

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DOLORAE HANDY,

Plaintiff,

v.

JOHNSON & JOHNSON; JOHNSON & JOHNSON CONSUMER COMPANIES, INC.; IMERYS TALC AMERICA, INC. F/K/A LUZENAC AMERICA, INC. PERSONAL CARE PRODUCTS COUNCIL (PCPC) F/K/A COSMETIC, TOILETRY, AND FRAGRANCE ASSOCIATION (CTFA); JOHN DOES/ JANE DOES 1-30; UNKNOWN BUSINESSES AND/OR CORPORATIONS 1-50,

Defendants.

CIVIL ACTION NO:_____

CIVIL ACTION COMPLAINT
AND JURY DEMAND

Plaintiff, Dolorae Handy, by and through her attorneys, files this Complaint against these Defendants, Johnson & Johnson, Johnson & Johnson Consumer Companies, Inc., Imerys Talc America, Inc., *f/k/a* Luzenac America, Inc., and Personal Care Products Council (PCPC) *f/k/a* Cosmetic, Toiletry, and Fragrance Association (CTFA), alleging the following upon information and belief (including investigations made by and through Plaintiff's counsel), except those allegations that pertain to Plaintiff, Dolorae Handy, which are based on personal knowledge.

I. INTRODUCTION

1. This action arises out of Plaintiff Dolorae Handy's diagnosis of ovarian cancer, which was directly and approximately caused by her regular and prolonged use of talcum powder containing products known as Johnson & Johnson's Baby Powder® and Johnson & Johnson's Shower-to-Shower® (hereinafter "J&J Talc Products") in the perineal area. Plaintiff Dolorae Handy's damages 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 J&J Talc Products.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1332 and 1367. The matter in controversy exceeds \$75,000, exclusive of interests and costs, and is between citizens of different states.

3. Venue is proper in the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1391, because Defendants are subject to personal jurisdiction here, a substantial part of Defendants' violations and other alleged conduct or claims occurred in this District, Defendants regularly conducts business in this District, and the Plaintiff resides in this District.

III. PARTIES

4. Plaintiff Dolorae Handy resides in Philadelphia County, Pennsylvania.

5. 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 engages in the business of manufacturing, marketing, testing, promoting, selling, and/or distributing J&J Talc Products. At all pertinent times, Johnson & Johnson regularly transacted, solicited, and conducted business in the Commonwealth of Pennsylvania, including the marketing, promoting, selling, and/or distribution of J&J Talc Products.

6. Johnson & Johnson may be served with process by serving its registered agent located at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08901-1241.

7. 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 J&J Talc Products. At all pertinent times, Johnson & Johnson Consumer Companies,

Inc. regularly transacted, solicited, and conducted business in the Commonwealth of Pennsylvania.

8. Johnson & Johnson may be served with process of this Court by serving its registered agent located at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08901-1241.

9. 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 Commonwealth of Pennsylvania either directly or indirectly through third parties or related entities, J&J Talc Products.

10. At all pertinent times, Defendant Johnson & Johnson Consumer Companies, Inc. has been a wholly owned subsidiary of Defendant Johnson & Johnson. Hereinafter, unless otherwise delineated, these two entities shall be collectively referred to as the “Johnson & Johnson Defendants.”

11. 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 Delaware. 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 by serving its registered agent, The Corporation Trust Company, located at The Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

12. At all pertinent times, Imerys Talc America, Inc. (“Imerys Talc”), *f/k/a* Luzenac America, Inc. has been in the business of mining and distributing talcum powder for use in talcum based products, including J&J Talc 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.

13. The Defendant, Personal Care Products Council (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 (PCPC) does not maintain a registered agent and, therefore, may be served with process of this Court by serving its principal place of business located at Personal Care Products Council, 1620 L. Street, NW, Suite 1200, Washington, District of Columbia, 20036. PCPC is the successor or continuation of CTFA and PCPC is legally responsible for all liabilities incurred when it was known as CTFA.

14. 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, Dolorae Handy, all of whose names and legal identities are unknown to her at this time, but will be substituted by amendment when ascertained, individually and jointly.

