

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Jean H. Toal, Circuit Court Judge

Appellate Case No. 2025-000065
Civil Action No. 2023-CP-40-04072

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SC Court of Appeals

Michael L. Perry and Lonnie Long,..... Respondents,

v.

American International Industries et al.

Of whom Johnson & Johnson; LLT Management, LLC
f/k/a LTL Management, LLC; Kenvue, Inc.; and Johnson
& Johnson Holdco (NA), Inc. are the Appellants.

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I certify that this Designation does not contain any matters which are irrelevant to this appeal.

EXHIBIT 35



The Commonwealth of Massachusetts
William Francis Galvin

Minimum Fee: \$100.00

Secretary of the Commonwealth, Corporations Division
One Ashburton Place, 17th floor
Boston, MA 02108-1512
Telephone: (617) 727-9640

Annual Report

(General Laws, Chapter 156D, Section 16.22; 950 CMR 113.57)

Identification Number: 001543409

1. Exact name of the corporation: JOHNSON & JOHNSON CONSUMER INC.

2. Jurisdiction of Incorporation: State: NJ Country: USA

3,4. Street address of the corporation registered office in the commonwealth and the name of the registered agent at that office:

Name: C T CORPORATION SYSTEM
No. and Street: 155 FEDERAL ST., SUITE 700
City or Town: BOSTON State: MA Zip: 02110 Country: USA

5. Street address of the corporation's principal office:

No. and Street: 199 GRANDVIEW RD.
City or Town: SKILLMAN State: NJ Zip: 08558 Country: USA

6. Provide the name and business street address of the officers and of all the directors of the corporation:
(A president, treasurer, secretary and at least one director are required.)

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
PRESIDENT	MICHELLE W GOODRIDGE	199 GRANDVIEW RD. SKILLMAN, NJ 08558-1303 USA
TREASURER	KEVIN T NEAT	199 GRANDVIEW RD. SKILLMAN, NJ 08558-1303 USA
SECRETARY	TINA S FRENCH	199 GRANDVIEW RD. SKILLMAN, NJ 08558-1303 USA
VICE PRESIDENT	TINA S FRENCH	199 GRANDVIEW RD. SKILLMAN, NJ 08558-1303 USA
DIRECTOR	TINA S FRENCH	199 GRANDVIEW RD. SKILLMAN, NJ 08558-1303 USA
DIRECTOR	MICHELLE W GOODRIDGE	199 GRANDVIEW RD. SKILLMAN, NJ 08558-1303 USA

7. Briefly describe the business of the corporation:

CONSUMER HEALTH AND PERSONAL CARE PRODUCTS COMPANY

8. Capital stock of each class and series:

Class of Stock	Par Value Per Share Enter 0 if no Par	RoA_12912 Authorized by Articles of Organization or Amendments	Total Issued and Outstanding

		Num of Shares	Total Par Value	Num of Shares
CWP	\$0.01000	100	\$1.00	1

9. Check here if the stock of the corporation is publicly traded: ☐

10. Report is filed for fiscal year ending: 01/31/ 2022

Signed by TINA S FRENCH , its OTHER OFFICER
on this 14 Day of March, 2022

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EXHIBIT 36



BUSINESS CORPORATION ANNUAL REPORT

1/6/2022

NAME OF BUSINESS CORPORATION: Johnson & Johnson Holdco (NA) Inc.

SECRETARY OF STATE ID NUMBER: 2306538

STATE OF FORMATION: NJ

REPORT FOR THE FISCAL YEAR END: 12/31/2022

Filing Office Use Only

E - Filed Annual Report

2306538

CA202309504582

4/5/2023 11:51

☒ Changes

SECTION A: REGISTERED AGENT'S INFORMATION

1. NAME OF REGISTERED AGENT: CT Corporation System

2. SIGNATURE OF THE NEW REGISTERED AGENT: _____

SIGNATURE CONSTITUTES CONSENT TO THE APPOINTMENT

3. REGISTERED AGENT OFFICE STREET ADDRESS & COUNTY 4. REGISTERED AGENT OFFICE MAILING ADDRESS

160 Mine Lake Ct Ste 200

160 Mine Lake Ct Ste 200

Raleigh, NC 27615 Wake County

Raleigh, NC 27615

SECTION B: PRINCIPAL OFFICE INFORMATION

1. DESCRIPTION OF NATURE OF BUSINESS: Consumer Health and Personal Care Products Company

2. PRINCIPAL OFFICE PHONE NUMBER: (877) 858-3855

3. PRINCIPAL OFFICE EMAIL: Privacy Redaction

4. PRINCIPAL OFFICE STREET ADDRESS

5. PRINCIPAL OFFICE MAILING ADDRESS

199 Grandview Road

199 Grandview Road

Skillman, NJ 08558

Skillman, NJ 08558

6. Select one of the following if applicable. (Optional see instructions)

☐

The company is a veteran-owned small business

☐

The company is a service-disabled veteran-owned small business

SECTION C: OFFICERS (Enter additional officers in Section E.)

NAME: Michelle W Goodridge

NAME: Michelle W Goodridge

NAME: Andrew Christopher

TITLE: President

TITLE: Treasurer

TITLE: Secretary

ADDRESS: _____

ADDRESS: _____

ADDRESS: _____

199 Grandview Road

199 Grandview Road

199 Grandview Road

Skillman, NJ 08558

Skillman, NJ 08558

Skillman, NJ 08558

SECTION D: CERTIFICATION OF ANNUAL REPORT. Section D must be completed in its entirety by a person/business entity.

Andrew Christopher

4/5/2023

SIGNATURE

DATE

Form must be signed by an officer listed under Section C of this form.

Andrew Christopher

Secretary

Print or Type Name of Officer

Print or Type Title of Officer

This Annual Report has been filed electronically.

MAIL TO: Secretary of State, Business Registration Division, Post Office Box 29525, Raleigh, NC 27626-0525

RoA_12915

ELECTRONICALLY FILED - 2024 Aug 22 6:55 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4004072

FILED DATE: 4/16/2024 1:25 PM 2020L004505

EXHIBIT 37

Mittenthal Outline for Perry / Kenvue Deposition – updated 7/25/2024**Brief Topic Summary:**

- 1 personal background of corporate representative
- 2 investigation conducted by corporate representative
- 3 how corporate representative became prepared
- 4 identity of who made JBP and STS (talc and cornstarch-based)
- 5 position of JJCI as vertically integrated within J&J and J&J consumer segment, 2016 to Project Plato
- 6 relationships between Old JJCI / HoldCo / New JJCI
- 7 purpose of Project Plato
- 8 business records/authenticity
- 9 state of incorporation/HQ for various
- 10 position of HoldCo as vertically integrated within J&J from Oct 12, 2021, to 2023 Project Diamond/Kenvue transactions
- 11 results of Kenvue separation / Project Diamond
- 12A-C relationships and business of JJCI 3, including Kenvue, HoldCo, Old JJCI
- 12D J&J control over Old JJCI decisions re: talc pre Oct 12, 2021
- 12E intermingling of resources/employees/assets among JJCI entities pre: Oct 12, 2021
- 13 preparation by corporate representative
- 14 Kenvue position on burden of compliance with these requests
- 15 insurance policies
- 16 financial condition
- 17 net worth basis
- 18 how deposition prepared for (docs searched, interviews, etc.)
- 19 what the witness did to prepare
- 20 overall “asbestos-related” document searches performed
- 21 document searches performed in this case
- 22 information to be discussed at trial
- 23 documents and people relied on in the deposition

EXHIBIT**Ex. 34 7/26/2024**

Detailed Outline:

#	Topic	Key Points	Sources
1	The personal background of the corporate representative designated to speak on behalf of defendant(s) on the topics in this notice, including his or her job history and the extent of personal knowledge, if any, regarding the topics in this notice.	CV provided	CV
2	The investigation that defendant(s) conducted to prepare to discuss the topics in notice with the information of or reasonably available to the defendant(s).	• Reviewed specified document sources • Reviewed specified past testimony, including deposition transcripts, exhibits, and declarations • Conducted interviews with current corporate secretary and chief risk officer • Met with legal team • Created outlines and supplemental lists	List of materials reviewed

3	How the corporate representative became prepared to discuss the topics in the notice on behalf of the defendant(s), including on subject-matter for which the corporate representative does not possess personal knowledge (e.g., the subject predates his or her employment, the subject falls outside the scope of his or her job responsibilities). FOOTNOTE 1 <i>This topic includes, but is not limited to, whether the corporate representative reviewed:</i> <i>(a) the depositions, hearing transcripts and/or declarations/affidavits of</i> • John Kim • Michelle Goodridge • Darren Snellgrove • Thibault Mongon • Paul Ruh • Donald McGraw <i>(b) The SEC filings of Kenvue, Inc. and</i> <i>(c) the following documents:</i>	See 2 above	List of materials reviewed

#	Topic	Key Points	Sources
	• October 5, 2021 e-mail from Mr. Mongon to Mr. Duato (LTL 0029993) • October 10, 2021 Project Plato Master Q&A • October 11, 2021 Project Plato – Memorandum of Approval (LTL 0021791 to 21801)		

#	Topic	Key Points	Sources
4	The identity of each entity responsible for the making and selling talc-containing and cornstarch-containing Johnson's Baby Powder and Shower to Shower in the United States from January 1979 to the present. FOOTNOTE 2, E.g., • <i>Johnson & Johnson Baby Products Company (1979-1981)</i> • <i>Johnson & Johnson Baby Products Company (1981-1988)</i> • <i>Johnson & Johnson Consumer Products, Inc. (1988-1997)</i> • <i>Johnson & Johnson Consumer Companies, Inc. (1997-2015)</i> • <i>Johnson & Johnson Consumer Inc. ("Old JJCI") (2015 to October 2021)</i> • <i>Johnson & Johnson Consumer Inc. ("New JJCI/Holdco")</i> • <i>Janssen Pharmaceuticals, Inc.</i> • <i>Kenvue, Inc.</i>	• Neither Kenvue nor its subsidiaries ever sold JBP containing talc in the United States • Neither Kenvue nor its subsidiaries ever sold Shower to Shower • Kenvue through JJCI 3 sells cornstarch-based JBP in the United States (from April 2023 to present)	• Michelle Goodridge deposition, pp. 233-234 (discontinuation of talc-based JPB in US) • Thibaut Mongon deposition, pp. 52-53 (discontinuation of talc-based JPB worldwide in 2023; Kenvue's manufacture of cornstarch-based JPB) • Thibaut Mongon deposition, pp. 137; 139-140 (discontinuation of talc-based JPB in US) • Paul Ruh deposition, pp. 91-93; "Kenvue never sold talc-based Johnson's baby powder..." • Teddy Reed interview: ○ Kenvue never sold talc products ○ JJCI is the primary North American subsidiary for sales of consumer products - different entity than what existed at J&J

#	Topic	Key Points	Sources
5	The position of Johnson & Johnson Consumer, Inc. as vertically integrated within Johnson & Johnson and Johnson & Johnson's consumer business segment from approximately 2016 to the October 12, 2021 transactions ("Project Plato" or the "Texas Two Step").	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
6	<i>Mere continuation/de facto merger exception (Project Plato transactions): The nature of Johnson & Johnson Consumer, Inc. ("Old JJCI") and Johnson & Johnson Consumer, Inc. ("New JJCI/Holdco") businesses before and after the October 12, 2021 transactions ("Project Plato" or the "Texas Two Step").</i>		

#	Topic	Key Points	Sources
6A	Whether Johnson & Johnson Consumer, Inc. (“New JJCI/Holdco”) held itself out as the same company as Johnson & Johnson Consumer, Inc. (“Old JJCI”) after the October 12, 2021 transactions (i.e., “Project Plato” or the “Texas Two Step”).	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
6B	Whether Old JJCI ceased operations after the October 12, 2021 transactions.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
6C	Whether New JJCI/Holdco received all (or essentially all) of the assets of Old JJCI after the October 12, 2021 transactions (i.e., “Project Plato” or the “Texas Two Step”).	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
6D	Whether New JJCI/Holdco continued or assumed the same business contracts of Old JJCI necessary for the continued operation of business (e.g., manufacturing, licensing, supply, vendor, retail) after the October 12, 2021 transactions.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A

#	Topic	Key Points	Sources
6E	Whether New JJCI/Holdco maintained essentially the same ownership as Old JJCI after October 12, 2021 transactions. This topic includes, but is not limited to, (a) the position of Old JJCI as vertically integrated within Johnson & Johnson and as part of Johnson & Johnson's consumer business segment from 2016 to October 12, 2021 and (b) the position of New JJCI/Holdco as vertically integrated within Johnson & Johnson and as part of Johnson & Johnson's consumer business segment from October 12, 2021 to January 2023.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
6F	Whether New JJCI/Holdco continued under the same Board of Directors, executives, management and leadership as Old JJCI after October 12, 2021 transactions.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
6G	Whether New JJCI/Holdco continued employing the same employees as Old JJCI after October 12, 2021 transactions.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A

#	Topic	Key Points	Sources
6H	Whether New JJCI/Holdco continued using the same operating locations as Old JJCI after October 12, 2021 transactions.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
6I	Whether New JJCI/Holdco continued the same business operations of Old JJCI after October 12, 2021 transactions.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
6J	Whether New JJCI/Holdco continued selling (and/or it was available for purchase) talc-based and/or cornstarch-containing Johnson's Baby Powder after October 12, 2021 transactions.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
7	Fraud exception: Whether the October 12, 2021 transactions (i.e., "Project Plato" or the "Texas Two Step") were made for the purpose of hindering, delaying or preventing civil actions in tort alleging injury caused by exposure to talc-containing Johnson's Baby Powder and/or Shower to Shower.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A

#	Topic	Key Points	Sources
8	The authenticity and “business record status” of the (a) 10/5/2021 e-mail from Mr. Mongon to Mr. Duato (LTL 0029993), (b) 10/10/2021 Project Plato Master Q&A and (c) 10/11/2021 Project Plato – Memorandum of Approval (LTL 0021791 to 21801). FOOTNOTE 3 “Business record status” includes whether the document, e-mail, etc. was made in the regular course of business, kept in the course of a regularly conducted business activity and written/recorded by a person with personal knowledge.	<i>The following referenced documents are not Kenvue company documents nor part of the “Global Talc Production.” Kenvue has no position on whether or not they are authentic business records:</i> <i>LTL 0029993</i> <i>LTL 0030334</i> <i>LTL 0021791</i>	N/A
9	<i>The State of the headquarters (principal place of business) and State of incorporation of the following entities during the following periods:</i>		

#	Topic	Key Points	Sources
9A	The predecessors of Johnson & Johnson Consumer, Inc. ("Old JJCI") from January 1979 to 2015-2016. FOOTNOTE 4 <i>E.g.,</i> • Johnson & Johnson Baby Products Company (1979-1981) • Johnson & Johnson Baby Products Company (1981-1988) • Johnson & Johnson Consumer Products, Inc. (1988-1997) • Johnson & Johnson Consumer Companies, Inc. (1997-2015)	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
9B	Johnson & Johnson Consumer, Inc. ("Old JJCI") from 2016 to October 12, 2021.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
9C	Chenango Zero, LLC throughout its existence.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
9D	Chenango Two, LLC throughout its existence.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
9E	Currahee Holding Company, Inc. throughout its existence.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A

#	Topic	Key Points	Sources
9F	Johnson & Johnson Consumer, Inc. ("New JJCI") from October 12, 2021 to December 16, 2022.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
9G	Johnson & Johnson Holdco (NA), Inc. from December 16, 2022 to the present.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
9H	LLT Management, LLC (f/k/a LTL Management, LLC) throughout its existence.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
9I	Johnson & Johnson throughout its existence.	During Kenvue's time as a subsidiary of Johnson & Johnson, Johnson & Johnson was a New Jersey corporation having its principal place of business at One Johnson & Johnson Plaza, New Brunswick, NJ.	Teddy Reed interview: Kenvue was a subsidiary of Johnson & Johnson, with J&J's office at One J&J Plaza, New Brunswick, NJ
9J	Janssen Pharmaceuticals, Inc. throughout its existence.	<i>(Interpret to be based on 2022-2023 time frame)</i> <i>Per investigation, no responsive information from Kenvue identified.</i>	Teddy Reed interview: no knowledge that Kenvue was a Janssen subsidiary

#	Topic	Key Points	Sources
9K	Kenvue, Inc. throughout its existence.	- February 23, 2022 - incorporated in Delaware as "JNTL, Inc." - September 28, 2022 - name change to "Kenvue" - Principal place of business is and was 199 Grandview Road, Skillman, NJ - As per 2023 10-K filing, will be moving to Summit, NJ - As per Q1 2024 10-Q filing: Skillman office is asset held for sale	- Feb 23, 2022, Delaware Certificate of Incorporation of JNTL, Inc. (Mittenthal_Kenvue000000004) ("JNTL_Inc_-_Certified_Copy_of_the_Certificate_of_Incorporation_(Delaware).pdf") - Sept 28, 2022, Delaware Certificate of Amendment of Certificate of Incorporation (Mittenthal_Kenvue000000001) ("147446_JNTL_Inc_-DE- Certificate of Amendment_(Change_of_Name).pdf") - July 10, 2024: RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES (Exhibit "1"), responses 1 and 2 (pp. 8-9) 2024.07.10 Perry(SC)_Kenvue_Response_to_First_ROG_(Ex_1) - 4892-6292-6287 2.pdf - Teddy Reed interview
9L	Johnson & Johnson Consumer, Inc. ("JJCI 3.0") from June 2022 to the present (throughout its existence).	- From June 2022 to February 3, 2023, JJCI 3 had its place of business at 199 Grandview Road, Skillman, NJ - Incorporated in Nevada on June 1, 2022 - Converted to Delaware corporation on January 3, 2023	- Donald McGraw declaration, paragraph 7 - June 1, 2022, Nevada Articles of Incorporation of Johnson & Johnson Consumer, Inc. (Mittenthal_Kenvue000000008) ("Johnson_&_Johnson_Consumer_Inc_(Nevada)_-Articles_of_Incorporation.pdf") - Jan 3, 2023, Delaware Certificate of Conversion from a Non-Delaware Corporation (Mittenthal_Kenvue000000012) ("Johnson_&_Johnson_Consumer_Inc-DE-Certificate of Conversion.pdf") - Teddy Reed interview

#	Topic	Key Points	Sources
10	The position of Johnson & Johnson Holdco (NA), Inc. (f/k/a Johnson & Johnson Consumer, Inc.) (“New JJCI/Holdco”) as vertically integrated within Johnson & Johnson from October 12, 2021 to the last of the early 2023 transactions resulting in the Kenvue spinoff (i.e., “Project Diamond”). The topic includes, but is not limited to, (a) the relationship, if any, between New JJCI/Holdco and Johnson & Johnson’s Consumer business segment in the U.S. during this period and (b) the relationship, if any, between New JJCI/Holdco and Janssen Pharmaceuticals, Inc. during this period.	<i>Per investigation, no responsive information from Kenvue identified.</i> <i>(Kenvue never a subsidiary of JJCI 2/ HoldCo)</i>	Teddy Reed interview

#	Topic	Key Points	Sources
11	<i>Mere continuation/de facto merger exception (Project Diamond transactions): The nature of Johnson & Johnson's Consumer business segment (including New JJCI/Holdco) and Kenvue's businesses before and after the early 2023 transactions resulting in the Kenvue spinoff (i.e., "Project Diamond").</i>		

#	Topic	Key Points	Sources
11A	Whether Kenvue held itself out (or holds itself out) as the same company as Johnson & Johnson's Consumer business segment.	While the consumer business segment was transferred to Kenvue from Johnson & Johnson, Kenvue represents itself as a different company.	- Thibaut Mongon deposition, pp. 79-80: "...We never represented that we were the same company. Kenvue is a different company from Johnson & Johnson. We have our own board. We have our own set of investors. We have a portfolio of brands and operations and capabilities and employees. So that's very clear. What we represent to the world, which is the truth, is that the Consumer Health business of Johnson & Johnson is now in Kenvue." - Donald McGraw deposition, p. 216: Q. And you don't take issue with Kenvue's representing to the world that they are the exact same entity as the consumer health business that was owned by Johnson & Johnson; right? ... THE WITNESS: I mean, I feel that's a bit apples to oranges. When I think business, I think the business operated by the subsidiary legal entities. I -- I think sector. The consumer health sector is business operations again conducted in various legal entities. And so, in effect, Kenvue Inc. is the parent company of numerous subsidiary companies engaged in the consumer health business, and those subsidiaries and the business they conduct collectively would be the consumer health segment. - Thibaut Mongon deposition, pp. 51-52: "Q. Is it fair to say that Kenvue has held itself out to investors as essentially the same company that was operating the Consumer Health Division inside of Johnson & Johnson?" (emphasis added) "A. Absolutely." - Teddy Reed interview

#	Topic	Key Points	Sources
11B	Whether any significant part of Johnson & Johnson's Consumer business segment remained with Johnson & Johnson (or did not become part of Kenvue) after the Kenvue spinoff (i.e., "Project Diamond").	Per its stated intention, J&J separated all of its consumer health business and associated subsidiaries into a new publicly-traded company.	Donald McGraw declaration, paragraph 5, and deposition, pp. 167-168, regarding global separation of ALL consumer health businesses/subsidiaries.
11C	Whether Kenvue received all (or essentially all) of the assets of Johnson & Johnson's Consumer business segment (including New JJCI/Holdco) related to the manufacture, marketing and/or sale of Johnson's Baby Powder after the early 2023 transactions resulting in the Kenvue spinoff (i.e., "Project Diamond").	<i>"...In April 2023, J&J completed the transfer of substantially all of the assets and liabilities of the Consumer Health Business to us and our subsidiaries."</i>	• Kenvue 2023 10-K filing, (<i>Separation from Johnson & Johnson</i>, p. 5, and Note 12, pp. 116-117) (as quoted) • Thibaut Mongon deposition, pp. 44-45, re: employees, marketing assets, and manufacturing assets being transferred.

#	Topic	Key Points	Sources
11D	Whether Kenvue continued or assumed the same business contracts of Johnson & Johnson's Consumer business segment (including New JJCI/Holdco) necessary for the continued operation of business (e.g., Separation Agreements, Transition Agreements) after the Kenvue spinoff (i.e., "Project Diamond").	J&J transferred existing business contracts to Kenvue and entered into various agreements with it for the continued operation of the consumer business.	- Donald McGraw declaration, paragraph 7n: <i>Johnson & Johnson transferred (i) 100% of its rights to any consumer health IP agreements, contracts and licenses and licenses to Kenvue in exchange for no consideration and (ii) 100% of its ownership in various consumer health subsidiaries to Kenvue Inc. in exchange for additional paid in capital (completed April 4, 2023).</i> - Kenvue 2023 10-K filing, (Separation from Johnson & Johnson) Note 12, p. 118, regarding J&J and Kenvue entering into agreements for: - Tax matters - Employee matters - IP - Trademark phase-out - Transition services - Transition manufacturing - Registration rights - Leases
11E	Whether Kenvue had the same owners of New JJCI/Holdco after the Kenvue spinoff (i.e., "Project Diamond") (a) in the period after the spinoff until the August 2023 stock swap and (b) after the August 2023 stock swap.	Interpret to mean: <i>"Whether Kenvue had the same owners as New JJCI/Holdco after the Kenvue spinoff..."</i> - JJCI 2 / HoldCo was a subsidiary of Johnson & Johnson in 2023 - Prior to stock swap, Kenvue was a direct subsidiary of J&J; after stock swap, J&J controlled 9.5% of Kenvue stock and Kenvue was / is independent	- Deposition of Donald McGraw, Exhibit A, noting that Project Diamond resulted in Kenvue becoming direct subsidiary of J&J. 8/23/23 press release: "Kenvue Becomes a Fully Independent Company Following Final Separation from Johnson & Johnson" (https://investors.kenvue.com/financial-news/news-details/2023/Kenvue-Becomes-a-Fully-Independent-Company-Following-Final-Separation-from-Johnson--Johnson/default.aspx)

#	Topic	Key Points	Sources
11F	Whether Kenvue continued under the same the same Board of Directors, executives, management and leadership as Johnson & Johnson's Consumer business segment after the Kenvue spinoff.	• Kenvue has entirely new board with 7 independent directors, 2 from J&J • no overlapping directors with J&J • Kenvue's management team includes former J&J people from the consumer sector See Comparison of Boards and Leadership Teams below (*).	• Teddy Reed interview • Thibaut Mongon deposition, p. 164: <i>Q. ...Is there anybody from Johnson & Johnson on the Kenvue board, by the way, now?</i> <i>A. Yes.</i> <i>Q. Who?</i> <i>A. Two. Joe Wolk and Peter Fasolo.</i> <i>Q. Okay. And how many people on the board in total?</i> <i>A. Eleven.</i>
11G	Whether Kenvue continued employing the same employees as Johnson & Johnson's Consumer business segment after the Kenvue spinoff.	• Most Consumer Health employees were transferred to Kenvue. • For JJCI 3 under JJCI 2 / HoldCo: ○ J&J Services was the actual employer • For JJCI 3 under Kenvue: ○ All US-based Kenvue employees are directly employed by JJCI 3 ○ JCI 3 has done additional hiring, workforce reductions, etc.	• Thibaut Mongon deposition, p. 44: <i>"Q. What exactly was transferred from Johnson & Johnson to Kenvue?</i> <i>...</i> <i>A. The brands, some employees, some manufacturing and distribution sites.</i> <i>Q. ...Were all the employees of Consumer Health transferred...?</i> <i>A. Most of them.</i> <i>Q. Which ones weren't?</i> <i>...</i> <i>THE WITNESS: You may have some exceptions. I'm not aware, but people who were dedicated to Consumer Health were transferred to Kenvue."</i> • Teddy Reed interview

#	Topic	Key Points	Sources
11H	Whether Kenvue continued using the same operating locations as Johnson & Johnson's Consumer business segment after the Kenvue spinoff.	Kenvue's subsidiaries continued using the associated manufacturing and distribution sites of the Consumer Health business.	Thibaut Mongon deposition, p. 44: <i>"Q. What exactly was transferred from Johnson & Johnson to Kenvue?"</i> ... <i>A. The brands, some employees, some manufacturing and distribution sites.</i> <i>Q. ...Were all the employees of Consumer Health transferred...?</i> <i>A. Most of them.</i> <i>Q. Which ones weren't?</i> ... <i>THE WITNESS: You may have some exceptions. I'm not aware, but people who were dedicated to Consumer Health were transferred to Kenvue."</i>
11I	Whether Kenvue continued the same business operations of Johnson & Johnson's Consumer business segment after the Kenvue spinoff.	As per Thibaut Mongon deposition, marketing, manufacturing, employees, site locations, and trademarks were transferred over.	Thibaut Mongon deposition, p. 44-47

#	Topic	Key Points	Sources
11J	Whether Kenvue continued selling (and/or it was/is available for purchase) talc-based and cornstarch-containing Johnson's Baby Powder after the Kenvue spinoff.	- Neither Kenvue nor its subsidiaries ever sold JBP containing talc in the United States - Neither Kenvue nor its subsidiaries ever sold Shower to Shower - Kenvue through JJCI 3 sells cornstarch-based JBP in the United States (from April 2023 to present) - Talc-based JBP sales discontinued globally in 2023 - As per Q1 2024 10-Q filing, Kenvue noted 2022 announcement of transition to cornstarch-based JPB.	- Michelle Goodridge deposition, pp. 233-234 (discontinuation of talc-based JPB in US) - Thibaut Mongon deposition, pp. 52-53 (discontinuation of talc-based JPB worldwide in 2023; Kenvue's manufacture of cornstarch-based JPB) - Thibaut Mongon deposition, pp. 137; 139-140 (discontinuation of talc-based JPB in US) - Paul Ruh deposition, pp. 91-93; "Kenvue never sold talc-based Johnson's baby powder..." - Teddy Reed interview: Kenvue never sold talc products - Kenvue Q1 2024 10-Q, p. 47 (Baby Powder Transition): <i>"On August 11, 2022, we announced the commercial decision to transition to an all cornstarch-based baby powder portfolio. As a result of this transition, talc-based Johnson's Baby Powder was discontinued globally in 2023. Talc-based Johnson's Baby Powder was previously discontinued during 2020 in certain markets including the United States and Canada. We do not expect the impact of this change to have a significant impact on our results of operations."</i> - Thibaut Mongon deposition, p. 104, discussing August 11, 2022, announcement of transition to cornstarch-based JPB.
12	The relationship between defendants and Johnson & Johnson Consumer, Inc. ("JJCI 3.0"):		

#	Topic	Key Points	Sources
12A	The corporate history of Johnson & Johnson Consumer, Inc. ("JJCI 3.0") from June 2022 to the present, including its incorporation in Nevada and conversion to a Delaware corporation in approximately January 2023.	• JJCI 3 incorporated as Nevada corporation on June 1, 2022. • On January 3, 2023, domicile had changed to Delaware. • On February 3, 2023, JJCI 3 was transferred to Janssen. • Also on February 3, 2023, Janssen contributes 100% of JJCI 3 to DePuy Synthes, Inc. (via JNTL Holdings 2, Inc. as corporate parent) • By April 4, 2023, 100% of ownership in consumer health subsidiaries transferred to Kenvue via J&J	• Donald McGraw declaration (paragraph 7) • June 1, 2022, Nevada Articles of Incorporation of Johnson & Johnson Consumer, Inc. (Mittenthal_Kenvue000000008) ("Johnson_&_Johnson_Consumer_Inc__(Nevada)_-_Articles_of_Incorporation.pdf") • Jan 3, 2023, Delaware Certificate of Conversion from a Non-Delaware Corporation (Mittenthal_Kenvue000000012) ("Johnson_&_Johnson_Consumer_Inc-DE-Certificate of Conversion.pdf")

#	Topic	Key Points	Sources
12B	The position of “JJCI 3.0” and its relationship, if any, to • New JJCI/Holdco from June 2022 to the present, • Johnson & Johnson’s Consumer business segment from June 2022 to the Kenvue spinoff (i.e., “Project Diamond”) and • Kenvue from June 2022 to the present.	• JJCI 3 incorporated as Nevada corporation on June 1, 2022, as a JJCI 2 subsidiary; on February 3, 2023, JJCI 3 was transferred to Janssen. • JJCI 3 received the consumer business segment from JJCI 2 in January 2023 • By April 4, 2023, 100% of ownership in consumer health subsidiaries transferred to Kenvue via J&J • JJCI 3 remains a wholly-owned subsidiary of JNTL Holdings 2, Inc. (a subsidiary of Kenvue)	• 2023 Donald McGraw declaration paragraph 5 (transfer of US Consumer Health business to newly formed subsidiary) and paragraph 7 (abbreviated chronology of Project Diamond / Kenvue transactions) • Donald McGraw deposition pp. 68-69: JJCI 2/HoldCo transferred its consumer assets to JJCI 3 and then transferred JJCI 3 to Janssen. • Donald McGraw deposition p. 78: <i>Q. ... Holdco/JJCI2 formed a new subsidiary, which was a Nevada corporation, named Johnson & Johnson Consumer Inc., which you termed JJCI3; correct?</i> <i>A. Correct.</i> ... <i>Q. Okay. And then you state that the U.S. consumer health business was transferred by JJCI2 to a newly formed wholly-owned subsidiary Johnson & Johnson Consumer Inc., JCI3?...</i> <i>A. Yes. Correct.</i> • Donald McGraw deposition, p. 80: “...operational assets of the consumer health business that existed at that time were – were transferred to – to JJCI3 with the exceptions listed in the transfer agreement.” • Donald McGraw deposition, p. 120, re: February 3, 2023: “JJCI3 operated the consumer health business in the U.S. at the time.” • Teddy Reed interview

#	Topic	Key Points	Sources
12C	The business purpose of JJCI 3.0 and whether it makes, markets and/or sells Johnson's baby products, including cornstarch-based Johnson's Baby Powder.	- JJCI 3 held the consumer business from January 2023 until the present (as part of Kenvue since at least April 4, 2023), marketing and selling the baby products and cornstarch-based JBP previously marketed and sold by JJCI 2. - JJCI 3 is the main US operating subsidiary for Kenvue	- Donald McGraw deposition, p. 80: <i>"...operational assets of the consumer health business that existed at that time were – were transferred to – to JJCI3 with the exceptions listed in the transfer agreement."</i> - Donald McGraw deposition, p. 120, re: February 3, 2023: <i>"JJCI3 operated the consumer health business in the U.S. at the time."</i> - Donald McGraw deposition, pp. 125-127 (discussion re: business purpose of HoldCo's distribution of JJCI 3 to Janssen) - Teddy Reed interview
12Ci	Whether JJCI 3.0 ultimately received all (or essentially all) of the assets of the former Old JJCI related to the manufacture, marketing and/or sale of Johnson's Baby Powder pre-October 12, 2021.	- JJCI 2 transferred certain assets to JJCI 3 in January 2023. <i>Per investigation, no information pertaining to JJCI 1 ("Old JJCI") from Kenvue identified.</i>	JJCI2 to JJCI 3: - Donald McGraw deposition, p. 80: <i>"...operational assets of the consumer health business that existed at that time were – were transferred to – to JJCI3 with the exceptions listed in the transfer agreement."</i> - Donald McGraw deposition, p. 120, re: February 3, 2023: <i>"JJCI3 operated the consumer health business in the U.S. at the time."</i> - Donald McGraw deposition, pp. 125-127 (discussion re: business purpose of HoldCo's distribution of JJCI 3 to Janssen)

#	Topic	Key Points	Sources
12Cii	Whether JJCI 3.0 ultimately assumed the business contracts of the former Old JJCI pre-October 12, 2021.	• Certain assets moved from JJCI 2 to JJCI 3, enabling the consumer health business to maintain business operations. • <i>Per investigation, no information pertaining to JJCI 1 (“Old JJCI”) from Kenvue identified.</i>	JJCI2 to JJCI 3: • Donald McGraw deposition, p. 80: “...<i>operational assets of the consumer health business that existed at that time were – were transferred to – to JJCI3 with the exceptions listed in the transfer agreement.</i>” • Donald McGraw deposition, p. 120, re: February 3, 2023: “<i>JJCI3 operated the consumer health business in the U.S. at the time.</i>” • Donald McGraw deposition, pp. 125-127 (discussion re: business purpose of HoldCo’s distribution of JJCI 3 to Janssen)

12Ciii	Whether JJCI 3.0 ultimately had the same (or essentially the same) owners of the former Old JJCI pre-October 12, 2021.	JJCI 1 (“Old JJCI”): • Never a subsidiary of Kenvue JJCI 3: • Incorporated as a wholly-owned subsidiary of JJCI 2 in Nevada on June 1, 2022 • Converted to Delaware corporation on January 3, 2023 • “February 3, 2023, HoldCo distributed 100% of the shares of JJCI 3 to Janssen” • Also on February 3, 2023, Janssen contributes 100% of JJCI 3 to DePuy Synthes, Inc. (via JNTL Holdings 2, Inc. as corporate parent) • By April 4, 2023, 100% of ownership in consumer health subsidiaries transferred to Kenvue via J&J • An indirect subsidiary of Kenvue as a wholly-owned subsidiary of JNTL Holdings 2, Inc.	JJCI2 to JJCI 3: • Teddy Reed interview • 2023 Donald McGraw declaration in general • 2023 Donald McGraw declaration paragraph 5 (creation of JJCI 3) and paragraph 7 (abbreviated chronology of Project Diamond / Kenvue transactions) • 2023 Donald McGraw declaration Exhibit A • June 1, 2022, Nevada Articles of Incorporation of Johnson & Johnson Consumer, Inc. (Mittenthal_Kenvue000000008) (“Johnson_&_Johnson_Consumer_Inc__(Nevada)_-_Articles_of_Incorporation.pdf”) • Jan 3, 2023, Delaware Certificate of Conversion from a Non-Delaware Corporation (Mittenthal_Kenvue000000012) (“Johnson_&_Johnson_Consumer_Inc-DE-Certificate of Conversion.pdf”) • 2023 Donald McGraw deposition, pp. 125-126: <i>Q. Okay. So on February 3rd, 2023, Holdco 2 – Holdco transferred 100 percent of the shares of JJCI3 to Janssen? Are you with me?</i> <i>A. Uh-huh. Yes.</i> <i>Q. What was the – what was the business purpose for that transaction?</i> <i>...</i> <i>A. To facilitate the global separation, and the global separation was undertaken for a variety of business purposes.</i> <i>Q. How does that facilitate the global separation?</i> <i>A. Because you’ve – you’ve announced globally that you’re separating the consumer health business. You have Janssen that has equity ownership in a subsidiary operating the consumer health business. Ultimately that subsidiary needs to be transferred to the Kenvue organization as part of the separation.</i>

#	Topic	Key Points	Sources
			Q. All right. So what you did was because Janssen already owned Holdco, what you basically did is you took all of the ownership interest in JJCI3 and moved it over to Janssen; right? A. Yes. So yeah. Q. So – A. So let me just make sure I respond correctly. So yes. Janssen owned JJCI2/Holdco. JJCI2/Holdco formed JJCI3 and transferred assets thereto. JJCI2/Holdco distributed JJCI3 to Janssen and Janssen in turn distributed JJCI3 – or sorry – contributed to a holding company JNTL and distributed up the chain. ... Q. – on February 3rd, 2023, is that Holdco no longer owns any interest in JJCI3; correct? A. Yeah...

#	Topic	Key Points	Sources
12Civ	Whether JJCI 3.0 has the same (or essentially the same) Board of Directors, executives, management and leadership as the former Old JJCI pre-October 12, 2021.	- At the creation of JJCI 3, the executive leadership comprised: - Paul Ruh, President - Christopher Andrew, Secretary - Luc Freyne, Treasurer - Currently JJCI 3 has 15 officers, including Michelle Goodridge and Tom Thomas - The original board comprised: - Paul Ruh, Director - Current JJCI 3 directors are: - Michelle Goodridge - Tom Thomas <i>Per investigation, no information pertaining to JJCI 1 ("Old JJCI") from Kenvue identified.</i>	JJCI2 to JJCI 3: - June 1, 2022, Nevada Articles of Incorporation of Johnson & Johnson Consumer, Inc. (Mittenthal_Kenvue000000008) ("Johnson_&_Johnson_Consumer_Inc__(Nevada)_-_Articles_of_Incorporation.pdf") - Jan 3, 2023, Delaware Certificate of Conversion from a Non-Delaware Corporation (Mittenthal_Kenvue000000012) ("Johnson_&_Johnson_Consumer_Inc-DE-Certificate of Conversion.pdf") - Teddy Reed interview

#	Topic	Key Points	Sources
12Cv	Whether JJCI 3.0 has the same (or essentially the same) employees of the former Old JJCI.	- Based on the Donald McGraw deposition, JJCI 2 employees were generally maintained in the JJCI 3 transition, subject to promotional opportunities, etc. - Based on the Thibaut Mongon deposition, most JJCI 3 employees were transferred to the Kenvue JJCI counterpart. - From a “legal” perspective, when JJCI 3 was under JJCI 2/HoldCo, it didn’t actually employ people - the services company did; under Kenvue, all US-based employees are directly employed by JJCI 3 - From a “practical” perspective, most employees came over; JJCI 3 has done additional hiring, workforce reductions, etc. <i>Per investigation, no information pertaining to JJCI 1 (“Old JJCI”) from Kenvue identified.</i>	JJCI2 to JJCI 3: Donald McGraw deposition, page 96: <i>Q. Would any of the managers have changed, the executives?</i> ... <i>A. I – I would expect them to generally be maintained, but you’re – you’re separating the consumer health business, so you’ve got the J & J global organization where you’re kind of – people are redesignating roles. They had promotional opportunities within the consumer health organization. People may have left after the announcement, so I can’t speak exactly to –</i> JJCI 3 UNDER KENVUE: Thibaut Mongon deposition, p. 44: <i>“Q. What exactly was transferred from Johnson & Johnson to Kenvue?</i> ... <i>A. The brands, some employees, some manufacturing and distribution sites.</i> <i>Q. ...Were all the employees of Consumer Health transferred...?</i> <i>A. Most of them.</i> <i>Q. Which ones weren’t?</i> ... <i>THE WITNESS: You may have some exceptions. I’m not aware, but people who were dedicated to Consumer Health were transferred to Kenvue.”</i> FOR BOTH: Teddy Reed interview

#	Topic	Key Points	Sources
12Cvi	Whether JJCI 3.0 has the same (or essentially the same) operating locations of the former Old JJCI pre-October 12, 2021.	- Principal place of business for JJCI 3 under both HoldCo and Kenvue was 199 Grandview Road, Skillman, NJ. - Based on statements from Donald McGraw, JJCI 3 under HoldCo would have had essentially the same operating locations as JJCI 2. - Based on the Thibaut Mongon deposition, JJCI 3 under Kenvue used the same operating locations as JJCI 3 under HoldCo. - The consumer health operation is still based in Skillman as it was under JJCI 2/HoldCo - Fort Washington continues as the base of operations for R&D as it did under JJCI 2/HoldCo <i>Per investigation, no information pertaining to JJCI 1 (“Old JJCI”) from Kenvue identified.</i>	JJCI2 to JJCI 3: Donald McGraw deposition, page 96: <i>Q. ...Did the physical location of any of the assets change after the transfer was taken – made?</i> ... <i>THE WITNESS: The – the physical location of the assets, no. The operations wouldn’t have been interrupted.</i> JJCI 3 UNDER KENVUE: Thibaut Mongon deposition, p. 44: <i>“Q. What exactly was transferred from Johnson & Johnson to Kenvue?</i> ... <i>A. The brands, some employees, some manufacturing and distribution sites.</i> <i>Q. ...Were all the employees of Consumer Health transferred...?</i> <i>A. Most of them.</i> <i>Q. Which ones weren’t?</i> ... <i>THE WITNESS: You may have some exceptions. I’m not aware, but people who were dedicated to Consumer Health were transferred to Kenvue.”</i> FOR BOTH: Teddy Reed interview

#	Topic	Key Points	Sources
12Cvii	Whether JJCI 3.0 has the same (or essentially the same) business operations of the former Old JJCI pre-October 12, 2021.	• JJCI 3 held the consumer business from January 2023 until the present, marketing and selling the baby products and cornstarch-based JBP previously marketed and sold by JJCI 2. • As per Thibaut Mongon deposition, marketing, manufacturing, employee, site locations, and trademarks were transferred over to Kenvue. • <i>Per investigation, no information pertaining to JJCI 1 ("Old JJCI") from Kenvue identified.</i>	JJCI2 to JJCI 3: • Donald McGraw deposition, p. 80: "...operational assets of the consumer health business that existed at that time were – were transferred to – to JJCI3 with the exceptions listed in the transfer agreement." • Donald McGraw deposition, p. 120, re: February 3, 2023: "JJCI3 operated the consumer health business in the U.S. at the time." JJCI 3 UNDER KENVUE: Thibaut Mongon deposition, pp. 44-47
12D	Johnson & Johnson's exercise of control over Old JJCI in its decisions over issues pertaining the presence of asbestos in talc, safety and warning pre-October 12, 2021.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A
12E	The intermingling of (and structure of management of the) resources, employees and assets amongst the various legal entities under the Johnson & Johnson Consumer business segment pre-October 12, 2021.	<i>Per investigation, no responsive information from Kenvue identified.</i>	N/A

#	Topic	Key Points	Sources
13	All facts regarding the preparation of Kenvue's corporate representative to testify fully and completely about the matters in this deposition notice, including all documents reviewed and individuals spoken to and the method of search.	See 2 and 3 above	See 2 and 3 above
14	Kenvue's claim, if made, that complying with the above requests is unduly burdensome.	N/A	N/A

#	Topic	Key Points	Sources
15	Detailed information about all insurance policies available to Defendant for the damages in the Perry and McBrayer cases.	• Assume defendant is Kenvue for purpose of this topic. • No coverage available for Kenvue for <i>Perry</i> and <i>McBrayer</i> cases. • Policy notes: ○ no coverage for talc -- a policy exclusion ○ policy includes “claims-made” provisions with retroactive dates: May 8, 2023, policy inception with two years retroactive requirement; any claim would need to be first filed by May 8 2021 ○ no other provisions in any policies that would cover any talc or asbestos-related issues ○ Kenvue's insurance policies (like Kenvue itself) are all new ○ no coverage available from any other company	Scott Borup interview

#	Topic	Key Points	Sources
16	The financial condition of Defendant. (The court has ruled that at the discovery phase, the Defendant's net worth for the previous 2 calendar years is sufficiently responsive to this topic.)	- As of March 31, 2024, and based on Condensed Consolidated Balance Sheets reported in Q1 2024 Kenvue 10-Q (page 5): - Total equity = \$10.62 billion - Cash and cash equivalents = \$1.16 billion - As of December 31, 2023, and based on Consolidated Balance Sheets reported in 2023 Kenvue 10-K (page 80): - Total equity = \$11.21 billion - Cash and cash equivalents = \$1.38 billion	2023 Kenvue 10-K - Q1 2024 Kenvue 10-Q
17	The basis for the net worth value provided (this topic seeks the underlying data that supports or justifies the net worth value of Defendant for each given year, which will support how Defendant arrived at the net worth number provided).	- As of March 31, 2024: - assets = \$27.28 billion - liabilities = \$16.62 billion - As of December 31, 2023: - assets = \$27.85 billion - liabilities = \$16.64 billion	2023 Kenvue 10-K - Q1 2024 Kenvue 10-Q
18	What You (the company) did to prepare for this deposition (documents searched for, documents reviewed, people searched for, people interviewed, etc.)	See 2 and 3 above	See 2 and 3 above

#	Topic	Key Points	Sources
19.	What the witness, in particular, did to prepare for this deposition including specifically how the witness prepared to discuss subjects outside of his personal knowledge (considering the former job duties and/or time period when the deponent was employed by You, if any).	See 2 and 3 above	See 2 and 3 above
20	Information regarding document searches You (the company) has performed at any time for litigation involving asbestos (i.e. when the search occurred, where it occurred, by whom, results, total bates-stamp range applied to all documents produced, etc.).	Global Talc Production	See “Document Production” references in July 10, 2024: RESPONSES TO PLAINTIFF’S FIRST SET OF INTERROGATORIES (Exhibit “1”) 2024.07.10 Perry_(SC)_Kenvue_Response_to_First_ROG_(Ex_1) - 4892-6292-6287 2.pdf
21	Information regarding document searches You (the company) has performed in this particular case. (i.e. when the search occurred, where it occurred, by whom, results, bates-stamp range applied to all documents produced, etc.).	Global Talc Production	See “Document Production” references in July 10, 2024: RESPONSES TO PLAINTIFF’S FIRST SET OF INTERROGATORIES (Exhibit “1”) 2024.07.10 Perry_(SC)_Kenvue_Response_to_First_ROG_(Ex_1) - 4892-6292-6287 2.pdf

#	Topic	Key Points	Sources
22	Any and all information You intend to discuss at trial.	See materials and information described above, as well as discovery responses; exact information to be presented to be determined by counsel.	See July 10, 2024: RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES (Exhibit "1") 2024.07.10 Perry_(SC)_Kenvue_Response_to_First_ROG_(Ex_1) - 4892-6292-6287 2.pdf See July 10, 2024: RESPONSES TO PLAINTIFF'S STANDARD INTERROGATORIES (Exhibit "4") 2024.07.10 Perry_(SC)_Kenvue_Response_to_Standard_ROG_(Ex_4) - 4885-9144-4431 2.pdf
23	To the extent that Your knowledge is not based on the deponents personal knowledge be prepared to identify all documents or persons relied on for responses provided during the deposition.	See 2 and 3 above	See 2 and 3 above

(*) Comparison of Kenvue/J&J Boards and Leadership Teams

Current Kenvue executive team (www.kenvue.com/our-story#executive-team):

- Thibaut Mongon, Chief Executive Officer and Director
- Luani Alvarado, Chief People Officer
- Russ Dyer, Chief Corporate Affairs Officer
- Charmaine England, Chief Growth Officer
- Carlton Lawson, Group President, Europe, Middle East and Africa & Latin America
- Jan Meurer, Group President, North America
- Matt Orlando, General Counsel
- Rosana Padilla, President, Latin America
- Paul Ruh, Chief Financial Officer
- Meri Stevens, Chief Operations Officer
- Bernardo Tavares, Chief Technology & Data Officer
- Caroline Tillett, PhD, Chief Scientific Officer
- Ellie Bing Xie, Group President, Asia Pacific
- Natasha Zuyev, Chief Quality Officer

Current J&J executive team (www.jnj.com/our-leadership-team):

- Joaquin Duato, Chairman and Chief Executive Officer
- Vanessa Broadhurst, Executive Vice President, Global Corporate Affairs
- Peter Fasolo, Ph.D., Executive Vice President, Chief Human Resources Officer
- Liz Forminard, Executive Vice President, Chief Legal Officer
- William N. Hait, M.D., Ph.D., Executive Vice President, Chief External Innovation and Medical Officer
- John C. Reed, M.D., Ph.D., Executive Vice President, Innovative Medicine, R&D, Johnson & Johnson
- Tim Schmid, Executive Vice President, Worldwide Chairman, MedTech
- James Swanson, Executive Vice President, Chief Information Officer
- Jennifer L. Taubert, Executive Vice President, Worldwide Chairman, Innovative Medicine
- Kathryn E. Wengel, Executive Vice President, Chief Technical Operations & Risk Officer
- Joseph J. Wolk, Executive Vice President, Chief Financial Officer

Current Kenvue board of directors (www.kenvue.com/our-story#board-of-directors):

- Larry Merlo, Chair, Board of Directors
- Richard E. Allison, Jr., Director
- Peter M. Fasolo, Ph.D., Director
- Tamara S. Franklin, Director
- Seemantini Godbole, Director
- Melanie L. Healey, Director; Chair, Nominating, Governance & Sustainability Committee
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- Vasant Prabhu, Director; Chair, Audit Committee
- Michael E. Sneed, Director
- Joseph J. Wolk, Director

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- Nadja Y. West, M.D., Retired United States Army Lieutenant General and Former United States Army Surgeon General
- Eugene A. Woods, Chief Executive Officer of Advocate Health

EXHIBIT 38

From: Hicks, Don [CPCUS] [/O=JNJ/OU=CPCUSSK/CN=RECIPIENTS/CN=DHICKS]
Sent: 12/5/2011 1:18:14 PM
To: Villani, Patricia [CORUS] [pvillan1@its.jnj.com]; McCarthy, Colleen [CONUS] [cmccart1@its.jnj.com]; Brown, Jane [SLCUS Non J&J] [jbrown2@its.jnj.com]; Dharia, Dipti [CPCUS] [ddharia@its.jnj.com]; Harrison, Nadine [CPCUS] [nharri2@its.jnj.com]
Subject: RE: Draft of Product list, FDA classification and shelf life for your review

Just to be clear, the cosmetic, engineered device, and consumer classified products do not have EXP dating on the packages. This is only used internally as a "freshness date".

Donald L. Hicks

Sr. Director Quality Assurance
 North America Baby & Korres Franchises
 and Caribbean Business Unit
 Tel: (908) 874-1272 Mobile: (215) 285-7820
 Office: Skillman South (SD-304) Mail Drop: (SE-122)
Johnson & Johnson Family of Consumer Companies
 199 Grandview Rd. Skillman, NJ 08558-9418

From: Villani, Patricia [CORUS]
Sent: Sunday, December 04, 2011 8:05 PM
To: McCarthy, Colleen [CONUS]; Brown, Jane [SLCUS Non J&J]; Hicks, Don [CPCUS]; Dharia, Dipti [CPCUS]; Harrison, Nadine [CPCUS]
Subject: Draft of Product list, FDA classification and shelf life for your review

All,

My apologies for the delay. Classifying all of our products took much longer than I anticipated especially for the Beauty products. Please review and let me know if any changes are needed. We'll need help validating the shelf life information. Let me know the best way to confirm.

Thanks,

Patricia

Baby OTC drugs – shelf life 2 years unless otherwise noted:

Desitin Diaper Rash cream, paste, ointments
 Desitin Soothing Rash bath treatment
 Johnson's Daily Face & Body lotion SPF 40
 Johnson's Diaper Rash cream

Baby cosmetic – shelf life 3 years unless otherwise noted:

Johnson's Baby bath
 Johnson's Baby cologne
 Johnson's Baby gift sets
 Johnson's Baby lotion
 Johnson's Baby oil
 Johnson's Baby powder
 Johnson's Baby shampoo
 Johnson's Buddies bar, detangler
 Johnson's Kids body wash

Johnson's Kids detangler
 Johnson's Kids soap
 Johnson's Natural Kids hand and face wash
 Johnson's Natural Kids body wash
 Johnson's Body Care lotion, wash

Baby commodities – shelf life __ years unless otherwise noted:

Johnson's cotton swabs
 Johnson's nursing pads

Beauty OTC drugs – shelf life 2 years unless otherwise noted:

Ambi Essentials Daily Moisturizer SPF
 Ambi Even and Clear exfoliating wash
 Ambi Even and Clear foaming cleanser
 Ambit Even and Clear Daily Moisturizer
 Ambi Face and Body kits
 Aveeno Anti itch Concentrated lotion
 Aveeno Anti itch 1% hydrocortisone cream
 Aveeno Anti itch Calamine and Pramoxine tube
 Aveeno Anti itch Eczema Therapy cream
 Aveeno Anti itch Skin Relief Bath treatment
 Aveeno Anti itch Skin Relief Medicated treatment
 Aveeno Baby Daily Moisturizing lotions
 Aveeno Baby Eczema Therapy Moisturizing cream
 Aveeno Baby gift sets
 Aveeno Baby Organic Harvest Diaper Rash Cream
 Aveeno Baby Soothing Bath treatment
 Aveeno Baby Soothing Relief Diaper Rash Cream
 Aveeno Body Moisture Daily Moisturizing lotion
 Aveeno Body Moisture Skin Relief Itch Calming lotion
 Aveeno Body Moisture Skin Relief Moisturizing cream, lotion
 Aveeno Body Moisture Stress Relief Moisturizing lotion
 Aveeno Clear Complexion cream cleanser, pads, pump, bar
 Aveeno Clear Complexion Daily moisturizer
 Aveeno Positively Ageless anti aging system, moisturizer SPF 30
 Aveeno Positively Ageless moisturizer SPF30
 Aveeno Positively Radiant moisturizer SPF15/30
 Aveeno Smart Essentials Daily moisturizer SPF30
 Aveeno Therapeutic Essential moisture lip conditioner SPF 15
 Aveeno Soothing bath treatment
 Aveeno Ultra Calming Daily moisturizer SPF 15
 Clean & Clear Acne Advantage kit, treatment, paste, gel pen
 Clean & Clear Advantage exfoliating cleanser, mark treatment
 Clean & Clear Acne Advantage Persa-gel
 Clean & Clear Advantage foaming acne wash
 Clean & Clear Advantage Control Acne moisturizer
 Clean & Clear Blackhead scrub, mask
 Clean & Clear Continuous Control Acne Cleanser
 Clean & Clear Deep Cleaning Astringent
 Clean & Clear Dual Action Moisturizer
 Clean & Clear Finishes mattifying moisturizer
 Clean & Clear Foaming facial cleanser oil free
 Clean & Clear Morning Glow moisturizer SPF 15
 Lubriderm Advanced therapy lotion SPF 30
 Lubriderm Daily Moisture SPF 15
 Lubriderm Intense Skin Repair ointment
 Neutrogena Advanced Solutions acne therapy system
 Neutrogena Age defense anti oxidant daily moisturizer SPF 20
 Neutrogena All in one daily scrub
 Neutrogena Ageless intensives deep wrinkle moisturizer SPF 20
 Neutrogena Ageless intensives tone correcting moisturizer SPF 30
 Neutrogena blackhead eliminating cleanser, scrub

Neutrogena Body Clear scrub, spray, wash
 Neutrogena Clear Pore mask, scrub, astringent
 Neutrogena Healthy Defense Daily moisturizer
 Neutrogena Healthy Skin anti-wrinkle, anti-blemish cleanser
 Neutrogena Healthy Skin anti-wrinkle formula SPF 15
 Neutrogena Healthy Skin anti-wrinkle anti blemish cream
 Neutrogena Healthy Skin enhancer SPF 20
 Neutrogena Healthy Skin face lotion, cream SPF 15
 Neutrogena Healthy Skin Glow sheers SPF 30
 Neutrogena Healthy Skin Liquid make up SPF 20
 Neutrogena Healthy Skin Pressed Powder SPF 20
 Neutrogena Healthy skin compact make up SPF 55
 Neutrogena Lip Moisturizer SPF 15
 Neutrogena Men age fighter moisturizer SPF 15
 Neutrogena Men healthy defense lotion SPF 50
 Neutrogena Men oil free moisture SPF30
 Neutrogena Men skin clearing wash, shave cream
 Neutrogena Men triple protection lotion SPF 20
 Neutrogena Mineral sheers foundation SPF 20
 Neutrogena Moisturizer intensified, ultra calming moisture SPF 15
 Neutrogena MoistureSheer lip soother SPF 20
 Neutrogena Nourishing eye quad SPF 15
 Neutrogena Oil free acne stress control treatment, pads, scrub, wash, cleanser, toner
 Neutrogena Oil free acne wash, cloths, scrub, cleanser
 Neutrogena Oil free moisture SPF 15/35
 Neutrogena Oil free visibly even SPF 30
 Neutrogena On-the-spot treatment
 Neutrogena Rapid Clear gel, toner, lotion, gel, scrub, cleanser, pen, pads
 Neutrogena Rapid Wrinkle repair moisturizer SPF 30
 Neutrogena Revitalizing lip balm
 Neutrogena Skin clearing blemish concealer
 Neutrogena Skin clearing mineral powder
 Neutrogena Skin clearing liquid make up
 Neutrogena sun protection sunblock, lotion, sprays
 Neutrogena 3-in 1 Concealer SPF 20
 Neutrogena T-Gel shampoo, conditioner
 Neutrogena T-Sal shampoo
 Neutrogena Ultra sheer liquid daily sun protection
 Neutrogena Wet skin sunblock
 Purpose Dual Treatment moisture lotion SPF 15
 RoC Daily moisturizer SPF 30
 RoC Day Rejuvenating moisturizer SPF 20
 RoC Retinol Deep Wrinkle Daily moisturizer SPF 30

Beauty cosmetics – shelf life 3 years

Ambi Essentials cleanser
 Ambi Even and Clear Mark Minimizer
 Ambi Soft and Even lotion
 Ambi Specialty bars
 Aveeno Advanced Care Moisturizing lotion
 Aveeno Ageless vitality elasticity recharging system
 Aveeno Baby Calming Comfort bath, lotion
 Aveeno Baby Cleansing Therapy wash
 Aveeno Baby Essential Moisture Shampoo
 Aveeno Baby Organic Harvest Foaming wash, shampoo, lotion
 Aveeno Baby Soothing Relief Cream wash, moisture cream
 Aveeno Baby wash & shampoo
 Aveeno Body Moisture creaming moisturizing oil
 Aveeno Body Moisture Intense relief cream
 Aveeno Body Moisture Positively Ageless skin strengthening lotion, cream
 Aveeno Body Moisture Positively Nourishing 24-hour, invigorating, refreshing, soothing lotion

Aveeno Body Moisture Skin Moisture Repair Cream
 Aveeno Body Wash daily moisturizer, positively nourishing, skin relief, stress relief
 Aveeno Hair Care shampoo, conditioner, leave in treatment, glaze, cream
 Aveeno Positively Ageless cleanser, scrub
 Aveeno Positively Ageless eye, night, treatment cream
 Aveeno Positively Radiant cleanser pump, pads
 Aveeno Positively Radiant eye illuminator
 Aveeno Skin Brightening scrub
 Aveeno Smart Essentials scrub, facial wash
 Aveeno Smart Essentials eye treatment, nighttime moisture infusion
 Aveeno Ultra Calming cleanser pump
 Aveeno Shave gel
 Aveeno Skin Relief Shower & Bath oil
 Aveeno Stress Relief foaming bath
 Aveeno Sunblock lotion, spray
 Clean & Clear Daily Pore cleanser
 Clean & Clear Deep Action cleanser, scrub
 Clean & Clear Finishes cleanser
 Clean & Clear Foaming facial cleanser sensitive skin
 Clean & Clear Makeup dissolving wipes
 Clean & Clear Morning Burst
 Clean & Clear Oil dissolving sheets
 Lubriderm Daily Moisture lotion
 Lubriderm Daily Nourishing lotion
 Lubriderm Intense Skin Repair lotion
 Lubriderm Men's lotion
 Lubriderm Soothing Relief lotion
 Neutrogena Acne prone facial bar
 Neutrogena Ageless Essentials night
 Neutrogena Ageless Intensives filler, eye, night, serum
 Neutrogena Ageless restoratives
 Neutrogena Anti-residue shampoo
 Neutrogena Build-a-tan, micro mist tanning
 Neutrogena Clean replenishing shampoo, conditioner
 Neutrogena Clean volume shampoo
 Neutrogena Cleansing wipes, towelettes
 Neutrogena Cleansing toner, cleanser, lotion, pads, system
 Neutrogena Clinical
 Neutrogena Custom Glow blush, bronzer
 Neutrogena Deep Clean cleanser, scrub, wipes, sheets, mask
 Neutrogena Deep moisture cream
 Neutrogena Extra Gentle eye makeup remover pads, towelette, remover, cleanser
 Neutrogena Facial bar
 Neutrogena Healthy Lengths mascara
 Neutrogena Healthy Skin anti-wrinkle cream, system, eye cream
 Neutrogena Healthy Skin blends
 Neutrogena Healthy Skin eye cream
 Neutrogena Healthy Skin smoothing stick
 Neutrogena Healthy Skin brightening eye protector
 Neutrogena Healthy Skin visibly even cleanser
 Neutrogena Light Sesame lotion, oil
 Neutrogena Lip boost
 Neutrogena Liquid facial cleansing formula
 Neutrogena Men invigorating wash, post shave, shave cream
 Neutrogena Men razor defense scrub, lotion, gel
 Neutrogena Moisturizer night, soothing cream
 Neutrogena Moistureshine lip gloss
 Neutrogena Naturals cleanser, bar, balm, moisturizer, cream, scrub
 Neutrogena Norwegian formula cream, treatment, lotion
 Neutrogena Nourishing eye duo
 Neutrogena Nourishing eye liner
 Neutrogena Oil free moisture clear skin, combination skin, sensitive skin

Neutrogena Original formula facial bar
 Neutrogena Pore Refining cleanser, toner
 Neutrogena Rainbath cream
 Neutrogena Rapid Wrinkle repair eye, night cream
 Neutrogena Sugar Scrub
 Neutrogena Triple Moisture shampoo, conditioner, mask, cream, mender
 Neutrogena Visibly bright daily facial cleanser
 Neutrogena Wave pads, cleanser
 Purpose cleansing bar,pump
 RoC Anti aging face, eye, lash primer
 Roc Daily resurfacing disks
 RoC Eye beautifier
 RoC Eye treatment
 RoC Lift eye, night cream
 RoC Night treatment
 RoC Nourish eye, night cream
 RoC Night recharger
 RoC Retinol Deep Wrinkle Night cream, serum
 RoC Retinol eye cream
 RoC Retinol MAX wrinkle resurfacing system
 RoC Retinol Sensitive eye, night cream
 RoC Retinol Wrinkle filler
 RoC Skin Renewing serum
 Shower to Shower powder

CHC OTC drugs – shelf life 2 years unless otherwise noted:

Band-Aid Brand first aid wound cleanser
 Benadryl topical itch relief
 Ben Gay topical creams, gels
 Caladryl skin protectant lotion
 Cortaid Topical anti itch cream
 Listerine Antiseptic Mouthwash
 Listerine Restoring anticavity mouthwash
 Listerine Total Care anticavity mouthwash
 Listerine Total Care Restoring plus whitening mouthwash
 Listerine Total Care Zero anticavity mouthwash
 Listerine Smart Rinse Mouthwash
 Listerine Essential Care toothpaste
 Neosporin topical antibiotic creams, ointments, packets
 Neosporin wound cleanser foam
 Neo-to-go antiseptic pain relieving spray **(18 months)**
 Polysporin topical antibiotic ointment
 Rembrandt toothpaste
 Rembrandt fluoride mouthwash
 Rogaine hair regrowth solution and foam **(check shelf life, I think it's longer than 2 years)**
 Tucks hemorrhoidal ointment, medicated pads, suppositories
 Visine eye drops

CHC OTC Devices – shelf life 3 years

Band-Aid Brand Bandages
 Ben Gay heat patch
 Carefree pantyliners
 Coach bandages, tapes
 J&J Red Cross First Aid Kits
 J&J Red Cross bandages, gauze, tape
 K-Y lubricants **(2 years)**
 o.b. tampons
 Reach dental floss
 Reach toothbrush
 Stayfree sanitary napkins
 Visine for contacts

CHC Cosmetics – shelf life 3 years

Band-Aid Brand Blister Block
 Comhuskers lotion
 K-Y Intense
 K-Y Yours and Mine Kissables
 Listerine Agent Cool Blue
 Listerine Pocketmist
 Listerine Pocketpaks
 Listerine Vibrant White (2 years – need to check all whitening products)
 Listerine Whitening pen
 Listerine Whitening Pre-Brush Rinse
 Listerine Whitening strips
 Listerine Zero mouthwash
 Neosporin Lip Health
 Plax
 Progain shampoo
 Rembrandt Whitening kits
 Rembrandt Whitening pen
 Rembrandt Whitening strips
 Visine eye wipes

McNeil Consumer OTC drugs – shelf life 2 years unless otherwise noted:

Actifed tablets
 Benadryl tablets, Kapgels, Softgels, caplets, Ultratabs
 Imodium A-D caplets
 Imodium caplets, chewable tablets, EZ chews, liquids
 Motrin caplets, tablets
 Motrin Jr caplets, chewable tablets
 Mylicon Infant drops
 Mylanta chewable tablets, liquids
 Nizoral shampoo
 Pepcid chewable tablets, tablets
 Precise cream
 Rolaid softchews, tablets
 Simply Sleep caplets
 Sinutab caplets
 Sudafed caplets, tablets
 Tylenol caplets, EZ tabs, gels, Rapid Release gels, tablets
 Tylenol Infant drops, suspension
 Tylenol Childrens suspension, liquids
 Tylenol Jr. Meltaways
 Tylenol Allergy, Sinus Cold caplets, liquids, Rapid Release gels, tablets
 Zyrtec liquids gels, tablets, extended release tablets
 Zyrtec childrens syrup

McNeil Consumer OTC devices – 3 year shelf life:

Precise pain relieving heat patch

McNeil Nutritionals Dietary Supplements - __ year shelf life:

Benecol spread
 Lactaid caplets, chewable tablets
 Viactiv softchews

McNeil Nutritionals Food - __ year shelf life:

Splenda sweeteners
 Sun Crystals sweeteners

EXHIBIT 39

Category Name	UPC	Price
KORRES		
Ethicon Donation		
AVEENO® Essential Moisture Lip Conditioner with SPF 15 - 0.15 oz.	381370014577	1.65
AVEENO® Daily Moisturizer 12 oz.	381370036005	3.95
NEUTROGENA® OIL-FREE ACNE WASH REDNESS SOOTHING FACIAL CLEANSER 6oz	070501153666	1.08
Neutrogena® Ultimate Sport® Sunblock Lotion SPF 30	086800870265	5.00
CAREFREE® Body Shape™ Pantliners To Go, 20ct	380041220002	1.00
VISINE® Original .5 oz	074300008035	2.00
LISTERINE® ESSENTIAL CARE® Regular Toothpaste Gel - 4.2 oz.	312547434553	2.15
REACH® Advanced Deign Toothbrush Value Pack, Soft Full Head - 2 ea	381370073307	2.10
LISTERINE® COOL MINT® Antiseptic Mouthwash - 250 ML	312547427203	1.45
Baby Care		
Baby Bath		
JOHNSON'S® Shea & Cocoa Butter Baby Wash - 27 oz.	381370024934	3.45
JOHNSON'S® SHEA & COCOA BUTTER BABY WASH - 15 oz.	381370024941	1.90
JOHNSON'S® Bedtime Moisture Wash - 15 oz.	381370027799	2.45
JOHNSON'S® Moisture Care Baby Wash 15 oz.	381370029953	2.00
JOHNSON'S® Bedtime Bath - 9 oz.	381370032106	2.00
JOHNSON'S® Head-to-Toe Baby Wash - 15 oz.	381370032373	1.95
JOHNSON'S® Baby Bar - 3 oz.	381370032625	0.95
JOHNSON'S® Soothing Vapor Baby Bath - 15 fl oz.	381370032984	2.50
JOHNSON'S® Take-Along Pack - 1 ea	381370034346	2.60
AVEENO® Soothing Baby Bath Treatment - 5 ea	381370036623	2.45
AVEENO® Calming Comfort Baby Bath - 8 oz.	381370038023	2.40
JOHNSON'S® Vanilla Oatmeal Baby Wash - 15 oz.	381370040231	1.95
JOHNSON'S® Kids Head-To-Toe Tropical Blast Body Wash - 9 oz.	381370040743	1.65
JOHNSON'S® Baby Skincare Wipes - 64 ct	381370052579	3.80
JOHNSON'S® Baby Skincare Wipe Refills - 256 ct	381370052593	8.75
JOHNSON'S® Baby Bathtime Essentials Gift Set	381370027386	14.00
JOHNSON'S® Baby First Touch Gift Set	381370027577	7.90
AVEENO® Baby® Essentials Daily Care Gift Set with 100% Organic Cotton Baby Blanket	381371016761	17.15
AVEENO® BABY CALMING COMFORT BATH 18 oz	381371019427	4.00
AVEENO® Baby Soothing Relief Creamy Wash 12 oz	381371023943	3.15
JOHNSON'S® Bedtime Bubble Bath & Wash 15 oz	381371024889	1.75
JOHNSON'S® Bedtime Bubble Bath & Wash 28 oz	381371024919	3.80
JOHNSON'S® Honey Apple Bath 15 oz	381371029334	1.72
JOHNSON'S® Honey Apple Bath 28 oz	381371029433	3.95
JOHNSON'S® Bedtime Bath 15 oz	381370032113	2.50

Category Name	UPC	Price
JOHNSON'S® Moisture Care Baby Wash, 28 oz	381370031574	3.40
JOHNSON'S® Bedtime Bath, 28oz	381370032588	3.15
JOHNSON'S® Natural® head-to-toe® Baby Wash, 9oz	381371027606	2.55
JOHNSON'S® Natural® head-to-toe® Baby Wash, 18oz	381371028023	3.80
JOHNSON'S® Natural® 2 in 1 Hand & Face Foaming Wash, 10oz	381371028146	2.75
JOHNSON'S® Head-to-Toe Baby Wash – 4oz	381370031079	0.95
JOHNSON'S® Head-to-Toe Baby Wash – 28oz	381370031956	3.20
Baby Cotton		
JOHNSON'S® Cotton Swabs 525 Count Value Pack	381370082385	3.05
JOHNSON'S® Safety Swabs - 55 ct	381370082569	0.90
Johnson's® Safety Swabs 185 ct.	381370029489	1.98
Baby Hair Care		
JOHNSON'S® Kids No More Tangles® Spray-On Detangler - 10 oz.	381370040972	1.75
JOHNSON'S® Buddies No More Tangles Easy-Comb Spray - 8 oz.	381370028215	1.65
JOHNSON'S® Take-Along Pack - 1 ea	381370034346	2.60
JOHNSON'S® Baby Shampoo - 20 oz.	381370037408	2.45
JOHNSON'S® Baby Shampoo With Natural Lavender - 20 oz.	381370037750	2.50
JOHNSON'S® NO MORE TANGLES® Shampoo + Conditioner for Straight or Fine Hair - 13 oz.	381370043485	1.95
AVEENO® Baby® Essential Moisture™ Shampoo 8 oz.	381370011590	2.35
AVEENO® Baby Wash & Shampoo 18 oz	381371023905	3.60
JOHNSON'S® Baby Shampoo w/natural lavender 15 FL OZ	381370037477	2.00
JOHNSON'S® No More Tangles® Leave-In Conditioner 5oz	381370051763	2.05
Johnson's® Baby Shampoo, 15oz	381370037248	2.00
JOHNSON'S® NO MORE TANGLES® Extra Conditioning Shampoo, 18oz	381370043522	2.50
JOHNSON'S® Natural® Nourishing Baby Shampoo, 10oz	381371027965	2.45
JOHNSON'S® Natural® 3 in 1 Shampoo, Conditioner & Body Wash	381371028047	2.45
JOHNSON'S® NO MORE TANGLES® Shampoo, 18oz	381370043492	2.50
Baby Powders		
JOHNSON'S® Baby Powder - 4 oz.	381370030119	0.85
JOHNSON'S® Baby Powder - 15 oz.	381370030164	2.00
JOHNSON'S® Baby Powder with Lavender & Chamomile - 15 oz.	381370030171	1.95
JOHNSON'S® Baby Powder, Pure Cornstarch - 15 oz.	381370030584	2.00
JOHNSON'S® Baby Powder Pure Cornstarch with Aloe and Vitamin E - 22 oz.	381370030591	2.45
JOHNSON'S® Take-Along Pack - 1 ea	381370034346	2.60
JOHNSON'S® Baby Powder Original 22 OZ	381370030140	2.50
JOHNSON'S® Baby Powder Medicated with Aloe & Vitamin E Medicated, 15 oz	381370030720	2.00
JOHNSON'S® Baby Powder with Lavender & Chamomile - 22 oz.	381370030430	2.50
Lotions & Creams		
DESITIN® ORIGINAL OINTMENT - 16 oz. Jar	074300000657	9.05

Category Name	UPC	Price
DESITIN® Creamy Zinc Oxide Diaper Rash Ointment - 2 oz.	074300003009	1.60
DESITIN® Multi-Purpose Ointment, Clear - 3.5 oz.	074300495217	3.40
AVEENO® Advanced Care Moisturizing Cream, Active Naturals - 6 oz.	381370010746	4.70
AVEENO® Baby Sunblock Lotion, CONTINUOUS PROTECTION SPF 55 - 4 oz.	381370012740	4.55
AVEENO® Baby Soothing Relief Diaper Rash Cream - 3.7 oz.	381370012986	2.90
JOHNSON'S® Shea & Coco Butter Baby Lotion - 27 oz.	381370024897	3.15
JOHNSON'S® SHEA & COCOA BUTTER BABY LOTION - 15 oz.	381370024927	1.90
JOHNSON'S® No More Rash Diaper Rash Cream with Zinc Oxide 3 in 1 3 oz.	381370027140	1.35
JOHNSON'S® Baby Cream - 8 oz.	381370029939	1.95
JOHNSON'S® Baby Cologne - 6.8 oz.	381370031437	1.60
JOHNSON'S® Take-Along Pack - 1 ea	381370034346	2.60
JOHNSON'S® Baby Lotion - 15 oz.	381370035176	2.00
JOHNSON'S® BEDTIME LOTION - 15 oz.	381370035268	2.50
JOHNSON'S® Vanilla Oatmeal Baby Lotion - 15 oz.	381370041467	1.95
AVEENO® Baby Daily Moisture Lotion, Fragrance Free - 12 fl oz.	381370042297	2.95
Desitin® Creamy® Rapid Relief Jar Rapid Relief Zinc Oxide 16 oz.	074300495163	6.65
AVEENO® BABY DAILY MOISTURE LOTION 18 OZ	381371019410	4.00
JOHNSON'S® BABY DAILY FACE & BODY LOTION SPF 40 4 OZ	381371023585	4.86
JOHNSON'S® Baby Bedtime Lotion® 27 oz	381370039686	3.70
JOHNSON'S® Baby Lotion Vanilla Oatmeal 27oz	381370041474	3.20
JOHNSON'S® Natural® Nourishing Baby Lotion, 9oz	381371027972	3.25
JOHNSON'S® Natural® Nourishing Baby Lotion, 18oz	381371027996	5.10
AVEENO® Baby Soothing Relief Diaper Rash Cream - 8 oz.	381370011750	3.15
DESITIN® Maximum Strength Original Paste, 3oz	074300000190	2.35
Oils		
JOHNSON'S® Baby Oil Gel with Aloe Vera & Vitamin E - 6.5 oz.	381370032960	2.00
JOHNSON'S® BABY Oil - 14 oz.	381370033141	2.20
JOHNSON'S® Baby Oil - 20 oz.	381370033202	2.70
JOHNSON'S® Baby Oil with Aloe Vera & Vitamin E - 14 oz.	381370033325	2.15
JOHNSON'S® Baby Oil 3 oz	381370041702	1.50
JOHNSON'S® Baby Creamy Oil Cocoa & Shea Butter 8 oz	381371020737	1.60
JOHNSON'S® Baby Creamy Oil Aloe & Vitamin E 8 oz	381371020744	2.00
Nursing		
JOHNSON'S® Nursing Pads - 36 ea	381370017745	2.60
Cosmetics		
Blush		
NEUTROGENA®HEALTHY SKIN Blends Translucent Oil-Control Powder, Clean - 0.2 oz.	086800005414	5.70
NEUTROGENA®HEALTHY SKIN Blends Sheer Highlighting Blush, Pure - 2 oz.	086800005445	5.70

Category Name	UPC	Price
NEUTROGENA® Healthy Skin Custom Glow™ Blush & Bronzer Rosy Glow 40 .31OZ	086800007333	4.86
NEUTROGENA® Healthy Skin Custom Glow™ Blush & Bronzer Raisin Glow 50 .31OZ	086800007340	5.40
NEUTROGENA® Healthy Skin Custom Glow™ Blush & Bronzer Plum Glow 60 .31OZ	086800007357	5.40
NEUTROGENA® Healthy Skin Custom Glow™ Blush & Bronzer, Natural Glow	086800007302	5.40
NEUTROGENA® Healthy Skin Custom Glow™ Blush & Bronzer, Berry Glow	086800007326	5.40
Neutrogena® Healthy Skin Blends Sunkissed, .2oz	086800005438	5.80
NEUTROGENA® Healthy Skin Custom Glow™ Blush & Bronzer Posie Glow .31oz	086800007319	5.40
Concealer		
NEUTROGENA® Healthy Skin Smoothing Stick / Light / 02 - 0.1 oz.	086800123187	3.15
NEUTROGENA® HEALTHY SKIN® Smoothing Stick / Medium / 03 - 0.1 oz.	086800123194	3.15
NEUTROGENA® 3 in 1 Eye Concealer Fair 0.37 oz.	086800124511	4.60
NEUTROGENA® 3-in-1 Concealer for Eyes 0.37 oz - Medium 15	086800124535	4.65
NEUTROGENA® 3-IN-1 Concealer for Eyes .37 oz - Buff 09	086800124559	4.65
NEUTROGENA® Healthy Skin Smoothing Stick , Fair .1oz	086800123170	3.15
NEUTROGENA® Healthy Skin Smoothing Stick , Correcting Yellow .1oz	086800123200	3.15
NEUTROGENA® SkinClearing® Blemish Concealer, Buff	086800105091	4.35
NEUTROGENA® SkinClearing® Blemish Concealer, Fair	086800105053	4.35
NEUTROGENA® SkinClearing® Blemish Concealer, Light	086800105107	4.35
NEUTROGENA® SkinClearing® Blemish Concealer, Medium	086800105152	4.35
Eyes		
NEUTROGENA® Nourishing Eye Liner Cosmic Black 10	086800124818	3.35
NEUTROGENA® Nourishing Eye Liner Spiced Chocolate 30	086800124832	3.35
NEUTROGENA® Nourishing Eye Liner Twilight Blue 50	086800124856	3.35
NEUTROGENA® Nourishing Eye Quad - BLUE SMOKE/150 0.14 OZ.	086800124955	4.15
NEUTROGENA® Nourishing Eye Quad - SEA SHELL/140 0.14 OZ.	086800124948	4.15
NEUTROGENA® Healthy Volume® Waterproof Mascara - Carbon Black 0.21 OZ.	086800124399	3.50
NEUTROGENA® Healthy Volume® Waterproof Mascara - Black Brown 0.21 OZ.	086800124405	3.55
NEUTROGENA® 3-in-1 Concealer for Eyes Light / 10 .37 OZ	086800124528	4.65
NEUTROGENA® Healthy Skin Brightening Eye Perfector SPF 25 Fair 5 .2OZ	086800006312	6.00
NEUTROGENA® Healthy Skin Brightening Eye Perfector SPF 25 Buff 9 .2OZ	086800006336	6.00
NEUTROGENA® Healthy Skin Brightening Eye Perfector SPF 25 Light 10 .2OZ	086800006343	6.00

Category Name	UPC	Price
NEUTROGENA® Healthy Skin Brightening Eye Perfector SPF 25 Medium 15 .2 oz	086800006367	6.00
NEUTROGENA® Nourishing Eye Liner, Brushed Pewter	086800124825	3.65
NEUTROGENA® Nourishing Eye Quad, Butter Crème	086800124917	4.60
NEUTROGENA® Nourishing Eye Quad, Moonlit Violet	086800124979	4.60
NEUTROGENA® Healthy Volume® Mascara Regular, Black/ Brown	086800124382	3.85
Neutrogena® Healthy Lengths Mascara, Carbon Black	086800125013	3.75
Neutrogena® Healthy Lengths Mascara, Black/Brown	086800125020	3.38
Neutrogena® Healthy Lengths Mascara Waterproof, Carbon Black	086800125068	3.75
Neutrogena® Healthy Lengths Mascara Waterproof, Black/Brown	086800125082	3.75
Neutrogena® Healthy Lengths Mascara, Black/Brown	086800125037	3.75
Foundation		
NEUTROGENA® Healthy Skin Enhancer, Ivory to Fair 10 - 1 oz.	086800005216	5.50
NEUTROGENA® Healthy Skin Enhancer, Fair to Light 20 - 1 oz.	086800005223	5.50
NEUTROGENA® Healthy Skin Enhancer, Light to Neutral 30 - 1 oz.	086800005230	5.50
NEUTROGENA® Healthy Skin Enhancer, Neutral to Tan 40 - 1 oz.	086800005247	5.50
NEUTROGENA® Healthy Skin Enhancer, Tan to Medium 50 - 1 oz.	086800005254	5.50
NEUTROGENA® Healthy Skin Enhancer, Medium to Olive 60 - 1 oz.	086800005261	5.50
NEUTROGENA® MINERAL SHEERS Powder Foundation, Classic Ivory - 1 ea	086800005513	5.85
NEUTROGENA® MINERAL SHEERS Powder Foundation, Natural Ivory - 1 ea	086800005520	5.85
NEUTROGENA® MINERAL SHEERS™ Powder Foundation, Buff- 1 ea	086800005537	5.85
NEUTROGENA® MINERAL SHEERS Powder Foundation, Nude - 1 ea	086800005544	5.85
NEUTROGENA® MINERAL SHEERS Powder Foundation, Soft Beige - 1 ea	086800005551	5.85
NEUTROGENA® MINERAL SHEERS Powder Foundation, Natural Beige - 1 ea	086800005568	5.85
NEUTROGENA® MINERAL SHEERS Powder Foundation, Honey Beige - 1 ea	086800005575	5.85
NEUTROGENA® MINERAL SHEERS Powder Foundation, Tan - 1 ea	086800005582	5.85
NEUTROGENA® Healthy Skin GLOW SHEERS SPF 30, Ivory to Fair - 1.1 oz.	086800124412	5.70
NEUTROGENA® Healthy Skin GLOW SHEERS SPF 30, Fair to Light - 1.1 oz.	086800124429	5.70
NEUTROGENA® Healthy Skin GLOW SHEERS SPF 30, Light to Medium - 1.1 oz.	086800124436	5.90
NEUTROGENA® Healthy Skin GLOW SHEERS SPF 30 Medium to Tan - 1.1 oz.	086800124443	5.90
NEUTROGENA® HEALTHY SKIN® LIQUID MAKEUP SPF20 CLASIC IVORY 10 1OZ	086800670018	5.65
NEUTROGENA® HEALTHY SKIN® LIQUID MAKEUP SPF20 NUDE 40 1OZ	086800670049	5.65
NEUTROGENA® HEALTHY SKIN® LIQUID MAKEUP SPF20 SOFT BEIGE 50 1 OZ.	086800670056	5.65

Category Name	UPC	Price
NEUTROGENA® HEALTHY SKIN® LIQUID MAKEUP SPF20 MED BEIGE 80 1OZ	086800670087	5.65
NEUTROGENA® HEALTHY SKIN® LIQUID MAKEUP SPF20 HONEY BEIGE 10 1OZ	086800670117	5.65
NEUTROGENA® Mineral Sheers Loose Powder Foundation Soft Beige 50 .18oz	086800006459	6.00
NEUTROGENA® Mineral Sheers Loose Powder Foundation Classic Ivory 10 .18oz	086800006411	6.00
NEUTROGENA® Mineral Sheers Loose Powder Foundation Ivory 20 .18OZ	086800006428	6.00
NEUTROGENA® Mineral Sheers Loose Powder Foundation Buff 30 .18oz	086800006435	6.00
NEUTROGENA® Mineral Sheers Loose Powder Foundation Nude 40 .18oz	086800006442	6.00
NEUTROGENA® Mineral Sheers Loose Powder Foundation Natural Beige 60 .18oz	086800006466	6.00
NEUTROGENA® Mineral Sheers Loose Powder Foundation Honey Beige 70 .18OZ	086800006473	5.48
NEUTROGENA® Mineral Sheers Loose Powder Foundation Tan 80 .18oz	086800006480	6.00
NEUTROGENA® Healthy Skin® Liquid Makeup, Natural Ivory 1oz	086800670025	6.25
NEUTROGENA® Healthy Skin® Liquid Makeup, Buff 1oz	086800670032	6.25
NEUTROGENA® Healthy Skin® Liquid Makeup, Natural Beige 1oz	086800670063	6.25
NEUTROGENA® Healthy Skin® Liquid Makeup, Warm Beige 1oz	086800670094	6.25
NEUTROGENA® Healthy Skin® Liquid Makeup, Natural Tan 1oz	086800670100	6.25
NEUTROGENA® Healthy Skin® Liquid Makeup, Tan 1oz	086800670124	5.63
NEUTROGENA® Healthy Skin® Liquid Makeup, Fresh Beige 1oz	086800670070	6.25
Neutrogena® Healthy Skin Compact Makeup SPF 55, Warm Beige	086800007951	6.00
Neutrogena® Healthy Skin Compact Makeup SPF 55, Fresh Beige	086800007944	6.00
NEUTROGENA®SKINCLEARING® Oil-Free Makeup, Buff - 1 oz.	086800003960	6.25
NEUTROGENA®SKINCLEARING® Oil-Free Makeup, Nude - 1 oz	086800003977	6.25
Neutrogena® Healthy Skin Compact Makeup SPF 55, Nude	086800007500	5.40
Neutrogena® Healthy Skin Compact Makeup SPF 55, Buff	086800007517	5.40
Neutrogena® Healthy Skin Compact Makeup SPF 55, Soft Beige	086800007920	6.00
Neutrogena® Healthy Skin Compact Makeup SPF 55, Natural Beige	086800007937	6.00
Lips		
NEUTROGENA® MoistureShine® Lip Stick SPF20 400 / Berry Burst .12 oz.	086800674139	4.35
NEUTROGENA®Lip Moisturizer (SPF 15) - 0.15 oz.	070501042007	1.25
NEUTROGENA®MOISTURESHINE Lip Soother Cooling Hydragel, Glaze - 0.35 oz.	086800000914	3.35
NEUTROGENA®MOISTURESHINE Lip Soother Cooling Hydragel, Shine - 0.35 oz.	086800000921	3.35
NEUTROGENA®MOISTURESHINE Lip Soother Cooling Hydragel, Gleam - 0.35 oz.	086800000938	3.35

Category Name	UPC	Price
AVEENO® Essential Moisture Lip Conditioner with SPF 15 - 0.15 oz.	381370014577	1.65
NEUTROGENA® MoistureShine® Gloss Super Sparkle 100 .220Z	086800675006	4.00
NEUTROGENA® MoistureShine® Gloss Natural Boost 200 .220Z	086800675013	4.00
NEUTROGENA® MoistureShine® Gloss Copper Power 210 .220Z	086800675020	4.00
NEUTROGENA® MoistureShine® Gloss Pure Cider 220 .220Z	086800675037	4.00
NEUTROGENA® MoistureShine® Gloss Vita Plum230 .220Z	086800675044	4.00
NEUTROGENA® MoistureShine® Gloss Fruity Pink 110 .220Z	086800675051	4.00
NEUTROGENA® MoistureShine® Gloss Healthy Blush 120 .220Z	086800675068	4.00
NEUTROGENA® MoistureShine® Gloss Healthy Peach 500 .220Z	086800675082	4.00
NEUTROGENA® MoistureShine® Gloss Vital Violet 300 .220Z	086800675099	4.00
NEUTROGENA® MoistureShine® Gloss Refreshing Rose 310 .220Z	086800675105	4.00
NEUTROGENA® MoistureShine® Gloss Berry Fit 400 .220Z	086800675112	4.00
NEUTROGENA® MoistureShine® Gloss Potent Plum 320 .220Z	086800675129	4.00
NEUTROGENA® MoistureShine® Gloss Wine Wellness 410 .220Z	086800675136	4.00
NEUTROGENA® MoistureShine® Gloss Nutri Berry 130 .220Z	086800675075	4.00
NEUTROGENA® MoistureShine® Lip Soother, Glimmer .35oz	086800690016	3.35
NEUTROGENA® MoistureShine® Lip Soother, Sparkle .35oz	086800690023	3.35
NEUTROGENA® MoistureShine® Lip Soother, Glow .35oz	086800690030	3.35
NEOSPORIN® LIP HEALTH™ daily hydration therapy	312547238700	2.20
NEUTROGENA®MOISTURESHINE™ Lip Soother, Sheen - 0.35 oz.	086800000945	3.35
NEUTROGENA®MOISTURESHINE™ Lip Soother, Shimmer - 0.35 oz	086800000952	3.35
NEUTROGENA®MOISTURESHINE™ Lip Soother, Glisten - 0.35 oz.	086800000969	3.35
NEUTROGENA® Revitalizing Lip Balm Soft Carmel, .15oz	086800009610	4.00
NEUTROGENA® Revitalizing Lip Balm Petal Glow, .15oz	086800009634	4.00
Powder		
NEUTROGENA® Skin Clearing Mineral Powder Natural Ivory 20 .38OZ	086800005926	6.00
NEUTROGENA® Skin Clearing Mineral Powder Classic Ivory 10 .38OZ	086800005919	6.00
NEUTROGENA® Skin Clearing Mineral Powder Buff 30 .38OZ	086800005933	6.00
NEUTROGENA® Skin Clearing Mineral Powder Nude 40 .38OZ	086800005940	6.00
NEUTROGENA® Skin Clearing Mineral Powder Soft Beige 50 .38OZ	086800005957	6.00
NEUTROGENA® Skin Clearing Mineral Powder Natural Beige 60 .38OZ	086800005964	6.00
NEUTROGENA® Skin Clearing Mineral Powder Honey Beige 70 .38OZ	086800005971	6.00
NEUTROGENA® Skin Clearing Mineral Powder Tan 80 .38OZ	086800005988	6.00
Make-Up Removers		
NEUTROGENA®Make-up Remover Cleansing Towelettes - 25 ea	070501051009	4.60

Category Name	UPC	Price
NEUTROGENA® Make-up Remover Cleansing Towelettes Refill Pack - 25 ea	070501051054	3.25
NEUTROGENA® Ultra-Soft Eye Makeup Remover Pads 30 CT	070501050675	3.95
Neutrogena® Oil-Free Eye Makeup Remover, 5.5oz	070501050651	3.80
Diabetes Management		
Gifts		
JOHNSON'S® Baby Bathtime Essentials Gift Set	381370027386	14.00
JOHNSON'S® Baby First Touch Gift Set	381370027577	7.90
AVEENO® Baby® Essentials Daily Care Gift Set with 100% Organic Cotton Baby Blanket	381371016761	17.15
JOHNSON'S® Baby Gift Set Bedtime Sweet Sleep Set™	381371022861	14.95
JOHNSON'S® natural™ Gift Set	381371029570	17.00
Intimate Health Care		
Lubricants		
K-Y® Personal Lubricant Liquid - 2.5 oz.	380040087088	3.15
K-Y® INTRIGUE Personal Lubricant - 2.75 oz.	380040087330	8.05
K-Y® SENSUAL SILK Personal Lubricant - 1.5 oz.	380040087354	2.70
K-Y® TINGLING Jelly, Personal Lubricant - 5 oz.	380040088887	4.90
K-Y® Yours+Mine Couples Lubricant - 3 fl oz.	380040088924	8.85
K-Y® BRAND INTENSE 10 ML	380040086951	6.20
K-Y® BRAND Sensual Silk™ Tingling Ultragel®	380040087934	3.20
Massage Lotions		
K-Y® TOUCH MASSAGE 2-in-1 Tingling Body Massage & Lubricant - 6.7 oz.	380040087590	4.95
K-Y® TOUCH MASSAGE 2-in-1 Sensations Set	380040087767	5.05
K-Y® Touch Massage Warming 2-in-1 - 6.7 oz.	380040089624	5.50
K-Y® Brand YOURS + MINE® KISSABLE SENSATIONS™ 3oz	380041083348	6.56
Vaginal Moisturizers		
K-Y® SILK-E Vaginal Moisturizer - 2.5 oz.	380040087149	3.15
New Products		
AVEENO® LIVING COLOR™ Shampoo for Finer Hair, 10.5oz	381371018574	3.15
AVEENO® LIVING COLOR™ Conditioner for Finer Hair, 10.5oz	381371018581	3.15
AVEENO® LIVING COLOR™ Shampoo for Medium to Thick Hair, 10.5oz	381371018598	3.15
AVEENO® LIVING COLOR™ Conditioner for Medium to Thick, 10.5 oz	381371018604	3.15
AVEENO® LIVING COLOR™ Shine Enhancing Glaze, 4oz	381371018666	3.15
AVEENO® SUN BABY Natural Protection Sunblock SPF 50+ Stick, .5 oz.	381371018703	4.60
AVEENO SUN Natural Protection Sunblock SPF 30 Lotion, 3 oz	381371018710	5.25
AVEENO SUN BABY Natural Protection SPF 30 Lotion, 3 oz	381371018727	5.30
AVEENO® Positively Nourishing™ Anti-Oxidant Body Wash Blackberry + Vanilla, 16 oz	381371018789	2.95
CLEAN & CLEAR® MORNING BURST® Splash Body Wash, 16 oz	381371022052	2.90
CLEAN & CLEAR® MORNING BURST® Boost Body Wash 16 oz.	381371022205	2.90

Category Name	UPC	Price
CLEAN & CLEAR® MORNING BURST® Charge Body Wash 16 oz.	381371024582	2.90
JOHNSON'S® natural™ Gift Set	381371029570	17.00
LUBRIDERM® Men's 3-in-1 Lotion, 16 oz	052800480728	4.15
LUBRIDERM® Men's 3-in-1 Lotion Fragrance Free, 16 oz	052800480735	4.15
JOHNSON'S® Natural® head-to-toe® Baby Wash, 9oz	381371027606	2.55
JOHNSON'S® Natural® head-to-toe® Baby Wash, 18oz	381371028023	3.80
JOHNSON'S® Natural® 2 in 1 Hand & Face Foaming Wash, 10oz	381371028146	2.75
JOHNSON'S® Natural® Nourishing Baby Lotion, 9oz	381371027972	3.25
JOHNSON'S® Natural® Nourishing Baby Lotion, 18oz	381371027996	5.10
JOHNSON'S® Natural® Nourishing Baby Shampoo, 10oz	381371027965	2.45
JOHNSON'S® Natural® 3 in 1 Shampoo, Conditioner & Body Wash	381371028047	2.45
Clean&Clear® Mattifying Cleanser, 5oz	381371022366	2.80
Clean&Clear® Mattifying Moisturizer SPF 15, 1.7oz	381371022359	2.80
AVEENO® NOURISH+STYLE Fortifying Hairspray, 9oz	381371017188	3.15
Clean&Clear® Advantage® Popped Pimple Relief™ Drying Paste, .5oz	381371022298	3.10
BENGAY® Cold Therapy Pain Relieving Gel	074300492544	4.40
VISINE® TOTALITY® Multi-Symptom Relief Eye Drop, 5oz	342002209051	3.25
BAND-AID® DISNEY® Fairies™, Assorted – 20ea	381371040094	1.15
BAND-AID® Decorated, Assorted – 20ea	381371042265	1.15
BAND-AID® DISNEY® Phineas and Ferb™, Assorted – 20ea	381371044917	1.15
Reach® Barbie™ Toothbrush value Pack, 2ct	381371092185	1.90
Reach® Barbie™ Toothbrush value Pack, 1ct	381371092222	1.20
Neutrogena® Clinical® Anti-Aging Booster Serum	070501021255	10.35
Neutrogena® Healthy Skin® Firming Cream SPF 15, 2.5oz	070501054505	7.05
Neutrogena® Healthy Skin® Radiance Cream SPF 15, 2.5oz	070501054604	7.05
Neutrogena® Healthy Skin® Anti-Wrinkle System	070501701362	11.70
Neutrogena® Men® Active Protect Face Lotion SPF 50+	070501020272	5.15
NEUTROGENA® Clear Pore Daily Scrub, 4.7oz	070501060421	3.50
Neutrogena® Pure & Free™ Liquid Daily Sunblock SPF 50, 1.4oz	086800860419	6.35
Neutrogena® Ultimate Sport® Sunblock Lotion SPF 30	086800870265	5.00
NEUTROGENA® Wet Skin Kids Sunblock Spray SPF 70+	086800870333	5.85
NEUTROGENA® Wet Skin Sunblock Spray SPF 30	086800870340	5.00
NEUTROGENA® Wet Skin Sunblock Spray SPF 50	086800870357	5.50
NEUTROGENA® Wet Skin Sunblock Spray SPF 85+	086800870364	5.85
Neutrogena® Spectrum+ Advanced Sunblock Spay SPF100	086800870418	6.80

Category Name	UPC	Price
NEOSPORIN® LIP HEALTH™ daily hydration therapy	312547238700	2.20
ROC® MULTI-CORREXION™ LIFT Anti-Gravity Night Cream, 1.7oz	381371088638	11.70
ROC® MULTI-CORREXION™ LIFT Anti Gravity Serum, 1.3oz	381371088652	11.70
ROC® MULTI-CORREXION™ LIFT Anti Gravity Eye Cream, .5oz	381371088669	11.70
Neutrogena® Ultra Sheer Liquid Daily Sun Protection SPF 55, 1.4oz	086800009764	6.35
SPLENDA® ESSENTIALS™ No Calorie Sweetener, with B Vitamins	722776201602	1.85
SPLENDA® No Calorie Sweetener, Minis 100ct	722776227015	2.25
NEUTROGENA® Revitalizing Lip Balm Soft Carmel, .15oz	086800009610	4.00
NEUTROGENA® Revitalizing Lip Balm Petal Glow, .15oz	086800009634	4.00
Nutritionals		
Supplements		
VIActiv® Milk Chocolate - 60 ea	300450102034	4.20
VIActiv® Calcium Soft Chews Plus Vitamin D & K, Caramel - 60 ea	300450103031	4.68
VIActiv® Multi-Vitamin Milk Chocolate Chews - 60 ea	300450164605	4.52
VIActiv® Calcium Chocolate Mint Chews - 60 ea	300450437600	4.20
BENECOL® Smart Chews 120 ct.	300450865212	12.00
VIActiv® Calcium Dietary Supplement Soft Chews+ Vitamin D Milk Chocolate 100 Ct.	300450102959	5.15
VIActiv® Calcium Dietary Supplement Soft Chews + Vitamin D Caramel 100 Ct.	300450103956	5.15
Sweeteners		
SPLENDA® No Calorie Sweetner - 50 Packets	722776200018	0.95
SPLENDA® No Calorie Sweetener - 200 Packets	722776200032	4.20
SPLENDA® No Calorie Sweetener, Granulated - 1.9 oz.	722776210017	1.60
SPLENDA® No Calorie Sweetener, Granulated - 3.8 oz.	722776210024	2.30
SPLENDA® Sweetener, Sugar Blend - 2 lbs	722776230015	5.70
SPLENDA® Brown Sugar Blend - 1 lb	722776230329	3.45
SPLENDA® Flavor Blends for Coffee, French Vanilla - 30 ct	722776243015	1.85
SPLENDA® Flavor Blends for Coffee, Hazelnut - 30 ct	722776243022	1.85
SPLENDA® Flavor Blends for Coffee, Mocha - 30 ct	722776243039	2.60
SUN CRYSTALS® All-Natural Sweetener Packets - 50CT	722776236505	1.65
SPLENDA® No Calorie Sweetener with Fiber, Granular 7.5 oz.	722776240519	1.89
SPLENDA® No Calorie Sweetener with Fiber, Packets 80 Ct.	722776201800	2.10
SPLENDA® ESSENTIALS™ No Calorie Sweetener, with B Vitamins	722776201602	1.85
SPLENDA® No Calorie Sweetener, Minis 100ct	722776227015	2.25
Oral Health Care		
Breath Fresheners		
LISTERINE® POCKETPAKS® Breath Strips, COOL MINT® - 3 pack	012547433203	2.10

Category Name	UPC	Price
LISTERINE® POCKETPAKS® Breath Strips, FRESHBURST® - 3 pack	012547436204	2.10
LISTERINE® POCKETPAKS® Breath Strips, Cinnamon - 3 pack	012547437201	1.90
LISTERINE® POCKETPAKS® Breath Strips, Fresh Citrus - 3 pack	012547444209	2.10
Dental Floss		
JOHNSON & JOHNSON REACH® Cleanpaste™ Original Icy Mint 50 YD	381370097235	3.90
JOHNSON & JOHNSON REACH® Easy Slide Floss Waxed, Mint - 40 yds	381370091837	1.60
JOHNSON & JOHNSON REACH® Floss, Waxed - 55 yds	381370092131	0.70
JOHNSON & JOHNSON REACH® Floss Waxed, Cinnamon - 55 yds	381370092193	0.60
REACH® ACCESS Daily Flosser Starter Pack - 1 Kit	381370096559	1.35
REACH® FLOSS UNWAXED 55 YARD	381370092155	0.70
REACH® FLOSS ICY-SPEARMINT CLEAN BURST 55 YARD	381370094708	0.70
REACH® GENTLE GUM CARE Woven Floss Mint 50yd	381370093305	1.40
JOHNSON & JOHNSON REACH® Floss Waxed, Mint - 55 yds	381370092179	0.70
Denture care		
Rinse		
LISTERINE® Whitening Pre-Brush Rinse, Clean Mint - 16 oz.	012547425253	3.10
LISTERINE® AGENT COOL BLUE® Bubble Blast® 16.9 oz.	012547445275	2.40
LISTERINE® AGENT COOL BLUE® Glacier Mint - 16.9 oz.	012547445671	2.15
LISTERINE® SMART RINSE MINT SHIELD 16.9 oz.	312547113250	2.35
LISTERINE® SMART RINSE BERRY SHIELD 16.9 oz.	312547115254	2.25
LISTERINE® TOTAL CARE Anticavity Mouthwash - 250 ML	312547306201	1.95
LISTERINE® Tooth Defense Anticavity Fluoride Rinse, Mint Shield - 1L	312547306355	3.60
LISTERINE® COOL MINT® Antiseptic Mouthwash - 250 ML	312547427203	1.45
LISTERINE® Antiseptic Mouthwash, COOL MINT® - 16.9 oz.	312547427258	2.35
LISTERINE® Advanced Antiseptic Tartar Protection, Arctic Mint - 250 ML	312547429207	1.95
ADVANCED LISTERINE® with TARTAR PROTECTION ARCTIC MINT - 500 ML	312547429252	1.86
LISTERINE® Antiseptic Mouthwash, Natural Citrus - 16.9 oz.	312547443050	2.65
LISTERINE® Antiseptic Mouthwash, Original - 1L	312547701525	3.15
LISTERINE® Antiseptic Mouthwash FreshBurst® 500 ML	312547428255	2.10
LISTERINE® Cool Mint® 1 L	312547427357	1.75
LISTERINE® FreshBurst® 250 ML	312547428200	1.70
LISTERINE® FreshBurst® 1L	312547428354	3.30
LISTERINE® Advanced w/Tartar Protection Arctic Mint™ 1 L	312547429351	3.60
LISTERINE® Soft Mint™ 1L	312547521352	3.60
Toothbrushes		
REACH® Advanced Design Full Head, Soft - 1 ea	381370072010	1.35
REACH® Advanced Deign Toothbrush Value Pack, Soft Full Head - 2 ea	381370073307	2.10

Category Name	UPC	Price
REACH® MAX Tooth & Gum Brush, Soft Full - 1 ea	381370078975	1.75
REACH® Tooth & Gum Brush, Medium Full - 1 ea	381370078982	1.75
REACH® MAX Tooth & Gum Brush, Soft Full Head - 2 ea	381370080848	2.80
REACH® Advanced Design Toothbrush, Medium Full Head - 2 ea	381370080862	2.10
REACH® CRYSTAL CLEAN Soft Full Head Value Pack - 2 ea	381370095415	1.00
REACH® Youth Batman Toothbrush Value Pack - 2 ea	381370097907	2.10
REACH® Children's Wondergrip Toothbrush - 4 ea	381370098690	2.60
REACH® Advanced Design Firm Full Head- 1 ct	381370072386	1.30
REACH® CRYSTAL CLEAN™ Soft Full Head 1 CT	381370095088	0.65
REACH® CRYSTAL CLEAN™ Medium Full Head 1CT	381370095095	0.65
REACH® CRYSTAL CLEAN™ Firm Full Head 1 CT	381370095101	0.65
REACH® Youth Batman Toothbrush 1 CT	381370095286	1.30
Reach® Barbie™ Toothbrush value Pack, 2ct	381371092185	1.90
Reach® Barbie™ Toothbrush value Pack, 1ct	381371092222	1.20
REACH® Advanced Deign Toothbrush Value Pack, Firm Full Head - 2 ea	381370079620	2.10
Whitening		
LISTERINE® Whitening Pre-Brush Rinse, Clean Mint - 16 oz.	012547425253	3.10
LISTERINE® Whitening Quick Dissolving Strips, Clean Mint - 56 ea	012547425604	13.85
REMBRANDT® Whitening Strips - 14 ea	049336006515	11.05
REMBRANDT® Plus Peroxide Whitening Toothpaste, Wintergreen Flavor - 2.6 oz.	049336437005	3.40
REMBRANDT® Intense Stain Removal Toothpaste, Mint Flavor - 3 oz.	049336447004	3.40
REMBRANDT® 2 Hour White - 1 pack	049336653009	11.40
REMBRANDT® Plus Peroxide Fresh Mint Toothpaste 2.6oz	049336436008	3.75
Toothpaste		
REMBRANDT® Plus Peroxide Whitening Toothpaste, Wintergreen Flavor - 2.6 oz.	049336437005	3.40
REMBRANDT® Intense Stain Removal Toothpaste, Mint Flavor - 3 oz.	049336447004	3.40
LISTERINE® ESSENTIAL CARE® Regular Paste - 4.2 oz.	312547434058	2.50
LISTERINE® ESSENTIAL CARE® Regular Toothpaste Gel - 4.2 oz.	312547434553	2.15
LISTERINE® ESSENTIAL CARE® Toothpaste - Powerful Mint Gel, Tartar Control - 4.2 oz.	312547434751	2.25
REMBRANDT® Plus Peroxide Fresh Mint Toothpaste 2.6oz	049336436008	3.75
OTC Medicines		
Aches, Pains & Fever Relief		
BENGAY® Vanishing Scent Non-Greasy 2 oz.	074300005393	2.45
TYLENOL® Extra Strength PM Gel Tab - 100 each	300450176103	4.16
MOTRIN® IB Coated Tablets 100 Ct.	300450463043	4.40
BENGAY® Ultra Strength Cream - 4 oz.	074300005362	4.25
BENGAY® Ultra Strength Pain Relieving Patch - 5 ct	074300081502	3.60

Category Name	UPC	Price
TYLENOL® Extra Strength EZ Tablets - 100 ea	300450422101	5.55
TYLENOL® Extra Strength Caplets - 100 ea	300450449092	4.90
TYLENOL® Extra Strength Caplets, Vial Blister - 10 ea	300450449153	0.95
MOTRIN® Caplets - 100 ea	300450481016	4.40
TYLENOL® PM Extra Strength Caplets - 100 ea	300450482105	5.20
TYLENOL® Regular Strength Tablets - 100 ea	300450496607	3.12
MOTRIN® IB PM CAPLET 80 CT	300450563804	6.20
MOTRIN® IB Coated Caplets (50 Pouches of 2 Caplet) 100 CT BOX	300450481528	5.30
TYLENOL® EXTRA STRENGTH Rapid Release Gelcaps 50 CT	300450488503	3.90
TYLENOL® PRECISE™ PAIN RELIEVING HEAT PATCH 3 CT	300450591135	4.45
TYLENOL® PRECISE™ Pain Relieving Heat Patch 4 ct	300450591142	4.01
TYLENOL® PRECISE™ Pain Relieving Cream 2.5 oz	300450597021	4.45
BENGAY® Greaseless Pain Relieving Cream 4 oz	074300005317	3.70
TYLENOL® EXTRA STRENGTH Tablets 60 CT	300450499684	3.20
BENGAY® Greaseless Pain Relieving Cream, 2oz	074300005300	2.50
BENGAY® Ultra Strength Pain Relieving Patch, Large 4ct	074300081496	4.00
BENGAY® Cold Therapy Pain Relieving Gel	074300492544	4.40
TYLENOL® Extra Strength Caplets (50 Pouches of 2 Caplet) 100 CT BOX	300450449108	4.95
Allergy & Sinus		
ZYRTEC® ALLERGY 24 Hour 10mg Tablets 30 each	312547204361	11.60
ZYRTEC® Allergy 24 Hour 10 mg Tablets - 14 ea	312547204323	9.80
ZYRTEC® Allergy 24 Hour 10mg 45 CT	350580726389	17.00
Anti-Itch /Inflammation		
TUCKS® Hemorrhoidal Pads - 100 ct	312547150200	3.85
BENADRYL® Itch Stopping Extra Strength Cream - 2 oz.	312547171670	5.05
TUCKS® Hemorrhoidal Ointment - 1 oz.	342002300017	2.50
AVEENO® Anti-Itch Cream - 1 oz.	381370036807	1.65
AVEENO® Anti-Itch Concentrated Lotion - 4 oz.	381370036906	3.20
CORTAID® Intensive Therapy Cooling Spray - 2 oz.	381370050063	1.73
CORTAID® Maximum Strength 1.0% Hydrocortisone Anti-Itch Cream - 2 oz.	381370050124	3.45
CORTAID® Intensive Therapy Moisturizing Cream - 2 oz.	381370050254	4.20
TUCKS® Medicated Pads, 40ct	312547150408	2.35
AVEENO® 1% HYDROCORTISONE ANTI-ITCH CREAM, 1oz	381370036586	4.15
Children's Medicine		
Jr. TYLENOL® Meltaways Grape Punch - 24 each	300450514240	3.45
IMODIUM® A_D Liquid for children- 4 oz.	300450134448	2.40
Jr. TYLENOL® Fever Reducer & Pain Reliever, Meltaways, Bubblegum Burst 24 ea	300450513243	3.45
Cough, Cold & Flu		

Category Name	UPC	Price
TYLENOL Sore Throat Liquid with COOL BURST, Daytime - 8 oz.	300450813084	3.35
Sleep Aid		
TYLENOL®PM Extra Strength Caplets - 100 ea	300450482105	5.20
MOTRIN® IB PM CAPLET 80 CT	300450563804	6.20
TYLENOL® Extra Strength PM Gel Tab - 100 each	300450176103	4.16
Stomach & Digestion		
LACTAID® Original Strength Caplets - 120 ea	300450080028	7.20
IMODIUM® A-D Mint Flavor - 8 oz.	300450134080	4.70
IMODIUM® A-D Caplets - 12 ea	300450295125	2.60
IMODIUM® A-D Anti-Diarrheal Caplets - 24 ea	300450295248	4.15
IMODIUM® A-D CAPLET - 48 ea	300450295842	7.20
DRAMAMINE® Less Drowsy Formula, 8 Tablets	300450648082	1.16
LACTAID® Fast Act Caplet - 32 ea	300450910325	4.25
LACTAID® Fast Act Chewable Tablet - 32 ea	300450930323	4.25
DRAMAMINE® Original Formula Tablets Vial 12 Count	300450642127	2.10
LACTAID® Fast Act Caplets 60 CT	300450910608	5.10
LACTAID® Fast Act Chewables 60 CT	300450930606	8.95
Peppid, Mylanta & Mylicon		
MYLANTA® Gas Maximum Strength Chewable Mint Tablets - 24 ea	716837455240	2.85
Infant's MYLICON® Gas Relief dye-free drops non-staining - 0.5 oz.	716837911081	3.85
PEPCID® AC Original Strength Tablets 30 CT	716837872306	11.85
Skin & Hair Care		
Acne Treatment		
NEUTROGENA® Oil-Free Acne Stress Control™ Power-Clear Scrub 4.2 oz.	070501053256	4.10
NEUTROGENA® Oil-Free Acne Stress Control™ 3-1 Hydrating Acne Treatment 2 oz.	070501053102	4.10
NEUTROGENA® Oil Free Acne Wash - 6 oz.	070501017104	3.20
NEUTROGENA® ON-THE-SPOT® Acne Treatment, Vanishing - 0.75 oz.	070501017906	3.20
NEUTROGENA® HEALTHY SKIN Anti-Wrinkle Anti-Blemish Cream - 1 oz.	070501023501	6.25
NEUTROGENA® Rapid Clear® Acne Eliminating Spot Gel - 0.5 fl oz.	070501024805	3.50
NEUTROGENA® Rapid Clear Oil-Eliminating Foaming Cleanser - 6 fl oz.	070501025802	3.30
NEUTROGENA® Blackhead Eliminating Daily Scrub - 4.2 fl oz.	070501060155	3.10
NEUTROGENA® Oil-Free Acne Wash Cleansing Cloths - 30 cloths	070501061657	3.95
NEUTROGENA® CLEAR PORE Oil-Controlling Astringent - 8 oz.	070501116906	2.40
AMBI® EVEN & CLEAR Exfoliating Wash - 5 oz.	381370022268	3.15
CLEAN & CLEAR® Advantage Acne Control Kit - 1 ea	381370023425	9.95
CLEAN & CLEAR® PERSA-GEL 10, Maximum Strength Acne Medication - 1 oz.	381370034056	2.35
CLEAN & CLEAR® Blackhead Clearing Scrub - 5 oz.	381370035930	2.65
CLEAN & CLEAR® Advantage Acne Spot Treatment - .75 oz.	381370039914	3.35

Category Name	UPC	Price
CLEAN & CLEAR® Advantage® 3-in-1 Exfoliating Cleanser 5 oz.	381371025176	3.60
CLEAN & CLEAR® Advantage® 3-in-1 foaming acne wash 8 oz. Pump	381371025800	3.10
CLEAN & CLEAR® Blackhead Eraser Cleansing Mask 4 oz.	381371025817	2.40
CLEAN & CLEAR® Advantage® mark treatment 0.5 oz.	381371025824	3.10
NEUTROGENA® Rapid Clear® Acne Defense Face Lotion 1.7 FL OZ	070501024850	3.70
NEUTROGENA® Rapid Clear® Treatment Pads Maximum Strength 60 CT	070501025901	3.45
NEUTROGENA® Oil-Free Acne Wash Pink Grapefruit Foaming Scrub 4.2oz	070501053607	3.12
NEUTROGENA® OIL-FREE ACNE STRESS CONTROL® POWER-FOAM WASH 6 oz	070501053058	4.10
NEUTROGENA® Oil-Free Acne Wash 9.1oz	070501017128	3.80
Clean&Clear® Advantage® Popped Pimple Relief™ Drying Paste, .5oz	381371022298	3.10
Neutrogena® Facial Cleansing Bar for Acne-Prone Skin, 3.5oz	070501013304	1.50
Body Lotions & Creams		
LUBRIDERM® Advanced Therapy Lotion - 6 oz.	052800482319	1.95
LUBRIDERM® Advanced Therapy Hand Cream - 3.5 oz.	052800482654	3.15
LUBRIDERM® Intense Skin Repair Body Lotion - 16 oz.	052800482685	4.55
LUBRIDERM® Skin Nourishing Moisturizing Lotion with Shea & Cocoa Butters - 16 oz.	052800498563	4.15
NEUTROGENA®NORWEGIAN FORMULA Fast Absorbing Hand Cream - 3 oz.	070501012840	3.00
NEUTROGENA®Skin Clearing Shave Cream - 5.1 oz.	070501020258	2.40
NEUTROGENA®deep moisture body cream Butter Cream - 6.0 oz. Jar	070501028858	4.70
NEUTROGENA®Body Lotion, Enriched with Sesame Oil - 8.5 oz.	070501617205	2.50
NEUTROGENA®NORWEGIAN FORMULA® Hand Cream - .5 oz.	086800000150	0.65
CORN HUSKERS® Lotion - 7 oz.	312547481274	2.40
AVEENO® Advanced Care Moisturizing Cream, Active Naturals - 6 oz.	381370010746	4.70
AVEENO® Intense Relief Overnight Cream 7.3 oz.	381370011378	3.55
AVEENO® Skin Relief Moisturizing Cream - 11 oz.	381370013655	5.15
AVEENO® Daily Moisturizing Lotion - 1 oz. (Sample size)	381370013822	0.01
AVEENO® Skin Relief Moisturizing Lotion Fragrance Free, 12 oz.	381370015796	3.75
JOHNSON'S® Body Care Deep Hydrating Intense Moisture Body Wash - 20.3 oz.	381370027379	2.90
JOHNSON'S® Body Care 24 Hour Lotion - 2 oz.	381370027409	0.90
JOHNSON'S® Body Care Deep Hydrating Extra Dry Skin Moisturizer - 14 oz.	381370027843	2.65
JOHNSON'S® Body Care Be Radiant Cocoa & Shea Butter Lotion - 14 oz.	381370031093	2.65
AVEENO® Daily Moisturizing Lotion Tube - 8 oz.	381370036012	3.20
AVEENO® Therapeutic Shave Gel with Natural Oatmeal - 7 oz.	381370036708	2.45

Category Name	UPC	Price
AVEENO® Daily Moisturizing Lotion with Natural Colloidal Oatmeal - 18 oz.	381370038443	4.42
AVEENO® Positively Smooth Shave Gel - 7 oz.	381370038597	2.30
AVEENO® Stress Relief Moisturizing Lotion - 12 oz.	381370039167	4.15
AVEENO® Creamy Moisturizing Oil - 12 oz.	381370039211	4.15
LUBRIDERM® Daily Moisturizer 16 oz.	052800488465	4.50
AVEENO® Daily Moisturizer 12 oz.	381370036005	3.95
LUBRIDERM® Intense Skin Repair Ointment 1.75 oz.	052800482012	2.40
AVEENO® POSITIVELY NOURISHING™ 24-HOUR ULTRA-HYDRATING WHIPPED SOUFFLÉ 6 OZ	381371010240	3.90
AVEENO® POSITIVELY NOURISHING™ INVIGORATING BODY LOTION 11 OZ	381371010264	3.90
AVEENO® Positively Nourishing™ Soothing Body Lotion 11 oz	381371010271	3.90
AVEENO® Positively Nourishing™ Refreshing Body Lotion 11 oz	381371010400	3.90
LUBRIDERM® Advanced Therapy SPF 30 Moisturizing Lotion 8 oz	352800482525	3.80
LUBRIDERM® Advanced Therapy Lotion 24 oz	052800482623	4.75
LUBRIDERM® Daily Moisture Lotion 24 oz	052800488625	4.75
JOHNSON'S® 24 Hour Moisturizer 14 oz	381370031116	2.65
LUBRIDERM® Daily Moisture Lotion – Fragrance Free, 16oz	052800488564	4.60
LUBRIDERM® Men's 3-in-1 Lotion, 16 oz	052800480728	4.15
LUBRIDERM® Men's 3-in-1 Lotion Fragrance Free, 16 oz	052800480735	4.15
AVEENO® Skin Relief Moisturizing Lotion, 12oz	381370036852	4.15
Body Washes & Soaps		
AVEENO® Advanced Care Body Wash 10 oz.	381370010753	4.65
NEUTROGENA® Energizing Body Wash, Fresh Citrus - 6.7 oz.	070501014356	3.90
NEUTROGENA® BODY CLEAR. Body Wash, Acne - 8.5 oz.	070501017500	3.25
NEUTROGENA® RAZOR DEFENSE Shave Gel - 7 oz.	070501020067	2.65
NEUTROGENA® Skin Clearing Shave Cream - 5.1 oz.	070501020258	2.40
NEUTROGENA® Rainbath deep moisture body wash Butter Cream - 6.7 oz.	070501028957	3.90
NEUTROGENA® RAINBATH® Shower & Shave Body Wash - 8.5 oz.	070501029008	4.10
NEUTROGENA® RAINBATH Shower & Bath Gel, Original - 8.5 oz.	070501610305	3.75
AVEENO® Daily Moisturizing Body Wash - 12 oz.	381370014188	3.20
JOHNSON'S® Body Care Deep Hydrating Intense Moisture Body Wash - 20.3 oz.	381370027379	2.90
AVEENO® Soothing Bath Treatment, Fragrance Free - 8 Packets	381370036401	3.40
AVEENO® Skin Relief Body Wash, Fragrance Free - 12 oz.	381370036463	3.20
AVEENO® Therapeutic Shave Gel with Natural Oatmeal - 7 oz.	381370036708	2.45
AVEENO® Skin Relief Bath Treatment - 3 packets	381370036890	1.65
AVEENO® Positively Smooth Shave Gel - 7 oz.	381370038597	2.30

Category Name	UPC	Price
AVEENO® Stress Relief Body Wash - 12 oz.	381370039556	3.20
JOHNSON'S® Body Care Melt Away Stress Lavendar & Chamomile Body Wash - 20.3 oz.	381370043348	2.95
NEUTROGENA® ENERGIZING SUGAR BODY SCRUB 6 oz.	070501014257	5.45
AVEENO® Positively Nourishing™ Aveeno Energizing Body Wash 16 oz	381371011339	2.06
AVEENO® Positively Nourishing™ Smoothing Body Wash 16 oz	381371011353	2.15
JOHNSON'S® Body Care Oil Infused Body Washes with Almond Oil and Warm Vanilla 18-20.3 fl oz	381371021062	3.15
NEUTROGENA® Facial Bar Original Formula Fragrance Free 3.5 oz	070501013502	1.30
NEUTROGENA® Facial Cleansing Bar, Original - 3.5 oz.	070501010105	1.40
NEUTROGENA® Rainbath® Refreshing Shower and Bath Gel Original Formula 16 oz	070501611609	5.80
AVEENO® Positively Nourishing™ Calming Body Wash 16 oz	381371011377	2.95
JOHNSON'S® 24 Hour Moisturizing Wash 20.3 FL	381370026778	2.85
AVEENO® Positively Nourishing™ Anti-Oxidant Body Wash Blackberry + Vanilla, 16 oz	381371018789	2.95
CLEAN & CLEAR® MORNING BURST® Splash Body Wash, 16 oz	381371022052	2.90
CLEAN & CLEAR® MORNING BURST® Boost Body Wash 16 oz.	381371022205	2.90
CLEAN & CLEAR® MORNING BURST® Charge Body Wash 16 oz.	381371024582	2.90
Cotton		
JOHNSON'S® Safety Swabs - 55 ct	381370082569	0.90
JOHNSON'S® Cotton Swabs 525 Count Value Pack	381370082385	3.05
Facial Cleansers & Toners		
PURPOSE® Gentle Cleansing Bar - 6 oz.	381370034551	1.85
AVEENO® Positively Radiant® Cleanser Pump 6.7 oz.	381370036722	3.65
NEUTROGENA® Facial Cleansing Bar, Original - 3.5 oz.	070501010105	1.40
Liquid NEUTROGENA® Facial Cleanser, Fragrance Free - 8 oz.	070501011805	4.50
NEUTROGENA® Oil Free Acne Wash - 6 oz.	070501017104	3.20
NEUTROGENA® MEN® SKINCLEARING® Face Wash - 5.1 oz.	070501020012	3.00
NEUTROGENA® MEN® RAZOR DEFENSE Daily Face Scrub - 4.2 oz.	070501020036	2.40
NEUTROGENA® Rapid Clear Oil-Eliminating Foaming Cleanser - 6 fl oz.	070501025802	3.30
NEUTROGENA® Alcohol-Free Toner - 8.5 oz.	070501027004	3.65
NEUTROGENA® Fresh Foaming Cleanser - 6.7 oz.	070501028100	3.25
NEUTROGENA® DEEP CLEAN® Invigorating Foaming Scrub - 4.2 oz.	070501050217	3.80
NEUTROGENA® DEEP CLEAN® Gentle Scrub, Oil Free - 4.2 fl oz.	070501050354	3.15
NEUTROGENA® Make-up Remover Cleansing Towelettes - 25 ea	070501051009	4.60
NEUTROGENA® Make-up Remover Cleansing Towelettes Refill Pack - 25 ea	070501051054	3.25
NEUTROGENA® PORE REFINING Toner - 8.5 oz.	070501056400	3.85

Category Name	UPC	Price
NEUTROGENA®Extra Gentle Cleanser - 6.7 oz.	070501058008	3.65
NEUTROGENA®Visibly Even Foaming Cleanser - 5.1 fl oz.	070501059104	3.30
NEUTROGENA®Blackhead Eliminating Daily Scrub - 4.2 fl oz.	070501060155	3.10
NEUTROGENA®DEEP CLEAN® Facial Cleanser, Normal to Oily Skin (Pump) - 6.7 oz.	070501060902	3.15
NEUTROGENA®DEEP CLEAN® Cream Cleanser, Oil Free - 7 oz.	070501060957	3.15
NEUTROGENA®CLEAR PORE Oil-Controlling Astringent - 8 oz.	070501116906	2.40
AVEENO® Clear Complexion Cream Cleanser, Active Naturals - 5 oz.	381370011194	3.65
AVEENO® POSITIVELY RADIANT® Daily Cleansing Pads, 28 ea	381370013105	4.50
AVEENO® Clear Complexion Daily Cleansing Pads - 28 ea	381370013693	4.45
AVEENO® Ultra-Calming Foaming Cleanser - 6 oz.	381370014249	3.65
CLEAN & CLEAR® Morning Burst Cleanser - 8 fl oz.	381370016175	3.10
AMBI® EVEN & CLEAR Foaming Facial Cleanser - 6 oz.	381370022190	3.15
AMBI® EVEN & CLEAR Exfoliating Wash - 5 oz.	381370022268	3.15
AMBI® Black Soap - 3.5 oz.	381370022343	1.10
CLEAN & CLEAR® Continous Control Cleanser - 5 oz.	381370032892	2.90
CLEAN & CLEAR® Foaming Facial Cleanser - 8 oz.	381370033530	2.75
CLEAN & CLEAR® Deep Cleaning Astringent, Oil Fighting - 8 oz.	381370033677	2.10
CLEAN & CLEAR® Deep Cleaning Astringent, Sensitive Skin - 8 oz.	381370033776	2.10
CLEAN & CLEAR® Foaming Facial Cleanser, Sensitive Skin - 8 oz.	381370033875	2.60
Purpose® Cleansing Wash - 6 oz.	381370034759	2.85
CLEAN & CLEAR® Oil Absorbing Sheets - 50 ea	381370035664	2.65
AVEENO® Clear Complexion Cleansing Bar - 3.5 oz.	381370036227	1.50
AVEENO® Skin Brightening Daily Scrub - 5 oz.	381370036760	3.65
AVEENO® Clear Complexion Foaming Cleanser - 6 oz.	381370036913	3.65
AVEENO® POSITIVELY AGELESS Daily Exfoliating Cleanser, Active Naturals - 5 oz.	381370042617	4.60
CLEAN & CLEAR® DAILY PORE CLEANSER 5.5 oz.	381370033424	2.35
AVEENO® Ultra-Calming Moisturizing Cream Cleanser 5 oz.	381371016242	3.35
PURPOSE® Gentle Cleansing Wash Pump 12 oz.	381371016815	3.80
ROC® Daily Resurfacing Disks 28 Ct.	381371083183	4.40
CLEAN & CLEAR® FINISHES Pore Perfecting Cleanser 8oz	381371026463	3.35
CLEAN & CLEAR® FINISHES Even Tone Wash 6oz	381371026470	3.35
NEUTROGENA® Facial Bar Original Formula Fragrance Free 3.5 oz	070501013502	1.30
ROC® Pore Minimizing Cream Cleanser 5.0 fl oz	381371089994	4.40
CLEAN & CLEAR® MORNING BURST SURGE™ Refill	381371020324	2.03

Category Name	UPC	Price
CLEAN&CLEAR® MORNING BURST® Shine Control Cleanser – 8oz	381370023302	3.05
CLEAN&CLEAR® Deep Action Cream Cleanser – 6.5oz	381370033615	2.35
NEUTROGENA® OIL-FREE ACNE WASH REDNESS SOOTHING FACIAL CLEANSER 6oz	070501153666	1.08
NEUTROGENA® Oil-Free Acne Wash 9.1oz	070501017128	3.80
CLEAN & CLEAR® Morning Burst® Facial Scrub 5 oz.	381370016199	3.05
Clean&Clear® Mattifying Cleanser, 5oz	381371022366	2.80
NEUTROGENA® Clear Pore Daily Scrub, 4.7oz	070501060421	3.50
CLEAN&CLEAR® Deep Action Cream Cleanser Sensitive Skin, 6.5oz	381370016687	2.35
Facial Moisturizers		
NEUTROGENA® RAZOR DEFENSE Shave Gel - 7 oz.	070501020067	2.65
NEUTROGENA® RAZOR DEFENSE Post Shave Lotion - 2.5 oz.	070501020081	3.00
NEUTROGENA® MEN Triple Protect Face Lotion, SPF 20 - 1.7 oz.	070501020135	3.15
NEUTROGENA® Men Age Fighter Face Moisturizer - 1.4 oz.	070501020166	7.00
NEUTROGENA® Healthy Defense® SPF 30 Daily Moisturizer, Untinted - 1.7 oz.	070501024102	6.85
NEUTROGENA® Healthy Defense® SPF 30 Daily Moisturizer, Light - 1.7 oz.	070501024201	6.85
NEUTROGENA® Lip Moisturizer (SPF 15) - 0.15 oz.	070501042007	1.25
NEUTROGENA® Anti-Oxidant Age Reverse Night Cream - 1.7 oz.	070501052501	10.20
NEUTROGENA® Anti-Oxidant Age Reverse Eye Cream - 0.5 oz.	070501052556	10.10
NEUTROGENA® Anti-Oxidant Age Reverse Day Lotion SPF 20 - 1.7 oz.	070501052600	10.10
NEUTROGENA® Moisture Oil Free Formula, Sensitive Skin - 4 oz.	070501054000	6.05
NEUTROGENA® INTENSIFIED DAY MOISTURE® (SPF 15) - 2.25 oz.	070501055403	5.75
NEUTROGENA® Light Night Cream - 2.25 oz.	070501055502	6.35
NEUTROGENA® Moisture SPF 15 Untinted - 4 oz.	070501056509	5.45
NEUTROGENA® HEALTHY SKIN® Face Lotion SPF 15 - 2.5 oz.	070501062302	5.24
NEUTROGENA® Combination Skin Moisture - 4 oz.	070501062401	5.95
NEUTROGENA® HEALTHY SKIN® Eye Cream - 0.5 oz.	070501511107	6.85
AVEENO® POSITIVELY AGELESS Lifting & Firming Daily Moisturizer, SPF 30 - 2.5 oz.	381370011774	9.60
AVEENO® Essential Moisture Lip Conditioner with SPF 15 - 0.15 oz.	381370014577	1.65
AVEENO® POSITIVELY RADIANT Daily Defense SPF 30 - 2.5 fl oz.	381370015840	7.05
CLEAN&CLEAR® Morning Glow Moisturizer	381370016205	3.10
AMBI® Skin Discoloration Fade Cream, for Normal Skin - 2 oz.	381370022299	2.25
PURPOSE® Dual Treatment Moisturize Lotion, SPF 15 - 4 oz.	381370034513	4.10
CLEAN & CLEAR® Dual Action Moisturizer - 4 oz.	381370035725	3.10
AVEENO® POSITIVELY RADIANT Skin Daily Moisturizer SPF 15 - 4oz.	381370036951	6.50

