

February 10, 2025

HON. BRUCE J. KAPLAN, J.S.C.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MIDDLESEX COUNTY

CASE NO. 282

**AMENDED CASE MANAGEMENT  
ORDER JANUARY 28, 2025  
CASE MANAGEMENT CONFERENCE**

IN RE: FOSAMAX® LITIGATION

**THIS MATTER**, having come before the Court at a case management conference on January 28, 2025, and counsel for Plaintiffs and counsel for Defendants having been present, and for good cause having been shown;

**IT IS** on this 10th day of February, 2025, **ORDERED** as follows:

1. **DECEASED PLAINTIFFS**

a. The cases listed in Exhibit A have been identified as including a deceased Plaintiff for which there has been no substitution of an authorized Personal Representative. For those cases identified in Exhibit A, if Plaintiffs do not move either to dismiss the Plaintiff's claims or move pursuant to R. 4:34-1, to substitute an authorized Personal Representative for the Estate of the deceased Plaintiff by March 31, 2025 the claims of that Plaintiff will be dismissed without prejudice upon submission of an Order by defense counsel under the five day rule. This deadline may be extended by the Court if plaintiff's counsel files a motion to extend and demonstrates good cause.

b. From the date a case is dismissed without prejudice, Plaintiff will have 60 days to file a motion to reinstate their case and substitute an authorized Personal Representative for the Estate of the deceased Plaintiff or the claims of that Plaintiff may, upon motion, be dismissed with prejudice.

c. Plaintiffs filing motions pursuant to R. 4:34-1 shall include the following language in the attorney certification, or the motion will be denied: "To the best of the undersigned

counsel's knowledge, \_\_\_\_\_ (*insert the representative's name*) has the authority to serve and was designated as the authorized representative of plaintiff's estate, and has authorized the undersigned counsel for the plaintiff to substitute him/her as plaintiff and proceed with this action on behalf of the estate."

2. **STATUS OF PLAINTIFFS**

- Plaintiffs, their representatives or anticipated representatives, shall complete the applicable Certification attached at Exhibit B.
- Plaintiffs' counsel shall return completed Certifications to [NJfosamaxdiscovery@venable.com](mailto:NJfosamaxdiscovery@venable.com) and [NJFosamaxLiaison@seegerweiss.com](mailto:NJFosamaxLiaison@seegerweiss.com) by March 31, 2025.
- Plaintiffs' counsel shall provide a list to defense liaison counsel via email by March 31, 2025 identifying any Plaintiffs they have been unable to locate or for whom they have been unable to locate a current or prospective personal representative.

3. **MEDIATION**

The parties have agreed to proceed to mediation with the Honorable Diane Welsh and within 30 days shall notify the Court of the scheduled dates. Counsel shall keep the Court apprised of any changes to those dates. The parties are discussing whether the other brand defendants will be included in this mediation and will keep the Court apprised as to that decision.

4. **TRIAL POOL**

- A group of cases will be identified for additional case work up from which a case will be selected to proceed to trial. (Trial Pool)
- Robin Caravello v. Merck, MID-L-7297-14 will be included in the Trial Pool. The parties shall take immediate steps to update the factual and expert discovery necessary to proceed with trial in this matter and be prepared to provide a status update to the Court at the April Case Management Conference.
- During the next 60 days, the parties shall take steps to assess their case inventory and work to identify cases for potential inclusion in the Trial Pool. The parties will discuss

the status of this assessment during the April Case Management Conference and deadline for the formal case identification.

- The discovery deadlines and date of the trial for the Trial Pool case will be discussed at the April Case Management Conference.

5. **JAQULYN LOVE, MID-L-9731-14**

The parties shall take immediate steps to update the factual discovery necessary to proceed with trial in this matter and update the court at the next Case Management Conference as to whether Ms. Love is willing and able to be included in the Trial Pool.

