UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

FLORENCE KUNTZ, Individually and as Proposed Executor of the Estate of JANEL KUNTZ, Deceased, Plaintiff, -against- JOHNSON & JOHNSON; JOHNSON CONSUMER COMPANIES, INC.; IMERYS TALC AMERICA, INC., F/K/A LUZENAC AMERICA, INC., PERSONAL CARE PRODUCTS COUNCIL F/K/A COSMETIC, TOILETRY, AND FRAGRANCE ASSOCIATION (CTFA); JOHN DOES/ JANE DOES 1-30; UNKNOWN BUSINESSES AND/OR CORPORATIONS 1-50, Defendants.	**CASE NUMBER** **COMPLAINT AND DEMAND FOR JURY TRIAL**

COMES NOW Plaintiff complains and alleges against Defendants and each of them as follows:

GENERAL ALLEGATIONS

1. Plaintiff, FLORENCE KUNTZ, Individually and as Proposed Executor of the Estate and Trustee for JANEL KUNTZ, deceased (“Plaintiff”), by and through undersigned counsel brings this action for personal injuries suffered as a proximate result of regular and prolonged use of talcum powder containing products known as Johnson & Johnson Baby Powder and Shower to Shower (hereinafter "the PRODUCTS") in the perineal area, which at all times relevant hereto, were manufactured, designed, tested, packaged, labeled, marketed, advertised, distributed, and sold by Defendants Johnson & Johnson; Johnson & Johnson Consumer

Companies, Inc.; Imerys Talc America, Inc., f/k/a Luzenac America, Inc.; Personal Care Products Council f/k/a Cosmetic, Toiletry, and Fragrance Association (CTFA); John Does/ Jane Does 1-30; and Unknown Businesses and/or Corporations 1-50 ("Defendants").

2. The true names or capacities whether individual, corporate or otherwise, of the Doe Defendants l through 100, inclusive, are unknown to Plaintiff who therefore, sues said Defendants by such fictitious names. Plaintiff believes and alleges that each of the Defendants designated herein by fictitious names is in some manner legally responsible for the events and happenings herein referred to and caused damages proximately and foreseeably to Plaintiff as alleged herein. Plaintiff will move the Court to amend the Complaint to specifically name the Doe Defendants once they are learned.

3. At all times herein mentioned, each of the Defendants, inclusive of the Doe Defendants, was the agent, servant, partner, aider and abettor, co-conspirator, and joint venturer of each of the remaining Defendants herein and were at all times operating and acting within the purpose and scope of said agency, service, employment, partnership, conspiracy, and joint venture and rendered substantial assistance and encouragement to the other Defendants, knowing that their conduct constituted a breach of duty.

4. There exists, and at all times herein mentioned, there existed a unity of interest in ownership between certain Defendants and other certain Defendants such that any individuality and separateness between the certain Defendants has ceased and these Defendants are the alter ego of the other certain Defendant, and exerted control over those Defendants. Adherence to the fiction of the separate existence of these certain Defendants as any entity distinct from other certain Defendants will permit an abuse of the corporate privilege and would sanction fraud and would promote injustice.

5. The injuries and damages to Plaintiff were caused by the wrongful acts, omissions, and fraudulent representations of Defendants.

6. At all times herein mentioned, Defendants were each engaged in the business of, or were successors in interest to, entities engaged in the business of research, designing, formulating, compounding, testing, manufacturing, producing, processing, assembling, inspecting, distributing, marketing, labeling, promoting, packaging and/or advertising for sale or selling the PRODUCTS, including in the State of Texas.

7. At all times herein mentioned Defendants were each authorized to do or otherwise engaged in business within the State of Texas and did in fact supply the aforementioned product within the State of Texas, and nationwide.

8. At all times herein mentioned, the officers and directors of Defendants authorized and directed the production and promotion of the PRODUCTS when they knew, or with the exercise of reasonable care should have known, of the hazards and dangerous propensities of the PRODUCTS, and thereby actively participated in the tortious conduct which resulted in the physical injuries described herein.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this action pursuant to 28 U.S.C.§1332, because the amount in controversy as to Plaintiffs exceeds $75,000.00, exclusive of interest and costs, and because Defendants are all incorporated and have their principal places of business in states other than the state in which Plaintiff and Decedent reside.