15. Defendants Unknown Businesses and/or Corporations 1-50 are unknown entities whose conduct as described herein caused or contributed to the damages of the Plaintiff Dolorae Handy, all of whose names and legal identities are unknown to her at this time, but will be substituted by amendment when ascertained, individually and jointly.

IV. FACTUAL BACKGROUND

16. 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 J&J Talc Products.

17. Talc is the main substance in talcum powders. The Johnson & Johnson Defendants manufactured J&J Talc Products. Johnson & Johnson's Baby Powder® and Johnson & Johnson's Shower-to-Shower® are composed almost entirely of talc.

18. At all times pertinent times, a feasible alternative to J&J Talc Products have 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.

19. Imerys Talc¹ has continually advertised and marketed talc as safe for human use.

20. 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.

21. 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.”

22. 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.

23. 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

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

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.

24. 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.

25. 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.

26. 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.

27. 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.

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

29. 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 was 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.”

30. 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”.

31. 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. 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.

32. The Defendants had a duty to know and warn about the hazards associated with the use of J&J Talc Products.

33. The Defendants failed to inform its customers and end users of Johnson & Johnson’s Baby Powder® and Johnson & Johnson’s Shower-to-Shower® of a known catastrophic health hazard associated with the use of its products.

34. In addition, the Defendants procured and disseminated false, misleading, and biased information regarding the safety of J&J Talc Products to the public and used influence over governmental and regulatory bodies regarding talc.

35. Plaintiff Dolorae Handy was born on June 30, 1981, and used J&J’s Talc Products for nearly her entire life. As a direct result of J&J Talc Products, Plaintiff Dolorae Handy was diagnosed with ovarian cancer in 2005.

36. Plaintiff Dolorae Handy used J&J Talc Products for feminine hygiene purposes for much of her life. This was an intended and foreseeable use of the product based on the advertising, marketing and labeling of J&J Talc Products.

37. At the time of her diagnosis in 2005, Plaintiff Dolorae Handy was approximately twenty-four (24) years old.

38. As a direct and proximate result of the Defendants' calculated and reprehensible conduct, Plaintiff Dolorae Handy was injured and suffered damages, namely ovarian cancer, which required surgeries and treatments.

FEDERAL STANDARDS OF REVIEW

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

COUNT ONE
PRODUCT LIABILITY-FAILURE TO WARN
IMERYS TALC AND JOHNSON & JOHNSON DEFENDANTS

40. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein.

41. 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 Johnson & Johnson's Baby Powder® and Johnson & Johnson's Shower-to-Shower®, and it knew that consumers of J&J Talc Products were using it to powder their perineal regions.

42. 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.

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

44. At all pertinent times, Plaintiff Dolorae Handy used J&J Talc Products to powder her perineal area, which is a reasonably foreseeable use.

45. 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 cancer based upon scientific knowledge dating back to the 1960s.

46. At all pertinent times, including the time of sale and consumption, J&J Talc 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 cancer associated with the use of the product by women to powder their perineal area. Defendants themselves failed to properly and adequately warn and instruct Plaintiff Dolorae Handy as to the risks and benefits of J&J Talc Products given her need for this information.

47. Had the Plaintiff Dolorae Handy received a warning that the use of J&J Talc Products would have significantly increased her risk of cancer, she would not have used the same. As a proximate result of Defendants' design, manufacture, marketing, sale, and distribution of J&J Talc Products, Plaintiff Dolorae Handy has been injured catastrophically severe and permanent pain, suffering, disability, impairment, loss of enjoyment of life, loss of care, comfort, and economic damages.

48. The development of ovarian cancer by the Plaintiff Dolorae Handy was the direct and proximate result of the unreasonably dangerous and defective condition of J&J Talc Products at the time of sale and consumption, including their lack of warnings; Plaintiff Dolorae Handy has suffered injuries and damages, including but not limited to conscious pain and suffering and medical expenses.

49. 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 Plaintiff Dolorae Handy justifiably relied in electing to use the product. The defect or defects made the products unreasonably dangerous to those persons, such as Plaintiff Dolorae Handy, who could reasonably be expected to use and rely upon the product. As a result, the defect or defects were a producing cause of the Plaintiff Dolorae Handy's injuries and damages.

