

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

IN RE: TAXOTERE (DOCETAXEL) \*  
PRODUCTS LIABILITY \* Docket No.: 16-MD-2740  
LITIGATION \* Section "H(5)"  
\* January 18, 2019  
*This Document Relates To All Cases* \* New Orleans, Louisiana  
\* \* \* \* \*

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

APPEARANCES:

For the Plaintiffs: Barrios, Kingsdorf & Casteix, LLP  
BY: DAWN BARRIOS, ESQ.  
701 Poydras Street  
Suite 3650  
New Orleans, Louisiana 70139

Gainsburgh, Benjamin, David,  
Meunier & Warshauer, LLC  
BY: PALMER LAMBERT, ESQ.  
2800 Energy Centre  
1100 Poydras Street  
New Orleans, Louisiana 70163-2800

1 APPEARANCES:

2 For Sanofi S.A.:

Irwin Fritchie Urquhart  
& Moore, LLC  
BY: KELLY BRILLEAUX, ESQ.  
400 Poydras Street, Suite 2700  
New Orleans, Louisiana 701305  
6 For Sandoz, A Novartis  
Division:Greenburg Traurig  
BY: NICHOLAS A. INSOGNA, ESQ.  
1840 Century Park East  
Suite 1900  
Los Angeles, California 900679  
10 For Accord Healthcare,  
11 Inc.:Tucker Ellis  
BY: JULIE A. CALLSEN, ESQ.  
950 Main Avenue  
Suite 1100  
Cleveland, Ohio 4411314  
15 Also Participating:Danae Benton, Esq.  
Christopher Pinedo, Esq.  
Charles Orr, Esq.  
Richard Root, Esq.  
Steven Davis, Esq.  
Debra Humphrey, Esq.  
Charlotte Gulewicz, Esq.  
Christopher Elliot, Esq.  
Steve Roth, Esq.  
Eric Newell, Esq.  
Sarah Doles, Esq.  
Taylor Hardenstein, Esq.  
John Cowart, Esq.  
Peter Goss, Esq.  
Paige Boldt, Esq.  
Sara Stipkovits, Esq.  
Seth Webb, Esq.  
Markita Hawkins, Esq.22  
23  
24  
25

1 APPEARANCES:

2 Also Participating: Andrew Gardner, Esq.  
3 David Bonnin, Esq.  
4 Mark Niemeyer, Esq.  
5 Ryan Perdue, Esq.  
6 Brannon Robertson, Esq.  
7 Jessica Perez-Reynolds, Esq.  
8 Robin Myers, Esq.

9 Official Court Reporter: Jodi Simcox, RMR, FCRR  
10 500 Poydras Street  
11 Room B-406  
12 New Orleans, Louisiana 70130  
13 (504) 589-7780

14

15

16 Proceedings recorded by mechanical stenography, transcript  
17 produced by computer.

18

19

20

21

22

23

24

25



1 Mouton, 07091; Gloria Smart, 14389; Loretia Warren, 11777;  
2 Lorraine Winquest, 10705; Gina Wright, 14762; Terry Yates,  
3 12198; Elizabeth Hazelton, 14130; Yolanda --

4 **MS. BRILLEAUX:** Your Honor, I think you may be  
5 reading from a new list.

6 **THE COURT:** Oh, I'm sorry.

7 **MS. BRILLEAUX:** No, thank you. We did want to note  
8 for the record that before we began the hearing, two of the  
9 cases on the declarations list which were submitted to the  
10 Court were marked to be removed because plaintiffs have since  
11 filed plaintiff fact sheets, and the defendants would request  
12 15 days to review the substantially complete nature of the fact  
13 sheets.

14 **THE COURT:** So ordered, and that would be Lavoria  
15 Jones, 00608; and Dusty Roth, 08078.

16 **MS. BARRIOS:** Your Honor, the plaintiff will withdraw  
17 the declarations that have previously been filed into the  
18 record.

19 **THE COURT:** So ordered.

20 Okay. Now, we're ready to proceed.

21 **MS. BRILLEAUX:** Your Honor, we also have the list of  
22 dismissals, which I think for the past hearings, we have just  
23 provided to the court reporter to attach to the transcript. We  
24 also have a new category of cases -- it's a good list. It's a  
25 good category. It's a statement --

1 Do you want to take this one, Dawn?

2 **MS. BARRIOS:** Thank you.

3 It's a statement that says counsel has discussed  
4 the matter with the client, explained that unless she  
5 cooperates that the case would be dismissed, and the  
6 plaintiff's counsel has not gotten the cooperation, and the  
7 plaintiff's counsel has no valid defense to the motion to  
8 dismiss.

9 **THE COURT:** Okay.

10 **MS. BRILLEAUX:** And we submitted that list to Your  
11 Honor, too. I can read it into the record:

12 Elizabeth Hazelton, 17-14130; Yolanda Hvizdak,  
13 18-05991; Michelle Jones, 18-2148; Christine McLean, 18-5996;  
14 Tammy Moore, 18-5998; Patricia Petersen, 17-14529; Vicky Sugg,  
15 17-14896; Josephine Towery, 17-14742; and Michelle Williams,  
16 18-06002.

17 **THE COURT:** Those cases are dismissed with prejudice.

18 **MS. BRILLEAUX:** Thank you, Your Honor.

19 And before we get started, I think Ms. Callsen  
20 had a statement to make about the -- just a quick update on the  
21 cases from the last show cause docket.

22 **THE COURT:** Thank you.

23 **MS. CALLSEN:** Your Honor, at the last show cause  
24 docket, there were a number of cases that you ordered 15-day  
25 cures, that the plaintiffs need to cure and meet and confer

1 with the defendants on what they claim to have been cures  
2 and/or cure the PFS deficiencies. There were approximately 53  
3 cases that fell into that category. The defendants met,  
4 reviewed the cases, and then kind of divided up the meet and  
5 confers according to who was represented.

6 We sent e-mails and/or telephone calls or had  
7 meet and confer invitations out to all of those plaintiffs. By  
8 plaintiff's firms, we would list all the ones they had. Based  
9 on those meet and confers, some of them were cured, and we  
10 agreed to take them off the call docket. And that's about  
11 approximately 20, 22 to 24 of them were cured by January 4th,  
12 2019, which was the 16th day after the 15th day, and I remember  
13 you reminding them, 16 days would be it.

14 Some counsel did engage in meet and confers, but  
15 didn't completely cure the deficiencies, and so we did not  
16 agree to take them off the show cause list. However, we agreed  
17 to continue to meet and confer in an attempt to cure the  
18 remaining deficiencies, and the parties are still in the  
19 process of doing that.

20 And then there are some 20 plaintiffs who did  
21 not cure the deficiencies and/or make no effort on the meet and  
22 confer, and so defendants will be submitting a report to you on  
23 those cases and be seeking dismissal.

24 **THE COURT:** Okay.

25 **MS. BRILLEAUX:** Thank you, Your Honor.

1           Before we get started, just a couple of  
2 preliminary notes on how these are organized. The first point  
3 is that to avoid some of the issues we've had before in other  
4 show cause hearings, we met with Ms. Barrios and agreed that we  
5 would have a hard cutoff for any cures, and the cutoff that we  
6 agreed to was January 16th at 9:00 a.m.

7           So to the extent anything was submitted after  
8 that cutoff, we have not reviewed it; and if it has been  
9 submitted, we're going to ask -- in advance, I'll let you know,  
10 we're going to ask for 15 days for an opportunity to review and  
11 confirm that it is substantially complete.

12           For everything that was submitted before the  
13 cutoff, and that is by 9:00 a.m. on January 16th, we have  
14 reviewed it and we, you know, either have a response to it or  
15 agree that it's been cured.

16           The other issue is --

17           **MS. BARRIOS:** Excuse me, can I just address that?

18           **MS. BRILLEAUX:** Sure. Of course.

19           **MS. BARRIOS:** Your Honor, Ms. Brilleaux accurately  
20 states our agreement, but I read the agreement to be yesterday  
21 at 9:00 a.m., but if someone files a declaration or if someone  
22 files a dismissal after that time, I think they should be taken  
23 off the call docket. It's just a waste of our time.

24           And I spoke -- we've all spoken about this  
25 before, and they interpret "cure" as meaning even filing

1 dismissals. I interpret "cure" as curing the problem. And so  
2 when we go through the list, I have just -- I'll make a note of  
3 cases that have already been dismissed or otherwise taken care  
4 of.

5 **MS. BRILLEAUX:** Your Honor, too -- and I think I know  
6 what Ms. Callsen is going to say, we had declarations still  
7 coming in this morning, which kind of establishes why this  
8 isn't -- why we need a hard cutoff for everything. Because,  
9 otherwise, there's no -- there's no limit to when the list  
10 should be updated, and I think by establishing a cutoff is the  
11 best way to do it.

12 **MS. BARRIOS:** I don't object to establishing a  
13 cutoff, but I think it's a waste of the Court's time if by the  
14 time these are submitted to you late the night before the  
15 hearing, there are dismissals that are filed and we have record  
16 docket numbers. We provided those to the defendants last  
17 night. There were 16. We gave them the Record Doc number, but  
18 they still kept them on the list.

19 **THE COURT:** Cases that have been dismissed?

20 **MS. CALLSEN:** Your Honor, let me -- let me -- and let  
21 me explain. We had a discussion about this, and Kelly --  
22 Ms. Brilleaux, excuse me, has correctly stated it. But we said  
23 as of Tuesday at 9:00 a.m., we'd cut off, and then the  
24 defendants would go about their -- was it Wednesday?

25 **MS. BARRIOS:** Wednesday.

1           **MS. BRILLEAUX:** It was the 16th.

2           **MS. CALLSEN:** I thought it was Tuesday -- anyway,  
3 whatever that date is, we would cut off. And then, you know,  
4 there were how many -- there were 532, right, plaintiffs on the  
5 call docket list initially. And now, in front of you, there's  
6 274. So we did considerable work moving 300 plaintiffs off the  
7 call docket based on us rolling up our sleeves as of 9:00 a.m.  
8 and figuring it out.

9                       We told them that was the cutoff. If more  
10 declarations or dismissals come in, we'll note it as we go  
11 through it. As I've told Ms. Barrios, it will take me two  
12 seconds to say -- read off the name and say it's since been  
13 dismissed, and then we'll move on.

14           **THE COURT:** Okay. This is what -- you know, I would  
15 like to make myself available to the three of you, perhaps, on  
16 a separate day where we can talk about the process. Because I  
17 think -- and I want to congratulate you because I am aware of  
18 how hard you have worked on this process, and I believe a firm  
19 hard date is appropriate so that I can get this and we know  
20 that.

21                       But it seems like every time we get here,  
22 there's -- and what -- I think I need to perhaps better  
23 understand what the problems are instead of during this process  
24 trying to understand. So if the three of you are available one  
25 evening outside of all of the other lawyers.

1           **MS. BARRIOS:** Yes, ma'am.

2           **MS. BRILLEAUX:** We can do that.

3           **THE COURT:** -- that the four of us can sit down and,  
4 perhaps, you can explain to me so that we can just basically  
5 rock and roll.

6           **MS. BARRIOS:** That's a great idea.

7           **THE COURT:** I think that might be the better way to  
8 handle it instead of trying to explain it and talking about  
9 what we see as the problems. But I absolutely agree, a firm  
10 date is what needs to happen.

11           **MS. BRILLEAUX:** Thank you, Your Honor.

12           **THE COURT:** But I think that might help.

13           **MS. BARRIOS:** Your Honor may have other ideas to  
14 share with us that we can even more efficiently move the  
15 process.

16           **THE COURT:** Right. I think, you know, when we put  
17 our heads together -- and let me congratulate you because you  
18 have really made this process easier with the declarations --  
19 with the various declarations that have been filed because I  
20 thought that took a substantial amount of time, and that  
21 process has become much easier.

22           **MS. BRILLEAUX:** Thank you. And we thank Ms. Barrios.

23           **THE COURT:** At the end of the day, though, I think  
24 every time we come to this process, it's, well, this is what  
25 we're doing. And maybe the better thing is if we just sat down

1 and just the four of us. No offense, I don't want to invite  
2 anybody else. But I think that's the better way to handle it.

3 **MS. BARRIOS:** No guys, that's good.

4 **THE COURT:** No guys.

5 **MR. LAMBERT:** I would rather not be there, Your  
6 Honor.

7 **MS. BRILLEAUX:** Your Honor, the other --

8 **THE COURT:** And those of you on the phone, that was  
9 not in any way intended to disparage the ability of men to  
10 participate in this process.

11 **MS. CALLSEN:** It just happens to be the four of us.

12 **THE COURT:** It just happens to be... okay.

13 **MS. BRILLEAUX:** Thank you, Your Honor.

14 **THE COURT:** Thank you.

15 **MS. BRILLEAUX:** The other very quick point is, just  
16 so you know how the list is organized, we did put the category  
17 where no PFS has been submitted first so that, hopefully, we  
18 can move through that very, very quickly.

19 **THE COURT:** I have one quick question, Ms. Brilleaux.  
20 There is on the last page of mine -- and maybe this just should  
21 have been noncompliance dismissal list.

22 **MS. BRILLEAUX:** Oh, that is the list that we provided  
23 to the court reporter to attach, and those are people who filed  
24 stipulations of dismissal who were previously on the list.

25 **MS. BARRIOS:** We can read them into the record, if

1 you want.

2 **THE COURT:** That's fine, if it's not necessary.  
3 These cases that are on this noncompliance dismissal list are  
4 dismissed with prejudice.

5 All right. Now, let's proceed.

6 **MS. BRILLEAUX:** Okay. So we will begin, I'll  
7 indicate to you -- or I'll -- oh, right. So we have first on  
8 the list, plaintiffs who have no PFS in an attempt to move  
9 through those very quickly, and then we will move to plaintiff  
10 fact sheets that are not substantially complete. I will -- as  
11 we go through, we will acknowledge that the deficiency is no  
12 PFS, but I'm hopeful that streamlining that will make this go a  
13 little bit more quickly.

14 **THE COURT:** Okay. And we have not organized this in  
15 any way by counsel. Okay. Thank you.

16 **MS. BARRIOS:** Just for the record, Your Honor, I  
17 don't want to belabor the point, this is an issue I want to  
18 talk to you about because what happens in placing the list like  
19 this, the firms have to stay on the phone all the way until the  
20 end in case they have a case at the end.

21 **MS. CALLEN:** Yeah, but the no PFSs should go  
22 quickly.

23 **MS. BARRIOS:** But that is for another day for us to  
24 discuss. I just wanted to make it clear for the record.

25 **THE COURT:** Okay.

1           **MS. BRILLEAUX:** Thank you, Your Honor. And I will  
2 let you know that they are organized by firm, just separately,  
3 with no PFS and then other issues. So other than that, they  
4 are organized in order of firms with the most -- least amount  
5 to most amount of plaintiffs.

6           The first case is Patrice Zephier, no PFS  
7 submitted. The law firm is Baron & Budd.

8           **MS. BARRIOS:** Your Honor, I've been told that there's  
9 been a cure from plaintiff's counsel. Is anybody on the phone  
10 for Baron & Budd?

11           **MS. BENTON:** Yes. Your Honor, this is Danae Benton  
12 with Baron & Budd. Our client was initially missing and  
13 nonresponsive on our request for the information. This week,  
14 she contacted our office and completed the plaintiff fact  
15 sheet, declaration, authorizations. There's no excuse for the  
16 delay, but we do ask that this matter not be dismissed since  
17 the client is now responsive to our request, and to allow 15  
18 days for us to confirm.

19           **THE COURT:** I'm going to allow 15 days to confirm.

20           **MS. BENTON:** Thank you, Your Honor.

21           **MS. BRILLEAUX:** Your Honor, just to clarify, 15 days?

22           **THE COURT:** 15 days.

23           **MS. BRILLEAUX:** Thank you, Your Honor.

24           **MS. CALLSEN:** The next plaintiff is Nancy Newbern,  
25 and she is represented by Hilliard, Munoz, and Gonzales.

1 Again, no PFS.

2 **THE COURT:** Is anybody on the phone?

3 **MR. PINEDO:** Yes, Your Honor. Chris Pinedo for Nancy  
4 Newbern with the Hilliard law firm. We had difficulty in  
5 getting full contact with this client, but we were able to  
6 reach her late on Wednesday, and we submitted a fact sheet  
7 yesterday morning. I'd ask for 15 days.

8 **THE COURT:** The Court's going to grant 15 days to  
9 confirm compliance.

10 **MS. BRILLEAUX:** The next one is Gail Hall with  
11 Mulligan law firm.

12 **THE COURT:** Is anybody on the phone?

13 **MS. CALLSEN:** I think Chris -- or Chip Orr is here.

14 **MR. ORR:** Your Honor, Charles Orr, Mulligan law firm.  
15 We have no basis to oppose dismissal in this case.

16 **THE COURT:** This matter is dismissed with prejudice.

17 **MS. CALLSEN:** The next one is Angelia Carr, and she's  
18 represented by Pendley, Baudin & Coffin.

19 **MS. PEREZ-REYNOLDS:** Good morning, Your Honor.  
20 Jessica Perez-Reynolds on behalf of Ms. Carr. My notes reflect  
21 that Ms. Carr did, in fact, submit a cure and submitted a full  
22 PFS with a declaration on the 16th. I think it may have just  
23 happened past the 9:00 a.m. deadline.

24 **THE COURT:** The Court's going to grant 15 days to  
25 review.

1           **MS. PEREZ-REYNOLDS:** Thank you.

2           **MS. CALLEN:** It was submitted at 4:55 p.m. That's  
3 how exact my notes are.

4           **MS. BRILLEAUX:** Your Honor, the next case that I have  
5 is Linda Smith, represented by the Mulligan law firm.

6           **MR. ORR:** Your Honor, this case was dismissed with  
7 prejudice on November 15th, 2018. The Docket No. is 17-16413.  
8 The dismissal is Docket No. 8, just for the Court's reference.

9           **THE COURT:** Okay. It's been dismissed. Okay.

10          **MS. BRILLEAUX:** Thank you, Your Honor.

11                   The next case that I have is Rose Bybee, the  
12 Tracey & Fox law firm, no PFS submitted.

13          **MS. BARRIOS:** Your Honor, a declaration was filed on  
14 January 17th, 2019, Record Doc 5950. The declaration would  
15 indicate that plaintiff's counsel could not contact the client.

16          **THE COURT:** Okay. This matter is dismissed with  
17 prejudice.

18          **MS. BRILLEAUX:** Thank you, Your Honor.

19                   The next one I have is Barbara Martin, Morris  
20 Bart, and that's no PFS submitted.

21          **MR. ROOT:** Good morning, Your Honor. Richard Root  
22 from Morris Bart, representing Ms. Martin.

23          **THE COURT:** Good morning.

24          **MR. ROOT:** Unfortunately, Ms. Martin has passed away.  
25 We do not have material to satisfy the PFS, nor do we have a

1 client, nor do we have contact with heirs. So we just feel --  
2 we felt it inappropriate to voluntarily dismiss the case in  
3 light of the fact we don't have that client, but that's the  
4 status.

5 **THE COURT:** This matter is dismissed with prejudice.

6 Thank you.

7 **MS. BRILLEAUX:** Thank you, Your Honor.

8 Jamie Archer, no PFS submitted, the TorHoerman  
9 law firm.

10 **MR. DAVIS:** Good morning, Your Honor. My name is  
11 Steven Davis. I represent Ms. Archer. We had been -- had no  
12 contact with Ms. Archer. We were able to reestablish contact  
13 and last spoke to her in early December. At that point, she  
14 did provide information that allowed us to complete a PFS,  
15 however, she did not return a declaration. We have not been  
16 able to contact her since then despite our efforts.

17 We did upload this morning the non-verified PFS  
18 so at least the defense will have that information. But  
19 because we've had contact semi-recently, we'd still like to try  
20 and have an opportunity, so I would ask that the judge give us  
21 until the next show cause hearing; and if we haven't had  
22 contact by that date, then I'll file a declaration of no  
23 contact.

24 **THE COURT:** Mr. Davis, you're going to get 15 days.

25 **MR. DAVIS:** Thank you, Your Honor.

1           **THE COURT:** Not 16, 15.

2           **MR. DAVIS:** Understood.

3           **MS. BRILLEAUX:** Hank you, Your Honor.

4                   The next one I have is Julie Clark, also with  
5 the TorHoerman law firm.

6           **MR. DAVIS:** Your Honor, Ms. Clark has hired new  
7 counsel. I have agreed to a substitution. I believe they  
8 filed a motion to substitute counsel, but I don't have any  
9 authority in this case. New counsel is aware of the pending  
10 status today, and I believed they were handling it.

11           **MS. BARRIOS:** Do you know who new counsel is?

12           **MR. DAVIS:** I'm sorry, Your Honor?

13           **MS. BARRIOS:** This is Dawn Barrios. Do you know who  
14 new counsel is?

15           **MR. DAVIS:** I'm sorry, Your Honor, I did not think  
16 this was up today, so I did not double-check that information.  
17 I can find it in the next few minutes, but I don't have it off  
18 the top of my head. I apologize.

19           **THE COURT:** Okay. I'm going to grant 15 days because  
20 under any circumstance, this should have been done, and new  
21 counsel needs to know that.

22           **MS. BARRIOS:** Thank you.

23           **MS. BRILLEAUX:** Thank you, Your Honor.

24           **MS. CALLSEN:** Marc Bern has the next several cases,  
25 that law firm. The first one is Cynthia Grant.

1           **MS. HUMPHREY:** Your Honor, Debra Humphrey for Marc J.  
2 Bern & Partners for plaintiff Cynthia Grant. This case was  
3 dismissed on April 20th by Judge Engelhardt.

4           **THE COURT:** Okay. Thank you.

5           **MS. CALLEN:** Okay. Thank you.

6                     The next one is Marcia Heath.

7           **MS. HUMPHREY:** We had reached out via every means  
8 possible, phone calls, e-mails, letters, certified mail, to  
9 reach the client -- well, they've reached the client with no  
10 response. We would ask for time to try.

11           **THE COURT:** No. This matter is dismissed with  
12 prejudice. The Court notes that plaintiff's counsel has done  
13 what they could to contact the client, but the plaintiff has  
14 failed to comply with her obligation.

15           **MS. CALLEN:** The next case is Savonia Mitchell.

16           **MS. HUMPHREY:** This is a case that we'd like to offer  
17 dismissal.

18           **THE COURT:** This matter is dismissed with prejudice.

19           **MS. CALLEN:** The last case with this firm is Katrina  
20 Reynolds.

21           **MS. HUMPHREY:** Katrina Reynolds, we uploaded the --  
22 we started the PFS -- the verified PFS, medical records, and  
23 authorizations were all uploaded to MDL Centrality earlier this  
24 week, so...

25           **THE COURT:** Okay. Court's going to grant 15 days to

1 confirm. Thank you.

2 **MS. CALLEN:** The next one, I can just say this  
3 because it's Lashaun Golden, and there was a dismissal filed  
4 after the cutoff date.

5 **THE COURT:** Thank you.

6 **MS. BARRIOS:** And we can go through Barbara Hogan,  
7 dismissal was filed, Record Doc 5921.

8 **THE COURT:** Thank you.

9 **MS. BARRIOS:** Debra Huckey, dismissal filed, 5919.

10 **THE COURT:** Thank you.

11 **MS. BARRIOS:** Tamerlane Hyde, dismissal -- I'm sorry,  
12 declaration filed, Record Doc 5920.

13 **THE COURT:** Was that on the list?

14 **MS. BRILLEAUX:** These were all filed after the  
15 cutoff, Your Honor.

16 **THE COURT:** Okay. This matter is dismissed with  
17 prejudice.

18 **MS. BARRIOS:** Tamerlane Hyde, she filed a  
19 declaration, Record Doc 5920. I actually think I repeated  
20 that. I'm sorry.

21 Stephanie Kissiah, a declaration was filed,  
22 Record Doc 5922.

23 **THE COURT:** That matter is dismissed with prejudice.

24 **MS. BARRIOS:** And Lisa Martin, a declaration was  
25 filed, Record Doc 5923.

1           **THE COURT:** That matter is dismissed with prejudice.

2           **MS. BRILLEAUX:** Thank you, Your Honor.

3                   The next one I have is -- all the ones that were  
4 just read in were for Fears Nachawati. The next one that I  
5 have with that firm is Tabitha Melton, no PFS submitted.

6           **THE COURT:** Is anyone on the phone with Fears  
7 Nachawati?

8           **MS. GULEWICZ:** Yes, ma'am. This is -- Your Honor,  
9 this is Charlotte Gulewicz, counsel for Tabitha Melton.

10          **THE COURT:** Okay.

11          **MS. GULEWICZ:** We submitted the plaintiff fact sheet  
12 on MDL Centrality on the 16th after the firm deadline. The  
13 client reached out to us on the 16th at 6:00 p.m. stating that  
14 she was in the hospital and hadn't been able to get the  
15 documents to us. However, everything was received and  
16 submitted on that date.

17          **THE COURT:** Okay. The Court's going to grant 15 days  
18 to confirm compliance.

19          **MS. BRILLEAUX:** Your Honor, just to clarify, is the  
20 15 day -- we just wanted to clarify that the 15 days was to  
21 make sure that the plaintiff had fully cured the deficiency;  
22 correct?

23          **THE COURT:** Right.

24          **MS. BRILLEAUX:** Thank you.

25          **MS. BARRIOS:** Your Honor, the next four have had

1 dismissals or declarations.

2 **THE COURT:** Well, wait. You know what, this is --  
3 there was no PFS submitted. The 15 days confirms that the PFS  
4 is submitted. Now, if there's some technical or minor problem  
5 with it, I'm not going to dismiss the case with prejudice.

6 **MS. BRILLEAUX:** Of course, Your Honor. Thank you.

7 **THE COURT:** But I just -- certainly that a PFS has  
8 been submitted, that's been verified --

9 **MS. BRILLEAUX:** Thank you.

10 **THE COURT:** Okay. As long as we understand.

11 **MS. BRILLEAUX:** Yes.

12 **MS. BARRIOS:** It's always good to clarify, Your  
13 Honor.

14 **THE COURT:** Thank you.

15 **MS. BARRIOS:** We appreciate it.

16 The next seven cases I'm going to read are from  
17 the same firm. They've either filed dismissals or  
18 declarations. The first case is Carolyn Mullins. A dismissal  
19 was filed, Record Doc 5930.

20 **THE COURT:** Thank you.

21 **MS. BARRIOS:** Ana Santana, declaration filed, Record  
22 Doc 5924.

23 **THE COURT:** The matter's dismissed with prejudice.

24 **MS. BARRIOS:** Kathy Simon, declaration filed, Record  
25 Doc 5942.

1           **THE COURT:** The matter is dismissed with prejudice.

2           **MS. BARRIOS:** Satara Stukes, dismissal filed, Record  
3 Doc 5928.

4           **THE COURT:** Thank you.

5           **MS. BARRIOS:** Robin Vandeweghe, dismissal filed,  
6 Record Doc 5927.

7           **THE COURT:** Thank you.

8           **MS. BARRIOS:** Lorna Williams, declaration filed,  
9 Record Doc 5926.

10          **THE COURT:** That matter is dismissed with prejudice.

11          **MR. MEUNIER:** And the last is Julianna Willits,  
12 declaration filed, Record Doc 5925.

13          **THE COURT:** That matter is dismissed with prejudice.

14          **MS. BRILLEAUX:** And, Your Honor, just for the record,  
15 I would like to reiterate that these were all filed after the  
16 cutoff date, and we would encourage plaintiffs counsel to file  
17 this before so that we don't have to go through this process.

18          **THE COURT:** Thank you.

19          **MS. BARRIOS:** And plaintiffs' liaison counsel will  
20 also encourage everybody to file them early.

21          **THE COURT:** Please.

22          **MS. BRILLEAUX:** Thank you, Your Honor.

23                   The remaining cases that we have on the no PFS  
24 submitted list are from Bachus & Schanker, and they have -- I  
25 think that they are present here today.

1           **THE COURT:** Well, we have some from Reich & Binstock,  
2 too.

3           **MS. BRILLEAUX:** I'm not sure -- so we have Reich &  
4 Binstock, but I don't believe that those -- oh, no. Yes, you  
5 are correct. You are correct. Thank you. I think we have  
6 Bachus & Schanker, and then Reich & Binstock is the final firm.

7           **THE COURT:** Okay. Thank you.

8           **MS. BRILLEAUX:** Thank you for catching that, Your  
9 Honor.

10          **THE COURT:** All right.

11          **MR. ELLIOTT:** Good morning, Judge.

12          **THE COURT:** Good morning.

13          **MR. ELLIOTT:** Chris Elliott for Bachus & Schanker.

14          **MS. BRILLEAUX:** The first case that I have is  
15 Michelle Dula-Harris, no PFS submitted PFS.

16          **MR. ELLIOTT:** We filed the plaintiff fact sheet on  
17 January 15th of 2019.

18          **THE COURT:** The Court's going to grant 15 days to  
19 confirm compliance.

20          **MS. BRILLEAUX:** The next one I have is Patricia  
21 Eversole, no PFS submitted.

22          **MR. ELLIOTT:** Plaintiff, we learned, has passed away.  
23 We made contact with the family. We received the obituary  
24 notice on the 2nd of January. We'd need 30 days to consult  
25 more with the family.

1           **THE COURT:** The Court's going to grant 30 days.

2           **MS. BRILLEAUX:** Thank you, Your Honor.

3                   The next one is Deborah Flores, no PFS  
4 submitted.

5           **MR. ELLIOTT:** We have that she has another attorney  
6 now, Johnson Law Group. The Docket No. is 17-11005.

7           **THE COURT:** Under any circumstance, only 15 days is  
8 going to be granted.

9           **MS. BRILLEAUX:** Your Honor, if there is a separate  
10 docket number pending, we would request that this one just be  
11 dismissed with prejudice.

12           **MR. ELLIOTT:** I'm fine with this one getting  
13 dismissed as long as the other case stays active.

14           **THE COURT:** Oh, there's another docket? Oh, I'm  
15 sorry.

16           **MS. BARRIOS:** Your Honor, for the record, I don't  
17 think it's proper to dismiss this with prejudice because it  
18 would dismiss the other action too. The plaintiff's causes of  
19 action are dismissed. So if it's dismissed --

20           **THE COURT:** We've been -- we went through that last  
21 time. I'll dismiss it without prejudice, and let's put that on  
22 our agenda for the meeting --

23           **MS. CALLEN:** Okay.

24           **THE COURT:** -- not today.

25           **MS. BRILLEAUX:** Okay.

1           **THE COURT:** We'll put that on our agenda for our  
2 after-work meeting.

3           **MS. BARRIOS:** And I'm okay for the plaintiffs for a  
4 dismissal with prejudice as long as there's a reservation of  
5 rights for the other case.

6           **MS. BRILLEAUX:** I would just note, Ms. Barrios, that  
7 there is language in all the stipulations that we signed that  
8 dismissals are with prejudice, if we have dual rep situations  
9 that dismissals of the case being dismissed are with prejudice.

10          **THE COURT:** For today --

11          **MS. BRILLEAUX:** Thank you, Your Honor.

12          **THE COURT:** -- we're going to dismiss it without  
13 prejudice. We'll take that up in our after-hours meeting.

14                   Okay. Thank you. Without prejudice.

15          **MS. BRILLEAUX:** Beatrice Gipson, no PFS submitted.

16          **MR. ELLIOTT:** The client no longer wants to  
17 participate.

18          **THE COURT:** Dismissed with prejudice.

19          **MS. BRILLEAUX:** Denese Glenn, no PFS submitted.

20          **MR. ELLIOTT:** She has another attorney with the Lowe  
21 Law Group. The same situation. The Case No. is 18-04208.

22          **THE COURT:** This matter is dismissed without  
23 prejudice to be reurged after we meet privately.

24          **MS. BRILLEAUX:** Karen Groff, no PFS submitted.

25          **MR. ELLIOTT:** We'd ask for 15 days.

1           **MS. BARRIOS:** Your Honor, a declaration was filed,  
2 that's Record Doc 5956. And this is not my client, but this is  
3 the information that I have, so I'm asking the Court for at  
4 least 15 days for all of us to figure out --

5           **THE COURT:** A declaration was submitted that you  
6 contacted --

7           **MS. BARRIOS:** That's what I have in my notes, but  
8 private counsel didn't have that in his notes.

9           **MS. BRILLEAUX:** Are we talking about Karen Groff?

10          **THE COURT:** What do you --

11          **MR. ELLIOTT:** This is Karen Groff?

12          **MS. BARRIOS:** Karen Groff.

13          **MR. ELLIOTT:** I just have notes here that we need 15  
14 days. We made contact with the plaintiff.

15          **THE DEPUTY CLERK:** There was a declaration filed  
16 today.

17          **THE COURT:** Dismissed with prejudice.

18          **MS. BRILLEAUX:** Thank you, Your Honor.

19                   Debra Mallory, no PFS submitted.

20          **MR. ELLIOTT:** The plaintiff, we've learned, has  
21 passed away. We made contact with the daughter who wishes to  
22 pursue the case. We need to get --

23          **THE COURT:** The Court's going to grant 30 days.

24          **MS. BRILLEAUX:** The next one I have is Joann  
25 Matthews, no PFS submitted.

1           **MR. ELLIOTT:** The plaintiff fact sheet was filed on  
2 the 11th of this month.

3           **THE COURT:** 15 days to confirm.

4           **MS. BRILLEAUX:** Thank you, Your Honor.

5                   Constance McKercher, no PFS submitted.

6           **MR. ELLIOTT:** We've been trying to reach this client,  
7 made many phone calls. We haven't received any response from  
8 the plaintiff.

9           **THE COURT:** This matter is dismissed with prejudice.  
10 The Court notes that plaintiff's counsel has made reasonable  
11 attempts to contact the client, and the client's failed to  
12 comply with her obligations.

13           **MS. BRILLEAUX:** Thank you, Your Honor.

14                   Janice Nichols, no PFS submitted.

15           **MR. ELLIOTT:** I have one filed on the 14th, and --

16           **MS. BARRIOS:** A declaration was filed, and if you  
17 wouldn't mind double-checking it, Docket No. 5957.

18           **MR. ELLIOTT:** That's not our case number. That's not  
19 our case. We've -- we actually have, yeah, Janice Nichols, and  
20 that's case 18-CV-05420, and we actually filed a plaintiff fact  
21 sheet on January 17th, all the photos, everything has been  
22 uploaded.

23           **THE COURT:** The Court's going to grant 15 days to  
24 confirm compliance.

25           **MS. BRILLEAUX:** Thank you, Your Honor.

1 Linda Nichols, no PFS submitted.

2 **MR. ELLIOTT:** I have record that we filed the PFS on  
3 January 17th.

4 **THE COURT:** 15 days to confirm compliance.

5 **MS. BRILLEAUX:** Sandra Osovich, no PFS submitted.

6 **MS. BARRIOS:** Your Honor, I had earlier misspoke  
7 about the plaintiff's name, stating that an earlier plaintiff  
8 had a declaration filed. If your minute clerk would check 5957  
9 to see if a declaration was filed for Sandra Osovich.

10 **THE DEPUTY CLERK:** Yes, it has.

11 **THE COURT:** So this matter should be dismissed with  
12 prejudice. Okay. I thought you were looking back to something  
13 else. Okay.

14 **MS. BARRIOS:** And, Your Honor, it's the same for the  
15 next plaintiff, who is Courtney Preusse, P-R-E-U-S-S-E,  
16 declaration would be file No. 5955, I believe.

17 **THE COURT:** That matter is dismissed with prejudice.

18 **MS. BARRIOS:** Is that correct?

19 **THE DEPUTY CLERK:** That's correct.

20 **MS. BARRIOS:** Thank you, Your Honor.

21 **MS. BRILLEAUX:** Thank you, Your Honor.

22 Shirley Proctor, no PFS submitted.

23 **MR. ELLIOTT:** She sent us her photos. We uploaded  
24 them on January 14th. She actually has mailed us her plaintiff  
25 fact sheet. And we just need more time to get everything

1 uploaded, is the issue right now.

2 **THE COURT:** All right. I'm really having trouble  
3 hearing you.

4 **MR. ELLIOTT:** I'm sorry.

5 **THE COURT:** Has she uploaded her plaintiff fact  
6 sheet?

7 **MR. ELLIOTT:** It's not been -- it doesn't appear to  
8 have been uploaded. We've uploaded the photos, and she's  
9 mailed us her plaintiff fact sheet. So we need additional time  
10 to get the rest of the documentation uploaded.

11 **MS. BRILLEAUX:** And, Your Honor, just --

12 **THE COURT:** You have it in your possession?

13 **MR. ELLIOTT:** It says here that it's been mailed.

14 Do we have it?

15 We actually have it.

16 **THE COURT:** You've got 24 hours.

17 **MR. ELLIOTT:** Okay.

18 **MS. BRILLEAUX:** Thank you, Your Honor.

19 Carol Reed, no PFS submitted.

20 **MR. ELLIOTT:** The plaintiff fact sheet was filed,  
21 Your Honor, on January 16th.

22 **THE COURT:** 15 days.

23 **MS. BRILLEAUX:** Cordelia Ross, no PFS submitted.

24 **MR. ELLIOTT:** I don't have any PFS -- it looks like  
25 we made attempts, but --

1           **THE COURT:** Okay. This matter is --

2           **MR. ELLIOTT:** -- I'm assuming a declaration was  
3 filed.

4                         So this is just some confusion here, Your Honor.  
5 The docket number they listed for Ms. Ross was for Ms. Nichols,  
6 so we confused those two.

7                         What's the situation here?

8           **THE COURT:** Well, do you have a plaintiff fact sheet  
9 for Cordelia Ross?

10           **MS. BRILLEAUX:** Your Honor, could we check our  
11 records and come back to this one at the end of the Bachus &  
12 Schanker section?

13           **THE COURT:** I will. Thank you.

14           **MS. BRILLEAUX:** Thank you, Your Honor. Just for the  
15 record, that's Cordelia Ross. The Docket No. on the sheet  
16 submitted to the Court is 18-5472.

17           **MS. CALLSEN:** Your Honor, regardless of the docket  
18 number of Cordelia Ross, she has no plaintiff fact sheet in MDL  
19 Centrality.

20           **THE COURT:** But that's what I just asked, is there  
21 something that we --

22           **MS. BRILLEAUX:** We're going to check it.

23           **MS. CALLSEN:** He just did.

24           **MS. BRILLEAUX:** Is that the correct docket number,  
25 though?

1           **MS. CALLEN:** Well, I said regardless of the docket  
2 number.

3           **MS. BRILLEAUX:** Oh, I see. So regardless, there's no  
4 plaintiff fact sheet.

5           **THE COURT:** I understand.

6           **MR. ELLIOTT:** I'd like 15 days to sort it out.

7           **THE COURT:** Well, let's just skip it and we'll come  
8 back to that one.

9           **THE DEPUTY CLERK:** They're just switched. They're  
10 just flipped around.

11           **MS. BRILLEAUX:** Oh, I see. So --

12           **THE DEPUTY CLERK:** Ross is listed with Nichols' case  
13 number, and Nichols' case number is listed with Ross.

14           **MS. BARRIOS:** Which Nichols?

15           **THE DEPUTY CLERK:** Linda Nichols.

16           **MS. BRILLEAUX:** Linda Nichols. And we had no PFS for  
17 that one. I think Your Honor granted 15 days.

18           **THE COURT:** Well, I thought they had one, it was --  
19 they filed it.

20           **MR. ELLIOTT:** We filed one for Linda. Linda Nichols,  
21 we filed a plaintiff fact sheet.

22           **THE COURT:** Okay. So Cordelia Ross, while it's the  
23 different -- go look what you filed for Linda Nichols. What is  
24 it?

25           **MS. BARRIOS:** On Linda Nichols, I believe, Your

1 Honor --

2 MR. ELLIOTT: January 17th.

3 MS. BARRIOS: -- January 17th.

4 THE COURT: You filed it.

5 MS. BARRIOS: And you gave 15 days for --

6 THE COURT: To review. But I guess my point is, if  
7 just those two numbers were confused, you filed Linda Nichols,  
8 so what happened to Cordelia Ross, and why should I grant 15  
9 days?

10 MR. ELLIOTT: I think just based on the confusion  
11 with my office, the notes here, I think at least 15 days to  
12 give us a chance to --

13 THE COURT: When was this case --

14 MS. BRILLEAUX: Respectfully, Your Honor, it's --

15 THE COURT: Wait. When was the case filed for  
16 Cordelia Ross?

17 MS. BRILLEAUX: May of 2018.

18 THE COURT: That matter is dismissed with prejudice.

19 MS. BRILLEAUX: Thank you, Your Honor.

20 The next case that I have is Vivian Sedlock, no  
21 PFS submitted.

22 MR. ELLIOTT: We filed a plaintiff fact sheet on  
23 January 16th.

24 THE COURT: 15 days.

25 MS. BRILLEAUX: Thank you, Your Honor.

1 Dolores Smith, no PFS submitted.

2 **MR. ELLIOTT:** The same thing, we filed her plaintiff  
3 fact sheet on January 16th.

4 **THE COURT:** 15 days.

5 **MS. BRILLEAUX:** Thank you, Your Honor.

6 Gloria Stocks, no PFS submitted.

7 **MR. ELLIOTT:** Yeah, she has another attorney. The  
8 case is 17-13762. We'd ask that this case be dismissed without  
9 prejudice.

10 **THE COURT:** I'll dismiss it without prejudice. We  
11 may come back to revisit that after we've had an opportunity to  
12 clear it up.

13 **UNIDENTIFIED SPEAKER:** Your Honor, this is the other  
14 side that she is continuing with. That's the case number that  
15 we want to continue with.

16 **THE COURT:** Your case number?

17 **UNIDENTIFIED SPEAKER:** The 13762.

18 **MR. ELLIOTT:** Yeah. Our case, we ask that it be  
19 dismissed without prejudice, Bachus & Schanker's case.

20 **THE COURT:** All right. Thank you.

21 **MS. BRILLEAUX:** Thank you, Your Honor.

22 Monica Thompson, no PFS submitted.

23 **MR. ELLIOTT:** We filed her plaintiff fact sheet on  
24 January 16th.

25 **THE COURT:** 15 days.

1           **MS. BRILLEAUX:** Next I have Jenny Townsend-Campbell,  
2 no PFS submitted.

3           **MR. ELLIOTT:** I don't have an explanation as to why.  
4 I know we've made attempts to reach Ms Townsend.

5           **THE COURT:** This matter is dismissed with prejudice.

6           **MS. BRILLEAUX:** Thank you, Your Honor.

7                         Linda Walker, no PFS submitted.

8           **MR. ELLIOTT:** We're actually in the process -- she  
9 filled out the plaintiff fact sheet. There's someone going to  
10 her home to pick up all her photos and her plaintiff fact  
11 sheet. We'd ask for 15 days to get it uploaded.

12           **MS. BRILLEAUX:** Your Honor, this has been pending  
13 since December of 2017.

14           **MR. ELLIOTT:** We spoke with her -- we just made  
15 contact with her on January 7th. We've made diligent efforts,  
16 but she really wants participation. She's done everything  
17 possible to comply at this point, and it's just a matter of  
18 getting it uploaded.

19           **THE COURT:** Okay. But you understand it's been a  
20 year?

21           **MR. ELLIOTT:** I mean, I get it. You know, sometimes  
22 folks have exigent circumstances and things and, you know. But  
23 this woman does want to participate. We'd like the opportunity  
24 to receive her documents, pick them up, and get them uploaded.

25           **THE COURT:** I'm going to give you seven days. Not

1 eight, seven.

2 But this is -- I think you all need to  
3 understand, I mean, when something's been pending for a year,  
4 it's hard for me to say there was exigent circumstances that  
5 she couldn't get around to doing it. Unless you tell me she's  
6 been in chemotherapy in an infusion center and has been very  
7 sick for a year, then -- but it's hard for me to, you know,  
8 after 12 months, you've sought her out, sent somebody to her  
9 house, and now she decides she wants to participate. It's just  
10 really, really testing my patience.

11 **MR. ELLIOTT:** Thank you for the seven days, Your  
12 Honor.

13 **MS. BRILLEAUX:** Cynthia Williams, no PFS submitted.

14 **MR. ELLIOTT:** We made diligent attempts to reach  
15 Ms. Williams.

16 **THE COURT:** This matter is dismissed with prejudice.

17 **MS. BRILLEAUX:** And Valerie Wilson, no PFS submitted.

18 **MR. ELLIOTT:** It's the same situation. We've made  
19 attempts.

20 **THE COURT:** This matter is dismissed with prejudice.

21 Okay.

22 **MS. BRILLEAUX:** Thank you.

23 I think that that is all of the no PFS cases for  
24 Bachus & Schanker.

25 **THE COURT:** It is. Now we go to Reich & Binstock.

1           **MS. BRILLEAUX:** Correct.

2           **THE COURT:** Is someone on the phone for Reich &  
3 Binstock?

4           **MR. ROTH:** Steve Roth with Reich & Binstock.

5           **MS. BRILLEAUX:** The first --

6           **MR. ROTH:** Your Honor?

7           **THE COURT:** Yes, sir.

8           **MR. ROTH:** I'd like to just blanket request 15 days  
9 for all of our clients. Within the last 48 hours, we've  
10 received a large number of medical records that had been held  
11 up.

12           **THE COURT:** What's been the holdup?

13           **MR. ROTH:** There were some internal issues in the  
14 firm and with the vendor.

15           **THE COURT:** But these are no PFS at all.

16           **MR. ROTH:** Right. And these records are going to be  
17 determinative. They're going to make or break these cases, and  
18 if they don't meet the threshold, we are going to dismiss them.  
19 We have -- we alerted defendants to this, albeit, just  
20 yesterday because we just found out -- we just got these  
21 records ourselves. And we really think throwing some bodies on  
22 this in 15 days --

23                   Like I said, if it doesn't meet the core  
24 requirements, we will be the first ones to dismiss it, and  
25 these records are going to be really determinative for the rest

1 of these cases.

2 **MS. BRILLEAUX:** Your Honor, for the record, for the  
3 no PFS alone, this is 40 cases, and these cases -- I mean, I'm  
4 going through, they've all been pending since early 2018.

5 **THE COURT:** I can't grant you a blanket 15 days  
6 unless -- I mean, that's an individual thing, and it's got to  
7 be more than -- I think we're going to have to handle these one  
8 case at a time.

9 **MS. BRILLEAUX:** Thank you, Your Honor.

10 **MR. ROTH:** Okay. I mean, if we --

11 **THE COURT:** Sir?

12 **MR. ROTH:** Okay. Yeah. We are in various states of  
13 that, so we'll -- if you want to go through those, we'll be  
14 happy to let you know the status.

15 **MS. BRILLEAUX:** Thank you, Your Honor. The first one  
16 I have is Ann Abell, no PFS submitted.

17 **MR. ROTH:** We've reached out to her. She indicates  
18 that she's interested. And if we could get 15 days on her,  
19 again, we can, you know, have a final determination and -- all  
20 I can just say is she's expressed interest, but has been  
21 unavailable to help us with this, and --

22 **THE COURT:** When was this case filed?

23 **MS. BRILLEAUX:** Your Honor, this case was filed in  
24 July of 2018.

25 **THE COURT:** I guess, Mr. Roth, you have to explain to

1 me why did you all just reach out? I mean, when she signed  
2 up --

3 **MR. ROTH:** We did not just reach out. We have sent  
4 her the plaintiff fact sheet, the authorizations, and various  
5 stages of follow-up. Recently, we've initiated recent contact.  
6 She actually did the -- filled out the authorizations herself,  
7 got them wrong, so we have to redo those. So --

8 **MS. BRILLEAUX:** Your Honor, respectfully, I just  
9 want -- we would appreciate clarification. The first one he  
10 made -- when counsel made a blanket request, the alleged issue  
11 was with -- internally with the firm and with the vendor. And  
12 I don't know if there are specific cases in which he is  
13 alleging that the issue is that the client has not been  
14 responsive, but to me it sounds like we're unclear on this.

15 **MS. CALLSEN:** This is representing the 505 -- this is  
16 Julie Callsen representing the 505. I would just like to ask  
17 for these 40 plaintiffs, I mean, do you have specific examples  
18 or are in specific contact with them that you can relate to the  
19 Court? You started -- and the reason I'm asking, I'm sorry, is  
20 because, again, you started by making a blanket request.

21 **MR. ROTH:** Sure. Sure. And the blanket request  
22 would not apply to Ms. Abell, but I can give you the 27 clients  
23 that are on this list that we do have very recent medical  
24 records for that were -- so I could do it that way. If you  
25 want to do it individually, I can tell you our history of

1 contact with them, whatever your preference.

2 **THE COURT:** Well, I think we need to go one at a  
3 time. I'm going to dismiss Ms. Abell's case with prejudice  
4 because I haven't heard a good reason why this has not been  
5 filed. If there is something that has occurred, I'm going to  
6 grant relief.

7 And, very frankly, at the end of the last call  
8 docket, I cautioned everyone that I had come onto the case and  
9 I was granting a great deal of flexibility, but those days were  
10 over. And the 15 days that I've granted this time were because  
11 actually paperwork had been filed, and it's only 15 days to  
12 confirm that the cure has been made. But just granting 15 days  
13 because we haven't gotten around to it, those days are over.

14 So let's take the next plaintiff.

15 **MS. CALLEN:** The next plaintiff is Liliana Arenas.

16 **MR. ROTH:** We've reached out to her. She has not  
17 expressed interest in continuing this.

18 **THE COURT:** This matter is dismissed with prejudice.

19 **MS. CALLEN:** Theresa Bolton.

20 **MR. ROTH:** Another client who does not want to fill  
21 out the plaintiff fact sheets and --

22 **THE COURT:** This matter is dismissed with prejudice.

23 **MS. CALLEN:** The next one is Shirley Brown.

24 **MR. ROTH:** I reached out to her. She's been kind of  
25 reluctant, but we still think there might be a chance that

1 she's --

2 **THE COURT:** This matter is dismissed with prejudice.

3 **MS. CALLSEN:** Thank you.

4 Barbara Cezair.

5 **MR. ROTH:** We have not been able to make contact with  
6 her.

7 **THE COURT:** This matter is dismissed with prejudice.

8 **MS. CALLSEN:** Thank you, Your Honor.

9 Melissa Collins.

10 **MR. ROTH:** She is working on her PFS. I talked to  
11 her two days ago, and we're expecting to receive it  
12 momentarily.

13 **MS. BRILLEAUX:** Your Honor, we'd ask for seven days.

14 **THE COURT:** The Court's going to grant seven days.

15 **MR. ROTH:** Thank you, Your Honor.

16 **MS. CALLSEN:** Myria Crabtree is the next one without  
17 a PFS.

18 **MR. ROTH:** Yes, and I have not been able to make  
19 contact with her. I've tried.

20 **THE COURT:** This matter is dismissed with prejudice.

21 **MS. CALLSEN:** Sandra Craggette.

22 **MR. ROTH:** We have reached out to her. She indicates  
23 she wants to continue. She is somebody that we just received  
24 medical records for.

25 **MS. CALLSEN:** Has she made any efforts to do her PFS?

1           **MR. ROTH:** She has not, no. We're trying to get her  
2 to -- the seriousness of doing this.

3           **THE COURT:** This matter is dismissed with prejudice.  
4 She has certain obligations as well.

5           **MR. ROTH:** I understand.

6           **MS. CALLSEN:** Thank you.

7                     Wanda Davis.

8           **MR. ROTH:** She is working on her PFS.

9           **THE COURT:** The Court's going to grant seven days.

10          **MS. CALLSEN:** Valerie Dunagan.

11          **MR. ROTH:** She is working on her PFS. We have  
12 received -- let me see if we have any records for her. She's  
13 working on it, and I think we can get it done in seven days.

14          **THE COURT:** The Court's going to grant seven days.

15          **MS. CALLSEN:** Sharon Feaster.

16          **MR. ROTH:** She does not want to participate. I  
17 alerted defendants to that fact a couple days ago in an e-mail.

18          **THE COURT:** That matter is dismissed with prejudice.

19          **MS. BRILLEAUX:** Carrie Fitzpatrick, no PFS.

20          **MR. ROTH:** Hello.

21          **THE COURT:** Hello. Carrie Fitzpatrick.

22          **MR. ROTH:** Yes. We've made attempts to reach her and  
23 have not been successful.

24          **THE COURT:** This matter is dismissed with prejudice.

25          **MS. BRILLEAUX:** Tamara Gabrielyan.

1           **MR. ROTH:** She is working on her PFS. We are helping  
2 her with it. I think seven days.

3           **THE COURT:** The Court will grant seven days.

4           **MS. CALLSEN:** Lois Gary. I believe you --

5           **THE COURT:** Lois Gary.

6           **MS. CALLSEN:** I believe you indicated you wanted to  
7 dismiss this one.

8           **MR. ROTH:** Yeah. I alerted defendants to that fact a  
9 couple days ago.

10          **THE COURT:** This matter is dismissed with prejudice.

11          **MS. BRILLEAUX:** Thank you, Your Honor.

12                   Barbara Gorski.

13          **MR. ROTH:** We have reached out several times. She's  
14 ignored us.

15          **THE COURT:** This matter is dismissed with prejudice.

16          **MS. CALLSEN:** Jacquelyn Gunn.

17          **MR. ROTH:** She is almost done with her PFS. We're  
18 helping her with it. She's got her authorizations filled out.  
19 So we're confident --

20          **THE COURT:** The Court will grant seven days.

21          **MS. BRILLEAUX:** Dawn Haught.

22          **MR. ROTH:** She also is working on her PFS. There was  
23 a mixup with her mailing address, which explains the delay on  
24 this one. She is gung ho about doing this.

25          **THE COURT:** All right. The Court's going to grant

1 seven days.

2 **MS. BRILLEAUX:** The next one I have is Karen  
3 Headrick, and I have a note that counsel intends to dismiss  
4 this case.

5 **MR. ROTH:** Correct.

6 **THE COURT:** This matter is dismissed with prejudice.

7 **MS. BRILLEAUX:** And then -- I'm sorry, you go.

8 **MS. CALLSEN:** That's okay. Meredith Hunt. I'm  
9 trying to relieve Ms. Brilleaux's voice here. Marliyn Hunt, I  
10 also -- Meredith Hunt, excuse me, that you plan to dismiss  
11 this?

12 **MR. ROTH:** Correct.

13 **THE COURT:** This matter is dismissed with prejudice.

14 **MS. BRILLEAUX:** Susan Johnson, no PFS.

15 **MR. ROTH:** She recently had some health issues. She  
16 is working on her PFS. We'll see if we can help her along with  
17 that. We've had recent contact and --

18 **THE COURT:** Well, if she's had health issues, the  
19 Court's going to grant 15 days.

20 **MS. BRILLEAUX:** Judith Kies, no PFS.

21 **MR. ROTH:** We've reached out and talked to her. She  
22 has had lukewarm interest in this. I could try one more time,  
23 and if she's not --

24 **THE COURT:** This matter is dismissed with prejudice.

25 **MS. CALLSEN:** The next plaintiff is Deanna Lynn

1 Kippes.

2 **MR. ROTH:** I'm sorry, who?

3 **MS. CALLSEN:** Deanna Lynn Kippes, or it's  
4 K-I-P-P-E-S. Maybe I'm pronouncing that wrong.

5 **MR. ROTH:** Oh. K-I-E-S? I'm not --

6 **MS. CALLSEN:** K-I-P-P-E-S. The Docket No. is  
7 18-08246.

8 **MR. ROTH:** I'm not familiar with --

9 **MS. CALLSEN:** It would have been listed with the show  
10 cause order that we submitted earlier this month with -- under  
11 your firm's name with the rest of them.

12 **THE COURT:** Tell you what, I'm going to circle that  
13 one. Let's circle back to that one. Perhaps someone in your  
14 office can help, and let's go to the next one.

15 **MR. ROTH:** Yes.

16 **MS. CALLSEN:** Denise Lawandus.

17 **MR. ROTH:** We've reached out to her and she has shown  
18 no interest. She's not responded.

19 **THE COURT:** This matter is dismissed with prejudice.

20 **MS. CALLSEN:** Vickie Leffert.

21 **MR. ROTH:** Urgency, final warning letters, no  
22 response.

23 **THE COURT:** This matter is dismissed with prejudice.

24 **MS. CALLSEN:** Shannon Lewis.

25 **MR. ROTH:** The same. We've reached out and, you

1 know, not responding back.

2 **THE COURT:** This matter is dismissed with prejudice.

3 **MS. CALLSEN:** Patricia Lolakis.

4 **MR. ROTH:** The same. We've given her urgency  
5 warnings and no response.

6 **THE COURT:** This matter is dismissed with prejudice.

7 **MS. BRILLEAUX:** Abigail Lopez, no PFS.

8 **MR. ROTH:** The same. And she's kind of fallen off --  
9 the phone's been disconnected, has not responded to e-mail.

10 **THE COURT:** This matter is dismissed with prejudice.

11 **MS. BRILLEAUX:** Lenora McLamb, no PFS.

12 **MR. ROTH:** She is working on it. We've already, in  
13 fact, loaded her authorizations, and we are helping her through  
14 her PFS.

15 **THE COURT:** The Court's going to grant seven days.

16 **MS. BRILLEAUX:** Mary Milton, no PFS.

17 **MR. ROTH:** She has ignored our urgency warnings,  
18 voice mail, e-mail.

19 **THE COURT:** This matter is dismissed with prejudice.

20 **MS. CALLSEN:** Laurie Mounce.

21 **MR. ROTH:** We've been unsuccessful getting ahold of  
22 her.

23 **THE COURT:** This matter is dismissed with prejudice.

24 **MS. CALLSEN:** Thank you.

25 Gladys Oladehin. Sorry if I butchered her name.

1           **MR. ROTH:** Yeah, Oladehin. We've reached out to her  
2 and have not been able to make contact. She's not responded.

3           **THE COURT:** This matter is dismissed with prejudice.

4           **MS. CALLSEN:** Judy Philbrook.

5           **MR. ROTH:** The same, unsuccessful, has not gotten  
6 back to us.

7           **THE COURT:** This matter is dismissed with prejudice.

8           **MS. BRILLEAUX:** Cheryl Reeves.

9           **MR. ROTH:** Another one we've reached out to and has  
10 not responded.

11           **THE COURT:** This matter is dismissed with prejudice.

12           **MR. ROTH:** We did get the medical records in for her,  
13 and we also got some in for Gladys Oladehin. We may be able to  
14 advance those PFSs just based on that.

15           **MS. BRILLEAUX:** Your Honor --

16           **THE COURT:** No, I think that doesn't work. She's got  
17 to sign and verification. Those matters are dismissed with  
18 prejudice.

19           **MR. ROTH:** Fair enough.

20           **MS. BRILLEAUX:** Freda Schoen, no PFS.

21           **MR. ROTH:** She's not responded to our attempts.

22           **THE COURT:** This matter is dismissed with prejudice.

23           **MS. BRILLEAUX:** The next one I have is  
24 Margaret Skoog. And, counsel, I have a note that you intend to  
25 dismiss this case.

