

Summary  
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Differences exist between documents.

<b>New Document:</b> <a href="#">Third Amended Petition</a> 65 pages (542 KB) 5/5/2017 11:55:39 AM Used to display results.	<b>Old Document:</b> <a href="#">Filed Petition</a> 62 pages (546 KB) 5/5/2017 11:55:38 AM
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- Highlight** indicates a change.
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-  indicates pages were changed.
-  indicates pages were moved.

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS  
STATE OF MISSOURI

ROBERT SWANN,

and

SHERYL ALLEN,

and

BRENDA JEAN BARTLEY,

and

MARGARITA BECERRA,

and

JOYCE BENHAM,

and

MARILYN BENTLEY,

and

MICHAEL BLAES, Individually and on behalf of  
SHAWN BLAES, deceased,

and

SHELIA PERRO BOOKER,

and

CLAUDINE BRUNSON,

and

CAROLYN BURRUS,

and

LISA MARIE BUTLER,

Case Number: 1422-CC09326-01

Division: 10

**JURY TRIAL DEMANDED**

and

MARGIE CARSON,

and

MILLICENT CARTER,

and

PATRICIA CRAIG,

and

NORA DANIELS,

and

EVELYN DAVIS,

and

MARTHA DECKER,

and

CARMEN GREEN-NEWMAN,

and

BETTY GULLARD,

and

KIMBERLEY JACKSON,

and

DONNA FAYE LANE,

and

BEVERLY LINGO,

and

VERTENIA LINICOMN,

and

GLENDA LONG,

and

DIMITY LOWELL,

and

SANDRA MATTHEWS,

and

BRIDGETT LATRICE MAXWELL,

and

REBECCA MEEKS,

and

ILAN OTTAVIAN,

and

MARY ELAINE PAYNE,

and

MICHELLE PAYNE,

and

BURNETTA ROGERS,

and

STEVEN SALPETER, as Administrator of the Estate  
of SUSAN WIDEN-SALPETER, deceased,

and

SUSAN SCHNELLE,

and

SHARON SHELTON,

and

MARTHA SHOEMAKER,

and

SARAH SIMPSON,

and

LOIS SLEMP,

and

CHRYSTAL SUPPLE,

and

LENORA TOWNSEN,

and

BRENDA JOYCE WARREN,

and

FLOYE ZIMMERMAN,

and

SYLVIA WHITE

and

NICKY BATTAGLIA SR., Individually, and as  
Representative of the Estate of LOIS BATTAGLIA,  
deceased,

and

DARLENE EVANS, Individually, and as  
Representative of the Estate of ERON EVANS,

and

FRANCES LANGE,

and

DEBORAH L. SMITH,

and

PATRICK MAHARG, as Representative of the Estate  
of DENISE MAHARG, deceased,

and

SAMANTHA WELLS,

and

WALTER CUNNINGHAM, as Administrator of the  
Estate of MILDRED CUNNINGHAM, deceased,

and

KELLY ALLEN

and

ELAINE BYRD,

and

KATHLEEN CORSETTI,

and

ALISHIA DAVIS,

and

PAMELA HENNIGAN,

and

SAVANNA CREWS, Individually and as  
Administrator of the Estate of ANGELA DAWN  
HERSHMAN, deceased,

and

HUE TU MCNABB,

and

DIONNE ROCKHOLD,

and

YUDMILA SANCHEZ,

and

CHRISTINE TODD,

and

TRACY WHITE,

Plaintiffs,

v.

JOHNSON & JOHNSON, et al.,

Defendants.

**THIRD AMENDED PETITION**

COME NOW Plaintiffs, by and through their undersigned counsel, and for their cause of action against Defendants Johnson & Johnson; Johnson & Johnson Consumer Companies, Inc.; Imerys Talc America, Inc., f/k/a Luzenac America, Inc., alleging the following upon information and belief (including investigation made by and through Plaintiffs' counsel), except those allegations that pertain to Plaintiffs, which are based on personal knowledge:

## **INTRODUCTION**

1. Plaintiffs bring this cause of action against Defendants pursuant to Rule 52.05(a) of the Missouri Rules of Civil Procedure, as their claims arise out of the same series of transactions and occurrences, and their claims involve common questions of law and/or fact. All claims in this action are a direct and proximate result of Defendants' and/or their corporate predecessors negligent, willful, and wrongful conduct in connection with the design, development, manufacture, testing, packaging, promoting, marketing, distribution, labeling, and/or sale of the products known as Johnson & Johnson Baby Powder and Shower to Shower (hereinafter "the PRODUCTS"). All Plaintiffs in this action seek recovery for damages as a result of developing ovarian cancer, which was directly and proximately caused by such wrongful conduct by Defendants, the unreasonably dangerous and defective nature of talcum powder, and the attendant effects of developing ovarian cancer. All of the claims in this action involve common legal and medical issues.

## **PARTIES**

2. Plaintiff Robert Swann is an adult whose principal place of residence is in the City of St. Louis County, State of Missouri. He was the lawful spouse of the decedent Valerie Swann, at the time of her premature death on October 31, 2014. The premature death of Valerie Swann was the direct and proximate result of her application of talcum powder and subsequent ovarian cancer diagnosis. As a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder, and pursuant to §537.080 of the Missouri Revised Statutes, which is commonly known as the Missouri "Wrongful Death Act," Plaintiff, on behalf of the class of persons entitled to recover under the Wrongful Death Act, seeks damages for decedent's loss of future earnings,



loss of decedent's value to her estate, pain and suffering endured by decedent prior to premature death, medical, funeral and burial expenses, loss of services and support, and other damages as allowed by law.

3. Plaintiff Sheryl Allen is a citizen of the City of Montgomery, State of Texas. At all pertinent times, including from approximately April 1962 to May 2013, Plaintiff Sheryl Allen purchased and applied talcum powder in the State of Texas. In or around May 2013, Plaintiff Sheryl Allen was diagnosed with ovarian cancer, which developed in the State of Texas. Plaintiff Sheryl Allen developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Sheryl Allen has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Sheryl Allen has otherwise been damaged in a personal and pecuniary nature.

4. Plaintiff Brenda Jean Bartley is a citizen of the City of Brooksville, State of Florida. At all pertinent times, including from approximately January 1943 to September 2011, Plaintiff Brenda Jean Bartley purchased and applied talcum powder in the States of Virginia, Maryland and Florida. In or around September 2011, Plaintiff Brenda Jean Bartley was diagnosed with ovarian cancer, which developed in the State of Florida. Plaintiff Brenda Jean Bartley developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff

Brenda Jean Bartley has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Brenda Jean Bartley has otherwise been damaged in a personal and pecuniary nature.

5. Plaintiff Margarita Becerra is a citizen of the City of Corona, State of California. At all pertinent times, including from approximately January 1973 to January 2008, Plaintiff Margarita Becerra purchased and applied talcum powder in the State of California. In or around August 2013, Plaintiff Margarita Becerra was diagnosed with ovarian cancer, which developed in the State of California. Plaintiff Margarita Becerra developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Margarita Becerra has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Margarita Becerra has otherwise been damaged in a personal and pecuniary nature.

6. Plaintiff Joyce Benham is a citizen of the City of Des Moines, State of Iowa. At all pertinent times, including from approximately May 1945 to December 2007, Plaintiff Joyce Benham purchased and applied talcum powder in the State of Iowa. In or around August 2013, Plaintiff Joyce Benham was diagnosed with ovarian cancer, which developed in the State of Iowa. Plaintiff Joyce Benham developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and

proximate result of these injuries, Plaintiff Joyce Benham has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Joyce Benham has otherwise been damaged in a personal and pecuniary nature.

7. Plaintiff Marilyn Bentley is a citizen of the City of Airmont, State of New York. At all pertinent times, including from approximately January 1957 to November 2011, Plaintiff Marilyn Bentley purchased and applied talcum powder in the State of New York. In or around November 2011, Plaintiff Marilyn Bentley was diagnosed with ovarian cancer, which developed in the State of New York. Plaintiff Marilyn Bentley developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Marilyn Bentley has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Marilyn Bentley has otherwise been damaged in a personal and pecuniary nature.

8. Plaintiff Michael Blaes is a citizen of the City of St. Louis, St. Louis County, Missouri. At all pertinent times, from approximately 1972 to 2011, Decedent, Shawn Blaes, purchased and applied talcum powder in St. Louis County, Missouri. In or about October 2008, Decedent was diagnosed with ovarian cancer, which developed in the State of Missouri. Decedent Shawn Blaes developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and

proximate result of these injuries, Decedent Shawn Blaes endured pain and suffering and loss of enjoyment of life, and Plaintiff was damaged in a personal and pecuniary nature. Plaintiff and Decedent incurred medical expenses and Plaintiff sustained personal and pecuniary damages that are the natural consequence attendant to Decedent's death, as further proscribed by the Missouri Wrongful Death Act.

9. Plaintiff Shelia Perro Booker is a citizen of the City of Franklin, State of Louisiana. At all pertinent times, including from approximately January 1998 to November 2013, Plaintiff Shelia Perro Booker purchased and applied talcum powder in the State of Louisiana. In or around November 2013, Plaintiff Shelia Perro Booker was diagnosed with ovarian cancer, which developed in the State of Louisiana. Plaintiff Shelia Perro Booker developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Shelia Perro Booker has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Shelia Perro Booker has otherwise been damaged in a personal and pecuniary nature.

