

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. CIV-04-20320-HOEVELER-KLEIN

NIGHT BOX
FILED
MAR 25 2004
CLARENCE MADDOX
CLERK USDC / SDFL / MIA

ELVA F. ARIAS and JAIRO M. ARIAS,
her husband,

Plaintiffs,

vs.

METABOLIFE INTERNATIONAL, INC.,
MICHAEL ELLIS and ABBACO
INTERNATIONAL CORP.,

Defendants.

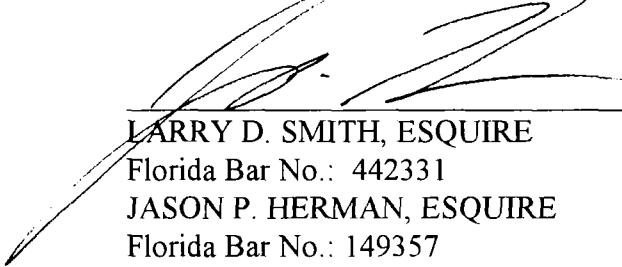
**NOTICE OF FILING CORRECTED EXHIBIT "B" TO
DEFENDANT, METABOLIFE INTERNATIONAL, INC.'S,
RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO REMAND**

Comes now, Defendant, Metabolife International, Inc. ("Metabolife") by and through undersigned counsel and hereby gives notice of filing Corrected Exhibit "B" to Metabolife's Response in Opposition to Plaintiffs' Motion To Remand and states as follows:

1. Attached hereto is corrected Exhibit "B" which will replace the original Exhibit "B" and "C" to Metabolife's Response in Opposition to Plaintiffs' Motion To Remand.
2. The Exhibit "C" filed with Metabolife's Response is hereby withdrawn.

20/6

Respectfully Submitted,



LARRY D. SMITH, ESQUIRE

Florida Bar No.: 442331

JASON P. HERMAN, ESQUIRE

Florida Bar No.: 149357

CABANISS, SMITH, TOOLE & WIGGINS, PL

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail on March 25, 2004, to: Tony Sirven, Esquire, Lidsky, Vaccaro & Montes, 145 East 49th Street, Hialeah, FL 33013; David Jones, Esquire, Akin, Gump, Strauss, Hauer & Feld, LLP, 300 Convent Street, Suite 1500, San Antonio, TX 78205; Jonathan Gottlieb, Esquire, Akin, Gump, Strauss, Hauer & Feld, LLP, 2029 Century Park East, Suite 2400, Los Angeles, CA 90067.



LARRY D. SMITH, ESQUIRE

Florida Bar No.: 442331

lsmith@cabaniss.net

JASON P. HERMAN, ESQUIRE

Florida Bar No.: 149357

jherman@cabaniss.net

CABANISS, SMITH, TOOLE & WIGGINS, PL

485 N. Keller Road, Suite 301 (32751)

Post Office Box 945401

Maitland, Florida 32794-5401

Phone: (407) 246-1800

Facsimile: (407) 246-1895

Attorneys For Defendants

EXHIBIT B

24. Has Elva F. Arias ever experienced any of the following prior to the date of the alleged injury: shortness of breath not associated with vigorous exercise, persistent or recurring chest pain; persistent or recurring headaches; irregular heartbeat; abnormal lack of energy; fainting, dizziness or lightheadedness; head-pounding; sleep apnea and/or other sleep breathing disorder; or memory loss; if yes, please identify which conditions Elva F. Arias experienced, including the date when she experienced each such condition, prior to the date of the alleged injury.

ANSWER:

25. Do you contend that METABOLIFE, Michael Ellis, and/or Abacco International Corp. made material misrepresentations to Elva F. Arias with respect to *Metabolife 356* which you allege she ingested; If yes, please state in detail all facts which you contend support your allegation that METABOLIFE, Michael Ellis, and/or Abacco International Corp. made certain misrepresentations to Plaintiff, Elva F. Arias, as alleged in your Complaint.

ANSWER:

There were perhaps other physicians that provided general care in this time period, however, I do not recollect any others specifically at this time.

18. Please refer to responses to other interrogatories above for all the information in my possession.
19. Approximately June 1999. When I first began taking it, I took from 1/2 to 1 pill per day until November 1999. I then began taking it again about May 2000, at which time I began taking 1 pill per day. I did not finish the container. I am not currently taking these pills.
20. Those amounts are undetermined at this time.
21. Dr. Gorin told that me these pills tend to cause the sort of medical problems I was experiencing.
22. I am in possession of the container of the last set of Metabolife pills that I purchased.
23. I consumed approximately one and a half bottles in total.
24. Shortness of Breath: Not to my recollection
Recurring Headaches: Not to my recollection
Abnormal Lack of Energy: Not to my recollection
Fainting: Not to my recollection
Dizziness/Lightheadedness: Not to my recollection
Sleep Disorders: Not to my recollection
Memory Loss: Not to my recollection

I did not suffer from any of the conditions on a regular basis.

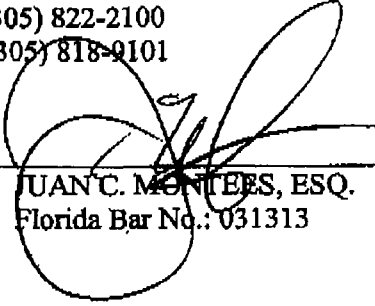
25. Yes, Metabolife made, implied and or expressed representations to the general public and to the government.
26. Objection, work product.
27. Objection, vague and ambiguous.
28. Objection, vague and ambiguous.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was faxed this 15th day of September 2003 to Larry Smith, Esq., Cabaniss, Smith, Toole & Wiggins, PL, 485 N. Keller Road, Suite 401 (32751), Post Office Box 945401, Maitland, FL 32794-5401.

LIDSKY, VACCARO & MONTES
ATTORNEYS AT LAW, P.A.
Attorneys for the Plaintiff
145 East 49th Street
Hialeah, FL 33013
Tel: (305) 822-2100
Fax: (305) 818-9101

By: _____


JUAN C. MONTES, ESQ.
Florida Bar No.: 031313

X Elva Arias
ELVA F. ARIAS

STATE OF FLORIDA

COUNTY OF Miami-Dade

The foregoing instrument was sworn to and subscribed before me this 15th day of September, 2003, by Elva F. Arias, who [check one] is personally known to me or produced Elva Arias FL DUTT as identification, and being duly sworn, states that the A620-206-63-763-0 foregoing Answers to Interrogatories are true and correct to the best of her knowledge and belief.

Karen Olaciregui
Notary Public
Printed Name:
Commission No:
Commission Expires:

