

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: TAXOTERE (DOCETAXEL)
PRODUCTS LIABILITY LITIGATION

MDL NO. 2740

SECTION "H" (5)

JUDGE MILAZZO
MAGISTRATE JUDGE NORTH

THIS DOCUMENT RELATES TO:
ALL CASES

**PRETRIAL ORDER NO. 87:
(NON-TRIAL POOL DISMISSALS WITH PREJUDICE AS TO ALL
DEFENDANTS)**

1. **Applicability of Order.** The following procedures will govern the dismissal with prejudice of any non-Trial Pool Plaintiff as to the entire action against all defendants in MDL No. 2740.

a. **No Applicability to Trial Pool Plaintiffs.** This order does not apply to any Plaintiff identified in or pursuant to Case Management Order No. 14 (Rec. Doc. 3064) or in a similar trial scheduling CMO.

b. **No Applicability to Product Identification Dismissals.** This order does not apply to any partial voluntary dismissal with prejudice of all previously named defendants in a matter except the defendant(s) for whom Plaintiffs have obtained product identification, which is governed by Case Management Order No. 12A (Rec. Doc. 3492).

c. **No Applicability to Dismissals without Prejudice.** This order also does not apply to any voluntary dismissal without prejudice, which is governed by Federal Rule of Civil Procedure 41, Pretrial Order No. 15 (Rec. Doc. 230) and Pretrial Order No. 54 (Rec. Doc. 671).

2. **Averment of Basis for Dismissal.** On Plaintiff's averment of the basis for dismissal as set forth in the Form Dismissal attached as Exhibit A, Plaintiffs may dismiss their entire action with prejudice, with each party to bear its own costs. Plaintiffs must check the box(es) in Exhibit A that apply to their bases for dismissal. Defendants agree that they will not seek any costs, fees or sanctions against a Plaintiff or her counsel in any individual, non-trial cases in connection with voluntary dismissals pursuant to this Order.

3. **Form Dismissal.** The Form Dismissal to be used by Plaintiffs is attached as Exhibit A. This form, which requires a signature by Plaintiffs' counsel only, shall be used to effectuate dismissals pursuant to this Order, notwithstanding the requirements of FRCP 41, and PTOs 15 (Rec. Doc. 230) and 54 (Rec. Doc. 671), which may require additional signatures by parties who have been served to effectuate dismissals pursuant to those provisions.

4. The parties reserve their rights to seek modification of this Order as the litigation proceeds for good cause shown.

5. If warranted under the circumstances, Plaintiff may seek relief from this dismissal of claims pursuant to Federal Rule of Civil Procedure 60(b)(6).

New Orleans, Louisiana, this 27th day of November, 2018.



HON. JANE TRICHE MILAZZO
UNITED STATES DISTRICT JUDGE

EXHIBIT A

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

IN RE: TAXOTERE (DOCETAXEL)
PRODUCTS LIABILITY LITIGATION

MDL NO. 2740

SECTION "H" (5)

JUDGE MILAZZO
MAG. JUDGE NORTH

THIS DOCUMENT RELATES TO:

Civil Action No.: 2:XX-cv-XXXXX

**NON-TRIAL POOL PLAINTIFF'S STIPULATION OF DISMISSAL WITH
PREJUDICE AS TO ALL DEFENDANTS**

Pursuant to Federal Rule of Civil Procedure 41(a)(ii) and PTO No. 87, all parties who have appeared stipulate to the dismissal of the present action with prejudice, with each party to bear its own costs, on Plaintiff's averment of the basis for dismissal as follows:

YOU MUST CHECK ALL THAT APPLY

- Plaintiff lacks evidence of being administered a Taxotere (docetaxel) product manufactured by an MDL defendant;
- Plaintiff lacks evidence of suffering a permanent hair loss injury; and/or
- Other

If warranted under the circumstances, Plaintiff may seek relief from this dismissal of claims pursuant to Federal Rule of Civil Procedure 60(b).

Dated this _____ day of _____, 2018

[Plaintiff's counsel's signature block]

CERTIFICATE OF SERVICE

I hereby certify that on _____, ___, 2018, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record who are CM/ECF participants.

DATED: _____, ___, 2018

/s/ _____