1           **MR. ROTH:** Yes. She does not want to participate.

2           **THE COURT:** That matter is dismissed with prejudice.

3           **MS. BRILLEAUX:** Judy Smith, no PFS.

4           **MR. ROTH:** She has not responded to us despite our  
5 attempts.

6           **THE COURT:** The matter is dismissed with prejudice.

7           **MS. CALLSEN:** The next plaintiff is Tracey Smith  
8 Scott without a PFS.

9           **MR. ROTH:** She has also been unresponsive.

10          **THE COURT:** This matter is dismissed with prejudice.

11          **MS. BRILLEAUX:** Tina Streeter, no PFS.

12          **MR. ROTH:** Another nonresponsive claimant.

13          **THE COURT:** That matter is dismissed with prejudice.

14          **MS. CALLSEN:** Leslie Talbott.

15          **MR. ROTH:** We've not been able to make contact. She  
16 has not updated us on any new contact information and --

17          **THE COURT:** This matter is dismissed with prejudice.

18          **MS. CALLSEN:** Kathleen Thomason.

19          **MR. ROTH:** She has sent it in the past few days. You  
20 should expect it momentarily.

21          **THE COURT:** The Court's going to grant seven days.

22          **MS. BRILLEAUX:** Mary Wallace, no PFS.

23          **MR. ROTH:** We've been unsuccessful making contact  
24 with her. We've tried.

25          **THE COURT:** This matter is dismissed with prejudice.

1           **MS. CALLSEN:** Anida Westbrook.

2           **MR. ROTH:** The same. Another nonresponsive --

3           **THE COURT:** This matter is dismissed with prejudice.

4           **MS. CALLSEN:** The next plaintiff is Christina York.

5           **MR. ROTH:** We have reached out to her.

6           **MS. CALLSEN:** And?

7           **THE COURT:** And?

8           **MR. ROTH:** And we have not had any success.

9           **THE COURT:** This matter is dismissed with prejudice.

10                   Let me go back to Deanna Kippes.

11           **MR. ROTH:** Can you give us the spelling of the last  
12 name? I'm actually in Centrality right now.

13           **THE COURT:** Okay. K-I-P-P-E-S, and it's Docket  
14 18-8246.

15           **MR. ROTH:** Bear with us for a second.

16                   Okay. We found her. We've reached out to her.  
17 She has actually not been responsive to us, which probably  
18 explains why --

19           **THE COURT:** This matter is dismissed with prejudice.

20           **MS. CALLSEN:** Okay. Your Honor, that's the end of  
21 the no PFSs, so we start over at the top of the list again with  
22 not substantially complete. And, again, it's from least to  
23 most.

24           **MS. BRILLEAUX:** That's correct, Your Honor.

25                   The first case that I have is Martha Gonzales

1 with Brent Coon & Associates.

2 **THE COURT:** Is anyone on the phone with Brent Coon?

3 **MR. NEWELL:** Yes, Your Honor, Eric Newell.

4 **MS. BRILLEAUX:** And the deficiency for this case is  
5 we do not have any after photos.

6 **MR. NEWELL:** After photos were uploaded on  
7 December 6th, and an e-mail was sent to the defendants saying  
8 that they've been uploaded on December 18th.

9 **MS. BRILLEAUX:** Oh, Your Honor, I have a note here.  
10 I think we have -- the issue here is that the photos are from  
11 over five years ago, and we don't see why a current photo of  
12 the plaintiff's hair can't be uploaded.

13 **THE COURT:** Okay. I'm going to grant 15 days for you  
14 to upload a current photo.

15 **MS. BRILLEAUX:** Thank you, Your Honor.

16 **MR. NEWELL:** Thank you, Your Honor.

17 **THE COURT:** Okay.

18 **MS. BRILLEAUX:** The next one that I have is Betty  
19 Anderson. This is no before photos within five years of  
20 treatment as ordered by PTO 68.

21 **THE COURT:** Is anyone here with Carey, Danis & Lowe?

22 **MS. DOLES:** Yes, Your Honor, this is Sarah Doles.

23 **THE COURT:** Okay.

24 **MS. DOLES:** We have uploaded a photograph that is  
25 dated approximately 1990. We had notified the defense in

1 December that that was the only photo in plaintiff's  
2 possession. We also have reached -- defense attorneys again on  
3 January 15th that neither the plaintiff nor her family members  
4 have been able to locate any photos taken within five years  
5 before treatment.

6 **MS. BRILLEAUX:** Your Honor, defendants would request  
7 a notified -- a notarized declaration to that effect, and just  
8 for the record, that counsel is under an obligation to  
9 supplement should any more recent photos to her treatment be  
10 located.

11 **THE COURT:** So ordered. I'm going to ask that an  
12 affidavit be filed within 30 days.

13 **MS. BRILLEAUX:** Thank you, Your Honor.

14 The next one that I have is Donna Burdell for  
15 Davis & Crump. We have undated photos and then no signed  
16 declaration, Your Honor.

17 **THE COURT:** Okay. I think we have someone --

18 **MR. HARDENSTEIN:** Taylor Hardenstein for Davis &  
19 Crump, Ms. Donna Burdell, Your Honor. We were informed in  
20 November that she was deficient. We reached out to her,  
21 couldn't hear from her. Shortly before we sent our e-mail  
22 pursuant to PTO 22, found out she had passed away. We have not  
23 heard from anybody. We reached out. Lexis returned no kin.  
24 We have since heard from her brother who said she has three  
25 sons. We have not been able to reach out to the sons yet, but

1 he is trying to get us good contact information on her. So we  
2 request 120 days to substitute in a proper party once we make  
3 contact.

4 **THE COURT:** All right. I'm not giving you 120 days.

5 **MS. BRILLEAUX:** Your Honor, we would request --

6 **THE COURT:** 45 days.

7 **MS. BRILLEAUX:** 45. Thank you.

8 **MR. HARDENSTEIN:** Thank you, Your Honor.

9 **THE COURT:** I'll give you 45 days to make contact.  
10 Thank you.

11 **MS. CALLSEN:** The next plaintiff on our list,  
12 Michelle Cavallaro. They did cure the PFS substantially  
13 incompleteness after the cutoff date. So they can be removed  
14 from the docket.

15 **THE COURT:** Thank you.

16 **MS. CALLSEN:** And that was Fears Nachawati.

17 **THE COURT:** All right. So that's been satisfied.  
18 Thank you.

19 **MS. CALLSEN:** Yes.

20 The next plaintiff is Janet Starr, represented  
21 by the Kirk Law Firm. Her PFS, she still has no proof of  
22 injury, and there's no documentation regarding that. And we've  
23 checked, there's nothing been submitted since August of 2018 in  
24 an attempt to cure same.

25 **THE COURT:** Is there anybody on the phone?

1           **MR. ROTH:** Steve Roth with Reich & Binstock. We took  
2 some Kirk clients. We have reached out to Janet Starr and  
3 don't honestly -- let me see what her status is here.

4           **THE COURT:** What?

5           **MR. ROTH:** We have not been able to make contact with  
6 her so far, so I don't have anything to add to that.

7           **THE COURT:** When was the last time you contacted  
8 Ms. Starr? Hello?

9           **MR. ROTH:** Can I get back to you on that?

10          **THE COURT:** Well, it's -- okay. So you've lost  
11 contact with Ms. Starr?

12          **MR. ROTH:** I think so.

13          **THE COURT:** Okay.

14          **MR. ROTH:** Well, she --

15          **MS. CALLEN:** Your Honor, based on the deficiency,  
16 which was there was no proof of injury, so no evidence that she  
17 had ever used the product at issue, I would ask that it be  
18 dismissed.

19          **MR. ROTH:** For Janet Starr, we did get did -- she was  
20 included in those ones that we got some medical records for.  
21 We might be able to -- again, there's -- the proof of injury,  
22 the proof of use, could be in there in the medical records, but  
23 if not, we will dismiss this.

24          **MS. CALLEN:** It's not in there, that's why she's on  
25 the list. I'm not trying to be flippant. I'm just saying,

1 we've reviewed the records we've received. There's nothing in  
2 there to support proof of injury.

3 **MR. ROTH:** We got these records just within the last  
4 48 hours, so we would like a chance to take one final crack to  
5 see if we can, you know --

6 **MS. CALLEN:** Your Honor --

7 **THE COURT:** All right. I guess my question is: Are  
8 you in contact with your client?

9 **MR. ROTH:** We have reached out to her and she has not  
10 been responsive since June of last year.

11 **THE COURT:** This matter is dismissed with prejudice.  
12 You know, even if it's in the records, you need a client that's  
13 participating.

14 **MR. ROTH:** I understand.

15 **THE COURT:** Thank you.

16 **MS. BRILLEAUX:** Thank you, Your Honor.

17 The next one that we have is Helen Love with  
18 Pendley, Baudin & Coffin. The deficiency here is no before  
19 photos within five years of treatment.

20 **MS. PEREZ-REYNOLDS:** Hi. Good morning, Your Honor.  
21 Jessica Perez-Reynolds on behalf of Ms. Love. Ms. Love has  
22 previously submitted a before photograph in the time period of  
23 2001. I believe that the time period the defendants are  
24 seeking is the range of '05 to 2010. I have discussed this  
25 matter with her on several occasions, and she is adamant that

1 she does not have any photographs within this period. We're  
2 more than happy to supply a declaration if the defendants  
3 request it.

4 **THE COURT:** You're going to have to supply an  
5 affidavit within 30 days. And, of course, you always have a  
6 continuing obligation to update.

7 **MS. BRILLEAUX:** Thank you, Your Honor.

8 **MS. PEREZ-REYNOLDS:** Absolutely, Your Honor. Should  
9 she locate any photographs, we'll certainly supply them.

10 As a housekeeping matter, and just for record  
11 accuracy, I apologize, but Your Honor previously dismissed  
12 Brenda Adams this morning based on counsel's entry of a no  
13 contact declaration. I have been advised by my office that  
14 Ms. Adams did call yesterday afternoon.

15 She is aware of what's going on. I have no  
16 indication that she will be providing a plaintiff fact sheet.  
17 But for housekeeping matters, and for Your Honor's preference,  
18 if you would like for us to submit the second declaration which  
19 states the matter's been explained to the client and they have  
20 not provided the PFS, we will do that.

21 **THE COURT:** Well, you know, I think on the date -- on  
22 the date that you filed that declaration, those facts were  
23 correct, and I think that's sufficient.

24 **MS. PEREZ-REYNOLDS:** That is true, Your Honor.

25 **MS. CALLSEN:** That's what I was just going to say,

1 that's what I would ask. Thank you.

2 **MS. PEREZ-REYNOLDS:** I just wanted to make sure the  
3 record was clear for the client.

4 **MS. BRILLEAUX:** Thank you, Your Honor.

5 The next one that I have is Barbara Harris with  
6 Shaw Cowart. This is no before photos within five years of  
7 treatment.

8 **MR. COWART:** Good morning, Your Honor. This is John  
9 Cowart on behalf of Barbara Harris. We uploaded, Your Honor,  
10 some photos December 20th, a couple of photos from the 1980s.  
11 She had additionally looked at her own records and never could  
12 find anything and then eventually got a couple of photographs  
13 from her sister. But she's adamant that she doesn't have any  
14 others. But we can sign a declaration.

15 **THE COURT:** Okay. I'm going to ask you to sign a  
16 declaration within 30 days. And then, of course, there's an  
17 ongoing obligation to supplement if any photographs should be  
18 found.

19 **MS. BRILLEAUX:** Your Honor, to clarify, we would  
20 request a notarized affidavit.

21 **THE COURT:** That's what I think we said, within 30  
22 days.

23 **MS. BRILLEAUX:** Thank you.

24 **THE COURT:** That's part of the problem with this  
25 process.

1           **MR. COWART:** Thank you, Your Honor.

2           **THE COURT:** Thank you.

3           **MS. BRILLEAUX:** The next plaintiff that I have is  
4 Cynthia Gay. The issues -- this is with the Goss Law Firm.  
5 The issue is that there are no dates on the after photos. The  
6 dates are from when the photos were developed, but there is no  
7 indication of when the photos were actually taken. And we also  
8 don't have any before photos within five years of treatment.

9           **MR. GOSS:** Your Honor, Peter Goss on behalf of the  
10 Goss Law Firm and Cynthia Gay. It's my understanding that --  
11 that after pictures were uploaded and have been dated. And  
12 recently a before picture was uploaded. And defense counsel is  
13 correct that they are not within the five years. We'd be happy  
14 to get a signed affidavit that the client has no other photos  
15 available and cannot find any.

16           **THE COURT:** Okay. The Court's going to grant 30 days  
17 for you to file that affidavit, and 15 days for defendant to  
18 review the after photos to see if there are any further  
19 problems.

20           **MS. BRILLEAUX:** Thank you, Your Honor. I just the --  
21 I don't think that counsel responded to the issue that we  
22 raised, which is we understand that the after photos have been  
23 uploaded, but they aren't dated. They all have the date that  
24 they were developed or printed, but they don't have the date on  
25 which they were taken. So I think we need 15 days for counsel

1 to adequately date them on the date that they were taken.

2 **MR. GOSS:** That's fine, Your Honor.

3 **THE COURT:** Okay. So ordered.

4 **MS. BRILLEAUX:** Thank you, Your Honor.

5 The next one I have is Ruth Harris with the  
6 Murray Law Firm. And the issue here is that the before photos  
7 are not dated. They all say pre-2005, but they don't have a  
8 date on them.

9 **MS. MYERS:** Your Honor, this is Robin Myers with the  
10 Murray Law Firm.

11 **THE COURT:** Yes.

12 **MS. MYERS:** They do say pre-2005 because she's unable  
13 to determine from the photo when it was actually taken. So she  
14 didn't want to just guess what day it was in the photo. She  
15 can't tell me when it was printed either.

16 **THE COURT:** Okay. The Court's going to require that  
17 you file an affidavit indicating that you have not been able to  
18 find any photos within the last five years, nor can you verify  
19 the date of this particular photo, and, of course, you have an  
20 ongoing obligation to supplement.

21 **MS. MYERS:** Yes, Your Honor. Thank you.

22 **MS. BRILLEAUX:** Thank you, Your Honor.

23 The next case that I have is Lisa Briggs with  
24 Watts Guerra. The issue here is that we do not have any before  
25 photos. We do have a statement from plaintiff saying that her

1 photos were destroyed. But we would, as you've ruled on the  
2 other cases, ask that we have a notarized affidavit to that  
3 effect.

4 **MS. BOLDT:** Your Honor, this is Paige Boldt with  
5 Watts Guerra. Ms. Briggs' family member was actually able to  
6 locate a photo this morning, and we've uploaded it to the  
7 portal. So we'd ask for 15 days for defense to review that  
8 photo.

9 **THE COURT:** So ordered.

10 **MS. BRILLEAUX:** Thank you, Your Honor. We would ask  
11 that that also be dated.

12 **MS. BOLDT:** Yes.

13 **THE COURT:** I know we're still in the middle of this,  
14 but I need to take about a two-minute break.

15 **MS. BRILLEAUX:** Thank you, Your Honor.

16 **MS. BARRIOS:** Thank you, Your Honor.

17 (WHEREUPON, the Court took a recess.)

18 **MS. BRILLEAUX:** Did we leave off on Ruth Harris?

19 **THE COURT:** We were on --

20 **MS. BRILLEAUX:** Did we finish that one?

21 **THE COURT:** I believe we were on page 9, No. 105,  
22 which is Donna McFall Prince, Morris Bart's law firm.

23 **MS. BRILLEAUX:** Your Honor, the deficiency I have for  
24 this one is no signed declaration.

25 **MR. ROOT:** I don't believe that's correct, or at

1 least it shouldn't be correct, because I know there's an e-mail  
2 problem we had getting Ms. Prince's declaration. I spoke with  
3 her and exchanged e-mails, and I checked before I came over  
4 here, I thought we uploaded that declaration. I know we have  
5 it, so I don't know if that's actually correct.

6 **MS. BRILLEAUX:** Your Honor, the notes that I have is  
7 that one was uploaded, but it wasn't signed or dated. I don't  
8 know if that was a clerical issue, but we would ask for seven  
9 days.

10 **THE COURT:** Seven days to go figure out where to go  
11 with that.

12 **MR. ROOT:** Absolutely, Your Honor.

13 **MS. BRILLEAUX:** Thank you, Your Honor.

14 The next one I have is Estoria Wilson. And this  
15 is an issue with no before photos -- or deficient before  
16 photos, I should say.

17 **MR. ROOT:** I looked at this right as I ran over, Your  
18 Honor, and I see the before photo that we have, and I'll admit  
19 this is -- is not the best photo. It's a graduation photo with  
20 a graduation cap. Obviously, that's not what we're looking for  
21 here. So we found a photo that's clearly an earlier photo than  
22 her after photos where --

23 **THE COURT:** Let me ask this question: Was it within  
24 the last five years?

25 **MS. BRILLEAUX:** Or I guess to clarify within five

1 years prior to treatment?

2 **MR. ROOT:** Honestly, Your Honor, I did not know that  
3 fact as I ran over to see what date was on there. I just saw  
4 that it was the graduation photo. I assumed the date was  
5 correct, but I just assumed the problem was the fact that it  
6 wasn't as helpful as we wish. So I'm more than happy to try to  
7 obtain obviously better photos.

8 **MS. BRILLEAUX:** Your Honor, we've checked our  
9 records. We do see a photo has been uploaded, but it hasn't  
10 been dated.

11 **THE COURT:** This is what -- because you haven't  
12 represented to me that you have no photos, and that sometimes  
13 is the problem. What I'll tell you is, I'm going to grant you  
14 30 days to do one of two things: Get a photo that's within  
15 five years of her treatment, or a signed affidavit indicating  
16 that none exists to her knowledge. And then, of course,  
17 there's an ongoing obligation to supplement if that information  
18 is received.

19 **MS. BRILLEAUX:** Your Honor, just to clarify, I know  
20 that you ordered a photo within five years, we would say one  
21 that shows her scalp.

22 **THE COURT:** Well, you know, if -- again, but if the  
23 only photo -- because we have to be careful with the affidavit.  
24 If the only photo you have is one under a cap, I agree that  
25 that's probably not sufficient, so just make sure your

1 affidavit is correct.

2 **MS. BRILLEAUX:** Is reflective of that fact.

3 **THE COURT:** That this is the only affidavit [sic] I  
4 have. Of course, you should be able to figure out the date  
5 with a graduation cap.

6 **MR. ROOT:** That should be easily ascertainable.

7 **THE COURT:** Because that's an ongoing issue, too,  
8 what's the date? Well, that one at least you should know.

9 **MR. ROOT:** Thank you very much, Your Honor.

10 **MS. BRILLEAUX:** Thank you, Your Honor.

11 The next case that I have is Patricia McNair.  
12 This is with Peterson & Associates. And then we have an issue  
13 with the before photo not being within five years of treatment.

14 **MS. STIPKOVITS:** Good morning, Your Honor. This is  
15 Sara Stipkovits with Peterson & Associates. Ms. McNair has  
16 uploaded two photographs, but they are in 2000 and 2001, which  
17 is further than five years away from her treatment, but she  
18 says that those are the only photographs she has. I would like  
19 the opportunity to provide an affidavit, please.

20 **THE COURT:** All right. 30 days to file the  
21 affidavit. Thank you.

22 **MS. STIPKOVITS:** Thank you.

23 **MS. BRILLEAUX:** Thank you, Your Honor.

24 Andera Shelton, also with Peterson & Associates.  
25 This we have photographs that are not dated, and the other

1 deficiency that we have is that PTO 71, which is the  
2 confirmation of ESI, has not been uploaded, which is a category  
3 of PFS deficiency.

4 **MS. STIPKOVITS:** Your Honor, we have lost contact  
5 with her since March of 2018.

6 **MS. BRILLEAUX:** We believe this should be dismissed.

7 **THE COURT:** This matter is dismissed with prejudice.

8 **MS. STIPKOVITS:** Thank you.

9 **THE COURT:** Thank you.

10 **MS. BRILLEAUX:** The next one is June Burton. This is  
11 with the Baron & Budd law firm, and here we have no proof of  
12 use and no dated photographs.

13 **MS. BENTON:** Your Honor, Danae Benton with Baron &  
14 Budd. Dated photographs were uploaded to MDL Centrality, and  
15 defense counsel was notified of the partial cure, and that we  
16 have outstanding requests in progress for medical records.  
17 It's been unfortunate that due to the infusion dates, most  
18 facilities, their retention policy, it's been difficult to  
19 obtain them.

20 We've placed additional orders, and we actually  
21 have submitted the NDC statements to plaintiff's oncologist.  
22 We're expecting that any day now, hopefully. So we're just  
23 requesting some additional time to cure that with that NDC  
24 statement or additional records that come in.

25 **MS. BRILLEAUX:** Your Honor, we are not here for the

1 purposes of CMO 12 today. We're here for the issue of proof of  
2 use, just proof of use of Docetaxel, no NDC codes.

3 **MS. BENTON:** And the medical records go to that.

4 **THE COURT:** Okay. So you have that in your  
5 possession?

6 **MS. BENTON:** We have submitted the request. We have  
7 in possession records. The records do not indicate the  
8 Docetaxel/Taxotere usage. The time period of when the infusion  
9 was done was early 2000s, and so the facilities have purged  
10 most of their records, and so that's why we've submitted that  
11 NDC statement to plaintiff's oncologist as a form of getting  
12 the proof of plaintiff's use of the Docetaxel/Taxotere.

13 **MS. BRILLEAUX:** Your Honor, we would request then 15  
14 days to confirm that this deficiency has been cured.

15 **THE COURT:** So ordered.

16 **MS. BENTON:** Thank you, Your Honor.

17 **THE COURT:** Thank you.

18 **MS. BRILLEAUX:** The next plaintiff I have, which is  
19 also with Baron & Budd, is Jo Ellen Wade. Here we have, again,  
20 no proof of use. I have in my notes that we have received  
21 medical records, but none of the medical records indicate any  
22 Docetaxel use.

23 **MS. BENTON:** Yes, Your Honor. And this is going to  
24 be the same situation as the previous client where due to the  
25 dates of infusion, the retention policy for most medical

1 records has been very difficult to obtain these. We've done  
2 the same process where we're ordering additional records.  
3 We've submitted the NDC statement over to the plaintiff's  
4 infusion center, again, to try to show proof that she was  
5 infused with it. We would request 15 days. If we don't have  
6 it, we'll dismiss.

7 **THE COURT:** So ordered.

8 **MS. BRILLEAUX:** Thank you, Your Honor.

9 The last case I have with Baron & Budd is Laura  
10 White. This is also no proof of use. We have received medical  
11 records, but none of them demonstrate Docetaxel use.

12 **MS. BENTON:** This is the same situation, Your Honor.  
13 Could we have 15 days?

14 **THE COURT:** Have you --

15 **MS. BENTON:** We have limited records that we've  
16 received from the facility. We've placed additional medical  
17 record orders. We've submitted the NDC statement, again, to  
18 try to show that proof of use and proof of manufacturer to the  
19 infusion center. We're working to get that back. We have to  
20 work through their legal department, and, unfortunately, their  
21 legal department doesn't speak directly to me. You have to go  
22 through a manager. It's been a process, but we are working on  
23 it.

24 **THE COURT:** Okay. I'm going to grant 15 days, but I  
25 should caution you, I see that these cases were filed in 2017.

1           **MS. BENTON:** Yes, Your Honor.

2           **THE COURT:** So this is not going to be 16 days, and,  
3 very frankly, these records should have been ordered a very  
4 long time ago. So it's hard for me --

5           **MS. BENTON:** And they were.

6           **THE COURT:** -- to find much sympathy.

7           **MS. BENTON:** Yes, Your Honor, I understand. And we  
8 have absolutely ordered records in 2017, 2018. It's been an  
9 ongoing effort, but I understand Your Honor's admonition, and  
10 we will make sure that this is addressed in 15 days.

11           **THE COURT:** Thank you.

12           **MS. BENTON:** Thank you, Your Honor.

13           **MS. BARRIOS:** Your Honor, Dawn Barrios. Just for the  
14 record, this is a continuing problem --

15           **THE COURT:** I know.

16           **MS. BARRIOS:** -- with people in the early 2000s. So  
17 if you could -- if you could extend the 15 days if they need  
18 it. It's impossible when the facility says, "I have no  
19 records," and then you have, as she said -- you know the  
20 situation.

21           **THE COURT:** I do. I do. But on the other hand, you  
22 know, this has now been since 2017, and at some point, the  
23 question is -- if I see that there has been a concerted effort,  
24 and this is what we've done, and this is when we've done it,  
25 and it's happened over, you know, this constant, that's one

1 thing. But where the Court finds frustration is when it  
2 appears that the efforts are expended once a show cause list  
3 has been presented.

4 **MS. BARRIOS:** Thank you, Your Honor. Totally  
5 understand.

6 **THE COURT:** Thank you.

7 **MS. BRILLEAUX:** The next case I have is Rhonda Lewis  
8 with Brown & Crouppen. This is another issue of no before  
9 photos within five years of treatment.

10 **MR. WEBB:** Your Honor, this is Seth Webb for  
11 Ms. Lewis. This is one of those situations where we have  
12 uploaded the photos that she has. She just simply doesn't have  
13 any others. We'd be glad to get an affidavit put together.

14 **THE COURT:** All right. Prepare an affidavit within  
15 30 days, understanding your continuing obligation to provide.

16 **MR. WEBB:** Thank you.

17 **MS. BRILLEAUX:** Your Honor, just to clarify, we'd  
18 like to, just for the record, state that if any photographs  
19 that are found between five and ten years are located, that  
20 counsel should have an obligation to supplement those as well.

21 **THE COURT:** That's fine.

22 **MS. BRILLEAUX:** Thank you, Your Honor.

23 Also for Brown & Crouppen, I have Hollistenie  
24 Stubbs. We have no before photos and no after photos. We also  
25 have some deficiencies with the PFS. We have not had the

1     prescribing physician identified.

2             **MR. WEBB:** Ms. Stubbs' situation is a little bit  
3     outside the box. She fell out of contact with us for an  
4     extended period of time. So much so that we filed a  
5     declaration. However, in the last week or two, her guardian  
6     has reached out to me. Apparently, she is in need of a  
7     guardian now, and we have begun the process of figuring out how  
8     to move forward with the guardian.

9             I would ask, hopefully, for 30 days at least  
10     just so that we can figure this thing out and make sure she  
11     doesn't get shortchanged for something that's obviously not her  
12     fault.

13             **THE COURT:** The Court's going to grant 30 days.

14             **MS. BRILLEAUX:** Thank you, Your Honor.

15             **MS. CALLSEN:** The next plaintiff is Maggie Wilson.  
16     Her PFS insufficiencies include that there's no proof of injury  
17     and no documentation regarding use of Docetaxel.

18             **MR. WEBB:** The severity of those problems have been  
19     conveyed to Ms. Wilson and she has not cured them.

20             **THE COURT:** This matter is dismissed with prejudice.

21             **MS. CALLSEN:** Thank you.

22             **MR. WEBB:** Thank you.

23             **MS. BRILLEAUX:** Your Honor, the next one I have is  
24     Bonnie Doering with Bruno -- who is represented by Bruno &  
25     Bruno. The issue here is no before photos.

1           **MS. HAWKINS:** This is Markita Hawkins from Bruno &  
2 Bruno.

3           **THE COURT:** Yes, ma'am.

4           **MS. HAWKINS:** Our office uploaded photos back in  
5 June 11th of 2018. And it's dated November 29th, 2011, so this  
6 was less than a year before her final treatment date.

7           **MS. BRILLEAUX:** And, Your Honor, we have that that  
8 date reflects eight months after her chemotherapy began.

9           **MS. HAWKINS:** I can check the photo again, but it was  
10 my understanding that the photo that was uploaded was less than  
11 a year before her first treatment date. Her first treatment  
12 date was May 16th, 2012.

13           **THE COURT:** I'm going to grant 15 days for you all to  
14 figure this out.

15           **MS. BRILLEAUX:** Thank you.

16           **MS. HAWKINS:** Okay. Thank you, Your Honor.

17           **THE COURT:** Thank you.

18           **MS. BRILLEAUX:** The next one for Bruno & Bruno is  
19 Brenda Wells. This is another one, as we discussed earlier,  
20 with no current after photos. The only after photo that we  
21 have is from 2009, which is the same year that she underwent  
22 chemotherapy.

23           **MS. HAWKINS:** Brenda Wells' treatment dates was  
24 listed as November 19th, 2008 to 2009. Our office uploaded  
25 three types of photos. One was during, one was after, and one

1 was before. Her before picture is dated 2003. Her after photo  
2 is dated 2009. And her treatment -- during treatment was dated  
3 2008.

4 **THE COURT:** Okay. We need one that's current within  
5 the last year. So why don't you get that done within 30 days.

6 **MS. HAWKINS:** Thank you, Your Honor.

7 **MS. BRILLEAUX:** I have Helen Esters, who's  
8 represented by the Johnson Law Group. This is a case with no  
9 before photos within five years of treatment.

10 **MR. GARDNER:** Good morning, Your Honor. Andrew  
11 Gardner for the plaintiff with the Johnson Law Group. We have  
12 uploaded two photos for Ms. Esters. One from 1971, and one  
13 from 1995. Unfortunately, it appears those are the only two  
14 photos in Ms. Esters' possession, so we would ask for the 30  
15 days to provide an affidavit.

16 **THE COURT:** So ordered.

17 **MR. GARDNER:** Thank you.

18 **MS. BRILLEAUX:** And just for the record, continuing  
19 obligation if any more recent photos are found.

