IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

GAIL LUCILLE INGHAM and ROBERT INGHAM,

and

LAINE GOLDMAN, ON BEHALF OF JOHANNA JANE GOLDMAN,

and

TRACEE BAXTER, ON BEHALF OF MARCIA L. HILLMAN,

and

STEPHANIE MARTIN and KEN MARTIN,

and

CECILIA A. MARTINEZ,

and

MARCIA ELIZABETH OWENS,

and

JANIS GAIL OXFORD and WILLIAM OXFORD,

and

ROBERT PACKARD, ON BEHALF OF DONNA LYNN PACKARD,

and

TONI S. ROBERTS,

and

OLGA P. SALAZAR,

and

Cause Number: 1522-CC10417-01

Division: 10

JURY TRIAL DEMANDED

PAMELA DIANNE SCARPINO,

and

ANDREA SCHWARTZ-THOMAS and BRYAN THOMAS,

and

MONICA SHERISE SWEAT and GREGORY SWEAT,

and

MARVIN WALKER, ON BEHALF OF ELEITA ROLAINE WALKER,

and

CAROLE WILLIAMS AND TALMADGE WILLIAMS,

and

MITZI DENISE ZSCHIESCHE,

and

ANNETTE M. KOMAN and ALLAN KOMAN,

and

MARTIN MAILLARD, ON BEHALF OF ANNIE M. GROOVER,

And

JACKIE HERBERT NORTH, ON BEHALF OF CLORA MAE WEBB,

and

KAREN DENISE HAWK and MARK E. HAWK,

and

KRYSTAL J. KIM,

and

SHEILA D. BROOKS,

Plaintiffs,

v.

JOHNSON & JOHNSON

Serve: Steven M. Rosenberg
Registered Agent
One Johnson & Johnson Plaza
New Brunswick, NJ 08933

and

JOHNSON & JOHNSON CONSUMER COMPANIES, INC.

Serve: Person in Charge
One Johnson & Johnson Plaza
New Brunswick, NJ 08933

and

IMERYS TALC AMERICA, INC. F/K/A LUZENAC AMERICA, INC.

Serve: CSC-Lawyers Incorporating Service Company
Registered Agent
221 Bolivar
Jefferson City, MO 65101

Defendants.

FIFTH AMENDED PETITION

COME NOW Plaintiffs, by and through their undersigned counsel, and for their cause of action against Defendants Johnson & Johnson; Johnson & Johnson Consumer Companies, Inc. (the "Johnson & Johnson Defendants") and Imerys Talc America, Inc., f/k/a Luzenac America, Inc. ("Defendant Imerys"), including any and all of the Johnson & Johnson Defendants' or Defendant Imerys' predecessors, successors, parent companies, subsidiaries, sister companies, or other affiliated or related companies or entities (collectively, "Defendants"), alleging the following upon information and belief (including investigation made by and through Plaintiffs' counsel), except those allegations that pertain to Plaintiffs and which are specifically alleged to be based on personal knowledge:

INTRODUCTION

1. The Johnson & Johnson Defendants' "Johnson's Baby Powder" and "Shower to Shower" contain, and have contained for decades, dangerous and deadly carcinogens that are extremely hazardous to human health. They cause ovarian and other deadly cancers. These known carcinogens are talc and elements that naturally occur with talc such as asbestos (e.g., actinolite, amosite, anthophyllite, antigorite, chrysotile, crocidolite, tremolite), asbestiform fibers (e.g., fibrous talc), arsenic, metals and other elements. Plaintiffs herein all used or were otherwise exposed for years to "Johnson's Baby Powder" and "Shower to Shower" containing dangerous talc and asbestos fibers such as chrysotile, anthophyllite, and tremolite, and asbestiform fibers such as fibrous talc, and developed devastating ovarian cancer.

2. Defendants have known for decades that "Johnson's Baby Powder" and "Shower to Shower" contain asbestos fibers such as chrysotile, anthophyllite, and tremolite, asbestiform fibers such as fibrous talc, and other dangerous carcinogens, and that these carcinogens cause ovarian cancer. Yet, Defendants have blatantly lied, and continue to lie, to consumers of "Johnson's Baby Powder" and "Shower to Shower", including Plaintiffs, government regulators and public health officials, the scientific and medical community, and the public about the

contents of “Johnson’s Baby Powder” and “Shower to Shower” and the dangerous health hazards from exposures to these products. For example, the Johnson & Johnson Defendants assert on their website that “JOHNSON’s talc products do not contain asbestos. … [that] [a] frequent misperception is that JOHNSON’s Baby Powder contains talc made with asbestos, a substance classified as cancer-causing. ….”[1] The Johnson & Johnson Defendants further assert that “[t]he grade of talc used in cosmetics is of high purity, comparable to that used for pharmaceutical applications, and is free from asbestos and asbestiform fibers.”[2] The Defendants further market and advertise, and have done so for almost a century, that “Johnson’s Baby Powder” and “Shower to Shower” are safe and effective for use by women, infants, and children. These assertions, and the many more Defendants have made for decades now about the contents and health effects of “Johnson’s Baby Powder” and “Shower to Shower”, are demonstrably false.

3. Defendants must be held accountable to Plaintiffs for failing to warn of and otherwise causing Plaintiffs’ ovarian cancers from exposure to the harmful talc, deadly asbestos fibers such as chrysotile, anthophyllite, and tremolite, asbestiform fibers such as fibrous talc, and other dangerous carcinogens in “Johnson’s Baby Powder” and “Shower to Shower.”

4. Plaintiffs bring this cause of action against Defendants pursuant to Rule 52.05(a) of the Missouri Rules of Civil Procedure as their claims arise out of the same series of transactions and occurrences, and their claims involve common questions of law and/or fact. All claims in this action are a direct and proximate result of Defendants’, including without limitation their agents, contractors, suppliers, purchasers, vendors, or other similar entities, negligent, willful, and wrongful conduct in connection with the mining, processing, milling, supply, design, development, manufacture, testing, packaging, promoting, marketing, distribution, labeling, and/or sale of and/or for the products known as Johnson’s Baby Powder and Shower to Shower (along with any variation, modification, or line extension of said products such as, for example, Shower to Shower Shimmer Effects, Shower to Shower Sport, and the

[1] https://www.jnj.com/our-products/the-facts-about-talc-safety
[2] https://www.jnj.com/our-products/the-facts-about-talc-safety

like), which are comprised of talc; elements that naturally occur with talc such as asbestos (e.g., actinolite, amosite, anthophyllite, antigorite, chrysotile, crocidolite, tremolite), asbestiform fibers (e.g., fibrous talc), arsenic, metals and other elements; and additives such as fragrances, preservatives, and enhancers (hereinafter "the PRODUCTS").

5. All Plaintiffs in this action seek recovery for damages as a result of developing ovarian cancer, which was directly and proximately caused by such wrongful conduct by Defendants, the unreasonably dangerous and defective nature of the PRODUCTS and the attendant effects of developing ovarian cancer. All of the claims in this action involve common legal and medical issues.

6. This Court has personal jurisdiction over Defendants for each of these claims due to Defendants' substantial and suit-related contacts with Missouri in that Plaintiffs' claims arose out of and/or relate to Defendants' PRODUCTS that were manufactured, tested, labeled, packaged, bottled, shipped, distributed, and/or sold by Defendants' as well as by and through Defendants' agent, contractor or affiliate Pharma Tech Industries in and from Missouri. Plaintiffs' claims therefore derived from and are connected with Defendants' Missouri contacts, as more fully detailed below in paragraphs 91 to 104 which are incorporated herein.

PARTIES

7. Plaintiff Gail Lucille Ingham is a citizen of the City of O'Fallon, State of Missouri. At all pertinent times, including from approximately 1956 until 1986, Plaintiff Gail Lucille Ingham purchased and applied the PRODUCTS in the State of Missouri. The PRODUCTS she purchased and applied were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and Pharma Tech Industries, PTI Union, LLC, and PTI Royston, LLC (collectively, "PTI") (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In or around January, 1985, Plaintiff Gail

Lucille Ingham was diagnosed with ovarian cancer, which developed in the State of Missouri. Plaintiff Gail Lucille Ingham received treatment in St. Louis, Missouri. Plaintiff Gail Lucille Ingham developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Gail Lucille Ingham has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Gail Lucille Ingham has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Gail Lucille Ingham applied the PRODUCTS in the State of Missouri.

8. Plaintiff Robert Ingham is the husband of Gail Lucille Ingham. As a result of the medical conditions developed by his wife and the medical treatment and hospitalization that she has and will endure, Plaintiff Robert Ingham lost a substantial measure of his wife's household services; and lost, and will continue to lose in the future, a substantial measure of his wife's consortium.

9. Plaintiff Laine Goldman brings this action in his capacity as administrator of the Estate of Johanna Goldman, deceased, pursuant to California law. *See* California Code of Civil Procedure, Sections 377.30; 377.60. Plaintiff is pursuing this action due to the wrongfully caused premature death of decedent Johanna Goldman, or alternatively for damages attendant to a survivorship action. Decedent Johanna Goldman was a citizen of the City of Palm Springs, State of California. At all pertinent times, including from approximately 1972 until 2014, decedent Johanna Jane Goldman purchased and applied the PRODUCTS in the State of California. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and

marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In or around February, 2014, decedent Johanna Goldman was diagnosed with ovarian cancer, which developed in the State of California, and which ultimately led to her untimely and premature death on July 21, 2017. As a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS, and pursuant to C.R.S. §§ 13-21-201, et seq., Plaintiff seeks damages for decedent's death, loss of future earnings, loss of decedent's value to her estate, and other damages as allowed by law. At all pertinent times, decedent Johanna Jane Goldman applied the PRODUCTS in the State of California.

10. Plaintiff Tracee Baxter bring this action in her capacity as the executor of the Estate of Marcia Hillman pursuant to New York Law. *See* EPT §5-4.1. Plaintiff is pursuing this action due to the wrongfully caused premature death of Decedent Marcia L. Hillman on behalf of her estate. Decedent Marcia Hillman was a citizen of the City of Whitney Point, State of New York. At all pertinent times, including from approximately 1970 until 2014, decedent Marcia L. Hillman purchased and applied the PRODUCTS in the State of New York. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in decedent's home state from where she purchased them. In or around January, 2014, decedent Marcia L. Hillman was diagnosed with ovarian cancer, which developed in the State of New York which ultimately lead to her death on December 7, 2016. As a direct and proximate

result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS, and pursuant to C.R.S. §§ 13-21-201, et seq., Plaintiff seeks damages for decedent's loss of future earnings, loss of decedent's value to her estate, and other damages as allowed by law. At all pertinent times, decedent applied the PRODUCTS in the State of New York.

11. Plaintiff Stephanie Martin is a citizen of the City of Lexington, State of South Carolina. At all pertinent times, including from approximately 1972 until 2014, Plaintiff Stephanie Martin purchased and applied the PRODUCTS in the State of South Carolina. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In or aroundDecember, 2014, Plaintiff Stephanie Martin was diagnosed with ovarian cancer, which developed in the State of South Carolina. Plaintiff Stephanie Martin developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Stephanie Martin has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Stephanie Martin has otherwise

been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Stephanie Martin applied the PRODUCTS in the State of South Carolina.

