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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF LOS ANGELES**

18 THE PEOPLE OF THE STATE OF
19 CALIFORNIA, By and through the County Counsel
of the County of Los Angeles,
20
21 Plaintiff,

22 v.
23 JOHNSON & JOHNSON, formerly known as
Johnson & Johnson Consumer Companies, Inc., a
24 New Jersey corporation doing business in
California;
25
26 JOHNSON & JOHNSON HOLDCO (NA), INC.,
formerly known as Curahoe Holding Company Inc.
27 and f/k/a Johnson & Johnson Consumer Companies,
Inc., a New Jersey corporation doing business in
28 California, individually and as successor-in-interest
to Old Johnson & Johnson Consumer Inc.;

Case No.
**COMPLAINT FOR VIOLATIONS OF
CALIFORNIA FALSE ADVERTISING
LAW, CALIFORNIA UNFAIR
COMPETITION LAW, AND PUBLIC
NUISANCE, SEEKING CIVIL
PENALTIES, ABATEMENT AND OTHER
EQUITABLE REMEDIES**

1 LTL MANAGEMENT, LLC; a North Carolina
2 limited liability company, individually and as
3 successor-in-interest to Old Johnson & Johnson
4 Consumer Inc.;

5 NEW JJCI, as a successor-in-interest to Old
6 Johnson & Johnson Consumer, Inc., a New Jersey
7 corporation with its principal place of business in
8 the State of New Jersey;

9 KENVUE INC., a Delaware corporation doing
10 business in California individually and as
11 successor-in-interest to Old Johnson & Johnson
12 Consumer Inc. and New Johnson & Johnson
13 Consumer Inc.;

14 JANSSEN PHARMACEUTICALS, INC., a New
15 Jersey corporation doing business in California,
16 individually and as successor-in-interest to Old
17 Johnson & Johnson Consumer Inc. and New
18 Johnson & Johnson Consumer Inc.;

19 BAUSCH HEALTH COMPANIES, INC., formerly
20 known as Valeant Pharmaceuticals International,
21 Inc., and f/k/a Valeant Pharmaceuticals North
22 America, LLC; and

23 DOES 1 through 100, inclusive,

24 Defendants.

25 The PEOPLE OF THE STATE OF CALIFORNIA, by and through the County Counsel of the
26 COUNTY OF LOS ANGELES and their attorneys of record ("Plaintiff" or "the People"), allege herein
27 on information and belief as follows:

28 **I. INTRODUCTION**

1. Defendants are Johnson & Johnson ("J&J"); Johnson & Johnson Holdco (NA), Inc. f/k/a
Johnson & Johnson Consumer Inc., f/k/a Curahee Holding Company, Inc. and f/k/a Johnson & Johnson
Consumer Companies, Inc., ("HOLDCO"), individually and as successor in interest to Old Johnson &
Johnson Consumer Inc. ("Old JJCI," specifically defined, infra.); Johnson & Johnson Consumer Inc.
("NEW JJCI"); Janssen Pharmaceuticals, Inc., individually and as successor in interest to Old JJCI and

1 NEW JJCI ("JANSSEN"); Kenvue, Inc., individually and as successor in interest to Old JJCI and NEW
2 JJCI ("KENVUE"); LTL MANAGEMENT, LLC, individually and as successor in interest to Old JJCI
3 ("LTL"); and Bausch Health Companies, Inc. ("BAUSCH") f/k/a Valeant Pharmaceuticals
4 International, Inc. and Valeant Pharmaceuticals North America, LLC (collectively, "Defendants"). The
5 People seek injunctive and other equitable relief, and all other available remedies as a result of
6 Defendants' unfair business practices associated with their deceptive and misleading marketing and sale
7 of products containing talcum powder. The People make the following allegations based on information
8 and belief, regarding Defendants' talcum powder-containing products known as Johnson's Baby
9 Powder and Shower to Shower (hereinafter together or individually, the "PRODUCTS").

10 2. The People of the State of California, by and through the County Counsel of the County
11 of Los Angeles, maintain that the PRODUCTS are defective, dangerous to human health, unfit and
12 unsuitable to be advertised, marketed, and sold in the United States, and lack proper warnings
13 associated with their use, and that Defendants' marketing and sale of the PRODUCTS at all relevant
14 times was and is false, deceptive, misleading and an unfair business practice.

15 3. The People, including Los Angeles County and California consumers of the PRODUCTS,
16 were exposed to Defendants' false and misleading marketing and labeling that failed to disclose the
17 health risks associated with regular and prolonged exposure to the PRODUCTS and their link to various
18 forms of cancer, including mesothelioma and ovarian cancer.

19 4. Defendants' marketing, promotion and sale of the PRODUCTS have created widespread
20 public health impacts including increased risks of cancer, severe illness, cancer and death in Los
21 Angeles County and California. Defendants continue to disseminate false and misleading
22 representations about the PRODUCTS' safety, and the PRODUCTS remain in consumer homes and are
23 still available for purchase in California.

24 5. The People bring this action for violations of the Unfair Competition Law pursuant to
25 California Business and Professions Code sections 17200, 17204, and 17206, and for violations of the
26 False Advertising Law pursuant to California Business and Professions Code sections 17500, 17535,
27 and 17536. The County Counsel has the right and authority to prosecute this case on behalf of the
28 People, to protect the public from false and misleading advertising, unlawful, unfair, and fraudulent

1 business practices, and a public nuisance. Based on these violations, the People seek injunctive relief,
2 restitution, and civil penalties.

3 6. The People bring this action to abate a public nuisance pursuant to California Code of
4 Civil Procedure Section 731.

5 II. PARTIES

6 A. Plaintiff

7 7. The People of the State of California, by and through the County Counsel of Los Angeles
8 County, Dawyn Harrison, are the Plaintiff in this matter (“the People”). Consumers in the County of
9 Los Angeles and throughout California purchased and consumed the “PRODUCTS” and were harmed
10 by Defendants’ false and misleading advertising that failed to warn users of the health risks associated
11 with regular and/or long-term use of the PRODUCTS, including but not limited to cancer.

12 B. Defendants

13 i. *Johnson & Johnson*

14 8. At all relevant times, Defendant JOHNSON & JOHNSON (“J&J”) was engaged in the
15 business of manufacturing, formulating, marketing, testing, promoting, selling, and/or distributing the
16 PRODUCTS. At all relevant times, J&J regularly transacted, solicited, and conducted business in
17 California and the County of Los Angeles.

18 9. The People are informed and believe, and based thereon allege that, at all relevant times,
19 J&J maintained and still maintains an office located at One Johnson & Johnson Plaza, New Brunswick,
20 New Jersey, 08933 as well as several locations within the State of California and has approximately
21 141,700 employees worldwide.

22 10. J&J is one of the world’s largest and most financially stable corporations, with a market
23 capitalization that exceeded \$500 billion in April of 2023, a credit rating better than that of the United
24 States, and approximately \$30 billion in liquid assets. J&J’s family of companies includes more than
25 250 operating companies conducting business in sixty countries throughout the world, including in
26 California and Los Angeles County.

27 11. J&J’s primary focus is on products related to “human health and well-being.” As of
28 October 5, 2023, J&J’s website claimed that J & J represents “137 Years of Caring.”

1 12. Prior to October 2021, J&J's subsidiary Johnson & Johnson Consumer Inc. ("Old JJCI"),
2 was a New Jersey corporation with its principal place of business in the State of New Jersey. Old JJCI
3 engaged in the business of researching, developing, formulating, manufacturing, designing, testing,
4 licensing, selling, distributing, marketing and/or introducing into interstate commerce, either directly or
5 indirectly through third parties or related entities, the PRODUCTS. As of October 2021, Old JJCI was
6 worth more than \$61.5 billion.

7 **ii. New JJCI**

8 13. Defendant NEW JJCI, individually and as successor in interest to Old JJCI, is a New
9 Jersey corporation with its principal place of business in the State of New Jersey. NEW JJCI may be
10 served with process by serving its registered agent located at One Johnson & Johnson Plaza, New
11 Brunswick, New Jersey 08933.

12 14. At all relevant times, upon information and belief, NEW JJCI was engaged in the
13 business of manufacturing, formulating, marketing, testing, promoting, selling, and/or distributing the
14 PRODUCTS. At all relevant times, NEW JJCI regularly transacted, solicited, and conducted business in
15 all fifty states of the United States, including in California and Los Angeles County.

16 **iii. Johnson & Johnson Holdco (NA), Inc.**

17 15. NEW JJCI changed its name to "Johnson & Johnson Holdco (NA), Inc." ("HOLDCO"), a
18 New Jersey corporation, as part of the corporate restructuring described below.

19 **iv. Janssen Pharmaceuticals, Inc.**

20 16. Defendant JANSSEN, individually and as a successor in interest to Old JJCI and NEW
21 JJCI, is a New Jersey Corporation with its principal place of business in the State of New Jersey.
22 JANSSEN may be served with process by serving its General Counsel at 1125 Trenton-Harbourton Rd.,
23 Titusville, NJ 08560.

24 17. At all relevant times, upon information and belief, JANSSEN was engaged in the
25 business of manufacturing, formulating, marketing, testing, promoting, selling, and/or distributing the
26 PRODUCTS. At all relevant times, JANSSEN regularly transacted, solicited, and conducted business in
27 California and in the County of Los Angeles.

28

1 v. ***Kenvue, Inc.***

2 18. Defendant KENVUE, individually and as successor in interest to Old JJCI and NEW
3 JJCI, is a Delaware corporation with its principal place of business in the State of New Jersey at 199
4 Grandview Road, Skillman, NJ 08558.

5 19. At all relevant times, upon information and belief, KENVUE, or its predecessors, was
6 engaged in the business of manufacturing, formulating, marketing, testing, promoting, selling, and/or
7 distributing the PRODUCTS. At all relevant times, KENVUE, or its predecessors, regularly transacted,
8 solicited, and conducted business in California and the County of Los Angeles.

9 20. In its initial SEC filing, KENVUE stated that “[i]t is also possible that various parties will
10 seek to bring and will be successful in bringing claims against us, including by raising allegations that
11 we are liable for the Talc-Related Liabilities.” KENVUE further stated that it “may be subject to
12 additional claims . . . related to the sale of talc-based Johnson’s Baby Powder in markets where we have
13 discontinued this product (such as in the United States and Canada), including potential governmental
14 inquiries, investigations, claims and consumer protection cases from state attorneys general.” See
15 Kenvue, Inc. Form S1 Registration Statement Under the Securities Act of 1933 (Jan. 4, 2023).

