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S.C. SUPREME COURT

Attachment 2

**09/02/2026 J&J and Kenvue's Motion for Protective Order
with exhibits**

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
DEBRA McANDREW BARNETT,)
Plaintiff,)
v.)
JOHNSON & JOHNSON, et al.,)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No.: 2026-CP-40-01257

In Re:
Asbestos Personal Injury Litigation
Coordinated Docket

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
ANDREW T. GERKEN, as Personal)
Representative of the Estate of ANNA)
MARIE L. GERKEN, Deceased,)
Plaintiff,)
v.)
AVON PRODUCTS, INC.; et al.,)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No.: 2023-CP-40-06111

In Re:
Asbestos Personal Injury Litigation
Coordinated Docket

INTRODUCTION

Defendants Johnson & Johnson (“J&J”) and Kenvue, Inc. (“Kenvue”) (collectively, “the J&J Defendants”) respectfully move this Court to quash Plaintiffs’ Notices of Deposition and for a protective order.

Plaintiffs have approximately 260 days of deposition testimony from current and former company employees and/or corporate representatives and almost 2.5 million pages of documents

and data collected from more than 200 individuals and other sources. The J&J Defendants also responded to Plaintiffs' case-specific discovery, including by proffering a corporate representative to testify on 40 separate noticed topics over a two-day span in the *Gerken* case.

Having run out of legitimate topics of discovery—but still eager to inflict pain on the J&J Defendants—Plaintiffs are now seeking discovery on various fringe topics that have no relevance of their case, would invade the attorney-client privilege and would—at most—generate facially inadmissible evidence. This discovery would burden the J&J Defendants with zero corresponding benefit to Plaintiffs. Discovery cannot be limitless, but Plaintiffs' latest requests seek to put that basic principle to the test. They should not be allowed to do so.

Plaintiffs' latest corporate deposition notice seeks testimony and documents pertaining to a variety of irrelevant topics, including: (1) recent regulatory actions (foreign and domestic) that *have not resulted in any final agency action* and occurred long after Plaintiffs were allegedly injured by their use of talc products; (2) payments to experts who are *not* retained to testify in these lawsuits; and (3) topics that have already been exhaustively covered in a prior corporate representative deposition in the *Gerken* case just last year. The J&J Defendants should not be forced to provide corporate representative testimony and/or documents on any of these topics.

First, Plaintiffs' request for information pertaining to recent lobbying efforts could not lead to admissible evidence, violates the *Noerr-Pennington* doctrine, and unfairly impinges upon the J&J Defendants' First Amendment rights. The regulatory actions themselves constitute either nascent inquires expressly pursued in a manner so as not to result in final agency action (i.e., ad hoc roundtable discussion) or are still subject to the deliberative rule-making process (i.e., the draft cosmetic regulation). These agency actions are inadmissible as irrelevant and prejudicial, as is any associated "lobbying," which is further insulated as protected petitioning. Moreover, the

regulatory actions all began *after* Plaintiffs were allegedly injured and the J&J Defendants' products were withdrawn from the market. Moreover, given the pendency and potential for additional talc-related litigation, the J&J Defendants had to carefully rely on the advice of their in-house and outside counsel in preparing and ultimately undertaking any lobbying efforts. Indeed, because the J&J Defendants' talc products had already been withdrawn from the market, the entire purpose for communicating with counsel was to obtain legal advice, rendering any discussions or written materials protected by the attorney-client privilege and work product doctrine. Requiring the J&J Defendants to compile and cull through these voluminous and privileged materials would not just be unduly burdensome; it would be an exercise in futility.

Second, the expert-related discovery is also patently inappropriate. Plaintiffs are demanding all payments to consulting, regulatory, and testifying experts in these cases for their work “in any matter for the last five years,” but compensation to non-testifying experts is expressly shielded from disclosure under S.C. R. Civ. P. 26(b)(4). In addition, Plaintiffs either already possess or will possess (at the appropriate expert deadline) information about payments to all *testifying* experts for their work in these cases. Payments to those individuals in other matters would shed little (if any) light on their potential bias in *these two cases*, and payments to consulting experts for their work in other matters would be even further afield from the issue. Moreover, it would be impossible for the J&J Defendants to compile this information, which pertains to over 40 experts and numerous cases.¹ Finally, the topic of “any opinions [the J&J

¹ Plaintiffs also seek corporate representative testimony regarding “[a]n understanding of payments made by” Kenvue to disclosed experts in this case “for any matter including . . . consulting, testifying, regulatory issues, etc.” Kenvue Notice at 5 (Ex. 1). Plaintiffs did not include a time limitation in their request, but because Kenvue was not created until 2022, Plaintiffs' topic is necessarily limited to matters within the past 4 years.

Defendants] intend to give at trial” in these cases is not a legitimate subject of corporate representative testimony.

Lastly, Plaintiffs’ additional noticed topics cover subjects that were extensively probed in another corporate representative deposition in the *Gerken* case just one year ago. Requiring the J&J Defendants to provide discovery on these topics again in the exact same case is the epitome of duplicative discovery that should not be allowed.

In short, it is the job of a trial court to prevent discovery that “threatens to become abusive or create a particularized harm to a litigant[.]” *Hollman v. Woolfson*, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009). The Court should exercise that essential function to quash Plaintiffs’ deposition notices and grant a protective order.

BACKGROUND

A. Plaintiffs’ Claims

Plaintiff Debra Barnett alleges that she developed mesothelioma as a result of asbestos exposure “from approximately the early 1950s to 2009.” Compl. ¶¶ 29, 178, 181. Specifically, she claims that she “was exposed to Defendants’ asbestos-containing products through her father William Plummer McAndrew’s work as a welder for various employers from approximately the early 1950s to 1973.” *Id.* ¶ 179. She was then exposed to asbestos through her husband Gary Clark Barnett’s “work history as a builder and laborer” from 1972 through 2009. *Id.* ¶¶ 180-181. Ms. Barnett further claims that she “was exposed to asbestos and/or asbestos-containing cosmetic talc products and body talc products through her personal use, and her family’s use, of talcum products throughout her life.” Barnett ROG Responses at 4 (Ex. 2). She only used the J&J Defendants’ talc products until “the mid ‘90s.” Barnett Dep. 62:23-63:3 (Ex. 3).

Plaintiff Andrew Gerken alleges that Ms. Marie Gerken developed mesothelioma as a result of asbestos exposure. Am. Compl. ¶ 2. Specifically, he claims that Ms. Gerken’s “exposure

to asbestos and/or asbestos-containing talcum powder products and talc make-up products at various times in her life, from her birth in 1944 to approximately 2023,” caused Ms. Gerken’s mesothelioma and subsequent death. *Id.*

B. The J&J Defendants’ Extensive Discovery Efforts

Plaintiffs have access to a massive amount of discovery relevant to their allegations. Over the course of the talc litigation, the J&J Defendants have produced almost 2.5 million pages of documents and data collected from more than 200 individuals and other sources. Included in this enormous production are approximately **19,000 documents** concerning regulatory communications. In addition, there have been numerous depositions of current and former employees and/or corporate representatives, resulting in 140 days of deposition testimony from J&J corporate representatives. J&J’s corporate representatives have been questioned on broad categories of topics—including, *inter alia*, product recall, professional organizations, discovery procedures, and regulatory communications.

Plaintiffs also propounded case-specific discovery on the J&J Defendants. As part of the case-specific discovery in the *Gerken* matter, Plaintiffs noticed a corporate representative deposition “to be taken for the purpose of discovery or for use at trial” covering **40** individual topics and **60** requests for documents. *See generally* 9/4/2025 *Gerken* Am. Notice (Ex. 4). In response, the J&J Defendants produced a corporate representative deponent—Dr. Edwin Kuffner—who testified for two days on Plaintiff Gerken’s noticed topics.²

² Under the Master Scheduling Order, the document production deadline was within 45 days of answering, and the deadline for 30(b)(6) depositions was August 8, 2025. Discovery is thus closed in the *Gerken* case, so Plaintiffs’ deposition notice is plainly untimely in the *Gerken* matter.

C. Plaintiffs' Notice Of Deposition

Despite the wealth of discovery at their disposal, Plaintiffs propounded two separate depositions notices on Defendants J&J and Kenvue, seeking documents and corporate representative testimony regarding: (1) various government actions pertaining to the cosmetics industry that took effect after 2023 and responses to such actions; (2) improper expert topics; and (3) various additional topics that have already been extensively covered in prior depositions.³

1. Recent Government Actions Relating To The Cosmetics Industry

United States Government Actions. Plaintiffs seek corporate representative testimony and production of documents pertaining to United States regulatory actions—including the Consolidated Appropriations Act in 2023, the Modernization of Cosmetics Regulation Act of 2022 (“MoCRA”), the FDA proposed and withdrawn rule entitled “Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products,” and the May 20, 2025 event titled “Expert Panel on Talc”—and the J&J Defendants’ alleged lobbying efforts regarding those actions. *See* Kenvue Not. at 5 (Topics 1-7); *id.* at 8 (Document Requests 1-4); J&J Not. at 5 (Ex. 5) (Topics 1-7); *id.* at 8-9 (Document Requests 1-4, 15).

Congress passed the Consolidated Appropriations Act in 2023, an omnibus spending and appropriations bill. *See* PL 117-328. As part of the appropriations, Congress enacted MoCRA. The implementation date for major MoCRA provisions began to take effect on December 29,

³ Although Plaintiffs served deposition notices on Defendants J&J and Kenvue, Plaintiffs defined “you”/“your” to “mean responding party and all of its divisions, predecessors- in-interest, successors-in-interest, subsidiaries, parent companies, sister companies, joint ventures, partners and divisions thereof, including all current and former owners, employees, managers, officers, directors, agents, attorneys and any other person(s) acting upon its behalf.” J&J Not. at 4. Such an expansive definition of “you”/“your” would effectively (and improperly) expand Plaintiffs’ deposition topics to encompass hundreds of J&J subsidiaries—not just the Defendants in this case. *See Tabanfar v. State Farm Gen. Ins. Co.*, No. 2:23-CV-00835-MRA-JC, 2024 WL 6077888, at *5 (C.D. Cal. June 14, 2024) (“sustain[ing] Defendant’s objection to the definition of ‘YOU’/‘YOUR’” and “agree[ing] that it is appropriate to limit such term to State Farm itself”). This alone highlights the overbroad and abusive nature of the notices.

2023. Within MoCRA is a directive to the FDA to issue regulations to establish standardized testing methods for detecting and identifying asbestos in talc-containing cosmetic products. Accordingly, on December 27, 2024, the FDA published a proposed rule entitled “Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products,” which purported to establish a methodology for testing cosmetic talc for asbestos. *See* 89 Fed. Reg. 105490-01 (Dec. 27, 2024). However, the proposed rule was never finalized, and on November 28, 2025, the FDA formally withdrew the proposed rule. *See* 90 Fed. Reg. 54603-01 (Nov. 28, 2025) (to be codified at 21 C.F.R. pt. 730).