6. **NEXT CASE MANAGEMENT CONFERENCE**

The next Liaison counsel meeting is scheduled in person, Courtroom 303, on April 9, 2025, at 1:30 p.m. EST. The next Case Management Conference is scheduled for April 16, 2025 at 9:00 a.m. via a zoom link provided by the court, unless otherwise notified by the court. An agenda for the Case Management Conference shall be submitted to the court seven days before the liaison counsel meeting.

*/s/ Bruce J. Kaplan*

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The Honorable Bruce J. Kaplan, J.S.C.

The posting of this Order on eCourts shall constitute service upon all counsel of record. If applicable, pursuant to Rule 1:5-1(a), the movant shall serve a copy of this Order upon all parties not served electronically within seven (7) days of receipt of this Order.

## Fosamax January 28, 2025 CMO: Exhibit A

Plaintiff Name	Plaintiff Counsel	Case No.	Status
Erbe, Nancy	Aylstock, Witkin, Kreis & Overholtz, PLLC	L-8492-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Hammaker, Phyllis	Aylstock, Witkin, Kreis & Overholtz, PLLC	L-8331-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Keel, Doris Ayers	Aylstock, Witkin, Kreis & Overholtz, PLLC	L-6742-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
King, Mildred	Aylstock, Witkin, Kreis & Overholtz, PLLC	L-7182-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Knox, Patricia A.	Beasley Allen	L-8840-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Sullivan, Irene C.	Beasley Allen	L-6888-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Viker, Rhoda	Beasley Allen	L-8474-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
McCloskey, Mary Dyanne	Cory Watson	L-7187-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Lopez, Paula	German Rubenstein LLP	L-3791-15	11/19/2024 - Letter Notice of Deceased Plaintiffs
Shirzeh, Azam	Levin Papantonio	L-9338-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Stannard, Elaine	Levin Papantonio	L-7535-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Johnson, Jana F.	Lieff Cabraser Heimann & Bernstein LLP	L-8716-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Rich, Steven Joel	Locks Law Firm LLC	L-8892-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Abele, Sally	Napoli Shkolnik LLP	L-8251-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Francis, Stella	Napoli Shkolnik LLP	L-7513-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Wein, Rosalyn E.	Napoli Shkolnik LLP	L-6963-14	11/19/2024 - Letter Notice of Deceased Plaintiffs 12/2/2024 - Email from plaintiff counsel indicating plaintiff's daughter is interested in pursuing the case and is in the process of getting appointed as PR; they will file a motion to substitute shortly

## Fosamax January 28, 2025 CMO: Exhibit A

Plaintiff Name	Plaintiff Counsel	Case No.	Status
Apice, Cecelia	Parker Waichman	L-8003-14	11/19/2024 - Letter Notice of Deceased Plaintiffs 12/3/2024 - Email from plaintiff counsel indicating family in process of appointing PR (estate attorney moved to Fox Rothschild and is conflicted out - is hiring new counsel to file motion)
Langone, Phyllis	Parker Waichman	L-8882-14	11/19/2024 - Letter Notice of Deceased Plaintiffs 12/5/2024 - Email from plaintiff counsel indicating appoint is in process and they are trying their best to expedite; expect to file substitution in early 2025
Doane, DeAnne	Pro Se	L-7965-14	
French, Katherine	Rheingold Valet	L-7172-14	11/19/2024 - Letter Notice of Deceased Plaintiffs 12/23/2024 - Email from plainriff counsel requesting 30-day extension; agreed to provide extension to 1/21/2025 (day prior to CMC)
Saparata, Victoria	Rheingold Valet	L-8732-14	11/19/2024 - Letter Notice of Deceased Plaintiffs 12/23/2024 - Email from plainriff counsel requesting 30-day extension; agreed to provide extension to 1/21/2025 (day prior to CMC)
Unger, Ruth	Rheingold Valet	L-7467-14	11/19/2024 - Letter Notice of Deceased Plaintiffs 12/23/2024 - Email from plaintiff counsel requesting 30-day extension; agreed to provide extension to 1/21/2025 (day prior to CMC)
Snurr, Sandra	Robinson Calcagnie	L-8198-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Jones, Virginia B.	Seeger Weiss	L-11675-14	11/19/2024 - Letter Notice of Deceased Plaintiffs 12/19/2024 - Email from plaintiff counsel indicating family not interested in pursuing case; counsel asked that case be included on next motion to dismiss rather than filing stipulation of dismissal

