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

MEMORANDUM DECISION

MARTINOTTI, J.S.C.

Before this Court are sixty-six motions[1] filed by Defendants Bayer Corp., et al., on August 29, 2013, petitioning this court pursuant to Case Code 287, Case Management Order No. 39, Section 1, Subparagraph E to dismiss Plaintiffs' complaints with prejudice (hereinafter referred to collectively as Plaintiffs) for failure to provide the required Notices and Certification as ordered by this Court in its March 15, 2012 Case Management Order. See Case Management Order No. 39.[2]

The *YAZ®, Yasmin®, Ocella® Litigation* was designated a MultiCounty 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 designation, forty-two (42) 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.

[1] One motion was subsequently withdrawn, leaving sixty-five (65) motions to be decided today.
[2] For a detailed list of plaintiffs, please reference Exhibit A.

On March 15, 2013, this Court entered an Order executing a Settlement Agreement between Bayer Pharmaceuticals Inc. ("Bayer") and the Negotiating Plaintiff's Counsel, as designated in CMO 38. See Case Management Order 40: Settlement Agreement and Deadlines- Gallbladder Injuries. This agreement permitted New Jersey Gallbladder Plaintiffs to enroll in the Gallbladder Resolution Program. In order to enroll in the Resolution Program, Plaintiffs were required to notify any individual and/or entity that may have records relating to Plaintiff's claims that those individuals and/or entities were required to preserve said records. Plaintiffs were required to serve copies on Bayer's counsel accompanied with a certification. For cases filed prior to March 26, 2013, the necessary documentation to enroll in this Resolution Program must have been provided to Bayer's counsel no later than July 8th, 2013. For cases filed on or after March 26, 2013, Plaintiffs were, within thirty (30) days of filing, to ensure all records had been preserved, and send notice accompanied by a certification to Bayer's counsel. All Plaintiffs affected by these current motions had filed their cases prior to March 26, 2013.

The Plaintiffs named in these motions have not complied with the deadlines established in Case Management Order No. 39. Specifically, they have not submitted the copies of preservation notices accompanied with a certification to Bayer's counsel by the deadline of July 8th. Counsel for Bayer contacted via letter each of these Plaintiffs on July 26th, 2013, informing them of their deficiencies in compliance and giving them ten (10) days to cure. See Exhibit A, "Letter Sent/P" column. When Plaintiffs failed to cure, counsel for Bayer moved before this Court on August 28, 2013 to dismiss these complaints with prejudice for failure to comply with Case Management Order No. 39.

On October 1, 2013, Special Master Stephen A. Saltzburg[3] submitted his Reports and Recommendations for all motions currently pending before this Court with a return date of October 11, 2013. Special Master Saltzburg recommended granting Defendant Bayer's motion for dismissal for each of the motions due to a failure to comply with a Court Order, and failure to cure.[4]

Case Management Order No. 39 specifically states that failure to comply with the deadlines therein would result in dismissal of the Plaintiff's case with prejudice, except for good cause. See CMO No. 39 Section I(E). Counsel for Defendant Bayer gave each Plaintiff ample opportunity and notice to cure. Plaintiffs have failed to respond and cure. Accordingly, Bayer's Motion to Dismiss with Prejudice is GRANTED in all pending motions before this Court returnable October 11, 2013, as detailed in Exhibit A.

[3] Appointed March 15, 2013, at the request of counsel to coordinate settlement efforts with the MDL and other State Courts, see Case Management Order 39.
[4] For a summary of these reports, refer to Exhibit B.

