



<i>Amy Caffee v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10577-DRH-PMF
<i>Danielle Calabrese v. Bayer Corp., et al.</i>	No. 3:10-cv-13371-DRH-PMF
<i>Denise Cudney v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10617-DRH-PMF
<i>Kenyatta Davis v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11938-DRH-PMF
<i>Katie Donaldson v. Bayer Corp., et al.</i>	No. 3:11-cv-10486-DRH-PMF
<i>Rochelle Dougherty v. Bayer Corp., et al.</i>	No. 3:10-cv-11502-DRH-PMF
<i>Kaci Douglass v. Bayer Corp., et al.</i>	No. 3:11-cv-10487-DRH-PMF
<i>Kari Emery v. Bayer Corp., et al.</i>	No. 3:11-cv-10361-DRH-PMF
<i>Angel Ferrell, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i> <sup>2</sup>	No. 3:10-cv-13178-DRH-PMF
<i>Rebecca Franco, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i> <sup>3</sup>	No. 3:10-cv-13240-DRH-PMF
<i>Amanda Franklin v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-12831-DRH-PMF
<i>Anna Garcia, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i> <sup>4</sup>	No. 3:10-cv-13244-DRH-PMF
<i>Heather Gibson v. Bayer Corp., et al.</i>	No. 3:11-cv-10654-DRH-PM
<i>Kirsten Goodlett v. Bayer Corp., et al.</i>	No.3:11-cv-10610-DRH-PMF
<i>Melissa Gortney v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11946-DRH-PMF

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<sup>2</sup> This order applies only to plaintiff Elizabeth Muldoon.

<sup>3</sup> This order applies only to plaintiff Elizabeth Luginbyhl.

<sup>4</sup> This order applies only to plaintiff Anna Garcia.

<i>Ashley Handy v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10036-DRH-PMF
<i>Tiffany Hansley v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:10-cv-13195-DRH-PMF
<i>Kiona Harvey v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:10-cv-13330-DRH-PMF
<i>Donna and Robert Hill, Jr. v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:10-cv-13596-DRH-PMF
<i>Ryann Hofmann v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10299-DRH-PMF
<i>Tammy Holmes v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10515-DRH-PMF
<i>Kathy Hutchinson v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10540-DRH-PMF
<i>Mireya and Jeff Iannuzzi v. Bayer Corp., et al.</i>	No. 3:11-cv-11100-DRH-PMF
<i>Whitney Ingram, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i> <sup>5</sup>	No. 3:11-cv-10652-DRH-PMF
<i>Kassandra Keeling v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10044-DRH-PMF
<i>Geneva Kenner v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10208-DRH-PMF
<i>Michelle Kielman v. Bayer Corp., et al.</i>	No. 3:10-cv-13795-DRH-PMF
<i>Debbie Knight, et al. v. Bayer Corp., et al.</i> <sup>6</sup>	No. 3:10-cv-12903-DRH-PMF
<i>Kara Kozaklewicz v. Bayer Corp., et al.</i>	No. 3:11-cv-11481-DRH-PMF

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<sup>5</sup> This order applies only to plaintiff Whitney Ingram.

<sup>6</sup> This order applies only to plaintiff San Juana Elizabeth Martinez Rodriguez.

<i>Brittany Lassiter v. Bayer Corp., et al.</i>	No. 3:11-cv-10563-DRH-PMF
<i>Kristy Lee, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i> <sup>7</sup>	No. 3:10-cv-13248-DRH-PMF
<i>Lauren and Andrew Lieb v. Bayer Corp., et al.</i>	No. 3:11-cv-20091-DRH-PMF
<i>Carley Lockhart v. Bayer Corp., et al.</i>	No. 3:11-cv-10609-DRH-PMF
<i>Melanie Lonczak v. Bayer Corp., et al.</i>	No. 3:11-cv-12753-DRH-PMF
<i>Angelica Lopez, et al. v. Bayer Corp., et al.</i> <sup>8</sup>	No. 3:10-cv-12941-DRH-PMF
<i>Angela Lorinchak v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10972-DRH-PMF
<i>Melanie Lowrey, et al. v. Bayer Corp., et al.</i> <sup>9</sup>	No. 3:10-cv-12269-DRH-PMF
<i>Kristen Mangino v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:10-cv-13358-DRH-PMF
<i>Danielle Mazur v. Bayer Corp., et al.</i>	No. 3:11-cv-10255-DRH-PMF
<i>Jessica McCaslin v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10621-DRH-PMF
<i>Sondra McCoy v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-12086-DRH-PMF
<i>Siobhan McGee v. Bayer Corp., et al.</i>	No. 3:11-cv-12797-DRH-PMF
<i>Mallory McGlothin v. Bayer Corp., et al.</i>	No. 3:10-cv-13567-DRH-PMF
<i>Brittany McKenrick v. Bayer Corp., et al.</i>	No. 3:11-cv-10488-DRH-PMF
<i>Annaliza Mendoza v. Bayer Corp., et al.</i>	No. 3:10-cv-13230-DRH-PMF

