UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

SEBASTIAN FERMAN, INDIVIDUALLY AND ON BEHALF OF HIS DECEASED WIFE CAROL FERMAN, AND ANY BENEFICIARIES **Plaintiff,** **v.** **JOHNSON & JOHNSON, INC., JOHNSON & JOHNSON CONSUMER, INC. f/k/a JOHNSON & JOHNSON CONSUMER COMPANIES, INC., and IMERYS TALC AMERICA, INC. f/k/a LUZENAC AMERICA, INC.** **Defendants.**	**CIVIL ACTION NO.: _____** **JUDGE:** **MAGISTRATE:** **COMPLAINT AND JURY DEMAND**

COMPLAINT
(Jury Trial Requested)

COMES NOW, Plaintiff Sebastian Ferman (hereinafter "Plaintiff"), individually and on behalf of his deceased wife Carol Ferman, and on behalf of any potential beneficiaries, for his benefit and for the benefit of all, by and through the undersigned counsel, and hereby alleges against Defendants Johnson & Johnson; Johnson & Johnson Consumer Incorporated f/k/a Johnson & Johnson Consumer Companies, Inc., and Imerys Talc America, Inc., f/k/a Luzenac America, Inc., (collectively "Defendants"), and respectfully alleges the following:

INTRODUCTION

1. This action arises out of Decedent Carol Ferman's ("hereinafter Decedent") diagnosis of ovarian cancer, which was directly and proximately caused by her regular and prolonged exposure to products known as Johnson & Johnson Baby Powder and Shower to Shower (hereinafter "the PRODUCTS"). Plaintiff brings this cause of action against Defendants

for claims arising from the 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. Plaintiff seeks recovery for damages for Decedent's injuries and death as a result of developing ovarian cancer, which was directly and proximately caused by such wrongful conduct by Defendants, the unreasonably dangerous and defective nature of talcum powder, and the attendant effects of developing ovarian cancer.

PARTIES

2. At all times relevant to this action, Plaintiff/Decedent, Carol Ferman (hereinafter "Decedent") was a resident of Marrero, Louisiana, which is in Jefferson Parish.

3. Plaintiff Sebastian Ferman (hereinafter "Plaintiff"), an adult, is a resident of Marrero, Louisiana, which is in Jefferson Parish. Plaintiff is Decedent's Spouse. Plaintiff brings this action individually and on behalf of Decedent and any of Decedent's beneficiaries.

4. Plaintiff is pursuing this action due to the wrongfully caused premature death of his wife, Decedent Carol Ferman, on behalf of Decedent and all wrongful death beneficiaries/statutory distributees of Decedent. Upon information and belief, at all pertinent times, including from her youth through her death, Decedent purchased and applied talcum powder in the State of Louisiana. In or around December 2000/January 2001, Decedent was diagnosed with ovarian cancer, which developed in the State of Louisiana. Decedent developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder. Decedent died on February 19, 2001. The premature death of Decedent was the direct and proximate result of her application of

PRODUCTS and subsequent ovarian cancer diagnosis. As a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of PRODUCTS, Plaintiffs seek damages for Decedent's loss of future earnings, loss of Decedent's value to her estate, pain and suffering endured by Decedent prior to premature death, medical, funeral and burial expenses, loss of services and support, and all other damages as allowed by law.

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

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

7. Defendant Johnson & Johnson Consumer Incorporated f/k/a Johnson & Johnson Consumer Companies, Inc. is a New Jersey corporation with its principal place of business in the State of New Jersey.

8. At all relevant times, Johnson & Johnson Consumer Incorporated[1] was engaged in the business of manufacturing, marketing, testing, promoting, selling, and/or distributing the PRODUCTS. At all relevant times, Johnson and Johnson Consumer Incorporated regularly transacted, solicited, and conducted business in all States of the United States, including the State of Louisiana.

9. At all relevant times, Defendant Johnson & Johnson Consumer Companies, Inc.,

[1] All allegations regarding actions taken by Johnson & Johnson Consumer, Inc. also include actions taken while that entity was known as Johnson & Johnson Consumer Companies, Inc.

has been a wholly owned subsidiary of Defendant Johnson & Johnson, Inc. under the complete dominion of and control of Defendant Johnson & Johnson, Inc. Defendant Johnson & Johnson, Inc. formulated, manufactured, marketed, tested, promoted, sold, and distributed the PRODUCTS prior to Johnson & Johnson Consumer, Inc. f/k/a Johnson & Johnson Consumer Companies, Inc. coming into existence. Hereinafter, unless otherwise delineated, Johnson & Johnson, Inc. and Johnson & Johnson Consumer, Inc. f/k/a Johnson & Johnson Consumer Companies, Inc. shall be collectively referred to as the "Johnson & Johnson Defendants."

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

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

12. 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 all States, including the State of Louisiana.

JURISDICTION AND VENUE

13. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) based on complete diversity of citizenship between Plaintiff and all Defendants. The amount in controversy exceeds $75,000.

14. This Court has personal jurisdiction over Defendants, who at all relevant times 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 Louisiana. Each Defendant has sufficient minimum contacts with the state of Louisiana to be sued and be required to defend here.

15. Supplemental jurisdiction is also invoked pursuant to 28 U.S.C. § 1367 as to all matters cognizable under the Louisiana Constitution and the dialectal laws of the State of Louisiana, including Louisiana Civil Code Articles 2315, 2315.1 and 2315.2 (wrongful death and survival); Louisiana Civil Code Articles 2520 and 2545 (redhibition); Louisiana Civil Code Articles 1953 and 1958 (fraud); Louisiana Products Liability Act, La. Revised Statute, § 9:2800.51 *et seq.* and Louisiana Revised Statutes 51:1401 and 51:1409 (unfair trade and consumer protection).

16. Venue is proper within this district and division pursuant to 28 U.S.C. § 1391, as a substantial part of the events or omissions giving rise to the claims occurred in this district. Furthermore, Defendants engaged in marketing, promoting, labeling, distributing, and sale of their product in each of the fifty states in the United States, and specifically including Plaintiff and Decedent's state of citizenship and the state or states in which Decedent used the PRODUCTS and was treated for ovarian cancer.

17. Defendants are further subject to this Court's jurisdiction pursuant to the Louisiana Long Arm Statute, La. R.S. § 13:3201. Defendants transact business within the State of Louisiana, and Defendants committed tortious acts and omissions in Louisiana. Defendants' tortious acts and omissions caused injury to Plaintiff and Decedent in the State of Louisiana.

ALLEGATIONS COMMON TO ALL COUNTS

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

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

20. At all relevant 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 as the PRODUCTS.

21. At all relevant times, Defendant Imerys Talc[2] mined the talc contained in the PRODUCTS.

22. At all relevant time, Imerys Talc has continually advertised and marketed talc as safe for human use.

23. At all relevant times, Imerys Talc supplied customers, including the Johnson & Johnson Defendants, with Material Safety Data Sheets ("MSDS") for talc, which were supposed to convey adequate health and warning information to its customers.

