

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

IN RE YASMIN AND YAZ (DROSPIRENONE)) MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION)))))	3:09-md-02100-DRH-PMF MDL No. 2100 ORDER VACATING DISMISSAL
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This Document Relates to:

Sabrina Lane, et al. v. Bayer Corp., et al. No. 3:11-cv-20002-DRH-PMF¹

ORDER DISMISSING WITH PREJUDICE

HERNDON, Chief Judge:

The above-captioned action is a multi-plaintiff action. On March 1, 2012, the Court dismissed the claims of 29 of the named plaintiffs, without prejudice, for failure to comply with their Plaintiff Fact Sheet Requirements (Doc. 22).² On March 29, 2013, Bayer Healthcare Pharmaceuticals Inc. (“Bayer”) filed a motion to convert 10 of the 29 without prejudice dismissals into with prejudice dismissals in accord with Case Management Order Number 12 (Doc. 28). Bayer has withdrawn its motion to dismiss with regard to four of the plaintiffs identified in the motion for with prejudice dismissal (Doc. 29). The remaining six plaintiffs (Mindy Brink, Tosha Champion, Markita Childress, Shellena Crabtree,

¹ This order applies to the claims of the following plaintiffs: (1) Shawna Castro, (2) Nekeisha Cheateam, (3) Kathryn Churilla, and (4) Sonya Ellis.

² The following plaintiffs’ claims were dismissed without prejudice on March 1, 2012: Barnes-Mosley, Barron, Barzee, Beasley, Brink, Brown, Bryant, Casto, Cerda, Champion, Cheateam, Childress, Christophel, Churilla, Clough, Cooper, Corley, Corona, Crabtree, E. Davis, L. Davis, Donahue, Dooley, K. Edwards, W. Edwards, Ellis, Vargas, Watton, Wheeler, and White.

Esmeralda Davis, and Kimberly Edwards) (“the non-compliant plaintiffs”) are the subject of this order.

In the order dismissing the claims of the non-compliant plaintiffs without prejudice, dated March 1, 2012, the Court stated as follows:

Further, the Court notes that, **pursuant to CMO 12, plaintiffs have 60 days from the entry of this order to provide substantially complete PFS materials before their cases are converted into dismissals with prejudice.** This gives plaintiffs more than enough time to address the relevant deficiencies in their PFS materials.

(Doc. 22 p. 9) (emphasis in original). Further, section E of CMO 12, expressly states: “[u]nless Plaintiff has served Defendants with a completed PFS or has moved to vacate the dismissal without prejudice within 60 days after entry of any such Order of Dismissal without Prejudice, the order will be converted to a Dismissal With Prejudice **upon** Defendants’ motion.” (MDL 2100 Doc. 836) (emphasis added).

More than a year has passed since the entry of dismissal without prejudice and the non-compliant plaintiffs still have not completed their Plaintiff Fact Sheet obligations.

Having considered the motion and the relevant provisions of CMO 12 the Court **ORDERS** as follows:

Mindy Brink, Tosha Champion, Markita Childress, Shellena Crabtree, Esmeralda Davis, and Kimberly Edwards have failed to comply with their obligations pursuant to CMO 12 and more than 60 days have passed since the

entry of the order of dismissal without prejudice for failure to comply with Plaintiff Fact Sheet Requirements.

Accordingly, Bayer's motion to dismiss the claims of Mindy Brink, Tosha Champion, Markita Childress, Shellena Crabtree, Esmeralda Davis, and Kimberly Edwards **with prejudice** is **GRANTED**.

Further, the Court **DIRECTS** the Clerk of the Court to enter judgment reflecting the same at the close of the case.

SO ORDERED:

 Digitally signed by
David R. Herndon
Date: 2013.05.20
11:20:48 -05'00'

Chief Judge
United States District Court

Date: May 20, 2013