10. Plaintiff Claudine Brunson is a citizen of the City of Great Falls, State of South Carolina. At all pertinent times, including from approximately January 1964 to November 2012, Plaintiff Claudine Brunson purchased and applied talcum powder in the State of South Carolina. In or around November 2012, Plaintiff Claudine Brunson was diagnosed with ovarian cancer, which developed in the State of South Carolina. Plaintiff Claudine Brunson developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably

dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Claudine Brunson has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Claudine Brunson has otherwise been damaged in a personal and pecuniary nature.

11. Plaintiff Carolyn Burrus is a citizen of the City of Logansport, State of Louisiana. At all pertinent times, including from approximately August 1978 to April 2014, Plaintiff Carolyn Burrus purchased and applied talcum powder in the States of Louisiana and Kentucky. In or around April 2014, Plaintiff Carolyn Burrus was diagnosed with ovarian cancer, which developed in the State of Louisiana. Plaintiff Carolyn Burrus developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Carolyn Burrus has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Carolyn Burrus has otherwise been damaged in a personal and pecuniary nature.

12. Plaintiff Lisa Marie Butler is a citizen of the City of Marienville, State of Pennsylvania. At all pertinent times, including from approximately August 1991 to October 2012, Plaintiff Lisa Marie Butler purchased and applied talcum powder in the State of Pennsylvania. In or around October 2012, Plaintiff Lisa Marie Butler was diagnosed with ovarian cancer, which developed in the State of Pennsylvania. Plaintiff Lisa Marie Butler developed ovarian cancer, and

suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Lisa Marie Butler has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Lisa Marie Butler has otherwise been damaged in a personal and pecuniary nature.

13. Plaintiff Margie Carson is a citizen of the City of Williamson, State of Georgia. At all pertinent times, including from approximately February 2002 to June 2009, Plaintiff Margie Carson purchased and applied talcum powder in the State of Georgia. In or around June 2009, Plaintiff Margie Carson was diagnosed with ovarian cancer, which developed in the State of Georgia. Plaintiff Margie Carson developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Margie Carson has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Margie Carson has otherwise been damaged in a personal and pecuniary nature.

14. Plaintiff Millicent Carter is a citizen of the City of Memphis, State of Tennessee. At all pertinent times, including from approximately June 1997 to March 2010, Plaintiff Millicent Carter purchased and applied talcum powder in the State of Tennessee. In or around March 2010, Plaintiff Millicent Carter was diagnosed with ovarian cancer, which developed in the State of

Tennessee. Plaintiff Millicent Carter developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Millicent Carter has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Millicent Carter has otherwise been damaged in a personal and pecuniary nature.

15. Plaintiff Patricia Craig is a citizen of the City of Mobile, State of Alabama. At all pertinent times, including from approximately June 1955 to November 2013, Plaintiff Patricia Craig purchased and applied talcum powder in the State of Alabama. In or around November 2013, Plaintiff Patricia Craig was diagnosed with ovarian cancer, which developed in the State of Alabama. Plaintiff Patricia Craig developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Patricia Craig has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Patricia Craig has otherwise been damaged in a personal and pecuniary nature.

16. Plaintiff Nora Daniels is a citizen of the City of Columbia, State of Tennessee. At all pertinent times, including from approximately July 1978 to May 2013, Plaintiff Nora Daniels purchased and applied talcum powder in the State of Tennessee. In or around May 2013, Plaintiff

Nora Daniels was diagnosed with ovarian cancer, which developed in the State of Tennessee. Plaintiff Nora Daniels developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Nora Daniels has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Nora Daniels has otherwise been damaged in a personal and pecuniary nature.

17. Plaintiff Evelyn Davis is a citizen of the City of Salisbury, State of Maryland. At all pertinent times, including from approximately February 2009 to November 2011, Plaintiff Evelyn Davis purchased and applied talcum powder in the State of Maryland. In or around November 2011, Plaintiff Evelyn Davis was diagnosed with ovarian cancer, which developed in the State of Maryland. Plaintiff Evelyn Davis developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Evelyn Davis has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Evelyn Davis has otherwise been damaged in a personal and pecuniary nature.

18. Plaintiff Martha Decker is a citizen of the City of Paris, State of Michigan. At all pertinent times, including from approximately January 1964 to January 1990, Plaintiff Martha Decker purchased and applied talcum powder in the States of Illinois, North Dakota, California,



Washington, Texas and Oklahoma. In or around August 2012, Plaintiff Martha Decker was diagnosed with ovarian cancer, which developed in the State of Michigan. Plaintiff Martha Decker developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Martha Decker has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Martha Decker has otherwise been damaged in a personal and pecuniary nature.

19. Plaintiff Carmen Green-Newman is a citizen of the City of Lancaster, State of California. At all pertinent times, including from approximately October 1973 to November 2012, Plaintiff Carmen Green-Newman purchased and applied talcum powder in the State of California. In or around November 2012, Plaintiff Carmen Green-Newman was diagnosed with ovarian cancer, which developed in the State of California. Plaintiff Carmen Green-Newman developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Carmen Green-Newman has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Carmen Green-Newman has otherwise been damaged in a personal and pecuniary nature.

20. Plaintiff Betty Gullard is a citizen of the City of Danube, State of Minnesota. At all pertinent times, including from approximately September 1975 to July 2004, Plaintiff Betty

Gullard purchased and applied talcum powder in the States of Arkansas, Minnesota and Missouri. In or around June 2009, Plaintiff Betty Gullard was diagnosed with ovarian cancer, which developed in the State of Minnesota. Plaintiff Betty Gullard developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Betty Gullard has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Betty Gullard has otherwise been damaged in a personal and pecuniary nature.

21. Plaintiff Kimberley Jackson is a citizen of the City of Chattanooga, State of Tennessee. At all pertinent times, including from approximately January 1978 to December 2012, Plaintiff Kimberley Jackson purchased and applied talcum powder in the States of Tennessee, California, Florida, New Mexico, Indiana and Pennsylvania. In or around January 2012, Plaintiff Kimberley Jackson was diagnosed with ovarian cancer, which developed in the State of Tennessee. Plaintiff Kimberley Jackson developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Kimberley Jackson has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Kimberley Jackson has otherwise been damaged in a personal and pecuniary nature.

22. Plaintiff Donna Faye Lane is a citizen of the City of Cleveland, State of Tennessee. At all pertinent times, including from approximately May 1996 to July 2012, Plaintiff Donna Faye Lane purchased and applied talcum powder in the State of Tennessee. In or around August 2012, Plaintiff Donna Faye Lane was diagnosed with ovarian cancer, which developed in the State of Tennessee. Plaintiff Donna Faye Lane developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Donna Faye Lane has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Donna Faye Lane has otherwise been damaged in a personal and pecuniary nature.

23. Plaintiff Beverly Lingo is a citizen of the City of Fort Smith, State of Arkansas. At all pertinent times, including from approximately January 1983 to April 2012, Plaintiff Beverly Lingo purchased and applied talcum powder in the State of Arkansas. In or around April 2012, Plaintiff Beverly Lingo was diagnosed with ovarian cancer, which developed in the State of Arkansas. Plaintiff Beverly Lingo developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Beverly Lingo has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of

enjoyment of life, and Plaintiff Beverly Lingo has otherwise been damaged in a personal and pecuniary nature.

24. Plaintiff Vertenia Linicomn is a citizen of the City of Houston, State of Texas. At all pertinent times, including from approximately July 1979 to April 2010, Plaintiff Vertenia Linicomn purchased and applied talcum powder in the State of Texas. In or around August 2013, Plaintiff Vertenia Linicomn was diagnosed with ovarian cancer, which developed in the State of Texas. Plaintiff Vertenia Linicomn developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Vertenia Linicomn has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Vertenia Linicomn has otherwise been damaged in a personal and pecuniary nature.

25. Plaintiff Glenda Long is a citizen of the City of Dalton, State of Georgia. At all pertinent times, including from approximately November 1948 to March 2013, Plaintiff Glenda Long purchased and applied talcum powder in the State of Georgia. In or around March 2013, Plaintiff Glenda Long was diagnosed with ovarian cancer, which developed in the State of Georgia. Plaintiff Glenda Long developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Glenda Long has incurred and will incur

medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Glenda Long has otherwise been damaged in a personal and pecuniary nature.

26. Plaintiff Dimity Lowell is a citizen of the City of Iola, State of Kansas. At all pertinent times, including from approximately January 1970 to December 2009, Plaintiff Dimity Lowell purchased and applied talcum powder in the States of Kansas, California, New Jersey, New York and Massachusetts. In or around December 2009, Plaintiff Dimity Lowell was diagnosed with ovarian cancer, which developed in the State of Kansas. Plaintiff Dimity Lowell developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Dimity Lowell has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Dimity Lowell has otherwise been damaged in a personal and pecuniary nature.

27. Plaintiff Sandra Matthews is a citizen of the City of Jersey City, State of New Jersey. At all pertinent times, including from approximately January 1991 to October 2012, Plaintiff Sandra Matthews purchased and applied talcum powder in the State of New Jersey. In or around October 2012, Plaintiff Sandra Matthews was diagnosed with ovarian cancer, which developed in the State of New Jersey. Plaintiff Sandra Matthews developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and

sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Sandra Matthews has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Sandra Matthews has otherwise been damaged in a personal and pecuniary nature.

28. Plaintiff Bridgett Latrice Maxwell is a citizen of the City of Memphis, State of Tennessee. At all pertinent times, including from approximately January 1990 to September 2013, Plaintiff Bridgett Latrice Maxwell purchased and applied talcum powder in the State of Tennessee. In or around September 2013, Plaintiff Bridgett Latrice Maxwell was diagnosed with ovarian cancer, which developed in the State of Tennessee. Plaintiff Bridgett Latrice Maxwell developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Bridgett Latrice Maxwell has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Bridgett Latrice Maxwell has otherwise been damaged in a personal and pecuniary nature.

