IN RE: YAZ®/YASMIN®/OCELLA® PRODUCT LIABILITY LITIGATION	X :	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: BERGEN COUNTY
	:	CASE NO. 287
This Document Applies to All Cases	:	CIVIL ACTION
	X	

FILED
AUG 10 2011
BRIAN R. MARTINOTTI, J.S.C.

AMENDED CASE MANAGEMENT ORDER NO. 20

(Service of Process and Production of Personnel File Materials for Bayer Witnesses)

THIS MATTER, having been opened by the Court by counsel for the Parties, and the Parties having consented, stipulated, and agreed to entry of the within Order, and good cause appearing therefore,

IT IS on this 10 day of August, 2011, **ORDERED**, as follows:

I. Service of Process

1. Bayer Pharma AG admits that it manufactures drospirenone and ethinyl estradiol, the progestin and estrogen contained in YAZ®, Yasmin® and Ocella®. Bayer HealthCare Pharmaceuticals Inc. admits that it markets YAZ and Yasmin in the United States. Some complaints list as defendants former names of Bayer Pharma AG and Bayer HealthCare Pharmaceuticals Inc.

a. Bayer Pharma AG admits that it formerly was known as Bayer Schering Pharma AG, which formerly was known as Schering AG, and is the same corporate entity as Bayer Schering Pharma AG and Schering AG.

b. Bayer HealthCare Pharmaceuticals Inc. admits that it was formerly known as Berlex, Inc., which formerly was known as Berlex Laboratories, Inc., and is the same corporate entity as Berlex, Inc. and Berlex Laboratories, Inc.

c. Certain complaints name additional Bayer entities as defendants. The term "other Bayer entities," as used herein, includes but is not limited to Berlex, Inc., Berlex Laboratories, Inc., Bayer Corporation, Bayer HealthCare LLC, Bayer Pharmaceuticals Corporation, Bayer AG, Bayer HealthCare AG, Bayer Gesellschaft fur Beteiligungen mbH, Bayer HealthCare Pharmaceuticals LLC, Intendis GmbH, Schering AG, Schering International Holding GmbH, and Schering GmbH & Co. Produktions KG.

2. Defendants Bayer HealthCare Pharmaceuticals Inc. and Bayer Pharma AG agree, without waiver of any defenses, to accept service of process pursuant to the terms of this Order in YAZ, Yasmin or Ocella cases filed in or consolidated before this Court as components of *In re YAZ®, Yasmin®, Ocella® Litigation*, Superior Court of New Jersey, Law Division, Bergen County, Case No. 287.

3. Plaintiffs who have not already served Bayer HealthCare Pharmaceuticals Inc. and Bayer Pharma AG through original process shall have ninety (90) days after the date of this Order or, for cases docketed hereafter, sixty (60) days after the date a case is docketed in this litigation to serve the Complaint together with a Summons, as follows:

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

SOP Department
Corporation Service Company
Suite 400
2711 Centerville Road

Wilmington, DE 19808

b. By Registered Mail, Return Receipt Requested, upon the following representative of Bayer Pharma AG:

Eva Gardyan-Eisenlohr
Head of Law & Patents
Bayer Pharma AG
Müllerstrasse 178
D- 13353 Berlin
Germany

c. A copy of each notice transmitted to any defendant in the foregoing manner also shall be emailed to yazservice@eckertseamans.com.

4. Service will be effective only if addressed as above. General mailing to any defendant or use of other methods of transmission (*e.g.*, Federal Express or DHL) will not be sufficient to effect service. Service will be effective ten (10) days after the date of delivery. Other than those based on formal service of process, defendants reserve all other rights and defenses available to them under New Jersey State law and under applicable treaties and conventions. Prior to moving to dismiss a case for a defect in service under Paragraphs I.3 and I.4, defendants shall serve notice of the defect on plaintiff's counsel and provide 30 days for plaintiff to cure the defect.

5. The other Bayer entities are relieved of any obligation to answer complaints until further order of this Court. If plaintiffs believe that discovery demonstrates the involvement of one or more of the other Bayer entities in the subject matter of this litigation in a way that will require plaintiffs to pursue one or more of those entities as defendants, plaintiffs shall meet and confer with defendants concerning whether discovery is required from those entities and, if no agreement is reached after meeting and conferring with the defendants, the parties shall seek the Court's guidance before plaintiffs commence any such discovery.

6. For cases in which plaintiffs have served Bayer HealthCare Pharmaceuticals Inc., any applicable time limitations in Court Rules, and as provided for in CMO 11 (Extension of Time for Dismissal of Bayer German Defendants), are extended such that plaintiffs need not serve the other Bayer entities prior to April 2, 2012. Neither Bayer HealthCare Pharmaceuticals Inc., Bayer Pharma AG, nor the other Bayer entities shall move to dismiss a complaint as to an unserved Bayer entity prior to April 30, 2012..

II. Production of Personnel File Materials for Bayer Witnesses

1. As used herein, the term "personnel materials" shall include:

   a. any personnel or performance reviews, evaluations, critiques, rewards, or action plans related to the witness's performance with respect to Yasmin, YAZ and other DRSP-containing medicines;

   b. any self-review, self-evaluation, self-critique and/or action plans created as a part of any formal policy related to the witness's performance with respect to Yasmin, YAZ and other DRSP-containing medicines;

   c. any document evidencing periodic reviews of performance or discipline up to and including termination related to the witness's performance with respect to Yasmin, YAZ and other DRSP-containing medicines;

   d. any documents reflecting any award given to the witness under any incentive plan, salary, bonus or other forms of compensation related to the witness's performance with respect to Yasmin, YAZ and other DRSP-containing medicines; and

   e. any portion of any termination, severance or separation document reflecting: (i) any post-employment consulting relationship with Bayer or any

agreement to provide assistance to Bayer in connection with litigation; (ii) the reasons for termination, if the reasons stated for termination refer to Yasmin/Yaz or other DRSP-containing medicines; or (iii) any non-disparagement clause or provision.

2. Plaintiffs will not seek production of personnel materials of the German employees;

3. Defendants shall produce to Plaintiffs the personnel materials of any Bayer HealthCare Pharmaceuticals Inc., f/k/a Berlex, Inc., f/k/a/ Berlex Laboratories, Inc. employee or former employee whose deposition is scheduled;

4. The personnel materials produced pursuant to paragraph II.3 shall be produced no later than 20 days in advance of the deposition of the witness involved except that in the case of depositions occurring less than 20 days from the date of this Order, those materials shall be produced at least 10 days in advance of the deposition.

IT IS SO ORDERED

BRIAN R. MARTINOTI, J.S.C.