

defendants had represented that the custodial files relating to these particular witnesses were complete. Because of ongoing disputes about the adequacy of defendant's written discovery and document production, however, the Court stayed these and any other depositions until document discovery was substantially complete.

Subsequently, and in light of the Court's direction at the September 2017 Status conference, Ms. Sharko informed the PSC and Special Master Pisano that J&J was "willing to produce these 4 people for depositions" following its production of documents to the PSC and upon the entry of a deposition protocol. See Hearing Tr. p.17 (Oct. 4, 2017). At that conference, Special Master Pisano requested that the PSC further identify "how many depositions" the PSC wanted beyond the ones that had already been identified and "who they are." Id. at 58-59.

Following the December Status Conference, the PSC produced its Initial Disclosure of Deponents on January 10, 2018. As explained in that disclosure, the number of requested depositions of these three defendants were similar to -- and in many cases less than -- the number of witnesses taken in other MDL's including MDL's whose initial discovery was limited to "general causation." See Initial Disclosure of Potential Deponents, p. 2-3, para 3 (Exhibit A). The PSC further noted that its discovery was "initial" because J&J had more than doubled its document production in the last part of 2017, including over 400,000 pages produced in December alone. Id. at p. 1-2, para 2.

At Special Master Conference held on January 22, 2018, the PSC argued that the witnesses it identified were important to issues related to science and general causation, including the composition of the products, testing, sampling, and influence of the scientific community. The PSC further indicated that it could begin taking Imerys witnesses immediately but requested that J&J depositions begin only after the PSC had a reasonable opportunity to review documents produced within the last 90 days. The PSC also made clear that it would try to schedule "science-type" witnesses early so that the parties could to prepare expert reports.

In a subsequent letter to the Special Master on January 24, 2018, J&J apparently reneged on its prior offer to produce their employees Tim McCarthy, Homer Swei, Nancy Musco and Charles Wajszczuk for deposition. Instead, J&J offered a single 30(b)(6) deposition "as a compromise." In a letter dated January 30, 2018, the PSC objected to J&J's reversal of its position and proposed "compromise" and requested that depositions proceed, including depositions of these 4 corporate witnesses.

In further anticipation of depositions from all defendants, and as discussed with Special Master Pisano, the parties have been negotiating a “deposition protocol.” The PSC hopes to have the proposed protocol to Judge Pisano, along with any areas or disagreement for his resolution, in the near future.

ii. DEFENDANTS’ POSITION

The issue of the necessity, if any, and potential scope of depositions required for the adjudication of the scientific issues before the Court was argued before the Special Master on January 22, 2018, and the parties await His Honor’s rulings. Defendants are puzzled by Plaintiffs’ attempt to relitigate these issues and submit that their account above is inaccurate and incomplete. The idea that 62 depositions of fact witnesses are needed for the briefing and argument of Daubert motions is inconceivable, as Judge Pisano noted at the hearing, saying that the list was too long. During the hearing, speaking for the Plaintiffs, Mr. Placitella stated, “So if you’re going to say what I would put in a case management order? Let’s get all the formulas on the table. Let’s get all the testing on the table. Let’s take a 30(b)(6) deposition of Imerys and Johnson & Johnson as to the person with the most knowledge concerning the formulas, the testing, and the ingredients. We can do that in 60 to 90 days. . .” (1/22/18 Hearing Tr. 39:5-42:13, attached as Exhibit B). After the hearing, based on this position, and in an effort to forge a compromise and move on to the key issues in the case, on Wednesday, January 24, 2018, Defendants sent a letter to Judge Pisano stating that, as a compromise, they would agree to produce a 30(b)(6) witness to speak on the issue of what testing was done to Defendants’ products if Plaintiffs would agree to withdraw all of their requests for depositions of current and former employees. The parties await Judge Pisano’s ruling on these issues.

If it is determined that the PSC is entitled to take depositions of everyone they list, then the J&J Defendants submit that the Court’s Order requiring Plaintiff’s disclosure of specific witnesses that are necessary for Daubert hearings should be enforced with Plaintiffs justifying their selections, and the defense have the opportunity to object to those witnesses and be heard on those objections.

iii. Imerys’ Additional Position

In addition to the Defendants’ position above, as Imerys advised Judge Pisano at the January 22, 2018 conference, Imerys objects to the individual witnesses identified by the PSC for deposition. In the spirit of compromise and moving this case forward, although it believes it is irrelevant to a Daubert determination, Imerys

is willing to produce the 30(b)(6) witness suggested by Chris Placitella. If it is determined that the PSC is entitled to take depositions, then Imerys submits that the Court's Order requiring Plaintiffs' disclosure of specific witnesses that are necessary for Daubert hearings should be enforced and Imerys requests it be given its opportunity to object to those witnesses and be heard on those objections.

B. DOCUMENTS AND WRITTEN DISCOVERY

i. Johnson & Johnson Defendants

J&J DEFENDANTS' POSITION: Since the last status conference, the Johnson & Johnson Defendants completed their document production and provided supplemental responses to Plaintiffs' First Set of 67 Interrogatories and Plaintiffs' First Set of 59 Document Demands.

The issues that the Plaintiffs raise with regard to the document production were argued before Judge Pisano on January 22, 2018. The issues were also the subject of extensive letters. The Defendants suggested to the Plaintiffs that the parties simply rely on their prior letters, rather than reargue the issues here. The Plaintiffs declined. Defendants dispute the Plaintiffs' account below and refer the Court to their letter dated January 19, 2018 which is attached hereto as Exhibit C (without attachments).

While the PSC focuses largely on the numbers and pages of documents produced, it significantly overstates the production, and the numbers it provides below obscure significant facts about the recent production in several respects:

- Approximately 40,000 documents – ***nearly a quarter of the post-September production*** – are non-party documents, which Johnson & Johnson Consumer Inc. (JJCI) obtained from PTI Royston, LLC, a third-party contract manufacturer of the JJCI talc products in Georgia, for purposes of making them available to Plaintiffs.
- Approximately 40,000 documents are comprised of the “Asbestos Track Litigation Production” for the reasons discussed in Defendants' January 19, 2018 letter. Because these documents are searchable, Defendants have undertaken great efforts to match the asbestos production in the MDL with the asbestos production in the state court proceedings to identify duplicate documents. This will ease the burden of Plaintiffs' review of these documents.

- Approximately 25,000 “documents” are placeholders (i.e., non-substantive documents that do not require review) that were included at the request of Plaintiffs’ counsel to account for nonresponsive attachments, privileged documents or documents with technical issues.
- Approximately 10,000 documents are easily identifiable duplicative attachments that are required to be produced pursuant to the ESI protocol. They can be readily de-duplicated using the data provided with the production.

Therefore, there is no reason to delay deposition and expert discovery and *Daubert* hearings to allow Plaintiffs any more time to review Defendants’ documents.

PLAINTIFFS’ POSITION: As discussed above and in correspondence to both the Court and the Special Master, the documents produced by J&J were far more extensive than what the PSC had anticipated. Prior to the September 2017 Status conference when the J&J defendants had insisted that its document production was complete, J&J had produced approximately 700,000 pages to the PSC. This production included J&J’s “state court production” of about 500,000 pages that were produced in this MDL in April.

Between September 2017 and December 21, 2017, however, and in response to the entry of CMO 9, J&J alone produced *an additional 840,593 pages of documents*. This supplemental production included over 400,000 pages produced in December.

As explained in the cover letters submitted to Judge Pisano on January 5, 2018, January 15, 2018, January 19, 2018 and January 30, 2018 (Exhibit D, letters without attachments) and including paragraph 3 of the PSC’s January 10, 2018 “Initial Disclosure of Potential Deponents,” (Exhibit A) J&J’s supplemental production was far greater than what it had lead the PSC and the Court to believe. While there is undoubtedly some duplication between J&J’s post-September 2017 production and its pre-September 2017 production, the vast majority of these 840,593 pages had never been produced in this MDL before. Moreover, many of these new J&J documents deal with science questions, including the contamination of J&J’s talcum powder products with asbestos and other known carcinogens and what the PSC believes was J&J’s manipulation of the science of talcum powder and ovarian cancer for the past 30 years. In fact, even the duplicate documents produced

by J&J have to be manually reviewed by the PSC as J&J assigned the duplicate documents “new” bates numbers rendering useless the PSC’s prior review of those same documents.

To meet the burden J&J’s recent production has placed on the PSC -- and to meet the Court’s expectation that the discovery and expert process proceeded expeditiously in 2018 -- the PSC is working tirelessly to analyze and review J&J’s new production. Nevertheless, the PSC cannot do in a matter of weeks what it took J&J a year to do. Accordingly, the PSC has requested that depositions related to J&J witnesses be delayed 60 days so that the PSC can complete its review of the newly produced documents.

ii. Imerys

IMERYS POSITION: In accordance with this Court’s Order, Imerys completed its document production on January 5, 2018 and there are no outstanding discovery requests pending from the PSC.

PLAINTIFFS’ POSITION: On January 5, 2018, Imerys produced an additional 75,000 pages of documents. The PSC is prepared to begin depositions of Imerys’ witnesses as soon as a deposition protocol is entered.

iii. Personal Care Products Council

In June 2017, defendant Personal Care Products Council (“PCPC”) produced approximately 250,000 pages of documents in response to the PSC’s requests for production. On November 20, 2017, the PSC requested that PCPC supplement its responses. On December 15, 2017, PCPC produced an additional approximately 36 documents. On January 11, 2018, PCPC served lengthy and detailed supplemental responses to the PSC’s requests for production.

On October 4, 2017, PCPC responded to the PSC’s interrogatories. Unfortunately, the interrogatory responses were served only on counsel who drafted the interrogatories, not on the entire PSC. That mistake was rectified on November 17, 2017. On January 22, 2018, the PSC requested that PCPC supplement its responses to the interrogatories. On February 1, 2018, the PSC and PCPC conferred regarding the requests for supplementation. PCPC anticipates supplementing the requests by the end of February.

II. SAMPLES AND MUSEUM ARTIFACTS DISCOVERY

The parties have submitted an agreed upon sample protocol for the Johnson & Johnson Defendants' samples to be entered by the Court. The parties continue to meet and confer on a protocol to divide samples in the possession of Imerys and will present the protocol to the Court on or before February 16, 2018.

III. REQUEST FOR EXPERT REPORTS AND *DAUBERT* HEARING DATE

Prior to the disclosure of expert reports, Plaintiffs respectfully request that the Court allow Plaintiffs adequate time to review the substantial number of new documents produced in this MDL and to conduct depositions focused on general causation and the defendants' influence over the scientific literature and governmental agencies. Plaintiffs will be prepared to discuss a schedule for the disclosure of expert reports and the *Daubert* process.

Defendants respectfully request that the Court set a date for the service of the reports of Plaintiffs' experts and the date for a *Daubert* hearing.

IV. STATUS OF CASES RE-FILED IN THE MDL PER CMO 8

There are 459 cases where Plaintiffs who were previously part of a multi-plaintiff complaint have filed short form complaints in this MDL proceeding but have not complied with CMO 8 in either serving the short form complaint on Defendants or filing a notice of filing on the master docket. *See* CMO 8, ¶¶ 1 and 5 (requiring plaintiffs to file short form complaints pursuant to CMO 2 and to serve these complaints pursuant to CMO 3); *see also* CMO 3, ¶¶ 3 and 4 (requiring filing of an ECF notice if the original service of process was proper or requiring service of process where the original complaint was not properly served). Defendants would like to discuss options with the Court to dismiss these 459 cases with prejudice for failure to comply with CMO 8. Alternatively, Defendants request that the Court enter an order deeming the tolling provisions of CMO 8 inapplicable to these cases for failure to comply with the Court's Order.

The PSC objects to the dismissal of these cases. The PSC requested a list of these cases at the December 7, 2018 status conference and renewed the request during the preparation of the Joint Report. The PSC received the list on Saturday, February 3rd and is analyzing the list. Short form complaints have been filed in each

of these cases in compliance with CMO 8. Defendants are on notice of the claims. The PSC asks that the Court allow a 30-day period for the PSC to notify counsel of the alleged defect in order that any deficiencies may be addressed.

Plaintiff Betsy Summers-West unilaterally dismissed her case without prejudice on January 17, 2018. Defendants object to the unilateral dismissal of the Summers-West case, as Defendants were never served with the Short Form Complaint or an ECF Notice, and therefore, did not have the opportunity to respond to the dismissal. Defendants object to the dismissal of any case without prejudice.

There are also 358 Plaintiffs from multi-plaintiff cases pending in the MDL who have not filed Short Form Complaints. Defendants request that these cases be dismissed with prejudice. A copy of the proposed order is attached hereto as Exhibit E.

The PSC was provided the list of the cases on Saturday, February 3rd, during the preparation of the joint status report. The PSC has not had opportunity to thoroughly review the list and consult with counsel in the individual cases. The PSC is aware of some cases included on the list that involve New Jersey and California residents which were re-filed in state court due to the lack of subject matter jurisdiction in this Court. The re-filing of these cases in state court was accomplished after discussions with Defendants. The PSC asks that the Court allow the parties the opportunity to meet and confer regarding the cases in question to determine the status of the claims.

V. DUPLICATE FILED CASES

There are 63 plaintiffs in this MDL who have multiple cases pending. There are two primary scenarios where duplicate filing of cases occurred: (1) the case was filed in another federal district and transferred into the MDL, but prior to transfer, plaintiffs' counsel opened up another case directly in the MDL; or (2) two different firms have filed a case for the same plaintiff. Defendants will work with the PSC to identify the primary case and dismiss any duplicate filed case.

VI. REPORT ON FEDERAL DOCKET

As of January 26, 2018:

- A.** There are currently 4,884 cases pending in the MDL in which the Johnson & Johnson Defendants have been served or in which

Plaintiffs from multi-plaintiff cases pending in the MDL have filed Short Form Complaints on individual dockets and have not served the Johnson & Johnson Defendants (and have opened case numbers), totaling 5,211 Plaintiffs (including 307 Plaintiffs in 34 multi-plaintiff cases removed from Missouri state court that have not filed Short Form Complaints on individual dockets, 23 Plaintiffs in *Harders* removed from Illinois state court that have not filed Short Form Complaints on individual dockets, 11 Plaintiffs in *Lovato* removed from New Mexico state court that have not filed Short Form Complaints on individual dockets, 1 Plaintiff in *Robb* removed from Oklahoma state court that have not filed Short Form Complaints on individual dockets and 16 plaintiffs from the *Crenshaw* case from the Middle District of Georgia that have not filed Short Form Complaints on individual dockets).

Individual Plaintiffs in the multi-plaintiff cases are in the process of filing Short Form Complaints on individual dockets. Thus far, all of the individual Plaintiffs in the following multi-plaintiff cases have filed Short Form Complaints on individual dockets: *Karen Glenn, et al.* and *Mary Rea, et al.* (one *Rea* Plaintiff, Exia Monroe, a New Jersey resident, has re-filed in New Jersey state court). Additionally, all of the individual Plaintiffs in the *Charmel Rice, et al.* and *Lillie Lewis, et al.* multi-plaintiff cases have filed Short Form Complaints on individual dockets, except individual Plaintiffs Charmel Rice and Lillie Lewis.

There are six Plaintiffs named as the lead Plaintiffs in multi-plaintiff cases who did not refile Short Form Complaints on individual dockets, but filed a Short Form Complaint in their corresponding multi-plaintiff case dockets. These include the lead Plaintiffs from two multi-plaintiff cases removed from Missouri state court (*Brenda Anderson, et al.*, *Lillie Lewis, et al.*, *Charmel Rice, et al.*, and *Jerie Rhode, et al.*), Marie Robb in the *Robb* case removed from Oklahoma State, and Deborah Crenshaw from the *Crenshaw* case originally filed in the Middle District of Georgia.

- B.** There are currently **2** multi-plaintiff cases removed from Missouri state court and pending in the Eastern District of Missouri, discussed below, that the JPML has not yet transferred into the MDL (totaling

117 plaintiffs). Motions to dismiss and motions to remand have been filed in these cases.

The two cases pending in the Eastern District of Missouri are listed below along with the judges to which they are assigned.

Judge Ronnie L. White

Darren Cartwright, et al. Case No. 4:17-cv-02851-RLW

Judge Audrey Fleissig

Maureen Kassimali, et al. v. Johnson & Johnson, et al. Case No. 4:18-cv-00014-AGF

- C. There are a handful of other single-plaintiff cases that have been on CTOs and will be transferred in the near future to the MDL. These cases would not greatly affect the number of cases pending in the MDL absent the plaintiffs in the multi-plaintiff cases.

VII. STATE COURT LITIGATION

As of January 26, 2018:

California: There are 303 cases with 492 plaintiffs in the California coordinated proceeding, *Johnson & Johnson Talcum Powder Cases*, Judicial Council Coordinated Proceeding No. 4877. These cases are assigned to Judge Maren E. Nelson. To date, a *Sargon* hearing has been held, and one case—*Echeverria*—proceeded to trial. On July 10, 2017, the court granted Imerys’ motion for summary judgment, dismissing all claims against Imerys. The *Echeverria* trial resulted in a plaintiff verdict against the Johnson & Johnson Defendants; however, on October 20, 2017, the Court granted the Johnson & Johnson Defendants’ motions for judgment notwithstanding the verdict and, alternatively, for a new trial. Elisha Echeverria, Acting Trustee of the 2017 Eva Echeverria Trust, filed her Notice of Appeal on December 18, 2017. The Johnson & Johnson Defendants filed their Cross-Notice of Appeal on January 4, 2018.

The next status conference will be held on March 22, 2018.

Delaware: There are currently 188 cases pending in the Superior Court of

Delaware in which the Johnson & Johnson Defendants have been served. All of the Delaware cases have been consolidated before the Hon. Charles E. Butler. On January 19, 2017, the Johnson and Johnson Defendants filed a motion to dismiss for lack of personal jurisdiction. On January 31, 2017, Plaintiffs served jurisdictional discovery. On March 2, 2017, the Johnson and Johnson Defendants filed a motion for protective order to quash the jurisdictional discovery. Briefing on the motion for protective order was completed on April 17, 2017 and is awaiting an argument date. Judge Butler ordered additional briefing from all parties on the *Bristol Myers* decision to be submitted by September 4, 2017. On December 21, 2017, Judge Butler issued an order requesting Plaintiffs respond to questions about jurisdictional discovery by January 31, 2018.

Missouri: There are currently 15 cases, with a total of 721 plaintiffs pending in the 22nd Judicial Circuit Court, St. Louis (City) in which Defendants have been served.

Trial in the case of *Daniels v. Johnson & Johnson, et al.* resulted in a defense verdict on March 3, 2017 (individual claim filed in the multi-plaintiff *Valerie Swann* matter). Plaintiffs filed a motion for new trial on April 10, 2017, which is pending before the trial court.

Appeals are pending from judgments against Johnson & Johnson Defendants entered in favor of plaintiff in the *Gloria Ristesund* case. Appeals are also pending from judgments against the Johnson & Johnson Defendants and Imerys in the *Deborah Giannecchini* and *Lois Slemple* cases.

Trial in the case of *Michael Blaes on behalf of Shawn Blaes v. Johnson & Johnson, et al.* before Judge Rex Burlison is currently stayed and briefing on Defendants' petitions for writs of prohibition is pending before the Missouri Supreme Court on venue challenges. Oral argument is set for February 27, 2018.

In the *Lois Slemple* case, that trial court found that plaintiffs had established personal jurisdiction exists in Missouri state court over the Johnson & Johnson defendants and Imerys. Briefing on the Johnson & Johnson Defendants' petition for writ of prohibition with respect to the *Lois Slemple* case challenging the trial court's orders on personal jurisdiction and striking certification of the final judgment is pending before the Missouri Court of Appeals.

On October 17, 2017, the Missouri Court of Appeals, Eastern District, reversed and vacated the judgment in the *Jacqueline Fox* case for lack of personal

jurisdiction. The Court also rejected Plaintiff's request to remand the case to the trial court to attempt to establish jurisdictional facts. On December 19, 2017, the Court denied Plaintiff's Motion for Rehearing. Plaintiff has requested review of the decision by the Missouri Supreme Court; this request is currently pending.

In the multi-plaintiff *Gail Lucille Ingham, et al. v. Johnson & Johnson, et al.* case, the trial court ordered the claims of all plaintiffs set for trial on June 4, 2018, without resolving pending personal jurisdiction and venue challenges. Defendants filed a writ with the Supreme Court of Missouri challenging the order of setting the claims of all plaintiffs for trial, which was denied. The case is set for trial on June 4, 2018.

New Jersey: There are currently 343 cases pending before Judge Johnson in the Atlantic County Superior Court Multicounty Litigation, *In re: Talc-Based Powder Products Litigation*, Case No. 300. The cases are currently stayed for discovery purposes pending resolution of the plaintiffs' appeal of the ruling by Judge Johnson on the *Kemp* issues. On January 8, 2018, the New Jersey Appellate Division issued a *Sua Sponte* Order staying the appeals for six months or until the New Jersey Supreme Court decides the appeal pending in *In re: Accutane Litigation*, A-25-17, 079958, and *In re: Accutane Litigation*, A-26/27-17, 079933.

Florida: There are twelve cases pending in Florida state court. There are five cases pending in Broward County, Florida, including three cases before Judge Michael A. Robinson, one case before Judge David Haimen, and one case before Judge Sandra Periman. There are two cases pending in Miami-Dade County, Florida, including one case before Judge Rodolfo Ruiz and one case before Judge Dennis Murphy. There are two cases pending in Hillsborough County, Florida before Judge Rex Barbas. There is one case pending in Osceola County, Florida before Judge Margaret Schreiber. There is one case pending in Palm Beach County, Florida before Judge Jamie Goodman. There is one case pending in Volusia County, Florida before Judge Christopher France.

In the *Ricketts* matter, Imerys' Motion to Dismiss for Lack of Personal Jurisdiction was denied on November 9, with the Court granting 30 days for Imerys to file an appeal. That appeal was filed on December 8, 2017.

Georgia: There is one case pending in state court in Fulton County, Georgia before Judge Jane Morrison. On January 10, 2018, the Court stayed all discovery in this case.

Illinois: There are two cases pending in Madison County, Illinois state court before Judge William Mudge, one case pending in Cook County, Illinois before Judge Daniel T. Gillespie, and one case pending in McLean County, Illinois before Judge Rebecca Foley.

Pennsylvania: There is one case pending in state court in Allegheny County, PA before Judge Robert Colville. On November 13, 2017, the Court granted Imerys' Preliminary Objections to personal jurisdiction in Pennsylvania and dismissed plaintiff's claims against Imerys in this case. There is one case pending in state court in Philadelphia County, PA before Judge Lisa Rau.

Louisiana: There are seven cases pending in the Parish of Orleans, Louisiana, including two cases before Judge Robin M. Giarrusso, two cases before Judge Clair Jupiter (docket being handled by former Judge Melvin Zeno while Judge Jupiter is on medical leave for three months), one case before Judge Paulette Irons, one case before Judge Kern Reese, and one case before Judge Piper Griffin.

In the *McBride* matter, Imerys' Motion to Dismiss for Lack of Personal Jurisdiction was granted on December 1, 2017. On January 3, 2018, the Court denied the Plaintiff's motion for a new trial on this ruling.

VIII. STATUS OF PENDING MOTIONS

- A.** The list of motions pending in individual cases is attached hereto as Exhibit F. The proposed order terminating motions to dismiss pursuant to CMO 8 listed in Exhibit F is attached hereto as Exhibit G.
- B.** On July 14, 2017, the Court issued a dismissal of the *Estrada* Consumer Class case, finding that Estrada did not allege an injury in fact. ECF Nos. 50, 51. The Court dismissed and entered judgment in Estrada's lawsuit on August 10, 2017. ECF No. 53. Estrada has appealed this decision. No other motions are pending with regard to the Consumer Class cases.
- C.** Personal Care Products Council's motion to dismiss is currently pending. Briefing is complete.

Respectfully submitted,

s/Susan M. Sharko

Susan M. Sharko
DRINKER BIDDLE & REATH LLP
600 Campus Drive
Florham Park, New Jersey 07932
Telephone: 973-549-7000
Facsimile: 973-360-9831
Email: susan.sharko@dbr.com

s/Gene M. Williams

Gene M. Williams
SHOOK, HARDY & BACON L.L.P.
JPMorgan Chase Tower
600 Travis St., Suite 3400
Houston, TX 77002
Telephone: 713-227-8008
Facsimile: 713-227-9508
Email: gmwilliams@shb.com

s/John H. Beisner

John H. Beisner
SKADDEN, ARPS, SLATE,
MEAGHER & FLOM LLP
1440 New York Avenue, N.W.
Washington, D.C. 20005
Telephone: 202-371-7000
Facsimile: 202-661-8301
Email: john.beisner@skadden.com

s/Lorna A. Dotro

Lorna A. Dotro
COUGHLIN DUFFY LLP
350 Mount Kemble Avenue
Morristown, NJ 07962
Telephone: 973-631-6016
Facsimile: 973-267-6442
Email: ldotro@coughlinduffy.com

s/Sheryl Axelrod

Sheryl Axelrod
THE AXELROD LAW FIRM, PC
The Beasley Building
1125 Walnut Street
Philadelphia, PA 19107
Telephone: 215-461-1768
Facsimile: 215-238-1779
Email: saxelrod@theaxelrodfirm.com

s/Michelle A. Parfitt

Michelle A. Parfitt
ASHCRAFT & GEREL, LLP
4900 Seminary Road, Suite 650
Alexandria, VA 22311
Telephone: 703-931-5500
Email: mparfitt@ashcraftlaw.com

s/P. Leigh O'Dell

P. Leigh O'Dell
BEASLEY, ALLEN, CROW,
METHVIN, PORTIS & MILES, P.C.
218 Commerce Street
Montgomery, Alabama 36104
Telephone: 334-269-2343
Email: leigh.odell@beasleyallen.com

s/Christopher M. Placitella

Christopher M. Placitella
COHEN PLACITELLA ROTH, PC
127 Maple Avenue
Red Bank, NJ 07701
Telephone: 888-219-3599
Facsimile: 215-567-6019
Email: cplacitella@cprlaw.com

EXHIBIT A

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**IN RE JOHNSON & JOHNSON
TALCUM POWDER PRODUCTS
MARKETING, SALES PRACTICES,
AND PRODUCTS LIABILITY
LITIGATION**

MDL NO. 16-2738 (FLW) (LHG)

THIS DOCUMENT RELATES TO ALL CASES

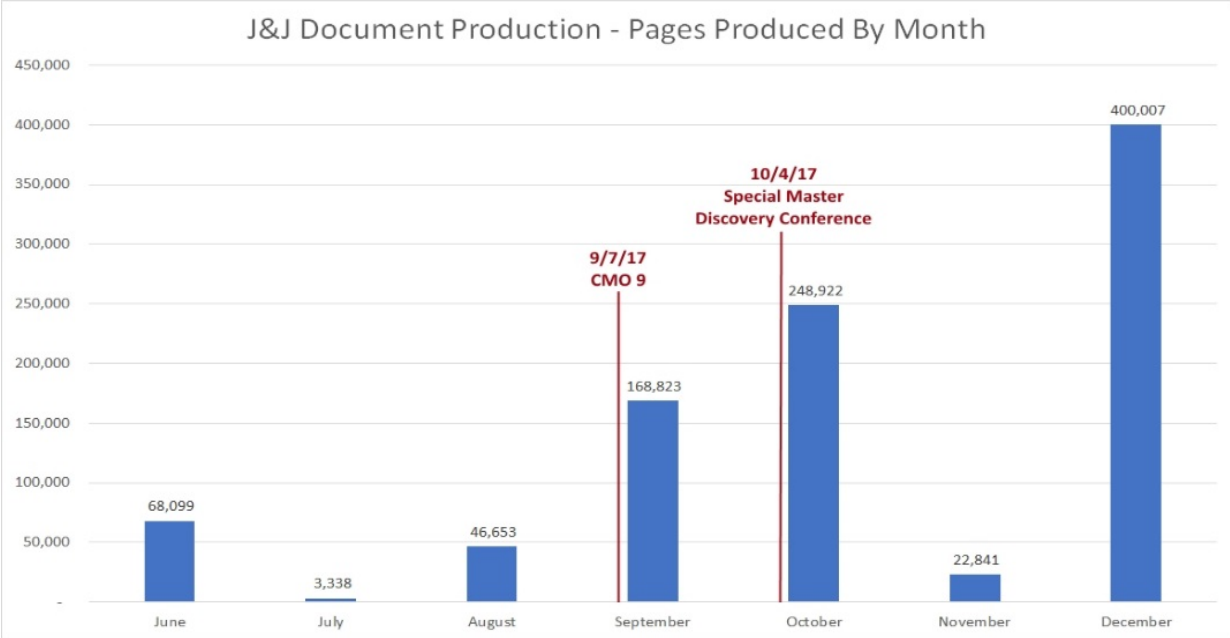
**THE PLAINTIFFS' STEERING COMMITTEE'S
INITIAL DISCLOSURE OF POTENTIAL DEPONENTS**

In accordance with the Court's December 7, 2017 Order, the Plaintiffs' Steering Committee (PSC) provides the below list of witnesses who may be subject to deposition and states as follows:

1. **The PSC's Initial Disclosure of its List of Potential Deponents:** On September 7, 2017, the Court ordered Defendants to complete their document productions by November 6, 2017. That deadline was subsequently extended for the J&J Defendants until December 20, 2017, and for Defendant Imerys until January 5, 2018. See CMO 9 (Doc. 673) and Amended CMO 9 (Doc. 2090). The entry of these Orders precipitated voluminous productions of new documents in the final days of the formal discovery period, with the largest volume of documents being produced to the PSC in the last several weeks. The specifics about these productions are described below:

- A. **J&J Defendants:** Prior to the entry of CMO 9 in September 2017, J&J had produced 678,777 pages of documents. Most of these documents (508,705 pages) were the earlier "state court production" and were produced in the MDL in late April 2017. While J&J initially insisted this first production fulfilled its MDL discovery obligations, that proved not to be the case. Following the entry of CMO 9, the number of J&J documents requiring PSC review ballooned to over 1,500,000 pages, with over 400,000 pages being produced just days before Christmas. J&J's productions subsequent to its earlier "state court production" are illustrated by the following table:¹

¹ A detailed analysis of the J&J Defendants' flawed productions is set forth in the PSC's letter of January 5, 2018 to Special Master Pisano, incorporated by reference. This letter also describes the relief that the PSC desires as a result of the J&J Defendants' defective productions.



