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 SCHWARZ PHARMA, INC. N/K/A UCB, INC.

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 05/11/18 ME

FILED

MAY 11 2018

Judge James F. Hyland

<p>IN RE: REGLAN LITIGATION</p> <p><i>Roxanne Bay</i></p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY MASTER DOCKET: MID-L-10165-14</p> <p>CASE NO.: 289</p> <p>Civil Action</p> <p>Docket No. L-10107-14</p> <p>ORDER CONVERTING BASIS OF DISMISSAL OF CLAIMS OF PLAINTIFF ROXANNE BAY AGAINST SCHWARZ AND WYETH <u>ONLY</u></p>
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On February 3, 2017, Defendant Schwarz Pharma, Inc. n/k/a UCB, Inc. (“Schwarz”) and counsel for plaintiffs with cases in Middlesex County who had agreed to settle with Schwarz submitted a Joint Stipulation and Order (“Schwarz Joint Stipulation”) to the Court addressing the resolution of settling plaintiffs’ claims against Schwarz and the effectuation of the agreed to settlement. On February 15, 2017, the Court endorsed an Order of Disposition dismissing the claims against Schwarz in those settling plaintiffs’ cases, including in this case, with prejudice.

On June 7, 2017, Defendants Pfizer, Inc., Wyeth LLC (including but not limited to, its former ESI Lederle division), Wyeth Pharmaceuticals Inc., Hospira, Inc. and Hospira Worldwide, Inc. (collectively “Wyeth”) and counsel for plaintiffs with cases in Middlesex

County who had agreed to settle with Wyeth submitted a Joint Stipulation and Order (“Wyeth Joint Stipulation”) to the Court addressing the resolution of settling plaintiffs’ claims against Wyeth and the effectuation of the agreed to settlement. On June 12, 2017, the Court endorsed an Order of Disposition dismissing the claims against Wyeth in those settling plaintiffs’ cases, including in this case, with prejudice.

In accordance with the Schwarz Joint Stipulation and the Wyeth Joint Stipulation, Plaintiff Roxanne Bay (“Bay”) agreed to fully and properly execute releases of claims against Schwarz and its insurers and Wyeth and its insurers. In addition, because Bay is deceased, the Schwarz and Wyeth Joint Stipulations required Plaintiff’s counsel to submit to the settlement programs either (1) a copy of the court order, letters of administration, letters testamentary or other documents evidencing that the representative claimant has been appointed as the administrator for the deceased claimant, or (2) a representative claimant sworn statement, as well as a joint stipulation and agreement regarding deceased plaintiffs to certify the representative claimant has the authority to sign releases on behalf of the deceased claimant. The supporting documentation has not been submitted. In particular, a representative claimant sworn statement and a release dated after the date of the sworn statement have not been submitted.

The Court directed plaintiffs’ counsel, including Bay’s counsel, to use their best efforts to resolve remaining release deficiencies by December 16, 2017 in Case Management Order 28. However, and notwithstanding efforts by defense counsel, the deficiency for Bay remained unresolved. Subsequently, in Case Management Order 29, the Court directed plaintiffs’ counsel with outstanding release deficiencies, including Bay’s counsel, to appear in-person at the February 27, 2018 conference, so that counsel and the Court could resolve any remaining release deficiencies. Counsel for Schwarz made several attempts to contact Bay’s counsel by email and phone to discuss the release deficiency and advised Bay’s

counsel of Case Management Order 29 and its requirements. Bay's counsel did not respond and failed to appear at the February 27, 2018 conference.


As a result, in Case Management Order 30, the Court ordered that Bay had thirty (30) days from March 20, 2018 to return the settlement and release documentation or Schwarz and Wyeth were permitted to move to convert the basis for dismissal with claims asserted against them. No settlement or release documentation for Bay has been provided and the CMO 30 deadline has now passed. Accordingly, consistent with the Court's direction and CMO 30, Schwarz and Wyeth submit this Order converting the basis for the dismissals with prejudice of all claims against Schwarz and Wyeth to dismissals with prejudice for Bay's failure to respond to Schwarz and Wyeth's settlement offers.,

THIS MATTER having been submitted to the Court by Reilly, McDevitt, & Henrich, P.C., attorneys for Defendant, Schwarz Pharma, Inc. n/k/a UCB, Inc., pursuant to R. 1:6-2, and the Court having reviewed the moving papers and for good cause having been shown;

It is, on this 11 day of May, 2018,

IT IS HEREBY ORDERED that the dismissals with prejudice of all claims asserted against Schwarz and Wyeth pursuant to the Schwarz Joint Stipulation and the Wyeth Joint Stipulation, respectively, are converted to dismissals with prejudice for Bay's failure to respond to Schwarz's and Wyeth's respective settlement offers. Each party shall bear its own costs.

SO ORDERED:



HONORABLE James F. Hyland, J.S.C.

___ opposed
___ unopposed