RECEIVED
Jul 30 2025
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean H. Toal
Acting Circuit Court Judge

Appellate Case No. 2024-001997
Circuit Court Case No. 2022-CP-40-01265

Sarah J. Plant and Parker Plant, ... Plaintiffs,

v.

Avon Products, Inc.; Amaco, LLC; American Art Clay Co. Inc.; The Bargain Barn, LLC; Beacon CMP Corporation; Belk, Inc.; Block Drug Company, Inc.; Brenntag North America, Inc.; Brenntag Specialties, LLC; Bristol-Myers Squibb Company; Chattem, Inc.; Colgate-Palmolive Company; Color Techniques, Inc.; Conopco, Inc.; Coty Inc.; Dana Classic Fragrances, Inc.; Dillard's, Inc.; Dollar General Corporation; Elizabeth Arden, Inc.; Estee Lauder Inc.; Estee Lauder International, Inc.; The Estee Lauder Companies Inc.; Hamrick's Incorporated; Highwater Clays, Inc.; Houbigant, Inc.; IMI Fabi (Diana) LLC; IMI Fabi (USA) Inc.; IMI Fabi, LLC; Ingles Markets, Incorporated; L'Oreal USA, Inc.; L'Oreal USA Products, Inc.; Lowcountry Grocers LLC; Martin Himmel Inc.; May Kay Inc.; Maybelline LLC; Noxell Corporation; Pfizer Inc.; R.T. Vanderbilt Holding Company, Inc.; Revlon Consumer Products Corporation; Revlon, Inc.; Rite Aid of South Carolina, Inc.; Southeastern Grocers, Inc.; Topco Associates, LLC; Vanderbilt Minerals, LLC; Variety Wholesalers, Inc.; Variety Wholesalers, Inc.; Vi-Jon, LLC; Walgreen Co.; Walmart, Inc.; Whittaker, Clark & Daniels, Inc.; Winn-Dixie Stores, Inc.; Yves Saint Laurent America, Inc. ..... Defendants,

of which

IMI Fabi (Diana) LLC; IMI Fabi (USA) Inc.; and IMI Fabi, LLC are the ..... Appellants.

RECORD ON APPEAL
(VOLUME VI)

WOMBLE BOND DICKINSON (US) LLP

M. Todd Carroll
S.C. Bar No. 74000
todd.carroll@wbd-us.com
M. Elizabeth O'Neill
S.C. Bar No. 104013
elizabeth.oneill@wbd-us.com
Theodore F. Roberts
S.C. Bar No. 104986
ted.roberts@wbd-us.com
Other Email: WBD.SCAsbestos@wbd-us.com
1221 Main Street, Suite 1600
Columbia, SC 29201
(803) 454-6504

Attorneys for Appellants

KASSEL MCVEY

Theile B. McVey
S.C. Bar No. 16682
tmcvey@kassellaw.com
John D. Kassel
S.C. Bar No. 03286
jkassel@kassellaw.com
Jamie D. Rutkoski
jrutkoski@kassellaw.com
1330 Laurel Street
Columbia, SC 29201
(803) 256-4242
Other Email: emoultrie@kassellaw.com

DEAN OMAR BRANHAM SHIRLEY LLP

Misty A. Farris
mfarris@dobslegal.com
Beverly Chapman
bchapman@dobslegal.com
Charles William Branham, III
tbranham@dobslegal.com
1801 North Lamar Street, Suite 300
Dallas, TX 75202
(214) 722-5990
Other Email: rgarner@dobslegal.com

Attorneys for Respondents

July 30, 2025

INDEX

Document **Record Page**

Orders

Amended Order Granting Plants' Motion for a New Trial (October 28, 2024) 1

Order Following 2nd Hearing Regarding Motion for a New Trial (June 28, 2024).....22

Pleadings

Initial Complaint (March 10, 2022).....25

First Amended Complaint (April 11, 2022).....93

IMI Fabi (Diana) LLC's Answer to First Amended Complaint (February 23, 2023) 161

IMI Fabi (USA) Inc.'s Answer to First Amended Complaint (February 23, 2023) 210

IMI Fabi, LLC's Answer to First Amended Complaint (February 23, 2023) 259

Transcripts

Trial Transcript Excerpts

Motions 308

IMI Fabi Opening Statement 319

Testimony of Patrice Johnson.....320

Testimony of Arnold Brody.....326

Testimony of William Longo.....333

Testimony of Robert Taylor Ripley.....340

Testimony of Steven Haber 342

Testimony of Dennis St. George.....348

Testimony of Mark Bailey.....354

Testimony of Parker Plant 357

Testimony of Corrado Fabi.....360

Testimony of Sarah Plant.....429

Directed Verdict Motion 444

Argument Regarding Jury Charges 461

Dismissal of IMI Fabi (USA), Inc. 464

Renewed Directed Verdict Motion 467

Closing Arguments 469

Deposition Transcript of IMI Fabi Entities 493

Hearing (April 26, 2024) 506

Hearing (June 26, 2024) 543

Hearing (August 21, 2024) 627

Trial Materials

IMI Fabi Entities' Proposed Verdict Form (March 1, 2023) 665

IMI Fabi Entities' Proposed Jury Instructions (March 1, 2023) 672

Jury Charges 681

Verdict Form (signed March 3, 2023; filed March 7, 2023) 709

Plaintiffs' Exhibit 60 712

Plaintiffs' Exhibit 70 723

Plaintiffs' Exhibit 71 766

Plaintiffs' Exhibit 3804 802

Motions

IMI Fabi (Diana) LLC's Motion to Dismiss (Personal Jurisdiction) (May 13, 2022) 806

IMI Fabi, LLC's Motion to Dismiss (Personal Jurisdiction) (May 13, 2022) 811

IMI Fabi (USA), Inc.'s Motion to Dismiss (Personal Jurisdiction) (May 13, 2022) 816

Memorandum and Exhibits in Support of IMI Fabi (Diana) LLC's Motion to Dismiss for Lack of Personal Jurisdiction (July 13, 2022) 821

Memorandum and Exhibits in Support of IMI Fabi, LLC's Motion to Dismiss for Lack of Personal Jurisdiction (July 13, 2022) 842

Memorandum and Exhibits in Support of IMI Fabi (USA), Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction (July 13, 2022).....866

IMI Fabi (Diana) LLC's Motion for Summary Judgment and supporting memorandum and exhibits (January 13, 2023).....885

IMI Fabi (USA), Inc.'s Motion for Summary Judgment and supporting memorandum and exhibits (January 13, 2023).....919

IMI Fabi, LLC's Motion for Summary Judgment and supporting memorandum and exhibits (January 13, 2023) 949

Notice of Partial Withdrawal of Motions for Summary Judgment Without Prejudice (February 6, 2023) 987

IMI Fabi (Diana) LLC's Supplemental Brief and Exhibit (February 17, 2023).....989

IMI Fabi, LLC's Supplemental Brief and Exhibit (February 17, 2023).....1004

IMI Fabi (USA), Inc.'s Supplemental Brief and Exhibit (February 17, 2025).....1027

Plaintiffs' Consolidated Responses in Opposition to IMI Fabi, LLC's and IMI Fabi (Diana) LLC's Motions to Dismiss for Lack of Personal Jurisdiction and Exhibits (February 18, 2023) 1037

Plaintiffs' Trial Exhibit List.....1199

Plaintiffs' Opposition to Whittaker, Clark & Daniels' Motion for Setoff (April 11, 2023)...1430

Whittaker, Clark & Daniels, Inc.'s Motion for New Trial Absolute (March 13, 2023).....1443

Whittaker, Clark & Daniels, Inc.'s Motion for Judgment Notwithstanding the Verdict (March 13, 2023) 1508

Notice of Suggestion of Bankruptcy for Whittaker, Clark & Daniels and Others and Notice of Automatic Stay of Proceedings (April 26, 2023).....1536

Plaintiffs' Motion for Relief from Judgment Under SCRCP 60(B) and Motion for New Trial and Exhibits (March 1, 2024) 1539

Plaintiffs' Supplemental Motion for Relief from Judgment and Exhibits (July 22, 2024).....2122

Correspondence from IMI Fabi Entities to Circuit Court (August 26, 2024).....2414

Plaintiffs' Proposed Order Granting Motion for New Trial with Exhibits.....2415

IMI Fabi Entities' Objections to the Plaintiffs' Proposed Order (September 16, 2024) 2485

IMI Fabi Entities' Memorandum and Exhibits in Opposition to Motion for a New Trial (April 23, 2024) 2490

Correspondence Transmitting Missing Exhibit Pages (April 26, 2024).....2548

IMI Fabi Entities' Supplemental Memorandum and Exhibits in Opposition to the Plaintiffs' Motion for a New Trial (July 29, 2024).....2559

IMI Fabi Entities' Notice of Notice of Appeal (November 22, 2024).....2944

ELECTRONICALLY FILED - 2024 Sep 16 5:28 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

By remaining silent on these two dispositive points, the Plaintiffs' proposed order does not address the fundamental showing by any Rule 60 movant: that a jury would render a different outcome if it knew about the "newly-discovered evidence." The proposed order fails as a matter of basic law.

Wrong About Mr. Sommerville. Finally, if signed by the Court, the Plaintiffs' proposed order would set a dangerous, untenable precedent for lawyers in civil matters.

Mr. Sommerville—who was never counsel for record in this matter and was not otherwise subject to the jurisdiction of the Court—voluntarily submitted himself to the Court for questioning by the Court and Plaintiffs' counsel regarding how documents were produced during the discovery process of this case. Mr. Sommerville repeatedly testified that he and two associates at his firm reviewed the boxes of documents that he retrieved from the IMI Fabi (Diana) facility, compared the contents of those boxes to the discovery requests served in this case, and used his best "professional judgment" when identifying materials for production to the Plaintiffs. He was unequivocal that he did not intentionally suppress any materials, and such an accusation would be toothless in any event, as the IMI Fabi entities produced numerous materials showing that their talc was ultimately shipped to several of the cosmetics manufacturers at issue in this case.

The Plaintiffs suggest that Mr. Sommerville exercising his judgment (incorrectly, in their view) to sort responsive and nonresponsive materials when making a production in discovery "amounts to intentional concealment which is extrinsic fraud." (Proposed Order at unnumbered next-to-last page.) This is an incredible position to take, and one that the Court should flatly reject. No verdict would be final if a lawyer's judgment about what constitutes responsive documents in discovery could somehow result in a new trial.

ELECTRONICALLY FILED - 2024 Sep 16 5:28 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

At bottom, there is no proof at all of any "intentional concealment" of any records, and the Plaintiffs' proposed order should be rejected as contrary to South Carolina law.

* * * * *

For these reasons, as well as those stated in the IMI Fabi entities' prior filings and oral arguments regarding this motion—which are specifically incorporated by reference into this objection—the Court should reject the Plaintiffs' proposed order and deny their motion for a new trial, as it fails as a matter of both law and fact.

Respectfully submitted, this 16th day of September, 2024.

WOMBLE BOND DICKINSON (US) LLP

/s/ M. Elizabeth O'Neill
M. Elizabeth O'Neill (S.C. Bar No. 104013)
M. Todd Carroll (S.C. Bar No. 74000)
Theodore F. Roberts (S.C. Bar. 104986)
301 S. College Center
301 S. College Street, Suite 3500
Charlotte, North Carolina 28202-6050
(704) 350-6310; Elizabeth.ONeill@wbd-us.com
(803) 454-7730; Todd.Carroll@wbd-us.com
(410) 545-5875; Ted.Roberts@wbd-us.com
Other email: WBD.SCAsbestos@wbd-us.com

Counsel for IMI Fabi, LLC and IMI Fabi (Diana), LLC

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STATE OF SOUTH CAROLINA)) COUNTY OF RICHLAND) SARAH J. PLANT and PARKER PLANT,)) Plaintiffs,)) vs.)) AVON PRODUCTS, INC., et al.,)) Defendants.))	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT Civil Action No. 2022-CP-40-01265 MEMORANDUM IN OPPOSITION TO THE PLAINTIFFS' MOTION FOR A NEW TRIAL

The Court should deny the Plaintiffs' motion for a new trial because it is flatly contrary to both their own representations to the Court as to the issues decided by the jury and South Carolina law regarding when a new trial may be ordered. The Plaintiffs' motion is based on nothing more than complaints that they should have had earlier access to documents that were, by the Plaintiffs' own admission, irrelevant to the March 2023 trial. That is no basis at all for undoing a jury's work after a week-long trial. Accordingly, the Court should deny the Plaintiffs' motion.

BACKGROUND

The Plaintiffs sued dozens of defendants—including IMI Fabi (Diana), LLC; IMI Fabi, LLC; and IMI Fabi USA, Inc.—for damages associated with her diagnosis of mesothelioma. On February 23, 2023, the Court began a jury trial in this matter that ended on March 3, 2023. The Plaintiffs voluntarily dismissed IMI Fabi USA, and the jury returned a defense verdict in favor of IMI Fabi (Diana) and IMI Fabi and a verdict in favor of the Plaintiffs for approximately $29 million against Whittaker, Clark & Daniels, Inc. The Plaintiffs did not appeal anything related to the verdict, the trial, or any of the underlying proceedings.

On March 1, 2024, the Plaintiffs filed a motion captioned "Motion for Relief from Judgment Under SCRCP 60(b) and Motion for New Trial." In that motion, the Plaintiffs claim

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

entitlement to a new trial based on "concealed documents" and "perjury." (Mot. at 4.) To be clear: IMI Fabi and IMI Fabi (Diana) unequivocally reject the mischaracterization of their conduct in the Plaintiffs' motion. The Plaintiffs are simply begging for another bite at the apple, have resorted to charged rhetoric in support of that request, and are asking the Court to ignore everything that actually happened at trial—including the Plaintiffs' own representations and arguments—with regard to this motion. Their motion fails the controlling legal standard at every turn.

STANDARD OF REVIEW

Rule 60(b), SCRCP, vests the trial court with discretion to grant a new trial under limited circumstances. Rule 60(b)(2) permits a new trial when a movant has "newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b)." Rule 60(b)(3) permits a new trial when there is "fraud, misrepresentation, or other misconduct of an adverse party." In all instances, though, the Court considers all reasonable inferences in the light most favorable to the nonmoving party—here, the remaining IMI Fabi entities. *Vinson v. Hartley*, 324 S.C. 389, 405, 477 S.E.2d 715, 723 (Ct. App. 1996).

ARGUMENT

The Court still lacks personal jurisdiction over IMI Fabi and IMI Fabi (Diana). Neither of these entities has done anything at all to purposefully avail itself of South Carolina with respect to cosmetic talc, nor is either entity "at home" in South Carolina. *Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.*, 141 S. Ct. 1017 (2021); *Bristol-Myers Squibb Co. v. Superior Court*, 137 S. Ct. 1773 (2017). The "stream of commerce" argument that the Plaintiffs put forward has been directly rejected by the United States Supreme Court. *J. McIntyre Mach., Ltd. v. Nicastro*, 564 U.S. 873 (2011). Accordingly, IMI Fabi and IMI Fabi (Diana) submit this opposition subject to its personal jurisdiction objections.

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

I. There is no "newly discovered" evidence that could possibly impact the outcome of this case, and the Plaintiffs are estopped from arguing to the contrary.

The Plaintiffs devote the bulk of their motion to arguing that they have discovered new evidence regarding IMI Fabi (Diana) and IMI Fabi that should entitle them to a new trial. Not so.

Rule 60(b)(2) does not grant a new trial to a party who lost before the jury but then later finds out something new about its adversary. Instead, the movant must be able to show that the "newly discovered evidence":

> (1) will probably change the result if a new trial is granted; (2) has been discovered since the trial; (3) could not have been discovered before the trial; (4) is material to the issue; and (5) is not merely cumulative or impeaching.

Lanier v. Lanier, 364 S.C. 211, 217, 612 S.E.2d 456, 459 (Ct. App. 2005).

The Plaintiffs do not address the *Lanier* standard, nor do they even truly try to meet it. Instead, they load their motion with quarrels about IMI Fabi's and IMI Fabi (Diana)'s written discovery responses; document production regarding "product-specific documents" that the Plaintiffs allege link these IMI Fabi entities to various cosmetic manufacturers; "distribution agreements" between the IMI Fabi entities and Cosmetic Specialties, which was the distributor of IMI Fabi talc; and testimony by other witnesses in other cases that the Plaintiffs allege prove that the IMI Fabi entities have certain awareness of Proctor & Gamble. (Mot. at 4–14.)

The Plaintiffs' entire position is belied by the trial record. There is no way that these materials could possibly, much less "probably," "change the result" because the trial was about whether the IMI Fabi entities' talc contained asbestos. The Plaintiffs insisted that it did, but offered no proof on the point, and the jury ultimately rejected the Plaintiffs' argument. But contrary to their current motion, the Plaintiffs argued throughout trial that the source of the talc, ***not*** the ultimate end product, is all that mattered for their case. The Plaintiffs' expert Dr. Longo testified:

example. We used Chinese talc. I'm very familiar with Chinese talc. I've analyzed it. It doesn't matter what the brand or manufacturer it is.

And I like to cook, so I'll go back to cooking. You can make how many different cakes with the same kind of flour? Doesn't matter what the cake is. You use this type of flour -- if we're talking about that particular flour, it could be, you know, a carrot cake, it could be a chocolate cake, the vanilla icing on a cake. It doesn't matter. They're using the same source from the different manufacturers and you know what that source is, then you can talk about it.

(Trial Tr. 470:3–14.) Then their expert Dr. Haber testified:

Q I want to take a moment. When you try to figure out if there is a routine problem with a powder product being used on babies and children in their home, does it matter whether it comes in a pink bottle or a white bottle or a jar or if it has a label that says J&J or Chanel or Mary Kay or does it matter what source the talc came from?

MR. THACKSTON: Objection. Argumentative. Leading.

THE COURT: Overruled.

A No. It doesn't matter to me what the label says, what the name says, what the -- the flavor. If you have got a powder product, I need to know where the source is. And if the source is problematic, then I've got a concern.

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

(Trial Tr. 708:4–15.) And then their expert Mr. Bailey testified:

assess whether there's asbestos. And, so, I think the first thing I wanted to ask, because I think this has come up a bit in this trial, is, if you're asked to offer an opinion about whether a talc product contains asbestos, do you only consider testing of the particular product in question, or do you also consider testing of other talcs that contained -- other products that contained talc from the same source?

A Yes. You may have a couple of different types of products that one has been tested a lot, one has not been tested very much or at all, but if you can tell that those -- the talc is from the same mine, then you can make the connection and say that the other material or talc product that has not been tested much will contain asbestos.

Q Does it matter to you as a scientist whether the talc came in certain packaging or was a certain brand, or is it the talc source that matters?

A It's the talc source.

(Trial Tr. 1060:10–1061:4.) And then their counsel relied on this exact line of testimony and trial theme to avoid a directed verdict at the close of proof, which the Court accepted as accurate and denied the IMI Fabi entities' motion for a directed verdict:

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

> MS. DEAN: So, the recitation of the facts by counsel for IMI Fabi is incomplete and inaccurate. Dr. Longo, on the 27th, on page 131, indicated that his lab has done extensive testing of Chinese talc; that they found, in 106 of 112 samples, the presence of asbestos; and then subsequently talked about reproducibility.
>
> A theme of the defendants, not just IMI Fabi, but our forgotten friends of Mary Kay and others, have always been you need to have testing that was specific of COVERGIRL or Mary Kay, which is why we had an actual testing expert and not a lawyer say that's -- he said it more politely than I am, but that's nonsense. It's not the brand. It's not whether it's plastic. It's what's inside of it, and it's being from the same source. Both Dr. Longo and Dr. Haber indicated that the source of the talc testing and overwhelming finding asbestos was the same.

(Trial Tr. 1556:20–1557:11.) And then their counsel relied on this same theory in closing:

> There is no dispute that, in the years that IMI Fabi was selling this to the public, it was Chinese talc. IMI Fabi's lawyers did not ask a single question challenging or even asking Dr. Haber about this connection. Not one.

(Trial Tr. 1912:5–8.) And then their counsel relied on this same theory in rebuttal:

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

> And in trying to make you believe that, they ignore the fact that there was powerful, undisputed evidence about asbestos in the exact source mine that they used over and over and over again.
>
> This isn't helping me. Ah-ha.
>
> We're not talking about all American barbecue being the same. We're not talking about a 90,000-square foot region where lots of people live. We're talking about the specific talc mine that is the identical talc mine that was used by Chanel, that was used by Avon, that was used by Johnson & Johnson, which was established not only by Dr. Haber but by Dr. Longo, and no one disputes it.

(Trial Tr. 2030:7–18.)[1] And then in opposition to Whittaker, Clark & Daniels' motion for judgment notwithstanding the verdict, the Plaintiffs again recited the trial testimony that only the source mine, not the ultimate end-product, is all that matters for their case:

- "Plaintiffs' expert geologist Mark Bailey explained that it is not necessary to test a specific talc product for asbestos if other products coming from the same source talc mines contained asbestos." (Memo. at 13–14 (Apr. 11, 2023).)
- "Mr. Bailey testified, 'it's the talc source,' not a product's packaging or brand name, which scientifically matters in determining whether a product contains asbestos." (*Id.* at 14.)
- "Dr. Mark Haber, like Mr. Bailey, explained to the jury that when it comes to determining whether a product has asbestos, the label on the bottle does not matter. Instead, the relevant factor is the talc's source mine." (*Id.* at 15.)
- "Dr. William Longo, Plaintiffs' expert materials scientist, likewise confirmed it is the talc source, not the name on the bottle, which determines whether a talc product has asbestos." (*Id.*)

[1] Contrary to counsel's closing remarks, the Plaintiffs presented no evidence at trial about "the exact source mine" or the "specific talc mine" from which the IMI Fabi entities source their talc.

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

The Plaintiffs' motion for a new trial is a complete about-face from the unbroken testimony from the Plaintiffs' witnesses and argument from the Plaintiffs' counsel at trial, as nothing in their motion has anything at all to do with the source of the IMI Fabi entities' talc. Nothing. But that's the only argument the Plaintiffs could possibly suggest that new evidence would meet the "probably change the result" showing required by South Carolina law. In light of their repeated arguments during and even after trial, the Plaintiffs are now estopped from suddenly changing course in order to seek a second bite at the apple. *See generally Cothran v. Brown*, 357 S.C. 210, 215, 592 S.E.2d 629, 631 (2004) ("Judicial estoppel is an equitable concept that prevents a litigant from asserting a position inconsistent with, or in conflict with, one the litigant has previously asserted in the same or related proceeding."). Their motion should be denied accordingly.

Moreover, the Plaintiffs mischaracterize these materials they claim to be "newly discovered" in order to create a façade that irrelevant information makes a difference. It does not.

"Discovery Misconduct." The Plaintiffs begin their argument by boldly claiming that the IMI Fabi entities "lied" in responding to written discovery. (Mot. at 5.) This is false. The two written discovery requests cited by the Plaintiffs are a single interrogatory and a single document request that the Plaintiffs propounded to IMI Fabi (not IMI Fabi (Diana)) as part of their "jurisdictional discovery," which was designed to respond to the IMI Fabi entities' objection that this Court lacks personal jurisdiction over them. The answers to each were, and remain, true.

The interrogatory asked IMI Fabi—not IMI Fabi (Diana)—whether it "suppl[ies], sell[s], distribute[s], and/or contract[s] with another entity for the purpose of supplying products to any of the entities listed on Exhibit [A]? If so, please identify the company and years of sale." (Ex. 12 to Mot. at Interrogatory 10.) IMI Fabi rightly answered "No." It does not supply, sell, or distribute its talc to any of the entities that were listed on Exhibit A. Nor does it hire a sales agent to service

any of those entities. All IMI Fabi does—a fact that has been known to the Plaintiffs throughout this litigation—is sell talc to Cosmetic Specialties, which was not an entity listed on Exhibit A.

The document request asked IMI Fabi—again, not IMI Fabi (Diana)—to produce "[t]he complete searchable databased of shipments/sales from IMI to any of the entities in Exhibit A." (Ex. 12 to Mot. at RFP 5.) IMI Fabi rightly answered "None." IMI Fabi's shipments and sales are to Cosmetic Specialties, not entities listed on Exhibit A, and this is also a fact that has been known to the Plaintiffs throughout this litigation. At bottom, the Plaintiffs cannot create a legitimate basis for a new trial by mischaracterizing IMI Fabi's supply chain.

"Product-Specific Documents." The Plaintiffs attach Exhibits 16, 18, 19, 20, and 25 to their motion; generically refer to them as "product-specific documents"; and summarily argue that "these documents would have changed the outcome at trial" because Ms. Plant used products from some of the manufacturers whose names appear in those documents. (*Id.* at 18–19.) But the Plaintiffs provide no detail to support their argument, and for good reason: the details contradict their motion.

1. AVON: In her discovery deposition, Ms. Plant could not offer any testimony that she personally used an Avon product or that she was around someone using an Avon product, though she did not know what her mother may have put on her as child. (Ex. 1, See Plant Dep. at 268-276.) Ms. Johnson, in her discovery deposition, testified that she applied Avon eye shadow to Ms. Plant for recitals and special events. (Ex. 2, Johnson Dep. at 46:10–25, 47:1–6, 91:14-20.) By middle school—1998 through 2001—Ms. Plant started applying her own makeup. (Ex. 1, Plant Dep. at 33:12–24.) Ms. Johnson also purchased Avon Skin So Soft cream and spray. (Ex. 2, Johnson, Dep. at 88:4–15.) There is no evidence the cream and spray product contained talc as an ingredient. Moreover, by 2002, Avon had removed talc from all women's body powder products

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

and, with respect to Skin So Soft, apparently earlier. (Ex. 3, Lisa Gallo, 8/17/2017, Dep. at 17-18; Ex. 4, 4/30/2001 Skin So Soft Formula.) And, notably, the documents attached as Exhibit 16 to the Plaintiffs' motion allegedly reflect a handful of sales of IMI Fabi (Diana) talc by CSI to Avon Brazil and Avon Guatemala. None of the documents relate to IMI Fabi.

2. L'ORÉAL: According to Ms. Plant's discovery deposition, she used L'Oréal eyeshadow from high school to 2021. (Ex. 1, Plant Dep. at 92, 496, 628–29, 634–35.). The Plaintiffs have not offered any evidence that demonstrates that the specific product used by Mrs. Plant contained IMI Fabi (Diana) talc. The documents contained in the Plaintiffs' Motion Exhibit 19 do not support a connection between IMI Fabi (Diana) talc and L'Oréal eye shadows as opposed to any other product made by that company. In Exhibit 19 to Plaintiffs' Motion, there appears to be only one shipment of IMI Fabi (Diana) talc by Cosmetic Specialties that may have been destined for L'Oréal in 2003. And once more, none of the documents in Plaintiffs' Motion relate to IMI Fabi.

3. MAYBELLINE: In her discovery deposition**,** Ms. Plant said she used Maybelline eye shadow from her sophomore year of high school (2002–03) to 2021, though not as much in later years because she had stopped working. (Ex. 1, Plant Dep. at 73:12–19, 76:19–21, 94:14–25, 95:1–6, 634:25 & 635:1–9.) According to Plaintiffs' Motion, Maybelline is manufactured by L'Oréal. (Mot. at 4 n.20.) But the Plaintiffs' Motion is devoid of any evidence relating to Maybelline specific documents or linking an IMI Fabi entity's talc to a specific Maybelline brand eye shadow product used by Ms. Plant. To the extent the Plaintiffs rely on the L'Oréal evidence for their contention about Maybelline, the L'Oréal evidence in Exhibit 19 to Plaintiffs' Motion makes no mention of Maybelline brand products or Maybelline by name.

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

4. CLINIQUE & ESTEE LAUDER: In Ms. Plant's high school years (2001–05), Ms. Johnson bought Clinique and Estee Lauder holiday packs for stockings that included eyeshadow and blush. (Ex. 2, Johnson Dep. at 49:22–25, 50:1–4, 163:20–164:24, 168:13–24.). In or about 2011, Ms. Plant purchased Clinique eye shadow and used it up by 2017. (Ex. 1, Plant Dep. at 430:16–25, 434:8–20.) There is nothing in the Plaintiffs' Motion to linking any IMI Fabi entities' talc to a specific Clinique or specific Estee Lauder eyeshadow or blush used by Mrs. Plant during the time period she used the products. The only document contained in Exhibit 18 to Plaintiffs' Motion makes no reference to Clinique and is merely an Estee Lauder fax from 2002 requesting 2 talc samples from IMI Fabi (Diana)—again, nothing to do with IMI Fabi.

5. REVLON: In her discovery deposition**,** Ms. Plant testified that she used Revlon blue eye shadow in high school. (Ex. 1, Plant Dep. at 73:12–19.) The Plaintiffs have offered no evidence to link any IMI Fabi entity talc to the specific blue eye shadow used by Ms. Plant at the time she used the product. Moreover, many of the documents relating to Cosmetic Specialties sale of talc to Revlon identified in Exhibit 20 involve time periods well after Ms. Plant was in high school and are irrelevant to any issue of this case.

* * * * *

In short, the Plaintiffs' attempt to create a new trial based on a smattering of records that happen bear the name of a specific cosmetics manufacturer fails in light of the relevant time periods of Ms. Plant's alleged use, her pretrial deposition testimony that framed the issues of relevancy for discovery, the absence of any proof of the manufacturers' formulae for the products Ms. Plant allegedly used, and the disconnect between IMI Fabi and these records.

"Distribution Agreements." Similarly, the Plaintiffs devote four pages of their motion to arguing that "[o]ne of the biggest misrepresentations pertains to IMI Fabi's distribution agreements

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

with Cosmetic Specialties, its exclusive distributor." (Mot. at 8.) But all that the Plaintiffs point to are contracts between the IMI Fabi entities, on the one hand, and Cosmetic Specialties, on the other, that purport to allow the IMI Fabi entities to inquire about "market information" regarding Cosmetic Specialties' own customers. (Ex. 21 to Mot.) The fact that the IMI Fabi entities ***could*** have asked about "market information" does not mean that they ever ***did*** ask about "market information." So when Mr. Fabi testified that Cosmetic Specialties did not "tell you how much product it was selling to Proctor & Gamble in New Jersey" or "how much product it was selling to Proctor & Gamble in Maryland," his testimony was entirely true. There was nothing misleading or incorrect ***at all*** about Mr. Fabi's testimony on this point, and the Plaintiffs' misstatements about a contractual provision cannot possibly serve as a basis for a new trial.

What's more, Mr. Fabi specifically testified about these irrelevant documents during his deposition. (Ex. ___, Fabi Dep. 41:7–43:19.) If the Plaintiffs truly cared about those documents and believed them to be relevant, they would have pursued their production, including with a motion to compel. But no such motion was ever filed, and the fact that they could have been discovered before the trial bars the Plaintiffs' post-trial motion. *See Raby Constr., LLP v. Orr*, 358 S.C. 10, 21–23, 594 S.E.2d 478, 484 (2004) (denying motion for new trial based on "newly discovered" evidence when the adverse party testified about the information during a deposition but the movant never followed up).

"Proctor & Gamble." The IMI Fabi entities are truly puzzled by this portion of the Plaintiffs' motion. Their opening sentence of the argument is: "Testimony IMI Fabi has given since trial contradicts statements it made to this Court." (Mot. at 11.) But this simply isn't true. Mr. Fabi testified truthfully at trial in response to questions about his knowledge about Proctor & Gamble facilities in New Jersey—he had no such awareness, and the Plaintiffs offered no evidence

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

to suggest that there even is or ever was a Proctor & Gamble facility in New Jersey. If an IMI Fabi corporate representative has subsequently learned about something about Proctor & Gamble and testified about it in a deposition in another case after the verdict was rendered in this case, that cannot possibly call into question Mr. Fabi's testimony—which was simply a lack of personal knowledge—at this trial.

Of course, if this "Sterigenics" issue truly mattered to the Plaintiffs, then they would have presented some proof at trial as to what Sterigenics is, but they did not. And if it truly mattered to the Plaintiffs, they would have inquired about it during discovery, beyond mentioning it in passing to Mr. Fabi during his deposition. (Ex. ___, Fabi Dep. 36:22–24.) The Plaintiffs had the burden of proof, yet they left the record void on that point, and the IMI Fabi entities rightly pointed out this evidentiary hole to the jury in closing argument. The Plaintiffs' failure to present their case the first time around is not a basis for authorizing a new trial. The motion should be denied.

II. There is no "fraud."

As a Hail Mary, the Plaintiffs hyperbolically conclude their motion by claiming that the IMI Fabi entities have committed "fraud on the court" because their National Coordinating Counsel has overseen the discovery process of collecting client documents and preparing them for production. (Mot. at 14–18.) This is absurd.

The Plaintiffs must prove this position "by clear and convincing evidence." *See Gainey v. Gainey*, 382 S.C. 414, 427, 675 S.E.2d 792, 799 (Ct. App. 2009) ("When a party asserts grounds for relief because of fraud, misrepresentation, or other misconduct of an adverse party under Rule 60(b)(3), SCRCP, the movant must prove her entitlement by clear and convincing evidence."). But they do not even come close to this high standard, because there is no "fraud" here.

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

The Plaintiffs' disjointed presentation in their motion illustrates how misguided their motion is. They begin by chiding Mr. Fabi for allowing Attorney Sommerville to oversee the process of collecting and reviewing documents from the IMI Fabi (Diana) plant in 2019. (Mot. at 15.) They then chide the IMI Fabi entities for allowing its national counsel to review those IMI Fabi (Diana) documents for production. (*Id.* at 15–16.) But they then leap from the document-review process to pointing out that at trial in this case, the IMI Fabi entities argued to the jury that Mr. Fabi was a truthful witness. (*Id.* at 16–17.) And they conclude by noting that at trial, the IMI Fabi entities made the unremarkable point to the jury that they are separate and distinct companies from those who manufacture makeup. (*Id.* at 18.)

There is nothing "fraudulent" here, and the Plaintiffs don't even truly argue otherwise. At most, their position reduces to a general complaint about the discovery process and is based on mere supposition and innuendo. But the Supreme Court has been clear that such an argument fails under Rule 60(b)(3). *See Raby Construction*, 358 S.C. at 21 n.5, 594 S.E.2d at 483 n.5 (holding that "[a]llegations of perjury, failure to produce requested discovery, or use of forged documents amount only to intrinsic fraud," which is not actionable under Rule 60(b)(3)). The motion should be denied, and the jury's verdict allowed to stand.

CONCLUSION

At the Plaintiffs' request, the jury was asked to return a general verdict against both IMI Fabi entities. The Plaintiffs did not break out each element of their claims on the verdict form, but instead asked the jury to assess whether either IMI Fabi entity had negligently injured the Plaintiffs, whether either should be strictly liable for the Plaintiffs' injuries, and whether breached an implied warranty to the Plaintiffs. The jury answered "No" to each of these questions, and there is no credible way to suggest that anything in the Plaintiffs' motion would change this result.

The Plaintiffs failed to present any evidence that the IMI Fabi source mine for its talc contained asbestos, yet the Plaintiffs hammered throughout trial that the source of the talc—not who manufactures the end product—is all that matters. As Dr. Longo put it: "Doesn't matter what the cake is." (Trial Tr. 470:8.) Because the Plaintiffs are seeking a new trial based strictly on allegations of newly-discovered evidence that does not address in any way this fundamental, dispositive problem with their case, Rule 60(b) prohibits a new trial. The Court should deny their motion accordingly.

Respectfully submitted,

WOMBLE BOND DICKINSON (US) LLP

/s/ M. Elizabeth O'Neill
M. Elizabeth O'Neill (S.C. Bar No. 104013)
M. Todd Carroll (S.C. Bar No. 74000)
Theodore F. Roberts (S.C. Bar. 104986)

One Wells Fargo Center
301 S. College Street, Suite 3500
Charlotte, North Carolina 28202-6037
(704) 350-6310; Elizabeth.ONeill@wbd-us.com
(803) 454-7730; Todd.Carroll@wbd-us.com
(410) 545-5875; Ted.Roberts@wbd-us.com
Other email: WBD.SCAsbestos@wbd-us.com

Counsel for IMI Fabi, LLC and IMI Fabi (Diana), LLC

April 23, 2024

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

EXHIBIT 1

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND)	FOR THE FIFTH JUDICIAL CIRCUIT
SARAH J. PLANT and)	C/A NO. 2022-CP-40-1265
PARKER PLANT,)	
)	
Plaintiff,)	In Re:
)	Asbestos Personal Injury
)	Litigation
v.)	Coordinated Docket
)	
AVON PRODUCTS, INC.,et)	
al.)	
)	
Defendants.)	

VOLUME I OF III

Video/videoconference Deposition of:

SARAH J. PLANT

Taken on behalf of the Plaintiffs
August 23, 2022

Commencing at 1:18 p.m.

Reported by: MELISSA M. SMITH, RPR, LCR, CCR

the year that you guys would get photos done?
A. I don't know. You would have to ask my mom.
Q. When your mom was applying her face powders for you, did she use her own makeup?
A. Yes.
Q. Do you recall what products they were?
A. I don't.
Q. Would you rely on your mom to tell us what products they were?
A. Yes.
Q. Let's move on to middle school. Did you use makeup when you were in middle school?
A. Yes.
Q. Let's move back. When is your earliest memory of applying makeup for yourself?
A. When I was in middle school, my mom -- I was allowed to use makeup for the first time as far as wearing it to school. And my mom bought me Mary Kay because that's what she used. So she bought me a Mary Kay compact. It was a combo compact.
Q. How old were you, again?
A. Sixth or seventh grade.
Q. Would you have been around 10 or 12?

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Q. Uh-huh.
A. So, yeah, Maybelline. Maybelline was the main one.
Q. Okay. So you would have still been using your CoverGirl and Mary Kay products?
A. CoverGirl more. When the Mary Kay ran out, I didn't buy more because at that point I was buying it more for myself.
Q. Was your mom still buying Mary Kay at that point?
A. You'd have to ask her.
Q. Do you recall what year of high school you started using Maybelline?
A. Two -- my sophomore year of high school. I had a friend. She was my neighbor, Allie. She used a lot of Maybelline.
Q. And would that be the same for the Revlon?
A. Yes. That's when I started branching out from CoverGirl.
MS. BOLLINGER: Can we go off the record?
THE VIDEOGRAPHER: This is the end of Media 1. The time is 2:50. We're off the record.
(Short break.)

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

we called it "the front way."

And then the Walgreens was on the corner at the jail light, as my family referred to it, one of the main lights. It was right -- one of the main lights before you got to where we would go to church.

Q. Why was it called the jail light?

A. Because there was a jail across the street. It's -- so there's -- Highway 66 comes in from the freeway, and then Dolly Parton Parkway hits that, and it's perpendicular. And the Walgreens is on the corner of that intersection.

And then the Wal-Mart is on that same section of road that 66 turns into, but we called it the front way, so it's not coming to mind at the moment what that section of the road is actually called.

Q. And you continued to use Maybelline products after high school?

A. Yes.

Q. Did anyone else you know use Maybelline products throughout your life?

A. Different friends from church and possibly some of my roommates.

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

breaks?
A. Uh-huh.
Q. So would you have bought it at the Walgreens near your home in Tennessee?
A. Yes. They added a Walgreens location at that phase, and so it would have been -- I'm going to try to get the road names right, because instead of the front way it would have been the back way.

So there's one on the corner of what I believe is Dolly Parton Parkway and where 416 starts. At whatever point that location was added, instead of stopping at that one at that main intersection, I would have hit the Walgreens off of 416 instead.
Q. Do you remember when you started using L'Oréal eyeshadow -- strike that.

When did you start using L'Oréal eyeshadow in college?
A. I don't remember when. It was somewhere, 2006, 2007.
Q. How long did you buy L'Oréal eyeshadows for?
A. I bought it for myself a handful of times. Every year my mom for Christmas for our holiday

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Q. Would you ever buy yourself Almay products?
A. Not often. I usually relied on my mom. I wouldn't run out from my holiday stocking versus what I already bought of Clinique and the Mary Kay products I had because I used so many different products regularly.
Q. Where would you have bought the Almay powder products from?
A. When I bought all my makeup, Wal-Mart and Walgreens, depending on where I was.
Q. Same locations we already talked about?
A. Yes.
Q. Between Clinique, Bare Minerals, L'Oréal, Almay, and Mary Kay, what were you go-to products during college?
A. So my go-to liquid foundation would have still been CoverGirl. I would have used -- I would have used the CoverGirl pressed powder foundation for the earlier years of college, and then I would have switched to the Mary Kay or Bare Minerals loose powders.
I still would have used Maybelline eyeshadows for the early college years, and then I started using that favorite Clinique one.

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

I used L'Oréal and Almay before Clinique. I started mixing those in my Maybelline eyeshadow. I kind of transitioned from using Maybelline eyeshadow to L'Oréal and Almay throughout those years for the eyeshadows.

And blush would have been -- my go-to would have been CoverGirl or Maybelline bronzer. So CoverGirl blush, Maybelline bronzer, depending on which I wanted to use.

Q. So would you continue to use the products interchangeably and just use one more than the other?

A. Yeah. I kind of would have used one for a while and then switched when I wanted to switch which colors I was doing. I kind of did seasonal colors. So in the fall I would wear more autumnal colors and in the spring lighter pinks and in the winter more neutrals. And so that was of why I would switch between the different makeup products.

Q. I meant to ask you these questions with L'Oréal. The way you applied your L'Oréal eyeshadow, was that dusty?

A. Yes.

Q. Can you explain that for us?

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND)	FOR THE FIFTH JUDICIAL CIRCUIT
SARAH J. PLANT and)	C/A NO. 2022-CP-40-1265
PARKER PLANT,)	
)	
Plaintiff,)	In Re:
)	Asbestos Personal Injury
)	Litigation
v.)	Coordinated Docket
)	
AVON PRODUCTS, INC.,et)	
al.)	
)	
Defendants.)	

VOLUME II OF III

Video/videoconference Deposition of:

SARAH J. PLANT

Taken on behalf of the Plaintiffs
August 24, 2022

Commencing at 11:42 a.m.

Reported by: MELISSA M. SMITH, RPR, LCR, CCR

it because -- my sisters too. 11 or 12.
Q. Okay.
A. I don't know.
Q. Sure. I just wanted to turn your attention to my client, Avon. My understanding is that you never personally used any Avon products. True?
MS. BOLLINGER: Objection to form.
THE WITNESS: I don't know.
BY MR. VEDOVA:
Q. Okay. As you sit here today, you can't provide any testimony that you recall using Avon products. Fair?
A. I remember my sister selling it, knowing that she did. That's all I remember.
Q. Okay. Which sister?
A. Rebecca Snider.
Q. And how -- she was the one -- she lives in Columbus, Ohio?
A. Columbus, Georgia.
Q. Columbus, Georgia?
A. Uh-huh.
Q. Is that a "yes"?
A. Yes.
Q. Okay. When was she an Avon rep?

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

A. I don't know.
Q. Okay. How old were you when she was an Avon rep?
A. I was young.
Q. Okay. Would you ever see her? Visit her?
A. Yes.
Q. How often would you visit Rebecca?
A. When we would go to Columbus, Georgia. Like I mentioned before, I would see her then and I would see her at Thanksgiving, and I would see her at Litchfield at our beach trip some years.
Q. You would have never -- it's fair that you would not have been around her while she was getting ready or using any sort of products. Is that fair?
A. Not necessarily.
Q. Do you have an independent recollection of being around her while she was applying Avon products?
A. I don't know what she was using when we'd be getting ready.
Q. Okay. Where would you be getting ready?
A. We would visit my dad's first wife's home, and we would visit Becca. We call her Becca. We would visit her home, and sometimes we'd go out

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

to dinner or we'd going go to the mall. We'd be in the car driving to the mall, and I remember her using makeup, but I don't know what.

Q. Okay. What was her maiden name?

A. Johnson.

Q. Okay.

A. Sorry.

Q. That's all right.

And you're still in touch with her?

A. Yes.

Q. You would not have been around her while she would have been naked and applying powders. Would that be a fair statement?

A. That's fair.

Q. The only time that you would have been around her while she was doing any makeup application would have been in a car going to dinner or at --

MS. BOLLINGER: Objection to form.

Sorry. Finish your question.

MR. VEDOVA: It's compound, so let me rephrase it.

BY MR. VEDOVA:

Q. Could you tell me the times that you would have been around her while she -- or strike that.

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

The only thing that you saw her do would have been applying makeup when you have been around her. Is that fair?

MS. BOLLINGER: Objection to form.

THE WITNESS: I believe so.

BY MR. VEDOVA:

Q. What makeup did you see her applying? Types?

A. I remember eyeshadow and blush.

Q. You do not know who made that eyeshadow or blush that she was applying around you, true?

A. Correct.

Q. Okay. And where would you have been when she was applying eyeshadow or blush?

A. I remember in her van once.

Q. Okay. And a little bit at her house. Okay. The van time, where were you located in proximity to her putting on the blush or eyeshadow?

A. Middle seat.

Q. And where was she?

A. The second row, and she would have been front seat.

Q. Passenger or driver?

A. I remember driver.

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Q. Okay. And that was one time that you have that recollection?
A. Right.
Q. Okay. And then you have another recollection of her being at her home and seeing her apply blush and eyeshadow?
A. I remember -- I remember whenever we visited my sisters, my older sisters, I really looked up to them and I thought they did the coolest makeup, they had the prettiest clothes. And I remember them getting ready sometimes.
Q. Okay. Where would you be in proximity to Becca while she would be getting ready?
A. In the doorway of the bathroom.
Q. Okay. How far away would you be from her?
A. 5 feet. A couple feet.
Q. 3, 4 feet?
A. 3 or 4 feet.
Q. Okay.
A. 2 feet. I don't know.
Q. All right. And how long would you sit there and watch her as she got ready?
A. I don't know.
Q. And how many times do you recall doing that?

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

A. I don't know.
Q. Less than five?
A. For Rebecca, yes.
Q. Okay. Other than remembering Becca as an Avon lady, do you know -- by the way, when she was -- when she was an Avon lady, do you know if she went by Snider or Johnson?
A. Snider.
Q. Okay.
A. I believe. You'd have to check with her or my mom.
Q. Sure. Other than that, do you have any other testimony regarding Avon products?
MS. BOLLINGER: Objection to form.
THE WITNESS: I don't know what I'm supposed to do.
MS. BOLLINGER: You can answer.
BY MR. VEDOVA:
Q. Sure. You can answer.
A. Okay. Could you repeat the question?
Q. Sure. Other than what we've just talked about, do you have any other testimony regarding Avon products?
A. Not more than I've described.
Q. Okay. And so it would be fair to say

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

that -- and just -- I don't -- I want to make sure this is true.

You yourself never used any Avon products that you are aware of, true?

A. I don't know because I don't know what was in the bag.

Q. Sure.

A. So, depending on that, I don't know.

Q. Right. And is there any way -- would there be any way to figure out what was in that bag?

A. I mean, asking whoever gave it to me.

Q. But is it fair that Becca did not give you that bag?

A. That's fair.

Q. And that bag was something that -- strike that.

The person that gave you that bag was who?

A. My grandmother and my Aunt Harvie.

Q. Okay.

A. I don't know which of the two.

DEFENSE COUNSEL: Has anybody else lost sound? I've lost sound entirely.

MR. VEDOVA: We can hear you. Can you hear -- let's go off the record.

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

DEFENSE COUNSEL: I mean, I can't hear anything.

THE VIDEOGRAPHER: This is the end of Media 4. The time is 1:34. We're off the record.

(Short break.)

THE VIDEOGRAPHER: We are on the record. This is the start of Media 5. The time is 1:40.

BY MR. VEDOVA:

Q. Okay. So just to -- sorry. My thought was interrupted.

Other than potentially what was in the mystery bag, is it fair that you have no testimony that you ever used any Avon products on yourself?

A. Not to my knowledge.

Q. Okay. And is it fair that other than potentially Becca you have no information of anyone using Avon in your presence? Is that also fair?

MS. BOLLINGER: Objection to form.

THE WITNESS: I don't know.

BY MR. VEDOVA:

Q. Okay. And as you sit here today, you

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

don't have any independent recollection of anyone using Avon products in your presence; is that fair?

MS. BOLLINGER: Objection to form.

THE WITNESS: I know my mom put makeup on me. I don't know what makeup she used.

BY MR. VEDOVA:

Q. Sure.

A. So...

Q. Right.

A. That's why I don't know.

Q. Right. And that's a better question for your mom than you?

A. Yes.

Q. Okay. All right. Have we now -- or strike that.

You do not have any information that Avon in any way intended to hurt or cause you harm?

MS. BOLLINGER: Objection to form.

THE WITNESS: I -- I do not.

BY MR. VEDOVA:

Q. Okay. In preparation for today, what did you do to get ready?

A. I -- I brushed my hair.

Q. I'm sorry. Bad question. I'm sorry. You

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

wasn't the same, but at least the inside of the product was similar or identical to one you had seen Hillary have?

A. That's what I remember. I remember buying it because I liked borrowing hers.

Q. Right. And did it come with an applicator?

A. I think so, yes, in the bottom of the compact.

Q. And what do you remember, if anything, about the applicator? Was it a sponge or was it something else? Brush?

A. I don't -- I don't remember exactly.

Q. Okay.

A. I think a sponge.

Q. And we said this was after you got back from your mission, but do you think this was right after you got back from your mission that you bought this or possibly later, like, senior -- like, toward the end of -- closer to graduation?

A. I think it was either closer to graduation or shortly after graduation.

Q. Okay.

A. So...

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

product that you ever recall purchasing?
A. That I recall purchasing.
Q. Okay. And then we talked -- go ahead.
A. I remember mascara a little bit, but I don't know if that was just borrowing, testing it, or -- but, I mean, the eyeshadow is what I remember.
Q. Okay. And so how long do you remember that Clinique eyeshadow lasting you?
A. It moved with me to South Carolina.
Q. Okay.
A. And I -- I mean, I used it up until I couldn't. I started using it less to conserve it, and it moved -- I still had the container when we moved to Tennessee for residency, for my husband's residency.
Q. That would have been 2017?
A. That's correct.
Q. Okay. So you still had it, but it was pretty much done at that point?
A. Yes.
Q. Okay. I'm going to look through my notes, Ms. Plant, but those are all the questions I have right now. Thank you so much for bearing with me. I really, really appreciate it. It was good

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND)	FOR THE FIFTH JUDICIAL CIRCUIT
SARAH J. PLANT and)	C/A NO. 2022-CP-40-1265
PARKER PLANT,)	
)	
Plaintiff,)	In Re:
)	Asbestos Personal Injury
)	Litigation
v.)	Coordinated Docket
)	
AVON PRODUCTS, INC.,et)	
al.)	
)	
Defendants.)	

VOLUME III OF III

Video/videoconference Deposition of:

SARAH J. PLANT

Taken on behalf of the Plaintiffs
August 25, 2022

Commencing at 10:07 a.m.

Reported by: MELISSA M. SMITH, RPR, LCR, CCR

Q. Okay. What types -- do you mean -- tell me what you mean by what type.
A. If I was going for mascara, I knew which one I was probably going to buy unless I saw a cheaper one.
If I was going for foundation powder, I knew which one I was probably going to buy.
If I was going for eyeshadow, anything was game because I chose according to color in that phase of life.
Q. Okay. So to the extent you may have been unsure about the eye shadow that you were buying at Walgreens, you were unsure just because you were looking at the different color options?
A. Yes. I mean, I had -- the ones I discussed already in my testimony are the ones I looked at. In high school I bought Maybelline most often and I bought their -- I bought L'Oréal as well for eyeshadows. So I looked there first.
Q. But would it be fair to say that if there was some kind of mailer or pamphlet, like, you know how you have the little "what's on sale this week" or whatever that you have at a store, would that have had an influence on what you were buying, or were you buying based on eyeshadow

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

long did it take you to go through a bottle of the body powder?
A. That, I don't know.
Q. Could you estimate whether you were buying a bottle of body powders one to two to three times a year?
A. I would say less than that.
Q. Less than which one?
A. I would say one a year.
Q. Okay.
A. Not more than one a year.
Q. Okay. Thank you.
Switching over to the powdered makeup products, again speaking of when you lived in Spartanburg -- just, as a reminder, from 2013 to 2017 -- do you have an independent recollection of buying powdered makeup at that Boiling Springs Wal-mart?
A. I remember buying makeup there. I don't remember which types.
Q. Okay. To the extent you would have purchased powdered makeup, would the brands also have been the CoverGirl and the Maybelline that we talked about earlier?
A. A little bit less of Maybelline because

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

I didn't like their eyeshadow as much anymore by that point. It would have been L'Oréal or Almay eyeshadow, and then I'm not sure about the foundations and blush.

Q. Is there any other brands that you would have purchased during that time frame at the Wal-mart in Boiling Springs?

A. Possibly a bronzer, but I'm not sure.

Q. And I know you said bronzer. I consider that kind of like a type.

Would that have been a different brand from the CoverGirl, L'Oréal, Almay, or Maybelline?

A. It would have been most likely Maybelline.

Q. Maybelline?

A. But again, I'm not confident on that.

Q. Sure. Any other brands of makeup outside of Maybelline, CoverGirl, L'Oréal, or Almay that you would have purchased at Wal-mart in Boiling Springs during 2013 to 2017?

A. Not to my specific memory.

Q. Did you buy powdered makeup products at any other retailer beyond Wal-mart when you lived in Spartanburg from 2013 to 2017?

A. I stated the Walgreens on that same road

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

A. No. I know that's -- so it was -- you passed -- I can't. I know that --
Q. That's okay.
A. There was -- there was a lot around there. It was not a secluded place, but nothing memorable is popping out at me.
Q. But it was a commercial area. Does that sound right?
A. Yes. And it was right next to the freeway.
Q. Okay.
A. But the reason I'm confused is there were a couple different routes you could take to get downtown versus to where my daughter's preschool was versus where our apartment was and the -- I don't remember which freeway it was because in my mind it may have been a belt and there may have been more than one that intersected.
Q. Sure. No worries.
How about this. Was it a Super Center or Neighborhood Market?
A. Super Center.
Q. Okay. How far was it from your apartment?
A. About 10 minutes.
Q. Okay. During that 2020-2021 time frame,

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

what brands of makeup were you using?
A. I was still using the same makeups. Once I stopped working, I wasn't having to buy my makeup as often because I wasn't putting on my professional face as often.
Q. And so that would be the CoverGirl, L'Oréal, Maybelline, and Almay?
A. L'Oréal, Maybelline, CoverGirl, Almay, and then other makeups I've already discussed. I kept a lot of my makeups.
Q. Right. As far as purchasing at a Wal-mart, would those be the main brands?
A. Yes.
Q. And you stopped working after leaving South Carolina, is that correct, or am I wrong on that?
A. No. So I stopped working full-time as a teacher then.
Q. Okay.
A. But I worked part-time as a tutor for ACT and SAT English and reading, and I also worked on -- for VIP Kid for three years.
Q. All right. And so I guess I need to clarify, then.
I heard you say when you stopped working

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

EXHIBIT 2

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
COUNTY OF RICHLAND	)	
	)	
	)	
	)	
SARAH J. PLANT and PARKER PLANT,	)	
	)	
	)	CERTIFIED TRANSCRIPT
PLAINTIFFS,	)	
	)	
VS.	)	NO. C/A NO. 2022-CP-40-1265
	)	
	)	
AVON PRODUCTS, INC., et al,	)	
	)	
DEFENDANTS.	)	

VIDEOTAPED DEPOSITION OF PATRICE JOHNSON

OCTOBER 25, 2022

PEGGY F. MCCRORY, LCR #532
Registered Professional Reporter
Knoxville, TN 37901

AdvancedONE LEGAL (866) 715-7770 advancedONE.com

you said liquid mousse?

A Yeah. No. I don't know if they had names way back then. When I go to look for makeup now it's like crazy the different little brands they have within brands. But I don't remember -- I just picked out colors -- and, again, sometimes price.

Q Where would you have bought Maybelline makeup from?

A Walmart, Walgreen's, grocery stores.

Q You mentioned Avon makeup, right?

A Uh-huh.

Q Do you recall what Avon products you would have used?

A I don't. I know they had little lipsticks the kids liked. Eyeshadows. I don't recall what they looked like either. I just remember the Skin So Soft that I liked. But I don't remember exactly what in the line I bought.

Q Okay. So specifically as it relates to makeup --

A Uh-huh.

Q -- you know that you would have bought eyeshadows from Avon?

A The best of my memory, yes.

Q And would you have used those eyeshadows with Sarah?

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

A Yes. Because I would have been buying them when she was in elementary school and continuing into middle age -- middle school. Because there's that nine year spread between -- I was still buying from the teachers when my son was there.

Q You mentioned Mary Kay.

A Uh-huh.

Q When did you start buying Mary Kay products?

A My friend, Ellen Jenkins, her daughter was in my daughter Emma's class. So she's six years younger than Sarah. So she would have been probably around six to seven when I started buying Mary Kay. So, then, Sarah would have been about 12 in middle school. And I really liked the little square compact things they had and you replaced the shadows and the blush and --

Q So what type of Mary Kay makeup did you purchase?

A Again, the -- the containers -- I bought what would go into the cute little containers. I had a larger one that I bought for my girls. Eyeshadows, blush, like, I guess, you'd call it powder foundation, just a -- a basic foundation powder. But to the best of my memory they're more compact -- packed cake ones that used brushes. That was when we started buying different brushes. Or when I started using

12. So I probably bought it for a good six years or more. And then I think when she went to college she says that she was still buying Mary Kay.

Q You mentioned Estee Lauder?

A Uh-huh.

Q Do you remember what Estee Lauder products?

A No. Again, the only time I bought those was at the holidays. And I think that was left over from my mom buying my sisters and I these special little holidays packs. I never -- I didn't go to, like, Dillard's often. Just at the holiday times to get those when they ran those specials.

Q So you would have got that from Dillard's?

A Yeah.

Q And, again, you don't recall any names.

A No. I don't even remember what was in the packets another than it was always like eyeshadow and blushes and probably a little perfume and lipstick. It was like a whole little holiday pack. It was kind of their treat at Christmas. Because they -- even those cost quite a bit more than doing Maybelline and Cover Girl.

Q Uh-huh. You mentioned Clinique powders -- excuse me. Clinique makeup.

A Uh-huh.

Q What kind of makeup would --

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

A Again, it would be whatever the seasonal holiday pack was.

Q So you would have bought Clinique makeup for Sarah through the seasonal holiday pack, right?

A Yes. I do remember going like when we were at Dillard's, I think it was, or possibly J. C. Penney's, and we did like a Clinique -- where they do your makeup for you and then try to sell you all the makeup. And sometimes we'd just let them do our makeup and we'd buy like an eyeshadow or something.

Q And you're saying "we," is that like a you and Sarah thing or is that --

A And Anna and probably Emma.

Q Fun girls outing?

A Yeah.

Q Sure you don't remember any of the names of the Clinique --

A No.

Q -- powder products that you're talking about?

A I think Clinique was in kind of a -- a bluish like teal color containers. But I don't know if that's accurate.

Q You mentioned L'Oréal?

A Uh-huh.

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

A Fair.
Q Okay. So I'll save you a bunch of time. I won't bother you with that.
Turning your attention to the Skin So Soft, was the primary product that you bought the cream?
A Cream and spray.
Q Okay. And I asked because my mother did the exact same thing.
A Once I found out it worked for bugs, I was a fan.
Q Sure. And so every few months, I think you mentioned, you would buy the Skin So Soft cream and spray, worked great with the insects, is that a fair and accurate description?
A Yeah.
Q Do you recall buying any other Avon products besides the eyeshadow, which I'll ask you a bit in a second, besides the lotion and the spray of the Skin So Soft?
MS. BOLLINGER: Objection to form. You can answer.
THE WITNESS: What does the objection to form mean?
BY MR. VEDOVA:
Q So if -- she's saying that my question is not properly formed. And it's more for the judge -- at a later

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

A After they left elementary school, I don't believe. That's when I kind of switched to the Mary Kay.

Q Okay. And the eyeshadow, do you recall the first time that you would have bought the eyeshadow?

A No.

Q Okay. Was it pressed eyeshadow?

A Yes.

Q Would you be able to describe for me what it looked like? Is that a no?

A "No."

Q Okay. Would you be able to describe for me any colors or scents or anything with it?

A Just that we always tended to buy blues.

Q Okay. And would your usage of the Avon eyeshadow with Sarah have been primarily limited to slapping it on for the dance recitals or was it a daily usage thing or how -- how would it have been used?

MS. BOLLINGER: Objection to form.

THE WITNESS: It would have been for like the dance recitals and special events.

BY MR. VEDOVA:

Q All right. And do you have any --

A And would have included blush too.

Q Okay.

A And lipstick.

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

do makeup on their own; is that true?

A Correct. Except for my younger daughter would have wanted one anyway. And I probably did not leave her out.

Q Okay. So how old do you think she was where she -- she got her first one? And this is -- which younger daughter, I'm sorry.

A Emma. They're six years apart. She would have been middle school when Sarah was -- she would have been in sixth grade when Sarah was in 12. So she probably got it younger than the other two girls got it. So maybe -- but we didn't let them wear makeup early even if she had it, not to go out with. So she probably was fifth or sixth grade, the younger one.

Q Okay. So if she's in fifth or sixth grade, this is in when Sarah is in high school --

A Yeah.

Q -- right?

A Yeah.

Q And that would have been the first time that you bought either an Estee Lauder or a Clinique holiday pack; is that true?

A To the best of my memory, yes. Now, I may -- I may have bought it when Sarah was earlier in high school and not bought Emma some. So, now -- I mean, I think I

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

bought it more than when Sarah was just a junior or senior. I think I started buying it when she was more like a freshman.

Q Okay.

A So maybe Emma didn't get the packs in the beginning.

Q Okay. So you think that the first time you bought one of these packs was when Sarah might have been 15 or 16, is that fair?

A Yeah.

Q Okay. And as you sit here can you describe for me what -- we'll do Estee Lauder first and then Clinique, okay -- what an Estee Lauder holiday pack looks like as you remember buying one.

A I think, as I remember, because I didn't often go into fancier department stores. I think my sisters --

Q Right.

A -- used to buy them and say, oh, you can get Clinique or Estee Lauder, a pretty good deal right now. I was thinking it was maybe some type of either a little drawstring Christmasy bag or it was a little makeup bag. And it would have like eyeshadow and maybe a lipstick and probably a blush or something in it. I don't remember if it had mascara. It was just kind of a small sampling of the line. Again, I don't know what the colors. I'm thinking possibly the Estee Lauder was a darker navy or something. But I don't know that

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

A Multiple, yeah.
Q -- two. One for each girl.
A Yeah.
Q Right?
A Yes.
Q Okay. And am I right that if you did this at Christmas one year, you if got Estee Lauder you probably got two Estee Lauders and no Clinique that year and then the next year it might be the other way around, correct?
A Correct.
MS. BOLLINGER: Objection to form.
BY MR. GLENN:
Q And so the first year you think you did this would have been for Sarah around age 15 or 16. So that puts her at what? What year are we? Around 2000, 2001-ish?
A Yes.
Q Okay. And, then, when is the last Christmas that you think you bought these as stocking stuffers?
A She graduated in 2004, 2005.
Q Right.
A It's a guess. Two thousand eight, maybe. But I really --
Q Maybe right --
A -- don't remember.
Q Maybe right before she went to Argentina?

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

EXHIBIT 3

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

SUSAN E. JENKINS,	CASE NO. JCCP4674
Plaintiff,	CASE NO. 37-2016-00025572-CU-AS-CTL
vs.	
AVON PRODUCTS, INC., et al.,	
Defendants.	(Pages 1 - 377)

VOLUME I

VIDEOTAPED DEPOSITION OF LISA GALLO

PMK of Avon Products, Inc.

Thursday, August 17, 2017

Reported by: DEBRA G. JOHNSON-SPALLONE, CCR, RPR

License NJ #30X100118200

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 15

strike that.

You have been designated by Avon Products, Inc., to speak on certain topics that are contained within this Notice.

Do you understand that?

A. Yes.

Q. Okay.

I'm not going to go through each topic and, perhaps, we can do this off the record.

MR. PURDY: For -- for counsel's purpose, I'm just going to -- I'm going to read off some numbers here, but, for Ms. Gallo, I have the following topics. I'm not going to read all the topics. Just the numbers for now, but 3, 5, 7, 8, 10, 11, 12, 13 through 22, 24, 25, 32, 34, 37, 40 and 41.

Those are my -- that's -- that's our understanding of the topics for which Ms. Gallo has been designated, and there are objections certainly within that Notice, but that is the understanding that I'm going off of, and you can verify that, perhaps, at a break.

MR. BROMBERG: We can certainly verify it at a break, and I can't go through all those that rapidly with the numbers.

Page 16

Subject to the objections that Avon served to the Notice setting forth the scope of whether and what Ms. Gallo will testify to with respect to individual topics, that will be accurate.

MR. PURDY: Okay.

Understood. All right.

CONTINUATION

BY MR. PURDY:

Q. Ma'am, do you understand in this case that the Plaintiff in this case used an Avon product which she alleged contributed to cause her disease?

A. I understand that.

Q. And you understand that -- strike that.

Do you further understand that specific to this case, Ms. Susan Jenkins used Avon Sweet Honesty Body Talc and Powder in certain years?

A. Yes.

Q. Do you have an understanding of what years she used that product?

A. I do.

Q. What is your understanding?

A. My understanding is 1995 through 2002.

Page 17

Q. Do you understand that she continued to use an Avon product beyond 2002?

A. Yes.

Q. What distinction does Avon draw between -- or strike that.

What significance is the year 2002?

A. That is the year that Avon started making body powder versus talc.

Q. Okay.

And I saw in -- in the documents, we'll talk about in a minute, the distinction between the term body powder and body talc.

Am I understanding that correctly to mean that any product called powder as opposed to talc that Avon made did not contain talc?

A. That's correct.

Q. Just as a sweeping generalization.

Is that true, or is there a certain date by which time all Avon talc products ceased to contain talc?

A. So, again, in 2002, Avon got out of talc in women's products. So, that would be the -- the specific year that would be designated as such.

Q. In part was the decision to move out of talcum powder as a result of potential health hazards associated with talc?

Page 18

A. There was a decision made by the company to -- again, Avon -- I'm not sure if you know that Avon, we are the company for women, which is important to our culture, and there were PR -- PR scares from the media associated with talc, and for that reason, Avon chose to stop using talc in women's products, and although there were no safety concerns whatsoever with any of our talc products, we did make the decision to -- to -- to get out of -- to get out of those types of products.

Q. Do you know the last year when Avon sold a product that contained talc?

A. A -- again, a -- a body talc product, and I want it distinct, because talc is the raw ingredient that is used commonly in the industry, and I just want to be clear about that.

So, in 2002, was when Avon stopped making women's talc-like body products.

Q. Okay.

(Pause)

Q. When did Avon first become aware of the potential for asbestos contamination in talc?

A. That would be in 1971.

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 79

-- what you could do is go into the historical brochures, and look and see per country what they were selling at the time if you are interested in. That would probably be the best way to find out.

CONTINUATION

BY MR. PURDY:

Q. As of 1995, are you aware of how many products would fit into the category of body talcum powder products that Avon was selling in the United States?

MR. BROMBERG: Same objection.

THE WITNESS: No.

Again, unless I went to a brochure and, you know, looked through and counted them, I would not -- I would not. I couldn't tell you right now.

I would have to go look in a brochure, and, once again, brochures are time based. They change every two weeks in the United States. So, we bring in new and -- and take out some stuff each two week period.

CONTINUATION

BY MR. PURDY:

Page 80

Q. Would your answer be the same if I asked you in the last year that Avon was making body talcum powder products, which I believe you had was established as 2002, would your answer be the same?

A. We -- we make powder products, right. We don't make any talc anymore now in the current stage, but I would do the same thing.

I would -- you know, we also have systems that are -- you know, we have -- we have systems just as GSAM that we could search on now. They don't go back as far as the 70's, that would tell us the sales for whatever body powders we were selling now.

Q. And how --

(Pause)

Q. Strike that. Okay.

Body talcum powder products are Avon a cosmetic products.

True?

A. They are a fragrance cosmetic product.

Q. They are not a medicine?

A. No, they are not a medicine.

Q. They serve no human healing purposes.

Page 81

True?

A. They are cosmetic.

Q. They've never been marketed or approved by the FDA for medicinal healing purposes.

True?

A. That's true.

Q. As an alternative to talc, at least one ingredient available to Avon, and, ultimately, used by Avon was cornstarch.

True?

A. Yes.

Q. They used a combination of cornstarch and mica.

True?

A. That's true.

Q. Does Avon currently use that mix for body powder products?

A. For body powder products, yes.

Q. Those alternatives have been available since, at least 1970, if not sooner; correct?

MR. BROMBERG: Objection.

If you know.

Beyond the scope.

THE WITNESS: Again, those are

Page 82

commonly used raw ingredients in the cosmetic industry.

But understand that there are, you know, different properties that we formulate to, and there was no safety concerns with talc. That was a commonly used raw ingredient that got the aesthetic properties we were looking for.

At the time -- again, I was not there at the time, but, again, properties change over time. So, you know, what -- what is available now gives a very good -- a very good finished product.