20 **MR. GARDNER:** Understood.

21 **THE COURT:** Yes. Thank you.

22 **MS. BRILLEAUX:** The next one with Johnson Law Group  
23 is Charlotte Grieselhuber, no before photos and -- no before  
24 photos.

25 **MR. GARDNER:** Essentially the same issue, Your Honor.

1 We have undergone a diligent search, but, unfortunately, the  
2 plaintiff does not have any photos in her possession. So we  
3 would be happy to execute an affidavit.

4 **THE COURT:** The Court's going to order a 30-day --  
5 within 30 days an affidavit be uploaded to Centrality. I just  
6 caution you that there's an ongoing obligation to provide  
7 discovery.

8 **MR. GARDNER:** Thank you, Your Honor.

9 **THE COURT:** Thank you.

10 **MS. BRILLEAUX:** The next case is Natalie Gough, who's  
11 represented by the Law Offices of A. Craig Eiland, and the  
12 deficiency with this case is no before photos within five years  
13 of treatment.

14 **MR. BONNIN:** Your Honor, this is David Bonnin. I  
15 represent Natalie Gough with the Law Offices of Craig Eiland.  
16 And Ms. Gough has uploaded photographs from 1997, and I  
17 understand that that is well before her first treatment in  
18 2008. But she has also offered, and we have upload to MDL  
19 Centrality, a signed affidavit indicating that those are the  
20 only before photos she has.

21 **MS. BRILLEAUX:** For the record, we would just want to  
22 remind counsel of the continuing obligation.

23 **THE COURT:** Of course. There's an ongoing obligation  
24 to upload any information found -- any photos found.

25 **MS. BRILLEAUX:** Also with the Law Offices of A. Craig

1 Eiland is Toni Hendrickson. This is another no before photos.

2 **MR. BONNIN:** Yes, Your Honor. We've been in contact  
3 with Ms. Hendrickson on the issue of photos repeatedly  
4 throughout the past year or so. We have sent her -- she is  
5 adamant that there are no before photos in her possession or in  
6 existence that she's aware. We had sent her an affidavit to  
7 sign supporting that statement of hers. And she is continually  
8 telling us over the past couple of weeks that she's going to  
9 send it in. I expect to receive it anytime now.

10 **THE COURT:** Okay. I'll grant 30 days just to cover  
11 the time.

12 **MS. BRILLEAUX:** Thank you.

13 And then Deandra Solomon Fisher, also with the  
14 Law Offices of A. Craig Eiland. Again, no before photos within  
15 five years of treatment.

16 **MR. BONNIN:** We signed a -- or we submitted a no  
17 contact declaration on Ms. Fisher. Unfortunately, it was  
18 slightly after the deadline.

19 **THE COURT:** Okay. Court's going to grant 15 days to  
20 defendants to confirm.

21 **MS. BRILLEAUX:** Your Honor, he said no contact  
22 declaration. Can we --

23 **THE COURT:** Oh, I thought you --

24 **MS. BRILLEAUX:** -- dismiss with prejudice?

25 **THE COURT:** I'm sorry. Okay. This matter is

1 dismissed with prejudice.

2 **MR. BONNIN:** Thank you, Your Honor.

3 **MS. CALLSEN:** The next couple of cases are with the  
4 Hilliard, Munoz, Gonzales firm. The first plaintiff is Joy  
5 Burnett. Her PFS deficiencies that remain outstanding are her  
6 authorizations do not have the proper witness in order to be  
7 usable, and her photos are undated.

8 **MR. PINEDO:** Your Honor, Chris Pinedo on behalf of  
9 Joy Burnett with the Hilliard law firm. We loaded up some  
10 authorizations on the 15th of January this year, and then we  
11 also uploaded some photos on January the 16th.

12 **THE COURT:** Court's going to grant 15 days for  
13 defendants to confirm.

14 **MS. CALLSEN:** Thank you.

15 The next plaintiff is Patricia Dempsey, again,  
16 by the same firm. We don't have any proof of injury. There's  
17 no documentation, and the authorizations are, again, not signed  
18 by a witness so that we can actually use them.

19 **MR. PINEDO:** Your Honor, Chris Pinedo here on behalf  
20 of Patricia Dempsey. We uploaded on January the 14th some  
21 prior chemo photos to MDL Centrality, and have also uploaded  
22 the authorizations. I just request 15 days so we can confer  
23 with defendant to make sure that -- if there's anything  
24 missing.

25 **THE COURT:** So ordered.

1           **MS. CALLSEN:** I didn't even raise the photos. What I  
2 raised was we're missing proof of injury. There's no  
3 documentation regarding proof of injury. Are you referring to  
4 the photos as the injury proof?

5           **MR. PINEDO:** Yes.

6           **MS. CALLSEN:** Okay. 15 days. Thank you.

7           **THE COURT:** Yes.

8           **MS. CALLSEN:** The next plaintiff is Roxann Johnson.  
9 Again, we have no proof of injury. There's no documentation to  
10 support an injury.

11           **MR. PINEDO:** Your Honor, on January 15th of this  
12 year, two photos were uploaded and medical records were also  
13 uploaded -- excuse me, medical records were uploaded earlier  
14 this week, January 15th, that confirm Docetaxel usage.

15           **MS. CALLSEN:** What about photos?

16           **MR. PINEDO:** The deficiency, as I understood, was no  
17 documents provided, and we provided the medical records. With  
18 regard to photos, I can pull the file right now, but I believe  
19 the photos were uploaded, Your Honor. I need to check the file  
20 to make the confirmation on that.

21           **THE COURT:** Okay. The Court's going to grant 15 days  
22 for you to confer with defense counsel.

23           **MS. CALLSEN:** Just for the record, we have no proof  
24 of injury, which would be photos, if that's what you're using.  
25 So we don't have any photos.

1           **THE COURT:** All right.

2           **MS. CALLEN:** Then there's one more with your firm,  
3 Robin Stoops. Her substantial incompleteness about her PFS is  
4 that we have no proof of injury, no before photos, and the  
5 photos that are uploaded are undated.

6           **MR. PINEDO:** Your Honor, on January 15th, we uploaded  
7 some chemo photos, both before and after. And we have talked  
8 to the client, and we can get a certification, that we're  
9 having a difficulty with getting more complete photos because  
10 she had a house fire. But she has provided some level of  
11 photos, and we can provide an affidavit to the Court in that  
12 regard.

13           **THE COURT:** Court's going to grant 30 days for an  
14 affidavit. As I appreciate it, you found some photos, and then  
15 some right after chemo.

16           **MS. CALLEN:** We need dates. So if you could confirm  
17 the dates on the photos that you have provided, and then -- you  
18 know, and, again, you have a continuing obligation, and then  
19 that's fine, the affidavit, for whatever you cannot provide.

20           **THE COURT:** Thank you.

21           **MR. PINEDO:** Understood. And just to be clear, we  
22 uploaded, on the 15th, photos afterwards with dates. We have  
23 one prior photo from 1992 that we uploaded, and this is where  
24 she said she had a house fire and she doesn't have other  
25 photos. We've asked her to reach out to her son and daughter

1 and see what they can find. But we will provide an affidavit  
2 within the 30 days in that regard.

3 **THE COURT:** Thank you.

4 **MS. BRILLEAUX:** Your Honor, Angela Chapman with  
5 Niemeyer, Grebel & Kruse. This is no signed declaration for  
6 the PFS, and then no signed authorizations, and also no PT0 71  
7 certification.

8 **MR. NIEMEYER:** Good afternoon, Your Honor. This is  
9 Mark Niemeyer on behalf of Ms. Chapman from Niemeyer, Grebel &  
10 Kruse. Ms. Chapman, we were able to confirm and prove use of  
11 Winthrop Docetaxel and provided photos, proof of injury. We  
12 then lost touch with Ms. Chapman for quite some time, but we  
13 did reestablish contact with her very recently.

14 We would ask for 15 days to try to cure this as  
15 we did -- we used a locating service and were able to locate  
16 her. And so we just got with her in the last couple of days.

17 **MS. BRILLEAUX:** Your Honor, just to reiterate, this  
18 is a deficiency for an unsigned PFS in addition to  
19 authorizations and PT0 71.

20 **THE COURT:** I'm going to grant 15 days because they  
21 did -- it was --

22 **MR. NIEMEYER:** Thank you.

23 **THE COURT:** Thank you.

24 **MS. BRILLEAUX:** The next one is Betty Gallegos, also  
25 with Niemeyer, Grebel & Kruse. This is no photos within five

1 years of treatment.

2 **MR. NIEMEYER:** And Ms. Gallegos has submitted after  
3 photos. It is true that her before photos are slightly outside  
4 of that five-year time frame, so we would request the affidavit  
5 procedure that you've been talking about, and certainly  
6 understand our continuing obligation.

7 **THE COURT:** Court's going to grant 30 days for an  
8 affidavit.

9 **MR. NIEMEYER:** Thank you.

10 **MS. CALLSEN:** The next plaintiff with the same law  
11 firm is Rhonda Grimes. Ms. Grimes has not submitted her  
12 declaration. There are no authorizations submitted. And  
13 there's no documentation of proof of injury submitted.

14 **MR. NIEMEYER:** As far as Ms. Grimes is concerned,  
15 we've made extreme efforts to locate her and communicate with  
16 her. We did think we had reestablished, and that's why we  
17 didn't file a declaration, but that fell through as well. We  
18 understand what the result will be.

19 **THE COURT:** This matter is dismissed with prejudice.

20 **MS. CALLSEN:** Thank you.

21 **MS. BRILLEAUX:** Your Honor, the next case is Ruby  
22 Pratt, also with Niemeyer, Grebel & Kruse. Again, no signed or  
23 dated declaration, no authorizations, and no PTO 71  
24 certification. Just to note for the record, the PFS has been  
25 submitted, so defendants don't understand why the signed

1 authorization wasn't provided along with the PFS.

2 **MR. NIEMEYER:** The short answer, Judge, is Ms. Pratt  
3 is now deceased. We're taking the steps necessary to  
4 substitute a party for her. We've made contact with the  
5 family. The process is undergoing right now to do the  
6 application for an estate administrator. We filed a suggestion  
7 of death recently, and we just ask that that process play out,  
8 but we do know who the administrator will be. We just need to  
9 get her appointed in state court in Texas.

10 So what we would ask is that she be removed from  
11 the show cause docket and we allow the suggestion of death and  
12 substitution procedure to play out, please.

13 **THE COURT:** I'm hesitant to not give you a deadline.  
14 I'm going to give you 45 days. I will tell you, because I  
15 think -- I want to give a deadline. But if the defendants, if  
16 there has been, you know, the appropriate paperwork filed in  
17 the Texas courts and this has not -- and an order has not been  
18 signed because of a judge and we're waiting for it, please  
19 don't put it back on the list.

20 **MR. NIEMEYER:** Thank you, Your Honor.

21 **THE COURT:** If, indeed, the appropriate -- that they  
22 have taken the appropriate steps and it's just we're waiting  
23 for a judge to sign, because sometimes that happens.

24 **MS. BRILLEAUX:** Thank you, Your Honor.

25 **THE COURT:** Thank you.

1           **MS. BRILLEAUX:** The next case that I have is Debra  
2 Bassett with Fernelius Simon. This is no before photos within  
3 five years of treatment. Is anybody on the phone for Fernelius  
4 Simon?

5           **MR. PERDUE:** Yes. This is Ryan Perdue, and also with  
6 me is Brannon Robertson, for Debra Bassett. This week we  
7 uploaded a photo from 2006, which was slightly outside of  
8 her -- the five-year date range. So we would ask for the same  
9 affidavit procedure that we've been discussing.

10           **THE COURT:** Okay. The Court's going to grant 30 days  
11 to file an affidavit, and understanding your continuing  
12 obligation to provide -- to update your plaintiff fact sheet.

13           **MR. PERDUE:** Yes, Your Honor.

14           **MS. CALLSEN:** Alice Bell with the same law firm. In  
15 her PFS, there's no proof of injury, there's no before photos,  
16 and the authorization forms are not filled out properly such  
17 that we can use them to obtain medical records.

18           **MR. PERDUE:** Proof of use records were uploaded to  
19 Centrality on January 14th. A cure e-mail was sent. The  
20 authorization that was mentioned was corrected. That was  
21 uploaded to Centrality. A cure e-mail was sent on that as  
22 well. This plaintiff has searched for before photos. We've  
23 spoken with her several times about that. She's confirmed that  
24 she has none that predate her treatment. So on that particular  
25 issue, we would request the affidavit procedure as well.

1           **THE COURT:** The Court's going to grant 30 days to  
2 file an affidavit, and 15 days for defendants to confirm that  
3 the other information was appropriate -- was satisfied.

4           **MS. CALLSEN:** Thank you.

5                     Marlene Chioda, with the same -- from the  
6 Fernelius law firm. We have no proof of injury, and also  
7 there's no CMO 12 submissions.

8           **MR. PERDUE:** This week we uploaded seven dated photos  
9 on Ms. Chioda. Five of those photos were within five years of  
10 her treatment. And we sent a cure e-mail on those as well. So  
11 we would ask for 15 days to confirm that that satisfies  
12 defendant's requests. Regarding the CMO 12 issue, we have sent  
13 subpoenas to her providers. We sent that on June 25th of 2018.  
14 Thus far, we have not received a response to these subpoenas.  
15 We've been back and forth with the hospital on it. We've  
16 continued to attempt to obtain product ID information on that.

17           **MS. CALLSEN:** Okay. You said you're continuing to  
18 attempt product ID. We have no dates of treatment either, so  
19 it's hard to put the photos in the proper context.

20           **MR. PERDUE:** I believe that our PFS -- the treatment  
21 date was from 2011, and I believe that we uploaded -- yes, we  
22 uploaded an amended plaintiff fact sheet with specific dates,  
23 and we did that on Wednesday of this week.

24           **MS. CALLSEN:** Can we have -- I mean, if they've  
25 already uploaded, can we just have seven days to confirm?

1           **THE COURT:** Yes, that's fine. And I think the  
2 problem I'm having is the CMO 12. It sounds like -- I'm not  
3 sure where we are in the process. This is what I'd like for  
4 you all to do is to spend some time because I'm -- it sounded  
5 like there was a request for records that's been out there, and  
6 maybe I'm -- I dozed off.

7           **MS. BARRIOS:** Your Honor, Dawn Barrios. If I might,  
8 I see on the list that there's a couple of clients that the  
9 defendants have tagged as being deficient because of CMO 12.  
10 Your order, as I understand it, is that this process could be  
11 used for CMO 12 only if the plaintiff took absolutely no steps;  
12 but if they were trying to get the information, they shouldn't  
13 be on the list for CMO 12.

14           **MS. CALLEN:** And I understand. We have a laundry  
15 list of all the deficiencies. The plaintiffs are on this list  
16 because their PFSS are not substantially complete. In  
17 reiterating that laundry list, sometimes you do have CMO 12 as  
18 well. But I can assure Ms. Barrios, we don't have anybody on  
19 the list just because.

20           **THE COURT:** Okay. So we're satisfied with the rest,  
21 and so you're asking for seven days.

22                       Okay. I need to take a quick break, and I'm not  
23 even leaving the courtroom, but just everybody sit tight for  
24 just a minute.

25                       (WHEREUPON, the Court took a recess.)

1           **THE COURT:** Okay. I'm back.

2           **MS. BRILLEAUX:** Okay. Did you read -- Ms. Barrios,  
3 did you read the ones into the record that had the late cures,  
4 the late dismissals?

5           **MS. BARRIOS:** Not for this batch. June Jensen filed  
6 a dismissal. The record Doc is 5944.

7           **MS. BRILLEAUX:** The next case that I have is Shirley  
8 Laverne, and this is photos that are not dated and no signed  
9 declaration.

10           **THE COURT:** Wait. I'm sorry, Ms. Brilleaux. I'm  
11 sorry. I don't mean to interrupt you, but what happened with  
12 June Jensen? Because my last notes -- I'm sorry.

13           **MS. BARRIOS:** She filed a dismissal, and the Record  
14 Doc is 5944.

15           **THE COURT:** Okay. I just needed to mark this. Okay.  
16 Thank you.

17           **MS. BRILLEAUX:** Thank you.

18           **THE COURT:** All right. Shirley Laverne.

19           **MS. BRILLEAUX:** Yes. That is undated photos, no  
20 signed declaration.

21           **MR. PERDUE:** On this plaintiff, Your Honor, we  
22 uploaded, this week, on Monday I believe, dated photos from --  
23 one photo from two years prior to her treatment, one recent  
24 photo. Plaintiff indicated that those were all the photos she  
25 could find. We also uploaded a signed and dated PFS

1 declaration. We would just request 15 days to confirm that.

2 **THE COURT:** Okay. Court's going to grant 15 days for  
3 defendants to confirm.

4 **MS. BRILLEAUX:** Thank you.

5 Jontue Perot, no before photos and no after  
6 photos.

7 **MR. ROBERTSON:** Yes. Judge, we uploaded after photos  
8 on Wednesday. And we have conferred with the client several  
9 times. She says she has no before photos, and we'd just ask  
10 for the same order that you've given to similar plaintiffs.

11 **THE COURT:** I'm having trouble actually hearing you.

12 **MR. ROBERTSON:** Yes, I'm sorry, Judge. Let me try  
13 again. We have after photos for her that have been uploaded.  
14 We do not have any before photos. She says she doesn't have  
15 any. We're happy to give an affidavit to that effect.

16 **THE COURT:** Okay. The Court's going to grant 30 days  
17 for the affidavit.

18 **MS. BRILLEAUX:** And could we get 15 days to confirm  
19 the after photos?

20 **THE COURT:** 15 days to check. Yes.

21 **MS. BRILLEAUX:** Thank you, Your Honor.

22 Joan Simms, no before photos.

23 **MR. ROBERTSON:** Yes, Judge, we've uploaded those as  
24 well on January 9th, and they were dated from July 2014, which  
25 is within five years of her treatment date.

1           **MS. BRILLEAUX:** Your Honor, I have that treatment  
2 began on June of 2014, so that would be just one month after  
3 chemo began for the before photo.

4           **MR. ROBERTSON:** Right. That's correct. I think she  
5 sent it in. It's a month before she started treatment.

6           **MS. BRILLEAUX:** So it sounds like we only have after  
7 photos, and we do not have any before photos.

8           **THE COURT:** I think what he's saying is these are a  
9 month before she started treatment.

10          **MS. BRILLEAUX:** So my notes, counsel, show that the  
11 photo is dated July 2014 and that the first chemo began on June  
12 of 2014.

13          **MR. ROBERTSON:** I've got it -- I've got it reversed.  
14 I'm happy, Judge, just to move things along, confer about that,  
15 and then if we need to get her a photo, we can.

16          **THE COURT:** Why don't we do this: I'm going to grant  
17 15 days for you all to confer.

18          **MS. BRILLEAUX:** Thank you, Your Honor.  
19 Linda Vaillancourt, no before photos.

20          **MR. ROBERTSON:** Judge, we uploaded that this week.  
21 Her date of treatment was 2012, and the before photo is from  
22 2009.

23          **THE COURT:** Okay. When were those photos uploaded?

24          **MR. ROBERTSON:** They were uploaded -- we just got  
25 them in yesterday, a hard copy from her, and so we uploaded

1 them yesterday.

2 **THE COURT:** Grant defendants 15 days to review.

3 **MS. BRILLEAUX:** Thank you, Your Honor.

4 **MS. CALLSEN:** We're switching to another law firm,  
5 the Marc J. Bern & Partners. Joanne Boots is the first  
6 plaintiff on their list. We have no documents supporting proof  
7 of injury, no documents supporting proof of use, the  
8 declaration's not submitted, there's no authorizations, in  
9 addition, there's no CMO 12 or PTO 71 sufficient.

10 **MS. HUMPHREY:** Debra Humphrey from Marc J. Bern &  
11 Partners, Your Honor. We have tried repeatedly to get in touch  
12 with our client to cure these deficiencies, called, e-mailed,  
13 letters, certified mail, sent and signed, but she has not been  
14 responsive.

15 **THE COURT:** This matter is dismissed with prejudice.

16 **MS. CALLSEN:** The next plaintiff is Orelia Castille,  
17 no proof of use, no authorizations, or limited authorizations,  
18 and some of what we do have are not filled out properly.

19 **MS. HUMPHREY:** And this is Debra Humphrey again. We  
20 just uploaded for Castille this morning fully completed  
21 authorizations. And as of 11:36 eastern time, fully compliant  
22 with signatures on those authorizations. We uploaded proof of  
23 use on the 15th of January, before and after photos on the 3rd,  
24 and an amended plaintiff fact sheet with the verification on  
25 the 15th as well.

1           **MS. CALLEN:** The 15th of January? I'm sorry, I  
2 couldn't understand.

3           **MS. HUMPHREY:** Yes.

4           **THE COURT:** The Court's going to grant 15 days to  
5 review.

6           **MS. BRILLEAUX:** Loretta Cunningham, also with Marc J.  
7 Bern & Partners, no before photos within five years of  
8 treatment.

9           **THE COURT:** Hello?

10          **MS. HUMPHREY:** I'm sorry, this is Debra Humphrey for  
11 Loretta Cunningham. We uploaded photos on January 8th. And  
12 I'm sorry, I didn't catch counsel's remaining...

13          **MS. BRILLEAUX:** Counsel, our notes have that the  
14 photos are not within five years of treatment.

15          **MS. HUMPHREY:** Okay. If I could have some time to  
16 confer with my client and get photos that are within five years  
17 or an affidavit stating that she has none.

18          **THE COURT:** The Court's going to grant 30 days.

19          **MS. BRILLEAUX:** Your Honor, could we have 15 days  
20 since they represent that they have some uploaded?

21          **MS. HUMPHREY:** Well, we've already uploaded them.

22          **MS. BRILLEAUX:** I'm sorry, 30 days for the affidavit?

23          **THE COURT:** 30 days for the affidavit. If you want  
24 to review, 15 days.

25          **MS. BRILLEAUX:** Understood. Thank you.

1           **MS. HUMPHREY:** I didn't catch if there was anything  
2 else.

3           **MS. CALLSEN:** The next plaintiff is Nancy Dannhauser,  
4 no documentation of proof of use, the declaration has not been  
5 submitted, nor do we have a CMO 12 submission.

6           **MS. HUMPHREY:** We uploaded the amended plaintiff fact  
7 sheet and declaration on the 18th -- oh, that's today, so this  
8 morning. And a PTO 71 statement on the 18th. We're waiting  
9 for the CMO certification from the facility, which we  
10 requested. I'd like, if possible, some time for us to get a  
11 response from the facility, and if we're not able to, then get  
12 the necessary declaration to counsel.

13           **MS. CALLSEN:** Could we get 15 days, please?

14           **THE COURT:** So ordered.

15           **MS. BARRIOS:** Your Honor, I'd just like to point out  
16 that it was mentioned that she has no CMO 12 submission, and if  
17 plaintiff's counsel --

18           **THE COURT:** That is not the reason that anything's  
19 going to be dismissed, but I think it was on the...

20           **MS. BARRIOS:** I understand. I just wanted to say it  
21 for the record for this counsel. Thank you.

22           **THE COURT:** Thank you.

23           **MS. CALLSEN:** The next plaintiff is JoAnn McLeod.  
24 The PFS has not -- still doesn't have any proof of use. We  
25 don't have a proof of injury. The declaration's not been

1 submitted. We have no authorizations. In addition, no CMO 12  
2 and PTO 71 submissions.

3 **MS. HUMPHREY:** Your Honor, this is Debra Humphrey  
4 again. For Ms. McLeod, we were unable to reach our client.  
5 And on January 4th, we were notified by the plaintiff's son  
6 that she has passed away. So we notified counsel for  
7 defendants that we weren't able to obtain the necessary  
8 information and documents and that seems because she passed  
9 away. We filed a suggestion of death on the 16th and  
10 respectfully ask that the suggestion of death and substitution  
11 of plaintiff happen.

12 **MS. CALLSEN:** Do you have a plaintiff representative  
13 willing to step in?

14 **MS. HUMPHREY:** We do, and I believe -- give me one  
15 second -- it is --

16 **MS. CALLSEN:** And can you also tell me when she died?

17 **MS. HUMPHREY:** She died -- I can. She died on -- it  
18 appears she passed away October 17th, 2017, and the -- from our  
19 discussion with --

20 **MS. CALLSEN:** Your Honor, that was over a year ago.

21 **THE COURT:** I'm not going to extend this process  
22 after she's been -- you know, if she had died within the last  
23 six months, that's one thing. This matter is going to be  
24 dismissed with prejudice.

25 **MS. CALLSEN:** Thank you.

1           The next plaintiff is Linda Norvel. We have no  
2 documentation of proof of injury, the declaration's not  
3 submitted, neither do we have authorizations, and she hasn't  
4 complied with the other CMOs either.

5           **MS. HUMPHREY:** And we were notified on Tuesday, the  
6 15th, that this plaintiff also passed away, but the daughter  
7 did advise that she does want to pursue the matter and is in  
8 the process of being appointed administrator of the estate.  
9 And we filed a suggestion of death and a motion to stay  
10 yesterday.

11           **MS. BARRIOS:** Your Honor, there was also a suggestion  
12 of death filed on the 15th, that's Record Doc 5885.

13           **THE COURT:** The 15th of?

14           **MS. BARRIOS:** January.

15           **THE COURT:** Okay.

16           **MS. CALLSEN:** Your Honor, the one issue with this  
17 that we want to flag is that she died in May of 2018, that was  
18 what the suggestion of death said. But when we looked in  
19 Centrality, she submitted an amended PFS in August of 2018,  
20 which we find remarkable.

21           **THE COURT:** Okay. I think we just need to see what's  
22 going on here. I'm going to grant 30 days to figure out what  
23 on earth is going on in this file and when and if -- when the  
24 plaintiff died and what actions have been taken subsequent to  
25 death by family members or heirs.

1           **MS. CALLSEN:** The next plaintiff with the same law  
2 firm is Catherine Sites. We have no documentation of proof of  
3 injury and no authorizations. I'm sorry, I thought that was  
4 the same firm.

5           **MR. GARDNER:** It is. Your Honor, Andrew Gardner from  
6 the Johnson Law Group. We were notified on January 8th that  
7 apparently the firm Murphy & Partners -- Marc Bern & Partners,  
8 sorry, apparently also represents our client. We've  
9 represented this client and elected not to file her case at  
10 that time. The client had notified the firm that she was  
11 working with us, and so we have not had an opportunity to  
12 appear in this case or comply with the obligations of discovery  
13 in this case.

14                   I believe last night Marc Bern & Partners filed  
15 a motion to withdraw as counsel and a motion to stay the  
16 discovery while that happens so that we can step in in this  
17 case and take the case forward which is in accordance with the  
18 plaintiff's wishes.

19           **MS. CALLSEN:** I would object to the motion to stay  
20 discovery.

21           **THE COURT:** I'm not going to do that, and I have not  
22 allowed anybody to withdraw as counsel. We've had motions to  
23 substitute counsel.

24           **MR. GARDNER:** And I think that's appropriate, Your  
25 Honor. Again, we didn't know that there was another firm that

1 had filed this case until January 8th. So we were kind of  
2 caught flatted-footed here. We'd be happy to take this case  
3 forward, but we've not been entered into this docket, this case  
4 for Ms. Sites. So we need some time to make sure that we can  
5 substitute in and begin the process of the plaintiff fact sheet  
6 and everything along those lines.

7 **MS. CALLSEN:** The process should have been begun  
8 months ago. We're willing to say 30 days, but, I mean,  
9 everything should be in and the process should have started.

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

11 **MS. CALLSEN:** Thank you.

12 **MR. GARDNER:** Thank you, Your Honor.

13 **MS. HUMPHREY:** Thank you, Your Honor.

14 **MS. CALLSEN:** The next one I have is Iris Sosa. In  
15 this PFS, there's no documentation of proof of injury, no proof  
16 of use, and the declaration has not been submitted, nor do we  
17 have authorization we can use.

18 **MS. HUMPHREY:** Debra Humphrey from Marc J. Bern &  
19 Partners. For Ms. Sosa, we have, again, attempted to contact  
20 her to obtain the required information and documents multiple  
21 times via letter and certified mail that she signed, but she  
22 hasn't contacted us back. E-mails, voice mails left, she...

23 **THE COURT:** This matter is dismissed with prejudice.

24 **MS. CALLSEN:** Thank you.

25 Your Honor, I need to leave so Nick is going

1 to -- Nick Insogna is going to take over for me for the rest of  
2 them only. Thank you very much.

3 **THE COURT:** Thank you.

4 **MS. BRILLEAUX:** I think we are moving to a new law  
5 firm now, Hilliard, Martinez [sic] and Gonzales. The first  
6 plaintiff I have is Brenda Atkins, no before photos.

7 **THE COURT:** Is anybody on the line for Hilliard,  
8 Martinez [sic] and Gonzales?

9 **MR. PINEDO:** Yeah, Your Honor, Chris Pinedo. I have  
10 Brenda Atkins with the Hilliard firm. Yesterday we uploaded  
11 some before and after photos.

12 **THE COURT:** Okay. The Court's going to grant 15 days  
13 to confirm with defense counsel.

14 **MS. BRILLEAUX:** Thank you, Your Honor.

15 The next one is Shaheen Hashmi, and I have no  
16 proof of use, and no medical records received at all.

17 **MR. PINEDO:** I have here that on the 15th medical --  
18 excuse me, photos were uploaded.

19 **MS. BRILLEAUX:** Counsel, this is proof of use,  
20 medical records.

