

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF ILLINOIS

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

7 This Document Relates to:

8 ALL CASES

9 TRANSCRIPT OF PROCEEDINGS  
10 STATUS CONFERENCE  
APRIL 8, 2016  
11 BEFORE THE HONORABLE DAVID R. HERNDON  
UNITED STATES DISTRICT COURT JUDGE

12 APPEARANCES:

13 For the Plaintiffs: Roger Denton; Mark Niemeyer;  
Michael London

14 For the Defendants: Kaspar Stoffelmayr; Michael Suffern;  
15 Jonathan Galvin

16 Special Master: Randi Ellis

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20 Court Reporter:

21 Laura A. Esposito, RPR, CCR  
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24 Proceedings recorded by mechanical stenography;  
25 transcript produced by computer.

1           *(Court convened)*

2           *THE COURT:* Let's get the status conference for the  
3 YAZ MDL-2100 started. We're proud to get it started on  
4 time. So we've got everybody ready to go here.

5           *MR. DENTON:* I believe so, Your Honor.

6           *THE COURT:* So Roger Denton and Kaspar Stoffelmayr  
7 at the podium to present for both sides. Got a fairly long  
8 agenda, though I don't think it will take long.

9           Gentlemen, want to report on the first item of  
10 business?

11          *MR. DENTON:* Sure, Your Honor. Roger Denton.

12          First item of business is the ATE Master Settlement  
13 Agreement report. The walk-away right is February 5th --  
14 excuse me, May 5th, and assuming that that goes forward, the  
15 funding day for the ATE would be May 26th. And if those  
16 deadlines stay in place, then Phase I payments would be  
17 eligible to be made around June 19th, which is a Sunday, so  
18 it would be the week of June 20th.

19          *THE COURT:* Very good. And I(B) then, claims  
20 administration?

21          *MR. DENTON:* Yes.

22          The Brown Greer claims administrator reported to  
23 Your Honor in chambers and to the parties. Their work is  
24 essentially finished. As to the Phase II, our Special  
25 Master, Ms. Ellis, has reported that she's working through

1 those. There's about 424 Phase II evaluations and she's  
2 predicted that she'll be done with that by the June 19th  
3 date as well, so everything appears to be on schedule with  
4 the ATE settlement program, and it's moving forward subject  
5 to Bayer's final decision on May 5th.

6 *THE COURT:* Very good. And then last, the -- on  
7 that first subject, the PSC's submitted a USF order which is  
8 without dispute, and will sign that after this hearing, and  
9 that should be docketed this morning.

10 *MR. DENTON:* Thank you, Your Honor.

11 That would be the report -- well, I don't want to  
12 talk for Mr. Stoffelmayr.

13 *MR. STOFFELMAYR:* Nothing to add. Thank you.

14 *THE COURT:* Anything to add on any of the other  
15 aspects of agenda item one, Mr. Stoffelmayr?

16 *MR. STOFFELMAYR:* No, nothing. Thank you,  
17 Your Honor.

18 *THE COURT:* Thanks.

19 So then the second agenda item has to do with the  
20 remaining VTE cases. Mr. Stoffelmayr, are you going to  
21 report on this one?

22 *MR. STOFFELMAYR:* Sure. Thank you, Your Honor.

23 All tolled, there are roughly 180 VTE cases still  
24 being negotiated. 109 of those are in the MDL. We continue  
25 to make good progress on those. Those are virtually all

1 cases where we've made a settlement offer. We're waiting to  
2 hear back. As we've said before, there will be maybe a  
3 handful of cases where we will ask the Court to assist us,  
4 but for the most part that number, 109, is not a small  
5 number. There's no reason to think, once people focus on  
6 those cases, things won't fall into place.

7 *THE COURT:* Well, the rate so far has been very  
8 good, quite impressive, and I appreciate everybody's work.  
9 So we'll help where we can.

10 Mr. Denton, anything else on Item No. 2?

11 *MR. DENTON:* No, Your Honor. Thank you.

12 *THE COURT:* Item three, there's a CMO I know  
13 everybody's been working hard on, trying to work out the  
14 language. I think there's just one aspect of that that  
15 could not be agreed upon and so each side's going to submit  
16 letter briefs within a week on that for me to resolve that  
17 issue. Have I pretty well sized that up?

18 *MR. STOFFELMAYR:* That's correct, Your Honor.  
19 Thank you.

20 *MR. DENTON:* Yes.

21 *THE COURT:* Anything else on that?

22 *MR. STOFFELMAYR:* No, Your Honor.

23 *THE COURT:* All right. So Item No. 4. This is  
24 kind of setting the stage for something down the line a  
25 little bit, but not too distant future, sometime in 2006.

1 Mr. Denton, is this your issue?

2 MR. DENTON: Yes, Your Honor. The leadership for  
3 the PSC has just kind of put down a reminder or a footnote  
4 here, or "placeholder" I should say, that we think that this  
5 court's MDL activities should be winding down soon. We hope  
6 the remaining VTE cases, as Mr. Stoffelmayr mentioned, will  
7 get resolved. We believe the ATE settlement program will be  
8 wrapped up, hopefully paid out by late summer, depending on  
9 some lien issues that will have to get resolved.

10 It's our view that this Court's role as the MDL  
11 judge -- at least the PSC and the leadership are going to  
12 propose sometime late summer, maybe early fall, that we  
13 should be able to wrap this MDL up.

