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

KRISTOPHER GEORGE, as next of kin of STEPHANIE MICHELLE KELLEY, Deceased,	
Plaintiff,	**Case Number:**
v.	
JOHNSON & JOHNSON; JOHNSON & JOHNSON CONSUMER COMPANIES, INC.; and IMERYS TALC AMERICA, INC. F/K/A LUZENAC AMERICA, INC.	
Defendants.	**JURY TRIAL DEMANDED**

COMPLAINT

PLAINTIFF Kristopher George ("Plaintiff"), pursuant to Tenn. Code Ann. §20-5-106, as the next of Kin of Stephanie Michelle Kelley, Deceased, by and through his undersigned counsel, brings this action against Defendants Johnson & Johnson; Johnson & Johnson Consumer Companies, Inc.; Imerys Talc America, Inc., f/k/a Luzenac America, Inc. (collectively, "Defendants"), and alleges the following upon information and belief, except those allegations that pertain to Decedent, which are based on personal knowledge of Plaintiff:

INTRODUCTION

1. Plaintiff brings this action for wrongful death against Defendants arising from the decedent's, Stephanie Michelle Kelley, diagnosis of ovarian cancer and subsequent loss of life which was directly and proximately caused by her regular and prolonged exposure to the hygienic use of Johnson & Johnson Baby Powder and Shower to Shower ("the PRODUCTS"). All claims

in this action are a direct and proximate result of Defendants' and/or their corporate predecessors' negligent, willful, and wrongful conduct in connection with the design, development, manufacture, testing, packaging, promoting, marketing, distribution, labeling, and/or sale of the PRODUCTS.

PARTIES

2. Plaintiff Kristopher George is the next of kin to decedent Stephanie Michelle Kelley, and brings this wrongful death action pursuant to T.C.A. §20-5-107 and all related statutes applicable thereto.

3. Decedent Stephanie Michelle Kelley was born in 1969.

4. Decedent used the PRODUCTS on a consistent basis since she was a small child through her adult life, including the year of her death, 2015.

5. Decedent was diagnosed with ovarian cancer on March 20, 2015.

6. Decedent resided in Knox County, Tennessee at the time of her diagnosis.

7. Decedent died on September 18, 2015 as a direct and proximate result of her previously diagnosed metastatic ovarian cancer.

8. Decedent resided in Knox County, Tennessee at the time of her death.

9. Decedent purchased and used the PRODUCTS in Knox County, Tennessee.

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

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

12. Defendant Johnson & Johnson Consumer Companies, Inc., is a New Jersey

corporation with its principal place of business in the State of New Jersey.

13. 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 regularly transacted, solicited, and conducted business in all States of the United States, including the State of Illinois.

14. Defendants Johnson & Johnson and Johnson & Johnson Consumer Companies, Inc., are collectively referred to as the "Johnson & Johnson Defendants."

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

16. At all pertinent times, Imerys Talc America 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.

17. At all pertinent times, all Defendants were engaged in the research, development, manufacture, design, testing, sale and marketing of PRODUCTS, and introduced such products into interstate commerce with knowledge and intent that such products be sold in the State of Illinois.

JURISDICTION AND VENUE

18. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332(b) because complete diversity exists between Plaintiff and Defendants and the amount in controversy exceeds the sum or value of $75,000.00.

19. This Court has personal jurisdiction over Defendants because Defendants are

authorized to conduct and do conduct business in Tennessee. Defendants have marketed, promoted, distributed, and sold the PRODUCTS in the State of Tennessee and Defendants have sufficient minimum contacts with this State and/or sufficiently avail themselves of the markets in this State through their promotion, sales, distribution, and marketing within this State as to render the exercise of jurisdiction by this Court permissible.

20. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a) and (b) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District.

ALLEGATIONS COMMON TO ALL COUNTS

21. 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.

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

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

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

25. 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.

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

26. 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."

27. 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."