On May 20, 2025, the FDA held an event titled “Expert Panel on Talc” (hereafter, the “Roundtable”).⁴ At the Roundtable, FDA Commissioner Martin Makary convened nine purported “experts”—including multiple paid plaintiffs’ experts in talcum powder litigation—to discuss talc safety. The discussion was a one-sided airing of Plaintiffs’ litigation theories, with no defense perspective presented, no opportunity for public comment, and no resulting official FDA action. Nothing said at the Roundtable constitutes the official position of the FDA, and the FDA has taken no regulatory or enforcement action in connection with the Roundtable. In response, Dr. Andrey Korchevskiy (the principal signatory) and additional co-signatories drafted a June 9, 2025 letter to Dr. Makary regarding the Roundtable.

Although all of these government and lobbying events took effect *after 2023* (when Ms. Gerken stopped using the J&J Defendants’ talc products)—or were never implemented at all—Mr. Gerken previously sought corporate representative testimony pertaining to “information relating to [the J&J Defendants’] involvement with, knowledge regarding, and communications with or about the FDA’s recent consideration of talc safety issues,” including the FDA proposed

⁴ <https://www.fda.gov/patients/fda-expert-panels/fda-expert-panel-talc-05202025>.

rule and the “Expert Panel on Talc.” 9/4/2025 *Gerken* Am. Not. at 8 (Ex. 4). At his two-day September 2025 deposition, the J&J Defendants’ corporate representative, Dr. Kuffner, testified on the regulatory and lobbying topics in the *Gerken* case, explaining, for example, that “it was Dr. Korchevskiy’s idea to write the letter” and “Dr. Korchevskiy [] determined who . . . he would like to invite to participate in the letter.” 9/10/2025 Kuffner Dep. 215:21-252:1(Ex. 6).

Foreign Regulatory Actions. Plaintiffs also seek corporate representative testimony and documents pertaining to the J&J Defendants’ alleged involvement with “any European health agency relating to its assessment of a potential ban on talc.” Kenvue Not. at 6 (Topic 15); J&J Not. at 6 (Topic 16); *id.* at 9 (Document Request 19). In the *Gerken* case, Plaintiff already sought “information relating to [the J&J Defendants’] involvement with, knowledge regarding, and communications with or about any European health agency relating to its assessment of a potential ban on talc,” 9/4/2025 *Gerken* Am. Not. at 8—i.e., an identical topic to the one currently noticed. At the deposition, the J&J Defendants’ corporate representative, Dr. Kuffner, specifically testified on this topic, explaining that he was “not aware of . . . conversations specifically related to a ban.” 9/11/2025 Kuffner Dep. 297:14-298:16 (Ex. 7) (“I’m not aware of a specific ban . . . [nor] action the company had related to a ban.”). He further explained that he was “not aware of decisions made to ban talc” in Europe. *Id.* 299:10-15.⁵

2. Expert Discovery In The Barnett And Gerken Cases

Plaintiffs also seek to require a corporate representative to testify about expert topics, including: (1) information regarding payment to “experts in this case for any matter including . . . consulting, testifying, regulatory issues, etc.,” Kenvue Not. at 5 (Topics 10-11); J&J Not. at 5-6

⁵ Plaintiffs also seek the production of documents pertaining to “testing done by the FDA of talc products in 2009 and 2010,” “the 1993 FDA Talc Symposium” and “the dangers of talc as relayed by the FDA.” J&J Not. at 8-9 (Document Requests 12, 14, and 20). All of these documents have already been produced to Plaintiffs as part of the approximately 19,000 regulatory communication documents included in the J&J Defendants’ document production.

(Topics 10-11) (limiting request for expert payment information to “the last five years”); and (2) “any opinions you intend to give at trial in this case.” Kenvue Not. at 6 (Topic 16); J&J Not. at 6 (Topic 17).

In Ms. Barnett’s case, on May 15, 2026 (in accordance with the applicable scheduling order), the J&J Defendants served their expert and fact witness disclosures. *See* Disclosures (Ex. 8). The J&J Defendants disclosed 41 potential expert witnesses, including: Dr. Kathleen Sutcliffe, Ms. Laura Dolan, Dr. Dominik Alexander, Dr. Gregory Diette, Dr. Venkataramana Sidhaye, Dr. Gabor Mezei, Dr. Suresh Moolgavkar, Dr. Herman Gibb, Dr. Bryan Bandli, Dr. Matthew Sanchez, Mr. Alan Segrave, Dr. Kelly Tuttle, Dr. Paul Nony, Mr. Brian Daly, Mr. Tony Watson, Mr. Clancy Cornwall, Mr. Christopher Herfel, Professor Richard Luther Attanoos, Dr. Lucian Radu Chirieac, Dr. Sanja Dacic, Dr. Stanley Geyer, Dr. Victor Roggli, Dr. Michael Graham, Dr. Tim Oury, Dr. Mary Beth Beasley, Dr. Brooke Mossman, Dr. Rachel Damico, Dr. Anil Vachani, Dr. David Weill, Dr. Philip Goodman, Dr. Lisa Weissfeld, Dr. Brent Finley, Mr. Michael Peterson, Dr. Christy Barlow, Dr. John Bailey, Jr., Dr. Philip Harber, Ms. Heather Xitco, Dr. James Finigan, Dr. M. Laurentis Marais, Dr. Christopher Kelsey, and Dr. Jason Lester. In a document totaling more than 100 pages, the J&J Defendants described in detail each potential expert’s qualifications and his or her expected expert opinions. *E.g.*, *id.* at 104 (“Dr. Lester is expected to offer testimony regarding the fundamental principles of carcinogenesis.”). The J&J Defendants will provide expert compensation information paid to testifying experts in Ms. Barnett’s case for work done on Ms. Barnett’s case in due course and no later than the deadline set by the Court.

In Mr. Gerken’s case, the J&J Defendants have already served six expert reports from Dr. Matthew Sanchez, Mr. Christopher Herfel, Dr. Victor Roggli, Dr. Paul Nony, Dr. Dominik

Alexander and Dr. James Finigan, which detail the experts' proffered opinions. The testifying experts in Mr. Gerken's case included their expert billing rates in their expert reports, *e.g.*, Herfel Rep. at 3 (Ex. 9) ("My billing rate for this research is \$255/hour. Deposition or trial testimony is billed at \$475/hour."), and Plaintiff Gerken had the opportunity—and, in fact, did—question the experts about their payment *in this and prior cases*, *e.g.*, 8/21/2025 Nony Dep. 18:5-19:4 (Ex. 10) ("Q. In your estimation, in the past five years Johnson & Johnson defendants or their counsel on their behalf have paid approximately 150,000 to 200,000 dollars a year for your expert services; is that your best guess? A. Yes. And that's . . . for all what you see on the invoice."); Herfel Dep. (Ex. 11) 53:6-22 (Mr. Herfel testifying about \$4,795.80 invoice).

3. Additional Topics That Were Covered In Prior Corporate Representative Depositions And Document Productions

Plaintiffs also seek corporate representative testimony and/or production of documents pertaining to a grab-bag of additional topics that have already been extensively covered in prior depositions and document productions.

Decision To Stop Selling Talc. Plaintiffs seek testimony pertaining to the J&J Defendants' "discussions, efforts and actions taken to stop selling talc based cosmetic products," "all individuals involved with the decision to stop selling talc in Johnson's Baby Powder and the steps involved to execute that decision," and "information related to each entity's conversion from talc to "talc free" baby powder." Kenvue Not. at 5-6 (Topics 8-9, 14); J&J Not. at 5-6 (Topics 8-9, 15); *id.* at 8 (Document Requests 16-18). At a prior corporate representative deposition in the *Gerken* case, Plaintiff specifically sought deposition testimony pertaining to the "decision to stop manufacturing and/or marketing and/or selling Johnson's Baby Powder containing talc." 9/4/2025 *Gerken* Am. Not. at 7. And at the deposition, the J&J Defendants' corporate representative, Dr. Kuffner, was questioned extensively about the decision to stop

selling talc-based products. *See* 9/11/2025 Kuffner Dep. 423:1-5 (plaintiff's counsel stating that Dr. Kuffner was "asked as series of questions about the decision to discontinue cosmetic talc"). For example, he testified that "the decision to stop selling talc-containing baby powder on a global basis . . . was announced in August of 2022." 9/10/2025 Kuffner Dep. 68:17-22. He was questioned about market research pertaining to preferences between talc and corn-based formulas, *id.* 68:23-70:23, and decisions to "leav[e] the baby powder market entirely rather than introducing a cornstarch-based product" in specific countries, 9/11/2025 Kuffner Dep. 281:8-282:2. He also testified in detail as to what "Johnson & Johnson believed" "as of June 2023" "with respect to cornstarch-based baby Powder." 9/11/2025 Kuffner Dep. 283:18-284:10. He further explained that "at the time of the discontinuation, about 75 percent of the sales in North America were cornstarch-based baby powder compared to talc-based baby powder and so it was clearly a business decision." *Id.* 288:9-24. There is no further ground left to tread.

Participation In Trade Organizations. Plaintiffs seek testimony pertaining to the J&J Defendants' "participation in professional, industrial, and trade organizations," such as the Cosmetic, Toiletry & Fragrance Association ("CTFA"), the Cosmetic, Toiletry & Perfumery Association ("CTPA") and the Personal Care Products Council ("PCPC"). Kenvue Not. at 6 (Topic 13); J&J Not. at 6 (Topic 14). Once again, this topic has already been covered extensively. For example, in Dr. Kuffner's corporate representative deposition in the *Gerken* case, Dr. Kuffner testified that the J&J Defendants "participated in evaluations [] or assessments that were submitted on behalf of trade organizations." 9/11/2025 Kuffner Dep. 302:12-17. He also specifically testified about the CTPA, stating that J&J is not currently "a member of the CTPA" and commented on a CTPA document. *Id.* 299:17-302:2.

Document Production And Searches. Plaintiffs seek testimony pertaining to the J&J Defendants’ “documents produced” and the “document searches performed”—i.e., “when the search occurred, where it occurred, terms queried, by whom, results, bates stamp range applied to all documents produced.” Kenvue Not. at 6 (Topics 16, 18); J&J Not. at 6 (Topics 17, 19). However, the J&J Defendants’ corporate representative, Mr. James Mittenthal, has repeatedly testified on the topic of the J&J Defendants’ document production efforts. Indeed, his testimony on the topic—which spans a period of more than 8 years and includes **25 deposition days**—has been exhaustive. *E.g.*, 9/24/2018 Mittenthal Dep. 35:12-36:3 (Ex. 12) (Mr. Mittenthal agreeing that he was the corporate representative to testify about “[i]ndexes or databases for documents, search terms, parameters for searching documents, [and] efforts made to locate documents”); 12/18/2023 Mittenthal Dep. 125:19-25 (Ex. 13) (“[W]e also sought to talk to . . . someone who understood Johnson & Johnson’s recordkeeping system and could help us understand where the documents came from. You’re here in that capacity as well; correct? A. Yes.”).

