

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

NELL ROSE STRICKLAND and)
CHARLES L. STRICKLAND,)

Plaintiffs,)

CIVIL ACTION FILE NO.

v.)

JOHNSON & JOHNSON,)

JOHNSON & JOHNSON)

CONSUMER, INC., JOHNSON)

& JOHNSON CONSUMER)

COMPANIES, INC.,)

JOHNSON & JOHNSON)

CONSUMER PRODUCTS)

COMPANY, and IMERYYS TALC)

AMERICA, INC., F/K/A)

LUZENAC AMERICA, INC.,)

Defendants.)

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Nell Rose Strickland (“Nell”) and Charles L. Strickland (“Charles”) file their Complaint against Defendants Johnson & Johnson (“J&J”), Johnson & Johnson Consumer, Inc. (“J&J Consumer”), Johnson & Johnson Consumer Companies, Inc. (“J&J Companies”) Johnson and Johnson Consumer

Products Company (“J&J Products”) (collectively “Talc Defendants”) and Imerys Talc America, Inc., formerly known as Luzenac America, Inc. (“Imerys”) and state:

INTRODUCTION

1. Nell is an intelligent and bright woman of 67 years old. She is a resident of Alpharetta, Georgia.

2. Nell and Charles bring this action against Talc Defendants and Imerys for their deliberate and calculated suppression of the truth about the carcinogenic nature of talc powder as contained in their products, including J&J Shower to Shower and Baby Powder products (“J&J’s Talc Products”). Talc Defendants and Imerys have known for decades that there is a significant risk of harm to women for the development of ovarian cancer associated with the use of J&J’s Talc Products. Talc Defendants knew for many years of the more than 21 independent studies linking talc to the development of ovarian cancer, yet did not stop, respectively selling J&J’s Talc Products containing that talc and placed no warnings on the bottles of its Talc Products so that women such as Nell Strickland could decide for themselves whether it was safe to use J&J’s Talc Products. Despite the studies, Imerys continue to mine talc and sell it to Talc Defendants for use in Talc Products.

3. Nell applied J&J's Talc Products to her genital area almost daily for most of her entire life. As a direct and proximate result of Nell's long-term use of J&J's Talc Products, Nell developed ovarian cancer.

4. She has suffered excruciating pain and suffering associated with the development and treatment of her cancer.

5. Nell seeks compensatory damages for physical, emotional, and psychological pain and suffering associated with the development, spread, and treatment for ovarian cancer. Nell also seeks punitive damages against Talc Defendants and Imerys, among other things, for their deliberate and calculated suppression of the truth associated with their marketing and use of a known carcinogenic product that contains no warning. The talc in J&J's Talc Products is mined in China and is shipped in containers that are required to be prominently labeled as "Carcinogenic," yet Talc Defendants and Imerys give no such warning on the plastic bottles of its Talc Products, including Johnson's® Baby Powder and Johnson's® Shower To Shower talc powders.

NATURE OF THE ACTION

6. Talc Defendants manufacture, formulate, distribute, and market J&J's Talc Products. J&J's Talc Products are comprised mostly of talc with a

small amount of fragrance. Talc is a hydrous magnesium silicate, an inorganic material that Imerys mines and sells to Johnson & Johnson.

7. Talc Defendants market their Talc Products as a means of eliminating friction on the skin and absorbing moisture, while keeping skin cool and comfortable. Talc Defendants market their Talc Products for use on infants “after every bath and diaper change” and for women to “[u]se anytime you want skin to feel soft, fresh, and comfortable.” Consumers expect talc to be safe to use. In fact, the only warning that Talc Defendants provide to consumers about the dangers of J&J’s Talc Products is to keep the powder away from eyes, avoid inhalation of the powder, and use the powder externally. Neither Talc Defendants or Imerys provide any other safety or hazard warnings about J&J’s Talc Products.

8. J&J’s Talc Products are not safe. As numerous studies have confirmed, J&J’s Talc Products lead to a significantly increased risk of ovarian cancer. Women who used talc-based powders to powder their genital area have a 33% increased risk of ovarian cancer compared to those women who never used the powders.

9. Despite the potential catastrophic health consequences, Talc Defendants and Imerys do not warn consumers about the dangers associated with the Talc Products. Instead, Talc Defendants and Imerys continue to expressly and

impliedly represent that J&J's Talc Products are safe for women when used in the manner most likely to increase the risk of ovarian cancer. As a result of Talc Defendants' and Imerys' misrepresentations and omissions regarding the safety of J&J's Talc Products, Plaintiff Nell Strickland bought and used products which are potentially carcinogenic and lethal. As a result, she has developed ovarian cancer.

JURISDICTION AND VENUE

10. This Court has original jurisdiction pursuant to 28 U.S.C. §1332(d)(2). This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1332 (diversity of citizenship), 18 U.S.C. § 1964(c), and 28 U.S.C. § 1367 (ancillary jurisdiction). The damages sought greatly exceed \$75,000.00.

11. This Court has personal jurisdiction over Talc Defendants and Imerys because Talc Defendants and Imerys are authorized to conduct and do conduct business in Georgia. Talc Defendants and Imerys have marketed and mined for sale in Georgia, promoted, distributed, and sold J&J's Talc Products in Georgia, and Talc Defendants and Imerys have sufficient minimum contacts with this State and/or sufficiently avail themselves of the markets in this State through their promotion, sales, distribution, and marketing within this State to render the exercise of jurisdiction by this Court permissible.

12. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(a) and (b) because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred while they resided in this judicial district. Venue is also proper under 18 U.S.C. § 1965(a) because Talc Defendants and Imerys transact substantial business in this District.

PARTIES

13. Plaintiff Nell Strickland resides in Alpharetta, Georgia. For most of her life, Nell used J&J's Talc Products for personal hygiene in her genital area. Before making her purchases, Nell read the label for J&J's Talc Products she bought. In reliance on the label described generally herein, and her belief that external use of the product was safe and beneficial to use, Nell purchased and used J&J's Talc Products. Had Talc Defendants disclosed that J&J's Talc Products contained a carcinogenic substance, Nell would not have purchased or used J&J's Talc Products.

14. Defendant J&J is a New Jersey corporation with its principal place of business at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933. J&J is in the business of manufacturing and selling consumer products. J&J marketed, distributed, and sold J&J's Talc Products to millions of consumers in the United States, including in Georgia.

15. Defendant J&J Consumer is incorporated under the laws of the State of New Jersey. Defendant J&J Consumer's corporate headquarters is located at 199 Grandview Road, Skillman, New Jersey 08558. J&J Consumer operates as a subsidiary to J&J. J&J Consumer researches, develops, manufactures, distributes, markets, and sells consumers J&J's Talc Products targeted at babies, mothers, and women in general. J&J Consumer, in concert with J&J, marketed, distributed, and sold J&J's Talc Products to millions of consumers in the United States, including in Georgia. Defendant J&J Consumer also now does business as and/or has formerly been known as Johnson & Johnson Consumer Companies, Inc. and as Johnson & Johnson Consumer Products Company.

16. Defendant J&J Companies is incorporated under the laws of the State of New Jersey. Defendant J&J Companies' corporate headquarters is located at 199 Grandview Road, Skillman, New Jersey 08558. J&J Companies operates as a subsidiary to J&J. J&J Companies researches, develops, manufactures, distributes, markets, and sells consumers J&J's Talc Products targeted at babies, mothers, and women in general. J&J Companies, in concert with J&J, marketed, distributed, and sold J&J's s to millions of consumers in the United States including in Georgia.

17. Defendant J&J Products is incorporated under the laws of the State of New Jersey. Defendant J&J Product's corporate headquarters is located at 199 Grandview Road, Skillman, New Jersey 08558. J&J Products operates as a subsidiary to Johnson & Johnson. J&J Products researches, develops, manufactures, distributes, markets, and sells consumers J&J's Talc Products targeted at babies, mothers, and women in general. J&J Products, in concert with J&J, marketed, distributed, and sold J&J's Talc Products to millions of consumers in the United States including in Georgia.

