

FILED

August 29, 2023

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

IN RE: ZOSTAVAX® LITIGATION

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY**

MCL NO.: 629

Docket No. MID-L-4999-18

CMO NO. 34 – FIRST AMENDED

THIS MATTER having come before the Court with Consent of all Counsel, at the 8/29/2023 Case Management Conference, and for good cause having been shown, the Court hereby enters the following order:

IT IS on this 29th day of August, 2023;

ORDERED pursuant to New Jersey Rule 1:1-2, 4:38A, and 4:103-3(b) as follows:

- I. Current litigation efforts in this MCL have revealed the necessity of entering a Lone Pine Case Management Order that stays additional fact and expert discovery and requires Plaintiffs to produce specific causation expert reports. Accordingly, the Court orders the following:
 - a. On or before August 25, 2023, Plaintiffs' and Defendants' liaison counsel shall each identify two cases for bellwether trial consideration.
 - b. On or before October 31, 2023, Plaintiffs' liaison counsel shall serve specific causation expert reports in the four bellwether trial cases.

- i. At that same time, or before, Plaintiffs will provide Merck with Dr. Poznansky's availability for deposition during the weeks of November 27, 2023 and December 4, 2023.
- c. On or before December 8, 2023, Merck shall depose Plaintiffs' specific causation expert.
- d. On or before December 29, 2023, Merck shall serve any motions challenging the admissibility of Plaintiffs' specific causation expert's opinions.

II. If any parties are unable to comply with the foregoing deadlines after making reasonable efforts to do so, the party may apply to this Court for an extension of the deadlines for good cause shown; provided, however, that any request for an extension must be made in writing and submitted to the Court at least 15 days before the applicable deadline.

III. If the Court finds the specific causation opinions of Plaintiffs' expert admissible, then additional fact and expert discovery shall occur pursuant to this Court's May 6, 2022, Case Management Order: Fourth Amended Bellwether Selection and Scheduling.¹ However, if the Court does not find said opinions admissible then Merck shall refile their proposed Lone Pine order and the Court will grant it in its entirety.

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 Rule 1:5-1(a), movant shall serve a copy of this Order on all parties not served electronically within seven (7) days of the date of this order.

¹ In that event, the Court will meet and confer with the parties to discuss amending the May 6, 2022, Case Management Order: Fourth Amended Bellwether Selection and Scheduling to set new filing deadlines therein.