16 vi. ***LTL Management, LLC***

17 21. Defendant LTL is a North Carolina limited liability company. LTL’s sole member is
18 NEW JJCI. LTL is a citizen of the State of New Jersey and can be served with process by serving John
19 Kim, Chief Legal Officer, at 501 George Street, New Brunswick, NJ 08933.

20 22. At all relevant times, LTL’s predecessors were engaged in the business of manufacturing,
21 formulating, marketing, testing, promoting, selling, and/or distributing the PRODUCTS. At all relevant
22 times, LTL, or its predecessors, regularly transacted, solicited, and conducted business in California and
23 the County of Los Angeles.

24 23. Defendants NEW JJCI, LTL, HOLDCO, KENVUE and JANSSEN are and have been at
25 all relevant times wholly owned subsidiaries of J&J, under the complete dominion and control of
26 Defendant J&J.

27 24. At all relevant times, Defendants J&J, NEW JJCI, LTL, JANSSEN, and KENVUE (the
28 “J&J Defendants”) have engaged in the research, development, formulation, manufacture, design,

1 testing, licensing, sale, distribution, marketing of the PRODUCTS in the State of California and Los
2 Angeles County.

3 **vii. Bausch Health Companies, Inc.**

4 25. Bausch Health Companies, Inc. ("BAUSCH") is a global diversified pharmaceutical
5 company incorporated in Canada. BAUSCH's corporate headquarters is located at 2150 St. Elzéar Blvd.
6 West Laval, Quebec H7L 4A8, Canada. The BAUSCH U.S. headquarters address is at 400 Somerset
7 Corporate Blvd., Bridgewater, NJ 08807.

8 26. BAUSCH was formerly known as Valeant Pharmaceuticals International, Inc., and
9 Valeant Pharmaceuticals North America, LLC ("the Valeant Companies.") The Valeant Companies
10 acquired the Shower to Shower brand from J&J in 2012 and continued to market and sell talc-based
11 Shower to Shower, including in California and Los Angeles County, until late 2018 when they quietly
12 reformulated the product. The Valeant Companies changed their name to Bausch Health Companies, Inc.
13 in 2019.

14 **viii. DOE Defendants**

15 27. Defendants DOES 1-100 are those persons, agents, employees, and/or representatives of
16 Defendants, all of whose names and legal identities are unknown to the People at this time, but will be
17 substituted by amendment when ascertained, individually or jointly.

18 **III. JURISDICTION AND VENUE**

19 28. This Court has personal jurisdiction over Defendants in this case as Defendants availed
20 themselves of California law in their significant marketing and sale of products in California and Los
21 Angeles County. The J&J Defendants have generated millions of dollars in revenue from the sale of
22 products in California and Los Angeles County, including from the PRODUCTS. BAUSCH also
23 marketed and sold the Shower to Shower PRODUCTS in California and Los Angeles County.

24 29. At all pertinent times, J&J was connected to California through its predecessor ownership
25 in California talc mines, mills, and processing plants. J&J originally sourced raw talcum powder for
26 Johnson's Baby Powder PRODUCTS from domestic mines located in California. J&J continued to
27 operate a talc mining facility in Calaveras County, California until January 6, 1989.

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1 30. J&J also had ownership interests in talc mines outside of California. In 1989, J&J sold its
2 Vermont mines and mills used to supply talc for its talc products to Cyprus Mines Corporation
3 (“Cyprus”). Cyprus Mines Corporation sold the mines to Rio Tinto Minerals, Inc. in 1992. In a series of
4 later transactions, the mines transferred to Luzenac America, Inc., now known as Imerys Talc America,
5 Inc (“Imerys”).

6 31. This Court has subject matter jurisdiction over the People’s claims for restitution, civil
7 penalties, injunctive relief, and other equitable relief under the California Unfair Competition Law (Bus.
8 & Prof. Code §17200, et seq.), the California False Advertising Law (Bus. & Prof. Code § 17500, et
9 seq.), and California Civil Code § 3345; and over the People’s claim for abatement under the California
10 Public Nuisance law (Cal. Civ. Code §§ 3479, 3480).

11 32. This is a law enforcement action brought by a local prosecutor in the name of the People
12 of the State of California, and therefore it is not subject to removal to federal court. This case is based
13 exclusively on California law and is directed only at wrongful conduct occurring in California. *See,*
14 *California v. Purdue Pharma L.P.* (C.D. Cal., Nov. 12, 2014, No. SACV 14-1080-JLS DFM) 2014 WL
15 6065907; *People v. Boehringer Ingelheim Pharmaceuticals, Inc.* (C.D. Cal., July 31, 2017, No.
16 SACV1700923AGKSX) 2017 WL 3269074.

17 33. Venue as to each Defendant is proper in this judicial district, pursuant to California Code
18 of Civil Procedure §§ 395 and 395.5.

19 **IV. FACTUAL ALLEGATIONS**

20 **A. J&J Subsidiary Bankruptcy Filings and Successor Liability**

21 34. In October 2021, facing adverse court judgments for Talc-related injuries, and rather than
22 declare bankruptcy themselves, J&J and Old JICI engaged in a maneuver known as the “Texas Two-
23 Step.” First, at J&J’s instruction, Old JICI merged into Chenango Zero, LLC, a Texas limited liability
24 company. Then, Chenango Zero, LLC effected a divisional merger under the Texas Business
25 Organizations Code, resulting in the dissolution of Chenango Zero, LLC and the formation of two new
26 companies: Chenango One, LLC and Chenango Two, LLC. Following the divisional merger, Old JICI
27 ceased existence. All JICI legacy talc-related liabilities were transferred to the newly created Chenango
28 One, LLC, and all remaining Old JICI operating assets were transferred to Chenango Two, LLC.

1 Chenango One, LLC, then reincorporated in North Carolina and changed its name to LTL Management,
2 LLC. (Defendant “LTL”) Chenango Two, LLC merged into Curahee Holding Company Inc., whose
3 name was then changed to Johnson & Johnson Consumer Inc. (Defendant “NEW JJCI”).

4 35. Second, within 48 hours of the creation of LTL and transfer of Old JJCI operating assets
5 to Defendant NEW JJCI, LTL declared bankruptcy, strategically leaving Old JJCI’s productive
6 operations and trade creditors outside of the bankruptcy. With no employees or pre-existing business,
7 LTL had nothing to “reorganize.” As acknowledged by the newly formed organization, LTL was created
8 solely to resolve talc claims in bankruptcy. The resulting bankruptcy operated for the benefit of non-
9 debtors who sat outside the bankruptcy in control of the business—while litigation involving rapidly
10 dying victims was entirely halted.

11 36. This corporate restructuring was designed and undertaken with the intent to isolate the
12 talc liabilities of Old JJCI into a newly invented company created by J&J. LTL is an acronym for
13 “Legacy Talc Litigation.”

14 37. On February 25, 2022, Chief Judge Michael B. Kaplan of the United States Bankruptcy
15 Court, District of New Jersey, entered a Memorandum Opinion denying motions seeking dismissal of the
16 first LTL bankruptcy proceeding pursuant to 11 U.S.C. § 1112(b) as not having been filed in good faith.

17 38. On January 30, 2023, the United States Court of Appeals for the Third Circuit issued an
18 Opinion in which it reversed the Bankruptcy Court’s denial of motions to dismiss and remanded the case
19 with the instruction to dismiss the Chapter 11 petition. Examining circuit precedent, decisions of other
20 courts, and the Bankruptcy Code’s structure, purpose, and legislative history, the panel reaffirmed the
21 long-standing rule that debtors “who do [] not suffer from financial distress cannot demonstrate” a good-
22 faith basis for filing for bankruptcy. On March 31, 2023, the Third Circuit issued a mandate to
23 implement its decision, and Chief Judge Kaplan dismissed the LTL bankruptcy on April 4, 2023.

24 39. Also in January 2023, in and around the same time the Third Circuit ordered the dismissal
25 of the LTL bankruptcy proceeding, and in an effort to shield assets from liability, NEW JJCI transferred
26 all of its consumer business assets to its parent entity, JANSSEN.

27 40. During the time the Third Circuit Court of Appeals was considering the propriety of
28 LTL’s first bankruptcy filing, NEW JJCI began the process of moving its assets and business to yet

1 another J&J subsidiary, Defendant KENVUE, INC., by transfers through JJCI's direct parent, Janssen
2 Pharmaceuticals, Inc. ("JANSSEN").

3 41. On April 4, 2023, immediately following the dismissal of its first bankruptcy, LTL
4 Management LLC filed a second bankruptcy.

5 42. John Kim is an employee of Johnson & Johnson Services, Inc., a wholly owned
6 subsidiary of J&J, and seconded to LTL Management LLC. Mr. Kim served as the Assistant General
7 Counsel and Head of Product Liability Litigation for J&J immediately prior to accepting the position of
8 Chief Legal Officer at LTL.

9 43. In the April 4, 2023, Declaration of John K. Kim in Support of First Day Pleadings, filed
10 in LTL's second bankruptcy filing in *In re: LTL Management LLC*, Case no.: 23-12825, United States
11 Bankruptcy Court District of New Jersey ("the Kim Declaration"), Mr. Kim, as Chief Legal Officer for
12 LTL Management, stated "in early January 2023, [NEW JJCI] transferred its Consumer Business assets
13 to its parent entity." See Kim Declaration at ¶26. Pursuant to Defendants' Organization Structure,
14 JANSSEN is the parent entity of NEW JJCI. See Kim Declaration, at Annex B.

15 44. The Kim Declaration summarizes the J&J and J&J affiliate corporate history pertinent to
16 the claims alleged in this complaint:

- 17 a. "J&J, a New Jersey company incorporated in 1887, first began selling
18 JOHNSON'S® Baby Powder in 1894, launching its baby care line of products."
19 b. "In 1972, J&J established a formal operating division for its baby products
20 business, which included JOHNSON'S® Baby Powder.... J&J transferred all its
21 assets and liabilities associated with the baby products division to J&J Baby
22 Products."
23 c. "In 1981, J&J Baby Products transferred all its assets, except those assets
24 allocated to its diaper programs, to Omni Education Corporation ("Omni"), a
25 wholly owned subsidiary of J&J Baby Products. In turn, Omni assumed all
26 liabilities of J&J Baby Products except those liabilities related to its diaper
27 program. Immediately following the transaction, J&J Baby Products merged into
28

1 another subsidiary of J&J and was renamed Personal Products Company, and
2 Omni changed its name to Johnson & Johnson Baby Products Company.”

