

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

**IN RE: DIGITEK PRODUCT LIABILITY
LITIGATION**

MDL NO. 1968

THIS DOCUMENT RELATES TO ALL CASES

**PRETRIAL ORDER #55
(RE: Destruction of Non-Digitek recalled product)**

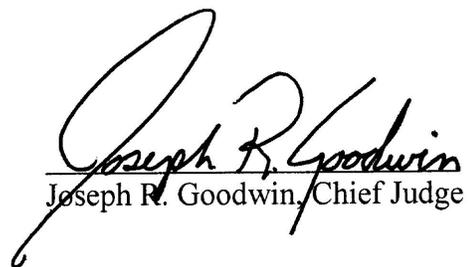
At the case management conference on February 11, 2010, the Actavis Defendants asked for a Court Order permitting them to destroy non-Digitek® product recalled in 2008 and being held at an FDA approved storage facility (Capital Returns). The Actavis Defendants represented to the Court that the FDA desired to “close out” the 2008 recalls of non-Digitek® product which involves destruction of recalled and returned product. None of the product held at Capital Returns was subject to a Class I recall to the consumer level. None of the product held there involves alleged double thickness issues. Under FDA regulations, Actavis is required to keep retained samples of the products subject to these recalls until the date of expiration is reached.

During the February 11, 2010 hearing, Actavis stated it had notified the Plaintiffs Steering Committee (PSC) of this request prior to the February 11, 2010 conference and of the reasons for the request.

Wherefore, having considered the Actavis Defendants request and the comments of the PSC at the February 11, 2010 conference, it is hereby **ORDERED** that the Actavis Defendants may destroy the non-Digitek® recalled product being held at Capital Returns.

The court **DIRECTS** the Clerk to file a copy of this memorandum opinion and order in 2:08-md-1968 which shall apply to each member Digitek-related case previously transferred to, removed to, or filed in this district, which includes counsel in all members cases up to and including civil action number 2-10-cv-00274. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsc.uscourts.gov.

ENTER: March 10, 2010


Joseph R. Goodwin, Chief Judge