



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



Michelle A. Parfitt
mparfitt@ashcraftlaw.com

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

August 23, 2023

Via ECF

Honorable Michael A. Shipp, U.S.D.J.
United States District Court
Clarkson S. Fisher Building & US Courthouse
402 East State Street
Trenton, NJ 08608

Honorable Rukhsanah L. Singh, U.S.M.J
United States District Court
Clarkson S. Fisher Building & US Courthouse
402 East State Street
Trenton, NJ 08608

***Re: Johnson & Johnson Talcum Powder Products, Marketing, Sales
Practices and Products Liability Litigation
Case No.: 3:16-md-02738-MAS-RLS***

Dear Judge Shipp and Judge Singh:

Pursuant to the Court's order of August 14, 2023, the Plaintiffs' Steering Committee (PSC) and the Johnson & Johnson Defendants submit the following proposed *agreed upon* orders: 1) Proposed Amended Plaintiff Profile Form Order (Exhibit A); 2) Proposed Order Setting Briefing Schedule on Plaintiffs' Renewed Motion for Leave to File a Second Amended Master Long Form Complaint (Exhibit B); and 3) Proposed Order Regarding the Status of Death Cases (Exhibit C).

In addition to the agreed upon orders referenced above, the PSC submits a proposed form of order related to case-specific discovery for Stage Three or bellwether pool cases. As outlined below, the parties were unable to reach agreement on the form of order related to this ongoing bellwether discovery and will

Hon. Michael A. Shipp, U.S.D.J.
Hon. Rukhsanah L. Singh, U.S.M.J.
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submit separate orders. The PSC respectfully requests that the Court enter the order attached as Exhibit D to this letter.

On April 27, 2020, Judge Wolfson entered an Order and Opinion setting forth the Court's rulings related to the parties' extensive *Daubert* motions and hearing during which the Court queried the experts. *See* Docs. 13186 and 13187. Following the *Daubert* rulings, the parties undertook a multi-stage process to prepare for the first bellwether trial, winnowing down 1,000 cases to six cases selected to be prepared for trial *See* Order of April 1, 2021 (Doc. 18906). Plaintiffs had disclosed case-specific experts and, in keeping with the Court's August 2, 2021 Order, Plaintiffs' experts were deposed. *See* Doc. 24511. These MDL proceedings were stayed pursuant to the LTL bankruptcy filing on October 14, 2021, six days before the October 22, 2023, deadline for submission of Defendants' expert reports.

In proposing an amended order related to case-specific discovery for Stage Three cases, Defendants insist on allotting time for *Daubert* motions. After delaying this MDL litigation for nearly two years via multiple failed bankruptcy efforts, Defendants seek to further delay bellwether trials by redoing that which has already been done in this case. Rearguing *Daubert* was not part of the August 2, 2021 amended scheduling order and it should not be part of any orders moving forward.

In *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), the Supreme court ruled that trial courts must perform a gatekeeping function to ensure the relevance and reliability of expert testimony. *See id.* at 589-95. "The Third Circuit has explained that 'an expert's testimony is admissible so long as the process or technique the expert used in formulating the opinion is reliable.'" *In re: Johnson & Johnson Talcum Powder Prods. Liab. Litig.*, 509 F. Supp.3d 116, 131 (2020) (citations omitted). This means that an "expert's opinion must be based on the 'methods and procedures of science' rather than on 'subjective believe or unsupported speculation.'" *Id.* (quoting *In re Paoli R.R. Yard PCB Litig.*, 35 F.3d 717, 742 (3d Cir. 1994)).

In the *Daubert* opinion, Judge Wolfson exercised the trial court's gatekeeping function, ensuring the relevance and reliability of expert testimony. Judge Wolfson painstakingly analyzed the experts' processes and techniques, ultimately ruling that Plaintiffs' experts' methodologies were sound. *Id.* at 198. *Daubert* focuses on the methodology employed by the expert, as opposed to his or her conclusions. *Id.* at

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132. Although it is acceptable for the court to “at least a limited review of the expert’s conclusions ‘in order to determine whether they could reliably flow from the facts known to the expert and the methodology used.’” *id.* (citations omitted), neither the passage of time nor the publication of new literature undermines the sound methodologies employed or conclusions reached by Plaintiffs’ experts. It is for this reason the PSC requests the Court enter the attached amended scheduling order.

