

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

MIRENA IUD PRODUCTS LIABILITY LITIGATION

This Document Relates To All Actions
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ORDER No. 22A
(Statute of Limitations)
13-MD-2434 (CS)
13-MC-2434 (CS)

Seibel, J.

Order No. 22 (13-MD-2434, Doc. 1477; 13-MC-2434, Doc. 80), is hereby vacated and replaced by this Order.

Having issued an opinion on July 2, 2014 in *Truitt v. Bayer* (13-CV-7811, Doc. 50; 13-MD-2434, Doc 1203; 13-MC-2434, Doc. 75) (the “*Truitt Order*”), the Court enters the following Order regarding the potential applicability of that opinion to other actions in this MDL.

1. If Defendants wish to seek dismissal of a case pursuant to the *Truitt Order*, Defendants shall file via ECF¹ and serve on the relevant Plaintiff’s counsel by email a letter of no more than three pages referring to this Order and briefly stating why that Plaintiff’s case should be dismissed consistent with the *Truitt Order*.

2. Each Plaintiff whose counsel receives such a letter shall have thirty days to respond by either:

- a. filing a notice of voluntary dismissal with prejudice pursuant to Rule 41(a) of the Federal Rules of Civil Procedure. Any voluntary dismissal filed within thirty days of receiving such a letter shall note that each side will bear its own costs and

¹ All letters sent pursuant to this Order shall be filed in both the 13-MD-2434 docket and the member case docket. For instance, if Defendants filed such a letter in Ms. Truitt’s case, they would file the letter in 13-MD-2434 and 13-CV-7811. Consistent with my Individual Rules of Practice, PDFs of such letters shall also be emailed to chambersnysdseibel@nysd.uscourts.gov.

attorney's fees; OR

b. filing a letter with the Court of no more than three pages showing cause as to why her claim should not be dismissed by setting forth the specific facts and/or law that distinguish her case from the *Truitt* Order's holding. If Plaintiff wishes to file an amended complaint, she shall so state in her letter and explain what additional facts she would plead to distinguish her case from the reasoning set forth in the *Truitt* Order. Defendants shall file a reply letter of no more than three pages within thirty days. The Court will, applying the standard of review articulated in the *Truitt* Order, then determine whether (1) dismissal is either appropriate or inappropriate on the basis of the letters alone or (2) a decision can be made only after additional briefing, in which case the Court will set a briefing schedule.

3. Defendants may submit a proposed Order of dismissal with prejudice for any Plaintiff(s) who does not take action under paragraph 2 within thirty days of being served with a letter under paragraph 1.

SO ORDERED.

Dated: August 7, 2014
White Plains, New York



CATHY SEIBEL, U.S.D.J