

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
IN RE: : No. 06 MD 1789 (JFK)  
FOSAMAX PRODUCTS LIABILITY LITIGATION :  
----- :  
: **AMENDED ORDER**  
This document relates to all actions. :  
----- X

**JOHN F. KEENAN, United States District Judge:**

This Order amends and supersedes the Court's prior order of November 22, 2011 appointing John D. Feerick, Esq. as Special Settlement Master in this matter in order to comply with the provisions of Rule 53(b)(2)(B) and to clarify the nature of the payment obligations under Rule 53(g)(2)(A).

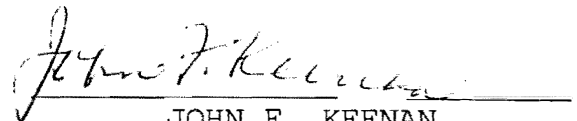
During the past year, the Court has discussed with the parties to this multidistrict litigation the possibility of appointing a special master to conduct settlement discussions of the over 900 cases in this docket. To that end, the Court proposed the names of five distinguished lawyers willing to serve as the Special Settlement Master and supplied counsel to the parties with their resumes and fee information. The parties were given several weeks to confer and have reached an agreement about the appointment of the Special Settlement Master.

With the consent of the Plaintiffs' Steering Committee and defendant Merck Sharp & Dohme Corp., the Court appoints John D. Feerick, Esq., Dean Emeritus of the Fordham University School of Law, as the Special Settlement Master. Mr. Feerick has filed his affidavit required under Rule 53(b)(3) of the Federal Rules of Civil Procedure. As Special Settlement Master, Mr. Feerick is authorized to conduct any proceedings permissible under Rule 53 that are necessary to resolve all or any part of this multidistrict litigation in a fair and efficient manner. Pursuant to Rule 53(b)(2)(B), in the role of Special Settlement

Master in this multidistrict litigation, the Court has determined that Mr. Feerick should have the authority to communicate on an *ex parte* basis with the Court as well as with counsel for the PSC and Merck on request of the parties or otherwise and to the extent that Mr. Feerick deems such communications will assist in his assignment by the Court. Pursuant to Rule 53(g)(2)(A), the PSC and Merck shall pay in equal shares the fee for Mr. Feerick's services. Mr. Feerick will schedule meetings with counsel in the near future, after he has familiarized himself with this litigation.

**SO ORDERED.**

Dated: New York, New York  
December 20, 2011

  
\_\_\_\_\_  
JOHN F. KEENAN  
United States District Judge