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FILED
NOV 14 2014
BRIAN R. MARTINOTTI
J.S.C.

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| VANESSA A. RIESGO and BENJAMIN M. RIESGO,<br><br>Plaintiffs,<br><br>v.<br><br>BAYER CORPORATION, BAYER HEALTHCARE, LLC, BAYER HEALTHCARE PHARMACEUTICALS, INC., BAYER SCHERING PHARMA AG, BAYER AG, TEVA PHARMACEUTICAL INDUSTRIES LTD, TEVA PHARMACEUTICALS USA, INC., BARR PHARMACEUTICALS LLC (formerly known as BARR PHARMACEUTICALS, INC.), BARR LABORATORIES, INC.,<br><br>Defendants. | SUPERIOR COURT OF NEW JERSEY<br>LAW DIVISION, BERGEN COUNTY<br>DOCKET NO. BER-L-660-11<br><br>IN RE YAZ®, YASMIN®, OCELLA® LITIGATION<br>CASE CODE 287<br><br>**ORDER DISMISSING PLAINTIFF'S COMPLAINT WITH PREJUDICE PURSUANT TO CMO NO. 40** |

**THIS MATTER** having been opened to the Court by Drinker Biddle & Reath LLP, attorneys for the Bayer Defendants, on motion for entry of an Order pursuant to Case Management Order No. 40, dismissing Plaintiffs' Complaint with prejudice, and the Court having considered the submissions of the parties, and for good cause having been shown:

**IT IS** on this 14 day of November, 2014,



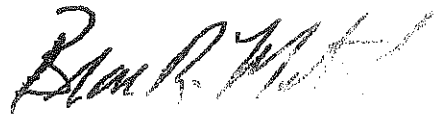
OAS

**ORDERED** as follows:

1. The Bayer Defendants' Motion to Dismiss Plaintiffs' Complaint With Prejudice pursuant to Case Management Order No. 40, be and hereby is granted;

2. Plaintiffs' Complaint is hereby dismissed with prejudice in its entirety; and

3. A true copy of this Order shall be served upon Plaintiffs within seven (7) days of its entry hereof.



BRIAN R. MARTINOTTI, J.S.C.

This motion was:

_____ Opposed

__X__ Unopposed

**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 four (4) motions[1] to dismiss filed by Defendants Bayer (all four (4) were returnable on November 7, 2014). These motions are unopposed. The present motion petitions this Court, pursuant to Case Management Order No. 40, Section III, to dismiss Plaintiffs' Complaints With Prejudice for failure to meet their obligations to produce all Claims Package Materials identified in Section 3.03(A) of the Settlement Agreement. *See* Case Management Order No. 40.

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-seven (47) 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.

On March 15, 2013, this Court entered Case Management Order No. 40. Section 3.03(A)

[1] For a complete list of individual Plaintiffs and their docket numbers, see attached Exhibit.

requires all participants in the Gallbladder Resolution Program to submit a complete Claims Package that includes a completed and signed Claim Form, Claimant Authorization, Releases, W-9 Wiring Instructions, appropriate Prescription, Medical, and Event records, assertion of a Tier 1 or Tier 2 Claim, and a Stipulation of Dismissal.

Section 3.01 requires participants to submit a complete Claim Package by the Claim Package Deadline of November 18, 2013. If a Plaintiff failed to comply with the discovery requirements as articulated in CMO 40, the Claims Administrator sent Plaintiff an Incompleteness Notice, notifying Plaintiff of said failure, after which Plaintiff had 30 days to cure the deficiencies. After such time has lapsed, if Plaintiff had not cured, Defendants may move the Court for an Order dismissing the Complaint with Prejudice. Plaintiff has 30 days afterward to respond.

Plaintiff Sarah Danz

On December 18, 2013, the Claims Administrator sent an Incompleteness Notice to Plaintiff Sarah Danz. After failing to respond, the Claims Administrator sent a Second Incompleteness Notice on January 17, 2014. The Notice informed Plaintiff that if she failed to cure the deficiency, her case would be subject to Dismissal with Prejudice. On January 28, 2014, the Claims Administrator sent an email to Plaintiff's Counsel, notifying Counsel that Plaintiff's claims were rejected and, therefore, subject to Dismissal with Prejudice. On October 28, 2014, Special Master Stephen A. Saltzburg recommended this Court grant Defendants' Motion to Dismiss with Prejudice. To date, Plaintiff has failed to respond.

Plaintiff Alexis Keen

On December 18, 2013, the Claims Administrator sent an Incompleteness Notice to Plaintiff Alexis Keen. After failing to respond, the Claims Administrator sent a Second

Incompleteness Notice on February 18, 2014. The Notice informed Plaintiff that if she failed to cure the deficiency, her case would be subject to Dismissal with Prejudice. On March 3, 2014, the Claims Administrator sent an email to Plaintiff's Counsel, notifying Counsel that Plaintiff's claims were rejected and, therefore, subject to Dismissal with Prejudice. On October 28, 2014, Special Master Stephen A. Saltzburg recommended this Court grant Defendants' Motion to Dismiss with Prejudice. To date, Plaintiff has failed to respond.

Plaintiffs Vanessa and Benjamin Riesgo

On February 20, 2013, the Claims Administrator sent an Incompleteness Notice to Plaintiffs Vanessa and Benjamin Riesgo. After failing to respond, the Claims Administrator sent a Second Incompleteness Notice on April 22, 2014. The Notice informed Plaintiffs that if they failed to cure the deficiency, the case would be subject to Dismissal with Prejudice. On May 9, 2014, the Claims Administrator sent an email to Plaintiffs' Counsel, notifying Counsel that Plaintiffs' claims were rejected and, therefore, subject to Dismissal with Prejudice. On October 28, 2014, Special Master Stephen A. Saltzburg recommended this Court grant Defendants' Motion to Dismiss with Prejudice. To date, Plaintiffs have failed to respond.

Plaintiff Pamela Slone

On December 18, 2013, the Claims Administrator sent an Incompleteness Notice to Plaintiff Pamela Slone. After failing to respond, the Claims Administrator sent a Second Incompleteness Notice on February 18, 2014. The Notice informed Plaintiff that if she failed to cure the deficiency, her case would be subject to Dismissal with Prejudice. On March 3, 2014, the Claims Administrator sent an email to Plaintiff's Counsel, notifying Counsel that Plaintiff's claims were rejected and, therefore, subject to Dismissal with Prejudice. On October 28, 2014,

Special Master Stephen A. Saltzburg recommended this Court grant Defendants' Motion to Dismiss with Prejudice. To date, Plaintiff has failed to respond.

The Plaintiffs have not complied with the deadlines established in Case Management Order No. 40. Specifically, they have failed to provide all Claim Package Materials. This Court finds that Plaintiffs have not complied with this Court's order and, therefore, Defendants' Motion to Dismiss Plaintiffs' Complaints with Prejudice is GRANTED.

Exhibit A. Special Master Stephen A. Saltzburg's Reports Recommendations
for Motions to Dismiss with Prejudice with Return date November 7, 2014

| Plaintiff | Docket Number | Recommendation | Reason |
|---|---|---|---|
| Sarah Danz | BER-L-2452-13 | Dismiss | Non-Compliance with CMO 40 |
| Alexis Keen | BER-L-11136-10 | Dismiss | Non-Compliance with CMO 40 |
| Vanessa & Benjamin Riesgo | BER-L-660-11 | Dismiss | Non-Compliance with CMO 40 |
| Pamela Slone | BER-L-3669-10 | Dismiss | Non-Compliance with CMO 40 |