

FILED

AUG 23 2019

Judge James F. Hyland

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY**

CASE NO. 629

**CASE MANAGEMENT ORDER #5
August 6, 2019
CASE MANAGEMENT CONFERENCE**

IN RE: ZOSTAVAX® LITIGATION

THIS MATTER, having come before the Court at a case management conference on August 6, 2019 and counsel for Plaintiffs and counsel for Defendants having been present, and for good cause having been shown

IT IS on this 23 day of August 2019, ORDERED as follows:

1. COURT SUBMISSIONS

- a) Defendant counsel must submit their 2019 pro hac vice compliance Orders, Certifications including docket numbers for the attorneys listed below within seven (7) days of the date hereof;
- i. Kathleen Hardway, Esq.
 - ii. Celeste Brecht, Esq.
 - iii. Christopher Conoscenti, Esq.De
 - iv. Dino S. Sangiamo, Esq.
- b) Plaintiff's liaison counsel Marc J. Bern & Partners, LLP shall provide Orders to Dismiss the following duplicative Complaints:
- v. John Davis v. Merck; L917-19
 - 1. To be dismissed L4233-19
 - vi. Rita Waters v. Merck, L1300-19
 - 1. To be dismissed: L1353-19
 - vii. Sharon Melillo v. Merck, L3452-19
 - 1. To be dismissed: L3908-19
 - viii. Carol Thul v. Merck, L3453-19
 - 1. To be dismissed: L3907.19
 - ix. Frank Maruski, v. Merck, L3748-19
 - 1. To be dismissed: L3903-19
 - x. James Vogan v. Merck, L3457-19

1. To be dismissed: L3904-19
- xi. Scott Joyce vs Merck L-7879-18
 1. To be dismissed: L4402-19
 2. To be dismissed : L4472-19

- c) Plaintiff's liaison counsel, Marc J. Bern & Partners LLP, shall provide the court with an updated case list within seven (7) days of the date hereof.
- d) A return envelope with prepaid postage must accompany all filed Complaints, or a filed stamped copy will not be provided to counsel.

2. MASTER PLEADINGS

- Defendants' Motions for Reconsideration of the Court's decision regarding the Motions to Dismiss portions of Plaintiffs' Long Form Complaint is returnable August 30, 2019.
- Plaintiffs' Opposition is due on August 15, 2019.
- Defendants' reply briefs are due August 23, 2019.
- Oral argument will be held on September 6, 2019, at 10:30 AM in courtroom 403.
- The Court's decision will be placed on the record on September 9, 2019.

3. STAY OF DEADLINE TO FILE ANSWERS

- Defendants' deadline to file Answers or otherwise respond to all complaints remain stayed pending determination of Defendants' motion for reconsideration and anticipated motions to dismiss counts of the Amended Master Complaint and until further order of the Court.
- Plaintiffs' motion to Amend the Long Form Complaint is due October 9, 2019 or within 30 days of the Court's Order concerning Defendants' motion for reconsideration of portions of Plaintiffs' Long Form Complaint, whichever is later.
- Defendants' motion to dismiss the Amended Long Form Complaint is due October 30, 2019 and will be returnable November 20, 2019.
- Plaintiff's opposition is due November 8, 2019 and Defendants' reply brief is due November 14, 2019.
- A decision will be placed on the record on November 22, 2019.

- Defense and Plaintiffs' counsel will meet and confer with plaintiffs' liaison counsel regarding a rolling procedure to respond to the complaints and a rolling procedure to submit motions to bifurcate multi-plaintiff complaints and have proposal(s) to present during October 10, 2019 Case management Conference. A future order will address the deadlines for plaintiffs' motions to bifurcate the multi-plaintiff complaints, filing of the bifurcated complaints and defendants' answers.

4. BELLWETHER ORDER

The parties will discuss the status of the Bellwether Order at the Case Management Conference scheduled for October 10, 2019, including whether and when non-shingles injury cases should be worked up.

5. SERVICE OF EXECUTED ORDERS

The court has agreed to provide courtesy copies of executed Orders to liaison counsel via email to:

- Eileen Muskett, Esquire: emussett@foxrothschild.com
- Bern LLP: Zostavax@bernlip.com
- Lisa Eldridge, Esquire: l Eldridge@clarkhill.com

The next Case Management Conference is scheduled for October 10, 2019 at 10:30 AM in courtroom 403.

HON. JAMES F. HYLAND, J.S.C.