10. This Court has supplemental jurisdiction over the remaining common law and state claims pursuant to 28 USC §1367.

11. Venue is proper in this Court pursuant to 28 USC §1391 because Defendants engaged in marketing, promoting, labeling, distributing, and sale of their product in each of the fifty States in the United States, and specifically including Plaintiff's state of citizenship and the state or states in which Plaintiff used the PRODUCTS and was treated for ovarian cancer.

PLAINTIFF

12. At times relevant hereto, Decedent JANEL KUNTZ (the "Decedent") was a citizen and resident of Ellis County, Texas, and was residing there at the time she was using the PRODUCTS, at the time she was diagnosed with ovarian cancer.

13. FLORENCE KUNTZ currently is a citizen and resident of Starks County, North Dakota. She is the mother of Janel Kuntz and sole heir to the Decedent's estate.

14. The Decedent used the PRODUCTS to dust her perineum for feminine hygiene purposes from approximately 1991 to 2014. This was an intended and foreseeable use of the PRODUCTS based on the advertising, marketing, and labeling of the PRODUCTS.

15. The Decedent was living in Ellis County, Texas, where she used the PRODUCTS, and she used the PRODUCTS continuously until 2014.

16. Plaintiff was diagnosed with ovarian cancer. At the time of her diagnosis the Plaintiff was forty-three (43) years old and did not have any risks factors, genetic or otherwise, for the disease.

DEFENDANTS

17. The Defendant, Johnson & Johnson, is a New Jersey corporation with its principal place of business in the State of New Jersey. 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 the State of Texas, including the marketing, promoting, selling, and/or distribution of the PRODUCTS.

18. Johnson & Johnson may be served with process by serving its registered agent, M. H. Ullmann at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933.

19. The Defendant, Johnson & Johnson Consumer Companies, Inc. is a New Jersey corporation with its principal place of business in the State of New Jersey. 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 the State of Texas, including the marketing, promoting selling, and/or distribution of the PRODUCTS.

20. Johnson & Johnson Consumer Companies, Inc. may be served with process of this Court via service on its registered agent, Johnson & Johnson, located at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933-0000.

21. Defendants Johnson & Johnson and Johnson & Johnson Consumer Companies, Inc., have, at all pertinent times, engaged in the business of designing, developing, licensing, manufacturing, distributing, selling, marketing, and/or introducing into interstate commerce, and into the State of Texas, either directly or indirectly through third parties or related entities, the PRODUCTS at issue in this Complaint.

22. At all pertinent times, Defendant Johnson & Johnson Consumer Companies, Inc., has been a wholly owned subsidiary of Defendant Johnson & Johnson, under the complete dominion of and control of Defendant Johnson & Johnson. Hereinafter, unless otherwise

delineated, these two entities shall be collectively referred to as the "Johnson & Johnson Defendants."

23. 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. At all pertinent times, Imerys Talc America, Inc. has maintained a registered agent in the State of Delaware. Imerys Talc America, Inc. may be served with process of this Court via service on its registered agent, Corporation Service Company, located at 830 Bear Tavern Road, West Trenton, New Jersey 08628.

24. 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.

25. The Defendant, Personal Care Products Council Foundation ("PCPC"), f/k/a Cosmetic, Toiletry, and Fragrance Association ("CTFA"), is a corporation organized under the laws of the District of Columbia, with its principal place of business in the District of Columbia. Cosmetic, Toiletry, and Fragrance Association (CTFA) n/k/a Personal Care Products Council does not maintain a registered agent and, therefore, may be served with process of this Court via service at its principal place of business located at Personal Care Products Council, 1101 17th Street, N.W., Washington, District of Columbia 20036-4702. PCPC is the successor or continuation of CTFA and PCPC is legally responsible for all liabilities incurred when it was known as CTFA.

26. Defendants John Does/ Jane Does 1 -30 are those persons, agents, employees, and/or representatives of Defendants whose conduct as described herein caused or contributed to the damages of the Plaintiff, all of whose names and legal identities are unknown to the Plaintiff at this time, but will be substituted by amendment when ascertained, individually and jointly.

27. Defendants Unknown Businesses and/or Corporations A-Z are unknown entities whose conduct as described herein caused or contributed to the damages of the Plaintiff, all of whose names and legal identities are unknown to the Plaintiff at this time, but will be substituted by amendment when ascertained, individually and jointly.

