

FILED
OCT 29 2019

Judge James F. Hyland

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

CASE NO. 629

CASE MANAGEMENT ORDER #6
OCTOBER 10, 2019
CASE MANAGEMENT CONFERENCE

IN RE: ZOSTAVAX® LITIGATION

THIS MATTER, having come before the Court at a case management conference on October 10, 2019 and counsel for Plaintiffs and counsel for Defendants having been present, and for good cause having been shown;

IT IS on this 29 day of October 2019, ORDERED as follows:

1. COURT SUBMISSIONS

- Plaintiff's liaison counsel, Marc J. Bern & Partners LLP, shall provide the court with an updated case list organized by docket number within ten (10) days of the date of this Order.
- Plaintiff's liaison counsel, Marc J. Bern & Partners LLP, shall provide the court with Orders to dismiss the following duplicate cases within ten (10) days of the date of this Order:
 - John Davis v. Merck; L917-19
 - To be dismissed L4233-19
 - Rita Waters v. Merck, L1300-19
 - To be dismissed: L1353-19
 - Sharon Melillo v. Merck, L3452-19
 - To be dismissed: L3908-19
 - Carol Thul v. Merck, L3453-19
 - To be dismissed: L3907.19
 - Frank Maruski v. Merck, L3748-19
 - To be dismissed: L3903-19
 - James Vogan v. Merck, L3457-19
 - To be dismissed: L3904-19
 - Scott Joyce vs Merck L-7879-18
 - To be dismissed: L4402-19
 - To be dismissed: L4472-19

2. ORDER TO SHOW CAUSE

- If Plaintiff's liaison Counsel, Marc J. Bern & Partners LLP, fails to abide by No. 1, this Court shall *sua sponte* enter an Order to Show Cause against Counsel, and Counsel shall appear and show cause on a date and time certain as to why Counsel should not be adjudged to be in contempt of the court and face imprisonment and/or fines for failure to comply with a directive of this Court.

3. OUSTANDING PLAINTIFF FACT SHEETS

- By October 31, 2019 Plaintiffs shall serve all PFSs that are delinquent as of the date of this order (i.e., all PFSs that have not been served that were due on or before October 1, 2019) or the case will be dismissed pursuant to an Order submitted by Defendant Merck under the five day rule.
- This provision shall also serve as the relief granted to Defendants for the Orders to Show Cause which were granted on September 30, 2019.

4. DEFENSE BELLWETHER CASE SELECTION

- Defendants' Bellwether case selections are due by December 15, 2019. A revised Bellwether Order will be submitted by the parties to adjust the remaining deadlines.

5. BELLWETHER CASES

- The parties will meet and confer regarding inclusion of a second tier of cases for Bellwether selection and report to the court by October 31, 2019 regarding the results of that discussion.

6. MOTIONS TO BIFURCATE AND AMENDED COMPLAINTS

- A further motion to amend the Master Long Form Complaint or motions to bifurcate the multi-plaintiff complaints shall be filed by November 4, 2019.
- For all cases involving multiple plaintiffs, Plaintiff's counsel shall have four months to file the amended complaints following the Order granting bifurcation. The parties will meet and confer and prepare an order concerning the specifics of the tiered process for filing amended complaints and an Order to be submitted with the bifurcation motions.

7. STAY OF DEADLINE TO FILE ANSWERS

- Defendants' deadline to file Answers or otherwise respond to all complaints remain stayed until further order of the Court.

8. DISMISSALS WITHOUT PREJUDICE

- If a Plaintiff voluntarily agrees to dismiss their case without prejudice pursuant to R. 4:37-1(a), they must seek to reinstate their case or their new counsel must submit an entry of appearance within 60 days of the entry of the dismissal order.
- If neither of the aforementioned actions are taken within 60 days of the dismissal without prejudice, defendant shall seek to dismiss the action with prejudice pursuant to this Order.

The next Case Management Conference is scheduled for December 17, 2019 at 10:30 AM in courtroom 403.


James F. Hyland, J.S.C.