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FILED

March 4, 2025

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

FAY RUTH TRAST, Plaintiff, v. MERCK, SHARP & DOHME, CORP., Defendant.	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY CIVIL ACTION NO.: MID-L-8899-14 ORDER DENYING MOTION TO AMEND TO SUBSTITUTE PLAINTIFF
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THIS MATTER having been opened to the Court by Scott Levensten, Esquire, of The Levensten Law Firm, attorney for Plaintiff, seeking an order to amend the Complaint to name Substitute Kathy D’Errico, heir of Fay Ruth Trast, as surviving heir of the Decedent Fay Ruth Trast, deceased, and the Court having read and considered the papers submitted in this matter, and for good cause having been shown;

IT IS on this 4th day of March 2025,

ORDERED that Plaintiff’s Motion to Amend the Complaint to Substitute Kathy D’Errico, heir of Fay Ruth Trast, as surviving heir of the Decedent Fay Ruth Trast, deceased, **is hereby DENIED**; 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.

UNOPPOSED

/s/ Bruce J. Kaplan
HONORABLE BRUCE J. KAPLAN, J.S.C.

STATEMENT OF REASONS:

This matter comes before the Court by way of Plaintiff’s Motion for leave to amend the Complaint to substitute Plaintiff. There was no opposition.

The Court will be denying Plaintiff's Motion. In so doing, the Court emphasizes that, consistent with established requirements in the Fosamax litigation, Plaintiffs are obligated to provide letters of testamentary to the Court, demonstrating the proposed Plaintiff's legal capacity to assert the decedent's rights and proceed with the instant action.

Moreover, the Court issued a clerk notice on February 18, 2025, notifying Plaintiff that the letters of testamentary previously filed were insufficient, and granting Plaintiff a one-cycle adjournment to submit proper letters of testamentary that explicitly authorized the proposed Plaintiff to proceed with the action. Plaintiff has failed to comply with this directive. Accordingly, the Motion is denied.