24. 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

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

consumers 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."[3]

25. At all relevant times, 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."

26. 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.

27. Upon information and belief, 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.

28. Upon information and belief, 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 ninety-two percent 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.

29. Upon information and belief, since approximately 1982, there have been

[3] Retailer Wal-Mart lists the labels for Johnson's Baby Powder, http://www.walmart.com/ip/Johnson-s-Baby-Powder-22-oz/10294007.

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.

30. Upon information and belief, in or about 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.[4]

31. Upon information and belief, in response to the United States National Toxicology Program's study, the Cosmetic Toiletry and Fragrance Association (CTFA), now known as the PCPC, formed the Talc Interested Party Task Force (TIPTF). Johnson & Johnson, Inc., Johnson and Johnson Consumer Incorporated, and Luzenac—now known as Imerys Talc—were members of the CTFA and were the primary actors and contributors of the TIPTF. The stated purpose of TIPTF was to pool financial resources of these companies in order to collectively defend talc use at all costs and to prevent regulation of any type over this industry. TIPTF hired scientists to perform biased research regarding the safety of talc. TIPTF members, including Johnson & Johnson and Luzenac, then edited these scientific reports hired by this group prior to the submissions of these scientific reports to governmental agencies. In addition, members of 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. These activities were conducted by these companies and organizations over the past four decades in an effort to prevent regulation of talc and to create confusion to the consuming public about

[4] Inhalation Toxicology Research Institute Annual Report, 1993 – 1994, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&ved=0CEEQFjAE&url=http%3A%2F%2Fwww.dtic mil%2Fget-tr-doc%2Fpdf%3FAD%3DADA292037&ei=XX4IVMfxPIblsASfyIKwCA&usg=AFQjCNGnPtuTJc4YRHp3v0VFPJlOV2yH2w&sig2=WTznSlZK9GojkDadkub0Sw&bvm=bv.74649129,d.cWc&cad=rja.

the true hazards of talc and its association to ovarian cancer.

32. Upon information and belief, on or about November 19, 1994, the Cancer Prevention Coalition sent a letter to then Johnson & Johnson C.E.O. Ralph Larsen, urging him to substitute cornstarch for talcum powder products and to label its products with a warning on cancer risks.[5]

33. Upon information and belief, in or about 1996, the FDA requested that the condom industry stopped dusting condoms with talc due to the health concerns that studied linked talc to ovarian cancer. Upon this request, all U.S. manufacturers discontinued the use of talc in its condom manufacturing process to reduce the potential health hazards to women.[6]

34. Upon information and belief, in or about 1990, the U.S. Food and Drug Administration (FDA) asked manufacturers to voluntarily stop putting talc on surgical gloves because mounting scientific evidence showed that it caused adhesions in surgical patients.[7]

35. Upon information and belief, in or about February 2006, the International Agency for Research on Cancer (IARC), the specialized cancer agency of the World Health Organization, published a paper whereby they classified perineal use of talc-based body powder as a "Group 2B" human carcinogen.[8] 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 who used talc in perineal areas. IARC determined that between 16-52% of women worldwide used talc to dust their perineum and found an increased risk of ovarian cancer in women talc users ranging from 30-60%.

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[5] Petition Seeking a Cancer Warning on Cosmetic Talc Products, May 13, 2008 http://www.preventcancer.com/publications/pdf/FINAL_CitPetTalcOvCa_may138.pdf.

[6] "A Women's Campaign Against Talc on Condoms," Philly.com, http://articles.philly.com/1996-01-08/living/25652370_1_talc-condoms-ovarian-cancer.

[7] *Id*.

[8] IARC, "Perineal use of talc-based body powder (Group 2B)," *available at* http://monographs.iarc fr/ENG/Monographs/PDFs/93-talc.pdf.

36. Upon information and belief, in or about 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".

37. Upon information and belief, in or about 2006, Defendant Imerys Talc began placing a warning on the MSDS it provided to the Johnson & Johnson Defendants regarding the talc it sold to them for use in the PRODUCTS. The 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.

38. In 2008, the Cancer Prevention Coalition submitted a "Petition Seeking a Cancer Warning on Cosmetic Talc Products" to the FDA. The petition 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.[9]

39. 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.[10]

40. Presently, the National Cancer Institute[11] and the American Cancer Society[12] list

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

[10] "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.

[11] National Cancer Institute, Ovarian Cancer Prevention, http://www.cancer.gov/cancertopics/pdq/prevention/ovarian/Patient/page3.

[12] American Cancer Society, Risk Factors for Ovarian Cancer, http://www.cancer.org/cancer/ovariancancer/detailedguide/ovarian-cancer-risk-factors.

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

41. The Gilda Radner Familial Ovarian Cancer Registry, Roswell Park Center Institute, and the Department of Gynecologic Oncology University of Vermont publish a pamphlet entitled, "Myths & Facts about ovarian cancer: What you need to know." In this pamphlet, under "known" risk factors for ovarian cancer, it lists: "Use of Talc (Baby Powder) in the Genital Area."[13]

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, Decedent was injured and suffered damages, namely ovarian cancer and death.

FEDERAL STANDARDS AND REQUIREMENTS

46. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further allege as follows:

47. At all relevant times, Defendants had the obligation to comply with federal standards and regulations in the manufacture, design, marketing, branding, labeling, distribution, and sale of the PRODUCTS.

48. Defendants, each individually, *in solido*, and/or jointly, violated the Federal Food,

[13] Myths and Facts About Ovarian Cancer, http://imaging.ubmmedica.com/cancernetwork/forpatients/pdfs/7_M&F%20Ovarian%20Cancer.pdf.

Drug and Cosmetic Act, 21 U.S.C. §301, *et seq.*

49. Defendants have or may have failed to comply with federal standards and requirements governing the manufacture, design, marketing, branding, and sale of the PRODUCTS including, but not limited to, the following violations of sections and subsections of the United States Code and the Code of Federal Regulations:

a. The PRODUCTS are adulterated in violation of 21 U.S.C. § 361 because, among other things, they contain a poisonous or deleterious substance which may render them injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual.

b. The PRODUCTS are misbranded in violation of 21 U.S.C. § 362 because, among other things, their labeling is false or misleading.

c. The PRODUCTS are misbranded in violation 21 U.S.C. § 362 because words, statements, or other information required by or under authority of 21 U.S.C. § 362 are not prominently placed thereon with such conspicuousness and in such terms as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

d. The PRODUCTS are misbranded in violation of 21 C.F.R. § 701.1 because they contain false or misleading representations that they are safe for daily application to all parts of the female body.

e. The PRODUCTS do not bear a warning statement, in violation of 21 C.F.R. § 740.1, to prevent a health hazard that may be associated with the PRODUCTS, namely that the PRODUCTS may cause ovarian cancer or a heightened risk of ovarian cancer when applied to the perineal area.

f. The PRODUCTS do not prominently and conspicuously bear a warning statement, in violation of 21 C.F.R. § 740.2, as to the risk of ovarian cancer caused by the use of the PRODUCTS when applied to the perineal area, in such terms and design that it is likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

g. The PRODUCTS, in violation of 21 C.F.R. § 740.10, do not conspicuously state on their principal display panel that the safety of the PRODUCTS have not been determined and/or that the safety of the PRODUCTS' principal ingredients have not been determined.