12. Plaintiff Ken Martin is the husband of Stephanie Martin. As a result of the medical conditions developed by his wife and the medical treatment and hospitalization that she has and will endure, Plaintiff Ken Martin lost a substantial measure of his wife's household services; and lost, and will continue to lose in the future, a substantial measure of his wife's consortium.

13. Plaintiff Cecilia A. Martinez is a citizen of the City of Dallas, State of Texas. At all pertinent times, including from approximately 1966 until 2014, Plaintiff Cecilia A. Martinez purchased and applied the PRODUCTS in the State of Texas. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In March, 2011, Plaintiff Cecilia A. Martinez was diagnosed with ovarian cancer, which developed in the State of Texas. Plaintiff Cecilia A. Martinez developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Cecilia A. Martinez has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Cecilia A. Martinez has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Cecilia A. Martinez applied the PRODUCTS in the State of Texas.

14. Plaintiff Marcia Elizabeth Owens is a citizen of the City of Charlotte, State of North Carolina. At all pertinent times, including from approximately 1987 until 2014, Plaintiff Marcia Elizabeth Owens purchased and applied the PRODUCTS in the State of North Carolina. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In or around June, 2013, Plaintiff Marcia Elizabeth Owens was diagnosed with ovarian cancer, which developed in the State of North Carolina. Plaintiff Marcia Elizabeth Owens developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Marcia Elizabeth Owens has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Marcia Elizabeth Owens has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Marcia Elizabeth Owens applied the PRODUCTS in the State of North Carolina.

15. Plaintiff Janis Gail Oxford is a citizen of the City of Scranton, State of North Dakota. At all pertinent times, including from approximately 1954 until 2014, Plaintiff Janis Gail Oxford purchased and applied the PRODUCTS in the States of North Dakota and Texas. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to

retailers and other outlets in Plaintiff's home state from where she purchased them. In or around December, 2011, Plaintiff Janis Gail Oxford was diagnosed with ovarian cancer, which developed in the States of North Dakota and Texas. Plaintiff Janis Gail Oxford developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Janis Gail Oxford has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Janis Gail Oxford has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Janis Gail Oxford applied the PRODUCTS in the States of North Dakota and Texas.

16. Plaintiff William Oxford is the husband of Janis Gail Oxford. As a result of the medical conditions developed by his wife and the medical treatment and hospitalization that she has and will endure, Plaintiff William Oxford lost a substantial measure of his wife's household services; and lost, and will continue to lose in the future, a substantial measure of his wife's consortium.

17. Plaintiff Robert Packard, is an adult whose principal place of residence is Charlottesville, State of Virginia, brings this action in his capacity as representative of the Estate of Donna Lynn Packard pursuant to Virginia Code, §8.01-50. Plaintiff is pursuing this action due to the wrongfully caused premature death of Donna Lynn Packard on behalf of that decedent's estate. The premature death of Donna Lynn Packard was the direct and proximate result of her application of the PRODUCTS and subsequent ovarian cancer diagnosis. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction)

within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. As a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS, and pursuant to C.R.S. §§ 13-21-201, et seq., Plaintiff seeks damages for decedent's loss of future earnings, loss of decedent's value to her estate, and other damages as allowed by law.

18. Plaintiff Toni S. Roberts is a citizen of the City of Pittsburgh, State of Pennsylvania. At all pertinent times, including from approximately 1974 until 2014, Plaintiff Toni S. Roberts purchased and applied the PRODUCTS in the State of Pennsylvania. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In or around November, 2014, Plaintiff Toni S. Roberts was diagnosed with ovarian cancer, which developed in the State of Pennsylvania. Plaintiff Toni S. Roberts developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Toni S. Roberts has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Toni S. Roberts has otherwise been damaged in a personal and

pecuniary nature. At all pertinent times, Plaintiff Toni S. Roberts applied the PRODUCTS in the State of Pennsylvania.

19. Plaintiff Olga P. Salazar is a citizen of the City of Florence, State of Arizona. At all pertinent times, including from approximately 1972 until 2015, Plaintiff Olga P. Salazar purchased and applied the PRODUCTS in the State of Arizona. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In December, 2011, Plaintiff Olga P. Salazar was diagnosed with ovarian cancer, which developed in the State of Arizona. Plaintiff Olga P. Salazar developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Olga P. Salazar has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Olga P. Salazar has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Olga P. Salazar applied the PRODUCTS in the State of Arizona.

20. Plaintiff Pamela Dianne Scarpino is a citizen of Kansas City, Missouri. At all pertinent times, including from approximately 1966 until 2007, Plaintiff Pamela Dianne Scarpino purchased and applied the PRODUCTS in the States of Iowa and Missouri. The PRODUCTS she purchased and applied in Iowa and Missouri were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and

PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In October, 2007, Plaintiff Pamela Dianne Scarpino was diagnosed with ovarian cancer, which developed in the State of Missouri. Plaintiff Pamela Dianne Scarpino developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Pamela Dianne Scarpino has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Pamela Dianne Scarpino has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Pamela Dianne Scarpino applied the PRODUCTS in the States of Iowa and Missouri.

21. Plaintiff Andrea Schwartz-Thomas is a citizen of the City of Stafford, State of Virginia. At all pertinent times, including from approximately 1985 until 2013, Plaintiff Andrea Schwartz-Thomas purchased and applied the PRODUCTS in the State of Virginia. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In or around July, 2014, Plaintiff Andrea Schwartz-Thomas was diagnosed with ovarian cancer, which developed in the State of Virginia. Plaintiff Andrea Schwartz-Thomas developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and

Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Andrea Schwartz-Thomas has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Andrea Schwartz-Thomas has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Andrea Schwartz-Thomas applied the PRODUCTS in the State of Virginia.

22. Plaintiff Bryan Thomas is the husband of Andrea Schwartz-Thomas. As a result of the medical conditions developed by his wife and the medical treatment and hospitalization that she has and will endure, Plaintiff Bryan Thomas lost a substantial measure of his wife's household services; and lost, and will continue to lose in the future, a substantial measure of his wife's consortium.

23. Plaintiff Monica Sherise Sweat is a citizen of the City of Douglas, State of Georgia. At all pertinent times, including from approximately 1970 until 2005, Plaintiff Monica Sherise Sweat purchased and applied the PRODUCTS in the State of Georgia. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In June, 2009, Plaintiff Monica Sherise Sweat was diagnosed with ovarian cancer, which developed in the State of Georgia. Plaintiff Monica Sherise Sweat developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at

Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Monica Sherise Sweat has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Monica Sherise Sweat has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Monica Sherise Sweat applied the PRODUCTS in the State of Georgia.

24. Plaintiff Gregory Sweat is the husband of Monica Sherise Sweat. As a result of the medical conditions developed by his wife and the medical treatment and hospitalization that she has and will endure, Plaintiff Gregory Sweat lost a substantial measure of his wife's household services; and lost, and will continue to lose in the future, a substantial measure of his wife's consortium.

25. Plaintiff Marvin Walker, is an adult whose principal place of residence is Kansas City, State of Missouri brings this action in his capacity as the surviving spouse and representative of decedent Eleita Walker pursuant to RSMo. § 537.080. Plaintiff is pursuing this action due to the wrongfully caused premature death of Eleita Walker. The premature death of Eleita Walker was the direct and proximate result of her application of the PRODUCTS and subsequent ovarian cancer diagnosis. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. As a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing,

milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS, and pursuant to C.R.S. §§ 13-21-201, et seq., Plaintiff seeks damages for decedent's loss of future earnings, loss of decedent's value to her estate, and other damages as allowed by law.

26. Plaintiff Carole Williams is a citizen of the City of Warner Robbins, State of Georgia. At all pertinent times, including from approximately 1955 until 2011, Plaintiff Carole Williams purchased and applied the PRODUCTS in the State of Georgia. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In or around August, 2012, Plaintiff Carole Williams was diagnosed with ovarian cancer, which developed in the State of Georgia. Plaintiff Carole Williams developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Carole Williams has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Carole Williams has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Carole Williams applied the PRODUCTS in the State of Georgia.

27. Plaintiff Talmadge Williams is the husband of Carole Williams. As a result of the medical conditions developed by his wife and the medical treatment and hospitalization that she has and will endure, Plaintiff Talmadge Williams lost a substantial measure of his

wife's household services; and lost, and will continue to lose in the future, a substantial measure of his wife's consortium.

28. Plaintiff Mitzi Denise Zschiesche is a citizen of the City of New Braunfels, State of Texas. At all pertinent times, including from approximately 1971 until 2015, Plaintiff Mitzi Denise Zschiesche purchased and applied the PRODUCTS in the State of Texas. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In or around March, 2015, Plaintiff Mitzi Denise Zschiesche was diagnosed with ovarian cancer, which developed in the State of Texas. Plaintiff Mitzi Denise Zschiesche developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Mitzi Denise Zschiesche has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Mitzi Denise Zschiesche has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Mitzi Denise Zschiesche applied the PRODUCTS in the State of Texas.

29. Plaintiff Annette M. Koman is a citizen of the Mckees Rocks, State of Pennsylvania. At all pertinent times, including from approximately 1969 until 2009, Plaintiff Annette M. Koman purchased and applied the PRODUCTS in the State of Pennsylvania. The PRODUCTS she purchased and applied in her home state were in substantial part researched,

developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In or around July, 2009, Plaintiff Annette M. Koman was diagnosed with ovarian cancer, which developed in the State of Pennsylvania. Plaintiff Annette M. Koman developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Annette M. Koman has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Annette M. Koman has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Annette M. Koman applied the PRODUCTS in the State of Pennsylvania.

30. Plaintiff Allan Koman is the husband of Annette M. Koman. As a result of the medical conditions developed by his wife and the medical treatment and hospitalization that she has and will endure, Plaintiff Allan Koman lost a substantial measure of his wife's household services; and lost, and will continue to lose in the future, a substantial measure of his wife's consortium.

31. Plaintiff Martin Maillard, is an adult whose principal place of residence is Roselle, State of New Jersey, brings this action in his capacity as representative of the Estate of Annie Groover pursuant to NJ Rev Stat § 3B:10-2. Plaintiff is pursuing this action due to the wrongfully caused premature death of Annie Groover on behalf of that decedent's estate. The premature death of Annie Groover was the direct and proximate result of her application

of the PRODUCTS and subsequent ovarian cancer diagnosis. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. As a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS, and pursuant to C.R.S. §§ 13-21-201, et seq., Plaintiff seeks damages for decedent's loss of future earnings, loss of decedent's value to her estate, and other damages as allowed by law.

