

FILED

MAY 27 , 2021

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

Margaret Cordner Esq. (104432014)
MARC J. BERN & PARTNERS LLP
60 East 42nd Street, Suite 950
New York, New York 10165
Phone: (212) 702-5000
Facsimile: (212) 818-0164
E-mail: mcordner@bernllp.com
Attorneys for Plaintiff(s)

IN RE ZOSTAVAX LITIGATION

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – MIDDLESEX COUNTY

MCL NO.: 629

Master Docket No.: 4999-18

AMENDED ORDER TO VACATE

WHEREAS, Plaintiffs, by and through their attorneys, Marc J. Bern & Partners LLP, upon notice to all interested parties, have moved before this Court to vacate the Court’s February 13, 2020 Orders dismissing Plaintiffs’ Complaints with prejudice, and the Court having reviewed the moving papers, and having been advised by counsel for Merck Sharp & Dohme Corp. and Merck & Co., Inc. (“Defendant”) that Defendant does not oppose vacating the Orders dismissing the Plaintiffs referenced below, and for good cause having been shown,

IT IS on this 14 day of May, 2021,

ORDERED that the Motions to Vacate referenced in the Court’s Statement of Reasons and attached Schedule be and are hereby **GRANTED**, and it is further

ORDERED that the Plaintiffs attached to the Schedule below are hereby permitted to proceed with their cases upon plaintiffs’ counsel filing an individual Complaint under an individual docket number in accordance with Case Management Order 8 and Order dated March 17, 2020 and serving same within fourteen (14) days of the date of this Order; and it is further

ORDERED that the Court will mark the Plaintiffs subject to this Order as “disposed” from the dockets in which these Motions to Vacate were filed; and it is further

ORDERED that a copy of this Order shall be deemed 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).

UNOPPOSED

SEE STATEMENT OF REASONS ATTACHED

Statement of Reasons

This matter comes before the Court by way of Plaintiffs' Motion to Vacate dismissal of numerous Plaintiffs' Complaints. See Attached Schedule. These Complaints were dismissed by the Court on February 13, 2020 with prejudice for plaintiffs' counsel's failure to comply with numerous Court Orders and deadlines upon which plaintiffs' counsel were to provide defense counsel and the Court with sufficiently complete Plaintiff Fact Sheets ("PFS") and/or proof of Product Usage. After a lengthy meet and confer process and numerous conferences with the Court, defense counsel has advised the Court and plaintiffs' counsel that Defendants will not oppose vacating the dismissal of the Complaints in the dockets referenced in the Schedule attached to this Order.

While it is the Court's intent to **GRANT** Plaintiffs' Motions to Vacate, the Court notes that the Motions subject to this Order were filed under "master dockets". Pursuant to Case Management Order 8 and Order dated March 17, 2020, an individual Complaint must be filed for each Plaintiff. With the exception of the three (3) cases noted below, none of the Plaintiffs subject to this Order have individual Complaints filed.

Accordingly, to ensure compliance with this Court's previous Orders, plaintiffs' counsel may file individual Complaints, under individual docket numbers, for the Plaintiffs whom the Court is vacating dismissal for today within fourteen (14) days of the date hereof. See Schedule; plaintiffs' counsel must also serve same within fourteen (14) days of the date of this Order. The Plaintiffs subject to this Order may thereafter proceed with their cases utilizing their respective docket numbers and will be marked as "disposed" by the Court under the dockets referenced in the attached Schedule.

As it relates to Plaintiffs Gwendall Jenkins, Hazel Tommerline, and James Miller, (all referenced below) Plaintiffs' counsel filed Motions to Vacate under master dockets when these three (3) Plaintiffs have their own individual docket. Accordingly, the Court will be "disposing" of these Plaintiffs from the dockets in which these Motions were filed, and their cases may proceed under their individual dockets without further action from Plaintiffs' counsel.

Schedule

- Norman Rose (Motion filed under 3015-18)
- Lloyd Hanson (Motion filed under 3827-18)
- Terry Kirkpatrick (Motion filed under 3827-18)
- Judith Hayes (Motion filed under 3374-18)
- Joyce Duda (Motion filed under 4575-18)
- Carl Johnson (Motion filed under 4575-18)
- Gene Lansberry (Motion filed under 4575-18)
- Joseph Monroe (Motion filed under 4575-18)
- Carole Vanderlee (Motion filed under 4575-18)

- Robert Moore (Motion filed 4575-18)
- Phyllis Wiker (Motion filed under 4575-18)
- Debra Sherard (Motion filed under 4177-17)
- **Ronald Crabtree** (Motion filed under 4929-17)
- **Gwendall Jenkins (Motion filed under 728-18) Plaintiff has individual docket (4206-20). Plaintiff will be disposed from 728-18 and may proceed under individual docket without any further action from counsel.**
- **Hazel Tommerline (Motion filed under 6270-17) Plaintiff has individual docket (3553-20). Plaintiff will be disposed from 6270-17 and may proceed under individual docket without any further action from counsel.**
- **James Miller (Motion filed under 7635-17) Plaintiff has individual docket (3742-20). Plaintiff will be disposed from 7635-17 and may proceed under individual docket without any further action from counsel.**