

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

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

This Document Relates To:

All Cases

**CASE MANAGEMENT ORDER NO. 64
Stipulations of Dismissal for Matters Settled Under the Gallbladder
Resolution Program**

This matter is before the Court for case management. On March 15, 2013, the Court adopted Case Management Order Number 60 ("CMO 60"), which established a settlement resolution program for plaintiffs alleging gallbladder disease and/or gallbladder related injuries resulting from the use of drospirenone-containing oral contraceptives manufactured by Bayer or manufactured or marketed by Barr/Teva (as defined in the Settlement Agreement (Doc. 2739-1)) ("Gallbladder Resolution Program"). The Gallbladder Resolution Program may result in the settlement of thousands of plaintiffs' claims at or around the same time. Under current case management procedures, the dismissal of cases settled under this program would entail filing thousands of stipulations of dismissal in the subject member actions' individual dockets. Such a procedure is not practical

or efficient and would almost certainly create an unacceptable backlog in this multidistrict litigation. Accordingly, the Court is electing to streamline the process for dismissing matters settled in accord with the Gallbladder Resolution Program. This order outlines the streamlined process being adopted by the Court.

I. INTRODUCTION

Considering the number of cases expected to settle at approximately the same time as a result of the Gallbladder Resolution Program, it is not feasible to have the parties file stipulations of dismissal in the individual member actions. Instead, the process of dismissing matters settled under the Gallbladder Resolution Program will be initiated when the defendants file documents entitled “Notice of Settlement” in the master docket.

Notice of Settlement Documents will identify large groups of cases and/or individual plaintiffs that have settled their claims in accord with the Gallbladder Resolution Program and will request that the Court dismiss the same in accord with the provisions of the Gallbladder Resolution Program. A total of two Notice of Settlement Documents may be filed by the defendants in the Master Docket once a month: (1) A single Notice of Settlement for settlements that will result in dismissal of the entire member action (the notice of dismissal will identify the subject member actions being dismissed) and/or (2) a single Notice of Settlement for settlements that will *not* result in dismissal of the entire case (the Notice of Settlement will identify the plaintiffs whose claims are being dismissed). The Notice of Settlement Documents shall also list the law firm who enrolled plaintiffs

into the Gallbladder Resolution Program and be sorted so that all plaintiffs named in cases represented by the same law firm will be grouped together. The Notice of Settlement Documents will be filed in waves of approximately 1000 “transactions” (defined below) per month.

Counsel for individual plaintiffs will be responsible for reviewing the docket for Notices of Settlement applicable to their clients. If there is an objection to the Notice of Settlement, the individual plaintiff’s attorney must file a Motion Objecting to the Notice of Settlement in the subject member action (not in the Master Docket) on or before the applicable deadline provided for in this order (see below). If no objection is lodged, the Court will proceed with dismissing the subject cases or plaintiffs and will enter judgment as is appropriate.

II. DEFINITIONS AND SPECIFIC PROCEDURAL REQUIREMENTS

1. Notice of Settlement: There will be two types of Notice of Settlement Documents: (1) A Notice of Settlement for settlements that will result in the subject member actions being closed by the Court¹ and (2) A Notice of Settlement for settlements that will *not* result in the subject member action being closed by the Court.

2. Master Docket Only: Notice of Settlement Documents shall be filed by the defendants in the Master Docket only.

¹ For instance, if the settlement dismisses all claims as to all parties in a single-plaintiff or multi-plaintiff member action, that settlement will result in the case being closed. In addition, if a settlement dismisses all claims against all defendants asserted by the only remaining plaintiffs in a multi-plaintiff member action (*i.e.* the claims of other plaintiffs were previously dismissed), the settlement will result in the case being closed.

3. Waves of Approximately 1000 Transactions Per Month: Notice of Settlement Documents shall be filed in waves of approximately 1000 transactions (as that term is defined herein) per month (not to exceed 1,100 transactions per month).

4. Each Wave May Consist of Two Filings: Each wave may consist of two separate filings: (1) A single Notice of Settlement for settlements that will result in the subject member actions being closed by the Court² and/or (2) A single Notice of Settlement for settlements that will *not* result in the subject member action being closed by the Court.

