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

CASE MANAGEMENT ORDER NO. 17

ORDER AMENDING SHORT FORM COMPLAINT

THIS MATTER, having come before the Court at the September 28, 2010 Case Management Conference, and all parties having been represented by counsel, and for good cause shown,

IT IS on this 15th day of ~~October~~ DECEMBER, 2010, **ORDERED**, as follows:

1. The Amended Short Form Complaint submitted by Plaintiffs is hereby approved in the form attached hereto, and will supersede the prior version of Short Form Complaint attached to the August 12, 2010 Case Management Order 10.

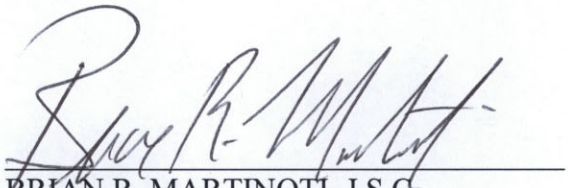
2. Except as to the form of the Short Form Complaint, the remainder of the August 12, 2010 Case Management Order 10 remains in effect.

3. The Amended Short Form Complaint will be posted at the Court's website: http://www.judiciary.state.nj.us/mass-tort/yaz/forms.htm.

4. Any Plaintiff filing a complaint within seven (7) days after the date of this Order is required to utilize the Amended Short Form Complaint form attached hereto, and shall file and serve case information statements, along with their complaints in accordance with the Rules of Court.

5. Within seven (7) days of receipt, Plaintiffs' Liaison Counsel will serve a true and exact copy of this Order and the blank Amended Short Form Complaint attached hereto upon all parties by way of LexisNexis File and Serve.

IT IS SO ORDERED



BRIAN R. MARTINOTI, J.S.C.

IN THE SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, BERGEN COUNTY

_____, *Plaintiff(s),* v. BAYER CORP., BAYER HEALTHCARE, LLC, BAYER HEALTHCARE PHARMACEUTICALS, INC., BAYER SCHERING PHARMA AG, INTENDIS INC., BAYER AG, TEVA PHARMACEUTICAL INDUSTRIES, LTD., TEVA PHARMACEUTICALS USA, INC., BARR PHARMACEUTICALS LLC (formerly known as BARR PHARMACEUTICALS, INC.), BARR LABORATORIES, INC., JANE DOE DISTRIBUTORS (1-50), JILL DOE MANUFACTURERS (1-50), JACK DOE WHOLESALERS (1-50), JAKE DOE SELLERS (1-50), JOHN DOE MARKETERS (1-50), JOAN DOE FORMULATORS (1-50), JIM DOE HEALTH CARE PROVIDERS (1-50), and JEAN DOE (1-50), *Defendants.*	**IN RE: YAZ®, YASMIN®, OCELLA® LITIGATION** **CASE NO. 287** **AMENDED INDIVIDUAL SHORT FORM COMPLAINT** **JURY TRIAL DEMAND**

<u>INDIVIDUAL SHORT FORM COMPLAINT FOR YAZ®, YASMIN®, OCELLA® LITIGATION AND ADOPTION BY REFERENCE</u>

1. Plaintiff(s), _____, state(s) her/his/their claims against Defendant(s), indicated below, and incorporate(s) by reference the relevant portions of the Master Complaint on file entitled: *In Re Yaz®, Yasmin®, Ocella® Litigation*, Case Code No. 287, now pending in the Superior Court of New Jersey, Law Division, Bergen County, before the Honorable Brian R. Martinotti, J.S.C. Pursuant to *Case Management Order No. 10*, the following *Individual Short Form Complaint* is utilized in the above-captioned action.

