

**NOT FOR PUBLICATION**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

IN RE: BAYER PHILLIPS COLON HEALTH  
PROBIOTIC SALES PRACTICES  
LITIGATION,

Civil Action No. 11-3017 (JLL)

**ORDER**

**LINARES**, District Judge.

This matter comes before the Court by way of Defendant Bayer's motion to dismiss Plaintiff's First Consolidated Amended Class Action Complaint ("Amended Complaint") pursuant to Federal Rule of Civil Procedure 12(b)(6) [Entry No. 95]. For the reasons set forth in the Court's corresponding Opinion dated November 6, 2014,

**IT IS** on this **6<sup>th</sup> day of November, 2014**,

**ORDERED** that Defendant's motion to dismiss [Entry No. 95] is **granted in part and denied in part**. In particular, Defendant's motion to dismiss Count One is granted; Count One is dismissed with prejudice. Defendant's motion to dismiss Counts Two, Three, Four, Five and Six is denied.

**IT IS SO ORDERED.**

s/ Jose L. Linares  
Jose L. Linares, U.S.D.J.