The purpose of categorizing the stipulations of dismissal in this manner is to allow the Court to quickly separate stipulations of dismissal that will result in the Court closing the subject member action and entering judgment from stipulations of dismissal that will *not* culminate in the Court closing the subject member action.

5. Notice of Settlement for Settlements Resulting in the Dismissal of an Entire Member Action:

a. Exhibit Identifying Dismissed Member Actions: The Notice of Settlement for settlements that will result in the subject member action being closed shall include an exhibit identifying the member actions subject to dismissal and the plaintiffs whose claims are being dismissed.

² For instance, if the settlement dismisses all claims as to all parties in a single-plaintiff or multi-plaintiff member action, that settlement will result in the case being closed. In addition, if a settlement dismisses all claims against all defendants asserted by the only remaining plaintiffs in a multi-plaintiff member action (*i.e.* the claims of other plaintiffs were previously dismissed), the settlement will result in the case being closed.

b. Format of Stipulation and Exhibit: The Notice of Settlement and exhibit identifying the dismissed member actions / plaintiffs shall be formatted in a manner reflecting the sample Notice of Settlement attached hereto as Exhibit A.³

c. Definition of Transaction: With regard to this Notice of Settlement, each dismissed member action shall count as one “transaction,” regardless of the number of plaintiffs or defendants in the subject member action.

6. Notice of Settlement for Settlements That Will Not Culminate Dismissing the Subject Member Action:

a. Exhibit Identifying Dismissed Plaintiffs: The Notice of Settlement for settlements that will *not* result in the subject member action being closed shall include an exhibit identifying the relevant member actions and the plaintiffs whose claims are subject to dismissal.

b. Format of Stipulation and Exhibit: The Notice of Settlement and exhibit identifying the involved member actions /dismissed plaintiffs shall be formatted in a manner reflecting the sample Notice of Settlement attached hereto as Exhibit B.⁴

c. Definition of Transaction: With regard to this Notice of Settlement, each identified plaintiff shall count as one “transaction.”

7. Purpose of 1000 Transaction Limit and Possible Revisions to the Stated Limit: Each wave of Notice of Settlement Documents is limited to

³ The sample stipulation of dismissal attached hereto as Exhibit A would amount to four “transactions.”

⁴ The sample stipulation of dismissal attached hereto as Exhibit B would amount to five “transactions.”

approximately 1000 transactions to allow the Court sufficient time to take the necessary steps to close the subject member actions and/or terminate the claims of the subject plaintiffs, enter judgment where appropriate, notify the Judicial Panel on Multidistrict Litigation as required under applicable rules, and any other related administrative action that must be taken by the Court. Should the Court determine that more than 1000 transactions can be completed in a month, it may increase the allowable number of transactions per wave of filings.

8. Time for Filing: Each wave of Notice of Settlement Documents shall be filed according to the following schedule. Filings are not required every month. These deadlines are applicable only if the parties choose to go forward with filing Notice of Settlement Documents during the identified time period.

- **August 2014**

- Notice of Settlement Documents shall be filed on or before August 22, 2014.
- Plaintiffs identified in the August 2014 Notice of Settlement Documents, who intend to object, must file a Motion Objecting to the Notice of Settlement on or before August 29, 2014.
- The Court will begin the process of closing cases, terminating plaintiffs, and entering judgment on September 2, 2014.

- **September 2014**

- Notice of Settlement Documents shall be filed on or before September 23, 2014.
- Plaintiffs identified in the September 2014 Notice of Settlement Documents, who intend to object, must file a Motion Objecting to the Notice of Settlement on or before September 30, 2014.
- The Court will begin the process of closing cases, terminating plaintiffs, and entering judgment on October 1, 2014.

- **October 2014**

- Notice of Settlement Documents shall be filed on or before October 24, 2014.
- Plaintiffs identified in the October 2014 Notice of Settlement Documents, who intend to object, must file a Motion Objecting to the Notice of Settlement on or before October 31, 2014.
- The Court will begin the process of closing cases, terminating plaintiffs, and entering judgment on November 3, 2014.