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

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

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

36. In February of 2006, the International Association for the Research of Cancer (IARC) part of the World Health Organization published a paper whereby they classified perineal use of talc based body powder as a "Group 2B" human carcinogen. IARC which is universally accepted as the international authority on cancer issues, concluded that studies from around the world consistently found an increased risk of ovarian cancer in women from perineal use of talc. IARC found that between 16-52% of women in the world were using talc to dust their perineum and found an increased risk of ovarian cancer in women talc users ranging from 30-60%. IARC concluded with this "Evaluation": "There is limited evidence in humans for the carcinogenicity of perineal use of talc-based body powder." By definition "Limited evidence of carcinogenicity" means "a positive association has been observed between exposure to the agent and cancer for

which a causal interpretation is considered by the Working Group to be credible, but chance, bias or confounding could not be ruled out with reasonable confidence."

37. 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".

38. 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.

39. In 2008, the Cancer Prevention Coalition submitted a "Complaint Seeking a Cancer Warning on Cosmetic Talc Products" to the FDA. The Complaint requested that the FDA immediately require cosmetic talcum powder products to bear labels with a prominent warning that frequent talc application in the female genital area is responsible for major risks of ovarian cancer.[2]

40. In 2013, Cancer Prevention Research published a study that showed that women who used talcum powder in their groin area had a 20 to 30 percent greater risk of developing ovarian cancer than women who did not use talc products in that area.[3]

41. Presently, the National Cancer Institute and the American Cancer Society list

[2] Cancer Prevention Coalition "Complaint Seeking a Cancer Warning on Cosmetic Talc Products" submitted to the FDA on May 13, 2008, http://www.organicconsumers.org/articles/article_12517.cfm

[3] "Genital powder use and risk of ovarian cancer: a pooled analysis of 8,525 cases and 9,859 controls," *Cancer Prevention Research*, June 2013, http://cancerpreventionresearch.aacrjournals.org/content/early/2013/06/12/1940-6207.CAPR-13-0037.short.

genital talc use as a "risk factor" for ovarian cancer.

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

43. 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.

44. 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.

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

COUNT ONE – STRICT LIABILITY FOR FAILURE TO WARN
(All Defendants)

46. Plaintiff realleges and incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

47. 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.

48. 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.

49. 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.

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

51. 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.

52. 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 Decedent as to the risks and benefits of the PRODUCTS given Decedent's need for this information.

53. 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 suffered pain of mind and body and was diagnosed with a terminal disease which took her life. Plaintiff Kristopher George, as Decedent's next of kin, is entitled to recover funeral expenses, the pecuniary value of his mother's life and the loss of her love, affection and consortium.

54. 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 suffered pain of mind and body and was diagnosed with a terminal disease which took her life. Plaintiff Kristopher George, as Decedent's next of kin, is entitled to recover funeral expenses, the pecuniary value of his mother's life and the loss of her love, affection and consortium.

55. The Defendants' products were defective because they failed to contain warnings and/or instructions, and breached express warranties and/or failed to conform to express factual representations upon which the Plaintiff 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 Decedent's terminal diagnosis and subsequent loss of life.

56. 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.

COUNT TWO – NEGLIGENCE
(Imerys Talc)

57. Plaintiff realleges and incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

58. At all pertinent times, Defendants had a duty to exercise reasonable care to

consumers, including Plaintiff herein, in the design, development, manufacture, testing, inspection, packaging, promotion, marketing, distribution, labeling and/or sale of the PRODUCTS.

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

60. 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.

61. 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.

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

63. As a direct and proximate result of Imerys Talc's negligence, Decedent purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused Decedent to develop ovarian cancer; Decedent suffered pain of mind and body and was diagnosed with a terminal disease which took her life. Plaintiff Kristopher George, as Decedent's next of kin, is entitled to

recover funeral expenses, the pecuniary value of his mother's life and the loss of her love, affection and consortium.

COUNT THREE –NEGLIGENCE
(Johnson & Johnson Defendants)

64. Plaintiff hereby realleges and incorporates all preceding paragraphs of this Complaint as if fully set forth herein.

65. 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:

- In failing to warn Decedent of the hazards associated with the use of the PRODUCTS;
- 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;
- 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;
- In failing to inform ultimate users, such as Decedent as to the safe and proper methods of handling and using the PRODUCTS;
- In failing to remove the PRODUCTS from the market when the Defendants knew or should have known the PRODUCTS were defective;
- In failing to instruct the ultimate users, such as Decedent, as to the methods for reducing the type of exposure to the PRODUCTS which caused increased risk of ovarian cancer;
- In failing to inform the public in general and the Decedent in particular of the known dangers of using the PRODUCTS for dusting the perineum;
- In failing to advise users how to prevent or reduce exposure that caused increased risk for ovarian cancer;
- In marketing and labeling the PRODUCTS as safe for all uses despite knowledge to the contrary.
- 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 Decedent's terminal diagnosis of ovarian cancer and subsequent loss of life.