21 **MR. PINEDO:** My understanding that the photographs  
22 is -- uploaded those yesterday. I'd like to have 15 days to  
23 examine what medical records exactly were uploaded. I was  
24 prepared to talk about the photographs because I understood  
25 that was the issue with regard to the deficiency, and those

1 were just recently uploaded.

2 **MS. BRILLEAUX:** For Shaheen Hashmi?

3 **MR. PINEDO:** Yes.

4 **MS. BRILLEAUX:** The deficiency is for no proof of use  
5 with no medical records uploaded.

6 **MR. PINEDO:** The printout I had, plaintiff failed to  
7 provide proof of injury documents, photographs were not dated.

8 **THE COURT:** I'm going to grant 15 days for you all to  
9 confer, if there was some -- do you have the -- you don't know  
10 if you have the medical records. Do you know if you have the  
11 medical records for Ms. Hashmi?

12 **MR. PINEDO:** I have some of the file here. Some of  
13 it's electronically --

14 **THE COURT:** I'm going to grant 15 days for you to  
15 confer.

16 Okay. Let's go to the next one.

17 **MS. BRILLEAUX:** Johnsah Hayes. This is undated  
18 photographs, and also no signed or dated declaration, and no  
19 PTO 71 declaration.

20 **MR. PINEDO:** Chris Pinedo here. I'd like to ask for  
21 additional time for this client. We lost contact with this  
22 client last summer, then we found out in November she was  
23 incarcerated. The family would not participate, telling us  
24 where she was incarcerated. We did a search. We found her in  
25 December. We have been in contact with her since December, but

1 her being incarcerated, no phones, we would like to ask for 30  
2 days to try to clear this up.

3 **MS. BRILLEAUX:** Respectfully, Your Honor, it sounds  
4 like the client has not participated since she would not give  
5 counsel her location. We think it should be dismissed with  
6 prejudice.

7 **THE COURT:** Have you talked to her?

8 **MR. PINEDO:** We have not talked to her recently. We  
9 talked to her before she was incarcerated.

10 **THE COURT:** That's not recent. Not since?

11 **MR. PINEDO:** I'm sorry, Your Honor?

12 **THE COURT:** Have you talked to her since her  
13 incarceration?

14 **MR. PINEDO:** We have not.

15 **THE COURT:** This matter is going to be dismissed with  
16 prejudice. She had an obligation to keep you informed.

17 **MS. BRILLEAUX:** Thank you, Your Honor.

18 The next plaintiff is Zosie Iacopetti, and this  
19 is we have received before photos, but they are not dated.

20 **MR. PINEDO:** Your Honor, we uploaded six photos that  
21 were just -- were all dated just within the last day or two.

22 **THE COURT:** The Court's going to grant defendants 15  
23 days to confirm.

24 **MS. BRILLEAUX:** Thank you, Your Honor.

25 And going back to Hashmi, on the proof of use,

1 can we agree that if we have not received any medical records  
2 establishing proof of use that the case should be dismissed  
3 within 15 days?

4 **THE COURT:** I'm not going to do that. I think it's  
5 just going to have to get back on the call docket. Because as  
6 I appreciate it, there were records, there were not records.  
7 I'm just not prepared to do that.

8 **MS. BRILLEAUX:** Thank you, Your Honor.

9 The next one is Gracie Johnson. There are three  
10 deficiencies here, no proof of use, no before photos, and no  
11 declaration.

12 **MR. PINEDO:** Your Honor, the PTO 71 declaration was  
13 cured on January the 15th. And we also cured with regard to --  
14 reached out to the client with regard to a before photo, and  
15 she is searching for those, but at this time, we do not have a  
16 before photo.

17 **MS. BRILLEAUX:** Your Honor --

18 **THE COURT:** Okay. What about proof of use?

19 **MS. BRILLEAUX:** Thank you.

20 **MR. PINEDO:** Checking that right now.

21 **MS. BRILLEAUX:** Counsel did state that he submitted a  
22 PTO 71 declaration, that's not among the deficiencies listed.  
23 We don't have a declaration verifying the PFS.

24 **MR. PINEDO:** Proof of use that I'm looking at here --  
25 Your Honor, this is similar in that I thought the primary issue

1 was the photographs, and I need to review exactly what medical  
2 records we have in the file. We'd like to have 15 days on this  
3 matter.

4 **MS. BRILLEAUX:** We don't have a declaration for the  
5 PFS either.

6 **THE COURT:** Did you file a declaration for the PFS?

7 **MR. PINEDO:** It's my understanding we did, Your  
8 Honor, but I can't place my hands on it exactly at this moment.

9 **THE COURT:** I'm going to grant 15 days. But when you  
10 all send out the deficiencies, do you say specifically what the  
11 problem is?

12 **MS. BRILLEAUX:** The deficiencies were outlined in the  
13 deficiency notices.

14 **MS. BARRIOS:** I agree. The deficiencies are, but the  
15 charts that we have don't really correspond to what's in the  
16 notice of deficiency. Because I suspect they do what I would  
17 have done, they do it at the beginning when they do the notice  
18 of deficiency, and then later on, they look again and add more  
19 things, and that sometimes isn't conveyed.

20 **MS. BRILLEAUX:** I think counsel is aware of the  
21 deficiencies in their submissions.

22 **MR. PINEDO:** It was not my understanding that medical  
23 records were missing on this.

24 **THE COURT:** All right. That's going to be something  
25 we're going to talk about in our afternoon meeting. Today we

1 just need to get through this never-ending list. Okay. I'm  
2 going to grant 15 days to just figure out what's going on.

3 **MS. BRILLEAUX:** Can we have 15 days to cure all three  
4 deficiencies?

5 **THE COURT:** Sure.

6 **MS. BRILLEAUX:** Thank you.

7 The next is Cheryl Jones, no before photos.

8 **MR. PINEDO:** With regard to Cheryl Jones, I have that  
9 we cured that on the 16th.

10 **THE COURT:** Okay. The Court's going to grant 15 days  
11 for defendants to confirm.

12 **MS. BRILLEAUX:** Sheri Knight, no before photos.

13 **MR. PINEDO:** So on that what I have is that on the  
14 17th, just yesterday, we uploaded some photos.

15 **THE COURT:** The Court's going to grant 15 days to  
16 confirm.

17 **MS. BRILLEAUX:** Elizabeth McCrary, no after photos.  
18 To clarify, we have one from 2011, but we do not have a current  
19 after photo.

20 **THE COURT:** No current after photo. Okay.

21 **MR. PINEDO:** It's my understanding that we just  
22 uploaded those within the last two days, Your Honor. Could we  
23 have 15 days on that?

24 **THE COURT:** Yes.

25 **MS. BRILLEAUX:** Your Honor, to clarify, I think we

1 did receive after photos, but they weren't current. Could we  
2 have 15 days to cure that deficiency?

3 **THE COURT:** That's what I said, 15 days.

4 **MS. BRILLEAUX:** Thank you.

5 Reba Y. Schlaepfer, no before photos within five  
6 years of treatment.

7 **MR. PINEDO:** Yes, Your Honor. We have submitted a  
8 photo that's more than five years prior just recently. Our  
9 client now has Alzheimer's, and they're in Washington state.  
10 The husband has power of attorney. We'd like to have 30 days  
11 on that because we talked to him, and he is going to try to get  
12 us some photos. Apparently, he had some problems with the  
13 weather and with the snowstorm there. But that is recent in  
14 the development of Alzheimer's and it's created an extra level  
15 of --

16 **THE COURT:** All right. The Court's going to grant 30  
17 days for either photographs or an affidavit from  
18 Ms. Schlaepfer's husband.

19 **MS. BRILLEAUX:** Thank you, Your Honor.

20 **MR. PINEDO:** Thank you, Your Honor.

21 **MS. BRILLEAUX:** Joanne Thompson, no before photos.

22 **MR. PINEDO:** Your Honor, on that one, we had PT0 71  
23 and after photos were uploaded. This is another client where  
24 we had difficulty. They cannot -- they haven't been able to  
25 currently locate some photos. I'd like to have 30 days on that

1 one as well.

2 **THE COURT:** I'll give you 30 days for the affidavit  
3 or photos.

4 **MR. PINEDO:** Thank you, Your Honor.

5 **THE COURT:** Thank you.

6 **MS. BRILLEAUX:** And that was the last one for  
7 Hilliard Martinez [sic]. Now starting with the Mulligan firm.

8 **THE COURT:** Yes.

9 **MS. BRILLEAUX:** I know Mr. Orr is here. The first  
10 case that I have is Emma Brown. Here we have no proof of use,  
11 no before photos, no after photos, and no signed  
12 authorizations.

13 **MR. ORR:** The signed authorizations was cured. As  
14 for the records, we have -- and I can provide it to the Court  
15 if you wish, we have ongoing efforts commencing on 12/7/2017 to  
16 obtain records, follow-up 12/19/2017, 2/14/2018, 2/27/2018, and  
17 so on through current. And as of yesterday, I asked my legal  
18 assistant to find out why we don't have the records and when we  
19 can expect to get them.

20 She was told there is a problem with their  
21 system. The representative said there is something preventing  
22 her from seeing the request and because of this, she can't give  
23 me a time line. So I don't know when we're going to get  
24 records, but we have been diligently trying.

25 As for the photos, Ms. Brown is 87 years old,

1 and we have had difficulty just with the process of getting her  
2 to even understand what it is she needs to provide. Her  
3 daughter is supposed to be working with her. We had hoped to  
4 get photos this week, we didn't. I would ask for 15 days to  
5 get those.

6 **MS. BRILLEAUX:** Your Honor, just to add, I do have a  
7 note that the authorizations were uploaded, but they are  
8 undated. Can we have 15 days to cure that deficiency as well?

9 **MR. ORR:** It's already been cured. The Document No.  
10 is 287861.

11 **MS. BRILLEAUX:** Okay. Because I have both of them  
12 that were submitted were undated, but we will check and  
13 confirm.

14 **THE COURT:** 15 days.

15 **MR. ORR:** If they need to be dated and I didn't do  
16 that, I will date them.

17 **MS. BRILLEAUX:** Thank you, counsel.

18 Florence Coukoulis.

19 **MR. ORR:** No basis to oppose, Your Honor.

20 **THE COURT:** This matter is dismissed with prejudice.

21 **MS. BRILLEAUX:** Virginia Craft, no before photos, no  
22 after photos, and no PT0 71 verification.

23 **MR. ORR:** We've been here a long time, Your Honor,  
24 and everybody's tired and everybody wants to go home, but I  
25 have an important issue, it's procedural. And if it please the

1 Court, I would like permission to hand up some paperwork  
2 because I'm going to read from it and refer to it. It will  
3 make things go faster if I'm allowed to do that.

4 **THE COURT:** Yeah. What is it?

5 **MR. ORR:** It concerns late deficiency notices,  
6 grossly late deficiency notices.

7 **THE COURT:** Oh.

8 **MR. ORR:** It's a big issue, Your Honor, and I'm sorry  
9 to stop things down, but we got to talk about it.

10 **MS. BRILLEAUX:** Your Honor, I would say, as we've  
11 done with the other new issues that have come up today, that we  
12 move through this list and address this at the next show cause  
13 hearing, especially since this was not raised to us at any time  
14 prior to today. I'm not prepared to --

15 **MR. ORR:** That is incorrect. I have the e-mails. I  
16 had a meet and confer, extensive meet and confers.

17 **MS. BRILLEAUX:** And I should clarify, you didn't  
18 have --

19 **THE COURT:** Let me -- all right. Does this cover the  
20 remainder of your list, Mr. Orr?

21 **MR. ORR:** It covers most of the remainder of my list.  
22 What we can do, Your Honor, is I would love to present that  
23 argument either now or later. I'm happy to do it in writing.  
24 It's an important issue, and I'm not alone.

25 **THE COURT:** No. That's fair enough. What I'd like

1 to do is let's go to those that have not been raised late, that  
2 that issue is not your issue about late raised deficiencies.  
3 Let's go to those that are not covered by that, and then I'd  
4 like to do that. But I have to tell you, and I'm not trying to  
5 put you off, I know you have been here all day, but I have oral  
6 argument, and I haven't eaten.

7 **MR. ORR:** I have dad duty. I have to pick up my  
8 daughter from school at 4:00, and I have to fly back to Dallas,  
9 so I'm fine with putting this off.

10 **THE COURT:** Perhaps what we should do is invite  
11 you -- you may be the one man invited -- to our after-work day  
12 to review this. But I'd like to --

13 **MR. ORR:** Thank you.

14 **THE COURT:** -- I would like -- because I want to know  
15 what it is. And perhaps the thing to do is -- I don't know if  
16 I need you here, but if you would submit something in writing  
17 that when we're reviewing this process, I will know. Because  
18 this is the first I'm hearing of it. And I want to make sure  
19 that I'm aware of what the issues are.

20 **MR. ORR:** I would like to represent to the Court that  
21 I've talked to other plaintiffs' counsel, and this is not  
22 unique to my firm. So I will provide writing.

23 Virginia Craft, if we can stay on her, we've  
24 cured the deficiencies, and we just did that last night and  
25 this morning, so 15 days to confer on that.

1           **THE COURT:** The Court's going to grant 15 days to  
2 confirm.

3           **MS. BRILLEAUX:** I'm sorry, which case was that?

4           **MR. ORR:** Virginia Craft, the one we're on that you  
5 served a late deficiency notice.

6           **MS. BARRIOS:** Your Honor, Dawn Barrios for the  
7 plaintiffs' steering committee. Mr. Orr is exactly correct.  
8 This issue has been bubbling around. The PSC had approached  
9 Adrienne Byard more than a year about this, and we got nowhere.  
10 So I'm here to say that Mr. Orr is correct. We have had meet  
11 and confers. He's had meet and confers. This is an issue that  
12 we can take up at our meeting.

13           **THE COURT:** But I'd like to hear --

14           **MR. ORR:** Liaison counsel has been copied on the  
15 e-mails, so Ms. Barrios is well acquainted with the issues.

16           **THE COURT:** Right. But I'd like to hear from you,  
17 but today is not -- because I have oral argument and just...

18           **MR. ORR:** Absolutely. Absolutely.

19           **MS. BRILLEAUX:** Thank you, Your Honor. And I'm  
20 certainly not disputing that someone on the defense team has  
21 been made aware of it, but I have not been made aware of it.  
22 Personally, I'm not prepared to respond to that today. So  
23 thank you, and I appreciate it.

24           **MS. BYARD:** I happen to be on the phone too, guys. I  
25 would welcome the opportunity to continue meeting and

1 conferring. We haven't had any follow-up correspondence since  
2 I thought I had satisfactorily addressed your concerns, Dawn,  
3 almost a year ago. So if there are still issues that you'd  
4 like to discuss, we're certainly available to talk about those  
5 before -- before bringing them to the attention of the Court,  
6 hopefully.

7 **THE COURT:** Who is this?

8 **MS. BYARD:** Ms. Byard, who Ms. Barrios had referenced  
9 as being the point of contact.

10 **THE COURT:** Okay. All right.

11 **MS. BARRIOS:** Thank you, Adrienne. I'll definitely  
12 follow up with you.

13 **THE COURT:** All right. Let's go to the next one  
14 that's not an issue -- that this issue is not...

15 **MS. BRILLEAUX:** Sure. Do you want to --

16 **MR. ORR:** It's going to be an issue in most of them,  
17 Your Honor.

18 **THE COURT:** All right. Tell me where it's not an  
19 issue.

20 **MS. BRILLEAUX:** Should we go through the list just so  
21 that we don't miss anybody?

22 **THE COURT:** Right. Why don't we -- you know what,  
23 I'm just going to read them out loud, I'm going to do it real  
24 quick, and tell me timeliness is an issue, and we'll put that  
25 one off.

1           **MR. ORR:** Okay.

2           **THE COURT:** Okay. Beverly Davis.

3           **MR. ORR:** Timeliness is an issue.

4           **THE COURT:** Okay. Barbara Devine.

5           **MR. ORR:** Timeliness is an issue.

6           **THE COURT:** Jo Fink.

7           **MR. ORR:** Timeliness is an issue.

8           **THE COURT:** Angelina Hernandez.

9           **MR. ORR:** Timeliness is an issue, Your Honor.

10          **THE COURT:** Cathy Johnson.

11          **MR. ORR:** I have a lot of stuff in my Cathy Johnson  
12 file. Yes, timeliness is an issue in this case, too, Your  
13 Honor.

14          **THE COURT:** Latalya Johnson Jenkins.

15          **MR. ORR:** Timeliness is an issue in that case, but we  
16 have no basis to oppose dismissal, so there's no need to keep  
17 that one going.

18          **THE COURT:** This matter is dismissed with prejudice.

19          **MS. BRILLEAUX:** Thank you, Your Honor.

20          **THE COURT:** Okay. Kirsten Peterson.

21          **MR. ORR:** I don't have timeliness as an issue -- oh,  
22 wait, I'm sorry, I do, Your Honor.

23          **THE COURT:** Marisol Quintero Mojica.

24          **MR. ORR:** Timeliness is an issue in that one as well,  
25 Your Honor.

1           **THE COURT:** Okay. Those are your -- and we will take  
2 those up. I'm going to ask you to prepare something in  
3 writing, and I'd like that by -- today is Friday, if I could  
4 have something by next Friday.

5           **MR. ORR:** Next Friday.

6           **THE COURT:** I would appreciate it.

7           **MR. ORR:** Also, Your Honor, on a lot of these, we  
8 have cured the deficiencies. So I would welcome the  
9 opportunity to engage in a meet and confer with Sanofi --

10          **THE COURT:** Absolutely.

11          **MR. ORR:** -- so that we can resolve those where it's  
12 not an issue.

13          **THE COURT:** If you have satisfied -- well, if you  
14 want to go back and do these really quickly. I just didn't  
15 want -- if there are some that you now can tell me are  
16 satisfied.

17          **MR. ORR:** I'm happy to do that, Your Honor.

18          **THE COURT:** And then I'll give you -- the defense  
19 counsel 15 days to get you...

20          **MR. ORR:** Beverly Davis, if we can circle back to  
21 her.

22          **THE COURT:** Okay.

23          **MR. ORR:** We were advised by the defendants that  
24 photographs were not dated. We provided dated photographs on  
25 1/9/19. Before photos within five years of treatment were not

1 provided. We uploaded, on 1/9/19, a before photo. And the  
2 properly signed and dated declaration, that issue was just the  
3 declaration wasn't dated. We've cured that on 12/20/18.

4 **MS. BRILLEAUX:** Your Honor, our notes reflect that a  
5 before photo -- a purported before photo was uploaded dated  
6 December 13th, 2006, but that was more than a year after  
7 treatment began in October of 2005.

8 **MR. ORR:** We disagree, Your Honor. I had an e-mail  
9 that I sent.

10 **THE COURT:** Okay. Wait. I'm going to grant you all  
11 15 days to meet and confer on that issue.

12 **MR. ORR:** Sure.

13 **THE COURT:** Any others that --

14 **MR. ORR:** Yes, Your Honor, Jo Fink. We cured that  
15 one after the time period for when -- that Wednesday morning  
16 deadline, but we uploaded before photos within five years of  
17 treatment on 1/17/19. The PTO 71, we uploaded on 1/11/19.

18 **THE COURT:** Okay. Grant 15 days.

19 **MS. BRILLEAUX:** Thank you, as the 1/17 was after the  
20 cutoff.

21 **THE COURT:** Right.

22 **MR. ORR:** Kirsten Peterson is also we cured after the  
23 cutoff, and we can do 15 days to meet and confer on that.

24 **THE COURT:** Okay. I'll grant 15 days.

25 **MR. ORR:** Thank you, Your Honor.

1           **THE COURT:** Thank you.

2           **MS. BRILLEAUX:** The next set of cases we have are  
3 with Reich & Binstock. I have Cheryl Anderson, no proof of  
4 use.

5           **THE COURT:** Is someone on the phone for Reich &  
6 Binstock.

7           **MR. ROTH:** Yes, Your Honor, Steve Roth. Cheryl  
8 Anderson falls into the category that we discussed earlier this  
9 morning. We just got some medical records in from her. We're  
10 optimistic that one way or another they will be determinative  
11 of whether we can provide proof of use. So we'd ask for a  
12 little bit of time to get those records reviewed.

13           **MS. BRILLEAUX:** Your Honor, just to note for the  
14 record, this case has been pending for over a year. It was  
15 filed in January of 2018.

16           **THE COURT:** But has -- what is missing in this one?

17           **MS. BRILLEAUX:** We have no proof of Docetaxel use  
18 whatsoever, no medical records. It's been --

19           **THE COURT:** All right. And you just --

20           **MS. BRILLEAUX:** -- pending for a year.

21           **THE COURT:** Okay. All right. You just received your  
22 medical records?

23           **MR. ROTH:** In the last 48 hours, yes, Judge.

24           **THE COURT:** All right. I'm going to give you 15 days  
25 to confirm.

1           **MR. ROTH:** Thank you, Your Honor.

2           **MR. INSOGNA:** Your Honor, the next case we have for  
3 Reich & Binstock is Alicia Bingham. This is no proof of injury  
4 documentation.

5           **MR. ROTH:** Your Honor, we've -- this is a homeless  
6 client. We have lost contact with her, not through lack of  
7 effort, but she has -- when I talked to her, she's --

8           **THE COURT:** Hello?

9           **MR. ROTH:** And that may be -- that may be the extent  
10 of what we're going to be able to provide on this one, to be  
11 totally honest.

12           **THE COURT:** We missed, I think, the critical part of  
13 this conversation, which is: Have you had contact with her?

14           **MR. ROTH:** No. We have tried to make contact with  
15 her. I have not talked to her in a while. I've not been able  
16 to -- she's homeless.

17           **THE COURT:** Okay. This matter is dismissed with  
18 prejudice.

19           **MS. BRILLEAUX:** The next case is Randie Bowen, no  
20 proof of use, no before photos, and no after photos.

21           **MR. ROTH:** We've reached out and requested photos to  
22 her recently. And Randie Bowen, also like Cheryl Anderson we  
23 talked about a minute ago, we have just got some records in  
24 from her. It will make or break her case, so we request 15  
25 days to review those.

1           **THE COURT:** What's with the photos? I mean, it's  
2 been --

3           **MR. ROTH:** We've requested them, and I do not know  
4 the -- if she's going to be able to have some or not. If we  
5 don't, we'll get an affidavit to that effect.

6           **MS. BRILLEAUX:** Your Honor, this has been pending  
7 since November of -- I'm sorry, December of 2017.

8           **THE COURT:** Has the -- you know, it's really hard --  
9 because I'm not sure that there was much of an effort to comply  
10 with the requirements if you're now just recently reaching out  
11 for photographs. Tell me, Mr. Roth, why shouldn't I just  
12 dismiss this case?

13           **MR. ROTH:** Again, we've got some records that we were  
14 hopeful will provide the proof of use.

15           **THE COURT:** I'm not worried about that. I'm talking  
16 about the photographs. It just doesn't seem like -- I mean,  
17 it's been over a year and we're now just asking for  
18 photographs.

19           **MR. ROTH:** I think we asked for them earlier, but I  
20 can't say that with certainty. I mean, that's pretty much a  
21 common theme: We send out the plaintiff fact sheet, we ask the  
22 client to send us photos. So I honestly, I don't know.

23           **THE COURT:** Is it just the photographs that are  
24 missing?

25           **MS. BRILLEAUX:** So we don't have any photographs,

1 before or after, and we don't, of course, have any proof of  
2 use, and it's been over a year.

3 **THE COURT:** I'm sorry, this one's going to be  
4 dismissed with prejudice.

5 **MS. BRILLEAUX:** Thank you, Your Honor.

6 The next case I have is Maria Cabello. It's no  
7 before photos, no after photos, and also not a signed  
8 declaration verifying the PFS.

9 **MR. ROTH:** We did Maria Cabello's plaintiff fact  
10 sheet over the phone with her. And we have requested photos  
11 from her in the past, and recently, so -- as well as sent her  
12 the verification page. So we're requesting just a little more  
13 time. We think we can get Maria in good shape.

14 **MS. BRILLEAUX:** This is from November of 2017.

15 **THE COURT:** This matter is dismissed with prejudice.

16 For everybody on the phone, it's one thing when  
17 there's been a concerted effort to comply, but it's just --  
18 what's frustrating is when just nothing's been done.

19 Okay. Go ahead.

20 **MS. BRILLEAUX:** Thank you, Your Honor.

21 Cecilia Cain. We have no before photos and also  
22 undated photos.

23 **MR. ROTH:** Yeah, recent contact with Cecilia. We're  
24 getting dates on those photos. There are an awful lot of  
25 photos submitted for Ms. Cain.

1           **THE COURT:** Okay. All right. I'll grant 15 days on  
2 that since you -- just to date the photos. If there are no  
3 before photos, you should file an affidavit.

4           **MS. BRILLEAUX:** The next plaintiff is Lori Cleveland,  
5 no before photos. This case has been pending since November of  
6 2017.

7           **MR. ROTH:** We submitted photos for Ms. Cleveland in  
8 May of 2018. She passed away this past November. Her husband  
9 is continuing her case. We've reached out to him, and he's  
10 going to be the one to provide dates for the photos.

11           **MS. BRILLEAUX:** I'm sorry --

12           **THE COURT:** The Court's going to grant 30 days.

13           **MS. BRILLEAUX:** And, Your Honor, just to clarify, the  
14 dates on those weren't the issue for -- oh, sorry. Can you  
15 remind me which case -- are we on Lori Cleveland?

16           **MS. BARRIOS:** Yes.

17           **MS. BRILLEAUX:** Yes. For Lori Cleveland, it's no  
18 before photos. The dates are not the issue.

19           **MR. ROTH:** If no before photos exist, we'll have her  
20 surviving spouse --

21           **THE COURT:** Execute an affidavit within 30 days.

22           **MR. ROTH:** Sure. Absolutely. Thank you, Your Honor.

23           **MS. BRILLEAUX:** Thank you.

24                   The next case is Arlene Cosio. These are photos  
25 that are not dated.

1           **MR. ROTH:** I've reached out to her in the last seven  
2 days, and she is going to be providing dates for those photos.

3           **THE COURT:** Okay. Court will grant 15 days.

4           **MS. BRILLEAUX:** Thank you, Your Honor.

5                   Lula Davis. This is no before photos, no after  
6 photos, no signed declaration for the PFS, and this has been  
7 pending since November of 2017.

8           **MR. ROTH:** She's another client that we worked her  
9 plaintiff fact sheet with her over the phone. I sent her the  
10 verification page six days ago and request for photos. She's  
11 been a cooperative client, so I'm not worried that 15 days  
12 would be plenty of time for her to respond.

13           **MS. BRILLEAUX:** Your Honor, like the other ones, it  
14 just -- it doesn't sound like anything's been done with the  
15 client in this case. We think it should be dismissed with  
16 prejudice.

17           **THE COURT:** Is there a reason why the declaration was  
18 only asked for seven days ago?

19           **MR. ROTH:** Yeah. We did the plaintiff fact sheet  
20 with her over the phone and --

21           **THE COURT:** When was the plaintiff fact sheet filed?

22           **MR. ROTH:** And I don't -- and if I did, I apologize,  
23 but that's an easy cure.

24           **MS. BRILLEAUX:** Well, I mean, we're also missing  
25 photos, so...

1           **MR. ROTH:** And we've requested those, so...

2           **UNIDENTIFIED SPEAKER:** July 23rd, 2018 was the most  
3 recent fact sheet.

4           **THE COURT:** And the only thing was there was no  
5 declaration for the fact sheet?

6           **MS. BRILLEAUX:** And the photos.

7           **THE COURT:** I'm going to grant 15 days.

8           **MS. BRILLEAUX:** Vanessa De Vera, no proof of use.  
9 We've received no records. This case has been pending since  
10 November of 2017.

11           **MR. ROTH:** What do you mean you've received no  
12 records? I'm not following that.

13           **THE COURT:** No medical records.

14           **MR. ROTH:** I have here -- okay. We do have some  
15 medical records. They were received, again, in the last 48  
16 hours. I did not have that down here as one of the issues. I  
17 had no proof of injury and photos not dated. So if I --

18           **THE COURT:** Okay. I'm going to grant 15 days. Since  
19 you've got the records, supplement them.

20           **MR. ROTH:** Absolutely.

21           **MS. BRILLEAUX:** And, Your Honor, we would request  
22 that the case be dismissed if there's no proof of Docetaxel use  
23 in the records.

24           **MR. ROTH:** Totally acceptable.

25           **MS. BRILLEAUX:** Thank you.

1           The next one is Stephanie Deese, no proof of  
2 use. We have no records.

3           **MR. ROTH:** Stephanie Deese, that's another one that  
4 we just recently -- well, hold on. Yes, we received records  
5 from the oncologist. I loaded her photos a few days ago. The  
6 records will decide whether she moves forward or not, and we  
7 ask for time to review them.

8           **MS. BRILLEAUX:** Your Honor, again, this is a case  
9 that's been pending since November of 2017. It's been well  
10 more than a year.

11           **THE COURT:** Was the plaintiff fact sheet filed?

12           **MR. ROTH:** Yes.

13           **THE COURT:** I'll grant 15 days.

14           **MR. ROTH:** Thank you.

15           **MS. BRILLEAUX:** Again, we'd ask to dismiss the case  
16 if there's no --

17           **THE COURT:** Of course.

18           **MS. BRILLEAUX:** Thank you.

19           **MR. INSOGNA:** Your Honor, the next case with this  
20 firm is Judith Garthwaite. I have that there's an undated  
21 HIPPA authorization. It appears to me that that has been cured  
22 subsequently. I would just ask for 15 days for us to confirm.

23           **THE COURT:** So ordered.

24           **MR. ROTH:** Yeah, on the 15th, I loaded her --

25           **THE COURT:** Okay.