Thank you for your consideration. Please let us know if the Court needs further information.

Respectfully submitted,

/s/ P. Leigh O'Dell

/s/ Michelle A. Parfitt

P. Leigh O'Dell

Michelle A. Parfitt

cc: Hon. Joel Schneider, U.S.M.J. (ret.) (via email)
Susan Sharko, Esq. (via email)
All Counsel (via ECF)

Exhibit A);¹ produce the core records specified in paragraph 2; and produce a signed medical records authorization (attached as Exhibit B)(which is not a substitute for production of medical records as required herein).

2. Plaintiffs shall promptly order the following core records and produce them to defense counsel upon receipt:

- a. All Medical records or reports from any hospital, physician, or other health care provider who treated plaintiff for ovarian cancer or any gynecologic disease, condition or symptom alleged in the Complaint and/or PPF ; and
- b. If applicable, decedent-user's death certificate.

3. The parties have agreed to use MDL Centrality®, an online data management tool specifically designed to manage discovery in mass tort litigations, to complete and serve the Plaintiff Profile Forms and for the exchange of any other responsive discovery documents between the parties. The system is accessible at www.mdlcentrality.com/talc. Plaintiffs' counsel will promptly register with MDL Centrality®.

4. Plaintiffs' counsel shall serve upon Defendants via MDL Centrality: (1) a fully complete and verified PPF; (2) core records as outlined above; and (3) an

¹ The service of an agreed upon Plaintiff Fact Sheet ("PFS") from another jurisdiction and the production of a signed medical authorization and required records shall comply with this Order. If the plaintiff was living at the time the initial PFS was served, but is now deceased, a PPF shall be served.

executed Limited Authorization to Disclose Health Information in
accordance with the following schedule:

- a. For cases filed in or transferred to the MDL during the calendar years 2016 and 2017, Plaintiffs shall comply with Paragraphs 1 and 2 on or before **October 16, 2023**;
- b. For cases filed in or transferred to the MDL during the calendar year 2018, Plaintiffs shall comply with Paragraphs 1 and 2 on or before **December 15, 2023**;
- c. For cases filed in or transferred to the MDL during the calendar year 2019, Plaintiffs shall comply with Paragraphs 1 and 2 on or before **February 15, 2024**;
- d. For cases filed in or transferred to the MDL during the calendar year 2020, Plaintiffs shall comply with Paragraphs 1 and 2 on or before **April 15, 2024**;
- e. For cases filed in or transferred to the MDL during or after calendar year 2021, Plaintiffs shall comply with Paragraphs 1 and 2 on or before **May 31, 2024**; and
- f. For cases filed in or transferred to the MDL after the date of this Order, Plaintiffs shall comply with Paragraphs 1 and 2 within **90 days** from the date the complaint was filed.

5. If additional time is needed in a specific case for good cause,
the parties will meet and confer in good faith to resolve any issues.

6. The parties shall meet and confer in good faith with regard to
any deficiency notices before a dispositive motion is filed.

7. If certain core records and/or information are not available despite

the best efforts of the plaintiff, the plaintiff shall describe such efforts in response to the question and those efforts may be deemed to be substantial compliance with this Order.

Hon. Michael A. Shipp
United States District Judge

EXHIBIT A

PLAINTIFF PROFILE FORM

This Plaintiff Profile Form (“PPF”) must be completed by the plaintiff or the representative of plaintiff’s decedent. In completing this PPF, you are under oath and must provide information that is true and complete to the best of your knowledge, information and belief after reasonable inquiry. You must supplement your responses if you learn that they are incomplete or incorrect in any material respect.

In filling out this PPF, please use the following definitions: (1) “**health care provider**” means any hospital, clinic, medical center, physician’s office, infirmary, medical or diagnostic laboratory, or other facility that provides medical, dietary, psychiatric, or psychological care or advice, and any pharmacy, weight loss center, x-ray department, laboratory, physical therapist or physical therapy department, rehabilitation specialist, physician, psychiatrist, osteopath, homeopath, chiropractor, psychologist, nutritionist, dietician, or other persons or entities involved in the evaluation, diagnosis, care, and/or treatment of the plaintiff or plaintiff’s decedent; (2) “**document**” means any writing or record of every type that is in your possession, including but not limited to written documents, documents in electronic format, cassettes, videotapes, photographs, charts, computer discs or tapes, and x-rays, drawings, graphs, phone-records, non-identical copies, and other data compilations from which information can be obtained and translated, if necessary, by the respondent through electronic devices into reasonably usable form.

Information provided in this PPF will only be used for purposes related to this litigation and may be disclosed only as permitted by the protective order in this litigation. This PPF is completed pursuant to the Federal Rules of Civil Procedure governing discovery.

1. CASE INFORMATION

Name of Person Completing Form:	
If you are completing this PPF in a representative capacity (e.g., on behalf of the estate of a deceased person), please complete the following:	
Your Name:	
Your relationship to individual you represent:	

**THE REST OF THIS PLAINTIFF PROFILE FORM REQUESTS INFORMATION
ABOUT THE PERSON WHO USED JOHNSON'S BABY POWDER AND/OR SHOWER
TO SHOWER AND WAS DIAGNOSED WITH OVARIAN CANCER**

2. PERSONAL INFORMATION

Name:		
Maiden/Other Names Used		
Current or Last Known Address:		
Date of Birth: [Calendar Drop Down]	Gender:	M ____ F ____
Date of Death (If applicable) [Calendar Drop Down]:	Social Security Number:	
Select Marriage Status:	[DROP DOWN] Single Married Widowed Divorced	Name of Spouse, if Married at time of filing Complaint:

3. TALCUM POWDER-RELATED CLAIM

a. Have you been diagnosed with one of the following types of cancer? [DROP DOWN]

- ☐ Ovarian
- ☐ Fallopian tube
- ☐ Primary Peritoneal
- ☐ Endometrial
- ☐ Uterine
- ☐ Vaginal
- ☐ Cervical
- ☐ Unknown

b. If yes, please provide the approximate date of initial diagnosis (if more than one, for each initial diagnosis): _____[Calendar Drop-Down]

c. If you were diagnosed with ovarian cancer, fallopian tube or primary peritoneal cancer, please provide the type: [DROP DOWN]

- ☐ High-Grade Serous
- ☐ Low-Grade Serous
- ☐ Serous (do not know if high grade or low grade)
- ☐ Endometrioid
- ☐ Clear Cell
- ☐ Mucinous
- ☐ Undifferentiated
- ☐ Unknown

d. If you were diagnosed with ovarian cancer, fallopian tube or primary peritoneal cancer, please provide the stage: [DROP DOWN]

- ☐ Stage I
- ☐ Stage II
- ☐ Stage III
- ☐ Stage IV
- ☐ Unknown
- ☐ Unstaged

4. MEDICAL HISTORY:

a. Have you ever had a tubal ligation? Yes__ No__ [DROP DOWN]

If yes, date of procedure: [Calendar Drop-Down]

b. Have you ever been tested for a genetic mutation or condition? Yes_No_ [DROP DOWN]

Name of Provider who ordered such testing:_____.

- c. Have you ever been diagnosed with any of the following?

Condition	Yes/No/ Unknown [DROP DOWN]	Name and Address of Diagnosing Provider	Approximate Date of Diagnosis (if applicable)
BRCA1 or BRCA2 mutation			
Endometriosis			
Adenomyosis			
Irregular vaginal bleeding			
Ovarian Cysts			
Polycystic ovaries and/or Polycystic Ovarian Syndrome			
Uterine fibroids			
Infertility			
Breast cancer			
Lynch Syndrome			
Other cancer (please specify Type of cancer(s):			
Obesity/overweight			
Pelvic Inflammatory Disease			
Colon Polyps			

6. Other than those injuries that you believe were caused by your use of body powder, do you currently suffer from any chronic illnesses or disabilities? Yes
___ No [DROP DOWN]

If yes, please identify:

The injury, illness, or disability: _____

Date(s) of diagnosis:_____

FAMILY MEDICAL HISTORY

7. Limiting this question to blood relatives, to the best of your knowledge, please indicate whether your *parents, siblings, children, grandparents, aunts, uncles, or first cousins* have ever suffered from or been treated for any type of cancer (including but not limited to ovarian cancer or breast cancer):

Relative's Name	Relation to you	Type and date of cancer(s)

8. Limiting this question to blood relatives, to the best of your knowledge, please indicate whether your *parents, siblings, children, grandparents, aunts, uncles, or first cousins* have ever been diagnosed with any genetic mutations, including but not limited to BRCA1 or BRCA2 mutations?