66. 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.

67. 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 Decedent to develop ovarian cancer; Decedent suffered pain of mind and body and was diagnosed with ovarian cancer which took her life. Plaintiff Kristopher George, as Decedent's next of kin, is entitled to recover funeral expenses, the pecuniary value of his mother's life and the loss of her love, affection and consortium.

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

68. Plaintiff realleges and incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

69. 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.

70. 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.

71. 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 each

Plaintiff to develop ovarian cancer; Plaintiff was caused to incur medical bills, lost wages, and conscious pain and suffering.

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

72. Plaintiff realleges and incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

73. 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.

74. 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.

75. 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 Decedent to develop ovarian cancer Decedent suffered pain of mind and body and was diagnosed with a terminal disease which took her life. Plaintiff Kristopher George, as Decedent's next of kin, is entitled to recover funeral expenses, the pecuniary value of her mother's life and the loss of her love, affection and consortium.

COUNT SIX- FRAUD
(Johnson & Johnson Defendants)

76. Plaintiff realleges and incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

77. At all relevant times, the Johnson & Johnson Defendants intentionally, willfully,

and/or recklessly, with the intent to deceive, misrepresented and/or concealed material facts to consumers and users, including Decedent.

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

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

- The Johnson & Johnson Defendants falsely labeled and advertised the PRODUCTS in the following ways, among others: "For you, use every day to help feel soft, fresh, and comfortable," "a sprinkle a day keeps the odor away," "your body perspires in more places than just under your arms," "Use SHOWER to SHOWER to feel dry, fresh, and comfortable throughout the day," and "SHOWER to SHOWER can be used all over your body."

- The Johnson & Johnson Defendants falsely advertised the PRODUCT SHOWER to SHOWER to be applied "all over," and in particular, urges women to use it to "Soothe Your Skin: Sprinkle on problem areas to soothe skin that has been irritated from friction. Apply after a bikini wax to help reduce irritation and discomfort."

- The Johnson & Johnson Defendants, through the advertisements described above, knowingly misrepresented to Plaintiff and the public that the PRODUCTS were safe for use all over the body, including the perineal areas of women.

- The Johnson & Johnson Defendants intentionally failed to disclose that talc and the associated PRODUCTS, when used in the perineal area, increase the risk of ovarian cancer.

- The Johnson & Johnson Defendants intentionally failed to include adequate warnings with the PRODUCTS regarding the potential and actual risks of using the PRODUCTS in the perineal area on women and the nature, scope, severity, and duration of any serious injuries resulting therefrom.

- Despite knowing about the carcinogenic nature of talc and its likelihood to increase the risk of ovarian cancer in women, the Johnson & Johnson Defendants falsely marketed, advertised, labeled and sold the PRODUCTS as safe for public consumption and usage, including for use by women to powder their perineal areas.

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

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

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

83. As a direct, foreseeable and proximate result of the Johnson & Johnson Defendants' fraudulent conduct, Decedent purchased and used the PRODUCTS in their perineal areas. As a direct and proximate result of such use, each Decedent developed ovarian cancer, and Decedent suffered pain of mind and body and was diagnosed with a terminal disease which took her life. Plaintiff Kristopher George, as Decedent's next of kin, is entitled to recover funeral expenses, the pecuniary value of her mother's life and the loss of her love, affection and consortium.

COUNT SEVEN- CIVIL CONSPIRACY
(All Defendants)

84. Plaintiff realleges and incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

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

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

- For many decades, Defendants, individually, jointly, and in conspiracy with each other, have been in possession of medical and scientific data, literature and test reports which clearly indicated that use of their by women resulting from ordinary and foreseeable use of the PRODUCTS were unreasonably dangerous, hazardous, deleterious to human health, carcinogenic, and potentially deadly;

- 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 ovarian cancer from Decedent; 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 ovarian cancer which Defendants knew were incorrect, incomplete, outdated, and misleading. Specifically, the Defendants through the

TIPTF collectively agreed to release false information to the public regarding the safety of talc on July 1, 1992; July 8, 1992; and November 17, 1994. In a letter dated September 17, 1997, the Defendants were criticized by their own Toxicologist consultant for releasing this false information to the public, yet nothing was done by the Defendants to correct or redact this public release of knowingly false information.