CONTINUATION

BY MR. PURDY:

Q. But Avon does admit that cornstarch was always available?

A. I'm not sure about cosmetic grade. I don't know if it was cosmetic grade cornstarch, and cornstarch is cornstarch, but, again --

Q. So, there is a cosmetic grade cornstarch?

A. Well, there's -- there's always -- what we use are cosmetic grade materials. You have to make sure that they are safe for use in cosmetic products, and, you know, as technology change, so do

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

EXHIBIT 4

ELECTRONICALLY FILED - 2024 Apr 23 4:17 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

7-2735-1HS (04C) #58854-06

INTERNATIONAL

% BY WT	CODE	PART A	# (LBS)	GALS/MLS
81.55000%	20899	MICA-BULK DENS.9.5 LB./FT3 ,	81.5500#	
15.00000%	20889	CORN (ZEA MAYS) STARCH-FRAG.	15.0000#	
		PART B		
1.50000%	0-0142	CALCIUM SILICATE-HYDROUS	1.5000#	
0.20000%	0-0043	ALLANTOIN	0.2000#	
		PART C		
1.00000%	0-0232	POE (20M) SORBITAN MONOLAURATE SD	1.0000#	
0.75000%	0-4225	SKIN-SO-SOFT N-11000	0.7500#	
100.00000%			100.0000# (LBS)	

INGREDIENT QUANTITIES MAY BE VARIED ONLY TO MEET FI SPECIFICATIONS AND NOT BY MORE THAN 5% WITHOUT THE APPROVAL OF PRODUCT DEVELOPMENT. COLOR INGREDIENTS, IF PRESENT, MAY BE VARIED AS NEEDED.

ELECTRONICALLY FILED - 2024 Apr 26 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

womblebonddickinson.com

WOMBLE BOND DICKINSON

Womble Bond Dickinson (US) LLP

One Wells Fargo Center
Suite 3500, 301 South College Street
Charlotte, NC 28202-6037

t: 704.331.4900
f: 704.331.4955

M. Elizabeth O'Neill
Direct Dial: 704-350-6310
Direct Fax: 704-338-7810
E-mail:Elizabeth.ONeill@wbd-us.com

April 26, 2024

Via Electronic Filing
Richland County Clerk of Court
1701 Main Street #205
Columbia, SC 29201

Re: *Sarah J. Plant and Parker Plant v. Avon Products, Inc., et al*. - 2022-CP-40-01265 – Missing Exhibits to Defendant Fabi Entities' Memorandum in Opposition to the Plaintiffs' Motion for a New Trial

Dear Honorable Clerk:

Please take notice that the attached deposition excerpts were inadvertently omitted as an exhibit from the Memorandum in Opposition to the Plaintiffs' Motion for a New Trial, which was filed on behalf of IMI Fabi, LLC and IMI Fabi (Diana), LLC on April 23, 2024. These exhibits are cited on pages 12 and 13 of the Memorandum, respectively.

Thank you for your consideration of this matter.

WOMBLE BOND DICKINSON (US) LLP

/s/ M. Elizabeth O'Neill
M. Elizabeth O'Neill

Cc: All Counsel of Record via the SC Courts E-Flex E-File System

ELECTRONICALLY FILED - 2024 Apr 26 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Missing Exhibit from Page 12

IMI Fabi (Diana), LLC; IMI Fabi, LLC; and IMI Fabi USA, Inc.'s Memorandum in Opposition to Plaintiffs' Motion for a New Trial

ELECTRONICALLY FILED - 2024 Apr 26 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND CASE NO. 2022-CP-40-1265

Sarah J. Plant and Parker Plant,

Plaintiffs,

vs.

Avon Products, Inc., et al

Defendants.

REMOTE VIDEOTAPED DEPOSITION OF IMI FABI DIANA, LLC, IMI FABI USA, INC., AND IMI FABI, LLC, GIVEN BY CORRADO FABI

DATE TAKEN: February 15, 2023

TIME BEGAN: 9:04 a.m.

TIME ENDED: 1:00 p.m.

REPORTED BY: Traci L. Barr

CERTIFIED TRANSCRIPT

AdvancedONE LEGAL (866) 715-7770 advancedONE.com

MS. BOLLINGER: Okay. I'm going to attach that as Exhibit 5.

(Exhibit Number 5 marked for identification.)

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. And for clarity, all of those cosmetic talc products would have come from the Guaguang province of China, correct?

A. Yes.

Q. Okay. You have mentioned Cosmetic Specialties a couple of times?

A. Yes.

Q. What is Cosmetic Specialities?

A. To IMI Fabi is a distributor for our pharma and cosmetic products.

Q. How long has Cosmetic Specialities been a distributor for the IMI Fabi entities pharma and cosmetic products?

A. Since the beginning, 2001.

Q. Between 2001 and today, has IMI Fabi ever used any other distributor for its pharma and cosmetic products?

A. No.

Q. I'm sorry. That was a no?

ELECTRONICALLY FILED - 2024 Apr 26 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

A. No.
Q. Do you know if there are any contracts between Cosmetic Specialities and IMI Fabi Diana?
A. There was between 2001 and 2004.
Q. Do those contracts still exist?
A. Well, not for Diana because Diana has ceased operation. Then in 2004, the distribution agreement was transferred to LLC, and since then, we have kept the relationship. Frankly speaking, I don't know if the 2004 contract is still valid. Maybe the validity has expired, but we have kept the relationship.
Q. Okay. I'm -- so I'm specifically asking about whether or not the physical copy of the contract between IMI Fabi and Cosmetic Specialities still exists today. Does it still -- do you have a physical copy of that contract?
A. Physical, no. Most likely, we did a digital copy, but I have to search.
Q. And that is not something that you produced --
A. Not yet.
Q. -- to --
A. No.
MS. BOLLINGER: Okay. I would just ask that, Elizabeth, if you could produce that to us, I

ELECTRONICALLY FILED - 2024 Apr 26 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

would appreciate it. And, ideally, we could attach that as Exhibit 6.

(Exhibit Number 6 marked for identification.)

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Do you know if IMI Fabi, LLC, still has the contract with Cosmetic Specialities from 2004?

A. The contract is valid because, I mean, we have kept, over the years, the same relationship, so --

Q. Okay.

A. -- Cosmetic Specialities is our distributor in US.

MS. BOLLINGER: Okay. And I would just ask that the IMI Fabi contract with Cosmetic Specialties be produced as Exhibit 7.

(Exhibit Number 7 marked for identification.)

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Sorry, Mr. Fabi, I'm trying to look at things to reorganize my questions based on what you've told me. Okay?

A. Take your time.

ELECTRONICALLY FILED - 2024 Apr 26 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Apr 26 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

CERTIFICATE

I, the undersigned, Traci L. Barr, RPR, Notary Public in and for the State of South Carolina, do hereby certify that the deposition of CORRADO FABI was taken on the 15th day of February, 2023, that the within deponent was sworn to tell the truth, and that the foregoing is an accurate transcription of the testimony taken under oath; that all exhibits entered herein are attached hereto (if requested by counsel) and made a part of this deposition.

I further certify that I am neither counsel nor solicitor to any of the parties in said suit, nor interested in the event of the cause.

In witness whereof, I have hereunto set my hand and seal this 16th day of February, 2023.

Traci L. Barr

Traci L. Barr, RPR
Notary Public for South Carolina
My Commission Expires: 4/24/29

ELECTRONICALLY FILED - 2024 Apr 26 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Missing Exhibit from Page 13

IMI Fabi (Diana), LLC; IMI Fabi, LLC; and IMI Fabi USA, Inc.'s Memorandum in Opposition to Plaintiffs' Motion for a New Trial

ELECTRONICALLY FILED - 2024 Apr 26 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND CASE NO. 2022-CP-40-1265

Sarah J. Plant and Parker Plant,

Plaintiffs,

vs.

Avon Products, Inc., et al

Defendants.

REMOTE VIDEOTAPED DEPOSITION OF IMI FABI DIANA, LLC, IMI FABI USA, INC., AND IMI FABI, LLC, GIVEN BY CORRADO FABI

DATE TAKEN: February 15, 2023

TIME BEGAN: 9:04 a.m.

TIME ENDED: 1:00 p.m.

REPORTED BY: Traci L. Barr

CERTIFIED TRANSCRIPT

AdvancedONE LEGAL (866) 715-7770 advancedONE.com

Q. Okay. Have you seen this document before?
A. Yes, I presume so. I mean, it's a purchase order. I don't know if I have seen this specific document, but, you know --
MS. O'NEILL: Can you tell me the Bates stamp number?
MS. BOLLINGER: The Bates stamp number is going to be -- well, I was about to until this thing popped up. Let me try to do it this way. Hold on one second. Okay.

EXAMINATION RESUMED

BY MS. BOLLINGER:
Q. Can you still see my screen okay?
A. Yes.
Q. All right. The Bates stamp number is IMI Fabi-Plant 000878. Do you see that, Mr. Fabi?
A. Yes.
Q. Okay. And this is a document dated August 31, 2001, correct?
A. Yes.
Q. And the vendor here is IMI Fabi Diana, correct?
A. Yes.
Q. And it is being shipped to Procter & Gamble care of Sterigenics, correct?
A. Yes.
Q. IMI Fabi sold talc 141, correct?

ELECTRONICALLY FILED - 2024 Apr 26 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Apr 26 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

CERTIFICATE

I, the undersigned, Traci L. Barr, RPR, Notary Public in and for the State of South Carolina, do hereby certify that the deposition of CORRADO FABI was taken on the 15th day of February, 2023, that the within deponent was sworn to tell the truth, and that the foregoing is an accurate transcription of the testimony taken under oath; that all exhibits entered herein are attached hereto (if requested by counsel) and made a part of this deposition.

I further certify that I am neither counsel nor solicitor to any of the parties in said suit, nor interested in the event of the cause.

In witness whereof, I have hereunto set my hand and seal this 16th day of February, 2023.

Traci L. Barr

Traci L. Barr, RPR
Notary Public for South Carolina
My Commission Expires: 4/24/29

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FIFTH JUDICIAL CIRCUIT
SARAH J. PLANT and PARKER PLANT,	)	
	)	Civil Action No. 2022-CP-40-01265
Plaintiffs,	)	
	)	
vs.	)	**SUPPLEMENTAL MEMORANDUM IN OPPOSITION TO THE PLAINTIFFS' MOTION FOR A NEW TRIAL**
	)	
AVON PRODUCTS, INC., *et al*.,	)	
	)	
Defendants.	)	
	)	

INTRODUCTION

This is an incredibly serious motion. After a weeklong trial, a jury determined that neither IMI Fabi (Diana), LLC, nor IMI Fabi, LLC, were responsible for the Plaintiffs' injuries. Instead, the jury determined that a different trial defendant – Whittaker, Clark & Daniels, Inc. – was responsible for those injuries and found it liable for approximately $29 million in damages.

Now, over a year after it was rendered, and in response to Whittaker, Clark & Daniels filing for bankruptcy protection, Plaintiffs are asking the Court to throw out the jury's verdict in violation of "South Carolina's strong policy towards finality of judgments." *Bowman v. Bowman*, 357 S.C. 146, 152, 591 S.E.2d 654, 657 (Ct. App. 2004).

Plaintiffs filed their motion on March 1, 2024, claiming "newly discovered evidence" supported their motion. According to Plaintiffs, all of this "new" evidence somehow linked one of the IMI Fabi companies to a cosmetics manufacturer whose talc-containing products Ms. Plant had previously used or to whose products Ms. Plant had previously been exposed.

But this was a gross overstatement. Every piece of so-called "new" evidence identified in Plaintiffs' motion simply referred back to information that Plaintiffs already had in advance of trial – some of which they had had for more than six months before the *Plant* trial. Nowhere in

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

any of their submissions to this Court do Plaintiffs reveal this fact. Instead, they lean into heated rhetoric intended to distract this Court from clear-eyed evaluation of the true facts and application of the law. The reason for this is clear: the facts show this case falls squarely within South Carolina jurisprudence that blocks precisely the type of new-trial request Plaintiffs are making. *See generally Raby Constr., LLP v. Orr*, 358 S.C. 10, 21–23, 594 S.E.2d 478, 484 (2004) (denying motion for new trial based on "newly discovered" evidence when the adverse party testified about the information during a deposition but the movant never followed up).

What's more, Plaintiffs did not identify anything at all to overcome their evidentiary failure at trial to show that either IMI Fabi entity sold talc that was contaminated with asbestos. Whether a defendant produced talc containing asbestos was a key point of trial – three of Plaintiffs' experts testified that this was a dispositive point, Plaintiffs themselves relied on this point to dodge a directed verdict, they brought it up again during closing arguments, and they even relied on this point in response to Whittaker, Clark & Daniels' post-trial motion – but there was no proof of such contamination of any IMI Fabi talc presented at trial. And there is no such proof in Plaintiffs' new-trial motion either. Not in Plaintiffs' first motion, not in the chart they filed on June 11, 2024, and not in their latest submission from July 22. Despite two hearings and three separate filings comprising 80 pages in total, Plaintiffs have provided nothing that warrants a new trial under South Carolina law.

Plaintiffs ***still*** fail to identify any law to support their argument. In fact, their post-hearing submissions don't cite a single case, rule, statute, or any other legal authority. This is not an oversight: South Carolina law could not be clearer that a new trial cannot happen under these circumstances.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Plaintiffs ***still*** fail to identify any "new evidence" that would suggest that talc from either IMI Fabi entity contained asbestos. That was a complete failure of proof during trial, it was a complete failure in their initial motion, and it remains a complete failure in their supplemental filings. But this was a dispositive point at trial, and the continued absence of anything that could support this element of Plaintiffs' claim should result in their motion being denied.

And Plaintiffs ***still*** fail to link a single product that Ms. Plant ever used to any talc produced by either IMI Fabi entity. They have identified additional documents to indicate that various manufacturers placed orders for talc from Cosmetic Specialties Inc., but that was no mystery and is not a new revelation – it was obvious from documents that the IMI Fabi entities produced before trial and the testimony Corrado Fabi gave at his deposition.

The motion ***still*** fails as a matter of South Carolina law and should be denied. This continuing failure of proof fully defeats Plaintiffs' motion as a matter of law. *See, e.g.*, *Lanier v. Lanier*, 364 S.C. 211, 217, 612 S.E.2d 456, 459 (Ct. App. 2005) (explaining that so-called "newly discovered evidence" must "probably change the result if a new trial is granted," among other elements for a Rule 60 motion to succeed).

STANDARD OF REVIEW

Rule 60(b), SCRCP, vests the trial court with discretion to grant a new trial only under limited circumstances. "Disappointment" is not one of them. Nor is failure to produce every document that in hindsight can be argued to have been one Plaintiffs might have used at trial. Rule 60(b)(2) permits a new trial when a movant has "newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b)." Rule 60(b)(3) permits a new trial when there is "fraud, misrepresentation, or other misconduct of an adverse party." In all instances, though, the Court considers all reasonable inferences in the light

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

most favorable to the nonmoving party – here, the remaining IMI Fabi entities. *Vinson v. Hartley*, 324 S.C. 389, 405, 477 S.E.2d 715, 723 (Ct. App. 1996).

ARGUMENT

I. Plaintiffs either already knew about in advance of trial or could have discovered in advance of trial the information that they are now complaining about.

Plaintiffs' briefs and chart are loaded with allegations about "misrepresentations" about the IMI Fabi entities' relationship with Cosmetic Specialties and about the ultimate end-user of talc produced by the IMI Fabi entities. Curiously absent is any acknowledgment by Plaintiffs that as early as May 2022, their counsel had evidence showing IMI Fabi talc was approved for use by Avon. (Exhibit A) Also absent is any disclosure this same evidence was subsequently re-produced to Plaintiffs' counsel by Avon ***in the Plant case itself***. (Exhibit B) The characterization of the discovery of the Avon-Fabi connection as "new evidence" is indisputably inaccurate, and it is emblematic of the overall insufficiency of Plaintiffs' motion.

There were no "misrepresentations" in Mr. Fabi's testimony, either in deposition or at trial. Instead, Plaintiffs' arguments amount to nothing other than a game of semantics about how the IMI Fabi entities sold talc to Cosmetic Specialties – a game of semantics that is an especially precarious basis on which to seek a new trial given the fact that Mr. Fabi is not a US citizen and English is not his first language.

IMI Fabi's "Customers." At trial, Mr. Fabi testified that Cosmetic Specialties does not share its customer list. Even Cosmetic Specialties concurs with this statement. Mr. Grexa does not recall ever sending IMI Fabi any kind of report on his marketing or sales.

> Q. Do you recall creating any kind of written market analysis or market condition report, any kind of written document, during the 2005 – 2015 time frame?
>
> A. No.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

(Exhibit C *Lee v. Bi-Mart Corporation,* (Multnomah County, OR. March 6, 2024) at 26:8-12. Despite Plaintiffs' insistence otherwise, there is nothing untruthful about that statement at all (and it would not require a new trial even if it was not true).

Plaintiffs have concocted a theory that because Cosmetic Specialties would occasionally have talc shipped directly from the IMI Fabi facility loading dock to some of Cosmetic Specialties' customers, and because some of Cosmetic Specialties' customers inquired about IMI Fabi's talc, Mr. Fabi must have been lying to the jury. Plaintiffs' argument is nothing but a false assumption.

In reality, Mr. Fabi was completely truthful when he testified that Cosmetic Specialties was the customer of the IMI Fabi entities, and the ultimate end-users were customers of Cosmetic Specialties. That Cosmetic Specialties would sometimes have the IMI Fabi entities place placards identifying the ultimate end user of the talc on a shipment does not change this fact.

Perhaps most telling, Cosmetic Specialties itself rejects Plaintiffs' post-trial spin:

> Q: Does CSI consider Revlon one of its customers or an IMI Fabi customer?
>
> A: Yes, we would consider Revlon a CSI customer.

(Ex. D, Dep. Grexa in *Lozano v. Johnson & Johnson* (Los Angeles County, CA Jan. 9, 2024).) at 53:19-25; *See also*, Ex. E, Grexa Dep. in *Diaz v. Amerilure, Inc.* (Los Angeles County, CA. Nov. 21, 2013) at 142:3-6: "IMI Fabi would not be involved in --- with documents with regard to Revlon. The relationship would be between Revlon and Cosmetic Specialties.")

Discovery from Cosmetic Specialties. The overwhelming majority of Plaintiffs' supplemental brief derives from its post-trial discovery efforts aimed at Cosmetic Specialties. But Plaintiffs completely failed to undertake any discovery from Cosmetic Specialties before the *Plant* trial despite being fully informed by the IMI Fabi entities that Cosmetic Specialties was IMI Fabi's

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

primary customer, and that Mr. Grexa was both the company's owner and the IMI Fabi entities' contact with Cosmetic Specialties:

> Q: So do you have any documents or–do you have any documents stating that Cosmetic Specialties has tested IMI Fabi's talc–cosmetic talc products and determined—
>
> A: No, I don't have any document.
>
> Q: No documents. Okay. But you know that they tested the products?
>
> A: Yes, but from time to time I spoke to Ron Grexa.
>
> Q: Ron Grexa was your contact with Cosmetic Specialties?
>
> A: Ron Grexa is the owner of Cosmetic Specialties.

(Ex. F, Dep. Fabi, 100:5–16)

Plaintiffs' failure to do any discovery regarding Cosmetic Specialties in advance of trial is certainly not the fault of either IMI Fabi entity, but that failure forecloses their motion for a new trial. *See, e.g.*, *Bowman*, 357 S.C. at 153, 591 S.E.2d 654, 657–58 (denying a Rule 60 motion based on information that could have been gleaned from a deposition of a third-party witness, but "Husband elected not to take [that witness's] deposition" in advance of trial).

Manufacturers. The IMI Fabi entities have already rebutted Plaintiffs' argument that the "newly discovered" evidence regarding shipments to manufacturers somehow impacts their motion. In their supplemental filings, Plaintiffs only present more of the same, and the IMI Fabi entities' prior rebuttals continue to hold true.

To be clear: Plaintiffs had information well in advance of trial regarding Avon's approval of the IMI Fabi entities as a vendor of talc (that also identified Cosmetic Specialties as the distributor of that talc) because Avon itself produced those records to the Plaintiffs. (Exhibits A & B) Plaintiffs did not need a thing from IMI Fabi to put those records into evidence. Plaintiffs made the pretrial decision not to pursue anything else with the IMI Fabi entities regarding Avon, and

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

they made the in-trial decision not to show these documents to the jury. But Plaintiffs are plainly incorrect when they suggest that they have somehow learned "new information" post-trial about Avon using IMI Fabi talc: they've known it all along because Avon told them so multiple times in multiple cases ***including in the Plant case***. (Ex. B)

The same is true of Procter & Gamble (and Sterigenics). Plaintiffs title Section II of their supplemental brief "IMI Fabi Sold Talc to Proctor [sic] & Gamble," and they spend over seven pages outlining materials they claim show that Procter & Gamble purchased IMI Fabi talc. But this was never in doubt. Mr. Fabi testified at length about Procter & Gamble during his deposition. (Ex. F at 36:14–24, 57:15–70:3) He even stated: "We are aware that Cosmetic Specialties sold our products to Procter & Gamble." (*Id.* 63:7–9)

This was so unremarkable, counsel for the IMI Fabi entities told the jury during opening statements that "there's no dispute" that Procter & Gamble purchased IMI Fabi talc. (Ex. G, Trial Tr. 280:13–17) Mr. Fabi then confirmed it at trial.

> Q: You are aware that IMI Fabi (Diana) and LLC sold talc that ended up going to Procter & Gamble; correct?
>
> A: Yes.

(*Id.* at 1197:19–21) And counsel for IMI Fabi repeated this again in closing: "So, did we sell some talc that got shipped to Procter & Gamble? Oh, absolutely." (*Id.* at 2026:11-12) There is simply nothing new in Plaintiffs' motion that they didn't already know before trial, and there is certainly no basis for a new trial.

The same is true of Revlon. Plaintiffs title Section III of their supplemental brief "IMI Fabi Sold Its Talc to Revlon." But this was known before trial; Plaintiffs even admit this exact point in their opening motion. (*See* Pls.' Mot. at 6 (conceding "a few Revlon documents and a number of Cover Girl documents were disclosed" during discovery in advance of trial).) The IMI Fabi entities

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

produced bills of lading and purchase orders (from Cosmetic Specialties) that unambiguously disclosed that Revlon was the anticipated ultimate user of the talc. (*E.g.*, Exhibit H, IMI Fabi-Plant 000834 through 836) And they produced a "certification" from Mr. Brown – the IMI Fabi (Diana) plant manager who submitted an affidavit at the outset of the *Plant* case, but who Plaintiffs failed to depose – to Cosmetic Specialties regarding Talc 141 specifically in response to Revlon orders. (*Id.,* IMI Fabi-Plant 000840)

And even if at the time of the *Plant* trial Plaintiffs had the documents from IMI Fabi (Diana) that contain the word "Revlon," there is no way to know if this would have carried the day for them. Because in addition to the fact there is not a shred of evidence that any IMI Fabi talc contains asbestos, Revlon purchased talc from multiple suppliers. (*See* Exhibit C at 26:18-27:5)

Finally, regarding Estee Lauder and L'Oreal, counsel for Plaintiffs never asked Mr. Fabi during his deposition whether either of the IMI Fabi entities ever shipped talc to these manufacturers or had any interaction with either company. Instead, the questions asked of Mr. Fabi only inquired as to whether he knew if either of those companies' cosmetic products "specified any IMI Fabi talc." He rightly answered that he did not know. (Exhibit F at 87:11-25) And he still does not know today because Plaintiffs have not produced to this Court a single formula showing IMI Fabi talc used in L'Oreal or Estee Lauder products – and they certainly did not have such evidence in the *Plant* trial.

This is not surprising, as talc manufacturers and distributors typically do not know for what exact purpose the end users purchase talc. Estee Lauder representatives have even confirmed that suppliers like the IMI Fabi entities "do not know the application that we're using their particular raw material in." (Exhibit I, Estee Lauder 30(b)(6) Dep. 56:13 to 58:9, in *Perry v. Am. Int'l Indus.* (Richland County, SC May 9, 2024); *see also*, Exhibit C at 49:13-18)

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And Mr. Grexa has confirmed that this information is withheld from talc suppliers over and over again in depositions. (*See, e.g.*, Exhibit C at 28:15–35:15, 40:22–24, 41:11–14. "Q: And to—and all of the talc that CSI sold to Revlon was intended for makeup products; correct? A: I have no idea. . . . Q: Do you know what products Revlon manufactured that contained the talc that CSI sold it? A: No.").)

And it is not just Estee Lauder and Revlon who choose not to disclose to suppliers the specific products in which the talc will be used. Mr. Grexa has also confirmed that even he – the person who is dealing directly with the product manufacturer on a regular basis – has no knowledge of what Procter & Gamble was purchasing the talc for, or if any IMI Fabi talc went into the Cover Girl brand or some other product. (Exhibit E at 130:23-131:7; Exhibit C at 48: 17-19)

It is entirely misleading for Plaintiffs to seek a new trial based on allegations that Mr. Fabi lied about knowing whether these companies purchased IMI Fabi talc when they never even asked him about that in advance of trial or during trial. Instead, they simply asked him if he knew whether Estee Lauder or L'Oreal[1] "specified any IMI Fabi talc" in a particular product of theirs; Mr. Fabi testified that he did not know, which is entirely truthful. The absence of an evidentiary link between IMI Fabi talc and a specific product manufactured by either of these companies remains a dispositive gap in Plaintiffs' proof at trial that fully blocks this motion.

[1] And, of course, as Plaintiffs now know: CSI had no sales to L'Oreal between 2005 – 2015 – which is ***before*** the years Ms. Plant claims to have used products from that company. *See* Exhibit J – Deposition of Sarah Plant V1 at 40:12-13, 81:18-24, 92:20-21; V2 at 437:6-10; Exhibit K; Exhibit C at 38:1-8.

Similarly, CSI stopped selling talc to Maybelline before 2005. *Id., see also* Exhibit L. Thus, even if a new trial was warranted because of the subsequently discovered evidence regarding these products — and it is not — it could only be granted as to IMI Fabi (Diana) LLC because that is the only company whose talc CSI sold to either L'Oreal or Maybelline's parent, Lancôme.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

II. Nothing Plaintiffs are now complaining about would move the needle with the jury, much less would "probably" result in a different verdict.

All of the noise created by Plaintiffs' filings is meaningless unless they can show that the "new" information would likely prompt a jury to reach a different outcome. *Lanier*, 364 S.C. at 217, 612 S.E.2d at 459. Otherwise, the "new" evidence is either merely cumulative or irrelevant. *See, e.g.*, *Jamison v. Ford Motor Co.*, 373 S.C. 248, 272–73, 644 S.E.2d 755, 768 (Ct. App. 2007) (affirming denial of a Rule 60 motion based on the plaintiff's post-trial discovery of a Ford brochure regarding a car model because the brochure still would not have proven the "feasible alternative design" element of the plaintiff's claim).

But this is a fundamental problem with Plaintiffs' motion. Nowhere within their 80 pages of filings do Plaintiffs ever point to a single manufacturer's formula that actually puts any IMI Fabi talc in any product that Ms. Plant ever used or to which she was ever exposed. Showing that IMI Fabi talc got shipped to Procter & Gamble, for instance, does not prove that any IMI Fabi talc was ever included as an ingredient in any Procter & Gamble cosmetic product, much less one that Ms. Plant used.

This was an enormous evidentiary hole in Plaintiffs' case at trial, and the IMI Fabi entities rightly walked the jury through this hole during closing arguments:

> So, did we sell some talc that got shipped to Procter & Gamble? Oh, absolutely. Mr. Roberts told you that in opening, and, in fact, there are a few pieces of paper in 70 or 71 that say that. So what?
>
> Procter & Gamble made all kinds of makeup. It doesn't mean it got in Covergirl. It doesn't mean it got in something Ms. Plant used. There's argument that IMI Fabi was Covergirl's sole supplier. There's no evidence of that.
>
> What Dr. Haber [a Plaintiffs' expert] was asked is to talk about that summary chart, Exhibit 60, and then he admitted, "Oh, yeah, I don't know anything about the manufacture of those products. I don't know about Procter & Gamble or what they did or how they made things."

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

> So, there's no evidence to connect that dot. That's what we're missing. Where is the Procter & Gamble evidence? There's no witnesses from Procter & Gamble. There's no documents. That means no causation.

(Exhibit G at 2026:11–2027:3)

That evidence is still missing today. Nothing in Plaintiffs' submissions – not their opening motion, not their argument at any hearing, not their "chart," and not their "supplemental motion" – even tries to address this fundamental flaw in their case. There is no "newly discovered" evidence that shows any IMI Fabi talc being included as an ingredient in any specific product that Ms. Plaint ever used, and this dispositive point isn't even addressed in Plaintiffs' filings. And at this stage of the proceedings, the Court must view the absence of proof from Plaintiffs and all inferences that flow from that absence in favor of the IMI Fabi entities and in favor of affirming, not throwing out, the jury's verdict. *Vinson v. Hartley*, 324 S.C. 389, 405, 477 S.E.2d 715, 723 (Ct. App. 1996).

The same is true of their absence of proof that any IMI Fabi talc was contaminated with asbestos. This, too, was an enormous evidentiary hole in Plaintiffs' case at trial, and the IMI Fabi entities rightly walked the jury through this hole during closing arguments as well:

> So, where does that leave us? That leaves us China. And what did you hear about China? Dr. Longo said things like, "All Chinese talc is the same." He's checked it. He's checked it all.
>
> And there are a couple of things in evidence. There is Plaintiff's Exhibit No. 3804, which is one of those charts that the lawyers made, and it's a summary of MAS testing from Italy, Vermont, Montana, Brazil, and China, and when you flip to the back and you look at China, where did it come from? Chanel, Johnson & Johnson, Johnson & Johnson, Johnson & Johnson, Johnson & Johnson, and Avon. Not IMI Fabi. Not even Procter & Gamble.
>
> There's another one, Plaintiffs' Exhibit 3677. The first 43 pages are pictures of Johnson & Johnson products. And then, when you go all the way to the back here, there is some references to China. Some Chinese talc from someplace called Imerys, J&J, J&J, J&J, J&J, Chanel. Nothing about IMI Fabi.
>
> Now, Dr. Longo says it's all the same. It's 90,000 square miles. That's three times the size of the state of South Carolina. So, saying it's all the same, I

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

think that's kind of like saying all American barbecue is the same, and it's 20 to 1:00 so the Lady Gamecocks have tipped off, but if they were here today and you went over to the Palmetto Pig over by the arena, that's where you're going to get South Carolina barbecue. Going to Midwood's Smoke House? That's not barbecue.

Same concept applies to saying China. All talc in all 90,000 square miles is exactly the same? It's not reasonable. It's not a reasonable conclusion. Unless you have been to the mine where IMI Fabi is getting its talc and you tested that, you don't know what's in it or what's not in it, and none of that evidence came to you today.

The only person who came and testified to you about that was Mr. Corrado Fabi. He said, before he got in the business, he went to China, and they looked with his team to find the most pure talc they could find, and they tested it, and they rejected the stuff that had asbestos in it. He wouldn't buy it because he didn't want to have a cosmetic talc source with asbestos in it to start.

And you heard some testimony about—I think it was J&J and Pfizer trying to, like, remove asbestos from talc. IMI Fabi (Diana) and IMI Fabi LLC didn't do that. They didn't even want that question. They said, "We want to it start out pure. We're not going to try to take it out. We don't want it in there in the first place."

And they said that, and then they checked to make sure. And they checked and they checked and they checked and they checked. And that's important because, if there's no asbestos in the product that IMI Fabi sold, then it can't cause mesothelioma. Even the plaintiffs' expert—this is Dr. Haber who said that: "Doctor, do you agree that talc without asbestos does not cause malignant mesothelioma?"

ANSWER: "As far as I know, that's true."

So I submit to you that for my clients, IMI Fabi (Diana) and IMI Fabi LLC, the plaintiffs have failed to meet their burden of proof with respect to the question of whether or not there, in fact, is asbestos in any of the cosmetic talc sold by IMI Fabi (Diana) or IMI Fabi LLC.

And so, I would ask you, when you get the verdict form, and you're asked about the theories of liability for each of them, for IMI Fabi (Diana) and IMI Fabi LLC, you check no, because the plaintiffs have failed to meet the first thing they need on their burden of proof.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

(Exhibit G at 2018:22–2021:11)[2]

And there cannot be any doubt that the jury understood this was a clear failure of proof by Plaintiffs. The jury was specifically asked whether either IMI Fabi entity was liable under "strict liability" and "breach of warranty" theories, which require proof that the defendant sold "defective products"; the jury answered "No" as to both IMI Fabi entities on both questions. (Exhibit M, Verdict Form, at Questions 5, 6, 8, 9)

Plaintiffs' motion for a new trial does not address this complete failure of proof at trial. Accordingly, it fails as a matter of law. *E.g.*, *Jamison*, 373 S.C. at 272–73, 644 S.E.2d at 768; *Lanier*, 364 S.C. at 217, 612 S.E.2d at 459; *see also Morin v. Innegrity, LLC*, 424 S.C. 559, 578–79, 819 S.E.2d 131, 141–42 (Ct. App. 2018) (affirming the denial of a Rule 60(b) motion because the "newly discovered evidence" was not "outcome-changing").

CONCLUSION

"Appellate courts recognize – or at least they should recognize – an overriding rule of civil procedure, which says: whatever doesn't make any difference, doesn't matter." *McCall v. Finley*, 294 S.C. 1, 4, 362 S.E.2d 26, 28 (Ct. App. 1987).

This is a basic defect with Plaintiffs' motion. They have overloaded the Court with citations to information they claim is "newly discovered" (and charged rhetoric aimed at inflaming the Court), but it is not. Some of their "new" evidence was actually available to them before and during the *Plant* trial. The rest is no different in kind to information they had in advance of trial and either failed to pursue in discovery or failed to present to the jury. And in no event have Plaintiffs

[2] Plaintiffs argue throughout their papers that they seek to use their "newly discovered" evidence to challenge Mr. Fabi's credibility; the law specifically forbids this as a basis for a new trial. *See, e.g.*, *Morin v. Innegrity, LLC*, 424 S.C. 559, 578-79, 819 S.E.2d 131, 141-42 (Ct. App. 2018) (explaining that "newly discovered evidence" aimed at impeachment is "a category that can never carry the day on a Rule 60(b)(2) motion").

identified anything that closes the two dispositive evidentiary holes in their case: they still have nothing to show that an IMI Fabi entity sold talc containing asbestos, and they still have nothing to show that Ms. Plant was ever exposed to a cosmetic product that contained any IMI Fabi talc.

This case presents no basis at all to disrupt the jury's verdict, which is one of the most sacred bedrocks of American jurisprudence and constitutional law. South Carolina law prohibits the Court from accepting Plaintiffs' invitation to throw out the jury's work in this case, and the motion should be denied.[3]

Respectfully submitted this 29th day of July, 2024.

WOMBLE BOND DICKINSON (US) LLP

/s/ *M. Elizabeth O'Neill*
M. Elizabeth O'Neill (S.C. Bar No. 104013)
M. Todd Carroll (S.C. Bar No. 74000)
Theodore F. Roberts (S.C. Bar. 104986)
301 S. College Center
301 S. College Street, Suite 3500
Charlotte, North Carolina 28202-6050
(704) 350-6310; Elizabeth.ONeill@wbd-us.com
(803) 454-7730; Todd.Carroll@wbd-us.com
(410) 545-5875; Ted.Roberts@wbd-us.com
Other email: WBD.SCAsbestos@wbd-us.com

Counsel for IMI Fabi, LLC and IMI Fabi (Diana), LLC

[3] To the extent not specifically addressed herein, the IMI Fabi entities incorporate their prior arguments and authorities in opposition to Plaintiffs' motion, including their continuing objection to personal jurisdiction and their direct rejection of the notion that any kind of "fraud" has happened here. It is impossible to argue that the IMI Fabi entities have committed any kind of "fraud" when Plaintiffs concede that they produced in advance of trial information that disclosed ultimate end users of talc manufactured by the IMI Fabi entities. And, as discussed above in the text, nothing they've included in their arguments could result in a different jury verdict, rendering their motion defective as a matter of law.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

EXHIBIT A

E-SERVICE
67650514
May 23 2022
03:38PM
File & ServeXpress
ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Claire C. Weglarz (SBN 233609)
Macy M. Chan (SBN 245226)
Fred B. Lee (SBN 279011)
HAWKINS PARNELL & YOUNG LLP
445 South Figueroa Street, Suite 3200
Los Angeles, California 90071
Telephone: 213.486.8000
Facsimile: 213.486.8080
Email: *flee@hpylaw.com*

Keith M. Ameele (SBN 221927)
Peter M. Mularcyzk (SBN 288329)
Kimberly L. Rivera (SBN 205528)
FOLEY & MANSFIELD, PLLP
181 W. Huntington Drive, Suite 210
Monrovia, California 91016
Telephone: 213.283.2100
Facsimile: 213.283.2101
Email: *kameele@foleymansfield.com*

Attorneys for Defendant,
AVON PRODUCTS, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Coordinated Proceeding Special Title (Rule 3.550) LAOSD ASBESTOS CASES	CASE NO. JCCP4674 *ASSIGNED TO THE HONORABLE LAWRENCE P. RIFF IN DEPARTMENT 15, COORDINATION TRIAL JUDGE*
RITA-ANN CHAPMAN and GARY CHAPMAN, Plaintiffs, v. AVON PRODUCTS, INC., et al. Defendants.	LASC CASE NO. 22STCV05968 **DEFENDANT AVON PRODUCTS, INC.'S RESPONSES TO PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS, SET ONE** Complaint Filed: February 16, 2022 Trial Date: None Set

PROPOUNDING PARTY: Plaintiff RITA-ANN CHAPMAN

RESPONDING PARTY: Defendant AVON PRODUCTS, INC.

SET NO.: ONE (1)

///

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

PRELIMINARY STATEMENT

The responses of Avon Products, Inc. ("Avon") to these requests are based on documents located to date and information available to Avon as of the date of these responses. Avon has departments and divisions and employees at numerous locations. These departments, divisions and employees have changed over the years; employees have died, retired and/or moved. Many of Avon's facilities have been substantially changed, sold, or overhauled over the years. In responding to discovery, Avon has made a good faith effort to obtain information responsive to these interrogatories.

In addition, Avon and its attorneys have not completed their discovery or preparation for trial, nor have they concluded their analysis of information gathered to date. Furthermore, Plaintiffs have failed to provide complete discovery responses and have failed to identify with specificity the full details of their claims against Avon. These objections and responses, therefore, are based upon information presently available to Avon and its attorneys and specifically known to individuals preparing these responses. Therefore, the objections and responses are made without prejudice to the right of Avon to supplement, amend, revise, correct or otherwise clarify the objections or responses or to provide evidence at the time of trial. Avon's agreement (subject to and without waiving its objections) to investigate whether it has responsive information and respond to certain requests is not, and should not be deemed, an admission that Avon possesses the information sought by a request.

These responses are given without prejudice to Avon's right to produce evidence of any subsequently discovered facts. In responding to these requests, Avon does not concede the relevance, materiality or admissibility of any information sought by these requests or of any responses thereto. These responses are specifically made subject to and without waiver of any objections in any proceedings, including trial.

Avon does not concede that any of its responses to these requests are, or will be, admissible evidence at a trial of this action, and Avon does not waive any objection on any ground, whether or not asserted herein, to the use of any such answer at trial. Avon's production of documents in this proceeding, if any, shall not, for the purposes of this proceeding, or any other proceeding in any other court, constitute a waiver of any privilege applicable to those documents, including the attorney client privilege.

This Preliminary Statement is explicitly incorporated into each of the applicable responses hereinafter provided as if it were fully set forth therein at length. Subject to the above Preliminary Statement, Avon hereby submits its Objections and Responses to Plaintiff's Requests for Production of Documents Propounded to Avon Products, Inc. as follows:

GENERAL OBJECTIONS

Avon objects to the extent these requests seek information or documents that are publicly available and therefore readily available to Plaintiffs, as the burden of obtaining such information and documentation is the same for the Plaintiffs as it would be for Avon.

Avon objects to these requests to the extent it calls for information protected by the work-product doctrine, the attorney-client privilege, and violates the privileges contained in Code of Civil Procedure section 2018.010, *et seq*. No response will be given for requests which invade the attorney-client or work-product privilege. Avon also objects to these requests to the extent that they seek the disclosure of information or documents that contain private, proprietary, confidential, trade secret, or sensitive financial information.

Avon objects to the extent Plaintiffs seek information that is not in the possession, custody, or control of Avon and to the extent it requests Avon to obtain information from unrelated sources or entities. Avon further objects to the extent the requests for documents require Avon to produce or organize documents in a manner not consistent with its business or filing practices, and therefore is unduly burdensome and harassing.

Avon objects to all requests to the extent they imply or assume that Plaintiff Rita Chapman actually has an asbestos-related disease or injury allegedly related to asbestos. Avon in no way admits, by responding to these requests, proffering a corporate designee to testify, or producing any documents, that Plaintiff Rita Chapman has an asbestos-related disease or injury. The burden of proof is on Plaintiff Rita Chapman to prove that she has an asbestos-related disease and Avon has a constitutional right to deny the same.

/ / /

/ / /

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Avon objects to all requests that might be interpreted to include an inquiry about any product other than the specific Avon products at issue, specifically the Bird of Paradise, Charisma, Cotillion, Elusive, Hawaiian White Ginger, Here's My Heart, Honeysuckle, Jasmine, Lilac, Lily of the Valley, Moonwind, Persian Wood, Rapture, Skin So Soft, Topaze, To a Wild Rose, and Unforgettable talcum powders actually identified by Ms. Chapman during her recently-concluded deposition. Information concerning products not at issue in this matter is not relevant to this matter. Inquiry into products not reasonably identified in this matter is not reasonably calculated to lead to discovery of admissible evidence. Further, such an inquiry is objected to as overly broad, unduly burdensome and vague.

Avon objects to all requests which might be interpreted to include any time period other than the time period at issue. Any inquiry about other time periods is not relevant to this case, nor is it reasonably calculated to lead to the discovery of admissible evidence. Further, such an inquiry would be overly broad, unduly burdensome, and vague.

Avon reserves the right to supplement, amend, revise, correct or otherwise clarify the objections or answers set forth herein, as discovery and investigation are continuing.

These General Objections are explicitly incorporated into each of the responses hereinafter provided as if the same were fully set forth therein at length.

DEFENDANT AVON PRODUCTS, INC.'S RESPONSES TO PLAINTIFF'S RITA-ANN CHAPMAN'S REQUEST FOR PRODUCTION OF DOCUMENTS, SET ONE

REQUEST FOR PRODUCTION NO. 1:

Please produce all formula cards for each shaker talc product Avon sold from 1960 to 1970.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

See Preliminary Statement and General Objections. Avon further objects to this Request as overbroad and unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information irrelevant to Plaintiff's claims in time, geography, and scope. Avon likewise objects to this Request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information regarding the manufacture of Avon products not at issue in this case, or regarding the manufacture of Avon products outside the time period at issue

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

in this case. Information concerning products and/or timeframes not at issue in this matter are not relevant to this matter.

Avon further objects on the grounds that this Request implies or assumes that Avon has ever possessed such responsive documents or information. Avon has departments and divisions and employees at numerous locations. These departments, divisions and employees have changed over the years; employees have died, retired and/or moved. Many of Avon's facilities have been substantially changed, sold or overhauled over the years. Avon is not specifically aware of any responsive documents failing to survive the passage of time, however, guaranteeing full and complete documentation relating to a time frame of more than half of a century is impossible.

Subject to and without waiving these objections, Avon states, with respect to product formulas requested from 1960 to 1969, *see* documents previously produced to counsel, at AV_GRAHAM_000001 – AV_GRAHAM_000106. With respect to the product formulas requested for the year 1970, Avon states, *see* documents previously produced to counsel, at AV_MOORE_000001 – AV_MOORE_000049; AV_MOORE_000369 – AV_MOORE_000464; and AV_MOORE_011155 – AV_MOORE_012084.

REQUEST FOR PRODUCTION NO. 2:

Please produce all formula cards for each beauty dust talc product Avon sold from 1960 to 1970.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

See Preliminary Statement and General Objections. Avon further objects to this Request as overbroad and unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information irrelevant to Plaintiff's claims in time, geography, and scope. Avon likewise objects to this Request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information regarding the manufacture of Avon products not at issue in this case, or regarding the manufacture of Avon products outside the time period at issue in this case. Information concerning products and/or timeframes not at issue in this matter are not relevant to this matter.

Avon further objects on the grounds that this Request implies or assumes that Avon has ever possessed such responsive documents or information. Avon has departments and divisions and

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

employees at numerous locations. These departments, divisions and employees have changed over the years; employees have died, retired and/or moved. Many of Avon's facilities have been substantially changed, sold or overhauled over the years. Avon is not specifically aware of any responsive documents failing to survive the passage of time, however, guaranteeing full and complete documentation relating to a time frame of more than half of a century is impossible.

Subject to and without waiving these objections, Avon states, with respect to the product formulas requested from 1960 to 1969, *see* documents previously produced to counsel, at AV_GRAHAM_000001 – AV_GRAHAM_000106. With respect to the product formulas requested for the year 1970, Avon states, *see* documents previously produced to counsel, at AV_MOORE_000001 – AV_MOORE_000049; AV_MOORE_000369 – AV_MOORE_000464; and AV_MOORE_011155 – AV_MOORE_012084.

REQUEST FOR PRODUCTION NO. 3:

Please produce all formula cards for each sachate talc product Avon sold from 1960 to 1970.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

See Preliminary Statement and General Objections. Avon further objects to this Request as overbroad and unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information irrelevant to Plaintiff's claims in time, geography, and scope. Avon likewise objects to this Request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information regarding the manufacture of Avon products not at issue in this case, or regarding the manufacture of Avon products outside the time period at issue in this case. Information concerning products and/or timeframes not at issue in this matter are not relevant to this matter.

Avon further objects on the grounds that this Request implies or assumes that Avon has ever possessed such responsive documents or information. Avon has departments and divisions and employees at numerous locations. These departments, divisions and employees have changed over the years; employees have died, retired and/or moved. Many of Avon's facilities have been substantially changed, sold or overhauled over the years. Avon is not specifically aware of any responsive documents

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

failing to survive the passage of time, however, guaranteeing full and complete documentation relating to a time frame of more than half of a century is impossible.

Subject to and without waiving these objections, Avon states, with respect to the product formulas requested from 1960 to 1969, *see* documents previously produced to counsel, at AV_GRAHAM_000001 – AV_GRAHAM_000106. With respect to the product formulas requested for the year 1970, Avon states, *see* documents previously produced to counsel, at AV_MOORE_000001 – AV_MOORE_000049; AV_MOORE_000369 – AV_MOORE_000464; and AV_MOORE_011155 – AV_MOORE_012084.

REQUEST FOR PRODUCTION NO. 4: Please produce all documents in Avon's possession, custody, or control that include the words asbestos, tremolite, anthophyllite, actinolite, chrysotile, or mesothelioma.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

See Preliminary Statement and General Objections. Avon further objects to this Request as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information irrelevant to Plaintiff's claims in time, geography, and scope.

Subject to and without waiving these objections, Avon states s*ee* Avon's Standard Document Production, produced herewith, including but not limited to the following documents. Avon reserves the right to amend and/or supplement this response.

Actinolite	AV_STD_000318, 319, 481, 564, 1931, 1997, 1999, 2252, 2439, 2804, 3020, 3021, 4846, 5042, 6367, 7582, 11027, 11032, 11649, 13107, 13108, 14073, 16400, 17977, 18009, 19874, 20396, 20571, 21862, 23990, 24628, 27203, 27204, 27220, 27441
Anthophyllite	AV_STD_000333, 638, 885, 1076, 1097, 1923, 2988, 3089, 4043, 6456, 7493, 8163, 9529, 10640, 11493, 11495, 12324, 13108, 14004, 15756, 16734- 16736, 17994, 18057, 20434, 20435, 22062, 23868, 24266, 25408, 27497, 27498, 27499
Tremolite	AV_STD_000115- 119, 348, 640, 1122, 1227, 1764, 1803, 1804, 2116, 3094, 3095, 4267, 5400, 6014, 7932, 8040, 10398, 11912, 11913, 12506, 14312, 14478, 15760, 16005, 17988, 18313, 19999, 20004, 23991, 24003, 25480, 26026, 27067, 27495

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4004285

Chrysotile	AV_STD_000195, 276, 326, 328, 333, 406, 699, 700, 993, 1503, 1504, 1852, 2807, 3034, 3035, 4641, 5745, 6572, 7596, 7597, 8727, 9051, 10098, 10464, 12065, 13107, 13108, 15988, 16184, 20080, 24876, 25348, 26004, 27486- 27489, 27493, 27518
Asbestos	AV_STD_000116, 1368, 1425, 2995, 3010, 3011, 4075, 5965, 5985, 6002, 6005, 7227, 8079, 9238, 9973, 10097, 11069, 13314, 14457, 15544, 16409, 17489, 18761, 19155, 20526, 20847, 23199, 24170, 14910, 25079, 25650, 27301, 27408, 27518
Mesothelioma	AV_STD_000274, 816, 2317, 2326, 3017, 6782, 7343, 8199, 9484, 10466, 11002, 12345, 12364, 13736, 13737, 14007, 14602, 15701, 16272, 17201, 18540, 20458, 21374, 22140, 23181, 24204, 25408, 27201, 27433, 27480, 27486, 27488

REQUEST FOR PRODUCTION NO. 5:

Please produce all Avon marketing materials, advertisements, and sales brochures that reference any Avon talc product for the time period 1960 to 1975.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

See Preliminary Statement and General Objections. Avon further objects to this Request as overbroad and unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information irrelevant to Plaintiff's claims in time, geography, and scope. Avon likewise objects to this Request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information regarding the manufacture of Avon products not at issue in this case, or regarding the manufacture of Avon products outside the time period at issue in this case. Information concerning products and/or timeframes not at issue in this matter are not relevant to this matter.

Avon further objects on the grounds that this Request implies or assumes that Avon has ever possessed such responsive documents or information. Avon has departments and divisions and employees at numerous locations. These departments, divisions and employees have changed over the years; employees have died, retired and/or moved. Many of Avon's facilities have been substantially changed, sold or overhauled over the years. Avon is not specifically aware of any responsive documents

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

failing to survive the passage of time, however, guaranteeing full and complete documentation relating to a time frame of more than half of a century is impossible.

Subject to and without waiving these objections, Avon states, *see* documents produced herewith at AV_CHAPMAN_00001 – AV_CHAPMAN_003281. Avon reserves the right to amend and/or supplement this response.

REQUEST FOR PRODUCTION NO. 6:

All documents in support of each of Avon's denials and affirmative defenses in its operative Answer.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

See Preliminary Statement and General Objections. Avon further objects to this Request because it embraces too many subcategories to have meaning. Product categories must be reasonably particularized from the standpoint of the party on whom the demand is made. (*Calcor Space Facility, Inc. v. Superior Court* (1997) 53 Cal.App.4th 216, 222.) It is not reasonable to describe documents by categories which bear no relationship to the manner in which the documents are kept, and which require the responding party to determine (at risk of sanctions) which of its extensive records fit a demand that asks for everything in its possession relating to a specific topic. (*Id.*) The requesting party should identify the subject matter or transaction in question as narrowly as reasonably possible. (*Id.*) Here, Plaintiff requests all documents relevant to every single material fact in their complaint which not only is inadequate from a categorization of documents standpoint, but overbroad, burdensome, and harassing. Avon cannot respond without clarification from Plaintiff regarding the scope and meaning of this Request. Additionally, Avon further objects to the extent that this overbroad request is duplicative of and encompasses requests made and responses given in the remainder of Plaintiffs' requests for production of documents.

Avon objects to this Request to the extent it seeks to elicit attorney work product, trial preparation materials, and/or communications protected by the attorney-client privilege or any other applicable privilege held by Avon.

Subject to and without waiving the above objections, Avon responds that discovery is ongoing. This request is premature as Avon has not completed its discovery, investigation, or analysis of the facts

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

relating to this case, and therefore, is still developing factual support for its general denial through discovery. Indeed, Plaintiff's deposition has only recently completed and investigation based thereon is ongoing, including into the fact witnesses identified by Plaintiff, who have not yet been deposed, testimony related to Ms. Chapman's alleged exposures, and product-identification. Furthermore, medical records are still outstanding and Plaintiff has yet to provide legally sufficient responses to Avon's written discovery. As such, Avon will supplement its response to this Request should Plaintiff serve a supplemental demand and to the extent any additional, non-privileged, information is later acquired by Avon. (Code Civ. Proc., § 2031.050(a).)

REQUEST TO PRODUCTION NO. 7:

If Avon claims the negligence or fault of another entity or person contributed to Rita Chapman's harm, please produce all documents in support of Avon's claim.

RESPONSE TO REQUEST TO PRODUCTION NO. 7:

See Preliminary Statement and General Objections. Avon further objects to this Request because it embraces too many subcategories to have meaning. Product categories must be reasonably particularized from the standpoint of the party on whom the demand is made. (*Calcor Space Facility, Inc. v. Superior Court* (1997) 53 Cal.App.4th 216, 222.) It is not reasonable to describe documents by categories which bear no relationship to the manner in which the documents are kept, and which require the responding party to determine (at risk of sanctions) which of its extensive records fit a demand that asks for everything in its possession relating to a specific topic. (*Id.*) The requesting party should identify the subject matter or transaction in question as narrowly as reasonably possible. (*Id.*) Here, Plaintiff requests all documents relevant to Avon's right to comparative fault apportionment because of the conduct of other entities which is inadequate from a categorization of documents standpoint. Avon cannot respond without clarification from Plaintiff regarding the scope and meaning of this Request.

Avon objects to this Request to the extent it seeks to elicit attorney work product, trial preparation materials, and/or communications protected by the attorney-client privilege or any other applicable privilege held by Avon. Avon also objects to the extent this Request calls for the premature disclosure of expert witness information and/or opinions.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Subject to the foregoing objections and statements, Avon also refers Plaintiff to her responses to written discovery, including those related to products and companies identified in Plaintiff's amended responses to Standard Interrogatory Nos. 18, 35, 36, 46, and Exhibit D attached thereto, those related to residential, educational, employment, and medical history as contained in Plaintiff's amended responses to Standard Interrogatory Nos. 1, 3, 8, 17, 44 – 46, 52, Plaintiff's medical records discussing her medical history, Plaintiff's responses to each defendant's written discovery requests identifying the companies and products to which she alleges exposure to asbestos, and her deposition testimony wherein she testifies about the companies and products to which she alleges exposure to asbestos, her residential, educational, employment, and medical history. Avon further refers Plaintiff to her written discovery requests to each defendant whose companies and/or products she alleges exposure to asbestos and the corresponding responses and documents produced. Discovery is ongoing and Avon reserves the right to supplement and amend this response.

REQUEST FOR PRODUCTION NO. 8:

If Avon claims an entity or person exposed Rita Chapman to asbestos, please produce all documents in support of Avon's claim.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

See Preliminary Statement and General Objections. Avon further objects to this Request because it embraces too many subcategories to have meaning. Product categories must be reasonably particularized from the standpoint of the party on whom the demand is made. (*Calcor Space Facility, Inc. v. Superior Court* (1997) 53 Cal.App.4th 216, 222.) It is not reasonable to describe documents by categories which bear no relationship to the manner in which the documents are kept, and which require the responding party to determine (at risk of sanctions) which of its extensive records fit a demand that asks for everything in its possession relating to a specific topic. (*Id.*) The requesting party should identify the subject matter or transaction in question as narrowly as reasonably possible. (*Id.*) Here, Plaintiff requests all documents relevant to Avon's right to comparative fault apportionment because of the conduct of other entities which is inadequate from a categorization of documents standpoint. Avon cannot respond without clarification from Plaintiff regarding the scope and meaning of this Request.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Avon objects to this Request to the extent it seeks to elicit attorney work product, trial preparation materials, and/or communications protected by the attorney-client privilege or any other applicable privilege held by Avon. Avon also objects to the extent this Request calls for the premature disclosure of expert witness information and/or opinions.

Subject to the foregoing objections and statements, Avon also refers Plaintiff to her responses to written discovery, including those related to products and companies identified in Plaintiff's amended responses to Standard Interrogatory Nos. 18, 35, 36, 46, and Exhibit D attached thereto, those related to residential, educational, employment, and medical history as contained in Plaintiff's amended responses and amended responses to Standard Interrogatory Nos. 1, 3, 8, 17, 44 – 46, 52, Plaintiff's medical records discussing her medical history, Plaintiff's responses to each defendant's written discovery requests identifying the companies and products to which she alleges exposure to asbestos, and her deposition testimony wherein she testifies about the companies and products to which she alleges exposure to asbestos, her residential, educational, employment, and medical history. Avon further refers Plaintiff to her written discovery requests to each defendant whose companies and/or products she alleges exposure to asbestos and the corresponding responses and documents produced. Discovery is ongoing and Avon reserves the right to supplement and amend this response.

REQUEST TO PRODUCTION NO. 9:

If Avon claims complying with the above requests is unduly burdensome, please produce all evidence supporting Avon's claim.

RESPONSE TO REQUEST TO PRODUCTION NO. 9:

See Preliminary Statement and General Objections. Subject to and without waiving these objections, Avon states, *see* Response to Request Nos. 1 through 8, above.

REQUEST FOR PRODUCTION NO. 10:

If Avon has withheld any document based on a claim of privilege, please produce a privilege log with Avon's answers to these requests setting forth: (1) the general nature of the document (without disclosing its contents), (2) the identity and the position of its author, (3) the date it was written, (4) the identity and position of all addressees and recipients, (5) the documents present location,

and (6) the specific reason(s) it was withheld.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

See Preliminary Statement and General Objections. Subject to and without waiving these objections, Avon states that it has not withheld any document responsive to the above Requests based on a claim of privilege.

Dated: May 23, 2022

HAWKINS PARNELL & YOUNG LLP

By: _____

Claire C. Weglarz
Macy M. Chan
Fred B. Lee
Attorneys for Defendant,
AVON PRODUCTS, INC.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF ROCKLAND)

I, Lisa Gallo, Vice President of Global Innovation, Research and Development at Avon Products, Inc. ("Avon"), am duly authorized to make this Verification on behalf of Avon, and verify that the facts set forth in Avon's Responses to Plaintiff's Requests for Production of Documents (Set One) have been assembled by authorized employees of and counsel for Avon relative to the matter styled *RITA-ANN CHAPMAN AND GARY CHAPMAN v. AVON PRODUCTS, INC., et al.*, Case No. 22STCV05968 pending in the Superior Court for the State of California, Los Angeles County, and that such facts are true and correct to the best of my knowledge, information, and belief, based upon Avon's and its counsel's investigation to date. This Verification is made subject to the penalties of perjury if any of the information provided is determined to be knowingly false.

Lisa Gallo

Sworn to and subscribed to me this 19th day of May, 2022.

Notary Public

PETER GLASS
Notary Public - State of New York
No. 02GL6425537
Qualified in Queens County
My Comm. Expires Nov. 22, 2025

My commission expires:

November 22, 2025

PETER GLASS
Qualified in
Queens County
Commission No.
02GL6425537
My Comm. Expires
11/22/2025
NOTARY PUBLIC
NEW YORK

5848225 v1

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Rita-Ann Chapman and Gary Chapman v. Avon Products, Inc., et al.
LASC Case No.: JCCP4674/22STCV05968

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I declare that I am employed by Hawkins Parnell & Young LLP. I am over the age of eighteen years and not a party to the within cause; my business address is 445 South Figueroa Street, Suite 3200, Los Angeles, California 90071-1651.

On the date set forth below, I served the foregoing document(s) described as:

DEFENDANT AVON PRODUCTS, INC.'S RESPONSES TO PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS, SET ONE

On the parties in said cause:

VIA FILE & SERVE XPRESS
Benjamin H. Adams, Esq.
DEAN OMAR BRANHAM SHIRLEY, LLP
302 N. Market Street, Suite 300
Dallas, Texas 75202
Telephone: (214) 722-5990
Facsimile: (214) 722-5991
badams@dobslegal.com

Attorneys for Plaintiffs

VIA FILE & SERVE XPRESS
All Defense Counsel of Record

☒ **BY FILE & SERVE XPRESS**: by electronically serving the document(s) via File & Serve Xpress on the recipients designated on the Transaction Receipt located on the File & Serve Xpress website.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on May 23, 2022, at Los Angeles, CA.

Signature

Erica Miller
Print Name

AVON PRODUCTS, INC.

RAW INGREDIENT SPECIFICATIONS

CODE: 0-0762-1S

AVON NAME: TALC- OSMANTHUS 200 TYPE

DESCRIPTION: A naturally occurring mineral consisting mainly of hydrated magnesium silicate ideally $Mg_6 (Si_8O_{20}) (OH)_4$ with very minor amounts of naturally associated minerals such as calcite, chlorite, dolomite, kaolin and magnesite. MUST BE ROUTINELY STERILIZED BEFORE USE.

Packing Specifications:
Normally Multi-wall bags with moisture barrier (adequate container to protect material & keep it clean.) Mark each container with Purchase Order No., Avon's Name of Product, Gross, Net and Tare Weights, AVON CODE NO., Vendor's Lot No. And Vendor's Name.

Storage Conditions:
Store in a dry area at room temperature

Safety Precautions:
Refer vendor's material safety data contained in the AVON RAW INGREDIENT SAFETY MANUAL.Wear protective eye wear, dust mask. If eye contact flush with water, seek medical attention. Skin/ wash with soap and water. Avoid dusting/ and inhalation.

MICROBIOLOGICAL SPECIFICATIONS:

Test Methods: (APMMs: Use most current APMM revision, found in PB #91-GLPs)

(D)	Total Aerobic Bacterial Plate Count Including Yeast & Mold; and absence of Gram-negative microorganisms and Staphylococcus aureus, as detected by plate count methods	500 per gram maximum	APMM 31.000 or APMM 31.001 APMM 31.002 APMM 31.003 APMM 31.005

RETEST FREQUENCY: 1 Year (A)___ 6 Months (D) X_ 3 Months___ 1 Month____

MICROBIOLOGICAL REMEDIAL METHODS:
ETHYLENE OXIDE TREATMENT OR GAMMA IRRADIATION

NOT FOR USE IN BABY OR EYE PRODUCTS

CODE: 0-0762-1S
REV.# 9
EFFECTIVE DATE 2-18-92
ISSUE DATE AUG 03 2009

CHEMICAL SPECIFICATIONS:
Test Methods: (APAMs: Use most current APAM revision, found in R&D Intranet
USP: Use most current USP)

(A) COLOR	White to match Std.	Drawdown of sample vs. Std on white paper
(A) ODOR	Similar in character and intensity to standard, practically odorless	
(A) APPEARANCE	Fine powder, free of grittiness or foreign matter	
(B) IDENTIFICATION (IR Spectrum)	Identical to IR Spectrum of standard.	APAM 8.000 (KBr Pellet)
(B) % LOSS ON IGNITION	7.0 max.	APAM 6.102 (1 hr. at 1075°C) or Vendor C of A
(B) SCREEN TEST % thru 325 mesh	96.0 min.	CTFA C6-1
(B) TREMOLITE	Negative	APAM 8.600
(B) SULFUR	Negative	APAM 4.044
(E-10) ASBESTOS * (FIBROUS AMPHIBOLE)	None detected	CTFA J 4-1 or USP or EP for Talc or Talc or Circular No.0828001 (Aug 2006) by Ministry of Health, Labor, & Welfare in Japan
(B)**EtO RESIDUE(ppm)	10 max.	APAM 9.702
(B) LEAD (ppm)	10 max.	Vendor C of A
(B) ARSENIC (pm)	4 max.	Vendor C of A
(C) MERCURY (ppm)	1 max.	Vendor Information
(B) % WATER -SOLUBLE	0.1 max.	USP
(B) ACIDITY AND ALKALINITY	Pass	USP

*** Avon QC Labs must send RI samples to a qualified outside testing laboratory and test this parameter using any of the methods listed above.** At least 1 receipt every 6 months, or every 10th receipt, whichever comes first, must be tested. If no receipt has been tested in the past 6 months, the next receipt is to betested. **Vendor Certificate of Analysis results can not be substituted for audit testing.**

**Residue to be determined only when material is EtO treated

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

RESTRICTED

CODE: 0-0762-1S

REV.# 9

EFFECTIVE DATE 2-18-92

ISSUE DATE AUG 03 2009

APPROVED VENDOR(S) - **CAS NO. 14807-96-6**

Mfr: IMI Fabi, LLC
2nd and Marshall Streets
Benwood, WV 26031
(IMI FABI 3355 TALC USP BC)

Dist: Cosmetic Specialties, Inc.
308 White Horse Pike
Haddon Heights, NJ 08035
(IMI FABI 3355 TALC USP BC)

Mfr. *Luzenac America Inc.
17509 Van Rd.
Houston TX 77049
(IMP 1823LUSP/BC TALC)**
(MADE WITH SUTHERN CHINESE ORE
(SAME ORE SOURCE AS OSMANTHUS TALC)

Dist. Brenntag Specialties Inc
1000 Coolidge St
South Plainfield NJ 07080
(IMP 1823LUSP/BC TALC)**

Mfr. Guangxi Metals and Minerals
137 Quixing Rd
Nanning China
(MAGSIL OSMANTHUS)***

Dist. Richard Baker Harrison Group
253 Cranbrook Rd
Ilford Essex United Kingdom1QQ 4TO
(MAGSIL OSMANTHUS)***

*NOTE: In 2005 Luzenac merged with US Borax to form Rio Tinto Minerals. Composition, sourcing, and manufacturing of this material have not changed. LUZENAC IS A MEMBER OF THE RIO TINTO MINERALS GROUP

ADDRESS: RIO TINTO MINERALS
8051 E. MAPLEWOOD AVENUE
GREENWOOD VILLAGE, CO 80111

**The tradename of the material was changed from Imperial 3355L to IMP 1823L in 1999. There are no changes to the sourcing or composition.
*** The tradename of this material was changed from OSMANTHUS COSMETIC TALC 200 to MAGSIL OSMANTHUS. This is a tradename change only. There are no changes to the sourcing, composition, manufacturing or processing.

Charles B. Chrystal was removed as a distributor for RI 0762 Osmanthus Talc .

APPROVED BY ANALYTICAL _____ 7/23/09

APPROVED BY MICROBIOLOGY _____ 7/23/09

APPROVED BY PRODUCT DEVELOPMENT _____ 7/24/09

VENDOR(S) APPROVAL RECEIVED _____ 7/23/09

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

CODE: 0 - 0773

REV.# 13

EFFECTIVE DATE 2-13-87

ISSUE DATE AUG. 3, 2009

APPROVED VENDOR(S) -

Manufacturer:
* Luzenac America Inc.**
900 E. Nichols Ave.
Englewood Colorado 80112
(IMP 1887 L)

Mfr: IMI Fabi, LLC
2nd and Marshall Streets
Benwood, WV 26031
(IMI FABI 1626 TALC BC)

CAS NO.14807-96-6

Distributor:
***Brenntag Specialties Inc
1000 Coolidge St.
South Plainfield NJ 07080
(IMP 1887 L)

Dist: Cosmetic Specialties, Inc.
308 White Horse Pike
Haddon Heights, NJ 08035
(IMI FABI 1626 TALC BC)

***NOTE: FORMERLY CYPRUS INDUSTRIAL MINERALS CO.**
**NOTE: In 2005 Luzenac merged with US Borax to form Rio Tinto Minerals. Composition, sourcing, and manufacturing of this material have not changed. LUZENAC IS A MEMBER OF THE RIO TINTO MINERALS GROUP

ADDRESS: RIO TINTO MINERALS
8051 E. MAPLEWOOD AVENUE
GREENWOOD VILLAGE, CO 80111

NOTE: R&D has been notified that the Tradename for this material has been changed from IMP1623LTalc to IMP1887LTalc. Specifications, sourcing and manufacturing of this material has not changed.

R&D WAS NOTIFIED AS OF 2008 THAT THE TRADENAME MATERIAL ***IMP1623L TALC BC & SUPRAFINO A TALC*** HAS BEEN DISCONTINUED

***NOTE: WHITTAKER, CLARK & DANIELS was acquired by Mineral & Pigment Solutions, and in 2007 Mineral & Pigment Solutions merged with Chem Tech Specialties to form Brenntag Specialties.

APPROVED BY ANALYTICAL_____

APPROVED BY MICROBIOLOGY _____

APPROVED BY PRODUCT DEVELOPMENT_____

VENDOR(S) APPROVAL RECEIVED _____

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

AVON PRODUCTS, INC.

RAW INGREDIENT SPECIFICATIONS

CODE: 0 - 0773-1S

AVON NAME: TALC No. 1621

DESCRIPTION: A naturally occurring mineral consisting mainly of hydrated magnesium silicate, ideally $Mg_6(Si_8O_{20})(OH)_4$' with lesser amounts of naturally associated minerals such as calcite, chlorite, dolomite, kaolin and magnesite.

Packing Specifications:
Paper bags. Mark each container with Purchase Order No., Avon's Name of Product, Gross, Net and Tare Weights, AVON CODE NO., Vendor's Lot No. And Vendor's Name.

Storage Conditions:
Store in a dry area at room temperature, keep container tightly closed when not in use, avoid dusting, use in well ventilated area.