B. **Imerys:** Pursuant to the Amended CMO 9 discovery timetable, Defendant Imerys made its final MDL production on January 5, 2018. Imerys produced just over 75,000 pages of new documents in the past 5 days.

2. **Supplementation and Amendment of this List:** Given the last-minute nature of defendants’ productions, the PSC has not had adequate time to review this discovery. The list of deponents below is therefore initial and subject to change. As noted the PSC’s letter of January 5, 2018 to Special Master Pisano requests an extension until April 30, 2018 to supplement this list with additional potential deponents.

3. **The Number of Potential Deponents:** In preparing its initial list of proposed deponents, the PSC was guided by the number of fact witnesses deposed in MDL’s of similar size, significance and complexity, including cases where J&J was a defendant:²

² Cases involving J&J as a defendant are noted with an “*”.

CASE	Fact/Corporate Depositions Taken or Permitted ³	PSC Experts Identified	Defense Experts Identified	Total Plaintiffs
<i>In Re: Pradaxa (Dabigatran Etexilate) Products Liability Litigation</i> , MDL No. 2385 (S.D. Il.)	47 (2-day limit)	0 ⁴		~4,000
<i>In Re: Yasmin and Yaz (Drospirenone) Marketing, Sales Practices and Relevant Products Liability Litigation</i> , MDL No. 2100 (S.D. Il.)	57	~28		~20,000
<i>In Re: Vioxx Products Liability Litigation</i> , MDL No. 1657 (E.D. La.)	90	23		~56,000
<i>In Re: Xarelto* (Rivaroxaban) Products Liability Litigation</i> , MDL No. 2592 (E.D. La.)	45 (2-day limit by Court Order)	23	40	19,192
<i>In Re: Gadolinium Based Contrast Agent Litigation</i> , MDL No. 1909 (N.D. Oh.)	32 (20 were 2 days or longer)	19	9	~1,000
<i>In Re: Tylenol* (Acetaminophen) Marketing and Sales Practice and Products Liability Litigation</i> , MDL No. 2436 (E.D. Pa.)	20 (by Court Order)	12		275
<i>In Re: Testosterone Replacement Therapy Products Liability Litigation, et al.</i> , MDL No. 2545 (N.D. Il.)	80 AbbVie - 43 Auxillium - 37 (by Court Order)	21		
<i>In Re: Benicar (Olmesartan) Products Liability Litigation</i> , MDL No. 2606 (N.J.)	50 general causation only (by Court Order)	6		~2,500
<i>In Re: Actos (Pioglitazone) Products Liability Litigation</i> , MDL No. 2299 (W.D. La.)	~50	17	16	~6,000
<i>In Re: DePuy Orthopaedics, Inc.*, Pinnacle Hip Implant Products Liability Litigation</i> , MDL No. 2244 (E.D. Tx.)	~80	~12-15	~12-15	~9,500

³ This number does not include third party non-party witnesses.

⁴ Case settled before expert disclosures.

4. **Timing and Logistics of Depositions:** The PSC requests depositions begin only after it has had a reasonable opportunity to review 800,000+ pages of documents newly produced by Defendants following the entry and amendment of CMO 9. The PSC proposed in its January 5, 2018 letter that this issue would be an appropriate topic for the parties to cover with the Special Master at the upcoming January 22, 2018 conference. See fn. 1.

5. **Scope of the List:** The PSC limited its list of witnesses to those who it expects can shed light on the issues the Court has already deemed discoverable, including science-related issues and “what defendants knew”. See Hearing Transcript, Sept. 6, 2017, pp. 4-14. The PSC did not include witnesses whose responsibilities appear to be primarily in the areas of marketing, sales and distribution, and reserves the right to request depositions of additional witnesses who have information in these areas and on these topics at a later date.

6. **30(B)(6) witnesses:** The PSC has endeavored to identify 30(b)(6) witnesses on the substantive topics outlined below, but reserves the right to supplement those topics as appropriate and necessary.

WITNESSES

The PSC submits the following individuals as potential deponents. For the Court’s convenience, the PSC provides the witness’s title, as best as the PSC could discern it. Many of these witnesses, however, were employed for decades and may have held numerous positions and played different roles with respect to the issues in this case.

I. JOHNSON & JOHNSON DEFENDANTS

1. **Bruce Semple** – Director, Medical & Regulatory Affairs
2. **Charles Wajszczuk** – Director, Product Safety; Senior Director, Medical Safety Officer, Office Safety and Toxicology Consumer Health Care
3. **Donald "Don" Hicks** – Former Senior Director, Quality Assurance
4. **Jethro Ekurta** – Vice President, Global Head of Multiple Franchises and Regional Head of North America, Global Regulatory Affairs, J&J Consumer Inc.
5. **Erin McNabb** – Product Surveillance Scientist
6. **George Lee** – Director, Applied Research
7. **Helen Han Hsu** – Vice President, Head of Drug Safety Sciences
8. **Homer Swei** – Associate Director, Product Stewardship

9. **James Molnar** – Director, Laboratory Services
10. **Jane Cai** – Senior Director, Analytical Development
11. **Jijo James** – Chief Medical Officer, JJCI
12. **Joan Casavieri** – Director, Toxicology
13. **John Hopkins** – Former Director, Worldwide Category of Infant Care and Consultant
14. **John Lemmo** – Principal Scientist; Research Manager, Fellow, Analytical SMP
15. **Katharine Martin** – Senior Director, Research & Development
16. **Kathleen Wille** – Senior Director, Scientific and External Regulatory Policy, Product Stewardship
17. **Lorena Telofski** – Associate Director, Research and Development, Global Scientific Engagement
18. **Michael Chudkowski** – Manager, Preclinical Toxicology
19. **Nancy Musco** – Manager, Product Safety & Education
20. **Regina Gallagher** – Principal Scientist
21. **Santosh Jiwrajka** – Vice President, Quality Assurance
22. **Simonette Cordero Soriano** – Safety Surveillance Physician
23. **Steve Mann** – Former Director of Toxicology for J&J Consumer & Personal Products Worldwide (CPCUS)
24. **Susan Nettesheim** – Vice President, Product Stewardship & Health Care Compliance
25. **Susan Nicholson** – Vice President, Safety Surveillance and Risk Management, Consumer Products
26. **Tara Glasgow** – Vice President, Research and Development, Baby and Scientific Engagement

27. **Teresa Gonzalez Ruiz** – Product Director
28. **Timothy McCarthy** – Director, Office of Safety and Toxicologist
29. **William "Bill" J. Powers, Jr.** – Former Vice-President, Global Preclinical Development, Toxicologist
30. **30(b)(6) Witness(es):**
 - i. Relationship between J&J and JJCI, including historical relationships;
 - ii. Corporate structure;
 - iii. Manufacturing and testing of talc, including chain for custody for samples maintained;
 - iv. Safety assessment and monitoring to talcum powder products;
 - v. Relationship between J&J entities and other stakeholders including with co-defendants and FDA; and
 - vi. Evidentiary foundation for documents.

II. IMERYS TALC AMERICA, INC.⁵

1. **Craig Bernard** – Regulatory Affairs and Product Stewardship; Environmental and Health Scientist
2. **Dave Matlock** – Operations Manager
3. **Ed McCarthy** – Scientist
4. **Eric Turner** – Vice President, Health and Safety Sustainability
5. **Jim Kopp** – Manager
6. **Jocelyn Ferret** – Project Stewardship and Analytical Lab Manager
7. **John Poston** – Sr. Quality Manager
8. **Julie Pier** – Global Laboratory Manager/Senior Scientist
9. **Kent Cutler** – Vice President, Sales & Marketing
10. **Maurizio Coggiola** – Commissioned Expert

⁵ Includes all predecessor companies.

11. **Michele Refregier** – Chief Medical Officer
12. **R. Wayne Ball** – Environmental & Health Scientist
13. **Shripal Sharma** – Global Director, Product Stewardship
14. **Steve Jarvis** – Director, Health, Safety & Environment
15. **Phillippe Moreau** – Geologist
16. **Jon Godla** – Vice President Operations
17. **30(b)(6) Witness(es):**
 - i. Corporate structure and relationship to predecessor entities;
 - ii. Relationship with co-Defendants and other entities like FDA;
 - iii. Mining, manufacturing, testing, and safety and quality assessment of talc for talcum powder products; and
 - iv. Evidentiary foundation for documents.

III. Personal Care Products Council

1. **Gerald “Jerry” McEwen** – Former Vice President, Science
2. **John Bailey** – Former Executive Vice President, Science
3. **Alan Andersen** – Former Director, Cosmetic Ingredient Review (CIR)
4. **Ivan Boyer** – Chief Toxicologist, Cosmetic Ingredient Review (CIR)
5. **Monice Fiume** – Senior Scientific Analyst/Writer, Cosmetic Ingredient Review (CIR)
6. **30(B)(6) Witness(es):**
 - i. Structure and relationship to predecessor entities;
 - ii. Relationship with co-defendants and other entities like FDA and CIR; and
 - iii. Evidentiary foundation for documents.

IV. NON-PARTIES

1. **William "Bill" Kelly, Jr.** – Consultant and Western Representative, Center for Regulatory Effectiveness (CRE)

2. **Jim Tozzi** – Member, CRE Advisory Board; Director, Multinational Business Services, Inc.
3. **Colorado School of Mines** – 30(b)(6) witnesses
4. **Crowell and Moring** – Consultant on Regulatory Affairs, 30(b)(6) witnesses
5. **Joshua Muscat** – Consulting Scientist
6. **Michael Huncharek** – Consulting Physician and Scientist, founder of Meta-Analysis Research Group
7. **IMA-North America** – Industrial Minerals Trade Association
8. **McCrone Associates** – Asbestos Testing and Analysis Laboratory
9. **RJ Lee** – Asbestos Testing and Analysis Laboratory

Date: January 10, 2018

Respectfully Submitted,

s/Michelle A. Parfitt

Michelle A. Parfitt
ASHCRAFT & GEREL, LLP
4900 Seminary Road, Suite 650
Alexandria, VA 22311
Telephone: 703-931-5500
Email: mparfitt@ashcraftlaw.com

s/P. Leigh O'Dell

P. Leigh O'Dell
BEASLEY, ALLEN, CROW,
METHVIN, PORTIS & MILES, PC
218 Commerce Street
Montgomery, AL 36104
Telephone: 334-269-2343
Email: leigh.odell@beasleyallen.com

s/Christopher M. Placitella

Christopher M. Placitella
COHEN PLACITELLA ROTH, PC
127 Maple Avenue

Red Bank, NJ 07701
Telephone 888-219-3599
Facsimile: 215-567-6019
Email: cplacitella@cprlaw.com

EXHIBIT B

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW JERSEY
3 CIVIL ACTION NO. 16-MD-2738 (FLW) (LHG)
4

5 IN RE: JOHNSON & JOHNSON HEARING BEFORE
6 POWDER PRODUCTS MARKETING, SPECIAL MASTER
7 SALES PRACTICES AND PRODUCTS
8 LIABILITY LITIGATION
9 -----

10 MONDAY, JANUARY 22, 2018
11 NEWARK, NEW JERSEY
12 1 p.m.

13 B E F O R E: HON. JOEL A. PISANO, (Retired)
14

15 A P P E A R A N C E S:
16

17 BEASLEY ALLEN CROW METHVIN PORTIS & MILES, P.C.

18 BY: P. LEIGH O'DELL, ESQ.

19 -and-

20 ASHCRAFT & GEREL, LLP

21 BY: MICHELLE A. PARFITT, ESQ.

22 CHRIS TISI, ESQ.

23 -and-

24 COHEN, PLACITELLA & ROTH, P.C.

25 BY: CHRISTOPHER M. PLACITELLA, ESQ.

<p style="text-align: right;">2</p> <p>1 -and-</p> <p>2 THE LANIER LAW FIRM</p> <p>3 BY: RICHARD D. MEADOW, ESQ.</p> <p>4 -and-</p> <p>5 GOLOMB & HONK, P.C.</p> <p>6 BY: RICHARD M. GOLOMB, ESQ.</p> <p>7 -and-</p> <p>8 WILENTZ GOLDMAN & SPITZER, P.A.</p> <p>9 BY: DANIEL R. LAPINSKI, ESQ.</p> <p>10 -and-</p> <p>11 NAPOLI SHKOLNIK.</p> <p>12 BY: W. STEVEN BERMAN, ESQ.</p> <p>13 -and-</p> <p>14 eDISCOVERY CoCounsel, PLLC</p> <p>15 BY: CHAD S. ROBERTS, ESQ.</p> <p>16 LUNDY LUNDY SOILEAU & SOUTH, LLP</p> <p>17 BY: KRISTIE M. HIGHTOWER, ESQ.</p> <p>18 -and-</p> <p>19 BURNS CHAREST, LLP</p> <p>20 BY: WARREN T. BURNS, ESQ.</p> <p>21 On behalf of the Plaintiffs Steering Committee</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">4</p> <p>1 JUDGE PISANO: I asked for a conference</p> <p>2 for a number of reasons, I actually convened the</p> <p>3 conference without knowing what the agenda was</p> <p>4 going to be, because we haven't been together for</p> <p>5 a few months, and I thought it would make sense</p> <p>6 for us to maintain contact with one another.</p> <p>7 And by the way, without saying anything</p> <p>8 formal about it, I recognize that it's a hassle</p> <p>9 for all of you folks to get here in such numbers.</p> <p>10 Feel free in the future, if we have these</p> <p>11 conferences, if you want to designate a</p> <p>12 representative to come. I'm just saying you're</p> <p>13 not compelled to bring the traveling squads. You</p> <p>14 know, it's not the Texas-Oklahoma game. So if</p> <p>15 you want to send representatives and make it</p> <p>16 easier to travel, it's okay with me. But you're</p> <p>17 all obviously welcome, and I'm happy to have you.</p> <p>18 So anyway, I thought it would make</p> <p>19 sense for us to come together generally, and here</p> <p>20 we are. And then I started getting letters</p> <p>21 because I asked you to tell me what we're going</p> <p>22 to talk about, and now I see we have somewhat of</p> <p>23 an agenda. So I have outlined what appears to me</p> <p>24 to be, generally speaking, three main areas for</p> <p>25 us to discuss today, and there are some</p>
<p style="text-align: right;">3</p> <p>1 A P P E A R A N C E S C O N T I N U E D :</p> <p>2</p> <p>3 LEVIN SEDRAN & BERMAN, ESQS.</p> <p>4 BY: LAURENCE S. BERMAN, ESQ.</p> <p>5</p> <p>6 GORDON & REES, LLP</p> <p>7 BY: ANN THORNTON FIELD, ESQ.</p> <p>8</p> <p>9 DRINKER BIDDLE & REATH, LLP</p> <p>10 BY: SUSAN M. SHARKO, ESQ.</p> <p>11 JULIE L. TERSIGNI, ESQ.</p> <p>12 -and-</p> <p>13 SKADDEN, ARPS, SLATE, MEAGHER & FLOM, LLP</p> <p>14 BY: RICHARD T. BERNARDO, ESQ.</p> <p>15 On behalf of the Defendant, Johnson & Johnson</p> <p>16</p> <p>17</p> <p>18 COUGHLIN DUFFY, LLP</p> <p>19 BY: MARK K. SILVER, ESQ.</p> <p>20 On behalf of the Defendant,</p> <p>21 Imerys Talc America, Inc.</p> <p>22</p> <p>23</p> <p>24 A L S O P R E S E N T :</p> <p>25 Colleen M. Maker, Esq.</p>	<p style="text-align: right;">5</p> <p>1 subsections to each one. If there's anything</p> <p>2 else, let me know and we'll put it in and we'll</p> <p>3 discuss it.</p> <p>4 But the three general areas that I see</p> <p>5 here that we need to discuss is getting moving on</p> <p>6 the general causation issue, which goes back to</p> <p>7 the very beginning of the case, and I need to</p> <p>8 know what has been accomplished in that regard,</p> <p>9 and we'll get to that in a minute.</p> <p>10 The second general area is other fact</p> <p>11 discovery, and that embraces a lot of what's in</p> <p>12 these letters. It embraces the plaintiff's</p> <p>13 complaint about the recent, as they characterize</p> <p>14 it, the recent document dump that they received</p> <p>15 toward the end of the year. It also embraces the</p> <p>16 list of deponents that the plaintiff's counsel</p> <p>17 have sent along with the concomitant objections</p> <p>18 that I've received from the defense. And then</p> <p>19 there's also the need to discuss a deposition</p> <p>20 protocol. And the part of this that I think</p> <p>21 really needs to be fleshed out, in my mind, if</p> <p>22 I'm going to decide these issues sensibly, is</p> <p>23 whether or not that other fact discovery, broad</p> <p>24 concept, relates to, does it relate at all or how</p> <p>25 does it relate to the general causation expert</p>

2 (Pages 2 to 5)

<p style="text-align: right;">6</p> <p>1 situation, okay. So that we're going to talk 2 about.</p> <p>3 And then the last general area is the 4 testing protocol, testing the substance, testing 5 the quantity of talc that is somehow being 6 safeguarded in the Smithsonian, or some other 7 place.</p> <p>8 So those are my three general topics. 9 If there's anything else, please tell me what 10 they are, either now or as we get through this. 11 And off we go. Okay?</p> <p>12 MS. O'DELL: Very good, Judge. The 13 only thing we would add is we wanted to raise 14 some issues to begin to set the stage for 15 privilege log, privilege log objections, and so 16 we had added that to our letter. But it's 17 certainly, Your Honor, the other items --</p> <p>18 JUDGE PISANO: Which letter? 19 MS. PARFITT: The 15th. Yes, the 15th. 20 a letter was sent on the privilege log on 21 Saturday.</p> <p>22 JUDGE PISANO: If they sent you a 23 letter on Saturday, I haven't seen it if they 24 sent it to me. 25 The last correspondence I have from</p>	<p style="text-align: right;">8</p> <p>1 JUDGE PISANO: Well, what's the other 2 part?</p> <p>3 MS. O'DELL: Well, we're not saying we 4 have to take every witness on that list in order 5 to go to expert reports, but we do believe 6 substantial discovery is left to be done on some 7 very important areas that our experts need to 8 have certain data and facts in order to opine 9 about general causation. I mean -- and I don't 10 want to usurp sort of resetting the table, Judge.</p> <p>11 JUDGE PISANO: No, I wanted to hear 12 this.</p> <p>13 MS. O'DELL: We can jump in so we can 14 sort of give you our views.</p> <p>15 JUDGE PISANO: Yes.</p> <p>16 MS. O'DELL: What's essential to our 17 experts offering their opinions is the 18 composition of the product itself. And let me 19 give you a little bit of background. There have 20 been trials in St. Louis, the majority of that 21 focus of those trials, as well as a trial in 22 California, which Ms. Parfitt was a part of, is 23 that the product itself was free of asbestos and 24 other contaminants. 25 In the mid '70 Johnson & Johnson told</p>
<p style="text-align: right;">7</p> <p>1 anybody is the 19th. It's only a sentence. 2 You're raising the issues of a privilege log?</p> <p>3 MS. O'DELL: Yes.</p> <p>4 JUDGE PISANO: Okay, fine.</p> <p>5 MS. O'DELL: I really would just like 6 to lay down some ground rules today about how to 7 raise those issues, Judge.</p> <p>8 JUDGE PISANO: Okay. Well, then we'll 9 get to that when we get to everything else.</p> <p>10 All right. Then let's start with where 11 I think we should start, which is this, it's 12 actually a direction from Judge Wolfson. As I 13 read the transcripts and as I read her case 14 management orders, it's actually a directive from 15 the Court that this general causation expert 16 discovery be taken expeditious because she 17 wants to get that issue resolved, however it's to 18 be resolved.</p> <p>19 And I suppose, to simply summarize the 20 conflict here, according to the plaintiffs, you 21 want to take all this other discovery, including 22 62 depositions from defense witnesses, as I get 23 the argument, before coming forward with experts' 24 reports. Am I correct about that? 25 MS. O'DELL: That's part of it, Judge.</p>	<p style="text-align: right;">9</p> <p>1 physicians and the world that there's no asbestos 2 in their product, and that essentially it is 3 asbestos free. That's the landscape that was 4 being sort of litigated on primarily in the 5 St. Louis and the early trials. There's been 6 some reference to asbestos, but it's never been 7 the focus.</p> <p>8 But when you look now, Your Honor, and 9 we see documents that show test results of 10 carcinogens in addition to talcum powder such as 11 nickel, chromium, cobalt, asbestos. Our experts 12 need to know what was in the product itself 13 before they finalized their expert opinions. So 14 the documents that have been produced in those 15 testing results are very important.</p> <p>16 The formulas that they utilize, not 17 only the contemporary formulas, but formulas that 18 were utilized over the years from the '60s, '70s 19 and '80s when our clients were using the product 20 are very important in order for our experts to 21 arrive at an opinion in the MDL, because the 22 epidemiology that's going to apply will be 23 affected. The in-vitro studies, the cell biology 24 studies that will be relied on by these experts 25 will be different based on the composition of the</p>

3 (Pages 6 to 9)

<p style="text-align: right;">10</p> <p>1 product. So that would be one thing.</p> <p>2 JUDGE PISANO: Well, let's go back a</p> <p>3 step. In September Judge Wolfson ordered that</p> <p>4 you disclose the identity of your expert</p> <p>5 witnesses along with a designation of their area</p> <p>6 of expertise and a brief summary of what you</p> <p>7 thought they would be saying. Has that been</p> <p>8 done?</p> <p>9 MS. PARFITT: Yes.</p> <p>10 MS. O'DELL: Yes.</p> <p>11 JUDGE PISANO: How many experts did you</p> <p>12 put on the list?</p> <p>13 MS. PARFITT: Thirty-seven.</p> <p>14 JUDGE PISANO: Have you received that?</p> <p>15 MS. SHARKO: We have.</p> <p>16 JUDGE PISANO: Okay. Are any of these</p> <p>17 experts people who have already testified in</p> <p>18 other cases?</p> <p>19 MS. PARFITT: Only two. Dr. Plunkett</p> <p>20 is a regulatory expert, and Dr. Simitiki</p> <p>21 (phonetic) is an epidemiologist who's also worked</p> <p>22 with the World Health Organization. And Dr.</p> <p>23 Simitiki testified in the California trial,</p> <p>24 Dr. Plunkett has testified in the St. Louis</p> <p>25 trial, a couple of St. Louis trials and the</p>	<p style="text-align: right;">12</p> <p>1 MS. O'DELL: Well, it's in the</p> <p>2 literature, Your Honor.</p> <p>3 JUDGE PISANO: Interestingly enough, I</p> <p>4 was home the other day, and in my local newspaper</p> <p>5 there was an article about asbestos in talc. I</p> <p>6 don't know if anybody else saw that. It was from</p> <p>7 some organization, I forget the name of it. But</p> <p>8 the concept was that this group was exploring</p> <p>9 whether the presence of asbestos in talc could</p> <p>10 cause lung cancer in everybody who's used talcum</p> <p>11 powder for their entire lives. So it doesn't</p> <p>12 relate to this case, but it's out there.</p> <p>13 MS. O'DELL: Well, in terms of</p> <p>14 epidemiology, and you hit on the point, Your</p> <p>15 Honor, there is epidemiology that relates to</p> <p>16 talcum powder products that experts have been</p> <p>17 opining on, and certainly that is part of the</p> <p>18 scope of what our experts would be opining on.</p> <p>19 But there's also a need to establish</p> <p>20 the composition of the product to understand what</p> <p>21 other epidemiology will apply. For example, we</p> <p>22 believe that we can show consistently over the</p> <p>23 years that the product contained multiple</p> <p>24 carcinogens, asbestos you named, but there are</p> <p>25 others, and I mentioned them, nickel and</p>
<p style="text-align: right;">11</p> <p>1 California trial. Dr. Plunkett went through a</p> <p>2 sargon (phonetic) in California and then trial.</p> <p>3 JUDGE PISANO: So what is it that you</p> <p>4 need to give them before they can render an</p> <p>5 opinion on this case?</p> <p>6 And I want to tell you right now, I'm</p> <p>7 going to have to disabuse you of the concept that</p> <p>8 you're going to take 62 depositions before you</p> <p>9 send experts' reports out, because that's not</p> <p>10 happening, at least unless somebody up the food</p> <p>11 chain tells you that it can happen.</p> <p>12 MS. O'DELL: And Your Honor, we want to</p> <p>13 be clear --</p> <p>14 JUDGE PISANO: Looking at it another</p> <p>15 way, putting it another way, excuse me. Has</p> <p>16 anybody said that -- and forgive me for using the</p> <p>17 word "trace," because I don't know if I'm right,</p> <p>18 wrong or indifferent -- but has anybody said</p> <p>19 generally that trace amounts of asbestos, nickel,</p> <p>20 chromium, whatever else you seem to think might</p> <p>21 be in this sample, can cause ovarian cancer?</p> <p>22 MS. O'DELL: Yes.</p> <p>23 MS. PARFITT: Yes.</p> <p>24 JUDGE PISANO: Which of these experts</p> <p>25 has said that?</p>	<p style="text-align: right;">13</p> <p>1 chromium, I won't belabor that point. But there</p> <p>2 is epidemiology that shows that nickel increases</p> <p>3 the risk of ovarian cancer. There certainly is</p> <p>4 asbestos-related epidemiology that discusses</p> <p>5 increased risk of ovarian cancer.</p> <p>6 All of that is very important, but we</p> <p>7 have to lay a foundational background, facts for</p> <p>8 our experts to base their opinions on. And the</p> <p>9 composition of products is very important. And</p> <p>10 we'll only be able to do that through the</p> <p>11 documents that have just been produced, and we're</p> <p>12 going need time to go through those, and through</p> <p>13 depositions of certain deponents.</p> <p>14 Do we need all 62? We're not saying we</p> <p>15 do, but we believe what we were doing is making a</p> <p>16 list of the deponents we felt we would need in</p> <p>17 the litigation. Certainly some of those would be</p> <p>18 essential, some of them we can stage, and we're</p> <p>19 open to doing that.</p> <p>20 The other type of evidence that's very</p> <p>21 important is the type of testing that Johnson &</p> <p>22 Johnson and Imerys did on the product, whether it</p> <p>23 was from the mine, whether it was in the</p> <p>24 processing and production process. That testing</p> <p>25 and the type of testing they did, the protocols</p>

4 (Pages 10 to 13)