FACTUAL ALLEGATIONS

28. 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.

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

30. At all times 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.

31. Imerys Talc[1] has continually advertised and marketed talc as safe for human use.

[1] All allegations regarding actions taken by Imerys Talc also include actions taken while that entity was known as Luzenac America, Inc.

32. 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.

33. 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."

34. 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."

35. The Decedent used the PRODUCTS to dust her perineum for feminine hygiene purposes from approximately 1991 to 2014. This was an intended and foreseeable use of the PRODUCTS based on the advertising, marketing, and labeling of the PRODUCTS.

36. Decedent was living in Ellis County, Texas, where she used the PRODUCTS, and she used the PRODUCTS continuously thereafter until 2014.

37. Plaintiff was diagnosed with ovarian cancer. At the time of her diagnosis the Plaintiff was forty-three (43) years old and did not have any risks factors, genetic or otherwise, for the disease.

38. 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.

39. 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.

40. 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.

41. 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.

42. In response to the United States National Toxicology Program's study, the Cosmetic Toiletry and Fragrancy 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.

43. On November 10, 1994. the Cancer Prevention Coalition mailed a letter to then Johnson & Johnson C.E.0, 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 corn starch powders, or at a minimum, place waning information on its talc-based body powders about the ovarian cancer risk they pose.

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

45. 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 tale. 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."

46. 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".

47. 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.

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

49. 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.

50. 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.

51. 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, and death.

FEDERAL STANDARDS AND REQUIREMENTS

52. Upon information and belief, the Defendants have or may have failed to comply with all federal standards and requirements applicable to the sale of the PRODUCTS including, but not limited to, violations of various sections and subsections of the United States Code and the Code of Federal Regulations.

FIRST CAUSE OF ACTION

STRICT LIABILITY-FAILURE TO WARN

(Imerys Talc and Johnson & Johnson Defendants)

53. Plaintiff hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

54. 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.

55. 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.

56. 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.

57. At pertinent times, Decedent JANEL KUNTZ used the PRODUCTS to powder her perineal area, which is a reasonably foreseeable use.

58. 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.

59. 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 the Decedent as to the risks and benefits of the PRODUCTS given the Decedents need for this information.

60. Had the Decedent received a warning that the use of the PRODUCTS would have significantly increased her 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, Decedent has suffered personal injuries, economic and non-economic damages, including pain and suffering and death.

61. The development of ovarian cancer by the Decedent 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; Decedent was caused to incur medical bills, lost wages, and conscious pain and suffering.

62. The Defendants' products were defective because they failed to contain warnings and/or instructions, and breached express warranties and/or failed to conform to other express factual representation upon which the Decedent justifiably relied in electing to use the products. The defect or defects made the products unreasonably dangerous to those persons, such as Decedent, 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 Decedents injuries and damages.

63. 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.

64. Defendants’ actions described above were performed willfully, intentionally, and with reckless disregard of the life and safety of the Decedent and the public.

65. Defendants' actions described above violated the federal and state Food, Product and Cosmetic Acts and rendered the PRODUCTS misbranded.

66. As a direct and proximate result of the actions and inactions of the Defendants as set forth above, Decedent was exposed to the PRODUCTS and suffered the injuries and damages set forth hereinabove.

SECOND CAUSE OF ACTION

INADEQUATE WARNING

(Against Imerys Talc and Johnson & Johnson Defendants)

67. Plaintiff repeats, reiterates and re-alleges each and every allegation of this Complaint contained in the paragraphs above, with the same force and effect as if fully set forth herein.

68. The PRODUCTS were defective and unreasonably dangerous when they left the possession of the Defendants in that it contained warnings insufficient to alert consumers, including Plaintiff herein, of the dangerous risks and reactions associated with the subject product, including but not limited to its propensity to permanent physical injuries including, but not limited to, developing ovarian cancer and other serious injuries and side effects, notwithstanding the Defendants' knowledge of an increased risk of these injuries and side effects over other products.

69. The subject product manufactured and supplied by Defendant was defective due to inadequate post-marketing warning or instruction because, after Defendant knew or should have known of the risk of serious bodily harm from the use of the subject product, Defendant failed to provide an adequate warning to consumers of the defects of the product,

and/or alternatively failed to conform to federal and/or state requirements for labeling, warnings and instructions, or recall, while knowing that the product could cause serious injury.