3 d. “In 1988, Johnson & Johnson Baby Products Company transferred all its assets in
4 respect of its baby products business to Johnson & Johnson Dental Products
5 Company, which assumed all of its liabilities and was renamed Johnson &
6 Johnson Consumer Products, Inc.”

7 e. “In 1997, Johnson & Johnson Consumer Products, Inc. changed its name to
8 Johnson & Johnson Consumer Companies, Inc. (“J&J Consumer Companies”).”

9 f. “In 2015, J&J Consumer Companies merged with and into an affiliate, which then
10 merged into McNeil-PPC, Inc. The resulting entity was renamed Johnson &
11 Johnson Consumer Inc. (including all former names and historical forms, “OLD
12 JJCI”).”

13 g. “Old JJCI became responsible for all claims alleging that JOHNSON’S® Baby
14 Powder and other talc-containing products cause cancer or other diseases.... Old
15 JJCI also became responsible for all claims alleging that Shower-to-Shower
16 products, which contained talc, cause cancer or other diseases.”

17 45. JANSSEN is the parent entity of Defendant NEW JJCI. *Id.* Figure 1 below is from an
18 Exhibit to the Kim Declaration and shows that JANSSEN received all of the JJCI assets used to
19 manufacture, market, and sell Johnson & Johnson’s Baby Powder.

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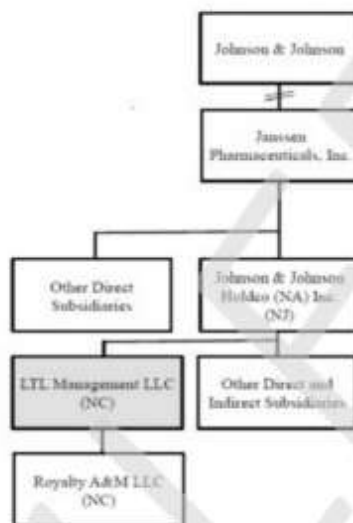
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Figure 1



46. According to the Kim Declaration, as part of J&J's further corporate restructuring, NEW JJCI changed its name to "Johnson & Johnson Holdco (NA) Inc." ("HOLDCO"), a New Jersey corporation.

47. Under New Jersey law, both HOLDCO and JANSSEN are successors to Old JJCI and responsible for the contractual undertakings and conduct of Old JJCI.

48. On July 28, 2023, New Jersey Chief Bankruptcy Judge Michael Kaplan issued a Memorandum Opinion in which he ruled that LTL's second bankruptcy was not filed in good faith "due to LTL's lack of imminent and immediate financial distress." LTL Opinion at 39. Chief Judge Kaplan dismissed the bankruptcy by Order on August 11, 2023. (*See In re LTL Management, LLC* (Bankr. D.N.J. 2023) 652 B.R. 433, 436.)

B. Common Factual Allegations

i. Talc and the PRODUCTS

49. Talc is an inorganic magnesium silicate mineral that may occur in a variety of forms (massive or platy, foliated, fibrous).

1 50. Talc is used in a wide array of industrial, commercial, and cosmetic substances. It is the
2 main substance in talcum powders, talc-based body powders, and the PRODUCTS.

3 51. Talc is mined from deposits in the earth that contain asbestos and other toxic minerals.
4 During all relevant times, Johnson's Baby Powder was composed primarily of talc along with other
5 constituent elements found in talc such as asbestos, fibrous talc, and heavy metals (e.g., nickel,
6 cadmium, cobalt, chromium, arsenic), and fragrance chemicals.

7 52. Imerys, f/k/a Luzenac America, Inc., f/k/a Rio Tinto Minerals, Inc. is a Delaware
8 corporation with its principal place of business in the State of California, located at 1732 North First
9 Street, Suite 450, San Jose, CA 95112.¹

10 53. At all relevant times, Imerys has been in the business of mining and distributing talc for
11 use in talcum powder-based products, including the PRODUCTS. Imerys is legally responsible for the
12 conduct of Luzenac America, Inc. and Rio Tinto Minerals, Inc.

13 54. On information and belief, at all relevant times alleged herein, Imerys mined,
14 manufactured, and sold talc to J&J and other Defendants. Imerys is the world's largest talc producer and
15 engages in the development, formulation, treatment, and promotion of talc for specific use in the
16 PRODUCTS.

17 55. At all times herein mentioned, the talc mined, extracted, sorted, milled, processed,
18 treated, formulated, packaged, shipped, supplied, sold, marketed, and distributed by Imerys to J&J and
19 other Defendants for sale to the public was inherently dangerous in that, as set forth in detail below, it
20 has been linked to various forms of cancer, including mesothelioma and ovarian cancer.

21 56. J&J began the manufacture of Johnson & Johnson's Baby Powder in 1894 (hereinafter,
22 "Johnson's Baby Powder.")

23 57. According to Margaret Gurowitz, Johnson & Johnson's corporate historian, the company
24 released a maternity box for new mothers that included Johnson's Baby Powder. Johnson's Baby Powder
25 was later marketed more broadly to all ages to help prevent skin irritation and absorb moisture. By 1985
26 most consumers of the Johnson's Baby Powder PRODUCT were adults.

27
28

¹ Imerys Talc filed for Chapter 11 bankruptcy protection on February 13, 2019. *See In re: Imerys Talc America, Inc.*, 19-10289-LSS, USBC, District of Delaware.

1 58. J&J began the manufacture of Shower to Shower in 1967, and manufactured and sold the
2 PRODUCT through the same J&J divisions as Johnson's Baby Powder until 2012. In 2012, Valeant
3 Pharmaceuticals International, Inc. n/k/a BAUSCH acquired the Shower to Shower brand and began its
4 marketing and sale of the PRODUCT.

5 59. During all relevant times, Shower to Shower was composed of talc and cornstarch, along
6 with other constituent elements found in talc such as asbestos, fibrous talc, and heavy metals (e.g.,
7 nickel, cadmium, cobalt, chromium, arsenic), and fragrance chemicals.

8 60. In late 2018, BAUSCH reformulated Shower to Shower to eliminate the talc ingredient.
9 As of October 25, 2023, however, talc-based Shower to Shower is still available for purchase and
10 delivery on online platforms such as Amazon.

11 61. Shower to Shower was marketed to women and teen girls with the slogan, "A sprinkle a
12 day keeps odor away."

13 62. While their packaging and fragrance were different, the main ingredient of both the
14 original Shower to Shower and Johnson's Baby Powder was talcum powder.

15 63. Tremolite, chrysotile, anthophyllite, other forms of asbestos and asbestiform minerals, as
16 well as known carcinogens such as heavy metals (including nickel, hexa-valent chromium, cadmium,
17 cobalt, copper, iron, and manganese), and arsenic, quartz, silica, and lead, were known by the J&J
18 Defendants to be constituent minerals that were incapable of being wholly removed from the talcum
19 powder which it used in the manufacture of its Baby Powder and Shower to Shower product lines.

20 64. Scientific literature published as early as 1968 has revealed that many toxic metals
21 commonly found in talc are known or possible carcinogens and include nickel, chromium, and cobalt.
22 (See Cralley, 1968; Rohl, 1976; Sunderman, 1978; Stohs, 1995; Hayes 1997; Gondal, 2012; and Rehman
23 2013.)

24 65. The International Agency for Research on Cancer (IARC), the specialized cancer agency
25 of the World Health Organization, has designated nickel and chromium as known human carcinogens.
26 IARC has designated cobalt as possibly carcinogenic to humans. (See IARC 2006 and 2012.)

27 66. At all relevant times alleged herein, a feasible alternative to the PRODUCTS has existed.
28 Cornstarch is an organic carbohydrate that is quickly broken down by the body with no known health

1 effects. Cornstarch only based powders have been sold and marketed for the same uses as the
2 PRODUCTS with nearly the same effectiveness as talcum powders.

3 67. Defendants were aware that cornstarch could be absorbed into the body and that it was a
4 safer alternative than talc. The J&J cornstarch-based powder has been marketed as a “change for the
5 better.”

6 68. Since at least the 1970s the medical and scientific community recommended that talc-
7 based powders be replaced by cornstarch because of the potential risk of ovarian cancer with its use in
8 feminine hygiene. Once epidemiology studies were conducted beginning in 1982, the number of calls to
9 abandon talc in favor of cornstarch grew.

10 69. At various points in time, Defendants considered replacing talc with cornstarch-based
11 powders. For example, in 2000, J&J representatives prepared a plan to abandon the production of talc-
12 containing Johnson’s Baby Powder in the U.S. by December 1, 2000—weeks before the National
13 Toxicology Program (“NTP”) was set to consider the question of whether talc was a likely human
14 carcinogen. Until recently, the plan to switch to cornstarch was abandoned.

15 70. On May 19, 2020, J&J announced the discontinuation of sale of all talc-based Johnson’s
16 Baby Powder in the United States and Canada. (Johnson & Johnson Consumer Health Announces
17 Discontinuation of Talc-based Johnson’s Baby Powder in U.S. and Canada, May 19, 2020, *available at*:
18 [https://www.jnj.com/our-company/johnson-johnson-consumer-health-announces-discontinuation-of-](https://www.jnj.com/our-company/johnson-johnson-consumer-health-announces-discontinuation-of-talc-based-johnsons-baby-powder-in-u-s-and-canada)
19 [talc-based-johnsons-baby-powder-in-u-s-and-canada](https://www.jnj.com/our-company/johnson-johnson-consumer-health-announces-discontinuation-of-talc-based-johnsons-baby-powder-in-u-s-and-canada)).

20 71. On August 11, 2022, J&J announced the worldwide discontinuation of sale of all talc-
21 based Johnson’s Baby Powder in 2023. *See* Johnson & Johnson Consumer Health to Transition Global
22 Baby Powder Portfolio to Cornstarch, Aug. 11, 2022, *available at*:
23 [https://www.factsabouttalc.com/_document/johnson-johnson-consumer-health-to-transition-global-baby-](https://www.factsabouttalc.com/_document/johnson-johnson-consumer-health-to-transition-global-baby-powder-portfolio-to-cornstarch?id=00000182-8df9-d979-a797-edfb15d40000)
24 [powder-portfolio-to-cornstarch?id=00000182-8df9-d979-a797-edfb15d40000](https://www.factsabouttalc.com/_document/johnson-johnson-consumer-health-to-transition-global-baby-powder-portfolio-to-cornstarch?id=00000182-8df9-d979-a797-edfb15d40000).

