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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: TAXOTERE
(DOCETAXEL) PRODUCTS
LIABILITY LITIGATION

CIVIL ACTION NO. 16-MD-2740 "H"
NEW ORLEANS, LOUISIANA
THURSDAY, AUGUST 15, 2019, 2:00 P.M.

THIS DOCUMENT RELATES TO:
ALL CASES

TRANSCRIPT OF RULE TO SHOW CAUSE PROCEEDINGS
HEARD BEFORE THE HONORABLE JANE TRICHE MILAZZO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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10 ALSO PRESENT
11 VIA TELEPHONE:

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JENNIFER NOLTE, ESQ.
GORDON KESSLER, ESQ.
TREVOR ROCKSTAD, ESQ.
LISA JOYCE, ESQ.
KLYE BENKIE, ESQ.

12

13

14

15

BILL BARFIELD, ESQ.
STEPHANIE RADOS, ESQ.
LYNN SIETHEL, ESQ.
JENNIFER DOMMER, ESQ.
BRADLEY MORRIS, ESQ.

16

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RYAN BROWNE, ESQ.
RICK ROOT, ESQ.
MICHAEL KRUSE, ESQ.
STEVEN DAVIS, ESQ.
MELANIE SULKIN, ESQ.

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AMY GABRIEL, ESQ.
LESLIE LAMACCHIA, ESQ.
CHARLOTTE GULEWICS, ESQ.
TAREK ABASSI, ESQ.
STEVE ROTH, ESQ.

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1 APPEARANCES CONTINUED:

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STEVE ROTH, ESQ.
DONALD GREEN, ESQ.
JOHN FOLEY, ESQ.
RYAN PERDUE, ESQ.

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PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY. TRANSCRIPT
PRODUCED BY COMPUTER-AIDED TRANSCRIPTION.

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P-R-O-C-E-E-D-I-N-G-S

THURSDAY, AUGUST 15, 2019

A F T E R N O O N S E S S I O N

(COURT CALLED TO ORDER)

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7 THE DEPUTY CLERK: All rise.

8 THE COURT: Let me just double check before we get
9 started. So my first noncompliance dismissal list. That's
10 where the parties have voluntarily dismissed. I just want to
11 make sure I'm understanding it because every time I'm confused.

12 MS. BARRIOS: I'm going to let Kate answer that
13 question because she's put that together.

14 MR. INSOGNA: The shorter list, Your Honor, with 17
15 entries?

16 THE COURT: Yes.

17 MR. INSOGNA: Yes, voluntarily dismissed.

18 THE COURT: Those have been dismissed. Okay. Fine.

19 MS. BARRIOS: We have two more to add to that that came
20 in, but I'll put it on the record.

21 MS. BRILLEAUX: Good afternoon. We're sorry.

22 THE COURT: Good afternoon. That's okay.

23 Then the noncompliance declarations, those are
24 the ones that we received the declarations for, correct?

25 MS. BARRIOS: And the declarations said --

1 MR. BRILLEAUX: Yes.

2 MS. BARRIOS: -- they can't contact the client.

3 THE COURT: Okay.

4 MS. BARRIOS: By default the others should be, I have
5 no opposition to the motion. Is that right?

6 THE COURT: That's --

7 MS. BARRIOS: Noncompliant statement list.

8 THE COURT: They have no --

9 MS. BARRIOS: No opposition to the motion.

10 THE COURT: Okay.

11 MS. BARRIOS: We tried to be real fancy and give them
12 different names.

13 THE COURT: Noncompliant list are those that we have to
14 actually address this afternoon.

15 MS. BARRIOS: Yes, ma'am.

16 THE COURT: Okay. Thank you.

17 MS. BARRIOS: Your Honor, I think we're ready to
18 proceed.

19 THE COURT: Okay. Let's proceed.

20 Those of you that are on the telephone, I'm going
21 to ask you to please place your phones on mute until you're
22 called. Thank you.

23 I think we have some that are being dismissed.
24 Let's proceed.

25 MS. CALLEN: Good morning -- good afternoon. We have

1 a 120 -- we have 128 to be heard, which we'll address. We
2 have -- on the noncompliance declaration list we have a total
3 of, let me see, 43 plaintiffs, and I'll just provide the list
4 to the court reporter. On the noncompliant dismissal list we
5 have 17.

6 MS. BARRIOS: We do have 17, Your Honor, and there will
7 be two more dismissals that have been filed since the list came
8 in. Those two that will be added to the list that we'll give
9 the court reporter is Gail Linnette, L-I-N-N-E-T-T-E. It's
10 Record Doc. 7977, and the second one is Charity McGee,
11 M-C-Capital G-E-E. That's Record Doc. 7981. Your Honor, for
12 your knowledge, those are numbers 105 and 107 on our large list
13 that we'll have to go through.

14 THE COURT: Okay.

15 MS. CALLEN: Then the last list is the, excuse me, the
16 noncompliant statement list of which there are 30 plaintiffs.

17 Dawn, since you've written the two additional,
18 do you want to give her your copy of those?

19 MS. BARRIOS: Sure.

20 MS. CALLEN: I have these two, if you want to give her
21 this one.

22 THE COURT: As to those first two lists, the first one
23 which covers 17 plaintiffs, those matters are dismissed with
24 prejudice.

25 Then the second list, which are noncompliance

1 declarations, and those the Court has received declarations
2 from counsel advising that they were unable to reach their
3 client, that they were not able to cure the deficiencies, those
4 matters are dismissed with prejudice.

5 I believe we have a noncompliant statement list.

6 MS. CALLEN: Correct. Noncompliant statement list.

7 MS. BARRIOS: Yes, Your Honor. On that we have 30, and
8 I think we've given that to the court reporter, but I could be
9 wrong.

10 THE COURT: These are matters that are dismissed with
11 prejudice.

12 MS. BARRIOS: Correct.

13 MS. CALLEN: Yes.

14 MS. BARRIOS: Because they have no opposition to the
15 motion.

16 THE COURT: They is no opposition to this motion, so
17 those matters are dismissed with prejudice.

18 Now we will proceed to those that have an
19 opposition and we will proceed.

20 MS. CALLEN: Okay. The first group of plaintiffs,
21 there is number 1 through 24, represented by The Mulligan Firm.
22 There have been some substitutions of counsel that were filed
23 by Allen & Nolte. The Mulligan Firm was the sole proprietor
24 firm, and Mr. Mulligan died suddenly on May 1, 2019.

25 We have been in contact with the Allen firm, and

1 we have agreed, both Sanofi and the 505(b)(2)'s, to carry those
2 over to the next show cause hearing in order to fully assess
3 them at that time.

4 We have talked to the Allen firm about filing
5 notices of substitution for those that they plan to go forward
6 with so that we can address the appropriate counsel.

7 THE COURT: As I appreciate it, Ms. Nolte,
8 Jennifer Nolte is on the phone. Ma'am, are you on the phone?

9 PLAINTIFFS' COUNSEL: Yes, Your Honor, I'm here. This
10 is Jennifer Nolte.

11 THE COURT: I just want to confirm that you're going to
12 work with defense counsel to make the necessary substitutions,
13 and we'll carry these over till next month.

14 PLAINTIFFS' COUNSEL: Yes, Your Honor. That's what we
15 plan to do.

16 MS. BARRIOS: Your Honor, Dawn Barrios for the
17 Plaintiffs' Steering Committee. I would just like to thank the
18 defense counsel for talking with Ms. Nolte and actually
19 providing an extension for a situation that is very tragic, but
20 they have been very cooperative, and I wanted to let the Court
21 to know.

22 THE COURT: Thank you.

23 MS. CALLEN: Thank you. Ms. Brilleaux is going to
24 start with the next.

25 MS. BRILLEAUX: Good afternoon, Your Honor.

1 THE COURT: Good afternoon.

2 MS. BRILLEAUX: Kelly Brilleaux for Sanofi.

3 The next cases we have -- there is a number of
4 them. I know that, just for matter of explanation, we usually
5 go to people who have the least amount to the most amount. We
6 have several that are represented by Marc J. Bern & Partners,
7 L.L.P.

8 The reason we have these at the top of the list
9 is because there was the largest number of plaintiffs with
10 cases that were supposed to be held at the July 11th show cause
11 docket that was canceled due to the inclement weather.

12 Just by way of context, the show cause call
13 docket that we submitted earlier this month both included cases
14 that were supposed to be heard at the July 11th and for the new
15 notice that was filed at the beginning of August.

16 We spoke with plaintiffs' liaison counsel about
17 this and decided that because so many of these cases were
18 intended to be heard in July and had originally been put on an
19 April notice, that these were appropriate to be heard today
20 because of the amount of time that has passed since they have
21 received that notice.

22 THE COURT: Okay.

23 MS. BRILLEAUX: So with that said, the first case on
24 this list is Maria Anderson represented by Marc J. Bern &
25 Partners, L.L.P. The deficiency is the PFS is not

1 substantially complete because of no before photos, no after
2 photos, and no PTO 71 certification. Just as a reminder, that
3 is the certification that they have completed a review of the
4 ESI and have either produced it or have reviewed it and have
5 nothing to produce.

6 THE COURT: Mr. Kessler.

7 PLAINTIFFS' COUNSEL: Good morning, Your Honor. We
8 actually received a lot of documents today from the client. We
9 are in the process of reviewing them and uploading them. We
10 just ask for seven days to get those uploaded and for defense
11 to review them.

12 THE COURT: All right. Mr. Kessler, I'm going to give
13 you seven days, but this has been a couple of months now, so
14 it's not eight days, it's seven days.

15 MS. BRILLEAUX: Thank you, Your Honor. The next case
16 that we have, Your Honor, is by the same firm, Margaret Bachop,
17 and this is a number of PFS deficiencies, and I want to be
18 clear about what the issue is here. The deficiencies that we
19 have listed is no PFS declaration, no proof of use, no before
20 photos, no after photos, no authorizations, no CMO 12, and no
21 PTO 71.

22 Your Honor, I know we've discussed this before,
23 and unfortunately we've seen this in a number of instances with
24 this firm today where they have filed a true shell of a PFS.
25 It literally only has the plaintiff's name, address,

1 Social Security number and gender and has absolutely nothing
2 filled out beyond page 2. I have copies of it, if I could show
3 Your Honor.

4 THE COURT: Mr. Kessler.

5 PLAINTIFFS' COUNSEL: Your Honor, there are actually a
6 few cases that would be carrying of the hearing last month we
7 would have submitted the declarations of no contact. This is
8 one of those cases. It kind of got lost in the shuffle. We
9 did submit some of those declarations. I can give you the list
10 of them if it's easier to go that way.

11 THE COURT: Wait, did you file a declaration? Is that
12 what you're telling me?

13 PLAINTIFFS' COUNSEL: We had filed declarations in
14 numerous other cases where we hadn't heard back, but because of
15 the carrying of the hearing here there were a couple that we
16 missed.

17 THE COURT: This is one you missed. This matter is
18 dismissed with prejudice.

19 MS. BRILLEAUX: Thank you, Your Honor.

20 The next case on the list for Marc J. Bern &
21 Partners is Stacey Bowling. This is no PFS submitted.

22 PLAINTIFFS' COUNSEL: Your Honor, this is another one
23 of those cases where we made attempt to contact the client but
24 have been unsuccessful. In the interest of time, do you want
25 me to just give you the numbers of those plaintiffs?

1 THE COURT: Okay. Right now this one is dismissed with
2 prejudice.

3 Do you have other ones? Give me the names.

4 PLAINTIFFS' COUNSEL: Cruz. That's number 30.

5 THE COURT: That matter is dismissed with prejudice.

6 PLAINTIFFS' COUNSEL: Evans. That's number 33.

7 THE COURT: That matter is dismissed with prejudice.

8 PLAINTIFFS' COUNSEL: King, which is number 36.

9 THE COURT: This matter is dismissed with prejudice.

10 PLAINTIFFS' COUNSEL: Miller, number 39.

11 THE COURT: Dismissed with prejudice.

12 PLAINTIFFS' COUNSEL: Pierce, number 42.

13 THE COURT: Dismissed with prejudice.

14 PLAINTIFFS' COUNSEL: Rottier, number 45.

15 THE COURT: Dismissed with prejudice.

16 PLAINTIFFS' COUNSEL: Schroeder, number 46.

17 THE COURT: Dismissed with prejudice.

18 PLAINTIFFS' COUNSEL: The last one is Watts, number 51.

19 THE COURT: Dismissed with prejudice.

20 MS. BARRIOS: Your Honor, Dawn Barrios. I would like
21 to send a message to Mr. Kessler. If you know that you are
22 going to have these cases dismissed, even though the time
23 period has expired to tell the defendant, please call my
24 office.

25 My paralegal, Kate Robinson, keeps meticulous

1 lists of people who need to be dismissed but don't formally do
2 it before the hearing; so, I would appreciate if this occurs in
3 the future for you to call my office because it's just really a
4 waste of the court's and counsel's time.

5 MS. BRILLEAUX: Thank you, Ms. Barrios. I want to echo
6 that on behalf of defendants. It's extremely frustrating to us
7 that the plaintiffs, not all of them, some of them who are
8 doing this, they are essentially gaming the system. They are
9 doing this to get off of the no PFS submitted list by just
10 submitting the most basic of information, and it's frustrating
11 for us to have to spend the time preparing to present that to
12 you only to be told that they intended to dismiss them. I
13 don't think that any disingenuous PFS's should be submitted
14 through the process for the purpose of avoiding this list.

15 THE COURT: Mr. Kessler, I agree.

16 PLAINTIFFS' COUNSEL: Yeah, I'm sorry that that
17 happened, Your Honor. We will certainly be more diligent on
18 that.

19 THE COURT: All right. Lisa Buckley.

20 MS. BRILLEAUX: Thank you, Your Honor. For that we
21 have the PFS is not substantially complete because there are no
22 after photos and no proof of the CMO 12 process being
23 initiated. This was also a case that was to be heard on
24 July 11th, so it has been -- the plaintiffs have been on notice
25 since April 30th. And --

1 THE COURT: So where are we, Mr. Kessler?

2 PLAINTIFFS' COUNSEL: Your Honor, I believe the
3 Plaintiff Fact Sheet was uploaded on July 9th, and we sent an
4 email of our attempt to obtain product ID on July 10, 2019.

5 THE COURT: But you understand that there was a
6 question about no after photos.

7 PLAINTIFFS' COUNSEL: Just give me one second. I'll
8 pull that up. I believe we have submitted the photos.

9 Your Honor, I have the MDL Centrality page in
10 front of me. I do see that photos were uploaded on July 9th.

11 THE COURT: After photos?

12 PLAINTIFFS' COUNSEL: Yes.

13 MS. BRILLEAUX: Counsel --

14 PLAINTIFFS' COUNSEL: Just before -- after. I'm sorry.

15 THE COURT: Wait, you have before photos but not after
16 photos?

17 PLAINTIFFS' COUNSEL: We have a photo from May 2015 and
18 June 2015.

19 MS. BRILLEAUX: Counsel, I have the plaintiff's
20 chemotherapy took place on August 2015, so those would be
21 before photos.

22 THE COURT: That's what he just said.

23 MS. BRILLEAUX: So he has no after photos.

24 THE COURT: All right. You have seven days to get
25 after photos, but this is already three months late. I know

1 that when you get your deficiency you're notified as to what
2 the deficiency is. There is no reason for us to be doing this.

3 Okay. Carol Burkhardt.

4 MS. BRILLEAUX: Your Honor, this is no PFS submitted.

5 PLAINTIFFS' COUNSEL: Your Honor, verified Plaintiffs
6 Fact Sheet was submitted yesterday.

7 THE COURT: I'm going to give defense counsel seven
8 days to verify.

9 Okay. Carol Sue Dellos.

10 MR. INSOGNA: Yes, Your Honor, this is a 505 case.
11 There is no proof of injury documentation submitted, no proof
12 that the CMO 12 process has been initiated, and no PTO 71
13 documentation.

14 THE COURT: You have to help. 71. What's that?

15 MR. INSOGNA: Sorry, that's the ESI certification
16 document, Your Honor.

17 THE COURT: Okay. All right.

18 PLAINTIFFS' COUNSEL: Your Honor, all authorizations,
19 PTO 71 statements, photos, and the Plaintiff Fact Sheet were
20 uploaded yesterday, as was an email sent regarding the CMO 12
21 process.

22 THE COURT: All right. I'm going to give seven days
23 for defense counsel to verify.

24 MS. BARRIOS: Your Honor, with regard to the deficiency
25 that's listed, no CMO 12A, I don't really know what that means,

1 because we had always talked with you about the fact that we're
2 not looking at product ID now, manufacturer's ID. We're only
3 looking at proof of use. So if I'm confused of what they mean
4 by no CMO 12A, I can't imagine that plaintiff's counsel is
5 confused as well.