50. The Defendants' product failed to contain, and continue to this day not to contain, adequate warnings and/or instructions regarding the increased risk of cancer with the use of the product 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 cancer in women when used in the perineal area. Therefore, the Defendants are liable to Plaintiff Dolorae Handy for their wrongful conduct under the doctrine of strict liability in tort pursuant to the Pennsylvania law.

51. In the alternative, Plaintiff pleads the analogous applicable statute and/or Common Law cause of action for Failure to Warn.

WHEREFORE, Plaintiff prays for judgment against Imerys Talc and the Johnson & Johnson Defendants together with costs expended herein and such further and other relief as the Court deems just and appropriate.

COUNT TWO
PRODUCTS LIABILITY-DEFECTIVE MANUFACTURE AND DESIGN
IMERYS TALC AND JOHNSON & JOHNSON DEFENDANTS

52. Plaintiff realleges and incorporates by reference every allegation of this Complaint as if each were set forth fully and completely herein.

53. Defendants' product was defectively and improperly manufactured, rendering the product deficient and unreasonably dangerous and hazardous to Plaintiff Dolorae Handy.

54. Defendants' product is inherently dangerous and defective, unfit and unsafe for its intended and reasonably foreseeable use, and does not meet or perform to the expectations of consumers.

55. The product at issue creates risks to the health and safety of the consumers that are far more significant and devastating than the risks posed by other products on the market used for the same therapeutic purposes. There is a feasible and reasonable alternative design.

56. Defendants have intentionally and recklessly designed, manufactured, marketed, labeled, sold and distributed the product with wanton and willful disregard for the rights and health of Plaintiff Dolorae Handy and others, and with malice, placing their economic interests above the health and safety of Plaintiff Dolorae Handy and other similarly situated.

57. As a proximate result of Defendants' design, manufacture, labeling, marketing sale and distribution of the product, Plaintiff Dolorae Handy has been injured catastrophically and sustained severe and permanent pain, suffering, disability, impairment, lost of enjoyment of life, loss of care, and economic damages.

58. Defendants are strictly liable in tort to Plaintiff Dolorae Handy for their wrongful conduct under Pennsylvania law.

59. In the alternative, Plaintiffs plead the analogous applicable statute and/or Common Law cause of action for Defective Manufacture and Design.

WHEREFORE, Plaintiff demands judgment against Defendants of compensatory damages, punitive damages, interest, attorneys' fees, cost of suit and such further relief as the Court deems equitable and just.

COUNT THREE
PRODUCTS LIABILITY-NEGLIGENCE
IMERYS TALC

60. Plaintiff hereby incorporates by reference each of the proceedings paragraphs as if fully set forth herein.

61. At all pertinent times, Defendants had a duty to exercise reasonable care to consumers, including Plaintiff Dolorae Handy herein, in the design, development, manufacture, testing, inspection, packaging, promotion, marketing, distribution, labeling and/or sale of J&J Talc Products.

62. At all pertinent times, Imerys Talc mined and sold talc to Johnson & Johnson Defendants, which it knew or should have known, was then being packaged and sold to consumers as Johnson & Johnson's Baby Powder® and Johnson & Johnson's Shower-to-Shower® by the Johnson & Johnson Defendants. Further, Imerys Talc knew or should have known that consumers of J&J Talc Products were using it to powder perineal areas.

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

64. At all pertinent times, Imerys Talc knew or should have known that Johnson & Johnson Defendants were not providing warnings to consumers of J&J Talc Products of the risk of cancer posed by talc contained herein.

65. At all pertinent times, Imerys Talc was negligent in providing talc to Johnson & Johnson Defendants, when it knew or should have known that the talc would be used in Johnson & Johnson's Baby Powder® and Johnson & Johnson's Shower-to-Shower®, without adequately taking steps to ensure that ultimate consumers of J&J Talc Products, including Plaintiff Dolorae Handy, received the information that Imerys Talc possessed on the carcinogenic properties of talc, including its risk of causing cancer.