25 72. KENVUE admits in its SEC filing that while J&J transitioned to a cornstarch-based
26 formula for Johnson’s Baby Powder in the United States and Canada in 2020, it is still distributing talc-
27 based Johnson’s Baby Powder in other markets and will continue to do so until sometime in 2023. *Id.* at
28 63, 330.

1 73. As of September 29, 2023, through Amazon’s online shopping website, it was possible to
2 purchase talc-based Johnson’s Baby Powder and have it delivered to the customer.

3 74. KENVUE’s website lists Johnson’s as one of its “iconic brands” under the categories of
4 “Skin health & Beauty – Face & body” and “Essential health – Baby care”. See
5 <https://www.kenvue.com/brands>.

6 **ii. Marketing of PRODUCTS**

7 75. At all pertinent times, Defendants targeted California, including Los Angeles County, in
8 their advertising and marketing strategies and reaped significant profits from purchasers of their
9 PRODUCTS in California, including in Los Angeles County. The J&J Defendants’ contracts,
10 communications and business relationships with several advertising, marketing, media, and public
11 relations firms in California were specifically related to talc and Defendants’ PRODUCTS.

12 76. The PRODUCTS were marketed to consumers for general hygiene and to control friction
13 and bodily moisture. Regular and long-term use of the PRODUCTS by adults was foreseeable.

14 77. Upon information and belief, at all relevant times alleged herein, the J&J Defendants
15 advertised and marketed “Johnson’s Baby Powder” as the beacon of “freshness” and “comfort” for
16 eliminating friction on the skin; for absorbing “excess wetness;” for helping to keep skin feeling dry and
17 comfortable, and as “clinically proven gentle and mild.” Defendants J&J and NEW JJCI urged women
18 through advertisements to dust themselves with this product to mask odors. Bottles of “Johnson’s Baby
19 Powder” specifically targeted women by stating, “For you, use every day to help feel soft, fresh, and
20 comfortable.”

21 78. The bottle for the cornstarch-based formulation Johnson’s Baby Powder, which is sold
22 today in the United States, states: “For over 125 years JOHNSON’s formulas have been specially
23 designed for baby’s unique and delicate skin. Great for kids and adults too!”

24 79. Upon information and belief, at all relevant times alleged herein, Defendants J&J and
25 NEW JJCI advertised and marketed Shower to Shower as safe for use by women, as evidenced in its
26 slogan, “A sprinkle a day keeps odor away,” and through advertisements such as, “Your body perspires
27 in more places than just under your arms. Use Shower to Shower to feel dry, fresh, and comfortable
28 throughout the day,” and “Shower to Shower can be used all over your body.”

1 80. The intended and foreseeable use of the PRODUCTS based on the advertising, marketing,
2 and labeling of the PRODUCTS to women was for women to use the PRODUCTS in their perineal area
3 as a regular part of a hygiene routine.

4 81. According to U.S. Census 2021 estimates, 49% of the population of Los Angeles County
5 is Hispanic and 9% African American. Approximately 50% of the nearly ten million people living in Los
6 Angeles County are women.

7 82. The J&J Defendants and their predecessors and successors implemented an aggressive
8 strategy to expand their PRODUCT sales specifically to African American and Hispanic women. With
9 the nation's largest Hispanic population, California, including Los Angeles County, was an important
10 strategic market for Defendants' PRODUCTS. At all pertinent times, the J&J Defendants hired,
11 supervised, and directed third party media and public relations companies with offices in both Northern
12 and Southern California to create sophisticated Spanish-language newspaper, magazine, billboard, radio,
13 and television marketing and advertising campaigns to promote the PRODUCTS specifically to
14 California Hispanic women. The J&J Defendants' campaign was so successful that the J&J Defendants
15 created and produced a Spanish-language Johnson's Baby Powder bottle for placement on grocery,
16 pharmacy, and big-box store (Target, Walmart, Kmart) shelves throughout California, including in Los
17 Angeles County.

18 83. The J&J Defendants paid substantial funds to purchase California media from California
19 advertising and marketing agencies to focus PRODUCT marketing on California women, including
20 those in Los Angeles County and specifically Hispanic women. Defendants pursued this marketing plan
21 with knowledge that the PRODUCTS contained carcinogenic substances including talc, asbestos and
22 asbestiform fibers which posed a high risk of ovarian cancer and/or death.

23 84. Upon information and belief, in spite of the mounting evidence pointing to the
24 carcinogenicity of the PRODUCTS, particularly when used in the perineal region, from 2008 through
25 2009 the Defendants admitted that their marketing was targeting use of Johnson's Baby Powder for
26 obese women and women of color.

27 85. Moreover, at all relevant times J&J voluntarily involved itself in the PRODUCT
28 marketing process and assumed a business relationship with its subsidiary Old JJCI in marketing the

1 PRODUCTS, permitting the use of J&J's trademarks on the PRODUCTS along with representations of
2 quality, safety, and the J&J reputation, to further induce consumers to purchase the PRODUCTS.

3 86. These J&J representations on PRODUCT labels emphasized to purchasers that the talc
4 products were safe. For example, in one version of Johnson's Baby Powder, J&J's trademarks appear on
5 the same label as a gold seal bearing the words "MEETS OUR GLOBAL SAFETY STANDARDS,"
6 surrounded by a banner proclaiming "TRUSTED BY MILLIONS OF MOMS."

7 87. On KENVUE's Johnson's brand website's FAQ page, under the questions "Why did
8 Johnson's® reformulate?" and "How have the Johnson's® products changed?" KENVUE indicates it
9 has generally reformulated its line of Johnson's baby products recently based on its continued scientific
10 research and input from parents. See <https://www.johnsonsbaby.com/faq>. KENVUE continues to market
11 these reformulated products under the trusted Johnson's brand name.

12 **iii. Relationship Between Talc and Ovarian Cancer**

13 88. Research published as early as 1961 has established that particles, like talc, can
14 translocate from the exterior genital area to the ovaries in women. See *G.E. Egli, and Michael Newton,*
15 *The Transport of Carbon Particles in the Human Female Reproductive Tract*, 12 FERTILITY
16 STERILITY 2,151-155 (1961).

17 89. Due to talc's potential for transmission, researchers remained concerned about its
18 carcinogenic nature and the effects of use. In 1968, a study concluded that "[a]ll of the 22 talcum
19 products analyzed have a . . . fiber content . . . averaging 19%. The fibrous material was predominantly
20 talc but probably contained minor amounts of tremolite, anthophyllite, and chrysotile [asbestos-like
21 fibers] as these are often present in fibrous talc mineral deposits . . . Unknown significant amounts of
22 such materials in products that may be used without precautions may create an unsuspected problem." L.
23 J. Cralley et al., *Fibrous and Mineral Content of Cosmetic Talcum* PRODUCT, 29 AM. INDUSTRIAL
24 HYGIENE ASSOC. J. 350-354 (1968). A 1976 follow-up study concluded that "[t]he presence in these
25 products of asbestiform anthophyllite and tremolite, chrysotile, and quartz indicates the need for a
26 regulatory standard for cosmetic talc . . . We also recommend that evaluation be made to determine the
27 possible health hazards associated with the use of these products." Arthur Rohl, et al., *Consumer*

28

1 *talcums and powders: mineral and chemical characterization*, 2 J TOXICOL ENVIRON HEALTH 255-
2 284 (1976).

3 90. In 1971, the first study was published that suggested an association between talc and
4 ovarian cancer. This study was published by W. J. Henderson in Cardiff, Wales at the Tenovus Institute.
5 The study found talc particles “deeply embedded” in ten of thirteen ovarian tumors, twelve of twenty-
6 one cervical tumors, one primary carcinoma of the endometrium and five of twelve “normal” ovaries
7 from women with breast cancer. W. J. Henderson et al., *Talc and carcinoma of the ovary and cervix*, 78
8 J. OBSTET. GYNAECOL. BR. COMMW. 3, 266-272 (1971).

9 91. FDA concluded in 2014 concerning talc, “the potential for particulates to migrate from
10 the perineum and vagina to the peritoneal cavity is indisputable.” See FDA letter April 1, 2014. The
11 body of scientific literature supports FDA conclusion. See Egli, et al., 1961; de Boer, 1972; Parmley and
12 Woodruff, 1974; Phillips, et al., 1978; Venter and Iturrulde, 1979; Blumenkratz, et al., 1980; Gardner, et
13 al., 1981; Venter and Iturrulde, 1981; Holme, et al., 1984; McCalley, et al., 1985; Wright, et al., 1996;
14 Kunz, et al., 1996; Heller, et al., 1996; Kunz, et al., 1997; Edelstam, et al., 1997; Kadanali et al., 2001;
15 Kunz and Leydendecker, 2001; Kissler, et al., 2004; Sjosten, et al., 2004; Kunz, et al., 2007;
16 Zervomanolakis, et al., 2007; Cramer, et al., 2007.

17 92. Imerys regularly marketed and promoted talcum powder, the main ingredient of the
18 PRODUCTS, as safe for human use. In 2004, in a communication from Imerys to Defendants, Imerys
19 acknowledged “compelling evidence” for migration had been published.

20 93. In 1982, the first epidemiologic study was published on talc powder use in the female
21 genital area. This study was published by Dr. Daniel Cramer and others. This study found a 92%
22 increased risk in ovarian cancer with women who reported genital talc use. Additionally, it found that
23 talc application directly to the genital area around the time of ovulation might lead to talc particles
24 becoming deeply imbedded in the tissues of the ovary, and perhaps causing foreign body reaction
25 capable of causing growth of epithelial ovarian tissue. This study showed an epidemiologic association
26 between the use of cosmetic talc in genital hygiene and ovarian cancer. Daniel Cramer et al., *Ovarian
27 cancer and talc: a case control study*, 50 CANCER 372-376 (1982). Since 1982, there have been dozens
28 of additional epidemiologic studies linking the use of talc for feminine hygiene and ovarian cancer.

1 Nearly all of these studies have reported an elevated risk for ovarian cancer associated with genital talc
2 use in women.

3 *iv. Knowledge of the Connection Between Talc Usage and Ovarian Cancer within*
4 *Regulatory Agencies, within the Medical Community, and within the Defendant Companies*

5 94. Upon information and belief, in 1975, the J&J Defendants were aware of Henderson, et
6 al.'s Tenovus data suggesting an association between talc and ovarian cancer and were thereby on notice
7 of the association as early as the mid-1970s.

8 95. Upon information and belief, Dr. Langer of the Mount Sinai School of Medicine sent a
9 letter to J&J in 1971 stating that he had also analyzed the Tenovus tissue samples and substantiated Dr.
10 Henderson's finding of talc particles in the tissue. Dr. Langer reported to J&J that he also found
11 chrysotile asbestos in the Tenovus tissue samples and in samples of J&J talc.

