

HON. BRUCE J. KAPLAN, P.J.Cv.

IN RE: FOSAMAX LITIGATION

*This document applies to all cases.*

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
MIDDLESEX COUNTY

DOCKET NO.: DOCKET NO.: MID-L-9598-14

FOSAMAX LITIGATION  
CASE NO. 282

## ORDER AIDING PRIVATE SETTLEMENT

In order for this Court and the MDL Court (MDL 282) to cooperatively manage this litigation and to assist the Parties to effectuate the provisions of the Private Confidential Master Settlement Agreement (“the Master Settlement Agreement”) entered into between the Settlement Oversight Committee, comprised of: Michael Rosenberg, Esq. of Seeger Weiss LLP; Ellen Relkin Esq. of Weitz & Luxenberg P.C.; Thomas Anapol, Esq. of Anapol Weiss; Brandon Bogle, Esq. of Levin Papantonio and Daniel Thornburgh of Aylstock, Witkin, Kreis & Overholtz PLLC (the “SOC”), and Defendants Merck & Co., Inc, Merck Sharp & Dohme, LLC, Organon & Co., and Organon LLC (collectively, “Merck”), and as requested by the SOC, and with Merck taking no position regarding this proposed order and deferring to the Court’s discretion regarding entry of the order,

IT IS HEREBY ORDERED AND DECREED THAT:

This Matter having been designated on October 1, 2008 for Multicounty Litigation Status ("MCL") of *In Re: Fosamax Litigation* Case No. 282, in Atlantic County and subsequently reassigned to Middlesex County on October 31, 2014, and later assigned to the Honorable Bruce J. Kaplan , P.J.Cv. ., and a Multi-District Litigation ("MDL") pending before the Karen Williams, USDJ, *In Re: Fosamax Litigation* MDL 2243, the New Jersey Multi-County Litigation Plaintiffs'

Settlement Oversight Committee [SOC], (on behalf of itself and the MDL Plaintiffs' Steering Committee [PSC]) and Merck, have entered into a Master Settlement Agreement reflecting a private settlement of Fosamax product liability claims. The Court, pursuant to its inherent authority and cognizant of the important public policy of encouraging settlement among litigating parties, hereby issues the following Order:

1. **Appointment of Claims/Lien Administrator, Mediator and Special Facilitator**

∴ As requested by the SOC, the Court hereby appoints the following individuals as Claims/Lien Administrator, Mediator, and Special Facilitator to perform the duties detailed below:

- A. Claims/Lien Administrator - Edward C Gentle III, Esq., Gentle, Turner & Benson LLC, 501 Riverchase Parkway E., Suite 100 Hoover, AL 35244, (referred to in the Master Settlement Agreement as the “Settlement Administrator”). Email address: ClaimsAdministrator@FosamaxSettlement.com
- B. Mediator - Hon. Diane M. Welsh (ret.), JAMS, 1717 Arch Street, Suite 3810, Philadelphia, PA 19103.
- C. Special Facilitator - Hon. Marina Corodemus, (Ret.), Corodemus & Corodemus, 33 Wood Ave. South, Suite 600, Iselin, NJ 08830.

The duties of Claims/Lien Administrator Gentle are to, in accordance with Aggregate Settlement ethical requirements and the terms of the Master Settlement Agreement, facilitate the implementation of the Confidential Master Settlement Agreement and any procedures established by the SOC in administering this Private Master Settlement Agreement. Those duties include, but are not limited to, creating an objective, neutral settlement matrix establishing criteria that represent a fair and equitable distribution of the settlement proceeds, supervising and administering

the private settlement program in coordination with the Settlement Oversight Committee, including reviewing documentary submissions of medical and pharmaceutical records of the Plaintiffs, issuing award notices based upon an objective review of the materials submitted, performing Lien Resolution, and liaising with the Escrow Agent, Huntington National Bank, as well as issuing payments to the respective Plaintiffs' counsel for distribution to their clients. Merck shall have no obligation or responsibility to pay any portion of the fees and costs of the Claims/Lien Administrator, and no responsibility or liability to anyone related to the Claims/Lien Administrator's work.