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<sup>7</sup> This order applies only to plaintiff Anna Mauldin.

<sup>8</sup> This order applies only to plaintiffs Kristi Hammett Amador and Angelica Lopez.

<sup>9</sup> This order applies only to plaintiff Danielle Smith.

<i>Ashley Moore v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10023-DRH-PMF
<i>Sarah Moseley v. Bayer Corp., et al.</i>	No. 3:11-cv-10454-DRH-PMF
<i>Tiffany Moses v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10536-DRH-PMF
<i>Clarissa Munoz v. Bayer Corp., et al.</i>	No. 3:11-cv-10519-DRH-PMF
<i>Maggie Murdock v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11867-DRH-PMF
<i>Cynthia New v. Bayer Corp., et al.</i>	No. 3:11-cv-10485-DRH-PMF
<i>Lauren Nolasco v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-11928-DRH-PMF
<i>Kathleen Nold v. Bayer Corp., et al.</i>	No. 3:11-cv-12795-DRH-PMF
<i>Monica Ortiz v. Bayer Corp., et al.</i>	No. 3:11-cv-10418-DRH-PMF
<i>Vanessa Palomo v. Bayer Corp., et al.</i>	No. 3:11-cv-10065-DRH-PMF
<i>Jessica Rios v. Bayer Corp., et al.</i>	No. 3:11-cv-11008-DRH-PMF
<i>Joanne Roberts v. Bayer Corp., et al.</i>	No. 3:10-cv-12965-DRH-PMF
<i>Marsha Rucker v. Bayer Corp., et al.</i>	No. 3:11-cv-10270-DRH-PMF
<i>Kristin Saenz, et al. v. Bayer Corp., et al.</i> <sup>10</sup>	No. 3:10-cv-12977-DRH-PMF
<i>Theresa Samms v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-12162-DRH-PMF
<i>Mandy Schaible v. Bayer Corp., et al.</i>	No. 3:11-cv-12793-DRH-PMF
<i>Michelle Simpkins, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i> <sup>11</sup>	No. 3:10-cv-13242-DRH-PMF

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<sup>10</sup> This order applies only to plaintiffs Ashley Ruby and Kristin Saenz.

<sup>11</sup> This order applies only to plaintiff Candyce Roberts.

<i>Jessica Slaats v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10284-DRH-PMF
<i>Christine Smith v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-12125-DRH-PMF
<i>Raven Smith v. Bayer Corp., et al.</i>	No. 3:11-cv-11637-DRH-PMF
<i>Ursula Smith v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:10-cv-13400-DRH-PMF
<i>Atara Stewart, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i> <sup>12</sup>	No. 3:10-cv-13243-DRH-PMF
<i>Kyrsten Unger v. Bayer Corp., et al.</i>	No. 3:11-cv-10210-DRH-PMF
<i>Kristen Vaughn, a minor, by her mother, Jacqueline Vaughn, and Jacqueline Vaughn, individually v. Bayer Corp., et al.</i>	No. 3:10-cv-11812-DRH-PMF
<i>Janelle Wade v. Bayer Corp., et al.</i>	No. 3:10-cv-11693-DRH-PMF
<i>Rachel Warner v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:10-cv-13879-DRH-PMF
<i>Melissa Watson v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:10-cv-13193-DRH-PMF
<i>Liz Westbrook, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i> <sup>13</sup>	No. 3:10-cv-13247-DRH-PMF
<i>Michelle Whiting v. Bayer HealthCare Pharmaceuticals, Inc., et al.</i>	No. 3:11-cv-10286-DRH-PMF
<i>Heather Young v. Bayer Corp., et al.</i>	No. 3:11-cv-10672-DRH-PMF

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<sup>12</sup> This order applies only to plaintiff Dalynn Dowling.

<sup>13</sup> This order applies only to plaintiff Autumn Weatherspoon.