The Lancet Article. Plaintiffs seek corporate representative testimony pertaining to “to the Lancet Retraction.” Kenvue Not. at 6 (Topic 12); J&J Not. at 6 (Topic 12). In June 1977, *The Lancet* published an unsigned editorial entitled “Cosmetic Talc Powder” that concluded: “there is no reason to believe that normal consumer exposure to cosmetic talc has in the past led either to cancer at any site or to measurable loss of lung function. It seems unlikely that future exposure to cosmetic talc of the specifications now agreed to by major manufacturers will present a health hazard.” Francis J.C. Roe, *Cosmetic Talc Powder*, THE LANCET 1348-49 (1977). At the time of the Article’s drafting, Dr. Roe served as a consultant to the CTPA and J&J. Almost 50 years later, in December 2025, two repeat plaintiffs’ experts in talc litigation, Drs. Gerald Markowitz and David Rosner, emailed the Editors of *The Lancet* and identified Dr. Roe as the author and his

prior relationship with J&J. *See Asbestos, talc, and The Lancet's 1977 publication-Editor's reply*. In March 2026, *The Lancet* issued a retraction of the Article on the basis that “[h]ad *The Lancet's* editors at the time known of this situation and been aware of the author’s undeclared competing interest, they would not have published this commentary.” *See Retraction: Cosmetic talc powder*, *The Lancet* (2026).

In a prior corporate representative notice in the *Gerken* case, Plaintiff sought testimony pertaining to Dr. Francis Roe. 9/4/2025 *Gerken* Am. Not. at 8. In response, the J&J Defendants’ corporate representative provided testimony pertaining to the *Lancet* editorial, with the *Lancet* editorial even being admitted as an exhibit at the deposition. *See, e.g.*, 9/11/2025 Kuffner Dep. 389:24-390:7, 399:17-402:15, 412:21-413:18.

The “Comprehensive Review.” Plaintiffs seek corporate representative testimony pertaining to the March 17, 2020 “Johnson’s Baby Talcum Powder: A Comprehensive Review.” J&J Not. at 6 (Topic 13). Substantively identical testimony was sought pertaining to the document in a prior corporate representative notice in the *Gerken* case. 9/4/2025 *Gerken* Am. Not. at 7-8; *see also* 9/10/2025 Kuffner Dep. 150:4-7 (plaintiff’s counsel stating that “the Comprehensive Review . . . is contained within . . . the topics identified for the Johnson & Johnson deposition”). The J&J Defendants’ corporate representative—who was the individual responsible for the Comprehensive Review—already provided detailed testimony on the topic. *E.g.*, 9/10/2025 Kuffner Dep. 149:15-19, 150:4-155:4. Indeed, Plaintiff’s counsel expressly recognized at the deposition “that the Comprehensive Review [was] . . . discussed a little bit today” and Dr. Kuffner has “certainly [] testified about [it] many times[.]” *Id.* 165:20-22.

Talc Testing. Plaintiffs seek production of documents regarding “testing done by the FDA” and “method[s] for the analysis of talc for the presence of asbestos.” J&J Not. at 8

(Document Requests 12-13). The J&J Defendants have already produced approximately 69,000 documents regarding talc testing. In addition, the topic of the J&J Defendants' testing of talc has been probed in-depth countless times, by numerous witnesses (and at dozens of trials). *See, e.g.*, 10/17/2018 Hopkins MDL Dep. 893:22-895:4, 948:16-949:5 (Ex. 14) (discussing the use of x-ray diffraction, polarized light microscopy, and transmission electron microscopy); *id.* 943:7-945:12, 947:2-949:5 (discussing concentration and heavy liquid separation methods).

ARGUMENT

South Carolina Rule of Civil Procedure 26(c) authorizes the trial court for good cause shown to issue an order “to protect a party or person from annoyance, embarrassment, oppression, or undue burden by expense[.]” Rule 26(c), SCRCPP. Further, “discovery methods . . . shall be limited by the court if it determines that” “the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive[.]” Rule 26(a), SCRCPP.⁶

A protective order is warranted “[i]f the discovery process threatens to become abusive or create a particularized harm to a litigant” *Hollman*, 384 S.C. at 578, 683 S.E.2d at 498. Once “a p[arty] requesting a protective order shows a particularized harm which will be caused by allowing the discovery, the opposing party has the burden of showing the information sought is ‘relevant and necessary’ to the case.” *Id.* (citations omitted). Speculative claims about need do not suffice; rather, “the party seeking the information must ‘demonstrate with *specificity* exactly how the lack of information will impair the presentation of the case on the merits to the point that an unjust result is a real, rather than a merely possible, threat.’” *Id.* (citations omitted) (emphasis

⁶ Because the South Carolina Rules of Civil Procedure pertaining to discovery are based on the Federal Rules of Civil Procedure, federal cases are persuasive. *See, e.g., Maybank v. BB&T Corp.*, 416 S.C. 541, 565, 787 S.E.2d 498, 510 (2016) (“In construing the South Carolina Rules of Civil Procedure, our Court looks for guidance to cases interpreting the federal rules.”).

added). The “trial judge is [then] required to weigh the factors of whether the information sought is ‘relevant and necessary’ evidence against any particularized harm the opposing party may suffer.” *Id.* (citations omitted). As explained below, Plaintiff’s demand for corporate representative discovery on lobbying efforts, expert compensation and subjects covered in other depositions is clearly “abusive” and exceeds the bounds of permissible discovery for a host of reasons.

I. CORPORATE REPRESENTATIVE TESTIMONY PERTAINING TO RECENT REGULATORY ACTIONS AND LOBBYING IS IRRELEVANT, BURDENSOME, AND IMPROPER.

Plaintiffs seek corporate representative testimony and documents pertaining to United States regulatory actions—specifically, the Consolidated Appropriations Act in 2023, MoCRA, the FDA proposed and withdrawn testing rule and the May 20, 2025 Roundtable—and the J&J Defendants’ alleged lobbying efforts regarding those actions. *See* Kenvue Not. at 5 (Topics 1-7); *id.* at 8 (Document Requests 1-4); J&J Not. at 5 (Topics 1-7); *id.* at 8-9 (Document Requests 1-4, 15). Plaintiffs also seek corporate representative testimony and documents pertaining to the J&J Defendants’ alleged involvement with “any European health agency relating to its assessment of a potential ban on talc.” Kenvue Not. at 6 (Topic 15); J&J Not. at 6 (Topic 16); *id.* at 8-9 (Document Request 19). Discovery regarding these regulatory and lobbying topics (both foreign and domestic) should not be permitted because: (1) the requested discovery would also violate the *Noerr-Pennington* doctrine and impinge upon the J&J Defendants’ First Amendment rights; (2) any lobbying occurred after Ms. Barnett and Ms. Gerken stopped using the J&J Defendants’ talc products and is therefore irrelevant; and (3) any lobbying required the legal advice of counsel, rendering any discovery privileged, unduly burdensome, and needless.

A. Corporate Representative Testimony Pertaining To Recent Regulatory Actions Would Contravene The *Noerr-Pennington* Doctrine And Violate The J&J Defendants' Rights Under The First Amendment.

Discovery into the J&J Defendants' lobbying activities is highly improper because it would unfairly penalize the J&J Defendants for exercising their First Amendment rights. It would also have no benefit to Plaintiffs because the law is well established that evidence related to lobbying is not admissible at trial. As one court recently explained, "[i]t cannot be a violation of a party's duty of care to lobby for laws and regulations, which is absolutely protected by the First Amendment." Order on Pls.' Mot. for Order Compelling Mktg. & Lobbying Documents at 9, *In re Uber Rideshare Cases*, No. CJC-21-005188 (Cal. Super. Ct. Feb. 6, 2024) ("*Uber Order*") (Ex. 15) (applying *Noerr-Pennington* doctrine in denying motion to compel discovery about lobbying efforts). Thus, lobbying is, categorically, both irrelevant and inadmissible at trial.

The *Noerr-Pennington* doctrine "safeguards the First Amendment 'right to petition the government for a redress of grievances[]' . . . by immunizing citizens from the liability that may attend the exercise of that right." *Navient Sols., LLC v. Lohman*, 136 F.4th 518, 522 (4th Cir. 2025). "The *Noerr-Pennington* doctrine has been extended to preclude virtually all civil liability for a defendant's petitioning activities before not just courts, but also before administrative and other governmental agencies." *People ex rel. Gallegos v. Pac. Lumber Co.*, 158 Cal. App. 4th 950, 959, 964 (2008), *as modified* (Feb. 1, 2008); *see also Datatrans Corp. v. Wells Fargo & Co.*, No. 2:06-CV-72 DF, 2010 WL 11468934, at *21 (E.D. Tex. Oct. 5, 2010) ("[E]vidence of Defendants' lobbying activities would risk chilling the First Amendment activities of Defendants and others."); *U.S. Football League v. Nat'l Football League*, 634 F. Supp. 1155, 1171 (S.D.N.Y. 1986) ("The low probative value of this [lobbying] evidence is substantially outweighed by the defendants' strong interest in preserving their First Amendment rights to

petition Congress.”); *Med. Mut. of Ohio v. Air Evac EMS, Inc.*, No. 1:16 CV 80, 2019 WL 4573700, at *3 (N.D. Ohio Sept. 20, 2019) (excluding evidence of lobbying related to air ambulance regulations as irrelevant to breach-of-contract case).

Importantly, as other courts have recognized, lobbying evidence is not just inadmissible under the *Noerr-Pennington* doctrine; it is also not “***reasonably likely to lead to the discovery of admissible evidence.***” *Uber* Order at 7 (emphasis added); see also *All. of Auto. Mfrs., Inc. v. Jones*, No. 4:08CV555-MCR/CAS, 2013 WL 4838764, at *5 (N.D. Fla. Sept. 11, 2013) (finding no compelling need for discovery into lobbying activities, noting that the Supreme Court “has not permitted probing into the political affairs of citizens . . . or other proponents of legislation”). After all, “[i]t cannot be a violation of a party’s duty of care to lobby for laws and regulations, which is absolutely protected by the First Amendment.” *Uber* Order at 9 (applying *Noerr-Pennington* in denying motion to compel discovery about lobbying efforts).

This is particularly true because FDA rulemaking pertaining to testing cosmetic talc for asbestos is still ***ongoing***.⁷ Permitting Plaintiffs to investigate—and interfere with—the J&J Defendants’ lobbying activities through discovery would effectively block Defendants from ongoing participation in that proceeding since that would just lead to more discovery. In other words, it would enable Plaintiffs to use discovery as a weapon to stop a company from

⁷ Courts have repeatedly held that evidence pertaining to ongoing FDA roundtable discussions and non-final rulemaking, which “carry no more weight than a position advanced on brief,” see *Tedori v. United States*, 211 F.3d 488, 492 (9th Cir. 2000), as amended (May 18, 2000) (citation omitted), is inadmissible. See, e.g., *Figures v. Bd. of Pub. Utils.*, 967 F.2d 357, 360 (10th Cir. 1992) (affirming exclusion of draft OFCCP letter because it did not represent final findings of agency or government office); *United Air Lines, Inc. v. Austin Travel Corp.*, 867 F.2d 737, 743 (2d Cir. 1989) (affirming exclusion of DOJ report containing comments and proposed rules due to interim and inconclusive nature of report). Because Plaintiffs’ requested discovery regarding recent, ongoing regulatory actions will never be admissible, discovery of the information would be futile and disproportionate to any need in these cases.

exercising its First Amendment right to petition the government. For this reason alone, the Court should bar any discovery into the J&J Defendants' recent lobbying efforts.

