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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

ORTHO EVRA,) Docket No. 3:06-CV-40000
Plaintiffs,) Toledo, Ohio
v.) May 12, 2006
JOHNSON & JOHNSON,) Show Cause Hearing
Defendants.)

TRANSCRIPT OF SHOW CAUSE HEARING
BEFORE THE HONORABLE DAVID A. KATZ
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiffs:
Janet G. Abaray

For the Defendant: Robert Tucker
Julie A. Callsen
Susan M. Sharko

Court Reporter: Angela D. Nixon, RPR, CRR
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(419) 260-5259

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1 THE COURT: Matter now before The Court is a show
2 cause order issued on April 9 2009, document eight in the
3 case of Tawana Taylor versus Johnson & Johnson, et al. --
4 oh that one's dismissed. Well, we'll scratch that.

5 So the matter now before The Court is the case of
6 Natalie T. Vargas versus Ortho-McNeil Pharmaceutical, Inc.
7 et al, our case number 08oe40113. This matter is before
8 The Court on a show cause hearing -- for a show cause
9 hearing on a notice filed April 27th, 2009 document 15.
10 The plaintiff has failed to comply with the order requiring
11 a status report by April 24, 2009 advising of her counsel's
12 ability to proceed with the case. Counsel for the
13 plaintiff, Barry Siskin, S-I-S-K-I-N, is ordered to appear
14 in person before The Court, and to the best of The Court's
15 knowledge is not present at 12:11 on May 12, 2009.

16 MS. SHIRKO: Your Honor, would you like me to set
17 forth briefly the procedural history of the case?

18 THE COURT: Would you, please?

19 MS. SHIRKO: Yes, a complaint was filed by
20 Ms. Vargas -- on behalf of Ms. Vargas on August 23, 2007.
21 The case was transferred to the MDL. The plaintiff failed
22 to comply with case management order number four throughout
23 2007 and 2008, and therefore, we filed a motion to dismiss
24 or compel discovery returnable on February 6th, 2009. On
25 February 20, 2009 we received a plaintiff fact sheet and a

1 few authorizations, and we therefore, withdrew the motion.
2 The plaintiff fact sheet was deficient in a number of
3 material respects. We still have no medical records which
4 show that the plaintiff was using Ortho Evra, and her claim
5 in her fact sheet is that as a result of her alleged use of
6 Ortho Evra she suffered from an ovarian cyst which led to
7 the removal of her fallopian tube which is not a type of
8 claim we've ever seen in this litigation. Since February
9 we've been trying to get more specific information but to
10 no avail.

11 And then Your Honor, after the order compelling
12 the plaintiff's counsel to file the status report and to
13 comply with the deadlines, there was not a compliance with
14 that, and that's where we are.

15 THE COURT: Thank you, Ms. Sharko. I do note
16 under date of March 26th, a paralegal apparently in
17 Mr. Siskin's office advised that he was the attorney of
18 record. He's a sole practitioner and had been ill for the
19 entire month of March, unable to attend. But there has
20 been no response. And the order requested a response and
21 gave him a month-and-a-half to do so, and the order that
22 went out and was also on the Internet was to appear at this
23 show cause hearing today, May 12 at 12:00 p.m. Because no
24 explanation has been received as to why this case should
25 not be dismissed, The Court will order its dismissal, and

1 an order will be entered accordingly.

2 The next matter to come before The Court is the
3 case of Iris Y. Rivera versus Johnson & Johnson, et al.
4 Our case number 08oe40288, show cause issued was ordered --
5 was show cause order was issued on April 28, 2009 document
6 13 for appearance here today at noon. In a telephone
7 conversation, The Court granted James V. Sabatini of
8 Newington, New York the opportunity to appear by telephone,
9 and Mr. Sabatini is now on the telephone with us.

10 MR. SABATINI: Good afternoon, Your Honor.
11 Attorney James Sabatini.

12 THE COURT: Would you briefly state why you
13 believe the case should not be dismissed.

14 MR. SABATINI: Well, as I have explained in my
15 filings along with my affidavit that I attached to the
16 filings, the sole reason as to why the fact sheet and
17 medical authorizations have not been completed and signed
18 by plaintiff Riveria is because my office has been unable
19 to locate the whereabouts of the client. These efforts
20 have included the hiring of a private investigator who has
21 conducted two searches and has unfortunately been unable to
22 locate Ms. Riveria. I've had, in the past, clients who
23 have temporarily disappeared on me where I've also had to
24 retain a private investigator, but in all those prior
25 instances, the P.I. has been successful in locating the

1 individual. In this case, that unfortunately has not taken
2 place as of date. And I really am at a loss as to what
3 else I can do to try to find my client. And I'm also at a
4 loss as to why our investigation has been unable to locate
5 the client considering that we have, among other things,
6 her date of birth, Social Security number, prior
7 residential addresses. Typically that information is
8 sufficient for a private investigator to locate the client.
9 To be perfectly candid, I'm not optimistic that I will be
10 able to locate my client.