<p style="text-align: right;">14</p> <p>1 they employed in comparison to other standards 2 within the industry, specifically U.S. Pharmacia, 3 is very important to our case. What was the 4 testing they used, was it sensitive enough to 5 determine if these other constituents were in the 6 product, and was the standard or upper limit of 7 normal that they used appropriate for the product 8 itself in order to understand whether those 9 carcinogens were in the product.</p> <p>10 A third area, how they sampled the 11 product. In other words, how they sampled it at 12 the mine, how they sampled it in the processing 13 plant. How was it done, how often was it done, 14 was it representative of the actual composition 15 of the product. That's very important. We 16 believe that the sampling protocols outlined, we 17 need to know were they followed, and what they 18 were.</p> <p>19 Lastly, Judge, and this is something 20 that Judge Wolfson discussed in the September 21 status conference, if I'm not mistaken it was on 22 like Page 4 or 5, and she talked about something 23 that was very much a part of the general 24 causation discovery process that we can engage in 25 related to influence and bias of the published</p>	<p style="text-align: right;">16</p> <p>1 Moring. And Johnson & Johnson hired Crowell & 2 Moring to conduct a study that was published 3 under the authors Huncharek and Muscat, and the 4 law firm not only commissioned the study, but 5 paid for it. We want to discover that.</p> <p>6 And so those are the areas that we 7 believe there is significant evidence within the 8 documents that have been produced very recently, 9 we can into that further, but also these 10 deponents we've listed go to those areas, and are 11 very critical to the complete production of our 12 expert reports.</p> <p>13 JUDGE PISANO: Well, if you had, if you 14 were to write the case management order, okay, if 15 you were to write the case management order, when 16 would your expert reports be due?</p> <p>17 MS. O'DELL: Your Honor, it would be 18 sometime in, I think conservatively in September 19 or October of this year. We need to get through 20 depositions, we need to get through documents, we 21 need to be able to take a certain number of 22 depositions.</p> <p>23 And believe you me, we have no desire 24 to take a deposition we don't need, so we have 25 staged some of these witnesses sort of</p>
<p style="text-align: right;">15</p> <p>1 literature. And so as we go down our particular. 2 MS. THORNTON FIELD: I'm having a hard 3 time hearing. In particular the whole time, but 4 the last few minutes. The fourth issue I missed.</p> <p>5 MS. O'DELL: It is influence and bias 6 of the published literature. And in regard to 7 the influence and bias of the published 8 literature, one of the things that Judge Wolfson 9 described was our ability to discover how the 10 defendants were influencing what was published.</p> <p>11 Specifically if you look at our list of 12 deponents, and there are a number of them, I'll 13 just give you a couple of examples. Under the 14 list of witnesses for personal care products 15 counsel, there are several witnesses that were 16 involved in the writing and publication of the 17 cosmetic ingredient review. That was a document 18 that was published, it was relied on by the FDA 19 and others, and we want to depose those witnesses 20 on the influence the industry had on that 21 process.</p> <p>22 You look at the third parties, and 23 there's a gentleman named Dr. Muscat and 24 Dr. Huncharek. And you will see the usual thing, 25 and that is the listing of a law firm Crowell &</p>	<p style="text-align: right;">17</p> <p>1 internally. If there's certain areas recovered, 2 we don't need to take another deposition we want. 3 But I think conservatively, and my colleagues may 4 kick me, but September or October of this year we 5 could disclose reports and be in a position where 6 we have all the necessary facts and data for them 7 to rely on.</p> <p>8 MS. PARFITT: And I would presume, I 9 mean, starting the deposition process. We're 10 not -- I know it's been suggested in the papers 11 that the plaintiffs are delaying getting any 12 deposition taken. That's not the case at all.</p> <p>13 I think Ms. O'Dell has laid out well 14 what the areas are that we're interested in. 15 These are areas that have not previously been 16 discovered in an adequate way. They're critical 17 to the opinions of these experts, at least some 18 of them, but that process will start right away.</p> <p>19 We're not suggesting that this 20 deposition process be delayed. It is a staging, 21 but I think we've given good thought to an 22 orderly presentation of what those depositions 23 would be, and who those deponents would be.</p> <p>24 JUDGE PISANO: Well, my recollection is 25 that the introduction of asbestos to this case</p>

5 (Pages 14 to 17)

<p style="text-align: right;">18</p> <p>1 was fairly recent.</p> <p>2 MS. PARFITT: That's correct.</p> <p>3 JUDGE PISANO: That is to say it was</p> <p>4 not contemplated by the complaint, and it wasn't</p> <p>5 the focus of the case.</p> <p>6 MS. PARFITT: Well, I wouldn't say not</p> <p>7 contemplated, but we've always talked about</p> <p>8 talcum powder products, whatever that meant. I</p> <p>9 think what has become more clear to us is what</p> <p>10 talcum powder products, the representations of</p> <p>11 the company, J&J in particular, their product was</p> <p>12 pure. We know that not to be the case, we don't</p> <p>13 believe that to be the case. But of course it's</p> <p>14 our burden to demonstrate that.</p> <p>15 JUDGE PISANO: Well, taken to the next</p> <p>16 step, if the introduction of asbestos was</p> <p>17 relatively recent. What do we have to say about</p> <p>18 chromium and nickel and all this other stuff?</p> <p>19 MS. PARFITT: It's somewhat, it's in</p> <p>20 the same categories, so to speak. Those are</p> <p>21 proven carcinogens as well. The testing will</p> <p>22 help sort out, you know, how much and if those</p> <p>23 things are part of a talcum powder product.</p> <p>24 JUDGE PISANO: So let's move to this</p> <p>25 testing.</p>	<p style="text-align: right;">20</p> <p>1 the plaintiffs I understand, have done a lot of</p> <p>2 work in getting the state court ovarian</p> <p>3 litigants, and probably more importantly, the</p> <p>4 state court asbestos litigants signed off on it.</p> <p>5 So once that protocol is entered, there's a</p> <p>6 process for sending out portions of samples, and</p> <p>7 then each side is going to --</p> <p>8 JUDGE PISANO: Give me an idea of how</p> <p>9 you're going to do this. How is this going to</p> <p>10 work. Yes, sir.</p> <p>11 MR. BERMAN: I negotiated with</p> <p>12 Mr. Bernardo for the sample protocol. The way</p> <p>13 it's going to work is that J&J and Imerys have</p> <p>14 accumulated a number of samples that I think are</p> <p>15 at Drinker Biddle and at Imerys' office. All of</p> <p>16 those samples are going to be forwarded to an</p> <p>17 independent lab in New Jersey.</p> <p>18 After that, the plaintiffs are sending</p> <p>19 a representative attorney and an industrial</p> <p>20 hygienist, as are the defendants. The samples</p> <p>21 are going to be split at this place, and each</p> <p>22 side is going to take their respective shares,</p> <p>23 half the samples, back to their labs. Then we</p> <p>24 can do our own independent testing from there.</p> <p>25 But it's going to be, I guess, a</p>
<p style="text-align: right;">19</p> <p>1 MS. PARFITT: Sure.</p> <p>2 JUDGE PISANO: The quantity of talc</p> <p>3 that you have that is going to be the subject of</p> <p>4 testing, and I know there's competing, there are</p> <p>5 competing interests to the quantity. There are</p> <p>6 cases other than this MDL that also want a chance</p> <p>7 to analyze the substance; right?</p> <p>8 MS. O'DELL: Yes, sir.</p> <p>9 JUDGE PISANO: What are we going to do</p> <p>10 about that, number one, how are we going do the</p> <p>11 testing?</p> <p>12 And, secondly, are we comfortable and</p> <p>13 confident that whatever it is we're testing is</p> <p>14 the same as what went into the talcum powder</p> <p>15 products that were used over the decades?</p> <p>16 MS. SHARKO: So answering those</p> <p>17 questions in reverse order, I don't think we can</p> <p>18 be confident that testing of these samples will</p> <p>19 show necessarily what was in the product back in</p> <p>20 the day because chain of custody is going to be</p> <p>21 difficult or impossible to establish.</p> <p>22 In terms of dividing up what's there,</p> <p>23 we've now agreed on that, and I understand that</p> <p>24 the protocol order will be presented to the court</p> <p>25 this week, which will cover not only the MDL, but</p>	<p style="text-align: right;">21</p> <p>1 two-step process, three-step process. All the</p> <p>2 samples are going to arrive at this independent</p> <p>3 lab, then we're going to go there, and it's going</p> <p>4 to be cataloged and distributed so everybody</p> <p>5 knows.</p> <p>6 JUDGE PISANO: And how long is it going</p> <p>7 to take?</p> <p>8 MR. BERMAN: Well, the list of samples</p> <p>9 is extensive that they've given us, it's on an</p> <p>10 Excel spreadsheet. So we're going to go through</p> <p>11 those and we're going to pick the ones we want to</p> <p>12 sample initially. Then after that, you know, we</p> <p>13 may test some in the future, but after the order</p> <p>14 is entered we have 30 days to let them know which</p> <p>15 samples we're going to test. And after that if</p> <p>16 we need more, we communicate with each other.</p> <p>17 JUDGE PISANO: And once you decide what</p> <p>18 you're going test, how long does it take to test</p> <p>19 the samples and then get a report?</p> <p>20 MR. BERMAN: Well, each, it takes a</p> <p>21 while. So a week or two per sample, probably.</p> <p>22 JUDGE PISANO: And this is going to</p> <p>23 tell you what the sample consists of?</p> <p>24 MR. BERMAN: Yes, correct, and what</p> <p>25 carcinogens are in there.</p>

6 (Pages 18 to 21)

<p style="text-align: right;">22</p> <p>1 MS. O'DELL: And there's two lines of 2 evidence, too, Judge, so we're not sort of mixing 3 things up. There's the testing of the samples 4 that are currently being discussed, you know, the 5 physical samples, and then there's previous 6 testing that was performed by both Imerys and J&J 7 that is recorded in the documents themselves. 8 JUDGE PISANO: Yes. 9 MS. O'DELL: And some of which is new, 10 having just been produced, and so we're trying to 11 work our way through that. 12 JUDGE PISANO: Well, I think there's a 13 debate on how much of it is new. I mean, reading 14 these letters it seems to me that the defense 15 would argue that there's nothing new under the 16 sun, that these documents that they've given over 17 to you are, you've already gotten -- well, there 18 are some that are new, but the lion's share of 19 them are not new. 20 MS. O'DELL: We take a different 21 position. 22 JUDGE PISANO: Be that as it may. 23 All right. Let me ask you this, 24 Ms. Sharko. If you were going to write the case 25 management order, what would it say?</p>	<p style="text-align: right;">24</p> <p>1 we had with the MDL with Judge Wolfson, so it's 2 been out there for a little bit now. 3 But let me give you a little background 4 on why we need all that testing. In 1973 the FDA 5 promulgated a rule that required the talc 6 companies to test their own products, and they 7 had to assure them that it was 99.9 asbestos 8 free. They fought that rule and they won, and 9 the FDA allowed them to self-regulate. 10 So they started testing the asbestos, 11 and they kept on raising the limit so they 12 couldn't detect any. And three years later they 13 stopped testing for chrysotile, which we're 14 finding in the samples now. So they testing 15 around finding asbestos there, and we believe 16 that once we obtain these samples, we'll be able 17 to show there's been consistent chrysotile ever 18 since they started testing, and the labs that 19 they used kept on raising the limits so they 20 wouldn't find it. 21 So we need all the samples, we need the 22 deposition of whoever collected them, where they 23 got them, we need to prove the chain of custody 24 as well. 25 I don't understand, you know,</p>
<p style="text-align: right;">23</p> <p>1 MS. SHARKO: It would say that the 2 plaintiffs' expert reports are due in March and 3 that ours are due in May, and we should go 4 forward forthwith and get general causation 5 resolved. 6 I have to say this sort of feels like 7 we're down at the boardwalk and we're playing 8 Whack-A-Mole. I've never heard nickel, chromium, 9 cobalt. Those words aren't in the master 10 complaint. Asbestos isn't really in there, but 11 the plaintiffs have said, more or less, within a 12 month or two of the MDL starting that they think 13 our product contains asbestos, which we deny, and 14 they're thinking of pursuing an asbestos theory. 15 Testing these samples is not going to 16 help us on general causation. Deposing company 17 witnesses is not going to help us on general 18 causation. Experts rely on data and the 19 scientific literature, and that's all out there. 20 It is what it is, and they should do their 21 reports. 22 MR. BERMAN: Judge? 23 JUDGE PISANO: Yes, sir. 24 MR. BERMAN: Going back to the 25 asbestos, I brought up in the first meeting that</p>	<p style="text-align: right;">25</p> <p>1 especially the museum pieces, how there's not a 2 chain of custody. This is from this year, this 3 is where we got it, and this is what we have. 4 And there's some of them in the original 5 containers, so we think we'll be able to 6 establish chain of custody through depositions 7 and the testing, matching it up through with the 8 formulas. 9 JUDGE PISANO: It would be helpful for 10 me to have this list of your expert witnesses. 11 MS. PARFITT: I have an extra. 12 JUDGE PISANO: I'm not going to make 13 sense of it as I sit here, but I'm going to need 14 that in order to generate some sort of decision 15 on all this. 16 MS. O'DELL: And, Your Honor, just to 17 try to put it in context -- 18 JUDGE PISANO: So wait, forgive me. 19 You guys are down deeper on this than I am. 20 Your position, Ms. Sharko, is that all 21 of this stuff that they're now asking for, all of 22 this stuff, the depositions, the records, the 23 testing of the sample, all of this stuff is 24 immaterial to the question of general causation, 25 that their experts should rely upon whatever the</p>

<p style="text-align: right;">26</p> <p>1 literature is in the science, irrespective of 2 what your witnesses might or might not know based 3 on the identity that they've given? 4 MS. SHARKO: Almost. They have, I am 5 certain, documents which show the formula for the 6 product. They have, and they have had documents 7 related to testing. Because, after all, the 8 company puts the product out on the market, they 9 test it before it goes out. 10 JUDGE PISANO: Right. 11 MS. SHARKO: Or the mines test, or 12 whoever tests it, but they have those documents. 13 So I submit they have what they need to do expert 14 reports. Depositions aren't going to change 15 that. 16 MS. O'DELL: Your Honor, let me just 17 say a couple things. One, with regard to the 18 formula, so the record will be clear, there was a 19 recent production I've seen of the contemporary 20 formula. Historical formulas, which we think are 21 key, have not been produced. And so I just 22 wanted to say that very clearly. Because we have 23 clients that have used, you know, talcum powder 24 back to the '60s, maybe some to the '50s, so '60s 25 forward. So we need those formulas.</p>	<p style="text-align: right;">28</p> <p>1 is protected, and I think the company would feel 2 pretty strongly about the recipe or formula or 3 whatever, then I think it shouldn't be on the 4 record. 5 JUDGE PISANO: Well, the formula should 6 be on the label. That's what it has to be; 7 right? 8 MS. O'DELL: It is not, Your Honor. 9 JUDGE PISANO: Or the contents should 10 be on the label. 11 MS. O'DELL: It is not. 12 MS. PARFITT: No, it's not. 13 JUDGE PISANO: So your point is that 14 the word "talc" means more than just talc? 15 MS. O'DELL: Yes, because talc is not 16 just pure talc. Talc is as mined from the earth 17 and processed and put in baby powder bottles 18 contains a number of constituents. Talc, all 19 these other things we talked about. Your Honor, 20 what our theory has always been the product 21 itself causes ovarian cancer. And what's within 22 that bottle is the product, and it is many 23 things. And I've listed some for you, nickel, 24 chromium and other things. Silica, quartz are 25 part of that product, as well as fragrance.</p>
<p style="text-align: right;">27</p> <p>1 JUDGE PISANO: Well, the formula, if 2 you read the label, it says talcum powder and 3 fragrance. 4 MS. O'DELL: Well, I'll pull up -- 5 JUDGE PISANO: Right, isn't that 6 basically what it says? And that's what it says 7 if it's Gold Bond or if it's some generic Rite 8 Aid brand or anything. 9 MS. O'DELL: It's very interesting. 10 MS. SHARKO: I think that's right. If 11 Ms. O'Dell feels there's some documents related 12 to that that she's missing, she should let me 13 know. 14 MS. O'DELL: And I think we have let, 15 maybe not you know directly, Susan, but 16 cocounsel. Let me just, I'll pull up the 17 formulas. 18 I'll pull up the formula, Your Honor, 19 it will take me just a minute, and you'll see 20 that it's much more than talc plus fragrance. 21 It's got like 36 -- 22 MS. SHARKO: Wait, wait. Before we go 23 forward, I suspect this is something that's 24 protected and we're on the record. And so if 25 you're going to be quoting from a document which</p>	<p style="text-align: right;">29</p> <p>1 And give me just a minute, because I 2 didn't have that at my fingertips. If Ms. Sharko 3 feels uncomfortable with me listing the products, 4 I'll show you the formula that's been produced, 5 and you'll see it's got like at least 40 6 components. 7 So Your Honor, when Ms. Sharko says the 8 data is known in the scientific literature. That 9 is not true. I mean, as this litigation has gone 10 forward in the MDL, and I'll speak to -- 11 Mr. Placitella brought this to my attention -- 12 just over time he'd say, Have you guys ever seen, 13 you know, this document or that document? And 14 what we realized is there was a whole set of 15 production for both Imerys and Johnson & Johnson 16 that related to supposedly the asbestos 17 litigation. 18 We believe those materials should have 19 been produced in this cancer litigation from the 20 beginning. In J&J's papers they say there's 21 40,000 of those documents, 35 they think are 22 duplicates. Let's just assume that's right. If 23 5,000 new documents have never been produced in 24 this MDL, and they clearly are, you know, 25 relevant to the core issues, and issues that have</p>

8 (Pages 26 to 29)

12234

<p>1 been core to this case, you know, for months and 2 months. 3 And one of which I've got in front of 4 me was produced in October, just in October in 5 this litigation, it's been in the asbestos 6 litigation previously, and it talks in terms of 7 the total tremolite, which is a type of asbestos 8 content. 9 MS. SHARKO: Is this a protected 10 document? Because if it is it shouldn't be read 11 into the record. I don't care if you show it to 12 the judge, as long as I get a copy. 13 MS. O'DELL: Well, I'm happy to show it 14 to you and the judge. But, Judge, I will say the 15 document is a test result that shows a percentage 16 of tremolite in the products itself, and that is, 17 that data is not anywhere but the internal 18 documents. And we feel like it is essential that 19 our experts have the benefit of that before they 20 opine. And that's the course of experts. 21 And you'll see our list, but you'll see 22 that there are toxicologists, there are 23 epidemiologists, there are GYN/oncologists, there 24 are people that focus on testing, there are 25 geologists and others. And that type of</p>	<p>32 1 witness is going to help them or their scientists 2 establish what they need to establish with regard 3 to general causation. 4 JUDGE PISANO: The experts who have 5 been identified in the case that you just 6 mentioned, that's going to be tried when, in 7 June? 8 MR. SILVER: Yes. 9 JUDGE PISANO: Are those experts on 10 this list, on the list given to you in this case? 11 MS. THORNTON FIELD: They have not been 12 identified yet, Your Honor. I think it's 13 February 15. 14 JUDGE PISANO: And where is that case? 15 MS. THORNTON FIELD: In Missouri. 16 JUDGE PISANO: State court in Missouri. 17 MS. THORNTON FIELD: Yes, June 4th. 18 JUDGE PISANO: Okay. Mr. Burns? 19 MR. BURNS: Judge, I just think it's 20 important to emphasize something here, which is 21 that the defendants like to raise this motto -- I 22 represent over 1,000 women with ovarian cancer. 23 Mark Lanier isn't my cocounsel on a single one of 24 those cases. This is an MDL which should be 25 treated like an MDL, and which should give fair</p>
<p>31 1 information is not in the public, and it's 2 critical, and that's why we need time to digest 3 that, depose certain critical witnesses on it and 4 then we can produce our expert reports. 5 MR. SILVER: Judge, can I be heard? 6 JUDGE PISANO: Yes. 7 MR. SILVER: Judge, they know they 8 don't need this stuff, Judge, and the reason they 9 know it is because there's a trial case in June 10 with Mr. Lanier's firm dealing with asbestos 11 where they are ready for trial. They didn't need 12 any of this stuff to try that case on the exact 13 same issues. They didn't need 62 depositions, 14 because none of them are going to deal with the 15 scientific literature, and the question is 16 whether they can prove the product, whatever's in 17 it, causes ovarian cancer. There's not been a 18 scientific challenge yet where they've been able 19 to prove it. In New Jersey State court they 20 couldn't prove it. In California they couldn't 21 do it. 22 So they want to avoid getting to 23 science so they can try it where the science 24 standards are different. But here where we're 25 focusing on science, no deposition of Imerys, any</p>	<p>33 1 consideration to all of the issues that are very 2 important to my clients. 3 What Mr. Lanier does in St. Louis, 4 given all of the procedural mechanisms and issues 5 there, frankly is not all that relevant to my 6 clients. My clients deserve a fair day in this 7 court. 8 JUDGE PISANO: Well, yeah, that's true, 9 that's true. But we have a plaintiff steering 10 committee here who's doing the work on behalf of 11 everyone, your clients included; right? 12 MR. BURNS: But not on behalf of the 13 St. Louis trial team, Your Honor. I mean, we do 14 not control the St. Louis trial team. We control 15 and work on -- 16 JUDGE PISANO: I understand that. And 17 I don't think the point that Mr. Silver made was 18 that we are somehow attempting to control or are 19 being controlled by the St. Louis trial team. 20 I think the general point being made, 21 and it's made in these letters, is that the 22 plaintiffs have been trying these cases now for 23 quite some time all over the place and have 24 offered expert testimony. Why now all of a 25 sudden do we need to, forgive the mixed metaphor,</p>

<p style="text-align: right;">12235</p> <p>1 why now do we have to reinvent the wheel and get 2 new, and get more information to the same or 3 different experts? And if that's the case, if 4 that's what we have to do, I think it's a fair 5 conclusion that this case will never be ready for 6 trial.</p> <p>7 MR. TICI: Well, Judge it isn't really 8 unusual for our plaintiffs in an MDL to try and, 9 to need discovery both in documents and 10 depositions as the foundation for the experts.</p> <p>11 Let me address the comment of 12 Mr. Silver with a concrete example. You know 13 we've actually spent the time to do this. One of 14 the depositions we asked for from Imerys was a 15 gentleman named Ed McCarthy, he's been a 16 scientist there for 30 years. He has documents 17 where he was actually a participant in the 18 testing of the talc for the constituents in the 19 talc, asbestos, arsenic, and other heavy metals. 20 He was involved in not only testing of it, but he 21 was involved in the actual mining of it, in the 22 drilling of it, and in trying to figure out where 23 in the mines you need to drill to get the purest 24 talc possible. He was involved in actually 25 providing the information to J&J's own</p>	<p style="text-align: right;">36</p> <p>1 And the presence of these carcinogens in the 2 product provides an explanation as to why these 3 products actually could cause cancer. Not unlike 4 cigarettes, there are different constituents to 5 the cigarette. You try the case, do cigarettes 6 cause cancer, but one of the things an expert has 7 to do is say, okay, well, how much of this 8 constituent is in the cigarette is there, how 9 much of that constituent is in the cigarette as 10 part of their proof to convince the judge and 11 ultimately a jury that there's sufficient 12 evidence to prove general causation. That's what 13 we're trying to do here.</p> <p>14 And a gentleman like Mr. McCarthy would 15 be the kind of person that could provide the 16 information that our experts could rely on, 17 independent of the published medical literature. 18 He could say not only does the published medical 19 literature prove this, but when I look at the 20 testimony of Mr. McCarthy, who's been there for 21 30 years, who's aware of where this product comes 22 from, who's aware of the testing, there's an 23 explanation for why it's not only the talc, but 24 it's all the other things that's involved, you 25 know, that come from these particular mines.</p>
<p style="text-align: right;">35</p> <p>1 toxicologist with whom he communicated about what 2 was in the product and what wasn't in the 3 product.</p> <p>4 And I want to make it clear that we 5 have two separate sets of samples here. We have 6 the samples that, in the Smithsonian that 7 Ms. Sharko was talking about, we have a separate 8 set of samples that have been kept with Imerys. 9 And we know exactly what mine it came from, we 10 know exactly what year it came from. We know 11 exactly, we're able to figure out exactly -- and 12 those are the mines that provided the talc for 13 J&J to use in their products over the years.</p> <p>14 He was not only involved in, as I 15 understand it, not only involved in providing 16 talc for J&J's product, but, again, if you read 17 the documents, he was aware of the different 18 standards used by J&J and others to test the 19 products for the presence of these carcinogens in 20 other products. And the reason why that's 21 important for general causation is this: One of 22 the things that we try to prove in these cases is 23 that there's biologic plausibility for the 24 increased relative risk that's seen consistently 25 across the studies that were done in this case.</p>	<p style="text-align: right;">37</p> <p>1 That's why whether Mr. Silver asks, 2 says, Well, why is this necessary, why are 3 witnesses necessary? We've got a scientist there 4 for 30 years who's looked at this stuff. And, 5 you know, parenthetically, the guy's got, the 6 gentleman's got 4,000 documents that were 7 produced by Imerys. He's a pretty substantial 8 witness.</p> <p>9 MR. SILVER: Judge, for the record, 10 he's not a scientist. If I remember correctly, I 11 believe he's the technical director. I think he 12 runs essentially supply -- I'm not intending to 13 demean him, but he runs supply and logistics 14 between getting the talc out of the mines to J&J 15 eventually.</p> <p>16 But none of what Mr. Tici said, he's 17 got our test results. He's got everything -- I 18 don't stipulate to any of the accuracy of what he 19 says, because I don't know what he's reviewing. 20 But everything he said is what he already had. 21 If he has all that, they can take their best shot 22 at general causation, he doesn't need anything 23 else.</p> <p>24 MR. TICI: Well, that's like if I were 25 to say to Mr. Silver, You have the medical</p>

12236

<p>1 records of Mrs. Smith, you don't have to take her 2 deposition. Or her doctor. You have her 3 records. I mean, of course you need to be able 4 to explore what they mean. 5 I mean, I used Mr. McCarthy as an 6 example, but I really came prepared to talk about 7 these witnesses because they are, we didn't do 8 this willy-nilly where we just ran a list of 9 witnesses and we just plucked people out of the 10 sky. 11 MS. PARFITT: And to that end, just as 12 a reminder, there are only, less than four 13 deponents in all of these litigations that 14 counsel is talking about, I think we talked about 15 that last time when you asked how many 16 individuals have been deposed from the company. 17 And for each one, Imerys and J&J, it was under 18 10. And Mr. McCarthy is not one of those 19 individuals who's been deposed in this these 20 other cases. 21 So I think these are issues -- I think 22 that bears stating as well that we're not trying 23 to step back and redo. We are trying, though, to 24 make our case successfully. And I think that's 25 what the Court demands of us, and we do have the</p>	<p>1 matter. This morning I was in the Middlesex 2 County Superior Court. There was a case 3 involving Johnson & Johnson, it was a 4 mesothelioma case. The case focused on whether 5 the asbestos in the Johnson & Johnson product was 6 responsible for this man's mesothelioma from the 7 talcum powder. 8 Johnson & Johnson came in and asked the 9 judge for a continuance, for an emergent appeal 10 because they had a new expert who came in and 11 said despite the fact that the plaintiff's expert 12 looked at the tissue in the lung and saw talc, 13 tremolite and chrysotile, which were the 14 ingredients that their expert was, who tested the 15 Johnson & Johnson products and said he saw 16 asbestos in more than half of those products, 17 Johnson & Johnson said we need an emergent 18 appeal. Why? Because our expert looked at the 19 same thing and we found one, one chrysotile 20 (ph.) fiber. And if it was one chrysotile 21 fiber then it wasn't our talc. 22 So for them to say that a little bit 23 doesn't matter, it does to them. They were ready 24 to go to the Appellate Division on emergent 25 appeal this morning on one fiber, not millions of</p>
<p>1 burden, and we're just trying to satisfy it. 2 MR. PLACITELLA: Your Honor, can I be 3 heard for two minutes? 4 JUDGE PISANO: Yes. 5 MR. PLACITELLA: So in the state court 6 in Atlantic County where the cases were dismissed 7 on motion after a 104 hearing, the argument from 8 Johnson & Johnson was the plaintiff didn't prove 9 bio-plausibility, in addition to other argument. 10 That is now before the Appellate Division, and 11 that has now been stayed and being heard by the 12 New Jersey Supreme Court, I know it because I'm 13 involved in the AMICAS process, okay. 14 What we are focusing on here is to 15 address the deficiencies that they allege. 16 Imagine trying a tobacco case -- and I know we're 17 going back, but imagine trying a tobacco case 18 where the issue of nicotine, tar and all the 19 carcinogens had no place, and the only thing you 20 could talk about was the leaf. Well, Judge, it 21 was just a leaf. You know, if the leaf doesn't 22 cause cancer, there's no literature on the leaf, 23 then where are we going? 24 But the fact of the matter is, 25 bio-plausibility and the ingredients of a product</p>	<p>1 fibers, like Dr. Longo will testify to. So it is 2 significance as to what is in these products. 3 From my perspective, let's put it all 4 on the table. You know what, I was preparing for 5 today and I'm looking and I said, there's a 6 document by Imerys talking about asbestos in the 7 Johnson & Johnson product that I couldn't find in 8 the Johnson & Johnson production, even though the 9 Johnson & Johnson executives were copied on the 10 memo. 11 So now we're trying to match up what 12 Imerys did with what Johnson & Johnson did, come 13 up with a universe of evidence, and also have 14 these products tested. So if you're going to say 15 what I would put in a case management order? 16 Let's get all the formulas on the table. Let's 17 get all the testing on the table. Let's take a 18 30(b)(6) deposition of Imerys and Johnson & 19 Johnson as to the person with the most knowledge 20 concerning the formulas, the testing, and the 21 ingredients. We can do that in 60 to 90 days. 22 Then at least we have a base that we can go 23 forward and we're not asking our experts to say, 24 oh, it's just the leaf in the tobacco, that's the 25 only thing you're allowed to look at, when we</p>

