

IN RE: ZOSTAVAX® LITIGATION

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

CASE NO. 629

**CASE MANAGEMENT ORDER #13
JANUARY 20, 2021
CASE MANAGEMENT CONFERENCE**

THIS MATTER, having come before the Court at a case management conference on January 20, 2021 and counsel for Plaintiffs and counsel for Defendants having been present, and for good cause having been shown;

IT IS on this 29th day of January 2021, **ORDERED** as follows:

1. CASE LIST

- Defense and Plaintiffs' liaison counsel will coordinate with Marisol Rodriguez to prepare an accurate active case list.

2. PROOF OF USE: PENDING DISMISSALS AND SUPPLEMENTAL SUBMISSIONS

- Plaintiffs' liaison counsel may submit a letter by February 2, 2021 advising the Court of specific cases for which they assert proof of use has been submitted since Merck submitted dismissal Orders.
- Defense liaison counsel may submit a response to Plaintiffs' above submission by February 9, 2021.

3. BELLWETHER CASES: ISSUES TO BE RESOLVED

- Plaintiff shall serve Defendants the Amended individual Complaint in Janice Yeaton v. Merck, MID-L-5427-20 by January 31, 2021.
- Plaintiffs shall serve McKesson in any Bellwether case, that has been filed but not served, by January 31, 2021.

- Plaintiffs’ counsel shall provide an amended Plaintiff Fact Sheet by January 31, 2021 in the following cases, if Plaintiff is asserting a loss of consortium claim. If Plaintiff is not asserting a loss of consortium claim, a partial stipulation of dismissal shall be filed dismissing the loss of consortium claim.
 - Porter Beane: MID-L-5584-20
 - Janice Cook: MID-L-0656-19
 - Mildred Fields: MID-L-4809-20
 - Rudolph Iannaci: MID-L-3315-20
 - Rosanne Jewett-Modde: MID-L-6294-18
 - Alice Plumb: MID-L-5476-20
 - Elaine Swartz: MID-L-3526-20
 - Gorman Swinney: MID-L- 7918-18
 - Thomas Szeklinski: MID-L-4940-20
 - Robert Walker: MID-L-3429-20
 - Barbara Williams: MID-L-8637-18

4. SERVICE OF OUTSTANDING COMPLAINTS

- Plaintiffs’ liaison counsel shall provide Defense Liaison counsel with a revised service schedule for all unserved Complaints by February 3, 2021.
- The parties shall meet and confer to determine a service and answer schedule for these Complaints.

5. SERVICE OF SINGLE PLAINTIFF COMPLAINTS UPON MCKESSON

- Plaintiffs’ counsel shall serve all filed but unserved single Plaintiff Complaints upon McKesson by February 1, 2021 and provide proof of service affidavits to counsel for McKesson immediately thereafter.
- Counsel for McKesson and Plaintiffs shall meet and confer to determine a schedule for McKesson to answer these Complaints.

6. DECEASED PLAINTIFFS

- As set forth in CMOs 10, 11, and 12, Plaintiffs’ counsel shall not file Complaints on behalf of a deceased Plaintiff unless filed through an estate representative.

- The following cases are hereby dismissed with prejudice since the Complaint was filed after the Plaintiff was deceased and therefore the deceased Plaintiff did not have standing to file the Complaint.
 - Beeman, Patricia MID-L-8302-18
 - Eldridge, William MID-L-0074-19
 - Lucht, Lloyd MID-L-7374-18
- If Plaintiffs' counsel has proof that the Plaintiff in any of the aforementioned cases was not deceased at the time the Complaint was filed, they may file a motion for reconsideration of the dismissal on that basis only.
- Plaintiffs' counsel may seek to file a new Complaint through an estate representative.
- Plaintiffs' counsel will advise Merck by no later than February 19, 2020 whether it intends to voluntarily dismiss the claims of the following Plaintiffs with prejudice:
 - Marling, John MID-L-0616-19
 - McNeeley, Jack MID-L-0533-19
 - Jacona, Carmela MID-L-0490-19

7. STATUS MEMORANDUM TO COURT

- Defense counsel may, within ten (10) days of the date hereof, submit a letter to the Court in response to Plaintiffs' status memorandum dated January 20, 2021.
- If Defense counsel submits a letter, Plaintiffs' liaison counsel may submit a response within seven (7) days thereafter.

The next Case Management Conference is scheduled for February 23, 2021 at 11:00 AM, telephonically.

/s/ James F. Hyland

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