

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF ILLINOIS

3 _____) 3:09-md-02100-DRH-PMF
4 IN RE YASMIN AND YAZ)
5 (DROSPIRENONE) MARKETING,)
6 SALES PRACTICES AND PRODUCTS)
7 LIABILITY LITIGATION,)
8) MDL No. 2100
9)
10 _____)

8 TRANSCRIPT OF PROCEEDINGS
9 STATUS CONFERENCE
10 SEPTEMBER 29, 2014
11 BEFORE THE HONORABLE DAVID R. HERNDON
12 CHIEF UNITED STATES DISTRICT COURT JUDGE

11 **APPEARANCES:**

12 **For the Plaintiffs:** Mark R. Niemeyer, Michael A. London,
13 Michael Burg, Roger C. Denton, Seth A. Katz

14 **For the Defendant:** Kaspar Stoffelmayr, John Galvin, Susan
15 Weber, Prentiss Hallenbeck, Jr., Lisa Floro, Gary McConnell,

16
17 Court Reporter: Laura A. Esposito, RPR, CRR
18 U.S. District Court
19 750 Missouri Avenue
20 East St. Louis, IL 62201
21 (618) 482-9481

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24 Proceedings recorded by mechanical stenography;
25 transcript produced by computer.

1 **(Court convened)**

2 THE COURT: We've convened the monthly status
3 conference for the YAZ MDL 2100. Who will present for the
4 parties as we go through the agenda? Michael Burg and
5 Kaspar Stoffelmayr. Mr. Burg for the plaintiffs;
6 Mr. Stoffelmayr for the defendants.

7 First matter on the agenda is the gallbladder
8 issues. Mr. Von Saucken appeared after we finished our
9 in-chambers conference, so I'm going to ask Mr. Von Saucken
10 to step forward too. He had something to report.

11 MR. VON SAUCKEN: Good afternoon, Your Honor.

12 THE COURT: Good afternoon, Mr. Von Saucken. So
13 you were filling me in after the fact in chambers about some
14 of the numbers that -- where we stand on various lien
15 resolutions. Would you go ahead and enlighten us, please.

16 MR. VON SAUCKEN: Of course, Your Honor.

17 So following the August 2014 waterfall report, the
18 lien resolution administrator, Garretson Group, provides to
19 the Court and the settling parties the following report:

20 With respect to the first round of approvals, we
21 received the approval from defense on August 14th, 2014 that
22 included 1,410 of 7,205 claimants, approximately 20 percent
23 of the total claimant population. Of that group, 1,386 were
24 approved for payment. That's a little over 98 percent. And
25 of that 1,386, 977 were paid, which is just a little over

1 70 percent. So the first report is that over 70 percent of
2 the claimants in the first group were paid as part of the
3 YAZ gallbladder settlement program. We anticipate another
4 120 individuals will be paid by tomorrow.

5 We had about 406 claimants where we were still
6 receiving information from the 13 -- or actually 33 of the
7 firms, just trying to confirm their wire instructions, so
8 that puts us at a little over 79 percent as of
9 September 30th, once we make those 120 payments tomorrow.
10 This group, the 977 and the 120, are classified as the quick
11 pay lien resolution claimants, meaning there's no Medicare,
12 no Medicaid, and they were privately enrolled, and as a
13 result, the waiver applies. So that kind of takes us
14 through the first distribution, which we've reported to the
15 parties and the Court we would work in all speeds to try and
16 resolve by October 1st, and we're well on our way,
17 Your Honor.

18 With respect to Medicare, just recently we received
19 a written acknowledgment for the Medicare global resolution.
20 That means we anticipate that all Medicare liens will be
21 resolved by the end of December, by the end of 2014, if not
22 sooner.

23 With respect to Medicaid, two more states have been
24 added to the waiver list -- Kansas and Maryland -- so that
25 brings us to 17 states that have waived. With respect to

1 the states that haven't waived, the caps are still in place
2 but we just recently received entitlement reports from about
3 1,805 claimants.

4 If you go back to the August report, we were
5 looking at something close to 50 Medicaid, is -- 1,819
6 claimants that waived their interests or at least the states
7 that have waived interest on behalf of the claimants. We
8 had a total of 5,238 total number of claimants where we
9 addressing those issues with states that hadn't waived their
10 interests.

11 So when you add up those numbers, in addition to
12 some of the reports that we just received, which included
13 some additional information for 365 inbound claims for state
14 liens and 599 liens that have been approved, we'll be
15 something close to 50 percent done with Medicaid, and so we
16 anticipate that by the end of the first quarter of 2015 the
17 Medicaid will be resolved.

18 That leaves us with private. Following the August
19 report we had a little over a thousand liens to resolve in
20 private. At the time we've been able to resolve just about
21 118 of them. We've added another 113, so we're a little
22 over 200 liens that have been resolved on the private side.
23 We continue to work with the private lienholders,
24 understanding that their timeframes are not necessarily
25 within our control, but will continue to push forward.

1 On the other governmental, resolved another 26
2 tri-care liens, so we're well on our way to addressing that.
3 The report, Your Honor, is private's going to take the
4 longest; Medicare and Medicaid will be done, Medicare first
5 followed by Medicaid. We anticipate by the end of the
6 second quarter of 2015 that all private liens -- a majority
7 will also be resolved.

8 *THE COURT:* Have most of the private ones waived
9 at this point or --

10 *MR. VON SAUCKEN:* So these are the private ones,
11 Your Honor, that aren't part of the private lien resolution
12 program, so they have not waived. What we're asking for is
13 claims information. We generally audit those privates to
14 zero but we have to go through the process. Unfortunately,
15 the private lienholders are not as forthcoming with the
16 information as we would hope.