EXHIBIT A

Motions to Dismiss with Prejudice

Return date October 11, 2012

Plaintiff	Attorney/firm	Docket Number	Complaint File	Notices Due	Letter Sent/P
Claudia Mae Kopinski	Sindu S. Daniel (Seeger Weiss LLP)	BER-L-007402-11	6/7/2011	7/8/2013	7/26/2013
Zena Muzyczenko	Sindu S. Daniel (Seeger Weiss LLP)	BER-L-7063-11	6/17/2011	8-Jul	7/26/2013
~~Jamie Crawford~~	~~Jeffrey Messinger (Milberg LLP)~~	~~BER-L-3785-10~~	~~12/24/2009~~	~~7/8/2013~~	~~7/26/2013~~
Jennifer Stevens	David s. Rather (Morelli Ratner)	BER-L-6486-11	5/9/2011	7/8/2013	7/26/2013
Hope Bailey	Roopal Luhana (Chaffin Luhana)	BER-L-7089-11	6/30/2011	7/8/2013	7/26/2013
Anastasia McCleary	Theodore Oshman (Oshman & Mirisola)	BER-L-1457-11	1/24/2011	7/8/2013	7/26/2013
Krystal Shannon	Paul Rheingold (Rheingold, Valet, Rheingol	BER-L-6768-10	9/22/2013	7/8/2013	7/26/2013
Danielle Hensley	William Bross (Heninger Garrison Davis)	BER-L-2095-11	3/3/2011	7/8/2013	7/26/2013
Jennifer Myers-Own	Fred Thompson III (Motley Rice LLC)	BER-L-317-12	11/21/2011	7/8/2013	7/26/2013
Jennifer Ribaudo	David Zoll (Zoll, Kranz & Borgess)	BER-L-6551-10	5/28/2010	7/8/2013	7/26/2013
Vivian Alinskas	David Zoll (Zoll, Kranz, & Borgess)	BER-L-11755-10	12/3/2010	7/8/2013	7/26/2013
Melissa Shufon	David Zoll (Zoll, Kranz & Borgess)	BER-L-9498-10	10/1/2010	7/8/2013	7/26/2013
Heather Mitchell	David Zoll (Zoll, Kranz & Borgess)	BER-L-3833-10	12/14/2009	7/8/2013	7/26/2013
Kia Elder	David Zoll (Zoll, Kranz & Borgess)	BER-L-11729-10	11/23/2010	7/8/2013	7/26/2013
Shequana Edwards	David Zoll (Zoll, Kranz & Borgess)	BER-L-9385-10	9/28/2010	7/8/2013	7/26/2013
Amy Martin	David Zoll (Zoll, Kranz & Borgess)	BER-L-9378-10	9/28/2010	7/8/2013	7/26/2013
Jennifer D'Antonio	David Zoll (Zoll, Kranz & Borgess)	BER-L-9390-10	9/28/2010	7/8/2013	7/26/2013
Lauren Bucksner	David Zoll (Zoll, Kranz & Borgess)	BER-L-9504-10	10/1/2010	7/8/2013	7/26/2013
Tanika Wright	David Zoll (Zoll, Kranz & Borgess)	BER-L-9721-10	10/4/2010	7/8/2013	7/26/2013
Cathelyne Salisbury	David Zoll (Zoll, Kranz & Borgess)	BER-L-11772-10	12/3/2010	7/8/2013	7/26/2013
Alexandra Romeo	David Zoll (Zoll, Kranz & Borgess)	BER-L-10951-10	10/26/2010	7/8/2013	7/26/2013
Jessica Golden-Harper	David Zoll (Zoll, Kranz & Borgess)	BER-L-7887-11	8/31/2011	7/8/2013	7/26/2013
Stephanie Rivera	David Zoll (Zoll, Kranz & Borgess)	BER-L-9480-10	10/1/2010	7/8/2013	7/26/2013
Leslie Moorman	David Zoll (Zoll, Kranz & Borgess)	BER-L-9487-10	10/1/2010	7/8/2013	7/26/2013
Melissa Jurick	David Zoll (Zoll, Kranz & Borgess)	BER-L-9340-10	9/29/2013	7/8/2013	7/26/2013
Kerri Flanigan	David Zoll (Zoll, Kranz & Borgess)	BER-L-9394-10	9/28/2013	7/8/2013	7/26/2013
Kristi Mattison	David Zoll (Zoll, Kranz & Borgess)	BER-L-9709-10	10/1/2010	7/8/2013	7/26/2013
Erica Davis	Randi S. Kassan (Sanders Viener Grossman)	BER-L-9907-10	10/4/2010	7/8/2013	7/26/2013
Crystal Genovese	Randi S. Kassan(Sanders Viener Grossman)	BER-L-3762-10	2/16/2010	7/8/2013	7/26/2013

