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FILED

April 28, 2023

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

JOYCE FLAKE and FREDRICK FLAKE,

Plaintiffs

vs.

MERCK & CO., INC., et al.,

Defendants.

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: MIDDLESEX COUNTY

FOSAMAX LITIGATION

DOCKET NO. MID-L-8972-14

CIVIL ACTION CASE NO. 282

ORDER

THIS MATTER having been brought before the Court upon motion by Fox Rothschild LLP, attorney for Defendants, Merck & Co., Inc., and Merck Sharp & Dohme Corp., for an Order to Dismiss Plaintiff's Complaint without prejudice pursuant to R. 4:23-5(a)(1), for failure to serve proof of product usage, and the Court having read and considered the papers submitted in this matter, and for good cause having been shown;

IT IS on this 28th day of April, 2023;

ORDERED that Defendants' Motion to Dismiss without prejudice **is hereby GRANTED**; and it is further

ORDERED that should Plaintiff fail to produce proof of use ("POU") within sixty (60) days of this Order, then a motion to dismiss with prejudice may be filed; and it is further

ORDERED that service of this Order shall be deemed effectuated upon all parties upon its upload to eCourts. Pursuant to Rule 1:5-1(a), movant shall serve a copy of this Order on all parties not served electronically within seven (7) days of the date of this order.

/s/ Bruce J. Kaplan

HONORABLE BRUCE J. KAPLAN, J.S.C.

UNOPPOSED

Having reviewed the above motion, the Court finds it to be meritorious on its face and is unopposed. Pursuant to R. 1:6-2, it therefore will be granted essentially for the reasons set forth in the moving papers.