2. Plaintiff names the following Defendants in this action [Check all that apply]:

☐ **BAYER CORPORATION,**

☐ **BAYER HEALTHCARE, LLC,**

☐ **BAYER HEALTHCARE PHARMACEUTICALS, INC.,**

☐ **BAYER SCHERING PHARMA AG,**

☐ **INTENDIS, INC.** (only applicable in cases where the Plaintiff was prescribed Yaz by a dermatologist and/or the dermatologist's nurse practitioner or physician assistant and/or if a Plaintiff had a dermatologist and/or the dermatologist's nurse practitioner or physician assistant recommend that she discuss Yaz with another health care provider)

☐ **BAYER AG,**

☐ **TEVA PHARMACEUTICAL INDUSTRIES LTD,**

☐ **TEVA PHARMACEUTICALS USA, INC.,**

☐ **BARR PHARMACEUTICALS LLC (formerly known as BARR PHARMACEUTICALS, INC.),**

☐ **BARR LABORATORIES, INC.**

☐ **JANE DOE DISTRIBUTORS #1-50**

☐ **JILL DOE MANUFACTURERS #1-50**

☐ **JACK DOE WHOLESALERS #1-50**

☐ **JOHN DOE MARKETERS #1-50**

☐ **JOAN DOE FORMULATORS #1-50**

☐ **JIM DOE HEALTH CARE PROVIDERS #1-50**

☐ **JEAN DOE #1-50**

ALLEGATIONS AS TO INJURIES

3. Plaintiff selects and indicates by checking-off the appropriate boxes below, those claims that are specific to her or his case. Where certain claims require, pursuant to New Jersey law, specific pleading or case-specific facts and individual information, Plaintiff shall add and include them herein.

4. (a) Plaintiff _____ (hereinafter referred to by name or as "Plaintiff"), who was born on _____ (date and year), is an individual who is a citizen of the State of _____, residing therein at _____.

(b) Plaintiff is married to _____, who also resides at _____.[if applicable]

(c) On or about _____ [date], Plaintiff suffered the following injuries as a result of ingesting Yaz®, Yasmin® or Ocella®: _____ _____.

(d) Plaintiff was diagnosed and/or treated for Plaintiff's injuries by Dr. _____[physician's name] at _____[medical center/clinic] in _____ [city and state].

(e) Plaintiff suffered those injuries as a result of ingesting the following drug(s):

- ☐ Yaz®
- ☐ Yasmin®
- ☐ Ocella®

(f) Plaintiff brings this action:

- ☐ On behalf of herself;
- ☐ As a representative of _____;
- ☐ As the parent and natural guardian *ad litem* of _____, a minor born on _____;
- ☐ As administrator of the estate of Plaintiff _____ (hereinafter "Decedent", see letters of administration and next

hereto as Exhibit A), who died on _____ in the state of

_____.

(g) Plaintiff claims damages as a result of:

☐ Injury to herself;

☐ Injury to the person represented;

☐ Wrongful death;

☐ Survivorship action;

☐ Economic losses.

(h) Plaintiff's spouse, _____ (hereinafter referred to as "Spouse") claims damages for loss of consortium and services [if applicable].

5. Plaintiff was prescribed, purchased and/or otherwise obtained *Yaz®, Yasmin®, and/or Ocella®*, which plaintiff ingested from _____ to _____.

6. Plaintiff was prescribed *Yaz®, Yasmin®, and/or Ocella®*, by Dr. _____[physician's name], or by a nurse practitioner or physician assistant named _____, at _____[medical center/clinic] in _____ [city and state].

7. Plaintiff purchased or obtained *Yaz®, Yasmin®, and/or Ocella®* from _____ [pharmacy name] located at _____.

8. Plaintiff was a citizen of the State of _____ at the time she was prescribed *Yaz®, Yasmin®, and/or Ocella®*, and was residing in the city of _____.

SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY

9. The following claims asserted in the Master Complaint and the allegations with regard thereto in the Master Complaint are herein adopted by reference:

- ☐ COUNT I: PRODUCT LIABILITY ACT – DEFECTIVE DESIGN (N.J.S.A. 2A: 58C-2, *et seq.*)
- ☐ COUNT II: PRODUCT LIABILITY ACT - FAILURE TO WARN (N.J.S.A. 2A: 58C-2, *et seq.*)
- ☐ COUNT III: PRODUCT LIABILITY ACT; BREACH OF EXPRESS WARRANTIES (N.J.S.A. 12A:2-313, *et seq.*)
- ☐ COUNT IV: WRONGFUL DEATH (N.J.S.A. 2A: 31-1, *et seq.*)
- ☐ COUNT V: SURVIVAL ACTION (N.J.S.A. 2A: 15-3)
- ☐ COUNT VI: PUNITIVE DAMAGES UNDER THE COMMON LAW AND PRODUCT LIABILITY ACT (N.J.S.A. 2A:58C-1)
- ☐ COUNT VII: STRICT LIABILITY
- ☐ COUNT VIII: NEGLIGENCE
- ☐ COUNT IX: NEGLIGENT CLAIMS UNDER THE APPLICABLE LAWS OF CONNECTICUT
- ☐ COUNT X: COMMON LAW FRAUD (against the Bayer Defendants only)
- ☐ COUNT XI: FRAUDULENT CONCEALMENT
- ☐ COUNT XII: CONSTRUCTIVE FRAUD (against the Bayer Defendants only)
- ☐ COUNT XIII: NEGLIGENT MISREPRESENTATION
- ☐ COUNT XIV: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
- ☐ COUNT XV: BREACH OF EXPRESS WARRANTY
- ☐ COUNT XVI: BREACH OF IMPLIED WARRANTY
- ☐ COUNT XVII: VIOLATION OF CONSUMER PROTECTION LAWS (Identify which state's law this claim is made under: _____)

- ☐ COUNT XVIII: WRONGFUL DEATH
- ☐ COUNT XIX: SURVIVAL ACTION
- ☐ COUNT XX: GROSS NEGLIGENCE
- ☐ COUNT XXI: UNJUST ENRICHMENT
- ☐ COUNTY XXII: LOSS OF CONSORTIUM
- ☐ COUNTY XXIII: PUNITIVE DAMAGES

10. Plaintiff asserts the following additional theory of recovery against Defendants, including State Law Specific Cause of Action or Other Cause of Action:

11. Plaintiff asserts the following additional theory of recovery against Defendants, including State Law Specific Cause of Action or Other Cause of Action:

PRAYER FOR RELIEF

WHEREFORE, Plaintiff(s) demands judgment against Defendants, and each of them, individually, jointly and severally and requests compensatory damages, together with interest, cost of suit, attorneys' fees, and all such other relief as the Court deems just and proper as well as:

A. Compensatory damages to Plaintiff(s) for past, present, and future damages, including, but not limited to, pain and suffering for severe and permanent personal injuries sustained by Plaintiffs, health and medical care costs, together with interest and costs as provided by law;

B. Restitution and disgorgement of profits (if applicable);

C. Reasonable attorneys' fees (if applicable);

D. The costs of these proceedings (if applicable);

E. All ascertainable economic damages (if applicable);

F. Punitive damages (if applicable);

G. Survival damages (if applicable);

H. Wrongful death damages (if applicable); and

I. Such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Demand is hereby made for trial by jury.

Dated: _____, 201_

Respectfully submitted,

[LAW FIRM}

_____

Attorneys for Plaintiff _____

CERTIFICATION PURSUANT TO RULE R.4:5-1

Plaintiff upon information and belief is not aware of any pending or contemplated action in any other court or of a pending arbitration proceeding nor is any other action or arbitration contemplated. Further, upon information and belief, she/he is not aware of any other party who should be joined in this action.

Dated: _____, 201_ **[LAW FIRM]**

_____

Attorneys for Plaintiff _____

DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:25-4, _____ is hereby designated as trial counsel in this matter.

Dated: _____, 201_

_____

Attorneys for Plaintiff _____