- By these false and fraudulent representations, omissions, and concealments, Defendants intended to induce the Decedent to rely upon said false and fraudulent representations, omissions and concealments, and to continue to expose herself to the dangers inherent in the use of and exposure to the PRODUCTS.

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

88. 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 Decedent to develop ovarian cancer; Decedent suffered pain of mind and body and was diagnosed with a terminal disease which took her life. Plaintiff Kristopher George, as Decedent's next of kin, is entitled to recover funeral expenses, the pecuniary value of his mother's life and the loss of her love, affection and consortium.

COUNT EIGHT – CONCERT OF ACTION
(All Defendants)

89. Plaintiff realleges and incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

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

and Imerys Talc.

91. 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 Decedent to develop ovarian cancer; Decedent suffered pain of mind and body and was diagnosed with a terminal disease which took her life. Plaintiff Kristopher George, as Decedent's next of kin, is entitled to recover funeral expenses, the pecuniary value of his mother's life and the loss of her love, affection and consortium.

COUNT NINE – NEGLIGENT MISREPRESENTATION
(All Defendants)

92. Plaintiff realleges and incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

93. 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.

94. 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.

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

96. 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.

97. As a proximate result of Defendants' conduct, Decedent suffered pain of mind and body and was diagnosed with a terminal disease which took her life. Plaintiff Kristopher George, as Decedent's next of kin, is entitled to recover funeral expenses, the pecuniary value of his mother's life and the loss of her love, affection and consortium.

COUNT TEN- VIOLATION OF TENNESSEE CONSUMER PROTECTION ACT
(Tenn. Code. Ann. 47-18-101, *et seq.*)
(Johnson & Johnson Defendants)

98. Plaintiff realleges and incorporates by reference all preceding paragraphs of this Complaint as if fully set forth herein.

99. Plaintiff purchased and used Defendants' PRODUCTS primarily for personal use and thereby suffered ascertainable losses as a result of Defendants' actions in violation of the consumer protection laws.

100. Had Defendants not engaged in the deceptive conduct described herein, Decedent would not have purchased and/or paid for Defendants' PRODUCTS, and would not have incurred related injuries and damages.

101. Defendants engaged in wrongful conduct while at the same time obtaining, under false pretenses, monetary gain from Decedent for the PRODUCTS that would not have been paid had Defendants not engaged in unfair and deceptive conduct.

102. Defendants engaged in unfair methods of competition and deceptive acts or practices that were proscribed by the Tennessee Consumer Protection Act, including the following:

a. Tenn. Code Ann. § 47-18-104(b)(5) – Representing that goods or services have characteristics, ingredients, uses, benefits, or quantities that they do not have;

b. Tenn. Code Ann. § 47-18-104(b)(9) – Advertising goods or services with the intent not to sell them as advertised; and

c. Tenn. Code Ann. § 47-18-104(b)(21) Using statements or illustrations in any advertisement which create a false impression of the usability of the goods or services offered, or which may otherwise misrepresent the goods or services in such a manner that later, on disclosure of the true facts, there is a likelihood that the buyer may be switched from the advertised goods or services to other goods or services.

103. Defendants intended for Plaintiff to rely on their representations and advertisements regarding the Products in order to achieve monetary gain from Plaintiff through her purchase of the PRODUCTS.

104. Decedent was injured by the cumulative and indivisible nature of Defendants' conduct. The cumulative effect of Defendants' conduct directed at Decedent and other consumers was to create demand for and sell the PRODUCTS. Each aspect of Defendants' conduct combined to artificially create sales of the PRODUCTS.

105. 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 the PRODUCTS.

106. Had Defendants not engaged in the deceptive conduct described above, Decedent would not have purchased and/or paid for the PRODUCTS, and would not have incurred related injuries and damages.

107. Defendants' intentional, deceptive, unconscionable, and fraudulent representations and material omissions to Decedent, physicians, and consumers, constituted unfair and deceptive acts and trade practices in violation of the Tennessee Consumer Protection Act.