18. For purposes of this Complaint, Talc Defendants are all referred to jointly as J&J and, additionally, they are both the alter egos and legal extensions of one other. In doing the acts alleged herein, Defendants J&J, J&J Consumer, J&J Companies, and J&J Products were acting in the course and scope of such agency, representation, joint venture, conspiracy, consultancy, predecessor agreement, successor agreement, service and employment, with knowledge, acquiescence, and ratification of each other.

19. Defendant Imerys, formerly known as Luzenac America, Inc., is a Delaware Corporation with its principal place of business in the San Jose, California. At all pertinent times, Imerys has been in the business of mining and distributing talcum powder for using in talcum powder products, including the Talc

Products. Imerys is the successor or corporate continuation of Luzenac America, Inc. Imerys is legally responsible for all liabilities incurred when it was known as Luzenac America, Inc.

FACTUAL ALLEGATIONS

Imerys' Talc and J&J's Talc Products Are Intended for Use by Women

20. In 1893, Talc Defendants developed J&J's Talc Products. For decades, Talc Defendants have manufactured, distributed, marketed, and sold J&J's Talc Products as a daily use powder intended to eliminate friction on the skin and to absorb unwanted excess moisture for both babies and women.

21. Imerys mined the talc contained in the Talc Products.

22. Imerys, now and when known as Luzenac America, Inc., continually advertised and marketed talc as safe for human use. Imerys has supplied customers with Material Safety Data Sheets ("MSDS") for talc. These MSDS are supposed to convey adequate health and warning information to its customers.

23. Talc Defendants have consistently marketed J&J's Talc Products to women to use to maintain freshness and cleanliness in their genital area. Historically, Talc Defendants labeled and promoted their Talc Products to women and encouraged women through advertising to dust themselves with J&J's Talc

Products to mask odors and absorb moisture. Imerys was aware of J&J's use and marketing of its Talc Products.

24. Although the label has changed over time, the message is the same: J&J's Talc Products are safe for use on women as well as babies. One of J&J's Talc Products currently states, "J&J's [Talc Products are] designed to gently absorb excess moisture helping skin feel comfortable. Our incredibly soft, hypoallergenic, dermatologist and allergy-tested formula glides over skin to leave it feeling delicately soft and dry while providing soothing relief." Talc Defendants instruct consumers on the product labeling to "Shake powder directly into your hand, away from the face, before smoothing onto the skin."

25. The front sides of J&J's Talc Products contain no warnings of any kind. Representative product packaging and labeling on the rear side of one of J&J's Talc Products appears as follows:



26. Through other marketing, including on their website for J& J's Talc Products, Talc Defendants encouraged and targeted, and continue to encourage and target, adult women to use the product daily. Talc Defendants state that J&J's Talc Products "keeps skin feeling soft, fresh and comfortable. It's a classic. J&J's [Talc Products] helps eliminate friction while keeping skin cool and

comfortable. It's made of millions of tiny slippery plates that glide over each other to help reduce the irritation caused by friction." Under a heading "How to Use," Talc Defendants direct consumers, "For skin that feels soft, fresh and comfortable, apply J&J's [Talc Products] close to the body, away from the face. Shake powder into your hand and smooth onto skin." Under a heading "When to Use," Talc Defendants recommend to the consumer, "Use anytime you want skin to feel soft, fresh and comfortable. For baby, use after every bath and diaper change." On their website, Talc Defendants also state the product is "Clinically proven to be safe, gentle and mild." Imerys was aware of J&J's use and marketing of its Talc Products.

27. Talc Defendants seek to convey an image as a safe and trusted family brand. For example, Talc Defendants have a website devoted to "Our Safety & Care Commitment" – www.safetyandcarecommitment.com. According to Talc Defendants, "safety is our legacy" and "[y]ou have our commitment that every beauty and baby care product from the Johnson & Johnson Family of Consumer Companies is safe and effective when used as directed." Talc Defendants market a "Five-Level Safety Assurance Process," which they describe as follows, "For decades, ours has been one of the most thorough and rigorous product testing processes in our industry – to ensure safety and quality of every

single product we make.” Talc Defendants’ so-called “Promise to Parents and their Babies” includes, “When you bring our [Talc Products] into your home, you can be assured of our commitment to the safety of your family and families around the world.” Imerys was aware of J&J’s use and this marketing of its Talc Products. Nowhere do Talc Defendants or Imerys warn of the increased risk of ovarian cancer linked to the use of J&J’s Talc Products.

28. J&J’s Talc Products are made mostly of talc and fragrance. Talc is a mineral composed of hydrated magnesium silicate and, as noted above, is mined by Imerys for Talc Defendants. It is an inorganic material. Talc is used to manufacture goods, such as paper making, plastic, paint and coatings, rubber, electric cable, ceramics, and cosmetics. In its loose form and as used in J&J’s Talc Products, talc is known as “talcum powder.”

29. Talc is carcinogenic.

30. As detailed below, beginning in at least 1982, Talc Defendants and Imerys were aware of several studies that demonstrated that women who used talc-based baby powder in the genital area had a significant increased risk of ovarian cancer. Since 1982, there have been at least 21 studies by doctors and scientists throughout the world (including 19 case-control studies, one (1) cohort study, and one (1) combined case-control and cohort study) that reported an

elevated risk for ovarian cancer with genital talc use. The majority of these studies show a statistically significant increased risk of ovarian cancer.

31. Talc Defendants and Imerys, however, do not warn or inform consumers anywhere, including on the product labeling or in its marketing or advertising for the product, that use of J&J's Talc Products may be harmful to health, including significantly increasing the risk of ovarian cancer. Indeed, to this day, J&J operates in denial of the fact that its Products are unsafe and can cause ovarian cancer, as does Imerys.

**All Defendants Knew of the Increased
Risk of Ovarian Cancer from Use of J&J's Talc Products**

A. The Overwhelming Scientific and Medical Evidence

32. Research conducted as early as 1961 showed that particles similar to talc can translocate from the exterior genital area to the ovaries of women. *See Egi, G.E. and Newton, M., The transport of carbon particles in the human female reproductive tract, 12 Fertil. Steril. 151-155 (1961).* J&J and Imerys became aware of this study in a timely manner following its publication.

33. Because of the potential for transmission, researchers remained concerned about the carcinogenic nature of talc and the effects of talc use. A 1968 study concluded, "All of the 22 talcum products analyzed have a ... fiber content ... averaging 19%. The fibrous material was predominantly talc but contained

minor amounts of tremolite, anthophyllite, and chrysotile [asbestos-like fibers] as these are often present in fibrous talc mineral deposits. . . . Unknown significant amounts of such materials in products that may be used without precautions may create an unsuspected problem.” Cralley LJ, et al., *Fibrous and mineral content of cosmetic talcum products*, 29 Am. Ind. Hyg. Assoc. J. 350-354 (1968). In a 1976 follow-up study, researchers concluded that “[t]he presence in these products of asbestiform anthophyllite and tremolite, chrysotile, and quartz indicates the need for a regulatory standard for cosmetic talc. . . . We also recommend that evaluation be made to determine the possible health hazards associated with the use of these products.” Rohl An, et al, *Consumer talcums and powders: mineral and chemical characterization*, 2 J. Toxicol. Environ. Health 255-284 (1976). J&J and Imerys became aware of this study in a timely manner following its publication.

34. The first study to suggest a link between ovarian cancer and talc powder use was conducted in 1971. In that study, researchers found talc particles “deeply embedded” in 10 of 13 ovarian tumors, 12 of 21 cervical tumors, one primary carcinoma of the endometrium, and 5 of 12 “normal” ovaries from women with breast cancer. Henderson, W.J., et al., *Talc and carcinoma of the ovary and cervix*, 78 (3) J. Obstet. Gynaecol. Br. Commonw. 266-272 (1971). J&J and Imerys became aware of this study in a timely manner following its publication.

35. The scientific evidence linking talc use and ovarian cancer continued to build. In 1982, Daniel Cramer of the Departments of Obstetrics, Gynecology, and Pathology, Boston Hospital for Women, Division of the Brigham and Women's Hospital, the Department of Epidemiology, Harvard School of Public Health and the Department of Pathology, Massachusetts General Hospital, Harvard Medical School, conducted a case-control study ("the "Cramer Study") which found that talc applied directly to the genital area around the time of ovulation leads to talc particles becoming deeply imbedded in the substance of the ovary causing foreign body reaction and growth of epithelial ovarian tissue. The Cramer Study found a statistically significant 92% increased risk of ovarian cancer from genital talc use. This study proved an epidemiologic association between the use of cosmetic talc in genital hygiene and ovarian cancer. A grant from National Institutes of Health ("NIH") funded this study. Cramer, D.W., et al., *Ovarian cancer and talc: a case-control study*, 50 *Cancer* 372-376 (1982). Soon after Dr. Cramer published this study, he was contacted and visited by Dr. Bruce Semple from J&J. During the meeting, Dr. Cramer advised Dr. Semple to put a warning on J&J's talc-based body powders regarding the increased risk of ovarian cancer. Despite these direct communications with J&J, Talc Defendants and Imerys have given absolutely no warnings associated with the use of talc.

36. Since 1982, there have been about 21 additional studies by different doctors and scientists throughout the world including 19 case-control studies, one (1) cohort study, and one (1) combined case-control and cohort study, which have provided epidemiologic data addressing the talc and ovarian cancer association. Nearly all of these studies have reported an elevated risk for ovarian cancer associated with perineum use of talcum powder and the majority of the studies show statistically significant elevations. J&J and Imerys became aware of these studies in a timely manner following their publication.

37. In 1983, Patricia Hartge and Robert Hoover of the National Cancer Institute and Linda Lester and Larry McGowan of the George Washington University Medical Center, performed a case-control study and found a 150% increased risk of ovarian cancer for women who use talcum powder in the genital area. Hartge, P., et al., *Talc and ovarian cancer*, JAMA 1983, 1844. J&J and Imerys became aware of this study in a timely manner following its publication.

38. Similarly, in 1988, a case-control study of 188 women diagnosed with epithelial ovarian cancer and 539 control women found that 52% of the cancer patients habitually used talcum powder on the perineum before their cancer diagnosis. The study showed a 40% increase in risk of ovarian cancer in women who used talcum powder on their perineum and a positive dose-response

relationship. See Whittemore, A.S., et al., *Personal and environmental characteristics related to epithelial ovarian cancer. II. Exposures to talcum powder, tobacco, alcohol, and coffee*, Am. J. Epidemiol. 1228-1240 (1988). J&J and Imerys became aware of this study in a timely manner following its publication.

39. A case-control study conducted in 1989 found similar results. The study looked at 235 women diagnosed with epithelial ovarian cancer and 451 controls and found a 29% increased risk in ovarian cancer with women who reported genital talcum powder use more than once per week. See Booth, M., et al., *Risk factors for ovarian cancer: a case-control study*, Br. J. Cancer, 592-598 (1989). J&J and Imerys became aware of this study in a timely manner following its publication.

40. A case-control study conducted in 1989 by Bernard Harlow and others of Harvard Medical School at Brigham and Women's Hospital found an increased risk of ovarian cancer generally from genital talc use after bathing and found a statistically significant 180% increased risk of ovarian cancer from women who used talc-containing powders in combination with deodorizing powders on their perineum. This study also found positive dose-response relationship. Harlow, B.L. & Weiss, N.S., *A case-control study of borderline ovarian tumors:*

the influence of perineal exposure to talc, Am. J. Epidemiol., 390-394 (1989). J&J and Imerys became aware of this study in a timely manner following its publication.

41. In 1992, a case-control study was conducted by Karin Rosenblatt, et al., from the Department of Epidemiology, The Johns Hopkins School of Hygiene and Public Health and Department of Gynecology and Obstetrics. This study found a 70% increased risk of ovarian cancer in women from genital talc use and found a 379% increased risk of ovarian cancer of women who used talc on sanitary napkins in their genital area. Rosenblatt, K.A. et al., *Mineral fiber exposure and the development of ovarian cancer*, 45 (1) Gynecol. Oncol. 20-25 (1992). J&J and Imerys became aware of this study in a timely manner following its publication.

42. Additionally, a 1992 case-control study conducted by Yong Chen, et al., of 112 diagnosed epithelial ovarian cancer cases and 224 age-matched community controls found an elevated risk of 290% for ovarian cancer for women who applied talc-containing dusting powder to the lower abdomen and perineum for longer than 3 months. Yong Chen et al., *Risk Factors for Epithelial Ovarian Cancer in Beijing, China*, Int. J. Epidemiol., 23-29 (1992). J&J and Imerys became aware of this study in a timely manner following its publication.

43. In 1993, the United States National Toxicology Program published a study on the toxicity of non-asbestiform talc and found clear evidence of carcinogenic activity. The study found “some evidence of carcinogenic activity in male rats” and “clear evidence of carcinogenic activity in female rats.” Accordingly, talc was found to be a carcinogen, with or without the presence of asbestos-like fibers. National Toxicology Program, *Toxicology and carcinogenesis studies of talc (CAS No 14807-96-6) in F344/N rats and B6C3F 1 mice (Inhalation studies)*, Technical Report Series No 421 (Sept. 1993). J&J and Imerys became aware of this study in a timely manner following its publication.

44. In 1995, a case-control study was conducted in Australia by David Purdie, et al., involving over 1600 women. This was the largest study of its kind to date. This study found a statistically significant 27% increased risk in ovarian cancer for women who regularly use talc powder in the region of the abdomen or perineum. Purdie, D., et al., *Reproductive and other factors and risk of epithelial ovarian cancer: an Australian case-control study. Survey of Women's Health Study Group*, 62 (6) *Int. J. Cancer* 678-684 (1995). J&J and Imerys became aware of this study in a timely manner following its publication.

45. In 1996, a case-control study similarly found a statistically significant 97% increased risk of ovarian cancer in women who used talc-based

powders in their genital area. See Shushan, A., et al, *Human menopausal gonadotropin and the risk of epithelial ovarian cancer*, 65 (1) Fertil. Steril. 13-18 (1995). J&J and Imerys became aware of this study in a timely manner following its publication.

46. In 1996, the condom industry stopped dusting condoms with talc due to the health concerns of ovarian cancer. “Concern about talc as an ovarian carcinogen goes back 50 years in the medical literature. By the 1970s, evidence was mounting that talc particles might migrate into a woman’s fallopian tubes where they could cause scarring and irritation in the ovaries. Scientists believed in some cases that the scarring led to infertility or cancer.” McCullough, Marie, *Women’s health concerns prompt condom makers to stop using talc*, Jersey Journal (City Edition) (April 17, 1996). J&J and Imerys became aware of this study in a timely manner following its publication.

47. In 1997, a case-control study of 313 women with ovarian cancer and 422 without this disease found that the women with cancer were more likely to have applied talcum powder to their external genital area. Women using these products had a statistically significant 50% to 90% higher risk of developing ovarian cancer. See Cook, L.S., et al., *Perineal powder exposure and the risk of*

ovarian cancer, Am. J Epidemiol. 145, 459-465 (1997). J&J and Imerys became aware of this study in a timely manner following its publication.

48. In 1997, a case-control study was conducted by Stella Chang and Harvey Risch from the Department of Epidemiology and Public Health, Yale University School of Medicine which included over 1,000 women. The study found a statistically significant increased risk of 42% for ovarian cancer for women who applied talc via sanitary napkins to their perineum. The study indicated that “Commercial talc substitutes often replace talc with cornstarch. Furthermore, women may choose to powder or dust with cornstarch instead of talc. When cornstarch was assessed in relation to risk of ovarian carcinoma, no associations were found.” The study concluded, **“The results of this study appear to support the contention that talc exposure increases risk of ovarian carcinoma. Dusting with talcum powder is not an unusual practice for women, and, given the heterogeneity of the etiology and course of ovarian carcinoma, any possible harmful practices, particularly those with little benefit, should be deliberated.”** Chang, S. & Risch, H.A., *Perineal talc exposure and risk of ovarian carcinoma*, 79 (12) Cancer 2396-2401 (1997) (emphasis added). J&J and Imerys became aware of this study in a timely manner following its publication.

49. In a 1998 case-control study conducted in Canada by Beatrice Godard, et al., a 149% increased risk of ovarian cancer was found in women who used talc-based powders on their perineum. Godard, B., et al., *Risk factors for familial and sporadic ovarian cancer among French Canadians: a case-control study*, 179 (2) Am. J. Obstet. Gynecol. 403-410 (1998). J&J and Imerys became aware of this study in a timely manner following its publication.

50. Daniel Cramer from the Obstetrics-Gynecology Epidemiology Center, Department of Obstetrics and Gynecology, Brigham and Women's Hospital, conducted another case-control study in 1999 of 563 women newly diagnosed with epithelial ovarian cancer and 523 control women. The study found a statistically significant 60% increased risk of ovarian cancer in women that used talc-based body powders on their perineum. **"We conclude that there is a significant association between the use of talc in genital hygiene and risk of epithelial ovarian cancer that, when viewed in perspective of published data on this association, warrants more formal public health warnings."** The study was funded by a grant from the National Cancer Institute (NCI). Cramer, D.W., et al., *Genital talc exposure and risk of ovarian cancer*, 81 (3) Int. J. Cancer 351-356 (1999) (emphasis added). J&J and Imerys became aware of this study in a timely manner following its publication.

51. In 2000, Roberta Ness, et al., from the University of Pennsylvania, produced a case-control study of over 2,000 women. This study found a statistically significant 50% increased risk of ovarian cancer from genital talc use in women. The study also found that talc causes inflammation and that inflammation contributes to cancer cell development. Ness, R.B., et al., *Factors related to inflammation of the ovarian epithelium and risk of ovarian cancer*, 11 (2) *Epidemiology* 111-117 (2000). J&J and Imerys became aware of this study in a timely manner following its publication.

52. Additionally, in 2000, a prospective cohort study considered to be the most informative study to date found a 40% increase in invasive serous cancers from women who applied talcum powder to their perineum. Gertig, D.M., et al., *Prospective study of talc use and ovarian cancer*, 92 *J. Natl. Cancer Inst.* 249-252 (2000). J&J and Imerys became aware of this study in a timely manner following its publication.

53. In 2004, Paul Mills, Deborah Riordan, Rosemary Cress, and Heather Young of Cancer Registry of Central California – Public Health Institute, Fresno, California; Fresno Medical Education Program, University of California, San Francisco, Fresno, California; California Cancer Registry, Sacramento, California; and the Department of Epidemiology and Biostatistics, George

Washington University School of Public Health and Health Services, performed a case-control study of nearly 1400 women from 22 counties in Central California. This study found a statistically significant 37% increased risk of epithelial ovarian cancer from women's genital talc use. The study also found a 77% increased risk of serous invasive ovarian cancer from women's genital talc use. The study looked at women's use of cornstarch powders and found no increased risk in ovarian cancer in women who used these types of powders on the perineum as "Cornstarch is also not thought to exert the same toxicologic reaction in human tissue as does talc." This study concluded by stating, "[U]sers should exercise prudence in reducing or eliminating use. In this instance, the precautionary principle should be invoked, especially given that this is a serious form of cancer, usually associated with a poor prognosis, with no current effective screening tool, steady incidence rates during the last quarter century and no prospect for successful therapy. Unlike other forms of environmental exposures, talcum powder use is easily avoidable." Mills, P.K., et al., *Perineal talc exposure and epithelial ovarian cancer risk in the Central Valley of California*, 112 Int. J. Cancer 458-64 (2004) (emphasis added). J&J and Imerys became aware of this study in a timely manner following its publication.

54. In 2007, Amber Buz'Zard and Benjamin Lau performed a study whereby they induced carcinogenesis by applying talc to normal human epithelial and granulosa ovarian cancer cell lines. Buz'Zard A.R., et al., *Pycnogenol reduces talc-induced neoplastic transformation in human ovarian cell cultures*, 21 (6) *Phytother. Res.* 579-586 (2007). J&J and Imerys became aware of this study in a timely manner following its publication.

55. In 2008, Margaret Gates, of Channing Laboratory, Department of Medicine, Brigham and Women's Hospital and Harvard Medical School; Departments of Epidemiology and Biostatistics, Harvard School of Public Health; Obstetrics and Gynecology Epidemiology Center, Brigham and Women's Hospital, and Norris Cotton Cancer Center, Dartmouth Hitchcock Medical Center, performed a combined study of over 3,000 women from a New England-based case-control study and a prospective Nurses' Health Study with additional cases and years of follow up from these studies (the "Gates Study"). The Gates study was funded by the National Cancer Institute ("NCI"), and found a general 36% statistically significant increased risk of epithelial ovarian cancer from genital talc use. A 60% increased risk of the serous invasive subtype was also found.

56. Dr. Gates found a strong and positive dose-response relationship whereby increased risk was seen with higher talc usage in women. Dr. Gates

commented about this study saying these latest results “provide additional support for a main effect of genital talc exposure on epithelial ovarian cancer.” She also stated, “[T]he finding of highly significant trends between increasing frequency of use and risk ‘strengthens the evidence of an association, because most previous studies have not observed a dose response.’” (Emphasis added). The Gates Study concluded, “We believe that women should be advised not to use talcum powder in the genital area, based on our results and previous evidence supporting an association between genital talc use and ovarian cancer risk. Physicians should ask the patient about talc use history and should advise the patient to discontinue using talc in the genital area if the patient has not already stopped.” Dr. Gates further stated, “An alternative to talc is cornstarch powder, which has not been shown to increase ovarian cancer risk, or to forgo genital powder use altogether.” Gates, M.A., et al., *Talc Use, Variants of the GSTM1, GSTT1, and NAT2 Genes, and Risk of Epithelial Ovarian Cancer*, 17 (9) *Cancer Epidemiology, Biomarkers & Prev.* 2436-2444 (2008) (emphasis added). J&J and Imerys became aware of this study in a timely manner following its publication.

57. In May 2008, the Cancer Prevention Coalition (“CPC”), joined by its chairman and numerous other physicians and chairs of public health and

medical associations, submitted a citizen's petition "seeking a cancer warning on cosmetic talc products." The petition sought to require all cosmetic talc products to bear labels with warnings such as, "Frequent application of talcum powder in the female genital area *substantially* increases the risk of ovarian cancer" or "Frequent talc application in the female genital area is *responsible for major risks* of ovarian cancer." (Emphasis added). The petition cited numerous studies and publications and sought a hearing to present scientific evidence. J&J and Imerys became aware of this petition in a timely manner following its publication.

58. In October of 2008, Dr. Michael Thun, Vice-President of Epidemiology and Surveillance Research at the American Cancer Society commented on the Gates Study. He stated the dose-response relationship between talc and ovarian cancer had finally been satisfied by this study. Dr. Thun stated, "There are very few modifiable risk factors for ovarian cancer. The main one is the use of oral contraceptives, which has been clearly established to lower the risk for ovarian cancer. Others include tubal ligation, hysterectomy, and parity. **Then there are factors that 'probably' increase the risk for ovarian cancer, and this is where talc fits in, alongside asbestos, postmenopausal hormone therapy, and radiation.**" Chustecka, Zosia & Lie, Desiree, *Talc Use in Genital Area Linked to Increased Risk for Ovarian Cancer*, Medscape Medical News (2008) (emphasis

added). J&J and Imerys became aware of this study in a timely manner following its publication.

59. In 2008, Melissa Merritt, from the Australian Cancer Study (Ovarian Cancer) and Australian Ovarian Cancer Study Group, conducted a case-control study of over 3,000 women where a statistically significant 17% increased risk of ovarian cancer for women who used talc on their perineum was confirmed. This study also confirmed a statistically significant 21% increased risk of ovarian cancer of a serous subtype in women who used talc on their perineum. Merritt, M.A., et al., *Talcum powder, chronic pelvic inflammation and NSAIDs in relation to risk of epithelial ovarian cancer*, 122 (1) *Int. J. Cancer* 170-176 (2008). J&J and Imerys became aware of this study in a timely manner following its publication.