66. Defendants breached their duty of reasonable care to Plaintiff Dolorae Handy in that they negligently designed, developed, manufactured, tested, inspected packages, promoted, marketed, distributed, labeled, and/or sold the subject product.

67. As a direct and proximate result of Imerys Talc's negligence, Plaintiff Dolorae Handy purchased and used, as aforesaid J&J Talc Products that directly and proximately caused her to develop ovarian cancer; Plaintiff Dolorae Handy was caused to incur medical bills and conscious pain and suffering.

WHEREFORE, Plaintiffs pray for judgment against Imerys Talc in a fair and reasonable sum, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

COUNT FOUR
PRODUCTS LIABILITY-NEGLIGENCE
JOHNSON & JOHNSON DEFENDANTS

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

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

- In failing to warn Plaintiff Dolorae Handy of the hazards associated with the use of J&J Talc Products;
- In failing to properly test their products to determine adequacy and effectiveness or safety measures, if any, prior to releasing J&J Talc Products for consumer use;
- In failing to properly test their products to determine the increased risk of ovarian cancer during the normal and/or intended use of J&J Talc Products;
- In failing to inform ultimate users, such as Plaintiff Dolorae Handy, as to the safe and proper methods of handling and using J&J Talc Products;
- In failing to remove J&J Talc Products from the market when the Defendants knew or should have known J&J Talc Products was defective;
- In failing to instruct the ultimate users, such as Plaintiff Dolorae Handy, as to the methods for reducing the type of exposure to J&J Talc Products which caused increased risk of cancer;
- In failing to inform the public in general and the Plaintiff Dolorae Handy in particular of the known dangers of using J&J Talc Products for dusting the perineum;
- In failing to advise users how to prevent or reduce exposure that caused increased risk for cancer;
- In marketing and labeling J&J Talc Products as safe for all uses despite knowledge to the contrary; and
- In failing to act like a reasonably prudent company under similar circumstances.

70. 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 Dolorae Handy.

71. At all pertinent times, the Johnson & Johnson Defendants knew or should have known that J&J Talc Products are unreasonably dangerous and defective when put to their reasonably anticipated use.

72. As a direct and proximate result of the Johnson & Johnson Defendants' negligence in one or more of the aforementioned ways, Plaintiff Dolorae Handy purchased and used, as aforesaid, J&J Talc Products that directly and proximately caused her to develop ovarian cancer; Plaintiff Dolorae Handy was caused to incur medical bills and conscious pain and suffering.

WHEREFORE, Plaintiff prays for judgment against the Johnson & Johnson Defendants in a fair and reasonable sum, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

COUNT FIVE
BREACH OF EXPRESS WARRANTY
JOHNSON & JOHNSON DEFENDANTS

73. Plaintiff incorporates by reference each of the preceding paragraphs as if fully set forth herein.

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

75. J&J Talc Products did not conform to these express representations because it causes serious injury when used by women in the perineal area in the form of gynecological cancer. Defendants' breaches constitute violations of Pennsylvania law.

76. As a direct and proximate result of the Defendants' breach of warranty, Plaintiff Dolorae Handy purchased and used, as aforesaid, J&J Talc Products that directly and proximately caused her to develop ovarian cancer; Plaintiff Dolorae Handy was caused to incur medical bills, lost wages, and conscious pain and suffering.

77. 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 this product would be used, as well as the knowledge that persons such as Plaintiff Dolorae Handy would rely on the seller's skill to furnish suitable products.

78. 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 Plaintiff, Dolorae Handy.

79. In the alternative, Plaintiff pleads the analogous applicable statute and/or common law cause of action for Breach of Express Warranty.

80. **WHEREFORE**, Plaintiff prays for judgment against the Johnson & Johnson Defendants in a fair and reasonable sum, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

COUNT SIX
BREACH OF IMPLIED WARRANTIES
JOHNSON & JOHNSON DEFENDANTS

81. Plaintiff incorporates by reference each of the preceding paragraphs as if fully set forth herein.

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

83. Defendants breached their implied warranties of J&J Talc Products sold to Plaintiff Dolorae Handy because they were not fit for their common, ordinary and intended uses, including use by women in the perineal area, in violation of Pennsylvania law.