32. Plaintiff Jackie Herbert North, is an adult whose principal place of residence is the Camdenton, State of Missouri brings this action in his capacity as representative of the Estate of Clora Mae Webb. Decedent Clora Webb was at all relevant times a resident of Missouri. Decedent Clora Webb purchased and applied the PRODUCTS in Missouri, developed ovarian cancer and was treated in Missouri, and ultimately died on June 1, 2014 in Missouri. Plaintiff Jackie Herbert North is the surviving spouse of Glenda North, daughter of decedent Clora Webb. Plaintiff Jackie Herbert North was judicially found to be an heir and successor in interest and authorized to pursue this claim for the wrongfully caused premature death of Clora Mae Webb on behalf of decedent's estate. The premature death of Clora Mae Webb was the direct and proximate result of her application of the PRODUCTS and subsequent ovarian cancer diagnosis. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the

State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. As a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS, and pursuant to C.R.S. §§ 13-21-201, et seq., Plaintiff seeks damages for decedent's loss of future earnings, loss of decedent's value to her estate, and other damages as allowed by law.

33. Plaintiff Karen Denise Hawk is a citizen of the City of Kansas City, State of Missouri. At all pertinent times, including from approximately 1960 until 2003, Plaintiff Karen Denise Hawk purchased and applied the PRODUCTS in the State of Missouri. The PRODUCTS she purchased and applied were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In or around October, 2003, Plaintiff Karen Denise Hawk was diagnosed with ovarian cancer, which developed in the State of Missouri. Plaintiff Karen Denise Hawk developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Karen Denise Hawk has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Karen

Denise Hawk has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Karen Denise Hawk applied the PRODUCTS in the State of Missouri.

34. Plaintiff Mark E. Hawk is the husband of Karen Denise Hawk. As a result of the medical conditions developed by his wife and the medical treatment and hospitalization that she has and will endure, Plaintiff Mark E. Hawk lost a substantial measure of his wife's household services; and lost, and will continue to lose in the future, a substantial measure of his wife's consortium.

35. Plaintiff Krystal J. Kim is a citizen of the City of Westchester, State of Pennsylvania. At all pertinent times, including from approximately 1975 until 2014, Plaintiff Krystal J. Kim purchased and applied the PRODUCTS in the States of New Jersey and Pennsylvania. The PRODUCTS she purchased and applied in her home states were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In or around July, 2014, Plaintiff Krystal J. Kim was diagnosed with ovarian cancer, which developed in the State of Pennsylvania. Plaintiff Krystal J. Kim developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Krystal J. Kim has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Krystal J. Kim has otherwise been damaged in a personal

and pecuniary nature. At all pertinent times, Plaintiff Krystal J. Kim applied the PRODUCTS in the States of New Jersey and Pennsylvania.

36. Plaintiff Sheila D. Brooks is a citizen of the City of Anaheim, State of California. At all pertinent times, including from approximately 1979 until 2015, Plaintiff Sheila D. Brooks purchased and applied the PRODUCTS in the State of California. The PRODUCTS she purchased and applied in her home state were in substantial part researched, developed, tested, manufactured, produced, promoted, packaged, labeled, and marketed by Defendants and PTI (and other of Defendants' agents and contractors that, like PTI, acted at Defendants' direction) within and/or from the State of Missouri and then distributed and sold to retailers and other outlets in Plaintiff's home state from where she purchased them. In or around January, 2015, Plaintiff Sheila D. Brooks was diagnosed with ovarian cancer, which developed in the State of California. Plaintiff Sheila D. Brooks developed ovarian cancer, and suffered effects attendant thereto, as a direct and proximate result of the unreasonably dangerous and defective nature of the PRODUCTS and Defendants' wrongful and negligent conduct (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS. As a direct and proximate result of these injuries, Plaintiff Sheila D. Brooks has incurred and will incur medical expenses in the future, has endured and will endure pain and suffering and loss of enjoyment of life, and Plaintiff Sheila D. Brooks has otherwise been damaged in a personal and pecuniary nature. At all pertinent times, Plaintiff Sheila D. Brooks applied the PRODUCTS in the State of California.

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

38. At all pertinent times, Johnson & Johnson was engaged in the business of manufacturing, marketing, testing, promoting, selling, and/or distributing the PRODUCTS.

At all pertinent times, Johnson & Johnson regularly transacted, solicited, and conducted business in all States of the United States, including the State of Missouri.

39. The Defendant, Johnson & Johnson Consumer Companies, Inc. is a New Jersey corporation with its principal place of business in the State of New Jersey.

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

41. Defendant Johnson & Johnson Consumer Companies, Inc. is a subsidiary of Defendant Johnson & Johnson.

42. Defendant Johnson & Johnson formulated, manufactured, marketed, tested, promoted, sold and distributed the PRODUCTS prior to Johnson & Johnson Consumer Companies, Inc. f/k/a Johnson & Johnson Consumer Companies, Inc. coming into existence.

43. Defendant Johnson & Johnson formulates and coordinates the global strategy for the "Johnson & Johnson Family of Companies," including Johnson & Johnson Consumer Companies, Inc., and maintains central corporate policies requiring Johnson & Johnson Consumer Companies, Inc., to act under the general guidance of Johnson & Johnson.

44. Johnson & Johnson exercised an unusually high degree of control over Johnson & Johnson Consumer Companies, Inc., particularly with the manufacturing, marketing, testing, promoting, selling, and/or distributing of the PRODUCTS.

45. Johnson & Johnson maintains a reporting relationship with Johnson & Johnson Consumer Companies, Inc., that is not defined by a legal, corporate relationship, but in fact crosses that corporate line.

46. Johnson & Johnson hereto directed Johnson & Johnson Consumer Companies, Inc., how it was to handle product safety communication between Johnson & Johnson

Consumer Companies, Inc., and the scientific community and consumers at large as to the hazard the PRODUCTS pose to women with respect to development of ovarian cancer.

47. Johnson & Johnson also maintains a central global finance function that governs the entire Johnson & Johnson Family of Companies, to include Defendant Johnson & Johnson Consumer Companies, Inc., such that Johnson & Johnson Consumer Companies, Inc. does not function independently but under Johnson & Johnson's umbrella.

48. Johnson & Johnson was Johnson & Johnson Consumer Companies, Inc.'s alter ego, and vice-versa.

49. Johnson & Johnson Consumer Companies, Inc. was acting as agent of Johnson & Johnson, with Johnson & Johnson Consumer Companies, Inc. assenting to the agency relationship, Johnson & Johnson benefiting from that agency relationship, and Johnson & Johnson controlling Johnson & Johnson Consumer Companies, Inc. by virtue of that agency relationship.

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

51. At all pertinent times, Imerys Talc America, Inc., f/k/a Luzenac America, Inc., has been in the business of mining, milling, processing, testing, supplying, and distributing talc that is and was at all relevant times herein contaminated with asbestos, asbestiform fibers and other harmful constituents for use in the PRODUCTS, in all States of the United States, including the State of Missouri. Imerys Talc is the successor or continuation of Luzenac America, Inc., and Imerys Talc America, Inc. is legally responsible for all liabilities incurred when it was known as Luzenac America, Inc.

52. At all pertinent times, all Defendants (and other of Defendants' agents and contractors, such as PTI, that acted at Defendants' direction) were engaged in the mining, processing, milling, supply, research, development, testing, manufacture, production, packaging, labeling, promotion, distribution, marketing, and sale of and/or for the PRODUCTS, and introduced such PRODUCTS into interstate commerce with knowledge

and intent that such PRODUCTS were sold in the States of Alabama, Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Vermont, Washington and Wisconsin.

VENUE

53. Venue is proper in this Court pursuant to RSMo. § 508.010.4 because Plaintiff Gail Lucille Ingham was first exposed and injured by the Products in the City of St. Louis, State of Missouri.

54. The remaining Plaintiffs are properly joined in this action pursuant to Rule 52.05 in that their claims arise out of the same transaction or occurrence, or series of transactions or occurrences, and involve common questions of law or fact.

FACTUAL ALLEGATIONS

55. Talc is a mineral that is mined from the earth. At all pertinent times, the talc used in the PRODUCTS was sourced by Defendant Imerys[3] from mines that also form asbestos (e.g., actinolite, amosite, anthophyllite, antigorite, chrysotile, crocidolite, tremolite), asbestiform fibers (e.g., fibrous talc), arsenic, metals and other elements in the host rock. This led to mined talc ore that is and was mixed or otherwise combined with asbestos, asbestiform fibers, arsenic, metals, and other minerals that naturally occur with talc.

56. At all pertinent times, the Johnson & Johnson Defendants were engaged in the business of manufacturing, marketing, testing, packaging, labeling, promoting, selling, and/or distributing the PRODUCTS. The Johnson & Johnson Defendants outsourced many of these functions, including but not limited to the manufacturing, testing, packaging and labeling of the

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

PRODUCTS, to their agent PTI who performed these functions at the Johnson & Johnson Defendants' direction. The Johnson & Johnson Defendants and their agent PTI manufactured the PRODUCTS with talc (that was mixed with asbestos, asbestiform fibers, arsenic, metal and other elements) that was mined and supplied to them by Defendant Imerys.

57. Historically, "Johnson's Baby Powder" has been advertised and promoted by Defendants as a symbol of freshness, cleanliness, and purity. During the time in question, the Johnson & Johnson Defendants advertised and marketed this product as the beacon of "freshness" and "comfort", eliminating friction on the skin, absorbing "excess wetness" helping keep skin feeling dry and comfortable, and "clinically proven gentle and mild." The Johnson & Johnson Defendants compelled women through advertisements to dust themselves and their children all over with this product to mask odors, for use in diaper changing, and for a myriad of other uses. The bottle of "Johnson's Baby Powder" specifically targets women by stating, "For you, use every day to help feel soft, fresh, and comfortable."

58. During the time in question, the Johnson & Johnson Defendants advertised and marketed the product "Shower to Shower" as safe for use by women as evidenced in its slogan "A sprinkle a day keeps odor away", and through advertisements such as "Your body perspires in more places than just under your arms. Use SHOWER to SHOWER to feel dry, fresh, and comfortable throughout the day." And "SHOWER to SHOWER can be used all over your body."

59. In reliance on the Johnson & Johnson Defendants' advertising and marketing, the Plaintiffs used the PRODUCTS to dust their perineum for feminine hygiene purposes. The Plaintiffs further used the PRODUCTS to dust their feminine hygiene products and contraceptives. The Plaintiffs further used the PRODUCTS to dust other parts of their bodies including, but not limited to, their face, under arms and chest in proximity to their breathing zone. The Plaintiffs further used the PRODUCTS when diapering their children and on their bed sheets and for other household purposes. The Plaintiffs' parents and others further used the PRODUCTS when diapering Plaintiffs. All of the foregoing activities, including those not specifically mentioned above, were intended and foreseeable use of the PRODUCTS based on

the advertising, marketing, and labeling of the PRODUCTS. All of the foregoing activities gave rise to perineal, inhalation and other exposures by Plaintiffs to known carcinogens such as talc, asbestos (e.g., actinolite, amosite, anthophyllite, antigorite, chrysotile, crocidolite, tremolite), asbestiform fibers (e.g., fibrous talc) and arsenic contained in the PRODUCTS.

