

FILED

January 13, 2023

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

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MIDDLESEX COUNTY

CASE NO. 282

**CASE MANAGEMENT ORDER**

**PROOF OF USE**

IN RE: FOSAMAX® LITIGATION

**THIS MATTER**, having come before the Court at a case management conference on November 17, 2022, and counsel for Plaintiffs and counsel for Defendants having been present, and for good cause having been shown;

**IT IS** on this 13th day of January, 2023,

**ORDERED** as follows:

1. Proof of use is defined as objective proof that the Plaintiff used Fosamax prior to the date of femur fracture as specified in the Plaintiff's fact sheet. Such objective proof is defined as documentary or physical evidence including, but not limited to, pharmacy records, medical insurance records, and medical records from the Plaintiff's prescriber(s) and/or treating providers that confirm Plaintiff's use of Fosamax prior to the date of femur fracture as specified in the Plaintiff's fact sheet, unless such evidence of Fosamax use is clearly self-reported by the Plaintiff or a member of Plaintiff's family.
2. Self-serving affidavits and/or witness certifications or statements, including those in medical records containing self-reported use, cannot by themselves establish proof of use. However,

such evidence may be considered in determining whether there is sufficient documentary and/or physical evidence to establish proof of use.

*/s/ Bruce J. Kaplan*  
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.

Order submitted, with the consent of all liaison counsel, pursuant to Case Management Conference held on November 17, 2022.