CAUSES OF ACTION

COUNT I: NEGLIGENCE
(Johnson & Johnson Defendants)

50. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further allege as follows:

51. At all times relevant hereto, Johnson & Johnson Defendants had a duty to individuals, including Decedent, to exercise reasonable and ordinary care and properly manufacture, design, formulate, compound, test, produce, process, assemble, inspect, research, distribute, market, label, package, distribute, prepare for use, sell, prescribe and adequately warn of the risks and dangers associated with the use of PRODUCTS.

52. At all times relevant hereto, Johnson & Johnson Defendants manufactured, designed, formulated, distributed, compounded, produced, processed, assembled, inspected, distributed, marketed, labeled, packaged, prepared for use and sold PRODUCTS while disregarding the fact that the foreseeable harm presented by the PRODUCTS greatly outweighed the benefits it provided to users like Decedent.

53. At all times relevant hereto, Johnson & Johnson Defendants failed to adequately test for and warn of the risks and dangers associated with the use of PRODUCTS.

54. At all relevant times, the Johnson & Johnson Defendants breached their duty to Decedent and were otherwise negligent in marketing, designing, manufacturing, producing, supplying, inspecting, testing, selling and/or distributing the PRODUCTS in one or more of the following respects:

a. In failing to warn Decedent of the hazards associated with the use of the PRODUCTS;

b. In failing to properly test their products to determine adequacy and effectiveness or safety measures, if any, prior to releasing the PRODUCTS for consumer use;

c. In failing to properly test their products to determine the increased risk of ovarian

cancer during the normal and/or intended use of the PRODUCTS;

d. In failing to inform ultimate users, such as Decedent, as to the safe and proper methods of handling and using the PRODUCTS;

e. In failing to remove the PRODUCTS from the market when the Defendants knew or should have known the PRODUCTS were defective;

f. In failing to instruct the ultimate users, such as Decedent, as to the methods for reducing the type of exposure to the PRODUCTS which caused increased risk of ovarian cancer;

g. In failing to inform the public in general and the Decedent in particular of the known dangers of using the PRODUCTS for dusting the perineum;

h. In failing to advise users how to prevent or reduce exposure that caused increased risk for ovarian cancer;

i. In marketing and labeling the PRODUCTS as safe for all uses despite knowledge to the contrary;

j. In failing to act like a reasonably prudent company under similar circumstances; and/or

k. In failing to use a safer alternative to talc in the PRODUCTS, such as cornstarch.

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

55. At all relevant 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.

56. Johnson & Johnson Defendants knew or should have known that consumers such as Decedent would foreseeably suffer injury as a result of the company's failure to exercise ordinary care while developing, marketing, and/or selling PRODUCTS.

57. 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. Defendants' conduct directly and proximately caused Decedent's injuries, damages, and death as described with particularity herein.

COUNT II: NEGLIGENCE
(Imerys Talc)

58. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further allege as follows:

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

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

61. At all relevant times, Imerys Talc knew or should have known that the use of the PRODUCTS in the perineal area significantly increases the risk of ovarian cancer based upon scientific knowledge dating back to at least 1971.

62. At all relevant times, Imerys Talc knew that Johnson & Johnson Defendants were not providing warnings to consumers of the PRODUCTS of the risk of ovarian cancer posed by talc contained therein.

63. At all relevant times, Imerys Talc was negligent in providing talc to the Johnson & Johnson Defendants. Imerys Talc possessed information on the carcinogenic properties of talc, including its risk of causing ovarian cancer. Imerys Talc was negligent because it knew that the

talc they provided to Johnson & Johnson Defendants would be used in the PRODUCTS, but they did not adequately take 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.

64. As a direct and proximate result of Imerys Talc's negligence, Plaintiff purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused Decedent to develop ovarian cancer. Defendants' conduct directly and proximately caused Decedent's injuries, damages, and death as described with particularity herein.

COUNT III: GROSS NEGLIGENCE
(All Defendants)

65. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further allege as follows:

66. The wrongful acts committed by Defendants were aggravated by malice, fraud, and grossly negligent disregard for the rights of the general public.

67. Defendants' conduct involved an extreme degree of risk, considering the probability and magnitude of potential harm to the general public.

68. Despite Defendants' awareness of the severity of the risk associated with its actions, Defendants nevertheless chose to proceed with the manufacture, promotion, distribution and sale of PRODUCTS with conscious indifference to the rights, safety, or welfare of the general public.

69. Decedent relied on the representations made by Defendants and suffered serious injury and death as a proximate result of such reliance.

COUNT IV: STRICT LIABILITY FOR DEFECTIVE MANUFACTURING
(Johnson & Johnson Defendants)

70. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further allege as follows:

71. At all relevant times, the Johnson & Johnson Defendants were engaged in the business of manufacturing, formulating, creating, designing, testing, labeling, packaging, supplying, marketing, promoting, selling, advertising, and otherwise introducing the PRODUCTS into the stream of interstate commerce, which they sold and distributed throughout the United States.

72. At all relevant times, the PRODUCTS were expected to and did reach Decedent without a substantial change in condition.

73. At all relevant times, the PRODUCTS were defectively and improperly manufactured and designed by the Johnson & Johnson Defendants in that, when the PRODUCTS left the hands of the Johnson & Johnson Defendants, the foreseeable risks of the PRODUCTS far outweighed the benefits associated with their design and formulation.

74. At all relevant times, the PRODUCTS were defectively manufactured and designed by the Johnson & Johnson Defendants in that their design and formulation is more dangerous than an ordinary consumer would expect when used in an intended and reasonably foreseeable manner.

75. At all relevant times, the PRODUCTS created significant risks to the health and safety of consumers that far outweigh the risks posed by other products on the market used for the same therapeutic purpose.

76. At all relevant times, a reasonable and safer alternative design existed, which could have feasibly been employed by the Johnson & Johnson Defendants to manufacture a product with the same therapeutic purpose as the PRODUCTS. Despite knowledge of this

reasonable and safer alternative design, the Johnson & Johnson Defendants failed to alter the PRODUCTS' design and formulation. The magnitude of the danger created by the PRODUCTS far outweighs the costs associated with using an alternative, safer design.

77. As a direct and proximate result of the defective design and manufacture of the PRODUCTS, Decedent developed ovarian cancer and suffered injuries and damages alleged herein.