60. In 2009, a case-control study of over 1,200 women found the risk of ovarian cancer increased significantly with increasing frequency and duration of talc use. The study found an overall statistically significant 53% increased risk of ovarian cancer from genital talc use. The study also found a 108% statistically significant increased risk of ovarian cancer in women with the longest duration and most frequent talc use. The study concluded by stating, “[R]isk of ovarian cancer is significantly associated with talc use and with a history of endometriosis, as has been found in recent studies.” Wu, A.H., et al., *Markers of inflammation*

and risk of ovarian cancer in Los Angeles County, 124 (6) *Int. J. Cancer* 1409-1415 (2009) (emphasis added). J&J and Imerys became aware of this study in a timely manner following its publication.

61. In 2011, Daniel Cramer of Brigham and Women's Hospital, Harvard Medical School, made public another case-control study of over 4,000 women. This study, which was funded by the National Cancer Institute ("NCI"), found a 200% to 300% increased risk of ovarian cancer for women who applied talc-based body powders to their perineum. This study found a strong dose-response relationship and explained why the dose-response has been under reported in prior studies. In commenting on this study, Dr. Cramer stated, "I have always advised gynecologists, if they examine a woman and see that she is using talc in the vaginal area, tell her to stop.... There are alternatives. This study strongly reinforces that advice." J&J and Imerys became aware of this study in a timely manner following its publication.

62. In 2011, another case-control study of over 2,000 women found a 27% increased risk of ovarian cancer from genital talc use in women. Rosenblatt, K.A., et al., *Genital powder exposure and the risk of epithelial ovarian cancer*, 22 *Cancer Causes Control* 737-742 (2011). J&J and Imerys became aware of this study in a timely manner following its publication.

63. In June 2013, Kathryn Terry, et al., published a pooled analysis of over 18,000 women in eight case-control studies and found a 20% to 30% increased risk of women developing epithelial ovarian cancer from genital powder use. The study concluded by stating, “Because there are few modifiable risk factors for ovarian cancer, avoidance of genital powders may be a possible strategy to reduce ovarian cancer incidence.” Terry, K.L., et al., *Genital Powder Use and Risk of Ovarian Cancer: A Pooled Analysis of 8,525 Cases and 9,859 Controls*, 6 (8) Cancer Prevention Research, 81-82 (2013). J&J and Imerys became aware of this study in a timely manner following its publication.

64. In addition to the numerous case-control studies over the last several decades, several meta-analyses were conducted on the topic of talcum powder use and ovarian cancer. A meta-analysis is a statistical technique that allows similar measures of the same illness and exposure from different studies to be combined to determine whether an association exists. All analyses found a significant positive association between the use of talcum powder in the genital area and ovarian cancer.

65. In 1992, the NCI sponsored the first meta-analysis conducted by Bernard Harlow and Daniel Cramer from Harvard Medical School at Brigham and Women’s Hospital. This was the most comprehensive study to date - 235 cases of

women with ovarian cancer were compared to 239 controls. Through personal interviews with these women, Harlow and Cramer found that nearly 17% of the control group reported frequent talc application to the perineum. The study found, “[T]he most frequent method of talc exposure was use as a dusting powder directly to the perineum (genitals) Brand or generic ‘baby powder’ was used most frequently and was the category associated with a statistically significant risk for ovarian cancer.” The study concluded, “[A] lifetime pattern of talc use may increase the risk for epithelial ovarian cancer.... Given the poor prognosis for ovarian cancer, any potentially harmful exposures should be avoided, particularly those with limited benefits. For this reason, we discourage the use of talc in genital hygiene, particularly as a daily habit.” Harlow, B.L. et al., *Perineal exposure to talc and ovarian cancer risk*, *Obstet. Gynecol.* 1992, 19-26. The summary OR (and 95% confidence interval) was 1.3 (1.1, 1.6) indicating a statistically significant 30% increased risk of ovarian cancer from genital talc use. J&J and Imerys became aware of this study in a timely manner following its publication.

66. In 1995, a second meta-analysis, conducted by A. J. Gross and P. H. Berg, included data from nine separate papers, which yielded a summary odds ratio (based upon the crude measures) of 1.27 (1.09, 1.48) – again a statistically significant 27% increased risk of ovarian cancer from genital talc use.

See Gross, A.J. & Berg, P.H., *A meta-analytical approach examining the potential relationship between talc exposure and ovarian cancer*, 5 (2) J. Expo. Anal. Environ. Epidemiol. 181-195 (1995). J&J and Imerys became aware of this study in a timely manner following its publication.

67. Dr. David Cramer performed the third meta-analysis in 1999 supported by the NCI. It included all of the studies in the 1995 Gross and Berg meta-analysis plus four new studies as well as the OR based upon a new series of 563 cases with ovarian cancer and 523 controls from Massachusetts and New Hampshire. The summary odds estimate was 1.39 (1.24, 1.49), again a statistically significant 39% increased risk of ovarian cancer from genital talc use. J&J and Imerys became aware of this study in a timely manner following its publication.

68. In 2003, a fourth meta-analysis funded by the industry re-analyzed data from 16 studies published prior to 2003 and found a 33% increase in ovarian cancer risk among talc users. See Huncharek, M., et al., *Perineal application of cosmetic talc and risk of invasive epithelial ovarian cancer: a meta-analysis of 11,933 subjects from sixteen observational studies*, 23 Anticancer Res. 1955-60 (2003). J&J and Imerys became aware of this study in a timely manner following its publication.

B. All Leading Authorities Agree on the Link Between Ovarian Cancer and Perineal Use of Talc Powder

69. In 2005, the Fifth Edition of “Myths & Facts about Ovarian Cancer: What You Need to Know,” was published by Steven Piver, M.D., and Gamal Eltabbakh, M.D. This publication was partly sponsored by Glaxo Smith Kline. Dr. Piver is the Chair Emeritus of the Department of Gynecologic Oncology, and Founder and Director of the Gilda Radner Familial Ovarian Cancer Registry at Roswell Park Cancer Institute, Buffalo, New York. Dr. Eltabbakh is a tenured Professor of Obstetrics and Gynecology and Medicine, and Director of the Division of Gynecologic Oncology at the University of Vermont in Burlington, Vermont. In the section entitled “What Causes Ovarian Cancer?” it lists “Use of Talc (Baby Powder) in the Genital Area” as a risk factor for causing ovarian cancer and further states, “[R]esearch has established that each has at least a small role” in causing cancer in women. J&J and Imerys became aware of this study in a timely manner following its publication.

70. In February of 2006, the International Association for the Research of Cancer (“IARC”), part of the World Health Organization, published a paper whereby they classified genital use of talc-based body powder as a “Group 2B” possible human carcinogen. IARC, which is universally accepted as the

international authority on cancer issues, concluded that studies from around the world consistently found an increased risk in ovarian cancer in women from perineal use of talc. IARC found that between 16-52% of women in the world were using talc to dust their perineum and found an increased risk of ovarian cancer in women talc users ranging from 30-60%. J&J and Imerys became aware of this study in a timely manner following its publication.

71. In its February 2006 paper, IARC concluded with this “Evaluation”: “There is limited evidence in humans for the carcinogenicity of perineal use of talc-based body powder.” By definition “Limited evidence of carcinogenicity” means “a positive association has been observed between exposure to the agent and cancer for which a causal interpretation is considered by the Working Group to be credible, but chance, bias or confounding could not be ruled out with reasonable confidence.” IARC concluded with this “Overall evaluation:” “Perineal use of talc based body powder is possibly carcinogenic to humans (Group 2B).” J&J and Imerys became aware of this study in a timely manner following its publication.

72. In 2006, the Canadian government under The Hazardous Products Act and associated Controlled Products Regulations classified talc as a “D2A,” “very toxic,” “cancer causing” substance under its Workplace Hazardous Materials

Information System. Asbestos is also classified as “D2A.” J&J and Imerys became aware of this classification in a timely manner following its announcement.