Safety Precautions:
Refer vendor's material safety data contained in the AVON RAW INGREDIENT SAFETY MANUAL.
Wear protective eye wear, dust mask, if eye contact flush with water, for 15 minutes, seek medical attention. Skin / wash with soap and water.Prevent inhalation over-exposure.

MICROBIOLOGICAL SPECIFICATIONS:

Test Methods: (APMMs: Use most current APMM revision, found in PB #91-GLPs)

(A) Total Aerobic Bacterial Plate Count Including Yeast & Mold; and absence of gram negative microbes, as detected by plate count methods. No recovery of Staphylococcus aureus, Escherichia coli, Pseudomonas cepacia Pseudomonas aeruginosa, by enrichment methods.	100 per gram maximum	APMM 31.000 APMM 31.001 APMM 31.002 or 31.004 APMM 31.003 or 31.005 APMM 34.020 APMM 31.006 or 31.010

RETEST FREQUENCY: 1 Year (A)___ 6 Months (D)____ 3 Months____ 1 Month____

MICROBIOLOGICAL REMEDIAL METHODS:
MAY BE GAMMA IRRADIATED. PLEASE CONTACT R&D MICROBIOLOGY SUFFERN BEFORE IMPLEMENTING ANY IRRADIATION TREATMENT FOR APPROPRIATE DOSAGE LEVELS.

CODE: 0 - 0773-1S

REV.# 11
EFFECTIVE DATE 2-13-87
ISSUE DATE ____

CHEMICAL SPECIFICATIONS:

(A) COLOR	To match Std.	
(A) ODOR	Similar in character and intensity to standard, no more than slight earthy odor.	
(A) APPEARANCE	Fine powder, free of foreign matter	
(B) IDENTIFICATION (IR Spectrum)	Identical to IR Spectrum of standard.	APAM 8.000-2 (KBr Pellet)
(B) % LOSS ON IGNITION	6.5 max.	APAM 6.102-4 (1 hr. @ 825°C)
(B) SCREEN TEST (% thru 325 mesh)	99.8%	CTFA C 6-1
(B) APPARENT DENSITY* (g /cc)	0.55 to 0.80	APAM 3.304-1
(B) LEAD (as ppm Pb)	20 max.	APAM 10.400-3 or CTFA F2-2 pts.IA&II
(B) ARSENIC (as ppm As)	3 max.	APAM 10.402-1 or APAM 6.210-5
(B) TREMOLITE	Negative	APAM 8.600-1
(B)SULFUR	Negative	APAM 4.044-1
(B) FIBROUS AMPHIBOLE**	None detected	CTFA J 4-1
(C) % WATER SOLUBLES	0.5 max.	USP XXI, p. 1010
(C) % ACID SOLUBLES	6.0 max.	USP XXI, p. 1010
(C) % ACID SOLUBE IRON (as Fe_2O_3)	0.2 max.	APAM 10.518-1
(C)% SOLUBLE CALCIUM (as CaO)	1.5 max.	APAM 10.518-1

*Aparent Density was revised based on review of non-Std. receipts.Incoming shipments not meeting this revised requirement, should be rejected. No further deviations should be accepted.
**At least 1 receipt every 6 months, or every 10th receipt, whichever comes first,is to be sent to an outside lab for testing against CTFA J 4-1.If no receipt has been tested in the past 6 months the next receipt is to be tested, in the US a recommended lab is:Walter C.McCrone Assoc. 2820 South Michigan Ave.Chicago ILL 60616 312-842-7100

ELECTRONICALLY FILED - 2022 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

RESTRICTED

CODE: 0-0780

REV.# 17

EFFECTIVE DATE 4-3-84

ISSUE DATE Sept. 3, 2009

APPROVED VENDOR(S) - **CAS NO. N/A**

DIST:
*Brenntag Specialties Inc
1000 COOLIDGE ST.
SOUTH PLAINFIELD NJ 07080
(IMP 1886L TALC BC)

DIST: Cosmetic Specialties, Inc.
308 White Horse Pike
Haddon Heights NJ 08035
(IMI FABI 141 TALC BC)

MFR:
LUZENAC AMERICA*
9000 E. NICHOLS AVE.
ENGLEWOOD CO 80112
(IMP 1886L TALC BC)

MFR: IMI Fabi LLC
2nd and Marshall Streets
Benwood WV 26031
(IMI FABI 141 TALC BC)

*NOTE: WHITTAKER, CLARK & DANIELS was acquired by Mineral & Pigment Solutions, and in 2007 Mineral & Pigment Solutions merged with Chem Tech Specialties to form Brenntag Specialties.

**NOTE: In 2005 Luzenac merged with US Borax to form Rio Tinto Minerals. Composition, sourcing, and manufacturing of this material have not changed. LUZENAC IS A MEMBER OF THE RIO TINTO MINERALS GROUP

ADDRESS: RIO TINTO MINERALS
8051 E. MAPLEWOOD AVENUE
GREENWOOD VILLAGE, CO 80111

***NOTE: FORMERLY CYPRUS INDUSTRIAL MINERALS CO.

APPROVED BY ANALYTICAL _____

APPROVED BY MICROBIOLOGY _____

APPROVED BY PRODUCT DEVELOPMENT _____

VENDOR(S) APPROVAL RECEIVED _____

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

EXHIBIT B

AVON PRODUCTS, INC.

RAW INGREDIENT SPECIFICATIONS

CODE: 0-0762-1S
REV.# 9
EFFECTIVE DATE 2-18-92
ISSUE DATE AUG 03 2009

CODE: 0-0762-1S

AVON NAME: TALC- OSMANTHUS 200 TYPE

DESCRIPTION: A naturally occurring mineral consisting mainly of hydrated magnesium silicate ideally $Mg_6 (Si_8O_{20}) (OH)_4$ with very minor amounts of naturally associated minerals such as calcite, chlorite, dolomite, kaolin and magnesite. MUST BE ROUTINELY STERILIZED BEFORE USE.

Packing Specifications:
Normally Multi-wall bags with moisture barrier (adequate container to protect material & keep it clean.) Mark each container with Purchase Order No., Avon's Name of Product, Gross, Net and Tare Weights, AVON CODE NO., Vendor's Lot No. And Vendor's Name.

Storage Conditions:
Store in a dry area at room temperature

Safety Precautions:
Refer vendor's material safety data contained in the AVON RAW INGREDIENT SAFETY MANUAL.Wear protective eye wear, dust mask. If eye contact flush with water, seek medical attention. Skin/ wash with soap and water. Avoid dusting/ and inhalation.

MICROBIOLOGICAL SPECIFICATIONS:

Test Methods: (APMMs: Use most current APMM revision, found in PB #91-GLPs)

(D)	Total Aerobic Bacterial Plate Count Including Yeast & Mold; and absence of Gram-negative microorganisms and Staphylococcus aureus, as detected by plate count methods	500 per gram maximum	APMM 31.000 or APMM 31.001 APMM 31.002 APMM 31.003 APMM 31.006

RETEST FREQUENCY: 1 Year (A)___ 6 Months (D) X_ 3 Months__ 1 Month____

MICROBIOLOGICAL REMEDIAL METHODS:
ETHYLENE OXIDE TREATMENT OR GAMMA IRRADIATION

NOT FOR USE IN BABY OR EYE PRODUCTS

CHEMICAL SPECIFICATIONS:
Test Methods: (APAMs: Use most current APAM revision, found in R&D Intranet
USP: Use most current USP)

(A) COLOR	White to match Std.	Drawdown of sample vs. Std on white paper
(A) ODOR	Similar in character and intensity to standard, practically odorless	
(A) APPEARANCE	Fine powder, free of grittiness or foreign matter	
(B) IDENTIFICATION (IR Spectrum)	Identical to IR Spectrum of standard.	APAM 8.000 (KBr Pellet)
(B) % LOSS ON IGNITION	7.0 max.	APAM 6.102 (1 hr. at 1075°C) or Vendor C of A
(B) SCREEN TEST % thru 325 mesh	96.0 min.	CTFA C6-1
(B) TREMOLITE	Negative	APAM 8.600
(B) SULFUR	Negative	APAM 4.044
(E-10) ASBESTOS * (FIBROUS AMPHIBOLE)	None detected	CTFA J 4-1 or USP or EP for Talc or Talc or Circular No.0828001 (Aug 2006) by Ministry of Health, Labor, & Welfare in Japan
(B)**EtO RESIDUE(ppm)	10 max.	APAM 9.702
(B) LEAD (ppm)	10 max.	Vendor C of A
(B) ARSENIC (pm)	4 max.	Vendor C of A
(C) MERCURY (ppm)	1 max.	Vendor Information
(B) % WATER -SOLUBLE	0.1 max.	USP
(B) ACIDITY AND ALKALINITY	Pass	USP

*** Avon QC Labs must send RI samples to a qualified outside testing laboratory and test this parameter using any of the methods listed above.** At least 1 receipt every 6 months, or every 10th receipt, whichever comes first, must be tested. If no receipt has been tested in the past 6 months, the next receipt is to betested. **Vendor Certificate of Analysis results can not be substituted for audit testing.**

**Residue to be determined only when material is EtO treated

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

AV_Plant_002885

RESTRICTED

CODE: 0-0762-1S

REV.# 9

EFFECTIVE DATE 2-18-92

ISSUE DATE AUG 0 3 2009

APPROVED VENDOR(S) - **CAS NO. 14807-96-6**

Mfr: IMI Fabi, LLC
2nd and Marshall Streets
Benwood, WV 26031
(IMI FABI 3355 TALC USP BC)

Dist: Cosmetic Specialties, Inc.
308 White Horse Pike
Haddon Heights, NJ 08035
(IMI FABI 3355 TALC USP BC)

Mfr. *Luzenac America Inc.
17509 Van Rd.
Houston TX 77049
(IMP 1823LUSP/BC TALC)**
(MADE WITH SUTHERN CHINESE ORE
(SAME ORE SOURCE AS OSMANTHUS TALC)

Dist. Brenntag Specialties Inc
1000 Coolidge St
South Plainfield NJ 07080
(IMP 1823LUSP/BC TALC)**

Mfr. Guangxi Metals and Minerals
137 Quixing Rd
Nanning China
(MAGSIL OSMANTHUS)***

Dist. Richard Baker Harrison Group
253 Cranbrook Rd
Ilford Essex United Kingdom1QQ 4TO
(MAGSIL OSMANTHUS)***

*NOTE: In 2005 Luzenac merged with US Borax to form Rio Tinto Minerals. Composition, sourcing, and manufacturing of this material have not changed. LUZENAC IS A MEMBER OF THE RIO TINTO MINERALS GROUP

ADDRESS: RIO TINTO MINERALS
8051 E. MAPLEWOOD AVENUE
GREENWOOD VILLAGE, CO 80111

**The tradename of the material was changed from Imperial 3355L to IMP 1823L in 1999. There are no changes to the sourcing or composition.
*** The tradename of this material was changed from OSMANTHUS COSMETIC TALC 200 to MAGSIL OSMANTHUS. This is a tradename change only. There are no changes to the sourcing, composition, manufacturing or processing.

Charles B. Chrystal was removed as a distributor for RI 0762 Osmanthus Talc .

APPROVED BY ANALYTICAL _____ 7/23/09

APPROVED BY MICROBIOLOGY _____ 7/23/09

APPROVED BY PRODUCT DEVELOPMENT _____ 7/24/09

VENDOR(S) APPROVAL RECEIVED _____ 7/23/09

AV_Plant_002886

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

AVON PRODUCTS, INC.

RAW INGREDIENT SPECIFICATIONS

CODE: 0 - 0773 **MICRO:** H **FLAMMABILITY:** S

AVON NAME: TALC NO.1621

DESCRIPTION: A naturally occurring mineral consisting mainly of hydrated magnesium silicate, ideally $Mg_6(Si_8O_{20})(OH)_4$' with lesser amounts of naturally associated minerals such as calcite, chlorite, dolomite, kaolin and magnesite.

Packing Specifications:
Paper bags. Mark each container with Purchase Order No., Avon's Name of Product, Gross, Net and Tare Weights, AVON CODE NO., Vendor's Lot No. And Vendor's Name.

Storage Conditions:
Store in a dry area at room temperature, keep container tightly closed when not in use, avoid dusting, use in well ventilated area.

Safety Precautions:
Refer vendor's material safety data contained in the AVON RAW INGREDIENT SAFETY MANUAL.
Wear protective eye wear, dust mask, if eye contact flush with water, for 15 minutes, seek medical attention. Skin / wash with soap and water.Prevent inhalation over-exposure.

R. p. 2597

MICROBIOLOGICAL SPECIFICATIONS:

Test Methods: (APMMs: Use most current APMM revision, found in PB #91-GLPs)

(D)	Total Aerobic Bacterial Plate Count Including Yeast & Mold; and absence of Gram-negative microorganisms, as detected by plate count methods. No recovery of Staphylococcus aureus, Escherichia coli, Burkolderia cepacia, Pseudomonas aerouginosa, or Staphylococcus aureus by enrichment methods.	100 per gram maximum	APMM 31.000 APMM 31.001 APMM 31.002 APMM 31.003 APMM 31.006

RETEST FREQUENCY: 1 Year (A)___ 6 Months (D)X___ 3 Months____ 1 Month____

MICROBIOLOGICAL REMEDIAL METHODS:
MAY BE GAMMA IRRADIATED. PLEASE CONTACT R&D MICROBIOLOGY SUFFERN BEFORE IMPLEMENTING ANY IRRADIATION TREATMENT FOR APPROPRIATE DOSAGE LEVELS.

CODE: 0 - 0773

REV.# 13
EFFECTIVE DATE 2-13-87
ISSUE DATE AUG. 3, 2009

CHEMICAL SPECIFICATIONS:
Test Methods: (APAMs: Use most current APAM revision, found in R&D Intranet
USP: Use most current USP)

(A) COLOR	To match Std.	
(A) ODOR	Similar in character and intensity to standard, no more than slight earthy odor.	
(A) APPEARANCE	Fine powder, free of foreign matter	
(B) IDENTIFICATION (IR Spectrum)	Identical to IR Spectrum of standard.	APAM 8.000 (KBr Pellet)
(B) % LOSS ON IGNITION	7.0 max.	APAM 6.102 (1 hr. @ 1075°C)
(B) SCREEN TEST (% thru 325 mesh)	99.8 min	CTFA C 6-1
(B) APPARENT DENSITY* (g /cc)	0.55 to 0.80	APAM 3.304
(B) LEAD (ppm)	10 max.	Vendor C of A
(B) ARSENIC (ppm)	3 max.	Vendor C of A
(C) MERCURY (ppm)	1 max.	Vendor Information
(B) TREMOLITE	Negative	APAM 8.600
(B)SULFUR	Negative	APAM 4.044
(E-10) ASBESTOS * (FIBROUS AMPHIBOLE)	None detected	CTFA J 4-1 or USP or EP for Talc or Talc or Circular No.0828001 (Aug 2006) by Ministry of Health, Labor, & Welfare in Japan
(B) % WATER SOLUBLES	0.1 max.	USP
(B) % ACID SOLUBLES	6.0 max.	Vendor C of A
(B) ACIDITY AND ALKALINITY	Pass	USP
(C) CALCIUM (%)	0.9 max	Vendor Information

*Aparent Density was revised based on review of non-Std. receipts.Incoming shipments not meeting this revised requirement, should be rejected. No further deviations should be accepted.
*** Avon QC Labs must send RI samples to a qualified outside testing laboratory and test this parameter using any of the methods listed above.** At least 1 receipt every 6 months, or every 10th receipt, whichever comes first, must be tested. If no receipt has been tested in the past 6 months, the next receipt is to betested. **Vendor Certificate of Analysis results can not be substituted for audit testing.**

ELECTRONICALLY FILED - 2024 Jun-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

AV_Plant_002935

CODE: 0 - 0773

REV.# 13

EFFECTIVE DATE 2-13-87

ISSUE DATE AUG. 3, 2009

APPROVED VENDOR(S) - **CAS NO.14807-96-6**

Manufacturer:
* Luzenac America Inc.**
900 E. Nichols Ave.
Englewood Colorado 80112
(IMP 1887 L)

Mfr: IMI Fabi, LLC
2nd and Marshall Streets
Benwood, WV 26031
(IMI FABI 1626 TALC BC)

Distributor:
***Brenntag Specialties Inc
1000 Coolidge St.
South Plainfield NJ 07080
(IMP 1887 L)

Dist: Cosmetic Specialties, Inc.
308 White Horse Pike
Haddon Heights, NJ 08035
(IMI FABI 1626 TALC BC)

***NOTE: FORMERLY CYPRUS INDUSTRIAL MINERALS CO.**
**NOTE: In 2005 Luzenac merged with US Borax to form Rio Tinto Minerals. Composition, sourcing, and manufacturing of this material have not changed. LUZENAC IS A MEMBER OF THE RIO TINTO MINERALS GROUP

ADDRESS: RIO TINTO MINERALS
8051 E. MAPLEWOOD AVENUE
GREENWOOD VILLAGE, CO 80111

NOTE: R&D has been notified that the Tradename for this material has been changed from IMP1623LTalc to IMP1887LTalc. Specifications, sourcing and manufacturing of this material has not changed.

R&D WAS NOTIFIED AS OF 2008 THAT THE TRADENAME MATERIAL ***IMP1623L TALC BC & SUPRAFINO A TALC*** HAS BEEN DISCONTINUED

***NOTE: WHITTAKER, CLARK & DANIELS was acquired by Mineral & Pigment Solutions, and in 2007 Mineral & Pigment Solutions merged with Chem Tech Specialties to form Brenntag Specialties.

APPROVED BY ANALYTICAL_____

APPROVED BY MICROBIOLOGY _____

APPROVED BY PRODUCT DEVELOPMENT_____

VENDOR(S) APPROVAL RECEIVED _____

AV_Plant_002936

AV_PIPES-0086393

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

AVON PRODUCTS, INC.

RAW INGREDIENT SPECIFICATIONS

CODE: 0-0780 **MICRO:** H **FLAMMABILITY:** S

AVON NAME: TALC NO. 141

DESCRIPTION: A naturally occurring mineral consisting mainly of hydrated magnesium silicate ideally $Mg_6 (Si_8O_{20}) (OH)_4$ with lesser amounts of naturally associated minerals such as calcite, chlorite, dolomite, kaolin and magnesite.

Packing Specifications:
Polyethylene lined bag. Mark each container with Purchase Order No., Avon's Name of Product, Gross, Net and Tare Weights, AVON CODE NO., Vendor's Lot No. And Vendor's Name.

Storage Conditions:
Store in a air-tight full containers In a cool dry area.

Safety Precautions:
Refer vendor's material safety data contained in the AVON RAW INGREDIENT SAFETY MANUAL.Wear protective eye wear, dust mask, if eye contact flush with water, seek medical attention. Skin/ wash with soap and water. Avoid dusting, and avoid inhalation.

MICROBIOLOGICAL SPECIFICATIONS:

Test Methods: (APMMs: Use most current APMM revision, found in PB #91-GLPs)

(D)	Total Aerobic Bacterial Plate Count Including Yeast & Mold; and absence of Gram-negative microorganisms, as detected by plate count methods. No recovery of Staphylococcus aureus, Escherichia coli, Burkolderia cepacia, Pseudomonas aerouginosa, or Staphylococcus aureus by enrichment methods.	100 per gram maximum	APMM 31.000 APMM 31.001 APMM 31.002 APMM 31.003 APMM 31.006 APMM 34.020

RETEST FREQUENCY: 1 Year (A)___ 6 Months (D) X__ 3 Months____ 1 Month____

MICROBIOLOGICAL REMEDIAL METHODS:
- Ethylene Oxide. Retest for Color, Odor, and Appearance after treatment
  or
- STEAM STERILIZATION

CODE: 0-0780
REV.# 17
EFFECTIVE DATE 4-3-84
ISSUE DATE Sept. 3, 2009

CHEMICAL SPECIFICATIONS:
Test Methods: (APAMs: Use most current APAM revision, found in R&D Intranet
USP: Use most current USP)

(A) COLOR	To match Std	Drawdown of sample vs. Std. on white paper
(A) ODOR	Similar in character and intensity to standard, No more than slight earthy type odor.	
(A) APPEARANCE	fine powder, free of grittiness or foreign matter	
(B) IDENTIFICATION (IR Spectrum)	Identical to IR Spectrum of standard.	APAM 8.000 (KBr Pellet)
(B) % LOSS ON IGNITION	7.0 max.	APAM 6.102 (1hr. @ 1075°C)
(B) SCREEN TEST % thru 325 MESH	99.8 min.	CTFA C6-1
(B) APPARENT DENSITY (g / cc)	0.50 to 0.70	APAM 3.304
(B) LEAD (ppm)	10 max.	Vendor C of A
(B) ARSENIC (ppm)	3 max.	Vendor C of A
(C) MERCURY (ppm)	1 max.	Vendor Information
(B) TREMOLITE	Negative	APAM 8.600
(B) SULFUR	Negative	APAM 4.044
(B) EtO RESIDUE (ppm) **	10 max.	APAM 9.702
(E-10) ASBESTOS * (FIBROUS AMPHIBOLE)	None detected	CTFA J 4-1 or USP or EP for Talc or Talc or Circular No.0828001 (Aug 2006) by Ministry of Health, Labor, & Welfare in Japan
(B) % WATER SOLUBLES	0.1 max.	USP
(B) % ACID SOLUBLES	6.0 max.	Vendor C of A
(B) ACIDITY AND ALKALINITY	Pass	USP
(C) CALCIUM (%)	0.9 max	Vendor Information

*** Avon QC Labs must send RI samples to a qualified outside testing laboratory and test this parameter using any of the methods listed above.** At least 1 receipt every 6 months, or every 10th receipt, whichever comes first, must be tested. If no receipt has been tested in the past 6 months, the next receipt is to betested. **Vendor Certificate of Analysis results can not be substituted for audit testing.**

**Residue to be determined only when material is EtO treated.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

R. p. 2599

AV_Plant_002962

RESTRICTED

CODE: 0-0780

REV.# 17

EFFECTIVE DATE 4-3-84

ISSUE DATE Sept. 3, 2009

APPROVED VENDOR(S) - **CAS NO. N/A**

DIST:
*Brenntag Specialties Inc
1000 COOLIDGE ST.
SOUTH PLAINFIELD NJ 07080
(IMP 1886L TALC BC)

MFR:
LUZENAC AMERICA*
9000 E. NICHOLS AVE.
ENGLEWOOD CO 80112
(IMP 1886L TALC BC)

DIST: Cosmetic Specialties, Inc.
308 White Horse Pike
Haddon Heights NJ 08035
(IMI FABI 141 TALC BC)

MFR: IMI Fabi LLC
2nd and Marshall Streets
Benwood WV 26031
(IMI FABI 141 TALC BC)

*NOTE: WHITTAKER, CLARK & DANIELS was acquired by Mineral & Pigment Solutions, and in 2007 Mineral & Pigment Solutions merged with Chem Tech Specialties to form Brenntag Specialties.

**NOTE: In 2005 Luzenac merged with US Borax to form Rio Tinto Minerals. Composition, sourcing, and manufacturing of this material have not changed. LUZENAC IS A MEMBER OF THE RIO TINTO MINERALS GROUP

ADDRESS: RIO TINTO MINERALS
8051 E. MAPLEWOOD AVENUE
GREENWOOD VILLAGE, CO 80111

***NOTE: FORMERLY CYPRUS INDUSTRIAL MINERALS CO.

APPROVED BY ANALYTICAL _____

APPROVED BY MICROBIOLOGY _____

APPROVED BY PRODUCT DEVELOPMENT _____

VENDOR(S) APPROVAL RECEIVED _____

AV_Plant_002963

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

EXHIBIT C

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

KYUNG H. LEE and JOE J. LEE,) NO. 23CV40369
)
Plaintiffs,)
)
vs.)
)
BI-MART CORPORATION, et al.,)
)
Defendants.)
_____)

VIDEOCONFERENCE DEPOSITION OF
COSMETIC SPECIALTIES, INC.
THROUGH ITS DESIGNEE RONALD W. GREXA
WEDNESDAY, MARCH 6, 2024

Reported By: Shirley Koch
Oregon CSR No. 20-0459
Registered Professional Reporter 822364

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

remember.
Q. Okay. Were you the individual who was engaging with sort of the -- the primary folks at IMI Fabi, or was there someone else at CSI who was more involved in customer relations with that particular entity?
A. No. Considering there's only three of us in the company, the answer is me.
Q. Okay. Do you recall creating any kind of written market analysis or market condition report, any kind of written document, during the 2005 to 2015 time frame?
A. No.
Q. So I want to focus on the entities in this case. Is it correct that CSI supplied IMI Fabi talc to Revlon between 2005 and 2015?
MR. ERAUT: Object to the form.
Go ahead.
THE WITNESS: Are -- are you asking me if Revlon was a customer between 2005 and 2015?
BY MS. GILSON:
Q. Yes.
A. Yes.
Q. And -- and I just wanted to sort of tie everything together. Were they a customer of the talc sold by -- strike that.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Were they a customer of IMI Fabi talc between 2005 and 2015?
A. Yes. We were -- IMI Fabi talc was one of the talcs that Revlon purchased during that time frame, but they purchased many others as well.
Q. Okay. All right. Was there any time frame between -- strike that.
Just to kind of get an understanding of the frequency of purchase orders, are these -- are -- were they purchasing talc on an annual basis or on a monthly basis or on a weekly basis? Was there kind of a consistent time frame of purchase orders during that decade?
A. For Revlon?
Q. Yes, sir.
A. I -- I'm sure they were probably placing orders on a monthly basis, but I don't recall how many that would have -- would have been back then.
Q. Okay. And does -- and CSI does have records that might inform how many purchases of talc Revlon made between 2005 and 2015; correct?
A. Yes. To -- to get them together would not be easy, but yes. The answer is yes.
Q. Okay. And would those documents show the quantity of talc that was being provided?

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

A. Yes.
Q. Okay. Do you recall any instance between 2005 and 2015 when Revlon ceased purchasing talc from CSI, or was that essentially continuous throughout that -- that ten-year span?
A. To the best of my knowledge, probably continuous.
Q. Okay. Thank you. Do you know without going back and looking at the documents, how much talc CSI sold to Revlon in that ten-year span?
A. No.
MR. ERAUT: Object to form. Outside the scope, but go -- go ahead and answer if you can.
BY MS. GILSON:
Q. Okay. And to -- and all of the talc that CSI sold to Revlon was intended for makeup products; correct?
A. I have no idea.
Q. Okay. Would you be able to determine by looking at what type of talc was being sold whether it was intended for a makeup product or inclusion in a lotion or -- I can't think of any other reason why Revlon might buy talc. But would you be able to determine that if you were to be able to see the records showing specifically what talc was bought?

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

A. Not really, no.
Q. ++ Okay. What were, then, the applications of the talc that you sold to Revlon other than makeup?
MR. ERAUT: Object -- I'm going to object to form. That's outside the scope. I think I'm going to instruct Mr. Grexa not to answer. The products are limited to those at issue in this Lee litigation, not all the universe of products sold to Revlon.
MS. GILSON: Okay. Madam Court Reporter, please mark that question.
BY MS. GILSON:
Q. So if you -- if you can't say what Revlon was doing with the talc -- actually, strike that.
Do you know what products Revlon manufactured that contained the talc that CSI sold it?
A. No.
Q. And it's CSI's statement that it doesn't even know if those -- if the talc it was selling Revlon was for cosmetics or for some other purpose; correct?
A. That's correct.
Q. Okay. But CSI sells talc for makeup, and it sells talc for -- different talc for some lotions, and it sells different talc based on what the consumer is manufacturing; correct?
MR. ERAUT: Object to form.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

You can answer that generally if you understand the question.
THE WITNESS: Could you repeat that, please?
BY MS. GILSON:
Q. Sure. You would agree that CSI sells different products based on what the consumer -- what the manufacturer is looking to manufacture?
MR. ERAUT: Same objection.
You can answer that generally speaking.
THE WITNESS: Not necessarily.
BY MS. GILSON:
Q. Okay. Is it CSI's testimony that it does not know whether or not Revlon purchased talc for makeup, talc from CSI for makeup?
A. I would not know.
Q. Okay. CSI did business with Revlon for several decades; correct?
MR. ERAUT: Object to form. The time period at issue here is 2005 to 2015.
You can answer within that time period, Mr. Grexa.
THE WITNESS: During that time period, yes, we -- we sold Revlon, like I said before.
BY MS. GILSON:
Q. ++ And in fact, CSI has been in continuous

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

business with Revlon for well over 30 years; is that correct?

MR. ERAUT: Same objection.

You can answer within the time frame at issue in this case, which is 2005 to 2015.

THE WITNESS: Yeah, within that --

MS. GILSON: That's not the question.

MR. ERAUT: I'm -- I'm instructing him not to answer the question beyond the scope of the years that are at issue in the Lee litigation.

MS. GILSON: Okay. I -- that's not the question, so we can go ahead and mark that question.

BY MS. GILSON:

Q. Is it CSI's testimony that although it has been in business with Revlon for well over 30 years, that it does not know what products Revlon was purchasing talc for?

MR. ERAUT: Objection. Again, the time frame is limited to 2005 to 2015. Again, asked and answered.

You can answer again, Mr. Grexa.

THE WITNESS: Within that time frame, no. We -- we really -- we really weren't -- weren't told, and that was a very commonplace part of -- of the -- the business. Our customers were not in a -- in a big hurry to tell us information which they felt was confidential.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

BY MS. GILSON:
Q. So it's CSI's testimony that Revlon wouldn't tell CSI what products it was purchasing talc for because that was confidential?
MR. ERAUT: Objection for the time limits.
Go ahead, Mr. Grexa.
THE WITNESS: During that time frame, the answer is yes. I mean, again, I'll repeat. Customers, Revlon being one of them, wouldn't -- would not be in a big hurry to discuss specifics about their products and the raw materials used in them. On purpose.
BY MS. GILSON:
Q. How did CSI know what talc to promote to Revlon if it had no idea what Revlon needed the talc for?
MR. ERAUT: Object to form as to assumes facts as to promote.
Go ahead and answer within the time period.
MS. GILSON: And, Counsel, I have to object to you saying within the time period, within the time period. These are background. It's kind of establishing questions that I am asking. And putting a time frame limitation just does not make sense. I don't think that that is a proper instruction.
MR. ERAUT: These are defendants --
MS. GILSON: I --

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

MR. ERAUT: I'm sorry. Go ahead, Ms. Gilson. Sorry.
MS. GILSON: That's okay.
So Madam Court Reporter, will you please reread my question. Counsel will say whatever he's going to say, but please reread the question, because I've lost myself.
THE REPORTER: Sure.
(Record read as follows:
"QUESTION: How did CSI know what talc to promote to Revlon if it had no idea what Revlon needed talc for?")
MR. ERAUT: Same objection and instruction for Mr. Grexa.
THE WITNESS: Two things I think you -- you -- you should know that would be helpful, Sarah. First of all, products that we sold Revlon were already being sold to Revlon before we took over the IMI Fabi line or -- or we got involved with IMI Fabi. They were being produced prior to IMI Fabi's -- IMI Fabi's involvement in -- in -- in these -- these two businesses, Diana and the Benwood plant.
And we inherited the Revlon business before that when representing another manufacturer, and we never introduced those products to Revlon to start with.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

They were already being purchased by Revlon before CSI was on the scene, so I really can't answer those questions because the -- the talcs were already there, and we just now were the distributor of the talc that they were buying from somebody else. So it's difficult -- I'm having a difficult time answering your questions.

BY MS. GILSON:

Q. One of the things that CSI -- CSI wanted to grow its business; is that -- between 2005 and 2015; is that true?

A. Yes.

Q. And that includes -- the two ways to do that that I can think of are seeking out new customers and trying to increase sales to your current customers; true?

A. CSI's biggest success in the business was replacing competitive materials, and so therefore we would be given specifications of a product that -- that Revlon might be using, and they would give us specifications, not necessarily a sample, but specifications. And then we would try to match those specifications up with an IMI Fabi talc. That's been the success of CSI pretty much since day one for the products it has been selling. I think --

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Q. And --
A. Oh, I'm sorry.
Q. Oh, I'm sorry. And at no point in this process was there a discussion with Revlon of, Well, what talc are you using for your eyeshadow? Can we provide that for you? What talc are you using for your face powder? Maybe we can sell you that talc.
None of -- none of the end products were -- were discussed in the -- in the years that -- that CSI was doing business with Revlon?
A. Not --
MR. ERAUT: Objection as to the time period. And asked and answered.
You can answer again, Mr. Grexa.
THE WITNESS: Not -- not really.
BY MS. GILSON:
Q. Okay. CSI understands that Revlon is a national makeup brand; correct?
MR. ERAUT: Object to form.
Go ahead.
THE WITNESS: Yes, I assume so.
BY MS. GILSON:
Q. CSI knows that Revlon makeup is sold at every major retail chain in the United States that carries cosmetics; right? Your Walmarts, your Targets, your

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

THE WITNESS: Well, that's true. L'Or al is -- they have Lanc me. That's the brand, but I -- I slipped up -- I slipped up. L'Or al is the manufacturer. However, they're not included in that time frame. No, we did not sell to them.

BY MS. GILSON:

Q. Okay. So it is -- so CSI did not sell talc to L'Or al or Lanc me between 2005 and 2015?

A. That's correct.

Q. Okay. Then I will set them aside.

CSI sold talc to CoverGirl between 2005 and 2015; correct?

MR. ERAUT: Object to the form.

Go ahead and answer.

THE WITNESS: CoverGirl is a brand. We did not sell any -- any entity known as CoverGirl.

BY MS. GILSON:

Q. Okay. CSI sold to the manufacturers of CoverGirl between 2005 and 2015; correct?

A. Yes.

MR. ERAUT: Object to form.

Go ahead.

BY MS. GILSON:

Q. Was there a time frame -- and CSI sold IMI Fabi talc to the manufacturers of CoverGirl between 2005 and

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Q. Okay. And does CSI maintain records of those sales or purchases?
MR. ERAUT: Again, objection for the -- the time period.
And answer if you know that there are such documents.
THE WITNESS: Yes, we would have sales records.
BY MS. GILSON:
Q. Okay. Without reviewing those sales records, would you be able to tell me the quantity of talc that CSI sold for the manufacture of CoverGirl between 2005 and 2015?
A. That makes --
MR. ERAUT: Objection.
Go ahead.
THE WITNESS: All right. I'm sorry, Allen.
MR. ERAUT: I was going to say I just object to the form. And I think the time frame was in there. And just vague as to manufacturer.
But you -- but you can answer if you understand it.
THE WITNESS: Again, I'll -- I'll reiterate we didn't know that our talc was going into CoverGirl, number one. Number two, yes, we -- you mentioned Procter & Gamble. That's -- back then, that's correct.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

BY MS. GILSON:
Q. Okay. Do you --
A. But I wouldn't be able to tell you how many -- what -- the quantity.
Q. Okay. Without reviewing those documents; correct?
A. I mean, it would take quite a while.
MR. ERAUT: I'm going to object to the last question. Go ahead.
BY MS. GILSON:
Q. Okay. And so it is CSI's testimony that it does not know for what purpose Procter & Gamble was purchasing talc between 2005 and 2015; correct?
A. Correct.
Q. Can CSI identify for me the volume of sales to Procter & Gamble between 2005 and 2015?
A. I couldn't do that right now, no.
Q. Other than IMI Fabi talc, is there any -- can CSI tell me whether -- strike that.
Can CSI identify for me precisely what materials -- materials were sold to Procter & Gamble in that time frame without reviewing the documents?
MR. ERAUT: I'll -- I'll -- I'll object.
I guess as long as we're talking about a cosmetic talc product, you can answer the question, but

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Go ahead and answer if you can, Mr. Grexa.
THE WITNESS: I wouldn't know.
BY MS. GILSON:
Q. Have you personally communicated -- did you personally communicate with Procter & Gamble between 2005 and 2015?
A. Yes.
Q. What were the nature of your discussions regarding what Procter & Gamble needed or wanted from CSI?
MR. ERAUT: Object to form.
Go ahead and answer generally.
THE WITNESS: The discussions were basically sales service discussions with -- with personnel at the manufacturing location.
BY MS. GILSON:
Q. And all of those discussions were had without any conversation about what it was that Procter & Gamble was manufacturing?
MR. ERAUT: Object to form.
Go ahead.
THE WITNESS: That's correct.
BY MS. GILSON:
Q. Did you personally have conversations with Est e Lauder between 2005 and 2015?

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

A. Yes.
Q. And what discussions did you have with Est e Lauder concerning what Est e Lauder wanted and how your company could provide that need?
MR. ERAUT: Object to --
DEFENSE COUNSEL: Object to form.
MR. ERAUT: Object to form.
You can answer generally.
THE WITNESS: My communication with Est e Lauder during that time period was basically communications with their purchasing department.
BY MS. GILSON:
Q. Okay. And during the course of all these communications with their purchasing department, all of these were had without any discussion of what Est e Lauder was going to be manufacturing with the talc you were selling them; correct?
A. That's correct.
DEFENSE COUNSEL: Object to form.
MR. ERAUT: Object to the form. Go ahead.
BY MS. GILSON:
Q. Did CSI do any research on Est e Lauder?
MR. ERAUT: Object to form. Limit to the time period. Vague as to research.
You can answer if you understand.

EXHIBIT D

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

COMPLEX ASBESTOS LITIGATION

COORDINATED PROCEEDING SPECIAL TITLE (RULE 3.550)	
LAOSD ASBESTOS CASES	JCCP NO. 4674
MARIA T. LOZANO, PLAINTIFF,	CASE NO. 23STCV16061 AFFIDAVIT OF NONAPPEARANCE
VS.	
JOHNSON & JOHNSON ET AL., DEFENDANTS.	

CERTIFIED ORIGINAL

VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF

COSMETIC SPECIALTIES, INC.

RONALD GREXA, CORPORATE REPRESENTATIVE

TUESDAY, JANUARY 9, 2024

JOB NO. 309026

REPORTED BY KATIE HRON, CALIFORNIA CSR 13483

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 50

term "took over" as vague and ambiguous. But --
MS. GROSS: That's fair.
THE WITNESS: Oh, go ahead.
MS. GROSS: That's fine.
BY MS. GROSS:
Q. You said yes, though, to my question; fair?
A. Yes, I did.
Q. Okay. All right.
And then you understand, sir, that IMI FABI Diana -- there was some sort of business transaction that I don't entirely understand, but between IMI FABI Diana and IMI FABI LLC in 2004.
Do you understand that?
A. I know --
MR. KATERNDAHL: Vague and ambiguous.
BY MS. GROSS:
Q. Go ahead, sir.
A. I know of it, yes.
Q. Okay. So starting in 2004, did CSI sell IMI FABI LLC talc to Revlon?
A. Yes.
Q. Does CSI still sell IMI FABI LLC talc to Revlon?
A. Yes.
Q. Do you know -- I genuinely don't know if

Page 51

you know this. This is a genuine ask.
Do you know what the source of the cosmetic talc is that CSI sells to Revlon today?
MR. KATERNDAHL: That is beyond the scope of jurisdictional discovery on that basis --
MS. GROSS: I --
MR. KATERNDAHL: -- and therefore, irrelevant. So I'm -- I will instruct him not to answer.

(Whereupon the witness was instructed not to answer.)

MS. GROSS: I very much disagree, but if you are going to be instructed not to answer, there's nothing I can do about it, sir.
BY MS. GROSS:
Q. Are you gonna follow your attorney's advice?
A. Yes.
Q. All right. CSI is a talc distributor; is that correct?
A. Today it is, yes.
Q. Has it ever been anything else?
A. Yes.

Page 52

Q. What has -- what was it before?
A. It was a commission sales agency.
Q. CSI has never been a company that's mined or procured talc on its own; correct?
A. That's correct.
Q. So CSI is supplied talc by another company that does that, and then CSI sells it; is that fair?
A. That's fair.
Q. I'm trying to be over simplistic, but it's fair; right?
A. Yes.
Q. All right. Has CSI ever distributed anything other than talc?
A. Yes.
Q. What else has CSI distributed in addition to talc?
MR. KATERNDAHL: That is beyond the scope of this jurisdictional deposition, and irrelevant. Therefore, I instruct him not to answer.

(Whereupon the witness was instructed not to answer.)

BY MS. GROSS:
Q. All right. Are you gonna follow your

Page 53

attorney's advice, sir?
A. Yes.
Q. All right. Is part of your job -- strike that.
Let me -- is part of CSI's job as a distributor to establish relationships with product manufacturers?
MR. KATERNDAHL: Vague.
THE WITNESS: I --
MR. KATERNDAHL: Go ahead.
THE WITNESS: I don't understand the question.
BY MS. GROSS:
Q. So let me ask it this way:
You've already told me that CSI sells through the present day, IMI FABI talc to Revlon; right?
A. That's correct.
Q. Does CSI consider Revlon one of its customers or an IMI FABI customer?
MR. KATERNDAHL: No foundation for the part about IMI FABI customer, but he can go ahead and answer.
THE WITNESS: Yes, we would consider Revlon a CSI customer.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

EXHIBIT E

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

COURT OF UNLIMITED JURISDICTION

Coordinated Proceedings Special Title (Rule 3.550)	No. JCCP 4674
LAOSD ASBESTOS CASES	No. 23STCV08409
JILL DIAZ, Individually and as Successor-in-Interest to TERESA P. PARDO, deceased; MICHAEL PARDO, JONI STANDLEY and DARREN PARDO, Plaintiffs, vs. AMERILURE, INC., et al., Defendants.	

Remote Zoom deposition of RONALD GREXA, VOLUME I, taken on behalf of the Plaintiffs, commencing at 10:06 a.m., on Tuesday, November 21, 2023, before Jennifer J. Angelov, CSR No. 12287, a Certified Shorthand Reporter in and for the State of California.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

MR. KATERNDAHL: Same objections. Same instruction.

Mr. Grexa, do not answer the question until I made my objection and either instruct you or don't instruct you.

THE WITNESS: Okay.

BY MS. BARBA:

Q Mr. Grexa, did Cosmetic Specialties ever market the sale of talc to manufacturers that produced Dr. Scholl's foot powder?

MR. KATERNDAHL: Same objections. Same instruction.

I see Gold Bond. That's not Dr. Scholl's.

So I instruct him not to answer based on the Court's order.

BY MS. BARBA:

Q Did Cosmetic Specialties ever market the sale of talc to manufacturers that produced Clinique powdered cosmetics?

MR. KATERNDAHL: Same objections. Same instruction.

BY MS. BARBA:

Q Did Cosmetic Specialties ever market the sale of talc to Cover Girl for the manufacture of Cover Girl powdered cosmetics?

ELECTRONICALLY FILED - 2024 Jul 29 3:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001285

MR. KATERNDAHL: That's okay. That's in the five the Court identified. 13:14:43 13:14:46

Go ahead and answer the question, Mr. Grexa. 13:14:48 13:14:48

THE WITNESS: I -- I don't know, as I said earlier, whether our talc ever went into the Noxell Cover Girl brand. 13:14:52 13:14:55 13:14:59

MS. BARBA: Thank you. 13:15:01

THE WITNESS: I have no knowledge. 13:15:02

BY MS. BARBA: 13:15:03

Q Did Cosmetic Specialties ever market the sale of talc to manufacturers that produced -- I might be pronouncing this incredibly wrong -- Houbigant Chantilly? 13:15:06 13:15:11 13:15:17

MR. KATERNDAHL: Same object -- same objections. Same instruction, unless that's somehow Avon, Cover Girl, Revlon, Gold Bond, or Estée Lauder related. 13:15:21 13:15:24 13:15:33

So instruct him not to answer. 13:15:34

BY MS. BARBA: 13:15:36

Q Did Cosmetic Specialties ever market the sale of talc to manufacturers of Chesebrough-Pond's powder? 13:15:36 13:15:39 13:15:46

MR. KATERNDAHL: Same objection. Same instruction. 13:15:46 13:15:48

ELECTRONICALLY FILED - 2024 JUL 29 3:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

MR. KATERNDAHL: Same objection. 13:39:57

Go ahead. 13:39:58

THE WITNESS: IMI Fabi would not be 13:40:02
involved in -- with documents with regard to Revlon. 13:40:04
The relationship would be between Revlon and 13:40:08
Cosmetic Specialties. 13:40:11

MS. BARBA: Okay. Thank you for clarifying 13:40:15
that. 13:40:19

THE WITNESS: Yeah. 13:40:19

BY MS. BARBA: 13:40:17

Q So does Cosmetic Specialties have any 13:40:17
documents pertaining to its ongoing business 13:40:19
relationship with Revlon Consumer Products for the 13:40:24
sale of talc in its possession today? 13:40:29

MR. KATERNDAHL: Objection. Overbroad. 13:40:33
Not focused on California. Beyond the scope of 13:40:37
jurisdictional discovery. 13:40:39

I'll let you answer this question. 13:40:42

And then I'm going to start instructing the 13:40:42
witness not to answer. 13:40:44

Would you like the question read back, Ron? 13:40:47

THE WITNESS: No. I understand it. 13:40:49

We may have a blanket purchase order, which 13:40:51
Revlon supplies to us on an annual basis. But I -- 13:40:54
I would have to look and see. I'm not sure. 13:40:59

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

EXHIBIT F

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND CASE NO. 2022-CP-40-1265

Sarah J. Plant and Parker Plant,

Plaintiffs,

vs.

Avon Products, Inc., et al

Defendants.

REMOTE VIDEOTAPED DEPOSITION OF IMI FABI DIANA, LLC, IMI FABI USA, INC., AND IMI FABI, LLC, GIVEN BY CORRADO FABI

DATE TAKEN: February 15, 2023

TIME BEGAN: 9:04 a.m.

TIME ENDED: 1:00 p.m.

REPORTED BY: Traci L. Barr

CERTIFIED TRANSCRIPT

AdvancedONE LEGAL (866) 715-7770 advancedONE.com

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

APPEARANCES:

JORDAN L. BOLLINGER, ESQUIRE
Dean, Omar, Branham, Shirley, LLP
302 North Market Street, Suite 300
Dallas, Texas 75202
Jbollinger@dobbslegal.com
.....On behalf of the Plaintiffs

ELIZABETH O'NEILL, ESQUIRE
Womble, Bond, Dickinson
One Wells Fargo Center, Suite 3500
301 South College Street
Charlotte, North Carolina 28202-6037
Elizabeth.O'Neill@wbd-us.com
.....On behalf of Defendant IMI Fabi, LLC, IMI Fabi USA, Inc., IMI Fabi Diana, LLC

BARBARA J. WAGNER
Barnwell, Whaley, Patterson & Helms, LLC
211 King Street, Suite 300
Charleston, South Carolina 29401
Bwagner@barnwell-whaley.com
and
ALLIE BURNS, ESQUIRE
Barnwell, Whaley, Patterson & Helms, LLC.
211 King Street, Suite 300
Charleston, South Carolina 29401
Aburns@barnwell-whaley.com
.....On behalf of Defendant Rite Aid of South Carolina

ALLYSON TWILLEY, ESQUIRE
Fox Rothchild, LLP
2 W. Washington Street, Suite 1100
Greenville, South Carolina 29601
Atwilley@foxrothschild.com
.....On behalf of Defendant Whittaker, Clark & Daniels, Inc.

CHANDLER ROWH, ESQUIRE
Maron, Marvel, Bradley, Anderson & Tardy, LLC
259 Seven Farms Drive, Suite 300
Charleston, South Carolina 29492
Crowh@maronmarvel.com
.....On behalf of Defendant Brenntag

JULIE FEKETE, ESQUIRE
Gordon, Rees, Scully, Mansukhani
40 Calhoun Street, Suite 350
Charleston, South Carolina 29401
Jfekete@grsm.com

.....On behalf of Defendant Color Techniques

ALSO ATTENDING: Mike Summerville, Steve Marsland

INDEX

PAGE
Stipulation.....6
Examination by Ms. Bollinger.....8, 113
Examination by Ms. O'Neill.....105
Certificate of Reporter.....116
Errata Sheet.....117

EXHIBITS

Exhibit 1 (Document).....8
Exhibit 2 (Document).....17
Exhibit 3 (Document).....17
Exhibit 4 (Document).....39
Exhibit 5 (Document).....41
Exhibit 6 (Document).....43
Exhibit 7 (Document).....43
Exhibit 8 (Document).....54
Exhibit 9 (Document).....--
Exhibit 10 (Document).....66
Exhibit 11 (Document).....74
Exhibit 12 (Document).....78

Exhibit 13 (Document).....82
Exhibit 14 (Document).....84
Exhibit 15 (Document).....85
Exhibit 16 (Document).....98

[Exhibit Numbers 1 through 16 retained by counsel.]

AdvancedONE LEGAL
(866) 715-7770
advancedONE.com

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 6

(It is hereby stipulated and agreedby and among counsel for the respective parties that this deposition is being taken in accordance with the South Carolina Rules of Civil Procedure, and that the deponent does not waive reading and signing of this deposition.)

- - -

THE VIDEOGRAPHER: Going on the record. Today's date is February 15, 2023. The time is approximately 9:04 a.m. The court reporter may now proceed.

CORRADO FABI, being first duly sworn, testified as follows:)

MS. BOLLINGER: Okay. We're going to deal with a couple of things -- you can put your hand down, Mr. Fabi. We're going to deal with a couple of things before I start asking you questions, Mr. Fabi.

First of all, this deposition is taken pursuant to the South Carolina Rules of Procedure. That means one objection is good for all, and the court reporter will simply note that defense counsel made the objection and not a specific defense counsel. Also, we have an agreement that a translator will assist Mr. Fabi at times today.

Page 7

It's my understanding that the -- Mr. Fabi can mostly understand English, but to the extent he has any difficulties, he will ask the translator to translate the question.

Is that -- is that right, Elizabeth?

MS. O'NEILL: That's accurate, with one addition, which is if he understands the question but feels that the answer is a little more technical than his English, he'll give the answer in Italian to have it translated.

MS. BOLLINGER: Okay.

MS. O'NEILL: In other words, you may ask a question in English that he understands, but his ability to answer it in English is not so great, so then he'll just give his answer to the translator at the time, and the translator will do it, as opposed to making -- you know, having to repeat the question.

MS. BOLLINGER: Okay. And it's my understanding that the translator has a list of words in front of him that are technical words relating to talc and asbestos and all that, and we're going to go ahead and attach that as Exhibit 1, and that is going to be sent to me at some point in time. Hopefully, before we get too far in this deposition, Elizabeth.

Page 8

MS. O'NEILL: We'll do it on a break, Jordan.

MS. BOLLINGER: Okay.

(Exhibit Number 1 marked for identification.)

EXAMINATION

BY MS. BOLLINGER:

Q. Mr. Fabi, good morning.

A. Good morning.

Q. It is not morning where you are, is it?

A. It's afternoon.

Q. It's afternoon. Okay.

Please state your name for the record.

A. Corrado Fabi.

Q. Mr. Fabi, where do you live?

A. In Postalesio, Italy.

MS. O'NEILL: Jordan, can we -- can you give me one second? I'm going to see if I can change this so he sees you. You're up in the top corner.

MS. BOLLINGER: Okay.

THE VIDEOGRAPHER: Off the record?

MS. BOLLINGER: Yes.

THE VIDEOGRAPHER: Off the record 8:07 a.m.

(Discussion held off the record.)

THE VIDEOGRAPHER: Going on the record 8:08 a.m.

Page 9

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Okay. Mr. Fabi, what is your address?

A. Now?

Q. Yes.

A. It is Via Nazionale 24, Postalesio, Italy.

Q. Mr. Fabi, how old are you?

A. I am -- [inaudible] question. I am 61. Very close to 62.

Q. The address that you gave to me, is that the address of your office?

A. Where we are now, right.

Q. Right. And, Mr. Fabi, in the room today you have IMI Fabi's national counsel, correct?

A. We have Mrs. Elizabeth and behind her is Mr. Summerville.

Q. And he is another attorney for your company?

A. For the company, yes.

Q. And we also have the translator, of course, which was already covered.

And specifically as it relates to the translator, you heard me discuss the agreement with Ms. Olson [phonetic] on the record earlier, correct?

A. Yes.

Q. I ask that you only converse with the translator

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 10

to the extent you cannot respond in English. Do you understand that?
A. Well, if I don't understand the question, I am not comfortable that I fully understood your question, I will ask Mr. Steve to make a translation, and if I don't feel confident that, you know, I can provide you with proper reply, I will ask Steve to make the translation for me.
Q. Okay. And that's -- I understand that, but if there is a question that he translates to you that you don't understand his translation, I ask that you tell me that so that I can --
A. Okay.
Q. -- ask the question in a different way. Okay?
A. Okay. Fine. Fine.
Q. And also, if you do have to talk to the translator to understand something, I also ask that you first tell me, if that is possible. Is that okay?
A. Fine. Fine. And if I forget, remember.
Q. Okay. Have you met our translator before today?
A. Yeah.
Q. How do you know him?
A. Well, the area is very small, so, more or less, we know each other, and he has also provide some

Page 11

English courses to the people working for IMI Fabi.
Q. I understand. He is not an employee of IMI Fabi, is he?
A. No, not at all.
Q. I want to be correct. Is it okay if I call it IMI Fabi? It's not I-M-I Fabi, right?
A. In Italian, it is IMI Fabi.
Q. Okay. Mr. Fabi, have you ever given a deposition before?
A. In US, never.
Q. Never. Have you ever given a deposition outside of the US?
A. Only Italy.
Q. Only Italy. Okay. I am not sure what the rules are for Italy, but when we are doing this deposition in the US, I just ask that you let me finish my question before you respond, and if you don't understand my question, which I know we might have some issues with translation, that you let me know you don't understand the question so I can rephrase it in a way that you do. I also ask that you answer out loud, and so you cannot shake your

Page 12

head or nod at yes. You have to say yes or no or however you want to respond. Do you understand that?
A. Well, can you rephrase?
Q. Okay. So, first and foremost, I need you to let me finish my question before you answer.
A. That's clear.
Q. That's clear. Good. And so I also ask that when you respond to a question, you speak the words out loud. Do you understand that?
A. I will be fine.
Q. Okay. And I'll try to remind you as well.
A. Yes.
Q. I ask that you not nod your head yes or shake your head no in response to any of my questions, but speak those words out loud. Okay?
A. Okay.
Q. And the same goes -- sometimes -- and I'm not sure if you do this in your culture. Sometimes Americans tend to say uh-uh or uh-huh. I ask that you actually say the words yes or no. Okay?
A. Fine.
Q. Okay. And just to be clear, today the documents that are around you include the document

Page 13

production in this case, correct?
A. I -- honestly, I don't know what documents Mrs. Elizabeth has with her, so you should ask her this question.
MS. O'NEILL: I'll tell you --
THE DEPONENT: I have no documents with me.
MS. O'NEILL: I'll tell you, Jordan, I have with us the documents that have Bates stamp number IMI Fabi-Plant 001 through 001046, and those are the only documents that the witness has in relation to the case.
MS. BOLLINGER: Okay. I'm sorry, Mr. Fabi. Just give me one second. Okay.
MS. O'NEILL: Actually, Jordan, I will tell you I have -- I also have your Exhibit 161 and 162, the opposition to the Noxell because I thought you might use them, so I've got those copies in the room as well.
MS. BOLLINGER: Okay. Can you just --
MS. O'NEILL: The witness hasn't really gone through them, but I've got them.
MS. BOLLINGER: Okay. Elizabeth, just for the record, can you specifically tell me what those documents are?

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 14

MS. O'NEILL: No. Let's see. Assuming I have downloaded and photocopied things without error, 161 appears to have Noxell CG002183 through 2225. I'm sorry. That's 162. And 161 appears to have Noxell 013925 through 13945, and they were your firm's exhibits in opposition to that summary judgment motion.
MS. BOLLINGER: And you said they're 161 and 162, correct?
MS. O'NEILL: Yeah.
MS. BOLLINGER: Okay.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. And, Mr. Fabi, this is going to be another difficult thing. Sometimes we want other people to ask the -- answer the questions for us. To some extent today, you can do that. I ask that you really try to avoid relying on the translator too much if you can, but sometimes we want to say that, you know, you'd have to ask my lawyer, or you may turn around to Ms. Elizabeth and say, you know, can you answer the question. Unfortunately, it's your deposition today, so you have to answer the questions as best as you can. Okay?

Page 15

A. That's clear.
Q. Okay.
A. I will do my best.
Q. Okay.
A. I hope not to disappoint you.
Q. I'm sure you won't disappoint me. Don't worry. Mr. Fabi, I don't know if I fully introduced myself. I am Jordan Bollinger, and I represent the plaintiffs in the matter of Sarah Plant versus IMI Fabi and other defendants. Do you understand that I represent the plaintiff in this matter?
A. Yeah. Yes.
Q. Okay. Mr. Fabi, when did you find out you'd be giving a deposition?
A. Two weeks ago, something like that. Yeah, before going to Brazil, so --
Q. Can I ask what you went to Brazil for?
A. Sorry?
Q. Can I ask what you went to Brazil for?
A. To present because we have a company in Brazil.
Q. Who told you that you'd be giving a deposition today?
A. Yes.
Q. Who told you that you were going to do -- speak with me today?

Page 16

A. Mr. -- well, not with you because I didn't know that it was you, but I was told by Mr. Hooper, company counsel in West Virginia, and Mrs. O'Neill.
MS. O'NEILL: Jordan, it's Michael Hooper at Obermayer.
MS. BOLLINGER: Okay.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Did you meet with any lawyers in preparation for today?
A. Yesterday, with the lady behind me, and I had a short video call before leaving to Brazil with Mr. Hooper and Mrs. O'Neill. Yesterday -- sorry. Yesterday, Mr. Summerville was in the meeting. I forgot to say.
Q. I don't really want to know the discussions that you had with your lawyers, but did you take any notes during those meetings?
A. No.
Q. Have you seen the Notice of Deposition in this case?
A. Yesterday.
Q. Okay. I am going to attach that Notice of Deposition as Exhibit 1. Or, I'm sorry, we're on Exhibit 2.
(Exhibit Number 2 marked for identification.)
MS. O'NEILL: Jordan, can we attach, as Exhibit 3, my objections just to complete the record?
MS. BOLLINGER: Absolutely.
MS. O'NEILL: And, Madam Court Reporter, I will get those e-mailed to you.
(Exhibit Number 3 marked for identification.)
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. Mr. Fabi, what exactly is IMI Fabi?
DEFENSE ATTORNEY: I'm going to object to the form of the question. I'm just going to ask, Jordan, that you can do it as part of this -- you sued three entities, so let's get the -- when we say, IMI Fabi, what we're talking about or who we're talking about, if it's a singular entity or all three. That's fine for your question, but if we could set that up in the beginning of the deposition, I think it will help make things go more efficiently.
MS. BOLLINGER: Okay. Let's do it this way. And, Elizabeth, I just ask that you not interfere too

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 18

much with the questions because --
MS. O'NEILL: No, I'm not going to. I meant to ask you that off the record. I forgot.
MS. BOLLINGER: Thank you. Okay.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Mr. Fabi, do you understand that the plaintiffs have named three IMI Fabi entities in this case?
A. Yes.
Q. Correct?
A. Yes.
Q. Okay. What is IMI Fabi Diana?
A. Diana is a company in the State of New York that ceased operations, talc operation, in 2004.
Q. It ceased talc operations. Is that what you said?
A. Talc operation, yeah.
Q. When did IMI Fabi Diana start its talc operations?
A. 2001.
Q. What type of talc did IMI Fabi Diana sell during -- between 2001 and 2004?
A. Cosmetic and pharma products to Cosmetic Specialties.
Q. After 2004, did IMI Fabi Diana cease to exist?

Page 19

A. No. It is still in existence.
Q. Does it operate any type of business today?
A. No.
Q. Was there any other IMI Fabi entity selling cosmetic talc at the same time as IMI Fabi Diana?
A. No.
Q. So between 2001 and 2004, IMI Fabi Diana was the only IMI Fabi entity selling cosmetic talc, correct?
A. Yes, yes.
Q. What is IMI Fabi, LLC?
A. It is a talc operation in West Virginia.
Q. Did IMI Fabi, LLC, sell cosmetic talc at any point in time?
A. IMI Fabi, LLC, started in 2004 after Diana stopped operation, to make it clear.
Q. And so IMI Fabi, LLC, started selling cosmetic talc when IMI Fabi Diana ceased its talc operations, correct?
A. Yes.
Q. How long did IMI Fabi, LLC, sell cosmetic talc after 2004?
A. Until today.
Q. Did IMI -- does IMI Fabi, LLC, sell any other types of talc besides cosmetic talc?

Page 20

A. Industrial talc.
Q. Did IMI Fabi, LLC, sell industrial talc prior to 2004?
A. Since 2001.
Q. From 2004 to today, has there ever been any other IMI Fabi entity selling cosmetic talc at the same time as IMI Fabi, LLC?
A. No.
DEFENSE ATTORNEY: Object to the form.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. And I'm sure your lawyer has talked to you a little bit about this. Sometimes she's going to object to the form, but you still have to answer the question. So to the extent she does that, we're going to keep moving. Okay?
A. I said no.
Q. Correct. I just wanted to remind you. What is IMI Fabi USA?
A. It's a holding company.
Q. Has IMI Fabi USA ever sold cosmetic talc?
A. No.
Q. Why was IMI Fabi USA created?
A. As a holding company, and IMI Fabi USA holds the interest from Suzorite. Sorry. I need to -- IMI

Page 21

Fabi USA was set up in 1999.
Q. Mr. Fabi, there were some questions that I forgot to ask you that I'm going to ask you a little bit out of order. Okay?
A. Fine.
Q. Okay. What is your current position with IMI Fabi?
A. I am the CO of the group. In United States, I am president of USA and president of LLC.
Q. Your last name is Fabi, correct?
A. Yeah.
Q. And the company is IMI Fabi, right?
A. Yeah, yeah.
Q. Is this a family-owned company?
A. Yes. And we are second generation.
Q. And you understand that you have been designated by IMI Fabi to be their corporate representative in this case, correct?
A. Yes.
Q. Okay. And you understand that your testimony today is binding on the three IMI Fabi entities that have been named in this case, correct?
A. Yes.
Q. Are you being compensated to be here today?
A. No.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 22

Q. And so you are being -- you are still making money because you are the CO of the IMI Fabi group, correct?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: Yes, I'm paid by the company.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Right. So you're not specifically being paid to be here today, correct?
A. No.
Q. Okay. Mr. Fabi, did you go to school?
A. Yes.
Q. Do you have any form of college degree?
A. Well, I -- I have a degree in Italy, and it's a certificate, and I don't know what this means in the states.
Q. Okay.
THE INTERPRETER: High school graduation.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. And your translator just clarified, in the United States, you have a -- it would be a degree from high school?
THE INTERPRETER: High school graduation, that's right.
EXAMINATION RESUMED

Page 23

BY MS. BOLLINGER:
Q. Okay. Do you have any other form of degrees?
A. No.
Q. When did you get that degree?
A. 1979.
Q. When did you start working for the family company?
A. 1984.
Q. What did you do for work between 1979 and 1984?
A. I was a professional racing driver.
Q. Was that Formula 1 racing?
A. When I stopped, yes, I was Formula 1 driver.
Q. When you joined the company in 1984, what position were you in?
A. CO.
Q. And is that the same position you're in today?
A. Yes.
Q. We talked a little bit about the document that Ms. O'Neill told us you have with you today, right?
A. I have no documents with me.
Q. Okay. Your attorney brought documents with her, right?
A. Yeah.
Q. Those documents are in the room with you, correct?

Page 24

A. Behind me, but I have no access.
Q. Okay. Do you -- did you assist in gathering those documents for this case?
A. No.
Q. Have you looked at all of those documents?
A. Yesterday, some of them because there are too many documents in the folder.
Q. Do you know if anyone helped the lawyers to gather those documents?
A. I have no idea what lawyers did. I -- I provided some documents to the lawyers.
Q. Okay. Which documents are those?
A. I -- I think the documents are already in the folder, and I think you should ask my lawyer because, as I told you, I have no idea what documents are in the folder.
Q. When did you provide those to the lawyer? Was that yesterday?
DEFENSE ATTORNEY: Object to the form of the question.
THE DEPONENT: I have to say over the last seven days, eight days.
MS. BOLLINGER: Elizabeth, are those the documents that were provided to us?
MS. O'NEILL: Yes, Jordan, you have all the documents

Page 25

responsive to the duces tecum that we got for Mr. Fabi, and I don't want to answer in the deposition very much, but there are other document sources, and he can speak generally to where the documents -- document -- where they've been maintained, that kind of stuff.
MS. BOLLINGER: Okay. Okay.
MS. O'NEILL: But you do have all of the responsive documents that we were able to get from him or any source.
MS. BOLLINGER: Understand.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Mr. Fabi, where did you find the documents that you provided to Ms. O'Neill?
A. For Diana, I had to rely on Mr. Summerville because Diana is only hard copies. For LLC are mainly digital copies. We searched in our server.
Q. Does LLC have any hard copies of documents?
A. No. It's digital.
Q. So the documents from Diana, those are kept by Mr. Summerville?
A. Yes.
Q. Okay. So Mr. Summerville would have done the

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 26

search for the documents that you provided to Ms. O'Neill, right?

A. Yeah.

Q. Did you personally do the search of the server for IMI Fabi, LLC?

A. Actually, some other people of my team supported me in this search.

Q. Do you know the names of those other people?

A. Matteo Crottogini, Patrizia --

MS. O'NEILL: Jordan, I'm making a list of what we're going to need to get spellings to the reporter for, and I'll work with Mr. Fabi and the interpreter to get that, and then I'll send it in an e-mail that you got it as well.

MS. BOLLINGER: Thank you. I appreciate it.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Patrizia, what was the last name?

A. Zuppini, Marco Leusciatti, Erin Moore, Robert Atwater [phonetic].

Q. Besides meeting with the lawyers today and looking through some documents, did you do anything else to prepare for your deposition today?

A. No.

Page 27

Q. Did you speak with anyone besides the lawyers to prepare for your deposition today?

A. No.

Q. We talked about three IMI Fabi entities. Do those entities have a parent company?

A. The parent company, IMI Fabi USA is owned by IMI Fabi SPA.

Q. Who is IMI -- does IMI Fabi SPA own IMI Fabi, LLC?

A. No. It's through IMI Fabi USA.

Q. Does IMI Fabi USA own IMI Fabi Diana?

A. No.

Q. Who owns IMI Fabi Diana?

A. LLC.

Q. Okay. Let me see if I have this correct. Okay. IMI Fabi SPA owns IMI Fabi USA, correct?

A. Yes.

Q. IMI Fabi USA owns IMI Fabi, LLC, correct?

A. Yes, yes.

Q. And IMI Fabi, LLC, owns IMI Fabi Diana, right?

A. Yes, yes.

Q. Between 2001 and 2004, who owned IMI Fabi Diana?

A. LLC.

Q. Okay. Does IMI Fabi SPA own any talc mines?

A. IMI Fabi -- sorry to be precise. In Italy, you don't own a mine. You have the mining rights, so there is no ownership. That being the same in United States, I don't know.

Page 28

Q. Did okay. You say you rent the mining grounds in Italy? Is that what you said?

A. It's a lease. It's a mining lease from the [inaudible].

Q. So IMI Fabi SPA has mining leases in Italy. Yes?

A. Yes.

Q. Where are those mining leases?

A. In Sondrio, so it's the capital of the province where we are. About 20 -- I would say 20, 25 kilometers from here where we are now.

Q. Are there any other mining leases that IMI Fabi SPA has?

A. Directly, no.

Q. How long has IMI Fabi SPA had that mining lease for?

A. Since the '70s, but if it's important question for you, I have to make some search to give you the exact date.

Q. Between 2001 and the present day, has IMI Fabi SPA had any other mining leases in Italy?

A. Between 2001 and?

Q. Today.

Page 29

A. And today. IMI Fabi SPA, no. IMI Fabi SPA owns other companies that have mining rights.

Q. Okay. Does IMI Fabi, LLC, have any mining rights?

A. No.

Q. Have they ever had any mining rights?

A. No.

Q. Does IMI -- has IMI Fabi Diana ever had any mining rights?

A. No.

Q. You mentioned there were other IMI Fabi entities that had mining rights. Which IMI Fabi entities have mining rights?

A. IMI Fabi Sardinia.

Q. Where is that?

A. It's in Italy. Sardinia is an Italian island in the Mediterranean Sea. It's good [inaudible]. Not [inaudible]. IMI Fabi Australia -- sorry. To finish, IMI Fabi Australia and IMI Fabi Brazil.

Q. IMI Fabi Australia has mining rights, I assume, in Australia. Correct?

A. Yes.

Q. Where are those mining rights in Australia?

A. In Western Australia.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 30

Q. Is there a name of the specific mine?
A. Mount Seabrook.
Q. How long have they had those mineral rights? Or mining rights? Excuse me.
A. Good question. 1998, around that year.
Q. The IMI Fabi Sardinia, the mining rights are in Sardinia, correct?
A. Yeah.
Q. Is there a specific name of the mines in Sardinia?
A. SaRatta, SuVenosu.
Q. We will get the spellings of that. Yes, we will get the spelling of that later on.
A. Okay.
Q. Where are the mining rights for IMI Fabi Brazil?
A. In the state of Baiha.
Q. Is there a specific name for the mine?
A. Cabeiceras?
Q. I might need the spelling for that, too. How long has IMI Fabi Brazil had those mining rights?
A. 2016.
Q. And I forgot to ask you about IMI Fabi Sardinia. How long has IMI Fabi Sardinia had those mining rights?