COUNT V: STRICT LIABILTY FOR DEFECTIVE **MANUFACTURING**
(Imerys Talc)

78. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further allege as follows:

79. At all relevant times, Defendant Imerys Talc was engaged in the business of mining and distributing talcum to Johnson & Johnson Defendants for use in the PRODUCTS, and they were knowingly an integral part of the overall manufacture, design, and production of the PRODUCTS and their introduction into the stream of interstate commerce.

80. At all relevant times, the PRODUCTS were expected to and did reach Decedent without a substantial change in their condition.

81. At all relevant times, the PRODUCTS were defectively and improperly manufactured and designed by Imerys Talc in that, when Imerys Talc supplied its talc product to Johnson & Johnson with full knowledge that Johnson & Johnson would use its talc in formulating the PRODUCTS and that the talc would be the primary ingredient in the PRODUCTS, the foreseeable risks of the PRODUCTS far outweighed the benefits associated with their design and formulation.

82. At all relevant times, the PRODUCTS were defectively manufactured and designed by Imerys Talc in that their design and formulation is more dangerous than an ordinary consumer would expect when used in an intended and reasonably foreseeable manner.

83. At all relevant times, the PRODUCTS created significant risks to the health and safety of consumers that far outweigh the risks posed by other products on the market used for the same therapeutic purpose.

84. As a direct and proximate result of the defective design and manufacture of the PRODUCTS, Decedent developed ovarian cancer and suffered injuries and damages as alleged herein.

COUNT VI: STRICT LIABILITY FOR FAILURE TO WARN
(Johnson & Johnson Defendants)

85. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further allege as follows:

86. At all relevant times, the Johnson & Johnson Defendants were engaged in the business of manufacturing, marketing, testing, promoting, selling and/or distributing, and otherwise introducing into the stream of interstate commerce, the PRODUCTS.

87. At all relevant times, the Johnson & Johnson Defendants knew or should have known that the use of the PRODUCTS in the female perineal area significantly increased the risk of ovarian cancer in women based upon scientific knowledge dating back until at least 1971.

88. At all relevant times, the PRODUCTS, manufactured and supplied by the Johnson & Johnson Defendants, were defective and unreasonably dangerous because, despite the Johnson & Johnson Defendants' knowledge that its PRODUCTS were carcinogenic and could lead to an increased risk of ovarian cancer when applied to the female perineal area, a reasonably foreseeable use of the PRODUCTS, the Johnson & Johnson Defendants failed to provide

adequate warning or instruction to consumers, including Decedent, regarding the increased risk of ovarian cancer when the PRODUCTS are applied to the female perineal area.

89. At all relevant times, Decedent used the PRODUCTS to powder her perineal area, a use that was reasonably foreseeable and for which the PRODUCTS were supplied.

90. 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 perinea, area. Johnson & Johnson Defendants themselves failed to properly and adequately warn and instruct the public, including Decedent as to the risks and benefits of the PRODUCTS given the public's need for this information.

91. Had Decedent received warning and/or instruction from the Johnson & Johnson Defendants regarding the increased risk of ovarian cancer associated with the PRODUCTS when applied to the perineal area, Decedent would not have used the PRODUCTS in this manner. As a proximate result of Johnson & Johnson Defendants' design, manufacture, marketing, sale, and distribution of the PRODUCTS, Decedent has been injured catastrophically as alleged herein.

92. 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; Plaintiff has suffered injuries and damages as alleged herein, including her death.

93. Johnson & Johnson Defendants had a continuing duty to warn consumers and the public, including Decedent, of the dangers associated with the PRODUCTS, and by negligently

and/or wantonly failing to adequately warn of the dangers associated with its use, Johnson & Johnson Defendants breached their duty.

94. The 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 Decedent justifiably relied in electing to use the products. The defect or defects made the products unreasonably dangerous to those persons, such as Decedent who could reasonably be expected to use and rely upon such products. As a result, the defect or defects were a producing cause of the Decedent's injury and death.

95. Due to the absence of any warning or instruction by the Johnson & Johnson Defendants as to the significant health and safety risks posed by the PRODUCTS as described herein, Decedent was unaware that the PRODUCTS created an increased risk of ovarian cancer, as this danger was not known to the general public.

96. The 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. Johnson & Johnson 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 Johnson & Johnson 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.

97. As a direct and proximate result of Johnson & Johnson Defendants' failure to warn Decedent of the increased risk of ovarian cancer associated with the PRODUCTS when applied to the perineal area, despite their actual knowledge of this material fact, Decedent developed ovarian cancer and has been injured catastrophically and have been caused severe and

permanent pain, suffering, disability, impairment, loss of enjoyment of life, loss of care, comfort, and economic damages.

COUNT VII: STRICT LIABILITY FOR FAILURE TO WARN
(Imerys Talc)

98. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further allege as follows:

99. At all relevant times, Imerys Talc mined and sold talc to the Johnson & Johnson Defendants with full knowledge that the Johnson & Johnson Defendants were then packaging the talc and selling to consumers as the PRODUCTS and consumers of the PRODUCTS were using it to powder their perineal regions.

100. At all relevant times, by mining talc and supplying that talc to the Johnson & Johnson Defendants for use in the PRODUCTS, Imerys Talc was knowingly an integral part of the overall manufacture, design, and production of the PRODUCTS and their introduction into the stream of interstate commerce.

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

102. At all relevant times, Imerys Talc knew or should have known that the use of the PRODUCTS significantly increase the risk of ovarian cancer in women based upon scientific knowledge dating back until at least 1971.

103. At all relevant times, the PRODUCTS were defective and unreasonably dangerous when used in a reasonably foreseeable manner because, despite Imerys Talc's knowledge that the PRODUCTS were carcinogenic and could lead to an increased risk of

ovarian cancer, Imerys Talc failed to provide adequate warning and/or instruction to consumers, including Plaintiff, regarding the increased risk of ovarian cancer associated with the use of the PRODUCTS when applied to the perineal area.

104. 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 perinea, area. Imerys Talc failed to properly and adequately warn and instruct the public, including Decedent as to the risks and benefits of the PRODUCTS given the public's need for this information.

105. Had Plaintiff received warning or instruction regarding the increased risk of ovarian cancer associated with the PRODUCTS when applied to the perineal area, Plaintiff would not have used the PRODUCTS in this manner. As a proximate result of Defendants' design, manufacture, marketing, sale, and distribution of the PRODUCTS, Plaintiff has been injured catastrophically, and has been caused severe and permanent pain, suffering, disability, impairment, loss of enjoyment of life, loss of care, comfort, and economic damages.

106. Imerys Talc had a continuing duty to warn consumers and the public, including Plaintiff, of the dangers associated with the PRODUCTS, and by negligently and/or wantonly failing to adequately warn of the dangers associated with its use, Imerys Talc breached its duty.

107. The 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 Plaintiff

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 injury and death.

108. Due to the absence of any warning or instruction by the Defendants as to the significant health and safety risks posed by the PRODUCTS as described herein, Plaintiff was unaware that the PRODUCTS created an increased risk of ovarian cancer, as this danger was not known to the general public.