29. Plaintiff Rebecca Meeks is a citizen of the City of Bastrop, State of Louisiana. At all pertinent times, including from approximately January 1961 to September 2011, Plaintiff Rebecca Meeks purchased and applied talcum powder in the State of Louisiana. In or around September 2011, Plaintiff Rebecca Meeks was diagnosed with ovarian cancer, which developed in the State of Louisiana. Plaintiff Rebecca Meeks developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research,

development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Rebecca Meeks has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Rebecca Meeks has otherwise been damaged in a personal and pecuniary nature.

30. Plaintiff Ilan Ottavian is a citizen of the City of Monroeville, State of Pennsylvania. At all pertinent times, including from approximately January 1977 to January 2005, Plaintiff Ilan Ottavian purchased and applied talcum powder in the State of Pennsylvania. In or around January 2005, Plaintiff Ilan Ottavian was diagnosed with ovarian cancer, which developed in the State of Pennsylvania. Plaintiff Ilan Ottavian developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Ilan Ottavian has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Ilan Ottavian has otherwise been damaged in a personal and pecuniary nature.

31. Plaintiff Mary Elaine Payne is a citizen of the City of Madison, State of Tennessee. At all pertinent times, including from approximately January 2000 to September 2013, Plaintiff Mary Elaine Payne purchased and applied talcum powder in the State of Tennessee. In or around September 2013, Plaintiff Mary Elaine Payne was diagnosed with ovarian cancer, which developed in the State of Tennessee. Plaintiff Mary Elaine Payne developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous

and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Mary Elaine Payne has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Mary Elaine Payne has otherwise been damaged in a personal and pecuniary nature.

32. Plaintiff Michelle Payne is a citizen of the City of Savannah, State of Georgia. At all pertinent times, including from approximately February 1969 to July 2012, Plaintiff Michelle Payne purchased and applied talcum powder in the States of Pennsylvania and Tennessee. In or around July 2012, Plaintiff Michelle Payne was diagnosed with ovarian cancer, which developed in the State of Tennessee. Plaintiff Michelle Payne developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Michelle Payne has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Michelle Payne has otherwise been damaged in a personal and pecuniary nature.

33. Plaintiff Burnetta Rogers is a citizen of the City of Birmingham, State of Alabama. At all pertinent times, including from approximately January 1962 to October 2013, Plaintiff Burnetta Rogers purchased and applied talcum powder in the State of Alabama. In or around November 2013, Plaintiff Burnetta Rogers was diagnosed with ovarian cancer, which developed in the State of Alabama. Plaintiff Burnetta Rogers developed ovarian cancer, and suffered effects



attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Burnetta Rogers has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Burnetta Rogers has otherwise been damaged in a personal and pecuniary nature.

34. Plaintiff Steven Salpeter, an adult whose principal place of residence is in the City of Freeport, State of New York, brings this action individually and in his capacity as representative of the Estate of Susan Widen-Salpeter. Plaintiff Steven Salpeter is pursuing this action due to the wrongfully caused premature death of his wife, Susan Widen-Salpeter, on behalf the Estate of Susan Widen-Salpeter and all wrongful death beneficiaries/statutory distributees of Susan Widen-Salpeter. The premature death of Susan Widen-Salpeter was the direct and proximate result of her application of talcum powder and subsequent ovarian cancer diagnosis. As a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder, and pursuant to New York Est. Powers & Trusts Law §§ 11-3-.1, *et seq.* and New York Est. Powers & Trusts Law §§ 5-4.1, *et seq.*, Plaintiff seeks damages for decedent's loss of future earnings, loss of decedent's value to her estate, pain and suffering endured by decedent prior to premature death, medical, funeral and burial expenses, loss of services and support, and other damages as allowed by law.

35. Plaintiff Susan Schnelle is a citizen of the City of Lawai, State of Hawaii. At all pertinent times, including from approximately January 1995 to September 2013, Plaintiff Susan

Schnelle purchased and applied talcum powder in the States of Hawaii and California. In or around September 2013, Plaintiff Susan Schnelle was diagnosed with ovarian cancer, which developed in the State of Hawaii. Plaintiff Susan Schnelle developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Susan Schnelle has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Susan Schnelle has otherwise been damaged in a personal and pecuniary nature.

36. Plaintiff Sharon Shelton is a citizen of the City of Kingston, State of Michigan. At all pertinent times, including from approximately July 1968 to June 2012, Plaintiff Sharon Shelton purchased and applied talcum powder in the State of Michigan. In or around June 2012, Plaintiff Sharon Shelton was diagnosed with ovarian cancer, which developed in the State of Michigan. Plaintiff Sharon Shelton developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Sharon Shelton has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Sharon Shelton has otherwise been damaged in a personal and pecuniary nature.

37. Plaintiff Martha Shoemaker is a citizen of the City of Leakey, State of Texas. At all pertinent times, including from approximately August 1968 to December 2012, Plaintiff Martha Shoemaker purchased and applied talcum powder in the State of Texas. In or around November 2013, Plaintiff Martha Shoemaker was diagnosed with ovarian cancer, which developed in the State of Texas. Plaintiff Martha Shoemaker developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Martha Shoemaker has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Martha Shoemaker has otherwise been damaged in a personal and pecuniary nature.

38. Plaintiff Sarah Simpson is a citizen of the City of Beaver Dam, State of Kentucky. At all pertinent times, including from approximately October 1965 to May 2013, Plaintiff Sarah Simpson purchased and applied talcum powder in the State of Kentucky. In or around June 2013, Plaintiff Sarah Simpson was diagnosed with ovarian cancer, which developed in the State of Kentucky. Plaintiff Sarah Simpson developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Sarah Simpson has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of

enjoyment of life, and Plaintiff Sarah Simpson has otherwise been damaged in a personal and pecuniary nature.

39. Plaintiff Lois Slemm is a citizen of the City of Wiles, State of Virginia. At all pertinent times, including from approximately January 1970 to August 2012, Plaintiff Lois Slemm purchased and applied talcum powder in the State of Virginia. In or around August 2012, Plaintiff Lois Slemm was diagnosed with ovarian cancer, which developed in the State of Virginia. Plaintiff Lois Slemm developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Lois Slemm has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Lois Slemm has otherwise been damaged in a personal and pecuniary nature.

40. Plaintiff Chrystal Supple is a citizen of the City of Elyria, State of Ohio. At all pertinent times, including from approximately January 1971 to January 2013, Plaintiff Chrystal Supple purchased and applied talcum powder in the State of Ohio. In or around September 2013, Plaintiff Chrystal Supple was diagnosed with ovarian cancer, which developed in the State of Ohio. Plaintiff Chrystal Supple developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Chrystal Supple has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of

enjoyment of life, and Plaintiff Chrystal Supple has otherwise been damaged in a personal and pecuniary nature.

41. Plaintiff Lenora Townsen is a citizen of the City of Savannah, State of Georgia. At all pertinent times, including from approximately January 1970 to June 2013, Plaintiff Lenora Townsen purchased and applied talcum powder in the States of Illinois and Georgia. In or around June 2013, Plaintiff Lenora Townsen was diagnosed with ovarian cancer, which developed in the State of Georgia. Plaintiff Lenora Townsen developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Lenora Townsen has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Lenora Townsen has otherwise been damaged in a personal and pecuniary nature.

42. Plaintiff Brenda Joyce Warren is a citizen of the City of Orlando, State of Florida. At all pertinent times, including from approximately January 1987 to July 2011, Plaintiff Brenda Joyce Warren purchased and applied talcum powder in the State of Florida. In or around July 2011, Plaintiff Brenda Joyce Warren was diagnosed with ovarian cancer, which developed in the State of Florida. Plaintiff Brenda Joyce Warren developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Brenda Joyce Warren

has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Brenda Joyce Warren has otherwise been damaged in a personal and pecuniary nature.

43. Plaintiff Floye Zimmerman is a citizen of the City of Perryville, State of Arkansas. At all pertinent times, including from approximately October 1948 to January 2012, Plaintiff Floye Zimmerman purchased and applied talcum powder in the States of Arkansas, Georgia, New Mexico, Oklahoma and Illinois. In or around January 2012, Plaintiff Floye Zimmerman was diagnosed with ovarian cancer, which developed in the State of Arkansas. Plaintiff Floye Zimmerman developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Floye Zimmerman has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Floye Zimmerman has otherwise been damaged in a personal and pecuniary nature.

44. Plaintiff Sylvia White is a citizen of the City of Tucson, State of Arizona. At all pertinent times, including from approximately January 1996 to September 2012, Plaintiff Sylvia White purchased and applied talcum powder in the State of Arizona. In or around September 2012, Plaintiff Sylvia White was diagnosed with ovarian cancer, which developed in the State of Arizona. Plaintiff Sylvia White developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing,

manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Sylvia White has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Sylvia White has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Sylvia White applied talcum powder in the State of Arizona.

45. Plaintiff Nicky Battaglia Sr., an adult whose principal place of residence is in the City of Victorville, State of California, and was the lawful spouse of the decedent Lois Battaglia, at the time of her premature death on October 10, 2012. Plaintiff Nicky Battaglia Sr. brings this action individually, and as Representative of the Estate of Lois Battaglia, deceased. The premature death of Lois Battaglia was the direct and proximate result of her application of talcum powder and subsequent ovarian cancer diagnosis. As a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder, and pursuant to Cal. Code Civ. Proc. § 377.30 and Cal. Code Civil Proc. §§ 377.60 *et seq.*, Plaintiff seeks damages for decedent's loss of future earnings, loss of decedent's value to her estate, pain and suffering endured by decedent prior to premature death, medical, funeral and burial expenses, loss of services and support, and other damages as allowed by law.