6 MS. BRILLEAUX: Your Honor, we have been over this at
7 several hearings. It's not that they have product ID, it's
8 they've undergone the obligations and the timeline (speaking
9 simultaneously) --

10 THE COURT: I think the issue is -- I think I've
11 indicated that I would not dismiss the cases if they were
12 undergoing -- if they were doing the due diligence in the
13 search and beginning 12A process. I think that's been the
14 frustration.

15 I know that there is proof of use, which is one
16 matter. Proof of injury, clearly that's an issue that we're
17 covering, but I think if people have engaged in the 12A
18 process, I'm not going to dismiss any of those cases. I think
19 some of the people, though, have -- the concern is that they
20 have begun the process.

21 MS. BRILLEAUX: Exactly. Just to clarify it, that is
22 exactly what it is. We do not -- we are not enforcing any
23 obligation to produce proof of product ID. It is that you've
24 taken the steps that are outlined in CMO 12.

25 MS. BARRIOS: Your Honor, I totally understand that,

1 and I preach that on a daily basis, but the first two steps of
2 CMO 12 is the plaintiffs' counsel communicating with the
3 facility. How would they know if they communicated with the
4 facility or not to say no steps have been taken?

5 MS. BRILLEAUX: Because CMO 12 requires that you send
6 an email to the defense counsel explaining which steps you have
7 taken that's listed out in CMO 12A.

8 THE COURT: Would somebody please put their phone on
9 mute. Please.

10 Okay. I don't have 12A in front me, but I
11 thought that there was some coordination at least in the
12 beginning of the process, and it's just a verification of the
13 process that has begun.

14 MS. BARRIOS: I understand that, Your Honor, and I have
15 to admit that I have no specific recollection of it, but I
16 thought the obligation to notify the defendants was more in
17 Step 3 and 4, not in Steps 1 and 2. If I could just have that
18 continuing on the record, I would appreciate it.

19 THE COURT: Right. Right. I don't think anybody's
20 case is being dismissed for no product ID. I think the issue
21 is that the process needs to be begin.

22 MS. BRILLEAUX: So Ms. Barrios' point, just to close
23 this discussion, we understand Ms. Barrios' point, and that is
24 why there is a Step 3 that requires plaintiffs to notify
25 defendants if they are unable to get the records, and any case

1 listed on here is beyond that point.

2 THE COURT: Okay.

3 MS. BRILLEAUX: Thank you.

4 THE COURT: All right.

5 MS. BRILLEAUX: Are we at Patricia Dukes?

6 THE COURT: Patricia Dukes.

7 MS. BRILLEAUX: Your Honor, for that case there have
8 been no authorizations, no CMO 12 process initiated, and no
9 PTO 71 certification.

10 THE COURT: Mr. Kessler?

11 PLAINTIFFS' COUNSEL: Your Honor, PTO 71, the statement
12 was uploaded yesterday, the CMO 12 email was sent earlier
13 today, and the Plaintiff Fact Sheet and all authorizations were
14 uploaded in to MDL Centrality on July 25th.

15 THE COURT: Okay. The Court is going to grant seven
16 days to verify.

17 MS. BRILLEAUX: Your Honor, just my notes on this, two
18 of the authorizations, specifically HIPAA and psych, were not
19 dated, and then insurance disability and Workers' Comp were not
20 witnessed. That's the deficiency with the authorizations.

21 THE COURT: Has that been corrected, Mr. Kessler?

22 PLAINTIFFS' COUNSEL: If it's not dated, we'll resolve
23 those. If the HIPAA wasn't dated and the psych was not
24 witnessed.

25 THE COURT: I think that's what I'm hearing from

1 Ms. Brilleaux.

2 PLAINTIFFS' COUNSEL: I'm looking at it. That is
3 correct. We request seven days to get the correct
4 authorizations.

5 THE COURT: I'm going to give seven days, but I
6 think -- do you tell the people what the exact deficiency is?

7 MS. BRILLEAUX: Yes.

8 THE COURT: So this should not be a surprise.

9 Okay. All right. Geraldine Foxx.

10 MS. BRILLEAUX: Geraldine Foxx, no PFS submitted.

11 PLAINTIFFS' COUNSEL: PFS was submitted earlier today.

12 MS. BRILLEAUX: Your Honor, just for the record, I just
13 want to note that the plaintiff in this matter filed a
14 declaration of no contact indicating a number of attempts, and
15 the case was filed in March.

16 THE COURT: He just said he filed something today.

17 MS. BRILLEAUX: But just pointing out an inconsistency
18 with this is that the case was filed in March of 2018, and we
19 received a notification that he was unable to reach his client
20 on March 15th and when it was filed on March 18th.

21 MS. BARRIOS: But, Your Honor --

22 THE COURT: I'm -- I don't know. I mean, if there was
23 a Plaintiff Fact Sheets submitted this morning, it's the first
24 time it's before me, I'm going to give you seven days to verify
25 it. I hope against all hope it's not a shell Plaintiff Fact

1 Sheet, but I'm going to give you seven days to verify that,
2 but --

3 MS. BARRIOS: For the record, Your Honor, just to
4 complete the record, the declaration that was filed, which was
5 Record Doc. 7959, was withdrawn.

6 MS. BRILLEAUX: Okay. We agree.

7 MS. BARRIOS: Record Doc. 7967.

8 THE COURT: I've already given seven days for you to
9 verify it.

10 MS. BRILLEAUX: Thank you, Your Honor.

11 THE COURT: Let's go. Gail Hill.

12 MS. BRILLEAUX: This is no before photos, no after
13 photos, and no CMO 12 process initiated.

14 THE COURT: Mr. Kessler.

15 PLAINTIFFS' COUNSEL: I'm sorry, this is Gail Hill.
16 The documents were uploaded through MDL Centrality, and the
17 CMO 12 email was sent earlier today as well.

18 THE COURT: Seven days to verify.

19 MS. BRILLEAUX: Thank you, Your Honor.

20 THE COURT: Mr. Kessler, I don't mean to beat the
21 proverbial dead horse, but if you did it this morning my guess
22 is you could have done it yesterday or the day before, and I
23 would not have this on my list.

24 PLAINTIFFS' COUNSEL: Your Honor, I apologize about
25 that. We'll be more diligent in getting these things done in a

1 few days before the hearing.

2 THE COURT: Janice Madison.

3 MS. BRILLEAUX: Thank you, Your Honor. This no PFS
4 submitted.

5 PLAINTIFFS' COUNSEL: Plaintiff Fact Sheet is another
6 one was submitted yesterday.

7 THE COURT: Seven days for defendants to verify.
8 Phyllis Mayo.

9 MS. BRILLEAUX: Your Honor, this is another PFS that is
10 not substantially complete.

11 THE COURT: What's missing?

12 MS. BRILLEAUX: Let me see my notes. It's another
13 shell PFS. I have a copy of it for you.

14 PLAINTIFFS' COUNSEL: Your Honor, just for the record,
15 amended Plaintiff Fact Sheets was uploaded July 23rd. The
16 initial one may have not been substantially complete, but the
17 July 23rd Plaintiff Fact Sheet which was verified included all
18 relevant information.

19 MS. BRILLEAUX: Your Honor, the one that I have is not
20 dated.

21 THE COURT: Okay. I'm going to give you seven days.
22 He's telling me that he filed another one in July, but I'm
23 going to give the defendant seven days to verify that it's more
24 than what you presented to me.

25 Valerie Olin.

1 MS. BRILLEAUX: Your Honor, I just want to go back to
2 that one. There was an additional deficiency that I didn't
3 mention. There are no after photos from within the past five
4 years and no current present day photos for Phyllis Mayo.

5 THE COURT: I thought there was nothing.

6 Okay. That would include photographs. Did you
7 submit photographs?

8 PLAINTIFFS' COUNSEL: Yes, Your Honor. Those
9 photographs were uploaded on July 23rd, as well.

10 MS. BRILLEAUX: The current photographs, Counsel?

11 PLAINTIFFS' COUNSEL: I'm not sure. I do not have it
12 right in front of me. If it's not, we'll get current
13 photographs within the next seven days.

14 THE COURT: All right. You've got seven days.
15 Defendants have seven days to verify that the new ones have
16 been submitted.

17 Valerie Olin?

18 MS. BRILLEAUX: Yes, Your Honor. This is a no PFS
19 declaration, no proof of use, no before photos, no after
20 photos, no authorizations, no CMO 12, no PTO 71, and, again,
21 this is a shell PFS with nothing after page 2. I have a copy
22 of that as well.

23 PLAINTIFFS' COUNSEL: Your Honor, a new Plaintiff Fact
24 Sheet that is substantially complete was uploaded and verified,
25 I verified one earlier today, along with before and after

1 photos, PTO 71 statements, and authorizations.

2 THE COURT: Defendants have seven days to verify.

3 MS. BRILLEAUX: Your Honor, I just wanted to point out
4 whether plaintiff had purportedly cured the proof of use
5 deficiency?

6 PLAINTIFFS' COUNSEL: Let me check. I believe we had
7 sent an email.

8 I don't have the record in front of me. I
9 request seven days to get this resolved.

10 MS. BRILLEAUX: Thank you, Your Honor.

11 THE COURT: Tammy Pendelton.

12 MS. BRILLEAUX: Yes, Your Honor. No PFS submitted.

13 PLAINTIFFS' COUNSEL: Your Honor, we're under the
14 belief that Ms. Pendelton passed way recently based on her
15 obituary we found online. I request 30 days to locate the next
16 of kin.

17 THE COURT: I'll grant 30 days.

18 Felicia Rhodes.

19 MS. BRILLEAUX: Your Honor, this is no PFS declaration,
20 no before photos, no after photos, no authorization, no CMO 12
21 process initiated, no PTO 71. We had a primarily blank PFS but
22 a little bit more than the shell PFS that we have been
23 referring to today.

24 PLAINTIFFS' COUNSEL: Your Honor, this is another
25 plaintiff who passed way. We've actually been in contact with

1 her son who doesn't recall a lot of information on the
2 Plaintiff Fact Sheet or doesn't know it, and he's unable to
3 find before photos. We request 30 days to get this resolved;
4 if not, we will stipulate to dismiss this matter.

5 THE COURT: When did she pass way?

6 PLAINTIFFS' COUNSEL: Give me one second to find that.
7 Your Honor, I'm going to look that up. If you want to move it,
8 I can certainly come back to it. I just don't want to take up
9 more of your time.

10 THE COURT: Sandra Rose.

11 MS. BRILLEAUX: Yes, Your Honor. This is no PFS
12 submitted.

13 PLAINTIFFS' COUNSEL: The Plaintiff Fact Sheet, a
14 verified one was uploaded through MDL Centrality yesterday.

15 THE COURT: I'm going to give the defendant seven days.
16 I will tell you, if they are -- if it's a shell PFS, I'm going
17 to dismiss the case.

18 MS. BRILLEAUX: Thank you, Your Honor.

19 THE COURT: But I will tell you this, if it's shells
20 that you're asking me to dismiss within seven days, I want to
21 see the Plaintiff Fact Sheet. I know we do a lot by letter,
22 but I want to see those to satisfy myself that there has been
23 no fundamental information provided.

24 MS. BRILLEAUX: Your Honor, just to reiterate, I know
25 that Mr. Kessler has been mentioning a lot of things that were

1 uploaded yesterday and today. Before every show cause hearing,
2 I work with Ms. Barrios to set a cutoff date for all of these
3 things, and all of this is obviously well beyond that cutoff
4 date, not just stuff that happened today but even yesterday and
5 even the day before that, just to make it clear.

6 THE COURT: I know.

7 MS. BRILLEAUX: Thank you.

8 THE COURT: I am aware.

9 Jacqueline Scott.

10 MS. BRILLEAUX: Yes, Your Honor. This is another shell
11 PFS. No PFS declaration, no proof of use, no before photos,
12 after photos, authorization, CMO 12 process, PTO 71
13 certification.

14 PLAINTIFFS' COUNSEL: Your Honor, complete Plaintiff
15 Fact Sheet and all authorizations were uploaded yesterday to
16 MDL Centrality.

17 THE COURT: I'll give the defendant seven days to
18 confirm.

19 Grace Stomps Baringer.

20 MS. BRILLEAUX: No PFS submitted, Your Honor.

21 PLAINTIFFS' COUNSEL: Your Honor, I spoke to
22 Ms. Baringer earlier today. We have been trying to get in
23 contact with her. We finally did. She recently was released
24 from the hospital, and she is planning to get in touch with us
25 later today so we can finish up the Plaintiff Fact Sheet and

1 get it uploaded. We request 14 days for that to be completed.

2 THE COURT: This complaint was filed in March of this
3 year. I'm going to give you 14 days.

4 MS. BRILLEAUX: Thank you, Your Honor.

5 Shirley Thompson. This is another shell PFS. No
6 PFS declaration, no proof of use, before photos, after photos,
7 authorizations, CMO 12 initiated, PTO 71 declaration.

8 PLAINTIFFS' COUNSEL: Your Honor, this is another one
9 that was cured yesterday. A fully complete Plaintiff Fact
10 Sheet with a verification was uploaded to MDL Centrality, and
11 the CMO 12 email was sent yesterday as well.

12 THE COURT: I'll grant the defendant seven days.

13 MS. BRILLEAUX: Eneida Torres is the next one that I
14 have. Same situation -- shell PFS, no PFS declaration, no
15 proof of use, before photos, after photo, authorization, CMO 12
16 and 71.

17 PLAINTIFFS' COUNSEL: Your Honor, Ms. Torres, I told
18 her as well today. She doesn't want to proceed with the case,
19 but she said she's having issues with panic attacks and just
20 needs a little bit more time to --

21 THE COURT: She's not getting any more time. This
22 complaint was filed in December 2018, and I don't know how her
23 condition changes today in 14 days that it wasn't there 14 days
24 ago. Now, if you can make me understand why things are somehow
25 going to change in the next two weeks, I will reconsider my

1 position.

2 PLAINTIFFS' COUNSEL: Your Honor, I understand your
3 point, and I have no further comment on that.

4 THE COURT: This matter is dismissed with prejudice.

5 MS. BRILLEAUX: Thank you, Your Honor.

6 Rosemarie Way Garrett, no PFS submitted.

7 PLAINTIFFS' COUNSEL: Your Honor, we uploaded
8 authorizations from Ms. Way Garrett yesterday. She's another
9 one who has been in and out of the hospital. She's working
10 through the Plaintiff Fact Sheet with our office, and we hope
11 to get it uploaded as soon as possible. We request seven days
12 to get that uploaded to MDL Centrality.

13 THE COURT: Has she been in the hospital?

14 PLAINTIFFS' COUNSEL: Yes. She recently was released.
15 She said she had a few trips to the hospital.

16 THE COURT: I'll give you seven days.

17 MR. BRILLEAUX: Thank you, Your Honor.

18 Mary Wheeler, no PFS submitted.

19 PLAINTIFFS' COUNSEL: Your Honor, Ms. Wheeler's PFS
20 with verification was uploaded earlier today along with
21 authorizations, PTO 71 statements, and medical records.

22 THE COURT: I'll give the defendant seven days to
23 verify.

24 MS. BRILLEAUX: Thank you, Your Honor.

25 Shelley Williams. The deficiency here is no

1 HIPAA authorization, and this was a case that was supposed to
2 be heard on July 11th. We've had ample time to get a HIPAA
3 authorization.

4 PLAINTIFFS' COUNSEL: Your Honor, both those
5 authorizations were uploaded on July 9th, including, I believe,
6 the HIPAA authorization. I re-uploaded it earlier today just
7 to make sure.

8 THE COURT: I'll give the defendant seven days to
9 verify that they have received the HIPAA authorizations either
10 from July 9th or today.

11 MS. BRILLEAUX: Thank you, Your Honor.

12 The next few, we have a couple that are a little
13 out of order by firm. I would like to stick to the order, if
14 that's okay with Your Honor.

15 THE COURT: That's fine with me.

16 MR. BRILLEAUX: The next case is represented by Davis &
17 Crump. It is Barbara Briggs. This is a PFS not substantially
18 complete, no before photos from within five years of treatment.

19 THE COURT: Mr. Rockstad.

20 PLAINTIFF'S COUNSEL: Yes, Your Honor. This is
21 Trevor Rockstad. We've asked Ms. Briggs to search her house
22 and ask family and friends, and she's been unable to turn up
23 any pictures from that timeframe.

24 THE COURT: Seriously? She doesn't have a photograph?
25 Are we looking at photographs before?

1 PLAINTIFF'S COUNSEL: Before, the five years before the
2 chemo, Your Honor.

3 THE COURT: When did she get chemo?

4 PLAINTIFF'S COUNSEL: 2009.

5 MS. BRILLEAUX: The most recent photo we have from her
6 is dated 1990.

7 MS. BARRIOS: Your Honor, I've done this before with
8 Bachus & Schanker. I'm happy to work with Mr. Rockstad and see
9 if I can assist in possibly opening up other avenues for him to
10 get the photos.

11 THE COURT: Okay.

12 MS. BRILLEAUX: Your Honor, on behalf of defendants
13 we're fine with that, but we also think there needs to be a
14 next step after the plaintiffs' liaison counsel assists
15 plaintiff's counsel with that process if photos still are not
16 produced.

