FILED

SEP 12 2019

RACHELLE L. HARZ
J.S.C.

IN RE:	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISON: BERGEN COUNTY
MIRENA IUD PRODUCTS LIABILITY LITIGATION	:	
	:	CASE NO. 297
This Document Relates to All Actions	:	CIVIL ACTION

CASE MANAGEMENT ORDER NO. 62

Procedure for Remaining Plaintiffs

The Parties have advised the Court that they have entered into a Confidential Master Settlement Agreement ("MSA"). Although the terms of the settlement are confidential, the MSA seeks to include all plaintiffs, including derivative claimants, who have asserted claims against one or more of the following Defendants: Bayer HealthCare Pharmaceuticals Inc., Bayer Oy and Bayer Pharma AG ("Bayer Defendants"), including those claims asserted in *In Re: Mirena Litigation,* Multi-County Litigation Case No. 297 pending in the Bergen County Law Division of the Superior Court of New Jersey ("MCL"). The deadline to participate in the MSA expired on June 29, 2018. On that date, any participating Plaintiff was required to submit a dismissal with prejudice and a notarized release (collectively the "Settlement Materials"). Plaintiffs seeking to participate in the MSA who failed to submit Settlement Materials or who submitted deficient Settlement Materials were subject to dismissal from this MCL by Order of this Court.

Additionally, pursuant to this Court's Case Management Order No. 54, any plaintiffs in this MCL who declined to participate in the MSA were required to submit expert reports by September 27, 2018.

Since that date, the Court has entered several Case Management Orders setting forth the procedures for dealing with Plaintiffs who were previously identified as either non-responsive or as having failed to cure certain deficiencies in their Settlement Materials, and otherwise. The purpose of this CMO No. 62 is to set forth the procedure for dealing with those remaining Plaintiffs in this MCL who have declined to participate in the MSA or who have failed to cure deficiencies in their Settlement Materials in accordance with this Court's prior Orders.

The following Plaintiffs refused to agree to the MSA and, as of this date, are proceeding *pro* se ("Category 1 Plaintiffs"):

Plaintiff	Docket Number
Kimberly Kristin	BER-L-8086-14
Tyanna Dodson	BER-L-4752-13
Jayme Eisenhauer	BER-L-19394-14

None of the Category 1 Plaintiffs submitted expert reports in accordance with this Court's CMO No. 54 or otherwise.

Additionally, the following Plaintiff has, as of this date, failed to cure deficiencies in her Settlement Materials ("Category 2 Plaintiff"):

Plaintiff	Docket Number
Briana Gonzales	BER-L-1905-14

Category 2 Plaintiff has failed to cure the deficiencies in her Settlement Materials as previously provided for by the Orders of this Court.

This Case Management Order sets forth the conditions under which the Court will dismiss the cases of those Category 1 Plaintiffs and/or the Category 2 Plaintiff who fail(s) to respond to this Order:

1. To promote the efficient resolution of this litigation, within twenty-one (21) days of entry of this CMO, each Category 1 Plaintiff must file a completed Notice of Intent to Proceed (in a form substantially similar to that attached as Exhibit A to this CMO) with the Court and serve a copy of same on Plaintiffs' liaison counsel. The Notice of Intent to Proceed must be signed by the individual plaintiff and shall unambiguously state that the Category 1 Plaintiff wishes to continue to prosecute his or her claims in this MCL.
2. Within twenty-one (21) days of entry of this CMO, the Category 2 Plaintiff must submit a signed and notarized Release (Exhibit B to this CMO) with a signed Stipulation of Dismissal (Exhibit C to this CMO) that is free of any and all deficiencies to the settlement's enrollment email addresses of Mirena_Release@shb.com and mirena@motleyrice.com, and must also submit a Claim Form (attached hereto as Exhibit "D" to each individual firm's ShareFile Account), also within twenty-one (21) days of this CMO.
3. The Court will convene a hearing at 11:00 a.m. on October 1, 2019. On that date and at that time, any Category 1 or Category 2 Plaintiff, as defined herein, who wishes to continue to prosecute his or her claims, in addition to submitting the required documentation as set forth herein, must appear before this Court, located **10 Main Street, Hackensack, courtroom 395, located in the rotunda**, and show cause as to why the Court should not dismiss his or her claims, with prejudice. On that date, the Court will dismiss the claims of any Category 1 or Category 2 Plaintiff who fails to comply with this CMO in any regard, with prejudice.
4. On the date of the aforementioned hearing, October 1, 2019, the Court will set a schedule for dispositive motions for any Category 1 Plaintiff who either files and serves a Notice of Intent to Proceed as described herein or who appears in Court on

that date and shows cause to the satisfaction of this Court as to why their claims should not be dismissed.

DATED: Sept 12, 2019

Rachelle L. Harz

The Honorable Rachelle L. Harz, J.S.C.

EXHIBIT A

[ADD APPROPRIATE CASE CAPTION]

NOTICE OF INTENT TO PROCEED

[Insert name of plaintiff(s)] hereby notifies the Court of [his/her] intent to:

_____ Participate in the Confidential Master Settlement Agreement;

_____ Not Participate in the Confidential Master Settlement Agreement, but authorize my counsel to submit a Stipulation of Dismissal, with prejudice, on my behalf; or,

_____ Litigate his/her claims against the Bayer Defendant(s).

Dated: _____

_____

[Signature of plaintiff]

EXHIBIT B

[Counsel]
[Firm]
[Address]
[Tel.]