46. Plaintiff Darlene Evans is an adult whose principal place of residence is in the City of Baytown, State of Texas. She is the parent of decedent Eron Evans, at the time of her premature death on January 1, 2016. The premature death of Eron Evans was the direct and proximate result of her application of talcum powder and subsequent ovarian cancer diagnosis. As a direct and

proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder, and pursuant to §71.002, *et seq.* and §71.021, *et seq.*, Plaintiff, on behalf of the class of persons entitled to recover under the Wrongful Death Act, seeks damages for decedent's loss of future earnings, loss of decedent's value to her estate, pain and suffering endured by decedent prior to premature death, medical, funeral and burial expenses, loss of services and support, and other damages as allowed by law.

47. Plaintiff Frances Lange is a citizen of the City of Morristown, State of Minnesota. At all pertinent times, including from approximately 1979 to present, Plaintiff Frances Lange purchased and applied talcum powder in the State of Minnesota. In or around September 2008, Plaintiff Frances Lange was diagnosed with ovarian cancer, which developed in the State of Minnesota. Plaintiff Frances Lange developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Frances Lange has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Frances Lange has otherwise been damaged in a personal and pecuniary nature.

48. Plaintiff Deborah L. Smith is a citizen of the City of Brooklyn, State of Maryland. At all pertinent times, including from approximately January 1976 to January 1998, Plaintiff Deborah L. Smith purchased and applied talcum powder in the State of Maryland. In or around



November 2011, Plaintiff Deborah L. Smith was diagnosed with ovarian cancer, which developed in the State of Maryland. Plaintiff Deborah L. Smith developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Deborah L. Smith has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Deborah L. Smith has otherwise been damaged in a personal and pecuniary nature.

49. Plaintiff Patrick Maharg is an adult whose principal place of residence is in the City of Manassas, State of Pennsylvania. He was the lawful spouse of the decedent Denise Maharg, at the time of her premature death on August 9, 2012. Plaintiff Patrick Maharg brings this action in his capacity as Trustee Ad Litem on behalf of all persons entitled to share in the damages. The premature death of Denise Maharg was the direct and proximate result of her application of talcum powder and subsequent ovarian cancer diagnosis. As a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder, and pursuant to Penn. Code § 2202, *et seq.*, Plaintiff seeks damages for decedent's loss of future earnings, loss of decedent's value to her estate, pain and suffering endured by decedent prior to premature death, medical, funeral and burial expenses, loss of services and support, and other damages as allowed by law.

50. Plaintiff Samantha Wells is a citizen of the City of Houston, State of Texas. At all pertinent times, including from approximately 1983 to 2013, Plaintiff Samantha Wells purchased

and applied talcum powder in the State of Texas. In or around December 28, 2012, Plaintiff Samantha Wells was diagnosed with ovarian cancer, which developed in the State of Texas. Plaintiff Samantha Wells developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Samantha Wells has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Samantha Wells has otherwise been damaged in a personal and pecuniary nature.

51. Plaintiff Walter Cunningham, is an adult whose principal place of residence is in the City of Alabaster, State of Alabama, brings this action individually and in his capacity as Administrator of the Estate of Mildred Cunningham. Plaintiff Walter Cunningham is pursuing this action due to the wrongfully caused premature death of his wife, Mildred Cunningham, on behalf of himself and that decedent's estate. The premature death of Mildred Cunningham was the direct and proximate result of her application of talcum powder and subsequent ovarian cancer diagnosis. As a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder, and pursuant to Ala. Code §6-5-410, *et seq.*, Plaintiff seeks damages for decedent's loss of future earnings, loss of decedent's value to her estate, and other damages as allowed by law.

52. Plaintiff Kelly Allen is a citizen of the City of Grantsville, State of West Virginia. At all pertinent times, including from approximately 1975 to August 2014, Plaintiff Kelly Allen

purchased and applied talcum powder in the State of West Virginia. In or around October 2011, Plaintiff Kelly Allen was diagnosed with ovarian cancer, which developed in the State of West Virginia. Plaintiff Kelly Allen developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Kelly Allen has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Kelly Allen has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Kelly Allen applied talcum powder in the State of West Virginia.

53. Plaintiff Elaine Byrd is a citizen of the City of Snow Camp, State of North Carolina. At all pertinent times, including from approximately 1975 to January 2014, Plaintiff Elaine Byrd purchased and applied talcum powder in the States of Ohio, North Carolina and District of Columbia. In or around January 2014, Plaintiff Elaine Byrd was diagnosed with ovarian cancer, which developed in the State of North Carolina. Plaintiff Elaine Byrd developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Elaine Byrd has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Elaine Byrd has otherwise been

damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Elaine Byrd applied talcum powder in the States of Ohio, North Carolina and District of Columbia.

54. Plaintiff Kathleen Corsetti is a citizen of the City of Marysville, State of Pennsylvania. At all pertinent times, including from approximately May 1964 to October 2014, Plaintiff Kathleen Corsetti purchased and applied talcum powder in the States of Pennsylvania and New Jersey. In or around March 2008, Plaintiff Kathleen Corsetti was diagnosed with ovarian cancer, which developed in the State of Pennsylvania. Plaintiff Kathleen Corsetti developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Kathleen Corsetti has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Kathleen Corsetti has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Kathleen Corsetti applied talcum powder in the States of Pennsylvania and New Jersey.

55. Plaintiff Alishia Davis is a citizen of the City of Inman, State of South Carolina. At all pertinent times, including from approximately 1986 to 2011, Plaintiff Alishia Davis purchased and applied talcum powder in the State of South Carolina. In or around June 2011, Plaintiff Alishia Davis was diagnosed with ovarian cancer, which developed in the State of South Carolina. Plaintiff Alishia Davis developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a

direct and proximate result of these injuries, Plaintiff Alishia Davis has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Alishia Davis has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Alishia Davis applied talcum powder in the State of South Carolina.

56. Plaintiff Pamela Hennigan is a citizen of the City of Longville, State of Louisiana. At all pertinent times, including from approximately 1983 to November 2015, Plaintiff Pamela Hennigan purchased and applied talcum powder in the State of Louisiana. In or around September 2015, Plaintiff Pamela Hennigan was diagnosed with ovarian cancer, which developed in the State of Louisiana. Plaintiff Pamela Hennigan developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Pamela Hennigan has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Pamela Hennigan has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Pamela Hennigan applied talcum powder in the State of Louisiana.

57. Plaintiff Savanna Crews, an adult whose principal place of residence is in the City of Gretna, State of Virginia, brings this action individually and in her capacity as Administrator of the Estate of Angela Dawn Hershman. Plaintiff Savanna Crews is pursuing this action due to the wrongfully caused premature death of Angela Dawn Hershman, on behalf the Estate of Angela Dawn Hershman and all wrongful death beneficiaries/statutory distributees of Angela Dawn

Hershman. The premature death of Angela Dawn Hershman was the direct and proximate result of her application of talcum powder and subsequent ovarian cancer diagnosis. As a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder, and pursuant to §§8.01-50, *et seq.*, and §§8.01-25, *et seq.*, Plaintiff seeks damages for decedent's loss of future earnings, loss of decedent's value to her estate, pain and suffering endured by decedent prior to premature death, medical, funeral and burial expenses, loss of services and support, and other damages as allowed by law.

58. Plaintiff Hue Tu McNabb is a citizen of the City of Phoenix, State of Arizona. At all pertinent times, including from approximately July 1965 to June 2014, Plaintiff Hue Tu McNabb purchased and applied talcum powder in the State of Arizona. In or around May 2012, Plaintiff Hue Tu McNabb was diagnosed with ovarian cancer, which developed in the State of Arizona. Plaintiff Hue Tu McNabb developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Hue Tu McNabb has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Hue Tu McNabb has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Hue Tu McNabb applied talcum powder in the State of Arizona.

59. Plaintiff Dionne Rockhold is a citizen of the City of Long Beach, State of California. At all pertinent times, including from approximately May 1967 to 2012, Plaintiff Dionne Rockhold purchased and applied talcum powder in the State of California. In or around 2013, Plaintiff Dionne Rockhold was diagnosed with ovarian cancer, which developed in the State of California. Plaintiff Dionne Rockhold developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Dionne Rockhold has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Dionne Rockhold has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Dionne Rockhold applied talcum powder in the State of California.

60. Plaintiff Yudmila Sanchez is a citizen of Washington, District of Columbia. At all pertinent times, including from approximately 2001 to 2014, Plaintiff Yudmila Sanchez purchased and applied talcum powder in the State of New York. In or around May 2014, Plaintiff Yudmila Sanchez was diagnosed with ovarian cancer, which developed in the District of Columbia. Plaintiff Yudmila Sanchez developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Yudmila Sanchez has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of

enjoyment of life, and Plaintiff Yudmila Sanchez has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Yudmila Sanchez applied talcum powder in the State of New York.

61. Plaintiff Christine Todd is a citizen of the City of Plainfield, State of Illinois. At all pertinent times, including from approximately 1978 to 2015, Plaintiff Christine Todd purchased and applied talcum powder in the States of Illinois and Michigan. In or around September 2014, Plaintiff Christine Todd was diagnosed with ovarian cancer, which developed in the State of Illinois. Plaintiff Christine Todd developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Christine Todd has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Christine Todd has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Christine Todd applied talcum powder in the States of Illinois and Michigan.