109. The 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. Imerys Talc continues to market, advertise, and expressly represent to the general public that it is safe for women to use their product regardless of application. Imerys Talc continues 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.

110. As a direct and proximate result of Imerys Talc's failure to warn Plaintiff of the increased risk of ovarian cancer associated with the PRODUCTS when applied to the perineal area, despite their actual knowledge of this material fact, Plaintiff developed ovarian cancer and have been injured catastrophically and have been caused severe and permanent pain, suffering, disability, impairment, loss of enjoyment of life, loss of care, comfort and economic damages.

COUNT VIII: LOUISIANA PRODUCTS LIABILITY ACT, LA. R.S. § 9:2800.51 *et seq.*
(Johnson & Johnson Defendants)

111. Plaintiff incorporatess by reference all other paragraphs of this Complaint as if fully set forth herein, and further allege as follows:

112. At all times material to this action, Defendants were engaged in the business of designing, developing, manufacturing, testing, packaging, promoting, marketing, distributing,

labeling, and/or selling the PRODUCTS.

113. At all times pertinent hereto, the PRODUCTS were expected to reach, and did reach, consumers in the State of Louisiana and throughout the United States, including Plaintiff herein, without substantial change in the condition in which they were sold.

114. At all times material hereto, the PRODUCTS were designed, developed, marketed, manufactured, tested, packaged, promoted, marketed, labeled, and/or sold by Defendants in a defective and unreasonably dangerous condition at the time they were placed in the stream of commerce in the following non-exclusive particulars:

a. When placed in the stream of commerce, the PRODUCTS contained manufacturing and design defects which rendered the Products unreasonably dangerous;

b. The PRODUCTS' manufacturing and design defects occurred while the Products were in the sole possession and control of Defendants;

c. The PRODUCTS' manufacturing and design defects existed before they left the control of the Defendants.

115. The PRODUCTS manufactured and/or designed by Defendants were defective in construction or composition in that, when they left the hands of Defendants, they deviated in a material way from Defendants' manufacturing performance standards and/or differed from otherwise identical products manufactured in the same design formula. In particular, the Products are not safe, have numerous and serious side effects and pose severe and sometime fatal harm. The Products are unreasonably dangerous in construction and/or composition as provided by La. R.S. 9:200.55.

116. The PRODUCTS manufactured and/or designed by Defendants were defective in

design in that an alternative design exists that would prevent serious side effects and severe and permanent harm. For example, cornstarch is an organic carbohydrate that is quickly broken down by the body with no unknown health effects. Cornstarch based powders have been sold and marketed for the same uses as the PRODUCTS with substantially the same effectiveness. The Products are unreasonably dangerous in design as defined in La. R.S. 9:2800.56.

117. The PRODUCTS manufactured and/or supplied by Defendants were unreasonably dangerous because Defendants did not provide adequate warnings about them. At the time the PRODUCTS left Defendants' control, they possessed a characteristic that may cause damage, and the Defendants failed to use reasonable care to provide an adequate warning of the dangerous characteristic and its danger to users and handlers of the PRODUCTS. The PRODUCTS are not safe and have numerous and serious side effects including, but not limited to, causing ovarian and uterine cancers. The PRODUCTS are unreasonably dangerous because of inadequate warning as provided by La. R.S. 9:2800.57.

118. The Products manufactured and/or designed by Defendants were unreasonably dangerous because they did not conform to an express warranty made by Defendants regarding the Products' safety and fitness for use. Defendants' express warranty regarding the Products induced Plaintiff to use the Products, and Decedent's injury and death was proximately caused because Defendants' express warranty was untrue. The Products are unreasonably dangerous because of nonconformity to express warranty as provided by La. R.S. 9:2800:58.

119. As a direct and proximate result of Defendants' unlawful and deceptive conduct, Plaintiff suffered serious injury, harm, damages, economic and non-economic loss.

120. The Plaintiff specifically demands damages general and special damages pursuant to La. R.S. 9:2800.51 *et seq*.

COUNT IX: BREACH OF IMPLIED WARRANTIES
(Johnson & Johnson Defendants)

121. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further allege as follows:

122. 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. With this knowledge, they impliedly warranted the PRODUCTS to be of merchantable quality and safe for such use.

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

124. 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; Plaintiff and Decedent were caused to incur medical bills, lost wages, and conscious pain and suffering.

COUNT X: BREACH OF EXPRESS WARRANTIES
(Johnson & Johnson Defendants)

125. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein and further alleges as follows:

126. At all relevant and material times, Johnson & Johnson Defendants manufactured, distributed, advertised, promoted and sold PRODUCTS.

127. At all relevant 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.

128. At all relevant times, 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 their perineal area.

129. 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.

130. As a direct and proximate result of the Defendants' breach of warranty, Plaintiff purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused each Plaintiff to develop ovarian cancer and suffer injuries and damages alleged herein.

COUNT XI: FRAUD
(Johnson & Johnson Defendants)

131. Plaintiff incorporates by reference all other paragraphs of this complaint as if fully set forth, and further allege as follows:

132. 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.

133. 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.

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

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

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

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

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

e. The Johnson & Johnson Defendants intentionally failed to include adequate warnings with the PRODUCTS regarding the potential and actual risks of using the PRODUCTS in the perineal area on women and the nature, scope, severity, and duration of any serious injuries resulting therefrom.[14]

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

135. 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.

136. 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

[14] Household Products Database, Label for Johnson's Baby Powder, Original, http://householdproducts.nlm.nih.gov/cgi-bin/household/brands?tbl=brands&id=100010

they had been informed of the risks associated with the use of the PRODUCTS in the perineal area.

137. Johnson & Johnson Defendants' fraudulent conduct, which continues to this day, violates Louisiana Civil Code Article 1953, which states that "Fraud is a misrepresentation or a suppression of the truth made with the intention either to obtain an unjust advantage for one party or to cause a loss or inconvenience to the other. Fraud may also result from silence or inaction."

138. 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.

139. As a direct, foreseeable and proximate result of the Johnson & Johnson Defendants' fraudulent conduct, Decedent purchased and used the PRODUCTS in her perineal area.

140. Johnson & Johnson Defendants' wrongful conduct constitutes fraud and deceit, and was committed and perpetrated willfully, wantonly, and/or purposefully on Decedent.

141. As a proximate result of Johnson & Johnson Defendants' fraudulent and deceitful conduct, upon which Decedent reasonably relied, Plaintiff and the Decedent suffered injuries and damages as described with particularity herein.

142. As a result of Defendants' fraudulent conduct, Plaintiff specifically demands damages and attorney fees pursuant to Louisiana Civil Code Article 1958.