Category Name	UPC	Price
AVEENO® ACTIVE NATURALS® POSITIVELY AGELESS Night Cream - 1.7 oz.	381370042624	9.60
AVEENO® Positively Ageless™ Daily Moisturizer SPF 42 - 1.6 oz.	381371010769	8.85
AVEENO® Ultra-Calming Daily Moisturizer SPF 30 Pump 2.5 oz.	381371016235	7.45
CLEAN & CLEAR® FINISHES Pore Perfecting Moisturizer SPF 20 1.7oz	381371026555	3.55
ROC® Multi Correxion™ 4-Zone Daily Moisturizer SPF 30 1.7 fl oz	381371083909	12.95
ROC® MULTI CORREXION™ Night Treatment 1 oz	381370088530	10.50
ROC® MULTI CORREXION™ Eye Treatment .5oz	381370088615	10.50
Clean&Clear® Mattifying Moisturizer SPF 15, 1.7oz	381371022359	2.80
Neutrogena® Men® Active Protect Face Lotion SPF 50+	070501020272	5.15
AVEENO® Clear Complexion Daily Moisturizer, 4 oz	381370038115	7.80
Hair & Scalp Treatment		
Men's ROGAINE. - 2 oz. - 1 month supply	312547700207	7.15
Men's ROGAINE® Extra Strength 5% Minoxidil Topical Foam - 1 month supply	312547781305	10.75
Men's Rogaine Extra Strength 5% Minoxidil Topical Foam Hair Regrowth Treatment - 3 month supply	312547781350	27.27
WOMEN'S ROGAINE® Hair Regrowth Treatment Solution 1 month supply 2 oz.	312547780209	7.60
PROGAINE® Volumizing Shampoo, 12oz	312547354127	3.20
Hair Care		
NEUTROGENA® Shampoo - 6 oz.	070501016404	2.85
NEUTROGENA® Triple Moisture Cream Lather Shampoo - 8.45 fl oz.	070501020807	3.00
NEUTROGENA® TRIPLE MOISTURE Active Soothing Shampoo - 8.45 oz.	070501020906	3.50
NEUTROGENA® Triple Moisture Silk Touch Leave-In Cream - 6 fl oz.	070501021750	3.45
NEUTROGENA® CLEAN® Volume Body Enhancing Shampoo - 10.1 oz.	070501026205	2.45
NEUTROGENA® CLEAN® Replenishing Moisturizing Shampoo - 10.1 oz.	070501026304	2.20
NEUTROGENA® Triple Moisture Deep Recovery Hair Mask - 6 oz.	070501026403	3.45
NEUTROGENA® Triple Moisture Daily Deep Conditioner - 8.45 fl oz.	070501026601	3.00
NEUTROGENA® CLEAN® Replenishing Moisturizing Conditioner - 10.1 oz.	070501027301	2.45
NEUTROGENA® T/GEL® Shampoo - 16 oz.	070501092408	7.85
NEUTROGENA® T/Ge® Shampoo, Stubborn Itch Control - 4.4 oz.	070501092507	2.90
NEUTROGENA® T/GEL® Conditioner - 4.4 oz.	070501092705	2.90
NEUTROGENA® T/Sa® Shampoo - 4.5 oz.	070501096505	3.45
Nizoral® A-D Shampoo - 7 oz.	300450895073	7.45
AVEENO® NOURISH & REVITALIZE SHAMPOO 10.5 OZ.	381371010578	3.15
AVEENO® NOURISH & MOISTURIZE SHAMPOO 10.5 OZ.	381371010585	3.15
AVEENO® NOURISH & VOLUMIZE SHAMPOO 10.5 OZ.	381371010592	3.15
AVEENO® NOURISH & MOISTURIZE CONDITIONER 10.5 OZ.	381371010608	3.15

Category Name	UPC	Price
AVEENO® NOURISH & REVITALIZE CONDITIONER 10.5 OZ.	381371010615	3.45
AVEENO® NOURISH & VOLUMIZE CONDITIONER 10.5 OZ.	381371010622	3.15
AVEENO® NOURISH & CONDITION LEAVE-IN TREATMENT 5.2 OZ.	381371010752	3.15
AVEENO® NOURISH+STYLE Smoothing Crème 4 fl oz	381371010288	2.21
AVEENO® NOURISH+STYLE Soft Hold Gel-Crème 5.0 fl oz	381371013784	2.52
AVEENO® NOURISH+STYLE Curl-Defining Spray Gel 5.2 fl oz	381371013838	3.15
AVEENO® NOURISH+STYLE Volumizing Foam 6.7 fl oz	381371014132	2.70
AVEENO® NOURISH+SHINE Shampoo 10.5 fl oz	381371019984	3.15
NOURISH+SHINE Conditioner 10.5 fl oz	381371019991	2.70
AVEENO® NOURISH+STYLE Fortifying Hairspray, 9oz	381371017188	3.15
AVEENO® LIVING COLOR™ Shampoo for Finer Hair, 10.5oz	381371018574	3.15
AVEENO® LIVING COLOR™ Conditioner for Finer Hair, 10.5oz	381371018581	3.15
AVEENO® LIVING COLOR™ Shampoo for Medium to Thick Hair, 10.5oz	381371018598	3.15
AVEENO® LIVING COLOR™ Conditioner for Medium to Thick, 10.5 oz	381371018604	3.15
Oils & Powders		
NEUTROGENA® Body Oil, Original Formula - 16 oz.	070501018453	8.25
NEUTROGENA® Body Oil Moisturizer - 8.5 oz.	070501618202	5.25
Shower to Shower® Morning Fresh - 13 oz.	381370007432	2.20
Shower to Shower® Breeze Fresh with Vanilla Essence - 13 oz.	381370009177	2.20
Shower to Shower® Sport Fresh - 13 oz.	381370009634	2.20
AVEENO® Creamy Moisturizing Oil - 12 oz.	381370039211	4.15
SHOWER TO SHOWER® ISLAND FRESH®	381370007111	2.20
SHOWER TO SHOWER® ORIGINAL FRESH®	381370007135	2.20
Sun Care		
AVEENO® SUN BABY Natural Protection Sunblock SPF 50+ Stick, .5 oz.	381371018703	4.60
AVEENO SUN Natural Protection Sunblock SPF 30 Lotion, 3 oz	381371018710	5.25
AVEENO SUN BABY Natural Protection SPF 30 Lotion, 3 oz	381371018727	5.30
AVEENO® Continuous Protection™ Sunblock Lotion SPF 85 Body 4.0 oz	381371019359	5.25
NEUTROGENA® MicroMist™ Tanning Medium 5.3 OZ	086800687634	6.10
NEUTROGENA® HEALTHY DEFENSE Oil-Free Sunblock Stick, SPF 30+ - 0.47 oz.	086800097631	3.50
NEUTROGENA® Healthy Defense Sunblock Lotion Oil-Free SPF 45 - 4 oz.	086800681731	3.36
NEUTROGENA® ULTRA SHEER Dry-Touch Sunblock, SPF 70 - 3 oz.	086800687702	5.75
NEUTROGENA® ULTRA SHEER Dry-Touch Sunblock, SPF 55 - 3 oz.	086800687900	5.15
NEUTROGENA® UltraSheer Dry-Touch Sunblock, SPF 45 - 3 oz.	086800687955	5.15
NEUTROGENA® ULTRA SHEER Body Mist Sunblock SPF 30 - 5 oz.	086800688303	5.25

Category Name	UPC	Price
NEUTROGENA®ULTRA SHEER Body Mist Sunblock SPF 45 - 5 oz.	086800688457	5.25
NEUTROGENA®ULTRA SHEER Body Mist Sunblock SPF 70 - 5 oz.	086800688709	5.75
NEUTROGENA®Fresh Cooling Body Mist Sunblock SPF 45 - 5 oz.	086800870555	5.25
NEUTROGENA®Fresh Cooling Body Mist Sunblock SPF 70 - 5 oz.	086800870609	5.75
NEUTROGENA®ULTRA SHEER Dry-Touch Sunblock, SPF 85 - 3 oz.	086800872856	5.75
AVEENO® Baby Sunblock Lotion, CONTINUOUS PROTECTION SPF 55 - 4 oz.	381370012740	4.55
AVEENO® CONTINUOUS PROTECTION Sunblock Lotion Face SPF 30 - 3 oz.	381370014607	4.50
Neutrogena® Pure & Free™ Liquid Daily Sunblock SPF 50, 1.4oz	086800860419	6.35
Neutrogena® Ultimate Sport® Sunblock Lotion SPF 30	086800870265	5.00
NEUTROGENA® Wet Skin Kids Sunblock Spray SPF 70+	086800870333	5.85
NEUTROGENA® Wet Skin Sunblock Spray SPF 30	086800870340	5.00
NEUTROGENA® Wet Skin Sunblock Spray SPF 50	086800870357	5.50
NEUTROGENA® Wet Skin Sunblock Spray SPF 85+	086800870364	5.85
Neutrogena® Spectrum+ Advanced Sunblock Spay SPF100	086800870418	6.80
NEUTROGENA®Sensitive Skin Sunblock, SPF 30 - 4 oz.	086800000792	4.75
Neutrogena® Ultra Sheer Liquid Daily Sun Protection SPF 55, 1.4oz	086800009764	6.35
Neutrogena® Ultra Sheer Dry-Touch Sunblock SPF 30	086800687856	5.20
NEUTROGENA®Pure & Free® Baby Sunblock 3oz	086800770541	5.45
AVEENO® Positively Ageless Sunblock Face Lotion SPF 70 3 oz	381371019304	5.70
AVEENO® Continuous Protection™ Sunblock Lotion SPF Face 100+ 3 oz	381371019281	5.25
Anti-Wrinkle		
NEUTROGENA® CLINICAL™ LIFTING WRINKLE TREATMENT SYSTEM	070501057247	23.10
NEUTROGENA® CLINICAL™ EYE LIFT CONTOURING TREATMENT	070501057261	18.55
ROC® MULTI-CORREXION™ Skin Renewing Serum 1 oz.	381371083916	10.50
ROC® Retinol Correxion Eye Cream - 0.5 oz.	381370084167	9.60
ROC® Retinol Correxion Deep Wrinkle Serum - 1 fl oz.	381370084440	9.60
ROC® Retinol Correxion Deep Wrinkle Night Cream 1 fl oz.	381370083214	9.60
AVEENO® ACTIVE NATURALS® POSITIVELY AGELESS Night Cream - 1.7 oz.	381370042624	9.60
NEUTROGENA®HEALTHY SKIN® Anti - Wrinkle Cream, SPF 15 - 1.4 oz.	070501061206	5.84
NEUTROGENA®HEALTHY SKIN® Anti-Wrinkle Night Cream - 1.4 oz.	070501061107	7.20
NEUTROGENA®Healthy Skin Anti-Wrinkle Anti-Blemish Cleanser - 5.1 oz.	070501024409	3.85
ROC® BRILLIANCE™ DAY REJUVENATING MOISTURIZER SPF20 2.0 FL OZ	381371083930	15.35
ROC® BRILLIANCE™ EYE BEAUTIFIER 2/3 OZ .6 FL OZ	381371084050	12.60

Category Name	UPC	Price
ROC® BRILLIANCE™ NIGHT RECHARGING MOISTURIZER 2.0 FL OZ	381371084104	15.50
AVEENO® AGELESS VITALITY™ REVITALIZING EYE TREATMENT KIT	381371010110	12.60
AVEENO® AGELESS VITALITY™ RESTORATIVE NIGHT TREATMENT KIT	381371010219	14.35
ROC® COMPLETE LIFT Daily Moisturizer SPF 30 1.3 oz	381370084877	3.70
NEUTROGENA® TOTAL SKIN RENEWAL STARTER KIT	070501155202	14.60
NEUTROGENA® TOTAL SKIN RENEWAL PUFFS REFILL - 24 CT	070501155240	9.20
ROC® RETINOL CORREXION® Smoothing System Kit	381371084654	13.27
Neutrogena® Clinical® Anti-Aging Booster Serum	070501021255	10.35
Neutrogena® Healthy Skin® Firming Cream SPF 15, 2.5oz	070501054505	7.05
Neutrogena® Healthy Skin® Radiance Cream SPF 15, 2.5oz	070501054604	7.05
Neutrogena® Healthy Skin® Anti-Wrinkle System	070501701362	11.70
ROC® MULTI-CORREXION™ LIFT Anti-Gravity Night Cream, 1.7oz	381371088638	11.70
ROC® MULTI-CORREXION™ LIFT Anti Gravity Serum, 1.3oz	381371088652	11.70
ROC® MULTI-CORREXION™ LIFT Anti Gravity Eye Cream, .5oz	381371088669	11.70
Vision Care		
Visine		
VISINE® A.C. Astringent Redness Reliever Eye Drops - 1 oz.	074300004020	2.88
VISINE® Advanced Relief - 1 oz.	074300008493	3.06
VISINE® Tears - .5 oz.	074300010670	2.80
VISINE® for Contacts - .5 oz.	074300012537	2.00
VISINE® TOTAL EYE™ SOOTHING EYELID CLEANSER PAD 30CT	074300493411	3.25
VISINE® Tired Eye Relief® .5oz	312547493093	3.95
VISINE® Maximum Redness Relief Formula .5oz	312547493390	2.80
VISINE® TOTALITY® Multi-Symptom Relief Eye Drop, 5oz	342002209051	3.25
VISINE® Original .5 oz	074300008035	2.00
Women's Health		
Liners		
CAREFREE® Body Shape™ Pantliners To Go Thin Unscented Light Protection 60 ct.	380041526005	2.10
CAREFREE® Thong Pantliners Unscented 98 ct.	380041494007	3.70
CAREFREE® Pantliners, Thong, Unscented - 49 ea	380041493000	1.35
CAREFREE® Body Shape™ Pantliners To Go, 20ct	380041220002	1.00
Medications		
MONISTAT® Soothing Care Itch Relief Cream - 1 oz.	380045407003	2.45
MONISTAT® Soothing Care Chafing Relief Powder-Gel - 1.5 oz.	380045472001	4.50
MONISTAT® 1-DAY OR NIGHT® Combination Pack with Comfort Glide™ Applicator	380045418009	10.05
MONISTAT® COOLWIPES® 12 CT	380045483007	2.80
MONISTAT® 3-Day OVULE® Combination Pack with Ready-to-Fill Disposable Applicators	380045486008	10.40

Category Name	UPC	Price
Pads		
STAYFREE® Ultra Thin w/ Wings Regular - 48 ea	380040663008	5.40
Stayfree® Regular Maxi - 48 ea	380040926004	4.55
STAYFREE® Ultra Thin Overnight Long Pads with Wings - 32 ea	380041036009	3.95
STAYFREE® Ultra Thin Super Long with Wings - 32 ea	380041054003	4.40
STAYFREE® Maxi Pads Deodorant 24 ct	380040932005	1.68
STAYFREE® Long Super Maxi with Wings 45ct	380040662001	5.85
STAYFREE® OVERNIGHT ULTRA THINS® with wings 40ct	380041002035	4.80
STAYFREE® OVERNIGHT ULTRA THINS® with wings 28ct	380041002059	3.75
Stayfree® ULTRA THIN with THERMOCONTROL™ Regular 44ct	380041044004	3.95
STAYFREE® Super Maxi 48 Ct	380040971004	4.45
STAYFREE® Ultra Thin Regular with Wings 36 CT	380041040006	3.90
Pregnancy		
Intimate Health		
K-Y® Personal Lubricant Liquid - 2.5 oz.	380040087088	3.15
K-Y® SILK-E Vaginal Moisturizer - 2.5 oz.	380040087149	3.15
K-Y® INTRIGUE Personal Lubricant - 2.75 oz.	380040087330	8.05
K-Y® SENSUAL SILK Personal Lubricant - 1.5 oz.	380040087354	2.70
K-Y® TOUCH MASSAGE 2-in-1 Tingling Body Massage & Lubricant - 6.7 oz.	380040087590	4.95
K-Y® TOUCH MASSAGE 2-in-1 Sensations Set	380040087767	5.05
K-Y® TINGLING Jelly, Personal Lubricant - 5 oz.	380040088887	4.90
K-Y® Yours+Mine Couples Lubricant - 3 fl oz.	380040088924	8.85
K-Y® Touch Massage Warming 2-in-1 - 6.7 oz.	380040089624	5.50
K-Y® Brand Lubricating Jelly - 4 oz.	381370089124	1.95
K-Y® BRAND INTENSE 10 ML	380040086951	6.20
Tampons		
o.b.® Non-Applicator Tampons, Regular - 40 ea	380041325004	3.70
o.b.® Non-Applicator Tampons, Super Absorbency - 40 ea	380041335003	3.75
o.b.® Non-Applicator Tampons, Multi-Pack - 40 ea	380041398008	3.70
o.b.® Pro Comfort Non-Applicator Tampons, Multi-Pack - 18 ea	380041806008	2.20
O.b. ® ProComfort™ Regular with SilkTouch™ Cover 40ct	380045509004	3.55
O.b. ® ProComfort™ Super with SilkTouch™ Cover 40ct	380045510000	2.84
Wound Care & Topicals		
Adhesive Bandages		
BAND-AID® BRAND ADHESIVE BANDAGES Assorted 280 Ct.	381370047117	6.85
BAND-AID® ADHESIVE BANDAGES Antibiotic Neon Colors Assorted 20 Ct.	381370055686	2.10
BAND-AID® Antibiotic Assorted 20 Ct.	381370055709	2.40
BAND-AID® TOUGH-STRIPS® Waterproof Assorted 20 CT	381370048343	1.50
BAND-AID® Flexible Fabric Assorted 30 Ct.	381370044307	1.50

Category Name	UPC	Price
BAND-AID® TOUGH-STRIPS - 20 all one size	381370044086	1.50
BAND-AID® ACTIV-FLEX - 6 ea Large Size	381370044130	2.24
BAND-AID® ACTIV-FLEX - 10 ea	381370044147	3.15
BAND-AID® Barbie, Assorted - 25 ea	381370044161	1.15
BAND-AID® Waterblock Plus Finger Care - 20 ea	381370044468	1.50
BAND-AID® Brand Knuckle & Fingertip - 20 ea	381370044529	1.50
BAND-AID® Brand Scooby-Doo, Assorted - 25 ea	381370044581	1.15
BAND-AID® Brand SpongeBob SquarePants, Assorted - 20 ea	381370044734	1.15
BAND-AID® Dora the Explorer, Assorted - 25 ea	381370044840	1.15
BAND-AID® Brand Advanced Healing Blister - 6 ea	381370044888	2.50
BAND-AID® BLISTER for FINGERS & TOES - 8 cushions	381370045823	2.55
BAND-AID® Brand Sheer Strips 3/4" - 100 ea	381370046349	2.50
BAND AID® Brand SHEER ASSORTED - 60 ea	381370046684	1.45
BAND-AID® Brand Sheer, Assorted - 80 ea	381370046691	1.75
BAND-AID® Brand Clear 3/4" Wide, Regular - 30 ea	381370046707	1.15
BAND AID® Brand Perfect Blend Light All One Size Spots 50 ea	381370047087	1.15
BAND-AID® Brand Flexible Fabric Adhesive Bandages - 8 ea	381370047544	0.40
BAND-AID® Brand Large Adhesive Pads, 2 7/8" x 4" - 10 ea	381370047681	1.70
BAND AID® Brand TOUGH-STRIPS. - 20 ea (all one size)	381370048336	1.50
BAND-AID® Brand Butterfly Closures, Sterile - 10 ea	381370055419	0.65
BAND-AID® Children's Adhesive Bandages, Hello Kitty - 20 ea	381370056164	1.15
BAND-AID® Brand Plastic, Family Pack - 60 ea	381370056355	1.35
BAND-AID® Water Block Plus Clear Transparent Bandages - 30 ea	381370056591	1.50
BAND AID® Comfort-Flex Extra Large Sheer - 10 ea	381370057055	1.50
BAND-AID® Brand Spiderman - 20 Ct.	381370045229	1.15
BAND-AID® SPORT STRIP® Extra Wide Bandages, Assorted 30 Ct	381370047230	2.00
BAND-AID® BRAND ADHESIVE BANDAGES Assorted 30 Ct	381370048480	1.45
BAND-AID® DISNEY® Fairies™, Assorted - 20ea	381371040094	1.15
BAND-AID® Decorated, Assorted - 20ea	381371042265	1.15
BAND-AID® DISNEY® Phineas and Ferb™, Assorted - 20ea	381371044917	1.15
BAND-AID® WATER BLOCK PLUS® Large, 10ct	381370056584	1.45
BAND-AID® Flexible Fabric Extra Large, 10ct	381370056850	1.50
Johnson & Johnson BAND-AID® Butterfly Closures	381370043317	2.61
BAND-AID® Flexible Fabric Bandages Fingertip, 100ct	381370044369	4.40
BAND-AID® Flexible Fabric Knuckle, 100ct	381370044383	4.60
First Aid		

Category Name	UPC	Price
BAND-AID® FRICTION BLOCK™ Stick .34 oz.	381370057635	2.80
NEOSPORIN® Antibiotic Ointment Neosporin plus Pain Relief .5 oz	312547407403	2.50
NEOSPORIN® First Aid Antibiotic Ointment - 0.5 oz.	300810730884	2.45
NEOSPORIN® + Pain Relief Antibiotic Ointment - 1 oz.	300810746878	4.25
Neosporin Neo To Go® Spray - .26 oz.	312547237222	1.79
JOHNSON & JOHNSON® First Aid Non Stick Pads (2" x 3") - 10 ea	381370047247	1.00
JOHNSON & JOHNSON® FIRST AID Hurt Free Non-Stick Pads - 10 ea	381370047285	1.65
JOHNSON & JOHNSON® First Aid Hurt-Free Tape, 1in x 2.3yds - 1 ea	381370049005	1.85
CORTAID® Intensive Therapy Cooling Spray - 2 oz.	381370050063	1.73
CORTAID® Intensive Therapy Moisturizing Cream - 2 oz.	381370050254	4.20
COACH® Sports Tape 1 1/2" x 10 Yards	381370079026	2.05
Sterile Rolled Gauze, 2" Wide - 1 ea	381370088073	1.05
Sterile Rolled Gauze, 4" Wide - 1 ea	381370088097	1.60
Johnson & Johnson First Aid Secure-Comfort Cloth Tape, 1" x 5 yds.	381370051626	1.40
Johnson & Johnson First Aid Steri-Pad 3 X 3 - 25 count	381370085232	2.40
JOHNSON&JOHNSON® First Aid Waterproof 1/2"X 5YDS	381370050407	0.65
BAND-AID® HURT-FREE® Antiseptic Wash 6oz	381370044598	1.85
Johnson & Johnson RED CROSS® All Purpose Clear Tape1 Roll (1 in. x 10 yds.)	381370048152	2.55
JOHNSON & JOHNSON® MIRASORB™ Sterile Gauze Sponges 4" x 4"	381370055310	3.25
COACH® Sports Tape Value Pack 1 1/2" x 10 yds. 4 Pack	381370079491	6.96
Johnson & Johnson RED CROSS® SECURE-FLEX™ Wrap 2 inches	381370049029	2.75
Johnson & Johnson RED CROSS® SECURE-FLEX™ Wrap 3 inches	381370049463	3.00
JOHNSON&JOHNSON® First Aid Waterproof 1"X 10 YDS	381370050513	2.30
First Aid Kits		
JOHNSON & JOHNSON® First Aid Kit - Large Ready Organized, 150 items	381370081234	5.45
JOHNSON & JOHNSON Industrial First Aid Kit, Metal (25 person) - 1 ea	381370081616	18.85
JOHNSON&JOHNSON® First Aid To Go, Mini First Aid Kit - 1 ea	381370082958	0.70
Johnson & Johnson RED CROSS® Brand SAFE TRAVELS® First Aid Kit	381370082743	4.35
Hand Sanitizers		
Branded Merchandise		

EXHIBIT 10

SUPERIOR COURT OF NEW JERSEY.
 MIDDLESEX COUNTY
 DOCKET NO. MID-L-006108-21.
 MID-L-002089-23

KIMBERLY NARANJO	)	VIDEOTAPED
(MID-L-006108-21)	)	
JUSTIN BERGERON, et al	)	DEPOSITION UPON
(MID-L-002089-23),	)	
	)	ORAL EXAMINATION
Plaintiff,	)	
	)	OF
- vs -	)	
	)	THIBAUT MONGON
KENVUE, INC., et al		
Defendant.		
- - - - -		

TRANSCRIPT OF DEPOSITION,
 taken by and before KARA HACKETT,
 Professional Reporter and Notary Public, at
 the LAW OFFICES OF FAEGRE, DRINKER, BIDDLE &
 REATH, 105 College Road East, Suite 300,
 Princeton, New Jersey, on August 14, 2023,
 commencing at 9:00 a.m.

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A P P E A R A N C E S :

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 Attorneys for the Add'l Defendant

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I N D E X

WITNESS	PAGE
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By: Mr. Placitella	7, 160
By: Ms. Fournier	156

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A L S O P R E S E N T :

Dennis Mullin, Videographer
 Tracey Van Dillion, In-House Attorney for Kenvue
 Richard Golomb
 Via Zoom:
 Eric Pasternack
 Michelle Parfitt
 Mark Buha
 James Green
 Moshe Maimon
 Clay Thompson
 Michael Coren
 Aaron Chapman
 Harry Roth
 Leigh O'Dell
 Drew Renzi

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E X H I B I T S

P A G E

N U M B E R D E S C R I P T I O N M A R K E D

(NO EXHIBITS WERE MARKED.)

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PROCEEDINGS

THE VIDEOGRAPHER: We are now on the record. This begins video number one in the deposition of Thibaut Mongon in the matter of Naranjo v. Kenvue.

Today is Monday, August 14, 2023, and the time is approximately 9:08 a.m. This deposition is being taken at 105 College Road, Princeton, New Jersey.

The videographer is Dennis Mullin of Magna Legal Services. And our court reporter is Kara Hackett of Magna Legal Services.

Will counsel please state their appearances for the record.

MR. PLACITELLA: Christopher Placitella on behalf of the plaintiffs.

MS. FOURNIER: Kristen Fournier on behalf of the witness, Kenvue, and with me is Tracey Van Dillen, in-house counsel at Kenvue.

MR. GARDE: John Garde of McCarter English also on behalf of the defendant Kenvue.

MR. GOLOMB: Richard Golomb on behalf of plaintiff.

THE VIDEOGRAPHER: Could you actually just unmute us on Zoom, make sure they can hear us? And then if anyone needs to announce on there, otherwise, we can

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have the court reporter swear in the witness.

THIBAUT MONGON, after having been duly sworn, was examined and testified as follows:

BY MR. PLACITELLA:

Q. Good morning.

A. Good morning.

Q. First, let me be sure I get the correct pronunciation of your name.

A. Mongon.

Q. Mongon. Okay. Good morning. My name is Chris Placitella. I'm here for purposes of taking your deposition.

Have you ever had your deposition taken before?

A. Yes, I have.

Q. And what kind of case?

A. In talc case.

Q. In a talc case. Oh, in the context of the bankruptcy?

A. Of the bankruptcy.

Q. Okay. I've read the deposition. Any time other than that?

A. No.

8

Q. Okay. I'm here, I'm going to try to be respectful of your time. If there's something that you don't know, please tell me that. If there's something that you don't have knowledge of, you can tell me that and I'll try to move on. Okay?

A. Okay.

Q. All right. I want to just start from the beginning with you're currently the CEO of Kenvue?

A. Correct.

Q. And as of when specifically?

A. As of May 4, 2023.

Q. 2023. And before that, you were chairman of Consumer Health. I'm sorry. Before that, you started out in Consumer Health in 2014?

A. I started in Consumer Health in 2014, correct.

Q. Correct. And you were chairman of Consumer Health Asia Pacific?

A. Asia Pacific.

Q. And you had that job until 2019?

A. '19.

Q. When you were chairman of Consumer Health Asia Pacific, what were your job responsibilities?

A. I was responsible for the development of the business in the Asia Pacific region.

Q. And what countries specifically?

9

A. Every country from India to all the way to Japan, down to Australia and New Zealand.

Q. Okay. And what specifically, what was your day-to-day responsibility? What would you do on a typical day?

A. My job was to oversee the development of the Consumer Health business in the region.

Q. Okay. And then in 2019 -- I'm sharing my password with Richard Golomb. Okay.

In 2019, you became the worldwide chairman of Consumer Health?

A. Correct.

Q. And what were your job responsibilities in that job?

A. My job was to oversee the development of the Consumer Health business worldwide.

Q. Worldwide. And where were you physically located at that point?

A. In New Jersey.

Q. In New Brunswick?

A. In New Brunswick, New Jersey.

Q. And is your office still in New Brunswick, New Jersey?

A. No. I moved to Skinman, New Jersey, on January 1st of this year.

10

1 **Q. And when you were the chairman of Consumer**
2 **Health, you were a member of the J&J Executive**
3 **Committee?**

4 A. Correct.

5 **Q. And are you still a member of the J&J**
6 **Executive Committee?**

7 A. No, I'm not anymore.

8 **Q. Did your membership in the Executive Committee**
9 **terminate when you began with Kenvue?**

10 A. Correct.

11 **Q. When you were in the Executive Committee, were**
12 **you responsible for strategic operations of Consumer**
13 **Health and allocation of resources?**

14 MS. FOURNIER: Objection.

15 THE WITNESS: I was responsible for the
16 development of the business. Yes.

17
18 BY MR. PLACITELLA:

19 **Q. And when you were part of the Executive**
20 **Committee in 2021, were you involved in the approval of**
21 **the reorganization of the Consumer Division?**

22 MS. FOURNIER: Objection.

23 THE WITNESS: What do you mean by the
24 reorganization of the Consumer Division?
25

12

1 **with the S1? You signed that?**

2 A. Yeah.

3 **Q. Okay. According to the S1, your compensation**
4 **is \$12,438,000 a year?**

5 MS. FOURNIER: Objection.

6 THE WITNESS: It's compensation. It's a
7 compensation that I could get if I hit my targets.
8

9 BY MR. PLACITELLA:

10 **Q. Okay. And it also indicates on the S1 that**
11 **you had personal use of the J&J planes and vehicles.**
12 **Does that continue to today as chairman of Kenvue?**

13 MS. FOURNIER: Objection.

14 THE WITNESS: No.
15

16 BY MR. PLACITELLA:

17 **Q. Okay. Can you tell me, did you review**
18 **anything in preparation for today's deposition?**

19 A. I did.

20 **Q. Okay. What did you review?**

21 A. I did review the public filings that we had
22 and the complaint.

23 **Q. What public filings?**

24 A. The S1, the S4, so this is what we reviewed.

25 **Q. And did you speak with anyone in preparation**

11

1 BY MR. PLACITELLA:

2 **Q. Would you recall, in 2021, there was a**
3 **reorganization of the Consumer Health sector of J&J?**

4 MS. FOURNIER: Objection.

5 THE WITNESS: It was not a reorganization of
6 the Consumer Health sector. Are you referring to the
7 restructuring of the JJCI?
8

9 BY MR. PLACITELLA:

10 **Q. Yes, sir.**

11 A. Okay. So, yes, I was.

12 **Q. Okay. And you approved that restructuring in**
13 **2021?**

14 A. I did approve it. Yes.

15 **Q. And are -- in fact, were you the highest**
16 **ranking J&J official that approved that restructuring?**

17 A. I think I was.

18 **Q. And are you also familiar with the -- I assume**
19 **you're also familiar with the Consumer Health spinoff,**
20 **which now became Kenvue?**

21 A. I am. Yes.

22 **Q. And were you familiar with that while you were**
23 **the chairman of Consumer Health?**

24 A. I was.

25 **Q. You, according to the S1 -- are you familiar**

13

1 **for today's deposition?**

2 A. Yes, I did.

3 **Q. And who is that?**

4 A. Kristen Fournier, Tracey Van Dillen, and Ally
5 Brown, our lawyers.

6 **Q. I'm sorry. Who?**

7 A. Ally Brown.

8 **Q. Okay. Ally Brown?**

9 A. Yeah.

10 **Q. Okay. And were they involved in your**
11 **preparation for today's deposition?**

12 A. Yes, we met.

13 **Q. So did you meet with anybody other than the**
14 **three of them?**

15 A. No, I did not.

16 **Q. Did you speak with anybody who was not a**
17 **lawyer in order to prepare for today's deposition?**

18 A. No, I did not.

19 **Q. Ms. Fournier is representing you here today?**

20 A. She is.

21 **Q. Okay. And she's representing Kenvue today?**

22 A. I don't know, but she's representing me.

23 **Q. Okay. And who is paying Ms. Fournier for**
24 **representing you today? Do you know?**

25 A. I don't know.

14

Q. You don't know if it's your company?

A. I don't know who is paying Ms. Fournier.

Q. Okay. And did you review any of the filings in the Middlesex County Superior Court involved with the motion to dismiss in this case?

A. No, I did not.

Q. Are there rules that you live by as the CEO when it comes to transferring assets between subsidiaries of the companies you're running?

MS. FOURNIER: Objection.

THE WITNESS: I'm not sure I understand your question. Can you repeat your question?

BY MR. PLACITELLA:

Q. Sure. Do you follow certain principles when you're determining how assets should be transferred between subsidiaries of the companies you're running?

MS. FOURNIER: Objection.

THE WITNESS: I'm not involved with this transfer, so I could not answer. I don't know.

BY MR. PLACITELLA:

Q. When you say "you're not involved", what do you mean?

A. I'm not involved with these transfers. When

16

known as LTL, did it also involve that transfer of assets from old JJCI to something known as New JJCI?

MS. FOURNIER: Objection.

THE WITNESS: I don't remember the exact details, but we did allocate some assets to this affiliate.

BY MR. PLACITELLA:

Q. I'm sorry?

A. To this affiliate.

Q. To what affiliate?

A. To LTL.

Q. LTL. Did all the other assets that were in old JJCI get transferred to New JJCI?

MS. FOURNIER: Objection.

THE WITNESS: Can you repeat the question?

BY MR. PLACITELLA:

Q. Sure. You allocated certain assets?

A. Correct.

Q. To LTL, right?

A. Correct.

Q. You had old JJCI? You know what I'm talking about when I say that?

A. Yes. Uh-huh.

15

these transfers happen, it's happened at the finance level.

Q. Okay.

A. So I'm not involved.

Q. Are there rules that you live by, as a CEO, when it comes to product safety?

A. What do you mean by "rules".

Q. Principles that you follow to protect the public health. Are there rules that you live by, as a CEO, when it comes to product safety?

A. Not specifically as a CEO. I would say as company, we put the quality and the safety of our products at the forefront of everything we do. Yes.

Q. Okay. And are you familiar with something known as Project Plato?

A. I am.

Q. And what do you know about Project Plato?

A. Project Plato was a project back in 2021, I think, to reorganize JJCI and create a subsidiary called LTL where the liabilities linked to talc-related products would reside.

Q. And what was your role in Project Plato?

A. I was one of the approvers of this reorganization.

Q. Okay. And in addition to creating the entity

17

Q. Then you had a new JJCI, correct?

A. Uh-huh.

Q. All the assets that were in old JJCI, were they then transferred to new JJCI, other than what you allocated to LTL?

A. I don't remember the details. I don't remember the details, but I believe so.

Q. Okay. Well, did you put the old assets of -- the assets of old JJCI anywhere other than in new JJCI?

MS. FOURNIER: Objection.

THE WITNESS: I don't remember that.

BY MR. PLACITELLA:

Q. You don't remember what?

A. If we put assets elsewhere. I don't think so, but I don't remember.

Q. Well, you were the -- you were the highest ranking J&J official, at the time, involved in this transaction?

Is that true?

MS. FOURNIER: Objection.

THE WITNESS: Correct.

BY MR. PLACITELLA:

Q. All right. And as you sit here today, you

18

1 don't remember what you did with the assets of old JJCI?

2 A. I don't remember all the details. Yes.

3 **Q. Okay. What about the assets that were used to**
4 **make Johnson's Baby Powder? Where did you put those?**

5 A. What do you mean by "the assets to make baby
6 powder".

7 **Q. The manufacturer marketing distribution assets**
8 **that were used to make baby powder, where did they go**
9 **after this restructuring that you were in charge of?**

10 A. Well, that stayed with JJCI.

11 **Q. New JJCI?**

12 A. New JJCI.

13 **Q. Okay. And who else was involved in approving**
14 **that decision, this restructuring?**

15 A. Well, there was a number of approvers. I
16 don't remember the list.

17 **Q. Okay. Do you remember any names?**

18 A. I don't remember. No.

19 **Q. Okay. Do you recall, at the time that this**
20 **happened, what was your position? What was your title?**

21 A. I was the worldwide chairman of Consumer
22 Health.

23 **Q. And were you also on the Executive Committee**
24 **at J&J at the time?**

25 A. I was.

20

1 privilege and form. If you're not going to do that,
2 then we will get the judge on the phone.

3 MS. FOURNIER: Good. I have been doing so,
4 and I've been telling you that if we continue to go to
5 stray on the topics that you said this deposition was
6 about, we should go to the court --

7 MR. PLACITELLA: It' about the transfer of
8 assets from LTL, I mean from JJCI all the way through
9 Kenvue, and I have the right to explore that.

10 MS. FOURNIER: And you are exploring right now
11 what happened prior, just so you know.

12 MR. PLACITELLA: No, I am not. No, I am not.

13
14 BY MR. PLACITELLA:

15 **Q. So when is the first time that you learned of**
16 **the decision to restructure the JJCI assets?**

17 MS. FOURNIER: Objection.

18 THE WITNESS: When did I hear? In the summer
19 2021.

20
21 BY MR. PLACITELLA:

22 **Q. July of 2021?**

23 A. I don't remember exactly.

24 **Q. Can you see that? There's nothing on the**
25 **screen?**

19

1 **Q. And what was the reason for this**
2 **restructuring, to your knowledge?**

3 MS. FOURNIER: Objection. Mr. Placitella,
4 that's not the purpose of this deposition, as you know,
5 and I've been letting you get some foundational
6 questions in. But if we're going to spend a ton of time
7 on the restructuring, which you have told her Honor
8 multiple times this is not the purpose of the depo, I'm
9 going to have to ask us to break and speak to the
10 Special Master to get some clarification on what we're
11 doing today.

12 MR. PLACITELLA: So is that a form objection?

13 MS. FOURNIER: It is objection to form and
14 then giving you a heads up that if you --

15 MR. PLACITELLA: Well, you can give me a heads
16 up, but I ask you -- excuse me, what's wrong with the
17 form of the question?

18 MS. FOURNIER: Actually, the issue is that
19 this is not relevant. It's not the basis for the
20 deposition. It's not what you committed to the court
21 that we are here to explore today.

22 MR. PLACITELLA: That's absolutely not true.
23 It is relevant and I will show how it's relevant. So I
24 would ask you, as pro hac vice admitted here, that you
25 follow New Jersey court rules, which is you object to

21

1 THE VIDEOGRAPHER: We'll go off the record.
2 Time is 9:25 a.m. We're going off the video record.

3
4 (Whereupon, a brief recess was taken to
5 address technical difficulties.)
6

7 THE VIDEOGRAPHER: The time is 9:32 a.m.
8 We're back on the video record.
9

10 BY MR. PLACITELLA:

11 **Q. Okay. In front of you, you have Kenvue-25.**
12 **Do you see that?**

13 A. I see Exhibit 42.

14 **Q. Right. And it's a July 19, 2021, meeting of**
15 **the board of directors of Johnson & Johnson, correct?**

16 A. Correct.

17 **Q. And did this pertain to Project Plato, this**
18 **meeting?**

19 A. It's the meeting of the board of directors.

20 **Q. Do you know what the purpose of this meeting**
21 **was?**

22 A. I don't remember the agenda. No.

23 **Q. And do you recall the board of directors**
24 **having a meeting in July of 2021 about Project Plato?**

25 MS. FOURNIER: Objection.

22

1 THE WITNESS: No, I don't.

2
3 BY MR. PLACITELLA:

4 **Q. You don't have a recollection of that?**

5 A. No.

6 **Q. What was your understanding of the purpose of**
7 **Project Plato?**

8 MS. FOURNIER: Objection.

9 THE WITNESS: Project Plato. Project Plato,
10 as I said, right, was the project to create a new entity
11 where we would allocate the talc liabilities.

12
13 BY MR. PLACITELLA:

14 **Q. Okay. And why did you do that?**

15 A. The objective was to create an entity and a
16 forum where the current and future plaintiffs could have
17 their claim resolved in what we thought was a fair and
18 equitable way.

19 **Q. And how did that benefit J&J?**

20 MS. FOURNIER: Objection.

21 THE WITNESS: In what sense?

22
23 BY MR. PLACITELLA:

24 **Q. Well, was it just for the plaintiffs or was**
25 **there a benefit to Johnson & Johnson for this**

24

1 **Johnson approving the restructuring, you had no sense of**
2 **what the 7th Amendment of the U.S. Constitution was?**

3 MS. FOURNIER: Objection to form.

4 THE WITNESS: I did not.

5
6 BY MR. PLACITELLA:

7 **Q. Okay. And were there any lawyers involved in**
8 **deciding that this restructuring should take place?**

9 A. This project was handled by the Law Department
10 of Johnson & Johnson.

11 **Q. Well, whose idea was it?**

12 A. I don't know.

13 **Q. That was never made known to you?**

14 A. No.

15 **Q. And who in the Law Department?**

16 A. The head of the Law Department at that time
17 was Mike Newman.

18 **Q. Do you know, was it his idea?**

19 A. I don't know.

20 **Q. Okay?**

21 MR. PLACITELLA: And are you able to get these
22 up on the screen or not?

23 THE VIDEOGRAPHER: I can try.

24 MR. PLACITELLA: You know what? We'll take a
25 break, but I want to just keep moving. We'll just do it

23

1 **restructuring?**

2 MS. FOURNIER: Objection.

3 THE WITNESS: The objective was to, as I said,
4 create this forum for plaintiff that would help them get
5 their claim resolved.

6
7 BY MR. PLACITELLA:

8 **Q. And take their 7th Amendment right away from**
9 **them?**

10 MS. FOURNIER: Objection.

11
12 BY MR. PLACITELLA:

13 **Q. Was that part of your objective as well?**

14 MS. FOURNIER: Objection.

15 THE WITNESS: I'm not sure what you are
16 talking about, but it was not part of the compensation.
17 No.

18
19 BY MR. PLACITELLA:

20 **Q. Do you know what the 7th Amendment is?**

21 A. No, I don't.

22 **Q. Of the U.S. constitutional right to trial by**
23 **jury, do you know what that is?**

24 A. I'm not familiar with it. No.

25 **Q. So, as the highest ranking member of Johnson &**

25

1 this way, for now.

2
3 BY MR. PLACITELLA:

4 **Q. Can you go to tab 26. Do you have it in front**
5 **of you?**

6 A. Yeah, I do.

7 **Q. Do you recall having a meeting -- let me ask**
8 **the question this way?**

9 **Was Janssen involved in the restructuring of**
10 **JJCI?**

11 MS. FOURNIER: Objection.

12 THE WITNESS: Johnson --

13
14 BY MR. PLACITELLA:

15 **Q. Janssen. You know who Janssen is, Janssen**
16 **Pharmaceutical?**

17 A. Uh-huh.

18 **Q. Were they involved in the restructuring?**

19 MS. FOURNIER: Objection.

20 THE WITNESS: Not that I'm aware of.

21
22 BY MR. PLACITELLA:

23 **Q. Okay. Do you know whether, at the time of the**
24 **restructuring, whether Janssen owned part of JJCI?**

25 MS. FOURNIER: Objection.

26

1 THE WITNESS: Not that I'm not aware of. No.

2
3 BY MR. PLACITELLA:

4 **Q. Do you know whether, as part of the**
5 **restructuring, Janssen transferred its interest in JJCI?**

6 MS. FOURNIER: Objection.

7 THE WITNESS: I'm not aware of it.

8
9 BY MR. PLACITELLA:

10 **Q. After the transfer of the assets from old JJCI**
11 **to new JJCI, was it business as usual for new JJCI? Did**
12 **anything change?**

13 MS. FOURNIER: Objection.

14 THE WITNESS: Are you talking from a business
15 point of view?

16
17 BY MR. PLACITELLA:

18 **Q. Yes. Yes?**

19 A. The Consumer Health segment -- the Consumer
20 Health segment did operate normally.

21 **Q. Normally. Nothing changed from the time there**
22 **was new JJCI from old JJCI.**

23 **Is that fair?**

24 MS. FOURNIER: Objection.

25 THE WITNESS: We did allocate some revenue

28

1 THE WITNESS: No, he was not. He was not.

2 BY MR. PLACITELLA:

3 **Q. Who is that?**

4 A. Who was in charge.

5 **Q. Yes?**

6 A. I don't know.

7 **Q. How would I find that out?**

8 A. You should ask the Finance Department of
9 Johnson & Johnson's.

10 **Q. Okay. And do you know whether a risk analysis**
11 **was done before that transfer took place? The asset**
12 **transfer from old JJCI to new JJCI?**

13 MS. FOURNIER: Objection.

14 THE WITNESS: What do you mean by "risk
15 analysis"?

16
17 BY MR. PLACITELLA:

18 **Q. Do you, generally, before you do an asset**
19 **transfer, perform any kind of risk analysis?**

20 MS. FOURNIER: Objection.

21 THE WITNESS: What kind of risk are you
22 talking about?

23
24 BY MR. PLACITELLA:

25 **Q. Litigation-related risks?**

27

1 streams to LTL, but the daily operations did not change.

2 BY MR. PLACITELLA:

3 **Q. Okay. And who was involved in the physical**
4 **transfer of the assets from old JJCI to new JJCI?**

5 MS. FOURNIER: Objection.

6 THE WITNESS: I don't know.

7
8 BY MR. PLACITELLA:

9 **Q. You have no idea?**

10 A. I have no idea.

11 **Q. Okay. What about the accounting, who was in**
12 **charge of the accounting for the transfer of the assets**
13 **from old JJCI to new JJCI?**

14 MS. FOURNIER: Objection.

15 THE WITNESS: I don't know. I believe it's
16 the Finance Department.

17
18 BY MR. PLACITELLA:

19 **Q. And who is that? Who is in charge?**

20 A. The Finance Department was led by Joe Wolk at
21 that time.

22 **Q. Okay. And was Joe Wolk then the person that**
23 **was in charge of making the changes in the accounting**
24 **systems to reflect the asset transfers?**

25 MS. FOURNIER: Objection.

29

1 A. That I'm not aware of.

2 **Q. Okay. At the time that new JJCI took the**
3 **assets, were the talc liability still on the books of**
4 **new JJCI?**

5 MS. FOURNIER: Objection to form.

6 THE WITNESS: I don't know.

7
8 BY MR. PLACITELLA:

9 **Q. Who would know that?**

10 A. I guess you should ask the Law Department of
11 J&J.

12 **Q. You wouldn't know, as the CEO, whether you**
13 **took on the talc liabilities of New JJCI?**

14 MS. FOURNIER: Objection to form.

15 THE WITNESS: I was not the CEO at that time.

16
17 BY MR. PLACITELLA:

18 **Q. Okay. What were you?**

19 A. I was the worldwide chairman of the Consumer
20 Health segment.

21 **Q. Okay. Who was the CEO of JJCI at that time?**

22 MS. FOURNIER: Objection.

23 THE WITNESS: I don't -- I don't remember.

24
25 BY MR. PLACITELLA:

30

Q. Where did the -- where did JJCI fit under your corporate structure?

MS. FOURNIER: Objection to form.

THE WITNESS: At -- JJCI is a legal entity. It's one of the legal entities we, Johnson & Johnson has.

BY MR. PLACITELLA:

Q. Okay. And you were above that? You oversaw new JJCI?

MS. FOURNIER: Objection.

THE WITNESS: No, it's not exactly how it works --

BY MR. PLACITELLA:

Q. How does it work?

A. -- at J&J. You have -- we run the business in three segments. I was responsible for one of the three segments. And then the business gets reported, for legal and financial reasons, through a number of different legal entities. But I'm not involved with the details of these legal entities. We don't manage the business. I don't look at the business through the lens of legal entities.

Q. Okay. So was New JJCI under your

32

Plato?

MS. FOURNIER: Objection.

THE WITNESS: That I don't remember exactly, Project Plato. But I remember it was July for Project Diamond.

BY MR. PLACITELLA:

Q. Okay. And you don't recall that you learned about Project -- well, let me strike that?

How did you learn about Project Diamond?

A. Joaquin Duato was my manager and told me about it.

Q. And what were the circumstances? Was it a phone call? A meeting? How did you find out?

A. In a meeting.

Q. A meeting?

A. Uh-huh.

Q. And where did that meeting take place?

A. In his office.

Q. In New Brunswick?

A. In New Brunswick.

Q. And was anyone there, other than the two of you?

A. No.

Q. All right. And what was your understanding,

31

jurisdiction?

MS. FOURNIER: Objection.

THE WITNESS: It was one of the legal entities of J&J.

BY MR. PLACITELLA:

Q. And was it a separate legal corporation within J&J?

MS. FOURNIER: Objection.

THE WITNESS: Yeah, it sets its own.

BY MR. PLACITELLA:

Q. Were you involved in something known as Project Diamond?

A. I was.

Q. What is Project Diamond?

A. Project Diamond was the project to separate the Consumer Health segment from Johnson & Johnson to create a new company, two new companies. Johnson & Johnson focused on pharmaceutical and medical devices and a new company focused on consumer health.

Q. Okay. And when did you first hear about Project Diamond?

A. In July of 2021.

Q. The same month that you learned about Project

33

in meeting with him, of the purpose of Project Diamond?

A. What I just told you. That the intent was to create two companies and Project Diamond was to create a new company focused on consumer health.

Q. Okay. And why? Why a new company?

A. To allow for focus on the pharmaceutical and medical device on one hand and the consumer health segment on the other hand.

Q. Well, what could you do with a spin off that you couldn't have done before?

MS. FOURNIER: Objection.

THE WITNESS: The spinoff allows you to be more focused on what it takes to win in the consumer health segment, be more what we call fit for purpose. And that's the intent behind the separation, being more focused.

BY MR. PLACITELLA:

Q. And you weren't that focused beforehand?

MS. FOURNIER: Objection.

THE WITNESS: When you are part of a larger organization, you don't have the focus and fit for -- fit for purpose, setup that you have when you are focused on one industry, if you will.

34

BY MR. PLACITELLA:

Q. Whose idea was Project Diamond?

A. I don't know.

Q. Was there anybody else involved in the planning of Project Diamond other than you and Mr. Duato?

MS. FOURNIER: Objection.

THE WITNESS: What do you mean by "planning".

BY MR. PLACITELLA:

Q. Well, did you have to put a plan in place in order to make Project Diamond become a reality?

A. We had.

Q. And who was involved in that plan?

A. When -- you had a number of J&J colleagues, external consultants working for months on the project.

Q. Why did they call it Project Diamond, by the way?

A. I don't know.

Q. Okay. Someone just said we're going to call it Project Diamond. You never asked why?

A. We have many -- each project in the company has a name.

Q. Okay. Are you aware of a time when the name JJCI was changed to Johnson & Johnson Holdco? Do you

36

A. I don't know. I don't think so.

Q. So you don't need -- who decides then that you can just change the name of a company within Johnson & Johnson?

MS. FOURNIER: Objection.

BY MR. PLACITELLA:

Q. Who has authority to make that decision?

A. I don't know. Probably be handled by the Law Department.

Q. Oh, so the lawyers can just decide to change the company name without consulting you, for example?

MS. FOURNIER: Objection.

THE WITNESS: These are legal entity names.

So, as I said, it's not the way we manage the business. We manage the business through a number of different legal entities that we do not look at every day.

BY MR. PLACITELLA:

Q. Okay. Can we just take five minutes to see if we can fix the technology here? Make things go a lot faster?

THE VIDEOGRAPHER: Time is 9:52 a.m. We're going off the video record.

35

recall that?

MS. FOURNIER: Objection.

THE WITNESS: No, I don't.

BY MR. PLACITELLA:

Q. You have no knowledge of that?

A. No.

Q. Okay. So while you were the chairman of Consumer Health, you have no knowledge of JJCI changing its name?

A. I don't recall. No.

Q. Before a company under your jurisdiction was allowed to change its name, was there a process you had to go through within Johnson & Johnson?

MS. FOURNIER: Objection.

THE WITNESS: You are talking about a legal entity changing name.

BY MR. PLACITELLA:

Q. Right. Yes?

A. I'm not sure about that.

BY MR. PLACITELLA:

Q. Did it have to get board approval in order to change the company name?

37

(Whereupon, a brief recess was taken off the record.)

THE VIDEOGRAPHER: The time is 10:04 a.m. We're back on the video record.

BY MR. PLACITELLA:

Q. Are you familiar with the transfer of the Consumer Health assets to Janssen? You're familiar with that transaction?

MS. FOURNIER: Objection.

THE WITNESS: No, I don't know.

BY MR. PLACITELLA:

Q. Do you know whether the assets of JJCI were ever transferred to Janssen?

A. No, I don't.

Q. You have no knowledge of that?

A. No.

Q. In the -- the transfer of the assets of JJCI to Janssen is not something that was ever made known to you.

Is that fair?

MS. FOURNIER: Objection.

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1 THE WITNESS: Yeah, I don't know what you are
2 referring to. I have no knowledge of that.

3 BY MR. PLACITELLA:

4 **Q. No knowledge. Did there come a time when --**
5 **obviously, you don't know whether that was part of**
6 **Project Diamond or not then, correct?**

7 A. Yeah, I have no knowledge of that.

8 **Q. Okay. Did there come a time -- do you know**
9 **anything about the transfer of the assets of JJCI or**
10 **Johnson & Johnson consumer to your company, Kenvue?**

11 MS. FOURNIER: Objection.

12 A. Yeah, I know that -- I know that the Consumer
13 Health business was spun off as Kenvue.

14
15 BY MR. PLACITELLA:

16 **Q. But when you say "spun off", what do you mean**
17 **by that?**

18 A. We have done an IPO on May 4 of this year
19 where Johnson & Johnson has issued shares to the public.

20 **Q. So where did the assets that were transferred**
21 **to Kenvue come from?**

22 A. From Johnson & Johnson.

23 **Q. From Johnson & Johnson? Any specific division**
24 **within Johnson & Johnson?**

25 A. Consumer Health.

40

1 A. Uh-huh. Yes.

2 **Q. Was any type of valuation done by any**
3 **investment banking firm as part of the process of the**
4 **transfer of assets from Johnson & Johnson to Kenvue?**

5 MS. FOURNIER: Objection.

6 THE WITNESS: I don't think so. I don't know.
7 I don't think so.

8
9 BY MR. PLACITELLA:

10 **Q. Did you ever employ Goldman Sachs as part of**
11 **the evaluation of a potential transaction between**
12 **Johnson & Johnson and Kenvue?**

13 A. Goldman Sachs was involved in the transaction.
14 Yes.

15 **Q. And what was their involvement?**

16 A. They advised Johnson & Johnson on the
17 transactions, the nature of the transactions, and the
18 execution of the transactions.

19 **Q. And what kind of advice?**

20 A. How to execute such a spinoff and execute it
21 with the capital markets.

22 **Q. And were talc liabilities part of the**
23 **discussion with Goldman Sachs, to your knowledge?**

24 MS. FOURNIER: Objection.

25 THE WITNESS: That I don't know.

39

1 **Q. So the assets of Kenvue came from Johnson &**
2 **Johnson Consumer Health?**

3 A. The assets, I don't know exactly what you're
4 referring to by "assets", but the brands were from
5 Johnson & Johnson Consumer Health.

6 **Q. So to your knowledge, before you took**
7 **possession, you, Kenvue, took possession of the assets**
8 **of Consumer Health; you're with me?**

9 A. Uh-huh.

10 **Q. Who owned those assets? Where did you get**
11 **those assets from?**

12 MS. FOURNIER: Objection.

13
14 BY MR. PLACITELLA:

15 **Q. Who owned those assets?**

16 A. Johnson & Johnson. Kenvue is a spinoff from
17 Johnson & Johnson.

18 **Q. Okay. So do you know what subsidiary inside**
19 **Johnson & Johnson owned the Consumer Health assets prior**
20 **to those assets being spun off to Kenvue?**

21 A. A number of different legal entities.

22 **Q. Which ones?**

23 A. I don't know. JJCI is one of them. And we
24 have a number of those around the world.

25 **Q. That's all you know?**

41

1
2 BY MR. PLACITELLA:

3 **Q. You never recall talking about that in your**
4 **prior deposition?**

5 A. With Goldman Sachs?

6 **Q. Uh-huh?**

7 A. No.

8 **Q. Okay. You're familiar with the S1? You said**
9 **you reviewed that in preparation for today's deposition?**

10 A. Uh-huh.

11 **Q. Okay. The Janssen Pharmaceuticals is not**
12 **mentioned anywhere in the S1, correct?**

13 A. Not that I remember. No.

14 **Q. If the assets were transferred, according to**
15 **Johnson & Johnson's lawyers, from Janssen to Kenvue, why**
16 **wouldn't Janssen be mentioned in the S1?**

17 MS. FOURNIER: Objection.

18 THE WITNESS: I don't know.

19
20 BY MR. PLACITELLA:

21 **Q. Well, is today the first time you're learning**
22 **that Janssen transferred the assets to your company?**

23 MS. FOURNIER: Objection.

24 THE WITNESS: Yeah, I'm not aware of that.

25

42

BY MR. PLACITELLA:

Q. Okay. Should that have been in the S1, if Janssen held the assets that were transferred to your company?

MS. FOURNIER: Objection.

THE WITNESS: I don't think so. I don't think it's of material importance for the public.

BY MR. PLACITELLA:

Q. So the public doesn't need to know where the assets came from?

MS. FOURNIER: Objection.

THE WITNESS: They know that they come from Johnson & Johnson. Which legal entity they come from, I don't think is relevant.

BY MR. PLACITELLA:

Q. Okay. Do you know, in the consolidated 10-Ks, how Johnson & Johnson reported the Consumer Health finances versus Janssen's finances?

MS. FOURNIER: Objection.

THE WITNESS: When? Before the spinoff.

BY MR. PLACITELLA:

Q. Yes?

44

Q. What exactly was transferred from Johnson & Johnson to Kenvue?

MS. FOURNIER: Objection.

BY MR. PLACITELLA:

Q. As part of the spinoff?

A. The brands, some employees, some manufacturing and distribution sites.

Q. Well, were all of the employees manufacturing? Well, let me start one at a time?

Were all the employees of Consumer Health transferred from Johnson & Johnson to Kenvue as part of this transaction?

A. Most of them.

Q. Which ones weren't?

MS. FOURNIER: Objection.

THE WITNESS: You may have some exceptions. I'm not aware, but people who were dedicated to Consumer Health were transferred to Kenvue.

BY MR. PLACITELLA:

Q. What about the marketing assets and the marketing distribution employees, were they all transferred from Consumer Health to Kenvue?

MS. FOURNIER: Objection.

43

A. You mean -- yeah, Johnson & Johnson reports in three segments.

Q. Okay. And if Janssen owns the entire Consumer Health assets, shouldn't that have been in the financial statements?

MS. FOURNIER: Objection. Form.

THE WITNESS: I don't know. I would refer to the Finance Department and Law Department.

BY MR. PLACITELLA:

Q. Okay. What lawyers were involved in the transfer of assets from Johnson & Johnson to Kenvue? What inside lawyers, in-house lawyers?

A. You know, a number of members of the Law Department.

Q. Which ones, do you recall?

A. I don't know who did that in particular.

Q. You don't remember any of the names? What about outside lawyers, remember any of the outside lawyers?

A. No.

Q. No. Okay. Did you deal with the lawyers in the context of the transfer of assets from inside -- from Johnson & Johnson to Kenvue?

A. No. No, I did not.

45

THE WITNESS: The marketing capabilities were transferred.

BY MR. PLACITELLA:

Q. Okay. What about the manufacturing capabilities?

A. Most of them were.

Q. Which ones weren't?

A. Some sites are used by other Johnson & Johnson segments and, so we have a manufacturing agreement, transitional manufacturing agreement with these sites in our Separation Agreement because they are not transferred to Kenvue, but they continue to produce for Kenvue.

Q. Okay. So let's just focus on the Johnson's Baby Powder brand?

A. Uh-huh.

Q. You're with me? Were all the employees involved in the manufacturing and marketing of Johnson's Baby Powder transferred from Johnson & Johnson to Kenvue?

A. I think so, yes.

Q. And what about, were all the manufacturing assets involved in the Johnson's Baby Powder transferred from Johnson & Johnson to Kenvue?

A. They were part of the new Kenvue base, yes.

46

1 **Q. And all of the trademarks as well?**

2 A. There's a trademark agreement with Johnson &
3 Johnson.

4 **Q. The Johnson's trademark, was that transferred?**
5 **Or is that part of an agreement?**

6 A. It's part of an agreement.

7 **Q. All right. And you have the right to use the**
8 **Johnson's trademark going forward at Inten Item?**

9 A. Yes, we do.

10 **Q. And what about the Johnson's brand, the**
11 **Johnson's Baby brand, was that transferred to you at**
12 **Kenvue?**

13 MS. FOURNIER: Objection. Objection.

14 THE WITNESS: Johnson's Baby brand is part of
15 the Kenvue portfolio.

16
17 BY MR. PLACITELLA:

18 **Q. Okay. Before you took over or you assumed the**
19 **assets of the Consumer Health sector of Johnson &**
20 **Johnson, was that presented to a board at Kenvue?**

21 A. There's a board for Kenvue. There's a new
22 board for Kenvue.

23 **Q. Yes?**

24 A. And I don't remember exactly what was
25 presented to the board.

48

1 THE WITNESS: Yeah. The spinoff was of the
2 Consumer Health business.

3
4 BY MR. PLACITELLA:

5 **Q. So that was entirely the decision of**
6 **executives at Johnson & Johnson.**

7 **Is that fair?**

8 A. I would say so.

9 **Q. Was the subject of talc liabilities ever**
10 **discussed at Kenvue before you took on the assets being**
11 **transferred by Johnson & Johnson?**

12 A. What do you mean by "discussed".

13 **Q. Did you discuss it at the board level, talc**
14 **liabilities?**

15 MS. FOURNIER: Objection.

16 THE WITNESS: Before, you said before the --

17 MR. PLACITELLA: Before the transfer, physical
18 transfer?

19 MS. FOURNIER: Objection.

20 THE WITNESS: No. The physical transfer
21 happened when we spun off the company.

22
23 BY MR. PLACITELLA:

24 **Q. All right. So did any executive or board**
25 **member of Johnson -- of Kenvue have any say as to**

47

1 **Q. Were you present at the board meeting when the**
2 **issue came up?**

3 A. Yes. Which issue.

4 **Q. The issue of considering whether Kenvue should**
5 **take on the assets that Johnson & Johnson want to**
6 **transfer to it?**

7 MS. FOURNIER: Objection.

8 THE WITNESS: No. It's not how it happened
9 because Kenvue was -- I don't think it happened like
10 that.

11
12 BY MR. PLACITELLA:

13 **Q. Well, did Kenvue, the corporation, have any**
14 **say whatsoever on what assets were being transferred to**
15 **it?**

16 MS. FOURNIER: Objection.

17
18 BY MR. PLACITELLA:

19 **Q. By Johnson & Johnson?**

20 A. No, it was not a conversation.

21 **Q. So no executive, no board member at Kenvue had**
22 **anything to say about what assets were being transferred**
23 **by Johnson & Johnson to Kenvue.**

24 **Is that fair?**

25 MS. FOURNIER: Objection.

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1 **concerning whether or not they would be taking on talc**
2 **liabilities?**

3 MS. FOURNIER: Objection.

4 THE WITNESS: No.

5 BY MR. PLACITELLA:

6 **Q. Okay. So is it fair to say the issue of talc**
7 **liabilities was entirely under the control of Johnson &**
8 **Johnson?**

9 MS. FOURNIER: Objection.

10 THE WITNESS: What do you mean by "the issue
11 of talc liabilities"?

12
13 BY MR. PLACITELLA:

14 **Q. Where the talc liabilities would end up after**
15 **the spinoff, that was entirely under the control of**
16 **Johnson & Johnson?**

17 A. Correct.

18 **Q. Who at Kenvue was in charge of the physical**
19 **transfer of the assets on the books from Johnson &**
20 **Johnson to Kenvue?**

21 MS. FOURNIER: Objection.

22 THE WITNESS: It's the Law Department and the
23 Finance Department.

24
25 BY MR. PLACITELLA:

50

1 **Q. So Kenvue has its own Law Department and**
2 **Finance Department?**

3 A. Correct.

4 **Q. Who runs the Law Department at Kenvue now?**

5 A. Matt Orlando.

6 **Q. And who at the Finance Department?**

7 A. Paul Ruh.

8 **Q. What consideration was given by Kenvue to**
9 **Johnson & Johnson for the assets that Kenvue was**
10 **acquiring?**

11 MS. FOURNIER: Objection.

12 THE WITNESS: What do you mean by
13 "consideration"?

14 BY MR. PLACITELLA:

15 **Q. Money. How were they paid?**

16 A. So there was -- you should ask the Finance
17 Department for more details, that there was the payment
18 to J&J as part of the separation.

19 **Q. What was the payment? What form of payment?**

20 A. That, you should ask the Finance Department
21 that.

22 **Q. You don't know?**

23 A. I don't recall exactly the exact nature of
24 each payment.
25

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1 A. Absolutely.

2 **Q. Did the physical location of any of the**
3 **manufacturer or marketing assets --**

4 MR. PLACITELLA: I don't know what that is.

5 THE VIDEOGRAPHER: It's on Zoom.

6 MR. PLACITELLA: If you're on Zoom, could you
7 mute yourself, please?
8

9 BY MR. PLACITELLA:

10 **Q. Well, let me narrow the question. Does the**
11 **physical location of any of the assets used in the**
12 **manufacturer or marketing -- and marketing of Johnson's**
13 **Baby Powder change after Kenvue took over those**
14 **operations?**

15 MS. FOURNIER: Objection.

16 THE WITNESS: The manufacturing and marketing,
17 it depends on the geography. So if you take
18 manufacturing, Johnson & Johnson had announced in 2022
19 that in 2023 we would transition from talc-based baby
20 powder to cornstarch baby powder worldwide. And so the
21 manufacturing has stopped in 2023. And so now the
22 Johnson's Baby Powder variant is based on cornstarch, is
23 manufactured on a different line.
24

25 BY MR. PLACITELLA:

51

1 **Q. Okay. So something to ask Paul Ruh?**

2 A. I would ask Paul Ruh.

3 **Q. Do you know what the value of the assets were**
4 **that were transferred from J&J to Kenvue as part of this**
5 **spinoff?**

6 A. No, I don't.

7 **Q. So do you know what your company is worth now?**

8 A. About \$45 billion.

9 **Q. 45 billion?**

10 A. Uh-huh.

11 THE REPORTER: Sorry, was that a yes?

12 A. Yes.
13

14 BY MR. PLACITELLA:

15 **Q. And has the value gone up or down since the**
16 **transfer?**

17 A. Yes, gone up.

18 **Q. Gone up?**

19 A. Yes. Since it's IPO. Since the IPO.

20 **Q. Since the IPO?**

21 A. Uh-huh.

22 **Q. Is it fair to say that Kenvue has held itself**
23 **out to investors as essentially the same company that**
24 **was operating the Consumer Health Division inside of**
25 **Johnson & Johnson?**

53

1 **Q. But at the time -- I'm just talking about the**
2 **time of the transfer, the day before and the day after.**
3 **Did the manufacturing and the marketing assets change at**
4 **all?**

5 MS. FOURNIER: Objection to form.

6 THE WITNESS: So I cannot talk about the exact
7 day, but I can tell you that the manufacturing of
8 talc-based baby powder has ceased this year. So what
9 Kenvue is doing is just manufacturing the cornstarch
10 variant of baby powder.

11 For the marketing and sales, it varies by
12 geography. In some countries, we have the same office
13 location, if you will. That was the Johnson & Johnson
14 Consumer Health Office location. In other countries, we
15 moved out of the former Johnson & Johnson Consumer
16 Health premise to a new office location at Kenvue. So
17 it varies by country, by geography.
18

19 BY MR. PLACITELLA:

20 **Q. Okay. Let me ask the question a different**
21 **way?**

22 **Was it Kenvue that ceased the manufacture of**
23 **talc-based baby powder worldwide, or was it Johnson &**
24 **Johnson?**

25 A. It was announced by Johnson & Johnson.

54

Q. But which company actually did it? Which company actually stopped it? Who owned the baby powder assets when it stopped?

MS. FOURNIER: Objection.

THE WITNESS: When it stopped? I don't know exactly when it stopped.

BY MR. PLACITELLA:

Q. Well, did it stop while you owned the assets?

A. I don't know exactly. I don't know the exact date.

Q. So you don't know whether you, Kenvue, stopped manufacturing talc-based baby powder or Johnson & Johnson?

A. I think it was before the IPO.

Q. It was before?

A. The IPO.

Q. How would we find out to know for sure? Do you have a record you could check?

MS. FOURNIER: Objection.

THE WITNESS: We could check the last day of manufacturing and see.

BY MR. PLACITELLA:

Q. Yes. Okay. And who would you check with?

56

selling, we have not been selling talc-based Johnson's Baby Powder in the United States for some time now.

MR. PLACITELLA: Am I able to share the screen?

THE VIDEOGRAPHER: I think so, yeah.

BY MR. PLACITELLA:

Q. Can you see that?

A. Yes, I can.

Q. You see this is on Amazon today? Says I can get delivered to my house Johnson's Baby Powder for August 17th and 18th. You see that?

A. Uh-huh, I do.

Q. Okay. And if you look at the back, does it say that that is the talc baby powder?

A. It does.

Q. Okay. And if I scroll down, those are Johnson & Johnson's advertisements?

MS. FOURNIER: Objection to form.

THE WITNESS: I don't know what it is.

BY MR. PLACITELLA:

Q. Well, it's a Johnson's brand. It says from the manufacturer?

A. It says from the manufacturer.

55

A. I would check with the Manufacturing Department.

Q. Okay. At the time -- at the time that the manufacture of talc-based baby powder ceased, was there a recall of all the talc-based baby powder on the shelves?

A. Not at all.

Q. Okay. So did Kenvue continue to sell talc-based baby powder as part of its operations after the IPO?

A. We continued to sell talc-based product that was in our inventory outside the U.S. and Canada. Yes.

Q. Well, you sold it over the Internet in the United States too, correct?

MS. FOURNIER: Objection to form.

THE WITNESS: I'm not aware of that. No.

BY MR. PLACITELLA:

Q. You don't know that?

A. No, I don't. No.

Q. Who would you ask to find out? Would you be surprised to know you were still selling talc-based baby powder in the United States?

MS. FOURNIER: Objection to form.

THE WITNESS: I know for sure that we are not

57

Q. Right. That's you, right? You're the manufacturer?

A. We are the manufacturer. Yes.

Q. Yeah. And you see where it says "from the manufacturer, great for kids and adults"?

A. I can see that. Yeah.

Q. So you're selling over the Internet on Amazon talc-based baby powered great for kids and adults as we sit here today?

MS. FOURNIER: Objection to form.

BY MR. PLACITELLA:

Q. Correct?

A. No, we don't.

Q. Okay?

A. If you go up, you will see that there is a.

Q. Where do you want me to go?

A. Yeah, ships from, sold by eBOSS. I don't know what this company is.

Q. Okay. What about here, where it says "visit the Johnson's Baby Store?"

Do you have a baby store online?

A. We should.

Q. Okay. Why don't we click on that?

MS. FOURNIER: So before you do that, can you

58

1 please go back, Mr. Placitella? For the record, we need
2 to put in the exact website that you pulled up so that
3 it's going to be very clear in the deposition.

4 MR. PLACITELLA: Yep, Amazon.

5 MS. FOURNIER: You're not just at Amazon. So
6 what is the URL of what you pulled up?

7 MR. PLACITELLA: I just went into Amazon.

8 MS. FOURNIER: So how did you go into Amazon?

9 MR. PLACITELLA: I went into the Amazon app
10 and typed in Amazon and typed in talc. We're going to
11 start all over again?

12 MS. FOURNIER: Let's go to the exact place
13 that you typed in so that we can get the precise URL for
14 the page that you're looking at.

15 MR. PLACITELLA: Okay. This is an Amazon app.
16 Right. You get it on any iPad, computer, right?

17 MS. FOURNIER: Right. And the specific page.

18 MR. PLACITELLA: And all I did was type in and
19 clicked on talc powder and you get to where you're going
20 to go.

21 MS. FOURNIER: Right. Which ad did you go to?

22 MR. PLACITELLA: Okay. Sorry, it's not my --
23 okay. So here we are. All right. And here we are.
24 Johnson's Baby Powder original. All right. That's
25 where we are, correct? All right?

60

1 **Q. Okay. So did you know that Amazon was linking**
2 **to the Johnson's Baby Store?**

3 A. I didn't know, but it doesn't surprise me.

4 **Q. So you don't -- you don't -- well, let's just**
5 **go back for a second. You see where there are the**
6 **reviews for your product on the bottom?**

7 A. Uh-huh. Yes, I do.

8 **Q. And you see where these reviews are being**
9 **provided by people inside the United States?**

10 A. I can see that.

11 **Q. So does that indicate to you that people**
12 **inside the United States are purchasing your product on**
13 **the Internet in the summer of 2023?**

14 A. It said so.

15 **Q. Okay?**

16 MS. FOURNIER: And Mr. Placitella, I'd ask
17 when you print, since you've decided to show him these,
18 you should also print out these customer reviews that
19 refer to things like, this is the first time I purchased
20 the non-talc version and it worked well. So if you
21 could print all of that out as well.

22 MR. PLACITELLA: Fine. I'll print that all
23 out.

24 MS. FOURNIER: Great.

25 MR. PLACITELLA: Okay.

59

1 MS. FOURNIER: Well, first of all, it is not
2 -- scroll down. See how you've now gone to a different
3 ad and a different location, because the seller
4 information is not the same. So if you're going to use
5 this, you should print it and we should attach it to the
6 deposition --

7 MR. PLACITELLA: Happy to do it.

8 MS. FOURNIER: -- as an exhibit.

9
10 BY MR. PLACITELLA:

11 **Q. Okay. Let's go into the Johnson's Baby Store.**
12 **That would be you, right, Mr. Mongon? Right? That's**
13 **you, Johnson's Baby Store?**

14 A. That should be.

15 **Q. Right. "Every parent wants the best products**
16 **for their baby." That's your ads, right? Right?**

17 A. It should be. Yes.

18 **Q. And if I go into Johnson's Baby Store and I**
19 **type in "talc", I get a whole bunch of products, right?**

20 A. Uh-huh. Yes.

21 **Q. And if I go to the last one here on the left,**
22 **for example, and I go to the back where it says**
23 **"ingredients", it will tell us what the ingredients are.**
24 **Right. Although, it's not very clear here, right?**

25 A. Yes.

61

1 MS. FOURNIER: Thanks.

2 MR. PLACITELLA: We'll do it on a break.

3
4 BY MR. PLACITELLA:

5 **Q. So, would now -- is today the first time you**
6 **learned that you're still selling talc-based baby powder**
7 **in the United States?**

8 MS. FOURNIER: Objection to form.

9 THE WITNESS: No, that's not what I said. I
10 continue to say that we don't sell Johnson's baby talc
11 powder in the United States. What you show me, that's
12 some resellers sell on Internet, seem to be selling on
13 the Internet Johnson's baby talc-based product.

14
15 BY MR. PLACITELLA:

16 **Q. Do you know whether it's in the Johnson's Baby**
17 **Store in your website on the Internet?**

18 A. No, I don't.

19 **Q. Okay. We'll take a break and I'll pull it up**
20 **for you. Okay?**

21 **So did you make presentations to potential**
22 **investors as part of this IPO?**

23 A. I did.

24 **Q. You did. And I want to show you. Can you**
25 **make sure you can see up there, Kenvue-15. Do you**

62

1 **recall making this presentation in July of 2023?**

2 MS. FOURNIER: Nothing's on the screen for me.

3 MR. PLACITELLA: Sorry.

4 THE WITNESS: I don't see it.

5 MR. PLACITELLA: Sorry.

6 THE WITNESS: I can see it now.

7
8 BY MR. PLACITELLA:

9 **Q. Got it. Recall making this presentation?**

10 A. Yes, I do.

11 **Q. I think there's a picture of you in here**
12 **somewhere. Is that you?**

13 A. It is me.

14 **Q. Okay. And on page 1510, can you see that?**
15 **There's a list of all the different brands?**

16 A. Some of the brands. Yeah.

17 **Q. Okay. Is there a reason why you left out baby**
18 **powder in this presentation?**

19 A. No, it's a sample of brands. You have the
20 Johnson's baby brand here.

21 **Q. Excuse me?**

22 A. You have the Johnson's baby brand here.

23 **Q. Is there a reason why you didn't list the**
24 **powder in the presentation to the investors?**

25 A. No.

64

1 **subsidiary, Johnson & Johnson Consumer Inc. of Delaware.**
2 **See that?**

3 A. I can see that.

4 **Q. What can you tell me about that? Why is that**
5 **listed as a subsidiary?**

6 MS. FOURNIER: Objection to form.

7 THE WITNESS: That is one of the legal
8 entities we are using.

9
10 BY MR. PLACITELLA:

11 **Q. Is that an entity that you formed after the**
12 **IPO? Or did that exist before the IPO?**

13 A. I don't know.

14 **Q. So you don't know whether Johnson & Johnson**
15 **Consumer Inc. is an entity that you inherited or one**
16 **that you created?**

17 MS. FOURNIER: Objection to form.

18 THE WITNESS: I see that it is an entity in
19 Delaware. That's what I can tell from this document.

20
21 BY MR. PLACITELLA:

22 **Q. Okay. There's also a number of Delaware**
23 **entities with the name Holdco in it. What can you tell**
24 **me about that, if anything?**

25 A. I cannot. I know that a number of legal

63

1 **Q. Something you didn't want them to focus on,**
2 **maybe?**

3 MS. FOURNIER: Objection to form.

4 THE WITNESS: No.

5 BY MR. PLACITELLA:

6 **Q. Okay. And you said that you reviewed the S4**
7 **in preparation for today, correct?**

8 A. Correct.

9 **Q. I'm going to just pull up the S4. In the S4,**
10 **on page 380, there -- well, let me go to the page**
11 **before. There is a section in the S4 called**
12 **"subsidiaries". You see that?**

13 A. I do.

14 **Q. Okay?**

15 MS. FOURNIER: Objection. Can we start with
16 the front page, just so that we know it's the first page
17 of the S4.

18 MR. PLACITELLA: Sure.

19
20 BY MR. PLACITELLA:

21 **Q. Is this the S4, sir?**

22 A. It is.

23 **Q. Okay. That's signed by you?**

24 A. It is.

25 **Q. All right. And you have listed it as a**

65

1 entities were created in preparation for the spinoff.

2 **Q. So did you take over those legal entities and**
3 **is that why they're listed as a subsidiary?**

4 MS. FOURNIER: Objection to form.

5 THE WITNESS: I don't know how it works.

6
7 BY MR. PLACITELLA:

8 **Q. Who can I ask these questions to, if you don't**
9 **know as the CEO?**

10 A. I would ask the Law Department.

11 **Q. Who specifically?**

12 A. I don't know. You should ask -- Matt Orlando
13 is the head of the Law Department. He would be able to
14 direct you to the right person.

15 **Q. Could you say that again, please?**

16 A. Matt Orlando, he's the head of the Law
17 Department.

18 **Q. Matt Orlando, okay. Is the JJCI -- do you**
19 **know whether this Johnson & Johnson Consumer Inc. is the**
20 **same company that was created as part of the**
21 **restructuring back in 2021?**

22 MS. FOURNIER: Objection to form.

23 THE WITNESS: I don't know.

24
25 BY MR. PLACITELLA:

66

1 **Q. I'm going to go to Kenvue-9. Do you have that**
2 **in front of you, sir?**

3 A. I do.

4 **Q. This is the S1 from January 2023?**

5 A. Yes.

6 **Q. And that's you listed on the front?**

7 A. It is.

8 **Q. And you signed this document?**

9 A. I did.

10 **Q. And what was the purpose of signing the**
11 **document?**

12 A. To register it with the SEC.

13 **Q. And were you attesting to the SEC and**
14 **potential investors that everything in here was true, to**
15 **the best of your knowledge?**

16 A. Correct.

17 **Q. I'm just going to ask you some questions. I**
18 **want to go to page -- it looks like 41. I'm just going**
19 **to ask you some questions about things I highlighted.**
20 **You say: "It's possible that various parties will seek**
21 **to bring and would be successful in bringing claims**
22 **against us, including raising allegations that we are**
23 **liable for the talc-related liabilities?"**

24 **Do you see that?**

25 A. I do.

68

1 information.

2 THE WITNESS: I guess that, you know, that was
3 put together by the Law Department.

4
5 BY MR. PLACITELLA:

6 **Q. Okay. So this statement was put together by**
7 **the Law Department?**

8 A. Yeah, the document was put together by the Law
9 Department.

10 **Q. So the Law Department said to you that there**
11 **was a scenario under which Kenvue would be held**
12 **responsible for talc liabilities?**

13 MS. FOURNIER: Objection. That's cause for
14 privileged and direct you not to answer anything that
15 the Law Department told you.

16 MR. PLACITELLA: Well, it's in a public
17 document and they said they got it from the Law
18 Department.

19 MS. FOURNIER: You can ask him about the
20 public document, but you can't ask him what the Law
21 Department told him. That's privileged.

22 MR. PLACITELLA: We'll raise that at a
23 different time.

24
25 BY MR. PLACITELLA:

67

1 **Q. What do you mean by that?**

2 A. I mean that you cannot prevent parties to
3 bring claims against us.

4 **Q. Why did you think people would be successful**
5 **in doing so?**

6 MS. FOURNIER: Objection to form.

7 THE WITNESS: Because you cannot prevent
8 people from naming the company.

9
10 BY MR. PLACITELLA:

11 **Q. Well, did you know that that was a likely**
12 **scenario when you took over, when you formed the**
13 **company, that you would be named in talc liability**
14 **cases?**

15 MS. FOURNIER: Objection to form.

16 THE WITNESS: Well, we can just likely show
17 that it's a scenario. Yes, it's a scenario. Yes. We
18 cannot prevent people from --

19
20 BY MR. PLACITELLA:

21 **Q. It's a scenario. Where did you -- what's the**
22 **basis for that information, that scenario? How did you**
23 **learn that?**

24 MS. FOURNIER: Objection. You can answer that
25 to the extent that you would not reveal privileged

69

1 **Q. The basis for the statements about you're**
2 **likely to be held responsible or you might be held**
3 **responsible, that information came from the Law**
4 **Department or somewhere else?**

5 A. No. I don't think these lines say that we are
6 held responsible, that we could be named in an action,
7 right, including raising allegation that we are liable.

8 **Q. And that may very well be successful. Doesn't**
9 **that say that?**

10 A. No. It says that it can be successful in
11 bringing claims against us. So in naming the company.

12 **Q. Okay. That some court would permit it, is my**
13 **point. You understood that?**

14 A. I'm not lawyers. I don't know that.

15 **Q. Further down on the page, it says: "We**
16 **presently sell talc-based Johnson's Baby Powder in**
17 **certain other markets around the world." See that?**

18 A. I do.

19 **Q. You told me about that, right?**

20 A. Yeah.

21 **Q. "Given this, we may be subject to additional**
22 **claims related to the sale of talc-based Johnson's Baby**
23 **Powder in markets where we presently sell this product."**
24 **See that?**

25 A. Okay.

70

Q. And then it says: "As well as additional claims related to the sale of talc-based baby powder in markets where we have discontinued this product?"

When you say "we", we're talking about Kenvue, correct?

MS. FOURNIER: Objection to form.

THE WITNESS: It depends if the decision was made before or after the separation.

BY MR. PLACITELLA:

Q. I'm sorry. I don't understand. What do you mean?

A. When we say we have discontinued this product, for example, in the case of the U.S. and Canada, the product has been discontinued a long time ago, before Kenvue was created.

Q. So what you're saying to the investors and the SEC here is, when you're talking about we may be sued for what we sold before, you're talking as if you were still JJCI.

Is that fair?

MS. FOURNIER: Objection to form.

THE WITNESS: I don't think we are saying that. We are saying that the product has been discontinued.

72

MS. FOURNIER: Objection to form.

THE WITNESS: Yes. That we could be named in litigation linked to talc-based Johnson's Baby Powder in markets where the product has been discontinued.

BY MR. PLACITELLA:

Q. Well, what would be the basis for it being named?

A. I don't know.

Q. Okay. When you say "the parties may be successful in bringing claims", under what theory? Do you have any idea?

MS. FOURNIER: Objection to form.

THE WITNESS: No, I don't.

BY MR. PLACITELLA:

Q. Okay. The S1 and the S4 talk about indemnity agreements you have with Johnson & Johnson concerning talc liabilities. Are you familiar with that?

A. Yes.

Q. Okay. What is your understanding of those agreements?

A. That Johnson & Johnson would defend and indemnify Kenvue for any liability linked to talc-related products in the U.S. and Canada.

71

BY MR. PLACITELLA:

Q. Well, see here's my -- it says: "As well as additional claims related to the sale of talc-based baby powder in markets where we have discontinued this product, such as in the United States and Canada?"

Who is the "we" you're talking about?

A. Some markets where Kenvue has discontinued the product after its IPO. In the case of the U.S. and Canada, the decision was made before Kenvue was created.

Q. But it says that you believe that you're going to be sued for products that were sold in the United States and Canada, correct?

MS. FOURNIER: Objection to form.

THE WITNESS: We said claims related to the sale in markets where we have discontinued this product.

BY MR. PLACITELLA:

Q. Right. Including the United States and Canada?

A. Uh-huh.

Q. Right. So you contemplated that you were going to be sued in the United States and Canada for products that were sold even before the Kenvue spinoff. Is that fair?

73

Q. Who negotiated -- is that by a written agreement?

A. I think so, yeah.

Q. Who negotiated that agreement on behalf of Kenvue?

A. What do you mean by "negotiated".

Q. When you have an agreement, you have to have two parties, right, to an agreement at least, right?

A. Yeah, the two Law Departments worked on the agreement.

Q. So who negotiated the agreement on your behalf at Kenvue to make sure you were adequately protected?

A. Our Law Department.

Q. Okay. Is that Mr. Olinder again?

A. Mr. Orlando is the head of that.

Q. Okay. Thank you. Is that something that Kenvue demanded as part of the IPO, that there be indemnity?

MS. FOURNIER: Objection to form.

THE WITNESS: No, that was part of the agreement and the --

BY MR. PLACITELLA:

Q. Was that something you wanted?

A. That's something that was part of the

74

1 transaction.

2 **Q. But it's something you wanted. You wanted**
3 **that protection?**

4 MS. FOURNIER: Objection to form.

5 THE WITNESS: We made sure in the agreement
6 that it was clear.

7
8 BY MR. PLACITELLA:

9 **Q. Yeah, but my question is: That was something**
10 **that Kenvue wanted. They wanted that protection.**

11 **Is that fair?**

12 MS. FOURNIER: Asked and answered.

13 THE WITNESS: It's not that we wanted or
14 didn't want. That's just the way it was.

15
16 BY MR. PLACITELLA:

17 **Q. So you don't care -- you didn't care one way**
18 **or the other whether there was indemnity?**

19 A. No, we do care that it's clearly mentioned in
20 the agreement what is indemnified and what is not.

21 **Q. Why do you care?**

22 A. To make sure that, in the future, if there is
23 any doubt about it, it's well written.

24 **Q. Well, were you concerned that the talc**
25 **liabilities would weigh negatively on Kenvue's finances?**

76

1
2 BY MR. PLACITELLA:

3 **Q. You didn't decide yet, as the CEO of the**
4 **company, whether you're going to swap out your shares?**

5 MS. FOURNIER: Asked and answered.

6 THE WITNESS: What.

7 MS. FOURNIER: I said asked and answered.

8
9 BY MR. PLACITELLA:

10 **Q. Well, do you think it's peculiar that you're**
11 **asking other investors to swap out their shares and you**
12 **haven't decided whether you're going to swap out your**
13 **shares?**

14 A. No. All my vested and unvested long-term
15 incentives are going to be automatically transferred to
16 Kenvue long-term incentives. So if that's your
17 question, yes, it is done. It will be done.

18 **Q. So you're going to swap out all of your**
19 **Johnson & Johnson shares for Kenvue shares?**

20 A. That's not what I said. I said that all my
21 vested and unvested long-term incentives in Johnson &
22 Johnson is going to be converted to Kenvue long-term
23 incentives.

24 **Q. So that means you'll continue to retain the**
25 **Johnson & Johnson stock, correct?**

75

1 MS. FOURNIER: Objection to form.

2 THE WITNESS: I was not concerned because it
3 was not a part of, you know -- it was clear that Johnson
4 & Johnson would indemnify Kenvue for any talc-related
5 liability in the U.S. and in Canada.

6 BY MR. PLACITELLA:

7 **Q. Right. Okay. I want to go back to the S4 for**
8 **a second. Something to show you on page 52 of the S4.**
9 **Now, the S4 is different than the S1. What's the**
10 **purpose of the S4?**

11 A. S4 is linked to the exchange offer that J&J is
12 making to J&J shareholders.

13 **Q. The swap? Basically, you can swap your J&J**
14 **shares for Kenvue shares?**

15 MS. FOURNIER: Objection.

16 THE WITNESS: You can exchange some of your
17 J&J shares for some Kenvue shares, if you want to.

18
19 BY MR. PLACITELLA:

20 **Q. Okay. And that's the purpose of the S4?**

21 A. S4 is the registration with the SEC.

22 **Q. Okay. By the way, are you going to swap out**
23 **your shares?**

24 MS. FOURNIER: Objection.

25 THE WITNESS; I've not made the decision.

77

1 MS. FOURNIER: Objection to form.

2 THE WITNESS: The ones I have in my personal
3 account, yes.

4
5 BY MR. PLACITELLA:

6 **Q. Okay. And all I was asking you, in asking**
7 **other stockholders to be involved or make an election to**
8 **invest in your company, you haven't decided whether**
9 **you're going to invest in your own company yet, right?**

10 MS. FOURNIER: Objection to form.

11 THE WITNESS: I have -- I have not decided.

12
13 BY MR. PLACITELLA:

14 **Q. Okay. It says here: "Although under the**
15 **separation agreement Johnson & Johnson has agreed to**
16 **indemnify Kenvue for the talc-related liabilities and**
17 **any costs associated with resolving such claims, Kenvue**
18 **cannot assure you that the indemnity from Johnson &**
19 **Johnson will be sufficient to protect Kenvue against the**
20 **full amount of these liabilities?"**

21 **Do you see that?**

22 A. I do.

23 **Q. What did you mean by that?**

24 A. That the Law Department including this
25 sentence to show that you can never 100 percent be sure.

78

1 But I see it as extremely, extremely unlikely given the
2 financial strength of Johnson & Johnson.

3 **Q. So is what you're saying here that the only**
4 **thing you're worried about talc liabilities is if**
5 **Johnson & Johnson can't pay the whole freight?**

6 MS. FOURNIER: Objection to form.

7 THE WITNESS: Can you repeat your question.

8
9 BY MR. PLACITELLA:

10 **Q. Yeah, sure. Are you saying here that the only**
11 **time a Kenvue investor, right, should worry about talc**
12 **liabilities is if Johnson & Johnson can't pay them?**

13 MS. FOURNIER: Objection.

14 THE WITNESS: I don't think that's what we are
15 saying. I think what we are saying here is a legally
16 correct way to say that you can never ensure that the
17 other party will be fully satisfied, will be able to
18 fully satisfy. Personally, I don't think it's a likely
19 possibility.

20
21 BY MR. PLACITELLA:

22 **Q. So that does not weigh into your consideration**
23 **at all about whether you're going to invest in your own**
24 **company, swapping out your Johnson & Johnson shares?**

25 A. None at all.

80

1 the same company. Kenvue is a different company from
2 Johnson & Johnson. We have our own board. We have our
3 own set of investors. We have a portfolio of brands and
4 operations and capabilities and employees. So that's
5 very clear. What we represent to the world, which is
6 the truth, is that the Consumer Health business of
7 Johnson & Johnson is now in Kenvue.

8
9 BY MR. PLACITELLA:

10 **Q. It's essentially the same?**

11 A. It's a different company.

12 **Q. It's essentially the same?**

13 MS. FOURNIER: Objection to form.

14
15 BY MR. PLACITELLA:

16 **Q. It's essentially the same business, correct?**

17 A. It's the same business, but in two different
18 companies.

19 **Q. Right. There's no difference other than the**
20 **fact that it's in two different companies, correct?**

21 MS. FOURNIER: Objection to form.

22 THE WITNESS: There are differences in terms of
23 how we organize, how -- the employees we have. Some of
24 the products are not exactly the same. Some products
25 have been discontinued, some products, new products have

79

1 **Q. Before issuing the S4, was any evaluation done**
2 **formally within Kenvue about its exposure to talc**
3 **liabilities?**

4 A. No.

5 **Q. None? And one of the reasons that you wanted**
6 **indemnity -- you're with me with indemnity?**

7 **One of the reasons you wanted indemnity was**
8 **because you were basically holding yourself out to the**
9 **world as the same company that historically manufactured**
10 **Johnson's Baby Powder, correct?**

11 MS. FOURNIER: Objection to form.

12 THE WITNESS: We are representing Kenvue for
13 what it is, which is a former Johnson & Johnson Consumer
14 Health business.

15
16 BY MR. PLACITELLA:

17 **Q. But my question is not that. Because you were**
18 **representing yourself to the world, including investors,**
19 **as being essentially the same company as the Consumer**
20 **Health business that was owned by Johnson & Johnson, you**
21 **wanted to make sure you had indemnity.**

22 **Is that fair?**

23 MS. FOURNIER: Objection to form.

24 THE WITNESS: So there are different things in
25 what you just said. We never represented that we were

81

1 been launched under Kenvue that were not part of Johnson
2 & Johnson. So it's not exactly the same. No.

3
4 BY MR. PLACITELLA:

5 **Q. The day after you did the IPO, it was**
6 **essentially the same exact company that existed the day**
7 **before the IPO, correct?**

8 MS. FOURNIER: Objection. Asked and answered.

9 THE WITNESS: Yeah, again, it's not the same
10 company.

11
12 BY MR. PLACITELLA:

13 **Q. Operationally, was it exactly the same company**
14 **the day before and the day after?**

15 MS. FOURNIER: Objection.

16 THE WITNESS: The operations were the same.
17 Yes.

18
19 BY MR. PLACITELLA:

20 **Q. Okay?**

21 MR. PLACITELLA: Do you want to take a break?
22 We've been going for a little bit.

23 MS. FOURNIER: We've been going for about an
24 hour. You've got about five more minutes on the hour,
25 but we can take a break. Ten minute break?

82

MR. PLACITELLA: Sure.

THE VIDEOGRAPHER: The time is 11:04 a.m.
We're going off the video record.

THE VIDEOGRAPHER: The time is 11:20 a.m.
We're back on the video record.

BY MR. PLACITELLA:

Q. Thank you. So I put up page 21 from the S4, which you talked about before. And on the bottom where I've highlighted, it talks about shareholder equity. Do you see that?

A. I do.

Q. Okay. And as of January 1, 2023, the value of the businesses for shareholder was 76 billion.

Is that correct?

MS. FOURNIER: Objection.

BY MR. PLACITELLA:

Q. Is that what it says?

A. I don't know what it's -- it's a value of the shareholders equity.

Q. Right. So to the shareholders, the value as of January 2023, when you announced the IPO, was \$76,804,000,000?

A. It's not the value. It's the difference

84

MR. PLACITELLA: Unusual?

THE WITNESS: No, I don't find unusual the fact that I'm not in the ins and outs of the legal entities we operate through. I leave it to the Law Department.

BY MR. PLACITELLA:

Q. Is there some document, like delegation of authority, official document within Johnson & Johnson that says that they can transfer \$76 billion worth of assets through a subsidiary to another one without telling the person who's running the company that they're doing it?

MS. FOURNIER: Objection to form.

THE WITNESS: I think we are mixing two different things.

BY MR. PLACITELLA:

Q. Okay?

A. Everybody was well aware that we are spinning off the Consumer Health business and creating Kenvue. The details of how it's being done is handled by the Finance Department, by the Law Department, who are experts and who are interested to do it the right way.

Q. So that's my question. Was there a delegation

83

between assets and liabilities.

Q. Right. So you took your total assets, everything you owned minus everything you owed, and the net equity in the company was \$76 billion plus, correct?

MS. FOURNIER: Objection to form.

THE WITNESS: That's the difference between the two. Yes.

BY MR. PLACITELLA:

Q. Okay. So are you saying, as you sit here today, you did not know that the day before you announced the IPO, that it was Janssen Pharmaceuticals that owned the \$76 billion in equity of the company you were running?

MS. FOURNIER: Objection.

THE WITNESS: No, I'm not aware of that.

BY MR. PLACITELLA:

Q. Do you find that unusual that you, as a CEO of this company, would not know that Johnson & Johnson was transferring \$76 billion worth of assets through other subsidiaries in order to get them to Kenvue?

MS. FOURNIER: Objection to form.

THE WITNESS: Your question is do I find it unusual.

85

of authority, an official document that says when you do something like that, that you don't have to tell the CEO of the company that you're doing it? You can just do it?

MS. FOURNIER: Objection.

THE WITNESS: I don't know if there is any type of document.

BY MR. PLACITELLA:

Q. Okay. Do you know what a delegation of authority document is, in the context of a corporation?

MS. FOURNIER: Objection.

THE WITNESS: I think I do, but I'm not aware of any of that.

BY MR. PLACITELLA:

Q. You're not aware of a delegation of authority document at Johnson & Johnson that would allow them to transfer \$76 billion of your company through another company without your knowledge?

MS. FOURNIER: Objection.

THE WITNESS: I don't think it's how it works, again, as I just explained.

BY MR. PLACITELLA:

86

1 **Q. Well, they didn't tell you how they did it.**
2 **Is that what you're saying?**

3 A. I'm sorry?

4 **Q. They didn't tell you how they did it?**

5 A. Yeah, how, it's the mechanics of the transfer
6 is handled by the Law Department and the Finance
7 Department.

8 **Q. So if Janssen owns \$76 billion worth of equity**
9 **in a company and transfers it to Kenvue, doesn't that**
10 **make the value of Janssen significantly lower after the**
11 **transfer?**

12 MS. FOURNIER: Objection.

13 THE WITNESS: I don't think -- again, we don't
14 look at it this way. I think you are mixing the
15 business transfer and the mechanics of the legal
16 entities.

17
18 BY MR. PLACITELLA:

19 **Q. Well, don't you think an investor would want**
20 **to know if you were moving \$76 billion worth of asset**
21 **from one subsidiary to another? Don't you think you**
22 **should put that somewhere in the SEC statements?**

23 MS. FOURNIER: Objection.

24 THE WITNESS: I don't know, but I believe that
25 it was not deemed material and important to be put in

87

1 the SEC material.

2
3 BY MR. PLACITELLA:

4 **Q. By whom was it not deemed material important?**

5 A. By the colleagues who put the materials
6 together.

7 **Q. Specifically who?**

8 A. Maybe the Law Department.

9 **Q. Now we're talking about the J&J Law Department**
10 **now?**

11 A. You are talking about the S4 here. That's the
12 Kenvue Law Department.

13 **Q. Well, where did the Kenvue Law Department get**
14 **the equity value, at the time the IPO was announced, at**
15 **\$76,804,000,000? Where did they get that information?**

16 A. They got it from the Finance Department.

17 **Q. And the Finance Department got it from where?**

18 A. From their books.

19 **Q. All right. I want to see if I can get a**
20 **little context to move things along. You had made**
21 **statements to the press and to people within your**
22 **company to assure them that talc-based baby powder was**
23 **safe for use on people's children, correct?**

24 MS. FOURNIER: Objection.

25 A. We maintained the safety of the product. Yes.

88

1 BY MR. PLACITELLA:

2 **Q. Okay. And you made those statements to your**
3 **employees?**

4 A. Correct.

5 **Q. Okay. And you made them to the public, you**
6 **personally?**

7 A. I don't recall making them to the public, but
8 I stand by the safety and the quality of the product.
9 Yes.

10 **Q. You personally assured your employees, even**
11 **the ones who were using the baby powder, that it was**
12 **safe and there was nothing to worry about, right?**

13 MS. FOURNIER: Objection.

14 THE WITNESS: We always stand by the safety of
15 the product. Yes.

16
17 BY MR. PLACITELLA:

18 **Q. Okay. And you actually referred them to**
19 **specific studies, medical studies to read, to let them**
20 **be assured of what you were saying was correct, true?**

21 A. We said -- I said that the science and medical
22 studies demonstrates the safety of the product. Yes.

23 **Q. But you actually said, "Here's the studies.**
24 **Go read them if you want to." Right?**

25 MS. FOURNIER: Objection to form.

89

1 THE WITNESS: I don't remember pointing to a
2 specific document. No.

3
4 BY MR. PLACITELLA:

5 **Q. But you never read any of these studies**
6 **yourself?**

7 A. No.

8 **Q. Now, in 2010, you were working for Johnson &**
9 **Johnson, correct?**

10 A. Correct.

11 **Q. All right. And this is a document that was**
12 **produced by Johnson & Johnson dated June 14th, 2010. Do**
13 **you see that?**

14 A. I do.

15 **Q. Okay. And it's a document entitled "A Look At**
16 **the Baby GPU." Do you see that?**

17 A. I do.

18 **Q. Okay. And it describes the Johnson brand**
19 **trademark as "Johnson & Johnson's golden egg". Do you**
20 **see that?**

21 A. Yes, I do.

22 **Q. And did you understand that Johnson's to be --**
23 **the Johnson's brand to be the Johnson & Johnson's golden**
24 **egg?**

25 A. I was not part of Johnson & Johnson Consumer

90

1 Health at that point.

2 **Q. Well, is it still part of -- is it still**
3 **golden egg to you?**

4 MS. FOURNIER: Objection to form.

5 THE WITNESS: I wouldn't characterize it as
6 Johnson & Johnson's golden egg. That's not how I know
7 it or I talk about it.

8
9 BY MR. PLACITELLA:

10 **Q. Okay. Is it still an important brand to you?**

11 A. It is. It's a Johnson's brand. It's
12 important. Yes.

13 **Q. And you see on page six of the document in**
14 **front of you, Johnson & Johnson actually states that the**
15 **baby powder brand was the root for its expansion across**
16 **the globe?**

17 MS. FOURNIER: Objection to form.

18 THE WITNESS: I see that. Yes.

19
20 BY MR. PLACITELLA:

21 **Q. Okay. And is that consistent with your**
22 **understanding?**

23 A. No, I was not aware of it.

24 **Q. Okay. Now, the talc that was being used in**
25 **the Johnson's Baby Powder when you were the chair of**

91

1 **Consumer Health, right, that talc came from China,**
2 **right?**

3 A. Not necessarily, no.

4 **Q. You don't know that it came from China?**

5 A. I know that we had different sources of talc.

6 **Q. What about the talc that was used in the**
7 **United States? Do you know that came from China?**

8 A. No, I don't.

9 **Q. Okay. And do you know, while you were the**
10 **chairman of the Asian Pacific sector, that the talc, the**
11 **talc was coming from a mine under your jurisdiction?**

12 MS. FOURNIER: Objection to form.

13 THE WITNESS: The talc for which.

14
15 BY MR. PLACITELLA:

16 **Q. Johnson's Baby Powder sold in Asia, let's say.**
17 **Was it coming from China?**

18 A. I think we had different sources.

19 **Q. Was one of them China?**

20 A. I don't remember.

21 **Q. You don't know as we sit here?**

22 A. I don't.

23 **Q. Okay. So I want to show you Kenvue-22. This**
24 **is a November 2nd, 2011, document; J&J APAC talc market**
25 **study. Have you ever seen this before?**

92

1 A. No, I have not.

2 **Q. Okay. And I want to show you specifically**
3 **page 17 of the document. Have you ever heard of the**
4 **company, by the way, SmartCube. Have ever used them?**

5 A. No, I have not.

6 **Q. I'm going to show you. Do you see where it**
7 **says "high asbestos content"?**

8 A. I do.

9 **Q. Do you see where it says: "Talc reserves in**
10 **China are characterized by their high asbestos/amphibole**
11 **content. This is likely to result in a shift by clients**
12 **to new sources requiring special gradients?"**

13 **Do you see that?**

14 A. I do.

15 **Q. Is this the first time that you learned that a**
16 **consultant for Johnson & Johnson told Johnson & Johnson**
17 **that the Chinese talc had high asbestos content?**

18 MS. FOURNIER: Objection to form.

19 THE WITNESS: I don't know what they are
20 referring to here.

21
22 BY MR. PLACITELLA:

23 **Q. Okay. You see underneath it where it says:**
24 **"In 2009, the Korean Food and Drug Administration", do**
25 **you see that?**

93

1 A. Yes, I do.

2 **Q. Was Korea under your jurisdiction? Were you**
3 **in charge of the operations in Korea?**

4 A. I was.

5 **Q. Okay. And did you know that the Korea Food**
6 **and Drug Administration reported high asbestos content**
7 **in the talc that came from China?**

8 A. No, I don't know that.

9 **Q. And did you know that they ultimately banned**
10 **talc-containing cosmetic products in Korea?**

11 MS. FOURNIER: Objection to form.

12 THE WITNESS: It just says here that it banned
13 sales of several cosmetic products using contaminated
14 talcs in South Korea.

15
16 BY MR. PLACITELLA:

17 **Q. Now, so let me just go back here. We'll just**
18 **try to create a timeline, all right? 2009, we just saw**
19 **that your consultant reported that the Korean FDA found**
20 **asbestos in Chinese talc?**

21 MS. FOURNIER: Objection to form.

22
23 BY MR. PLACITELLA:

24 **Q. Correct?**

25 A. I don't think that's what I read. It says

94

1 that they found asbestos in some Chinese talc and then
2 some cosmetic talc products.

3 **Q. Okay. And then, in 2011, they actually gave a**
4 **report where they said that there was high levels of**
5 **asbestos in Chinese talc, right? That's what your**
6 **consultant said?**

7 MS. FOURNIER: Objection. Objection to form.

8
9 BY MR. PLACITELLA:

10 **Q. Right?**

11 A. Yeah. I don't think they were -- they were
12 not referring to J&J talc, right.

13 **Q. Well, how do you know that?**

14 A. Based on the document you showed me.

15 **Q. How do you know that?**

16 A. I don't know. It was not written.

17 **Q. So you were getting Chinese talc, but it just**
18 **wasn't referring to your talc. Is that what you're**
19 **saying?**

20 MS. FOURNIER: Objection to form.

21 THE WITNESS: In the document you've shown me,
22 just accept you did show me, it was not reference J&J.

23
24 BY MR. PLACITELLA:

25 **Q. Go back again?**

96

1 you see that?

2 A. I do.

3 **Q. All right. This is an e-mail from you,**
4 **correct? Let me blow it up for you. Right,**
5 **February 24, 2016?**

6 A. I read about that.

7 MS. FOURNIER: And before you ask any further
8 questions, let's go ahead and take a break and call the
9 Special Master about what the relevance to this is.

10 MR. PLACITELLA: Okay. Let's call the Special
11 Master.

12 THE VIDEOGRAPHER: Time is 11:40 a.m. We're
13 going off the video record.

14
15 (At this time, a short break was taken.)

16
17 THE VIDEOGRAPHER: Time is 11:59 a.m. We're
18 back on the video record.

19
20 BY MR. PLACITELLA:

21 **Q. You had previously testified in your prior**
22 **deposition that you were approached about Project Plato**
23 **about a month after the U.S. Supreme Court denied**
24 **Johnson & Johnson's petition for certiorari. Do you**
25 **recall that?**

95

1 MS. FOURNIER: Chris, let's go off the record.
2 What are we doing here? What does this have to do with
3 -- Yeah, go off.

4 THE VIDEOGRAPHER: The time is 11:37 a.m.
5 We're going off the video record.

6 THE VIDEOGRAPHER: The time is 11:38 a.m.
7 We're back on the video record.

8
9 BY MR. PLACITELLA:

10 **Q. All right. When you were working in the Asia**
11 **sector and running the Asia sector, right, you were**
12 **tracking the talc litigation in the United States, what**
13 **was going on, right?**

14 MS. FOURNIER: Objection to form.

15 THE WITNESS: I was made aware of the
16 litigation, yes, in the U.S.

17
18 BY MR. PLACITELLA:

19 **Q. And every time a verdict came down in the**
20 **United States, you were personally given notice of what**
21 **was going on, even though you were in Asia at the time,**
22 **correct?**

23 A. Yes. As part of the Executive Committee, we
24 were given regular updates on the litigation.

25 **Q. And you have in front of you Kenvue-16. Do**

97

1 MS. FOURNIER: Objection.

2 THE WITNESS: I don't recall the exact
3 sequence of events. No.

4
5 BY MR. PLACITELLA:

6 **Q. Do you recall testifying that you became aware**
7 **that the U.S. Supreme Court denied Johnson & Johnson's**
8 **petition in the Ingham case?**

9 A. I do.

10 **Q. Okay. And do you recall that happened in**
11 **approximately June of 2021?**

12 A. I don't recall exactly that.

13 **Q. Okay. And do you recall -- let me go to 24.**
14 **Exhibit 24 is a privilege log that was sent out by**
15 **Johnson & Johnson in the talc litigation, all right?**
16 **I'm not going to ask you specific questions about legal**
17 **advice, but just timing of things. Okay. And the first**
18 **thing I want to talk to you about is July 16th, 2021?**

19 A. I can't see anything.

20 THE VIDEOGRAPHER: It's not on the screen.

21 MS. FOURNIER: It's not on the screen.

22 MR. PLACITELLA: Hold on. My fault. Got it.
23 Sorry about that.

24 THE WITNESS: Now I can see it.
25

98

BY MR. PLACITELLA:

Q. July 16th, 2021, there was an e-mail from the Assistant General Counsel Christopher Andrew to you. Do you see that reflected?

A. I see that. Yes.

Q. Okay. And who was Christopher Andrew?

A. He's part of the Law Department.

Q. Okay. And it says: "To provide legal advice regarding due diligence plan for proposed corporate restructuring." Do you see that?

A. I do.

Q. That's the 19th. Now do you see before that, there is a separate entry 7/16/2021. Do you see that?

A. I see 2/27/19. Not 2021.

Q. Right. See where, underneath that, it talks about 03:00 p.m. e-mail 7/16/2021. It says, "draft presentation created by" --

THE VIDEOGRAPHER: Hang on. Let me get the door. Go ahead.

BY MR. PLACITELLA:

Q. -- J&J general counsel Christopher Andrew?

A. I do.

Q. Okay. It says: "Providing counsel's legal advice regarding diligence plan for proposed corporate

100

BY MR. PLACITELLA:

Q. I'm just asking you what diligence plan is being referred to?

A. I don't remember.

Q. Do you recall getting a presentation concerning a diligence plan for the restructuring?

A. I don't recall the details, though.

Q. Does this refresh your memory of the timing of when you first learned about the restructuring?

MS. FOURNIER: Objection to form. Also, asked and answered.

THE WITNESS: Project Plato, yeah, it's summer 2021.

BY MR. PLACITELLA:

Q. Okay. Of July?

A. It says July. Yes, July 16, July 19.

Q. Now -- and then, I asked you before about Kenvue-25, the July 19th board of directors' meeting with various people present. Do you see that?

A. I do.

Q. All right. Does that -- if you put those two things together, does that refresh your recollection that Project Plato was discussed at the board of directors' meeting on September 9 -- on July 19th, 2021?

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restructuring." Do you see that?

A. Yep.

Q. Okay. Does that refresh your recollection as to when the first time you had any discussions about the spinoff of the consumer health group?

MS. FOURNIER: Objection to form.

A. That was linked to -- that has nothing to do with the spinoff of the Consumer Health business.

BY MR. PLACITELLA:

Q. Okay. Is this all having to do with Project Plato?

A. That's Project Plato. Yes, it is.

Q. All right. So does that refresh your memory that you had discussions as early as July 16, 2021, about the subject of the restructuring?

A. If that's what it says here, yes.

Q. Okay. And it talked about a diligence plan. What diligence plan is this referring to?

MS. FOURNIER: Objection. Form. To the extent you know without revealing conversations with counsel.

MR. PLACITELLA: I don't want any legal advice that was provided, okay?

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MS. FOURNIER: Objection to form.

THE WITNESS: I don't know if Project Plato was discussed at this meeting.

BY MR. PLACITELLA:

Q. Well, was it normal, by the way, to have a board of directors' meeting and have all these other management people attend? Was that a normal thing that happened?

A. I don't recall the agenda, but if you have members of management like this, probably because we are doing a business update to the board.

Q. Okay. And would the business update include projects like Project Plato?

MS. FOURNIER: Objection to form.

THE WITNESS: No, it would not.

BY MR. PLACITELLA:

Q. It would not, okay?

MR. GARDE: I'm supposed to tell you Special Master has called and has some additional questions. So I don't know where you are and whatever you're doing. Do you want to take a break now and deal with it or?

MR. PLACITELLA: If she's ready, I'm ready.

THE VIDEOGRAPHER: Time is 12:07 p.m. We're

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1 going off the video record.

2
3 (At this time, a short break was taken.)

4
5 THE VIDEOGRAPHER: Time is 12:15 p.m. We're
6 back on the video record.

7
8 BY MR. PLACITELLA:

9 **Q. I read your prior transcript. So I'm just**
10 **trying to move through this as fast as I can, be**
11 **respectful of your time. You approved the creation of**
12 **LTL and the corporate restructuring on October 11, 2021?**

13 A. Correct.

14 **Q. Okay. And then three days later, on**
15 **October 14th, LTL filed bankruptcy?**

16 A. Correct.

17 **Q. And at that time, Johnson & Johnson had a**
18 **series of press statements issued concerning the**
19 **bankruptcy.**

20 **Is that fair?**

21 A. I guess, yes.

22 **Q. And those press statements were actually**
23 **circulated inside of Johnson & Johnson?**

24 MS. FOURNIER: Objection to form.

25 THE WITNESS: Usually, when a press release is

103

1 -- before the press releases or at the time the press
2 release is released, there is an internal communication
3 of it.

4
5 BY MR. PLACITELLA:

6 **Q. Right. You had an embargoed press release**
7 **that was waiting there for the filing.**

8 **Is that fair?**

9 MS. FOURNIER: Objection to form.

10 THE WITNESS: I don't know about that.

11
12 BY MR. PLACITELLA:

13 **Q. I'll show you Kenvue-33. Have you ever seen**
14 **this embargo press release, October 14th, 2021?**

15 A. I don't remember, but maybe.

16 **Q. Okay. Less than a month later, you, Johnson &**
17 **Johnson announced the intention to separate the Consumer**
18 **Health business out to Kenvue.**

19 **Is that fair?**

20 A. In November 2021.

21 **Q. Okay. And you were involved in the work**
22 **leading up to that announcement?**

23 A. Correct.

24 **Q. What was your involvement?**

25 A. Preparing for the communication.

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1 **Q. Were there a series of meetings related to**
2 **that?**

3 A. I don't remember, but probably, yes. Yes.

4 **Q. Okay. Were there any minutes or documents**
5 **created about the announcement of the IPO before the**
6 **announcement was made internally?**

7 A. I don't remember.

8 **Q. Okay. Let me just skip ahead. I'm trying to**
9 **fill in. We're waiting to see what the court says on**
10 **certain things, so I'm just trying to fill in around it.**
11 **Is it fair that on August 11, 2022, you announced the**
12 **transition to all cornstarch baby powder for the United**
13 **States?**

14 A. Sorry. Can you repeat that question.

15 **Q. On August 11, 2022, you announced the**
16 **transition to all cornstarch baby products sold in the**
17 **United States For J&J talcum powder?**

18 MS. FOURNIER: Objection to form.

19 THE WITNESS: No. I think you are referring
20 to the announcement we made that we would transition the
21 talc-based version of Johnson's Baby Powder to
22 cornstarch based.

23
24 BY MR. PLACITELLA:

25 **Q. Correct?**

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1 A. Johnson's Baby Powder globally.

2 **Q. Right. And you did that on August 11th, 2022?**

3 A. Maybe, yeah.

4 **Q. Okay. And on what, on September -- strike**
5 **that?**

6 **In December 22nd, 2022, you changed the name**
7 **of JJCI to J&J Holdco, correct?**

8 MS. FOURNIER: Objection to form.

9 THE WITNESS: That I'm not aware of. No.

10
11 BY MR. PLACITELLA:

12 **Q. Okay. So let me just go to -- do you know who**
13 **John Kim is?**

14 A. Who?

15 **Q. John Kim. Do you know who he is?**

16 A. He's a member of the Law Department.

17 **Q. Okay. Did you have dealings with him when you**
18 **were working for J&J?**

19 A. Not directly, no.

20 **Q. He filed an affidavit with Judge Kaplan**
21 **indicating that in December 2022, new JJCI, that's the**
22 **company that you were in charge of, partly, correct?**
23 **They were under your jurisdiction, right?**

24 MS. FOURNIER: Objection to form.

25 THE WITNESS: That was one of the legal

106

1 entities. Yes. Of the Consumer Health.

2
3 BY MR. PLACITELLA:

4 **Q. Changed its name to Johnson & Johnson Holdco**
5 **NA, Inc., a New Jersey corporation, right? Were you**
6 **aware of that?**

7 A. No.

8 **Q. Okay. And then it says that in -- so you**
9 **weren't part of any of the meetings or decisions**
10 **regarding that name change, just to be clear?**

11 A. No.

12 **Q. All right. He goes on to state in his**
13 **affidavit that "in early January '23, Holdco transferred**
14 **its consumer business assets to its parent entity." See**
15 **that?**

16 A. Okay.

17 **Q. Okay. And that's not something you knew**
18 **nothing about?**

19 A. No.

20 **Q. Okay. I want to show you a chart that was**
21 **attached to Mr. Kim's affidavit talking about the**
22 **organizational structure of LTL Management Inc?**

23 **Have you ever seen this chart before?**

24 A. No, I have not.

25 **Q. Do you see where it lists the parent entity of**

108

1 **Have you ever read the opinions by Judge**
2 **Kaplan in dismissing the bankruptcy?**

3 A. No, I have not.

4 **Q. Okay. He states in his opinion in early**
5 **January 2023, "Holdco spun off its Consumer Health**
6 **business to its parent entity, Janssen Pharmaceuticals,**
7 **Inc." Do you see that?**

8 A. I do.

9 **Q. As you sit here today, your testimony is you**
10 **knew nothing about that?**

11 A. No.

12 **Q. What was the reason why, while you were**
13 **working, while you were on the board of directors of**
14 **Johnson & Johnson, that you were tracking the results of**
15 **the talc trials?**

16 A. So I was not a member of the board of Johnson
17 & Johnson. I was a member of the Executive Committee of
18 Johnson & Johnson.

19 **Q. Sorry. I stand corrected. Let me rephrase**
20 **the question?**

21 A. Yeah.

22 **Q. What was the reason, while you were a member**
23 **of the Executive Committee, why you were tracking the**
24 **results of the talc verdicts involving Johnson & Johnson**
25 **and JJCI?**

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1 **Johnson & Johnson Holdco as Janssen Pharmaceuticals?**

2 A. I think that's what he -- yes.

3 THE VIDEOGRAPHER: I'm sorry. You knocked
4 your mic off.

6 BY MR. PLACITELLA:

7 **Q. Oh, I knocked my mic. It's getting close to**
8 **lunch. I guess I'll have to hold it. Oh, here it is?**

9 **On this chart, in January of 2023, were you**
10 **working for any of the entities on this chart?**

11 A. In January of 2023, I was working for Johnson
12 & Johnson.

13 **Q. So Johnson & Johnson was the entity you were**
14 **working for? That's who was paying you?**

15 A. I don't know which legal entity is, but I was
16 working for the Johnson & Johnson company.

17 **Q. Okay. You were not working, at that point,**
18 **for Johnson & Johnson Holdco?**

19 A. I don't think so.

20 **Q. Okay?**

21 A. I'm not aware of the legal entity I'm attached
22 to.

23 **Q. I understand. I'm just going to show you**
24 **this. This comes directly from the opinion issued by**
25 **Judge Kaplan in his decision?**

109

1 A. I was not tracking it. As part of regular
2 business, we would be given regular updates on ongoing
3 litigations regarding the company, including talc. The
4 other thing that, when an event was happening, like a
5 verdict, we would be made aware of it by the Law
6 Department.

7 **Q. Okay. And the reason you were being made --**
8 **why was it important for you to know those things?**

9 MS. FOURNIER: Objection to form.

10 THE WITNESS: Why was it important?

12 BY MR. PLACITELLA:

13 **Q. Yes?**

14 A. Because it was part of the important
15 litigation regarding the company.

16 **Q. Did it have an impact on your perspective of**
17 **the valuation of the company?**

18 MS. FOURNIER: Objection.

19 THE WITNESS: No. No.

21 BY MR. PLACITELLA:

22 **Q. Not at all?**

23 A. No. You should know that, if you have read my
24 previous testimony, that I was -- the litigation was
25 handled by the Law Department. So for me, I was focused

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on the operational management of the business.

Q. As it should be?

A. As it should be.

Q. Okay. But what happened in the lawsuits was still important to the management of the company, correct?

A. Absolutely. We need to understand what's going on in litigation regarding the --

Q. I mean, it ultimately led to your splitting the company up?

MS. FOURNIER: Objection to form.

A. No, it's not. What, these are two unrelated topics.

BY MR. PLACITELLA:

Q. Well, you say it's unrelated, but the fact that you had the pressure from the lawsuits caused you to restructure JJCI and attempt to put the liabilities in one place and the assets in the other, right?

MS. FOURNIER: Objection to form.

A. That's two different things. If you are talking about the restructuring of the JJCI and the creation of LTL, that was done with the objective to, as I said, to create this forum where plaintiffs could get their case considered and resolved in a fair and

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equitable way. That's what the creation of LTL was about.

BY MR. PLACITELLA:

Q. When you say "fair and equitable", fair and equitable to who?

A. For the plaintiffs.

Q. Oh, so you're not fair and equitable to Johnson & Johnson?

A. And for Johnson & Johnson, it would also be important.

Q. And who made the determination that it would be fair and equitable to the plaintiffs to take their right to a jury trial away from them?

MS. FOURNIER: Objection to form.

THE WITNESS: That's how the Law Department presented it.

BY MR. PLACITELLA:

Q. So that was a determination made by the Law Department?

A. Yes.

Q. It wasn't you as an executive at Johnson & Johnson saying: "This is how we're going to treat people fairly." It was the lawyers who said: "This is

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what we're going to do?"

MS. FOURNIER: Objection to form.

THE WITNESS: It was a recommendation from the department. Yes.

MR. PLACITELLA: Thank you. It's 12:30. It's a good breaking time, so let's break and maybe with a little work, I can shorten things up.

MS. FOURNIER: That's fine.

THE VIDEOGRAPHER: Time is 12:30 p.m. We're going off the video record.

(At this time, a short break was taken.)

THE VIDEOGRAPHER: The time is 01:37 p.m. We're back on the video record.

BY MR. PLACITELLA:

Q. All right. Good afternoon?

A. Good afternoon.

Q. I'll try not to keep you all afternoon. I put in front of you Kenvue-28, which is an October 5th, 2021, e-mail from you to Mr. Duato. Do you see that?

A. I do.

Q. Okay. Do you recognize that e-mail?

A. I do.

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Q. In that e-mail, and this was during the time that the -- what was the reason for this e-mail?

A. It was to give Joaquin Duato a view on adjustments to our plan for the following year.

Q. And when you say "adjustments to your plans", what do you mean by that?

A. Topics that were not included in the long-range financial plan and that would be included in the business plan for the following year.

Q. Okay. And do you have a formal business plan that you circulate every year?

A. Yes, we do.

Q. And did that formal business plan, at any point in time, mention the Project Plato or Project Diamond?

A. I don't remember if it did.

Q. Okay. In this e-mail to Mr. Duato, you indicate "Project Plato (no impact for the enterprise.)" What did you mean by that?

A. Because we were -- as part of Project Plato, we assigned some royalty streams that were previously in my P&L to LTL. So it was just to mention that these revenues would be taken out of the P&L I had responsibility for and moved to LTL. And so from a Johnson & Johnson point of view, there was no -- it was

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1 just a move from one P&L, the one I had responsibility
2 for, to another P&L that I didn't have responsibility
3 for.

4 **Q. Okay. So it was going to have no impact on**
5 **the entity you were responsible for?**

6 MS. FOURNIER: Objection.

7 THE WITNESS: No, it would not have no impact
8 on the Johnson & Johnson enterprise.

9
10 BY MR. PLACITELLA:

11 **Q. Overall?**

12 A. Overall. Because my business will not have
13 these revenues anymore, but another entity of Johnson &
14 Johnson would have these revenues. It's not like these
15 revenues disappeared for Johnson & Johnson.

16 **Q. Okay. Kenvue-29 is five days later, 10/10/21.**
17 **Project Plato master Q&A. Do you see that?**

18 A. I do.

19 **Q. Have you seen that before?**

20 A. Yes, I have.

21 **Q. And when did you see that before?**

22 A. It was probably when we were getting ready for
23 the announcement.

24 **Q. Okay. What announcement?**

25 A. Project Plato.

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1 **Q. Who was it intended for?**

2 A. It's intended for employees who may get
3 questions about the project and give them talking points
4 and elements so they can answer the questions.

5 **Q. Okay. And who drafted this, do you know?**

6 A. I don't know. Usually, it's done by the
7 Communications Department.

8 **Q. Okay. And what was the source of the**
9 **information in this Q&A? Where did the substantive**
10 **information come from?**

11 A. Usually, these are done between the
12 Communications Department and the Law Department.

13 **Q. From the Law Department?**

14 A. Uh-huh.

15 **Q. Okay. You indicate in 29-3 that -- the**
16 **question is: "What impact does this have on the**
17 **operations of Johnson & Johnson, JJCI, and other**
18 **affiliates?" Correct?**

19 A. Correct.

20 **Q. And you indicate "no impact, business as**
21 **usual", correct?**

22 A. I don't indicate, right? That's a Q&A put
23 together by the teams, not --

24 **Q. Well, that -- okay. It's not you?**

25 A. Yeah.

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1 **Q. I understand. But this is what's being told**
2 **to the employees, correct?**

3 MS. FOURNIER: Objection to form.

4 THE WITNESS: It's elements provided to
5 employees so they can answer questions.

6
7 BY MR. PLACITELLA:

8 **Q. Okay. In 29-5, the question is asked: "Does**
9 **this mean that JJCI will stop selling talc-based**
10 **Johnson's Baby Powder globally?" And what this -- this**
11 **is basically a primer? What would you call this? Q&A?**
12 **How should I refer to it?**

13 MS. FOURNIER: Objection to form.

14
15 BY MR. PLACITELLA:

16 **Q. This document?**

17 A. This document.

18 **Q. Yeah?**

19 A. Yeah. It's talking points.

20 **Q. Okay. Talking points?**

21 A. Uh-huh.

22 **Q. It says: "This action does not impact the**
23 **global availability of Johnson's Baby Powder." Correct?**

24 A. Correct.

25 **Q. There's a question 38: "What does this mean**

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1 **for employees of Johnson & Johnson?" And what is stated**
2 **is: "This has no impact on Johnson & Johnson's business**
3 **operations, including the Consumer Health sector, or**
4 **those employees who support the Johnson's brand**
5 **globally." Correct?**

6 A. Correct.

7 **Q. That includes the people who are involved in**
8 **the manufacturing and selling baby powder, correct?**

9 A. Correct.

10 **Q. And under question 39, it says: "Will this**
11 **have any impact on corporate structure?" What's**
12 **indicated is: "Accordingly, corporate structure will**
13 **not be impacted by this announcement. Employees**
14 **continue to work for Johnson & Johnson and roles and**
15 **responsibilities remain the same?"**

16 **Is that your understanding of what the**
17 **circumstances were?**

18 A. Yes. Correct. There was no impact for any
19 employee of Johnson & Johnson.

20 **Q. The question is: "Why is Johnson & Johnson**
21 **taking these actions instead of waiting to assess the**
22 **Bellwether cases in the multi district litigation and**
23 **what can be learned from them?" See that? Is there**
24 **anything in here that talks about being fair to the**
25 **claimants?**

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1 A. I think there are two valid points clearly
2 outlined.

3 **Q. There's nothing in here that talks about being**
4 **fair to the claimants, like you testified to today,**
5 **correct?**

6 MS. FOURNIER: Objection to form.

7 THE WITNESS: It doesn't mention these words.
8 No.

9
10 BY MR. PLACITELLA:

11 **Q. Okay. And it says: "If only a small fraction**
12 **of the pending cases yield these types of award, the**
13 **assets available to pay current and future claimants**
14 **could be exhausted. This, coupled with the excessive**
15 **associated legal costs would make continued litigation**
16 **unsustainable for any company?"**

17 **Does that includes Johnson & Johnson, sir?**

18 A. Any company. Yes.

19 **Q. So, what you're forecasting for the plaintiff,**
20 **for the employees is, if there are too many verdicts,**
21 **sizable verdicts, the assets of the company could be**
22 **exhausted, right?**

23 MS. FOURNIER: Objection to form.

24 THE WITNESS: I think what it says is that
25 there had been a number -- there had been arbitrary,

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1 MS. FOURNIER: Objection to form.

2 THE WITNESS: Again, I was not talking to
3 employees. These were talking points that were provided
4 to employees.

5
6 BY MR. PLACITELLA:

7 **Q. I thought you said before, these were talking**
8 **points for the employees to use if they were asked**
9 **questions.**

10 **Is that fair?**

11 A. As well. As well.

12 **Q. Right. So the employees were being told that,**
13 **if they're asked questions, they should say that the**
14 **assets of Johnson & Johnson could be exhausted?**

15 MS. FOURNIER: Objection to form.

16 THE WITNESS: I think there was a mention --
17 yes, there was a mention about that the assets available
18 to pay current and future payments could be exhausted.

19
20 BY MR. PLACITELLA:

21 **Q. Was that information ever included in any**
22 **financial statement put out by Johnson & Johnson? Any**
23 **10-K or anything like that?**

24 A. I don't know.

25 **Q. Should it have been, if that's the conclusion**

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1 extraordinary verdict in state courts and that
2 contradicted the science and yielded outside the -- and
3 that the assets to pay current and future claims could
4 be exhausted.

5
6 BY MR. PLACITELLA:

7 **Q. All right. Had you ever disclosed this**
8 **information to the investors or the SEC, that you were**
9 **forecasting that assets could be exhausted of Johnson &**
10 **Johnson?**

11 MS. FOURNIER: Objection to form.

12 THE WITNESS: I don't think we ever forecasted
13 anything.

14
15 BY MR. PLACITELLA:

16 **Q. Well, it says: "If only a small fraction of**
17 **the pending cases yield these type of awards" -- and**
18 **they're talking about extraordinary verdicts, right --**
19 **"the assets available to pay current and future**
20 **claimants could be exhausted." And you're talking about**
21 **Johnson & Johnson's assets, correct?**

22 A. I'm not sure what it was referring to.

23 **Q. Well, what did you mean by that, the assets**
24 **could be exhausted, when you were talking to your**
25 **employees?**

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1 **you came to?**

2 A. I don't know. I don't know. I'm not a
3 lawyer.

4 **Q. Okay. Kenvue-31. Let me just blow it up for**
5 **you. This is an e-mail that was sent around, dated**
6 **10/11, I guess, the very next day. The subject is**
7 **"project approval memorandum for approval today."**
8 **Correct?**

9 A. Correct.

10 **Q. And it was given to you and others, fair?**

11 A. Correct.

12 **Q. And it's asking for your approval of the**
13 **restructuring under Project Plato, correct?**

14 A. Correct.

15 **Q. And on the first page of the attached memo,**
16 **one of the things you're asked to approve is the**
17 **implementation of steps involving the restructuring that**
18 **will allow new JJCI to operate the consumer -- J&J**
19 **Consumer Health business in the United States without**
20 **interruption, correct?**

21 A. "Without interruption and provide LTL with the
22 opportunity to pursue a process to resolve current and
23 future claims in an equitable and efficient manner."
24 That's what's written here. Yes.

25 **Q. Okay. So I have a question, which is, since**

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1 you approved this, it says: "Step one, we request the
2 approval of the following activities in connection with
3 the restructuring. Step one, Janssen Pharmaceuticals,
4 Inc. forms Cure-A Holding Company, Inc. (Cure-A Holding
5 Co.) a New Jersey company that is treated as a C
6 corporation for federal income tax purposes?"

7 Do you know why that was created that way?

8 A. No, I don't.

9 Q. Okay. It then goes on to say, "JPI, that's
10 Janssen Pharmaceuticals," that's the company that was
11 making the drugs, right, the pharmaceutical division?

12 MS. FOURNIER: Objection to form.

13 THE WITNESS: That's a legal entity. That's
14 one of the legal entity that we use at J&J to --

15
16 BY MR. PLACITELLA:

17 Q. And they were involved in drugs and medical
18 devices. Is that fair?

19 A. If you talk about the pharmaceutical segment
20 of Johnson & Johnson as you talk about the consumer
21 health segment of Johnson & Johnson, absolutely. Yes.

22 Q. Okay?

23 A. Right.

24 Q. It says --

25 A. But here, it's about a legal entity. What are

124

1 Q. But my point is, you didn't really spend a lot
2 of time before you approved this transaction, really
3 understanding the ins and outs of it?

4 MS. FOURNIER: Objection.

5 THE WITNESS: I did rely on the subject matter
6 experts who put together this recommendation.

7
8 BY MR. PLACITELLA:

9 Q. Did you previously testify that you spent
10 maybe 90 minutes on the whole thing, soup to nuts?

11 MS. FOURNIER: Objection.

12 THE WITNESS: I didn't spend 90 minutes. I
13 testified that it took me 90 minutes between the time I
14 received the e-mail and the time I approved it.

15
16 BY MR. PLACITELLA:

17 Q. Oh. So you got the e-mail with all the
18 information in this thing, and 90 minutes later, you
19 approved it?

20 A. Correct.

21 Q. Because you didn't do any independent analysis
22 of the fairness of this e-mail to the companies that you
23 were managing, true?

24 MS. FOURNIER: Objection.

25 THE WITNESS: I was aware of Project Plato

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1 the difference between the operational management and
2 the legal entity.

3 Q. Okay. It says, "JPI, that's Janssen
4 Pharmaceuticals, contributes 100 percent of ownership
5 interest in JJCI to Cure-A Holding Company?"

6 Do you see that?

7 A. I do.

8 Q. How much ownership interest did Janssen
9 Pharmaceuticals have in JJCI at the time of the
10 restructuring?

11 A. I don't know.

12 Q. Did you know that, before today, that JJCI was
13 owned by Janssen Pharmaceuticals?

14 A. No, I didn't.

15 Q. So you didn't spend a lot of time going over
16 this proposal, right? You basically rubber stamped it.
17 You didn't know all the details?

18 MS. FOURNIER: Objection.

19 THE WITNESS: No, these type of technical
20 details are handled by the Law Department. I rely on
21 colleagues who are experts in these areas; and so I
22 trust that they did the due diligence required to make
23 the right decision.

24
25 BY MR. PLACITELLA:

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1 since July, as we talked about earlier. And so I was
2 aware of the project and this type of memo shows me who
3 was involved in -- shows you who is involved in the due
4 diligence, summarizes the different steps, and so I had
5 no objection.