62. Plaintiff Tracy White is a citizen of the City of Everett, State of Washington. At all pertinent times, including from approximately October 1972 to 1985, Plaintiff Tracy White purchased and applied talcum powder in the State of Washington. In or around November 2013, Plaintiff Tracy White was diagnosed with ovarian cancer, which developed in the State of Washington. Plaintiff Tracy White developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development,



testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. As a direct and proximate result of these injuries, Plaintiff Tracy White has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Tracy White has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Tracy White applied talcum powder in the State of Washington.

63. The Defendant, Johnson & Johnson, is a New Jersey corporation with its principal place of business in the State of New Jersey.

64. At all pertinent times, Johnson & Johnson was engaged in the business of manufacturing, marketing, testing, promoting, selling, and/or distributing the PRODUCTS. At all pertinent times, Johnson & Johnson regularly transacted, solicited, and conducted business in all States of the United States, including the State of Missouri.

65. The Defendant, Johnson & Johnson Consumer Companies, Inc. is a New Jersey corporation with its principal place of business in the State of New Jersey.

66. At all pertinent times, Johnson & Johnson Consumer Companies, Inc. was engaged in the business of manufacturing, marketing, testing, promoting, selling, and/or distributing the PRODUCTS. At all pertinent times, Johnson & Johnson Consumer Companies, Inc. regularly transacted, solicited, and conducted business in all States of the United States, including the State of Missouri.

67. Defendant Johnson & Johnson Consumer Companies, Inc. is a subsidiary of Defendant Johnson & Johnson.

68. Defendant Johnson & Johnson formulated, manufactured, marketed, tested, promoted, sold and distributed the PRODUCTS prior to Johnson & Johnson Consumer Companies, Inc. f/k/a Johnson & Johnson Consumer Companies, Inc. coming into existence.

69. Defendant Johnson & Johnson formulates and coordinates the global strategy for the “Johnson & Johnson Family of Companies,” including Johnson & Johnson Consumer Companies, Inc., and maintains central corporate policies requiring Johnson & Johnson Consumer Companies, Inc., to act under the general guidance of Johnson & Johnson.

70. Johnson & Johnson exercised an unusually high degree of control over Johnson & Johnson Consumer Companies, Inc., particularly with the manufacturing, marketing, testing, promoting, selling, and/or distributing of the PRODUCTS.

71. Johnson & Johnson maintains a reporting relationship with Johnson & Johnson Consumer Companies, Inc., that is not defined by a legal, corporate relationship, but in fact crosses that corporate line.

72. Johnson & Johnson hereto directed Johnson & Johnson Consumer Companies, Inc., how it was to handle product safety communication between Johnson & Johnson Consumer Companies, Inc., and the scientific community and consumers at large as to the hazard the PRODUCTS pose to women with respect to development of ovarian cancer.

73. Johnson & Johnson also maintains a central global finance function that governs the entire Johnson & Johnson Family of Companies, to include Defendant Johnson & Johnson Consumer Companies, Inc., such that Johnson & Johnson Consumer Companies, Inc. does not function independently but under Johnson & Johnson’s umbrella.

74. The Defendant, Imerys Talc America, Inc., f/k/a Luzenac America, Inc., is a Delaware corporation with its principal place of business in the State of California.

75. At all pertinent times, Imerys Talc America, Inc., f/k/a Luzenac America, Inc., has been in the business of mining and distributing talcum powder for use in talcum powder based products, including the PRODUCTS. Imerys Talc is the successor or continuation of Luzenac America, Inc., and Imerys Talc America, Inc. is legally responsible for all liabilities incurred when it was known as Luzenac America, Inc.

76. At all pertinent times, all Defendants were engaged in the research, development, manufacture, design, testing, sale and marketing of PRODUCTS, and introduced such products into interstate commerce with knowledge and intent that such products be sold in the States of Alabama, Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington and Wisconsin.

### **VENUE**

77. Venue is proper in this Court because Decedent Valerie Swann was first exposed in the City of St. Louis, State of Missouri, as this is where, at all pertinent times, she purchased, used, and was exposed to the Products at issue.

### **ALLEGATIONS COMMON TO ALL COUNTS**

78. Talc is a magnesium trisilicate and is mined from the earth. Talc is an inorganic mineral. The Defendant, Imerys Talc America, Inc., f/k/a Luzenac America, Inc., mined the talc contained in the PRODUCTS.

79. Talc is the main substance in talcum powders. The Johnson & Johnson Defendants manufactured the PRODUCTS. The PRODUCTS are composed almost entirely of talc.

80. At all pertinent times, a feasible alternative to the PRODUCTS has existed. Cornstarch is an organic carbohydrate that is quickly broken down by the body with no known health effects. Cornstarch powders have been sold and marketed for the same uses with nearly the same effectiveness.

81. Imerys Talc<sup>1</sup> has continually advertised and marketed talc as safe for human use.

82. Imerys Talc supplies customers with material safety data sheets for talc. These material safety data sheets are supposed to convey adequate health and warning information to its customers.

83. Historically, “Johnson’s Baby Powder” has been a symbol of freshness, cleanliness, and purity. During the time in question, the Johnson & Johnson Defendants advertised and marketed this product as the beacon of “freshness” and “comfort”, eliminating friction on the skin, absorbing “excess wetness” helping keep skin feeling dry and comfortable, and “clinically proven gentle and mild”. The Johnson & Johnson Defendants compelled women through advertisements to dust themselves with this product to mask odors. The bottle of “Johnson’s Baby Powder” specifically targets women by stating, “For you, use every day to help feel soft, fresh, and comfortable.”

84. During the time in question, the Johnson & Johnson Defendants advertised and marketed the product “Shower to Shower” as safe for use by women as evidenced in its slogan “A sprinkle a day keeps odor away”, and through advertisements such as “Your body perspires in more places than just under your arms. Use SHOWER to SHOWER to feel dry, fresh, and comfortable throughout the day.” And “SHOWER to SHOWER can be used all over your body.”

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<sup>1</sup> All allegations regarding actions taken by Imerys Talc also include actions taken while that entity was known as Luzenac America, Inc.

85. The Plaintiffs used the PRODUCTS to dust their perineum for feminine hygiene purposes. This was an intended and foreseeable use of the PRODUCTS based on the advertising, marketing, and labeling of the PRODUCTS.

86. In 1971, the first study was conducted that suggested an association between talc and ovarian cancer. This study was conducted by Dr. WJ Henderson and others in Cardiff, Wales.

87. In 1982, the first epidemiologic study was performed on talc powder use in the female genital area. This study was conducted by Dr. Daniel Cramer and others. This study found a 92% increased risk in ovarian cancer with women who reported genital talc use. Shortly after this study was published, Dr. Bruce Semple of Johnson & Johnson came and visited Dr. Cramer about his study. Dr. Cramer advised Dr. Semple that Johnson & Johnson should place a warning on its talcum powders about the ovarian cancer risks so that women can make an informed decision about their health.

88. Since 1982, there have been approximately twenty-two (22) additional epidemiologic studies providing data regarding the association of talc and ovarian cancer. Nearly all of these studies have reported an elevated risk for ovarian cancer associated with genital talc use in women.

89. In 1993, the United States National Toxicology Program published a study on the toxicity of non-asbestiform talc and found clear evidence of carcinogenic activity. Talc was found to be a carcinogen, with or without the presence of asbestos-like fibers.

90. In response to the United States National Toxicology Program's study, the Cosmetic Toiletry and Fragrance Association (CTFA) formed the Talc Interested Party Task Force (TIPTF). Johnson & Johnson, Inc., Johnson & Johnson Consumer Companies, Inc. and Luzenac were members of the CTFA and were the primary actors and contributors of the TIPTF. The stated

purpose of the TIPTF was to pool financial resources of these companies in an effort to collectively defend talc use at all costs and to prevent regulation of any type over this industry. The TIPTF hired scientists to perform biased research regarding the safety of talc, members of the TIPTF edited scientific reports of the scientists hired by this group prior the submission of these scientific reports to governmental agencies, members of the TIPTF knowingly released false information about the safety of talc to the consuming public, and used political and economic influence on regulatory bodies regarding talc. All of these activities have been well coordinated and planned by these companies and organizations over the past four (4) decades in an effort to prevent regulation of talc and to create confusion to the consuming public about the true hazards of talc relative to ovarian cancer.

91. On November 10, 1994, the Cancer Prevention Coalition mailed a letter to then Johnson & Johnson C.E.O, Ralph Larson, informing his company that studies as far back as 1960's ". . . show[ ] conclusively that the frequent use of talcum powder in the genital area pose[ ] a serious health risk of ovarian cancer." The letter cited a recent study by Dr. Bernard Harlow from Harvard Medical School confirming this fact and quoted a portion of the study where Dr. Harlow and his colleagues discouraged the use of talc in the female genital area. The letter further stated that 14,000 women per year die from ovarian cancer and that this type of cancer is very difficult to detect and has a low survival rate. The letter concluded by requesting that Johnson & Johnson withdraw talc products from the market because of the alternative of cornstarch powders, or at a minimum, place warning information on its talc-based body powders about ovarian cancer risk they pose.