84. As a direct, foreseeable and proximate result of the Defendants' breaches of implied warranties, Plaintiff Dolorae Handy purchased and used, as aforesaid, J&J Talc Products that directly and proximately caused her to develop ovarian cancer; Plaintiff Dolorae Handy was caused to incur medical bills, lost wages, and conscious pain and suffering.

85. In the alternative, Plaintiff pleads the analogous applicable statute and/or common law cause of action for Breach of Implied Warranty.

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

**COUNT SEVEN
PUNITIVE DAMAGES
ALL DEFENDANTS**

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

87. Plaintiff Dolorae Handy 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 Plaintiff Dolorae Handy, by making false representations about the safety and utility of J&J Talc Products and by failing to provide adequate instructions concerning their use.

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

- Defendants knew of the unreasonably high risk of cancer posed by J&J Talc Products before manufacturing, marketing, distributing and/or selling J&J Talc Products, yet purposefully proceeded with such action;
- Despite their knowledge of the high risk of cancer associated with J&J Talc Products, Defendants affirmatively minimized this risk through marketing and promotional efforts and product labeling;
- Through the actions outlined above, Defendants expressed a reckless indifference to the safety of users of J&J Talc Products and the Plaintiff Dolorae Handy. Defendants' conduct, as described herein, knowing the dangers and risks of J&J Talc 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 J&J Talc Products.

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

90. 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.

91. 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 Talc Products.”

92. 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 gynecological 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 Plaintiff Dolorae Handy.

93. As a direct and proximate result of the willful, wanton, evilly motivated and/or reckless conduct of the Defendants, the Plaintiff Dolorae Handy has sustained damages as set forth above.

WHEREFORE, Plaintiff prays for judgment for punitive damages against all Defendants, each of them, 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 EIGHT
VIOLATIONS OF CONSUMER PROTECTION LAWS
IMERYS TALC AND JOHNSON & JOHNSON DEFENDANTS

94. Plaintiff realleges each and every allegation of this Complaint as if each were set forth fully and completely herein.

95. Plaintiff Dolorae Handy purchased and used Defendants' J&J Talc Products primarily for personal use and thereby suffered ascertainable losses as a result of Defendants' actions in violation of the consumer protection laws.

96. Had Defendants not engaged in the deceptive conduct described herein, Plaintiff Dolorae Handy would not have purchased and/or paid for Defendants' product, and would not have incurred related medical costs and injury.

97. Defendants engaged in wrongful conduct while at the same time obtaining, under false pretenses, moneys from Plaintiff Dolorae Handy for J&J Talc Products that would not have been paid had Defendants not engaged in unfair and deceptive conduct.

98. Defendants engaged in unfair methods of competition and deceptive acts or practices that were proscribed by law, including the following:

- Representing that goods or services have characteristics, ingredients, uses, benefits, or quantities that they do not have;
- Advertising goods or services with the intent not to sell them as advertised; and
- Engaging in fraudulent or deceptive conduct that creates a likelihood of confusion or misunderstanding.

99. Plaintiff Dolorae Handy was injured by the cumulative and indivisible nature of Defendants' conduct. The cumulative effect of Defendants' conduct directed at Plaintiff Dolorae Handy and consumers was to create demand for and sell J&J Talc Products. Each aspect of Defendants' conduct combined to artificially create sales of the product.

100. Defendants have a statutory duty to refrain from unfair or deceptive acts or trade practices in the design, labeling, development, manufacture, promotion, and sale of J&J Talc Products.

101. Had Defendants not engaged in the deceptive conduct described above, Plaintiff Dolorae Handy would not have purchased and/or paid for the products, and would not have incurred related medical costs.

102. Defendants' deceptive, unconscionable, or fraudulent representations and material omissions to Plaintiff Dolorae Handy, physicians and consumers constituted unfair and deceptive acts and trade practices in violation of the state consumer protection statutes listed.

103. Defendants' actions, as complained of herein, constitute unfair competition or unfair, unconscionable, deceptive or fraudulent acts, or trade practices in violation of state consumer protection statutes, as listed below.

