

MAY 14 2010

Carol E. Hishon, P.J.C.

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 In Re: FOSAMAX Litigation : SUPERIOR COURT OF NEW JERSEY  
 : LAW DIVISION: ATLANTIC COUNTY  
 :  
 : Civil Action Case No. 282  
 APPLIES TO ALL CASES : (Fosamax Litigation)  
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**CASE MANAGEMENT ORDER**  
**(Agreed upon Trial Expert Discovery Protocol)**

Having been advised by counsel for the Plaintiffs and Merck, Sharp & Dohme Corp., that they have stipulated to the following protocol pertaining to the expert discovery to be conducted in cases selected for the trial pool in this litigation, it is on this 14 day of May, 2010, **ORDERED** that the following provisions shall apply to such discovery:

**1. Correspondence between counsel and experts and draft expert reports.**

Correspondence between counsel and experts, and drafts of expert reports, are not discoverable and do not need to be produced by either the parties or their respective experts. This provision, however, does not apply to communications to or from an expert that contain information considered and relied upon by the expert in the formation of his or her opinion(s) unless such information is produced separately.

**2. Production of materials and instrumentalities utilized and relied upon by the experts.**

The materials relied upon by the experts shall be produced within seven (7) days of the provision of the experts' respective reports. Excepted from this requirement are those materials that are readily available in the public domain, such as published medical articles. However, upon request of opposing counsel, the counsel tendering the expert's report will make available materials from the public domain that are not readily available, such as sections or chapters from

text books, older medical articles or articles from journals that are not available for public purchase.

3. **Length of depositions.**

Expert depositions shall be limited to seven (7) hours. However, if any expert is proffered to provide both generic and case-specific expert opinions, the expert shall be made available for seven (7) hours plus two (2) additional hours for each case in which a case-specific expert opinion is being offered.

4. **Rule R. 4:10-2(d) and R. 4:17-4(e) requirements in force and in effect.**

Unless specifically varied from or contradicted herein, all provisions of Rule R. 4:10-2(d) and R. 4:17-4(e) shall apply to the expert disclosure.

SO ORDERED.

Dated: \_\_\_\_\_

*May 14, 2016*

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Honorable Carol E. Higbee, P.J. Cv.

*Carol E. Higbee*

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