Page 31

A. 2009.
Q. Does IMI -- strike that. Does any other IMI Fabi entity have any mining rights anywhere?
A. Sorry. We've got this strange message.
Q. Okay.
MS. BOLLINGER: Actually, now's a good time for a little break. We have been going for about 50 minutes. Let's take about a five-minute break, and we can resolve the technological issue.
THE VIDEOGRAPHER: Off the record 9:51 a.m.
(Recess taken.)
THE VIDEOGRAPHER: Going on the record 10 a.m.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. Mr. Fabi, did you speak with anyone during our break about your testimony?
A. No, about coffee because we had coffee, and we spoke about coffee and the coffee machine.
Q. But you did not speak to anyone about the substance of your testimony --
A. No.
Q. -- correct?
A. No.
Q. Okay. So before we left off, you told me that you have -- all IMI Fabi entities, that's what I'm talking about right now. Before we left off, you told me IMI Fabi entities have mining leases in -- two in Italy, correct?

Page 32

A. Three.
Q. Three. Which one -- so I have the one in the Sondrio province.
A. One in Sondrio and two in Sardinia.
Q. Okay.
A. SaRatta and SuVenosu.
Q. Okay.
A. You will get the right spelling.
Q. Right. And then there is also a mining lease in Western Australia, correct?
A. Right, yes.
Q. And then there is also a mining lease in Brazil, correct?
A. Yes, yes.
Q. Okay. Is cosmetic talc mines at all of these mining leases?
A. Mainly are industrial rights.
Q. Okay. Which of these mining leases -- which one of these mining leases is where cosmetic talc is mined?

Page 33

DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: Brazil.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Would that be true starting in 2021?
A. No. Brazil, we started in 2016.
Q. Right. Between 2001 and 2016, where did IMI Fabi mine cosmetic talc from?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: IMI Fabi never mined cosmetic talc.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. And that's until 2016?
A. Right.
Q. Okay. Between 2001 and 2016, where did IMI Fabi source its cosmetic talc from?
A. Benwood, West Virginia. Sorry. Just to be precise, between 2001 and 2004, was Diana. From 2004 to today, Benwood.
Q. So help me understand. Between 2001 and 2004, when Diana was selling cosmetic talc, where did Diana's cosmetic talc come from?
A. China.
Q. Was there a specific province in China where it came from?

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 34

A. Guaguang.
Q. Did someone sell that talc from China to Diana?
A. Minchen, M-I-N-C-H-E-N.
Q. Between 2001 and 2004, did Diana source its talc from anywhere besides China?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: Diana bought talc from China.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Did Diana buy cosmetic talc from anywhere else?
A. No.
Q. And to be clear, Diana only sold cosmetic talc?
A. Yes.
Q. Between 2004 and 2016, where did the cosmetic talc at IMI Fabi, LLC come from?
A. Guaguang.
Q. And that was sold to IMI Fabi LLC by -- is it Minchen?
A. Minchen, M-I-N-C-H-E-N. Now it was sold until 2010 or 2011. Then LLC bought the talc directly from China. Minchen is a company based in Texas.
Q. Okay. So before -- between 2004 and 2010 or 2011, IMI Fabi, LLC, purchased talc from Minchen in Texas, correct?
A. Yes, yes.

Page 35

Q. And I'm specifically talking about cosmetic talc. Correct?
A. Yes.
Q. Between 2004 and 2010 or '11, did IMI Fabi, LLC, purchase cosmetic talc from anyone else besides Minchen?
A. From Australia, but not for cosmetic talc, and then around those years, also from Pakistan for industrial talc, not for cosmetic.
Q. Okay. So between -- let me start over. From 2004 to the present day, has IMI Fabi sold talc from anywhere besides -- okay. Let me back up.
Between 2004 and present, has IMI Fabi sold cosmetic talc from any other country than China?
A. No. The cosmetic -- the raw material used to make pharma and cosmetic products have always come from China.
Q. Okay. Has any IMI Fabi entity, at any point in time, had any business relationship with Whittaker, Clark, and Daniels?
A. No.
Q. Okay. I am going to try to share my screen with you. Can you see my screen, Mr. Fabi?
A. Let me wear my glasses. Yeah.

Page 36

Q. Okay. Have you seen this document before?
A. Yes, I presume so. I mean, it's a purchase order. I don't know if I have seen this specific document, but, you know --
MS. O'NEILL: Can you tell me the Bates stamp number?
MS. BOLLINGER: The Bates stamp number is going to be -- well, I was about to until this thing popped up. Let me try to do it this way. Hold on one second. Okay.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Can you still see my screen okay?
A. Yes.
Q. All right. The Bates stamp number is IMI Fabi-Plant 000878. Do you see that, Mr. Fabi?
A. Yes.
Q. Okay. And this is a document dated August 31, 2001, correct?
A. Yes.
Q. And the vendor here is IMI Fabi Diana, correct?
A. Yes.
Q. And it is being shipped to Procter & Gamble care of Sterigenics, correct?
A. Yes.
Q. IMI Fabi sold talc 141, correct?

Page 37

A. To Cosmetic Specialties.
Q. Okay. We'll get into that.
A. Okay.
Q. Right here it says WCD 141 BC. Do you know what WCD stands for?
A. It's the brand name of the product when we bought the company. We didn't change the product range.
Q. Okay. Where does talc 141 -- at this point in time in 2001, where did talc 141 come from?
A. China, Guaguang, and to Minchen.
Q. Do you have any reason to believe that WCD stands for Whittaker, Clark, and Daniels?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: I can guess so, but we never had any relation with Whittaker, Clark, and Daniels.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. And so -- I'm sorry. Go ahead.
A. As I said before, our contact and our distributor has always been Cosmetic Specialties.
Q. Okay. And so has -- is the better question, has IMI Fabi Diana ever sold Whittaker, Clark, and Daniels talc?
A. To my knowledge, at least since 2001, our products were sold to Cosmetic Specialties.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 38

Q. Okay. Maybe I didn't ask the question right. Since 2001, has IMI Fabi ever purchased Whittaker, Clark, and Daniels talc?
A. No.
Q. Okay. And so your testimony is that this WCD 141 talc in this document dated August 31, 2001, your testimony is that that would have come from Minchen; is that right?
A. Raw material came from China through Minchen and was produced at IMI Fabi Diana. WCD has nothing to do with IMI Fabi Diana.
Q. Are you aware, Mr. Fabi, that Whittaker, Clark, and Daniels sold talc 141 for decades?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: I know because I've been in the business for many years, so, you know, I know quite well talc markets, but IMI Fabi never had any contact with WCD.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. So how does WCD-branded talc end up in the hands of IMI Fabi Diana?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: I told you that that's a brand name, and when we bought the company, we didn't change

Page 39

product name and -- and the label on the bags.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Maybe it's because we haven't covered this enough.
When you're saying, "bought the company," which company are you talking about?
A. IMI Fabi Diana that was bought in -- I mean, IMI Fabi Diana bought from Suzorite the facility in New York State.
Q. And it's my understanding that that facility was owned, at one point, by Whittaker, Clark, and Daniels. Is that right?
A. I -- I know that that facility was owned by Suzorite. I am not very familiar with, you know, the -- before that.
Q. Okay. So I'm going to attach this exhibit as -- that we're looking at right now as Exhibit 4.
(Exhibit Number 4 marked for identification.)
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. And then I am going to -- I'm going to share my screen with you again. Let me do this. I'm sorry I'm taking a little bit of time. I'm

Page 40

trying to make sure that I can see it.
A. No worries.
Q. Okay. Can you see my screen still?
A. Yes.
Q. Okay. This is a Material Safety Data Sheet, correct?
A. Yes.
Q. And the Bates number on here is IMI Fabi-Plant 000164, correct?
A. Yes.
Q. Okay. And the effective date is April of 2001, right?
A. Yes.
Q. Okay. The manufacturer's name is IMI Fabi Diana, right?
A. Yes.
Q. Okay. There are -- there is -- and I'm highlighting them for you -- a bunch of names of talc products, right?
A. Yes, yes.
Q. Are these all cosmetic talc products?
A. Yes.
Q. Okay. And would all of these cosmetic talc products have come from China?
A. Yes.

Page 41

MS. BOLLINGER: Okay. I'm going to attach that as Exhibit 5.
(Exhibit Number 5 marked for identification.)
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. And for clarity, all of those cosmetic talc products would have come from the Guaguang province of China, correct?
A. Yes.
Q. Okay. You have mentioned Cosmetic Specialties a couple of times?
A. Yes.
Q. What is Cosmetic Specialities?
A. To IMI Fabi is a distributor for our pharma and cosmetic products.
Q. How long has Cosmetic Specialities been a distributor for the IMI Fabi entities pharma and cosmetic products?
A. Since the beginning, 2001.
Q. Between 2001 and today, has IMI Fabi ever used any other distributor for its pharma and cosmetic products?
A. No.
Q. I'm sorry. That was a no?

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 42

A. No.
Q. Do you know if there are any contracts between Cosmetic Specialities and IMI Fabi Diana?
A. There was between 2001 and 2004.
Q. Do those contracts still exist?
A. Well, not for Diana because Diana has ceased operation. Then in 2004, the distribution agreement was transferred to LLC, and since then, we have kept the relationship. Frankly speaking, I don't know if the 2004 contract is still valid. Maybe the validity has expired, but we have kept the relationship.
Q. Okay. I'm -- so I'm specifically asking about whether or not the physical copy of the contract between IMI Fabi and Cosmetic Specialities still exists today. Does it still -- do you have a physical copy of that contract?
A. Physical, no. Most likely, we did a digital copy, but I have to search.
Q. And that is not something that you produced --
A. Not yet.
Q. -- to --
A. No.
MS. BOLLINGER: Okay. I would just ask that, Elizabeth, if you could produce that to us, I would appreciate it. And, ideally, we could attach that as Exhibit 6.

(Exhibit Number 6 marked for identification.)

EXAMINATION RESUMED

BY MS. BOLLINGER:
Q. Do you know if IMI Fabi, LLC, still has the contract with Cosmetic Specialities from 2004?
A. The contract is valid because, I mean, we have kept, over the years, the same relationship, so --
Q. Okay.
A. -- Cosmetic Specialities is our distributor in US.
MS. BOLLINGER: Okay. And I would just ask that the IMI Fabi contract with Cosmetic Specialties be produced as Exhibit 7.

(Exhibit Number 7 marked for identification.)

EXAMINATION RESUMED

BY MS. BOLLINGER:
Q. Sorry, Mr. Fabi, I'm trying to look at things to reorganize my questions based on what you've told me. Okay?
A. Take your time.

Page 44

Q. Between 2001 and 2004, did IMI Fabi send talc to Cosmetic Specialities to distribute?
A. Cosmetic Specialities always organized to pick up material at our facility, so our material was sold FOB Diana.
Q. Can you just explain to me what FOB means?
A. Free of board. It's an inter term. It's an international terminology.
Q. Okay. What is free on board?
A. That you put on the truck, and the truck is organized by another party, in this case Cosmetic Specialities.
Q. Between 2004 and today, would Cosmetic Specialities -- let me strike that. Between 2004 and today, did IMI Fabi, LLC, ever send any talc directly to Cosmetic Specialities?
A. No.
Q. Okay. And so to understand -- my understanding of Cosmetic Specialities is that it does the organizing of transporting the product to the customer. Correct?
A. No.
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: No. Absolutely, Cosmetic Specialities buys the product and sells our products according to its policy. We have absolutely no knowledge of what Cosmetic Specialities is doing about, say, strategy, pricing, and so on. On top of that, Cosmetic Specialities organized the freights.

EXAMINATION RESUMED

BY MS. BOLLINGER:
Q. Have you read the depositions in this case?
A. Not all, but some.
Q. Okay. Which deposition -- okay. Which depositions did you read in this case?
A. I don't know. There are so many papers that I'm lost.
Q. Okay. Did you read the deposition of Sarah Plant?
A. No.
Q. Okay.
A. But I'm aware of what she's going through.
Q. Are you aware of any of the makeup products that Sarah Plant used?
A. No.
Q. Are you aware that Ms. Plant testified to wearing CoverGirl pressed powders?
A. No.
Q. And so you wouldn't be -- I'm sorry. Go ahead.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 46

A. In that I'm not aware about brands, cosmetic brands, because it's not my expertise.
Q. What do you mean by it's not your expertise?
A. Because we have our contact is Cosmetic Specialities, so we have no information of Cosmetic Specialties' customer.
Q. Okay. So you are -- you would not be aware that Mrs. Plant testified to wearing CoverGirl pressed powders every day starting around 1998, correct?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: I am not aware.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. I am going to show you a document.
MS. BOLLINGER: And, Elizabeth, I'm not sure if that's one of those exhibits. I haven't had the chance to go back and check. I think it is. So just let me know.
MS. O'NEILL: What's the Bates number? Do you know?
MS. BOLLINGER: The document is titled NOX-057. I'll show it to you, and we can see --
MS. O'NEILL: Perfect.
MS. BOLLINGER: Sorry?
MS. O'NEILL: I said sure.
MS. BOLLINGER: Okay.

Page 47

EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. Can you see my screen, Mr. Fabi?
A. Yes.
MS. BOLLINGER: Elizabeth, is this one of those documents you were mentioning?
MS. O'NEILL: Yeah, it's not in those two exhibits, so I don't have a paper copy of this document.
MS. BOLLINGER: Okay.
MS. O'NEILL: So --
MS. BOLLINGER: I can send this to you.
MS. O'NEILL: Okay. You can go ahead and ask questions about it.
MS. BOLLINGER: Okay.
MS. O'NEILL: I can see that it's Defendant Noxell Corporation's Answers to Plaintiff Gary Chapman's Special Interrogatories, so go ahead. I can see it on the screen. I don't have to have a paper copy for you to ask the questions.
MS. BOLLINGER: Good deal.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Mr. Fabi, do you know who Noxell is?
A. No.
Q. Okay. I'm going to represent to you that they are an entity that owns CoverGirl.
Do you have any knowledge about that?

Page 48

DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: No.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. I'm just going to scroll down to -- this is page 3, and the -- and I'm going to represent to you that these are -- this is discovery that Noxell answered in a different case. Okay?
A. Okay, yes.
Q. This interrogatory number 3 says, who supplied the talc used in CoverGirl products between 1964 to 2022, and, for example, Whittaker Clark, and Daniels, Luzenac, Imery's, et cetera.
Do you see that?
A. Yes.
Q. And it says, Noxell believes that talc supplied by Whittaker, Clark, and Daniels, Cypress, and IMI Fabi and potentially other suppliers was used in certain CoverGirl products at issue at various times during the relevant time period.
That's what that says, correct?
A. Yeah.
MS. O'NEILL: Just to make it clear on the record, there are some objections before that, but you don't have to read them, Jordan.

Page 49

MS. BOLLINGER: Right.
EXAMINATION CONTINUED
BY MS. BOLLINGER:
Q. Do you know why Noxell would identify IMI Fabi as a supplier to CoverGirl during the 1964 to 2022 time period?
MS. O'NEILL: I'm going to object -- Mr. Fabi, hold on. I'm going to tell him not to answer that question as phrased, Jordan, because that's not a fair representation of what this document says. You can rephrase the question.
MS. BOLLINGER: Okay.
MS. O'NEILL: I don't think it's a fair representation, and given that English is not his first language, I'm not going to let him answer that question.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. So you're not going to answer my question as phrased, correct, Mr. Fabi?
A. Yes.
Q. Okay. Would you agree with me that Noxell, in this document, has identified IMI Fabi as a supplier to CoverGirl products?

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 50

A. I can read.
Q. Is that a --
A. But just to be precise, it's not IMI Fabi. There is an error in the name. If we want to be precise, it's not IMI Fabi.
MS. BOLLINGER: Okay. So let's take a quick break, about five minutes, and come back. Okay?
MS. O'NEILL: Sure.
THE VIDEOGRAPHER: Off the record 10:38 a.m.
(Recess taken.)
THE VIDEOGRAPHER: Going on the record 10:50 a.m.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. Mr. Fabi, did you talk to anyone about the substance of your testimony during our break?
A. No.
Q. Okay. Before the break, we were talking about the interrogatory response, and you said that the interrogatory response said IMA Fabi instead of IMI Fabi, correct?
A. Yeah.
Q. I'm going to show you --
MS. BOLLINGER: And, Elizabeth, just so you know, I didn't think I would need it.
EXAMINATION RESUMED

Page 51

BY MS. BOLLINGER:
Q. It's -- let's see. I'm going to show you my screen again. Can you see my screen okay?
A. Yes.
Q. Okay. I'm going to tell you that this is a deposition, much like what you are giving today. Okay?
A. Okay.
Q. And that interrogatory response, we acknowledge that was in the Chapman case. Correct?
MS. O'NEILL: I'll stipulate to that, Jordan.
MS. BOLLINGER: Okay.
MS. O'NEILL: This is the deposition of whom? I can't see.
MS. BOLLINGER: I'm going to scroll down and let you see.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. This is the videotaped videoconference deposition of Richard Sutton.
Do you know who that is?
A. No.
Q. Okay. And he is testifying -- much like yourself, he's testifying as the representative of the Noxell Corporation, correct?

Page 52

A. I can read.
Q. Okay. And so that's a yes?
MS. O'NEILL: Jordan, I'm going to say it this way. You know I can't have a standing form objection, but I'm going to object to all the questions about this because he hasn't seen it, it's not him, he's not the corporate representative, so --
MS. BOLLINGER: I understand.
MS. O'NEILL: And I know I can't have a standing form objection, but he can read, and that's about all he's going to be able to do.
MS. BOLLINGER: The standing form objection is just going to be to the testimony as it relates to this deposition, right, just to clarify.
MS. O'NEILL: Any questions you're asking him about this deposition of the Noxell PM and the Chapman case, which we were not a party to.
MS. BOLLINGER: Okay. That's fine.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. I'm going to show you something. I understand your attorney's objection. Okay.
The question here, at line 10, and this is page 83 of the deposition, it says, who, to your knowledge, supplies talc that is currently used

Page 53

in CoverGirl products today, and the witness responds and says, today it would -- that would be IMI Fabi.
Is that what that says?
A. Yes.
Q. Okay. And he says, okay. And is that the only supplier of talc. Strike that. Is IMI Fabi the only supplier of talc used in CoverGirl products today.
I can't confirm that, but I believe there is a main supplier.
Do you see that?
A. Yes.
Q. Okay. And so from the portion that I just read to you, Mr. Sutton did not say that Cosmetic Specialities was the supplier of cosmetic talc to CoverGirl, correct?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: I can read what he said.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. Would you disagree with these statements by Mr. Sutton?
A. I totally disagree.
Q. Why is that?

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 54

A. We have no relationship with Noxell.
MS. BOLLINGER: Okay. I'm going to attach this discovery responses as Exhibit 8.
(Exhibit Number 8 marked for identification.)
MS. BOLLINGER: And then I'm going to attach this excerpt of the deposition as Exhibit --
MS. O'NEILL: I ask that you attach the whole thing, if you are going to attach anything, so I have it for context, Jordan.
MS. BOLLINGER: Yeah, I mean, we can do that, or I can send you the whole thing.
MS. O'NEILL: No, I'd like it attached so that if I [inaudible].
MS. BOLLINGER: I hope that doesn't happen. Okay.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Going back to those discovery responses that we were discussing, and I understand you haven't seen these before. Okay? It's not my intention to trick you. I'm just trying to see if you have any reason to disagree with them. Okay?
A. Yeah.
Q. Okay. These are the discovery responses that we looked at earlier, and these discovery responses

Page 55

say, where did this talc used in CoverGirl products come from between 1964 and 2022. That's the question. And there are some objections by the company, and it also says, a number of CoverGirl products which plaintiff claims to have used do not contain talc as an ingredient, and then it says, further answering upon -- it says, other things. Okay. I'm just trying to direct you to the point that I care about.
Further answering upon best information and belief, Noxell primarily used talc 141 in the fresh powder products at issue during the relevant time period. While Noxell cannot independently confirm the precise source of talc 141 during any particular time frame, Noxell believes that talc 141 was sourced from mines in Alabama and Montana at various times.
That's what the document says, correct?
A. Yes.
Q. And so based on your testimony and everything I've heard so far, the talc 141 that IMI Fabi sold, that would have been from China, right?
A. Well, I think --
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: -- I think we have to agree on the

Page 56

relevant period.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. And I'm just talking about from 2001 forward. Okay?
A. And then --
Q. The talc --
A. So that is for Diana or for LLC?
Q. Okay. Between 2001 and 2004 for IMI Fabi Diana, the talc --
A. China.
Q. -- the talc 141 that IMI Fabi Diana sold would have been from China, correct?
A. From China, yes.
Q. Okay. And the talc 141 that IMI Fabi sold from 2004 to the present, that would be from China, correct?
A. Yes.
Q. Okay. From 2001 forward, IMI Fabi has never sourced any talc 141 from Alabama or Montana?
A. Never.
Q. Between 2001 and 2004, do you know if any other entity would have sold talc 141 besides IMI Fabi Diana?
A. I don't know.

Page 57

Q. Okay. And I guess the question I'm asking is, does -- did any other company, between 2001 and 2004, sell talc 141?
DEFENSE ATTORNEY: Object to the form.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. If you know.
A. To my knowledge, honestly, I don't know, but --
Q. Okay.
A. -- 141 is one of our product.
Q. Okay.
A. The name, the product name, is not registered.
Q. I'm sorry. It's not what?
A. It's not the trade name, so everyone can use it.
Q. Mr. Fabi, do you know who Procter & Gamble is?
A. I know the company.
Q. And Procter & Gamble manufactured cosmetic talc products, correct?
A. I know Procter & Gamble. I know that it's a big company, so -- and makes also cosmetic products.
Q. Okay. I'm sharing my screen again. Do you see the document -- I'll see if I can -- all right. Give me a second.
MS. O'NEILL: Do you know the Bates number?
MS. BOLLINGER: I think this -- okay. This is actually

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 58

a Noxell document. Let's see if I can -- it's Noxell 2187. Is that one of those you have in your --

MS. O'NEILL: Give it to him?

MS. BOLLINGER: Yeah, that would be ideal.

MS. O'NEILL: All right. I am handing the witness the document Bates stamped Noxell CG002187.

MS. BOLLINGER: Yeah.

THE DEPONENT: I can see on the screen.

MS. O'NEILL: Whichever works for you.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Whichever works for you. Okay.
Up here in the left-hand corner, it says, IMI Fabi Diana, LLC, and this document is also dated July 1, 2004, and I'll represent to you that this was provided to us from Noxell, who we talked about earlier. Okay?

A. Yeah.

Q. This document says, dear sir/madam, we certify the following products will meet specifications on the attached data sheet on July 2004 against your purchase order number 5600309120.
Do you see that?

A. Yes.

Page 59

Q. Okay. The customer code number here is 10200017.
Is that an IMI Fabi customer code number?

A. I don't know because the IT system and the software, today's is different, so we don't have those [inaudible] anymore.

Q. Okay. So we don't know if this is -- this number belongs to IMI Fabi or not?

A. No.

Q. Okay. The purchase order -- I'm sorry.

A. Go ahead. I'm sorry.

Q. Okay.

A. I interrupted.

Q. No, I interrupted you, Mr. Fabi, and I'm really trying not to do that, so if I do that, just let me know that you're not done speaking, and I'll try to do the same for you.
The purchase number 5600309120, that purchase order -- do you know if that is specific -- is that an IMI Fabi purchase order number?

A. No, I don't know for the same reason that I don't know the customer code.

Q. Okay. So it could be an IMI Fabi purchase number. We just don't know?

A. We don't know.

Q. The lot number right here, I think it's 24T18.

Page 60

Do you see that?

A. Yes.

Q. Okay. Do we know if that's an IMI Fabi lot number?

A. I presume so. Today we have a different system for batch number, but if I remember rightly, that is one of our batch lot number.

Q. Okay. And the weight of the bags are 50 pounds, right?

A. Yes.

Q. And then 672 bags were ordered in this -- according to this document, right?

A. Yes.

Q. Okay. Why would IMI Fabi, in 2004 -- and I'm talking about IMI Fabi Diana in this sense. Why would IMI Fabi Diana be writing directly to Procter & Gamble?

A. I'm sure that we sold the products exclusively to Cosmetic Specialities. I think that this document was sent to Procter & Gamble for convenience because I suppose that attached to this document there is the certificate of analysis.

Q. Okay. And to be clear, is this the certificate of analysis that you were discussing?

Page 61

A. It's written on top, so it's certificate of analysis, yes.

Q. Correct. And the reason I am asking is just so we can coordinate the transcript with your testimony. Okay?
So the first document was 2187, and then the second document is 2188, Noxell CG2188. Okay?

MS. O'NEILL: I've got it.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. The next document that I'm going to show you is a similar -- a similar document to what we just looked at, and this document is Noxell CG002189. Right?

A. Yeah.

Q. Okay. And this is from IMI Fabi Diana again?

A. Yes.

Q. It's from May 24, 2004.
Again, as it relates to any of these documents discussing specifications, purchase order numbers, or customer code numbers, we wouldn't know if those numbers are specific to IMI Fabi, right?

A. I can make the previous comment, so we don't know.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 62

Q. Okay. So your testimony would be the same for any similar letter to the one that we've already discussed, right?
A. Yeah. We sold to Cosmetic Specialities and not to Procter & Gamble.
Q. Okay.
MS. O'NEILL: Are you going to mark that one, too, Jordan?
MS. BOLLINGER: Yeah. I'm going to show another document.
MS. O'NEILL: Sorry.
MS. BOLLINGER: It's going to all be -- I'm going to do it an exhibit.
MS. O'NEILL: Got it.
MS. BOLLINGER: I'm hoping to show another document.
EXAMINATION CONTINUED
BY MS. BOLLINGER:
Q. Okay. Mr. Fabi, I can't find what I'm referencing, but did IMI Fabi, LLC, have specific customer numbers for companies like Procter & Gamble?
A. No, because Procter & Gamble is not one of our customers.
Q. Are you aware that Procter & Gamble once owned Noxell?

Page 63

A. No.
Q. Does IMI Fabi agree that Procter & Gamble cosmetic talc products have been sold throughout the United States for decades?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: I -- let's take the relevant period, 2001 onward. We are aware that Cosmetic Specialities sold our products to Procter & Gamble.
EXAMINATION CONTINUED
BY MS. BOLLINGER
Q. And I understand. I'm asking you about specifically Procter & Gamble. I understand that Cosmetic Specialities sold the product to Procter & Gamble.
What I'm asking you is whether IMI Fabi agrees that Procter & Gamble's cosmetic talc products have been sold throughout the United States between the 2001 to present time period?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: I know that Procter & Gamble makes cosmetic products. I don't know what Procter & Gamble did with our products because we never had contacts with Procter & Gamble.
EXAMINATION RESUMED

Page 64

BY MS. BOLLINGER:
Q. But we do agree that Procter & Gamble was sold IMI Fabi Diana cosmetic talc between 2001 and 2004, correct?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: Again, I can see because you showed me the certificate of analysis, but we never sold to Procter & Gamble.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. I know, and I think that maybe I asked my question not so great. Is --
A. Probably it's my English.
Q. It might be -- honestly, Mr. Fabi, it might be my English, so I just want to make sure we're on the same page. Okay?
MS. O'NEILL: Why don't you ask the question, and we'll have it translated and let him answer and see if that helps clear it up, Jordan.
MS. BOLLINGER: Yeah, let me try to fix the question. If he still doesn't understand, then we'll ask the translator to get involved. Okay?
MS. O'NEILL: Okay.
EXAMINATION RESUMED
BY MS. BOLLINGER:

Page 65

Q. Based on the documents we looked at a few minutes ago, including the certificate of analysis, right, would you agree with me that Procter & Gamble cosmetic talc products may have contained IMI Fabi cosmetic talc?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: I suppose after having seen our certificate of analysis.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. Does IMI Fabi have any reason to believe that Procter & Gamble cosmetic talc products were not sold in South Carolina?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: I have no idea what Procter & Gamble is doing with its product.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Does IMI Fabi agree with me that Procter & Gamble is a large company?
A. Yes.
Q. Does IMI Fabi agree with me that Procter & Gamble has had a presence in the United States from at least 2001 to the present?
DEFENSE ATTORNEY: Object to the form.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 66

THE DEPONENT: Being a large company, yes, but personally, I never bought Procter & Gamble product in United States, so I --

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Okay. And so what I'm trying to ask is that -- does IMI Fabi agree with me that Procter & Gamble has sold cosmetic talc products since at least 2001?

DEFENSE ATTORNEY: Object to the form.

THE DEPONENT: As I said, I don't know what Procter & Gamble did with our products, so, you know, I have no direct information.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Okay. And I understand that. Okay. So is the response to my question that you cannot agree with me that Procter & Gamble has sold cosmetic talc products since at least 2001?

DEFENSE ATTORNEY: Object to the form.

MS. BOLLINGER: I'm sorry. Is there -- hold on. Is there a reason why the translator is responding right now?

MS. O'NEILL: I objected to the form. That was me.

MS. BOLLINGER: Okay. I thought I heard the translator

Page 67

saying something because I see him nodding his head and shaking his head.

MS. O'NEILL: I objected to the form, but I was going like this during, Jordan, so maybe you didn't see it, but I objected to form.

MS. BOLLINGER: Okay. Thank you.

THE DEPONENT: I don't know -- I don't know.

EXAMINATION CONTINUED

BY MS. BOLLINGER:

Q. You don't know if Procter & Gamble has sold cosmetic talc products since 2001?

A. I don't know because I don't have knowledge on what Procter & Gamble is -- was doing, is doing. I suppose because I know Procter & Gamble --

MS. O'NEILL: Don't guess.

MS. BOLLINGER: Okay. Elizabeth, please don't direct him --

MS. O'NEILL: I'm allowed to instruct my witness not to guess, Jordan.

MS. BOLLINGER: I understand, but I just ask that if there is an objection to the form or something like that, then you can object. There is -- I just feel -- I'm not in the room with you guys because I didn't know this was an option, so it just feels a little bit like you're helping him

Page 68

out right now.

MS. O'NEILL: I am allowed, under the rules in South Carolina, to instruct my client not to guess. That's not an objection. It's not a form objection. It's an instruction I'm allowed to give my client under the rules in South Carolina. I've given it. I'm done.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Mr. Fabi, do you understand that you're not supposed to guess in a deposition?

A. Can you repeat?

Q. Do you understand that you are not supposed to guess at answers during a deposition?

A. I didn't know. Now I know.

Q. Okay. Does IMI Fabi have any reason to believe that its cosmetic talc was not contained in products sold in the State of South Carolina?

DEFENSE ATTORNEY: Object to the form. Can you restate -- can you say the question again, Jordan, for me?

MS. BOLLINGER: Yeah.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Does IMI Fabi have any reason to believe that --

Page 69

I'm rephrasing it. How about that to make it more clear.

Does IMI Fabi have any reason to believe that products containing its cosmetic talc were not sold in the State of South Carolina?

DEFENSE ATTORNEY: Object to the form.

THE DEPONENT: I don't know.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. I'm cutting out questions. Okay?

MS. O'NEILL: We're all for that.

EXAMINATION CONTINUED

BY MS. BOLLINGER:

Q. Okay. I'm going to share some more documents with you.

MS. BOLLINGER: And did we -- I don't know if I actually did the attaching of the Procter & Gamble documents, but we're going to go ahead and attach those as Exhibit 10.

(Exhibit Number 10 marked for identification.)

MS. O'NEILL: What are the Bates numbers for those?

MS. BOLLINGER: Good question. I think we had -- well --

MS. O'NEILL: I have 2187 to 2189 in my notes. I just

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 70

want to know if that's correct.
MS. BOLLINGER: Yeah, that's correct. I think that's right.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. I have to ask you about -- are you aware that some affidavits have been produced by your company in this matter?
A. Yes.
Q. Okay. Can you see my screen okay?
A. Yes.
Q. All right. Have you seen this affidavit before?
A. Yes.
Q. All right. This is the affidavit of Michael Brown in support of specially appearing defendant IMI Fabi Diana, LLC's motion to dismiss. It says that he is the former general manager of IMI Fabi Diana and current caretaker.
What is -- what is his responsibilities as the caretaker of IMI Fabi Diana, LLC?
A. He is looking after the assets. Essentially, the property.
Q. Okay. Do you see this paragraph I'm highlighting on page 2?
A. Yes.

Page 71

Q. Okay. And it's paragraph 23 specifically.
We talked a little bit about FOB earlier?
A. Yes.
Q. Can you just tell me what EXW is?
A. Ex Works.
Q. What is -- you said exports?
A. Ex Works.
Q. What exactly is that?
A. The same -- more or less, is the same meaning of FOB. It means that the material was sold from the factory.
Q. Okay.
A. And freight was organized by someone else.
Q. Okay. And so this paragraph 23 says -- references the buyer multiple times, correct?
A. Yes.
Q. Okay. And that buyer would be Cosmetic Specialities?
A. Yes.
Q. Okay. Is there a reason why IMI Fabi Diana did not state that the buyer was Cosmetic Specialities?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: I have no idea. I'm not Mr. Brown.
EXAMINATION RESUMED

Page 72

BY MS. BOLLINGER:
Q. Okay. The next paragraph says, consequently Fabi Diana has never delivered any products in the State of South Carolina.
Do you see that in paragraph 24?
A. Yes.
Q. Is Fabi -- is Fabi Diana's position that because of the arrangement of the shipment of products in paragraph 23, is Fabi Diana's position is that arrangement means that it has never delivered any products in South Carolina?
A. We sold [inaudible] our facility, and we have no idea where the product was shipped to.
Q. Okay. Did Fabi Diana ever -- okay. Did Fabi Diana ever ship any products, whether it be FOB, EXW, to South Carolina?
DEFENSE ATTORNEY: Object to the form of the question. Jordan, I'm going to ask you to rephrase because -- and I know you don't want speaking objections, but I'm going to tell you I think the way you phrased it, it's legally inaccurate, so it's not a question that I think he can answer given that English isn't his first language. So I'm going to object to the form and ask you to rephrase. If you want me to, I'll send you an e-mail and

Page 73

tell you why I'm saying that. I'm not coaching the witness.
MS. BOLLINGER: Okay. Yeah, you can go ahead and send me that e-mail, I appreciate it, but --
MS. O'NEILL: I'm going to send it to you right now.
MS. BOLLINGER: Okay.
MS. O'NEILL: We can pause.
MS. BOLLINGER: Why don't we take a break?
MS. O'NEILL: We don't have to go off camera. I'll send it to you right now. I've got the e-mail up right here.
MS. BOLLINGER: Okay.
MS. O'NEILL: All right, Jordan, I just sent it.
(Discussion held off the record.)
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Maybe this is a better question.
Did -- has Cosmetic Specialities ever arranged --
MS. BOLLINGER: Sorry, Elizabeth. I'm trying to make it match up with your e-mail. Hold on.
MS. O'NEILL: I can tell you the phrase that I used. Do you want me to do that?
MS. BOLLINGER: Why not?
MS. O'NEILL: I had to look it up, Jordan, to be real frank. I had to look this up. You don't have to

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 74

use that language, but that should give you the concept, and then I won't object to the form because that's the UCC formula, if you will.

MS. BOLLINGER: Okay. Thanks, Elizabeth.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Are you aware if Cosmetic Specialities ever arranged for transport any cosmetic talc products from the IMI Fabi Diana dock to South Carolina?

A. No, I'm not aware.

MS. BOLLINGER: Okay. I don't know if I did this yet, but I'm going to attach the affidavit.

MS. O'NEILL: Of Mike Brown?

MS. BOLLINGER: Yeah, of IMI Fabi Diana as Exhibit 11.

(Exhibit Number 11 marked for identification.)

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. And I have the same question about IMI Fabi, LLC. Are you aware if Cosmetic Specialities ever arranged for transport of cosmetic talc products from IMI Fabi, LLC?

A. I am not aware.

Q. Are you aware if Cosmetic Specialities ever arranged for transport cosmetic talc from the IMI Fabi dock to Revlon?

A. No, I'm not aware.

MS. BOLLINGER: Okay. And for housekeeping, I'm going to attach the IMI Fabi, LLC, affidavit. Is that okay with you, Elizabeth?

MS. O'NEILL: Yeah, that's fine. Are you going to do the USA, too?

MS. BOLLINGER: Yeah. So IMI Fabi, LLC, will be 12 -- let's just attach all the affidavits as Exhibit 11.

MS. O'NEILL: 11?

MS. BOLLINGER: Uh-huh.

MS. O'NEILL: Got it.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Mr. Fabi, do you know who Revlon is?

A. A little bit I know the name. I don't know the company.

Q. Okay. What do you know about Revlon?

A. I think they make -- Revlon makes cosmetic products.

Q. Okay. Have you seen this document before?

MS. O'NEILL: What's the Bates stamp number on that?

MS. BOLLINGER: I apologize. IMI Fabi-Plant 836.

THE DEPONENT: No, it's the first time.

Page 76

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Okay. And so we're looking at a purchase order dated July 6, 2004, and the vendor is IMI Fabi Diana, and it is being shipped to Cosmetic Specialities, correct?

A. Yes.

Q. Okay. This says -- the first description says, talc 141 BC 50-pound bags for Revlon. Is that what that says?

A. Yes.

Q. Okay. Earlier, we -- and I don't know if I misunderstood your testimony. Earlier, we talked about -- I asked you if cosmetic -- if IMI Fabi ever shipped products to Cosmetic Specialities --

A. Yes.

Q. -- and I think your answer was no. Is that still the case?

A. That's correct.

Q. Okay. Why would it say shipped to Cosmetic Specialities on this document?

DEFENSE ATTORNEY: Object to the form of the question.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. I'm sorry. Why would it say shipped to Cosmetic Specialties --

MS. O'NEILL: I'm still going to object to the form of the question.

MS. BOLLINGER: That's fine.

MS. O'NEILL: Go ahead, Mr. Fabi.

THE DEPONENT: This is a bill of lading, and we ship -- I mean, the products was sent to Cosmetic Specialities' warehouse, but it doesn't mean that we arranged the freight.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Okay. So I guess the statement earlier --

A. Sorry. If you read the shipping charges, rebate.

Q. So I guess the statement earlier was that Cosmetic -- to clarify what we talked about earlier, and I think we've gone over it a lot so far. Cosmetic Specialities would have organized the shipping of talc 141 from IMI Fabi Diana in this purchase order, right?

MS. O'NEILL: I don't think she heard you.

THE DEPONENT: Yeah. Yes.

MS. BOLLINGER: Okay. Sorry. Sometimes the technology is kind of weird, and it cuts out a little bit. We've been doing good so far, so if you see me kind of breathe, it's probably because I didn't

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

hear you.
Okay. I'm going to -- let me see if we need to talk about any of these other documents. No. Okay. Let's go ahead and attach this purchase order as Exhibit 12.
(Exhibit Number 12 marked for identification.)
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. And maybe you can help me out here with -- sorry.
MS. O'NEILL: Why don't you just put that sort of to the side on your screen because I'll ask you to put it back up so I can ask my questions about it.
MS. BOLLINGER: Okay.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. I want to ask you -- we attached the affidavit from IMI Fabi, LLC, and IMI Fabi USA. Are you aware if IMI Fabi USA has any liability for IMI Fabi talc products at all?
MS. O'NEILL: I'm going to object to the form of the question, and I'm going to -- I'm going to instruct him not to answer to the extent you're asking for a legal conclusion, particularly a

legal conclusion under United States law, but if he has an independent understanding, he can answer.
MS. BOLLINGER: And really, Elizabeth, what I'm trying to find out is if IMI Fabi USA is relevant at all to this case, so that's why I'm asking the question.
MS. O'NEILL: I understand. I understand.
MS. BOLLINGER: Okay.
MS. O'NEILL: You know, it's -- normally, I would just object to the form of the question, calls for a legal conclusion. Here I'm going to object to the form of the question, calls for a legal conclusion about American law.
MS. BOLLINGER: Okay.
MS. O'NEILL: Go ahead if you can, Mr. Fabi.
THE DEPONENT: I'm not familiar with American law, so I prefer not to answer.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. We talked earlier about IMI Fabi USA has never sold cosmetic talc, correct?
A. Never, never.
Q. Okay. And we talked about -- in the same sense, IMI Fabi -- Cosmetic Specialities has never

arranged for the transport of IMI Fabi USA's talc, right?
A. IMI Fabi USA has never sold one pound of talc.
Q. Okay.
A. Regardless is cosmetic or industrial.
Q. Okay. And they are just a holding company?
A. Yes.
Q. That is all they have ever been?
A. Yeah.
Q. Okay.
A. Sorry. Yes, not yeah.
Q. Yeah is fine. I think yeah is fine.
MS. BOLLINGER: Okay. We've been going about an hour. Do you want to do, like, a five-minute break?
MS. O'NEILL: Sure.
MS. BOLLINGER: Mr. Fabi, I'll represent to you I actually don't have a ton more questions. If it's an hour, that may be it. Okay.
THE DEPONENT: I'm fine. I am available all day and night for you, so take your time.
MS. BOLLINGER: Oh, thank you. Okay. Let's go off the record.
THE VIDEOGRAPHER: Off the record at 11:41.
(Recess taken.)
THE VIDEOGRAPHER: On the record 11:55 a.m.

EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. Mr. Fabi, did you talk to anyone about your testimony while we were on the break?
A. No.
Q. Okay. All right. Do you see the document on my screen right now?
A. Yes.
Q. These are Bates number 87, let's see, to 94, IMI Fabi-Plant 87 to 94, right?
MS. O'NEILL: I've got them. Do you want me to hand them to him?
MS. BOLLINGER: Yeah, if he wants to see them, that's fine. Maybe it will help him to have all the documents in front of him at once.
THE DEPONENT: I can see.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. And so can you just tell me what these documents are?
A. These are our revenues for industrial talc sold to South Carolina in 2015.
Q. Okay. And this is IMI Fabi, LLC, correct?
A. Yes.
Q. Okay. Do you know how long IMI Fabi, LLC, has

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 82

sold talc products to companies in South Carolina?

A. I don't know precisely the date, but surely for, you know, more than 10 years.

MS. BOLLINGER: Okay. I'm going to attach that as Exhibit 13.

(Exhibit Number 13 marked for identification.)

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Okay. I'm going to also go to my screen again. Can you see everything okay?

A. Yes.

Q. This is an e-mail, and it says that it's from you, correct?

A. It's from Mrs. Alida.

Q. I'm sorry. Thank you. It says that Mrs. Alida is e-mailing you --

A. Yes.

Q. -- Mr. Fabi?

A. Yes.

Q. Okay. Can you just explain -- have you seen this e-mail before today?

A. Yes.

Q. Can you just explain what's going on here with this e-mail?

Page 83

A. We received an inquiry to our website from Yong Peng asking for a product suitable for what was fiberglass, something like that.

Q. Okay. And this company is specifically from Columbia, South Carolina, correct?

A. Well, we never had any follow-up with this company, but I think the parent company is from China. Probably they have operation in South Carolina.

Q. Okay. Does the product revenue charge that we saw before, are those product -- let me back up. Did IMI Fabi sell industrial talc directly to any of those companies that were listed in those product revenue charts?

DEFENSE ATTORNEY: Object to the form.

THE DEPONENT: Those are our direct customers, so there is not Cosmetic Specialities.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Okay. Thank you. And that's what I was trying to get at.

A. Okay.

Q. I didn't know if it was the same arrangement. That's what I was getting at.

Page 84

A. That's industrial talc. Cosmetic Specialities has nothing to do.

MS. BOLLINGER: Okay. I don't know if I said it, but I'm attaching the e-mail from Ms. Alida as Exhibit 14.

(Exhibit Number 14 marked for identification.)

MS. O'NEILL: Got it.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Okay. I am also going to also share my screen again. Okay. And this document is IMI Fabi-Plant 151 to IMI Fabi-Plant 152, and this is sales in South Carolina from 2010 to 2022, and this -- this is for IMI Fabi, LLC, correct?

A. Yes.

Q. Okay. What is the difference between this document and the previous document that we looked at, the previous charts?

A. Previous chart was revenues in US dollar, and these are the volumes sold in short tons. When I say short tons, because we use metric tons.

Q. Okay. And so in 2010, it appears -- is it 78,646 metric tons sold to South Carolina?

A. No. It's -- those, it's -- it's that row.

Page 85

That's in volume sold to South Carolina.

Q. Okay.

A. The volume at the bottom is the total volume sold from Benwood to United States.

Q. Okay. So what this is saying is that in 2010, sales to South Carolina made up 3.4 percent of the total talc sales from Benwood, correct?

A. Yes.

Q. Understand. And that's the same for 2010 through 2022?

A. Yeah.

Q. Got it. Thank you.

MS. BOLLINGER: We'll attach this one as IMI Fabi 15.

(Exhibit Number 15 marked for identification.)

MS. O'NEILL: Is it 151 and 152 is 15, or are you going to do those as different exhibits?

MS. BOLLINGER: 151 and 152 is going to be 15.

MS. O'NEILL: Thank you.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. And I can ask you really quickly. What is this document we're looking at with 152 has -- it's -- it appears to me, at least, that it has the similar chart that we just looked at on 151, and

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 86

then there is two other charts added to it. Right?
A. Yes.
Q. Okay. Are those in addition to -- are those any different than what we looked at on 151?
A. Yes. For your information, when you see CPT, it means that we have organized the transport.
Q. Okay.
A. When you see Ex Works as the same meaning that we discussed for Diana, so the carrier was organized by the customer.
Q. Understand. Okay. So the second chart on 152 is products sold directly to the customer, right?
A. And freight organized by IMI Fabi.
Q. Okay. Freight is organized by IMI Fabi. And then the third chart on 152, that is where the freight is organized by a different company, right?
A. By the customer.
Q. Okay. By the customer. Understand. Okay.
MS. BOLLINGER: So that is going to be Exhibit 15.
MS. O'NEILL: I'm sorry. Jordan, Exhibit 15 is 151 and 152, correct?
MS. BOLLINGER: Correct. And then Exhibit 14, if I wasn't clear on that one --

Page 87

MS. O'NEILL: 159?
MS. BOLLINGER: Yes. Okay. Good.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Do you know -- do you know if CoverGirl cosmetics ever specified IMI Fabi's talc 141?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: No, I don't know.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. Do you know whether Estee Lauder's cosmetic products specified any IMI Fabi talc?
A. No, I don't know.
DEFENSE ATTORNEY: Object to the form.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. Do you know if L'Oreal ever specified any IMI Fabi talc in their cosmetic products?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: Sorry, what's the name?
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. L'Oreal.
A. I -- I don't know. I don't know the company, and so I don't know. Yeah.

Page 88

Q. Do you know --
A. Never heard of name.
Q. Do you know Estee Lauder?
A. Yes, I know.
Q. Okay. Okay. Is IMI Fabi aware that asbestos has been found in talc products generally?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: Yes.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. When did IMI Fabi -- when I'm -- in this sense, I'm asking you about all entities. Okay? All IMI Fabi entities.
When did IMI Fabi become aware that asbestos has been found in talc products?
A. All entities -- you refer to US entities or to the group?
Q. To the group.
A. For US entities, since the beginning, so it's 2001. For the rest of the group is from 1984 to when I started the job at IMI Fabi.
Q. When did IMI Fabi first learn that -- again, I'm referencing all entities.
When did IMI Fabi first learn that asbestos could be hazardous?

Page 89

A. As a company, since 1984. Personally, in the '70s.
Q. And you kind of differentiated between the two. How did you learn that asbestos could be hazardous in the '70s?
A. Because my father was working in asbestos mine and he lost his job.
Q. And in 1984, how did IMI Fabi first learn that asbestos could be hazardous?
A. Well, because I took -- I became the CO of IMI Fabi SPA, the entire entity, and I was already aware in the '70s. When my father was the legal representative, I cannot speak of him because I was doing something else.
Q. Okay. So I don't know if I've asked you this. Who actually started IMI Fabi SPA?
A. My father.
Q. Your father?
A. Yes.
Q. Is that when he left after he got fired from the asbestos mine?
A. No. IMI Fabi was set up in 1950, but its original name was industrial Industria Mineraria Italiana Fabi SRL. Long name.
Q. Yeah.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 90

A. And was renamed IMI Fabi in 1997 or '96, something. Okay. So going back to your question, my father was a manager in the asbestos talc -- asbestos mine, and the -- our company was a little start business, and when he lost his job, decided to focus on talc and try to do the talc business.

Q. He personally worked in the asbestos mine himself?

A. He was the general manager, so he surely visited the asbestos mine.

Q. Okay. What was -- was that an IMI Fabi entity that he was general manager over, or was it some other company?

A. No, it was another company.

Q. What was the company's name?

A. Maisa, M-A-I-S-A.

Q. Okay.

MS. O'NEILL: Jordan, for the sheet, should I put that down as the company that owned the mine where his father worked --

MS. BOLLINGER: Yes.

MS. O'NEILL: -- the name?

EXAMINATION RESUMED

BY MS. BOLLINGER:

Page 91

Q. Is your father still with us today?

A. No.

Q. I'm sorry about that.

A. No problem. It's -- it's the reality.

Q. When did IMI Fabi -- or is IMI Fabi aware that asbestos exposure can cause cancer?

DEFENSE ATTORNEY: Object to the form.

THE DEPONENT: As I mentioned, because my father work in asbestos mine in the '70s, asbestos, you know, was -- became very popular and was fear that was hazard mineral.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. Is IMI Fabi aware that talc products have been linked to ovarian cancer?

A. Yes.

Q. When did IMI Fabi become aware of that?

A. I -- during the J&J case.

Q. That was in the 2000s?

A. Honestly, I don't know when the case started, and, you know, our industry is quite small, so --

Q. What does IMI Fabi, LLC, currently do to test its products for the presence of asbestos?

A. Okay. We do several steps specifically to cosmetic talc. First of all, we have approved

Page 92

list of suppliers. That's step 1. Step 2, before starting, we visit the mines to be knowledgeable about the geological environment. We test the material in our lab, and this is the procedure to approve a supplier. Then when the supplier is approved, we have to agree on specification, and we ask our supplier to provide a certificate of analysis of the batch. Then the material is shipped. When the material is received, the material is quarantined, and we start our analysis according to USB and from the [inaudible]. These days it's XRD, and then as an additional step, we do SEMEDS analysis.

Q. So you do --

A. Sorry. Just to give you the full picture, the representative sample is taken from a lot size between 10 and 15 tons, so it's ground, three samples are taken, and these samples analyzed according to it's XRD. Not only that, but we also check the other physical properties, like LOI, wideness, cleanliness of the material, and so on.

Q. The testing that you mentioned, XRD, SEM, is that testing that IMI Fabi Diana also performed on its talc products between 2001 and 2004?

Page 93

A. In 2001 was only XRD, and then became -- 2002, 2003 was XRD class ELC. ENC. Sorry. And until 2016, and then from 2016 to current day by SEMEDS. In 2001, XRD was done in external lab, and then we -- we put our lab -- we full equipped our lab in Italy, and we put down our analysis by ourselves, and what I would like to add, that we always tried wherever and use the best technologies available in order to improve the detection limit of the instrument.

Q. Have any IMI Fabi entities ever used TEM?

A. No.

Q. Why not?

MS. O'NEILL: I'm going to object to the form of the question as being beyond the scope of the notice. You can answer if you know, Mr. Fabi.

THE DEPONENT: Well, if you read the norms, TEM is not required, and XRD is required as a first step. Then if you have a positive result on the XRD only for that, you go to a microscope. So TEM is not officially recognized yet, and there is an ongoing debate if TEM is the proper instrument, but it is not my field of expertise, and I think we should let the scientists define that.

EXAMINATION RESUMED

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 94

BY MS. BOLLINGER:
Q. Okay. You said that you take a sample size -- when you're doing this, you take a sample size of -- I have it written down somewhere. When you're testing, you take a sample from a lot size of 10 to 15 tons, right?
A. Yes.
Q. How big of a sample size do you take?
A. What do you mean, how big? Because the batch is 10 tons or 15 tons.
Q. Right. How big is the sample? I know you take three samples from that --
A. Yeah.
Q. -- from that lot.
How big is each sample? Is it a tablespoon? How big is it?
A. Well, each sample that is taken, I -- it's around one, two kilos each.
Q. Currently, how many times a year does IMI Fabi, LLC, test its cosmetic talc?
A. We test each shipment to be sure that the material is approved.
Q. Okay. And you do XRD testing on every shipment?
A. Yes.
Q. How many times a year did IMI Fabi Diana do XRD

Page 95

testing on its products?
A. Was always each -- for each shipment.
Q. Okay. Has IMI Fabi -- has any IMI Fabi entity ever found asbestos in their talc products?
A. No.
Q. Is that the same for industrial and cosmetic talc?
A. Yes.
Q. And to be clear, IMI Fabi has never -- any IMI Fabi entity has never found tremolite, anthophyllite, actinolite, chrysotile, amphibole, or any form of asbestos, right?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: We never found in the shipments to us. We found asbestos from -- I mean, as I mentioned before, we have a procedure to approve suppliers, so in that case, for sample suppliers, we found talc contaminated with asbestos, and, of course, those suppliers were not selected, were not approved.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. Was that -- were those suppliers attempting to be approved for cosmetic talc or industrial talc?

Page 96

A. For cosmetic talc, we rely on one ship because we are convinced that it is a very good material, and we don't want to open the door to other suppliers because we want to be sure about the quality of our products. For industrial grade, yes, we have different suppliers.
Q. Okay. And so the finding of asbestos in talc was as it relates to your industrial talc business?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: Yes.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. I'm going to show you a letter that was provided to me in response to the notice of deposition. Well, I was going to try to show it to you an easier way, but here we go. Okay. In the documents that we were provided, this was a letter from IMI Fabi, I presume IMI Fabi, LLC. Right?
MS. O'NEILL: What's the Bates number?
MS. BOLLINGER: I'm sorry. 186.
MS. O'NEILL: Thanks.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. This is a letter to valued customer. I'm not

Page 97

sure if that's referencing Cosmetic Specialities or not. But it says, we certify that all the talc products commercially produced under the IMI Fabi brand are free of asbestos. Right?
A. Yes.
Q. When did IMI Fabi start sending these letters to their customers?
A. We -- not specifically these letters, but we have always provided a certificate of analysis or a statement concerning the presence of -- concerning the talcum products didn't contain detectable asbestos contaminant.
Q. Okay. So earlier, we looked at the letter to Procter & Gamble.
Do you remember that?
A. Yes.
Q. Okay. And I think that there was a certificate of analysis following that letter. Right?
A. Yes.
Q. Now, that letter was specifically addressed to Procter & Gamble, correct?
A. Yes.
Q. When did -- if ever, did IMI Fabi stop sending letters that were directly addressed to the end user?

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 98

DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: I believe that we are certified according to ISO standards, so 9001, 14001, 45001, and others, but these three are the most relevant. So I believe that we were asked to improve the testability of our documents, and since then we have started to release such document specifically addressing to customer.
MS. BOLLINGER: Okay. I'm going to attach this one -- this letter as Exhibit 16.
(Exhibit Number 16 marked for identification.)
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Did IMI -- did Cosmetic Specialities ever rebrand any IMI Fabi talc products under their name?
A. I don't know.
Q. Okay. And I think what I'm trying to get at is, Cosmetic Specialities organizes the transportation of IMI Fabi's talc to the customer. Right? So Cosmetic Specialities would not have come in and made sure the bags said Cosmetic Specialities on them, right?
A. Well, you can say that when there is a direct shipment to a customer, but Cosmetic Specialities

Page 99

has its own warehouse, so what is happening in its warehouse we don't know.
Q. Okay.
A. We never visit the warehouse.
Q. Would you know if Cosmetic Specialities ever tested any IMI Fabi Diana or any IMI Fabi, LLC, cosmetic talc products?
A. Yes, I -- we -- from time to time, we got information that our talc was tested and was approved.
Q. Was it tested for the presence of asbestos --
A. Yes.
Q. -- by Cosmetic Specialties?
A. I think so. I think so, but we don't have certificate of analysis from Cosmetic Specialities.
Q. Do you know if there are certificates of analysis from Cosmetic Specialties that exist in regards to IMI Fabi's cosmetic talc?
A. I don't know.
Q. Do you have any documents showing that IMI Fabi's talc was approved as asbestos-free by Cosmetic Specialities?
DEFENSE ATTORNEY: Object to the form.
THE DEPONENT: Can you rephrase? Because I didn't

Page 100

understand.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Yeah.
So do you have any documents or -- do you have any documents stating that Cosmetic Specialities has tested IMI Fabi's talc -- cosmetic talc products and determined --
A. No, I don't have any document.
Q. No documents. Okay.
But you know that they tested the products, correct?
A. Yes, but from time to time I spoke to Ron Grexa.
Q. Ron Grexa was your contact with Cosmetic Specialities?
A. Ron Grexa is the owner of Cosmetic Specialities.
Q. Understand.
MS. BOLLINGER: Sorry. Hold on one second. Let's go off the record for a second.
THE VIDEOGRAPHER: Off the record at 12:36 p.m.
(Recess taken.)
THE VIDEOGRAPHER: On the record 12:40 p.m.
EXAMINATION RESUMED
BY MS. BOLLINGER:
Q. Okay. Mr. Fabi, I only have a couple more

Page 101

questions for you.
Is IMI Fabi, LLC, a member of the CTFA?
A. No.
Q. Has IMI Fabi, LLC, ever been a member of the CTFA?
A. No.
Q. Has any IMI Fabi entity ever been a member of the CTFA?
A. No.
Q. Is IMI Fabi a member of the Industrial Minerals Association?
A. Yes. Now its name is Essential Mineral Association, so I give you an update.
Q. Oh, thank you.
How long has --
A. And --
Q. Go ahead. I'm sorry.
A. And it is -- you have -- let's keep the name Industrial Mineral Association, so it's EMA US, and it's IMA Europe. There is no Europe, but in case of US, there was US.
Q. Okay. So how long has IMI Fabi been a member of the Industrial Minerals Association?
A. I think since 2001 or very close.
Q. Okay. I know today was your first US deposition.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 102

Has any other corporate representative for IMI Fabi testified in a case in the United States involving asbestos exposure from talc?

A. I think was Mike Brown.

Q. Do you know when that was?

A. Last year. Honestly, I don't know, but surely was Mike Brown.

Q. Okay.

A. And I'm not sure whether it was Scott Baker, but I'm not sure.

Q. Do you know, was -- was that deposition in one case?

A. Yes, was one case.

Q. Do you know what the name of that case was?

A. No.

Q. Do you know when the first lawsuit in the US was filed against IMI Fabi for exposures to asbestos from their talc products?

A. If I'm not mistaken, was in 2003 for industrial talc.

Q. Do you recall --

A. A worker filed a claim to his employer, and we were one of the suppliers of this customer.

Q. Do you know if that was a claim for mesothelioma?

A. I think so.

Page 103

Q. Do you know if IMI Fabi gave a deposition in that case?

A. Probably was Scott Baker. That's why I mentioned Scott Baker.

MS. BOLLINGER: Elizabeth, if you have that deposition, I would appreciate you turning that over to me.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. One thing I didn't ask you was, does IMI Fabi have a document-retention policy?

A. Seven years.

Q. Is there a specific document-retention policy as it relates to IMI Fabi Diana?

A. I don't know. We should ask Mr. Summerville to check.

Q. Okay. Do you know what IMI Fabi, LLC's net worth is?

A. Sorry. Can you repeat?

Q. Do you know what IMI Fabi, LLC's current net worth is?

MS. O'NEILL: That individual company?

MS. BOLLINGER: Yes, IMI Fabi, LLC.

THE DEPONENT: I know the revenues, but I don't know the net worth.

EXAMINATION RESUMED

Page 104

BY MS. BOLLINGER:

Q. Okay. What do you know about the revenues?

A. Revenues are around 16 million US dollar.

Q. And then what is IMI Fabi Diana's current net worth, if you know?

A. Same for -- I don't know, but I suppose that it's close to zero.

Q. Right.

A. Because it ceased -- yeah.

Q. Between 2001 and 2004, could you give me an estimate as to what -- let's do 2004, when IMI Fabi Diana stopped selling talc or cosmetic talc. In 2004, could you give me an estimate of the revenues that IMI Fabi Diana was making regarding its cosmetic talc?

DEFENSE ATTORNEY: Object to the form.

THE DEPONENT: I -- I don't know, and as I'm not allowed to suppose, I'm not answering. Sorry about that.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. That's okay.

MS. BOLLINGER: I think that's all I have, Elizabeth. I know you have a few questions, right?

MS. O'NEILL: I do. And I thought what I would do, if

Page 105

it makes sense, I would go stand by the screen so he's still looking at the camera. Does that work?

MS. BOLLINGER: Yeah, that's fine. Just don't nod or indicate to him.

MS. O'NEILL: Oh, I'm not going to.

MS. BOLLINGER: Okay.

MS. O'NEILL: I'm not going to do that, Jordan. If you really want me to, we can arrange it --

THE DEPONENT: You can stay there.

MS. O'NEILL: I guess I could sit here.

THE DEPONENT: You know, Mrs. Elizabeth is very strict. I tell you. She has a big stick.

EXAMINATION

BY MS. O'NEILL:

Q. Okay. On that note, Mr. Fabi, did IMI Fabi, LLC, ever sell cosmetic talc to Noxell?

A. No.

Q. Did IMI Fabi Diana ever sell cosmetic talc to Noxell?

A. No.

Q. Would IMI Fabi be allowed to sell cosmetic talc directly to Noxell under IMI Fabi's agreement with Cosmetic Specialities?

A. No, because we have an exclusive agreement.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 106

Q. If IMI Fabi sold talc -- strike that.
If IMI Fabi Diana sold cosmetic talc directly to Noxell, would it be a violation of your agreement with Cosmetic Specialities?
A. Yes.
Q. If IMI Fabi, LLC, sold cosmetic talc directly to Noxell, would it be a violation of the agreement with Cosmetic Specialities?
A. Yes.
Q. Did IMI Fabi Diana ever sell cosmetic talc from Alabama?
A. No.
Q. Did IMI Fabi Diana ever sell cosmetic talc from Montana?
A. No.
Q. Did IMI Fabi, LLC, ever sell cosmetic talc from Alabama?
A. No.
Q. Did IMI Fabi, LLC, ever sell cosmetic talc -- I'm sorry -- cosmetic talc from Montana?
A. No.
Q. Was IMI Fabi Diana allowed to sell directly to Procter & Gamble?
A. No.
Q. If IMI Fabi Diana had sold directly to Procter &

Page 107

Gamble, would that be a violation of its agreement with CSI?
A. Yes.
Q. Was IMI Fabi, LLC, allowed to sell cosmetic talc directly to Procter & Gamble?
A. No.
Q. If IMI Fabi, LLC, sold cosmetic talc directly to Procter & Gamble, would that be a violation of your agreement with CSI?
A. Yes.
Q. Has IMI Fabi ever sold any talc to a company in South Carolina making fiberglass?
A. No.
MS. O'NEILL: I'm going to show him a document, Jordan, and I am going to ask the interpreter to ask a question because I don't know if the way we phrased this in American English is the same thing as Italian. Okay?
MS. BOLLINGER: Can you tell me what the question --
MS. O'NEILL: It's on exhibit -- it's that Exhibit 823 I asked you to hold out.
MS. BOLLINGER: Okay.
MS. O'NEILL: Exhibit -- it's 824. Is that right? The purchase order that you asked him about to Procter & Gamble.

Page 108

MS. BOLLINGER: Okay. I had to close things out. My computer went crazy, so give me a second. Okay.
MS. O'NEILL: I think it's 824.
MS. BOLLINGER: Yeah.
MS. O'NEILL: Is that the right one?
MS. BOLLINGER: Is it? It's the other one?
MS. O'NEILL: Yeah, it's the one you marked.
MS. BOLLINGER: Okay.
MS. O'NEILL: You know what, it's 836. Yeah, it's 836.
MS. BOLLINGER: I had to close -- go ahead and ask questions while I'm looking for it.
MS. O'NEILL: Okay. Like I said, I'm going to -- I'll show him the document. I'm going ask a question, and I'm going to ask the interpreter to interpret it.

EXAMINATION RESUMED

BY MS. O'NEILL:
Q. Mr. Fabi, I'm going to show you this document we've marked as Exhibit 12, and I'm going to ask you if looking at the fax header across the top gives you any information about who the -- from whom this document originated?
[The interpreter translates question.]
THE DEPONENT: It clearly says Cosmetic Specialities.

EXAMINATION RESUMED

Page 109

BY MS. O'NEILL:
Q. And so does that indicate to you that it came from Cosmetic Specialities?
A. Yes.
Q. Okay.
A. I mean, it's compliant with the agreement with Cosmetic Specialities.
Q. Cosmetic Specialties spent this to IMI Fabi. True?
A. Yeah.
Q. Thank you.
You gave some testimony regarding the testing that's done on cosmetic talc by IMI Fabi, LLC, today.
A. Yes.
Q. Does IMI Fabi, LLC, have any independent labs test its cosmetic talc?
A. Yes, we have.
Q. And can you describe that for me, please? What testing is done by independent labs?
A. It's -- it's done on the finished product, and essentially we have -- we follow -- we ask to follow the same procedure to determine if the -- our talc fits UPS and pharma PS standards.
Q. What's the name of the lab that does that

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 110

testing?
A. V Labs.
Q. Does -- quickly for the record, is IMI Fabi, LLC, registered to do business in the State of South Carolina?
A. No.
Q. Does it have any offices in the State of South Carolina?
A. No.
Q. Does it have any employees in the State of South Carolina?
A. No.
Q. Does it have any sales representatives that live in the State of South Carolina?
A. No.
Q. Does it have any plants or warehouses in the State of South Carolina?
A. No.
Q. Does it have any real estate holdings in the State of South Carolina?
A. No.
Q. Has it done any advertising targeted to the State of South Carolina?
A. No.
Q. Does it have any bank accounts in the State of

Page 111

South Carolina?
A. No.
Q. Is it paid -- does it pay any taxes to the State of South Carolina?
A. No.
Q. Has it ever had any of those things or done any of those things in the State of South Carolina?
A. No.
Q. Was IMI Fabi Diana registered to do business in the State of South Carolina?
A. No.
Q. Did it have any sales representatives in the State of South Carolina?
A. No.
Q. Did it have any offices, plants, or warehouses in the State of South Carolina?
A. No.
Q. Did it have any real estate in South Carolina?
A. No.
Q. Did it ever do any advertising targeted to customers or potential customers in South Carolina?
A. No.
Q. Did it have any bank accounts in South Carolina?
A. No.

Page 112

Q. Did it pay any taxes to South Carolina?
A. No.
Q. Does it have any of those holdings or engage in any of those activities towards South Carolina today?
A. No.
Q. IMI Fabi USA, does it have any business that it does at all today?
A. No.
Q. Has IMI Fabi USA ever done any business at all in terms of buying or selling anything?
A. No.
Q. IMI Fabi -- has IMI Fabi USA ever owned any real estate in South Carolina?
A. No.
Q. Does it presently own any real estate in South Carolina?
A. No.
Q. Has IMI Fabi USA ever had a bank account in South Carolina?
A. No.
Q. Does IMI Fabi USA presently have any bank accounts in South Carolina?
A. No.
MS. O'NEILL: Those are all my questions.

Page 113

MS. BOLLINGER: Okay. I have a few follow-ups, and then we're done. It's not going to take very long.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. We saw earlier some purchase orders with the name Procter & Gamble on them, right?
A. Yes.
Q. Those purchase orders were in IMI Fabi's possession when you supplied them to your attorney?
A. Was -- they were IMI Fabi Diana.
Q. IMI Fabi Diana, yeah.
A. So those documents were retrieved from Mr. Summerville who did the check of what documents were available in Diana.
Q. Those --
MS. O'NEILL: I'll stipulate, if you would like, Jordan, that the documents that you marked as exhibits that are purchase orders that say the vendor is IMI Fabi Diana, LLC, and it has a ship to, that those documents were retrieved from business records of IMI Fabi Diana.
MS. BOLLINGER: Okay. I would ask as far as the certificates of analysis letters sent to Procter

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

& Gamble by IMI Fabi Diana that we looked at earlier, those as well were in IMI Fabi -- IMI Fabi Diana's position. Those were found in -- go ahead.

THE DEPONENT: Yes.

MS. O'NEILL: I think we can stipulate to that.

MS. BOLLINGER: Okay. I'm --

MS. O'NEILL: He needs to do a quick check back, but I believe we can stipulate to that.

MS. BOLLINGER: Okay. I understand.

EXAMINATION RESUMED

BY MS. BOLLINGER:

Q. So at least between 2001 and 2004, IMI Fabi Diana was aware that Procter & Gamble was a customer of Cosmetic Specialities, correct?

A. Yes.

Q. Okay. And IMI Fabi, LLC, has, in fact, sold industrial talc into the State of South Carolina, correct?

A. IMI Fabi, LLC, has sold industrial talc to South Carolina.

MS. BOLLINGER: Okay. That's all I have.

MS. O'NEILL: We'll read and sign.

THE VIDEOGRAPHER: Can we go off the record?

MS. O'NEILL: Yeah.