104. Defendants have engaged in unfair competition or unfair or deceptive acts or trade practices or have made false representations in violation of 73 P.S. §201-1, et seq.

105. Under these statutes, Defendants are the suppliers, manufacturers, advertisers, and sellers, who are subject to liability under such legislation for unfair, deceptive, fraudulent and unconscionable consumer sales practices.

106. Defendants violated the statutes that were enacted in these states to protect consumers against unfair, deceptive, fraudulent and unconscionable trade and business practices and false advertising, by knowingly and falsely representing that Defendants' J&J Talc Products was fit to be used for the purpose for which it was intended, when in fact it was defective and dangerous, and by other acts alleged herein. These representations were made in marketing and promotional materials.

107. The actions and omissions of Defendants alleged herein are uncured or incurable deceptive acts under the statutes enacted in the states to protect consumers against unfair, deceptive, fraudulent and unconscionable trade and business practices and false advertising.

108. Defendants had actual knowledge of the defective and dangerous condition of Defendants' product and failed to take any action to cure such defective and dangerous conditions.

109. Plaintiff Dolorae Handy relied upon Defendants' misrepresentations and omissions in determining which product to use.

110. Defendants' deceptive, unconscionable or fraudulent representations and material omissions to Dolorae Handy and other consumers constituted deceptive acts and practices.

111. By reason of the unlawful acts engaged in by Defendants, and as a direct and proximate result thereof, Plaintiff Dolorae Handy has suffered ascertainable losses and damages.

112. As a direct and proximate result of Defendants' violations of state consumer protection laws, Plaintiff Dolorae Handy has sustained economic losses and other damages and is entitled to statutory and compensatory damages in an amount to be proven at trial.

113. In the alternative, Plaintiff pleads the analogous applicable statute and/or common law cause of action for consumer fraud.

WHEREFORE, Plaintiff demands judgment against Defendants, and each of them, individually, jointly, severally and in the alternative, and requests restitution and disgorgement of profits, together with interest, cost of suit, attorneys' fees, and all such other and further relief as this Court deems just and proper.

COUNT NINE
NEGLIGENT MISREPRESENTATION
ALL DEFENDANTS

114. Plaintiff realleges each and every allegation of this Complaint as if each were set forth fully and completely herein.

115. Defendants had a duty to accurately and truthfully represent to the medical and healthcare community, Plaintiff Dolorae Handy and the public, that J&J Talc Products have been tested and found to be safe and effective for use in the perineal area. The representations made by Defendants, in fact, were false.

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

117. Defendants breached their duty in representing that J&J Talc Products have no serious side effects.

118. 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 J&J Talc Products have been insufficiently tested, or have 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.

119. As a proximate result of Defendants' conduct, Plaintiff Dolorae Handy has 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 TEN
CIVIL CONSPIRACY
AGAINST ALL DEFENDANTS**

120. Plaintiff repeats and realleges each of the preceding paragraphs of this Complaint as if set forth at length herein.

121. Defendants and/or their predecessors-in-interest knowingly agreed, contrived, combined, confederated and conspired among themselves to cause Plaintiff Dolorae Handy's injuries, disease, and/or illnesses by exposing the Plaintiff to harmful and dangerous products. Defendants further knowingly agreed, contrived, confederated and conspired to deprive the Plaintiff Dolorae Handy of the opportunity of informed free choice as to whether to use J&J Talc Products or to expose the Plaintiff 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 J&J Talc Products.

122. 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 when used in an ordinary and foreseeable fashion by women, J&J Talc Products was 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:
 - Withheld, concealed and suppressed said medical information regarding the increased risk of cancer from Plaintiff Dolorae Handy (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.

- 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.”
- Caused to be released, published and disseminated medical and scientific data, literature, and test reports containing information and statements regarding the risks of 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 Plaintiff Dolorae Handy 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 J&J Baby Powder.

123. Plaintiff Dolorae Handy reasonably and in good faith relied upon the aforementioned fraudulent representations, omissions, and concealments made by Defendants regarding the nature of J&J Talc Products.

