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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: FOSAMAX PRODUCTS LIABILITY LITIGATION	06-MD-1789-JFK
This document relates to: Judith Graves v. Merck, 06-cv-05513	**MEMORANDUM OPINION AND ORDER**

JOHN F. KEENAN, United States District Judge:

On October 29, 2010, pursuant to Case Management Order No. 18, the Court received the parties' objections to all demonstrative exhibits that counsel plan to use in their opening statements. The Court has considered the objections and the corresponding responses, and makes the following rulings, which govern only the use of the proposed demonstrative slides during opening statements.

Plaintiff's Objections

Plaintiff's objection to Defendant's slide 12, the "Dr. Adams Slide," is sustained.

Plaintiff's objections to Defendant's slides 11 and 100 are dismissed as moot, as Merck will not be presenting these slides during opening statements.

Plaintiff's objection to slide 113 is sustained.

Defendant's Objections

Defendant's objection to Plaintiff's slide 5 is overruled as to bullet points one through three, and sustained as to bullet point four.

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Defendant's objection to Plaintiff's slides 6-9 is overruled. However, the Court will give the following limiting instruction for slides 6 through 9:

> You are going to hear testimony about a document called the Mucci Report and a 1999 Journal of the American Medical Association article by Steven Cummings. The Mucci Review and Cummings Article are analyses of data from a clinical study called the Fracture Intervention Trial, or "FIT." The FIT study (which is the subject of the Mucci Review and the Cummings Article) did not study patients who were taking glucocorticoids, like Ms. Graves. The FIT study was not designed to determined Fosamax's benefits for patients suffering from glucocorticoid-induced osteoporosis.

Defendant's objection to Plaintiff's slide 15 is overruled.

Defendant's objection to Plaintiff's slide 61 is sustained.

Defendant's objection to Plaintiff's slide 27 is sustained.

Defendant's objection to Plaintiff's slide 28 is sustained as to bullet points one, three, and four, and overruled as to bullet point 2.

Defendant's objection to Plaintiff's slide 29 is sustained as to bullet points one and three, and overruled as to bullet point two.

Defendant's objection to Plaintiff's slide 50 is overruled as to bullet points one, two, three, five, and six, and sustained as to bullet point four.

Defendant's objection to Plaintiff's slide 83 is sustained.

Defendant's objection to Plaintiff's slides 109 and 110 is sustained.

SO ORDERED.

Dated: New York, New York
October 29, 2010

JOHN F. KEENAN
United States District Judge