Motions to Dismiss with Prejudice

Return date October 11, 2012

Roxangela Ruiz	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9896-10	10/4/2010	7/8/2013	7/26/2013
Shamika Williams	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9863-10	10/4/2013	7/8/2013	7/26/2013
Katie Johnson	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9902-10	10/4/2010	7/8/2013	7/26/2013
Jennifer Hayward	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9912-10	10/4/2010	7/8/2013	7/26/2013
Toya Oyeilumi	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9932-10	10/4/2010	7/8/2013	7/26/2013
Stephanie Fitts	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9915-10	10/4/2010	7/8/2013	7/26/2013
Kimberely Mitchell	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9937-10	10/4/2010	7/8/2013	7/26/2013
Jennifer Gill	Randi S. Kassan(Sanders Viener Grossman)	BER-L_9867-10	10/4/2010	7/8/2013	7/26/2013
Jessica Uribe	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9874-10	10/4/2010	7/8/2013	7/26/2013
Rebecca Loudon	Randi S. Kassan(Sanders Viener Grossman)	BER-L-3760-10	2/16/2010	7/8/2013	7/26/2013
Jill Cooper	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9925-10	10/4/2010	7/8/2013	7/26/2013
Alanna Dorsett	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9934-10	10/4/2010	7/8/2013	7/26/2013
Jane Aseltyne	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9931-10	10/4/2010	7/8/2013	7/26/2013
Sabrinia Annis	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9918-10	10/4/2010	7/8/2013	7/26/2013
Lauren Flanagan	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9871-10	10/4/2010	7/8/2013	7/26/2013
Ivonne Marie Garcia	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9883-10	10/4/2010	7/8/2013	7/26/2013
Michelle Karhoff	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9898-10	10/4/2010	7/8/2013	7/26/2013
Michelle Mascolo	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9921-10	10/4/2010	7/8/2013	7/26/2013
Lisa Schmalbach	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9936-10	10/4/2010	7/8/2013	7/26/2013
Jillian Taylor	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9927-10	10/4/2010	7/8/2013	7/26/2013
Shelby Money	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9910-10	10/4/2010	7/8/2013	7/26/2013
Cindy Vides	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9895-10	10/4/2010	7/8/2013	7/26/2013
Edna Nunez Ramos	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9893-10	10/4/2010	7/8/2013	7/26/2013
Sandy Ocasio	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9889-10	10/4/2010	7/8/2013	7/26/2013
Amanda McBride	Randi S. Kassan(Sanders Viener Grossman)	BER--L-9899-10	10/4/2010	7/8/2013	7/26/2013
Susan Paul	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9890-10	10/4/2010	7/8/2013	7/26/2013
Stephanie Vitiello	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9897-10	10/4/2010	7/8/2013	7/26/2013
Dana Luningham	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9880-10	10/4/2010	7/8/2013	7/26/2013
Kelly Meredith	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9887-10	10/4/2010	7/8/2013	7/26/2013
Irma Sanchez	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9913-10	10/4/2013	7/8/2013	7/26/2013