<p style="text-align: right;">12237 42</p> <p>1 know. We can make a prima facie case to Your 2 Honor now to show that there are carcinogens in 3 this product in addition to the talc itself. 4 Now, from our perspective, yes, the 5 talc is carcinogenic, like the nicotine might be 6 carcinogenic or the tars are carcinogenic. But 7 the experts have the right, and the Court has the 8 absolute right to know what is in this case. 9 They can't say biological plausibility matters 10 and then say, Well, you can't get the information 11 to figure out biological plausibility. 12 And I apologize for taking the Court's 13 time and I'll sit down. 14 MR. TICI: Judge, can I address one 15 more thing, because I want to address directly 16 your question as what would be in the order, and 17 why we're asking, as Ms. O'Dell said, why we 18 think we need the time to go through the 19 documents and take the depositions. And if I 20 could, Judge, I'll give a copy to Ms. Sharko. 21 We pulled -- of the witnesses that were 22 or our list that we provided to the Court in 23 response to its request, we went back and looked 24 at the documents that were produced on each of 25 the witnesses. Actually, let me give this to</p>	<p style="text-align: right;">44</p> <p>1 representation that the documents had been 2 completely, had been produced. 3 Now, if you look at the document I just 4 gave you, one of the witnesses who we asked for 5 is another gentleman by the name of, I mean, just 6 by way of example, a gentleman by the name of 7 Mr. McCarthy is the second one at the end. At 8 the time in July there were 7,000 documents by 9 Dr. McCarthy. I thought that the custodial was 10 complete and we were ready to take depositions, 11 and we would have done exactly what Ms. Sharko 12 said, get the show on the road on general 13 causation. 14 In September they produced an 15 additional 4,675 documents related to 16 Mr. McCarthy, and two days before Christmas they 17 produced 3,786 documents related to Mr. McCarthy. 18 That's an example. That happened with witness 19 after witness after witness. 20 We're put in a situation where three 21 weeks ago we were provided with documents related 22 to scientific witnesses that we were prepared to 23 depose last July. And now we're in a position, 24 we can't even get through the documents they gave 25 us.</p>
<p style="text-align: right;">43</p> <p>1 you. 2 Historically, in July, in June I sent, 3 I understood that the Court -- excuse me, that 4 the judge wanted to have us focus on general 5 causation, so I asked the defense counsel, 6 Ms. Frasier, I asked her, Okay, tell me which of 7 your witnesses have complete custodial files. 8 She gave me a list. From that list we had 9 complete -- and this is back in June, I asked 10 her, okay, of that list I chose several 11 toxicologists which are clearly scientific 12 witnesses, and I asked for those depositions. 13 Now, those depositions were put off, 14 and the judge said, Well, why don't we wait until 15 the document production is done? And I listened 16 to what J&J's counsel said, and they said -- 17 JUDGE PISANO: What case are we in now? 18 Are we in this case? 19 MR. TICI: We are in this case. The 20 point of this is, Judge -- 21 JUDGE PISANO: Which judge said that? 22 MR. TICI: Judge Wolfson. The point 23 here is this: We were ready to take depositions 24 last year of the toxicologists and people who 25 support the science issues based upon the</p>	<p style="text-align: right;">45</p> <p>1 So when Ms. O'Dell says to you, why is 2 it, when you ask what kind of order you have. 3 When Ms. O'Dell says we can start taking Imerys 4 depositions because Imerys' witnesses, they 5 produced their documents in time, we're almost 6 completely through in looking at Imerys' 7 documents. But we had this huge amount of 8 documents that were produced by J&J, and we need 9 some time to be able to go through them. We'll 10 stage them. We want to take the toxicologists, 11 we want to take the medical directors. We want 12 to take the those people first to support -- 13 JUDGE PISANO: Well, wait a minute. 14 Placitella just stood up and said he wants to 15 read the documents and just take 30(b)(6) 16 depositions. 17 MR. TICI: Well, that would be the 18 first ones that we would want to do. But we've 19 made it very clear we want to take the 20 toxicologist, the research director. They 21 directed different scientific studies. 22 I mean, this gentleman, Mr. McCarthy, I 23 have a summary here of the work product. I'm 24 perfectly willing to share what he did. He was 25 involved in directing the science, he was</p>

<p style="text-align: right;">12238 46</p> <p>1 involved in dealing with the different agencies 2 that were involved in reviewing the science and 3 making recommendations about whether there was of 4 causation or not. All of these things, Your 5 Honor, are important for our experts to rely on 6 that would be supportive to our positions that 7 talcum powder products, talc itself and the 8 constituents in the products were a cause of 9 ovarian cancer.</p> <p>10 JUDGE PISANO: In one of her prior 11 conferences Judge Wolfson made the remark that -- 12 and this was addressing the issue of whether 13 experts on causation ought to be put aside until 14 all of the fact discovery was concluded, and she 15 made the comment that, you know, what you 16 discover from the defendants' documents might be 17 good for you to have when it comes time of trial 18 and you can stand up and say, Ah-ha, this is what 19 they knew, but how does it relate to whether or 20 not, generally speaking, the product can cause 21 ovarian cancer. You remember that colloquy?</p> <p>22 MR. TICI: I'm glad you asked that 23 question, and I'll give you a perfect example.</p> <p>24 JUDGE PISANO: I'm glad I made somebody 25 happy today.</p>	<p style="text-align: right;">48</p> <p>1 MS. SHARKO: So needless to say, I 2 disagree with the spin that all, everybody who 3 has spoken, and I gather I don't need to respond 4 to it at this time.</p> <p>5 In terms of the document production, my 6 colleague Mr. Bernardo can speak to it. We 7 agreed on a schedule for production. It ended on 8 December 21st. Everybody agreed to that, that 9 was known in advance. Actually, the plaintiffs 10 didn't agree to it, they objected and then the 11 judge gave us the extension.</p> <p>12 Mr. Bernardo, can you speak to why 13 plaintiffs' version is not accurate?</p> <p>14 JUDGE PISANO: I'd like to know what 15 happened, why were these documentation turned 16 over in such volume so late. And then there's a 17 demand in the plaintiff's papers that J&J do 18 something to de-duplicate the documents. Part of 19 the beef, so it goes, is that even if the 20 documents had already been turned over to them, 21 they now have new Bates stamp numbers, and, 22 therefore, how do we know whether we've got them 23 or not. And they're insisting upon some 24 de-duplication process which you say you 25 shouldn't have to do.</p>
<p style="text-align: right;">47</p> <p>1 MR. TICI: One of the things that the 2 defendants get up at trial and say, you know, 3 it's not possible for talc used peritoneally to 4 end up in the ovaries, it can't travel up the 5 genital tract and get in the ovaries. It doesn't 6 happen, it's biologically implausible that that's 7 the case.</p> <p>8 Well, one of the things that we feel 9 like we want to explore with their scientists who 10 actually studied that issue is whether or not 11 they believe that's true or not. That's just to 12 give you an example of the kind of thing which 13 would be important, because one of our experts 14 would say, you know, not only does the scientific 15 literature support it, but that's an admission by 16 defendants, or the defendants support that.</p> <p>17 JUDGE PISANO: Okay. All right. Let's 18 get to this issue of whether you need, how much 19 time you need to review the documents that were 20 recently served upon you. I won't use the 21 pejorative description that you do in your 22 papers. What about all this? What was done 23 here? Why were thousands, hundreds of thousands 24 of documents not turned over until December of 25 2017?</p>	<p style="text-align: right;">49</p> <p>1 And then there is a statement that 2 you've attempted to resolve the issue by 3 proposing some sort of mechanism to distinguish 4 between new stuff and old stuff. So tell me 5 about that, Mr. Bernardo.</p> <p>6 MR. BERNARDO: Sure. With respect to 7 the timing, Your Honor, first of all, if you go 8 back and look at our position early on, which was 9 that for the most part plaintiffs had the 10 documents that were out there. Maybe there were 11 some that we would go back and try and identify, 12 but there was production that had already been 13 made.</p> <p>14 There were significant disputes back 15 and forth over this Mahaffey Weber memo that I'm 16 sure Your Honor remembers.</p> <p>17 JUDGE PISANO: Yes.</p> <p>18 MR. BERNARDO: And we just made the 19 decision, rather than dispute that further, we 20 would go back, and I think Ms. Sharko explained 21 it, we would redo some of the sources. There's 22 no way 20 years later to try to match up what may 23 have been collected 20 years ago because 24 materials move in warehouses, get stored in 25 different ways. We thought, you know what, we'll</p>

<p style="text-align: right;">12239 50</p> <p>1 go back and make the best efforts to try and 2 identify whatever was within the scope of that. 3 If we find some new material there, first of all, 4 you won't be able to tell it unless you go back 5 and do a page-by-page check, we'll produce that. 6 That was a very, very time-consuming 7 process, because it involved going back to 8 warehouses, pulling back boxes, trying to put 9 things together. So that was one of the pieces 10 that caused it to take the time it did. And 11 frankly, I think it was done in fairly 12 accelerated time under the circumstances. 13 Another piece was in September Judge 14 Wolfson agreed that the scope of the discovery 15 that was outstanding that the parties were 16 objecting to could be broadened, and we were 17 supposed to meet and confer and try and duke it 18 out as to, you know, what requests would be 19 expanded what way, what would be narrowed what 20 way. While it was defendants' position that all 21 of that was overly broad, again, rather than go 22 back and forth and debate it, we said, You know 23 what, we'll go back, we'll adjust the filter 24 terms, we'll do what is necessary to pull all of 25 that out there and produce that.</p>	<p style="text-align: right;">52</p> <p>1 their filters and minimize what they need to look 2 at to the really key things. 3 I'll say, Your Honor, we put people out 4 there in the field who are familiar with these 5 documents, just generally, to say as we were 6 going through to let us know are these things you 7 haven't seen before. And while again this wasn't 8 a very scientific process, it was important to us 9 to know if this is just, you know, copies of 10 materials that have been produced before or more 11 of the same. And what we were hearing from 12 everybody who was going through this process was 13 again, yeah, we've seen this stuff before. Can I 14 put this next to this and say this is the exact 15 copy of that? No. But it was more of the 16 same -- 17 JUDGE PISANO: But having gone through 18 that during the production of it, what do you say 19 to the plaintiffs' lament that they shouldn't 20 have to go through that exercise manually now? 21 What do you see to that? 22 MR. BERNARDO: I say first of all 23 there's an ESI protocol that was negotiated in 24 this case that's consistent with the type of ESI 25 protocols in every litigation that does not</p>
<p style="text-align: right;">51</p> <p>1 So those are the basic points as to 2 what took the several months to do. And frankly, 3 what was done in several months, probably should 4 have taken much longer. But I think the real key 5 is that a lot of this material had already been 6 collected and produced, it was our position, but 7 we said we'd go back and do it. 8 To Your Honor's question about the 9 de-duplication. So you go in a warehouse, you 10 look in a box, you get a document out, you look 11 at it. Absent taking the time to go and for 12 every document you find and say is it somewhere 13 in the production, look it up, and have somebody 14 take it and match it side by side, I mean, we 15 would be producing documents in July. The 16 logical thing to do is to say if it's responsive, 17 even recognizing that it may have been produced 18 before, let's produce it. 19 There's no process in the protocol in 20 this case to go back and try to de-duplicate hard 21 copy, because as I just described, that would 22 slow down the process tremendously. And all of 23 these documents were scanned and they were OCR'd, 24 so they're text searchable, so plaintiffs can go 25 through and do what they typically do, and run</p>	<p style="text-align: right;">53</p> <p>1 require hard copy de-duplication because it's 2 extremely costly. 3 Secondly, plaintiffs are in the same 4 position as we are, as far as who can do that. I 5 mean, if they want to go through it and do 6 searches in a manual check, they can do that. I 7 mean, we cited a case, Gerardo, as far as the 8 burdens. I mean, a responding party shouldn't be 9 bearing the additional burden of doing 10 plaintiffs' work in terms of doing the document 11 review. We've already spent millions of dollars 12 on producing this stuff. And, frankly, we 13 objected to producing more. So we're sort of in 14 that, if you'll forgive me, we're damned if we do 15 and we're damned if we don't. If we objected and 16 said we're not going to go back and do this, we'd 17 be here arguing about that. But we decided to 18 avoid that objection, and now we're here arguing 19 about what should be done. 20 So the de-duplication was just a 21 significant and time-consuming burden, I think we 22 put a cost estimate in there, Your Honor, and 23 it's not something that's ever contemplated by an 24 ESI protocol for very good reason. What we did 25 agree to do, which is requiring some burden, is</p>

<p style="text-align: right;">12240</p> <p>1 something to be honest we wouldn't have thought 2 we would have had to have done, given at least 3 some folks on plaintiffs' bars familiarity with 4 this asbestos production, and just briefly, Your 5 Honor, as I forget, maybe it was 6 Mr. Placitella -- 7 JUDGE PISANO: Is this what I mention, 8 this is in Ms. Sharko's letter of the 19th, 9 Page 2, "Defendants are in the process of 10 creating a spreadsheet that will enable the 11 plaintiffs to identify a significant number of 12 documents," et cetera? 13 MR. BERNARDO: That's exactly -- 14 JUDGE PISANO: So where is the 15 spreadsheet? 16 MR. BERNARDO: We're in the process of 17 finalizing that. And, again, we feel as if 18 that's something that we shouldn't have to have 19 done, it wasn't contemplated by the protocol, but 20 we do have information for that discrete set, for 21 the asbestos production where we can go back, and 22 as Ms. O'Dell said, the overwhelming majority of 23 that is materials that were produced in the 24 asbestos production that were also produced in 25 this case many, many months ago. But we are</p>	<p style="text-align: right;">56</p> <p>1 them. It's not the law. 2 So we're entitled to the scope of 3 discovery that Rule 26 dictates for thousands of 4 women. It is, by definition, broader than any 5 scope of production that could have applied 20 6 years ago when they made the calculated decision 7 to give to us a 20-year production with 8 20-year-old Bates numbers and said get started 9 because we're going to keep your feet to the 10 fire. So we got started and we worked on it, and 11 we ground through all of those hundreds of 12 thousands of pages. 13 And now comes the same pages again, the 14 exact same pages. Half are the same, and half 15 are new, and they're all mixed up. There's no 16 alternative for us but to go through and continue 17 the linear review that they characterized as 18 burdensome, they characterized as costing a 19 \$1 million. It's not like we can just put 20 \$1 million in a Coke machine and the answer comes 21 out. It takes time. I can't do any better than 22 their own description, burdensome and 23 time-consuming. That's why we're here asking for 24 some time. We have to get the time. We've got 25 to get through it as well.</p>
<p style="text-align: right;">55</p> <p>1 willing to, and will do that and go back and make 2 best efforts to try and identify where those 3 duplicates can be found. Because that's not a 4 manual comparison, that's just a time-consuming 5 task of comparing numbers. 6 JUDGE PISANO: Okay. 7 MR. ROBERTS: Your Honor, as to the 8 timing issue, what we just heard is basically 9 this case started with a 20-year production set. 10 And plaintiffs' counsel from the beginning has 11 said that's not going to be adequate. 12 By the operation of Rule 26 and the 13 2015 amendments, our scope of discovery and the 14 proportionality factors are driven by the fact 15 that this table speaks for thousands and 16 thousands of injured women, not one case that was 17 tried 20 years ago. These folks sat here and 18 said that is not going to be adequate. You've 19 got to do better, it's not going to be adequate. 20 And what evolved was this steady drumbeat of, 21 Your Honor, all these lawyers on this side of the 22 table have these other cases, they're trying 23 these cases, they're winning these cases, we 24 don't need anything else, this is good enough for 25 them, our 20-year production is good enough for</p>	<p style="text-align: right;">57</p> <p>1 And the Court was looking at Mr. Tici's 2 description of -- 3 JUDGE PISANO: Well, wait. You're 4 talking about documents of every conceivable 5 description in this case. There's not just one 6 type of document. There's all kinds of stuff. 7 MR. ROBERTS: There are all kinds of 8 stuff. 9 JUDGE PISANO: All kinds of stuff. And 10 yet the argument seems to be that until you have 11 a chance to go through all of this, regardless of 12 what it is, you can't produce experts' reports 13 and the expert discovery process can't start 14 until you're done with it. 15 MR. ROBERTS: No, Your Honor, I think 16 counsel -- if you've heard here, counsel on this 17 side has said we can get started now with the 18 things that we know are likely to be less 19 dependent on the information in this most recent 20 production. The Imerys production; a good, as 21 best we can tell, a timely production that 22 allowed us to do a good review on a timely 23 rational basis. So let's start doing the Imerys 24 production. We can get those in the pipeline. 25 But this, they say it took them months,</p>

<p style="text-align: right;">12241</p> <p>1 and they give us two weeks. The other thing 2 that's misleading is when they say it's search 3 ability. Search ability means something to them 4 because they start with a pool of things and it's 5 a binary choice, some are responsive, some are 6 not responsive. Search ability helps you 7 discriminate, search and retrieve the responsive 8 from the nonresponse. So does search ability 9 help them on their workflow? Yes. But guess 10 what, 100 percent of what we have, it's all 11 responsive, right. We're not looking for 12 responsive versus nonresponse. 100 percent of 13 what we get they contend has responsive 14 information in it. Is it searchable? Great. 15 Does it help us organize our linear review so 16 that we can go through those manually a little 17 more efficiency, we can group together subject 18 matters where we can, we can put together related 19 documents where we can? Yes, we leverage all 20 those technologies to make it go as fast as 21 possible. They did the same thing. But search 22 ability isn't the be-all end-all for us. It 23 still requires eyeballs on documents. 24 JUDGE PISANO: Okay. What you know. 25 Based on what you know about this spreadsheet</p>	<p style="text-align: right;">60</p> <p>1 MR. BURNS: Dallas, Texas, actually, 2 Your Honor. I like the call-out to the Texas OU 3 game, but I'm actually from Mississippi 4 originally, so Mississippi -- 5 JUDGE PISANO: Well, take your pick. 6 You got the idea. 7 MR. BURNS: That's right. 8 So we sent letters out to the 9 defendants last week. 10 MS. SHARKO: Saturday. 11 MR. BURNS: For you all. I think 12 Imerys went out earlier. 13 But in any event, so the issues aren't 14 ripe today, Your Honor, I think. And we're happy 15 to meet and confer with defendants -- 16 JUDGE PISANO: Well, generally 17 speaking, what are we talking about? What 18 privileges are we talking about? 19 MR. BURNS: So the letters themselves, 20 which we shared with the defendants, largely 21 raise issues related to the privilege log about 22 adequate identification of the individuals 23 listed, of the justification for the privilege. 24 So there are a number of those that, you know, I 25 hope and feel that we'll probably work out. But</p>
<p style="text-align: right;">59</p> <p>1 that you're creating, in your view how much of 2 the problem that was just expressed will be 3 ameliorated? 4 MR. BERNARDO: It will eliminate the 5 overlap of documents that were produced in the 6 asbestos cases, which is about 4,000 documents. 7 JUDGE PISANO: Okay. And when are you 8 producing this spreadsheet? 9 MR. BERNARDO: In the next couple of 10 days. 11 JUDGE PISANO: Okay. 12 Let's talk about privilege log. You 13 mentioned that, Ms. O'Dell. 14 MR. ROBERTS: And that's a small 15 sliver, that's a very small subset. And just, 16 Counsel, before we leave, we're going to ask to 17 do that by load file instead of a Excel 18 spreadsheet. 19 MS. O'DELL: Your Honor, Mr. Burns is 20 going to deal with the privilege issues. 21 MR. BURNS: And Your Honor, in the real 22 sense this process has just begun. We sent 23 letters to the defendant last week. 24 JUDGE PISANO: Where are you from, 25 Mr. Burns?</p>	<p style="text-align: right;">61</p> <p>1 invariably, you know, we may refine this to a 2 more workable number of disputes. Hopefully not, 3 but if we do, we wanted to just explore what your 4 preference was. 5 JUDGE PISANO: Well, have there been 6 documents withheld on the basis of privilege? 7 MR. BERNARDO: Yes. 8 MR. SILVER: Judge, the answer is yes. 9 Can I suggest this? We got, the Imerys letter is 10 dated January 17th asking for a meet-and-confer 11 on January 26th. We haven't had the chance -- 12 this is so premature we haven't even had a chance 13 to review their issues, let alone figure out what 14 our response is. 15 JUDGE PISANO: Good. Fine with me. Do 16 the best you can, and when it congeals let me 17 know. 18 MR. BURNS: And our only question was: 19 Did you have a preference for how you wanted us 20 to present this to you? 21 JUDGE PISANO: No. I want you to 22 present it as you think is the best way to 23 present it. 24 MR. BURNS: We're happy to do that Your 25 Honor.</p>

<p style="text-align: right;">12242 62</p> <p>1 JUDGE PISANO: I mean, ordinarily the 2 privilege log comes out in the beginning. 3 Documents are demanded, there's a production and 4 then there's a withholding of some on the basis 5 of privilege, and you identify the document by 6 number and what the privilege is, and then the 7 battle starts. 8 So it's kind of unusual for me to be 9 getting into privilege log stuff after your side 10 has been complaining that they just got 400,000 11 documents. 12 MR. BURNS: Well, we get a rolling log 13 from them. And I'm not sure, I think we have 14 received a log for the latest productions, but 15 we're happy to attack that, Your Honor. Thank 16 you. 17 JUDGE PISANO: Okay. Anything else? 18 MS. O'DELL: Your Honor, just to follow 19 up, if you'd like to see it, I did find that 20 formula if you want to get a sense of what we're 21 dealing with, and I'm happy to show it to you. 22 JUDGE PISANO: A formula? 23 MS. O'DELL: Yes, of the product 24 itself. 25 JUDGE PISANO: From when?</p>	<p style="text-align: right;">64</p> <p>1 forgive me for being -- I have been accused of 2 being primitive in my thinking, so it wouldn't be 3 the first. Let me be primitive in my thinking 4 and suggest if you got this formula and showed it 5 to your toxicology expert, your epidemiology 6 expert, your cancer expert, why wouldn't they be 7 able to look at the ingredients, go back into the 8 scientific literature and tell you as a matter of 9 general causality whether this product can lead 10 to ovarian cancer? 11 MS. O'DELL: Because it doesn't list 12 asbestos, nickel, chromium, cobalt and some of 13 the other things that are carcinogens. 14 JUDGE PISANO: So you're saying there 15 are ingredients in the product that are not 16 listed? 17 MS. O'DELL: That is correct. 18 MS. SHARKO: Also Ms. O'Dell just 19 showed me what she showed Your Honor, and when 20 you scroll up the first page it says this is the 21 formula for the fragrance. So the fragrance is 22 not an issue here, as far as we know. 23 Fragrance -- I don't believe that our product 24 contains all the different things they said it 25 does, which are new to the litigation. But</p>
<p style="text-align: right;">63</p> <p>1 MS. O'DELL: This is the current one, 2 the contemporary one, as I understand it, the 3 one's employed now. Obviously we want all the 4 formulas, but this will give you a sense of the 5 components. 6 JUDGE PISANO: Don't they have all the 7 formulas? It would seem to me to be a fairly -- 8 that probably was one of the first things they 9 demanded. 10 MS. SHARKO: I would have thought that 11 going back to when this case was first started 12 being litigated. I can't answer about before. 13 This is the first time -- 14 JUDGE PISANO: Oh, this is very 15 helpful. Thank you. 16 MS. O'DELL: Keep going back. It's 17 multiple pages, Judge. I just showed you the 18 first 12 components. That goes on for another 19 six pages, five pages. 20 MR. BERNARDO: Can you tell us the 21 Bates number of what you're looking at? 22 MS. O'DELL: I'm looking at a response 23 to an interrogatory. 24 MS. SHARKO: Can I look at it, please? 25 JUDGE PISANO: Well, I suppose, and</p>	<p style="text-align: right;">65</p> <p>1 certainly fragrance wouldn't contain cobalt. 2 What kind of fragrance has cobalt in it? 3 MS. O'DELL: We're saying the product 4 causes ovarian cancer, and part of the product 5 certainly is fragrance. 6 MS. SHARKO: Maybe we should, Judge, 7 maybe we should have expert reports or affidavits 8 from the plaintiffs that describe the need for 9 this. They had to have expert reports before 10 they filed the litigation. When they filed the 11 litigation the allegations were the same as 12 they've been in the six or seven Missouri cases. 13 JUDGE PISANO: Well, one of the things 14 I thought of, frankly, but preliminarily rejected 15 because I would be, I think, igniting a firestorm 16 of privilege, was to ask the plaintiffs to 17 produce some communications from these experts 18 explaining why they, expert, need more 19 information. And I thought that would be a 20 mistake because we would simply be careening into 21 another whole sideshow of problems. 22 MS. SHARKO: But, if, for example, we 23 had gone ahead and filed a motion for summary 24 judgment, and they thought they needed more 25 discovery to respond to the motion, which is</p>

<p style="text-align: right;">12243</p> <p>1 really kind of where we are, to fast-forward. 2 JUDGE PISANO: Yes, basically that's 3 where we are. 4 MS. SHARKO: They would have to submit 5 such an affidavit describing in detail. 6 JUDGE PISANO: Okay. 7 MR. BERMAN: Judge, just so the record 8 is clear, going back to what I brought up 9 previously, the FDA regulations in 1973, and by 10 1976 the self-regulated industry said we're 11 asbestos free now. 12 So the experts that you're talking 13 about are relying on the word of J&J that we're 14 asbestos free. You know, we guaranteed it was 15 99.9 percent asbestos free, and it is, which we 16 know now that it wasn't. 17 So whatever our experts are relying on 18 in the general literature is wrong. So they 19 can't rely on the general literature, because 20 they were covering up what was put into their 21 product from at least the mid-'70, if not before. 22 JUDGE PISANO: But I mean somebody 23 touched on this, I don't know who it was, 24 somebody touched on this earlier. Regardless of 25 whether the substance contains a fraction of a</p>	<p style="text-align: right;">68</p> <p>1 MS. SHARKO: But we also deny them, 2 number one. And, number two, we don't believe 3 the product contains asbestos. If they believe 4 that it does, that's an offer -- 5 JUDGE PISANO: Okay. Tell me again 6 when we're doing the sampling, the testing. 7 MS. SHARKO: So the samples, they 8 should have access to them pretty much now. 9 MR. BERNARDO: As soon as the order is 10 entered, Your Honor. In fact, they've had the 11 list of the samples for a couple of months, so 12 they can, even before the order is entered, make 13 them out. 14 JUDGE PISANO: So this class trip to 15 the testing lab will happen as soon as the order 16 is signed? 17 MR. BERNARDO: As soon as plaintiffs 18 identify which samples they want. And it's not 19 going to be testing, it's just going to be 20 division. But as soon as they identify which 21 ones they want. 22 JUDGE PISANO: Okay. So the division, 23 you'll be turning over the samples to the 24 plaintiffs on a date that they will choose not 25 later than whatever I tell you it's going to be,</p>
<p style="text-align: right;">67</p> <p>1 percent asbestos, or whether it contains 2 50 percent asbestos, is there an expert who's 3 going to say that asbestos will make its way up 4 and cause ovarian cancer? 5 MR. BERMAN: Well, let me address that 6 as well, Judge. Because the defendants 7 themselves say we have zero tolerance policy, we 8 have zero asbestos in our product. Their own 9 expert said asbestos is a known carcinogen for 10 ovarian cancer. So they've admitted not only 11 that they need zero percent in there, but 12 asbestos causes ovarian cancer. 13 JUDGE PISANO: Well, if that's the case 14 why do you need any more discovery? 15 MR. BERMAN: Because they lied about 16 the product beginning in 1973. 17 JUDGE PISANO: Well, that's a different 18 issue. That goes back to what Judge Wolfson 19 highlighted in September. What they knew or what 20 they lied about is different. 21 MS. SHARKO: We take strong offense at 22 these allegations that we lied, we covered up -- 23 JUDGE PISANO: I know that. I assume 24 that you're suitably offended and outraged by 25 these scurrilous allegations. I understand that.</p>	<p style="text-align: right;">69</p> <p>1 right, that's what my job is; right? And then 2 it's going to take 30 days to get the results? 3 MR. BERMAN: No. After the order is 4 entered we then have 30 days to designate which 5 samples we want to be split up, to be divided 6 between the parties on under the protocol. After 7 that we take them back to our lab and then they 8 begin the testing process. 9 JUDGE PISANO: So from the time this 10 order is signed you have 30 days to identify what 11 you want? 12 MR. BERMAN: Correct. 13 JUDGE PISANO: Then you turn that over 14 to your labs, and it will take another? 15 MR. BERMAN: A while, depending. I 16 know somebody already told me, because I was 17 responsible for notifying the entire plaintiff 18 bar around the country, they looked at the Imerys 19 production, they're going to want a sample of 20 every one of them. So it's gonna take a while. 21 JUDGE PISANO: What's a while? 22 MR. BERMAN: I don't want to commit my 23 expert, because if there's -- we don't know how 24 many we want exactly, so it could be months. 25 MS. SHARKO: It shouldn't take months</p>

18 (Pages 66 to 69)

<p style="text-align: right;">12244 70</p> <p>1 do this.</p> <p>2 MR. BERMAN: Absolutely. It takes</p> <p>3 time.</p> <p>4 JUDGE PISANO: I didn't hear you.</p> <p>5 MR. BERMAN: It's a very sophisticated</p> <p>6 test. It's not like, oh, I look under the</p> <p>7 microscope and there's the asbestos. It's a</p> <p>8 whole procedure. We had a protocol written about</p> <p>9 the testing, and then we both took it out and</p> <p>10 just decided to divide the product.</p> <p>11 JUDGE PISANO: Okay. Anything else?</p> <p>12 MS. SHARKO: Just one other point on</p> <p>13 documents. We're now trying to produce</p> <p>14 everything to everybody, so we don't have the</p> <p>15 issue that we had earlier.</p> <p>16 JUDGE PISANO: Right.</p> <p>17 MS. SHARKO: And there's a dispute in</p> <p>18 the Missouri State Court litigation, which many</p> <p>19 of these lawyers are involved in, over</p> <p>20 jurisdiction. As a result of that, we are doing,</p> <p>21 they are doing discovery on jurisdiction. So</p> <p>22 there will be documents produced related to</p> <p>23 jurisdiction issues, and we'll be giving the MDL</p> <p>24 plaintiffs a set of those documents.</p> <p>25 I don't think those generally would go</p>	<p style="text-align: right;">72</p> <p>1 additional things. But in terms of what your</p> <p>2 production is in response to our outstanding</p> <p>3 discovery, can you certify that we are now in a</p> <p>4 position where you have produced the documents</p> <p>5 that are responsive to our discovery?</p> <p>6 MS. SHARKO: We signed whatever</p> <p>7 certification was attached to the documents.</p> <p>8 Beyond that, if you're going to take my</p> <p>9 deposition I want my own lawyer.</p> <p>10 MR. TICI: No, I'm not asking to take</p> <p>11 your deposition, Susan. What I don't want to do</p> <p>12 is leave here and then, you know, two weeks from</p> <p>13 now get another production, production 57 that is</p> <p>14 another 20,000 documents that are not what you</p> <p>15 identified as being the Missouri jurisdictional</p> <p>16 documents.</p> <p>17 MR. BERNARDO: Why don't we just cut</p> <p>18 through that. The stragglers that Mr. Tici is</p> <p>19 identifying were those documents that were</p> <p>20 produced on the 21st.</p> <p>21 MR. TICI: That's all I wanted to make</p> <p>22 sure. Thank you.</p> <p>23 MS. THORNTON FIELD: May I respond on</p> <p>24 behalf of Imerys? We are in the process of</p> <p>25 putting together our privilege log. And as part</p>
<p style="text-align: right;">71</p> <p>1 to science issues, but just to try and shortcut</p> <p>2 multiple letters to Your Honor about multiple</p> <p>3 documents, that's what those are.</p> <p>4 MR. TICI: And, Judge, just to follow</p> <p>5 up on this. I want to make sure that what we</p> <p>6 have is subject to that caveat for all the</p> <p>7 defendants. Because I remember in the last</p> <p>8 status conference before Judge Wolfson, there was</p> <p>9 a suggestion that there might be other categories</p> <p>10 of documents that might straggle in after the</p> <p>11 date that they were due, which was December 20th.</p> <p>12 And so I mean, can we take it to the</p> <p>13 bank now that other than what Ms. Sharko said and</p> <p>14 counsel for Imerys that we're pretty much, that</p> <p>15 they're done producing documents, or are we in a</p> <p>16 position where we're going to be expecting a</p> <p>17 rolling production of additional documents that</p> <p>18 they're looking for?</p> <p>19 MS. SHARKO: I can only imagine what</p> <p>20 people are going to fight about in other cases.</p> <p>21 We've produced what we plan to produce in</p> <p>22 response to your requests.</p> <p>23 MR. TICI: Okay. And I'm saying, look,</p> <p>24 there may be things that if we see something</p> <p>25 we'll ask you to go back and see if there are</p>	<p style="text-align: right;">73</p> <p>1 of that process we found some documents that</p> <p>2 aren't privileged. So there may be some,</p> <p>3 hopefully one additional production, hopefully</p> <p>4 not lots of documents, but you should expect</p> <p>5 that.</p> <p>6 MR. TICI: Okay. Thank you. I do</p> <p>7 appreciate it.</p> <p>8 JUDGE PISANO: Bear with me a minute.</p> <p>9 I'm reading the list of experts, I have not seen</p> <p>10 this before. So bear with me.</p> <p>11 Okay, you'll hear from me.</p> <p>12 MR. SILVER: Judge, there's just one</p> <p>13 more thing along the lines of obviously</p> <p>14 defendants position and Imerys position is they</p> <p>15 don't need any deps.</p> <p>16 If you are contemplating giving them</p> <p>17 time for deps, then Imerys would ask that you</p> <p>18 build into whatever schedule, time frame where we</p> <p>19 can object. Because the way it started was back</p> <p>20 in June they asked for four Imerys witnesses that</p> <p>21 we had objections to. It got a paragraph but we</p> <p>22 would want this fully briefed as to why they're</p> <p>23 not appropriate witnesses. And then they</p> <p>24 expanded with their submission of 17 witnesses,</p> <p>25 and then they went back in this last submission</p>

12245

76

1 on Friday, back to well, we'll start with four.
 2 Imerys' position is we don't want to do
 3 it piecemeal. We're entitled to -- they're
 4 entitled to zero, but we want to be able to argue
 5 about and have them brief about why they're not
 6 entitled to have the ones they want.
 7 MR. TICI: Judge, let me be clear. We
 8 didn't go from four to 17 to four. What we said
 9 in June was we wanted to choose a core set of
 10 witnesses to deal with scientific issues A, and
 11 who we had reason to believe we had a complete
 12 custodian file for, so that's why we chose those
 13 four. We've since been getting documents all
 14 along.
 15 When we then identified 17 -- which
 16 candidly, you know, if this was an automobile
 17 accident case that's not even an unusual number
 18 of depositions, certainly not for a case of this
 19 magnitude. But putting the issue of the number
 20 aside, we listed 17, and what we told counsel was
 21 as we were, as we agreed back in June we can
 22 start with the four that we identified back in
 23 June. Now, if there are additional ones as we go
 24 along, we'll continue to request them. But we
 25 didn't go from four to 17 back to four again. I

1 CERTIFICATE
 2
 3 I, SUSAN M. STYRON, Notary Public,
 4 R.P.R., C.S.R., of the State of New Jersey,
 5 License No. XIO1704, do hereby certify that the
 6 foregoing is a true and accurate transcript of
 7 the proceedings as taken stenographically by and
 8 before me at the time, place and on the date
 9 hereinbefore set forth.

10 I DO FURTHER CERTIFY that I am neither
 11 a relative nor employee nor attorney nor counsel
 12 of any of the parties to this action, and that I
 13 am neither a relative nor employee of such
 14 attorney or counsel, and that I am not
 15 financially interested in the action.
 16
 17

18 <%Signature%>
 19

20 Notary Public of the State of New Jersey
 21 My Certificate expires January 25, 2019
 22 Dated: January 24, 2018
 23
 24
 25

75

1 mean, is that, do you understand?
 2 JUDGE PISANO: Okay, thank you.
 3 Thank you all.
 4 (Whereupon the proceedings concluded at
 5 2:25 p.m.)
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

EXHIBIT C



Susan M. Sharko
973-549-7350 Direct
susan.sharko@dbr.com

Law Offices

600 Campus Drive
Florham Park, NJ
07932-1047

(973) 549-7000
(973) 360-9831 fax
www.drinkerbiddle.com

*A Delaware Limited
Liability Partnership*

CALIFORNIA
DELAWARE
ILLINOIS
NEW JERSEY
NEW YORK
PENNSYLVANIA
TEXAS
WASHINGTON D.C.

January 19, 2018

VIA ELECTRONIC MAIL

Honorable Joel A. Pisano (Ret.)
Walsh Pizzi O'Reilly Falanga, LLP
One Riverfront Plaza
1037 Raymond Blvd., Suite 600
Newark, New Jersey 07102

**Re: *Johnson & Johnson Talcum Powder Products Marketing, Sales
Practices and Products Liability Litigation*
Case No. 3:16-md-07238-FLW-LHG**

Dear Judge Pisano,

I am writing on behalf of defendants Johnson & Johnson and Johnson & Johnson Consumer Inc. ("JJCI") (collectively, "defendants"), to respond to the PSC's January 5 letter, addressing defendants' document productions, and the PSC's January 15 agenda letter.

I. The Court Should Deny The Relief Sought In Plaintiffs' January 5 Letter.

In a nutshell, plaintiffs' January 5 letter seeks to use the supplemental production *they* requested as an excuse to delay the day of reckoning on fundamental science issues in this litigation. The Court should strongly rebuff this effort.

First, the PSC has not demonstrated any need for a three-month-plus extension to refine its list of deponents. As this Court made abundantly clear at each and every status conference, the focus of the proceeding at this stage should be on general causation. To the extent plaintiffs believe that fact witness depositions are necessary at this stage, such depositions are supposed to be limited to individuals who could provide testimony that is somehow relevant to general causation and necessary to plaintiffs' preparation of expert reports by some subset of the list of 37 potential experts they identified on November 6, 2017. But the PSC has failed to demonstrate any link between the document production or potential fact deponents and the question of general causation. As the Court put it, the PSC "know[s] what the studies are," and there has been no showing that this fact "is changed by any of the discovery." (12/7/17 Tr. 18:23-19:14, attached as Ex. A.)

Second, and for similar reasons, the PSC has not shown that there is any need for a "rolling depositions" schedule for fact witnesses. It is not plausible that a total of 60 depositions are needed before expert discovery on general causation can commence in earnest.

Andrew B. Joseph
Partner responsible for
Florham Park Office

Established 1849

Hon. Joel A. Pisano (Ret.)
Page 2

Third, there is no reason to compel defendants to further de-duplicate documents. Defendants have complied with their obligations under Rule 34 and produced documents using the agreed upon methodology stated in the ESI protocol by de-duplicating the electronic documents produced and by providing de-duplication data for duplicative attachments. In addition, pursuant to the ESI protocol and at defendants' expense, all hard-copy documents underwent Optical Character Recognition ("OCR") to make them fully searchable. The ability to search hard-copy documents will minimize the burdens that plaintiffs claim are caused by the production of duplicate documents, as plaintiffs will undoubtedly use this functionality to cull out only the portion of recently produced documents that are of interest to them. Further, in the spirit of compromise, defendants are in the process of creating a spreadsheet that will enable the PSC to identify a significant number of documents from a portion of the recently produced documents that are duplicative of documents produced prior to October 2017. Plaintiffs want defendants to go even further and undertake highly expensive and burdensome manual efforts to de-duplicate hard-copy documents. Defendants are in no better a position to perform this additional de-duplication than is the PSC and should not be required to do so. Plaintiffs received the document production in the agreed upon (and ordered) reasonable usable form of the ESI Protocol – Rule 34(b)(2)(E)(iii) explicitly protects producing parties from costly reproductions, especially when the parties agreed to the production protocol.

Finally, there is no merit to the PSC's assertion that any other cost-shifting is in order. The PSC has insisted on additional discovery despite defendants' repeated objections that discovery proportional to the needs of the litigation has long been completed. Notably, Ms. O'Dell argued to the JPML more than a year ago that "much . . . has already been done" with respect to "general liability . . . and general causation" discovery. (9/29/16 JPML Hr'g 15:13-18, attached as Ex. B.) Nevertheless, the PSC has changed its tune in this Court, pressing for new discovery at every turn, in the apparent hopes of delaying a resolution of the general causation question. Defendants, in turn, have borne the brunt of the resulting expense – spending millions of dollars to turn around the latest supplement. The notion that defendants should now have to pay *more* to ease the PSC's burden in reviewing the documents would turn the Federal Rules of Civil Procedure on their head. After all, Rule 26 only contemplates cost-shifting in certain circumstances when requested by the *producing* party, to ease the burdens of responding to discovery (not to ease the burden of reviewing requested documents).

A. Background

From its early stages, this proceeding has been focused on the threshold scientific question of general causation: can talc cause ovarian cancer when used perineally? Indeed, the Court held a day-long "science day" in January 2017, at which defendants expressed their hope that a plenary *Daubert* hearing could be held by summer 2017. (See 1/23/17 Tr. 165:18-22, attached as Ex. C.) And at the most recent status conference in December, the Court reiterated that general causation is the primary focus of the MDL



Hon. Joel A. Pisano (Ret.)
Page 3

proceeding at this point: “I told you we’re focusing on general causation first.” (12/7/17 Tr. 18:25-19:1.)

Despite this instruction, the PSC’s efforts have consistently focused on broader discovery issues – in particular, demands for production of documents, answers to interrogatories and schedules for depositions of fact witnesses. At the May 2017 status conference, for example, the PSC insisted that it needed to pursue discovery from third parties regarding *their* knowledge of the alleged risks of talc over time – subpoenas that Judge Goodman described as “incredibly broad” and implicating “a whole other avenue of litigation” that would cause “a real detour.” (5/2/17 Tr. 23:6-18, attached as Ex. D.)

Similarly, in December, the PSC insisted that document discovery needed to be completed and depositions of fact witnesses needed to be taken before the PSC could whittle down its list of *37 experts* and provide expert reports so that the *Daubert* process could commence in earnest. The Court responded that the PSC “know[s] what the studies are,” and in light of the “science focus, [the Court] d[id]n’t see how this is changed by any of the discovery.” (12/7/17 Tr. 18:23-19:14; *accord*, e.g., 9/6/17 Tr. 44:3-20 (rejecting the idea that the PSC would need to analyze document discovery before identifying experts because it should already have enough information in hand to be able to “identify[] experts and the subjects on which they are going to opine”), attached as Ex. E.)

The Court responded similarly to the PSC’s repeated insistence that it needs to take fact depositions before it could possibly streamline its expert list or generate expert reports. In September, for example, the Court responded to the PSC’s reference to fact depositions that it was “not so sure depositions should proceed,” particularly in light of the risk of piecemeal discovery posed by deposing fact witnesses before general causation is resolved. (9/6/2017 Tr. 11:16-12:2.) A few months later, when the PSC suggested that “the Court appreciates our experts will be relying on information from corporate depositions,” the Court noted that “we’re not writing on a blank slate”; that it was “a little confused” about the claimed need for depositions; and that, “for many of the science experts, I don’t really understand why these corporate depositions are necessary.” (12/7/2017 Tr. 11:15-12:12, 17:21-18:1.) And when the PSC contended that the corporate depositions might yield relevant “admissions” on general causation, the Court responded, “But that does not go to what your own experts will be opining upon based upon their own review of what science was at the time . . . regardless of whether they admit it or not.” (*Id.* 20:5-21:9.)

To be sure – and at the PSC’s urging – the Court has permitted broad written discovery at this stage as long as it is general in nature and relevant and proportional to the issues and needs of the litigation. (*E.g.*, 9/6/17 Tr. 4:12-5:7, 10:5-16, 12:21-25.) Consistent with that direction – and despite their belief that sufficient documentary productions had already been made in connection with substantial state-court litigation–

Hon. Joel A. Pisano (Ret.)
Page 4

defendants agreed to supplement their prior discovery and provide virtually all the discovery sought by plaintiffs in order to move past discovery issues.¹ Defendants' supplemental production (the "Supplemental Production") was produced on a rolling basis beginning in October 2017, and completed on December 20, 2017,² pursuant to agreement of the parties.³

The breadth, size and duplication of the Supplemental Production were driven by a number of factors beyond plaintiffs' document requests. For example, as the Court is aware, the PSC had raised a number of complaints with the Court concerning sources of documents identified in a privileged 1998 memorandum that was inadvertently produced. (*E.g.*, 9/6/17 Tr. 16:9-17:14, 37:1-11.) Although defendants insisted that these materials had already been produced to the extent that they were responsive, the PSC persisted, arguing that it had reason to "believe that certain documents were not produced in this litigation." (9/6/17 Tr. 17:4-9.) In an effort to resolve the dispute, defendants agreed to "go[] back and pull[] everything again and see[] if there's anything else in [a] warehouse anywhere that relates to talc that is potentially relevant" and to put "it in line for production." (*Id.* 35:24-36:4.)⁴ This effort necessarily involved the production of duplicative materials, as the sources described in the 1998 memorandum were hard-copy documents and could not reasonably be de-duplicated without significant manual efforts. This fact was noted to plaintiffs' counsel a number of times, including, most recently at the December 2017 conference. As defense counsel explained, "we just redid the production" of the documents identified in that memorandum given the "number of the complaints" about it from the PSC – a fact that we had gone "over and over . . . with plaintiff." (12/7/17 Tr. 16:23-17:9.) As counsel further explained, while there would be "new documents" in the production, there would not be "double the number" of new documents. (*Id.*)⁵

¹ In the interest of bringing the discovery to a close, defendants have endeavored to meet the PSC's requests even though they have in many cases been extremely broad or otherwise objectionable. Specifically, out of the PSC's 59 document requests and 67 interrogatories, defendants raised only one issue with respect to one request (regarding board of director materials).

² Due to certain logistical issues, a small number of documents shipped on December 21.

³ In its letter, the PSC complains about the timing of the production and the fact that a significant number of documents were produced just prior to Christmas. However, plaintiffs disregard the fact that that date was agreed upon by plaintiffs. Moreover, as shown in the PSC's letter, defendants produced documents in installments, with a number of installments produced in advance of December 20. The fact that a significant portion of the production was produced in the last production is the result of the significant efforts that were required to comply with plaintiffs' demands, which could not reasonably have been accelerated.

⁴ Judge Pisano addressed the 1998 memorandum during the October 4 hearing and opined that it was "in [his] view, . . . privileged" because it was an "attorney-client communication" and "attorney work product . . . without any question." (10/4/17 Tr. 48:2-7, attached as Exhibit F.)

⁵ The PSC makes much of this passage in the letter, apparently contending that this statement was inaccurate because, in "a short period of time, J&J *more than doubled* the number of pages of documents



Hon. Joel A. Pisano (Ret.)
Page 5

Also by way of example, another factor that led to the increased size and duplication of the Supplemental Production was the PSC's request that defendants produce in this litigation documents produced by defendants in asbestos personal injury actions involving Johnson's Baby Powder (the "Asbestos Track Litigation Production"). Most of these documents were already among the documents produced by defendants in this action prior to their Supplemental Production. Moreover, given the overlap of counsel in this MDL proceeding and in the asbestos actions, the contents of such documents would likely have been well known to plaintiffs' counsel prior to their formal production in the MDL.⁶

While the PSC's letter focuses largely on the number of pages and documents, it significantly overstates the production. The PSC repeatedly suggests that the productions encompassed more than 800,000 pages by asserting that the "production [has] balloon[ed] from less than 700,000 pages as of August 2017[] to well over 1,500,000 pages by December 22." (PSC Ltr. at 2; *id.* at 4 (similar figure).) Similarly, the PSC emphasizes that the latest production added "just under 200,000" documents to a collection that previously numbered "just over 110,000." (*Id.*)

These numbers obscure significant facts about the recent production in several respects:

- The PSC's starting point – "just under 200,000" – actually refers to approximately 180,000 produced documents.
- Approximately 40,000 documents – *nearly a quarter of the post-September production* – are non-party documents, which JJCI obtained from PTI Royston, LLC, a third-party contract manufacturer of JJCI talc products in Georgia, for purposes of making them available to plaintiffs.
- Approximately 40,000 documents are comprised of the "Asbestos Track Litigation Production" described above. All but approximately five thousand of these documents were previously produced. In addition,

produced to the PSC." (PSC Ltr. at 2.) But in context, the clear point of counsel's statement was that the forthcoming production would not "double the number" of documents because many of the documents it contained were duplicates of documents the PSC already had. (*See also id.* (explaining that even "an initial and cursory review" was sufficient to reveal to the PSC that the most recent productions "include documents previously produced").)

⁶ Notably, the PSC's injection of an asbestos theory of causation into the case represents a new development – a fact the PSC itself underscored at the most recent status conference in order to justify the very large number of experts it identified. (12/7/17 Tr. 8:22-9:2.) As a result of this development, defendants re-visited the list of filter terms used to screen electronic documents and expanded the scope of those terms to take into account these new allegations, which further contributed to the breadth and scope of the Supplemental Production.

Hon. Joel A. Pisano (Ret.)
Page 6

plaintiffs should already be familiar with the Asbestos Track Litigation Production for the reasons discussed above.⁷

- Approximately 25,000 “documents” are placeholder pages (i.e., non-substantive documents that do not require review) that were included at the request of plaintiffs’ counsel to account for nonresponsive attachments, privileged documents or documents with technical issues.
- Approximately 10,000 documents are easily identifiable duplicative attachments that are required to be produced pursuant to the ESI protocol. They can be readily de-duplicated using the data provided with the production.

The upshot is that while the PSC’s letter could be read to suggest that it now has to sort old from new in a pile of 200,000 of defendants’ documents, the actual number is approximately 65,000.

Moreover, while the most recent production does not identify all duplicates, it fully complies with the ESI protocol, which calls for de-duplication only with respect to electronic documents, since duplicates within that body of documents can reasonably be identified through computer software. (*See* Case Mgmt. Order No. 5, § 3.C, at 6-7, Dkt. No. 258 (May 22, 2017), attached as Ex. G.) The remaining documents are hard-copy documents rather than electronic documents, and accurate de-duplication would require significant manual efforts.

On January 5, 2018, the PSC submitted its letter, setting forth its “concerns” regarding the recent production, including that the production would somehow complicate the PSC’s effort to identify possible fact witnesses by the Court’s January 10, 2018 deadline. Nevertheless, on January 10, the PSC identified **29 witnesses** by name and several categories of potential 30(b)(6) witnesses connected with defendants. The PSC also listed an additional **17 witnesses** for Imerys; **five witnesses** for Personal Care Products Council; and **nine witnesses** who are not affiliated with any party – **60 witnesses in all**, not even counting potential 30(b)(6) witnesses, which are identified on behalf of all three defendant groups.

B. Why The PSC’s Demands Should Be Rejected

Against this backdrop – and especially because many of the supposed “burdens” identified by the PSC do not relate in any tangible way to the development of expert reports on the issue of general causation – the Court should reject the PSC’s requests.

⁷ Nevertheless, in an effort to assist plaintiffs and in the spirit of compromise, defendants are in the process of creating a cross-reference table comparing the Asbestos Track Production to the documents previously produced to plaintiffs in this action.

Hon. Joel A. Pisano (Ret.)

Page 7

First, the PSC's request for three more months to amend its potential list of deponents would effectively put the general causation question on ice, further delaying resolution of core scientific issues. As noted above, the Court expressed doubts that *any* fact witness deposition would be necessary to move ahead on general causation; certainly, plaintiffs do not need depositions of *29 fact witnesses* from the J&J defendants to prepare for *Daubert* hearings on that issue. (12/7/17 Tr. 18:23-19:14.) At this point, one year into the litigation, and in the stark absence of any legitimate reason why all of these people need to be deposed, the list of deponents should be stricken.

The fact that additional documents have been produced *at the request of the plaintiffs*, should not change this result. Plaintiffs do not even attempt to show how any of these documents could meaningfully alter the scientific backdrop to the general causation issue, further highlighting the illogic of their arguments.

Second, and for similar reasons, there is no need to adopt a schedule for "rolling depositions" at this stage. In December, the Court asked point blank: "What really is needed in the way of depositions to start getting expert reports rolling on the science?" (12/7/17 Tr. 18:23-25.) The PSC has never attempted to answer this question straightforwardly. At this point, it is clear that plaintiffs cannot make a credible showing on this issue.

Third, the Court should not compel defendants to undertake any further de-duplication efforts in connection with the recent production. As a threshold matter, and as detailed above, the relevant universe of potentially duplicative documents produced in the Supplemental Production is overstated.

Specifically, defendants should not be held responsible for the PTI documents, which comprise nearly a quarter of the production. In addition, the Asbestos Track Litigation Production contains another approximately 40,000 documents, and defendants are providing the PSC with a spreadsheet that identifies the approximately 35,000 of those documents that have been previously produced. Another approximately 35,000 documents are either slip sheets or are duplicate documents that can be identified with data that defendants have already produced, consistent with what the ESI protocol requires. Finally, approximately 25,000 documents in the remainder of the Supplemental Production are electronic documents that have already been subject to de-duplication pursuant to the ESI Protocol.

With respect to the remainder of the production (i.e., the approximately 40,000 hard-copy documents), there is no reason why the burden of de-duplication should fall on defendants rather than the PSC. Defendants have OCR'd these documents as contemplated by the ESI protocol, but the protocol does not require defendants to de-duplicate those documents. And for good reason; accurate de-duplication of hard-copy



Hon. Joel A. Pisano (Ret.)
Page 8

documents involves significant manual review, which defendants are in no better position to do than the PSC (which presumably knows better what it is looking for in any event).

Defendants discussed with their discovery vendor the possibility of conducting a manual de-duplication of hard-copy documents. The cost of such an undertaking was estimated to be between \$500,000 and \$1 million. This estimate reflects the fact that manual de-duplication would be a labor-intensive process that would involve additional coding, identification of potentially duplicative documents and manual review of those documents. To the extent that plaintiffs want this done, they should foot the bill.

Importantly, even without undertaking this expensive tasks, the PSC will be able to use the OCR'd text provided with the hard-copy documents to substantially aid their analysis of those materials. For this reason too, plaintiffs have substantially overstated the need for undertaking a highly expensive de-duplication process.

Fourth, no other cost-shifting is justified either. The PSC's argument on this score largely repeats its complaint that it will now have to review documents that it likely had reviewed previously – and adds the assertion that defendants failed to “collaborat[e] with the PSC” to mitigate costs. These contentions are baseless.

As a threshold matter, the PSC cites no authority for shifting costs in this context. The fee-shifting provision in Fed. R. Civ. P. 26 permits a court, in exceptional cases, to protect *the producing party* from undue burden or expense. *See, e.g., Juster Acquisition Co. v. N. Hudson Sewerage Auth.*, No. 12-3427, 2013 WL 541972, at *3 (D.N.J. Feb. 11, 2013) (attached as Ex. H); Fed. R. Civ. P. 26(c). The PSC cites no authority, and defendants are aware of none, allowing the Court to shift costs from the producing party to the requesting party merely to mitigate the expense of reviewing the documents produced.