6
7 BY MR. PLACITELLA:

8 Q. Okay. I didn't see anything in this memo,
9 unless I missed it, about being fair to the claimant
10 that you talked about. Is there a different document,
11 internal document, amongst the management that talks
12 about the reason for doing this is to be fair to the
13 claimant?

14 A. I think you had it in the first paragraph.

15 Q. Please show me. Here?

16 A. "Choice of current and future claims in
17 equitable and efficient manner."

18 Q. Where does it say about being fair to the
19 claimants?

20 A. Yes, equitable and efficient.

21 Q. Well, doesn't that mean equitable and
22 efficient for Johnson & Johnson?

23 MS. FOURNIER: Objection to form.

24 THE WITNESS: It's for all parties, as I
25 understand it.

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BY MR. PLACITELLA:

Q. Okay. Now I just want to back up a little bit on the timeline of where we were, okay, to reorient ourselves. Try to get through this as quickly as I can. All right?

This morning, we went through the findings by the Korean FDA. Recall that?

A. I do.

Q. Okay. And then we talked about the consultant advising Johnson & Johnson of the high levels of asbestos in Chinese talc. Recall that?

MS. FOURNIER: Objection to form.

THE WITNESS: I do recall.

BY MR. PLACITELLA:

Q. Okay. By the way --

A. Remember that it was not all cosmetic talc products, if I recall correctly, your document.

Q. Right. You're fair. That's fair?

A. And for the Chinese thing, it was not J&J's talc specifically.

Q. Okay. Well, here's the Answers to Interrogatories labeled Kenvue-37 from 11/10/2017. You were in charge of the Asia operations back then, right?

MS. FOURNIER: Objection to form.

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A. Okay. Okay.

Q. So you guys are looking at each other, you want me to ask a different question? Okay. So the reason I'm asking this is, if the talc was coming from China beginning in 2010, do you know whether that's true or not?

A. I don't know.

Q. Okay. So in 2000 and -- well, let me just go to it. You had previously testified in the bankruptcy hearings, correct? Yes?

A. Yes.

Q. Okay. And in that testimony, did you say that you were aware of asbestos verdicts while you were working in Asia? Talc verdicts?

A. Absolutely.

Q. Okay. And this is where we stopped before. This is an e-mail from you on February 24, 2016, where you write: "Dear colleagues." Who was this addressed to? Who was supposed to get this?

A. It's the consumer employees in Asia Pacific.

Q. Okay. So everybody who worked for you --

A. In Asia Pacific.

Q. -- got this e-mail?

A. Yes.

Q. And what you told them and what happened is

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THE WITNESS: I joined the business in 2014 with J&J.

BY MR. PLACITELLA:

Q. Right. And according to the sworn Answers to Interrogatories, the talc for Johnson & Johnson's Baby Powder from 2010 on came from China. Do you have any reason to dispute that?

A. I don't know. What's this document.

Q. It's Answers to Interrogatories, sworn Answers to Interrogatories. See that?

A. Yeah.

Q. Okay. And according to these sworn answers, you were getting your talc from China from 2010 forward, correct? I'll go back to it?

A. I don't know what I'm really looking at, at all.

Q. So 2010 to the present --

A. I know what I'm reading, but you --

Q. -- they're requiring --

A. But you asked me to confirm if the talc was coming from this source. The answer is I don't know, and I'm not really sure what I'm looking at here.

Q. Okay. Well, they are sworn answers. I don't want to belabor if you don't know anything. Okay?

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you got news of a verdict in the United States, correct?

A. Yeah, that much we tell here.

Q. And you reached out to the employees to tell them that "regardless of what the verdict said, our product is safe based on 30 years of research and scientific review." Correct?

A. Correct.

Q. And just to move it along, I'm going to show you your testimony from January 19, 2022, on page 124. And you were asked questions about what you were telling shareholders, and you said that "our product is safe and it does not contain asbestos." That's what you were saying, correct?

A. Correct.

Q. And at that point in time, you never related to anyone when you were telling the shareholders and employees that the products contain asbestos, that your own consultant told you in 2010 that the Chinese talc contained asbestos, or 2011?

MS. FOURNIER: Objection to form.

THE WITNESS: First of all, I'm not familiar with the documents you showed me earlier, but I relied on the conclusion of our medical safety team.

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BY MR. PLACITELLA:

Q. Well, didn't you previously testify that the only person you could remember talking to was Susan Nicholson?

MS. FOURNIER: Objection to form.

THE WITNESS: Dr. Susan Nicholson was one of the members of the Office of the Chief Medical Officer who worked on these topics and was a trusted reference, yes.

BY MR. PLACITELLA:

Q. Okay. But she never did any of the testing on the talc herself, correct?

A. Her job is not to do the testing. Her job is to review the literature, review the science, and have an opinion on the safety of the product. That's what the Chief Medical Officer office does.

Q. Right. And have you ever reviewed any of her testimony in the Middlesex County Superior Court?

A. I have not.

Q. Okay. You actually tracked -- there was a case tried in the Middlesex County Court called Barden. Do you recall that? Mr. Gorsky testified in that case?

A. I don't remember that.

Q. Well, you were tracking that case as it was

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progressing, weren't you?

MS. FOURNIER: Objection to form.

THE WITNESS: I don't remember this exact case.

BY MR. PLACITELLA:

Q. In July -- well, here, let me just move this. You know that in July of 2018, there was a verdict in the Ingham case. That was something you were tracking, correct?

MS. FOURNIER: Objection to form.

THE WITNESS: The Ingham case? Yes, we got an update on that one.

BY MR. PLACITELLA:

Q. Right. And you knew that J&J was assessed \$3.15 billion and JJCI \$990,000,000 in a verdict in that case, correct?

A. I remember the case was -- the verdict was big.

Q. Okay. And here's a memo from 1/31/2020 from a Donna Lorenzen. Who's she?

A. She's in the Communications Department.

Q. All right. And this is to you. Now, at this point, you are running the worldwide operation for

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Consumer Health, correct?

A. Correct.

Q. Okay. And this memo goes to you. And the subject is "informed talc news next week." Do you see that?

A. Yes, I do.

Q. It states: "We expect to close the Barden case on Tuesday, February 4, and receive a verdict from the jury on the matter of punitive damages shortly. As you recall, we lost the Barden case in September '19, and we were ordered to pay \$37.3 million in compensatory damages." Do you see that?

A. I do.

Q. Does that refresh your memory that you were tracking the progress of the Barden case while you were the CEO of Consumer Health?

MS. FOURNIER: Objection to form.

THE WITNESS: So I was not the CEO, again, of Consumer Health. I was the worldwide chairman.

BY MR. PLACITELLA:

Q. I'm sorry, you're correct?

A. And again, I was not tracking. The way it works at J&J is the Law Department handles all the communication. So as manager of the Consumer Health

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segment, I don't track everything. That's not my role. That's not my responsibility. Whenever a case -- an update requires to be made to the Executive Committee, the department or when there is potential external communication, the Communications Department as well gives the respective executives an update on what happened or what's about to happen. So it's not about tracking. It's about being updated on the developments.

Q. Okay?

A. And getting an overview or background information on what's happening.

Q. Who decides what you and the Executive Committee are being told about what's going on in the litigation?

A. The Law Department.

Q. Were you aware that, internally, your company was actually analyzing and tracking, for example, Mr. Barden's exposure to baby powder and whether it caused his mesothelioma?

MS. FOURNIER: Objection to form.

THE WITNESS: No.

BY MR. PLACITELLA:

Q. Do you know what an event report is?

A. No, I don't.

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1 **Q. You see the run date is 4/27/2018? See that**
 2 **up in the upper right hand corner?**

3 A. I see it.

4 **Q. Okay. And the company mentioned is J&J**
 5 **Consumer. And the date this information was entered was**
 6 **March 29, 2017. Do you see that?**

7 A. I see that.

8 **Q. And it says: "Douglas Barden, plaintiff, used**
 9 **and was exposed to asbestos-containing Johnson & Johnson**
 10 **talc powder products, contracted mesothelioma. See**
 11 **that?**

12 A. I can see that.

13 **Q. So as part of the information that was being**
 14 **conveyed to you while you were being updated on the**
 15 **Barden case, during the course of the case, did anyone**
 16 **ever tell you that your own Medical Department was**
 17 **looking at Barden's medical records to see if Johnson's**
 18 **Baby Powder could have caused his mesothelioma?**

19 MS. FOURNIER: Objection to form.

20 THE WITNESS: No. It's not my responsibility,
 21 so it was not part of the legal update.

22
 23 BY MR. PLACITELLA:

24 **Q. Okay. Would that have been important for the**
 25 **Executive Committee to know that you were litigating a**

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1 **case two blocks away from the world headquarters and**
 2 **that your own medical team was making an assessment and**
 3 **concluding that Mr. Barden's mesothelioma could possibly**
 4 **be caused by Johnson's Baby Powder?**

5 MS. FOURNIER: Objection to form.

6 THE WITNESS: Again, it's really -- the way it
 7 works is that we have very competent technical teams,
 8 whether the Law Department or the Office of the Chief
 9 Medical Officer, who handle these cases and we trust
 10 their expertise in these areas.

11
 12 BY MR. PLACITELLA:

13 **Q. Okay. So for example, if I just go down to**
 14 **the bottom of the next page -- the same page, you see**
 15 **where it talks about categories and it says "serious**
 16 **file type, adverse event modified, causality possible."**
 17 **Do you see that?**

18 A. I see that.

19 **Q. That's nothing that was ever communicated to**
 20 **you by the Law Department, correct?**

21 A. No.

22 **Q. Okay. Are you aware that on April 27, 2020,**
 23 **the Federal MDL handed down a ruling denying Johnson &**
 24 **Johnson's motion to exclude the medical evidence on**
 25 **causation between Johnson's Baby Powder and ovarian**

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1 **cancer?**

2 MS. FOURNIER: Objection to form.

3 THE WITNESS: I'm not sure what you are
 4 referring to.

5
 6 BY MR. PLACITELLA:

7 **Q. Do you know that there was a big hearing**
 8 **before the judge in Trenton and Johnson & Johnson was**
 9 **trying to keep medical evidence out or have experts**
 10 **stricken that were going to testify that Johnson's Baby**
 11 **Powder caused ovarian cancer? Were you ever aware of**
 12 **that?**

13 MS. FOURNIER: Objection to form.

14 THE WITNESS: Yeah, I might have been by --
 15 yeah.

16
 17 BY MR. PLACITELLA:

18 **Q. Okay. And were you made aware by the Legal**
 19 **Department that Johnson & Johnson's effort to do that**
 20 **failed?**

21 MS. FOURNIER: Objection to form.

22 THE WITNESS: That's probably part of the
 23 updates.

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1 BY MR. PLACITELLA:

2 **Q. Okay. And am I correct, then, that on**
 3 **February 9 -- I'm sorry -- on May 19th, 2020, Johnson &**
 4 **Johnson removed asbestos-containing baby powder from the**
 5 **U.S. markets?**

6 MS. FOURNIER: Objection to form.

7 THE WITNESS: I think you are mixing up many
 8 things here.

9
 10 BY MR. PLACITELLA:

11 **Q. Go ahead.**

12 A. First of all, we have always been clear that
 13 our Johnson's Baby Powder does not contain asbestos. So
 14 that's one thing.

15 The other thing is, where you are correct is
 16 that, and I don't remember the exact date, but if you
 17 mention it, it's probably true, that we announced in
 18 2020 the discontinuation of talc-based Johnson's baby
 19 product in the United States.

20 **Q. Okay?**

21 A. These are two very different things.

22 **Q. Fair enough. I misspoke. You say that there**
 23 **was no asbestos in the baby powder, but you've never**
 24 **actually looked at the Johnson & Johnson tests that**
 25 **showed there's asbestos in the baby powder, have you?**

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MS. FOURNIER: Objection to form.

THE WITNESS: Correct. I rely on the experts in the company, whose job is to do that.

BY MR. PLACITELLA:

Q. Okay. Now -- and then, am I correct then, just for timeline, that in June 23rd, 2020, the Missouri Supreme Court upheld the Ingham verdict? Are you aware of that?

A. Can you repeat that.

Q. The Ingham verdict --

A. Yes.

Q. -- that you were being apprised of --

A. Yes.

Q. -- that ultimately went to the Missouri Supreme Court?

A. Oh, yeah, I remember that.

Q. Okay?

A. Yes.

Q. And that was upheld by the Missouri Supreme Court on June 23rd, 2020, correct?

A. I don't remember, but if you say so.

Q. Okay. And I'll ask Mr. Ruh the next question. Did that verdict, the upholding of that verdict, have a negative financial effect on Johnson & Johnson Consumer

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THE WITNESS: Again, I don't remember the exact day that we announced the discontinuation. Yes.

BY MR. PLACITELLA:

Q. Okay. And you were part of that decision, correct?

A. I was part of this decision. Yes, absolutely.

Q. And the reason for that decision was what?

A. The North America team came to me with a recommendation to discontinue the product. That was a small product for us. Volume had been declining all along after years of misrepresentation of the quality of our product with consumers, millions of dollars of advertisement by plaintiffs with allegations about the product. And so the volumes were down and so there was no point keeping the product on the market.

Q. Well, you say misrepresentations. And it wasn't just plaintiffs. There were juries that spoke and said that your product was harming people, true?

MS. FOURNIER: Objection to form.

THE WITNESS: Yes. The advertising, as I said, made an allegation that the product was unsafe. And we maintained that the product is safe.

BY MR. PLACITELLA:

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Health?

A. I think this verdict, we were very disappointed. And, if I recall correctly, that's when we had to book financially, the verdict in the books of the company.

Q. Okay. That's the one I was going to ask Mr. Ruh about. Why did you have to book the verdict then?

A. Because it was -- I'm not an expert in accounting, but I don't remember the exact words that need to be true to book it. But it was probable enough, I would say in my own words, to book it in the books.

Q. Okay. So that would have a negative financial effect on the company, correct?

A. That would have a negative impact on the company. Yes.

Q. Okay. And then in 2020, you also learned that the FDA was holding hearings concerning asbestos in talc, correct?

A. Was the FDA? Yes, absolutely. I don't remember the exact date, again, but I remember that the FDA had these hearings.

Q. All right. And then in the spring of 2020, you stopped selling talc-based baby powder in the United States and Canada, true? At least directly?

MS. FOURNIER: Objection to form.

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Q. Let me ask the question again. By that time, multiple juries had spoken and said your product was unsafe, true?

A. I don't know multiple juries. Again, I'm not in the details of the mitigation.

Q. The Ingham jury said your product was unsafe?

A. The Ingham jury. Yes.

Q. The Barden jury, right in your backyard, said the product was unsafe, right?

MS. FOURNIER: Objection to form.

THE WITNESS: That I'm not sure about.

BY MR. PLACITELLA:

Q. Remember, we just went over the document that showed the verdict in Middlesex County?

A. Yeah, you showed it to me. Yes.

Q. So the Barden jury spoke. They were New Jersey residents and from Middlesex County, where your corporate headquarters were, and they spoke and they said your product was unsafe, correct?

MS. FOURNIER: Objection to form.

THE WITNESS: So that's what they said. Yes.

BY MR. PLACITELLA:

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1 **Q. Okay. And we skip ahead for a year to**
2 **June 2021. And that's when the U.S. Supreme Court**
3 **denied your petition for certification, right?**

4 A. Yeah.

5 **Q. All right. And then the next month is when**
6 **you first had discussions about both the -- well, the**
7 **restructuring, right?**

8 MS. FOURNIER: Objection to form.

9 THE WITNESS: And discussion about Project
10 Plato. Yes, if that's what you are referring to.

11
12 BY MR. PLACITELLA:

13 **Q. Correct. And then how long after that did you**
14 **have discussions about the spinoff of JJCI to Kenvue?**

15 A. It was in summer '21 as well.

16 **Q. So after at least multiple juries had spoken,**
17 **your petition was denied to the Supreme Court. At that**
18 **point, in the same summer, you had discussions about**
19 **both the spinning off to Kenvue and the restructuring**
20 **and trying to move the liability to LTL, true?**

21 A. Correct.

22 **Q. For context now, in October of 2021, you**
23 **approved the creation of LTL and the restructuring and**
24 **the filing of the bankruptcy, true?**

25 A. No, not true.

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1 **you announced to the world that you were going to**
2 **spinoff the Consumer Health Division to Kenvue, true?**

3 A. Correct. Totally unrelated, but true.

4 **Q. And that was November 2021, correct?**

5 A. Correct.

6 **Q. And then you testified in court before Judge**
7 **Kaplan in February of 2022, correct?**

8 A. Correct.

9 **Q. And that was on a motion to dismiss?**

10 A. That was a -- I don't remember exactly what I

11 --

12 **Q. Whether the bankruptcy was going to be**
13 **dismissed or not?**

14 A. Yes.

15 **Q. Okay. And in that same month, you sold**
16 **\$8 million of your Johnson & Johnson stock, right?**

17 MS. FOURNIER: Objection.

18 THE WITNESS: I don't remember that detail.

19
20 BY MR. PLACITELLA:

21 **Q. You don't remember selling \$8 million of**
22 **Johnson & Johnson stock right around the time you were**
23 **testifying?**

24 A. I would need to look at the detail of that.

25 **Q. Okay. And at the end of -- in November of**

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1 **Q. Okay?**

2 A. So what I approved, as you have seen in the
3 memo, is a creation of LTL.

4 **Q. Okay?**

5 A. I didn't approve the bankruptcy of LTL.

6 **Q. I misspoke. I apologize?**

7 A. Let's be very clear.

8 **Q. You're 100 percent right. I apologize?**

9 **So you approved, on October 11th, the creation**
10 **of LTL?**

11 A. Correct.

12 **Q. And three days later, it filed for bankruptcy?**

13 A. Correct.

14 **Q. Who made that decision three days after you**
15 **approved it?**

16 MS. FOURNIER: Objection to form.

17 THE WITNESS: I think it was the board of LTL.

18
19 BY MR. PLACITELLA:

20 **Q. When you approved the creation of LTL, did you**
21 **have any idea of the plan that they were going to file**
22 **for bankruptcy three days later?**

23 A. I knew it was a possibility that the board of
24 LTL would make this decision. Yes.

25 **Q. Okay. And then less than 30 days after that,**

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1 **2022, you sold another \$4 million of Johnson & Johnson**
2 **stock, right?**

3 A. Correct.

4 **Q. Okay. And a couple of months later is when**
5 **all the assets got transferred over to Kenvue, right?**

6 A. Well, if the IPO took place in May 2023,
7 correct.

8 **Q. Okay. All right. I want to take a couple of**
9 **minutes because I want to focus myself down and I won't**
10 **be having that much longer. Okay?**

11 THE VIDEOGRAPHER: The time is 2:25 p.m.
12 We're going off the video record.

13
14 (At this time, a short break was taken?)

15
16 THE VIDEOGRAPHER: The time is 2:46 p.m.
17 We're back on the video record.

18
19 BY MR. PLACITELLA:

20 **Q. All right. I'm getting toward the end. So I**
21 **put up your testimony in a federal court from 2/15/2022**
22 **and just going to blow up the part I'm interested in.**
23 **It says: "Over the years, I've seen them, you know,**
24 **pursuing a different number of different avenues trying**
25 **to resolve this case." What did you see? What avenues**

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1 **did you see them trying to resolve the case?**

2 A. I felt that, you know, with the updates along
3 the years, the Law Department pursued multiple avenues
4 to try to solve the case; and not successfully.

5 **Q. What avenues?**

6 A. You talked about the Supreme Court hearing
7 that was denied at the federal level, the appeal to the
8 Missouri Supreme Court, the number of cases that were
9 litigated, so a number of cases.

10 **Q. So when you were saying that, you weren't**
11 **saying that they were trying to settle cases. You were**
12 **saying that there were a number of ways to try to stop**
13 **the litigation.**

14 **Is that fair?**

15 MS. FOURNIER: Objection to form.

16 THE WITNESS: To solve all these cases. Yes,
17 for these cases to be solved.

18
19 BY MR. PLACITELLA:

20 **Q. So I just want to be clear because I was a**
21 **little confused by your testimony. When you say "and**
22 **resolve the case", you meant in favor of J&J? In other**
23 **words, to stop the litigation completely, not to pay**
24 **people, correct?**

25 A. To provide -- yeah, to resolve the case. Yes.

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1 MS. FOURNIER: Objection to form.

2 THE WITNESS: Again, I don't know the detail.
3 I'm not a lawyer, so I don't know what it means, but
4 it's -- I don't know the exact terms of the case to find
5 a resolution for all these cases.

6
7 BY MR. PLACITELLA:

8 **Q. And resolution means settle or get the case**
9 **dismissed? That's what I'm trying to understand?**

10 MS. FOURNIER: Objection.

11 THE WITNESS: Yeah, find a solution for each
12 case.

13
14 BY MR. PLACITELLA:

15 **Q. What do you mean by that?**

16 A. You look at this, litigation has been going on
17 for a very long time. You have I don't know how many
18 cases going on, but many, many cases. In all these
19 years, very few have been -- have had the opportunity to
20 be resolved one way or another.

21 **Q. Okay. This was testimony was on the 15th of**
22 **February, 2022, right?**

23 A. Correct.

24 **Q. And was it the week before that, you sold your**
25 **\$8 million worth of stock?**

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1 **Q. Well, what were you made aware of, of them**
2 **trying to solve or settle the case on a global basis?**
3 **Is that what you're saying?**

4 MS. FOURNIER: Objection to form.

5 THE WITNESS: No, what I'm saying is that this
6 litigation has been going on for a long time and I know
7 the Law Department has pursued different avenues to
8 solve, to get this case resolved.

9
10 BY MR. PLACITELLA:

11 **Q. Meaning to stop the case, not to settle the**
12 **case?**

13 MS. FOURNIER: Objection to form.

14 THE WITNESS: Yeah. For the case to be --

15
16 BY MR. PLACITELLA:

17 **Q. Dismissed?**

18 A. Well, what do you mean by "stopped"?

19 **Q. To have the case dismissed? Be over?**

20 A. For the case to be, yeah, resolved one way or
21 another.

22 **Q. Okay. It's probably me because it's late in**
23 **the day. It wasn't to compensate people for their**
24 **injuries. It was to put an end to the litigation to get**
25 **it out of Johnson & Johnson's hair, right?**

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1 MS. FOURNIER: Objection.

2 THE WITNESS: I told you I would need to look
3 at the details.

4
5 BY MR. PLACITELLA:

6 **Q. Well, do you know that your stock sales are a**
7 **matter of public record, right?**

8 A. Yeah.

9 **Q. So let's assume it was sometime in the week,**
10 **two weeks before that. Then you testified in the**
11 **bankruptcy, correct?**

12 A. Correct.

13 **Q. Okay. And then, did Kenvue then -- well, did**
14 **J&J then file its 10-K two days after you testified in**
15 **the bankruptcy?**

16 A. That I don't know.

17 **Q. So I'm looking at the 10-K for 2022 for, I**
18 **guess, 2021, correct? And there's a section called**
19 **"risks related to plan separation of our consumer**
20 **business." Right?**

21 A. Yes.

22 **Q. And it talks about what the risks would be,**
23 **true?**

24 A. It says that: "The plan separation of the
25 company's Consumer Health business may not be completed

150

1 on the terms or timeline currently contemplated, if at
2 all."

3 **Q. Okay?**

4 A. "And may not achieve the expected results."

5 **Q. Okay. And then in the continuation, you say:**
6 **"Following the plan separation" -- when I say "you", I**
7 **mean J&J -- "the price of shares of the company stock**
8 **may fluctuate significantly." Correct? You say: "The**
9 **company cannot predict the effect of the plan separation**
10 **on the trading price and market value of the shares."**
11 **Correct?**

12 A. Yes.

13 **Q. But you already sold \$8 million of shares**
14 **before that was released to the public, didn't you?**

15 MS. FOURNIER: Objection to form.

16 THE WITNESS: Yeah, I don't see the link
17 between the two.

18
19 BY MR. PLACITELLA:

20 **Q. Okay. Lastly, I want to go back to the J&J**
21 **Baby Store. Remember, this is where we were before, and**
22 **I did the search for talc. Can you see the search is**
23 **still up there for talc?**

24 A. Uh-huh.

25 **Q. See that? And that was done here in your**

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1 **Q. It's on your online store. You know this is**
2 **happening, right?**

3 MS. FOURNIER: Objection to form.

4 THE WITNESS: No, I don't.

5
6 BY MR. PLACITELLA:

7 **Q. It's in your online store. Let's just go to**
8 **the back of this one. In your online store, you are**
9 **selling Johnson's Baby Powder in the United States over**
10 **the Internet that contains talc, correct?**

11 MS. FOURNIER: Objection to form.

12
13 BY MR. PLACITELLA:

14 **Q. That's what it said?**

15 MS. FOURNIER: Objection to form.

16 THE WITNESS: No, we are not selling Johnson's
17 Baby -- talc-based Johnson's Baby in the United States.
18 And we have not sold it for some time now.

19 **Q. Okay. When people in the United States are in**
20 **Yonkers, for example, or others, and giving you reviews,**
21 **that doesn't mean it's being sold in the United States?**

22 A. I think if you look at one of the reviews, it
23 will show.

24 **Q. Sure. Sure. Which one do you want?**

25 A. Go back, go down, scroll down.

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1 **presence. Recall that?**

2 A. That you did the search.

3 **Q. Yeah?**

4 A. Yeah, earlier today.

5 **Q. Okay. Yeah. And if I scroll down, and I get**
6 **to a thing, Johnson's Baby Powder for delicate skin.**
7 **See that? Remember, we talked about what the**
8 **ingredients were?**

9 A. Yes.

10 **Q. Okay. And some of this is cornstarch. We**
11 **agree on that? Some of these products are cornstarch?**

12 A. Correct.

13 **Q. Okay. And then I go here on the Johnson &**
14 **Johnson website, the Baby Store. I go to Johnson's Baby**
15 **Powder. And this says "Johnson's Baby Powder original**
16 **four pack." See that?**

17 A. I can see that. Yes.

18 **Q. Says I can get it delivered to my house by**
19 **September 6th. See that?**

20 A. Yes.

21 **Q. Okay?**

22 A. You also see that it's not sold by J&J.

23 **Q. Yeah, but it's in your store, sir?**

24 MS. FOURNIER: Objection to form.

25 BY MR. PLACITELLA:

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1 **Q. Made in Taiwan?**

2 A. Yeah.

3 **Q. Do not purchase?**

4 A. Keep going. Any legal -- so I'm not sure what
5 you are looking at, but it seems to be a fraudulent.

6 **Q. Well, it's fraudulent. I don't understand how**
7 **you say it's fraudulent. It's on your website?**

8 MS. FOURNIER: Objection to form.

9
10 BY MR. PLACITELLA:

11 **Q. It's on your website. And does it not say**
12 **here, "4 ounce container of baby powder, pure talc**
13 **formula, clinically proven to be gentle and mild for**
14 **your baby's skin"?**

15 A. Yeah. To be very precise, this is something
16 you find on Amazon at the price of \$49.80, which is
17 outrageous when you look at the normal price for regular
18 product. And that is sold by a company I've never heard
19 about.

20 **Q. Yeah. But, sir, it's advertised in the**
21 **Johnson Baby Store?**

22 A. So you cannot say it's sold by J&J.

23 **Q. But, sir, it's your website, the Johnson's**
24 **Baby Store, and it's listed on your website?**

25 MS. FOURNIER: Objection. Asked and answered

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multiple times. Mischaracterizing a document, mischaracterizing his testimony. We have been through this. You can try to prove that Amazon is not J&J Baby Store.

MR. PLACITELLA: Excuse me. Excuse me. Excuse me. That is not a form objection. It is a speaking objection.

MS. FOURNIER: But I have gave a form objection enough times.

MR. PLACITELLA: Please, don't do this. Don't do this.

MS. FOURNIER: Objection to form. For the hundredth time, asked and answered.

MR. PLACITELLA: That's also not a permissible objection.

MS. FOURNIER: Objection to form. Asked and answered.

MR. PLACITELLA: That's also not a permissible objection.

MS. FOURNIER: Do it again. Ask your question again.

MR. PLACITELLA: Keep going. All right. Let's --

MS. FOURNIER: You've asked it, like, ten times at this point.

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A. That's something they will probably deal with, but that's -- I would assume they do that.

Q. Okay. When you leave here today -- when you leave here today, what actions are you going to take to make sure that talc-based baby powder are no longer available for sale in the United States of America?

MS. FOURNIER: Objection to form.

THE WITNESS: I think our Law Department will continue to do their job, which is to signal to Amazon that there is a fraudulent sale on their site.

BY MR. PLACITELLA:

Q. I'm asking you, now that you've seen this, what action will you take to make sure that talc-based baby powder is no longer available for sale in the United States?

MS. FOURNIER: Objection.

THE WITNESS: What I will do is, as I told you, to signal to our Law Department that there is a fraudulent activity going on, on the Internet.

BY MR. PLACITELLA:

Q. Okay. Thank you. Those are all the questions I have. Thank you?

MS. FOURNIER: I have some questions. All

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MR. PLACITELLA: Okay. That's a form objection?

MS. FOURNIER: Objection to form.

MR. PLACITELLA: Okay, good. Thank you.

MS. FOURNIER: Move on.

MR. PLACITELLA: Thank you.

BY MR. PLACITELLA:

Q. Sir, did we not find this product on the Johnson & Johnson Baby Store website on the Internet?

MS. FOURNIER: Objection to form.

THE WITNESS: No, we found that on Amazon.com.

BY MR. PLACITELLA:

Q. And have you ever sent a cease and desist order to Amazon telling them not to sell talc-containing baby powder?

A. That I don't know.

Q. Do you know that your lawyer told the federal court that you did that?

A. Well, that's -- I wouldn't be surprised because that's what our Law Department is responsible to do.

Q. And that's something that you wouldn't be told whether -- so how come it's still on the Internet then?

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right.

BY MS. FOURNIER:

Q. Mr. Mongon, does Kenvue have the same shareholders as J&J?

A. No, it doesn't.

Q. Does it have the same management structure as J&J?

A. No, it doesn't.

Q. Do you have a sense of how many people work for Kenvue?

A. About 22,000.

Q. And did those 22,000 people all come from JJCI?

A. No.

Q. Did they all come from J&J?

A. No, they don't.

Q. How many buildings does Kenvue operate around the world, if you know?

A. I don't know.

Q. Do you have a sense whether all those buildings were formerly JJCI buildings?

A. Oh, no, absolutely not. No.

Q. Were they all buildings owned by some J&J entity?

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1 A. It depends. As I said earlier, in some
2 buildings that are occupied by Kenvue today, used to be
3 J&J offices. In other geographies, we moved to a new
4 office. So it depends on the geography.

5 **Q. Are talc-based baby powders the same product**
6 **as cornstarch-based baby powders?**

7 A. No, it's a different formulation.

8 **Q. Are you aware of any allegations that**
9 **cornstarch-based baby powder contains asbestos as a**
10 **contaminant?**

11 A. No.

12 **Q. Has Kenvue ever sold talc-based baby powders**
13 **in the United States and Canada?**

14 A. No.

15 **Q. The other products of J&J Consumer that Kenvue**
16 **took on, has Kenvue continued all of those products?**

17 A. Not all of them. Certain products have been
18 discontinued and new products have been launched since
19 the IPO.

20 **Q. You were asked a question about the day before**
21 **the IPO and the day after the IPO about the business.**
22 **And you gave an answer that operationally, it was the**
23 **same. Do you remember that question and answer?**

24 MR. PLACITELLA: Objection. Leading.

25 THE WITNESS: Yes, this morning. Yes.

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1 **explains what you understand the indemnity to be?**

2 A. I think the S4 that we reviewed today is a
3 good document.

4 MS. FOURNIER: I have paper copies, but do you
5 want to just pull it up since you pulled it up on the
6 screen before?

7 MR. PLACITELLA: The S4?

8 MS. FOURNIER: Yes, the S4.

9 MR. PLACITELLA: What page do you want?

10 MS. FOURNIER: You were looking at page 52
11 with him.

12 MR. PLACITELLA: Hold on. Okay.

13 MS. FOURNIER: All right. So if you can blow
14 up the area that you highlighted and also the sentence
15 below it. That's great.

16
17 BY MS. FOURNIER:

18 **Q. Mr. Mongon, why don't you read into the record**
19 **the sentence or two that's right below the part that**
20 **Mr. Placitella focused on with you?**

21 A. "Although talc-based baby powder was
22 discontinued by Johnson & Johnson in the United States
23 and Canada in 2021 and Kenvue never manufactured or sold
24 it in those markets, Kenvue has been named in claims and
25 lawsuits. And Johnson & Johnson has agreed to indemnify

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1 BY MS. FOURNIER:

2 **Q. Can you just explain what you mean by**
3 **"operationally, it was the same"?**

4 A. Between the two days, between before and
5 after.

6 **Q. Exactly?**

7 A. If you take an external view on the
8 operations, there was no interruption between the day
9 before the IPO and the day after the IPO. So I'm very
10 proud and I'm very proud of the teams who have worked in
11 such a way, there has been no interruption or disruption
12 to the business linked to this separation.

13 **Q. And is that because Kenvue is the same exact**
14 **company as JJCI?**

15 A. As I said this morning, Kenvue is a different
16 company from JJCI or J&J Consumer Health.

17 **Q. And then, just one more question, switching**
18 **gears a little. You were asked some questions this**
19 **morning by Mr. Placitella about the indemnity that is**
20 **provided to Kenvue from J&J. Do you recall that series**
21 **of questions?**

22 A. I do.

23 **Q. Is there a particular public filing or**
24 **document that you believe sort of best captures or**
25

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1 Kenvue in those matters pursuant to the aforementioned
2 indemnity for the talc-related liability."

3 **Q. And is that the section of the S4 that you**
4 **were referring to?**

5 A. I think it explained very clearly what we have
6 told you.

7 MS. FOURNIER: Those are all my questions.

8 MR. PLACITELLA: Okay. A couple of questions.

9
10 BY MR. PLACITELLA:

11 **Q. The S4 swap that you're offering, for lack of**
12 **a better -- or exchange, how does that work in layman's**
13 **terms?**

14 A. Exchange. Johnson & Johnson will give you a
15 number of -- you will get -- you will receive a number
16 of Kenvue shares in exchange for a number of your
17 Johnson & Johnson shares.

18 **Q. Is it a one-for-one exchange?**

19 A. No.

20 **Q. How's it work?**

21 A. It has a ratio. So depending on the stock
22 price of each stock in the market, the average of the
23 stock price in the last three days of the exchange,
24 which is this week, it will determine the ratio that
25 will be offered to J&J shareholders.

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Q. So how would it work? Explain it to a layman. I have 100 shares of Johnson & Johnson. How many Kenvue shares am I going to get?

A. You don't know yet. At the end of the exchange period, you will be communicated the exact ratio depending on the price of the Kenvue share and the J&J share. So if the J&J share is worth \$100 and the Kenvue share is worth \$20, you will be given five shares. And there's also an element of discount that you get as part of this transaction.

Q. So the value is supposed to be roughly equal?

MS. FOURNIER: Objection to form.

THE WITNESS: The value --

BY MR. PLACITELLA:

Q. In other words, the value that you're giving up, the J&J share, and the value for the Kenvue share, the formula is supposed to be that they're roughly equal value?

A. It is approximately the same plus a discount to give you an additional incentive to tender your shares, your J&J shares.

Q. So you'll actually get a little more than an equal exchange?

A. At the date of the exchange. Yes.

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A. No, that's exactly what this exchange offer is about.

Q. To decrease their share? Is there anybody from Johnson & Johnson on the Kenvue board, by the way, now?

A. Yes.

Q. Who?

A. Two. Joe Wolk and Peter Fasolo.

Q. Okay. And how many people on the board in total?

A. Eleven.

Q. Should the S4 -- given what we saw on the Internet, should the S4 be amended to say Kenvue never intentionally sold Johnson's Baby Powder in these markets? Is that the fair way to say it?

MS. FOURNIER: Objection.

THE WITNESS: No, it's not. Kenvue does not sell and has never sold talc-based Johnson's Baby Powder in the U.S.

BY MR. PLACITELLA:

Q. How much talc-based baby powder is still on the shelves in U.S. stores?

MS. FOURNIER: Objection.

THE WITNESS: I don't know. But given the

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Q. Okay. So it sounds like a good deal. How come you're not jumping on it?

MS. FOURNIER: Objection to form.

THE WITNESS: I'm not -- I'm not a financial advisor. And so if you want more details on the transaction, you can ask our banks or J&J. I'm not giving you any advice and I'm not recommending anybody to take any action. So if you look at my conversations with employees or yourself or investors, we never make any recommendations. That's for you to make your own decision. That's a personal decision.

BY MR. PLACITELLA:

Q. Yeah. That's why I'm asking. Like, you're the CEO. You're going to get this good deal. You're running the company, but you're still having trouble making a decision. How come?

MS. FOURNIER: Objection.

THE WITNESS: That's my personal decision as it is a personal decision on every other exchange issued?

BY MR. PLACITELLA:

Q. Okay. Is it still Johnson & Johnson's intent to retain 90 percent of the shares of Kenvue?

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amount of time that has elapsed since we announced it, I believe it's a very small amount. I cannot tell you that there is no, but it's probably insignificant?

BY MR. PLACITELLA:

Q. When you were at J&J, they never issued a recall of all the talc-based baby powder in the United States, correct?

A. No.

Q. They did issue a recall of a lot that the FDA found asbestos in, correct?

A. These are two different things. There was a test that the FDA did a number of years ago and, out of abundance of precaution, while the test, our own internal tests were ongoing, we did recall this particular lot. The discontinuation of the product was not linked to the quality of the product. So there was no recall. They never recalled the product.

Q. My question was simply did you recall the lot of the product that the FDA found asbestos in? Yes or no?

A. We did recall it out of abundance of precaution as we were ongoing our own tests.

Q. Okay. Okay. And Kenvue itself has never issued a recall of the talc-based Johnson's baby product

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1 **that's on the shelves in the stores in the United**
2 **States, correct?**

3 MS. FOURNIER: Objection.

4 THE WITNESS: We have never recalled a product
5 that we have never sold. No, at Kenvue.

6 MR. PLACITELLA: That's all. Thank you.

7 MS. FOURNIER: I don't have additional
8 questions, but I do need to put a few things onto the
9 record before we officially go off.

10 So the first is to repeat what I already said
11 this morning, particularly since we did it again this
12 afternoon, that I'm going to object to the use of this
13 deposition around the questions concerning the website
14 unless or until they are printed out, the exact pages
15 that you were showing and landing on, and they're made
16 part of the record as an exhibit.

17 MR. PLACITELLA: Well, let's do it. You got
18 your tech people here. We'll do it.

19 MS. FOURNIER: I don't have my tech people
20 anywhere because I don't work at this firm.

21 MR. PLACITELLA: Well, no, a guy came in and
22 said, you need anything, we're at their -- counsel,
23 let's just do it when it's over.

24 MS. FOURNIER: We can certainly attempt to do
25 it when it's over.

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1 certainty, Chris, one way or the other, whether or not
2 that they are protected by the protective order or
3 confidentiality order in LTL. There are a couple of
4 documents I suspect were, because they are otherwise
5 privileged and there were certain decisions made in that
6 case. And so for the very same reason, I would say,
7 please, I'm putting you on notice that that protective
8 order holds, the confidentiality order holds, and I
9 would expect those portions of the deposition would not
10 otherwise be used or made public without sorting through
11 those issues.

12 So those are the three things I wanted to put
13 you on notice of.

14 MR. PLACITELLA: So let's do it this way.
15 We'll get the transcript, you'll look at it, you'll tell
16 me what pages and what documents, and then we'll have a
17 conversation.

18 MS. FOURNIER: Yep. Exactly. If we have to
19 go to the Court, we will. I wanted you to be aware.

20 MR. PLACITELLA: If we need to go to the
21 Court, we'll do it. Because I have no intention of
22 violating any order. I actually thought that -- well,
23 doesn't matter.

24 MS. FOURNIER: I don't know about the LTL
25 documents. I do know my position on the stock issue.

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1 MR. GARDE: We can try. It's not my office.

2 MS. FOURNIER: It's not my office or his
3 office or any of our offices, but it needs to be done
4 before you can use the portion of the deposition.

5 MR. PLACITELLA: That's your position.

6 MS. FOURNIER: Number two -- yes, I'm going to
7 take that position with the Court.

8 Number two, I'm going to take the position
9 that I'm going to ask the protective order that's in
10 place, the general protective order in the cases in New
11 Jersey, apply to the portions of the deposition related
12 to his personal stock. You asked questions to him about
13 his personal stock and his sales or decisions not to
14 sell the stock.

15 I understand that his compensation is publicly
16 disclosed, but his personal stock decisions are not.
17 And so unless or until you make a showing on that, I'm
18 going to ask that the protective order provided those
19 portions of the deposition. And you can have a debate
20 and a dispute about that, but I'm putting that on the
21 record so there can be no confusion and you don't
22 proceed in some way with having known that that was the
23 position I was taking.

24 And then the third is, there are particular
25 documents that you showed, and I do not know with

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1 And if we have to have a dispute about that or we have
2 to in the MDL, we will do that.

3 And then the website issues, we can see when
4 we close down the deposition if someone here can assist
5 us. If not, there's obviously a video that we can very
6 easily match up which pages you were pulling up.

7 MR. PLACITELLA: Well, I actually can do
8 screenshots of the pages.

9 MR. GARDE: As I say, this is not any of our
10 offices. So let me go and see if there's somebody here.

11 MR. PLACITELLA: I think I can just do
12 screenshots and send them to the court reporter. We can
13 go through the pages and agree to it and make life easy.

14 MS. FOURNIER: I think that's fine as a
15 starting point in a way to try to do this. And I took
16 enough notes of what was up there and who the sellers
17 were that I think I will recognize the pages that you're
18 pulling up.

19 MR. PLACITELLA: That's fine. What I'm not
20 trying to do is get sideways with you over protected
21 documents.

22 MS. FOURNIER: No, I understand.

23 MR. PLACITELLA: If there are.

24 MS. FOURNIER: That's why I'm making the
25 record.

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1 MR. PLACITELLA: It wasn't my understanding
2 that there were any, but I've been wrong before and I'll
3 be wrong again. So I will tell you, it will not be
4 distributed.

5 MS. FOURNIER: No.

6 MR. PLACITELLA: It'll go to us and you, and
7 you'll look at it, and we'll deal with it.

8 MS. FOURNIER: Right. Great. Thank you.

9 MR. GARDE: That's what counsel proposed.

10 MS. FOURNIER: Yep, perfect.

11 MR. PLACITELLA: No problem.

12 MS. FOURNIER: Thank you.

13 THE VIDEOGRAPHER: The time is 3:16 p.m. This
14 is the end of today's deposition. We're going off the
15 record.

16 (Witness excused.)

17 (Deposition concluded at 3:16 p.m.)
18
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23
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25

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1 CERTIFICATION

2
3

4 I, Kara Hackett, Professional Court
5 Reporter and Notary Public, do hereby certify that the
6 foregoing is a true and accurate transcript of the
7 stenographic notes taken by me in the aforementioned
8 matter.
9

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20
21 DATE: August 14, 2023
22 Kara Hackett
23 Court Reporter
24
25

EXHIBIT 13

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

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(Admissions *pro hac vice* pending)

PROPOSED ATTORNEYS FOR DEBTOR

In re:

LTL MANAGEMENT LLC,¹

Debtor.

Chapter 11

Case No.: 23-12825 (MBK)

Judge: Michael B. Kaplan

**DECLARATION OF JOHN K. KIM
IN SUPPORT OF FIRST DAY PLEADINGS**

John K. Kim, being first duly sworn, deposes and states as follows:

1. I am the Chief Legal Officer of LTL Management LLC, a North Carolina limited liability company (the “Debtor”) and the debtor in the above-captioned chapter 11 case. I have held this position with the Debtor since its formation on October 12, 2021.

¹ The last four digits of the Debtor’s taxpayer identification number are 6622. The Debtor’s address is 501 George Street, New Brunswick, New Jersey 08933.

2. I am employed by Johnson & Johnson Services, Inc. (“J&J Services”), a non-debtor affiliate of the Debtor and a subsidiary of the Debtor’s ultimate non-debtor parent company, Johnson & Johnson (“J&J”).

3. Prior to my role as the Chief Legal Officer of the Debtor, I was J&J’s Assistant General Counsel, Practice Group Lead for the Product Liability Litigation Group. In that role, I was responsible for product liability litigation globally. I began my employment with J&J and its affiliates in 2001 as a Senior Counsel in the Litigation Group, handling a variety of cases ranging from commercial disputes and international arbitrations to product liability litigation.

4. Prior to my employment with J&J and its affiliates, I was associated with the law firm of Simpson Thacher & Bartlett in its Litigation Group from 1989 to 2001. There, I handled a number of complex litigation engagements, including bankruptcy proceedings, anti-trust disputes, insurance coverage arbitrations and securities actions.

5. I earned a Juris Doctor degree from Fordham University School of Law in 1989 and a Bachelor of Arts degree from Tufts University in 1985.

6. On the date hereof (the “Petition Date”), the Debtor filed a voluntary petition with this Court for relief under chapter 11 of the Bankruptcy Code, as well as certain motions and other pleadings (collectively, the “First Day Pleadings”). As discussed in more detail below, on October 14, 2021, the Debtor previously commenced a chapter 11 case, No. 21-30589 (Bankr. D.N.J.) (the “2021 Chapter 11 Case”), which was dismissed on April 4, 2023. In connection with the 2021 Chapter 11 Case, I submitted various declarations in support of relief requested by the Debtor, including the *Declaration of John K. Kim in Support of First Day Pleadings* [No. 21-30589, Dkt. 5] (the “2021 First Day Declaration”). I incorporate by

of this case, as well as the Debtor's objectives for this case. Section III sets forth relevant facts in support of the First Day Pleadings as well as in support of the Adversary Proceeding (as defined below) filed by the Debtor.

I. THE DEBTOR'S HISTORY AND CORPORATE STRUCTURE

A. The Debtor's Predecessors and Related Restructurings

13. The Debtor traces its roots back to Johnson & Johnson Baby Products Company ("J&J Baby Products"), a New Jersey company incorporated in 1970 as a wholly owned subsidiary of J&J.

14. J&J, a New Jersey company incorporated in 1887, first began selling JOHNSON'S® Baby Powder in 1894, launching its baby care line of products. In 1972, J&J established a formal operating division for its baby products business, which included JOHNSON'S® Baby Powder.

15. In 1978, consistent with J&J's policy of decentralizing its business, J&J transferred all its assets and liabilities associated with the baby products division to J&J Baby Products. This was part of a larger restructuring of J&J that included the transfer of assets and liabilities of seven principal operating divisions to wholly owned subsidiaries. To effectuate the transaction, J&J and J&J Baby Products entered into an *Agreement for Transfer of Assets and Bill of Sale*, effective January 1, 1979 (the "1979 Agreement"),³ pursuant to which J&J transferred all assets and liabilities associated with the baby products division to J&J Baby Products. As part of the transfer, J&J Baby Products agreed to indemnify J&J for all claims relating to the baby products business, including the talc powder products. Following the

³ A copy of the 1979 Agreement is attached hereto as Annex A.

1979 Agreement, J&J no longer manufactured or sold baby products, including JOHNSON'S® Baby Powder.

16. In 1981, J&J Baby Products transferred all its assets, except those assets allocated to its diaper programs, to Omni Education Corporation ("Omni"), a wholly owned subsidiary of J&J Baby Products. In turn, Omni assumed all liabilities of J&J Baby Products except those liabilities related to its diaper program. Immediately following the transaction, J&J Baby Products merged into another subsidiary of J&J and was renamed Personal Products Company, and Omni changed its name to Johnson & Johnson Baby Products Company.⁴

17. In 1988, Johnson & Johnson Baby Products Company transferred all its assets in respect of its baby products business to Johnson & Johnson Dental Products Company, which assumed all of its liabilities and was renamed Johnson & Johnson Consumer Products, Inc.

18. In 1997, Johnson & Johnson Consumer Products, Inc. changed its name to Johnson and Johnson Consumer Companies, Inc. ("J&J Consumer Companies").

19. In 2015, J&J Consumer Companies merged with and into an affiliate, which then merged into McNeil-PPC, Inc. The resulting entity was renamed Johnson & Johnson Consumer Inc. (including all former names and historical forms, "Old JJCI").

20. Following these intercompany transactions, Old JJCI became responsible for all claims alleging that JOHNSON'S® Baby Powder and other talc-containing products cause cancer or other diseases. Old JJCI also was obligated to indemnify J&J for all claims relating to the talc products.

⁴ In 1989, Personal Products Company changed its name to McNeil-PPC, Inc.

21. Old JJCI also became responsible for all claims alleging that Shower to Shower products, which contained talc, cause cancer or other diseases. Before J&J's decentralization, Shower to Shower products were marketed by a division of J&J, the Johnson & Johnson Domestic Operating Company division. Consistent with J&J's decentralization efforts and its transition to a holding company, effective January 1, 1978, J&J transferred all assets and liabilities related to Shower to Shower products to Personal Products Company, a wholly owned subsidiary of J&J, and Personal Products Company thereafter assumed operational responsibility for the Shower to Shower products.

22. The operational responsibilities, liabilities and assets related to Shower to Shower products were transferred from Personal Products Company to Johnson & Johnson Baby Products Company by early 1987.

23. In 2012, Old JJCI sold the assets and liabilities related to certain products, including the Shower to Shower products, to Valeant Pharmaceuticals International, Inc. ("Valeant"). Thereafter, in 2019, Old JJCI and Valeant (now known as Bausch Health Companies Inc. ("Bausch")) entered into an indemnification agreement. Pursuant to that indemnification agreement, Old JJCI agreed to indemnify Valeant for any liability arising from Shower to Shower products and for certain other regulatory actions arising out of the manufacture, use or sale of Shower to Shower products, as set forth more fully in the agreement.

24. In 2021, Old JJCI implemented a corporate restructuring (the "2021 Corporate Restructuring"), which was completed on October 12, 2021. As a result of that restructuring: Old JJCI ceased to exist and two new entities were created: (a) the Debtor, which was initially formed as a Texas limited liability company and then converted into a North Carolina limited liability company; and (b) another entity, which was initially formed as a Texas

limited liability company and then merged into a New Jersey corporation that was its direct parent (as well as the direct parent of the Debtor), whereupon this entity changed its name to Johnson & Johnson Consumer Inc. (“New JJCI”). In the 2021 Corporate Restructuring, the Debtor was allocated certain of Old JJCI’s assets and became solely responsible for the talc-related liabilities of Old JJCI, and New JJCI was allocated all other assets of Old JJCI and became solely responsible for all other liabilities of Old JJCI.

25. Old JJCI implemented the 2021 Corporate Restructuring to facilitate a chapter 11 filing by the Debtor that would permit the Debtor to fully resolve current and future talc-related claims through a plan of reorganization without subjecting the entire Old JJCI enterprise to a bankruptcy proceeding. As I will discuss in more detail below, the Debtor in fact filed for chapter 11 relief in the Western District of North Carolina on October 14, 2021, two days after the completion of the 2021 Corporate Restructuring.

B. New JJCI/Holdco

26. New JJCI operated its business following the 2021 Corporate Restructuring. This included the manufacture and sale of a broad range of products used in the baby care, beauty, oral care, wound care and women’s health care fields, as well as over-the-counter pharmaceutical products (collectively, the “Consumer Business”). In December 2022, New JJCI changed its name to Johnson & Johnson Holdco (NA) Inc., a New Jersey Corporation (“Holdco”), and in early January 2023, Holdco transferred its Consumer Business assets to its parent entity.

27. Holdco is the direct parent of the Debtor, and the Debtor is the direct parent of Royalty A&M LLC (“Royalty A&M”), a North Carolina limited liability company. Holdco is a holding company with ownership interests in various subsidiaries. The most substantial of Holdco’s ownership interests are held through its wholly owned subsidiary Apsis

chapter 11 case remains pending and no further activity has taken place in the Cyprus adversary proceeding since the filing of the 2021 Chapter 11 Case.

E. The 2021 Chapter 11 Case

61. The Debtor commenced the 2021 Chapter 11 Case on October 14, 2021 by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Western District of North Carolina (the “NC Bankruptcy Court”). The Debtor also commenced an adversary proceeding against talc claimants seeking (a) a declaration that the automatic stay applied to and (b) a preliminary injunction enjoining, claims against the Debtor’s affiliates, including J&J and New JJCI, as well as the Debtor’s insurers and third-party retailers and other indemnified parties, a group referred to as the “Protected Parties.” After discovery and a two-day evidentiary hearing, on November 15, 2021, the NC Bankruptcy Court entered an order determining that the automatic stay applied to, and also preliminarily enjoining, the commencement or continuation of talc claims against the Protected Parties for 60 days (i.e., until January 14, 2022), subject to modification or extension by this Court.

62. On November 16, 2021, the NC Bankruptcy Court entered an order transferring the 2021 Chapter 11 Case to the District of New Jersey, which referred the case to this Court.

63. After transfer, the official committee of talc claimants (the “TCC”) and two plaintiff law firms [No. 21-30589, Dkts. 632, 766, 1003] moved to dismiss the 2021 Chapter 11 Case as a bad-faith filing. On February 25, 2022, following months of discovery and a five-day trial to address the motions to dismiss and the Debtor’s adversary proceeding to enjoin the talc claims, this Court issued an opinion denying the motions to dismiss [No. 21-30589,

chapter 11 filing by the Debtor, to provide the funding for a trust created pursuant to a plan of reorganization for the Debtor that contains the terms agreed to in the Plan Support Agreement, as such terms may be amended or supplemented with the consent of the parties, in both situations to the extent that any cash distributions received by the Debtor from Royalty A&M are insufficient to pay such costs and expenses and further, in the case of the funding of a trust, the Debtor's other assets are insufficient to provide that funding.

81. The J&J Support Agreement is subject to the approval of the Court and is operative only in the chapter 11 case. It obligates J&J to provide the trust funding Holdco is required to provide under the 2023 Funding Agreement but only if Holdco fails to provide the funding. In return, Holdco is obligated to reimburse J&J for any amounts it pays to the trust on Holdco's behalf, and any amounts that are not reimbursed by Holdco will be deemed to be financed with a loan from J&J to Holdco. The Debtor is obligated to use commercially reasonable efforts to obtain final Court approval of the J&J Support Agreement and to cause a plan of reorganization containing the terms reflected in the Plan Support Agreements to become effective, in both cases as soon as reasonably practicable. The Debtor has the right to enforce J&J's obligation under the J&J Support Agreement.

82. The Debtor believes that these new financing arrangements resolve the concerns that led the Third Circuit to conclude that the 2021 Chapter 11 Case should be dismissed. J&J's support is only available in bankruptcy and only if approved by this Court. Holdco is the sole obligor under the 2023 Funding Agreement. As I noted above, Holdco transferred its consumer health business, which represented a substantial portion of its assets, in early January 2023. This Court previously found that Old JJCI was in financial distress, and that was at a time when it was operating its consumer health business. The performance of J&J's

Consumer Health division, of which Old JJCI was a primary part, had swung from a profit to a loss due to the costs of the talc litigation.

83. Since then, Holdco has transferred its consumer health business. As a result, not only was J&J's balance sheet not available to the Debtor prior to this filing, but Holdco's assets, which were prior to this filing (and are) available through the 2023 Funding Agreement, no longer include the consumer health business. The Debtor believes that its pre-filing financial condition is sufficiently distressed to satisfy the standard established by the Third Circuit.

84. Nonetheless, the Debtor's new financing arrangements do not harm talc claimants for at least two reasons. First, the 2023 Funding Agreement and the J&J Support Agreement (subject to Court approval) are available in this case to ensure that the Debtor has the capability to fund a trust consistent with the terms of the Plan Support Agreements. Second, the 2023 Funding Agreement is also available to fund the Debtor's talc liabilities and related costs outside bankruptcy. The Debtor has the financial support it needs to implement the plan outlined in the Plan Support Agreements.

85. Bankruptcy is the only forum where the Debtor and the claimants can fully, equitably and permanently resolve all talc-related claims. This second chapter 11 filing and the proposed plan are in the best interests of all parties, including the Debtor and all current and future talc claimants.

The Debtor's Objectives for this Case

86. The Debtor's goal in this chapter 11 case is to finalize, obtain confirmation of and ultimately consummate a plan of reorganization containing the terms agreed to in the Plan Support Agreements. This plan would, among other things, (a) establish and fund a trust with \$8.9 billion on a net present value basis to resolve and pay all current and future talc-

support for a plan in this Chapter 11 Case. For example, an extreme verdict (i) could make it more difficult for the Debtor to obtain additional support for the proposed plan, and (ii) would potentially result in substantially different treatment of Valadez's claim than all other talc claims under a plan with the terms contained in the Plan Support Agreements. I further believe that litigants will immediately take all measures available to them to circumvent the protections of the automatic stay through coordinated efforts in proceedings against the Protected Parties with the goal of defeating the purpose of this chapter 11 case and a potential fair and equitable resolution for the benefit of thousands of talc claimants. A denial of the Debtor's request for a temporary restraining order pending a final hearing on the Debtor's request for declaratory and/or injunctive relief would thus cause the very harm that the Debtor seeks to prevent by the motion and the complaint.

CONCLUSION

117. For all the reasons described herein, in the First Day Pleadings and in the filings in the Adversary Proceeding, I respectfully request that the Court grant the relief requested in each of the First Day Pleadings and enter the temporary restraining order requested in the Adversary Proceeding.

Dated: April 4, 2023

/s/ John K. Kim
John K. Kim

NAI-1535638438

EXHIBIT 15

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
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In re: LTL MANAGEMENT, LLC, ¹ Debtor.	Chapter 11 Case No.: 23-12825 (MBK) Honorable Michael B. Kaplan

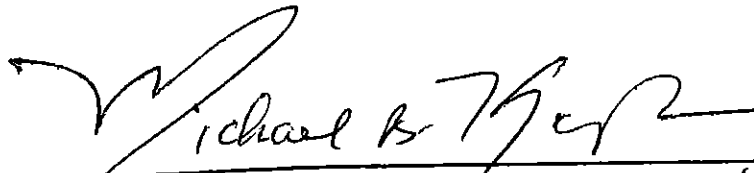
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JEANNE A. NAUGHTON, CLERK
AUG 11 2023
U.S. BANKRUPTCY COURT
TRENTON, NJ
BY _____ DEPUTY

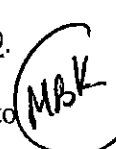
¹ The last four digits of the Debtor's taxpayer identification number are 6622. The Debtor's address is 501 George Street, New Brunswick, New Jersey 08933.

**ORDER (I) DISMISSING DEBTOR'S CHAPTER 11 PETITION
PURSUANT TO 11 U.S.C. § 1112(b); (II) ESTABLISHING
PROCEDURES WITH RESPECT TO REQUESTS FOR
COMPENSATION; AND (III) GRANTING RELATED RELIEF**

The relief set forth on the following pages is **ORDERED**.

8/11/23


MICHAEL B KAPLAN
USBJ

This Court enters this order (this "Dismissal Order") to effectuate dismissal of the chapter 11 case of LTL Management LLC (the "Debtor" or "LTL") pursuant to 11 U.S.C. § 1112(b) and to address, pursuant to 11 U.S.C. §§ 105(a) and 349(b), certain related matters as necessary to permit an orderly dismissal and for purposes such as fairness, judicial economy, and convenience to interested parties. This Court has jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey, dated September 18, 2012 (Simandle, C.J.) (the "Standing Order"); venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. ~~The TCC (as defined below), the other Movants (as defined below) and the Debtor have agreed to~~  ~~the terms of this Dismissal Order.~~ After due deliberation, this Court has found and determined that good and sufficient cause appears under the facts and applicable law for the relief granted herein.

WHEREAS, on April 4, 2023 (the "Petition Date"), the Debtor filed a voluntary petition (the "Petition") pursuant to chapter 11 of Title 11 of the United States Code commencing this case (the "Chapter 11 Case");

WHEREAS, on July 28, 2023, this Court entered the *Memorandum Opinion* [ECF No. 1127], granting the motions filed by the Official Committee of Talc Claimants (the "TCC") [ECF No. 286], the Ad Hoc Group of Mesothelioma Claimants [ECF No. 335], Paul Crouch [ECF No. 346], the Ad Hoc Committee of States Holding Consumer Protection Claims [ECF No. 350], law firms on behalf of certain mesothelioma claimants [ECF No. 352], the law firm of Maune Raichle Hartley French & Mudd, LLC [ECF No. 358], the law firm of Arnold & Itkin LLP [ECF No. 384], the Georgia State claimants represented by The Barnes Law Group, LLC [ECF No. 473],

the States of New Mexico and Mississippi [ECF No. 480]² (collectively, the “Movants”), and the motion filed by the U.S. Trustee [ECF No. 379], that sought an order of this Court dismissing the Chapter 11 Case pursuant to 11 U.S.C. § 1112(b) as not having been filed in good faith;

WHEREAS, on April 25, 2023, this Court entered the *Order Dissolving Temporary Restraining Order, Extending the Automatic Stay, and Granting Limited Preliminary Restraints* [Adv. No. 23-01092, ECF No. 91] (the “Initial Preliminary Injunction Order”) extending the automatic stay under 11 U.S.C. § 362 and preliminarily enjoining the commencement or conducting of any trial or appeal of any Debtor Talc Claim against any of the parties identified as Modified Protected Parties (as defined in the Initial Preliminary Injunction Order), but otherwise allowing any party to commence or proceed with discovery or other pretrial matters in any suits and to permit the filing of suit, on notice to the Debtor, against any Modified Protected Party (other than with respect to the multi-district litigation pending before the Honorable Michael A. Shipp for which no legal action was allowed); and

WHEREAS, on July 14, 2023, this Court entered the *Order Extending The Preliminary Injunction* [Adv. No. 23-01092, ECF No. 203] (together with the Initial Preliminary Injunction Order, the “Preliminary Injunction Orders”) on substantially the same terms as the Initial Preliminary Injunction Order except to add Janssen Pharmaceuticals, Inc and Kenvue Inc. to the list of Modified Protected Parties.

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

1. Dismissal. The Chapter 11 Case is hereby dismissed pursuant to section 1112(b) of the Bankruptcy Code as of the date of this Dismissal Order (the “Dismissal Date”). The Court

² In addition to those identified above, two motions adopting the arguments asserted by the TCC were incorrectly filed in an adversary proceeding relating to this Chapter 11 Case. *See* Adv. No. 23-01092; ECF Nos. 117 (motion of Estate of Melissa Fleming) and 118 (motion of Robert Gendelman).

has jurisdiction to enter this Dismissal Order pursuant to 28 U.S.C. §§157 and 1334 and the Standing Order. ~~For cause shown, pursuant to 11 U.S.C. § 349(a), the Debtor, its affiliates, successors and assigns, are enjoined from filing any petition seeking voluntary relief under Title 11 of the United States Bankruptcy Code, for a period of 180 days measured from the date of entry of the Dismissal Order.~~ MBK

2. Closing the Chapter 11 Case. This Court directs that the Clerk of this Court close the Chapter 11 Case promptly following the filing of a notice by LTL, with the prior written acknowledgement from the U.S. Trustee, that there is no objection to the closing of the case and confirming the completion of the following conditions: (i) all monthly operating reports of LTL have been filed, (ii) all fees due and owing in the Chapter 11 Case to the Clerk of this Court and/or the U.S. Trustee pursuant to 28 U.S.C. § 1930 have been paid in full, (iii) notice of the Appeal Exhaustion Date (as defined below) has been filed with this Court, (iv) all Substantial Contribution Motions (as defined below) have been heard by this Court and determined pursuant to a final order, (v) all amounts requested pursuant to a Final Fee Application, a Reimbursement Request or a Post-Dismissal Fee Application (all as defined below) have been paid by LTL or, if not paid, determined by this Court not to be allowable; and (vi) all amounts owed to the co-mediators have been paid by LTL. The date that the parties jointly file a notice with the Court indicating that all appellate proceedings, including proceedings for review or otherwise before the U.S. Supreme Court, involving this Dismissal Order ("Appeals") are exhausted or resolved, or that the parties will not pursue the Appeals shall hereinafter be referred to as the "Appeal Exhaustion Date."

3. Preliminary Injunction Orders.³ On the Dismissal Date, the Preliminary Injunction Orders [Adv. No. 23-01092, ECF Nos. 91 and 203] are vacated as moot. Pursuant to section 105

³ Capitalized terms that are used but are not defined herein shall have the meanings ascribed to them in the Preliminary Injunction Orders.

and in accordance with 11 U.S.C. § 108(c), this Dismissal Order shall toll, as of April 24, 2023, to the extent such period has not expired before then, the expiration of any period under any applicable non-bankruptcy law, any order entered in a non-bankruptcy proceeding, or any agreement that fixes a period under which a Defendant is required to commence or continue a civil action in a court other than this Court on any Debtor Talc Claim asserted against any of the Modified Protected Parties until the later of: (a) the end of such period, including any suspension of such period occurring on or after April 4, 2023; or (b) thirty (30) days after notice of this Dismissal Order. For the avoidance of doubt, if a Defendant, through counsel, notified the Debtor in writing of his, her, or their intent to proceed with the filing of a complaint pursuant to the Preliminary Injunction Orders, any tolling of the period for any such Defendant to file a complaint asserting a Debtor Talc Claim against a Modified Protected Party terminated upon the Debtor's receipt of written notice of such Defendant's intent to file such a complaint.

4. Termination of Stay. To the extent not already terminated by an order of this Court, the automatic stay with respect to LTL is terminated immediately upon the Dismissal Date. In accordance with 11 U.S.C. § 108(c), this Dismissal Order shall toll, as of April 4, 2023, to the extent such period had not expired before then, the expiration of any period under any applicable non-bankruptcy law, any order entered in a non-bankruptcy proceeding, or any agreement that fixes a period for commencing or continuing a civil action in a court other than this Court on Debtor Talc Claims until the later of: (a) the end of such period, including any suspension of such period occurring on or after April 4, 2023; or (b) thirty (30) days after notice of this Dismissal Order. For the avoidance of doubt, if a Defendant, through counsel, notified the Debtor in writing of his, her, or their intent to proceed with the filing of a complaint pursuant to the Preliminary Injunction Orders, any tolling of the period for any such Defendant to file a complaint asserting a

Debtor Talc Claim against a Modified Protected Party terminated upon the Debtor's receipt of written notice of such Defendant's intent to file such a complaint.

5. Procedures for Final Allowance of Fees and Expenses. All professionals retained pursuant to sections 105, 327, 328 or 1103 of the Bankruptcy Code ("Retained Professionals"), in addition to the Future Claimants Representative (the "FCR") and her professionals, seeking compensation pursuant to sections 330 or 331 of the Bankruptcy Code shall file and serve monthly, interim and final fee applications for periods through and including the Dismissal Date within thirty (30) days of the Dismissal Date (the "Final Fee Applications"); and shall file and serve any fee applications for periods from the Dismissal Date through and including the Appeal Exhaustion Date ("Post-Dismissal Fee Applications" and together with the Final Fee Applications, the "Fee Applications") within thirty (30) days of the Appeal Exhaustion Date. The Fee Applications shall be in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules of this Court, the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Retained Professionals* [ECF No. 562] (the "Compensation Procedures Order"). Any objections to the Fee Applications shall be filed and served on counsel for LTL and the entity submitting the application to which an objection is being filed no later than twenty-one (21) days following the filing of such Fee Application. The Court will schedule hearings, at the Court's convenience, to consider the Fee Applications. The fees and expenses of professionals retained by the Ad Hoc Committee of Supporting Counsel shall remain subject to the expense reimbursement agreement, which was attached as Exhibit A to ECF No. 575.

6. Compensation Procedures Order; Reimbursement Requests; Post-Dismissal Monthly Fees. The Compensation Procedures Order shall remain in full force and effect through and including the Appeal Exhaustion Date, including as to requests for reimbursement of expenses

incurred by members of the TCC and their representatives (a "Reimbursement Request") and the submission and payment of monthly fee statements by Retained Professionals. After the Appeal Exhaustion Date, the Compensation Procedures Order shall remain in effect as to the submission and payment of Fee Applications and Reimbursement Requests.

7. Substantial Contribution Motions. Any party, including any ad hoc committee that participated in the Chapter 11 Case, seeking payment of a claim for substantial contribution in this Chapter 11 Case may file and serve a motion seeking such relief ("Substantial Contribution Motion") no later than thirty (30) days following the Dismissal Date. The Court will schedule a hearing, at the Court's convenience, to consider the Substantial Contribution Motion. Any party-in-interest may object to a Substantial Contribution Motion no later than seven (7) days prior to the hearing date, and the movant may reply no later than four (4) days prior to the hearing date.

8. Limited Continued Existence of TCC. The TCC shall remain in existence after the Dismissal Date solely to pursue or defend any Appeals, and its Retained Professionals shall be authorized to continue to perform services on the TCC's behalf and communicate with its constituents concerning the pursuit or defense of any Appeals. For the avoidance of doubt, this shall include the appeals currently pending before the District Court ~~for the District Court~~ for the District of New Jersey (Case Nos. 23-cv-02567; 23-cv-02918; and 23-cv-03935).^{*} On the Appeal Exhaustion Date, the TCC shall be automatically dissolved, and all members and professionals retained by the TCC shall be discharged from all duties, responsibilities, and obligations arising from, or related to the TCC. Following such dissolution, any attorney-client privilege and similar rights previously held by the TCC shall remain in existence and shall be enforceable by any person or entity that was a member of the TCC as of its dissolution (directly or indirectly through their respective counsel or other representative). Notwithstanding anything contained herein to the

** Within seven (7) days of the entry of the within order, counsel for the TCC shall provide the District Courts handling the referenced appeals with a copy of this Order and a request to stay the appeals pending resolution of any appeal of this Order. Such request should be made initially by correspondence unless the District Court directs otherwise.*

contrary, the TCC, TCC members and their representatives and the TCC's Retained Professionals shall be authorized to seek payment of fees and reimbursement of expenses in accordance with the Compensation Procedures Order and with Paragraphs 5 – 7 herein. **

9. Discharge of the FCR. On the Dismissal Date, the appointment of the legal representative for future talc claimants in this Chapter 11 Case (the "FCR") shall be terminated, and all professionals retained by the FCR shall be discharged from all duties, responsibilities, and obligations from or related to the FCR. Following such termination, any attorney-client privilege and similar rights previously held by the FCR shall remain in existence and shall be enforceable by the FCR (directly or indirectly through her respective counsel or other representative).

10. Discharge of the Co- Mediators. On the Dismissal Date, the appointment of the co-mediators in this Chapter 11 Case shall be terminated and the co-mediators shall be discharged from all duties, responsibilities, and obligations from or related to the court-ordered mediation in this Chapter 11 Case. Within fourteen (14) days of this Dismissal Order, the co- mediators shall submit to LTL final invoices for services rendered and expenses incurred, and LTL shall promptly pay such invoices.

11. Services of Epiq Corporate Restructuring, LLC ("Epiq"). Epiq is authorized to assist LTL with service of this Dismissal Order. On or about thirty (30) days after the entry of this Dismissal Order, Epiq, as the Debtor's claims and noticing agent, shall (a) forward to the Clerk of the Court an electronic version of all imaged claims; (b) upload the creditor mailing list into CM/ECF; and (c) docket a combined final claims register containing claims against the Debtor. Epiq shall be discharged from all duties, responsibilities, and obligations as the Debtor's claims and noticing agent in this Chapter 11 Case following the conclusion of such services pursuant to this Dismissal Order and the closing of this Chapter 11 Case. Epiq shall be entitled to payment

MBK
~~The TCC~~ The TCC is not authorized to retain additional professionals absent further order of this Court. Pursuant to 11 USC § 349 (b)(3), such funds necessary to pay the fees and expenses, approved by the Court and in accordance with the procedures set forth herein, remain property of the estate and do not revert in the entity in which such property was vested immediately before the commencement of the case.
ROA_13054

and reimbursement of its fees and costs in accordance with Paragraph 5 hereof. Epiq is authorized to take all actions necessary and appropriate to effectuate the terms of this Dismissal Order.

12. Payment of Quarterly Fees. Not later than thirty (30) days after the Dismissal Date, LTL shall pay to the U.S. Trustee any quarterly fees owed through the date of the Dismissal Date pursuant to 28 U.S.C. § 1930(a)(6). Any disbursements, including but not limited to, the payments of professional fees and expenses by LTL between the Dismissal Date through and including the Appeal Exhaustion Date must be reported on the Debtor's Final Report and ^{may} ~~shall~~ be subject to the payment of fees owed pursuant to 28 U.S.C. § 1930.

13. Continued Effect of Confidentiality Orders. Notwithstanding any other provision of this Dismissal Order, any obligations arising under confidentiality agreements, joint interest agreements, and protective orders, if any, entered into during the Chapter 11 Case in connection with the Chapter 11 Case shall remain in full force and effect in accordance with their terms; provided, however, that the provisions set forth in paragraph 14 of this Dismissal Order shall supersede any contrary provisions in any agreed protective order entered in this Chapter 11 Case; provided, further, however, that notwithstanding anything contained therein to the contrary, the obligations set forth in Section L of the *Protective Order* entered at ECF No. 545 shall not become applicable until thirty (30) days after the Appeal Exhaustion Date .

14. Destruction of Documents by Third Parties. Reasonably promptly following the closing of the Chapter 11 Case, any mediator appointed in the Chapter 11 Case and the Rule of Evidence 706 expert appointed by order of this Court entered at ECF No. 2881 in the Debtor's prior chapter 11 case (Case No. 21-30589) (the "Prior Chapter 11 Case") and his professionals each shall destroy any documents, electronic files or information in his or their possession, custody, or control (or in the possession, custody, or control of their respective agents, experts or

consultants) that were provided on a confidential basis, whether during this Chapter 11 Case or during the Prior Chapter 11 Case, by LTL, the FCR, the TCC, or plaintiff law firms or their respective counsel, or any of the TCC members, and shall certify destruction thereof to such providing party.

15. Notice. On or before seven (7) days following the Dismissal Date, LTL shall serve notice of this Dismissal Order (including a copy of this Dismissal Order) pursuant to Bankruptcy Rules 2002(f)(2) and 2002(k) on the TCC, the U.S. Trustee, the Master Service List, the Modified Protected Parties, all entities that have requested notice pursuant to Bankruptcy Rule 2002, and such additional persons and entities deemed appropriate by LTL.

16. Retained Jurisdiction. Notwithstanding the dismissal of the Chapter 11 Case, this Court shall retain jurisdiction to hear and determine all matters arising from or related to the Chapter 11 Case, including without limitation, certification of any appeal of this Dismissal Order, the interpretation, implementation, or enforcement of this Dismissal Order and the Court's prior orders, and to hear and consider Substantial Contribution Motions and any objection to a Fee Application or a Reimbursement Request.

17. Immediate Effectiveness. Notwithstanding any provisions in the Bankruptcy Rules to the contrary, this Dismissal Order shall be immediately effective and enforceable upon its entry.

EXHIBIT 21

STATE OF SOUTH CAROLINA : IN THE COURT OF COMMON PLEAS
:
COUNTY OF RICHLAND : FOR THE FIFTH JUDICIAL CIRCUIT

MICHAEL L. PERRY and :
LONNIE L. LONG, :
Plaintiffs, : C/A No.
v. : 2023-CP-40-04072
AMERICAN INTERNATIONAL :
INDUSTRIES, et al., :
Defendants. : 

Continued Video-Recorded Deposition of
KENVUE INC. and JOHNSON & JOHNSON HOLDCO (NA) INC.,
through their designated representative
JOHN KIM, ESQUIRE

Via Zoom Videoconferencing

Saturday, August 10, 2024

10:39 a.m.

Reported stenographically by:
Adam D. Miller, Registered Professional Reporter

Kenvue Inc., Johnson and Johnson Holdco (NA) Inc. (John Kim)
August 10, 2024

Page 2		Page 4		
1	APPEARANCES:	1	EXHIBITS	
2	On Behalf of Plaintiffs:	2	NAME DESCRIPTION PAGE	
3	JESSICA DEAN, ESQUIRE	3	Exhibit 1 Order	33
4	jdean@dobslegal.com	4	Exhibit 2 Proposed Stipulation	356
5	DEAN OMAR BRANHAM SHIRLEY, LLP	5	Exhibit 4 Draft Project Plato Master Q&A,	211
6	302 North Market Street, Suite 300	6	LTL 0030334 to '48	
7	Dallas, Texas 75202	7	Exhibit 5 Notices	11
8	214.722.5990	8	Exhibit 31 List of Materials Provided to	37
9	On Behalf of Johnson & Johnson, Inc.; Johnson & Johnson	9	the Witness	
10	Holdco (NA), Inc.; Kenvue Inc.; and LLT Management,	10	Exhibit 40 4/4/23 Declaration of John K.	54
11	LLC.:	11	Kim	
12	ALLISON M. BROWN, ESQUIRE	12	Exhibit 41 Step Plan Overview	197
13	allison.brown@skadden.com	13	Exhibit 42 (production request - nothing	325
14	and CHRISTOPHER J. SANTOLI, ESQUIRE	14	provided at the time of	
15	SKADDEN, ARPS, SLATE, MEAGHER & FLOM, LLP	15	finalization of this	
16	One Manhattan West	16	transcript)	
17	New York, New York 10001	17	Exhibit 43 (production request)	340
18	212.735.3000	18		
19	-and-	19		
20	KIM BUENO, ESQUIRE	20		
21	kim.bueno@butlersnow.com	21		
22	BUTLER SNOW LLP	22		
23	1400 Lavaca Street, Suite 1000	23		
24	Austin, Texas 78701	24		
25	737.802.1800	25		

Page 3		Page 5		
1	ALSO PRESENT: PATRICK BLASKOPF, THE VIDEOGRAPHER	1	THE VIDEOGRAPHER: We are now on the	
2	- - - - -	2	record. The date today is August 10th,	
3	INDEX	3	2024, and the time is approximately	
4	DEPONENT: KENVUE INC. and	4	10:39 a.m.	
5	JOHNSON & JOHNSON HOLDCO (NA) INC.,	5	This is the video-recorded deposition	
6	through their designated representative	6	of Kenvue Inc. and Johnson & Johnson	
7	JOHN KIM, ESQUIRE	7	Holdco (NA) Inc., through John Kim, being	
8	EXAMINATION BY: PAGE	8	taken in the matter of Michael Perry and	
9	ATTORNEY DEAN 8	9	Lonnie Long versus American International	
10	ATTORNEY BROWN 359	10	Industries, et al.	
11	ATTORNEY DEAN 367	11	My name is Patrick Blaskopf. I'm a	
12	- - - - -	12	legal videographer representing GPS Court	
13		13	Reporting. The court reporter is Adam	
14		14	Miller.	
15		15	At this time counsel will be noted on	
16		16	the stenographic record or state their	
17		17	appearances. And the court reporter will	
18		18	swear in the witness, and we can proceed.	
19		19	- - - - -	
20		20	KENVUE INC. and JOHNSON & JOHNSON	
21		21	HOLDCO (NA) INC., through their designated	
22		22	representative JOHN KIM, ESQUIRE, having	
23		23	first been duly sworn according to law, was	
24		24	examined and testified as follows:	
25		25	- - - - -	

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Page 6 1 ATTORNEY BROWN: And good morning. 2 This is Allie Brown for the defendants and 3 the witness. We understand that this 4 deposition has been ordered by Judge Toal, 5 we are certainly in receipt of and have 6 reviewed the order and are intending here 7 today to fully comply. 8 I did want to note that the order 9 requires testimony of not only what was 10 known by Kenvue or Holdco but what is 11 knowable. And Mr. Kim is here and ready 12 to provide that testimony. 13 I do think it will require him to 14 provide testimony about issues that the 15 companies themselves would not have known 16 at the time because they didn't exist. 17 And he's fully prepared to do that. But I 18 wanted to make sure we reserved our rights 19 on the fact that he will be testifying to 20 the things that the company could not have 21 known because the company didn't exist at 22 the time they took place. And we'll just 23 reserve all rights on that. 24 And with that, thank you, Ms. Dean. 25 I have nothing further.	Page 8 1 We're all going to do our best with 2 that today. But we do not, one, believe 3 that a company can't have information 4 before its formation when the company is 5 clearly under the law made up of its 6 individuals and those individuals clearly 7 have information that are directly noticed 8 in this topic. 9 And two, we do agree with the concept 10 that this order wasn't just about what was 11 known but knowable, which is under the 12 statute of law not only of this state but 13 most. And so whether the witness is fully 14 prepared or not, we may or may not agree 15 on. I don't have the advantage of knowing 16 what was done in the last few days. But I 17 think the best thing to do with this point 18 is proceed. 19 ATTORNEY BROWN: I agree. And rather 20 than respond to that, we'll defer to the 21 extent that briefing and argument that I 22 understand has already taken place on this 23 issue. Thank you. 24 BY ATTORNEY DEAN: 25 Q We're on Zoom as a platform. But,
Page 7 1 ATTORNEY DEAN: Just for context, 2 this is the deposition I sought in January 3 of 2024, met and conferred. A notice was 4 requested. It was provided in February. 5 Meet-and-confer efforts continued 6 for months. 7 These two companies took the position 8 that despite never being deposed as a 9 corporate representative or person most 10 knowledgeable anywhere in the company, 11 they didn't need to respond to anything, 12 not one topic. 13 The Court then compelled them to do 14 so. I then spent extraordinary effort, 15 along with my colleague Ethan Horn, to 16 depose Holdco and Kenvue separately, in 17 which we believe they were woefully 18 unprepared, to the extent it was 19 sanctionable conduct. The Court agreed. 20 And so in the middle of the trial we 21 are now trying to assess these topics for 22 the first time, getting information after 23 business hours yesterday, getting 24 information less than 12 hours yesterday 25 for a deposition in the middle of trial.	Page 9 1 Mr. Kim, can you hear me okay? 2 A I can. Thank you. 3 Q Okay. I've never had an opportunity 4 to meet you before. My name's Jessica Dean. I 5 know we're talking to you on a weekend. I 6 appreciate your time. And if you ever have a 7 hard time hearing me or otherwise I'm just not 8 making good sense, please let me know. 9 A I will. 10 Q Is that okay? 11 A That is -- 12 Q You are a lawyer -- oh, sorry. 13 A That's fine. 14 Q And Zoom in particular makes it, at 15 least for me, difficult; sometimes speak over. 16 If I ever do, it's likely not intended. 17 Sometimes I get frustrated and it is and I try 18 to fix that. 19 But for the most part it's usually 20 because it's hard to know when you're finished. 21 If you need to say, Hey, I'm not done, just let 22 me know; okay? 23 A I will. 24 Q Okay. You understand as a lawyer 25 that the testimony that you're giving today,

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Page 10 1 even though you're in your home, has the same 2 force and effect as if you were in a courtroom 3 with a judge or panel of juries -- jurors. You 4 understand that; right? 5 A I do. 6 Q You have been asked by Kenvue to 7 speak for it. The legal name we give that is to 8 be the corporate representative on the topics 9 that we outlined for you. 10 You understand that; correct? 11 A I do. 12 Q You've also been chosen by Johnson & 13 Johnson Holdco. I know the legal name is 14 longer. I'm going to reference it as Holdco, 15 if that's okay. I'm going to pause there. Do 16 you mind if I do that? 17 A That's fine. 18 Q You were chosen to speak for Holdco 19 as its corporate representative. You understand 20 that as well? 21 A I do. 22 Q And as a corporate representative, 23 you understand that what you state under oath 24 binds these companies; correct? 25 A I do.	Page 12 1 Day Pleadings that was filed in October of 2021. 2 I think because you said first-day pleading 3 we're talking about the same day thing. Is that 4 correct? 5 A Yes. I am. 6 Q So while this gives some information 7 about your background in paragraphs 2, 3 and 8 4 -- and I'll put that on the screen so you're 9 seeing the same thing as me -- it is as of the 10 date of 2021 and certainly doesn't have as much 11 information as a lot of different resumes I've 12 seen. 13 I guess I'll ask a more succinct 14 question: Is the background information you 15 were talking about contained here in paragraphs 16 2, 3, and 4? 17 A Yes. 18 Q Since 2021, when you signed this 19 declaration, can you go through your employment 20 history. 21 A So it has not changed. I am still 22 the chief legal officer of what was then LTL 23 Management, LLC and now renamed LLT Management, 24 LLC. But I hold the same position. 25 Q Do you hold any position with any
Page 11 1 Q One of the things that we asked about 2 in the deposition notice -- which I'm going to 3 mark both notices for Holdco and Kenvue -- is 4 Exhibit 5 is about your background. 5 (Exhibit 5 was marked for 6 identification.) 7 BY ATTORNEY DEAN: 8 Q My first question to you is: Have 9 you reviewed the notices? 10 A I have. 11 Q Do you have a CV or resume that would 12 help us understand your background without going 13 through it today? 14 A I do not believe I do have a CV. But 15 my background actually is contained in numerous 16 depositions that I gave in the LTL bankruptcy 17 cases and the declaration, the first-day 18 declarations and both bankruptcy filings. 19 So I think if you look -- if you want 20 to look through that, the beginning section of 21 that has all of my background. 22 Q We attached as Exhibit 39 to the 23 Kenvue deposition in this case that we're 24 continuing today a declaration from you entitled 25 Declaration of John K. Kim in Support of First	Page 13 1 other company other than LLT, formerly known as 2 LTL? 3 A I do not. 4 Q Have you ever at any time worked for 5 Kenvue? 6 A No. 7 Q Have you ever at any time worked for 8 Janssen? 9 A No. 10 Q Have you ever at any time worked for 11 Holdco? 12 A No. 13 Q Have you ever at any time worked for 14 any Chenango entity, including Chenango Zero, 15 Chenango One, and Chenango Two? 16 A Well, the -- Chenango One had a name 17 change and reincorporation, which became LTL 18 Management, LLC. So I was -- yeah, so I 19 don't -- so it is a company that was the 20 successor to it, LL- -- to Chenango. 21 Q So for Chenango Zero and Chenango 22 Two, you've never worked for either of those 23 companies; correct? 24 A So I had not worked for Chenango Two; 25 correct. And, I'm sorry, the other company was

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Page 14 1 what? 2 Q Chenango Zero. 3 A So Chenango Zero -- no, I did not 4 work for Chenango Zero. 5 Q And then I understand as it relates 6 to Chenango One that it is a 7 predecessor-in-interest to LLT, formerly known 8 as LTL. Did I hear that right? 9 A That's correct. 10 Q Other than working for LLT and being 11 aware that that was a predecessor to Chenango 12 One, did you ever actually work for Chenango One 13 during the time in which it existed? 14 A I do not believe I have. 15 Q I'm going to try throughout the 16 deposition to mention or state the current name 17 of LLT, formerly known as LTL. But in the event 18 that I don't or that you don't, those two 19 companies are one and the same; there was just a 20 name change done in December of last year. 21 Fair? 22 A Well, the name change -- 23 reincorporation. It was re-domiciled. 24 Q Okay. 25 A It changed from a North Carolina	Page 16 1 solicitation package. 2 So as part of that, based upon the 3 advice of counsel, which are the experts in this 4 area, it was advised that in order to do that 5 appropriately, it would be best if we had 6 re-domiciled LTL into a Texas company. And so 7 that's why we re-domiciled in Texas. 8 The name change came about because, 9 under corporate law, you're not allowed to have 10 companies with the same name. And when we did a 11 search for names in Texas, LTL was already taken 12 by somebody, not us. And so we change the name 13 from LTL to LLT. 14 ATTORNEY DEAN: Let me object as 15 nonresponsive. And in the event that 16 someone disagrees, I do have a follow-up. 17 BY ATTORNEY DEAN: 18 Q When you were referencing the 19 claimants there, were you talking about ovarian 20 claimants or something broader? 21 A Well, to the -- in this iteration 22 that we have the plan-support agreements for, we 23 are dealing with the ovarian -- with ovarian 24 claims. 25 Q So I understand from the description
Page 15 1 company to a Texas company. 2 Q Was that the sole reason for the 3 change, to your knowledge? 4 A I'm not understanding what the sole 5 reason, what -- 6 Q There was this name change in 7 December from LTL to LLT. And you mentioned 8 that that was a change in domicile. Was there 9 any other purpose for making that change? 10 A Yes. 11 Q What was that? 12 A So the purpose was -- you know, the 13 business purpose was that we are trying to 14 fairly, fully, and efficiently resolve the talc 15 litigation. And in order to do that, this last 16 iteration, as you may know, we have entered into 17 support agreements with the majority -- of 18 plaintiff's lawyers that represent a vast number 19 of claimants. 20 And pursuant to those agreements we 21 have a plan to file -- you know, if approved by 22 the claimants, we intend to try to resolve the 23 litigation as fairly, you know, and as 24 efficiently as possible through a prepackaged 25 bankruptcy in Texas. That's, that's in the	Page 17 1 you just gave me that the reason there was a 2 name change from LTL to LLT was to achieve 3 specific goals relating to bankruptcy that 4 lawyers advised you would be achieved if you 5 changed the domicile. And so I guess my 6 question to you is: Other than changing the 7 domiciled -- let me back up. 8 The goal before -- according to your 9 affidavit which we have on the screen -- in 10 creating LLT was also to resolve talc claims 11 through bankruptcy; fair? 12 A Yes. I think what we said is to 13 fairly, finally, fully, efficiently resolve 14 these claims in. And the best way to do that 15 would be through a bankruptcy. 16 ATTORNEY DEAN: And I'm going object 17 to the nonresponsive part any time you do 18 that. The fundamental disagreement about 19 whether that's fair or equitable or the 20 best way to do that, I'm trying to stay 21 away from -- I'd love to have a cup of 22 coffee with you one day about it, but 23 that's not why we're here today -- and 24 just understand what was being done, not 25 why, to avoid that fight, to the extent I

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Page 18 1 can. 2 So let me object as nonresponsive and 3 just... 4 BY ATTORNEY DEAN: 5 Q Whether it was under the name of LTL 6 or LLT, when there was a restructuring in 2021 7 that resulted in the creation of LTL, the goal 8 was to have talc liabilities placed in that 9 company and figure out a way to resolve those 10 liabilities; fair? 11 ATTORNEY BROWN: And let me just 12 object -- sorry, Mr. Kim. 13 Let me just object to the instruction 14 and instruct the witness to answer fully, 15 truthfully, and accurately. 16 THE WITNESS: Again, our purpose was 17 not just to, just to resolve them, but to 18 resolve them in a manner that we thought 19 was fair and efficient and full. 20 And full, full is important because 21 the issue is you can resolve cases outside 22 of bankruptcy but you can't get a full 23 resolution. So in order to get to sort of 24 finality, we thought that bankruptcy was 25 the more appropriate way to do it. So	Page 20 1 achieve the stated goals. 2 Did I hear that right? 3 A You did. 4 Q LTL, I understand it, it stood for 5 "limited talc liability"; is that correct? 6 A That's -- it's not correct. "LTL" 7 stands for LTL. I think there's a dispute as to 8 what "LTL" stood for. I think different people 9 had different iterations of that. 10 But at the end of the day, it is just 11 LTL. So again, what I can say is, you know, 12 some people think it's "limited talc liability," 13 some people think it's, you know, "legacy talc 14 litigation." 15 So there are various iterations that 16 people have thought "LTL" meant. But at the end 17 of the day, it is just LTL. 18 Q So the actual legal name is limited 19 to LTL when it started; right? 20 A Correct. 21 Q Other than "legacy talc litigation" 22 or "limited talc liability," are there any other 23 iterations for what LTL stood for that you've 24 heard? 25 A There may have been others that, you
Page 19 1 that's why -- it's a why issue, as to why 2 we did it that way. 3 ATTORNEY DEAN: I'm just going to -- 4 I tend to say "dinosaur" so I can find 5 things easier. But both for the statement 6 of Kenvue's counsel and their second 7 lawyer, who's the witness, we're going to 8 have to address that with the Court. 9 In terms of my question -- and let me 10 object to nonresponsive. 11 BY ATTORNEY DEAN: 12 Q My question: It is not disputed that 13 the reason LTL was created was an effort to 14 resolve talc liabilities, which continue to be 15 the goal of LLT; correct? 16 A I think I've answered that several 17 times now. Yes, with all the way that I 18 described it or the rationale. 19 Q And in terms of the difference 20 between the two companies, I understand, one, is 21 there was a different name because when you 22 domiciled it in Texas, the name LTL already 23 existed; and two, was to change the domicile 24 because lawyers advised you that -- or advised 25 the company that that was the best way to	Page 21 1 know, I heard. But again, I think people have 2 their own versions of what it stood for to help 3 them remember LTL. But it's -- LTL was the 4 chosen name. 5 Q Other than "legacy talc litigation" 6 and "limited talc liability," are there any 7 iterations that you do actually remember as you 8 sit here? 9 A "Legacy talc liability." Did I say 10 that? "Limited talc liability." I mean, I 11 think there are different variations that people 12 have used. 13 Q Can you think of any others? 14 A Not sitting here right now. 15 Q You understand that today, for this 16 deposition, you are not here as the 17 representative for LTL or LLT. Do you 18 appreciate that? 19 A I do. 20 Q And Kenvue has never been at any 21 point in time related to or a predecessor of LTL 22 or LLT; correct? 23 A It's -- it has not, no. 24 Q Same question for Holdco: Holdco has 25 never been a predecessor to or related to LLT or

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Page 22 1 LTL legally; correct? 2 A I think "related to" is a very broad 3 term. Because if you recall, you know, the way 4 that the transaction -- you know, the 2021 5 transaction worked was there was an old JJCI 6 that basically was re-domiciled in Texas, split 7 into two. But eventually one of those becomes 8 LTL. The other one becomes new JJCI. 9 And so, you know, when you trace that 10 back, I mean, yeah, related to -- I mean, 11 they're certainly some relationship at some 12 point. So -- and then of course, New JJCI 13 became Holdco. 14 So, yeah, I think "related to," it's 15 very broad. 16 Q Let me break those down. Holdco was 17 never a predecessor-in-interest to LTL or LLT; 18 fair? 19 A Predecessor to -- correct. 20 Q Okay. And kind of a more broad 21 question is the creation of these companies were 22 interrelated in terms of the timing and the 23 larger goals. And so when I asked "related to," 24 you fairly said that's a harder question to 25 answer. Is that fair?	Page 24 1 shorthand references are for different Johnson & 2 Johnson Consumer, Inc. companies over time? 3 A I do, based upon the depositions that 4 you've taken of Mr. Mittenthal. 5 Q Your answer was my next question. 6 Okay. So I don't have to go back through that. 7 I appreciate that. 8 Are you represented by counsel today? 9 A I am. 10 Q Do you know -- and so you are 11 speaking -- you are currently speaking on behalf 12 of Kenvue and Holdco and not LTL. We've talked 13 about that. 14 A Yes. 15 Q How are you being compensated for 16 your time, given you work for a different 17 company than the ones you're speaking for today? 18 A I'm not being compensated 19 additionally for this work. 20 Q Okay. 21 A So I have a salary as the chief legal 22 officer and -- but I get no additional monies 23 for doing this. 24 Q And you say "additional." But your 25 salary doesn't come from Kenvue and your salary
Page 23 1 A That is fair. 2 Q And anytime my questions are framed 3 in a way that makes it hard to answer, please 4 continue to let me know; okay? 5 A (Indicting.) 6 Q You're nodding, but I just want -- 7 A I understand. 8 (Crosstalk.) 9 Q -- audible. 10 A I agree. Yes, I will. Thank you. 11 Q You had indicated that when the name 12 change occurred and it was decided to domicile 13 LLT in Texas, that was at the advice of counsel 14 who were the experts. I want to come back to 15 that just to ask what counsel you are referring 16 to. 17 A That would be Jones Day. 18 Q And do you know in terms of who hired 19 Jones Day in order to get this advice, if it was 20 Johnson & Johnson, LLT, a combo? Do you know? 21 A Their -- LLT counsel. 22 Q Have you at any point in time worked 23 for Old JJCI, New JJCI, or JJCI 3? 24 A No. 25 Q Did you follow what those different	Page 25 1 does not come from Holdco; correct? 2 A Correct. 3 Q So when you say it's additional, I 4 hear that to mean you get paid for your job at 5 LLT, and even though you're doing activities for 6 other companies, you not getting any additional 7 compensation in what you make as an employee of 8 LLT/LTL; is that right? 9 A That is correct. 10 Q Do you have any understanding as to 11 why LLT would be willing to donate your time to 12 these other companies? 13 A LLT is responsible for all costs 14 related to talc litigation in the United States. 15 So costs borne by any of the J&J entities, 16 including indemnification that J&J entities 17 would have to make to Kenvue, would be the costs 18 that eventually is related -- is borne by LLT. 19 So these are already LLT costs, which 20 is why I can do this without additional 21 compensation. 22 Q I asked Mr. Mittenthal when he was 23 speaking for Kenvue about who was paying his 24 bills, because he as an outside contractor was 25 sending hourly bills for his work, and he didn't

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Page 26 1 know. 2 Is it fair, based on what you've 3 said, that that ultimately would be cost borne 4 by LLT? 5 A Correct. Ultimately. So there may 6 be interim steps. He may bill Kenvue and Kenvue 7 may have to seek reimbursement from one of the 8 Johnson & Johnson companies. And then they 9 would have to come to LLT. But eventually, 10 ultimately, LLT bears that cost. 11 Q There are other companies that we 12 left -- that we referenced in our notice. One 13 was called Currahee Holdings. Did you ever 14 worked for that company? 15 A No. So work for -- so I was never an 16 employee of that company. So I was at one point 17 the head of product liability litigation at J&J. 18 And as part of that role -- you know, J&J law 19 department supports other companies. So we act 20 like sort of an outside law firm. So even 21 though you're a J&J employee, you have clients 22 in other areas. 23 So it may be that at some point I 24 was -- I could have been considered representing 25 Currahee or, you know, working on behalf of	Page 28 1 any entity available to Kenvue about why things 2 were divided up in the Kenvue structure the way 3 they were? 4 A Yes. 5 Q Who did you speak to? 6 A I spoke to Donald McGraw and I spoke 7 to Chris Andrew. 8 Q Anyone else? 9 A No. 10 Q I do that just to make sure I'm not 11 cutting off anyone. Thank you. 12 Is it your understanding that 13 Ms. Brown, who's on this call, is the lawyer 14 representing you both in your capacity as the 15 representative of Kenvue and Holdco? 16 A Yes. 17 Q Do you know from prior direct 18 interactions with her that she was also the 19 lawyer representing LLT or LTL in the past? 20 A She has. 21 Q And she's also the lawyer for 22 Johnson & Johnson and Johnson & Johnson 23 Consumer, Inc. or Old JJCI in the past; correct? 24 A In the past, yes. 25 Q Where you provided any information
Page 27 1 Currahee during the transaction period. But I 2 had no -- I was never employed by Currahee. 3 Q So I think I follow. In the time 4 that you were working for Johnson & Johnson and 5 that that work was head of products liability, 6 you may have been involved in decisions relating 7 to the organization of Currahee but not as a 8 direct employee. Did I get that right? 9 A Much more succinctly that I just did. 10 Thank you. 11 Q We're figuring this out. 12 Did you ever at any time work for 13 J -- I'm losing it for a second. One second. 14 Oh, JNTL Holding Company. 15 A No. 16 Q Okay. Were you ever involved in any 17 of the decisions by the Kenvue enterprise, the 18 Kenvue kind of larger structure -- so I mean not 19 just the legal entity Kenvue but its 20 subsidiaries -- on how they divided out the 21 management of their consumer sector between 22 JNTL, JJCI 3, and Kenvue itself? 23 A I was not involved in those 24 decisions, no. 25 Q Have you spoke to anyone at Kenvue or	Page 29 1 about Michael Perry's case? 2 A Yes. 3 Q What were you provided to learn about 4 his specific case? 5 A So I have read the complaints. 6 Q What? 7 A I read -- sorry. 8 Q It paused or hiccupped on my end, so 9 I missed the actual thing you identified. I'm 10 sorry to interrupt. 11 A So I reviewed the complaint in the 12 case. I've -- I think I saw some references in 13 some of the depositions that you took. I can't 14 recall which one specifically, but I do know -- 15 yeah, I think parts of the complaint were 16 discussed in some depositions. 17 I -- but I spoke to Kristin Fournier 18 just a slight -- a bit when I was first 19 introduced to this, this task. And I had a 20 conversation with Kim Bueno, who I've known for 21 a while, about this -- a little bit about the 22 case. 23 Q Okay. Kim Bueno and Kristin Fournier 24 are two different lawyers that represent 25 Johnson & Johnson and some related Johnson &

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Page 30 1 Johnson entities; correct? 2 A Correct. 3 Q For instance, Kim Bueno, as it 4 relates to Michael Perry's case, represents 5 Johnson & Johnson, LTL -- now LLT -- Kenvue, and 6 Holdco. Are you aware of that? 7 A I am. 8 Q Okay. And you mentioned that you 9 also saw references to Mr. Perry in some of the 10 questions that were asked of Mr. Mittenenthal. I 11 certainly -- I was in that, so I certainly asked 12 him if he saw anything about Michael Perry. And 13 he echoed that he looked at the complaint. 14 Is that what you were talking about? 15 A Yes. There was also a series of 16 questions you asked the witness about the 17 advertising components in the complaint that you 18 had put in. I can't recall who you asked about 19 those. But -- 20 Q I think we're talking about the same 21 thing. But I would, I would identify them 22 differently. 23 Attached to the complaint was 24 something called Baby Camp, which I understood 25 not to be an advertisement to the outside but an	Page 32 1 Q And let me frame that to make it a 2 little bit easier. Outside of the facts that we 3 identified in the complaint or in the discussion 4 had with Mr. Mittenenthal when he was the chosen 5 representative for these cases, any there facts 6 that you learned about Michael Perry that aren't 7 contained in those locations? 8 A Not really, no. I can't think of 9 anything. 10 Q Are you aware of Mr. Perry, is -- 11 what disease -- 12 A Yes. 13 Q -- he believes he has? Mesothelioma? 14 A Pleural mesothelioma, yes. 15 Q And are -- do you know whether he's 16 still fighting that now or he's already passed? 17 A He is still fighting that, thank God. 18 He is, he is -- I believe to this day he is 19 still fighting this. 20 Q In terms of just broadly 21 understanding from our notice that the reason 22 that we are involving both Holdco and Kenvue is 23 not because of a belief that they directly sold 24 something that was used but rather because of a 25 belief that because of how corporate
Page 31 1 education to folks inside through a PowerPoint. 2 And I'm not asking you to agree or 3 disagree with me. But I think you're 4 referencing, when I ask questions, to the 5 information about -- 6 A That's right. 7 ATTORNEY BROWN: Let me just 8 belatedly object to the form of the 9 question. 10 BY ATTORNEY DEAN: 11 Q Okay. Outside of what you learned in 12 those questions that I asked Mr. Mittenenthal and 13 the complaint, is there anything that isn't 14 contained in those two sources that you've 15 learned about Mr. Perry's case? 16 A Well, my discussions with, you know, 17 with Ms. Bueno and Ms. Brown. 18 ATTORNEY BROWN: And, Mr. Kim, I'll 19 just instruct you, certainly if you 20 learned factual information during those 21 discussions, you are free to testify about 22 that. But I'll caution you not to reveal 23 any legal discussions you may have had or 24 legal advice, your thoughts as a lawyer. 25 BY ATTORNEY DEAN:	Page 33 1 restructuring and organization occurred that 2 those companies can be held responsible for the 3 companies of others in the past, specifically 4 here Old JJCI. 5 I know you don't agree with that. 6 But you understand that that's why we're asking 7 questions here? 8 A I do agree that is your theory; yes. 9 ATTORNEY DEAN: In terms of 10 understanding that, I'm just going to mark 11 as Exhibit 1 the order we received for 12 sanctions and compelling the deposition 13 today, so that we have that on the record. 14 (Exhibit 1 was marked for 15 identification.) 16 BY ATTORNEY DEAN: 17 Q Have you had an opportunity to see 18 that order? 19 A I have. 20 Q Okay. When did you first become 21 aware or -- even if it's earlier in time -- 22 first become approached about the possibility of 23 being the person speaking on behalf of these two 24 companies, Holdco and Kenvue, where you never 25 worked?

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Page 34 1 A It was on Thursday of this week. 2 Q So less than 48 hours ago? 3 A Less than 48 hours, yes. 4 Q I'm aware from your affidavit and 5 from trying to do homework and learning this 6 that you had direct involvement in the 7 restructuring that occurred in 2021 that you 8 indicated ended October 12th of 2021 that is 9 sometimes referenced as Project Plato. 10 Is that understanding fair? 11 A That is a fair understanding, yeah. 12 Q Did you have any direct involvement 13 in the interactions that are referenced in our 14 notice and in some of the documents we received 15 from Johnson & Johnson called Project Diamond? 16 A I was not directly involved with 17 Project Diamond. I was aware that it was 18 ongoing. And I was made aware of certain things 19 as we were filing our second bankruptcy, which 20 is -- I think I referenced in my first-day 21 declaration in the second bankruptcy about the 22 asset issue, you know, the assets being moved. 23 But I had no direct involvement in Diamond. 24 ATTORNEY DEAN: Sometimes if I'm 25 asking a question again, it is to avoid	Page 36 1 firsthand? 2 A It would be similar to that. I did 3 not -- I was not directly involved. 4 Q In trying to understand what is known 5 and knowable to Kenvue and Holdco about those 6 issues where you don't have firsthand knowledge, 7 did you speak to anyone else other than lawyers 8 and then you mentioned Donald McGraw and Chris 9 Andrew, in order to get up to speed on that 10 issue -- on those issues? 11 A Well, I think the full list of who I 12 spoke to, I spoke to Adam Lisman. I spoke to 13 Michelle Goodridge. I spoke to Darren 14 Snellgrove, in addition to Mr. McGraw and 15 Mr. Andrew. 16 Q Okay. In order to understand the 17 issues in our notice that were after the 2021 18 restructuring -- because you didn't have 19 firsthand knowledge, there are five individuals 20 who you talked to, that are Donald McGraw, Chris 21 Andrew, Ann Lisman -- Adam Lisman, Michelle 22 Goodridge, and Mr. Snellgrove. 23 Did I get that right? 24 A I spoke to those people. But I also 25 read the depositions of a bunch of people. I
Page 35 1 using the term "bankruptcy" because some 2 Courts don't want us to do that, at 3 Johnson & Johnson's request. So if I seem 4 annoying, I'm just expanding my logic of 5 why I'm doing it in the hopes that it's 6 less annoying. I'm not going to designate 7 that. I'm just explaining what I'm doing. 8 ATTORNEY BROWN: And so I won't 9 object, Jessica. I'll represent to you I 10 will withhold my objections. 11 BY ATTORNEY DEAN: 12 Q So my understanding is that you have, 13 for various reasons, become aware of things that 14 are part of Project Diamond that you didn't have 15 firsthand personal knowledge or involvement in 16 that project. Did I get that right? 17 A That is right. 18 Q In terms of understanding the various 19 issues that we asked about the spinoff from the 20 Johnson & Johnson consumer segment to Kenvue and 21 how things are organized at Kenvue -- which I 22 mean to be broader than just Project Diamond -- 23 were you directly involved in any of that, or 24 would it be similar to Project Diamond, where 25 you have some secondhand knowledge but not any	Page 37 1 think we were given a list of the depositions 2 and I reviewed it; yeah. 3 ATTORNEY DEAN: I'm going to mark as 4 Exhibit 31 the latest list I received of 5 information that you received, which was 6 late last night. 7 (Exhibit 31 was marked for 8 identification.) 9 BY ATTORNEY DEAN: 10 Q I'll show that you in one moment. 11 But in terms of things that wouldn't be 12 reflected on that list and specifically 13 individuals you talked to in order to educate 14 yourself on the subjects in the notice where you 15 don't have firsthand knowledge, those things 16 that happened after the 2021 restructuring, my 17 understanding, in terms of interviewing or 18 speaking to individuals, it was the five 19 individuals you mentioned; is that right? 20 A That's correct. 21 Q Okay. Let me pull up 31, just to 22 make sure I have the latest and greatest in 23 terms of the documents that you reviewed. Give 24 me one second. 25 Can you see that on the screen?

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Page 38 1 A I can. 2 Q Okay. And this is what I received 3 late last night. And it goes to page 6, ending 4 with item 102, Kenvue quarter 1 2023 10-Q. 5 Is that the full list of items that 6 you have reviewed in an effort to prepare for 7 today? 8 A Yes. So -- yes. Some things I 9 reviewed closer than others. For example, the 10 10-Q, I just glanced through it just to figure 11 out what it was. But other things -- these are 12 the full list of materials that were given to me 13 and that I've gone through. 14 Q And then there are sometimes 15 reference to exhibits where the only 16 description, for instance, for multiple items -- 17 for instance, 73 to 77, is Exhibit 36 or 18 Exhibit 37. 19 Do you see where I'm at? 20 A I do. 21 Q Are those referencing the exhibits 22 attached to the Kenvue corporate-representative 23 deposition in this case done by Mr. Mittenthal? 24 A I don't know actually what the 25 reference is. In my list they have -- you know,	Page 40 1 BY ATTORNEY DEAN: 2 Q Okay. So in reviewing this, I see 3 that after the different volumes of depositions 4 of Kenvue volumes one, two, and three, there is 5 a list of exhibits referenced. And from what 6 counsel has just told me, my understanding is 7 those relate to each of the Kenvue depositions. 8 Is that -- are you following the same 9 way? 10 A I believe that's true. 11 Q The only other reference here, then, 12 I don't follow is it starts at 19 through 29 13 just referencing Perry docs reviewed. Do you 14 see that? 15 A Yes. 16 Q What does that mean? 17 A Again, I think I'd have to go 18 through -- get onto the -- so this is all 19 contained in an FTP site. So if I go onto that, 20 I can tell you. But Ms. Brown may be better 21 able to explain what those are. 22 ATTORNEY BROWN: Sure. Do you want 23 that, Jessica? Or do you want to just 24 follow up with Mr. Kim? 25 ATTORNEY DEAN: No, no. That would
Page 39 1 I just clicked on it to see them. So I didn't, 2 I didn't pay attention to where they actually 3 came from. 4 ATTORNEY BROWN: And, Jessica, if I 5 can be helpful, Jessica -- because we've 6 created the list -- they are meant to 7 refer to the deposition header. So they 8 are deposition exhibits to that 9 deposition. 10 ATTORNEY DEAN: I think I'm 11 following, but I want to make sure. 12 Are they all exhibits to that 13 deposition, being the deposition 14 of Mr. Mittenthal for Kenvue? Or would 15 they relate to different depositions 16 depending on what is referenced before the 17 exhibits are referenced? 18 ATTORNEY BROWN: No; the latter. So 19 72 lists the volume two. And then 73 20 through 77 would be exhibits to 72. 21 You with me? 22 ATTORNEY DEAN: I think so. So -- 23 ATTORNEY BROWN: If you just go to 24 tab 72, for example, where you just were. 25 ATTORNEY DEAN: Hold on one second.	Page 41 1 be great if you can shed light on that. 2 ATTORNEY BROWN: For sure. 3 And, Mr. Santoli, I'll ask you, as I 4 know you typed up the list, to help us 5 understand the 4.1, 4.2, Perry docs. 6 ATTORNEY SANTOLI: Those are exhibits 7 to the Holdco deposition. So, Jessica, if 8 you scroll up a little, in the same manner 9 as the other ones. 10 ATTORNEY DEAN: (Indicating.) 11 ATTORNEY SANTOLI: Yeah. 12 ATTORNEY DEAN: So 18 is Exhibit 1 to 13 Jim Mittenthal's deposition as the 14 corporate representative of Holdco and 24 15 is Exhibit 4.3 in that same deposition and 16 29 is Exhibit 4.8 to that same deposition. 17 And that goes on all the way through 49. 18 Am I reading that correct -- 19 correctly? 20 ATTORNEY SANTOLI: Yes. 21 ATTORNEY DEAN: Sorry. I don't mean 22 to examine you. 23 (Crosstalk.) 24 But that helps me understand what I'm 25 looking at.

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Page 42 1 THE WITNESS: My understanding is 2 that these were all exhibits to 3 Mittenthal's deposition. 4 ATTORNEY DEAN: Thank you. That 5 follows. I can follow that. 6 BY ATTORNEY DEAN: 7 Q Okay. Did you have an opportunity to 8 fully review all of the documents and 9 depositions referenced in this list that I've 10 marked as Exhibit 31? 11 A For the most part I didn't look 12 through the documents. Some of the documents 13 are really -- are voluminous. And so all I 14 could really do was just look at it to see what 15 the document was. And then because they're all 16 exhibits to Mittenthal's, Mr. Mittenthal's 17 deposition, you know, I could just reference 18 what was asked about them in the Mittenthal 19 deposition, to the sections that were asked 20 about. 21 But, you know, the rest of the 22 document I think I just did not have sufficient 23 time in the less than 48 hours I had to go 24 through them in detail. 25 Q I think that indirectly answers	Page 44 1 Had you seen the deposition of 2 Michelle Goodridge from -- 3 A Yes; from LTL. 4 Q -- it's 12/20/2022 on there. I don't 5 think that's accurate. Hold on one second. 6 Can you see that on my screen? 7 A Yes, I can. 8 Q It was December 20th, 2021. Your 9 list actually says December 20th, 2022. Do you 10 think item number 6 is just a typo? 11 A Yeah, that's a typo. 12 Q And part of the reason I remember 13 that date is that her deposition was taken on -- 14 shortly after the restructuring that occurred 15 that we've referenced as ending in October 12th, 16 2021 or Project Plato; right? 17 A Right. 18 Q It's before the spinoff of the 19 consumer part of J&J happened with Kenvue; 20 correct? 21 A Before the transactions happen; yes. 22 Q Okay. So had you reviewed Michelle 23 Goodridge's 2021 deposition before? 24 A I have. 25 Q You have or have not?
Page 43 1 another question I have: Even if it wasn't part 2 of the formal request to review information for 3 today -- which was done in less than 48 hours -- 4 are there at least some items in the document 5 review that you had reviewed in the past for any 6 other reasons? 7 A Yes, certainly. 8 Q Okay. I expected that was the case. 9 Is there any way for you to identify the items 10 that were -- items that you have known or 11 studied in the past, as opposed to things that 12 you just received in the past two days or less? 13 A I think generally the category would 14 be documents related to the, to the, 2021 15 restructuring. You know, the Project Plato 16 material would be materials that I had looked at 17 that in the past. 18 Q Can you -- 19 A Yeah, I think those would really be 20 the category. 21 Q To try to -- I think I have an idea 22 of what would be in that category. But there 23 are certain things where it's less clear to me, 24 so I'm going to go through these just to see if 25 we can sort that out together.	Page 45 1 A I have. 2 Q Okay. And so for what reason would 3 you have been reviewing that testimony, given 4 you've reviewed it before you were asked to 5 speak for Kenvue and Holdco? 6 A Refreshing my recollection as to what 7 she said. 8 Q Let me make sure we're on the same 9 page. I'm trying to figure out what you have 10 reviewed before the last 48 hours. 11 A Oh, what I, what I -- why -- so the 12 deposition was taken in connection with the LTL 13 bankruptcy. And so I reviewed all the 14 depositions that were taken in that case at that 15 time. 16 Q Okay. Okay. So when there were 17 issues about the restructuring that occurred 18 with Project Plato, you had a reason to look at 19 Michelle Goodridge's deposition for that, which 20 was in advance of this last couple of days; 21 correct? 22 A Correct. 23 Q Okay. What about the Mongon 24 deposition? 25 A I had not reviewed previously.

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Page 46 1 Q Is that also the case for Ruh, Paul 2 Ruh? 3 A That is also the case for Paul Ruh, 4 yes. 5 Q Did you have an opportunity -- let me 6 start over. 7 I take from your prior answer that 8 given the time constraints, the way that you 9 prioritized what you could look at as opposed to 10 what you could not was to read the deposition 11 of Mr. Mittenthal for Holdco and Kenvue in its 12 entirety and then review the exhibits in 13 relation to the specific part of the exhibits, 14 which in some cases are hundreds-of-pages 15 depositions that were referenced in the 16 deposition. 17 Did I follow that correctly? 18 A Yes. 19 Q But for the parts that were not 20 discussed due to just time limitations, they 21 weren't studied or reviewed; is that fair? 22 A They were not studied. I mean, I 23 flipped through pages. But they were not 24 studied. 25 Q Certainly the information that is	Page 48 1 Q And I understand why there may be 2 hesitation with everything moving quite quickly 3 here. But my understanding of this list is that 4 it is your deposition materials before this 5 Holdco and Kenvue deposition and that it 6 wouldn't be listed if you weren't provided those 7 materials. 8 Is that your understanding as well? 9 A These were all materials that were 10 provided to me; yes. 11 Q So my question was just: All of the 12 materials in this list that I've marked as 13 Exhibit 31 are materials that were provided to 14 you before speaking on behalf of Kenvue and 15 Holdco as a corporate representative; is that 16 true? 17 A That is true. 18 Q And then I think as to something else 19 you said, all of the materials on here were 20 either made available to Kenvue or Holdco or, if 21 asked, could have been made available to Kenvue 22 and Holdco in the past. 23 Did I follow that part correctly? 24 A I think that's true, yeah. 25 Q What did you do, if anything, to
Page 47 1 identified in Exhibit 31 is information that was 2 known and made available to Kenvue and Holdco 3 and you specifically as the representative, 4 albeit some of it only recently; correct? 5 A I'm sorry. I didn't catch the 6 question. 7 Q Sure. I can try again. 8 The information that you outlined or 9 that was outlined as Exhibit 31, the documents 10 that you reviewed, are all items that Kenvue and 11 Holdco had available to them and that you had 12 available to you, although some of it quite 13 recently, before this deposition today; correct? 14 A If they -- if someone had asked for 15 them, I assume they would have been given. But 16 some of these depositions were taken in cases 17 where they're not involved. So I don't know 18 that they would have had them. But they 19 certainly could have asked for them. 20 Q And so I think we're on the same 21 page. Everything on 31, you as the corporate 22 representative of Holdco and Kenvue had 23 available to you; correct? 24 A I think for the most part, yes. I 25 believe that's true.	Page 49 1 figure out who, in terms of people that 2 currently work in the Kenvue enterprise, had 3 firsthand knowledge of information that we were 4 concerned about relating to the Project Plato? 5 A Well, I was involved in Project 6 Plato. So I don't think there's anybody 7 anywhere in any company that has more general 8 knowledge about Project Plato than I do. So -- 9 Q That's certainly helpful. You 10 believe that for each topic that is in our 11 notice for both Holdco as a company and Kenvue 12 as a company relating to the restructuring 13 events in October and what let up those that 14 would have the greatest amount of knowledge is 15 you. Is -- 16 A I believe that's true. 17 Q In terms of understanding if anyone 18 at Kenvue was also involved or had confirmatory 19 knowledge of different memories or knowledge, 20 did you endeavor to spend any time trying to 21 figure out who in the current Kenvue structure 22 has information relating to Project Plato? 23 A Well, I -- again, I spoke to Michelle 24 Goodridge and to Chris Andrew, who were both 25 also involved in Project Plato.

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Page 50 1 Q Okay. Was part of why you spoke to 2 them to figure out who else in the company might 3 also have information? 4 A I did not think to ask that question, 5 actually. I have a very good understanding of 6 who was involved in Project Plato and 7 generally -- you know, I think the only people 8 really would be Chris Andrew and Michelle 9 Goodridge, that are currently at Kenvue. 10 So I knew who was involved in Project 11 Plato. So I didn't bother to ask who -- them 12 who was involved. 13 Q So -- I'm backing up a moment. Sorry 14 to jump. But when you were going through all 15 the items listed in Exhibit 31 in the last two 16 days -- I think you said it was less than two 17 days -- can you give me an estimate of how much 18 time you spent reviewing those documents? 19 A I can tell you since 11:00 on 20 Thursday I had been reviewing and interviewing 21 people nonstop, other than to sleep and to eat. 22 Q Okay. And probably -- because it's a 23 smaller list, it might be easier to then ask you 24 how much time you spent on those interviews, 25 just to get an idea, then what was left over for	Page 52 1 to those people, it was about a half-hour per 2 person -- 3 (Crosstalk.) 4 -- so about two hours spent in the 5 interview part? 6 A For the most part, yes. 7 Q Did you -- 8 A Not having reviewed the material that 9 they already -- you know, their materials -- and 10 the Mittenthal materials. 11 Q And I'm going to get to the material 12 separately. But in terms of the interviews, 13 your estimate is half-hour per person, two and a 14 half hours between Thursday and now? 15 A Yes. 16 Q Okay. Do you have any notes from 17 those discussions? 18 A No, not really. 19 Q And then understanding that you 20 needed to sleep Thursday night and Friday night 21 and you needed to eat, other than those two 22 events and the two and a half hours you were 23 talking to these individuals, you were trying to 24 review the documents in Exhibit 31; is that 25 fair?
Page 51 1 documents. 2 How long did you talk to Donald 3 McGraw? 4 A It think it would generally last 5 about a half-hour or so. 6 Q For each interview or -- 7 A For each interview, yeah. I had 8 already -- so basically, for some of these -- 9 most of these people I had already read their 10 depositions. If I had questions about the 11 depositions, then I read the Mittenthal 12 material. 13 And so if there were questions that 14 came up, then I would try to clarify with those 15 folks. 16 Q So in terms of the interviews that 17 you had, I focused a lot about things that 18 happened after the restructuring in October. 19 Did you talk to anyone else other 20 than the five people that you identified in that 21 question? 22 A I did not speak to anyone other than 23 those people. 24 Q And my understanding is, in terms of 25 the time that you spent interviewing or talking	Page 53 1 A That's correct. 2 Q Okay. 3 A And reviewing -- including the 4 depositions. 5 Q Yeah. There was a handful of 6 depositions listed in 31. 7 Is there anything else that you 8 looked at that was not identified in Exhibit 31 9 in preparation for today? 10 A I don't believe so. The first -- 11 yeah, I'm thinking about some of the stuff that 12 was in the -- that happened in the bankruptcy. 13 The depositions, I think, are both -- I assume 14 both declarations are in that 35 -- in that 15 exhibit. 16 If not, I did review my first -- my 17 two first-day declarations. I'm just not sure 18 if they're included in those. They may have 19 been exhibits to the Mittenthal dep. But 20 sitting here right now, I just can't be certain. 21 But if they're not there, I didn't 22 review the first-day declarations. 23 Q Okay. Exhibit 39 is what's 24 referenced on there. And I happen to remember 25 that's your first-day declarations. So I think,

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Page 54 1 I think it's all on there. 2 A Well, there are two first-day 3 declarations, right, because there are two 4 bankruptcies. I'm sorry -- yeah, there's two 5 bankruptcies. So there would have been two 6 first-day declarations. 7 Q Okay. I don't see a second 8 declaration on there. Is -- but that's 9 something you believe you have reviewed? 10 A I have. 11 ATTORNEY DEAN: Is there a way that 12 we can get a copy? 13 ATTORNEY BROWN: Of course. 14 THE WITNESS: Yes. 15 ATTORNEY DEAN: Let's go ahead and 16 mark that as Exhibit -- we'll just say 17 Exhibit 40 to this deposition. 18 (Exhibit 40 was marked for 19 identification.) 20 ATTORNEY BROWN: And that's the 21 second first-day declaration. 22 THE WITNESS: Right. It the one 23 filed -- it's April 4th, '23. 24 ATTORNEY SANTOLI: If I can jump in, 25 it's on the list as number 86.	Page 56 1 Q And so now that we've confirmed that 2 both first-day depositions are in 31, I just 3 want to go back. 4 My understanding is that all of the 5 documents that you were provided and at least 6 looked through to some level are identified in 7 Exhibit 31. Is that fair? 8 A That is fair. 9 Q In the last less than 48 hours you 10 mentioned eat, sleep, get ready, with get ready 11 being these interviews and documents. I think 12 this one kind of third group of getting ready 13 that you mentioned but we didn't talk about in 14 terms of timing, which included discussions with 15 lawyers. I want to pause on that for moment. 16 That was part of your preparation as 17 well; correct? 18 A It was. 19 Q You mentioned Kim Bueno. How long 20 did you spend speaking with her? 21 A Five minutes. 22 Q How about Kristin Fournier? 23 A Five minutes. 24 Q Okay. How about Ms. Brown? 25 A I think in total, less than an hour.
Page 55 1 THE WITNESS: Okay. Okay. 2 ATTORNEY SANTOLI: And I think it 3 might be on there again. But, yeah, it's 4 April 4th, 2023 declaration. 5 THE WITNESS: Okay. I wasn't sure 6 whether, you know -- 7 ATTORNEY BROWN: And so, Christ, does 8 that mean it would be in the materials we 9 sent Jessica? And, Jessica, do you want 10 us to re-send separately, or do you have 11 it? 12 ATTORNEY DEAN: If it's in the 13 materials you sent yesterday afternoon, 14 I've downloaded those. 15 ATTORNEY SANTOLI: It may have been 16 included with the materials that were sent 17 during the original Mittenthal depositions 18 so may have not been resent. 19 ATTORNEY BROWN: I see. 20 Do you want to just re-send to 21 Jessica. That might be the easiest, if 22 you don't mind. 23 ATTORNEY SANTOLI: Sure. I can do 24 that. 25 BY ATTORNEY DEAN:	Page 57 1 Q Anyone else? 2 A Kristin totally with us -- was with 3 Ms. Brown. 4 Q So it would have been the same hours? 5 A Yeah. 6 Q Okay. Anybody else? 7 A Not about the -- not for preparation 8 of this. 9 Q And so with spending about four hours 10 talking to people starting at 11 on Thursday, 11 needing to eat and sleep, you probably spent 12 somewhere in the range of 12 to 18 hours to 13 review the documents on Exhibit 31; is that 14 fair? 15 A Yeah, I think the math is right; 16 yeah. That sounds right. 17 But again, you know, I, I lived 18 through the first restructuring. So, you know, 19 I had all my background from, from that. 20 Q Absolutely. Did you -- were you 21 asked at any point in time to participate in the 22 discovery responses by Kenvue or Holdco in this 23 case? 24 A No. 25 Q Have you been involved in the

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Page 58 1 discovery efforts by Kenvue or Holdco in any 2 case? 3 A Yes. And in fact, let me just back 4 up again. I do not know -- so I routinely 5 review answers to interrogatories in these 6 cases. I don't know whether Perry -- I said -- 7 Perry may have been one of them where I signed 8 the answers to interrogatories. So I -- and to 9 the extent that that is, you know, dealing with 10 discovery in this case, I have, I have that. 11 Q Okay. 12 A And in the past. And so if you 13 just -- for most of the cases I reviewed 14 discovery responses, written interrogatories in 15 these, in these cases. 16 Q Okay. 17 A And I have in the past had -- 18 interviewed with Mr. Mittenenthal, for example. 19 When he has to act as a corporate representative 20 and he has questions, I've spent time with him 21 on discovery issues. 22 Q So with the particular discovery 23 issues relating to Kenvue and Holdco, 24 Mr. Mittenenthal indicated he wasn't involved in 25 that process at all. He has been for other	Page 60 1 directly -- I'm not directly involved in the 2 Kenvue responses. 3 Holdco, I may be. I'm actually -- 4 because Holdco's part would have been, you know, 5 an J&J entity. But I'd have to go back and see. 6 Q Let me, then, break that up and see 7 if I can get there. 8 When you say a J&J entity in those 9 last answers, who are you including? 10 A So that would be LLT, formerly LTL; 11 Johnson & Johnson; Holdco, formerly known as 12 JJCI. Those would be the Johnson & Johnson 13 entities. And, you know -- yeah, those would be 14 the Johnson & Johnson entities. 15 Q And you saw discovery that implicated 16 LLT or LTL, Johnson & Johnson Holdco, or 17 Johnson & Johnson Consumer, Inc., known as JJCI 18 Old or New -- also sometimes referenced as JJCI 19 1 and 2 -- are, depending on the time, entities 20 that you would have been involved in? 21 A Yes. 22 Q And the reason I needed to say 23 "depending on the time," is Old JJCI, also known 24 as JJCI 1, ceased to exist in 2021; correct? 25 A Correct.
Page 59 1 companies but not those. 2 Is that consistent with your 3 understanding? 4 A That is consistent with my 5 understanding. 6 Q And then in the conversation we've 7 had just in the last few minutes, I understand 8 that you're not sure if you were directly 9 involved with the Kenvue or Holdco responses in 10 this specific case but may have been. And more 11 broadly, as an employee of LLT, nonetheless are 12 directly involved with the discovery responses, 13 at least in some cases, for Kenvue and Holdco. 14 Did I get that right? 15 A So no. I'm sorry. Maybe I misspoke. 16 I am involved in the discovery process, 17 generally by signing interrogatory responses on 18 behalf of the Johnson & Johnson company 19 entities, including LTL. 20 The Kenvue responses I do not deal 21 with. But some of the questions are the same. 22 Some of the interrogatory questions. So the 23 underlying facts would be the same that I, that 24 I'm responding to. 25 Does that make sense? So I do not	Page 61 1 Q Okay. If -- so if I asked you the 2 question, Have you been involved in discovery 3 relating to Holdco, that is something you have 4 directly been involved in; correct? 5 A Yes. To the extent that the same 6 issues were involved with LLT and J&J, I would 7 have been involved in those. 8 Q And as it relates to Kenvue, I 9 understand that to the extent that factual 10 information is sought from Kenvue that you have 11 gathered that may be used in those responses, 12 but you weren't the person reviewing or 13 verifying the accuracy of responses from Kenvue. 14 Is that fair? 15 A That is fair. That is true. 16 Q And so if I want to know anything 17 about how Kenvue as a company gathered the 18 information they swore to as being accurate, 19 were -- are you in a position to tell me 20 anything about that? 21 A I -- yes and no. I mean I -- they 22 used -- basically, they're being indemnified. 23 And as you know, the same lawyers that are 24 representing J&J companies are representing 25 Kenvue.

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Page 62 1 And so I do know generally the 2 process by which the lawyers are gathering 3 information and providing it to, to the 4 companies. So I, you know, I do have knowledge 5 of that. 6 What Kenvue does internally at that 7 point, after all the information has been 8 gathered, I don't have direct knowledge of. 9 But, you know, I do know where the information 10 came from. 11 Q So for the first part of this, my 12 understanding is whether it's Kenvue or Janssen 13 or Holdco or LLT or Johnson & Johnson -- looking 14 at my notes to make sure I got all the 15 entities -- that there is, there is centralized 16 representation and gathering of information; but 17 that once it goes to each of the respective 18 companies, if you are not involved -- for 19 instance, with Kenvue -- what further 20 information was ascertained, you may not know 21 that last part. 22 Am I following that right? 23 A Yeah, that's true. I would not know 24 that, that last part. But generally, all the 25 information that they're gathering is the same.	Page 64 1 enterprise"; and I've just heard "J&J entities" 2 to kind of capture the idea that there are 3 subsidiaries and predecessors involved in 4 Johnson & Johnson. 5 Have you heard the same? 6 A There are certainly affiliated -- 7 companies are affiliated with each other through 8 common ownership, ultimately through to J&J 9 shareholders. That would be part of the J&J 10 family of companies. 11 Q Have you also seen "J&J family" being 12 referenced as the "J&J enterprise" in some of 13 the documents you were involved with in Project 14 Plato? 15 A I've seen some people refer to the 16 "J&J enterprise." I don't think that's a 17 technical term. But it is used to denote a 18 company that shares some common ownership with, 19 at the top -- basically -- generally, they're 20 owned by Johnson & Johnson shareholders, 21 ultimately. 22 Q Is "J&J family of companies" -- I 23 mean, that's not, I don't think, a technical 24 term either. But is that meant to indicate the 25 same thing?
Page 63 1 Q Have you had an opportunity to review 2 Kenvue's discovery responses in this case? 3 A I, I think I perused -- there is one 4 that -- I think you may have used something 5 with Mr. Mittenthal. 6 Q I did. 7 A That one I looked that. But other 8 than that, no. 9 Q It would have been like the other 10 documents where it was looking at the section or 11 sections that I had pointed out as opposed to 12 the greater document. Is that fair? 13 A Correct. 14 Q Is there anything in the testimony of 15 Mr. Mittenthal when he was speaking on behalf of 16 and binding Kenvue or Holdco that you believe is 17 inaccurate? 18 A I don't believe so. 19 Q I do know from your first-day 20 declaration that you're a lawyer and that you've 21 at least spent some of your time in your legal 22 career working for J&J entities. 23 When you -- I've seen "J&J entities" 24 represented as the "J&J families of company"; 25 I've have seen it represented as "the	Page 65 1 A Generally, it is. 2 Q Have you ever been a company 3 representative before for any of the companies 4 that are related to Johnson & Johnson or for 5 Johnson & Johnson itself? 6 A I, I don't recall. I may have been 7 for some of the consumer companies in Tylenol 8 litigation and in Motrin litigation. I just 9 don't recall the capacity that I was called as a 10 witness. 11 Q Okay. 12 A They're probably 30(b)(6) witnesses, 13 but I'm actually not entirely sure. 14 Q "30(b)(6)," "corporate 15 representative," and "person most knowledgeable" 16 are different ways to reference someone who is 17 picked by a company to speak on behalf of the 18 company on specific topics that are identified 19 in advance so that you can start preparing for 20 them. 21 Fair? 22 A Fair. 23 Q Okay. And so I understand that you 24 may have been involved in that role in matters 25 unrelated to talc. But the best of your memory,

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Page 66 1 you've never had the role for any of the J&J 2 companies as it relates to talc. 3 Did I follow that part correctly? 4 A As it relates to the underlying talc 5 litigation. So the talc bankruptcy, I testified 6 in length. And again, I believe in some of 7 those depositions in the bankruptcy cases I was 8 a corporate representative. 9 Q Yeah, that's what I was trying to 10 figure out. I couldn't tell whether you were 11 just speaking on behalf of what you understood 12 or your first-day declarations or if you had a 13 more formal designation. 14 And so you believe, at least for some 15 of the testimony you've given in the past about 16 concerns relating to Johnson & Johnson's 17 consumer products causing cancer, you may have 18 been a representative; is that fair? 19 A I'm sorry, no. In those cases -- in 20 the product liability cases, I have not. In the 21 bankruptcy case I gave testimony, I believe it's 22 in some cases, as the corporate representative. 23 Q So my understanding is that you 24 believe in the past, as it relates to LTL or 25 LLT, you have acted as the corporate	Page 68 1 (Recess.) 2 THE VIDEOGRAPHER: We are back on the 3 record. The time is approximately 4 12:08 p.m. And this is the beginning of 5 media number 2. 6 Counsel, you may proceed. 7 BY ATTORNEY DEAN: 8 Q You mentioned that you had spent more 9 time and probably know more about the 10 restructuring related to Project Plato than 11 anyone else. Do you recall that? 12 A Yes. I would say nobody knows more 13 than I do, generally. 14 Q Is it fair to say you've spent 15 hundreds of hours back in the time when this 16 was -- the restructuring was actually occurring 17 involved in the efforts? 18 A I actually don't know how much time. 19 It could be hundreds. 20 Q Instead of me trying to give an 21 estimate, can you give me an idea of how much 22 time you spent directly involved in the various 23 different corporate changes and machinations 24 that resulted in the restructuring in October 25 12, 2021?
Page 67 1 representative to discuss restructuring efforts 2 that happened in 2021; is that fair? 3 A That is fair. 4 Q Outside of that and potentially 5 outside of being in a similar role for things 6 that have nothing to do with talc, have you ever 7 acted as a corporate representative for any 8 Johnson & Johnson-related entity? 9 A I don't believe I have. 10 Q Okay. And in all of the times that 11 you are working on discovery efforts or working 12 to talk about the restructuring -- whether that 13 be for Holdco, Old JJCI, New JJCI, Johnson & 14 Johnson, or LTL -- my understanding is that 15 ultimately, LTL or LLT were paying for your 16 time; is that fair? 17 A That is fair. 18 ATTORNEY BROWN: When you get to -- 19 I'm sorry to interrupt. When you get to a 20 good part, could we take a quick break. 21 ATTORNEY DEAN: Now's great. 22 (Crosstalk.) 23 THE VIDEOGRAPHER: The time is 24 approximately 11:57, and we're off the 25 record.	Page 69 1 ATTORNEY BROWN: Objection to the 2 form. 3 Go ahead. 4 THE WITNESS: So it's a, it's a hard 5 question. So the actual restructuring, 6 you know, documents -- in other words, the 7 documentation of getting the companies 8 where they need to go and stuff -- took 9 very little time. 10 Planning on the restructuring, you 11 know, occurred over, over months. So, you 12 know, I'm not sure which part that you 13 want me to respond to. 14 So the -- you know, the actual 15 restructuring documentation probably took 16 four or five hours, you know. But again, 17 we worked for, for months on the planning 18 of the restructuring. 19 BY ATTORNEY DEAN: 20 Q And I was kind of going not to just 21 the actual execution but the planning and the 22 thought that, given it was the course of months, 23 it's pretty safe that you had spent hundreds of 24 hours in that planning part. 25 Is that fair?