Motions to Dismiss with Prejudice

Return date October 11, 2012

Christina Griffin	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9929-10	10/4/2013	7/8/2013	7/26/2013
Erin Landrum	Randi S. Kassan(Sanders Viener Grossman)	BER-L-9882-10	10/4/2013	7/8/2013	7/26/2013
Erica Panico	Ellen Relkin (Weitz & Luxenberg)	BER-L-5708-11	4/26/2011	7/8/2013	7/26/2013
Casey Drake	Ellen Relkin (Weitz & Luxenberg)	BER-L-5611-11	3/31/2011	7/8/2013	7/26/2013
Amy Coady	Ellen Relkin (Weitz & Luxenberg)	BER-L-8550-11	9/9/2011	7/8/2013	7/26/2013
Jacqueline Tronoosky	Ellen Relkin (Weitz & Luxenberg)	BER-L-450-12	12/9/2011	7/8/2013	7/26/2013
Robyn Kravitz	Ellen Relkin (Weitz & Luxenberg)	BER-L-7699-11	8/1/2011	7/8/2013	7/26/2013

EXHIBIT B

Special Master Stephen A. Saltzburg's Reports Recommendations
for Motions to Dismiss with Prejudice Return date October 11, 2012

Plaintiff	Docket Number	Recommendation	Reason
Claudia Mae Kopinski	BER-L-7042-11	Dismiss	Non-Compliance with CMO 39
Zena Muzyczenko	BER-L-7063-11	Dismiss	Non-Compliance with CMO 39
~~Jamie Crawford~~	WITHDRAWN	WITHDRAWN	WITHDRAWN
Jennifer Stevens	BER-L-6486-11	Dismiss	Non-Compliance with CMO 39
Hope Bailey	BER-L-7089-11	Dismiss	Non-Compliance with CMO 39
Anastasia McCleary	BER-L-1457-11	Dismiss	Non-Compliance with CMO 39
Krystal Shannon	BER-L-6768-10	Dismiss	Non-Compliance with CMO 39
Danielle Hensley	BER-L-2095-11	Dismiss	Non-Compliance with CMO 39
Jennifer Myers-Own	BER-L-317-12	Dismiss	Non-Compliance with CMO 39
Jennifer Ribaudo	BER-L-6551-10	Dismiss	Non-Compliance with CMO 39
Vivian Alinskas	BER-L-1755-10	Dismiss	Non-Compliance with CMO 39
Melissa Shufon	BER-L-9498-10	Dismiss	Non-Compliance with CMO 39
Heather Mitchell	BER-L-3833-10	Dismiss	Non-Compliance with CMO 39
Kia Elder	BER-L-11729-10	Dismiss	Non-Compliance with CMO 39
Shequana Edwards	BER-L-9385-10	Dismiss	Non-Compliance with CMO 39
Amy Martin	BER-L-9378-10	Dismiss	Non-Compliance with CMO 39
Jennifer D'Antonio	BER-L-9390-10	Dismiss	Non-Compliance with CMO 39
Lauren Bucksner	BER-L-9504-10	Dismiss	Non-Compliance with CMO 39
Tanika Wright	BER-L-9721	Dismiss	Non-Compliance with CMO 39
Cathelyne Salisbury	BER-L-11722-10	Dismiss	Non-Compliance with CMO 39
Alexandra Romeo	BER-L-10951-10	Dismiss	Non-Compliance with CMO 39
Jessica Golden-Harper	BER-L-7887-11	Dismiss	Non-Compliance with CMO 39
Stephanie Rivera	BER-L-9480-10	Dismiss	Non-Compliance with CMO 39
Leslie Moorman	BER-L-9487-10	Dismiss	Non-Compliance with CMO 39
Melissa Jurick	BER-L-9340-10	Dismiss	Non-Compliance with CMO 39
Kerri Flanigan	BER-L-9394-10	Dismiss	Non-Compliance with CMO 39
Kristi Mattison	BER-L-9709-10	Dismiss	Non-Compliance with CMO 39
Erica Davis	BER-L-9907-10	Dismiss	Non-Compliance with CMO 39
Crystal Genovese	BER-L-672-10	Dismiss	Non-Compliance with CMO 39

