

PEARSON, J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

RAYMOND ALLEN SR., <i>etc.</i> ,	)	
	)	CASE NO. 1:10CV0721
Plaintiff,	)	
	)	
v.	)	JUDGE BENITA Y. PEARSON
	)	
SUN PHARMACEUTICAL	)	
INDUSTRIES, INC., <i>et al.</i> ,	)	<b><u>MEMORANDUM OF OPINION</u></b>
	)	<b><u>AND ORDER</u></b>
Defendants.	)	[Resolving ECF Nos. <a href="#">30</a> , <a href="#">31</a> , and <a href="#">35</a> ]

This action is before the Court upon the following motions:

Defendants Sun Pharmaceutical Industries, Inc. and Caraco Pharmaceutical Laboratories Ltd.'s Motion for Judgment on the Pleadings ([ECF No. 30](#)), filed on August 21, 2012;

Defendant West-Ward Pharmaceutical Corp.'s Motion for Judgment on the Pleadings ([ECF No. 31](#)), filed on August 31, 2012; and

Defendants Baxter International Inc. and Baxter Healthcare Corporation's Joinder in Defendant West-Ward Pharmaceutical Corp.'s Motion for Judgment on the Pleadings ([ECF No. 35](#)), filed on September 24, 2012.

The Court has been advised, having reviewed the record, the parties' briefs and the applicable law. The Court has also considered the oral statements of counsel offered during the Telephonic Conference held on October 2, 2012.

Plaintiff was given time to obtain new counsel, who should have served and filed an entry of appearance on or before October 16, 2012. *See* Order ([ECF No. 37](#)) at 1. While Plaintiff did call the Court on October 16, 2012 to indicate that two attorneys from a law firm with an office

(1:10CV0721)

located in Cincinnati, Ohio would be entering an appearance on his behalf, no attorney has done so to date.

Plaintiff was also granted an extension of time until October 16, 2012 to serve and file a memorandum in opposition to the pending motions. [ECF No. 37](#) at 2. The docket reflects that Plaintiff has not filed a memorandum in opposition to the pending motions nor has he requested an additional extension of time to do so.

Defendants Baxter International Inc. and Baxter Healthcare Corporation's Joinder in Defendant West-Ward Pharmaceutical Corp.'s Motion for Judgment on the Pleadings ([ECF No. 35](#)) is granted.

Defendants Sun Pharmaceutical Industries, Inc. and Caraco Pharmaceutical Laboratories Ltd.'s Motion for Judgment on the Pleadings ([ECF No. 30](#)) and Defendant West-Ward Pharmaceutical Corp.'s Motion for Judgment on the Pleadings ([ECF No. 31](#)) are granted. All of Plaintiff's claims are hereby dismissed as preempted by [PLIVA, Inc. v. Mensing, ---U.S.---, 131 S.Ct. 2567, 180 L.Ed.2d 580 \(2011\); Fulgenzi v. PLIVA, Inc., --- F.Supp.2d ---, No. 5:09CV1767, 2012 WL 1110009, at \\*1 \(N.D.Ohio March 31, 2012\)](#).

The Clerk of Court shall issue a copy of this Order to Raymond Allen, Sr., 534 Hall St NW, Warren, Ohio 44483 and P.O. Box 273, Steele, Alabama 35987.

IT IS SO ORDERED.

October 31, 2012  
Date

/s/ Benita Y. Pearson  
Benita Y. Pearson  
United States District Judge