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Page 70 1 A That is, that is fair. 2 Q When you say "we" spent time planning 3 this restructuring, who is "we"? 4 A I think there were several -- a 5 number of people that were involved in the 6 restructuring exercise. I'm trying to think if 7 there's sort of a comprehensive list of the 8 number of people. 9 You know, I think in the discovery in 10 the bankruptcy cases, I think we produced sort 11 of a list of people that were involved. You 12 know, again, there was a due diligence process 13 going on for the restructuring. So, you know, 14 probably 50, 60 people were involved in the 15 restructuring. 16 Q Okay. So you believe that there's 17 already a generated list that would identify 18 those 50 or 60 people? 19 A There is a list or -- you know, there 20 used to be calls that were -- about the 21 restructuring. And I know that what -- we 22 produced the e-mails that had the participants 23 in those calls. 24 But I think -- I'd have to go back to 25 see what kind of lists there are. But there	Page 72 1 documents and was involved with the kind of 2 execution but that the planning meetings she 3 wasn't involved in. 4 So she wouldn't be, for instance, one 5 of those 50 or 60 people you alluded to. Does 6 that track with your memory? 7 A That does. 8 Q And when you say she was the 9 president of JJCI, my understanding is that she 10 was the president of JJCI 1, or Old JJCI; JJCI 11 2, or New JJCI; and now JJCI 3. 12 Is that your understanding as well? 13 A That's my understanding, yes. 14 Q And in terms of the reasons why there 15 are all these JJCIs, I'm going to get into that 16 with you in a little bit. 17 But from an operational/function 18 standpoint, are you aware of any differences 19 between how JJCI 1, 2, and 3 operated as they 20 switched over time? 21 A I think they evolved over time. You 22 know, certain people may have switched. 23 Management of the companies may have switched. 24 And certainly the ownership of the companies 25 switched over time.
Page 71 1 certainly are -- there are documents that 2 certainly name lots of people that were involved 3 in various parts of the restructuring. 4 Q Have you made any effort to determine 5 which of those individuals still work for 6 Kenvue, Holdco, or for Johnson & Johnson and its 7 related entities? 8 A I, I did not. I did not. 9 Q I understand that Michelle Goodridge, 10 despite, you know, being the president of some 11 of the companies in this restructuring, was not 12 involved in those planning meetings. 13 Did you see that in her deposition 14 testimony as well? 15 A I did see that. She was not involved 16 in the planning meetings. She, as the president 17 of JJCI, had to sign certain documents to 18 effectuate transactions. And I saw that she was 19 made aware of those documents, what the purpose 20 was, and had any questions. 21 So was involved in the process at the 22 time where execution was, was being sought to 23 effectuate the transactions. 24 Q And I think we're saying the same 25 thing. She had indicated that she signed the	Page 73 1 ATTORNEY DEAN: And let me object to 2 nonresponsive and see if we can get 3 closer. 4 BY ATTORNEY DEAN: 5 Q There's no question to me that as 6 people retire or move on, that there -- it just 7 would not being rational that things are 8 identical. 9 What I'm looking for is, I guess, 10 this question: As we move from JJCI 1, which 11 then there was a JJCI 2, and now we have a 12 JJCI 3, these different Johnson & Johnson 13 Consumer, Inc. entities, we know that they have 14 different domiciles and that their ownership 15 changed. 16 But from an operational standpoint, 17 is there anything specific that you can identify 18 for me that has changed throughout the time of 19 these transitions from an operational point of 20 view? 21 A For one, between JJCI 1 and JJCI 2, 22 they stopped manufacturing talc-based baby 23 powders. And so that business stopped before 24 JJCI 2 became JJCI 3. So operationally, that's 25 different.

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Page 74 1 There are also other brands, I'm 2 sure, that changed over time. My understanding 3 from talking to Chris Andrew that there are 4 other additional products that was not in the 5 JJCI 2 that is now manufactured by JJCI 3. So, 6 you know, there are product differences between 7 the two, the two companies. 8 But I think, you know, to -- again, 9 the -- again, I would go back -- the main issue 10 for me operationally is that the ownership is 11 changed. So I would consider that an 12 operational issue. 13 ATTORNEY DEAN: Let me object to 14 foundation and come back to that issue. 15 About -- I do want to explicitly 16 understand how you identify when Johnson's 17 Baby stopped using talc and where and it 18 being your foundation for that in a 19 moment. And so I'm just preserving that 20 for a moment, and I'll come back to it. 21 BY ATTORNEY DEAN: 22 Q So my understanding is that you're 23 aware that as we track through time, the 24 different Johnson & Johnson Consumer, Inc. 25 companies, starting with 1 and ending in 3, that	Page 76 1 individuals that you're aware of that weren't 2 going over from JJCI 2 to 3 when that transition 3 occurred? 4 A I do know one. The former head of 5 the -- the GC of that consumer sector did not go 6 over. And I know that because she was in the 7 law department. 8 Other than that, I can't -- I don't 9 know specifically other people who did not go 10 over. 11 Q Okay. There's part of that I missed. 12 But I'll come back to that. 13 So my understanding is that when the 14 employees went from 1 to 2, functionally 15 everybody went with them. And from 2 to 3, 16 you're aware that, look, some people may not be 17 there because they've retired and moved on, but 18 outside of one person who you said was GC of the 19 consumer sector, you're not aware of anyone that 20 left because of the restructuring. 21 Did I -- 22 A Yeah, I'm not aware of anyone. But 23 there was -- people were given the opportunity 24 to go or not go. So I just out -- I believe 25 most people went. I just don't know who did not
Page 75 1 you're aware that they are three distinct 2 entities with different ownership and where 3 there has been some products that have changed 4 but the only specific one that you can recall 5 for me is the baby powder product continued to 6 be made but was a formulation that excluded talc 7 at some point time. 8 Did I summarize that correctly? 9 A That is true; yes. 10 Q Okay. There is some information that 11 JJCI 1 had about 3,000 employees and that those 12 transitioned over to JJCI 2. Or JJCI Old had 13 3,000 that went to JJCI New, which had 3,000. 14 Is that your memory as well? 15 A I don't recall the, actually the 16 exact number. But from JJCI 1 to JJCI 2, I 17 think -- yeah, I think that sounds about right; 18 the majority, I think virtually everyone was 19 just transferred over. 20 Q And then when it went from 2 to 3, 21 are there any specific individuals that you're 22 aware of -- acknowledging certainly the passage 23 of time certain people just leave because they 24 are retirement age or just moved on in life. 25 But are there any specific	Page 77 1 take that opportunity. 2 Q You mentioned something about the GC 3 of the consumer sector, that she was the 4 something. And I just did not catch -- there 5 was a -- it wasn't you. It was the -- 6 A She was in the law department. 7 Q Law department. Thank you. 8 A Yeah, she was in the law department. 9 So she technically was not a JJCI employee, but 10 she supported the JJCI companies, the consumer 11 companies. And she chose not to go. 12 Q What's her name, sorry, so I'm not 13 just saying "she"? 14 A Oh, you're testing me. It's the -- 15 I'd have to look it up. I don't want to mangle 16 it. She was not Dutch. Lori Knutson 17 [phonetic], I think. So they have a new GC in 18 the consumer sector. And Kenvue has a GC that 19 was not a GC before. 20 Q And when you said she technically 21 wasn't with JJCI but she supported it, do you 22 know who she worked for? 23 A I believe it's Johnson & Johnson 24 Services, Inc. 25 Q Okay. And so when you say Johnson &

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Page 78 1 Johnson Services, Inc., that's something you 2 reference in terms of your own employment in 3 your affidavit; correct? 4 A Correct. 5 Q I can pull this up. But one of the 6 first things you say is that you're employed by 7 Johnson & Johnson Services, Inc., or Johnson & 8 Johnson Services, who's affiliated with 9 Johnson & Johnson. 10 Do you recall that? 11 A Yes. 12 Q What you mean by "affiliated with"? 13 What's the relation to -- 14 (Crosstalk.) 15 A Yeah. Johnson & Johnson Services is 16 another subsidiary. And they are a subsidiary 17 that houses certain employees. So -- and then, 18 and then those employees are seconded out to 19 various organizations. 20 So some attorneys are Johnson & 21 Johnson employees. Some attorneys are Johnson & 22 Johnson Services, Inc. employees. But they all 23 work for the Johnson & Johnson law department. 24 Q Is it just lawyers that are in that 25 Services --	Page 80 1 company? 2 A I think it's sometimes a management 3 issue. You know, sometimes it is a tax issue. 4 Sometimes you're dealing with foreign 5 affiliates. There are HR issues about where 6 someone should be working for, what entity they 7 should work for. 8 So there are various reasons why 9 there are different subsidiaries that house 10 different employees. But generally it would be 11 HR/management/tax purposes. 12 Q I have a hard time following that. 13 So maybe trying to understand it with a specific 14 individual as opposed to being kind of more 15 mushy might help. 16 Do you work for LTL? 17 A So I'm seconded to LTL. So I -- my, 18 my employer, actual employer is Johnson & 19 Johnson Services, Inc., right, which is in my 20 affidavit. But I am seconded to LTL. 21 And so LTL actually pays Johnson & 22 Johnson Services, Inc. for my time. And I get 23 paid by Johnson & Johnson Services, Inc. 24 Q So functionally, while there's this 25 subsidiary of Johnson & Johnson that is on your
Page 79 1 A No. There are, I think, mostly 2 people who are shared services. So Johnson & 3 Johnson as a holding company provide certain 4 services -- it just makes sense to centralize 5 certain services and then use that centralized 6 service to -- for various operating companies. 7 So; so a lot of the, a lot of the 8 people at Johnson & Johnson Services, Inc. are 9 shared services people who do work for various 10 other Johnson & Johnson subsidiaries. 11 Q So if I'm an individual that's doing 12 work for new JJCI and some other part of the 13 Johnson & Johnson enterprise, whether that be 14 the consumer segment or something else, but I'm 15 what I think you called shared, my paycheck 16 might be through Johnson & Johnson Services 17 which is a subsidiary of Johnson & Johnson. 18 Am I following that? 19 A That's about right; yes. 20 Q Are you involved with understanding 21 what was the purpose for dividing up these 22 different legal entities, different subsidiaries 23 that are being shared across subsidiaries with 24 the subsidiary that pays them, as opposed to 25 just having them all working for the same	Page 81 1 paychecks, the bucket of money in which that 2 money to you comes from is from LTL or LLT; 3 correct? 4 A So -- yeah. Ultimately, they are 5 getting charged for my service. 6 Q Does anyone else contribute to what 7 you are paid through a Johnson & Johnson 8 subsidy, Johnson & Johnson Services, other than 9 LTL, not LLT? 10 A I think -- I believe bonuses are 11 paid -- yeah, I, I -- bonuses are paid through 12 Johnson & Johnson Services. So I have a base 13 salary and a bonus. And the bonus component 14 would be paid by Johnson & Johnson Services, not 15 LTL. 16 So LTL -- LTL, I'm just an hourly 17 employee. 18 Q Does Johnson & Johnson Services have 19 any kind of ongoing concern? I mean, do they 20 make anything or sell anything or distribute 21 anything or create anything or research 22 anything? 23 A I'm sorry. Johnson & Johnson 24 Services? 25 Q Yeah.

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Page 82 1 A I don't, I don't believe that they 2 do. I think they basically house employees. 3 Q So do they generate income in any way 4 if it's not given to them from somebody else? 5 A I don't believe they do. I think 6 they get -- they get income by getting paid for 7 the services of the employees, the other 8 employees. 9 Q So you say J&J Services pays for your 10 bonus, where your hourly rate for your time is 11 paid for, ultimately, by LTL but through J&J 12 Services, who's paying for the bonus part? 13 A Well, you're -- that's assuming 14 that -- what Johnson -- what LTL is paying is 15 exactly what I'm getting paid. That's -- you 16 know, they charge an amount plus a premium, just 17 like any, any type of third-party company. You 18 know, they charge an amount. I don't get 19 everything that Johnson & Johnson Services gets 20 from LTL; right? This is the way employment 21 works. 22 So a portion of that gets paid as a 23 bonus. But the charge, the charge that's given 24 from LTL isn't necessarily the amount that I'm 25 getting home in my take-home pay.	Page 84 1 Q Is that excess the sole source of 2 your bonus, or does it come from some other 3 source? 4 A No, I actually don't know. I mean, 5 again, it's, it's a company that has, you know, 6 thousands of employees. They do this to -- for 7 all they -- if they do this for all the entities 8 that they're providing services for. 9 It's not necessarily the money that 10 LTL pays them that I'm getting. It could be 11 what somebody else is paying for somebody else's 12 services that comes into. So, yeah, I guess I 13 can't -- I don't, I don't know the answer to 14 that. 15 Q For yourself, for your bonuses, do 16 you know where the income is generated that 17 covers your bonus? 18 A No, I don't know where the income is 19 generated. 20 Q Do you know if Michelle Goodridge is 21 a person who is also paid through J&J Services? 22 A I do not know. 23 Q She indicated in her deposition that 24 she is the president of various companies, not 25 just the three J&J Consumer, Inc., JJCI 1
Page 83 1 Q Okay. And so LTL pays for at least 2 some part of your salary through what they -- 3 what J&J Services charges for your time -- 4 A Correct. 5 Q -- right? 6 A Correct. 7 Q For anything in excess of that, are 8 you saying that J&J Services gets income by 9 virtue of billing out more than -- to LTL or any 10 other entity that might be involved in this J&J 11 Services structure than what they give the 12 particular employees, so that they have income 13 from that billing? 14 A I believe that's right. I have to -- 15 again, that would be the way -- you know, the 16 way that -- I get a salary. The amount that 17 gets paid to -- from LTL to Services may be 18 higher than what my salary is; right? That's 19 just generally how employment companies like 20 that work. 21 You'd have to look to see 22 specifically -- I've not looked or asked, you 23 know, how much they're actually getting. But, 24 you know, my guess is that they get in excess of 25 what their costs are.	Page 85 1 through 3, but also some of the Currahee 2 Holdings and Chenango. Do you recall that? 3 A I do recall, yes. 4 Q Did you also recall that she somebody 5 who indicated that her work was not limited to 6 JJCI but also that she was doing work for the 7 consumer segment of Johnson & Johnson? 8 A I do know that, yes. 9 Q Is that the type of person that would 10 be in the shareable service role that would be 11 put into Johnson & Johnson's wholly-owned 12 subsidiary, J&J Services, or do you know? 13 ATTORNEY BROWN: And I'm sorry, 14 counsel. Just be clear, do you mean prior 15 to her move to Kenvue? Are you talking 16 about her role when she was at J&J? 17 BY ATTORNEY DEAN: 18 Q That's fair. For now we'll start at 19 the time before the spinoff from Johnson & 20 Johnson Consumer to Kenvue so that we're still 21 in the J&J structure. 22 Do you -- is she the type of person, 23 given that she was working for multiple entities 24 and in the consumer segment, that would be a 25 shareable person and therefore in Johnson &

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Page 86 1 Johnson's fully-owned subsidiary, Johnson & 2 Johnson Services? 3 A I don't, I don't know whether that 4 would have done that or not. There also -- 5 there are people who work at J&J, for example, 6 who work for different companies or do work for 7 different companies. 8 And the law department is a good 9 example. There are many lawyers who are 10 Johnson & Johnson employees that represent 11 various subsidiaries. So they're doing work for 12 various subsidiaries, but they are Johnson 13 employees. 14 So, you know, again, there are -- 15 it's -- you know, there are management issues, 16 tax issues, HR issues that really go into 17 whether you're put into Services, Inc. versus 18 not. 19 Q And that I only somewhat conceptually 20 follow. So I'm trying to figure out which ones 21 and it's a lot harder for me. And so can you 22 think of an example -- I mean, if you don't know 23 Michelle Goodridge was an employee of JJCI or 24 Johnson & Johnson Services, of Johnson & Johnson 25 or someone else, before the spinoff?	Page 88 1 judgment by that, just not being in the 2 structure to understand why -- you've indicated 3 there might be tax reasons, there might be HR 4 reasons, there might be management. 5 But why, why is it unclear, for 6 instance, that the head of the consumer unit, 7 where he works, who's the current CEO of Kenvue? 8 What's the function or purpose for making that 9 unclear? 10 ATTORNEY BROWN: I'm sorry to 11 interject, Ms. Dean. But once again, do 12 you mean when Mr. Mongon was at J&J? Or 13 is the question limited to now at Kenvue? 14 ATTORNEY DEAN: I think that's real 15 clear by the question because when he was 16 the head of the consumer unit before he 17 became the CEO for Kenvue, he wasn't sure 18 where he was working. 19 BY ATTORNEY DEAN: 20 Q And you've indicated there's these 21 buckets of reasons: HR, maybe tax, maybe 22 management. But why would the head guy of the 23 consumer unit not know where he worked? 24 A So for any employee, none of those 25 reasons affect them day to day, whatever. You
Page 87 1 A I do not know. And I doubt that she 2 knows. So for most people it is, it's trans- -- 3 it's not -- it's transparent. If you're 4 working -- it's not clear that you are a 5 Services, Inc. employee or not. I think for a 6 lot of people they don't, they don't know. 7 Q So you said for a lot of people they 8 don't know and she may not know. But then you 9 also said it was transparent. And I take 10 "transparent" -- 11 A When I say transparent, it's not -- 12 it's not transparent. You can't tell different, 13 day to day, what -- where -- what your actual 14 paycheck comes from. 15 Q Okay. In looking at testimony of the 16 CEO of Kenvue, Mr. Mongon, the CFO, Mr. Ruh, and 17 Michelle Goodridge's testimony, all of which 18 were on the list that you received as 19 Exhibit 31, they kind of echoed the same thing, 20 that they were unsure who they actually worked 21 for; they just knew that they worked in the 22 consumer unit. 23 Do you recall that? 24 A I do recall that. That makes sense. 25 Q I struggle -- and I don't mean any	Page 89 1 know, it really has no effect on someone. But 2 if you ask, you can find out. Like, I know I'm 3 a Johnson & Johnson Services, Inc. employee. I 4 know because I had to look it up for when I gave 5 those -- did my first-day declaration and they 6 wanted to know who I work for. And so, and so 7 I, I found out, you know, what -- how -- what my 8 actual retention was. 9 But for people who were working at 10 one of the Johnson & Johnson companies, that -- 11 those reasons have nothing to do with what their 12 daily work is, you know, where they get paid, 13 how much they get paid, anything like that. 14 So if it's not -- it's not something 15 that they would care about. So you could find 16 out if you want. But generally, I think, on a 17 day-to-day basis, nobody really cares. 18 Q So for the people, whoever they are, 19 that do care, that created all these different 20 entities for Mr. Mongon when he was working in 21 the Johnson & Johnson consumer sector for 22 someone, how do I understand what the actual 23 reason for all these corporate structures and 24 machinations are? 25 You've given potentials: HR

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Page 90 1 management, tax. But why was he not directly -- 2 what was the reason to have him in the 3 employment structure that he was in? 4 ATTORNEY BROWN: Object to the form. 5 THE WITNESS: Again I'd have to -- 6 (Crosstalk.) 7 I'd have to go to see why -- what 8 company he worked for and why. 9 So, you know, that's, I think it 10 could be -- so, you know, I think for 11 foreign employees that are here on an 12 S1 visa -- I mean, there are lots of 13 permutations to the -- you know, having a 14 global company. 15 And so for tax purposes or for 16 management purposes, reporting purposes, 17 they may want to put certain people in 18 certain categories so that they keep 19 track, so they can report properly, so 20 they can take the right withholdings out. 21 And so again, you know, those have 22 nothing to do with his, Mr. Mongon's daily 23 routine. And so he would not care. But 24 there might be a reason. 25 But for any individual, I think you	Page 92 1 one-size-fits-all explanation. Fair? 2 A No. There would be categories of 3 people that goes in one group. Again, I don't, 4 I don't know. But if you're concerned 5 about piercing the corporate veil, I can say it 6 is not -- the reason they do this is not to try 7 to keep corporate veil, you know, the corporate 8 veil in place. It is nothing to do with that 9 because these people hold themselves out to be 10 employees of certain companies. And so there's 11 no, there's no veil-piercing reason why the 12 structure's there. 13 ATTORNEY DEAN: And so I'm going to 14 object to foundation. But again, I'm 15 learning, and I may withdraw that later. 16 BY ATTORNEY DEAN: 17 Q But I think I hear you saying that 18 you don't believe that it's because they want to 19 pierce the corporate veil because people working 20 within this enterprise and structure hold 21 themselves out not as J&J Services but as 22 Johnson & Johnson or as LTL. Did I -- 23 A Yes. 24 Q Is that what you're trying to say or 25 no?
Page 91 1 would have to, you'd have to see. And 2 again, you can look and you can ask if you 3 want to. It's not being hidden. It's 4 just something that nobody cares about. 5 BY ATTORNEY DEAN: 6 Q So you're familiar with the idea of 7 piercing the corporate veil; right? 8 A I am. 9 Q And so when a company decides to have 10 a parent with subsidiaries and sibling companies 11 and layers of subsidiaries, there can be legal 12 implications, depending on how things are 13 organized, about when and if you can get to the 14 parent if the actions are taken on by the 15 subsidiary. 16 Very broad concept, but you follow; 17 right? 18 A I do. 19 Q If I want to know reasons why there's 20 all these different entities that the people 21 that work inside the enterprise don't 22 appreciate -- I mean, you've been very clear it 23 doesn't affect their day-to-day -- you're 24 telling me it would be individual and 25 job-specific; there's not kind of a	Page 93 1 A What I'm trying to say is people, 2 people identify the company that they're 3 working -- that they're providing services for. 4 Right. And they -- that, for them, that's the 5 issue. 6 I think everyone knows that 7 they're -- they all work for -- for most people 8 they know that they're working for one 9 subsidiary. And so they identify the subsidiary 10 they're working for or that they've been 11 seconded to this. 12 But again, the structure that's in 13 place is not put in for corporate separateness 14 purposes, you know, in terms of liability. 15 There might be corporate separateness purposes 16 in terms of tax. In other words, there might be 17 a tax implication that they have. 18 But it is not a -- when you talk 19 about corporate -- piercing the corporate veil, 20 I assume you're talking about liability issues. 21 So, you know, that, that -- yes, sets that's 22 not, that's not the purpose of these 23 subsidiaries? 24 ATTORNEY BROWN: And Ms. Dean, I'm 25 sorry to interrupt. It sounds like you're

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Page 94 1 asking these questions of Mr. Kim in his 2 personal capacity based on his personal 3 experience, for example as a J&J or 4 Johnson & Johnson Services employee. And 5 that's fine, and certainly we want to be 6 cooperative and give you a little bit of 7 leeway. 8 I just want to make sure we're clear 9 where we're talking about a notice topic 10 or where you're, you know, truly 11 discovering some information that this 12 witness might have. 13 ATTORNEY DEAN: I'm going to object 14 to foundation to the last answer, and we 15 believe this is a notice topic. 16 ATTORNEY BROWN: Can you just tell me 17 which one. I just want to make sure -- 18 we're not trying to obstruct. We are 19 trying to be in cooperative. I just want 20 to make sure that where he's answering his 21 personal capacity we're clear? 22 ATTORNEY DEAN: If you want me to on 23 a break, I'm certainly willing to. I 24 think there's four different examples of 25 where it fits in.	Page 96 1 I mean -- I'm sorry not Tim McGraw, 2 Tim McCarthy? 3 A I don't believe I've spoken to Tim 4 McCarthy. 5 Q What about Ed Kuffner? 6 A I have spoken to Ed Kuffner. 7 Q You think he has an understanding of 8 what companies he's worked for? 9 ATTORNEY BROWN: I object -- 10 (Crosstalk.) 11 BY ATTORNEY DEAN: 12 Q -- what he's put out when he's under 13 oath and asked those questions. 14 ATTORNEY BROWN: Hang on one second. 15 Mr. Kim, just give me a second to object. 16 I object on speculation. 17 THE WITNESS: So I have attended many 18 Ed Kuffner depositions. And he is often 19 asked where he works. And he generally 20 does have an understanding of which 21 subsidiary he works for. 22 I actually don't know what his 23 current situation is. So I don't know 24 currently which subsidiary he actually 25 works for. I know he's doing work for
Page 95 1 ATTORNEY BROWN: It would be helpful. 2 And if we could just leave a placeholder 3 just indicate what topics. For example, 4 his personal employment with the services 5 company and his experience. 6 ATTORNEY DEAN: I'm not willing to do 7 that on a Saturday with ten minutes in the 8 middle of the trial. But -- 9 ATTORNEY BROWN: Well, I don't want 10 to obstruct your questions. And Mr. Kim 11 wants to be helpful. I just want to be 12 fair that we're being faithful to the 13 notice. And if not, that we're just 14 indicating where you're asking questions 15 in his personal capacity -- which, to be 16 clear, I'm not intending to shut down, at 17 least what you've asked so far. 18 BY ATTORNEY DEAN: 19 Q And so part of what I objected to was 20 foundation. And I want to understand that. 21 You've indicated most people indicate and know 22 what subsidiary they're working for. 23 Have you ever asked Tim McGraw if he 24 understands where he works and which subsidiary 25 he works for?	Page 97 1 Johnson & Johnson companies. I'm not sure 2 which ones. 3 BY ATTORNEY DEAN: 4 Q Have you inventoried anyone at JJCI 1 5 or 2 -- before, again, the spinoff to Kenvue and 6 the creation of JJCI 3 -- to determine of those 7 employees who actually believed they worked for 8 JJCI as opposed to Johnson & Johnson? 9 A I have not. 10 Q You mentioned that word "seconded to" 11 several times. What does that mean, seconded? 12 A A secondment is where one company 13 lends out an employee to another company. And 14 that company generally pays the first company 15 for that employee. 16 Q The whole screen on my end paused for 17 a moment. I think you said it means one company 18 lends out an employee to another where the one 19 company is the company that's paying the bills. 20 By I lost you for a second. Did I still get it? 21 A Generally. So -- yeah. So company A 22 would second an employee to company B. And 23 company B would pay company A for the service 24 that was generally a secondment. 25 Q And in your case, company A is J&J

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Page 98 1 Services and company B is LLT? 2 A Correct. 3 Q You've explained that in working for 4 LLT, you also monitor different concerns about 5 cosmetic talc litigation because LLT ultimately 6 is accepting the responsibility, if any, for 7 those issues. 8 Did I understand that correctly? 9 A Correct. 10 Q Why don't you directly work for LLT 11 if all of your work is for them or for things 12 they're going to pay for? What's the purpose? 13 A I believe that it's easier for me to 14 transfer from one place to another if I am not 15 an employee of LLT. So in other words, if I 16 want to take a position at another subsidiary, I 17 think it's easier from a tax management 18 perspective if I just am a Services employee and 19 then get seconded to another company. 20 So it's a more efficient way to do 21 things than every time changing your employment 22 to a company that you're working for. 23 Q Since LLT was created in 2021, has 24 this arrangement where you were doing your work 25 at Johnson & Johnson Services but all of your	Page 100 1 management structures if you're a Services 2 employee than if you're actually an employee of 3 the company. 4 So, yeah, I think you have management 5 issues and probably -- there may be tax 6 indications also if I change from one position 7 to another. And, you know, when you change a 8 job -- when you work for one company or you work 9 for another company directly, you know, there's 10 tax implications to that. 11 If you are a Services employee and 12 you're just being seconded out to different 13 organizations from time to time, then I think 14 you avoid some of that. So it's a more 15 efficient way to do it. 16 Q I'm just not following. Buy let me 17 see if I can understand better. 18 Were you working for Johnson & 19 Johnson Services before the creation of LLT? 20 A No. 21 Q Were you working for Johnson & 22 Johnson? 23 A I was. 24 Q Okay. So this idea that you're 25 working for not Johnson & Johnson and not LLT
Page 99 1 work for LLT, has that persisted since 2021 to 2 now? 3 A It has. 4 Q Other than this potential that you 5 may want to work for someone else for some other 6 purposes, is there any other reason that you can 7 think of that you'd work for a subsidiary of 8 Johnson & Johnson called Johnson & Johnson 9 Services as opposed to the company where you 10 spend your time and energies, LLT? 11 A I think, again, as a -- from a 12 management structure, I think that also is 13 implicated because the -- the people who are 14 being seconded to LLT actually report out 15 through the finance organization. 16 And so, again, when I was in the law 17 department, I worked for Johnson & Johnson. And 18 it -- again because of -- because you can change 19 positions easier when you're a Services employee 20 by being seconded out to different 21 organizations, I think that, you know, that made 22 more sense; because when I changed jobs, I also 23 changed structures in terms of were I reported 24 up. So management structure changed. 25 So, again, easier to change	Page 101 1 but a subsidiary of Johnson & Johnson called 2 Johnson & Johnson Services, who doesn't make or 3 distribute or sell anything, started for you 4 during this reorganization effort in 2021; fair? 5 A It did. 6 Q And at least to date, this idea that 7 there's a potential save for efficiency if you 8 move to another company hasn't occurred; fair? 9 A That's true. But it's potential, 10 something they talked about all of the time. 11 Q When you say they talked about all of 12 the time -- 13 A I talk about it. 14 Q What do you mean? 15 A I mean, I mean, at some point I want 16 to stop doing what I'm doing right now. 17 Q But when you're talking to people 18 about a potential change, is that somebody at 19 J&J Services or somebody at Johnson & Johnson or 20 something else? 21 A I think when I took on this 22 assignment it was understood that it was 23 temporary. 24 Q And when you're coordinating that, is 25 that part of that 50 to 60 people that are

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Page 102 1 organizing the restructuring efforts in 2021? 2 Or who were you talking to? 3 A At the time I would be talking to, 4 you know, my direct reports, my direct report. 5 So at the time it was the -- either Joe 6 Braunreuther or Erik Haas. 7 Q Tell me Joe's last name. 8 A Joe Braunreuther, 9 B-R-A-U-N-R-E-U-T-H-E-R. 10 Q Are they both lawyers? 11 A Yes. 12 Q Are they both at Johnson & Johnson? 13 A They were both heads -- yeahs, 14 they're both heads of, heads of litigation. 15 Q Is this -- 16 A Joe Braunreuther has retired, and 17 Erik Haas took over his position. 18 Q Okay. And so for both of those 19 individuals they were Johnson & Johnson 20 employees, both now and in the past, with an 21 asterisk that obviously Joe wasn't when he left? 22 A I -- 23 (Crosstalk.) 24 ATTORNEY BROWN: Hold on. Hold on. 25 I'm going to object to speculation.	Page 104 1 because if you decide to move, it may be more 2 efficient. 3 And I want to follow up and better 4 understand why. You said there might be tax 5 benefits or it might be easier. But I generally 6 don't know why. 7 A I think -- that's not the only 8 reason. 9 ATTORNEY BROWN: Sorry. Hold on. 10 Sorry. I need to interrupt. 11 This is certainly in his personal 12 capacity, Jessica; correct? You're asking 13 John Kim about his personal employment and 14 personal understanding of why -- 15 ATTORNEY DEAN: No. I'm certainly 16 asking to understand a corporate 17 restructuring that occurred in 2021. I've 18 established that is not something that is 19 the same for everyone but might be for 20 categories. I've gotten kind of vague 21 ideas. I'm starting with an example to 22 learn the broader topics. 23 But, for what it's worth, it is also 24 noticed to understand the background of 25 the particular witness that you noticed.
Page 103 1 THE WITNESS: Yeah, I don't know who 2 their actual employees were. 3 So over time, too, things -- you know 4 people may have -- that designation may 5 have changed. So... 6 BY ATTORNEY DEAN: 7 Q Did you see the testimony of 8 Mr. Mongon and Mr. Ruh, who both indicated that 9 for Project Plato and Project Diamond Johnson & 10 Johnson led the efforts? 11 ATTORNEY BROWN: Objection to the 12 form. 13 THE WITNESS: I don't recall the 14 specific testimony. 15 BY ATTORNEY DEAN: 16 Q Let me ask you -- and again, I think 17 sometimes specifics help me start understanding 18 broader concepts. 19 But you have indicated that for 20 you -- which can be about as specific as we get 21 in trying to understand these restructuring 22 efforts -- that the reason for having you with 23 the Johnson & Johnson subsidiary called J&J 24 Services as opposed to the Johnson & Johnson 25 subsidiary where you do your work called LLT is	Page 105 1 And so this is the second interruption for 2 an explanation when we're running through 3 time pressures in trial. 4 I'm genuinely happy to work things 5 out, but we are much more time-pressed 6 than normal here. And so I'd like to 7 focus on getting an answer. 8 ATTORNEY BROWN: And I want you to do 9 that. But as you understand, I need to be 10 careful. And I just wanted to make sure 11 that he's either testifying consistent 12 with a noticed topic -- which you've 13 identified as his background -- or he's 14 testifying in his personal capacity. 15 And I'm trying very hard not to 16 obstruct and not to object unnecessarily. 17 And with the understanding this falls 18 under the topic of his personal 19 background, I think that's fine. 20 ATTORNEY DEAN: So it's really neat 21 that there is a record because that was 22 one of two examples and it's not just 23 limited to that, which I'm going to stand 24 by. And we can discuss this at points 25 when we're trying to designate things but

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Page 106 1 not now. 2 But to -- trying to reframe or limit 3 what I've said, just -- it's, it's not 4 helpful. 5 ATTORNEY BROWN: Please continue so 6 we can be efficient. 7 BY ATTORNEY DEAN: 8 Q Do I need to reorient you or -- okay. 9 A So what I would say is the ease of 10 transferring is just one reason. There may be 11 other reasons, right. But on the ease of 12 transferring issue, when you're working -- when 13 you actually go -- just as an employment matter, 14 when you work for a company, you have -- you 15 know, especially if you have a contract with the 16 company, then to move to a different company 17 requires a different contract, you know, 18 breaking the contract, renewing the contract. 19 There are other issues that relate to that. 20 The tax reporting. So when you work 21 for a specific company, that company has to 22 report your wages, right. And so now all of a 23 sudden you have to be taken off of that 24 company's books, put into another company. And 25 then, you know, the new company has to be taken	Page 108 1 though we're taking a specific example. And by 2 digesting it, we can get there. 3 First, LLT is a wholly-owned 4 subsidiary of Johnson & Johnson; correct? 5 A It is? 6 Q J&J Services is a wholly-owned 7 subsidiary of Johnson & Johnson; correct? 8 A It is. 9 Q So one group where all the excess 10 money is owned by J&J might charge the other 11 group and get a premium. But both buckets of 12 money are wholly-owned by the same big guy, J&J; 13 right? 14 ATTORNEY BROWN: Objection to the 15 form. 16 THE WITNESS: Yeah. But that flow of 17 money goes differently. 18 BY ATTORNEY DEAN: 19 Q It certainly flows differently. But 20 where it goes in the end, the person who wholly 21 owns both entities is Johnson & Johnson; right? 22 A Correct. 23 Q Okay. Do you have a contract with 24 J&J Services once you took on being in this role 25 with LTL during the restructuring in 2021?
Page 107 1 off and start that. 2 So just for an ease of 3 administration, if you work for a single 4 company, just being seconded out, you don't have 5 to deal with all those regulatory, slash, 6 administrative issues. 7 You know, the other -- the one other 8 reason I can think of is why Johnson & Johnson 9 Services as opposed to J&J is the way that I'm 10 being paid. You know, the Johnson & Johnson 11 Services, as I explained to you, has a 12 methodology in place where it collects money 13 from the entity to pay -- you know, and they 14 charge you for services to set up that way. 15 If I were a Johnson & Johnson 16 employee, if I moved over to an LLT employee, 17 that wouldn't work. If I remained a Johnson & 18 Johnson employee, Johnson & Johnson isn't set up 19 for that. 20 You know, so there are, there are 21 various reasons why, you know, administratively, 22 reporting-wise, you might want to put someone in 23 the Services, Inc. company as opposed to 24 directly hiring them in a particular company. 25 Q So I'm still not tracking, even	Page 109 1 A I do. 2 Q Okay. If you were to go into a 3 different role, would that contract still be the 4 one that's holding? 5 A It would depend. The contract is 6 specific right now to LTL. 7 Q And so if you -- you know, you were 8 told this is temporary. When you move on to 9 different things in life, the current contract 10 is going to have to be adjusted because this one 11 that you currently have is specific to your role 12 with LLT; right? 13 A Well, yes and no. The contract -- 14 actually, it's actually a retention agreement. 15 Q Uh-huh. 16 A So unlike -- it's not really an 17 employment contract. It's a retention 18 agreement. And so that -- I may not get another 19 retention agreement if I moved on. But, you 20 know, there are people with actual contracts. 21 So my example may not be the best for this. 22 Q Okay. 23 A But I have a retention agreement 24 with, with Johnson & Johnson Services. 25 Q Whether it's a retention agreement or

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Page 110 1 an employment contract, if a person is moving to 2 work in an entirely different subsidiary doing 3 different jobs, you would imagine that there 4 would be adjustments to the role, to their 5 compensation, to who they report to, to who they 6 manage, depending on the particular individual; 7 fair? 8 A It may depend. Or the employment 9 contract could just say that you're going to be, 10 you know, seconded off to various entities and, 11 and you will be, you know, compensated 12 throughout by this contract. 13 So again, it depends on the form that 14 you're using. But again, that wouldn't be 15 available if you're just working for one 16 company. 17 Q So you're giving an example where a 18 person, unlike yourself, is working for multiple 19 subsidiaries at the same time -- 20 (Crosstalk.) 21 A Or changing subsidiaries, 22 subsidiaries. 23 Q Let me finish -- 24 A -- intending to change subsidiaries. 25 Q Let me finish the question, just for	Page 112 1 ATTORNEY BROWN: Objection, 2 speculation. 3 THE WITNESS: Yeah. My -- look, I 4 am -- I don't know the exact -- I'm not an 5 expert in the tax code. But I do know 6 that when you are employed by a company, 7 there are tax-recording issues that you 8 have and that if you switch from company 9 to company, you know -- what, for example, 10 if you changed jobs, like if you worked 11 for IBM and then decide to work for AT&T, 12 you know, there are tax implications that 13 come about or at least administrative tax 14 implications, like your filing status and 15 your, you know, W-9 status, your 16 withholding, things like that. 17 And so, you know, that would be 18 avoided if you were working for one 19 company and then being seconded off to 20 others. 21 BY ATTORNEY DEAN: 22 Q And I guess that's where I'm not 23 following. Like, I understand if you change 24 from one corporation to a competitor or 25 something. But if you were staying within the
Page 111 1 cleanness. I'm following you, but for 2 cleanness -- it's being written down. Sorry. 3 And so I think you were giving an 4 example where somebody, unlike yourself, is 5 working for multiple subsidiaries at the same 6 time; and therefore when they're working for 7 J&J's subsidiary, Johnson & Johnson Services, 8 their contract or retention agreement would 9 anticipate working for multiple entities; is 10 that fair? 11 A Correct. 12 Q But where roles change, expand, are 13 redone, whether you're working for J&J Services 14 or not, adjustments in the relationship would 15 have to be reflected somehow; correct? 16 ATTORNEY BROWN: Objection. 17 THE WITNESS: In some circumstances, 18 yes. 19 BY ATTORNEY DEAN: 20 Q Why would the adjustments in whatever 21 experience a person has in their employment 22 roles in the J&J enterprise, if they're working 23 for J&J Services, why would handling it within 24 this subsidiary, J&J Services, provide a tax 25 benefit? I just -- I don't follow that.	Page 113 1 J&J enterprise of companies and moving from 2 company to company, why is having this 3 intermediary with this subsidiary called J&J 4 Services resulting in a tax benefit for 5 Johnson & Johnson? 6 A Maybe tax benefit -- 7 ATTORNEY BROWN: Objection to the -- 8 hang on, hang on. 9 Objection to form, speculation. 10 THE WITNESS: Tax benefit -- so it 11 doesn't mean tax savings. I mean, it's 12 just -- my view would be that there's, 13 there's administrative hassle benefit that 14 you're gaining. 15 BY ATTORNEY DEAN: 16 Q Do you know if Ed Kuffner has ever 17 worked for Johnson & Johnson? 18 A I do not know. 19 Q Do you know if he's ever worked for 20 Kenvue? 21 A He has never worked for Kenvue. 22 Q Do you know if he's ever worked for 23 JJCI, whether it's 1, 2, or 3? 24 A I actually do not know. That's the 25 same, essentially the same questions whether he

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Page 114 1 worked for Johnson & Johnson. I'm not sure 2 whether, when he was working, doing work for the 3 consumer sector, he was working for Johnson & 4 Johnson Services or whether he was working for 5 JJCI. 6 Q When you as the person most involved 7 in the Project Plato stuff and most informed 8 about that, when you were doing the actual 9 planning and execution portions before LLT was 10 created -- or LTL was created, you were working 11 for Johnson & Johnson; correct? 12 A So what I would say is I was employed 13 by Johnson & Johnson, but I was representing 14 various entities as a lawyer, right. So I was 15 working -- when you say "working for," you know, 16 I was representing various subsidiaries and 17 sectors in my, in my job. But I was a Johnson & 18 Johnson employee. 19 Q Yep. And so I -- the difference 20 between representation, which you're also 21 working for the people you represent, and 22 employment is -- let me make sure I'm being 23 clear. 24 During the time when you were 25 involved in planning for and executing the 2021	Page 116 1 Q Was Andrew White involved at all? 2 A He was. 3 Q Was Greg Gordon involved at all? 4 A He was. 5 Q Was Ms. Brown involved at all? 6 A Not in the corporate transaction 7 setting. So Ms. Brown did command during the 8 bankruptcy case that we had. She may be 9 apprised at some point about what was going on 10 because she was also representing companies in 11 underlying talc litigations. And so at some 12 point we let people know what was going on so 13 that they could prepare for that. But she was 14 not involved in the corporate planning -- 15 Q Okay. 16 A -- portion of it. 17 Q Were any of the Skadden lawyers 18 involved -- Rich Bernardo, Andrew Karp, anyone 19 else that you can think of? 20 A I do not believe they were; no. 21 Q In terms of the lawyers that were 22 internal to the Johnson & Johnson group of 23 companies -- Erik Haas, Andrew White, and 24 others -- which entity they were working with, 25 do you know?
Page 115 1 reorganization efforts that ended on October 12, 2 2021, your employer was Johnson & Johnson. And 3 then that changed when LLT, formerly known as 4 LTL was created; true? 5 A Yes, it did. 6 Q Was Chris Andrew also working for 7 Johnson & Johnson during those efforts? 8 ATTORNEY BROWN: Objection, form. 9 THE WITNESS: Again, I don't know who 10 his employer was at that time. Yeah, I 11 don't know who his employer was at the 12 time. 13 BY ATTORNEY DEAN: 14 Q Do you know if he is now at Kenvue? 15 A I do know now he is at Kenvue, yes. 16 Q Other than knowing that he is 17 currently with Kenvue and that that spinoff 18 occurred in 2022, do you know who his employer 19 was for any earlier times? 20 A I do not know. 21 Q In working on or with the efforts to 22 think through and execute Project Plato, one of 23 the individuals you mentioned that was involved 24 was Erik Haas. Did I hear that right? 25 A Correct.	Page 117 1 ATTORNEY BROWN: Objection to the 2 form. 3 THE WITNESS: I know only myself. 4 BY ATTORNEY DEAN: 5 Q Okay. But there were certainly a set 6 of lawyers that were in-house lawyers to 7 Johnson & Johnson-related entities, as opposed 8 to hired out-house lawyers; correct? 9 A Yeah, there were in-house lawyers 10 involved. 11 Q I'm not meaning to call anybody an 12 outhouse lawyer. Sorry. Outside lawyers. But 13 do you follow otherwise? 14 A I do. So, yeah, there were a number 15 of in-house lawyers involved. 16 Q In terms of lawyers that were hired 17 that were outside counsel, did they all come 18 from Jones Day for this restructuring 19 organization effort? 20 A I don't recall if there were others. 21 Jones Day was certainly the principal, principal 22 law firm. So we had already been involved in a 23 bankruptcy involving our supplier, Imerys. And 24 Weil Gotshal was representing us in that case. 25 You know, the implications of the

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Page 118 1 restructuring to the Imerys bankruptcy may have 2 come up, and Weil Gotshal may have been involved 3 in those discussions. But again, primarily it 4 was, Jones Day was the primary outside counsel. 5 Q Is there any of lawyers at Weil 6 Gotshal that you remember by name? 7 A Ronit -- and I'm going to butcher her 8 last name, but A-M-I-R, the -- is our lead 9 counsel on that. 10 Q Who -- was it somebody in the 11 Johnson & Johnson legal team that were internal 12 lawyers for Johnson & Johnson that made the 13 decision to hire Jones Day and other outside 14 counsel in this effort to do this restructuring 15 that we've been calling Project Plato? 16 A I think it was a consensus. I 17 think -- so I testified to this during the 18 bankruptcy proceedings. It's in my depositions 19 or testimony. There were a series of law firms 20 that came to us at some point pitching various 21 restructurings. And we -- it was a consensus 22 between, really, Erik Haas, Andrew White, me, to 23 go with the Jones Day folks. 24 Q And again, anytime bankruptcy comes 25 up, I'm just going to re-ask the question to try	Page 120 1 A That is correct. 2 Q Okay. Outside of Erik Haas, Andrew 3 White, and Chris Andrew, are there any other 4 lawyers internal to the Johnson & Johnson 5 companies that were involved -- and obviously 6 yourself; sorry -- involved that you can think 7 of by name? 8 A Again, I'd have to go to the list. 9 There were, there were due diligence teams set 10 up because when you do a restructuring like 11 this, you have to, for example, look through a 12 vast amount of contracts to make sure that what 13 you're doing doesn't breach any existing 14 agreements you have, things like that. 15 So there were, there were lots -- 16 there's a lot of work to be done. I believe 17 Chris had a team of people helping him. I just 18 don't know who they are, sitting here right now. 19 Q And so in terms of just what lawyers 20 at Johnson & Johnson before the spinoff were 21 involved, you recall yourself, Mr. Haas, 22 Mr. White, Mr. Andrew; and you believe that 23 Chris Andrew had a team of people, but you can't 24 give me any other specific names without going 25 back and looking at the --
Page 119 1 to avoid referencing that. Bear with me. 2 But the in-house lawyers for 3 Johnson & Johnson came to a consensus -- meaning 4 you, Mr. Haas, Mr. White -- in hiring 5 out-house -- outside counsel to assist in the 6 restructuring effort, after there was kind of 7 pitching and information gathering, and then 8 ultimately hired the Jones Day firm. 9 Did I understand that right? 10 A Right. Although it wasn't one -- it 11 wasn't like a, a -- one period of time where 12 other law firms were coming to us. It was, it 13 was over an extended period of time that lots of 14 law firms came to us with resolution ideas. And 15 so it wasn't -- I don't want to make it seem 16 like we held, you know, a formal review of law 17 firms and they came out on top. It's just that, 18 you know, over time we came to a consensus that 19 Jones Day were the best qualified to help us. 20 Q And my focus is just the decision to 21 hire an outside firm in order to help the 22 restructuring was made by Johnson & Johnson's 23 lawyers and ultimately time and effort was spent 24 by lawyers from Jones Day as a result. 25 Is that part right?	Page 121 1 A Yeah, without going back, I can't -- 2 I don't recall. 3 Q Did you -- do you know of anyone by 4 name or that you can tell me worked for old JJCI 5 other than Michelle Goodridge? 6 A Yeah, sitting here, I, I did not look 7 at that. I don't know. Yeah, I'm actually 8 not -- so I do know the legal team there. So, 9 for example, Julie Tersigni was at the Johnson & 10 Johnson companies. Again, I don't know which 11 exactly it was. She was in the law department, 12 and she is now at Kenvue. 13 So -- I mean, Jennifer Boston was in 14 the legal department. I'm not sure who exactly 15 her employer was. But she is now at Kenvue. 16 So -- yeah. 17 Q So in terms of actual employees that 18 were hired by Johnson & Johnson Consumer, Inc. 19 or JJCI, you are aware of Michelle Goodridge, 20 who is the president. There are a couple of 21 people they are now at Kenvue that potentially 22 worked there, but you're not sure where in the 23 structure they were. 24 But other than that, identifying 25 specific people, at least as we sit here now,

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Page 122 1 you can't give me any additional names. Is that 2 fair? 3 A Right. I think we established 4 Thibaut Mongon, who's at Kenvue now. Again, I'm 5 not sure even -- I'm not even sure where, where 6 he fell in the structure. 7 Paul Ruh, wasn't he -- I think Paul 8 was also at one of the Johnson & Johnson 9 companies and now is at Kenvue. 10 Is that right? I'd have to go back 11 to the depositions to see. But I have this 12 recollection. 13 Q So my review of their depositions is 14 that they are currently and certainly at Kenvue 15 now and believed that they worked for Johnson & 16 Johnson as opposed to JJCI. 17 A I see. 18 Q But let me just ask you -- since we 19 have the testimony -- outside of what's written 20 down in the depositions that you've referenced 21 in Exhibit 31, have you done anything to 22 evaluate what they know or what roles they had, 23 for those two gentlemen? 24 A No, I have not. 25 Q I marked as Exhibit 11 to the	Page 124 1 Mr. Mittenthal as being longer. But are you 2 following that those are two separate entities? 3 A Yes. 4 Q Okay. Do you know what "JNTL" stands 5 for? 6 A Yes. It's Johnson's Baby, 7 Neutrogena, Tylenol, and Listerine. 8 Q I -- I'm sorry. I know the names 9 that you just said. But how does that relate to 10 JNTL? 11 A Those are the, those are the top 12 consumer brands that consumer companies had. 13 Q So the first -- 14 (Crosstalk.) 15 ATTORNEY BROWN: First letter. 16 THE WITNESS: Yeah, the first letter 17 of those. 18 BY ATTORNEY DEAN: 19 Q N is for Neutrogena, T is for 20 Tylenol, L is for Listerine? 21 A Yes. 22 Q I'm there. Okay. So do you know why 23 this temporary name from February -- the 24 temporary name being JNTL, Inc. -- was used 25 before it was changed to Kenvue in September?
Page 123 1 deposition of Kenvue when it was Jim Mittenthal 2 just a list of current directors and officers 3 and the executive or leadership team. 4 Have you gone and talked to any of 5 those leaders of Kenvue in order to assess what 6 they know or understand about any of the noticed 7 topics for Kenvue and Holdco today? 8 A I have not. 9 Q In terms of JNTL Holdings, are you 10 familiar with that company? 11 A I am familiar with -- yes, the 12 company which eventually became Kenvue. 13 Q Well, there's two parts of that that 14 I am trying to figure out. One is it seems like 15 in February of 2022 JNTL Holding was created -- 16 A Oh, I'm sorry. JNTL Holding. No, so 17 JNTL, Inc. turned into Kenvue. 18 Q Okay. That -- you just answered my 19 first question. So let me make sure everyone 20 but me -- but the three of us follow what just 21 happened. 22 There are different entities that 23 bear the name JNTL. One is JNTL, Inc. and 24 another one is JNTL Holding. The actual 25 official legal names we discussed with	Page 125 1 A I believe, they didn't, they didn't 2 agree on -- they didn't come up with the Kenvue 3 name. They didn't have a -- you know, it took a 4 while for them to come to a consensus on what 5 name they were going to choose ultimately. So 6 they, they set up the companies, I think, 7 beforehand. 8 Q But in terms of kind of the 9 functional start to the division, where J&J's no 10 longer doing the consumer segment and what we 11 are now calling Kenvue is taking it over, that 12 started in February of 2022. There was just 13 extra months needed to land up on a name. 14 Did I follow that right? 15 A I, I believe that's right. I'd have 16 to go back to see the rationale. 17 Q So when I'm looking under successor 18 liability concerns about the continued operation 19 or management or sales of Johnson's Baby Powder, 20 I'm trying to understand whether it was what is 21 now Kenvue that was responsible for that product 22 as of February of 2022 or whether that was 23 Johnson & Johnson. 24 You know, if we go to, for instance, 25 April of 2022, is Johnson & Johnson now

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Page 126 1 officially separated from the baby powder line, 2 or did that occur in February? 3 ATTORNEY BROWN: Objection to the 4 form. 5 BY ATTORNEY DEAN: 6 Q I'm trying to clarify why I'm 7 asking -- 8 (Crosstalk.) 9 A Just to back up, Johnson & Johnson 10 was never responsible for the Johnson's Baby 11 Powder. So I think you'd have to look at, 12 specifically, the operating companies. 13 So the question is, is -- at what 14 point does, you know, Johnson -- Johnson & 15 Johnson Consumer, Inc. that's making the baby 16 powder -- of course, you know, all the baby 17 powder does not contain talc because they had 18 early discontinued that business, the talc 19 business. 20 So the question is: At what point 21 did Johnson & Johnson, the consumer company that 22 was producing the remaining talc product -- 23 remaining baby powder products, not including 24 talc, get -- divest that to any other entity? 25 ATTORNEY DEAN: Object to	Page 128 1 Donald McGraw produced that goes through sort of 2 the iterations of where businesses went and 3 when. 4 So I can -- we can go through that. 5 And then you can make -- you know, the Court can 6 make a conclusion as to when responsibilities 7 are ended. But all we can -- all I can do is go 8 through the, you know, the step plan that Donald 9 McGraw put together. 10 Q Let me ask you this: When does 11 Kenvue, as a company, acknowledge that they are 12 first responsible for the product Johnson's Baby 13 Powder? 14 ATTORNEY BROWN: Objection to the 15 form. 16 Go ahead. 17 THE WITNESS: Yeah. I would say that 18 Kenvue -- I think when the operations of 19 the baby powder business -- of course, 20 that didn't include the US baby powder 21 containing talc, when they started 22 marketing/producing it under Kenvue, that 23 they would be responsible for that. 24 ATTORNEY DEAN: Object to 25 nonresponsive and foundation on the --
Page 127 1 nonresponsive and then also just to 2 foundation that Johnson & Johnson was 3 never responsible for baby powder. 4 Clearly in the years before he was 5 alive, there's no personal knowledge. 6 Judges and juries across the country 7 disagree. And it really wasn't the 8 question I intended to get into. 9 BY ATTORNEY DEAN: 10 Q Part of what we're going to talk 11 about later is when a subsidiary was first even 12 created in the history of selling baby powder, 13 when we talk about Old JJCI. But I want to kind 14 of table that discussion for later, to stay 15 organized. So let me try to reframe what I was 16 asking. 17 In terms of when any Johnson & 18 Johnson-related entity was responsible for the 19 sale of baby powder, as opposed to what we're 20 now calling Kenvue and the Kenvue-related 21 entities, do you know if that trigger date was 22 February 2022? 23 A Yeah, what I would say, I would say 24 that that's sort of a legal conclusion. What I 25 can do is go through with you the chart that	Page 129 1 when the switch occurred to talc, because 2 that's a whole subject. 3 BY ATTORNEY DEAN: 4 Q But that is unclear to me. And so 5 what I want to know is from the company, Kenvue, 6 when they first say we were responsible for this 7 product line. And this product line being the 8 Johnson's Baby Powder line. 9 My understanding was that occurred 10 during the spinoff in February 2022, although 11 the name changed in September. 12 Can you confirm? 13 ATTORNEY BROWN: Objection to the 14 form. 15 THE WITNESS: Yeah, I -- again, I'd 16 have to go look at the step plan again to 17 see what actually the steps were that were 18 happening at that time. 19 BY ATTORNEY DEAN: 20 Q Why don't we take some time to do 21 that. Because I just want a clear -- 22 A Sure. 23 Q -- understanding of when these two 24 companies, the J&J kind of enterprise and the 25 Kenvue enterprise, what -- and I'll get into the

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Page 130 1 specifics of who and each later. But when 2 that -- when the actual trigger date was 3 accepted. 4 And I -- I'll ask -- let me ask you 5 this: My understanding is it was not in any 6 way, shape, or form just limited to Johnson's 7 baby line; right? It was a bunch of consumer 8 products; right? 9 A Correct. 10 Q Was that switchover uniform for all 11 the products at issue: When Neutrogena -- 12 ATTORNEY BROWN: Objection to the 13 form. 14 BY ATTORNEY DEAN: 15 Q -- came over, Listerine came over? 16 ATTORNEY BROWN: Objection to the 17 form. 18 THE WITNESS: Yeah. So the 19 question -- so I think it depends on what 20 you're actually asking. You know, in 21 terms of when, when would Kenvue be liable 22 for its -- for the sale of its product 23 versus when would Kenvue be liable but get 24 indemnified by other companies for product 25 that's being sold but that Kenvue didn't	Page 132 1 versus Listerine, but I don't know. 2 And I believe, from looking at the 3 document, that that occurred in February of '22, 4 based on SEC filings, the date of the actual 5 incorporation, and other things. 6 But I'm trying to just get a clean 7 answer that this product line which includes 8 Johnson's Baby Powder became part of what we 9 call Kenvue now, what date you would say that 10 occurred. 11 (Crosstalk.) 12 A I'm sorry. Did you mean February 13 2023? 14 Q I thought it was February 2022. 15 A I mean, can I look at the step plan 16 again? 17 Q Of course. And if it takes -- 18 ATTORNEY BROWN: And, John do you -- 19 yeah, John, if you -- Ms. Dean, I assume 20 it's okay with you if he goes to his own 21 copy to pull up and take a look if he 22 wants to go to different parts of it? 23 ATTORNEY DEAN: Sure. 24 THE WITNESS: It's -- it's definitely 25 not February '22. It would definitely not
Page 131 1 produce. 2 And it's very -- it's a very 3 complicated -- whenever you're dealing 4 with a corporate restructuring, it's a 5 very complicated issue as to who's 6 responsible for what, when there's, you 7 know, when there's an agreement between 8 the parties as to who's responsible for 9 what when. 10 BY ATTORNEY DEAN: 11 Q Let me try to -- this isn't my 12 universe -- but try to get to what I'm 13 understanding, and maybe that will help us 14 figure this out. 15 So I definitely am not asking about 16 successor-liability theories here. I'm not even 17 really asking about liability agreements here. 18 But rather when the decision was made for the 19 consumer segment of Johnson & Johnson to be 20 transferred to what is now Kenvue, when, for the 21 parts of what was Johnson & Johnson, when that 22 was switched over, what date that became 23 operational -- and I'm assuming it was for all 24 of the different products' lines; it wasn't a 25 different date for Neutrogena versus Johnson	Page 133 1 be February '22. 2 Looking at the step plan, you know, 3 February '22 is simply the date where 4 Janssen forms various subsidiary 5 companies. 6 My copy's very small. 7 ATTORNEY BROWN: And, John, if you 8 need a minute, we can -- we're due for 9 another break. Do you want to a quick 10 break so you can take a look? 11 THE WITNESS: Sure. Are we going to 12 have lunch soon or no lunch? 13 ATTORNEY BROWN: Yes. You are 14 allowed to eat lunch. Should be -- would 15 it be okay to take a longer break now and 16 let you have lunch as well while you take 17 a look at that? 18 THE WITNESS: Yeah, that would be 19 fine. 20 ATTORNEY BROWN: Ms. Dean, does that 21 work? 22 ATTORNEY DEAN: Let's go off the 23 record. We'll sort out time. 24 THE VIDEOGRAPHER: Okay. The time is 25 approximately 1:29. We're off the record.

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Page 134 1 (Recess.) 2 THE VIDEOGRAPHER: We are back on the 3 record. The time is approximately 2:15. 4 And this is the beginning of media 5 number 3. 6 Counsel, you may proceed. 7 BY ATTORNEY DEAN: 8 Q We just took a 45-minute break for a 9 dual purpose of feeding ourselves and also 10 hopefully sort out what Kenvue understands about 11 when it first was responsible for the Johnson's 12 powder -- Baby Powder line. 13 Did you have a chance to look at some 14 documents? 15 A I did. 16 Before I do that, could I just make 17 one correction on an answer that I gave you 18 before about the Weil lawyer who may be helping 19 us out. Her name is Ronit Berkovich, 20 B-E-R-K-O-V-I-C-H. As I was doing this, I 21 realized -- I'm not sure what name I gave. But 22 she was the lawyer that was helping us out on 23 Project Plato from Weil. It was Ronit 24 Berkovich. 25 So, yeah, I looked, I looked back at	Page 136 1 health subsidiaries, which would include, you 2 know, JJCI 3, were transferred to Kenvue. So 3 that would be April 4th, 2023 is when the 4 consumer subsidiaries that are operational and 5 making product would have been transferred to 6 Kenvue. 7 Even after that date, however, you 8 know, there are -- there would be issues as to 9 when Kenvue itself -- you know, when Kenvue took 10 responsibility for sort of the sales of the 11 product. And I think what I would say is, 12 looking at the document, you know, the spinoff 13 occurred in August 23rd, 2023. And that's when 14 Kenvue actually separates from Johnson & 15 Johnson. 16 So I think those are sort of the 17 critical dates. The implications of those dates 18 legally, you know, on liability and stuff, I 19 think that's a legal conclusion that I'm really 20 not prepared to say. 21 But I can tell you that those are 22 sort of the relevant dates for when the consumer 23 products companies got transferred to Kenvue and 24 then when Kenvue separated from Johnson & 25 Johnson.
Page 135 1 the -- 2 Q Can I interrupt you for one second. 3 I just -- to make a cleaner record, I wanted to 4 re-ask the question. 5 But for Ms. Berkovich, whether it's 6 her firm or the Jones Day firm, there was an 7 effort from internal folks in the J&J enterprise 8 to hire outside counsel to help with 9 restructuring efforts, and you're just 10 correcting the name of the individual a moment 11 ago; fair? 12 A Correct. Yes. 13 Q As to my question of just -- did you 14 have an opportunity to look at documents to try 15 to help us understand what Kenvue's position is 16 on when it first started selling and making 17 Johnson's Baby Powder? 18 A Sure. So I think what I would say 19 is, you know, the -- what I can give you is sort 20 of the factual background of what the steps were 21 and when they occurred related to Kenvue itself, 22 so as opposed to other, other parts of the 23 transaction. 24 So from the documents, I see that it 25 was not till April 4th, 2023, that the consumer	Page 137 1 Q Let me back up for moment. Kenvue 2 was an entity before the spinoff as a subsidiary 3 of Johnson & Johnson; correct? 4 A It was. 5 Q Okay. Did it have its own board of 6 directors and officers before the spinoff? 7 A It did have boards and officers at 8 the time of the creation and through to the -- 9 to when it spun off. 10 Q Before -- and is the time of creation 11 in your notes of that entity September 28th, 12 2022? 13 A Actually, under my notes, in February 14 of '22 JNTL, Inc. was formed. And then in 15 September it changes its name to Kenvue. 16 So those are the two operative dates 17 for, you know, the -- when Kenvue was formed, 18 the predecessor was formed, and then it 19 turned -- it changed its name to Kenvue. 20 Q What notes are you looking at? 21 A I'm looking at Mittenthal's Kenvue 22 deposition, his outline. His -- this is a -- 23 Q His timeline? 24 A Yeah, his timeline. 25 Q Okay. Before -- so Kenvue has had

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Page 138 1 different names. 2 A Right. 3 Q We know that it started off as JNTL, 4 Inc. But using the name that it is currently 5 going by became an entity first in February by a 6 different name. And then the new official name 7 change occurred in September, both of 2022; 8 correct? 9 A Correct. 10 Q Before February of 2022, was there 11 any entity operating in the J&J enterprise of 12 companies that went by "Kenvue"? 13 A No. 14 Q Okay. You mentioned April 4th, 2023, 15 when a subsidiary JJC 3 -- JJCI 3 was created. 16 Did I hear that correctly? 17 A No. That's when it was transferred 18 over to -- April -- I'm sorry, April 4th is when 19 the subsidiaries, including JNTL Holdings 2 and 20 its subsidiary, JJCI 3, was transferred over to 21 Kenvue. 22 Q What I see in the timeline notes -- 23 which is what I want to confirm you're looking 24 at -- says on April 4th of 2023 Johnson & 25 Johnson transfers a hundred percent of its	Page 140 1 gave a moment ago that you take from that that 2 until those subsidiaries were moved over, Kenvue 3 was not responsible for making or selling 4 Johnson's Baby Powder? 5 Did I follow what you were saying 6 correctly? 7 A Yeah. I think before that happened, 8 Kenvue was just a shell with actually nothing in 9 it. It was not doing anything. It was a -- you 10 know, it was just an empty shell. 11 Q So how do you know that, that 12 between, you know, say, February of 2022, when 13 the first company was created that became 14 Kenvue, until at least April 4th, 2023, over a 15 later, that it was not -- it was just a shell? 16 A Well, Kenvue is incorporated -- if 17 you look at the step chart, it goes through all 18 the steps that happened. And nothing before 19 that was a step called Kenvue until, until the 20 very end when, when it's been given this -- the 21 consumer subsidiaries. 22 I think the way that I would describe 23 it is that this transaction is -- if you think 24 of all of the consumer, parts of the consumer 25 companies as apples, you know, spread out
Page 139 1 rights to consumer IP agreements, contracts, and 2 licenses to Kenvue and 100 percent ownership of 3 various consumer subsidiaries, including JNTL 4 Holdings, Inc. and its subsidiary JJCI 3. 5 Is that what you were looking at? 6 A Yes; the April 4th, 2023. 7 Q This indicates that Johnson & Johnson 8 is the one providing ownership of the JNTL 9 Holding 2 and's JJCI 3; "this" being the Kenvue 10 timeline that was marked as Exhibit 36 to 11 Kenvue's deposition earlier in this case. 12 Do you agree? 13 A I'm sorry. What's the question, 14 that...? 15 Q Do you agree that what Kenvue has 16 indicated in this timeline that was marked in 17 the Kenvue deposition as Exhibit 36 is that 18 Johnson & Johnson was the one transferring a 19 hundred percent ownership of various 20 subsidiaries, including JNTL Holdings -- and 21 this says JNTL Holding 2, Inc., but we've been 22 calling a JNTL Holding -- and JJCI 3; is that 23 correct? 24 A That's correct. 25 Q Okay. And I think from an answer you	Page 141 1 throughout the Johnson & Johnson companies. So 2 JJCI was not the only company that had parts of 3 the consumer business. Parts of the consumer 4 business were spread out among a bunch of 5 Johnson & Johnson subsidiaries. 6 And so what the process the step plan 7 goes through is basically creating a basket. 8 And that basket goes from company to company. 9 And at each company they're dropping in the 10 consumer basket -- in the basket the consumer 11 apple. Whatever apple the consumers are holding 12 they put into the basket. 13 And then at the end of the day they 14 take that basket and it goes up to J&J as a 15 subsidiary, right. And then that basket gets 16 given to Kenvue as one thing, right. 17 So basically, the way that this 18 transaction worked was, in order to be 19 efficient, you know, they have all these steps 20 where there's just collecting the consumer parts 21 of that J&J into a single basket that they can 22 then give the Kenvue. 23 And so that's when I say before, 24 before Kenvue gets the basket, it's not doing 25 anything because it's not been given any of the

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Page 142 1 consumer companies. All the consumer companies 2 are collected. And then at the last step is 3 that that basket is given to Kenvue. 4 Q So your belief is that all of the 5 different consumer products that were being spun 6 off from Johnson & Johnson to Kenvue, they were 7 collected by Johnson & Johnson and then 8 transferred over to Kenvue at the same time. 9 Am I following that correctly? 10 A Yes. So they're collected throughout 11 the various -- they create these entities. And 12 you can see that, you know, it goes to DePuy -- 13 so each, each of these entities had some 14 consumer business. 15 So consumer before this wasn't all 16 located at JJCI. Especially the foreign 17 consumer businesses. The foreign consumer 18 businesses, for historical reasons or whatnot, 19 were spread throughout J&J company. Some of 20 them were in the same company as pharmaceutical. 21 So, for example, if you're a small 22 country and you only have three employees, you 23 can't create a consumer company and a 24 pharmaceutical company. You have one company 25 that has both consumer and pharmaceutical.	Page 144 1 A Yes. 2 Q In terms of when the big transfer, 3 after all of the collection is believed to 4 occur, what date would you give for that? Is 5 that the August 23rd, 2023? 6 A April 4th. April 4th, 2023. 7 Q Okay. You mentioned April 4th, 2023, 8 based on what's been marked in the first 9 deposition of Kenvue as Exhibit 36 was when 10 Johnson & Johnson sent over JNTL Holding and 11 JJCI 3. But you noted -- 12 A It's in the step plan. It's in the 13 step plan, Exhibit A to the Donald McGraw 14 deposition. 15 Q But you know that that's also 16 referenced in -- 17 A Yes. 18 Q -- the timeline as well. 19 Do you see that? 20 A Yes. 21 Q Okay. In terms of something you said 22 earlier, that the actual separation occurred on 23 August 23rd, 2023 -- I don't know if I 24 misunderstood. So let me ask you. 25 You believe the separation from
Page 143 1 So in order to split this up, 2 basically you have to give them the basket, they 3 have to split off the consumer sector and put it 4 in the basket and then move the basket off. 5 And so at the end of the day that 6 gets all up to -- comes up to Johnson & Johnson. 7 And then Johnson & Johnson gives that basket, 8 the complete basket, to Kenvue. 9 ATTORNEY DEAN: I'm going to object 10 to the nonresponsive parts. I'll come 11 back to it. 12 THE WITNESS: Trying to help. 13 ATTORNEY DEAN: Understood. 14 BY ATTORNEY DEAN: 15 Q So as to my question, it is the 16 belief of Kenvue and Holdco that the way that 17 things were transferred from the Johnson & 18 Johnson enterprise or family of companies to 19 Kenvue and the Kenvue enterprise was by 20 different consumer products that were in 21 different subsidiaries being collected by 22 Johnson & Johnson so that at the same time they 23 could be transferred from Johnson & Johnson to 24 Kenvue. 25 Did I follow that part right?	Page 145 1 Kenvue and Johnson & Johnson occurred on 2 August 23rd, 2023? 3 A It was announced on August 23rd, 4 2023. The second page of that 5 Mittenthal exhibit, the last -- 6 (Crosstalk.) 7 Q Okay. Announcing is different from 8 when the actual transaction occurred. So maybe 9 I'm understanding your testimony better now, 10 that you believe August [sic] 4th is when the 11 basket was handed over from J&J to Kenvue but 12 that the announcement occurred shortly after in 13 August 2023; is that correct? 14 A Correct. 15 Q Okay. So from the '70s until JJCI 16 Old ceased to exist in 2021, the company 17 responsible for the making and selling of 18 Johnson's Baby Powder was Old JJCI; correct? 19 A I'm sorry. What was the first date 20 that you gave? 21 Q So it's from the 1970s until Old JJCI 22 ceased to exist in 2021 -- well, it went by 23 different names -- ultimately the company that 24 has the responsibility for making and selling 25 baby powder was what we've called Old JJCI or

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Page 146 1 JJCI 1; correct? 2 A Well, so you're -- it's confusing to 3 me because you're saying by different names. 4 So the -- I think it's sort of laid 5 out in my declaration as to the ownership of 6 Johnson's Baby Powder throughout the period. 7 I think, I think it is what you're 8 saying. I'm just a little hesitant because, you 9 know, they went by different names throughout 10 that period. 11 Q And I want to look at that with you 12 so we have a little bit more specificity. 13 But -- and I also want to try to confirm when in 14 the '70s. 15 But for now, you and I know that it 16 didn't start with what were calling "Old JJCI." 17 There were name changes along the way. But for 18 that period of time starting in the '70s until 19 Old JJCI ceased to exist, the company Old JJCI, 20 before LLT was created, recognized that any 21 liabilities from the making and selling of 22 Johnson's Baby Powder rested with it. 23 Do you -- 24 A Correct. 25 Q Okay. And then after that, from	Page 148 1 BY ATTORNEY DEAN: 2 Q After October 12th of 2021, the 3 consumer business, including the Johnson's Baby 4 Powder line, went to New JJCI, which changed its 5 name to Holdco, and that persisted until April 6 4th, 2023 when Kenvue officially took over. Is 7 that fair? 8 A Two issues. One, I still have the 9 understanding -- when you say Johnson's Baby 10 line or -- I would say that does not include any 11 Johnson Baby product that contains talc; that 12 just wasn't part of that business that was 13 continuing. 14 And then the other issue is Holdco -- 15 now -- and I'm going to have to look at my -- 16 look at something because, you know, Holdco 17 became Holdco after -- I think it was after the 18 consumer business was transferred. 19 There may have been some period of 20 time where there was a Holdco -- that Holdco 21 existed with the consumer business. I just have 22 to, I just have to check that. It would have 23 been a short period of time where, you know, the 24 name changed to Holdco because, you know, the 25 new New JJCI was being formed.
Page 147 1 October 2021 until April 4th of 2023, my 2 understanding is the responsibility for making 3 and selling the Johnson line, including 4 Johnson's Baby Powder, was with New JJCI, which 5 had a name change that went to what we're 6 calling Holdco; is that fair? 7 A Everything except for products that 8 contained talc, because that -- those got 9 discontinued. But the liability for that also 10 was cut off in the 2021 restructuring. 11 So other than that, all of the -- so 12 Johnson's Baby powder with cornstarch, you know, 13 all the other consumer products that we're 14 talking about, they were manufactured by New 15 JJCI. 16 ATTORNEY DEAN: So I'm going to 17 object to foundation. And we have a real 18 fundamental disagreement about whether 19 what happened in October could cut off 20 those liabilities. And so I don't want to 21 attack that head on here. I really just 22 want to figure out a way to ask it so you 23 don't feel like you're compromising 24 anything you believe there, but to get a 25 clean answer.	Page 149 1 I just don't recall what the step, 2 whether it was -- whether the products were -- 3 you know, whether, yeah, whether the business 4 was, was taken out of Holdco before it became 5 Holdco or whether the products were taken out 6 after it got renamed Holdco. 7 ATTORNEY DEAN: Okay. I'm going to 8 object to nonresponsive and foundation and 9 try to -- I'm more confused. But let me 10 see if I can get this. 11 THE WITNESS: I'm sorry. Sorry. 12 BY ATTORNEY DEAN: 13 Q When Old JJCI ceased to exist in 14 October of 2021, the liabilities for consumer 15 talc went to LLT, and then the assets for the 16 consumer business plus any liabilities that 17 weren't related to cosmetic talc went to New 18 JJCI; correct? 19 A Correct. 20 Q And one of the explicit parts of what 21 was going to the New JJCI was the baby powder, 22 Johnson's Baby Powder line. You have feelings 23 about whether that included talc or just 24 cornstarch. But it certainly included the 25 Johnson's Baby Powder line; correct?

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Page 150 1 A Correct. 2 Q And Mr. Mittenthal, as a 3 representative for Holdco, talked about when 4 there was a name change, so that instead of 5 talking about JJCI 2 or -- which is the same 6 thing as New JJCI, it went by the name "Holdco"; 7 correct? 8 A Correct. 9 Q Okay. And until the spinoff on 10 April 4th of 2023, from whenever that start time 11 was with the name change to Holdco, the making 12 or selling of the product that's says "Johnson 13 Baby Powder" rested in the hands of Holdco; 14 correct? 15 A I'd -- not necessarily. I need to -- 16 that's what I need to check on. Let me just 17 think about this for a second. The -- remember, 18 at some point for the Project Diamond, the 19 consumer business that was at Holdco was, was 20 transferred out, right. And that -- I just 21 don't know whether that happened before after 22 the name change. 23 Q The name change between what we're 24 calling JJCI 2 or New JJCI to Holdco; correct? 25 A The name change between JJCI 2 or	Page 152 1 this came as you and I were talking. I'm not 2 sure where, where I can look. 3 Q Let me at least, for what I'm hoping 4 to understand, based on investigations done. 5 A Uh-huh. 6 Q If we take 2021 to now, the only 7 companies that were responsible for the making 8 or selling of a product that said "Johnson's 9 Baby Powder" on it -- putting aside whether it 10 contained cornstarch or talc until you and I get 11 to talk about that -- were Old JJCI, then New 12 JJCI, which was renamed to Holdco, Janssen, and 13 then finally Kenvue. Is that true? 14 A No. Janssen was never -- so -- 15 Janssen was not in that line. It's because -- 16 the way that this transaction worked was that 17 the consumer operating business was transferred 18 to an entity. And the shares of that entity 19 were distributed up. 20 In other words -- like, for example, 21 the Janssen -- Janssen never made baby products, 22 consumer products, or was responsible for baby 23 product. It owned shares -- it was -- in a 24 holding company. It owned shares of a company 25 that, that had operations.
Page 151 1 Holdco. It's the same company. I just don't 2 know when the name change occurred in relation 3 to the consumer assets being taken. 4 Now, let me see. It could -- it may 5 be in the step chart. 6 Q Please look if that's helpful. 7 A If you look at the step chart, you 8 know, it's in the January 2023 period. 9 Maybe -- I don't know if Mittenthal 10 has it in his January... 11 This is -- so it's ambiguous. If you 12 look at Mittenthal's chart, on February 3rd, 13 2023 he calls it Holdco/JJCI 2. And so it's 14 unclear what name it was going under at the 15 time. It would have been varied -- you know, it 16 was, it was either Holdco -- it was either 17 called Holdco or it was called JJCI 2. 18 But in February, that's when it 19 transfers JJCI 3 to Janssen. 20 Q I see where you're at in looking 21 at Mr. Mittenthal's notes. In order to 22 understand or kind of better understand that 23 area where there's a lack of clarity, have you 24 investigated that at all? 25 A I have not. It just came -- yeah,	Page 153 1 So, so Janssen is the same as any 2 other, any other parent whose -- you know, it's 3 just a holding company and holding shares. 4 So -- 5 Q For who? In that timeframe, for who? 6 A For who? So Janssen held the shares 7 for like an hour on, on, I think, February 3rd, 8 2023. 9 Q So -- 10 A So it's, so it's not making Baby -- 11 it's not -- it's not -- it doesn't have 12 the assets -- it doesn't hold the assets of the 13 company that makes any type of powder or 14 anything. 15 It hold shares for a company whose 16 subsidiary makes consumer products. And so for 17 that hour, that company went through Janssen -- 18 again, remember the basket of apples. Janssen 19 had other apples. 20 So it goes up to Janssen. Janssen 21 takes its apple, drops it in the bucket. And 22 then that bucket moves up to DePuy, who then 23 takes its apples and puts it in. But the basket 24 of apples contains one of the companies whose 25 subsidiary is in the business of manufacturing

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Page 154 1 consumer products. 2 Q I'm still not entirely following you. 3 Let me try to break a few things down. 4 Old JJCI ceased to exist in October 5 of 2021; correct? 6 A Correct. 7 Q New JJCI no longer exists; correct? 8 A Correct. 9 Q Holdco does; correct? 10 A Holdco, Holdco does. But Holdco does 11 not have consumer companies. 12 So at that time what happens is -- so 13 JJ- -- let's start backwards. JJCI owned the 14 consumer companies. It also owned other stuff, 15 right. It also owned pharmaceutical products. 16 It owned Apsis. 17 So JJCI takes its consumer companies 18 and sticks them in the subsidiary, which is JNTL 19 2 Holdings, right. So that, that now 20 contains -- 21 Q That's just a holding company; right? 22 A Sorry? 23 Q That's just a holding company. 24 They're now -- 25 A It is a holding company; yeah,	Page 156 1 BY ATTORNEY DEAN: 2 Q I understand from your answers that 3 you do not believe that DePuy or Janssen or the 4 holding companies we've talked about, JNTL 2 or 5 Holdco, were responsible for the making or 6 selling of baby powder. They rather held shares 7 for those that did, depending on the time. 8 Fair? 9 A Fair. 10 Q I'm trying to figure -- I mean, it's 11 helpful to know who it isn't, in your mind. But 12 I'm trying to figure out who it is. 13 So we know for at least some period 14 of time before October of 2021 Old JJCI was 15 responsible for the making and selling of baby 16 powder; correct? 17 A Yes. 18 Q After that date until today, who was 19 responsible for making and selling any product 20 that has the name Johnson's Baby Powder on it? 21 A Got it. So, again, I think you're 22 asking for a legal conclusion about who's 23 responsible. All I can tell you is what the 24 assets were, who owned the assets, and what they 25 did. So --
Page 155 1 absolutely. It just -- it has shares. But, 2 but -- it is shares in those -- in the company 3 that has the assets of the consumer company, 4 which is New JJCI, so JJCI 3, right. 5 And so all that's going on, when 6 Janssen gets it, Janssen only gets the holding 7 company shares, right. It doesn't 8 manufacture -- it still has no manufacturing. 9 It doesn't do anything other than hold the 10 shares for an hour while it takes its apple, 11 sticks it in the basket and then sends it up to 12 DePuy. 13 They do the same thing. They hold 14 the shares of a company that they have to put 15 their apples in, in the basket, so that when it 16 goes -- then they bring it up to Johnson & 17 Johnson. And they -- Johnson & Johnson gives 18 the basket to Kenvue, right. 19 So it's not the assets that are 20 making and manufacturing and do a lot of stuff. 21 That's held in a different company whose shares 22 are being transferred up. 23 ATTORNEY DEAN: So let me object to 24 nonresponsive and see if we can get to 25 what I am looking for.	Page 157 1 Q I don't want to necessarily know who 2 has the shares. But what company believed that 3 they were responsible for making and selling the 4 physical product that bore the name Johnson's 5 Baby Powder on it, starting in October 2021? 6 A Yeah, again, I don't think that I'm 7 prepared to answer -- I haven't thought about 8 that question. I'm thinking about it now, who's 9 responsible for it. 10 Again, what I, what I can testify to 11 is where, you know, where the assets are, you 12 know, who's doing it and -- so who owns it, sort 13 of the ownership structure, you know. 14 The responsibility for it, I think 15 that's sort of a legal conclusion I really 16 can't -- I haven't thought about. And in this 17 short period of time -- you know, I'm not saying 18 short period of time -- you know, we're talking 19 about from February to March or April of 2023. 20 That -- I really haven't, I haven't 21 thought about. I honestly have not thought 22 about that. 23 ATTORNEY DEAN: I'm going to -- let 24 me break down a few things. And I want to 25 say --

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Page 158 1 THE WITNESS: Sure. 2 ATTORNEY DEAN: -- "doughnuts." It's 3 just, again, a convention for my own -- I 4 juggle too much. It just helps me. 5 BY ATTORNEY DEAN: 6 Q There's no question you signed an 7 affidavit. It is very clear that the company 8 that was making and selling baby powder for some 9 period of time was Old JJCI; correct? 10 A Correct. 11 Q Okay. Companies like Kenvue know 12 that today they are the company that are selling 13 and making the product that says "Johnson's Baby 14 Powder" on it; correct? 15 A Yes and no. I hesitate because -- 16 you know, I think that's -- I haven't really 17 looked at that from Kenvue's perspective today. 18 But I believe that's true. 19 Q It's the middle part that -- outside 20 of legal opinions -- and we're in a room full of 21 lawyers. But outside of the legal opinions, 22 companies know what they're making. They know 23 what they're selling. 24 And I'm just trying to figure out 25 that after October of 2021, when Old JJCI's	Page 160 1 The difficulty is there is a sense of 2 transition going on during this short 3 period of time where there are corporate 4 transactions being done in order to 5 basically get Kenvue, the company. 6 And I just haven't studied in detail, 7 you know, who -- what the -- what the 8 responsibilities were during the period, 9 because it's just never come up. 10 I'm trying to figure out, trying to 11 think about -- because these were all 12 within the J&J family of companies, these 13 particular transactions, I don't know if 14 it would matter to the companies, you 15 know, as to which one, you know, which 16 one -- what issue happened. 17 So taking talc aside, because we all 18 know anything related to talc is LTL's 19 responsibility. So these guys -- so these 20 other companies wouldn't have any interest 21 in that. 22 But for any other product that's 23 being produced at that time, I don't know 24 that anyone ever looked at that issue and 25 determined, like, if there was a problem
Page 159 1 gone, and then the date you gave me on April 2 4th, 2023, when Kenvue is taking on that 3 project, who was the company -- not holding 4 shares, not passing a basket -- but truly 5 responsible for the day in and day out mechanics 6 of making a product? And here the product is 7 anything that has the name Johnson's Baby Powder 8 on it. 9 My understanding -- 10 (Crosstalk.) 11 -- is that is New JJCI, which bore 12 the name change Holdco from October till April 13 4th, and that any other adjustments and handing 14 out baskets were just handing off shares and not 15 the actual responsibility. 16 Do you know one way or another if 17 I've got that right? 18 A I think that -- 19 ATTORNEY BROWN: Objection to the 20 form. 21 THE WITNESS: So I understand your -- 22 I'm sorry. 23 ATTORNEY BROWN: Yeah, I was just 24 objecting to the form. Go ahead John. 25 THE WITNESS: Yeah. And I apologize.	Page 161 1 with this product -- you know, if an issue 2 arose, who would be responsible for it at 3 this period of time. 4 It's just -- it's a short period of 5 time, and I don't think anybody really was 6 focused on it. 7 BY ATTORNEY DEAN: 8 Q So in terms of actually talking to 9 people to figure out whether that's true, that 10 no one's focused on it, have you, have you 11 investigated since you found out you were in 12 this role whether someone knows who -- where the 13 buck stops within this J&J family that you 14 referenced during that timeframe of October 2021 15 until August -- or excuse me -- 16 (Crosstalk.) 17 A I should have asked -- I could have 18 asked Donnie McGraw, Donald McGraw when I had 19 him on the phone. I just didn't -- wasn't 20 thinking about this issue at the time. He may 21 have some idea -- my guess is -- but I would say 22 the likely situation is no one thought about 23 this issue. 24 If you're talking about this small 25 period of time where things are being

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Page 162 1 transitioned, because they're all at that point 2 Johnson & Johnson family of companies, at some 3 point -- it would have been, it would have been 4 hashed out internally as to who should take 5 responsibility for, for a product. But, you 6 know, I don't think, pre transaction, anyone 7 would have thought of this. 8 BY ATTORNEY DEAN: 9 Q I'll suggest that that October to 10 April timeframe of over a year, for people who 11 were in the situation of my client, isn't a 12 small amount of time. And at the heart of what 13 we're trying to sort out is whether what you're 14 saying is a hundred percent right, no one in the 15 J&J family cared about, we deeply do because of 16 predecessor laws. 17 And I want to make sure I'm not 18 surprised that someone says: You got the wrong 19 person in this J&J family after October -- 20 (Crosstalk.) 21 So if I want to know the answer -- I 22 really genuinely, if I want to know that answer 23 for November or December of 2021 for the 24 entirety of the period of time until, I think 25 you told me April 4th of 2023, who was	Page 164 1 determined which of the J&J companies 2 might have been responsible. But what I'm 3 saying is before that, the issue would not 4 have come up. 5 BY ATTORNEY DEAN: 6 Q And my question is driving not an 7 assignment of liabilities for past baby powder 8 but just understanding which subsidiary or 9 subsidiaries in the world of J&J's enterprise 10 were responsible in those interim months, about 11 half a year, from when it left Old JJCI because 12 it ceased to exist to when Kenvue took over so 13 that I know for sure that I'm not grabbing 14 somebody like what you said was Janssen, who was 15 just holding shares and actually looking at the 16 entity that was making the product, was selling 17 the product. 18 And if I want to know that for any 19 time in that timeframe, can you, can you confirm 20 for me on behalf of either Kenvue or Holdco? 21 A Can I confirm for you, I'm sorry, 22 what what? 23 Q Who was responsible for making and 24 selling the product that had "Johnson's Baby 25 Powder" on it October of 2021, after Old JJCI
Page 163 1 responsible for the actual making or selling of 2 baby powder anywhere in the world, you think 3 McGraw may know, but you haven't confirmed. 4 Do I have that right? 5 ATTORNEY SANTOLI: Hold on one sec, 6 John. Hold on one sec, John. I just want 7 to object to the form the question. 8 Go ahead. 9 THE WITNESS: So what I would say is 10 I did not say that nobody cared about it, 11 but in terms of no one looked at this 12 issue. 13 In terms of liability to a 14 third-party like your client, it's a legal 15 issue. It would have been, it would have 16 been hashed out when it came. 17 Certainly if there's liability there, 18 it would have been determined. So it's 19 not that anyone at the J&J companies was 20 ignoring, you know, serious issues that 21 may affect your client. 22 It's just this issue never -- was not 23 something that was, was looked at because, 24 again, we're dealing with all the J&J 25 companies. At some point we would have	Page 165 1 ceased to exist and April 4th, 2023, when Kenvue 2 took over? 3 ATTORNEY BROWN: Objection to the 4 form. 5 THE WITNESS: Well, again, I think 6 we -- the only timeframe that we're 7 talking about is the timeframe in, you 8 know, February of 2023, right. So we know 9 before that it was New JJCI which was 10 responsible. I think I already covered 11 that. And I think -- 12 BY ATTORNEY DEAN: 13 Q Let me pause there because I missed 14 that. And so that helps a lot. Let me -- so 15 between October, when Old JJCI ceased to exist, 16 and February of the next year -- so we're going 17 from October of 2022 -- excuse me -- October of 18 2021 until February of 2023 -- it is your belief 19 that New JJCI, which changed its name to Holdco, 20 the company you're representing today, was 21 responsible for the making and selling of baby 22 powder; correct? 23 A I agree, yes. 24 Q So we're -- I missed -- I somehow 25 missed that.

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Page 166 1 (Crosstalk.) 2 A That's the only time period we're 3 talking about, is during this transition period 4 where the companies are being shifted around in 5 preparation to be sold -- to be given to Kenvue. 6 So that period of time, I don't know that we've 7 looked at that issue. 8 Q From February of 2023 until April 9 4th of 2023, that period? 10 A That period of time. 11 Q You mentioned that there were 12 multiple companies that would be responsible for 13 the foreign making and selling of a product. 14 You gave an example of a small country might 15 only have three people that are doing a bunch of 16 things. 17 Do you know what entities or 18 subsidiaries, before Kenvue took over, were 19 responsible for the making and selling of baby 20 powder, regardless of where in the world it was, 21 other than Old JJCI and New JJCI/Holdco, which 22 we've already discussed? 23 A So when I say, you know, New JJCI was 24 responsible only for the domestic market, the US 25 and Canada. The -- all the foreign subsidiaries	Page 168 1 trying to figure out whether operations 2 continued and management continued and all that 3 stuff, how do I start understanding which 4 companies were responsible for the making and 5 selling of baby powder throughout the world, 6 both pre Kenvue spinoff and after? 7 Can you help me understand that at 8 all? 9 ATTORNEY BROWN: Objection to the 10 form of the question. 11 THE WITNESS: Yeah, I don't, I don't 12 know how. There might be systems in place 13 to let you know which companies made what 14 product. But I can tell you -- if it's 15 anything like the old J&J system, it's 16 very difficult to figure that. 17 BY ATTORNEY DEAN: 18 Q The only product, at least now, I'm 19 asking about is Johnson's Baby Powder. So if I 20 just want to know how many subsidiaries, first 21 when the J&J enterprise were making and selling 22 it, other than to JJCI for the US and Canada, do 23 you even know how many different companies we're 24 talking about. 25 ATTORNEY BROWN: Let me just object.
Page 167 1 that are manufacturing and selling the consumer 2 products are responsible for their own consumer 3 products. 4 ATTORNEY DEAN: And that's what I'm 5 trying to understand the foundation for. 6 And so I'll object, just in case there 7 is -- I don't know. But let me, let me 8 back up for a minute. 9 BY ATTORNEY DEAN: 10 Q Today, whether baby powder is being 11 sold in the US or Canada or Mexico or Brazil or 12 somewhere else, ultimately that's part of the 13 Kenvue enterprise, although it's divided up by 14 different subsidiaries; correct? 15 A Today, yes. 16 Q Okay. In terms of how that was done 17 before the spinoff, my understanding is you're 18 telling me all of the baby powder that was made 19 and sold in this country was in the hands of Old 20 JJCI for at least some period of time but 21 limited to, again, the US and Canada. If it was 22 somewhere else, it was a different part of the 23 J&J enterprise; fair? 24 A Correct. 25 Q How do I know, if I'm -- since I am	Page 169 1 Are we talking internationally? The 2 question is the subsidiaries outside of 3 the United States. 4 ATTORNEY DEAN: Yes. 5 ATTORNEY BROWN: Okay. 6 THE WITNESS: I think it's very, I 7 think it's very difficult. I can tell 8 you -- like, for example, just on using a 9 different product, Tylenol, at some point 10 trying to figure out who was selling 11 Tylenol around the world is a very 12 difficult task. 13 There might be -- the only way to do 14 it might be to ask everybody, you know, 15 and have them report out. I don't, I 16 don't know that there's a centralized 17 system to query, you know, give me a list 18 of all companies that are producing baby 19 powder and get a feed-out, you know, a 20 printout of those companies. I, I don't 21 believe that exists. 22 But I did not look at that issue. 23 But, you know, knowing what I know about 24 other products that we tried to do this 25 with, it would be very difficult.

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Page 170 1 BY ATTORNEY DEAN: 2 Q So to figure that out, what I do know 3 from what you've told me today is that when 4 things were spun off from the Johnson & Johnson 5 enterprise, different companies involved with 6 consumer brought it in the basket of J&J and 7 then it was handed over collectively to Kenvue 8 and their enterprise of companies. 9 Do you recall that? 10 A Yes. 11 Q So some fairly recently had to go 12 through actually collecting all the different 13 entities in the Johnson & Johnson group that 14 touched consumers so that this handoff could 15 occur; correct? 16 A That might be true. There may be a 17 list of the J&J companies, all the consumer 18 companies. My problem was trying to say which 19 ones sold baby powder. And so -- 20 (Crosstalk.) 21 Q One of the things that we've 22 discussed kind of at length with Johnson & 23 Johnson and the related entities in this context 24 of this litigation is just the 25 goodwill/trademarks/J&J name associated with	Page 172 1 representative of Kenvue of just when was the 2 last time that baby powder specifically 3 containing talc was sold and what country was it 4 in and did they track how long it took to sell 5 it after they last made it. And ultimately he 6 didn't know the answers to those questions. But 7 there was a back-and-forth. 8 Do you recall, at least generally, 9 seeing that discussion? 10 A I generally recall seeing that, yes. 11 Q And so if I want to get some concrete 12 information about which companies in the Kenvue 13 structure that used to be in the J&J structure 14 continued to make and sell baby powder so that I 15 can understand whether there are changes to the 16 operations or management, how long they had talc 17 and how long they sold talc, the threshold kind 18 of beginning inquiry of figuring that out, which 19 to me is knowing who is responsible for it in 20 either the J&J structure or the Kenvue 21 structure, is something you believe would be 22 difficult but haven't looked into. 23 Is that fair? 24 A I think it would be virtually 25 impossible. And -- but I have not looked into
Page 171 1 baby powder being continued after this 2 restructuring you were involved in in 2021 is 3 relevant to this issue of successor liability. 4 And it's not just limited to goodwill in the US. 5 We're interested in what continue to occur using 6 that name and that goodwill. 7 With that -- well, first of all, did 8 you know that that's part of what we're 9 discussing with juries and judges as it relates 10 to Kenvue and Holdco? 11 ATTORNEY BROWN: And you ask if he 12 personally, Mr. Kim, knows, or if these 13 companies know? 14 BY ATTORNEY DEAN: 15 Q Well, I'll start with you. Because 16 if you don't know, then it's hard to talk to you 17 as a -- 18 (Crosstalk.) 19 A I vaguely recall some line of 20 questioning. Did you -- if you asked Jim 21 Mittenenthal about this, then I may have read it 22 in his deposition. You know, I vaguely recall 23 some line of questioning about goodwill. 24 Q So there was, there was an 25 examination of them as the corporate	Page 173 1 it. Because you'd have to go -- basically you'd 2 have to go country by country and entity by 3 entity to find out internally from them when 4 they may have produced or sold, you know, their 5 last bottle. And I think it would be very, very 6 difficult. 7 Q In terms of trying to figure out that 8 information, certainly there are people and 9 documents both that exist that track what an 10 entity is making and selling; right? 11 A Not necessarily. 12 ATTORNEY BROWN: Objection. 13 Objection to the form. 14 Go ahead. 15 THE WITNESS: Not necessarily. I 16 don't know a centralized location for 17 product tracking. You know, each country 18 is responsible for its products. And the 19 reporting in of that I think is sporadic. 20 ATTORNEY DEAN: Well, going to try to 21 object -- I'm going to object to 22 nonresponsive. 23 BY ATTORNEY DEAN: 24 Q And independent of asking whether 25 it's a centralized system, are you aware that

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Page 174 1 certainly companies and their subsidiaries when 2 they're making a product have some kind of 3 knowledge base of what they were making and 4 when, whether it be through people that were 5 directly involved or documentation -- 6 A Generally -- 7 (Crosstalk.) 8 Q -- enterprise? 9 A Yes, generally that's true within 10 that company. 11 Q In terms of time and effort spent by 12 anyone at Kenvue or Holdco, has anyone tried to 13 figure out, outside of the United States and 14 Canada, the individuals that were directly 15 involved with making and selling Johnson's Baby 16 Powder since Kenvue took over for that product? 17 ATTORNEY BROWN: Objection to the 18 form. 19 THE WITNESS: I do not know. I doubt 20 that happened, but I have not inquired 21 about that. 22 BY ATTORNEY DEAN: 23 Q In terms of DePuy and Janssen you 24 have, you know, kind of a medium and strong 25 explanations for why those companies, despite	Page 176 1 A Okay. So with the same caveat that I 2 don't -- again, what would have happened is they 3 would have gotten the basket. So they would 4 have gotten shares of companies. 5 But if you look at the step chart 6 that, you know, that was produced -- 7 Q When you say "they," who did you mean 8 by "they"? 9 A McGraw. It also lists, I think, 10 Johnson & Johnson International. Seeing if 11 there's anything else. Nope. Just -- Johnson & 12 Johnson International is another company that 13 was involved. 14 Q I was trying not to interrupt. But 15 you in the beginning of that said "when they got 16 the basket" and went on to answer your question. 17 When you said "they," were you 18 talking about Janssen and DePuy or someone else? 19 A I'm sorry. I lost track of my 20 answer. Let me start again. 21 So with the same caveats that you had 22 said that I don't believe that Janssen and 23 Johnson & Johnson were responsible because, 24 because they just got the same -- the shares of 25 the company in the basket that was manufacturing
Page 175 1 having shares associated with the making and 2 selling of baby powders, were not responsible 3 for it. Do you remember that broadly? 4 A Yes, I do. 5 Q Was there any other entity in that 6 February 2023 timeframe until April 4th -- when 7 it went to Kenvue -- of 2023 that were involved 8 in the restructuring that implicated the making 9 and selling of baby powder other than what we've 10 called J&J New/Holdco and Johnson & Johnson? 11 A I'm sorry. Could you repeat that. 12 I'm sorry. 13 Q When you described kind of the 14 transactions that occurred between February 15 of 2023 and April 4th of 2023, you mentioned 16 DePuy and Janssen but were very clear that you 17 don't believe that they were responsible for the 18 making and selling; they just had the shares. 19 And my follow-up on that was just: 20 Other than Johnson & Johnson itself and what 21 we've called J&J -- or, excuse me -- 22 JJCI 2/Holdco, are you aware of any other 23 companies that were involved in this corporate 24 transitioning period between February and April 25 of 2023?	Page 177 1 consumer products. 2 In that same vein, Johnson & Johnson 3 International is also in that transaction where 4 it got the basket to put in its consumer apples, 5 and then, and then brought it up to Johnson & 6 Johnson. 7 So if you look at the step plan, 8 Johnson & Johnson International is in the 9 similar situation. 10 Q Okay. So I understand you to say 11 that pre October 2021, before Old JJCI ceased to 12 exist, they had the responsibility for the 13 making and selling of baby powder, transferred 14 after that to New JJCI/Holdco until February, 15 and then from February to April 4th, we kind of 16 have an asterisk; and after April 4th, 2023, it 17 goes to the Kenvue structure, where the 18 timeframe with the asterisk, there are companies 19 that were involved, including DePuy, Janssen, 20 and J&J international, where you take the 21 position that those companies are not 22 responsible for the making and selling but 23 simply held the assets for the shareholders. 24 Are we together so far? 25 A Right. Although I would not say they

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Page 178 1 held the assets. They held shares of a company 2 whose assets included, included the making -- 3 you know, the manufacturing and selling of 4 consumer products. 5 Q And as a result of that 6 understanding, you believe that those three 7 entities were not actually responsible for the 8 making and selling of the products themselves? 9 A Correct. 10 Q Did I get that right? 11 A Correct. 12 Q With that clarification, do I have 13 kind of the broad timeline that I laid out 14 correct? 15 A You do. 16 Q For that February asterisk time, for 17 lack of a better or sophisticated way to 18 reference it, you've excluded, from your 19 understanding, responsibility for making and 20 selling of responsibility three companies. But 21 certainly in that timeframe products that said 22 "Johnson's Baby Powder" were being made and 23 sold; correct? 24 A Correct. 25 Q And in terms of who actually was	Page 180 1 So that's actually not reflected in, 2 I think, Mittenthal's chart. But if you look at 3 the -- 4 Q I follow what you're saying, but I 5 want to make sure we're on the same page. 6 What you just read was discussing the 7 transition from JJCI 1 to 2, which does not 8 answer the question -- 9 A No, no, no. 10 Q Okay. 11 A This is, this is January of '23, 12 January of '23. So the problem is, see, when 13 you look at the step plan, they don't -- he 14 doesn't call it JJCI 1, 2, 3. 15 Old -- when he -- what he calls Old 16 JJCI is what we're calling New JJCI. And what 17 he calls New JJCI is JJCI 3. 18 Q That's what you believe from James 19 Mittenthal? 20 A No. This is what I believe from, 21 from Donald McGraw's step chart. 22 Q Ah. I'm looking for that step chart 23 so that I'm looking at the same thing as you. 24 A Okay. So it's a -- it's the one that 25 says -- it's 11 of 20 -- is that right? Yeah --
Page 179 1 responsible, as opposed to your exclusion, is 2 there any company that you're aware of that 3 would have been involved other than this company 4 we've been calling New JJCI/Holdco? 5 A The -- I think the business was being 6 run out of I think a new New JJCI. 7 Q What you doing? 8 A I think -- JJCI 3. I think JJCI 3 is 9 the operating unit for at least US consumer 10 products. 11 Q When you say new New JJCI, is that 12 the same as what we've been calling JJCI 3? 13 A Yeah, I believe it is. 14 Q When do you believe that the 15 responsibility for making and selling Johnson's 16 Baby Powder transferred from what we've called 17 New JJCI or JJCI 2/Holdco to what I'm going to 18 call JJCI 3? 19 A So I'm looking at the step plan 20 again. So I think January 2023. And -- so if 21 we look at the step plan of January 2023, it's 22 on Mittenthal's -- Old JJCI contributes consumer 23 health business assets, liability, subsidiaries, 24 and employees to New JJCI in exchange for 25 additional paid-in capital.	Page 181 1 11 of 20, completed January 23rd -- January of 2 2023. Do you see that one? 3 Q No. But that doesn't mean I can't -- 4 give me one moment. 5 So I don't see that in the 6 information that was produced, looking at your 7 link. 8 A It's in the step plan, the -- 9 ATTORNEY BROWN: It would have been 10 an exhibit to Mr. McGraw's deposition, as 11 I recall. 12 THE WITNESS: Yeah. 13 ATTORNEY BROWN: And, Jessica, I 14 don't mean to put him on the spot again, 15 but I expect Mr. Santoli could email it to 16 you, if that helps expedite things. 17 ATTORNEY SANTOLI: Sure. I can -- 18 ATTORNEY DEAN: I'm looking at the 19 border productions as well that you guys 20 sent. 21 ATTORNEY BROWN: Well, I think what 22 we didn't do is if it was something that 23 was already identified in connection 24 with Mr. Mittenthal, we didn't re-send it. 25 And that might have fallen into that

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Page 182 1 category. But I'll let Mr. Santoli 2 answer. 3 ATTORNEY SANTOLI: It did. You might 4 also see it as Exhibit A to the Donald 5 McGraw deposition -- declaration. 6 ATTORNEY DEAN: I have the 7 declaration. I have the chart identifying 8 the Exhibit B document. 9 THE WITNESS: Exhibit A or...? 10 ATTORNEY DEAN: But Exhibit A, I'm 11 just not, I'm not -- 12 ATTORNEY SANTOLI: I can send you 13 Exhibit A right now. One moment. Sorry. 14 ATTORNEY BROWN: Thank you, Chris. 15 ATTORNEY SANTOLI: Sure. 16 ATTORNEY BROWN: And, Jessica, I 17 don't know if you want to do it now or 18 once we get through this chart, but when 19 you get to a good spot, could we take 20 another short break, please. 21 ATTORNEY DEAN: Yes. While that's 22 coming up, I'll look at that, I think, on 23 the next break. But I'll just use the 24 next few minutes. 25 BY ATTORNEY DEAN:	Page 184 1 exist, whether it be when it was in the J&J 2 enterprise of companies or when it was spun off 3 to the Kenvue enterprise of companies, did you 4 speak to anyone directly involved with the sales 5 of Johnson's Baby Powder? 6 ATTORNEY BROWN: Object to the form. 7 THE WITNESS: I did not speak to 8 anyone directly involved in the sale. I 9 do from time to time speak to our 10 attorneys that were involved in underlying 11 cases, which decision comes up in -- 12 several times. But I did not speak to 13 anyone directly on the ground about, about 14 this. 15 BY ATTORNEY DEAN: 16 Q Have you spoken to -- 17 A At any of the Johnson & Johnson 18 companies internally about it. 19 Q And the question was meant to be not 20 just during that timeframes from October of 2022 21 in the Johnson structure but even in later years 22 when it went into the Kenvue structure, whether 23 in either structures you've talked to anyone who 24 was actually involved with the sales of baby 25 powder.
Page 183 1 Q Did you speak with anyone who was 2 involved in the sales of Johnson's Baby Powder 3 after Old JJCI ceased to exist in October of 4 2021? 5 A I'm sorry. Did I speak with 6 anyone -- 7 Q -- involved in the sales of Johnson's 8 Baby Powder after the discontinuation of Old 9 JJCI in October of 2021? 10 A I don't believe so. I know at that 11 time talc products had been discontinued. So I 12 don't think I would be speaking to anyone in the 13 business after that date. 14 ATTORNEY DEAN: So part of -- I'm 15 going to object to nonresponsive. 16 BY ATTORNEY DEAN: 17 Q Part of discovery is wanting to 18 verify things that seem contentious. And 19 that -- you just nailed the head on one of the 20 biggest ones. 21 Instead of hearing from someone who 22 never was actually on the ground about what did 23 happen, seeing if we can verify certain things. 24 And so my question I'll return back 25 to. After October, when Old JJCI ceased to	Page 185 1 My understanding is you have not; is 2 that fair? 3 A Well, in my conversation with -- so 4 if it's anyone at Kenvue, I mean, in my 5 conversations with Chris Andrew recently, we did 6 discuss that they were not selling and that 7 Kenvue never sold baby powder with, with talc in 8 the United States. So I did speak to him about 9 that, to confirm that. 10 He's, you know, not -- you know, I 11 don't know whether you consider him 12 on-the-ground sales. But he is at Kenvue. 13 ATTORNEY DEAN: Let me object to 14 nonresponsive. 15 BY ATTORNEY DEAN: 16 Q And to kind of flesh that out, Chris 17 Andrew is a lawyer; correct? 18 A He is. 19 Q Do you know who Chris Andrew spoke 20 to, if anyone, in order to educate himself on -- 21 educated himself on what was sold by Kenvue or 22 Johnson & Johnson as it relates to baby powder 23 at any time? 24 A I did not ask who he spoke to. He is 25 the head of their business law unit. I'm not

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Page 186 1 sure who he spoke to, though. 2 Q And I'm pretty familiar with J&J's 3 messaging. But if I want to understand kind of 4 the factual basis for the claims, Chris Andrew 5 is not a person who is involved with sales. You 6 just told me he was a lawyer in the business law 7 unit; correct? 8 A Yes. 9 ATTORNEY BROWN: Object to the form. 10 THE WITNESS: Yes. He's the head of 11 the business law unit. 12 BY ATTORNEY DEAN: 13 Q Have you spoken to anyone involved in 14 the sales for Johnson's Baby Powder, whether it 15 be in the Johnson & Johnson structure or Kenvue 16 structure, after Old JJCI ceased to exist in 17 October of 2021? 18 A I don't recall. Nothing comes to 19 mind. But from time to time I do speak to 20 people in the business about, specifically, baby 21 powder and talc. But I just don't recall that 22 specific conversation or who it was. 23 Q If something comes up -- I know at 24 the lunch break you remembered, you know, a 25 correction. That's fair. We're processing	Page 188 1 Johnson's Baby Powder, in the US or otherwise, 2 after October of 2021, when Old JJCI ceased to 3 exist, whether it be in the Kenvue or J&J 4 enterprises? 5 A I do not believe I have. 6 Q Same question for quality controls or 7 purchasing or safety or toxicology; have you 8 spoken to anyone in those four departments in 9 the J&J structure or Kenvue structure as it 10 relates to Johnson's Baby Powder, after October 11 2021? 12 A I have not. 13 Q Do you know anyone that works for 14 JNTL Holding? 15 A Not off the top of my head. So I 16 actually don't know who the employees are there, 17 if any. So I don't know. 18 Q In terms of kind of the structuring 19 before the spinoff and after, it's clear to me 20 that both companies -- meaning the J&J structure 21 and the Kenvue -- divided up the 22 responsibilities as it related for baby powder 23 into subsidiaries. There was sometimes holding 24 companies. There was these Johnson & Johnson 25 Consumer, Inc. companies.
Page 187 1 information. 2 But certainly if you had engaged in 3 trying to figure that out since you got this 4 role as corporate representative in the last two 5 days, you would have remembered it; fair? 6 A Yes. I absolutely did not speak to 7 anyone in the last two days. But in my role at 8 LLT, I may have spoken to people in the business 9 about baby powder sales. I just don't recall, 10 sitting here right now. 11 Q If I wanted to -- so if you don't 12 recall, the idea of getting names or 13 conversations or specifics isn't realistic; 14 fair? 15 A I think that's fair. 16 Q Same question: Did you speak to 17 anyone who was involved in the manufacturing of 18 Johnson's Baby Powder in any place after October 19 of 2021 when Old JJCI ceased to exist, whether 20 we're talking about in the J&J structure or the 21 Kenvue structure? 22 A I don't recall doing that. I don't 23 believe I did. 24 Q Have you spoken to anyone that is 25 involved with the marketing or advertising of	Page 189 1 I'm talking very broadly. But did 2 you see the same thing, that there was a 3 division of responsibilities among multiple 4 legal entities in the same kind of enterprise? 5 A So what I would say, I wouldn't call 6 them multiple responsibilities. I would say 7 that different units were housed in different 8 subsidiaries. 9 So I was -- you know, the other way 10 to think about is that the consumer business is 11 broken up among several subsidiaries. 12 Q But even within baby powder, you've 13 mentioned that sometimes there's someone at the 14 Johnson & Johnson end, Johnson & Johnson 15 Service, people in the consumer group that 16 weren't at JJCI, people that were in JJCI, 17 people that were involved with baby powder 18 internationally that weren't in any of those 19 structures. 20 Those are just examples. But even 21 for one product line you had different folks in 22 different legal entities involved in that line. 23 Fair? 24 A I believe that's true, yes. 25 Q In terms of structural changes among

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Page 190 1 various entities in one enterprise or family, 2 are you aware of any structural changes when 3 that was spun off from what was the J&J 4 enterprise to what is the Kenvue structure or 5 enterprise? 6 ATTORNEY BROWN: Objection to the 7 form. 8 THE WITNESS: Yeah, I, I have not -- 9 I do not know of any. But I -- honestly, 10 I've not looked. I did not -- yeah, 11 that's not something that I thought to 12 look to. 13 BY ATTORNEY DEAN: 14 Q Have you looked to obtain any sales 15 records available to either the Johnson & 16 Johnson group or the Kenvue group about sales 17 records for baby powder in the United States 18 after October of 2021? 19 A I have not. 20 Q Have you reviewed -- sorry. 21 A I say -- from time to time the net 22 worth of companies comes up in litigation. And 23 from time to time I've seen some net worth 24 information that involves sales of baby powder 25 or, frankly, their historical sales generally,	Page 192 1 in the context of net worth, you were looking at 2 total sales or profits, not specific sales 3 records. Is that fair? 4 A Correct. Total sales of a particular 5 product; right. 6 Q Was it broken down at all in the 7 timeframes -- which I understand pre 2021 -- by 8 different formulas in the same product line -- 9 so the cornstarch versus the talc versus the 10 lavender versus the medicated baby powder lines? 11 A I, you know, I don't recall if it was 12 broken down that much. I think there was data. 13 I think -- you could cut the data different 14 ways. I'm not sure how many -- you know, what 15 ways there were. 16 But again, not recently. 17 Q So for today, if I want to understand 18 for any period of time, whether it be pre 19 spinoff or post, the actual sales records broken 20 down by different types of Johnson's Baby 21 Powder, have you reviewed any of those records? 22 A I've not reviewed those record, no. 23 Q I'm assuming the answer would be the 24 same if I asked you for places outside of the 25 United States?
Page 191 1 because of -- you know, historical sales. 2 So from time to time I have seen 3 those. But I've not seen anything recently. 4 Q Do you have any specific memories of 5 what you did see that you can tell me about? 6 A Yeah. I vaguely recall like in 7 Barden in New Jersey, you know, there were sales 8 records -- or at least sales, yeah, sales 9 information. You know, in Ingham there was 10 sales information, I think broken down by states 11 and stuff. 12 So there -- I have seen sales 13 information but not recently. And not since 14 October -- 15 (Crosstalk.) 16 Q And outside -- 17 A Not since October of 2021. 18 Q Okay. So not since October 2021. 19 And while you can remember maybe the case or 20 state, can you remember the specific 21 information? 22 A I can't remember the specific 23 information, no. 24 Q More broadly -- I'm suspecting, and 25 so I'm asking for confirmation that -- if it was	Page 193 1 A Yeah, that would be correct. 2 Q Have you talked to anyone who was 3 involved with the actual management of or 4 implementation of stopping the selling of 5 Johnson's Baby Powder with talc at any time 6 within a company? 7 A Not directly. I have not spoken with 8 anyone directly about that. 9 Q Okay. What, what -- I smile just 10 because as a lawyer I have to follow up. 11 But what involvement did you have 12 indirectly? 13 A So it was reported to me. There were 14 several reports me as to what the companies were 15 doing about, about the discontinuation. 16 Generally, you know, from, from some 17 of my reports, sometimes from counsel that were 18 involved in litigation that was tracking it. So 19 I have had discussions about it. Mostly it 20 related to cases. 21 Q Let me ask first: Anyone other than 22 lawyers that reported to you about what they 23 were doing as it relates to efforts to decide to 24 or actually implement the decision to stop 25 selling talc in baby powder?

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Page 194 1 A It would only be attorneys. 2 Q And then I guess for the attorneys, 3 is there a specific attorney or group of 4 attorneys that you're thinking of? 5 A I've spoken to Andrew White about 6 that. I have spoken to some attorneys, outside 7 counsel, who were involved in some cases who 8 were following that. I believe it may have been 9 Kristin Fournier that I spoke to at some point. 10 But they're all counsel. 11 Q And Kristin Fournier is an example of 12 a lawyer that doesn't work in the J&J structure 13 but that was involved in the J&J cases. 14 A Correct. 15 Q I've met her, so I know, I knew that. 16 But I just wanted it to be on the record. 17 In terms of just trying to quantify 18 the number of bottles of baby powder that has 19 been sold since the Kenvue spinoff or the volume 20 of sales or the amount of profit of sales from 21 using the Johnson's name specifically in 22 relation to baby powder, have you made any 23 effort to understand that? 24 A I, I have not. I think -- I'm not 25 sure that was something -- yeah, I did not know	Page 196 1 "that"? 2 Q No. What I mean is when they were 3 discussing his memory about when sales occurred, 4 when manufacturing occurred, both in the US and 5 outside of the US, and the discussion about the 6 Johnson's Baby website that occurred, I think, 7 at two different times in the deposition. 8 So it's meant to be broader than what 9 you just said. 10 And there was testimony in the 11 deposition of Thibaut Mongon himself and then me 12 and Kenvue's corporate representative when it 13 was Jim Mittenthal went through some of that 14 testimony, along with Kenvue's lawyer going 15 through some of that testimony with 16 Mr. Mittenthal. 17 Did you review that? 18 A I did review that testimony. I was 19 not involved in the stoppage of sales. 20 Q If I wanted to understand any changes 21 into the packaging of Johnson's Baby Powder 22 after it went to Kenvue or after it left Old 23 JJCI and went to New JJCI, do you know the 24 specifics about that? 25 A I do not know any specifics about
Page 195 1 that was something that I should look into. 2 Q In terms of this -- you described it 3 sometimes even with outside hired lawyers and 4 lawyers that were in the J&J structure, trying 5 to report to you information about ceasing the 6 use of baby powder. 7 Was that limited to in the US, or was 8 that a broader discussion that you are trying to 9 do that? 10 A Oh, for me it was generally the US. 11 It was limited to the US. 12 Q Did you review Thibaut Mongon's 13 deposition that was attached to the deposition 14 of Kenvue through Jim Mittenthal in this case? 15 A I did. 16 Q And in terms of his memory about the 17 sale and manufacturing of baby powder and what 18 he was shown during his deposition on the 19 Johnson's Baby website, did you -- were you 20 involved in that yourself before you read his 21 testimony or Jim Mittenthal's testimony where we 22 were talking about it? 23 A No, I was not involved in that. 24 And I assume by "that" you mean the 25 advertisement of products on Amazon? Is that	Page 197 1 changes in packaging; no. 2 ATTORNEY BROWN: Jessica, can we take 3 a break when you have a chance. 4 ATTORNEY DEAN: Yeah. I was just 5 about to say, I just got to a transition 6 spot. Ten minutes sound good? 7 ATTORNEY BROWN: Great. 8 THE WITNESS: Thank you. 9 ATTORNEY BROWN: Thank you. 10 THE VIDEOGRAPHER: Okay. The time is 11 approximately 3:40. And we're off the 12 record. 13 (Recess.) 14 THE VIDEOGRAPHER: We're back on the 15 record. The time is approximately 3:54. 16 This is the beginning of media number 4. 17 Counsel, you may proceed. 18 ATTORNEY DEAN: I received the 19 Exhibit A from Tim McGraw over the break. 20 And I'm going to attach it -- 21 ATTORNEY BROWN: Donnie, Donnie not 22 Tim McGraw. I know. 23 ATTORNEY DEAN: From Donnie McGraw. 24 I'm going to attach that as Exhibit 41. 25 (Exhibit 41 was marked for

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Page 198 1 identification.) 2 ATTORNEY DEAN: And I think -- 3 ATTORNEY BROWN: It's Saturday. It's 4 all right. 5 ATTORNEY DEAN: Let's put on some 6 country music. It's called for. 7 And then Exhibit 40, I don't know if 8 I referenced it, but the second first-day 9 declaration from April 4th I have attached 10 as Exhibit 40, just so we have that on the 11 record. 12 BY ATTORNEY DEAN: 13 Q Mr. Kim, is the information that is 14 in the chart that I just marked as Exhibit 41, 15 kind of identifying different corporate 16 transactions that occurred, accurate to the best 17 of your knowledge as the representative today? 18 A It is. 19 Q Okay. There were three different 20 documents that we identified by date and 21 description and asked whether they were 22 authentic business records in topic 8 of our 23 deposition. 24 Do you know what I'm talking about? 25 A I do.	Page 200 1 referencing -- sorry. One second. Okay. 2 I think the document you're 3 referencing is what we marked as Exhibit 4 to 4 the deposition of Kenvue through Mr. Mittenthal 5 last week. I have it up on the screen. And it 6 says it right there in the document "draft"; 7 correct? 8 A Yes, correct. 9 Q Okay. And so I don't disagree with 10 you at all that it's a draft. But what I'm 11 trying to ascertain is: When it says it's a 12 draft of Project Plato master question and 13 answer whether I can trust that this is a record 14 maintained as a business record that is what it 15 purports to be -- and in this case a draft. 16 And so with that kind of 17 clarification, for the three documents we've 18 explicitly sought Kenvue and Holdco to make an 19 effort to determine whether they were kept in 20 the normal business records of business 21 activities to meet the business records 22 exception in whether they are what they purport 23 to be as authentic. 24 Can you verify that, again, for the 25 October 5th, 2021 email that we attached as
Page 199 1 Q They were marked as Exhibits 3, 4, 2 and 22 already to the deposition of Kenvue. Let 3 me just ask you: Are you aware and able to 4 acknowledge that those documents are authentic 5 business records? 6 A I thought Jim Mittenthal already did. 7 Is that not true? 8 Q He indicated he had no reason -- my 9 memory is to be suspicious -- but because they 10 were created before Kenvue, even though some of 11 them had individuals that were directors or 12 leaders of Kenvue on them, that he didn't make 13 the effort to determine whether they were 14 authentic business records. 15 And so it wasn't disputing, but it 16 wasn't acknowledging. And so my follow-up -- 17 (Crosstalk.) 18 A Yeah, so what I will say is I believe 19 they are business records. I will note that one 20 of them was a draft, the Q&A was clearly a 21 draft. But was kept and, you know, and 22 produced. So I have no reason to believe they 23 were not, they're not authentic business 24 records. 25 Q And certainly the record that you're	Page 201 1 Exhibit 3, the Project Plato draft master 2 question and answer as Exhibit 4, and the 3 memorandum of approval from October 11th, 2021, 4 that we attached as 22. 5 A Yeah, I have no reason to believe 6 they are not. 7 Q Okay. And if I want something better 8 than "no reason" -- which J&J lawyers might say 9 isn't proof -- have you made any effort to 10 figure out whether they are in fact authentic or 11 are, in fact, business records than have been 12 maintained in -- 13 (Crosstalk.) 14 A So the memorandum of approval -- can 15 you put that up for a second. 16 Q Oh, yes. The memorandum of approval 17 was marked as Exhibit 22. I have it on the 18 screen. It was also attached to Michelle 19 Goodridge's deposition as Exhibit 9. 20 A That's certainly -- so I have that 21 document in my possession. And that I can 22 authenticate as a business record. 23 The highlighting, though, is not 24 mine. I have no idea where the highlighting 25 comes from, the circles and things, you know. I

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Page 202 1 just don't know where that comes from. But the 2 document itself is a business record. 3 Q And the document you're referencing 4 is what I've attached as Exhibit 22 that has LTL 5 0027191 through 21801; correct? 6 A Correct. 7 Q And outside of the green 8 highlighting -- which I admittedly made those 9 circles and highlights -- the document itself 10 you're telling me is an authentic business 11 record? 12 A Correct. 13 Q As for the other two documents, I 14 just want to go through the same activity. I've 15 marked Exhibit 4 in the deposition that was 16 taken of Kenvue through Mittenthal earlier 17 this -- in the last month. This document, which 18 you can see has an exhibit sticker from another 19 case as well. But I will tell you the 20 highlighting again is for me. 21 But outside of that, are you in a 22 position to tell me whether this privileged and 23 confidential attorney-client work product draft, 24 not approved or reviewed, of Plato master Q&A is 25 an authentic business record?	Page 204 1 But I don't see an exhibit number on 2 it. I show that it's a 15-page document, 3 both PDF and as written on the document 4 itself that ends in item 65, if that 5 helps. 6 ATTORNEY BROWN: Okay. Okay. 7 I don't know, Mr. Kim, if that 8 changes your view. I don't think it does. 9 I just would feel more comfortable if we 10 saw a Bates number. 11 THE WITNESS: Yeah. I've seen it. I 12 mean, I've seen this document before. 13 ATTORNEY BROWN: Right. No, I agree 14 with you. And I'm not trying to be 15 difficult. It certainly got produced in 16 some context. And I'm wondering why it 17 doesn't -- why this one doesn't have a 18 Bates number. 19 ATTORNEY DEAN: If you want to switch 20 it out with the one with the Bates number, 21 I would prefer that. This is just -- 22 ATTORNEY BROWN: Okay. I understand 23 that. I don't think we're taking issue 24 with the document Mr. Kim recognizes as 25 Project Plato master Q&A being a business
Page 203 1 A So reserving any rights as to the 2 privileged issue -- I don't know where that is 3 and whether it's been asserted or not -- but 4 this is a business record. 5 Q Okay. 6 A Other than the -- 7 Q And -- 8 A Not the highlighting, of course. 9 Q Understood. And so outside of the 10 highlighting and setting aside that there may be 11 issues about privilege, you can tell me that 12 what I have on the screen as Exhibit 4 from a 13 prior deposition of Kenvue is an authentic 14 business record? 15 A Correct. 16 ATTORNEY BROWN: And, Miss Dean, I'll 17 just note for the record the copy you have 18 on the screen doesn't have a Bates number. 19 Would you mind just reading what the 20 Bates number is, for the record. 21 ATTORNEY DEAN: I don't have a 22 version of this, to my knowledge, with the 23 Bates number. It's marked as Kenvue 29.1. 24 I think it was part of the depositions 25 taken of Mongon or Ruh.	Page 205 1 record. I think what we'll do is endeavor 2 to find out if it was produced with a 3 Bates number and we'll swap it out. 4 BY ATTORNEY DEAN: 5 Q In the meantime, were you personally 6 involved, Mr. Kim, with this document during 7 those planning sessions or otherwise? 8 A I believe I reviewed, I reviewed it 9 prior, at some point. 10 Q And when you say "prior," I don't 11 know if you mean prior to sitting here today or 12 prior to it coming out -- 13 A Prior to coming out. 14 Q -- in October of 2021. 15 A I reviewed drafts of this document. 16 (Interruption.) 17 (Discussion held off the stenographic 18 record.) 19 BY ATTORNEY DEAN: 20 Q You said prior to something and I 21 completely -- 22 A So I reviewed, I reviewed prior 23 drafts of this document. 24 Q Okay. And when you said you reviewed 25 prior drafts of this document, I think you're

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Page 206 1 saying contemporaneous to when this was 2 happening not just prior to this -- 3 A Correct. 4 Q -- correct? 5 A Correct. 6 Q And this has a date of October 10th, 7 2021 on the top, just to orient us to when this 8 was happening. Do you agree? 9 A Yes. 10 Q Do you know if there is a final 11 version of this Project Plato master Q&A? 12 A I do not know. 13 Q I haven't seen any other versions -- 14 which is just to say I haven't seen any other 15 versions. Do you know if there are other even 16 versions, whether they're earlier in time or 17 later, other than the one we have? 18 A Yeah, I don't know whether there are 19 earlier versions or -- 20 Q Have you re- -- 21 A -- other versions existing. 22 Q Have you reviewed this at all in 23 terms of substance to see if any of the 24 information that was being relayed in this 25 document -- which is talking about Project	Page 208 1 heading, about Project Plato. 2 Do you agree that I'm reading that 3 right? 4 A Yes. 5 Q Okay. What is reported here is that 6 Project Plato has no impact on the operations of 7 Johnson & Johnson, JJCI, or other affiliates of 8 Johnson & Johnson. Johnson & Johnson, JJCI, and 9 all other affiliates of Johnson & Johnson will 10 continue to operate their business as usual. 11 Do you see where I'm at? 12 A I do see that. 13 Q And from your understanding as the 14 person directly involved with the lead-up to and 15 finalization of the restructuring called Project 16 Plato, was that an accurate summary? 17 A It is an accurate summary. The 18 Project Plato restructuring was designed to have 19 minimal impact on operations so that we could 20 focus basically on the full, fair, final 21 resolution of the talc liability in a separate 22 unit. 23 Q Okay. And I think, I think that's 24 helpful. But I do want to verify a few more of 25 these subsections and make sure that that
Page 207 1 Plato, and then they have different categories 2 about how to discuss the issue with employers, 3 customers, business partners, and others -- have 4 you reviewed this to see if you disagree with 5 anything that's written in this document? 6 A I have not. I saw this in the 7 production. And I know that you 8 asked Mr. Mittenthal some questions about it. 9 But other than that, I have not reviewed it. 10 Q In terms of just understanding some 11 of the topics that we had noticed -- and we had 12 multiple topics and even subtopics about Project 13 Plato -- did you study or review this to see if 14 it could provide you confirmation about the 15 topics that we noticed at all? 16 A I did not. 17 Q One of the things said here in what 18 was Exhibit 4 to the prior deposition is topic 19 5: What impact does Project Plato have on the 20 operations of Johnson & Johnson, JJCI, and other 21 affiliates of Johnson & Johnson? 22 Do see where I'm at? 23 A I do. 24 Q And I inserted and said "what impact 25 does this," to reference that this is, in its	Page 209 1 continues to track. 2 The next one I have highlighted talks 3 about the impact of Project Plato on 4 stakeholders. Do you see where I'm at? 5 A Yes. 6 Q And the communication again: No 7 impact on Johnson & Johnson's business 8 operations, its employees, patients, healthcare 9 providers, customers, consumers, partners, or 10 other stakeholders. 11 Do see where I'm at? 12 A I do. 13 Q Is that your understanding as well? 14 A Yes. Again, because, you know, the 15 end goal was to resolve the talc litigations 16 through a process where you separate out the 17 talc liability from the rest of the business so 18 that you can get a full, fair, final resolution 19 of the talc liability without affecting the rest 20 of, the rest of the business. So that -- this 21 is -- tracks with that, that end goal. 22 Q And while you and I might have a 23 fundamental disagreement about whether the 24 efforts to remove the liabilities were meant to 25 be full, fair, and equitable, certainly the

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Page 210 1 basic framework of separating out cosmetic talc 2 liabilities from everything else and keeping the 3 business running from the separate entity is 4 something that was the intended goal of this 5 restructuring. Fair? 6 A Yes, fair; as laid out in the 7 first-day declaration. 8 (Technical difficulties.) 9 (Discussion held off the record.) 10 THE VIDEOGRAPHER: The time is 11 approximately 4:11. We're off the record. 12 (Discussion held off the record.) 13 (Recess.) 14 THE VIDEOGRAPHER: We are back on the 15 record. The time is approximately 4:26. 16 Counsel, you may proceed. 17 ATTORNEY DEAN: With taking that 18 unexpected break, we kind of used that to 19 collect a couple of things. 20 The first is Exhibit 4 to the 21 deposition of Kenvue in this case that 22 started with Jim Mittenthal. I was able 23 to get from counsel a version of that 24 without my highlights and with 25 Bates labels with LTL on them that extend	Page 212 1 Q Okay. Thank you. Is this something 2 that you've ever seen before? 3 A I don't recall seeing this. I think 4 this was in somebody's deposition. But I've not 5 seen this before. 6 Q It's saying -- I'm sorry. What was 7 that? 8 A I've not seen this separately aside 9 from being in a deposition. 10 Q Certainly there are certain markers 11 in here -- whether it be Thibaut Mongon's name 12 or Paul Ruh or others -- those are names that 13 you recognize and were individuals that worked 14 at Johnson & Johnson before the spinoff; 15 correct? 16 A They are. 17 Q And it notes after the name for each 18 of them JJCUS. DO you see where I'm talking 19 about? 20 A I do. 21 Q And my understanding is that's 22 Johnson & Johnson, the consumer unit in the 23 United States. Is that right? 24 A That may be right. Yeah, I actually 25 don't know what the "CUS" is.
Page 211 1 from LTL 30334 to '348, which I'm going to 2 mark that version as Exhibit 4 to this 3 deposition so that we have that copy 4 handy. 5 (Exhibit 4 was marked for 6 identification.) 7 BY ATTORNEY DEAN: 8 Q My understanding is you had a chance 9 to review that document while we were taking a 10 break. Is that correct? 11 A I did. I reviewed it quickly. 12 Q And I know it's a document you've 13 seen before and that we took about a ten-minute 14 break. Are you in a position to tell me whether 15 what was reviewed in that document is accurate, 16 based on someone who was there and involved in 17 these matters? 18 A Yeah, I believe it's accurate. 19 Q Okay. In terms of the last of the 20 three documents we identified, it was marked as 21 Exhibit 3 to the earlier transcript of Kenvue. 22 It's just a one-page email from Thibaut Mongon 23 to Duato -- I don't know if I'm saying Mr. 24 Duato's name right. Does that -- is that close? 25 A Yes; Joaquin Duato.	Page 213 1 Q It indic- -- and you know that 2 multiple people on this email are now at Kenvue. 3 In fact, we mentioned that Thibaut Mongon and 4 Paul Ruh are the CEO and CFO of Kenvue today; 5 correct? 6 A Correct. 7 Q Has Kenvue made any effort to 8 determine whether this document, a short email 9 from its own leaders, is, in fact, what it 10 purports to be? 11 A I do not believe it is -- I have 12 reason to believe it is not a business record. 13 But I have not verified that. 14 Q In terms of just the substance of 15 what is here, the idea that Project Plato would 16 have no impact on the enterprise -- something 17 that's being talked about here with former J&J 18 people now with Kenvue -- that tracks with your 19 understanding as well that the goal of Project 20 Plato was to remove liability so that they could 21 be handled and not have any other impact on 22 Johnson & Johnson's companies. Is that fair? 23 A Well, as I said with the other 24 document, the purpose was to resolve the talc 25 litigation through a full and fair process that

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Page 214 1 separated out the rest of the business. 2 So, you know, when it said no impact 3 to the enterprise, you know, it -- I think what 4 it really means, the bankruptcy would have no 5 impact because only LTL, at that time, would be 6 filing bankruptcy. 7 It's similar to the document we just 8 looked at. 9 Q I thought it was. And I want to just 10 try to ask you that question without directly 11 referencing bankruptcy, if I can. 12 Something that you independently are 13 aware of outside of just what's being referenced 14 in this email with people that used to be at J&J 15 but are now at Kenvue is that the purpose of 16 Project Plato was to have no impact on the rest 17 of Johnson & Johnson once they created a 18 separate entity -- LTL/LTL -- which was designed 19 to manage talc liability. Fair? 20 A Fair. 21 ATTORNEY BROWN: Objection to the 22 form. 23 THE WITNESS: Yeah, I agree that, you 24 know, again, the purpose of Project Plato 25 was to resolve, you know, the talc	Page 216 1 think the objection dealt with the word "fair" 2 or "unfair." I think the objection dealt with 3 the fact that you are arguing that with me as to 4 whether it's -- I'm speaking for your clients or 5 not. So -- 6 Q Let me ask you a similar question: 7 When you suggest in a question that doesn't ask 8 whether the restructuring was fair not that it 9 was fair and it was meant to be efficient and it 10 was meant to handle things, you're not 11 attempting to say that's objectively true or 12 speak for other people's perspective on that 13 matter, are you? 14 A Right. I'm presenting what we 15 believe is the true facts here. We believe that 16 it was a fair, you know, full, efficient way to 17 do it. Your client may disagree. 18 At the end of day, the plan was to 19 have the consumer -- the claimants vote on a 20 plan so that they could express whatever they 21 thought they wanted to express. 22 So, no I'm not speaking for your 23 clients on that. I'm just relaying what our 24 position is on the resolution. 25 ATTORNEY DEAN: I'm going to object
Page 215 1 liabilities in a full, fair, and efficient 2 manner without, without disrupting the 3 operations of the rest of Johnson & 4 Johnson companies. 5 BY ATTORNEY DEAN: 6 Q If my clients or other people believe 7 that what was done here was not full or fair or 8 efficient, you're not here to speak for them, 9 are you? 10 ATTORNEY BROWN: Objection to the 11 form of the question and it's 12 argumentative. 13 THE WITNESS: Yeah, I'm not here to 14 speak for them. I mean, I'm not sure or 15 your -- I'm not sure what that means. 16 The -- 17 BY ATTORNEY DEAN: 18 Q Well, there's a -- there was an 19 objection by the lawyer for Kenvue and Holdco 20 that inserting that something is not fair is 21 argumentative. And a moment ago you just 22 inserted that you believed what was done here 23 with this restructuring was fair. 24 Do you recall that? 25 A I don't think she was -- I don't	Page 217 1 to nonresponsive. 2 BY ATTORNEY DEAN: 3 Q But you understand that where you 4 vote, who judges on the vote, all sorts of 5 things can factor into the result? That's basic 6 knowledge; right? 7 THE WITNESS: Yeah, I'm not -- 8 ATTORNEY BROWN: Objection to the 9 form. 10 THE WITNESS: I'm not sure about it. 11 I don't know if I understand your 12 question. 13 BY ATTORNEY DEAN: 14 Q The idea that we decided this was 15 fair and equitable is something that I'm 16 objecting to. But to the extent it is not 17 sustained, I'll ask you: Who's "we"? 18 A I think the "we" is the company, LTL, 19 believes that it was a full, fair, and efficient 20 way to resolve the talc claims. And that's our 21 position. 22 People could disagree. And I was 23 just pointing out that there is the forum for 24 that, you know, which is the bankruptcy code 25 provides for a vote of claimants.