THE VIDEOGRAPHER: Off the record 1 p.m.

(Deposition concluded at 1:00 p.m.)

- - -

CERTIFICATE

I, the undersigned, Traci L. Barr, RPR, Notary Public in and for the State of South Carolina, do hereby certify that the deposition of CORRADO FABI was taken on the 15th day of February, 2023, that the within deponent was sworn to tell the truth, and that the foregoing is an accurate transcription of the testimony taken under oath; that all exhibits entered herein are attached hereto (if requested by counsel) and made a part of this deposition.

I further certify that I am neither counsel nor solicitor to any of the parties in said suit, nor interested in the event of the cause.

In witness whereof, I have hereunto set my hand and seal this 16th day of February, 2023.

Traci L. Barr, RPR
Notary Public for South Carolina
My Commission Expires: 4/24/29

ERRATA SHEET

Sarah J. Plant, et al v. Avon Products, Inc, et al

DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES BELOW

Page No.	Line No.	Change	Reason
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____
____/	____/	_____/	_____

Under penalties of perjury, I declare that I have read my deposition held on February 15, 2023, and that it is true and correct subject to any changes in form or substance entered here.

_____ _____
CORRADO FABI Date

AdvancedONE LEGAL
(866) 715-7770
advancedONE.com

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

EXHIBIT G

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
)
COUNTY OF RICHLAND) TRANSCRIPT OF RECORD

----------x
SARAH J. PLANT and PARKER PLANT,)
)
Plaintiffs,)
vs.) Case No. 2022-CP-40-01265
)
AVON PRODUCTS, INC., et al.,)
)
Defendants.)
----------x

THURSDAY, FEBRUARY 23, 2023
TRIAL VOLUME 2

B E F O R E:

The Honorable Chief Justice (ret.) Jean H. Toal, Presiding Judge; and a jury.

Court Reporter: Bethanie Creppon (AM-2 Session)

Court Reporter: Bobbi Fisher, RPR (AM/PM Session)
SC Official Court Reporter III

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

MS. GROSS: Thank you, Your Honor.

OPENING STATEMENT ON BEHALF OF THE PLAINTIFF

MS. GROSS: Hi, everyone. I'll screw this up at some point.

Understand this is probably not what y'all thought your day was going to look like when you got up this morning. We understand that going to jury duty, having your lives partially put on hold until this process sorts itself out, is a hard thing for most, but we appreciate it, and we are grateful that you're here.

This is a big, important case for everybody in this courtroom. Judge Toal introduced you to Sarah Plant. She's here with us today. You're also going to get to meet her mother, Patrice, today at some point. You'll meet her husband Parker as well. He's just at home, taking care of their kids today.

This is Sarah and her husband Parker. This is their three children. The oldest and the girls. Elsie, the middle child. The little boy on the left with the bowtie, that's Paxton. And their youngest is Nathan.

We think this is a simple case. Sarah has mesothelioma. You're not going to hear anybody dispute that throughout the course of this trial. You won't hear anybody dispute that mesothelioma is caused by asbestos either.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

You're going to hear that Sarah was exposed to asbestos, and you're going to hear that the risk of asbestos being an impurity in cosmetic talcum powder has been known for over a hundred years; that, in the 1970s, the FDA actually started doing testing on various cosmetic talcum powder products and says, "Guys, we've got a problem. We're finding asbestos over and over again."

But then you'll also learn that the companies who made those products in the industry fought to keep that information from going public, and then those companies and that industry turned around and convinced our government that everything was okay and we didn't have a problem.

The defendants here in the courtroom, they don't want this to be that simple, so things are going to get a little complicated. Y'all are going to get a lot of complicated defenses thrown at you, and that's okay.

Most of y'all have probably heard of Mary Kay. I know a lot of people raised their hands this morning when Judge Toal was talking to y'all. Mary Kay is a cosmetics company that sold makeup to women by other women.

Whittaker, Clark & Daniels, at one point in time, y'all are going to learn, were one of the most massive, biggest talc suppliers in the world. They actually called themselves "the talc house" at one point.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

The same goes for IMI Fabi and Color Techniques. They were also talcum powder suppliers. All three of those suppliers sold powder to cosmetic companies like Mary Kay that ended up in products ultimately used by Sarah.

It makes sense that the defendants want it to be a little bit complicated. The allegations we made against them are serious. What we're going to prove to you is that the risk of asbestos being in talc, again, has been known for over a hundred years; that that information was hidden from hospitals and doctors, from other litigants, and ultimate end users, just like Sarah; and that, when these companies came to a crossroads to figure out how Sarah was supposed to asbestos, instead of asking the right questions, they shifted the blame and blamed everybody else, including Sarah and her family.

Sarah was diagnosed with mesothelioma in March of 2021 when she was 34 years old. Before her diagnosis -- Sarah and Parker were married in 2013. They were raising three children together. They met through her mother. Sarah moved right here to South Carolina while her husband was in medical school, and now Parker is a pediatrician.

Some of Sarah's hobbies are all kinds of physical activity. She likes doing yoga. She likes going on hikes. She likes walking. Sarah herself has a degree in

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

teaching. She actually taught high school for six years.

And one day, Sarah started having some breathing problems. She just thought it was a cold. No big deal. And a couple of days went by and the cold never came, but Sarah's breathing problems continued. They continued to get a little bit worse and worse. Eventually, she started getting winded doing basic everyday activities. She'd get winded carrying her baby from her car to her apartment. She would get winded singing to her children at night before bedtime.

And then, one day, she felt pretty severe pain on the left side of her chest whenever she would get winded. And, again, the hope was, it was a muscle strain; it'll go away. She does like doing yoga.

And then, one day while she was doing yoga, a very basic move, she felt a popping sensation and decided it was time to tell her husband. Parker, being a doctor, listened to her lungs at home with his stethoscope, and whatever he heard made him insist she go to the hospital immediately.

She went to the hospital. She had a few tests. She was ultimately sent home with an inhaler and told watch out for adult asthma.

Couple of days later, Sarah goes back to the lung doctor and has an X-ray scan taken of her chest. She gets

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

sent home. A few hours back, her lung doctor says, "You need to come back to the hospital immediately."

So, Sarah goes back to the hospital, and for the first time, the word "malignancy" starts being thrown around. And her doctor shows her a scan of her chest, and she's not really quite sure what she's looking at, but all she knows is that, where her left lung is supposed to be, it's just gray cloudy space. There's nothing there.

And her doctor tells her that that lung is filled with an immense amount of fluid and she needs to have it drained, but there's actually so much fluid in that lung that there was concern that, once they drained it, the lung wouldn't reinflate. And it wasn't something she could do immediately because, at the time, she had a 10-month-old at home.

She went home. A few days later, she goes back to the hospital and has a biopsy done where a doctor actually took a sample of her lung and sent it off for testing.

A couple of days passed after that, the results of the biopsy come back. Sarah, with her husband Parker, takes a phone call from the physician and is told for the first time that she has cancer. And it's not just any kind of cancer; it's mesothelioma, which is one of the worst kinds of cancers you can get.

Sarah and her husband hang up the phone, and Sarah's

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

first words to her husband are, "How long do I have?" And Parker, being a physician, he could answer that question, and he told her 9 to 18 months.

After another week or so, Sarah goes to have that fluid drained from her left lung. They stick a needle in her side about this big and drain all the fluid out. Almost a gallon of fluid is drained out of Sarah's left lung. All the while, her family is trying to convince her to go see a mesothelioma specialist, somebody who can really treat the problem.

And Sarah's only thought at that point in time is, "If I've only got nine months left, I'm not spending a minute of it away from my kids."

Eventually, Sarah decides she wants to fight for those kids, and she goes to a mesothelioma specialist in Houston by the name of Dr. Ripley, who y'all will actually get to meet. He's going to come here and testify and talk to you guys.

Dr. Ripley runs the mesothelioma program at his hospital in Houston. He consults with the federal government on mesothelioma clinics. Ultimately, he became Sarah's thoracic surgeon.

And after a week of preparing her body for the procedure, Sarah underwent an almost-12-hour procedure where she was cut open almost a foot, from up here in her

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

upper rib cage all the way back behind her back, to have the tumor in her left lung removed.

When we first met Sarah, we were shocked trying to figure out how did this happen. We know that asbestos is really toxic. We know that women who lived with loved ones who have worked with asbestos can actually get mesothelioma just by shaking out their husband's laundry before they put it in the washing machine.

So, we asked Sarah about her loved ones and we talked to them and the other side talked to them, and that didn't really pan out. So, we asked Sarah the question that we only really knew to ask in the last four or five years, and that's because, before that point, thousands and thousands and thousands of tests showing asbestos and talcum powder products over and over and over again were hidden from other litigants, from people like Sarah, from doctors and hospitals who didn't know to ask about it.

So, we asked Sarah, "Hey, did you ever use talcum powder?" And it turned out that, from the time she was a baby and her mom used it on her, to the time when she was growing up and started experimenting with makeup to when she played volleyball and softball and basketball in school, to when she was an adult, Sarah used talcum powder products. And y'all will learn that the only exposure that Sarah had to asbestos was from talc.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

So, let's back up and talk about what asbestos is. At one point in time, asbestos used to be called, actually, the magic mineral. It was in over, I think, like 3,000 products. It was cheap. It was malleable. It was basically flame resistant. You could throw a blanket made of asbestos into a fire, and it wouldn't burn up. And we also now know, of course, it causes cancer.

Asbestos is a rock. It grows naturally in the ground, and if it's left alone in the ground and it's not messed with and it's not dusty or anything, it doesn't hurt anybody.

Y'all will learn throughout the trial there's six different types of asbestos. There's three commercial, meaning you could buy it if you wanted it. There's three noncommercial types of asbestos, meaning they occur naturally. And you'll learn that all three of those are heavily associated with being talc. Those are tremolite, anthophyllite, and actinolite. I can barely spell "anthophyllite," so I know these words look a little bit ridiculous, but like Judge Toal told y'all before lunch, by the time this is over, it's just going to flow off you like water, I think is what she said.

In order to make people sick, asbestos has to be respirable, meaning it has to get in the mouth so that you can breathe it and it get in your lungs. These close-up

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

needle-y looking photos, these are actually all close-up photographs of asbestos that has been found in various talcum powder products.

Something that makes asbestos pretty scary is it's invisible. Obviously, this is a blown-up penny. You can see a couple of grains of rice. There's human hair sort of draped across it. But what I want y'all to really see is in that small blue circle on the top right. There's actually more than 20,000 asbestos fibers. And what that means is, if it's around you, you can't see it. You don't know to protect yourself from it. It super aerodynamic, so it hangs out in the air for hours and it will settle on the ground and then get re-brought back up in the air if somebody vacuums or sweeps. It's incredibly invisible. You can't see it.

Y'all will also see some really small numbers throughout the course of this trial; this being one of them: .0001 percent. It's going to be referred to as trace. Trace amounts of asbestos. But what's important to remember about that is, when you see a really small number like that, you're still talking about millions of asbestos fibers. Millions.

And, in fact, when that percentage of asbestos was found in a powder product, it was enough for our government to call it poisonous, unadulterated, and say it

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

should never end up in a powder product.

Something else that makes asbestos super scary is this ridiculous photo of an oversized onion. Asbestos doesn't have onion properties. You know when y'all are cooking or somebody near y'all is cooking and somebody's cutting an onion and your eyes water or, hopefully, this never happens, but if you have a gas leak, you can smell the gas but you can't necessarily see it. Those are what we call onion properties. It's your body's way of acknowledging that it's being exposed to something that it's not happy with.

Asbestos doesn't have any properties like that. We've already talked about how you can't see it. It doesn't make your skin itchy if it lands on you. You can't taste it if you swallow it, and it doesn't have a smell like gas, so you would really have no idea that you're around it or breathing it.

Why does it say there's no safe level of asbestos? Because it was so cheap and had all these really great engineering qualities, government, medicine spent years, a long time ago, trying to figure out if there was a safe level of asbestos that people could breathe and be okay. Is there just one -- even if it's a little level that people can breathe and be fine and not get sick so we can keep using it in all these 3,000-or-so products it was in.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And it turns out that the uniform consensus among medicine and industry and everybody studying it was that there is no safe level. There is no level, no matter how minuscule or low that amount is, where somebody can breathe asbestos and be safe and not get sick and be fine.

Y'all will learn that mesothelioma is a signal tumor of asbestos exposure. Meaning, if somebody gets diagnosed with mesothelioma at the hospital, the doctors reflexively ask, "Where were you exposed to asbestos?" They go hand in hand.

Y'all will also learn about this concept called latency. And the easiest way -- I've sort of tried to wrap my head around this idea is, if y'all are in an elevator and it's really crowded and somebody next to you sneezes -- doesn't cover their mouth, it's pretty gross -- and you think, "I'm probably going to get sick in a couple of days," those couple of days are the latency period. The problem with asbestos and mesothelioma being your latency period is not minutes, days, weeks, months. It's years.

Once the mesothelioma process starts, it's quick and it's rapid and pretty ruthless, but it takes years between the point when you start breathing the asbestos to getting the cancer, and you just have no idea when it's going to strike.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

This concept of individual susceptibility is going to be something you guys hear a lot about, particularly as it applies to Sarah, but, big picture, what it means is mesothelioma is a really rare disease. People who breathe a lot of asbestos frequently and often don't get sick. Ms. Dean and I or Mr. Buha and myself could breath the same amount of asbestos over the same amount of time, and I could get sick and they'd be totally fine. We have no way of knowing.

And as it applies to Sarah in particular, y'all will learn that she has a gene called the BRCA2 gene, and what that means is that Sarah, her DNA has a harder time repairing cells that can ultimately lead to cancer. And what it means in terms of asbestos exposure is that Sarah is more vulnerable to lower level of asbestos exposure than someone who doesn't have the BRCA gene. That's it.

This is a healthy human lung. Y'all can see that shiny looking Sarah wrap layer around it. That's what protects your lung, when you breathe, from your rib cage.

This is what your lung looks like when you get mesothelioma. The cancer starts in that shiny, healthy looking layer around the lung. It's called the pleura. And it invades inward into the lung. The pleura basically turns into the equivalent of an orange rind; hard around the edges. When it goes inwards, it robs the body's

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ability to breathe normally, to breathe at all, or to breathe without any pain.

A lot of people who get mesothelioma actually have a procedure where they have the nerves on their rib age deadened so that, when they breath, with their orange rind around their lung, it's not that hard edge brushing up the nerves in their rib cage while you're trying to breathe.

I'm not a doctor, obviously, so I don't know exactly what's going on here, and there will be doctors who can tell you about this, but for now, what I want y'all to know, on our left, this black? That's a healthy looking lung. This is one of Sarah's scans that she had before she has her mesothelioma tumor removed.

The lung on the left is what it's supposed to look like, so that it can fill with air. On our right, which is, of course, Sarah's left, all that gray space that I told y'all about that Sarah saw? That's that. That is her left lung, completely obliterated by a tumor before she had her surgery to remove it.

So, now let's talk about talc, because that's the other thing I've been talking a lot about. Talc and asbestos both grow in the ground. They grow together. Where you find one, you find the other. They're both natural minerals.

The thing about talc that makes it so useful in

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

makeup is that it's really soft, which is why it ends up in powders or baby powder that we use on our babies at home or makeup that we put on our face. It's super, super soft. It comes out of the ground in the same way as asbestos. It comes out in these big, giant rocks like this that ultimately get pulverized into a super, super fine powder, and then that fine powder is bagged in these giant bags and sold to companies like Mary Kay by companies like Whittaker, Clark & Daniels and Color Techniques and IMI Fabi that ultimately are used in cosmetic products all over the world and byproducts that were used by Sarah in her home.

And because the talc and asbestos grow together in the ground, they end up together. And you can't get the asbestos out once it's in there. Y'all will learn companies spent millions of dollars trying to figure out a way, if they could get the asbestos out of the talc. Can we float it out? Didn't work. Can we burn it out? Well, we know that's not going to work.

So, the easiest way that I thought to understand how this works is the veins of fat that run through a steak. You're never going to be able to get all the fat out of a steak, just like you're never going to be able to get all the asbestos out of talc. They grow together. They happen together. Once it's there, it's not going

anywhere. And so what ultimately happens is that asbestos gets pulverized into that fine powder and ends up in the cosmetic products that are used by people like Sarah in their homes.

I do want to be the first one to tell you that there were other exposures to asbestos that Sarah had. Other exposures besides the companies that sit here in this courtroom. Companies like Johnson & Johnson and COVERGIRL, they played a role in what happened to Sarah for sure, but what the law of South Carolina and medicine recognized is that you can have something called a cumulative dose disease. And mesothelioma is that. It's a cumulative disease. What does that mean?

This is a super cheesy picture, but it actually really helps. So, you have a fish that lives in this pond and you've got these three factories that border the pond. Factory 1 pollutes the pond, and the fish is still fine. Factory 2 pollutes the pond; the fish is still fine. Factory 3 pollutes the pond; the fish dies.

How do you know which factory is the one that killed the fish? And the answer is: All of them. The combined pollution contributed to poisoning the fish. And asbestos and mesothelioma works the same thing. It's all your asbestos exposures combined that contribute to someone getting mesothelioma.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And now Ms. Dean is going to take over and keep talking to you guys.

MS. DEAN: Is it okay to proceed?

THE COURT: Ms. Dean.

MS. DEAN: Hi. Good afternoon. I woke up really excited to talk to you. This is something that we have worked on for an incredible amount of time and just having the chance to be heard. It means a lot. I didn't sleep a lot. I had a lot of coffee. I got ink right in the middle of my suit, which means I should stand here, but you will learn I cannot sit or stand still if my life probably depended on it.

But we are grateful that you're here. I saw some of your expressions. I know that this is not necessarily where you want to be. But what Judge Toal said about this being a time-tested system is real. Thomas Jefferson said that even comparative voting, our juries are more important. He was proud of the incredible government we created but no matter how good it is, corruption, laziness, greed, stupidity, they need checks. So, it's not tyrants or kings. It is truly 16 random people from your community that come together to decide. And it's probably because you didn't ask to be here, you didn't volunteer for this job. You weren't seeking the power that might be the genius of our system.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And we have fundamentally different views of the world and need help. And so, more than anything, no matter what is said from Sarah Plant, who you'll get to meet, to her family, we are grateful to speak to you. Because what Ms. Gross said is true. This is an important case with huge implications. It is obviously -- obviously, I think, why Sarah's family cares, but we believe these companies, eyes wide open, knew that a Class 1 carcinogen, responsible for killing thousands of people, was in a powder to be used on babies and to be used in your home where you can't get it out.

And on that decision point when they knew, which is a little different for each company, but when they actually knew, they had a choice. Right? It's a crossroads. Do we roll up our sleeves and try to figure out how to fix this mess that was going to go on for years because of latency, or do we dodge, obfuscate, hide, blame others?

And every step of the way, you will hear that these companies, sometimes starting over half a century ago and going to today, chose the second path.

We intend to show you that it is not just Sarah Plant who has lost their life to this rare cancer but tens of thousands of women over the last 50 years, because of decisions that were known. And so this is the search for

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

the truth. I do love the way that Justice Toal put it. It's a search for justice to be done, and you, at the end of this case, will be the judges of the facts. And, in this country, that is how our world changes, and we shape the environment we live in. We believe these companies need to be told enough.

And what I hope to do in a half hour is go through and just give context. The next two weeks are messy. Everything doesn't happen in the order you want. We want to try to get things out on time. It's just disorganized. And so, I think what all of us want to do is give you a framework. I think of it like a puzzle where you always put up the borders first and have the box on the side to help you know where the pieces go. That's the intention.

Ryan Travis and Toby are right here; they help with all things, including -- Ryan, is there any way I can get the PowerPoint up? Yay.

And the amount that they help in making things go is incredible. If you see them, that's who they are.

These are the five things that I hope to talk about, and it starts off with what do we allege these companies did wrong? I'm going to spend very little time on the last part about what Sarah Plant and her family have gone through. It is -- she is a warrior. And it is something that I want you to think about and think about hard, but

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

only because you believe something wrong happened, not because of sympathy. So, my focus is on going to be on these other things.

What did they do wrong? The label theories are called negligence, product liability, and implied of breach of warranty. Negligence is at the heart of every person, every company, big and small, rich and not, has responsibilities of others, and it doesn't have to be written in some statute book somewhere. We have an obligation to be reasonable.

And so, before it was the law not to text when you're driving, if you're driving and texting and it's raining and you hurt someone, you could be actually held accountable for negligence.

We're going to show you not one but a dozen different acts of negligence over the course of decades by these companies. Again, part of those are unreasonable. And there's an amazing amount of agreement on what reasonableness means in this context. Here's the three biggest things. If you choose to sell something to the American public, before you put it out, at least look and see what's already known about the dangers of what you're selling. You don't even have to do anything new but do research.

Two, if you find that there's something that's

problematic and you're not sure it applies with what you want to sell, test. Don't go in blind.

And three, if you find that you have a problem, at minimum -- at minimum, you make people aware so they can make their own choices.

But, in this case, you're going to hear that there should be no choice. There was substitutes. This is not medical. This had known substitutes. It's makeup. It had no business being in a new product that went out for children.

The second theory has two names. Sometimes it's called product liability, sometimes it's called strict liability. It's this concept that, in the state of South Carolina, there are basic laws that, when you choose to sell something, you are required -- independent of whether your conduct is reasonable or not, you are required to be responsible for it. You cannot sell reasonable dangerous products. You should not sell products that have more risk than utility. Those are the basic concepts. So, you're going to hear a lot of things about the risk and benefit in their products.

The last is called the implied breach of warranty, and that is, no matter what you actually say, there are certain implied guarantees. When you sell makeup, when you sell powders to be used on a naked child or when you

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

shower, it is implied to everyone that it doesn't cause cancer. And when it does and that is known -- not today, but when they were making these decisions -- you are going to be held accountable in this state.

So, that's kind of the label framework. You get a lot of instructions by Judge Toal at the end, but that kind of helps, again, forming what we're doing and why we're doing it.

The two biggest things in the time I have that I want to focus on is that each of these companies misled FDA, physicians, nurses, and customers, and they were using talc when safer alternatives existed.

And I think it's incredibly important to understand kind of what happened in the '70s. In the 1970s is the first time our FDA tested cosmetic talc products, and they found a hundred or so of them, tons of them had asbestos. A lot of asbestos. And when that happened is when many companies made decisions, and as opposed to taking responsibility, what they did -- I think if I move this here, I cannot be completely disoriented. It's upside down. Sorry.

Okay. And really what started happening in the '70s and then continued for decades was one set of facts or statements made by industry, meaning the cosmetic industry, that were made public, stated over and over

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

again. The exact same things they're going to tell you today.

And then there's the information Ms. Gross told you about that we've only learned about in the last four or five years but that goes back to the 1940s.

So, the first thing is they will all say, "We have zero tolerance. No asbestos. Of course a Class 1 carcinogen wouldn't go into a powder product. That would never be allowed. That would never be tolerated."

Behind closed doors, industry told the FDA that substantial amounts of asbestos in baby powder are okay. The next thing they said is there's absolutely no asbestos in our product. Yes, it's true, talc and asbestos can go together, but we have looked into it, we're testing it over and over again. There's no asbestos there. Not once but thousands of positive tests. Thousands.

The first few hundred came out in 2017 from Johnson & Johnson, and they were compelled by a court to give them. It literally started an explosion of information for obvious reasons. Doctors finding out that there's asbestos in baby powder and body powders. It was crazy.

And so, what's happened in the last five years is companies stopped using it. The FDA started testing, and they found asbestos in talc sources that they were using, which were the same talc sources as Johnson's Baby Powder.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

In 2019, that led them to creating an aid government body group to look at this issue and create a consensus paper saying what they've been doing and how they've been testing for years is unacceptable. Dozens and scores and scores of papers have come out in the medical literature. It's been an incredible four years.

So, this is very recent that this guarded information became public. When the FDA first said we're concerned about asbestos in talc, industry said, "I know you guys regulate drugs, I know you regulate food, I know you have pre-market approval, and you don't have that for cosmetics. No reason to change that. No reason to look over here. We have instigated a very sophisticated testing program that works, and it's going to make sure" -- the word they love to use; it's in their PowerPoint, you're going to see it -- "ensure," guarantee for you that this asbestos isn't there.

In their own records, they say, "Our testing method failed." It is unreliable. They took raw asbestos and put it in talc, so they 100 percent knew it was there. They had seven different companies test it, and using their underpowered, pathetic testing methods, six of the seven didn't find the asbestos they put in there, in the same moment that they're telling the government, "We've got this, use this method, let us self-regulate," and they

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

succeeded.

This document where they spiked the samples we only got in the last few years. They said, "We have done some animal studies," studies that the experts that they paid will come in and say, "You guys should look at them. We injected talc right into rats and hamsters, and they didn't get sick." They proved that talc was safe. The tests were rigged.

We found records in the last few years where they tested this one lot, which is a huge amount of talc, for months. Scrutinized it. Found it to be extremely clean. Said let's set aside this set and test on everything. Then they told legitimate scientists, "This is a normal product lot," when lot after lot after lot before that had asbestos in it and was rejected.

They said yes, asbestos is in talc mines; yes, they grow together with inclusions and veins, but we've floated it out. We have removed it. Don't worry about it." Internally, it can't work. We cannot remove all of the asbestos. Truly millions of dollars spent, and they couldn't get it done.

I want to focus on the test method, because I think getting kind of oriented to this is one of the key things. They designed the test that they knew wouldn't find what they were looking for. Imagine using a bathroom scale to

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

weigh needles. The limit of detection didn't work and they knew it because they zoomed in with better tests and saw the asbestos and then zoomed back out.

It's a silly example, but look at this picture. Look at this planet carefully. There's not one human being on this planet. Not one. Stare at it. We know Earth has human beings; right? You just have to zoom in.

And what happened is that they had a test that had an incredibly low limit detection that was particularly bad when you used dirty talc, which one of these companies particularly had a habit of doing so, and ultimately, followed up with this: A microscope most of us know from biology. Only a first test called XRD found it, which was even weaker.

They did this eyes wide open that the labs that they were using and knew about offered and suggested something called the transmission electron microscope. That's a life-size version of the TEM, or transmission electron microscope. When they used it, they found the asbestos. Please don't use it the way they're testing Ms. Plant.

There is a stack of hundreds of positive tests just for the mines at issue in this case; none of them were provided to our government. But there is a much more larger, impressive, nicely organized stack using elite tests that was given to our government, along with the

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

animal studies, that says, "No problem here."

Their testing efforts weren't just that they used the wrong testing mechanisms. They also barely tested their talc. One pound out of 40,000, for something that is buried in the ground. Sometimes not testing at all. Sometimes Mary Kay relied entirely on the people that were making money by selling the talc and never once looked at the results.

To figure out what's reasonable, sometimes you look at what other people in the industry were doing. One of the most powerful records comes from Avon that says, "Of course we have to test this ourselves." It would be obviously a dangerous liability position and negligent if we didn't check the people that were pushing the substance on us. That's what Mary Kay did.

They also never did something called concentration. Talc is light, soft. Many of the asbestos minerals have iron in it that make it heavy. And so, what you can do if you want to find out if asbestos is there, is push the talc out.

And that's a needle in a haystack. You can barely see it. If you want to see the needles, first zoom in. Don't use the weak microscope. But the second thing is because talc is called pleighty (ph) and it's flat. It covers the needles, kind of like hay with needles.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

It's also much lighter. So, if you can use different densities to push out the talc and leave the things that are heavier, you can count all the asbestos there, and you'll know you've got a problem.

Now, one of the six asbestos type has a very similar density to talc and became much more difficult. We've only in the last year, using methods that are a hundred years old, figured out how to do that concentration. But what we found is that four of the six types of asbestos are routinely in the types of talc that these companies sold.

Just for a moment on the FDA, it's really important to know that they didn't have market approval. They had -- in the 1970s, when this first came up, for over 250,000 cosmetic products and 1 percent of the budget. They were incredibly under power. They specifically wrote, "We're relying on the manufacturers who came up with this." And you're going to get to decide for yourself whether they were. You're going to get to look behind the curtain and see whether they were.

But a huge part of what I think they're going to say is that what happened in the '70s was just a false alarm and we're just redredging up ancient history.

First, some of the testing done in the '70s that added asbestos and talc found huge amounts: 5, 10, 20

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

percent. And part of the reason they found huge amounts is because they were counting a fiber of asbestos when it really was plain talcum. If they would have tilted it, they could have figured it out.

They were confusing two different minerals: One called chlorite, which doesn't cause cancer, and asbestos, which does. So, you're going to be able to objectively look at what happened in the '70s and see that the scientist made some mistakes. But an alarm is something that tells you to stop and do something different. It's time to wake up. Stop what you were doing. Right?

These mistakes were real. The amount of asbestos is usually closer to .001 to 1 percent, not 10. But the companies absolutely knew the asbestos was still there and kept that from our government. And so, again, that's why the '70s are so important.

The second thing is much simpler. Some asbestos things were incredibly difficult to remove. Asbestos were in brakes, cars when we stopped. Asbestos was used in insulation on ships; we have a lot of sailors that we represent. And the trick was that you not only need insulation so that, if there's a fire, it doesn't catch on, you need it to be lightweight so that you move quickly in water.

And so, there was this famous ship in the 1940s

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

where everybody died because asbestos insulation wasn't used. So, do you let sailors get sick in ships through asbestos, or do you compromise the war effort? I mean, that's a hard risk utility. It mean that's hard -- it's a hard decision to make, and I'm glad it's not mine. That's not the decision here.

Cornstarch was known as a substitute for talc in body power and baby powders 100 years ago. These companies had formulas showing that they had this substitute and knew about them and didn't use it, and that's part of the problem.

I'm not going to spend a lot of time because the exposures in this case were so light (ph), but we have to show that they knew talc grew with asbestos or that they had a reason to know.

Again, if you choose to sell a product, you can't just bury your head in the sand. If you had a reason to know, we have met our burden. So you're going to hear about how long and how clear these issues were before Sarah was even born. It was in the most basic mineralogical textbooks in 1898. This is called the Dana Mineralogy textbook that asbestos and talc grow together.

And by 1960, they absolutely understand the specific cancer that Sarah had. Mesothelioma was caused almost exclusively because of this exposure to asbestos. And

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

they also knew, while they didn't know to call it BRCA2 -- they didn't know the specific gene -- they understood the individual's susceptibility.

You know, we know redheads get skin cancer more easily than -- you know, my younger brother is a redhead -- than others. Other individuals susceptible is known as clear, but it's been known for over half a century that if you expose a bunch of people to asbestos, a real significant number will die.

It was the first toxin of all toxins that OSHA decided to regulate in the workplace, and it became huge. It was a huge problem.

These companies will admit they knew asbestos killed. They will admit to you they knew that not one fiber had any business being in makeup or powder products; they're just going to try to tell you it's not there.

Whittaker, Clark & Daniels, which was a key supplier, had a specific and unique reason to know. They were called, "The Talc House." They sold talc all over the country for over a hundred years. They were the number one supplier of cosmetic talc in the world.

Pfizer, a company we all know, used them as their expert and go-to person to understand cosmetic talc. And for years and decades, they were also selling raw asbestos. More than anyone, they understood the problem,

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

and they chose to deceive their customers and then the women and children that were using their customers' products. And their customers were Johnson & Johnson, Avon, COVERGIRL, Mary Kay, and others. None of these companies did a thing, spent a dime, invested in a moment, had any person in power to figuring out the dangers of what they were selling. The number one ingredient in most makeups and body powder product was talc until the FDA said, "We have a problem."

One of the first things we're going to ask you to recognize is, under the law of the State, that's not how this works. You don't do what you can get away with until you get caught. You have to be responsible. But the actions after they were caught are the ones that I believe show a conscious disregard for the safety of anyone that gets in the way of profits.

Briefly, I want to talk about how Sarah came into contact with these companies. Her mom, from when she was born, when she was diapered and after she got out of the bath, either a Johnson & Johnson or Equate, kind of a knock-off brand at Walmart, was used.

When she was old enough to do so, she kind of moved into more of these body poofs because girls really love them. They'd come in a bucket of talc, of loose powder, and a giant poof, and you poofed them on yourself. And

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

they did it head to toe. These are the three products that she distinctly remembers using for over a decade: Coty, Avon, and Cashmere Bouquet.

She also, on her shoes and feet, would use Gold Bond powder, and when she started playing sports, Gold Bond became a staple after she played, and she also didn't like the floral smells as much as kind of the fresh smell.

When she was a little girl, like most little girls, she became obsessed with makeup. That's Sarah a few years ago.

Her mom's friend was a Mary Kay lady. Years lady, she decided to become a Mary Kay lady. This is her bag of makeup that she got. She didn't sell it. Her husband was in residency; they didn't have a lot of money. She tans well. She's like, "I can use almost everything in this bag." And she did. She also, especially in high school, really liked COVERGIRL.

We have done a lot of investigation. Mary Kay used talc from five different parts of the world, and talc is not all the same. It depends on how it grows, on the amount, type, and presence of asbestos. These are the different types they've used: Montana, Italian, Vermont, Chinese, and Brazilian talc.

WCD is here and probably the most important entity in her life. Almost every product she touched, WCD had

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

been in it. Some of them -- Mary Kay, Johnson & Johnson -- they sold millions and millions of pounds of talc to companies but not in the time that Sarah was using them. It was before. But, man, a warning before she was born would have mattered. And they're going to tell you: Did you warn for asbestos? No. Did you warn when you sold industrial dirty talc? No. Did you warn when you told cosmetics companies you were giving them cosmetic talc and it was really industrial talc? No. They never warned. Not ever.

These other companies are a little different. Some of them are Type 2. We are going to be to able to show you, for Coty and for Gold Bond, that the only talc that went into those products during the years that Sarah was putting it on her body, in her home, came from that.

And then there are others where they are not the only suppliers used by a company, but now we're showing records that they were selling millions and millions of pounds each year she was using them. And so, that's how we kind of connect the dots to this company.

The other two companies here are Color Techniques and IMI Fabi. This is produced "em-ee" and then "fah-bee," if I'm understanding from him correctly. Color Techniques became a supplier that got into the business when others are deciding to get out, who sold talc all

over the world and never hired enough people to do the most basic safety stuff, to figure out what they were selling and whether it was safe. And we'll be able to connect them to Color Techniques -- excuse me -- to COVERGIRL and other products that Sarah used for years.

IMI Fabi is very, very similar. They've got a talc mill that is in Upstate New York and sold talcs that have hundreds of tests associated with asbestos in those talc mines during the years when Sarah Plant was using them.

One of the key things to know is that the years that she used them were over 20 years in her life, from when she was born until shortly before she was diagnosed. When you are a baby or adolescent, your cells are dividing more. Our bodies are changing, and cellular division is when carcinogens make it particularly vulnerable. And so, selling a product to be used for children and around children is particularly dangerous when they're talking about consent.

I want to spend just a couple of minutes on how we connected the dots. You're going to hear tons about this. It's just broad.

One, man, we had to -- I mean, we did the last four years, got millions of documents. You have to decode them first. If I want to tell you there are over 300 tests showing Italian talc has asbestos in it, now every company

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

designates their internal coding the same. So, you'll see in Mary Kay's documents, they call it 1615. Cypress is a company that sold Italian talc that calls it 0000. Other companies called it Supra. Avon had a code 0747. You literally have to figure out how you connect them up to talc. And then all of those are in a region called the Pinerolo Region and Val Chisone. And I can show you, "Look, we have decades of tests, all showing the same things." But you have to kind of know how to read the documents. That's part of what we're going to try to do, and we'll do that for everyone.

Then you're going to see the asbestos. And how you can detect it and know from a health perspective why this causes death and disease. We're going to show you the geology and how talc mines are formed and why asbestos are formed with them. And you're going to be able to track from the mine to the products tested to people that have mesothelioma.

When a person dies from this cancer, you can take their lung, take their tissue, and literally digest it and count the talc and asbestos inside. Remember how Rachel said it's heat resistant? You can literally use acid or fire, and the asbestos is still there.

And what they have found when they have done this -- and there's now over 200 cases in the published literature

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

of people who have this rare cancer and said they used cosmetic talc that have been talked about. And some of them have this tissue digestion. They found talc and these two not-commercially-used types of asbestos. It's stuff you don't expect to see that are called the fingerprint of toxic.

This is Dr. Attanoos. He's one of their experts. He's done hundreds of tissue digestions. Hundreds. They've never asked him to do one in this case. They have never asked him to look at Sarah's lungs to see what's there. They have never asked him to do it in any case.

Here, we tried to figure out what was where her lungs. She had an entire lung removed, to try to survive. And you're going to hear what that took.

I think we're going to try to show you the picture of what they took out of her. It's not -- nobody everybody might want to see it, but you can't digest a tumor; you have to have a lung. Her lung was obliterated. It was obliterated.

Another thing that Dr. Attanoos and some of the other experts that are hired by these companies will say, You need to understand that there's a difference between men and women; that it's a signal tumor for men. If they have this cancer, yes, it signals that you're exposed to asbestos. But for women, over the last 60 years, we

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

studied them, and we can't connect them to asbestos, not even through their husbands, not even through their dads.

And so, their argument is that, four to five times more often, women have mesothelioma, and you can't connect it to asbestos, and that they're also getting it in different spots. And this is, I think, one of the most important things. You can have the lining of your lungs, called the pleura, turn into a tumor, but it also can be the lining of her abdomen. That's called the peritoneal mesothelioma as opposed to a pleural mesothelioma.

Women have it in their abdomen more often than men. And the idea is, if you're inhaling something, and you get all the way down here, and you need more exposure, now we can't connect them to any exposure. And so they claim women's bodies is must be failing -- stunningly more often than men.

So it's been an argument for decades. Is there a genetic reason for the stunning difference? Their doctors will say no. Is there biologic reason for this huge difference with women's bodies just failing so much more often? No.

No one asked about talc until the last three years, and the first study they did, they saw a connection, and that is an exposure that women have more heavily and then, all of a sudden, we do know of a biological difference.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

If you used vaginal dusting for talc, as many women did, there's a direct route to the peritoneum -- right here -- unless you had your tubes tied.

And so, when I say that we have figured about 60 years of scientific literature that we couldn't, it was because of an exposure that we didn't know about for four years because industry left us in the dark.

Very briefly, the witnesses you will meet. These companies will claim to you they didn't have any asbestos in their product, but they are going to bring experts that would make tens of millions of dollars defending asbestos.

75 countries won't let asbestos come in their borders, it's so dangerous. Not any type, not anyhow. The United States has functionally banned it by making where you almost have to put on a moon suit if you're going to touch it.

These guys come in to say asbestos is fine, and that's who they've hired in this case where they claim their own asbestos.

They have a testing expert from RJ Lee, which is a group in Pittsburgh. Matt Sanchez is his name. In just eight years -- and just by Johnson & Johnson and Colgate and Cashmere Bouquet -- he's been paid over $8 million to say the FDA is wrong about asbestos and talc and to say everyone else is wrong, that we just don't understand what

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

asbestos is. That's who they're going to bring.

WCD will also bring a materials scientist and geologist named Mr. Segrave. They've hired him more than 200 times. That eight-body federal group that has met for the last two years and had a consensus paper, and write in the first paragraph, "Mr. Segrave, you are wrong." But when you see the points they go through, they call out what's the exception that's been happening over the last ten years.

They will bring a toxicologist named Dr. Barlow from Cardno ChemRisk. Two very quick things. Cardno ChemRisk is a consulting group that has been criticized in half a dozen peer-reviewed published articles for manufacturing doubt; that they take things that are certain in medicine and try to create uncertainly, from the Erin Brockovich story that many of us know to asbestos to lead. That is what they do. That is who has been hired.

But Mary Kay has hired this expert I'll tell you about in a minute that will try to suggest to you that the asbestos in powder is not a problem, but it's the asbestos in water that we really need to look out for.

When we talk about a battle of experts in a courtroom, usually there's two sides, but here, we're going to see, I think, an entertaining fight between their own experts. Dr. Barlow agrees with what most of the

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

medical community says. The route in exposure matters. Digestive tract is different than inhalation. Our acids in our stomach can do things that our inhalation tract cannot.

The entire world weaves the problem when asbestos has to do with absorbing through the vaginal tract or breathing that in. Without a lot of context, I'm not sure I should even have mentioned that yet, but it's a really strange fight on their experts.

You'll also hear that people on both sides have made an extraordinarily amount of money. The expert we hope you'll meet today, Dr. Brody, has made millions of dollars, literally, testifying in court for both sides. He's still testifying.

There are folks who have made the same. I'll tell you, I think you'll see a claim difference, however. One, we're going to bring over her actual doctor, who is not a paid expert. Two, Dr. Brody was studying asbestos and what it does to the body and trying to figure out a cure from the 1960s. He's published over 200 peer-reviewed published papers. If someone 15 years into it and someone said, "Can you explain this to juries?" all of this actual work is funded by the National Institute of Health, not lawyers.

Dr. Howitt at Berkeley, who is Mary Kay's expert,

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

was asked in November of this year, "Do you mind studying asbestos?" And he didn't do it for the government. He didn't do it for science. He did it because Mary Kay asked him. He's been paid over $125,000 for his work in four months, and he hasn't done a single bit of asbestos research until this case.

So, there's a lot of money that is going into this, and it's kind of, I think, hard to wade through who do I believe when everybody is getting so much money. I do thing there are things that are going to help you.

The same expert has said that the International Organization for Standards, which is used all over the world, is ridiculous, according to him. The other defense expert, they're just mistaken about how they look at things. And the U.S. Pharmacopia, who was used for pharmaceutical companies and others, they're just silly. This is an expert who truly is (indiscernible), I think is what you're going to see.

We're going to bring her actual doctor. And the funny thing is that Mary Kay hired him as their expert, and we're the ones bringing him. And he's going to tell you his concerns about talc, his actual treatment and care of Sarah, and a little bit about what she's gone through. And I'll spend about three minutes on that.

Dr. Ripley calls her the Marine. The first time I

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

heard that, I thought that was funny. She does not complain. Her body was literally cut in two. She is without a lung. What do I need to do? How will it give me more time with my kids? And she has done it with her thumb up and a smile.

And I'm glad you're going to get to meet the person that actually did that surgery and realize that she's not looking for her sympathy, but I think she is someone that is going to command your respect. She is an incredible young woman.

You are going to hear about what they have gone through. Parker is a doctor who has a lot of struggles in life, and she is his light post. Even just this week, her being here and not being together, has been very triggering, about the fear she has about him being a single dad is how is he going to do without her. This process is insanely hard.

And for both of them, their only focus are their babies. It's their only focus. If she can make it to see them graduate, she will be grateful for that. That is her goal.

Her husband is a doctor who told her, when she had this, most people don't get a year. Sarah Plant is not like most people. She had a surgery most humans cannot tolerate. She's doing incredibly well, and there's a real

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

reason for hope. But even in the best case scenario, what this family has gone through and the fear that they will live with every day, is unacceptable. Many people battle cancer, but what you will hear is that this was cancer that was known to be preventable a hundred years ago. This did not have to happen. They did not have to fight this fight.

And so, the specifics of what they have gone through, we're going to wait -- hopefully our two last witnesses will be Sarah and Parker, but we will ask you to think about it.

And at the end of the day, for her and her many others, we're going to ask you to hold these companies accountable.

I know I threw a lot at you. I know I'm a bit of a mess. But I appreciate you. I look forward to getting to know you. The next time I get to talk to you is at the end of the case, so thank you.

THE COURT: Thank you, Ms. Dean.

For the defendants? Mr. Thackston?

MR. THACKSTON: Yes, Your Honor. Thank you. May it please the Court?

OPENING STATEMENT ON BEHALF OF DEFENDANT WCD

MR. THACKSTON: Good afternoon. My name is Robert Thackston. Along with Stephanie Flynn, I represent the

company called WCD.

Without a doubt, the hardest thing about being a lawyer is having to sit and listen to something that you disagree with very strenuously, but as Your Honor told you before the trial, courts are about protocol and about going in the proper order and being professional and letting other people say their piece. And the reason the plaintiffs get to go first is because they have the burden of proof.

And an opening is not proof. An opening is a forecast of the evidence. And a lot of times, lawyers may say things in opening that they don't end up proving, and that's tough right there. And I think you have seen a good bit of that.

It's obviously a very, very sad case when a young lady and a mother gets cancer, and any of us would be heartless if that didn't just make you sad. It's very sad. But when we were picking the jury and getting qualified as a jury, they asked you whether you can be fair, whether you could set aside whatever feelings you had, whether you could come in and keep an open mind and listen to the evidence.

And they get to go first. And all of you took an oath and said, "Yeah, we can keep an open mind, and we promise to listen to both sides before we make up our

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

mind."

You know, it was only -- it was only the latest FDA testing of cosmetic talc announced on the FDA website. If you went to the FDA website two months ago, December 2022, they announced yet another round of testing of cosmetic talc commissioned by the FDA, and yet again, they found that asbestos was not detected in any of the 50 samples. And that wasn't the first time. Back in 2010, back in the '80s, even that late 1970s, the FDA, in 1986, issued a letter, an opinion that said, "We find there there's no basis to conclude that there's a health hazard attributable to asbestos in cosmetic talc. And without evidence of such a hazard, the agency concludes there would be no need to require a warning label."

And one of the things you just heard was, "Well, none of them were warned." Well, you wouldn't warn if there was nothing to warn about. And the FDA has consistently looked at this since the early 1970s and concluded consistently that there's not a need to warn.

And you know what? Everybody loves a conspiracy theory; right? Everybody loves a theory of everybody got together in a smoky room and the FDA was hoodwinked, the FDA was underfunded. Again, people can say what they want to say in opening statements, but it's up to you to see if there is evidence of that kind of thing. Is there really

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

evidence that the FDA was clueless and misled, had no resources -- the federal government had no resources? That's up to you to judge. You're the judges of the facts, and I'm sure you'll listen for whether there's evidence to support those kind of claims.

And one of the reasons was that the FDA said, "Look, even if you can find trace -- all right? Maybe if there were trace asbestos" -- and you'll see that what asbestos -- what that term means is very, very up in the air, but because there's naturally occurring asbestos everywhere, even if what you say is true, that somebody had made a complaint and asked the question, "Is there a problem with cosmetic talc?" they said, if that were true, the levels would be less than the lifetime exposure that you get just from living in this country.

And they also specifically rejected some of what you heard today about the 1970s and the questions that were raised. They said, "Look, in the 1970s, there was questioning about how to even identify" -- and here's the word "asbestiform minerals." And the analytical results from that time: Questionable reliability. We're not going to go back in 1986 even and rely on the stuff in 1970s, much less would we do it now in 2023 and talk about stuff from the early 1970s.

So, let me tell you what I'm going to cover, and

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

other folks will talk to you, but I'm going to talk about the general stuff first. Epidemiology, what it is and why it's so important. Source of the cosmetic talc. Where does it come from? The term "exposure." You're going to hear it. We're going to talk about what it means. The background levels, the reason that there's always asbestos in the air and everybody has it in their lungs and it's not a hazard at those levels. The body's defense mechanisms. How the body deals with things like -- any kind of fiber or dust that you inhale. And the physical markers. There are ways to tell whether somebody's had significant exposes to asbestos, and we'll talk about whether that's in this case.

And then how minerals were formed in the earth and why it matters. And last, we'll talk about WCD and the folks that made up that company and what they really did.

Now, something called epidemiology -- and I think Dr. Brody will be the first witness. He's not an epidemiologist, but what he'll say is I've done these animal experiments, rat experiments, and I've got have some observations about what might cause what, but if you really want to know patterns of disease, you have to look at epidemiology. Right?

And so, over the last century, the people, like this gentleman right here who is jackhammering talc out of the

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ground, jackhammering rock, they studied the people that have the largest exposure. Right? If you want to know whether a substance causes something, you would go to the area where the people who have the largest exposure to that substance. Right? And nobody would have a larger exposure to cosmetic talc than the people who are jackhammering it out of the ground and blowing it up out of the ground. Right?

And so, those are the people that have been studied for the last 100 years. And what they've consistently found, these folks don't get mesothelioma. Right?

And that wasn't true with asbestos. When they're studying asbestos, you found asbestos in the mines, you found it in the mills when they're milling it, you found it in the textile mills in North and South Carolina where they were taking it and making it cloth. You found it with a product user. Not true with talc. Talc is not asbestos.

And this has been going on for decades. And these are studies from all over the world. This is not litigation related. This has mesothelioma registries that are maintained by universities or governments all over the world. And they all reached the same conclusion. They're all looking at what diseases are associated with being a miner of talc, and none of them find a relationship

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

between talc and mesothelioma.

And not only that but there's something called talc pleurodesis. Talc is used by surgeons, including Dr. Ripley, to put inside the lungs of people who have something called pleural effusion. Talc is used as a medicine, and it was used to adhere the two levels of the pleura together to keep stuff from -- keep the fluid from developing in the lungs.

And they studied the people who had the talc pleurodesis and had talc put directly into their lungs and haven't even found mesothelioma in those records.

Now, the various people who looked at, "Well, what's in the talc that comes out of the ground?" All right. They've analyzed the people that worked with it. They've also analyzed the mines that it comes from. Of course they study the stuff as it comes out of the ground. They study it before they mine it to see if it's the pure kind of talc that you need for cosmetic companies.

And organizations, like the World Health Organization, has said, if you look at the bulk samples from places like Montana, you don't find fibrous asbestos. Same thing for Italy. You'll hear that a lot of cosmetic talc came from the Italian mines. Numerous studies have said that's the pure talc that you want to use to make cosmetic products, and you don't find asbestos in it.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Now, what does it mean to say "exposed"? Because all I'm trying to do is just give you an outline of what's coming up, and you'll hear that word a lot, and I just want you, when you hear it, to think about something. That term, in this context, to say that you're exposed about something, what we're concerned about is are you breathing something down into your lungs. Right? Not "Do you smell it?" It's like if you smell coffee, that doesn't mean you're breathing coffee down in your lungs.

We're only concerned in this case about whether people are inhaling something that could hurt them. And so, when we talk about exposure in this case, what we're talking about is what the plaintiffs have to prove to say someone was exposed to asbestos from a product is, first of all, of course, that the product actually had asbestos in it. Right? That's number one.

And then, how did it get out? How did it get into the breathing zone. Was it respirable? Was it the kind of thing you could inhale? And then, if you inhaled it -- you'll hear from Dr. Brody that 90 percent of what you inhale gets immediately dispelled from the body.

And, in this case, you heard no onion property. Well, that's asbestos. But let's think about something. We're not talking about somebody inhaling asbestos like you're in a plant. We're talking about the idea that, to

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

inhale the asbestos, you have got to inhale the powder. We're talking about it's allegedly a trace like 0.001 or more zeros that than, tiny percentage of powder, and to inhale that percentage of powder, you have to breathe powder. And powder does have onion properties or you hope something prettier than onion properties, but you can certainly smell powder. If you were inhaling a bunch of powder into your lungs, you would know it.

So, the idea of background levels -- there are two kinds of backgrounds. One's in the air -- excuse me. What is the background of asbestos that's in the air? Because it's a rock. It's a naturally occurring rock. In fact, it's the state rock of California. I don't know if South Carolina has a state rock or North Carolina has a state rock, and California does, and it's serpentine, which is chrysotile asbestos, and it weathers and it gets in the air.

And there is naturally occurring asbestos in North and South Carolina, running down through the mountains. And so, because there are backgrounds levels in the air, people like Dr. Brody have done studies of lung tissue, and they look at lung tissue to see how much asbestos is in it, and they find that everybody has millions or billions of fibers, and that becomes their background. That becomes the baseline. And then you can look at lung

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

tissue of people who got mesothelioma and see whether they had an increase over the background and, therefore, could you say it was caused by asbestos. And Dr. Brody has done those kinds of studies. We'll talk about that.

And in the background, in the air, over decades there have been numbers, and we don't have to talk about what the numbers mean right now, but the point is that people have measured these over the years, and it's a range. There's no magic number or background level equals six, but there's a range depending on where you are and the time.

And since -- like the EPA said -- I mean, FDA said in 1986, "Look, there's a background that everybody's exposed to." And so, if cosmetic talc didn't give you any kind of exposure above that, you couldn't say that that caused disease. Right?

And I don't think anybody is ever going to say you could never find one single thing you could call asbestos; we'll show you why in just a second.

But this is important, that there is some out there that everybody's breathing in all the time, and I don't think anybody is going to say asbestos in water causes meso, but they might point out that it's so prevalent that a bottle of water can contain up to 32,000 asbestos fibers.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And you'll hear that -- you heard, "Well, there's no safe level." Well, that's not true. Nobody can probably put an exact number on it, but this is AHERA, and AHERA is a regulation that governs taking asbestos out of schools. And what it says is, when you take asbestos out of schools, you can measure the air, and even though you can still measure some asbestos in it, that's a level which we think is safe to let school children go back into school. That's pretty indicative of a safe level.

And, also, you'll see the concept that it's about the dose. When you were talking about asbestos miners and millers, no, the body can't deal with that much asbestos coming into your lungs. But if you're talking about the background levels in the air, the body can deal with that very easily. Right? And so, there's something in between that causes mesothelioma, and it's not the amount. Even if you believe what people said -- what their experts will say about this trace, trace, trace contamination, you can't get that much powder in your lung without dying of something called talcosis first. And I'll show you what that is.

Dr. Brody will say, "Look, your body has this amazing ability to deal with stuff in the air." If you look in -- you remember, like, in the mornings when the sun comes in the window and you look in the air and you

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

just see particles all over the place? Well, that's just air. You know, pollen and dust and that kind of stuff. And the body deals with that. The body has ways of getting rid of it. And most of it -- 90 percent gets out before it gets to the throat.

But then, after that, you have this system of airways, and you have this thing called the mucus and cilia. Right? And so, you have got the cilia all the way down that long tube, and those things are just popping up like this all the time, and you've got mucus, and it catches almost every single that goes down there, and brings it back up. Right?

And then when you're like -- if you're sanding and working in your garden and you're coughing a little bit, coughing stuff up, that's your mucociliary escalator at work. Right?

And that's why not just any exposure personally -- because it takes a lot to get past that. And if you have enough to get past that, there's something called macrophages. And I don't know if anybody is as old as me that knows what Pac-Man -- the Pac-Man game was, but it was something that went around and ate things. And these are called Pac-Man genes -- cells, because what they will do is they're eat up short fibers.

So this is an actual cell approaching a fiber.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Approaching it, approaching it, eating it, eating it, and it was taken out of the body with the mucociliary escalator.

Why does that matter? Well, because short stuff -- and you'll hear all the stuff that you can possibly get out of talc, the really, really short stuff that these cells can get rid of -- what they have a problem with is long fibers, and that's what asbestos -- real asbestos is, that was used in insulation and building products. It's long fibers; the body has a really hard time dealing with those.

And you'll also hear that, when you breathe in a bunch of asbestos or other types of dust like cotton dust or coal dust, it causes markers; right? You're looking at an X-ray and see things what are called pleural plaques. And Ms. Plant doesn't have those. She doesn't have asbestosis. She doesn't have asbestos body or asbestos fibers.

Now, nobody is going to say you have to have any of those for asbestos to cause mesothelioma, but if you had a big dose of asbestos, you would definitely see those. And the other thing you would see if you had a big dose is talc, if you inhaled a lot of talc, there's something called talcosis. And talcosis is similar to asbestosis, but it's from breathing in a bunch of talc.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And just think about that. Powder. Your lungs couldn't deal with a whole bunch of powder, and to get to trace, trace, trace contamination, you'd have to breathe in the powder. And Mrs. Plant definitely doesn't have talcosis.

Now, here's one of the problems. There are a couple of terms that have multiple meanings. You can hear the term and it gives you an idea of what you're talking about, but it doesn't tell you exactly what you're talking about. And for disease causation, we need to know exactly what we're talking about.

And here's an example. So, asbestos, the first are, like, six regulated fibers, and it can also refer to a bunch of different rocks. And talc can -- the term "talc" can mean something industrial, which is -- they didn't try to make that claim because they're using it for tire making and all kinds of industrial applications, making paints and spackling compounds. And then there's cosmetic that's a little different. And there's pharmaceutical. Right?

And so, in this case, you're going to think, "Well, wait a minute. Which of these things are we talking about?"

And another -- I was just trying to think, what's an example of something that you -- if you say, "Give me a

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

screwdriver," right, everybody kind of knows what you're talking about, but to really hand somebody what they need, you need to know specifically what they're talking about. Are you going to fix your eyeglasses or are you working on your car? Right?

And asbestos and talc are kind of like that. You hear the term "asbestos," it gives you an idea that you're talking about a mineral, but then you've got to say, "Well, which one are we talking about?" And here's why. Here's why words matter in this case, because there's a kind called asbestiform. It grows in a certain way. And I'm going to show you what I mean by that. And then there's a rock. And rocks that are crushed are different than something that grows in asbestiform habit.

And so, I want to talk just a little bit about mineral formation and its -- it goes back to what I barely remember ever seeing before in school, but the Periodic Table of Elements. There are certain elements that make up everything. Right? And there's -- a science museum, there's a computer that you can go in and type in a couple of elements and they're make a mineral for you. Minerals are a combination of elements; right?

And so, this is what I got out of basic geology -- I mean, like a hand geology book that you might take out in the field with the Smithsonian -- I'll show it to you at

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

some point. It's just a little book that says here's how geology works. Right?

This isn't some effort to confuse you. This is just simple, basic geology. One of their experts is going to be giving opinions about geology and never even took a class in geology. He just learned it in litigation. All right?

But what it says is the atomic structure -- the chrysotile is built in a certain way, atoms are arranged in a certain way, and the final form that these atoms take is called a habit. A habit.

And so, the same composition can have a different structure. So, there's these two things: Pyrite and marcasite -- I'm sure I'm saying that wrong -- but it says they have the same chemical composition and they're both iron sulfite, but they're differing crystal structures make them different minerals. Right?

So, look how different those are? Because of their crystal structure. So, this isn't some litigation concept. This is the basic geology.

And, another example is carbon. Right? Same atom, carbon. If it's bonded one way, it's a diamond. If it's bonded another way, it's graphite. Pretty different, but that's the same mineral composition. Right?

So you have to ask, "How does it grow? How does it

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

form?" if that's the key issue, because it's the exact same mineral. And that's what happens with the term "asbestos." And this also talked about sort of crystal habit, the way the mineral grew in the earth a billion years ago. It talks about the different shapes and the way it breaks apart. They're called cleavage fragments. So, "cleavage," the ability of mineral to break along flat, planar surfaces.

And so you'll hear about cleavage fragments versus asbestiform fibers, and that's a key issue for health effects. And you'll see that scientists from all over the world, the governments, they made a distinction between something that's formed an asbestiform way and something that's just a rock.

And here's the example. Here's how they looked. So, these are things that form in an asbestiform habit, and you can see they look like threads. Right? And they have names like anthophyllite asbestos.

Well, the geologists, they weren't concerned about it. They weren't thinking about health stuff necessarily, and so they got the same name for the mineral anthophyllite and tremolite. These are rocks. These are asbestiform habit rocks.

And what you'll see back in the '70s was people were throwing around these terms without even looking at

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

whether they asbestiform or they were just a rock and that, later on in the '80s and the '90s, you can see the scientists were saying, "Well, wait a minute. When they were saying the talc might have had anthophyllite or tremolite in it, they weren't talking asbestiform. They were just talking about the mineral."

And this is what it looks like under a microscope. The tremolite -- remember the cleavage fragment? It breaks apart in a certain way, and the asbestiform looks like a long fiber. And those are the kind of -- remember the macrophage, he's trying to phase something out? If this thing is two or three microns -- and you'll hear about what microns are, but if this is short or smaller than that macrophage, it takes it right out. If these are longer, the macrophage, you just can't get rid of them. And when there asbestos disease and the people really are exposed to asbestos, you saw lots of that in the lung tissue.

And so, here, you just have IARC, the International Agency for Research on Cancer. You see in one of their papers they say, look, back in the '70s -- in '76, when they were talking about finding tremolite and anthophyllite and serpentine in cosmetic talc products, there was no determination of whether these were asbestiform minerals. Right? And that's not something

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

I'm saying is important. That's something that IARC, when they're doing the monographical percentage -- carcinogenic risk to humans, they say that was important, and that's why we're not going to rely on the stuff that was done in the '70s. I think they didn't know, but they just weren't -- they would identify the mineral and they'd just stop. They weren't trying to figure out how it was formed, whether it was asbestiform.

And OSHA did the same thing. In 1992, OSHA, for their regulations, they strictly, expressly said, "We're not regulating this non-asbestiform stuff. We're only regulating the asebestiform."

And then you get to NIOSH, which is the group that does research for OSHA that says cleavage fragments -- remember the rock breaks into cleavage fragments? They break traversely because they have this weaker crystallized structure. They're not growing like that thread, and they're more easily broken down and removed.

And you'll hear that there are other differences between asbestos and cleavage fragments that means they act differently within the body.

Talc does not cause mesothelioma and cleavage fragments do not cause mesothelioma. You would have to have actual asbestiform asbestos in talc in a sufficient amount. Somebody would have to explain how you could get

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

that in there without dying of talcosis first because you've got to be breathing an awful lot of powder.

Now, Whittaker, Clark & Daniels, the company I represent, they were founded in the 1800s. They were a middleman. They were somebody that bought and sold. They were like in a chain distribution with warehouses. They bought pigments. I think our representative will tell you things like talc or like timber. But they bought and sold pigments, and they didn't make end products. I think the most employees they ever had was 120. And they supplied the different industries, and some of these talc was, like, pharmaceutical-grade talc. They didn't mind it, mill it. They didn't make or sell cosmetics, and they didn't design the formulas and they didn't know the formulas because they're selling to different competitors. Right? A bunch of different cosmetic people might be buying from telling Whittaker, Clark & Daniels so they're not telling Whittaker, Clark & Daniels their formula because that's proprietary, so they're just telling them what kind of talc they need.

And the talc house, I mean, there might be -- I think there's a barbecue joint right over here that says it's the world's greatest barbecue, and it probably is, but I don't know they really did survey before they put that up there. And so, the talc house could be the

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

burger house, but that doesn't make it bigger than Burger King or McDonald's. Yeah, they called them "the talc house" in an advertisement in, like, 1955.

And so, they've got some sales records from '75, and they quit selling these minerals or pigments in 2004. And the thing I don't think you're going to hear is like just some references to, like, Johnson & Johnson and Colgate-Palmolive. I don't think you're going to hear any evidence in this case that Johnson & Johnson bought their talc from WCD. Johnson & Johnson had its own mine. They owned the mine in Vermont. So, I don't think -- you know, just listen for that. They say that's what they're going to prove. I don't think they're going to prove that because I don't think it's true, but you'll be waiting on that, I'm sure.

And what Whittaker, Clark & Daniels did was they took this stuff that they had and it had been tested before but they sent it out to world-renowned laboratories to have it tested to see if it had any asbestos in it. And you're going to hear, with 20/20 hindsight, that the little, tiny microscope here wasn't as good as the big microscope there. And the expert that comes in here to tell you about finding -- alleging finding talc in -- finding asbestos in cosmetic talc, guess which one he's going to use? He's actually using this one (indicating),

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

and he's claiming that's the right one to use now. So, that will be interesting to hear why they're telling you, you got to use that while their experts are going to bring you a huge one, this, in 2023.

So, here's the layers of testing, and you'll hear about this. The mines for Whittaker, Clark & Daniels, there wasn't -- they would say it's not detectable; right? When you're talking about molecules, you can't disprove that there's a molecule in something, so you have to do kind of representative testing. And what they did mostly was something called X-ray diffraction, and it's bigger than that and it's smaller than that. And you'll hear that it was the standard state-of-the-art for doing testing. In fact, the people that were tested in the early '70s were using XRD, X-ray diffraction.

But WCD would get it already tested, and they'd test it again. Anything that had anything that looked like it might be asbestos -- even if it could be of a rock type, they would hold it and not sell it. Even if it was just a rock-type, not asbestiform, if they saw that mineral -- the X-ray diffraction, if it saw that mineral, they just stopped and didn't sell it.

And, you know, these things they say about trying to connect the product that Ms. Plant used to WCD, just hold them to their burden of proof. If they can show that,

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

super. But just make them show that, not just say "WCD sold a lot, she used this. You should assume that the two are connected."

She talked a lot about what industry did. Well, industry isn't here. There's no dispute that Ms. Plant and her mother used Johnson's Baby Powder on her since she was born, and they're not here to defend themselves but we are. And so, I don't know who "industry" is, but if she's talking about somebody's actions, let's be specific when you're talking about WCD.

We talked about not giving warning. And then, so, a couple of things about experts, and I'll be done. These things that the expert say from here, one fair question to ask is: Do they say the same things to their scientific colleagues? Are they here like Dr. Brody to talk about things they put in the published literature, or are they telling us stuff that they never offered any other scientist to review and they have no article anywhere saying any of this stuff they're telling this jury? Just ask that question. Fair question for all the experts.

And are their experts consistent with each other? Are they all saying the same thing? And are they consistent with themselves? Because they're going to bring you an expert who said, a few years ago, that the idea -- even the idea of asbestos in cosmetic talc was an

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

urban legend. Now, they've changed their mind. And you're going to see several, including Dr. Brody, and ask yourself this -- who testified in mesothelioma cases in the 1980s, '90s, 2000s, some of them over 30 years, they came and took an oath, and they told jurors what caused mesothelioma, and they told them which asbestos products caused mesothelioma. And despite the fact that you heard that everybody knew from the '70s that talc was contaminated with asbestos, not one single time -- hundreds and hundreds of times they took the stand and they told juries like you what caused mesothelioma. And guess what they never mentioned not one single time? Cosmetic talc or makeup.

And it wasn't because people just figured it out. It was because there was no science to support that idea, because they were telling the truth. There was no reason to say cosmetic talc caused mesothelioma. And they told hundreds and the hundreds of jurors that these asbestos products did it. But you'll see in this case, there was no effort to figure out what might have actually caused it. Just an immediate conclusion that it must have been talcum powder because there's litigation to be had for that.

So, one last thing is, Plaintiffs' counsel said in opening there's been 200 cases in the literature about

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

cosmetic talc and mesothelioma. Well, guess who wrote those articles? Two of their -- not in this case, but two experts, while working for Plaintiffs' lawyers in talc litigation wrote articles saying cosmetic talc causes mesothelioma. And you'll hear experts now relying upon the articles that these people wrote while they were serving as experts, and they're talking about litigation cases they had. And there will be some interesting questions to be had about the cases that they're talking about where they say it was cosmetic talc only. We'll have some questions for them.

Anyway, the science they're talking about from the 1970s has been debunked. The epidemiology is the gold standard for showing causation, and it does not say that mesothelioma is caused by cosmetic talc. And the plaintiffs are going to have to prove what they said to you about WCD supplying all these talcs for the products Ms. Plant used. We don't think they can.

There's no evidence the makeup she used even contained trace stuff, but you're going to have to ask, if somebody is putting on eye shadow -- they're claiming that the mother put on eye shadow in the front seat and exposed the daughter to the eye shadow in the backseat. You're the judges of the evidence of those kinds of statements.

And there's no evidence that she actually inhaled

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

it. Remember the exposure, the nine steps. You got to show somehow or another that you breathed that stuff into the mouth that got down into your lung in an amount that could cause disease. We don't think you're going to see that.

I know this is a huge imposition on your life, but it is a really important function, and we are so grateful that you're here. We know you'll keep an open mind, and I appreciate that y'all will wait just hear our side of the story. Thank you.

THE COURT: Thank you, Mr. Thackston. We've been at this since 1:30. I'm going to give you a 10-minute break. Court will be in recess. Let's let the jurors go back to the jury room to refresh themselves for about 10 or 15 minutes or so.

Court will be in recess.

(A brief recess was taken from 3:19 p.m. to 3:34 p.m.)

THE COURT: Before recess I told them to bring the jury.

MR. SCHWEGMANN: Your Honor, we had one technical problem, so may I have a moment to make sure my deck will play?

THE COURT: Sure.

(Pause in the proceedings.)

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

THE COURT: Very good. Bring me the jury.

THE BAILIFF: Yes, Your Honor.

(The jury entered the courtroom at 3:38 p.m.)

THE BAILIFF: The jury has been seated, Your Honor.

THE COURT: Thank you.

Mr. Schwegmann, you may begin.

MR. SCHWEGMANN: Good afternoon, ladies and gentlemen. And may it please the Court?

OPENING STATEMENT ON BEHALF OF DEFENDANT MARY KAY

MR. SCHWEGMANN: My name is Chris Schwegmann, and I'm here because I represent Mary Kay Inc. I'm joined today by some of my colleagues. Now, you know they got us all grouped in this corner here, but I represent Mary Kay and so do my colleague, Jill Herz, Jooyoung Yeu, and Bill Wilson. And I have got my client here with me as well, Dr. Lucy Gildea. And we're here to tell our side of the story.

Now, you've have had a lot of folks talking at you all day, and I know it's been a long day, and so what I want to do is I want to get straight to the point, if I can. And let me get straight to the point and say Mary Kay's products did not cause any cancer in this case. I want to say it again: Mary Kay's didn't cause any cancer in this case.

Now, you heard both sides -- you heard Ms. Dean, you

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

heard Mr. Thackston say that this is a dose-response disease. They talked about exposure. They talked about how it's a very rare cancer, and the folks who get it are exposed to not talc but asbestos. And one of the things you heard is the frequency of the dose over time that causes the disease.