B. Corporate Representative Testimony Pertaining To Recent Regulatory Actions And Lobbying Is Not Relevant Or Necessary.

Discovery into the recent regulatory actions and the J&J Defendants' lobbying activities would separately be irrelevant because—even if it were not categorically barred at trial—it could not possibly have anything to do with *these Plaintiffs'* claims.

As the South Carolina Supreme Court has made clear, to be discoverable, “information must be *specifically relevant to the issues involved in the litigation*, not merely relevant to the subject matter of the litigation.” *Hollman*, 384 S.C. at 578-79, 683 S.E.2d at 498-99 (granting writ and vacating discovery order because the requested information “is irrelevant to [plaintiffs'] negligence claims in that it cannot be used to show [defendants] breached the standard of care with a particular patient”). Applying a similar rule, courts around the country routinely deny requests for discovery into a party's lobbying activities for lack of relevance. *See UnitedHealthCare Servs., Inc. v. Team Health Holdings, Inc.*, No. 3:21-CV-364-DCLC-DCP, 2025 WL 3240962, at *14 (E.D. Tenn. May 16, 2025) (“The Court finds that Plaintiffs' request for Defendants' lobbying efforts does not make it more or less likely that Defendants defrauded Plaintiffs”), *appeal denied*, No. 3:21-CV-00364-DCLC-DCP, 2025 WL 3217033 (E.D. Tenn. Nov. 18, 2025); *Smith v. Life Invs. Ins. Co. of Am.*, No. 2:07-CV-681, 2009 WL 2045197, at *7 (W.D. Pa. July 9, 2009) (denying motion to compel discovery on lobbying activities because defendant's lobbying in support of passage of laws was not relevant to plaintiff's claims); *Primary Care Physicians Grp., P.C. v. Ledbetter*, 102 F.R.D. 254, 257 (N.D. Ga. 1984) (granting defendant's motion for protective order regarding all documents related to its lobbying efforts because the information was “irrelevant and not calculated to lead to the discovery of

admissible evidence”); *Shaffer v. Toyota Motor Corp.*, No. 5:22-cv-00151-R, 2024 WL 3682234, at *2 (W.D. Okla. Aug. 6, 2024) (denying plaintiffs’ motion to compel because their discovery requests sought information pertaining to “unrelated lobbying efforts [which do not] have any bearing on the claims and defenses involved in this action, which concern an alleged design defect”).

There is no reason to depart from this longstanding approach here. Plaintiffs’ claims turn on whether the J&J Defendants’ alleged conduct was the cause of Ms. Barnett and Ms. Gerken’s alleged injuries. Deposing the J&J Defendants’ corporate representative about its lobbying activities would not yield any evidence that helps resolve that question. This is particularly true because each of the regulatory and lobbying actions included in Plaintiffs’ notice was implemented and/or occurred *after 2023*—i.e., *after* Ms. Barnett and Ms. Gerken were allegedly exposed to the J&J Defendants’ products. Such discovery of post-injury lobbying evidence is improper because, under South Carolina law, what matters is what the J&J Defendants did or did not do *at the time* the products were manufactured and sold to Ms. Barnett and Ms. Gerken. *See, e.g., Branham v. Ford Motor Co.*, 390 S.C. 203, 227, 701 S.E.2d 5, 17-18 (2010) (“The use of post-distribution evidence to evaluate a product’s design through the lens of hindsight is improper.”); *Shepard v. S.C. Dep’t of Corr.*, 299 S.C. 370, 375, 385 S.E.2d 35, 38 (Ct. App. 1989) (holding that, for purposes of proximate cause, “[f]oreseeability is to be judged from the perspective of the actor at the time of the negligent act, not after the injury has occurred.”).

Moreover, as to the U.S. lobbying efforts, the regulations were either not implemented at all (as was the case with the FDA proposed rule on testing, *see* 90 Fed. Reg. 54603-01 (Nov. 28, 2025)) or were implemented after the J&J Defendants’ products were withdrawn from the market, *see* 9/10/2025 Kuffner Dep. 68:17-22; 9/11/2025 Kuffner Dep. 423:1-5. With respect to

the foreign regulatory actions, Plaintiffs do not claim that Ms. Barnett and Ms. Gerken used any J&J product internationally, and international regulations/laws have no application in the U.S., in any event. *E.g., Floyd v. Amazon.com Inc.*, No. C22-1599-KKE, 2024 WL 5710660, at *3 (W.D. Wash. Sept. 9, 2024) (denying plaintiffs’ motion to compel because “[t]he investigations in foreign countries were conducted with reference to laws applicable in those jurisdictions, rather than the U.S. laws at issue in this case.”). As a result, Plaintiffs’ noticed topics “seek lobbying information that goes well beyond the regulations applicable to the product or the safety standards at issue in the action[.]” *Shaffer*, 2024 WL 3682234, at *2 (quotations omitted). In short, the topics about post-injury lobbying efforts are **not** “specifically relevant to the issues in the litigation,” compelling a protective order precluding discovery into these subjects. *Hollman*, 384 S.C. at 578-79, 683 S.E.2d at 498-99.

C. Corporate Representative Testimony Pertaining To Recent Regulatory Actions And Lobbying Would Violate The Attorney-Client Privilege And Work-Product Doctrine And Be Unduly Burdensome And Disproportionate.

Discovery into recent (wholly inapplicable) regulations and the J&J Defendants’ lobbying activities would also invade the attorney-client privilege and be highly burdensome and disproportionate to the needs of Plaintiffs’ cases. *See* Rule 26(c), SCRCPP.

Most fundamentally, the J&J Defendants’ lobbying efforts were led by attorneys; thus, discovery into those matters has serious attorney-client and work product privilege concerns. *See* Rule 26(b)(1), SCRCPP (limiting discovery to “any matter, not privileged”). Given the ongoing talc litigation and likelihood of additional lawsuits, all lobbying efforts had to be calibrated to align with the J&J Defendants’ legal strategy and were necessarily undertaken ***with any eye towards litigation***. Indeed, because the J&J Defendants had already withdrawn their talc products from the market, there was no credible business reason for involving counsel in this

process. Rather, the J&J Defendants sought their counsel’s *legal* advice on whether (and, if so, how) any lobbying activities would affect their current and future litigation risks. For this reason, a substantial number of documents relating to the noticed topics are or involve communications sent by or to the J&J Defendants’ in-house or outside counsel and are protected by the attorney-client privilege. *See Tobaccoville USA, Inc. v. McMaster*, 387 S.C. 287, 293-94, 692 S.E.2d 526, 530 (2010) (attorney-client privilege extends to confidential communications by or to “attorneys for legal advice”). And any written materials (e.g., memoranda) would necessarily reflect counsel’s mental impressions as to potential implications of the lobbying efforts on the global talc litigation and constitute attorney work product under S.C. R. Civ. P. 26(b)(3). *See State v. Daise*, 421 S.C. 442, 462, 807 S.E.2d 710, 720 (Ct. App. 2017) (agreeing that materials were “generally protected as work-product, as they were created and disseminated in a limited fashion with the purpose of assisting the State’s preparations for trial”) (citation omitted).

Given the privileged status of these materials, the J&J Defendants would thus be forced to devote significant resources to searching, culling through, and ultimately creating an enormously long privilege log just to protect this non-discoverable information. *See, e.g., Rodriguez-Torres v. Gov’t Dev. Bank of Puerto Rico*, 265 F.R.D. 40, 44 (D.P.R. 2010) (denying plaintiff’s motion to compel where the court was “very concerned over the increase in costs that will result from the privilege and confidentiality review that Defendant GDB will have to undertake on what could turn out to be hundreds or thousands of documents”); *United States Equal Emp. Opportunity Comm’n v. George Washington Univ.*, No. 17-cv-1978 (CKK/GMH), 2020 WL 3489478, at *12 (D.D.C. June 26, 2020) (holding defendants’ estimated cost of \$484,200 to review the requested discovery for privilege imposed an undue burden and was “disproportionate to the benefit that could be derived”). These efforts—which pertain to

regulatory actions that have nothing to do with Plaintiffs' cases—would not only be extremely burdensome, expensive, and time-consuming; they would be entirely futile.⁸ *E.g., In re Bard IVC Filters Prods. Liab. Litig.*, 317 F.R.D. 562, 566 (D. Ariz. 2016) (denying plaintiff's discovery requests for "all communications" that defendant's foreign subsidiaries "have had with foreign regulatory authorities" because the "burden of this foreign discovery would be substantial").

Imposing these burdens on the J&J Defendants would be especially inappropriate because the requested discovery would not remotely "impair" Plaintiffs' ability to try their claims on the merits. *See Hollman*, 384 S.C. at 578, 683 S.E.2d at 498. After all, Plaintiffs already have access to ample discovery regarding regulatory communications covering the time period applicable to Plaintiffs' claims, including approximately **19,000 documents** concerning regulatory communications and corporate representative testimony. Plaintiffs also have corporate representative testimony taken just last year in the *Gerken* case covering the topics of recent regulatory and lobbying activities. *See, e.g.,* 9/10/2025 Kuffner Dep. 67:14-68:15; 9/11/2025 Kuffner Dep. 297:14-298:16. Plaintiffs' repeated requests for the same information—no matter how irrelevant—are plainly meant to harass and burden the J&J Defendants at a time when the J&J Defendants should be preparing for the *Gerken* trial. That is exactly the type of "abusive" behavior South Carolina Rule of Civil Procedure 26(c) is supposed to prevent. *See Hollman*, 384 S.C. at 578; *see also Vale v. Great Neck Water Pollution Control Dist.*, No. 14-CV-4229 (ADS)(AYS), 2016 WL 11269253, at *3 (E.D.N.Y. May 31, 2016) (granting motion to quash and for a protective order where testimony sought was "cumulative and duplicative" and thus deponent would be "unduly burdened if he were required to appear and testify at a deposition

⁸ To the extent this Court finds that a limited corporate representative deposition and/or document production is warranted (it is not), the J&J Defendants respectfully submit that any ordered collection (if at all) should be strictly limited to documents that involve third parties.

when the information sought by [p]laintiff has already been provided”); *Robbie v. Robbie*, 629 So. 2d 220, 220 (Fla. Dist. Ct. App. 1993) (quashing discovery order because the respondents had “available to them pertinent financial statements . . . which contain[ed] the relevant sought after information, rendering the current discovery order duplicative”).

II. PLAINTIFFS ALSO SEEK CERTAIN EXPERT-RELATED DISCOVERY THAT EXCEEDS THE BOUNDS OF PERMISSIBLE DISCOVERY.

Plaintiffs are also demanding a corporate representative to testify about various expert matters, including: (1) payments to all “testifying,” “consulting,” and “regulatory” “experts in this case for any matter for the last five years,” J&J Not. at 5-6, Topics 10-11; Kenvue Notice at 5, Topics 10-11; and (2) “any opinions you intend to give at trial in this case,” Kenvue Not. at 6 (Topic 16); J&J Not. at 6 (Topic 17). As explained below, the first category improperly seeks consulting expert information protected by the attorney work product doctrine, and that is both irrelevant and unduly burdensome for the J&J Defendants to produce. The second category calls for information that is not a proper subject of corporate representative testimony.