If what the PSC means is that it should be entitled to request sanctions, that contention is equally without merit. Under Rule 37, sanctions can be imposed only for the violation of a court order, Fed. R. Civ. P. 37, which the PSC does not even attempt to allege here. And while a court has inherent authority to impose sanctions apart from Rule 37, it may do so only where there is “bad-faith conduct or willful disobedience.” *Chambers v. NASCO, Inc.*, 501 U.S. 32, 47 (1991).

Nothing like that is alleged here. To the contrary, defendants have acted in good faith, repeatedly advising the PSC that prior productions were sufficient and that the re-productions the PSC was insisting on would result in substantial duplication. Notably, the PSC never objected to this possibility previously or suggested what measures could feasibly be undertaken to reduce the likelihood of duplication; instead, it repeatedly sought supplemental productions. In the interest of moving forward, and in an attempt to comply with the Court's orders regarding document production, defendants chose not to continue to press their objections and gave the PSC exactly what it asked for. Having

Hon. Joel A. Pisano (Ret.)
Page 9

now received what it requested, the PSC should not be heard to complain that the production is too much, or that defendants are to blame for an alleged failure to mitigate costs.

“Cost shifting” as plaintiffs request here would be especially inappropriate because the PSC’s argument ignores the fact that defendants themselves have already shouldered an incredible burden to provide supplemental productions that they have argued all along were unnecessary. Moreover, defendants have spent millions of dollars and undertaken substantial efforts to complete these productions on an accelerated timeframe. It would be grossly unfair to make defendants pay still more discovery costs based on the perverse justification that the PSC now agrees with defendants’ position that the requested productions would result in duplicative discovery.

For all of these reasons, the Court should reject the PSC’s requests. A schedule for expert reports and depositions leading up to a *Daubert* hearing should be established.

II. The Court Should Adopt Defendants’ Proposed Deposition Protocol Order.

As the Court is aware, many multi-district litigation (“MDL”) proceedings have adopted deposition protocol orders to promote a smoother and more efficient deposition process. *See, e.g., In re: Fosamax (Alendronate Sodium) Prods. Liab. Litig.*, No. 3:08-cv-00008, Case Mgmt. Order No. 10 (D.N.J. May 2, 2012) (attached as Ex. I). As discussed at the last hearing before Your Honor, the parties agreed that a deposition protocol order should be adopted for this litigation as well.

To that end, defendants sent the PSC a proposed order on January 9, carefully tailored to this litigation. In response, plaintiffs plucked out of the cyber docket a random order from another MDL proceeding in another federal district) and requested that: (1) it be the starting point for any protocol; and (2) it be gutted and revised. In the interests of efficiency and fairness, defendants disagree and ask that either the January 9 version proposed by defendants be entered, or that plaintiffs forthwith provide redlined edits and specific objections to defendants’ proposal so that the Court can resolve any outstanding issues at the January 22 hearing.

III. Plaintiffs’ Request For Personnel Files And Compensation History Should Be Denied.

Plaintiffs have also raised, for the first time, a desire to obtain the personnel files and compensation history for all of the Company witnesses. This request should be soundly rejected because it is exceedingly overbroad and an invasion of privacy, as other courts have recognized in rejecting similar efforts (including efforts by the very same law firms as in this case). *See, e.g., In re: Xarelto (Rivaroxaban) Prods. Liab. Litig.*, 313 F.R.D. 32, 36, 38 (E.D. La. 2016) (denying across-the-board request for all “Xarelto-related” performance reviews and self-reviews of each corporate witness to be

Hon. Joel A. Pisano (Ret.)
Page 10

deposed; a party seeking personnel records must demonstrate a “high degree of relevance and particularity . . . on a witness-by-witness basis”).

A party seeking to discover personnel files must make an “individualized showing of relevancy, proportionality, and particularity.” *Id.* at 32. This is so because an employee’s personnel file typically contains “vast amounts of personal data,” including “evaluations of his work performance.” *Dep’t of the Air Force v. Rose*, 425 U.S. 352, 377 (1976); *see also Prof’l Recovery Servs., Inc. v. Gen. Elec. Capital Corp.*, 2009 WL 137326, at *4 (D.N.J. Jan. 15, 2009) (explaining that “special care must be taken before personnel files are turned over to an adverse party”) (attached as Ex. J); *Closterman v. Liberty Mut. Ins. Co.*, 1995 WL 472105, at *1 (E.D. Pa. Aug. 9, 1995) (“There exists a strong public policy against the disclosure of personnel files.”) (attached as Ex. K); *In re Sunrise Sec. Litig.*, 130 F.R.D. 560, 580 (E.D. Pa. 1989) (same), *aff’d*, *In re Sunrise Sec. Litig.*, 109 B.R. 658 (E.D. Pa. 1990) (granting the motion to clarify but denying the motion for reconsideration).⁸

Consistent with the strong policy against disclosure of personal data, a long line of courts have rejected requests for blanket discovery of personnel files. *See, e.g., In re: Invokana (Canagliflozin) Prods. Liab. Litig.*, No. 16-md-2750, slip op. at 1-2 (D.N.J. Nov. 9, 2017) (denying motion to compel personnel files for all company witnesses to the extent plaintiffs’ “request seeks critiques of a witness’s job performance,” and requiring a “particularized witness-by-witness showing”) (attached as Ex. M); *In re: Benicar (Olmesartan) Prods. Liab. Litig.*, No. 15-md-2606, slip op. at 1 (D.N.J. Jan. 29, 2016) (confirming that “the personnel files of Daiichi deponents are not required to be automatically produced”) (attached as Ex. N); *In re: Zolof (Sertraline Hydrochloride) Prods. Liab. Litig.*, No. 12-md-02342, slip op. at 2–3, 11–12 (E.D. Pa. Feb. 18, 2015) (denying motion to compel production of personnel files for every corporate employee to be deposed, and explaining that discoverability of personnel files “require[s] an individualized review of the circumstances related to the particular employees or ex-employees and of the issues to which the facts of their employment relate”) (attached as Ex. O); *In re Sunrise Sec. Litig.*, 130 F.R.D. at 580 (denying motion to compel where plaintiff failed to “make specific allegations or some initial showing, based on deposition testimony or other evidence,” that personnel files were sufficiently relevant); *see also Eisai Inc. v. Sanofi-Aventis U.S., LLC*, 2012 WL 1299379, at *9 (D.N.J. Apr. 16, 2012) (party must “articulate a particularized need” for discovery of custodial files “on a case-by-case basis”) (attached as Ex. P).

⁸ *See also, e.g., Bruner v. Schwan’s Home Serv., Inc.*, 583 F.3d 1004, 1010 (7th Cir. 2009) (“[C]ourts have broad discretion to limit a request for the discovery of personnel files”); *Regan-Touhy v. Walgreen Co.*, 526 F.3d 641, 648 (10th Cir. 2008) (affirming district court’s denial of motion to compel production of personnel files); *Williams v. Roy O. Martin Lumber*, 51 F. App’x 483, at *6 (5th Cir. Sept. 30, 2002) (unpublished) (explaining that defendant “understandably wanted to protect its employees’ privacy rights”) (attached as Ex. L).

DrinkerBiddle&Reath

Hon. Joel A. Pisano (Ret.)
Page 11

Plaintiffs' across-the-board request for a broad category of information from *every* corporate witness's personnel file should be rejected under these precedents because they have failed to make any individualized showing as to why any particular piece of information is needed from any individual witness's file. Judge Goodman's ruling in the *Invokana* MDL proceeding is instructive. There, plaintiffs originally sought the personnel files of deposition witnesses, including compensation data. After the plaintiffs narrowed their request to performance evaluations and self-evaluations contained in the witnesses' personnel files, the court found a "reasoned middle ground." *See In re: Invokana*, slip op. at 1. Specifically, the court held that "disclosing evaluations or assessments of [a] witness's performance, whether prepared by the witness or by the employer," would *not* be allowed absent a "particularized, witness-by-witness showing." *Id.* at 1-2. Accordingly, "[t]o the extent that Plaintiffs' request seeks critiques of a witness's job performance, that request is denied without prejudice to a renewed application upon a particularized, witness-by-witness showing." *Id.* at 2. The court did require production of "[p]ortions of a witness's personnel file that disclose the witness's goals, objectives, and responsibilities related to Invokana . . . without disclosing evaluations or assessments of that witness's performance," and instructed the parties "to meet and confer to achieve that production." *Id.*

In short, a broad, "one-size-fits-all discovery request for" personnel files of deposition witness "is insufficient." *In re: Xarelto*, 313 F.R.D. at 38. Accordingly, plaintiffs' requests for personnel files and compensation history of the Company's current and former employees should be denied.⁹

Thank you for your consideration of these matters.

Respectfully,

s/Susan M. Sharko

Susan M. Sharko

Enclosures

cc: Hon. Freda L. Wolfson, U.S.D.J. (via Electronic Mail)
Hon. Lois H. Goodman, U.S.M.J. (via Electronic Mail)
Leigh O'Dell, Esq. (via Electronic Mail)
Michelle Parfitt, Esq. (via Electronic Mail)
Christopher Placitella, Esq. (via Electronic Mail)
Lorna Dotro, Esq. (via Electronic Mail)
Thomas Locke, Esq. (via Electronic Mail)

⁹ To the extent a former employee who is to be deposed is being compensated for his/her time, defendants will disclose that voluntarily.

EXHIBIT D



Montgomery
218 Commerce Street
P.O. Box 4160
Montgomery, AL 36103-4160

Atlanta
4200 Northside Parkway
Building One, Suite 100
Atlanta, GA 30327

(800) 898-2034

BeasleyAllen.com

P. Leigh O'Dell
leigh.odell@beasleyallen.com

January 5, 2018

VIA Electronic Mail

Honorable Joel A. Pisano (Ret.)
Walsh Pizzi O'Reilly Falanga, LLP
One Riverfront Plaza
1037 Raymond Boulevard, Suite 600
Newark, NJ 07102

Re: *In Re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Products Liability Litigation*
MDL No. 2738

Dear Judge Pisano:

In anticipation of the Special Discovery Master Conference scheduled for January 22, 2018, and the discovery disclosure obligations imposed on the PSC by the Court at the December 7, 2017 Status Conference, the PSC writes to raise its concerns with J&J document productions recently made and the impact of those productions on the PSC's pending obligations.

Specifically, J&J has, in the last three (3) months, produced documents that **more than double** the volume of documents that it had previously produced and previously had been characterized to both the PSC and the Court as being a "substantially complete" production. J&J's recent productions include primarily *new* documents that had never been produced to the PSC. J&J's rolling productions over the past 90-day period culminated in large productions received on December 20 and 22, 2017 – just prior to the Christmas Holiday weekend – consisting of more than four hundred thousand pages. J&J's 11th hour attempt to cure its year-long production failures has placed the PSC in an untenable position: To comply with the Court's Order that the PSC provide, by January 10, 2018 an initial list of witnesses it expects to depose, the PSC must review, *in a matter of weeks* what it has taken J&J a year to review and produce.

J&J's recent document productions present four (4) issues that the PSC addresses, and which warrant granting the PSC some relief. First, because of the volume, the lateness and the prior false representations that prior document productions were substantially complete, the PSC requests that the Special Master recommend that the PSC be allowed to supplement its January 10th anticipated list of deponents on or before April 30, 2018, in light of the volume of newly produced material that it must now review. Second, the PSC desires that a discovery schedule be entered that will provide for rolling depositions, that will fairly permit the PSC to have adequate time to review the volume of documents recently produced so that the PSC will not be prejudiced

Honorable Joel A. Pisano (Ret.)

January 5, 2018

Page 2 of 9

by being required to take depositions prior to having a fair opportunity to identify all documents relating to the deponent. Third, since the J&J Defendants are in control of their own document productions, the PSC believes it proper to compel the J&J Defendants to identify which, if any, of the recently produced documents were previously produced by J&J. Upon an initial and cursory review of the recently produced documents, the PSC has determined that J&J's most recent productions include documents previously produced, but with new Bates numbers; Defendants clearly did not attempt to de-duplicate the new productions. Fourth, and finally, the PSC requests that the issue of cost-shifting be considered given the record on this issue.

I. FACTUAL BACKGROUND

1. The J&J Defendants Have Doubled Their Production Of Documents in the Past 90 Days

For over a year, the J&J Defendants and the PSC have disagreed over the adequacy of J&J's MDL document production. From the outset, J&J has insisted that providing its pre-MDL state court document production to the PSC would be both sufficient and adequate in this MDL, arguing that any additional requests in the MDL would be burdensome, dilatory and disproportionate to the needs of this case. On the other hand, the PSC has been equally persistent in its claim that J&J's "off-the-shelf" state court production was wholly inadequate to the needs of this MDL, arguing that its own investigation strongly suggested that there were significant records which had not been produced. Both sides have claimed that the other's position was an impediment to litigating the issues in this case, including general causation and liability.

Justifiably, the Court has repeatedly expressed its own frustration with the parties' inability to resolve the most basic of questions related to document production. After months of dispute, and after the Court appointed a Special Discovery Master, the Court definitively addressed the J&J document discovery issue at the September 6, 2017 status conference. At that conference, the Court ordered that J&J's document discovery on "general subject matters" be completed within 60 days. See Sept. 6, 2017 Hear. Tr. at pp. 4-5, 10 & 38. This document discovery deadline was memorialized in CMO 9 and required J&J to "complete document production" by November 6. See CMO 9 (Doc. No. 673).

The entry of CMO 9 and the subsequent initial conference with the Special Discovery Master on October 4, 2017 had its desired effect. It precipitated a flurry of J&J document productions that should have been produced a year ago. In a short period of time, J&J ***more than doubled*** the number of pages of documents produced to the PSC. Indeed, the burden of re-collecting and re-reviewing and producing documents in accordance with CMO 9 deadlines was so significant that J&J was prompted to seek an emergency 45-day extension of time to produce its documents. See Amended CMO 9 (Doc. No. 2050); see also letter from S. Sharko, Esq. to Hon. F. Wolfson, Nov. 3, 2017 (Exhibit 1).

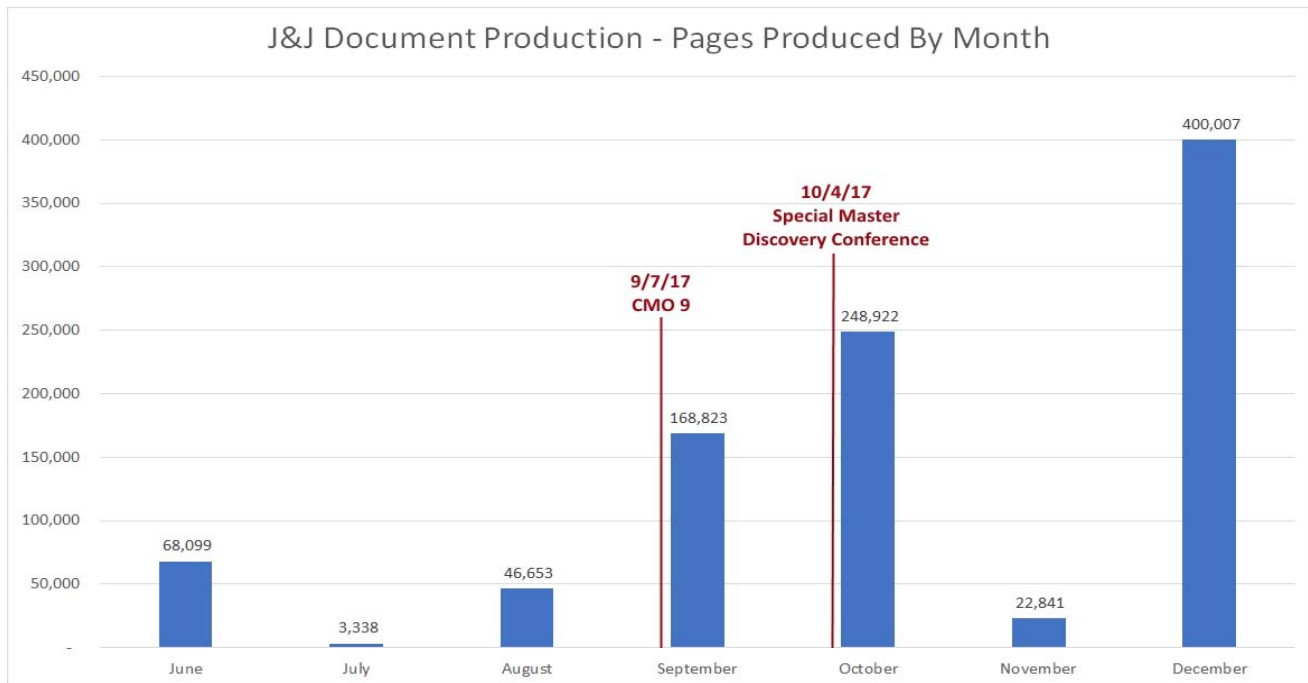
The PSC's challenges to the adequacy of J&J's "substantially complete" production has resulted in the production ballooning from less than 700,000 pages as of August 2017, to well over 1,500,000 pages by December 22, 2017. J&J's post-September productions include approximately 249,000 pages produced in October and 400,000 pages produced in December 2017 alone, approximately 300,000 of which were produced just days before Christmas.

Honorable Joel A. Pisano (Ret.)

January 5, 2018

Page 3 of 9

The below chart outlines the history of J&J's document production in this MDL following its initial importation of its state court production of approximately 500,000 pages in April 2017. Not only does this chart illustrate how inadequate J&J's initial April 2017 state court production was to begin with, but it highlights the subsequent wave of J&J's unique post-CMO 9 MDL productions culminating with a crescendo of documents dumped on the PSC just before Christmas. Further, this chart illustrates the corresponding pressures now placed on the PSC because of that late production. Obviously, the PSC will now need to review and analyze this avalanche of materials while simultaneously having to identify deponents and preparing for and conducting depositions:¹



With apparent awareness that its post-September 2017 MDL document production would be significant and new, J&J repeatedly attempted to belittle the importance of such productions to both the Special Master and the Court.

In October, for example, J&J casually suggested to the Special Master that any CMO 9 supplemental productions were, in fact, much ado about nothing. They were, in J&J's view, "clean-up" productions that would determine whether there was "anything else" beyond that which had already been produced which should be produced:

MS. SHARKO: We've produced the documents. To try and put an end to this, we're now going back and pulling everything again and seeing if there's anything else in warehouse anywhere that relates to talc that is potentially relevant, and we're putting it in line for production and so.

JUDGE PISANO: When?

¹ These pressures do not even account for the review of Imerys documents which are due to be produced to the PSC on January 5, 2018 pursuant to amended CMO 9.

Honorable Joel A. Pisano (Ret.)

January 5, 2018

Page 4 of 9

MS. SHARKO: The deadline that Judge Wolfson gave us is I want to say the end of November. It might take a little longer than that.

JUDGE PISANO: So by that time period you will represent that they have the entire universe of documents that was produced from all of these people in Skillman, New Jersey in 1998?

MS. SHARKO: *And more. We believe they have those documents now, but we're going back, and whether it's end of November...*

See Oct. 6, 2017 Conf. Tr. at pp. 36–37 (emphasis added).

This was reiterated by J&J when it sought to modify CMO 9 when it stated that “*in order to put an end to unnecessary discovery issues, defendants have decided to re-collect a number of previously collected document sources and produce responsive documents identified.*” See Exhibit 1. J&J’s nonchalant description of its post-September 2017 document productions as nothing more than a “clean-up” productions was reiterated at the December 7, 2017 Status Conference:

Ms. SHARKO: What we did, and we’ve been over this a number of times with the plaintiff, is a number of complaints *we just redid the production. Are there new document in there? Yes, but not double the number.*”

Dec. 7, 2017 Hear. Tr. at 17 (emphasis added).

J&J’s repeated assurance that it was simply doing a quality control exercise to satisfy the PSC’s “unnecessary discovery issues” was misleading. Whether measured in pages or documents produced, the post-September 2017 productions are both quantitatively substantial and qualitatively important. The number of *pages* produced went from under 700,000 to over 1,500,000 while the number of *documents* went from just over 110,000 to just under 200,000 since September 2017.

The PSC’s review, which was conducted between Christmas and New Year’s Day, reveals three (3) troubling conclusions that, as set forth below, directly impacts the PSC’s ability to fulfill its discovery responsibilities.

- The documents produced since September are primarily new documents that have not been produced before.
- To the extent that J&J has produced duplicative documents in its recent productions, which Defendants acknowledge has occurred, Defendants assigned these documents wholly different Bates numbers, rendering it impossible for the PSC to avoid a manual re-review and re-analysis of these previously reviewed documents.
- The number of pages of documents produced by J&J Defendants in the 90 days since the entry of CMO 9 has more than doubled.

Honorable Joel A. Pisano (Ret.)

January 5, 2018

Page 5 of 9

2. **The Impact of J&J's Last-Minute Document Production on the PSC's Discovery and Anticipated Expert Obligations Is Significant**

At the December 7th Status Conference, in anticipation of J&J's final document production, the Court ordered that the PSC produce a preliminary list of potential J&J deponents by January 10, 2018. It is fair to say, however, in light of Defendants' repeated representations, that neither the Court nor the PSC anticipated that more than 400,000 pages of new documents would be produced on December 20 and 22.

While the PSC intends to comply with the Court's Order, its ability to do so has been significantly undercut by the avalanche of previously undisclosed documents, documents which should have been produced a year ago. Needless to say, it is impossible for the PSC to review in several weeks and over a holiday that which took J&J a year to review, produce, and then dump on the PSC, only days before the January 10, 2018 deponent disclosure deadline.

Apart from the sheer volume of documents produced, the manner in which the documents were produced has rendered the PSC's prior work product frustratingly irrelevant. As the PSC has begun to hurriedly review the recently produced documents, it has become apparent that the productions are a composite of new documents that have never before been produced, as well as previously produced documents that are now identified by new Bates numbers.

To the extent J&J has produced duplicative documents, the volume of which remains unclear, Defendants have assigned **new Bates numbers thereby eliminating the ability to identify or segregate them in order to avoid re-review**. To cure this, the PSC requested a "key" i.e., some index that would cross reference the different Bates numbers being used for the same document, that would lessen the burden on the PSC in reviewing duplicate documents. J&J indicated it would be too burdensome to provide such a key, a position which is wholly unreasonable. See email from P. Oot, Esq. to C. Tisi, Dec. 22, 2017 (Exhibit 2).

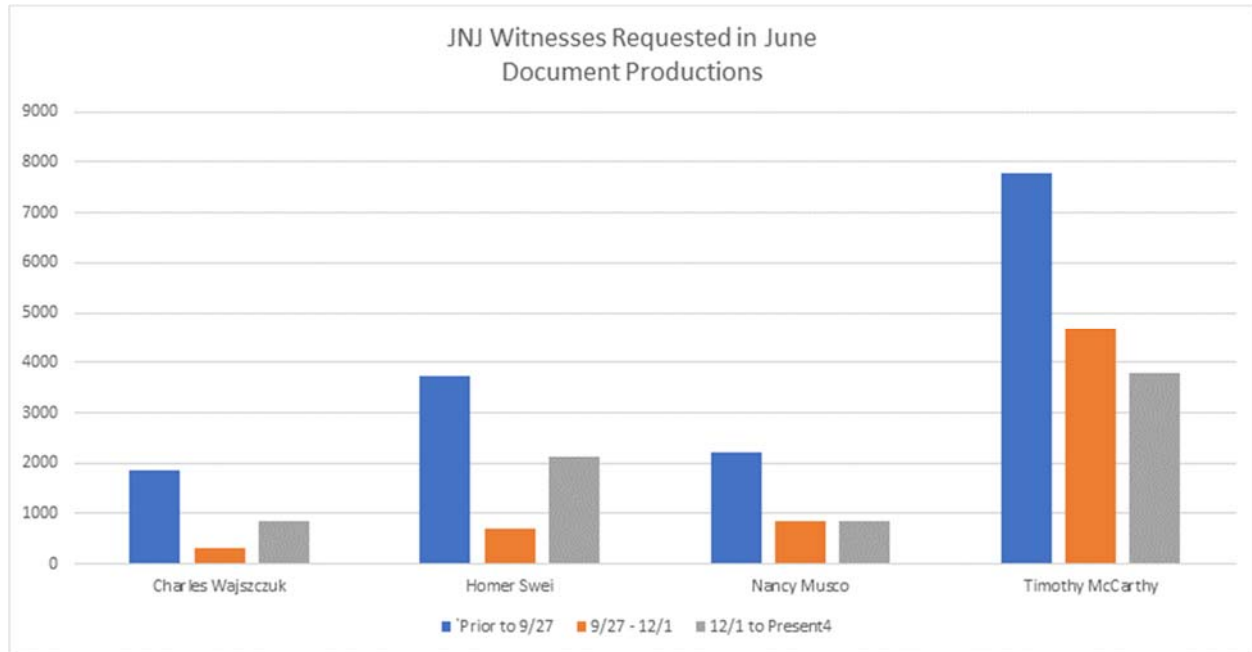
Finally, and even more troubling to the tasks at hand, the PSC has relied on J&J's prior assertions with respect to document production to identify potential deponents. That reliance has now been significantly undermined. To illustrate, in June 2017 the PSC requested the depositions of an initial group of four (4) J&J witnesses: Charles Wajszczuk, Homer Swei, Nancy Musco and Timothy McCarthy.

One of the primary reasons for choosing these four (4) J&J witnesses, witnesses who the PSC still desires to depose, was J&J's prior representation that all relevant and discoverable documents relating to these witnesses had been produced for the PSC to review. The PSC relied on J&J's representations about the completeness of the document productions relating to these witnesses. This reliance turned out to have been significantly misplaced. Thus, while the PSC still desires to depose these witnesses, the PSC requires additional time to fully review the newly produced documents relating to these witnesses prior to being required to proceed with the depositions. As illustrated by the chart below, for these four exemplar witnesses, each had a significant number of additional relevant documents produced just before Christmas:

Honorable Joel A. Pisano (Ret.)

January 5, 2018

Page 6 of 9



II. ARGUMENT

1. THE PSC REQUESTS THAT THE COURT ALLOW THE PSC TO SUPPLEMENT ITS JANUARY 10TH DEPOSITION DISCLOSURE LIST ON OR BEFORE APRIL 30, 2018

At the December 7 Status Conference, the Court directed the PSC to produce a tentative list of potential deponents by January 10, 2018. In so doing, the Court acknowledged that the list could be amended. See Dec. 7, 2017 Hear. Tr. at p. 26. However, the Court's assumption that there could be "two more" added to that list was clearly premised on J&J's representation that its productions were substantially complete, that any further productions would only be a minor "clean-up" and that since nothing significantly new would be produced, the PSC should be able to identify most of the witnesses they would depose. As demonstrated above, the premises upon which both the Court and the PSC relied in discussing the PSC's obligation to identify witnesses by January 10, 2018 was not accurate.

Given the volume of documents that J&J produced in the last three (3) months, the PSC asks that the Special Master recommend that the PSC be allowed to supplement its January 10th anticipated deposition list on or before April 30, 2018.

2. THE PSC REQUESTS THAT THE SPECIAL MASTER RECOMMEND A DISCOVERY SCHEDULE THAT ALLOWS THE PSC TO REVIEW THE DOCUMENTS THAT J&J HAS PRODUCED PRIOR TO THE COMMENCEMENT OF DEPOSITIONS

As described above J&J sought a significant extension of the CMO 9 deadline to accommodate its production of documents. The PSC did not oppose J&J's extension request but

Honorable Joel A. Pisano (Ret.)

January 5, 2018

Page 7 of 9

requested that the extension of time be considered in connection with an overall schedule so that the PSC would have adequate time to review and assimilate the new productions. In a letter to the Court dated November 3, 2017, the PSC stressed that:

Extensions of this magnitude without the provision of sufficient time for Plaintiffs to review the documents produced, to take depositions, and to provide the resulting evidence to their experts for consideration would result in undue prejudice to Plaintiffs.

See Letter from L. O'Dell to Hon. F. Wolfson, Nov. 3, 2017 (Exhibit 3).

While the Court directed the PSC to provide its witness list, it did not address deadlines for discovery that would follow that disclosure. The PSC requests that the Special Master assist the parties in developing discovery schedule that would provide adequate time for the PSC to review the documents produced prior to the commencement of depositions.