We had the opportunity to speak with Ms. Plant and her mother before the -- we found ourselves here. And I want to talk to you about some of the products that we learned that she used from very early in her life. She used baby and body powders for over 30 years. Johnson & Johnson products, for over 30 years. It was put on her behind when her diapers were changed. She later would babysit and use that same powder on other kids. She used it into her adult life. For over 30 years, Johnson & Johnson products, other baby and body products.

She used COVERGIRL products for over 12 years. Revlon products, Maybelline products for ten years at various points in her adult life. She used L'Oréal. She used Almay. These are all different companies that have makeup that use talc in their products. Bare Minerals, Clinique, MAC. You saw pictures of the Gold Bond powder during Ms. Dean's presentation. She used Lancôme for two years. Mary Kay didn't manufacture any of those products. Mary Kay doesn't have anything to do with any of those

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

products that contain talc that go into cosmetics.

I want to talk about the products for Mary Kay that she used. Ladies and gentlemen, she used two products from Mary Kay. Now, hear me now, I don't mean she liked two products and then she bought those products over and over again. That's not what I mean. I mean she used two products.

The first product she used was a compact in 1999-2000. The compact had three pressed eye shadows in it. And for those who might not know, I had to learn there's a difference between pressed powder and loose powder. I think you saw a picture earlier in Ms. Dean's presentation where there's a bunch of dust flying off of loose powder. That's different from an eye shadow. An eye shadow is pressed. It's pancaked down, and what you do is you smear it.

In 1990 to 2000, she used one Mary Kay compact, and she didn't even finish the cosmetics that were in that compact.

The second product she used came in this bag here that Ms. Dean showed you. There were a bunch of cosmetic products in it, but she only used in that bag between the years '12 and '16. That bag had what's called a mineral talc, and there were some mineral powders in that bag, and she used four of them over that four-year period. Those

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

containers had 0.28 ounces of powder in them. That's about a teaspoon and a half of powder. So, you had the '99, and you had the powder between '12 and '16.

I heard some talk about needles in haystacks. Against this haystack of other products that she used that contained talc, this is the needle. That's the only time she used Mary Kay cosmetic products at all. Her use did not cause this cancer.

You're going to hear from doctors in this case, including her own doctor who is coming, and what he'll tell you, that, for this kind of disease, it typically takes 20 years to develop -- 20 to 60 years to develop from the date you were first exposed not to talc but to asbestos. 20 to 60 years to develop this disease. Now, he's going to tell you she was diagnosed with this terrible disease in 2021, which means her exposure between these years didn't cause the development of the disease. It had to have been something way before. It had to have been some other exposure to asbestos. But it certainly wasn't -- and I'm not going to speak for all these companies; I don't represent them. I represent Mary Kay. But what I can tell you is these two products certainly did not contribute to the development of this disease.

Now, I want to take a step back just while I have a few more moments with you to talk about my client, Mary

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Kay. You may have heard the name, but the story of Mary Kay Inc. starts with the story of Mary Kay Ash. She founded this company in 1963. She's a single mom. She gathered her life savings just after her husband passed away, and she started this company with her two sons in 1963. And one of the things that Mary Kay used to say -- back when Mary Kay Ash was still with us, one of the things she used to say over and over again, she goes, "It is not for me about the lipstick." She'd say it's not about the lipstick, because the mission of Mary Kay, the company, is to enrich women's lives. See, she struggled as a working mom. She saw other folks getting promoted over her. Back in the '60s, that was a courageous and tough thing to do, to decide to start your own business, but she did it. And part of the reason she did it was because she needed to create an opportunity for other women.

And the reason Ms. Ash said it's not about the lipstick was because what she wanted to create was a business, an opportunity for other women to go into their own business, and so, she developed a skincare line so that those women could buy the cosmetic and skincare for Mary Kay at half price, they could bring it to their homes, they could sell it to their friends and neighbors and family for full price and keep that difference as

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

their profit. And that's, for her, what this business is about, and I've got the original -- we call them the beauty consultants. These are the original beauty consultants that joined Mary Kay and helped the founder, Mary Kay Ash, grow Mary Kay into what it is today.

Now, I want to say in a moment -- because we heard Ms. Dean talk about the industry, and she referred to Johnson & Johnson and Avon and companies that have been around for a hundred years. Just when you hear that, "the industry," do this me a favor and ask: Is she talking about somebody else or is she talking about Mary Kay?

See, I'm sitting -- again, I'm grouped up over there. Think about Mary Kay itself. What evidence is there against Mary Kay?

And so, when she talks about these tests in the '60s and in the '70s, this is what Mary Kay was selling in the '60s and the '70s. Mary Kay had a lineup that was principally a skincare product. It was creams and gels and cleansers. It wasn't all these loose powder products.

The one product Mary Kay sold that was similar is this product here. It looks like a compact. It was a pressed powder that was pancaked into the tin. You actually had to apply water to put it on your face. And it was similar more like to a watercolor that we all had when we were kids, you sort of painted it on your face.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

It wasn't dusty.

You heard about this -- this conspiracy between all these companies to influence the government. You heard about the '60s and the '70s and these tests. Ladies and gentlemen, Mary Kay is not a part of that.

You're going to hear in this case that the discussion about talc and whether it contained asbestos, it wasn't in some dark, smoky room. It was a very public discussion about talc and its association with asbestos, and that discussion has been going on for 50 years. The folks invited to participate in that discussion are from government, academia, scientists, doctors, universities, and the press. And the press. This has been out there. It's been discussed.

And you're going to hear from Dr. Gildea, who is sitting us today, about how Mary Kay approached this discussion and how Mary Kay participated in this conversation. And one thing you're going to hear is, when Mary Kay is developing products, it carefully selects its ingredients. You see, Mary Kay doesn't own these mines. Mary Kay doesn't sell talc. Mary Kay sells cosmetics. And when it's putting these ingredients together, it says, "I want the best ingredients. I want cosmetic-grade talc."

And you're going to hear that Mary Kay demands from

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

its supplier asbestos-free talc. And Mary Kay pays for asbestos-free talc. That's what Mary Kay says it wants and what it demands and what it expects to receive.

And you'll hear that Mary Kay's selection process begins with guidance from the Food and Drug Administration. It begins with guidance from the FDA, our government. And one of the things you're going to hear, that Ms. Dean, she didn't talk about, was that all these tests in the '60s and the '70s, the FDA considered and looked at, and the FDA, in a letter, will show you. It said, Look, all these tests that she's talking about are questionable reliability.

These aren't my words. Don't take my word for this. This is the United States Food and Drug Administration.

You're going to hear that the FDA said, in 1986, said, "We find there's no basis at this time for the agency to conclude that there's a health hazard." That's what Mary Kay relies on: Our government. Mary Kay relies on getting what we asked for: Asbestos-free talc.

Ladies and gentlemen, throughout this whole trial, I'm going to have to talk second or third or fourth in this courtroom. And I will agree with Ms. Dean about one thing: I trust the jury system. What she said about Thomas Jefferson is spot-on.

Ladies and gentlemen, please keep an open mind, and

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

please don't make up your mind before you have heard from us from Mary Kay. I appreciate your time. Thank you so much.

THE COURT: Thank you, Mr. Schwegmann.

For Color Techniques?

MR. INSCO: Yes, Your Honor. Thank you.

OPENING STATEMENT ON BEHALF OF DEFENDANT COLOR TECHNIQUE

MR. INSCO: Members of the jury, good afternoon. I'm James Insco, or Jim Insco. And Will Kleindienst -- stand up, Will, or wave.

Will and I have the pleasure of representing Color Techniques, Incorporated, in this case, and I won't take all your time today. I just want to give you a quick overview or preview of what the evidence is going to show about Color Techniques. And it's really they're a specialized company in the personal care product industry.

As the name implies, Color Techniques, they specialize in pigments and colors, and many of their products don't even use talc at all, but they're coming up with different palettes. They literally call them palettes, like an artist. They have different palettes that personal care product manufacturers use in their formulations.

So Color Techniques was founded in 1979 in Toms River, New Jersey. Literally, their first home from '79

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

to '91 was in an old chicken coop that was repurposed for -- used by Color Techniques and a couple of other small start-up companies.

They were sold to their current owners in January of 1991. Just to put that into perspective, from January 1991, Ms. Plant would have been about four years old. So, they have been with the current ownership for most of the time that she's used personal care products.

The new ownership, in 1991, moved into South Plainfield, New Jersey, where they're based today. They leased some office space and warehouse space there where they do everything from R&D to shipping and packaging. It's literally like watching an episode of "The Office" -- yeah, "The Office" -- what's the one? Dunder Mifflin Paper. It's kind of the same setup in that suburban office park.

A couple of things I want to talk about that may or may not come up in this case. I don't know exactly what documents are going to be used. It's Dick Longcar and Beacon CMP. Dick Longcar founded Color Techniques in 1979. And prior to that, about 1973, he founded a different company called Beacon CMP. Beacon is still in Longcar's family. But when he sold it in 1979, he had nothing to do with Color Techniques from that point forward. I mention that just so you know they are

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

separate companies. I don't think anybody in the courtroom disagrees with that. Depending on which documents are shown to you guys, there might be a little confusion there.

So, how we are going to present our story? We're going to bring our corporate representative, Carol Edridge. She's our VP of technical marketing. She wears many hats at the company, from product development, regulatory compliance. She really knows the products and what they do. She started the company in 1991; the new ownership took over shortly thereafter.

I'm not trying to mislead you, but she did leave the company briefly in the mid '90s but she came back, but her tenure runs from the new ownership period to the present day.

What they do, on the color side, they focus on inorganic, colors, that's -- inorganic means not from animals, not from lay things. It's other minerals, titanium dioxides, ultramarines, and the blending of this, you know, creates different color palettes. She'll tell us about that to the extent it's relevant.

Another thing they do that does bear more relevance in this case is surface treatments. That's where they take a mineral or some raw material. What's relevant here, obviously, is talc. We've heard a lot about talc.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And they apply surface treatments to that. That changes the physical properties, and it makes -- one word you're going to hear her use a lot is hydrophobic.

We'll talk to the Court and Ms. Dean might even have a couple of samples of surface-treated talc and non-surface-treated talc in containers that you guys can see. I have got to talk to the Court to get permission to do that; I'm not sure. But that surface-treated changes the physical properties. It's much more dense. It's much heavier.

And hydrophobic means it doesn't wash off easily in water. And it's used in the makeup using around the eye, treatments, pressed powders, foundations, stuff that you don't want to run. So you'll hear a lot of testimony in the case about body powders being used on hot, humid days to help wick away moisture that we all create in various regions of our body. You wouldn't use a surface-treated talc for that. That's not what it does. It's physical changes to make it hydrophobic. It would make it unsuitable for the application.

Carol, I love her to death, but she has a tendency, like a lot of these people that are submersed in product, to talk in codes. I will do my very best to -- and she uses these internal code words to make her clarify and explain to you guys -- and, frankly, a reminder to me --

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

of what these all are.

Before lunch, Justice Toal encouraged you guys to ask questions. So if I slip up on my job and don't make sure Carol tells you what these different codes mean, please submit a question to Justice Toal, and we'll see if we can fix it while she's here.

One thing I can preview is that those R numbers, that's what Color Techniques uses for raw material. If it doesn't have an R in front of it -- if it's got a D or DI, that's some product that's been surface treated.

So, what we think the evidence will show is that Color Techniques believes -- and has at all times -- that the talc it sold was free of asbestos. That's based on a couple of things: One, certificates of analysis that the suppliers -- our suppliers of talc provided to us when we acquire talc from the dealer.

But we didn't stop there. When the company was first sued in one of these lawsuits in the year of 2020, the management said, "We better send out the talc we're using and have it tested ourselves." And they did that. Carol will talk about those tests and what they showed, but they all form our belief that our talc was free of asbestos.

So, here I'll close. Will and I have the pleasure of representing these 12 men and women of Color

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Techniques. And if you put it all on one slide, this is the entirety of the company. It's these 12 individuals. That's Dave Dick right there at some sort of trade show or industry supplier day. I haven't got to work with Dick a lot in this case, but I can say the few times I've had the pleasure of going up to New Jersey to meet with people, he has steered me to the best pizza joints in South Plainfield. We won't call him here, but if we did, I'm sure he could give you some good dining tips.

With that, I thank you for your time.

THE COURT: All right. From IMI Fabi?

OPENING STATEMENT ON BEHALF OF DEFENDANT IMI FABI

MR. ROBERTS: The burden of being last. Good afternoon, ladies and gentlemen of the jury. My name is Ted Roberts, and I have the privilege of representing three companies before you today. They're all under the name IMI Fabi. The first one is IMI Fabi (USA) Inc., the second one is IMI Fabi (Diana) LLC, and the third one is IMI Fabi LLC.

I have two points to make at the outset. First, all three companies I represent are individual companies, distinct companies for whom the evidence on each will be different. I kindly ask that you consider them independently and separately from one other.

To that end, they're co-defendants here. There's

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

seven defendants in this case, when you add them all up. IMI Fabi is a separate defendant from each and every single one of these defendants.

So, in sum, I respectfully request you consider each IMI Fabi individually and each co-defendant separately from the IMI Fabi companies.

Second point: There's no dispute from IMI Fabi that Mrs. Plant and Dr. Plant are good people. They have the deepest sympathies of IMI Fabi for their current circumstances. I commit to Mrs. Plant here today there will be no evidence offered by any IMI Fabi lawyer that says anything less than Mrs. Plant was a loving spouse, a devoted mom, and a good person. I commit that to you.

So, why are we here? IMI Fabi is here to defend from misplaced blame, ladies and gentlemen of the jury. The evidence will show three things. IMI Fabi companies acted reasonably and responsibly, cosmetic talc is safe, and the plaintiffs will not meet their burden to show that cosmetic talc was in any specific makeup product used by Ms. Plant.

On behalf of IMI Fabi companies, we thank you for your jury service. We appreciate and understand that we're taking you away from your families, your job, and your time to yourself. In recognition of that, I intend to be brief on everything I do today. For example, I

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

think I'm going to be the only one who doesn't do a PowerPoint because I want to get through this quickly so we can get on to some evidence.

IMI Fabi is a second-generation, family-owned business that began in Italy. The company's business is the production of talc for industry, cosmetics, pharmaceuticals, and food. You'll hear from the representative Corado Fabi, who is the son of the founder, who is going to travel here from Italy to give you the story of the company. This case is that important to him. He will be on a plane this weekend to the United States to testify before you.

Mr. Fabi's English, he speaks and reads English reasonably well, but because of the significance of this matter, he will be accompanied by an interpreter to ensure that no mistakes are made in his testimony, so there will be two people here from the IMI Fabi company in Italy.

IMI Fabi (USA) -- the three companies that I represent, allow me to go through them, please. IMI Fabi (USA) was incorporated in 1999. Its sole business purpose is to own other companies. It makes nothing. It doesn't manufacture, sell, supply talc, cosmetic talc, any kind of talc, any kind of product. For this reason alone, I will return to you at the end of this case and ask you to return a verdict in their favor.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

The second company I represent is IMI Fabi (Diana). Sometimes we might call them Diana in this case. Founded in 2001, operated a factory in Natural Bridge, New York, which is up by the Canadian border. They imported Talc. Once the talc arrived at the factory, they ground it and refined it into various different grades of talc.

Diana had one customer for cosmetic talc. That company's name is Cosmetic Specialties, Inc. They're not here today. They're a company out of Hadden, New Jersey.

The way this worked was Cosmetic Specialties, Inc., would purchase cosmetic talc from Diana, arrange for shipping from New York, and resell it to customers of Cosmetic Specialties, Inc. IMI Fabi (Diana) ceased all operations in 2004. They no longer manufacture cosmetic talc.

The third company I represent is IMI Fabi LLC, founded in 2001 also. Its business is the manufacture of various kinds of talc. It has one Plant in Benwood, West Virginia, where it processes and refines imported talc.

With respect to cosmetic talc, IMI Fabi LLC began refining and processing that type of talc in 2004 and continues to this day. It has 38 employees at its Benwood, West Virginia, plant. Like IMI Fabi (Diana), IMI Fabi LLC has one customer for cosmetic talc, and that is Cosmetic Specialties Inc. in New Jersey. The sale and

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

shipping process I described for IMI Fabi (Diana) to Cosmetic Specialties, Inc. It worked the same way for IMI Fabi LLC. And I may refer to them as LLC during this case as well.

The IMI Fabi companies acted reasonably and responsibly, ladies and gentlemen. Since their start in 2001, they were aware of and recognized the potential for talc were to contain asbestos and that measures needed to be taken to address that risk. They took those measures. You will hear that. The evidence will show that.

Source mines were inspected, talc samples were tested. Any mine with samples containing asbestos were not approved for use. Any talc shipment that has asbestos-positive results would have been turned down and not left the country of origin.

Once the talc ore arrived either at Diana's plant or LLC's plant, it was processed, refined, and then sampled and tested again for things including asbestos. Every single shipment of talc that went out of those factories was tested for asbestos and other items.

As a measure of quality control, the IMI Fabi companies had independent labs test their processed talk to check to make sure that they were picking up the correct findings so, annually, they would ship shipments of talc out to independent laboratories to take a look at.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

When it came to testing for asbestos, IMI Fabi did more than the minimum required by the applicable standard of the day. Asbestos has not been found in any cosmetic talc produced by IMI Fabi or Diana LLC. The cosmetic talc produced by these companies is safe, ladies and gentlemen.

You'll have to evaluate the evidence as to whether there's a connection between any product Ms. Plant used and the talc produced by IMI Fabi (Diana) or IMI Fabi LLC. There's no dispute, ladies and gentlemen, IMI Fabi (Diana) and LLC manufactured cosmetic talc, sold it to Cosmetic Specialities Inc., and in return, sold it to customers of Cosmetic Specialties Inc.

There's no dispute, in some instances, Cosmetic Specialties Inc. sold talc to various manufacturers of cosmetics, such as Proctor & Gamble and others. If that was all that is required for proof in this case, we would not be here. What is required is evidence that IMI Fabi talc was actually in a specific product used by Mrs. Plant. Listen to the evidence this week to see if you hear any answers to that question and hold them to their burden on that issue.

Thank you for your patience, attention, and time. Please be mindful to treat each company here this week individually. There's no one defendant, no one industry, no one company. Everybody is separate.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

The best example I can think of for that is that IMI Fabi entities weren't created until 2001. What you just heard in Ms. Dean's opening, a lot of discussion about what went on in the 1970s. They weren't there. They didn't exist. They didn't exist in the '80s either.

At the end of the case, I'm going to come to you and ask you to return a verdict in favor of IMI Fabi (USA) because they never manufactured or sold a product ever, and I'm going to return to you and ask you for a verdict in favor of IMI Fabi LLC and Diana because the companies acted reasonably and responsibly. Cosmetic-grade talc was safe and because Plaintiffs will not meet their burden to establish it was contained in any individual product Mrs. Plant used at a given time. Thank you for your patience. I appreciate your attention.

THE COURT: Thank you, Mr. Reynolds [verbatim].

Ladies and gentlemen of the jury, we will now proceed to have the plaintiff begin to present their case.

Let me make one correction in what counsel has told you, and I don't think it was anything but just something that I might have heard incorrectly. I allow you to take notes, of course, and your foreperson can send me information or requests. That does not include sending me questions that you want to ask the witnesses or anything of that nature. It more has to do with jury business and

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND)	TRANSCRIPT OF RECORD

SARAH J. PLANT and PARKER PLANT,

Plaintiffs,

vs.

AVON PRODUCTS, INC., et al.,

Defendants.

Case No. 2022-CP-40-01265

TUESDAY, FEBRUARY 28, 2023
TRIAL VOLUME 5

B E F O R E:

The Honorable Chief Justice (ret.) Jean H. Toal, Presiding Judge; and a jury.

Court Reporter: Bobbi Fisher, RPR
SC Official Court Reporter III

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

A No.

BY MR. BRALY:

Q You're not aware of that?

A Procter & Gamble has never been one of our customers. As I said before, our customer is Cosmetic Specialties.

Q Right. Are you aware that IMI Fabi sold talc that went to Procter & Gamble?

MS. O'NEILL: Your Honor, I'm going to object. I have objected to the form of this question with this display, because the display misstates the witness's testimony because he said USA had no customers.

MR. BRALY: Oh, that should say "LLC." You're right. Let's just do that.

MS. O'NEILL: Thank you.

THE COURT: He's trying to fix it.

MS. O'NEILL: Thank you, Your Honor.

BY MR. BRALY:

Q You area aware that IMI Fabi (Diana) and LLC sold talc that ended up going to Procter & Gamble; correct?

A Yes.

Q And Procter & Gamble -- it gets a little confusing here, but when we're talking about Procter & Gamble, you understand that we're ultimately talking about the COVERGIRL line of products?

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND)	TRANSCRIPT OF RECORD

SARAH J. PLANT and PARKER PLANT,

Plaintiffs,

vs.

AVON PRODUCTS, INC., et al.,

Defendants.

Case No. 2022-CP-40-01265

FRIDAY, MARCH 3, 2023
TRIAL VOLUME 8

B E F O R E:

The Honorable Chief Justice (ret.) Jean H. Toal, Presiding Judge; and a jury.

Court Reporter: Bobbi Fisher, RPR
SC Official Court Reporter III

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

your decisions.

So, that's kind of an outline of what's going to take place. Thank you very much in advance for your attention to this very important part of the trial of this case.

And first, I turn to the defendants to rest.

MS. FLYNN: Yes, Your Honor. The defense rests.

MS. O'NEILL: IMI Fabi (Diana) and IMI Fabi LLC rests, and we would, at this point, renew our directed verdict motion for all the reasons we previously discussed with the Court.

THE COURT: Thank you.

MS. FLYNN: Your Honor, Whittaker, Clark & Daniels would also renew the directed verdict motions we made following the close of the plaintiffs' case.

THE COURT: All right. And for your benefit, jurors, while you were assembling this morning, I took care of all those motions made by Plaintiff and by Defendant, and they're simply preserving that for the record.

So, with that, closing arguments will begin, and I'll turn to Ms. Dean for the plaintiffs.

MS. DEAN: Thank you, Your Honor.

CLOSING ARGUMENT ON BEHALF OF THE PLAINTIFFS

MS. DEAN: Hello again. I slept for, like, an hour

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

last night, so I'm sure this is going to be something. It's good to talk to you. It's not the same as having a conversation, but it's nice to -- instead of through a witness -- go through things. I'm going to move quickly.

These are the only two left. It's undisputed that, for decades, they sold talc. Talc to be used in the home. Talc to be used on your face. Talc to be put on your body. Talc to use on your children.

It is undisputed that, for decades, scientists have been looking at mesothelioma, death and disease in women, and that there has been significant death and disease.

The expert they brought yesterday wants you to believe that 100 percent of that, all of it, has nothing to do with asbestos; rather, women's bodies just failing.

You have heard from many people, including her actual treater, that there's no biological genetic reason, that that doesn't make sense. What makes sense is that there was an exposure for decades that wasn't asked about, and I hope the evidence that we presented as cleanly as we could is that was intended.

How many times did Dr. Feingold tell you yesterday "but things have changed." They have, dramatically in the last five years. And every piece of evidence in the record shows in one direction: Stunning evidence kept from doctors and treaters and regulators about asbestos in

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

a powder have come out.

One of the first instructions you heard from Judge Toal is that all persons, including corporations, stand equal before the law, because corporations, like people, can be good and bad. Corporations, like people, can be people of character or people lacking character. And what we have hopefully shown to each and every one of you is these are corporations who, when they understood asbestos was routinely in talc, made a decision. And I want to be clear: They never intended to put it there, but when they knew that, they made a decision to obfuscate, hide, and cover up instead of protect people, which is not acceptable in this state based on a variety of laws.

The evidence that there's been an explosion of information is uncontested. We showed you the information that's gone back to the 1940s, finding asbestos in talcum -- talc; that literally thousands of tests with kept from the FDA, including tests discussed with the peer-reviewed published literature that WCD had in their files that you will get to see that only came out in the last couple of years.

And then we have heard about regulatory attention. And I don't know if you got this nuance, but there was an executive summary that came out two and a half years ago. Mr. Thackston showed you, a year into the process, that it

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

was preliminary. And that's why I asked about the date. Because there was two years of study by 38 subject matter experts -- Dr. Longo, Mr. Segrave. Everyone went and had hearings. And then the final consensus came out in December indicating that almost everything you have heard from the other side is not legitimate.

They want you to believe that we're conspiracy theorists, that we're making it up. And so, we showed you there are literally scores of papers that have just come out. Why now? They simply don't respond.

We included the actual documents where they show asbestos in amounts, again, under 1 percent that are shown to be millions -- hundreds of millions of fibers in a single gram. They simply don't respond.

It's not disputed that they certainly started out from the get-go. This is a quote in opening that we're conspiracy theorists, that we believe that cigars were being smoked, and we need data. Not obfuscating.

And I think the most powerful evidence that you have is a person who did not have a dog in this fight, who hasn't made millions of dollars because, goodness sake's, everyone on both sides has, who came in because he is Sarah's doctor: "Talc contains asbestos. I've taught my residents. I've created an alternate protocol in 2016 because of concerns on this exact issue so no one did talc

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

pleurodesis." That's the conspiracy theory. And when they didn't believe him and he was skeptical, he went and found the actual PowerPoint.

And what is -- why we're asking that last question has a higher burden of proof. The one that has clear and convincing evidence is because the evidence here is that Whittaker, Clark & Daniels was actively involved in deception and that IMI Fabi, when everyone else was running away, decided to get into it and obfuscate.

Every time we have a jury instruction that you're going to have, I write it here just so you have that context. But one of the things that Justice Toal told you is that, under our system of justice, you, the jury, are the sole and exclusive judge of the fact. "We, the people," becomes you in about two and a half hours. And this is how we consider careless and negligence and the laws of our states and shape our community, not by government or industry or people that can be influenced, but by people who did not volunteer.

There are few things in this case that are not both disputed and actually agreed to. We have the burden of proof. Many things were never disputed but they still put us to the task. Here's two that there was no fight. They admit. Sarah has mesothelioma and she didn't do anything wrong. They're not even suggesting it.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

The largest disputes have to do with the last two companies' role and what is the total loss for Sarah Plant. One of the things you are told is that Mary Kay and Color Techniques, two companies that you met, are no longer in the case. The two that are left are not the only two that are responsible. We believe Johnson & Johnson, we believe Mary Kay and others had a role in this, and how that works, you don't get to know entirely. You just get to know that it doesn't have to be one cause, and we need help figuring out if these were part of the problem.

And then the second thing you're asked is to identify the total loss, not what Mary Kay should pay, not what IMI Fabi should pay. What is the total loss for this family, and let someone else give the total. And we, not today and not when they were making decisions to sell asbestos in baby powder and body powders, have never agreed on what this loss is worth. That's why we have a jury. That's why we have you.

We have to prove this case, and it's kind of like scales. 51 percent.

I think at first blush that seems strange. Like fifty -- you only have to show the light was green by 51 percent? I mean, it seems like a counterintuitive thing, but I think the more you think about it and look at Judge

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Toal's instructions, it makes sense.

I mean, think about ever direct examination and then after cross-examination, a good lawyer can make anything seem confusing. But, ultimately, the law says that if we are looking at things, particularly when it's years and decades ago, if you believe that it's likely or probable, we're there.

It also makes sense for timing. You could literally spend hundred of hours looking at these documents, and I think you'd be 100 percent convinced, but when you collective, as a group, get to "this seems probable," the law says we're there.

But we need all of you. And that's so weird for people, I don't know. But each and every one of you promised to be fair. You were picked by us, and you have been so attentive. And so, what I want to say is truly, for everyone here, to be heard, no matter what you tell us, it has meant the world. I mean, this has been a crazy couple of weeks, but it has meant the world to us.

So, for the jury instructions, there are some principles no matter the theory that you go under. You have a duty, when you choose to have a certain role in society. When you chose to make or sell something, there's specific duties of cares; there's specific dangers that are not permitted. And they're different depending

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

on the theory, but that duty, you will see, gets before the duty in the law because it exists always. Always.

And one of the things that needs to be clear is, while the law sometimes says "manufacturer" and sometimes says "seller," one of the things Judge Toal tells you is that the seller assumes the duty of the manufacturer. So, whether you manufacture, mill, process, sell, distribute, middleman, once you are involved, you have a duty in the law of this state. But that duty has to exist at the time of sale.

Here, in South Carolina, there's no post-sale duty, and so, one of the first things that I want to talk about is when the sale occurred. When did it leave their control? When did those big pallets and bags of talc, with no warnings, get sent out to companies that went to this family?

The undisputed evidence for Whittaker, Clark & Daniels is it started the day -- or maybe not the day, but the time that Sarah came home and was in her family home, from the use of Gold Bond in her home. The really important years were the '90s but it extended until 2004. For IMI Fabi, it went from 2001 until she got sick and stopped using all the products. IMI Fabi is a company that's still selling this stuff around the world.

What is the evidence of that? Dr. Haber indicated

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

that he reviewed hundreds of thousands of materials for each specific entity in this case. He knew that IMI Fabi was in New York; that they sold to COVERGIRL, sometimes directly, sometimes indirectly; that their code matched the COVERGIRL code; that that was Chinese talc; and that this was an important and substantial factor for why she got sick.

It was not disputed by their corporate representative. He didn't disagree with a single thing that he said and concluded. But, man, it was not stipulated. It was not agreed to.

I know we're going to give you further assurance and see some of what Dr. Haber saw with his own eyes, and we admitted Exhibit 70 and 71.

The law says that we have to connect the dots, and when Mr. Braly mentioned something about that, I don't know if you saw his smirk, yeah, that is hard. That is going to a trick. And they absolutely understand that. And despite the absolute clarity about their role here, they made us connect the dots. How many times did they say, "Yeah, I saw that two weeks ago. You showed me that a couple of weeks ago. I didn't know that." We were showing him his own documents. They are the ones selling to the public, and lawyers are educating them about what they did and who they did it to. And it's not disputed --

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

there's not a document that they put in that says we're wrong but they're not going to acknowledge it.

Exhibit 70 shows the customer codes. These are IMI Fabi's Certificate of Analysis where they say, "Here's the talc we sold you, and we are certifying it's good." They use different language, but you get the idea.

That code is in these records over and over and over again. Why is that so important? Because we know that code, first of all, went into Noxell and Procter & Gamble or, excuse me, Chattem products. I'm getting ahead of myself.

This is Exhibit 60. This is a raw material number. That is the COVERGIRL -- Noxell COVERGIRL code. For 11 pages, what we have information on is for every powder -- pressed powder or loose powder foundation sold by COVERGIRL, everyone, it involved this code or the loose powder code that Mr. Braly showed you. It goes on for 11 pages.

It's not every COVERGIRL product; we couldn't connect the dots quite as cleanly for the eye shadow and the blush but every pressed powder.

This document related to Whittaker, Clark & Daniels years, but what we did to connect the dots is take Exhibit 71 and show that that exact same code, both the codes -- the loose powder and the pressed powder code -- shows up

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

in their documents over and over and over again. Hundreds of thousands of pounds of Talc 141 into COVERGIRL in the exact product that Sarah said she was using for years, during the years that they sold it.

There is no dispute that, in the years that IMI Fabi was selling this to the public, it was Chinese talc. IMI Fabi's lawyers did not ask a single question challenging or even asking Dr. Haber about this connection. Not one.

They do not have a document, an expert, or a person that contradicts this evidence, and it's important because it was on the basis of this evidence that he took the years of exposures that IMI Fabi was selling this Chinese talc, considered how often it was used, and where, and said this is part of why she has this cancer.

We did the same for Whittaker, Clark & Daniels. One of the first things that we explained is -- you're going to hear and see in the documents a lot of different names. Gold Bond was made by two different companies, depending on the time. You heard about these companies from the Chattem corporate representative. PharmaTech or PTI made it for Chattem but Steffen was before that and made by Martin Himmel. Just connects the dots.

One of the things the corporate representative for Chattem told us cleanly is that they bought the line in 1996; that WCD provides the Barretts code, which was MP

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

60-30, which also had an internal code for WCD of 1740, until they could get it directly from Barretts, which was in 2000.

And so, that explains all the evidence that Dr. Haber looked, plus much more, that says Pfizer, look, was the one that owned the Montana mines. They had a subsidiary named Barretts that went off on own, and for many years, until 2000, they sold through Whittaker, Clark & Daniels the Gold Bond. They were the exclusive and only supplier.

Again, it was undisputed but not stipulated.

When Dennis St. George came, he acknowledged that, yes, that's the WCD code; yes, it went through Barretts or Pfizer; that's what we called it; yes, that's Montana talc.

We also put in evidence, Exhibit 1230, that shows you it was primarily Montana talc sold by Pfizer so that you could see that. And then we considered the years she was using it.

Sarah's mom was one of the first people you met. Patrice said, "Look, this was something that was in my household from when my dad used it. I used it every say, years before Sarah was even born." Not just Imma "Stinky Feet" used it but all of her kids, and most importantly, in middle school, when there was chafing and sports, Sarah

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

was using it all the time.

We went further and provided a summary of the sales records. The sales records themselves, which aren't even complete, but, again, verified WCD was the exclusive supplier to Gold Bond for year after year after year. Dr. Haber considered all of this and said this is part of the reason she has cancer. It's a substantial factor.

We went beyond that and showed you that Avon has formulas so that no matter whether you have Skin-So-Soft, Sweet Honey, or whatever name, they used the same raw ingredients; that the only type of talc they were using at that time was Chinese and that WCD was a listed vendor. You actually saw the record where that occurred and that they were selling millions of pounds during the years that she was using Avon and powdering it on her body and her sisters were powdering it on their body in a small bathroom for years.

It was not disputed but, again, not admitted by WCD, when we looked at their own sales records and agreed on a summary of millions of pounds. We showed a connection between WCD in earlier years of COVERGIRL use.

Remember, IMI Fabi got into the market in 2001. When she was living in her mom's home, that same code was used but was associated with a different mine. We put into evidence 37-1 and 37-2 where this is cleanly

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

connected to COVERGIRL pressed powders. We included Exhibit 60, which, again, shows this same code that transferred over to IMI Fabi in every pressed powder they had.

WCD's corporate representative admits it was Montana talc but might be worse. They stopped testing inexplicably in the '90s after doing it for 30 years, but the testing records we do have -- and I showed them to you -- showed them cutting Canadian talc; that talc mine that was associated with 10 to 70 percent anthophyllite; that talc mine that they described in their own brochures as being half asbestos/half talc, into that code. Over and over and over again.

We also showed a connection to the Coty powders that she was using for years. The years that matter here are 1992, when she's bathing with the powder poufs with her sisters, all the way up to 2004, and this is the one that implicates Italian talc and industrial talc that they were selling in cosmetic powders, and I will show you those documents.

Here, we have them admitting that that's Italian talc. The connection is not disputed.

So WCD tries to deflect by saying they're just the middleman. I showed you document after document where they were considered experts in the field, "the talc

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

house," gave specific instructions on how things were going to be used, were described by our federal government as the most important supplier of talcs of various origins and grades, and yet, they tried to obfuscate and deflect.

I mean, this is one of the most misleading slides I've ever seen. This was a slide that was put up by WCD's lawyers suggesting, "Look, we're just handing things off." Well, first, under the law, if you make a lot of money handing this off, your obligations are your obligations.

But why did they do that? I had to show you documents that they owned at least a half a dozen mills, 100 percent owned; that they had huge ownership in mills, including that Canadian mine going back to '64; that they processed the talc; they advised people how to use it; and they were considered experts. Be straight about what your business is. We deserve that.

So, the next thing I want to do is talk to you, somehow in 20 minutes, about fault. In any case, you have to show that a company did something wrong, that they caused harm because of that wrong, and someone got damaged. That's kind of Law School 101. You were drunk and you ran the light. Well, if you didn't hit anybody, that's not good enough. Bad conduct causing the harm, somebody gets hurt. And so, that's kind of the formula for every single thing that you're going to look at.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Is the company at fault? Was Sarah harmed? That's not disputed. We just disagree on the amount.

And in the case on many people together to cause harm, the law is clear that you have to be a substantial factor in causing that harm.

So, the first thing is fault. In any theory, we have to consider the fault at the time of the conduct. So, for IMI Fabi, that was two years ago, the last time they were selling. For Whittaker, Clark & Daniels, that's 2004. These are incredibly light years of exposures. What was known was stunningly obvious to the industry, and the evidence about that knowledge is truly undisputed. IMI Fabi's corporate representative said he knew asbestos caused death and disease in the '70s. That's over a dozen years before Sarah was born.

Their own corporate representative admitted -- I wrote down feverishly, when Rachel wrote it down, because it was so clear. The fact that asbestos and the talc commonly grow together has been known for 50 years. Their next expert comes in and arrogantly says it doesn't happen, I know it. And then when I just test him on a few actual documents that you'll get to see, he didn't know anything. Their own experts can't agree.

We showed you the records that, in basic mineralogical texts, this has been discussed since over a

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

hundred years ago; that they knew a scarring disease could happen and kill people by the 30s; that they knew there were impurities specifically in cosmetic talc. They with calling out not just talc but cosmetic talc repeatedly in the '40s in the published paper; that it caused lung cancer by the '50s; and that it was known, unequivocally, that the specific disease Sarah and Parker are dealing with was caused signally. It was a signal tumor for asbestos exposure by 1960. It was such a problem in our workforce. Under all the things to regulate, asbestos was the first. And by the 1980s, asbestos was removed from products. All of that is undisputed.

What was known and knowable has to do with the reasonably available scientific knowledge on the subject, and it includes scientific, medical, engineering, and other knowledge. And the idea under the law is, is you can't simply be incentivized to be stupid or ignorant about what you choose to you. And so, if you know it, you can be responsible, and if you don't and it's out there, you can be responsible.

This deals also with engineering and medical and scientific knowledge. They tried to suggest that the type of testing that the whole world acknowledges should have been used. It wasn't really available in the years at issue.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

They have asked Dr. Longo, it wasn't widely around in the '70s, and he said, "No, it was." They mentioned that not many labs had it, and they even had Mr. Segrave, their geologist and testing person saying, "In the early '80s, I had to go and get a cup of coffee while it charged up."

The suggestion is that their failure to use the type of equipment that finds a carcinogen in a baby powder was because it either wasn't there or wasn't, I guess, convenient. It's nonsense.

This is one of the things that I had to sit here and wait for because the exhibit's not in evidence yet. Please look at this exhibit. It's 1683. It's all of these companies reporting to the FDA in the '70s, a decade before Sarah Plant was born, about using TEM. It was available. It was known to the industry. Companies like Johnson & Johnson and Colgate and Coty were using it.

WCD's supplier, the person they're getting it from, had a TEM lab. And most importantly, McCrone had it. Remember the lab they chose to use were ES Laboratories and McCrone. This is an incredibly important document. It's at 64. It's showing a company saying, "Please do J4-1." And the microscopist writes, "Sure, but for nearly the same cost, we can do this TEM," which is wildly more sensitive. They were in connection with the right people.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

The lab says, "Hey, there's a better way," and they chose not to do it.

There are three theories of liability; we have to only prove one. I'm spending the time on this because these are companies who didn't just ignore the law for a short period of time or in just one way but over and over and over again.

The first is negligence. You will be asked a specific question for each company. Was WCD negligent? Was IMI Fabi (Diana), who sold talc for four years, negligent? Is IMI Fabi LLC, who sold it for more than a decade after that, negligent?

And the concept here is fairly common sense. All of us -- individuals, companies -- have a responsibility to be reasonable with each other. For a long time, they weren't laws about texting and driving. If they're not on the books and there's a rainstorm and you do that and you hit someone, you can be called into court for negligence. We operate as a society by being reasonable with each other.

Here, these companies acted in a negligent way over and over and over again. We only have to show one act of negligence.

First, one of the basic things in the state of South Carolina you must do -- it's a safety rule -- is research

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

before you sell. No one disputes that. In fact, companies, manufacturers, and sellers are held to the skill of an expert in the field. They are required or imputed that knowledge whether they do it or not.

Before 1971, WCD has not done a single thing to evaluate safety. Remember I wrote it down when he said no one knew before 1971? And I said, "Did you really say that?" And he said goes, "No." I looked at the transcript; he did. They did not spend a man hour, they did spend a minute, they did spend a dollar evaluating what they were selling tons of throughout the world until the FDA said, "Hey, you've got a problem." Their motivation was not to protect people or follow the law but not to be caught.

And then, in 1971, every effort they made was to protect their industry and not people. They joined the CTFA. They were part of the effort to say J4-1 works when they knew, internally, it was unreliable. They got health information from the Quebec Asbestos Mining Association. They didn't ask a single person not tied to industry about health and safety.

Every exhibit in evidence -- and these are applicable: 847, 760, 785, 763, 1239 -- shows a company whose only goal was to protect the bottom line.

I mentioned the unreliable testing document. You'll

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

be able to see that. They put out QAMA information, which is a company that sold Canadian asbestos all over the country, a type of asbestos they were selling in bags all over the country, and said, "You know, we'd really be better off if we emulate the tobacco industry, follow in their lead to try to protect ourselves in our industry."

They indicated that they were going to try to influence the FDA because they are quite naturally interested in increasing the amount of asbestos in talc, and they're talking to a cosmetic company that sells baby powders and body powders.

He acknowledged quite freely that the only other efforts to understand the health issue was industry groups.

IMI Fabi, in its own way, is worse. They weren't part of the '70s, I admit that.

But when companies were getting out of the business, the COVERGIRL Chattem guy -- you only got to see that video for about 20 minutes, "We got out of the business two years ago." Avon: "We got out of the business in 2002." Johnson & Johnson: "We got out of the business two years ago."

While other people are saying "no, thank you," they become a leader in the last two decades and sell all over the world.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Another safety rule is you have got to adequately test. It's a jury instruction, particularly if it's latent defects that are not visible or apparent. You may have wondered why Ms. Gross had the onion in the beginning. No one disputes. You don't know about this if people don't tell you, and no one -- no one thinks that, when they're buying a cosmetic product, that they're somehow exposing themselves to some toxin.

The testing they used was industry testing, and they tried to tell you in opening statements when you're getting your bearings that this is good.

IMI Fabi uses J4-1. That's what's written in every document in evidence. It's the only thing they did. Remember, J4-1 just says use XRD, and if you don't find anything, don't do anything else. If you do, use the polarized light microscope.

Every testing record in evidence is using this weak method, but they claim they went above and beyond. It wasn't TEM. It didn't say what they did, but there's a trip to China.

You have to decide what is credible and likely and use your common sense. A company in an environment that you're watching J&J in the news -- remember he said that? You know what's going on. And you go to China and find that you don't have a problem and you don't keep the test?

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

You don't keep the receipt to the trip to China? You don't keep the test results? Maybe we don't get to see the underlying document or the testing but just the results. There is not one lick of evidence other than his testimony that "I have really good evidence for me, but I didn't keep it." Is that believable?

And then how do you explain the hundreds of tests of Chinese talc done by our government, the FDA? Remember Dr. Haber and others indicated that what the FDA found in Chinese talc, what was in Johnson Baby Powder is the exact same thing they're selling today.

The White Paper unequivocally says J4-1 does not work. And while they explain that it's been long understood that it doesn't work, I think this is one of the most powerful examples they give is, "We just tested a bunch of stuff. We used PLM and found it twice. When we used TEM, we found it in every test." That hit rate is not good enough when you're talking about a carcinogen in powders.

So, the next way they try to obfuscate and deflect is suggest to you, "But it's pharmaceutical grade. Trust us." It's top of the chain. I said that or maybe I didn't say it.

We showed you in the records that there's literally no difference. None at all. They are both industries

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

that are using testing that allow millions of fibers of asbestos to get in and that this interagency group says could result in a health concern.

You saw this document that said, "The difference between the good testing and the bad testing is literally the potential of billions of asbestos fibers in a single bottle."

WCD knew that its testing was an underpowered, dangerous test. They were part of the CTFA that showed seven samples where they put asbestos in there and didn't find it six of the seven times. Their words were unreliable and inaccurate.

At the same time that they're telling FDA, "Get off our back, you don't need to change the testing protocols, let us self-censor, we've got a good test."

They never used concentration, something that you heard from all testing experts. It's been around for a hundred years.

And the evidence and the actual records -- Dr. Longo talked about it; it's in published literature -- is because it was too good, it's too sensitive, it's not in our worldwide interest. That's how they handled safety.

The testing they used, particularly when WCD was using industrial-grade talc for cosmetic products -- the more complex the mixture is, the less effective the

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

testing is -- had a 1:5 percent detection limit. Stunningly bad.

And this was another kind of a-ha moment. IMI Fabi suggested industry testing is still good. People are, you know, looking into it, but it's still right. Their own expert came in and says it's been long known that J4 doesn't work.

One of the instructions from Judge Toal is an entire industry can be negligent. This is an industry who needs to be heard.

One of the most powerful evidence pieces came through that video. Twice, two different videos, two different times. COVERGIRL, who both of these companies have a relationship with, said we were told by our supplier -- that's them -- that TEM was used. COVERGIRL is making a decision about whether they continue to sell talc. They know because everybody knows industry testing doesn't work, and so, he swears under oath, "But we were told they were doing the right stuff." Is that true?

Unequivocally, it was admitted by IMI Fabi that not once, not ever did they do TEM testing, and Mr. St. George from WCD admitted the same. False assurances, inadequate statements to the people that are selling these products to the public.

Sorry this is so faded, but this is a critical

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

document from the 1976 period. Actually everything in this document's in others, but it's nicely put in one place, and it's Exhibit 1683. It is the FDA telling WCD, "I am greatly concerned about their limited effort to control the quality of their cosmetic talc." Nothing changed after this until 1991.

In 1991, they decided to do even less. They stopped testing altogether. I talked about that.

The third safety rule is that you need to warn. If you can't get rid of something that's harmful, at the very minimum, the law of this state requires that you warn about unreasonably dangerous products. WCD never did. They sold raw bags of asbestos and had no warning. They sold industrial talc to rubber plants and things of that nature. The FDA called them out about asbestos being in their industrial talcs. They never warned. Not before, not after this.

And then they never warned about the cosmetic talcs that they sold, which included industrial talc. The reason I showed you these documents because, in addition to these concerns about tremolite and chrysotile, you find over and over again that the amount of talc -- if you add up these numbers and subject what's left to find this talc -- it's not, in any way, shape, or form, cosmetic grade.

I also want to pause for a moment, because remember

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

when I awkwardly was writing down yesterday the claim by Dr. Feingold that the lowest -- the highest they've ever seen was both 0.1 in the talc analysis asbestos codes? What did they show him? Over and over again, in Exhibit 56 and I think also 60, you're going to see dozens of these. They're finding well over than that. And they kept their expert, who talks about why do we get sick in the dark.

IMI Fabi claims that they're two separate companies, that Diana ended in 2004 and this LLC picked back up. They don't explain why. They don't explain what Diana is doing.

We know we saw in the videotape that this is what the bags look like. It just says, "IMI Fabi." There's no warning anywhere about asbestos.

They also said that IMI Fabi (USA) is just a holding company created in 1999; that another company called IMI Fabi S.p.A. owns it; that IMI Fabi (USA) doesn't do anything at all but own IMI Fabi LLC; that IMI Fabi LLC owns IMI Fabi (Diana). And why do we have all these companies and what's going on is entirely unexplained and unclear.

What we know is that they told us USA doesn't have anything, so we have focused on these two. Years and years for both of them selling talc when everybody else

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

stopped.

And the only warning they put into evidence for you is one that says nothing about asbestos, even though it had a giant bag to do it. And the only evidence you have in the record is that their supplier that matters in this case was told that they doing things they never did, like TEM. They not only didn't warn, they confused.

Finally, the law indicates you should substitute; that if the risk of the products are greater than the utility, get rid of it.

Cornstarch was available since the 1900s. That was in Bird article. There were newspaper articles enclosed in WCD's files 50 years ago talking about, "Hey, there are substitutes." There are no health issues. That's why we asked the toxicologist with cornstarch. There was no reason for a beauty product to ever have a carcinogen, and if you wanted to continue with the beauty product, there were alternatives that were safe and cheap available.

There are more acts of unreasonable and careless behavior. First, with WCD, we know that they are called out in the actual published literature for deceiving our government. We know that they told people that their testing, testing they knew would miss asbestos, ensured it was asbestos-free, and we know and you have the records that they with finding asbestos, even with the weak

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

testing, over and over again.

The FDA looked at their record and said, "Look, this company has provided their customers with written assurances that they are routinely monitoring shipments of talc for asbestiform minerals and have no detectable amounts. This assurance might be misleading and give the cosmetic industry the false impression that WCD talcs are adequately tested for asbestos." Do they explain that? Do they give you any explanation at all when they bring this lawyer to be their mouthpiece? Not a word.

They were selling industrial talc to be cosmetic grade talc that needed to be 98 percent or greater. That's their own expert. This is just one example, but you have dozens in the record. This was the North Carolina cosmetic grade number. This was their Montana grade. This is their Italian They didn't come close to being cosmetic.

And so he claimed on the record, "Well, we just sold what we were asked for, and what we were asked for was a percentage," a guy who was never actually with the company when any of these things happened.

And one of the things Judge Toal you about the leading witnesses is their ability to perceive. There's not a record that says that.

And then, Mr. Thackston showed one of our witnesses

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Exhibit 205. And I said, "Please admit that into evidence. Please." Look at it. WCD, in a Certificate of Analysis, of course they're calling it cosmetic grade. Of course they're saying where it's going to be used, exactly like they did in 1957 in the elephant book, except this is in 2004. They were telling people what they were selling was cosmetic, and it was not.

IMI Fabi also -- again, truly, the biggest concern was selling it when everybody else was getting out. We have shown over and over again where we only showed not only once but the answer to Question 1 should be yes. I'm just showing you what the actual form is going to look like.

The next is about strict liability for defective products. And there are three different ways in the state of South Carolina that you can have a defective product. All three of them focus not on conduct, which is what negligence is about, but fault. You chose to sell something. Even if you are reasonable, if you put something out in the market and you hurt somebody, you need to have accountability for that. That's the concept of -- negligence can be anybody, a person driving a car, anybody. This is for people that sell products.

There are three. We have to prove one. The first is design defect. Well, actually, for all three, it has

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

these same elements: Is it defective? Was it in the same conditions when it left the hands of the defendants? And was Sarah Plant hurt?

There's no dispute on the third. There's no dispute on the second. It was sold as a powder product. I showed you the formula sheet where 95 percent talc was mixed with some fragrances and sold to the consumer as a powder puff. No one is saying that what Avon or Mary Kay did to the product created the defect. The defect was in the bag these guys sold to the public.

The main source of this dispute is defective condition. I'll come back to that.

This is just showing it's not conduct but the flaw in the product design. For design defect, I always thought, like, something was made wrong; that's why I put a washing machine that's wrong. It's not.

The law says, to be a defect, when you're talking about design defect, is just whether the use outweighs the utility. Look at the product. Are the benefits of that product warrant taking the risk involved with it?

And I mentioned in opening, with some asbestos products, that's a really hard call. Do you put asbestos insulation made of chrysotile or amosite on a ship to make it go faster but expose sailors? For cosmetic talc, it is not. It's undisputed that there was a reasonable

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

alternative design. It's undisputed that its sole purpose was for beauty and it didn't have a medical purpose, and it's undisputed that they had cornstarch or mica that could been gone in.

Manufacturing defect is a little different. It focuses on, "Did the product conform with the specifications?" If a Coke bottle comes out and has a piece of glass, that wasn't a bad design. It was a mistake. So, design defect is you design something that, when you look at the design, caused more harm than good. That's a clear one here.

Manufacturing defect is they're claiming they designed it to be asbestos-free. Well, our tests in hundreds of them -- and we'll get in to those towards the end -- showed that it asbestos. It wasn't designed the way it was supposed to -- or manufactured the way it was supposed to.

The key question there is whether the consumer who actually gets it believes it would have foreseen the harm.

Is talc with asbestos more dangerous than would be contemplated by an ordinary consumer with ordinary knowledge common to the community of its characteristics? That's the instruction. That is undisputed.

This is the prior corporate representative of Whittaker, Clark & Daniels: There's no justification for

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

asbestos in powder. It was a beauty product no one would expect it to be there.

Warning defect is very simple. We have already talked about warning.

[Cellphone ringing.]

Did you warn about something or fail to adequately warn about something that wasn't obvious to the user? A user doesn't expect a carcinogen in putting on makeup. That goes back to what was known and knowable, which is why I started in the very beginning.

This is a particular problem when there's a representation that the product in question is not dangerous. One of the first slides: We ensured no asbestos. That word has been used for decades. Of course they made representations that it was not dangerous, and what we have shown you is those representations were not in good faith. When they sold asbestos -- and the here are the exhibits -- they didn't warn -- they never warned about anything, and that's for both companies. They acknowledge that. The answer to No. 4 for all three reasons should be yes. And it's Question 4 because there's three questions for negligence, and then 4, 5, and 6 are for the three companies for strict liability.

Implied warranty is a different concept that many of the same principles show why they breached the implied

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

warranty in the state of South Carolina. 7, 8, and 9 ask about that. A warranty is a pledge by the seller that the product is as it is represented to be. An implied warranty is one that the law presumes to have been made in every sale of goods, whether it was actually stated or not.

This is the law for all products, but it is obvious in a product when you're getting pictures like this. It is implied to every mother, to every user, to everyone that this is supposed to be safe to use. They don't even dispute this in this trial.

The dispute really isn't about conduct. It's about causation. They claim to you that there's not really an asbestos here; we are conspiracy theorists. And so, the answer should be yes for all of those if we can show causation, which is where I'm going to spend the rest -- not the rest of my time but the next big chunk of time.

We have to show that this was a proximate cause. You have to look at frequency, regularity, and duration to find out it's a substantial factor. There was a reason I asked all those questions to Dr. Haber. Unlike any expert that they brought, he considered all of the information to identify asbestos content; the geology matches the testing which matches the tissue of women. He considered the intensity. He considered frequency, regularity, and

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

duration. And he gave opinion an clearly for both of these companies. This by itself could have caused the disease, and in combination with others was a substantial factor.

They brought you an actual expert who said asbestos is actually quite safe. And that's what you heard yesterday. "Chrysotile doesn't cause mesothelioma. Everybody's confused." The 75 countries that won't let it into their country have got it wrong. The magic mineral should continue to be used.

First of all, their own experts can't agree. Dr. Barlow indicated clearly in her own slide that, of course, all six asbestos types caused disease. That's what everyone thinks but their medical expert.

So, the next thing they say, "Well, it's not an issue for Sarah Plant because she has BRCA2." Please look at Dr. Feingold's resume and then look at our treating physician's. How many things on different mutations and genetic things he's not only written about, studied in his profession but received awards about?

Unequivocally, after hearing all of Dr. Feingold's truth-telling, he said he's wrong. BRCA2 made her more susceptible. It does not cause this disease. This was preventable, and that is clear.

For every witness who testifies, you will have to

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

determine whether things are worthy of belief. I will suggest to you that this is a witness, Dr. Feingold, who should not be believed in any regard.

This is actually in the jury instruction. The title of it is my own. It says, "The plaintiff must prove that some injury for the defendant-- defendants' negligence was foreseeable, but they don't have to prove the particular injury that occurred was foreseeable. However, a defendant cannot be held responsible for something that could not be expected to happen."

In law school, they call this the eggshell plaintiff. If someone hits your head and you have a thin skull, you don't get off the hook because they had a strange skull. It's a weird case from the 1930s.

But here, the issue about whether they're responsible or not is whether this expected to happen. That's why we asked, and it's undisputed, that since the 1960s, it's been known by Dr. Selikoff, the father of this mesothelioma, and others that individual susceptibility was an issue; that a person who was doing the work doesn't get sick but their wife, who does the laundry, does.

We have learned more about the specifics about why, but individual susceptibility was known about for decades before Sarah Plant was born. And so what this law says is that you didn't have to know about the specific type of

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

cancer, mesothelioma. If you knew it caused death and disease, if you knew it affected people differently, you must act reasonably. Again, it's not disputed. Everyone acknowledges before the first time powder went onto Sarah's body, these concepts with known.

So, the next thing is that there could be more than one cause. If you have two or more causes combined to produce an injury, a defendant is not relieved from liability. This is basic law, but it's also what happens in third grade when you blame your actions on your sister. Right? Your mom says, "I don't care what your brother or your sister did; you're responsible for you what do." And yet, most of this trial has been trying to obfuscate and blame others. This couldn't be a more clearer statement of the law.

The fact that someone else does something wrong does not relieve you of your own actions. Common sense.

Much of this trial, particularly when Mary Kay was here, was the supplier saying, I mean, Mary Kay should be the one doing it, and Mary Kay saying, "I was relying on their Certificate of Analysis." Both are responsible. But what I will tell you I think is clear is that the company who represents that it is cosmetic, that represents it is safe and has been tested holds a greater responsibility, and they're the ones refusing to take any.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Inherent in this question of cause and risk is at what time you're looking at the issue. And there are some things by Dr. Feingold literally trying to conflate these things. Most people -- Dr. Brody told you this -- can be exposed to asbestos and not get sick, just like most people who smoke don't get lung cancer.

The notion that that means that's not a cause and effect is absurd. That is a dangerous, absurd thing to suggest.

Risk is looking back at the time that you're making the decision about to do something, "What's the chances of a bad outcome?" Even with the highest exposed groups, it was one in ten. Cause is what happens when you have a rare cancer and you go in to the physician and say, "Why am I here?"

And what everyone has said, except Dr. Feingold, is that the signal of the cancer itself is that you were exposed to asbestos in the past. That is what her own treating physician said. It is not controversial. It's what doctors learn in their first year of law school -- that's not right. [Laughter] Medical school.

Although, I'm telling you, studying for the bar is almost as bad as residency, I think. We'll talk about that later.

So, what do they do to try to create confusion here?

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

They bring a very nice doctor who indicates that breathing the asbestos from just living is actually much more dangerous than powdering asbestos in your home every day. Your common sense does not go by the wayside; that's an actual instruction.

But the amount of manipulation by this ChemRisk scientist and done with such a nice presentation shows you the problem that our government and many people have been dealing with.

How did she do that. First, she ignores the medical reality that this is a cumulative dose disease, and if we do all have asbestos from the background, every product you use adds onto it. They don't cancel each other out. If anything, the fact that pollution has asbestos in the air means we need to be more careful, not less.

But, after that, it's gamemanship. This is her graph. This is allegedly from living, and this is allegedly from using an asbestos-containing powder. That's what she tells you.

Three steps: How do you get to the idea that walking around outside is safer? One, don't do a fair comparison. I mean, she said it was apples to apples, but did she actually establish that?

We were running out of time, so Rachel asked a very simple question: "When you were doing your analysis for

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

talc people, what method did you use?" You're probably wondering why she wanted to know about NIOSH 7400, because she admitted cleanly, "I only count the long fibers with that method." Only five or more. That's it. Which are more carcinogen. All of them count but they're ear more.

What did she include in this comparison and not even tell you? We asked her what studies; I had to find out about them from Dr. Feingold, but she had looked at the Agency for Toxic Substances and Registry from 2001. She looked at data where over 85 percent of what in the air is wildly short. And then she just acted like she was comparing the same thing.

The second paper she looked at was Lee and Van Orden. The same thing: 83 percent or less than 1 micron.

The second thing she does is use bad data. The one for the indoors were when people were around friable asbestos. That doesn't tell you the ordinary background level from walking around. That tells you a person that has an exposure. Was she straight with you? Why does she have such a weird conclusion? This helps you to digest it.

The step that she takes the last, though, has to do with not accurately accessing the exposures from talc. She does it two different ways. Did you understand what she was saying? I had to have Dr. Haber and at published

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

literature to figure out the ChemRisk activities.

The first was easier for me to digest. They assumed a worst-case scenario, based on an FDA document, which is not a statement from the FDA. That's what they told you in opening.

This was a citizen who wrote in a complaint and some guy from the FDA responding in a memo that they found in a FOIA, a Freedom of Information Act, years later and are trying to tell you it's the current position of our government.

They did a calculation that is a four-page memo that assumed only two years of diapering -- that's certainly not Sarah's reality -- that has basic things like a lung volume wrong, creating the numbers off by six-fold, and it simply didn't have the accurate information. We outlined all that. I have shown that information to her. She doesn't respond.

But she says the second thing I did -- sorry; I just have this to try to keep me on track -- was, I looked at data and I converted data about all of the dust in the air to consider how much was asbestos was. And she assumed that only one out of all the thousand fibers -- not platy talc, fibers -- were asbestos. There's no data point for that. The data that exists shows that one of the thousand is absurd. It's more like 400 out of a thousand. It's

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

widely off. People have criticized her. It's in the published literature. Does she explain herself to you? She had the chance. No.

She also relies on animal studies that are rigged, including the Battelle test. I want to show you this quickly. This is in the published literature. We're looking at Vermont talc -- of a lot of talc from Johnson's Baby Powder 228p, and the authors were told and, therefore, they represented to the public this is a normal production lot. We know a normal lot at the time was tested only by J4-1, XRD for an hour. Is that what this lot was? Is it anywhere close to that?

The records in evidence is that the lot was something that had a complete analytical characterization that lasted months. They tested it ten different ways: In-house, out-house, and most importantly, electron microscopy.

They found that the sample appeared to be extremely clean. After that, they scrutinized it again to make sure it didn't have anything. And then they indicated this is the lot of 1,000 cans that we should set aside for everybody to test everything on.

This is after testing lot after lot after lot after lot and finding amphiboles; tremolite and actinolite in all of them. This is about health. They were telling the

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

FDA: Animals studies show it's safe while gaming the system. Now, that was Johnson & Johnson, but let's move to today.

What studies did they mention to you in opening? What experts did they bring that talked to you about these studies when I have shown them every one of these records and when they're in published literature and still don't tell you what's happening? Not just in the '70s for Whittaker, Clark & Daniels but for both of them today, they're making decisions to continue on with the falsehoods. This is her slide, knowing full well that that was not an another lot.

She relies on the information. I showed you this. I mean, Mr. Thackston tried to suggest -- he mentioned Mr. Wolfe, he called it an article, he called it a publication when he was talking to Ms. Barlow on the screen. It's not.

And the reason that matters is Dr. Barlow ignores study after study showing how much asbestos gets in the air. Studies done by Dr. Longo, studies done by Steffan, studies done by NIOSH, studies done by all these people, and she claims the reason is because they're not published. But she'll rely on this: A buried document in an FDA file doing a couple of XRD tests, and Johnson & Johnson claiming all of their testing was clean. That is

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

circular reasoning particularly when she has seen the 300 tests from Johnson & Johnson proving that they weren't being straight with her. They just don't have a response.

The Helsinki criteria indicates that what Dr. Taylor, her actual -- I don't know why I call him Taylor -- Taylor Ripley, what he indicated as her treating physician is 100 percent right. The great majority of mesotheliomas are due to asbestos exposure. For an expert to come here and contradict the consensus report; that the ATS, the American Thoracic Society says this is what the scientific community believes and tells you, "No, no, it's actually the other way around" is nonsense.

He told you the reason women are dying of mesothelioma is because their bodies simply fail them. All of them. His support for that, he tries to tell you it was SEER, it was our government. I followed up and said, "No, no, no, it's this guy name Price interpreting the SEER data." Because we actually showed you the Surveillance of Epidemiology and End Result program. The website today.

And, yes, if you take men who have five times more mesothelioma then women, you don't see the difference, but with a simple click of the button, to see what's actually happening in the lives of women; we know what happened; we know the Price article is deceptive; we know the data

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

objectively shows that there is a pattern. And there's no response.

What else do we know about Price? You wouldn't know it from his papers, but Dr. Madigan looked it up. This is a mathematician with no scientific background who is directly tied to industry after industry and law firm after law firm.

Dr. Feingold claimed quite confidently that I was wrong and that there's hundreds or thousands of people that agree with him. Everything he relied on usually only pulled out from me came from QAMA-funded research, ChemRisk and Exponent, and Price. Who is the outlier?

What the actual data says is that there's a direct relationship between people being exposed to asbestos and then people getting mesothelioma. That's what Dr. Madigan showed you. That's what the consensus is. And, again, the person who doesn't have a dog in this fight indicated that cleanly.

The idea that somehow women have suddenly different disease patterns and that mesothelioma in particular just occurred without an exposure is scientific nonsense. And a lot of that stuff came out in the beginning with Dr. Brody before you understood, I think, why this mattered so much; that someone was going to come here and claim that all women just get this cancer without an

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

outside cause.

Dr. Haber explained that there was article after article after article, including Tomasetti and Vogelstein, which is a huge article in Science magazine, that indicate environmental factors are most important. Yes, we can have some generic influences, but cancers have six to seven to eight different cellular division errors, and the environment is key.

We also explained and showed you how asbestos kills our defense mechanisms, causes inflammation, and causes cellular division error, and causes and interferes with the cells that are supposed to trigger death. Yet, Dr. Feingold comes and says, in the past, women, seven times more often, were getting this cancer without an outside influence, and now, all of them.

Let's go with this past data. He bases that again on Price and Ware. This is other defense expert's reports. He takes the outlier of all outliers and tries to suggest to you that that's data. And I asked the question, "When you claim that asbestos is stopped after the Rosie the Riveter age, that women were only working in industry -- I know they started a lot more in World War II, but that just stopped? What's your data point? We could never get a straight answer on that.

I don't know if you remember this, but Dr. Haber

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

told you, Price and Ware literally just assumes -- it's in the paper -- that if you are of the age of 18 by the time World War II was over, you're not exposed to asbestos. That's not data. That is an agenda-driven conclusion.

To understand how big of a difference this is, this isn't a 10 percent difference or 20 or 30. He is claiming there is a 700 percent difference in the incidents of spontaneous mesotheliomas between men and women. There's not a genetic explanation or a biological one.

What our experts have said and what her treating physician said is usually overwhelmingly is that you've missed an exposure; that, in all those studies, they did not ask about talc; and there's a reason for a half-a-century we weren't. It's because of the explosion of information that's come out in the last four years, it is because of the actions of the companies that are in this room.

There is powerful, undisputed evidence that, if they would have asked, we would have understood why this death and disease was happening.

I showed this to you a long time ago, but published papers, before we understood about all this disease, were put out. This was from ten years ago. The lungs of men showed commercial amphiboles; right? The lungs of women showed noncommercial. Maybe it has something to do with

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

talc. But when thousands of testing showing that the asbestos was in the talc weren't there, people did not act until recently.

We also learned that there is a biological difference; that women not only have been dying of this disease but they're more often getting it here in the peritoneum. And not only are we understanding the connection to asbestos but the connection to that took place because you heard from every medical doctor that was here that was asked -- I didn't ask Dr. Feingold -- that, if you used vaginal dusting, there's a direct route to the target cells of the peritoneum.

There has been death and disease for every year for more than a half a century with a much more satisfactory explanation than women's bodies just fail more often. It has to do with what they were exposed to.

Epidemiology. You have published textbooks that say, if you have a sentinel health event, case reports are enough, and malignant mesothelioma is the first example.

We show you hundreds of published papers of case reports. They don't respond. You have Dr. Madigan saying you don't need to test the specific group if you have data that shows what levels people get sick and such data exists. You can compare to exposure numbers and know that there's no question, based on epidemiological evidence,

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

why she's sick. They don't respond.

Instead, they look at miners and millers and we bring a statistician that was the head of the Columbia University Statistic Department for 20 years and now is the provost of the university, who says, "These just don't have power." They don't respond. And then they try to deceive you: "There are thousands of talc pleurodesis." I mean, it's active deception, what happened yesterday. There are not. There are 400, and that doesn't tell you anything.

We showed you that these studies with interfered with; that if someone reads Rubino, they don't know J&J paid for it. They don't know that Don Ferry, who is with Whittaker, Clark & Daniels, they own the Metropolitan Talc Mine with them. Ghost wrote the test. They don't know that they deleted cancers. We put this into evidence, and they simply don't respond. And they try to suggest to you these are the most exposed groups out there. It's objectively untrue. Women do not have ventilation systems and wet-down systems and complete exhaust systems in their bathroom. It's a falsehood.

By the way, this was the opening slide. I only have kind of these ghetto copies of the opening slides that they gave me. They knew -- they knew, for talc pleurodesis, there was some only 300 people, but they let

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Dr. Feingold go.

They also tried to suggest to you in opening that Montana talc had been tested, and so we brought Dr. Madigan -- not just tested by but the International Agency for Research on Cancer, who told you unequivocally they weren't even evaluating for mesothelioma. This is misleading about health. Stop it.

The main dispute about is asbestos. These are all exhibits showing asbestos testing by many people, not just the experts here, and the talc sources they used.

They tried to say that we're not counting the right thing; that, somehow, we're looking at the massive rock. We explained with Dr. Haber that these two things have the identical chemistry, and so, for some reason, you have the exact shape and size you need and it cleaved off here; the body doesn't care.

The idea is, if you have a fiber that gets to our target cell and it has the chemistry of tremolite, that is the concern. No one in the health community cares about how it grows. Region 9 said that: "We literally don't care."

The U.S. Geology Service, a group of geologists say, from the medical science, this term "asbestiform" doesn't matter. The people that publish in the peer-reviewed literature, Dr. Brody, Dr. Ripley, don't care. This fiber

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

where it grew, we don't know, we don't care, because we knew it was chrysotile, and we knew it's in the shape and size to get to our DNA. That's what all of the medical doctors say. They didn't ask Dr. Feingold about it.