## **ORDER DISMISSING WITHOUT PREJUDICE**

This matter is before the Court on the Bayer defendants motion, pursuant to Case Management Order 12 (“CMO 12”),<sup>14</sup> for an Order dismissing plaintiffs’ claims in the above-captioned matters without prejudice for failure to comply with their Plaintiff Fact Sheet (“PFS”) obligations.<sup>15</sup>

Under Section C of CMO 12, each plaintiff is required to serve Defendants with a completed PFS, including a signed Declaration, executed record release Authorizations, and copies of all documents subject to the requests for production contained in the PFS which are in the possession of plaintiff. Section B of CMO 12

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<sup>14</sup> The Parties negotiated and agreed to CMO 12, which expressly provides that the discovery required of plaintiffs is not objectionable. CMO 12 § A(2).

<sup>15</sup> Defendants also sought dismissal of the following member actions: *Julie Bell, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al* No. 3:11-cv-12562-DRH-PMF; *Linda and Harry Deppe v. Bayer Pharmaceuticals Corp., et al.* No. 3:11-cv-10937-DRH-PMF; *Dayna DiCarlo v. Bayer Corp., et al.* No. 3:11-cv-12417-DRH-PMF; *Jenna Gilbertson v. Bayer Corp., et al.* No. 3:11-cv-12044-DRH-PMF; *Gretchen Gilliland v. Bayer Corp., et al.* No. 3:11-cv-10052-DRH-PMF; *Courtney Graham v. Bayer Corp., et al.* No. 3:11-cv-12213-DRH-PMF; *Patricia and Geoff Gunner v. Bayer AG, et al.* No. 3:10-cv-20502-DRH-PMF; *Dolores Gutierrez-Pasillas v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:11-cv-10757-DRH-PMF; *Cara Kruse v. Bayer Corp., et al.* No. 3:11-cv-11890-DRH-PMF; *Nicole Smith v. Bayer Corp., et al.* No. 3:11-cv-12410-DRH-PMF; *Garrie Storie v. Bayer Corp., et al.* No. 3:11-cv-12214-DRH-PMF; *Colette Thom-October and Marvin October v. Bayer Corp., et al.* No. 3:11-cv-12228-DRH-PMF; *Lisa Winger v. Bayer Corp., et al.* No. 3:11-cv-12119-DRH-PMF. In these actions, however, the subject plaintiffs subsequently provided completed PFSs and/or defendants withdrew the motions to dismiss. In addition, defendants sought dismissal of the following member action: *Jennifer Cruz v. Bayer Corp., et al.* No. 3:11-cv-12750-DRH-PMF. The parties subsequently filed stipulations of dismissal in this member action. Accordingly, the motion to dismiss is now moot. Finally, defendants’ motion to dismiss seeks dismissal of plaintiff Laurie Nenadovich in member action *Natasha Haley, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:11-cv-12892-DRH-PMF. In this action, however, the Court has granted plaintiff Nenadovich an extension of time to respond. The extension has not yet expired, accordingly the subject motion is not yet ripe.

further provides that a completed PFS is due “45 days from the date of service of the first answer to her Complaint or the docketing of her case in this MDL, or 45 days from the date of this Order, whichever is later.”

Accordingly, plaintiffs in the above-captioned matters were to have served completed PFSs on or before January 22, 2012 (*See Ackerson* 3:11-10283 Doc. 8-1).<sup>16</sup> Per Section E of CMO 12, Notice of Overdue Discovery was sent on or before February 17, 2012. (*See Ackerson* 3:11-10283 Doc. 8-2). Thus, as of today’s date, the plaintiffs in the above captioned matters are more than four months late in completing their PFS requirements.<sup>17</sup>

Under Section E of CMO 12, **plaintiffs were given 14 days<sup>18</sup> from the date of Bayer’s motion**, in this case 14 days from March 13, 2012, to file a response either certifying that they served upon defendants and defendants received a completed PFS,

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<sup>16</sup> Identical motions were filed in each of the above captioned cases. For ease of reference the Court refers to the motion and exhibits filed in *Ackerson v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:11-cv-10283-DRH-PMF (Docs 8, 8-1, & 8-2).

<sup>17</sup> Bayer reports that it received some medical records for plaintiff Amanda Franklin, Case No. 3:11-cv-12831, on February 16, 2012, but it had not received her PFS or other required disclosures. Providing some medical records does not constitute compliance with CMO 12. Accordingly, plaintiff Amanda Franklin’s action is subject to dismissal.