A. Overbroad Discovery Regarding Expert Compensation Should Not Be Allowed.

1. Discovery Of Information Pertaining To Non-Testifying Experts Is Not Permitted.

Pursuant to South Carolina Rule of Civil Procedure 26, “[a] party may discover facts known or opinions held by an expert . . . who is not expected to be called as a witness at trial” “only . . . upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means. Rule 26(b)(4), SCRPC. Further, “[a] party is not required to disclose nor produce an expert who was only consulted informally, or consulted and not retained or specially employed.” *Id.*

Courts applying the analog to S.C. R. Civ. P. 26(b)(4)⁹ have held that the “‘non-testifying expert’ privilege . . . restricts discovery of facts known and opinions held by non-testifying experts and is designed to prevent the unfairness of counsel benefiting from an adversary’s retention and financing of an expert.” *Genesco, Inc. v. Visa U.S.A., Inc.*, 302 F.R.D. 168, 189 (M.D. Tenn. 2014) (citation omitted). Accordingly, federal courts regularly deny requests for compensation related to an opposing party’s consulting experts. *E.g.*, *Union Ins. Co. v. Blakeney Palmer Co.*, No. 7:12-cv-4072-RDP, 2013 WL 12138887, at *3 (N.D. Ala. Nov. 20, 2013) (explaining that compensation information of consultants who “are not designated as expert witnesses . . . remains shielded by the work product rule applicable to consulting experts”); *Wardell v. Zimmer, Inc.*, No. 3:16-cv-00187-SLG, 2019 WL 13135858, at *2 (D. Alaska Feb. 7, 2019) (granting motion to quash as to “[a]ll invoices or other documents reflecting payment, compensation, gifts, or reimbursement” that an expert received in her capacity as “a consulting non-testifying expert”) (emphasis omitted).

Plaintiffs’ noticed topics seek exactly what Rule 26(b)(4) precludes—information pertaining to “experts in this case for any matter including . . . consulting . . . [and] regulatory issues, etc.” Kenvue Not. at 5 (Topics 10-11); J&J Not. at 5-6 (Topics 10-11). Moreover, Plaintiffs have not attempted to demonstrate any “exceptional circumstances” that warrant discovery of such non-testifying expert information, in clear violation of South Carolina law. *See* Rule 26(b)(4), SCRPC. Nor would any claim of exceptional circumstances be credible. The only purpose of compensation-related discovery is to probe a **testifying** expert’s potential bias. And as detailed below, Plaintiffs either already possess or will possess (at the appropriate expert

⁹ Rule 26(b)(4), SCRPC “is based on the comparable Federal Rule,” *James v. S.C. Dep’t of Transp.*, 393 S.C. 440, 451, 711 S.E.2d 919, 925 n.13 (Ct. App. 2011) (quotations omitted), and thus federal cases are persuasive authority.

deadline) complete information about payments to all *testifying* experts for their work in these cases. Notably, Plaintiffs’ counsel have litigated a number of cases to verdict without veering into the J&J Defendants’ relationship with consulting experts, and there is no basis—much less “exceptional circumstances”—justifying such a fishing expedition here.

2. Expert Compensation Paid In Other Matters Is Not Relevant.

Discovery related to payments to experts “for any matter” over the last five years, Kenvue Not. at 5 (Topics 10-11); J&J Not. at 5 (Topics 10-11), is also not “specifically relevant to the issues” in these two cases. *Hollman*, 384 S.C. at 578-79, 683 S.E.2d at 498-99.

Courts around the country have repeatedly held that discovery into the compensation paid to retained experts in other, unrelated cases is of “questionable relevance.” *See, e.g., Stolzle v. Safety & Sys. Assurance Consultants, Inc.*, 819 So. 2d 287, 289 (La. 2002) (compensation paid to expert’s agency in connection with that agency’s work in other cases “of questionable relevance” to case at hand); *DirecTV, LLC v. Bridges*, No. 21-C-646, 2022 WL 198864, at *3 (La. Ct. App. Jan. 21, 2022) (discovery of expert’s income derived from sources other than case at hand “irrelevant” and a “fishing expedition”); *Cary Oil Co. v. MG Refin. & Mfg., Inc.*, 257 F. Supp. 2d 751, 757 (S.D.N.Y. 2003) (discovery of compensation paid to retained experts in another case six years prior to case at hand is irrelevant and would “distract and impede the other party rather than assist in the preparation of cross-examination”); *Profitt v. Highlands Hosp. Corp.*, No. 7:19-CV-00015-KKC-EBA, 2021 WL 5435171, at *4-5 (E.D. Ky. Nov. 19, 2021) (request for seven years’ worth of records showing expert compensation from non-case-related sources “exceed[ed] what is ordinarily necessary to demonstrate bias, undermine credibility, or impeach expert witnesses”), *aff’d*, 2022 WL 409696 (E.D. Ky. Feb. 9, 2022).

As already discussed, Plaintiffs either already possess or will soon possess compensation information paid to testifying experts for their work *in these cases*. See Herfel Rep. at 3 (“My billing rate for this research is \$255/hour. Deposition or trial testimony is billed at \$475/hour.”). Indeed, Plaintiffs have specifically questioned the experts about their compensation *in other cases* at their depositions. See 8/21/2025 Nony Dep. 18:5-19:4 (“Q. In your estimation, in the past five years Johnson & Johnson defendants or their counsel on their behalf have paid approximately 150,000 to 200,000 dollars a year for your expert services; is that your best guess? A. Yes. And that’s . . . for all what you see on the invoice.”). Nothing further is needed for Plaintiffs to evaluate any potential bias of any of the J&J Defendants’ experts who may ultimately testify in these cases.

Compensation information related to consulting and regulatory experts—i.e., individuals who will *not* be testifying at trial—is even further removed from the facts of these cases. In particular, Plaintiffs’ notices specifically request payments made to “Shu-Chun Su or Ann Wylie for any matter for the last five years,” regardless of whether they were serving as a “consulting, testifying, [or] regulatory” expert. Kenvue Not. at 5 (Topic 10); J&J Not. at 5 (Topic 10). However, neither individual has been designated in either of these two cases. And any involvement by them in consulting for the J&J Defendants or attending conferences does not automatically place the purported bias of these individuals at issue. Ms. Barnett allegedly stopped using the J&J Defendants’ talc products in the “mid 90s,” Barnett Dep. 62:23-63:3, while Ms. Gerken allegedly used those products from her birth in 1944 to approximately 2023.” Am. Compl. ¶ 2. Whether these non-testifying experts have recently attended industry conferences, communicated with regulators or consulted for the J&J Defendants has no bearing

on the questions at issue in this litigation—i.e., whether J&J acted reasonably or provided adequate warnings at the time Ms. Barnett and Ms. Gerken allegedly used the talc products.

3. Expert Compensation Paid In Other Cases Is Unduly Burdensome.

Discovery of the compensation paid to experts from all matters over the last five years would also impose an “undue burden or expense” on the J&J Defendants. Rule 26(c), SCRCp. Courts have repeatedly denied requests for discovery of expert compensation information from other cases because of its “potential” for “undue burden or expense.” *See, e.g., Stolzle*, 819 So. 2d at 288-89 (vacating order compelling a single expert institution to produce compensation information relating to cases other than the case at hand due to the “potential [of] annoyance, embarrassment, oppression, or undue burden or expense”); *Dzafic v. Geovera Specialty Ins. Co.*, No. 8:08-CV-26-T-24EAJ, 2008 U.S. Dist. LEXIS 66164, at *7 (M.D. Fla. Aug. 15, 2008) (holding that request for records “indicating the total number of times any expert was retained by you . . . in the past three years and the total amount of compensation paid to said expert for work in the past three years” was overbroad and unduly burdensome); *Cary Oil*, 257 F. Supp. 2d at 757 (denying plaintiffs’ motion to compel expert financial records outside the scope of the time period of the case at hand, and noting that such requests are unduly burdensome and could be used “to harass . . . the other party by requiring significant document production”).

Here, the J&J Defendants disclosed 41 potential expert witnesses in the *Barnett* case and produced expert reports for six experts in the *Gerken* case. It would be enormously burdensome—indeed, impossible—for the J&J Defendants to identify all payments to these disclosed experts in any matter over the last five years. This is so because during that timeframe, the J&J Defendants have designated experts in approximately 300-400 cases involving cosmetic talc products in state and federal courts around the country. *See* Decl. of Kristen Fournier

(“Fournier Decl.”) ¶ 4 (Ex. 16). The J&J Defendants do not maintain a centralized, historical database identifying which experts were designated in which cases. *Id.* ¶¶ 5-7. And obtaining payment records for these experts in all of these cases would be a daunting task because expert invoices are often paid by the J&J Defendants’ outside counsel for a particular lawsuit. *Id.* ¶ 9. Over the last five years, the J&J Defendants have been represented by dozens of outside law firms—some serving as local counsel, others as national coordinating counsel, and still others as trial counsel—in talc cases around the country. *Id.* Although some of these firms still represent the J&J Defendants, a number do not, and some have not been involved in talc litigation for years. *Id.* In addition, some lawyers who worked on prior cases have retired, while others have changed firms. *Id.* And to make matters even more complicated, some expert invoices are sent in the name of the expert’s institution, not in the name of the expert herself, requiring manual review by the J&J Defendants to identify which of an institution’s invoices actually relate to a particular expert’s work. *Id.* ¶ 10.

In short, the discovery Plaintiffs seek pertaining to expert compensation for disclosed experts in their cases from all matters is improper, not relevant, and would be highly burdensome to provide.

B. Corporate Representative Testimony Pertaining To Expert Opinions Is Improper.

Plaintiffs also seek corporate representative testimony pertaining to “any opinions [the J&J Defendants’ experts] intend to give at trial in this case.” Kenvue Not. at 6 (Topic 16); J&J Not. at 6 (Topic 17). But as set forth in detail above, the J&J Defendants properly disclosed their expert witnesses in Plaintiffs’ cases. The J&J Defendants have already thus provided (in the *Gerken* case) or will provide (in the *Barnett* case) their experts’ opinions through written expert reports and depositions. To the extent Mr. Barnett has any questions about the scope of those

opinions, his counsel will have ample opportunity to question the J&J Defendants' experts at their depositions (expert discovery in *Gerken* has long passed). What Plaintiffs should not be allowed to do is skirt the rules governing expert discovery and force a corporate representative to testify as to "opinions." See *Hund v. Smith & Nephew, Inc.*, No. 6:10-cv-01556-JMC, 2011 WL 13217730, at *1 (D.S.C. July 28, 2011) (denying motion to compel and explaining that "it would be inappropriate to require the corporate representative to provide expert opinion testimony as to the device at issue").¹⁰ It is not even clear how the J&J Defendants could possibly prepare a corporate representative to testify about their experts' "opinions" in this case, which necessarily vary from expert to expert and are the views of those individual witnesses. This, too, highlights the abusive nature of the notices.

III. PLAINTIFFS' REMAINING TOPICS AND DOCUMENT REQUESTS ARE IMPROPER BECAUSE THEY HAVE ALREADY BEEN COVERED BY PRIOR DISCOVERY.

