

IN RE: NUVARING® LITIGATION

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

CASE NO. 284 (MT)

CIVIL ACTION

FILED

FEB 07 2014

BRIAN R. MARTINOTTI
J.S.C.

**CASE MANAGEMENT ORDER NO. 38 GOVERNING PROCEDURES FOR NOTICES
TO THIRD PARTIES REGARDING RECORDS PRESERVATION**

These procedures apply to all cases pending in the New Jersey Coordinated Proceeding in which a Plaintiff Fact Sheet has not yet been served and to all cases that are subsequently transferred to the New Jersey Coordinated proceeding. Plaintiffs representing themselves *pro se* in this proceeding shall comply fully with all the procedures set forth herein.

The following procedures shall apply to help ensure that medical records relevant to Plaintiffs' claims are not inadvertently destroyed by healthcare providers.

I. After Plaintiff's counsel has obtained the identities of Plaintiff's healthcare providers listed below in Paragraph II, Plaintiff's counsel shall notify those healthcare providers, whether individuals or entities, by mail, that they may have records relevant to Plaintiff's claims asserted in her action transferred to the New Jersey Coordinated proceeding. The notice shall state that any records relating to Plaintiff must be preserved, pending collection by Plaintiff or Defendants.

Plaintiff's counsel shall mail such document preservation notices as soon as practicable after learning the identity of individuals and entities with records as described in Paragraph II.

However, the notices shall be sent **no later than** the time Plaintiff's counsel mails the first request for records to Plaintiff's healthcare providers.

Plaintiffs proceeding *pro se* must notify the individuals or entities listed below in Paragraph II of the need to preserve Plaintiff's medical records within 30 days of transfer of that Plaintiff's action to the New Jersey Coordinated proceeding.

II. Plaintiff's counsel shall send the document preservation notices described in Paragraph I to the following individuals or entities:

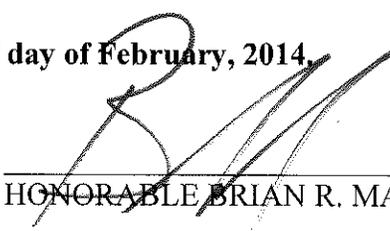
- a. All pharmacies that dispensed NuvaRing® to Plaintiff;
- b. All physicians, medical facilities, other healthcare providers and/or other persons who Plaintiff claims provided any sample of NuvaRing® to Plaintiff;
- c. All physicians, medical facilities, and/or other healthcare providers who prescribed NuvaRing® for Plaintiff; and
- d. The healthcare provider(s) who made the diagnosis of Plaintiff's injury or medical condition that Plaintiff alleges was caused by NuvaRing, subject to the following:
 - i. In cases where the injury or medical condition was diagnosed at a hospital, Plaintiff's counsel shall send a notice to the medical records department of the hospital and a separate notice to the radiology department of the hospital.
 - ii. In all other cases where Plaintiff's injury or medical condition was not diagnosed at a hospital, Plaintiff's counsel shall send a notice to the

diagnosing physician only and is *not* required to send a notice to any other laboratory that is independent from the physician's office.

III. Plaintiff's counsel shall provide Defendants' counsel with copies of the correspondence sent to the individuals and entities listed in Paragraph II at the time Plaintiff's counsel serves the Plaintiff's Fact Sheet.

IV. Nothing in this order precludes Defendants from sending document preservation notices to any individual or entity at any time during the pendency of this litigation.

IT IS SO ORDERED ON THIS 7th day of February, 2014.



HONORABLE BRIAN R. MARTINOTTI, J.S.C.