

FILED**SEPTEMBER 8 , 2021****IN RE: ZOSTAVAX LITIGATION****HON. BRUCE J. KAPLAN, J.S.C.****SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY**

MCL NO. 629

**AMENDED CASE MANAGEMENT
ORDER: PLAINTIFF FACT SHEETS**

THIS MATTER having come before the Court by way of 5 Day Order filed on July 21, 2021, and the Court having discussed the matter with counsel at the August 26, 2021 Case Management Conference No. 19, and for good cause having been shown,

IT IS on this 8th day of September, 2021

ORDERED as follows:

I. SCOPE OF ORDER

This Case Management Order (“CMO”) amends paragraphs II D of the Case Management Order: Plaintiff Fact Sheets (“CMO: PFS”) dated June 12, 2019 as set forth below.

II. PLAINTIFF FACT SHEETS (PFS)

Failure to Serve PFS

If a plaintiff fails to produce a verified PFS by the Court-ordered deadline, or if a plaintiff serves an egregiously deficient PFS evincing that they have not attempted to comply in good faith with their discovery obligations, counsel for Merck shall notify Plaintiffs’ Liaison Counsel, and counsel for that plaintiff, in writing of the failure to produce the PFS within the deadline. The notice letter will state that the failure to produce a PFS within fourteen (14) days of the date of the notice letter will result in Merck filing a Motion to Dismiss (MTD) plaintiff’s case without prejudice. Plaintiff shall have 14 days to oppose the MTD without prejudice and/or provide a fully responsive and certified PFS. The MTD without prejudice shall be returnable at the next Case Management Conference following the opposition deadline or as otherwise set by the Court.

If the case is dismissed without prejudice pursuant to this Order and is not reinstated within sixty (60) days of that Order, any motion to dismiss with prejudice filed shall be in accordance with R. 4:23-5(a)(2) and shall comply with the notice requirements and procedures set forth in Case Management Order No. 19 (“CMO 19”) *and*, in the case of omnibus motions, Order dated July 27, 2021 permitting and explaining the filing of omnibus motions. Counsel for both the Plaintiff and Defendant shall advise whether oral argument is requested or waived.

/s/ Bruce J. Kaplan

Hon. Bruce J. Kaplan, J.S.C.

The posting of this Order on eCourts shall constitute service upon all counsel of record. If applicable, pursuant to *Rule* 1:5-1(a), the movant shall serve a copy of this Order upon all parties not served electronically within seven (7) days of receipt of this Order.