92. In 1996, the condom industry stopped dusting condoms with talc due to the health concerns of ovarian cancer.

93. In February of 2006, the International Association for the Research of Cancer (IARC) part of the World Health Organization published a paper whereby they classified perineal use of talc based body powder as a “Group 2B” human carcinogen. IARC which is universally accepted as the international authority on cancer issues, concluded that studies from around the world consistently found an increased risk of ovarian cancer in women from perineal use of talc. IARC found that between 16-52% of women in the world were using talc to dust their perineum and found an increased risk of ovarian cancer in women talc users ranging from 30-60%. IARC concluded with this “Evaluation”: “There is limited evidence in humans for the carcinogenicity of perineal use of talc-based body powder.” By definition “Limited evidence of carcinogenicity” means “a positive association has been observed between exposure to the agent and cancer for which a causal interpretation is considered by the Working Group to be credible, but chance, bias or confounding could not be ruled out with reasonable confidence.”

94. In approximately 2006, the Canadian government under The Hazardous Products Act and associated Controlled Products Regulations classified talc as a “D2A” , “very toxic”, “cancer causing” substance under its Workplace Hazardous Materials Information System (WHMIS). Asbestos is also classified as “D2A”.

95. In 2006, Imerys Talc began placing a warning on its Material Safety Data Sheets (MSDS) it provided to the Johnson & Johnson Defendants regarding the talc it sold to them to be used in the PRODUCTS. These MSDSs not only provided the warning information about the IARC classification but also included warning information regarding “States Rights to Know” and warning information about the Canadian Government’s “D2A” classification of talc as well.

96. The Defendants had a duty to know and warn about the hazards associated with the use of the PRODUCTS.

97. The Defendants failed to inform its customers and end users of the PRODUCTS of a known catastrophic health hazard associated with the use of its products.

98. In addition, the Defendants procured and disseminated false, misleading, and biased information regarding the safety of the PRODUCTS to the public and used influence over governmental and regulatory bodies regarding talc.

99. As a direct and proximate result of the Defendants' calculated and reprehensible conduct, Plaintiffs were injured and suffered damages, namely ovarian cancer, which required surgeries and treatments.

**COUNT ONE – STRICT LIABILITY FOR FAILURE TO WARN**  
**(Imerys Talc and Johnson & Johnson Defendants)**

71. Plaintiffs incorporate by reference all other paragraphs of this Third Amended Petition as if fully set forth herein.

72. At all pertinent times, Imerys Talc mined and sold talc to the Johnson & Johnson Defendants, which it knew that Johnson & Johnson was then packaging and selling to consumers as the PRODUCTS and it knew that consumers of the PRODUCTS were using it to powder their perineal regions.

73. At all pertinent times, Imerys Talc knew and/or should have known of the unreasonably dangerous and carcinogenic nature of the talc it was selling to the Johnson & Johnson Defendants, especially when used in a woman's perineal regions, and it knew or should have known that Johnson & Johnson was not warning its consumers of this danger.

74. At all pertinent times, the Johnson & Johnson Defendants were manufacturing, marketing, testing, promoting, selling and/or distributing the PRODUCTS in the regular course of business.



75. At all pertinent times, Plaintiffs used the PRODUCTS to powder their perineal area, which is a reasonably foreseeable use.

76. At all pertinent times, all Defendants in this action knew or should have known that the use of talcum powder based products in the perineal area significantly increases the risk of ovarian cancer based upon scientific knowledge dating back to the 1960s.

77. At all pertinent times, including the time of sale and consumption, the PRODUCTS, when put to the aforementioned reasonably foreseeable use, were in an unreasonably dangerous and defective condition because they failed to contain adequate and proper warnings and/or instructions regarding the increased risk of ovarian cancer associated with the use of the PRODUCTS by women to powder their perineal area. Defendants themselves failed to properly and adequately warn and instruct Plaintiffs as to the risks and benefits of the PRODUCTS given Plaintiffs' need for this information.

78. Had the Plaintiffs received a warning that the use of the PRODUCTS would have significantly increased their risk of ovarian cancer, she would not have used the same. As a proximate result of Defendants' design, manufacture, marketing, sale, and distribution of the PRODUCTS, Plaintiffs have been injured catastrophically, and have been caused severe and permanent pain, suffering, disability, impairment, loss of enjoyment of life, loss of care, comfort, and economic damages.

79. The development of ovarian cancer by the Plaintiffs was the direct and proximate result of the unreasonably dangerous and defective condition of the PRODUCTS at the time of sale and consumption, including their lack of warnings; Plaintiffs have suffered injuries and damages including but not limited to conscious pain and suffering of Plaintiffs, medical expenses and lost wages.

80. The Defendants' products were defective because they failed to contain warnings and/or instructions, and breached express warranties and/or failed to conform to express factual representations upon which the Plaintiffs justifiably relied in electing to use the products. The defect or defects made the products unreasonably dangerous to those persons, such as Plaintiffs, who could reasonably be expected to use and rely upon such products. As a result, the defect or defects were a producing cause of the Plaintiffs' injuries and damages.

81. The Defendants' products failed to contain, and continue to this day not to contain, adequate warnings and/or instructions regarding the increased risk of ovarian cancer with the use of their products by women. The Defendants continue to market, advertise, and expressly represent to the general public that it is safe for women to use their product regardless of application. These Defendants continue with these marketing and advertising campaigns despite having scientific knowledge that dates back to the 1960's that their products increase the risk of ovarian cancer in women when used in the perineal area.

WHEREFORE, Plaintiffs pray for judgment against Imerys Talc and the Johnson & Johnson Defendants in a fair and reasonable sum in excess of \$25,000.00 together with costs expended herein and such further and other relief as the Court deems just and appropriate.

**COUNT TWO – NEGLIGENCE**  
**(Imerys Talc)**

71. Plaintiffs reallege and incorporate by reference every allegation of this Third Amended Petition as if each were set forth fully and completely herein.

72. At all pertinent times, Defendants had a duty to exercise reasonable care to consumers, including Plaintiffs herein, in the design, development, manufacture, testing, inspection, packaging, promotion, marketing, distribution, labeling and/or sale of the PRODUCTS.

73. At all pertinent times, Imerys Talc mined and sold talc to the Johnson & Johnson Defendants, which it knew and/or should have known was then being packaged and sold to consumers as the PRODUCTS by the Johnson and Johnson Defendants. Further, Imerys Talc knew and/or should have known that consumers of the PRODUCTS were using it to powder their perineal regions.

74. At all pertinent times, Imerys Talc knew or should have known that the use of talcum powder based products in the perineal area significantly increases the risk of ovarian cancer based upon scientific knowledge dating back to the 1960s.

75. At all pertinent times, Imerys Talc knew or should have known that Johnson & Johnson was not providing warnings to consumers of the PRODUCTS of the risk of ovarian cancer posed by talc contained therein.

76. At all pertinent times, Imerys Talc was negligent in providing talc to the Johnson & Johnson Defendants, when it knew or should have known that the talc would be used in the PRODUCTS, without adequately taking steps to ensure that ultimate consumers of the PRODUCTS, including Decedent, received the information that Imerys Talc possessed on the carcinogenic properties of talc, including its risk of causing ovarian cancer.

77. As a direct and proximate result of Imerys Talc's negligence, Plaintiffs purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused Plaintiffs to develop ovarian cancer; Plaintiffs were caused to incur medical bills, lost wages, and conscious pain and suffering, and/or death; Plaintiffs were caused to sustain damages as a direct and proximate result, in some cases to include untimely death, funeral and burial costs, as well as the loss of his wife's services, companionship, comfort, instruction, guidance, counsel, training and support.

WHEREFORE, Plaintiff prays for judgment against Imerys Talc in a fair and reasonable sum in excess of \$25,000.00, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

**COUNT THREE – NEGLIGENCE**  
**(Johnson & Johnson Defendants)**

82. Plaintiffs hereby incorporate by reference each of the preceding paragraphs as if fully set forth herein.

83. The Johnson & Johnson Defendants were negligent in marketing, designing, manufacturing, producing, supplying, inspecting, testing, selling and/or distributing the PRODUCTS in one or more of the following respects:

- a. In failing to warn Plaintiffs of the hazards associated with the use of the PRODUCTS;
- b. In failing to properly test their products to determine adequacy and effectiveness or safety measures, if any, prior to releasing the PRODUCTS for consumer use;
- c. In failing to properly test their products to determine the increased risk of ovarian cancer during the normal and/or intended use of the PRODUCTS;
- d. In failing to inform ultimate users, such as Plaintiffs as to the safe and proper methods of handling and using the PRODUCTS;
- e. In failing to remove the PRODUCTS from the market when the Defendants knew or should have known the PRODUCTS were defective;
- f. In failing to instruct the ultimate users, such as Plaintiffs, as to the methods for reducing the type of exposure to the PRODUCTS which caused increased risk of ovarian cancer;
- g. In failing to inform the public in general and the Plaintiffs in particular of the known dangers of using the PRODUCTS for dusting the perineum;
- h. In failing to advise users how to prevent or reduce exposure that caused increased risk for ovarian cancer;
- i. In marketing and labeling the PRODUCTS as safe for all uses despite knowledge to the contrary.

j. In failing to act like a reasonably prudent company under similar circumstances.

Each and all of these acts and omissions, taken singularly or in combination, were a proximate cause of the injuries and damages sustained by Plaintiffs.

84. At all pertinent times, the Johnson & Johnson Defendants knew or should have known that the PRODUCTS were unreasonably dangerous and defective when put to their reasonably anticipated use.

85. As a direct and proximate result of the Johnson & Johnson Defendants' negligence in one or more of the aforementioned ways, Plaintiffs purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused each Plaintiff to develop ovarian cancer; Plaintiffs were caused to incur medical bills, lost wages, and conscious pain and suffering.

