IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN RE: YASMIN AND YAZ (DROSPIRENONE) MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION	)))))	**3:09-md-02100-DRH-PMF** **MDL No. 2100**

This Document Relates to:

Brandy R. Brewer v. Bayer HealthCare Pharmaceuticals Inc., et al. — *No. 3:10-cv-11109-DRH-PMF*

ORDER OF DISMISSAL WITHOUT PREJUDICE
(Failure To Comply With PFS Obligations)

HERNDON, District Judge:

This matter is before the Court on the defendant's motion, pursuant to Case Management Order 12 ("CMO 12")[1] for an order of dismissal, without prejudice, of plaintiff's claims for failure to comply with Plaintiff Fact Sheet ("PFS") obligations.

Under Section C of CMO 12, each plaintiff is required to serve defendants with a completed PFS, including a signed declaration, executed record release authorizations, and copies of all documents subject to the requests for production contained in the PFS which are in the possession of plaintiff. Section B of CMO 12 further provides that a completed PFS is due "45 days from the date of service of the first answer to her Complaint or the docketing of her case in this MDL, or 45 days from the date of this Order, whichever is later."

[1] The parties negotiated and agreed to CMO 12, which expressly provides that the discovery required of plaintiffs is not objectionable. CMO 12 § A(2).

Accordingly, the subject plaintiff was required to serve a completed PFS on or before August 4, 2011. Notice of Overdue Discovery was sent on September 9, 2011. As of the filing of Bayer's motion to dismiss, Bayer still had not received completed PFS materials from the subject plaintiff.

Under Section E of CMO 12, the plaintiff was **given 14 days from the date of Bayer's motion** to file a response either certifying that she served upon defendants and defendants received a completed PFS, and attaching appropriate documentation of receipt or an opposition to defendant's motion.

To date, the subject plaintiff has failed to file a response. The Court finds the subject plaintiff has failed to comply with her PFS obligations under CMO 12. **Accordingly, the claims of the subject plaintiff are hereby dismissed without prejudice. The Court DIRECTS the Clerk to revise the docket accordingly.**

The Court reminds plaintiff that, pursuant to CMO 12 Section E, **unless plaintiff serves the defendants with a COMPLETED PFS or moves to vacate the dismissal without prejudice within 60 days after entry of this Order, the Order will be converted to a Dismissal With Prejudice upon defendant's motion**.

IT IS SO ORDERED.

Signed this 30th day of April, 2015.

Digitally signed by David R. Herndon
Date: 2015.04.30 16:13:45 -05'00'

United States District Court