But we also gave you evidence that, if, for some reason, you do care, the idea that you have a hard rock that cleaves off in a perfect fiber doesn't happen. It's nonsense.

The EPA says, if it's 5:1, you're not going to get that. Our federal government says, if you have it under one width, 1 micron, you're not going to have that. 93 percent of the testing is under 1 micron.

The White Paper from 38 subject matters say this is what we care about; we don't care about the habit of growth. Let's confuse and obfuscate.

To do it even worse, you have an expert that they bring that takes a method and mixes and matches them to create confusion. We showed you the white book and said they told you to stop doing that, and he admits that he's in disagreement because he 's taking a light microscopy method and using it on TEM with all of those people.

And when Mr. Buha said, "Is there a single standards group in the world that agrees with you?" he admitted not anybody. But his excuse was, "I count it. I still count it."

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

That's why I asked my experts. This is anthophyllite and it looks like this. Does that hurt people? Yes. And he does count it, but when he tells you, "I never find asbestos," it's because he's giving it a ridiculous name that everyone says is wrong.

We gave you the geology, that the idea that they grow together and if you have one, you have the other. And published papers that extend to the White Paper that looking at it today. Both experts indicate, from a geological perspective, we're finding asbestos in the talc, in the wall rock, in the inclusions, and then we know what they're doing with these deposits. This is not delicate work. They're blowing things up and putting it into powder form.

We showed you the papers. Both geologists say it was formed by regional metamorphism. That's bad. That means asbestos. So, what do they do when all the published literature says that the talc sources they are using are regional metamorphism? They tell you, "No, no, no, it's something different."

And the two papers that Mr. Segrave cited to for that, we pulled up. We showed you them, and they said the exact opposite. It's misleading.

We looked at the testing. Look at Exhibit 753. Over and over again, they find amounts that are much

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

higher than the worst-case scenario assumed by Dr. Barlow.

We included the MAS testing, not just the summary chart but the underlying documents are in there for you to look at.

We showed you, from a statistician, that a single fiber, when you're looking at a minuscule amount, is significant. And why didn't they know that?

And then we showed you the pictures of confirmed asbestos from the sources that these people are selling from for a long time.

We showed you testing of people not in litigation. This is Avon's testing. Using PLM. Remember, PLM is not sensitive, and they're still finding it in all of these talc sources, including the talc sources they were selling for over and over again.

This was a document I mentioned earlier. The FDA did TEM and PLM. Nine products did not show anything by PLM. By TEM, they did. And so, you're finding this testing that's showing it with the weak method, even 10 percent of the time, we have got a problem. They don't respond.

Avon's testing also says, "You know what? We're usually finding tremolite. That's the one that's more potent and more dangerous. We're also finding chrysotile." Exactly like what Dr. Longo is finding.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

We show you that there is testing in the published literature, finding the exact fiber type of MAS's, and then we showed you the underlying document. They don't respond.

Instead, they make this almost strawman argument, looking at some test from somebody at the MVA that we didn't even call for you and asking you to ignore all of this.

When I asked why their experts didn't consider it, they say it's not published. And then they say, "Since we got it recently, scientists have published it?" They don't have an explanation.

This testing might be the most important. Pfizer owned the mine. This is not someone who has an incentive in any kind to find a bunch of asbestos. We have the lab notebooks showing their actual lab for Supra -- that's another name for Italian -- for WCD 1615, Italian, and we have the same for thousands of tests in Montana. We have them from all of these different groups, and they're reproducible.

I want to spend a moment on this, because different test methods don't have identical results, but they show a consistent method -- message.

XRD Only tells you you've got the mineral. But what every expert who was asked about it said, "If you have the

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

mineral, it's going to be both fibrous and non-fibrous. You have a problem." If you have tremolite over 90 percent of the time, you know at least some of it's fibrous tremolite. That's not disputed.

Then, we get the Pfizer testing, without any concentration, finding 50 percent of the time asbestos in the talc. And then you have MAS that uses concentrations so you push out all of the talc, you can see more, and they're finding it 79 percent of the time. And then we show you 50 different groups that have found the same thing. And it matches what's being found in the tissue of people who use cosmetic talc hundreds of times.

We also know that it's high enough. The FDA said trace amounts means that you're exceeding OSHA levels. There was this range of exposure that's wildly different than Barlow's range based on eight different papers. And there's this published papers that says amounts that we know are associated with death and disease.

I mentioned that the testing by Pfizer, particularly on Montana, were done by the owner of the mine. And these are in evidence, both the summaries and the underlying test. These were first disclosed in July of last year only because of litigation. That was admitted by Mr. Bailey on the stand.

Two men you met today were going out and telling

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

people Montana was safe because they were hired by this company, or its subsidiary, Barretts. They were provided testing, just like the FDA does. All clean.

And so they honestly said, "There's not a problem here," and then they find out that there are literally hundreds of tests that were kept from them. They're trying to tell you that makes Mr. Bailey dishonest. Think about that for a minute.

3692 is critical because it's the mine admitting what Mr. Bailey told you was true but what they withheld from him when he wrote that first report.

I want to talk about who got hurt. And I have left myself very little time to do this. But on the first two things, we have a stipulation. For her past medical expenses and for her future medical expenses, those things, we have all agreed about what they are.

The second one, though, has a range. And one of the things the law says is that the underlying compensation is that you only get one shot, and therefore, only one recovery can be had. So we have to consider what are the possibilities.

Here, this range -- and I want to go back so you can see it again. Assume one is if the cancer never comes back, but she has to deal with treatments her entire life; and the other is if it comes back within two years.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

That's what the range is.

You have to decide what you think is the appropriate number. I think the law justifies us considering the worst-case scenario, while we hope for much better.

The main reason we're here, though, are for the other two. Actual damages are designed to compensate a party for their losses and to make that party as whole as near as money can do. Money doesn't do anything for this problem. Not a thing, except hold a company accountable. What they are living through, what they are dealing with, money won't fix it.

Those first two damages, it does; right? It helps with medical bills. It helps with the baby-sitters. It helps with flying to Houston. But the real reason we're here, they can't fix. No one can. You are to consider her pain and suffering, not just what she's gone through but what's in her future.

This cancer, because it sits in your chest wall and because it's so critical to your breathing, is known to everybody else in the world but Dr. Feingold as a very terrible cancer.

But the real reasons we're here are for these other types of damages. Being scared. Thinking about not being at your child's graduation. Being worried about your husband. The amount of stress that this poor family has

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

dealt with is extraordinary, and the amount of grace that they have in that stress is so impressive.

This is what keeps her up at night. It's obvious why.

How do you address that? I want to take a few minutes on that. There is no equation. There are no bills. There is not certainty. So what do you do? There are some guiding principles. One factor has to do with how severe the harm is. Did you lose a finger? Did you lose the use of your hand? Is it a limb? Are they taking a life?

A second matrix has to do with how permanent is it. Is it going to be for a couple of weeks, a couple of months, or is this something you have for the rest of your life?

And then the last kind of guiding principle that is often given is how intense is the pain. Is it a dull headache? Is it an annoyance? Does it really hurt? Is it sharp pain or is it incredibly painful?

I think on all of these matrixes, you're going to hear that you are dealing with one of the most severe problems that a person can have to fight in kind of context of litigation.

People have come up with all sorts of solutions on how to value that. Some people think -- think about a

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

baseball player who is given $25 million to play a game. Some people think about how much you'll pay for a pilot. We'll literally let the plane go down to save that pilot. There are calculations in law books about how much should you give to every breath that's going to be lost. None of those resonate with me. And so, I'm going to tell you the two things to do, but this is ultimately for you guys to decide.

One is, in a capitalistic society, we value things by what people are willing to pay for them. Imagine the ad: Long-term inhalation study. Risk of cancer. The cancer is incurable. Most people have 18 to 24 months after they get it. It's known to affect your ability to breathe. Can cause air hunger. It's known to cause uncontrollable pain.

$50 million dollars. Do you think Sarah and Parker Plant answer that ad? I think there are some people that might. I'm confident they are not. I'm confident they are not.

But, to me, what is resonating more than anything is thinking first about what they have taken away: 45.8 years of her life that will never will be the same, and we are told by her doctors that's above average.

And I want you to think about what we want companies to value that life when they're making decisions. And my

guidance has always been is that they do not value it enough; that, when they take risks with the lives of others that are distant and in the future, latency helps make you do this. Right? They're not valuing it enough.

And so, my suggestion is, for each year of life that they have taken away, they should pay a million dollars.

The last damage is about Parker Plant. Our law recognizes that, when you join with someone, you are a union. And I have found, at least in my life, that, with most things that are hard -- and we've all had hard -- but if you have your inner circle, you get through it. My husband and my mom are mine. They know when I need to be left alone. This morning was not a good morning. They know when I need a hug. They know when to walk away. They know who you are. They are your person. And there's no question that these two found their person.

I thought Parker's humility and vulnerability in speaking of what Sarah means to her [verbatim] was admirable.

I don't know how to approach this one. I have always thought that whatever -- for me, whatever you take away, the person that makes you -- makes you want to be here, that you're taking as much from him as from her, but that's for you guys to decide.

Figuring out what love is worth, what guidance is

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

worth, what having by your side when you go to bed is worth is a hard thing to decide.

The last two weeks have been insanely difficult for them. I think -- I wish you knew him better, but Parker is an incredible parent, but doing this without Sarah is terrifying.

I will tell you that, if you consider the total loss for this family, not what any one company should pay but the total loss, that anything under $53 million dollars they will find to be a victory.

The last few minutes that I have, I want to talk about the last question. It's a unique thing that we find for companies that act with willful disregard for safety. It's the last question you'll be asked, that you have to have clear and convincing evidence, and it's whether you show willful, wanton, or reckless behavior; whether you showed conscious indifference to the rights and safety of others.

For many people, when they act negligent, it's a moment in time. Looking away because you were messing with the radio in a car, grabbing the wrong medicine as a pharmacist, not getting enough sleep as a doctor. Really horrible, tragic results because of temporary, momentary negligence. That's not what we're dealing with here.

For WCD, it is not months or weeks but years and

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

decades of deliberate continuing decisions, and for IMI Fabi, they picked up where other people left off and did the same.

I think they need to hear from you. More than any reason, the reason we are all here is because we believe they need to hear from you.

WCD made decades of false assurances about a product we use in our homes, and IMI Fabi is doing this now and haven't been straight about anything.

Awful things happen all the time, but to sit in a room to hear it when they didn't have to, from medical professionals who have published hundreds of articles and from your own doctor, it's hard. It's been known since the 1930s that, if you take asbestos away, you take away death and disease.

I have talked for a long time, and you guys have been so incredibly patient with all of us. We thank you, and we're very excited to finally hear from you instead of the other way around. Thank you.

THE COURT: Thank you, Ms. Dean.

Ladies and gentlemen of the jury, I think it's time for our morning break. Please be back at about 25 after. That will give everybody a chance to use the facilities and be refreshed. See you about 25 after.

(The jury exited the courtroom at 11:07 a.m.)

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

THE COURT: Court will be in recess.

MS. O'NEILL: I have two things before we recess, Your Honor.

THE COURT: Yes, ma'am.

MS. O'NEILL: First, there were references to IMI Fabi (USA) and perhaps doing some improper, and so we would request that you tell the jury that IMI Fabi (USA) has been dismissed from this matter.

THE COURT: I thought what she said was that -- just that; that they are no longer in the case.

MS. O'NEILL: No, she said she was focusing on the other two, but all they do is that they're a holding company.

THE COURT: Well, I'll be glad to do that.

MS. O'NEILL: We would request that.

The second thing is, we would request a curative instruction to the jury to disregard the arguments --

THE COURT: Just a second.

MS. O'NEILL: I'm sorry.

THE COURT: All right. And what else?

MS. O'NEILL: We would request a curative instruction, Your Honor, because Ms. Dean had a slide up there that said "eggshell," and it did not have the eggshell skull instruction; it had a different instruction. But then Ms. Dean basically argued the

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

eggshell skull instruction, so we believe that's improper. We would request a curative instruction to let the jury know that they can only apply the law that you gave them and not any of the law -- anything that any lawyer argued about that law.

THE COURT: All right. Very good.

MS. O'NEILL: And then just one housekeeping matter: I think we have down that the plaintiffs used five minutes of their rebuttal time, so that would be 15 left.

MS. McVEY: Well, we started late, so it was three minutes.

MS. O'NEILL: Three?

MS. McVEY: I'll get with you about that.

Your Honor, two things: One, she clearly said USA is out, but there was testimony from the stand about who did what, and she was telling the jury about who did what with IMI Fabi entities.

THE COURT: I will take care of that. I don't think it's any big deal.

MS. McVEY: And I don't think you need to take care of it because the verdict form is clear; it's only LLC or --

THE COURT: I will do something about it. I don't think it's a big deal.

MS. McVEY: Okay. Thank you, Your Honor.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And, secondly, the idea that -- what she argued is the charge that you gave. She titled it, "Eggshell Plaintiff," but it was the actual charge that you gave. That's a totally proper argument to make.

THE COURT: I agree. I do not think -- she termed it eggshell plaintiff. The instruction I gave is what she put up on the board. I think that's perfectly fine.

MS. McVEY: Yes, ma'am.

THE COURT: I did not give what I also called the eggshell charge, and that's to go deeply into the causes and that kind of thing. I did not give that charge. I declined to give that charge, and frankly, didn't think I needed to give that charge in light of the testimony.

MS. McVEY: Thank you, Your Honor.

THE COURT: So I decline to give anything further on that.

MS. O'NEILL: Thank you, Your Honor.

MS. FLYNN: We just wanted to join in, for the record.

THE COURT: The objection is preserved, and of course, Whittaker, Clark & Daniels is joining in that, and that will also be preserved. All right.

(A brief recess was taken at 11:10 a.m. to 11:25 a.m.)

THE BAILIFF: Ladies and gentlemen, out of decorum

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

of the court, can you silence all communication devices from this particular point on? We certainly would appreciate it.

MS. FLYNN: And I do have one issue.

THE COURT: What's that?

MS. FLYNN: I have just one issue. Just wanted to make sure we didn't roll right into it.

THE COURT: What are you trying to do, Ms. Flynn?

MS. FLYNN: I just wanted to raise the Court's issue [verbatim] to -- a notice to one issue. During the PowerPoint presentation, there was a slide that mentioned Whittaker, Clark & Daniels supplying talc that we all use in our homes. We thought that was borderline getting into golden rule issues --

THE COURT: Golden rule.

MS. FLYNN: -- and we had some concerns about that.

MS. McVEY: And, Your Honor, there was no objection, of course, made during the argument.

THE COURT: There was not.

MS. FLYNN: We were trying not to interrupt her presentation.

THE COURT: Well, you know, if you live by the sword, you die by the sword. It's not a preserved objection.

The second thing is, if there were an objection, I

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

think it is -- not harmful, asking for them to step into the shoes of the plaintiff. So it is very passing, and I don't see it as any kind of damaging thing, but it's not preserved.

All right. Are we ready?

MR. THACKSTON: Yes, Your Honor.

THE COURT: All right. Bring me the jury.

THE BAILIFF: Yes, Your Honor.

THE COURT: Thank you, sir.

(The jury entered the courtroom at 11:27 a.m.).

THE BAILIFF: The jury has been seated, Your Honor.

THE COURT: Thank you, sir.

Ladies and gentlemen of the jury, we continue with our closing arguments.

Mr. Thackston for the defendant Whittaker, Clark & Daniels.

MR. THACKSTON: Thank you, Your Honor. May it please the Court?

CLOSING ARGUMENT ON BEHALF OF DEFENDANT WCD

MR. THACKSTON: Good morning.

JURY: Good morning.

MR. THACKSTON: It's really hard to listen to somebody talk about the impact on cancer on their life, and there's nothing that can listen to that without feeling sympathy for the family and the impact that it's

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

having on them. And we all hope and pray that Mrs. Plant stays cancer-free.

And somebody told her that cosmetic talc with asbestos contamination is what caused her cancer, and she's understandably upset if that's a possibility. But it's not true.

And when you say that in court, you have to prove it. And we just saw for two weeks anything but proving that what Whittaker, Clark & Daniels distributed back in the '90s did anything to harm Mrs. Plant.

And it's hard to be here and talk about this, but you know what? Of all of the companies and all the products she talked about, the only two that they were willing to come into court and present their side of the story and trust you to make the right decision are still here today to do that.

Let me talk to you a little bit about what I'm going to cover. So, roadmap: You're not going to see any evidence that anything that WCD distributed harmed Mrs. Plant at all. We'll talk about today's view of the FDA and the CDC on cosmetic talc. There's some very critical missing evidence that you would expect to see in a case like this if these products really had anything to do with harming Mrs. Plant.

We'll talk about epidemiology and we'll talk about

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

the fact that there's no exposure evidence and what that means and how the law requires that and a whole bunch of distractions and some misrepresentations.

We talked about nine steps. What it means to actually breathe something in that you could harm. And WCD, what exactly did WCD do as a distributor of products and conclusions?

When I say there's no evidence that they supplied what was used, wouldn't that be a really important thing? Like in a lawsuit, if you were going to blame somebody for something, the first thing you would do is say, "All right. Well, here's how you were involved." Right? Let's start with what your product was. Even before the nine steps, before we talked about whether you could get fibers from something. What we would need to do is what product are we talking about? What exactly are we talking about? Because to hold somebody responsible for something, in fairness, can we just talk about what that product is?

So, you see this giant poster of a TEM microscope taped to the wall. Right? So, you can look at it every day and think about that all the time. Well, what should have been taped to the wall is a chart. You've got all these charts, but the chart you don't have is a chart of evidence about what supposed products are involved that

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

WCD supplied. Right? And that's what they should have taped to the wall on the first day, and they should have started filling it out and they would have if there had been evidence to put on it, but there wasn't.

And so, you don't have a chart on the wall that says here's the products she used. Right? And here's the talc grade that the distributor, WCD, supplied for that product. Right? And here's the source of that talc. Was it Montana? Was it Italy? And when?

How often did she use that? But you're going to get a jury instruction that says you have got to look at the frequency, the duration, the proximity, important legal factors. Right? So, wouldn't you put that on a chart? We're going to tell you she used this how often, how she used it, how long, in what manner, and how frequently she would do that, and we're going to put on the chart and every day when we talk to experts, we're going to talk about the facts of this case. Right?

The first person is going to come in and tell you about the facts of the case, unless she didn't want to focus on the facts of the case, unless she wanted to talk about the 1970s and Johnson & Johnson and the grand conspiracy to keep you from talking about the facts of the case.

You might ask yourself: Why are talking about the

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

1970s and Johnson & Johnson isn't here?

Well, here's why. So, let's just take the Gold Bond example. Okay? They said, Gold Bond -- there's a Gold Bond product. Right? Think about Gold Bond. Let's do think about Gold Bond and what was the evidence?

Mrs. Plant said the only time she ever used Gold Bond was after 2013 when she got married and she bought it for her husband. Well, now, WCD quit distributing anything in 2004. Okay? So, that would be a gap in the evidence. You wouldn't want to put that on the wall. Right?

And WCD quits selling in 2004. And then they said, well, her mother put a small container in her gym bag. Okay. A small container in her gym bag and then she went off to school.

But Mrs. Plant said, "The only body powder I ever used was Johnson & Johnson and then Equate, when I had to start buying it myself." Well, now, that's a problem because you've got the plaintiff saying, "I never used any of this stuff before 2013."

And if you had a chart on the wall, you'd hear the testimony, you'd write the testimony down, and then they could come present that to the experts and get opinions. Right? That didn't happen. And I think you'll recall -- and there's no proof for the travel-bag sizes. There's no

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

proof of who supplied the talc for that at all.

And so, the plaintiff said, in her closing, "We're going to connect the dots for you." Well, there's an awful lot of missing dots. And in that hour and a half -- and by the way, I said before, the hardest thing in the world to do as a lawyer is to sit there and listen to something that you disagree with so much, but out of respect, that's what you do.

And I apologize to Ms. Dean and I apologize the jury for my phone going off. I turn that thing off every single day for two weeks and then, today, I had a couple other things on my mind, so I apologize.

And there's some other evidence that you were going to -- if you were going to prove that somebody caused your injury that you would use; right? And one of the first things we talked about was lung tissue. If you wanted to prove that there were fibers -- that fibers from a product caused somebody's injury, you would like at lung tissue. And nobody ever suggested you would take lung tissue to do that, but when lung tissue has been taken out for diagnostic purposes and it's available and you've brought a lawsuit and you're accusing people of harming you and you're asking the jury to give you $50 million, evidence becomes an important issue. Right?

And so they talk about the Helsinski criteria,

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

and the first thing it says about -- they all claim that they were using this criteria, and the first thing it says -- the very first thing it says is you look at the lung fiber count and -- to see whether you have got mesothelioma that's caused by asbestos, you look at lung tissue.

And it's not just the Helsinki criteria. Dr. Brody had written those articles based on those kinds of studies. You've done lung analysis where you've dissolved tissue. You looked for fibers; right? Yeah.

And Dr. Haber -- you've got all -- his two articles, and one of them is about dissolving lung tissue to see what the exposure were. Resected lung tissue revealed no asbestos bodies. Right?

So, two of their experts -- and then Dr. Longo says, "Yeah, I do analysis of lung tissue for asbestos fibers." Right? They all do it. They didn't do it in this case. Or if they did do it in this case, they didn't bring in the results.

And remember that we showed the medical record that said that there was left lower lung? And Dr. Haber, the jack of all expert testimony, told you on direct that there was no lung tissue available. Remember when he said, no, there was only upper lobe, and the asbestos would go to the lower lobe, so there's no reason to look.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And then I showed him this record, and I said, "Well, wait a minute. This showed lower lung -- lobe taken out." Left lower lobe. And I said, "So, it looks like you were dead wrong when you told the jury there wasn't lower lobe tissue taken out."

"No, that's not what I said. That's not what I said. I said the majority was left upper but there was left lower."

Okay. So they had the tissue. They took it out for other reasons, but they had the tissue. Right? And if you really wanted to show that something got into the body, you'd use that technology, or you'd use what their experts have used in the published literature.

And then you heard, well, there are other ways to look -- there are other markers that you look for if somebody really is breathing in fibers and particles all the time. But she doesn't have any sign of pleural plaques or asbestosis. There are no asbestos bodies. Literally, Dr. Feingold did tell you yesterday, "I've looked at the slides. There were no asbestos bodies in the tissue. No asbestos fibers."

And then I asked about talcosis, and they said, "Well, that's what the miners get. These people who use cosmetic talc don't get talcosis." That's true. They almost never do because they're not breathing in, they're

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

not inhaling talc. But -- but -- I've got to get with the IT people about this -- it can happen.

And what we saw here was that talcosis can be caused due to the use of cosmetic talcum powder. Right? In situations where people are really just, for some reason, breathing in a lot, you would see markers, and Mrs. Plant doesn't have any markers of talcosis.

And another piece of -- another item of physical evidence that you didn't hear about was remember Ms. Plant says, "Look, I had a bag of makeup, and I gave it to my lawyers." You turned that over to your law firm? And do you know what's been done with that? Now, this isn't a photograph of her actual makeup, but that's what she said she had in the bag. What would have been done with these samples that you had?

And she said, "Well, we took a picture of them."

"Do you know anything else that's happened? Send it out for testing?"

"I don't know."

I mean, what's more important: what was actually in the makeup that she had or testing of rocks from the 1970s?

And you might remember I asked Dr. Haber that. I thought this guy literally wouldn't agree with me if I said good morning to him. So, I'm going to ask him a

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ridiculous question. What's more important: trying to determine the cause of Mrs. Plant's mesothelioma, whatever fibers would be in her lungs or whatever the rocks with in Italy in 1972?

He goes, "Oh, I really couldn't say."

Okay. That's fair.

Now, we told you that today -- and this isn't a situation where, you know, there's something bad, and we just didn't know it a long time ago. It's still not something bad.

And the reason I brought this to you, because this is May of 2022. Right? This is the CDC. And, apparently, the CDC thinks that there can be a different rate between women and men because they write an article about malignant mesothelioma mortality in women. Right?

And they talk about exposures that are associated with mesothelioma in women as of 2022, and they talk about things like pathways, potential environmental exposure, take-home exposures by indirect contact, risks from places outside the home. No mention of cosmetic talc.

The CDC that focuses on disease and causation of disease is telling people we're studying mesothelioma in women in 2022, and they're not saying that we think there's a problem with cosmetic talc causing mesothelioma. This is something you only here in courtrooms. Right?

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Never mention cosmetic talc at all.

And then we saw many times that the FDA has been looking at this exhaustively since 1972, and it reported that the latest series of tests -- it keeps doing tests over and over and it says that asbestos is not detected in any of the 50 samples tested in the 2021 round of testing.

Now, again, WCD quit selling it in 2004.

And it's consistent with what the FDA said in 1986. Look, we have studied this, and we understand that people say that you can get a trace here and there, but there's not a health hazard associated with that.

And even if you assumed that you had a trace contamination, that you couldn't any -- you couldn't get as much exposure from that as you get from walking outside. Right? And that's what they have been saying for a long time.

And the funny think about it -- not funny for us, because it took so much time in this trial to talk about things that happened in the early 1970s -- Ms. Plant was born in 1986, and it's not fair to take up your time doing that, and we didn't respond and take up more of your time because they specifically say, "We don't rely on the stuff from the early 1970s. The FDA considered that analytical result to be of questionable reliability."

Why would we be talking about things from the 1970s?

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

They want to try to make you mad so you look at the fact that there's no fibers in her lung, no fibers went in, there was no fibers in the product. There probably wasn't even a product. Right?

And Dr. Brody said -- and think about this. It's not us saying these things about cosmetic talc not being an issue with mesothelioma. Let's look at what their expert said for decades while making money as expert witnesses, testifying about the causation of mesothelioma. Right? This isn't somebody walking up to them on the street and saying, "What do you think about mesothelioma?" They took the stand, and they told juries what caused someone's mesothelioma, and they have not one time ever suggested that it could possibly be cosmetic talc. Do you know why? Because it was true. They weren't going to mention that because there was no science to support it, no reason to think it.

Dr. Brody admitted that. Dr. Longo, I mean, he's all over the place. He says, three years ago, PLM is useful for trying to find asbestos in talc, and then that's what he uses in this case.

Ten years ago, he says it's an urban myth to even say there would be asbestos in cosmetic talc. And in 2015 -- let me show you this one. In 2015, he writes a report when he's hired by the defendant. And I don't know

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

if you remember this.

Can I get the Elmo, please?

2015, Dr. Longo writes a report, "Analysis of Libby Vermiculite." I don't know why it's so bad on this thing. And he says -- and see how this squares with what you just heard from the plaintiffs in their closing argument. This is their expert witness, ten years ago -- eight years ago.

One of the criticisms leveled at Scotts -- that's his client in this case -- of this early testing for bulk and air sample analysis was the use of PLM and XRD -- does that sound familiar? -- XRD and PCM [verbatim] for the quantification of possible amphibole contamination and exposure. In light of these instruments' detection limits and specificity, this would be valid criticism if the analysis were performed today, because of the validation routine used of ATEM of this type -- so, TEM microscope for this type for contamination. In the 1970s, there was no TEM bulk sample method acceptable.

Another problem in the '70s was that there were very few, if any, ATEMS in commercial laboratories. And so, listen to this: Any suggestion that some of these independent laboratories, or Scotts, should have had the knowledge or foresight to do further testing of the bulk Libby vermiculite Turf Builder products with ATM, after

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

negative results with XRD and optical microscopy in the 1970s is not reasonable or scientifically valid. That's their own guy -- right? -- when he's being paid by a company.

So, if you want to ask what -- think about what was reasonable to do in the 1970s, just look back at Dr. Longo's testimony about what he said.

Can I switch back, please?

Again, Dr. Haber testifies for 19 years. Never mentions cosmetic talc. Said, "You took the stand, you told juries what caused mesothelioma. You never mentioned cosmetic talc."

"Right."

There's two articles that test -- he has two articles that talk about mesothelioma. Doesn't mention cosmetic talc.

Dr. Brody writes an article in 2019, and he talks about the causes of asbestos disease, and he really summarizes the state of the art, the history that you just heard about from plaintiffs' counsel about the history of disease. Right? They said, "Oh, there's been knowledge about disease for years."

Can I get the Elmo again, please?

And here's what Dr. -- here's what Dr. Brody said. It sounded a lot like what I said in opening. "Three

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

waves of asbestos disease: First, miners and millers." All right. Look at talc. Miners and millers? No disease.

Second, the 1940s. Insulators, heavily exposed group, lung cancer, mesothelioma.

Mesothelioma in the '60s, he says, we're now in the third wave of mesothelioma disease, mostly in construction workers, electricians, etc.

He doesn't mention cosmetic talc as a possibility.

And I said, "Well, Doctor are we -- are you group of experts trying to make cosmetic talc the next chapter?"

And he goes, "Well, we'll have to wait and see what the epidemiologists say."

He also said, by the way, that chrysotile is still used around the world -- third-world countries for making water pipes.

And the Helsinki article also said chrysotile is different. And nobody is trying to defend chrysotile, but from a causation standpoint, we'll talk about that.

Okay. Dr. Brody -- all the plaintiffs' experts changed their tune in the last few years when they started testifying in talc cases. And they talked about this range of exposure. Now, they put a number up: .1 to 4. And remember, that came from two articles written by Plaintiffs' experts -- Gordon, in one case; Longo, in

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

another -- in lawsuits where they had done tests of what the person said they did with the product. Okay?

And remember, I showed -- and if you read the article, you wouldn't know exactly what they did. But remember I showed you that video of what they actually did in the test where they pumping powder down their shorts and then sat down and it made a big mess? And they did it in litigation.

So, here's the point about that. First of all, it has absolutely nothing to do with Mrs. Plant said she did, but if there is a business of testing product use, they could have tested it with what Ms. Plant said she did. They could have tested somebody saying, if they were putting their makeup on in the car or that they took five minutes to put their makeup on and to see if you got any kind of measured -- you could measure anything at all in the air. Right? They're in the business of testing. Nobody brought you any tests that remotely resembled the things that Mrs. Plant said she did with makeup.

Now, the distractions. And I'm going to mention them all or that would take up all my time, but you heard things like 70 countries abandoned asbestos. Nobody is here to defend asbestos. Right? That's a waste of time. Nobody is here to defend asbestos. The cosmetics companies didn't want asbestos in their product. That was

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

the whole point of doing the testing. And all of them said we tested. If there were veins, you might get some in there, but if you had a bad set that was positive, you didn't use it. Right? Nobody is trying to get it out there on the market with trace contamination in it. You're trying to never have that happen.

And this, again, distraction. This is staging. Right? They've got a stack of books that say "asbestos" on them, all turned so you can read them, but they didn't even use the books. Right?

And you've got a microscope there and you're not supposed to use that microscope, except that's what their expert used on what he said was a product supplied by WCD, so I don't know what the logic is of saying, "They shouldn't have used this, but that's what our expert used." Okay?

And the plaintiffs are pleading with us, "Why won't they engage us in taking about the Johnson & Johnson test from the '70s?" You also look very carefully at the documents -- if you look at the documents at all, there are literally things stapled together that don't go together. And some of the statements that she told you about are not from the company themselves; they're like of somebody who visited the plant and made some statement later, and she represented to you like that was the

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

company position. It didn't even come from the company. But take a close look.

And you get these clipped documents that are shown to you in a way that you can't even see the date or where they came from. For example, you were shown this 1745 spec for the pharmaceutical talc -- the pharmaceutical-grade talc like they use on pills and chewing gum. And she said, "This is what WCD put out." That was a Barretts Mine document. That came to WCD from Barretts saying this is the kind of talc -- pharmaceutical-grade talc that they selling to -- for people that wanted to put it in cosmetic powders.

And the Pfizer testing. You know, the irony of the Pfizer testing is they say they absolutely would not use TEM, and then they give you Exhibit 13, which is this big stack of documents of testing done by, you guessed it, TEM.

So, which is it? This is a mine using TEM, and then, when they don't find anything, when they can certify it doesn't have anything in it, they send it out. And the testimony was, they said "fibers," right? They said fibers and they would count everything longer than five under the OSHA standard. And there's one of them in here that they give you a chart and say, "These are all positive. They say fiber." One of them says, "Fibers,

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

organic." That's like a piece of cotton or something.

So, take a real hard look at any of the charts that you get; there's some issues with those.

And if they were going to go a chart, a chart of the plaintiffs' use of products would have been a good chart to have. That's the testimony about what they were counting.

So, let's look at this entry on the chart. Remember this when Dr. Bailey said, "Well, I have got a chart of all the positive tests," and one of them was Dr. Longo's six samples of Talc 1745.

And if you just looked at the chart and believed it, you'd think, "Okay. Well, look. He looked at these six. This is six of six, so I guess he found something."

And then -- about PLM without heavy liquid separation. Right? PLM is right here, without that concentration method that they say you'd have to have. That's what the chart says, and we'll talk -- remember when I asked him about what really happened? That turns out that that had been tested by another expert; right? And they didn't get the answer they wanted, so they sent it to Dr. Longo. But we'll talk about that.

And in all this talk about Johnson & Johnson, they asked Mr. St. George, our representative, "Did you sell anything to Johnson & Johnson?"

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And he said, "Well, yeah, we sold them, like, five bags, three bags. Maybe the biggest one was 50."

They couldn't get in the door of Johnson & Johnson.

The talc house. I've got to show you this. So, you must have heard 25 times in this trial that WCD declared themselves -- can I get the overhead, please? -- the talc house, and from that, you should draw many conclusions. Okay? That's a 1955 ad in a paint magazine that says, "Call on Whittaker." And here's all the stuff we sell. Products for the paint industry. That doesn't exactly make them the king of talc, but I guess it was an advertisement one time in the 1950s.

This whole secret corporate documents, I guess everybody changed their opinions. The expert said, Well, the reason it used to say nothing about cosmetic talc and now it talks about cosmetic talc is because of the secret documents.

Well, if your area of expertise is animal testing, Dr. Brody, what do secret corporate documents have to do with that? Or how the earth was formed, Mr. Bailey, what do secret corporate documents have to do with that? That's their excuse for changing their story. And they don't exactly say which documents.

The various conspiracy theories, influence over the FDA, absolutely Irrelevant to the issues in this case.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And then some of the contradictions like -- told you about the one on the kind of microscope, but the idea that they go back and forth between saying "the dangers of asbestos were known for years and people know there's asbestos in cosmetic talc for years" to "well, nobody knew about that and the corporations hid them." You're the judges of the evidence, but just keep in mind whether these stories are even consistent.

And then you hear that the plaintiffs' experts -- there's some people that -- Egilman, Moline, Gordon, Emory, Millette, Longo -- that the articles they're talking about were written by their own expert. And Dr. Haber, I think I asked him, was like, "Well, wait a minute. Your expert writes this article, and then you come in here and rely on the article." I mean, how is that science or anything that should be meaningful to a jury? And they even had him just mention articles but not really talk about them like a Moline article or Emory, and they said there's cases out there, there are articles out there that talk about a relationship between cosmetic talc and mesothelioma and -- but they didn't put those up so we could look at them. But some of them had -- because they get a chance to talk again and I don't. But just in case they mention those, just keep in mind: Nobody showed you those supposed articles that say these people only had

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

those exposures. Those written by litigation experts about lawsuits they reviewed, and you didn't hear a witness talk about that.

Dr. Haber, I mean, this guy will cover the waterfront from you. He talked about epidemiology, material science, pathology, geology. And on direct, he was like a bobblehead. I mean, everything plaintiffs' counsel asked him, "Yes, that's right. That's right. That's right." 200 slides. And this is printed on four-per-slide. 200 slides of Dr. Haber saying yes to everything they wanted him to say yes to. And I think he even talked about what the government means on various things. Right? And he's a pulmonologist in Texas who decided he could make more money being an expert witness.

Well, how do we know that cosmetic talk does not cause mesothelioma? Well, one of the reasons that the FDA and the CDC have said what they've said is because of the epidemiology and also talc content studies. The material has been studied a lot, and the exposure evaluations and common sense. Right? We are talking about the allegation that somebody inhaled powder, and your common sense can tell you how much -- they said something like, well, you can find 10,000 fibers in a gram. I don't think anybody wants to try to inhale a gram of talcum powder. Your body won't let you do it; right?

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

But epidemiology is the gold standard, and like Dr. Brody said all along with asbestos, you saw epidemiology. In those talc miner studies, these people got talcosis. That means they're breathing in a ton of talc, but they didn't get mesothelioma. And these studies have been going on for decades.

And it was in IARC. When they were looking at talc, they said -- don't take my word for it, IARC said studies of talc miners and millers are the best source of evidence of whether talc causes disease. Right? And these studies have come from all over the world. And you heard some evidence about, "Well, Johnson & Johnson tried to influence the first Italian study. You didn't hear any evidence about "I don't know if it worked," but you didn't hear any evidence about the next three or four Italian studies after that one.

And they all find the same thing. There's no mesothelioma in the people that work with that stuff all day every day, much less the one who's used it in makeup. Right?

And the talc pleurodesis, the irony of Dr. Ripley -- Dr. Ripley looks like the kind of guy you want to do your chest surgery, but he said, "We don't worry about causation."

Up to 2016, Dr. Ripley was putting talc in the open

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

chest on the pleura of patients for medical purposes; right? Like seven years ago? He's putting it inside of people's lungs. Do you think he thinks talc could possibly cause any problems? He's not going to say that now because he's an expert witness getting paid $750 an hour. That puts him in a different realm. That's not a guy who doesn't have a dog in the fight.

If he had given a deposition or come to trial as the plaintiff's treating physician, maybe, but this is a guy who let Mary Kay hire him first at $850 an hour but then he thought, "Oh, no, I'll switch sides," and he let the plaintiffs hire him, and they're only paying him $750 an hour. That takes you out of the realm of just being a treating physician. Right? No basis. He never studied this, never published on it, but he's got opinions now because it's like it's a good business for experts.

And so, there's no epidemiological basis to conclude that Mrs. Plant's mesothelioma has anything to do with cosmetic talc. And there's a good reason; it's not contaminated with asbestos.

Look, OSHA made the determination a long time ago, we care about asbestiform, not an asbestiform, and I won't bore you with my rock book again, but I think everybody gets that by now. Those things are different. They form different. You've got a rock that's wavy? That's

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

different. Right?

And you heard we have got some terms that, if they're not carefully used, can be misleading, and that's a lot of what you had in the 1970s. And even Dr. Bailey admitted, yes, kind of like a screwdriver. Dr. Bailey admitted that. It's like, you throw that term out and don't you really know what you're talking about until you get more specific.

And it's only asbestiform; right? And that's not what you get in talc. The rock that has the fibers in it, you don't see -- there's hardly ever a study that says, "We found an asbestiform fiber." There might be some veins somewhere that has it and they test for it and they don't sell that stuff, but not in the talc in the nearby veins.

What they have are rocks, and when those break apart, they don't hurt people. Right? And you see microscopically, that looks different than that. Tremolite rock is different than tremolite asbestos. And when it comes to chrysotile, the body breaks it down easily.

So, if Dr. Longo wants to say there's chrysotile in talc at a 0.002 percent, then somebody needs to see if you can possibly get that into the air and into the human body. And if you did that -- so, Brody does rat studies.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And I said, "Dr. Brody, you exposed rats to 100 percent asbestos fiber. What if you made them breathe talcum powder with 0.002 percent?"

No idea. Well, because the powder would kill them. That's why. You can't even breathe it. But if you did, it's chrysotile; right?

So, they have the burden to show that you could get enough into your lungs to hurt you, and the fiber type makes a difference. Right?

And this is just IARC again saying, "Look, when you have that early stuff in the '70s, there was no determination that they with asbestiform." Right? And so, it didn't matter that it was the rock. It had to be asbestiform.

And the Montana talc, they went and found the purest talc they could find in the world to use in cosmetic talc, and Mr. Segrave talked about that. And, look, bulk samples from regions were taken. Many, many, many -- the U.S. Geological survey took bulk samples and found no fiber in any sample of Montana talc. Hey, if you didn't want to take my word for it, remember Mr. Bailey, that we excruciatingly went through his sworn testimony when he said he signed something saying there is no asbestos in Montana talc?

And you heard from Mr. Segrave who said look -- and

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Mr. Segrave was an expert who would agree with somebody if they asked him a question. He would agree with things; he didn't argue everything. And he said, Look, there's a couple of different ways it can be formed, and the deposits that we have are asbestos-free. Right?

But this is Bailey saying, "Look, I declare under penalty of perjury that this report is true," and then this report he gave us -- remember his report that said -- he did for the mining company, and he said that it's not the way it was formed, you just can't -- you just can't get asbestos in it. Right? It's amphibole-poor.

Can I switch to the overhead, please?

So, when you hear this "they knew that it was asbestos in the product," don't take my word for it. Take their expert's word for it. Remember, he's a specialist -- and he goes through this professional qualifications, talks about his publications, and then he says, "It is a common misconception that all talc deposits contain asbestos. A well-documented talc deposit exists, which is formed by shallow hydrothermal alteration of dolomitic rocks, with consistently lack amphiboles as accessory materials." And then he goes on and talks more about the Montana talc. Right?

So, Dr. Bailey is telling you the exact same thing -- well, by the time he got here, he wasn't telling

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

you that anymore because he decided the corporate documents mean that is geology opinions aren't valid anymore and he thinks there might be asbestos in Montana talc. And then we talked about testing.

Can I switch back, please?

So, remember we said, "Okay, Dr. Bailey. Lets talk about the tests done on retains" I hope it was clear what retains are.

This was a company that was buying WCD Grade 1745, and they set some aside each time they bought it. And so, they had, like, 17 years' worth of retains, 53 samples. And it was sent to the plaintiffs' experts. Right?

And so, what Dr. Bailey said was, "Well, Dr. Longo tested it. They got six positives for chrysotile."

I said, "Well, did you look at the chain of custody?"

"Why would I do that?"

Well, because it came to him from another laboratory doing work for the plaintiffs' lawyers, and that report said something very different. First of all, it said he tested all 53. In 47, he found nothing at all he could call asbestos. Right?

Well, they laundered that through Longo. Longo drops out the 47 when he didn't find anything and only talks about six. But even for those six, he says, "I

found chrysotile. MVA said there's no chrysotile in all 53." Longo says there's no amphibole, and MVA says they found six amphibole. Right?

At most, they're totally contradictory, and you couldn't put in your affidavit that there's a test that shows six positive when you know good and well that it came from another place that said that's not right.

And Dr. Segrave -- Mr. Segrave said, "Look, we tested them by PLM and TEM, and there wasn't anything that was asbestos in either one of them." And he didn't tell you that stuff. And it's not a mistake because, you know what? Days after Mr. Bailey testified and I presented him with all this, plaintiffs' counsel, once again, used the same chart to question Mr. Segrave, knowing that this was wrong.

We're not talking about stuff that happened in 1970. We're talking about stuff that happened in a courtroom in this trial.

And Italian talc, the FDA -- you know, Mr. Segrave went there. He examined it. He goes, "Look, this is talc. You could get a vein." You don't mine the vein. They have geologists working for them to tell them where to drill, and they have engineers to tell them how to drill so that you don't get that. And then you test it to make sure you didn't get any of that. Right?

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And he says he's been there himself and done the test and he shows how it develops and why you would expect it to be so pure and listed lots and lots of studies that tested for Italian talc.

All right. So, let's go back to, "Well, what do you have to show that you were injured by a product?" Right? Even if you had filled out a chart to show what she used, when she used it, how she used it, then we'd start with, number one, which would be the product contained asbestos. Now let's talk about how you think you breathed it. All right? And we never even get to that in this case because we can't show the product.

And so, this is where Dr. Barlow came in, because she did an analysis that, if you assume there was asbestos in cosmetics and it got into the air and you breathed it, she did a risk assessment, and she came up with the same thing that the FDA came up.

And she also did animal studies that confirmed that talc doesn't cause mesothelioma and the cleavage fragments don't cause mesothelioma. But she said, "Look, in fiber toxicology, you can't just say, 'Hey, we used makeup frequently.'" That doesn't tell you anything if you're trying to assess whether it causes disease. Right? You would look at things, like, "Okay. Well, how much was in the air? How much was actually deposited? What are the

size of those things?" Right? Because, remember the macrophages? Anything less than 20 microns, they can get rid of, even if it's amphibole, even if it's asbestiform. If it's short, your body is going to get rid of it. Right?

And she said, "Look, we did these studies. We looked at all of these studies where they've considered these exposures." What can you get? What could you possibly get? And this is really powder. It's not even things like eye shadow.

And she compared it to background levels. She compared what you could get with background levels, and she found that the use of cosmetic talc, even if you assumed that it contains asbestos and you assumed somebody breathed it, that it would be lower than what you would breathe with ambient air. And this was consistent with what the FDA had said, "Exposure to talc would be less than the risk from environmental background levels of exposure." Right?

And you heard the statement about, "Well, there's no safe level, and OSHA says there's a risk at every level of exposure."

And remember, to say that there's risk is not to say that something causes the disease, because what they're saying is -- and Dr. Barlow talked about this is -- is

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

OSHA had four studies where they had a lot of exposure and some meso, and they said, "Well, this is the rate of meso that you get from that level of exposure." And they drew a line; it was called a linear no-threshold model. It's a statistical model, and they drew that line all the way to zero. And every bit of exposure they assumed you'd get disease, but there are no studies that show that. That's just an assumption. And that's why they say there's no zero risk. You can't say there's a zero risk of it, but you could say that there's no disease at certain levels. Right?

And her study assumed 25 years -- I have the worse ever -- I'm sorry about my handwriting. 25 years and the use of a product for 20 minutes. Well, that's why we need our chart. Right? That's why we need for each product, okay, what did she do with it and how long did it take? Because she said, I think, "I used makeup for five minutes," and that's without saying which product how.

But -- and I don't wear eye shadow that much, but, you know, I just imagine that if you put eye shadow on the top of your eyes, you're probably not going to get anything in your nose. Right? Because it's colored and all that. And if you started breathing it up your nose, you'd probably have little lines around your nose because you'd have colored dust going up your nose.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And so, scientifically, I don't think anybody tried to study that and bring you any evidence that just putting on makeup causes you to inhale your makeup. Right? So, that's what they have to prove.

And then, if it's chrysotile, then they're going to have to say, "Well, wow, that tiny little bit -- whoever in the world says that you can get sick from that tiny little bit of chrysotile, if you could even inhale it?" Right?

And it's undisputed. That Helsinki article said you'll get less mesothelioma, if any, from chrysotile. Right? And that was with products that contained it. Remember the gas mask study where ladies were making gas masks out of chrysotile and another group was marking it out of crocidolite? And the one with crocidolite, they had a lot of mesothelioma, and the ones working with chrysotile had none. Right? So now, we're talking about trace levels of chrysotile in powder. Right?

And Whittaker, Clark & Daniels, we brought you someone. This guy is not a professional witness. Believe me, he doesn't want to be in court. He get $100 an hour but I don't know that that's worth it for what he has to go through.

And he said, "Look, it's a company found in the 1800s." As far as he knows, they had 120 employees at the

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

most and they were a distributor. Right? He explained, "We're the middleman." I don't even know how you could go call him anybody but the middleman. They buy stuff from mines and processors, and they sell it to different industries, and a lot of times, they don't -- they never repackaged it, he said, and sometimes they drop-shipped it. You know, if they -- if the mine is in Montana and the customer is in California, they're not going to send it to a warehouse in New Jersey; they just drop-ship it straight there. They're just arranging transactions. Right?

And they have different grades because they have different customers that want different things. I mean, what you put in, you know, eye shadow is probably different than what you use making tires. And so they had the encyclopedia of talc was their catalog, and their catalog just said, "Here's the different things that we offer."

And the thing about it is, even though they're a distributor, a middleman, they're still testing the product. Right? Back in 1976 and back in -- this is the middle of it -- back in '71, they're the ones who hired Lewin. The reason Lewin was doing work for the FDA was because WCD recommended it. Right?

And they were trying to figure things out. They

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

were trying to make sure -- in one of the samples you were told about this morning, I think, was from, like, 1955 or the Longo test -- the Longo below-the-waist test of Johnson & Johnson Baby Powder, was from the 1950s. And they're saying, "Well, we should be able to compare that with your Montana talc."

"Well, your expert says our Montana talc didn't have anything in it, if you look at the test they didn't show you." Right?

And so, they're here in the middle where we know the mines are testing because you saw the Pfizer test. Right? And they tested, and you know Avon and Mary Kay tested because they told you about that. Right? You have the evidence of that.

So, there was a lot of testing at every level, and the point of the testing was to not let anything go out the door that has any asbestos in it.

And they hired --- they didn't have in-house capability to do this, but they hired world-renowned experts. Like Longo said, "Yeah, I studied at McCrone," some of the best in the world. Right?

Now, on causation, it wasn't a defense expert. It was Dr. Brody who said 25 percent of the mesotheliomas have no established asbestos exposure and remain idiopathic or cause unknown.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

I said, "Does that include -- what would that mean?"

And he said, "You know, something like a genetic predisposition." Some people are genetically predisposed to getting certain types of cancer.

And Dr. Ripley -- I got ahead of myself, talking about him, but he seems like a great thoracic surgeon, but he also said, "I'm not concerned with what caused it. I'm just there to fix it." And then he starts giving opinions about talc, while admitting that he put it in people's lungs six years ago. It sounds a little bit like he's morphing into an expert witness. So, you can take it into consideration. He's not somebody -- if he hadn'ta started -- and spent ten hours making a PowerPoint for them to use in trial. So, now he's a little bit beyond treating physician. Right?

And Dr. Feingold was one who made a lot of money too, but a lot of that was made testifying for plaintiffs against the tobacco industry. He's just a chest doctor. He's not a researcher.

But he said, "Look, when I'm treating patients, I want to know what's their family history cancer. Was there a genetic profile done? Has a genetic mutation been identified? And is it relevant to the disease?"

And, in this case, there was BRCA2 mutation. Right? And BRCA2 is the second-most common mutation associated

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

with nonasbestos-caused mesothelioma.

And so, to take you back to what ought to be on the law, if you're going to ask a jury to give you $50 million from a company, don't you think it would be fair to put the company's product up on the wall and say, "We can show they supplied the talc that went in there," not "They were an approved distributor" or whatever. You were told that they were the sole distributor. Look for the documentation on that, because I don't think that's true. I think there were a bunch of different distributors.

That corporate representative said, "Yeah, we bought from WCD until we could establish a direct pipeline to Barretts." Right? And then when you find -- if you find, like, the Gold Bond example, if you did find that their stuff was in a product that Mrs. Plant used, then you'd ask, "Well, what's the evidence that it contained asbestos?" Because that's Montana, and your folks said Montana didn't contain asbestos, and your folks did testing that said it didn't contain asbestos, and then you had it retested by somebody else. And then they said chrysotile, but that was inconsistent with the first one. So, where he is your evidence?

And that is Montana talc that was being used in products and being sold at the time that they say that Mrs. Plant was using Gold Bond. Well, you have got a test

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

saying that Montana talc doesn't have asbestos in it. Right?

Those are the dots they were supposed to connect. If they turn that poster of the TEM around and drew some lines on it and made a chart -- they've got charts for everything else that they made. They made all these charts so that you don't look at the documents but you take their word for it. But now you know better than to take their word for it because you have seen where what's on the chart is just wrong.

But the first chart they should have made to put on the wall for us to look at every day would have been a chart that says what she's supposed to prove, which is there's a product and it contains asbestos, and it was used on this basis for this long, and then we could all evaluate it, in fairness. In fairness.

And the law is fair, and that's why it requires that of the. That's not an unreasonable thing for you to have to prove, and they know that when they come in here, and the only reason they didn't do that is because that proof isn't there. And that proof isn't there and it's a very sad case, but the only way to get you mad, to get you to give them that much money is for you to look past what the evidence ought to be in the case and look at things that would make people mad, talk about conspiracy, talk about

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

concealment. You know, that makes people mad. It makes you want to punch somebody.

But then you come back and go, "Well, wait a minute. Wait a minute. We're talking about this case with Mrs. Plant. Let's start with: Was there a product there that they're responsible for that harmed her?" Right?

And so, there's no evidence of that product. There's no evidence. The plaintiffs ignored the most relevant evidence: the lung tissue. Where's the lung tissue evidence? Where is the test of the makeup products that she gave to her lawyer? Right? Fairness.

Epidemiology shows that cosmetic talc doesn't cause mesothelioma, and they studied the talcs that they were using. You saw Montana. You saw what their own expert said about Montana: "There's not asbestos in Montana talc." Right? And multiple layers of testing. Everybody was testing it to make sure. And this idea that, "Well, they were testing it, but they weren't using the right microscope," you know that's nonsense by this point, when their expert takes the stand and says, "Well, I use that one over here, the little one." Right?

And your common sense. She was not inhaling her makeup products. That's where the whole thing breaks down. Because we know, if we get powder in our nose or our eyes, we sneeze, and then we don't do it again. And

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

we certainly don't do it every day with any kind of regularity. Just because you say you got some makeup or dust on the steering wheel, that doesn't put it in your nose and it certainly doesn't put it in your lungs. Right? And they had a bunch of experts who specialize on doing tests in the air and looking at tissue in the lungs, and they brought you none of that. They did it for other cases; they didn't do it for this case. I think you know why.

So, to make it simple with the verdict form. Every question to do with WCD and causing Mrs. -- and defective product and causing Mrs. Plant's injury, the answers to those are no.

And when you go back to deliberate, people will have different views and people probably have strongly held views, and if your view is that, "In fairness, I don't think WCD did anything wrong to this lady," stick with that view, please. In fairness, stick with that conviction. Don't compromise that conviction because someone else sees it differently, because this is the system that we all trust. That's why we came in here. Not very many people came in here to account for themselves, but we did, and we did it because we trust the system and we trust you guys. You took an oath. You don't let sympathy do it. You won't let sympathy govern.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And in this case, that's going to be super hard to do.

It's very, very hard to look at those photographs and here that testimony about the impact of the family, but that's a different question than who caused that or did anyone cause that or is it just one of those things that happens with cancer and life.

Thank you so much for your time.

THE COURT: Ladies and gentlemen of the jury, the next closing will be presented by Ms. O'Neill on behalf of IMI Fabi.

Why don't we stand up a minute and kind of stretch a little bit.

(Pause in the proceedings.)

THE COURT: Ladies and gentlemen of the jury, before Ms. O'Neill begins her presentation, you noticed, to begin with, we were talking about IMI Fabi (USA) and IMI Fabi LLC and IMI Fabi (Diana.) IMI Fabi (USA) is no longer in the case by agreement, and so what you're focusing on is IMI Fabi (Diana) and IMI Fabi LLC, and they are the entities.

CLOSING ARGUMENT ON BEHALF OF DEFENDANT IMI FABI

MS. O'NEILL: Good, I guess, afternoon. As you know, I'm Elizabeth O'Neill, and my team and I have been representing the IMI Fabi entities in this case, and I want to start out like everybody else did by thanking you

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

because you're a very important part in this process. A company like ours has a constitutional right to come to court and ask you to resolve this jury -- this issue. But if you don't your jury service, we can't do that.

So, you were on time, you took notes, you paid attention. My client and I thank you very much.

And I also want to express, again, that, as we have throughout this, we have the utmost sympathy for what Ms. Plant and her family are going through. Nobody -- nobody questions that. But as everybody has told you and the judge told you, when you come to court, you have got to put sympathy aside, as hard as that is.

So, what you heard was IMI Fabi (Diana) sold cosmetic talc it purchased from China from 2001 to 2004. And then IMI Fabi LLC started in 2004, and it sells -- it continues that business to this today.

And Mr. Corrado Fabi, he came from Italy, if you remember, to testify, but all of the evidence about Italian talc, that does not apply to IMI Fabi. Mr. Fabi came from Italy but none of the talc at issue in this case for IMI Fabi entities did. So, nothing about that Italian talc applies to either IMI Fabi entity, and for that matter, neither does any evidence about Montana talc or Alabama talc or Vermont talc or Brazil talc, because the only place that the IMI Fabi companies purchased their

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

cosmetic talc was China.

And the evidence in this case shows you that the IMI Fabi companies acted reasonably and responsibly. Ms. Dean said IMI Fabi was unreasonable because they got in when everybody else was getting out. And she said, You can be in the business, but then you have a duty. And she said, "Rule No. 1: Research before you sell." What's the evidence that you saw in this case? That they carefully vetted their source mine, they vetted their talc on arrival, they vetted the finished product, and then did annual testing.

The unrebutted evidence in this case is that, before they got into the business, they certainly tried to comply with Rule No. 1. They sent somebody to China to look at that mine, and then they tested that. And what did Mr. Fabi tell you? He told you, "Oh, we found some with asbestos, and we rejected that. We did not want that. We wanted to make sure it had no asbestos to start." And they required that to be confirmed for every shipment.

But did they stop there? No, they did not. They absolutely did not.

When that shipment came to the United States, what did they do? They quarantined it, and then tested it again. And, initially, they used the X-ray -- XRD -- refraction [verbatim] -- XRD testing with optical

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

microscopy that everybody says was wrong; that's that J4 method where, if you a peak, you got to go to the light microscope. That's what they used right in the beginning.

But, then, they went to XRD with optical microscopy and scanning electron microscopy every single time, not just, "Oh, if we see a peak." Every time. They said, "Oh, it's negative. Let's check again. And let's check again and let's check again." And they did every batch. And they did it for a random representative sample on -- an independent lab testing every year.

And they provided you with those Certificates of Analysis that they sent with their talc, and that's what they provided to IMI Fabi's customer, Cosmetic Specialties, Inc., and sometimes, for convenience, they provided those certificates right to CSI's customer. And that certificate just uses that first test -- this first one right here. This is what it says, "We checked by XRD and we found nothing." And they did that because that's what J4 says. That's what Cosmetic Specialties was looking for. That's what Cosmetic Specialties' customers were looking for. So, that's what we said on the Certificates of Analysis.

Now, the plaintiff suggests that's just on the Certificate of Analysis, because we didn't do the rest of this stuff. We didn't put it on there because we didn't

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

do it.

You're going to have to decide if Mr. Corrado Fabi flew all the way here from Italy to lie to you.

There are claims in this case that we failed to warn. Mr. Fabi and the IMI Fabi entities -- IMI Fabi (Diana) and Imi Fabi LLC, they warned. They put a warning label right on the bag. They didn't just put a warning label; the put their name right on it, "IMI Fabi LLC," and their telephone number. You have a question? Call us.

And it says, "Caution: Utilize dust respirator." This one says, "Caution: Utilize dust respirator and exhaust ventilation. Refer to MSDS for complete details." Every single bag that came out.

Does this seem like the conduct of an unreasonable company? Does it seem like the conduct of a company that's acting recklessly or wantonly or with utter disregard for the health or safety of another person? You're going to have to decide that.

But this is what the evidence shows you about the IMI Fabi entities. When they got in the business, they were aware of the issue of the potential for asbestos contamination of cosmetic talc, and they tested. And they tested and they tested. They were continuously working to improve, they placed warnings labels on their bags, and they believe that they have a safe product.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

What did Mr. Fabi tell you? He told you, "We didn't just test once and we're done." He said, "It's always about continuous improvement." That's why, at a certain point, we bought -- we, IMI Fabi entities, because an SEM because it's about continuous improvement.

So, you're going to have to decide if that's reasonable and responsibility conduct of a company.

And Rule No. 2 that Ms. Dean did in her closing was: companies must adequately test. So, let's talk about the testing. This is what the plaintiffs argued. First they say, you cannot just use PLM. That's this microscope right here.

Now, what did Dr. Longo say? Well, now, we're getting PLM that's as sensitive as TEM, that giant microphone.

The plaintiff said, "You must use TEM."

What did Dr. Longo say? He said, "It's crummy." Now, that's not my word. These little things right here, these are the day he testified in trial and the page and line where he gave that testimony, because these nice ladies here have had to stay up late all through the trial so we can get transcripts.

So, this is what he said in the trial of this matter. "TEM is crummy," "TEM is not useful for finding chrysotile," which, if you remember, is the asbestos that

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

they thought they found in some of that Chinese talc from, like, J&J.

Plaintiffs' lawyer said SEM, the kind that IMI Fabi entities use, not enough. What did they say, Dr. Longo, their own expert? "SEM is very valuable for getting good morphology, and you can identify tremolite and chrysotile, in my opinion, just by SEM."

We did our warning labels after we did that testing that SEM tested.

Now -- and remember, if what we did was unreasonable, Dr. Longo spent 20 years testifying ABT, Anything But Talc. 2000, I've looked; there's no asbestos in cosmetic talc. 2002, 2003, 2004. And he admits that the testing methods that he's used in the past are wrong.

Well, these are polarized light microscopy photographs, and Mr. Thackston is right; in 2017 and 2017, I, Dr. Longo, thought using light microscopy for looking for asbestos in talc was useless. But what did he say now? It's about as sensitive as TEM.

And, of course, he's got this new theory that he's got. Now, he's doing heavy liquid separation duration and concentration, but his methodology that he's using, it's not published anywhere. It's not at the library. It's not on the internet.

So, if we have to follow what Dr. Longo says to be

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

reasonable, how is IMI Fabi supposed to do that? Are we supposed to, every single time we get a batch of talc, go, "Hey, Dr. Longo, what's the testing for today, because I want to make sure -- I don't want to get the test you're going to say is wrong in two years. Can you tell me today how to test?" That's not reasonable.

It's clear that, from the very beginning through today, that IMI Fabi companies have done more than the minimum. These companies didn't hide anything.

Now, did J&J or Pfizer or Mary Kay? I don't know. Maybe. Did they hide things from the FDA? Was there a conspiracy in the 1970s to hoodwink the FDA? I don't know. But my clients definitely weren't part of it, because they didn't exist.

From the very, very beginning up through today, my clients have done more than the minimum.

Rule No. 3: Remember? Warn. That was what they -- that's what Ms. Dean said. Third rule: If you're going to be in the business, warn.

The FDA says, "Well, you don't have to. You don't have to warn about cosmetic talc," but my clients do. And they warned -- they did this warning. The plaintiffs don't like this warning. They say this warning is not enough, but they were warning for people who were using their product.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Now, does that sound like a company who is acting recklessly or unreasonably or in utter disregard for safety? One of the questions you're going to get asked, if you get that far down in the verdict form, is whether IMI Fabi did. And I would submit to you that, for both entities, Diana and LLC, that answer is no.

Now, plaintiffs say the warning is not enough because it doesn't warn about asbestos. It didn't warn about asbestos because, when that product left my client's dock, it didn't have asbestos in it. There is no evidence at all that there was any asbestos in IMI Fabi talc -- cosmetic talc when it left the company dock.

We saw a lot about J&J. We saw a lot about Montana and Vermont and Italian talc. We heard about all different kinds of things, Pfizer and other companies. We saw tests and papers, and we heard experts talking about all of that. Not a single test about IMI Fabi cosmetic talc. Not a single test.

We even saw a test on the FDA -- we even saw an entry on the FDA website where the FDA said, "Look, we've got to do a recall of Claire's makeup, because it's been found to asbestos -- found to have asbestos in it." Nothing -- nothing connects Claire's makeup with talc sold by IMI Fabi.

And that's important, because the question for you,

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

as the judge told you yesterday, is not, "It there asbestos in somebody else's talc?" The question for you is, "Is there evidence presented to you in this courtroom that tells you, by a preponderance of the evidence, that there is asbestos in cosmetic talc sold by IMI Fabi (Diana) or IMI Fabi LLC?"

Now, you heard a lot of argument about that, but there isn't any evidence.

What we didn't see, as Mr. Thackston said, we didn't see any tests on that makeup that Ms. Plant had when she hired her lawyers. We saw no tests on IMI Fabi talc. But we also saw -- you know, we're alleged to be in COVERGIRL makeup. You didn't see a single test on COVERGIRL makeup from the time when plaintiffs say that it was supposed to be made from talc from my client.

There's a Plaintiff's Exhibit 60, which is one of those summary charts that the plaintiffs put together that Mr. Thackston talked about. The title of that Exhibit 60 chart is WC&D talc products in some COVERGIRL products, 1992 to 1998. That's not IMI Fabi. No evidence at all to connect IMI Fabi.

They asked their expert, Dr. Longo, their causation questions. And this is what they asked. They asked this long question: "It's going to be the longest question I'll ask you today. I want you to make some assumptions.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And the assumption about COVERGIRL is, assume that she used COVERGIRL pressed powders containing Montana talc in the 1990s."

That's not a preponderance of the evidence about us. It doesn't make anything about us more probable or not. That's a question about Montana talc in the 1990s. Our talc came from China.

They asked Dr. Longo this question as well: "How about Mary Kay, the talc in Mary Kay, which came from mines located in Italy, Vermont, China, and Brazil?"

And he said for, "Yes, for those products, I have an opinion."

They didn't ask a question about IMI Fabi. They didn't ask Dr. Longo any question -- they didn't ask any of their experts a question about IMI Fabi talc being in a product.

And I would submit to you that none of these causation questions give you the evidence you would need to find against my clients, because there's no testimony from any expert about the content of COVERGIRL makeup or its use after the 1990s.

So, where does that leave us? That leaves us China. And what did you hear about China? Dr. Longo said things like, "All Chinese talc is the same." He's checked it. He's checked it all.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And there are a couple of things in evidence. There is Plaintiff's Exhibit No. 3804, which is one of those charts that the lawyers made, and it's a summary of MAS testing from Italy, Vermont, Montana, Brazil, and China, and when you flip to the back and you look at China, where did it come from? Chanel, Johnson & Johnson, Johnson & Johnson, Johnson & Johnson, Johnson & Johnson, and Avon. Not IMI Fabi. Not even Procter & Gamble.

There's another one, Plaintiffs' Exhibit 3677. The first 43 pages are pictures of Johnson & Johnson products. And then, when you go all the way to the back here, there is some references to China. Some Chinese talc from someplace called Imerys, J&J, J&J, J&J, J&J, Chanel. Nothing about IMI Fabi.

Now, Dr. Longo says it's all the same. It's 90,000 square miles. That's three times the size of the state of South Carolina. So, saying it's all the same, I think that's kind of like saying all American barbecue is the same, and it's 20 to 1:00 so the Lady Gamecocks have tipped off, but if they were here today and you went over to the Palmetto Pig over by the arena, that's where you're going to get South Carolina barbecue. Going to Midwood's Smoke House? That's not barbecue.

Same concept applies to saying China. All talc in all 90,000 square miles is exactly the same? It's not

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

reasonable. It's not a reasonable conclusion. Unless you have been to the mine where IMI Fabi is getting its talc and you tested that, you don't know what's in it or what's not in it, and none of that evidence came to you today.

The only person who came and testified to you about that was Mr. Corrado Fabi. He said, before he got in the business, he went to China, and they looked with his team to find the most pure talc they could find, and they tested it, and they rejected the stuff that had asbestos in it. He wouldn't buy it because he didn't want to have a cosmetic talc source with asbestos in it to start.

And you heard some testimony about -- I think it was J&J and Pfizer trying to, like, remove asbestos from talc. IMI Fabi (Diana) and IMI Fabi LLC didn't do that. They didn't even want that question. They said, "We want to it start out pure. We're not going to try to take it out. We don't want it in there in the first place."

And they said that, and then they checked to make sure. And they checked and they checked and they checked and they checked. And that's important because, if there's no asbestos in the product that IMI Fabi sold, then it can't cause mesothelioma.

Even the plaintiffs' expert -- this is Dr. Haber who said that: "Doctor, do you agree that talc without asbestos does not cause malignant mesothelioma?"

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ANSWER: "As far as I know, that's true."

So I submit to you that for my clients, IMI Fabi (Diana) and IMI Fabi LLC, the plaintiffs have failed to meet their burden of proof with respect to the question of whether or not there, in fact, is asbestos in any of the cosmetic talc sold by IMI Fabi (Diana) or IMI Fabi LLC.

And so, I would ask you, when you get the verdict form, and you're asked about the theories of liability for each of them, for IMI Fabi (Diana) and IMI Fabi LLC, you check no, because the plaintiffs have failed to meet the first thing they need on their burden of proof.

But that's not the only element that they failed to prove as to my client because they've also failed to give you evidence that our talc was in a product that Ms. Plant used.

They had that slide up there and they had it in their closing today, too, where it's got the picture of the COVERGIRL compact and then it's got, you know, IMI Fabi's logo and it's got a picture of Ms. Plant. That slide is not evidence. It's not in evidence, and it's not even supported by the evidence. Because, if you remember, that slide first came up with Dr. Haber, and Dr. Haber said he was provided documents to show who the sole supplier for COVERGIRL pressed powders were that he was testifying about.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And this is Ms. Dean. Ms. Dean asked him this question: "I want to ask a narrower question. Have you been provided information about who was the sole supplier for COVERGIRL pressed powders during the years you're talking about, Dr. Haber?"

And he said, "Yes."

QUESTION: "For product -- 11 pages of products?"

He said, "Yes."

Exhibit 60, Whittaker, Clark & Daniels, guess how many pages it has?

Well, if my slide worked, you'd be able to see it has 11, but my slide doesn't work. There you go.