17 THE COURT: Let me tell you, Mr. Rockstad, she's going
18 to have to get a photo within five years. We had a situation
19 where people, because of extraordinary reasons, could not have
20 a photograph, but I mean there is a photograph somewhere, and
21 I'm going to give you 30 days so that you have an opportunity
22 to work with Ms. Barrios in finding it but we've got to. Okay.
23 We'll push him till the next time.

24 MS. BRILLEAUX: Thank you, Your Honor.

25 Next case on the list is represented by Goza &

1 Honnold. The plaintiff is Nancy Boldenwoodruff. Your Honor,
2 this is -- the deficiency for this one is before photos not
3 dated, and we initially identified the deficiencies for no
4 dates at all.

5 Plaintiff in this case provided a photograph
6 dated March 6, 2012, and then resubmitted the same picture with
7 a range of 2007 to 2012. The photographs -- I have copies of
8 the photographs with me, Your Honor, just because --

9 PLAINTIFFS' COUNSEL: Good afternoon.

10 THE COURT: Ms. Joyce?

11 PLAINTIFFS' COUNSEL: Yes, I'm here, Your Honor.

12 THE COURT: Okay. Thank you.

13 MR. BRILLEAUX: Just there are some discrepancies. I
14 think it might just be easier, I can show you the photos, but I
15 can also put them on here if I can turn it on.

16 This is a photo from 1975 with two children and
17 then attached is a photo that purports to be between 2007 and
18 2012, and purportedly 30 years have passed between the two
19 photos that I just showed you, and she's supposed to here be
20 between 60 and 65 years old.

21 While we certainly can only rely on the
22 representations, I think the bigger issue is providing a range
23 of dates between five years. The date that was assigned to
24 this photo by plaintiffs' counsel is somewhere between 2007 and
25 2012, and we don't really know what we can do with this as

1 defense counsel.

2 THE COURT: When was chemotherapy administered?

3 PLAINTIFFS' COUNSEL: 2012, Your Honor.

4 THE COURT: Okay.

5 PLAINTIFFS' COUNSEL: Yes. We are working with the
6 client and her daughter to nail down, get more accurate dates.
7 There were additional photos uploaded to MDL Centrality on
8 August 8th, and then this morning I received some more dates
9 from the client's daughter who took the photos, and I submitted
10 those or we submitted the photos with dates showing that they
11 were approximately between 2007 and 2008.

12 THE COURT: That would be within the five years?

13 MS. BRILLEAUX: I mean, Your Honor, if they are able to
14 assign a date --

15 THE COURT: That's what -- I'm listening to Ms. Joyce.
16 I'm going to give you seven days to get this straight,
17 Ms. Joyce, and then verify, but I'm going to ask you to work
18 with Ms. Barrios' office, liaison counsel.

19 MS. BARRIOS: Yes, Your Honor. Thank you.

20 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

21 THE COURT: To make sure because it's got to be -- the
22 dates have to be exact.

23 MS. BRILLEAUX: Thank you, Your Honor.

24 PLAINTIFFS' COUNSEL: I understand. Thank you.

25 MS. BRILLEAUX: The next case that I have is the

1 plaintiff is represented by Kirtland & Packard, L.L.P. The
2 plaintiff is Cheryl Wingate. This is a different firm but
3 another example of basically a shell PFS.

4 Your Honor, the particularly disturbing thing
5 about this is that plaintiffs submitted a verification for
6 basically just only the name and address. I do have a copy of
7 the PFS with me, if you would like to see a copy of it. Thank
8 you.

9 PLAINTIFFS' COUNSEL: Kyle Benkie here for Kirtland &
10 Packard. Yes, it was originally submitted on 8/12, and then we
11 received an actual deficiency notice this morning, so we're
12 thinking -- I have a copy of the PFS. Everything should be
13 cured as of around 9:00 a.m. this morning.

14 I believe it was inadvertently submitted without
15 all of the information contained the first time around.

16 THE COURT: So it was submitted this morning?

17 PLAINTIFFS' COUNSEL: With all the additional
18 information. I believe it was originally submitted maybe
19 inadvertently with just a name and a verification, but this
20 morning we have all the details within the PFS. That was done
21 by copy from my staff, which I can pull it over to defense as
22 well.

23 THE COURT: All right. I'm going to give the
24 defendants seven days to verify that it's cured.

25 MS. BRILLEAUX: Just to clarify, Your Honor, any

1 allegation that the notice came any time before 30 days before
2 today is completely baseless.

3 THE COURT: Ruth Brown.

4 MR. INSOGNA: Yes, Your Honor. This is no PFS
5 submitted. I am told that there is a suggestion of death filed
6 in Ms. Brown's case. I have not heard from counsel whether
7 there is next of kin.

8 THE COURT: This is McDonald Worley.

9 MR. INSOGNA: Yes, Your Honor, McDonald Worley.
10 Mr. Barfield?

11 PLAINTIFFS' COUNSEL: I don't believe Mr. Barfield is
12 on the line this but Meagan (inaudible) for Mr. Worley. Yes,
13 that's correct. Ms. Brown has --

14 THE COURT: Wait. Ma'am, I need your name, please.

15 PLAINTIFFS' COUNSEL: Meagan, M-E-A-GA-N, last name
16 Philip, P-H-I-L-I-P.

17 THE COURT: Thank you. The court reporter needs it.

18 PLAINTIFFS' COUNSEL: Yes, Your Honor.

19 THE COURT: Okay. So there is a suggestion of death?

20 PLAINTIFFS' COUNSEL: Yes, Your Honor, that's correct.

21 We recently found out our client passed away in May, and we
22 filed a suggestion of death, and we're just asking for 60 days
23 to see if we hear back from next of kin.

24 THE COURT: When did she pass away; do you know?

25 PLAINTIFFS' COUNSEL: Yes, Your Honor. She died

1 May 16, 2019.

2 THE COURT: I'll grant 60 days.

3 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

4 THE COURT: Michelle Rosser, which is Ms. Rados. Are
5 you on the phone?

6 PLAINTIFFS' COUNSEL: Yes, I am, Your Honor.

7 MS. BRILLEAUX: Your Honor, the deficiency for this one
8 is no PFS submitted.

9 PLAINTIFFS' COUNSEL: Your Honor, we submitted the PFS
10 this morning with a verification.

11 THE COURT: The Court is going to give the defendant
12 seven days to verify.

13 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

14 MS. BRILLEAUX: The next plaintiff is represented by
15 the Seithel Law, LLC. The plaintiff is Susan Shinn, no PFS
16 submitted.

17 PLAINTIFFS' COUNSEL: This is Lynn (inaudible) firm and
18 (inaudible) PFS verifications and clarifications for PTO 71
19 was -- I believe the PFS was submitted yesterday and most of
20 the medical records and the before and after pictures and the
21 certification were submitted this morning.

22 THE COURT: The Court is going to grant seven days.

23 PLAINTIFFS' COUNSEL: Thank you.

24 THE COURT: Listen, while you all are on the phone, I
25 cannot convey my frustration with the inability to comply with

1 the deadlines so that instead of giving the defendants an
2 opportunity to review that before we get here and remove
3 70 percent of this call docket, we're having to then continue
4 it so that I can fairly give the defendants an opportunity to
5 review this, and we're not having to, after this, dismiss
6 cases.

7 I don't know how many times I have to say this, I
8 wonder if those of you on the phone have any idea of the amount
9 of work that's put into this by myself, by staff, and counsel
10 here in the courtroom.

11 What's going to happen in very short order is
12 that there will be no seven-day opportunity for defendants to
13 review. If it's not filed in time to be properly before this
14 court, it's going to be dismissed, and you'll have to answer to
15 your clients for that.

16 If you can do it this morning, if you could do it
17 yesterday, you could have done it on time, unless your client
18 is in the hospital or some other emergency, but it is
19 extraordinarily frustrating for those are us here working
20 through this list.

21 MS. BRILLEAUX: Thank you, Your Honor.

22 THE COURT: Angela Allen, Cutter Law firm.

23 MR. INSOGNA: Yes, Your Honor. We have no proof of use
24 and no evidence of the CMO 12 process.

25 THE COURT: Ms. Domer.

1 PLAINTIFFS' COUNSEL: Hi, Your Honor. We found out
2 through our company that they ordered from the wrong VATA
3 facility. I've conferred with the facility that it is the
4 correct one because we received multiple thenars (spelled
5 phonetically). Apparently kept going to the wrong facility.

6 So I've spoken with them today. They're trying
7 to process as quickly as possible to get that to us, so we're
8 working as quickly as possible as we can. We've asked if they
9 could push this through to rush. We asked them that last week
10 as well, but they said as per their hospital procedures, you
11 know, they have stuff they have to follow as well.

12 THE COURT: I'm going to move this to the next hearing.

13 PLAINTIFFS' COUNSEL: Thank you, Your Honor. We did
14 upload the PTO 71A on July 30th. That's Document number
15 395305.

16 MR. INSOGNA: That's correct, Your Honor.

17 THE COURT: Thank you.

18 Mary Edwards.

19 MR. INSOGNA: Yes, Your Honor. This is no declaration
20 and no authorization submitted.

21 PLAINTIFFS' COUNSEL: I believe we did already submit
22 the declaration. I apologize, I don't have the document number
23 ready because it wasn't on the list I submitted last night.
24 That's what would be on the order, but we've already submitted
25 the declaration.

1 The authorizations she provided were not filled
2 out correctly, and we tried to re-send it back to her, but we
3 have been informed she's out of the country. We've emailed
4 them to her. She's trying to figure out a way to print them
5 and send them back.

6 MR. INSOGNA: Your Honor, I did check prior to standing
7 up here that there is not currently a declaration.

8 THE COURT: Do you have a document number for the
9 declaration? As to the authorization, we can bump that to the
10 next time. I mean, if she's out of the country, I don't
11 expect --

12 PLAINTIFFS' COUNSEL: I show -- I apologize,
13 Your Honor. I was able to pull up MDL Centrality. I show that
14 she had a declaration submitted May 17, 2019, but upon
15 reviewing that document, I do see now that she had fail stated.

16 THE COURT: Okay. What I'm asking is to perhaps email
17 and maybe work with -- would you contact Ms. Barrios and see if
18 you can work this issue through.

19 MS. BARRIOS: Your Honor, if I could say something for
20 the record, because I've heard two plaintiffs complain that
21 they didn't get the exact deficiency last night. My office is
22 not responsible to tell them the exact deficiency. That is
23 already given by the defendants in the deficiency notice, so
24 what we have is just a shorthand blurb that defense counsel
25 kindly gives us.

1 So please don't rely on the charts that my
2 paralegal and myself do. You need to rely on the official
3 record done by the defendants in Centrality.

4 Thank you, Your Honor.

5 MS. BRILLEAUX: Thank you, Ms. Barrios.

6 THE COURT: Thank you.

7 Conswello Davis. That's the Maher Law Firm and
8 that should be Mr. Bradley Morris.

9 MS. BRILLEAUX: Your Honor, and the deficiency for this
10 one is no PFS declaration, no photos from within five years of
11 treatment, before photos, that is, and no PTO 71, that's the
12 ESI certification.

13 PLAINTIFFS' COUNSEL: Good afternoon, Your Honor. We
14 had contacted Ms. Davis several times. She would rarely answer
15 but we've managed to schedule a few appointments with her to
16 discuss the fact sheet and offer assistance if she needed it;
17 however, she missed every appointment, and she's not sent that
18 completed fact sheet back to us.

19 THE COURT: Well, this is what I think: I think it
20 appears to me, Mr. Morris, you have done everything you can,
21 and your client is failing to cooperate. This matter is going
22 to be dismissed with prejudice.

23 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

24 MS. BRILLEAUX: We have one more for the same law firm,
25 Your Honor. This is Gwendolyn Williams, and this is no

1 initiation of the CMO 12 process. Just to clarify again, this
2 is not that they have not identified product ID. They have not
3 followed the steps that are outlined in CMO 12A.

4 THE COURT: Okay.

5 PLAINTIFFS' COUNSEL: Your Honor, we -- we were
6 notified on August 2nd that this was an issue and we took
7 corrective action on August 5th. We believe we fulfilled our
8 obligation under CMO 12A thus far. So, you know, if there are
9 additional issues with it, I would like to meet and confer with
10 the defendants to correct any deficiencies on this at a later
11 time.

12 THE COURT: All right. I'm going to grant the seven
13 days for that meet and confer to take place.

14 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

15 THE COURT: Thank you.

16 MS. BRILLEAUX: Thank you, Your Honor.

17 We have two cases represented by Reyes
18 Browne Riley. The first is Elizabeth Provencher. This is no
19 before photos from within five years of treatment.

20 PLAINTIFFS' COUNSEL: Hello, Your Honor. Ryan Browne
21 for the plaintiff, Ms. Provencher. We actually have uploaded a
22 very large photo from about nine years beforehand that shows a
23 full head of hair. It's a very nice photo.

24 We have worked with Ms. Provencher and tried to
25 talk with her on numerous occasions to try to get something

1 additional and convinced her to check with other family. Based
2 upon what you've discussed here with others, maybe we can work
3 with Ms. Barrios and get a little more time here to be able to
4 work with Ms. Provencher and find something hopefully within
5 the five-year timeframe.

6 THE COURT: Can I ask a quick question? Where is
7 Ms. Provencher from?

8 PLAINTIFFS' COUNSEL: Go ahead, Dana. We're finding
9 that out, Your Honor. New Hampshire.

10 THE COURT: Thank you Okay. Thank you.

11 Victoria Vincent.

12 PLAINTIFFS' COUNSEL: Victoria Vincent, Your Honor,
13 this is a woman that, again, we've talked with her on a number
14 of occasions. I have spoken with her myself. Her immediate
15 family is all dead. She does not really have friends that have
16 pictures.

17 We uploaded a picture that is from her -- right,
18 from her -- it's from the chemotherapy, right? It is within
19 the five years. It is a black-and-white photo. It's her ID
20 when she would go in for her infusion, and it clearly shows her
21 hair. I mean, we have tried and tried. She is -- we actually
22 even --

23 THE COURT: Do you have that picture?

24 MS. BRILLEAUX: Your Honor, just to respond, we have
25 that we received two photos from between 12 and 17 years prior

1 to chemotherapy. Her chemotherapy treatment was in 2012, and
2 the before photos are dated 1995 and 2000.

3 THE COURT: I think I just heard him say that he had
4 her ID from when she would present herself at the hospital --

5 MS. BRILLEAUX: (Speaking simultaneously) So then
6 thereafter on July 31st, we have a black-and-white photo, so a
7 photo of a photo that's in black and white, and it's just it's
8 a poor quality of the photograph provided rather than a
9 portrait style. It's a black-and-white photo of an ID that's
10 blurry.

11 THE COURT: I'm going to ask you to work with
12 Ms. Barrios on this.

13 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

14 THE COURT: Thank you.

15 PLAINTIFFS' COUNSEL: Thank you very much.

16 MS. BRILLEAUX: Your Honor, we would just ask on behalf
17 of defendants that to the extent Ms. Barrios is able to speak
18 with plaintiffs' counsel on these and submit something on
19 behalf of plaintiffs to the Court, that defense be on that call
20 to discuss that.

21 THE COURT: Wait a minute, what? If she's going to
22 work with them to assist? No, I'm not going to put you on the
23 call.

24 MS. BRILLEAUX: If no photographs are able to be
25 produced to cure --

1 THE COURT: Then that's going to come to me.

2 MS. BRILLEAUX: Right.

3 MS. BARRIOS: I've done this in the past, and I have
4 notified them. I've copied them, Your Honor, on your letter,
5 so I do provide notification to them and I continue to do that.

6 THE COURT: Right. But I'm not going to say that you
7 need to be on the phone call when Ms. Barrios is talking
8 about --

9 MS. BRILLEAUX: Sorry.

10 THE COURT: I thought that's what you asked for, and I
11 said that's not happening.

12 MS. BRILLEAUX: No, that is not what I meant to say.
13 What I meant to say is if the deficiency is not able to be
14 cured and photographs aren't produced and Ms. Barrios is coming
15 to the Court with reasons why plaintiff is not able to produce
16 the photographs, the defendants would like to be a part of that
17 conversation with the Court to explain what additional steps
18 maybe could be taken.

19 MS. BARRIOS: Your Honor, I would never come to you
20 personally. I would just send a letter and send a copy to
21 defense counsel, and they could do with it as they see fit to
22 represent their client.

23 THE COURT: Okay.

24 MS. BRILLEAUX: Thank you.

25 THE COURT: Thank you.

1 PLAINTIFFS' COUNSEL: Thank you.

2 THE COURT: Thank you.

3 MS. BRILLEAUX: I think next we have Valeria Graves
4 represented by Davis & Crump. This is no PFS submitted, and
5 this was a case that was supposed to be heard on July 11th.

6 THE COURT: Mr. Rockstad.

7 PLAINTIFF'S COUNSEL: Your Honor, Ms. Graves passed
8 away after we filed this case. We've been unable to reach any
9 of her heirs in the last couple months. We learned that she
10 passed away on May 3, 2019. We are not exactly sure when she
11 passed away, but we did get a voicemail from her late husband
12 or her husband, and that's the last contact we've had. We have
13 not been able to get in touch with anybody again. So we would
14 just request a little more time to do our due diligence and
15 advise them of the consequences.

16 THE COURT: When did her husband leave the voicemail?

17 PLAINTIFF'S COUNSEL: On May 3, 2019.

18 MS. BRILLEAUX: Your Honor, we heard from plaintiffs
19 about this on May 31st, nearly a month later, and they did tell
20 us that she passed away on March 17th, so we think that there
21 has been plenty of time that has passed here.

22 THE COURT: I'm sorry, Mr. Rockstad, I'm going to
23 dismiss this matter. Even if I would have given you 60 days,
24 that would have passed, and not having any contact, I think,
25 puts it a little different. Thank you.

1 Jacqueline Harris.

2 MR. INSOGNA: Yes, Your Honor. There is no declaration
3 submitted for this plaintiff.

4 THE COURT: All right. Mr. Rockstad.

5 PLAINTIFF'S COUNSEL: Your Honor, that's a very similar
6 situation to Ms. Graves. Ms. Harris passed away December 6,
7 2018, about three months after we filed the case, and we have
8 not been able to contact anybody ever since.

9 MR. INSOGNA: Your Honor --

10 THE COURT: Okay. This matter is dismissed with
11 prejudice. If you told me you were working with the family,
12 with the succession or probate, I would have it, but sorry.

13 PLAINTIFF'S COUNSEL: Understood, Your Honor.

14 THE COURT: Thank you.

15 Marsha Kirby.

16 MS. BRILLEAUX: Yes, Your Honor. This is no before
17 photos from within five years of treatment.

18 PLAINTIFF'S COUNSEL: Your Honor, this is
19 Trevor Rockstad again. So we actually have a picture on
20 Centrality that I apologize to defense counsel and the Court
21 for wasting everybody's time, but we got a date yesterday, and
22 it's May 15th is the date on that picture. The picture has
23 been up for the last, I think, since June, and I guess it just
24 slipped by, and we didn't get a date on it.

25 MS. BRILLEAUX: Counsel, the photographs that we have

1 are dated 1991 and 1994 and chemo was in 2016.

2 PLAINTIFFS' COUNSEL: Yeah. What I'm telling you,
3 though, there is one that is now dated May 2015 that was up.
4 The picture was up before but it was undated. It's a picture
5 of her with her -- with some relative who's graduating from, it
6 looks like high school or college. He's wearing a multicolored
7 Hawaiian lei.

8 MS. BRILLEAUX: Thank you, Counsel.

9 THE COURT: I'm going to grant seven days to verify all
10 of this.

11 PLAINTIFF'S COUNSEL: Counsel, if you could -- feel
12 free to email me if you don't see it or if there is some issue
13 with it, feel free to reach out, and we can work through that.
14 But, again, I apologize for not having that date on there
15 before.

16 MS. BRILLEAUX: Thank you.

17 The next case is Rena Landry. This was -- she's
18 represented by Morris Bart, L.L.C. This is no before photos
19 from within five years of treatment, and this was one that was
20 supposed to be heard on July 11th.

21 THE COURT: Mr. Root.

22 PLAINTIFFS' COUNSEL: I apologize. There were two that
23 I came over to talk about. I did not know this was on here
24 until just beforehand, so I quickly looked at MDL Centrality to
25 look at the affidavits. You're telling me it's a photograph?

1 MS. BRILLEAUX: Correct. We have a before photo from
2 2000 and chemotherapy was in 2007, so we're hoping to get a
3 picture within five years of treatment pursuant to PTO 65.

4 PLAINTIFFS' COUNSEL: Yes, Your Honor. I mean,
5 honestly, this somehow fell through the crack. I looked and
6 saw the affidavits, and everything else was fine and didn't
7 realize that was the issue. I know it's not an excuse.

8 I just thought -- and she's a very responsive
9 person. She's recently had a stroke and one of the affidavits
10 is an X with her daughter signing. I thought that was the
11 issue. But --

12 MS. BRILLEAUX: Just a photograph.

13 PLAINTIFFS' COUNSEL: So we can get to her.

14 MS. BRILLEAUX: Thank you.

15 THE COURT: Seven days.

16 PLAINTIFFS' COUNSEL: Thank you so much, Your Honor.

17 MS. BRILLEAUX: The next one Tiana Scott. No PFS
18 submitted.

19 PLAINTIFFS' COUNSEL: Yes, Your Honor. We are so sorry
20 that we just recently uploaded it. Last week she said she sent
21 it all to us. We waited every day until the 12th, and it never
22 arrived. So we made arrangements for her to take off work, her
23 husband go to Birmingham and have the thing. Of course, after
24 we did that, they came in, and we uploaded them yesterday -- in
25 the mail.

1 THE COURT: Seven days to the defendant.

2 MS. BRILLEAUX: Just to note, Your Honor, we have
3 noticed that one has been submitted, and on the cursory review
4 we were able to do in the short amount of time, it has several
5 important things missing, like days of treatment and very
6 critical information, so just for the record.

7 Thank you.

8 THE COURT: Seven days.

9 MS. BRILLEAUX: I think the last one we have for
10 Morris Bart is Geraldine Sylvester. This is no before
11 photos -- sorry. Go ahead, Counsel.

12 PLAINTIFFS' COUNSEL: We had indicated we have no
13 opposition, Your Honor.

14 THE COURT: No opposition?

15 PLAINTIFFS' COUNSEL: Correct.

16 THE COURT: This matter is dismissed with prejudice.

17 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

18 MS. BRILLEAUX: Your Honor, the next few cases we have
19 are represented by Niemeyer Grebel & Kruse. So just to
20 clarify, there is Teresa Arthur and Diane L. Higgins. There
21 was a declaration that was filed for Higgins, so that one can
22 be removed.

23 THE COURT: All right. So that one you're satisfied?

24 MS. BRILLEAUX: Correct.

25 For Teresa Arthur, the deficiency is for no PFS

1 declaration, no before photos, and no PTO 71 submitted, and
2 that's what we have.

3 THE COURT: Mr. Kruse?

4 PLAINTIFFS' COUNSEL: Yes, Your Honor. We corrected
5 the deficiency. It was uploaded this morning. We sent an
6 email to the defendants notifying them of that. I apologize
7 for the delay in getting that on file.

8 THE COURT: Seven days for the defendant.

9 MS. BRILLEAUX: Counsel -- does counsel allege that he
10 has purportedly cured all three?

11 PLAINTIFFS' COUNSEL: Yes.

12 MS. BRILLEAUX: Thank you, Your Honor.

13 The next case is Ruby Pratt. This is no PFS
14 declaration, no authorizations, and no PTO 71.

15 PLAINTIFFS' COUNSEL: Your Honor, Ms. Pratt is
16 deceased. Her family members have applied. They have an
17 estate paperwork pending in Parent (spelled phonetically)
18 County. We're just waiting for the judge to sign off on the
19 letters of administration. As soon as he does, that will be
20 rectified. We would ask for 30 or 60 days.

21 MS. BRILLEAUX: Your Honor, this is one that we
22 previously addressed back in January when counsel first noticed
23 that they were needing to file those papers, and we would just
24 ask which date that was taken to make sure that this is being
25 done in a timely manner.

1 PLAINTIFFS' COUNSEL: What date the estate paperwork
2 was filed on?

3 MS. BRILLEAUX: Yes, Counsel. Because when we went
4 through this at the July -- at the January 19th hearing,
5 Your Honor granted 45 days.

6 THE COURT: Has it been filed? The paperwork has been
7 filed?

8 PLAINTIFFS' COUNSEL: The letter of administration is
9 pending. I don't can't tell (speaking simultaneously) --

10 THE COURT: Okay. All right. You know what we're
11 going to do, we're going to put this off for 30 days.
12 Sometimes, unless he's the lawyer handling the estate,
13 sometimes that takes a while, and sometimes judges don't sign
14 things as soon as they hit their desk, so we'll put this off
15 for 30 days, and we'll see the status at that time.

16 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

17 THE COURT: Thank you.

18 MS. BRILLEAUX: The last one we have for this firm is
19 Angela Young. The deficiencies are no PFS declaration, no
20 before photos, no authorizations, and no PTO 71.

21 PLAINTIFFS' COUNSEL: Your Honor, we learned that
22 Ms. Young passed away in June. We've spoken with her husband,
23 who has not expressed an interest in opening an estate. She's
24 deceased. We don't have a client right now, so we would only
25 ask should the Court wish to dismiss the case, it be done

1 without prejudice so her family can do what they wish to do
2 going forward.

3 THE COURT: Let's do that. I'm going to dismiss it
4 without prejudice.

5 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

6 THE COURT: Thank you.

7 MS. BRILLEAUX: The next case is Jamie Archer
8 represented by the TorHoerman Law firm. This is no before
9 photos, no after focus, and no PTO 71, and this was on the list
10 that was supposed to be heard on July 11th.

11 THE COURT: Mr. Davis.

12 PLAINTIFFS' COUNSEL: Yes, Your Honor. I apologize. I
13 just overlooked -- I should have filed a no contact declaration
14 for this. I apologize for not having done that before today.

15 THE COURT: All right. This matter is dismissed with
16 prejudice.

17 Penny Knobel Besa.

18 MS. BRILLEAUX: Your Honor, the deficiency I have for
19 this one is no before photos from within five years of
20 treatment.

21 PLAINTIFFS' COUNSEL: My understanding it was uploaded
22 on July 8th of 2019, so I would ask for seven days to confirm
23 that because I thought we uploaded those.

24 THE COURT: Are those dated?

25 MS. BRILLEAUX: Your Honor, they are. They are dated

1 1991 and 1993. So, as I said, within five years of treatment.

2 PLAINTIFFS' COUNSEL: And, Your Honor, I apologize, I'm
3 on the road for depositions in another case, and I don't have
4 Centrality in front of me, but I thought we were good on that,
5 so I would ask for seven days so we could confirm that we've
6 got pictures that are uploaded because I think we've got them.

7 MS. BRILLEAUX: I'm concerned that he is
8 misunderstanding what is I'm saying.

9 THE COURT: No, I think he understands. You said --

10 PLAINTIFFS' COUNSEL: (Speaking simultaneously) Before
11 but not close enough before. I think we have those in our
12 possession. I don't know. But I thought they were uploaded,
13 so I would ask for seven days to confirm that we uploaded what
14 we've got.

15 THE COURT: Seven days.

16 PLAINTIFFS' COUNSEL: Thank you.

17 THE COURT: Judy Oakeson.

18 PLAINTIFFS' COUNSEL: That PFS was submitted yesterday,
19 Your Honor. Again, I apologize for not having done that before
20 yesterday.

21 THE COURT: I'm going to grant seven days for the
22 defendant.

23 Cynthia Villarreal.

24 MS. BRILLEAUX: No PFS submitted.

25 PLAINTIFFS' COUNSEL: Same thing. That was submitted

1 yesterday. Again, I apologize for not having done it sooner.

2 THE COURT: Give the defendant seven days to verify.

3 Carol Wearingwilliamson.

4 MS. BRILLEAUX: Yes, Your Honor. So this is we have no
5 proof of use, undated photographs, and no PTO 71 certification.

6 PLAINTIFFS' COUNSEL: Your Honor, this has only been in
7 good contact with trying to get the information and then lost
8 contact with her around the beginning of July. It wasn't
9 enough time, in my feeling, to file a declaration, so I would
10 ask this be moved to the next one, at which point we would have
11 everything cured or I'll file a no contact declaration.

12 THE COURT: Wait. What?

13 MR. BRILLEAUX: I don't think declaration was listed as
14 one of the deficiencies.

15 PLAINTIFFS' COUNSEL: I'm sorry. I will file -- I will
16 file -- if we don't have it cured on the next case, I will file
17 a no contact declaration.

18 MS. BRILLEAUX: Declaration of no contact.

19 THE COURT: Okay.

20 MR. BRILLEAUX: So can we dismiss that one with
21 prejudice, Counsel?

22 THE COURT: Are you telling me you're not contacting
23 her?

24 PLAINTIFFS' COUNSEL: No, we've reached out to her and
25 she has not responded. Typically when I file a no contact

1 declaration it's because it's been months and months of us
2 trying and not getting a response, and that's just not the case
3 here. It's relatively recently, within the last month to six
4 weeks, we've lost contact with her, and that we've done all of
5 the appropriate contacting.

6 I just don't like filing a declaration with that
7 short of time. She could be in the hospital, and I don't know
8 it. I don't know that it's wildly inappropriate for Your Honor
9 to dismiss the case. I just wasn't comfortable filing a
10 declaration of no contact based on that relatively short time
11 frame yet.

12 That's why I asked that this case be moved to the
13 next docket, and then that will get another, you know, however
14 long it is, month or so, for us to try and contact, and at that
15 point if we haven't heard from her, it will be more than two
16 months, and I'm comfortable filing a declaration at that point.

17 MS. BRILLEAUX: Your Honor, this case has been pending
18 since September of 2018.

19 THE COURT: I understand that. I think your problem is
20 specific pieces of information, and this is the first time, and
21 if he's had contact with his client -- I don't know if she's in
22 the hospital. That's what I'm hearing. I'm going to give him
23 the 30 days.

24 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

25 MS. BRILLEAUX: The next cases that we have had

1 Bachus & Shanker, Vera Bonds, no PFS submitted.

2 PLAINTIFFS' COUNSEL: Good afternoon, Your Honor.
3 Melanie Sulkin on behalf of Bachus & Shanker plaintiffs.

4 This is actually a duplicate filing from our
5 firm, and so we do ask that this Case number 19-cv-02690 be
6 dismissed but that not affect 19-cv-01479.

7 THE COURT: So ordered.

8 MS. BRILLEAUX: Thank you, Your Honor.

9 The next case that we have is Sarah Dunlap. The
10 deficiency is not accurately dated photos from within five
11 years of treatment.

12 PLAINTIFFS' COUNSEL: Your Honor, we -- this client
13 treated in 2010, and we uploaded two photographs from 2006 and
14 2007. We were notified after we resubmitted the Plaintiff Fact
15 Sheet of a deficiency a day later where defendants indicated
16 they didn't believe it was 2006 and 2007, but we have a
17 certification from the plaintiff with the photographs stating
18 that to the best of her knowledge those photographs were from
19 2006 and 2007.

20 Additionally, if you look at her photograph
21 10 years later, the present day photo, she hasn't aged that
22 much, and so -- and I have photographs if you need to see
23 those.

24 MS. BRILLEAUX: I have copies of them as well. And I
25 can put those --

1 THE COURT: Is that the problem, that you don't believe
2 the dates?

3 MS. BRILLEAUX: Your Honor, so these are supposed to be
4 from the same day. Just for context, this plaintiff was born
5 in 1946, and this is a photograph from 2007. To be candid,
6 Your Honor, there are some more instances of this plaintiff
7 certification that are coming up that may shed some more light
8 on this.

9 THE COURT: Okay. Let me tell you what, this one we're
10 going to wait until the end because I'm not going to start
11 looking at photographs while people are on the phone.

12 MR. BRILLEAUX: Thank you.

13 THE COURT: Let's just sit tight and go to the next.

14 This is Diana Graves.

15 MS. BRILLEAUX: Yes, Your Honor. This is no proof of
16 use.

17 PLAINTIFFS' COUNSEL: Your Honor, we had issued a
18 subpoena to the facility. Yesterday afternoon we actually got
19 500 medical records. I tried to go through them as quickly as
20 possible.

21 I could not find any proof use in those medical
22 records; so, I'm asking if this case is dismissed it is without
23 prejudice, and that is because the client is adamant that she
24 did receive Taxotere. It is possible that she might have
25 received it at a different facility; so, if it is dismissed, we

1 just ask that it is dismissed without prejudice at this time.

2 MS. BRILLEAUX: Defendants don't think that dismissal
3 without prejudice is appropriate for not being able to prove
4 use of the product.

5 PLAINTIFFS' COUNSEL: Your Honor, the medical records
6 indicated that she was supposed to have four cycles of
7 Adriamycin and Cytoxan followed by Taxotere. The records
8 indicate that she had three cycles of Adriamycin, Cytoxan, at
9 which point the chemotherapy was discontinued for the time
10 being, and then she was lost to follow up.

11 So what I'm concerned with that --

12 THE COURT: Does she know if she had another cycle?

13 PLAINTIFFS' COUNSEL: She believes she does, and
14 sometimes clients -- she believes that she continued
15 chemotherapy for a lot longer than that, but sometimes clients'
16 memories aren't the greatest, and so I just ask it be dismissed
17 without prejudice just in case she does come up with the proof
18 of use.

19 MS. BRILLEAUX: Defendants have reviewed the same
20 records, and I guess we have a different take on exactly what
21 it means, but our records show that it was discontinued, and we
22 have no other records to show it was ever restarted.