1           **MR. INSOGNA:** Also with this firm, Kathy Geiser. We  
2 have no proof of injury documentation, no plaintiff fact sheet  
3 declaration, and no authorizations.

4           **MR. ROTH:** I sent her the authorizations and  
5 verification page a few days ago. She says she does not have  
6 any photos. I've given her some suggestions of places to look.  
7 If she does not have any, we're happy to do a no photo  
8 affidavit.

9           **MR. INSOGNA:** Your Honor, we also have no plaintiff  
10 fact sheet declaration and no authorizations. And nothing's  
11 been uploaded since August 7th of 2018.

12           **MR. ROTH:** Again, she's getting those to us. We  
13 worked her plaintiff fact sheet over the phone with her, I  
14 believe.

15           **MR. INSOGNA:** Your Honor, if I may, the notice of  
16 noncompliance that precedes this was sent out on November 20th,  
17 and then there's a further 14 days in advance of this hearing.  
18 So counsel's been on notice for some time.

19           **THE COURT:** I'm going to give you seven days to get  
20 all of this in. But, Mr. Roth, I have to tell you, for the  
21 life of me, I don't understand why we're just requesting this  
22 information this week. It just doesn't --

23           **MR. ROTH:** It may have been requested earlier and the  
24 client didn't respond, so we're having to come back a second  
25 time, and --

1           **THE COURT:** Well, you know, this is why cases get  
2 dismissed with prejudice because clients aren't responding.  
3 And if they're not going to do it, I'm just --

4           **MR. ROTH:** I understand.

5           **MS. BRILLEAUX:** Your Honor, for the record --

6           **THE COURT:** I'm very frustrated.

7           **MS. BRILLEAUX:** To reiterate what Mr. Insogna said,  
8 one of the biggest issues here is we've sent the compliance  
9 list out since November 20th. So if counsel had sent a request  
10 out to their clients earlier, November 20th is the time that  
11 they should be re-requesting it, not this week.

12           **THE COURT:** I got that.

13           **MS. BRILLEAUX:** Thank you, Your Honor.

14           **THE COURT:** Hence my frustration.

15           **MR. ROTH:** I understand.

16           **MS. BRILLEAUX:** The next case that I have is Terri  
17 Healy Frey. We have no before photos, and the other photos  
18 we've received are not dated.

19           **MR. ROTH:** Yeah. We've asked her to provide dates  
20 for the photos, and that's where we're at on her right now.

21           **THE COURT:** Photo dates is the problem?

22           **MR. ROTH:** Yes.

23           **MS. BRILLEAUX:** And no before photos.

24           **MR. ROTH:** She may not have those.

25           **THE COURT:** Okay. I'm going to give you 15 days to

1 cure. I'll let you have 30 days for an affidavit.

2 **MR. ROTH:** Thank you, Your Honor.

3 **MS. BRILLEAUX:** Fran Herbst, no proof of use, and  
4 this case has been pending since October of 2016.

5 **MR. ROTH:** I have no proof of injury for her --  
6 there's no proof of injury.

7 **MS. BRILLEAUX:** The deficiency's for no proof of use  
8 of Docetaxel. If there's no proof of use, we think the case  
9 should be dismissed with prejudice, especially since it's been  
10 pending for two and a half years.

11 **THE COURT:** What proof of use do you have, sir, in  
12 the plaintiff fact sheet?

13 **MR. ROTH:** I'm going to have to look that up. Can we  
14 revisit this one?

15 **THE COURT:** No. This matter is dismissed with  
16 prejudice.

17 Oriann Holmes, let's go.

18 **MS. BRILLEAUX:** I have no before photos, and no after  
19 photos.

20 **MR. ROTH:** We have requested photos from her, and if  
21 not, we will get you an affidavit to that effect.

22 **MS. BRILLEAUX:** I would ask counsel if he knows  
23 whether she has photos.

24 **THE COURT:** Do you know if she has before -- I mean,  
25 after photos should be easy, that's --

1           **MR. ROTH:** Yeah, just take a picture. Sure. Sure.  
2 I do not know. We left a voice mail for her, and I think an  
3 e-mail. So that's -- again, that's where we're at on  
4 Ms. Holmes.

5           **THE COURT:** Okay. This one's dismissed with  
6 prejudice. If they're not responding, that's -- we're not  
7 going to continue chasing them around.

8           **MR. ROTH:** I understand.

9           **MS. BRILLEAUX:** Thank you, Your Honor.  
10                   Deborah Hunkapiller, no proof of use and undated  
11 photos.

12           **MR. ROTH:** Again, we just got medical records in for  
13 Ms. Hunkapiller, and so, hopefully, that will take care of the  
14 proof of use. We have requested that she give us the photo  
15 dates. If she doesn't know them, we'll file an affidavit to  
16 that effect, but we do have some --

17           **THE COURT:** I'm going to give you 15 days to file  
18 those records.

19           **MR. ROTH:** Thank you, Your Honor.

20           **MS. BRILLEAUX:** Gena Jennett, photos not dated.

21           **MR. ROTH:** Got those in today. Should get them  
22 loaded after this phone call.

23           **THE COURT:** I'm going to give you 24 hours to get  
24 that done.

25           **MS. BRILLEAUX:** Thank you.

1           **MR. ROTH:** End of today. Okay. Thank you.

2           **MS. BRILLEAUX:** Cathy Jones, no proof of use, no  
3 before photos, no after photos, pending since November of 2017.

4           **MR. ROTH:** I don't think we're going to be able to  
5 move her on the proof of use.

6           **THE COURT:** This matter is dismissed with prejudice.

7           **MS. BRILLEAUX:** Dara Kessler, photos not dated.

8           **MR. ROTH:** We have gotten, as you can see, an awful  
9 lot of photos from Ms. Kessler. She's going to give me a call  
10 back and we're going to get dates. She has probably more  
11 photos than any of our clients. They're really well done  
12 photos, taken from the hair restoration center that she has  
13 used. So that's going to be taken care of.

14           **THE COURT:** 15 days to cure dates and whatnot.

15           **MR. ROTH:** Perfect. Thank you.

16           **MS. BRILLEAUX:** Mimoza Lamorte, no proof of use, no  
17 before photos, no after photos.

18           **MR. ROTH:** We have got two sets of new records for  
19 her, and we're optimistic that that will be able to move her  
20 forward on the proof of use. We've left voice mail and e-mail  
21 for her regarding giving us dates on the photos.

22           **THE COURT:** You've got 15 days.

23           **MR. ROTH:** Thank you, Your Honor.

24           **MS. BRILLEAUX:** Athena Mack, no before photos, no  
25 after photos. This has been pending since November of 2017.

1           **MR. ROTH:** Yeah, we've requested the photos from her  
2 before. She hasn't been responsive. We've requested them  
3 recently. Would an affidavit that none exist suffice or --

4           **MS. BRILLEAUX:** Has she responded?

5           **THE COURT:** Has she responded?

6           **MR. ROTH:** She has not. She has not.

7           **THE COURT:** This matter's dismissed with prejudice.

8           **MS. BRILLEAUX:** Darla Majors, no proof of use, and  
9 photos not dated.

10           **MR. ROTH:** We're going to be able to take care of the  
11 photos without a problem. She's going to provide that. As far  
12 as proof of use, she is not one of the folks that we've gotten  
13 records in for recently, so I don't know how we're going to --

14           **MS. BRILLEAUX:** This has been pending since December  
15 of 2017. We believe it should be dismissed with prejudice.

16           **THE COURT:** But this is -- why are we just getting  
17 photographs from this lady?

18           **MR. ROTH:** You've gotten photos. She just -- it's  
19 the dates that are the issue.

20           **THE COURT:** Oh, the dates on the photos.

21           **MS. BRILLEAUX:** Correct. But without --

22           **THE COURT:** And they said there's a problem with the  
23 medical records. I just want to find out if there's -- I don't  
24 know, the center burned down or something.

25           **MR. ROTH:** So far we've not been successful on the

1 medical records with her.

2 **THE COURT:** You're going to have to help me here.  
3 Can you tell me when they were requested? What's the problem,  
4 or are we just requesting medical records a year into this  
5 thing?

6 **MR. ROTH:** No, I'll have to research that one.

7 **MS. BRILLEAUX:** Respectfully, it sounds like medical  
8 records don't establish proof of use.

9 **THE COURT:** Wait. Let me hear -- I can't hear what  
10 he's saying.

11 **MR. ROTH:** I'm sorry. I'll have to research that  
12 one. But I'm telling you up front, we did not get medical  
13 records for her with the recent influx of the large number of  
14 records that we've received. She was not one of those. So I'm  
15 being up-front with that.

16 **THE COURT:** No, I appreciate that. What's bothering  
17 me is I have no indication that there's a reason her records  
18 weren't received, that repeated requests were made or it's  
19 just...

20 **MR. ROTH:** I'm going to have to look into that one.

21 **THE COURT:** All right. When we get to the -- you  
22 should sent an e-mail to somebody right now and be able to  
23 answer by the time we get to the end of this thing.

24 Let's to to Jerrye Marcantel.

25 **MS. BRILLEAUX:** I have no proof of use, photos not

1 dated, and no signed declaration for this case that's been  
2 pending since January of 2018, over a year.

3 **MR. ROTH:** Again, we've requested photo dates. The  
4 proof of use is unresolved. We have -- she did not -- she's  
5 not in that group that we just got all the medical records for.  
6 And I don't know the history, but so far we've not been able to  
7 come up with supporting proof of use.

8 **THE COURT:** Okay. This is what we're going to do.  
9 I'm coming back to that one too. So if there's somebody you  
10 need to be e-mailing to tell them. You know, if I find that  
11 requests were made timely, that's one thing. It's another  
12 thing that --

13 Okay. Let's go to Barbara Marinelli.

14 **MS. BRILLEAUX:** Your Honor, just on Jerrye Marcantel,  
15 can we inquire about the status of the declaration verifying  
16 the PFS?

17 **MR. ROTH:** That's not listed even. Well, you know,  
18 okay. But let me -- Your Honor, I ask you this, I'm a little  
19 shorthanded today. I can get back to you today on both Darla  
20 Majors and Jerrye Marcantel and tell you the record request  
21 history. I won't be able to do it before the end of this phone  
22 call because we're --

23 **THE COURT:** All right. Right now, let's just go and  
24 then we'll work out something.

25 **MS. BRILLEAUX:** Thank you, Your Honor.

1           **THE COURT:** Because I've got to do lots of stuff with  
2 this case today. Barbara Marinelli.

3           **MS. BRILLEAUX:** I have no proof of use, photos not  
4 dated, and no before photos.

5           **MR. ROTH:** We have just got medical records in from  
6 Ms. Marinelli. We can get the photo dates since she did submit  
7 photos or an affidavit to that effect. Again, we ask time to  
8 get through the recently received medical records.

9           **THE COURT:** I'm going to give you 15 days, but...

10          **MR. ROTH:** Thank you.

11          **MS. BRILLEAUX:** Thank you, Your Honor. And that's  
12 for all the deficiencies; correct?

13          **THE COURT:** Yes.

14          **MS. BRILLEAUX:** Thank you. Vivian Markle, photos not  
15 dated.

16          **MR. ROTH:** Yeah, Vivian is deceased. She died in a  
17 car accident in June. We've had some communications with, I  
18 believe it's her son, and so we just -- we need to get some  
19 photo dates for her. Can a surviving member of the family  
20 provide the affidavit for photo dates or --

21          **THE COURT:** Has he been substituted as the plaintiff?

22          **MR. ROTH:** I do not know the answer to that right  
23 offhand. We're still trying -- I think we're just -- we've  
24 requested the death certificate, and I don't know the --

25          **THE COURT:** I'm going to give you 30 days to clear up

1 this succession issue.

2 **MR. ROTH:** Sure. Sure.

3 **MS. BRILLEAUX:** Larraine Martinez, photos not dated.

4 **MR. ROTH:** We have reached out to her to date the  
5 photos, and if not, we can certainly get an affidavit.

6 **MS. BRILLEAUX:** The issue is with the dates.

7 **THE COURT:** Photos that are in existence. They want  
8 to know the dates of the photos that have been filed.

9 **MR. ROTH:** Sure. Sure. And we've left a voice  
10 message for her in the past few days. She's been a responsive  
11 client in the past, so we can -- we'll get that or an  
12 affidavit.

13 **THE COURT:** I'm going to give you seven days to date  
14 the photos that are in, that have been filed.

15 **MR. ROTH:** Sure. Thank you.

16 **MS. BRILLEAUX:** Thank you, Your Honor.

17 Michelle Meissner, no proof of use.

18 **MR. ROTH:** We have been actively trying to get  
19 records. So has the client. She is a client of -- she was a  
20 patient of MD Anderson cancer facility here in Houston,  
21 world-renowned. We have gotten stonewalled at every step of  
22 the issue. We can provide affidavits to all the attempts that  
23 we've made, not just myself, the senior lawyer working on this  
24 case. We've even thought about maybe a 30(b)(6) deposition to  
25 try to bring it out that way.

1           **THE COURT:** I'm going to give you -- okay. I'm going  
2 to give you 30 days to continue. Remember, we have to know if  
3 she took the drug.

4           **MR. ROTH:** I totally understand. We can provide a  
5 very detailed affidavit to efforts to get it, and --

6           **THE COURT:** All right. I'm granting 30 days, and  
7 let's see where we are.

8                   All right. Brenda Morrison.

9           **MR. ROTH:** We have reached out to her a couple of  
10 times to get her to provide the dates of the photos, and if  
11 she's unable to or doesn't remember, we're happy to do an  
12 affidavit to that effect.

13           **MS. BRILLEAUX:** Your Honor, I also have no proof of  
14 use for this case.

15           **MR. ROTH:** Brenda Morrison, we've got three sets of  
16 records in from her within the last 48 hours.

17           **THE COURT:** All right. I'm going to give you 15  
18 days.

19           **MR. ROTH:** Thank you, Your Honor.

20           **MS. BRILLEAUX:** Drusilla Mounce, no proof of use.

21           **MR. ROTH:** We have been unsuccessful. I could look  
22 her up when I'm looking up the other two folks to see what  
23 efforts we've made.

24           **THE COURT:** This matter is dismissed with prejudice.

25           **MS. BRILLEAUX:** Thank you, Your Honor.

1 I don't know if this is supposed to be Paua or  
2 if it's Paula Oubrahim, no proof of use, and photos not dated.

3 **MR. ROTH:** I filed a photo ID form affidavit  
4 yesterday. She came in with records within the last 48 hours,  
5 so we're -- we need a little bit of time to get through those.

6 **MS. BRILLEAUX:** Your Honor, this has been pending  
7 since November of 2017.

8 **THE COURT:** I'm going to give him 15 days if he's got  
9 the records in hand today.

10 **MS. BRILLEAUX:** Trina Ramsey, no proof of use, photos  
11 not dated.

12 **MR. ROTH:** Okay. She is not one that we've received  
13 records from recently. I do not know the attempts to get  
14 medical records. Obviously, they've not been successful.  
15 That's something I can --

16 **THE COURT:** Is it just medical records?

17 **MS. BRILLEAUX:** Yeah, it's no proof of use, and also  
18 undated photographs. But if counsel doesn't even know the  
19 status of getting proof of use, we think it should be dismissed  
20 with prejudice.

21 **THE COURT:** I know you do. That's one we're coming  
22 back to.

23 **MR. ROTH:** Sure. Okay.

24 **THE COURT:** Magda Rendon.

25 **MR. INSOGNA:** Your Honor, for this one, we have no

1 proof of injury documentation, no proof of use, no PFS  
2 declaration, and no authorizations.

3 **MR. ROTH:** I've sent those a few days ago. She's one  
4 we did the plaintiff fact sheet over the phone. These are all  
5 easily curable.

6 **THE COURT:** Well, it's not curable. It should have  
7 been cured. So I'm going to give you 15 days to clear it up.  
8 Because as I appreciate it, you filed those a few days ago; is  
9 what you're saying?

10 **MR. INSOGNA:** Could I note, Your Honor, actually an  
11 amended plaintiff fact sheet was submitted on December 18th.  
12 So one month ago, presumably, they were in contact with the  
13 client and at a minimum could have gotten a declaration signed.

14 **THE COURT:** Well, I thought he said he did that just  
15 recently. Is that what you said?

16 **MR. ROTH:** No, I sent her her authorization and the  
17 verification page on the 11th of this month.

18 **THE COURT:** All right.

19 **MR. ROTH:** A week ago.

20 **THE COURT:** I'm going to give you 15 days.

21 **MR. ROTH:** All right. Thank you.

22 **MS. BRILLEAUX:** Susan Steen, photos not dated.

23 **MR. ROTH:** We've reached out to her in the past few  
24 days to get her to do that, haven't made contact, but I think  
25 with 15 days, we can certainly get that.

1           **THE COURT:** Is that the only thing --

2           **MS. BRILLEAUX:** Your Honor, we would ask when the  
3 last contact that they had was with her?

4           **THE COURT:** Okay. But I'm asking you, is the only  
5 thing is the photos are undated?

6           **MS. BRILLEAUX:** Correct.

7           **THE COURT:** I'm going to give you 15 days, not 16.

8           **MR. ROTH:** I understand.

9           **MS. BRILLEAUX:** Elizabeth Stoneking, no before photos  
10 and no after photos.

11           **MR. ROTH:** We're going to be able to get after  
12 photos. Elizabeth was supposed to come by our office this  
13 week. I was going to take these photos. She's here in town.  
14 She is a flight attendant with Southwest. So it's just a  
15 matter of us connecting. These are going to be --

16           **THE COURT:** Okay. I'm going to give you 15 days to  
17 do all of that, and while she's in there taking her picture,  
18 get an affidavit if she doesn't have any before photos.

19           **MR. ROTH:** Perfect.

20           **MR. INSOGNA:** Your Honor, next we have Betty Storman.  
21 This is no proof of injury documentation, no proof of use, no  
22 declaration, no authorizations.

23           **MR. ROTH:** We've had recent contact with this client.  
24 She is -- hasn't been terribly cooperative.

25           **THE COURT:** This matter is dismissed with prejudice.

1           **MR. ROTH:** Fair enough.

2           **THE COURT:** Yeah, well, that's what happens when they  
3 don't cooperate.

4           **MR. ROTH:** I understand. I understand.

5           **MS. BRILLEAUX:** Thank you, Your Honor.

6                   Patricia Valdez, no proof of use and photos not  
7 dated. We haven't received any medical records.

8           **MR. ROTH:** And we just got some in for her.

9           **THE COURT:** All right. 15 days.

10          **MR. ROTH:** Perfect.

11          **MS. BRILLEAUX:** And for the photos as well, Your  
12 Honor?

13          **THE COURT:** Yes.

14          **MS. BRILLEAUX:** Thank you.

15                   Betty Wilson, no before photos, no after photos.

16          **MR. ROTH:** We've reached out to her to get photos.  
17 She's been cooperative in the past, but we haven't had success  
18 getting to her recently. I think the after pictures won't be  
19 an issue if we can make contact with her. I do not know if  
20 she's going to have before photos, but we can do an affidavit  
21 to that effect.

22                   **THE COURT:** When's the last time you contacted her?  
23 This has been pending since 2016.

24          **MR. ROTH:** Yeah, the last successful contact with her  
25 in the six- to eight-month range. We did reach out in the past

1 week and have not gotten ahold of her.

2 **THE COURT:** This matter is dismissed with prejudice.

3 **MS. BRILLEAUX:** Thank you, Your Honor.

4 And just so, for the record, we said we would  
5 revisit Darla Majors and Jerrye Marcantel.

6 **THE COURT:** Okay. This is what I am going to do.  
7 There are three that we're going to revisit, Darla Majors,  
8 Jerrye Marcantel, and Trina Ramsey.

9 **MS. BRILLEAUX:** Yes.

10 **THE COURT:** Mr. Roth --

11 **MR. ROTH:** Yes.

12 **THE COURT:** -- you need to go figure out what  
13 attempts have been made and where you are because I'm going to  
14 take up another group, and so you should be prepared to be back  
15 on the phone at 2:00.

16 **MR. ROTH:** Okay. Just stay on the call or dial back  
17 in at 2:00?

18 **THE COURT:** You can dial back in at 2:00.

19 **MR. ROTH:** Perfect. Thank you so much.

20 **THE COURT:** All right. Bachus & Schanker. You all  
21 got to give me a break.

22 **MS. BRILLEAUX:** Do you want a break now?

23 **THE COURT:** Yeah. Why don't we take until about  
24 2:00. This is my problem, so let me -- I know that oral  
25 argument that was supposed to occur like two hours ago, I've

1 got to eat because I can't think anymore.

2           **MS. BARRIOS:** Your Honor, might I make a suggestion,  
3 that when we come back at 2:00 -- I know you told Mr. Roth to  
4 be on the phone, but maybe you could do Durden at 2:00 just to  
5 give yourself a break, and then we can finish these after  
6 Durden. Just a suggestion.

7           **THE COURT:** Are you all leaving? Were you trying to  
8 get out this afternoon?

9   **(OFF THE RECORD)**

10    **(LUNCHEON RECESS)**

11   \* \* \* \* \*

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 AFTERNOON SESSION

2 (January 18, 2019)

3 \*\*\*\*\*

4 **THE DEPUTY CLERK:** Mr. Roth, are you there?

5 **MR. ROTH:** Yes. Yes, Your Honor.

6 Okay. Darla Majors --

7 **THE COURT:** All right. Hold on. Let me -- all  
8 right. Darla Majors.

9 **MR. ROTH:** Darla Majors, as part of our CMO 12  
10 submission, we have a statement where the infusion facility  
11 checked off that it was Sanofi Aventis, but did not know the  
12 lot number. That's in Centrality. So that's -- she is -- she  
13 is -- the dates of treatment, I think, were February 2011 to  
14 April 2011, which would be presumptively Sanofi. Correct?

15 **MS. BRILLEAUX:** Counsel, we were just asking --

16 **THE COURT:** No. When you requested the medical  
17 records, that was the issue.

18 **MR. ROTH:** Oh. I can tell you that. We requested  
19 medical records -- well, we received them in February of 2018  
20 and March of 2018, Kaiser Permanente. And then we followed up  
21 with submitting that form to the infusion center. And, again,  
22 what we got back is uploaded on the Centrality under CMO 12  
23 submission.

24 **MS. BRILLEAUX:** We would just ask, counsel,  
25 understood if it was uploaded for CMO 12, but were the records

1 also uploaded for proof of use in connection with the PFS?

2 **MR. ROTH:** Let's take a look. I'm in Centrality.  
3 I'll be able to tell you.

4 **MS. BRILLEAUX:** There is a separate tab for CMO 12,  
5 product identification, and then a separate section of the PFS  
6 for proof of use. So we would just ask that counsel, if he has  
7 it, upload it within 24 hours.

8 **THE COURT:** So ordered.

9 **MR. ROTH:** Okay. Sure. Happy to do that.

10 **THE COURT:** Okay. 24 hours.

11 **MS. BRILLEAUX:** Then sorry, Your Honor, also photos  
12 not dated. We would ask that the photos be dated within 24  
13 hours.

14 **MR. ROTH:** Can we have a little more time on the  
15 photos?

16 **THE COURT:** I'm going to give you 15 days on the  
17 photos.

18 **MR. ROTH:** Thank you, Judge.

19 **THE COURT:** What about Jerrye Marcantel?

20 **MR. ROTH:** Right. We did a subpoena on her May 14th,  
21 and we copied opposing counsel. Unfortunately, we got back, it  
22 looks like, an affidavit of no records. Let me pull it up  
23 exactly. Marcantel. Yeah, we subpoenaed Walter Ross Regional  
24 Medical Center, again, we copied opposing counsel on this, and  
25 we also got back an affidavit of no records.

1           **MS. BRILLEAUX:** Your Honor, this has been --

2           **THE COURT:** So you have no records showing poof of  
3 use?

4           **MR. ROTH:** Correct. Correct.

5           **THE COURT:** All right. This matter is dismissed with  
6 prejudice.

7           **MR. ROTH:** Understood.

8           **THE COURT:** And then Trina Ramsey.

9           **MR. ROTH:** Trina Ramsey, I think, is also another  
10 subpoena situation.

11          **THE COURT:** Mr. Roth, I've been at this for hours.

12          **MR. ROTH:** I understand.

13          **THE COURT:** You're going to have to get me something.

14          **MR. ROTH:** We subpoenaed records from her on  
15 June 19th, and let me see what those showed. I apologize, but  
16 the computer is just going slow. Okay. And it doesn't look  
17 like we've gotten anything back from them.

18          **THE COURT:** Have you gotten anything -- anything to  
19 say that the records are destroyed or there's something that  
20 you were missing in your request for those records?

21          **MR. ROTH:** It looks like they just have a no  
22 response. We've had no response to this. And we issued that  
23 on -- again, coping opposing counsel, on June 19th.

24          **MS. BARRIOS:** Mr. Roth, this is Dawn Barrios,  
25 co-liaison counsel. Did you send a subpoena to the facility

1 that your plaintiff was infused at?

2 **MR. ROTH:** Correct. We had a service we use do that  
3 and...

4 **MS. BARRIOS:** Did you ask for billing records or just  
5 medical records?

6 **MR. ROTH:** Bear with me for a second.

7 **THE COURT:** I'm sorry. I missed something.

8 **MR. ROTH:** Yeah. We ordered records from the  
9 following location. So we -- it does not -- you know, we used  
10 a service to order them. I have the names of the facilities.  
11 It looks like both medical and claims records to the Levine  
12 Cancer Institute. I've got the order number, the confirmation,  
13 but it looks like they have not responded. I don't know if we  
14 can do a motion to compel.

15 **THE COURT:** Well, the problem I have is we're over  
16 six months that they were requested and there's been no  
17 follow-up. This matter is going to be dismissed with  
18 prejudice.

19 **MS. BRILLEAUX:** Thank you, Your Honor.

20 **MR. ROTH:** Understood.

21 **MS. BARRIOS:** Mr. Roth, this is Dawn Barrios again.  
22 Could you give me a call on Monday morning so that we can  
23 discuss some of the deficiencies?

24 **MR. ROTH:** Sure. Absolutely.

25 **MS. BARRIOS:** Thank you.

1           **MR. ROTH:** Thank you, Dawn.

2                     Thank you, Your Honor.

3           **THE COURT:** Thank you. All right.

4           **MR. INSOGNA:** Your Honor, if it's okay, I've  
5 consulted, and I think everyone else is okay with it. There  
6 are eight Bachus & Schanker 505(b)(2) cases. My flight is  
7 earlier than I thought it was. I have a 5:00 flight.

8           **THE COURT:** Oh, okay. Sure.

9           **MR. INSOGNA:** If it would be possible to just run  
10 through those, I think it's fairly quick.

11          **THE COURT:** Okay.

12          **MR. INSOGNA:** Thank you, Your Honor.

13          **THE COURT:** Sure.

14          **MR. INSOGNA:** The first one is at No. 204.

15          **THE COURT:** 204. Okay. That's Mary Atkinson.

16          **MR. INSOGNA:** Mary Atkinson. That's right. This is  
17 proof of injury. There are no after or present day photos.

18          **MR. ELLIOTT:** Actually, we uploaded a present day  
19 photo back in May of 2018. We are missing six months after and  
20 the during. We'll get an affidavit, worst case. We're asking  
21 for 15 days. But there's been a before photo uploaded on  
22 January 7th. There was a present day photo that was uploaded  
23 in May of 2018. We just need the during and after. I don't  
24 think she's going to have it, so we'll have to do an affidavit.

25          **THE COURT:** I'm confused. Is this --

1           **MR. ELLIOTT:** During chemotherapy and then the six  
2 months after, we don't have those.

3           **MR. INSOGNA:** Your Honor, the plaintiff fact sheet  
4 requests photos both after, being within the six months  
5 immediately following chemotherapy, and then a present day  
6 photo. I believe that we don't have the present day photo, but  
7 counsel is representing otherwise. So maybe 15 days to confer  
8 on that.

9           **THE COURT:** So ordered.

10          **MR. INSOGNA:** The next 505 case is Velma Cole. It  
11 appears to me, actually, that this one has cured after the cure  
12 cutoff period. So I would just like 15 days to confirm on my  
13 end.

14          **THE COURT:** So ordered.

15          **MR. INSOGNA:** The next is at 217, Zelma Foreman, and,  
16 actually, this is the same. It appears to me it has been cured  
17 subsequently, so I would request 15 days for me to confirm.

18          **THE COURT:** So ordered.

19          **MR. INSOGNA:** Thank you, Your Honor.

20                        Next is 221, Carol Gray. We have no proof of  
21 injury documentation. And separately, there's a CMO 12  
22 submission that doesn't identify a manufacturer, but the proof  
23 of injury is the significant issue.

24          **MR. ELLIOTT:** It looks like we cured this one, Your  
25 Honor. We uploaded the present day photos on January 12th. We

1 also uploaded the six months after chemotherapy photos. I  
2 think we have sufficient proof of injury at this point, and  
3 it's been cured, in our opinion.

4 **THE COURT:** I'm going to grant you 15 days to  
5 confirm. Are those the photos?

6 **MR. INSOGNA:** From this -- that's the after photo.  
7 Okay. I'll take 15 days, Your Honor.

8 **THE COURT:** Okay.

9 **MR. INSOGNA:** No. 240 on your chart, Nancy Lawson.  
10 We have one undated photo that's been submitted.

11 **THE COURT:** Okay.

12 **MR. ELLIOTT:** We have she's looking for before  
13 photos; if not, we'll have to do a statement, but we have  
14 uploaded the after, present day photos.

15 **THE COURT:** Are they dated? I think that's the  
16 issue.