17 *THE COURT:* I see. Okay. Thank you very much.

18 *MR. VON SAUCKEN:* Thank you, Your Honor.

19 *THE COURT:* Mr. Burg.

20 *MR. BURG:* Your Honor, I mean this settlement has
21 been in place for some time. It's been funded -- quite
22 honestly, we think that Garretson ought to be putting more
23 people on this. I understand that they were somewhat
24 surprised with regard to Rollins not having actual clients
25 with regard to the representation made, but these are people

1 that have been waiting for a two or \$3,000 payment which has
2 been funded by Bayer, to wait another six months or a year
3 on that based on the -- you know, the representation of the
4 Garretson firm that they might be 50 percent done by June of
5 next year. I would hope that, from the plaintiffs'
6 standpoint, to make sure our clients get their money, that
7 Garretson would put more people on this and move this along
8 so that everybody gets their money within the next six
9 months. Thank you.

10 *THE COURT:* Mr. Von Saucken, any possibility that
11 Garretson can attribute more resources to this process?

12 *MR. VON SAUCKEN:* There is, Your Honor. We're
13 putting some more resources on it as we speak. I'm giving
14 you kind of the most conservative estimates, but, you know,
15 we certainly intend to be able to resolve them quicker if we
16 can, and we are putting some more resources to bear on this
17 project as well, Your Honor.

18 *THE COURT:* Hopefully Garretson will be able to put
19 as many resources on it as we can, so, as Mr. Burg said,
20 people that have been waiting a long time for a minimal
21 settlement can receive their compensation as soon as
22 possible.

23 So thank you, Mr. Von Saucken.

24 *MR. VON SAUCKEN:* You're welcome, Your Honor.

25 *THE COURT:* Anything else to report on the

1 gallbladder resolution item?

2 MR. BURG: Nothing from the plaintiffs.

3 MR. STOFFELMAYR: Nothing from the defense.

4 THE COURT: Update on VTE?

5 MR. BURG: There are still meetings being set. I
6 understand there are daily meetings for the next 30 days.
7 It is anticipated, I believe, that those meetings will take
8 place through the end of the year. I know we've made lots
9 of progress. We also understand, and I think the defendants
10 understand, that there may be cases of people who have
11 three, four, or five-year statute of limitations, that they
12 may still be out there, and there may be a small number of
13 cases, but I think we are making substantial progress, and
14 hopefully over the next few months we can inform the Court
15 that almost all the cases are resolved with regard to the
16 VTE.

17 Thank you.

18 MR. STOFFELMAYR: I just add, to bring the Court up
19 to the most recent current state of play, the most recent
20 numbers that I have is that we've settled now 900 -- I'm
21 sorry -- 9,185 VTE cases for in excess of \$1.8 billion. If
22 you put those together with the gallbladder cases, all told
23 we've settled over 18,000 cases.

24 THE COURT: Thanks, Mr. Stoffelmayr.

25 Discovery?

1 MR. BURG: Your Honor, there have been meetings
2 between the plaintiff lawyers and the defense lawyers. They
3 produced, I believe at this point in time, two-and-a-half
4 million pages of documents and it's continuing to be
5 produced. We're moving forward with regard to that
6 production.

7 MR. STOFFELMAYR: That's correct. In addition to
8 that, we've served updated interrogatory responses that are
9 quite extensive in the last week, and we have depositions
10 scheduled now for late October and early November of two
11 30(b)(6) witnesses, and the parties had a fairly extensive
12 discussion over the topics and either reached agreement or
13 came very, very close. I don't anticipate any significant
14 dispute over the subject matter of the depositions.

15 THE COURT: Excellent. Thank you.

16 So the ATE and PFO trial selection process?

17 MR. BURG: Your Honor, we are moving, together with
18 the defendants, to comply with the Court's order with regard
19 to the selection process. We've reviewed the cases, talked
20 to the defendants, and we're continuing to move that process
21 forward, and we hope to have that resolved and ready to go
22 by the next hearing date.

23 MR. STOFFELMAYR: Yeah. I think all sides as well
24 understand there may need to be some modifications to the
25 categories set out by the Court so the process works as

1 anticipated, and I think we'll take your guidance to make
2 changes where needed, not where not needed, and my hope is
3 we'll come back with a jointly proposed CMO.

4 *THE COURT:* Understood. And appreciate your
5 efforts in that regard.

6 So there was a Barr/Teva motion that was on the
7 agenda but it is rendered moot by the Court's action this
8 morning, so we won't deal with that.

9 The next conference for this YAZ MDL will be
10 October 24th. The Court status conference will be at
11 4:30 in the afternoon on October 24th.

12 Anything else, Mr. Burg?

13 *MR. BURG:* Nothing from the plaintiffs, Your Honor.

14 *THE COURT:* Anything else, Mr. Stoffelmayr?

15 *MR. STOFFELMAYR:* No, not from the defense. Thank
16 you.

17 *THE COURT:* Very well. We stand adjourned. Thank
18 you, folks.

19 *(Court adjourned)*

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REPORTER'S CERTIFICATE

I, Laura A. Esposito, RPR, CRR, CCR(MO), Official Court Reporter for the U.S. District Court, Southern District of Illinois, do hereby certify that I reported in shorthand the proceedings contained in the foregoing 9 pages, and that the same is a full, true, correct, and complete transcript from the record of proceedings in the above-entitled matter.

Dated this 8th day of October, 2014.

LAURA A. ESPOSITO, RPR, CRR, CCR