14 THE COURT: Mr. Stoffelmayr, anything else on that?

15 MR. STOFFELMAYR: Nothing to add on that. Thank  
16 you.

17 THE COURT: So, Mr. Denton, then there are some  
18 issues with certain of the Gianvi cases. Mr. Suffern is in  
19 the courtroom as well if he needs to comment any further,  
20 but perhaps you could just summarize briefly what we have  
21 that needs to be resolved in these Gianvi cases.

22 MR. DENTON: I can announce, I believe that there  
23 was an issue about certain Gianvi cases. There was some  
24 delay in resolution. As I understand it, that Bayer and  
25 Barr Teva have been able to work that out so those cases

1 will move forward to resolution. Maybe you should --

2           *MR. STOFFELMAYR:* Yeah. What I would say is, there  
3 are some issues between the defendants involving  
4 indemnification obligations, and we've reached an  
5 accommodation that allows us to get those cases resolved  
6 without needing to work out every issue between the  
7 defendants, but to get those cases resolved promptly and  
8 defer for later further discussions between the defendants.

9           *THE COURT:* Thanks, Mr. Stoffelmayr.

10           *MR. DENTON:* And so there's progress there, Judge.  
11 And then there's a small number of cases -- and I think it's  
12 probably less than ten -- where there may be some -- there  
13 are some factual disputes based in pharmacy records as to  
14 whether a particular Gianvi prescription was under the Bayer  
15 MDC code, under the Barr Teva NDC code. There was  
16 discussion in chambers on that and I think that we may have  
17 somewhat of a disagreement on how we proceed. And we're  
18 going to work with Mr. Suffern on how to go forward with  
19 working out any disputes of fact as it relates to those  
20 cases.

21           *MR. SUFFERN:* Thank you, Your Honor.

22           The only thing I would add, Your Honor, is that the  
23 dispute centers around plaintiffs' belief that certain  
24 Gianvi is AG, the authorized generic Gianvi authorized by  
25 Bayer at a time before Gianvi was ever available to the

1 public for consumption. It's clear to us that it's an error  
2 in the pharmacy records but we certainly will work with  
3 plaintiffs' counsel to the best of our ability to present  
4 what information we have to verify that it is an error, but  
5 I just wanted to be clear that it's -- the plaintiffs are  
6 claiming that it is Bayer's product, not Barr Teva's  
7 product, and it's our -- and we believe that we have access  
8 to data that can help to demonstrate that the product at  
9 issue must have been a Barr Teva product and not a Bayer  
10 product, and we'll do our best to demonstrate that.

11 *THE COURT:* Okay. So the way we left that was that  
12 the parties are going to work together to try to determine  
13 and assess the facts to the extent that some discovery may  
14 be needed, and so be it, but we're going to try to resolve  
15 those issues and come to resolution.

16 Anything else on that issue, gentlemen?

17 *MR. STOFFELMAYR:* Not from our end.

18 *MR. DENTON:* No, Your Honor. Thank you.

19 *THE COURT:* The last issue on the -- well, next to  
20 the last issue, but last substantive issue, is the  
21 gallbladder resolution program.

22 *MR. DENTON:* Your Honor, the Garretson Group again  
23 reported to us that they've made some more progress on these  
24 liens and have -- and believe, at least from the liens that  
25 they are handling, that they will have all of those

1 resolved -- most of them resolved by the end of June. I  
2 think there's one that might be into July 2016. So their  
3 work is wrapping up and we appreciate their efforts.

4 I do want to flag, for those who may be listening,  
5 there are, I believe, 13 law firms who have been negotiating  
6 liens on their own; in other words, not with the lien  
7 resolution program with the Garretson Group, and there's  
8 about 103 cases where those liens, as we understand it,  
9 remain unresolved. And I just want to point out to those  
10 firms that they need to get that work done, and if not, I  
11 think the Court may suggest some other activity to get those  
12 done so their clients can be paid.

13 *THE COURT:* I'm not going to be as tactful as  
14 Mr. Denton. What you're going to get is a show cause order.  
15 You're either going to have those liens resolved by a date  
16 certain or you're going to be called upon by the Court to  
17 appear personally in court to show cause why you've not  
18 resolved those liens in accord with the settlement program.  
19 So either resolve those liens or we'll see you here in  
20 East St. Louis.

21 So this has just gone on too long and the lien  
22 administrator, the Garretson Group, has been quite  
23 successful, far more successful than these individual firms,  
24 so you can either get on the stick and resolve those liens  
25 or we'll see you here in East St. Louis.



1           Mr. Denton, Mr. Stoffelmayr, anything else before I  
2 cover that last agenda item?

3           MR. DENTON: No, Your Honor. I think we're  
4 finished, both of us, for this agenda today.

5           MR. STOFFELMAYR: That's correct. Thank you.

6           THE COURT: All right. So the next conference --  
7 only agenda item is next conference date, and the parties  
8 have resolved to only meet or have another conference if one  
9 is required, so that will be announced if needed.

10           So if there's nothing else, we stand adjourned. I  
11 appreciate everybody's work. Thanks, folks.

12           *(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 25th day of April, 2016.

 Digitally signed by Laura Esposito  
Date: 2016.04.27 15:08:10 -05'00'

LAURA A. ESPOSITO, RPR, CRR, CCR