- **November 2014**
 - Notice of Settlement Documents shall be filed on or before November 21, 2014.
 - Plaintiffs identified in the November 2014 Notice of Settlement Documents, who intend to object, must file a Motion Objecting to the Notice of Settlement on or before November 28, 2014.
 - The Court will begin the process of closing cases, terminating plaintiffs, and entering judgment on December 1, 2014.

- **December 2014**
 - Notice of Settlement Documents shall be filed on or before December 23, 2014.
 - Plaintiffs identified in the December 2014 Notice of Settlement Documents, who intend to object, must file a Motion Objecting to the Notice of Settlement on or before December 30, 2014.
 - The Court will begin the process of closing cases, terminating plaintiffs, and entering judgment on January 2, 2015.

- **January 2015**
 - Notice of Settlement Documents shall be filed on or before January 23, 2015.
 - Plaintiffs identified in the January 2015 Notice of Settlement Documents, who intend to object, must file a Motion Objecting to the Notice of Settlement on or before January 30, 2015.
 - The Court will begin the process of closing cases, terminating plaintiffs, and entering judgment on February 2, 2015.

- **February 2015**
 - Notice of Settlement Documents shall be filed on or before February 20, 2015.
 - Plaintiffs identified in the February 2015 Notice of Settlement Documents, who intend to object, must file a Motion Objecting to the Notice of Settlement on or before February 27, 2015.

- The Court will begin the process of closing cases, terminating plaintiffs, and entering judgment on March 2, 2015.
- **March 2015**
 - Notice of Settlement Documents shall be filed on or before March 24, 2015.
 - Plaintiffs identified in the March 2015 Notice of Settlement Documents, who intend to object, must file a Motion Objecting to the Notice of Settlement on or before March 31, 2015.
 - The Court will begin the process of closing cases, terminating plaintiffs, and entering judgment on April 1, 2015.
- **April 2015**
 - Notice of Settlement Documents shall be filed on or before April 23, 2015.
 - Plaintiffs identified in the April 2015 Notice of Settlement Documents, who intend to object, must file a Motion Objecting to the Notice of Settlement on or before April 30, 2015.
 - The Court will begin the process of closing cases, terminating plaintiffs, and entering judgment on May 1, 2015.
- **May 2015**
 - Notice of Settlement Documents shall be filed on or before May 22, 2015.
 - Plaintiffs identified in the May 2015 Notice of Settlement Documents, who intend to object, must file a Motion Objecting to the Notice of Settlement on or before May 29, 2015.
 - The Court will begin the process of closing cases, terminating plaintiffs, and entering judgment on June 1, 2015.
- **June 2015**
 - Notice of Settlement Documents shall be filed on or before June 23, 2015.
 - Plaintiffs identified in the June 2015 Notice of Settlement Documents, who intend to object, must file a Motion Objecting to the Notice of Settlement on or before June 30, 2015.
 - The Court will begin the process of closing cases, terminating plaintiffs, and entering judgment on July 1, 2015.
- **July 2015**

- Notice of Settlement Documents shall be filed on or before July 24, 2015.
- Plaintiffs identified in the July 2015 Notice of Settlement Documents, who intend to object, must file a Motion Objecting to the Notice of Settlement on or before July 31, 2015.
- The Court will begin the process of closing cases, terminating plaintiffs, and entering judgment on August 3, 2015.

9. Reminder to PSC Regarding Service of this Order: Pursuant to Amended CMO 4, lead and liaison counsel are responsible for serving filings related to ALL CASES on all other attorneys and parties (Doc. 1163 ¶ 11). This Order relates to all cases. Accordingly, lead and liaison counsel are responsible for ensuring that this Order is served on all other attorneys and parties.

10. Responsibility for Checking the Master Docket for Notice of Settlement Documents: Individual plaintiffs' attorneys are expected to be familiar with the procedures and requirements set forth in this Order. **It is the responsibility of the individual plaintiffs' attorneys to review the Master Docket for any Notice of Settlement Documents applicable to his or her clients.**

11. Motion Objecting to Notice of Settlement: Any objection to a Notice of Settlement must be filed as a Motion Objecting to Notice of Settlement. The Motion Objecting to Notice of Settlement shall be filed in the subject member action and not in the Master Docket. The Motion Objecting to Notice of Settlement must be filed in accord with the deadlines provided herein. The defendants will

have 7 days to respond to any such motion (responses shall also be filed in the subject member action and not in the master docket).

