

Eileen Oakes Muskett, Esquire  
Attorney ID 020731994  
Fox Rothschild LLP  
Midtown Building, Suite 400  
1301 Atlantic Avenue  
Atlantic City, New Jersey 08401  
Phone: 609-348-4515  
Attorney for Defendant Merck Sharp & Dohme Corp.

FILED

May 10, 2023

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

ROSARIO CORREA LOPEZ, et al

Plaintiff

Vs.

MERCK & CO., INC., et al.

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: MIDDLESEX COUNTY

FOSAMAX LITIGATION

DOCKET NO. MID-L-9030-14

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, opposition filed and reply thereto, and for the reasons stated on the record during oral argument on May 10, 2023, and for good cause having been shown;

**IT IS** on this 10th day of May, 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*  
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HONORABLE BRUCE J. KAPLAN, J.S.C.

**OPPOSED**

On this date, pursuant to R. 1:6-2 the Court's statement of reasons has been set forth on the record.