73. As of today, both the National Cancer Institute and American Cancer Society list genital talc use as a “risk factor” for ovarian cancer. Additionally, the Gilda Radner Familial Ovarian Cancer Registry, Roswell Park Center Institute, and the Department of Gynecologic Oncology University of Vermont publish a pamphlet entitled “Myths & Facts about Ovarian Cancer: What You Need to Know.” This pamphlet is given to all ovarian cancer patients at nearly every medical facility in the United States. In this pamphlet under “known” risk factors for ovarian cancer is “Use of Talc (Baby Powder) in the Genital Area.” Similarly, on the Sanford Medical Center website for “patient information” regarding ovarian cancer, the site lists “Talcum powder dusted on the perineum” as a risk factor for contracting ovarian cancer. J&J and Imerys became aware of this pamphlet and web sites in a timely manner following their publication.

C. All Defendants Have Been Acutely Aware of the Dangers of Talc Products

74. As early as 1982, Talc Defendants and Imerys were acutely aware of the scientific evidence linking ovarian cancer and perineal use of talcum powder. In an August 12, 1982, New York Times article entitled “Talcum

Company Calls Study on Cancer Link Inconclusive,” Talc Defendants admitted being aware of the 1982 Cramer Study that concluded women were three times more likely to contract ovarian cancer after daily use of talcum powder in the genital area. Imerys was aware of this admission.

75. On November 10, 1994, the CPC mailed a letter to then J&J’s CEO, Ralph Larson, informing Talc Defendants that studies as far back as 1960’s “. . . show[] conclusively that the frequent use of talcum powder in the genital area poses a serious risk of ovarian cancer.” The letter cited a study by Dr. Bernard Harlow from Harvard Medical School confirming this fact and quoted a portion of the study where Dr. Harlow and his colleagues discouraged the use of talc in the female genital area. The letter further stated that 14,000 women per year die from ovarian cancer and that this type of cancer is very difficult to detect and has a low survival rate. The letter concluded by requesting that Talc Defendants withdraw talc products from the market because of the alternative of cornstarch powders, or at a minimum, place warning information on its talc-based body powders about the ovarian cancer risk they pose. Imerys was also aware of the CPC letter.

76. On September 17, 1997, Alfred Wehner a toxicology consultant retained by Talc Defendants, wrote a letter to Michael Chudkowski, manager of Pre-Clinical Toxicology at Johnson & Johnson Consumer Products, Inc., stating

that on three separate occasions the Talc Interested Party Task Force (“TIPTF”) of the Cosmetic, Toiletry, and Fragrance Association (“CTFA”) which included Talc Defendants and Luzenac (Talc Defendants’ supplier of talc), had released false information to the public about the safety of talc. Specifically addressing a November 17, 1994, statement released by the CTFA, Dr. Wehner said the following:

The response statement dated November 17, 1994, is just as bad. The second sentence in the third paragraph reads: “The workshop concluded that, although some of these studies suggested a weak association might exist, when taken together the results of the studies are insufficient to demonstrate any real association.” This statement is also inaccurate, to phrase it euphemistically. At that time there had been about 9 studies (more by now) published in the open literature that did show a statistically significant association between hygienic talc use and ovarian cancer. Anybody who denies this risks that the talc industry will be perceived by the public like it perceives the cigarette industry: denying the obvious in the face of all evidence to the contrary.

The workshop did not conclude that “the results of the studies are insufficient to demonstrate any real association.” As pointed out above, a “real” statistically significant association has been undeniably established independently by several investigators, which without doubt will be readily attested to by a number of reputable scientists/clinicians, including Bernard Harlow, Debra Novotny, Candace Sue Kasper, Debra Heller, and others.

77. In 2006, Imerys began placing an ovarian cancer warning on its MSDS it provides to Talc Defendants. These MSDSs not only provided the warning information about the IARC classification but also included warning information regarding “States Rights to Know” and warning information about the Canadian Government’s “D2A” classification of talc as well. Although Talc Defendants admittedly received these MSDSs from Imerys, they never passed this warning information on to consumers, nor did Imerys. On September 26, 2012, the corporate representative of Imerys testified in open court that his company exclusively supplied Talc Defendants with talc used for its Baby Powder product and that ovarian cancer is a potential hazard associated with a women’s perineal use of talc-based body powders, like Talc Defendants’ Baby Powder, one of J&J’s Talc Products.

78. On October 19, 2012, Talc Defendants’ former in-house toxicologist and current consulting toxicologist, Dr. John Hopkins, testified on Talc Defendants’ behalf that Talc Defendants “[are] and were aware of...all publications related to talc use and ovarian cancer.” Imerys was aware of this testimony and of the publications to which it referred.

79. On October 4, 2013, a jury in South Dakota Federal Court, in the case styled *Deane Berg v. Johnson & Johnson Consumer Companies, Inc.*,

unanimously returned a verdict on Berg's negligent products liability claim, finding that J&J's Talc Products caused the plaintiff's ovarian cancer and that J&J was negligent in failing to warn about cancer hazards on its talc-based body powders, specifically, J&J Baby Powder and Shower to Shower. Ever after the *Berg* verdict, Talc Defendants continue to deny liability. Imerys continues to assert that talc is safe.

80. On February 22, 2016, a jury in Circuit Court for the City of St. Louis, Missouri, in the case styled *Fox v. Johnson & Johnson et al*, found that Johnson & Johnson and Johnson & Johnson Consumer Companies, Inc. caused the plaintiff's ovarian cancer and were negligent in failing to warn about cancer hazards on its talc-based body powders, specifically, J&J Baby Powder and Shower to Shower. Even after a verdict on the amount of **\$72,000,000**, Talc Defendants continue to deny liability. Imerys continues to assert that talc is safe.

81. On May 2, 2016, a jury in Circuit Court for the City of St. Louis, Missouri, in the case styled *Gloria Ristesund v. Johnson & Johnson et al*, found that Johnson & Johnson Consumer Companies, Inc. caused the plaintiff's ovarian cancer and was negligent in failing to warn about cancer hazards on its talc-based body powders, specifically, J&J Baby Powder and Shower to Shower. Even after a

verdict of **\$55,000,000**, Talc Defendants continue to deny liability. Imerys continues to assert that talc is safe.

J&J Defendants and Imerys Failed to Warn Consumers About the Risks of Using J&J's Talc Products

82. Despite the overwhelming scientific and medical evidence regarding talc use and ovarian cancer that has developed over the past several decades, the only warnings on J&J's Talc Products are to "Keep powder away from child's face to avoid inhalation, which can cause breathing problems," and to "[a]void contact with eyes." The label also states: "SAFETY TIP: Keep out of reach of children. Do not use if quality seal is broken." Talc Defendants provide similar warnings on their website: "For external use only. Keep out of reach of children. Close tightly after use. Do not use on broken skin. Avoid contact with eyes. Keep powder away from child's face to avoid inhalation, which can cause breathing problems." Imerys likewise provides no other consumer warnings as well.

83. None of Talc Defendants' warnings on the product label or in other marketing informed Plaintiffs that use of the product in the genital area, as was encouraged by Talc Defendants, could lead to an increased risk of ovarian cancer or was a hazard. Instead, Talc Defendants continue to represent on the

labeling and other marketing that J&J's Talc Products are "clinically proven to be safe, gentle and mild," and claim "clinically proven mildness."

84. Plaintiffs were deceived or misled by Talc Defendants' and Imerys' omissions and deceptive representations that J&J's Talc Products are safe for women to use in the genital area. Nell purchased and used J&J's Talc Products reasonably believing that the products were safe. Because J&J's Talc Products are advertised for use by women and do not instruct that the products may lead to an increased risk for ovarian cancer when used in the genital area but instead claim that the products are clinically proven safe and mild, Talc Defendants' omissions and representations were a material factor in influencing Nell's decision to purchase Johnson's® Baby Powder. Nell would not have purchased J&J's Talc Products had she known that J&J's Talc Products were not safe and use of which Talc Products could lead to an increased risk for ovarian cancer. Nell had a reasonable expectation that J&J's Talc Products were safe to use in the genital area.

85. As a result, Plaintiffs have been damaged in their purchases and uses of J&J's Talc Products and have been deceived into purchasing products that they reasonably believed, based on Talc Defendants' and Imerys' omissions and representations, were safe for use by women when, in fact, they are not.

86. Imerys and Talc Defendants, by contrast, reaped and continue to reap enormous profits from their deceptive marketing and sale of talc and Talc Products.