Plaintiffs' additional noticed deposition topics cover: (1) the J&J Defendants' "discussions, efforts and actions taken to stop selling talc based cosmetic products," Kenvue Not. at 5-6 (Topics 8-9, 14); J&J Not. at 5-6 (Topics 8-9, 15); *id.* at 8 (Document Requests 16-18); (2) the J&J Defendants' "participation in professional, industrial, and trade organizations," Kenvue Not. at 6 (Topic 13); J&J Not. at 6 (Topic 14); (3) "the Lancet Retraction," Kenvue Not. at 6 (Topic 12); J&J Not. at 6 (Topic 12); and (4) the March 17, 2020 "Johnson's Baby Talcum Powder: A Comprehensive Review," J&J Not. at 6 (Topic 13). As set forth in detail above, in the

¹⁰ For similar reasons, Plaintiffs' request for documents that the J&J Defendants intend to use at trial, see J&J Not. at 8 (Document Requests 9-11), are improper document requests to include in a notice for a corporate representative deposition. See *Kinetic Concepts, Inc. v. Convatec Inc.*, 268 F.R.D. 255, 260 (M.D.N.C. 2010) (finding that "'contention' discovery" was not proper "via the deposition of an organizational representative"). The documents and/or evidence the J&J Defendants will use to defend their case and/or prove cross-claims will be identified at the appropriate time in advance of trial.

Gerken case just one year ago, Plaintiffs sought corporate representative testimony on these exact topics. *See* 9/4/2025 *Gerken* Am. Not. at 8-9. In response, the J&J Defendants' corporate representative, Dr. Kuffner, testified for two days and provided detailed responses on these very topics. Requiring the J&J Defendants to provide discovery on these topics ***again in the exact same case (Gerken)*** is the quintessence of duplicative and cumulative discovery that should not be allowed. *See* Rule 26(a), SCRCF (stating discovery shall be limited where "the discovery sought is unreasonably cumulative or duplicative"); *see also, e.g., Berning v. UAW Loc. 2209*, No. 1:06-CV-00087, 2007 WL 1385367, at *2 (N.D. Ind. May 4, 2007) (citation omitted) (issuing protective order to preclude plaintiff from taking duplicative deposition); *Graebner v. James River Corp.*, 130 F.R.D. 440, 441 (N.D. Cal. 1989) ("repeat depositions are disfavored"); *Kinetic Concepts*, 268 F.R.D. at 263 (granting defendants' motion for a protective order and holding that allowing "[p]laintiffs to conduct Rule 30(b)(6) depositions as to Topic 1 . . . would contravene the limitations in" the federal rules "in that '[] the discovery sought is unreasonably cumulative or duplicative'").

The same is true for Plaintiffs' document requests that seek information pertaining to historical regulatory communications, J&J Not. at 8-9 (Document Requests 12, 14 and 20), and talc testing, *id.*, at 8 (Document Requests 12-13). The J&J Defendants have already produced approximately 19,000 documents regarding regulatory communications and approximately 69,000 documents regarding talc testing. There is nothing left to produce on these topics. Nor are the J&J Defendants required to produce documents that "form the foundation for" "responses to discovery requests in talc litigation," J&J Not. at 8 (Document Request 8), because such information is fully addressed in the discovery responses themselves. *See, e.g., SmithKline Beecham Corp. v. Apotex Corp.*, No. 98 C 3952, 2000 WL 116082, at *9-10 (N.D. Ill. Jan. 24,

2000) (denying motion to compel a Rule 30(b)(6) deposition on “responses to [] Interrogatories and requests for production, along with the subjects identified therein” because “the factual information . . . has [] already been produced, or [] it cannot be discovered through a less invasive method”).

In short, given that Plaintiffs already have an enormous amount of discovery regarding the issues they (once again) seek, it is clear that the only purpose of the deposition and document requests is to harass and burden the J&J Defendants rather than to obtain any information necessary to press Plaintiffs’ claims.

CONCLUSION

For all of these reasons, the J&J Defendants request that the Court quash Plaintiffs’ corporate representative deposition notice and accompanying document requests and grant a protective order.

Pursuant to South Carolina Rule of Civil Procedure 11, undersigned counsel affirms that prior to the filing of this motion, counsel for the J&J Defendants communicated in good faith with opposing counsel regarding the matters contained in this motion and certifies that further consultation would serve no useful purpose.

Signature on Following Page

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September 2, 2026

EXHIBIT 1

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

DEBRA McANDREW BARNETT)

Plaintiff,)

v.)

JOHNSON & JOHNSON, et al.)

Defendants.)

C/A NO. 2026-CP-40-01257

In Re:

Asbestos Personal Injury Litigation
Coordinated Docket

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

ANDREW T. GERKEN, as Personal
Representative of the Estate of ANNA
MARIE L. GERKEN, Deceased)

Plaintiff,)

v.)

AVON PRODUCTS, INC., et al.)

Defendants.)

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

C/A NO. 2023-CP-40-06111

In Re:

Asbestos Personal Injury Litigation
Coordinated Docket

**PLAINTIFFS' FIRST AMENDED NOTICE OF THE 30(b)(6) DEPOSITION OF
DEFENDANT KENVUE INC. AND SUBPOENA DUCES TECUM**

ALL DEFENDANTS AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Plaintiffs, pursuant to Rule 30 of the South Carolina Rules of Civil Procedure, will take the videotaped deposition of the designated representative of **Kenvue Inc.** on **September 18, 2025 at 9:30am ET** and will take place in person at **Kirkland & Ellis LLP 601 Lexington Avenue, New York, NY 10022** and via Zoom at which time you are notified to appear and take part as you see fit and proper in such examination. The deposition will take place

before a certified court reporter and videographer. If necessary, the deposition shall continue day to day.

Zoom Meeting Link: [CLICK HERE](#)

Zoom Meeting ID: 91098708905

Dial-In Phone #: 408 638 0968

The deposition is to be taken for the purpose of discovery or for use at trial, or both. The topics to be covered at the deposition are listed in Exhibit “A” attached hereto. Pursuant to Rule 30(b)(5), Defendant is requested to produce documents responsive to the descriptions listed in Exhibit “B” also attached hereto. Pursuant to Rule 30(b)(5) the time for production of these documents is governed by Rule 34, which holds all responsive documents were due produced to Plaintiff in 30 days from service. Plaintiffs reserve the right to use the deposition and exhibits thereto, including the deposition transcript, audio recording, and videorecording of the testimony, for any purpose, including at trial in this and in any subsequent matter, particularly as neither Deponent nor its Person(s) Most Qualified are residents of the state of California, and are therefore unavailable at trial as defined by California Evidence Code section 240. All parties given notice of this deposition are advised of Plaintiffs’ intent to use the transcript, audio recording, and videorecording of the testimony for the purpose of preserving the witness's testimony as a proxy for trial testimony which may be used in this and any subsequent matters. All parties are advised to take full and fair opportunity of their right to examine the witness in anticipation that the testimony, and/or portions thereof, is intended for use at trial.

Respectfully submitted,

/s/ David C. Humen

David C. Humen (SC Bar No. 104536)

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ATTORNEYS FOR PLAINTIFF

September 2, 2026
Dallas, Texas

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was served on counsel for all parties via Certified U.S. Mail Return Receipt, U.S. Mail Standard First Class, and/or electronic mail this on September 2, 2026.

s/ David C. Humen
Attorney for Plaintiffs

EXHIBIT A

For purposes of these topics, the following words shall have the following meanings: Definitions: "RECORD" or "RECORDS" or "DOCUMENT" or "DOCUMENTS" means any and all written, printed, typed, recorded or graphic material, however produced, or reproduced, stored, known to exist, by way of example and not by limitation, invoices, contracts evidencing purchase or receipt, ledger cards, material requests, communications, writings, printings, records, worksheets, abstracts, summaries, statistics, notes, market data, journals, ledgers, expense reports, specifications, contracts, contract bids, purchase orders, bills of lading, shipping orders, dock receipts, cancelled checks, computer print-outs, microfilm, microfiche, which in any way pertain to the document request made herein.

The terms "YOU" and "YOUR" mean responding party and all of its divisions, predecessors- in-interest, successors-in-interest, subsidiaries, parent companies, sister companies, joint ventures, partners and divisions thereof, including all current and former owners, employees, managers, officers, directors, agents, attorneys and any other person(s) acting upon its behalf.

The term "ASBESTOS" shall be interpreted, not in a limited regulatory sense, but broadly and include non-regulated and non-commercial forms of asbestos, all forms of elongate mineral particles, fibrous minerals, fibrous talc, cleavage fragments of amphiboles, individual fibers, bundles, fibrils and transition/transitional fibers. "Asbestiform" shall also be interpreted broadly and without particular limitation regarding fiber size, length, dimension, ratio, presence of multiple fibers, or geologic origin or "habit." The foregoing notwithstanding, "asbestos" also includes talc, whether or not known or acknowledged by defendant(s) to contain asbestiform minerals or other elongate mineral particles. See, e.g., Egilman, et al., Health Effects of Censored Elongated Mineral Particles: A Critical Review, Detection Limits in Air Quality and Environmental Measurements (STP 1618, 2019; doi: 10.1520/STP161820180080); January 6, 2020, Executive Summary of Preliminary Recommendations on Testing Methods for Asbestos in Talc and Consumer Products Containing Talc (available at <https://www.fda.gov/media/134005/download>) ("The difficulty of identifying and quantifying individual asbestos or other mineral particles present at low concentrations in talc is compounded by the presence of non-asbestiform analogs with the same elemental composition and crystal structure, but different growth habit. Using TEM, differentiation of chrysotile from non-asbestiform serpentine analogs is relatively straightforward; however, each of the non-asbestiform amphiboles can disaggregate into particles resembling asbestiform fibers, giving rise to disputes between laboratories over whether elongate amphibole particles are truly asbestos, or are particles resulting from attrition of larger particles of a non-asbestiform analog. Because both types of elongate minerals are suspected of having biological activity with similar pathological outcomes, the distinction is irrelevant...").

The term "TALC" includes all grades of talc including but not limited to industrial, cosmetic, food, and/or pharma, unless specified otherwise.

The term "PERSON" and "PERSONS" means a natural person, firm, association, organization, partnership, business trust, limited liability company, corporation, or public entity.

Please provide a corporate representative to be deposed on the following subject matters:

1. Any and all communications between YOU and the Department of Health & Human Services (HHS), the Federal Drug Administration (FDA), and the Executive Branch of the U.S. Government regarding:
 - a. the Consolidated Appropriations Act of 2023 (H.R. 2617 and PL 117-328);
 - b. the Modernization of Cosmetics Regulation of 2022 (MoCRA);
 - c. FDA's Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products (proposal and withdrawal of 89 FR 105490); and
 - d. the May 20, 2025 Expert Panel with the FDA.
2. All trade organizations, trade associations, and any other groups with which YOU discussed the Consolidated Appropriations Act of 2023 (H.R. 2617 and PL 117-328), the Modernization of Cosmetics Regulation of 2022 (MoCRA), and FDA's Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products (proposal and withdrawal of 89 FR 105490).
3. Any and all internal communications YOU regarding to the Consolidated Appropriations Act of 2023 (H.R. 2617 and PL 117-328), the Modernization of Cosmetics Regulation of 2022 (MoCRA), and FDA's Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products (proposal and withdrawal of 89 FR 105490).
4. When and how YOU first learned that Dr. Andrey Korchevskiy intended to write the FDA regarding the Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products and/or the May 20, 2025 Expert Panel with the FDA.
5. YOUR involvement with the June 9, 2025 letter written by Dr. Andrey Korchevskiy to Dr. Martin Makary, including the selection of co-signatories, the drafting of the letter, and the development of its content.
6. YOUR knowledge of how the June 9, 2025 letter was drafted, including how feedback was provided to Dr. Korchevskiy and how drafts were exchanged between signatories.
7. When and how YOU first learned that the FDA intended to withdraw and did withdraw its proposed Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products (89 FR 105490).
8. Which of YOUR subsidiaries made Johnson's Baby Powder and other cosmetic talc product. The discussions, efforts and actions taken to stop selling talc based cosmetic products. This is not limited to cosmetic talc products in the United States or Canada.
9. Listing of all individuals involved with the decision to stop selling talc in Johnson's Baby Powder and the steps involved to execute that decision.
10. An understanding of payments made by YOU to your experts in this case for any matter including an understanding of the nature of the payment (consulting, testifying, regulatory issues, etc.).
11. An understanding of payments made by YOU directly or indirectly to Shu-Chun Su or Ann Wylie for any matter including an understanding of the nature of the payment

(consulting, testifying, regulatory issues, etc.).

