

FILED

November 16, 2023

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 #37  
NOVEMBER 1, 2023  
CASE MANAGEMENT CONFERENCE**

THIS MATTER, having come before the Court at a Case Management Conference on November 1, 2023 and counsel for plaintiffs and counsel for defendants having been present, and for good cause having been shown;

IT IS on this 16th day of November, ORDERED as follows:

**1. GROUP B CASE POOL: AUTHORIZATIONS**

- a. Merck may file a motion to dismiss without prejudice as to all Group B plaintiffs identified in Exhibit A of the Case Management Order: First Amended Bellwether Scheduling Order-Group B dated July 13, 2023 that have not produced fully executed authorizations to Merck's counsel by November 10, 2023.
- b. Authorizations shall be provided within 24 hours of receipt by plaintiffs' counsel.

## **2. GROUP B BELLWETHER POOL: REPLACEMENT CASES**

- a. The following plaintiffs were selected as replacement cases for the Group B Bellwether Pool and shall provide fully executed authorizations by November 10, 2023.
  - i. Ann Marie Hopkins (MID-L-008594-20)
  - ii. Frazer McGee (MID-L-008558-18)
- b. If the Jennie Foley case (MID-L-6947-20) is dismissed with prejudice, the Ann Marie Hopkins case (MID-L-008594-20) shall become a permanent replacement case in the Group B Bellwether Pool.
- c. If the Theodore Schott case (MID-L-8634-18) is dismissed with prejudice, the Frazer McGee case (MID-L-008558-18) shall become a permanent replacement case in the Group B Bellwether Pool.

## **3. MOTIONS ON SHORT NOTICE: BELLWETHER CASES**

The parties are permitted to file motions on short notice for issues arising from Bellwether pool cases. The parties shall email the Court to advise of the intent to file the motion, but need not wait for permission to file before filing the motion on eCourts.

**4. DECEASED PLAINTIFF**

Dyan Grabbs, (MID-L-3288-21) is recently deceased. Plaintiff's counsel shall update the Court and counsel at the next Case Management Conference as to the status of this case and whether a next of kin is willing to proceed on behalf of the estate.

**5. NEXT CASE MANAGEMENT CONFERENCE**

The next Case Management Conference is scheduled for December 14, 2023 at 9:00 A.M. via zoom with a link to be provided by the Court. The liaison counsel meeting is scheduled for December 7, 2023 at 9:00 A.M. via zoom with a link to be provided by the Court.

*ISI Bruce J. Kaplan*  
HONORABLE BRUCE J. KAPLAN, J.S.C

Service of this Order shall be deemed effectuated upon all parties upon its upload to eCourts. If applicable, pursuant to R. 1:5-1(a), movant shall serve a copy of this Order on all parties not served electronically within seven (7) days of the entry of the Order.

ORDER SUBMITTED UNDER 5 DAY RULE ON November 3, 2023 AND WITH NO OPPOSITION BEING FILED.