

FILED

JUL 01 2019

Judge James F. Hyland

By the Court:

IN RE ZOSTAVAX LITIGATION

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY

MCL No. 629

**SECOND AMENDED
ORDER GRANTING
DEFENDANT, MCKESSON
CORPORATION'S MOTION
TO DISMISS THE
COMPLAINT**

IT IS, on this 1st day of July , 2019,

ORDERED that this Court's Order dated June 10, 2019 Granting Defendant, McKesson Corporation's Motion to dismiss the Complaint and this Court's Amended Order dated June 14, 2019 Granting Defendant, McKesson Corporation's Motion to Dismiss the Complaint are hereby **VACATED**; and


IT IS FURTHER ORDERED, that Defendant, McKesson Corporation's Motion to Dismiss the Complaint is hereby **PARTIALLY GRANTED** for the reasons stated on the record on June 10, 2019; and

IT IS FURTHER ORDERED that, Count II (products liability – defective design), Count III (products liability – manufacturing defect), Count IV (products liability – failure to warn), Count VI (breach of implied warranty), Count X (unjust enrichment), and Count XIII (loss of consortium) of Plaintiffs' Master Long Form Complaint and Jury Demand Filed by the Law Firm of Marc J. Bern & Partners LLP be and hereby **DISMISSED WITHOUT PREJUDICE**; and

IT IS FURTHER ORDERED that Count I (negligence), Count V (breach of express warranty), Count VII (fraudulent misrepresentation), Count VIII (fraudulent concealment), Count IX (negligent misrepresentation) and Count XII (violation of consumer protection laws) are upheld as properly plead such that dismissal of these claims is hereby **DENIED**; and

IT IS FURTHER ORDERED that Plaintiffs may file a motion to amend their Complaint pursuant to R. 4:9-1 within sixty (60) days of the date hereof; and

IT IS FURTHER ORDERED, that a true copy of this order shall be served on all counsel of record within seven (7) days of receipt by counsel for Defendant McKesson Corporation.



HON. JAMES F. HYLAND, J.S.C.