Yes No [DROP DOWN]

If yes, please identify each such relative's relation to you:_____.

HEALTH CARE PROVIDERS AND PHARMACIES

9. Limiting your answer to primary care, gynecology and oncology healthcare providers, identify each doctor or other health care provider who you have seen for medical care and treatment from the ten (10) years prior to your ovarian cancer diagnosis to the present. In particular, please use your best efforts to list all of the primary care providers during this period.

Doctor or Healthcare Provider's Name	Doctor or Healthcare Provider's Specialty	Address	Approx. Years of Visits

10. If any of your healthcare providers who you have seen in relation to treatment and care of **ovarian cancer or any other form of cancer** were not identified previously, please identify for each such provider:

Name and Specialty	Address	Approximate Years of Treatment	Reason for Treatment
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11. Limiting your response to visits for issues related to cancer and to gynecologic issues other than pregnancy, identify each hospital, clinic, or health care facility where you were hospitalized (inpatient, out-patient, or emergency room visit) from the (10) years prior to your ovarian cancer diagnosis to the present:

Name	Address	Admission Date(s)	Reason for Admission Approx. Years of visits

12. To the best of your recollection, identify each pharmacy that has regularly dispensed medication to you from the ten (10) years prior to your ovarian cancer diagnosis to the present:

Name of Pharmacy	Address of Pharmacy	Approx. Years You Used Pharmacy

13. Has any health care provider told you the cause(s) of your ovarian cancer??

Yes___No_____[DROP DOWN]

If yes, please identify the name of said health care provider, the approximate date on which he/she did so, and the substance of the conversation: _____

-
-
14. Have you had any communications with your health care providers, orally or in writing, about whether your condition is related to your use of Johnson's Baby Powder and/or Shower to Shower?

Yes No__ [DROP DOWN]

If yes, please identify the name and approximate date of communication with said health care provider: _____

TALCUM POWDER PRODUCT USE

16. Have you ever used Johnson's Baby Powder? Yes_____No_____

If yes, identify:

- a) Did you apply the product to your genital area? Yes_____No_____
- b) Approximate year of first use:_____
- c) Approximate year of last use:_____
- d) Frequency of use during these dates: _____

17. Have you ever used Johnson & Johnson Shower to Shower? Yes_____No_____

If yes, identify:

- a) Did you apply the product to your genital area? Yes_____No_____
- b) Approximate year of first use:_____
- c) Approximate year of last use: _____
- d) Frequency of use during these dates: _____

18. Have you ever used any other cosmetic powder product(s) in your genital area?

If yes, identify:

- a) Name of product(s): _____
- b) Approximate year of first use: _____
- c) Approximate year of last use: _____

MEDICAL BACKGROUND OF BODY POWDER USER

- 19. What is your height? _____ft. _____ inches.
- 20. Highest weight during the five years prior to your ovarian cancer diagnosis: _____ lbs.
Lowest weight during the five years prior to your ovarian cancer diagnosis: _____ lbs.
- 21. Smoking History:
 - a. Do you currently smoke cigarettes? Yes No [DROP DOWN]
 - If yes, for how long have you smoked?
 - If yes, how many cigarettes/packs per day do you smoke?
 - b. Have you ever smoked cigarettes in the past? Yes No [DROP DOWN]
 - If yes, when did you begin such smoking?
 - When did you stop smoking?
 - How many cigarettes/packs per day did you smoke until you stopped?
- 22. Menstrual History:
 - a. Age at first menstrual period: _____
 - b. Age at last menstrual period: _____
 - c. Average length of period: _____
- 23. Pregnancies: (with drop downs)
Number of pregnancies? _____
Years of pregnancy(s): _____
Number of births ? _____

24. Employment History:

Are you currently employed?	Yes_ No__[DROP DOWN]
If yes, please identify your current employer and position:	