70. Plaintiff used the subject product for its intended purpose.

71. Plaintiff could not have discovered any defect in the subject product through the exercise of reasonable care.

72. The Defendants, as manufacturers and/or distributors of the product, are held to the level of knowledge of an expert in the field.

73. The warnings that were given by the Defendants were not accurate, clear and/or were ambiguous.

74. Plaintiff reasonably relied upon the skill, superior knowledge and judgment of the Defendants.

75. The Defendants had a continuing duty to warn Plaintiff of the dangers associated with the subject product.

76. Had Plaintiff received adequate warnings regarding the risks of the subject product, she would not have used it.

THIRD CAUSE OF ACTION

STRICT PRODUCTS LIABILITY – DESIGN DEFECT

(Against All Defendants)

77. Plaintiff hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

78. Defendants are the manufacturers, designers, distributers, sellers and suppliers of the PRODUCTS, who sold The Product in the course of business.

79. The Product manufactured, designed, sold, marketed, distributed, supplied and/or placed in the stream of commerce by Defendants was expected to and did reach the consumer without any alterations or changes.

80. The Product administered to Decedent was defective in design or formulation in the following respects:

a. When it left the hands of the Defendants, these Products were unreasonably dangerous to the extent beyond that which could reasonably be contemplated by Decedent;

b. Any benefits of the PRODUCTS were outweighed by the serious and undisclosed risks of its use when used as the Defendants intended;

c. The dosages and/or formulation of the PRODUCTS sold by the Defendants was unreasonably dangerous;

d. There are no consumers for whom the benefits of the PRODUCTS outweighed the risks;

e. The subject product was not made in accordance with the Defendants' specifications or performance standards;

f. There are no consumers for whom the PRODUCTS is a safer and more efficacious Product than other Product products in its class; and/or

g. There were safer alternatives that did not carry the same risks and dangers that Defendants' Product had.

81. The Product administered to Decedent was defective at the time it was distributed by the Defendants or left their control.

82. The foreseeable risks associated with the design or formulations of the PRODUCTS includes, but are not limited to, the fact that the design or formulation of the PRODUCTS is more dangerous than a reasonably prudent consumer would expect when used in an intended or reasonably foreseeable manner, and/or did not have the claimed benefits.

83. The defective and unreasonably dangerous design and marketing of the PRODUCTS was a direct, proximate and producing cause of Decedent's injuries and damages. Under strict products liability theories set forth in Restatement (Second) of Torts, Defendants are liable to Plaintiff for all damages claimed in this case.

84. As a direct, legal, proximate, and producing result of the defective and unreasonably dangerous condition of the PRODUCTS, Decedent suffered personal injuries, economic and non-economic damages, including pain and suffering and death.

85. Defendants' actions and omissions as identified in this Complaint show that Defendants acted maliciously and/or intentionally disregarded Decedent's rights so as to warrant the imposition of punitive damages.

FOURTH CAUSE OF ACTION

CONSTRUCTION OR COMPOSITION DEFECT

(Against all Defendants)

86. Plaintiff repeats, reiterates and realleges each and every allegation of this Complaint contained in the paragraphs above, with the same force and effect as if more fully set forth herein.

87. At all times material to this action, Defendants were engaged in the business of designing, developing, manufacturing, testing, packaging, promoting, marketing, distributing, labeling, and/or selling the PRODUCTS.

88. At all times material to this action, the PRODUCTS was expected to reach, and did reach, consumers in the State of Texas and throughout the United States, including Plaintiff herein without substantial change in the condition in which it was sold.

89. At all times material to this action, the PRODUCTS was designed, developed, manufactured, tested, packaged, promoted, marketed, distributed, labeled, and/or sold by Defendants in a defective and unreasonably dangerous condition at the time it was placed in the stream of commerce in ways which include, but are not limited to, one or more of the following particulars:

a. When placed in the stream of commerce, the PRODUCTS contained manufacturing defects which rendered the subject product unreasonably dangerous;

b. The subject product's manufacturing defects occurred while the product was in the possession and control of the Defendants;

c. The subject product was not made in accordance with the Defendants' specifications or performance standards; and

d. The subject product's manufacturing defects existed before it left the control of the Defendants.

