

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS**

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**IN RE YASMIN AND YAZ  
(DROSPIRENONE) MARKETING, SALES  
PRACTICES AND PRODUCTS LIABILITY  
LITIGATION**

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) **3:09-md-02100-DRH-PMF**  
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) **MDL No. 2100**  
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**This Document Relates to:**

**ALL CASES**

**MINUTES OF TELEPHONE STATUS CONFERENCE**

**PRESIDING: Chief Judge David R. Herndon**

**DATE: December 13, 2011**

**PLACE: East St. Louis, Illinois**

**COURT REPORTER: Laura Blatz**

**COURTROOM DEPUTY: Sandy Pannier**

**APPEARING FOR PLAINTIFFS: Roger Denton, Mark Niemeyer, Michael London,  
Michael Burg, Sarah Shoemake Doles**

**APPEARING FOR DEFENDANTS: Phil Beck, Shanna Cook, Brian Prestes,  
John Garside**

**TIME: 9:00 AM - 9:50 AM**

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Court notes the plaintiffs have requested this hearing to appoint Judge Stack as a Special Master in one deposition. Mr. Denton and Mr. Beck present their positions to the Court regarding the appointment of Judge Stack as a Special Master for Dr. Rosing's deposition.

The Court rules as follows - with respect to the issue regarding Dr. Rosing's deposition, pursuant to FRCP 53(a)(1)(C), the Court finds the deposition of Dr. Rosing is a pretrial matter. The Court further finds that since this is a deposition that will be taken in Europe and due to start at 2 AM Court time, that the Court is not effectively available to rule on routine objections immediately. However, it can be available if the Special Master to the Court is unable to mediate disputes but that has not been

requested in the past. The history is that there has been a great deal of hostility between counsel in the past which was resolved with the appointment of a Special Master to sit in on prior depositions, which resulted with disputes being held to a minimum or eliminated and so given that history, it is clear that a Special Master to mediate the disputes is called for in the instance of this deposition as well. The Court appoints retired Judge Dan Stack to be a Special Master during this deposition as well. Special Master Stack will rule upon disputes between the parties, first attempt to mediate any disputes and then make recommendations to resolve the dispute. If either party wishes to contest that recommendation, they will then have the opportunity to bring the dispute to the Court and the Court will provide contact information to the parties by different means other than this public ruling.

With respect to the issue regarding deposition excerpts, the Court views this issue somewhat differently. Although the Court believes it has discretion under Rule 53 to appoint a Special Master, the Court believes that rather than facilitating the process this will cause the process to be less than efficient and for that reason will not appoint a Special Master with regard to deposition excerpts. However, having heard both sides, the Court directs the parties as follows: beginning Monday, December 19 each party will begin the process of meeting to confer on the issue on deposition designations and will submit to the Court, in writing, any disputes regarding those deposition designations on a deposition by deposition basis. In other words, as soon as the first deposition is complete, any disputes will be submitted to the Court. The parties will then begin negotiations on the second deposition and on and on. In so ordering, the Court rejects the defendants' suggestion that this process should be carried out throughout the trial and prefers a method that will accomplish the task of deposition excerpting prior to the beginning of the trial sooner than can be accomplished with the Court's schedule.

Mr. Beck requests clarification regarding Dr. Rosing's deposition concerning the possibility that the Special Master might say that while inclined to sustain an objection, that they would like an answer given to the question and later the Court can decide whether question and answer will stand or not. Court advises yes - there should never be failure to give an answer because we don't want to bring Dr. Rosing over here because answer was not given. Answer should always be given. Court notes in prior depositions there were objections made simply for tactical reasons and not substantive reasons and a lot of objections were just frivolous.

Regarding logistics on the pretrial conference set for next week - the defendants have identified what the Court might benefit hearing and will be happy to supply that to the Court, unless Court does not want to hear argument. The Court advises if they want to argue a few of them that will be fine. Counsel advises there are about 10 and they will send a list to plaintiffs to see what they have in mind and submit something jointly advising what both parties wish to argue.