COUNT XII: FRAUDULENT MISREPRESENTATION
(Johnson & Johnson Defendants)

143. Plaintiff incorporates by reference all other paragraphs of this complaint as if fully set forth, and further allege as follows:

144. From the time the Johnson & Johnson Defendants first marketed and distributed PRODUCTS until the present, Johnson & Johnson Defendants willfully deceived Decedent by concealing from her, the medical community, and the general public the facts concerning PRODUCTS risks and dangers.

145. At all times relevant hereto, Johnson & Johnson Defendants conducted a sales and marketing campaign to promote the sale of PRODUCTS and, in doing so, willfully deceived Decedent, the medical community, and the general public as to the benefits, health risks and consequences of using PRODUCTS.

146. At all points during its sales and marketing campaign, Johnson & Johnson Defendants knew that PRODUCTS were and are not safe; were and are hazardous to a user's health; and showed and shows a propensity to cause serious injury to a user.

147. Johnson & Johnson Defendants had the duty to disclose the facts concerning the risks and dangers posed by PRODUCTS.

148. Johnson & Johnson Defendants intentionally concealed and suppressed the facts evidencing PRODUCTS risks with the intent to defraud potential consumers, as Johnson & Johnson Defendants knew that consumers like Decedent would not use PRODUCTS, if they were aware of the dangers posed by using PRODUCTS

149. As a result of the foregoing fraudulent misrepresentations made by Johnson & Johnson Defendants, upon which Decedent reasonably relied, Plaintiff and the Decedent suffered injuries and damages as described with particularity herein.

150. As a result of Defendants' fraudulent conduct, Plaintiff specifically demands damages and attorney fees pursuant to Louisiana Civil Code Article 1958.

COUNT XIII: FRAUDULENT CONCEALMENT
(All Defendants)

151. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein and further alleges as follows:

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

153. Defendants intentionally, willfully, and maliciously concealed and/or suppressed important facts from Decedent with the intent to defraud her as alleged herein, which facts include, but are not limited to, the fact that Defendants:

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

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

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

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

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

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

156. At all times mentioned in this Complaint, Decedent was not aware of, and could not reasonably know or have learned through reasonable diligence, the concealed facts set forth herein, and had no reason to be aware of such concealment nor that she had been exposed to the risks of the PRODUCTS alleged herein nor that those risks were the direct and proximate result of Defendants' acts and/or omissions. Had she been aware of those facts, she would not have acted as she did, that is, Decedent would not have purchased the PRODUCTS and Decedent would not have been injured as a result.

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

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

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

160. Defendants had the ability to, and in fact did, spend enormous amounts of money in furtherance of their purposes of marketing and promoting a profitable product, notwithstanding the known or reasonably knowable risks of the PRODUCTS. Plaintiff, Decedent and medical professionals could not have afforded to and could not have possibly conducted studies to determine the nature, extent, and identify of related health risks and they were forced to rely on Defendants' representations.

161. As a direct and proximate result of one or more of these wrongful acts or omissions of the Defendants, Decedent purchased and used the PRODUCTS in her perineal area.

162. Defendants, by concealment or other action, intentionally prevented Decedent and Plaintiff from acquiring material information regarding the lack of safety and effectiveness of PRODUCTS, and is subject to the same liability to Decedent and Plaintiff for pecuniary losses, as though Defendants had stated the non-existence of such material information regarding PRODUCTS lack of safety and effectiveness and dangers and defects, and as though Defendants had affirmatively stated the non-existence of such matters that Decedent was thus prevented from discovering the truth. Defendant therefore has liability for fraudulent concealment under all applicable laws, including, inter alia, Restatement (Second) of Torts §550 (1977).

163. As a direct and proximate result of such use, Decedent developed ovarian cancer, and as a result of the foregoing fraudulent concealment by Defendants, Plaintiff and the Decedent suffered injuries and damages as described with particularity herein.

164. As a result of Defendants' fraudulent conduct, Plaintiff specifically demands damages and attorney fees pursuant to Louisiana Civil Code Article 1958.

COUNT XIV: CIVIL CONSPIRACY
(All Defendants)

165. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth and further alleges as follows:

166. Defendants and/or their predecessors-in-interest knowingly agreed, contrived, combined, confederated and conspired among themselves to cause Decedent's injury and death by exposing the Decedent to harmful and dangerous PRODUCTS. Defendants further knowingly agreed, contrived, confederated and conspired to deprive the Decedent of the opportunity of informed free choice as to whether to use the PRODUCTS or to expose themselves to the stated dangers. Defendants committed the wrongs as described herein by willfully misrepresenting and suppressing the truth as to the risks and dangers associated with the use of and exposure to the PRODUCTS.

167. 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 that clearly indicated that use of their by women resulting from ordinary and foreseeable use of the PRODUCTS were unreasonably dangerous, hazardous, deleterious to human health, carcinogenic, and potentially deadly;

b. Despite the medical and scientific data, literature, and test reports possessed by and available to Defendants, Defendants individually, jointly, and in conspiracy with each other, fraudulently, willfully and maliciously:

    i. Withheld, concealed and suppressed said medical information regarding the increased risk of ovarian cancer from Decedent, as described above; In addition, on July 27, 2005, Defendants, as part of the TIPTF, corresponded about and agreed to edit and delete portions of scientific papers being submitted on their behalf to the United States Toxicology Program in an attempt to prevent talc from being classified as a carcinogen;

ii. Instituted a "defense strategy" through the TIPTF to defend talc at all costs. In furtherance of this defense strategy, Defendants, through the TIPTF, used their influence over the National Toxicology Program ("NTP') Subcommittee and the threat of litigation against the NTP to prevent the NTP from classifying talc as a carcinogen on its 10th Report on Carcinogens ("RoC");

iii. Caused to be released, published and disseminated medical and scientific data, literature, and test reports containing information and statements regarding the risks of ovarian cancer which Defendants knew were incorrect, incomplete, outdated, and misleading. Specifically, 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 and did induce Decedent to rely upon these false and fraudulent representations, omissions and concealments, and to continue to expose themselves to the dangers inherent in the use of and exposure to the PRODUCTS.

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

169. As a direct, foreseeable and proximate result of the Defendants' conspiracy, Decedent purchased and used the PRODUCTS in the perineal area, which directly and proximately caused each Decedent to develop ovarian cancer. Decedent and Plaintiff were caused to incur injuries and damages as alleged herein.

COUNT XV: CONCERT OF ACTION
(All Defendants)

170. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein and further alleges as follows:

171. At all relevant times, Imerys Talc and the Johnson & Johnson Defendants knew

that the PRODUCTS should contain warnings about the risk of ovarian cancer when women used the PRODUCTS to powder the perineal region, but they purposefully suppressed this information and omitted warnings from the PRODUCTS. They did so to maintain sales and profits of the Johnson & Johnson Defendants and Imerys Talc.

172. As a direct, foreseeable and proximate result of the Defendants' concert of action, Decedent purchased and used the PRODUCTS in here perineal areas. As a direct and proximate result of such use, Decedent developed ovarian cancer, and Decedent was caused to incur injuries and damages as alleged herein.