11 THE COURT: Well, let me -- let me interject the
12 following, I've reviewed your affidavit, and I have
13 reviewed your filing of yesterday where you delineate
14 chapter and verse the efforts you have undertaken to
15 attempt to find your client Ms. Riveria. I hold you
16 totally lacking in responsibility. You have not defaulted
17 in your obligations as counsel or as an attorney before
18 this court. However, I do not find any reason not to
19 dismiss the case in light of the -- of the inability of
20 Ms. Rivera to be contacted or to contact her counsel, and
21 therefore, respond to the -- the orders of this Court or
22 your request. And -- and unless I hear something
23 differently from defense counsel who are here in the
24 courtroom or from you, Mr. Sabatini, I feel I have no
25 alternative but to dismiss this case for want of

1 prosecution, with no responsibility being laid at the feet
2 of counsel. Hearing nothing --

3 MR. SABATINI: Your Honor, I have nothing else to
4 add.

5 THE COURT: Thank you. Hearing nothing, I will
6 dismiss this case for want of prosecution. And I
7 appreciate the steps you've taken in an effort to find your
8 client and to comply with the orders of The Court and the
9 fact that you are with us today by telephone.

10 MR. SABATINI: Your Honor, I appreciate the
11 comments. And let me also thank The Court for allowing me
12 to conduct this hearing via the telephone.

13 THE COURT: My pleasure. The next matter before
14 The Court is a show cause order issued on April 14,
15 document 18 in the case of Sabrina Lamar versus Johnson &
16 Johnson et al. Our case number 07oee40535. The show cause
17 issue was issued directly to Ms. Lamar at her address on
18 the docket. Her attorney, Brian Goldstein, was terminated
19 at her -- at his request by order of this court March nine,
20 2009. Ms. Lamar is not present in court pursuant to this
21 order, nor has any contact from her been received either by
22 telephone, mail or otherwise. This matter was filed in
23 2007, and I feel that unless I hear something from counsel
24 for the defendant since Ms. Lamar is not here, I have no
25 alternative but to dismiss this case for failure to comply

1 with the prior orders of this court, in particular for
2 failure to advise of her intention to file a case specific
3 expert report by May 1, 2009. She was granted on March 9,
4 2009, until April 13, 2009, to an obtain new counsel, and
5 we have had no response from the pro se plaintiff over that
6 two month period. Has any conduct -- contact been made
7 between the plaintiff and defense counsel?

8 MS. SHARKO: No, Your Honor.

9 THE COURT: And none having been made with The
10 Court, I'll order that this case be dismissed for failure
11 to comply with previous orders of this court.

12 The next case involves a show cause order filed
13 April 7, 2009, document 25 in the case of Wells versus
14 Johnson & Johnson et al., our case number 06oe40245. This
15 involves plaintiff Erica Robinson who has failed to comply
16 with this Court's order requiring a status report by
17 April 6th, 2009 advising of her intention to file a case
18 specific report by May 1, 2009. On February 18th, 2009 the
19 plaintiff was granted leave until March 31, 2009 to obtain
20 new counsel. To date, this court has not been advised of
21 any efforts nor of obtaining new counsel. The show cause
22 order commanded the plaintiff, Erica Robinson, to appear in
23 this Court by May 12 at noon. It now being 25 after the
24 hour and no appearance having been made by Ms. --
25 Ms. Robinson, I see no alternative to dismissing the case

1 for failure to comply with previous orders of this Court.
2 Have any other contacts been made by Ms. Robinson to
3 defense counsel?

4 MS. SHARKO: No, Your Honor. She has not, and
5 she has failed to comply with the last three orders entered
6 by The Court.

7 THE COURT: Court will thereby dismiss the case
8 of Erica Robinson which is contained within YaRhonda Wells'
9 case for failure to comply with previous orders of this
10 court.

11 MS. SHARKO: Thank you.

12 THE COURT: Thank you all.

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

s:/Angela D. Nixon

Angela D. Nixon, RPR, CRR

Date