60. Thousands of scientific and medical articles and reports have chronicled the hazards of asbestos to human health. Such chronicling of the harms of asbestos to human health trace back to at least the 1890's. Much of these articles and reports consist of epidemiological studies demonstrating that asbestos exposure causes cancer of the ovary, lung, larynx, and mesothelium. Additionally, several epidemiological studies since the early 1970's have demonstrated an association between perineal use of talc and ovarian cancer. At all pertinent times, Defendants were aware of such scientific and medical articles and reports that trace back to at least the 1890's.

61. In 1971, the first study was conducted that suggested an association between talc and ovarian cancer. This study was conducted by Dr. WJ Henderson and others in Cardiff, Wales.

62. In 1972, the International Agency for Research on Cancer ("IARC"), part of the World Health Organization, first classified asbestos as carcinogenic to humans. IARC is universally accepted as the international authority on cancer issues. Asbestos is classified by IARC as a "Group 1" carcinogen that is established to be "*[c]arcinogenic to humans*." IARC states that "[m]ineral substances (e.g. talc or vermiculite) that contain asbestos should also be regarded as *carcinogenic to humans*."[4]

63. Asbestos was first listed as a carcinogen by the United States National Toxicology Program ("NTP") in its First Annual Report on Carcinogens in 1980.

64. In 1982, the first epidemiologic study was performed on talc powder use in the female genital area. This study was conducted by Dr. Daniel Cramer and others. This study found a 92% increased risk in ovarian cancer with women who reported genital talc use. Shortly

[4] https://monographs.iarc.fr/ENG/Classification/ClassificationsAlphaOrder.pdf (at p. 3).

after this study was published, Dr. Bruce Semple of Defendant Johnson & Johnson came and visited Dr. Cramer about his study. Dr. Cramer advised Dr. Semple that Defendant Johnson & Johnson should place a warning on its talcum powders about the ovarian cancer risks so that women can make an informed decision about their health.

65. Since 1982, there have been in excess of twenty-two (22) additional epidemiologic studies providing data regarding the association of talc and ovarian cancer. Nearly all of these studies have reported an elevated risk for ovarian cancer associated with genital talc use in women.

66. In 1987 IARC classified "talc containing asbestiform fibres" as carcinogenic to humans. Asbestiform is defined by IARC as a mineral of crystal habit "resulting in thin, hair like fibers on a microscopic or submicroscopic level; resembling asbestos." IARC cited multiple case reports and epidemiologic studies that assessed the relationship between miner and millers' exposure to talc containing tremolite and/or anthophyllite and the prevalence of lung cancer and mesothelioma. "Talc containing asbestiform fibres" is classified by IARC as a "Group 1" carcinogen that is established to be "*[c]arcinogenic to humans*."

67. In 1993, the NTP published a study on the toxicity of non-asbestiform talc and found clear evidence of carcinogenic activity. Talc was found to be a carcinogen, with or without the presence of asbestos-like fibers.

68. On November 10, 1994, the Cancer Prevention Coalition mailed a letter to then Johnson & Johnson C.E.O, Ralph Larson, informing his company that studies as far back as 1960's ". . . show[ ] conclusively that the frequent use of talcum powder in the genital area pose[ ] a serious health risk of ovarian cancer." The letter cited a recent study by Dr. Bernard Harlow from Harvard Medical School confirming this fact and quoted a portion of the study where Dr. Harlow and his colleagues discouraged the use of talc in the female genital area. The letter further stated that 14,000 women per year die from ovarian cancer and that this type of cancer is very difficult to detect and has a low survival rate. The letter concluded by requesting that Johnson & Johnson withdraw talc products from the market because of the alternative of

cornstarch powders, or at a minimum, place warning information on its talc-based body powders about ovarian cancer risk they pose.

69. In February of 2006, IARC classified perineal use of talc based body powder as a "Group 2B" human carcinogen. IARC which is universally accepted as the international authority on cancer issues, concluded that studies from around the world consistently found an increased risk of ovarian cancer in women from perineal use of talc. IARC found that between 16-52% of women in the world were using talc to dust their perineum and found an increased risk of ovarian cancer in women talc users ranging from 30-60%. IARC concluded with this "Evaluation": "There is limited evidence in humans for the carcinogenicity of perineal use of talc-based body powder." By definition "Limited evidence of carcinogenicity" means "a positive association has been observed between exposure to the agent and cancer for which a causal interpretation is considered by the Working Group to be credible, but chance, bias or confounding could not be ruled out with reasonable confidence."

70. In approximately 2006, the Canadian government under The Hazardous Products Act and associated Controlled Products Regulations classified talc as a "D2A", "very toxic", "cancer causing" substance under its Workplace Hazardous Materials Information System (WHMIS). Asbestos is also classified as "D2A".

71. In 2010 IARC reviewed several decades of worth of epidemiologic studies of asbestos exposure and ovarian cancer and concluded there is "sufficient evidence in humans for the carcinogenicity of all forms of asbestos (chrysotile, crocidolite, amosite, tremolite, actinolite, and anthophyllite). Asbestos causes mesothelioma and cancer of the lung, larynx, and ovary."

72. At all relevant times, Imerys has continually advertised and marketed talc as safe for human use even though it knew or should have reasonably known that the talc it mined and supplied for use in the PRODUCTS is, and at all relevant times was, not safe for perineal and other uses by humans because it is carcinogenic and contains or otherwise is combined with dangerous carcinogens such as asbestos (e.g., actinolite, amosite, anthophyllite, antigorite, chrysotile, crocidolite, tremolite), asbestiform fibers (e.g., fibrous talc), and arsenic.

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

74. Starting in 2006, the MSDS supplied by Imerys expressly warned those receiving the talc, including the Johnson & Johnson Defendants and PTI, of the ovarian cancer hazard associated with perineal talc use, an intended use of the PRODUCTS. These MSDSs not only provided the warning information about the IARC classification but also included warning information regarding "States Rights to Know" and warning information about the Canadian Government's "D2A" classification of talc as well. However, the MSDS supplied by Imerys did not warn of the presence of asbestos, asbestiform fibers and other harmful accessory minerals in the talc. Nonetheless, the Johnson & Johnson Defendants and PTI were aware through their own testing of the talc supplied by Imerys (and mined and supplied by other sources), along with other sources of information and knowledge available to them, of the presence of asbestos, asbestiform fibers and other harmful accessory minerals in the talc the Johnson & Johnson Defendants and PTI used to manufacture the PRODUCTS.

75. Defendants and their lobbying organization, the Cosmetic, Toiletry & Fragrance Association ("CTFA"), have acknowledged that "no consumer products company would knowingly run the risk of asbestos being present in its product, even in minute quantities." They have further acknowledged that there is "epidemiologic evidence for a relationship between asbestos exposure and ovarian cancer. … [and that] [t]his evidence is consistent with the other epidemiologic and mechanistic evidence concerning asbestos carcinogenicity." They further acknowledge that "talc particles, as well as asbestos fibers, can reach the human ovaries."

76. The Johnson & Johnson Defendants further acknowledge that the "U.S. Food and Drug Administration requires specific testing to ensure that talc is free of asbestos."[5] The Johnson & Johnson Defendants represent that "JOHNSON's talc products do not contain asbestos. … [that] [a] frequent misperception is that JOHNSON's Baby Powder contains talc

[5] http://www.factsabouttalc.com/

made with asbestos, a substance classified as cancer-causing. … [and that] [s]ince the 1970s, talc used in consumer products has been required to be asbestos-free."[6] The Johnson & Johnson Defendants further assert that "[t]he grade of talc used in cosmetics is of high purity, comparable to that used for pharmaceutical applications, and is free from asbestos and asbestiform fibers."[7] The Johnson & Johnson Defendants further acknowledge that there is no known safe level of exposure to asbestos. The Johnson & Johnson Defendants further acknowledge they have had a zero tolerance policy for asbestos since the 1940's in their products where "zero means zero."

77. Notwithstanding these acknowledgements of the dangers of human exposure to asbestos, the requirement that the PRODUCTS be asbestos-free, and representations that their PRODUCTS do not contain asbestos, Defendants have known or should have known that from at least the 1940's until the present that the mines supplying the talc used by Defendants in the PRODUCTS contain dangerous carcinogens such as asbestos (e.g., actinolite, amosite, anthophyllite, antigorite, chrysotile, crocidolite, tremolite), asbestiform fibers (e.g., fibrous talc), and arsenic. Defendants have further known or should have known that the beneficiating or purification processes they have employed cannot remove all of the asbestos, asbestiform fibers, and other harmful constituents contained in the talc that is used in the PRODUCTS. Thus, the talc used by Defendants to manufacture the PRODUCTS is not now, nor has it ever been, free from asbestos and asbestiform fibers.

78. Defendants have also known or should have known that the testing methods they have employed are incapable of effectively detecting and ensuring that the talc is free of deadly asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as asbestiform fibers such as fibrous talc, and other harmful constituents. Further, such methods are insufficient because the amount of material able to be tested by these methods are too small of a sample size to be representative of the talc source used in manufacturing the PRODUCTS. Accordingly, talc containing deadly asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as

[6] https://www.jnj.com/our-products/the-facts-about-talc-safety
[7] https://www.jnj.com/our-products/the-facts-about-talc-safety

asbestiform fibers such as fibrous talc, and other harmful constituents which has never actually been tested by Defendants for the presence of such dangerous components, has nonetheless still been incorporated into Defendants' PRODUCTS. Notably, test methods did exist beginning in at least the early 1970's that would have been more effective in detecting asbestos, asbestiform fibers, and other harmful constituents than the methods used by Defendants, but Defendants chose not to employ these methods.

79. Even when Defendants, their agents, or other of their contractors' performing testing on their behalf detected dangerous asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as asbestiform fibers such as fibrous talc, and other harmful constituents in the PRODUCTS, Defendants, their agents, or other of their contractors either concealed those findings from government regulators and public health officials, the scientific and medical community, and the public, or Defendants, their agents, or other of their contractors misrepresented and otherwise lied to government regulators and public health officials, the scientific and medical community, and the public about those findings or about the dangers to human health from exposure to asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as asbestiform fibers such as fibrous talc, and other harmful constituents in the PRODUCTS.

80. Accordingly, since at least the 1940's, if not much before, through present day Defendants are aware or should have been aware that Plaintiffs and the public at large, including infants and children, have been and continue to be exposed to deadly asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as asbestiform fibers such as fibrous talc, and other harmful constituents in the PRODUCTS.

81. As a result of such exposures, Defendants are aware or should be aware that Plaintiffs and the public at large, including infants and children, that use or have used the PRODUCTS are substantially at risk for developing ovarian cancer, mesothelioma and other cancers.

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

83. By as early as 1964, Defendants have known that some condom manufacturers were substituting cornstarch for talc due to safety concerns because cornstarch is not a carcinogen and it is as efficacious, if not more efficacious, then talc. In 1996, the condom industry stopped altogether dusting condoms with talc due to the health concerns of ovarian cancer.