COUNT XVI: **NEGLIGENT MISREPRESENTATION** **(All Defendants)**

173. Plaintiff incorporates by reference all other paragraphs of this complaint as if fully set forth and further alleges as follows:

174. 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. However, the representations made by Defendants, in fact, were false.

175. 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.

176. Defendants breached their duty in representing that the PRODUCTS were safe for use in the perineal areas of women.

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

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

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

c. Defendants, through the advertisements described above, among others, misrepresented to consumers, including the Decedent, that the PRODUCTS were safe for use all over the body, including the female perineal area.

d. Despite actual knowledge of the health risks of the PRODUCTS, the Defendants failed to disclose to the consumers and the Decedent, through adequate warnings, representations, labeling, or otherwise, that the PRODUCTS were inherently dangerous and carcinogenic in nature, which poses serious health risks to consumers.

e. Despite actual knowledge that the use of the PRODUCTS in the perineal area created a significantly increased risk of ovarian cancer, the Defendants failed to disclose to consumers and the Decedent, through adequate warnings, representations, labeling, or otherwise, that material fact.

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

178. At all relevant times, Defendants failed to exercise reasonable care in ascertaining or sharing information regarding the safe use of PRODUCTS, failed to disclose facts indicating that the PRODUCTS were inherently dangerous and carcinogenic in nature, and otherwise failed to exercise reasonable care in communicating the information concerning the PRODUCTS to Decedent and/or concealed relevant facts that were known to them.

179. 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.

180. At all relevant times, Decedent was not aware of the falsity of the foregoing misrepresentations, nor was she aware that material facts concerning talc and the PRODUCTS had been concealed or omitted. In reasonable reliance upon the Johnson & Johnson Defendants' misrepresentations and/or omissions, Decedent was induced to and did purchase the PRODUCTS and did use the PRODUCTS on her perineal area. If the Defendants had disclosed true and accurate material facts concerning the risks of the use of the PRODUCTS, in particular the risk of developing ovarian cancer from using the PRODUCTS in the female perineal area, Decedent would not have purchased and/or received the PRODUCTS and/or used the PRODUCTS in that manner.

181. Decedent's reliance upon the Defendants' misrepresentations and omissions was justified and reasonable because, among other reasons, those misrepresentations and omissions were made by individuals and entities who were in a position to know the material facts concerning the PRODUCTS and the association between the PRODUCTS and the incidence of ovarian cancer, while Decedent was not in a position to know these material facts, and because the Johnson & Johnson Defendants failed to warn or otherwise provide notice to the consuming public as to the risks of the PRODUCTS, thereby inducing Decedent to use the PRODUCTS in lieu of safer alternatives and in ways that created unreasonably dangerous risks to her health. At all relevant times, the Defendants' corporate officers, directors, and/or managing agents knew of and ratified the acts of the Defendants, as alleged herein.

182. As a direct and proximate result of Defendants' conduct, Decedent and Plaintiff suffered injuries and damages as alleged herein.

COUNT XVII: REDHIBITION, LA. CIV. CODE ART. 2520 & 2545
(Johnson & Johnson Defendants)

183. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further allege as follows:

184. At all pertinent times, including the time of sale and consumption, the PRODUCTS, when put to their intended or 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.

185. The unreasonably dangerous nature of the PRODUCTS creates a breach of the warranty against redhibitory defects, or vices, of things sold pursuant to Louisiana Civil Code Article 2520, which states: "A defect is redhibitory when it renders the thing useless, or its use so

inconvenient that it must be presumed that a buyer would not have bought the thing had he known of the defect."

186. Had the Decedent known that the use of the PRODUCTS would have significantly increased their risk of ovarian cancer, she would not have used the same. As a direct and proximate result of the redhibitory vices of the PRODUCTS, Decedent and Plaintiff suffered injuries and damages as alleged herein.

187. Due to the redhibitory vices of the PRODUCTS, Plaintiff specifically demands damages and attorney fees pursuant to Louisiana Civil Code Article 2520 & 2545.

COUNT XVIII: UNFAIR AND DECEPTIVE TRADE PRACTICES, LA. R.S. § 51:1401 *et seq.*
(All Defendants)

188. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further allege as follows:

189. Defendants and/or their predecessors-in-interest knowingly agreed, contrived, combined, confederated and conspired among themselves to cause Decedent's injury and death by exposing the Decedent to harmful and dangerous PRODUCTS. Defendants further knowingly agreed, contrived, confederated and conspired to deprive the 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.

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

191. The actions of Defendants violate Louisiana Revised Statutes 51:1405, which

prohibits unfair or deceptive acts or practices in the conduct of any trade or commerce.

192. Because of the unfair and deceptive practices knowingly used by the Defendants, Plaintiff specifically demands treble damages pursuant to Louisiana Revised Statute 51:1409.

COUNT XIX: WRONGFUL DEATH, LA. CIV. CODE ART. 2315.2
(All Defendants)

193. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further allege as follows:

194. As a direct and proximate result of the acts and/or omissions of Defendants as set forth herein, Decedent used the PRODUCTS in her perineal area. Subsequent to such use, Decedent developed ovarian cancer, suffered substantial pain and suffering, both physical and emotional in nature, and subsequently died.

195. The conduct described herein was caused by Defendants' and their agents' and servants' wrongful acts, neglect, carelessness, unskillfulness, and default.

196. As a direct and proximate result of Defendants' conduct and omissions described herein, the PRODUCTS Decedent received caused the injuries and damages as described with particularity herein.

197. Plaintiff, individually and all of Decedent's beneficiaries are entitled to recover damages as Decedent would have if she were living, as a result of acts and/or omissions of Defendants. Plaintiff seeks damages for the fair monetary value of Decedent's life, including, but not limited to: compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, consortium, companionship, comfort, guidance, counsel, and advice of the Decedent. Plaintiff also seeks recovery for the reasonable funeral and burial expenses of the Decedent and any and all other available relief.

198. Plaintiff, individually and all of Decedent's beneficiaries also entitled to recover

punitive damages and damages for substantial pain and suffering caused to Plaintiff and Decedent from the acts and/or omissions of Defendants as fully set forth herein, including without limitations, punitive damages.

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

200. The Plaintiff specifically demands damages general and special damages pursuant to La. Civ. Code art. 2315.2.

COUNT XX: SURVIVAL ACT, LA. CIV. CODE ART. 2315.1
(All Defendants)

201. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further allege as follows:

202. Plaintiff sues individually and in favor of the legal representatives, beneficiaries, and estate of Decedent pursuant to the Survival Act and seeks all damages provided by that statute and available under each cause of action resulting from the injuries sustained by Decedent, Plaintiff, and any beneficiaries.

203. Plaintiff seeks damages for pain and suffering, consciousness of impending death, and medical and funeral expenses.

204. As a direct and proximate result of Defendants' conduct and omissions described herein, the PRODUCTS Decedent received caused the injuries and damages alleged herein.