124. As a direct and proximate result of the aforementioned fraudulent representations, omissions, and concealments made by Defendants regarding the nature of J&J Talc Products and Plaintiff Dolorae Handy’s reliance thereon, Plaintiff purchased and used, as aforesaid, J&J Talc Products that directly and proximately caused her to develop ovarian cancer; Plaintiff Dolorae Handy was caused to incur medical bills, lost wages, and conscious pain and suffering.

125. As a direct and proximate result of Plaintiff Dolorae Handy's reliance, she sustained damages including injuries, illnesses, and has been deprived of the opportunity of informed free choice in connection with the use and exposure to J&J Talc Products.

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

**COUNT ELEVEN
ACTING IN CONCERT
ALL DEFENDANTS**

126. Plaintiff incorporates by reference each of the preceding paragraphs as if fully set forth herein.

127. At all pertinent times, Imerys Talc, Johnson & Johnson Defendants, and the Personal Care Products Council f/k/a Cosmetic, Toiletry, and Fragrance Association ("PCPC") knew that J&J Talc Products should contain warnings on the risk of gynecological cancer posed by women using the product to powder the perineal region, but purposefully sought to suppress such information and omit such information from talc based products so as not to negatively affect sales and maintain the profits of the Johnson & Johnson Defendant, Imerys Talc, and the members of the PCPC.

128. Additionally and/or alternatively, the Defendants aided and abetted each other in the negligence, gross negligence, and reckless misconduct. Pursuant to the Restatement (Second) of Torts Section 876, each of the Defendants is liable for the conduct of the other Defendants for whom they aided and abetted.

129. As a direct and proximate result of Defendants concerted action, Plaintiff Dolorae Handy purchased and used, as aforesaid, J&J Talc Products that directly and proximately caused her to develop ovarian cancer; Plaintiff Dolorae Handy was caused to incur medical bills and conscious pain and suffering.

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

**COUNT TWELVE
AIDING AND ABETTING
DEFENDANT PERSONAL CARE PRODUCTS COUNSEL**

130. Plaintiff repeats and realleges each of the preceding paragraphs of this Complaint as if set forth at length herein.

131. Upon information and belief, Defendant Personal Care Products Council f/k/a Cosmetic, Toiletries, and Fragrance Council knowingly and willfully aided and abetted the fraudulent marketing and sales described herein.

132. Defendant PCPC aided and abetted this fraudulent scheme by providing substantial assistance to Defendants, Imerys and Johnson & Johnson. This substantial assistance included, among other things, the “Facts” section of this pleading and the facts set forth above.

133. Without Defendant PCPC’s substantial assistance, involvement and participation; the fraudulent scheme would not have been possible.

134. Plaintiff Dolorae handy suffered serious injury and pecuniary losses as a proximate result of the aiding and abetting of Defendant PCPC.

WHEREFORE, Plaintiffs pray for judgment against all Defendants, each of them, in a fair and reasonable sum, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests the following damages be considered separately and individually for the purpose of determining the sum of money that will fairly and reasonably compensate Plaintiff Dolorae Handy:

- a. Severe impairment to her ovaries and reproductive system;

- b. Medical expenses;
- c. Pain and suffering;
- d. Mental anguish, anxiety, and discomfort;
- e. Lost wages and income;
- f. Fear of cancer or other related diseases;
- g. Physical impairment;
- h. Physical disfigurement;
- i. Loss of enjoyment of life;
- j. Pre and post judgment interest;
- k. Exemplary and punitive damages in an amount to be determined at trial;
- l. Treble damages;
- m. General damages;
- n. Reasonable and necessary attorneys' fees and other disbursements and expenses of this action; and,
- o. Such other relief to which Dolorae Handy may be justly entitled.

IV. DISCOVERY RULE

Plaintiff Dolorae Handy has suffered an illness that has a latency period and does not arise until many years after exposure. Plaintiff Dolorae Handy's illness did not distinctly manifest itself until she was made aware that her cancer could be caused by her use of the Defendants' product. Consequently, the discovery rule applies to this case and the statute of limitations has been tolled until the day that Plaintiff Dolorae Handy knew or had reason to know that her ovarian cancer was linked to her use of the Defendants' products.

