together with his wife Suzi Zimmerman Petroff, Kip wrote the book, [Battling Goliath: Inside a \\$22 Billion Legal Scandal](#) about the monumental legal battle that ensued when he took on Wyeth Ayerst Pharmaceuticals in the name of those who suffered from fen-phen and its dangerous promises and lies. All of the proceeds of [Battling Goliath](#) go right back to the cause.

For those who don't remember, what is fen-phen?

Petroff: A combination of an appetite suppressant, fenfluramine, with phentermine (speed). The combo provided short-term weight loss but was not FDA approved, nor tested, together.

And what was the scandal that ensued?

Petroff: They were many. Wyeth was caught promoting the combination and then altering users' reported complaints of heart valve disease. As a part of its settlement, it promised free echocardiograms but provided them to less than four percent of users. The settlement lawyers then milked the system for more than a million dollars a week for over ten years. And the Trust seemed more interested in appeasing the drug company and attacking claimants, their doctors, and attorneys. The list of scandals is lengthy!

Why would you take on such a case?

Petroff: Wyeth was dishonest; it fed on the insecurities and fears of 6,000,000 people. A former breast implant client had taken fen-phen and hired me, and before long I had 100,000 clients -- a deluge of claimants created by Wyeth's own greed.

What was the scariest part of the journey?

Petroff: Two things: One, the number of people relying on me was daunting. This made me a target. With me out of the picture, the chaos of that many claimants trying to find new attorneys on short notice would certainly be to their benefit.

But secondly, there was a rumor circulating that I was in possible federal trouble. Wyeth was desperate, and they (and those in their pockets) constantly threatened "fraud" where none existed. No one was safe from their threats or machinations.

What was the most rewarding?

Petroff: The most rewarding day was when the judge approved the new settlement, bringing the total to nearly six billion dollars and assuring safe passage for many thousands of previously ignored claims.

How has this case influenced the way drugs are brought to market?

Petroff: The drug companies are more careful with their "product launch" and marketing, especially with diet drugs. The FDA is also under greater scrutiny and has taken steps to improve their methods. The companies are required to prove greater efficacy now, and that alone probably would have changed everything, if FDA had required proof of efficacy for these drugs if used as approved.

Did this change complex litigation in any way?

Petroff: Fen-phen was the first truly modern mass tort class action. Everyone (Judges, lawyers for both sides, and drug companies) treats every aspect of complex litigation differently now. I don't think we'll see many class actions drag on as long as this one did after it was supposedly settled.

What lessons have we learned about quick-fix weight loss?

Petroff: There is no such thing as quick weight loss. It is all about nutrition and exercise -- not a pill.

Have you stayed in touch with any of your clients on the case?

Petroff: I stay in touch with several personally and send several newsletters per year, professionally. We currently have more than fifty clients who have continuing claims due to surgery or, sadly, death. And I receive supportive calls and letters from clients who have read [*Battling Goliath*](#).

How do you spend your time today?

Petroff: I started New Hope Foundation to help the needy in Dallas and am donating all book proceeds to the cause. I still practice law and would consider a case that has the potential to make a big social impact.