12 96. Upon information and belief, shortly after Dr. Cramer's 1982 study was published, Dr.
13 Bruce Semple of J&J visited with Dr. Cramer about his study. Dr. Cramer advised Dr. Semple that J&J
14 should place a warning on its talcum powder PRODUCTS concerning ovarian cancer risks so that
15 women could make an informed decision about their health.

16 97. Upon information and belief, on August 12, 1982, J&J publicly recognized the studies
17 linking the use of the PRODUCTS to ovarian cancer. In a New York Times article entitled "Talcum
18 Company Calls Study on Cancer Link Inconclusive," the company admitted to being aware of the 1982
19 Cramer article that concluded women who apply talc daily to their genital areas were three times more
20 likely to contract ovarian cancer.

21 98. In a May 1986 Technological Forecast, the J&J Defendants recognized that the safety of
22 cosmetic powders was a concern, "especially among health professionals; that studies have implicated
23 talc use in the vaginal area with incidents of ovarian cancer and that Johnson's Baby Powder sales were
24 declining along with the overall cosmetic powders market in a classic mature model curve."

25 99. In approximately 1992, the J&J Defendants were looking for "opportunities to grow" the
26 Baby Powder franchise despite the fact that the same internal document cited cancer linkage as a "major
27 obstacle" and recommended implementing a plan to market to Hispanic and African Americans by
28 launching an adult Hispanic media program and potentially launching an adult black print effort.

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

4 101. Upon information and belief, on November 10, 1994, the Cancer Prevention Coalition
5 mailed a letter to then J&J C.E.O, Ralph Larson, informing the company that studies as far back as
6 1960's "show conclusively that the frequent use of talcum powder in the genital area poses a serious
7 health risk of ovarian cancer." The letter cited a recent study from Dr. Harlow of Harvard Medical
8 School discouraging the use of talc in the female genital area. The letter further stated that 14,000
9 women per year die from ovarian cancer, a cancer that is very difficult to detect and has a low survival
10 rate. It concluded by requesting that Defendants withdraw talc products from the market, or at a
11 minimum, place warning information on talc-based products disclosing the risk of ovarian cancer.

12 102. On September 17, 1997, Alfred Wehner, a J&J consultant, wrote to Michael Chudkowski,
13 a J&J Consumer Products, Inc. toxicologist, about his concerns that the Cosmetic, Toiletry, and
14 Fragrance Association "CTFA," now known as the Personal Care Products Council ("PCPC"), (as an
15 agent of Defendants) had released false information to the public about the safety of talc. He highlighted
16 three CTFA statements he found to be misleading, including their mischaracterization of studies that
17 showed a statistically significant association between hygienic talc use and ovarian cancer. He further
18 reminded Chudkowski that several independent investigators had reported finding "talc particles in
19 ovarian tissue."

20 103. Upon information and belief, in 1998 Imerys wanted to stop discussions about the link
21 between talc and ovarian cancer in order to free the development of talc in cosmetic applications and
22 avoid the initiation of a process for classification of talc as a carcinogen. Imerys further implemented a
23 plan to discredit research and scientists.

24 104. Upon information and belief, on January 30, 2000, Imerys had knowledge that the
25 National Toxicology Program ("NTP") had listed non-asbestiform talc as carcinogenic and
26 acknowledged that the reviewers found that the epidemiology studies associating talc and ovarian cancer
27 provided convincing evidence of talc carcinogenicity in humans.

28

1 105. In an attachment to a letter sent to the National Toxicology Program on or about March
2 15, 2002, the CTFA admitted that talc was “toxic,” that “some talc particles, as well as asbestos fibers,
3 can reach the human ovaries,” and acknowledged prior epidemiologic studies had concluded that talc
4 increases the risk of ovarian cancer in women.

5 106. Upon information and belief, Luzenac (Imerys’ predecessor) considered implementing
6 warnings, including a warning label to alert consumers the product is not to be used for genital dusting
7 and to communicate the possible association between genital dusting and ovarian cancer.

8 107. In February of 2006, IARC published a paper classifying perineal use of talc-based body
9 powder as a “Group 2B” human carcinogen. IARC, which is universally accepted as the international
10 authority on cancer issues, concluded that studies from around the world consistently found an increased
11 risk of ovarian cancer in women from perineal use of talc. IARC found that between 16-52% of women
12 in the world were using talc to dust their perineum and found an increased risk of ovarian cancer in
13 women talc users ranging from 30-60%.

14 108. In 2006, the Canadian government under The Hazardous Products Act and associated
15 Controlled Products Regulations classified talc as a “D2A,” “very toxic,” “cancer causing” substance
16 under its Workplace Hazardous Materials Information System (WHMIS). Asbestos is also classified as
17 “D2A”.

18 109. In December 2018, Environment and Climate Change Canada, Health Canada issued a
19 Draft Screening Assessment of Talc. The SYNOPSIS indicated that “the meta-analyses of the available
20 human studies in the peer-reviewed literature indicate a consistent and statistically significant positive
21 association between perineal exposure to talc and ovarian cancer. Further, available data are indicative of
22 a causal effect. Given that there is potential for perineal exposure to talc from the use of various self-care
23 products (e.g., body powder, baby powder, diaper and rash creams, genital antiperspirants and
24 deodorants, body wipes, bath bombs), a potential concern for human health has been identified.” (Draft
25 Screening Assessment Talc. Chemical Abstracts Service Registry Number 14807-96-6. the Environment
26 and Climate Change Canada, Health Canada, December 2018).

27 110. Upon information and belief, in 2006, Imerys began placing a warning on the Material
28 Safety Data Sheets (MSDS) it provided to J&J in conjunction with the talc product it sold to them to be

1 used in the PRODUCTS. These MSDS's provided the warning information about the IARC
2 classification, warning information regarding "States Rights to Know," and warning information about
3 the Canadian Government's "D2A" talc classification. The J&J Defendants did not add these warnings
4 to its own PRODUCTS information or labeling, nor did BAUSCH ever include these warnings on
5 Shower to Shower when it sold that PRODUCT.

6 111. Upon information and belief, the J&J Defendants and Imerys individually and jointly
7 have been in possession of medical and scientific data, literature and test reports which clearly indicated
8 that ordinary and foreseeable use of their PRODUCTS is unreasonably dangerous, hazardous,
9 deleterious to human health, carcinogenic, and potentially deadly.

10 112. Upon information and belief, since the 1970s, Defendants J&J and NEW JJCI nonetheless
11 continually advertised and marketed the PRODUCTS as safe for human use up through their
12 discontinuing the product in the United States in May of 2020. The J&J Defendants continue to deny
13 any risk associated with use of the PRODUCTS.

14 113. Upon information and belief, individually and in concert with each other, the J&J
15 Defendants and Imerys participated in a common plan to promote the health and safety of talc use, to the
16 known detriment of the public, including to consumers in California and Los Angeles County.

17 114. The false representations, omissions, and concealments made by J&J Defendants and
18 Imerys regarding the nature of the PRODUCTS were designed to induce consumers, including those in
19 California and Los Angeles County, to purchase and use the PRODUCTS.

20 **v. *Defendants' False and Misleading Labeling and Advertising Failed to Warn***
21 ***Consumers of the Dangers of Talc Use***

22 115. At all times herein mentioned, Defendants knew or should have known about the health
23 hazards associated with the PRODUCTS and had a duty to know and warn about the hazards associated
24 with the use of the PRODUCTS.

25 116. In 1981, the American Academy of Pediatrics released a report about the potential
26 hazards of talcum powder aspiration for babies and cautioned against using baby powder on infants. The
27 report called harms to infants from talcum-based powder "grossly underestimated" and tied talc use to
28 increased infant mortality rates.

1 117. Upon information and belief, at all times herein mentioned, despite the mounting
 2 scientific and medical evidence regarding talc use and ovarian cancer development over the past several
 3 decades, the PRODUCTS' labels and advertising omitted material information about health hazards.
 4 None of the warnings on the PRODUCTS' labels or in other marketing informed users, or similarly
 5 situated individuals, that use of the PRODUCTS was hazardous, that the PRODUCTS contained
 6 asbestos fibers, that regular use of the PRODUCTS could expose users to mesothelioma, or that regular
 7 use of the PRODUCTS in the genital area could lead to an increased risk of ovarian cancer. The label for
 8 the Johnson's Baby Powder PRODUCT stated only to "[k]eep powder away from child's face to avoid
 9 inhalation, which can cause breathing problems," and to "[a]void contact with eyes;" and "SAFETY
 10 TIP: Keep out of reach of children. Do not use if quality seal is broken." The J&J Defendants provided
 11 similar warnings on their website: "[f]or external use only. Keep out of reach of children. Close tightly
 12 after use. Do not use on broken skin. Avoid contact with eyes. Keep powder away from child's face to
 13 avoid inhalation, which can cause breathing problems."

14 118. On information and belief, other manufacturers of talcum powder cosmetic products did
 15 include warnings on their labels. Product labels for "Spring Fresh talcum powder," and "Angel of mine
 16 Baby Powder," both on the market in 2016 and 2017, included warnings of links to ovarian cancer.
 17 Warnings on these product labels are shown below.



119. Upon information and belief, at all times herein mentioned, the J&J Defendants continued to represent on the labeling and in their marketing that Johnson's Baby Powder has "clinically proven

1 mildness,” is “clinically proven to be safe, gentle and mild,” and “that the safety of cosmetic talc is
2 supported by decades of scientific evidence and independent peer reviewed studies.”

3 120. Upon information and belief, at all times herein mentioned, the J&J Defendants procured
4 and disseminated false, misleading, and biased information regarding the safety of the PRODUCTS to
5 the public and used influence over governmental and regulatory bodies regarding talc to minimize
6 regulatory oversight.

7 *vi. Defendants Concealed and Failed to Warn about the Dangers Posed by Asbestos in the*
8 **PRODUCTS.**

9 121. The health hazards associated with asbestos are well documented. There is general
10 agreement among US federal agencies, most developed nations, and the World Health Organization
11 (WHO) that there is no known safe level of asbestos exposure. Inhalation of asbestos, from any source,
12 is a safety concern because it can cause the formation of scar-like tissue in the lung, resulting in
13 asbestosis or pleural plaques, or it may lead to the development of lung cancers and mesothelioma.
14 Exposure to asbestos may also lead to the development of other cancers.

15 122. Asbestos and asbestiform talc are known carcinogens. See IARC Monograph 100c 2012.