12. Actions taken by YOU or at YOUR behalf to respond to the Lancet Retraction ([https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(26\)00552-0/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(26)00552-0/fulltext)). This includes understanding the actions taken, time spent, individuals involved and cost incurred.
13. YOUR participation in professional, industrial, and trade organizations, including but not limited to the Cosmetic, Toiletry & Fragrance Association (CTFA); the Cosmetic, Toiletry & Perfumery Association (CTPA); and the Personal Care Products Council (PCPC). This includes an understanding of when membership began, cost of membership, donations or contributions related to talc issues.
14. All information related to each entity's conversion from talc to "talc free" baby powder, including the volume of sales, last date of sale and handling of existing inventory.
15. All information relating to YOUR involvement with, knowledge regarding, and communications with or about any European health agency relating to its assessment of a potential ban on talc.
16. All documents produced by YOU and any opinions you intend to give at trial in this case.
17. What YOU did to prepare for this deposition (documents searched for, documents reviewed, people searched for, people interviewed, etc.)
18. Information regarding document searches YOU have performed in this particular case. (i.e., when the search occurred, where it occurred, terms queried, by whom, results, bates-stamp range applied to all documents produced, etc.).

EXHIBIT B

For purposes of these requests, the following words shall have the following meanings:

The terms "RECORD" or "RECORDS" or "DOCUMENT" or "DOCUMENTS" means any and all written, printed, typed, recorded or graphic material, however produced, or reproduced, stored, known to exist, by way of example and not by limitation, invoices, contracts evidencing purchase or receipt, ledger cards, material requests, communications, writings, printings, records, worksheets, abstracts, summaries, statistics, notes, market data, journals, ledgers, expense reports, specifications, contracts, contract bids, purchase orders, bills of lading, shipping orders, dock receipts, cancelled checks, computer print-outs, microfilm, microfiche, which in any way pertain to the document request made herein.

The terms "YOU" and "YOUR" mean responding party and all of its divisions, predecessors- in-interest, successors-in-interest, subsidiaries, parent companies, sister companies, joint ventures, partners and divisions thereof, including all current and former owners, employees, managers, officers, directors, agents, attorneys and any other person(s) acting upon its behalf.

The term "ASBESTOS" shall be interpreted, not in a limited regulatory sense, but broadly and include non-regulated and non-commercial forms of asbestos, all forms of elongate mineral particles, fibrous minerals, fibrous talc, cleavage fragments of amphiboles, individual fibers, bundles, fibrils and transition/transitional fibers. "Asbestiform" shall also be interpreted broadly and without particular limitation regarding fiber size, length, dimension, ratio, presence of multiple fibers, or geologic origin or "habit." The foregoing notwithstanding, "asbestos" also includes talc, whether or not known or acknowledged by defendant(s) to contain asbestiform minerals or other elongate mineral particles. See, e.g., Egilman, et al., Health Effects of Censored Elongated Mineral Particles: A Critical Review, Detection Limits in Air Quality and Environmental Measurements (STP 1618, 2019; doi: 10.1520/STP161820180080); January 6, 2020, Executive Summary of Preliminary Recommendations on Testing Methods for Asbestos in Talc and Consumer Products Containing Talc (available at <https://www.fda.gov/media/134005/download>) ("The difficulty of identifying and quantifying individual asbestos or other mineral particles present at low concentrations in talc is compounded by the presence of non-asbestiform analogs with the same elemental composition and crystal structure, but different growth habit. Using TEM, differentiation of chrysotile from non-asbestiform serpentine analogs is relatively straightforward; however, each of the non-asbestiform amphiboles can disaggregate into particles resembling asbestiform fibers, giving rise to disputes between laboratories over whether elongate amphibole particles are truly asbestos, or are particles resulting from attrition of larger particles of a non-asbestiform analog. Because both types of elongate minerals are suspected of having biological activity with similar pathological outcomes, the distinction is irrelevant...").

The term "TALC" includes all grades of talc including but not limited to industrial, cosmetic, food, and/or pharma, unless specified otherwise.

The term "PERSON" and "PERSONS" means a natural person, firm, association, organization, partnership, business trust, limited liability company, corporation, or public entity.

1. All communications between YOU and the Department of Health & Human Services (HHS), the Federal Drug Administration (FDA), and the White House regarding the Consolidated Appropriations Act of 2023 (H.R. 2617 and PL 117-328), the Modernization of Cosmetics Regulation of 2022 (MoCRA), and FDA's proposed Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products (89 FR 105490).
2. All communications between YOU and any identified trade organizations regarding the Consolidated Appropriations Act of 2023 (H.R. 2617 and PL 117-328), the Modernization of Cosmetics Regulation of 2022 (MoCRA), and FDA's proposed Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products (89 FR 105490).
3. All communications between YOU and Dr. Korchevskiy regarding the Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products and the May 20, 2025 Expert Panel with the FDA.
4. All records related to the June 9, 2025 letter to Dr. Martin Makary.
5. If YOU have withheld any document based on a claim of privilege, please produce a privilege log identifying each such document, its author, recipients, date of preparation, and the specific privilege or work product protection claimed.
6. All documents reviewed to make the witness knowledgeable about each topic above, and/or to prepare the witness to testify as to the above topics.
7. All documents used to refresh the recollection of the designated witness and/or prepare that person to testify as to areas of inquiry listed above.

EXHIBIT 2

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

DEBRA McANDREW BARNETT,

Plaintiff,

V.

JOHNSON & JOHNSON, et al.

Defendants.

C/A NO. 2026-CP-40-01257

In Re:

Asbestos Personal Injury Litigation

Coordinated Docket

PLAINTIFF'S RESPONSES TO DEFENDANTS' STANDARD INTERROGATORIES

TO: ALL DEFENDANTS, BY AND THROUGH THEIR COUNSEL OF RECORD

COMES NOW Plaintiff, Debra McAndrew Barnett, by and through her counsel of record,
and serves her Responses to Defendants' Standard Interrogatories pursuant to the South Carolina
Master Discovery/Scheduling Order for the Coordinated Asbestos Litigation Docket.

Here is a Dropbox link containing materials:

<https://www.dropbox.com/scl/fo/yxx1es7gj9dfu1k6jmark/ALfDVNRhWIMxZSp2xfFYIWc?rlkey=1zzi0zq21wlne6wiigeyzvrxc&dl=0>

ANSWERS TO STANDARD INTERROGATORIES

INTERROGATORY NO. 1:

State your full name, address and telephone number, date of birth, educational background and Social Security number.

ANSWER:

Debra Sue McAndrew Barnett

756 Lois Lane

Gastonia, NC 28056

704-460-4706

DOB: December 14, 1954

SSN: XXX-XX-8460

Ms. Barnett attended West Mecklenburg High School in Charlotte, NC. She dropped out in the 12th grade but later received her high school diploma. Ms. Barnett also attended some community college classes in business administration.

INTERROGATORY NO. 2

State the complete address of all places you have resided in the past twenty years giving the inclusive dates of residence for each place named.

ANSWER:

Ms. Barnett has lived at her current residence since 1987.

INTERROGATORY NO. 3

If you are now or have ever been a member of a trade labor union, provide the following information:

- (a) the name of the union or unions to which you belonged;
- (b) the inclusive dates of your membership in each;
- (c) the numbers and complete address of the local unions to which you have belonged; and
- (d) all officers or other positions which you have held in each union, identifying the office, position, and union in which held and inclusive dates the position or office was held.

ANSWER:

Plaintiff objects that this request is overly broad and unduly burdensome. Subject thereto and without waiving the same, Plaintiff responds as follows: Upon information and belief, Plaintiff Debra Barnett was not a member of a union. Plaintiff reserves the right to supplement this response should further responsive information come to light.

INTERROGATORY NO. 4

Identify all jobs and projects on which you worked or around asbestos or materials containing asbestos and state separately as to each job or project the following:

- (a) the name and location of each job (stating the job site, city, county and state);
- (b) the name and address of each employer for whom you worked;
- (c) the beginning and ending dates of each job or project;

- (d) the name and manufacturer of each and every product containing asbestos with which you worked or to which you were exposed on each particular job or project and a general description of each such product;
- (e) the identity of your immediate superior or job superintendent on each such job or project;
- (f) the Identity of all persons with whom you worked on each such job or project;
- (g) the length of time that you worked on each such job or project;
- (h) whether or not you wore a respirator or mask on each such job or project; and
- (i) your specific duties on each job.

ANSWER:

Plaintiff objects to this interrogatory in that it is vague, ambiguous, and overbroad. Additionally, portions of this interrogatory are not reasonably calculated to lead to the discovery of admissible evidence. Subject thereto and without waiving these objections, please see Exhibit A attached hereto giving the worksites where Plaintiff worked with or around Defendants' asbestos-containing materials. Additionally, please see Plaintiff's Original Complaint filed in this case. Plaintiff will also provide information regarding potential co-workers, if any, that could provide may be responsive to this request.

Plaintiff provides this information based on their and/or other witness's recollection of handling or being around products that may have caused Debra Barnett to be exposed to asbestos. This information may be supplemented by information from witnesses, documentation gathered and/or investigation conducted by Plaintiff's counsel to date. This investigation continues and Plaintiff will supplement this information as needed.