3. **THE PSC REQUESTS THAT J&J PROVIDE THE PSC WITH A KEY THAT WOULD ALLOW THE PSC TO IDENTIFY DUPLICATE DOCUMENTS IN THE PRODUCTION**

Immediately upon receipt of J&J's more than 400,000 page production on December 20th and 22nd, the PSC wrote to J&J to request that duplicate documents be identified or at least, that J&J provide a "key" identifying a document by both its "old" bates number and "new" bates number. Without a key of this type, the PSC's work reviewing previously produced documents would be rendered useless. See Exhibit 2.

J&J responded to the PSC's request on Friday December 22nd. *Id.* In that response, J&J conceded that there were not only duplicate documents to those previously produced but also that the duplicate documents have "new bates numbers." J&J claims that it would be too burdensome to have produced the documents without duplicates, but J&J also has not provided a key to enable cross-referencing the various bates numbers assigned to the same document.

In the context of modernized document production, J&J's claim of burden is plainly unreasonable. The documents in question are J&J's documents, originating from J&J employees' files. J&J is well aware of the documents that were previously produced and well aware of the documents it recently produced. J&J certainly logged each document it produced into its own database.

A production methodology that re-produces documents previously produced with different bates numbers is unjustifiable, and the problem has been compounded by J&J's refusal to provide a key or index to permit cross-referencing by the PSC. Because of the manner in which these documents were produced, an undue burden has been placed upon the PSC. Without relief, the PSC will be required to re-review documents because of the PSC's inability to quickly identify duplicates through the use of a key or index. Moreover, without relief, the PSC will be required to re-review documents in a fraction of the time J&J had to review and produce them. These problems would not have occurred had J&J taken its MDL document production in this MDL seriously as opposed to insisting that its "off the shelf" state court production be imported into this MDL.

Honorable Joel A. Pisano (Ret.)

January 5, 2018

Page 8 of 9

The PSC respectfully requests that J&J be directed to either de-duplicate its recent productions or to provide a “key” that would allow the PSC to de-duplicate the production. Anything less would result in the PSC spending extraordinary amounts of time and resources re-reviewing documents that have previously been produced. The PSC should not be required to bear the burden of J&J’s inadequate productions.

4. **THE PSC REQUESTS THAT IT BE PERMITTED TO PRESENT A PETITION FOR COST-SHIFTING FOR THE EXTRAORDINARY WASTE CAUSED BY J&J’S DUPLICATIVE PRODUCTION**

Cost shifting in the course of first-party discovery is an extraordinary remedy. It is justified only when there has been manifest unreasonableness in a party’s discovery conduct that visits unfair prejudice upon its adversary. By reproducing, at the eleventh hour, an enormous and randomized mix of old documents and new documents, with no way for the PSC to parse out the old from the new, J&J has visited extraordinary waste upon the PSC’s resources.

Most of the hundreds and hundreds of hours the PSC has spent reviewing and analyzing J&J’s document production must now be repeated. This extraordinary waste imposed upon the PSC is even more egregious in light of the fact that the PSC stridently opposed J&J’s approach to simply recycle prior state-court productions with the hope they would prove adequate for the MDL.

As is now evident from the record, J&J’s assessment was recklessly misplaced. Instead of acknowledging its miscalculation, and collaborating with the PSC to mitigate the miscalculation, it simply (and indifferently) reproduced most of its prior production with the new documents mixed in. New Bates numbers were then assigned to the production that should have occurred at the outset.

Most significantly, J&J did not preserve any way to cross-reference the Bates numbers of the previously produced documents with the new Bates numbers of the same documents produced a second time. If J&J had preserved that information, the PSC could efficiently re-associate all of their prior work product to the same documents in the second production. These two grievous miscalculations by J&J – first, that a prior state court production would be suitable for this MDL, and second, failing to preserve the identity of previously produced documents – were both entirely foreseeable.

It would be manifestly unfair for the economic burden of J&J’s miscalculations to be visited entirely upon the Plaintiffs, and the Court has the inherent authority to provide a remedy. The extent of gratuitous waste imposed upon the PSC cannot yet be fully measured. Upon the completion of such an assessment, the PSC will seek leave of Court to submit a motion for equitable cost-shifting.

Thank you for your consideration of these matters.

Very truly yours,

/s/ P. Leigh O'Dell

P. Leigh O'Dell
Michelle A. Parfitt

Honorable Joel A. Pisano (Ret.)

January 5, 2018

Page 9 of 9

cc: Honorable Freda L. Wolfson, U.S.D.J.
Honorable Lois H. Goodman, U.S.M.J.
Susan Sharko, Esq. (via e-mail)
Julie Tersigni, Esq. (via e-mail)
Patrick L. Oot, Esq. (via e-mail)
Lorna Dotro, Esq. (via e-mail)
Mark Silver, Esq. (via e-mail)
Nancy Erfle, Esq. (via e-mail)
Tom Locke, Esq. (via e-mail)
Sheryl Axelrod, Esq. (via e-mail)
Chris Placitella, Esq. (via e-mail)
Warren Burns, Esq. (via e-mail)
Richard Golomb, Esq. (via e-mail)
Richard Meadow, Esq. (via e-mail)
Hunter Shkolnik, Esq. (via e-mail)
Christopher V. Tisi, Esq. (via e-mail)
Larry Berman, Esq. (via e-mail)
Dan Lapinski, Esq. (via e-mail)



January 15, 2018

VIA Electronic Mail

Honorable Joel A. Pisano (Ret.)
Walsh Pizzi O'Reilly Falanga, LLP
One Riverfront Plaza
1037 Raymond Boulevard, Suite 600
Newark, NJ 07102

Re: *In Re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Products Liability Litigation*
MDL No. 2738

Dear Judge Pisano:

The Court has requested that the parties individually prepare a letter memorandum discussing the status of discovery and disputed matters. There are three (3) issues the PSC desires to raise before the Court that we believe should be on the Agenda for the upcoming meeting scheduled on January 22, 2018.

- I. **DISCOVERY SCHEDULE**: The matters contained in the PSC letter to your honor dated January 5, 2018 including a discovery schedule that addresses the recent document production by J&J and Imerys. (See Exhibit 1, PSC Letter to Hon. J. Pisano, Jan. 5, 2018). As indicated in that letter, the PSC was required to provide a list of proposed deponents on January 10, 2018, which the PSC timely provided. (See copy attached as Exhibit 2).
- II. **DEPOSITION PROTOCOL**: J&J recently provided the PSC with a proposed deposition protocol that J&J seeks to apply to both fact and expert witnesses. The PSC has reviewed J&J's proposal and believes that a better approach for discovery is the approach taken by Chief Judge Lawrence Stengel in *In Re Tylenol (Acetaminophen) Marketing, Sales Practices and Products Liability Litigation*, MDL No. 2436, Order, October 3, 2013 (See copy attached as Exhibit 3) with modifications that fit the needs of this case. The entry of an order similar to the one entered in Tylenol has the benefit of having been already reviewed by a distinguished Judge in the Third Circuit and the added benefit of involving J&J and one of its subsidiaries. We note that the Tylenol Order applies to fact witnesses only, as a supplemental order was entered in that case to address expert witnesses when that issue became ripe. In this Talc case, the PSC believes it is premature to address a deposition protocol for expert witnesses at this time in light of the status of discovery and expert disclosures.



January 15, 2018
Page 2 of 4

The PSC also would suggest certain other modifications to the Tylenol Order as follows:

- First, in Tylenol, Judge Stengel entered a supplemental Order that required J&J to produce current or former corporate employees' personnel files and compensation history information. The PSC suggests that the Order to be entered in Talc include such a requirement as part of a composite order in lieu of the need to enter a separate order on this issue as occurred in Tylenol. The supplemental order entered by Judge Stengel is attached hereto. (See copy attached as Exhibit 4);
- Second, the PSC desires to make clear that were the Tylenol Order to be entered here, that the PSC has interpreted Section 4 (b) of the Tylenol Order to apply only to corporate representatives' depositions *noted pursuant to Rule 30(B)(6)* and that Section 4(b) does not impose an overall limit on the number of corporate depositions that the PSC may take in the case. The PSC believes this is already clear in the Tylenol Order because it contains a qualifier that Section 4(b) pertains to depositions "pursuant to Fed. R. Civ. P. 30(B)(6)" and because Section 4(a) of the Tylenol Order does not contain a limitation on depositions other than for the PSC in that case to act in good faith. Nevertheless, to avoid ambiguity and an issue at a later date, the PSC believes that were the Court to adopt the language in the Tylenol Order, that it be made clear that Section 4 (b) does not create an overall limitation on the number of depositions that the PSC will be permitted to take. Indeed, some of the counsel in this Talc case were also counsel in Tylenol, and they can represent to your Honor that in Tylenol the parties were not limited in the number of corporate witnesses they could depose except that "the PSC shall in good faith take only those depositions of defendants and their current employees deemed necessary under the circumstances of this case." See Section 4(a) of the Tylenol Order.
- Third, the PSC believes that a provision similar to Section 4(c) of the Tylenol Order need not be included at this time, since the Talc Court has not yet permitted case specific discovery.
- Fourth, in light of the size of this MDL and the fact that numerous state court litigations are pending (as compared to Tylenol, where the MDL consisted of only about 250 cases and there was only one coordinated state court litigation, in Atlantic County, New Jersey) that Section 11 of the Tylenol Order be amended to recognize that some depositions may exceed 7 hours because of the witness' involvement in this case over decades. In fact, in Tylenol, several corporate witnesses were deposed over several days because the product at issue has been on the market for many decades, thereby involving decades of information to discover that could not be discovered in some instances in only



January 15, 2018
Page 3 of 4

7 hours of deposition time. The same can be said here for the Talc case, which similarly spans decades on the market. The PSC will proceed in good faith but should not be subject to an artificial limitation on the amount of time they shall have to take a deposition.

- Fifth, to the extent a defendant expects to conduct a “preservation” deposition of a current or former employee, that in addition to the requirements set forth in the Tylenol Order, that the PSC be afforded at least thirty (30) days’ notice of the intent to take a preservation deposition, that the PSC be afforded an opportunity to take a discovery deposition prior to the preservation deposition, and that the PSC shall have equal time to do a cross examination of the witness in the preservation deposition.
- Sixth, that the time spent on cross-noticed state court depositions not be “charged” against the MDL. In this regard, again, considering the size of this MDL and the number of state court litigations pending, the PSC believes it is appropriate that it not be limited in the amount of time that it may have for deposing a witness because of coordination with state court litigants. The PSC intends to fully coordinate with state court litigants but not to the detriment of MDL litigants and the PSC’s duties.

The PSC makes a few other observations about the contents of the Tylenol Order that they believe should apply in this case as well:

- First, the PSC notes that the Tylenol Order provides for the certification of the production of custodial files prior to the taking of a deposition with adequate time to review before the deposition commences. See, Sec. 16 of Tylenol Order. The PSC requires that for all deponents personnel files and relevant documents be produced with adequate time before the depositions;
- Second, as noted above, the PSC fully intends to coordinate with state court litigants, but the PSC must be afforded adequate time for the PSC to conduct its examination which may involve multi-day depositions for legacy witnesses and witnesses whose involvement with the issues spans decades of time; and
- Third, authenticity and foundational objections to exhibits must be addressed.

The PSC will be prepared to discuss as the conference other contents of the Tylenol Order to be included in the deposition protocol order for this case.

III. **PRIVILEGE ISSUES:** The PSC anticipates providing defendants with their objections to the privilege logs. We would also like to discuss with the Court the process for addressing privilege issues.



January 15, 2018
Page 4 of 4

- IV. **Samples Protocol:** The parties have had met and conferred on a protocol to address the chain of custody and division of various samples. The parties expect to present an agreed upon protocol to Judge Wolfson before the next status conference.

Very truly yours,

/s/ Michelle A. Parfitt

Michelle A. Parfitt, Esq.
P. Leigh O'Dell, Esq.

cc: Susan Sharko, Esq. (via e-mail)
Julie Tersigni, Esq. (via e-mail)
Kat Frazier, Esq. (via e-mail)
Patrick Oot, Esq. (via e-mail)
Lorna Dotro, Esq. (via e-mail)
Mark Silver, Esq. (via e-mail)
Tom Locke, Esq. (via e-mail)
Sheryl Axelrod, Esq. (via e-mail)
Warren Burns, Esq. (via e-mail)
Richard Golomb, Esq. (via e-mail)
Richard Meadow, Esq. (via e-mail)
Hunter Shkolnik, Esq. (via e-mail)
Chris Placitella, Esq. (via e-mail)
Larry Berman, Esq. (via e-mail)
Dan Lapinski, Esq. (via e-mail)
Chris Tisi, Esq. (via e-mail)

ASHCRAFT & GEREL, LLP

ATTORNEYS AND COUNSELLORS AT LAW

SUITE 650

4900 SEMINARY ROAD

ALEXANDRIA, VIRGINIA 22311

(703) 931-5500

FAX (703) 820-0630

DISTRICT OF COLUMBIA

ALLEN J. LOWE
CHRISTOPHER V. TISI
JERRY D. SPITZ
BENJAMIN E. DOUGLAS
DREW B. LAFFRAMBOISE
JILLIAN M. PETRELLA
ADAM K. ROSEN
AVERY M. ADCOCK

MARYLAND

ROBERT G. SAMET
DAVID M. LAYTON
ROBERT A. FLACK
ALAN J. MENSCH
NATHAN M. PEAK
STEPHEN M. GENSEMER
PATRICK K. LYONS
JENNIFER L. HUISMAN
DENISE J. GOTTRON

SENIOR COUNSEL

L. PALMER FORET

*ONLY ADMITTED IN NY

VIRGINIA

LAWRENCE J. PASCAL
JAMES F. GREEN
MICHELLE A. PARFITT
CRAIG A. BROWN
DAVID L. BAYNE, JR.
JOSEPH T. MUSSO
SARA E. ANDERSON
GERTRUDE N. KAMTCHOUM*

OF COUNSEL

WAYNE M. MANSULLA
WILLIAM F. MULRONEY

LEE C. ASHCRAFT
1908-1993

MARTIN E. GEREL
1918-2011

ROCKVILLE, MD 20852

SUITE 1002

11300 ROCKVILLE PIKE
(301) 770-3737

LANDOVER, MD 20785

SUITE 301

4301 GARDEN CITY DRIVE
(301) 459-8400

WASHINGTON, DC 20006

SUITE 700

1825 K STREET, N.W.
(202) 783-6400

BALTIMORE, MD 21202

SUITE 1212

10 EAST BALTIMORE STREET
(410) 539-1122

January 19, 2018

VIA Electronic Mail

Honorable Joel A. Pisano (Ret.)
Walsh Pizzi O'Reilly Falanga, LLP
One Riverfront Plaza
1037 Raymond Boulevard, Suite 600
Newark, NJ 07102

**Re: *In Re: Johnson & Johnson Talcum Powder Products Marketing, Sales
Practices and Products Liability Litigation*
MDL No. 2738**

Dear Judge Pisano:

The PSC files this brief response to the various submissions filed by the defendants on Monday January 15, 2018. While the PSC will be prepared to respond more fully to the issues raised by defendants at the conference, the PSC wants to identify--and briefly address--four broad complaints that can be distilled from defendants' submissions:

1. **SCOPE OF DISCOVERY**: Defendants continue to insist that the scope of discovery is narrow and exclusively focused on "general causation." Not so. While the Court is clearly interested in discovery on the general causation question, and will discuss expert disclosures relating to these issues at the next status conference, it *also* recognized that the scope of discovery is to be much broader than "general causation" stating that the "only thing we're really not doing right now is specific causation issues." See September 6, 2017 Hearing Transcript at p. 5. Rather than attempt to characterize the Court's views on this matter any further, the PSC attaches the Court's comments on this topic contained on pages 1-14 of the September 6, 2017 status conference. [Attached as Exhibit 1]. They are quite clear.
2. **NUMBER OF POTENTIAL DEPONENTS IDENTIFIED**: Defendants further complain that the PSC has named an extraordinary, excessive and unprecedented number of potential deponents in this MDL in its January 10 disclosure. [Attached as Exhibit 2].

January 19, 2018
Page 2 of 3

Exclusive of 30(b)(6) witnesses, the PSC has identified 29 J&J witnesses, 16 Imerys witnesses, 5 PCPC witnesses and 9 non-parties that it may wish to depose based on its document review to date. As the PSC points out in the chart on page 3, paragraph 3 of its January 10 disclosure, the PSC's proposed list is less than and certainly consistent with MDL's of this type which typically exceed the number of depositions identified here. Indeed, the numbers requested by the PSC here is less than in those cases since many of those cases involved fewer defendants than the 3 that are defendants here.

3. **TIMING OF DEPOSITIONS:** The PSC has been further accused of delay in starting depositions. This, too, is not true. As set forth more fully in the PSC's January 5 letter, the J&J defendants alone "dumped" 750,000 pages of documents on the PSC in the last couple months of 2017. See Letter to Hon. Joel Pisano, January 5, 2018. J&J made that massive production despite repeated representations that its prior state productions were both complete and sufficient. J&J's recent production would not have been made at all had the PSC not insisted that the prior productions were incomplete and insufficient—a claim that has now proven to be accurate. Given the J&J defendants' massive document production *which took a year to make*, the PSC should not be required to immediately begin depositions of J&J witnesses and instead should be afforded an opportunity to review the massive, recent document dump from J&J before being required to commence depositions of J&J witnesses.

With respect to Imerys, however, its final production of January 5, 2018 was comparatively modest (about 75,000 pages). Therefore, the PSC can begin to take Imerys fact depositions in the immediate future. The PSC proposes that these start with the four (4) witnesses the PSC requested to depose last June (McCarthy, Pier, Turner and Ferret).

4. **DEPOSITION PROTOCOL:** Defendants further complain that the PSC has refused to adopt or comment on their proposed deposition protocol. Defendants' proposal is quite restrictive and goes beyond the discovery depositions currently contemplated. And, its contents were not discussed in a meet and confer meeting with any PSC representative. In response, the PSC proposed a "clean" protocol modeled on one that was actually entered in this Circuit by Chief Judge Stengel in the Eastern District of Pennsylvania in *In Re Tylenol* with limited edits that apply to this MDL. The PSC provided this to the defendants in a word format for their consideration. [Attached as Exhibit 3]. The parties will meet and confer about the respective proposals. The PSC will be prepared to discuss the drafts to the extent the Court wishes to discuss a deposition protocol.

Again, the PSC will be prepared to discuss all issues on Monday.

Best regards,



Michelle A. Parfitt, Esq.
P. Leigh O'Dell, Esq

January 19, 2018

Page 3 of 3

cc: Hon. Freda L. Wolfson, U.S.D.J. (via e-mail)
Hon. Lois H. Goodman, U.S.M.J. (via e-mail)
Susan Sharko, Esq. (via e-mail)
Julie Tersigni, Esq. (via e-mail)
Lorna Dotro, Esq. (via e-mail)
Mark Silver, Esq. (via e-mail)
Tom Locke, Esq. (via e-mail)
Sheryl Axelrod, Esq. (via e-mail)
Warren Burns, Esq. (via e-mail)
Richard Golomb, Esq. (via e-mail)
Richard Meadow, Esq. (via e-mail)
Hunter Shkolnik, Esq. (via e-mail)
Chris Placitella, Esq. (via e-mail)
Larry Berman, Esq. (via e-mail)
Dan Lapinski, Esq. (via e-mail)
Chris Tisi, Esq. (via e-mail)



Montgomery
218 Commerce Street
P.O. Box 4160
Montgomery, AL 36103-4160

Atlanta
4200 Northside Parkway
Building One, Suite 100
Atlanta, GA 30327

(800) 898-2034

BeasleyAllen.com

P. Leigh O'Dell
leigh.odell@beasleyallen.com

January 30, 2018

VIA Electronic Mail

Honorable Joel A. Pisano (Ret.)
Walsh Pizzi O'Reilly Falanga, LLP
One Riverfront Plaza
1037 Raymond Boulevard, Suite 600
Newark, NJ 07102

**Re: *In Re: Johnson & Johnson Talcum Powder Products Marketing, Sales
Practices and Products Liability Litigation*
MDL No. 2738**

Dear Judge Pisano:

Ms. Sharko's letter of January 23, 2018 offering one 30(b)(6) deposition to address all of PSC's needs for deposition testimony is unhelpful and an example of the Johnson & Johnson Defendants' effort to thwart and obfuscate the need for relevant discovery in this case.

As outlined in detail in the PSC's letter of January 5, 2018, the Johnson & Johnson Defendants have produced more than 800,000 pages since the September 7, 2017 status conference, more than 400,000 pages on December 20 and 21, 2017. These productions have doubled the number of documents produced in any previous state court litigation. Moreover, and despite prior assurances, a majority of the documents produced were new documents that should have been produced by the Johnson & Johnson Defendants more than a year ago. To further compound the problems, thousands of the documents that were duplicates were produced in a manner that is materially flawed and which will hinder the PSC's review of the materials. On January 5, 2018, Imerys produced more than 75,000 pages.

Though trials involving defendants' talcum powder products and individual plaintiffs with ovarian cancer have taken place in federal and state court, there have been only eight depositions of corporate witnesses taken to date. All of these depositions were taken prior to the production of more than two-thirds of the documents produced in the MDL or 1,000,000 pages. To properly represent the thousands of claimants before the MDL Court, the PSC must be afforded the opportunity to examine relevant witnesses under oath.

These previously unproduced documents relate to the following topics among others: 1) documents described in the Mehaffey Weber memo; 2) documents produced by both Johnson & Johnson Defendants and Imerys in talcum powder/asbestos/cancer-related cases; 3) documents related to testing protocols and test results (particularly as related to asbestos, arsenic, nickel,

Honorable Joel A. Pisano (Ret.)

January 30, 2018

Page 2 of 3

chromium, cobalt and other carcinogens); 4) documents relating to the mines from which material used in Johnson's Baby Powder and Shower to Shower were/are sourced, the mining processes employed, and information about the talc deposits themselves; 5) the methodology used in the medical and scientific community for determining general causation including both analysis of and bias about epidemiologic and other scientific studies; 6) the biologically plausible mechanisms by which Johnson & Johnson's talcum powder products may cause ovarian and other cancers; and 7) the toxicology and pharmacology of the talc used. Plaintiffs need adequate time to review these documents in order to provide necessary data to the experts and to prepare for relevant depositions.

As noted during the January 22 hearing, there is no such thing as pure talc. Test results indicate that Johnson & Johnson's talcum powder products were/are composed of not only talc but also other carcinogens such as asbestos, arsenic, and nickel, among others. Evidence related to the composition of the products will affect the relevant epidemiologic and *in vitro* studies relied on by all experts, including epidemiologists, gynecologic oncologists, toxicologists, cell biologists, and regulatory experts.

In addition to results from internal scientific testing, evidence regarding the procedures used for sampling and the type of testing performed is important to determine if certain test results are valid and representative. Having access to documents related to standard operating procedures is not enough, however. Plaintiffs are entitled to examine relevant witnesses who were involved in the process of sampling and testing to determine how the testing was performed and the defendants' analysis of the results.

Moreover, as the Court has made clear, discovery related to issues of bias and influence of scientific literature and governmental agencies (such as the National Toxicology Program and IARC) are relevant to the *Daubert* process. Documents recently produced add to evidence that defendants actively influenced not only published studies but the reports of governmental and quasi-governmental bodies.

In short, the Court made clear¹ that the scope of discovery in this MDL is broad, encompassing what defendants knew and when they knew it. Plaintiffs should be allowed to depose witnesses relevant to these topic areas and for that reason, Plaintiffs seek the depositions of witnesses whose responsibilities include toxicology, safety surveillance, research, testing, mining, and talc processing.

Against this backdrop and despite the fact that Ms. Sharko on behalf of the Johnson & Johnson Defendants previously agreed to move forward with the depositions of Charles Wajszczuk (Product Safety), Homer Swei (Product Stewardship), Nancy Musco (Product Safety), and Timothy McCarthy (Safety and Toxicology),² Johnson & Johnson Defendants have now backtracked and asserted that a single 30(b)(6) deposition is sufficient.

Imerys objects to any and all depositions.

¹ Status Conference, Tr. 4-14 (Sept. 6, 2017).

² Hearing before Special Master Pisano, Tr. 57 (Oct. 4, 2017).

Honorable Joel A. Pisano (Ret.)
January 30, 2018
Page 3 of 3

To prevent Plaintiffs from deposing relevant witnesses prior to the disclosure of expert reports would be tantamount to requiring defendants in a bellwether case to produce case-specific expert reports on the basis of medical records alone without the opportunity to depose the plaintiff or her treating physicians. The Federal Rules of Civil Procedure do not contemplate such a course of action.

As stated during the September 6, 2017 status conference, the PSC's letter of November 6, 2017, during the December 7, 2017 status conference, in recent correspondence to Your Honor, and again during the January 22, 2018 hearing, the PSC respectfully requests adequate time to review the recently produced documents and to depose relevant witnesses prior to the disclosure of expert reports.

Thank you for your consideration of these matters.

Very truly yours,

/s/ P. Leigh O'Dell

P. Leigh O'Dell
Michelle A. Parfitt

cc: Honorable Freda L. Wolfson, U.S.D.J.
Honorable Lois H. Goodman, U.S.M.J.
Susan Sharko, Esq. (via e-mail)
Julie Tersigni, Esq. (via e-mail)
Patrick L. Oot, Esq. (via e-mail)
Lorna Dotro, Esq. (via e-mail)
Mark Silver, Esq. (via e-mail)
Nancy Erfle, Esq. (via e-mail)
Tom Locke, Esq. (via e-mail)
Sheryl Axelrod, Esq. (via e-mail)
Chris Placitella, Esq. (via e-mail)
Warren Burns, Esq. (via e-mail)
Richard Golomb, Esq. (via e-mail)
Richard Meadow, Esq. (via e-mail)
Hunter Shkolnik, Esq. (via e-mail)
Christopher V. Tisi, Esq. (via e-mail)
Larry Berman, Esq. (via e-mail)
Dan Lapinski, Esq. (via e-mail)

EXHIBIT E

EXHIBIT 1

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
1. Borger, Susan	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett P.A. // Goldenberg Heller Antognoli & Rowland, P.C.
2. Conte, Shirley	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett P.A. // Goldenberg Heller Antognoli & Rowland, P.C.
3. Cortes De Marron, Altagracia	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett P.A. // Goldenberg Heller Antognoli & Rowland, P.C.
4. Garlock, Yvonne	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett P.A. // Goldenberg Heller Antognoli & Rowland, P.C.
5. Hatmaker, Vickie	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett P.A. // Goldenberg Heller Antognoli & Rowland, P.C.
6. Johnson, Carolina	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett P.A. // Goldenberg Heller Antognoli & Rowland, P.C.
7. Jones, Donna	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett P.A. // Goldenberg Heller Antognoli & Rowland, P.C.