90. The subject product manufactured and/or supplied by Defendant was defective in construction or composition in that, when it left the hands of Defendant, it deviated in a material way from Defendant's manufacturing performance standards and/or it differed from otherwise identical products manufactured to the same design formula. In particular, the product is not safe, has numerous and serious side effects and causes severe and permanent injuries including, but not limited to, developing ovarian cancer.

FIFTH CAUSE OF ACTION

DESIGN DEFECT

(Against All Defendants)

91. Plaintiffs repeat, reiterate and re-allege each and every allegation of this Complaint contained in the paragraphs above, with the same force and effect as if fully set forth herein.

92. The PRODUCTS is defective in its design or formulation in that it is not reasonably fit, suitable, or safe for its intended purpose and/or its foreseeable risks exceed the benefits associated with its design and formulation.

93. At all times material to this action, the PRODUCTS was expected to reach, and did reach, consumers in the State of Texas and throughout the United States, including Plaintiff herein, without substantial change in the condition in which it was sold.

94. At all times material to this action, the PRODUCTS was designed, developed, manufactured, tested, packaged, promoted, marketed, distributed, labeled, and/or sold by Defendants in a defective and unreasonably dangerous condition at the time it was placed in the stream of commerce in ways which include, but are not limited to, one or more of the following particulars:

a. When placed in the stream of commerce, the PRODUCTS contained unreasonably dangerous design defects and was not reasonably safe as intended to be used, subjecting Plaintiff to risks that exceeded the benefits of the subject product, including but not limited to permanent personal injuries including, but not limited to, developing ovarian cancer and other serious injuries and side effects;

b. When placed in the stream of commerce, the PRODUCTS was defective in design and formulation, making the use of the PRODUCTS more dangerous than an ordinary consumer would expect, and more dangerous than other risks associated with the other medications and similar Products on the market;

c. the PRODUCTS' design defects existed before it left the control of the Defendants;

d. the PRODUCTS was insufficiently tested;

e. the PRODUCTS caused harmful side effects that outweighed any potential utility; and f. the PRODUCTS was not accompanied by adequate instructions and/or warnings to fully apprise consumers, including Plaintiff herein, of the full nature and extent of the risks and side effects associated with its use, thereby rendering Defendants liable to Plaintiff.

95. In addition, at the time the subject product left the control of the Defendants, there were practical and feasible alternative designs that would have prevented and/or significantly reduced the risk of Plaintiff's injuries without impairing the reasonably anticipated or intended function of the product. These safer alternative designs were economically and technologically feasible, and would have prevented or significantly reduced the risk of Plaintiff's injuries without substantially impairing the product's utility.

SIXTH CAUSE OF ACTION

NEGLIGENCE

(Imerys Talc)

96. Plaintiff hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

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

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

99. 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.

100. 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.

101. 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 tale 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 tale, including its risk of causing ovarian cancer.

102. Defendants breached their duty of reasonable care to Decedent in that they negligently designed, developed, manufactured, tested, inspected, packaged, promoted, marketed, distributed, labeled, and/or sold the subject product.

103. As a direct and proximate result of Imerys Tale's negligence, Decedent purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused her to develop and die from ovarian cancer; Plaintiff was caused to incur medical bills, lost wages, and conscious pain and suffering and death.

SEVENTH CAUSE OF ACTION

NEGLIGENCE

(Johnson & Johnson Defendants)

104. Plaintiff hereby incorporates by reference each of the preceding paragraphs as if fully set fully herein.

105. 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 Plaintiff 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 Plaintiff 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 Plaintiff, 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 Plaintiff 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 Plaintiff.

106. 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.

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

EIGHTH CAUSE OF ACTION

BREACH OF IMPLIED WARRANTY

(Johnson & Johnson Defendants)

108. Plaintiff hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

109. 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.

110. Defendants breached their implied warranties of the PRODUCTS sold to Decedent because they were not fit for their common, ordinary and intended uses, including use by women in the perineal area, in violation of Common Law principles

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

NINTH CAUSE OF ACTION

BREACH OF EXPRESS WARRANTY

(Johnson & Johnson Defendants)

112. Plaintiff hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

113. 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.

