SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

CASE NO. 297
MASTER DOCKET NO. BER-L-4098-13

IN RE: MIRENA LITIGATION

CIVIL ACTION

FILED
AUG 12 2013
BRIAN R. MARTINOTTI
J.S.C.

ORDER REGARDING PROPER PARTY-DEFENDANT AND ABBREVIATED SERVICE PROCEDURES FOR SERVICE UPON DEFENDANT BAYER HEALTHCARE PHARMACEUTICALS INC.

This matter having come before the Court on the application of all parties for the entry of an agreed upon Order regarding the Proper-Party Defendant and Service Procedures upon the Defendant, the Court having review the proposed form of Order,

IT IS ON THIS 12 DAY OF August, 2013, ORDERED as follows:

I. Scope of Order

This Order applies to claims brought by a U.S. citizen or resident based on usage or purchase of Mirena® ("Mirena") who have filed or will file claims in the Superior Court of New Jersey, Law Division, Bergen County, MultiCounty Litigation Case No. 297.

II. Proper Party-Defendant Stipulation

A. Some plaintiffs have named the following U.S. defendants in lawsuits involving Mirena: Bayer Corporation; Bayer HealthCare, LLC; Bayer Pharmaceuticals Corporation; Bayer HealthCare Pharmaceuticals Inc.; Berlex Laboratories, Inc.; and Berlex, Inc. ("Bayer/Berlex entities").

B. Bayer HealthCare Pharmaceuticals Inc. admits that on April 4, 2007, as part of a corporate acquisition, the name of Berlex, Inc. was changed to Bayer HealthCare Pharmaceuticals, Inc.

C. Bayer HealthCare Pharmaceuticals Inc., admits that at certain times it designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed Mirena in the U.S.

D. Bayer HealthCare Pharmaceuticals Inc. is the proper party in lawsuits involving Mirena inserted in the United States. Its principal place of business is in New Jersey.

E. Accordingly, to the extent that a plaintiff recovers a judgment in a lawsuit for injuries allegedly caused by Mirena, Bayer HealthCare Pharmaceuticals Inc. stipulates that it is the proper party to the lawsuit and it will not raise any defenses that any of the Bayer/Berlex entities named above or any other Bayer/Berlex entity(ies) with a principal place of business in the United States are/were the proper party to the lawsuit.

F. The Bayer/Berlex entities named above agree that, should documents, materials or witnesses concerning Mirena be in its possession, custody or control, these will be subject to production and/or examination as if they were in the possession, custody or control of Bayer HealthCare Pharmaceuticals Inc. and that such production will be obtained and made by Bayer HealthCare Pharmaceuticals Inc.

G. In the unlikely event that a plaintiff needs to later add one of the Bayer/Berlex entities named above other than Bayer HealthCare Pharmaceuticals Inc. into a Mirena lawsuit, the Bayer/Berlex entities named above will waive any statute of limitations defenses based upon the expiration of time after the filing of the original lawsuit. Of course, they will reserve any limitations defenses they may have had at the time of the original filing.

H. In exchange for this stipulation, plaintiffs agree to voluntarily dismiss all Bayer/Berlex entities named above other than Bayer HealthCare Pharmaceuticals Inc. in all cases filed prior to this Order and subject to this Court's jurisdiction. All stipulations of dismissal are without prejudice and without costs to any party.

I. In addition, plaintiffs subject to the jurisdiction of this Court will not sue any of the Bayer/Berlex entities named above other than Bayer HealthCare Pharmaceuticals Inc. in future cases regarding Mirena in the Superior Court of New Jersey, Law Division, Bergen County, MultiCounty Litigation Case No. 297 and will not seek default judgment against any Bayer/Berlex entity named above other than Bayer HealthCare Pharmaceuticals Inc. for failure to answer a Mirena related lawsuit.

III. Service of Process

A. Defendant Bayer HealthCare Pharmaceuticals Inc. agrees to waive formal service of summons on it pursuant to New Jersey Court Rule 4:4-4 and to accept service of process on it pursuant to the terms of this Order in Mirena cases that are properly commenced in, removed to, or transferred to the Superior Court of New Jersey, Law Division, Bergen County, MultiCounty Litigation Case No. 297. Bayer HealthCare Pharmaceuticals Inc. invokes all benefits provided by the New Jersey Court Rules to defendants who waive service of a summons. Bayer HealthCare Pharmaceuticals Inc. does not intend nor does it waive any defenses available to it by waiving service of process.

B. Plaintiffs who choose not to serve Bayer HealthCare Pharmaceuticals Inc. through original process shall have twenty-one (21) days after the date plaintiff is advised of the docket number once a case is docketed in the Superior Court of New Jersey, Law Division, Bergen County, MultiCounty Litigation Case No. 297 to dispatch the Complaint together with a Summons by

Certified Mail, Return Receipt Requested, for service upon the following representative of Bayer HealthCare Pharmaceuticals Inc.:

SOP Department
Corporation Service Company
Suite 400
2711 Centerville Road
Wilmington, DE 19808

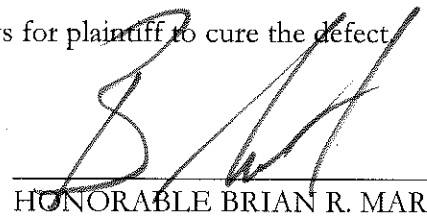
C. Plaintiffs who have already filed Complaints and chose not to serve Bayer HealthCare Pharmaceuticals Inc. through original process shall have twenty-one (21) days from the date of this Order or the date plaintiff is advised of the docket number, whichever is later, to dispatch the Complaint together with a Summons as follows by Certified Mail, Return Receipt Requested, for service upon the following representative of Bayer HealthCare Pharmaceuticals Inc.:

SOP Department
Corporation Service Company
Suite 400
2711 Centerville Road
Wilmington, DE 19808

D. Service will be effective only if addressed as above. General mailing to Bayer HealthCare Pharmaceuticals Inc. or use of other methods of transmission, including but not limited to Federal Express or e-mail, will not be sufficient to effect service. Service will be effective as of the date Bayer HealthCare Pharmaceuticals Inc.'s representative identified in III.D and III.E receives the certified mail.

E. In exchange for this less formal service agreement, plaintiffs agree to extend Bayer HealthCare Pharmaceuticals Inc.'s responsive pleading deadline by ten (10) business days. Other than those based on formal service of process, Bayer HealthCare Pharmaceuticals Inc. reserves all other rights and defenses available to it under federal or state law and under applicable treaties and conventions.

F. Prior to moving to dismiss a case for a defect in service under Parts III.D and III.E, Bayer HealthCare Pharmaceuticals Inc. shall serve notice of the defect on plaintiff's counsel and provide 30 (thirty) days for plaintiff to cure the defect.



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