

Make 'Em Pay

Wednesday, August 03, 2011

We've complained before about the horrendous - and more than that, almost entirely one-sided - expense of ediscovery in prescription medical product liability litigation. It just seems to be getting worse. It's almost always a free shot for the other side, since plaintiffs simply don't have electronic databases. The only way to make the other side think twice about ediscovery is to make them, at least potentially, have to pay for at least some of the burden it creates. That's why we recently [posted about](#) a case from here in the Eastern District of Pennsylvania that taxed ediscovery costs against a losing plaintiff.

Anyway, for the good of the order, we've just gotten wind of another case, also from here in the Eastern District of Pennsylvania, that does the same thing - tax ediscovery costs against the loser, so we'll pass this one along as well. It's not a perfect solution, since the defendant has to win (not settle) in order to collect, but at least it's a start. [Hank's Beverage Co. v. Ajinomoto Co.](#), No. 09-cv-1732, [clerk's order taxing costs](#) (E.D. Pa. July 26, 2011).

Making the other side pay for some of the ridiculous costs of their ediscovery demands is the only deterrent available at the moment.