## Fosamax January 28, 2025 CMO: Exhibit A

Plaintiff Name	Plaintiff Counsel	Case No.	Status
Nakasone, Karen M.	Seeger Weiss	L-8541-14	11/19/2024 - Letter Notice of Deceased Plaintiffs 12/19/2024 - Email from plaintiff counsel indicating family in process of opening estate and getting rep appointed 1/29/2025 - Email from plaintiff counsel indicating that probate hearing scheduled for 3/27/2025 and substitution papers will be filed after
Steiss, Donna	Seeger Weiss	L-9161-14	11/19/2024 - Letter Notice of Deceased Plaintiffs 12/19/2024 - Email from plaintiff counsel indicating family in process of opening estate and getting rep appointed
Basso, Florence K.	The Miller Firm, LLC	L-7977-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Chudomelka, Doris R.	The Miller Firm, LLC	L-9696-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Smith, Martha	Weitz & Luxenberg	L-11648-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Smith, Patricia	Weitz & Luxenberg	L-6706-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Smith, Shirley	Weitz & Luxenberg	L-9718-14	11/19/2024 - Letter Notice of Deceased Plaintiffs
Watts, Bernice	Weitz & Luxenberg	L-6961-14	11/19/2024 - Letter Notice of Deceased Plaintiffs

IN RE: FOSAMAX® LITIGATION

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MIDDLESEX COUNTY

CASE NO. 282

**PLAINTIFF CERTIFICATION**

I, \_\_\_\_\_ (print name), understand the below and certify that the below statements made by me are true.

1. I filed a lawsuit against Merck and I am a plaintiff in the Fosamax litigation in the New Jersey Superior Court located in New Brunswick, New Jersey.
2. My current address is: \_\_\_\_\_

\_\_\_\_\_  
(PRINT OR TYPE)

3. I certify that I am willing and able to proceed with this litigation.

\_\_\_\_\_  
Plaintiff (print name)

\_\_\_\_\_  
Plaintiff Signature

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**PLAINTIFF REPRESENTATIVE  
CERTIFICATION**

I, \_\_\_\_\_ (print name), understand the below and certify that the below statements made by me are true.

1. I am currently acting as the personal representative of \_\_\_\_\_, who filed a lawsuit against Merck and I am acting as the plaintiff on their behalf in the Fosamax litigation in the New Jersey Superior Court located in New Brunswick, New Jersey.

3. My current address is: \_\_\_\_\_

\_\_\_\_\_  
(PRINT OR TYPE)

2. I certify that I am willing and able to proceed with this litigation.

\_\_\_\_\_  
Plaintiff (print name)

\_\_\_\_\_  
Plaintiff Signature



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**PROPOSED PLAINTIFF  
REPRESENTATIVE CERTIFICATION**

I, \_\_\_\_\_ (print name), understand the below and certify that the below statements made by me are true.

1. A. I am the authorized personal representative of \_\_\_\_\_, who is deceased and who filed a lawsuit against Merck;

**OR**

B. I have or will be seeking the authority to act as \_\_\_\_\_ authorized personal representative because I am their next of kin or legally designated personal representative.

2. I intend to proceed as plaintiff on behalf of the above named person in the Fosamax litigation in the New Jersey Superior Court located in New Brunswick, New Jersey.

3. I will take the necessary steps to substitute my appearance for \_\_\_\_\_ as the estate's representative.

4. I understand that if I do not promptly take the necessary steps to formalize this appointment, the case may be dismissed.

5. My current address is: \_\_\_\_\_

\_\_\_\_\_  
(PRINT OR TYPE)

6. I certify that I am willing and able to proceed with this litigation.

\_\_\_\_\_  
Proposed Representative (print name)

\_\_\_\_\_  
Proposed Representative Signature