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and Merck Sharp & Dohme LLC*

FILED

November 18, 2022

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

RUDOLPH PENALBER,

Plaintiff,

v.

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

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MIDDLESEX COUNTY

MCL NO.: 629

DOCKET NO.: MID-L-003748-20

**ORDER**

**THIS MATTER** having been brought before the Court upon motion by Fox Rothschild LLP, attorney for Defendants, Merck & Co., Inc., and Merck Sharp & Dohme Corp., for an Order to Dismiss the Plaintiff's complaint without prejudice pursuant to R. 4:23-2(b)(3), for failure to effectuate the probate process to appoint a formal estate representative and substitute the estate, and the Court having read and considered the papers submitted in this matter, and for good cause having been shown;

**IT IS** on this 18th day of November, 2022:

**ORDERED** that Defendants' Motion to Dismiss without prejudice **is hereby GRANTED;**  
and it is further

**ORDERED** that should Plaintiff fail to effectuate the probate process to appoint a formal estate representative and substitute the estate within sixty (60) days of this Order, then a motion to dismiss with prejudice may be filed; and it is further

**ORDERED** that service of this Order shall be deemed effectuated upon all parties upon its upload to eCourts. 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.

*/s/ Bruce J. Kaplan*  
HONORABLE BRUCE J. KAPLAN, J.S.C.

**UNOPPOSED**

Having reviewed the above motion, the Court finds it to be meritorious on its face and is unopposed. Pursuant to R. 1:6-2, it therefore will be granted in part essentially for the reasons set forth in the moving papers.