23 PLAINTIFFS' COUNSEL: Your Honor, I received 500
24 medical records yesterday, so they were not reviewing the same
25 records. I plan on disclosing those records to them.

1 THE COURT: Okay. This is what I'm going to do: I'm
2 going to give you 15 days to review those records. I'm not
3 going to through 500 records today, but I'll give you 15 days
4 to review those records and see what you find.

5 PLAINTIFFS' COUNSEL: Your Honor, I reviewed those
6 records, and her Taxotere usage wasn't in those records, but I
7 think she may have received chemotherapy at a different
8 facility.

9 THE COURT: Is there no one who knows where she went to
10 receive her chemotherapy?

11 PLAINTIFFS' COUNSEL: A lot of clients sometime
12 misremember where they had chemotherapy.

13 THE COURT: I understand that. Is there no one that
14 knows where she had her chemotherapy?

15 PLAINTIFFS' COUNSEL: She did have the first three
16 cycles of the Adriamycin Cytoxan at the facility where we did
17 receive the records from.

18 THE COURT: That's really not my question. Is there no
19 one -- I'm presuming she didn't drive herself to chemotherapy?

20 PLAINTIFFS' COUNSEL: I don't know that at this time,
21 Your Honor, but I can certainly find out.

22 THE COURT: Okay, okay. So you're asking me to dismiss
23 a case without prejudice because she's got no evidence that she
24 took Taxotere?

25 PLAINTIFFS' COUNSEL: Yes, Your Honor. At this time

1 she's adamant that she did take Taxotere. I'm just concerned
2 with if she does come up -- I informed her just yesterday,
3 after I received these records, that we don't have proof of
4 Taxotere usage, and so she may on her own be able to come up
5 with it. We've had that situation occur with other clients.

6 THE COURT: Oh, I know. I know. I'm familiar with
7 what chemo brain is. I'm familiar.

8 MS. BARRIOS: I'm sorry, Your Honor. Dawn Barrios.
9 I'm more than happy to help them. If you give her 30 days, we
10 can go through the insurance records to see if she finds
11 anything about subsequent chemotherapy. I hate to use the term
12 *chemo brain* but many of my clients have chemo brain.

13 THE COURT: No, I know. I know patients refer to that.

14 MS. BARRIOS: Right. So I'm more than happy to help
15 her within 30 days.

16 THE COURT: I'll give you 30 days.

17 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

18 MS. BRILLEAUX: The next case is Helen Hallum.
19 Your Honor, this is another case with examples of photographs
20 that just kind of get to the point of why we have been
21 challenging the dates of some of these photographs.

22 Just for some context, I'm going to put down this
23 sheet that was provided by counsel here. You'll see that in
24 blue ink, this says that this photo was taken in 2008 and in
25 2006. It was signed here in June of 2019.

1 Then if you focus in here, I'll try and zoom in
2 so you can see it a little bit better, but there is a revised
3 addendum at the top. It says, "The approximate date of photo
4 is late 1970's with her cousin at a family reunion." This was
5 corrected one month later.

6 This is the reason that we are challenging some
7 of the dates of photos because we can look at them and tell
8 that they are probably not from the 2000's, and then we're
9 getting revisions like this.

10 The same thing happened with the same plaintiff
11 here. Originally it says 2008, and now it says 1989.

12 PLAINTIFFS' COUNSEL: Your Honor, this is a case in
13 which I re-reviewed the photographs, and I directed my staff to
14 question the plaintiff harder.

15 THE COURT: Do we have a current photograph of this
16 plaintiff or within five years of chemotherapy?

17 PLAINTIFFS' COUNSEL: Your Honor, we have one from ten
18 years prior to chemotherapy. This is one of those extenuating
19 circumstances in which this plaintiff lost her husband, lost
20 her daughter-in-law and became sole caretaker in 2005. She had
21 chemo in the year 2000. The photograph that we labeled in the
22 year 2000 is five years before that.

23 This plaintiff had stated that she had gone
24 through menopause at the age of 40 on her Plaintiff Fact Sheet,
25 so I do not believe that she had maybe changed much hormonally

1 in the five years between 2000 and 2005. I believe that her
2 photograph in 2000 is probably reflective of what she looked
3 like in 2005.

4 This plaintiff lived in a really rural area,
5 Dahlonega, Georgia, so I don't think she has access to a lot of
6 photographs. She's asked family, she's asked friends, and the
7 closest thing we have is a photo from the year 2000.

8 THE COURT: Which is 10 years before chemotherapy?

9 PLAINTIFFS' COUNSEL: It is, Your Honor.

10 THE COURT: I think you need to be within five years.
11 While she might not have changed much, I think the protocol
12 requires five years, and so I'm going to tell you that you need
13 to cure that within 15 days.

14 PLAINTIFFS' COUNSEL: Within 15 days. Okay. Thank
15 you, Your Honor.

16 MS. BRILLEAUX: Thank you, Your Honor.

17 THE COURT: This is Hallum.

18 MS. BRILLEAUX: This is Hallum.

19 I know that we still need to revisit Dunlap, but
20 we can do that on Your Honor's --

21 THE COURT: Yes, please.

22 Linda Nichols.

23 MR. INSOGNA: Yes, Your Honor. This deficiency is for
24 no PFS submitted. I checked earlier today, and it appears that
25 Bachus & Schanker has a Plaintiff Fact Sheet submitted under

1 this name but a different case number. I don't know if it's a
2 duplicate. It's not such a rare name that I'm sure.

3 PLAINTIFFS' COUNSEL: There are two Linda Nichols.
4 This second Linda Nichols, we just got in contact with her. We
5 actually have an appointment to go to her house and help her
6 complete her Plaintiff Fact Sheet later this week.

7 We just ask for a 15-day extension, and if she
8 hasn't cured those deficiencies by then, there will be no
9 opposition to dismissal.

10 THE COURT: This was filed in April of this year. I'm
11 going to give you 15 days but that's it.

12 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

13 MR. INSOGNA: Can I briefly say before we move on, I
14 may need to leave before we finish the entire list.

15 THE COURT: Actually, I was going to tell you you
16 probably need to leave now because I think the traffic is going
17 to get tight for you.

18 MR. INSOGNA: Thank you. I just wanted you to know
19 it's not poor planning. My flight home was canceled, and the
20 one I'm taking now is the only other one that gets me home
21 tonight. Thank you, Your Honor.

22 MS. BARRIOS: Your Honor, Dawn Barrios. I want to make
23 a statement for the record that my learned coliaison counsel
24 reminded me. When we were talking about the Bachus & Schanker
25 case of Helen Hallum and you gave her 15 days to cure to get

1 the photo, I want to remind the Court that you had said at one
2 time that you would do a verification, that after you gave
3 people the opportunity to cure and if they really couldn't,
4 explain why in the verification, and then you would make a
5 determination if the verification actually supports not having
6 a photo, and I would ask that that be implemented on this case.

7 THE COURT: So ordered.

8 Let me just say, living in the country is
9 probably not going to be good cause. When we talked about
10 extraordinary circumstances, it was I lost everything in the
11 flood, or my home was, you know, there was a fire, and then you
12 are required to show why there are no digital photos. Okay?

13 PLAINTIFFS' COUNSEL: Yes, Your Honor.

14 MS. BRILLEAUX: Your Honor, just to be clear, you've
15 already seen examples of where a plaintiff has signed a
16 verification that turned out to be inaccurate.

17 THE COURT: Thank you.

18 MS. BRILLEAUX: Thanks.

19 I think now we are on Lisa Sheard. This is no
20 before photos and no after photos.

21 PLAINTIFFS' COUNSEL: We've -- Your Honor, we've cured
22 this deficiency. I believe it was only no before photos. We
23 had previously provided after photos.

24 We found out in this past month that Ms. Sheard
25 had passed away in January of 2019, and this week we were able

1 to get in touch with her daughter, who very late last night did
2 provide before photographs to us. We submitted them to
3 Centrality, and then we did also send an email to both
4 defendants' and to plaintiffs' liaison counsel this morning.
5 So I do apologize about getting those in to you so late, but --

6 THE COURT: I'll give seven days for defendants to
7 verify.

8 All right. Okay.

9 MS. BRILLEAUX: The next group of cases, Your Honor,
10 are represented by Gori Julian & Associates. The first one I
11 have is Debora Dye. This is the before photo not dated and no
12 after photos. This was one that was on the list for July 11th.

13 THE COURT: Ms. Gabriel.

14 PLAINTIFFS' COUNSEL: Yes, hi, Your Honor. With regard
15 to Ms. Dye, we're in the situation that a few other counsel had
16 stated. We have those two photos that we have uploaded, and
17 admittedly there is not enough, and they are not dated.

18 We have reached out to her on multiple occasions,
19 but we had had contact with her in June, and so I just didn't
20 feel comfortable filing the declaration saying that we, you
21 know, had totally lost touch with her, but that is where we
22 are.

23 We have been trying via all the different ways in
24 which to communicate with her to tell her we need to do this or
25 else her case will be dismissed. So I understand and defer

1 clearly and respectfully to the Court however you want to
2 handle it, Your Honor, but that's where we are with Ms. Dye,
3 unfortunately.

4 THE COURT: This matter is dismissed with prejudice. I
5 think you've done all you can.

6 MS. BRILLEAUX: Thank you, Your Honor.

7 THE COURT: Gloria Enriquez.

8 MS. BRILLEAUX: Yes. This is also no before photos, no
9 after photos, and no PTO 71 ESI declaration.

10 PLAINTIFFS' COUNSEL: Your Honor, with regard to
11 Ms. Enriquez, she's a client of ours who is Spanish speaking.
12 She has also been -- it's our understanding we do have a
13 paralegal who has been in communication with her. The last
14 time we talked to her was July 8th and told her that we needed
15 her to sign that verification and that we were lacking photos
16 and, again, that the Court would dismiss her case if we didn't
17 hear back from her.

18 I'm sad to report that her cancer is back. She
19 is somebody that we just are not able to stay in good contact
20 with, Your Honor, unfortunately, so that's what I have to
21 report with regard to Ms. Enriquez.

22 THE COURT: I understand. But her cancer has recurred.
23 Is she in the hospital? Is she being treated at home?

24 PLAINTIFFS' COUNSEL: You know, Your Honor, I don't
25 know. John spoke with her July 8th and I don't know that he

1 got any more details than she's undergoing, Your Honor,
2 additional treatment, but I did not ask him to find that out.
3 I don't have any knowledge that she was in the hospital at this
4 time. I guess perhaps I could just ask for the additional
5 seven days.

6 THE COURT: I'm going to give you 15 days. I don't
7 want to be in a situation if this lady is undergoing
8 chemotherapy right now and she's just unable to do it; so, I'm
9 going to give you 15 days and see what information you can
10 find.

11 PLAINTIFFS' COUNSEL: Thank you. Thank you so much,
12 Your Honor. I will let defense counsel know one way or the
13 other via email what we find out so that we don't have to
14 involve you hopefully.

15 THE COURT: Thank you.

16 Angela Hutcheson.

17 MS. CALLEN: Yes. This is Julie Callsen showing up
18 again. PFS is not substantially complete. We don't have proof
19 of injury or after or present photos. We've confirmed that
20 this morning through a check.

21 THE COURT: Okay. Ma'am.

22 PLAINTIFFS' COUNSEL: Yes, Your Honor. So for
23 Ms. Hutcheson I was just looking as well, so maybe I am
24 confused in terms of the dates that we have, that we have
25 before photos that are within the time of her treatment --

1 2012, 2011, and 2013 that are dated. There are during and
2 after photos that it looks like they do not have dates, and I
3 thought there were dates, Your Honor, I apologize, but I can
4 cure that and ask her for those dates.

5 There was also a declaration that was uploaded on
6 August 6th, so that's what I thought was the deficiency in
7 terms of the PFS, so if there was something else, the
8 defense -- I will certainly cure whatever you need.

9 THE COURT: Okay. I'm going to give you seven days to
10 work through that.

11 Lois Moore.

12 PLAINTIFFS' COUNSEL: Thank you.

13 MS. BRILLEAUX: Yes, Your Honor. No after photos from
14 within the past five years. No current photos is what that is.

15 THE COURT: Okay.

16 PLAINTIFFS' COUNSEL: Your Honor, I, again, I have
17 noted that we did upload on August 14th some after photos that
18 were dated. If it was not within the current -- in the time
19 frame that the Court is requesting from the time that she
20 finished her chemotherapy, I can double check that, Your Honor,
21 and make sure we are within that, and if we're not then we'll
22 cure that, but there are photos that were uploaded August 14th;
23 so, if I can request that seven days again I would appreciate
24 it.

25 THE COURT: Seven days.

1 MS. BRILLEAUX: Thank you, Your Honor.

2 PLAINTIFFS' COUNSEL: Thank you.

3 MS. BRILLEAUX: Brenda Nine. This is a no CMO 12
4 process initiated.

5 PLAINTIFFS' COUNSEL: Yes, Your Honor. Dawn noted this
6 earlier and I appreciated the note because I was not following
7 up with defense counsel with my repeat contacts with the
8 facility in terms of this woman's chemotherapy.

9 I would be happy to send those letters. We have
10 been given this back and forth with regard to the MBC code
11 page. We've been told that they do have that information, but
12 they haven't submitted it to us. They actually sent us one
13 form that was blank, and so my medical retrieval services have
14 gone back to them, and we have been doing that, honestly,
15 Your Honor, since April. I can send the letter to defense
16 counsel to let them know that.

17 THE COURT: Okay. Okay. Okay. Okay. Okay. I'm
18 going to give you seven days to communicate with defense
19 counsel.

20 PLAINTIFFS' COUNSEL: Okay. Thank you, Your Honor.

21 THE COURT: Della Whitehead.

22 MS. BRILLEAUX: This is no accurately dated photos from
23 within five years of treatment.

24 PLAINTIFFS' COUNSEL: Your Honor, this is our last one.
25 Ms. Whitehead, again, I'm looking at them, and they were within

1 five years of her chemo. The before pictures are dated, and I
2 believe the after. There may be some during ones that are the
3 issue that aren't dated, but if we can have that seven days,
4 then we'll get that taken care of.

5 MS. BRILLEAUX: Your Honor, if I could just show you
6 the issue that we're having. This is one of the before photos.
7 It's dated 1953 and plaintiff was born in 1963.

8 PLAINTIFFS' COUNSEL: Can you -- Counsel, can you tell
9 me which document number you're looking at, because I really do
10 want to make sure that I'm producing, you know, what the Court
11 is wanting us to give here. Which number are you looking at?

12 MS. BRILLEAUX: I only have hard copies with me,
13 Counsel, because I'm not working off a computer.

14 PLAINTIFFS' COUNSEL: That doesn't sound familiar with
15 regard to Ms. Whitehead. When I was looking through them right
16 now, you know -- of course, I just got kicked out of
17 Centrality.

18 MS. BRILLEAUX: We have two photos. There is one dated
19 1953 and one dated 2002. I think there is only two photographs
20 that we have, so -- and, you know, there is just a discrepancy
21 with both of them.

22 MS. BARRIOS: Ms. Gabriel, this is Dawn Barrios. I
23 have a docket number for a photo. I don't know which photo it
24 is but it's from Centrality. It's 369062. If that would help
25 you look on Centrality.

1 PLAINTIFFS' COUNSEL: Okay. Thank you so much, Dawn.

2 I apologize, Your Honor. I'm trying to get back
3 into Centrality right now, and, of course, my computer is not
4 cooperating at all. So I will absolutely look into this.
5 Certainly if there is --

6 THE COURT: This is what I think we ought to do instead
7 of reviewing the photographs in this manner is I'm going to ask
8 you to contact Ms. Barrios over the course of the next week and
9 see if you all can work through what the photographs are.

10 My guess is the 1953 photograph was an error, if
11 it was 10 years before she was born, but there has to be some
12 mistake here, and I'm going to ask you to work with Ms. Barrios
13 and Ms. Brilleaux.

14 PLAINTIFFS' COUNSEL: Your Honor, I appreciate that and
15 I apologize for that, and I will reach out to Dawn next week
16 and we'll get it fixed.

17 THE COURT: Okay. Thank you very much.

18 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

19 MS. BRILLEAUX: Thank you, Your Honor.

20 The next set of cases we have are represented by
21 the Pulaski Law Firm. The first one is Sharon Atkins, which is
22 no CMO 12A process submitted.

23 PLAINTIFFS' COUNSEL: Your Honor, we're in -- this is
24 Leslie LaMacchia with the Pulaski Law Firm. We do have proof
25 of use. We are -- again, it's our fault for not sending the

1 Certificate of Compliance to defendants, so we're in the
2 process of serving the subpoena. I can get those Certificate
3 of Compliances with CMO 12A to defendants today.