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
8. Krzyzosiak, Norma	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett P.A. // Goldenberg Heller Antognoli & Rowland, P.C.
9. McMahan, Phyllis	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett P.A. // Goldenberg Heller Antognoli & Rowland, P.C.
10. Morris, Eugenia	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett P.A. // Goldenberg Heller Antognoli & Rowland, P.C.
11. Pena, Syliva	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett P.A. // Goldenberg Heller Antognoli & Rowland, P.C.
12. Renner, Dolly	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett P.A. // Goldenberg Heller Antognoli & Rowland, P.C.
13. Spier, Katje	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett P.A. // Goldenberg Heller Antognoli & Rowland, P.C.
14. Tischner, Joyce	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett P.A. // Goldenberg Heller Antognoli & Rowland, P.C.
15. Vinson, Mary	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		P.A. // Goldenberg Heller Antognoli & Rowland, P.C.
16.Wheet, Gladies	Anderson, Brenda, et al.	Burns Charest LLP // Burns Charest LLP // Don Barrett P.A. // Goldenberg Heller Antognoli & Rowland, P.C.
17.Austin, Evelyn	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
18.Baran, Nora	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
19.Bicknell, Bonnie	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
20.Cawthra, Elizabeth	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
21.Cruz,, Zenaida	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
22.Gatson, Ronmunda	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
23.Goble, Maggie	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
24.Hall, Deborah	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
25.Hart, Deborah	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
26.Hester, Freida	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
27.Johnson, Constance	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
28.Lavender, Karen	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
29.Locke, Ashley	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
30.Meyer, Sonia	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
31.Patel, Usha	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
32.Randazzo, Joanne	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
33.Roberts, Helen	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
34.Scott, Beverly	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
35.Smith, Willodean	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
36.Stockton, Tamalyn	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
37.Thompson, Magdaline	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
38.Vise, Linda	Austin, Evelyn, et al.	Onder, Shelton, O'Leary & Peterson, LLC
39.Bahmler, Janice	Bahlmer, Janice, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
40.Berdue, Darlene	Bahlmer, Janice, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter &

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Malouf, PA // The Smith Law Firm, PLLC
41.Combs, Dellajean	Bahlmer, Janice, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
42.Divine, Diana	Bahlmer, Janice, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
43.Friend, Darlene	Bahlmer, Janice, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
44.Green, Juanita	Bahlmer, Janice, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
45.Johner, Diane	Bahlmer, Janice, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
46.Kelly, Kathleen	Bahlmer, Janice, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
47.Kent, Monica	Bahlmer, Janice, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
48.Morales, Naomi	Bahlmer, Janice, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
49.Paige, Sylvia	Bahlmer, Janice, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
50.Shliger, Dayna	Bahlmer, Janice, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
51.Stoddard, Sharon	Bahlmer, Janice, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
52.Travis, Lynn	Bahlmer, Janice, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
53.Amogretti, Gloria	Carney, Kimberly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
54.Bassey, Annette	Carney, Kimberly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
55.Bryant, Diana	Carney, Kimberly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
56.Carney, Kimberly	Carney, Kimberly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
57.Frausto, Beatriz	Carney, Kimberly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
58.Gregory, Karen	Carney, Kimberly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
59.Lewis, Vivian	Carney, Kimberly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
60.Nattress, Inge	Carney, Kimberly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
61.Nichols, Faith	Carney, Kimberly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
62.Shaw, Bobbie	Carney, Kimberly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
63.Stein, John	Carney, Kimberly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
64.Unruh, Sandra	Carney, Kimberly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
65.White', Jennifer	Carney, Kimberly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
66.Williamson, Joanne	Carney, Kimberly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
67.Brock, Lois	Crenshaw, Deborah, et al.	The Cuffie Law Firm
68.Brown, Ozzie	Crenshaw, Deborah, et al.	The Cuffie Law Firm
69.Burks, Lucille	Crenshaw, Deborah, et al.	The Cuffie Law Firm
70.Dukes, Andriea	Crenshaw, Deborah, et al.	The Cuffie Law Firm
71.Edwards', Shirley	Crenshaw, Deborah, et al.	The Cuffie Law Firm
72.Fitch, Cheryl	Crenshaw, Deborah, et al.	The Cuffie Law Firm
73.Guthrie, Jeannivee	Crenshaw, Deborah, et al.	The Cuffie Law Firm

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
74.Harris, Brunette	Crenshaw, Deborah, et al.	The Cuffie Law Firm
75.Haynes, Julia	Crenshaw, Deborah, et al.	The Cuffie Law Firm
76.Hymes, Judith	Crenshaw, Deborah, et al.	The Cuffie Law Firm
77.Lloyd, Marcia	Crenshaw, Deborah, et al.	The Cuffie Law Firm
78.Smith', Dorothy	Crenshaw, Deborah, et al.	The Cuffie Law Firm
79.Vinson, Toiya	Crenshaw, Deborah, et al.	The Cuffie Law Firm
80.Washington, Kather	Crenshaw, Deborah, et al.	The Cuffie Law Firm
81.Wilks, Merrion	Crenshaw, Deborah, et al.	The Cuffie Law Firm
82.Williams, Annie	Crenshaw, Deborah, et al.	The Cuffie Law Firm
83.Arthur, Catherine	Dysart, Patricia J., et al.	Holland, Groves, Schneller & Stolze, LLC // The Lanier Law Firm, PLLC
84.Bivens, Tammy	Dysart, Patricia J., et al.	Holland, Groves, Schneller & Stolze, LLC // The Lanier Law Firm, PLLC
85.Leacock, Marvalene	Dysart, Patricia J., et al.	Holland, Groves, Schneller & Stolze, LLC // The Lanier Law Firm, PLLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
86.Meglierino, Paula	Dysart, Patricia J., et al.	Holland, Groves, Schneller & Stolze, LLC // The Lanier Law Firm, PLLC
87.West, Iris	Dysart, Patricia J., et al.	Holland, Groves, Schneller & Stolze, LLC // The Lanier Law Firm, PLLC
88.Wirtz, Margene	Dysart, Patricia J., et al.	Holland, Groves, Schneller & Stolze, LLC // The Lanier Law Firm, PLLC
89.Borges, Marjorie	Eveland, Lisa, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
90.DiNunzio, Patricia	Eveland, Lisa, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
91.Eveland, Lisa	Eveland, Lisa, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
92.Hamilton, Linda	Eveland, Lisa, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
93.Horner, Kimberly	Eveland, Lisa, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
94.Johnson, Elaine	Eveland, Lisa, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
95.Pehle, Elizabeth	Eveland, Lisa, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
96.Perri, Mary	Eveland, Lisa, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton,

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
97.Schulman, Kathleen	Eveland, Lisa, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
98.Varr, Leslie	Eveland, Lisa, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
99.Brown, Phyllis	Fenstermaker, Charles, et al.	Napoli Shkolnik, PLLC
100. Armstead, Ethel	Frazier, Kelly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
101. Douglas, Maureen	Frazier, Kelly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
102. Frausto, Beatriz	Frazier, Kelly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
103. Frazier, Kelly	Frazier, Kelly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
104. Gibson, Heleena	Frazier, Kelly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
105. Higdon, Martha	Frazier, Kelly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
106. Johnson, Sarah	Frazier, Kelly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
107. O'Hara, Lori	Frazier, Kelly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
108. Pasquarelli, Joyce	Frazier, Kelly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
109. Rittenhouse, Lisa	Frazier, Kelly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
110. Tenenbaum, Pearl	Frazier, Kelly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
111. Thompson, Laura	Frazier, Kelly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
112. Toni, Marianna	Frazier, Kelly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
113. Traylor, Kelly	Frazier, Kelly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
114. Vera, Victoria	Frazier, Kelly, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
115. Beadle, Marcia	Gallardo, Anna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
116. Carassale, Donna	Gallardo, Anna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
117. Enterline, Barbara	Gallardo, Anna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
118. Fitzhugh, Antonia	Gallardo, Anna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
119. Gallardo, Anna	Gallardo, Anna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
120. Godwin, Mildred	Gallardo, Anna, et al.	Onder, Shelton, O'Leary & Peterson, LLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
121. Howard, Bertha	Gallardo, Anna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
122. Johnston, Ronda	Gallardo, Anna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
123. Jones, Mona	Gallardo, Anna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
124. Madden, Kareen	Gallardo, Anna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
125. Mitchell, Linda	Gallardo, Anna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
126. Schwartz, Rosalind	Gallardo, Anna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
127. Ahlbin, Diana	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
128. Cortez, Anna	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
129. Cromer, Somben	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton,

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
130. Dukewits, Suzanne	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
131. Eastman, Alma	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
132. Fowler, Faith	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
133. Gallow, Mary	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
134. Gordon, Freya	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
135. Griffin, Brenda	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
136. Hilton, Sarah	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
137. Howard, Lakishia	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
138. Jackson, Sharon	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton,

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
139. Jennette, Carmen	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
140. Kaplan, Barbara	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
141. LaNear, Debry	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
142. Lazo, Maria	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
143. Martinez, Maria	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
144. McQuillen, Karen	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
145. Peters, Belinda	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
146. Wheeler, Kenah	Gallow, Mary, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
147. Alvarez-Perez, Yvette	Ghormley, Kerry, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
148. Bearden, Donna	Ghormley, Kerry, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
149. Buczek, Royce	Ghormley, Kerry, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
150. Dowd, Deborah	Ghormley, Kerry, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
151. Ghormley, Kerry	Ghormley, Kerry, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
152. Holmes, Meridith	Ghormley, Kerry, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
153. Huffman, Susan	Ghormley, Kerry, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
154. LaVigna, Mary	Ghormley, Kerry, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
155. Leadley, Mary	Ghormley, Kerry, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
156. Mighells, Charmaine	Ghormley, Kerry, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
157. Palacios, Victoria	Ghormley, Kerry, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
158. Temple, Bonnie	Ghormley, Kerry, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
159. Thompson, Kathy	Ghormley, Kerry, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
160. Williams-Perkins, Pamela	Ghormley, Kerry, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
161. Wills, Kathryn	Ghormley, Kerry, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
162. Babb, Marjorie	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
163. Butler, Sheryl	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
164. DeMello, Karen	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
165. Frank, Erin	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
166. Halliday-Cornell, Frances	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
167. Heffner, Cheryl	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
168. Hubbard, Laura	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
169. Husman, Heidi	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
170. Huyler, Joycelyn	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
171. Keily, Nancy	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
172. Kessenich, Carol	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
173. Kittle, Deborah	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
174. Lookingbill, Frances	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
175. Lopa, Rosanne	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
176. Martens, Sharon	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
177. Mascitelli, Lisa	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
178. Matheny, Jennifer	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
179. McTamney, Lauralee	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
180. Miller, Heather	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
181. Monzon, Maria	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
182. Napolitano, Lori	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
183. Orr, Kathleen	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
184. Parker, Katie	Harders, Christine, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
185. Fansler, Mary	Hensley, Mari-Grace, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
186. Higgins, Josephine	Hensley, Mari-Grace, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
187. Jacquez, Nancy	Hensley, Mari-Grace, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
188. Lang, Michelle	Hensley, Mari-Grace, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
189. McLean, Jill	Hensley, Mari-Grace, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
190. Steele, Gail	Hensley, Mari-Grace, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
191. Toney, Jill	Hensley, Mari-Grace, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
192. Williams, Marva	Hensley, Mari-Grace, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
193. Zucker, Donna	Hensley, Mari-Grace, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
194. Altringer, Rebecca	Hinton, Barbara, et al.	Onder, Shelton, O'Leary & Peterson, LLC
195. Andrews, Carol	Hinton, Barbara, et al.	Onder, Shelton, O'Leary & Peterson, LLC
196. Arnold, Karen	Hinton, Barbara, et al.	Onder, Shelton, O'Leary & Peterson, LLC
197. Burdick, Lani	Hinton, Barbara, et al.	Onder, Shelton, O'Leary & Peterson, LLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
198. DeJesus, Evelyn	Hinton, Barbara, et al.	Onder, Shelton, O'Leary & Peterson, LLC
199. Grijalva, Lauren	Hinton, Barbara, et al.	Onder, Shelton, O'Leary & Peterson, LLC
200. Hinton, Barbara	Hinton, Barbara, et al.	Onder, Shelton, O'Leary & Peterson, LLC
201. Jones, Kathryn	Hinton, Barbara, et al.	Onder, Shelton, O'Leary & Peterson, LLC
202. Kerpash, Billie	Hinton, Barbara, et al.	Onder, Shelton, O'Leary & Peterson, LLC
203. Long, Janice	Hinton, Barbara, et al.	Onder, Shelton, O'Leary & Peterson, LLC
204. Maitland, Eloise	Hinton, Barbara, et al.	Onder, Shelton, O'Leary & Peterson, LLC
205. Pederson, Sharon	Hinton, Barbara, et al.	Onder, Shelton, O'Leary & Peterson, LLC
206. Rimp, Pauline	Hinton, Barbara, et al.	Onder, Shelton, O'Leary & Peterson, LLC
207. Young, Janet	Hinton, Barbara, et al.	Onder, Shelton, O'Leary & Peterson, LLC
208. Zane, Della	Hinton, Barbara, et al.	Onder, Shelton, O'Leary & Peterson, LLC
209. Davis, Debbie	Hogans, Tiffany, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
210. Fox, Jacqueline	Hogans, Tiffany, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter &

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Malouf, PA // The Smith Law Firm, PLLC
211. Giannecchini, Deborah	Hogans, Tiffany, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
212. Girolamo, Bonnie	Hogans, Tiffany, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
213. Harrison, Lykeisha	Hogans, Tiffany, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
214. Hawkins, Molly	Hogans, Tiffany, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
215. Hogans, Tiffany	Hogans, Tiffany, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
216. Ristesund, Gloria	Hogans, Tiffany, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
217. Setzer, Candy	Hogans, Tiffany, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
218. Talucci, Barbara	Hogans, Tiffany, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
219. Westerman, Marianne	Hogans, Tiffany, et al.	Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
220. Gill, Tina	Jinright, Rebecca, et al.	Onder, Shelton, O'Leary & Peterson, LLC
221. Waddle, Peggy	Jinright, Rebecca, et al.	Onder, Shelton, O'Leary & Peterson, LLC
222. Zurligen, Gretchen	Jinright, Rebecca, et al.	Onder, Shelton, O'Leary & Peterson, LLC
223. Chimento, Gail	Jones, Annie, et al.	Onder, Shelton, O'Leary & Peterson, LLC
224. Estelle, Pamela	Jones, Annie, et al.	Onder, Shelton, O'Leary & Peterson, LLC
225. Hamel, Linda	Jones, Annie, et al.	Onder, Shelton, O'Leary & Peterson, LLC
226. Harris, Constance	Jones, Annie, et al.	Onder, Shelton, O'Leary & Peterson, LLC
227. House, Dawn	Jones, Annie, et al.	Onder, Shelton, O'Leary & Peterson, LLC
228. Johnson, Tabitha	Jones, Annie, et al.	Onder, Shelton, O'Leary & Peterson, LLC
229. Jones, Annie	Jones, Annie, et al.	Onder, Shelton, O'Leary & Peterson, LLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
230. Macy, Paula	Jones, Annie, et al.	Onder, Shelton, O'Leary & Peterson, LLC
231. McGonigle, Joyce	Jones, Annie, et al.	Onder, Shelton, O'Leary & Peterson, LLC
232. McKinzie, Shirley	Jones, Annie, et al.	Onder, Shelton, O'Leary & Peterson, LLC
233. Semenas, Rosemary	Jones, Annie, et al.	Onder, Shelton, O'Leary & Peterson, LLC
234. Thomas, Linda	Jones, Annie, et al.	Onder, Shelton, O'Leary & Peterson, LLC
235. Alberding, Donna	Krueger, Jean, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
236. Biggs, Gail	Krueger, Jean, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
237. Carbajal, Lidia	Krueger, Jean, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
238. Cook, Kynda	Krueger, Jean, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
239. Goldstein, Lorraine	Krueger, Jean, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
240. Krueger, Jean	Krueger, Jean, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
241. Leath, Karen	Krueger, Jean, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
242. Metzler, Dianna	Krueger, Jean, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
243. Morgan, Cynthia	Krueger, Jean, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
244. Posey, Jannae	Krueger, Jean, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
245. Rhoden, Alice	Krueger, Jean, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
246. Silva, Renee	Krueger, Jean, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
247. Story, Barbara	Krueger, Jean, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
248. Vai, Stephanie	Krueger, Jean, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
249. Kujat, Thelma	Lagrone, Clyde, et al.	Holland, Groves, Schneller & Stolze, LLC // The Lanier Law Firm, PLLC
250. Harrell, Michele	Logan, Wynester, et al.	Gori Julian & Associates, P.C.
251. Basbagill, Katie	Lovato, Angela, et al.	Branch Law Firm
252. Durbin, Dawn	Lovato, Angela, et al.	Branch Law Firm
253. Fede, Angela	Lovato, Angela, et al.	Branch Law Firm
254. Ficacci, Barbara	Lovato, Angela, et al.	Branch Law Firm
255. Gross, Toni	Lovato, Angela, et al.	Branch Law Firm
256. Jaubert, Mary	Lovato, Angela, et al.	Branch Law Firm
257. Johanson, Roberta	Lovato, Angela, et al.	Branch Law Firm
258. Martinez, Donila	Lovato, Angela, et al.	Branch Law Firm
259. Martinez, Mary	Lovato, Angela, et al.	Branch Law Firm
260. Smoller, Lorraine	Lovato, Angela, et al.	Branch Law Firm
261. Vincent, Barbara	Lovato, Angela, et al.	Branch Law Firm
262. Bedford, Wanda	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
263. Castro, KeriJane	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP
264. Collins, Patricia	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP
265. Delgado, Rebecca	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP
266. Fahimi, Solmaz	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP
267. Hargrove, Jennifer	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP
268. Kennedy, Lorine	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP
269. Koch, Glenda	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP
270. McQuillan, Mary	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary &

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Peterson, LLC // The Potts Law Firm, LLP
271. O'Brien, Wilma	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP
272. Pan, Liling	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP
273. Paulson, Teresa	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP
274. Petrie, Christina	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP
275. Piper, Ann	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP
276. Renna, Genevieve	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP
277. Simmons, Carrie	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
278. Toribio, Leilani	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP
279. Urick, Donna	Lucas, Amber, et al.	Ashby & Geddes // Onder, Shelton, O'Leary & Peterson, LLC // The Potts Law Firm, LLP
280. Bakman, Debbie	McBee, Sharon, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
281. Dye, Kathleen	McBee, Sharon, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
282. Gordon, Barbara	McBee, Sharon, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
283. Heard, Rose	McBee, Sharon, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
284. McBee, Sharon	McBee, Sharon, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
285. Meier, Cynthia	McBee, Sharon, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
286. Powell, Nancy	McBee, Sharon, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
287. Steens, La Rayne	McBee, Sharon, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
288. Tramontozzi, Marjorie	McBee, Sharon, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
289. Waters, Coriena	McBee, Sharon, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
290. Wedlick-Ortiz, Ellen	McBee, Sharon, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
291. Wilkerson, Gloria	McBee, Sharon, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
292. Barnhart, Joni	McNichols, Donna, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
293. Brower, Carol	McNichols, Donna, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
294. Evans, Diane	McNichols, Donna, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
295. Herring, Evonne	McNichols, Donna, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
296. Iturreria, Susan	McNichols, Donna, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
297. Kerp, Susan	McNichols, Donna, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
298. McNichols, Donna	McNichols, Donna, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
299. Rak, Joanna	McNichols, Donna, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
300. San Filippo, Sarah	McNichols, Donna, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
301. Smith, Patricia	McNichols, Donna, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
302. Thomas, Dianne	McNichols, Donna, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
303. Wolf, Susie	McNichols, Donna, et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Onder, Shelton, O'Leary & Peterson, LLC //

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		Porter & Malouf, PA // The Smith Law Firm, PLLC
304. Brown', Teresa	Moore, Cassandra, et al.	Gori Julian & Associates, P.C.
305. Santos, Carolanne	Moore, Cassandra, et al.	Gori Julian & Associates, P.C.
306. Edwards, Pamela	Moore, Lesa M., et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
307. Golden, Deborah	Moore, Lesa M., et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
308. Graham, Gayle	Moore, Lesa M., et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
309. Hargrove, Toni	Moore, Lesa M., et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton,

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
		O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
310. Miller, Robin	Moore, Lesa M., et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
311. Moore, Lesa	Moore, Lesa M., et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
312. Rosell, Elizabeth	Moore, Lesa M., et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC
313. Walker, Michelle	Moore, Lesa M., et al.	Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. // Goldenberglaw, PLLC // Onder, Shelton, O'Leary & Peterson, LLC // Porter & Malouf, PA // The Smith Law Firm, PLLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
314. Zierk, Mary	Paniagua, Anastasia, et al.	Paul LLP
315. Monroe, Exia	Rea, Mary, et al.	Simmons Hanly Conroy
316. Melberger, Bernadette	Rhode, Jerie, et al.	Onder, Shelton, O'Leary & Peterson, LLC
317. Rocks, Pamela	Rhode, Jerie, et al.	Onder, Shelton, O'Leary & Peterson, LLC
318. Worley, Kimberly	Rhode, Jerie, et al.	Onder, Shelton, O'Leary & Peterson, LLC
319. Aguilar, Melissa	Robb, Mary, et al.	Sill Law Group, PLLC
320. Acevedo, Lola	Starks, Farrah, et al.	Gori Julian & Associates, P.C.
321. Bethell, Kimberly	Thompson, Karen, et al.	Onder, Shelton, O'Leary & Peterson, LLC
322. Bian, Mary	Thompson, Karen, et al.	Onder, Shelton, O'Leary & Peterson, LLC
323. Evans, Janet	Thompson, Karen, et al.	Onder, Shelton, O'Leary & Peterson, LLC
324. Hafner, Margie	Thompson, Karen, et al.	Onder, Shelton, O'Leary & Peterson, LLC
325. McGlothin, Raikayah	Thompson, Karen, et al.	Onder, Shelton, O'Leary & Peterson, LLC
326. Peregrina, Felicia	Thompson, Karen, et al.	Onder, Shelton, O'Leary & Peterson, LLC
327. Rocks, Pamela	Thompson, Karen, et al.	Onder, Shelton, O'Leary & Peterson, LLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
328. Skinner, Debra	Thompson, Karen, et al.	Onder, Shelton, O'Leary & Peterson, LLC
329. Smith, Marianna	Thompson, Karen, et al.	Onder, Shelton, O'Leary & Peterson, LLC
330. Sullivan, Sandra	Thompson, Karen, et al.	Onder, Shelton, O'Leary & Peterson, LLC
331. Zink, Teresa	Thompson, Karen, et al.	Onder, Shelton, O'Leary & Peterson, LLC
332. Adams, Roberta	Valle, Deanna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
333. Collins, Kathy	Valle, Deanna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
334. Garcia, Lillian	Valle, Deanna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
335. Gramuglia, Carmela	Valle, Deanna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
336. Hardee, Linda	Valle, Deanna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
337. Khazzaka, Alise	Valle, Deanna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
338. Mazzuca, Kathleen	Valle, Deanna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
339. Moore, Louise	Valle, Deanna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
340. Valle, DeAnna	Valle, Deanna, et al.	Onder, Shelton, O'Leary & Peterson, LLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
341. Volker-Loguidice, Amanda	Valle, Deanna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
342. Webb, Lynn	Valle, Deanna, et al.	Onder, Shelton, O'Leary & Peterson, LLC
343. Braithwaite, Elizabeth	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC
344. Cange, Mary	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC
345. Conte, Susan	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC
346. Davis, Joan	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC
347. Devone, JoAnn	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC
348. Fairbrother, Catherine	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC
349. Felter, Christina	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC
350. Green, Alice	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC
351. Johnson', Constance	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC
352. Langley, Lisa	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC
353. Popov, Sharon	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC

Plaintiff Name	Multi-Plaintiff Case Name	Plaintiff Firm
354. Smith, Federica	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC
355. Tebo, Betty	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC
356. Victorino, Nadine	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC
357. Williams, Joyce	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC
358. Williams, Mertis	Williams, Joyce, et al.	Onder, Shelton, O'Leary & Peterson, LLC

EXHIBIT F

EXHIBIT F
STATUS OF PENDING MOTIONS IN INDIVIDUAL CASES

Case Name	Case No.	Status of Pending Motions
<i>Paul Feldman, et al. v. Johnson & Johnson, et al.</i>	3:17-cv-03163	Plaintiffs' Motion to Remand filed May 18, 2017. Fully briefed.
<i>Bernadine Moore v. Johnson & Johnson, et al.</i>	3:17-cv-04034	Plaintiffs' Motion to Remand filed June 28, 2017. Johnson & Johnson Defendants' Opposition filed July 28, 2017. Imerys' Opposition filed July 28, 2017.
<i>Gavin v. Johnson & Johnson, et al.</i>	3:17-cv-05907	Plaintiffs' Motion to Remand filed August 10, 2017. Fully briefed.
<i>Edna Brown v. Johnson & Johnson, et al.</i>	3:17-cv-05724	Plaintiffs' Motion to Remand filed September 1, 2017. Fully briefed.
<i>Carolyn Bennett v. Johnson & Johnson, et al.</i>	3:17-cv-05723	Plaintiffs' Motion to Remand filed September 1, 2017. Fully briefed.
<i>Maureen Abbeduto, et al. v. Johnson & Johnson, et al.</i>	3:17-cv-05812	Plaintiffs' Motion to Remand filed September 1, 2017. Fully briefed.
<i>Kim Knight v. Johnson & Johnson, et al.</i>	3:17-cv-05796	Plaintiffs' Motion to Remand filed September 1, 2017. Fully briefed.
<i>Sharon McBee, et al. v. Johnson & Johnson, et al.</i>	3:17-cv-5720	Johnson & Johnson Defendants' Motion to Dismiss filed September 5, 2017. Motion to be terminated pursuant to CMO 8.
<i>Donna McNichols, et al. v. Johnson & Johnson, et al.</i>	3:17-cv-5719	Johnson & Johnson Defendants' Motion to Dismiss filed September 5, 2017. Motion to be terminated pursuant to CMO 8.
<i>Sandra Lee, et al. v. Johnson & Johnson, et al.</i>	3:17-cv-03548	Plaintiffs' Motion to Remand filed September 25, 2017. Fully briefed.

Case Name	Case No.	Status of Pending Motions
<i>Ruth Carver v. Johnson & Johnson, et al.</i>	3:17-cv-03549	Plaintiffs' Motion to Remand filed September 25, 2017. Fully briefed.
<i>Monica Belcher v. Johnson & Johnson, et al.</i>	3:17-cv-3452	Plaintiffs' Motion to Dismiss filed October 31, 2017. Defendants' Opposition filed November 20, 2017.
<i>Barbara Newton v. Johnson & Johnson, et al.</i>	3:17-cv-7409	Plaintiffs' Motion to Dismiss filed October 31, 2017. Defendants' Opposition filed November 20, 2017.
<i>Anne Giles, et al. v. Johnson & Johnson, et al.</i>	3:17-cv-1158	Plaintiffs' Motion to Dismiss filed October 31, 2017. Defendants' Opposition filed November 20, 2017.
<i>Wendy Creamer-Zintel v. Johnson & Johnson, et al.</i>	3:17-cv-7366	Plaintiffs' Motion to Dismiss filed October 31, 2017. Defendants' Opposition filed November 20, 2017.
<i>Vicki Foster v. Johnson & Johnson, et al.</i>	3:17-cv-1134	Plaintiffs' Motion to Dismiss filed October 31, 2017. Defendants' Opposition filed November 20, 2017.
<i>Connie Hilabrand v. Johnson & Johnson, et al.</i>	3:17-cv-1159	Plaintiffs' Motion to Dismiss filed October 31, 2017. Defendants' Opposition filed November 20, 2017.
<i>Maria Velardo, et al. v. Johnson & Johnson, et al.</i>	3:17-cv-1154	Plaintiffs' Motion to Dismiss filed October 31, 2017. Defendants' Opposition filed November 20, 2017.
<i>Tasha Martin v. Johnson & Johnson, et al.</i>	3:17-cv-7406	Plaintiffs' Motion to Dismiss filed October 31, 2017. Defendants' Opposition filed November 20, 2017.
<i>Rebecca Bowers v. Johnson & Johnson, et al.</i>	3:17-cv-12308	Plaintiffs' Motion to Remand filed XX. Defendants' Opposition filed December 19, 2017.
<i>Peck, et al. v. Johnson & Johnson, et al.</i>	3:17-cv-12665	Plaintiffs' Motion to Remand filed XX. Defendants' Opposition filed January 22, 2018.

EXHIBIT G

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE: JOHNSON & JOHNSON
TALCUM POWDER PRODUCTS
MARKETING, SALES PRACTICES
AND PRODUCTS LIABILITY
LITIGATION

Civil Action No. 3:16-md-2738-FLW-LHG

MDL No. 2738

**ORDER TERMINATING
MOTIONS TO DISMISS FOR
LACK OF PERSONAL
JURISDICTION**

THIS MATTER having been opened to the Court by the parties at the December 7, 2017 Case Management Conference; it appearing that Defendants Johnson & Johnson and Johnson & Johnson Consumer Inc. moved in numerous cases outlined in Exhibit 1 of this Order, to dismiss certain plaintiffs' complaints based on lack of personal jurisdiction; it appearing that the parties have resolved the personal jurisdiction issues raised by these motions,

IT IS on this ____ day of February, 2018,

ORDERED that the motions listed on Exhibit 1 of this Order shall be **ADMINISTRATIVELY TERMINATED** until further order of this Court.

Hon. Freda L. Wolfson, U.S.D.J.

EXHIBIT 1

LIST OF TERMINATED MOTIONS

Case Name	Docket No.	Terminated Motions
<i>Sharon McBee, et al. v. Johnson & Johnson, et al.</i>	3:17-cv-5720	Johnson & Johnson Defendants' Motion to Dismiss filed September 5, 2017.
<i>Donna McNichols, et al. v. Johnson & Johnson, et al.</i>	3:17-cv-5719	Johnson & Johnson Defendants' Motion to Dismiss filed September 5, 2017.