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## Business

Posted on Fri, Dec. 05, 2003

THE KANSAS CITY STAR

### Doctor answers fen-phen lawsuit

She blasts 'scheme' to deny benefits

By DAN MARGOLIES  
The Kansas City Star

A local cardiologist accused of falsely certifying fen-phen claims has fired back at her accusers, calling the charges part of a scheme to delay benefits to thousands of claimants.

In court documents filed Tuesday in Philadelphia, Linda Crouse denounced a lawsuit filed by the administrators of the fen-phen settlement fund, saying her professional reputation had been "indelibly stained" by "insupportable accusations of racketeering, fraud and conspiracy."

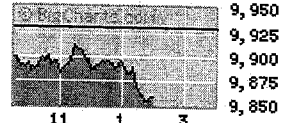
"As part and parcel of their blatant scheme to delay and deny benefits to thousands of persons injured by the so-called fen-phen diet drugs, to shield the maker of those drugs from its miscalculation of the magnitude of harm caused by those drugs, and to mask their own incompetence in administering the settlement funds designed to compensate injured victims, the plaintiffs here ... have now embarked on a campaign to attack and discredit the echocardiographers who have certified claimants as eligible for compensation," Crouse contended in her motion to dismiss the lawsuit.

Crouse's salvo is the latest development in an increasingly bitter legal battle over the integrity of the fen-phen claims process. The administrators of the \$3.75 billion fund have accused doctors and lawyers of filing phony claims. The lawyers and doctors say the administrators are holding up payments to deserving claimants because they grossly underestimated the number of claims that would be filed.

Crouse was sued 11 weeks ago by the administrators of the fund, which was set up by fen-phen maker Wyeth to compensate people who developed heart valve problems as a result of taking the once-popular diet-drug cocktail. The civil racketeering suit accused Crouse, a prominent Kansas City cardiologist, of defrauding the fund by falsely certifying claims for which she received millions of dollars in fees.

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Fen-phen is the popular name for the diet drugs Pondimin and Redux, both made by Wyeth (formerly American Home Products). The drugs were pulled from the market in 1997 after the Mayo Clinic reported that they had caused aortic and mitral valve damage on the left side of the heart.

A flood of individual and class-action lawsuits ensued, and in 1999 Wyeth entered into a nationwide class-action settlement. To be eligible for payments, claimants must have obtained echocardiograms — ultrasound examinations that create moving images of the heart and its valves — by Jan. 3, 2003.

Claimants are eligible to receive payments ranging from \$25,000 to \$1.5 million — depending on the severity of their condition — if their echocardiograms show they developed heart valve problems from taking fen-phen.

So far, the number of claims filed has far exceeded projections, threatening to exhaust the settlement fund. After a six-day hearing in September 2002, the federal judge supervising the settlement suspended payments and ordered independent medical audits after finding a sampling of claims to be "medically unreasonable."

Crouse was among those rebuked by U.S. District Judge Harvey Bartle III. He said that her practice "resembled a mass production line that would have been the envy of Henry Ford."

Since then, the fund administrators have gone on the offensive, filing lawsuits against Crouse in September and, more recently, against New York cardiologist Richard L. Mueller. The suits allege that the two submitted fraudulent claims in order to make millions of dollars in fees.

Crouse is one of at least four board-certified cardiologists and cardiothoracic surgeons in the Kansas City area who were retained by claimants' lawyers to oversee the administration and interpretation of echocardiograms. The lawsuit against Crouse alleges that more than 25 law firms hired her to certify claims and that she had a team of sonographers doing echocardiograms 12 hours a day, five days a week. For her work on behalf of just two of the law firms, the suit says, she was paid more than \$3.2 million over an 11-month period.

In her response, Crouse said the lawsuit demonstrates that the settlement trust, in league with Wyeth, "has made clear that it will stop at nothing to stem the tide of claims that threatens to exhaust its funds, regardless of who gets hurt in the process."

"While the Trustees' claims of racketeering, fraud and conspiracy sound scandalous and have a sensationalistic appeal — indeed, the Trustees have made sure that their suit against Dr. Crouse has received widespread play in newspapers and other media throughout the country — the reality is utterly different," Crouse stated in her dismissal motion.

"Viewed carefully, the Trustees' complaint is a paradigm of 'shoot

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first, ask questions later' reasoning. Although the complaint is larded with salacious allegations of wrongdoing, the specifics are painfully thin, with many of the averments made 'upon information and belief.' At bottom, however, the Trustees' allegations amount to nothing more than a disagreement with Dr. Crouse over the proper medical interpretations of the echocardiograms of 55 fen-phen claimants, hardly the stuff of a racketeering scheme."

The attorney for the settlement administrators, Richard L. Scheff of Philadelphia, said he was confident that the suit against Crouse would withstand scrutiny and proceed. He said the administrators planned to file motions opposing Crouse's dismissal request.

Crouse and her husband, cardiologist Paul Kramer, practice together as Kramer & Crouse P.C. The firm has offices near the Country Club Plaza in Kansas City and near Shawnee Mission Medical Center in Merriam.

A 1976 graduate of New York University's medical school, Crouse has board certifications in cardiology and internal medicine and is nationally known in the field of echocardiography. She helped develop echocardiography testing standards and, with her husband, wrote *Exercise Echocardiography*, which was published in 1991.

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