

Battling Goliath

Inside a \$22 Billion Legal Scandal

By Kip Petroff

FRAME HOUSE PRESS, INC.,

Any CEO whose company has been a litigation target would do well to read this account of attorney Kip Petroff's 14-year-long crusade against Wyeth and American Home Products, makers of the fen-phen "miracle drug cocktail" for overweight people.

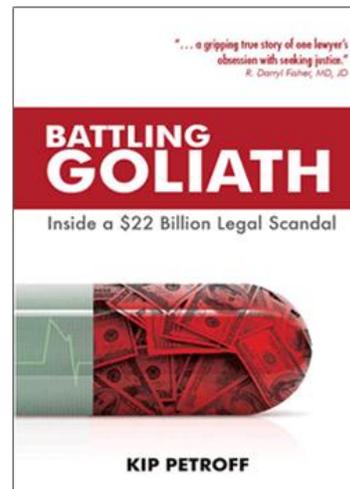
Petroff, founder and senior partner of Dallas-based Petroff & Associates, says he's been suing big companies on behalf of consumers for a quarter-century. But this case has obviously been his biggest.

The fen-phen affair took off in the 1990s, after it was determined that Wyeth/AHP's Pondimin (or FENfluramine) and its cousin Redux (dexfenfluramine), in combination with something called PHENtermine, gave rise to side effects including pulmonary hypertension and valvular heart disease.

Before Redux and Pondimin were pulled off the shelves in 1997, Petroff writes, six million people took the drugs alone or in combination with phentermine, and many took both (the so-called fen-phen combination).

Interestingly, Petroff is quite candid here about the way plaintiff's lawyers think. Consider, for example, this passage explaining how he transitioned from suing one group of companies to another: "I quickly went from 'garden variety personal injury attorney' to being a 'breast man,' a term that was reserved for lawyers who sued on behalf of women with silicone gel implants. But, as scientific evidence weakened and manufacturer bankruptcies chipped away at our earning potential, I was forced to move on to the next big thing."

That next big thing might be the diet drugs, Petroff figured. So he filed the first fen-phen lawsuit in Dallas County. Later, as the cases progressed, he writes: "We were doing everything we could to get [AHP] in front of a jury quickly. The first fen-phen trial was sure to attract publicity. Being the first to verdict would attract new clients, a constant concern in any commission-



based business. Most importantly, it would be big news, and staying newsworthy would force AHP to remain on the defensive."

When all was said and done over the next decade or so, Petroff says, the fen-phen affair resulted in a class-action settlement of more than \$7 billion involving more than six million class members and billions of dollars more in opt-out payments.

And, it's not over yet. According to the publisher, more than 400,000 victims who registered for the original settlement could get more money, under certain conditions. Petroff, meantime, is donating 100 percent of the book's profits to the New Hope Foundation, a nonprofit dedicated to under-privileged families that he founded with his wife, Suzi.



Written by Glenn Hunter,
[November 2011 issue of D CEO](#); CEO Bookshelf