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**FILED**

**JUN 14 2019**

Judge James F. Hyland

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and Merck Sharp & Dohme Corp.*

IN RE ZOSTAVAX LITIGATION

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MIDDLESEX COUNTY

MCL NO. 629

**AMENDED ORDER GRANTING  
DEFENDANTS' MOTION TO  
DISMISS THE COMPLAINT**

**AND NOW**, upon consideration of defendants Merck & Co., Inc. and Merck Sharp & Dohme Corp.'s motion to dismiss certain claims as subsumed under the New Jersey Product Liability Act, and any response thereto,

It is hereby ordered on this 14<sup>th</sup> day of June, 2019

**ORDERED** that the defendants' Motion to Dismiss the Complaint is hereby **GRANTED** for the reasons stated on the record on the date hereof; and

**IT IS FURTHER ORDERED** that Count I (negligence), Count II (products liability – defective design), Count III (products liability – manufacturing defect), Count IV (products liability – failure to warn), Count VI (breach of implied warranty), Count VII (fraudulent misrepresentation), Count VIII (fraudulent concealment), Count IX (negligent misrepresentation), Count X (unjust enrichment), Count XII (violation of consumer protection laws) and Count XIII (loss of consortium) are **DISMISSED WITHOUT PREJUDICE**; and

**IT IS FURTHER ORDERED** that Plaintiffs may file a motion to amend their Complaint pursuant to R. 4:9-1 within thirty (30) days of the date hereof; and

**IT IS FURTHER ORDERED** that a copy of this Order shall be served on all parties within seven (7) days of the date hereof.

  
HON. JAMES F. HYLAND, J.S.C.