<sup>18</sup> In two member actions, *Vaughn et al., v. Bayer Corp. et al.* No. 3:10-cv-11812 and *Iannuzzi v. Bayer Corp., et al.* No. 3:11-cv-11100, the Court granted plaintiffs a 14-day extension (*Vaughn* Doc. 14; *Iannuzzi* Doc. 13). Plaintiffs had until April 10, 2012 to comply with their PFS requirements (*Vaughn* Docs 12 & 14; *Iannuzzi* Docs 12 & 13). To date, plaintiffs have not filed anything with the Court indicating that they are now in compliance with their PFS obligations. Accordingly, these cases are subject to dismissal pursuant to CMO 12.



and attaching appropriate documentation of receipt or an opposition to defendant's motion.<sup>19</sup>

To date, none of the plaintiffs in the above captioned member actions has filed a response. Because the plaintiffs have failed to respond to Bayer's allegations, the Court finds that these plaintiffs have failed to comply with their PFS obligations under CMO 12. **Accordingly, the claims of the above captioned plaintiffs are hereby dismissed without prejudice.**

The Court reminds plaintiffs that, pursuant to CMO 12 Section E, **unless plaintiffs serve defendants with a COMPLETED PFS or move to vacate the dismissal without prejudice within 60 days after entry of this Order, the Order will be converted to a Dismissal With Prejudice upon defendants' motion.**

In accordance with this order of dismissal without prejudice, the Court instructs the Clerk of the Court to terminate the claims of the following plaintiffs:

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<sup>19</sup> Responses to Bayer's motion to dismiss were due 14 days from March 13, 2012 regardless of any response date automatically generated by CM/ECF. The Court has previously noted in orders in this MDL and during a status conference in this MDL that **when deadlines provided by CM/ECF conflict with orders of this Court, the Court ordered deadline will always control.** See United States District Court for the Southern District of Illinois, Electronic Filing Rules, Rule 3 (The "filer is responsible for calculating the response time under the federal and/or local rules. The date generated by CM/ECF is a guideline only, and, if the Court has ordered the response to be filed on a date certain, the Court's order governs the response deadline."). The deadlines provided by CM/ECF are generated automatically based on the generic responsive pleading times allowed under the rules and do not consider special circumstances (such as court orders specific to a particular case or issue).

- Plaintiffs Angie Anchetta and Mable Hughes, member action *Angie Anchetta, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:10-cv-13246-DRH-PMF
- Plaintiff Elizabeth Muldoon, member action *Angel Ferrell, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:10-cv-13178-DRH-PMF
- Plaintiff Elizabeth Luginbyhl, member action *Rebecca Franco, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:10-cv-13240
- Plaintiff Anna Garcia, member action *Anna Garcia, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:10-cv-13244-DRH-PMF
- Plaintiff Whitney Ingram, member action *Whitney Ingram, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:11-cv-10652-DRH-PMF
- Plaintiff San Juana Elizabeth Martinez Rodriguez, member action *Debbie Knight, et al. v. Bayer Corp., et al.* No. 3:10-cv-12903-DRH-PMF
- Plaintiff Anna Mauldin, member action *Kristy Lee, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:10-cv-13248-DRH-PMF
- Plaintiffs Kristi Hammett and Angelica Lopez, member action *Angelica Lopez, et al. v. Bayer Corp., et al.* No. 3:10-cv-12941-DRH-PMF
- Plaintiff Daniell Smith, member action *Melanie Lowrey, et al. v. Bayer Corp., et al.* No. 3:10-cv-12269-DRH-PMF
- Plaintiffs Ashley Ruby and Kristin Saenz, member action *Kristen Saenz, et al. v. Bayer Corp., et al.* 3:10-cv-12977-DRH-PMF
- Plaintiff Candyce Roberts, member action *Michelle Simpkins, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:10-cv-13242-DRH-PMF

- Plaintiff Dalynn Dowling, member action *Atara Stewart, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:10-cv-13243-DRH-PMF
- Plaintiff Autumn Weatherspoon, member action *Liz Westbrook, et al. v. Bayer HealthCare Pharmaceuticals, Inc., et al.* No. 3:10-cv-13247-DRH-PMF

As to the remaining member actions, the Court instructs the Clerk of the Court to close each action.

**SO ORDERED**

  David R. Herndon  
2012.05.31  
14:46:54 -05'00'

**Chief Judge**  
**United States District Court**

**Date: May 31, 2012**