25. Education:

Highest Educational Degree	[DROP DOWN] High School Diploma GED Bachelor's Post-Graduate	Educational Institution
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DOCUMENT DEMANDS

Documents in your possession, including writings on paper or in electronic form (if you have any of the following materials in your custody or possession, please indicate which documents you have and attach a copy of them to this Plaintiff Profile Form):

1. All documents relating to plaintiff's purchase(s) or acquisition(s) of Johnson's Baby Powder or Shower to Shower, including but not limited to, store receipts, credit card receipts, containers, labels, or other records of purchase or acquisition.
2. All medical records, reports, and/or documents from any hospital, physician, or other health care provider who treated plaintiff for ovarian cancer or any gynecologic disease, condition or symptom alleged in the Complaint and/or PPF.
3. If applicable, decedent-user's death certificate and copies of letters testamentary or letters of administration confirming standing of the named plaintiff.
4. A copy of all pathology reports related to plaintiff's/decedent's diagnosis or recurrence of ovarian cancer.
5. A copy of all reports reflecting any genetic testing undertaken on plaintiff/decedent.

DECLARATION

I declare under penalty of perjury that all of the information provided in connection with this Short Form Plaintiff Profile Form is true and correct to the best of my knowledge, information, and belief formed after due diligence and reasonable inquiry. I acknowledge that I have an obligation to supplement the above responses if I become aware of additional responsive information, or if I learn that they are in some material respects incomplete or incorrect.

Date: _____

Signature of Plaintiff

Print Name of Signing Plaintiff

EXHIBIT B

LIMITED AUTHORIZATION TO DISCLOSE HEALTH INFORMATION
(Pursuant to the Health Insurance Portability and Accountability Act "HIPAA" of 4/14/03)

TO:

Patient Name:

DOB:

SSN:

I, _____, hereby authorize you to release and furnish to: Shook, Hardy & Bacon, LLP and Faegre Drinker Biddle & Reath LLP, and/or their duly assigned agents, including Litigation Management, Inc., copies of the following information:

- * All medical records, including inpatient, outpatient, and emergency room treatment, all clinical charts, reports, documents, correspondence, test results, statements, patient registration forms, questionnaires/histories, patient consents, office and doctor's handwritten notes, and records received by other physicians. Said medical records shall include all information regarding AIDS and HIV status.
- * All autopsy, laboratory, histology, cytology, pathology, radiology, CT Scan, MRI, echocardiogram, cardiac catheterization reports and any other test and consulting reports.
- * All radiology films, mammograms, myelograms, CT scans, photographs, bone scans, pathology/cytology/histology/autopsy/immunohistochemistry specimens, cardiac catheterization videos/CDs/films/reels, and echocardiogram videos.
- * All pharmacy/prescription records including NDC numbers and drug information handouts/monographs.
- * All billing records including all statements, itemized bills, and insurance records.

1. To my medical provider: this authorization is being forwarded by, or on behalf of, attorneys for the defendants for the purpose of litigation. You are not authorized to discuss any aspect of the above-named person's medical history, care, treatment, diagnosis, prognosis, information revealed by or in the medical records, or any other matter bearing on his or her medical or physical condition, unless you receive an additional authorization permitting such discussion. Subject to all applicable legal objections, this restriction does not apply to discussing my medical history, care, treatment, diagnosis, prognosis, information revealed by or in the medical records, or any other matter bearing on my medical or physical condition at a deposition or trial.

2. I understand that the information in my health record may include information relating to sexually transmitted disease, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV). It may also include information about behavioral or mental health services, and treatment for alcohol and drug abuse.

3. I understand that I have the right to revoke this authorization at any time. I understand that if I revoke this authorization I must do so in writing and present my written revocation to the health information management department. I understand the revocation will not apply to information that has already been released in response to this authorization. I understand the revocation will not apply to my insurance company when the law provides my insurer with the right to contest a claim under my policy. Unless otherwise revoked, this authorization will expire in two years.

