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FILED
DEC 18 2014
BRIAN R. MARTINOTTI
J.S.C.

SHAENA LESTER, Plaintiff, v. BAYER CORPORATION, BAYER HEALTHCARE, LLC, BAYER HEALTHCARE PHARMACEUTICALS, INC., BAYER SCHERING PHARMA AG, AND BAYER AG, Defendants.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION, BERGEN COUNTY DOCKET NO. BER-L-9427-10 IN RE YAZ®, YASMIN®, OCELLA® LITIGATION CASE CODE 287 **ORDER DISMISSING PLAINTIFF'S COMPLAINT WITH PREJUDICE PURSUANT TO CMO NO. 40**

THIS MATTER having been opened to the Court by Drinker Biddle & Reath LLP, attorneys for the Bayer Defendants, on motion for entry of an Order pursuant to Case Management Order No. 40, dismissing Plaintiff's Complaint with prejudice, and the Court having considered the submissions of the parties, and for good cause having been shown:

IT IS on this 18th day of December, 2014,

ORDERED as follows:

1. The Bayer Defendants' Motion to Dismiss Plaintiff's Complaint With Prejudice pursuant to Case Management Order No. 40, be and hereby is granted;

2. Plaintiff's Complaint is hereby dismissed with prejudice in its entirety; and

3. A true copy of this Order shall be served upon Plaintiff within seven (7) days of its entry hereof.

BRIAN R. MARTINOTTI, J.S.C.

This motion was:
___X___ Opposed
_____ Unopposed

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

IN RE YAZ®, YASMIN®, OCELLA® LITIGATION

CASE NO. 287
Master Docket No. BER-L-3572-10 MT

CIVIL ACTION

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MEMORANDUM DECISION

MARTINOTTI, J.S.C.

Before this Court are six (6) motions[1] to dismiss filed by Defendants Bayer (all six (6) were returnable on November 21, 2014). These motions are opposed. The present motion petitions this Court, pursuant to Case Management Order No. 40, Section III, to dismiss Plaintiffs' Complaints With Prejudice for failure to meet their obligations to produce all Claims Package Materials identified in Section 3.03(A) of the Settlement Agreement. *See* Case Management Order No. 40.

The *YAZ®, Yasmin®, Ocella®* Litigation was designated a Multi-County Litigation (MCL) by Order of the Supreme Court on February 9, 2010. The cases were assigned to Bergen County on February 18, 2010. Since the MCL, forty-seven (47) Case Management Orders have been entered. This Court has coordinated its efforts with the pending Multi-District Litigation (MDL), presided over by the Honorable David R. Herndon, Chief Judge, USDJ.

On March 15, 2013, this Court entered Case Management Order No. 40 ("CMO 40"). Section 3.03(A) requires all participants in the Gallbladder Resolution Program to submit a

[1] For a complete list of individual Plaintiffs and their docket numbers, see attached Exhibit.

complete Claims Package that includes a completed and signed Claim Form, Claimant Authorization, Releases, W-9 Wiring Instructions, appropriate Prescription, Medical, and Event records, assertion of a Tier 1 or Tier 2 Claim, and a Stipulation of Dismissal.

Section 3.01 requires participants to submit a complete Claim Package by the Claim Package Deadline of November 18, 2013. If a Plaintiff fails to comply with the discovery requirements as articulated in CMO 40, the Claims Administrator sends Plaintiff an Incompleteness Notice, notifying Plaintiff of said failure, after which Plaintiff has thirty (30) days to cure the deficiencies. After such time has lapsed, if Plaintiff has not cured, Defendants may move the Court for an Order dismissing the Complaint with Prejudice. Plaintiff has 30 days afterward to respond.

Plaintiff Summer Bailes

On February 17, 2014, the Claims Administrator sent an Incompleteness Notice to Plaintiff Summer Bailes. After failing to respond, the Claims Administrator sent a Second Incompleteness Notice on April 23, 2014. The Notice informed Plaintiff that if she failed to cure the deficiency, her case would be subject to Dismissal with Prejudice. On May 8, 2014, the Claims Administrator sent an email to Plaintiff's Counsel, notifying Counsel that Plaintiff's claims were rejected and, therefore, subject to Dismissal with Prejudice. On November 5, 2014, Special Master Stephen A. Saltzburg recommended this Court grant Defendants' Motion to Dismiss with Prejudice. To date, Plaintiff has failed to respond.

Plaintiff Rachel Brown

On February 21, 2014, the Claims Administrator sent an Incompleteness Notice to Plaintiff Rachel Brown. After failing to respond, the Claims Administrator sent a Second Incompleteness Notice on May 3, 2014. The Notice informed Plaintiff that if she failed to cure

the deficiency, her case would be subject to Dismissal with Prejudice. On May 15, 2014, the Claims Administrator sent an email to Plaintiff's Counsel, notifying Counsel that Plaintiff's claims were rejected and, therefore, subject to Dismissal with Prejudice. On November 5, 2014, Special Master Stephen A. Saltzburg recommended this Court grant Defendants' Motion to Dismiss with Prejudice. To date, Plaintiff has failed to respond.

Plaintiff Marcia Ellison

On February 17, 2014, the Claims Administrator sent an Incompleteness Notice to Plaintiff Marcia Ellison. After failing to respond, the Claims Administrator sent a Second Incompleteness Notice on April 23, 2014. The Notice informed Plaintiff that if she failed to cure the deficiency, her case would be subject to Dismissal with Prejudice. On May 15, 2014, the Claims Administrator sent an email to Plaintiff's Counsel, notifying Counsel that Plaintiff's claims were rejected and, therefore, subject to Dismissal with Prejudice. On November 2, 2014, Special Master Stephen A. Saltzburg recommended this Court grant Defendants' Motion to Dismiss with Prejudice. To date, Plaintiff has failed to respond.

Plaintiff Jeanette Hurtado

On February 17, 2014, the Claims Administrator sent an Incompleteness Notice to Plaintiff Jeanette Hurtado. After failing to respond, the Claims Administrator sent a Second Incompleteness Notice on May 1, 2014. The Notice informed Plaintiff that if she failed to cure the deficiency, her case would be subject to Dismissal with Prejudice. On May 21, 2014, the Claims Administrator sent an email to Plaintiff's Counsel, notifying Counsel that Plaintiff's claims were rejected and, therefore, subject to Dismissal with Prejudice. On November 2, 2014, Special Master Stephen A. Saltzburg recommended this Court grant Defendants' Motion to Dismiss with Prejudice. To date, Plaintiff has failed to respond.

Plaintiff Shaena Lester

On February 17, 2014, the Claims Administrator sent an Incompleteness Notice to Plaintiff Shaena Lester. After failing to respond, the Claims Administrator sent a Second Incompleteness Notice on April 23, 2014. The Notice informed Plaintiff that if she failed to cure the deficiency, her case would be subject to Dismissal with Prejudice. On May 23, 2014, the Claims Administrator sent an email to Plaintiff's Counsel, notifying Counsel that Plaintiff's claims were rejected and, therefore, subject to Dismissal with Prejudice. On November 2, 2014, Special Master Stephen A. Saltzburg recommended this Court grant Defendants' Motion to Dismiss with Prejudice. To date, Plaintiff has failed to respond.

Plaintiff Jody Terwilliger

On February 21, 2014, the Claims Administrator sent an Incompleteness Notice to Plaintiff Jody Terwilliger. After failing to respond, the Claims Administrator sent a Second Incompleteness Notice on May 3, 2014. The Notice informed Plaintiff that if she failed to cure the deficiency, her case would be subject to Dismissal with Prejudice. On May 15, 2014, the Claims Administrator sent an email to Plaintiff's Counsel, notifying Counsel that Plaintiff's claims were rejected and, therefore, subject to Dismissal with Prejudice. On November 2, 2014, Special Master Stephen A. Saltzburg recommended this Court grant Defendants' Motion to Dismiss with Prejudice. To date, Plaintiff has failed to respond.

The Plaintiffs have not complied with the deadlines established in CMO 40. Specifically, they have failed to provide all Claim Package Materials. This Court finds that Plaintiffs have not complied with this Court's order and, therefore, Defendants' Motion to Dismiss Plaintiffs' Complaints with Prejudice is GRANTED.