Attorneys for Plaintiff

CAPTION	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: BERGEN COUNTY IN RE MIRENA IUD PRODUCTS LIABILITY LITIGATION CASE NO. 297

STIPULATION FOR VOLUNTARY DISMISSAL PURSUANT TO RULE 4:37-1(a)

This matter having been amicably resolved by and among the parties, it is hereby stipulated and agreed that the above-captioned action may be, and is hereby is, dismissed, with prejudice against all Defendants and without costs as to any party. The Complaint and all claims therein are being dismissed with prejudice pursuant to Rule 4:37-1(a).

PLAINTIFFS	DEFENDANTS
[Counsel] [Firm] [Address] [Tel.]	[Counsel] [Firm] [Address] [Tel.]

EXHIBIT C

EXHIBIT D

MIRENA IUD SETTLEMENT PROGRAM CLAIM FORM

INSTRUCTIONS FOR ATTORNEYS

Claims packages, including a completed copy of this Claim Form, are to be uploaded by claimant's counsel to the firm ShareFile folder and submitted following these guidelines:

File format: Searchable pdf (Submission of non-searchable files will delay the review process)

File name: *lawfirm.claimantlastname.claimantfirstinitial.pdf*

Example: motleyrice.smithJ.pdf

No more than twenty-five (25) pages may be submitted in addition to this Claim Form. Acceptable proof of Mirena IUD use requires documentary evidence of Mirena IUD insertion and a perforation/non-perforation injury that is documented in a medical record. Only the insertion record, injury diagnosis, and removal record shall be included.

Failing to submit a completed claims package and/or submitting insufficient records to clearly identify elements necessary for eligibility will result in a claimant being assigned a lower injury category. Claimants who are incorrectly categorized as a result of incomplete or insufficient records will be required to appeal to Judge Corodemus for review, resulting in a cost for the time necessary for Judge Corodemus to review the appeal.

I. CLAIMANT INFORMATION (MIRENA PRODUCT USER)

Claimant Name	Last	First	Middle
Alternate Name(s)	Last	First	Middle
Social Security Number (SSN) XXX-XX-XXXX		Date of Birth MM/DD/YYYY	/ /
Address	Street	City, State	Zip code

II. PRIMARY COUNSEL INFORMATION

Firm Name	Attorney Name	Street Address / Suite	City, State Zip
E-mail for settlement information	Secondary email for settlement information		Phone

III. CASE INFORMATION

Case Status: ☐ Filed ☐ Unfiled		Current Case Number	
Date Case Filed MM/DD/YYYY	/ /	Current Court/ Jurisdiction	

IV. INSERTION INFORMATION

Date Mirena Inserted* MM/DD/YYYY	/ /	*If there are additional insertion dates, please provide	/ / / /

Ex. 1: To be correctly categorized, a complete medical record created at or about the time of the Mirena insertion must be included with this Claim Form and clearly labeled in the upper right-hand corner of the record as Ex. 1.

V. INJURY INFORMATION

Injury (Check One)	☐ Perforation ☐ Embedment ☐ Other: Please describe ☐ None

Ex. 2: To be correctly categorized, a complete medical record created at or about the time of the injury checked above must be included with this Claim Form and clearly labeled in the upper right-hand corner of the record as Ex. 2.

Was the Mirena Removed? ☐ Yes ☐ No

If the Mirena IUD was NOT removed, and no documented medical reason explains why the Mirena IUD was not removed, Claimant must leave the rest of this section and Section VI. blank and skip down to Section VII. below.

Date of Mirena Removal** MM/DD/YYYY	/ /	State where removal of Mirena occurred	

How was Mirena Removed? (Check One or Leave Blank	☐ Open surgical removal (laparotomy) ☐ Laparoscopic surgical removal ☐ Hysteroscopic removal ☐ Other: Please describe ☐ Mirena was not removed due to documented medical reason**

** If the Mirena was not removed due to a documented medical reason, please provide medical reason/ explanation	

Ex. 3: To be correctly categorized, a complete medical record created at or about the time of the removal surgery must be included with this Claim Form and clearly labeled in the upper right-hand corner of the record as Ex. 3.

** If the Mirena was not removed due to a medical reason, to be correctly categorized, a complete medical record created at or about the time clearly stating that the Mirena could not be removed due to medical reasons must be included with this Claim Form and clearly labeled in the upper right-hand corner of the record as Ex. 3.

VI. EXTRAORDINARY INJURY FUND INFORMATION

Claimant is making an EIF claim ☐ Yes ☐ No

EIF Claims are Being Made For (Check All That Apply)	☐ A hysterectomy ☐ A hospital stay in excess of 7 days ☐ Medical expenses in excess of $100,000.00

EIF: An additional 10 pages of supporting documentation may be submitted for each EIF claim made. To be eligible for EIF categorization, complete records created at or about the time of the EIF injury being claimed must be included with this Claim Form and clearly labeled in the upper right-hand corner of the record as EIF.

VII. CLAIMANT'S CERTIFICATION REGARDING BANKRUPTCY	
Claimant certifies that she	☐ IS a party in a bankruptcy action either currently pending or which was pending at the time of the removal of her Mirena IUD in which she is seeking/ sought bankruptcy protection. ☐ IS NOT a party in a bankruptcy action either currently pending or which was pending at the time of the removal of her Mirena IUD in which she is seeking/ sought bankruptcy protection.

VIII. ATTORNEY'S DECLARATION AND SIGNATURE			
I declare under penalty of perjury subject to 28 U.S.C. § 1746 that all of the information provided in this Claim Form is true and correct to the best of my knowledge, information, and belief.			
Attorney's Signature		Date	/ /
Attorney's Printed Name		Firm Name	