

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Theresa Dubose Harrison,)
)
 Plaintiff,)
)
 vs.)
)
 Bayer Corporation, Bayer Healthcare, LLC,)
 Bayer Pharmaceuticals Corporation, Bayer)
 Healthcare Pharmaceuticals, Inc., Berlex)
 Laboratories, Inc., Berlex, Inc., Bayer)
 Schering Pharma AG, and Bayer AG,)
)
 Defendants.)
)

**DEFENDANTS' ANSWERS TO LOCAL
RULE 26.01 INTERROGATORIES**

C.A. No.: _____

**TO: J. THOMAS McBRATNEY, III, ESQ., and JAMES T. McBRATNEY, JR., ESQ.,
ATTORNEYS FOR PLAINTIFF**

Defendants Bayer Corporation, Bayer HealthCare LLC, and Bayer HealthCare Pharmaceuticals Inc., formerly known as Berlex, Inc., formerly known as Berlex Laboratories, Inc., on its own behalf and as successor by merger to Bayer Pharmaceuticals Corporation (“Bayer Defendants”), through undersigned counsel, submit the following responses to the Court’s Interrogatories pursuant to Rule 26.01 of the Local Civil Rules of the United States District Court for the District of South Carolina.

(A) State the full name, address and telephone number of all persons or legal entities who may have a subrogation interest in each claim and state the basis and extent of said interest.

ANSWER:

At this time, Bayer Defendants are not aware of any persons or legal entities that may have a subrogation interest in any of the claims asserted by Plaintiff.

(B) As to each claim, state whether it should be tried jury or non-jury and why.

ANSWER:

Plaintiff has requested a jury trial. Bayer Defendants likewise request that issues of both liability and damages be determined by a jury. The claims asserted by Plaintiff are legal claims that should be tried by a jury.

(C) State whether the party submitting these responses is a publicly owned company and separately identify: (1) each publicly owned company of which it is a parent, subsidiary, partner, or affiliate; (2) each publicly-owned company which owns ten percent or more of the outstanding shares or other indicia of ownership of the party; and (3) each publicly owned company in which the party owns ten percent or more of the outstanding shares.

ANSWER:

Defendant Bayer HealthCare Pharmaceuticals Inc., formerly known as Berlex, Inc., formerly known as Berlex Laboratories, Inc., on its own behalf and as successor by merger to Bayer Pharmaceuticals Corporation, is wholly-owned by Schering Berlin Inc. Schering Berlin Inc. is wholly-owned by Defendant Bayer HealthCare LLC, which is a limited liability company. The sole member of Bayer HealthCare LLC is Defendant Bayer Corporation. Bayer Corporation, in turn, is a wholly-owned subsidiary of Bayer AG, which is publicly traded in Germany.

(D) State the basis for asserting the claim in the division in which it was filed (or the basis of any challenge to the appropriateness of the division).

ANSWER:

Bayer Defendants removed this matter to the Florence Division, pursuant to Rule 3.01 of the Local Civil Rules of the United States District Court for the District of South Carolina, because it embraces the locality in which the state court action is now pending, a substantial part of the events giving rise to the claim are believed to have occurred within the Division, and Plaintiff resides in the locality embraced by the Florence Division of the U.S. District Court for the District of South Carolina. Bayer Defendants believe that this case should be transferred for coordinated or consolidated pretrial proceedings to the United States District Court for the Southern District of Illinois, where, on October 1, 2009, the Judicial Panel on Multidistrict Litigation established MDL No. 2100, *In re Yasmin and YAZ (Drospirenone) Marketing, Sales Practices and Products Liability Litigation*, for coordination of all federal marketing, sales practices, and products liability litigation involving Yasmin®, YAZ® and Ocella®. The removing Bayer Defendants intend to identify this action as a potential "tag-along" to the MDL proceeding.

E) Is this action related in whole or in part to any other matter filed in this District? If so, provide: (1) a short caption and the full case number of the related action; (2) an explanation of how the matters are related; and (3) a statement of the status of the related action. Counsel should disclose any cases which may be related regardless of whether they are still pending. Whether cases are related such that they should be assigned to a single judge will be determined by the Clerk of Court based on a determination of whether the cases: arise from the same or identical transactions, happenings or events; involve the identical parties or property; or for any other reason would entail substantial duplication of labor if heard by different judges.

ANSWER:

Bayer Defendants assert that this case is related to Patty Bagwell Dismukes, and her husband, Bryan Keith Dismukes vs. Bayer Corporation, Bayer HealthCare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc., Berlex, Inc., Bayer Schering Pharma AG, and Bayer AG, C.A. No. 8:10-cv-00633-MDL (“Dismukes matter”), in that this case has been filed against the identical defendants as in the Dismukes matter and the Dismukes matter also alleges that the plaintiff ingested YAZ®, Yasmin®, and/or Ocella® combination oral contraceptives, and suffered personal injury as a result. The Dismukes matter was assigned to the Honorable Henry M. Herlong, Jr., U.S. District Judge No. 20, and is presently included in the Yasmin®/YAZ® MDL proceeding pending in the United States District Court for the Southern District of Illinois.. Bayer Defendants likewise intend to identify this action as a potential "tag-along" to the Yasmin®/YAZ® MDL proceeding.

(F) If the Defendant is improperly identified, give the proper identification and state whether counsel will accept service of an amended summons and pleading reflecting the correct identification.

ANSWER:

The identification of Bayer Defendants is proper, except that Berlex, Inc. and Berlex Laboratories, Inc. are former names of Bayer HealthCare Pharmaceuticals Inc. and not separate corporate entities, and Bayer Pharmaceuticals Corporation has been merged into Bayer HealthCare Pharmaceuticals Inc.

G) If you contend that some other person or legal entity is, in whole or in part, liable to you or the party asserting a claim against you in this matter, identify such person or entity and describe the basis of said liability.

ANSWER:

Bayer Defendants are unable to determine at this time whether any other person or entity may be liable to Plaintiff or to Bayer Defendants for indemnity for Plaintiff's claim. Bayer Defendants reserve the right to make such a contention if they discover evidence of such liability or indemnity obligations during the course of discovery in this action and will amend this response if necessary.

July 30, 2010

s/ Laura T. McDonald

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merger to Bayer Pharmaceuticals
Corporation