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Page 218 1 Q For people that belong there; I 2 appreciate that. But you understand today I'm 3 not asking you any questions as a representative 4 of LTL and what they believe to be fair but 5 specifically I'm seeking to understand what 6 Kenvue and Holdco has to say. 7 Do you appreciate that? 8 A Yes. But you are asking me sort of 9 the whys for these transactions. And I'm just 10 trying to explain what the rationale was for the 11 way that these transactions came about. 12 Q Maybe my question wasn't clear, then, 13 because it wasn't intending to ask for the whys. 14 So I'll try it again. 15 When there is an email from two 16 leaders of Kenvue that used to be in J&J 17 indicating that Project Plato would have no 18 impact on the enterprise, that comports with 19 your knowledge and investigation in these 20 matters, which indicates that by moving the 21 liabilities for talc into LTL, the intended 22 result was to have no impact on the remaining 23 entities. Fair? 24 A Fair; as I testified to earlier. 25 Q In terms of, in terms of individuals	Page 220 1 anything like that that you wanted to make sure 2 to ask him? You mentioned you had some specific 3 questions about the restructuring of Diamond and 4 that you also thought he might know about some 5 specific things with -- that Jim Mittenthal 6 couldn't answer. 7 A Yeah. 8 Q Did you make a list of questions 9 to -- 10 A No -- 11 Q -- make sure you asked them all? 12 A -- I didn't make a list. The, the, 13 the -- I think the real issues that you were 14 asking Mr. Mittenthal that he couldn't answer 15 was a lot of the whys of how the transaction was 16 structured. And so that's really just why -- 17 it's just a general conversation on why things 18 were structured the way they were structured, 19 why JNTL -- what did JNTL stand for, you know. 20 That was a specific question you had asked that 21 Mr. Mittenthal did not know. 22 So it was just, you know, general, 23 general questions about Diamond, which, because 24 I was not as familiar with Diamond, I just 25 wanted some information about.
Page 219 1 that you talked to, you mentioned Chris Andrew. 2 What in that 30-minute conversation do you 3 recall talking to him about? 4 A The Project Diamond structure. I 5 think there was specific questions about why it 6 was structured the way it was structured. 7 The -- going back to Project Plato, I just want 8 to confirm his role and his interactions with 9 Michelle Goodridge in that process. 10 I believe there were specific 11 questions you had asked Mr. Mittenthal that I 12 thought Mr. Andrew may know the answer to. And 13 I can't recall sitting here right now what those 14 questions were. But I asked him about, you 15 know, basically the structure of Diamond and his 16 involvement with the Diamond transaction. 17 He and I worked together on Plato. 18 So I knew his role very well on that. I just 19 wanted to figure out what his role was with 20 Diamond and if he could shed some light on some 21 of the issues you raised with Mr. Mittenthal. 22 Q When you -- did you talk to him 23 yesterday? 24 A Yes. 25 Q Did you have a list of questions or	Page 221 1 Q So if I wanted to see a list of 2 questions or topics that you wanted to discuss 3 with him or any notes about his responses to 4 that, you don't have either of those? 5 A I don't have either, no. 6 Q In terms of what you remember other 7 than him telling you what JNTL stands for, is 8 there anything specific you can remember about 9 what was asked or what he told you? 10 A Yes. So I, again, sort of wanted to 11 confirm. So the whole -- my answer to about the 12 baskets of apple, I just wanted to confirm with 13 him that that's a correct analogy, that that's 14 really one way that you can look at this 15 transaction. 16 And so, again, we went through the 17 transaction, I, you know, went through the 18 analogies, and he just confirmed to me why 19 things were done the way they were done. 20 Q So in terms of specifics, the idea 21 that multiple subsidiaries were involved with 22 the consumer sector at Johnson & Johnson and 23 were collected like apples so that they went 24 into a basket that was then handed over to 25 Kenvue and the express meeting of JNTL were both

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Page 222 1 things I understand you discussed with 2 Mr. Andrew; is that right? 3 A That's correct. 4 Q In terms of anything concrete or 5 specific that you learned from him, can you 6 remember anything? 7 A I, you know, I don't, I don't recall 8 the other parts of the conversation. I did, I 9 did have some -- so you asked for a list. I did 10 have your -- the notice topics. And so, you 11 know, I think we were briefly going through 12 those to see if he could shed light on any of 13 them. But he -- 14 (Crosstalk.) 15 Q What if anything did you learn? 16 A Sorry? 17 Q What if anything did you learn? 18 A Not much. He didn't have much 19 information. And the stuff that he did 20 understand was the stuff that Mr. Mittenthal had 21 already testified to. 22 Q Chris Andrew -- 23 (Crosstalk.) 24 -- is a Kenvue employee now? 25 A I'm sorry?	Page 224 1 Q He -- are you aware that he is a 2 licensed lawyer who lives in New Jersey? 3 A I am. 4 Q Do you know if anyone involved with 5 any of the restructuring that occurred in 6 Project Plato actually reside in the state of 7 Texas? 8 A All the Jones Day lawyers involved. 9 Q Ah, okay. So the outside lawyers for 10 Jones Day, Greg Gordon and folks, were based in 11 Texas; is that right? 12 A They are, yes. 13 Q But in terms of people that actually 14 worked for any entity involved -- whether it's 15 Johnson & Johnson, Old JJCI, New JJCI, Chenango 16 Zero, Chenango One, Chenango Two, Currahee 17 Holding -- I think that's the list -- are you 18 aware of any individuals that actually were from 19 Texas? 20 A No. 21 Q In terms of just the actual planning 22 done from individuals in the J&J structure, you 23 indicated that you, Mr. White, Mr. Haas, and 24 Mr. Andrew were involved. Those are all lawyers 25 in New Jersey; correct?
Page 223 1 Q He's a Kenvue employee now? 2 A He is. 3 ATTORNEY BROWN: And let me just jump 4 in to help the court reporter. You guys 5 are overtalking over each other. 6 Ms. Dean, can you just let Mr. Kim 7 finish. I know Zoom is hard, but I think 8 a couple of times you just stepped on him 9 right there. 10 THE WITNESS: It might be my fault 11 too. I may -- I take some breaks while 12 I'm thinking and so -- 13 ATTORNEY DEAN: We can work together. 14 But also just in trying to get done in a 15 compressed time, you often give me a lot 16 of your thoughts. And I'm trying -- I'm 17 just trying to keep us focused in if we 18 can -- if we can. 19 BY ATTORNEY DEAN: 20 Q My question was just: Chris Andrew 21 currently works for Kenvue? 22 A He does. 23 Q He used to work for the Johnson & 24 Johnson entities before that; correct? 25 A He did.	Page 225 1 A Yes. 2 Q Jennifer Boston was another name that 3 mentioned that I also noted Michelle Goodridge 4 knew as well. 5 (Reporter clarification.) 6 BY ATTORNEY DEAN: 7 Q A name that you mentioned today was 8 Jennifer Boston, who I also saw that Jennifer 9 was referenced by Michelle Goodridge in her 10 deposition. Did you see that? 11 A I did. 12 Q She is also an East Coast lawyer; 13 correct? 14 A She is. 15 Q And then there was a Thomas Mann that 16 was referenced as being someone that Michelle 17 Goodridge, as the president of some of the 18 companies involved in this restructuring, just 19 another person she dealt with. That is another 20 New Jersey lawyer; correct? 21 A I'm not sure whether he's a lawyer or 22 not. He is in New Jersey, though. 23 Q Who is he? 24 A I thought he was a project person. 25 But again, I'm actually not, not entirely sure.

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Page 226 1 Q Did you make any time since you 2 became the company representative to follow up 3 with Michelle Goodridge -- I think she's one of 4 the five people you listed? 5 A Yes. 6 Q Okay. And can you tell me, first, 7 whether you have any notes of what you wanted to 8 ask her or notes of what she -- you learned from 9 that discussion with her? 10 A I do not have any notes. 11 Q Was that yesterday? 12 A That was. 13 Q What was, what was the purpose of 14 calling her? 15 A Again, I'd gone through her 16 deposition, I'd looked at the materials. She -- 17 I wanted to confirm, A, what she said in her 18 deposition was true and that she had no changes 19 to it. I was asking about what her current 20 responsibilities were. And I wanted to know 21 whether she had any more information that she 22 hadn't given with respect to the topics that 23 were listed in the notice. 24 She really couldn't offer any, any 25 information on any of that, so.	Page 228 1 involvement in the planning or the -- any -- 2 yeah, in the planning or design of Diamond. 3 Q As the president of JJCI 3, which is 4 now at Kenvue, what do you understand was her 5 role in that company? What does she do? 6 A Again, I think it was just as an 7 administrative head. She actually said she had 8 not done anything in that role since going to 9 Kenvue, that her job is unrelated to, to that 10 part in the business. 11 Her -- what she -- her actual duties 12 are is, I think, brand expansion in the US. But 13 that's really what her actual duties and 14 responsibilities are, and she hadn't done 15 anything with respect to JJCI 3. 16 Q So the sole individual's name who you 17 were able to identify as someone who worked at 18 JJC 3 -- sorry, JJCI 3, the subsidiary of Kenvue 19 that was related to the consumer goods portion, 20 was Michelle Goodridge; and she indicated that 21 since she got into that position at Kenvue, she 22 hasn't done anything related to the Johnson Baby 23 line. Is that fair? 24 A That is fair. She is not -- that is 25 not -- yeah. And let me state, she deals with
Page 227 1 Q Did you talk to Jim Mittenthal at 2 all, after -- 3 A I did not talk to Jim Mittenthal. I 4 have spoken with him in the past. But I did not 5 have time to talk to him. 6 Q Did you see the testimony between his 7 lawyer -- when he was representing Kenvue -- and 8 him that Michelle Goodridge was involved with 9 and had knowledge of Project Diamond? 10 A I did ask her -- yes, I saw that. I 11 did ask her about Project Diamond. But I -- so 12 what I learned from that was that she signed 13 paper similarly -- what I found out was that it 14 was the same situation in Project Diamond as it 15 was with Project Plato: She discussed any of 16 the documents that she signed with her lawyer; 17 she was not in the decision-making role of 18 planning these things, the transaction; she 19 had -- whatever questions she had, she was 20 satisfied with the answers; and so that's why 21 she had signed whatever documentation she had. 22 But I just wanted to confirm that it 23 was sort of the same process that she used with 24 Diamond that she used with, with Plato. 25 But she had not substantive	Page 229 1 brand expansion. She doesn't deal with sort of 2 the marketing of that product. 3 Q So if I want to know any person who 4 spends any time, even minimal time, involved 5 with the Johnson Baby line since the spinoff 6 occurred with Kenvue, have you talked to anybody 7 that would have even the most attenuated 8 attachments to that line? 9 A I have not -- other than, again, when 10 I spoke to Chris Andrew, I asked him about, you 11 know, the business. And I think, as I 12 mentioned, he and I confirmed that they have not 13 sold a product that contains talc in the US. 14 But other than that, I have not 15 spoken to anyone. 16 So these are the names that we got 17 from the deposition of Mittenthal. So they're 18 the ones that we prioritized to speak to. I 19 didn't have time to try to find other people 20 that were not mentioned so far in the 21 depositions. 22 Q Did you speak to Teddy Reed at all? 23 A I did not. 24 Q Did you make any efforts to determine 25 who were the directors and officers at Kenvue at

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Page 230 1 the time that it started as opposed to now? 2 A No; because I'd seen that already in 3 the Mittenal depositions. So I thought that 4 was fairly well covered. And I think you showed 5 him the website and he had a chart that shows 6 the directors now and then. 7 So I did not make -- I decided not to 8 prioritize that, that issue and I did not look 9 into that. 10 Q So our concern there is I saw that we 11 had what I've marked as Exhibit 11, which is the 12 current website listing out folks, along with 13 two pages of notes from Jim Mittenal about 14 current directors and officers that he 15 identified in his notes. 16 Did you see that as well? 17 A I did, yes, which is why I didn't 18 sort of do additional work on that. 19 Q There were two areas of explicit 20 concerns that we identified with counsel on the 21 meet-and-confer and in motions. The first was 22 trying to compare directors and officers not 23 today -- which I agree you was being discussed 24 at length in the deposition -- but at the time 25 of the actual spinoff, to see what it looked	Page 232 1 and I did, I did not look at it. 2 Q And I think the issues were flagged 3 in the deposition, but we don't have to fight 4 about that. Objectively, in terms of what you 5 were trying to get prepared for since you found 6 out about this on Thursday, that wasn't 7 something that you were looking at; is that 8 true? 9 A That's true, yes. 10 Q Other than yourself as the corporate 11 representative for Holdco and the corporate 12 representative for Kenvue -- and then obviously 13 I know that there are other lawyers for these 14 companies involved -- was there anyone else, to 15 your knowledge, tasked with trying to obtain the 16 information that was known or knowable to these 17 companies about the 26 topics that we identified 18 and cared about? 19 A My involvement happened when -- you 20 know, Thursday when this issue came up. And 21 that's the team that we were -- that I know 22 about. I don't know, I don't know what other 23 things were happening. There may be other 24 things that other lawyers are doing. 25 But, you know, my understanding was
Page 231 1 like at that time. 2 Did you look at that issue at all? 3 A I did not know that was an issue and 4 did not look at. 5 Q The second thing that was 6 specifically flagged was just folks that aren't 7 these big-time leaders of a big company with 8 20,000 employees -- the directors and officers 9 and executive team -- but people that would be 10 management or leaders in the Johnson Baby line 11 section. 12 And I think you told me earlier today 13 that people that were specifically marketing or 14 making or selling baby powder aren't really who 15 you talked to; fair? 16 A I'm sorry. The last part of that was 17 I did not talk to those people? 18 Q You didn't talk to people that were 19 in the management or leadership -- 20 A Yeah. 21 Q -- over that kind of smaller 22 subsection that dealt with the baby powder line; 23 fair? 24 A Fair. Again, if it wasn't flagged in 25 the deposition, I did not know it was an issue	Page 233 1 that there were -- the lawyers involved in the 2 case had looked for people who could take on 3 this task. And I'm the only one that they could 4 identify, unfortunately. 5 Q And in terms of just getting the 6 information where we can actually follow up and 7 ask questions, as opposed to lawyers who have 8 protection, my understanding is you didn't get 9 involved until less than 48 hours ago and you 10 were the only nonlawyer tasked with trying to 11 get all this organized for today. 12 Now, stuff happened before you. I 13 understand that's a different issue. But for 14 what you know from when you got involved, do I 15 have that right? 16 A As far as I know -- again, I don't 17 know whether, you know, other -- whether lawyers 18 on the case asked other nonlawyers for 19 information as well. I don't know whether that 20 happened or not. What I do know is I'm the one 21 that has been looking up for this information 22 and getting ready to testify. 23 Q So Mr. Mongon and Mr. Ruh are two 24 individuals who I understand you were aware had 25 some information about both Project Plato and

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Page 234 1 Project Diamond from having their prior 2 transcripts but that you have not spoken to or 3 followed up with -- 4 A Well -- 5 Q -- is that fair? 6 A So with respect to Project Plato, I 7 know -- I have much more information than either 8 of those folks about Project Plato. There's 9 nothing that they would have -- information they 10 would have that would be something I didn't 11 already know. So I know that. 12 (Crosstalk.) 13 On Project Diamond, I read the 14 depositions and relied on their depositions and, 15 primarily for Project Diamond, you know, the 16 person with the most information was Donald 17 McGraw. And so I did review his deposition and 18 his step chart. And it was as full as, you 19 know, as complete as I believe you could have. 20 So I did not follow-up with others. 21 ATTORNEY DEAN: Let me object to 22 nonresponsive and just... 23 BY ATTORNEY DEAN: 24 Q You believe that you were more 25 involved with Project Plato than anyone and have	Page 236 1 Q Did you see information going back 2 and forth about whether Johnson's Baby at 3 Kenvue' website at the time was selling and 4 listing talc products? It was somewhere around 5 page 50 it was referenced by the Kenvue lawyer 6 and then page 151. 7 Do you recall that? 8 A Is this the Amazon material? Are we 9 now talking about...? 10 Q Maybe. The witness said: This is 11 Johnson baby. This our website. But it could 12 be Amazon, could be secondary people. 13 He admitted he didn't know. There 14 was a whole discussion. The word "Amazon" 15 certainly came up about what was being displayed 16 on a Kenvue website. 17 Do you recall that? 18 A I do recall that. 19 Q Did you follow up with him at all to 20 see what was done after that was pointed out to 21 him and what was ascertained about what was 22 on -- 23 A No. But I did go on the Amazon site 24 and look at it yesterday. 25 Q And so if we wanted to know what was
Page 235 1 the greatest amount of knowledge; correct? 2 A I do. 3 Q But different people retain and 4 understand different things. We have different 5 minds that work differently. That's just true; 6 right? 7 A I guess. I don't know how to answer 8 that. 9 Q Well, in terms of just knowing and 10 seeing if someone remembers or focused in on or 11 cared about different things in a transaction, 12 what we do objectively know is that both the CFO 13 and CEO of Kenvue were on documents that 14 involved Project Plato; correct? 15 A Yes. But I did read their 16 depositions. And based upon the depositions, I 17 know for a fact that they had very limited 18 knowledge of the transactions. 19 Q In terms of figuring out that, as 20 opposed to deducing it from a deposition, I want 21 to just flesh out a few things. 22 Their deposition occurred before the 23 26 topics that we identified were ever created. 24 You're aware of that; right? 25 A I am.	Page 237 1 happening not yesterday but in 2022 and -- let 2 me make sure I have the date of this deposition 3 right, actually. One moment. 4 ATTORNEY BROWN: I think it's 2023. 5 BY ATTORNEY DEAN: 6 Q If we want to know what was on the 7 website for Kenvue when it was being shown to 8 Mr. Mongon, the current CEO of Kenvue, back when 9 this discussion occurred in August 14th, 2023, 10 as opposed to what you and I might be able to 11 find on Amazon today, is that something you've 12 discussed with him or with anyone else? 13 A No. Because I read the deposition 14 transcript. I saw what Mr. Mongon had 15 concluded, which was they were not -- that 16 Kenvue was not selling it, that it was a 17 third-party seller and that, you know, some link 18 to the Baby store was false. 19 Then I saw that in the Mittenthal 20 deposition, when they went back to that, it was 21 not there anymore. I concluded that there was 22 really nothing left to be done on that issue. I 23 didn't realize it still an open issue on that. 24 Q Do you have his transcript with you? 25 A I'm sure I do.

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Page 238 1 Q So you understand that understanding 2 someone's own opinion or conclusion is different 3 than assessing the actual facts so you can make 4 one for yourself; right? 5 A Sometimes -- 6 (Crosstalk.) 7 Q Come again. 8 A Yeah, I'm not sure what, what the 9 question is. 10 Q You understand that there's a 11 difference between taking someone's own 12 conclusions and getting the data that they had 13 so they can make one themselves? 14 A There is. But, you know, he was 15 under oath and gave sworn testimony. I'm not 16 going to go back and review everything that he 17 said for the truth of it. That's not something 18 that I even had time for. But I don't believe 19 that, you know, it's something that I should be 20 doing. 21 If it was another testimony sworn 22 under oath that refuted his testimony, then 23 maybe there would be a basis to question it and 24 to do further research. 25 But he was being asked. He was	Page 240 1 occurred from Kenvue in this case but when they 2 chose Jim Mittenenthal. And then Mr. Mittenenthal 3 discussed this with his lawyer during that 4 deposition. Do you agree? 5 A I do. 6 Q Okay. There -- in the deposition of 7 the sworn testimony of Thibaut Mongon on 59 8 discussed going to the Johnson Baby store. 9 Do you see where I'm at? 10 A I see it. I read what it says. It's 11 not clear that it's actually the Johnson Baby 12 Store. 13 Q Agreed. What the witness indicated 14 was: What you showed me, that some resellers 15 sell on the internet seems to be selling on the 16 internet Johnson's Baby Powder, where he 17 indicates something you've been echoing, that 18 that could be a reseller on the internet or it 19 seems like it could be. 20 Do you see where I'm at? 21 A I do see where you're at, yes. 22 Q And then he's asked: Do you actually 23 know that? Do you know whether it's Johnson's 24 Baby Store in your website on the internet? 25 And unequivocally, on the same page,
Page 239 1 deposited. He gave his answers under oath. There 2 was no follow-up. There's no follow-up in other 3 depositions I saw, other than the fact that 4 website was gone or that that link was gone, 5 which was noted in the other deposition. 6 So there's no reason for me to 7 believe that Mr. Mongon was wrong when he made 8 his statements. 9 ATTORNEY DEAN: Object to 10 nonresponsive. 11 BY ATTORNEY DEAN: 12 Q My questions is just, to you, is you 13 understand that evaluating someone's opinion 14 after they look at information is very different 15 than getting to look at the information 16 yourself; right? 17 ATTORNEY BROWN: Objection to the 18 form. 19 THE WITNESS: Yeah; and as I 20 answered, sometimes, sometimes not, 21 depending upon the circumstance. 22 BY ATTORNEY DEAN: 23 Q The testimony that Mr. Mongon was 24 asked about is on the screen. I've marked this 25 as Exhibit 27 to the deposition that already	Page 241 1 he indicates he doesn't know. Do you see that? 2 A I do. It could have been -- again, 3 the issue is that when you're using the 4 internet, the material on issue -- the internet 5 may be false. It may be a fraudulent site. 6 Q And so if we want to know not that it 7 must be from Amazon, what you've suggested under 8 oath, that this witness explicitly indicates he 9 does not know, as opposed to something that was 10 researched and verified but after this 11 deposition, you don't know because you haven't 12 talked to a single human being about it. Fair? 13 A No. 14 ATTORNEY BROWN: Object to the -- 15 hold on. 16 Object to the form of the question. 17 Go ahead, Mr. Kim. 18 THE WITNESS: No. So the recent -- 19 two things. One, I did to try to follow 20 up recently. As I told you, I looked on 21 the Amazon site. I looked for this. It 22 was not there. 23 Secondly, there is a subsequent 24 deposition -- I think of Mr. Mittenenthal; 25 it could be someone else -- that

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Page 242 1 Mr. Placitella took. 2 And as Mr. Placitella states in that 3 deposition: I showed this to Mr. Mongon. 4 He said it was fraudulent and that he was 5 going to do something about it. I see 6 that it's gone, so it must have -- that 7 must be what happened. 8 So when I read that, that 9 information, I found -- and then I did my 10 own research by looking at Amazon, I 11 concluded there was nothing further that I 12 needed to do on this. 13 BY ATTORNEY DEAN: 14 Q Let's break this down step by step. 15 First, Mr. Mongon, when he's shown the website, 16 Johnson Baby, which is a Kenvue website, is 17 shown powders that referenced talc and indicates 18 that it might be from a third-party reseller but 19 he does not know. 20 Do we agree on that? 21 A I agree what's on that sentence; yes. 22 Q Your follow-up to that includes two 23 things, as I understand it: One, doing research 24 a year later about what's on the websites now, 25 which you've done in the last 48 hours; fair?	Page 244 1 within the last 48 hours. Did I get that part 2 right? 3 A Well, I did -- it was a broader 4 search than Amazon. I wound up at Amazon. But 5 the broader search was for Johnson's Baby 6 Powder. 7 Q And that's something that you did in 8 August of 2024 in the last two days; correct? 9 A When I first learned of the issue is 10 when I investigated it. 11 Q Okay. We will add that in. But I 12 want to make sure I understand the steps. 13 Did you look on Amazon or look in the 14 last couple of days to see whether you could buy 15 talc-based Johnson's Baby Powder? 16 A Again, I looked -- I did a search for 17 Johnson's Baby Powder. I wound up at Amazon and 18 looked at that; yes. 19 Q And that's in August of 2024; 20 correct? 21 A Correct. As soon as I learned of 22 this issue, I looked at it. 23 Q And then you said you also 24 investigated this by looking at a transcript of 25 a lawyer named Chris Placitella speaking to Jim
Page 243 1 A True; because I was not there at the 2 time. I couldn't have done it at the time of 3 the deposition. 4 Q Come again. 5 A I did what I could do, which was look 6 at it today. I could not go back and look at it 7 then. 8 Q And so it's your belief that you 9 can't go back using various mechanisms in order 10 to evaluate what's on websites using things like 11 Wayback Machine? 12 A Yeah, I -- my evaluation was, in the 13 time that I had, that was not something that I 14 had prioritized. And that because of subsequent 15 testimony and the fact that it wasn't on it 16 today, that I thought it was not an issue. 17 Q So I want to just break down the 18 testimony because it was suggested when you gave 19 an answer that Mongon himself said that this 20 came from Amazon. And we've already kind of 21 discussed what he actually knew and didn't. 22 So now I want to focus on what you 23 did as the representative for these companies to 24 sort that out. One thing you did is look at 25 websites as they exist now, specifically Amazon	Page 245 1 Mittenthal. Did I understand that correctly? 2 A So there is another transcript. I 3 can't recall whose it is. It may be Mittenthal. 4 It may be -- it's one of the transcripts you 5 have, you know, where this was discussed. And 6 it turns out that the website was going. 7 Q Can you direct me in any way to what 8 you're talking about? 9 A Again, I'd have to go through all 10 the, I'd have to go through all the transcripts 11 that I have because I can't recall today which 12 one it was. 13 But I read it. And it seemed to me 14 that the issue was -- it was not an issue, that 15 it had been taken care of or it had been, you 16 know -- yeah, taken care of in some way. 17 ATTORNEY DEAN: We're going to ask 18 for Exhibit 42 to be the pages of whatever 19 transcript's being referenced. If they 20 aren't provided to the court reporter by 21 noon tomorrow, we're just going to have it 22 state nothing provided. I have a 23 foundation question unless and until we 24 see what you're referencing. 25 And if it's something we can get

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Page 246 1 before we're done today, that would be 2 amazing. 3 BY ATTORNEY DEAN: 4 Q Outside of this transcript where 5 someone was referencing that the website 6 information was taken down and the search that 7 you have done looking for baby powder in August 8 of 2024, you had mentioned that you researched 9 this issue, I think in some other context. 10 And can you tell me a little bit more 11 about that? 12 A No. I think those are the, those are 13 the things that I did. 14 Q I'm trying to better understand the 15 second one. And so we start off with the CEO of 16 Kenvue being shown Johnson's Baby, which is a 17 general website for Kenvue that shows talc-based 18 baby powder, and has this dialogue about whether 19 that's actually on the Kenvue site or a reseller 20 like Amazon selling it. And he didn't know. 21 But he wanted to be clear that it may not be 22 from, from the Kenvue website. 23 Do you agree that that summarizes the 24 back-and-forth that happened with Mr. Mongon? 25 A Yeah. I would also add that, I think	Page 248 1 In other words, did that -- so 2 Mr. Mongon's conclusion was that that's really 3 not our site. 4 And Mr. Placitella was of the view 5 that, if it's not your site, shouldn't you do 6 something about it? 7 And Mr. Mongon said yes. 8 And so, again, that's what leads to 9 the other deposition. 10 ATTORNEY DEAN: I'm going to object 11 to the nonresponsive portions and the idea 12 that he concluded it wasn't their site as 13 opposed saying "I just don't know, but I'm 14 going to look into it," I think we have 15 written down. 16 BY ATTORNEY DEAN: 17 Q And to my question is the follow-up: 18 In terms of whatever you reviewed, my 19 understanding the import was after this 20 deposition by Mr. Mongon in 2023 that there was 21 some written confirmation that there is nothing 22 on the Johnson Baby site referencing talc, that 23 they confirm that that's not going to be there. 24 Is that what you're telling me or -- 25 A That's what I'm telling you, that I
Page 247 1 towards the end of that testimony, 2 Mr. Placitella made comments like, well, if it's 3 not Johnson's Baby-owned, you know, the baby 4 site and it is a reseller, are you going to do 5 anything to make it stop. I think Mr. Mongon 6 said that he was going to do something. 7 And so the other deposition 8 transcript I'm referring to shows that it's no 9 longer there. And Chris Placitella make some 10 remark like, Oh, I guess Mr. Mongon followed up 11 on what he said or something, you know. 12 So that's why I have this 13 recollection. 14 Q Well, and I'm trying to follow that, 15 and that's partially why I want to see what you 16 actually read, if we can get that done. 17 But I think what you're telling me is 18 that there was some confirmation in a sworn 19 deposition that after Mr. Mongon testified that 20 any reference to talc-based baby powder was 21 confirmed to be pulled down and not on the 22 website. And I following that right? 23 A Yeah; or that that website that 24 purported to be Johnson's Baby was taken down. 25 (Crosstalk.)	Page 249 1 did not believe I needed to do any follow-up 2 because I thought that was -- again, that issue 3 was resolved. 4 Q In terms of what date that that 5 happened after Mr. Mongon's deposition, that 6 they looked and confirmed that anything on there 7 was pulled down or in terms of the actual 8 individuals that were involved with figuring 9 that out, can you tell me any more about either 10 of those things? 11 A I did not. Again, I thought the 12 issue was resolved and was not an issue anymore. 13 So I do not prioritize that. 14 Q In other words, if on August 14th, 15 2023, when Mr. Mongon, Thibaut Mongon, was 16 deposed, whether this follow-up occurred two 17 days later or two weeks later or two months 18 later, you can't give me any kind of an idea? 19 A I do not know. Yeah, I cannot give 20 you an idea. 21 ATTORNEY BROWN: If it's helpful, 22 Jessica, I think I know what's happening 23 here. I don't know if you want to 24 continue with Mr. Kim. 25 (Crosstalk.)

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Page 250 1 ATTORNEY DEAN: If you have some idea 2 what Exhibit 42 is, that would be great. 3 ATTORNEY BROWN: So, Mr. Kim, I think 4 you are likely referring to the deposition 5 of Mr. Ruh, which took place after 6 Mr. Mongon, by Mr. Placitella, and 7 includes a discussion about that 8 screenshot at page 136. 9 THE WITNESS: I think -- I agree that 10 Allie's right. Did I get it right? Did I 11 get right what they said? 12 ATTORNEY BROWN: Mr. Santoli and I 13 are tracking what you're saying and 14 believe this fits your characterization of 15 the testimony. So perhaps we can take a 16 look. 17 THE WITNESS: Thank you. 18 BY ATTORNEY DEAN: 19 Q So I think you're referencing a 20 statement by the attorney in Mr. Ruh's 21 deposition on the page that counsel referenced, 22 which is 136, where the lawyer, Chris Placitella 23 says: And here's my question. As of last 24 night, all of that was taken down. It no longer 25 exists on the internet.	Page 252 1 change their own website as a result of the 2 question that was asked of Mr. Mongon? 3 A That's not what happened. It's clear 4 from Mr. Placitella's statement and his ire that 5 what happened was that Mr. Mongon was right, 6 that that was a false website, it should not 7 have been up there; it was taken down. 8 Taken down means that we complained 9 to the, to the internet provider that had it and 10 it got taken down, right. So it's not -- so 11 "taken down" has a specific connotation. 12 So based upon that -- and 13 Mr. Placitella, of course, was the person, was 14 the attorney that raised it in the first place. 15 He's the one that brought it to Mr. Mongon's 16 attention and was making the big deal about it. 17 And so he had every incentive to 18 follow up on it if he wanted to, if he thought 19 that there was something nefarious going on. 20 And he did. 21 So based upon that, I did not do any 22 follow-up other than rechecking websites 23 yesterday. 24 ATTORNEY DEAN: Object to 25 nonresponsive and a lot of speculation
Page 251 1 A Correct. 2 Q Do you see where I'm at? 3 A I do. 4 Q Is that what you were referencing in 5 terms of the testimony? 6 A It is what I'm referencing. 7 Q In terms of whether Mr. Placitella 8 was right, that information that was up on the 9 14th but down by the 16th of August 2023 10 occurred, why that occurred, who put that 11 information there, what it was linked to, is 12 that something that you investigated in any 13 other way after the deposition of Mr. Ruh and 14 Mr. Mongon ended? 15 A Again, I read the testimony. I took 16 from it that it's no longer an issue. I did 17 again, even though it was years later, did my 18 own review of the websites. And so I did not 19 believe any further inquiry was necessary. 20 Q But even, like, the question of a 21 lawyer, which you probably know, as a lawyer, is 22 not evidence; it's only the sworn answers. 23 Information being taken down between 24 August 14th and August 16th, did you do anything 25 to verify that, in fact, happened, that Kenvue	Page 253 1 about particularly what the other side's 2 lawyers are trying to do. 3 BY ATTORNEY DEAN: 4 Q Truly, your, your conclusion or 5 estimation as the lawyer for LLT chosen to be 6 the representative for Kenvue and Holdco of what 7 happened between what was shown on the 14th and 8 what was discussed by Mr. Ruh and a lawyer on 9 the 16th, other than your deductions, did you 10 actually talk to Mr. Mongon or the people that 11 were involved in checking the website? 12 A No. And one other issue here is that 13 this was -- this happened a while ago. And as 14 you can tell, nobody took a screenshot of the 15 website or entered an exhibit. 16 So trying to go back in time to 17 figure out what it actually was, I would say it 18 would be a waste of people's time. So if there 19 was an actual screenshot and you can do some 20 backup and look it up -- I mean, maybe if 21 there's some objective information that you can 22 do a search on and try to figure out what 23 happened, maybe that might have been fruitful. 24 But the way that the situation 25 presented itself, it would just have been a

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Page 254 1 waste of time to ask for any screenshot of any 2 prior Johnson's Baby false site that had, you 3 know, Johnson's Baby Powder with talc on it. 4 Again, I think it would be sort of a waste of 5 resources to do. 6 So again, I -- what I did was I just 7 did a quick search, I read these depositions, 8 and I did not prioritize the issue. 9 ATTORNEY DEAN: I'm going to object 10 to nonresponsive and speculation. 11 BY ATTORNEY DEAN: 12 Q You've three times indicated this 13 would be a waste of time and something about a 14 screenshot of what was on the screen. And so I 15 fear that maybe my question was not heard, and 16 I'm going to try it again. 17 In terms of any follow-up that was 18 done from people at Kenvue after this was shown 19 to the witness on the 14th of August -- the 20 witness being the current CEO of Kenvue -- and 21 in order to determine what was objectively done 22 by Kenvue employees after that deposition as it 23 relates to the Johnson Baby website owned by 24 Kenvue, did you talk to a single person about 25 it?	Page 256 1 the sales or making of talc-based baby powder 2 after the Kenvue spinoff -- did you do anything 3 else to investigate that situation? 4 A I did not. 5 Q And so other than two lawyers who 6 were not personally involved in making, selling, 7 distributing, or advertising the product, is 8 there any document that you know of that you've 9 ever reviewed on that issue? 10 I know I asked you about people. And 11 you mentioned Mr. Andrew. But is there any 12 document? 13 ATTORNEY BROWN: And just be clear, 14 you mean other than the transcript we just 15 had up? 16 ATTORNEY DEAN: Yeah; because that 17 certainly doesn't count. Somebody saying 18 "I don't know" doesn't get you there. 19 ATTORNEY BROWN: No, no. I mean 20 Mr. Ruh's testimony saying it wasn't sold. 21 Other than what he reviewed and already 22 identified for you? That's the question. 23 ATTORNEY DEAN: No. I stand by my 24 question. And I don't think you're 25 interpreting what Mr. Ruh said accurately
Page 255 1 A No; for the reasons I mention. 2 Q And in terms of the investigation 3 that you did about what is available on the 4 World Wide Web, it was based on searches today a 5 year later; correct? 6 A When I could do them, when I found 7 about the issues, I did the searches. And that 8 was yesterday; yes. 9 Q And if we want to understand broader 10 issues about what was sold by Kenvue as it 11 relates to the Johnson's Baby Powder lines, not 12 just on this website but in this country or 13 elsewhere, we've talked at length today about 14 different people that might be involved in that. 15 You have not reached out to any of them, whether 16 it's marketing, manufacturing, sale, purchasing, 17 quality. 18 Do you remember those questions? 19 A I do. I have not looked into that. 20 What I did ask was about sales in the US, which 21 I asked Chris Andrew about. And he confirmed -- 22 and I testified earlier to what he confirmed. 23 Q And other than talking to Chris 24 Andrew who confirmed what you have stated -- and 25 that is that in the United States there was not	Page 257 1 at all. 2 ATTORNEY BROWN: Okay. Then I'll 3 object. 4 THE WITNESS: I have not -- you know, 5 other than my discussions that I had 6 recently and whatever I read in the 7 transcripts, I have not seen any other 8 documents. 9 BY ATTORNEY DEAN: 10 Q When Mr. Mongon indicated that as of 11 the time he was deposed in 2023, after Kenvue 12 had already taken over the baby powder line, 13 that international sales of baby powder 14 continued under Kenvue -- well, first of all, do 15 you recall him saying that and being shown some 16 SEC filings that said the same? 17 A I do recall. 18 Q What did you do to follow up on how 19 long, how extensively, or where the sales of 20 Johnson Baby Powder with talc occurred under the 21 Kenvue umbrella? 22 A I did not look at that issue. Again, 23 I did not think that was a priority. I didn't 24 think -- I didn't know that was an issue that I 25 should look at.

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Page 258 1 Q Who set your priorities over these 2 last two days in terms what to look at -- 3 A I believe -- 4 Q -- how to prioritize what was 5 important? 6 A Yeah, how did I prioritize -- so I 7 prioritized what is important by reading the 8 Mittenthal depositions that you had asked. And 9 my, my going assumption would be the material 10 you were not satisfied with or appeared to be 11 not satisfied with are materials that I should 12 look for. 13 So discussion with Chris Andrew and 14 Michelle Goodridge and, you know, some of the 15 information that you had asked for that 16 didn't -- where did read -- where does JNTL come 17 from, you know, why Texas, things like that I 18 prioritized in the short term that I had. 19 Q In going through the structure of 20 trying to evaluate the questions that were asked 21 of Kenvue's prior person that they picked, did 22 you note that I specifically asked about the 23 testimony of the CEO of Kenvue admitting that 24 the talc-based baby powder continued to be sold 25 by Kenvue internationally and wanted to know	Page 260 1 he's at New Brunswick. But I'd have to see. 2 Q And does -- 3 A You can look him up, if you want. 4 Q I had asked Mr. Mittenthal about it. 5 And I didn't know if he was still with Johnson & 6 Johnson or a subsidiary or if he moved over to 7 Kenvue, and he just wasn't sure. I didn't know 8 if you knew. 9 A If you want, I could, I could look 10 him up. 11 Q If that's something you can quickly 12 figure out, I wouldn't mind it at all. 13 ATTORNEY BROWN: And while Mr. Kim is 14 doing that, Jessica, just for the record, 15 you had left a placeholder for Mr. Kim to 16 fill in the source of the testimony he was 17 referring to. And I think we've since 18 identified that as Mr. Ruh's deposition 19 testimony. I don't know if you want to 20 mark that as an exhibit or just note it on 21 the record. 22 ATTORNEY DEAN: Yeah, I think given 23 that Paul Ruh's deposition is already 24 marked to the first part of this 25 transcript with Kenvue but when it was
Page 259 1 where, for how long, and what volume? Did you 2 note that? 3 A I did note that. But again, the 4 issue for me was there were certain things that, 5 in this limited time period, that I could get 6 answers to, and there were other things that 7 were going to be very, very difficult in a short 8 amount of time to get. 9 Sales around the world is -- there's 10 an issue that I would need -- I would say, you 11 know, several weeks in order to try to get that; 12 yeah. 13 So, again, I prioritized with what 14 you had asked for. But then I tried to get the 15 stuff that I could get. And the stuff that I 16 could not get, I did not attempt to get. 17 Q And certainly back in February when 18 we were asking about these specific issues in 19 this notice, that wasn't something on your 20 radar? The first time you saw this notice was 21 less than 48 hours ago; fair? 22 A Fair. 23 Q You had mentioned that you did talk 24 to Mr. McGraw. Where does he worked currently? 25 A I did not ask him that. I believe	Page 261 1 through Mr. Mittenthal and that we've 2 referenced page 136, that we now no longer 3 need to mark Exhibit 42 to this 4 deposition. 5 THE WITNESS: Mr. Mittenthal works in 6 New Brunswick. 7 BY ATTORNEY DEAN: 8 Q For who? 9 A I'd say I do not know from what I 10 have here. 11 Q What are you looking at? 12 A It's either going to be Johnson & 13 Johnson or Johnson & Johnson Services. He's 14 part -- he's an associate tax counsel. So it's 15 almost like a law department; you have your own 16 division. And, yeah, he would either be a 17 Johnson & Johnson employee or a Services 18 employee. 19 Q Other than him did you talk to anyone 20 else for this part of the Johnson & Johnson 21 structure preparing for today? 22 A Adam Lisman. 23 Q Sorry, who? 24 A Adam Lisman. 25 Q Okay. I didn't -- that's one I don't

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Page 262 1 know. So Adam and McGraw are the two 2 individuals that you believe are part of the 3 Johnson & Johnson structure that you talked 4 about -- you talked to to be prepared for today? 5 A Yes. 6 Q In terms of Mr. McGraw, Mr. McGraw's 7 information, there's a lot that at least I was 8 provided because his Exhibit B comprised several 9 hundred documents. 10 Is that something that you've had an 11 opportunity to review? Or how did you go about 12 tackling that in the findings? 13 A I did not. I just relied on his 14 declaration and his deposition that he gave. 15 So, you know, they went through some of the 16 exhibits in his deposition. 17 I think for our purposes I think the 18 most crucial one is the step plan, which he 19 provided. So that's the one that I focused on. 20 The other documents, I think, I think 21 there's some documents that are in Japanese. 22 It's -- I did not go to through all Mr. McGraw's 23 documents. 24 Q In terms of who he worked with and 25 organizing the Project Diamond efforts, do you	Page 264 1 document again with Mr. McGraw, just to figure 2 out whether we -- that I understood the 3 transaction. 4 Q I will say I certainly had a hard 5 time digesting that deposition. I'm not sure 6 whose fault it was. But I agree that it's 7 dense. 8 In terms of what more you were able 9 to take away after you talked to him yesterday 10 for a half-hour, can you identify what you 11 learned or what you were able to clarify? 12 A Again, with respect to the structure 13 of the transaction, you know, we -- I confirmed 14 the reason it had to be done the way that it was 15 done was generally for tax and regulatory 16 purposes. For example, why, why did they have 17 to incorporate in Nevada? Because you can't 18 have two companies of the same name and Delaware 19 already had a JJCI. Or -- and so -- yeah, so 20 they had to go to Nevada where it's not licensed 21 in order create a company with the same name. 22 Things like that. 23 You know, why, why things were 24 kept -- I know you had an interest in why, why 25 do all these different subdivisions? Why not
Page 263 1 know what individuals were part of his team? 2 A So I think the main team would have 3 been Mr. McGraw, Chris Andrew. I believe there 4 was one other person, sort of the main person. 5 I think his -- the name's escaping right now. 6 But generally, Mr. McGraw and 7 Mr. Andrew were the ones that were sort of 8 leading the charge on this. 9 Q And what was the kind of purpose for 10 calling him, and what do you remember about that 11 thirty-minute discussion? 12 A So again, the questions you had about 13 the whys of the structure were, were something 14 that I wanted to go through with him. So I read 15 the deposition. And it is, it is dense in terms 16 of the steps that were taken. And part of that, 17 I think, was Mr. Placitella's not very good 18 about asking questions about structure. And so 19 I wanted to go through within the step plan in a 20 more orderly fashion so I could better 21 understand what was going on. 22 Q I'm going to tell him you said that. 23 A He was -- Mr. Placitella was 24 getting -- he confused me a lot going through 25 the document. So I wanted to go over the	Page 265 1 just one entity that you're just giving it to? 2 And again, the tax and regulatory 3 reasons, they were trying to keep similar 4 structures that existed at J&J when they moved 5 it over to Kenvue. And so they tried to 6 replicate that in the way that companies were, 7 were put together. 8 Yeah, so -- 9 Q Can I interrupt you to follow up on 10 that point and then give you a chance to tell me 11 more of what you may have discussed? 12 A Sure, sure. I'm sorry. You wanted 13 to follow up on it? 14 Q You had mentioned that there were tax 15 and regulatory reasons for the structuring 16 related to Project Diamond. And I wanted to 17 make sure I understood what you said when you 18 said they were trying to keep similar structures 19 and trying to replicate what happened. 20 I think what you're saying is the 21 structure in terms of the various entities that 22 were involved in managing consumer products at 23 Johnson & Johnson and Johnson & Johnson-related 24 entities were trying to be replicated when there 25 was a spinoff to Kenvue with Kenvue-related

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Page 266 1 entities. But I wanted to make sure I was 2 following that. 3 A Yeah, they want to replicate -- so 4 there are rationales for why companies have to 5 be separated into different companies, for 6 example. So there are tax implications and 7 regulatory implications. And so, you know, if 8 one company had a parent in another entity, they 9 wanted to make sure that that type of structure 10 was kept in. 11 Q And so as it relates to baby powder, 12 we will, for instance, see -- with Johnson & 13 Johnson, there was Johnson & Johnson, there was 14 Holdco, and there was JJCI. And when we looked 15 at Kenvue, we have Kenvue, JNTL Holdings, and 16 JJCI 3. 17 And so what I hear you saying was 18 that there was a broad effort to have similar 19 structures or to replicate the framework that 20 was being used with the J&J entities during the 21 spinoff to the Kenvue entities? 22 A It's not so much the J -- that, you 23 know, that the JJCI 3 had to be -- you know, had 24 to have a holding company. It's whatever other 25 companies have to be in the other entity.	Page 268 1 being the Johnson & Johnson structure before 2 April of 2023 when it went to Kenvue and their 3 structure. Right? 4 A So it's the -- yes. They're -- when 5 I say "they," so -- again, these were all -- 6 they're doing it on the Johnson & Johnson side. 7 This is before Kenvue's even up and going. They 8 wanted to make sure that any transfer's as 9 seamless as possible. 10 So they -- Johnson & Johnson is 11 structuring this so that when they, when they 12 eventually give it Kenvue, that it's -- you 13 know, it remains seamless for them; kind of just 14 trying to make it more efficient for everybody. 15 Q Okay. And then I interrupted. I 16 think you were going through what you learned 17 from Mr. McGraw and indicated trying to keep the 18 structures similar. You gave me a very specific 19 example about JJCI 3 being in Nevada first 20 because there was already a JJCI in Delaware. 21 And then I think you had more to tell 22 me and I paused. Is there anything else you can 23 think of? 24 A We just generally spoke about -- I 25 went through my apple basket scenario with
Page 267 1 So it's really -- it's not about one 2 company. It usually about how the companies 3 have been -- relate to each other in terms of 4 parent, sub, who owns shares of what, who's 5 allowed to own shares -- you know, especially 6 when you're with foreign companies. 7 So I think that's, that's really what 8 they're trying to do, so -- again, they're 9 trying to keep similar structures for, you know, 10 regulatory, tax -- and tax reasons. 11 Q I hear you explaining but also 12 suggesting "but," that there's a distinction 13 from what I'm saying and what you're saying. 14 (Crosstalk.) 15 A Oh, no. I think not. I'm just 16 trying to explicate further. 17 Q Okay. Because when I hear what you 18 mean by keeping similar structures and trying to 19 replicate, in terms of the variety of companies 20 that are involved, parents and subs, and then, 21 you know, who's involved with what, these are 22 very broad concepts. 23 When you said they are trying to keep 24 similar structures and trying to replicate, I'm 25 just trying to follow up when you mean "they"	Page 269 1 Mr. McGraw to make sure he agreed with it. When 2 you talk to a tax lawyer, you never know when 3 they're going to say: Oh, no, that's not -- you 4 can't do that. 5 And so -- but I wanted to make sure 6 that the analogy that I was using made sense to 7 him -- which it did. 8 You know, there was -- yeah, there 9 were -- I'm trying to think of the other 10 structural issues they came up with that. 11 I just wanted to look at this plan to 12 see -- go through it to make sure that I 13 understood it. But that was really basically 14 it. 15 Q In terms of whether he has any 16 knowledge about the different people that the 17 latter managed, any different companies in his 18 list of transactions that occurred that we 19 marked as Exhibit 41 to this deposition, did you 20 get into any kind of details whether he knew 21 further the management structure for any of the 22 entities listed in Exhibit 41? 23 A I did not. I did not. But I did -- 24 so that sort of reminds me. So, you know, a 25 part of the deposition of Mr. Snellgrove -- I'm

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Page 270 1 not sure if that was you or Mr. Placitella 2 asking questions -- there was a lot to be made 3 about, you know, that he didn't know -- 4 Mr. Snellgrove, as CEO, didn't know that these 5 transactions were happening, you know, for 6 example, through Janssen. 7 There was a lot in that deposition 8 that Mr. Snellgrove, who was the CFO and had no 9 idea. And so I did talk to Donny McGraw about 10 whether he should have known or whether why he 11 would have known. 12 And he and I, Donnie and I had a 13 discussion that these transactions happened 14 basically as a passthrough. Like Janssen's a 15 good example. The entity was in Janssen for, 16 like, an hour and had no effect on operations or 17 the money or anything. 18 And so there's no need for the CFO to 19 be apprised of this. You know, we had the 20 appropriate people at the company level -- the 21 president, the board -- that signed -- or that 22 did understand what was going on. 23 They understood, you know, that the 24 shares of JNLT 2 Holdings was going to be in 25 there for like an hour and then moved on. And	Page 272 1 officers to do the review and signing. And then 2 the transaction was done. 3 ATTORNEY DEAN: So let me object to 4 foundation. 5 BY ATTORNEY DEAN: 6 Q And just in terms of what is 7 appropriate or not, I understand that you were 8 getting Don McGraw's opinion on that as the 9 person who was involved with many of these 10 transactions. And you just told me about that; 11 fair? 12 A Fair. I was just explaining to you 13 what my conversation with Mr. McGraw was. 14 Q I don't know if this is a good 15 analogy or not. But you just mentioned, that, 16 look, this was just a passthrough; we were 17 talking about it being with Janssen for a moment 18 or JNTL Holdings for a moment with no effect on 19 the operations. 20 Is that similar to what occurred when 21 they had this set of transactions with Project 22 Plato with Chenango Zero being created and then 23 broken down into One and Two and then going to 24 LTL and New JJCI, where the Chenango parts were 25 just short passthroughs with no effect on the
Page 271 1 so they had the appropriate -- and so it was 2 appropriate they way they did it. 3 So Don and I talked about the 4 appropriateness of the process and why someone 5 like Mr. Snellgrove may not have even known that 6 this transaction went through, through Janssen. 7 So in terms of who -- and the same 8 would apply to who the officers are of these 9 entities as they're being created. You know, at 10 the end of the day, you know, they're officers 11 for an hour. And as long as they understand 12 that the entire transaction has been reviewed by 13 all the relevant sectors, met their approvals, 14 they can ask whatever questions they have, 15 they'll be told as much information as they 16 want, but once they sign these documents -- and 17 then, and then it moves on to a different 18 organization and it's over. 19 And so your question about, you know, 20 who -- about the relevant people, who were on 21 the boards of these, of these entities, that's 22 something that Don McGraw or Chris Andrews 23 really didn't -- it wasn't, it wasn't you know, 24 any big issue. They took whatever corporate 25 secretaries they couldn't find, and they became	Page 273 1 operation? 2 A So -- 3 ATTORNEY BROWN: Objection to the -- 4 hang on. 5 Object to the form. 6 Go ahead. 7 THE WITNESS: Yes and no. It's a 8 similar concept. But when I say 9 passthrough, there's a reason, there's 10 always a reason why they had to do that. 11 And so for, for Project Diamond, the 12 reason they had to do that was because 13 each of those entities had part of the 14 consumer business already there and they 15 needed to drop that consumer apple into 16 the basket. 17 All right. So it's a passthrough 18 because it doesn't affect them 19 operationally. But there was a rationale 20 for why they had to do that, right, in 21 order to get that -- separate out the 22 consumer part and put it into the basket. 23 For the Plato transaction, no, that 24 transaction, because we're trying to get 25 an ultimate goal. You know, the ultimate

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Page 274 1 goal, again, of without -- it was to try 2 to resolve these cases in the manner that 3 we choose to do it. 4 And because of the way that we chose 5 to do it, there was specific steps -- you 6 know, based upon our advice of counsel, 7 who were the experts in this type of 8 transaction, there were specific steps 9 that were appropriate to do in order to 10 reach the final transaction. 11 So, for example -- so it's not really 12 passthrough. When you create a Texas 13 company, it's because, based upon advice 14 of counsel, the easiest way to get to our 15 end result of coming up with a fair 16 resolution was to create a Texas 17 organization, a company that could utilize 18 well-formed Texas law and utilize that for 19 the divisional merger. 20 It's just like a company like -- 21 that, that incorporates in Delaware 22 because Delaware has a corpus of corporate 23 law that is well-developed. 24 So that explains why a Texas company 25 was done.	Page 276 1 purpose was to make sure that they were in Texas 2 where there was established law related to 3 divisive merger. 4 Did I get right? 5 A Correct. 6 Q I want to come back to kind of 7 Project Plato in a moment. And I think going 8 through your affidavit will help a lot. But I 9 just want to close out: Is there anything else 10 with Don or Donnie McGraw that you talked about 11 that we haven't covered? 12 A No. That's -- that was the extent of 13 it. 14 Q Do you have notes of that? 15 A No. 16 Q Another individual I think you listed 17 was Darren Snellgrove. Did I get that one 18 right? 19 A Yes. 20 Q And who was he? 21 A He's the CFO of Janssen. 22 Q And I've had an opportunity to review 23 his deposition. I'm assuming you looked at that 24 as well? 25 A Yes.
Page 275 1 So it's similar. But there are 2 reasons why you go through these steps to 3 get to the final result. 4 BY ATTORNEY DEAN: 5 Q So okay. I think I follow that what 6 you're saying is that the reason there was short 7 periods of time where Janssen or Johnson & 8 Johnson International or Hold -- JNL Holding -- 9 JNL Holding were involved was a passthrough 10 with no effect to the operation but in order to 11 make sure they collected all the consumer goods 12 before they were handed over to Kenvue. 13 A Correct. 14 Q Am I saying that part right? 15 A Correct. 16 Q Okay. And I'm sorry I repeat, but 17 I'm -- this is not my territory. So it helps me 18 make sure I'm not missing something. 19 I understand that in an effort to go 20 from Old JJCI to the two new companies, LTL and 21 New JJCI, there were these very short-lived 22 companies with the name Chenango Zero, One, or 23 Two; and while they were short-lived and didn't 24 have any effect on the operation, the purpose 25 was not the same, as this other example. The	Page 277 1 Q Did you talk with him yesterday? 2 A I did. 3 Q And what was the nature of that call? 4 A It was basically just going through 5 his deposition to see whether he had any 6 additional information and to see -- frankly, I 7 just wanted to confirm with him what he knew 8 about the transaction and the appropriateness of 9 what happened. 10 Again, I think the real -- the thrust 11 of the questioning was that he, he should have 12 known that this was going on. And so I just 13 wanted to talk to him about, in retrospect at 14 this point, how he felt about the deposition and 15 the statements, if there's anything else that he 16 would have added to it. 17 Q Did you learn anything new? 18 A No. 19 Q Do you have any notes? 20 A No. 21 Q Whether it's Mr. Snellgrove or 22 Mr. McGraw, in terms of, I think, understanding 23 whether the transaction we've called Project 24 Diamond are normal or not, I understand you were 25 focusing in on that. But in terms of

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Page 278 1 understanding the question I was asking earlier, 2 that if it's not J&J International and it's not 3 Janssen and it's JNTL, who was responsible in 4 this period of time. 5 Did you talk to them -- and this 6 period of time being that February timeframe -- 7 did you talk to either of them about that at 8 all? 9 A I did not. Honestly, going through 10 Mr. Mittenthal's deposition, I really did not 11 get that as the focus of the questioning. I'm 12 sorry. 13 You know, I was really fixated on the 14 whys of the transaction as opposed to, you know, 15 who, who would have taken responsibility during 16 each step of the transactions. I -- for 17 whatever reason, I thought that your -- the 18 thrust of your questions was why did this happen 19 the way that it happened, not -- 20 Q There is definitely a part of me that 21 very much wants to understand some the whys. I 22 appreciate you investigating that. It wasn't 23 the only concern. But we'll figure out what we 24 know today and go from there. 25 The last name you gave me was Adam	Page 280 1 Q And so his focus was related to the 2 Project Plato -- 3 A Yes. 4 Q -- questions and the topics. 5 A Yes. 6 Q Okay. And when I have an opportunity 7 to review his deposition, it's fair to say that 8 in your 30 minutes of talking to him yesterday 9 you didn't learn anything outside of that; is 10 that fair? 11 A That's fair. 12 Q Do you have any notes from the 13 discussion that you had with him? 14 A I do not. 15 Q Okay. I want to spend a few minutes 16 looking at Exhibit -- what I've marked as 17 Exhibit 39 to the deposition taken of Kenvue's 18 corporate representative when it was 19 Mr. Mittenthal in this case, which is, 20 ironically, your declaration, the first one that 21 you did from the first-day pleading. 22 I have that on the screen. Can you 23 see that okay? 24 A I do. 25 Q This is part of how I know that the
Page 279 1 Lisner? Is that right? 2 A Lisman; yes. 3 Q Lisman. I'm sorry. Where does he 4 work? 5 A So he is in the treasury group at 6 Johnson & Johnson. 7 Q Okay. And I saw that there was a 8 deposition that you guys provided yesterday. I 9 haven't had an opportunity to review that. Have 10 you? 11 A I reviewed it -- so I was at the 12 deposition, so I knew it pretty, pretty well. 13 I'm trying to figure out why I spoke to Adam. 14 You know -- and so he and I again talked about 15 the -- you know, he was involved in the Plato 16 transaction, and so I wanted to be sure -- and 17 he was involved in, you know, parts of the 18 bankruptcy as well. 19 So I wanted to confirm with him that 20 he -- there's nothing he knew that I did not 21 know about, about the transaction. Yeah. And 22 frankly I did so -- yeah, it was just sort of a 23 confirmatory conversation with him about his 24 deposition and his understanding of why things 25 happen the way they happened.	Page 281 1 corporate restructuring that we've been calling 2 Project Plato was completed on October 12th, 3 2021. 4 That's something you know and that 5 you've put in writing before; correct? 6 A Correct. 7 Q And you can also confirm that Old 8 JJCI became responsible for all claims alleging 9 that Johnson's Baby Powder and other talc 10 products cause cancer or other diseases; 11 correct? 12 A Correct. 13 Q I certainly understand that to be 14 true for certain periods of time starting in the 15 '70s but not prior to the '70s. And I want to 16 talk to about that for a moment. 17 Starting off with just showing you a 18 later part of your sworn statements in 19 section 2, relating to the 2021 corporate 20 restructuring. Do you see that? 21 A I do. 22 Q One of the things that you know and 23 that Kenvue knows by virtue of you writing it 24 down is that: As described above, Old JJCI and 25 its affiliates have engaged in multiple

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Page 282 1 restructurings through the years to achieve 2 business and operational objectives. Since it 3 was formed in the 1970s, Old JJCI has merged 4 with other companies, been repositioned in its 5 corporate family, and acquired and transferred a 6 number of assets. 7 Do you see where I'm at? 8 A I do. 9 Q There was a stipulation that 10 Johnson & Johnson has entered into in several 11 cases that I attached to the Kenvue deposition 12 with Mr. Mittenthal about Old JJCI and what it's 13 responsible for and what LLT is now responsible 14 for as a result of assuming those liabilities. 15 Were you involved in that at all, to 16 your knowledge? 17 A I was not. 18 Q Okay. I have what I've marked as 19 Exhibit 6 to the deposition of Mr. Mittenthal, 20 when he was speaking for Kenvue, on the screen. 21 It is a joint stipulation regarding LLT 22 Management, LLC's corporate structure that you 23 can see has Stipulation on here and that this 24 was filed actually in two cases, both Henderson 25 and Lee.	Page 284 1 which was attached to the deposition of 2 Mr. Mittenthal, have you seen this before, to 3 your knowledge? 4 A I have not. 5 Q The idea that Johnson & Johnson 6 started making, marketing, and selling Johnson's 7 Baby Powder in 1894 and Shower to Shower 8 cosmetic talc powder in the mid 1960s is 9 information that you have known and talked about 10 in the past; correct? 11 A Yes. I'd refer back to my 12 declaration to see the dates; yeah. 13 Q And I don't want to commit you then 14 to specifically 1894. But it certainly has been 15 something that occurred starting in the 1800s as 16 opposed to the last century; correct? 17 A Correct. 18 Q From 1979 until 2021, subsidiaries of 19 Johnson & Johnson, including a company called 20 Johnson & Johnson Consumer, Inc., manufactured, 21 marketed, and sold Johnson's Baby Powder. 22 From '78 to 2012 they indicate 23 subsidiaries of Johnson & Johnson, including a 24 predecessor called Johnson & Johnson Consumer, 25 Inc., making, marketing and selling Shower to
Page 283 1 Did you have the opportunity -- I 2 only attached the one in Lee -- but to look at 3 this exhibit to Mr. Mittenthal's deposition? 4 A I have not looked at this. 5 ATTORNEY BROWN: And just for the 6 record, it doesn't look to me like the 7 defendants had signed it. Was this 8 executed by both parties or just filed as 9 proposed? 10 ATTORNEY DEAN: Executed by both 11 parties. 12 ATTORNEY BROWN: Okay. Then can you 13 just go, please -- is there a signature 14 for the defendants that I just missed? 15 ATTORNEY DEAN: Not on this copy. 16 But it was filed in Lee. 17 ATTORNEY BROWN: Okay. We'll take 18 your representation. The copy we have 19 doesn't appear to be the case. 20 ATTORNEY DEAN: Yeah. And it was 21 also filed in Henderson. 22 BY ATTORNEY DEAN: 23 Q But in terms of just whether it be 24 the filed copies, publicly available in 25 Louisiana or Oregon, or whether it be Exhibit 6	Page 285 1 Shower. 2 And they talk about how on October 3 12th, 2021, as a result of company -- 4 intercompany transactions, the company called 5 Johnson & Johnson Consumer, Inc. that made, 6 marketed, and sold Johnson's Baby Powder ceased 7 to exist and LTL was created. 8 And they note the name change you and 9 I have discussed earlier and then they indicate 10 that while the company denies any liability in 11 the action, to the extent the Johnson & Johnson 12 entity is found liable, LLT Management, LLC is 13 the entity that will accept such liability. 14 Are you tracking where I'm at? I'm 15 paraphrasing. 16 A I am. I'm tracking you. 17 Q Part of why I wanted to just show you 18 this is this was, this was a compromise in a 19 case, not necessarily things that I know for 20 sure. So I'm trying to figure out if I know 21 them to be the case. 22 And my broad question to you is: My 23 understanding is that Johnson & Johnson as a 24 company was making and selling the baby powder 25 until the late '70s when a subsidiary was

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Page 286 1 created that started doing so and that that 2 subsidiary has had different names but it ended 3 up being Old JJCI accepting responsibility from 4 the '70s until it ceased to exist, and then 5 those liabilities were transferred to LLT or 6 LTL. 7 Is that tracking with your 8 understanding as well? 9 A I think the one thing missing is that 10 there was an agreement in 1979 that all prior 11 liabilities for talc was the Baby Company's 12 liability. 13 So this was something that was 14 litigated in the bankruptcy case. But there is 15 an agreement with the formation of, of the Baby 16 product company, that it would take on all the 17 liability. 18 Q In terms of whether that finding and 19 how that works, I don't plan on getting into 20 that at all. And so I don't think my question 21 asked for us to get into that. But let me 22 reframe it and see if I can do it in a way not 23 to get into that issue; because I hear your 24 declaration saying at all times JJCI was 25 responsible for the manufacturing and selling,	Page 288 1 things so it's not so awkward to navigate. 2 Bear with me for one second. 3 ATTORNEY BROWN: Counsel, it's now 4 6:00. I think we'll be due for another 5 break if you have much more. And we 6 should have a discussion with -- about how 7 much more you have if it's more than, you 8 know, 15 minutes or so. 9 ATTORNEY DEAN: I certainly have more 10 than 15 minutes or so. I was hoping to 11 get through this declaration before taking 12 the next break. 13 ATTORNEY BROWN: And how -- we'll 14 check with the witness. But how long do 15 you anticipate that will be? 16 ATTORNEY DEAN: So this is a lot less 17 structured for me than what I normally 18 would have, for what I think are obvious 19 reasons. So I don't know. I'm hoping an 20 hour. But I don't know. 21 THE WITNESS: An hour on the 22 declaration or an hour total? 23 ATTORNEY DEAN: I'm hoping we're done 24 in an hour. 25 ATTORNEY BROWN: Okay. Well, I think
Page 287 1 which I think is related to the point you're 2 making, that they assumed liabilities before 3 '79. 4 I'm just not interested in that issue 5 today. I probably will be for another day, but 6 not today. 7 For today, I'm -- just in terms of 8 when a subsidiary came on the scene to take over 9 making and selling of baby powder, my 10 understanding is it was made and sold by J&J for 11 many, many years. And then in '79 subsidiaries 12 were created. And while they've change names, 13 the entity we've called Old JJCI accepted 14 liabilities for all of those years that a 15 subsidiary existed and potentially for more. 16 Do I have that right? 17 A Correct. 18 Q Okay. 19 A That is correct. 20 Q And then the intent was that the 21 liabilities that were with Old JJCI when it 22 ceased to exist would be expressly assumed by 23 LTL, now LLT; correct? 24 A Correct. 25 ATTORNEY DEAN: Just closing a few	Page 289 1 the witness probably needs a break before 2 that time. Shall we try to get through as 3 much as we can? 4 THE WITNESS: Sure. 5 ATTORNEY BROWN: Mr. Kim, where are 6 you at? 7 THE WITNESS: Yeah, I'm fine. I 8 can -- let's finish the declaration. 9 ATTORNEY BROWN: Okay. 10 BY ATTORNEY DEAN: 11 Q And so in terms of just the idea that 12 Old JJCI and its affiliates had restructuring 13 and since it was formed in 1970, this 14 paragraph 20 that I have on the screen, in terms 15 of formation dates, is that 1979 to the best of 16 your knowledge? 17 A I'm sorry. The 1979? 18 Q Yeah. So you have here in the 2021 19 corporate restructuring section -- 20 A Right. 21 Q -- paragraph 20 a discussion about 22 Old JJCI and its affiliates. 23 And you say: Since it was formed in 24 1970, Old JJCI has merged with other companies, 25 been repositioned in a corporate family and

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Page 290 1 acquired and transferred a number of assets. 2 My understanding is a predecessor to 3 Old JJCI was actually formed in the '70s, but 4 Old JJCI had accepted the liabilities and that 5 the date in the '70s was 1979. 6 Am I following that right? 7 A I believe that's true. I think 8 there's another section of this goes through all 9 the old transactions. This is the new 10 transactions. But the -- prior to this there -- 11 I think there was a section on the prior 12 transactions. 13 Q I am, I am not confident about what 14 I'm saying. But I don't think so. I've seen 15 the list somewhere -- and I was actually looking 16 for this morning -- that went through all the 17 different names. 18 A Right. 19 Q I was actually looking for in here. 20 But I, I say that with wanting to be very clear 21 with very limited time. 22 A Okay. Just going through my version 23 to see -- 24 ATTORNEY BROWN: And, John, it could 25 also be your declaration --	Page 292 1 Q And so I didn't get to finish that 2 question. 3 A Sorry. 4 Q And I got an answer to the part that 5 I don't care about. So I'm going to try it 6 again. 7 In terms of when Johnson & Johnson 8 transferred all of its baby powder making and 9 selling responsibilities to a subsidiary, you 10 identified that started in 1979 and the various 11 different company names that were involved 12 throughout time in this declaration I've marked 13 as Exhibit 39, in paragraphs 10, 11, 12, 13, and 14 14. 15 And while there are multiple names we 16 could read out here, what this tells us is that 17 Old JJCI had the liabilities for baby powder for 18 Johnson & Johnson subsidiaries going back to 19 1979; correct? 20 A Correct. Plus -- 21 Q And you believe that in -- 22 ATTORNEY BROWN: Wait, wait. I don't 23 think he -- hold on. Hold on. I don't 24 think he was done with his answer. 25 ATTORNEY DEAN: I'm going to --
Page 291 1 THE WITNESS: Oh, no, no. It's 2 paragraph 9 -- 9, 10, and 11. It say '79, 3 its assets to the product division. 4 BY ATTORNEY DEAN: 5 Q Oh, this is perfect. Thank you. 6 A Yeah. It has all that. 7 Q Okay. Perfect, perfect. Give me one 8 moment. 9 So I am less interested in the 10 details of all the different names. But there 11 were multiple company starting in 1979 that got 12 involved with the manufacture and sale of baby 13 powder that ended up being called Old JJCI. 14 And so Old JJCI basically assumed or 15 had the liabilities for baby powder from at 16 least 1979 until it ceased to exist in 2021. 17 And if we want to know the specific names of 18 those entities, they're outlined in your 19 declaration I've attached as Exhibit 39 in 20 paragraphs 10 -- 21 A They are. 22 Q -- 11, 12? 23 A And as we mentioned before, there was 24 also an agreement in 1979 to take on all prior 25 liabilities.	Page 293 1 ATTORNEY BROWN: He -- you can't cut 2 him off -- 3 (Crosstalk.) 4 ATTORNEY DEAN: -- his answer. 5 ATTORNEY BROWN: You can object -- 6 ATTORNEY DEAN: I'm not -- 7 ATTORNEY BROWN: -- asked and 8 answered. 9 No, wait. You can't cut him off. 10 Jessica, he needs to finish. 11 ATTORNEY DEAN: Stop. Stop. It's 12 been a long day. Stop. 13 (Crosstalk.) 14 ATTORNEY BROWN: Please don't yell at 15 me. Please don't yell at me. 16 (Crosstalk.) 17 Please don't yell at me. 18 ATTORNEY DEAN: Every time I raise my 19 voice is because you are interrupting me. 20 We've done the dance this week. This 21 week. 22 (Crosstalk.) 23 ATTORNEY BROWN: Mr. Kim needs to be 24 allowed to finish his answer. 25 Please go ahead, Mr. Kim.

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Page 294 1 BY ATTORNEY DEAN: 2 Q So my question to you is that in 3 addition to accepting liability for the 4 subsidiaries that started in 1979 and went until 5 Old JJCI ceased to exist in 2021, it's your 6 belief that they also assumed the liabilities 7 for Johnson & Johnson for the making and selling 8 of baby powder to the beginning of time; is that 9 correct? 10 A That is correct. 11 Q And I use "beginning of time" just to 12 mean the beginning of the making and selling of 13 the product. Fair? 14 A I understand this. 15 Q One of the things Kenvue knows by 16 virtue of your sworn testimony is that in 2021 17 Old JJCI incremented a restructuring which you 18 referenced as the 2021 corporate restructuring, 19 which was completed on October 12, 2021. As a 20 result of that restructuring, Old JJCI ceased to 21 exist and two new entities were created. 22 Is that correct so far? 23 A That is correct. 24 Q One of them was LLT, that used to go 25 by LTL, which was formed as a Texas limited	Page 296 1 on October 11th, 2021; correct? 2 A Correct. 3 Q One was that Old JJCI's then-direct 4 parent, Janssen Pharmaceutical, organized 5 Currahee Holding Company Inc. -- which I'm just 6 going to call "Currahee" from now on -- and part 7 of that was they contributed all of its -- all 8 of the issued and outstanding stock of Old JJCI, 9 whereupon Currahee became the direct parent of 10 Old JJCI. 11 I think that was terrible, so I'm 12 going to try again. I'm sorry. 13 One of the things that occurred on 14 October 11th, 2021, was that Janssen, Old JJCI's 15 then-direct parent, organized a company called 16 Currahee -- or more officially Currahee Holding 17 Company Inc. -- contributing to it all of the 18 issued and outstanding stock of Old JJCI, 19 whereupon Currahee became the direct parent of 20 Old JJCI. 21 Is that correct? 22 A Correct. 23 Q Did you say "yes"? 24 A Yes. I said "correct." 25 Q I'm sorry. I missed it.
Page 295 1 liability company and then converted into a 2 North Carolina limited liability company; 3 correct? 4 A That is correct; with some interim 5 steps in between. 6 Q And so I wanted to get into the 7 breakdown of those steps, how long the Texas 8 folks were around. But the base idea that there 9 were two new entities created on October 12th, 10 one that is LLT and another entity which was 11 formed as a Texas limited liability company and 12 then merged into a New Jersey corporation that 13 was its direct parent as well as the direct 14 parent of LLT that was referenced as New JJCI or 15 New Johnson & Johnson Consumer, Inc. Is that 16 correct? 17 A That is correct. 18 Q The new JJCI that was created on 19 October 12, 2021, manufactures and sells a broad 20 range of products used in baby care along with 21 other fields; correct? 22 A Correct. 23 Q And then in terms of kind of 24 digesting that 2021 restructuring, you note that 25 there were a series of transactions effectuated	Page 297 1 Why -- why -- why is it there is this 2 Currahee Holding Company involved in this whole 3 thing? I cannot figure it out. 4 A Okay. So this actually -- it relates 5 to all -- the whole transaction as a whole, 6 right. So at the time you have JJCI, which is a 7 New Jersey company, right. So that's beginning. 8 At the end of these series of 9 transactions, right, you want to create a 10 company that, in order to resolve the talc 11 litigation in the best way possible, that has 12 been split into two, one company being a 13 North Carolina company because you want to be 14 able to take advantage -- or utilize a court 15 system that is very well-versed in, in 16 divisional merger issues, right. So you want, 17 you want that to be one end result. 18 And you want another company that is 19 similar to JJC- -- the original JJCI, which is a 20 New Jersey company, right. So that's the end 21 result you want in order to effectuate your -- 22 the ultimate transaction, which is the 23 resolution in a full, fair manner. 24 So in order to get to that endpoint, 25 you have to start off by setting up the company

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Page 298 1 so that one -- and again, this is sort of based 2 upon the advice of counsel, who are the experts 3 in these types of transactions. 4 You know, the advice was there is a 5 well-developed statute in Texas that allows you 6 to do a divisional merger, right. And so the 7 first thing you have to do is -- so you start 8 off a New Jersey company. You need to -- to 9 utilize Texas, that Texas statute, you have to 10 have Texas companies, right. 11 But at the end of the day you still 12 want to end up with one of the companies being 13 in New Jersey and one company being in, in 14 North Carolina. And the easiest way to get to 15 that end result is by merging companies into 16 existing companies, all right. 17 So you set up the two Texas 18 companies, right. So you start off, you start 19 off with Currahee, which is going to become a 20 New Jersey company, right. So it's got to be a 21 New Jersey company because that -- one of the 22 end results is to have an end -- a New Jersey 23 company at the end. 24 You take JJCI, make it into a Texas 25 company, right, by merging it into Chenango	Page 300 1 company and a New Jersey company, that's 2 why all these iterations happened. 3 You merge a company into another 4 company, generally, to try to create a new 5 domicile. In some circumstances you just 6 change domiciles. But in most 7 circumstances you merge one company into 8 another company. 9 So Currahee is set up in order to be 10 merged -- you know, Chenango Two to be 11 merged into it to become a New Jersey 12 company. 13 ATTORNEY DEAN: Believe it or not, I 14 think I tracked what you were saying. 15 And let me apologize for stopping. I 16 saw a stray dog off the leash running at 17 our house, and there was just a little 18 panic for moment. But then the owner was 19 running after him, and so I became less 20 panicked. I was not trying to interrupt a 21 detailed explanation. I just -- it 22 startled me. So I apologize for that. 23 BY ATTORNEY DEAN: 24 Q Let me see if I can break this down. 25 To put aside one issue, this desire to resolve
Page 299 1 Zero. And then you split JJCI using the Texas 2 divisional merger statue into Chenango One, 3 which has all the talc liability, and Chenango 4 Two, which has everything else, right. 5 So that's the first step. So you've 6 been able to utilize Texas law because they're 7 Texas companies. And the next step would be to 8 take the non-talc liability company and put it 9 back as a New Jersey company so that it 10 resembles JJCI, and so that's where it merges 11 into Currahee, right. 12 And then the Chenango One, you want 13 it to be a North Carolina company. So you have 14 to move that to North Carolina. And then that 15 becomes LTL, right? 16 So basically, the -- 17 ATTORNEY DEAN: (Indicating.) 18 Sorry. I just. I apologize to 19 interrupt. I'll explain in a moment. But 20 let me let you... 21 THE WITNESS: No problem. 22 So basically what you're trying to do 23 is you have an end result in mind. And in 24 order to get there using Texas statutes 25 and ending up with a North Carolina	Page 301 1 talc concerns the best way possible, whether 2 that was the best way possible, a good way, or 3 problematic, I'm going to set aside for now. Is 4 that okay? 5 A Yep. 6 ATTORNEY BROWN: Yeah. 7 BY ATTORNEY DEAN: 8 Q I just don't want to suggest that I 9 agree or fight about it all. I just want to set 10 it aside. 11 Okay. In terms of the goals behind 12 the restructuring, part of the restructuring, 13 all that you identify in this declaration go 14 from Old JJCI and involves this Currahee Holding 15 Company, Chenango Zero, Chenango One, Chenango 16 Two, LTL, and then a new JJCI. 17 And my understanding from what you're 18 saying is there was two distinct goals, one to 19 make sure that the operating company that had 20 everything left over after you separated out 21 what went to LTL be functional and be able to 22 operate in New Jersey, and then the other was to 23 effectuate what the company, Johnson & Johnson, 24 believed was the best resolution for handling 25 talc liabilities, which involved using Texas law

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Page 302 1 and at least at some time getting to 2 North Carolina courts, which you understood to 3 be well-versed in divisional merger issues. 4 Did I get that right? 5 A Exactly. 6 Q Okay. That took me a long time so I 7 (indicating)... 8 Okay. So outside of the desire to be 9 in Texas or North Carolina because of the Texas 10 law in divisional mergers and North Carolina's 11 experience with those, the creation of the 12 Texas-based organizations were all tied to the 13 management of the talc liabilities; fair? 14 A I would say it's all tied to the 15 ultimate resolution in the manner that we 16 thought -- that we thought was the best for 17 everyone. So that's the business purpose. The 18 ultimate business purpose, again, was the 19 resolution of these talc matters in the manner 20 that I described. 21 Q And when you say the resolution of 22 these matters, it's just -- the matters are all 23 tied out around concerns about cosmetic talc? 24 A Well, the matters involved the talc 25 cases; yes.	Page 304 1 A Yes. 2 Q Okay. You had mentioned an earlier 3 company that was only around for an hour. My 4 understanding from Michelle Goodridge's 5 deposition was that these, these Currahee -- no, 6 that's not right . 7 My understanding is that the Chenango 8 entities were only in existence for a matter of 9 hours. Is that fair? 10 A Correct. As they got merged in or 11 they got reincorporated somewhere else. 12 Q And so the function of these 13 companies wasn't to have any kind of business 14 meetings or organize any products or create 15 anything. It was related to these goals that we 16 just discussed; fair? 17 A Correct. 18 Q Currahee Holding Company no longer 19 exists; correct? 20 A Currahee is now -- was JJC- -- turns 21 into JJCI, the new JJCI, right. So Chenango 22 Two -- 23 Q Which turned into Holdco? 24 A Yeah. Chenango Two gets merged into 25 Currahee, it changed its name into JJCI, now
Page 303 1 Q Okay. Once -- where was the Currahee 2 Holding Company incorporated? I think you said 3 New Jersey? 4 A Yeah. Currahee is -- it was a New 5 Jersey company so that at the end of the day it 6 could be merged -- you know, Chenango Two could 7 be merged into Currahee, making it a New Jersey 8 company, changing its name to JJCI. 9 Q Okay. So when Chenango Zero was 10 divided into Chenango One, One followed -- One 11 was where all the liabilities of cosmetic talc 12 went, and that's what we now are referring to as 13 LLT; right? 14 A Correct. 15 Q Okay. And then Chenango Zero has a 16 second company that was created, which was 17 Chenango Two. And that was what merged with 18 Currahee so you have this Texas company, 19 Chenango Two, merging with a New Jersey company, 20 Currahee Holdings, so that New JJCI, when it 21 came out, was a Jersey company. 22 A Right. It changed -- 23 Q Do I have that right? 24 A It changed its name to the New JJCI. 25 Q Okay. And New Jersey; correct?	Page 305 1 Holdco. 2 Q When you say the name -- it changed 3 its name to JJCI, that would be JJCI New or 4 JJCI 2? Those are both ways -- 5 A Correct. 6 Q -- that that's referenced? 7 A Correct. 8 Q In terms of just since October 12th, 9 whether we call it Currahee Holding Company, New 10 JJCI, JJC 2, or Holdco, those are name changes 11 for the entity that took over the assets for 12 cosmetic talc from Old JJCI. Am I following 13 that right? 14 A Yes. Correct. 15 Q Okay. And in terms of identifying 16 each of the steps, certainly the information 17 that you've outlined in this declaration 18 supports what you and I have just talked about 19 and it's information, it's written down, and 20 certainly is available to you today as Kenvue's 21 corporate representative; correct? 22 A It is. 23 Q And do you stand by the information 24 that you swore to in 2021? 25 A I do.

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Page 306 1 Q Now, there's certain parts of this 2 that talk about matters that are not related to 3 this at all. You, for instance, talk about how 4 there is 130 years of history and what happened 5 in 1979, and there's discussions about the 6 management of certain lawsuits. 7 Is it fair to say that at least for 8 portions of this -- certainly those things that 9 predate your birth -- you don't have direct 10 firsthand knowledge; you just researched them? 11 Is that correct? 12 A I do not have direct firsthand 13 knowledge of some of these things; yes. 14 Q But in terms of this 2021 15 restructuring that you and I just talked about, 16 you were directly involved with that; correct? 17 A I was directly involved; yes. 18 Q And ultimately, LLT, that used to be 19 LTL, admits that they are responsible for Old 20 JJCI's liabilities arising from talc-related 21 claims; correct? 22 A It does. It is responsible for those 23 claims. 24 Q And the new JJCI/Holdco received all 25 their assets and liabilities of Old JJCI and	Page 308 1 were hundreds of different cancer cases that had 2 been brought to Johnson & Johnson's attention, 3 at least as of the date that you wrote this in 4 2021; correct? 5 A Yes. We -- Johnson & Johnson and LTL 6 was aware of all the lawsuit; yes. 7 Q And then part of what I want to do is 8 just ask you that without reference to a 9 lawsuit. But there's two different statements 10 I'll have you look at first, and then I'll come 11 back to the questions. 12 One of the things that you note is 13 that prior to the date that triggered this 14 declaration on October 14th, 2021, that there 15 were hundreds of cases that had been made known 16 to Johnson & Johnson and Old JJCI but had been 17 dismissed. They -- no one had followed up on 18 them. Fair? 19 A They had been dismissed, yeah. I'm 20 not sure whether no one followed up on them. 21 But they were dismissed. 22 Q Another thing that you knew and 23 stated that in 2017, there were literally 24 thousands of concerns about cancer, which was 25 much higher than even a few years earlier where
Page 307 1 became solely responsible for those other 2 liabilities; correct? 3 A Correct. 4 Q The other things in this -- for 5 instance, there's discussions about whether talc 6 products contained asbestos, whether they're 7 safe, whether there're published articles on 8 this -- you are not the safety or medical person 9 that has ascertained that information; correct? 10 A I did not ascertain this information. 11 But I was responsible for the litigation where 12 all this information was, was brought out. 13 Q Sure. But in terms of just being 14 directly involved with asbestos testing or 15 scientific or medical matters that are 16 intertwined with the underlying concerns in talc 17 litigation -- I understand as a lawyer you 18 become aware of them. But you weren't the 19 scientist or the doctor assessing these issues; 20 fair? 21 A That's fair. 22 Q One of the things on page 14 of what 23 I've marked as Exhibit 39 to the prior 24 deposition of Kenvue when it was Mr. Mittenthal 25 is that you had some understanding that there	Page 309 1 there were only a few dozen. 2 ATTORNEY BROWN: Object to the -- 3 BY ATTORNEY DEAN: 4 Q Do you recall that? 5 ATTORNEY BROWN: Object to the form. 6 THE WITNESS: This -- I would say 7 this deals with the number of complaints. 8 I'm not sure -- yeah, this deals with the 9 number of complaints that were filed. 10 BY ATTORNEY DEAN: 11 Q Okay. And then -- so with that in 12 mind, I'll rephrase. But one thing that you 13 note in this sworn declaration is that in 2007 14 there were thousands of complaints related to 15 concerns with cancer from cosmetic talc and 16 Johnson & Johnson, where even in just a few 17 years earlier it was significantly less, 46; 18 right? 19 A So it's 2017. I think you said 2007. 20 Q Oh, let me try again. I'm sorry. 21 A It's okay. 22 Q I'm sorry. 23 A So I stand by, I stand by this 24 statement that, you know, there were 46 ovarian 25 complaints in 2014. In 2017 there was nearly

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Page 310 1 5,000 complaints. And I stress complaints 2 because they are -- they're allegations. There 3 were, there were -- people were making 4 allegations about the product. 5 Q I very much appreciate that 6 distinction. So let try that again and 7 hopefully with not messing up the dates. 8 One of the things you knew and stated 9 in sworn declarations is that in 2017 there were 10 thousands of people alleging that they were 11 harmed from baby powder and got cancer and that 12 in earlier years, even just three years earlier, 13 it was significantly less, 46. True? 14 A True. 15 ATTORNEY BROWN: Object to the form. 16 BY ATTORNEY DEAN: 17 Q In terms of your involvement either 18 with Johnson & Johnson or LLT, were you ever 19 involved with providing discovery responses 20 about what Johnson & Johnson had in their own 21 records about testing its talc for asbestos? 22 A Yes. 23 Q Did you ever work with Nancy Mosco -- 24 "Mosco"? 25 (Crosstalk.)	Page 312 1 discussions with people about her deposition. 2 Q Okay. You note that LLT became 3 responsible for all of Old JJCI's talc-related 4 liability if it related in any way to injury or 5 damage or alleged injury or damage sustained or 6 incurred in the purchase of, use of, or exposure 7 to talc, including talc contained in any 8 product, or to the risk or responsibility for 9 any such damage or injury and note that that's 10 called talc-related liabilities and that there 11 are some exclusions for other types of cases. 12 Correct? 13 A Correct. 14 Q The only other thing on here -- I 15 thought I had highlighted that I wanted to ask 16 you about -- just need to find the paragraph 17 real quick. 18 While I'm looking for that, I did 19 want to verify, there is page or PDF 33 of your 20 affidavit, this flowchart about the 21 organizational structure that is involved. Can 22 you see that? 23 A I do see that. 24 Q I won't -- it just shows Johnson & 25 Johnson at top and then Janssen Pharmaceutical.
Page 311 1 I'm not sure if I'm saying her name 2 right? 3 A Nancy Musgrove. 4 Q M-O-S-C-O. 5 A I have -- I'm not sure if I worked 6 directly with her. I do know her. 7 Q She was deposed as a company 8 representative for Johnson & Johnson and what 9 we've been calling Old JJCI about when they 10 provided information in discovery responses. 11 Did you ever have an opportunity to 12 review her sworn testimony? 13 ATTORNEY BROWN: And I object. This 14 is well beyond the notice. 15 THE WITNESS: So I vaguely recall 16 that there was an issue with something 17 involving her. Sitting here today, I 18 can't recall what that was. But I do, I 19 do recall discussions about it. 20 BY ATTORNEY DEAN: 21 Q Okay. In terms of actually reviewing 22 the deposition itself, do you know if you've 23 done that? 24 A I have not done that recently. I'm 25 not sure if I ever have or whether I just had	Page 313 1 And in between that there's two lines. What's 2 the significance of those two lines between 3 Johnson & Johnson at the top -- 4 A Oh, that means they're excluded -- 5 there are other intermediate subsidiaries that 6 have been excluded from the chart. 7 Q Ah, got it. Okay. And so you 8 indicate that there is at the top Johnson & 9 Johnson. Then there's some intermediary 10 entities that are involved before it gets to 11 Janssen. And then below that is Johnson & 12 Johnson Consumer, Inc., it has in parens, New 13 Jersey. 14 Do you see where I'm at? 15 A I do. 16 Q And that indicates or verifies what 17 you told me earlier, that Old JJCI was a New 18 Jersey-based company; correct? 19 A Correct. But this is New JJCI, which 20 is also a New Jersey company. This is, this is 21 subsequent to the transactions. 22 Q Understood. So this reference here 23 on page 33 of your statements that references 24 Johnson & Johnson Consumer, Inc. (New Jersey) is 25 referencing what we've been calling JJCI 2 or

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Page 314 1 New JJCI; correct? 2 A Correct. 3 ATTORNEY DEAN: Okay. The other part 4 that I wanted to ask you about -- I've 5 mismarked something, and I know you wanted 6 to take a break. I'm almost done with 7 this declaration. I was hoping to have a 8 clean cut. But in order to save your 9 time, maybe I can use that break to find 10 this last part and then move on. Is that 11 okay? 12 THE WITNESS: Okay. 13 ATTORNEY BROWN: I think we should -- 14 let's go off. 15 THE VIDEOGRAPHER: The time is 16 approximately 6:35, and we are off the 17 record. 18 (Recess.) 19 THE VIDEOGRAPHER: We are back on the 20 record. The time is approximately 6:47. 21 This is the beginning of media number 5. 22 Counsel, you may proceed. 23 BY ATTORNEY DEAN: 24 Q Thank you for giving me a little time 25 to orient myself on this declaration from you	Page 316 1 code -- the bankruptcy code provides that 2 all cases are stayed in order for the fair 3 resolution of all the claims all at once. 4 So the way bankruptcy works is, once 5 you file bankruptcy, then you don't want 6 people rushing forward to get paid while 7 others will have to wait. So the stay 8 gets put in the place while you, while you 9 come to the resolu- -- while you 10 effectuate the resolution of all the 11 claims. That's what this refers to. 12 ATTORNEY DEAN: Let me object to the 13 nonresponsive portions. 14 BY ATTORNEY DEAN: 15 Q And again, I'm trying to avoid 16 reference to the term "bankruptcy." It's harder 17 in some places than others. 18 A On this situation... 19 Q But one of the explicit 20 considerations in Project Plato and in this 2021 21 corporate restructuring is after talc-related 22 liabilities were moved to LTL was to stay or 23 stop any litigation in civil courtrooms relating 24 to the issues concerning exposure to cosmetic 25 talc products from Johnson's Baby Powder or
Page 315 1 that I've marked in the prior deposition as 2 Exhibit 39. 3 The portion that I wanted to talk to 4 you about is under the section about stopping 5 the prosecution of talc-related claims. Do you 6 see that? 7 A I do. 8 Q And one of the -- 9 ATTORNEY BROWN: I object to the 10 form. 11 BY ATTORNEY DEAN: 12 Q One of the explicit things that you 13 discuss here about this restructuring -- the 14 2021 restructuring -- is that after the 15 talc-related liabilities, as you defined it, 16 were put into LTL, which is now LLT, there was 17 an immediate effort then to stop all litigation 18 in civil courtrooms, regardless of where they 19 were in the United States; correct? 20 ATTORNEY BROWN: Object to the form. 21 THE WITNESS: I wouldn't, I wouldn't 22 put it that way. I would say that as part 23 of our, our efforts to resolve the 24 litigation efficiently, equitably, and 25 fully, that by using the bankruptcy	Page 317 1 Shower to Shower in civil courtrooms no matter 2 where they are in the United States. Is that 3 correct? 4 A That would not be correct. That's 5 not -- it was not the way that you phrased it. 6 One of the considerations for doing it would be 7 to effectuate that. 8 I think what I would -- the way that 9 I would say it is that in order to resolve the 10 claims in a full, fair, and efficient manner, 11 one of the provisions that's provided in, you 12 know -- as a -- I can't say this without 13 "bankruptcy." Sorry. 14 ATTORNEY BROWN: But -- yeah. I 15 mean, you have to answer the question 16 truthfully, John. 17 THE WITNESS: Yeah. So I have to say 18 so -- if you're trying to resolve this in 19 the bankruptcy because, you know, 20 that's -- you think it's -- the 21 position is -- and I know you disagree -- 22 the position is the best, most efficient 23 way to deal with that, that as a function 24 of that, the bankruptcy code provides that 25 everything is stayed while you -- so that

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Page 318 1 you can get an equitable resolution for 2 all parties. 3 That's just the way it works. You 4 can't have cases going on in some 5 jurisdictions while you're trying to 6 settle all the other jurisdictions. It 7 makes it -- it gets very messy that way if 8 everyone can do that. 9 So I would say the way that you 10 phrased it, you know, that was one of the 11 things we considered to do -- you know, 12 that was a consideration for doing it. 13 It is a function of how we thought 14 was the best way to accomplish what we're 15 trying to see. 16 ATTORNEY DEAN: Object to the 17 nonresponsive portions and also those that 18 lack foundation. 19 BY ATTORNEY DEAN: 20 Q Is it your belief that you cannot 21 truthfully and honestly answer the questions 22 about the actions taken during this '21 -- 2021 23 restructuring, what we've called Project Plato, 24 as it relates to stopping all civil litigation, 25 without referencing bankruptcy? Is that, is	Page 320 1 question about whether this 2021 corporate 2 restructuring involved stopping all civil 3 litigation for at least some period, no matter 4 where it was in the United States, is it in your 5 mind that you can't answer that honestly without 6 mentioning bankruptcy? 7 A Well, you just asked a different 8 question, you know. So -- your first question 9 related to, you know, was this -- did we do it 10 as a consideration, was it part of the 11 consideration. In other words, the implication 12 was did we do this for the stay. 13 And truthfully the answer is -- 14 Q That's not. 15 A Okay. 16 ATTORNEY BROWN: He needs to finish. 17 He needs to finish. Please. 18 THE WITNESS: So -- 19 (Crosstalk.) 20 ATTORNEY DEAN: We're going to finish 21 today. Where we are off track, trying to 22 get to the same place, as opposed to 23 answering something that's not, is a 24 useful and thoughtful exercise. And you 25 are disrupting that right now.
Page 319 1 that your belief? 2 A I believe that you can't give a full 3 answer without, without mentioning why -- you 4 know, how this stay comes about and sort of the, 5 the bigger context in, in what you're trying to 6 do. 7 So, you know, the context was we were 8 trying to resolve these cases. The best way 9 that we were advised to do this was, was through 10 this bankruptcy. And as a function of the 11 bankruptcy, there's a stay that's involved. 12 ATTORNEY DEAN: Let me object to the 13 nonresponsive. 14 BY ATTORNEY DEAN: 15 Q And when I asked you the question 16 about whether you could answer truthfully about 17 what would happen with Project Plato and the 18 2021 corporate restructuring without mentioning 19 bankruptcy, you indicated that you couldn't 20 answer fully and then kind of repeated some of 21 the rationale from your perspective for these 22 actions. 23 I want to return to my question, 24 because fully answering is a little different 25 than truthfully. If I want to answer the	Page 321 1 ATTORNEY BROWN: Let him answer the 2 question, please. 3 ATTORNEY DEAN: I'm going to try to 4 reframe. 5 ATTORNEY BROWN: No. He was still 6 speaking. Let him finish. 7 BY ATTORNEY DEAN: 8 Q As opposed to trying to figure out -- 9 ATTORNEY BROWN: Hey, counsel's not 10 letting the witness answer the question. 11 ATTORNEY DEAN: You're interrupting 12 me on the record, and that makes for an 13 impossible -- 14 ATTORNEY BROWN: Because you just cut 15 off the witness. I mean, this is what's 16 happening and the transcript will show it. 17 Please continue. 18 You cut off the witness. 19 BY ATTORNEY DEAN: 20 Q I want to make sure you understand my 21 question. 22 For the 2021 corporate restructuring 23 that is referenced as Project Plato, if I want 24 to understand that part of that involved actions 25 taken that would result in stopping civil

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Page 322 1 litigation related to cosmetic talc liabilities 2 no matter where they were in the US, can you 3 answer that honestly without referencing 4 bankruptcy? 5 A Yes. 6 Q Okay. And I, and I -- if I with my 7 prior questions try to suggest that it was the 8 driving force and only part of it, that was 9 truly not my intent. So I'm going to try to 10 reframe to get us closer to home. 11 Part of the 2021 corporate 12 restructuring that was known to you and that you 13 discussed in sworn statements was that after the 14 talc-related liabilities were moved to LTL, now 15 LLT, that it was expected that there would be a 16 stay or pause on civil litigation related to 17 cosmetic talc liability no matter where it was 18 in the country. Is that fair? 19 A That is true. 20 ATTORNEY BROWN: I object to the form 21 and to the instruction of counsel. 22 BY ATTORNEY DEAN: 23 Q In terms of how long talc-related 24 liability was paused throughout the country, my 25 understanding is that lasted well over a year.	Page 324 1 Kaplan's transcripts? 2 A I have. 3 Q Between when the first bankruptcy was 4 filed and the second bankruptcy ended, do you 5 know how much time passed? 6 A I -- you know, I'd have to go back to 7 my calendar. Again, sitting here right now, I 8 don't, I don't recall. 9 Q You certainly know it was over a 10 year; correct? 11 A I believe it was over a year; yes. 12 Q And so after this pause on civil 13 litigation throughout the country, there was 14 over a year that went on where any concern about 15 cosmetic talc relating to cancer was paused with 16 the exception of maybe three or four cases, to 17 the best of your memory; fair? 18 A I -- not fair. I would say 19 whoever -- if there was concern and people 20 wanted a trial, people could have asked for one 21 and they were given. 22 So I would say that there was a pause 23 and -- for that period of time. But, you know, 24 the concerns -- people who raised concerns 25 raised concerns.
Page 323 1 Is that yours as well? 2 A I -- yes and no. So for -- there 3 were cases that went forward during that period. 4 Q Let me try to reframe. With very 5 limited exceptions, that effort to pause or stay 6 cases in civil courts no matter where they were 7 in the country is something that lasted for well 8 over a year, I think over a year and a half. 9 Does that sound right? 10 ATTORNEY BROWN: I object to the form 11 of the question. 12 THE WITNESS: I disagree with 13 "limited exception." Everyone that asked 14 for a trial got one. 15 ATTORNEY DEAN: I'm going to object 16 to nonresponsive. 17 BY ATTORNEY DEAN: 18 Q How many trials went forward after 19 the bankruptcy was filed until the second 20 bankruptcy ended? 21 A I want to say three or four. Again, 22 I don't have the exact number. But I think it 23 was like three or four. The three or four 24 people who asked for a trial. 25 Q Have you read Kaplan's -- Judge	Page 325 1 ATTORNEY DEAN: Object to 2 nonresponsive. 3 I'm also going to attach to the 4 record as Exhibit 42 the transcripts 5 indicating to the opposite. But I don't 6 want to engage in fights, so I'm going to 7 try to frame my question to avoid it. 8 (Exhibit 42 was marked for 9 identification.) 10 BY ATTORNEY DEAN: 11 Q In terms of the stay that was 12 requested or the pause on civil litigation that 13 was requested as a result of this -- these 14 actions that we've referenced as Project Plato, 15 you're aware that all cases throughout the 16 United States had a pause put on litigation 17 except for three or four of them? 18 ATTORNEY BROWN: I object to the form 19 of the question. 20 THE WITNESS: That's not, not 21 entirely true. So most case -- many cases 22 went forward without LTL or J&J entities 23 as a defendant. So, you know, there were 24 cases where we were named as a defendant 25 that, that continued to go forward. There

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Page 326 1 were cases that asked for a trial are 2 cases that went forward. There was 3 discovery that was had in many cases that 4 went forward. 5 You know -- so, yeah, there was 6 litigation, ongoing litigation going on 7 during that period. There were just no 8 other trials except for the ones that 9 people asked for. 10 ATTORNEY DEAN: I'll object to 11 nonresponsive and try again. 12 BY ATTORNEY DEAN: 13 Q After this 2021 corporate 14 restructuring that was called Project Plato that 15 resulted in pausing litigation against Johnson & 16 Johnson and Old JJCI and another entities 17 related to Johnson Baby Powder, for over 12 18 years you're aware that no one had an 19 opportunity to go in front of a jury to discuss 20 their concerns about Johnson's Baby Powder, 21 except for, I think you said, three or four 22 exceptions. 23 Did I get that right? 24 ATTORNEY BROWN: Object to the form. 25 You said 12 years.	Page 328 1 I think you said you think there's three or four 2 exceptions. Did I get that right? 3 ATTORNEY BROWN: Object to the form. 4 THE WITNESS: Yes; except I would say 5 with the three or four, whoever asked for 6 a trial got a trial. 7 ATTORNEY DEAN: After "yes" I'm going 8 to seek to strike. 9 ATTORNEY BROWN: Opposed. 10 ATTORNEY DEAN: Fundamentally not 11 asked and also -- 12 ATTORNEY BROWN: Opposed. 13 ATTORNEY DEAN: -- God bless America, 14 I wanted a trial. 15 And I will also note that we did go 16 forward against other people, and people 17 cannot have peace or rest if they're doing 18 it a second time. 19 ATTORNEY BROWN: I object to speech. 20 ATTORNEY DEAN: I object to not 21 responding to the question. 22 ATTORNEY BROWN: You already did. 23 BY ATTORNEY DEAN: 24 Q In terms of something that you have 25 volunteered several times and I've always
Page 327 1 THE WITNESS: Yeah. 2 BY ATTORNEY DEAN: 3 Q With me correcting to say 12 months 4 instead of 12 years -- and I meant well over a 5 year, not 12 years. I apologize. But with 6 that, do I have that right? 7 A Again, the -- with the exception of 8 those people who asked for trials to go forward, 9 there were no trials for that period of time, 10 although there was motion practice and discovery 11 that went on during that period. 12 ATTORNEY DEAN: Objection to 13 nonresponsive because I really didn't ask 14 about that, and try again. 15 BY ATTORNEY DEAN: 16 Q With Project Plato, after they put 17 the talc liabilities into LTL or LLT and then 18 effectuated efforts to stay litigation for over 19 a year, no matter where it was the country if it 20 was civil litigation, your understanding is that 21 during that time, no matter the nature of the 22 case, if there was concerns about use of 23 Johnson's Baby Powder and cancer, any claims 24 against Johnson & Johnson or Old JJCI or LLT 25 were not going to a jury, with the exception of	Page 329 1 attempted to object to about this effort being 2 an effort to fairly resolve cases, I want to be 3 clear that when you mention that you are 4 discussing LTL, now LLT's beliefs as the entity 5 that expressly accepted those liabilities; 6 correct? 7 A Correct. 8 Q Have you talked to a single person at 9 Kenvue or Holdco about whether they believed the 10 restructuring efforts that resulted during 11 Project Plato and how liabilities and assets 12 were divided up, whether those were fair or not? 13 A I'm sorry. What was the last part of 14 it? Have I discussed what? 15 Q Have you discussed with anyone at 16 Kenvue or at Holdco, the two entities that 17 you're representing today, to determine whether 18 they believe that the actions that we've been 19 talking about, the corporate restructuring and 20 different machinations of corporations per 21 Project Plato and how they divided out 22 liabilities and assets, whether they believed it 23 was fair and equitable? 24 A Yes. 25 Q Who did you talk about?

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Page 330 1 A Chris Andrew. He was instrumental in 2 both those transactions. 3 Q Other than Chris Andrew, the lawyer 4 that you mentioned that worked for Kenvue, 5 anyone else? 6 A Michelle Goodridge believes that 7 everything done was appropriate. I spoke to her 8 about her Rule in Project Plato. 9 Q Okay. And you mentioned Michelle 10 Goodridge was a person who wasn't involved in 11 the substantive -- substance of these 12 conversations and you could tell that from her 13 deposition in 2021. But you confirmed that that 14 was also the case, kind of how she approached 15 the issues with Project Diamond after her 16 deposition in the 30-minute conversation you had 17 yesterday; correct? 18 A No. What I said was that she 19 reviewed the documents, reviewed the transaction 20 at the time, had discussions with lawyers about 21 what was going on, was satisfied that everything 22 was appropriate, and signed the documents in 23 both cases. 24 Q So you believe that Michelle 25 Goodridge has firsthand knowledge about how that	Page 332 1 involved with the baby powder line; correct? 2 A So I did not choose -- I chose them 3 based upon your questioning of Mr. Mittenenthal. 4 That's how -- I think we discussed how they came 5 to be on my list of people to talk to. 6 Q And the fact that I -- that we have 7 noted in trying to get the basic information 8 from Kenvue that we never worked there and we 9 need the company to tell us who has knowledge 10 and we don't know if it's more than just these 11 few people that have been deposed, were you 12 aware of that? 13 ATTORNEY BROWN: Objection to the 14 form. 15 BY ATTORNEY DEAN: 16 Q Motions, for instance. I think you 17 said you got it, the motion that we filed? 18 A I did not get the motion. I said I 19 relied upon your -- the deposition that you took 20 of Mr. Mittenenthal. 21 Q So my question, Michelle Goodridge, 22 since she's been at Kenvue, is not a person that 23 has been involved with the Johnson Baby product 24 line. You mentioned that she moved on to 25 different things, I think like developing new
Page 331 1 liabilities and assets were divided between the 2 companies and whether the handling of those 3 liabilities with LTL was equitable and fair? 4 A Absolutely. Yes, she does. 5 Q Great. That's helpful. And she's a 6 current employee of Kenvue? 7 A She is. 8 Q Anybody else? 9 A Those are the people I talked to. 10 Q In terms of -- I don't want to ask 11 about a lawyer. But in terms of Michelle 12 Goodridge, you've already confirmed that the two 13 people you've talked to about this -- well, let 14 me back up. 15 The two people that you've talked to 16 about whether assets and liabilities being 17 managed and how they were divided and whether 18 that was fair and equitable were with Kenvue, 19 not Holdco; correct? 20 A That is true. 21 Q And for the two individuals you chose 22 to speak to at Kenvue, you chose to speak to a 23 lawyer and to a person named Michelle Goodridge, 24 who you told me earlier in this deposition, 25 since she came to Kenvue has in no way been	Page 333 1 products; correct? 2 A Well, expanding markets. 3 Yeah, I don't know whether she 4 directly deals -- has this -- part of that may 5 involve baby powder. But she, she does not have 6 responsibility for baby powder. 7 Q Has she been at any time in her 8 career involved with assessing the losses of 9 people that have cancer that at least allege or 10 believe it's because of baby powder? 11 A I -- 12 ATTORNEY BROWN: Objection to the 13 form. 14 THE WITNESS: I do not know. 15 BY ATTORNEY DEAN: 16 Q Does she have any understanding of 17 the funding agreement for LTL at any time? 18 ATTORNEY BROWN: Objection to the 19 form. 20 THE WITNESS: I do not recall -- I'm 21 not sure whether she was a signatory in 22 one of the funding agreements. I'd have 23 to check my records. But I don't recall 24 sitting here right now. 25 BY ATTORNEY DEAN:

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Page 334 1 Q Another thing that was explicitly 2 understood during Project Plato in this 3 corporate restructuring in 2021 wasn't just that 4 there would be a request to stop civil 5 litigation for at least some period relating to 6 cosmetic talc, but that it would seek to stop 7 litigation not just for LTL, now known as LLT, 8 but other related parties; right? 9 A I disagree that it was a request. I 10 think these are -- they're automatic stays. 11 ATTORNEY DEAN: Whether the stay is 12 automatic or not is not at all part of my 13 questions. So let me object as 14 nonresponsive. 15 BY ATTORNEY DEAN: 16 Q Part of the Project Plato 17 restructuring that you're aware of is, after the 18 talc liabilities were transferred over to LTL, 19 was to take actions that resulted in a stay of 20 civil litigation relating to cosmetic talc 21 liabilities. You were of that; right? 22 ATTORNEY BROWN: Objection to the 23 form. 24 THE WITNESS: I was aware that action 25 would be stayed; yes.	Page 336 1 or not, are you aware or have you tried in any 2 way to figure out whether there are individuals 3 at Kenvue or Holdco who are aware of what 4 occurred after the Project Plato restructuring, 5 in terms of efforts by people who believe they 6 were harmed from cosmetic talc to actually be 7 able to get resolution or to be heard in the 8 civil court system? 9 ATTORNEY BROWN: Object to the form. 10 THE WITNESS: I don't -- I have not 11 asked anybody at Kenvue and spoken to 12 anyone at Kenvue about that. 13 BY ATTORNEY DEAN: 14 Q What about Holdco? 15 A I've not spoken to anyone at Holdco 16 about that topic. 17 Q Have you tracked or made any effort 18 to track how many individuals were notified -- 19 notified Johnson & Johnson and LTL about their 20 deposition so that they could discuss their 21 history when they were sick before maybe they 22 got too sick to do so and where no one showed up 23 on behalf of those companies during this pause 24 or stay that occurred? 25 ATTORNEY BROWN: Object to the form.
Page 335 1 BY ATTORNEY DEAN: 2 Q And another related effort by -- as a 3 result of this Project Plato restructuring 4 wasn't just to stay or stop litigation or civil 5 litigation for cosmetic talc liability for LTL 6 but also to other parties, including Johnson & 7 Johnson; correct? 8 A I would say -- I wouldn't classify 9 them as efforts. Again, I would say that is 10 part of the restructuring we understood that 11 there would be a stay relating to other parties. 12 Q And does that include Johnson & 13 Johnson? 14 A Yes. 15 Q Does Kenvue have any understanding 16 about what action by people that had concerns 17 about talc liabilities were hindered or delayed 18 during the pendency of these bankruptcy efforts? 19 ATTORNEY BROWN: Objection to the 20 form. 21 THE WITNESS: Yeah. I, I would -- I 22 don't agree that efforts were -- that 23 there was a hindrance and delay. 24 BY ATTORNEY DEAN: 25 Q In terms of whether that's even true	Page 337 1 THE WITNESS: Yeah, I'm not sure I 2 understand the question. 3 BY ATTORNEY DEAN: 4 Q Let me ask you this: Are you aware 5 that one of the limited things that were allowed 6 to occur during this stay on civil actions was 7 to give notice to LTL and Johnson & Johnson 8 about plaintiffs' depositions -- plaintiffs 9 being the people who are alleging that they are 10 sick with cancer because of exposures to 11 cosmetic talc? 12 A I was aware, yes, that was something 13 that could go forward, yes. 14 Q Have you tracked or do you have any 15 knowledge of how many times LTL and Johnson & 16 Johnson were made aware of these depositions and 17 choose not to attend? 18 ATTORNEY BROWN: Objection, form. 19 THE WITNESS: Yeah, I am not aware of 20 any count of that. 21 BY ATTORNEY DEAN: 22 Q Do you have any estimate, even if you 23 don't have an exact count? 24 A I have no estimate. 25 Q Are you aware or have any estimate of

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Page 338 1 the number of times that Johnson & Johnson, 2 since they've returned to civil litigation, are 3 trying to reopen depositions of people that have 4 cancer, despite getting sent notice that I just 5 talked about, letting them know the deposition 6 was occurring? 7 (Crosstalk.) 8 ATTORNEY BROWN: I object to the 9 form, foundation, and scope. 10 THE WITNESS: I have no knowledge of 11 that. 12 BY ATTORNEY DEAN: 13 Q Can you be any more specific about 14 the source of your belief that everyone that 15 asked to have their dying clients heard during 16 the pendency of the bankruptcy were given the 17 blessing to go forward? 18 A Yes. 19 ATTORNEY BROWN: Object to the form. 20 THE WITNESS: So I attended all the 21 bankruptcy hearings. And there were 22 plaintiffs who wanted to go to trial, made 23 the argument that they should go to trial. 24 And when confronted with the issue that if 25 they were allowed to go to trial, then	Page 340 1 A There were, there were motions made 2 by Joseph, Joe Satterley to be allowed to go to 3 trial. They're on the record. There's briefing 4 on it. I'm sure those are available from the 5 bankruptcy court. 6 Q I think they are. And I think I was 7 there for part of them. But I want to make sure 8 what you and I looked at we can actually look at 9 and show the judge and maybe even a jury. 10 And so do you have any idea in these 11 months and months and months and months and 12 months and months of proceedings -- 13 (Crosstalk.) 14 A I'm sure we can get them -- 15 Q -- that ultimately failed, where I 16 would find what you're talking about? 17 ATTORNEY BROWN: Object to the form 18 as incredibly argumentative. 19 THE WITNESS: Yeah, I'm sure we could 20 get that -- those if you want them. 21 ATTORNEY DEAN: I will ask that those 22 be attached as Exhibit 43. 23 (Exhibit 43 was marked for 24 identification.) 25 BY ATTORNEY DEAN:
Page 339 1 everybody else would want to go to trial, 2 they swore to the Court that nobody else 3 wanted to go to trial and that they would 4 not open up the floodgates and that, and 5 that -- so these people should be allowed 6 to go to trial. 7 I was present when those arguments 8 were made. 9 BY ATTORNEY DEAN: 10 Q I'll start with that. Do you -- can 11 you be more specific on what you're referencing 12 where someone claimed that if they went to 13 trial, the floodgates wouldn't be opened for all 14 of those other people that have claims? 15 A Joe Satterley made that 16 representation numerous times. I believe Moshe 17 Maimon had made that representation. Chris 18 Placitella made that representation. 19 I definitely recall Joe Satterley 20 making that representation, that representation 21 several times. 22 Q In terms of where I could look at 23 that and look at the specific information that 24 you are remembering, can you be any more 25 specific?	Page 341 1 Q Other than the Reyes case -- or, 2 excuse me, the Valdez case, can you name any 3 specific cases that actually went forward during 4 the pendency of that bankruptcy? You said three 5 or four. 6 A I can't name them right now. I just 7 don't recall the names. 8 Q You believed there were three to four 9 cases. 10 A I believe there were three. But 11 again, I'd have to go back. That's my, that's 12 my recollection. 13 Q Is there any other source of your 14 belief that people didn't want to go or didn't 15 ask and it was just, just people that either Joe 16 Satterley or maybe Moshe and maybe Chris 17 Placitella mentioned, other than some 18 transcripts with those individuals that 19 hopefully we're going to attach as Exhibit 43? 20 A No. Those are the, those are the 21 representations that were made. 22 Q I think that answers my question. 23 But is there anything else that you're thinking 24 of in your mind other than lawyers for other 25 firms seeking to have their clients heard and

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Page 342 1 discussing that it wouldn't open the floodgates? 2 A I do not recall. 3 Q Huh? 4 A I don't believe there are. That's 5 what I'm thinking of. 6 Q The case that I'm unaware of involved 7 a person whose trial was pending when this 8 Project Plato action to stop cases occurred. Do 9 you recall that? They were in the middle of 10 trial when this happened. 11 ATTORNEY BROWN: Objection to scope. 12 Are you asking in his personal capacity 13 right now? 14 BY ATTORNEY DEAN: 15 Q I'm asking if you know. And then 16 I'll try to connect it, if I can, to the 17 companies at hand. 18 ATTORNEY BROWN: Well, object. It's 19 beyond the scope. 20 THE WITNESS: Yeah, I don't, I don't 21 recall. 22 ATTORNEY DEAN: So for this whole 23 entire section of questioning I believe 24 that when you keep volunteering about a 25 full, fair, and equitable effort relates	Page 344 1 ATTORNEY DEAN: -- to other questions 2 about Project Plato which were clearly in 3 our notice and clearly relevant, I think 4 it's just distinct. 5 ATTORNEY BROWN: I object. To pose 6 Project Plato necessarily implicates the 7 reason for Project Plato. I think the 8 questions you're asking now about lawsuits 9 and stays are beyond the scope. 10 But please try to conclude your 11 questions and continue. 12 THE WITNESS: Sorry. Before we 13 continue, can I just make a correction to 14 what I said. 15 I'm recalling at the beginning of the 16 bankruptcy case there were -- there was at 17 least one plaintiff who wanted to go 18 forward and denied. 19 But by the end of the bankruptcy 20 case, Judge Kaplan had switched -- changed 21 his mind and was going to allow trials to 22 go forward. That's what I recall. 23 So that -- I just wanted to clarify 24 that. 25 BY ATTORNEY DEAN:
Page 343 1 to LTL, not Kenvue and not Holdco, and is 2 nonresponsive. I am solely asking these 3 questions as a follow-up in the event that 4 a Court disagrees with me. I actually 5 don't think this is the appropriate 6 setting for that. 7 ATTORNEY BROWN: You asked hours of 8 questions about Plato. 9 ATTORNEY DEAN: I think Plato is 10 highly relevant. I think the claim that 11 the bankruptcy efforts with LTL that does 12 not implicate New JJCI, Holdco, or Kenvue 13 has nothing to do with it. 14 And I certainly never asked at any 15 point in time whether the transfer of talc 16 liabilities was to be just or fair or 17 anything about the motive of it. It is 18 just something that was inserted into 19 questions over a dozen times that I'm 20 just, to protect myself, asking some 21 follow-up questions. But I don't think 22 they're part of this deposition. To try 23 to -- 24 ATTORNEY BROWN: I think -- 25 (Crosstalk.)	Page 345 1 Q And so your belief about him allowing 2 trials to go forward you're amending to say 3 there were some rejections, but continue to rely 4 on your basis or understanding that he was going 5 to allow trials to go forward from transcripts 6 that hopefully we're going to get as Exhibit 43 7 where counsel for claimants -- specifically you 8 think Satterley and maybe two others -- were 9 asking for a trial date and saying it wouldn't 10 open the floodgates. Do I have that right? 11 A Yes, that's right. 12 Q For Johnson & Johnson Holdco for a 13 minute -- what we've been calling Holdco -- I 14 understand that name came about as a name change 15 for what we've been calling New JJCI or JJCI 2; 16 correct? 17 A Correct. 18 Q Where I get confused is you have 19 explained several times that holding 20 companies -- this was in the context of JNTL -- 21 aren't actually making or produce anything but 22 holding the assets of others. Do you recall 23 that? 24 A I do. 25 Q But here, while we're talking about

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Page 346 1 Holdco, you've explained that that is merely a 2 name change for New JJCI, who absolutely, we've 3 seen in your own declarations, was continuing 4 making things from the Baby product line and 5 plus there was a whole list of other things. Do 6 you recall that? 7 A That's not, that's not what I said. 8 This goes back to the discussion we had before 9 about when the consumer companies were moved 10 from, from, you know, New JJCI out and during 11 the Diamond transaction. 12 So once the consumer companies were 13 out, right, the Holdco -- you know, New JJCI 14 changed its name to Holdco. And at that point 15 it was a holding company. Right. 16 So what whatever was left in Holdco 17 after the consumer business was taken out of it 18 Holdco just held. 19 Does that make sense? 20 Q No. So let me see if I can try to 21 understand it. 22 A Okay. 23 Q We know that New JJCI manufactures 24 and sells a broad range of products used in baby 25 care, along with beauty, oral care, wound care,	Page 348 1 JJCI in this, in this document takes its 2 consumer assets, its consumer company assets and 3 gives them to another entity in order to put it 4 into the basket. 5 At that point the, what we're calling 6 New JJCI no longer has the consumer business. 7 All it has is whatever is left over, which are 8 nonconsumer assets, and it's just holding them. 9 And that's why the name changes to Holdco. 10 ATTORNEY DEAN: Same objections. 11 BY ATTORNEY DEAN: 12 Q Let's -- let me back up. Did you 13 read Mr. Mittenthal's testimony on behalf of 14 Holdco? 15 A I'm sure I skimmed through it. I'm 16 not sure -- I'm not recalling specifically what 17 he said about it. 18 Q When did, when did the name change 19 from New JJCI to Holdco occur? 20 A It happened at the -- around the same 21 time that the assets were taken from New JJCI 22 and put into the, the other company. I'm 23 pulling up my -- the step plan again. 24 ATTORNEY DEAN: I'm just going to, as 25 you pull that up, object to nonresponsive.
Page 347 1 and other fields. Right? 2 A Correct. 3 Q When the name change went from New 4 JJCI or JJCI 2 to Holdco, are you saying that 5 Holdco no longer manufactured and sold the long 6 range of products, including the baby care 7 products? 8 A Exactly. Exactly. It got 9 transferred over to, I think New JJC -- and 10 eventually New JJCI 3, in order -- it got put to 11 the basket that was going to Kenvue. And what 12 remained was Holdco, which was holding 13 nonconsumer assets. So it was a holding 14 company. 15 ATTORNEY DEAN: Object to foundation. 16 BY ATTORNEY DEAN: 17 Q In terms of trying to sort out how 18 you know that, explain to me who was making and 19 selling Johnson's Baby between the name change 20 from New JJCI to Holdco and when Kenvue in April 21 of 2023 started making and selling baby powders? 22 A So this goes back to the 23 February '23 timeframe that we looked at in the 24 step chart, right. And so going back to the 25 step chart, basically what we're calling New	Page 349 1 BY ATTORNEY DEAN: 2 Q I'm just asking for a date of when 3 New JJCI changed its name to Holdco. 4 A Yeah. Again, I think this was the 5 discussion we had earlier. I'm not sure 6 exactly, looking at the records, when it was, 7 sitting here right now. But it was around the 8 time that, that these transactions happened. So 9 basically sometime in February 2023. 10 Q Did you review what Holdco swore to 11 under oath about that timing through 12 Mr. Mittenthal before stating that? 13 A I, I have not. I don't recall what I 14 saw. I'm sure I read it. I just don't recall 15 what he said about that. 16 Q What, then, are you relying on for 17 your belief that the name change from New JJCI 18 to Holdco occurred in February of 2023? 19 A Well, again, I think -- I'm saying I 20 don't know exactly when that happened. But 21 again, if you look at the step chart of -- on 22 transaction that's 14 out of 20, it shows -- I'm 23 sorry. Hold on. 24 Then February 3rd of 2023 Janssen 25 contributes a hundred percent shares of New

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Page 350 1 JJCI, a holdco -- which is right there -- to 2 another consumer subsidiaries, the JNTL 3 Holdings 2. 4 ATTORNEY DEAN: I'll object to 5 nonresponsive. 6 BY ATTORNEY DEAN: 7 Q I'm not trying to figure out when 8 things were transferred from Holdco to JNTL 2 or 9 JJCI 3. I'm trying to figure out when just the 10 name changed -- 11 A Yeah, I get what you're saying. 12 Q -- from New JJCI or JJCI 2 to Holdco 13 occurred. 14 A So, again, I did not know this was 15 sort of the key here, so I have not looked at 16 that issue. But we can -- I think we can easily 17 find that out. 18 Q My understanding from reading 19 Mr. Mittenenthal's depositions is that when that 20 occurred, it wasn't a transfer; it was simply a 21 name change so that New JJCI continued as it was 22 but under a new name called Holdco, until the 23 assets were transferred to JNTL 2 in February; 24 is that correct? 25 A Correct. So it was -- there was a	Page 352 1 ATTORNEY DEAN: Let me object to 2 foundation. 3 BY ATTORNEY DEAN: 4 Q And in terms of the actual time of 5 the name change and how soon or far way it was 6 from February, you believe that that's something 7 the company can figure out, but you don't know 8 the dates as we sit here; is that fair? 9 A As we sit here right now, yeah, 10 that's correct. 11 Q What I understood from what you told 12 me earlier today is that after there was the 13 Project Plato transactions that ended in October 14 of 2021 with Old JJCI ceasing to exist, that New 15 JJCI took on the assets for baby powder, along 16 with other things, and continued that until 17 February; and that even though there may be name 18 changes in that timeframe, that's who would have 19 been responsible. The only timeframe we just 20 don't know for sure without further research is 21 February to April of 2023. Is that right? 22 A That is correct. 23 Q In terms of us trying to understand 24 the net worth of Johnson & Johnson Holdco, what 25 we've been calling Holdco, is that something
Page 351 1 name change. There was a transfer. The -- I'm 2 just not sure when, when those happened, which 3 happened first, and when it happened. 4 But that's why -- when you asked why, 5 why is it called Holdco, if it, if it was -- 6 still had the assets after the name change, it 7 was only for a short period of time; because it 8 was always intended that those assets would be, 9 would be taken out. 10 So when they named it Holdco, it's 11 because they know that, that the assets, the 12 JJCI -- the new New JJCI would get, would get 13 the consumer assets, right. 14 So again, like going back to sort of 15 basic, you have JJCI, which we're calling 16 New JJCI. You're creating a new JJCI -- 17 JJCI 3 -- to take those assets. 18 You can't have two companies with the 19 same name. Therefore, one of them has to be 20 called Holdco. And so that -- those, those 21 transactions happened very close in time. I'm 22 just not sure which one happened first. But it 23 was always contemplated when Holdco was -- name 24 was changed to Holdco, those assets were going 25 to be transferred.	Page 353 1 you've sought to understand? 2 A Yes. That is actually -- that is 3 something I talked to Adam Lisman about. That 4 is -- that was one of the reasons I talked to 5 Adam Lisman; yes. Thank you for reminding me of 6 that. 7 Q And Adam currently works for Johnson 8 & Johnson; correct? 9 A He is in the treasurer's group at 10 Johnson & Johnson; yes. 11 Q Tell me about what you learned from 12 him. 13 A So I -- there were other depositions 14 that at this point I, I can't remember who said 15 it. But, you know, there were discussions that 16 the company -- nobody sort of has Holdco, has 17 financials for Holdco. Holdco does not report 18 financials on its own. 19 And so the company does not have any, 20 any information -- they don't have sort of a 21 balance sheet or a net worth information for 22 Holdco, sitting here. 23 And so I spoke to Adam to confirm 24 that was true. And he confirmed that that was 25 true, that no company has any financial that

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Page 354 1 would give you the net worth of Holdco. 2 Q In speaking with Mr. Mittenenthal as a 3 representative of Holdco, he explained that 4 there were over ten subsidiaries underneath 5 Holdco and that they were simply a holding 6 company for those ten-plus subsidiaries. 7 Is that your understanding as well? 8 A That is my understanding, yes. 9 Q Did you speak to a single person in 10 any one of those subsidiaries? 11 A No. I spoke to the treasurers that 12 were responsible for the financial reporting of 13 all those subsidiaries. 14 Q Did you find out from him what the 15 assets of each of those subsidiaries are worth 16 and then gathering them? 17 A Yes. So that is a, that is an issue 18 that we looked at from time to time that came up 19 in our second filing. And it is difficult to 20 do, if not impossible. And it's something that 21 has not been done. 22 Q And so whether it's a treasurer or 23 you or anyone else working for Holdco when we 24 first sent out this topic in February of this 25 year, are you aware of anyone making an effort	Page 356 1 stipulation that was sent to us. I pulled 2 it, and I'm going to mark this as 3 Exhibit 2. 4 (Exhibit 2 was marked for 5 identification.) 6 BY ATTORNEY DEAN: 7 Q Is that the same thing that you've 8 seen? 9 A It is. 10 Q This indicates: As of the period 11 ending June 30th, 2024, the total shareholder's 12 equity of Johnson & Johnson Holdco -- in parens 13 NA -- Inc. was approximately 604 million, which 14 included approximately 40 million cash on hand. 15 Do you see that? 16 A I do. 17 Q Do you know where that information 18 came from? 19 A I do not. I did ask for that. I 20 think they were gathering this. I think my 21 understanding was that it comes from a sort of 22 an attempt to come up with a, with a balance 23 sheet number based upon some data. 24 But it is -- yeah, it's an attempt to 25 do that. But I'm actually not sure where the
Page 355 1 to get the actual financials from the companies 2 that Holdco holds and gathering them? 3 A I am not aware of that. We have 4 tried in the past, and it is difficult to get 5 financials in a form that are usable for this 6 purpose. 7 Q In terms of, in terms of putting 8 together information to establish or evidence a 9 claim of burden that something is too hard or 10 too difficult or too burdensome, and any point 11 in time since February of 2024 to when you were 12 involved two days ago, did anyone ask you to try 13 to organize that so the company could exercise 14 its right to claim burden if it wanted to? 15 A I have not been asked. 16 Q One of the things I noted was in the 17 information you were provided -- this was sent 18 to me yesterday afternoon -- was a Word 19 document. It was referenced as a proposed 20 stipulation as to Johnson & Johnson Holdco (NA), 21 Inc.'s financial condition. 22 Do you recall that being on your 23 list? 24 A I do. 25 ATTORNEY DEAN: This was the proposed	Page 357 1 actual figures come from. 2 Q In terms of the accountants for the 3 individuals who were making this attempt, do you 4 know who they are? 5 A I believe this -- I'm sorry, the 6 accountants or...? 7 Q I thought you said this was an 8 attempt by accountants to try to pull together 9 that information. Maybe I'm -- 10 A No, no, I'm sorry. I think this is 11 an attempt to count -- to come up with an 12 accounting. I'm sure this was done with the 13 help of finance folks at the Johnson & Johnson 14 companies. The -- yeah, I just don't know who 15 they spoke to for this, sitting here right now. 16 But again, that's information readily 17 obtainable. I think -- it's one of the things 18 they asked for that I think, just because of the 19 time, we never got to. 20 Q So you were not in a position to, 21 first, verify whether the statement that the, as 22 of at least June 30th, 2024, the shareholder 23 equity for Holdco is approximately 604 million? 24 A Yeah. Again, all of this is to 25 say -- my understanding was that this was an