WHEREFORE, Plaintiffs pray for judgment against the Johnson & Johnson Defendants in a fair and reasonable sum in excess of \$25,000.00, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

**COUNT FOUR – BREACH OF EXPRESS WARRANTY**  
**(Johnson & Johnson Defendants)**

100. Plaintiffs hereby incorporate by reference each of the preceding paragraphs as if fully set forth herein.

101. The Johnson & Johnson Defendants expressly warranted, through direct-to-consumer marketing, advertisements, and labels, that the PRODUCTS were safe and effective for reasonably anticipated uses, including use by women in the perineal area.

102. The PRODUCTS did not conform to these express representations because they cause serious injury when used by women in the perineal area in the form of ovarian cancer.

103. As a direct and proximate result of the Defendants' breach of warranty, Plaintiffs purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused each Plaintiff to develop ovarian cancer; Plaintiffs were caused to incur medical bills, lost wages, and conscious pain and suffering.

WHEREFORE, Plaintiffs pray for judgment against the Johnson & Johnson Defendants in a fair and reasonable sum in excess of \$25,000.00, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

**COUNT FIVE – BREACH OF IMPLIED WARRANTIES**  
**(Johnson & Johnson Defendants)**

104. Plaintiffs incorporate by reference every other paragraph of this Third Amended Petition as if each were set forth fully and completely herein.

105. At the time the Defendants manufactured, marketed, labeled, promoted, distributed and/or sold the PRODUCTS, the Johnson & Johnson Defendants knew of the uses for which the PRODUCTS were intended, including use by women in the perineal area, and impliedly warranted the PRODUCTS to be of merchantable quality and safe for such use.

106. Defendants breached their implied warranties of the PRODUCTS sold to Plaintiffs because they were not fit for their common, ordinary and intended uses, including use by women in the perineal area.

107. As a direct, foreseeable and proximate result of the Defendants' breaches of implied warranties, Plaintiffs purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused each Plaintiff to develop ovarian cancer; Plaintiffs were caused to incur medical bills, lost wages, and conscious pain and suffering.

WHEREFORE, Plaintiffs pray for judgment against the Johnson & Johnson Defendants in a fair and reasonable sum in excess of \$25,000.00, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

**COUNT SIX – CIVIL CONSPIRACY**  
**(All Defendants)**

108. Plaintiffs incorporate by reference every other paragraph of this Third Amended Petition as if each were set forth fully and completely herein.

109. Defendants and/or their predecessors-in-interest knowingly agreed, contrived, combined, confederated and conspired among themselves to cause Plaintiffs' injuries, disease, and/or illnesses by exposing the Plaintiffs to harmful and dangerous PRODUCTS. Defendants further knowingly agreed, contrived, confederated and conspired to deprive the Decedent and Plaintiff of the opportunity of informed free choice as to whether to use the PRODUCTS or to expose her to said dangers. Defendants committed the above described wrongs by willfully misrepresenting and suppressing the truth as to the risks and dangers associated with the use of and exposure to the PRODUCTS.

110. In furtherance of said conspiracies, Defendants performed the following overt acts:

- a. For many decades, Defendants, individually, jointly, and in conspiracy with each other, have been in possession of medical and scientific data, literature and test reports which clearly indicated that use of their by women resulting from ordinary and foreseeable use of the PRODUCTS were unreasonably dangerous, hazardous, deleterious to human health, carcinogenic, and potentially deadly;
- b. Despite the medical and scientific data, literature, and test reports possessed by and available to Defendants, Defendants individually, jointly, and in conspiracy with each other, fraudulently, willfully and maliciously:
  - i. Withheld, concealed and suppressed said medical information regarding the increased risk of ovarian cancer from Plaintiff and Decedent (as set out in the "Facts" section of this pleading); In addition, on July 27, 2005 Defendants as part of the TIPTF

corresponded and agreed to edit and delete portions of scientific papers being submitted on their behalf to the United States Toxicology Program in an attempt to prevent talc from being classified as a carcinogen;

- ii. The Defendants through the TIPTF instituted a “defense strategy” to defend talc at all costs. Admittedly, the Defendants through the TIPTF used their influence over the NTP Subcommittee, and the threat of litigation against the NTP to prevent the NTP from classifying talc as a carcinogen on its 10th RoC. According to the Defendants, “. . . we believe these strategies paid-off”;
  - iii. Caused to be released, published and disseminated medical and scientific data, literature, and test reports containing information and statements regarding the risks of ovarian cancer which Defendants knew were incorrect, incomplete, outdated, and misleading. Specifically, the Defendants through the TIPTF collectively agreed to release false information to the public regarding the safety of talc on July 1, 1992; July 8, 1992; and November 17, 1994. In a letter dated September 17, 1997, the Defendants were criticized by their own Toxicologist consultant for releasing this false information to the public, yet nothing was done by the Defendants to correct or redact this public release of knowingly false information.
- c. By these false and fraudulent representations, omissions, and concealments, Defendants intended to induce the Plaintiffs to rely upon said false and fraudulent representations, omissions and concealments, and to continue to expose herself to the dangers inherent in the use of and exposure to the PRODUCTS.

111. Decedent reasonably and in good faith relied upon the aforementioned fraudulent representations, omissions, and concealments made by Defendants regarding the nature of the PRODUCTS.

112. As a direct, foreseeable and proximate result of the Defendants’ breaches of implied warranties, Plaintiffs purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused each Plaintiff to develop ovarian cancer; Plaintiffs were caused to incur medical bills, lost wages, and conscious pain and suffering.



WHEREFORE, Plaintiff prays for judgment against all Defendants, each of them, in a fair and reasonable sum in excess of \$25,000.00, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

**COUNT SEVEN – CONCERT OF ACTION**  
**(All Defendants)**

113. Plaintiffs incorporate by reference every other paragraph of this Third Amended Petition as if each were set forth fully and completely herein.

114. At all pertinent times, Imerys Talc, the Johnson & Johnson Defendants, and the PCPC knew that the PRODUCTS should contain warnings on the risk of ovarian cancer posed by women using the product to powder the perineal region, but purposefully sought to suppress such information and omit from talc based products so as not to negatively affect sales and maintain the profits of the Johnson & Johnson Defendants and Imerys Talc.

115. As a direct, foreseeable and proximate result of the Defendants' breaches of implied warranties, Plaintiffs purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused each Plaintiff to develop ovarian cancer; Plaintiffs were caused to incur medical bills, lost wages, and conscious pain and suffering.

WHEREFORE, Plaintiff prays for judgment against all Defendants, each of them, in a fair and reasonable sum in excess of \$25,000.00, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

**COUNT EIGHT – NEGLIGENT MISREPRESENTATION**  
**(All Defendants)**

116. Plaintiffs incorporate by reference each of the preceding paragraphs as if fully set forth herein.

117. Defendants had a duty to accurately and truthfully represent to the medical and healthcare community, Plaintiffs and the public, that the PRODUCTS had been tested and found to be safe and effective for use in the perineal area. The representations made by Defendants, in fact, were false.

118. Defendants failed to exercise ordinary care in the representations concerning the PRODUCTS while they were involved in their manufacture, sale, testing, quality assurance, quality control, and distribution in interstate commerce, because Defendants negligently misrepresented the PRODUCTS' high risk of unreasonable, dangerous, adverse side effects.

119. Defendants breached their duty in representing that the PRODUCTS have no serious side effects.

120. As a foreseeable, direct and proximate result of the negligent misrepresentation of Defendants as set forth herein, Defendants knew, and had reason to know, that the PRODUCTS had been insufficiently tested, or had not been tested at all, and that they lacked adequate and accurate warnings, and that it created a high risk, and/or higher than acceptable risk, and/or higher than reported and represented risk, of adverse side effects.

121. As a proximate result of Defendants' conduct, Plaintiffs have been injured and sustained severe and permanent pain, suffering, disability, impairment, loss of enjoyment of life, loss of care and comfort, and economic damages.

WHEREFORE, Plaintiffs demand judgment against Defendants, and each of them, individually, jointly, severally and in the alternative, requests compensatory damages, punitive damages, together with interest, costs of suit, attorneys' fees, and such further relief as the Court deems equitable and just.

**COUNT NINE – FRAUD**  
**(Johnson & Johnson Defendants)**

122. Plaintiffs incorporate by reference every other paragraph of this Third Amended Petition as if each were set forth fully and completely herein.

123. At all relevant times, the Johnson & Johnson Defendants intentionally, willfully, and/or recklessly, with the intent to deceive, misrepresented and/or concealed material facts to consumers and users, including Plaintiffs.

124. At all relevant times, the Johnson & Johnson Defendants misrepresented and/or concealed material facts concerning the PRODUCTS to consumers, including the Plaintiffs, with knowledge of the falsity of their misrepresentations.

125. At all relevant times, upon information and belief, the misrepresentations and concealments concerning the PRODUCTS made by the Johnson & Johnson Defendants include, but are not limited to the following:

- a. The Johnson & Johnson Defendants falsely labeled and advertised the PRODUCTS in the following ways, among others: “For you, use every day to help feel soft, fresh, and comfortable,” “a sprinkle a day keeps the odor away,” “your body perspires in more places than just under your arms,” “Use SHOWER to SHOWER to feel dry, fresh, and comfortable throughout the day,” and “SHOWER to SHOWER can be used all over your body.”
- b. The Johnson & Johnson Defendants falsely advertised the PRODUCT SHOWER to SHOWER to be applied “all over,” and in particular, urges women to use it to “Soothe Your Skin: Sprinkle on problem areas to soothe skin that has been irritated from friction. Apply after a bikini wax to help reduce irritation and discomfort.”
- c. The Johnson & Johnson Defendants, through the advertisements described above, knowingly misrepresented to Plaintiff and the public that the PRODUCTS were safe for use all over the body, including the perineal areas of women.
- d. The Johnson & Johnson Defendants intentionally failed to disclose that talc and the associated PRODUCTS, when used in the perineal area, increase the risk of ovarian cancer.

