

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  
MDL No. 2100

This Document Relates to:

Judge David R. Herndon

*Wright v. Bayer Corporation et al.* No.  
3:12-cv-20105-DRH-PMF

ORDER GRANTING SUMMARY  
JUDGMENT AS TO CERTAIN  
DEFENDANTS

**ORDER GRANTING SUMMARY JUDGMENT**  
**AS TO CERTAIN DEFENDANTS**

**HERNDON, Chief Judge:**

Now before the Court is the defendants', Barr Laboratories, Inc., ("Barr") and Teva Pharmaceuticals USA, Inc., ("Teva") motion for summary judgment filed on October 11, 2012 (Doc. 16). The plaintiff alleges that she was diagnosed with a pulmonary thromboembolism as a result of her use of the oral contraceptives YAZ – a product alleged to be manufactured and distributed by other named defendants – and Tri-Sprintec – a product alleged to have been manufactured by defendants Barr and Teva. Barr and Teva's motion for summary judgment relates exclusively to Tri-Sprintec, the only product at issue with respect to Barr and Teva. Tri-Sprintec is a generic version of the reference listed drug ("RLD") Ortho Tri-Cyclen. The plaintiff asserts the following claims against Barr and Teva: negligence, wantonness, design defect, failure to warn, breach of express warranty,

breach of implied warranty, breach of Alabama Extended Manufacturer's Liability Doctrine, fraudulent misrepresentation, and fraudulent concealment. Barr and Teva move for judgment on all of the plaintiff's claims against them pursuant to Federal Rule of Civil Procedure 12(c). Specifically, Barr and Teva argue that they are entitled to summary judgment under *PLIVA, Inc. v. Mensing*, 564 U.S. --, 131 S. Ct. 2567 (2011) *reh'g denied* 2011 WL 3557247 (U.S. Aug. 15, 2011).

The plaintiff's responsive pleading was due by November 16, 2012. To date, the plaintiff has not responded to Barr and Teva's motion for summary judgment. The Court considers the plaintiff's failure to respond to Barr and Teva's motion as an admission of its merits. SDIL-LR 7.1(c)-7.1(g). Further, in light of *Mensing*, the Court finds no substantive reason to deny the motion for summary judgment. Accordingly, the Court **GRANTS** Barr and Teva's motion for summary judgment. The Court finds in favor of Barr and Teva and against the plaintiff on all counts of the plaintiff's complaint. All counts remain pending against the Bayer defendants. The Court **DIRECTS** the Clerk of the Court to terminate Barr and Teva from the case. **FURTHER**, the Court **DIRECTS** the Clerk of the Court to enter judgment reflecting the same at the close of the case.

**IT IS SO ORDERED.**

Signed this 27<sup>th</sup> day of November, 2012.

Digitally signed by  
David R. Herndon  
Date: 2012.11.27  
13:50:24 -06'00'

**Chief Judge**  
**United States District Court**