84. Since at least the early 1980's, members of the scientific and medical community and public interest groups and others have urged Defendants to place a warning on the PRODUCTS about the ovarian cancer risks so that women can make an informed decision about their health, or withdraw the PRODUCTS from the market in favor of using cornstarch powder products. Defendants have never done so. Furthermore, Defendants continue to make public statements to the contrary. Recently certain other talcum powder brands have placed such a warning on their products while Defendants still refuse to do so.

85. Rather than take actions to promote public health, Defendants have consistently put profits over safety. For example, CTFA formed the Talc Interested Party Task Force (TIPTF). Defendants Johnson & Johnson, Inc., Johnson & Johnson Consumer Companies, Inc. and Luzenac (Defendant Imerys) were members of the CTFA and were the primary actors and contributors of the TIPTF. The stated purpose of the TIPTF was to pool financial resources of these companies in an effort to collectively defend the PRODUCTS at all costs and to prevent regulation of any type over this industry notwithstanding their knowledge of the health hazard of the PRODUCTS. The TIPTF hired scientists to perform biased research regarding the safety of the PRODUCTS, members of the TIPTF edited scientific reports of the scientists hired by this group prior the submission of these scientific reports to governmental agencies, members of the TIPTF knowingly released false information about the constituents of and safety of the

PRODUCTS to the consuming public, regulatory bodies, and public health officials, and used political and economic influence on regulatory bodies regarding the PRODUCTS. All of these activities have been well coordinated and planned by these companies and organizations over the past four (4) decades in an effort to prevent regulation of the PRODUCTS and to create confusion to the consuming public about the true hazards of the PRODUCTS relative to ovarian cancer.

86. Numerous tests performed of the PRODUCTS that have been manufactured from various decades before the 1950's through to present day by independent laboratories, Plaintiffs' experts, Defendants' and their agents or other of Defendants' contractors, continually confirm the presence of deadly asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as asbestiform fibers such as fibrous talc, and other harmful constituents contained in the PRODUCTS.

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

88. The Defendants failed to inform its customers and end users of the PRODUCTS, including Plaintiffs, of a known catastrophic health hazard associated with the use of the PRODUCTS.

89. In addition, the Defendants procured and disseminated false, misleading, and biased information regarding the safety of the PRODUCTS to the public and used influence over governmental and regulatory bodies regarding talc contaminated with asbestos, asbestiform fibers, and other harmful constituents.

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

ADDITIONAL ALLEGATIONS REGARDING DEFENDANTS' CONTACTS WITH THE STATE OF MISSOURI

91. These allegations are relevant to each claim herein and therefore are incorporated herein by reference to each claim as if fully set forth therein.

92. The Johnson & Johnson Defendants contracted with PTI in Missouri to manufacture, package and label the PRODUCTS, and to transport talc intended for use in the PRODUCTS. Defendant Imerys contracted with PTI in Missouri for PTI to receive the talc used in the PRODUCTS.

93. PTI received talc in Missouri supplied to it by Imerys for incorporation into the PRODUCTS. At the Johnson & Johnson Defendants' direction and under their control, PTI manufactured, packaged and labeled the PRODUCTS in Missouri and transported the PRODUCTS, and talc it received from Imerys intended for use in the PRODUCTS, throughout the United States from its Missouri facility. The Johnson & Johnson Defendants, and PTI at the direction of the Johnson & Johnson Defendants, manufactured, packaged, labeled and transported the PRODUCTS with the talc supplied by Defendant Imerys Talc America, Inc. PTI did so at its Missouri facility.

94. At all times pertinent hereto, Pharma Tech Industries and PTI Union, LLC were and are citizens of the State of Missouri, where their directors, officers, agents and members reside and which is the location of their nerve center.

95. At all times pertinent hereto, Pharma Tech Industries and PTI Union, LLC's headquarters and principal center of operations is in Union, Missouri.

96. At all times pertinent hereto, Pharma Tech Industries and PTI Union, LLC's nucleus of operations and control centers were through their manufacturing and packaging facility and headquarters in Union, Missouri. Pharma Tech Industries and PTI Union, LLC's directors, officers, agents, and members in Missouri also oversaw, directed and controlled the manufacturing facility in Royston, Georgia.

97. Plaintiffs' causes of action arose out of Defendants' contacts with the state of Missouri. The Johnson & Johnson Defendants are connected with Missouri in that the PRODUCTS and/or talc (mixed with asbestos fibers such as chrysotile, anthophyllite, and

tremolite, as well as asbestiform fibers such as fibrous talc) intended for use in the PRODUCTS were manufactured, bottled, packaged, labeled, marketed, advertised, distributed and sold in Missouri and distributed from Missouri throughout the United States. The Johnson & Johnson Defendants are also connected with Missouri by and through their business dealings and agency relationship with PTI. PTI was founded in 1972 in Union, Missouri providing full-service contract manufacturing and packaging services to the pharmaceutical industry and grew to be the largest pharmaceutical contract manufacturer and packager of powder products.[8] The Johnson & Johnson Defendants' business and agency relationship with PTI was specifically related to Defendants' talc and the PRODUCTS, and thus is and was specific to the issues herein. In the course and in furtherance of their business and agency relationship, PTI received shipments of talc (containing asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as asbestiform fibers such as fibrous talc) from Defendants at its Missouri facility including shipments of such talc from Defendant Imerys, packaged, bottled, and labeled the talc intended for use in Defendants' PRODUCTS at its Missouri facility, manufactured such talc intended for use in Defendants' PRODUCTS at its Missouri facility, and transported Defendants' talc and/or PRODUCTS throughout the United State from its Missouri facility. By 1993, PTI controlled the production of 90% of the branded over the counter topical powder market.[9] PTI eventually became producers of the world's supply of Johnson's Baby Powder.[10] As an industry leader, PTI exercised operational control over the United States' talc production market. Such operational control arose out of its nerve center in Union, Missouri. Plaintiffs' causes of action herein arose out of Defendants' activities in Missouri by and through their agency relationship with PTI.

98. PTI transported Defendants' talc despite the express ovarian cancer warning provided for in the MSDS. PTI disregarded such warning and processed, bottled, mislabeled,

[8] http://www.pharma-tech.com/our-company.php
[9] http://www.pharma-tech.com/our-history.php
[10] Pharma Tech Powers Up for Baby Powder Production with SYSPRO, Aug. 2008.

mispackaged, and distributed, without any warnings, the PRODUCTS out of the Union, Missouri facility for use on individuals of all ages, including infants.

99. PTI further transported, processed, bottled, mislabeled, mispackaged, and distributed the PRODUCTS incorporating Defendants' talc that was mixed with deadly asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as asbestiform fibers such as fibrous talc, and other harmful constituents out of the Union, Missouri facility for use on individuals of all ages, including infants, without any warnings, despite PTI's knowledge of the presence of the asbestos and asbestiform fibers in the talc.

100. PTI controlled and directed the manufacturing, processing, bottling, mislabeling, mispackaging, and distributing, without any warnings, of the PRODUCTS at other manufacturing facilities outside of Missouri, including but not limited to its Royston, Georgia manufacturing facility, from its Union, Missouri headquarters, by and through its directors, officers, agents, and members in Missouri.

101. PTI at all relevant times conspired with, acted in concert with, as the agent of, and under the direction of the Johnson & Johnson Defendants and Defendant Imerys. The defective and dangerous PRODUCTS which were manufactured, produced and distributed throughout the United States without warnings of the ovarian cancer hazard and/or the presence of asbestos, asbestiform fibers, and other harmful constituents in the talc, and/or not using a safer alternative to talc such as cornstarch, arose from and was connected with Defendants' conduct with the forum state of Missouri based on the foregoing activities with and derivative of PTI thus giving rise to an actionable conspiracy and concert of action.

102. Defendants' liabilities arise from and relate to these contacts with the forum of the State of Missouri.

103. Defendants purposefully affiliated themselves with the forum of the State of Missouri giving rise to the underlying controversy. Such purposeful availment and activities within and related to the State of Missouri included, but are not limited to, the Defendants' contractual and agency relationship with PTI discussed above giving rise to the supply,

manufacturing, production, testing, mispackaging, processing, mislabeling, and bottling of the PRODUCTS in the State of Missouri and being controlled and directed from the State of Missouri; agreements between Defendants and entities within State of Missouri regarding the PRODUCTS where Defendants contractually consented to have state courts within the State of Missouri adjudicate disputes; marketing and advertising of the PRODUCTS by Defendants targeted specifically to the State of Missouri as opposed to the Nation as a whole; messaging by Defendants targeted at the State of Missouri regarding the PRODUCTS in response to previous jury verdicts in this Court regarding the PRODUCTS; agreements and other arrangements between Defendants and hospitals and other healthcare providers specific to the State of Missouri where, for example, expectant and post-partum mothers were provided gift baskets containing the PRODUCTS; tradeshows and other promotional activities by Defendants with regard to the PRODUCTS targeted specifically to the State of Missouri; lobbying, consulting, and advisory efforts on behalf of Defendants with regard to the PRODUCTS stemming from law firms and other agents in the State of Missouri; and other actions by Defendants targeted to the State of Missouri to be obtained through discovery and other means.

104. As the location from which Defendants' suit-related conduct arose out of, Missouri has a substantial vested interest in the acts of Defendants which led to the underlying controversy.

COUNT ONE – STRICT LIABILITY FOR FAILURE TO WARN
(Defendant Imerys and the Johnson & Johnson Defendants)

105. Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth herein.

106. At all pertinent times, Defendant Imerys mined, processed, and supplied talc combined with dangerous asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as asbestiform fibers such as fibrous talc, and other harmful constituents to PTI and the Johnson & Johnson Defendants, which it knew that the Johnson & Johnson Defendants were then incorporating into the manufacturing, packaging and labeling of the PRODUCTS, through PTI,

and selling said PRODUCTS to consumers, including Plaintiffs. Defendants further knew that consumers of the PRODUCTS, including Plaintiffs, were exposed by inhalation and perineally and by other means to talc and asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as asbestiform fibers such as fibrous talc, and other harmful constituents in the PRODUCTS by using it to, among other things, dust their perineum for feminine hygiene purposes; to dust their feminine hygiene products and contraceptives; to dust other parts of their bodies such as face, under arms, and their chest in proximity to their breathing zone; diaper their children; sprinkle on their bed sheets and use for other household purposes; and have it powdered on Plaintiffs when their parents and others diapered them.

107. At all pertinent times, the Defendants and PTI were mining, processing, milling, supplying, researching, developing, manufacturing, marketing, producing, packaging, labeling, testing, promoting, selling and/or distributing the PRODUCTS in the regular course of business.

108. At all pertinent times, Plaintiffs used the PRODUCTS to among other things, dust their perineum for feminine hygiene purposes; to dust their feminine hygiene products and contraceptives; to dust other parts of their bodies such as face, under arms, and their chest; diaper their children; sprinkle on their bed sheets and use for other household purposes; and have it powdered on Plaintiffs when their parents and others diapered them, all of which are reasonably foreseeable uses and gave rise to perineal and inhalation and other exposures of talc and asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as asbestiform fibers such as fibrous talc, and other harmful constituents contained in the PRODUCTS.