Special Master Stephen A. Saltzburg's Reports Recommendations
for Motions to Dismiss with Prejudice Return date October 11, 2012

Roxangela Ruiz	BER-L-9896-10	Dismiss	Non-Compliance with CMO 39
Shamika Williams	BER-L-9863-10	Dismiss	Non-Compliance with CMO 39
Katie Johnson	BER-L-9902-10	Dismiss	Non-Compliance with CMO 39
Jennifer Hayward	BER-L-9912-10	Dismiss	Non-Compliance with CMO 39
Toya Oyeilumi	BER-L-9932-10	Dismiss	Non-Compliance with CMO 39
Stephanie Fitts	BER-L-9915-10	Dismiss	Non-Compliance with CMO 39
Kimberely Mitchell	BER-L-9937-10	Dismiss	Non-Compliance with CMO 39
Jennifer Gill	BER-L-9867-10	Dismiss	Non-Compliance with CMO 39
Jessica Uribe	BER-L-9874-10	Dismiss	Non-Compliance with CMO 39
Rebecca Loudon	BER-L-3760-10	Dismiss	Non-Compliance with CMO 39
Jill Cooper	BER-L-9925-10	Dismiss	Non-Compliance with CMO 39
Alanna Dorsett	BER-L-9934-10	Dismiss	Non-Compliance with CMO 39
Jane Aseltyne	BER-L-9931-10	Dismiss	Non-Compliance with CMO 39
Sabrinia Annis	BER-L-9918-10	Dismiss	Non-Compliance with CMO 39
Lauren Flanagan	BER-L-9871-10	Dismiss	Non-Compliance with CMO 39
Ivonne Marie Garcia	BER-L-9883-10	Dismiss	Non-Compliance with CMO 39
Michelle Karhoff	BER-L-9898-10	Dismiss	Non-Compliance with CMO 39
Michelle Mascolo	BER-L-9921-10	Dismiss	Non-Compliance with CMO 39
Lisa Schmalbach	BER-L-9936-10	Dismiss	Non-Compliance with CMO 39
Jillian Taylor	BER-L-9927-10	Dismiss	Non-Compliance with CMO 39
Shelby Money	BER-L-9910-10	Dismiss	Non-Compliance with CMO 39
Cindy Vides	BER-L-9895-10	Dismiss	Non-Compliance with CMO 39
Edna Nunez Ramos	BER-L-9893-10	Dismiss	Non-Compliance with CMO 39
Sandy Ocasio	BER-L-9889-10	Dismiss	Non-Compliance with CMO 39
Amanda McBride	BER-L-9899-10	Dismiss	Non-Compliance with CMO 39
Susan Paul	BER-L-9890-10	Dismiss	Non-Compliance with CMO 39
Stephanie Vitiello	BER-L-9897-10	Dismiss	Non-Compliance with CMO 39
Dana Luningham	BER-L-9880-10	Dismiss	Non-Compliance with CMO 39
Kelly Meredith	BER-L-9887-10	Dismiss	Non-Compliance with CMO 39
Irma Sanchez	BER-L-9913-10	Dismiss	Non-Compliance with CMO 39

Special Master Stephen A. Saltzburg's Reports Recommendations
for Motions to Dismiss with Prejudice Return date October 11, 2012

Christina Griffin	BER-L-9927-10	Dismiss	Non-Compliance with CMO 39
Erin Landrum	BER-L-9882-10	Dismiss	Non-Compliance with CMO 39
Erica Panico	BER-L-5708-11	Dismiss	Non-Compliance with CMO 39
Casey Drake	BER-L-6511-11	Dismiss	Non-Compliance with CMO 39
Amy Coady	BER-L-8550-11	Dismiss	Non-Compliance with CMO 39
Jacqueline Tronoosky	BER-L-450-12	Dismiss	Non-Compliance with CMO 39
Robyn Kravitz	BER-L-7699-11	Dismiss	Non-Compliance with CMO 39