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**FILED**

MAY 11 2018

Judge James F. Hyland

**IN RE: REGLAN LITIGATION**

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MIDDLESEX  
COUNTY  
MASTER DOCKET: MID-L-10165-14

CASE NO.: 289

Civil Action

*Mildred Sizemore*

Docket No. MID-L-10266-14

**ORDER CONVERTING BASIS OF  
DISMISSAL OF CLAIMS OF  
PLAINTIFF MILDRED SIZEMORE  
AGAINST ALAVEN AND WYETH  
ONLY**

On May 22, 2017, Defendant Alaven Pharmaceutical LLC (“Alaven”) and counsel for plaintiffs with cases in Middlesex County who had agreed to settle with Alaven submitted a Joint Stipulation and Order (“Alaven Joint Stipulation”) to the Court addressing the resolution of settling plaintiffs’ claims against Alaven and the effectuation of the agreed to settlement. On May 31, 2017, the Court endorsed an Order of Disposition dismissing the claims against Alaven in those settling plaintiffs’ cases, including in this case, with prejudice.

On June 7, 2017, Defendants Pfizer, Inc., Wyeth LLC (including but not limited to, its former ESI Lederle division), Wyeth Pharmaceuticals Inc., Hospira, Inc. and Hospira Worldwide, Inc. (collectively “Wyeth”) and counsel for plaintiffs with cases in Middlesex County who had agreed to settle with Wyeth submitted a Joint Stipulation and Order (“Wyeth

Joint Stipulation”) to the Court addressing the resolution of settling plaintiffs’ claims against Wyeth and the effectuation of the agreed to settlement. On June 12, 2017, the Court endorsed an Order of Disposition dismissing the claims against Wyeth in those settling plaintiffs’ cases, including in this case, with prejudice.

In accordance with the Alaven Joint Stipulation and the Wyeth Joint Stipulation, Plaintiff Mildred Sizemore (“Sizemore”) agreed to fully and properly execute releases of claims against Alaven and its insurers and Wyeth and its insurers. In addition, because Sizemore is deceased, the Alaven and Wyeth Joint Stipulations required Plaintiff’s counsel to submit to the settlement programs either (1) a copy of the court order, letters of administration, letters testamentary or other documents evidencing that the representative claimant has been appointed as the administrator for the deceased claimant, or (2) a representative claimant sworn statement, as well as a joint stipulation and agreement regarding deceased plaintiffs to certify the representative claimant has the authority to sign releases on behalf of the deceased claimant. The supporting documentation has not been submitted. In particular, a representative claimant sworn statement and a release dated after the date of the sworn statement have not been submitted.

The Court directed plaintiffs’ counsel, including Sizemore’s counsel, to use their best efforts to resolve remaining release deficiencies by December 16, 2017 in Case Management Order 28. However, and notwithstanding efforts by defense counsel, the deficiency for Sizemore remained unresolved. Subsequently, in Case Management Order 29, the Court directed plaintiffs’ counsel with outstanding release deficiencies, including Sizemore’s counsel, to appear in-person at the February 27, 2018 conference, so that counsel and the Court could resolve any remaining release deficiencies. Counsel for Alaven made several attempts to contact Sizemore’s counsel to discuss the release deficiency and advised

Sizemore's counsel of Case Management Order 29 and its requirements. Sizemore's counsel did not respond and failed to appear at the February 27, 2018 conference.

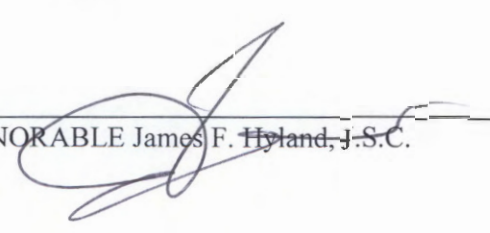
As a result, during the February 27, 2018 conference and in Case Management Order 30, the Court directed Alaven and Wyeth to submit this Order converting the basis for the dismissals with prejudice of all claims against Alaven and Wyeth to a dismissal for Sizemore's failure to respond to Alaven and Wyeth's settlement offers; and, accordingly,

**THIS MATTER** having been submitted to the Court by Reilly, McDevitt, & Henrich, P.C., attorneys for Defendant, Alaven Pharmaceutical LLC, pursuant to R. 1:6-2, and the Court having reviewed the moving papers and for good cause having been shown;

It is, on this 11 day of May, 2018,

**IT IS HEREBY ORDERED** that the dismissals with prejudice of all claims asserted against Alaven and Wyeth pursuant to the Alaven Joint Stipulation and the Wyeth Joint Stipulation, respectively, are converted to dismissals with prejudice for Sizemore's failure to respond to Alaven's and Wyeth's respective settlement offers. Each party shall bear its own costs.

**SO ORDERED:**

  
HONORABLE James F. Hyland, J.S.C.

opposed  
 unopposed