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FILED

April 14, 2023

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

BETTIE MCILVEEN, et al  
  
Plaintiff  
  
Vs.  
  
MERCK & CO., INC., et al.

SUPERIOR COURT OF NEW JERSEY  
  
LAW DIVISION: MIDDLESEX COUNTY  
  
FOSAMAX LITIGATION  
  
DOCKET NO. MID-L-7451-14  
  
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 14th 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.

*151 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.