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Page 358 1 attempt to come up with, with something that 2 doesn't currently exist. And I asked for sort 3 of the basis of it, which I -- you know, I 4 think, because of the press of time, just never, 5 never came. 6 Q This states that the shareholder 7 equity value identified in paragraph 1, the 604 8 million dollars referenced, was calculated by 9 subtracting the value of Holdco's total 10 liability -- liabilities from the value of 11 Holdco's total assets. This estimate takes into 12 account Holdco's cash, the historical cost basis 13 value of its investments in subsidiary 14 companies, and intercompany loan balances with 15 its parent and its operating subsidiaries. 16 Do you see that? 17 A I do see that. 18 Q In terms of spending any time 19 verifying this -- the accuracy of this proposed 20 stipulation that was sent to us from J&J's 21 lawyers, have you been able to do any, anything 22 to research that? 23 A Again, I think this was an oversight. 24 This was something we -- I asked for. And we 25 just didn't have time to go through it.	Page 360 1 Q Okay. What was your understanding of 2 the purpose of those transactions? 3 ATTORNEY DEAN: Objection to form. 4 THE WITNESS: So the business purpose 5 of all the transactions taken as a whole 6 was to come to a structure where we could 7 efficiently, fairly, and finally resolve 8 the talc liability, the claims that talc 9 plaintiffs had -- which essentially means 10 that we were looking for a way to pay talc 11 claimants as quickly as possible, you 12 know, a fair value for their claims. 13 And so the structures, all the, all 14 the corporate changes that were made were 15 to facilitate that, that resolution. 16 ATTORNEY DEAN: Object to form. 17 BY ATTORNEY BROWN: 18 Q And when you say the purpose was to 19 pay a fair value, did you and did the companies, 20 the Johnson & Johnson family of companies, 21 believe that these cosmetic talc claims had 22 scientific merit? 23 ATTORNEY DEAN: Objection, no 24 foundation. 25 THE WITNESS: No.
Page 359 1 But information might be readily 2 available. I just -- you know, I think with the 3 press of time, this was sort of, sort of the 4 last things on people's list, and we just never 5 got to it. 6 ATTORNEY DEAN: I think, I think 7 there's some things that we need to follow 8 up and work on. But based on what we know 9 today, I've gone through the questions 10 that I have. I know it's been a long day. 11 And I appreciate your efforts to answer my 12 questions. 13 ATTORNEY BROWN: And, Mr. Kim, I just 14 have a couple of follow-up questions for 15 you. 16 BY ATTORNEY BROWN: 17 Q Mr. Kim, you were asked a number of 18 questions today about transactions that took 19 place in connection with a 2001 corporate 20 restructuring. 21 Do you recall those questions? 22 A I do. 23 Q And were you involved in the planning 24 of those transactions? 25 A I was.	Page 361 1 I'm sorry. You're objecting? 2 ATTORNEY DEAN: I'm very much 3 objecting. It's calling for speculation 4 about scientific merit from a Kenvue and 5 Holdco witness, of a lawyer. Yeah -- 6 ATTORNEY BROWN: You made the 7 objection. 8 BY ATTORNEY BROWN: 9 Q Go ahead. 10 A So, you know, the -- our position is 11 and has always been that talc is safe and it 12 does not cause cancer and that there's nothing 13 in talc, like asbestos, that causes cancer. 14 So given that, we still believe that 15 because of the way the court systems are that 16 there is value to these claims. So that, so 17 that, you know, what were trying to do is come 18 up with a fair way to deal with this -- that 19 number of claims in an efficient manner so that, 20 you know, it's fair. 21 And when I say fair, I mean, you 22 know, in the current system most people lose, 23 some people get huge amounts, some people get to 24 trial quickly, some people languish. 25 The number of cases that we have

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Page 362 1 would have taken decades to go through. 2 And so what our plan was, was to 3 resolve these cases quickly and efficiently so 4 that people could get their value in a, in a-- 5 as quickly as possible. 6 Q Did you -- 7 (Crosstalk.) 8 ATTORNEY DEAN: Object to foundation 9 and speculation as to almost all of that. 10 BY ATTORNEY BROWN: 11 Q Did you believe that those goals 12 could be accomplished without the corporate 13 restructuring that you testified to extensively 14 today? 15 ATTORNEY DEAN: Calls for 16 speculation. 17 THE WITNESS: No. I think that our 18 belief was that these corporate 19 restructurings were key to getting to 20 the -- and again, this was based upon the 21 advice of counsel who are the experts on 22 this. 23 You know, I am not an expert on this 24 type of resolution. But based upon the 25 advice of counsel, you know, the -- this	Page 364 1 So there really was no further talc 2 liability in the remaining companies. And 3 so consider that transaction was wholly 4 separate from the Project Plato 5 transaction. 6 ATTORNEY DEAN: Objection; calls for 7 opinion testimony from a fact witness 8 without foundation. 9 BY ATTORNEY BROWN: 10 Q You were asked a number of questions 11 about your first-day declaration. Do you recall 12 those questions Mr. Kim? 13 A I do. 14 Q Okay. And some of the questions 15 talked about number of complaints that have been 16 filed against the company. Do you recall that? 17 A I do. 18 Q And the questions you were asked used 19 the term "concerns" or "complaints." 20 Were those numbers of lawsuits? 21 A Those are numbers of lawsuits. 22 Q And was -- how did the number of 23 lawsuits affect the goals of the corporate 24 restructuring that you spoke about today? 25 ATTORNEY DEAN: Objection, vague,
Page 363 1 was the only way that we believed we could 2 achieve the result that we wanted. 3 ATTORNEY DEAN: Let me object to 4 calling for expert testimony and opinion 5 testimony of a fact witness. 6 (Crosstalk.) 7 BY ATTORNEY BROWN: 8 Q You were asked a number of questions 9 about Project Diamond. Do you recall those 10 questions, Mr. Kim? 11 A I do. 12 Q And just generally, what was Project 13 Diamond? 14 A Project Diamond had the ultimate goal 15 of spinning out the consumer companies from the 16 J&J companies. 17 Q Did Project Diamond have anything to 18 do with cosmetic talc litigation re liabilities? 19 A No. 20 ATTORNEY DEAN: Object to form, 21 foundation. 22 THE WITNESS: No. By the time 23 Project Diamond occurred, we had already 24 gone through the LTL restructuring. And 25 the liability was already in with LTL.	Page 365 1 opinion testimony, seeking testimony of 2 LTL, not Kenvue or Holdco. 3 THE WITNESS: The increase in number 4 of lawsuits basically gave -- created 5 financial distress for the company. And 6 so they were very relevant for us in order 7 to try to resolve the entirety of the 8 litigation. 9 ATTORNEY DEAN: Objection, vague, 10 also, as to "the company." 11 BY ATTORNEY BROWN: 12 Q You were asked a number of questions 13 and shown a number of documents about the effect 14 that the restructuring would have on other 15 entities in the J&J family of companies. Do you 16 recall those questions? 17 A I do. 18 Q And what was your understanding about 19 the effect the restructuring would have on other 20 parts of the family of companies? 21 ATTORNEY DEAN: Objection, vague, 22 foundation. 23 THE WITNESS: Well, the restructuring 24 was effectuated in such a way that we 25 could resolve the talc liabilities without

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Page 366 1 affecting the rest of the businesses, so 2 that, you know, employees, other 3 creditors, other parts of the business 4 that had nothing to do with talc would not 5 be affected by the restructuring. 6 BY ATTORNEY BROWN: 7 Q Do you have an understanding, 8 Mr. Kim, of an estimate of the number of 9 employees the Johnson & Johnson family of 10 companies had? 11 ATTORNEY DEAN: Object to form. 12 THE WITNESS: I do not. I do not. 13 BY ATTORNEY BROWN: 14 Q All right. You were asked a number 15 of questions about different companies that were 16 formed and were part of the corporate 17 restructuring? Do you recall that, Mr. Kim? 18 A I do recall that. 19 Q Were any of those companies created 20 with the purpose of hiding money or assets from 21 creditors? 22 A No. 23 ATTORNEY DEAN: Objection, form, 24 foundation. 25 THE WITNESS: No. Should I explain?	Page 368 1 A I think there were a number of 2 questions about why the transaction occurred, 3 the purpose of the transaction. And again, I 4 think it was just explaining sort of the whys of 5 how it happened. 6 Q Let's break that down. This idea 7 that there wasn't an effort to hide money from 8 creditors, in fact, it was to increase the money 9 and make it easier to get to, you're aware that 10 Jim Mittenthal never gave that opinion anywhere 11 for Holdco or Kenvue; correct? 12 A I believe that's true. 13 Q And one of the things in the 14 deposition notice for both Kenvue and Holdco was 15 to explore any opinions that the companies 16 intended to give so that we weren't surprised by 17 them. 18 Do you recall that in the notice? 19 A I do. 20 Q And you understand that we are in the 21 middle of a trial? It started last week; 22 correct? 23 A I do. 24 Q You also gave some -- you started off 25 by saying the business purpose of the
Page 367 1 Would you like me to? 2 BY ATTORNEY BROWN: 3 Q Yeah. Can you explain what you mean 4 by that, Mr. Kim. 5 A So the, the -- all the restructurings 6 that happened, the value that was available to 7 creditors, including claimants, did change. In 8 fact, it was enhanced by the restructuring that 9 we did. 10 So as opposed to doing restructurings 11 to, to shelter money, these "restrutions" were 12 done with the sole -- with the purpose of 13 creating value that was easier to get to by 14 claimants, so that we could efficiently resolve 15 the claims as soon as possible. 16 ATTORNEY BROWN: Thanks very much, 17 Mr. Kim. I've no further questions. 18 ATTORNEY DEAN: I have quite a few. 19 BY ATTORNEY DEAN: 20 Q I'm going to start off with: Have 21 you read Jim Mittenthal's deposition to see 22 whether any of the information just elicited 23 from you from the lawyer from Kenvue to Holdco 24 were mentioned at any time during in either of 25 those depositions?	Page 369 1 transactions was efficient, fair, and final 2 resolution of talc liabilities. I want to break 3 that down and make sure we're on the same page 4 about what we mean by "the transactions." Okay. 5 A Yes. 6 Q You're nodding. That's a "yes"? 7 So the transactions that were related 8 to the handling of talc liabilities related to 9 LLT, your testimony has been clear that all talc 10 liabilities, as you defined it in your 11 declarations, were to be managed by LTL, now 12 LLT; correct? 13 A That's correct. 14 Q The entire point of the larger 15 Project Plato, which was many transactions, was 16 to put assets separate from talc liabilities in 17 a different company; correct? 18 ATTORNEY BROWN: Objection to the 19 form. 20 A Yeah, no, that's not, that's not 21 right. 22 Q One of the purposes of the corporate 23 restructuring that we've called Project Plato 24 was to separate liabilities relating to cosmetic 25 talc from assets, putting the liabilities in LTL

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Page 370 1 and the assets in new JJCI. You're aware of 2 that; correct? 3 ATTORNEY BROWN: Object to the form. 4 THE WITNESS: Yeah, I am aware of 5 that. But there's also a funding 6 agreement that you're ignoring. 7 BY ATTORNEY DEAN: 8 Q And that funding agreement relates to 9 which company? 10 A That funding agreements relates to, 11 in the first transaction, both New JJCI and 12 Johnson & Johnson and funding LL -- LTL 13 liabilities. 14 Q You understand, because I asked you 15 at the beginning of this, that we believe that 16 the reason we're asking questions of Kenvue and 17 Holdco was because of their responsibility as 18 successors-in-interest for the actions of Old 19 JJCI? You understand that; right? 20 A Yes. 21 Q We are not here in any way because we 22 believe that Holdco or Kenvue are responsible 23 for the actions of LTL. You're aware of that; 24 right? 25 A I believe I am, yes.	Page 372 1 Q In terms of whether LTL was not there 2 to hide assets from creditors but in order to 3 enhance them, that relates to what money, 4 assets, and liabilities were provided to LTL; 5 correct? 6 ATTORNEY BROWN: Objection to the 7 form. 8 THE WITNESS: Yeah, I would say that 9 relates to the funding agreement. 10 BY ATTORNEY DEAN: 11 Q And I want to be more specific about 12 it. When you're talking about whether there is 13 enough money and whether it's been increased or 14 decreased, you're talking about money that 15 individual people who believe that they are 16 harmed from cosmetic talc would be able to 17 obtain from LTL, now LLT; correct? 18 A Correct. 19 Q You are not talking about what money 20 Johnson & Johnson as a company has, what Kenvue 21 has, what Janssen has, or any other entity. 22 Those discussions about what money LTL has since 23 it came about in October 2021; correct? 24 A Well, yes. But based upon the 25 value -- again, I think we went through that
Page 371 1 Q And so as we talk about the business 2 purpose of transactions to effectuate the 3 alleged fair, final, and efficient resolution of 4 talc liability claims, those were transactions 5 centered around the creation and then subsequent 6 actions of LTL; correct? 7 A In part, yeah. 8 Q Kenvue at no point in time was 9 involved in transactions to effectuate the fair, 10 final, and efficient resolution of talc 11 liabilities; correct? 12 A That's true. But Kenvue -- by the 13 time Kenvue was created, those liabilities had 14 already been taken away from Kenvue. 15 Q Precisely. The same is true for 16 Holdco; correct? 17 A That is the same for Holdco, though 18 Holdco did have a role in funding LTL. 19 Q And so the point that you're making 20 is some of the monies funded to LTL to handle 21 talc liabilities came from Holdco. But they 22 were part of the actual management, defense, or 23 handling of talc liability. That vested in LTL; 24 correct? 25 A That's true.	Page 373 1 Old, Old JJCI was responsible for all talc 2 liabilities before it gave it to LTL. 3 In the transaction, the funding 4 agreement basically provides that -- a guarantee 5 in the first, in the first instance of that 6 amount of money to LTL. 7 So when I say it enhanced, it 8 enhanced it, it was the same, if not more, money 9 than Old JJCI had, plus it had a guarantee so 10 that there was little risk for Old, Old, New -- 11 Old JJCI, now New JJCI, to not pay. 12 That's what I was saying. 13 ATTORNEY DEAN: I'm going to object 14 to nonresponsive and try to focus in. 15 BY ATTORNEY DEAN: 16 Q In terms of comparing Old JJCI, a 17 company that doesn't exist and no one can get 18 to, and LLT, not a company involved in these two 19 depositions, I'm not asking about that. 20 When the lawyer for Johnson & Johnson 21 is asking you questions about whether you were 22 trying to hide assets, whether they had been 23 sheltered or expanded, I just want to be clear 24 that you were talking about what is available to 25 LTL, which is the source, which is the company

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Page 374 1 that has been created to manage talc 2 liabilities; right? 3 A Yes; from Holdco. And -- 4 Q And I'm not asking you your opinion 5 as a lawyer about whether other entities can 6 also be made responsible for the actions of 7 Johnson's Baby Powder. You're not here as an 8 expert. 9 I'm just asking you that when you're 10 talking about how much money exists and whether 11 it is expanded or been enhanced, you are not 12 talking about the assets or capacities of 13 Kenvue, of Janssen, of Holdco, or of Johnson & 14 Johnson; correct? 15 A No, I am talking about amounts that 16 were -- are given by Johnson & Johnson and 17 Holdco. 18 ATTORNEY DEAN: Let me object to 19 nonresponsive and try again. 20 BY ATTORNEY DEAN: 21 Q I understand that LTL is funded and 22 that funding comes from a variety of sources. 23 But that's not what I'm asking you about. 24 When you're talking about increasing 25 or enhancing what claimants can get, you've been	Page 376 1 If a jury disagreed with you and 2 believes that Kenvue was independently liable 3 for what Johnson & Johnson did through its baby 4 powder -- like they did in the Garcia case -- 5 you're not here to discuss how much money they 6 have available to pay for that, are you? 7 A That's correct. 8 Q If a jury has found -- as many juries 9 have -- that Johnson & Johnson is independently 10 liable for what happened with baby powder -- not 11 because of Old JJCI or LLT -- you weren't trying 12 to suggest the value of the money that Johnson & 13 Johnson as a company has when you were talking 14 about sheltering money and enhancing money or 15 limiting money? 16 ATTORNEY BROWN: Objection to the 17 form. 18 (Crosstalk.) 19 THE WITNESS: I'm sorry. 20 ATTORNEY BROWN: No. I was objecting 21 to the form. Go ahead. 22 THE WITNESS: I was not talking 23 about, again, damage, damage awards. 24 BY ATTORNEY DEAN: 25 Q In terms of what you were talking
Page 375 1 very clear that you were discussing from LTL. 2 You were not discussing -- this is my 3 follow-up -- what is available to them based on 4 different legal theories with Kenvue, Janssen, 5 Johnson & Johnson, or Holdco; fair? 6 A I think there's a disconnect here. 7 I'm sorry. If you're saying, if you're saying 8 I'm not talking about damage calculations for, 9 for plaintiffs, that's true. 10 But I am talking about the amount of 11 money available to plaintiffs through LTL from 12 Holdco. 13 Q And that is not what I care about. 14 What I'm asking about is what assets Johnson & 15 Johnson, Holdco, Kenvue, Janssen, what assets 16 they have when and if they are held liable for 17 Johnson's Baby Powder. 18 It's not what you were discussing 19 when you claimed that assets were enhanced. You 20 were discussing what is available to LTL based 21 on the restructuring effort that you're involved 22 in; right? 23 A Yeah. I honestly don't, don't really 24 understand the question. 25 Q Let me try to break it down.	Page 377 1 about in questions asked you from the Johnson & 2 Johnson lawyer today is what a company who's not 3 part of this deposition notice -- this is a 4 deposition of Holdco and Kenvue -- what it 5 allegedly has available for talc claimants; 6 correct? 7 A Yeah; through one of the companies 8 that is a deponent here. 9 ATTORNEY DEAN: Sure. But I'm not a 10 big fan of surprise, and not a big fan of 11 testimony coming in through the wrong 12 witness. And so we object to that whole 13 line. 14 BY ATTORNEY DEAN: 15 Q The last thing I want to follow up to 16 is you, at the request of counsel's questions, 17 suggested that talc does not contain asbestos 18 and it is safe. 19 Do you recall that? 20 A I said that that, that is our 21 position. That's what we have said and what we 22 believe. 23 Q And when you see "we," who are you 24 talking about? 25 A I believe I'm talking about all the

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Page 378 1 defendants. 2 ATTORNEY DEAN: We are going to 3 object to this whole line of questions. 4 But in the event that someone allows it 5 in, I'm going to follow up. 6 BY ATTORNEY DEAN: 7 Q You are not a medical doctor? 8 A I am not a medical doctor. 9 Q You've no degrees in science? 10 A I do not have a degree in science, 11 no. 12 Q You are not a mineralogist? 13 A I am not a mineralogist. 14 Q You are not a geologist? 15 A No, I am not a mineralogist or 16 geologist. But we have hired mineralogists, 17 geologists, and medical professionals in my 18 capacity as the head of litigation -- product 19 liability litigation. So we have -- I've 20 consulted with all those experts. 21 Q Excellent. Are you part of the 22 decision to pick RJ Lee? 23 A Was I part of the decision? I was 24 aware of that in the past. I'm not sure if 25 they're in this case -- yeah, I was not part of	Page 380 1 that actually have a background in science as 2 opposed to law or defending companies? 3 ATTORNEY BROWN: Objection to the 4 form. 5 THE WITNESS: Yeah, I don't recall 6 the exact process. But we -- they were 7 vetted. They were reviewed. 8 BY ATTORNEY DEAN: 9 Q What scientists -- not lawyer 10 defending companies who are being sued -- what 11 scientists, anyone was involved? 12 ATTORNEY BROWN: Well, hold on. 13 I object. It was asked and answered. 14 THE WITNESS: Yeah. I don't recall. 15 Someone from medical, the medical group 16 was probably involved in looking at their 17 materials. 18 Yeah, I don't recall specifically. 19 BY ATTORNEY DEAN: 20 Q In terms of evaluating whether 21 asbestos is in talc, have you actually reviewed 22 the document production document Johnson & 23 Johnson first produced in 2017 about their own 24 testing documents? 25 A I have.
Page 379 1 the decision in this case. But I do know -- 2 Q Were you part of -- 3 ATTORNEY BROWN: Let him finish, 4 please. 5 THE WITNESS: But I do know I have 6 been involved in using RJ Lee in another 7 case. 8 BY ATTORNEY DEAN: 9 Q Were you part of vetting whether 10 RJ Lee would be a credible and appropriate 11 person or group to come and discuss issues about 12 asbestos in talc? 13 A I have vetted them in the past in 14 other cases, and I'm confident in their 15 abilities. 16 Q What scientific people did you have 17 involved in that process? 18 ATTORNEY BROWN: Objection to the 19 form. 20 THE WITNESS: I'm not sure what you 21 mean by scientific people involved in what 22 process. 23 BY ATTORNEY DEAN: 24 Q In deciding that they are credible 25 and you're all in, what folks did you rely on	Page 381 1 Q Have you seen the testing by Pooley 2 finding 0.5 percent asbestos, specifically 3 tremolite asbestos, in talc from Vermont? 4 ATTORNEY BROWN: I object to the form 5 of the question, also misstates the 6 document. 7 THE WITNESS: Yeah, I've seen these 8 documents. I have evaluated the 9 documents. There are many 10 misrepresentations being made about these 11 documents. There are many other documents 12 that refute certain findings. There are 13 documents that relate to different mines 14 that were never used. There are documents 15 that are being misinterpreted as being, as 16 being from our product. There are 17 documents that misidentify what actually 18 is asbestos. 19 So I've seen the documents. I've 20 looked at these documents. I've been 21 involved in numerous trials involving 22 these documents. I'm happy to go through 23 them if you like. 24 ATTORNEY DEAN: My question -- 25 Let me object to responsive.

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Page 382 1 BY ATTORNEY DEAN: 2 Q -- is have you seen testing done by 3 Johnson & Johnson's chosen consultant, 4 specifically in Mr. Pooley finding 0.05 percent 5 asbestos in Vermont talc that was being used by 6 Johnson & Johnson in baby powder they were 7 selling throughout this country? 8 A I've seen the document -- 9 ATTORNEY BROWN: I object to the form 10 of the question. 11 THE WITNESS: So I've seen the 12 document you're referring to. I disagree 13 with that conclusion is and what the 14 conclusions are from that document. 15 If you want to go through the 16 document and the other documents, you 17 know, I'm happy to do that. 18 BY ATTORNEY DEAN: 19 Q As a fact witness called today to 20 speak on behalf of Kenvue and on behalf of 21 Holdco, are you even aware of anyone in the 22 company who's reviewed those documents as you 23 make statements about talc safety for them 24 today? 25 ATTORNEY BROWN: Objection to the	Page 384 1 ATTORNEY BROWN: Objection to the 2 form. 3 THE WITNESS: Yeah, I don't know. I 4 can't -- sitting here today, I can't think 5 of any. Nor would they be. 6 (Crosstalk.) 7 When they, when they purchased the 8 company, when Kenvue came, they did not 9 have any talc liability. All that 10 liability, you know, was already taken up 11 by LTL. And they never sold a product in 12 the US that, that contained talc. 13 So I'm not sure why anyone there 14 would have reviewed these documents. 15 ATTORNEY DEAN: I'll object to 16 nonresponsive. I'll object to foundation. 17 And I'll also object that if you believe 18 that, then giving opinions on their behalf 19 about something they have no reason to 20 know makes no sense, which is -- 21 ATTORNEY BROWN: Objection. 22 (Crosstalk.) 23 ATTORNEY DEAN: -- request of 24 Johnson & Johnson's counsel to you a few 25 minutes ago.
Page 383 1 form. 2 THE WITNESS: I actually do not, I do 3 not know who currently at Kenvue -- other 4 than people in their legal group, who were 5 formerly with, with the Johnson & Johnson 6 legal group, I know there are a number 7 of -- some lawyers that are in the legal 8 group that have reviewed these documents 9 when they were with Johnson & Johnson. 10 I'm trying to think of whether there 11 were witnesses that were reviewed. There 12 may be some people who were witnesses that 13 are currently at Kenvue. But I just, I 14 just don't know. 15 But sitting here today, I think the 16 only people that I do know have reviewed 17 these documents are some of the lawyers 18 that are sitting at Kenvue. 19 BY ATTORNEY DEAN: 20 Q So that's a slightly different 21 question. For Holdco and for Kenvue, are you 22 aware of any scientists that have actually 23 evaluated the documents that came from Johnson & 24 Johnson about asbestos testing for the talc they 25 used?	Page 385 1 ATTORNEY BROWN: I object to the 2 form. I object to the speech. 3 BY ATTORNEY DEAN: 4 Q My question was pretty limited. It 5 was just whether you could identify anyone at 6 Kenvue or Holdco that actually has a background 7 in science or medicine that has reviewed the 8 documents about asbestos testing for talc that 9 came from Johnson & Johnson. 10 And my understanding is you cannot; 11 is that fair? 12 A That's fair, yes. 13 Q In terms of evaluating your claim -- 14 again we object; this is just a conditional set 15 of questions -- that is safe and didn't contain 16 asbestos, you aware of which talc mines were 17 used by Johnson & Johnson historically in this 18 country? 19 A Yes. 20 Q What -- in what way was the Vermont 21 mine formed, from a geological standpoint? 22 ATTORNEY BROWN: I object to the form 23 of question. This has gone well beyond 24 follow-up. I object. This is beyond the 25 scope. This is beyond reasonable

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Page 386 1 follow-up. This deposition has now been 2 going on for ten hours. 3 ATTORNEY DEAN: This is something I'm 4 going to put "dinosaur" and note for the 5 record, since you decided to give a 6 speech. 7 Johnson & Johnson's routine ability 8 to suggest from inappropriate witness 9 expert testimony broad and insanely 10 seeping comments about safety and talc and 11 asbestos, on a deposition for people who 12 aren't part of it and then suggest that 13 you shouldn't do follow-up and you're 14 taking too long, this is the strings. 15 This is the script. 16 It's inappropriate. And talking 17 about how long it takes when most of the 18 time is verifying the lack of effort to 19 take this process seriously, which the 20 Court has sanctioned twice, is also part 21 of the problem. 22 I want to try to get through this. 23 You opened this ridiculous door. And I'm 24 going to try to close it. 25 ATTORNEY BROWN: Perfect. And the	Page 388 1 Chris Andrew for one. I know that. 2 You know, I've had discussions with 3 other people in their legal department that 4 formerly was with Johnson & Johnson dealing with 5 talc cases. 6 I'm trying to think of whether -- I 7 think even in the, the deposition of Thibaut 8 Mongon he was asked certain of those questions. 9 And he gave the view that talc was safe, it did 10 not cause, cause cancer. 11 I'm trying to think. There may be 12 other depositions where people were asked that 13 that have them. I vaguely recall seeing that. 14 But sitting here right now, I just can't recall 15 who it was. 16 Q So when I asked the question who at 17 Kenvue has assessed the issue about the safety 18 of asbestos in talc, I understand you to say 19 that's not something you've reviewed but you 20 know some of these people from when they were at 21 Johnson & Johnson and they thought talc was 22 safe. 23 And when I asked you which people, 24 you mentioned two lawyers and then potentially 25 Mr. Mongon in this deposition.
Page 387 1 response to what -- the statement you made 2 on the record, you asked hours of 3 questions of Mr. Kim in his personal 4 capacity; you asked hours of questions 5 about the purpose of the restructuring, 6 about many things that took place before 7 Kenvue even existed. 8 I asked Mr. Kim what the company's 9 position was as a result of those 10 transactions. You certainly are allowed 11 to reasonably follow up to that. You've 12 gone well beyond that. I object. 13 BY ATTORNEY DEAN: 14 Q Do you know what Kenvue's position is 15 about safety of talc and, if so, from whom? 16 ATTORNEY BROWN: Object to the form. 17 THE WITNESS: I do not know any 18 particular person, about their safety. I 19 do know that many of the employees there, 20 when they were at Johnson & Johnson, 21 shared the view that talc was safe and 22 that it did not contain asbestos. 23 BY ATTORNEY DEAN: 24 Q Who are those employees? 25 A So we've had discussions with -- oh,	Page 389 1 Did I get that right? 2 A You did -- 3 (Crosstalk.) 4 Q And -- sorry. 5 A Yeah, there may be others. I just 6 can't think of them right now. 7 Q Thibaut Mongon in his deposition said 8 what he said. But in terms of his understanding 9 about the safety of talc, are you aware it's not 10 something he's independently evaluated in a way 11 but just trusted what he was told? 12 ATTORNEY BROWN: Objection to the 13 form. 14 THE WITNESS: That may be true. 15 BY ATTORNEY DEAN: 16 Q In terms of scientists who have 17 actually evaluated safety, about whether the 18 talc that was put into a baby powder and sold 19 for decades by Johnson & Johnson were safe, are 20 you aware of a human at Kenvue who's made that 21 evaluation? 22 ATTORNEY BROWN: Object to the form 23 of the question. 24 THE WITNESS: Yeah, I don't know 25 everyone over there in the science group.

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Page 390 1 I'm not sure who, who actually is there 2 right now who worked on this at -- when it 3 was at J&J. 4 So there may be people there. I just 5 don't recall, sitting here, who they might 6 be in that group. 7 BY ATTORNEY DEAN: 8 Q In terms of Holdco, I have the same 9 question: Are you aware of any scientist or 10 person with a medical background ever reviewing 11 the information about concerns with asbestos in 12 talc and the safety of cosmetic talc who's come 13 to a conclusion about whether it's safe or not? 14 A Yeah, I truly don't recall -- so as 15 Holdco now stands, there's nobody at Holdco that 16 has a consumer business. So I don't think 17 there's anybody at Holdco that would be looking 18 at this. 19 Prior to that, when Holdco was part 20 of -- had Old -- a JJCI entity, there were 21 people in that science group that evaluated talc 22 and came to the conclusion that it was safe. 23 ATTORNEY DEAN: Let me object to 24 nonresponsive. 25 BY ATTORNEY DEAN:	Page 392 1 science group at, at JJCI, during the period 2 where it was in charge of talc sales, evaluated 3 the safety of talc continuously and came to the 4 conclusion. 5 ATTORNEY DEAN: Object to foundation. 6 And would love for that to be established. 7 BY ATTORNEY DEAN: 8 Q But I'm going to start with asking 9 you if you can name a single person. 10 A I don't know all the people -- 11 (Crosstalk.) 12 Q -- Susan Nicholson -- 13 (Crosstalk.) 14 -- was involved in assessing it. 15 A I don't know all the people by name. 16 But it's the science -- there is a science 17 group, a safety group at JJCI that was charged 18 with assessing the safety of talc, which they 19 did. 20 Q Don Hicks? 21 A Yeah. I don't know -- 22 Q Steve Mann? 23 A -- the specific name. But there is a 24 department full of people that were charged with 25 that, with that job.
Page 391 1 Q And just -- I do want to follow up on 2 that. But I do want to start off with Holdco. 3 Have you spoke with anyone at Holdco 4 that actually has a background in science or 5 medicine to determine whether they have 6 evaluated the issue of safety of talc? 7 A Yeah, I don't know that there's 8 anyone there with a background in science or 9 medicine -- 10 Q In terms of your -- 11 (Crosstalk.) 12 A -- currently. 13 Q -- there were folks that used to be 14 at Johnson & Johnson -- whether it be in a JJCI 15 Old that evaluated talc -- you suggested that 16 there were some scientists that looked at that 17 issue. Who? 18 A I think there were people that were 19 helping Susan Nicholson, who was in the safety 20 group, that helped evaluate talc. Talc 21 safety -- so as a consumer company with talc as 22 a product, the whole, the entire safety group, 23 which is comprised of scientists, was reviewing 24 the issue all the time. 25 So the -- I would say the entire	Page 393 1 Q When you make the claim that talc is 2 safe, can you name a single scientist or medical 3 person that you consulted with before you claim 4 that under oath, by name? 5 A Ed Kuffner, Susan Nicholson, the 6 various experts that we've had, Professor 7 Sanchez, Dr. Hopkins. You know, we had many 8 experts testify and many experts consulting on 9 this issue, on the safety of talc. 10 Q So the three names that you gave of 11 anyone that has an attachment to the J&J 12 enterprise of companies were Dr. Kuffner, 13 Dr. Nicholson, and Dr. Hopkins, all who were 14 former company representatives in talc 15 litigation; correct? 16 A They were, yes. 17 Q And then you mentioned Professor 18 Sanchez. Did I get that right? 19 A Dr. Sanchez. 20 Q Okay. Dr. Sanchez works for RJ Lee, 21 has never worked for Johnson & Johnson. He's an 22 outside consultant that Johnson & Johnson has 23 used for some time; correct? 24 A He is. 25 Q And so when you state as a lawyer in

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Page 394 1 a fact-witness deposition that you hold the 2 opinion talc is safe, other than the three 3 company representatives for Johnson & Johnson in 4 talc litigation or the RJ Lee expert that you 5 reference, is there any other scientific or 6 medical person that you've spoken to on the 7 issue? 8 A There may be throughout the period -- 9 it's been a long time since I've been dealing 10 with this. 11 Throughout this period there may be 12 other experts that we've consulted. I'm sure 13 there are other experts that we've consulted 14 that I can't sit here -- sitting here today I 15 can't name. But there are other experts outside 16 that we've consulted. 17 There's also historical documents by 18 outside people that are in the record, where 19 they tested the talc and came to the conclusion 20 that it was safe. There's NIH reports about it. 21 There are several other sources of scientists 22 that evaluated the safety of the product. 23 ATTORNEY DEAN: I'm going to object 24 to nonresponsive and try again. 25 BY ATTORNEY DEAN:	Page 396 1 Q Dr. Attanoos, who is an expert that's 2 used in talc litigation that lives in Wales, is 3 that one of the names you were referencing? 4 A That is one of the names that I 5 talked to. 6 Dr. Moolgavkar, who's also an expert 7 that we retain because of his expertise. 8 So the -- all of these experts we 9 believe are tops in the field, which is why we 10 hired them in the first place. And there are 11 people that I've talked to and rely on. 12 Q So outside of the three corporate 13 representatives used in talc litigation and the 14 three experts that are used in talc litigation, 15 is there anyone else that you can identify by 16 name? 17 A Again, I picture them. There's a 18 professor out in Baltimore that we've, that 19 we've used. So there are others, again experts 20 that we've used because they're tops in their 21 field and know what they're the talking about 22 that I've discussed. Just sitting here right 23 now, I can't recall their names. 24 ATTORNEY DEAN: Objection to the 25 foundation about tops in the field. But I
Page 395 1 Q In terms of the individuals that you 2 have actually spoken to about the safety of 3 talc, you've mentioned the three chosen company 4 representatives in litigation that worked for 5 the company at some point time and then also a 6 gentleman from RJ Lee that's been hired in 7 litigation. 8 Is there anyone else by name that you 9 can identify for me? 10 ATTORNEY BROWN: Objection to the 11 form. 12 THE WITNESS: Yeah, I'm sure there 13 are other people. I just -- sitting right 14 here, I just can't, can't come up with 15 names. I can recall what they look like. 16 You know, there's the gentleman from 17 Wales, Dr. -- I can't -- 18 BY ATTORNEY DEAN: 19 Q Dr. Attanoos? 20 (Crosstalk.) 21 A I'm sorry? 22 Q Dr. Attanoos, who's used -- 23 A Dr. Attanoos, yes. There's Dr. -- 24 Q Let me finish. 25 A Uh-huh.	Page 397 1 want to establish that by asking this 2 question. 3 BY ATTORNEY DEAN: 4 Q When experts that were going to be 5 used in litigation involving people that believe 6 they have cancer from using baby powder were 7 selected, you indicated that you were involved 8 in that process. 9 Now that you've named some specific 10 individuals and claimed that they are tops in 11 their field -- Dr. Attanoos; Mr. Moolgavkar; and 12 also the geologist/mineralogist from RJ Lee, 13 Dr. Sanchez -- are you aware of anyone that was 14 involved in vetting them and assessing their 15 credentials that has a scientific or medical 16 background? 17 A Yeah, I know that there was a process 18 where we looked at these people. I just don't 19 see -- like I said, I just can't recall who with 20 a scientific background was involved. 21 Q Do you have an understanding that 22 talc and asbestos, depending on how it is 23 formed, can commonly grow together in the 24 ground? 25 ATTORNEY BROWN: Objection to the

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Page 398 1 form, beyond the scope. 2 THE WITNESS: I've, I've seen 3 documents that reference that. I've also 4 seen other reports that show that that 5 that's not common, that asbestos is 6 actually rare. And so I've seen, you 7 know, both sides of that issue. 8 BY ATTORNEY DEAN: 9 Q In terms of which types of formation 10 are more likely to be associated with asbestos 11 and how that relates to specific mines J&J chose 12 to the use over the years, are you aware of 13 that? 14 A I'm aware -- 15 ATTORNEY BROWN: Objection. 16 THE WITNESS: I'm aware of the 17 various reports that go both ways on that. 18 I do -- I'm aware that plaintiffs do take 19 that position. I'm also aware that it's 20 been refuted. 21 So I am aware that of that issue; 22 yes. 23 ATTORNEY DEAN: Objection to 24 nonresponsive. 25 BY ATTORNEY DEAN:	Page 400 1 whether you knew how they were formed and 2 which ones were, and the answer talked 3 about testing. 4 It's entirely nonresponsive. It 5 lacks foundation and an expert opinion not 6 called for in a fact witness and certainly 7 not the expertise of a lawyer. 8 BY ATTORNEY DEAN: 9 Q Back to my question. In terms of 10 having an understanding that talc mines can be 11 formed in different ways and some are more 12 associated with asbestos, is that something that 13 you appreciate or understand from the scientific 14 literature? 15 ATTORNEY BROWN: And I object as 16 beyond the scope, as calling for expert 17 testimony, and certainly you're asking 18 this in his personal capacity or in his 19 capacity about statements that he made of 20 the position of LTL. 21 ATTORNEY DEAN: Which I did not 22 elicit. You did. You asked the position 23 of a company not here, and you asked him 24 expert opinions of a fact witness, and you 25 asked a lawyer something who has expertise
Page 399 1 Q I'm not asking whether plaintiffs 2 take a position or not. I'm asking you whether 3 you're aware in the scientific community that 4 certain mines are more associated with asbestos 5 and where that fits in the mines Johnson & 6 Johnson chose to use. 7 ATTORNEY BROWN: Objection. 8 BY ATTORNEY DEAN: 9 Q And that's information I learned from 10 your chosen expert, Dr. Sanchez. 11 A I am aware -- 12 ATTORNEY BROWN: Hold on, hold on. 13 I object to the form of the question, 14 beyond the scope, calls for expert 15 testimony. 16 ATTORNEY DEAN: It does. 17 THE WITNESS: So I am aware of that, 18 that position. I'm also aware that the 19 specific mines that Johnson & Johnson used 20 have been tested and reviewed by various 21 organizations and found to be free of 22 asbestos. 23 So I'm aware of it; yes. 24 ATTORNEY DEAN: Object to 25 nonresponsive. I asked a question about	Page 401 1 in law but certainly not in science. 2 ATTORNEY BROWN: And -- 3 ATTORNEY DEAN: And if you are 4 willing to withdraw that, I'm willing to 5 move on. But it is absolutely something 6 I'm going to continue to explore, given 7 the questions you chose to ask. 8 ATTORNEY BROWN: Here's where we are, 9 Jessica. You asked hours of questions 10 about the purpose of Project Plato. 11 If you agree those questions were 12 answered in his capacity as LTL, the 13 question about the purpose and contained 14 within the first-day declarations are 15 statements about the company's position on 16 the safety of talc. They're statements 17 Mr. Kim has given on behalf of LTL under 18 oath in the past. 19 That question was following up on 20 hours of questions that you have asked. I 21 agreed is not in the notice for Kenvue, it 22 is not in the notice for Holdco, and he is 23 not giving statements on behalf of those 24 companies on safety issues of talc. 25 Those questions were meant to follow

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Page 402 1 up on your questions about the purpose of 2 the restructuring. 3 ATTORNEY DEAN: I don't think they're 4 related in any way, but I think that 5 statement does help clarify. 6 BY ATTORNEY DEAN: 7 Q In terms of geology, mineralogy, or 8 testing records, I understand being involved in 9 litigation you have been involved in those 10 things. But your field, your education, 11 knowledge, training, and skills are not in 12 science, geology, mineralogy, or medicine; 13 correct? 14 A That is true. 15 Q And in terms of what activities you 16 have in vetting experts or information, did you 17 ever have a person, when you were at LTL or 18 Johnson & Johnson, that was involved in that 19 vetting that you can identify for me that has a 20 background in science, medicine, geology, or 21 mineralogy? 22 A Yeah, sitting here right now, I 23 cannot name someone. But there may have been 24 people like that as part of the process. 25 Q You also volunteered -- and I	Page 404 1 identification of information that you've 2 reviewed, data about what you're looking at when 3 you claim most lose, information about why some 4 are longer and some are higher, your basis that 5 it would take forever to resolve these cases, 6 you haven't disclosed those opinions, provided a 7 report on those opinions, and in any way in this 8 case noted that you were involved in that. 9 Fair? 10 ATTORNEY BROWN: Objection to the 11 form. 12 THE WITNESS: They're in my first-day 13 declarations and also the information 14 statement that was filed in the 15 bankruptcy. So all the information I gave 16 was elicited -- was in the documents that 17 were filed in the bankruptcy. 18 ATTORNEY DEAN: I'm going to object 19 as nonresponsive, try again. 20 BY ATTORNEY DEAN: 21 Q The first-day declaration was 22 bankruptcy; right? 23 A It was, yes. 24 Q My question was whether you ever 25 disclosed informations, reports, or data in a
Page 403 1 objected to it in its entirety, but again, in 2 the event that I'm wrong -- your beliefs about 3 how the litigation process works, how many 4 people lose, how many win, how long it will take 5 for cases to resolve, how concerning that 6 litigation will be. 7 Do you broadly remember volunteering 8 some of that information? 9 A I -- 10 ATTORNEY BROWN: Object to the form 11 of the question. 12 THE WITNESS: I remember answering 13 questions on that issue; yes. 14 BY ATTORNEY DEAN: 15 Q You have certainly never been 16 retained in this case or any other case 17 involving mesothelioma litigation as an expert 18 on identifying litigation risk; correct? 19 ATTORNEY BROWN: Object to the form. 20 THE WITNESS: Not as an expert. I 21 gave such testimony in the bankruptcy 22 proceedings. 23 BY ATTORNEY DEAN: 24 Q In terms of, though, in civil 25 litigation, whether we've gotten a report, an	Page 405 1 civil litigation case, including this one. And 2 the answer to that is you have not; correct? 3 ATTORNEY BROWN: Objection to the 4 form. 5 THE WITNESS: Yeah, I don't know what 6 that, what that really means. I do know 7 you have my first-day declaration. You 8 used it as an exhibit today. 9 BY ATTORNEY DEAN: 10 Q And whether you know whether -- what 11 that means or not, maybe I can help. When you 12 have someone that is giving an opinion 13 testimony, there are requirements in every 14 state -- although they vary what they are -- 15 that there be certain disclosures to identify 16 that person and then usually after those 17 disclosures to provide either reports or 18 depositions or more. 19 You have never done that in Michael 20 Perry's case; correct? 21 ATTORNEY BROWN: Objection to the 22 form. 23 THE WITNESS: Yeah, I had not. 24 BY ATTORNEY DEAN: 25 Q In terms of what you did in a

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Page 406 1 bankruptcy action in a -- in the declaration 2 that we looked at together from 2021, I just 3 want to pause for a moment. 4 Have you tracked how often 5 mesothelioma cases have won after the bankruptcy 6 efforts ended? 7 A I have not looked at that issue 8 currently. 9 Q And so when you suggested -- and we 10 object to it -- that most of these cases lose, 11 first of all, you were ambiguous as to what you 12 meant by "these cases." 13 Were you talking about cases like Mr. 14 Perry's, where someone believes they're dying 15 from mesotheliomas? 16 ATTORNEY BROWN: I object to the form 17 of the question. 18 THE WITNESS: I was talking about the 19 talc cases as a whole. 20 BY ATTORNEY DEAN: 21 Q When you mentioned talc cases as a 22 whole, have you tried to track at all the cases 23 that have gone forward from either Johnson & 24 Johnson's suppliers or from people that were 25 using the exact same talc from the exact same	Page 408 1 do not. 2 BY ATTORNEY DEAN: 3 Q What about Rita Chapman? 4 ATTORNEY BROWN: Same objections. 5 THE WITNESS: Yeah, again, sitting 6 here today, I do not. 7 BY ATTORNEY DEAN: 8 Q Do you know who Kyung Lee is? 9 ATTORNEY BROWN: Same objection. 10 THE WITNESS: No, sitting here, I do 11 not. 12 BY ATTORNEY DEAN: 13 Q Theresa Garcia? 14 ATTORNEY BROWN: Same objection. 15 THE WITNESS: Yeah, sitting here, I 16 do not. 17 BY ATTORNEY DEAN: 18 Q Certainly as a lawyer you understand 19 that part of proving a case is having the 20 information relevant to the claims that you have 21 and having time to digest it; right? 22 ATTORNEY BROWN: Objection to the 23 form, scope, beyond the scope of 24 everything. 25 THE WITNESS: I'm not sure I know
Page 407 1 mine and processed the exact same way as the 2 talc Johnson & Johnson used and sold to the 3 public for years? 4 ATTORNEY BROWN: Objection to the 5 form. 6 THE WITNESS: I was talking about 7 cases against LTL or Johnson & Johnson 8 companies. 9 BY ATTORNEY DEAN: 10 Q In the last year, are you aware of a 11 single case that Johnson & Johnson has succeeded 12 on against claimants that believe they're dying 13 from mesothelioma? 14 ATTORNEY BROWN: Objection, form. 15 THE WITNESS: Yeah, I do not, I 16 don't -- I've not tracked that. 17 BY ATTORNEY DEAN: 18 Q Do you know who Elsie Graham is? 19 ATTORNEY BROWN: Objection, form, 20 scope. 21 THE WITNESS: I do not. 22 BY ATTORNEY DEAN: 23 Q Do you know who Sarah Plant is? 24 ATTORNEY BROWN: Form, scope. 25 THE WITNESS: Sitting here today, I	Page 409 1 what that question means. 2 BY ATTORNEY DEAN: 3 Q I think, I think it's meant to be 4 quite commonsense. In order to prove a case, 5 you need the relevant information to what you're 6 trying to prove and time to process it. 7 That's self-evident; right? 8 ATTORNEY BROWN: Objection. Jessica, 9 we're on hour ten. Literally, that's not 10 related to my questions or to your notice. 11 I object. We have got to conclude this 12 deposition. 13 ATTORNEY DEAN: You volunteered that 14 most cases lose, they would take decades 15 to get through, that resolution couldn't 16 occur. You referenced the lottery part of 17 his deposition which -- affidavit, which I 18 stayed away from, indirectly. 19 And now that I'm trying to be able to 20 suss out that he doesn't have a 21 foundation, certainly in this case, and 22 nor has he done -- I mean, again, if 23 you'll retract that, that's fine. 24 But if you're going to try to sneak 25 in in the middle of the trial testimony

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Page 410 1 that this is somehow equitable and cool, 2 from a witness never disclosed, based on 3 information not told to me, I'm going to 4 ask questions about it. 5 ATTORNEY BROWN: Okay. The question 6 you asked is beyond the scope of my 7 questions and beyond the scope of your 8 notice. 9 His testimony is contained in the 10 first-day declaration, which you marked 11 ten hours ago, and goes to the purpose of 12 the restructuring that you spent at least 13 four of the ten hours we've been here 14 today asking about. 15 BY ATTORNEY DEAN: 16 Q So, Mr. Kim, you understand that the 17 restructuring efforts that occurred affected 18 multiple companies, including Old JJCI, New 19 JJCI, Holdco, LTL, and others; right? 20 A It did, yes. 21 Q And you understand that we asked 22 about two different big kind of restructuring 23 efforts, Project Plato and also Project Diamond, 24 in our deposition notices for today; right? 25 A I do.	Page 412 1 companies. 2 BY ATTORNEY DEAN: 3 Q When you make the opinions in the 4 statement that resolution in the civil system 5 will be beneficial for some and not for others, 6 short for some, longer for others, and simply 7 couldn't be done in a timely manner, what 8 research have you done about the actual 9 resolution process for people dying of 10 mesothelioma through the tort system over the 11 last 20 years? 12 ATTORNEY BROWN: Objection to the 13 form, scope. 14 THE WITNESS: So in my years working 15 at Johnson & Johnson -- and I'm basing 16 that upon my years as a product liability 17 lawyer at Johnson & Johnson involved in 18 thousands of cases throughout, like, a 19 period there, involving many different 20 types of products and including my 21 overseeing the talc cases. 22 So it's really based upon my 23 experience at J&J in J&J cases. 24 ATTORNEY DEAN: Okay. Let me object 25 to nonresponsive and try again.
Page 411 1 Q And some of those efforts directly 2 affected the transfer of assets relating to baby 3 powder from Old JJCI to New JJCI, which had a 4 name change to Holdco; correct? 5 A It did deal with transfer of certain 6 assets in exchange for other things. 7 Q And certainly while these issues 8 might implicate New JJCI and Old JJCI, Project 9 Plato also had implications for the company that 10 you work for, LLT; correct? 11 A It did. 12 Q Right. Did you understand when you 13 came in here today that you are not the 14 corporate representative for LLT or LTL? 15 A I do. 16 Q Do you have any sense for how many 17 claims from people who have been involved in 18 asbestos litigation have been managed over the 19 course of the last ten years, whether it be 20 companies like Union Carbide, with many claims, 21 Ford, or anyone else? 22 ATTORNEY BROWN: I object to the 23 form, scope. 24 THE WITNESS: I have not looked at 25 things outside of litigation against J&J	Page 413 1 BY ATTORNEY DEAN: 2 Q In terms of assessing folks -- 3 whether it be GE, Union Carbide, Ford, or others 4 that were managing asbestos litigation, have you 5 attempted to evaluate those efforts and how they 6 succeeded outside of what you did in managing 7 asbestos litigation related to Johnson's Baby 8 Powder for Johnson & Johnson? 9 ATTORNEY BROWN: Object to the form. 10 THE WITNESS: From time to time we 11 have -- I've had discussions about other 12 talc -- I'm sorry -- asbestos 13 manufacturers, what we call the 14 traditional asbestos manufacturers, and 15 how it differs from the cases that we're 16 seeing in, in our talc litigation. 17 So I have from time to time had 18 discussions with lawyers about other 19 cases. 20 But the basis of my statements really 21 are about the talc cases that I have 22 personally been involved with and all the 23 product liability cases of other types 24 that I've been involved with since being 25 at the Johnson & Johnson companies.

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Page 414 1 BY ATTORNEY DEAN: 2 Q In the actual things that you've been 3 involved with, you mentioned product liability 4 and talc cases. Did any of them involve 5 asbestos, other than concerns relating to 6 Johnson's Baby Powder and cosmetic talc? 7 A I'm sorry? Asbestos other than in 8 baby powder. So I handle the asbestos docket -- 9 (Crosstalk.) 10 Q When you talk about product liability 11 litigation, that was kind of your source of 12 knowledge, including the talc litigation, and 13 I'm just wondering if any of that experience or 14 knowledge involved concerns about asbestos, 15 other than the cosmetic talc litigation? 16 A So I do handle the premises liability 17 asbestos exposure that the company faces from 18 time to time. I at some point was involved in 19 the SV40 vaccine litigation that had that brief 20 period where there were numerous companies that 21 were being sued for that. So I've had a number 22 of those cases as well. 23 So outside of talc, those would be 24 the other asbestos cases that I've dealt with. 25 Q Can you give me an idea of the	Page 416 1 as vague. I don't understand. 2 THE WITNESS: So I'm considering 3 all -- 4 BY ATTORNEY DEAN: 5 Q Part of why cases -- 6 (Crosstalk.) 7 Let me try to help. Part of the 8 reason cases have to go the distance -- which 9 addresses some of the concerns that you brought 10 here, that some people win, some people lose, 11 some people take a long time, some people are 12 short -- an alternative to going the distance is 13 the parties reaching a resolution; right? 14 A Yes. But that's not what I was 15 talking about in terms of time. The -- what I 16 was talking about is the sheer number of cases, 17 especially the asbestos -- in the ovarian 18 docket, you know, the number of cases that we 19 had would take decades to go through. 20 And so that's, you know, that's just 21 a function of how many cases there are. Plus, 22 every year there are more cases that are being, 23 being brought. 24 So I wasn't talking about 25 difficulties in settling cases. I was talking
Page 415 1 magnitude of cases you're talking about with 2 premises claims? 3 ATTORNEY BROWN: Objection to the 4 form. 5 THE WITNESS: Yeah. There very few 6 you know, I would -- yeah, I would say 7 maybe -- under a hundred. 8 BY ATTORNEY DEAN: 9 Q And then the second thing, there was 10 a blip in time where there was a concern that 11 SV40 might be related to mesothelioma that 12 quickly went away. That concern, is that what 13 you were referencing there? 14 A Yeah. Yes. So we had, you know, a 15 number of cases in that short period of time 16 that all went away. 17 Q In terms of what you volunteered 18 about the claims not resolving in litigation, 19 have you taken into any consideration what 20 responsibility for resolution exists at the 21 hands of the people that are resolving on the 22 J&J entity side and coming in good faith to 23 resolve cases on individual cases once they've 24 matured? 25 ATTORNEY BROWN: I object to the form	Page 417 1 about the sheer number of cases. 2 Q Maybe they're highly interrelated, 3 but let me just ask you this: In evaluating how 4 long handling the litigation would take, do you 5 have anywhere where you can bullet-point for me 6 what you've analyzed and reviewed when you gave 7 that opinion today? 8 ATTORNEY BROWN: Objection to the 9 form. 10 THE WITNESS: There is a presentation 11 that we did in front of the bankruptcy 12 court that I'm sure we can dig up that has 13 the number of cases and time to resolve 14 and things like that, how long it would 15 take based upon historical data. 16 I think that's -- so we have looked 17 at this issue in the bankruptcy 18 proceedings. 19 BY ATTORNEY DEAN: 20 Q Is that anything that you have with 21 you here today? 22 A I don't have that with me today. 23 Q And certainly it would be dated to an 24 earlier time, given that it was related to the 25 bankruptcy period?

Kenvue Inc., Johnson and Johnson Holdco (NA) Inc. (John Kim)
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1A Probably year ago, two years ago. 2ATTORNEY DEAN: A lot has changed. 3Okay. I'm going to object to the 4opinion testimony here, particularly 5relating to prospects of litigation and 6talc safety. And then are also the 7opinions from LTL in a deposition for 8Holdco and Kenvue. But unless there's 9questions from counsel, that's all I have 10right now. 11ATTORNEY BROWN: No, there is not. 12We'll similarly reserve our rights and 13objections to questions that went beyond 14the scope. 15ATTORNEY DEAN: Adam, I have that we 16marked today Exhibit 1, 2, 4, 5, 40, 41, 17and that those are all going to come from 18me. 42 I referenced, and said we figured 19it out. But I didn't want to confuse 20things by coming back to that. So there's 21not going to be a 42 provided to you. 22And then finally I have 43, which is 23going to be testimony provided by defense 24counsel for me. And I think that covers 25just the exhibits you should be looking	1ERRATA 2PAGE LINE NOTATION 3- - - 4- - - 5- - - 6- - - 7- - - 8- - - 9- - - 10- - - 11- - - 12- - - 13- - - 14- - - 15- - - 16- - - 17- - - 18- - - 19- - - 20- - - 21- - - 22- - - 23- - - 24- - - 25- - -		
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1for. 2And I'll get you mine tonight. 3ATTORNEY BROWN: Let's go off. 4THE VIDEOGRAPHER: The time is 5approximately 8:41. And we are off the 6record. 7THE COURT REPORTER: Jessica, I 8thought you came back and marked something 9else as 42. And I think there was a 31 as 10well. 11(Discussion held off the record.) 12(Deposition concluded at 8:44 p.m.) 13 14 15 16 17 18 19 20 21 22 23 24 25	1C E R T I F I C A T I O N 2 3 4I hereby certify that I have read the 5foregoing transcript of my deposition 6testimony, and that my answers to the 7questions propounded, with the attached 8corrections or changes, if any, are true and 9correct. 10 11----- 12KENVUE INC. and JOHNSON & JOHNSON 13HOLDCO (NA) INC., through their 14designated representative 15JOHN KIM, ESQUIRE 16 17 18 19 20 21 22 23 24 25		

1 C E R T I F I C A T I O N 2 3 4 I, ADAM D. MILLER, Registered 5 Professional Reporter, certify that the 6 foregoing is a true and accurate transcript 7 of the foregoing deposition, that the 8 witness was first sworn by me at the time, 9 place and on the date herein before set 10 forth. 11 I further certify that I am neither 12 attorney nor counsel for, not related to nor 13 employed by any of the parties to the action 14 in which this deposition was taken; further, 15 that I am not a relative or employee of any 16 attorney or counsel employed in this case, 17 nor am I financially interested in this 18 action. 19  20 /s/ Adam D. Miller 21 Registered Professional Reporter 22 and Notary Public 23 24 25	Page 422

EXHIBIT 34

STATE OF SOUTH CAROLINA : IN THE COURT OF COMMON PLEAS
:
COUNTY OF RICHLAND : FOR THE FIFTH JUDICIAL CIRCUIT

MICHAEL L. PERRY and :

LONNIE L. LONG, :

Plaintiffs, : C/A No.

v. : 2023-CP-40-04072

AMERICAN INTERNATIONAL :

INDUSTRIES, et al., :

Defendants. : 

Video-Recorded Deposition of
KENVUE INC., through its corporate designee
JAMES P. MITTENTHAL
VOLUME II

Via Zoom Videoconferencing

Tuesday, July 30, 2024

2:02 p.m.

Reported by:

Adam D. Miller, Registered Professional Reporter

Kenvue Inc. (James Mittenthal, Vol II)
July 30, 2024

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1	APPEARANCES:			1	THE VIDEOGRAPHER:	We're now on the	
2	On Behalf of Plaintiffs:			2	record. The date today is July 30th,		
3	JESSICA DEAN, ESQUIRE			3	2024. And the time is approximately		
4	jdean@dotslegal.com			4	2:02 p.m. Eastern. This is the continued		
5	DEAN OMAR BRANHAM SHIRLEY, LLP			5	videotaped deposition of Kenvue, Inc.,		
6	302 North Market Street, Suite 300			6	30(b)(6) through James Mittenthal. The		
7	Dallas, Texas 75202			7	witness has been previously been sworn in.		
8	214.722.5990			8	Counsel, you may proceed.		
9	On Behalf of Kenvue Inc.:			9	ATTORNEY DEAN: Thanks.		
10	CHRISTOPHER D. COX, ESQUIRE			10	- - - - -		
11	christopher.cox@skadden.com			11	KENVUE INC., through its corporate		
12	and CHRISTOPHER J. SANTOLI, ESQUIRE			12	designee JAMES P. MITTENTHAL, having been		
13	christopher.santoli@skadden.com			13	previously duly sworn according to law, was		
14	SKADDEN, ARPS, SLATE, MEAGHER & FLOM, LLP			14	examined and testified as follows:		
15	One Manhattan West			15	- - - - -		
16	New York, New York 10001			16	BY ATTORNEY DEAN:		
17	212.735.3000			17	Q Mr. Mittenthal, can you hear me okay?		
18	On Behalf of American International Industries:			18	A Yes, I can. Thank you.		
19	TIM PECK, ESQUIRE			19	Q Last time we met, we were all sitting		
20	TPeck@foxrothschild.com			20	in the same space. But today we're remote. So		
21	FOX ROTHSCHILD LLP			21	if anything goes out or is hard to hear, just		
22	300 North Greene Street, Suite 1400			22	let me know. Is that okay?		
23	Greensboro, North Carolina 27401			23	A Thank you.		
24	336.378.5200			24	Q Have you done any additional research		
25	ALSO PRESENT: PATRICK BLASKOPF, THE VIDEOGRAPHER			25	or work or investigation since we last met on		

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1	INDEX			1	Friday? Today is Tuesday, July 30th, and we		
2	DEPONENT: KENVUE INC., through its corporate designee			2	completed on Friday.		
3	JAMES P. MITTENTHAL			3	A No. I just reviewed my materials.		
4	EXAMINATION BY: PAGE			4	Q Okay. But in terms of talking to		
5	ATTORNEY DEAN 304			5	anyone else, researching anything else, doing		
6	- - - - -			6	any additional work to understand what Kenvue		
7	EXHIBITS			7	knew from its own employees or from those that		
8	NAME DESCRIPTION PAGE			8	were reasonably available to Kenvue, nothing		
9	Exhibit 36 Timeline 305			9	outside of what we talked about last week;		
10	Exhibit 37 9/18/23 McGraw Declaration 322			10	correct?		
11	Exhibit 39 10/14/21 Kim Declaration 306			11	A Correct.		
12	Exhibit 40 4/8/24 Kuffner Trial Testimony 411			12	Q Okay. I just want to mark		
13	Exhibit 41 Kenvue S-4 414			13	Exhibit 36. You referenced a timeline when we		
14				14	were talking on Friday. And going back in my		
15				15	notes, I didn't see that that was marked. It		
16				16	was that two-page timeline. Do you remember		
17				17	referencing that for me?		
18				18	A The one that I created?		
19				19	Q Yes.		
20				20	A Yes.		
21				21	ATTORNEY DEAN: I'm just marking that		
22				22	as an exhibit.		
23				23	(Exhibit 36 was marked for		
24				24	identification.)		
25				25	BY ATTORNEY DEAN:		

Page 306 1 ATTORNEY DEAN: And then I also want 2 to mark as an exhibit John Kim's 3 affidavit. We referenced it, but it 4 wasn't ever marked. I'm just not sure 5 that we're talking about the same one 6 because there are multiple. 7 (Exhibit 39 was marked for 8 identification.) 9 BY ATTORNEY DEAN: 10 Q So I have on the screen a declaration 11 of John K. Kim showing that it was filed on 12 October 14th, 2021. 13 Is this the affidavit of John Kim 14 that you have reviewed? 15 A I'm sorry. That's a question for me. 16 Is this the -- this looks like the, the 2021 17 John Kim affidavit. 18 Q Let me just go to the end. 19 Yeah. And so you had mentioned 20 reviewing an October 2021 affidavit or 21 declaration from him. I just want to confirm 22 that this is the one that you reviewed. 23 A Yes. I mean, I'm aware of it. I've 24 seen it in the past. But I didn't review it 25 extensively for this deposition. But I am aware	Page 308 1 do anything further in regard with my 2 preparation as a Kenvue corporate rep. 3 BY ATTORNEY DEAN: 4 Q I missed the beginning of what you 5 said. I'm sorry. You did or did not speak to 6 him in the past? 7 A I have spoken to him in the past. 8 But I've not done anything further in my 9 preparation as a Kenvue corporate witness. 10 Q In speaking with him, was it in order 11 to understand the foundation or basis for the 12 claims that he made in this statement, or was it 13 some other reason? 14 A That was part of it. I've 15 interviewed him in the past. So this would have 16 been one of the elements of things that were 17 discussed in the interview. 18 Q Do you see at the very beginning it 19 identifies LTL Management as the debtor? 20 A Yes, I do. 21 Q Okay. And so in order to avoid just 22 using language that is associated with 23 bankruptcy, because some courts don't want us to 24 do that, I'm going to, as we look through this 25 together, just reference LTL where it says "the
Page 307 1 of it, and I reviewed it. 2 Q Did you become aware of it in the 3 context of preparing for this deposition? 4 A No. 5 Q Okay. How did you first become aware 6 of it? 7 A It was an earlier case. I believe it 8 was a damages case involving LTL. 9 Q A damages case? I'm not following. 10 I'm sorry. 11 A Well, it was a case involving 12 punitive damages, and I forgot the case caption. 13 But it was, you know, a year or more ago. 14 Q Okay. Did you look at it again in 15 advance of the deposition where you're the 16 corporate representative for Kenvue or Holdco? 17 A Yes. 18 Q Okay. And certainly there is pages 19 of information relayed here. Did you do any 20 additional work, either speaking to Mr. Kim or 21 looking at underlying documents to verify what 22 he states in this affidavit? 23 ATTORNEY COX: Object to form. 24 THE WITNESS: I've spoken -- I've 25 spoken to Mr. Kim in the past. I did not	Page 309 1 debtor." 2 Do you follow what I'm doing there? 3 A Yes, I do. 4 Q Okay. He indicates that he at the 5 time of signing this was employed by Johnson & 6 Johnson Services and that that is a subsidiary 7 of LTL's ultimate parent company, Johnson & 8 Johnson. 9 I have that highlighted and 10 paraphrased it, but do you see where I'm at? 11 A Yes. 12 Q And in terms of just whether this is 13 information that relates to the subjects in our 14 notice, one of the things he indicates on page 3 15 is that there's a section, section 2, talking 16 about the corporate restructuring that occurred 17 on October 12, 2021. 18 Do you see that? 19 A Yes. 20 Q And we confirmed last Friday that in 21 October of 2021 there was restructuring that is 22 often referred to as Project Plato. 23 Do you recall those questions? 24 A Yes. 25 Q Some of the information that you know

Page 310 1 is a result of this I've highlighted. I just 2 want to go through it to verify this is 3 something you're aware of. I'm at paragraph 16, 4 first of all. 5 Do you see where I'm at? 6 A Yes. 7 Q It says [as read]: In 2021, Old JJCI 8 implemented a corporate restructuring -- and it 9 indicates the 2021 corporate restructuring -- 10 which was completed on October 12, 2021. As a 11 result of that restructuring: Old JJCI ceased 12 to exist and two new entities were created: (a) 13 LTL, which was initially formed as a Texas 14 limited liability company and then converted 15 into a North Carolina limited liability company; 16 and (b) another entity, which was initially 17 formed as a Texas limited liability and then 18 merged into a New Jersey corporation that was 19 its direct parent as well as the direct parent 20 of LTL, whereupon this entity changed its name 21 to Johnson & Johnson Consumer, Inc. 22 And then they put in parens New JJCI. 23 Are you following where I am at? 24 A Yes, I am. 25 Q Okay. And this information is	Page 312 1 That's also information that you know 2 about by virtue of this deposition; fair? 3 A I know that this is coming from this 4 declaration, yes. 5 Q A few more points is it goes on to 6 say [as read]: The next day, on October 12, 7 2021, the remaining transactions in the 2021 8 corporate restructuring occurred in the 9 following sequence. And then they list out a 10 couple of pages of bullet points. 11 Do you see where I'm at? 12 A Yes. 13 Q The first says [as read]: Old JJCI 14 merged within and into Chenango Zero LLC with 15 Chenango Zero LLC as the surviving entity. 16 Do you see that? 17 A Yes. 18 Q Two down from there they talk about 19 Old JJCI effected a divisional merger. 20 Do you see where I'm at? 21 A Yes. 22 Q And then it has a bullet point 23 underneath that one that says [as read]: Upon 24 the effectiveness of the divisional merger (a) 25 Old JJCI ceased to exist; (b) the two next new
Page 311 1 consistent with what we discussed on Friday and 2 with what Kenvue has put in its discovery 3 responses in this case; right? 4 A Yes. 5 Q It talks about part of that 2021 6 restructuring and specifically things that 7 occurred on October 11, 2021, and notes that on 8 that day, the following transactions were 9 affected in sequence. And then there's a series 10 of bullet points. 11 Do you see where I'm at? 12 A Yes, I do. 13 Q One is that Old JJCI, then a direct 14 parent of Janssen Pharmaceuticals, Inc., 15 organized Currahee Holding Company, Inc. -- and 16 they have in parens "Currahee" -- contributing 17 to it all of the issued and outstanding stock of 18 Old JJCI, whereupon Currahee became the direct 19 parent of Old JJCI. 20 Do you see that first bullet point? 21 A Yes. 22 Q Okay. It goes on to say that 23 Currahee organized Chenango Zero LLC, a Texas 24 limited liability company, as its wholly-owned 25 subsidiary.	Page 313 1 Texas limited liability companies -- Chenango 2 One and Chenango Two LLC -- were created; and 3 (c), all of the assets and liabilities of Old 4 JJCI were allocated between Chenango One LLC and 5 Chenango Two LLC as described below. 6 Do you see that? 7 A Yes. 8 Q And I think you answered this with my 9 earlier questions. But if I want to understand 10 the logic for the creation of these entities, 11 whether be Chenango Zero, Chenango One, Chenango 12 Two, or Currahee, that's not something you've 13 investigated; correct? 14 ATTORNEY COX: Object to form. 15 THE WITNESS: Yeah, I wouldn't say I 16 would be able to explain the logic of 17 those transactions. 18 BY ATTORNEY DEAN: 19 Q Have you done any investigation to 20 see whether any of these entities ever did 21 anything in the state of Texas prior to their 22 existence or during their existence? 23 ATTORNEY COX: Object to form; beyond 24 the scope of the notice. 25 But you can go ahead and answer.

Page 314 1 BY ATTORNEY DEAN: 2 Q Other than the actual filings in 3 Texas that are described herein. 4 ATTORNEY COX: Same objections. 5 THE WITNESS: That was not part of my 6 investigation for, for today as the Kenvue 7 corporate rep. 8 BY ATTORNEY DEAN: 9 Q I will represent to you that Kenvue's 10 lawyers in litigation referenced these 11 transactions as a reason why the motions that 12 affect Kenvue should be decided under Texas law. 13 Other than me telling you that, is that 14 something that you're aware of in any way? 15 ATTORNEY COX: Object to form; beyond 16 the scope of the notice. 17 Go ahead. 18 THE WITNESS: Are you asking me if I 19 was aware that they had been referenced or 20 was I aware that they should be decided 21 under Texas law? 22 BY ATTORNEY DEAN: 23 Q Were you aware that Kenvue, as an 24 entity, routinely argues to courts that these 25 transactions with Chenango and Currahee and the	Page 316 1 Q You want me to break it down? 2 A Sure. 3 Q Have you identified a single reason 4 why Chenango Zero, Chenango One, Chenango Two, 5 or Currahee -- let me start -- let me try that 6 again. I'm sorry. I'm trying to make it 7 easier, and I think I went in the wrong 8 direction. 9 Outside of actually filing these 10 entities -- Chenango One, Two, and Zero and 11 Currahee -- where they filed them, are you aware 12 of any business purpose for them being in the 13 state of Texas? 14 ATTORNEY COX: Object to form. 15 THE WITNESS: Yeah, I mean, I have a 16 general, high-level understanding from 17 talking to Mr. Kim and reviewing these 18 materials that these were transactions 19 that were created to achieve a certain 20 result. But as to the logic of each 21 particular one, that's not something I 22 investigated. 23 BY ATTORNEY DEAN: 24 Q What was that result? 25 A To create the output of Project
Page 315 1 involvement of Texas means that decisions about 2 Kenvue should be determined under Texas law? 3 ATTORNEY COX: Object to form. 4 BY ATTORNEY DEAN: 5 Q Did you know that? 6 ATTORNEY COX: Object to form; beyond 7 the scope of the notice. 8 Go ahead. 9 THE WITNESS: Yeah, I'm not 10 specifically aware of the types of 11 arguments involving those transactions. 12 BY ATTORNEY DEAN: 13 Q If I want to know any reason, other 14 than a plan by lawyers to try to use the law of 15 the State of Texas, that these companies had 16 from a legal or business perspective for -- in 17 their brief existence being formed in Texas, are 18 you aware of any? 19 ATTORNEY COX: Object to form; beyond 20 the scope of the notice. 21 Go ahead. 22 THE WITNESS: I'm trying to unpack 23 that question because I think there's a 24 couple questions in it. 25 BY ATTORNEY DEAN:	Page 317 1 Plato, which is the LTL and the Johnson & 2 Johnson Consumer entities. 3 Q Other than knowing that that related 4 to -- are you, are you familiar, by no other 5 reason, the "Texas Two Step" language? 6 ATTORNEY COX: Object to form. 7 BY ATTORNEY DEAN: 8 Q It's referenced in our notice. 9 A I've seen it in your notice. 10 (Technical difficulties.) 11 ATTORNEY DEAN: Did we freeze up? 12 Everybody's not moving? 13 THE WITNESS: I'm sorry. Did you 14 hear my last response? 15 BY ATTORNEY DEAN: 16 Q Not at all. Everybody paused there 17 for a minute. So I was like something is not 18 happening. I asked, I think, whether you were 19 familiar with what Texas Two Step was, and then 20 I just got frozen air. So if you don't mind 21 repeating, that would be great. 22 A Yeah. I said I've seen it in the 23 plaintiff's materials. 24 Q Okay. Outside of us asking in the 25 deposition notice to Kenvue in this case, is

Page 338 1 knows is that most of the employees of consumer 2 health transferred from Johnson & Johnson to 3 Kenvue as part of that transaction as well; 4 correct? 5 A That is something that I know; yes. 6 Q And I think we talked about this some 7 last week, whether there might be some people 8 that moved on or retired. The general idea was 9 to transfer over the employees. 10 Do you remember us talking about 11 that? 12 A Yes. 13 Q In terms of marketing, Kenvue 14 understands that during this spinoff or Project 15 Diamond, the marketing capabilities of Johnson & 16 Johnson Consumer went to Kenvue; correct? 17 A Yes. 18 Q Most of the manufacturing 19 capabilities went from Johnson & Johnson 20 Consumer to Kenvue; correct? 21 A Yes, as stated, yes. 22 Q And then I kind of want to focus more 23 narrowly to Johnson's Baby Powder brand and what 24 Kenvue knows, again, from its current CEO is 25 that he believes or thinks that all of the	Page 340 1 Q It was also the case that all of the 2 Johnson Baby Powder trademarks went from 3 Johnson & Johnson to Kenvue, correct, as part of 4 that Project Diamond agreement. 5 A That's my understanding, that the 6 relevant trademarks went over. 7 Q We looked together at Kenvue's 8 website where they were selling the baby powder 9 and saw the name Johnson & Johnson in smaller 10 print at the bottom and still called it Johnson 11 Baby Powder, not Kenvue baby powder. 12 Do you recall that? 13 A I do recall that. 14 Q Kenvue understands and admits that 15 the Johnson baby brand is part of the Kenvue 16 portfolio; correct? 17 A I'm sorry. Did you say Kenvue 18 understands and admits? Is that your question? 19 Q Yeah, and I can say it again. I was 20 trying to get a sip of coffee in there and may 21 have moved too quickly. 22 Kenvue understands and admits that 23 the Johnson's baby brand is part of the Kenvue 24 portfolio; correct? 25 A Yeah, I would agree with that
Page 339 1 employees involved in the manufacturing and 2 marketing of Johnson's Baby Powder transferred 3 from Johnson & Johnson to Kenvue; correct? 4 ATTORNEY COX: Object to form. 5 THE WITNESS: Well, in his words, I 6 think so, yes. I understand that was -- 7 BY ATTORNEY DEAN: 8 Q And in terms of following up why he 9 thinks so and why he said that under oath, you 10 haven't made any effort to come to talk to him 11 for follow-up there? 12 A Well, I've read other materials that 13 speak to that fact, you know, with respect to 14 employees and operations. So I've read the 15 testimony of other Kenvue employees and other 16 materials that have led me to agree with those 17 statements. 18 Q And then particularly, again, with 19 the focus on Johnson's Baby Powder brand, what 20 Kenvue knows through their CEO is that all of 21 the manufacturing assets involved in the 22 Johnson's Baby Powder transferred from Johnson & 23 Johnson to Kenvue. That was part of the new 24 Kenvue base; correct? 25 A That's what was stated. Yes.	Page 341 1 statement. 2 Q And just in terms of understanding 3 specifically the Project Diamond transaction, 4 kind of who was driving the bus on that, one of 5 the things that Kenvue's CEO, Dr. Mongon, 6 indicates is that it was Johnson & Johnson, not 7 Kenvue, that was determining what assets were 8 being transferred and that it really wasn't a 9 conversation. 10 Do you see that? 11 A I see that. 12 Q No executives, no board members at 13 Kenvue had anything to say about what assets 14 were being transferred by Johnson & Johnson to 15 Kenvue; correct? 16 A I'm sorry. Are you asking me if 17 that's what it says? 18 Q If that's something that Kenvue knows 19 by virtue of what its CEO has said. 20 A That's something that Mr. Mongon 21 noted. 22 Q Okay. And part of the reason I add 23 that is that, again, you're kind of in this 24 unique role of speaking for what a company knows 25 and even more unique by the fact that you never

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Page 342 1 worked for the company. And so it's important 2 for me to follow up to say this isn't just 3 information that's out there; this is 4 information that is known to Kenvue as a company 5 because it's been written down from their 6 current CEO; fair? 7 A Yes, in response to a specific line 8 of questioning. 9 Q Yep. And what Kenvue has 10 acknowledged through its CEO in a sworn, written 11 transcript is that the entirety of the decision 12 that we've been calling Project Diamond was a 13 decision of the executives at Johnson & Johnson, 14 and he agreed that he would say so. 15 Do you see that? 16 A I do see that. 17 Q Do you know anything about why they 18 called this spinoff from Johnson & Johnson 19 Consumer with the, you know, with Johnson & 20 Johnson to Kenvue Project Diamond? 21 A I don't. And I reviewed the 22 testimony of other Kenvue executives who also do 23 not know why it has that name. 24 Q Okay. Have you spoke to Chris 25 Andrew, Paul Ruh, Thibaut Mongon, or anyone else	Page 344 1 2023. You told me when we last spoke this is 2 the transcript that you have; correct? 3 A Yes. I can double-check, but it 4 appears to be. 5 Q Okay. 6 A Yes. 7 Q All right. Thanks. 8 I want to do kind of a similar task 9 in looking at some of his testimony with the 10 understanding that Paul Ruh is the person you 11 know currently working for Kenvue. He's the 12 director, and he specifically is someone that is 13 the CFO or chief finance officer; correct? 14 A Yes. 15 Q And one of the things Kenvue knows by 16 virtue of its director and chief financial 17 officer is that there's J&J, the parent. And 18 what happens is the separation of the entire 19 consumer health business is separated out from 20 Kenvue. And he acknowledges that that is 21 correct. They are separated. 22 Do you see that? 23 A Yes, they do. 24 Q Similarly to the CEO, the CFO 25 indicates that negotiating this separation from
Page 343 1 to try to understand the naming conventions for 2 Project Plato or Project Diamond? 3 A Like I said, I have read testimony. 4 I understand that there's no understanding of 5 why that name was chosen. I haven't 6 investigated it further. 7 Q You have investigated or haven't? 8 I'm sorry. 9 A I'm sorry. I said "I haven't." But 10 I should have said "I have not," just to be more 11 clear for the record. 12 Q So if it wasn't in the deposition 13 transcripts of the two individuals that we have 14 transcripts of, Paul Ruh and Thibaut Mongon, but 15 you haven't investigated it further with even 16 existing employees at Kenvue who may have been 17 involved in those projects; fair? 18 ATTORNEY COX: Object to the form. 19 THE WITNESS: Yeah, I mean, that was 20 certainly something I noted was the name 21 of the project, but I did not see as my 22 goal to determine its naming rationale. 23 BY ATTORNEY DEAN: 24 Q Okay. I now have on the screen the 25 deposition of Paul Ruh taken on August 16th,	Page 345 1 Johnson & Johnson to Kenvue on Project Diamond, 2 that Kenvue did not have any consultants to 3 negotiate the separation. They're all from 4 Johnson & Johnson. 5 Do you see that? 6 A Yes. 7 Q And he indicates that in terms of the 8 negotiation, there was some discussion on the 9 edges. But other than that, the entire 10 transaction was under the control and direction 11 of Johnson & Johnson. 12 Do you see that? 13 A I do. 14 Q And I'm here just discussing some 15 specifics of Project Diamond going from 16 Johnson & Johnson to Kenvue. And one of the 17 things that Kenvue knows is that not all 18 employees in the consumer segment came over. 19 But if they -- they would all come over or be 20 shared. 21 Do you see that? 22 A Yes, I do. 23 Q All of the manufacturing assets -- 24 ATTORNEY COX: Object to form. 25 ATTORNEY DEAN: Sorry.

Kenvue Inc. (James Mittenthal, Vol II)
July 30, 2024

Page 346 1 BY ATTORNEY DEAN: 2 Q Kenvue's CFO indicated that, yes, all 3 of the manufacturing assets went, unless they 4 were shared again in this transaction from 5 Johnson & Johnson to Kenvue; correct? 6 A Yes, I see that. 7 Q And when the CFO for Kenvue was asked 8 about what was left behind of the consumer 9 health sector after the separation of Kenvue, he 10 indicated [as read]: Everything under the 11 consumer health sector was transferred over. 12 So anything related to the assets, 13 people, plants, the brands, that's what was 14 being transferred. 15 Do you see that? 16 A Yes. 17 Q And then, again, the question is kind 18 of narrowed to specifically ask about the 19 Johnson's Baby Powder brand and whether anything 20 was left behind. And the CFO currently for 21 Kenvue indicated not, not anything that he was 22 aware of; correct? 23 ATTORNEY COX: Object to form. 24 THE WITNESS: Correct. 25 BY ATTORNEY DEAN:	Page 348 1 Do you follow that? 2 A I'm sorry. Do I follow that it goes 3 to 155? 4 Q Just that this is a 5 several-hundred-page-long document, based on the 6 table of contents, and that I've just selected 7 out a few pages here. 8 Do you see that? 9 A Oh, I see. Okay. I understand. 10 Q Yeah. One of the things that this 11 explicitly talks about is management and, 12 specifically, the management of Kenvue. And 13 you're aware that one of the things in the 14 deposition notice that we wanted to know about 15 were the different officers and directors and 16 managers of the Johnson & Johnson Consumer Group 17 as compared to Kenvue. 18 Do you recall that? 19 A Yes. 20 Q When they identify the executive 21 officers here on page 155 of this SEC filing, as 22 of August 25th, 2023, does the review of this 23 table in any way spark your memory on whether 24 this was something you reviewed before coming to 25 speak for Kenvue today?
Page 347 1 Q I want to pull up Exhibit 30, which 2 is a Kenvue SEC filing from September 18th, 3 2023, and first just ask if you've had a chance 4 to look at this. 5 If it's helpful to scroll, let me 6 know. It's also in the link that I sent your 7 lawyer last week. 8 A I'm sorry. I'm just trying to 9 identify this document. Is there a shorthand 10 way we can refer to this? 11 Q So the way I have it described in my 12 paperwork is "Kenvue SEC Prospectus" from 13 9/18/2023. It's an SEC filing called a 14 prospectus. You can see the date here of 15 September 18, 2023. And it starts off with 16 "About this prospectus." 17 A Okay. I understand. 18 I don't believe I've reviewed this 19 document. I don't recall seeing this document. 20 Q What I have on the screen and marked 21 as Exhibit 30 is part of this filing from 22 Kenvue. It is lengthy. You can see here that 23 I've gone from the table of contents, which goes 24 to over page 200, to specifically looking at 25 page 155.	Page 349 1 A I'm sorry. Does it spark my memory 2 as to what before coming here today? 3 Q Something that you had a chance to 4 review in order to educate yourself on these 5 issues about Kenvue before you came to testify 6 for Kenvue today. 7 ATTORNEY COX: Objection to form. 8 THE WITNESS: Well, I did review 9 executive and director positions. I did 10 not review this document specifically for 11 today. 12 BY ATTORNEY DEAN: 13 Q In terms of just what Kenvue has 14 available to them, not only about management and 15 high-level management at Kenvue but what 16 relationship they had with Johnson & Johnson 17 before this transfer, is this information 18 through any means, not just this document I've 19 marked as Exhibit 30, that you've sought to 20 learn? And to be more specific, I know you've 21 sought to identify who the directors were at 22 Kenvue. I'm more focusing on what their prior 23 role was at Johnson & Johnson before Project 24 Diamond or the spinoff. 25 ATTORNEY COX: Object to form.

Page 350 1 THE WITNESS: Yes, I did look at -- 2 I'm sorry. 3 ATTORNEY COX: Go ahead. 4 THE WITNESS: I did, you know, look 5 to who had -- was in common with the prior 6 company. I did take note of both -- you 7 know, I did a comparison in my outline of 8 the various executive teams and boards 9 from the new entity to the old. I also 10 took note in my outline on page 27 of the 11 composition of JJCI Three as the consumer 12 subsidiary below Kenvue, below, below, you 13 know, JNTL Holdings 2, Inc. So I noted 14 who was there. 15 I also -- and I noted, for instance, 16 that Peter Fasolo and Joseph Wolk were 17 also people who had been formally part of 18 J&J or held positions at J&J. 19 And then I, in speaking to people 20 like Teddy Reed, I took note of similar 21 information. So I did attempt to 22 determine, you know, who was, who was in 23 common with the two companies. 24 ATTORNEY DEAN: Let me object as 25 nonresponsive and see if I can clarify.	Page 352 1 officer team for Kenvue had a similar leadership 2 role while at Johnson & Johnson -- is that 3 something that you investigated in terms of 4 looking at what they were specifically doing -- 5 "they" being those executive officers of 6 Kenvue -- during the time frame they were at J&J 7 before the spinoff? 8 ATTORNEY COX: Object to the form. 9 THE WITNESS: I mean, I spoke to 10 that, I spoke to people like Teddy Reed. 11 I looked at the, you know, certain 12 articles of incorporation and conversion. 13 I got a general understanding that many of 14 the executive leadership of Kenvue had 15 come from Johnson & Johnson-related 16 positions. 17 I didn't seek to verify or correlate 18 each one but I -- or to determine if 100% 19 of them did. But I did get a general 20 sense that many of them came over. And 21 certainly in response to other questions, 22 I knew that, you know, many key positions, 23 employees, had come over as well. So I 24 was not surprised that the executive side 25 was substantially made up of former
Page 351 1 BY ATTORNEY DEAN: 2 Q I recall you saying that you did some 3 research to understand who were directors and 4 compare whether they were directors at Johnson & 5 Johnson before the spinoff. 6 Do you recall us talking about that? 7 A Yes. 8 Q And the comment that you had made is 9 that there were only two directors or officers 10 that were at Kenvue that were also directors and 11 officers at Johnson & Johnson before the 12 spinoff. 13 Do you recall that? 14 A Well, I think we talked about them 15 being both, members of both organizations at the 16 same time, as I recall. In other words, if we 17 look at the J&J current executive team and the 18 current Kenvue board of directors, those are the 19 two names that are in common. So there is some 20 carryover or commonality between the current J&J 21 executive team and the current Kenvue board, two 22 names in common. 23 Q Whether there is much more 24 commonality -- and what I mean by that is that 25 every single person that was on the executive	Page 353 1 Johnson & Johnson or JJCI employees. 2 BY ATTORNEY DEAN: 3 Q If I want to try to even go further 4 and say all of them had similar leadership 5 positions, I want to see what, if anything, 6 you've done to verify that. And maybe a 7 specific example will be helpful. 8 If we take Caroline Tillett, listed 9 as the chief scientific officer, did you 10 investigate what she was doing for Johnson & 11 Johnson before the spinoff to Kenvue? 12 A No, I didn't. 13 ATTORNEY COX: Objection. 14 BY ATTORNEY DEAN: 15 Q Other than the two that were officers 16 themselves at the prior entity, did you do any 17 investigation more broadly for those two people 18 or for any of the others to understand what they 19 were doing before the spinoff for Johnson & 20 Johnson? 21 ATTORNEY COX: Object to form; beyond 22 the scope of the notice. 23 THE WITNESS: Yeah, I mean, I knew 24 generally that many of them had had 25 positions with Johnson & Johnson or

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Page 354 1 Johnson & Johnson Consumer, Inc. I 2 understood that from talking to people 3 like Teddy Reed, from reading the 4 depositions. I did not do a 5 person-by-person investigation of each 6 executive officer to know what they were 7 doing prior to Kenvue. 8 BY ATTORNEY DEAN: 9 Q Certainly I recognize the information 10 that Kenvue provides our government in an SEC 11 filing is information available to the company 12 and, therefore, to you as its representative; 13 fair? 14 A That's fair. 15 Q Some of what they discuss -- I just 16 want to go through in the section about 17 management. They talk about Thibaut Mongon 18 serving as chief executive officer and director 19 of Kenvue since May of 2023. 20 Do you see that? 21 A Yes. 22 Q And it indicates back when he was at 23 Johnson & Johnson, he was the executive vice 24 president and worldwide chairman of consumer 25 health at Johnson & Johnson in 2019.	Page 356 1 don't know if there's a distinction. I know 2 generally that those are similar positions. 3 Q I've never seen people's officer, but 4 I kind of like it, for whatever it's worth. 5 A I think it's not uncommon these days. 6 Q Okay. I need to up my game, my own 7 titling. I am not going to designate that last 8 part. 9 Okay. Carlton Lawson is another one 10 of the individuals identified as executive 11 officers or management for Kenvue; correct? 12 A Yes. 13 Q It identifies him as the group 14 president, Europe, Middle East, and Africa of 15 Kenvue since May 2023; correct? 16 A Yes. 17 Q And he was the group chairman for 18 Europe. Middle East. And Africa for the 19 consumer health at Johnson & Johnson; correct? 20 A Yes. 21 Q Donna Lorensen is another management 22 person identified as the chief corporate affairs 23 officer from Kenvue. 24 Do you see that? 25 A Yes.
Page 355 1 Do you see that? 2 A Yes. 3 Q We've talked about Paul Ruh and his 4 role as chief financial officer at Kenvue and 5 then prior to that in the cosmetic sector for 6 Johnson & Johnson. 7 Do you recall that? 8 A Yes. 9 Q I don't think we've talked about 10 Ms. Alvarado. Her first name, I think, is 11 L-U-A-N-I. 12 Do you see that? 13 A Yes. 14 Q And her title at Kenvue is chief 15 people officer at Kenvue; correct? 16 A Yes. 17 Q The title that she had when she was 18 with Johnson & Johnson before the spinoff is 19 global leader, human resources; correct? 20 A Yes. 21 Q Do you know if there is any 22 functional difference to her job at all or if 23 this -- 24 (Technical difficulties.) 25 A In my official capacity, I don't, I	Page 357 1 Q And at Johnson & Johnson before the 2 spinoff, she was the global leader, 3 communications and public affairs, consumer 4 health at Johnson & Johnson; correct? 5 A Yes. 6 Q Jan Meurer, M-E-U-R-E-R, do you see 7 that? 8 A Jan perhaps. 9 Q Say that again. 10 A "Jan" like the German J-A-N, Jan. 11 Q Oh. Sorry. I thought that was 12 J-O-N. Thank you. 13 So Jan Meurer, am I getting close to 14 how you would pronounce that name? 15 A Sounds fine. 16 Q Okay. It indicates that as one of 17 the individuals listed in the executive team, 18 that he is the chief growth officer of Kenvue. 19 Do you see that? 20 A Yes. 21 Q And when he was at Johnson & Johnson, 22 he was the global head of strategy, consumer 23 health at Johnson & Johnson and a member of the 24 consumer health leadership team; correct? 25 A Yes.

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Page 358 1 Q In terms of whether there were any 2 functionally difference in those two titles, is 3 that something you know one way or the other? 4 A Not specifically, no. 5 Q Matthew Orlando is noted as general 6 counsel at Kenvue. And before that, he was 7 general counsel at Johnson & Johnson for the 8 consumer health section; correct? 9 A Yes. 10 Q Meredith or Meri Stevens was 11 identified as the chief operation officer of 12 Kenvue. Ms. Stevens also worked for Johnson & 13 Johnson beforehand. Her title was worldwide 14 vice president, consumer health chain and 15 delivery. 16 Do you see that? 17 A It said "deliver," but I assume 18 that's "delivery"; yeah. 19 Q In terms of whether being in charge 20 of the health supply chain versus operations, 21 are you aware of any functional difference 22 between these two different titles? 23 ATTORNEY COX: Object to form. 24 THE WITNESS: I'm not. 25 BY ATTORNEY DEAN:	Page 360 1 team for Kenvue identified is Kathleen Widmer. 2 Do you see that? 3 A Yes. 4 Q She's identified as group president, 5 North America and Latin America, Kenvue, since 6 May of 2023. 7 Do you see that? 8 A Yes. 9 Q And when she was at Johnson & Johnson 10 for the consumer group, she was group chairman, 11 North America and Latin America, consumer 12 health, at Johnson & Johnson; correct? 13 A Yes. 14 Q Eli Bing Xie. And I'm going to spell 15 the X-I-E, because I'm really not sure of that. 16 But do you see where I'm at? 17 A Yes. I would say "Ellie," though. 18 Q What was the first name? 19 A Ellie, as opposed to Eli. I think 20 it's a... 21 Q Oh, Ellie. Okay. Thank you. 22 Ellie is identified as the group 23 president, Asia Pacific, of Kenvue. And she was 24 the company group chairman, Asia Pacific, for 25 the consumer health sector of Johnson & Johnson;
Page 359 1 Q The next name listed is Bernardo 2 Tavaras. 3 Do you see that? 4 A Yes. 5 Q So worried about my pronunciations 6 because I'm not great at that, so I hope I'm not 7 offending any of these individuals. But he is 8 listed as chief technology and data officer of 9 Kenvue. And before that, he was at Johnson & 10 Johnson for their consumer health group as the 11 chief information officer. 12 Do you see that? 13 A Yes. 14 Q Again, we have slightly different 15 titles going from technology and data officer 16 instead of information officer. Are you aware 17 of any functional difference associated with 18 these titles? 19 ATTORNEY COX: Object to form. 20 THE WITNESS: Well, in my experience, 21 they may be defined differently. But I'm 22 not in this case aware of any particular 23 distinction. 24 BY ATTORNEY DEAN: 25 Q The next person in this executive	Page 361 1 correct? 2 A Yes. 3 Q If I want to know anything more about 4 these directors in terms of what they do at 5 Kenvue or in terms of what they did at Johnson & 6 Johnson before the spinoff, have you 7 investigated that any further than the notes 8 that you provided us and that we've attached via 9 Mr. Reed as Exhibit 33? 10 ATTORNEY COX: Object to the form. 11 THE WITNESS: No, I have not. 12 BY ATTORNEY DEAN: 13 Q There are a few other individuals 14 that I've had the opportunity to speak to that 15 are currently at Kenvue that I want to ask you 16 about. One is Edwin Kuffner. Do you know what 17 his leadership title is currently at Kenvue? 18 A I have heard the name, but I don't 19 know his particular title. 20 Q Do you know what his title was when 21 he was at Johnson & Johnson in the consumer 22 health sector? 23 A No. 24 Q Another individual I talked to is Tim 25 McCarthy. He is the director of toxicology in

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Page 458 1 BY ATTORNEY DEAN: 2 Q Not totally, but partially. 3 ATTORNEY COX: Object to form. 4 THE WITNESS: Well, it looks to me 5 like the plain language, they're 6 referencing the brands. 7 BY ATTORNEY DEAN: 8 Q Which includes the Johnson's brand; 9 correct? 10 A Yes, in pertinent part. 11 Q And then what it claims is [as read]: 12 We put people first. What Kenvue claims is we 13 stand up for what's right even when it's hard. 14 Our work impacts consumers and colleagues, 15 communities and generations, in daily rituals 16 and in the moments that matter the most. This 17 incredible responsibility means every decision 18 and action we take is guided by integrity and 19 quality. Because when we put people first, 20 performance will follow. 21 That's what Kenvue has claimed; 22 correct? 23 A That's what's stated there; yes. 24 ATTORNEY COX: Jessica, I see we're 25 at 6:07. Do you want to go off the record	Page 460 1 ERRATA 2 PAGE LINE NOTATION 3 _____ - _____ - _____ 4 _____ - _____ - _____ 5 _____ - _____ - _____ 6 _____ - _____ - _____ 7 _____ - _____ - _____ 8 _____ - _____ - _____ 9 _____ - _____ - _____ 10 _____ - _____ - _____ 11 _____ - _____ - _____ 12 _____ - _____ - _____ 13 _____ - _____ - _____ 14 _____ - _____ - _____ 15 _____ - _____ - _____ 16 _____ - _____ - _____ 17 _____ - _____ - _____ 18 _____ - _____ - _____ 19 _____ - _____ - _____ 20 _____ - _____ - _____ 21 _____ - _____ - _____ 22 _____ - _____ - _____ 23 _____ - _____ - _____ 24 _____ - _____ - _____ 25 _____ - _____ - _____
Page 459 1 and talk for a few minutes? 2 ATTORNEY DEAN: Yes. 3 THE VIDEOGRAPHER: The time is 4 approximately 6:07, and we are off the 5 record. 6 (Discussion held off the record.) 7 (Deposition adjourned at 6:07 p.m.) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 461 1 C E R T I F I C A T I O N 2 3 4 I hereby certify that I have read the 5 foregoing transcript of my deposition 6 testimony, and that my answers to the 7 questions propounded, with the attached 8 corrections or changes, if any, are true and 9 correct. 10 11 ----- 12 KENVUE INC., 13 through its corporate designee 14 JAMES P. MITTENTHAL 15 16 17 18 19 20 21 22 23 24 25

C E R T I F I C A T I O N

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I, ADAM D. MILLER, Registered
Professional Reporter, certify that the
foregoing is a true and accurate transcript
of the foregoing deposition, that the
witness was first sworn by me at the time,
place and on the date herein before set
forth.

I further certify that I am neither
attorney nor counsel for, not related to nor
employed by any of the parties to the action
in which this deposition was taken; further,
that I am not a relative or employee of any
attorney or counsel employed in this case,
nor am I financially interested in this
action.



/s/ Adam D. Miller
Registered Professional Reporter
and Notary Public

Plaintiffs,

VS.

AMERICAN INTERNATIONAL
INDUSTRIES, ET AL.,

Defendants.

DEFENDANTS JOHNSON & JOHNSON,
LLT MANAGEMENT, LLC, JOHNSON &
JOHNSON HOLDCO (NA) INC., AND
KENVUE, INC.'S MOTIONS FOR JNOV,
NEW TRIAL ABSOLUTE BASED ON
ERRORS OF LAW, NEW TRIAL
ABSOLUTE BASED ON THE
THIRTEENTH JUROR DOCTRINE, AND
NEW TRIAL *NISI REMITTITUR*

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Pursuant to Rules 50, 59, and any other applicable rules of the South Carolina Rules of Civil Procedure, Defendants Johnson & Johnson, LLT Management, LLC (“LLT”), Johnson & Johnson Holdco (NA) Inc. (“Holdco”), and Kenvue Inc. (“Kenvue”) (collectively J&J Defendants¹) respectfully move the Court for judgment notwithstanding the verdict (“JNOV”) and for directed verdict/nonsuit² or, failing that, a new trial absolute, or, failing that, a new trial *nisi remittitur*. As addressed below, Plaintiffs Michael L. Perry and Lonnie L. Long failed to meet their burden of proof on each of their claims, and the J&J Defendants are entitled to judgment as a matter of law. In the alternative, the J&J Defendants are entitled to a new trial absolute based on the errors set forth below, as well as separately, under the thirteenth juror doctrine. Finally, if the Court denies the J&J Defendants’ requests for JNOV, directed verdict, or a new trial absolute, the Court should grant a new trial *nisi remittitur* as to the J&J Defendants.³

Background

Plaintiffs filed this action against multiple defendants, including the J&J Defendants. The trial began on August 5, 2024. After the close of Plaintiffs’ case on the legal claims, the J&J

¹ Plaintiffs sued LLT, Holdco, and Kenvue on successor liability theories. Based on arguments and filings of the J&J Defendants, the Court has not decided successor liability, and considers it an equitable theory to be decided by the Court after the conclusion of the jury trial proceedings. Plaintiffs presented no evidence of negligence or strict liability directly against LLT, Holdco, or Kenvue, and only currently pursue successor liability as to those entities.

² The Court has never ordered a “successor liability” phase in writing in this matter, but ultimately, based on continual objections, reserved to itself the equitable claim of successor liability. Plaintiffs have presented additional evidence as to liability, as they said they would, via attachments to their “Plaintiffs’ Trial Brief on Successor Liability of Johnson & Johnson Defendants,” filed August 23, 2024, and thus the Johnson & Johnson Defendants hereby renew their prior directed verdict motion in full, and again move for directed verdict/nonsuit as to all evidence including the additional evidence attached to Plaintiffs’ motion. The Johnson & Johnson Defendants also request and reserve the right to file additional memoranda as to Plaintiffs’ motion given the date of filing.

³ For purposes of these post-trial motions, the J&J Defendants hereby incorporate the arguments and points it made in its prior motions in limine, its prior filed motions for directed verdict, and also incorporates its arguments, motions, objections, and points otherwise made at trial or filed, if not inconsistent herewith.

Defendants moved for a directed verdict. The Court denied that motion. After the defense rested, J&J Defendants again moved for directed verdict. The Court again denied J&J Defendants' motion. On August 15, 2024, the jury returned a verdict against the J&J Defendants on Plaintiffs' claims for negligence and strict liability for allegedly selling defective products. The jury awarded Plaintiffs a total of \$32,656,250 in actual damages. The jury also found that the J&J Defendants' conduct was willful, wanton, or reckless. The jury found for the J&J Defendants on Plaintiffs' fraudulent misrepresentation cause of action. The J&J Defendants then argued the verdict already reflected a punitive damages award, and argued punitive damages were unjustified and should not be considered. The Court rejected those arguments. After punitive damages arguments by counsel and the Court's charge, the jury returned a verdict of \$30,000,000 in punitive damages.

The Court then discharged the jury and granted joint motion requests for leave to file post-trial motions within ten days. The Court also permitted Plaintiffs to make additional filings, as set forth above, regarding their Successor Liability theory, which Plaintiffs did on August 23, 2024, to which they attached additional evidence.

Argument

I. Legal Standards-JNOV, Directed Verdict and New Trial Absolute

"[A] motion for JNOV under Rule 50(b), SCRCP is a renewal of a directed verdict motion." *Allegro, Inc. v. Scully*, 418 S.C. 24, 32, 791 S.E.2d 140, 144 (2016). The trial court must grant a motion for directed verdict or JNOV unless "the evidence yields more than one inference or its inference is in doubt." *Id.* "A motion for JNOV may be granted only if no reasonable jury could have reached the challenged verdict." *Id.* (quoting *Gastineau v. Murphy*, 331 S.C. 565, 568, 503 S.E.2d 712, 713 (1998)). In ruling on motions for JNOV, the Court is required to view the evidence and inferences that reasonably can be drawn in the light most favorable to the party opposing the motions. *Id.* Even viewing reasonable inferences in favor of the non-moving party, however, "does

not authorize submission of speculative, theoretical, and hypothetical views to the jury.” *Parrish v. Allison*, 376 S.C. 308, 319-20, 656 S.E.2d 382, 388 (Ct. App. 2007). “[I]t is not sufficient [to avoid judgment as a matter of law] for a party to create an inference that is not reasonable or an issue of fact that is not genuine. *Kitchen Planners, LLC v. Friedman*, 892 S.E.2d 297 (2023) (quoting *Town of Hollywood v. Floyd*, 744 S.E.2d 161 (2013)) (rejecting application of “scintilla rule”).

The trial court possesses broad, inherent authority to grant a new trial for any prejudicial errors committed during the trial as a matter of fundamental fairness. *Ex parte Kent*, 379 S.C. 633, 640-41, 666 S.E.2d 921, 925 (Ct. App. 2008); see also *Palmetto Bank v. Rowland*, 275 S.C. 38, 40, 267 S.E.2d 426, 426 (1980) (upholding a trial judge’s grant of motion for new trial where he committed reversible error in excluding a juror based on a misconception of the law). A new trial absolute is warranted when the verdict is so excessive that it clearly indicates the amount resulted from passion, caprice, prejudice, partiality, corruption, or some other improper motive. *Cock-N-Bull Steak House v. Generali Ins.*, 321 S.C. 1, 9, 466 S.E.2d 727, 731 (1996). The failure of the trial judge to grant a new trial absolute under such circumstances amounts to an abuse of discretion, which must be reversed on appeal. *Allstate Ins. v. Durham*, 314 S.C. 529, 531, 431 S.E.2d 557, 558 (1993). A trial court may grant a new trial absolute on the ground that the verdict is excessive or inadequate. *Rush v. Blanchard*, 310 S.C. 375, 426 S.E.2d 802 (1993). The jury’s determination of damages, however, is entitled to substantial deference. *Id.* The trial judge must grant a new trial absolute if the amount of the verdict is grossly inadequate or excessive so as to shock the conscience of the court and clearly indicates the figure reached resulted from passion, caprice, prejudice, partiality, corruption or some other improper motives. See *Cock-n-Bull Steak House, Inc.*, 321 S.C. at 9; *McCourt by and through McCourt v. Abernathy*, 318 S.C. 301, 457 S.E.2d 603 (1995); *Allstate Ins. v. Durham*, 314 S.C. 529, 431 S.E.2d 557 (1993); *O’Neal v. Bowles*, 310 S.C.

483, 431 S.E.2d 555 (1993); *Rush, supra*. The failure of the trial judge to grant a new trial absolute under these circumstances is reversible error. *Weir v. Citicorp Nat'l Servs., Inc.*, 312 S.C. 511, 435 S.E.2d 864 (1993); *Allstate, supra*; *O'Neal, supra*.

II. Introduction

This Court should reject the runaway verdict of the jury, which resulted from, *inter alia*, 1) Plaintiffs' counsel's successful efforts to inflame and incite the jury to make a decision based on matters other than evidence and on inappropriate evidence and arguments; 2) the introduction of improper evidence relating to third-party harm; 3) improper arguments describing the law of causation in a toxic tort case, not cured by court instruction; 4) failure of proof of causation and the jury's substitute of speculation respecting causation, and 5) rulings which precluded the J&J Defendants from putting on their defenses. The verdict is shocking to the conscience, and thus requires a new trial absolute, if JNOV/directed verdict is not awarded. Failing that, the verdict should be reduced by way of new trial *nisi remittitur*.

III. The Court Should Grant JNOV to the J&J Defendants.

The Court should grant JNOV as for the following reasons.

First, there is no evidence to find Holdco, LLT, or Kenvue directly liable. Accordingly, they are entitled to JNOV, at least as to any claim involving their direct liability.

Second, to the extent Plaintiffs' strict liability claim rests on a design defect theory, it fails because Johnson's Baby Powder was never designed to contain asbestos. By its very nature, a design defect claim is a defect in the intentional design of a product. Unlike some products where asbestos is intentionally used, Johnson's Baby Powder was not designed to contain asbestos.

Third, to the extent Plaintiffs' strict liability claim is based on a failure to warn theory, it fails because there is no evidence that Mr. Perry ever read the labels of any Johnson's Baby Powder bottle he purchased, much less that he relied on the warnings as required by law.

Fourth, Plaintiffs' negligence and strict liability claims fail because Plaintiffs failed to establish causation attributable to Johnson's Baby Powder without rank speculation.

Fifth, under South Carolina law, damages for loss of consortium are derivative of Plaintiffs' underlying claims for Mr. Perry. Because J&J Defendants are entitled to a JNOV and directed verdict on all of Plaintiffs' underlying claims, the jury's award of loss of consortium damages to Mr. Long cannot stand.

Sixth, if any of Plaintiffs' claims survive, Defendants' JNOV motion should be granted on the successor liability claims asserted against Holdco and Kenvue—two distinct companies apart from Johnson & Johnson and LLT.

Finally, Plaintiffs' claims for punitive damages fail as a matter of law because the evidence does not establish that J&J Defendants acted recklessly, willfully, or wantonly toward Mr. Perry, and Plaintiffs' underlying claims fail.

For all these reasons, and as detailed below, J&J Defendants are entitled to JNOV and directed verdict on all of Plaintiffs' claims.

A. No Direct Liability Evidence as to Holdco, LLT, or Kenvue.

To begin with, there was no evidence supportive of any direct liability of Holdco, LLT, or Kenvue and they are all entitled to JNOV or directed verdict in that regard.

B. The J&J Defendants Are Entitled to JNOV on Plaintiffs' Claims For Design Defect.

To the extent the jury verdict finding on strict liability or negligence⁴ claims rested on a design defect theory, they fail because Johnson's Baby Powder was never designed to contain asbestos. A design defect exists when an inherent flaw in the product's design makes it unreasonably dangerous to use. A product is unreasonably dangerous when it is "dangerous to an

⁴ Plaintiffs' negligence *per se* claim was withdrawn.

extent beyond that which would be contemplated by the ordinary consumer who purchases it, with the ordinary knowledge common to the community as to its characteristics.” *Young v. Tide Craft, Inc.*, 270 S.C. 453, 471, 242 S.E.2d 671,680 (1978) (citing Restatement (Second) of Torts). Under a design defect theory, the crucial question is whether the product was made safe enough. See *Branham v. Ford Motor Co.*, 390 S.C. 203, 224, 701 S.E.2d 5, 16 (2010). A prerequisite to a design defect claim is that the product contains a “flaw in its *design*.” *Madden v. Cox*, 284 S.C. 574, 579, 328 S.E.2d 108, 112 (Ct. App. 1985) (emphasis added). As the Restatement explains, “a product asserted to have a defective design meets the manufacturer’s design specifications but raises the question whether the specifications themselves create unreasonable risks.” Restatement (Third) of Torts: Prod. Liab. § 2, cmt. d (1998). It is therefore inherent in the claim that the alleged defect is part of the intentional “design” of the product, rather than a product that was not manufactured in accord with the design specifications for that product.

Certain products are intentionally designed to contain asbestos to benefit from its properties, such as brakes, insulation materials, and cement materials. Unlike these other products, Plaintiffs presented no evidence that Johnson’s Baby Powder was designed to contain asbestos. Indeed, Johnson’s Baby Powder was, in fact, designed not to contain asbestos. And the evidence is clear that Johnson & Johnson undertook rigorous testing, surpassing industry standards, to ensure that its cosmetic talc contained no asbestos.

Beginning in 1976, Johnson & Johnson tested its talc using the CTFA J4-1 method, which was the industry standard. Ex. A, 8/9/24 Trial Tr. at 1254:24-1255:7.⁵ Even Plaintiffs’ expert, Dr. Haber, acknowledged that the CTFA J4-1 method was the industry standard. 8/6/24 Trial Tr. at 514:17-515:14. But Johnson & Johnson exceeded the industry standard and tested beyond what

⁵ All cites to “Trial Tr.” are references to Ex. A, a consolidated transcript of this trial.

was capable with J4-1. *Id.* As far back as the early 1970s, Johnson & Johnson initiated work with third-party experts to use transmission electron microscopy, a more sensitive testing method, to ensure Johnson's Baby Powder was free from asbestos. *Id.* at 1255:11-23. If any talc was contaminated by asbestos, the presence of such contaminated talc would depart from the design specifications for Johnson's Baby Powder. Without proof that Johnson's Baby Powder was designed to contain asbestos and did conform to that design specification, Plaintiffs' claim for design defect necessarily fails. Accordingly, the Court should grant J&J Defendants' motion for JNOV and directed verdict on Plaintiffs' design defect claim.

C. The J&J Defendants Are Entitled to JNOV on Plaintiffs' Failure to Present Sufficient Evidence to Support Their Failure-to-Warn Claim.

To the extent the jury verdict finding on strict liability or negligence⁶ rested on a failure-to-warn theory, the claims fail. In general, "[a] supplier and manufacturer of a product are liable for failing to warn if they know or have reason to know the product is or is likely to be dangerous for its intended use; they have no reason to believe the user will realize the potential danger; and, they fail to exercise reasonable care to inform of its dangerous condition or of the facts which make it likely to be dangerous." *Livingston v. Noland Corp.*, 293 S.C. 521, 525, 362 S.E.2d 16, 18 (1987) (quoting *Gardner v. Q.H.S., Inc.*, 448 F.2d 238 (4th Cir. 1971)). But there is no presumption in South Carolina that a plaintiff would have heeded a warning if it had been given. Instead, "[t]he plaintiff has the burden of showing that a warning would have made a difference in the conduct of the person warned." *Allen v. Long Mfg. NC, Inc.*, 332 S.C. 422, 432, 505 S.E.2d 354, 359 (Ct. App. 1998). And South Carolina courts have made clear that when a plaintiff does not read an allegedly inadequate warning, she cannot maintain a failure to warn action. *See id.*; *Andrews v. Buckman Labs., Inc.*, 181 F.3d 86, at *2-3 (4th Cir. 1999) (under South Carolina law,

⁶ Plaintiffs' negligence *per se* claim was withdrawn.

the plaintiff's failure to read the posted warnings, coupled with the absence of any other proof that he was told about the warnings, "necessarily precludes any causal link" between the alleged inadequacy of the warnings and the plaintiff's injuries).

Here, Plaintiffs' failure-to-warn claim fails because Plaintiffs presented no evidence that Mr. Perry read the warnings on Johnson's Baby Powder before he used it. Without competent evidence, Plaintiffs cannot establish that Mr. Perry read or relied on any warning.

D. The J&J Defendants are Entitled to JNOV on Plaintiffs' Claims Because Plaintiffs Failed to Prove Proximate Causation.

An essential element of a plaintiff's cause of action under any product liability theory, including strict liability and negligence, is the existence of a proximate causal relationship between the act or omission of the defendant and the damages that the plaintiff has suffered. *See Bray v. Marathon Corp.*, 356 S.C. 111, 116, 588 S.E.2d 93, 95 (2003); *Young v. Tide Craft, Inc.*, 270 S.C. 453, 461, 242 S.E.2d 671, 675 (1978).⁷ In asbestos litigation, a necessary element of proof in a plaintiff's case is that the defendant's *asbestos* caused the injuries. *See Edwards v. Scapa Waycross, Inc.*, 437 S.C. 396, 411, 878 S.E.2d 696, 704 (Ct. App. 2022), *aff'd*, 442 S.C. 387, 899 S.E.2d 597 (2024); *Small v. Pioneer Mach., Inc.*, 329 S.C. 448, 463 494 S.E.2d 835, 842 (Ct. App. 1997). To prove causation, a plaintiff must present evidence of both "general causation" and

⁷ Liability may not be based on speculation, imagination, or mere conjecture. *See Jackson v. Bermuda Sands, Inc.*, 383 S.C. 11, 18, 677 S.E.2d 612, 615 (Ct. App. 2009) (granting summary judgment when plaintiff's expert opinion amounted to "guesses and speculation"); *Judy v. Manko Marine Int'l, Inc.*, 422 F. Supp. 3d 1062, 1067 (D.S.C. 2019) ("It is axiomatic that to create a dispute of material fact, the testimony of a defect and causation must be at least a probability rather than a mere possibility.") (internal citations and quotations omitted). Nor does the bare possibility of a causal connection raise a factual inference. *See Hoban v. Grumman Corp.*, 907 F.2d 1138, at *2 (4th Cir. 1990) ("While it is true that circumstantial evidence may be sufficient to permit a jury to reasonably infer negligence or warranty liability, such circumstantial evidence must be sufficient to establish that the result alleged is a probability rather than a mere possibility.") (internal citations and quotations omitted) (cited favorably in *Judy*, 422 F. Supp. 3d at 1067). South Carolina courts dictate that a plaintiff must show more than a mere exposure to asbestos fiber, if any, released from defendant's products.

“specific causation.” *Edwards*, 437 S.C. at 412. Such proof of “specific causation” requires Plaintiffs to establish that the alleged defect in Johnson’s Baby Powder was a *proximate cause* of Mr. Perry’s injuries. See *Bray v. Marathon Corp.*, 356 S.C. 111, 116, 588 S.E.2d 93, 95 (2003); *Young v. Tide Craft, Inc.*, 270 S.C. 453, 461, 242 S.E.2d 671, 675 (1978).

To prove proximate cause in a products liability case involving asbestos-related injuries, a plaintiff must prove that their exposure to asbestos from each individual defendant’s products was a *substantial factor* in the development of those injuries. See *Henderson v. Allied-Signal, Inc.*, 373 S.C. 179, 185, 644 S.E.2d 724, 727 (2007). In *Henderson*, the South Carolina Supreme Court adopted the Fourth Circuit’s “frequency, regularity, and proximity” test for determining whether an exposure is sufficient to be considered substantial. See *id.* “To support a reasonable inference of substantial causation from circumstantial evidence, there must be evidence of exposure to a specific product on a regular basis over some extended period of time in proximity to where the plaintiff actually worked.” *Lohrmann v. Pittsburgh Corning Corp.*, 782 F.2d 1156, 1162 (4th Cir. 1986); see also *Scapa Dryer Fabrics, Inc. v. Saville*, 16 A.3d 159, 163 (Md. 2011) (“[T]he ‘frequency, regularity, proximity’ test . . . is the common law evidentiary standard used for establishing substantial-factor causation. . . .”).

Yet the substantial factor test requires the plaintiff to prove more than a *casual or minimum contact* with the product and introduce evidence that would allow the jury to conclude that the plaintiff’s exposure to the defendant’s toxic product was a substantial factor in bringing about the injury. See *Edwards*, 437 S.C. at 412 (internal citations and quotations omitted). Indeed, substantial factor causation requires more than mere proof that a plaintiff had “occupational” or “above background” exposures from a defendant’s product. See *Haskins v. 3M Co.*, Case No. 2:15-

CV-02086-DCN, 2017 WL 3118017, at *7 (D.S.C. July 21, 2017). And as the court in *Edwards* explained:

Specific causation requires the plaintiff “do more than simply introduce into evidence epidemiological studies that show a substantially elevated risk.” *Id.* (quoting *Merrell Dow Pharms., Inc. v. Havner*, 953 S.W.2d 706, 720 (Tex. 1997)). He must prove similarities between himself and the individuals in the studies, which includes proof that (1) he was exposed to the same toxin, (2) the exposure or dose level was comparable to those in the study, (3) the exposure to the toxin occurred before the onset of the injury, and (4) the latency period of the injury is consistent with the individuals in the study. *Id.*

Edwards, 437 S.C. at 412 (quoting *Jolly v. Gen. Elec. Co.*, 435 S.C. 607, 625, 869 S.E.2d 819, 829 (Ct. App. 2021)).

Under this law, for Plaintiffs to recover, they must prove two things: (1) that Mr. Perry inhaled asbestos fibers from Johnson’s Baby Powder, and (2) that he inhaled enough of those asbestos fibers that one could meaningfully say it was a substantial factor in causing his disease. *Henderson v. Allied-Signal, Inc.*, 373 S.C. 179, 185, 644 S.E.2d 724, 727 (2007). But Plaintiffs’ experts performed no asbestos exposure calculation. And as admitted by Plaintiffs’ own expert, the alleged exposures to asbestos through other products alone could have caused Mr. Perry’s mesothelioma.

As addressed below, the J&J Defendants are entitled to JNOV on Plaintiffs’ strict liability and negligence claims because Plaintiffs did not prove that Mr. Perry was exposed to asbestos from his use of Johnson’s Baby Powder, much less that any exposure was a substantial factor in his development of mesothelioma. And without proving that Mr. Perry was exposed to asbestos from Johnson’s Baby Powder, Plaintiffs could not—and did not—establish that, absent the J&J Defendants’ conduct, Mr. Perry would have avoided mesothelioma.

1. **Plaintiffs Fail to Establish a Threshold Exposure to Asbestos from Johnson's Baby Powder.**

Plaintiffs' experts concede that "talc doesn't cause mesothelioma. Asbestos does." 8/5/24 Trial Tr. at 290:7-11 (Dr. Brody). Before Plaintiffs can prove that Johnson's Baby Powder was a substantial factor in causing Mr. Perry's mesothelioma, they must first establish a threshold premise: that Mr. Perry was exposed to asbestos through his use of Johnson's Baby Powder, or, in other words, the Johnson's Baby Powder Mr. Perry *actually used* was contaminated with asbestos. But Plaintiffs offered no direct evidence that any of the Johnson's Baby Powder bottles that Mr. Perry used were contaminated with asbestos. Indeed, Plaintiffs' experts did not test any bottle of Johnson's Baby Powder that Mr. Perry used. Instead, Plaintiffs seek to allow the jury to *infer* that the Johnson's Baby Powder that Mr. Perry used was contaminated based on evidence of *other* contamination. The evidence does not support this inference.

First, the vast majority of Plaintiffs' evidence does not show *asbestos* contamination in Johnson's Baby Powder. Plaintiffs' experts conceded that asbestos is defined as the asbestiform varieties of six minerals. 8/6/24 Trial Tr. at 380:12-381:1, 382:2-4, 508:24-511:6 (Dr. Haber). As such, to show asbestos contamination, the evidence must distinguish between the asbestiform and non-asbestiform minerals, including specifying tremolite *asbestos*, anthophyllite *asbestos*, or actinolite *asbestos*. Most of Plaintiffs' evidence does not distinguish between the asbestiform and non-asbestiform minerals when tremolite, anthophyllite, or actinolite are identified in documents that Plaintiffs use to support their claims of asbestos contamination. Non-asbestiform minerals cannot be used to demonstrate asbestos contamination. Likewise, Plaintiffs' testing documents, by and large, do not indicate whether the fibers identified were asbestiform or non-asbestiform. Thus, they do not establish that Johnson's Baby Powder contained asbestos.

Second, much of Plaintiffs' evidence has nothing to do with the Johnson Baby Powder that is alleged to have caused Ms. Perry's mesothelioma. Plaintiffs have made clear that the exposure alleged to have caused Mr. Perry's mesothelioma occurred between approximately 1974 through 2019. *See, e.g.*, 8/6/24 Trial Tr. at 426:8-14 (Dr. Haber). Evidence pre-dating this period bears little resemblance to the product Mr. Perry would have used for an important reason. Between 1946 and 1966, Johnson's Baby Powder was manufactured with talc sourced from Italy. 8/6/24 Trial Tr. at 428:1-5 (Dr. Haber). From 1966 to 2003, other than a seven-month period in 1979, Johnson & Johnson talc products were manufactured from talc sourced almost exclusively from Vermont. 8/6/24 Trial Tr. at 428:6-12 (Dr. Haber); *see also* 8/7/24 Trial Tr. at 892:15-23 (Dr. William Longo testifying Mr. Perry would have used Vermont-sourced talc 1974 through 2003); *id.* at 893:15-21 (brief period of Italian-sourced talc in 1979 or 1980). After 2003, Johnson & Johnson talc products were manufactured with talc sourced from China. 8/6/24 Trial Tr. at 428:13-16 (Dr. Haber); 8/7/24 Trial Tr. at 893:11-14 (Dr. Longo testifying about switch to Chinese-sourced in 2004). But Dr. Longo's exposure studies involve Italian-sourced talc; he admits he has *never* performed *any* simulation study using a Johnson & Johnson talc product from the 1960s to 2020, from Vermont or Chinese-sourced talc. 8/7/24 Trial Tr. at 925:4-926:25. Plaintiffs' evidence is unrepresentative of the product Mr. Perry would have used for nearly the entire period of alleged exposure because it involves entirely different talc sourced from different mines on different continents. Plaintiffs have not shown that any alleged isolated instances of asbestos contamination are representative of the general population of Johnson & Johnson talc products, much less the Johnson's Baby Powder products that Ms. Perry would have actually used from 1974 through 2019.

Third, the evidence presented does not permit the jury to infer that the Johnson's Baby Powder that Mr. Perry used contained asbestos. Even if Plaintiffs could show some level of asbestos contamination in an isolated mine or product sample, which they cannot, that is not tantamount to showing asbestos in the bottles of Johnson's Baby Powder Mr. Perry actually used.⁸ Plaintiffs submitted no competent evidence that asbestos contamination, if it existed at all, was so pervasive in the relevant period that such an inference is warranted without reliable and supported expert testimony. In a last-ditch effort to bridge this gap, Plaintiffs presented an expert statistician, Dr. Madigan, to provide a probability analysis to extrapolate alleged positive testing results to the Johnson's Baby Powder that Mr. Perry would have used. (Critically, Dr. Madigan was not providing epidemiology evidence as required by the Court of Appeals in *Edwards*, 437 S.C. at 412.) But this expert's entire methodology relied exclusively on the same unrepresentative testing conducted by Dr. Longo. Trial Tr. at 790:14-791:4 (Dr. Madigan testified that he relied exclusively on MAS testing for his probability analysis). Indeed, Dr. Madigan did not consider

⁸ Courts across the country have granted summary judgment or directed verdicts in toxic tort cases when a plaintiff can prove only that some, but not all, of the defendant's products contained asbestos. See, e.g., *Lindstrom v. A-C Prod. Liab. Trust*, 424 F.3d 488, 497-98 (6th Cir. 2005) (concluding that there was no triable issue of fact where the defendant manufactured asbestos-containing as well as non- asbestos-containing products and the plaintiff's witnesses could not tell whether any material made by the defendant and handled by the plaintiff contained asbestos); *Collin v. Calportland Co.*, 228 Cal. App. 4th 582, 586, 592-93, 595-97 (2014) (affirming summary judgment for defendant where defendant had made asbestos-containing joint compound for 16 years, and non-asbestos containing joint compound for 2 years, and the plaintiff claimed exposure to dust from joint compound during that entire period, because it was too speculative for a reasonable jury to conclude that the plaintiff was exposed to the asbestos containing variant of the product); *Hamilton v. Dackman*, 75 A.3d 327, 343-44 (Md. 2013) (affirming summary judgment for defendant where only 1/8 of tested home-surfaces tested positive for lead toxin and, thus, plaintiff at most could establish only a "possibility" of exposure from defendant's product); *Wagner v. Bondex Int'l, Inc.*, 368 S.W.3d 340, 351-52 (Mo. Ct. App. 2012) (entering directed verdict for defendant where "[p]laintiffs' evidence . . . amount[ed] to nothing more than that [defendant] made ceiling tile, some of which contained asbestos and some of which did not" and, therefore, any verdict finding that plaintiff was "even exposed to asbestos by" defendant would be "speculative, at best").

any other tests besides the ones observed by Dr. Longo. *Id.* at 791:5-9. Given the small number, and ambiguous nature, of the documents and samples Plaintiffs use as evidence of contamination of Johnson's Baby Powder bottles, Plaintiffs can neither demonstrate that Mr. Perry used a contaminated bottle of Johnson's Baby Powder, nor can they quantify any such alleged exposure to asbestos.

Lastly, Plaintiffs' expert, Dr. Longo, performed a tissue digestion on Mr. Perry's tissue. Dr. Longo found one fiber of tremolite and one "bundle" of winchite. 8/7/24 Trial Tr. at 966:14-967:8. Both the tremolite fiber and the winchite "bundle" were less than five microns long. *Id.* at 966:24-967:8. While Dr. Longo is not a pathologist, he admits that some pathologists would not count an asbestos fiber or bundle less than five microns. *Id.* at 967:13-968:19. Dr. Longo admitted that tremolite was used in asbestos brakes, including Bendix brakes that Mr. Perry worked on. *Id.* at 968:20-969:8. While Dr. Longo has found tremolite in Johnson & Johnson talc, he has found it in many other sources, including Montana-sourced talc. *Id.* at 969:9-970:1. But Dr. Longo also admitted he has never found winchite in any sample of Johnson & Johnson talc or any sample of talc from the mines from which Johnson's Baby Powder were sourced. *Id.* at 973:6-13. The results of Dr. Longo's tissue digestion indicate the asbestos fiber and "bundle" found in Mr. Perry's tissue did *not* come from Johnson's Baby Powder.

Even with the knowledge that background levels can be safe, none of Plaintiffs' experts tried to quantify the level of Mr. Perry's alleged exposure to asbestos. Instead, only one of Plaintiffs' experts gave the conclusory opinion that Mr. Perry's use of Johnson's Baby Powder "play[ed] a role in his mesothelioma." 8/6/24 Transcript, at 355:7-10 (Dr. Haber testimony). But this conclusory opinion contradicts the tissue digestion performed by Plaintiffs' expert, Dr. Longo,

which showed the presence of asbestos mineral inconsistent with his findings from samples of Johnson's Baby Powder.

Because Plaintiffs' purported evidence of a small subset of "positive" testing documents is unrepresentative of the Johnson's Baby Powder that Mr. Perry would have actually used, and there is insufficient evidence supporting the requisite extrapolation, the jury has no reasonable basis to infer that Mr. Perry was exposed to any asbestos from using Johnson's Baby Powder, or that the use caused Mr. Perry's mesothelioma. *See, e.g., Edwards*, 437 S.C. at 412. Further, Plaintiffs' tissue digestion shows the opposite – that the only asbestos found in Mr. Perry's lungs did *not* come from his use of Johnson's Baby Powder.

2. When Applying the "Frequency, Regularity, and Proximity" Test, Plaintiffs Fail to Prove That Johnson's Baby Powder Was a Substantial Factor in Causing Mr. Perry's Mesothelioma.

Plaintiffs failed to present competent proof of the frequency or regularity of Mr. Perry's alleged exposure to *asbestos*, rather than talc. As a result, there is no basis from which a trier of fact could infer that such exposure to Johnson's Baby Powder was a substantial factor in causing Mr. Perry's mesothelioma.

First, there is no competent evidence in the record regarding the frequency with which Mr. Perry was allegedly exposed to asbestos. *See Henderson*, 373 S.C. at 185, 644 S.E.2d at 727 (affirming summary judgment where "Appellants failed to present evidence of regular and frequent exposure to asbestos containing products"). There is only evidence of how often Mr. Perry used *Johnson's Baby Powder*. But the substantial factor analysis is concerned with the frequency and regularity of exposure to *asbestos*, not exposure to talc. *See Henderson*, 373 S.C. at 185, 644 S.E.2d at 727. Plaintiffs do not argue, or even try to make the argument, that Mr. Perry would have been exposed to asbestos each and every time he used Johnson's Baby Powder. This is unsurprising given the dearth of evidence. Plaintiffs' experts conceded that even Dr. Longo's

flawed testing does not purport to show asbestos in all bottles of Johnson's Baby Powder. 8/7/24 Trial Tr. at 833:22-834:3 (Dr. Longo testifying he found positive samples in approx. 75% of Johnson's Baby Powder tested); *id.* at 867:2-7 (Dr. Longo testifying he found talc in 79% of 146 containers tested); *id.* at 909:19-25; *id.* at 788:17-790:13 (Dr. Madigan using a binary analysis because Dr. Longo did not find asbestos in every sample). As the record stands, Plaintiffs have not shown that Mr. Perry was exposed to *asbestos* in Johnson's Baby Powder once a week, once a month, once a year, once over the course of his entire life, or ever. Plaintiffs have merely proven that Mr. Perry was frequently exposed to cosmetic talcum powder, including Johnson's Baby Powder.

Second, Plaintiffs have failed to produce competent evidence that the regularity or intensity of Mr. Perry's alleged exposure to asbestos would have been at or above levels that cause harm. Dr. Haber simply opined that Mr. Perry's exposure to the background or ambient air did not cause his mesothelioma, and that his exposure to Johnson's Baby Powder was a substantial factor in causing his mesothelioma. *See* 8/6/24 Trial Tr. at 425:9-13, 469:18-25 (Dr. Haber). But there is no competent evidence in the record of the intensity of Mr. Perry's *asbestos* exposure. Plaintiffs' experts acknowledge that, *at minimum*, background levels of asbestos do not represent a substantial factor in causing mesothelioma, and even admitted that a background level of .006 fibers/cc shows no increased risk of mesothelioma. 8/5/24 Trial Tr. at 292:12-295:3 (Dr. Brody); 8/6/24 Trial Tr. at 469:18-471:21 (Dr. Haber). Yet even with the knowledge that background levels can be safe, *none of Plaintiffs' experts attempted to quantify the level of Mr. Perry's alleged exposure to asbestos when rendering their opinions. Instead, only one of Plaintiffs' experts gave the conclusory opinion that Mr. Perry's use of Johnson's Baby Powder "play[ed] a role in his mesothelioma."* 8/6/24 Trial Tr. at 355:7-10 (Dr. Haber). But Dr. Haber, along with the other experts, failed to

demonstrate the level of Mr. Perry's exposure. Plaintiffs' experts did not offer this evidence because they cannot. They have no factual basis to draw conclusions about the level of Mr. Perry's exposure to asbestos from his use of Johnson's Baby Powder.

Mr. Perry's treating physician, Dr. Barry Gibney, had never heard that cosmetic talc has asbestos in it or can cause mesothelioma, nor did he opine that use of cosmetic talc caused Mr. Perry's mesothelioma. 8/7/24 Trial Tr. at 720:10-721:4. Dr. Madigan conceded that his analysis was binary—either asbestos or no asbestos—without giving any weight to dose. 8/7/24 Trial Tr. at 783:4-24 (no dose calculation); 788:17-790:13 (binary calculation). Dr. Longo did not perform a dose calculation. 8/7/24 Trial Tr. at 918:23-919:4. Dr. Haber admitted he did not calculate the total amount of talc Mr. Perry used in his lifetime – collectively, or per each of the twelve brands that Dr. Haber said were all significant contributing factors to Mr. Perry's mesothelioma. 8/6/24 Trial Tr. at 463:2-17 (Dr. Haber). Without any proper expert analysis of the exposure levels, the jury is left with only one possible conclusion: that the levels of exposures were not harmful and could not cause disease.

In sum, Plaintiffs have introduced no competent evidence of the level of Mr. Perry's alleged exposure to asbestos from his use of Johnson's Baby Powder. The jury does not have an adequate basis to find that Mr. Perry's alleged exposure to asbestos from his use of Johnson's Baby Powder was a substantial factor in causing him to develop mesothelioma.

