

FILED

JULY 29, 2021

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

IN RE: ZOSTAVAX® LITIGATION

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

CASE NO. 629

**CASE MANAGEMENT ORDER #18
JULY 15, 2021
CASE MANAGEMENT CONFERENCE**

THIS MATTER, having come before the Court at a case management conference on July 15, 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 July, **ORDERED** as follows:

1. PENDING MOTIONS UPDATE CHART

- Defense liaison counsel and plaintiffs' liaison counsel shall provide quarterly lists to the court setting forth the pending motions for their respective clients. Plaintiffs' list shall include the pending motions from all plaintiffs' counsel and the defense list shall include pending motions for both Merck and McKesson. The next list shall be provided with the October Case Management Conference agenda.

2. MOTIONS TO AMEND TO SUBSTITUTE THE ESTATE

- Plaintiffs' counsel shall provide a list to the court and opposing counsel by August 24, 2021, which sets forth the following:
 - The name and docket number for all cases for which the plaintiff is deceased, and the complaint needs to be amended to substitute the estate for the deceased plaintiff.
 - The information plaintiff's counsel has in their possession to support the motion to amend to substitute the estate ("motion to amend").

- The information still needed to file the motion to amend.
- The efforts that have been made to obtain the outstanding information needed to file the motion to amend.
- Whether or not the motion to amend has been filed.
- If the motion to amend has not been filed, the reasons it has not.

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

- Plaintiffs’ counsel shall either dismiss or file and serve corrected amended short form complaints to include the corrected loss of consortium allegations in the following cases by August 24, 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
- Fitzgerald, Webster MID-L-5741-20
- Hubbert, Christeen MID-L-5475-20
- Millan, Donna MID-L-4918-20
- O’Neal, Allen MID-L-4296-20
- Ryder, Clifford MID-L-4928-20

4. OUTSTANDING STIPULATIONS OF DISMISSAL

- Plaintiff's counsel shall sign and return the following stipulations of dismissal to defense counsel by August 2, 2021. Defense counsel shall file the signed stipulations with the Court by August 9, 2021.:
 - Bennett, Sherwood, MID-L-3374-18
 - Burden, Kimberly, MID-L-1886-18
 - England, Dessie, MID-L-4659-17
 - Felice, Romilda, MID-L-3595-18
 - Hyatt, Darla, MID-L-0848-18
 - Kilgore, Carol, MID-L-1599-18

5. AMENDED COMPLAINTS

- Counsel for the plaintiffs listed in the attached Exhibit A shall file and serve an Amended Short Form complaint within 30 days of this Order.
- Amended Complaints, in all other circumstances, shall be filed and served within 20 days of any order reinstating the case or requiring submission of an Amended Complaint.

6. NEXT CASE MANAGEMENT CONFERENCE

The next Case Management Conference is scheduled for August 25, 2021 at 10:00 A.M., via a video link, which shall be circulated by liaison counsel or the Court at a later date.

/s/ Bruce J. Kaplan

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.

The Court is in receipt of Plaintiff's counsel's objection to paragraph 4 of this Order, sent via email. Specifically, the issue involves lead Plaintiffs who had been dismissed, and thereafter reinstated via stipulation, for a limited purpose which has now occurred. There is no dispute that

these Plaintiffs need to again be dismissed with prejudice, however, Plaintiff's counsel requests that for its internal reasons, these Plaintiffs be dismissed with prejudice via Court Order, in lieu of stipulation of dismissal. Defense counsel requests that they be dismissed via stipulation. The Court records disclose that these Plaintiffs had originally signed and submitted stipulations of dismissal to the Court. However, because these were lead Plaintiffs, these stipulations were not entered, but rather were held in abeyance for purposes of bifurcation. While these Plaintiffs were, however included in the Court's February 13, 2020 Order, consistent with the procedures outlined above, new stipulations of dismissal need to be filed. In light of the delays to date, these stipulations are to signed and return to defense counsel by August 2, 2021, to be filed with the Court by August 9, 2021.

SEE EXHIBIT A ATTACHED

EXHIBIT A

Plaintiff's(s)' Name(s)	Original Case Name (if applicable)	Case Number	Reinstated
Allan, Michal Ann		MID-L-7466-18	6/1/2021
Andrews, Catherine		MID-L-6463-18	6/1/2021
Axell, David		MID-L-7885-18	6/11/2021
Baker, Marianne		MID-L-7446-18	7/9/2021
Bankard, William		MID-L-6905-18	5/14/2021
Banks, Trudy		MID-L-7464-18	5/14/2021
Bergemann, Carol		MID-L-6400-18	6/1/2021
Blackman, Alice		MID-L-2631-19	3/22/2021
Bolton-Caron, Barbara	Bolton-Caron, Barbara et al.	MID-L-4023-18	7/9/2021
Burgess, Leonard		MID-L-8648-18	6/11/2021
Candela, Frank		MID-L-7510-18	5/14/2021
Caneff, Lou Ann		MID-L-7415-18	6/11/2021
Conte, Joseph		MID-L-6530-18	5/14/2021
Custer, Sandra		MID-L-7198-18	5/14/2021
Dammond, Amos		MID-L-7187-18	5/14/2021
Delfini, Douglas		MID-L-7491-18	5/14/2021
Finch, Bonnie		MID-L-6797-18	6/1/2021
Fishburn, Peggy		MID-L-6874-18	6/1/2021 7/9/2021
Ford, George		MID-L-7492-18	5/14/2021
Friis, Melody		MID-L-6607-18	6/1/2021 7/9/2021
Giron, Rosalie		MID-L-4220-19	6/11/2021
Graeber, Paul	Morgan, Jeanette et al.	MID-L-4575-18	6/11/2021
Gurgacz, Carol		MID-L-7465-18	5/14/2021
Guy, James		MID-L-8292-18	6/11/2021
Harris, Selester A.		MID-L-7246-18	5/14/2021
Harwood, Barbara		MID-L-8624-18	6/11/2021
Horne, Emma		MID-L-0631-19	6/11/2021
Jenkins, Gwendell	Gollotto, Rosemary et al.	MID-L-0728-18	5/14/2021
Jenkins, Richard		MID-L-7880-18	5/14/2021
Johnson, Connie (Johnson, James - spouse)		MID-L-0884-19	6/25/2021
Johnson, Robert	Morgan, Jeanette et al.	MID-L-4575-18	7/12/2021
Jones, Patsy		MID-L-6793-18	5/14/2021
Jones, Renee		MID-L-6267-18	5/18/2021
Kautman, Faye		MID-L-3165-19	6/11/2021
Kelly, William	Morgan, Jeanette et al.	MID-L-4575-18	6/11/2021
Kioussis, Caroline		MID-L-6406-18	5/14/2021
Kist, Mary		MID-L-6619-18	5/14/2021
Lane, Iris		MID-L-6918-18	7/9/2021
Lear, Sharon		MID-L-1183-19	6/11/2021
Lewis, Judy		MID-L-4270-19	6/11/2021
Lill, Roxanne		MID-L-6538-18	6/11/2021

Plaintiff's(s)' Name(s)	Original Case Name (if applicable)	Case Number	Reinstated
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Lollis, Betty		MID-L-1798-19	6/11/2021
Mann, Carol		MID-L-1187-19	6/11/2021
McLaughlin, Jim		MID-L-7906-18	5/14/2021
McLendon, Charles		MID-L-3893-19	7/12/2021
McMullen, Robert		MID-L-3460-19	6/11/2021
Meadows, Barbara		MID-L-6897-18	6/11/2021
Messenger, Dana		MID-L-6944-18	5/14/2021
Miller, Kathy		MID-L-8602-18	6/25/2021
Morgan, Donna		MID-L-6923-18	6/25/2021
Naill, Diane		MID-L-7518-18	5/14/2021
Niewind, Marlene		MID-L-6255-18	5/14/2021
Noel, Leo		MID-L-7416-18	5/14/2021
Nuccio, Francine		MID-L-7174-18	5/14/2021
Peniche, Patsy (Peniche, Raymundo T. - spouse)		MID-L-2058-19	6/25/2021
Petillo, Michael		MID-L-7493-18	7/9/2021
Phelps, Clara		MID-L-6616-18	5/14/2021
Pierce, Laura		MID-L-7423-18	5/14/2021
Pierce, Nancy		MID-L-6712-18	5/14/2021
Pofok, Geraldine		MID-L-4979-19	7/12/2021
Proulx, Charlotte		MID-L-7935-18	5/14/2021
Reese, Tony		MID-L-7937-18	7/9/2021
Riley, Clara		MID-L-7940-18	5/14/2021
Rivkind, Maxene		MID-L-1181-19	7/12/2021
Roberts, Barbara (Roberts, Dan - spouse)		MID-L-5259-19	3/23/202
Roderick, John		MID-L-0837-19	7/12/2021
Routh, Kay		MID-L-6933-18	6/25/2021
Savino, Cynthia (Savino, Anthony - spouse)		MID-L-3816-19	6/11/2021
Schumacher, Patricia		MID-L-2051-19	6/25/2021
Sinclair, Goldie		MID-L-7145-18	6/1/2021
Stafford, Jodi		MID-L-0959-19	6/11/2021
Stark, Patricia		MID-L-6462-18	5/14/2021
Sterk, Leroy		MID-L-6333-18	7/12/2021
Stoya, John		MID-L-2663-19	6/11/2021
Templeman, Gwen		MID-L-7201-18	5/14/2021
Thomas, Lisa		MID-L-0967-19	6/11/2021
Thomas, Steven Thompson		MID-L-7379-18	7/12/2021
Tibbitts, Joann (Tibbitts, Jim - spouse)		MID-L-0894-19	6/11/2021
Tommingo, Mary		MID-L-4558-19	7/12/2021
Torchia, Gloria		MID-L-7411-18	5/14/2021
Touchstone, Charles		MID-L-6713-18	5/14/2021

Plaintiff's(s') Name(s)	Original Case Name (if applicable)	Case Number	Reinstated
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Trujillo, Ernest		MID-L-3144-19	6/11/2021
Vaughn, Irene		MID-L-7461-18	5/14/2021
Wells, Barbara		MID-L-1296-19	7/12/2021
White, Belinda		MID-L-5953-18	7/9/2021
Whittemore, Teresa (Whittemore, Arthur - spouse)		MID-L-4473-19	6/25/2021
Williams, Robert		MID-L-6928-18	7/9/2021 6/1/2021
Wischkowski, Linda		MID-L-4405-19	7/12/2021
Wood, Floyce		MID-L-4981-19	10/16/2020
Woolbright, Elta		MID-L-6335-18	5/14/2021
Zanga, Sandra		MID-L-3829-19	7/12/2021