205. The Plaintiff specifically demands damages general and special damages pursuant to La. Civ. Code art. 2315.1.

COUNT XXI: PUNITIVE DAMAGES
(All Defendants)

206. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein, and further allege as follows:

207. The Defendants, by and through officers, directors, managing agents, authorized sales representatives, employees and/or other agents, have acted maliciously, fraudulently, with an evil motive, and with oppressive conduct towards Decedent and the public, and acted with willful and wanton and/or conscious and reckless disregard for the safety of Decedent and the general public in one or more of the following ways:

a. Defendants knew of the unreasonably high risk of ovarian cancer posed by the PRODUCTS before manufacturing, marketing, distributing and/or selling the PRODUCTS, yet purposefully proceeded with such action;

b. Despite their knowledge of the high risk of ovarian cancer associated with the PRODUCTS, Defendants affirmatively minimized this risk through marketing and promotional efforts and product labeling;

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

208. As a direct and proximate result of the willful, wanton, malicious, fraudulent, oppressive, evilly motivated, conscious and/or reckless conduct of the Defendants, Decedent suffered profound injuries and damages as set forth above

209. Defendants' unconscionable conduct warrants an award of exemplary and punitive damages against the Defendants.

TOLLING PRESCRIPTION

210. Plaintiff incorporates by reference all other paragraphs of this Complaint as if

fully set forth herein, and further allege as follows:

211. Plaintiff asserts all applicable state statutory and common law rights and theories related to the tolling or extension of any applicable statute of limitations, including equitable tolling, class action tolling, delayed discovery, discovery rule, and fraudulent concealment.

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

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

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

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

facilities, yet they failed to disclose the information to the public.

216. Defendants had the ability to and did spend enormous amounts of money in furtherance of their purposes of marketing and promoting profitable PRODUCTS, notwithstanding the known or reasonably knowable risks. Plaintiff, Decedent and medical professionals could not have afforded to and could not have possibly conducted studies to determine the nature, extent and identity of related health risks, and they were forced to rely on Defendants' representations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment against all Defendants as follows:

A. All special and economic damages, including but not limited to reasonable funeral and burial expenses of the Decedent;

B. All general and statutory damages, including the pain, suffering, and mental anguish of the Decedent and the statutory beneficiaries;

C. The full value of Decedent's life including, without limitation, compensation for conscious pain and suffering, emotional distress, the loss of the reasonably expected net income, services, protection, care, assistance, aid, society, consortium, companionship, comfort, guidance, grief, sorrow, mental anguish, solace, and counsel and advice of the Decedent;

D. Costs, attorney's fees, and double or treble damages;

E. Punitive damages;

F. Pre- and post-judgment interest and all other interest recoverable; and

G. Such other additional relief to which Plaintiff is entitled in law or equity.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all counts and as to all issues.

Dated: January 12, 2017

Respectfully submitted,

DELISE & HALL
s/Alton J. Hall, Jr.
ALTON J. HALL, JR. (#20846)
528 W. 21st Avenue
Covington, LA 70433
Telephone: (985) 249-5915
Telecopier: (985) 809-5787
ahall@dahlaw.com

- AND -

BOBBY J. DELISE (#4847)
7924 Maple Street
New Orleans, LA 70118
Telephone: (504) 836-8000
Telecopier: (504) 836-8020
bdelise@divelawyer.com

Gregory L. Laker *(pro hac vice to be filed)*
Jeffrey S. Gibson *(pro hac vice to be filed)*
TaKeena M. Thompson *(pro hac vice to be filed)*
COHEN & MALAD, LLP
One Indiana Square, Suite 1400
Indianapolis, Indiana 46204
Telephone: (317) 636-6481
Facsimile: (317) 636-2593
Email: glaker@cohenandmalad.com
jgibson@cohenandmalad.com
tthompson@cohenandmalad.com

Attorneys for Plaintiff

JS 44 (Rev. 07/16)

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.)*

I. (a) PLAINTIFFS

Sebastian Ferman, Individually and on Behalf of his Deceased Wife Carol Ferman, and any Beneficiaries

(b) County of Residence of First Listed Plaintiff Jefferson Parish
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Alton J. Hall, Jr., Delise & Hall
528 W. 21st Avenue, Covington, LA 70433
(985) 249-5915

DEFENDANTS

Johnson & Johnson, Inc., Johnson & Johnson Consumer, Inc. f/k/a Johnson & Johnson Consumer Companies, Inc., and Imerys Talc America, Inc. f/k/a Luzenac America, Inc.

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

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

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☒ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

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 - Transfer ☐ 8 Multidistrict Litigation - Direct File

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. Section 1332(a)

Brief description of cause:
Personal injury

VII. REQUESTED IN COMPLAINT:

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

DEMAND $

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
01/12/2017

SIGNATURE OF ATTORNEY OF RECORD
s/Alton J. Hall, Jr.

FOR OFFICE USE ONLY

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

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Sebastian Ferman, Individually and on Behalf of his Deceased Wife Carol Ferman, and any Beneficiaries	)	
Plaintiff(s)	)	
v.	)	Civil Action No.
Johnson & Johnson, Inc., Johnson & Johnson Consumer, Inc. f/k/a Johnson & Johnson Consumer Companies, Inc., and Imerys Talc America, Inc. f/k/a Luzenac America, Inc.	)	
Defendant(s)	)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Johnson & Johnson, Inc.
c/o 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: Alton J. Hall, Jr.
Delise & Hall
528 W. 21st Avenue
Covington, LA 70433

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:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Sebastian Ferman, Individually and on Behalf of his Deceased Wife Carol Ferman, and any Beneficiaries	)	
Plaintiff(s)	)	
v.	)	Civil Action No.
Johnson & Johnson, Inc., Johnson & Johnson Consumer, Inc. f/k/a Johnson & Johnson Consumer Companies, Inc., and Imerys Talc America, Inc. f/k/a Luzenac America, Inc.	)	
Defendant(s)	)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Johnson & Johnson Consumer, Inc.
f/k/a Johnson & Johnson Consumer Companies, Inc.
c/o 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: Alton J. Hall, Jr.
Delise & Hall
528 W. 21st Avenue
Covington, LA 70433

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:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

Sebastian Ferman, Individually and on Behalf of his Deceased Wife Carol Ferman, and any Beneficiaries	)	
Plaintiff(s)	)	
v.	)	Civil Action No.
Johnson & Johnson, Inc., Johnson & Johnson Consumer, Inc. f/k/a Johnson & Johnson Consumer Companies, Inc., and Imerys Talc America, Inc. f/k/a Luzenac America, Inc.	)	
Defendant(s)	)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Imerys Talc America, Inc.
f/k/a Luzenac America, Inc.
c/o CT Corporation
120 South Clayton Avenue
St. Louis, MO 63105

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: Alton J. Hall, Jr.
Delise & Hall
528 W. 21st Avenue
Covington, LA 70433

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))

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☐ 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: