

FILED

May 10, 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 #31
APRIL 25, 2023
CASE MANAGEMENT CONFERENCE

THIS MATTER, having come before the Court at a Case Management Conference on April 25, 2023 and counsel for plaintiffs and counsel for defendants having been present, and for good cause having been shown;

IT IS on this 10th day of May, **ORDERED** as follows:

1. ESTATE RELATED ISSUES

- a. Plaintiffs' counsel shall provide an update as to the outcome of the May 4, 2023 probate hearing for Hector Cordova, MID-L-658-19 by May 9, 2023. If plaintiff's next of kin's application is granted at the May 4, 2023 hearing, counsel will file motions to reinstate and substitute by May 12, 2023. If the application is not granted, counsel will advise the Court no later than May 12, 2023 on what further action will be taken. If there is no meaningful update and forward motion or motion to substitute filed by May 12, 2023, the Court will render its decision on Merck's pending motion to dismiss this case at the Court's convenience.
- b. Plaintiffs' counsel shall provide a detailed explanation as to the status of the probate process for the cases listed in Exhibit A by May 18, 2023. The detailed explanation shall include meaningful responses and state the affirmative steps taken by the next of

kin to become personal representatives and substitute in as plaintiff on behalf of the estate. If documents are available to document the affirmative steps taken, they shall accompany the May 18, 2023 detailed explanation. If there is no meaningful update or motion to substitute filed by May 18, 2023, Merck's counsel may file a motion to dismiss these cases.

c. Plaintiffs' counsel shall provide a detailed explanation as to the status of the probate process for the cases listed in Exhibit B by June 20, 2023. The detailed explanation shall include meaningful responses and state the affirmative steps taken by the next of kin to become personal representatives and substitute in as plaintiff on behalf of the estate. If documents are available to document the affirmative steps taken, they shall accompany the June 20, 2023 detailed explanation. In Karl Knox, MID-L-4323-19 Plaintiff's counsel shall provide a letter from the attorney representing the plaintiff in the probate matter in Texas to explain the status of the probate process. If there is no meaningful update and forward motion or motion to substitute filed by June 20, 2023, the Court reserves the right to dismiss these cases on motion made during the June 2023 Case Management Conference without the need for a separate motion.

d. The following language which shall be included in the attorney certification of motions filed pursuant to R. 4:34-1, or the motion will be denied:

“To the best of the undersigned counsel's knowledge, _____ (*insert the representative's name*) has the authority to serve and was designated as the authorized representative of plaintiff's estate, and has authorized the undersigned counsel for the plaintiff to substitute him/her as plaintiff and proceed with this action on behalf of the estate.”

2. NEXT CASE MANAGEMENT CONFERENCE

The next Case Management Conference is scheduled for May 9, 2023 at 9:00 A.M. via zoom with a link provided by the Court with an agenda to include: (1) summary judgment motion process for Group A (shingles only) cases, (2) lone pine order and (3) discovery for Group B (non-shingles) cases. There will be no liaison counsel meeting before the May 9, 2023 Case Management Conference.

/s/ 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.

Please see attached Exhibits A & B.

EXHIBIT A to CMO #31

Docket No.	Plaintiff
MID-L-007857-18	Chambers, Genell
MID-L-007936-18	Wilkinson, Joseph
MID-L-003232-19	Leach, Leon
MID-L-004757-20	Schmitt, Willis
MID-L-005530-20	Keith, Ernest

EXHIBIT B to CMO #31

Docket No.	Plaintiff
MID-L-003830-19	Beachy, Dale
MID-L-004323-19	Knox, Karl
MID-L-003570-20	Beemer, Cathy
MID-L-004099-20	Harris, Mable
MID-L-004805-20	Fratta, Louis
MID-L-006088-20	Shaver, Raymond