DEMAND FOR JURY TRIAL

Demand is hereby made for trial by jury.

Dated: **August 24, 2016**

/s/ DJS8892

Richard M. Golomb, Esquire
Ruben Honik, Esquire
Steven D. Resnick, Esquire
David J. Stanoch, Esquire
GOLOMB & HONIK, P.C.
1515 Market Street, Suite 1100
Philadelphia, PA 19102
Telephone: (215) 985-9177
Facsimile: (215) 985-4169
Email: rgolomb@golombhonik.com
rhonik@golombhonik.com
sresnick@golombhonik.com
dstanoch@golombhonik.com

Counsel for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

DOLORAE HANDY,

v.

JOHNSON & JOHNSON, ET AL,

:
:
:
:
:
:

CIVIL ACTION

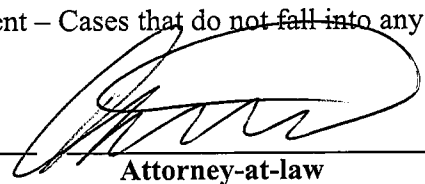
NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (✓)

8/24/2016
Date


Attorney-at-law

Plaintiff, Dolorae Handy
Attorney for

215-985-9177

215-985-4169

dstanoch@golombhonik.com

Telephone

FAX Number

E-Mail Address

Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS DOLORAE HANDY</p> <p>(b) County of Residence of First Listed Plaintiff <u>PHILADELPHIA</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) DAVID J. STANOCH, ESQUIRE, GOLOMB & HONIK, P.C., 1515 MARKET STREET, SUITE 1100, PHILADELPHIA, PA 19102, (215) 985-9177</p>	<p>DEFENDANTS JOHNSON & JOHNSON</p> <p>County of Residence of First Listed Defendant <u>MIDDLESEX</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
--	--

<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;">PTF</td> <td style="width:10%;">DEF</td> <td style="width:33%;">Incorporated or Principal Place of Business In This State</td> <td style="width:10%;">PTF</td> <td style="width:10%;">DEF</td> </tr> <tr> <td></td> <td><input checked="" type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td></td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business In This State	PTF	DEF		<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1		<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business In This State	PTF	DEF																				
	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1		<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<input type="checkbox"/> CONTRACT	<input type="checkbox"/> TORTS	<input type="checkbox"/> FORFEITURE/PENALTY	<input type="checkbox"/> BANKRUPTCY	<input type="checkbox"/> OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</p> <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <p>FEDERAL TAXES</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<p>REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p>CIVIL RIGHTS</p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. SECTIONS 1332 AND 1367

Brief description of cause:
DESIGN, MANUFACTURE, SALE DISTRIBUTION OF DEFECTIVE PRODUCTS

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

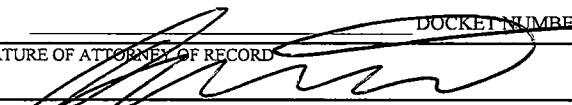
DEMAND \$ **5,000,000.00**

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE **08/24/2016**

SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 217 Sparks Street, Philadelphia, PA 19130

Address of Defendant: One Johnson & Johnson Plaza, New Brunswick, NJ 008901

Place of Accident, Incident or Transaction: Pennsylvania (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes No [X]

Does this case involve multidistrict litigation possibilities? Yes No [X]

RELATED CASE, IF ANY:

Case Number: Judge Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

- 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes No [X]
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes No [X]
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes No [X]
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes No [X]

CIVIL: (Place [X] in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations
7. Civil Rights
8. Habeas Corpus
9. Securities Act(s) Cases
10. Social Security Review Cases
11. All other Federal Question Cases (Please specify)

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify)
7. Products Liability
8. Products Liability — Asbestos
9. All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, David J. Stanoch, Esquire

counsel of record do hereby certify:

- Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
Relief other than monetary damages is sought.

DATE: 08/24/2016

[Signature]

Attorney-at-Law

91342

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 08/24/2016

[Signature]

Attorney-at-Law

91342

Attorney I.D.#