Mediator Welsh shall be assigned to mediate between Merck and any non-participating Claimants who satisfy the requirements of any Docket Control Order imposed by the Court, with each side to bear one-half of the fees and costs of mediation, as set forth in the Confidential Master Settlement Agreement.

Hon. Marina Corodemus (Ret.) shall be appointed to serve as Special Facilitator. The purpose of this order is to provide notice to all parties and their counsel of the availability of Special Facilitator Corodemus to assist in the informed consent process and to be available to answer questions of Plaintiffs, in consultation with the Settlement Oversight Committee, regarding the terms and conditions of the settlement program. Merck shall have no responsibility or liability to anyone with respect to Special Facilitator Corodemus's work and no obligation to pay the fees and costs associated with retaining Special Facilitator Corodemus.

2. **Establishment of the Fosamax Qualified Settlement Fund:** The Court approves and hereby establishes the Fosamax Qualified Settlement Fund. The Court also determines that the escrow accounts and sub – funds established pursuant to the Master Settlement Agreement and related escrow agreement are Qualified Settlement Funds within the meaning of Treasury

Regulation Section 1.468B –1. The Claims Administrator is granted authority to conduct any and all activities necessary to administer the Qualified Settlement Fund consistent with the final Master Settlement Agreement, and any further orders of the Court.

3. **Ex Parte Communications:** The Claims/Lien Administrator, Mediator, and Special Facilitator may have *ex parte* communications with each other, the SOC, the parties, the plaintiffs or their representatives and counsel or the Court, when necessary for the full and fair implementation of this Order and the Confidential Master Settlement Agreement without violating any attorney – client privileges.

4. **Determinations Under the Master Settlement Agreement:** Pursuant to the terms of the Confidential Master Settlement Agreement and the consent of all Plaintiffs who enroll under the resolution process created by the settlement program, all determinations and awards with respect to the claims processed under the settlement program by the Claims/Lien Administrator shall be in writing and, as agreed by the parties, shall be made with the authority and effect of an arbitrator making decisions that are binding on the settlement program and are limited to the review procedures set forth by the Claims Administrator and are not subject to judicial review.

5. **Compensation:** The Mediator shall be compensated privately as set forth in the Master Settlement Agreement. The Claims/Lien Administrator and Special Facilitator shall be compensated privately pursuant to agreements between them and the SOC, and Merck shall have no obligation regarding or involvement in their work or compensation.

6. **Reports To The Court:** The Claims/Lien Administrator and or Special Facilitator shall provide annual reports to the Court, reporting on the general status of the settlement program or any other matter the Court deems necessary and appropriate.

7. **Stay of litigation:** Discovery in this litigation shall be stayed until December 31, 2025, unless otherwise ordered or agreed.

8. **Identification of Counsel:** All counsel for any Fosamax cases in which Certifications were filed in compliance with the Feb. 10, 2025 Amended Case Management Order of Case Management Conference on January 28, 2025, shall, by no later than August 31, 2025, (i) identify to the SOC at the following email address—ClaimsAdministrator@FosamaxSettlement.com—all Interested Counsel who have a fee interest in each filed and certified case and (ii) designate the Primary Law Firm and contacts, and the identity of the Principal Responsible Attorney for each filed case and provide complete email and mailing address and phone number of all Interested Counsel for each filed and Certified case.

9. **Relationship of this Order to the Master Settlement Agreement:** Nothing in this Order is intended to or shall modify or change the terms of the Master Settlement Agreement.

Dated: August 13, 2025

/s/ Bruce J. Kaplan  
Hon. Bruce J. Kaplan, P.J.Cv.

A copy this order will be posted on the judiciary website.