4 THE COURT: Okay. I'm going to grant seven days to
5 make sure we verify that.

6 What about Dana Bell? Is it the same issue?

7 PLAINTIFFS' COUNSEL: It's the same issue, Your Honor.

8 THE COURT: I'm going to give the defendants and you
9 seven days for you to provide that information, but I want this
10 completed by seven days. So when I grant seven days that means
11 you need to take care that that information is sent within the
12 next 48 hours so that defendants have an opportunity to
13 adequately assess that everybody is in compliance.

14 Pamela Blair.

15 MS. CALLEN: Yes. This is a 505 plaintiff, and we
16 have PFS is not substantially complete. It's specifically a
17 proof of use issue. The medical records use show Taxol use.
18 Obviously this is not that litigation, so we don't have any use
19 of Taxotere.

20 PLAINTIFFS' COUNSEL: The records do not show Taxol
21 use. They show Carboplatin and Taxol followed by Taxotere, and
22 we did provide a statement of chemotherapy that does
23 specifically state Taxotere.

24 MS. CALLEN: Again, the records reflect Taxol use,
25 so....

1 THE COURT: What she's saying it was Taxol something
2 else followed by Taxotere.

3 PLAINTIFFS' COUNSEL: Right. There was one dose of
4 Taxol, and then she was given Taxotere.

5 THE COURT: Okay. My guess is we're not going to pull
6 up the pages today. I'm going to ask you to contact
7 Ms. Barrios, and then we're going to work through what the
8 confusion is. Thank you.

9 PLAINTIFFS' COUNSEL: Okay.

10 MS. CALLEN: Within the next seven days again; is that
11 what we're doing?

12 THE COURT: Yes.

13 MS. BRILLEAUX: Thank you, Your Honor.

14 Bonnie Clark. This is no proof of use and before
15 photo is not dated.

16 PLAINTIFFS' COUNSEL: The dated before photo was
17 submitted on 7/1/2019.

18 THE COURT: What about proof of use?

19 PLAINTIFFS' COUNSEL: The proof of use, we do have
20 medical records from 2006 that state she was given four cycles
21 of TC, which it could either be Taxol or Taxotere, and we're in
22 touch with the corporate office of the cancer center right now
23 to get that clarified.

24 THE COURT: What about the photos?

25 MS. BRILLEAUX: Thank you, Your Honor.

1 First of all, we have not received the records
2 that counsel stated. Have they been uploaded to
3 MDL Centrality?

4 PLAINTIFFS' COUNSEL: They should have been. Give me
5 one second.

6 MS. BRILLEAUX: Just while you're looking for that,
7 Counsel, we have no record -- we have an undated before photo
8 was uploaded, but we do not have any indication that a date was
9 added to that.

10 PLAINTIFFS' COUNSEL: The date was -- the date was
11 2001.

12 MR. BRILLEAUX: Is that visible on MDL Centrality?

13 PLAINTIFFS' COUNSEL: Yes, it was uploaded on July 1st.

14 THE COURT: Ms. Brilleaux, is this something that you
15 could at your office just -- I don't know what to do under
16 those circumstances. Perhaps the thing to do is to have a
17 telephone conference with you to review.

18 Ms. Barrios, if you have any better ideas I'm all
19 ears.

20 MS. BARRIOS: I would love to work with Ms. LaMacchia
21 and look at the medical records myself, and I'll be in touch
22 with defense counsel and make sure that they get the medical
23 records, so we just ask that --

24 THE COURT: Sure.

25 MS. BRILLEAUX: I just know that in past we've had

1 issues with plaintiffs' counsel truly believing that the date
2 is visible but it not being visible, and that has been a
3 technical issue, so we just ask that --

4 THE COURT: Why don't you contact Ms. Barrios and see
5 if we can work through whatever technical problems we have.
6 Thank you. I'm going to ask that you do that within the next
7 week.

8 MR. BRILLEAUX: Seven days. Thank you, Your Honor.

9 THE COURT: Jennifer Forsman.

10 MS. BRILLEAUX: No CMO 12A procedure initiated.

11 PLAINTIFFS' COUNSEL: Your Honor, this will be the same
12 issue as with Ms. Atkins and Ms. Bell and also the next
13 plaintiff, Ms. Glenn. Again, we do have proof of use. We have
14 done everything. We're ready to send the subpoena.

15 THE COURT: Okay. This is what I'm going to ask you is
16 to forward that information to defense counsel to verify that
17 you're in compliance, and I'm going to ask that you do that
18 immediately, within the next 48 hours -- even though today is
19 Thursday afternoon -- so that defendants can review it within
20 the next seven days. So that would take care of
21 Jennifer Forsman, Jacqueline Glenn, right?

22 PLAINTIFFS' COUNSEL: Yes, Your Honor.

23 THE COURT: Okay. We are now with --

24 MS. CALLSEN: Theresa Hayes. We have no proof of use,
25 there is no reference to Taxotere or docetaxel in the medical

1 records, and there is no CMO 12 documentation.

2 PLAINTIFFS' COUNSEL: Your Honor, we spoke with the
3 facility yesterday. They are pulling the chart.

4 THE COURT: Okay. I'm going to give you 15 days. I
5 don't know what to do.

6 MS. CALLSEN: Okay.

7 MS. BARRIOS: Your Honor, with all due respect, dealing
8 with a facility in 15 days is almost an impossibility.

9 THE COURT: I know.

10 MS. BARRIOS: I would appreciate it if you would --

11 THE COURT: Let's just push this to the next show cause
12 docket.

13 MS. BARRIOS: I'll work with her in making sure this
14 happens and we have a resolution by the next call docket.

15 THE COURT: Thank you.

16 MS. CALLSEN: I appreciate that but at the same time
17 these were put on notice, so it wasn't like they were just told
18 yesterday they need to get them.

19 THE COURT: I understand that, but --

20 MS. BARRIOS: Your Honor --

21 THE COURT: Wait. I may be helping you. I know when
22 you send a request for records, they don't pull those records
23 upon receipt, but that would be my inclination as to what
24 occurred; so, I think we all know that.

25 Thank you.

1 MS. CALLESEN: Okay. We will carry it over.

2 THE COURT: Narvella Thomas.

3 MS. BRILLEAUX: Yes, Your Honor. This is no proof of
4 use. We've received no medical records.

5 PLAINTIFFS' COUNSEL: Your Honor, we did receive a
6 statement from the facility, and the records have been
7 destroyed. So we are in the process of going through her
8 insurance records and any other way we can get proof of her
9 treatment.

10 THE COURT: Okay. Let's carry this over to the next
11 month.

12 Victoria Thomas.

13 MS. BRILLEAUX: Thank you, Your Honor.

14 This is one -- another CMO 12 but then also no
15 before photos from within five years of treatment. Treatment
16 was in 2001. We have before photos that are dated 1990 and
17 2005. Similar to the ones that we showed you earlier, we
18 believe that they are, for whatever reason, inaccurately dated
19 just because of -- this is an example of a photo that was
20 alleged to be taken in 2005, and as you've been able to see,
21 for whatever reason, mistakes can be made, and we don't believe
22 that this one is representative of the date that it's
23 associated with.

24 PLAINTIFFS' COUNSEL: I'm going to address this in two
25 parts, Your Honor. The first one is with the record and the

1 proof of use. It's through a VA and she first was at the
2 Syracuse VA and then pointed the finger to the Buffalo VA, and
3 then the Buffalo VA pointed them back to Syracuse, and then
4 sent us back to another VA, Bath VA. So we are now at Bath VA
5 pulling those records, but we were given the runaround on the
6 different VA's, so that's that issue.

7 Now, with the photo, I specifically had a
8 question for Ms. Thomas the other day when I spoke with her. I
9 said, "Listen, these photos look really old." She said, "We
10 wear really old clothes," is what she told me. She
11 specifically remembers this in December 2005 because it was
12 right before she went on an overseas trip.

13 So, I even questioned it because I looked at it
14 and I said, "Well, it looks a little antiquated," you know, but
15 I don't know how people dress. I don't know hairstyles.
16 People dress differently in different parts of the country,
17 different hairstyles. This was 14 years ago. I just -- I had
18 to take her word for it. So --

19 MS. BRILLEAUX: I mean, the other thing that seemed off
20 about this, Your Honor, and also counsel, is that this
21 plaintiff was born in 1943, which would make her over 60 years
22 old in these two photos. So, again, just because we are
23 obviously looking at the timing of the photos and trying to
24 make sure that they are when they say they are, these are
25 things that would just raise red flags for us, and we wanted to

1 raise that.

2 PLAINTIFFS' COUNSEL: I agree. I also brought that up
3 to her, and she indicated to me that, she said, "I've always
4 looked young," is what she told me. So, I'm being honest with
5 you because I also had the same suspicions that you did.

6 MS. BARRIOS: Your Honor, my Dawn Barrios. Might I
7 suggest that I get on the phone with the client. I've found
8 that when I've done that before, it's a little more serious by
9 saying, "I'm court appointed and you have to give me the
10 information;" so, I'm more than happy to do that in this case.

11 THE COURT: All right. Let's do that. Thank you.

12 MS. BRILLEAUX: Thank you, Your Honor.

13 THE COURT: So we're going to defer that one to
14 Ms. Barrios.

15 Okay. We have --

16 MS. BRILLEAUX: I think now we are to the last large --
17 no, we have two large sets. We have Fears Nachawati next.
18 Margarett Brown. This is no before photos from within five
19 years of treatment.

20 THE COURT: Fears Nachawati. Who do we have on the
21 phone? Hello?

22 PLAINTIFFS' COUNSEL: Can you hear me?

23 THE COURT: Yes. Who is this?

24 PLAINTIFFS' COUNSEL: Afternoon, Your Honor. My name
25 is Tarek Abassi. I'm counsel for the plaintiff --

1 THE COURT: Okay. Thank you.

2 PLAINTIFFS' COUNSEL: -- Margarett Brown. In regard
3 to the before photos for this case, we have submitted the photo
4 of an ID that is from 2001 that is a bit outside of the
5 required range; however, it has been impossible for our client
6 to obtain photos as she has lost the majority of her belongings
7 and -- including photos because of floods.

8 THE COURT: Because of what?

9 PLAINTIFFS' COUNSEL: Floods.

10 THE COURT: Okay. I'm going to ask you to work with
11 Ms. Barrios on this issue. Within the next 15 days I need you
12 to contact to begin that process.

13 PLAINTIFFS' COUNSEL: Yes, Your Honor.

14 THE COURT: Edit Davis.

15 MS. CALLEN: PFS is not substantially complete. We
16 have no proof of use or no CMO 12 documentation.

17 PLAINTIFFS' COUNSEL: Hi, Your Honor. This is
18 Charlotte Long at Fears Nachawati, counsel for plaintiff. It
19 looks like we submitted an amended Plaintiff Fact Sheet on the
20 12th -- on August 12th.

21 And CMO 12, we inadvertently missed it, but this
22 morning we did send it after we realized that we missed it. We
23 apologize for that oversight, but we did send it and get
24 everything in.

25 THE COURT: All right. So the Plaintiff Fact Sheet

1 that you amended on August 12th, are you telling me includes
2 the records that would show proof of use?

3 PLAINTIFFS' COUNSEL: Yes. Yes, Your Honor.

4 THE COURT: Okay. I'm going to grant seven days to the
5 defendant to verify.

6 PLAINTIFFS' COUNSEL: I'm sorry. I'm sorry,
7 Your Honor, no. That's my mistake. I doesn't include proof of
8 use. It looks like there was a HIPAA issue with this one that
9 delayed the order for a few months, and then we received an
10 updated HIPAA July the 16th, and we were able to resubmit a
11 request, but we haven't gotten the request back in. The
12 records are still pending.

13 THE COURT: Okay.

14 MS. CALLSEN: Because we did confirm that there is
15 nothing been submitted. It's still outstanding.

16 PLAINTIFFS' COUNSEL: The Plaintiff Fact Sheet, yes.

17 THE COURT: Okay. So when did you request the records
18 with the proper --

19 PLAINTIFFS' COUNSEL: July 15th is when we received the
20 HIPAA from -- the updated HIPAA from the client we requested.
21 Prior to that we had, you know, sent out the records request,
22 and there was a HIPAA issue. It was delayed and we were not
23 able to get the records until the client had updated the HIPAA,
24 but, again, that was July 16th, so we haven't been able to get
25 the records back in. So we just ask for 30 days to get those

1 records in and get the proof of use.

2 THE COURT: I'm going to grant 30 days.

3 MS. CALLEN: The next plaintiff Gail -- I'm not sure
4 how you say her first name, Linnette -- Linnette Gail. I'm
5 sorry, I had a --

6 THE COURT: I thought that one was dismissed.

7 MS. CALLEN: Oh, is that the one? I have too many
8 lists here.

9 THE COURT: Yvonne Horne.

10 MS. CALLEN: We don't have proof of use. The records
11 say Taxotere and Taxol, so they are ambiguous of what we do
12 have, so we still have no proof of use.

13 THE COURT: Hello?

14 PLAINTIFFS' COUNSEL: Your Honor, we have uploaded
15 medical records -- proof of use medical records as of July 15,
16 2019.

17 THE COURT: Mr. Abassi, what I'm hearing is that the
18 records -- are you telling me it says "Taxotere" then "Taxol"
19 or is it interchangeable?

20 MS. CALLEN: It's ambiguous, right. The records
21 don't -- they are not clear as to proof of use.

22 MS. BARRIOS: Your Honor, Dawn Barrios. I'm more than
23 happy to look at those records with the plaintiff's counsel and
24 then get back to --

25 THE COURT: I'm going to ask you to contact Ms. Barrios

1 within the next week to review this information.

2 Okay. Then I think we go to number 108, which is
3 Judith McShea.

4 MS. CALLEN: PFS is not substantially complete.
5 Again, we have no proof of use, and there is no documentation
6 regarding CMO 12 efforts.

7 PLAINTIFFS' COUNSEL: Your Honor, we sent a CMO 12 last
8 night. Again, this was just an oversight. We missed it and we
9 apologize for wasting the Court's time today. We did try to
10 send the email last night.

11 We submitted an uploaded photograph. The
12 Plaintiff Fact Sheet is substantially complete. We went ahead
13 and provided as much as we can with that Plaintiff Fact Sheet.

14 THE COURT: Okay. The Court is going to grant seven
15 days for you to verify -- for the defendants to verify.

16 MS. CALLEN: What I specifically said was no proof of
17 use, though, so she didn't address what -- I heard the CMO 12
18 but proof of use is needed.

19 THE COURT: Do you have proof of use?

20 PLAINTIFFS' COUNSEL: I didn't have that on my list,
21 Your Honor.

22 PLAINTIFFS' COUNSEL: Your Honor, we do have proof of
23 use. The medical records were uploaded yesterday with
24 Judith McShea. She is limited in mobility and doesn't really
25 have anyone around to help her out. The facility was giving

1 her the runaround and required her to show up in person to sign
2 a HIPAA. So we did receive the records yesterday and uploaded
3 them yesterday.

4 THE COURT: Seven days for the defendant to verify.

5 MS. CALLEN: Seven days to verify. Got it.

6 THE COURT: Okay. Then we go to Lisa Newton.

7 MS. CALLEN: Right. We have substantially incomplete.
8 We have no before photos, and there is no PTO 71 certification.

9 PLAINTIFFS' COUNSEL: We have -- Your Honor, this is
10 Charlotte again. We've uploaded photographs on August 7th, and
11 PTO 71 was uploaded the 15th after the client was able to get
12 that over to us.

13 THE COURT: Is that everything?

14 MS. BRILLEAUX: We have a no dated before photo. So we
15 have four purported before photos, but it's an issue that I
16 mentioned earlier, Your Honor, where we have photos within a
17 range, 2010 to 2013, and they also just appear to be photos
18 that are dateable.

19 They appear to be at special events, holding a
20 newborn, as a good example, and we just don't believe a
21 three-year range. I think that the plaintiffs can work a
22 little bit harder to nail down the dates that these photos were
23 taken on.

24 THE COURT: I agree.

25 PLAINTIFFS' COUNSEL: If you give us time we can

1 certainly cure those issues.

2 THE COURT: Well, you got seven days.

3 PLAINTIFFS' COUNSEL: Yes, Your Honor. Thank you.

4 THE COURT: Okay. Alvera Ray.

5 MS. CALLEN: We don't have any proof of injury. We
6 have no before photos.

7 PLAINTIFFS' COUNSEL: Yes, Your Honor. In this case
8 the plaintiff is 64 years old. She's (inaudible) --

9 THE COURT: I can't hear you. Wait. Please stop. I
10 can't hear you. Please speak up.

11 PLAINTIFFS' COUNSEL: Can you hear me?

12 THE COURT: Just speak up.

13 PLAINTIFFS' COUNSEL: I might be having some issues
14 with my phone.

15 THE COURT: Okay. All right. Alvera Ray.

16 PLAINTIFFS' COUNSEL: Yes, Your Honor. Our client is
17 not the most tech savvy person and has been dealing with some
18 health issues lately. We made contact with her, and the after
19 photo that we uploaded earlier this week was the best that we
20 could get out of her personally, but on Monday she did assure
21 me that her sister was coming in to town from out of town and
22 would help not only take some better after photos of her
23 current situation as well as assist in locating a photo that
24 fits the time frame.