17 **MR. ELLIOTT:** Jennifer, can you pull those up?

18 **THE COURT:** Okay. There's the photos, but do we know  
19 the dates on those?

20 **MR. ELLIOTT:** It's dated in MDL Centrality.

21 **THE COURT:** Okay. I'm going to grant you 15 days to  
22 confirm and confer.

23 **MR. INSOGNA:** Your Honor, we need 30 days separately  
24 if there needs to be an affidavit on before photos.

25 **THE COURT:** So ordered. Yep.

1           **MR. INSOGNA:** The next is at 265, Your Honor. It is  
2 Rita Smith. We have no proof of injury documentation. The  
3 HIPAA authorization is undated, and the authorizations that  
4 require a witness signature are not executed at all.

5           **MR. ELLIOTT:** Are you sure?

6           **MR. INSOGNA:** Did you upload on the 16th?

7           **MR. ELLIOTT:** This one's been cured. Everything was  
8 uploaded on the 15th.

9           **THE COURT:** On January 16th?

10          **MR. ELLIOTT:** Yeah, and we sent a cure notification  
11 as well on this one, I believe.

12          **THE COURT:** Yeah, this is it. Okay. 15 days to  
13 confirm.

14          **MR. INSOGNA:** Undated HIPAA authorization.

15          **MR. ELLIOTT:** I mean, this is what happens, if you  
16 date these authorizations, then they can't use them ultimately  
17 because it will expire, you know, over time. So I think --

18          **THE COURT:** Then it seems to me that that's their  
19 problem.

20          **MR. ELLIOTT:** Can't you guys put the date in?

21          **MR. INSOGNA:** If we date them, the facility will not  
22 accept it. We have to date them and then get a reissued one  
23 after the year has expired.

24          **THE COURT:** Oh, so you already filed one that was  
25 dated?

1           **MR. ELLIOTT:** We filed a signed authorization. It  
2 just doesn't have a date on it.

3           **MR. INSOGNA:** It doesn't have a date.

4           **THE COURT:** Okay. I know what your position is. You  
5 need to date it. And that's going to be their problem if it --

6           **MR. ELLIOTT:** Okay.

7           **THE COURT:** I know. But 15 days. Can you get it  
8 dated by then?

9           **MR. ELLIOTT:** I would hope so. Yes.

10          **MR. INSOGNA:** So, Your Honor, those in the trial pool  
11 cases, we've just gotten a renewed authorization when the year  
12 period has expired. It hasn't been an issue in those cases.  
13 We have where they have expired, and we've gone back to  
14 plaintiff's counsel and asked for a new one and gotten a new  
15 one.

16          **MR. ELLIOTT:** I will just tell you, it's our --

17          **THE COURT:** All right. So let me ask this question:  
18 So you're getting these signed authorizations, you're not doing  
19 anything with them, you're holding them for a couple of years,  
20 and then you make them redo it?

21          **MR. INSOGNA:** No. No. No, Your Honor.

22          **THE COURT:** Okay. That's what I want to know.

23          **MR. INSOGNA:** If medical records are requested, we  
24 request an update to the records we've received after the  
25 authorization has expired, the facility comes back to us and

1 says, "You need a new authorization because yours is expired."  
2 Or in some cases where we've had a plaintiff who submitted  
3 documents a long time ago and then became a trial pool  
4 plaintiff, and we're asking for updated medical records, it's  
5 expired, and we've gotten a new authorization. That's what's  
6 happened.

7 **THE COURT:** But I think you're going to have to date  
8 them. I know what your position is. I get it.

9 **MR. ELLIOTT:** It's our practice, like, when we sign  
10 up a case, we leave it blank so that, you know, we're not -- if  
11 we run into this situation, we put the date, and with our  
12 client's permission.

13 **THE COURT:** So you're not having to do it repeatedly.

14 **MR. ELLIOTT:** Exactly. I think that's the best  
15 practice. But if we have to keep getting authorizations with  
16 new dates, it just becomes a little bit burdensome for -- I  
17 mean, a lot burdensome for my law firm. So I --

18 **MR. INSOGNA:** We've had facilities kick them back if  
19 they're not -- if we can't represent the date is from a  
20 plaintiff.

21 **THE COURT:** I think what he's saying, they want you  
22 to just put the date in, but I don't think you're supposed to  
23 do that.

24 **MR. INSOGNA:** Correct.

25 **MR. ELLIOTT:** All right. We'll take care of it.

1           **MR. INSOGNA:** No. 269, Sandra Thompson. We have no  
2 proof of injury documentation.

3           **MR. ELLIOTT:** We have a driver's license photo,  
4 but -- let's see. The only photo she has is driver's license  
5 photos. We're getting her present day photos this week. We  
6 have an investigator out to go get them. We'd ask for 15 days  
7 to upload the present day photos.

8           **THE COURT:** I'll give you 15 days. Because that's  
9 all you're missing is present day?

10          **MR. INSOGNA:** I have that we don't have any proof of  
11 injury.

12          **MR. ELLIOTT:** It says we uploaded a driver's license  
13 photo.

14          **THE COURT:** It's either that or an affidavit.

15          **MR. ELLIOTT:** Okay.

16          **THE COURT:** But you have to get that present day  
17 photo in within 15 days.

18          **MR. ELLIOTT:** 15 days for that. Okay. Thank you.

19          **MR. INSOGNA:** Your Honor, sorry, 15 days for a  
20 present day photo, and 30 for an affidavit if there are no --  
21 understood. Thank you, Your Honor.

22                       That is all of the 505(b) cases with Bachus &  
23 Schanker.

24          **THE COURT:** I hope you catch your flight.

25          **MR. INSOGNA:** Thank you.

1           **THE COURT:** Good luck to you because I understand  
2 that traffic is pretty awful.

3           **MR. INSOGNA:** Thank you, Your Honor.

4           (WHEREUPON, the Court took a recess.)

5           **MS. BRILLEAUX:** Okay. So the final stretch. I am  
6 hopeful.

7           **THE COURT:** All right. If you all will just give me  
8 a couple minutes. I'm sorry, I've just got to get some things  
9 signed before the end of the day, and they need to be processed  
10 before the end of the day.

11           (WHEREUPON, the Court took a recess.)

12           **THE COURT:** Okay. Here we go.

13           **MS. BRILLEAUX:** Okay. Your Honor, the first one that  
14 I have is Linda Battisti, and this is no before photos within  
15 five years of treatment.

16           **MR. ELLIOTT:** Those were uploaded on December 28th of  
17 2018. That's what I have, before photos.

18           **MS. BRILLEAUX:** We have that they're not within five  
19 years of treatment.

20           **THE COURT:** That was before? That's photos after  
21 treatment.

22           **MS. BRILLEAUX:** Right. This is an after photo.  
23 We're looking for before photos.

24           **THE COURT:** Is that the before photo?

25           **MR. ELLIOTT:** It looks like it, yeah.

1           **THE COURT:** Do you know when that one occurred?

2           **MR. ELLIOTT:** That's the before.

3           **THE COURT:** Okay.

4           **MS. BRILLEAUX:** I think we've seen the date and the  
5 issue is that it's not within -- I mean, it's an old photo.  
6 It's not within five years of her treatment.

7           **MR. ELLIOTT:** So what we'll have to do is just get an  
8 affidavit that that's her only before photo she could find.

9           **THE COURT:** Okay.

10          **MR. ELLIOTT:** 30 days we'd ask for.

11          **THE COURT:** Okay. 30 days for the affidavit.

12          **MS. BRILLEAUX:** Thank you, and continuing the duty to  
13 supplement.

14                   The next one I have is Aline Brandauer, and this  
15 is no before photos.

16          **MR. ELLIOTT:** I have that they were uploaded on  
17 January 16th.

18          **THE COURT:** Okay. 15 days for you to verify.

19          **MS. BRILLEAUX:** Thank you, Your Honor.

20          **THE COURT:** There it is.

21          **MS. BRILLEAUX:** Gwen Burnstein. This is no before  
22 photos within five years of treatment.

23          **MR. ELLIOTT:** January 5th we uploaded the before  
24 photos we have. These are the only photos she has. She's  
25 homeless. This one was taken in 2005, so...

1           **THE COURT:** When was her chemotherapy administered?

2           **MS. BRILLEAUX:** Your Honor, my notes are that this is  
3 about eight years before treatment. So we would just seek an  
4 affidavit.

5           **THE COURT:** Can you execute an affidavit?

6           **MR. ELLIOTT:** Okay.

7           **THE COURT:** Can you get it in 30 days? You said  
8 she's homeless.

9           **MR. ELLIOTT:** Yeah, she's homeless, so I don't know.  
10 I might need a little extra time to track her down. But, I  
11 mean, she looks like she's been very cooperative with  
12 everything else.

13           **THE COURT:** I'm going to give you 60 days. She's a  
14 homeless person. I mean, it's not -- you have something.

15           **MS. BRILLEAUX:** Understood, Your Honor.

16                   Hattie Carson, no photos within five years of  
17 treatment. My notes show that these were 22 years before  
18 treatment.

19           **MR. ELLIOTT:** Again, we're going to need to get an  
20 affidavit that states that she --

21           **THE COURT:** 30 days.

22           **MR. ELLIOTT:** Yes. Exactly.

23           **MS. BRILLEAUX:** Thank you, Your Honor.

24                   I think we've covered Velma Cole already.

25                   Louistine Coney, we have no before photos and no

1 after photos.

2 **THE COURT:** That's Louistine Coney.

3 **MR. ELLIOTT:** Actually, we just were able to make  
4 contact with her. We're asking for 15 days. We have an  
5 appointment to meet with her on January 22nd to get all the  
6 missing photos from her. But she's done everything else that's  
7 been asked of her, plaintiff fact sheets, authorizations.

8 **THE COURT:** I'll give you 15 days.

9 **MS. BRILLEAUX:** Your Honor, I'll just note for the  
10 record that this has been pending since July of 2017, so some  
11 time has passed.

12 **THE COURT:** Yeah.

13 **MS. BRILLEAUX:** 15 days?

14 **THE COURT:** 15 days.

15 **MS. BRILLEAUX:** Thank you, Your Honor.

16 Joyce Cooper, no proof of use. We have received  
17 medical records, but our notes show that there's been no  
18 Docetaxel use indicated in those records.

19 **MR. ELLIOTT:** We sent a subpoena to the providers on  
20 January 7th. We're waiting for a response. We'd like to see  
21 what they have to say.

22 **MS. BRILLEAUX:** Your Honor, this has been pending  
23 since August of 2017. We'd like to know.

24 **THE COURT:** What's the problem?

25 **MR. ELLIOTT:** So the process for us is we send -- we

1 will order the records through the normal process by sending a  
2 HIPAA authorization. Sometimes we'll get a "no patient"  
3 statement back or that the records are short. On this  
4 occasion, we were forced to send a subpoena. So, you know, we  
5 didn't get -- with our initial try after August, you know, we  
6 didn't get what we needed, so now we have to subpoena. So we'd  
7 ask for some additional time, at least 60 days, I guess, to get  
8 the records back. That's the whole purpose of the whole CMO 12  
9 process.

10 **THE COURT:** Right. Let me give you 30 days and see  
11 where we stand. If you're working through the CMO 12, I'm not  
12 going to dismiss it.

13 **MR. ELLIOTT:** Okay. Thank you.

14 **THE COURT:** But I don't want to lose track of these.

15 **MS. BRILLEAUX:** Your Honor, the next case is Yolanda  
16 Crawford. I want to note for the record that there were  
17 several deficiencies originally. Most of them were cured, and  
18 the one outstanding one and why this case is still on the list  
19 is because there was no PT0 71 verification uploaded. So  
20 that's the outstanding deficiency, and that is the  
21 certification that they've produced all relevant ESI.

22 **MR. ELLIOTT:** It says we've spoken with her. She is  
23 searching for PT0 71 production. She doesn't think that she  
24 has any. If she doesn't have anything, we'll upload an  
25 affidavit within 15 days.

1           **THE COURT:** 15 days.

2           **MS. BRILLEAUX:** Thank you, Your Honor.

3                    Claire Crnic, no after photos.

4           **MR. ELLIOTT:** They were uploaded on January 15th.

5           **THE COURT:** 15 days.

6           **MS. BRILLEAUX:** Thank you, Your Honor.

7                    Adlean Davis, we have no before photos.

8           **MR. ELLIOTT:** Uploaded January 17th.

9           **THE COURT:** 15 days.

10           **MS. BRILLEAUX:** Cynthia Deyoung, no before photos and  
11 no after photos. Sorry, Cynthia Deyoung. That was from the  
12 previous line.

13           **MR. ELLIOTT:** Uploaded January 17th.

14           **THE COURT:** 15 days.

15           **MS. BRILLEAUX:** Thank you, Your Honor.

16                    Patricia Dwight, no before photos.

17           **MR. ELLIOTT:** We've been in contact with the  
18 plaintiff. She's gathering her photos at this time, and we'd  
19 ask for 15 days to upload them.

20           **MS. BRILLEAUX:** Your Honor, this has been pending  
21 since August of 2017.

22           **THE COURT:** Okay.

23           **MR. ELLIOTT:** This is going to require an affidavit,  
24 actually. She produced to us after photos --

25           **THE COURT:** Okay.

1           **MR. ELLIOTT:** -- back in April of 2018. It's just  
2 these before photos, she's been -- and so...

3           **THE COURT:** All right. Okay. 30 days for the  
4 affidavit.

5           **MS. BRILLEAUX:** Thank you, Your Honor.

6                       Georgia Forte, no before photos. I'll let you  
7 locate this and just read our notes from this. We originally  
8 had photos that were not dated at all, and then we had  
9 plaintiff resubmit the same photo more times and date them as  
10 before photos even though they were originally dated as after  
11 photos.

12           **MR. ELLIOTT:** I don't know. It looks like we've  
13 cured the problem. Photos have been dated and uploaded as of  
14 January 11th, 2019.

15           **MS. BRILLEAUX:** And as I've stated, that it looks  
16 like the same photo was marked a before photo and an after  
17 photo. Do you have those?

18           **MR. ELLIOTT:** Well, we have an after -- what's this  
19 say? "To whom it may concern, I do not have any more photos to  
20 send. I have reported that chemo" -- I can't read that.

21           **MS. BRILLEAUX:** They've been destroyed. Okay. So  
22 then have they been uploaded or have they been destroyed?

23           **THE COURT:** She doesn't have any. That's I read, "I  
24 don't have any more photos to send. I have reported that chemo  
25 messed my teeth up."

1           **MS. BRILLEAUX:** Your Honor, just to clarify, we did  
2 have photos uploaded that said before and after, but they were  
3 the same photo. So we're just trying to figure out what the  
4 discrepancy is.

5           **MR. ELLIOTT:** It says we've uploaded present day,  
6 afters, and before.

7           **MS. BRILLEAUX:** That's the after. Okay. And do we  
8 have a before photo?

9           **THE COURT:** I wonder if some of these plaintiffs  
10 think that the before photo has to be just of their hair.  
11 Because that's just me thinking out loud. I shouldn't do that  
12 at the end of the day. But I do sometimes wonder if they think  
13 it means more than just a photo. This is just me thinking out  
14 loud. But I think the note she said, "I have no more photos to  
15 send." So I'm going to give you 30 days to go get an affidavit  
16 from her.

17           **MR. ELLIOTT:** There it is right here.

18           **THE COURT:** Oh, there it is. That's before?

19           **MR. ELLIOTT:** That's our before.

20           **THE COURT:** Do we have a date on that? I'm sorry I  
21 can't hear you.

22           **MR. ELLIOTT:** See, this is what's happening, we will  
23 upload the photos and the description and MDL Centrality will  
24 put the date typically, but we don't put the date on the actual  
25 photo.

1           **THE COURT:** Right. So I'm just saying, do you know  
2 what date that is?

3           **MR. ELLIOTT:** She has to go into Centrality for that.

4           **MS. BRILLEAUX:** Could we have 15 days to meet and  
5 confer?

6           **THE COURT:** Sure.

7           **MS. BRILLEAUX:** Thank you.

8           **THE COURT:** 15 days. And if it's -- I will tell you  
9 this, if you determine that this is outside of that five-year  
10 window, you will have 30 days to get the affidavit together.

11           **MR. ELLIOTT:** Okay.

12           **MS. BRILLEAUX:** Thank you. We can move on from this  
13 one.

14                        Maria George, no before photos and no after  
15 photos.

16           **MR. ELLIOTT:** We've uploaded those on January 16th.

17           **THE COURT:** 15 days.

18           **MS. BRILLEAUX:** Before and after.

19           **MR. ELLIOTT:** Yes, before, during, and after, and  
20 present day, all four.

21           **MS. BRILLEAUX:** Okay. So we'll do 15 days.

22                        Elizabeth Graves, no before photos.

23           **MR. ELLIOTT:** The same thing. These were all  
24 uploaded on January 17th.

25           **THE COURT:** 15 days to confirm.

1           **MS. BRILLEAUX:** Pamela Harlan Brooks, no before  
2 photos, no after photos.

3           **MR. ELLIOTT:** We spoke with the plaintiff this week.  
4 She's gathering her photos. We have an appointment to go pick  
5 them up on January 23rd at her house.

6           **THE COURT:** Who's this photo?

7           **UNIDENTIFIED SPEAKER:** This is the last client.  
8 Sorry.

9           **THE COURT:** All right. So Pamela Harlan Brooks, you  
10 need 15 days?

11          **MR. ELLIOTT:** That would be fine. Thank you.

12          **MS. BRILLEAUX:** Again, Your Honor, just to reiterate,  
13 all these cases have been pending since 2017.

14          **THE COURT:** I know. I know. I know. I get that  
15 when I look at the case number.

16          **MS. BRILLEAUX:** It's a lot to take in.  
17 Margaret Harpe, no before photos.

18          **MR. ELLIOTT:** All uploaded January 17th.

19          **THE COURT:** 15 days to confirm.

20          **MS. BRILLEAUX:** Were before -- I'm sorry, I was just  
21 looking at that note that was up on the screen.

22          **MR. ELLIOTT:** It's an affidavit. That one is an  
23 affidavit.

24          **MS. BRILLEAUX:** Okay. That was for Harpe?

25          **THE COURT:** You need an affidavit.

1           **MR. ELLIOTT:** She doesn't have before photos, but we  
2 got the affidavit.

3           **THE COURT:** 30 days for an affidavit.

4           **MR. ELLIOTT:** If you go to the next page, it has her  
5 signature page.

6           **MS. BRILLEAUX:** And it's notarized?

7           **MR. ELLIOTT:** Well, we're not -- I mean, that's  
8 excessive, if you're going to -- we've sent someone to --

9           **MS. BRILLEAUX:** Well, that's what we've ordered --  
10 that's what the Court has ordered for every other case.

11           **MR. ELLIOTT:** There's no --

12           **THE COURT:** Wait. What's the problem?

13           **MR. ELLIOTT:** Here's the thing, like, we've sent  
14 someone to the home to get -- you want to show the -- what we  
15 have, which I think is absolutely sufficient. We can state,  
16 you know, that that's her signature.

17           **MS. BRILLEAUX:** No, I understand. But in the other  
18 cases where we talked about the affidavit stating that they  
19 have no other photos, the Court has ordered for every other  
20 plaintiff that they need a notarized affidavit.

21           **UNIDENTIFIED SPEAKER:** This is sufficient. This is  
22 just her saying --

23           **THE COURT:** I can't hear. Do I need to hear  
24 anything?

25           **MR. ELLIOTT:** This changes everything. Because the

1 last hearing, we were told to get an affidavit from the  
2 clients. Okay. So we get an affidavit, and all -- most of  
3 them are not notarized. I don't think any of them that we've  
4 gotten are notarized.

5 So now we have to go back out to the home, have  
6 them redo it all over again. I think it's just excessive. If  
7 we have an affidavit with their signature saying that they  
8 don't have the photos, and now I have to go back and do it all  
9 over again and get a notary to do it, I think that's just  
10 excessive.

11 **MS. BRILLEAUX:** Your Honor, I think by definition an  
12 affidavit is notarized.

13 **THE COURT:** In Louisiana, you have to -- you know, an  
14 affidavit is --

15 **MS. BRILLEAUX:** A notarized affidavit.

16 **THE COURT:** -- notarized.

17 **MR. ELLIOTT:** But if they're signing off -- if it's  
18 their signature and they say, "I don't have the photos," or  
19 they put in a letter to us or something like that, that's  
20 evidence enough that they did their due diligence and did what  
21 they could to determine if there was photos or not.

22 I don't understand why the notary just validates  
23 that that much further if I can say as an officer of the court,  
24 "This is my client, this is her signature, she says she doesn't  
25 have them, here's a letter," you know. It costs our office --

1 I mean, it's the cost to go to all these homes just to get a  
2 notary out there. It's just...

3 **MS. BRILLEAUX:** Your Honor, I just think for  
4 consistency purposes this is what we have discussed on the  
5 record earlier today, the other ones -- the other plaintiffs  
6 that you spoke with -- or counsel for other plaintiffs were  
7 ordered to submit a notarized affidavit, and that is Louisiana  
8 law.

9 **MR. ELLIOTT:** They're not notarizing their plaintiff  
10 fact sheets. They're just signing off on their plaintiff fact  
11 sheets, and that's been good enough. You know, we're not  
12 getting notaries on all the auths. If you can compare the  
13 signature on the plaintiff fact sheets or the authorizations to  
14 a letter with that same signature or a statement from them  
15 saying, "I don't have any before photos," and that's valid. We  
16 don't need a notary for that.

17 **MS. BRILLEAUX:** The defense position to that would be  
18 the no photos affidavit is an exceptional circumstance for  
19 evidence that they're expected to have in this litigation. You  
20 know, signing your plaintiff fact sheet is just verifying that  
21 those are your responses. But providing an affidavit that you  
22 have no photos, that's an exceptional remedy for not having a  
23 central piece of evidence in this litigation of proof of  
24 injury.

25 **MR. ELLIOTT:** Let's say we had a -- if this case went

1 to trial, we put the person on the stand, they swear under  
2 oath, "I don't have any photos, I told my lawyer, I wrote to  
3 him, I said I don't have them." "Is it your signature, ma'am,  
4 you said you didn't have any photos?" You know, that's proof.

5 **THE COURT:** Are we done?

6 **MR. ELLIOTT:** Yes, Your Honor. Sorry.

7 **THE COURT:** I just thought maybe we were -- this is  
8 the deal. I understand, and I feel your pain, but let me be  
9 frank with you, I have for everybody else said get an affidavit  
10 because this is part of their proof. And I have to tell you --  
11 now, you know, part of this, now outside of five years, I  
12 think, is a little bit much, and I probably would not have  
13 included that in here, but I'm stuck with these plaintiff fact  
14 sheets.

15 But it's hard for me to believe -- it's just  
16 extraordinary that people have no photographs at all of any  
17 kind before their cancer. And so we have said, send me an  
18 affidavit. Now, I never talked about whether or not this  
19 affidavit needed to be notarized or not because by its very  
20 nature, under Louisiana law, it's notarized.

21 Now, you know, you can -- my guess is you're a  
22 notary.

23 **MR. ELLIOTT:** I am not a notary myself.

24 **THE COURT:** What? And this is part of in Louisiana,  
25 maybe that's it, it's every lawyer is a notary.

1           **MR. ELLIOTT:** Yeah. There's a -- in Colorado,  
2 there's a whole certification process for notaries. Not all of  
3 us are notaries, unfortunately.

4           **THE COURT:** You see, it's not that -- to be perfectly  
5 frank with you, it's not that big a deal in Louisiana to have  
6 an -- you know, to have an affidavit, to have it notarized  
7 because every lawyer is a notary, and every client can go to  
8 his lawyer's office, and it's done. But, you know, I was very  
9 concerned with people that are being asked to show that they  
10 have sustained this damage, and, very frankly -- very  
11 frankly -- there's no evidence of what you looked like before.

12                   And so if I am alleging that I have lost and now  
13 suffer from alopecia because of this chemotherapy and I didn't  
14 have hair before, and so you're now asking people to --

15           **MR. ELLIOTT:** I just want to say, Your Honor, that if  
16 these cases go to trial, you can have family members come and  
17 testify as to whether or not the hair was present. You know,  
18 what -- but this -- it's a more likely than not standard, too,  
19 you know, obviously.

20                   I just think it's just overburdensome on  
21 plaintiffs to -- at least in our situation at this time, if  
22 they are telling us that they have looked, they've done  
23 everything they could, I'm an officer of the court saying, "My  
24 client doesn't have it," and she signs off on it without a  
25 notary, I think that should be sufficient proof because it

1 certainly would be if we were in a trial because we could  
2 through their testimony or family members and things to say --

3 **THE COURT:** No. Actually, we would put her under  
4 oath at trial.

5 **MR. ELLIOTT:** Yeah. So...

6 **MS. BRILLEAUX:** And, Your Honor, I mean, I think -- I  
7 understand counsel's point about more likely than not, but it  
8 also goes to damages, which is an important element of the  
9 claim as well, you know, the extent to which the plaintiff was  
10 affected. So it is, as you understand, a very, very important  
11 piece of evidence for proof of injury.

12 **MR. LAMBERT:** May I -- Judge, may I suggest an  
13 alternative? I understand Mr. Elliot's problem. He has a lot  
14 of clients, and he's concerned about that. What about  
15 uploading this particular handwritten statement or signed  
16 statement of their client to MDL Centrality and then having  
17 them issue another declaration that their fact sheet is  
18 complete and that these are all the representations?

19 It would seem that's a very similar manner of  
20 attesting to the completion of the fact sheet as the affidavit  
21 that has been required of other plaintiffs. It's just a  
22 potential solution to the problem.

23 **MS. BRILLEAUX:** Your Honor, I would just, for the  
24 defense, say that, you know, for consistency purposes, we've  
25 already requested that affidavits be provided from other

1 plaintiffs and that we need to use the same solution across the  
2 board.

3           **THE COURT:** You have no idea how tired I am and how  
4 much I don't want to -- you know, I do have a problem with me  
5 ordering affidavits for everyone else. But I, very frankly,  
6 understand, and perhaps there's a mechanism where they declare  
7 it under oath without it being in front of -- without it being  
8 notarized. So we could do that to shortcut the process of you  
9 having to have a notary visit those houses with some sort of --  
10 where they declare it under oath, and perhaps you need to  
11 prepare a form that you send to your clients --

12           **MR. ELLIOTT:** Okay.

13           **THE COURT:** -- where it's a declaration under oath so  
14 that you're not sending around someone --

15           **MR. ELLIOTT:** Okay.

16           **THE COURT:** -- a notary.

17           **MR. ELLIOTT:** Would this need to be a court-approved  
18 form or we do -- we can just draft one up saying, "I declare  
19 under oath --

20           **THE COURT:** You know, that's why --

21           **MR. ELLIOTT:** -- and then sign it?

22           **THE COURT:** -- that's why Dawn and Palmer are getting  
23 paid the big bucks. You all. I don't have to approve it, but  
24 I think there is a mechanism where you can declare under oath  
25 that these facts are true, and it's not -- it's just some sort

1 of formal declaration.

2 **MS. BARRIOS:** Your Honor.

3 **THE COURT:** A bit like the declaration you or -- my  
4 guess is, and I haven't looked at the declaration on the  
5 plaintiff fact sheet, or certainly not that I can remember,  
6 that's not -- how was that done? Can I see the declaration?

7 **MS. BARRIOS:** Attestation?

8 **THE COURT:** Yes, just an attestation.

9 **MS. BARRIOS:** It's signed by the plaintiff. The  
10 first one, I think is --

11 **THE COURT:** That's what I'm saying, can we do  
12 something like that where they attest that they have no other  
13 photographs without having a notary present? I, very frankly,  
14 when we were talking about affidavits, I was not so far in the  
15 weeds where I thought, "Well, this means that you have to have  
16 a notary driving around." Very frankly, I never thought about  
17 it. I just thought I needed something beyond -- beyond  
18 somebody just saying, "Hey, I don't have any more photographs."  
19 Well, we need something from them that they have to certify and  
20 attest that they have not. So we can do that.

21 **MS. BARRIOS:** Your Honor, Dawn Barrios. I think this  
22 is something to put on our list for our meeting, and in the  
23 meantime, whatever they have signed by the client would go up  
24 to Centrality. We'll make note --

25 **THE COURT:** And then we'll deal with it.

1           **MS. BARRIOS:** -- and then we'll deal with it then.  
2 And Ms. Brilleaux and I --

3           **THE COURT:** But I'll be frank with you, at the end of  
4 the day, this is the first time anybody has voiced any problem  
5 with it, and I just -- to be perfectly frank, it's very  
6 uncomfortable for me to say, but there's a different set of  
7 rules for Bachus & Schanker.

8           **MR. ELLIOTT:** I understand.

9           **THE COURT:** But it is something to put on the list,  
10 but I -- upload what you have, and then we'll deal with it.  
11 But I don't want somebody's case -- I'm not going to dismiss  
12 somebody because they didn't have a notary.

13           **MS. BRILLEAUX:** And for the sake of consistency, can  
14 we keep the affidavit ruling, and then decide that we'll  
15 revisit the issue on what exactly is required for an affidavit?

16           **THE COURT:** Yes. I just think some certification  
17 from the client.

18           **MS. BRILLEAUX:** Thank you.

19           **THE COURT:** That's what I was concerned with, and the  
20 client needs to understand this is not -- when I have so many  
21 people saying, "Well, there are no others," well, you got to  
22 get something from your client to say that beyond, "She told me  
23 she didn't have any more."

24           **MS. BRILLEAUX:** Thank you, Your Honor. And was that  
25 for -- did we leave off on Harpe?

