

**FILED**

**JULY 13, 2021**

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

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MIDDLESEX COUNTY

CASE NO. 629

**CASE MANAGEMENT ORDER #17  
JUNE 2, 2021  
CASE MANAGEMENT CONFERENCE**

IN RE: ZOSTAVAX® LITIGATION

**THIS MATTER**, having come before the Court at a case management conference on June 2, 2021 and counsel for Plaintiffs and counsel for Defendants having been present, and for good cause having been shown;

**IT IS** on this 13th day of July, hereby **ORDERED** as follows:

**1. MOTIONS TO COMPEL ANSWERS TO PLAINTIFF FACT SHEET (PFS) DEFICIENCIES**

- Counsel for Merck will provide plaintiffs' counsel with a list of cases for which they have served a PFS deficiency letter and not received a response.
- Counsel for plaintiffs shall provide the court with a delineation of motions that will not be opposed, will be opposed and the reason for the opposition by June 16, 2021.
- Counsel for Merck may file an omnibus motion to compel responses to PFS deficiencies in the master docket.
- Counsel for plaintiffs will file any opposition to the omnibus motion in the individual docket for the cases opposed.
- Following the court's decision, counsel for Merck shall draft separate orders memorializing the decision for each case to be loaded into the individual e-court docket of each case.

**2. CONVERTING DISMISSALS WITHOUT PREJUDICE TO DISMISSALS WITH PREJUDICE.**

- Merck may seek dismissal of a case with prejudice if plaintiffs’ counsel has not moved to reinstate a case dismissed without prejudice within 60 days from the date of the dismissal.
- For cases dismissed under Order 10 (February 13, 2020) Merck shall submit proposed orders to the Court seeking conversion from dismissal without prejudice to dismissal with prejudice with 10 days’ notice to provide plaintiffs’ counsel the opportunity to submit opposition to the form or substance of the proposed dismissal order.
- If opposition is not received within 10 days, the Court will execute Merck’s proposed order.

**3. AMENDED SHORT FORM COMPLAINTS TO CORRECT LOSS OF CONSORTIUM ALLEGATION ERRORS**

- Plaintiffs’ counsel shall file corrected amended short form complaints to include the corrected loss of consortium allegations in the following cases by June 16, 2021:

As to McKesson:

- Brooks, Johnna MID-L-4859-20
- Caporossi, James MID-L-4863-20
- Gordon, William MID-L-4318-20
- Kelly, Francis MID-L-5075-20
- Lantz, Donald MID-L-4285-20
- Merideth, Donald MID-L-4265-20
- Millan, Donna MID-L-4918-20
- Miller, Thomas MID-L-4287-20
- Raleigh, Marilyn MID-L-4336-20
- Roberts, Ray MID-L-4921-20
- Ryder, Clifford MID-L-4928-20
- Whitey, Shirley MID-L-4319-20

As to Merck:

- Bane, Daniel MID-L-4537-19
- Ellis, Betty MID-L-5456-20
- Fitzgerald, Webster MID-L-5741-20
- Hubbert, Christeen MID-L-5475-20
- Kelly, Francis MID-L-5075-20

- Millan, Donna           MID-L-4918-20
- Miller, Thomas       MID-L-4287-20
- Raleigh, Marilyn     MID-L-4336-20
- Ryder, Clifford       MID-L-4928-20

**4.     STIPULATIONS OF DISMISSAL**

- As of June 2, 2021, all stipulations of dismissal filed with the Court shall be dismissals without fees or costs assessed to either party, unless specifically stated otherwise.

**5.     NEXT CASE MANAGEMENT CONFERENCE**

The next Case Management Conference is scheduled for July 15, 2021 at 10:00 A.M., either telephonically or via a video link, which shall be circulated by liaison counsel or the Court at a later date.

*/s/ Bruce J. Kaplan*

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HONORABLE BRUCE J. KAPLAN, J.S.C.

The posting of this Order on eCourts shall constitute service upon all counsel of record. If applicable, pursuant to *Rule* 1:5-1(a), the movant shall serve a copy of this Order upon all parties not served electronically within seven (7) days of receipt of this Order.