3. Plaintiffs' Expert Admitted Mr. Perry's Exposure to Asbestos in Brake Dust was Sufficient to Cause His Mesothelioma.

While Plaintiffs' experts lacked any basis to opine that exposure to asbestos through Mr. Perry's use of Johnson's Baby Powder was a substantial cause of his mesothelioma, they did offer testimony that his exposure to brake dust was independently sufficient to cause his mesothelioma. Mr. Perry admitted doing 72 brake jobs in the late 1980s. 8/12/24 Trial Tr. at 1678:19-24; 8/7/24

Trial Tr. at 954:7-11 (Dr. Longo). He specifically recalled seeing Bendix drum brake linings, among others. DX12007 ¶ 6.

Dr. Longo concluded that Mr. Perry had significant exposure to asbestos when working on brakes as a teenager. 8/7/24 Trial Tr. at 950:5-8. Dr. Longo has in fact conducted testing on the same types of brake shoes or brake pads that Mr. Perry used. *Id.* at 954:12-955:1. Dr. Longo found asbestos in those brake shoes and pads – 15%-45% chrysotile. *Id.* at 956:22-957:1. Dr. Longo agreed that it amounted to *quadrillions* of asbestos fibers in each brake shoe. *Id.* at 957:6-12. A quadrillion is 1,000,000,000,000,000. Dr. Longo’s studies, and studies by others that he reviewed, showed that blowing out the brake assemblies created a .3-2.2 f/cc range of exposure to *asbestos*. *Id.* at 959:4-961:22. Dr. Longo even recognized one study showed exposure levels of 6.6-29.8 f/cc. *Id.* at 961:23-962:3. Further, Dr. Longo performed a study that scuffing of a brake surface creates airborne exposure levels of 25-36 f/cc. *Id.* at 963:21-964:18. Importantly, Dr. Haber testified that if Mr. Perry had no exposure to cosmetic talc, based on the information he has regarding Mr. Perry’s brake jobs, he would give the opinion that the brake jobs were a significant factor in causing Mr. Perry’s mesothelioma. 8/6/24 Trial Tr. at 486:17-487:1.

In summary, Plaintiffs’ experts failed to connect the dots between Mr. Perry’s use of Johnson’s Baby Powder, his exposure to asbestos, and the cause of his mesothelioma. But Plaintiffs’ experts did directly connect Mr. Perry’s six dozen brake jobs with his mesothelioma. As a result, a verdict should be directed in Defendants’ favor.

E. Because Plaintiffs Failed to Prove as a Matter of Law Their Claims for Negligence and Strict Liability (as well as Fraud) Plaintiffs Cannot Recover for Loss of Consortium Damages.

Because Plaintiffs failed to present sufficient evidence to satisfy their burden as to their underlying negligence, strict liability, negligence *per se* (voluntarily dismissed), fraudulent misrepresentation (no verdict), and fraud claims (no verdict) as to Mr. Perry, Plaintiffs are not

entitled to seek loss of consortium damages as to Mr. Long. It is well-settled that, where an injured person's claim is barred as a matter of law, the spouse's loss of consortium claim is barred as well. *See, e.g., Lee v. Bunch*, 373 S.C. 654, 663, 647 S.E.2d 197, 202 (2007) (“Generally, a plaintiff spouse's claim for loss of consortium fails if the impaired spouse's claim fails, whether the claim is considered separate or independent from the impaired spouse's claim or derivative in nature.”) (quoting 41 Am. Jur. 2d. Husband & Wife § 227 (2007) and citing *Daves v. Cleary*, 355 S.C. 216, 234, 584 S.E.2d 423, 432 (Ct. App. 2003)). Because Plaintiffs' underlying claims against J&J Defendants fail as a matter of law for the reasons stated above, Plaintiffs' derivative request for loss of consortium damages necessarily fails as well. Accordingly, J&J Defendants are entitled to JNOV on the claim.

F. Plaintiffs' Evidence Failed to Satisfy an Exception to South Carolina's General Rule of Nonliability for Successor Corporations.

If any of Plaintiffs' claims survive, Defendants' motion for JNOV and directed verdict should be granted on the successor liability claims asserted against Holdco and Kenvue—two distinct companies separate and apart from Johnson & Johnson and LLT. Holdco and Kenvue were formed after sales of talc-based Johnson's Baby Powder ceased in the United States in 2020: Holdco was established in 2022, while Kenvue was established in 2023. Plaintiffs failed to prove that these two distinct companies have successor liability for claims related to talc-based Johnson's Baby Powder. Nor is there any basis for Plaintiffs' unpled claims for fraud against Holdco and Kenvue based on the 2021 corporate restructuring of Old JJCI and LLT's subsequent bankruptcy, as Plaintiffs have failed to present any evidence in support of the elements of reliance, causation, or damages related to the restructuring and bankruptcy, and because any “bad faith” showing relating to a bankruptcy filing would be exclusively within the province of a bankruptcy court.

1. Pure Successor Liability Theory

Under South Carolina law, the general rule for successor liability is that when a company sells its assets to another company, the acquiring company is not liable for the debts of the selling company simply because it has succeeded to the ownership of the seller. *Simmons v. Mark Lift Indus., Inc.*, 366 S.C. 308, 315, 622 S.E.2d 213 (2005). In South Carolina, “corporate law generally favors the free transfer of assets and disfavors successor liability.” *Nationwide Mut. Ins. v. Eagle Window & Door, Inc.*, 424 S.C. 256, 269, 818 S.E.2d 447, 454 (2018). South Carolina recognizes only four specific instances where the general rule of successor corporate nonliability does not apply: (1) where there is an express or implied agreement of assumption; (2) where the transaction amounts to a de facto merger or consolidation; (3) where the purchaser is merely a continuation of the seller; or (4) where the transaction is for the fraudulent purpose of escaping liability for the seller’s obligations. *See id.* at 263. Today, most courts have recognized the de facto merger and mere continuation exceptions are inseparable. *See, e.g., Woodrick v. Jack J. Burke Real Est., Inc.*, 703 A.2d 306, 312 (N.J. Super. Ct. App. Div. 1997); *Steel Co. v. Morgan Marshall Indus., Inc.*, 278 Ill. App. 3d 241, 248 (1996); *See Luxliner P.L. Export, Co. v. RDI/Luxliner, Inc.*, 13 F.3d 69, 73 (3rd Cir.1993); *Lumbard v. Maglia, Inc.*, 621 F. Supp. 1529, 1535 (S.D.N.Y. 1985). The evidence in the record establishes none of the four exceptions⁹.

2. First Exception: No Express or Implied Assumption of Liabilities

To begin, Plaintiffs cannot satisfy the first exception. Plaintiffs presented no evidence that Holdco and Kenvue came into existence with no talc-related liabilities. Plaintiffs presented no evidence that Holdco or Kenvue ever expressly assumed talc related liabilities. The J&J Defendants readily admit, the parties have stipulated, and the Third Circuit agreed, that LLT

⁹ The J&J Defendants, having only this past Friday received Plaintiffs’ Trial Brief on these issues, reserve the right to file a supplemental response in addition to the arguments herein.

expressly assumed all liabilities related to talc and that any talc-related liabilities remain with LLT. See *In re LTL Mgmt., LLC*, 64 F.4th 84, 96 (3d Cir. 2023) (“the merger allocated [LLT] responsibility for essentially all liabilities of Old Consumer tied to talc-related claims . . . [t]his meant, among other things, [LLT] would take the place of Old [JJCI] [] in current and future talc lawsuits and be responsible for their defense.”). LLT, not Holdco or Kenvue, expressly assumed the talc liabilities.

3. Fourth Exception: No Fraudulent Purposes

Likewise, Plaintiffs presented no evidence to satisfy the fourth exception. The very transaction that Plaintiffs complain of was permitted by law. To the extent Plaintiffs argue that the transfer is wrapped up in a “bad faith” or “fraudulent” bankruptcy scheme, those arguments lack merit and addressed in full below in § IV.F.

4. Second and Third Exception: No Continuation or De-Facto Merger

Under the de facto merger/mere continuation exception, the crucial inquiry is whether the acquiring company shared common ownership and common directors and officers with the predecessor. See *Nationwide Mut. Ins.*, 424 S.C. at 269. Indeed, the South Carolina Supreme Court has acknowledged that the mere continuation test is strict and presents an intentionally high burden for a plaintiff to meet. See *id.*

Plaintiffs failed to meet their burden and produce sufficient evidence to show that this exception applies to Holdco and Kenvue. Despite Plaintiffs’ attempts to fit this narrow exception into the facts of this case, Plaintiffs’ proffered evidence fails to demonstrate that there is (1) a continuity of management, personnel, and general business operations; or an (2) exertion of the necessary control and influence over their predecessor companies. Indeed, Plaintiffs’ evidence failed on both factors.

First, Plaintiffs presented no relevant evidence against Holdco or Kenvue. There were no witnesses or testimony about these three entities that relate to any factor that helps satisfy the de facto merger exception. The reason for this lack of evidence is obvious: these entities are not relevant to Johnson's Baby Powder.

Again, Plaintiffs presented no evidence that Holdco ever sold, manufactured, or benefited, in any way, from Johnson's Baby Powder. Simply put, Plaintiffs have no evidence to support their successor liability claim against Holdco.

That Johnson & Johnson controlled and directed the transaction is not enough to establish the requisite dominion and control. *See, e.g., In re Exactech Polyethylene Orthopedic Prod. Liab. Litig.*, No. 22MD3044NGGMMH, 2024 WL 991210, at *10 (E.D.N.Y. Mar. 7, 2024) (noting that outsized influence over a subsidiary's business strategies is not enough to prove the necessary dominion and control).

Likewise, there is no evidence that Kenvue's predecessor entity ceased to exist. In fact, Plaintiffs do not even try to establish how Kenvue was created. Moreover, Plaintiffs presented no other evidence related to Kenvue and its predecessor entity. Thus, there is not enough evidence to assert that Kenvue exerts the necessary influence and control over J&J or LLT to establish successor liability. *See Nationwide Mut. Ins.*, 424 S.C. at 269.

The record is clear that Holdco and Kenvue have no relevance in this case and are not proper defendants. Without sufficient evidence establishing the applicability of one of the recognized exceptions, South Carolina courts apply the general rule for successor liability that a corporation that purchases the assets of another corporation is not liable for the debts or liabilities of the transferor corporation. Accordingly, Plaintiffs' successor liability claims against Holdco

and Kenvue fail as a matter of law and, if they remain as defendants here, J&J motion for JNOV as to them should be granted.

Further, Plaintiffs never pled nor have they actually argued for the distinct theory of “amalgamation.” For that reason alone, it cannot be considered. Even so, the amalgamation or “single business enterprise” doctrine “is not to be applied without substantial reflection.” *Pertuis v. Front Roe Restaurants, Inc.*, 423 S.C. 640, 655, 817 S.E.2d 273, 281 (2018). The Supreme Court has explained this doctrine in the following manner:

[W]here multiple corporations have unified their business operations and resources to achieve a common business purpose and where adherence to the fiction of separate corporate identities would defeat justice, courts have refused to recognize the corporations’ separateness, instead regarding them as a single enterprise-in-fact, to the extent the specific facts of a particular situation warrant.

Id. at 652–53, 817 S.E.2d at 279. The doctrine requires a plaintiff to present evidence of some sort of injustice or abuse of the corporate form to warrant disregarding the distinct corporate entities and treating the businesses as a single enterprise. *Id.* at 654, 817 S.E.2d at 280.

The South Carolina Supreme Court recently adopted the following analysis from the Texas Supreme Court:

We have never held corporations liable for each other’s obligations merely because of centralized control, mutual purposes, and shared finances. There must also be evidence of abuse, or . . . injustice and inequity. By “injustice” and “inequity” we do not mean a subjective perception of unfairness by an individual judge or juror; rather, these words are used . . . as shorthand references for the kinds of abuse, specifically identified, that the corporate structure should not shield—fraud, evasion of existing obligations, circumvention of statutes, monopolization, criminal conduct, and the like. Such abuse is necessary before disregarding the existence of a corporation as a separate entity. Any other rule would seriously compromise what we have called a “bedrock principle of corporate law”—that a legitimate purpose for forming a corporation is to limit individual liability for the corporation’s obligations.

Id. at 654–55, 817 S.E.2d at 280 (quoting *SSP Partners v. Gladstrong Invs. (USA) Corp.*, 275 S.W.3d 444, 455 (Tex. 2008)). There is no amalgamation pled, argued, or shown by Plaintiffs.

G. J&J Defendants Are Entitled to JNOV on Plaintiffs' Punitive Damages Claim Because the Evidence Fails to Establish That J&J Defendants Acted Recklessly, Willfully, Wantonly Toward Mr. Perry.

1. The Evidence Does Not Establish Reckless, Willful, Or Wanton Conduct.

Plaintiffs' claim for punitive damages also fails as a matter of law because Plaintiffs failed to present evidence sufficient to establish, by clear and convincing evidence, that J&J Defendants' alleged conduct here warrants punitive damages. Punitive damages are allowed for the purpose of punishment and as a warning and example to deter the wrongdoer and others from committing like offenses in the future. *See Mellen v. Lane*, 377 S.C. 261, 289-290, 659 S.E.2d 236, 251-252 (Ct. App. 2008). On the issue of punitive damages, "the highest burden of proof known to civil litigation is applicable." *Id.* (citing S.C. Code Ann. § 15-33-135). Punitive damages can only be awarded where the plaintiff proves their entitlement to such damages by clear and convincing evidence. *Id.*

In South Carolina, before the issue of punitive damages can go to the jury, there must be clear and convincing evidence that a tortfeasor's conduct was willful, wanton, or in reckless disregard of the plaintiff's rights.¹⁰ *See Cartee v. Lesley*, 290 S.C. 333, 337, 350 S.E.2d, 388, 390 (1986); *Solanki v. Wal-Mart Store No. 2806*, 410 S.C. 229, 236-37, 763 S.E.2d 615, 618-19 (Ct. App. 2014). Punitive damages may be appropriate where the tort has been committed in such a manner or under circumstances that a person of ordinary reason or prudence would have been

¹⁰ Consistent with the United States Supreme Court, the South Carolina Supreme Court has ruled that it is improper to allow a jury to consider alleged misconduct directed towards a third-party, rather than his misconduct towards the plaintiff. *See Durham v. Vinson*, 360 S.C. 639, 652-653, 602 S.E.2d 760, 767 (2004) (citing *State Farm Mut. Auto. Ins. v. Campbell*, 538 U.S. 408, 409, 123 S. Ct. 1513, 1515, 155 L.Ed.2d 585 (2003)). In *Durham*, the South Carolina Supreme Court held that to allow evidence of alleged injuries to third parties violated S.C.R.E. 403 because the prejudicial effect of the evidence outweighs any probative value it may have had. *Id.* Thus, Plaintiffs cannot rely on evidence of alleged misconduct directed to individuals other than Mr. Perry to support an award of punitive damages here.

conscious of it as an invasion of the plaintiff's rights. *Cartee*, 290 S.C. at 337, 350 S.E.2d at 390; *Taylor v. Medinica*, 324 S.C. 200, 479 S.E.2d 35 (S.C. 1996); S.C. Code Ann. § 15-33-135. The plaintiff must prove a "conscious failure to use due care" that would have made a reasonable person aware that danger was created. *Turner v. Sinclair Refining Co.*, 254 S.C. 36, 173 S.E.2d 356 (1970). Punitive damages should only be submitted to the jury where "more than one reasonable inference can be drawn from the evidence as to whether the defendant's behavior was reckless, willful, or wanton." *Solanki*, 410 S.C. at 236, 763 S.E.2d at 618.

There is "no formula or standard to be used as a measure for assessing punitive damages." *Mellen*, 377 S.C. at 290, 659 S.E.2d at 251. A range of factors relevant to the punitive damage analysis include:

- (1) the defendant's degree of culpability;
- (2) the severity of the harm caused by the defendant;
- (3) the extent to which the plaintiff's own conduct contributed to the harm;
- (4) the duration of the conduct, the defendant's awareness, and any concealment by the defendant;
- (5) the existence of similar past conduct;
- (6) the profitability of the conduct to the defendant;
- (7) the defendant's ability to pay;
- (8) the likelihood the award will deter the defendant or others from like conduct;
- (9) the awards of punitive damages against the defendant in any state or federal court action alleging harm from the same act or course of conduct complained of by the plaintiff;
- (10) any criminal penalties imposed on the defendant as a result of the same act or course of conduct complained of by the plaintiff; and
- (11) the amount of any civil fines assessed against the defendant as a result of the same act or course of conduct complained of by the plaintiff.

S.C. Code Ann. § 15-32-520(E); *see also Mitchell v. Fortis Ins.*, 385 S.C. 570, 586-87, 686 S.E.2d 176, 184-85 (2009) ("[W]e [have] identified eight considerations that trial courts should apply in conducting a post-judgment due process review of any punitive damages award. These considerations are: (1) the defendant's degree of culpability; (2) the duration of the conduct; (3) the defendant's awareness or concealment; (4) the existence of similar past conduct; (5) the

likelihood the award will deter the defendant or others from like conduct; (6) whether the award is reasonably related to the harm likely to result from such conduct; (7) the defendant's ability to pay; and (8) any other factors deemed appropriate.”) (citing *Gamble v. Stevenson*, 305 S.C. 104, 111-12, 406 S.E.2d 350, 354 (1991)). A defendant is entitled to a directed verdict or JNOV where the plaintiff fails to present clear and convincing evidence to satisfy this heightened punitive damages standard. See, e.g., *Cartee*, 290 S.C. at 337-38, 350 S.E.2d at 390; *Leonard v. Broad River Power Co.*, 174 S.C. 199, 177 S.E. 152, 154 (1934); *Mendelsohn v. Whitfield*, 312 S.C. 17, 25-26, 430 S.E.2d 524, 530 (Ct. App. 1993), *aff'd in part as modified*, 312 S.C. 226, 439 S.E.2d 845 (1994).

Here, Plaintiffs' claim for punitive damages fails for several reasons. First, South Carolina law does not allow plaintiffs to recover punitive damages for strict liability. *Barnwell v. Barber-Colman Co.*, 301 S.C. 534, 536-37, 393 S.E.2d 162, 163 (1989) (quoting *Laird v. Nationwide Ins.*, 243 S.C. 388, 134 S.E.2d 206 (1964)) (finding that damages for a strict liability claim are limited to actual damages, “which compensate ‘for physical harm caused’”). Similarly, South Carolina does not allow plaintiffs like Mr. Long to recover punitive damages based on a loss of consortium claim. See *Hughey v. Ausborn*, 249 S.C. 470, 154 S.E.2d 839 (1967) (finding that punitive damages cannot be awarded to a spouse of an injury party). The Court, therefore, should grant JNOV as to Plaintiffs' claim for punitive damages in connection with their strict liability and loss of consortium claims.

Second, Plaintiffs cannot recover punitive damages in connection with their negligence claim. As discussed above, Plaintiffs have not produced evidence sufficient to meet their burden of proof on the underlying negligence claim and, therefore, that claim cannot provide an avenue for a punitive damages award. Cf. *Mendelsohn v. Whitfield*, 312 S.C. 17, 25–26, 430 S.E.2d 524,

530 (Ct. App. 1993) (noting that where a defendant was exonerated from malpractice and conversion claims, the plaintiff “could not recover punitive damages on those claims”). At any rate, Plaintiffs have not presented evidence that J&J Defendants acted with willful, wanton, or reckless disregard for Mr. Perry’s rights.

Moreover, the purpose of punitive damages “is to punish the wrongdoer and to deter him and others from engaging in similar misconduct.” *Barnwell v. barber-Colman Co.*, 301 S.C. 534, 537, 393 S.E.2d 162, 163 (1989). Not only is there no evidence that J&J Defendants were willful, wanton, or reckless, the policy justifying punitive damages would not be served here because J&J Defendants ceased the sale of talc-containing Johnson’s Baby Powder in the United States in 2020. 8/9/24 Trial Tr. at 1283: 20-1284:2. There could be no deterrence to J&J Defendants through a punitive damages award because J&J Defendants have not sold the products at issue for four years. In this case in particular, where Mr. Perry admittedly used various talc products made by various manufacturers (including the one made by the defaulting defendant), it was inappropriate for the Court to charge the jury with factor 8, above. That factor would be confusing to the jury, and led to the punishing of J&J Defendants for the acts of others.

2. An Award of Punitive Damages Would Be Unconstitutional.

It is unconstitutional to award punitive damages against J&J Defendants based on a comparative fault scheme that does not permit the jury to fully apportion fault between and among all responsible persons, regardless of whether they are (or were) defendants in this case. *See, e.g., Willow Inn, Inc. v. Pub. Serv. Mut. Ins.*, 399 F.3d 224, 233-34 (3d Cir. 2005) (“[T]he ratio of punitive damages to the harm caused by the defendant is a tool to ensure that the two bear a reasonable relationship to each other.”); *Searcy v. R.J. Reynolds Tobacco Co.*, No. 3:09-CV-13723, 2013 WL 5421957, at *7 (M.D. Fla. Sept. 12, 2013) (“[A]lthough Defendants are jointly and severally liable for the amount of the compensatory damages, this Court must assess the

punitive damages award against each Defendant separately.”). Here, the Court disallowed the J&J Defendants’ request for proper apportionment of fault and causation, thus causing a due process problem with respect to any punitive damages award.

3. Punitive Damages Are Not Recoverable Against Successor Entities LLT, Holdco and Kenvue Under Any Theory of Successor Liability.

Because Plaintiffs assert that LLT, Holdco and Kenvue are liable under the theory of successor liability—which they are not—an award of punitive damages cannot be recoverable against these successor entities.¹¹

Pursuant to S.C. Code Ann. § 15-32-520(D), “punitive damages may be awarded only if the plaintiff proves by clear and convincing evidence that his harm is *the result of the defendant’s willful, wanton or reckless conduct.*” (emphasis added). Neither LLT, Holdco, nor Kenvue are subject to liability under any theory other than successor liability. First, there is no allegation or evidence on their conduct at all, much less that it was willful, wanton, or reckless. Second, there is no allegation or evidence that *Mr. Perry’s harm* resulted from *any* conduct by LLT, Holdco, or Kenvue. These entities did not even exist when Mr. Perry last used Johnson’s Baby Powder in 2019. As a result, under the clear language of § 15-32-520, they do not face liability for punitive damages.

Although it appears South Carolina courts have yet to address the issue, many other jurisdictions have rejected the idea that punitive damages are recoverable against a corporate successor. *See e.g., In re Related Asbestos Cases*, 566 F. Supp. 818 (N.D. Cal. 1983) (reasoning that, because the successor was doing nothing to perpetuate the alleged malicious conduct of the predecessor, no award of punitive was warranted); *Catasauqua Area Sch. District v. Raymark*

¹¹ The jury verdict for punitive damages, unlike for actual damages, was only against Johnson & Johnson.

Indus., 662 F. Supp. 64 (E.D. Penn. 1987) (holding that punitive damages were not allowed against successor entities where the plaintiff failed to present evidence that asbestos products manufactured by a successor entity were actually used); *Drayton v. Jiffee Chem. Corp.*, 395 F. Supp. 1081 (N.D. Ohio 1975), *modified*, 591 F.2d 352 (6th Cir. 1978) (refusing to award exemplary damages when the successor company improved the injury-causing product).

In South Carolina, where an action contains multiple defendants, “a punitive damages award must be specific to *each defendant*, and each defendant is liable only for the amount of the award made against that defendant.” S.C. Code § 15-32-520(g) (emphasis added). Thus, for the successor entities to be liable for punitive damages, Plaintiffs must prove that each acted recklessly, willfully, or wantonly toward Mr. Perry. But Plaintiffs cannot establish these necessary requirements for a punitive damages award against the successor entities. As mentioned previously, Johnson & Johnson stopped selling talc-based Johnson’s Baby Powder before Holdco or Kenvue ever existed. And Holdco is a holding company that Plaintiffs failed to present any evidence about its relation to Johnson’s Baby Powder. Plaintiffs’ evidence merely establishes that Holdco and Kenvue never engaged in any of the alleged malicious conduct that would lead to punitive damages.

Further, federal due process bars any punitive damages award against LLT, Holdco and Kenvue. As a matter of constitutional law, “A defendant should be punished for the conduct that harmed the plaintiff.” *State Farm Mut. Auto. Ins. v. Campbell*, 538 U.S. 408, 422-23 (2003). “The reprehensibility guidepost does not permit courts to expand the scope of the case so that a defendant may be punished for any malfeasance.” *Id.* at 424. “In assessing reprehensibility . . . it is crucial that a court focus on the conduct related to the plaintiff’s claim rather than the conduct of the defendant in general.” *Williams v. Conagra Poultry Co.*, 378 F.3d 790, 797 (8th Cir. 2004).

As explained in this section and § IV(F), any independent fraud claims against Holdco and Kenvue based on the 2021 corporate restructuring and bankruptcy have *no connection* to Mr. Perry, his injuries, or this lawsuit. Thus, due process precludes any punitive damages award against LLT, Holdco and Kenvue under any theory presented by Plaintiffs, whether pled or unpled.

Accordingly, LLT, Holdco and Kenvue cannot be liable for punitive damages, and JNOV should be entered as to them.

IV. Failing the Grant of JNOV/Directed Verdict¹², the Court should Grant a New Trial Absolute.

A. The Court Prejudicially Erred In Its Jury Instructions, Entitling J&J Defendants To A New Trial.

A party is entitled to a new trial if the trial court abuses its discretion regarding jury instructions, and the error is prejudicial. *Clark v. Cantrell*, 339 S.C. 369, 389-390, 529 S.E.2d 528, 539 (2000). “An abuse of discretion occurs when the trial court’s ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support.” *Id.* “When instructing the jury, the trial court is required to charge only principles of law that apply to the issues raised in the pleadings and developed by the evidence in support of those issues.” *Id.* at 390, 529 S.E.2d at 539. “Furthermore, the trial court is required to charge only the current and correct law of South Carolina.” *Id.* A district court commits reversible error by refusing to give a requested instruction applicable here, and the absence of the requested instruction prejudices the requesting party. *Id.*; *see also Glenn v. 3M Co.*, 440 S.C. 34, 71, 890 S.E.2d 569, 588 (Ct. App. 2023), *reh’g denied* (Aug. 10, 2023).

¹² Certain of the J&J Defendants’ new trial arguments also support JNOV relief, as stated therein.

This Court committed prejudicial errors in its jury instructions, in charging various instructions over objections, and in failing to charge requested instructions.¹³ **First**, this Court failed to instruct the jury that it must not award punitive damages based on alleged harm suffered by non-parties (aka, third parties). **Second**, this Court failed to explain to the jury why they were being asked question eight in the verdict form; namely, whether J&J Defendants conduct was “willful, wanton, or reckless.” **Third**, this Court refused to instruct the jury regarding “but for” causation. **Fourth**, this Court did not instruct the jury about specific causation, which a plaintiff must prove under South Carolina toxic tort law. **Fifth**, this Court failed to adequately define “substantial factor causation”—and likewise failed to correct Plaintiffs’ counsel’s improper and legally erroneous explanation of the substantial factor test in closing argument. **Sixth**, the Court erred in charging the jury on “component parts.” **Seventh**, the Court should not have charged law regarding “eggshell plaintiff.” **Eighth**, the Court’s charge improperly blended the product liability defect test, applying the consumer expectations test to all strict liability claims. **Ninth**, the Court failed to charge the requested charge about post-distribution evidence and hindsight.

These errors, among others¹⁴ individually and cumulatively prejudiced J&J Defendants, significantly impacting the jury’s finding of liability and amount of damages awarded. *See Wells v. Halyard*, 341 S.C. 234, 241, 533 S.E.2d 341, 345 (Ct. App. 2000) (addressing whether several claimed jury instructions errors prejudiced the jury either individually or cumulatively). Accordingly, J&J Defendants are entitled to a new trial.

¹³ The J&J Defendants incorporate all of their requested charges and verdict form and objections to Plaintiffs’ requested charges herein.

¹⁴ The J&J Defendants reserve the right to file a supplemental memorandum with further arguments regarding requests for instructions, the verdict form, and objections to charges.

1. This Court Prejudicially Erred By Failing To Inform The Jury That It Could Not Award Punitive Damages For Third-Party Harm, in Addition to other Errors Respecting Charges as to Punitive Damages.

It is well settled that a jury cannot punish a defendant for harming others beyond the plaintiff. *Branham v. Ford Motor Co.*, 390 S.C. 203, 238–39, 701 S.E.2d 5, 23–24 (2010). In *Branham*, “punishing Ford . . . for harming all Bronco II rollover victims was a central theme in counsel’s closing argument.” *Id.* Even though the trial court charged the jury “not to punish Ford for other ‘conduct,’” the charge nonetheless “violated the ‘harm to others’ prohibition . . . By focusing on conduct, as opposed to harm to Branham, the charge invited the jury to punish Ford for all Bronco rollover deaths and injuries—the very harm [other cases] forbid.” *Id.*; see also *Durham v. Vinson*, 360 S.C. 639, 653, 602 S.E.2d 760, 767 (2004) (reversing an award of punitive damages because the trial court allowed the jury to “punish” the defendant for a “bad act unrelated” to the defendant’s action toward the plaintiff).

Over objection, Plaintiffs were allowed to put in evidence of third-party harm in the form of ovarian cancer. Such evidence should not have been allowed in and was unduly prejudicial to the J&J Defendants. In *Watson v. Ford Motor Co.*, 389 S.C. 434, 453-454, 699 S.E.2d 169 (2010), the Supreme Court of South Carolina stated that “[e]vidence of similar accidents, transactions, or happenings is admissible in South Carolina where there is some special relation between the accidents tending to prove or disprove some fact in dispute.” *Id.* In imposing a burden on plaintiffs to demonstrate “that the other accidents were substantially similar to the accident at issue[,]” the *Watson* Court “set forth factors to support a claim that the present accident was caused by the same defect: (1) the products are similar; (2) the alleged defect is similar; (3) causation related to the defect in the other incidents; and (4) exclusion of all reasonable secondary explanations for the cause of the other accidents.” *Id.* (citing *Buckman v. Bombardier Corp.*, 893 F. Supp. 547, 552 (E.D.N.C. 1995)). The Plaintiffs here failed to meet this burden of proving substantial similarity,

and thus it was error to permit Plaintiffs to discuss ovarian cancer caused by asbestos in the trial. Causation of ovarian cancer is not the same as causation respecting Mr. Perry's disease, nor did Plaintiffs put on any evidence to satisfy the other factors required. This was prejudicial to the J&J Defendants and warrants a new trial. This burden is recognized to be a "stringent standard" because evidence of other happenings is recognized as "highly prejudicial." *Branham v. Ford Motor Co.*, 701 S.E.2d 5 (2010). Plaintiffs did not shoulder this burden. Further, Plaintiffs evidence should have been excluded because it included post-distribution evidence as well, which is not allowed. *Id.*

Consistent with the prohibition in *Branham* and *Watson* against awarding punitive damages based on harm to third parties, J&J Defendants requested a jury instruction to comport with this law. See J&J Defendants Requests to Charge For Phase II, August 11, 2024. Specifically, Charge No. 11 sought to inform the jury that it could not punish J&J Defendants for alleged harms suffered by persons other than plaintiff: "You may not impose punitive damages based on any argument, claim, belief, or possibility that a defendant's conduct caused harm to persons other than the plaintiff in this case." *Id.* at 11.

J&J Defendants proposed Charge No. 11 aligns with *Branham*, *Durham*, and federal constitutional standards. Specifically, the Supreme Court has held that "the Constitution's Due Process Clause forbids a State to use a punitive damages award to punish a defendant for injury that it inflicts upon nonparties." *Philip Morris USA v. Williams*, 549 U.S. 346, 353 (2007). Further, a "defendant should be punished for the conduct that harmed the plaintiff, not for being an unsavory individual or business." *State Farm Mut. Auto. Ins. v. Campbell*, 548 U.S. 408, 423 (2003). Accordingly, due process "does not permit courts, in the calculation of punitive damages, to adjudicate the merits of other parties' hypothetical claims against a defendant under the guise

of reprehensibility analysis. . . . Punishment on these bases creates the possibility of multiple punitive damages awards for the same conduct; for in the usual case nonparties are not bound by the judgment some other plaintiff obtains.” *Id.*; see also *Cooper Indus., Inc. v. Leatherman Tool Grp., Inc.*, 532 U.S. 424,435 (2001) (describing the second *Gore* guidepost as “the relationship between the penalty and the harm to the victim caused by the defendant’s actions”) (emphasis added); *BMW of N. Am., Inc. v. Gore*, 517 U.S. 559, 575 (1996) (looking to “the disparity between the harm or potential harm suffered by Dr. Gore and his punitive damages award” in describing the reasonable relationship requirement) (emphasis added); *Pac. Mut. Life Ins. v. Haslip*, 499 U.S. 1, 22 (1991).

Despite the Court’s statement that it would make it clear to the jury that it *could not* award punitive damages based on third-party harm, the Court failed to do so. Ultimately during Phase II, the jury was not told that it was forbidden from awarding punitive damages against J&J Defendants for alleged harm suffered by persons other than Mr. Perry. Instead, as in *Branham*, this Court’s instructions obfuscated the issue before the jury, making it appear that the jury *could* award punitive damages if it found harm to *others*, not just Mr. Perry:

Punitive damages are intended to punish a defendant for willful, reckless, and wanton misconduct and to prevent the defendant and others from committing similar acts in the future. Punitive damages can only be awarded when the conduct of the defendants has been something more than mere negligence. The evidence must clearly and convincingly establish that the defendant was reckless or willful or wanton, meaning there was a conscious failure to exercise due care or a conscious indifference to the rights and safety of others or a reckless disregard for the safety of others.

8/15/24 Transcript, at 2260. Notably, the instructions told the jury to consider whether the evidence “clearly and convincingly establish that the defendant’s was reckless or willful or wanton.” *Id.* This Court then defined “reckless or willful or wanton” as “a conscious failure to exercise due care or a conscious indifference to the rights and safety of **others** or reckless disregard for the safety of

others.” *Id.* (emphasis added). Nowhere does this Court highlight the requirement that punitive damages can be awarded only for bad behavior directed *at the plaintiff*. Reckless, willful, or wanton actions directed at *others* is insufficient as a matter of law.

It is true that this Court did tell the jury that “[p]unitive damages may be awarded only if the plaintiff proves by clear and convincing evidence that his harm was a result of willful, wanton and reckless conduct,” but it then immediately told the jury: “*that has been done.*” *Id.* at 2261 (emphasis added). In other words, this Court informed the jury that it had already done its job of considering harm to plaintiff. When taken as a whole, the instructions erroneously implied that the jury need only consider harm to the plaintiff to get to Phase II. But then once that hurdle has been passed—which this Court instructed had been accomplished—and the proceedings are in Phase II, then the jury is no longer constrained to narrowly consider harm to plaintiff. That is reversible error.

This Court’s instructions immediately following the “that has been done” language further solidified this Court’s errors. Rather than clarify that during Phase II, the jury’s job is to consider whether J&J Defendants should be punished for harm they caused *to Mr. Perry*, this Court never again tied an award of punitive damages to harm suffered by a plaintiff generally, or Mr. Perry specifically. Instead, this Court read from the South Carolina punitive damages statute, which only further confused the jury about its role and duty:

In determining the amount of punitive damages, **the jury may consider all relevant evidence**, including but not limited to defendants’ degree of culpability, **the severity of the harm** caused by the defendant, **the duration of the conduct**, the defendants’ awareness and any concealment by the defendant, **the existence of similar past conduct**, the profitability of the conduct of the defendant, the defendants’ ability to pay, the likelihood that the award would deter the defendant or others from like conduct.

Id. at 2261-62 (emphasis added). Without language tying these requirements to harm *to Mr. Perry himself*, the jury was led to believe it could consider all relevant evidence, including the severity

of harm (not expressly limited to plaintiff) caused by J&J Defendants, the duration of the conduct (not limited to the duration of the conduct that harmed plaintiff), and the existence of similar past conduct (again, not limited to conduct directed at or causing harm to plaintiff).

Given the significant amount of evidence the jury heard, over objection, about alleged third-party harm, this Court's decision *not* to read J&J Defendants requested Charge No. 11 was prejudicial. It is reasonably likely that the significant punitive damages awarded against J&J Defendants—\$30 million—was, in whole or in part, a result of this failure to instruct the jury that it could not award punitive damages based on third-party harm. Accordingly, J&J Defendants are entitled to reversal of the punitive damages awarded against them.

Further, the Court declined to charge the jury in other respects regarding punitive damages. The J&J Defendants proposed four Phase I instructions regarding punitive damages, including instructions that (1) punitive damages should not be considered as part of Phase I; (2) defining recklessness; (3) mitigating evidence should be considered when assessing punitive damages; and (4) punitive damages should not be based on any conclusion that the defendant is an unsavory business. *See* J&J Defs' Aug. 11, 2024 Proposed Jury Instructions at 50-53. The Court's exclusion of these instructions severely prejudiced the J&J Defendants because the jury was not properly instructed on the requirements and timing for the assessment of punitive damages. *See State Farm Mut. Auto. Ins. v. Campbell*, 123 S. Ct. 1513, 1519 (2003) ("Compensatory damages are intended to redress the concrete loss that the plaintiff has suffered by reason of the defendant's wrongful conduct... By contrast, punitive damages serve a broader function; they are aimed at deterrence and retribution") (citation omitted); *id.* at 423 ("A defendant should be punished for the conduct that harmed the plaintiff, not for being an unsavory individual or business"); *Carter V. R.L. Jordan Oil Co.*, 390 S.E.2d 367 (S.C. App. 1990); *TXO v. All. Res. Corp.*, 509 U.S. 443, 464 (1993) (ruling

that mitigating circumstances should be considered in determining whether to award punitive damages); *Cooper Indus., Inc. v. Leatherman Tool Grp., Inc.*, 532 U.S. 424, 432 (2001); S.C. Code Ann. §15-32-520(A); Anderson's S.C. Requests To Charge - Civil § 22-1.

The J&J Defendants proposed fifteen Phase II proposed instructions regarding punitive damages, as well as opening and closing instructions for Phase II. *See* J&J Defs' Aug. 11, 2024 Requests to Charge for Phase II at 3-21. The J&J Defendants' requested instructions included the following: (1) information about the purposes of punitive damages, and the difference between punitive and compensatory damages; (2) an instruction that the jury is permitted to award no punitive damages; (3) an instruction that the jury may presume that plaintiffs have been made whole by the compensatory damages awarded; (4) the clear and convincing evidence standard; (5) an instruction that mere negligence is insufficient to support the imposition of punitive damages; (6) an instruction on the appropriate amount of punitive damages; (7) relevant factors to be considered when awarding punitive damages; (8) an instruction on the degree of reprehensibility of defendants' conduct; (9) an instruction that mitigating evidence should be considered when assessing punitive damages; (10) an instruction that the jury may not impose punitive damages based on any argument, claim, belief, or possibility that a defendant's conduct harmed persons other than plaintiffs in this case; (11) an instruction that no punishment should be issued for conduct occurring outside the state of South Carolina; (12) the relationship between compensatory and punitive damages; (13) an instruction on the wealth of the defendant; and (14) instructions that the jury should not allow their decision to be influenced by defendants' size, status, or corporate location. While the Court did give a punitive damages charge, the Court's exclusion of most of these requested instructions severely prejudiced the J&J Defendants because the jury was not properly informed of the requirements and limitations of their assessment of punitive damages.

2. This Court Prejudicially Erred By Failing To Explain To The Jury Why They Were Being Asked Question 8 In the Verdict Form.

This Court erred by overruling J&J Defendants' repeated requests to instruct the jury about Question 8 on the verdict form, which asked whether the jury found by clear and convincing evidence that J&J Defendants' conduct "was willful, wanton, or reckless." This question was posed during Phase I, the liability phase. But the jury was provided no context regarding *why* they were being asked this question. Specifically, they were not informed that this question triggered Phase II, the punitive damages phase. Without this important and necessary context, the jury was no doubt confused about the implications of their answer to Question 8.

Plaintiffs' counsel repeatedly opposed J&J Defendants request to tell the jury the context of Question 8 but then emphasized that this question was the "most important question" for them on the verdict form. 8/14/24 Trial Transcript at 1935:12-14 ("Question 8 is the most important question on the entire verdict form."). Plaintiffs' counsel continued with these words: "The company was so reckless. There are no words for it. They knew it was bad. They knew it would hurt people." *Id.* at 1935-1936. The Court ultimately gave no charge regarding the distinction between Phase I and Phase II, and between actual damages and punitive damages, leaving the jury to wonder and to be confused regarding their duties in the actual damages phase (Phase I) of the trial, especially given Plaintiffs' counsel claim that Question 8 was the jury's "most important question" to answer. The South Carolina Supreme Court has expressed its disapproval of verdict forms that ask questions in a vacuum which jurors may misunderstand. *See e.g., Branham v. Ford Motor Co.*, 701 S.E.2d 5 (2010) (trial judge's rejection of more specific verdict form and asking question of jury without context improper). Rather than using J&J Defendants' more specific, proposed verdict form, the Court used its own modified form from a prior matter.

Moreover, despite their objection to J&J Defendants' request to inform the jury about the effect of Question 8, Plaintiffs' counsel told the jury in Phase II that "We're not allowed to tell you if you check 'yes' on 8, there's another phase." 8/15/24 Trial Transcript at 2264. Counsel's claim that he was "not allowed to tell" the jury about the effect of checking the box on Question 8 is incredible and misleading in light of Plaintiffs' objection to J&J Defendants' request to clarify to the jury why Question 8 was in the verdict form.

The impact of this Court's refusal to inform the jury about the implications of Question 8—coupled with Plaintiffs' counsel subsequent argument making it appear that it was Defendants, not them, who were trying to hide the ball from the jury—was prejudicial. J&J Defendants are therefore entitled to a new trial.

3. This Court Prejudicially Erred By Refusing To Instruct The Jury Regarding "But For" Causation.

Consistent with South Carolina Supreme Court precedent, J&J Defendants requested an instruction informing the jury that they could only be held liable if the jury determined their conduct was a "but for" cause of Plaintiffs' injuries. Despite clear case law on the issue, this Court did not instruct the jury on but-for causation. This Court's failure to so instruct the jury is reversible error.

J&J Defendants submitted their proposed Jury Charges and Verdict Form Modified From *Plant* Case on August 11, 2024. In their requested Charge 21, J&J Defendants requested that this Court instruct the jury on but-for causation, consistent with the South Carolina Supreme Court's recent decision in *Edwards v. Scapa Waycross, Inc.*, 442 S.C. 387, 390–91, 899 S.E.2d 597, 599 (2024), an asbestos-exposure toxic tort case. The *Edwards* Court emphasized that in "a products liability case, whether the plaintiff's theory is strict liability, negligence, or breach of warranty, the plaintiff must prove the defendant's defective product was a proximate cause of the plaintiff's

injury.” *Id.* at 391, 899 S.E.2d at 599–600. Further, to prove proximate cause, “a plaintiff must establish both causation in fact and legal cause.” *Id.* at 391, 899 S.E.2d at 600. Causation in fact requires a plaintiff to “show the injury complained of would not have occurred ‘*but for*’ the defendant’s conduct.” *Id.* (emphasis added). And to establish legal causation, “the plaintiff must establish the plaintiff’s injury was a foreseeable consequence of the defendant’s conduct.” *Id.* This legal causation standard prevents a defendant from being liable for “that which is unpredictable or could not be expected to happen.” *Id.* *Edwards* is clear. But-for causation must be proven. Even so, this Court refused to give J&J Defendants’ requested Charge 21, committing reversible error.

Along with their proposed jury instructions, J&J Defendants submitted Objections to the Court’s Final Jury Charges and Related Final Court Verdict Form on August 14, 2014. In those objections, J&J Defendants again objected to this Court’s refusal to charge “but for” causation, arguing that but-for causation must be proven under *Edwards*. See Objections at 2. J&J Defendants argument about but-for causation is both preserved and has merit.

By refusing to charge but-for causation—and also refusing to a) charge specific causation, and b) correct Plaintiffs’ counsel’s misstatement of the substantial-factor test—the jury was left with an incorrect understanding of the applicable law of causation. This incorrect understanding was prejudicial, because it weakened the causation standard, permitting the jury to find for Plaintiffs even if they failed to prove causation consistent with South Carolina law. See *Cohens v. Atkins*, 333 S.C. 345, 349, 509 S.E.2d 286, 289 (Ct. App. 1998) (“When instructing the jury, the trial judge is required to charge *only the current and correct* law of South Carolina.”) (emphasis added). J&J Defendants are therefore entitled to JNOV, or barring Rule 50 relief, a new trial absolute under Rule 59.

4. This Court Prejudicially Erred By Refusing To Instruct The Jury On Specific Causation.

Under binding South Carolina law, to establish medical causation in a product liability case, a plaintiff must establish both general causation and specific causation. *Jolly v. Gen. Elec. Co.*, 435 S.C. 607, 624–25, 869 S.E.2d 819, 828–29 (Ct. App. 2021), *cert. granted* (S.C. Jan. 12, 2023). Although general causation “is generally not an issue in asbestos litigation due to the parties’ acknowledgment that exposure to asbestos causes mesothelioma,” specific causation is an issue. *Id.* (cleaned up). To show specific causation,

a claimant must do more than simply introduce into evidence epidemiological studies that show a substantially elevated risk. A claimant must show that he or she is similar to those in the studies. This would include proof that the injured person was exposed to the same substance, that the exposure or dose levels were comparable to or greater than those in the studies, that the exposure occurred before the onset of injury, and that the timing of the onset of injury was consistent with that experienced by those in the study.

Id. (quoting *Merrell Dow Pharms., Inc. v. Havner*, 953 S.W.2d 706, 720 (Tex. 1997)); *see also Edwards v. Scapa Waycross, Inc.*, 437 S.C. 396, 412, 878 S.E.2d 696, 705 (Ct. App. 2022), *aff’d*, 442 S.C. 387, 899 S.E.2d 597 (2024) (“Specific causation requires the plaintiff . . . prove similarities between himself and the individuals in the studies, which includes proof that (1) he was exposed to the same toxin, (2) the exposure or dose level was comparable to those in the study, (3) the exposure to the toxin occurred before the onset of the injury, and (4) the latency period of the injury is consistent with the individuals in the study.”).

Consistent with this specific-causation requirement, J&J Defendants requested that this Court give its proposed Charge #21 Causation. *See* Jury Charges and Verdict Form Modified From Plant Case From J&J Defendants. This requested charge tracked the court of appeals’ language from *Jolly* and *Edwards*. *Id.* Despite proposed Charge #21 accurately reflecting “the current and correct law of South Carolina,” *Cohens*, 333 S.C. at 349, 509 S.E.2d at 289, this Court nonetheless

declined to give the requested instruction. This Court's refusal to give the instruction was prejudicial.

Causation between J&J Defendants' product and Plaintiffs' injuries was one of—if not the most important—issues in this case. There was no doubt Mr. Perry suffered from mesothelioma. The key question was: what caused his mesothelioma? The requirement for proving specific causation articulated in *Jolly* and *Edwards* is especially important in an asbestos toxic tort case such as here. There is no dispute that Mr. Perry was exposed to asbestos-containing products in his work on personal vehicle brakes, for example. Mr. Perry conceded this. It is, however, greatly disputed whether Mr. Perry was *ever* exposed to asbestos-containing talc products produced by J&J Defendants.

Plaintiffs did not prove that Mr. Perry used any Johnson's Baby Powder that contained asbestos. Nor did they conduct any testing on products used by Mr. Perry. In an effort to leap this enormous causation gap, Plaintiffs relied on testing and studies of other products, used by other people, at other times. But for these studies to be reliable and relevant, under *Edwards* and *Jolly*, Plaintiffs were required to prove sufficient similarities between Mr. Perry and the individuals in the studies.

Having erroneously admitted testimony and studies¹⁵ that violated the specific-causation test articulated in *Jolly* and *Edwards*, this Court at the very least should have then instructed the jury about the limited role of the testimony and studies under South Carolina law. And also should have made clear that, under in *Jolly* and *Edwards*, specific causation required Mr. Perry to prove sufficient similarities between himself and the individuals in studies, including that (1) he was

¹⁵ Plaintiffs' expert Dr. Madigan's studies were mere math exercises involving asbestos, not talc. The studies Dr. Madigan offered were not those envisioned by *Edwards*.

exposed to the same toxin, (2) the exposure or dose level was comparable to those in the study, (3) the exposure to the toxin occurred before the onset of the injury, and (4) the latency period of the injury is consistent with the individuals in the study.

J&J Defendants' proposed Charge #21 would have provided this essential information to the jury. But this Court refused to give it. The jury therefore was never informed about the law of specific causation, which is vital in a toxic tort asbestos case. The failure to give this requested instruction was not only erroneous, but also prejudicial. Again, causation was key to J&J Defendants' defense. Lacking proof that Mr. Perry was exposed to Johnsons' Baby Powder containing asbestos, Plaintiffs' counsel instead relied on a leap of fact and logic to *infer* that the Johnson's Baby Powder that Mr. Perry used was contaminated with asbestos based on evidence of *other* contamination. If the jury had been informed that the studies and testing relied on by plaintiffs—including Dr. Longo's and Dr. Madigan—had to be assessed through the *Jolly/Edwards* specific causation test, it would have likely given the studies and testing little to no weight. But without the requested jury instruction, the jury evidently gave those studies significant weight because there is no other way to account for the jury verdict finding liability, given the complete lack of proof that Mr. Perry himself used asbestos-contaminated Johnson's Baby Powder. For these reasons, J&J Defendants are entitled to JNOV, or barring Rule 50 relief, a new trial absolute under Rule 59.

5. This Court Prejudicially Erred By Failing To Define The Substantial Factor Test in the Charge and by Failing to Cure Plaintiffs' Counsel's misstatements of Law.

In their proposed jury instructions, J&J Defendants requested proposed Charge #21, which provided a thorough—and accurate—statement of South Carolina law on causation in a toxic tort case. See Jury Charges and Verdict Form Modified From *Plant* Case From J&J Defendants. This requested charge was consistent with *Jolly, Edwards*, and other binding South Carolina case law.

As already noted, this Court refused to instruct the jury on but-for causation and specific causation. The Court did, however, instruct the jury that to hold J&J Defendants liable for negligence and strict liability, it was required to find that they were a substantial factor in causing plaintiffs' injuries. See 8/14/24 Trial Tr. at 2087 ("Plaintiff must prove . . . that the plaintiffs' exposure to asbestos in the defendant's product was of such a frequency, regularity, and duration that it was a **substantial factor** in bringing about the disease or injury.") See also *id.* at 2088 ("To prove the defendant's negligence proximately caused plaintiff's injury, plaintiffs must first prove something called causation in fact. That is proved by showing the defendant's negligence was a **substantial factor** in causing the injury."); *Id.* at 2089 ("Where two or more causes combine to produce an injury, a defendant is not relieved from liability for negligence because it's responsible for only one of the causes. It is sufficient that its negligence or fault is **a substantial factor** in causing the injury.").

But notably, this Court never defined what "substantial factor" means. The term "substantial factor" is a specific legal term, with a specific meaning developed over years of case law. Standing alone, the term "substantial factor" has little meaning to a jury. Instead, an additional definition should have been provided. At a minimum, this Court should have told the jury—consistent with *Henderson* and the supreme court's recent decision in *Edwards*—that "[t]o support a reasonable inference of *substantial causation* from circumstantial evidence, there must be evidence of exposure to a *specific product* on a *regular* basis over some *extended* period of time in *proximity*" to the plaintiff. *Edwards v. Scapa Waycross, Inc.*, 442 S.C. 387, 390–91, 899 S.E.2d 597, 599 (2024) (quoting *Henderson v. Allied Signal, Inc.*, 373 S.C. 179, 185, 644 S.E.2d 724, 727 (emphases added by *Edwards* Court)). Further, this Court should have informed the jury that "if other actors' conduct is the **predominant factor** in bringing the harm at issue, then a defendant's

action is **not** a ‘substantial factor’ in causing the harm, and thus it is not the legal cause of the harm.” *Glenn v. 3M Co.*, 440 S.C. 34, 59, 890 S.E.2d 569, 582 (Ct. App. 2023), *reh’g denied* (Aug. 10, 2023) (emphasis added) (quotation omitted).

These two definitional parameters provide the necessary framework for understanding substantial-factor causation. On the one hand, a defendant’s actions are *not* a substantial factor if another’s conduct is the predominant factor. On the other hand, a defendant’s actions are *not* a substantial factor if the plaintiff fails to provide evidence of exposure to a *specific product* on a *regular* basis over some *extended* period of time in *proximity* to the plaintiff.

Deprived of these clarifying definitions of “substantial factor,” the jury was left to guess at its meaning. The jury’s guesswork was then improperly influenced by Plaintiffs’ counsel. During his closing argument, Plaintiffs’ counsel misstated the law of substantial factor causation, telling the jury “Do y’all understand that the only way they [the J&J Defendants] win is if they played zero role?” 8/14/24 Transcript at 2048:7-8. This statement was a projection that under the law, **any** amount of exposure or causation more than zero would mean that the J&J Defendants’ products were a “substantial factor” cause of Plaintiff’s disease. This is not the law of South Carolina.

Counsel for J&J Defendants made a timely objection, but the objection was overruled. *Id.*, 2048-2049. Plaintiffs’ counsel in part argued the objection should not be sustained because the Court “was going to instruct the jury on what ‘substantial factor’ means.” *Id.*, 2048:21-22. But the Court never did so. Following this ruling, Plaintiffs’ counsel made further statements along the same line as above, telling the jury that it did not matter about any other cause, the total or “cumulative” dose caused the disease, and thus again projecting that the legal standard was that **any** cause contributing to the “cumulative dose” was a “substantial factor” in terms of causation. *Id.*, 2053. Again, this is not the law of South Carolina. Plaintiffs’ “each and every exposure”

theory of causation is at direct conflict with South Carolina law on “substantial factor” causation. So too is Plaintiffs’ argument in closing, to which the J&J Defendants’ objection was made but overruled, that any contribution more than zero equates to a substantial factor.

Contrary to Plaintiffs’ counsel’s statements at sidebar, the Court did not “explain what substantial factor means” in the jury charge. But we know from *Henderson/Edwards* and *Glenn* that it does not mean what Plaintiffs’ counsel told the jury. Again, under *Glenn*, a defendant’s actions are not a substantial factor if another’s conduct is the predominant factor. And under *Henderson/Edwards*, a defendant’s actions are not a substantial factor if the plaintiff fails to provide evidence of exposure to a *specific product* on a *regular* basis over some *extended* period of time in *proximity* to the plaintiff.

These accurate statements of law about the meaning of “substantial factor” are directly contradicted by Plaintiffs’ counsel’s closing arguments to the jury, yet the Court overruled the objections. Under Plaintiffs’ arguments, the phrase “**substantial** factor” is converted to simply the word “factor.” That is not the law. Plaintiffs’ counsel repeatedly projected wrongly that this was the law. Defendants’ objection was overruled. By overruling J&J Defendants’ objection, the jury was left with the distinct impression that the Court found no error in Plaintiffs’ counsel’s incorrect statement of the law. This error was extremely prejudicial and warrants a new trial. See *Simmons v. State*, 331 S.C. 333, 503 S.E.2d 164, 167 (1998) (where solicitor misstated the law in his closing argument, and the trial judge’s instructions to the jury did not sufficiently correct the solicitor’s misstatements, solicitor’s improper argument prevented the jury from fairly considering the evidence).

6. The Court Erred in Charging the Jury on “Component Parts.”

The J&J Defendants submitted their proposed Jury Charges and Verdict Form, which was modified from *Plant v. Whittaker Clark & Daniels, Inc., et al.*, No. 2022-CP-01265, on August

11, 2024 (hereafter, “J&J Defendants’ Proposed Jury Charges”). In their Proposed Jury Charge No. 14, the J&J Defendants requested the omission of language regarding component parts, because this language would unnecessarily confuse the jury. The J&J Defendants also objected to the inclusion of language reflecting the “consumer expectations” test, which has been rejected in South Carolina for products liability cases. The J&J Defendants objected to the inclusion of the language regarding component parts and the consumer expectations test on August 14, 2024. Over objection, this language was included in the final jury instructions and read to the jury. The inclusion of the “component parts” language unfairly prejudiced the J&J Defendants by confusing the jury. Further, the Court’s final instruction set forth an outdated and prejudicial “consumer expectations” legal standard. *See Branham v. Ford Motor Co.*, 390 S.C. 203, 222, 701 S.E.2d 5, 15 (2010) (adopting risk-utility test, “we find the consumer expectations test and its focus on the consumer ill-suited to determine whether a product’s design is unreasonably dangerous”).

7. The Court should not have Charged law regarding “Eggshell Plaintiff.”

Plaintiffs’ Proposed Jury Charge No. 23: Plaintiffs’ Proposed Charge No. 23 instructed the jury on the “eggshell plaintiff” theory. The J&J Defendants objected to the inclusion of this instruction on August 12, 2024, but over objection, the Court allowed this instruction, and it was read to the jury. The inclusion of this instruction prejudiced the J&J Defendants because the issues of aggravation and foreseeability were not, nor have ever been, at issue in this case. Further, the Court excluded various medical records of Plaintiff in pre-trial proceedings, making an “eggshell plaintiff” instruction particularly prejudicial.

8. The Court should not have charged the confusing “Blended” Products Liability Charge, and Should Not have Charged “Consumer Expectations Test” language therein.

In their Proposed Jury Charge No. 15, the J&J Defendants objected to the inclusion of language reflecting the “consumer expectations” test, which has been rejected in South Carolina

for products liability cases. The J&J Defendants again objected to the inclusion of this language on August 14, 2024, as well as the Court’s “blending” of claims into one instruction – specifically that it blended Plaintiffs’ design defect, manufacturing defect, and failure to warn principles into one instruction – which was both confusing and in error. Over objection, the Court included the “consumer expectations” language and retained its blending of claims. The Court’s blending of claims unfairly prejudiced the J&J Defendants by confusing the jury regarding which legal standards applied to which of Plaintiffs’ claims. This confusion was compounded when the verdict form adopted by the Court at Plaintiffs’ request referred only to “selling” the product. Further, the Court’s final instruction set forth a prejudicial “consumer expectations” legal standard. See *Branham v. Ford Motor Co.*, 390 S.C. 203, 222, 701 S.E.2d 5, 15 (2010) (adopting risk-utility test, “we find the consumer expectations test and its focus on the consumer ill-suited to determine whether a product's design is unreasonably dangerous”).

9. The Court erred in Failing to Charge that a Defendant Cannot be Liable based on Hindsight Opinions, That “More Could have Been Done” by a Defendant, and that Post-Distribution Evidence May Not be Used to Find Liability.

In their Proposed Jury Charge No. 20, the J&J Defendants requested an instruction that hindsight opinions by experts suggesting that “more should have been done” are insufficient to discredit the conclusion that the J&J Defendants met the standard of care. The J&J Defendants again argued for the inclusion of this instruction on August 14, 2024. Despite the J&J Defendants’ objections, the Court did not include this language in its final instructions and it was not read to the jury, which prejudiced the J&J Defendants. See *Bragg v. Hi-Ranger, Inc.*, 319 S.C. 531, 548-49, 462 S.E.2d 321, 331 (Ct. App. 1995) (recognizing that the “product must be ‘measured against a standard existing at the time of sale’” and that “hindsight opinions by [...] experts suggesting that more should have been done ... are insufficient to discredit the conclusion that the

manufacturer met the standard of care””) (quoting *Sexton ex rel. Sexton v. Bell Helmets, Inc.*, 926 F.2d 331, 337 (4th Cir. 1991).

The Court also declined to charge the request by the J&J Defendants regarding post-distribution conduct. The J&J Defendants argued again for the inclusion of this instruction on August 14, 2024. Over objection, the Court did not include this instruction and it was not read to the jury, which prejudiced the J&J Defendants. *See Branham v. Ford Motor Co.*, 390 S.E.2d 203 (2010). Plaintiffs particularly emphasized in arguments to the jury repeatedly decades of conduct by the J&J Defendants, and thus it was crucial for these charges to be given to the jury, and prejudicial to the J&J Defendants that they were not.

B. This Court Committed Several Structural and Evidentiary Errors That Warrant Post-Trial Relief.

1. This Court Erred By Denying J&J’s Defendants’ Motion to Sever and Compelling J&J Defendants To Try Their Case Along With American International Industries (A-I-I) Without a Proper Limiting Instruction.

J&J Defendants timely objected to the charge request circulated by Plaintiffs’ counsel on August 2, 2024. J&J Defendants objected to Plaintiffs’ proposed charge on A-I-I’s default because it failed to instruct the jury that the default was for procedural reasons, implying that there has been a determination of liability on the merits as to A-I-I. Any implication that there has been a finding of liability on the merits by the Court would without question substantially prejudice the J&J Defendants. Thus, J&J Defendants requested a different instruction in a form substantially as follows or having similar effect (that is, to prevent the default of one party to adversely affect the interests of another non-defaulting party):

Prior to this trial, I issued an order holding A-I-I in default for failing to comply with certain deadlines. Because of A-I-I’s default, the law requires that A-I-I admit to the allegations in Plaintiffs’ complaint and they are held liable to Plaintiffs. Therefore, as to A-I-I you will only be asked to determine the amount of damages owed to Plaintiffs by A-I-I. This finding is separate from, and should have no impact on, any remaining Defendants. You must not assume that because

A-I-I has admitted to the allegations in the complaint as a result of my default Order, that the allegations of the Plaintiff are admitted for any other defendant.

This Court declined to instruct the jury accordingly over objection. The failure to make the above requested instruction or otherwise similarly fully protect the non-defaulting parties from any prejudice because of the default of one party, necessitated a motion to sever their action or order separate trials from their action against the defaulted Defendant under Rule 21 of the South Carolina Rules of Civil Procedure, which provides:

**RULE 21
MISJOINDER AND NON-JOINDER OF PARTIES**

Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately.

Further, Rule 42(b) of the South Carolina Rules of Civil Procedure provides:

(b) Separate Trials. The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues, always preserving inviolate the right of trial by jury as declared by the Constitution or as given by a statute of the State.

Under these rules and in the Court's inherent discretionary powers, the Court should have acted via either proper instruction or via severance/separate trials to prevent the manifest prejudice that would otherwise result from Plaintiffs' proposed charge. *Lanzo v. Cyprus Amax Mins. Co.*, 467 N.J. Super. 476, 530, 254 A.3d 691, 722 (App. Div. 2021) (vacating jury verdict where adverse inference instruction against one defendant undermined co-defendant's defense and trial court refused motion to sever: "The adverse inference instruction [against co-defendant Imerys] allowed the jury to infer the talc that Imerys supplied was contaminated with asbestos. If that were the case, the jury could conclude that JJCI's talc products were similarly contaminated."). J&J Defendants can show prejudicial error here since it was never made clear that the Court had not made a

determination that A-I-I was liable on the merits before the jury, and the J&J Defendants made a motion to sever if the instruction was refused and both the instruction and motion were denied. Because many of Plaintiffs' allegations were directed against both A-I-I and the J&J Defendants, any implication that there has been a finding of liability on the merits would greatly prejudice the J&J Defendants. *See, e.g.*, 2d Am. Compl. ¶13 (alleging all defendants' "talc powder products" exposed Plaintiff to asbestos through daily use); *id.* ¶6 (describing both J&J Defendants and A-I-I as "Product Defendants" who "are legally responsible, were engaged in the manufacture, sale and distribution of asbestos-containing products, raw asbestos, raw asbestos talc, and/or asbestos-containing talc materials."). Thus, J&J Defendants should be awarded a new trial absolute on this ground.

2. This Court Erred By Excluding J&J Defendants' Experts' Rule 702 Opinions That Mr. Perry's Mesothelioma Developed Spontaneously While Allowing Plaintiffs Expert To Opine On Non-Spontaneous Mesothelioma.

Rule 702 of the South Carolina Rules of Evidence provides that "[i]f scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise." The trial court must act as a gatekeeper over scientific evidence and make three preliminary findings before expert testimony may be admitted. *Watson v. Ford Motor Co.*, 389 S.C. 434, 445, 699 S.E.2d 169, 175 (2010). In determining admissibility of expert testimony, the court must make three inquiries: First, the court must determine whether "the subject matter is beyond the ordinary knowledge of the jury, thus requiring an expert to explain the matter to the jury." *Graves v. CAS Med. Sys. Inc.*, 401 S.C. 63, 74, 735 S.E.2d 650, 655 (2012) (quoting *Watson*, 389 S.C. at 446, 699 S.E.2d at 175). "Second, the expert must have 'acquired the requisite knowledge and skill to qualify as an expert in the particular subject matter,' although he 'need not be a specialist in the particular branch of the

field.” *Id.* Third, “the substance of the testimony must be reliable.” *Id.* The reliability prong is the “central feature” of the analysis. *Id.* (citing *White*, 382 S.C. 265, 270, 676 S.E.2d 684, 686 (2009)). If the proffered expert testimony is scientific in nature, the court must determine the reliability prong under the factors set forth in *State v. Council*, 335 S.C. 1, 515 S.E.2d 508 (1999). *See Graves*, 401 S.C. at 74, 735 S.E.2d at 655. South Carolina courts look to four factors: “(1) the publication and peer review of the technique; (2) prior application of the method to the type of evidence involved in the case; (3) the quality control procedures used to ensure reliability; and (4) the consistency of the method with recognized scientific laws and procedures.” *Id.* (quoting *Council*, 335 S.C. at 19, 515 S.E.2d at 517).

Two of the J&J Defendants’ retained experts sought to offer case-specific causation opinions that the Court improperly excluded. After reviewing all the case specific evidence, medical literature, scientific evidence, testing data and expert reports in this case, Dr. Greg Diette formed the opinion that Mr. Perry’s mesothelioma most likely developed spontaneously or was naturally occurring:

I have not seen evidence in this case of any significant exogenous exposure (including asbestos) that would raise his risk of developing pleural mesothelioma, though I cannot rule out a contribution from his claimed occupational exposures. If Mr. Perry did not have significant exogenous exposure from commercial amphibole asbestos, it is most likely that his mesothelioma developed spontaneously or was naturally occurring.

See J&J Defs’ Opp. To Plfs’ MIL No. 17 at Ex. C, Diette’s Perry Supp. Ex. Rep., July 2, 2024, Pg. 4.

Similarly, Dr. David Weill reviewed extensive materials related to Mr. Perry’s alleged exposures to the cosmetic talc at issue, including the expert reports and opinions of Defendants’ experts and Plaintiffs’ experts in this case. *See J&J Defs’ Opp. To Plfs’ MIL No. 21 at Ex. B, July 11, 2024, Weill Perry Rep., at 3-4 and 130-131; Id. at Ex. D, 7/18/24, David Weill Dep., 44:3-7.*

He reviewed all of Dr. Longo's MAS Analytical reports submitted in this case where he tested Johnson & Johnson products from all three source mines for Johnson & Johnson cosmetic talcum powder products sold in the United States: Italy, Vermont and China. *Id.* at 2-3. Dr. Weill was prepared to offer the opinion that the cosmetic talcum powder at issue is free from asbestos, and that the hypothetical exposure experienced by Mr. Perry did not present any significant risk towards his development of mesothelioma. *Id.* Ex. D at 25:19 to 26:4; 34:16 to 35:3 and 36:15 to 36:20. Dr. Weill would explain that Mr. Perry's exposure to talc did not contribute to elevating the risk for mesothelioma development. *Id.* at Ex. B, July 11, 2024, Weill *Perry* Rep., at 130 & Ex. D at 17:17 to 17:21.

Dr. Weill would have also explained that there are biological markers for exposure to asbestos. Ex. B, 07/28/2023 Trial Testimony of Dr. Weill in *Valadez v. Johnson & Johnson* at 6160:22-6162:23 and 6165:23 – 6166:7. These markers are like footprints left behind by exposures to asbestos. The markers include pleural plaques. He would explain that medical doctors can look at radiology for pleural plaques, which are discrete scars on the pleural surface of the lung. Medical doctors can also review the radiology for other markers of asbestos exposure such as lung scarring known as lung fibrosis or asbestosis. Medical doctors can also look at tissue specimens to identify coated asbestos particles, known as asbestos bodies, in the specimens. Dr. Weill would have explained that he reviewed Mr. Perry's radiology and did not identify any evidence of such markers of exposure to asbestos. He would have also explained that he did not see any evidence of asbestos bodies in the pathology specimens reviewed by Mr. Perry's treating pathologists or other expert witnesses in this matter. In conclusion, he was prepared to testify that there no evidence of these objective footprints of asbestos exposure in Mr. Perry's case. *See, e.g., id.*

Further, Dr. Weill would have explained that background levels of asbestos reside in the lungs of the general population and these background burdens of asbestos fibers can be as much as 40 million fibers of chrysotile, 40 million fibers of tremolite, and 400,000 fibers of amosite or crocidolite in the lungs, along with 40,000 asbestos bodies. *See* J&J Defs' Opp. To Plfs' MIL No. 21 at Ex. B, Weill *Perry* Rep., at 71. Besides explaining lung anatomy, human defense mechanisms, cellular repair, antioxidant reactions, dose-response, public health risk assessments, fiber type potency, and health effects of cosmetic talc exposure, *inter alia* (*see, id.* at 61-129), Dr. Weill would explain that cancer occurs after the accumulation of mutations to the DNA in cells. It is initiated by driver gene mutations, which are caused by: (1) heritable mutations; (2) environmental exposures; and (3) replication errors. It is well-established in the medical and scientific literature that all cancers, including mesothelioma can arise spontaneously through internal replication errors and without an external cause, such as asbestos exposure. He was prepared to offer the case-specific opinion here that, because of the absent evidence of objective markers of above-background asbestos exposure and absent a finding of an external risk, to a reasonable degree of medical probability, Mr. Perry's cancer was a naturally-occurring, spontaneous mesothelioma. *Id.* at Ex. D, 7/18/24 Weill Dep. at 20:16 to 20:21 ("Is it your opinion, to a reasonable degree of medical certainty, that Mr. Perry's mesothelioma was spontaneous? A. That is my opinion. [Objection.] A. Yeah."); *id.* at 15:7 to 15:13; 17:17 to 17:2; 18:23 to 19:9. It was error for the Court to exclude Dr. Weill pre-trial.

Without properly evaluating Dr. Diette's and Dr. Weill's unique opinions in *this* case, the Court relied on prior findings it had made in other cases (*Payne* and *Plant*). In those cases, Dr. Diette and Dr. Weill were precluded from giving specific causation opinions that the plaintiffs' mesotheliomas most likely developed spontaneously or were naturally occurring because they

failed to review the plaintiffs' opinions and asbestos testing.¹⁶ In seeking to reach the same outcome here, Plaintiffs once again erroneously stated that "Dr. Diette has not reviewed any evidence about the asbestos content of the talcum powder products at issue" before declaring that Mr. Perry's mesothelioma is spontaneous. See Pl.'s MIL No. 17, pg. 8. Similarly, Plaintiffs claimed Dr. Weill's opinions about spontaneous mesothelioma lacked "any scientific foundation." See Pl.'s MIL No. 21 pg. 2. Yet for *this* case, these experts not only reviewed "evidence" about asbestos content of talcum powder products at issue, they reviewed all of Plaintiffs' experts' testing data on the talcum powder products at issue. In short, Drs. Diette and Weill cured the alleged deficiencies this Court found in a prior matter. Even so, the Court struck their case-specific opinions entirely.

Notably, Plaintiffs concede that there is scientific literature supporting Drs. Diette and Weill's proposition that there are cases of mesothelioma which cannot be attributed to asbestos exposure. See Pl.'s MIL No. 17, Pg. 2, 5-7. In fact, Plaintiffs' own expert, Dr. Arnold Brody, has testified many times that any form of cancer, including mesothelioma, can occur spontaneously. See Ex. C, Garcia Trial, Mar. 20, 2024, 210:18-20; Ex. D, February 22, 2021, Brody *Hirshberg* Dep., 28:10-13.

Thus, this Court prejudicially erred by excluding Dr. Diette's and Dr. Weill's spontaneous causation testimony under Rule 702, while also allowing Plaintiffs' expert Dr. Haber to opine about non-spontaneous mesothelioma even though Dr. Haber had never treated or seen Mr. Perry. Any difference of opinion between Plaintiffs' experts and J&J Defendants' experts on spontaneous mesothelioma or the rate of mesothelioma not exposed to asbestos is not a basis for preclusion but

¹⁶ Importantly, this Court in the *Payne* and *Plant* trial did not preclude Dr. Diette or Dr. Weill from giving general opinions on the rates of mesothelioma which are "spontaneous" or "naturally-occurring".

fodder for cross-examination. After ruling out talcum powder as the cause of Mr. Perry's mesothelioma, noting that there is no clinical evidence that Mr. Perry had any exposure to asbestos, and noting Mr. Perry's prevalent family history of cancer, Dr. Diette and Dr. Weill logically concluded that Mr. Perry mesothelioma was most likely spontaneous or naturally occurring. J&J Defendants' experts should have been allowed to testify about these well-informed opinions. Instead, the Court completely stripped J&J Defendants from offering this case-specific defense, which justifies a new trial absolute.

3. This Court Erred By Allowing Plaintiffs' Experts To Opine On the "Each and Every Exposure" Theory In Violation of The Controlling South Carolina Causation Standard.

Plaintiffs failed to establish specific causation through relevant, reliable expert testimony that would assist the jury in reaching a verdict. Thus, JNOV is proper, and failing that, a new trial must be ordered. It is well-settled in South Carolina that a plaintiff must prove both general and specific causation by presenting expert testimony on each. *Fisher v. Pelstring*, 817 F. Supp. 2d 791, 814 (D.S.C. 2011) ("Where a medical causal relation issue is not one within the common knowledge of the layman, proximate cause cannot be determined without expert medical testimony." (citing *In re Bausch & Lomb Inc. Contacts Lens Solution Prod. Liab. Litig.*, 693 F. Supp. 2d 515, 518 (D.S.C. 2010))). "To establish medical causation in a product liability case, a plaintiff must show both general causation and specific causation." *Id.* "General causation is whether a substance is capable of causing a particular injury or condition in the general population, while specific causation is whether a substance caused a particular individual's injury." *Id.* "If a plaintiff is not able to establish general causation, it is unnecessary to consider whether the plaintiff can establish specific causation." *Id.*

Plaintiffs' experts here failed to prove specific causation because they gave opinions that were unreliable and inadmissible under Rules 702 and 403 of the South Carolina Rules of

Evidence, and because such opinions lack any probative value since they conflict with the controlling legal standard respecting causation in South Carolina. Specifically, Plaintiffs offered the testimony of Dr. Haber who testified over multiple objections that every exposure contributes to a person's cumulative exposure that causes him to develop mesothelioma and that every single exposure to asbestos was a cause of Mr. Perry's mesothelioma. This opinion is clearly unreliable, as several courts have held. Moreover, as Judge David Norton recently held in South Carolina federal court, this type of opinion is directly at odds with Plaintiffs' burden of proof as stated in *Henderson v. Allied-Signal, Inc.*, 373 S.C. 179, 644 S.E.2d 724 (2007), and it should have been excluded and given no weight on that basis under Rule 403. See *Haskins v. 3M Co., et al.*, No. 2:15-cv-02086-DCN, D.E. 312 (D.S.C. July 21, 2017).

The admissibility of expert testimony is generally governed by Rule 702 of the South Carolina Rules of Evidence, which provides that "[i]f scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education, may testify thereto in the form of an opinion or otherwise." In determining whether to admit expert testimony under Rule 702, the court must make three inquiries: (1) whether the subject matter is beyond the ordinary knowledge of the jury, thus requiring an expert to explain the matter to the jury; (2) whether the expert has acquired the requisite knowledge and skill to qualify as an expert in the particular subject matter; and (3) whether the substance of the testimony is reliable. See *Graves v. CAS Medical Sys., Inc.*, 401 S.C. 63, 74, 735 S.E.2d 650, 655 (2012); *Watson v. Ford Motor Co.*, 389 S.C. 434, 446–47, 699 S.E.2d 169, 175–76 (2010). Plaintiffs' experts' "no safe level/every exposure" causation opinions failed to meet the reliability requirement of Rule 702.

If an expert's testimony is scientific in nature, then the trial court must determine its reliability under the factors set forth in *State v. Council*, 335 S.C. 1, 19, 515 S.E.2d 508, 517 (1999). *Graves*, 401 S.C. at 74, 735 S.E.2d at 655. There can be little doubt that testimony that there is no safe level of exposure to asbestos or that "every exposure" to asbestos causes mesothelioma is scientific in nature; therefore, the court must look to the following factors:

- (1) the publications and peer view of the technique;
- (2) prior application of the method to the type of evidence involved in the case;
- (3) the quality control procedures used to ensure reliability; and
- (4) the consistency of the method with recognized scientific laws and procedures.

Id.; *Council*, 335 S.C. at 19, 515 S.E.2d at 517.

The "no safe level/every exposure/cumulative exposure" opinion offered by Dr. Haber did not satisfy any of the *Council* factors because (1) it is neither published nor peer reviewed; (2) it has been rejected by other courts when plaintiffs have attempted to apply it to the type of evidence involved here; (3) there are no quality control procedures or other methods used to ensure reliability; and (4) the method is wholly inconsistent with recognized scientific laws and procedures. *See Yates v. Ford Motor Co.*, 113 F. Supp. 3d 841, 846 (E.D.N.C. 2015) (rejecting the "each and every exposure" theory as unreliable because it "cannot be tested, has not been published in peer-reviewed works, and has no known error rate"). In fact, this theory is not a "method" at all, but an end run around Plaintiffs' burden of proof.

This opinion is seductive in its simplicity. Once the jury heard it, the jury was unlikely to engage in any critical assessment of the exposure and medical evidence adduced to assess causation, as it was required to do under South Carolina law. Rather, the jury likely accepted Dr. Haber's invitations and short-circuited any meaningful deliberations as to specific causation. *See Yates*, 113 F. Supp. 3d at 850 (excluding opinions similar to Dr. Haber's and explaining "given the potential persuasiveness of expert testimony, proffered evidence that has a greater potential to

mislead than to enlighten should be excluded”). Therefore, the court should have stricken this opinion testimony and should have instructed the jury to give this testimony no weight in its causation analysis, in line with the numerous courts across the country who have considered and rejected this opinion in differing forms.¹⁷ In one recent federal case, *Smith v. Ford Motor Co.*, the court held that even if a plaintiff’s expert’s “no safe level/every exposure” theory were deemed admissible under Rule 702, it would exclude the testimony under Rule 403 because “the probative value of such unsupported speculation by [the expert] is substantially outweighed by the danger of

¹⁷ See, e.g., *Vedros v. Northrop Grumman Shipbuilding, Inc.*, 119 F. Supp. 3d 556, 560 n.2 (E.D. La. 2015) (rejecting this theory and noting that “[t]he theory that Defendants refer to [as the ‘Every Exposure theory’] has other names, including ‘No Safe Level of Exposure,’ ‘Each and Every Exposure,’ ‘Any Exposure,’ and ‘Single Fiber.’ All theories have as their basis the principle that all exposures to asbestos should be included as a cause of mesothelioma because there is no way to know which exposures caused it and which ones did not.”); *Bell v. Foster Wheeler Energy, Corp.*, No. 15-6394, 2016 U.S. Dist. LEXIS 138817, at *11 (E.D. La. Oct. 5, 2016) (“The Court sees no material difference between the ‘every exposure’ theory and the ‘every significant exposure’ theory.”) (citing *Vedros*); *Krik v. Crane Co.*, 76 F. Supp. 3d 747, 750–51 (N.D. Ill. 2014) (“Any Exposure,” “Each and Every Exposure,” “Single Fiber,” and “no safe level of exposure” are all different “monikers” for the same theory); *Anderson v. Ford Motor Co.*, 950 F. Supp. 2d 1217, 1225 (D. Utah 2013) (“[A] growing number of courts have determined that the [“no safe level/every exposure”] theory is not proper under Daubert and Rule 702.”); *Smith v. Ford Motor Co.*, No. 2:08-cv-630, 2013 U.S. Dist. LEXIS 7861, at *6 (D. Utah Jan. 18, 2013) (concluding that the “no safe level/every exposure” theory does not hold up under careful examination, noting that “[i]t is questionable whether it can even properly be called a theory, inasmuch as a theory is commonly described as a coherent collection of general propositions used to describe a conclusion, and while there are some general propositions used by [plaintiff’s expert], they fall far short of supporting the legal liability he attempts to reach with them.”); *Suoja v. Owens-Illinois, Inc.*, 211 F. Supp. 3d 1196 (W.D. Wis. 2016) (rejecting the “cumulative exposure” theory, also described as the “no safe level” theory or “every exposure contributes” theory, and concluding the opinion was “no different from the ‘any exposure’ theory” or from the impermissible conclusion that “if there is exposure, then there is causation”); *Comardelle v. Pa. Gen. Ins.*, 76 F. Supp. 3d 628, 634 (E.D. La. 2015) (“Although there may be no known safe level of asbestos exposure, this does not support [plaintiff’s expert’s] leap to the conclusion that therefore every exposure Comardelle had to asbestos must have been a substantial contributing cause of his mesothelioma. The Court agrees that this ‘is not an acceptable approach for a causation expert to take.’”); *Sclafani v. Air & Liquid Sys Corp.*, 14 F. Supp. 3d 1351, 1356 (C.D. Cal. 2014) (noting that the “‘every exposure’ theory could not be tested and had not been published in any peer-reviewed literature [and] therefore failed to satisfy at least two of the four Daubert criteria”).

unfair prejudice, as well as being confusing, and presenting a danger of misleading the jury.” No. 2:08-cv-630, 2013 U.S. Dist. LEXIS 7861, at *6 (D. Utah Jan. 18, 2013). In reaching this conclusion, the court noted its agreement with “the growing number of published opinions from other courts that have reached a similar result: that the every exposure theory as offered as a basis for legal liability is inadmissible speculation that is devoid of responsible scientific support.” *Id.* Similarly, in *Rockman v. Union Carbide Corp.*, C.A. No. RDB-16-1169, at 8–22 (D. Md. July 17, 2017), a Maryland federal district court excluded the “each and every exposure” and “cumulative exposure” opinions of two experts and granted summary judgment for the defendants on the ground that the plaintiffs failed to establish causation.

In line with this notion, Judge Norton excluded expert opinions almost identical to the Plaintiffs’ expert opinions in this case. See *Haskins v. 3M Co., et al.*, No. 2:15-cv-02086-DCN, D.E. 312 (D.S.C. July 21, 2017).¹⁸ In *Haskins*, an expert espoused the “cumulative exposure” theory: “each of the defendants’ products which contained asbestos added to the total cumulative dose of Chesher’s asbestos exposure.” *Id.* at 4. The Haskins expert’s opinions, as described by the court, closely mirrors Plaintiffs’ experts’ opinions here. *Id.* at 11–13 (“Bedrossian asserts that an individual’s ‘total cumulative dose’ is the ‘best indicator’ of an individual’s risk of developing mesothelioma and views the ‘total cumulative dose’ as the ‘cause’ of [the plaintiffs’] injuries. . . . Bedrossian further explains that mesothelioma may result from very small exposures, citing a number of authorities that have concluded that ‘there is no safe level of asbestos exposure.’ . . . [B]ecause [the plaintiffs’] exposures to defendants’ asbestos-containing products were—by definition—part of their respective ‘cumulative doses,’ such exposures significantly contributed to their development of mesothelioma. . . . [I]t appears that Bedrossian assumes that, because every

¹⁸ *Haskins* has been cited with approval in several Court of Appeals decision, including *Edwards*.

‘occupational’ exposure contains exponentially more fibers than any background exposure, every ‘occupational’ exposure significantly contributes to the total cumulative dose. . . . Thus, in Bedrossian’s view, whenever the total cumulative dose results in mesothelioma, every ‘occupational’ exposure should be considered causative, no matter how small.” (emphasis added)). Judge Norton found the issue of Bedrossian’s opinions “requires very little analysis” because “Bedrossian’s opinions evaluate causation in a manner that is inconsistent with the appropriate legal standard.” *Id.* at 14–15. Therefore, the court found the opinions were “essentially irrelevant, and any probative value they may have is easily outweighed by their tendency to confuse or mislead the jury” under rule 403. *Id.* at 15.

The court further explained:

“for Bedrossian’s opinion to have any legal significance, the court must accept the proposition that each exposure can be considered a “substantial cause” of mesothelioma if it could have independently caused the disease. But this approach would be problematic from both a factual and legal perspective. Every exposure to asbestos could cause mesothelioma, but lower levels of exposure carry lower risk. Therefore, Bedrossian’s logic quickly devolves into the sort of “every exposure” liability that was specifically rejected in *Lindstrom* [v. A-C Prod. Liab. Trust, 424 F.3d 488 (6th Cir. 2005)], and leads to the bizarre conclusion that any exposure that carries any chance of causing mesothelioma—however miniscule—constitutes a “substantial cause,” regardless of the other exposures that may have contributed to the total cumulative exposure. The court further emphasized that Bedrossian “showed very little knowledge of, or interest in, [the plaintiffs’] actual exposures to defendants’ products.

Id. at 18 n.11. Instead, he focused solely on the “no safe level of exposure” theory. *Id.* The court therefore was “convinced that Bedrossian’s opinions are not based on a meaningful, defendant-specific analysis of intensity, frequency, and regularity of [the plaintiffs’] exposures to defendants’ products.” *Id.* The court found Bedrossian’s opinions could not be used to support a finding of causation and excluded the opinions. *Id.* at 20.

Like Bedrossian’s opinions in *Haskins*, Dr. Haber’s opinions here were not based on any analysis of causation specific to Plaintiff. Instead, they relied solely on the idea that any minuscule

exposure to asbestos associated with J&J's products contributed to the cumulative result of Plaintiff contracting mesothelioma and, therefore, the exposure was a cause of Plaintiffs' injury. These opinions deviated from the appropriate legal standard and useless to the jury. Instead, they served merely to confuse or mislead the jury as to the standard it was required to apply to Plaintiffs' claims. Accordingly, the opinions did not comport with Rule 403 and should have been excluded and/or stricken from the record. Hence, even if not stricken formally, the opinions did not follow the required legal standard and thus were not probative on the causation issue, and J&J is entitled to JNOV, or in the alternative a new trial.

4. The Court Erred in Allowing Plaintiffs' Late Tissue Digestion Evidence While Prohibiting J&J Defendants' Witness From Addressing the Findings.

Over objection, Plaintiff's expert, Dr. Longo, was permitted to offer evidence about his late analysis of Mr. Perry's lung tissue, even though J&J Defendants did not receive his conclusions until after trial began. This error permeated every aspect of the trial, placing J&J Defendants in an unfairly prejudicial posture before openings even began.

When counsel for J&J reacted, understandably, with surprise and concern over the lack of disclosure, the Court stated: "And you're going to, I think, pretty well be able to guess what he found" in the tissue digestion. 8/5/24 Perry Tr. 147:25-148:2. Trial should not be guesswork. J&J Defendants moved to exclude the tissue testing for that reason and the fact that their experts did not have time to complete a proper tissue digestion, which the court improperly denied. Only after J&J Defendants were forced in their opening to "guess" how the tissue digestion might impact their case did Plaintiffs produce the tissue digestion results and present their expert for deposition – at night – in the middle of trial.

Incredibly, Dr. Longo previously testified under oath that he would not have time to complete the tissue analysis before trial. Yet the Court prohibited J&J Defendants' counsel from

questioning the expert about the reliability of his rushed, litigation-generated evidence. Compounding this error, J&J Defendants' experts had no time to properly analyze the tissue themselves, nor were they allowed to offer case-specific alternative causation opinions for Mr. Perry's mesothelioma. But in closing, Plaintiffs' counsel cast this as Defendants' inability to find an expert: "In this country you can buy almost anything. You can pay people to eat bugs on TV or marry someone they've never met. You can pay experts to come into court and say smoking doesn't cause lung cancer, arsenic in the water doesn't cause leukemia. If you can afford it, you can pay for almost anything. Once we realized what was in Michael Perry's lungs, they couldn't find an expert on earth to come into this court and tell you they didn't do it." 8/14/24 Tr. 1884:22-1885:7. This crossed the line essentially requesting the jury to make an adverse inference from the fact that J&J Defendants chose not to call retained experts. And it went without sufficient correction by the court. *In re Gonzalez*, 409 S.C. 621, 763 S.E.2d 210 (2014) ("Because of the risk of unfairness that such adverse inferences could impose, we hold today that a party's invocation of the missing witness rule should be limited to fact witnesses, and it should not be applied to opinion witnesses).

The Court compounded these errors by prohibiting J&J Defendants' corporate and fact witness, Dr. Kuffner, from addressing Dr. Longo's alleged finding of winchite asbestos in Mr. Perry's tissue or addressing the history of winchite (or lack thereof) in Johnson's Baby Powder. This error alone is cause for a new trial, but combined with the admission of the late tissue digestion and the other evidentiary errors identified, the manifest injustice is blinding. Dr. Kuffner, the Chief Medical Officer overseeing the safety of Johnson's Baby Powder, was familiar with winchite asbestos, where it might originate, the mines Johnson & Johnson used, and whether winchite asbestos had ever been found in Johnson's Baby Powder, or their competitors' talc

products. Having Dr. Kuffner testify about what the company knows, and what he personally knew as CMO, about winchite, was essential to the J&J Defendants' case after the court permitted Plaintiffs to admit the late tissue digestion report. Dr. Kuffner would have explained that winchite is a form of asbestos associated with isolated mines in the United States – but not the mines used by the J&J Defendants when Mr. Perry was using Johnson's Baby Powder. He would also have addressed Plaintiffs' prior submission of Dr. Matt Sanchez's finding of winchite in a 1940's bottle of Johnson's Baby Powder, which Dr. Kuffner had reviewed. *See* Ct. Ex. 17 Proffer on Dr. Kuffner Winchite Testimony at Ex. B Sanchez Report on Longo Samples; *id.* at Ex. C Longo Affidavit at 19; *id.* at Ex. D PowerPoint Slides (Kuffner-1940s Talc). And Dr. Kuffner would have explained, as Dr. Longo had speculated, for a brief period in the 1940s during World War II, Johnson's Baby Powder talc had likely been sourced from California mines. *Id.* at Ex. E 8/7/2024 Tr. Transcript (Longo) at 900.

But the Court prohibited this crucial defense testimony: "That's why – what I'm going to do is strike any testimony by him about the geological arguments, winchite, or whether it – whether it occurs in various mines. He's not being offered for this. . . . But I direct you to move on, not ask him any further questions about the presence of winchite or anything." Trial Tr. at 1293:15-1294:1. When counsel for the J&J Defendants explained that her question only sought to illicit facts the corporate representative was familiar with, the Court stated in front of the jury that "I am not going to allow you to get around a ruling by saying 'as a corporate representative are you aware...'" *Id.* at 1294:11-13. By excluding this testimony, the Court undercut J&J Defendants' ability to rebut information that had already been admitted over objection and in error. Having Dr. Kuffner testify about what the company knows, and what he personally knew as CMO, about

winchite and what its presence means, was essential to J&J Defendants' case after the court permitted Plaintiffs to admit the late tissue digestion report.

J&J Defendants were also prohibited from introducing evidence that Mr. Perry had been exposed repeatedly to asbestos throughout his hotel employment. Mr. Perry worked in the Embassy suites in the 2000s. *See* Court Ex. 3, J&J Defs' Proffer at Ex. A Dep. of Michael Perry at 130. The Embassy Suites used a library – which was later condemned by the County for being “full of asbestos” – next to the hotel as a storage facility. *Id.* at 130-131, 279-280, 849. In the library, workers were “constantly” moving furniture around and hitting the ceilings, causing the ceilings to start caving in. *Id.* at 130-132. Mr. Perry testified that he physically went into the library on a semi-regular basis, “may be more than two times per month”. *Id.* at 278-79. Once inside the library, Mr. Perry would remain for “a long period of time”. *Id.* at 278-79. In fact, outside of litigation and several months before his deposition in this matter, on July 11, 2023, Mr. Perry informed his physicians of the potential exposures at the library. Court Ex. 3, J&J Defs' Proffer at Ex. B. 7/11/23 Office Visit, DX12000.398 (“He also use to work at embassy suites adjacent to the old county library which apparently had a lot of asbestos in the walls.”) In addition to eliciting the factual testimony outlined above, Defendants would have questioned Dr. Haber at length about the significance of Mr. Perry's asbestos exposure in the library. Indeed, in his report, Dr. Haber states that Mr. Perry's physician noted a “history of asbestos exposure from ‘working at the old library/Hotel Bennett downtown.” *Id.* at Ex. C., Dr. Haber Report at 7.

Significantly, Dr. Longo has testified that winchite and tremolite are asbestos fibers that can be found in building materials such as insulation, building fireproofing, and plasters. Ex. E, 1/18/24 Longo Dep. at 93:16-94:2. This newly disclosed evidence provides a direct link to the dust at the library and the fibers found in Mr. Perry's tissue.

The J&J Defendants should have been allowed to fully present evidence of alternative sources of asbestos exposure other than cosmetic talc. Such evidence supports the J&J Defendants' alternative asbestos exposure defense, as reflected in their Answer. See Def. J&J's Answer to Pl.'s Second Am. Compl. at 26 ("If [Mr. Perry] sustained injuries as a result of exposure to asbestos or asbestos-containing products, which is denied, then such injuries were or may have been due to exposure to products of manufacturers not named as defendants in this action").

The J&J Defendants' ability to present a full defense was hampered by their inability to fully discuss all of Mr. Perry's asbestos exposures.

5. The Court Failed to Perform Its Gatekeeping Function, Allowing Plaintiffs' Experts to Opine Well Beyond Their Qualifications.

Plaintiffs' star witness, pulmonologist Dr. Haber, was allowed to opine on topics so far outside of his expertise, he admitted having to take "geology courses" just to testify.

From this lone pulmonologist, Plaintiffs elicited detailed testimony about the various talc mines used by different companies in different products over decades, whether talc products were contaminated with asbestos, the mineral composition of asbestos, "selective mining" and "beneficiation" processes to explain how asbestos allegedly contaminates talc, the asbestos testing processes, as well as "industry" and "internal documents" from defendants. *See generally* 8/6/24 Trial Tr. (Haber testimony); J&J Defs MIL to Partially Exclude the Opinions of Dr. Steven Haber. Similarly, the Court improperly denied J&J Defendants motions to exclude testimony of Plaintiffs' experts Dr. Madigan and Dr. Longo—both of whom were allowed to offer opinions exceeding their qualifications or unsupported by any reliable methodology. *See* J&J Defs MIL to Partially Exclude the Opinions of Dr. David Madigan; J&J Defs MIL to Partially Exclude the Opinions of Dr. William Longo.

6. The Court Erred by Excluding Key Evidence Rebutting Plaintiffs' Failure to Warn, Negligence, Recklessness, and Willful and Wanton Claims.

Along with the errors already identified, the Court also excluded key evidence directly rebutting Plaintiffs' Failure to Warn, Negligence, Recklessness, and Willful and Wanton Claims. *See* J&J Defendants Proffers, Court Exs. 3, 9-17). Dr. Edwin Kuffner is a medical doctor and the Chief Medical Officer of Johnson & Johnson Services, Inc. Moreover, he has significant experience in many areas related to the production and safety of Johnson's Baby Powder, both from his professional work and his review of thousands of documents about talc and/or asbestos.

The exclusion of key documents, and the related testimony, unfairly prejudiced J&J Defendants by undercutting their defense and foreclosing essential rebuttal arguments. For instance, the Court excluded the FDA's 1986 letter response denying a citizen's petition to require a warning label on talc ("1986 FDA Response"). In the 1986 FDA Response, the FDA rejected a citizen's request to include an asbestos warning label on talc after reviewing dozens of studies, concluding that they were "of questionable reliability." Court Ex. 15 (J&J Defs. Proffer Re: Citizen's Petition). The response also states "...that even when asbestos was present, the levels were so low that no health hazard existed." *See id.* at Ex. A at 4. The 1986 FDA Response both rebuts Plaintiffs' claims that the defendants had reason to believe that talc was contaminated with harmful levels of asbestos and reflects on the reasonableness of the J&J Defendants' decision to continue selling talc without a warning label. *See* 2d Am. Compl. ¶40 (alleging J&J "failed to warn" its products "contained asbestos"). As reflected in the certified copy attached here, the FDA Response letter is over thirty years old, fitting neatly with the ancient documents exception to the hearsay rule. S.C.R.E. 803(16) ("Statements in a document in existence twenty years or more the authenticity of which is established."). Additionally, the 1986 Response Letter would have been offered for several reasons in addition to the truth of the matter asserted. For instance, Plaintiffs

alleged that J&J Defendants failed to include a warning on their product, that they knew that harmful levels of asbestos were in talc, and that they recklessly and wantonly continued to sell their product—without a warning label. Plaintiffs sought and were awarded punitive damages against J&J for this conduct. But the fact that the FDA issued a response letter refusing to require a warning label on the product and finding that, even if trace levels of asbestos were present it would not be harmful, goes directly to the reasonableness of J&J Defendants’ decision to continue selling its product without a warning label. Thus, the fact that the FDA conducted an investigation and issued a conclusion finding no significant risk and no need for a warning, whether the FDA’s findings later proved to be accurate, is relevant to resolving Plaintiffs’ claims against the J&J Defendants.

Similarly, J&J Defendants’ counsel attempted to discuss another key document with Dr. Kuffner – a 2019 Health Hazard Evaluation of Johnson’s Baby Powder (“HHE”) that he wrote, signed, and approved. Ct. Ex. 11, J&J Defs’ Proffer re HHE. Counsel intended to question Dr. Kuffner about this document not as an expert, but as a fact witness who was directly involved in preparing the document in the normal course of business as Chief Medical Officer. Despite his qualifications and familiarity with the document, the Court informed the jury that Dr. Kuffner is not an expert. “Ladies and gentlemen, let me put this on the record. This exhibit that Ms. Bueno had asked Dr. Kuffner about is an expert opinion. You may recall that experts get qualified in a particular subject. If they’re qualified, then they can express an opinion. Dr. Kuffner is the corporate representative. He can’t express some expert opinion.” 8/9/2024 Trial Tr. 1290:23-25.

If the Court had permitted his testimony, Dr. Kuffner would have testified about the HHE, which contains a variety of information, including, but not limited to, an exposure assessment which concluded that the allowable occupational asbestos exposures are at least 2 million times

higher than the potential consumer exposure reported at 0.00002 percent asbestos in talc. Dr. Kuffner would have testified about the conclusion of the HHE, that consumer exposure to the FDA's reported findings of asbestos would result in a *de minimis* risk to the consumer and that the use of the product was unlikely to result in adverse health consequences. Dr. Kuffner was prepared to testify about how and why he came to that conclusion in his role as Chief Medical Officer and why that was Johnson & Johnson's conclusion in 2019. This testimony would have been offered not only for the substance of the HHE, but to establish that the J&J Defendants were diligent in their efforts to investigate the presence of asbestos and confirm the safety of Johnson's Baby Powder. Counsel intended to question Dr. Kuffner about this document not as an expert, but as a fact witness who was directly involved in preparing the document in the normal course of business as Chief Medical Officer. This evidence rebuts Plaintiffs' claims that the J&J Defendants were negligent, reckless, wanton and willful in the continuation of Johnson's Baby Powder sales. This is not impermissible expert opinion testimony, but factual testimony about what Johnson & Johnson actually did—years before this case was even filed—to assure the safety of its cosmetic talc products.¹⁹

This error was amplified because Plaintiffs were allowed to question Dr. Kuffner at length about the experts the J&J Defendants retained for this case. *See* 8/9/2024 1211:10-15; *Id.* at 1210:11-16. Yet when J&J Defendants tried to address the issues raised in the expert report of one of their experts, Dr. Matt Sanchez, the Court prohibited Dr. Kuffner from discussing his independent knowledge as medical director regarding the presence of winchite in a 1940's bottle

¹⁹ The same arguments apply to the Court's exclusion of other proffered evidence, such as J&J's Comprehensive Review of the safety of Johnson's Baby Powder, which would have demonstrated not only the safety of the product, but also the J&J Defendants diligence and lack of negligence in continuing to sell the product. *See* Court Ex. 12 J&J Defs. Proffer re: Comprehensive Review.

of talc likely sourced from California. J&J Defendants raised the report to provide context to claims that Plaintiffs made about Dr. Sanchez's testing during the re-direct examination of their testing expert, Dr. William Longo. *See generally id.* at 1210:10-1212:25. By excluding this testimony from Dr. Kuffner, J&J Defendants were not provided with an opportunity to rebut information obtained for the first time in a re-direct examination of Dr. Longo.

Moreover, the Court interrupted J&J Defendants' questioning of Dr. Kuffner, voicing her (incorrect) understanding of a document that was being offered: "He's already told you that they withdrew from the market or recalled – I don't know exactly how they determined it – one lot consisting of many cases in a particular talc that had been tested. They withdrew it from the market the October 19, 1994, I believe it was." *Id.* at 1291:6-8. Then the Court implied that it was Defense counsel who had misrepresented the nature of Defendants' 2020 business decision to decommercialize Johnson's Baby Powder, referring to it as a recall. *Id.* at 1286:7-1291:21.

Not only did the Court inform the jury that Dr. Kuffner was not an expert (despite the fact he is a doctor), and confuse the issue about when and why Johnson's Baby Powder was manufactured, but also sua sponte interjected and struck the question and answer when Dr. Kuffner tried to discuss winchite, the type of asbestos fiber Plaintiffs' claim was found by Dr. Longo in Mr. Perry's lung tissue samples.

The jury respects the Court, which is the very reason for the restrictions set forth in *Day v. Kilgore*, supra. As a result, the jury looks to the Court's every word and gesture for guidance. Without question, the effect of the Court's mistaken commentary and incorrect ruling was to diminish Dr. Kuffner's experience and judgment in the eyes of the jury, as well as painting J&J Defendants' counsel in a negative light. This is why judges must "be cautious to see that such questions are propounded in a fair and impartial manner, and should not express or indicate to the

jury the judge's opinion as to the facts of the case or the weight or sufficiency of the evidence.” *Williams v. S.C. Farm Bureau Mut. Ins. Co.*, 251 S.C. 464, 472 (1968). This exchange and the limitations on the witness’s testimony has unquestionably marred the testimony of the J&J Defendants’ primary witness.²⁰

7. Plaintiffs’ Closing Arguments Contained Several Erroneous and Prejudicial Statements That Warrant A New Trial.

Finally, Plaintiffs’ closing argument violated all of the below prohibitions by the Courts in South Carolina, and the violations were so numerous that no curative instruction can repair them.

- Making an argument “calculated to arouse passion or prejudice.” *Gathers v. Harris Teeter Supermarket, Inc.*, 282 S.C. 220, 231, 317 S.E.2d 748, 755 (Ct. App. 1984)
- Making an argument “designed to inflame and prejudice the jury” and render a “verdict on passion rather than reason.” *Branham v. Ford Motor Co.*, 390 S.C. 203, 234–35, 701 S.E.2d 5, 21–22 (2010)
- Introducing evidence through arguments of counsel without supporting evidence. *Sulton v. HealthSouth Corp.*, 400 S.C. 412, 420, 734 S.E.2d 641, 645–46 (2012) (counsel referenced the defendant’s financial information which had no supporting evidence)
- Making an argument that is not based on the record evidence and reasonable inferences therefrom. *State v. Linder*, 276 S.C. 304, 278 S.E.2d 335 (1981)
- Giving counsel’s opinion as to a proper verdict amount, including a slide projecting a huge specific award they should give, and closing his argument with the words “Please value Michael Perry’s life,” without including the necessary mitigating commentary that he could not suggest a number for the verdict, as such was solely the function of the jury, described in *Howle v. PYA/Monarch, Inc.*, 288 S.C. 586, 600–01, 344 S.E.2d 157, 164–65 (Ct. App. 1986)

Though punitive damages were not considered in Phase 1 of the trial, Plaintiff’s counsel accused J&J Defendants of “unconscionable” acts and performing “the most heinous acts you can do to a human being” and “on babies.” 8/14/24 Tr. 1883:22-25; 1937:1-5; *see also* [cite] (Plaintiffs’

²⁰ By contrast, when Plaintiffs’ primary witness, Dr. Longo, was preparing to testify, the Court seemingly endorsed his importance and very broad-ranging forthcoming testimony to the jury as Plaintiffs’ primary witness. Trial Tr. 08/07/2024 806:8-11 (“Just for a preview then, members of the jury, one of the plaintiffs’ principal witnesses is appearing live here, and he’ll be lengthy.”)

counsel telling the jury in Phase 1: “You have to put a value on not just what they took *but how they took it, right?*”, “They told these dying people under oath the powder never contained [asbestos]. It tells you everything you need to know,” and “they stole his life.”). And in a later phase, counsel invited the jury to punish J&J Defendants for “selling the worst carcinogen in human history to children”—a false allegation that was not even arguably relevant in this adult mesothelioma case. 8/15/24 Tr. 2266:25-2; *see also* (Plaintiffs’ counsel referring to “unconscionable” and “shameful” conduct “on babies”).

The closing argument excerpts above, in addition to many others, crossed numerous lines. Plaintiffs’ counsel unquestionably suggested verdict amounts, talked about harm to third parties, incited the passion of the jury, and caused the jury to award a verdict not based on evidence, but on passion and caprice, and mischaracterized the law of substantial factor causation. As a result, the Court should have declared a mistrial here, and the failure to do so justifies a new trial absolute now. *See, e.g., Toyota of Florence, Inc. v. Lynch*, 442 S.E.2d 611 (1994) (new trial ordered on appeal where a vicious, inflammatory closing argument results in clear prejudice).

8. This Court Committed Prejudicial Error By Permitting the Jury to Hear Evidence of Improper Design and Manufacturing Defects Relating to J&J Defendants’ Product But The Verdict Form Contained Only a Question on Sale of the Product.

Evidence of the improper design and manufacturing defect should have been excluded under Rules 401 and 403 of the South Carolina Rules of Evidence because the question on the verdict form pertained to J&J Defendants’ sale of an allegedly defective product. Since the evidence of improper design and manufacturing pertains to matters that the jury was not charged with to decide on the verdict form in this case, the evidence is irrelevant. But even if such disputed evidence is marginally relevant, the prejudicial nature of the evidence substantially outweighed any minimal probative value.

C. J&J Defendants Are Entitled To A New Trial Because Of The Cumulative Impact Of This Court's Errors.

J&J Defendants submit that each of the errors claimed and argued *supra* entitle them to a new trial. Alternatively, they are entitled to new trial because of the cumulative effect of this Court's errors. *See, e.g., Cock-N-Bull Steak House, Inc. v. Generali Ins.*, 321 S.C. 1, 10, 466 S.E.2d 727, 732 (1996); *Wells v. Halyard*, 341 S.C. 234, 241, 533 S.E.2d 341, 345 (Ct. App. 2000). These errors included evidentiary errors, errors in the jury instructions, errors by counsel in closing argument, and erring by refusing to sever AII from J&J Defendants. The combined effect of these errors was to deprive J&J Defendants of a fair trial, making it virtually impossible to present a successful defense. The combined effect of this Court's errors in, *inter alia*, instructing the jury on causation—by not charging “but for” and “specific causation” and failing to define “substantial factor” causation—meant that the definition of causation in a toxic tort case put before the jury was significantly less robust (and significantly more plaintiff friendly- essentially anything more than zero causation) than South Carolina's law of substantial factor causation. For all of these reasons, J&J Defendants are entitled to a new trial absolute.

D. The Court Should Grant A New Trial Absolute Under The “Thirteenth Juror” Doctrine Because The Evidence Did Not Justify The Verdict.

The thirteenth juror doctrine “entitles the trial judge to sit, in essence, as the thirteenth juror when she finds ‘the evidence does not justify the verdict,’ and then to grant a new trial based solely ‘upon the facts.’” *Norton v. Norfolk S. Ry. Co.*, 350 S.C. 473, 478, 567 S.E.2d 851, 854 (2002) (quoting *Folkens v. Hunt*, 300 S.C. 251, 254, 387 S.E.2d 265, 267 (1990)). As the thirteenth juror, the trial judge hangs the jury by refusing to agree with the jury's unanimous verdict and casting his or her vote against it, resulting in a verdict which is no longer unanimous. *Id.* The court may grant a new trial, sitting as the thirteenth juror when it is convinced that a new trial is necessary on the basis of the facts. *Vinson v. Hartley*, 324 S.C. 389, 404, 477 S.E.2d 715, 722 (Ct. App. 1996).

Under the doctrine, a new trial may be granted where the court merely finds that “the verdict is unsupported by the evidence,” that “the verdict is inconsistent and reflects the jury’s confusion,” or that “justice has not prevailed.” *Id.* at 404, 477 S.E.2d at 722–23; *see also Trivelas v. S.C. Dep’t of Transp.*, 357 S.C. 545, 552, 593 S.E.2d 504, 508 (ct. App. 2004) (“[T]he evidence does not justify the verdict”); *Norton*, 350 S.C. at 480, 567 S.E.2d at 855 (stating the court “disapprov[es] of the verdict on factual grounds”); *McEntire v. Mooregard Exterminating Servs., Inc.*, 353 S.C. 629, 631, 578 S.E.2d 746, 747 (Ct. App. 2003) (characterizing use of doctrine as “granting a new trial upon the facts”).

The court’s discretion in granting or denying a new trial under the thirteenth juror doctrine is “‘founded upon the facts, the evidence, the witnesses, the trial circumstances, the verdict and the judge’s view of them.’” *Vinson*, 324 S.C. at 404, 477 S.E.2d at 723 (*quoting Fallon v. Rucks*, 217 S.C. 180, 189, 60 S.E.2d 88, 92 (1950)). Consequently, the court is entitled to “weigh the evidence and rely on his or her view of the circumstances.” *Sorin Equip. Co. v. The Firm, Inc.*, 323 S.C. 359, 364, 474 S.E.2d 819, 822 (ct. App. 1996).

In this case, the evidence on liability and damages “does not justify the verdict.” *Norton*, 305 S.C. at 478, 367 S.E.2d at 854. The court, as the thirteenth juror, should “hang” the jury and vacate the jury’s verdict here for the multiple reasons stated in this motion.

E. A new trial must be ordered because the Verdict Shocks the Conscience and Because the Punitive Damages Award Is Unconstitutional And Shockingly Excessive.

The trial judge should grant a new trial based on excessiveness of the verdict only if the amount is not merely different from that which he would have awarded, but is so grossly excessive so as to shock the conscience of the court and clearly indicates the figure reached resulted from caprice, passion, prejudice, partiality, corruption, or other improper motives. *Rush v. Blanchard*, 310 S.C. 375, 426 S.E.2d 802 (1993). Here, the actual damages verdict is grossly

excessive, and clearly influenced and impassioned by the closing arguments designed to incite and impassion the jury, that it shocks the conscience and must be set aside.

As comparables regarding which this Court is familiar, the Court has ordered new trial *nisi additur* for mesothelioma cases when it has adjudged the jury verdicts to be unduly conservative. For example, in *Jolly v. General Elec.*, 869 S.E.2d 819 (2021), this Court issued an additur order raising an actual damages personal injury award from \$200,000 to \$1,580,000, and a loss of consortium verdict from \$100,000 to \$290,000. The contrast between this *additur* ruling from this Court in *Jolly* and the jury's verdicts of \$23,656,250 for Mr. Perry in actual damages and \$9,000,000 loss of consortium alone demonstrates the excessive and shocking nature of the jury's verdict, which manifestly must result in a new trial absolute. As another example, this Court in *Edwards v. Scapa*, 878 S.E.2d 696 (Ct. App. 2022) increased a jury award via new trial nisi additur from \$600,000 to \$1,000,000 in a mesothelioma case. The contrast here between this Court's judgment on an appropriate additur sum and this jury's verdict is overwhelming and shocking.

Further, the evidence of loss of consortium damages in no way supports a \$9M award for Mr. Long. While no doubt having some loss, the testimony before the jury was simply nothing that could substantiate such an award²¹. Instead, it appears the jury simply followed Plaintiffs' counsel's request in closing argument, which was in no way grounded in any evidence, to award half the amount of non-economic damages awarded to Mr. Perry to Mr. Long. The jury is not allowed to simply fill in blanks with whatever numbers they choose. Nor can they do something as basic as award one-half noneconomic damages to Mr. Long as they do for Mr. Perry. That type of award is inconsistent with the Court's instructions on damages (as was the closing argument).

²¹ In addition, the Court improperly refused to allow into evidence medical records reflecting a lack of monogamy, separation, and marital discord, which would have impacted a loss of consortium claim.

The jury's \$30,000,000 punitive damage award is also grossly excessive and violates Johnson & Johnson's constitutional right to procedural and substantive due process. Plaintiffs failed to present evidence sufficient to meet the clear and convincing threshold required to recover punitive damages. S.C. Code Ann. § 15-32-520. As such, a proper post-judgment consideration of the punitive damages award demonstrates that this court should vacate the award in its entirety.

1. General Principles Governing Punitive Damages.

Punitive damages exist to punish a defendant for conduct which is clearly "willful, wanton, or undertaken in reckless disregard of plaintiff's rights." *Kuznik v. Bees Ferry Assocs.*, 342 S.C. 579, 611, 538 S.E.2d 15, 32 (Ct. App. 2000). Conduct is willful, wanton, or reckless when it is committed with a deliberate intention under such circumstances that a person of ordinary prudence would be conscious of it as an invasion of another's rights. It is the present consciousness of wrongdoing that justifies the assessment of punitive damages against the tortfeasor. *Cohen v. Allendale Coca-Cola Bottling Co.*, 291 S.C. 35, 40, 351 S.E.2d 897, 900 (Ct. App. 1986) (citation omitted) (emphasis added); see also *Lengel v. Tom Jenkins Realty, Inc.*, 286 S.C. 515, 519-20, 334 S.E.2d 834, 837 (Ct. App. 1985); *Cohen*, 291 S.C. at 40, 351 S.E.2d at 900 (reversing punitive damage award because there was "no proof of a present consciousness of wrongdoing on Allendale's part");

"Punitive damages may properly be imposed to further a state's legitimate interests in punishing unlawful conduct and deterring its repetition." *Gore*, 517 U.S. at 568. The state's interests in awarding punitive damages must remain consistent with the principle of penal theory that "the punishment should fit the crime." *Atkinson v. Orkin Exterminating Co.*, 361 S.C. 156, 164, 604 S.E.2d 385, 389 (2004) (quoting *Mathias v. Accor Econ. Lodging Inc. and Motel 6 Operating L.P.*, 347 F.3d 672, 676 (7th Cir. 2003)). That said, "while states possess discretion over the imposition of punitive damages, it is well established that there are procedural and

substantive constitutional limitations on these awards.” *Campbell*, 538 U.S. at 416. “To the extent an award is grossly excessive, it furthers no legitimate purpose and constitutes an arbitrary deprivation of property.” *Id.* at 417.

In *Mitchell v. Fortis Ins.*, 385 S.C. 570, 686 S.E.2d 176 (2009), the South Carolina Supreme Court articulated the test to be used in conducting post-judgment review of a punitive damage award based on the *Gore* guideposts. *Id.* at 587, 686 S.E.2d at 185. First, the court should consider “the degree of reprehensibility of the defendant’s conduct.” *Id.* Second, the court should consider “the disparity between the actual or potential harm suffered by the plaintiff and the amount of the punitive damages award,” known as the ratio. *Id.* at 587–88, 686 S.E.2d at 186. Third, the court “should consider the difference between the punitive damages awarded by the jury and the civil penalties authorized or imposed in comparable cases.” *Id.* Applying these factors shows that the \$30,000,000 million punitive damages award is unconstitutional and must be completely eliminated or, in the alternative, remitted.

2. Reprehensibility

Any court reviewing a punitive damages award must consider the degree of reprehensibility of the defendant’s conduct. *Fortis*, 385 S.C. at 587, 686 S.E.2d at 185. The factors to be considered include whether (1) the harm caused was physical as opposed to economic; (2) the tortious conduct evinced an indifference to or a reckless disregard for the health or safety of others; (3) the target of the conduct had financial vulnerability; (4) the conduct involved repeated actions or was an isolated incident; and (5) the harm was the result of intentional malice, trickery, or deceit, rather than mere accident. *Id.* “The existence of any one of these factors weighing in favor of a plaintiff may not be sufficient to sustain a punitive damages award; and the absence of all of them renders any award suspect.” *Campbell*, 538 U.S. at 419.

J&J Defendants did not engage in any reprehensible conduct based on these factors. As has been illustrated herein, J&J Defendants' conduct did not exhibit an indifference to or reckless disregard for the health or safety of others. To the contrary, the evidence at trial established that J&J acted in compliance with governmental and industry standards. Moreover, the jury found against Plaintiffs on their fraud claim. Therefore, this guidepost weighs in favor of this Court vacating the punitive damages award here.

3. Ratio

Where, as here, "compensatory damages are substantial, then a lesser ratio, perhaps only equal to compensatory damages, can reach the outermost limit of the due process guarantee." *Id.* (emphasis added). "The Supreme Court has reserved the upper echelons of constitutional punitive damage—a 9 to 1 ratio—for conduct done with the most vile of intentions." *In re Exxon Valdez*, 472 F.3d at 614 (citations omitted); *see also Casumpang v. Int'l Longshore & Warehouse Union*, 411 F. Supp. 2d 1201, 1220-22 (D. Haw. 2005) (1 to 1 ratio appropriate because the damages were substantial). Thus, even if J&J Defendants' conduct had been reprehensible, awarding Plaintiff \$30,000,000 million in punitive damages in connection with the jury's actual damages verdict, which should be substantially remitted at minimum, is a denial of J&J Defendant's due process rights and therefore unconstitutional.

4. Comparable Civil Penalty

Finally, the Court "should consider the difference between the punitive damages awarded by the jury and the civil penalties authorized or imposed in comparable cases." *Fortis*, 385 S.C. at 588, 686 S.E.2d at 186. This punitive damages award is not justified by comparing it to any civil or criminal penalties for similar conduct because J&J Defendants is not subject to any civil penalty for its alleged conduct. Thus, none of the *Fortis* guidelines support the constitutionality of the punitive damages award here.

Moreover, the purpose of punitive damages “is to punish the wrongdoer and to deter him and others from engaging in similar misconduct.” *Barnwell v. Barber-Colman Co.*, 301 S.C. 534, 537, 393 S.E.2d 162, 163 (1989). Not only was there no evidence that J&J Defendants were willful, wanton, or reckless, but the policy justifying punitive damages is not served here because J&J Defendants ceased the sale of talc-containing Johnson’s Baby Powder in the United States in 2020. 8/9/24 Transcript, at 1283:20-1284:2. There is simply no deterrence to J&J Defendants through a punitive damages award because J&J Defendants no longer manufacture or sell Johnson’s Baby Powder.

F. A New Trial Should Be Ordered Based On *State v. Wright*.

When conduct and comments of the Court inhibit counsel for a party from presenting a defense, a new trial should be ordered. *State v. Wright*, 248 S.E.2d 490 (1978). As recognized by one court, even well intentioned, active engagement by the trial judge is perilous:

Active involvement by a judge, however, must be done prudently. Even the most unbiased judge, by actively engaging in the trial, runs the risk of appearing to lack objectivity and may chill the attorney's capacity to represent the client's interest most effectively. A judge who makes comments that devalue a litigant's presentation midstream may not be forwarding the goals of a fair trial, but instead may lead the restricted party to believe that the judge is unwilling to listen. A judge who creates a courtroom atmosphere that appears unfair to the litigants may unintentionally cause the proceeding to become unfair. The litigants may react by abandoning a planned strategy or line of questioning that could affect the result or the record. A judge's participation should not overreach and disrupt a litigant's development of the evidence. Such behavior can transcend the bounds of proper judicial conduct and can go so far as to deprive a litigant of the right to a fair trial. *Western Maryland Dairy Corporation, et al. v. Brown*, 169 Md. 257, 266, 181 A. 468 (1935).

Ricker v. Ricker, 114 Md. App. 583, 594–95, 691 A.2d 283, 289 (1997).

A trial judge must act with absolute impartiality in the performance of judicial duties. *State v. Cooper*, 334 S.C. 540, 546 (1999). A trial judge must refrain from any comment which suggests her opinion about the weight or sufficiency of the evidence, the credibility of witnesses, or any

fact in controversy. *State v. Brisbon*, 323 S.C. 324, 331 (1996). And a trial judge must not make remarks that impugn the credibility of counsel and diminish her and her defense in the eyes of the jury. *State v. Simmons*, 267 S.C. 479, 483 (1975).

As argued in Defendants motions for mistrial, filed August 10th and 15th and incorporated here, from the pretrial hearing forward, conduct and comments of the Court inhibited J&J Defendants' counsel from presenting a defense.

1. The Hood-McBrayer Spoliation Order.

The Court's erroneous entry of the *Hood-McBrayer* spoliation order at the Pre-trial Hearing required the J&J Defendants to alter their trial strategy, which was further prejudicially impacted when the Court later changed the scope of that order. The J&J Defendants had no choice but to design their entire defense strategy for this case on the Court's improper pretrial ruling granting Plaintiffs' Motion in Limine No. 22 requesting entry of the *Hood-McBrayer* spoliation order²² in this case, an order issued by this Court in that separate case. By granting Plaintiffs' motion, the J&J Defendants were essentially foreclosed from presenting decades of negative asbestos testing because they did not keep backup data from the late 1900s. Indeed, the Court "shamed" J&J Defendants' counsel for arguing against the spoliation order and asking the Court to require Plaintiffs to comply with its provisions. Ex. F, 7/30/24 Pretrial Tr. at 154:9-156:2. Further, without notice, the scope of the order morphed throughout trial, further curtailing the evidence and argument J&J Defendants presented.

For example, although Plaintiffs originally requested and the Court originally ordered the "identical order" from *Hood-McBrayer* (*id.* at 150:5-156:10), those terms began to change. By its

²² This spoliation and adverse charge order is erroneous in the first instance, and the J&J Defendants herein incorporate by reference their arguments in that regard filed and made previously both in this case and in the *Hood-McBrayer* case.

express terms, the Order is only be triggered if the J&J Defendants introduce evidence of a negative test for asbestos in their product conducted or commissioned by the J&J Defendants. *Id.* Relying on Plaintiffs' motion and the contents of the *Hood-McBrayer* Order, the J&J Defendants conformed their opening statement and witness examinations to the plain language of the *Hood-McBrayer* Order. That is to say, they severely curtailed the scope of their defense to avoid triggering the Order. The J&J Defendants limited their cross-examination of Plaintiffs' experts and avoided introducing any evidence of negative testing conducted or commissioned by the J&J Defendants. Indeed, the J&J Defendants were so committed to this trial strategy that counsel announced at the start of trial they would employ a trial strategy that would not trigger the Order. 08/05/2024 Trial Tr. at 39:21-23 ("But I'm telling you right now that we do not intend to offer any evidence that would trigger this for the jury.")

But on the fourth day of trial, without warning, the Court changed course, announcing that "other" types of evidence could "open the door" to the *McBrayer* Order. 08/9/2024 Trial Tr. at 1022:24-1023:2 ("And I think the door has been opened, not just on Haber, but on other things that have been done that's put before the jury."). If the J&J Defendants had known that other evidence could trigger the spoliation charge, they would have approached trial differently. Largely in effort to avoid triggering the charge, J&J Defendants decided to forego calling witnesses in their case to address not only decades of Johnson & Johnson's negative asbestos tests, but the negative asbestos tests of the FDA and third-parties. Dr. Kuffner had been prepared to return in J&J Defendants case to do just that, but the threat of the spoliation charge foreclosed that option. J&J Defendants were forced to pullback argument and evidence related to virtually *any* negative testing evidence, not just negative tests performed by Johnson & Johnson that Plaintiffs proved lacked backup data.

The Court may not change a ruling in a manner that prejudices the J&J Defendants' reliance expectations, which were fully announced and known to all. *See Swietlowich v. Bucks County*, 610 F.2d 1157, 1164 (3d Cir.1979) (explaining that a trial judge who "decides to change ... an earlier ruling ... must also take appropriate steps so that the parties are not prejudiced by reliance on the prior ruling" and finding that "the plaintiff suffered no prejudice at trial ... since she was fully prepared to meet the limitations defense" (emphasis added)). The Court's mid-trial change substantially prejudiced the J&J Defendants because their entire trial strategy was based on the language of the Motion, the Order and the Court's pre-trial rulings. The fact that the Court ultimately did not give the jury the spoliation adverse inference charge makes no difference. The Court's adoption of the order at the pretrial hearing alone drastically impacted how the J&J Defendants tried this case, focusing on specific causation and foregoing direct evidence of years of negative asbestos tests on Johnson's Baby Powder. The Court's midtrial expansion of the order further narrowed the scope of evidence the J&J Defendants could offer without triggering the instruction.

2. The Court's exchanges with the J&J Chief Medical Officer Dr. Kuffner.

The South Carolina Supreme Court has long held that "'the trial judge, of course, has the right, in his discretion, and in a proper manner, to question witnesses during a trial, in order to elicit the truth.'" *Williams v. S.C. Farm Bureau Mut. Ins.*, 251 S.C. 464, 163 S.E.2d 212. The discretion applies until "it appears that the manner in which the judge exercised the right tended to unduly impress the jury with the importance of the testimony elicited, or would be likely to lead the jury to suppose that the judge was of the opinion that one party rather than the other was correct upon a particular issue of fact." *Fowler v. Laney Tank Lines, Inc.* 263 S.C. 422, 424 (1975). "In exercising discretion to question a witness, the trial judge must do so in an impartial manner that does not indicate the trial judge's opinion as to any fact or "have an unintended prejudicial effect."

Day v. Kilgore, 314 S.C. 365, 369 (1994). The Supreme Court has “restricted the trial judge's power to enter the realm generally reserved for the advocate.” *Id.* at 370. Here, the Court crossed this line.

Dr. Edwin Kuffner has significant experience in many areas related to the production and safety of Johnson’s Baby Powder, both from his professional work and his review of thousands of documents about talc and/or asbestos. As detailed above, J&J Defendants’ counsel attempted to discuss several key topics and documents with Dr. Kuffner, but was unfairly restricted by the Court. The limitations of Dr. Kuffner coupled with the Court’s exchanges castrated the J&J Defendants’ company story and the defense of Johnson’s Baby Powder by excluding key evidence and mischaracterizing other evidence.

3. A Different Standard for J&J Defendants

Outside the presence of the jury, the Court has applied a different standard to evidence offered by J&J Defendants than evidence offered by Plaintiffs. Further, and cumulatively, some of the Court’s statements during both pre-trial and trial have inhibited J&J Defendants counsel from presenting the case for the defense, in violation of *State v. Wright, supra*.

First, while discussing a motion related to evidence of LTL’s bankruptcy, the Court repeatedly stated or suggested that the bankruptcy proceeding was illegitimate. (*See, e.g.*, Ex. F 7/30/2024 Hr’g Tr. 174:13-175:2 (“Well, why did they engage in this type of restructuring? To avoid liability. That’s the only reason they did it. I was here with a bunch of these J&J cases on my docket when all of that came down. And all of them were stopped and stayed by a bankruptcy that turned out to be not legitimate. And then we went through the Texas two-step. That turned out not to be legitimate. These -- these corporations weren’t established for some theoretical idea of restructuring. They were structured to try to throw all the liability into a corporation that had no assets so J&J can go on their merry way forward.”); 153:18-154:4 (“[Y]our client has jumped

through every hoop imaginable from the Texas two-step to Lord knows what to put a stop on the trial of Johnson & Johnson cases in state court, and that includes in this court”); 172:21-173:7 (“[Y]ou all are the ones that created this monster with this bankruptcy, that was later dismantled, and with this Texas two-step and all the rest of it.”); 175:21-24 (“Legitimate bankruptcies cannot be the basis of a fraud. This didn’t turn out to be in that conventional framework.”)

These statements by the Court are simply not factually accurate. Contrary to the Court’s statement that LTL had “no assets” or somehow constituted a ploy to “avoid liability,” the Third Circuit found the exact opposite. It dismissed the bankruptcy because LTL had **too many** assets and acknowledged the irony that its ruling essentially stemmed from the fact that the company was structured in a manner **too generous** to talc claimants. *See In re LTL Mgmt., LLC*, 64 F.4th 84, 110-11 (3d Cir. 2023) (“We do not duck an apparent irony: that J&J’s triple A-rated payment obligation for LTL’s liabilities, which it views as a generous protection it was never required to provide to claimants, weakened LTL’s case to be in bankruptcy.”). It is the bankruptcy court, not a state court, who has sole jurisdiction over bankruptcy issues, including finding whether the bankruptcy petition was filed in bad faith. *See Gonzales v. Parks*, 830 F.2d 1033, 1035-36 (9th Cir. 1987) (“State courts are not authorized to determine whether a person’s claim for relief under a federal law, in a federal court, and within that court’s exclusive jurisdiction, is an appropriate one. Such an exercise of authority would be inconsistent with and subvert the exclusive jurisdiction of the federal courts by allowing state courts to create their own standards as to when persons may properly seek relief in cases Congress has specifically precluded those courts from adjudicating.”); *see also Choy v. Redland Ins. Co.*, 127 Cal. App. 4th 789, 799 (2002) (“Congress’s authorization of certain sanctions for filing of frivolous bankruptcy petitions should be read as an implicit rejection of other penalties, including the kind of substantial damages awards that might

be available in state court tort suits. Even the mere possibility of being sued in tort in state court could in some instances deter persons from exercising their rights in bankruptcy.”) (emphasis added); *Shiner v. Moriarty*, 706 A.2d 1228, 1238 (Pa. Super. Ct. 1998) (citing *MSR Expl., Ltd. v. Meridian Oil, Inc.*, 74 F.3d 910, 916 (9th Cir. 1996)) (“The insertion of state tort standards into the bankruptcy process poses significant interference with federal regulation in that area, creating a situation ‘where the specter of additional litigation must haunt virtually every actor in a bankruptcy proceeding’.”)

The Court also sharply criticized other actions taken by the J&J Defendants and others in the cosmetic industry, for instance referring to ordinary (and constitutionally-protected) public relations and government engagement as “shenanigans... to hide the ball from the public to pressure the governmental entities.” Ex. F 7/30 Pretrial Hr’g Tr. 74:3-5; *see also id.* 78:9-13 (making unsupported claim that FDA testing was “wrong” and “influenced” by the cosmetic industry to justify hiding it from the jury). And the Court asserted as a fact that “it was known for years [talcum powder] had asbestos in it” (*id.* 191:3-5), essentially announcing its views on a central merits question at the trial.

Second, the Court repeatedly seemed to disparage the J&J Defendants’ expert witnesses in a manner that suggested it had already adopted Plaintiffs’ view of contested scientific issues.²³ While it is reasonable for the Court to comment on science when exercising its role as the gatekeeper of expert evidence, the Court’s comments went beyond evaluation of expert

²³ The Court also disparaged defense attorneys generally. For instance, in discussing a defense motion, the Court referred to the Reptile Theory, which by most accounts was popularized in a book by and for plaintiffs’ lawyers, as “that crazy thing that the defense invented as a scare tactic.” Ex. F 7/30 Pretrial Hr’g Tr. 160:1-4. At another point the Court said it was “ashamed of [counsel] for making” an argument. *Id.* 155:23. This comment chilled defense counsel from making legitimate arguments consistent with this Court’s previous orders.

methodology under Rule of Evidence 702. For instance, the Court claimed it to be “common knowledge” that “talc with asbestos causes mesothelioma,” which is the Plaintiff’s theory of the case and is opposed by the J&J Defendants. The J&J Defendants do not believe this is true, nor is it common knowledge. *Id.* 217:11-20. The Court’s seeming embrace of Plaintiffs’ theory of the case before trial creates an appearance of lack of impartiality.

As another example, the Court referred to Dr. Sanchez’s definition of asbestos (to include only asbestiform minerals) as “totally discredited . . . in this day and age” and “mind-boggling” “nonsense.” *Id.* at 114:24-115:2, 120:7, 124:21-125:4; *see also id.* 123:9-15 (claiming definition of asbestos was “thoroughly discounted” and had been invented by a J&J contractor); *Id.* at 116:14-25 (“nothing to do with the asbestos properties that are identified by most experts”). The Court then claimed there is “a vast amount of material . . . that says that talc does have asbestos in it.” *Id.* 218:9-12. The Court also suggested that Dr. Sanchez’s testimony would be unhelpful because “you got a guy who defines asbestos in a very different way.” *Id.* 125:2-4. But no defense expert defines asbestos differently than Dr. Sanchez. Unlike Plaintiffs’ advocated definitions, Dr. Sanchez’s definition of asbestos is consistent with the one used by federal regulatory agencies, such as the Occupational Safety Hazard Administration and Environmental Protection Agency, and accepted by the International Agency for Research on Cancer. Finally, while discussing trial length, the Court referenced the duration of Dr. Sanchez’s testimony in a previous trial and promised it would “never repeat that again.” *Id.* 114:10-12. The Court then went so far as to state that if any expert attempted to explain asbestos detection in talc as “lab contamination” the Court would likely strike all the testimony and “instruct the jury to draw an adverse inference.” A key part of Dr. Sanchez’s testimony was describing the various ways of detecting asbestos in talc, including false positives and times when his lab has detected false positives in Johnson’s Baby

Powder due to contamination. Faced with the improper threat of an adverse inference, J&J Defendants had no choice but to pull that expert from trial. This violates the principles set forth in *State v. Wright, supra*. No similar statements have been made about Plaintiffs' experts.

