

## [August 2010 Status Update For The Yaz / Yasmin / Ocella Federal Court MDL Litigation](#)

### **More Than 2600 Lawsuits Have Been Filed To Date; First Trial May Be As Soon As September 2011**

(Posted by Tom Lamb at [www.DrugInjuryWatch.com](http://www.DrugInjuryWatch.com) on August 12, 2010; see <http://bit.ly/aHFpYB>)

On August 11, 2010 Judge David R. Herndon held a Status Conference for [the Yaz / Yasmin / Ocella federal court multi-district litigation \(MDL\) -- IN RE YASMIN AND YAZ \(DROSPIRENONE\) MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION, MDL No. 2100](#).

Quickly, before we get to some of the significant developments that were discussed at this August 2010 Status Conference, we want to report that the official web site for the Yaz / Yasmin / Ocella federal court MDL litigation shows 2621 lawsuits have been filed as of August 12, 2010. This is more than double [the number \(1100\) of cases that Bayer said previously had been filed as of mid-February 2010](#).

Please note this new case number does not include any of the lawsuits that have been filed in [the New Jersey state court "mass tort" consolidation for Yaz / Yasmin / Ocella personal injury and wrongful death cases](#) (426 cases as of August 12, 2010) nor the lawsuits that have been filed in the Pennsylvania state court system. As background, NJ and PA are the two primary "alternative" jurisdictions for this particular drug injury litigation.

As for some of the more interesting points discussed at the August 2010 federal court Yaz / Yasmin / Ocella MDL Status Conference:

- The Plaintiffs Steering Committee has served additional sets of discovery on a number of topics, including requests for additional information concerning Angeliq and Natazia, which are two other birth control pills made by Bayer. Angeliq contains the progestin drospirenone (DRSP) which is found also in the Yaz, Yasmin, Ocella, and Gianvi oral contraceptives. Natazia does not contain drospirenone, but has a different progestin called dienogest;
- An attorney for the drug company Defendants told Judge Herndon that over 30 million pages of materials plus a variety of other discovery responses have been provided to the Plaintiffs attorneys to date; and,
- The lawyers representing the Plaintiffs and the Defendants seemed to agree that this litigation is progressing such that the first Yaz / Yasmin / Ocella trial in the federal court MDL could start in September 2011. For the differences between the parties on the first MDL trials, we provide this excerpt from [the official MINUTES OF STATUS CONFERENCE](#):

Regarding trial scheduling... [the plaintiffs] proposed to defendants a schedule that would get things done and setting trials by next September. They agreed on general timing and how cases will be selected but from plaintiffs' perspective, plaintiffs should be able to pick cases to present to juries. Counsel to discuss this and their goal is to have a program in place where depositions will take place and experts disclosed to shoot for early trial in September 2011. [The drug company attorney] agrees cases need to proceed but disagree in the process. They believe in Bellwether type of process where defendants should also have input on what cases are tried.... They will address this further at the next conference [which is scheduled for September 16, 2010].

Concerning the reference to "Bellwether type of process" in the excerpt above, to start (as some of you may already know), the word "bellwether" is a noun meaning "a male sheep that leads the flock; it normally wears a bell."

To give you some understanding about the significance of these early trials in large drug injury product liability mass tort cases like this Yaz / Yasmin / Ocella MDL litigation, here are some comments and observations from a defense lawyer who was writing a couple of years back about bellwether cases, generally:

"On the one hand, a bellwether trial in an MDL (or statewide coordinated) proceeding isn't very informative. Trying one or two cases out of a collection of hundreds, or thousands, certainly doesn't give any statistical information about the value of the cases. The one or two cases are not a statistically significant cross-section of the mass of litigation.

"Moreover, the many pending cases (at least in the product liability field) probably differ from each other in ways that make their settlement values vary. Trying one case may not say much about the value of the next. And the performances of witnesses, trial counsel, and judges, and the make-up of juries, will vary across trials, too, so a few early trial results aren't particularly meaningful.

"On the other hand.... bellwether trials do provide some information. They force plaintiffs' counsel to do the work needed to prepare their standard trial package, and the early trials give some sense of how sound that package is. The bellwether trials force the court to resolve legal questions that arise only as a trial actually approaches and witnesses begin to take the stand. And the bellwether trials test the expert witnesses and give both parties a sense of how much it costs to try a case."

Of course, we will continue to monitor the Yaz / Yasmin / Ocella litigation -- not only the federal court MDL but also the New Jersey "mass tort" consolidation and the lawsuits that have been filed in the Pennsylvania state court system -- for significant developments, which we will report here on our Drug Injury Watch blog.

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Attorney [Tom Lamb](#) represents people in personal injury and wrongful death cases involving unsafe prescription drugs or medication errors. The above article was posted originally on his blog, **Drug Injury Watch** – with live links and readers' Comments.  
<http://www.DrugInjuryWatch.com>