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:

Paula Bruno, et al. v. Bayer Corp., et al.[1]	No. 3:12-cv-11521-DRH-PMF
Kay Cochran v. Bayer Healthcare Pharmaceuticals Inc., et al.	No. 3:11-cv-12142-DRH-PMF
Brenda Lee Gilley v. Bayer Corp., et al.	No. 3:12-cv-11428-DRH-PMF
Juanita Higgins, et al. v. Bayer Corp., et al. [2]	No. 3:12-cv-11511-DRH-PMF
Heather Lewis, et al. v. Bayer Corp., et al. [3]	No. 3:12-cv-11548-DRH-PMF
Sarah Sinnott, et al. v. Bayer Corp., et al. [4]	No. 3:12-cv-11424-DRH-PMF

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

HERNDON, Chief Judge:

This matter is before the Court on the Bayer defendants' motion, pursuant to Case Management Order 12 ("CMO 12")[5] for an order of dismissal, without

[1] This motion applies only to plaintiffs Malerie Burns and Carrie Franklin.
[2] This motion applies only to plaintiffs Maria Anderson, Lashundra Brown, Ami Bubica, and Juanita Higgins.
[3] This motion applies to all plaintiffs in the *Lewis* case: Heather Lewis, Yasenia Moreno, Barbarana Pieron, Jacqueline Washington, and Michelle Williams.
[4] This motion applies only to plaintiffs Shequilla Miles and Amy Nobis.
[5] The parties negotiated and agreed to CMO 12, which expressly provides that the discovery required of plaintiffs is not objectionable. CMO 12 § A(2).

prejudice, of the plaintiffs' claims in the above captioned cases 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."

Accordingly, the plaintiffs in the above-captioned matters were to have served completed PFSs on or before March or April 2013 (*See e.g., Paula Bruno, et al. v. Bayer Corp., et al* No. 3:12-cv-11521-DRH-PMF Doc. 7-1).[6] Per Section E of CMO 12, Notice of Overdue Discovery was sent on May 14, 2013 (*See e.g., Paula Bruno, et al. v. Bayer Corp., et al* No. 3:12-cv-11521-DRH-PMF Doc. 7-2).[7] As of the filing of Bayer's motion to dismiss, Bayer still had not received completed PFS materials from the plaintiffs in the above-captioned matters and the plaintiffs' PFS materials were more than seven months overdue.

Under Section E of CMO 12, the **plaintiffs were given 14 days from the date of Bayer's motion** to file a response either certifying that they served upon

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[6] Identical motions were filed in each of the above captioned cases. For ease of reference the Court refers to the motion and exhibits filed in *Paula Bruno, et al. v. Bayer Corp., et al* No. 3:12-cv-11521-DRH-PMF (Docs. 7, 7.1, 7.2).

[7] A similar case specific notice of over-due discovery was sent to each of the subject plaintiffs and is attached as an exhibit to Bayer's motion to dismiss in each of the above captioned member actions.

defendants and defendants received a completed PFS, and attaching appropriate documentation of receipt or an opposition to defendant's motion.

To date, none of the plaintiffs in the above captioned member actions has filed a response. Because the plaintiffs have failed to respond to Bayer's allegations, the Court finds that these plaintiffs have failed to comply with their PFS obligations under CMO 12. **Accordingly, the claims of the above captioned plaintiffs are hereby dismissed without prejudice.**

The Court reminds plaintiffs that, pursuant to CMO 12 Section E, **unless plaintiffs serve the defendants with a COMPLETED PFS or move 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 defendants' motion**.

So Ordered:

Digitally signed by
David R. Herndon
Date: 2014.02.03
17:55:08 -06'00'

Chief Judge **Date: February 3, 2014**
United States District Court