109. At all pertinent times, Defendants and PTI knew or should have known that the Plaintiffs' use of the PRODUCTS to among other things, dust their perineum for feminine hygiene purposes; to dust their feminine hygiene products and contraceptives; to dust other parts of their bodies such as face, under arms, and their chest; diaper their children; sprinkle on their bed sheets and use for other household purposes; and have it powdered on Plaintiffs when their parents and others diapered them, gave rise to exposures by inhalation and perineally and by other means to talc and asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as

asbestiform fibers such as fibrous talc, and other harmful constituents contained in the PRODUCTS which significantly increases the risk of ovarian cancer based upon scientific knowledge dating back to the 1890's.

110. At all pertinent times, including the time of sale and consumption, the PRODUCTS, when put to the aforementioned reasonably foreseeable uses, were in an unreasonably dangerous and defective condition because they failed to contain adequate and proper warnings and/or instructions regarding the increased risk of ovarian cancer associated with the use of the PRODUCTS by women for the aforementioned purposes. Defendants and PTI failed to properly and adequately warn and instruct Plaintiffs as to the risks and benefits of the PRODUCTS given Plaintiffs' need for this information.

111. Had the Plaintiffs received a warning that the use of the PRODUCTS would have significantly increased their risk of ovarian cancer, they would not have used the same. As a proximate result of Defendants' and PTI's mining, processing, milling, supplying, researching, developing, manufacturing, marketing, producing, packaging, labeling, testing, promoting, selling and/or distributing of/for the PRODUCTS, Plaintiffs have been injured catastrophically, and have been caused severe and permanent pain, suffering, disability, impairment, loss of enjoyment of life, loss of care, comfort, and economic damages.

112. The development of ovarian cancer by the Plaintiffs was the direct and proximate result of the unreasonably dangerous and defective condition of the PRODUCTS at the time of sale and consumption, including their lack of warnings; Plaintiffs have suffered injuries and damages including but not limited to conscious pain and suffering of Plaintiffs, medical expenses and lost wages.

113. The Defendants' PRODUCTS were defective because they failed to contain warnings and/or instructions, and breached express warranties and/or failed to conform to express factual representations upon which the Plaintiffs justifiably relied in electing to use the PRODUCTS. The defect or defects made the PRODUCTS unreasonably dangerous to those persons, such as Plaintiffs, who could reasonably be expected to use and rely upon such

PRODUCTS. As a result, the defect or defects were a producing cause of the Plaintiffs' injuries and damages.

114. The Defendants' PRODUCTS failed to contain, and continue to this day not to contain, adequate warnings and/or instructions regarding the increased risk of ovarian cancer with the use of the PRODUCTS by women. The Defendants continue to market, advertise, and expressly represent to the general public that it is safe for women to use the PRODUCTS. These Defendants continue with these marketing and advertising campaigns despite having scientific knowledge that dates back several decades that their PRODUCTS are unsafe because they contain talc and asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as asbestiform fibers such as fibrous talc, and other harmful constituents that significantly increase the risk of ovarian cancer in women.

115. WHEREFORE, Plaintiffs pray for judgment against Defendant Imerys and the Johnson & Johnson Defendants in a fair and reasonable sum in excess of $25,000.00 together with costs expended herein and such further and other relief as the Court deems just and appropriate.

COUNT TWO – NEGLIGENCE
(Defendant Imerys)

116. Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth herein.

117. At all pertinent times, Defendants had a duty to exercise reasonable care to consumers, including Plaintiffs, in the mining, processing, milling, supplying, researching, developing, manufacturing, marketing, producing, packaging, labeling, testing, promoting, selling and/or distributing of/for the PRODUCTS.

118. At all pertinent times, Defendant Imerys mined, processed, milled, supplied and sold talc mixed or otherwise combined with asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as asbestiform fibers such as fibrous talc, and other harmful constituents to the Johnson & Johnson Defendants and PTI, which it knew and/or should have known was then

being manufactured, packaged, labeled and sold to consumers as the PRODUCTS by the Johnson and Johnson Defendants and PTI. Further, Defendant Imerys knew and/or should have known that consumers of the PRODUCTS, including Plaintiffs, were using PRODUCTS to dust their perineum for feminine hygiene purposes; to dust their feminine hygiene products and contraceptives; to dust other parts of their bodies such as face, under arms, and their chest; diaper their children; sprinkle on their bed sheets and use for other household purposes; and have it powdered on Plaintiffs when their parents and others diapered them; all reasonable and foreseeable uses of the PRODUCTS that gave rise to significant exposures by inhalation, perineally, and by other means to talc and asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as asbestiform fibers such as fibrous talc, and other harmful constituents contained in the PRODUCTS.

119. At all pertinent times, Defendant Imerys knew or should have known that perineal, inhalation and other exposures to the talc, asbestos fibers such as chrysotile, anthophyllite, and tremolite, and asbestiform fibers such as fibrous talc, all contained in the PRODUCTS through reasonable and foreseeable uses of the PRODUCTS significantly increases the risk of ovarian cancer based upon scientific knowledge dating back to the 1890's.

120. At all pertinent times, Defendant Imerys knew or should have known that the Johnson & Johnson Defendants and PTI were not providing warnings to consumers of the PRODUCTS, including Plaintiffs, of the risk of ovarian cancer posed by talc, asbestos fibers such as chrysotile, anthophyllite, and tremolite, and asbestiform fibers such as fibrous talc, all contained therein. And, further that neither Defendant Imerys, the Johnson & Johnson Defendants, nor PTI were warning consumers of the PRODUCTS, including Plaintiffs, that the PRODUCTS contained dangerous asbestos fibers such as chrysotile, anthophyllite, and tremolite; asbestiform fibers such as fibrous talc; and other harmful constituents. On the contrary, Defendants are and were misleading consumers of the PRODUCTS, including Plaintiffs, governmental regulators, scientific and medical bodies, and other persons and entities

that “JOHNSON’s talc products do not contain asbestos” and that the PRODUCTS are “free from asbestos and asbestiform fibers.”

121. At all pertinent times, Defendant Imerys was negligent in supplying talc and talc with asbestos fibers such as chrysotile, anthophyllite, and tremolite, and asbestiform fibers such as fibrous talc to the Johnson & Johnson Defendants and PTI for use in manufacturing the PRODUCTS without adequately taking steps to ensure that ultimate consumers of the PRODUCTS, including Plaintiffs, received the information that Defendant Imerys possessed on the carcinogenic properties of talc and talc with asbestos fibers such as chrysotile, anthophyllite, and tremolite, and asbestiform fibers such as fibrous talc, including the significant risk of causing ovarian cancer.

122. As a direct and proximate result of Defendant Imerys’ negligence, Plaintiffs purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused Plaintiffs to develop ovarian cancer; Plaintiffs were caused to incur medical bills, lost wages, and conscious pain and suffering, and/or death; Plaintiffs were caused to sustain damages as a direct and proximate result, in some cases to include untimely death, funeral and burial costs, as well as the loss of his wife’s services, companionship, comfort, instruction, guidance, counsel, training and support.

123. WHEREFORE, Plaintiff prays for judgment against Defendant Imerys in a fair and reasonable sum in excess of $25,000.00, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

COUNT THREE – NEGLIGENCE
(Johnson & Johnson Defendants)

124. Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth herein.

125. The Johnson & Johnson Defendants were negligent in researching, developing, manufacturing, marketing, producing, packaging, labeling, testing, promoting, selling and/or distributing the PRODUCTS in one or more of the following respects:

- In failing to warn Plaintiffs of the hazards associated with the use of the PRODUCTS that contain talc and talc with asbestos fibers such as chrysotile, anthophyllite, and tremolite, and asbestiform fibers such as fibrous talc, exposure to which significantly increases the risk of ovarian cancer;

- In misleading consumers of the PRODUCTS, including Plaintiffs, governmental regulators, scientific and medical bodies, and other persons and entities that "JOHNSON's talc products do not contain asbestos" and that the PRODUCTS are "free from asbestos and asbestiform fibers" when the Johnson & Johnson Defendants knew or should know that the PRODUCTS contain asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as asbestiform fibers such as fibrous talc.

- In failing to properly test the PRODUCTS to determine adequacy and effectiveness or safety measures, including critically that the talc comprising the PRODUCTS was free of asbestos, asbestiform fibers, and other harmful constituents and the Johnson & Johnson Defendants falsely represented it was, prior to releasing the PRODUCTS for consumer use;

- In failing to properly test the PRODUCTS for the presence of asbestos fibers such as chrysotile, anthophyllite, and tremolite, asbestiform fibers such as fibrous talc, and other harmful constituents to determine the increased risk of ovarian cancer during the normal and/or intended uses of the PRODUCTS;

- In failing to inform ultimate consumers of the PRODUCTS, including Plaintiffs, about the dangers of talc, asbestos fibers such as chrysotile, anthophyllite, and tremolite, asbestiform fibers such as fibrous talc, and other harmful constituents, all of which are contained in the PRODUCTS;

- In failing to remove the PRODUCTS from the market when the Defendants knew or should have known the PRODUCTS were defective and unsafe because of the talc, asbestos fibers such as chrysotile, anthophyllite, and tremolite, asbestiform fibers such as fibrous talc, and other harmful constituents that are contained in the PRODUCTS, and safer alternatives such as cornstarch were and are available;

- In failing to instruct the ultimate users, such as Plaintiffs, to reduce exposures or stop exposures to the PRODUCTS altogether to reduce the risk of ovarian cancer;

- In failing to inform the public in general and the Plaintiffs in particular of the known dangers of using the PRODUCTS to dust their perineum for feminine hygiene purposes; to dust their feminine hygiene products and contraceptives; to dust other parts of their bodies such as face, under arms, and their chest; diaper their children; sprinkle on their bed sheets and use for other household purposes; and have it powdered on Plaintiffs when their parents and others diapered them;

all reasonable and foreseeable uses of the PRODUCTS that gave rise to significant exposures by inhalation, perineally, and by other means to talc and asbestos fibers such as chrysotile, anthophyllite, and tremolite, as well as asbestiform fibers such as fibrous talc, and other harmful constituents contained in the PRODUCTS.

- In failing to advise users how to prevent or reduce exposure that causes increased risk for ovarian cancer;
- In marketing and labeling the PRODUCTS as safe for all uses despite knowledge to the contrary;
- In making false public assurances and misrepresentations about "the safety of talc";
- In failing to act like a reasonably prudent company under similar circumstance.

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

127. At all pertinent times, the Johnson & Johnson Defendants knew or should have known that the PRODUCTS were unreasonably dangerous and defective when put to their reasonably anticipated and foreseeable uses.

128. As a direct and proximate result of the Johnson & Johnson Defendants' negligence in one or more of the aforementioned ways, Plaintiffs purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused each Plaintiff to develop ovarian cancer; Plaintiffs were caused to incur medical bills, lost wages, and conscious pain and suffering.