Count One: Strict Liability as To All Defendants

87. All preceding statements and allegations of Plaintiffs' Complaint are incorporated herein and realleged as if expressly set forth herein.

88. J&J and Imerys mined, designed, selected, inspected, formulated, tested, manufactured, assembled, equipped, marketed, advertised, distributed, and sold its talc and Talc Products.

89. J&J and Imerys mined, selected, inspected, tested, manufactured, assembled, equipped, marketed, distributed and sold the carcinogenic talc that was used in Talc Products.

90. J&J sold J&J's Talc Products as a new product more than ten years before the filing of this action, but any statutes of repose or limitation are tolled because of J&J's fraud, negligent misrepresentation, and fraudulent concealment, and conduct equivalent to that required to impose punitive damages against J&J. Imerys supplied the raw talc to J&J.

91. At all times, Imerys knew of the unreasonably dangerous and carcinogenic nature of the talc it was selling to Talc Defendants, especially when

used in a woman's perineal regions and it knew Talc Defendants were not warning consumers of these dangers and hazards.

92. J&J and Imerys had a legal duty to design, inspect, test, mix, manufacture, label, formulate, and assemble J&J's Talc Products so that they would be reasonably safe in the foreseeable and normal uses to which they would be put and for which J&J advertised they could be used.

93. Among other things, the Imerys' talc and J&J's Talc Products are defective and carcinogenic, and are unreasonably dangerous, hazardous, and unsafe for foreseeable users.

94. J&J and Imerys failed to adequately warn Nell, and other consumers, or the public in general, about the unsafe and defective formulation and the hazards and carcinogenicity of the Imerys' talc and J&J's Talc Products, so that individuals like Nell could make informed and prudent decisions regarding use of those Talc Products.

95. The defective and hazardous nature of Imerys' and J&J's Talc Products was the proximate cause of the damages sustained by Nell and Charles Strickland, Sr., as set forth herein, thus rendering J&J strictly liable.

Count Two: Negligence of J&J

96. All preceding statements and allegations of Plaintiffs' Complaint are incorporated herein and realleged as if expressly set forth herein.

97. For the many reasons set out above, J&J was negligent in designing, formulating, inspecting, testing, manufacturing, assembling, marketing, advertising, selling and providing incomplete and inadequate warnings for its defective and hazardous J&J's Talc Products, as set out in the paragraphs above.

98. J&J's negligence was the proximate cause of the damages sustained by Nell and Charles Strickland, Sr. as set forth herein.

Count Three: Negligence of Imerys

99. All preceding statements and allegations of Plaintiffs' Complaint are incorporated herein and realleged as if expressly set forth herein.

100. At all pertinent times Imerys had a duty to exercise reasonable care in mining, labelling, formulating, inspecting, testing, manufacturing, assembling, marketing, advertising, selling, and/or the sale of the Talc Products.

101. At all pertinent times, Imerys mined and sold talc to J&J, which Imerys knew was then being packaged and sold to consumers as the Talc Products by J&J. Further, Imerys knew that consumers were using the J&J Talc Products to powder their perineal regions.

102. Imerys knew, at all pertinent times, that the use of talcum powder based products in the perineal area significantly increased the risk of ovarian cancer, as shown by studies dating back to the 1960s.

103. At all pertinent times, Imerys knew that Talc Defendants were not providing warnings to consumers of the Talc Products about the risks of developing ovarian cancer from the talc.

104. For the many reasons set out above, Imerys was negligent in providing and selling the talc to the J&J Defendants, while knowing how the J&J Defendants sold and marketed its Talc Products. During that time, Imerys took no adequate steps to ensure that the ultimate consumers of the Talc Products, including Nell Strickland, were told of the information that Imerys has about the carcinogenic properties of talc, including its risk of causing ovarian cancer.

105. Imerys' negligence was a proximate cause of the damages sustained by Nell and Charles Strickland, Sr. as set forth herein.

Count Four: Breach of Implied Warranty

106. All preceding statements and allegations of Plaintiffs' Complaint are incorporated herein and realleged as if expressly set forth herein.

107. J&J breached its implied warranty of merchantability by selling J&J's defective and hazardous Talc Products when they were not fit for the ordinary purpose for which such goods are sold.

108. This breach of warranty by J&J was a proximate cause of the damages sustained by Plaintiffs Nell and Charles Strickland, Sr., as set forth herein.

Count Five: Fraud and Fraudulent Concealment

109. All preceding statements and allegations of Plaintiffs' Complaint are incorporated herein and realleged as if expressly set forth herein.

110. J&J and Imerys intentionally concealed material facts from Nell and the consuming public. J&J and Imerys knew that J&J's Talc Products were formulated, designed and manufactured with unsafe, hazardous, and carcinogenic talc, but concealed those material facts. J&J, in concert with Imerys, recklessly manufactured and distributed J&J's Talc Products to Nell and other consumers in the United States. Those consumers had no knowledge of the hazards and carcinogenic nature of the J&J Talc Products.

111. J&J and Imerys had a duty to disclose the facts and dangers of talc to Nell and the public who used its Talc Products, but failed and refused to do so.

112. J&J and Imerys knew that Nell had no knowledge of those facts and that neither Nell nor the public had an equal opportunity to discover the facts. J&J, on the other hand, had complete knowledge of the defects and hazards in its Talc Products. Nell trusted J&J not to sell her a product that contained a substance that J&J knew to be a carcinogen and hazardous, and that caused ovarian cancer. Nell further trusted J&J to stop selling the product, warn of defects, warn of hazards, and to recall J&J's Talc Products.

113. By failing to disclose these material facts, J&J, acting in concert with Imerys, intended to induce Nell to purchase J&J's Talc Products and/or to continue to use them.

114. Nell and other women reasonably relied on J&J's reputation and nondisclosure and Imerys' silence, and reasonably but unknowingly continued to use J&J's Talc Products over long periods of time.

115. Nell would not have purchased J&J's Talc Products had she known of the hazards and dangers of the products, and certainly would not have continued to use it once she learned of the dangerous cancer causing nature of Imerys' talc and J&J's Talc Products.

116. J&J and Imerys reaped the benefit of the sales of J&J's Talc Products as a result of its nondisclosure to Nell and the public.

117. As a direct and proximate result of J&J's and Imerys' wrongful conduct and fraudulent concealment, Nell and other women suffered the damages described herein.

118. J&J's and Imerys' conduct was knowing, intentional, and with malice, demonstrated a complete lack of care, was in reckless disregard for the rights of Nell and other women who used the Talc Products, and justifies, warrants and demands that punitive damages be awarded.

Count Six: Negligent Misrepresentation of Talc Defendants

119. All preceding statements and allegations of Plaintiffs' Complaint are incorporated herein and realleged as if expressly set forth herein.

120. At all relevant times, Talc Defendants were engaged in the business of manufacturing, formulating, testing, marketing, promoting, advertising, selling, and/or distribution of its defective and hazardous Talc Products.

121. At all relevant times, Talc Defendants had a duty to disclose to consumers and to the public material facts about J&J's Talc Products, including the material fact that application of J&J's Talc Products to the female perineal area causes a significantly increased risk of ovarian cancer and constituted a health hazard.

122. Through their actions and omissions in advertising, promoting, labeling, and otherwise, Talc Defendants made public misrepresentations of material facts to, and/or concealed material facts from, consumers like Nell Strickland concerning the character, safety, and effectiveness of the Talc Products.

123. Those misrepresentations and omissions, included but are not limited to:

a. J&J labelled and advertised J&J's Talc Products for use in more places than just under the arms. It promoted use of the J&J's Talc Products in such places to make the user feel dry, fresh, and comfortable throughout the day and urged users to use J&J's Talc Products all over their bodies.

b. J&J urged women to use Talc Products all over, and urged them to use those products to soothe areas irritated by friction. It urged them, for example, to apply J&J's Talc Products after a bikini wax as a way to help reduce irritation and discomfort.

c. In so doing, J&J misrepresented to consumers and Nell that J&J's Talc Products were safe for use all over the body, including the female perineal area.

d. Despite actual knowledge of the health hazards of its Talc Products, Talc Defendants failed to disclose to the consumers and to Nell, through

adequate warnings, representations, labels, or otherwise, that J&J's Talc Products were inherently dangerous and carcinogenic in nature, which poses serious health risks to consumers.

e. Despite actual knowledge that the use of Talc Products in the perineal area created a significant increased risk of ovarian cancer, Talc Defendants failed to disclose to consumers and Nell, through adequate warnings, representations, labels, or otherwise, that material fact.

