

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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DOC #:
DATE FILED: 12/08/2011

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IN RE: FOSAMAX PRODUCTS LIABILITY :
LITIGATION :
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MDL NO. 1789
1:06-md-1789 (JFK)

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This Document Relates to: :
ALL ACTIONS :
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**ORDER AMENDING PARAGRAPH 2.a of
CASE MANAGEMENT ORDER NO. 17 (amended)**

This Court, at the request of the Plaintiffs Steering Committee, and without opposition from Defendant Merck, hereby amends paragraph 2.a of CMO 17 (amended) to more clearly reflect that the Plaintiffs' Lead Counsel is the sole party designated to negotiate the terms of and enter into a contract with the Court-appointed escrow agent, Hancock Bank. Accordingly, paragraph 2.a of CMO 17 (amended) is replaced with the following language:

2. Plaintiffs' Litigation Expense Fund to be Established


- a. Plaintiffs' Lead Counsel and Defendants' Lead Counsel are directed to establish an interest-bearing account to receive and disburse funds as provided in this order. Plaintiffs' Lead Counsel has nominated (without opposition from Merck) Hancock Bank as the escrow agent for purposes of this Order. This Court, accordingly, appoints Hancock Bank as the escrow agent for purposes of this Order. These funds will be held by the escrow agent as funds subject to the direction of the Court. **The escrow agent fees negotiated by Plaintiffs' Lead Counsel are payable out of the escrow account funds or, in the event the escrowed**

funds are insufficient to cover the escrow agent fees, by the PSC: Merck will bear no liability or obligation for any escrow agent fees or expenses related in any way to the Plaintiffs' Litigation Expense Fund. Further, Plaintiffs' Lead Counsel shall be the sole party designated to negotiate the terms of, and enter into a contract with, Hancock Bank as the escrow agent.

IT IS SO ORDERED.

Dated: New York, New York

December, 8, 2011.



JOHN F. KEENAN
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK