

FILED

JUNE 3 , 2021

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

Eileen Oakes Muskett
Attorney ID 020731994
FOX ROTHSCHILD LLP
Midtown Building, 4th floor
1301 Atlantic Avenue
Atlantic City, New Jersey 08401
Telephone: 609-572-2355
Attorneys for Defendant, Merck Sharp & Dohme Corp.

TAKAKO CROSS,

Plaintiff

vs.

MERCK SHARP & DOHME CORP., et al

Defendants

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

In re ZOSTAVAX MCL Code 629

DOCKET NO. MID-L-3450-20

**ORDER GRANTING MOTION FOR
ISSUANCE OF COMMISSION AND
LETTERS ROGATORY PURSUANT TO
R. 4:11-5 ON SHORT NOTICE**

THIS MATTER having been brought before the Court by way of motion filed by Fox Rothschild LLP, attorneys for Defendant, Merck Sharp & Dohme Corp. for an Order issuing Letters Rogatory to serve a Subpoena on James Bowden, who is located outside of the State of New Jersey, pursuant to New Jersey Rule of Court 4:11-5; and the Court having considered the papers submitted in support hereof and any opposition; and for good cause shown,

IT IS on this 3rd day of June 2021, **ORDERED THAT:**

1. Defendant's Motion for Issuance of Commission and Letters Rogatory Pursuant to R. 4:11-5 is hereby **GRANTED**;
2. A Commission and Letters Rogatory in the form annexed hereto as Exhibit A shall immediately issue for the service of a subpoena on James Bowden.
3. A Commission in the form attached hereto is hereby granted and shall issue empowering an attorney-at-law, notary public, or other person authorized to issue oaths in the State

of Texas to do all things necessary and required in furtherance of compliance with this Order, including applying to the appropriate judicial authority of the State of Texas, for the issuance of a subpoena compelling James Bowden to appear for a remote deposition via remotes means, within ten (10) days after the date of the subpoena is served.

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 days of the date of this Order.

/s/ Bruce J. Kaplan

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

UNOPPOSED

The Court finds that Defendant has complied with Rule 4:11-5, as well as Tex. R. Civ. P. 201.2, which requires and out-of-state party that is requesting the subpoena against a Texas citizen to first seek permission from the out-of-state court by obtaining a mandate, writ, or commission. Defendant certifies that that Plaintiff consents to entry of this Order.

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

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**ORDER FOR ISSUANCE OF A
COMMISSION TO JAMES BOWDEN**

**COMMISSION FOR
JAMES BOWDEN**

STATE OF NEW JERSEY)

) ss.

COUNTY OF MIDDLESEX)

To: ANY ATTORNEY AT LAW, NOTARY PUBLIC, OR ANY OTHER PERSON AUTHORIZED TO ADMINISTER OATHS UNDER THE LAWS OF THE STATE OF TEXAS

You have been appointed and are hereby authorized and empowered, in accordance with the attached Order Granting Commission dated June 3, 2021, entered by Judge Bruce J. Kaplan of the Middlesex County Law Division of the State of New Jersey in the above-referenced action (the "Order"), to do all things necessary and required in furtherance of compliance with the attached Order, including applying to the appropriate judicial authority of the State of Texas, for the issuance of a subpoena compelling James Bowden, 161 Nesting Cyn, San Antonio, TX 78253 to appear for deposition via remotes means, within ten (10) days after the date the subpoena is served.

15/ Bruce J. Kaplan

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

Dated: __June 3, 2021

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The State of New Jersey, United States of America, to the appropriate judicial authority in the state of Texas:

WHEREAS, there is an action pending in the Superior Court of New Jersey, Middlesex County, Law Division, entitled above, and this Court is of the opinion that complete justice in the action cannot be done without the testimony of James Bowden, located within your jurisdiction, who has material relevant knowledge about the acts and/or admissions which form the allegations of the Complaint and other pleadings in the above-captioned matter, it is respectfully request that, in the interest of justice, you issue a Subpoena, in a form consistent with the rules of civil procedure and substantially similar in scope to the attached subpoena, to the non-party witness below to appear for deposition via remote means.

James Bowden
161 Nesting Cyn, San Antonio,
Texas 78253

This Court is ready and willing to do the same for you in a similar case when required.

WITNESS, the Honorable Bruce J. Kaplan, J.S.C., Judge of the Superior Court of New Jersey, this 3rd day of June 2021.

/s/ Bruce J. Kaplan

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

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PROOF OF FILING AND SERVICE

I, Colleen O'Shea, hereby certify as follows:

1. I am a Legal Administrative Assistant with Fox Rothschild, LLP attorneys for Defendant, Merck Sharp & Dohme Corp.
2. On May 24, 2021, I filed, via eCourts, the foregoing documents to Middlesex County Superior Court, Motions Clerk, 56 Paterson St. New Brunswick, New Jersey and a copy of the documents were served via eCourts to all counsel of record.
3. I certify that the foregoing statements made by me are true. I am aware that if any of the forgoing statements made by me are willfully false, I am subject to punishment.

/s/ Colleen O'Shea
Colleen O'Shea