

**FILED**

FEB 20 2020

Judge James F. Hyland

IN RE: ZOSTAVAX® LITIGATION

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MIDDLESEX COUNTY

CASE NO. 629

**CASE MANAGEMENT ORDER #8  
FEBRUARY 4, 2020  
CASE MANAGEMENT CONFERENCE**

THIS MATTER, having come before the Court at a case management conference on February 4, 2020 and counsel for Plaintiffs and counsel for Defendants having been present, and for good cause having been shown;

IT IS on this 20 day of February 2020, ORDERED as follows:

**1. COURT SUBMISSIONS**

- All parties shall submit original pleadings to the civil records department.

**2. OUTSTANDING PLAINTIFF FACT SHEETS**

- All PFSs due on January 2<sup>nd</sup> and February 3<sup>rd</sup> 2020 shall be served with signed verifications by February 29, 2020 and be materially complete or the case will be dismissed pursuant to an Order submitted by Defendant Merck under the five day rule.

**3. BELLWETHER DISCOVERY CASE SELECTION**

- Plaintiffs shall submit their revised case selections within 10 days of the Court's decision on the pending motions and requests for dismissal of cases involving delinquent or deficient PFS and failure to provide proof of use.
- Defendants shall submit their case selections within 60 days of the Court's decision on the pending motions and requests for dismissal of cases involving delinquent or deficient PFS and failure to provide proof of use.
- Eligibility for bellwether case selection requires the following:
  - Documentary evidence concerning proof of use,

- A certified and materially complete Plaintiff Fact Sheet and
- No outstanding deficiency letter pertaining to the PFS.

**4. PROOF OF USE**

- Within 30 days of the date of this Order, Plaintiffs in all cases filed after August 23, 2019 shall provide liaison counsel for Plaintiffs ([zostavax@bernllp.com](mailto:zostavax@bernllp.com)) with documentary evidence of proof of use of Zostavax. Any cases filed after the date of this Order shall provide this same information within 30 days after the complaint is filed with the court.
- Plaintiffs' liaison counsel shall forward the documentary evidence of proof of use to defense liaison counsel within 35 days of the date of this Order and for cases filed after the date of this Order within 35 days of the date the complaint is filed.
- Proof of use is clarified to include definitive proof the plaintiff received the Zostavax vaccination, such as a medical record confirming the vaccination was provided on the date of that record or a vaccine administration record.

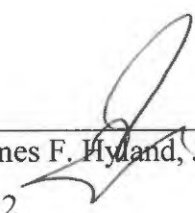
**5. PROCEDURE FOR FILING AMENDED COMPLAINTS**

- The parties will meet and confer and prepare an order concerning the specifics of the tiered process for bifurcation and filing amended complaints and an Order shall be submitted to the Court within ten days of the Court's decision on the pending motions and requests for dismissal of cases involving delinquent or deficient PFS and failure to provide proof of use.

**6. 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.

The next Case Management Conference is scheduled for April 7, 2020 at 11:00 AM in courtroom 403.

  
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James F. Hyland, J.S.C.