25 So we would ask that you grant us 15 days for her

1 sister to come in and help get those photos.

2 MS. CALLSEN: The issue was the no before photos. I
3 mean, we appreciate updated photos, but did you say -- I
4 thought you said you do have photos before but you haven't
5 uploaded them yet?

6 PLAINTIFFS' COUNSEL: No. Your Honor. We uploaded one
7 after photo.

8 THE COURT: You uploaded one after photo. I think the
9 issue is before photos. Do you have any in your possession
10 within five years of chemotherapy?

11 PLAINTIFFS' COUNSEL: The client has assured me that
12 she does, and I tried to walk her through the process of taking
13 photos of those to send to us, but she has been having some
14 difficulty finding them, and that's where her sister was going
15 to come in to help her go through her things and send the
16 appropriate photos to us.

17 THE COURT: I think you need to talk to Ms. Barrios
18 about that. I'm going to send you with Ms. Barrios. I don't
19 know, has her cancer recurred or something that she is unable
20 to do this? I'm sending you to Ms. Barrios.

21 PLAINTIFFS' COUNSEL: All right. I don't want to go
22 too much into it, but the client is dealing with some possible
23 early onset dementia.

24 THE COURT: Okay. Please work with Ms. Barrios, and
25 I'm sure her sister can help her. Thank you.

1 PLAINTIFFS' COUNSEL: All right. Thank you.

2 THE COURT: Nettie Roberts.

3 MS. CALLEN: Again, we don't have proof of injury.
4 The before photos are not within five years of the chemotherapy
5 administration.

6 PLAINTIFFS' COUNSEL: Bernay (spelled phonetically)
7 Roberts, we have -- we've uploaded both before records and
8 after -- I mean, excuse me, before photos and after photos.
9 I'm seeing photos uploaded from August 7th.

10 MS. CALLEN: They are not within five years. They are
11 older than that.

12 THE COURT: Do you understand the problem?

13 PLAINTIFFS' COUNSEL: I do but I'm seeing a 2014 photo,
14 and it looks like she had chemo in 2015; so, I'm pretty sure
15 that that's within the five-year time frame from August 7th.

16 MS. CALLEN: We'll re-review and work with Dawn to the
17 extent we need to, if that's okay.

18 THE COURT: Okay. Seven days. Thank you.

19 Caroline Vann.

20 MS. CALLEN: We don't have proof of use. There is no
21 documentation of use of docetaxel or Taxotere.

22 PLAINTIFFS' COUNSEL: Your Honor, this is the -- kind
23 of the same situation as Judith Davis where we did order
24 records, but there was a HIPAA deficiency. We were able to
25 cure that deficiency, and we received a new HIPAA, and so the

1 records are pending, but we don't have them back, so we can't
2 provide what we don't have.

3 THE COURT: I'm going to grant 30 days but --

4 MS. CALLEN: The authorization -- can you just confirm
5 that the authorization has been submitted with the request?

6 PLAINTIFFS' COUNSEL: Yes, it has. I realized today as
7 we were on the phone that that CMO 12 hasn't been sent to you
8 but I will send that over.

9 MS. CALLEN: Just to confirm, you received an updated
10 authorization and you've submitted it?

11 PLAINTIFFS' COUNSEL: Yes, yes, I have. And I can give
12 that to you as required in the CMO 12.

13 MS. CALLEN: Please. Thank you.

14 THE COURT: Thank you. Ora Vaughn.

15 MS. BRILLEAUX: Yes, Your Honor. This is no before
16 photos and no CMO 12 initiated -- process initiated.

17 PLAINTIFFS' COUNSEL: Your Honor, the CMO 12 issue
18 email was sent yesterday. I know it was after the deadline.
19 It was an oversight on my part.

20 THE COURT: Are you talking on a speakerphone maybe?
21 Maybe if you pick up your phone. We are really having trouble.

22 PLAINTIFFS' COUNSEL: I'm sorry. It's a headset that
23 I'm using, and I think there are issues with it.

24 THE COURT: Well, there are issues, so if you can pick
25 up the handle and just hold it because I'm really struggling to

1 hear you.

2 Okay. Ora Vaughn.

3 PLAINTIFFS' COUNSEL: All right. As for the CMO 12
4 issue, the email was sent to defense counsel yesterday. It was
5 an oversight on my part because in compiling the two
6 noncompliance lists that were sent out in late June, the
7 505(b) (2) list did not have CMO 12 as an issue, and it was an
8 oversight on my part when I was compiling those lists.

9 THE COURT: Okay. So that's CMO 12, was that the issue
10 you had?

11 MS. BRILLEAUX: I just had that we had no contact about
12 the CMO process.

13 THE COURT: Okay. I think he said he sent the email
14 yesterday. I'm going to give you seven days to confirm that.
15 Thank you.

16 MS. BRILLEAUX: Then with the photo.

17 THE COURT: Okay. There was a photo.

18 PLAINTIFFS' COUNSEL: A before photo?

19 THE COURT: Is it a before photo that you're missing?

20 MS. BRILLEAUX: It is, Your Honor, and we did receive a
21 photo, but it does not have plaintiff's face. It's just of the
22 back of her head. I have a copy if you would like to see it.
23 Okay.

24 THE COURT: All right. Could you get a photograph that
25 shows the plaintiff.

1 PLAINTIFFS' COUNSEL: We could certainly get that from
2 her.

3 THE COURT: Okay. That's seven days. All right.

4 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

5 THE COURT: Loretha -- this is Reich and Binstock.

6 MS. BRILLEAUX: Yes. I think we're on our last --
7 no -- well, yes, our last set of Exhibit A cases.

8 THE COURT: Then we're going to look at photographs.

9 MR. BRILLEAUX: Yes.

10 MR. LAMBERT: Your Honor, we've been going for two
11 hours. Would you like to take a quick break --

12 MR. BRILLEAUX: I think we only have about 20 cases
13 left.

14 MR. LAMBERT: Thank you.

15 MS. BRILLEAUX: But thank you, Mr. Lambert.

16 THE COURT: Thank you. If you need to leave --

17 MS. CALLSEN: Do you need a brief moment?

18 MR. LAMBERT: I'm not having to wear those shoes.

19 MS. BRILLEAUX: This is the most challenging part of
20 the process.

21 THE COURT: Loretha Bronson. Who do we have on the
22 phone for Reich and Binstock? Mr. Roth?

23 PLAINTIFFS' COUNSEL: Yes. Good afternoon, Your Honor.

24 THE COURT: Okay. Fine. We have Loretha Bronson.

25 MR. BRILLEAUX: Yes. That is no proof of use.

1 PLAINTIFFS' COUNSEL: We have a committed request for
2 records, Ms. Bronson. Asked for just -- we do have proof of
3 use for Loretha Bronson. We will get that loaded immediately.
4 It is an oversight on our part that we did not get that into
5 MDL Centrality, so we do have proof of use.

6 We let the defendants know on August 1st of our
7 cure attempts, and we'll have that literally loaded here in
8 30 seconds.

9 THE COURT: Okay. Within seven days. That will give
10 you an opportunity to review it, Ms. Brilleaux, because I want
11 this uploaded within 48 hours so that Ms. Brilleaux can report
12 back to me in seven days.

13 Tamara Gabreilyan.

14 MR. BRILLEAUX: Yes. This is photos are not dated.
15 Initially the deficiency was for no before photos and no after
16 photos, and then we received photos but none of them are dated.

17 PLAINTIFFS' COUNSEL: I'm going to hop on the
18 Centrality. We did request photos from Ms. Gabreilyan, and she
19 was having difficulty finding them. That may be updated and
20 I'll let you know here in just a second. Centrality is a
21 little slow right here. We may have done a photo affidavit for
22 her. I'll let you know here in just a second.

23 MS. BRILLEAUX: Your Honor, this was a case that was
24 supposed to be heard on July 11th; so, I'm just not really
25 understanding why this isn't something that has been dealt with

1 weeks, if not months ago.

2 PLAINTIFFS' COUNSEL: I can answer that. Your Honor,
3 we loaded photos on July 12th.

4 THE COURT: Are they dated? That's the issue.

5 PLAINTIFFS' COUNSEL: I believe that they are. I think
6 I did a photo affidavit. If you bear with me for one second.
7 Yeah, we have gone through and -- if we don't have those dated,
8 we will certainly get that done but I think we have.

9 THE COURT: Can you talk to Ms. Barrios about this. I
10 mean, I'm not going to sit on the phone for --

11 PLAINTIFFS' COUNSEL: No, I understand but we do -- we
12 have, you know, within the last --

13 THE COURT: It may be a technical problem.

14 MS. BRILLEAUX: Counsel, just to be clear, we
15 understand that photographs have been uploaded. But there are
16 no dates on them. The issue is the dates.

17 PLAINTIFFS' COUNSEL: We talked to the client, and if
18 we don't have dates on the photos --

19 THE COURT: I'm going to ask you to visit with
20 Ms. Barrios. We've got to move on. Okay. Then let's get this
21 done within seven days.

22 All right. Carol Jean Hill.

23 MS. BRILLEAUX: Thank you, Your Honor.

24 This is no PFS declaration, no proof of use, no
25 before photos, after photos, no authorization, and no PTO 71

1 certification.

2 PLAINTIFFS' COUNSEL: We've had a lack of cooperation
3 from our client. We did talk to her last week. We would ask
4 for more time. I cannot honestly sit here and tell you that
5 more time will get us a result, but it will give us an
6 opportunity to pound on her and try to get her to do this, but
7 there has been an awful lot of contact with this client.

8 THE COURT: And you haven't gotten it yet?

9 PLAINTIFFS' COUNSEL: We have not?

10 THE COURT: All right. This matter is dismissed with
11 prejudice.

12 MS. BRILLEAUX: Thank you, Your Honor.

13 The next one is Loretta Kerr. No proof of use,
14 no before photos, and no after photos.

15 PLAINTIFFS' COUNSEL: We got Loretta submitted on
16 Friday, and we let the defendants know. We are waiting on more
17 records regarding the proof of use. I think we've taken care
18 of every other deficiency on her.

19 THE COURT: What's the status of the records? First
20 I'm going to give defendants seven days to check that the other
21 items were cured, but what's the status of the records?

22 PLAINTIFFS' COUNSEL: They are ordered and we can light
23 a fire under our records service to expedite it. We feel we
24 have everything else in order for her. If we don't come up
25 with proof of use records, we'll be the first one to dismiss

1 her.

2 MS. CALLESEN: When were they requested?

3 THE COURT: I know but can you tell me when they were
4 requested?

5 PLAINTIFFS' COUNSEL: I'm going to research that. I
6 can get that to you here momentarily.

7 THE COURT: I'm going to ask you to contact Ms. Barrios
8 within the next seven days so that we can satisfy ourselves
9 that the records are being ordered timely.

10 All right. Laurie Lardner.

11 MS. BRILLEAUX: Your Honor, just on Kerr, we have
12 someone checking live. We do not have any indication that
13 anything has been cured, and we would like to request that if
14 it's not done within seven days we can move to dismiss the
15 case.

16 THE COURT: You can, yes, but I'm asking him to get
17 with Ms. Barrios because there may be technical difficulties.

18 MS. BRILLEAUX: Okay. Thank you.

19 THE COURT: Laurie Lardner.

20 MS. BRILLEAUX: That is no proof of use.

21 PLAINTIFFS' COUNSEL: She is a similar situation to
22 Loretta Kerr. (Inaudible) everything else. PFS.

23 THE COURT: I think the only issue was proof of use,
24 and you've requested those records; is that what you're telling
25 me?

1 PLAINTIFFS' COUNSEL: Yes. Absolutely.

2 THE COURT: This is what I'm going to ask you to do is
3 to email, because it sounds like everything, Ms. Brilleaux,
4 within seven days, defense counsel to advise status of the
5 requested records. Okay?

6 PLAINTIFFS' COUNSEL: Perfect.

7 THE COURT: Thank you.

8 PLAINTIFFS' COUNSEL: Thank you.

9 THE COURT: Cheria Markos.

10 MS. BRILLEAUX: Yes. This is no proof of use.

11 PLAINTIFFS' COUNSEL: It would be similar to Ms. Kerr
12 and Ms. Lardner, everything else, and we will follow the same
13 procedure.

14 PLAINTIFFS' COUNSEL: Okay.

15 THE COURT: Okay. All right. I'm going to order that
16 the same procedure be followed, that he advise you when the
17 records were requested.

18 Jerri McDowell. Let me ask you: Are these all
19 the same issues?

20 MS. BRILLEAUX: We also have some photo issues with the
21 same cases.

22 THE COURT: Okay. All right. Let's go.
23 Jerri McDowell.

24 MS. BRILLEAUX: No proof of use, no before photos, and
25 no after photos.

1 PLAINTIFFS' COUNSEL: I thought we procured the photos
2 from Jerri McDowell. I'll look at MDL Centrality.

3 She's looking for photos. I think I'm going
4 to -- she was looking for some photos. Let's see if she's got
5 them loaded.

6 THE COURT: Who is looking for photos?

7 PLAINTIFFS' COUNSEL: Our clients.

8 THE COURT: Are they loaded or not?

9 PLAINTIFFS' COUNSEL: (Inaudible).

10 THE COURT: Mr. Roth, you're going to have to contact
11 Ms. Barrios. I was hoping that, particularly since you've been
12 sitting on the phone for two hours, that perhaps you had gone
13 through this and would be able to respond quickly.

14 PLAINTIFFS' COUNSEL: We're in the process of getting
15 photos for Ms. McDowell. If we don't come up with them, again,
16 we will be the first ones to move for dismissal.

17 THE COURT: Probably not. I'm guessing that the
18 defendants are going to move before you.

19 PLAINTIFFS' COUNSEL: Right. Maybe so.

20 THE COURT: Yeah. This was requested when? When did
21 you --

22 PLAINTIFFS' COUNSEL: July 26th was our last request to
23 Ms. McDowell via email with suggestions of where she could look
24 for photos.

25 THE COURT: All right. I'm going to ask you to visit

1 with Ms. Barrios because, I have to tell you, I'm losing my
2 patience.

3 PLAINTIFFS' COUNSEL: I understand.

4 THE COURT: Within the next seven days.

5 All right. Hattie Meadows.

6 And then the proof of use, you need to send the
7 defendants information regarding when the records were
8 requested.

9 All right. Hattie Meadows.

10 MS. BRILLEAUX: Yes, Your Honor. This is no before
11 photos within five years of treatment.

12 THE COURT: Okay.

13 PLAINTIFFS' COUNSEL: We loaded photos on May 22nd, and
14 I believe we do have before photos. I'll look at Centrality
15 and see but for Ms. Meadows --

16 MS. BRILLEAUX: Counsel, within five years of her
17 chemotherapy treatment.

18 PLAINTIFFS' COUNSEL: I believe so.

19 MR. BRILLEAUX: I'll represent to you, counsel, that my
20 notes show that we do have one, but it's 13 years prior to her
21 2013 treatment.

22 PLAINTIFFS' COUNSEL: That may be what she was able to
23 come up with.

24 THE COURT: Not good enough. I'm going to direct you
25 to liaison counsel because this --

1 PLAINTIFFS' COUNSEL: We have recent photos.

2 THE COURT: Are these post chemotherapy, the photos
3 that you do have? What we're looking for is prechemotherapy
4 photos within five years.

5 PLAINTIFFS' COUNSEL: That one 13 years may be the best
6 one we've got.

7 THE COURT: She's got to do better.

8 PLAINTIFFS' COUNSEL: I understand. I agree.

9 THE COURT: No.

10 PLAINTIFFS' COUNSEL: We have one from 2013, which may
11 be during chemo. We have a photo affidavit.

12 THE COURT: You know what, I'm going to direct you to
13 Ms. Barrios because I'm losing my patience and I don't want
14 to --

15 PLAINTIFFS' COUNSEL: Sure.

16 MS. BRILLEAUX: Thank you, Your Honor. We can --

17 THE COURT: Charlene Robson.

18 MS. BRILLEAUX: No before photos from within five years
19 of treatment.

20 PLAINTIFFS' COUNSEL: I think that we do on her.

21 THE COURT: Did you download them, upload them, or
22 whatever you call it?

23 PLAINTIFFS' COUNSEL: Mr. Roth, did you look at this
24 before you got on the phone?

25 PLAINTIFFS' COUNSEL: I did. And it says we do have

1 photos loaded for Ms. Robson.

2 MS. BRILLEAUX: Are they within five years of her 2016
3 treatment, Counsel?

4 PLAINTIFFS' COUNSEL: It must be -- they appear to be
5 after.

6 THE COURT: If he's saying that they uploaded them, he
7 has seven days.

8 PLAINTIFFS' COUNSEL: We have some during chemo. I
9 thought we had some before.

10 MS. BRILLEAUX: Counsel, I'll represent to you that we
11 have some from 1999 and 2003, but this is 16 years and
12 12 years, respectively, before her chemotherapy treatment, and
13 the Court has required photos within five years of treatment.