124. At all relevant times, Talc Defendants failed to exercise reasonable care in ascertaining or sharing information with Nell regarding the safe use of J&J's Talc Products, failed to disclose material facts to Nell indicating that J&J's Talc Products were inherently dangerous and carcinogenic in nature, and otherwise failed to exercise reasonable care in communicating the information concerning J&J's Talc Products to Nell and/or concealed relevant facts that were known to Talc Defendants.

125. At all relevant times, Nell was not aware of the falsity or existence of foregoing misrepresentations or omissions, nor was she aware that material facts concerning J&J's Talc Products had been concealed or omitted. In reasonable reliance upon Talc Defendants' misrepresentations and omissions, Nell and others were induced to buy and use J&J's Talc Products in the perineal area.

If Talc Defendants had disclosed the accurate and material facts concerning the hazards of its Talc Products, Nell would not have bought J&J's Talc Products and would not have used such products on her body in that manner.

126. Nell's reliance upon Talc Defendants' misrepresentations and omissions was justified and reasonable, because, among other reasons, those misrepresentations and omissions were made by individuals and entities who were in a position to know the material facts about J&J's Talc Products and the association between J&J's Talc Products and the increased risk of ovarian cancer, while Nell was not in a position to know those material facts, and because Talc Defendants failed to warn or give notice to Nell and other consumers, thereby inducing them to use J&J's Talc Products in lieu of safer alternatives and in ways that created unreasonably dangerous risks to her health.

127. At all relevant times dating back to the early 1970s, Talc Defendants' corporate officers, including each of its incumbent CEOs, chairmen, directors, and/or managing agents, knew of and ratified the acts of Talc Defendants, as alleged herein.

128. At all relevant times, Talc Defendants' current Chairman and CEO, Mr. Alex Gorsky, knew of the fact that the raw talc used in J&J's Talc

Products was labelled CARCINOGENIC when shipped to the United States in bulk containers.

129. Notwithstanding Chairman and CEO Gorsky's knowledge that the talc was labelled CARCINOGENIC when shipped to the United States, J&J has neither pulled its Talc Products from the marketplace nor given a prominent and adequate warning to consumers about the dangers and hazards of talc as a known cause of ovarian cancer.

130. As Chairman and CEO, Mr. Alex Gorsky is the highest ranking executive in J&J and his main responsibilities include developing and implementing high-level strategies, making major corporate decisions, managing the overall operations and resources of the company. He also reports to the Board of Directors.

131. As Chairman and CEO, Mr. Alex Gorsky has the final authority to order and direct the removal of hazardous J&J products from the marketplace.

132. As Chairman and CEO, Mr. Alex Gorsky has the final authority to require adequate and effective warnings to be placed on J&J products.

133. Talc Defendants' direct and indirect misrepresentations, and its omissions about the dangers and hazards of its Talc Products, and those of its Chairmen and CEOs over the course of J&J's history, proximately caused the

injuries and damages that Nell and Charles suffered in the past, continue to suffer, and are likely to suffer in the future.

134. Plaintiff Nell Strickland and other similarly situated women had the right to know what J&J knew about the risk of ovarian cancer caused by talc.

Count Seven: Loss of Consortium

135. All preceding statements and allegations of Plaintiffs' Complaint are incorporated herein and realleged as if expressly set forth herein.

136. At all times during the periods alleged above, Charles Strickland has been the lawful husband of Nell. As a result of the tortious conduct of Imerys and J&J, Charles Strickland has suffered the loss of the society, companionship, comfort, and consortium of his wife, as those losses are defined under Georgia law.

137. J&J's and Imerys' tortious misconduct proximately caused Charles Strickland' loss of consortium.

Count Eight: Georgia Fair Business Practices Act

138. All preceding statements and allegations of Plaintiffs' Complaint are incorporated herein and realleged as if expressly set forth herein.

139. Georgia's Fair Business Practices Act ("FBPA"), O.C.G.A. § 10-1-393(a), declares unfair or deceptive acts or practices in the conduct of

consumer transactions and consumer acts or practices in trade or commerce to be unlawful.

140. Talc Defendants and Imerys have violated the Georgia FBA, by engaging in unfair, false, misleading, and/or deceptive acts or practices as set out in Paragraphs 1 through 139 herein.

141. Talc Defendants' and Imerys' FBPA violations were one of the proximate causes of the Strickland' injuries and damages.

Count Nine: Punitive Damages

142. All preceding statements and allegations of Plaintiffs' Complaint are incorporated herein and realleged as if expressly set forth herein.

143. J&J, through its conduct in designing, testing, manufacturing, assembling, formulating, marketing, misrepresenting, selling and failing to adequately warn of the dangers of J&J's Talc Products, and Imerys in providing the raw talc to J&J while knowing how they would use it, demonstrated an entire want of care and fraud, malice, and further demonstrated a reckless indifference for the health, safety, and welfare of women generally, and of Nell Strickland, specifically. Plaintiffs show that, pursuant to O.C.G.A. § 51-12-5.1, Talc Defendants' and Imerys' conduct is unprincipled and unconscionable. As such, Talc Defendants' and Imerys' conduct warrants, justifies, and demands the

imposition of punitive damages to punish, penalize, and deter J&J and Imerys, and other similarly situated vendors of talc, from continuing to sell such a hazardous and unreasonably dangerous product to consumers for application to the genital area on their bodies.

Count Ten: Attorney's Fees and Expenses

144. All preceding statements and allegations of Plaintiffs' Complaint are incorporated herein and realleged as if expressly set forth herein.

145. J&J's and Imerys' actions have been in bad faith and have caused Nell and Charles Strickland, Sr., to suffer unnecessary trouble and expense. Plaintiffs are, therefore, entitled to recover from J&J and Imerys all expenses of litigation, including attorney's fees, costs and expenses pursuant to O.C.G.A. § 13-6-11.

PRAYER FOR RELIEF

Wherefore, Plaintiff Nell Rose Strickland and Plaintiff Charles L. Strickland pray for:

a. A judgment against J&J and Imerys in an amount sufficient to fully and fairly compensate Nell for her physical, psychological, emotional injuries, her current and past and future medical bills, and all of the general and special damages incurred by her;

b. A judgment against J&J and Imerys in an amount sufficient to fully and fairly compensate Charles for his loss of consortium;

c. All damages and penalties permitted under the Georgia Fair Business Practices Act, including but not limited to punitive and treble damages—and an injunction to require the Imerys and Talc Defendants and to (1) stop selling its Talc Products without the same kinds of labels and warnings that the miners and shippers of raw talc receive and (2) to stop selling its Talc Products for hygienic use on or around the genital area;

d. An award of punitive damages in such amount as to punish, penalize and deter Imerys and Talc Defendants and other similar situated companies;

e. An award of attorneys' fees and costs against all Defendants; and

f. Such further relief as may be just, proper, and reasonable under the circumstances.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues so triable.

DATED: August 8, 2016.

Respectfully submitted,

CHEELEY LAW GROUP

/s/ Robert D. Cheeley

Robert D. Cheeley
Georgia Bar No.122727
Patrick A. Dawson
Georgia Bar No. 005620

Attorneys for Plaintiffs

299 South Main Street
Suite A
Alpharetta, Georgia 30009
(770) 559-6365
bob@cheeleylawgroup.com
pat@cheeleylawgroup.com

BARNES LAW GROUP, LLC

/s/ Roy E. Barnes

Roy E. Barnes
Georgia Bar No.039000
John R. Bevis
Georgia Bar No. 056110

Attorneys for Plaintiffs

31 Atlanta Street
Marietta, Georgia 30060
(770) 227-6375
rog@barnreslawgroup.com
bevis@barneslawgroup.com