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and Merck Sharp & Dohme Corp.*

MICHAEL GRANDISON,

Plaintiff,

v.

MERCK & CO., INC., MERCK SHARP &
DOHME CORP., and McKESSON CORP.,

Defendants.

FILED
OCTOBER 8 , 2021
HON. BRUCE J. KAPLAN, J.S.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

MCL NO.: 629

DOCKET NO.: MID-L-000877-19

ORDER

WHEREAS, Defendants, Merck & Co., Inc., and Merck Sharp & Dohme, Corp., by and through its counsel, Fox Rothschild, LLP, moves the Court for an Order dismissing Plaintiff's case without prejudice pursuant to R. 4:23-5(a)(1), and for failure to comply with the Court's August 6, 2021 Court Order, and the Court having considered the moving papers, papers in opposition and reply, and for the reasons stated in the statement of reasons, and for good cause shown,

IT IS ON this 8th day October 2021, hereby:

ORDERED that Defendants' Motion is **GRANTED**; and it is further

ORDERED that Plaintiff's case be and is hereby **DISMISSED** without prejudice in accordance with R. 4:23-5(a)(1); and it is further

ORDERED that this Order shall be deemed served upon its filing to eCourts. Movant shall serve all parties not electronically served within seven (7) days of the date of this Order in accordance with R. 1:5-1(a).

/s/ Bruce J. Kaplan

HONORABLE BRUCE J. KAPLAN, J.S.C.

OPPOSED

SEE ATTACHED STATEMENT OF REASONS

STATEMENT OF REASONS

This matter comes before the Court by way of Merck & Co., Inc., and Merck Sharp & Dohme Corp Motion to Dismiss Plaintiff's Complaint without prejudice in accordance with R. 4:23-5(a)(1). This motion follows an order entered by the Court on August 6, 2021 which compelled the correction of deficiencies in the Plaintiff's Plaintiff Fact Sheet (PFS). As it pertains to Mr. Grandison, the deficiency as noted in exhibit B of the motion to compel is the failure to provide a death certificate and documentation which demonstrates the Plaintiff's wife has legal capacity to act on the deceased Plaintiff's behalf. It is not in dispute that a PFS was previously served on July 29, 2021.

In the Plaintiff's Opposition to the Motion to Compel, additional time was requested to cure the deficiencies present in the PFS. By way of an Order of August 6, 2021, the Court provided this Plaintiff with an additional 20 days to cure the present deficiencies. As these deficiencies have not been cured, this Motion follows.

In opposition, Plaintiffs again request additional time. In support, Plaintiff's Counsel notes their efforts to communicate with the Plaintiff's Next of Kin (NOK). Based upon the communication provided, the last contact was by way of telephone call on July 21, 2021, but despite continued efforts since, the NOK is still unresponsive. The Court notes that Counsel's attempts include; email, phone calls, and letters via regular mail. The Court is also satisfied that based upon the Certification provided, that the NOK are aware of the outstanding discovery deficiencies and the need to provide documentation to correct same issues. Despite that knowledge, the NOK is simply unresponsive and non-communicative.

If Plaintiff's Counsel had just made contact with the NOK and/or represented to the Court that estate documents were being dealt with and prepared, the Court would certainly grant more time. However, that is not the case in the matter presently before the Court. Counsel has been in contact with the NOK. The NOK were advised of the deficiencies and the need to cure same. And despite that knowledge the NOK appears uninterested in pursuing their case.

Accordingly, the present matter before the Court is dismissed without prejudice. Pursuant to R. 4:23-5(a)(2), Defendants may file a Motion to Dismiss with prejudice following the passage of the required sixty (60) day period. To the extent that Plaintiffs communicate with, and provide to Counsel the required material to cure the current PFS deficiencies, a Motion to Reinstate may be filed.