16 123. On information and belief, the talcum powder products mined, milled, imported,
17 designed, manufactured, marketed, labeled, supplied, distributed, sold, and otherwise placed in the
18 stream of commerce by the Defendants and Imerys contained asbestos or asbestiform fibers (e.g.,
19 tremolite, actinolite chrysotile, non-platy and fibrous talc and other carcinogens), to which consumers in
20 California and in Los Angeles County were exposed. Defendants failed to warn the public, including
21 Los Angeles and California consumers, about the fact that talcum powder products contained such
22 carcinogenic substances.

23 124. Title 21, Section 740.1(a) of the Code of Federal Regulations states: “The label of a
24 cosmetic product shall bear a warning statement whenever necessary or appropriate to prevent a health
25 hazard that may be associated with the product.” 21 C.F.R. § 740.1(a). The PRODUCTS’ labels failed to
26 provide such warnings.

27 125. Geologists, Defendants, CTFA—and their suppliers, experts, agents, and advisors—have
28 long known that the deposits in the earth that are associated with talc are also associated with the

1 formation of asbestos. The United States Geological Survey on Commercial Talc production in 1965, as
2 well as those dating back to the 1800s, note the presence of tremolite, anthophyllite and chrysotile
3 commonly among those minerals found within talc deposits.

4 126. The J&J Defendants have long employed and/or consulted with doctors, scientists,
5 geologists, mineralogists, and toxicologists, and they have long maintained extensive medical and
6 scientific libraries and archives containing materials relating to the health hazards of talc and the
7 presence of asbestos and asbestiform talc fibers in talc and talc deposits.

8 127. Beginning in the 1930s, medical and scientific literature emerged indicating talc was
9 commonly, if not invariably, contaminated with substances known or suspected of being carcinogenic,
10 such as asbestos, silica, quartz, nickel, and arsenic. Within the next several decades, a growing body of
11 medical and scientific literature demonstrated that direct and secondary exposure to talc, including
12 asbestos-containing talc, was hazardous to exposed persons' health in that it could cause lung disease,
13 cancer, and death.

14 128. The J&J Defendants and their employees, agents and/or suppliers were members of the
15 National Safety Council. In March of 1933, Waldemar C. Dreesen of the United States Public Health
16 Service reported to the National Safety Council the results of a study conducted among tremolite, talc
17 and slate workers. The study indicated that talc was a hydrous calcium magnesium silicate, being 45%
18 talc and 45% tremolite.

19 129. In an October 15, 1957, report, J&J was informed that their Italian talc source contained
20 amphiboles and other contaminants. The report also informed J&J that the talc contained "about 10 per
21 cent [sic] fibrous or acicular particles."

22 130. A May 9, 1958, report to J&J informed it that the "8 to 10 per cent of nonplaty talc in the
23 Italian material is presumed to be derived from tremolite or enstatite.... The Italian No. 1 talc contains
24 from less than 1 per cent [sic] to about 3 per cent [sic] of contaminants. The contamination is natural and
25 consists mostly of carbonate with minor amphibole and rare accessory minerals.... The amphibole
26 component has been established to be the variety tremolite."

27 131. In November 1967, J&J executive Bill Ashton wrote a memo explaining that "the product
28 is at least 93% talc plus 3-5% Dolomite and 1% or less of Tremolite."

1 132. In 1968, a study presented at the American Industrial Hygiene Conference & Exposition
2 and published in the American Industrial Hygiene Association Journal concluded that “[a]ll of the 22
3 talcum products analyzed have a...fiber content...averaging 19%. The fibrous material was
4 predominantly talc but contained minor amounts of tremolite, anthophyllite, and chrysotile as these are
5 often present in fibrous talc mineral deposits...Unknown significant amounts of such materials in
6 products that may be used without precautions may create an unsuspected problem.” L. J. Cralley, et al.,
7 Fibrous and Mineral Content of Cosmetic Talcum Products, 29 AM. IND. HYG. ASSOC. J. 350-354
8 (1968).

9 133. A 1976 follow-up study conducted by researchers at Mount Sinai Hospital in New York
10 concluded that “[t]he presence in these products of asbestiform anthophyllite and tremolite, chrysotile,
11 and quartz indicates the need for a regulatory standard for cosmetic talc...We also recommend that
12 evaluation be made to determine the possible health hazards associated with the use of these products.”
13 Rohl A.N., et al., Consumer Talcums and Powders: Mineral and Chemical Characterization, 2 J.
14 TOXICOL. ENVIRON. HEALTH 255-284 (1976). The Mount Sinai study results were published by
15 various newspapers, including the New York Times and the Washington Post.

16 134. In 1968, a scientific study of store-bought, commercially available talcum powders
17 conducted by the Occupational Health Program, National Center for Urban Industrial Health, was
18 published and presented by the American Industrial Hygiene Association revealing that, contrary to
19 popular belief, talcum powders were not entirely pure, but rather contained various fibrous minerals,
20 including tremolite, anthophyllite, and chrysotile. This was not unexpected, as the study explains,
21 because these types of fibers are often present in fibrous talc mineral deposits. Available documents
22 indicate that during the same year and in the years following, at least one company began testing store-
23 bought talcum powders for asbestos content. Despite tests showing some commercial talcum powders
24 contained asbestos, there is no evidence that positive results or the brand names of contaminated
25 products were communicated to any governmental agency, the media, or the public.

26 135. In June of 1971, The United States Environmental Protection Agency issued a press
27 release stating that “preliminary studies done for EPA at the Mt. Sinai School of Medicine on two
28 different brands of baby powder found asbestos fiber content ranging from 5 to 25 percent.”

1 136. On June 29, 1971, J&J responded to the EPA press release with one of their own, stating
2 “Our fifty years of research knowledge in this area indicates that there is no asbestos contained in the
3 powder manufactured by J&J.”

4 137. In a memorandum of meeting dated July 8, 1971, documenting a meeting between FDA
5 and J&J, an FDA official recorded J&J describing “the results from X-ray diffraction examination of
6 Vermont talc. These results indicated that this talc contains essentially no anthophyllite and only minor
7 amounts (below 1%) of tremolite and actinolite, or in other words contains less than 1%, if any, asbestos
8 particles.”

9 138. A July 29, 1971, J&J memorandum with the subject “Talc/Asbestos” explains that the
10 “talc used in Johnson’s Baby Powder is obtained from a selected mine in Vermont where the ore consists
11 mainly of platy talc with only trace amounts of fibrous minerals (tremolite/actinolite).”

12 139. On November 10, 1971, Dr. Arthur M. Langer, Associate Professor, Mineralogy at the
13 Mount Sinai School of Medicine wrote Dr. Gavin Hildick-Smith of J&J regarding the analysis of tissue
14 samples from the Tenovus Institute for Cancer Research that Dr. Langer had done. Dr. Langer wrote, “In
15 respect to the Tenovus samples that were sent to us, we made the following observations... We assume
16 that the particles were talc, or rather, were consistent with talc. We also got a few surprises in that we
17 observed some chrysotile asbestos to be present in the tissue as well.... We have also analyzed one of
18 your talc samples in some detail. In addition to the normal platy talc present, we have observed many
19 fibrous talcs as well.... We also observed trace amounts of chrysotile asbestos only when the talc was
20 sonified and markedly dispersed.”

21 140. On October 27, 1972, Walter C. McCrone Associates, Inc., a laboratory hired by Johnson
22 & Johnson to test its talc, reported to J&J that “A few tremolite rods were observed in both samples.”

23 141. In 1972, scientists at the University of Minnesota tested the J&J Shower to Shower
24 PRODUCT. The University of Minnesota scientists reported that “numerous examples of fibrous
25 structures were seen.... Three clear examples were found of serpentine material and which gave perfect
26 chrysotile patterns.” The scientist noted that the sample “contained incontrovertible asbestos.”

27 142. The CTFA and the J&J Defendants have represented to various news media outlets and
28 the public at large that their PRODUCTS are “asbestos-free,” when, in fact, their PRODUCTS did test

1 positive for asbestos and those that did not were merely the result of inadequate and imprecise testing
2 methods. "No asbestos detected" means something much different than "no asbestos," but Defendants'
3 repeated conflation of these terms has materially misled the public.

4 143. Between 1970 and the 1990s, tests conducted by and on behalf of the J&J Defendants and
5 the talc industry continued to show that talc and talcum powder products contained asbestos as well as
6 other contaminants such as Cadmium, Cobalt, Chromium, Copper, Iron, Manganese, and Nickel. None
7 of these positive tests have ever been produced to any regulatory agency, and knowledge of their
8 existence is only because of civil litigation.

9 144. Since at least 1979, continuing to the present, the J&J Defendants have conducted a
10 campaign to convince the public that their products are regulated by the FDA, that their tests are
11 conducted pursuant to FDA regulations, and that talcum powder products are therefore safe. Nothing
12 could be further from the truth: the FDA has never been assigned a budget by Congress to regulate
13 cosmetics, including talcum powders. Defendants' concerns for the safety of their products have always
14 been voluntary and under the auspices of the CTFA, a private industry group, that in its 40 years has
15 only banned the use of 11 ingredients in all cosmetics ever sold in the United States.

16 145. On information and belief, the J&J Defendants, Imerys, and the CTFA, collectively by
17 their agreement, controlled industry standards regarding the testing, manufacture, sale, distribution, and
18 use of talcum powder products, and controlled the level of knowledge and information available to the
19 public, including the People of the State of California and Los Angeles County, regarding the hazards of
20 exposure to carcinogens, including talc, asbestos, and fibrous talc. They also knowingly released,
21 published, and disseminated invalid, inaccurate, outdated, and misleading scientific data, literature and
22 test reports containing misinformation regarding the health risks associated with the use of talc and
23 talcum powder products, including those to which consumers in California and Los Angeles County
24 were exposed.

25 146. Consumers throughout California, including in Los Angeles County, were exposed to the
26 false and fraudulent representations, omissions and concealments made by Defendants, regarding the
27 hazards of talc and talcum powder products, including the failure to warn and disclose that such products
28

1 contained asbestos and other carcinogens, including talc itself. Consumers were therefore deprived of an
2 opportunity to make informed decisions concerning their use of the PRODUCTS.

