

IN RE: FOSAMAX® LITIGATION

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MIDDLESEX COUNTY

CASE NO. 282

**CASE MANAGEMENT ORDER:  
SEPTEMBER 14, 2017  
CASE MANAGEMENT CONFERENCE**

THIS MATTER, having come before the Court at a case management conference on September 14, 2017, and counsel for Plaintiffs and counsel for Defendants having been present, and for good cause having been shown;

**FILED**

OCT 05 2017

IT IS on this 5 day of October 2017, ORDERED as follows:

Judge James F. Hyland

**1. Pro Hac Vice Admissions:** The Court stated that for purposes of this Case Management Conference only, that Pro Hac Vice requirements were waived. Counsel were advised that out of state attorneys must obtain Pro Hac admission and remain compliant with all admission requirements. Counsel may check the Court's website to determine if they are admitted and their compliance status.

**2. Plaintiff Profile Forms:** All outstanding Plaintiff Profile Forms and authorizations must be produced to Defendants by November 1, 2017, Defendants shall provide a list of the outstanding, missing and deficient Plaintiff Profile Forms, as well as missing and deficient authorizations to Plaintiffs' counsel as soon as possible.

**3. Core Discovery:** Merck may continue to conduct limited core discovery in those 25 cases that Merck previously selected for work-up. Merck will provide Plaintiffs with a list of up to 25 additional cases for limited core discovery going forward at this time.

The Court also ordered as follows with respect to the core discovery efforts:

- a. Depositions already scheduled will proceed as scheduled. Merck is permitted to take the depositions of the prescribing physician and treating surgeon in all cases where those physician depositions have already been scheduled, even if the Plaintiff is not deposed near where they live.
- b. If a Plaintiff appears for his or her deposition in New Jersey, the Plaintiff's physicians in that case will not be deposed at this time, unless the physicians are located in New Jersey.
- c. In the newly identified 25 cases and those previously identified cases in which depositions have not yet been scheduled, if a Plaintiff outside of New Jersey appears for his or her deposition near where they live, the depositions of Plaintiff and Plaintiff's physicians will be scheduled and taken at a time that is convenient for Plaintiff and the physicians such that the depositions can be completed on the same trip and preferably on consecutive days. If the physicians' depositions cannot be taken during the same trip they will not be taken at this time and their scheduling will be addressed in a future case management order.

**4. ONJ MCL:** The parties are to provide the Court with an update on the status of the ONJ MCL litigation on or before the next Case Management conference.

The Court advised there are 18 active cases on the docket, seven were non-participants in the Master Settlement Agreement and 11 have generic parties.

The ONJ Defendants shall provide Plaintiffs with a list of the ONJ cases that they claim are still active. The parties shall meet and confer by September 20, 2017 regarding the pending ONJ cases and then report back to the court as to the final list of ONJ cases on or before the next case management conference.

**5. Master Discovery:** The parties shall meet and confer regarding additional depositions of Merck representatives and additional general discovery that Plaintiffs say that they need from Merck.

**6.** The next Case Management Conference is tentatively set for November 14, 2017, at 10:00 a.m. EST.

  
James F. Hyland, J.S.C.