1           **THE COURT:** Harpe, but I think you had something for  
2 Harpe.

3           **MS. BARRIOS:** I thought that was Marcia Harris.

4           **THE COURT:** Marsha Harpe.

5           **MS. BRILLEAUX:** Margaret Harpe.

6           **THE COURT:** Margaret Harpe.

7           **MS. BRILLEAUX:** Thank you, Your Honor.

8                   Marcia Harris. This is photos are not dated,  
9 and that's specifically with regard to the before photos.

10           **MR. ELLIOTT:** We just ask for an extension to get the  
11 dates on the photos.

12           **THE COURT:** I'll give you 15 days to get the dates on  
13 the photos.

14           **MS. BRILLEAUX:** Connie Hendrix, no before photos, no  
15 after photos.

16           **MR. ELLIOTT:** January 16th, they were uploaded.

17           **THE COURT:** 15 days.

18           **MS. BRILLEAUX:** Dorothy Henson, photos not dated and  
19 also no before photos.

20           **MR. ELLIOTT:** This says we received present date  
21 photos on the 16th of January. They've been dated and properly  
22 uploaded on January 15th. She mailed in her before photos.  
23 We're waiting for them to arrive.

24           **THE COURT:** 15 days.

25           **MS. BRILLEAUX:** Martha Hopkins, no before photos.

1           **MR. ELLIOTT:** We sent someone to her last known  
2 address. She moved. We'd ask for 15 days to get her new  
3 address from her.

4           **THE COURT:** What are we missing in this one?

5           **MS. BRILLEAUX:** For Martha Hopkins, we have no before  
6 photos, and this is a case that's been pending since December  
7 of 2016.

8           **MR. ELLIOTT:** We've done everything, Your Honor, the  
9 PFS, the authorizations, ESI has been uploaded, proof of use,  
10 CMO 12 has been complied with. It looks like we did upload an  
11 after photo. We're just -- we need some type of affidavit from  
12 her for the other.

13           **MS. BRILLEAUX:** When is the last time that you had  
14 contact with your client?

15           **MR. ELLIOTT:** I can't tell you that right now.  
16 That's not in my notes.

17           **THE COURT:** The only thing we're missing are before  
18 photos?

19           **MR. ELLIOTT:** Before and during.

20           **THE COURT:** Okay. I'm going to give you 15 days.

21           **MR. ELLIOTT:** Okay.

22           **MS. BRILLEAUX:** Thank you, Your Honor.

23                   Lois Howell, no before photos and no after  
24 photos.

25           **MR. ELLIOTT:** Before was uploaded on January 16th,

1 and afters were uploaded the same day.

2 **THE COURT:** 15 days.

3 **MS. BRILLEAUX:** Barbara Hubbard, undated photos.

4 **MR. ELLIOTT:** Looks like we uploaded them  
5 January 16th.

6 **THE COURT:** 15 days.

7 **MS. BRILLEAUX:** The dates?

8 **MR. ELLIOTT:** Again, get on Centrality.

9 **MS. BRILLEAUX:** The dates are? Thank you.

10 **MR. ELLIOTT:** On the description.

11 We'll do 15 days.

12 **MS. BRILLEAUX:** Irene Hupp, no before photos, no  
13 after photos, and also no signed declaration for the PFS.

14 **MR. ELLIOTT:** We have an appointment with her on this  
15 Saturday to get all the signatures and photos.

16 **THE COURT:** Seven days.

17 **MS. BRILLEAUX:** Thank you, Your Honor.

18 Sheila Jackson, no before photos.

19 **MR. ELLIOTT:** Uploaded January 13th.

20 **THE COURT:** 15 days.

21 **MR. ELLIOTT:** Oh, the statement. So this is  
22 something that we had her sign saying that she does not have  
23 any before, and I think that would be a sufficient form of  
24 telling the Court they don't have any.

25 **THE COURT:** All right. We're going to take that up

1 at our next meeting.

2 **MS. BRILLEAUX:** Thank you, Your Honor.

3 Renee Jeffers, no declaration.

4 **MR. ELLIOTT:** Uploaded January 17th.

5 **THE COURT:** 15 days.

6 **MS. BRILLEAUX:** Thank you, Your Honor.

7 Mattie Johnson, no before photos.

8 **MR. ELLIOTT:** Uploaded January 17th -- or just --  
9 usually, she puts the signatures behind that page.

10 **MS. BRILLEAUX:** Your Honor, for the record --

11 **MR. ELLIOTT:** We'll have to do some type of  
12 affidavit.

13 **MS. BRILLEAUX:** Could we have 15 days for a  
14 declaration or an affidavit?

15 **THE COURT:** 15 days.

16 **MS. BRILLEAUX:** Thank you, Your Honor.

17 Pressie T. Johnson, no proof of use, undated  
18 photos, and no after photos.

19 **MR. ELLIOTT:** No proof of use. Let's see. All  
20 photos have been dated and uploaded as of January 17th. We did  
21 a subpoena on January 7th because we haven't been able to get  
22 the proof of use at this time.

23 **THE COURT:** 15 days to verify the sufficiency of the  
24 photographs, and I'll give you 30 days on the other, and we'll  
25 just see where that stands.

1           **MS. BRILLEAUX:** Your Honor, if there's no evidence of  
2 Docetaxel use, we would ask that the case be dismissed after 30  
3 days.

4           **MR. ELLIOTT:** Your Honor.

5           **THE COURT:** No, I think that's part of CMO -- didn't  
6 we talk about that?

7           **MS. BRILLEAUX:** I know that counsel said he issued a  
8 subpoena, but I was unclear --

9           **MR. ELLIOTT:** They don't always get back to us within  
10 30 days, and if we don't, then we ask to have the deposition.

11           **THE COURT:** You were winning.

12           **MR. ELLIOTT:** I know.

13           **THE COURT:** Sometimes you got to stop talking.

14           **MR. ELLIOTT:** Okay.

15           **THE COURT:** I said I'm not prepared to do that. This  
16 is through the process. We're going to let the subpoena  
17 process work, but I don't want to lose track of it.

18           **MS. BRILLEAUX:** Thank you, Your Honor.

19           **MR. ELLIOTT:** Thank you, Your Honor.

20           **MS. BRILLEAUX:** Deborah Jones, undated photos, and I  
21 think also as an additional issue, no before photos within five  
22 years of treatment.

23           **MR. ELLIOTT:** It says that we've dated all the photos  
24 and uploaded them as of January 13th.

25           **THE COURT:** Is that -- is it just photos?

1           **MS. BRILLEAUX:** I think from the photos you can tell  
2 that these are not within five years of treatment.

3           **MR. ELLIOTT:** This bottom one could be. The top one,  
4 definitely not.

5           **MS. BRILLEAUX:** He's agreeing.

6           **MR. ELLIOTT:** Anyway...

7           **THE COURT:** Get some dates. You got 15 days.

8           **MR. ELLIOTT:** There's the after.

9           **THE COURT:** That's the after.

10          **MR. ELLIOTT:** Those are the after pictures. Yeah.

11          **MS. BRILLEAUX:** Okay. And, yeah, the issue was with  
12 the before photos, so if we could get an affidavit.

13          **THE COURT:** 30 days.

14          **MS. BRILLEAUX:** Thank you. And obviously continuing  
15 duty to supplement.

16                   The next one I have is Myra Jones, no before  
17 photos within five years of treatment.

18          **MR. ELLIOTT:** Deborah Jones? Is that who we're on?

19          **MS. BRILLEAUX:** Myra Jones.

20          **THE COURT:** 2002 --

21          **MR. ELLIOTT:** Before photos were uploaded on  
22 December 27th.

23          **MS. BRILLEAUX:** No, within five years.

24          **MR. ELLIOTT:** The only photos that she has. Do we  
25 have an affidavit? We may have to get something like that. 30

1 days we'd ask for.

2 **THE COURT:** Okay. Thank you. 30 days.

3 **MS. BRILLEAUX:** Thank you, Your Honor.

4 Shirely Jones, photos not dated.

5 **MR. ELLIOTT:** Before, during, after, and present days  
6 have all been dated and properly uploaded as of January 17th.

7 **THE COURT:** 15 days for defense to confirm.

8 **MS. BRILLEAUX:** Thank you.

9 Tonia Jones, no before photos within five years  
10 of treatment.

11 **MR. ELLIOTT:** Before photo was August 2nd, 2018.  
12 These are the only before photos she has in her possession. It  
13 was uploaded on August 2nd, 2018. There's just this one in  
14 2000.

15 **MS. BRILLEAUX:** Right, so the issue is within five  
16 years.

17 **MR. ELLIOTT:** We're going to need another --

18 **THE COURT:** You have 30 days for verification.

19 **MR. ELLIOTT:** -- some type of affidavit.

20 **MS. BRILLEAUX:** Thank you.

21 Williamae Kelly-Joy, photos not dated.

22 **MR. ELLIOTT:** Before and after photos have been dated  
23 and properly uploaded as of January 16th.

24 **THE COURT:** 15 days.

25 **MS. BRILLEAUX:** Sylvia Lewis, no before photos within

1 five years of treatment. My notes show that the photos are 19  
2 years prior to treatment.

3 **MR. ELLIOTT:** Again, this is the only photo she has  
4 in her possession from before. So we're going to have to get  
5 an affidavit or a declaration of some kind.

6 **THE COURT:** 30 days.

7 **MS. BRILLEAUX:** Geraldine Manigault, no photos within  
8 five years of treatment.

9 **MR. ELLIOTT:** Before was uploaded December 21st,  
10 2018.

11 **MS. BRILLEAUX:** It's not within five years of  
12 treatment.

13 **MR. ELLIOTT:** I'm not sure that's true, but okay.  
14 We'd ask for 30 days.

15 **THE COURT:** 30 days.

16 **MS. BRILLEAUX:** Sheila McDowell, photos not dated.

17 **MR. ELLIOTT:** Photos have been dated and properly  
18 uploaded as of January 17th.

19 **THE COURT:** 15 days for defendants.

20 **MS. BRILLEAUX:** Mary McKenzie, no before photos and  
21 no after photos.

22 **MR. ELLIOTT:** We did an extension on the photos.  
23 She's looking for photos from family and friends. We have an  
24 appointment with her on January 24th to pick up all the photos  
25 in her possession.

1           **MS. BRILLEAUX:** This has been pending since December  
2 of 2016.

3           **THE COURT:** 15 days.

4           **MR. ELLIOTT:** Your Honor, I just want to -- I keep  
5 hearing how long the case has been pending. But the fact of  
6 the matter is, these didn't show up on a show cause until we  
7 got the notice of noncompliance. So, you know, we're working  
8 diligently on all these cases, but we weren't actually notified  
9 by defense counsel until much more recently than that.

10           **MS. BRILLEAUX:** Your Honor, I mean, this is a very  
11 basic part of the PFS. It's not a surprise that they need  
12 photographs for all their clients.

13           **THE COURT:** Did I just grant 15 days, and am I just  
14 going to have to keep doing this? We don't need to argue the  
15 process.

16           **MR. ELLIOTT:** Gotcha. Gotcha.

17           **MS. BRILLEAUX:** Thank you, Your Honor.

18                   Joann Menefee, photos are not dated, no before  
19 photos.

20           **MR. ELLIOTT:** Let's see. Present day photos have  
21 been dated and properly uploaded as of January 17th. She's  
22 sending us her before photos. We'd ask for 15 days.

23           **THE COURT:** 15 days.

24           **MS. BRILLEAUX:** April Miller, no before photos.

25           **MR. ELLIOTT:** We're asking for 15 days. We've

1 uploaded the present day photos on January 17th, and a  
2 statement of the during that she didn't have them. She's  
3 asking family and friends if she can find any before photos.

4 **THE COURT:** Okay. I'm going to --

5 **MR. ELLIOTT:** We'd ask for 15.

6 **THE COURT:** 15 days.

7 **MS. BRILLEAUX:** Rebecca Mozisek, no before photos, no  
8 after photos.

9 **MR. ELLIOTT:** The plaintiff has been responsive. It  
10 looks like we uploaded an after photo on January 17th. She's  
11 gathering the remainder of them. We have an appointment with  
12 her Thursday of next week to get all the photos.

13 **THE COURT:** 15 days.

14 **MS. BRILLEAUX:** Lorraine Newton. We have no proof of  
15 use, no before photos, no after photos, no signed declaration  
16 for the PFS, no PTO 71, and no authorizations.

17 **MS. BARRIOS:** Your Honor, our notes indicate that  
18 this is a client of Bruno & Bruno, not Bachus & Schanker. Is  
19 that correct?

20 **THE COURT:** That's Baron & Budd or Bruno & Bruno?

21 **MS. BARRIOS:** My notes say Bruno & Bruno.

22 **MR. ELLIOTT:** Oh, that's correct. We were just -- on  
23 the 11th, we got an e-mail regarding this case. It was on  
24 Bruno & Bruno's noncompliance list. We never had notice of it  
25 until January 11th. We just filed a notice of appearance on

1 that case, so we'd ask that it be passed to the next show cause  
2 hearing.

3 **THE COURT:** Yeah. Let's just pass that until we  
4 figure out --

5 **MS. BARRIOS:** Are you going to substitute out for  
6 Bruno & Bruno?

7 **MS. BRILLEAUX:** They already have.

8 **MR. ELLIOTT:** It looks like we filed a notice of  
9 appearance after we got it. Yeah.

10 **THE COURT:** Let's pass it and I'll give you an  
11 opportunity to get it straight.

12 **MS. BRILLEAUX:** Thank you. We'll pass this to next  
13 conference's list.

14 Madeline Niles, no proof of use and no before  
15 photos.

16 **MR. ELLIOTT:** You said no what?

17 **MS. BRILLEAUX:** No proof of use.

18 **MR. ELLIOTT:** It says proof of use was uploaded on  
19 February 19th of 2018.

20 **MS. BRILLEAUX:** And the issue --

21 **MR. ELLIOTT:** We uploaded another one on  
22 January 13th of 2019.

23 **MS. BRILLEAUX:** And, Your Honor, our notes reflect  
24 that the records indicate a plan to use Docetaxel, but no proof  
25 that it was actually ever administered. So, basically, the

1 equivalent of recommending a plan of treatment, but no evidence  
2 that it was actually given to the plaintiff.

3 **MR. ELLIOTT:** Again --

4 **THE COURT:** Did you issue a subpoena for that?

5 **MR. ELLIOTT:** We could issue a subpoena. We have  
6 not.

7 **THE COURT:** Okay. So you uploaded medical records  
8 that talk about a plan for Docetaxel.

9 **MR. ELLIOTT:** Docetaxel.

10 **THE COURT:** Okay.

11 **MR. ELLIOTT:** It looks like we did another upload,  
12 though, on the 13th, and Jennifer's going to look and see if  
13 that clarifies it.

14 **MS. BRILLEAUX:** My notes are from the 15th.

15 **MR. ELLIOTT:** Can you zoom in on that?

16 I guess we'd ask to be able to issue a subpoena  
17 on this case, I guess, and if --

18 **THE COURT:** Okay. Let's just pass this one until --  
19 I'm going to ask you all to meet and confer and see what you  
20 need to do to get the information.

21 **MS. BRILLEAUX:** Thank you, Your Honor. Do you have a  
22 time frame for the meet and confer?

23 **THE COURT:** Try to talk -- you all meet and confer  
24 within 30 days to see --

25 **MS. BRILLEAUX:** Thank you, Your Honor.

1           **THE COURT:** I think if there's a plan to use it and  
2 then -- what on earth is going on with my computer?

3           **MS. BRILLEAUX:** Linda O'Brien, no before photos  
4 within five years of treatment.

5           **MR. ELLIOTT:** We uploaded photos on the 13th.

6           **MS. BRILLEAUX:** I don't think they were within five  
7 years of treatment.

8           **MR. ELLIOTT:** It says before summer 2004.

9           **MS. BRILLEAUX:** My notes show --

10          **THE COURT:** 30 days.

11          **MS. BRILLEAUX:** Thank you.

12                   Peggy O'Neill, no before photos.

13          **MR. ELLIOTT:** Ask for 15 days to -- we've uploaded  
14 the after photos. We need time to either do an affidavit or  
15 she can -- she needs time to look further.

16          **THE COURT:** 30 days for an affidavit.

17          **MS. BRILLEAUX:** Luci Padron, no before photos.

18          **THE COURT:** 30 days.

19          **MR. ELLIOTT:** She does not have any before photos in  
20 her possession. We have to do a declaration.

21          **THE COURT:** 30 days.

22          **MS. BRILLEAUX:** Thank you, Your Honor.

23                   Mattie Patterson, no before photos and no after  
24 photos.

25          **MR. ELLIOTT:** Plaintiff is collecting all her photos.

1 We have an appointment on January 26th to pick all of them up.  
2 We'd ask for 15 days to upload them.

3 **THE COURT:** 15 days.

4 **MS. BRILLEAUX:** Arlene Pelfrey, no proof of use.

5 **MR. ELLIOTT:** We've made contact with her. She wants  
6 to be cooperative, but --

7 **THE COURT:** What's -- the proof of use is medical  
8 records?

9 **MS. BRILLEAUX:** Yes, Your Honor, proof that she was  
10 administered Docetaxel.

11 **MR. ELLIOTT:** Can we pass this one? I need to review  
12 the medical records.

13 **MS. BRILLEAUX:** We can come back to this at the end  
14 of the...

15 **THE COURT:** Defer.

16 **MS. BRILLEAUX:** Vicki Pigg, no before photos, no  
17 after photos.

18 **MR. ELLIOTT:** Plaintiff has gathered photos, mailed  
19 them to us. We're waiting for them. So we spoke with her on  
20 January 8th. She told us they were in the mail.

21 **THE COURT:** 15 days.

22 **MS. BRILLEAUX:** Marisa Pryor, no before photos, no  
23 after photos.

24 **MR. ELLIOTT:** All photos have been dated and properly  
25 uploaded as of January 17th.

1           **THE COURT:** 15 days for defendant to confirm.

2           **MS. BRILLEAUX:** Thank you, Your Honor.

3                   Deborah Rachilla, no before photos, no after  
4 photos.

5           **MR. ELLIOTT:** Rachilla, we've made numerous calls, no  
6 response from plaintiff. She's been -- she's missing.

7           **THE COURT:** Dismissed with prejudice.

8           **MS. BRILLEAUX:** Thank you.

9                   Vicksay Richardson, no before photos within five  
10 years of treatment. My notes show that it's approximately 15  
11 years before treatment.

12           **MR. ELLIOTT:** These are the only before photos that  
13 she has. She had her chemo in 2008. Her photos are from the  
14 '90s, so we'll have to do a declaration and upload it.

15           **THE COURT:** She had chemo in 2008?

16           **MR. ELLIOTT:** 2008, chemo. But her photos -- her  
17 before photos look like they're from the '90s, according to my  
18 notes.

19           **THE COURT:** This isn't a before photo?

20           **MR. ELLIOTT:** Maybe this is --

21           **THE COURT:** I'm wondering when she -- you know, I'm  
22 going to give you guys 15 days to confer. Because I'm  
23 wondering, this early 2008, it might be that that was shortly  
24 before chemotherapy.

25           **MR. ELLIOTT:** Yeah, you're right.

1           **MS. BRILLEAUX:** Well, we have -- I don't know what  
2 the date is on this, but my notes show that the dated before  
3 photo was dated 15 years prior to treatment.

4           **THE COURT:** That's what he said. They had some  
5 early, and this was recently uploaded. So I'm giving you 15  
6 days to go figure this out.

7           **MS. BRILLEAUX:** Thank you.

8           **MR. ELLIOTT:** Thanks.

9           **MS. BRILLEAUX:** Madis Russell, no before photos  
10 within five years of treatment.

11           **MR. ELLIOTT:** These are the only photos that she has.  
12 We'll have to get a declaration.

13           **THE COURT:** 30 days.

14           **MS. BRILLEAUX:** Kathryn Sanchez, photos not dated, no  
15 photos within five years of treatment.

16           **MR. ELLIOTT:** Provided photos, uploaded all of them  
17 on January 14th. These are the only before photos she has in  
18 her possession, so we'll have to get a declaration.

19           **THE COURT:** 15 days.

20           **MS. BRILLEAUX:** Mattie Shoemaker, no before photos  
21 within five years of treatment. I have 20 years.

22           **MR. ELLIOTT:** Before photo is dated and uploaded on  
23 January 11th. Treatment was in 2009/2010. Before photo's --

24           **MS. BRILLEAUX:** The photo says 1989.

25           **MR. ELLIOTT:** -- 1989.

1           **THE COURT:** You might need 30 days.

2           **MR. ELLIOTT:** This is the only photo she has in her  
3 possession, according to the client, so we'll have to get an  
4 affidavit or a declaration to that effect.

5           **THE COURT:** Okay.

6           **MS. BRILLEAUX:** Lakay Simmons, no before photos.

7           **MR. ELLIOTT:** Same thing. We'll have to get some  
8 type of declaration for her regarding her before. But we've  
9 uploaded the after and present day photos.

10          **MS. BRILLEAUX:** Your Honor, we'd ask for 15 days.

11          **THE COURT:** So ordered.

12          **MS. BRILLEAUX:** Kim Smith, no declaration for the  
13 PFS.

14          **MR. ELLIOTT:** Kim Smith?

15          **MS. BRILLEAUX:** Yes.

16          **MR. ELLIOTT:** We'd ask for 15 days. She sent us her  
17 electronic PFS and it does not allow for a signature. She's  
18 mailed us her declaration page. We're just waiting for it in  
19 the mail. She put it in the mail on the 12th. So once we get  
20 it, we'll upload it.

21          **THE COURT:** All right.

22          **MS. BRILLEAUX:** Seven days?

23          **THE COURT:** I'll give you 15 days.

24          **MS. BRILLEAUX:** I'm sorry, I didn't hear, Your Honor.

25          **THE COURT:** 15 days.

1           **MS. BRILLEAUX:** Thank you.

2                   Octavia Smith, no before photos and no PTO 71  
3 ESI verification.

4           **MR. ELLIOTT:** We weren't able to locate the case  
5 number, but she says she's hired another attorney and doesn't  
6 want our representation any longer. We'd ask for a dismissal  
7 without prejudice.

8           **THE COURT:** I'm going to dismiss it without  
9 prejudice.

10          **MS. BRILLEAUX:** Thank you.

11                   Beverly Spencer, no before photos.

12          **MR. ELLIOTT:** We'd ask for 15 days. After photos  
13 were dated and uploaded on January 12th. We have an  
14 appointment to pick up her before and during photos on  
15 January 22nd.

16          **THE COURT:** So ordered.

17          **MS. BRILLEAUX:** That was 15?

18          **THE COURT:** 15 days.

19          **MS. BRILLEAUX:** Thank you, Your Honor.

20                   Linda Steadman, no before photos, no after  
21 photos.

22          **MR. ELLIOTT:** We have an appointment, actually, on  
23 the same day, January 22nd, to go pick up the photos, and we'll  
24 upload them shortly thereafter.

25          **THE COURT:** 15 days.

1           **MS. BRILLEAUX:** Teresa Terry. Your Honor, the  
2 deficiency is for no before photos, but I -- and no signed  
3 declaration, no after photos, but I do have a note here that a  
4 declaration of attempts to reach the client unsuccessfully was  
5 filed into the record this morning.

6           **MR. ELLIOTT:** I have here we asked for an extension.  
7 We just found her new address. And that this was updated as of  
8 last night. We spoke with her Monday. She's been ill during  
9 the past few months. We're sending a rep to her house next  
10 week to gather her photos.

11           **THE DEPUTY CLERK:** There was one filed today.

12           **MR. ELLIOTT:** And PTO 71.

13                   Can we have 15 days just to clarify? Because my  
14 notes -- these I got last night. These should be the most  
15 current. Maybe there was a mistake on the declaration.

16           **THE COURT:** Wait. They filed a declaration earlier  
17 and then --

18           **MR. ELLIOTT:** We filed it today. Can I just make  
19 sure that wasn't a mistake? Can I have 15 days, and if so, if  
20 it is correct --

21           **THE COURT:** What do your notes -- what are we missing  
22 in this one?

23           **MR. ELLIOTT:** My notes say that we just found her new  
24 address this month. We spoke with her on Monday. She has been  
25 ill during the past few months. We're sending a rep to her

1 house next week to gather her photos and PTO 71.

2 **THE COURT:** And that's the ESI and photos, that's all  
3 that we're missing?

4 **MS. BRILLEAUX:** Yes. It's missing several things, no  
5 before photos, no after photos, no declaration, no PTO 71. But  
6 that a declaration of unsuccessful attempts to contact the  
7 client was filed into the record this morning.

8 **MR. ELLIOTT:** It may have been done in error.

9 **THE COURT:** I hate this.

10 **MR. ELLIOTT:** Sorry about that. I just --

11 **THE COURT:** It's just the photos and the ESI?

12 **MS. BRILLEAUX:** And the declaration.

13 **THE COURT:** And the ESI declaration.

14 **MS. BRILLEAUX:** The PFS and the ESI declaration. The  
15 PFS has not been signed.

16 **MS. BARRIOS:** Your Honor, I may offer a suggestion,  
17 is to allow them until Tuesday, because Monday is Martin Luther  
18 King Day, to figure out if this is a mistake, and then if  
19 it's --

20 **THE COURT:** I'll defer it until Tuesday, but  
21 understand you're going to have to send Sam a note.

22 **MS. BRILLEAUX:** Thank you, Your Honor.

23 Cynthia Turner, photos not dated.

24 **MR. ELLIOTT:** Photos have been dated as of  
25 January 17th and uploaded.

1           **THE COURT:** 15 days for defendant to confirm.

2           **MS. BRILLEAUX:** Shirley Turner, no before photos.

3           **MR. ELLIOTT:** We uploaded a statement, it looks like,  
4 on the 14th.

5           **THE COURT:** 30 days for declaration or whatever.

6           **MS. BRILLEAUX:** Right. And we'll note that that was  
7 not signed or notarized.

8           **THE COURT:** I just said 30 days for the declaration.

9           **MS. BRILLEAUX:** Thank you, Your Honor.

10                   Sharon Wells, no before photos.

11           **MR. ELLIOTT:** Sharon Wells?

12           **THE COURT:** 15 days to get the photos.

13           **MR. ELLIOTT:** Okay.

14           **THE COURT:** Either way. That's the last? Okay. We  
15 have to talk. We're done.

16           **MS. BARRIOS:** Your Honor, unfortunately, there's  
17 another matter, but we could, with Your Honor's consent, just  
18 do a telephone conference one day when you're --

19           **THE COURT:** You all have another matter with this?

20           **MS. BARRIOS:** Well, what happened, Your Honor, at the  
21 last call docket, the -- Leslie LaMacchia said, "Oh, we filed a  
22 declaration, you just missed the case."

23           **THE COURT:** Oh, you mean -- I thought she had to  
24 leave.

25           **MS. BARRIOS:** Oh, no. No. She then found -- she

1 then found out when she got the transcript that she was looking  
2 at the wrong line, as we all know there's so many names on the  
3 line, and she wanted to see if she could have that revoked and  
4 have it reinstated.

5 I think Ms. Kelly Bieri is on the line. She and  
6 I spoke last night, or yesterday, and we both thought it was  
7 easier to just present it to you orally than flood the record  
8 with papers. So if you don't want to do it right now.

9 **THE COURT:** No, let's do it right now and be done  
10 with it.

11 **MS. BARRIOS:** We have to get her on the phone.

12 **THE COURT:** What I don't want is the record --

13 **MS. BRILLEAUX:** Do you have Ms. LaMacchia's number,  
14 Erin?

15 **THE DEPUTY CLERK:** Yes.

16 **THE COURT:** We can go off the record for a minute.

17 **(OFF THE RECORD)**

18 **MS. BARRIOS:** Leslie, this is Dawn Barrios. I had  
19 briefed the judge a little bit on it. If you could give us a  
20 very brief description of your issue because we've been here  
21 since 9:00 this morning.

22 **MS. LAMACCHIA:** Sure. I'll be very brief. Just let  
23 me know when you're ready to proceed.

24 **THE COURT:** I'm ready.

25 **MS. BARRIOS:** We're ready.

1           **MS. LAMACCHIA:** Okay. So after I was reading the  
2 last transcript, I noticed that when I got to Angela  
3 Washington, one of my cases, that it had been dismissed, but I  
4 definitely misspoke on the record.

5           And I was confused about my clients, and I had  
6 misspoken on the record indicating that I had filed a  
7 declaration of no contact. That's incorrect. And so the case  
8 was then dismissed on the record, and I'm asking the Court or  
9 seeking permission to vacate the dismissal because I don't  
10 believe my client should be penalized for my error.

11           **THE COURT:** Any objection?

12           **MS. BRILLEAUX:** Your Honor, we don't object to  
13 withdrawing the declaration because we do understand that  
14 accuracy is key here. However, Angela Washington was on the  
15 list for a reason. She has a substantive deficiency of no  
16 proof of use. It's been pending a while, and we still believe  
17 that this is appropriate for dismissal because Ms. Washington  
18 cannot prove that she was administered Docetaxel.

19           **THE COURT:** Okay. I'm going to grant 30 days. I'm  
20 going to reinstate and grant 30 days to correct the deficiency.

21           **MS. LAMACCHIA:** Thank you, Your Honor.

22           **MS. BARRIOS:** Thank you, Your Honor.

23           **THE COURT:** Okay. Court's adjourned.

24           (WHEREUPON, the proceedings were concluded.)

25           \*\*\*\*\*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE

I, Jodi Simcox, RMR, FCRR, 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/Jodi Simcox, RMR, FCRR  
Jodi Simcox, RMR, FCRR  
Official Court Reporter