3 147. An October 7, 2013, marked-up version of Johnson & Johnson's Safety and Care
4 Commitment website shows that Defendants knew that their Baby Powder had contained asbestos. The
5 document states: "Our talc-based consumer products are ~~have always been~~ (we cannot say 'always')
6 asbestos free, as confirmed by regular testing conducted since the 1970s." Comments on the document
7 note "Even some of the studies we cite send mixed message. For example, Gertig et al concludes: 'Our
8 results provide little support for any substantial association between perineal talc use and ovarian cancer
9 risk overall; however, perineal talc use may modestly increase the risk of invasive serous ovarian
10 cancers.'"

11 148. Yet to the present, Defendants continue to deny knowledge of talc contamination with
12 asbestos or safety concerns. In response to a December 14, 2018, exposé published by Reuters titled,
13 "Johnson & Johnson Knew for Decades that Asbestos Lurked in its Baby Powder," Johnson & Johnson's
14 Chief Executive Alex Gorsky, said in an interview that "any suggestion that Johnson & Johnson knew or
15 hid information about the safety of talc is false." J&J also took out a full-page ad in The New York
16 Times and The Wall Street Journal which headlined, "Science. Not sensationalism." The ad asserted that
17 J&J has scientific evidence its talc was "safe and beneficial to use." "If we had any reasons to believe
18 our talc was unsafe, it would be off our shelves."

19 149. Less than a year after that ad appeared, FDA notified Johnson and Johnson that a sample
20 of Johnson's Baby Powder had in fact tested positive for asbestos. J&J initiated a recall of the lot
21 number of the PRODUCT identified by FDA but failed to add any warnings to its PRODUCT labels or
22 PRODUCT advertising.

23 150. IARC concluded that there is "sufficient evidence in humans for the carcinogenicity of all
24 forms of asbestos (chrysotile, crocidolite, amosite, tremolite, actinolite and anthophyllite)." Asbestos
25 causes cancer of the ovary. *See* IARC Monograph 100c 2012.

26 151. On information and belief, the CTFA, n/k/a the PCPC, as Defendants' agent, along with
27 J&J Defendants and Imerys, concealed information regarding the potential presence of asbestos and
28 other carcinogens in talc and talc-containing products, including Defendants' PRODUCTS which were

1 deceptively marketed to California and Los Angeles County consumers and to which California and Los
2 Angeles County consumers were exposed.

3 152. The term “asbestosis” was first used to describe pulmonary fibrosis caused by asbestos
4 exposure as early as the 1920’s. Case reports in Great Britain and the United States detailed asbestosis in
5 various workers exposed to asbestos in the workplace.

6 153. By 1929, workers had filed the first disability lawsuits against Johns Manville for
7 asbestos exposure.

8 154. Scientists published case reports addressing the relationship between asbestos and cancer
9 in the late 1930’s. Mesothelioma is a cancer found in the lining surrounding the lungs, the stomach, the
10 heart, or the testicles. This cancer takes its name from the name that is given to this lining - the
11 mesothelium. The only known cause of mesothelioma is exposure to asbestos.

12 155. For more than half a century Defendants in concert with Imerys performed experimental
13 analyses and studies detailing the presence, contamination levels, inability to mitigate, and the amounts
14 of asbestos and other carcinogens in the raw talcum powder used in the PRODUCTS.

15 156. In 2021, unsealed court documents revealed J&J funded experiments on the effects of
16 injecting talc and asbestos on African American prisoners in Philadelphia in 1971.²

17 157. The testing methodology employed by Imerys in qualifying its raw talcum powder as
18 “free of asbestos” was developed by members of the industry, through the auspices of its trade group, the
19 CTFA, (n/k/a the PCPC) as a means of avoiding more accurate and precise testing protocols. The
20 method is incapable of ensuring the absence of harmful asbestos and asbestiform talc fibers. To this day,
21 Imerys continues to use this flawed testing methodology in qualifying its ore as “free of asbestos.”

22 158. J&J knew that the needle-like shape of asbestos fibers found in some talc deposits had
23 been linked to mesothelioma. And J&J knew that babies inhaled the talc, at variable levels, whenever
24 they were exposed to Johnson’s Baby Powder. J&J also understood that if its talc contained asbestos,
25 and if that fact were publicized, it would be bad for J&J’s business and reputation.

26 159. Despite knowledge by the J&J Defendants that the testing methodology used in detecting
27 and quantifying the level of asbestos and asbestiform fibers in the PRODUCTS was incapable of

28 ² <https://www.bloomberg.com/news/articles/2022-03-07/j-j-s-controversial-prison-testing-resurfaces-in-baby-powder-lawsuits?embedded-checkout=true>

1 ensuring the complete absence of the same, the J&J Defendants have, and continue to, represent their
2 PRODUCTS as “free from asbestos and asbestiform fibers.”

3 **vii. Defendants and California Proposition 65 Notifications**

4 160. California voters approved Proposition 65, the Safe Drinking Water and Toxic
5 Enforcement Act, in 1986. Proposition 65 requires businesses to provide warnings to Californians about
6 significant exposures to chemicals that cause cancer, birth defects or other reproductive harm in products
7 Californians purchase. Proposition 65 enables Californians to make informed decisions about exposure
8 to these chemicals.

9 161. Asbestos has been on the Proposition 65 list of toxic substances that require a warning
10 since 1987.

11 162. Defendants have never included a Proposition 65 warning on their PRODUCTS.

12 163. On information and belief, Defendants and Imerys conducted a concerted and extensive
13 effort to influence both regulators and the prevailing body of scientific evidence that talcum powder
14 PRODUCTS are not carcinogenic, and that they contain no other carcinogenic constituents such as
15 asbestos and asbestiform fibers. This effort has consisted of contracting with, and soliciting the input of,
16 numerous California thought leader scientists to offer opinions, author peer-reviewed articles and
17 supplemental analyses of the PRODUCTS in order to fend off negative publicity and government
18 regulation aimed at mandating labeling requirements on cosmetic talcum powder PRODUCTS.

19 164. At all pertinent times, Defendants have maintained and continue to maintain an office in
20 Sacramento, California dedicated to lobbying efforts encompassing, among other issues, Proposition 65,
21 and the classifications of carcinogens, including talc used in Defendants’ PRODUCTS. The J&J
22 Defendants’ lobbying efforts in California are related to Defendants’ talc and the PRODUCTS. From
23 approximately 2005 through 2018, the Johnson & Johnson Defendants spent over ten million dollars
24 (\$10,000,000) to influence the laws and regulations of the State of California. On information and belief,
25 J&J has spent at least an additional \$1,000,000 on lobbying in California from 2019 to the present.

26 165. At all pertinent times, California’s Proposition 65 was of particular interest to the J&J
27 Defendants. Labeling requirements on consumer goods flowing from the recognition of talcum powder
28 as a carcinogen would have triggered labeling requirements on the PRODUCTS which they had sought

1 to avoid since the early 1970's when the FDA first began considering labeling and regulation of talcum
2 powder products.

3 **viii. Ovarian Cancer and Mesothelioma in Los Angeles County and California**

4 166. Defendants' vigorous marketing of the PRODUCTS drove PRODUCT exposure in Los
5 Angeles County and in California and has resulted in higher rates of talc related injury, including
6 mesothelioma and ovarian cancer among consumers in California and Los Angeles County.

7 167. According to CDC cancer statistics, from 2016 through 2019, there were over 22,000 new
8 ovarian cancer cases across the United States each year, with 21,750 in 2020 and 21,410 in 2021. There
9 were 14,000 to 15,000 deaths each year from ovarian cancer from 2011 through 2018, with an average of
10 over 13,000 deaths each year from 2019 to 2020 across the United States.

11 168. Based on CDC data, numbers of newly diagnosed ovarian cancer cases in California
12 peaked in 2019 with 2,620 estimated new cases. There were 1,640 deaths from ovarian cancer in
13 California in 2021.

14 169. In Los Angeles County, available CDC data show 600-700 new ovarian cancer cases each
15 year from 1988 through 2017.

16 170. As many as 10% of ovarian cancers can be attributed to talc use for feminine hygiene.
17 See, Daniel Cramer et al., *Genital talc exposure and risk of ovarian cancer*, 81 Int. J. Cancer 3, 351-356
18 (1999).

19 171. Of the over 700 personal injury cases currently filed in the talc ovarian cancer JCCP
20 related to PRODUCT exposure, over 100 involve Los Angeles County victims.

21 172. CDC data for 2020 show 2,681 new mesothelioma cases were diagnosed that year across
22 the United States, with 292 of those in Los Angeles County. There were 74 deaths from mesothelioma in
23 Los Angeles County in 2017.

24 173. There have been hundreds of mesothelioma cases across the country filed on behalf of
25 mesothelioma victims whose only asbestos exposure was from regular use of the PRODUCTS.

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1 **V. APPLICABLE STATUTE OF LIMITATIONS**

2 **A. Discovery Rule Tolling**

3 174. All applicable statutes of limitations have been tolled by operation of the discovery rule
4 with respect to the People's claims.

5 175. The illnesses caused by the PRODUCTS have latency periods and do not arise until many
6 years after exposure. The illnesses suffered by Los Angeles County consumers did not distinctly
7 manifest as having been caused by the PRODUCTS until the People were made aware that negative
8 health impacts, including but not limited to cancer, could be caused by use of the PRODUCTS, and that
9 Defendants were continuing to make false and misleading representations about the PRODUCTS.
10 Consequently, the discovery rule applies to this case and the statute of limitations has been tolled until
11 the day that the People knew or had reason to know that negative health impacts were linked to the use
12 of the PRODUCTS.

13 176. Further, the statute of limitations was tolled under California Code of Civil Procedure
14 §356, during Defendants' two failed attempts to delay litigation and further conceal the dangers of talc
15 through bankruptcy.

16 **B. Fraudulent Concealment Tolling**

17 177. All applicable statutes of limitation have also been tolled by Defendants' knowing and
18 active fraudulent concealment and denial of the facts alleged herein throughout the time period relevant
19 to this action.

20 178. Instead of disclosing critical safety information about the PRODUCTS and the toxic
21 ingredients contained in the PRODUCTS, Defendants consistently and falsely represented, and continue
22 to misrepresent, the safety of the PRODUCTS, and those false representations further prevented the
23 People from discovering this claim.

24 179. When the J&J Defendants finally announced the removal of the PRODUCTS from the
25 market, they emphasized the product removal was unrelated to PRODUCTS' health risks. Similarly,
26 BAUSCH never acknowledged risks associated with the perineal use of the Shower to Shower
27 PRODUCTS as the basis for its reformulation. Also, original talcum powder formulations of the
28 PRODUCTS are still available for purchase on online platforms, and countless Los Angeles and

1 California consumers have talc-based formulations of the PRODUCTS in their homes. Defendants
2 continue to deny any safety concerns related to the use of the PRODUCTS and continue to conceal the
3 risks associated with using the PRODUCTS.