11. That's what Dr. Haber was talking about.

Now, I was sitting back there listening to this, and I was kind of interested because we didn't call anybody to contradict Dr. Haber because he didn't testify about us. And the plaintiffs said, "Well, all these experts said things all IMI Fabi's experts said." We didn't have any experts. We didn't have any experts because we didn't need to call them. We didn't call Dr. Barlow and Dr. Feingold. You didn't hear me ask them any questions. And I didn't do that because I didn't need them, because Dr. Haber said, "If asbestos was not" -- underscore "not -- "was not in a company's cosmetic talc product, then that's not a substantial contributing factor."

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

And the plaintiffs presented you no evidence to suggest that it did, so I was supposed to a retain an expert to come and say, "Hey, I want you to assume some facts that aren't in the case about some stuff that didn't happen and then give the jury an opinion"? That doesn't seem very helpful.

Plaintiffs have the burden of proof to prove to you that cosmetic talc that IMI Fabi (Diana) or IMI Fabi LLC sold has asbestos in it; that the asbestos-containing talc got into a product Ms. Plant used; and then it caused her mesothelioma. "Might" is not enough. "Might" is not a preponderance.

The plaintiffs' experts agree that the presence of talc does not mean asbestos. They agree. There are mines -- talc mines without asbestos. Talc is a mineral. It's a naturally-occurring thing.

Evidence of asbestos in somebody else's talc? That's not evidence about IMI Fabi. Evidence of talc made by somebody else going to a company that made COVERGIRL, that's not evidence about IMI Fabi either. The plaintiff has to prove not just talc but our talc, and that's important because no connection means no causation.

And that's why we don't have any experts and that's what these plaintiffs haven't given to you. It's no connection at all.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Now, you were asked in opening by Mr. Roberts to remember that everybody was a separate company. A few less companies than we did to start, but it's the same principle: Separate companies. We are not the talc industry. We are not a makeup manufacturer. We're not J&J or Pfizer or Mary Kay or Avon or any of the other companies that you heard about. And that's important as you consider the evidence that you have got to make your decision, because this is a big stack of exhibits.

In fact, these are -- the plaintiffs put in this many exhibits. It's 100-and-something. But if you drop out all the exhibits that were written before my clients even got in business in 2001, you lose a lot. And if you drop out the ones that apply just to Mary Kay, you lose some more. And if you drop out the ones that apply to Avon, you lose some more. And if you drop the ones that apply just to J&J, you lose some more. And if you drop out Pfizer, more. Whittaker, Clark & Daniels, more. If you drop out the ones that apply just to body powder products, because we're accused of being in pressed powder, more. If you drop out the one for Mr. Bailey, the plaintiffs' geologist who said he doesn't know anything about China, what are you left with? Two. Two exhibits. 70 and 71. These are those exhibits.

And the plaintiffs' suggested to you that these show

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

IMI Fabi talc getting to Hunt Valley, Maryland, where Procter & Gamble was manufacturing COVERGIRL. But do they really? Take them back in the room and look at them.

There's a way to track these lots. So you look at the customer PO here and you look at the lot number, and it's going to be repeated on documents -- connected documents. This one, customer PO, lot number, where did it go? It went to Procter & Gamble, destination. It's consigned to Procter Gable. It went to someplace called Sterigenics in New Jersey.

What the heck the Sterigenics? What were they doing with the talc? Didn't hear anything at all about Sterigenics. Didn't hear if they made something or did something to the talc and then sent it to Procter & Gamble. Nothing.

But if you look at the documents and you track the PO numbers and the lot numbers, over and over it's going New Jersey.

You'll also see the lot number and the purchase order number on some of these IMI Fabi letters which do, in fact, get addressed to Hunt Valley. The letter does. And the letter is giving them Certificate of Analysis, same lot number, same PO number. Where is the talc going? New Jersey. Over and over and over and over and over and over. And this is not all of them, because I'd be here

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

much longer than I have got time allotted.

So, you need to look at this and make a decision.

Now, the idea that this 1080 -- 1-082980 number somehow connects to a raw material number that's on that Exhibit 60 chart that the plaintiffs' lawyers put together for Whittaker, Clark & Daniels. Well, first of all, that's a chart. Second of all, nobody came in and told you an RN number over here should match a different number over on an IMI Fabi document. That's argument, but it's not evidence.

So, did we sell some talc that got shipped to Procter & Gamble? Oh, absolutely. Mr. Roberts told you that in opening, and, in fact, there are a few pieces of paper in 70 or 71 that say that. So what?

Procter & Gamble made all kinds of makeup. It doesn't mean it got in COVERGIRL. It doesn't mean it got in something Ms. Plant used. There's argument that IMI Fabi was COVERGIRL's sole supplier. There's no evidence of that.

What Dr. Haber was asked is to talk about that summary chart, Exhibit 60, and then he admitted, "Oh, yeah, I don't know anything about the manufacture of those products. I don't know about Procter & Gamble or what they did or how they made things."

So, there's no evidence to connect that dot. That's

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

what we're missing. Where is the Procter & Gamble evidence? There's no witnesses from Procter & Gamble. There's no documents. That means no causation.

So, what caused her mesothelioma?

Sorry, no exposure means no causation.

So, what cause her mesothelioma; right? That's the $64,000 question. I don't know.

But if you think that there was asbestos in talc that Ms. Plant used what's more probable? Dr. Brody told you that latency is from when you're first exposed and that the average latency is 30 to 60 years. And Dr. Ripley told you, exposing children to carcinogens or people early in their life is very dangerous. And what's all the testimony in this case say? Ms. Plant, whose maiden name was Johnson, what were they using from the time she was a baby, throughout a lot of her life? [Holding up container.]

If you think that there is asbestos contamination in talc, maybe -- maybe that's what caused it.

So, I'm not going to be able to get back up here, and so, as Mr. Thackston said, you know, it's hard to sit back there and not go, "Wait, wait." So, Ms. Dean is going to come up and she's going to talk to you. And when you go back in the jury room and you deliberate, after you hear her final remarks, think about what would Ms. O'Neill

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

say? What would she show us or ask us to consider if she got another chance to talk?

Thank you again for your service, and I look forward to hearing your verdict.

MS. DEAN: Do we want to take a break?

THE COURT: The foreperson tells me no.

MADAM FOREMAN: No break. Keep going.

THE COURT: She says keep on going.

MADAM FOREMAN: Yep.

THE COURT: Other jurors are nodding their heads. I'm going to keep on going.

Ms. Dean?

MS. DEAN: Thank you, Your Honor.

FINAL CLOSING ARGUMENT ON BEHALF OF PLAINTIFFS

MS. DEAN: [Holding up container.] Do you know what this doesn't have? Talc. Do you know what was pulled off the market in the U.S. and globally? Chinese talc that was sold and tested by our government, who found asbestos, that came from the exact same source to what they're selling today.

Two experts said it: It's not the region. It's the same mine. They don't contest it. They didn't bring an expert. They didn't lift a finger to prove wild claims. And to hold up a bottle that people literally won't sell anymore, that was recalled because it was found to be

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

dangerous, adulterated, and unreasonable and suggest that there's no evidence is the kind of company you're dealing with.

The boldness of their actions need to be taken into account.

MS. O'NEILL: Ooh, I'm going to object to that, Your Honor. That's an improper argument.

THE COURT: Overruled. Overruled.

MS. DEAN: What is likely?

"I'm an incredible company. I mean, I have done more than everybody. I'm selling a product no one will sell anymore, but I flew to China personally. I've done care vetting. I do it recently -- not just recently but always. Every test. I vet. I evaluate. I confirm every shipment," so that would have meant, what, two weeks ago? They're still selling it.

I quarantined. I tested it again. I did this fast. I have a light microscope. I use it every time. And there should be a big stack of data.

We own a scanning electron microscope. We use it every time. Where's the picture of that microscope? Where's the receipt from the test? Where is the testing?

How did you get to China? I mean, we're not talking about the 1970s. She's right about that. We're talking about now. We're talking about an environment

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

where, in the last four years, the world has been on fire because asbestos was in baby and body powder, and what they are asking you as a group to believe is that, without a single piece of paper, documents that would show that they shouldn't be on the hook exists, and they decided not to bring them.

And in trying to make you believe that, they ignore the fact that there was powerful, undisputed evidence about asbestos in the exact source mine that they used over and over and over again.

This isn't helping me. Ah-ha.

We're not talking about all American barbecue being the same. We're not talking about a 90,000-square foot region where lots of people live. We're talking about the specific talc mine that is the identical talc mine that was used by Chanel, that was used by Avon, that was used by Johnson & Johnson, which was established not only by Dr. Haber but by Dr. Longo, and no one disputes it.

And we have pictures of asbestos in a powder product they're selling today from our federal government, not someone that has a dog in the fight.

They have tested product after product and product, and you heard from our expert, each one of these are Montana or Chinese talc, over and over again finding asbestos.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

We identified for you over 100 tests of Chinese talc that find asbestos. We identified testing from other companies. And their point was, "That's other people. They can't connect the dots."

Think about how dangerous their behavior is. Their own expert and our expert say it is not the plastic bottle that matters. It's not whether you put it in pink for the Johnson & Johnson or white for Shower-to-Shower; it's whether it's the same source mine. No one disagrees with that.

Then they tried to suggest, through the lawyers, the testing is old. And we got their person on the stand where she told me it was her person who told you guys just now, maybe not, Mr. Segrave, and said, "Wait a second. Are you saying, in a geological deposit, we shouldn't look at old timing?" And he said was like, "That's not what I'm saying at all."

If the testing in old time testing -- if the older testing was using different methods, you have to take that into account, but geological deposits don't change.

So here's their "Get out of jail free" card: "We have no idea where our talc goes. We refuse to look. We're not going to look, we're not going to look."

Two weeks ago, we showed them they were forced to look for COVERGIRL. And so, if somebody can't connect it

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

to a product because they refuse to tell us and look, they're going to claim through lawyers, not actual experts because they didn't bring any, that we can't connect the dots. No human, no scientist accepts that, and they want it because it's a "get out of jail free" card. That's not how it works. You sell this product. You sell it today. You sell it all over the place, and we have 100 tests in evidence. We brought experts from all sorts of fields to say, "This is not acceptable." You don't get to talk about barbecue and wave it all away.

Then they show you a warning that says nothing about asbestos. Come on.

We're not asking whether you warn. I have heard commercials where people talk fast about everything. A warning is supposed to mean something. It's supposed to let people know about what decisions they're going to make about their children and their health. It's not a joke.

And then she talks about the talc going to New Jersey. Yes, the South Plainsfield plant was in New Jersey that sold throughout the country. We connected the dots that the two codes used for every COVERGIRL pressed powder, and every COVERGIRL loose powder first came from WCD. The code continued when it went to them and have thousands -- hundreds of thousands of pounds of sales. And they won't own anything. Not anything.

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Then we have WCD. Our experts changed their tune. Don't believe them.

And you know what? Experts particularly make tons of money and work with the same people over and over again. You should have questions about that. That's fair. I think that's what Dr. Haber unique, the only expert here that literally now and for decades has worked about 50/50.

They're saying Dr. Taylor Ripley changed his tune. Not only is the idea that, first, he got hired by both sides somehow doesn't implicate him as a bias person but someone who is willing to come for anybody, but he stopped doing a medical procedure and had it published in the peer-reviewed literature and stopped using talc before he met any of us. He started teaching students, before he met any of us, that makeup, specific with talc, harms people.

They want you to believe that everyone is somehow, for motives unknown, is lying about something where I have shown you dozens of papers talking about the concern.

Doubt is their product. They will not engage in substance.

Why do we look at the '70s and '80s? Because they hire people that tell you about animal tests from the '70s. They're telling you about talc studies from the

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

'70s. They put in their PowerPoint a 1986 worst-case scenario document that they said was from our federal government but was in a FOIA request that relied on the representations of the '70s. They desperately want you to look at the conclusions while ignoring data and ignoring their conduct and suggesting we're conspiracy theorists. What won't they do?

I started my presentation almost from the get-go saying what are the products and what are the time of sales, with 38 slides talking about the evidence of WCD, giving you the PowerPoint numbers, identifying with the words "frequency," "regularly," "proximity," the name of the product, the talc name, and the source. And he just starts as if we all weren't in the same room and said I ignored it because it's not on the back of a poster board. Reality means nothing.

And then he has lawyer-made concoctions that he couldn't even get Dr. Feingold to embrace. Color would be in your nose if it was in makeup? We identified seven studies that showed fiber release before .1 to 4 fibers per cc, identified them by name so, if they wanted to ask an intelligent question, they could, all about cosmetic talc. No human would come in with this nonsense.

Talcosis? He started on that in opening. Our expert says that makes no sense. You can have asbestos

ELECTRONICALLY FILED - 2024-Jul-29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

disease without talcosis. That's the vast majority of the cases. No one will support them except Dr. Feingold, and when I question his foundation -- because he didn't identify it in his 300-page report -- they said never mind. Never mind. Lawyer-made theory.

Then he comes up and says, Pfizer was counting cotton. The document says it was tremolite and chrysotile, and we have the lab reports. And their expert says that's not true. Because they've just got to get one of you to believe the nonsense. Doubt is their product.

Please look at Exhibit 74 because it implicates both WCD's lawyer and their main expert, who says chrysotile, 95 percent of the asbestos used that killed people, is okay.

Two plants: One had chrysotile. One had crocidolite. One open for half the time with less women. One had a mechanized process. One, they were doing it with their hands. Both of them in a small group of people, not thousands, died of mesothelioma, and the author says this proves both are dangerous.

But Feingold, who absolutely publishes nothing, has his own take, and the lawyer comes and tells you there are no mesos. They found ovarian cancer, lung cancer, mesothelioma, and said all of them are significant. That's their proof, and you get to read what was actually

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

available in the public literature when she was using talc.

In the last four years, we have heard evidence that literally millions of documents have come out. Hundreds of case reports. We are the ones that obtained those Pfizer tests on Montana, and I'm insanely proud of that. Organizing this is not easy. The weight of what we are fighting is not easy.

If you believe that we are trying to sell a conspiracy theory, if you believe that Dr. Ripley is part of it, send us home quickly and loudly. I am confident that, in another year or two, this will be cleaner. I am. I am confident that there is better organization, but the number of things that they cannot account for, the number of decisions that they have made that they don't, in an hour and 40 minutes, even address I think is more powerful than anything else.

Please stop them. Thank you.

THE COURT: Ladies and gentlemen of the jury, we now want to give you the verdict forms and send you to begin deliberations. So, let me step down here in a moment where you can see me a little bit better and talk to you about what we're going to give you.

Let me first tell you that the verdict form I'm going to cover with you briefly, under the Constitution of

EXHIBIT H

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STRAIGHT BILL OF LADING—SHORT FORM—ORIGINAL—NOT NEGOTIABLE

RECEIVED, subject to the classifications and tariffs, in effect on the date of issue of this Original Bill of Lading.
the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as indicated below, which said carrier (the word carrier being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place at said destination, if on its route, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the terms and conditions of the Uniform Domestic Straight Bill of Lading set forth (1) in Official, Southern, Western and Illinois Freight Classifications in effect on the date hereof, if this is a rail or rail-water shipment, or (2) in the applicable motor carrier classification or tariff if this is a motor carrier shipment.

Shipper hereby certifies that he is familiar with all the terms and conditions of the said bill of lading, including those on the back thereof, set forth in the classification or tariff which governs the transportation of this shipment, and the said terms and conditions are hereby agreed to by the shipper and accepted for himself and his assigns.

From [redacted] **IMIFABI (DIANA) LLC** DESIGNATE WITH AN (X) DATE 16-Jul-2004

At RT#3 & OLD HARRISVILLE RD. BY TRUCK ☐ RAIL ☐ Shipper's No. B/L24-229

NATURAL BRIDGE, NY 13665 Agent's No. 3380

Consigned to Cosmetic Specialties, Inc. C/O Lestician Warehouse (Mail or street address of consignee—For purposes of notification only.)

Destination 500 Breunig Ave. Trenton State of NJ 08638 County of

Route Freight Bill To IMIFABI (DIANA) ** Call For Dock Appt. 609-695-1122 **

Delivering Carrier C. H. Robinson 7/21/04 Vehicle or Car Initial Trailer No. #203

NO. PACKAGES	DESCRIPTION OF ARTICLES, SPECIAL MARKS AND EXCEPTIONS	*WEIGHT (SUBJECT TO CORR.)	CLASS OR RATE	CHECK COLUMN
400	141 Talc BC 50# Ea. 10 pallets with 40 bags per pallet.	10 Tons	50	
	Lot#24U14 Revlon Code ARBIT/098061			
480	141 Talc BC 50# Ea. 12 pallets with 40 bags per pallet.	12 Tons	50	
	Lot#24U14			
TOTAL PIECES 880	Seal # 540172 SEAL MUST NOT BE BROKEN.			

Subject to Section 7 of conditions of applicable bill of lading, if this shipment is to be delivered to the consignee without recourse on the consignor, the consignor shall sign the following statement:
The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

[redacted]

Per (Signature of Consignor)

If charges are to be prepaid, write or stamp here "To be Prepaid."

Received $ to apply in prepayment of the charges on the property described hereon.

Agent or Cashier.

Per (The signature here acknowledges only the amount prepaid.)

Charges Advanced:

$

†The fibre boxes used for this shipment conform to the specifications set forth in the box maker's certificate thereon, and all other requirements of Rule 41, of the Consolidated Freight Classification.

*This is to certify that the above articles are properly described by name and are packed and marked and are in proper condition for transportation according to regulations by the Interstate Commerce Commission.
†If the shipment moves between two ports by a carrier by water, the law requires that the bill of lading shall state whether it is "carrier's or shipper's weight."
†Shipper's imprints in lieu of stamp; not a part of Bill of Lading approved by the Interstate Commerce Commission.
NOTE—Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property.
The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding

C. O. D. SHIPMENT

C. O. D. Amt.

Collection Fee

Total Charges

THIS SHIPMENT IS CORRECTLY DESCRIBED.

CORRECT WEIGHT IS 44,000 ~~22,000~~ LBS.

[redacted] Shipper

Per

[redacted]

Shipper Per Michael Brown Agent, Per -RHK 7-21-04

Permanent post office address of shipper

IMI FABI - PLANT - 000834

PO BOX 398

ELECTRONICALLY FILED - 2024 Jul 29 01:31 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001

R. p. 2886

THIS MEMORANDUM

is an acknowledgment that a bill of lading has been issued and is not the Original Bill of Lading, nor a copy or duplicate, covering the property named herein, and is intended solely for filing or record.

RECEIVED, subject to the classifications and tariffs, in effect on the date of issue of this Original Bill of Lading.
the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as indicated below, which said carrier (the word carrier being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place at said destination, if on its route, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the terms and conditions of the Uniform Domestic Straight Bill of Lading set forth (1) in Official, Southern, Western and Illinois Freight Classifications in effect on the date hereof, if this is a rail or rail-water shipment, or (2) in the applicable motor carrier classification or tariff if this is a motor carrier shipment.

Shipper hereby certifies that he is familiar with all the terms and conditions of the said bill of lading, including those on the back thereof, set forth in the classification or tariff which governs the transportation of this shipment, and the said terms and conditions are hereby agreed to by the shipper and accepted for himself and his assigns.

Bill

From [redacted]. IMIFABI (DIANA) LLC

DESIGNATE WITH AN (X) BY TRUCK ☐ RAIL ☐

DATE 16-Jul-2004

At RT#3 & OLD HARRISVILLE RD.
NATURAL BRIDGE, NY 13665

Shipper's No. B/L24-229

Agent's No. 3380

(Mail or street address of consignee—For purposes of notification only.)

Consigned to Cosmetic Specialties, Inc. C/O Lestician Warehouse

Destination 500 Breunig Ave. Trenton **State of** NJ 08638 **County of**

Route Freight Bill To IMIFABI (DIANA) ** Call For Dock Appt. 609-695-1122 **

Delivering Carrier C. H. Robinson 7/21/04 **Vehicle or Car Initial** Trailer **No.** #203

NO. PACKAGES	DESCRIPTION OF ARTICLES, SPECIAL MARKS AND EXCEPTIONS	WEIGHT (SUBJECT TO CORR.)	CLASS OR RATE	CHECK COLUMN
400	141 Talc BC 50# Ea. 10 pallets with 40 bags per pallet.	10 Tons	50	
	Lot#24U14 Revlon Code ARBIT/098061			
480	141 Talc BC 50# Ea. 12 pallets with 40 bags per pallet.	12 Tons	50	
	Lot#24U14			
TOTAL PIECES 880	Seal # 640172 SEAL MUST NOT BE BROKEN.			

Subject to Section 7 of conditions of applicable bill of lading, if this shipment is to be delivered to the consignee without recourse on the consignor, the consignor shall sign the following statement:
The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

Per [redacted]
(Signature of Consignor)

If charges are to be prepaid, write or stamp here "To be Prepaid."

Received $
to apply in prepayment of the charges on the property described here.

Agent or Cashier.

Per
(The signature here acknowledges only the amount prepaid.)

Charges Advanced:
$

C. O. D. SHIPMENT
C. O. D. Amt.
Collection Fee
Total Charges

†The fibre boxes used for this shipment conform to the specifications set forth in the box maker's certificate thereon, and all other requirements of Rule 41, of the Consolidated Freight Classification.

†This is to certify that the above articles are properly described by name and are packed and marked and are in proper condition for transportation according to regulations by the Interstate Commerce Commission.
†If the shipment moves between two ports by a carrier by water, the law requires that the bill of lading shall state whether it is "carrier's or shipper's weight."
†Shipper's imprints in lieu of stamp; not a part of Bill of Lading approved by the Interstate Commerce Commission.
NOTE—Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property.
The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding

THIS SHIPMENT IS CORRECTLY DESCRIBED.

CORRECT WEIGHT IS 44,000 ~~40,000~~ LBS.

[redacted]
Per Shipper

[redacted].

Shipper Per Michael Boom

Agent, Per RHK 7-21-04

Permanent post office address of shipper

PO BOX 398

IMI FABI - PLANT - 000835

4

ELECTRONICALLY FILED - 2024 Jul 29 1:51 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

COSMETIC SPECIALTIES, INC.

103 Greenleigh Court
Merchantville, NJ 08109

PURCHASE ORDER

DATE	P.O. NO.
7/6/2004	3380

Vendor
IMIFABI (DIANA) LLC 2ND & MARSHALL STREET BENWOOD, WV 26031 ATTN: PATTI TACOSIK CC: NY PLANT

SHIP TO
COSMETIC SPECIALTIES, INC. C/O LESTICIAN WAREHOUSE 500 BREUNIG AVE. TRENTON, NJ 08638

DUE DATE	SHIP VIA	FOB
7/23/2004	C.H. ROBINSON	DIANA, NY

ITEM	DESCRIPTION	QTY	RATE	AMOUNT
0000141R	141 B.C. TALC - 50 LB. BAGS FOR REVLON CODE BAGS: ARBIT / 098061 PUT 40 BAGS ON A PALLET PLACARD: FOR REVLON	20,000	0.246	4,920.00
0000141	141 B.C. TALC - 50 LB. BAGS	24,000	0.319	7,656.00
0003	SHIPPING CHARGES - PREPAID	1	574.75	574.75
	FAX CERTIFICATES OF ANALYSIS TO CSI 856-663-7322			
	PLEASE HAVE TRUCKER CALL LESTICIAN WAREHOUSE FOR APPT. 609-695-1122.			
	NY PLANT: PLEASE SIGN BELOW AND CONFIRM VIA FAX: ACCEPTED BY: Michael Brown As long as results are back			

PREPAY AND ADD FREIGHT.

Total $13,150.75

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

IMIFABI (DIANA) LLC
PO Box 398
Natural Bridge, NY 13665

Cosmetic Specialties, Inc.
C/O Lestician Warehouse
500 Breunig Ave.
Trenton, NJ 08638

16-Jul-2004

Dear Sir/Madam:

We certify that the following Products will meet specifications on the attached Data Sheets.
Shipped on July 21 2004 against your order no. 3380.
Truck Seal # 540172

Products No.	Lot No.	Wt. Bags	No. Bags	
141	24U14	50#	400	Revlon
141	24U14	50#	480	

Thank You for this opportunity to be of service.

Regards,
IMIFABI (DIANA)

Michael Brown
Plant Manager

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

EXHIBIT I

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
)
) FOR THE FIFTH JUDICIAL
COUNTY OF RICHLAND) CIRCUIT
)
MICHAEL L. PERRY and) C/A NO. 2023-CP-40-04072
LONNIE L. LONG,)
)
Plaintiffs,)
)
V.)
)
AMERICAN INTERNATIONAL) In Re:
INDUSTRIES, et al.) Asbestos Personal Injury
) Litigation Coordinated
Defendants.) Docket

****

ORAL VIDEOCONFERENCE 30(b)(6) DEPOSITION OF
MARY ANN ALFIERI
DESIGNATED AS
ESTÉE LAUDER INC., ESTÉE LAUDER INTERNATIONAL INC.,
AND THE ESTÉE LAUDER COMPANIES, INC.
THURSDAY, MAY 9, 2024
VOLUME 1 of 1
(REPORTED REMOTELY)

****

ORAL VIDEOCONFERENCE 30(b)(6) DEPOSITION OF MARY ANN ALFIERI DESIGNATED AS ESTÉE LAUDER INC., ESTÉE LAUDER INTERNATIONAL INC., AND THE ESTÉE LAUDER COMPANIES, INC., located in New York, New York, produced as a witness at the instance of the PLAINTIFFS, and remotely duly sworn by agreement of all counsel, was taken in the above-styled and

numbered cause on MAY 9, 2024, from 11:04 A.M. to 3:07 P.M., EASTERN TIME, reported stenographically before PENNY L. PABITZKY, RPR, with some participants appearing remotely or telephonically from separate locations and pursuant to the South Carolina Rules of Civil Procedure and the provisions stated on the record or attached hereto.

CERTIFIED STENOGRAPHER'S NOTE: Please note that due to the quality of a Zoom-type videoconference and the transmission of data and overspeaking, audio distortion may occur which may disrupt the process of preparing a verbatim videoconference transcript.

Quotation marks are used for clarity and do not necessarily reflect a direct quote.

Please be advised that an UNCERTIFIED ROUGH DRAFT version of this transcript exists. If you are in possession of said rough draft, please replace it immediately with this CERTIFIED FINAL TRANSCRIPT.

Job Number 309352

APPEARANCES
ALL PARTIES APPEARED IN PERSON OR
VIA VIDEOCONFERENCE OR TELECONFERENCE

FOR THE PLAINTIFFS:
Jordan L. Bollinger, Esquire
DEAN OMAR BRANHAM SHIRLEY, LLP
302 N. Market Street
Third Floor
Dallas, Texas 75202
214-722-5990
jbollinger@dobslegal.com

FOR THE DEFENDANTS CALVIN KLEIN INC.; COTY INC.; THE ESTÉE LAUDER COMPANIES, INC.; ESTÉE LAUDER, INC.; AND ESTÉE LAUDER INTERNATIONAL INC.:
Jase Glenn, Esquire
COSMICH SIMMONS & BROWN, PLLC
2711 Middleburg Drive
Suite 216
Columbia, South Carolina 29204
601-202-0175
jase.glenn@cs-law.com

FOR THE DEFENDANTS BRISTOL MYERS SQUIBB COMPANY; IDELLE LABS, LTD.; THE PROCTER & GAMBLE COMPANY; AND SHULTON, INC.:
Robert O. Meriwether, Esquire
COSMICH SIMMONS & BROWN, PLLC
2711 Middleburg Drive
Suite 216
Columbia, South Carolina 29204
601-202-0175
robert.meriwether@cs-law.com

APPEARANCES CONTINUED
ALL PARTIES APPEARED IN PERSON OR
VIA VIDEOCONFERENCE OR TELECONFERENCE

FOR THE DEFENDANTS CHARLES B. CHRYSTAL CO. INC.; COLOR TECHNIQUES, INC.; L'ORÉAL PRODUCTS, USA, INC.; L'ORÉAL, USA, INC.; AND RALPH LAUREN CORPORATION:
Alissa L. Wilson, Esquire
GORDON REES SCULLY MANSUKHANI
677 King Street
Suite 450
Charleston, South Carolina 29403
843-714-2519
alwilson@grsm.com

FOR DEFENDANT UNION CARBIDE CORPORATION:
W. David Conner, Esquire
HAYNSWORTH SINKLER BOYD, P.A.
One North Main
Second Floor
Greenville, South Carolina 29601
864-240-3200
dconner@hsblawfirm.com

FOR THE DEFENDANT WALMART INC.:
Randi Lynn S. Roberts, Esquire
LEWIS BLAIN ROBERTS & BOYD, LLC
3700 Forest Drive
Suite 400
Columbia, South Carolina 29204
803-790-8838
rlroberts@lbrblaw.com

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 53

A. We wouldn't necessarily know that scenario.
Q. Okay. I think I understand what you're saying.
I'm going to -- it appears on this document there is the heading titled "Application."
Do you see that?
A. Yes.
Q. This document says "The Suzorite WCD family of products are high purity talc produced expressly for the cosmetic and pharmaceutical industries. They are made from specially selected ores that meet all regulatory requirements, and these products find wide use in cosmetic body powder and pharmaceutical applications."
Do you see that?
A. Yes, I do.
Q. The next paragraph -- I'm sorry. The third paragraph under that heading says "WCD 141 is an ultra-fine particle size talc which is exceptionally suited for a variety of applications, including cosmetic pressed powders, creams and lotions, antiperspirant sticks, and powdered aerosols."
Is that what the document says?

Page 54

A. Yes.
Q. This is not a typical document that you're used to seeing when it relates to different talc grades, correct?
A. Can you clarify that? Like when --
Q. I think -- so for example, if Suzorite was buying -- or I'm sorry. Strike that.
If Estée Lauder was buying Supra talc, would this be a document that you would see in the -- in your search for documents relating to Suzorite --
(Overlapping speakers.)
A. So you mean -- you cut out a little bit. You mean like the Supra H, the Supra A talcs from the manufacturer?
BY MS. BOLLINGER:
Q. Yes.
A. So this document is typical. We would not -- there's no real -- there's no real data here that talks about a specific lot. So this is something that you would look at when you're thinking of bringing in something. I don't know why this was attached to the e-mail, but since it was the page that has particle size distribution, I don't know why quality was sending this over for

Page 55

somebody to take a look at. Or it could just be simply this came along with the C of A. And anytime quality would get a document, they would send it over to R&D to put into the RDA system if they thought it was something we didn't have.
So I don't know why this was done that way, but I would not necessarily have a typical document like this for every material that we would purchase. More importantly, I would have a true vendor spec and a true certificate of analysis.
Q. If the manufacturer was telling you that their talc is suitable for use in pressed powders, is that something that you would take into account as to whether or not you would use a talc like 141?
A. So what they wrote there is nice, because again, they're saying this is what you could use it for. Our chemists would have particle size analysis specifically for the lot that they were going to start to develop a formula with. And also we would change the talc according to how something might be pressed.
If there's -- if there's pearls in it -- say, for example, in an eyeshadow -- you

Page 56

would use a different either particle size or the coding in order to surround the talc to make sure that it presses well. So what they're giving here is very broad. It's like saying, you know, you could use it for all cosmetic purposes is basically -- it's nice to have on a general brochure or typical thing, but it's not really what a formulation chemist would use.
They would want to be one level deeper than this. Show me actual, you know, testing results or certified results for the lot you're giving me to use.
Q. Okay. I understand, I think. If a supplier didn't know what kind of talc Estée Lauder was -- needed for their final product, would that be something that you'd want to know?
A. I'm sorry. Would what be something we would want to know?
Q. That the supplier was unaware of how its talc was used in applications.
A. Many of the suppliers do not know the application that we're using their particular raw material in. It's not related just to talc. They -- so a company like Estée Lauder makes many products. And if I'm digressing, you can just

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 57

tell me to end. But this might clarify something. So we actually hire scientists and we hire them for their knowledge to come up with new and innovative -- that's kind of -- and this is my own personal opinion -- separating mass to prestige cosmetics.

They're not going -- a chemist formulating in an Estée Lauder laboratory -- we'll just stick with Estée Lauder brand. They're not going to need a vendor to tell us you can use it in every type of personal care. They're going to look to the chemistry of it and the particle size and its block density and its feel and its slick, and they're going to go back and say, "Mr. Vendor, this particular material that you're sending to me is not what I'm looking for."

Yes, it meets the quality of cosmetic grade, but the cosmetic grade goes more to how it's processed; the whiteness, the specification. If it says it meets all requirements for cosmetic use, that means it's according to J41. If it has a USP designation in the trade name, that means it follows the USP testing. That's what they're looking for.

This is -- this is very nice to have,

Page 58

but this is not information that a chemist would necessarily use, that I've seen in the 35 years I've been at Estée Lauder. This is like something that somebody would show you when they're saying, "Hey, this is part of our portfolio. Let me show you some literature on it." Because it's typical; it's not exact. And if you're a chemist, you have to formulate with exact.

Does that make sense?

Q. Yeah, it does. What -- would you expect a supplier to be truthful with Estée Lauder if they knew -- if they were making representations like the document we're looking at?

A. Absolutely.

Q. Because if they weren't truthful, that's not a supplier that Estée Lauder would continue to use, right?

A. We would not use them. That's also why we have a 27-page coding packet that involves -- if you put together all the people in the different groups that I talked about, you're talking hundreds of people. And my group alone that just does the analytical, that's looking at raw materials, there might be 50 scientists and then another 10 support people. So we expect what

Page 59

the vendor is telling us is truthful.

Q. Okay. And at least from this document, Suzorite is representing that Talc 141 is used in cosmetic pressed powders; correct?

A. Yes. It can be used. What I think is also important, they're also saying in there, is that it is used in pharmaceuticals. But I don't know if they're alluding that it's also USP grade. It's a general --

Q. It almost seems to me like the document that we're looking at is, like, an advertisement, right?

A. Correct.

Q. Basically to tell companies like Estée Lauder, "Hey, you should use Suzorite WCD 141 because it's used in things that you make, like cosmetic pressed powders," right?

A. Correct.

Q. I didn't mean to take that down. All right. The next page for that document, Bates Number 983.

This is a certificate of analysis, correct?

A. Yes.

Q. This is information, like we've already

Page 60

discussed, that would have been provided to Estée Lauder when it received shipments of Talc 141 as it says here, correct?

A. Yes.

Q. And, again, this is signed by Mr. Michael Brown as the plant manager, right?

A. Yes.

MS. BOLLINGER: Sorry. I'm going to show you another document I'm going to attach as Exhibit 8.

(Marked Exhibit Number 8.)

BY MS. BOLLINGER:

Q. Do you see my screen okay?

A. I do.

Q. All right. This appears to be a letter from Cosmetic Specialties, dated July 31st, 2002, correct?

A. Yes.

Q. And the Bates number for this document is PERRY_EL_746 through PERRY_EL_747.

For the first page, can you tell me what we're looking at?

A. Can you blow it up a little bit?

Q. Absolutely.

A. This is an e-mail coming from CSI,

EXHIBIT J

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND)	FOR THE FIFTH JUDICIAL CIRCUIT
SARAH J. PLANT and PARKER PLANT,)	C/A NO. 2022-CP-40-1265
Plaintiff,)	In Re: Asbestos Personal Injury Litigation
v.)	Coordinated Docket
AVON PRODUCTS, INC.,et al.)	
Defendants.)	

VOLUME I OF III

Video/videoconference Deposition of:

SARAH J. PLANT

Taken on behalf of the Plaintiffs
August 23, 2022

Commencing at 1:18 p.m.

Reported by: MELISSA M. SMITH, RPR, LCR, CCR

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 38

I used eyeliner, I used bronzer. I used a lot more mascara. I still used the CoverGirl foundation powders and blushes.
Q. What years were you in high school?
A. 2001 to 2005.
Q. How often would you wear makeup in high school?
A. Every day.
Q. And when I say "makeup," I mean how often would you use powders in high school?
A. Every day.
Q. How long would it take you to do your makeup in high school?
A. Around five, five minutes or so.
Q. Of that time, how much time did you spend using the powders?
A. Every -- well, except for the mascara and eyeliner the whole time.
Q. Would you do touchups to your makeup throughout the whole day?
A. I would after school if I was going somewhere.
Q. And what do you mean by that?
A. If I was going to church on Wednesday nights, if there was a football game on Friday or

Page 39

I had -- we were going out to dinner with friends or to a movie, if we're going to dinner as a family, if I had Highlanderette concerts.
Q. What kind of touchups would you be doing?
A. Powder, blush, and eyeshadow. All of it. I basically touched up everything again.
Q. Did you work in high school?
A. I did. Not during the school year.
Q. We discussed that earlier with the jobs that you did. Would you wear powdered makeup to those jobs?
A. Yes.
Q. And when you were applying your makeup in high school, where would you be doing it?
A. My car.
Q. Would that have been messy?
A. Yes.
Q. Would it have been dusty?
A. Yes. My steering wheel took a beating.
Q. So you would be doing your makeup in the rearview mirror or the visor mirror?
A. Yes. Both.
Q. Did you have a makeup bag?
A. I did.
Q. Was that messy?

Page 40

A. Yes.
Q. Was it dusty?
A. Yes.
Q. Moving on to college, did you change anything up in your makeup routine when you went to college?
A. I added more products gradually.
Q. What kind of products did you add?
A. I -- my roommate Hillary loved Clinique makeup, and so I started using more Clinique makeup.
And then I also started using more eyeshadows like Almay and L'Oréal. I would get those for Christmas in my stocking.
I used -- at the end of college, I used Mary Kay makeup again.
Q. How often would you wear makeup?
A. Every day.
Q. So every day you had -- you would be wearing makeup powders?
A. Yes.
Q. Would you apply it in the same way as you did in high school?
A. Yes.
Q. And so that process would have been dusty?

Page 41

A. Yes.
Q. Did you use the applicators in college?
A. Yes.
Q. I'm sorry. The applicators that would come with the products, would you use those?
A. Yes. Mary Kay. And I also used Bare Minerals for a short time.
For Mary Kay and Bare Minerals, I would use separate brushes. But for my Maybelline, my CoverGirl, my Almay and L'Oréal and different, I'm going to call them, drugstore ones, I would use whatever came within the compact.
Q. During your college years where did you live?
A. I lived in Provo, Utah, freshman year in a dorm. And then I moved from that dorm to apartments the next year.
Q. You said apartments. Did you live in two different apartments?
A. Yes. Technically, I lived in three apartments within the same apartment complex, so yes.
Q. Were they all pretty much the same layout?
A. Yes, they were the same layout.
Q. How many bathrooms did you have in your

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 78

foundation, the blush, eyeshadow.
Q. Would you guys share makeup?
A. Sometimes, like, if I forgot my makeup or was out of something or vice versa.
We would sneak into mom's makeup bag in the car sometimes. Not like we weren't allowed to, but just if we needed something.
Q. We discussed earlier how you did your makeup in high school. Would you have applied your makeup in the same way we discussed?
A. Yes.
Q. And how is that again?
A. I would first put on -- well, in high school I started doing a little bit of liquid foundation under my eyes instead of concealer and -- around my cheeks. And then I put on the pressed foundation powder, and then I would apply blush or bronzer to my checks.
And then I would have done eyeshadow. I would do a highlighter-type light color on the top of my eye beneath the eyebrow and then a color of some kind, a medium color on the eyelid itself.
I would have used an eyeliner and then mascara. The eyeliners varied. Sometimes it was

Page 79

a pencil. Sometimes it was a liquid eyeliner. There was a phase where I liked white eyeliner.
Q. And with those powdered products you would have applied them the same way with both Maybelline and CoverGirl?
A. Yes. I do remember Maybelline being flakier.
Q. What do you mean by that?
A. It just came off easier out of the compact.
Q. And you were still using applicators in high school?
A. Uh-huh. Like, the ones that came in the compact.
Q. How would you use the applicators in the compacts?
A. I would -- I tried to keep my light color on one side of the applicator and then the dark color in the compact on the other side.
But when I would apply a color, I would brush across the top to make the powder come loose. And then I would put it on and then wipe away the excess and blow the container to try to keep it -- my containers from being too dirty and dusty.

Page 80

Q. And how would you have applied the Maybelline or CoverGirl foundation?
A. That would have been using whatever came in the compact as well. Sometimes it was a -- like a -- I don't know what you call it, a sponge of some kind or, like, a fabricky sponge on the CoverGirl one. And then eventually they turned into, like, more normal sponges.
But I would -- for both Maybelline and CoverGirl, I would brush the top of the foundation powder to get enough onto the sponge and then put it on my face, on my forehead, cheeks, around my nose, above my lip, and on my chin.
Q. When you were using Maybelline powder products, could you smell the makeup?
A. I don't remember. I remember smelling CoverGirl more.
Q. Okay. And how would you smell CoverGirl products?
A. Just -- I don't know how to explain like -- when I was using foundation powder specifically or the blush, it just got -- the blush in particular got really dusty. And then, the foundation powder, I was putting it around my

Page 81

nose and up and under. So I could just smell it. Whereas, Maybelline, I used their bronzer and eyeshadow more.
Q. And you don't associate a specific smell with them?
A. For some reason I don't associate a smell.
Q. Were they still dusty?
A. Yes.
Q. Do you believe you would have breathed Maybelline products in in high school?
A. Yes. When blowing off the compact in particular to clean up, because I was doing it in my car and then you would -- like, the dust from the different products would land on my steering wheel or my dash. So every once in a while, I'd have to clean, like use wipies or paper towels to clean my car.
Q. You referenced a couple of brands that you used in college for a powder makeup. I think I have Clinique, Bare Minerals, Mac, L'Oréal, Almay. Did you say Almay?
A. I said Almay. And Mac wasn't in college. That was after I graduated, but it was while I was living in Utah.
Q. Okay. Did you still use Mary Kay in

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 90

A. Just that it had eyeshadows and something called Mineral Veil, and it had black lids and clear bottoms.
Q. Did you ever buy Bare Minerals on your own?
A. I did not.
Q. Do you recall how often you would have worn Bare Minerals?
A. I didn't wear it as often because it required -- you would do it in a bathroom as opposed to in my car, and I most often did my makeup in my car.
Q. How long did that Bare Minerals gift set last you for?
A. I had it up until after I was diagnosed, and I threw it away. I mean, I didn't have all of it, but I had the -- a lot of the eyeshadows.
Q. What color eyeshadows did you have?
A. They were tans and pinks. That's mostly what I remember, different -- more neutral colors.
Q. Would the way you used Bare Minerals have been a dusty process?
A. Yes.
Q. Did you use L'Oréal products during

Page 91

college?
A. I used their eyeshadow some.
Q. What kind of eyeshadows did you use?
A. It was a pressed -- pressed compact powder. I remember it typically being a duo where there were two colors. Sometimes a quad. It was kind of in a vertical, rectangle shape with squares.
Q. Where did you buy them from?
A. Walgreens or Wal-Mart.
Q. Would that have been in Utah?
A. More likely Wal-Mart in Utah.
Q. Do you remember what Wal-Mart that was?
A. The one on -- it was on University Parkway as well in Provo, Utah.
Q. That was near your school?
A. Yeah. It was near the freeway, and the campus was 10 minutes or so past that freeway exit.
Q. Did you say you also shopped at Walgreens for L'Oréal products?
A. If I bought it on Christmas break. I don't remember going to Walgreens a lot in Utah, but if I got it at Christmas break.
Q. Okay. Would you go home for Christmas

Page 92

breaks?
A. Uh-huh.
Q. So would you have bought it at the Walgreens near your home in Tennessee?
A. Yes. They added a Walgreens location at that phase, and so it would have been -- I'm going to try to get the road names right, because instead of the front way it would have been the back way.
So there's one on the corner of what I believe is Dolly Parton Parkway and where 416 starts. At whatever point that location was added, instead of stopping at that one at that main intersection, I would have hit the Walgreens off of 416 instead.
Q. Do you remember when you started using L'Oréal eyeshadow -- strike that.
When did you start using L'Oréal eyeshadow in college?
A. I don't remember when. It was somewhere, 2006, 2007.
Q. How long did you buy L'Oréal eyeshadows for?
A. I bought it for myself a handful of times. Every year my mom for Christmas for our holiday

Page 93

stockings, we would always get our resupply of makeup even through college. And so she would always put in eyeshadows and a new mascara, a new foundation, a new -- the products that were our favorites.
And so, L'Oréal and Almay, I bought that for myself, but my mom also bought it for me each year.
Q. Okay. You said Almay. When did you start using Almay products?
A. Those kinds of coincided in a similar time frame.
Q. Were those powder products?
A. Powder eyeshadows, pressed powder eyeshadows.
Q. What did those look like?
A. The Almay ones?
Q. Uh-huh.
A. I remember them being in an arch shape, kind of similar to how someone's eyebrow would be, and they were in a trio.
Q. What kind of colors did you use?
A. I was always partial to light pinks, neutrals, and a little bit of purple, not a lot of purple.

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND)	FOR THE FIFTH JUDICIAL CIRCUIT
SARAH J. PLANT and)	C/A NO. 2022-CP-40-1265
PARKER PLANT,)	
)	
Plaintiff,)	In Re:
)	Asbestos Personal Injury
)	Litigation
v.)	Coordinated Docket
)	
AVON PRODUCTS, INC.,et)	
al.)	
)	
Defendants.)	

VOLUME II OF III

Video/videoconference Deposition of:

SARAH J. PLANT

Taken on behalf of the Plaintiffs
August 24, 2022

Commencing at 11:42 a.m.

Reported by: MELISSA M. SMITH, RPR, LCR, CCR

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Page 434

product that you ever recall purchasing?
A. That I recall purchasing.
Q. Okay. And then we talked -- go ahead.
A. I remember mascara a little bit, but I don't know if that was just borrowing, testing it, or -- but, I mean, the eyeshadow is what I remember.
Q. Okay. And so how long do you remember that Clinique eyeshadow lasting you?
A. It moved with me to South Carolina.
Q. Okay.
A. And I -- I mean, I used it up until I couldn't. I started using it less to conserve it, and it moved -- I still had the container when we moved to Tennessee for residency, for my husband's residency.
Q. That would have been 2017?
A. That's correct.
Q. Okay. So you still had it, but it was pretty much done at that point?
A. Yes.
Q. Okay. I'm going to look through my notes, Ms. Plant, but those are all the questions I have right now. Thank you so much for bearing with me. I really, really appreciate it. It was good

Page 435

to meet you.
A. Nice to meet you.
Q. And I wish you the best of luck.
A. Thank you.
MS. BOLLINGER: Are you feeling okay?
THE WITNESS: If I could stretch for five minutes, that would be nice before starting a new set of questions.
MS. BOLLINGER: Who else needed to ask questions today?
MR. PHILLIPS: I would much like to please, Jill [sic]. I've got also I've got the same constraint Jase has. I'm on a plane tomorrow, but I'll be faster than Jase after we go potty.
MS. BOLLINGER: We're off the record.
THE VIDEOGRAPHER: The time is 5:26. We're off the record.
(Short break.)
THE VIDEOGRAPHER: We're on the record. The time is 5:32.
EXAMINATION
QUESTIONS BY MR. PHILLIPS:
Q. Ms. Plant, my name is Mark Phillips. How are you? Tired?

Page 436

A. I'm tired.
Q. All right. I am too. Let's get it done.
Let me -- the products I'm interested -- the brands I'm interested in talking with you about are Maybelline, L'Oréal, and Lancôme or Lancôme. I'm not sure exactly how to pronounce it.
And I just want to go through -- I did actually get a rough transcript of your testimony from yesterday. I just wanted to recite a couple of things and -- just so we can agree that they're true, and then I'll be able to finish a lot faster.
I gather from your testimony yesterday the year that you recalled -- I'm specifically interested in eyeshadows from -- of all three of these products. And the year for Maybelline that you had recalled that you started using Maybelline was your sophomore year in high school. Does that sound right?
A. Yes. I don't know if it was freshman or sophomore year. I'm estimating sophomore year.
Q. I got -- yeah, that's the testimony you gave us yesterday.
A. Correct.

Page 437

Q. All right. And that would have been between '01 and '05, so would that be either '02 or '03 since high school was '01 through '05?
A. I'm going to go backward. So '04-'05, senior; '03-'04 junior; '02-'03. Yes.
Q. Yes. All right. And, as to L'Oréal, you had testified you weren't sure, but you thought that you started its eyeshadow in '06 or '07 while you are up at -- out at BYU. Does that sound right?
A. Yes, that's correct.
Q. Okay. And did it -- could it have been that it was in 2007? I don't know if you --
A. I don't know -- I don't know which of the years. I just know that I got L'Oréal in my Christmas stockings during college.
Q. Matter of fact, you mentioned the Christmas stocking. You said you had only purchased it a handful of times, but sometimes you got it in your stocking; is that --
A. I -- correct.
Q. Okay. And then if -- what year did you and Parker get engaged? Parker Plant, excuse me.
A. We got engaged in 2013.
Q. Y'all got married how much longer

EXHIBIT K

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
2/3/2000	5717

PAID 03/07/2000

Bill To	Ship To
L'OREAL USA ACCOUNTS PAYABLE 81 NEW ENGLAND AVE. PISCATAWAY, NJ 08854	COSMAIR, INCORPORATED Lancombe Division 60 New England Ave. Piscataway, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
89777	Net 30	RWG	2/3/2000	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
3,350	00001623	WCD 1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 67 X 50 LB. BAGS LOT # 18T15	0.405	1,356.75

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $1,356.75

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
4/28/2000	5932

PAID 06/13/2000

Bill To	Ship To
L'OREAL USA ACCOUNTS PAYABLE 81 NEW ENGLAND AVE. PISCATAWAY, NJ 08854	COSMAIR, INCORPORATED Lancombe Division 60 New England Ave. Piscataway, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
89777	Net 30	RWG	4/28/2000	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
5,000	00001623	WCD 1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 100 X 50 LB. BAGS LOT # 19G6	0.405	2,025.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $2,025.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
6/20/2000	6018

PAID 07/25/2000

Bill To	Ship To
L'OREAL USA ACCOUNTS PAYABLE 81 NEW ENGLAND AVE. PISCATAWAY, NJ 08854	COSMAIR, INCORPORATED Lancombe Division 60 New England Ave. Piscataway, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
89777	Net 30	RWG	6/20/2000	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
3,000	00001623	WCD 1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 60 X 50 LB. BAGS LOT # 19G6	0.405	1,215.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $1,215.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
6/30/2000	6105

PAID 08/01/2000

Bill To	Ship To
L'OREAL USA ACCOUNTS PAYABLE 81 NEW ENGLAND AVE. PISCATAWAY, NJ 08854	COSMAIR, INCORPORATED Lancombe Division 60 New England Ave. Piscataway, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
90436	Net 30	RWG	6/30/2000	D J & R	TRENTON, NJ	

Quantity	Item Code	Description	Price Each	Amount
2.750	00001626	WCD 1626 B.C. TALC - 50 LB. BAGS 55 X 50 LB. BAGS LOT # 20R24	0.54	1,485.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $1,485.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
6/30/2000	6104

PAID 08/01/2000

Bill To	Ship To
L'OREAL USA ACCOUNTS PAYABLE 81 NEW ENGLAND AVE. PISCATAWAY, NJ 08854	COSMAIR, INCORPORATED Lancombe Division 60 New England Ave. Piscataway, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
90707	Net 30	RWG	6/30/2000	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
5.000	00001623	WCD 1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 100 X 50 LB. BAGS LOT # 19G6	0.405	2,025.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $2,025.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
8/28/2000	6269

PAID 10/11/2000

Bill To	Ship To
L'OREAL USA ACCOUNTS PAYABLE 81 NEW ENGLAND AVE. PISCATAWAY, NJ 08854	L'OREAL USA 60 New England Avenue Piscataway, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
090707	Net 30	RWG	8/28/2000	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
10,000	00001623	WCD 1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 200 X 50 LB. BAGS LOT # 19G6	0.395	3,950.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $3,950.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
12/5/2000	6520

PAID 01/23/2001

Bill To	Ship To
L'OREAL USA ACCOUNTS PAYABLE 81 NEW ENGLAND AVE. PISCATAWAY, NJ 08854	L'OREAL USA 60 New England Avenue Piscataway, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
090707	Net 30	RWG	12/5/2000	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
7.500	00001623	WCD 1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 150 X 50 LB. BAGS LOT # 19G6	0.31347	2,351.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $2,351.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
1/15/2001	6616

PAID 02/27/2001

Bill To	Ship To
L'OREAL USA ACCOUNTS PAYABLE 81 NEW ENGLAND AVE. PISCATAWAY, NJ 08854	L'OREAL USA 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
90436	Net 30	RWG	1/15/2001	D J & R	TRENTON, NJ	

Quantity	Item Code	Description	Price Each	Amount
2,750	00001626	WCD 1626 B.C. TALC - 50 LB. BAGS 55 X 50 LB. BAGS LOT # 20Y31	0.575	1,581.25

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $1,581.25

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
1/15/2001	6615

PAID 02/27/2001

Bill To	Ship To
L'OREAL USA ACCOUNTS PAYABLE 81 NEW ENGLAND AVE. PISCATAWAY, NJ 08854	L'OREAL USA 60 New England Avenue Piscataway, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
090707	Net 30	RWG	1/15/2001	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
10.000	00001623	WCD 1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 200 X 50 LB. BAGS LOT # 20Z5	0.42	4,200.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $4,200.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
2/8/2001	6671

PAID 03/13/2001

Bill To	Ship To
L'OREAL USA ACCOUNTS PAYABLE 81 NEW ENGLAND AVE. PISCATAWAY, NJ 08854	L'OREAL USA 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091041	Net 30	RWG	2/8/2001	D J & R	TRENTON, NJ	

Quantity	Item Code	Description	Price Each	Amount
5,400	00001626	WCD 1626 B.C. TALC - 50 LB. BAGS 108 X 50 LB. BAGS LOT # 20Z22	0.575	3,105.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $3,105.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
2/26/2001	6752

PAID 04/04/2001

Bill To

L'OREAL USA PRODUCTS, INC.
ATTN: ACCOUNTS PAYABLE
81 NEW ENGLAND AVENUE
PISCATAWAY, NJ 08854

Ship To

L'OREAL USA PRODUCTS, INC.
COSMAIR WAREHOUSE B
60EW ENGLAND AVENUE
PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	2/26/2001	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
4,250	00001623	WCD 1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 85 X 50 LB. BAGS LOT # 19G6 21A18	0.43	1,827.50

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $1,827.50

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
4/30/2001	6909

PAID 06/05/2001

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60EW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	4/30/2001	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
8,750	00001623	WCD 1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 175 X 50 LB. BAGS LOT # 21A18 (138 BAGS) 21D13 (37 BAGS)	0.43	3,762.50

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $3,762.50

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
9/18/2001	7291

PAID

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60EW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	9/18/2001	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
950	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 19 X 50 LB. BAGS LOT # 21D13	0.52	494.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $494.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
9/28/2001	7292

PAID 12/27/2001

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	9/28/2001	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
1,550	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 31 X 50 LB. BAGS LOT # 21D13	0.52	806.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $806.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
11/20/2001	7455

PAID 01/16/2002

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	11/20/2001	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
5,400	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 108 X 50 LB. BAGS LOT # 21D13	0.43	2,322.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $2,322.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
1/10/2002	7522

PAID 02/12/2002

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	1/10/2002	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
1,850	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 37 X 50 LB. BAGS LOT # 21D13	0.52	962.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $962.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
2/7/2002	7568

PAID 03/12/2002

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	2/7/2002	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
1,100	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 22 X 50 LB. BAGS LOT # 21D13	0.52	572.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $572.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
2/20/2002	7652

PAID 03/26/2002

Bill To

L'OREAL USA PRODUCTS, INC.
ATTN: ACCOUNTS PAYABLE
81 NEW ENGLAND AVENUE
PISCATAWAY, NJ 08854

Ship To

L'OREAL USA PRODUCTS, INC.
COSMAIR WAREHOUSE B
60 NEW ENGLAND AVENUE
PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	2/20/2002	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
850	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 17 X 50 LB. BAGS LOT # 21D13	0.52	442.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $442.00

CSI - Perry - 000060

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
3/28/2002	7764

PAID 05/01/2002

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	3/28/2002	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
5,600	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 112 X 50 LB. BAGS LOT # 21D13	0.43	2,408.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $2,408.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
6/3/2002	7906

PAID 07/09/2002

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	6/3/2002	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
5,850	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 117 X 50 LB. BAGS LOT # 22Q22 (80 BAGS) 22R11 (37 BAGS)	0.43	2,515.50

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $2,515.50

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
6/19/2002	7997

PAID 07/23/2002

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	6/19/2002	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
4,300	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 86 X 50 LB. BAGS LOT # 22S22 (80 BAGS) 22R11 (6 BAGS)	0.43	1,849.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $1,849.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
8/26/2002	8140

PAID 10/03/2002

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	8/26/2002	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
6.500	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 130 X 50 LB. BAGS LOT # 22S22 (24 BAGS) 22Q22 (80 BAGS) 22U5 (26 BAGS)	0.43	2,795.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $2,795.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
9/25/2002	8226

PAID 11/04/2002

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	9/25/2002	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
4,400	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 88 X 50 LB. BAGS LOT # 22U5	0.43	1,892.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $1,892.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
10/30/2002	8302

PAID 12/10/2002

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	10/30/2002	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
4,250	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 85 X 50 LB. BAGS LOT # 22U5	0.43	1,827.50

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $1,827.50

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
12/9/2002	8395

PAID 01/10/2003

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	12/9/2002	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
5,700	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 114 X 50 LB. BAGS LOT # 22U5	0.43	2,451.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $2,451.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
1/13/2003	8472

PAID 02/19/2003

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	1/13/2003	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
8,200	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 164 X 50 LB. BAGS LOT # 22U5 (44 BAGS) 22X31 (120 BAGS)	0.43	3,526.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $3,526.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
2/25/2003	8620

PAID 03/31/2003

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	2/25/2003	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
7,250	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 145 X 50 LB. BAGS LOT # 22U5 (25 BAGS) 22X31 (120 BAGS)	0.45	3,262.50

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $3,262.50

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
3/11/2003	8657

PAID

Bill To

L'OREAL USA PRODUCTS, INC.
ATTN: ACCOUNTS PAYABLE
81 NEW ENGLAND AVENUE
PISCATAWAY, NJ 08854

Ship To

L'OREAL USA PRODUCTS, INC.
COSMAIR WAREHOUSE B
60 NEW ENGLAND AVENUE
PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	3/11/2003	MODESTI	DELIVERED	

Quantity	Item Code	Description	Price Each	Amount
6,000	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 120 X 50 LB. BAGS LOT # 23B25 **** THIS IS THE REPLACEMENT FOR THE REJECTED ORDER.	0.45	2,700.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $2,700.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
3/31/2003	8692

PAID 05/05/2003

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	3/31/2003	NEW CENTU...	DELIVERED	

Quantity	Item Code	Description	Price Each	Amount
10.800	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 216 X 50 LB. BAGS LOT # 23B25 (144 BAGS) 22X31 (72 BAGS)	0.45	4,860.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $4,860.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
4/10/2003	8734

PAID 05/12/2003

Bill To	Ship To
L'OREAL USA PRODUCTS, INC. ATTN: ACCOUNTS PAYABLE 81 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854	L'OREAL USA PRODUCTS, INC. COSMAIR WAREHOUSE B 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	4/10/2003	D J & R	Trenton, NJ	

Quantity	Item Code	Description	Price Each	Amount
9,000	00001623	1623 B.C. TALC - 50 LB. BAGS CODE 1129CA 180 X 50 LB. BAGS LOT # 23B29	0.45	4,050.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $4,050.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
6/19/2003	8948

PAID 08/04/2003

Bill To	Ship To
L'OREAL USA Accounts Payable 81 New England Ave. Piscataway, NJ 08854	L'OREAL USA 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
091040	Net 30	RWG	6/19/2003			

Quantity	Item Code	Description	Price Each	Amount
8	IRRAD	GAMMA IRRADIATION CHARGES TO IRRADIATE 8 PALLETS OF 1623 TALC @ STERIS. PRICE IS PER PALLET. (SEE ATTACHED CHARGES FROM STERIS) AS AGREED BY DEV DABAS.	150.00	1,200.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $1,200.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
8/18/2003	9064

PAID 09/22/2003

Bill To	Ship To
L'OREAL USA ACCOUNTS PAYABLE 81 NEW ENGLAND AVE. PISCATAWAY, NJ 08854	L'OREAL USA 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
92292	Net 30	RWG	8/18/2003	D J & R	WHIPPANY, NY	

Quantity	Item Code	Description	Price Each	Amount
10.000	00001623D	GAMMA IRRADIATED - 1623 B.C. TALC - 100 LB. DRUMS 100 X 100 LB. DRUMS LOT # 23E7D	0.66	6,600.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $6,600.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
1/12/2004	9422

PAID
02/17/2004

Bill To	Ship To
L'OREAL USA ACCOUNTS PAYABLE 81 NEW ENGLAND AVE. PISCATAWAY, NJ 08854	L'OREAL USA 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
092292	Net 30	RWG	1/12/2004	D J & R	WHIPPANY, NY	

Quantity	Item Code	Description	Price Each	Amount
10.000	00001623D	GAMMA IRRADIATED - 1623 B.C. TALC - 100 LB. DRUMS 100 X 100 LB. DRUMS LOT # 23G25D	0.66	6,600.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $6,600.00

Subject to Confidentiality Agreement between CSI and Dean Omar Branham Shirley LLP

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
5/3/2004	9759

PAID 06/21/2004

Bill To	Ship To
L'OREAL USA ACCOUNTS PAYABLE 81 NEW ENGLAND AVE. PISCATAWAY, NJ 08854	L'OREAL USA 60 NEW ENGLAND AVENUE PISCATAWAY, NJ 08854

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
092292	Net 30	RWG	5/3/2004	D J & R	WHIPPANY, NY	

Quantity	Item Code	Description	Price Each	Amount
10,000	00001623	GAMMA IRRADIATED - 1623 B.C. TALC - 50 LB. BAGS 200 X 50 LB. BAGS LOT # 24O28	0.61	6,100.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $6,100.00

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

EXHIBIT L

Subject to Confidentiality Agreement Between Dean Omar Branham Shirley LLP and CSI

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice#
1/18/2000	5681

PAID 03/15/2000

Bill To	Ship To
COSMAIR, INC. MAYBELLINE 11500 RAY WILSON DRIVE NORTH LITTLE ROCK, AR 72117-3392 ATTN: ACCOUNTS PAYABLE	MAYBELLINE, INC. C/O RED STAR EXPRESS 400 DELANCEY STREET NEWARK, NJ 07105

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
901979	Net 30	RWG	1/18/2000	RED STAR	TRENTON, NJ	

Quantity	Item Code	Description	Price Each	Amount
3,400	00001623	WCD 1623 B.C. TALC - 50 LB. BAGS 68 X 50 LB. BAGS LOT# 18T15	0.405	1,377.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $1,377.00

Subject to Confidentiality Agreement Between Dean Omar Branham Shirley LLP and CSI

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice#
2/1/2000	5682

PAID 03/15/2000

Bill To	Ship To
COSMAIR, INC. MAYBELLINE 11500 RAY WILSON DRIVE NORTH LITTLE ROCK, AR 72117-3392 ATTN: ACCOUNTS PAYABLE	MAYBELLINE, INC. C/O RED STAR EXPRESS 400 DELANCEY STREET NEWARK, NJ 07105

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
901797	Net 30	RWG	2/1/2000	RED STAR	TRENTON, NJ	

Quantity	Item Code	Description	Price Each	Amount
2,000	00001623	WCD 1623 B.C. TALC- 50 LB. BAGS 40 X 50 LB. BAGS LOT # 19G6	0.405	810.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $810.00

Subject to Confidentiality Agreement Between Dean Omar Branham Shirley LLP and CSI

Invoice

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

Date	Invoice #
4/12/2000	5897

PAID 05/16/2000

Bill To

COSMAIR, INC.
MAYBELLINE
11500 RAY WILSON DRIVE
NORTH LITTLE ROCK, AR 72117-3392
ATTN: ACCOUNTS PAYABLE

Ship To

MAYBELLINE, INC.
C/O RED STAR EXPRESS
400 DELANCEY STREET
NEWARK, NJ 07105

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
902161	Net 30	RWG	4/12/2000	RED STAR	TRENTON, NJ	

Quantity	Item Code	Description	Price Each	Amount
1,400	00001623	WCD 1623 B.C. TALC- 50 LB. BAGS 28 X 50 LB. BAGS LOT# 19G6	0.495	693.00

Please make checks payable to COSMETIC SPECIALTIES, INC.

Total $693.00

EXHIBIT M

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CR4001265

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
SARAH J. PLANT and PARKER PLANT,	)	**C/A NO. 2022-CP-40-1265**
Plaintiffs,	)	*In Re:* Asbestos Personal Injury Litigation Coordinated Docket
v.	)	
WHITTAKER CLARK & DANIELS AND IMI FABI et al.	)	
Defendants.	)	

RICHLAND COUNTY
FILED
2023 MAR -7 PM 3:32
JEANETTE W. WALDEN
C.C.P., G.S., & F.C.

VERDICT FORM

NEGLIGENCE

1. We, the jury, find that Defendant Whittaker, Clark & Daniels, Inc. was negligent and its negligence was a proximate cause of Plaintiff Sarah Plant's injuries:

   ✓ Yes

   _____ No

2. We, the jury, find that Defendant IMI Fabi (Diana), LLC, was negligent, and its negligence was a proximate cause of Plaintiff Sarah Plant's injuries:

   _____ Yes

   ✓ No

3. We, the jury, find that Defendant IMI Fabi, LLC, was negligent, and its negligence was a proximate cause of Plaintiff Sarah Plant's injuries:

   _____ Yes

   ✓ No

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STRICT LIABILITY

4. We, the jury, find that Defendant Whittaker, Clark & Daniels, Inc., is strictly liable for selling defective products that was a proximate cause of Plaintiff Sarah Plant's injuries:

✓ Yes

_____ No

5. We, the jury, find that Defendant IMI Fabi (Diana), LLC, is strictly liable for selling defective products that was a proximate cause of Plaintiff Sarah Plant's injuries:

_____ Yes

✓ No

6. We, the jury, find that Defendant IMI Fabi, LLC, is strictly liable for selling defective products that was a proximate cause of Plaintiff Sarah Plant's injuries:

_____ Yes

✓ No

IMPLIED WARRANTY

7. We, the jury, find that Defendant Whittaker, Clark & Daniels, Inc. breached an implied warranty in selling its products, and its breach was a proximate cause of Plaintiff Sarah Plant's injuries:

✓ Yes

_____ No

8. We, the jury, find that Defendant IMI Fabi (Diana), LLC, breached an implied warranty in selling its products, and its breach was a proximate cause of Plaintiff Sarah Plant's injuries:

_____ Yes

✓ No

9. We, the jury, find that Defendant IMI Fabi, LLC, breached an implied warranty in selling its products, and its breach was a proximate cause of Plaintiff Sarah Plant's injuries:

_____ Yes

✓ No

ELECTRONICALLY FILED - 2024 Jul 29 5:01 PM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

DAMAGES

10. If you answered "Yes" to any of Questions 1-9, please state the amount of actual damages that have been proven by the greater weight of the evidence:

$ ₱871,356 Sarah Plant's past Medical Expenses

$ ₱3,268,336 Sarah Plant's future Medical Expenses/out of pocket expenses

$ ₱20,000,000 Sarah Plant's other damages (past & future)

$ ₱5,000,000 Parker Plant's loss of consortium damages (past & future)

WILLFUL, WANTON OR RECKLESS CONDUCT

11. If you answered "Yes" to Questions 1, 2, or 3, please answer this question as to any Defendant for which you answered "Yes." We, the jury, find by clear and convincing evidence that the conduct of the following Defendants was willful, wanton, or reckless:

a. Whittaker, Clark & Daniels, Inc.

_____ Yes

_✓_ No

b. IMI Fabi (Diana), LLC

_____ Yes

_✓_ No

c. IMI Fabi, LLC

_____ Yes

_✓_ No

[redacted]

Foreperson

3-3-2023

Date

ELECTRONICALLY FILED - 2024 Nov 22 9:40 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4001265

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
		Civil Action No. 2022-CP-40-01265
SARAH J. PLANT and PARKER PLANT,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	NOTICE OF NOTICE OF APPEAL
	)	
AVON PRODUCTS, INC., et al.,	)	
	)	
Defendants.	)	
	)	

Pursuant to Rule 203(d)(1)(B), SCACR, Defendants IMI Fabi (Diana) LLC; IMI Fabi (USA) Inc.; and IMI Fabi, LLC respectfully file a copy of their Notice of Appeal, which was served on counsel for the Plaintiffs and filed in the Court of Appeals on November 21, 2024.

Respectfully submitted,

WOMBLE BOND DICKINSON (US) LLP

By: /s/ M. Todd Carroll
S.C. Bar No. 74000
todd.carroll@wbd-us.com
M. Elizabeth O'Neill
S.C. Bar No. 104013
elizabeth.oneill@wbd-us.com
Theodore F. Roberts
S.C. Bar No. 104986
ted.roberts@wbd-us.com
Other Email: WBD.SCAsbestos@wbd-us.com
1221 Main Street, Suite 1600
Columbia, SC 29201
(803) 454-6504

Attorneys for IMI Fabi (Diana) LLC; IMI Fabi (USA) Inc.; and IMI Fabi, LLC

November 22, 2024