4. I understand that authorizing the disclosure of this health information is voluntary. I can refuse to sign this authorization. I need not sign his form in order to assure treatment. I understand I may inspect or copy the information to be used or disclosed as provided in CFR 164.524. I understand that any disclosure of information carries with it the potential for an unauthorized re-disclosure and the information may not be protected by federal confidentiality rules. If I have questions about disclosure of my health information, I can contact the releaser indicate above.

5. A notarized signature is not required. CFR 164.508. A copy of this authorization may be used in place of an original.

Print Name: _____ (plaintiff/representative)

Signature: _____ Date _____

LIMITED AUTHORIZATION TO DISCLOSE HEALTH INFORMATION
(Pursuant to the Health Insurance Portability and Accountability Act "HIPAA" of 4/14/03)

TO:

Patient Name:

DOB:

SSN:

I, _____ (Representative of the Estate of _____),
hereby authorize you to release and furnish to: Shook, Hardy & Bacon, LLP and Faegre Drinker Biddle & Reath LLP, and/or their duly assigned agents, including Litigation Management, Inc., copies of the following information:

- * All medical records, including inpatient, outpatient, and emergency room treatment, all clinical charts, reports, documents, correspondence, test results, statements, patient registration forms, questionnaires/histories, patient consents, office and doctor's handwritten notes, and records received by other physicians. Said medical records shall include all information regarding AIDS and HIV status.
- * All autopsy, laboratory, histology, cytology, pathology, radiology, CT Scan, MRI, echocardiogram, cardiac catheterization reports and any other test and consulting reports.
- * All radiology films, mammograms, myelograms, CT scans, photographs, bone scans, pathology/cytology/histology/autopsy/immunohistochemistry specimens, cardiac catheterization videos/CDs/films/reels, and echocardiogram videos.
- * All pharmacy/prescription records including NDC numbers and drug information handouts/monographs.
- * All billing records including all statements, itemized bills, and insurance records.

1. To _____'s medical provider: **this authorization is being forwarded by, or on behalf of, attorneys for the defendants for the purpose of litigation. You are not authorized to discuss any aspect of the above-named person's medical history, care, treatment, diagnosis, prognosis, information revealed by or in the medical records, or any other matter bearing on his or her medical or physical condition, unless you receive an additional authorization permitting such discussion. Subject to all applicable legal objections, this restriction does not apply to discussing my medical history, care, treatment, diagnosis, prognosis, information revealed by or in the medical records, or any other matter bearing on my medical or physical condition at a deposition or trial.**

2. I understand that the information in _____'s health record may include information relating to sexually transmitted disease, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV). It may also include information about behavioral or mental health services, and treatment for alcohol and drug abuse.

3. I understand that I have the right to revoke this authorization at any time. I understand that if I revoke this authorization I must do so in writing and present my written revocation to the health information management department. I understand the revocation will not apply to information that has already been released in response to this authorization. I understand the revocation will not apply to my insurance company when the law provides my insurer with the right to contest a claim under my policy. Unless otherwise revoked, this authorization will expire in two years.

4. I understand that authorizing the disclosure of this health information is voluntary. I can refuse to sign this authorization. I need not sign this form in order to assure treatment. I understand I may inspect or copy the information to be used or disclosed as provided in CFR 164.524. I understand that any disclosure of information carries with it the potential for an unauthorized re-disclosure and the information may not be protected by federal confidentiality rules. If I have questions about disclosure of my health information, I can contact the releaser indicate above.

5. A notarized signature is not required. CFR 164.508. A copy of this authorization may be used in place of an original.

Print Name: _____ (Representative of the Estate of _____)

Signature: _____ Date: _____

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

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

This Document Relates to All Cases

**Civil Action No. 3:16-md-2738-
MAS-RLS**

MDL No. 2738

**ORDER SETTING BRIEFING SCHEDULE ON
PLAINTIFFS' RENEWED MOTION FOR LEAVE TO FILE A SECOND
AMENDED MASTER LONG FORM COMPLAINT [DOC NO. 26636]**

This matter having come before the Court upon the joint application of the Parties, and the Court having reviewed the matter,

IT IS ON THIS _____ day of _____, 2023,

ORDERED THAT:

1. Oppositions to the Plaintiffs' Renewed Motion for Leave to File a Second Amended Master Long Form Complaint shall be filed on or before September 18, 2023.

