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FILED

JAN 26 2012

Carol E. Higbee, P.J.Cv.

JO ANN SESSNER,

Plaintiff

vs.

MERCK SHARP & DOHME CORP.,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ATLANTIC COUNTY

FOSAMAX LITIGATION Case No. 282

DOCKET NO.: ATL-L-3394-11-MT

AMELIA FLORES,

Plaintiff

vs.

MERCK SHARP & DOHME CORP.,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ATLANTIC COUNTY

FOSAMAX LITIGATION Case No. 282

DOCKET NO.: ATL-L-0744-09-MT

CASE MANAGEMENT ORDER

THIS MATTER having come before the Court for a case management conference on January 18, 2012 and the parties having consented to the form and entry of this Order and for good cause shown,

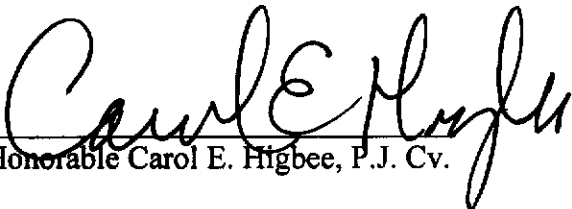
IT IS on this *26* day of January, 2012 **ORDERED** as follows:

1. The matters of *Jo Ann Sessner v. Merck Sharp & Dohme, Corp.*, ATL-L-3394-11 (MT) ("*Sessner*") and *Amelia Flores v. Merck Sharp & Dohme, Corp.*, ATL-L-744-09(MT) ("*Flores*") shall proceed to trial on February 27, 2012 with jury selection on February 29, 2012 and opening statements on March 1, 2012.

2. A Jury Questionnaire developed through consultation between defense and plaintiff's counsel shall be jointly filed on February 17, 2012. Should the parties be unable to agree upon all questions, the disputed questions should be submitted to the Court for determination by February 10, 2012 as to whether those questions will be included in the final Questionnaire. The parties shall jointly agree and pay for a service to copy the final Questionnaire to insure there are sufficient copies for distribution to the jury pool and for duplication of completed Questionnaires for distribution among counsel.
3. The parties shall exchange and submit to the Court an exhibit list in an Excel worksheet format by February 22, 2012. The exhibit list shall include a separate section listing all articles or learned treatises that each respective party expects to use at trial. The parties shall exchange a hard drive of exhibits on or before February 24, 2012.
4. A Witness List shall be exchanged and submitted to the Court on February 10, 2012. The Witness List shall specify whether each witness will appear by video or in person.
5. The parties have agreed to the following stipulations with respect to the *Sessner* and *Flores* trial.
 - The parties will not require any witnesses to appear in Court for the *Kemp* hearings.
 - By 9:00 A.M. each day, the parties shall provide notice to their adversary of the witnesses they intend to call the next trial day. For witnesses to be called on Monday, the notice shall be provided by 4:00 P.M. on the preceding Friday.
 - Demonstratives shall be exchanged between the parties by 7:30 A.M. the day of opening statements and closing arguments. Demonstratives to be used with individual witnesses will be exchanged no later than 9:00 P.M. the day before the witness will be called to testify. Demonstratives shall be exchanged in their original format to permit complete review, such as with animation.
 - The parties will submit a joint exhibit list, due February 22, 2012 with the primary exhibit lists for each party that will contain exhibits that the parties can agree to the admissibility of prior to trial, including but not limited to a joint set of medical records.
 - The parties shall designate page and line deposition testimony to be presented to the jury. Initial designations shall be served between the parties by February 6, 2012, objections and counter-designations shall be exchanged between the parties by February 13, 2012 and further

designations and objections shall be exchanged between the parties by February 20, 2012.

- Plaintiff and defendant will be permitted six peremptory challenges each. Counsel for *Flores* and *Sessner* must split the six peremptory challenges assigned to plaintiffs. The order of exercising peremptory challenges shall be the plaintiff first, then to defendant. The plaintiffs shall alternate between counsel for *Flores* and *Sessner* when it is their turn to exercise a peremptory challenge.
- Opening arguments are limited to two hours in length for defense and plaintiffs. Counsel for *Flores* and *Sessner* shall work together to determine how that total two hour period is split between plaintiffs.
- Plaintiffs are allotted forty hours to present their evidence exclusive of openings and closings. Defendant is allotted thirty-five hours to present their evidence exclusive of openings and closings. Plaintiffs *Sessner* and *Flores* must split the total forty hours designated.


The Honorable Carol E. Higbee, P.J. Cv.