

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

	)	
<b>IN RE: YASMIN AND YAZ</b>	)	<b>3:09-md-02100-DRH-PMF</b>
<b>(DROSPIRENONE) MARKETING, SALES</b>	)	
<b>PRACTICES AND PRODUCTS LIABILITY</b>	)	<b>MDL No. 2100</b>
<b>LITIGATION</b>	)	

**This Document Relates to:**

*Dylan Tays v. Bayer Healthcare Pharmaceuticals Inc.* No. 3:11-cv-12560-DRH-PMF

*Katie Warren v. Bayer Corp., et al.* No. 3:13-cv-10130-DRH-PMF

**ORDER OF DISMISSAL WITHOUT PREJUDICE**  
**(Failure To Comply With PFS Obligations)**

**HERNDON, Chief Judge:**

This matter is before the Court on the Bayer defendants' motion, pursuant to Case Management Order 12 ("CMO 12")<sup>1</sup> for an order of dismissal, without prejudice, of the plaintiffs' claims in the above captioned cases for failure to comply with Plaintiff Fact Sheet ("PFS") obligations.

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 further provides that a completed PFS is due "45 days from the date of service

<sup>1</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).

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, the plaintiffs in the above-captioned matters were to have served completed PFSs on or before May 27, 2013. Per Section E of CMO 12, Notice of Overdue Discovery was sent on July 12, 2013. As of the filing of Bayer’s motion to dismiss, Bayer still had not received completed PFS materials from the plaintiffs in the above-captioned matters and the plaintiffs’ PFS materials were more than five months overdue.

Under Section E of CMO 12, the **plaintiffs were given 14 days from the date of Bayer’s motion** to file a response either certifying that they served upon defendants and defendants received a completed PFS, and attaching appropriate documentation of receipt or an opposition to defendant’s motion.

On November 26, 2013, plaintiff Dylan Tays filed a response certifying compliance with CMO 12 and attaching a delivery receipt. The defendants have not responded or objected to plaintiff Dylan Tays’ representations.

To date, plaintiff Katie Warren has not filed a response.

**Accordingly, THE COURT ORDERS AS FOLLOWS:**

As to **plaintiff Dylan Tays**, the motion to dismiss is **DENIED**.

As to **plaintiff Katie Warren**, the motion to dismiss is **GRANTED**. **The claims of plaintiff Katie Warren are hereby dismissed without prejudice.**

**FURTHER**, The Court reminds **plaintiff Katie Warren** that, pursuant to CMO 12 Section E, **unless she serves the defendants with a COMPLETED PFS**

**or moves 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.**

**So Ordered:**

 Digitally signed by  
David R. Herndon  
Date: 2014.02.03  
18:02:12 -06'00'

**Chief Judge  
United States District Court**

**Date: February 3, 2014**