- e. The Johnson & Johnson Defendants intentionally failed to include adequate warnings with the PRODUCTS regarding the potential and actual risks of using the PRODUCTS in the perineal area on women and the nature, scope, severity, and duration of any serious injuries resulting therefrom.<sup>2</sup>
- f. Despite knowing about the carcinogenic nature of talc and its likelihood to increase the risk of ovarian cancer in women, the Johnson & Johnson Defendants falsely marketed, advertised, labeled and sold the PRODUCTS as safe for public consumption and usage, including for use by women to powder their perineal areas.

126. At all relevant times, the Johnson & Johnson Defendants actively, knowingly, and intentionally concealed and misrepresented these material facts to the consuming public with the intent to deceive the public and Plaintiffs, and with the intent that the consumers would purchase and use the PRODUCTS in the female perineal area.

127. At all relevant times, the consuming public, including Plaintiffs, would not otherwise have purchased the PRODUCTS and/or applied the PRODUCTS in the perineal area if they had been informed of the risks associated with the use of the PRODUCTS in the perineal area.

128. At all relevant times, Plaintiffs relied on the Johnson & Johnson Defendants' misrepresentations concerning the safety of the PRODUCTS when purchasing the PRODUCTS and using them in her perineal area, and her reliance was reasonable and justified.

129. As a direct, foreseeable and proximate result of the Johnson & Johnson Defendants' fraudulent conduct, Plaintiffs purchased and used the PRODUCTS in their perineal

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<sup>2</sup> Household Products Database, Label for Johnson's Baby Powder, Original, <http://householdproducts.nlm.nih.gov/cgi-bin/household/brands?tbl=brands&id=10001040>

areas. As a direct and proximate result of such use, each Plaintiff developed ovarian cancer, and Plaintiffs were caused to incur medical bills, lost wages, and conscious pain and suffering.

WHEREFORE, Plaintiffs pray for judgment against all Defendants, jointly and severely, in a fair and reasonable sum in excess of \$25,000.00, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

**COUNT TEN – WRONGFUL DEATH**  
**(All Defendants)**

130. Plaintiffs incorporate by reference every other paragraph of this Third Amended Petition as if each were set forth fully and completely herein.

131. As a direct and proximate result of the acts and/or omissions of Defendants as set forth herein, the Decedents named in this action used the PRODUCTS in their perineal areas. Subsequent to such use, Decedents developed ovarian cancer, suffered substantial pain and suffering, both physical and emotional in nature, and subsequently died.

132. Plaintiffs, on behalf of themselves and all of the next of kin of Decedents, are entitled to recover damages as Decedents would have if they were living, as a result of acts and/or omissions of Defendants.

133. Plaintiffs, on behalf of themselves and all of Decedents' next of kin are also entitled to recover punitive damages and damages for substantial pain and suffering caused to Decedents from the acts and/or omissions of Defendants as fully set forth herein, including without limitations, punitive damages.

134. As a direct and proximate result of Defendants' conduct, Plaintiffs and Decedents have been injured and sustained severe and permanent pain, suffering, disability, impairment, loss of enjoyment of life, loss of care and comfort, and economic damages.

WHEREFORE, Plaintiffs demand judgment against Defendants, individually, jointly, severally, and in the alternative, requests compensatory damages, punitive damages, together with interest, costs of suit, attorneys' fees, and such further relief as the Court deems equitable and just.

**COUNT ELEVEN – PUNITIVE DAMAGES**  
**(All Defendants)**

135. Plaintiffs incorporate by reference every other paragraph of this Third Amended Petition as if each were set forth fully and completely herein.

136. The Defendants have acted willfully, wantonly, maliciously, with an evil motive, and recklessly in one or more of the following ways:

- a. Defendants knew of the unreasonably high risk of ovarian cancer posed by the PRODUCTS before manufacturing, marketing, distributing and/or selling the PRODUCTS, yet purposefully proceeded with such action;
- b. Despite their knowledge of the high risk of ovarian cancer associated with the PRODUCTS, Defendants affirmatively minimized this risk through marketing and promotional efforts and product labeling;
- c. Through the actions outlined above, Defendants expressed a reckless indifference to the safety of users of the PRODUCTS, including Plaintiffs. Defendants knew of the dangers and risks of the PRODUCTS, yet they concealed and/or omitted this information from labels and warnings contained on the PRODUCTS in furtherance of their conspiracy and concerted action. These actions were outrageous because of Defendants' evil motive or a reckless indifference to the safety of users of the PRODUCTS.

137. As a direct and proximate result of the willful, wanton, malicious, evilly motivated and/or reckless conduct of the Defendants, the Plaintiffs have sustained damages as set forth above.

WHEREFORE, Plaintiffs pray for a judgment for punitive damages against all Defendants, jointly and severally, in a fair and reasonable amount sufficient to punish

Defendants and deter them and others from engaging in similar conduct in the future, costs expended herein, and such further and other relief as the Court deems just and appropriate.

**COUNT TWELVE – DAMAGES**  
**(Against All Defendants)**

138. Plaintiffs incorporate by reference every other paragraph of this Third Amended Petition as if each were set forth fully and completely herein.

139. Defendants knew of the dangerous condition of the PRODUCTS, including that they posed a danger to their consumers, including Plaintiffs, but chose not to include any warnings or information regarding the dangerous condition of the PRODUCTS.

140. Defendants showed complete indifference to or conscious disregard of the safety of Plaintiffs by their conduct described herein. Defendants knew or should have known failure to include a warning for the PRODUCTS would result in women using the PRODUCTS in their perineal areas and subsequently developing ovarian cancer.

141. Plaintiffs are entitled to exemplary damages to punish Defendants and to deter Defendants and others in similar situations from like conduct.

WHEREFORE, Plaintiffs pray for judgment against Defendants for exemplary damages for the aggravating circumstances of decedents, to punish Defendants, and to deter Defendants and others from like conduct, and such other and further relief as this Court deems just, proper, and equitable.

**TOLLING STATUTE OF LIMITATIONS**

142. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

143. Plaintiffs have suffered an illness that has a latency period and does not arise until many years after exposure. Plaintiffs' illnesses did not distinctly manifest themselves until they were made aware that their ovarian cancer could be caused by their use of the Defendants' products. Consequently, the discovery rule applies to these cases, and the statute of limitations has been tolled until the day that Plaintiffs knew or had reason to know that their ovarian cancer was linked to their use of the Defendants' products.

144. Furthermore, the running of any statute of limitations has been equitably tolled by reason of Defendants' fraudulent concealment and conduct. Through their affirmative misrepresentations and omissions, Defendants actively concealed from Plaintiffs the true risks associated with PRODUCTS.

145. As a result of Defendants' actions, Plaintiffs were unaware, and could not reasonably know or have learned through reasonable diligence, that Plaintiffs had been exposed to the risks alleged herein and that those risks were the direct and proximate result of Defendants' acts and omissions.

146. Furthermore, Defendants are estopped from relying on any statute of limitations because of their concealment of the truth regarding the safety of PRODUCTS. Defendants were under a duty to disclose the true character, quality and nature of PRODUCTS because this was non-public information over which they continue to have exclusive control. Defendants knew that this information was not available to Plaintiffs, their medical providers and/or their health facilities, yet they failed to disclose the information to the public.

147. Defendants had the ability to and did spend enormous amounts of money in furtherance of their purposes of marketing and promoting a profitable product, notwithstanding the known or reasonably knowable risks. Plaintiffs and medical professionals could not have



afforded to and could not have possibly conducted studies to determine the nature, extent and identity of related health risks, and they were forced to rely on Defendants' representations.

Respectfully submitted,

ONDER, SHELTON,  
O'LEARY & PETERSON, LLC

By: /s/ W. Wylie Blair  
James G. Onder, #38049  
W. Wylie Blair, #58196  
Stephanie L. Rados, #65117  
110 E. Lockwood, 2<sup>nd</sup> Floor  
St. Louis, MO 63119  
314-963-9000 telephone  
314-963-1700 facsimile  
[onder@onderlaw.com](mailto:onder@onderlaw.com)  
[blair@onderlaw.com](mailto:blair@onderlaw.com)  
[rados@onderlaw.com](mailto:rados@onderlaw.com)

OF COUNSEL:

R. Allen Smith, Jr. – MSB # 99984  
THE SMITH LAW FIRM, PLLC  
681 Towne Center Boulevard, Suite B  
Ridgeland, Mississippi 39157  
Telephone: (601) 952-1422  
Facsimile: (601) 952-1426

Timothy W. Porter – MSB # 9687  
Patrick C. Malouf – MSB # 9702  
John T. Givens – MSB #101561  
PORTER & MALOUF, PA  
Post Office Box 12768  
Jackson, Mississippi 39236-2768  
Telephone: (601) 957-1173  
Facsimile: (601) 957-7366

Ted G. Meadows – ALB # MEA014

BEASLEY, ALLEN, CROW,  
METHVIN, PORTIS & MILES, P.C.  
218 Commerce Street  
Post Office Box 4160  
Montgomery, Alabama 36103  
Telephone: (334) 269-2343  
Facsimile: (334) 954-7555

*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on February 10, 2017 a true copy of the foregoing instrument was served by means of the Notice of Electronic Filing on all parties of record in this case.

/s/ W. Wylie Blair  
W. Wylie Blair

*Attorney for Plaintiffs*