14 PLAINTIFFS' COUNSEL: We can reach out to her again.
15 We may have gotten all the photos that she has.

16 THE COURT: I'm going to direct you and ask you to talk
17 to Ms. Barrios because I think you need to understand that the
18 photos, there is a requirement that they be within five years,
19 unless there are extraordinary circumstances that can be
20 clearly articulated.

21 Angela Schuyler.

22 MS. BRILLEAUX: Yes, Your Honor. This is no proof of
23 use, no before photos, and undated after photos.

24 PLAINTIFFS' COUNSEL: Ms. Schuyler. We do have a lot
25 of photos loaded for her. A proof of use, I think that she is

1 also an ongoing records order situation.

2 THE COURT: Okay. I'm going to ask you to contact
3 defense counsel and advise them of the request you've made and
4 when requests were made for medical records.

5 As to the photographs, I'm going to ask you to
6 visit with Ms. Barrios on all of these issues related to
7 photographs.

8 All right. Our last one is Christine Simcox.

9 MS. BRILLEAUX: No proof of use and no before photos
10 from within five years of treatment.

11 PLAINTIFFS' COUNSEL: She has some photos.

12 THE COURT: I think that's going to fall in the same
13 bucket. I'm going to ask you to visit with Ms. Barrios about
14 the photo issue, and I'm going to require that you contact
15 defense counsel and advise them as to what steps have been
16 taken to provide proof of use.

17 MS. BRILLEAUX: Just to be clear, Your Honor, the ones
18 that you have ruled on, this is all seven-day time frame?

19 THE COURT: Yes.

20 MS. BRILLEAUX: Thank you, Your Honor.

21 Okay. Then the last set that we have, we have
22 four cases left, Your Honor, that are rollover cases from prior
23 hearings to revisit.

24 THE COURT: Yes, please.

25 MS. BRILLEAUX: The first one is Deborah Edwards

1 represented by Kennedy Hodges, and this is no proof of use.

2 THE COURT: Mr. Green?

3 PLAINTIFFS' COUNSEL: Yes. Good afternoon, Your Honor.
4 This is Donald Green representing the plaintiff.

5 So this was an issue we filed in this case
6 because we had reference to Taxotere usage in the oncology
7 records, and then there was later medical records from a
8 hospital that referenced previous Taxol administration. We
9 obtained additional records, and we did find that Taxol was,
10 indeed, used.

11 We tried to contact the client to obtain
12 permission to terminate the case through a stipulated
13 dismissal. We sent correspondence to her. We tried to call
14 her numerous times. We cannot get ahold of her to get her
15 authority to agree to a dismissal.

16 THE COURT: This matter is dismissed with prejudice.
17 I'm sorry, sir, you had to stay on the phone so long for your
18 one case.

19 PLAINTIFFS' COUNSEL: No problem. Thank you.

20 THE COURT: Barbara Falk with the Simmons Hanly Conroy.
21 Mr. Foley, are you on the line?

22 PLAINTIFFS' COUNSEL: Yes, Your Honor.

23 THE COURT: Where are we with that one, Ms. Brilleaux?

24 MR. BRILLEAUX: So this is no before photos from within
25 five years of treatment.

1 PLAINTIFFS' COUNSEL: (Inaudible) Your Honor, where we
2 received a photo on Monday, and we uploaded it before the time
3 deadline. Unfortunately, we have not sent an email
4 notification to defense. It was drafted and left in somebody's
5 draft folder. They didn't hit send. So a photo that's dated
6 2006 has been uploaded as of Monday morning.

7 MS. BRILLEAUX: Your Honor, this is another case where
8 this has been flagged as something that we do not believe is
9 accurate for whatever reason.

10 This is the 2006 photograph that we got. I would
11 like to highlight right here. It's a 1988 issuance. I know
12 that's unclear. We got another driver's license for
13 comparison. 1988. Expiration 1994. 1988, 1994. This is not
14 a 2006 photograph or a document.

15 PLAINTIFFS' COUNSEL: We reached out to Ms. Falk and
16 asked her about the date on the photo. The back of the photo.
17 I think we had submitted two pages or they submitted two pages,
18 and the second page was the -- had the expiration date of the
19 license as 2012. And a little bit of research into the time
20 frame of Florida licenses, how long they are good for was six
21 or eight years. Both would be in the relevant time frame. We
22 asked her if she ever renewed or line or if she always went in
23 and renewed and had her picture taken, and she told us she
24 always went in and renewed.

25 MS. BRILLEAUX: Your Honor, again (speaking

1 simultaneously) --

2 PLAINTIFFS' COUNSEL: The photographs -- I'm sorry,
3 Counsel, go ahead.

4 MS. BRILLEAUX: Thank you. This is just obviously
5 something that's being represented as a photo from 2006 that is
6 raising a very clear red flag as to why it should be questioned
7 for whether -- its accuracy.

8 THE COURT: Ms. Barrios.

9 MS. BARRIOS: Mr. Foley, do you have a copy of the back
10 of the license that you could show us that indicate the
11 expiration date?

12 PLAINTIFFS' COUNSEL: Yes, and it was supposed to be
13 uploaded but maybe that was not uploaded.

14 MS. BARRIOS: Your Honor, I'll deal with getting that
15 to him and getting that to Ms. Brilleaux.

16 THE COURT: I think perhaps a conversation with the
17 client would be appropriate, Ms. Barrios.

18 MS. BARRIOS: Yes, Your Honor.

19 THE COURT: Thank you.

20 I'm going to ask you to contact Ms. Barrios
21 within seven days. Ms. Barrios is going to be busy for the
22 next week.

23 MS. BARRIOS: I don't have anything else to do so
24 that's quite okay.

25 MR. LAMBERT: Your Honor, I will help Ms. Barrios with

1 some of these.

2 THE COURT: I thought you needed a little break.

3 MS. BARRIOS: The person sitting next to me is going to
4 be very busy.

5 THE COURT: Deborah Hutchinson. That's with Davis &
6 Crump. Who do we have on the phone with Davis & Crum?
7 Mr. Rockstad?

8 PLAINTIFF'S COUNSEL: Yes, Your Honor. I'm here.

9 MS. BRILLEAUX: Your Honor, this is, again, no before
10 photos within five years of treatment. I think when we last
11 spoke Mr. Rockstad said that he would be trying to locate them,
12 and we still have not had that deficiency cured.

13 PLAINTIFF'S COUNSEL: Your Honor, I talked with
14 Ms. Hutcheson. I attempted to call all the family members that
15 she told me might have pictures. No one has been able to find
16 any pictures or they are refusing to cooperate or assist. I'm
17 at a loss as to say where to go from here, Your Honor. There
18 are no more pictures to produce.

19 MS. BARRIOS: Are there any extenuating circumstances,
20 Mr. Rockstad, as to why Ms. Hutcheson doesn't have photos, like
21 a flood or a fire or a theft or --

22 PLAINTIFF'S COUNSEL: I'm sorry to cut you off. Right
23 before she was diagnosed with cancer, her husband passed away,
24 and a lot of their belongings were in a storage unit, and I
25 guess the storage unit, the best I understand, the storage unit

1 passed to, I guess it was also in the name of his parents, and
2 they don't have any contact or won't have any contact with us
3 or Ms. Hutcheson, and as far as she knows, all of their
4 belongings that were in that storage unit have been sold or
5 given away or otherwise disposed of. She says there were
6 pictures in there, all their old family pictures, but that's
7 all there is, and there is no digital copies of anything.

8 MS. BARRIOS: Your Honor, that sounds to me that that
9 may be justification for not having photos. At least give him
10 an opportunity to maybe sign a verification.

11 THE COURT: I'm going to ask you to contact Ms. Barrios
12 within the next seven days and see where we are.

13 All right. Guyann Peterson is with
14 Fernelius Simon. Mr. Perdue, are you on the phone?

15 PLAINTIFFS' COUNSEL: Yes, Your Honor. Ryan Perdue
16 here for Mr. Fred Peterson.

17 MS. BRILLEAUX: Yes, Your Honor, and this is no before
18 photos.

19 THE COURT: Okay. No before photos.

20 PLAINTIFFS' COUNSEL: Yes, Your Honor. This matter has
21 been before the Court a couple of times. Just by way of
22 refresher, Ms. Guyann Peterson passed away on June 2017. Her
23 son, Fred Peterson, prior to our last show cause hearing, had
24 gone through every belonging that he was aware of that belonged
25 to his mom that she would have left after her death. He could

1 not find photos.

2 Your Honor, at our last show cause hearing,
3 suggested that Mr. Peterson talk to family friends, which he
4 did so. He talked to every family member he could, and no one
5 was able to find a photograph of Ms. Peterson prior to her May
6 2012 chemotherapy; so, similar to some of the other cases and
7 at the risk of adding one more case to Ms. Barrios' list --

8 THE COURT: Well, the problem we have is with a
9 deceased plaintiff and no photographs, I'm not sure how you
10 would show proof of injury.

11 PLAINTIFFS' COUNSEL: Mr. Peterson has said that he
12 would be happy to submit an affidavit that would describe --

13 THE COURT: How are we going to determine there is
14 indeed an injury? Your plaintiff is deceased, and there is no
15 photograph of what her hair looked like before or afterwards.

16 MS. BRILLEAUX: Just to note, Your Honor, this case was
17 filed by the representative.

18 THE COURT: I'm listening.

19 PLAINTIFFS' COUNSEL: Your Honor, there are after
20 photos. Ms. Peterson, following her 2012 chemotherapy, lived
21 for another five years. We have produced several after photos
22 that depict hair loss that I think is consistent with claims in
23 the case, but we just unfortunately, because she passed away,
24 we don't have access to any photographs that predate her
25 chemotherapy.

1 If this case were selected for trial, we would
2 have testimony regarding what her hair looked like prior to her
3 chemotherapy, so I think there would be some evidence of that,
4 but it may not be the best evidence, but it would be some
5 evidence.

6 THE COURT: Ms. Barrios. Do you have something?

7 MS. BARRIOS: Yes, ma'am. I wanted to ask if I could
8 work with Mr. Perdue to see if there are school pictures, if
9 she has a driver's license picture. They may have taken a
10 picture when she was admitted to the hospital. I understand
11 when you to go in the chemo unit they take a picture.

12 If there is anything like that, Mr. Perdue, that
13 I could help you to try to explore to find a before picture,
14 I'm more than happy to do so.

15 PLAINTIFFS' COUNSEL: Thank you. I would like to take
16 you up on that. I had asked my client those questions
17 (speaking simultaneously).

18 THE COURT: Mr. Perdue, I'm going to tell you, this
19 case will not proceed without a before photo. I'm going to
20 give you one last shot. You can call Ms. Barrios, but this is
21 even more problematic.

22 Just so you understand, I know that they were
23 able to produce after chemo photographs, but it will not
24 proceed. So I'm going to give you an opportunity to visit with
25 Ms. Barrios, but this is the last time.

1 Okay. I believe that's everybody on the phone.
2 We can hang up the phone now.

3 MS. BRILLEAUX: I think we had one more Marc J. Bern
4 that we said we needed to go back to, Felicia Rhodes.

5 MS. BARRIOS: What number is it, please?

6 MR. BRILLEAUX: It's number 43, Ms. Barrios.

7 MS. BARRIOS: Thank you.

8 THE COURT: Which one was that? Oh, that's right. I
9 don't remember why. Oh, that was the photograph you wanted to
10 show me.

11 MS. BRILLEAUX: I don't think that that was for Rhodes
12 that was the issue. I'm looking at my notes. We had -- when
13 did she die?

14 MS. BARRIOS: My notes indicate -- you said when did
15 she die?

16 THE COURT: Hello. Who do we have on the phone for
17 Marc Bern?

18 MR. BRILLEAUX: He may have forgotten we were supposed
19 to go back to it.

20 MR. LAMBERT: Your Honor, this is Palmer Lambert. I
21 have the same note as Ms. Callsen that this was an individual
22 who passed away, and you had given 30 days to check on that
23 survivor.

24 MS. BRILLEAUX: For number 43?

25 MR. LAMBERT: That's what I have, yes.

1 MS. BRILLEAUX: I have for 43 --

2 THE COURT: I'll be honest with you, what I have is a
3 highlighted and no -- so I don't think -- this is what -- I
4 could go back through the transcript, which this is -- I
5 believe I did ask when did she die or when something had
6 happened, and what my guess is that the attorney forgot that
7 this matter was ongoing, just like I forgot, so --

8 MS. BARRIOS: Your Honor, I volunteer to contact
9 Mr. Kessler. I'll get together with both defense counsel,
10 we'll put our noggins together and read the wonderful
11 transcript that we're going to get for this and figure it out.

12 THE COURT: Thank you. I believe that there are
13 photographs that you wanted to show me.

14 I think everybody else on the phone can hang up.
15 Thank you very much.

16 PLAINTIFFS' COUNSEL: Your Honor, do you mind if I stay
17 on? This is Kelly Bieri for Sanofi as well. Is that okay with
18 you?

19 THE COURT: If you want to.

20 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

21 MS. BRILLEAUX: Okay. So the one I wanted to go back
22 to, this is actually just one, is Sarah Dunlap. This was kind
23 of the first of the photos that, again, we had just flagged
24 because we have been seeing some things that have raised some
25 red flags.

1 We've seen -- we have a photo from -- that's
2 supposed to be -- states that it was dated December of 2007,
3 and you can see, compare that to this one which is supposed to
4 be earlier, May 2007, and I just don't think that those look
5 like they -- those dates would be accurate.

6 PLAINTIFFS' COUNSEL: Your Honor, the hairstyles and
7 the fashion in the photos, along with the photo quality, do
8 seem to be -- indicate that this was taken in 2007.
9 Additionally, I think this plaintiff just ages very well.

10 I have her present day --

11 THE COURT: This is only six months difference.

12 MS. BRILLEAUX: Your Honor, just to point out also the
13 difference in the hairstyle, while I certainly do not claim to
14 know, it looks like there is a possibility that one of these
15 pictures may be a wig. I'm certainly not sure of that, but it
16 may be something that can be looked into, if these are supposed
17 to be six months apart.

18 PLAINTIFFS' COUNSEL: That is something we can
19 definitely look into. I think the issue here is she's claiming
20 that she looks to be too young to be her age in this
21 photograph, but this client doesn't age -- she ages very well.

22 I have her present day photos, and this is, I
23 believe, 12 years and 13 years later, and if you look at these
24 photographs --

25 THE COURT: I understand but if you look, this is May

1 and this is December of the same year. This is not the same
2 year.

3 PLAINTIFFS' COUNSEL: Our client is telling that us
4 that this is the same year. I will look into whether or not
5 she maybe had a hairpiece or something like that that she put
6 in, but people change their hairstyles, and I think both of
7 those hairstyles are definitely in line with what people were
8 wearing in 2007 and 2006.

9 THE COURT: Mr. Lambert, do you have something else to
10 say?

11 MR. LAMBERT: Yes, Your Honor. Palmer Lambert,
12 coliaison counsel for plaintiffs.

13 I'm happy to get on the phone with this
14 plaintiff, as Ms. Barrios has offered on different ones.

15 THE COURT: Ms. Sulkin, let me be perfectly frank with
16 you. It's not just the hair. These are supposed to be
17 photographs taken six months different and look at them.

18 MS. BRILLEAUX: Just to add, Your Honor, they both have
19 plaintiff's verification signature, so to the extent --

20 THE COURT: I know. But please tell me you can see the
21 concern.

22 PLAINTIFFS' COUNSEL: Your Honor, I can see the concern
23 because she does look different, but people do look different
24 in different photographs that could be taken weeks apart. One
25 of them is also admittedly not a great -- it's a photograph of

1 a photograph in a frame, so it's not quite as clear as this one
2 that's actually a photograph, so that could account for some
3 discrepancy also in the look of the photographs.

4 But I do want to show you the present day
5 photographs because I am concerned that they are going to argue
6 that she looks too young in 2007. I think if you look here,
7 she was born in 1946. I would not guess that she was born in
8 1946, looking at this photograph right here. If she would have
9 had a hairpiece or had hair, she looks significantly younger
10 than her actual age.

11 THE COURT: Okay. Mr. Lambert, I'm going to ask you to
12 talk to Ms. Dunlap.

13 MR. LAMBERT: Yes, Your Honor. We will.

14 PLAINTIFFS' COUNSEL: Thank you, Your Honor.

15 MS. BRILLEAUX: I believe that's all we have.

16 THE COURT: Okay. We can go off the record.

17 (WHEREUPON, at 4:28 p.m., the proceedings were
18 concluded.)

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REPORTER'S CERTIFICATE

I, Cathy Pepper, Certified Realtime Reporter, Registered Merit Reporter, Certified Court Reporter in and for the State of Louisiana, Official Court Reporter for the United States District Court, Eastern District of Louisiana, do hereby certify that the foregoing is a true and correct transcript to the best of my ability and understanding from the record of the proceedings in the above-entitled and numbered matter.

s/Cathy Pepper

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