The Court granted Plaintiffs' motion to compel regarding Defendants' corporate witness who had already been deposed for four days on the successor liability issues here. The Court ruled that an additional deposition was required to take place over the weekend between trial days because Plaintiffs were entitled to additional discovery of evidence of Defendants' financial transactions. This Order contrasts the Court's ruling allowing Plaintiffs' expert, Dr. Longo, to offer new opinions about a previously undisclosed tissue digestion. J&J Defendants found out about the existence of this new test just before opening statements and were not provided information about the findings at that time. (8/5/2024 Trial Tr. 72:3-6.) When counsel for the J&J Defendants reacted, understandingly, with surprise and concern over the lack of disclosure, the Court stated: "And you're going to, I think, pretty well be able to **guess** what he found" in the tissue digestion. (8/5 Trial Tr. 147:25-148:2.) (emphasis added). J&J Defendants moved to exclude the tissue testing for these reasons and the fact that their experts did not have time to complete a proper tissue digestion, which the court improperly denied. Only after the J&J Defendants were forced in their opening to "guess" how the tissue digestion might impact their case did Plaintiffs produce the tissue digestions results and present Dr. Longo for deposition – at night – in the middle of trial. Plaintiffs, on the other hand, were granted sanctions against Holdco and LLT Management LLC for purportedly failing to sufficiently answer some questions during the course of **four days** of corporate representative deposition testimony prior to trial.

Exacerbating the conditions faced by J&J Defendants' counsel, Plaintiffs' counsel repeatedly accused multiple members of defense counsel team and/or their client of being

“criminals” who are “unethical” and “work for a criminal organization.” 8/9/2024 Tr. 1164:20-1165:15 (recounting accusations). Counsel threatened J&J’s lead counsel that he would take her law license. He threatened another member of the team that he was going to “do to you worse than what we did in Lee,” his last trial against J&J before Perry. These statements were made in an aggressive and angry manner, accompanied by body language reflecting hostility and personal contempt. When J&J’s counsel reported this behavior to the court, Plaintiff’s counsel denied having made the statements. This denial was greeted by audible gasps from almost everyone in the courtroom who heard his outburst. Although acknowledging the “ugly confrontation between the parties” the court ultimately did nothing but verbally chastise Plaintiff’s counsel and suggest the parties “turn the page.” 8/9/2024 Tr. 1165:16-22. Defense counsel was forced to try this case amid constant threats of sanctions, personal attacks, and threats against their law license.

The J&J Defendants thus believe that they have not been treated similarly to plaintiffs, culminating in the improper interjection of questioning by the Court of Dr. Kuffner, the corporate representative, and they were inhibited from putting on a defense.

V. FAILING ALL OF THE ABOVE, THE COURT SHOULD GRANT A NEW TRIAL NISI REMITTITUR.

If the Court declines to order JNOV or Directed Verdict or a New Trial Absolute, which it should do, then it should at minimum order a new trial *nisi remittitur*. “When a party moves for a new trial based on a challenge that the verdict is either excessive or inadequate, the trial judge must distinguish between awards that are merely unduly liberal or conservative and awards that are actuated by passion, caprice, or prejudice.” *Riley v. Ford Motor Co.*, 414 S.C. 185, 192, 777 S.E.2d 824, 828 (2015) (quoting *Allstate Ins. v. Durham*, 314 S.C. 529, 530, 431 S.E.2d 557, 558 (1993)). See also Harry M. Lightsey & James F. Flanagan, *South Carolina Civil Procedure* (2d ed. 1985) (explaining the “grossly inadequate or excessive” standard is met where “the result [of

trial is] so unusual that the Court must infer that the jury's deliberations were improperly affected and cast doubt not only on the amount of damages returned but also on the determination of liability”). It is only when the trial court deems the verdict inadequate or excessive—but not grossly so—that the trial court has the authority to grant a new trial *nisi*.

In determining whether any verdict is inadequate or excessive, however, the court must give “substantial deference” to the jury's determination of damages. *Rush v. Blanchard*, 310 S.C. 375, 379, 426 S.E.2d 802, 805 (1993) (citing *Brabham v. S. Asphalt Haulers, Inc.*, 223 S.C. 421, 430, 76 S.E.2d 301, 306 (1953)); *Harrison v. Bevilacqua*, 354 S.C. 129, 140, 580 S.E.2d 109, 115 (2003). The need to give this deference arises from article I, section 14 of the South Carolina Constitution, which provides, “The right of trial by jury shall be preserved inviolate.” S.C. CONST. art. I, § 14. Thus, every party to a civil jury trial “is entitled to the constitutional privilege of the fair judgment of a jury” and a court must “not interfere with the verdict of a jury simply because it is greater [or less] than its own estimate.” *Brabham*, 223 S.C. at 430, 76 S.E.2d at 306. The trial court must justify its ruling by giving “compelling reasons” for invading the jury's province. *See, e.g., Riley*, 414 S.C. at 193, 777 S.E.2d at 829 (quoting *Bailey v. Peacock*, 318 S.C. 13, 14, 455 S.E.2d 690, 691 (1995)).

Here, there are compelling reasons for remittitur. For example, the evidence simply does not support the massive loss of consortium award to Mr. Long. Nothing unusual about his loss of services of explained to in detail to justify a \$9M loss. Again, there is no attempt here to deny that he has suffered loss. But the jury’s award is grossly excessive or, failing that, overly liberal. The award to Mr. Perry is also shockingly excessive and, failing that, overly liberal. Mr. Perry’s disease has, fortunately, been treated at least temporarily by his treating doctors and he appeared for most of the two-week trial in court in Richland County. While without question he suffers

from a terrible disease, he is ambulatory and self-sufficient, and was physically well-composed and able to testify during the trial, demonstrating his current state of health. An example of a remittitur order can be taken from *Garvin v. CraneCo.*, a matter presided over by Judge (now Justice) Gary Hill. There, the jury verdict was for \$10 million actual damages to Mr. Garvin (mesothelioma), \$11 million in punitive damages, and \$1 million in loss of consortium damages. Then Judge Hill reduced the award there from \$10 million to \$1.5 million, and reduced the punitive damages from \$11 million to \$3.5 million. In essence, Judge Hill, via *nisi remittitur* order, awarded slightly over three times the actual economic damages in actual damages and remitted the punitive damages down a number with which he was comfortable regarding the evidence.

In this matter, the Court should look to its own additur order in other mesothelioma cases, and, if it declines to set aside the jury verdict entirely, it should remit it substantially to 3 times economic losses (stipulated to by the J&J defendants, not the guess regarding additional future medicals speculated to by Plaintiffs' counsel in closing argument), and set aside the punitive damages entirely.

Respectfully submitted,

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Columbia, South Carolina
August 26, 2024

Exhibit A

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF
COMMON PLEAS
FOR THE FIFTH
JUDICIAL CIRCUIT

- - -

MICHAEL L. PERRY AND LONNIE	)	
L. LONG,	)	
	)	
Plaintiffs,	)	
	)	Case No.
vs.	)	2023-CP-40-04072
	)	
AMERICAN INTERNATIONAL	)	
INDUSTRIES, ET AL.,	)	
	)	
Defendants.	)	

TRIAL BEFORE: THE HONORABLE JEAN H. TOAL
DAY 1

DATE TAKEN: Monday, August 5, 2024

TIME BEGAN: 9:00 a.m.

TIME ENDED: 5:39 p.m.

LOCATION: Richland County Judicial Center
1701 Main Street
Courtroom 3B
Columbia, South Carolina

REPORTED BY: Cynthia First, RPR, CRR
EveryWord, Inc.
P.O. Box 1459
Columbia, South Carolina 29202
803-212-0012

1 MS. BUENO: On Tuesday, during pretrial
2 argument, plaintiffs filed a motion in limine
3 to apply the McBrayer order here. You granted
4 that motion. Plaintiffs have given you what
5 they intend to be the J&J spoliation
6 instruction you will give. That's before Your
7 Honor right now.

8 We have reviewed this and we see no
9 problem with it, but there is a catch. I want
10 to let the Court know that Johnson & Johnson
11 has made a strategic decision, in light of the
12 evidentiary ruling that you've offered in this
13 case, we are not going to be offering any
14 evidence in this trial in front of this jury
15 that would trigger a spoliation instruction.

16 So here is what I ask Your Honor to do. I
17 ask Your Honor not to charge this, to wait for
18 the evidence. And to the extent Your Honor
19 thinks that we've done something to trigger it,
20 then we can have that discussion and argument.
21 But I'm telling you right now that we do not
22 intend to offer any evidence that would trigger
23 this for the jury.

24 And that, again, is a decision we've made
25 only because of Your Honor's adverse ruling in

1 before, but send it up to me and we'll revisit
2 it sometime later today.

3 MS. MCVEY: And, Your Honor, Dr. Longo has
4 concluded the tissue digestion and is in the
5 process, I think, today. And we'll be able to
6 put him up for a, you know, short deposition.

7 THE COURT: Well, Longo is not going
8 today, is he?

9 MS. MCVEY: No.

10 THE COURT: Well, then we can figure this
11 out before that.

12 MS. BUENO: Yes, but, Your Honor, we
13 cannot have an opening statement before we know
14 what Dr. Longo says he found in this tissue.
15 This is unbelievable that we now have tissue
16 testing coming in after we're going to start
17 trial, where Dr. Longo is going to say he found
18 something that we haven't even been able to
19 discover yet. This has to be excluded, Your
20 Honor.

21 THE COURT: I hear.

22 MS. MCVEY: Your Honor, we discussed this
23 at length, of course, and I'll let Mr. Adams
24 speak to the digestion.

25 THE COURT: I'm not going to talk about

1 issue to me. The issue is whether it's
2 admissible. I find it is admissible.

3 MS. BUENO: Your Honor, we cannot start
4 this trial and provide an opening statement
5 without understanding what testimony Dr. Longo
6 is going to come into this courtroom and talk
7 to the jury about.

8 THE COURT: Well, I disagree with that.
9 You can certainly say what you want to say
10 about tissue digestion, but I'm not going to
11 stop the trial and say they can't mention it
12 simply because they were able to perform it and
13 you were not.

14 In terms of knowing what Dr. Longo says,
15 my bet is, just a bet, that as experienced as
16 you lawyers are in this little particular slice
17 of evidence, that what Dr. Longo says is going
18 to come as no surprise to you.

19 MS. BUENO: It will come as a surprise to
20 me, Your Honor, because he said less than three
21 weeks ago that he was not able to get this
22 done.

23 THE COURT: That has no bearing on the
24 admissibility of it. Able to get done is not
25 something. What he found is the something.

1 And you're going to, I think, pretty well be
2 able to guess what he found.

3 MS. BUENO: I am not able to guess.

4 THE COURT: Well, then, I'm sorry for
5 that, but I am not going to do anything about
6 not admitting this evidence and I'm not doing
7 anything about excluding the mention of this
8 evidence in opening statement.

9 MS. BUENO: When can we get this evidence,
10 Your Honor?

11 THE COURT: I don't know, but I'm not
12 debating that with you right now. I'm going to
13 rule on these things and bring this jury in.
14 And it's past time to bring them in as it
15 stands. I've made my ruling.

16 MS. MCVEY: Your Honor, just to be
17 clear --

18 THE COURT: I have made my ruling.

19 MS. MCVEY: I was going to agree with you.

20 THE COURT: There's a rule that says when
21 the judge makes a ruling, you move on. I have
22 ruled.

23 MS. BUENO: Final issue, Your Honor.

24 THE COURT: Yes, ma'am.

25 MS. BUENO: Dr. Barlow, we mentioned her

1 exposure to cosmetic talc causes mesothelioma?

2 A I've never tested any kind of product.

3 That's not what I've ever done.

4 Q You've never exposed rats or mice to
5 cosmetic talc, right?

6 A True.

7 Q And you talked about all the articles
8 you've published, but you've never written any
9 articles on cosmetic talc, correct?

10 A No, just in asbestos because talc doesn't
11 cause mesothelioma. Asbestos does.

12 Q I told the jury earlier today that dose
13 matters. And you agree with that?

14 A Of course.

15 Q You agree with me that asbestos-related
16 mesothelioma is what we call a dose-response
17 disease?

18 A Correct.

19 Q That means the greater the dose of
20 asbestos, the greater the risk of developing
21 mesothelioma?

22 A Certainly.

23 Q And conversely, the smaller the dose means
24 less risk?

25 A Certainly.

1 thimble, don't forget, so...

2 Q Sure. So over our lifetime, you agree we
3 accumulate billions of asbestos fibers in our lungs?

4 A It's possible. Not everybody does that,
5 but it's possible.

6 Q You can pull up slide 1, please.

7 These billions of asbestos fibers in our
8 lungs that we all breathe, they're just one of the
9 many things we live with and our bodies know how to
10 handle, correct?

11 A I agree.

12 Q As a general principle, there actually is
13 a safe level of asbestos exposure, that being
14 background. True?

15 A It appears that way for most people, yes.

16 Q There's no measurement of disease from the
17 background level, correct?

18 A If that's all one is exposed to, correct.

19 Q And in layman's terms, that means anybody
20 walking around, it's safe to breathe the background
21 level. True?

22 A As far as we can tell, yes.

23 Q Let's talk about what the background level
24 is. When we talk about the background levels of
25 dust or particles in the air, sometimes researchers

1 use fibers per cc, correct?

2 A Right.

3 Q And a cc is a cubic centimeter, kind of
4 like a sugar cube size, right?

5 A That's right.

6 Q And you agree that .006 fibers per cc is a
7 background number from the National Institute of
8 Occupational Safety and Health that you have
9 testified about before, correct?

10 A Yes.

11 Q I'm going to try to use this ELMO. And if
12 I can't do it, we'll make do, Dr. Brody.

13 TECHNICIAN: Hit the little button in the
14 middle that says -- add, article, then circle.

15 THE COURT: That's the focus button.

16 MS. BUENO: Thank you, Judge.

17 BY MS. BUENO:

18 Q There. How about that? All right.

19 A I'm getting tired of seeing me.

20 Q .006 fibers of -- fibers per cc is what
21 you've testified about as a background level,
22 correct?

23 A It's a high background, correct.

24 Q And you've even testified before that
25 there are background levels of exposure as high as

1 .01, true?

2 A Well, it depends on where you are. I
3 mean, if you're outside a shipyard or a place where
4 asbestos is being used, sure, you can get higher
5 than that even.

6 Q And even at that level, the NIOSH, the
7 National Institute of Occupational Safety and
8 Health, .006 fibers per cc, there is no increased
9 risk of mesothelioma, correct?

10 A Correct.

11 Q And just so the jury understands, that's
12 breathing that .006 fibers per cc day in, day out,
13 every day of your entire life. And there's no
14 evidence that causes cancer, true?

15 A Well, I don't know if they know what a
16 person is breathing every day, every minute of their
17 life, but as a general principle, that's what that
18 means, yes.

19 Q And, again, that's breathing that .006
20 fibers per cc of asbestos day in and day out over
21 one's entire life, correct?

22 A I'm saying I don't know that you get to
23 know everything that's going in every minute, but as
24 a general principle, that's the way they measure it,
25 yes.

1 Q As a general principle at that level, that
2 doesn't cause cancer, correct, Dr. Brody?

3 A As far as we know.

4 MS. BUENO: Thank you. I have no further
5 questions.

6 THE COURT: Thank you. Redirect?

7 MR. ADAMS: Very brief, Your Honor.

8 THE COURT: Good.

9 - - -

10 REDIRECT EXAMINATION

11 - - -

12 BY MR. ADAMS:

13 Q Dr. Brody, very quickly, I just want to
14 follow up on the background level, 0.006, that the
15 lawyer for Johnson & Johnson just asked you about.
16 Do you remember that?

17 A Sure.

18 Q And you indicated that's a very high
19 background. Do you remember that?

20 A I don't know if I said "very," but it is a
21 high background.

22 Q What's a more typical background?

23 A Well, instead of -- instead of two zeros
24 in front of, you see five or six zeros. So .006
25 means that you'd need a thousand sugar cube volume,

CERTIFICATE OF REPORTER

I, Cynthia First, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify: That the proceedings and evidence are contained fully and accurately in the notes taken by me in the above cause and that it is a correct transcript of the same.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof. Witness my hand, I have hereunto affixed my official seal this 5th day of August 2024, at Chapin, Lexington County, South Carolina.

Cynthia First,
Registered Professional Reporter
Notary Public
State of South Carolina at Large
My Commission expires:
October 16, 2028

IN THE COURT OF
COMMON PLEAS
FOR THE FIFTH
JUDICIAL CIRCUIT

— — —

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TRIAL BEFORE: THE HONORABLE JEAN H. TOAL
DAY 2 - Morning Session

14	DATE TAKEN:	Tuesday, August 6, 2024
15	TIME BEGAN:	9:00 a.m.
16	TIME ENDED:	5:02 p.m.
17	LOCATION:	Richland County Judicial Center
18		1701 Main Street
19		Courtroom 3B
20		Columbia, South Carolina
21	REPORTED BY:	Cindy A. Hayden, RMR, CRR
22		EveryWord, Inc.
23		P.O. Box 1459
24		Columbia, South Carolina 29202
25		803-212-0012

1 BY MR. ADAMS:

2 Q. Let's start with: What disease does
3 Mr. Perry have?

4 A. He has mesothelioma.

5 Q. What caused Mr. Perry's mesothelioma?

6 A. Asbestos.

7 Q. Did the Johnson's Baby Powder that
8 Mr. Perry used for nearly five decades play a role
9 in his mesothelioma?

10 A. Yes.

11 Q. Can you tell us about your evaluation
12 of Mr. Perry?

13 A. Yes. So I reviewed all the medical
14 records from Medical University of South Carolina,
15 from his pulmonologist, from all of his treating
16 doctors. I reviewed every page of those records.

17 I reviewed a number -- if you go to
18 the next slide here. So, chest X-rays, 15 chest
19 X-rays, 4 CT scans, PET scans, MRIs of the chest.

20 In addition, I called him up, and I
21 talked with him on the phone and got my own
22 history and -- and evaluation of him personally.

23 I've looked at other expert reports.
24 I've read through the deposition testimony in this
25 case and other materials in order to come up with

1 But then as you age, it's not like if you turn 83
2 you don't have any life expectancy anymore.

3 But as a 53-year-old, almost 26 years
4 is the life expectancy of someone like -- like
5 Mr. Perry had he not gotten mesothelioma.

6 Q. And there are specific South Carolina
7 life expectancy tables for folks in South
8 Carolina. If that life expectancy, which I think
9 the jury will be instructed on, is 25.65 years, is
10 that in line with what you've reviewed?

11 A. Right. It's exactly in line.

12 Q. We touched on what asbestos is
13 yesterday with Dr. Brody. We went very quickly,
14 and I don't want to duplicate anything. But, as a
15 medical doctor, can you tell us what asbestos is?

16 A. Sure. And, you know, in -- whenever
17 as a doctor when we're dealing with
18 asbestos-related diseases, almost invariably the
19 first sentence is, "Asbestos is one of these six
20 minerals" -- they can do a chemical analysis and
21 see what the mineral is -- "and it's in fibrous
22 form."

23 And if you have one of those six
24 minerals in fibrous form, that is what is asbestos
25 and that's what causes a whole host of

1 asbestos-related diseases.

2 Q. And just so folks understand why we're
3 asking some of these questions, do you understand
4 that one of the things the jury will be asked to
5 do on that last section is evaluate Mr. Perry's
6 pain and suffering and put a dollar value on that
7 if we prove our case?

8 A. I understand.

9 Q. Okay. And then for -- well, why are
10 we talking about this definition of asbestos, just
11 so people understand?

12 Are you familiar with how Johnson &
13 Johnson hires a geologist to come in and give a
14 different definition of asbestos? Are you
15 generally familiar with that?

16 MS. BUENO: Objection, Your Honor.
17 This is outside his role as a pulmonologist
18 and internal medicine doctor.

19 THE COURT: Overruled.

20 THE WITNESS: Yes. I am aware that
21 they have hired experts that have used a
22 different definition than even Johnson &
23 Johnson have used and science have used.

24 BY MR. ADAMS:

25 Q. So that's why we're spending the time

1 going over this.

2 So one of the six minerals and in
3 fibrous form?

4 A. Yes.

5 Q. Okay. What are we looking at here?

6 A. So these are the fancy names. There's
7 chrysotile, amosite, crocidolite. And then those
8 are the ones that they use in commercial industry.

9 So they were used in products that as
10 I, as a doctor, then, would -- maybe someone who
11 was occupationally exposed because they were doing
12 some occupation, then I have to have an
13 understanding of those because those were -- those
14 are used.

15 Then you have the noncommercial ones:
16 tremolite, anthophyllite, actinolite. And those
17 are ones that can be found in -- in nature, but
18 they're not -- they weren't used as commercial
19 properties because they weren't as useful than the
20 commercially used ones. They're still all
21 dangerous, and they still all cause mesothelioma
22 and a lot of other cancers.

23 Q. And so if you have one of those six
24 minerals and it's in fibrous form, what do you
25 have?

1 only makes up about 2 percent of that background.
2 So the amphibole -- if you're comparing amphiboles
3 to amphiboles -- and even, again, all those are
4 short-fiber.

5 If you're comparing long-fiber
6 amphibole to long-fiber amphibole, the amount of
7 asbestos at .1 to 4 fibers per cc is a millionfold
8 more.

9 Q. Were Michael Perry's exposures to
10 asbestos from Johnson & Johnson's Baby Powder a
11 substantial contributing factor to his development
12 of mesothelioma?

13 A. In my opinion, yes.

14 Q. I'm going to ask you about if Michael
15 Perry's exposures had only gone from 1979 to
16 2019 and we assume that -- I know it's not what
17 actually happened. But if his only exposures to
18 Johnson's Baby Powder were in that shortened time
19 period.

20 Are you with me?

21 A. Yes.

22 MS. BUENO: Your Honor, I object to
23 the slide that's being shown to the jury
24 right now, as it relates to Kenvue, Inc.,
25 which is not something that this witness is

1 here or prepared to discuss.

2 Do you see that on the slide,

3 Your Honor?

4 THE COURT: Overruled. Overruled.

5 THE WITNESS: I didn't hear the

6 question. I'm sorry.

7 BY MR. ADAMS:

8 Q. If Mr. Perry's exposures were only
9 from 1979 to 2019 to Johnson's Baby Powder, is it
10 your opinion that they -- those exposures were a
11 substantial contributing factor to his development
12 of mesothelioma?

13 A. Yes. We've still got 40 years and his
14 type of usage, yes.

15 Q. You have a list of other things that
16 you've relied on for your opinion that -- that
17 Mr. Perry's exposures to asbestos and Johnson's
18 Baby Powder were significant. I'm running out of
19 time, but can you just summarize them real quick?

20 A. Yeah. So, again, no protective
21 measures, 45-plus years repeated daily, multiple
22 times a day. It's in confined spaces in the home.
23 There's reentrainment. Two grown men using it.
24 It's applied all over the body. And plus, he had
25 exposures in -- in childhood and adolescence, and

1 Q. We talked about knowing the source of
2 the talc in Johnson's Baby Powder. What was the
3 talc that Johnson & Johnson was using in the baby
4 powder before the year 1966?

5 A. That was from Italy.

6 Q. And from 1966 to 2003, what was the
7 source of talc in Johnson's Baby Powder?

8 A. Mostly Vermont.

9 Q. And was there a time period of about
10 seven months in 1979 when Johnson & Johnson was
11 using a different talc source in its baby powder?

12 A. Yes. Back to Italy.

13 Q. And then from 2003 until 20 -- excuse
14 me. From 2003 until 2020, what was the source of
15 talc in Johnson's Baby Powder?

16 A. China.

17 Q. So we've got Italy, Vermont and then
18 China?

19 A. Correct.

20 Q. Was Mr. Perry exposed to talc from
21 each of those sources in Johnson's Baby Powder?

22 A. Yes.

23 Q. Okay. Why is it important to know the
24 talc source? The CliffsNotes version, if you can.

25 A. Well, just, basically, I mean, because

1 A. -- recall it from --

2 Q. Okay. So what I'm going to print here
3 is that there were six talc brands of -- that
4 Mr. Perry personally used and six that his mother
5 used. And all of those, in your opinion, were
6 significant contributing factors to his
7 mesothelioma, correct?

8 A. Yes. But not equally.

9 Q. Great. And even though you're blaming
10 the 12 different brands for his mesothelioma, you
11 have not calculated a total amount of talc, either
12 by brands or containers, that Mr. Perry used in
13 his lifetime, true?

14 A. I didn't. I mean, he gave some
15 estimates about how much he was using on his body,
16 and it was a lot. But, no. I've not tried to
17 figure out how many grams total.

18 Q. Okay. And you're relying on
19 Mr. Perry's testimony that he used Johnson's Baby
20 Powder and Clubman Talc the most, correct?

21 A. That's my recollection, yes.

22 Q. And you also recall he testified that
23 he purchased a similar amount of Johnson's Baby
24 Powder and Clubman, about ten bottles each year?

25 A. I think that was one estimation, yes,

1 testified about before, correct?

2 A. Right. They may be -- they're
3 related, but there are protective measures that
4 can be undertaken, for example.

5 Q. And you agree with me that dose
6 matters?

7 A. Sure. There's variations. But
8 these -- we consider these as a general population
9 dose-response diseases.

10 But you can still have diseases at
11 lower dose, but we do consider dose, although
12 usually it's from a medical perspective, not a
13 numerical dose.

14 Q. And the higher the dose of asbestos,
15 the higher the risk of disease, correct?

16 A. In a population. Not necessarily on
17 an individual basis.

18 Q. And while we don't know exactly what
19 the level is, Dr. Haber, you agree that there is
20 some level of asbestos at which you cannot say
21 it's sufficient to cause mesothelioma, right?

22 A. Right. If it's not differentiatable
23 from ambient in comparison to someone who's got
24 the same ambient exposure, the relative risk will
25 be the same of 1.

1 Q. And just to make sure the jury
2 understands, when you're saying the word
3 "ambient," yesterday we said "background." And
4 you use those words pretty much interchangeably,
5 right?

6 A. Yes.

7 Q. Okay.

8 A. The ambient or the background, yes.

9 Q. And you have testified and you agree
10 that a person's exposure to asbestos can be
11 insignificant or what you have called
12 "de minimis," right?

13 A. Yes.

14 Q. And de minimis exposure means it's not
15 reasonably above what would be considered a
16 background level, correct?

17 A. Right. If it's not differentiatable
18 from background, I would not -- you know, it may
19 contribute to a dose, but I would not be able to
20 say to a reasonable certainty that it was a
21 substantial factor.

22 MS. BUENO: And if you'll turn to
23 Slide 13, please.

24 BY MS. BUENO:

25 Q. You also agree with the statement that

1 there is no evidence that a de minimis dose
2 increases one's risk for mesothelioma, like
3 1 fiber or something like that?

4 A. Right. I mean, again, if it's not
5 differentiable from ambient, then the
6 comparison, the relative risk is going to be 1.
7 You compare a group and the same group, there's no
8 difference. So you wouldn't be able to say that
9 it increased the risk.

10 Q. And so while we don't know exactly
11 what the level is, you agree there is some level
12 of exposure to asbestos which you cannot say to a
13 reasonable degree of medical certainty that that
14 exposure is sufficient to cause a person's
15 mesothelioma, right?

16 A. If -- if it's not different than -- if
17 I can't tell it from background, then I won't be
18 able to say that it's a -- a cause.

19 Q. And you would agree with that and you
20 have in the past, correct?

21 A. Yes.

22 Q. All right. I want to talk a little
23 bit about more about your conversation with
24 Mr. Perry that you have in your notes that we've
25 marked as DX9341 for the record and have been

1 You're familiar with what I just
2 handed you because it's a report you issued on
3 August 28th of 2023 in a different lawsuit; is
4 that correct?

5 A. It is.

6 Q. Will you turn with me to 13.21 and go
7 with me to the second paragraph?

8 A. Yes.

9 Q. And this is something you wrote that
10 says: In 18 -- in 1986, the EPA found exposures
11 of 16 fibers per cc for using compressed air on
12 drum brake -- brake drums, correct?

13 A. Right. That's what I just told the
14 jury. You said it was the brakes. And I said,
15 "No. It was the brake drums." And that's exactly
16 what I wrote there, too.

17 Q. Now, if Mr. Perry had never used
18 cosmetic talc at all -- all right. Let's consider
19 a scenario where Mr. Perry never used cosmetic
20 talc. His only asbestos exposure was from doing
21 brake jobs. In that circumstance, you would give
22 the opinion that the brake jobs would be a
23 significant factor in his mesothelioma, correct?

24 A. If Mr. Perry got mesothelioma from
25 doing -- and did the brake jobs, then, yes, then

1 that would be the cause.

2 But you can't do the reverse and
3 say -- change exposure, I mean, what would have
4 happened if things -- if he wasn't exposed. But I
5 can say that if he did get mesothelioma, then I
6 would have attributed the mesothelioma to that
7 exposure.

8 Q. You have a -- I'm going to switch
9 gears.

10 I'm going to talk a little bit about
11 this idea that in 2017 the sky parted and all this
12 information came down, which the jury has heard
13 yesterday and today.

14 You have a number of published
15 scientific articles on your list from back in the
16 1960s and the 1970s raising the possibility that
17 cosmetic talc could be contaminated with asbestos,
18 right?

19 A. Right. There were -- there were
20 certainly some publications. They didn't identify
21 by names. You didn't know what -- what the
22 products were. But there were certainly some
23 publications that did give some evidence of
24 asbestos in some cosmetic products.

25 Q. And since you brought it up, this is a

1 chart?

2 A. I'm not following what -- I mean, this
3 does span decades. This is the testing showing
4 evidence of asbestos in either Johnson & Johnson's
5 product or the talc that Johnson & Johnson used
6 for its product.

7 Q. And you know that Johnson & Johnson
8 disputes the accuracy of this chart? You
9 understand that?

10 A. Right. And I've seen Johnson &
11 Johnson's sworn responses to each entry, and I've
12 looked at every one of them.

13 MS. BUENO: Can we pull up Slide 20?

14 BY MS. BUENO:

15 Q. This is a slide you've seen before,
16 but the jury hasn't. And in fact, this is the
17 first time they're hearing this concept. So I
18 want to make sure that we understand.

19 MS. BUENO: That's not it. 20. There
20 we go. There we go. That was it. Sorry.

21 I saw 19 in the lower corner, but
22 you -- you're -- you got it.

23 BY MS. BUENO:

24 Q. All right. So this is a slide that
25 shows different minerals. And on the bottom are

1 the six asbestos minerals that you talked to the
2 jury about, correct?

3 A. Yes.

4 Q. And on the top are versions of those
5 minerals that are not asbestos, true?

6 A. Yes. Because they're not fibers.

7 Q. And the amphiboles -- there's a big
8 box around the five on the left, and those are
9 called "amphiboles." And that is the family of
10 amphiboles that you told the jury about, correct?

11 A. The family of amphiboles that make up
12 asbestos, yes.

13 Q. And you agree that not all amphiboles
14 are asbestos?

15 A. Right. Now, in --

16 Q. That's -- that's fine. That's --
17 that's the answer.

18 THE COURT: Wait a minute. Wait a
19 minute. He gets to explain his answer.

20 Go ahead, Dr. Haber.

21 THE WITNESS: Thank you, Your Honor.

22 It needs to be in fibrous form.

23 However, when the -- when you have one, you
24 often have the other.

25 So if you have the asbestos fibers of

1 tremolite, you often, when you look at it,
2 see the nonfibrous tremolite in the same --
3 because it's all occurring in the earth.

4 BY MS. BUENO:

5 Q. But you don't look at it, right?
6 You're not the guy that looks under the
7 microscope?

8 A. That is correct.

9 Q. All right. So you --

10 A. But I look at the testing that people
11 have done that do those sorts of tests.

12 Q. Understood. But you agree that there
13 can be tremolite that is not tremolite asbestos,
14 true?

15 A. That is true.

16 Q. And there can be anthophyllite that is
17 not anthophyllite asbestos, true?

18 A. Correct.

19 Q. And that would be the same for
20 everything on here. You can have a rock, a
21 mineral in the earth, that's one of those top
22 minerals that is not asbestos, true?

23 A. Well, some of them, we -- for ease, we
24 have different names. So, like, crocidolite is
25 always asbestos. Chrysotile is always asbestos.

1 But we don't have a nonasbestos chrysotile. It's
2 called something else.

3 Q. So the amphibole family, just saying
4 something is an amphibole, it can either be
5 nonasbestos or asbestos, right?

6 A. Right. Or, in nature, usually both.

7 Q. And on your Decades of Evidence Of
8 Asbestos Content chart, there are some entries
9 where you just say "amphiboles," correct?

10 A. Yes.

11 Q. There's one there. It looks like
12 Number 13 is one where you just say "amphiboles."
13 It looks like Number 14 is one, "amphiboles."
14 Number 16 is one that says "amphiboles."

15 And if I go through this entire list,
16 they just say "amphiboles." But nowhere does it
17 say "amphibole asbestos," correct?

18 A. Well, it just depends on what was
19 being tested. A lot of times they were testing
20 for asbestos, but they just said "amphiboles
21 present" or they said "tremolite" or they said
22 "fibrous tremolite." I tried to be as -- as -- if
23 it said -- whatever it said, that's what's put on
24 there.

25 Q. And you included it in your charts and

1 this chart doesn't mean that you have made a
2 determination or anybody has made a determination
3 that that sample would be a hazard to health,
4 true?

5 A. Well, I think asbestos in a powdered
6 product used in the home is a hazard to health.

7 Q. I'm going to finish with this. You've
8 been very critical of Johnson & Johnson in your
9 testimony today. But you agree that it's a good
10 thing for companies to test their products, right?

11 A. Sure. If they take that information
12 and -- and do something with it, yes.

13 Q. You have not seen a single cosmetic
14 talc company that has more testing of its product
15 than Johnson & Johnson, right?

16 A. I think that is true.

17 Q. And you understand that Johnson &
18 Johnson did more testing and surpassed the
19 industry standards of the cosmetic talc industry
20 over the years, right?

21 A. Right. They did, I think, about 400
22 TEMs as opposed to the Industry Standard J4-1,
23 which was missed asbestos 87 percent of the time.

24 Q. And it's a good thing -- it's a good
25 thing for a company like Johnson & Johnson to

1 reach out and hire the very best labs in the
2 country and use the best microscopes and do the
3 most testing of anybody. That's something that
4 you approve of, correct?

5 A. I do. Again, it also depends on -- on
6 using the -- the best equipment and also the best
7 methods when using that equipment and making that
8 information available.

9 Q. And there is no question in your mind
10 that the documents you have reviewed for Johnson &
11 Johnson demonstrate that we surpassed and exceeded
12 the Industry Standard J-41, correct?

13 A. Right. They did more than just the --
14 the J-41, which is the XRD.

15 Q. And it's a very good thing for a
16 company like Johnson & Johnson to explore
17 different mines in search for the highest quality
18 talc, correct?

19 A. I'm not sure that's a medical opinion,
20 but I think that -- that seems reasonable for
21 anybody to say, yeah, sure.

22 Q. Now, you're just going to give medical
23 opinions?

24 A. No, but I -- I -- you're asking me,
25 you know, it's a good thing about exploring mines,

1 CERTIFICATE OF REPORTER

2 I, Cindy A. Hayden, Registered Merit
3 Reporter and Notary Public for the State of South
4 Carolina at Large, do hereby certify:

5 That the foregoing proceeding was taken
6 before me on the date and at the time and location
7 stated on Page 1 of this transcript; that the
8 deponent was duly sworn to testify to the truth,
9 the whole truth and nothing but the truth; that
10 the testimony of the deponent and all objections
11 made at the time of the examination were recorded
12 stenographically by me and were thereafter
13 transcribed; that the foregoing deposition as
14 typed is a true, accurate and complete record of
15 the testimony of the deponent and of all
16 objections made at the time of the examination to
17 the best of my ability.

18 I further certify that I am neither
19 related to nor counsel for any party to the cause
20 pending or interested in the events thereof.
21 Witness my hand, this 6th of August, 2024.

22 _____
23 Cindy A. Hayden,
24 Registered Merit Reporter
25 Notary Public
State of South Carolina at Large
My Commission expires:
July 27, 2030

IN THE COURT OF
COMMON PLEAS
FOR THE FIFTH
JUDICIAL CIRCUIT

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TRIAL BEFORE: THE HONORABLE JEAN H. TOAL
DAY 3

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1 very much, yes.

2 Q. Now, you are, Doctor, a very
3 successful cardiothoracic surgeon at MUSC, the
4 Medical University of South Carolina, correct?

5 A. That is correct.

6 Q. And you told the jury this morning
7 that one of your specialties and areas of study is
8 a cancer called "mesothelioma," true?

9 A. Yes, ma'am.

10 Q. You don't have any sort of opinion
11 that talc use causes mesothelioma. Is that fair?

12 A. That is correct.

13 Q. You have never seen any published
14 studies that say cosmetic talc contains asbestos,
15 true?

16 A. Correct.

17 Q. And you've never heard any of your
18 colleagues opine that cosmetic talc has asbestos
19 in it, correct?

20 A. That is correct, ma'am.

21 Q. And it is not your practice to
22 routinely ask your mesothelioma patients whether
23 or not they used cosmetic talc, right?

24 A. That is correct.

25 Q. And you are not here to tell this jury

1 that Mr. Perry's mesothelioma was caused by
2 Johnson's Baby Powder or any other cosmetic talc,
3 correct?

4 A. I do not believe so. No.

5 Q. Now, when Mr. Perry came to see you
6 for the first time on July 11th of 2023, he had
7 already been diagnosed with mesothelioma, correct?

8 A. Yes, ma'am.

9 Q. And you did not ask him about whether
10 or not he used talcum powder. He offered that
11 information to you; is that correct?

12 A. I do not recall, unfortunately.

13 Q. Do you have your records with you,
14 Dr. Gibney, for Mr. Perry?

15 A. I do not. I can pull them up easily,
16 though.

17 Q. Well, let me -- let me put, actually,
18 a slide up so the jury can see it, and I'll ask
19 you about it. And I think we should be able to
20 share.

21 MS. BUENO: So now -- I'm going to go
22 to the ELMO, please. Now I went too far.

23 BY MS. BUENO:

24 Q. Okay. Dr. Gibney, are you able to see
25 that?

1 A. That's a part of it, yes. I also do
2 design studies and interpretation of studies.

3 But, yeah. That's part of it.

4 Q. And you didn't crunch any numbers
5 specifically related to the dose of asbestos that
6 Mr. Perry got, correct?

7 A. I did not other than the number of
8 containers.

9 Q. Right. And you've never met or spoken
10 to Mr. Perry, correct?

11 A. Right.

12 Q. You did not determine a lifetime
13 asbestos level for Mr. Perry, correct?

14 A. I did not.

15 Q. And you don't have any information
16 about what level of asbestos exposure Mr. Perry
17 had, true?

18 A. Well, I -- what I'm told is that he
19 used ten -- you know, he purchased around ten
20 containers a year for many decades.

21 Q. And that's the extent of your
22 information, true?

23 A. Sure. Yeah. You can -- you could do
24 a Gardner-like calculation. I have not done that.

25 Q. And are you aware that, in addition to

1 heard from a -- medical doctors about the body's
2 natural defense mechanisms that -- that have --
3 that mean less -- less asbestos gets in the body
4 than what's in the air, you're not here to talk
5 about that, correct?

6 A. No. That's not my area of expertise.

7 Q. And when you say "exposed" when you're
8 talking about the containers, you are talking
9 about what is in the bottle, true?

10 MS. BUENO: You can take that down,
11 Mr. Loebbaka. That's fine.

12 THE WITNESS: So you mean something I
13 referred to the probability calculation
14 that I showed at the end?

15 BY MS. BUENO:

16 Q. Yes.

17 A. Yeah. So I'm -- you know, the -- the
18 analysis there sees the bottle as a binary object.
19 Either it contains asbestos or it doesn't.

20 And my calculations pertain to, you
21 know, all of the containers that a person used,
22 Mr. Perry. You know, how many of them contained
23 asbestos.

24 Q. Right. And so that was what I was
25 trying to do here is make clear that when you were

1 using the word "exposed," you're just saying
2 whether or not there was asbestos in the container
3 that somebody used, correct?

4 A. Sure. You're just -- again, it is
5 precisely what I'm saying is, you know, of all the
6 containers used, how many of them contained -- in
7 all likelihood, how many of them contained
8 asbestos.

9 Q. And so just to get it clear, in your
10 mind, they either had it or they didn't. It's
11 either asbestos or not, correct?

12 A. It's not "in my mind." It's just --
13 it's the nature of those particular calculations.

14 Q. Right.

15 A. The container either -- either it has
16 orange or white. It either contains asbestos or
17 it doesn't.

18 Q. Right. So just to be clear, you're
19 not giving the jury any information about the
20 quantity or the amount of asbestos in those
21 bottles, correct?

22 A. Not in those calculations, no. It's
23 either present or absent.

24 Q. So if, for example, I was to say that
25 I want you to have pink Tic Tacs for when there's

1 just a tiny bit of asbestos or a sub-ultra-trace
2 amount, that's not an analysis you did. It's just
3 yes, no; asbestos, not asbestos. Right?

4 A. Sure. It's the nature of those
5 calculations that I did.

6 Q. Okay. And so whether or not there is
7 a significant amount of asbestos or just 1 fiber,
8 in your calculations, that's an orange Tic Tac.
9 That means there is asbestos, correct?

10 A. I don't know anything about the word
11 "significant." But it's -- it's "any asbestos"
12 means there's asbestos present. And if there's no
13 asbestos, then there's no asbestos.

14 Q. All right. And so you mentioned that
15 you rely on some testing to get information about
16 whether or not there's asbestos or not. And all
17 of your data comes from Dr. William Longo,
18 correct?

19 A. So the testing results of those
20 calculations are based on -- are based on testing
21 from -- from the lab that he is the president of,
22 MAS.

23 Q. Okay. And he's going to be here I
24 think this afternoon. So is it fair to say that
25 if Dr. Longo says the bottle contains asbestos,

1 you accept that as true?

2 A. Yeah. That's basically -- that -- I'm
3 relying on the testing that was performed by his
4 lab. That's the inputs to my calculations.

5 Q. All right. And other than Dr. Longo,
6 you haven't gone and looked at any expert reports
7 or data from experts for the defendants in this
8 case, correct?

9 A. I have not seen any such reports, no.

10 Q. All right. So I'm going to start with
11 the epi studies, I think, the epidemiological
12 studies. You talked to the jury about those.

13 And it's fair to say you do not have a
14 degree in epidemiology, right, sir?

15 A. I do not.

16 Q. You do not have any formal training in
17 epidemiology, correct?

18 A. I don't. But I've taught a lot of
19 epidemiology.

20 Q. And you mentioned that -- that you
21 taught at some conferences or one- or two-day
22 courses on epidemiology, correct?

23 A. Yes. For years, yes.

24 Q. And not all statisticians are
25 epidemiologists, true?

1 MS. McVEY: If possible, that would be
2 great.

3 THE COURT: Yeah. I think that makes
4 sense.

5 MS. BUENO: And then we have the rest
6 of the video, too.

7 THE COURT: Yes.

8 Just for a preview then, members of
9 the jury, one of the plaintiffs' principal
10 witnesses is appearing live here, and he'll
11 be lengthy. So my thinking is we'll take
12 our lunch break now.

13 And after that testimony is complete,
14 there are some designations of Dr. Hopkins'
15 video material that the defendant wants to
16 put in, and we will play those after that.

17 And that kind of is a preview of what
18 the day will be like.

19 In terms of weather, we will get some
20 heavier rain tomorrow, but it doesn't look
21 like anything that would get into the
22 ballpark of what we've already experienced.

23 So, so far, so good. But I'll get
24 some more complete information about that
25 before I release you today so that you'll

1 THE COURT: Thank you.

2 All right. Ladies and gentlemen of
3 the jury, by reason of his training,
4 education and experience, Dr. William Longo
5 is qualified to testify about material
6 science, industrial hygiene, asbestos
7 testing and tissue digestion and may
8 express opinions to you about those
9 matters. The credibility of this evidence,
10 as usual, is within your purview.

11 You may proceed, Mr. Adams.

12 MR. ADAMS: Thank you, Your Honor.

13 BY MR. ADAMS:

14 Q. I've got three questions up here,
15 Dr. Longo. I want to start with Number 1. Did
16 Johnson's Baby Powder contain asbestos?

17 That's something you've evaluated?

18 A. Yes.

19 Q. Is that something that you are
20 prepared to answer today?

21 A. Yes, sir.

22 Q. Okay. Just -- we'll get into the
23 details. But have you repeatedly found asbestos
24 in Johnson's Baby Powder?

25 A. Yes, we have. Over the 100 samples,

1 different product samples that we've analyzed, the
2 percentage of positive samples is approximately
3 75 percent.

4 Q. We've got some reports here that we've
5 marked as Exhibit 2338, 4070, 4071, 4072, 4073 and
6 4074. What are these?

7 A. These are reports for analysis of
8 Johnson's Baby Powder as well as a few Shower to
9 Shower. And these go through different decades,
10 starting in about 2000. And then the final report
11 at the very end, I threw it all together. So I
12 think it goes from approximately 1950 through
13 2000.

14 And these would be samples that
15 Johnson & Johnson provided, what they call the
16 "historical samples" where they're museums. So
17 that came from them, so we know that for sure this
18 is their product.

19 MR. ADAMS: Your Honor, we discussed
20 these reports and just admitting the images
21 found in them. So at this time, we would
22 seek to admit the images from these reports
23 as 2338, 4070, 4071, 4072, 4073 and 4074.

24 THE COURT: All right.

25 MR. COWAN: Your Honor, we don't have

1 service that part of the country; and Australia.

2 Q. What does this total U.S. containers
3 and then all total containers percentage tell us
4 at the end? I don't know if you can read it.

5 A. All total containers. I think that's
6 a hundred -- 146, actually. And out of that 146,
7 79 percent were positive for asbestos.

8 Q. Have you found tremolite over and over
9 and over and over in Johnson's Baby Powder?

10 A. Tremolite, anthophyllite, richterite
11 we have, and actinolite.

12 Q. Are you familiar with the Battelle
13 lab?

14 A. Yes.

15 Q. Have -- have you looked at the
16 historical talc testing that Battelle did for
17 Johnson & Johnson on its talc?

18 A. Yes.

19 Q. What does say it here, and have you
20 confirmed that that's accurate?

21 A. 153 tests where they found tremolite
22 in 1968.

23 Q. What are we looking at here?

24 A. So this is their testing, Battelle
25 Memorial Labs, and you can see the big red arrow

1 Q. -- top of the slide?

2 Okay. And from 1974 -- I started
3 the -- the slide with 1974 because Mr. Perry,
4 that's his testimony. This is -- his first memory
5 of actually using Johnson & Johnson talc was when
6 he was around five years old in 1974; is that
7 correct?

8 A. That's correct.

9 Q. All right. And so we started it
10 there. And so for -- you understand that he
11 stopped using -- or as -- he says he stopped using
12 Johnson & Johnson talc in 2019, and that's why I
13 ended it with 2019. Do you see that, sir?

14 A. Yes.

15 Q. Okay. So in 1974, when he first
16 started using Johnson & Johnson talc, that would
17 have been Vermont talc, correct?

18 A. Correct.

19 Q. And from -- from 1974 all the way to
20 mid-2003-ish, all that 29, 30 years, the vast
21 majority of that time, it still would have been
22 Vermont talc, correct?

23 A. That is correct.

24 Q. Okay. Now, at some point in time in
25 2003, Johnson & Johnson switched to Chinese talc,

1 correct?

2 A. Actually, it's 2004.

3 Q. Okay. Well, we can -- I'll change it.

4 A. You don't have to change it.

5 Q. That's all right.

6 A. It's close enough.

7 Q. It's fungible? I don't think it --

8 A. I just don't want to say "2003"

9 because these sometimes come back to haunt me.

10 Q. I hear you.

11 So you say sometime in 2004, it
12 switched over to Chinese?

13 A. Yeah. They pretty much -- yeah, early
14 2004. So 2003 was still Vermont.

15 Q. Okay. Now, you understand that there
16 was a short period of time in and around 1979,
17 1980 where Johnson & Johnson actually went back --
18 and when I say "back," I'll explain that in a
19 moment. But they went back to Italian talc for a
20 little while, correct?

21 A. That's correct.

22 Q. All right. But given this timeline,
23 you're not -- you're not coming in today to
24 testify and tell these jurors that Mr. Perry was
25 actually exposed to Italian talc with Johnson &

1 reports when we used the weight percent since it's
2 so inaccurate.

3 Q. I understand, sir. But you did both
4 on that Report Number 2. Fair?

5 A. Correct.

6 Q. Okay. And in the Round 2 bottles,
7 you -- you reported the amounts in the fiber per
8 gram. And I want to pull up Slide Number 7. And
9 I want to see if you'll agree with me, that with
10 regard to these Round 2 bottles, when you -- when
11 you did an average of all of the fiber-per-gram
12 calculations that you did, you came up with an
13 average of 23,700 fibers per gram, correct?

14 A. Correct.

15 Q. All right. And in the Round 2 report
16 like we just talked about, you did also report
17 weight percentages in TEM, correct?

18 A. Correct.

19 Q. All right. So let's go to Slide
20 Number 8. And obviously, not all of the -- like
21 we talked about, not all of the bottles that you
22 tested came back positive for asbestos at all,
23 right? Some of them came back negative or
24 nondetect?

25 A. Nondetects.

1 Air, fibers per cubic centimeter.

2 That's the way you express an amount of asbestos
3 in the air, the surrounding ambient air, correct?

4 A. Correct.

5 Q. All right. And a cubic centimeter is
6 like -- and you may disagree. It's like a sugar
7 cube, right? It's about that?

8 A. I used to say that and actually
9 measured one. It's a little bigger than a sugar
10 cube.

11 Q. Okay. Well -- okay.

12 A. Unless you like to drink espresso and
13 you get those big round ones.

14 Q. I like that, too.

15 All right. So --

16 A. Yeah, fibers per cc.

17 Q. But, regardless, it's not really solid
18 because we're talking about air. But it's this
19 much air -- right? -- in volume, correct?

20 A. Yeah. 1 centimeter by 1 centimeter --

21 Q. Yeah.

22 A. -- by 1 centimeter.

23 Q. And so you, Dr. Longo, have not
24 calculated as an actual fiber-per-cc number, you
25 haven't done a calculation of that number for what

1 Mr. Perry specifically was exposed to using
2 Johnson & Johnson, talc, correct?

3 A. No. That's -- I don't know if that's
4 possible.

5 The only thing I did was look at the
6 amount of pounds of cosmetic talc, Johnson &
7 Johnson, that he put on himself every day for 24
8 to 35 years, and it comes to half a ton.

9 So I understand that 99.5 percent of
10 maybe one application is nothing. If you spend a
11 lifetime, almost, putting almost a ton of cosmetic
12 talc on you, all having asbestos, that's where the
13 problem comes in.

14 Q. All right. Just checking my time.
15 You remember my question, though,
16 right?

17 A. I think I answered it.

18 Q. All right. You answered a couple
19 more. So let's keep going.

20 You have in the past, though,
21 conducted three simulated kind of exposure
22 studies, right?

23 A. Correct.

24 Q. All right. And -- and you've done it
25 with Johnson & Johnson talc, correct?

1 Johnson & Johnson container containing either
2 Vermont or Chinese. Fair?

3 A. That's fair.

4 Q. Okay. Let's take up Slide 16, please.

5 These are the bottles that you used in
6 those three exposure studies. This one over here
7 on the right, that's -- that's the 1950s bottle.
8 That's the one you used in the below-the-waist,
9 right?

10 A. That's correct.

11 Q. And that's the one with the highest
12 amount of asbestos that you ever found in any
13 Johnson & Johnson talc product ever. Fair?

14 A. That's fair.

15 Q. And that's an Italian bottle, correct?

16 A. They were all Italian.

17 Q. Okay. And these -- I was going to
18 say, these were all Italian. Some of them were
19 from like the late '40s, right?

20 A. I think that center one was late '40s,
21 because in the '50s they took the boric acid out
22 because there was problems with it.

23 Q. Yeah, I hear you.

24 So when I took your deposition -- I
25 know the issue that you're having now is the

1 tissue digestion. When I took your deposition,
2 you said you're not relying on any of this stuff
3 because it's Italian talc, correct?

4 A. Correct.

5 Q. Okay. But regardless, even today,
6 you -- these exposure studies were done in like
7 2019, right? 2018, 2019?

8 A. 2020, something like that.

9 Q. Okay. So like four or five years ago,
10 yeah?

11 A. Yes.

12 Q. Okay. So -- but -- so four or five
13 years later, you've never done a similar exposure
14 study in your lab using either a Vermont or a
15 Chinese bottle. Fair?

16 A. That's correct.

17 Q. Okay. And, in fact, you've -- you've
18 never actually performed any sort of simulation
19 study using a Johnson & Johnson talc product from
20 the 1960s, the 1970s, the 1980s, the '90s, the
21 2000s, the 2010s or the -- now, I guess, we're in
22 the 2020s. You've never done a simulation
23 exposure study with a bottle that was manufactured
24 while Mr. Perry was alive. Fair?

25 A. That's fair.

1 his work with Bendix brakes when he was a kid
2 learning how to change brakes in the garage with
3 his father. You considered that?

4 A. I did.

5 Q. And it is your opinion that he did
6 have a significant exposure when he was a teenager
7 working on brakes, correct?

8 A. Correct.

9 Q. And so let's talk about what a
10 significant exposure means to you in the world of
11 brakes, okay? Is that fair?

12 A. That's fair.

13 Q. All right. So Mr. Perry testified
14 that he worked on a 1979 Honda, right? A Honda
15 Accord. It had front disc brakes and -- and rear
16 drum brakes, right?

17 A. Correct.

18 Q. Okay. And -- and he worked on, also,
19 a 1976 Chevy pickup that also had front disc
20 brakes and -- and also rear drum brakes, right?

21 A. Correct.

22 Q. Okay. He testified -- Mr. Perry did
23 -- that he was constantly changing these brakes
24 because he was, in his words -- and I think I'm
25 quoting here -- a pretty terrible teenage driver.

1 Q. You don't recall whether or not that
2 he testified he would sand the brake shoes before
3 installing them --

4 A. Oh, yeah.

5 Q. -- using a small grinder?

6 A. To rough them up, yes.

7 Q. Okay. And over the course of three
8 years, Mr. Perry testified that he did
9 approximately 72 of these types of brake jobs,
10 correct?

11 A. Correct.

12 Q. Now, over the years, you and MAS, your
13 company, have tested asbestos-containing brakes,
14 correct?

15 A. Correct.

16 Q. And that includes Bendix brakes,
17 right? The same ones that Mr. Perry used?

18 A. Yes. We've done a lot of tests on
19 Bendix brakes.

20 MR. COWAN: So can I please bring up
21 Slide Number 36.

22 BY MR. COWAN:

23 Q. And you've tested to see how much
24 asbestos is actually in a Bendix brake shoe
25 product, right?

1 A. Correct.

2 Q. And in that testing, you looked for
3 chrysotile, correct?

4 A. Correct.

5 Q. And you found chrysotile, certainly,
6 because it was the purposefully -- it was
7 purposefully added, correct?

8 A. Yeah. I mean, the amount of
9 chrysotile that were on the brake shoes is usually
10 between 35 and 55 percent.

11 Q. I'm going to hand you something that
12 I've marked for -- as identification as CX10, just
13 to help remind you.

14 MR. COWAN: Can I approach,
15 Your Honor?

16 THE COURT: Yes.

17 THE WITNESS: Thank you.

18 MR. COWAN: Thank you.

19 Your Honor, do you want a copy?

20 THE COURT: Yes. Now, this is --

21 MR. COWAN: This is a report that --

22 THE COURT: That Dr. Longo did, right?

23 MR. COWAN: Yes. Yes, ma'am.

24 THE COURT: All right.

25 BY MR. COWAN:

1 Q. Dr. Longo, you recognize this as a
2 report that you've done in another case. Fair?

3 A. It has my signature.

4 Q. Yeah. And I just chose this because
5 it -- there are sections in here that kind of
6 generally describe some of the brake tests that
7 you-all did at MAS. And I just have this here to
8 hopefully help you remember certain numbers if you
9 need to, okay?

10 Is that okay, sir?

11 A. If I said it wasn't, would that stop
12 you?

13 Q. Thank you, sir.

14 A. Yes. It's okay.

15 Q. And if you could turn to Page 11.

16 A. 11.

17 Q. It's going to be 10.11. At the top of
18 the page, it says: We have analyzed many brands
19 of asbestos-containing brakes at MAS.

20 And that's certainly true, correct?

21 A. Correct.

22 Q. And it goes on to say that you have
23 found a range for Bendix at 15 percent to
24 45 percent chrysotile.

25 Do you see that, sir?

1 A. Yes, I do.

2 Q. Okay.

3 MR. COWAN: Can I have Slide 37,
4 please?

5 BY MR. COWAN:

6 Q. So at that kind of percentage, 15 to
7 40 percent asbestos in the brake shoe, I mean,
8 we're not talking about hundreds or thousands or
9 hundreds of thousands or millions or billions.
10 We're talking about quadrillions of asbestos
11 fibers in a brake shoe; is that fair?

12 A. That's fair. But I don't think it's
13 fair to compare it to cosmetic talcs because you
14 don't pour the dust from people collecting brake
15 shoe dust and other dust on your body two or three
16 times a day. So you can't really use that as a
17 comparison.

18 Q. Dr. Longo, I had to look it up.
19 Quadrillion is the number followed by 15 zeroes;
20 is that right?

21 A. That is correct.

22 Q. So let's talk about what gets in the
23 air when you work with products like these, okay?

24 A. Sure.

25 MR. COWAN: Let's go to Slide

1 themselves into place, correct?

2 A. Correct.

3 Q. That's part of what he did? Okay.

4 So let's talk about what you and MAS
5 found in those brake exposure studies.

6 MR. COWAN: Can I just click once to
7 39, please. Okay. Let's go and click one
8 more time.

9 BY MR. COWAN:

10 Q. All right. If you turn to Page 12 of
11 the CX 10 that I gave you, in the middle of the
12 page, there is a -- there is a paragraph that
13 starts "MAS personnel performed."

14 Do you see where I'm at?

15 THE COURT: What page?

16 MR. COWAN: It's CX 10.12, Your Honor,
17 and it starts in the middle of the page:
18 "MAS personnel performed two compressed air
19 blow out work practice studies."

20 THE COURT: What is the page number on
21 the top of the page?

22 MR. COWAN: On the top of the page, it
23 will be 12 out of 27, Your Honor.

24 THE COURT: All right.

25 THE WITNESS: I'm sorry.

1 MR. COWAN: I'm sorry. There's way
2 too many page numbers.

3 BY MR. COWAN:

4 Q. Do you see where I'm at, sir?

5 A. Yes.

6 Q. Okay. And MAS personnel, it says,
7 performed two compressed air blow out work
8 practice studies in 2004 involving a brake shoe
9 inspection where the drums on all four wheels were
10 removed and compressed air was used to blow out
11 the brake assemblies.

12 Do you see where I'm at?

13 A. Yes.

14 Q. And you see, just a little bit below
15 there, where the readouts for that kind of
16 activity would create a fiber-per-cc-to-air amount
17 of .3 range to 2.2 fibers per cc.

18 Do you see that, sir?

19 A. I do.

20 Q. Okay. And those are your numbers from
21 your report, correct?

22 A. It is.

23 Q. All right. And, obviously -- well,
24 let's just keep moving on.

25 You've cited to other similar studies

1 also in this report; not one that you did, but one
2 that was published by Mount Sinai.

3 If I could turn your attention to
4 Page 12. Or we're still on Page 12 but at the
5 bottom -- at the very bottom of the page. It says
6 "additionally"?

7 Do you see where I'm at?

8 A. Page --

9 Q. The same page you were on --

10 A. Oh.

11 Q. -- bottom of the page.

12 A. Okay.

13 Q. "Additionally."

14 A. Yes.

15 Q. It says: Additionally, there are a
16 number of other studies published in the
17 peer-reviewed literature that show when mechanics
18 blow out brakes in the middle of garages, their
19 exposures to an airborne asbestos levels were
20 consistent with the MAS work practice study.

21 Do you see that, sir?

22 A. I do.

23 Q. And then if you go to the very end
24 there, it says: The Mount Sinai group collected
25 four air samples and measured exposure levels

1 between 6.6 fibers per cc and 29.8 fibers per cc.

2 Do you see that, sir?

3 A. I do.

4 Q. Okay.

5 MR. COWAN: Can you click the
6 animation, please?

7 BY MR. COWAN:

8 Q. So Mount Sinai did a similar type of
9 compressed air test. But instead of getting your
10 numbers of .3, we're actually even getting higher
11 numbers at 6.6 all the way to 29.8 fibers per cc,
12 correct?

13 A. Right. But you can't compare the two
14 because they're in a -- actually in a -- in an
15 automotive shop, where he's all day, every day.
16 And you're going to get other factors.

17 And it depends on how much is worn
18 down in the shoe. Okay? And this was during the
19 time frame where most of the -- these were trucks,
20 so they have bigger brake drums, et cetera.

21 So, yes, this is the levels. And if
22 you have the exact same conditions that they had,
23 you're going get those results.

24 Q. Thank you.

25 So let's talk next about Mr. Perry's

1 using that grinder powered by compressed air to
2 sand brakes, grind them.

3 MAS did a study entitled "Occupational
4 Exposure to Asbestos-Containing Brake Shoes During
5 Hand Grinding and Sanding, a Work Practice
6 Simulation." You're aware of that study, correct?

7 A. What page is that on?

8 Q. If you go to the same page, 12.

9 A. I keep moving off it for some reason.

10 Q. Okay. At MAS, we studied -- I'm
11 sorry. Hold on one moment. I'm trying to find
12 the place where I'm at. I'm sorry, sir. Give me
13 one moment, please. Oh, I'm sorry. It was
14 actually on Page 11 -- no, on 12, but we're up at
15 the top now.

16 At the very top of the Page 12, it
17 says: At MAS, we have studied the scuffing of a
18 brake surface with a power grinder.

19 Do you see that, sir?

20 A. I'm sorry. Where is that, again?

21 Q. Top of the Page 12 you're on, but now
22 we're at the top of the page.

23 At MAS, we have studied the scuffing
24 of a brake surface --

25 A. Yes.

1 Q. -- with a power grinder.

2 And it says: This MAS, M-A-S, study
3 entitled -- what we just talked about -- where it
4 has an airborne asbestos exposure levels to the
5 mechanic during this study using a power grinder
6 was 25 to 36 fibers per cc as measured by PLM and
7 TEM.

8 Do you see that, sir?

9 A. I do.

10 Q. Okay.

11 MR. COWAN: Can you click that for me?

12 BY MR. COWAN:

13 Q. I mean, those numbers are obviously
14 significant exposures, correct?

15 A. I would agree.

16 Q. I'm going to move on, sir. Let's talk
17 about your tissue digestion.

18 A. Sure.

19 Q. Last topic. You recently did an
20 analysis of some of Mr. Perry's lung tissue,
21 correct?

22 A. Correct.

23 Q. And you wrote a report on that, and
24 you provided that to us after we had already
25 started this trial. You provided it on Monday,

1 jury or argue about that.

2 MR. COWAN: It was not about that,
3 Your Honor. It was about the amount of
4 time that it took him to do it.

5 THE COURT: I --

6 MR. COWAN: I understand.

7 THE COURT: I'm asking you not to go
8 there.

9 MR. COWAN: I'm done. I'm done. I'm
10 going to move on.

11 THE COURT: All right.

12 MR. COWAN: Thank you.

13 BY MR. COWAN:

14 Q. Dr. Longo, you say you found talc in
15 his tissue, correct?

16 A. Correct.

17 Q. And you say you found 1 fiber of
18 tremolite in Mr. Perry's tissue, correct?

19 A. Correct.

20 Q. And you found 1 fiber of winchite,
21 right?

22 A. I think it was a bundle, but it
23 doesn't matter --

24 Q. Right. A particle.

25 The tremolite fiber was less than

1 5 microns long, correct?

2 A. Correct.

3 Q. And the winchite fiber or bundle was
4 less than 5 microns long, right?

5 A. That's correct, but it met the
6 criteria for asbestos for both EPA, ISO and ASTM.
7 It has to be at least half a micron long or
8 greater so it fits the protocol.

9 Q. Sure. You're -- you're not a
10 pathologist, correct?

11 A. No. I didn't stay in the Holiday Inn
12 last night.

13 Q. But you -- you know Dr. Ronald Gordon,
14 correct? We already talked about him. He's the
15 author of that paper that you rely on, correct?

16 A. Correct.

17 Q. And Dr. Gordon is a pathologist who's
18 done quite a lot of these types of tissue
19 digestion analyses, correct?

20 A. He's been doing it -- there's about
21 three or four of us in the country that do this.

22 Q. Well, you certainly testified that
23 he's a reliable source --

24 A. He is.

25 Q. -- for appropriate methodologies for

1 identifying asbestos in tissue like you did for
2 Mr. Perry, correct?

3 A. No, he's a -- he's -- he's been doing
4 it for a long time.

5 Q. Dr. Longo, did you know that
6 Dr. Gordon has testified that he never counts
7 asbestos fibers in tissue if they are less than
8 5 microns long?

9 A. Well, I can't -- I can't tell
10 Dr. Gordon what to do or not to do. He's
11 following the protocol. And it is the size range
12 that both the Environmental Protection Agency, the
13 ones I've already stated, has regulated asbestos.

14 It's hard for me to understand how the
15 body can know the difference between a 4.5- and a
16 5-micron fiber, that one is okay and one is not.
17 We just follow the counting rules that states
18 here's what you do. We've been doing that for
19 20-some years on tissue samples.

20 Q. Okay. Speaking of tremolite, we
21 talked about asbestos-containing brakes, correct?

22 A. Correct.

23 Q. And including Bendix brakes, one of
24 the brakes that Mr. Perry worked with, correct?

25 A. Correct.

1 Q. And asbestos-containing brakes like
2 Bendix didn't just have chrysotile in them. They
3 also were contaminated with tremolite, correct?

4 A. That's correct.

5 Q. And asbestos-containing brakes that
6 you have tested contain anywhere between
7 .0001 percent to .001 percent tremolite, correct?

8 A. Correct.

9 Q. And -- now, you've also found
10 tremolite in talc -- right? -- certainly?

11 A. Cosmetic talc, yes.

12 Q. Yeah.

13 But it's not just in Johnson & Johnson
14 talc. You found it in talc from many other
15 sources, correct?

16 A. That's correct.

17 Q. You found tremolite in talc from
18 North Carolina, correct?

19 A. We have found tremolite in all of them
20 now, including Montana.

21 Q. All right. I was just about to ask
22 about Montana.

23 A. I knew you would --

24 Q. So you found it in North Carolina and
25 Montana?

1 A. -- so I beat you to the punch.

2 Q. Thank you.

3 And Johnson & Johnson never sourced
4 its talc from either North Carolina or Montana,
5 correct?

6 A. Not that I'm aware of.

7 Q. And as we already discussed through --
8 though, Johnson & Johnson did source its talc from
9 Vermont during the majority of the time Mr. Perry
10 was using Johnson's Baby Powder; isn't that right?

11 A. Vermont and China, those two. And we
12 found -- we have found tremolite in the Chinese
13 mine. We have found richterite in the Chinese
14 mine.

15 Q. We can also agree, Dr. Longo, that it
16 was anthophyllite asbestos, not tremolite, that
17 you say you found most commonly when you analyzed
18 Vermont Johnson & Johnson talc, correct?

19 A. That's correct, but we did find
20 tremolite in Vermont mines --

21 Q. And you didn't --

22 A. -- and by PLM and by TEM, but there's
23 more anthophyllite than there is tremolite.

24 Q. And you didn't find any anthophyllite
25 in Mr. Perry's tissue, correct?

1 is, is where this material came from that we found
2 in there. It came from his use of cosmetic
3 talc --

4 Q. Dr. Longo, I have very limited time.

5 A. Sorry.

6 Q. There's a mineral that is mined that
7 the jury also hasn't heard about called
8 vermiculite, correct?

9 A. Correct.

10 Q. And it was contaminated, this
11 vermiculite, with -- with tremolite. Fair?

12 A. Fair.

13 Q. And it was also contaminated with
14 winchite, true?

15 A. Richterite, winchite, tremolite and
16 actinolite.

17 However, that's not where this came
18 from. Because we have done tissue analysis in
19 people who have been exposed to the Libby,
20 Montana, vermiculite, the tremolite.

21 And we find tremolite and we find
22 winchite and we find richterite, but we also find
23 something else. We find vermiculite. And there's
24 no vermiculite in his tissue.

25 So I would cross out -- again, the

1 CERTIFICATE OF REPORTER

2 I, Cindy A. Hayden, Registered Merit
3 Reporter and Notary Public for the State of South
4 Carolina at Large, do hereby certify:

5 That the foregoing proceeding was taken
6 before me on the date and at the time and location
7 stated on Page 1 of this transcript; that the
8 deponent was duly sworn to testify to the truth,
9 the whole truth and nothing but the truth; that
10 the testimony of the deponent and all objections
11 made at the time of the examination were recorded
12 stenographically by me and were thereafter
13 transcribed; that the foregoing deposition as
14 typed is a true, accurate and complete record of
15 the testimony of the deponent and of all
16 objections made at the time of the examination to
17 the best of my ability.

18 I further certify that I am neither
19 related to nor counsel for any party to the cause
20 pending or interested in the events thereof.
21 Witness my hand, this 7th of August, 2024.

22 _____
23 Cindy A. Hayden,
24 Registered Merit Reporter
25 Notary Public
State of South Carolina at Large
My Commission expires:
July 27, 2030

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF
COMMON PLEAS
FOR THE FIFTH
JUDICIAL CIRCUIT

- - -

MICHAEL L. PERRY AND
LONNIE L. LONG,

Plaintiffs,

vs.

AMERICAN INTERNATIONAL
INDUSTRIES, ET AL.,

Defendants.

)
)
)
) Case No.
) 2023-CP-40-04072
)
)
)
)

TRIAL BEFORE: THE HONORABLE JEAN H. TOAL
DAY 4

DATE TAKEN: Friday, August 9, 2024
TIME BEGAN: 8:48 a.m.
TIME ENDED: 5:27 p.m.
LOCATION: Richland County Judicial Center
1701 Main Street
Courtroom 3B
Columbia, South Carolina
REPORTED BY: Cindy A. Hayden, RMR, CRR
EveryWord, Inc.
P.O. Box 1459
Columbia, South Carolina 29202
803-212-0012

1 demonstrate that we surpassed and exceeded
2 the Industry Standard J-41?

3 Your Honor, there is nothing in this
4 transcript and nothing I asked of Dr. Haber
5 about any test results or negative results
6 of Johnson & Johnson testing. This did not
7 trigger the spoliation order.

8 THE COURT: Well, here's my reaction
9 to that: There has already been
10 information that's been put in front of the
11 jury about Johnson & Johnson testing,
12 including no detection or no asbestos.
13 They've already heard in other testimony
14 that's already been offered to them.

15 MS. BUENO: Nothing about Johnson &
16 Johnson. Just FDA, Your Honor.

17 THE COURT: All right. Well, I
18 disagree. That's not my memory of it. But
19 the issue of them projecting no detect to
20 the FDA has already been touched upon in
21 front of this jury. No motion to strike it
22 or anything else.

23 I think I said at some point yesterday
24 that the door was opening on this. And I
25 think the door has been opened, not just on

1 Haber, but on other things that have been
2 done that's put before the jury.

3 I know your whole mantra is bottle,
4 air and dose. That is an attempt to avoid
5 focusing on this whole issue of testing and
6 whether J&J concealed its knowledge of
7 asbestos in its product.

8 The stage has already been set for
9 that here. And so if that -- that's not
10 going to influence me at all about
11 spoliation. The concept of my spoliation
12 order exempted from any projection to the
13 jury by anybody of the claim that Johnson &
14 Johnson concealed information in that
15 internally about its product is not
16 something that I intended by that order at
17 all.

18 So to the extent that is something you
19 think is intended by it, I did not intend
20 that, and that is not what I will do.

21 This issue has already been outlined
22 for the jury in opening statements. It's
23 already been alluded to many different
24 times in bits and pieces of evidence about
25 what Johnson & Johnson knew, what its

1 was opened.

2 MS. McVEY: Correct.

3 THE COURT: It's not -- and things
4 that you said should not be considered in
5 deciding whether the door is opened include
6 the Hopkins' deposition. So I get that.

7 MS. McVEY: Okay. So we believe it's
8 open anyway, but I did want to say we don't
9 believe it's open because of this Hopkins
10 deposition.

11 THE COURT: All right. I understand
12 that.

13 All right. What else?

14 MS. BUENO: Your Honor, I have to
15 state that during the break, when we had a
16 brief moment to work on the video that
17 we've already discussed with Your Honor,
18 there were some statements made that I
19 think I need to make Your Honor aware of
20 and I definitely want on the record.

21 Mr. Adams said to me that I am
22 unethical and that he was going to report
23 me to the state bar if it's the last thing
24 he did. He called us criminals. He called
25 my partner Mr. Cowan a criminal who works

1 for a criminal organization hiring criminal
2 lawyers.

3 My partner, Tara Blake, who is in the
4 courtroom who Your Honor hasn't even heard
5 from, who is here to assist with documents
6 today, he said to her, "You are a criminal,
7 unethical, and we will do to you worse than
8 what we did in Lee." And as Your Honor
9 knows, Lee was the last trial with
10 Johnson & Johnson.

11 I want to make Your Honor aware of
12 this because I take this very seriously to
13 have officers of the court making these
14 kind of comments and allegations when this
15 team has done nothing but be professional
16 at this trial.

17 THE COURT: Well, now, wait a minute.
18 I'm not going to -- I'm not going to get
19 into that. I will not get into that. I'm
20 not going to do it on the basis of "Hey,
21 have you been unprofessional?" and we have
22 to go tit for tat. I don't want either
23 side to do that.

24 Now, I've fussed awfully hard about
25 some of the unprofessional information that

1 that, right?

2 A. When you -- you use the word
3 "vehemently," I don't think that's a word that I
4 would use. I would say, I don't believe Johnson's
5 Baby Powder caused his mesothelioma based upon all
6 the review of the company documents that I've
7 done, exposure assessments that have been done and
8 my understanding of the scientific data.

9 So I would say, based upon scientific
10 grounds, that is why I would say I don't believe
11 Johnson's Baby Powder caused his mesothelioma.

12 Q. And because of that, Johnson & Johnson
13 hires experts in these cases to come defend the
14 company, correct?

15 A. Yes. My understanding is plaintiffs
16 hire experts, and company [sic] hires experts,
17 and that's my understanding of how these cases go.

18 Q. Do you know who these people are?

19 A. I -- I've met -- I've met some of
20 these people. I don't -- I don't know all of the
21 people, no.

22 Q. You know that -- did you know that
23 these are the experts that Johnson & Johnson hired
24 in this case?

25 A. I -- I haven't asked or reviewed who

1 were the experts in the case.

2 Q. Before you came and told the jury that
3 Johnson & Johnson had nothing to do with Michael
4 Perry's cancer, did you even check and see which
5 experts they hired in the case?

6 A. I -- I didn't check to see. As a
7 medical toxicologist, I've looked at the company
8 data, I've looked at the scientific data, but I
9 didn't ask our counsel about who was coming,
10 potentially, or involved in this case, no.

11 Q. Did you review any of the reports each
12 of the six experts hired by Johnson & Johnson have
13 prepared in this case?

14 A. I -- I didn't specifically -- I know
15 I've seen a few reports. I didn't review all the
16 reports, no.

17 Q. Did you review any of the depositions
18 each of the six experts hired by Johnson & Johnson
19 gave in this case?

20 A. I -- I did not review the depositions,
21 no.

22 Q. But you understand that within this
23 case, experts were hired, paid; they prepared
24 reports, and they gave depositions. Fair?

25 A. Again, I don't know who gave specific

1 depositions, but --

2 THE COURT: Just answer the question,
3 Dr. Kuffner.

4 THE WITNESS: I would generally agree.
5 People -- experts gave depositions. I
6 don't know who did.

7 BY MR. ADAMS:

8 Q. And then there was a tissue digestion
9 done, and we looked inside Michael Perry's lungs,
10 right?

11 A. Yes. I believe it was Dr. Longo who
12 did the tissue digestion.

13 Q. Do you know if any of the six experts
14 are still going to come defend Johnson & Johnson?

15 A. That's not something that I
16 specifically know.

17 Q. Do you know if even one of them is
18 going to come?

19 A. I've concerned myself with myself
20 being here. I don't know when it comes to other
21 people who would be coming.

22 Q. One of the things I think we can agree
23 on probably is that Johnson & Johnson tested its
24 baby powder thousands of times for asbestos,
25 right?

1 but the way I like to think about it and tell me
2 if you agree, is XRD similar to like going through
3 a suitcase scanner at the airport when you're
4 getting your luggage checked?

5 A. I -- I guess you can look at it
6 that -- that way. I mean --

7 Q. So you send -- you send your suitcase
8 through, and you see if there's anything there
9 that the TSA agent says, "There might be something
10 there," and they take it off, don't they, and they
11 do a second look?

12 A. Yes.

13 Q. And is that second look similar to
14 that PLM?

15 A. Yes.

16 Q. And so if you have the suitcases going
17 through and there's nothing in there to think that
18 there's asbestos or a problem, would there be a
19 reason to then do further testing, at least
20 initially?

21 A. Initially, there -- there wouldn't be,
22 but the company would also use TEM regardless of
23 some of those -- those other findings. So you had
24 this other test that was also being used.

25 Q. And so J4-1 you said was developed by

1 who?

2 A. J4-1 was developed by the industry
3 back in the -- in the '70s, and came out around
4 1976, in consultation with FDA and other experts,
5 so it was an industry standard.

6 Q. And Johnson & Johnson complied with
7 the J4-1; is that correct?

8 A. Yes.

9 Q. And did they go above and beyond?

10 A. Yes, that's where the company used the
11 transmission electron microscopy.

12 Q. And why was it important for Johnson &
13 Johnson, based on your review, to go above and
14 beyond and do additional testing? Why did that
15 matter?

16 A. Because even -- even early on in the
17 '70s as methods were being developed and science
18 was evolving, the scientists at Johnson & Johnson
19 understood that transmission electron microscopy
20 was very sensitive. And the most sensitive way to
21 look for asbestos in talc. And the company had --
22 had the resources and went out and worked with
23 experts around the world to also develop the TEM
24 technology.

25 MS. BUENO: If you'll go to Slide 23.

1 THE WITNESS: The company said --
2 announced they would stop selling the
3 product.

4 THE COURT: All right. The company
5 announced it was going to completely stop
6 selling Johnson's Baby Powder in the
7 United States; is that correct?

8 THE WITNESS: That's correct, but --
9 but --

10 THE COURT: And now you're going on
11 into something else about why you think
12 that was. But let's follow her questions,
13 okay?

14 THE WITNESS: Sure, yes.

15 THE COURT: Very good.

16 BY MS. BUENO:

17 Q. Was the decision to stop selling talc
18 something that came out of the medical department,
19 out of your department?

20 A. No.

21 Q. What department made the decision to
22 stop selling Johnson's Baby Powder in May of 2020?

23 A. I don't know if it was really a
24 department. It was commercial organization, the
25 people who sell the product, the marketers. It

1 wasn't a safety --

2 Q. The business folks?

3 A. The business folks, yes.

4 Q. So if there was a problem with a
5 product that there needed to be a recall, that it
6 needed to be taken off the market, would that have
7 been something that your medical department got
8 involved in?

9 A. Absolutely.

10 Q. Where were you when you found out that
11 the decision was made by the business folks to
12 take Johnson's Baby Powder off the market?

13 A. It was -- it was shortly after -- I
14 was volunteering during COVID, working in the
15 emergency department. I wasn't even involved in
16 it. So I was volunteering my time to take care of
17 patients in New York City during the height of
18 COVID and I found out about it.

19 Q. And were you surprised when you heard
20 it?

21 A. Very surprised.

22 Q. What was your initial reaction?

23 A. I wanted to try to understand why
24 because it certainly wasn't related -- related to
25 safety.

1 team worked on.

2 Q. And as part of that assessment, did
3 you do what's called a health hazard evaluation to
4 see if that bottle from 2019, that lot that
5 had .00002 percent, did you do an evaluation to
6 see if that would be a health hazard?

7 A. Yes.

8 MS. BUENO: I'm marking as
9 Exhibit 23 -- DX23 that evaluation. And
10 I'll seek to offer this into evidence.

11 MR. ADAMS: Your Honor, this looks
12 like some kind of expert report from
13 Dr. Kuffner, but he was never designated as
14 an expert in this case. So we would object
15 on that basis.

16 MS. BUENO: Your Honor, this is a J&J
17 document that was done as part of the
18 voluntary recall, and his signature is
19 affixed to the last page. He was part --

20 THE COURT: All right. Just let me
21 look at it for a sec. You're saying this
22 is part of a voluntary recall?

23 MS. BUENO: This is what we were just
24 talking about, Your Honor.

25 THE COURT: Yeah, but you told -- you

1 said it wasn't a recall; it was just a
2 decision that you spent a -- a lot of time
3 spent; it wasn't a recall at all; it was a
4 commercial decision to not sell it in the
5 United States. Now you're calling it a
6 recall?

7 MS. BUENO: I'm sorry. I backtracked.
8 This is from the 2019 voluntary recall, the
9 one lot we discussed --

10 THE COURT: Right.

11 MS. BUENO: -- not --

12 THE COURT: I mean, what --

13 MS. BUENO: -- not the decision to --

14 THE COURT: -- what you -- she just
15 finished asking you a bunch of questions
16 about this. And the projection was: It
17 didn't come out of the medical department.
18 It came out of the commercial department.
19 It was a commercial decision to quit
20 selling it in the United States. That's
21 not a recall. You said that.

22 MS. BUENO: Oh, yes, Your Honor.
23 And -- and I'm sorry I -- I messed up the
24 timeline here. If -- if I confused you, I
25 probably confused the jury.

1 THE COURT: I'm not talking about the
2 timeline --

3 MS. BUENO: No, this is --

4 THE COURT: I'm talking about --

5 MS. BUENO: This was months before the
6 decision to stop selling Johnson's Baby
7 Powder. This is a document, October 18th
8 of 2019, which is the day that
9 Dr. Kuffner's team decided to do a
10 voluntary recall of that one lot.

11 MS. McVEY: Your Honor, can we
12 approach just briefly? This is the subject
13 of a motion in limine that I think we need
14 to discuss just for a moment.

15 THE COURT: That -- that's what's got
16 me confused a little bit.

17 You can rest a minute, ladies and
18 gentleman. Just relax.

19 (Bench conference.)

20 MS. McVEY: Your Honor, this is
21 essentially an expert report that he's
22 going to come in and testify this is a
23 report --

24 THE COURT: Uh-huh.

25 MS. McVEY: -- that he has signed. We

1 had a whole conversation about he's not to
2 give expert opinions.

3 THE COURT: Yeah. That's why I'm
4 trying to sort this out.

5 MS. McVEY: This would be inadmissible
6 under any scenario, but certainly if he's
7 going to testify --

8 THE COURT: And they've got their case
9 coming on where they may have some expert
10 that they can present it.

11 MS. MCVEY: That's right.

12 THE COURT: But it's not going to be
13 through him.

14 MS. McVEY: That's right.

15 THE COURT: Do you get what I'm
16 saying?

17 MS. BUENO: Yeah, but, Your Honor,
18 this is the --

19 THE COURT: I don't care whether he
20 authored it or not. He -- this thing is an
21 expert opinion. Y'all have already agreed
22 he isn't going to give expert opinions.

23 MS. BUENO: This is -- we are not
24 offering it for an expert opinion.

25 THE COURT: Well --

1 MS. BUENO: We're offering it for what
2 Johnson & Johnson stated --

3 THE COURT: Well, you've already got
4 into evidence that it was recalled. You've
5 got a document in there about that. That's
6 plenty to establish that fact. This is an
7 attempt to go into more than that and put a
8 report in evidence.

9 He's not to testify about expert
10 witness things; therefore, I'm going to
11 deny allowing this exhibit in through
12 Kuffner at this time, and instruct -- don't
13 ask him anything about expert testimony.
14 I'll put it on the record right now.

15 MS. McVEY: Okay. Thank you.

16 (End of bench conference.)

17 THE COURT: Ladies and gentlemen, let
18 me put on the record this: The exhibit
19 that Ms. Bueno had asked Dr. Kuffner about
20 is an expert opinion. You may recall that
21 experts get qualified in a particular
22 subject. If they're qualified, then they
23 can express an opinion.

24 Dr. Kuffner is the corporate
25 representative. He can't express some

1 expert opinion. You can tell you what
2 happened. All right. He's already told
3 you that they withdrew from the market or
4 recalled -- I don't know exactly how they
5 determined it -- one lot consisting of many
6 cases of a particular talc that had been
7 tested. They withdrew it from the market
8 on October the 19th, 1994, I believe it
9 was.

10 This is an expert report about that.
11 It has already been agreed that he will not
12 testify about expert matters. They're
13 going into their case at some point next
14 week, and they're going to present experts,
15 and if there's any expert opinion about
16 this thing, it's just -- they'll choose to
17 ask for admission, we'll address that at
18 this time. So I have denied the admission
19 of this report -- expert opinion, whatever
20 it is at this time. And instruct Ms. Bueno
21 not to ask him about the opinion or his
22 opinion about this memo.

23 BY MS. BUENO:

24 Q. We're going to move on, and,
25 Dr. Kuffner, next week if -- since we're running

1 claims in litigation, have you ever seen any
2 finding of a winchite fiber or particle in any
3 bottle of Johnson's Baby Powder?

4 A. No.

5 Q. Are you familiar with where winchite
6 comes from?

7 A. Yes.

8 Q. Where is that?

9 A. It certainly doesn't come from the
10 Italian mine that we used. It certainly doesn't
11 come from the Vermont mine that we used. It does
12 not come from the Chinese mine that we used. But
13 it can come from other sources.

14 Q. And the jury has heard that there was
15 an expert named Dr. Sanchez who counsel --

16 THE COURT: That's why -- what I'm
17 going to do is strike any testimony by him
18 about the geological arguments, winchite,
19 or whether it -- whether it occurs in
20 various mines. He's not being offered for
21 this. You got an expert, Mr. Sanchez --
22 Dr. Sanchez that's what he -- he is a
23 geologist and he will talk about these
24 matters.

25 But I direct you to move on, not ask

1 him any further questions about the
2 presence of winchite or anything. And
3 looking at documents in the records of J&J
4 is not going to be enough to express some
5 expert opinion about the presence or
6 absence of a particular mineral in a
7 particular mine. That will come up when
8 you have your geologist. So move on.

9 MS. BUENO: Understood, Your Honor.
10 And I'm not asking an expert opinion. As a
11 corporate representative --

12 THE COURT: I'm not going to allow you
13 to get around a ruling by saying, "As a
14 corporate representative are you aware of
15 anything in the records that pertains it
16 winchite." That's an attempt to discuss
17 the presence of that mineral in these
18 mines. I have ruled that he can't testify
19 about that. So please move on to the next
20 subject.

21 BY MS. BUENO:

22 Q. You were shown some documents earlier
23 and there was a discussion about something called
24 "industrial talc." Can you briefly tell us
25 whether or not Windsor Mines in Vermont used both

1 CERTIFICATE OF REPORTER

2 I, Cindy A. Hayden, Registered Merit
3 Reporter and Notary Public for the State of South
4 Carolina at Large, do hereby certify:

5 That the foregoing proceeding was taken
6 before me on the date and at the time and location
7 stated on Page 1 of this transcript; that the
8 testimony and all objections made at the time of
9 the examination were recorded stenographically by
me and were thereafter transcribed; that the
foregoing proceedings as typed is a true, accurate
and complete record of the testimony and of all
objections made at the time of the examination to
the best of my ability.

10 I further certify that I am neither
11 related to nor counsel for any party to the cause
12 pending or interested in the events thereof.
13 Witness my hand, this 10th of August, 2024.

14
15 _____
16 Cindy A. Hayden,
17 Registered Merit Reporter
18 Notary Public
19 State of South Carolina at Large
20 My Commission expires:
21 July 27, 2030
22
23
24
25

1 STATE OF SOUTH CAROLINA IN THE COURT OF
2 COUNTY OF RICHLAND COMMON PLEAS
3 FOR THE FIFTH
JUDICIAL CIRCUIT
4 MICHAEL L. PERRY AND LONNIE)
L. LONG,)
5 Plaintiffs,)
6 vs.) Case No.
7) 2023-CP-40-04072
8 AMERICAN INTERNATIONAL)
INDUSTRIES, ET AL.,)
9 Defendants.)

10
11 TRIAL BEFORE: THE HONORABLE JEAN H. TOAL
12 DAY 5
13

14 DATE TAKEN: Monday, August 12, 2024

15 TIME BEGAN: 8:42 a.m

16 TIME ENDED: 5:37 p.m.

17 LOCATION: Richland County Judicial Center
18 1701 Main Street
Courtroom 3B
19 Columbia, South Carolina

20 REPORTED BY: Kristy Clark, RPR
EveryWord, Inc.
21 P.O. Box 1459
Columbia, South Carolina 29202
22 803-212-0012
23
24
25

1 18 years old, from 1984 to 1987; correct?

2 A. That is correct.

3 Q. And the jury has already seen and will have
4 with them a affidavit that you signed. I'm going to
5 bring it up real quick just to get you to recognize it
6 for us. We've marked it for the record as DX12007.

7 MS. BUENO: Could I have the ELMO, please?

8 BY MS. BUENO:

9 Q. You recognize this work history affidavit as
10 one that you signed; is that correct, Mr. Perry?

11 A. That is my signature.

12 Q. And it looks like you signed this affidavit
13 on August the 2nd of 2023; correct?

14 A. That is correct.

15 Q. And like I said, the jury's already seen some
16 of this and this will be an exhibit, so we don't need
17 to go through all of the details, but let me ask you
18 about a few of the things that are included.

19 Is it true that you estimate that you
20 installed six dozen brakes on those two vehicles over
21 that three-year period?

22 A. It was my recollection. It was a long time
23 ago. It could be less, it could be somewhere around
24 there. It was a long time ago.

25 Q. But I think your prior testimony was more

1 CERTIFICATE OF REPORTER

2 I, Kristy Clark, Registered Professional
3 Reporter and Notary Public for the State of North
4 Carolina, do hereby certify: That the
5 proceedings and evidence are contained fully and
6 accurately in the notes taken by me in the above
7 cause and that it is a correct transcript of the
8 same.

9 I further certify that I am neither
10 related to nor counsel for any party to the cause
11 pending or interested in the events thereof.
12 Witness my hand, I have hereunto affixed my
13 official seal this 12th day of August, 2024, at Chapin,
14 Lexington County, South Carolina.

15 _____
16 Kristy Clark
17 Registered Professional Reporter
18 Notary Public
19 State of North Carolina
20 My Commission expires:
21 March 20, 2028
22
23
24
25

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF
COMMON PLEAS
FOR THE FIFTH
JUDICIAL CIRCUIT

- - -

MICHAEL L. PERRY AND LONNIE	)	
L. LONG,	)	
	)	
Plaintiffs,	)	
	)	Case No.
vs.	)	2023-CP-40-04072
	)	
AMERICAN INTERNATIONAL	)	
INDUSTRIES, ET AL.,	)	
	)	
Defendants.	)	

TRIAL BEFORE: THE HONORABLE JEAN H. TOAL
DAY 7

DATE TAKEN: Wednesday, August 14, 2024

TIME BEGAN: 9:00 a.m.

TIME ENDED: 5:25 p.m.

LOCATION: Richland County Judicial Center
1701 Main Street
Courtroom 3B
Columbia, South Carolina

REPORTED BY: Cynthia First, RPR, CRR
EveryWord, Inc.
P.O. Box 1459
Columbia, South Carolina 29202
803-212-0012

1 they're going to be your guiding light in this
2 case so you can get it right.

3 The first tool is what I think is the most
4 powerful thing in the courtroom. I think it's
5 more powerful than the lawyers, it's more
6 powerful than the witnesses, it's more powerful
7 than the clerks. It might even be more
8 powerful than the judge. It's your common
9 sense. Your common sense. Because this is a
10 commonsense case.

11 Michael Perry, a human being, was born on
12 this earth, and from the day he was born until
13 he was 50 years old, he breathed dust from
14 Johnson's Baby Powder almost every single day
15 of his life. And the dust from Johnson's Baby
16 Powder contained asbestos. And then he got
17 asbestos cancer.

18 And he came to court to hold the companies
19 responsible who we believe played a role in
20 giving him that cancer. One of those companies
21 was Johnson & Johnson.

22 And when we came into court on behalf of
23 Michael Perry and Lonnie Long, we accused
24 Johnson & Johnson of the most heinous acts you
25 can do to a human being -- knowingly selling a

1 baby powder for over a hundred years that has
2 the worst carcinogen in it in the industry.
3 And Johnson & Johnson, with all its resources
4 and power and strength, defended itself in the
5 case.

6 You've heard they hired seven separate
7 expert witnesses to come into court to swear
8 under oath and to tell you they didn't do it.

9 But then something very -- and those
10 expert witnesses, you heard, wrote long
11 reports. And they gave depositions. And they
12 were ready to come into court and defend this
13 company.

14 But then something very interesting
15 happened. We looked at Michael Perry's body,
16 and we found the exact talc and the exact
17 asbestos that was in Johnson's Baby Powder that
18 he breathed for 50 years. And then not a
19 single expert witness came into court to look
20 you in the eye and defend this company. Not
21 one. Please don't set aside your common sense.

22 In this country you can buy almost
23 anything. You can pay people to eat bugs on TV
24 or marry someone they've never met. You can
25 pay experts to come into court and say smoking

1 doesn't cause lung cancer, arsenic in the water
2 doesn't cause leukemia. If you can afford it,
3 you can pay for almost anything.

4 Once we realized what was in Michael
5 Perry's lungs, they couldn't find an expert on
6 earth to come into this court and tell you they
7 didn't do it.

8 MS. BUENO: Objection, Your Honor.

9 THE COURT: Approach.

10 (Whereupon a bench conference was
11 held.)

12 MS. BUENO: Yes, ma'am. That's absolutely
13 not true. It's not in the evidence. He's
14 saying that we couldn't find an expert to come
15 in and defend this product. That is not true.

16 THE COURT: Okay.

17 MS. BUENO: It's inaccurate. It's
18 inflaming passions for no reason. It's
19 improper.

20 THE COURT: Reply.

21 MS. MCVEY: Your Honor, she can argue that
22 all she wants. This is an argument about our
23 interpretation of the evidence. She can't make
24 this argument.

25 THE COURT: No. Here's what she's saying.

1 to cheer him up when he got the worst news of
2 his life. I just think it tells you everything
3 you need to know.

4 Lonnie's been there every single day at
5 every single doctors' appointment, and he's
6 going to be there every single day and every
7 single doctors' appointment until Michael takes
8 his last breath.

9 I think half of Michael's loss is
10 appropriate. You can do more; you can do less.
11 You can do anything. That's what I think.

12 Question 8 is the most important question
13 on the entire verdict form. Did this company
14 do what it did because it didn't see a stop
15 sign and ran through it and was just negligent,
16 or is what they did willful? Did they see that
17 stop sign hundreds of times and put the pedal
18 to the floor?

19 Willful, wanton, or reckless conduct is
20 conscious. That means they knew. Failure to
21 exercise due care or conscious indifference to
22 the rights and safety of others or reckless
23 disregard of the rights and safety of others.

24 This company was so reckless, there's no
25 words for it. They knew it was bad. They knew

1 it would hurt people. That's why they tried to
2 cover it up over and over again.

3 They went from .5 percent -- that's
4 billions of fibers in a bottle -- to a few
5 isolated crystals. They minimized it. They
6 hid it. They concealed this for 46 years and
7 told the FDA it didn't exist and Hutchinson got
8 it wrong when there were pictures.

9 They tested with the weak tools when they
10 knew it wouldn't find asbestos. This is a
11 document we barely talked about, but it's in
12 evidence.

13 In 1977 Johnson & Johnson was trying to
14 get this J-41 method. I know you don't know
15 what that means. J-41 is their weak method
16 with XRD, the weakest tool that they tested the
17 baby powder with. In '77 they were testing out
18 that J-41 method.

19 They literally dumped asbestos in the
20 bottle. They spiked the samples with asbestos
21 to test this method to see if it was any good.
22 They sent the bottles which they've dumped
23 asbestos in to seven separate labs. Only one
24 of the seven found the tremolite they spiked
25 the sample with using their J-41 method.

1 The method was so trash, when they poured
2 asbestos in the bottle, six out of seven labs
3 missed it. That's the method they used for the
4 next 46 years. That is unconscionable. That
5 is so shameful. On babies.

6 MS. BUENO: Objection, Your Honor.

7 THE COURT: Approach.

8 (Whereupon a bench conference was
9 held.)

10 MS. BUENO: Objection to inflaming the
11 passions of the jury through words like
12 "unconscionable" and "shameful" and "use on
13 babies."

14 MS. MCVEY: We're talking about conscious
15 disregard for willful and wanton conduct. It's
16 clearly a word that can be used.

17 THE COURT: Ms. Pepke?

18 MS. PEPKE: I've been writing it down.
19 "Shameful," "heinous," "stole." They're using
20 criminal words.

21 THE COURT: I am concerned about that too.
22 I think you can make a point without as
23 pejorative a group of adjectives you're using.
24 So I'm going to sustain the objection and tell
25 the jury to disregard.

1 powder, never paid for an epidemiology study,
2 never conducted an epidemiology study, never
3 followed any of the people using their powder
4 for an epidemiology study.

5 But it doesn't matter because epidemiology
6 proves they played a role in Michael Perry's
7 mesothelioma. Do y'all understand the only way
8 they win is if they played zero role? They
9 wanted to be the biggest, the strongest, the
10 most --

11 MS. BUENO: Objection, Your Honor.

12 THE COURT: Approach.

13 (Whereupon a bench conference was
14 held.)

15 MS. BUENO: The objection is he just said
16 the only way we win is if we played zero role,
17 which is not the law. The law is substantial
18 factor. He's now trying to say that anything
19 above zero is substantial, which is not what
20 you are going to instruct them.

21 MS. MCVEY: Judge, you're going to
22 instruct them what "substantial factor" means.
23 It doesn't have to be the biggest role. It's
24 in expert testimony and undisputed there was a
25 substantial factor in this case. He doesn't

1 have to say they were the biggest exposure.

2 MS. BUENO: That wasn't my objection. He
3 said anything above zero, and that's not the
4 law.

5 THE COURT: I understand your argument. I
6 have listened to the testimony. I will
7 overrule your objection.

8 MS. MCVEY: Thank you.

9 THE COURT: Objection is overruled.

10 (Bench conference concluded.)

11 MR. ADAMS: Witnesses for
12 Johnson & Johnson under oath say 4.5 to 9.3
13 fibers per cc.

14 Look at these numbers. 0.1 fibers per cc,
15 quadrupling of the risk. I showed you this
16 already, but this is everything. This is it.
17 The epi shows the levels from their powder
18 gives people this disease, not a doubling of
19 the risk, a quadrupling of the risk, an
20 eightfold increase, a 28-fold increase, a
21 fraction of what their corporate representative
22 just told you people are exposed to.

23 And it's not just their corporate
24 representative. And it wasn't just fibers; it
25 was fibers per cc. That's why he admitted to

1 was mostly tremolite. Brakes were outdoors.
2 The powder was in the home. Brakes weren't on
3 a baby; the powder was.

4 But it doesn't matter. It really doesn't
5 matter at all because the undisputed testimony
6 is that it's the total dose of asbestos that
7 causes the disease. The total dose, all of it
8 counted. Of course the brakes counted. Of
9 course they count.

10 He worked with brakes; he was exposed to
11 asbestos. He breathed it into his body. It
12 was part of his dose. They counted. But so
13 did the asbestos from the baby powder that he
14 breathed for 50 years. It's the cumulative
15 dose that counts, the total dose. You can't go
16 back and start deleting asbestos exposures.

17 It would be like if someone had lung
18 cancer and they smoked Camels for 10 years,
19 Marlboros for three, and Kents -- Kools for 50
20 or whatever, and they got lung cancer. You
21 can't go back and say, oh, the Kents didn't
22 count, the Marlboros didn't count; it was just
23 the Kools. That's not how science works.

24 Asbestos is exactly the same. It's all
25 the cigarettes that caused the lung cancer, and

1 the plaintiff must establish that the product
2 defect was a proximate cause of the injuries
3 sustained.

4 Plaintiff must prove that the defendant --
5 that the plaintiffs' exposure to asbestos in
6 the defendant's product was of such a
7 frequency, regularity, and duration that it was
8 a substantial factor in bringing about the
9 disease or injury. The mere fact that an
10 injury or accident occurred standing alone does
11 not permit you to draw the conclusion that the
12 injury or accident was caused by anyone's
13 negligence or breach of warranty of strict
14 liability.

15 In a negligence claim, plaintiffs must
16 prove by a greater weight of the preponderance
17 of the evidence that defendant's negligence
18 proximately caused an injury to the plaintiff
19 and the damages suffered were proximately
20 caused by the defendant's breach of its duty of
21 care.

22 Proximate cause is conduct that produces a
23 natural chain of events and in the end brings
24 about an injury. And it is the direct cause of
25 the injury.

1 To prove the defendant's negligence
2 proximately caused plaintiff's injury,
3 plaintiffs must first prove something called
4 causation in fact. That is proved by showing
5 the defendant's negligence was a substantial
6 factor in causing the injury.

7 The plaintiff must also prove something
8 called legal cause, and that is proved by
9 showing the injury was foreseeable. That means
10 the injury occurred as a natural and probable
11 consequence of the defendant's negligence.

12 The plaintiffs must prove that some injury
13 from the defendant's negligence was
14 foreseeable, but they do not have to prove the
15 particular injury that occurred -- the
16 particular injury that occurred was
17 foreseeable. However, a defendant cannot be
18 held responsible for something that could not
19 have been expected to happen.

20 There can be more than one cause.
21 Proximate cause does not mean the only cause.
22 Defendant's actions can be a proximate cause of
23 plaintiff's injury if defendant's conduct was
24 at least one of the direct causes of the
25 injury. Where two or more causes combine to

1 produce an injury, a defendant is not relieved
2 from liability for negligence because it's
3 responsible for only one of the causes. It is
4 sufficient that its negligence or fault is a
5 substantial factor in causing the injury.

6 Consequently, if a defendant's negligence
7 is a proximate cause of an injury to another,
8 the fact that the negligence of a third party
9 occurred with its own negligence to produce the
10 harm does not relieve it of liability. In such
11 cases each wrongdoer is in breach of the duty
12 of care owed to the plaintiff because the
13 negligence of each contributed to produce an
14 injury. They can all be liable.

15 Under South Carolina law, a defendant is
16 entitled to assert that other persons or
17 entities caused or contributed to the alleged
18 injury or damage. The matter of others'
19 alleged fault in causing the plaintiffs'
20 injuries has been raised by the defendants, and
21 it's proper for you to consider the actions of
22 others but only insofar as plaintiff have made
23 their -- have met their burden of proof.

24 Eggshell plaintiff. A defendant who is
25 negligent must take the plaintiff as he finds

CERTIFICATE OF REPORTER

I, Cynthia First, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify: That the proceedings and evidence are contained fully and accurately in the notes taken by me in the above cause and that it is a correct transcript of the same.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof. Witness my hand, I have hereunto affixed my official seal this 14th day of August 2024, at Chapin, Lexington County, South Carolina.

Cynthia First,
Registered Professional Reporter
Notary Public
State of South Carolina at Large
My Commission expires:
October 16, 2028

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF
COMMON PLEAS
FOR THE FIFTH
JUDICIAL CIRCUIT

- - -

MICHAEL L. PERRY AND LONNIE	)	
L. LONG,	)	
	)	
Plaintiffs,	)	
	)	Case No.
vs.	)	2023-CP-40-04072
	)	
AMERICAN INTERNATIONAL	)	
INDUSTRIES, ET AL.,	)	
	)	
Defendants.	)	

TRIAL BEFORE: THE HONORABLE JEAN H. TOAL
DAY 8

DATE TAKEN: Thursday, August 15, 2024

TIME BEGAN: 10:00 a.m.

TIME ENDED: 5:28 p.m.

LOCATION: Richland County Judicial Center
1701 Main Street
Courtroom 3B
Columbia, South Carolina

REPORTED BY: Cynthia First, RPR, CRR
EveryWord, Inc.
P.O. Box 1459
Columbia, South Carolina 29202
803-212-0012

1 and wanton. Punitive damages are intended to
2 punish a defendant for willful, reckless, and
3 wanton misconduct and to prevent the defendant
4 and others from committing similar acts in the
5 future. Punitive damages can only be awarded
6 when the conduct of the defendant has been
7 something more than mere negligence. The
8 evidence must clearly and convincingly
9 establish that the defendant was reckless or
10 willful or wanton, meaning there was a
11 conscious failure to exercise due care or a
12 conscious indifference to the rights and safety
13 of others or reckless disregard for the safety
14 of others.

15 Now, there's a statute on that, a law, and
16 I'm going to read portions of that to you. The
17 statute is Code Section 15-32-520, and it's
18 entitled Bifurcated Trials Clear and Convincing
19 Evidence Standard, Factors for Liability
20 Determination. In all actions tried before a
21 jury involving punitive damages, if requested
22 by any defendant against whom punitive damages
23 are sought, the punitive damage phase must be
24 conducted in a bifurcated manner before the
25 same jury. I have conducted it that way. In

1 the first phase of the bifurcated trial, the
2 jury shall determine the liability for
3 compensatory damages and the amount of
4 compensatory or nominal damages. In this case
5 you have determined compensatory damages.
6 Evidence relevant only to the issue of punitive
7 damages -- evidence only relevant to the issue
8 of punitive damages is not admitted in the
9 first stage. Punitive damages may be awarded
10 only if the plaintiff proves by clear and
11 convincing evidence that his harm was a result
12 of willful, wanton, and reckless conduct, and
13 that has been done.

14 In the second phase of the bifurcated
15 trial, the jury shall determine if the
16 defendant is liable for punitive damages, and
17 if determined to be liable, the amount of
18 punitive damages. In determining the amount of
19 punitive damages, the jury may consider all
20 relevant evidence, including but not limited to
21 defendants' degree of culpability, the severity
22 of the harm caused by the defendant, the
23 duration of the conduct, the defendants'
24 awareness and any concealment by the defendant,
25 the existence of similar past conduct, the

1 profitability of the conduct of the defendant,
2 the defendants' ability to pay, the likelihood
3 that the award would deter the defendant or
4 others from like conduct. Those are the
5 pertinent portions of the statute.

6 Now, in a minute I'm going to turn to
7 Mr. Adams to begin the plaintiffs' presentation
8 of the case in this punitive damages case. And
9 I'm going to begin by reading you this
10 financial disclosure. This disclosure is made
11 on behalf of Johnson & Johnson. Financial
12 data, condition of defendant. Defendants' net
13 worth information for the past calendar year is
14 sufficient for the scope of the topic of the
15 defendants' financial condition. The year is
16 2023. The defendants' net equity for fiscal
17 year 2023 is \$70 billion. This disclosure is
18 made on behalf of AII. Its net worth for 2023
19 is \$76 million.

20 Now, I also have a punitive damages form.
21 And in a moment, I'm going to give that to your
22 foreperson of the jury, each one of you. And,
23 of course, just like we did before, you'll fill
24 it out at the end. It's a pretty simple form.
25 It says, "As to Plaintiff Michael Perry's claim

1 just made to you, but the stipulation you can
2 just write down in your notebook, Madam
3 Foreperson, the net worth of Johnson & Johnson
4 is \$70 billion, and the net worth of AII is
5 \$76 million.

6 JURY FOREPERSON: Million?

7 THE COURT: That's AII, 76 million; J&J,
8 70 billion. All right? Very good.

9 Now, Mr. Adams, you may proceed.

10 MR. ADAMS: Thank you.

11 - - -

12 CLOSING ARGUMENT BY MR. ADAMS

13 - - -

14 MR. ADAMS: There's no more phases. This
15 is it, I promise. And it's supershort. It's
16 real short, but it's real important. I know
17 you all probably thought we were going to go
18 home. We're not allowed to tell you if you
19 check "yes" on 8, there's another phase. I'm
20 going to talk to you for about five minutes.
21 You've already heard the stipulations. J&J
22 will talk to you, and then you'll be done.
23 It's one question on the verdict form, and no
24 more phases.

25 Thank you so much for your deliberations.

1 third kind, money in a verdict to punish the
2 company and to tell them, "Don't ever do
3 anything like this again. Don't ever do
4 anything like this again." That's what this is
5 about.

6 But in order to do that, you have to know
7 how much money the companies have because
8 you're not allowed to destroy the company with
9 your verdict. It can't -- it can't be so much
10 that it would destroy the company, but it can't
11 be so little that they don't feel it at all.
12 It has to be actual punishment that will deter
13 them from doing this again.

14 And so --

15 MR. BROWN: Objection, Your Honor.

16 THE COURT: Yes. I think your objection
17 is "it has to be."

18 MR. BROWN: Yes.

19 THE COURT: And I agree with you. It
20 doesn't have to be any amount; and therefore
21 your objection is sustained. Strike that from
22 the record.

23 MR. ADAMS: Sorry about that. You don't
24 have to punish them at all.

25 We believe the evidence, selling the worst

1 carcinogen in human history to children, is
2 worth punishing.

3 MS. PEPKE: Objection, Your Honor. May I
4 approach?

5 THE COURT: You may.

6 (Whereupon a bench conference was
7 held.)

8 MS. PEPKE: I believe I heard him say,
9 "selling it to children," which would be asking
10 them to punish the harm to other people.

11 MS. MCVEY: He used it as a child. His
12 mother used it on him as a child. This is the
13 punishment phase.

14 THE COURT: Then use those terms. Don't
15 say, "selling it to a child."

16 MS. PEPKE: I would object to punishing
17 Johnson & Johnson for harm to other people.

18 THE COURT: Well, deterring that is what
19 they are asking for. And that they can ask.

20 MS. PEPKE: Overruled?

21 THE COURT: Overruled.

22 MS. MCVEY: Thank you, Your Honor.

23 (Bench conference concluded.)

24 THE COURT: Proceed, Mr. Adams.

25 MR. ADAMS: Yes, Your Honor. Thank you.

CERTIFICATE OF REPORTER

I, Cynthia First, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify: That the proceedings and evidence are contained fully and accurately in the notes taken by me in the above cause and that it is a correct transcript of the same.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof. Witness my hand, I have hereunto affixed my official seal this 15th day of August 2024, at Chapin, Lexington County, South Carolina.

Cynthia First,
Registered Professional Reporter
Notary Public
State of South Carolina at Large
My Commission expires:
October 16, 2028

Exhibit B

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA
BEFORE THE HONORABLE RICHARD SEABOLT
DEPARTMENT 18

---000---

EMORY HERNANDEZ VALADEZ,

Plaintiff,

vs.

No. 22CV012759

JOHNSON & JOHNSON, et
al.,

Defendants.

-----/

REPORTER'S TRANSCRIPT OF TRIAL

VOLUME XXXII, Pages 6087 - 6392

(D. Weill; E. Kuffner)

Wednesday, June 28, 2023

Full Session

Reported by

EARLY K. LANGLEY, RMR, RSA, B.A.

CSR No. 3537

Job No. AW 5984008

1 reported in pericardial tissue by inhalation. In other
2 words, there's not been a study that's actually found
3 asbestos fibers -- just like in this case, there was no
4 evidence of asbestos fibers in the pericardial tissue
5 by inhalation.

6 Now, in an animal study, if you inject it
7 straight into the pericardium, put asbestos right in
8 the pericardium in an animal, obviously they will have
9 tissue.

10 But by the inhaled route, there's not been that
11 demonstration.

12 Pericardial mesothelioma generally occurs at a
13 younger age than pleural mesothelioma. Not always, but
14 generally.

15 We talked about the male/female ratio being
16 about one to one. Doesn't really bode in favor of an
17 occupationally exposed male population, generally
18 speaking.

19 And then these tumors have also been shown in
20 animals as well.

21 Q. Thank you, Doctor.

22 I want to move on to another topic, if we
23 could. This one is about markers of asbestos exposure.

24 Could you explain -- the jury may know already
25 because we have heard a lot of testimony in this case,

1 but could you explain to us all what that means?

2 A. Yeah. When we talk about markers of exposure,
3 we're looking at footprints, footprints of asbestos
4 exposure. And we have a few different ways that we can
09:39:46 5 do that. We can look radiographically on chest x-rays
6 or CT scan for pleural plaques. Those are the
7 discrete, small, little scars on the pleural surface of
8 the lung. We can look for scarring of the lung called
9 lung fibrosis or asbestosis.

09:40:02 10 We can look under the microscope at -- for
11 asbestos bodies. Those are the iron coating around the
12 asbestos fiber that we would -- we'd have to find that
13 in lung tissue. That could only be seen by microscope.

14 And then finally, the last point is,
09:40:19 15 pathologists can look for asbestos fiber in the lung
16 tissue itself and do various analyses to figure out if
17 it's there or not.

18 Q. Did you get a chance to look at all the
19 radiology, CT scans, the pathology in this case?

09:40:34 20 A. I did.

21 Q. And understanding that -- where you are an
22 expert, so I'm not trying to turn you into a
23 pathologist, but did you see any pleural plaques?

24 A. No.

09:40:43 25 Q. Did you see any lung fibrosis or asbestosis?

1 A. No.

2 Q. Did you see even one asbestos body in the
3 tissue?

4 A. No.

09:40:52

5 Q. As a matter of fact, did you see in any of the
6 reports that plaintiffs reported seeing even one
7 asbestos fiber in the tissue that was taken from
8 Mr. Valadez?

9 A. No.

09:41:02

10 Q. Did you see anything that would indicate
11 elevated asbestos fibers in the body at all?

12 A. No.

13 Q. Now, with regard to this stuff, this comes when
14 people have really heavy exposure; right?

09:41:17

15 A. Yes.

16 Q. And so when you see somebody who has had, I
17 don't know, 5 billion fibers of exposure to asbestos,
18 you would expect to see some pleural plaques?

19 A. Yes.

09:41:28

20 Q. And you didn't see any pleural plaques, lung
21 fibrosis, asbestosis, asbestos bodies, or anything;
22 right?

23 A. None.

09:41:40

24 Q. Now, with regard to these asbestos bodies, did
25 you also see the reports from Dr. Abraham, Dr. Kradin,

1 indicate that somebody had heavy exposure and that
2 talcum powder is the only way that could get into the
3 body?

4 A. No.

09:43:52

5 Q. Now, I know we have an article that we're
6 talking about here called "Analysis of fibers and
7 non-fibrous particles," and it's written by
8 Dr. Abraham, who was actually here testifying in court
9 a couple of weeks ago.

09:44:07

10 Could you tell us how this article informs your
11 opinion?

12 A. I think that it's consistent with my opinion
13 that the general population has metals and minerals of
14 all sorts in their lungs, whether or not they're
15 exposed to anything or not. It's just if they -- it's
16 a fact of being on planet earth and breathing.

09:44:20

17 Q. Not one of these particles that we have listed
18 here that Dr. Abraham found is related only to talc, is
19 it?

09:44:35

20 A. No.

21 Q. Do these particles cause mesothelioma?

22 A. No.

23 Q. I want to ask you, just kind of summing up what
24 we've written down on the slide that you provided us,
25 Objective Biomarkers, if you could just quickly run

09:45:02

1 through your summary of what your findings were as to
2 whether any of things were in Mr. Valadez?

3 A. Yes, I mentioned this, footprints. They're
4 either by radiology, CT scans and x-rays, or they're by
09:45:15 5 pathology. And of all the ways that we can look for
6 asbestos in a human, we didn't see any of that in
7 Mr. Valadez.

8 Q. Thank you, Doctor.

9 All right. We're on to your last opinion,
09:45:28 10 and -- which is Mr. Valadez's usage of cosmetic talcum
11 powder, did that increase his risk of pericardial
12 mesothelioma. Why is that your opinion?

13 A. I -- my review of the medical literature
14 suggests that there is no association. My reading of
09:45:44 15 it doesn't show any causal association between talc
16 exposure and pericardial mesothelioma.

17 Q. Okay. And you've considered epidemiology, yes?

18 A. Yes.

19 Q. Also animal experimental data?

09:45:57 20 A. Yes.

21 Q. And I know the jury has heard about both.

22 Tell us what your research has shown with
23 regard to epidemiology.

24 A. So in the highest exposed talc individuals,
09:46:08 25 those that -- those are the individuals that are mining

1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF ALAMEDA)
4

5 I, EARLY K. LANGLEY, do hereby certify:

6 That foregoing proceedings were held in the
7 above-entitled action at the time and place therein
8 specified;

9 That said proceedings were taken before me at said
10 time and place, and was taken down in shorthand by me,
11 a Certified Shorthand Reporter of the State of
12 California, and was thereafter transcribed into
13 typewriting, and that the foregoing transcript
14 constitutes a full, true and correct report of said
15 proceedings that took place;

16 IN WITNESS WHEREOF, I have hereunder subscribed my
17 hand on June 28, 2023.
18
19
20
21

22 _____
23 EARLY K. LANGLEY, CSR No. 3537
24 State of California
25

Exhibit C

Page 1

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

STEPHANIE SALCEDO,	)	
Individually and as	)	
Administrator of the	)	
Estate of Theresa M.	)	
Garcia, Deceased,	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 20 L 4505
	)	
AVON PRODUCTS, INC.,	)	
et al.,	)	
	)	
Defendants.	)	
_____	)	

REPORT OF PROCEEDINGS at the trial of
the above-entitled cause before the Honorable
Patrick J. Sherlock, Judge of the said Court, at
Richard J. Daley Center, 50 West Washington
Street, Room 2007, Chicago, Illinois, commencing
at 10:20 a.m. on the 20th day of March, 2024.

Reported by: Deborah Habian, CSR, CRR, RMR
License No. 084-02432

1 **Q.** And those are naturally occurring
2 mutations that happen when cells divide, right?

3 **A.** That's right.

4 **Q.** And you agree that the older a person
5 is, the more time that individual has to
6 accumulate these genetic errors that are
7 required to develop cancer; is that correct?

8 **A.** That's correct.

9 **Q.** And you agree there are
10 spontaneously-occurring mutations that
11 accumulate in the somatic cells throughout a
12 person's lifetime?

13 **A.** As I described, yes, I agree.

14 **Q.** And any form of cancer can occur
15 spontaneously without any apparent external
16 cause, right?

17 **A.** As I described, yes.

18 **Q.** And you agree that mesothelioma can
19 occur spontaneously, correct?

20 **A.** As I said.

21 **Q.** So if we take lung cancer, for example,
22 lung cancer can be caused by smoking, right?

23 **A.** Sure.

24 **Q.** But lung cancer can also occur in

REPORTER CERTIFICATE

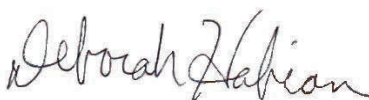
I, Deborah Habian, a Certified
Shorthand Reporter within and for the State of
Illinois, do hereby certify:

That the foregoing report of
proceedings was reported stenographically by me,
was thereafter reduced to printed transcript by
me, and constitutes a true record of the
testimony given and the proceedings had;

That the said report of proceedings was
taken before me at the time and place specified;

That I am not a relative or employee of
attorney or counsel, nor a relative or employee
of such attorney or counsel for any of the
parties hereto, nor interested directly or
indirectly in the outcome of this action.

IN WITNESS WHEREOF, I do hereunto set
my hand this 21st day of March, 2024.



DEBORAH HABIAN, CSR, RMR, CRR, CLR
IL CSR NO. 084-02432
MO CCR NO. 1409

Exhibit D

Deposition of Arnold Brody, Ph.D.

Hirshberg, et vir v. Johnson & Johnson

February 22, 2021



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www.buellrealtime.com
email: info@buellrealtime.com



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

WENDI J. HIRSHBERG and RICHARD)
HIRSHBERG, Wife and Husband,)

)
Plaintiffs,)

) No. 20-2-05603-1 SEA

vs.)

)
JOHNSON & JOHNSON, et al.,)

)
Defendants.)

)

VIDEOCONFERENCE DEPOSITION UPON ORAL EXAMINATION

OF

ARNOLD BRODY, PH.D.

Witness located in
Boca Raton, Florida

(ALL PARTICIPANTS APPEARING VIA VIDEOCONFERENCE)

DATE TAKEN: FEBRUARY 22, 2021

REPORTED BY: ANITA W. SELF, RPR, CCR #3032

1 length, but they -- we show varying fiber lengths. In
2 other words, there were short fibers and long fibers
3 binding to the membranes, and interacting with the
4 membranes. And so, I think that's the point that I
5 was trying to make right there.

6 Q. Okay.

7 And if we turn over to page -- let's see --
8 page No. 10, paragraph 18.

9 A. Okay.

10 Q. "Any form of cancer can occur spontaneously
11 that is without an external cause," and that would
12 include mesothelioma, correct?

13 A. That's right.

14 Q. And that's, in part, because cells are
15 replicating. Obviously cells, depending on the organ,
16 can replicate at a faster rate or a slower rate, but
17 as they replicate, there are errors, and if they're
18 not caught, the errors accumulate as mutations,
19 correct?

20 A. That's correct.

21 Q. And an accumulation of mutations from these
22 internal errors in cell replication can, in some
23 individuals, result in cancer, correct?

24 A. That's right.

25 MS. DEAN: Object to form. Overly broad.

1 CERTIFICATE

2
3 STATE OF WASHINGTON)
) ss.
4 COUNTY OF KING)
5
6

7 I, ANITA W. SELF, a Certified Shorthand
8 Reporter in and for the State of Washington, do
9 hereby certify that the foregoing transcript is true
10 and accurate to the best of my knowledge, skill and
11 ability.

12 IN WITNESS WHEREOF, I have hereunto set my hand
13 and seal this 5th day of March 2021.
14

15
16 *Anita W. Self*
17 _____

18 ANITA W. SELF, RPR, CCR #3032
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Exhibit E

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

-oOo-

SHELLY E. YERKES AND THOMAS F.
YERKES,

Plaintiffs,

vs.

Case No. 23CV032102

AVON PRODUCTS, INC.;

Defendants,

SHARON HOFMAISTER,

Plaintiff,

vs.

Case No. 23CV033743

JOHNSON & JOHNSON, et al.,

Defendants.

VIDEOCONFERENCE DEPOSITION OF

WILLIAM EDWARD LONGO, Ph.D.

VOLUME I

(Pages 1 through 114, inclusive)

Taken before JULIE HEYWARD

CSR No. 7907

January 18, 2024

Page 90

1 from -- is it Italian or did it happen to have a
2 richterite or two in it, I've got to go back and look at
3 it.
4 But certainly, To a Wild Rose, that 6,000,000, all
5 richterite, that is definitely Death Valley talcum, to a
6 reasonable degree of scientific certainty.
7 Q. The sender is the Kazan law firm, but do you
8 know where the Kazan law firm got sample number 15, To a
9 Wild Rose?
10 A. You know, that was some of the -- that Wild
11 Rose and a few others has been -- and the other one
12 above that, those are the very first cosmetic talc
13 samples we ever received. And I started getting
14 involved in this back in June or July of 2016. So other
15 than a chain of custody going back to Kazan, I don't
16 know.
17 Q. Have you asked of Mr. Satterley about where --
18 where they got To a Wild Rose, sample number 15?
19 A. I may have. But that would have been a long
20 time ago, I don't recall.
21 Q. Have you asked anybody else where that bottle
22 came from?
23 A. No. I mean, I think this is the first time
24 I've ever been deposed about it.
25 Q. With respect to the reference to richterite

Page 91

1 bundles that MAS reports for sample number 15, what do
2 you rely on for the definition of richterite as
3 asbestos?
4 A. That it has potassium and it has sodium, which
5 is not found in tremolite, and if it has more iron than
6 usual, then you probably over in the Wind Chime column.
7 But richterite is potassium and sodium.
8 Q. Are there any regulations, guidelines, or
9 standard definitions that identify richterite as
10 asbestos?
11 A. I don't think it is -- it is defined as
12 asbestos. You know, it's a tremolite solid solution
13 series and it used to be called trem- -- calcium --
14 calcic tremolite.
15 But I can remember an EPA conference when all of
16 this started coming out, a gentleman was like I don't
17 care what you call it, it's killing people in Libby,
18 Montana. So we treat it as regulated asbestos.
19 Q. When was that that you were at a conference and
20 there was discussion about richterite?
21 A. It's because we were working with EPA on the
22 Libby, Montana, some people still call this Libby
23 amphiboles. It's not -- Richterite is not just found in
24 Libby, Montana. I don't know, ten, 15, 20 years ago,
25 something like that.

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1 Q. But as far as when -- if there ever was a time
2 where richterite was first included in the definition of
3 asbestos, that's not something that you could point to
4 in a particular source or reference; is that right?
5 A. That's correct. I'm not sure what I was
6 pointed to at that point. But kind of silly because
7 there's just, you know, a little bit of a different --
8 two different elements that are not found in tremolite
9 itself because they call it a solid solution series.
10 And it wasn't until EPA got involved with the Libby,
11 Montana superfund site that they started looking at it
12 as just not tremolite.
13 Actinolite, also a solid solution series as well,
14 so the Wind Chime and richterite. I'll let others argue
15 that.
16 Q. And you indicated this, but the richterite is
17 sometimes colloquially called Libby amphibole; right?
18 A. Yeah, it's sort of like "Go get me a xerox
19 copy," even though we don't have a Xerox. I wish people
20 wouldn't do that because it makes it sound like it came
21 from Libby.
22 Q. We talked about some J&J cosmetic talcum powder
23 products that included richterite or Libby amphibole;
24 right?
25 A. Yeah.

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1 Q. And --
2 A. What you'll find, you know, one or two. This
3 particular sample, Wild Rose, that get the 6,000,000,
4 there must be 70 or 80 structures in it.
5 Q. What other products have you observed with
6 richterite contamination?
7 A. Well, I don't call it contamination as an
8 accessory mineral. We've seen it in -- I think once, a
9 couple, in Italian, and have seen it once or twice as
10 one structure in the Chinese. I can't think of any
11 other time. I don't know which product because, to me,
12 it's the mine that's important, not the product it's in.
13 Q. Libby, Montana vermiculite also had the
14 potential to include richterite; true?
15 A. Which one?
16 Q. Libby, Montana vermiculite?
17 A. Yes, it had richterite, winchite, actinolite,
18 and tremolite.
19 Q. And the vermiculite has been used in many
20 products; right?
21 A. It's been used as insulation in buildings, it's
22 been used in asbestos-containing fireproofing,
23 asbestos-containing acoustical plasters, Zonolite,
24 W.R. Grace, MonoKote, fireproofing, it's been used in
25 Scott's Fertilizer, it's been used in other -- other

24 (Pages 90 to 93)

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1 garden products where it's just vermiculite. Let's see,
2 what else? I'm sure there's more things.

3 Q. And the garden products, that would include
4 potting soils?

5 A. Correct.

6 Q. I seem to have a recollection of vermiculite
7 being used in kitty litter?

8 A. Oh, I forgot about that one, thank you. I
9 don't have a cat so I wouldn't know.

10 Q. Any others that you can think of as you sit
11 here?

12 A. I couldn't think of kitty litter so there's
13 probably other ones I couldn't think of either.

14 Q. What investigation did you do in the facts of
15 the Yerkes matter with respect to her potential exposure
16 to vermiculite and richterite from sources other than
17 cosmetic talc?

18 A. Well, I know this is almost a common-sense
19 thing. If she's being exposed to richterite from
20 vermiculite, the overwhelming majority of what she would
21 have been exposed to is vermiculite. Because then you
22 would -- because these accessory minerals in
23 vermiculite, depending on -- depending on what grade it
24 is, and for vermiculite potting soils, it's usually a
25 grade four, which is some of the smaller material. You

1 would expect to have vermiculite in the tissue analysis.
2 There is none. The only thing in these tissue analysis
3 is -- well, you found some tremolite, anthophyllite,
4 richterite, talc plates, fibrous talc, aluminum
5 silicates, I think we had some TiO₂, titanium dioxide,
6 iron particles, but no vermiculite. So you can't not
7 have one of the ingredients that's easily 99 percent of
8 the product. Somehow the asbestos, the richterite in
9 that product got into the tissue of the lungs, but not
10 the vermiculite. That wouldn't make much sense to me.

11 Q. Other than the fiber burden analysis, is there
12 any other investigation you did with respect to her
13 potential exposure to vermiculite?

14 MR. REID: Vague, ambiguous as to
15 "investigation."

16 THE WITNESS: Well, I was just going to bring
17 up, what kind of investigation can I do other than
18 what -- the depositions? The depositions, usually the
19 one that typically goes over at length about other
20 potential sources of asbestos, and when that was gone
21 over, nothing -- nothing came up that would tell me,
22 yes, Mrs. Yerkes had an exposure to vermiculite.

23 But I think the lung tissue analysis is pretty
24 strong evidence that she did not.

25 BY MR. GREENE:

1 Q. You reviewed Dr. Dodson's and Dr. Abraham's
2 reports.

3 What did you glean from those reports that informed
4 your opinion in the Yerkes case?

5 A. That she was exposed to cosmetic talcs and that
6 was her primary -- and that was her exposure and that
7 was where the -- in my opinion, where the asbestos came
8 in her -- the source of the asbestos in that tissue
9 occurs.

10 Q. Are you familiar with Dr. Bradley Van Gosen?
11 A. I am familiar with him and this paperwork -- I
12 mean his paper.

13 Q. So how are you familiar with him?
14 A. Well, I met him, I read a lot of his papers,
15 he's got a ton of publications, he's well-known in the
16 industry.

17 Q. He is a research geologist?
18 A. Yeah, I would say so.

19 Q. And a well-qualified research geologist?
20 A. I would say he's well qualified.

21 Q. Reputable in his field?
22 A. He is reputable in his field. Now, that's not
23 saying there may be things we reputable scientists
24 disagree about or reputable scientists -- a truly
25 reputable scientist, when they make a statement or have

1 an opinion about something, but learn later that that
2 opinion is not valid and change it, that's what I -- and
3 publicly say that this is not true, I mean, I was wrong
4 on this, I call those really reputable scientists
5 because that's what science is all about. But yeah,
6 he's well known.

7 Q. Are you familiar with Dr. Van Gosen as an
8 expert in the -- in these cases?

9 A. I heard that he was. I would like to work with
10 him some day.

11 Q. How did you hear that he was involved in these
12 cases?

13 A. Mr. Satterley told me a few weeks, three weeks
14 four weeks ago, something like that.

15 Q. Have you been told anything about Dr. Van
16 Gosen's testimony in the Yerkes and Hofmaister cases?

17 A. No. If it was bad, I probably would have heard
18 about it, but I didn't hear anything.

19 What, did he bad mouth me or something, come on,
20 fess up. I'm just kidding.

21 Q. All right. Let me switch to the Hofmaister
22 case.

23 A. Oh, sure. Let me --

24 Q. Maybe we'll be even quicker here.

25 A. Okay. Let me just put some stuff away --

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1 SIGNATURE OF DEPONENT

2

3 I, the undersigned, WILLIAM EDWARD LONGO, Ph.D.,
4 do hereby certify that I have read the foregoing
5 deposition and find it to be a true and accurate
6 transcription of my testimony, with the following
7 corrections, if any:

9 PAGE LINE CHANGE

10 _____
11 _____
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24 _____

25 WILLIAM EDWARD LONGO, Ph.D., Date

1 MICHAEL T. REID

2 mreid@kazanlaw.com

3 JANUARY 19, 2024

4 RE: SHELLY E. YERKES VS. AVON PRODUCTS, INC.

5 JANUARY 18, 2024, WILLIAM EDWARD LONGO, Ph.D., JOB NO. 6417539

6 The above-referenced transcript has been

7 completed by Veritext Legal Solutions and

8 review of the transcript is being handled as follows:

9 ___ Per CA State Code (CCP 2025.520 (a)-(e)) – Contact Veritext

10 to schedule a time to review the original transcript at

11 a Veritext office.

12 X Per CA State Code (CCP 2025.520 (a)-(e)) – Locked .PDF

13 Transcript - The witness should review the transcript and

14 make any necessary corrections on the errata pages included

15 below, notating the page and line number of the corrections.

16 The witness should then sign and date the errata and penalty

17 of perjury pages and return the completed pages to all

18 appearing counsel within the period of time determined at

19 the deposition or provided by the Code of Civil Procedure.

20 ___ Waiving the CA Code of Civil Procedure per Stipulation of

21 Counsel - Original transcript to be released for signature

22 as determined at the deposition.

23 ___ Signature Waived – Reading & Signature was waived at the

24 time of the deposition.

25

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REPORTER'S CERTIFICATE

2

3

4

5 I, JULIE HEYWARD, a Shorthand Reporter, State of
6 California, do hereby certify:

7 That WILLIAM EDWARD LONGO, Ph.D., in the
8 foregoing deposition named, was remotely present and by
9 me sworn as a witness in the above-entitled action at
10 the time and place therein specified;

11 That said deposition was taken by me at said
12 time and place, and was taken down in shorthand by me, a
13 Certified Shorthand Reporter of the State of California,
14 and was thereafter transcribed into typewriting, and
15 that the foregoing transcript constitutes a full, true
16 and correct report of said deposition and of the
17 proceedings that took place;

18 IN WITNESS WHEREOF, I have hereunder subscribed
19 my hand this 19th day of January 2024.

20

21

22

23 <%21374,Signature%>

24 JULIE HEYWARD, CSR NO. 7907

25 State of California

1 ___ Federal R&S Requested (FRCP 30(e)(1)(B)) – Locked .PDF

2 Transcript - The witness should review the transcript and

3 make any necessary corrections on the errata pages included

4 below, notating the page and line number of the corrections.

5 The witness should then sign and date the errata and penalty

6 of perjury pages and return the completed pages to all

7 appearing counsel within the period of time determined at

8 the deposition or provided by the Federal Rules.

9 ___ Federal R&S Not Requested - Reading & Signature was not

10 requested before the completion of the deposition.

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29 (Pages 110 to 113)

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