129. WHEREFORE, Plaintiffs pray for judgment against the Johnson & Johnson Defendants in the fair and reasonable sum in excess of $25,000.00, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

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

130. Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth herein.

131. Johnson & Johnson Defendants expressly warranted, through direct-to-consumer marketing, advertisements, and labels, that the PRODUCTS were safe and effective for reasonably anticipated uses by women, including to, among other things, dust their perineum for feminine hygiene purposes; to dust their feminine hygiene products and contraceptives; to dust other parts of their bodies such as face, under arms, and their chest; diaper their children; sprinkle on their bed sheets and use for other household purposes; and have it powdered on female when their parents and others diapered them.

132. The PRODUCTS did not conform to these express representations because they cause serious injury such as ovarian cancer when used by women to, among other things, dust their perineum for feminine hygiene purposes; to dust their feminine hygiene products and contraceptives; to dust other parts of their bodies such as face, under arms, and their chest; diaper their children; sprinkle on their bed sheets and use for other household purposes; and have it powdered on females when their parents and others or others diapered them.

133. As a direct and proximate result of the Defendants' breach of warranty, Plaintiffs purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused each Plaintiff to develop ovarian cancer; Plaintiffs were caused to incur medical bills, lost wages, and conscious pain and suffering.

134. WHEREFORE, Plaintiffs pray for judgment against the Johnson & Johnson Defendants in the fair and reasonable sum in excess of $25,000.00, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

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

135. Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth herein.

136. At the time the Defendants manufactured, marketed, labeled, promoted, distributed and/or sold the PRODUCTS, the Johnson & Johnson Defendants knew of the uses for which the PRODUCTS were intended, including use by women to, among other things, dust

their perineum for feminine hygiene purposes; to dust their feminine hygiene products and contraceptives; to dust other parts of their bodies such as face, under arms, and their chest; diaper their children; sprinkle on their bed sheets and use for other household purposes; and have it powdered on females when their parents and others or others diapered them, and impliedly warranted the PRODUCTS to be of merchantable quality and safe for such use.

137. Defendants breached their implied warranties of the PRODUCTS sold to Plaintiffs because they were not fit for their common, ordinary and intended uses, including the aforementioned reasonable and foreseeable uses.

138. As a direct, foreseeable and proximate result of the Defendants' breaches of implied warranties, Plaintiffs purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused each Plaintiffs to develop ovarian cancer; Plaintiffs were caused to incur medical bills, lost wages, and conscious pain and suffering.

139. WHEREFORE, Plaintiffs pray for judgment against the Johnson & Johnson Defendants in the fair and reasonable sum in excess of $25,000.00, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

COUNT SIX – CIVIL CONSPIRACY
(All Defendants)

140. Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth herein.

141. Defendants and PTI (acting within and from the State of Missouri) knowingly agreed, contrived, combined, confederated and conspired among themselves to cause Plaintiffs' injuries, disease, and/or illnesses by exposing the Plaintiffs to harmful and dangerous PRODUCTS containing talc, asbestos fibers such as chrysotile, anthophyllite, and tremolite, asbestiform fibers such as fibrous talc, and other harmful constituents. Defendants and PTI (acting within and from the State of Missouri) further knowingly agreed, contrived, confederated and conspired to deprive the Decedents and Plaintiffs of the opportunity of informed free choice as to whether to use the PRODUCTS that Defendants and PTI (acting within and from the State

of Missouri) knew contained dangerous carcinogens. Defendants and PTI (acting within and from the State of Missouri) committed the above described wrongs by willfully misrepresenting and suppressing the truth as to the risks and dangers associated with the use of and exposure to the PRODUCTS that Defendants and PTI (acting within and from the State of Missouri) knew contained harmful carcinogens, including talc, asbestos fibers such as chrysotile, anthophyllite, and tremolite, and asbestiform fibers such as fibrous talc, among others.

142. In furtherance of said conspiracies, Defendants and PTI (acting within and from the State of Missouri) performed the following overt acts:

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

b. Despite the medical and scientific data, literature, and test reports possessed by and available to Defendants and PTI (acting within and from the State of Missouri) Defendants individually, jointly, and in conspiracy with each other and PTI (acting within and from the State of Missouri) fraudulently, willfully and maliciously:

i. Withheld, concealed, suppressed, or otherwise misrepresented the fact that the PRODUCTS contained asbestos fibers such as chrysotile, anthophyllite, and tremolite, and asbestiform fibers such as fibrous talc by, among other things, making false public statements such as "JOHNSON's talc products do not contain asbestos" and that the PRODUCTS are "free from asbestos and asbestiform fibers" when the Johnson & Johnson Defendants knew the PRODUCTS contained asbestos, asbestiform fibers and other harmful constituents;

ii. Mislabeled, mispackaged, failed to label, or otherwise failed to warn Plaintiffs and all other consumers that exposure to the talc, asbestos fibers such as chrysotile, anthophyllite, and tremolite, and asbestiform fibers such as fibrous talc, all contained in the PRODUCTS significantly increase the risk of ovarian cancer;

iii. Withheld, concealed and suppressed medical information regarding the increased risk of ovarian cancer from exposure to the PRODUCTS (as set out in the "Factual Allegations" section of this pleading); In addition, on July 27, 2005 Defendants as part of the TIPTF corresponded and agreed to edit and delete portions of scientific papers

being submitted on their behalf to the United States Toxicology Program in an attempt to prevent talc from being classified as a carcinogen and to falsely claim to authorities that the talc used in the PRODUCTS was asbestos free when they knew it was not;

iv. The Defendants through the TIPTF instituted a "defense strategy" to defend talc at all costs. Admittedly, the Defendants through the TIPTF used their influence over the NTP Subcommittee, and the threat of litigation against the NTP to prevent the NTP from classifying talc as a carcinogen on its 10th RoC based on, among other things, the Defendants' (through TIPTF) false assertions that the talc used in the PRODUCTS was asbestos free when they knew it was not. According to the Defendants, ". . . we believe these strategies paid off";

v. Caused to be released, published and disseminated medical and scientific data, literature, and test reports containing information and statements regarding the risks of ovarian cancer which Defendants knew were incorrect, incomplete, outdated, and misleading. Specifically, the Defendants through the TIPTF collectively agreed to release false information to the public regarding the safety of talc on July 1, 1992; July 8, 1992; and November 17, 1994. In a letter dated September 17, 1997, the Defendants were criticized by their own Toxicologist consultant for releasing this false information to the public, yet nothing was done by the Defendants to correct or redact this public release of knowingly false information.

vi. Took other actions to be revealed through further investigation and discovery.

c. By these false and representations, omissions, and concealments, Defendants and PTI (acting within and from the State of Missouri) intended to induce the Plaintiffs to rely upon said false and fraudulent representations, omissions and concealments, and to continue to expose herself to the dangers inherent in the use of and exposure to the PRODUCTS.

143. Plaintiffs reasonably and in good faith relied upon the aforementioned fraudulent representations, omissions, and concealments made by Defendants and PTI (acting within and from the State of Missouri) regarding the nature of the PRODUCTS.

144. As a direct, foreseeable and proximate result of Defendants' and PTI's (acting within and from the State of Missouri) actions and failures to act as alleged throughout this Complaint and incorporated herein, Plaintiffs purchased and used, as aforesaid, the PRODUCTS

that directly and proximately caused each Plaintiff to develop ovarian cancer; Plaintiffs were caused to incur medical bills, lost wages, and conscious pain and suffering.

145. WHEREFORE, Plaintiffs pray for judgment against Defendants in the fair and reasonable sum in excess of $25,000.00, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

COUNT SEVEN – CONCERT OF ACTION
(All Defendants)

146. Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth herein.

147. At all times, Defendants and PTI (acting within and from the State of Missouri) knew that the PRODUCTS should contain warnings on the risk of ovarian cancer posed by women using the PRODUCTS in the reasonable and foreseeable aforementioned manners, but purposefully sought to suppress such information and omit warnings from the PRODUCTS so as not to negatively affect sales and maintain the profits of the Defendants and PTI.

148. As a direct, foreseeable and proximate result of Defendants' and PTI's (acting within and from the State of Missouri) actions and failures to act as alleged throughout this Complaint and incorporated herein, Plaintiffs purchased and used, as aforesaid, the PRODUCTS that directly and proximately caused each Plaintiff to develop ovarian cancer; Plaintiffs were caused to incur medical bills, lost wages, and conscious pain and suffering.

149. WHEREFORE, Plaintiffs pray for judgment against all Defendants in the fair and reasonable sum in excess of $25,000.00, together with costs expended herein and such further and other relief as the Court deems just and appropriate.

COUNT EIGHT– PUNITIVE DAMAGES
(All Defendants)

150. Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth herein.

151. The Defendants have acted willfully, wantonly, with an evil motive, and recklessly in one or more of the following ways:

a. Defendants knew that the PRODUCTS contained the carcinogenic substances talc, asbestos, asbestiform fibers, and other harmful constituents before manufacturing, packaging, labeling, marketing, distributing and/or selling the PRODUCTS, yet purposefully proceeded with such action;

b. Defendants knew of the unreasonably high risk of ovarian cancer posed by the PRODUCTS that contain the carcinogenic substances talc, asbestos, asbestiform fibers, and other harmful constituents before manufacturing, marketing, distributing and/or selling the PRODUCTS, yet purposefully proceeded with such action;

c. Despite their knowledge of the high risk of ovarian cancer associated with the PRODUCTS that contain the carcinogenic substances talc, asbestos, asbestiform fibers, and other harmful constituents, Defendants affirmatively concealed or otherwise minimized this risk through marketing and promotional efforts and product labeling.

d. Defendants knew or were otherwise aware that no test method or purification process exists that can produce talc for use in the PRODUCTS that is free of asbestos fibers such as chrysotile, anthophyllite, and tremolite, and asbestiform fibers such as fibrous talc, yet Defendants made false public statements such as "JOHNSON's talc products do not contain asbestos" and that the PRODUCTS are "free from asbestos and asbestiform fibers" when the Defendants knew the PRODUCTS contained asbestos, asbestiform fibers and other harmful constituents;

e. Defendants' conduct, as described herein, knowing the dangers and risks of the PRODUCTS that contain the carcinogenic substances talc, asbestos, asbestiform fibers, and other harmful constituents, yet concealing and/or omitting this information in furtherance of their conspiracy and concerted action was outrageous because of Defendants' evil motive or a reckless indifference to the safety of users of the PRODUCTS.

152. As a direct and proximate result of the willful, wanton, evilly motivated and/or reckless conduct of the Defendants, the Plaintiffs have sustained damages as set forth above.

153. WHEREFORE, Plaintiff prays for a judgment for punitive damages against all Defendants in a fair and reasonable amount sufficient to punish Defendants and deter them and others from engaging in similar conduct in the future, costs expended herein, and such further and other relief as the Court deems just and appropriate.

COUNT NINE– NEGLIGENT MISREPRESENTATION
(All Defendants)

154. Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth herein.