114. 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. Defendants' breaches constitute violations of Common Law principles

115. As a direct and proximate result of the Defendants' breach of warranty, Decedent purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused her to develop ovarian cancer; Decedent was caused to incur medical bills, lost wages, conscious pain and suffering and death.

116. Defendants designed, manufactured, assembled, fabricated and/or distributed the products in question in a defective condition and therefore breached an implied warranty of fitness and an implied warranty of merchantability, in addition to various express warranties. The Defendants, as sellers, were merchants with respect to the products which they sold. In addition, these products were not fit for the ordinary purposes for which such goods are used. The Defendants also had reason to know of the particular purpose for which these products would be used, as well as the knowledge that persons such as Decedent would rely on the seller's skill to furnish suitable products.

117. Therefore, the Defendants have breached the implied warranty of merchantability as well as the implied warranty of fitness for a particular purpose, in addition to various express warranties. Such breach or breaches of implied and express warranties by the Defendants was a proximate cause of the injuries and damages sustained by Decedent.

TENTH CAUSE OF ACTION

NEGLIGENT MISREPRESENTATION

(Against All Defendants)

118. Plaintiff hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

119. Defendants had a duty to accurately and truthfully represent to the medical and healthcare community, Decedent 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.

120. 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.

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

122. 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.

123. As a proximate result of Defendants' conduct, Plaintiff has been injured and has tragically died from her injuries.

ELEVENTH CAUSE OF ACTION

FRAUDULENT CONCEALMENT

(Against All Defendants)

124. Plaintiff hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

125. At all times mentioned in this Complaint, Defendants had the duty and obligation to disclose to Decedent, the true facts concerning the PRODUCTS, that is, that the PRODUCTS was dangerous and defective, and likely to cause serious health consequences to users, including the injuries as described in this Complaint.

126. Defendants concealed important facts from Decedent which facts include, but are not limited to, the fact that Defendants:

a. Failed to disclose any connection between use of the PRODUCTS and the development of ovarian cancer;

b. Did not inform users of studies related to use of the PRODUCTS and the development of ovarian cancer, and

c. Concealed from users that numerous adverse events have been reported linking use of the PRODUCTS to ovarian cancer.

127. At all times mentioned in this Complaint, Defendants made affirmative representations to Decedent prior to the day the PRODUCTS was first purchased by Decedent that the PRODUCTS was safe as set forth above while concealing the material facts set forth herein.

128. At all times mentioned in this Complaint, Defendants had the duty and obligation to disclose to Decedent the true facts concerning the PRODUCTS, which facts

include, but are not limited to, the fact that the PRODUCTS was dangerous and likely to cause serious health consequences to users, including ovarian cancer.

129. At all times mentioned in this Complaint, Defendants intentionally, willfully, and maliciously concealed or suppressed the facts set forth above from Decedent, with the intent to defraud as alleged herein.

130. At all times mentioned in this Complaint, Decedent was not aware of the concealed facts set forth herein. Had she been aware of those facts, she would not have acted as they did, that is, that the PRODUCTS would not have been purchased by Decedent and Decedent would not have been injured as a result.

131. Had Decedent been informed of the deaths and serious injuries associated with the PRODUCTS usage, Decedent would have immediately discontinued the PRODUCTS or never taken them.

132. As a proximate result of the concealment or suppression of the facts set forth above, Decedent reasonably relied on Defendants' deception and, Decedent purchased the PRODUCTS and subsequently sustained injuries and damages as set forth in this Complaint. Defendants' concealment was a substantial factor in causing the injuries described herein.

133. As a result of the foregoing fraudulent and deceitful conduct by Defendants, and each of them, Decedent, for the sake of example and by way of punishing Defendants, seeks punitive damages according to proof.

134. As a result of the foregoing fraudulent and deceitful conduct by Defendants, and each of them, Decedent was caused to suffer the herein described injuries and damages.

TWELFTH CAUSE OF ACTION

LOSS OF CONSORTIUM

(Against All Defendants)

135. Plaintiff hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

136. Plaintiff was at all times relevant hereto the Decedent's mother.

137. For the reasons set forth herein, Plaintiff has been caused, presently and in the future, to suffer the loss of her daughter's companionship and society, and accordingly, the Plaintiff has been caused great harm and mental anguish.