4 **C. Estoppel**

5 180. Defendants were and are under a continuous duty to disclose to consumers, users, and
6 other persons coming into contact with the PRODUCTS, including the People of Los Angeles County
7 and California, accurate safety information concerning the PRODUCTS and the risks associated with the
8 use of and/or exposure to asbestos and other toxic ingredients in the PRODUCTS.

9 181. Instead, Defendants knowingly, affirmatively, and actively concealed and continue to
10 conceal safety information associated with the use of and/or exposure to the talcum powder in the
11 PRODUCTS, and continue to mislead the public about the safety of the PRODUCTS.

12 182. Based on the foregoing, Defendants are estopped from relying on any statutes of
13 limitations in defense of this action.

14 **FIRST CAUSE OF ACTION**

15 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500**

16 **(FALSE ADVERTISING)**

17 183. The People incorporate paragraphs 1 through 182 of this complaint as though they were
18 set forth here.

19 184. Starting in the 1970's to the present, Defendants, with the intent to induce consumers in
20 California and Los Angeles County to purchase and use PRODUCTS, made or disseminated or caused to
21 be made or disseminated within the County of Los Angeles and elsewhere within California, false or
22 misleading statements which Defendants knew, or by exercise of reasonable care should have known, to
23 be untrue or misleading within the meaning of section 17500 of the California Business and Professions
24 Code. These false and misleading statements include, but are not limited to:

25 a. The omission of material information from the PRODUCTS' labels and
26 advertising related to risks of mesothelioma, illnesses and other cancers from
27 inhalation and other bodily exposures to talc.
28

- 1 b. The failure to list on the PRODUCTS' labels, marketing and advertising the
2 presence of toxic ingredients in talc, including, but not limited to nickel,
3 chromium, and cobalt.
- 4 c. The omission from product labels that the PRODUCTS contained asbestos.
- 5 d. The omission from product labels of the increased risk of ovarian cancer
6 associated with peritoneal application of the PRODUCTS.
- 7 e. The PRODUCTS' label and marketing representations of "purity."
- 8 f. Representations on product labels and in marketing that the PRODUCTS meet
9 "Global Safety Standards."
- 10 g. Representations on the JCI website about the PRODUCTS including:
- 11 i. "Every JOHNSON'S® product is designed to meet or exceed the top
12 internationally recognized regulatory standards."
- 13 ii. "Great for kids and adults too!"
- 14 iii. "For over 125 years, Johnson's formulas have been specially designed for
15 baby's unique skin."
- 16 iv. "Hypoallergenic and tested with dermatologists."
- 17 h. Representations that "Shower to Shower can be used all over your body."
- 18 i. Representations that Johnson's Baby Powder:
- 19 i. has "clinically proven mildness;"
- 20 ii. is "clinically proven to be safe, gentle and mild;" and
- 21 j. Representations "that the safety of cosmetic talc is supported by decades of
22 scientific evidence and independent peer reviewed studies."
- 23 k. Continuing representations about product safety and denials of the presence of
24 dangerous ingredients in the PRODUCTS, including, but not limited to:
- 25 i. "any suggestion that Johnson & Johnson knew or hid information about the safety
26 of talc is false."
- 27 ii. J&J's full-page ad in The New York Times and The Wall Street Journal asserting
28 that its talc is "safe and beneficial to use."

1 185. Defendants are subject to civil penalties, pursuant to Business and Professions Code
2 section 17536, and to injunctive relief, pursuant to Business and Professions Code section 17535.

3 **SECOND CAUSE OF ACTION**

4 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

5 **(UNFAIR COMPETITION)**

6 186. The People incorporate paragraphs 1 through 185 of this complaint as though they were
7 set forth here.

8 187. Starting in the 1970s through the present, Defendants committed violations of Business
9 and Professions Code section 17200 by engaging in unfair business practices in the marketing, sale, and
10 distribution of the PRODUCTS, including, but not limited to the following:

- 11 a. All of the activity described in paragraphs 1-185 above;
- 12 b. Violating Health and Safety Code section 25249.6 by exposing consumers to a
13 chemical known to the state to cause cancer or reproductive toxicity without first
14 giving clear and reasonable warning to consumers of the toxic ingredients in the
15 PRODUCTS;
- 16 c. Violating Health and Safety code section 111700, by manufacturing, selling, and
17 offering for sale a cosmetic product that is adulterated;
- 18 d. Violating Health and Safety Code section 111765 (a), by manufacturing and
19 selling a misbranded cosmetic product;
- 20 e. Violating Health and Safety Code section 111775, by receiving in commerce or
21 proffering for delivery a cosmetic product that is misbranded;
- 22 f. Violating Health and Safety Code section 111710, by misbranding a cosmetic
23 product;
- 24 g. Violating Health and Safety Code section 111791.5, by failing to disclose to
25 regulatory bodies the presence of ingredients in the PRODUCTS that can cause
26 cancer or reproductive toxicity;
- 27 h. Violating Business and Professions Code section 17500, by disseminating or
28 causing to be disseminated within the County of Los Angeles and elsewhere in the

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State of California, with the intent to induce members of the California public to purchase PRODUCTS, false or misleading statements which Defendants knew or should have known, to be untrue or misleading within the meaning of section 17500 of the California Business and Professions Code;

- i. Violating Civil Code section 1770(a)(2), by misrepresenting the source, sponsorship, approval, or certification of goods or services;
- j. Violating Civil Code section 1770(a)(5) by representing that goods or services have sponsorship, approval, characteristics, ingredients, or benefits that they do not have; and
- k. Violating Civil Code section 1770(a)(7), by representing that goods or services are of a particular standard, quality, or grade, when they are of another.

188. Defendants are subject to civil penalties, pursuant to Business and Professions Code section 17206, and to injunctive relief pursuant to Business and Professions Code section 17203.

THIRD CAUSE OF ACTION

VIOLATIONS OF CIVIL CODE SECTIONS 3479 ET SEQ.

(PUBLIC NUISANCE)

189. The People hereby re-allege and incorporate by reference each and every allegation contained above as though the same were set forth herein in full.

190. Civil Code Section 3479 provides that “[a]nything that is injurious to health ... or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property ... is a nuisance.”

191. Civil Code Section 3480 defines a “public nuisance” as “one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.”

192. Civil Code section 3490 states that “[n]o lapse of time can legalize a public nuisance, amounting to an actual obstruction of public right.”

193. Pursuant to Section 731 of the Civil Code, the People bring this action to abate the public nuisance created by the Defendants.

1 194. Each Defendant, acting individually and in concert, has created or assisted in the creation
2 of conditions that are injurious to the health and interfere with the comfortable enjoyment of life and
3 property of a considerable number of persons in Los Angeles County, in violation of Civil Code Sections
4 3479 and 3480.

5 195. The public nuisance is substantial and unreasonable. Defendants' actions continue to
6 cause and to be a significant factor in the development of cancer among users of the PRODUCTS in Los
7 Angeles County, and that harm outweighs any offsetting benefit.

8 196. Defendants knew and should have known that their promotion and marketing of the
9 PRODUCTS was false and misleading and that their deceptive marketing scheme and other unlawful,
10 unfair, and fraudulent actions would create or assist in the creation of the public nuisance – *i.e.*, the
11 development of mesothelioma, ovarian cancer, and other cancers among regular and/or long-term users
12 of the PRODUCTS.

13 197. Defendants' false and misleading marketing and promotion of the PRODUCTS were, at
14 the very least, a substantial factor in the PRODUCTS' widespread use. Defendants' actions were, at the
15 very least, a substantial factor in deceiving consumers about the PRODUCTS' risks. Without
16 Defendants' actions, significant numbers of Los Angeles County residents would not have developed
17 cancer, as they would not have been exposed to the toxic ingredients in Defendants' PRODUCTS.

18 198. The public nuisance – of increased cancer rates due to talc exposure and increased
19 numbers of victims of cancer and other illness – created, perpetuated, and maintained by Defendants can
20 be abated and further recurrence of such harm can be abated.

21 199. Pursuant to Code of Civil Procedure § 731, the People request an order providing for
22 abatement of the public nuisance that Defendants created or assisted in the creation of, and enjoining
23 Defendants from future violations of Civil Code §§ 3479 and 3480.

24 **PRAYER**

25 WHEREFORE, the People pray as follows:

26 1. Defendants and their principals, employees, agents, representatives, successors and all
27 persons, corporations or other entities acting under, by, through or on behalf of Defendants, or acting in
28 concert or participation with or for Defendants, with actual or constructive notice of the injunction

1 issued by this court, preliminarily, and thereafter be permanently, restrained and enjoined from making
2 untrue or misleading statements in violating or Business and Professions Code section 17500 and be
3 specifically enjoined from making the untrue or misleading statement set forth in the First Cause of
4 Action.

5 2. Defendants and their principals, employees, agents, representatives, successors and all
6 persons, corporations or other entities acting under, by, through or on behalf of Defendants, or acting in
7 concert or participation with or for Defendants, with actual or constructive notice of the injunction
8 issued by this court, be permanently restrained and enjoined from engaging in unfair business practices
9 in violating of Business and Professions Code section 17200 and be specifically enjoined from
10 engaging in the types of acts or practices set forth in the Second Cause of Action.

11 3. That pursuant to Business and Professions Code section 17536, Defendants be ordered to
12 pay a civil penalty of Two Thousand Five Hundred Dollars (\$2,500) for each violation of Business and
13 Professions Code section 17500.

14 4. That pursuant to Business and Professions Code section 17206, Defendants be ordered to
15 pay a civil penalty of Two Thousand Five Hundred Dollars (\$2,500) for each act of unfair competition
16 as defined in Business and Professions Code section 17200.

17 5. That Defendants be ordered to make full restitution to all victims of Defendants' acts of
18 unfair competition.

19 6. That this Court declare that Defendants have created a public nuisance in violation of
20 Civil Code Sections 3479 and 3480.

21 7. That Defendants be enjoined from performing any further acts in violation of Civil Code
22 Sections 3479 and 3480.

23 8. That Defendants be ordered to abate the public nuisance that they created in violation of
24 Civil Code Sections 3479 and 3480.

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- 9. That Defendants be ordered to pay the cost of the suit.
- 10. That the Court provide such further and additional relief as the Court deems proper.

Dated: October 31, 2023

Respectfully submitted,
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County Counsel, County of Los Angeles

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ROBINSON CALCAGNIE, INC.

Mark P. Robinson, Jr.
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