155. Defendants had a duty to accurately and truthfully represent to consumers of the PRODUCTS, including Plaintiffs, government regulators and public health officials, the scientific and medical community, and the public truthful and accurate information regarding the contents of the PRODUCTS, the health effects from use of the PRODUCTS, that the PRODUCTS had been tested and found to be safe and effective for perineal, inhalation and other exposures by humans in the reasonable and foreseeable manners described herein. The representations made by Defendants, in fact, were false.

156. Defendants failed to exercise ordinary care in the representations concerning the PRODUCTS while they were involved in the mining, processing, milling, supplying, researching, developing, manufacturing, marketing, producing, packaging, labeling, testing, quality assurance, quality control, promoting, selling and/or distributing of/for the PRODUCTS in interstate commerce, because Defendants negligently misrepresented the PRODUCTS' contents, critically misrepresenting that the PRODUCTS were free of asbestos and asbestiform fibers when, in fact, the PRODUCTS contain asbestos, asbestiform fibers, and other harmful constituents; the high risk of unreasonable, dangerous, adverse health effects; failure to properly test; and other misrepresentations.

157. Defendants breached their duty because Defendants negligently misrepresented the PRODUCTS' contents, critically misrepresenting that the PRODUCTS were free of asbestos and asbestiform fibers when, in fact, the PRODUCTS contain asbestos, asbestiform fibers, and other harmful constituents; the high risk of unreasonable, dangerous, adverse health effects such as ovarian cancer; failure to properly test; and other misrepresentations.

158. As a foreseeable, direct and proximate result of the negligent misrepresentation of Defendants as set forth herein, Defendants knew, and had reason to know, that the PRODUCTS contain asbestos, asbestiform fibers, and other harmful constituents; had been insufficiently tested, or had not been tested at all; that they lacked adequate and accurate warnings, that they created a high risk, and/or higher than acceptable risk, and/or higher than reported and represented risk, of adverse health effects such as ovarian cancer.

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

160. WHEREFORE, Plaintiffs demand judgment against Defendants, and each of them individually, jointly, severally and in the alternative, in an amount in excess of $25,000.00, and requests compensatory damages, punitive damages, together with interest, costs of suit, attorneys' fees, and such further relief as the Court deems equitable and just.

COUNT TEN– WRONGFUL DEATH
(All Defendants)

161. Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth herein.

162. Plaintiff Robert Packard, the surviving spouse and administrator of the Estate of decedent Donna Lynn Packard, is entitled to bring a wrongful death claim against Defendants pursuant to Virginia Code, §8.01-50.

163. As a direct and proximate result of Defendants' negligence and wrongful conduct alleged herein, decedent Donna Lynn Packard died on November 17, 2017.

164. As a further direct and proximate result of Defendants' negligence and wrongful conduct as alleged herein, Decedent Packard suffered damages including medical bills, burial and funeral expenses, and end of life expenses.

165. As a direct and proximate result of Defendants' negligence and wrongful conduct alleged herein, Decedent Packard suffered damages including physical and emotional pain and suffering from the time of her injuries to the time of her death.

166. Robert Packard seeks all damages allowable by law for the wrongful death of Donna Lynn Packard, including but not limited to loss of services, consortium, companionship, comfort, instruction, guidance, counseling, training and support and those set forth in Virginia Code §8.01-52, which were the direct and proximate result of Defendants' negligence and wrongful conduct as alleged herein.

167. Plaintiff Tracee Baxter, the surviving daughter and executor of the Estate of decedent Marcia L. Hillman, is entitled to bring a wrongful death claim against Defendants pursuant to New York Law, EPTL §5-4.1.

168. As a direct and proximate result of Defendants' negligence and wrongful conduct alleged herein, decedent Marcia L. Hillman died on December 7, 2016.

169. As a further direct and proximate result of Defendants' negligence and wrongful conduct as alleged herein, Decedent Hillman suffered damages including medical bills, burial and funeral expenses, and end of life expenses.

170. As a direct and proximate result of Defendants' negligence and wrongful conduct alleged herein, Decedent Hillman suffered damages including physical and emotional pain and suffering from the time of her injuries to the time of her death.

171. Tracee Baxter seeks all damages allowable by law for the wrongful death of Marcia L. Hillman including but not limited to loss of services, consortium, companionship, comfort, instruction, guidance, counseling, training and support and those set forth in New York Law, EPTL §5-4.3, which were the direct and proximate result of Defendants' negligence and wrongful conduct as alleged herein.

172. Plaintiff Martin Maillard, the surviving spouse and executor of the Estate of decedent Annie M. Groover, is entitled to bring a wrongful death claim against Defendants pursuant to NJ Rev Stat § 3B:10-2 (2013).

173. As a direct and proximate result of Defendants' negligence and wrongful conduct alleged herein, Decedent Annie M. Groover died on May 12, 2016.

174. As a further direct and proximate result of Defendants' negligence and wrongful conduct as alleged herein, Decedent Groover suffered damages including medical bills, burial and funeral expenses, and end of life expenses.

175. As a direct and proximate result of Defendants' negligence and wrongful conduct alleged herein, Decedent Groover suffered damages including physical and emotional pain and suffering from the time of her injuries to the time of her death.

176. Martin Maillard seeks all damages allowable by law for the wrongful death of Annie M. Groover including but not limited to loss of services, consortium, companionship, comfort, instruction, guidance, counseling, training and support and those set forth in N.J.S.A. 2A:31-4 which were the direct and proximate result of Defendants' negligence and wrongful conduct as alleged herein.

177. Plaintiff Marvin Walker, the surviving spouse of decedent Eleita Walker, is entitled to bring this wrongful death action against Defendants pursuant to RSMo. § 537.080.

178. As a direct and proximate result of Defendants' negligence and wrongful conduct alleged herein, decedent Eleita Walker died on December 18, 2017.

179. As a further direct and proximate result of Defendants' negligence and wrongful conduct alleged herein, Decedent Walker suffered damages including medical bills, burial and funeral expenses, and end of life expenses.

180. As a further direct and proximate result of Defendants' negligence and wrongful conduct alleged herein, Decedent Walker suffered damages including physical and emotional pain and suffering from the time of her injuries to the time of her death.

181. Marvin Walker seeks all damages allowable by law for the wrongful death of Eleita Walker, including but not limited to loss of services, consortium, companionship, comfort, instruction, guidance, counseling, training and support and those set forth in RSMo. § 537.090, which were the direct and proximate result of Defendants' negligence and wrongful conduct as alleged herein.

182. Plaintiff Laine Goldman, the surviving spouse and administrator of the Estate of decedent Johanna Goldman, is entitled to bring a wrongful death claim against Defendants pursuant to California Code of Civil Procedure, Section 337.60.

183. As a direct and proximate result of Defendants' negligent and wrongful conduct alleged herein, decedent Johanna Goldman died on July 21, 2017.

184. As a further direct and proximate result of Defendants' negligent and wrongful conduct alleged herein, Decedent Goldman suffered damages including medical bills, burial and funeral expenses, and end of life expenses.

185. As a further direct and proximate result of Defendants' negligence and wrongful conduct alleged herein, Decedent Goldman suffered damages including physical and emotional pain and suffering from the time of her injuries to the time of her death.

186. Plaintiff Laine Goldman seeks all damages allowable by law for the wrongful death of Johanna Goldman including but not limited to loss of services, consortium, companionship, comfort, instruction, guidance, counseling, training and support and those allowable under California law, which were the direct and proximate result of Defendants' negligence and wrongful conduct as alleged herein.

187. Plaintiff Jackie Herbert North, the surviving spouse of Glenda North, daughter of decedent Clora Mae Webb, is entitled to bring this wrongful death action against Defendants pursuant to RSMo. § 537.080 and his judicial determination as heir and successor in interest.

188. As a direct and proximate result of Defendants' negligence and wrongful conduct alleged herein, decedent Clora Mae Webb died on June 1, 2014.

189. As a further direct and proximate result of Defendants' negligence and wrongful conduct alleged herein, Decedent Webb suffered damages including medical bills, burial and funeral expenses, and end of life expenses.

190. As a further direct and proximate result of Defendants' negligence and wrongful conduct alleged herein, Decedent Webb suffered damages including physical and emotional pain and suffering from the time of her injuries to the time of her death.

191. Plaintiff Jackie Herbert North seeks all damages allowable by law for the wrongful death of Clora Mae Webb, including but not limited to loss of services, consortium, companionship, comfort, instruction, guidance, counseling, training and support and those set forth in RSMo. § 537.090, which were the direct and proximate result of Defendants' negligence and wrongful conduct as alleged herein.

192. Defendants' negligence and wrongful conduct as alleged herein which caused the aforementioned decedents' deaths was done willfully and in conscious disregard for the safety of others justifying the imposition of punitive damages.

193. WHEREFORE, Plaintiffs demand judgment against Defendants for the wrongful deaths of the aforementioned decedents, and seek damages in an amount in excess of $25,000.00, for compensatory damages, punitive damages, together with interest, costs and fees, and for such further relief deemed just and proper.

COUNT ELEVEN – SURVIVORSHIP

(All Defendants)

194. Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth herein.

195. Decedents Donna Lynn Packard, Annie M. Groover, Marcia L. Hillman, and Johanna Goldman incurred special damages in the form of the reasonable value of services rendered for medical care for the injuries that these Decedents sustained prior to their deaths, all caused by the Decedents' exposure to the PRODUCTS and the Defendants' wrongful conduct alleged herein. Plaintiffs Robert Packard, Martin Maillard, and Tracee Baxter are the personal representative or a successor in interest and authorized to bring this survival action on behalf of their respective Decedents' Estates pursuant to Virginia Code 8.01-25, New York EPTL 11-3.2(b), N.J.S.A. 2A:15-3, and California Code of Civil Procedure, Section 377.30.

196. These Decedents incurred special damages for the reasonable value of services rendered for medical care for their injuries sustained prior to their deaths, lost earnings and other special damages which were the direct and proximate result of the defective PRODUCTS and wrongful conduct of Defendants as alleged herein.

197. Plaintiffs Robert Packard, Martin Maillard, Tracee Baxter, and Laine Goldman seek recovery of all damages allowable by law for this survivorship action as representatives of their respective Decedents.

198. WHEREFORE, Plaintiffs Robert Packard, Martin Maillard, Tracee Baxter, and Laine Goldman demand judgment against Defendants in an amount in excess of $25,000, for compensatory and punitive damages, together with interest, costs and fees, and all other relief deemed just and proper.

TOLLING STATUTE OF LIMITATIONS

199. Plaintiffs incorporate by reference all other paragraphs of this Petition as if fully set forth herein.

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

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

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

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

204. Defendants had the ability to and did spend enormous amounts of money in furtherance of their purpose of marketing and promoting a profitable drug, notwithstanding the known or reasonably known risks. Plaintiffs and medical professionals could not have afforded and could not have possibly conducted studies to determine the nature, extent and identity of related health risks, and were forced to rely on Defendants' representations.

Respectfully submitted,

HOLLAND LAW FIRM

By:

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was served by e-filing through the Missouri Electronic Filing System this 22nd day of May, 2018.

By: /s/ Eric D. Holland
Eric D. Holland