THIRTEENTH CAUSE OF ACTION

WRONGFUL DEATH

(Against All Defendants)

138. Plaintiff hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

139. Plaintiff is a Successor-in-Interest and surviving heir of Decedent.

140. Decedent used the PRODUCTS, was injured and died as a result. Decedent purchased and used the PRODUCTS as tested, studied, researched, evaluated, endorsed, designed, formulated, compounded, manufactured, produced, processed, assembled, inspected, distributed, marketed, labeled, promoted, packaged, advertised for sale, sold or otherwise placed in the stream of interstate commerce by Defendants.

141. The injuries and damages suffered by Decedent were caused by the wrongful acts, omissions, and fraudulent misrepresentations of Defendants. As a result, Decedent suffered injuries, resulting in death.

142. Plaintiff is entitled to recover economic and non-economic damages against Defendants for wrongful death directly and legally caused by the defects in the PRODUCTS and Defendant's conduct as alleged within this Complaint.

FOURTEENTH CAUSE OF ACTION

PUNITIVE DAMAGES

(Against All Defendants)

143. Plaintiff hereby incorporates by reference all preceding paragraphs as if fully set forth herein.

144. Plaintiff is entitled to punitive damages because Defendants' wrongful acts and/or omissions were wanton or in conscious disregard of the rights of others. Defendants misled both the medical community and the public at large, including Plaintiffs, by making false representations about the safety and utility of the PRODUCTS and by failing to provide adequate instructions concerning their use.

145. The Defendants have acted willfully, wantonly, 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 and the Plaintiff.

Defendants' conduct, as described herein, knowing the dangers and risks of the PRODUCTS, yet concealing and/or omitting this information, in furtherance of their conspiracy and concerted action was outrageous because of Defendants' evil motive or a reckless indifference to the safety of users of the PRODUCTS.

146. The Defendants' conduct was a conscious disregard for the rights, safety and welfare of the Plaintiffs. The Defendants acted with willful and wanton disregard for the safety of the Plaintiffs. The Defendants' conduct constitutes gross negligence. Defendants' gross negligence was a proximate cause of Plaintiffs' injuries, and as such the Defendants are liable for exemplary and punitive damages.

147. The Defendants, Johnson & Johnson and Johnson & Johnson Consumer Companies, Inc., have a pattern and practice of this type of conduct. Specifically, these Defendants built their company on the credo, "We believe our first responsibility is to the doctors, nurses, and patients, to mothers and fathers and all others who use our products and services." The Defendants placed emphasis on shareholders believing that if they take care of everything the ethical and correct way profits will follow. However, over the past few decades, the Defendants have sharply deviated from their original credo, and instituted a corporate pattern and practice of placing profits over the health and well-being of its customers as evidence in the Propulsid litigation, Ortho Evra litigation, 2006 Pennsylvania Tylenol litigation, 2006 TMAP investigation, and 2007 violation of the Foreign Corrupt Practices Act.

148. The above listed evidence indicates a pattern and practice of the Defendants, Johnson & Johnson and Johnson & Johnson Consumer Companies, Inc., to place corporate profits over health and well-being of its customers. Such a pattern and practice has been followed by the Defendants regarding "Johnson's Baby Powder" and "Shower to Shower".

149. All of the Defendants have been aware for nearly forty (40) years of independent scientific studies linking the use of their products to the increased risk of ovarian cancer in women when used in the perineal area. Despite this overwhelming body of evidence all of the Defendants have failed to inform their consumers of this known hazard. As such, all of the Defendants should be liable for punitive damages to the Plaintiffs.

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

PRAYER FOR DAMAGES

WHEREFORE, Plaintiff prays for relief on the entire Complaint as follows:

1. Awarding compensatory damages to Plaintiff for past and future damages, including but not limited to pain and suffering for severe and permanent personal injuries sustained by the Plaintiff, health care costs, medical monitoring, together with interest and costs as provided by law;

2. Punitive and/or exemplary damages for the wanton, willful, fraudulent, reckless acts of the Defendants who demonstrated a complete disregard and reckless indifference for the safety and welfare of the general public and to the Plaintiff in an amount sufficient to punish Defendants and deter future similar conduct;

3. Awarding Plaintiff reasonable attorneys' fees;

4. Awarding Plaintiff the costs of these proceedings; and

5. Such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiff respectfully requests a trial by jury on all triable issues pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated: August 12, 2016

Respectfully submitted,

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