2. Any reply in support of the Motion shall be filed on or before October 2, 2023.

THE HONORABLE MICHAEL A. SHIPP

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

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

MDL Docket No. 2738

CASE MANAGEMENT ORDER ____ -- STATUS OF DECEASED PLAINTIFFS

This matter having come before the Court upon the application of Defendants, the Plaintiffs having consented to same, and the Court having reviewed the matter,

IT IS ON THIS _____ day of _____, 2023,

ORDERED THAT:

1. This Order shall apply to all actions currently pending in this MDL only as of the date of this Order.
2. In the event that the Plaintiff is now deceased, counsel shall undertake actions as appropriate within **180 days** of entry of this Order:
 - a. Counsel may file and serve a motion to substitute a proper party; or
 - b. Counsel may file and serve a notice explaining why a proper party may not be substituted at this time. Defendants may, within **15 days**, file and serve an opposition.
3. By allowing a case to continue beyond the deadline set forth in Paragraph 2 without undertaking further action, counsel for Plaintiffs affirm that the substitution of a party(s) is not necessary or required at the time of the deadline.

THE HONORABLE MICHAEL A. SHIPP

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

)	
IN RE: JOHNSON & JOHNSON)	
TALCUM POWDER PRODUCTS)	
MARKETING, SALES PRACTICES AND)	MDL Docket No. 2738
PRODUCTS LIABILITY LITIGATION)	
)	
)	
This Document Relates To All Cases)	
)	

THIS MATTER having been brought before the Court during the September ___, 2023 status conference, pursuant to the Court's August 2, 2021 Order regarding case-specific discovery for Stage Three cases, and for good cause shown;

IT IS on this ___ day of September, 2023,

ORDERED that the discovery deadlines set forth in the Court's August 2, 2021 Order are hereby amended as follows:

1. Pursuant to their discovery obligations, plaintiffs shall order and serve updated medical records, authorizations, and pathology materials for the cases in the Bellwether Trial Pool by **October 4, 2023**.
2. Plaintiffs shall serve, if necessary, supplemental and amended disclosures of all general and case-specific experts pursuant to Rule 26(a)(2)(A) and serve on Defendants' counsel the Rule 26(a)(2)(B) reports of all general and case-specific expert witnesses they may use at trial in any of the Stage Three cases on or before **November 15, 2023**.

3. Any depositions of Plaintiffs' expert witnesses shall be completed on or before **January 22, 2024**.
4. Defendants shall designate all general and case-specific experts pursuant to Rule 26(a)(2)(A) and serve on plaintiffs' counsel the Rule 26(a)(2)(B) reports of all general and case-specific expert witnesses they may use at trial in any of the Stage Three cases on or before **March 4, 2024**.
5. Any depositions of defendants' expert witnesses shall be completed by **April 15, 2024**.

IT IS FURTHER ORDERED that:

6. Depositions of general causation experts may only be taken if the expert provides a supplemental report, in which case the deposition shall be limited to four hours of testimony time and may only address new material contained in the supplemental report.
7. Depositions of experts who address case-specific issues for individual plaintiffs in addition to providing new or supplemental reports on general causation shall be limited to a total of one day/seven hours of testimony unless the expert issues case-specific reports in three or more cases, in which case the deposition is limited to two days/14 hours of testimony time.

IT IS FURTHER ORDERED that:

8. Dispositive motions, including any *Daubert* motions relating to case-specific and general expert opinions not previously addressed by the Court's April 27, 2020 *Daubert* opinion, shall be filed by **May 6, 2024**.
9. Oppositions to any dispositive or *Daubert* motions be filed by **June 5, 2024**.
10. Replies in further support of any dispositive or *Daubert* motions shall be filed by **June 26, 2024**.

IT IS FURTHER ORDERED that:

11. Plaintiffs shall identify the case or the cases to be consolidated they propose for the first trial ____days before the date of the first trial.
12. Plaintiffs shall serve their final list of trial experts for the first bellwether trial

60 days before the date of the first trial; defendants shall serve their final list of trial experts for the first bellwether trial **45 days before the date of the first trial.**

13. The parties shall file and serve the proposed Joint Final Pretrial Order no later than **30 days before the date of the first trial.**

Hon. Michael A. Shipp
United States District Judge