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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

Thelma Wendt

Docket No. MID-L-10255-14

**ORDER CONVERTING BASIS OF
DISMISSAL OF CLAIMS OF
PLAINTIFF THELMA WENDT
AGAINST ALAVEN 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.

In accordance with the Alaven Joint Stipulation, Plaintiff Thelma Wendt (“Wendt”) agreed to fully and properly execute releases of claims against Alaven and its insurers. In

addition, because Wendt is deceased, the Alaven 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. In particular, the name on the verification of the Confidential Settlement and Release Agreement is not the representative claimant and no new verification with the proper representative name and signature has been submitted to date.

The Court directed plaintiffs' counsel, including Wendt'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 Wendt remained unresolved. Subsequently, in Case Management Order 29, the Court directed plaintiffs' counsel with outstanding release deficiencies, including Wendt'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 Wendt's counsel to discuss the release deficiency and advised Wendt's counsel of Case Management Order 29 and its requirements. Wendt's counsel did not respond and failed to appear at the February 27, 2018 conference.

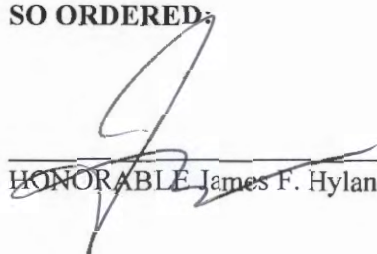
As a result, during the February 27, 2018 conference and in Case Management Order 30, Alaven submits this Motion converting the basis for the dismissals with prejudice of all claims against Alaven to a dismissal for Wendt's failure to respond to Alaven's settlement offers; and, accordingly,

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 pursuant to the Alaven Joint Stipulation, respectively, are converted to dismissals with prejudice for Wendt's failure to respond to Alaven's respective settlement offers. Each party shall bear its own costs.

SO ORDERED:



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

opposed
 unopposed