108. Defendants have engaged in unfair competition or unfair or deceptive acts or trade practices, or have made false representations in violation of the Tennessee Consumer Protection Act.

109. 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.

110. Defendants violated the statutes that were enacted in this state to protect consumers against unfair, deceptive, fraudulent and unconscionable trade and business practices and false advertising, by knowingly and falsely representing that Defendants' the PRODUCTS were 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.

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

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

113. Plaintiff relied upon Defendants' misrepresentations and omissions in determining which product to use.

114. Defendants' deceptive, unconscionable or fraudulent representations and material omissions to Plaintiff and other consumers constituted deceptive acts and practices.

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

116. As a direct and proximate result of Defendants' violations of Tennessee's consumer protection laws, Decedent suffered pain of mind and body and was diagnosed with a terminal disease which took her life. Plaintiff Kristopher George, as Decedent's next of kin, is entitled to recover funeral expenses, the pecuniary value of his mother's life and the loss of her love, affection and consortium.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

a. Awarding damages in the amount not to exceed $5,000,000 (FIVE MILLION), including, but not limited to medical expenses, out of pocket expenses, lost earnings, funeral expenses, the pecuniary value of the decenent's life and the loss of her love, affection and consortium to Plaintiff.;

b. Awarding punitive and/or exemplary damages in the amount of $1,000,000 (ONE MILLION) 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 Decedent in an amount sufficient to punish Defendants and deter future similar conduct;

c. Awarding treble damages per Tenn. Code Ann. § 47-18-109(a)(3);

d. Awarding postjudgment interest;

e. Awarding reasonable attorneys' fees per Tenn. Code Ann. § 47-18-109(e)(1);

f. Awarding Plaintiff the costs of these proceedings; and,

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

Dated: 9/29/2016

Respectfully submitted,

s/ John A. Willis
John A. Willis, # 018468
Fox and Farley
310 N. Main Street
Clinton, TN 37716
(865) 457-6440 – Telephone
(865) 457-6322– Facsimile
johnwillis@foxandfarleylaw.com

Attorney for Plaintiff

UNITED STATES DISTRICT COURT

for the

Eastern District of Tennessee

Kristopher Kelley, as next of kin of Stephanie Michelle Kelley, Deceased *Plaintiff(s)* v. Johnson & Johnson; Johnson & Johnson Consumer Companies, Inc.; and Imerys Talc America, Inc. F/K/A Luzenac America Inc. *Defendant(s)*	)	Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Johnson & Johnson
M.H. Ullman
One Johnson & Johnson Plaza
New Brunswick, NJ 08933

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: John A. Willis
Fox and Farley
310 North Main Street
Clinton, TN 37716

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset

UNITED STATES DISTRICT COURT

for the

Eastern District of Tennessee

Kristopher Kelley, as next of kin of Stephanie Michelle Kelley, Deceased

Plaintiff(s)

v.

Johnson & Johnson; Johnson & Johnson Consumer Companies, Inc.; and Imerys Talc America, Inc. F/K/A Luzenac America Inc.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Johnson & Johnson Consumer Companies, Inc.
Johnson & Johnson Registered Agent
One Johnson & Johnson Plaza
New Brunswick, NJ 08933

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: John A. Willis
Fox and Farley
310 North Main Street
Clinton, TN 37716

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

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Signature of Clerk or Deputy Clerk

Civil Action No.

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❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

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I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset

UNITED STATES DISTRICT COURT

for the

Eastern District of Tennessee

Kristopher Kelley, as next of kin of Stephanie Michelle Kelley, Deceased *Plaintiff(s)* v. Johnson & Johnson; Johnson & Johnson Consumer Companies, Inc.; and Imerys Talc America, Inc. F/K/A Luzenac America Inc. *Defendant(s)*	)	Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Imerys Talc America, Inc.
CT Corporation System
800 S Gay Street
Suite 2021
Knoxville, TN 37929

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: John A. Willis
Fox and Farley
310 North Main Street
Clinton, TN 37716

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

Civil Action No.

PROOF OF SERVICE

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Date: _____

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Server's signature

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Printed name and title

_____
Server's address

Additional information regarding attempted service, etc: