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

FILED
JAN 17 2014
BRIAN R. MARTINOTTI
J.S.C.

MEMORANDUM DECISION

MARTINOTTI, J.S.C.

Before this Court were ninety-five (95) motions[1] to dismiss filed by Defendants Bayer (sixty-six (66) were returnable on October 11, 2013, one (1) was withdrawn and the remaining were unopposed; twenty-three (23) were returnable on October 25, 2013, with one (1) being withdrawn and three (3) being opposed[2]; one (1) returnable on November 8, 2013, one (1) returnable on November 22, 2013, two (2) returnable on December 6, 2013, and two (2) returnable January 17, 2014). The present motion is petitioning this Court, pursuant to Case Management Order No. 30, Section I, to dismiss Plaintiff's Complaint With Prejudice for failure to provide the required discovery as ordered by this Court on March 15, 2013. See Case Management Order No. 39.

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-five (45) Case Management Orders have

[1] For a complete list of individual Plaintiffs and their docket numbers, see attached exhibits.
[2] The Court heard argument and delivered an oral opinion on the record on October 25, 2013.

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. 39. Section I requires Plaintiffs to notify all individuals and companies with records relevant to Plaintiff's claim that said records must be preserved. Section I also requires Plaintiffs to serve copies of these notices on Defendant's counsel with a signed certification. For cases filed before March 26, 2013, the necessary documentation must have been provided to Bayer's counsel no later than July 8th, 2013. If the Plaintiff does not comply with these requirements, Defendants must notify Plaintiff in writing, giving Plaintiff ten (10) days to cure the deficiency. If Plaintiff fails to cure within those ten (10) days, Defendants are permitted to move the Court for an Order dismissing the Complaint With Prejudice. Plaintiff had thirty (30) days to respond to Defendant's Motion to Dismiss.

Plaintiff Ashley Dunford filed her Complaint on December 23, 2009, alleging a gallbladder injury as a result of her consumption of Yaz® and Yasmin®. On November 7, 2013, Defendants sent a certified letter to Plaintiff Dunford notifying her of her non-compliance with CMO 39. Specifically, Plaintiff Dunford failed to provide the required Notice and Certifications. Defendant gave Plaintiff Dunford until November 18, 2013 to produce the Notice and Certification. Plaintiff Dunford has failed to provide the required Notices and Certifications. The current Motion to Dismiss was subsequently filed with the Court on November 27, 2013.

Plaintiff Megan Pessin filed her Complaint on December 22, 2010, alleging a gallbladder injury as a result of her consumption of Yaz® and Yasmin®. On August 9, 2013, Seeger Weiss withdrew as Plaintiff's Counsel. Subsequently, all notices were sent directly to Plaintiff Pesisn directly. On November 7, 2013, Defendants sent a certified letter to Plaintiff Pessin notifying

her that she was delinquent in regards to her production of the Notices and Certification, pursuant to CMO 39. Defendant gave Plaintiff Pessin until November 18, 2013 to comply with CMO 39 and product the Notices and Certification. Plaintiff Pessin has failed to provide the required Notices and Certifications. The current Motion to Dismiss was subsequently filed with the Court on December 3, 2012.

The Plaintiffs have not complied with the deadlines established in Case Management Order No. 39. Specifically, they have not submitted notices and certifications. This Court finds that Plaintiffs have not complied with this Court's order and therefore, the Defendant's motion to Dismiss these two Complaints with Prejudice is GRANTED.