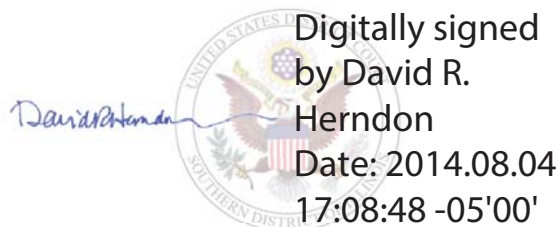
12. Communication With the Court: Lead and Liaison Counsel are encouraged to contact the law clerk responsible for MDL 2100 should any unique or unforeseen circumstances arise with regard to this process. The Court will work to address such circumstances on an as-needed basis and may amend this order as necessary to address any such circumstances.

13. Increase in Transactional Limit: If the Court determines that its staff is able to handle more than 1000 “transactions” per month, this order will be amended accordingly.

SO ORDERED.

Date: 8/4/2014

Digitally signed
by David R.
Herndon
Date: 2014.08.04
17:08:48 -05'00'



**Chief Judge
United States District Court**

**Exhibit A to CMO 64
(Stipulations of Dismissal for Matters Settled Under the
Gallbladder Resolution Program)**

**NOTICE OF SETTLEMENT
STIPULATION OF DISMISSAL WITH PREJUDICE OF SETTLED ACTIONS
Dismissed Member Actions**

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) and in accord with the procedures established by Case Management Order Number 64 (MDL 2100 Doc. []), the member actions listed in Exhibit 1 have been settled and the parties have stipulated to the dismissal with prejudice of all claims against all parties, including those parties who have not entered their appearance and/or signed the stipulation. Each party to bear its own attorneys' fees and costs.

DATED: August __, 2014

Respectfully submitted,

s/ Joseph P. Thomas (w/ consent)

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Counsel for Bayer Defendants

CERTIFICATE OF SERVICE

I hereby certify that on August __, 2014, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

s/ John E. Galvin

**Exhibit 1
Subject Member Actions**

	Case Caption	Case Number	Plaintiff Firm	Details
1.	<i>Knight et al v. Bayer Corporation et al</i>	3:10-cv-12903		Dismissing the Claims of all plaintiffs as to all Defendants
2.	<i>Hill v. Bayer Corporation et al</i>	3:09-cv-10001		Dismissing the Claims of all plaintiffs as to all Defendants
3.	<i>Spencer et al v. Bayer Corporation et al</i>	3:09-cv-10003		Dismissing the claims of Jane Smith and Jennifer Smith as to all Defendants. The claims of all other plaintiffs were previously dismissed. Accordingly, the case is ready to be closed
4.	<i>Franklin v. Bayer Corporation et al</i>	3:09-cv-10004		Dismissing the Claims of all plaintiffs as to all Defendants
5.				
6.				
7.				
8.				
9.				
10.				
11.				

**Exhibit B to CMO 64
(Stipulations of Dismissal for Matters Settled Under the
Gallbladder Resolution Program)**

**NOTICE OF SETTLEMENT
STIPULATION OF DISMISSAL WITH PREJUDICE OF SETTLED ACTIONS
Dismissed Plaintiffs**

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) and in accord with the procedures established by Case Management Order Number 64 (MDL 2100 Doc. []), the claims of the plaintiffs listed in Exhibit 1 have been settled and the parties have stipulated to the dismissal with prejudice of all claims against all defendants, including those defendants who have not entered their appearance and/or signed the stipulation. Each party to bear its own attorneys' fees and costs.

DATED: August __, 2014

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s/ John E. Galvin

Exhibit 1
Subject Member Actions

	Case Caption	Case Number	Plaintiff Firm	Dismissed Plaintiffs
	<i>Ashten Luayne Wolfe et al v. Bayer Corporation et al</i>	3:10-cv-20403		Laurie Russo Rori Baumy Kimberly Gronholz
	<i>Lopez et al v. Bayer Corporation et al</i>	3:10-cv-12941		Angelica Lopez Deidra Floyd