Mrs. Barnett was exposed to asbestos brought home on the clothes of her husband, Gary Barnett. Gary Barnett worked at the following sites that resulted in take-home exposures to Debra Barnett:

Location: McGuire Plant, Huntersville, NC; Catawba Plant, York, SC; Belews Creek Plant, Belews Creek, NC; Buck Plant, Salisbury, NC; Cliffside Plant, Mooresboro, NC; Dan River Plant, Eden, NC; Marshall Plant, Terrell, NC; Riverbend Plant, Mt. Holly, NC; Lee Plant, Williamston, SC
 Employer: Duke Power
 Title: Builder/Carpenter
 Years: 1973-1974, 1977-2009

Additionally, Ms. Barnett was exposed to asbestos brought home on the clothes of her father, Wilburn Plummer McAndrew. Mr. McAndrew worked at the following sites that resulted in take-home exposures to Debra Barnett:

Location: Riverbend Plant, Mt. Holly, NC (1951-1952, 1959-1960); Buck Plant, Salisbury, NC (1952-1953); Dan River Plant, Eden, NC (1954-1955); Allen Plant, Belmont, NC (1956-1958); Lee Plant, Williamston, SC (1958-1959); Cowans Ford Plant, Lake Norman, NC (1960-1964); Marshall Plant, Terrell, NC (1965-1969); Oconee Plant, Seneca, SC (1970-1973); McGuire Plant, Huntersville, NC (1973-1980)
 Employer: Duke Power
 Title: Welder, Welder Supervisor, Welder Inspector
 Years: 1951-1980

Location:
 Employer: Charlotte Ironworkers 413
 Title: Welder
 Years: 1955-1956

Additionally, Ms. Barnett was exposed to asbestos and/or asbestos-containing cosmetic talc products and body talc products through her personal use, and her family's use, of talcum products throughout her life. As discovery is ongoing, Plaintiffs reserve the right to supplement this response.

INTERROGATORY NO. 5

Identify all jobs you have had during your lifetime that are not listed in No. 4 above. As to each, state:

- (a) the general nature of the work you performed (i.e., coal miner, textile worker, etc.)
- (b) the name and location of each job (stating the job site, city; county and state);
- (c) the name and address of each employer for whom you worked;
- (d) the beginning and ending dates of each job or project.

ANSWER:

Plaintiff incorporates her objections and responses to Interrogatory No. 4 above as if fully restated here. Subject to and without waiving these objections, Debra Barnett is not aware of any asbestos exposure during her own employment. Ms. Barnett worked at the following locations:

Location: Leakesville Woolen Mills, Charlotte, NC
 Employer: Leakesville Woolen Mills Inc.
 Title: Shipping Clerk, Blanket Packer
 Years: 1970-1978

Location: Jewell Building, Dallas, NC
 Employer: Jewell
 Title: Typist
 Years: 1/1987 - 4/1987

Location: Allibert Rubber Maid Sunbeam, Stanley, NC
 Employer:
 Title: Machine Operator, Forklift Operator, Production Supervisor
 Years: 1988-1996

Location: John Deer Tractor, Gastonia, NC
 Employer: John Deere Tractor Co.
 Title: Assembly Line
 Years: 2/1998 – 4/1998

Plaintiff reserves the right to supplement as discovery in ongoing.

INTERROGATORY NO. 6

As to each exposure to each product listed in the answer to interrogatory number 4, describe by name or other description the person documents which you claim will establish either as a witness and/or documentary evidence the fact of your exposure to the product. For each witness listed, state the witness's complete name, job title or capacity, employer, address and telephone number. For each document listed, state a description of the document, its content and the name, address and telephone number of the custodian of the document.

ANSWER:

Plaintiff objects to this interrogatory in that it is vague, ambiguous, and overbroad. Additionally, portions of this interrogatory are not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff further objects that this interrogatory requires Plaintiff to marshal the entirety of her evidence, and such is not required by the South Carolina Rules of Civil Procedure. Plaintiff also states that they are not aware of every potential witness and as such cannot speculate. Further, information responsive to this request is equally, if not more so, available to the defendants in this action. Subject to and without waiving these objections please see Plaintiff's responses to Defendants' (Exhibit 2) Master Interrogatories and Requests for Production of Documents served herewith. Additionally, Plaintiff reserves the right to supplement this response should further responsive information come to light.

INTERROGATORY NO. 7

Identify the disease or injuries for which claim is made by you in the above-captioned Complaint, and as to such disease or injury provide the following information:

- (a) a description of the symptoms of the disease or injury;
- (b) the date you first experienced any of the symptoms of the disease or injury described above;
- (c) the names and address of each doctor or other practitioner of the healing arts who has either examined or treated you for the disease or injury described above and the dates of such treatment or examination; and
- (d) the treatment provided by each doctor or other practitioner of the healing arts for the disease or injury identified above.

ANSWER:

Ms. Barnett was diagnosed with malignant pleural mesothelioma. Please see Exhibit 1 document production included with Plaintiff's Responses to Defendants' Master Set of Interrogatories and Requests for Production of Documents, which includes the pathology and medical reports regarding Ms. Barnett's disease, as well as fully executed authorizations to obtain all medical records of Plaintiff, unlimited by time or by place on the body. Please also see Plaintiff's Original Complaint which includes the diagnosing pathology report. Plaintiff also directs the Defendants to Plaintiff's List of Plaintiff's Medical Providers, included in Exhibit 1. It is impossible to describe all of the symptoms related to mesothelioma. See also Plaintiffs' responses to Interrogatory No. 8.

INTERROGATORY NO. 8

State the date of the diagnosis made by any physician or other practitioner of the healing arts of the disease or injury which you set forth in your answer to interrogatory number and identify the individual making such diagnosis.

ANSWER:

Debra Barnett was diagnosed with mesothelioma on or around November 21, 2025 by Dr. Patrick L. Ware. Please see Exhibit 1 document production included with Plaintiff's Responses to Defendants' Master Set of Interrogatories and Requests for Production of Documents (Ex. 2), which includes all medical records in Plaintiff's possession at this time, including the pathology reports regarding Ms. Barnett's mesothelioma, as well as fully executed authorizations to obtain all medical records of Plaintiff unlimited by time or by place on the body. Plaintiff also directs the Defendants to Plaintiff's List of Medical Providers, included in Exhibit 1.

INTERROGATORY NO. 9

State the date you learned of the diagnosis of such disease or injury.

ANSWER:

See Answer to Interrogatory No. 8, same date as diagnosis or within the days thereafter.

INTERROGATORY NO. 10

If you have received any treatment with respect to the disease at issue set forth in your answer to interrogatory number 7, state:

- (a) the name and address of each hospital, clinic or other medical facility at which you were treated or admitted;
- (b) the dates on which said treatment or treatments were rendered including the dates of entry into and discharge from said hospitals, clinics or other medical facility;
- (c) an itemization of the charges rendered by each hospital, clinic or other medical facility;
- (d) the expenses of examination or treatment by any doctors who have examined or treated you.

ANSWER:

Plaintiff objects that this request is overly broad and unduly burdensome. Subject thereto and without waiving the same, Ms. Barnett has, and continued to receive care for her disease. For more information please see Exhibit 1 document production included with Plaintiff's Responses to Defendants' Master Set of Interrogatories and Requests for Production of Documents (Ex. 2), which includes all medical records in Plaintiff's possession at this time, as well as fully executed authorizations unlimited in time or place on the body, to obtain further medical records and to update as needed. Plaintiff also directs the Defendants to Plaintiff's List of Medical Providers, included in the Exhibit 1 document production.

INTERROGATORY NO. 11

Identify each physician or other practitioner of the healing arts not previously identified herein who has examined or treated you for any reason end for each such individual so identified provide the following information:

- (a) the reason for such examination or treatment;
- (b) the date of each examination or treatment; and
- (c) the diagnosis resulting from each such examination or treatment.

ANSWER:

Plaintiff objects that this request is overly broad, unduly burdensome, and not reasonably tailored to the subject matter of this litigation – Ms. Barnett’s diagnosis of malignant mesothelioma. Subject thereto and without waiving the same, please see Exhibit 1 document production included with Plaintiff’s Responses to Defendants’ Master Set of Interrogatories and Requests for Production of Documents (Ex. 2), which includes Plaintiff’s List of Medical Providers

INTERROGATORY NO. 12

Identify each hospital, clinic or other medical facility not previously identified herein at which you had been examined or received medical treatment for each such facility identified provide the following information:

- (a) the reason for such examination or treatment;
- (b) the date of each such examination or treatment;
- (c) if you were an in-patient, the dates of admission to and discharge from such hospital, clinic or medical facility; and
- (d) the diagnosis resulting from each such examination or treatment.

ANSWER:

Plaintiff objects that this request is overly broad, unduly burdensome, and not reasonably tailored to the subject matter of this litigation – Ms. Barnett’s diagnosis of malignant mesothelioma. Subject thereto and without waiving the same, please see Exhibit 1 document production included with Plaintiff’s Responses to Defendants’ Master Set of Interrogatories and Requests for Production of Documents (Ex. 2), which includes Plaintiff’s List of Medical Providers

INTERROGATORY NO. 13

If you are currently receiving medical services or treatment of any nature whatsoever, state:

- (a) the name or names of the person or persons attending you;
- (b) the approximate frequency of said treatment or services; and
- (c) the date you last received said treatment or services.

ANSWER:

Plaintiff objects that this request is overly broad, unduly burdensome, and not reasonably tailored to the subject matter of this litigation – Ms. Barnett’s diagnosis of malignant mesothelioma. Subject thereto and without waiving the same, Ms. Barnett is currently receiving treatment for her mesothelioma. Please see Exhibit 1 document production included with Plaintiff’s Responses to Defendants’ Master Set of Interrogatories and Requests for Production of Documents (Ex. 2), which includes Plaintiff’s List of Medical Providers

INTERROGATORY NO. 14

If you have ever had x-rays taken of your chest, provide the following information for each set of x-rays taken:

- (a) the name and addresses of the office or hospital where the x-rays were taken;
- (b) the reason why such x-rays were taken;
- (c) the date of dates on which the x-rays were taken;
- (e) the information reported to you as being the x-ray diagnosis; and
- (f) the identity of the person or persons who took the x-ray and the person or persons who made the diagnosis.

ANSWER:

Plaintiff objects that this request is overly broad and unduly burdensome. Subject thereto and without waiving the same, please see Exhibit 1 production included with Plaintiff's Responses to Defendants' Master Set of Interrogatories and Requests for Production of Documents (Ex. 2), which includes all medical records in Plaintiff's possession at this time, including but not limited to the pathology report regarding Ms. Barnett's mesothelioma as well as fully executed authorizations unlimited in time or place on the body, to obtain further medical records and to update as needed. Plaintiff also directs the Defendants to Plaintiffs' List of Medical Providers, included in Exhibit 1.

INTERROGATORY NO. 15

If you have made any Workers' Compensation claim as a result of any injuries or diseases, provide the following information:

- (a) the date you first reported to your employer the incident of your injury or disease;
- (b) the date and name of the agency with which you filed a claim for workers' Compensation benefits;
- (c) the date upon which you first received any Workers' Compensation benefits, either for disability or medical treatment;
- (d) the name and address of the employer against whom you made said claim; and
- (e) the nature of the injury or disease for which a claim was made.

ANSWER:

Plaintiff objects to this Interrogatory to the extent it requests confidential information that is not relevant to the pending litigation and not reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections and without waiving the same, upon information and belief, Ms. Barnett has never filed a workers' compensation claim.

INTERROGATORY NO. 16

If you have filed any claim with the Social Security administration as a result of any injuries or disease, provide the following information:

- (a) the date you filed said claim;
- (b) the nature of such claim;
- (c) the date upon which you first received any benefits, either for disability or for medical treatment;
- (d) the amount of benefits you are receiving and the frequency with which you receive these benefits.

ANSWER:

Plaintiff objects to this Interrogatory to the extent it requests confidential information that is not relevant to the pending litigation and not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff further objects that this request is overly broad and unduly burdensome. Subject thereto and without waiving the same, Plaintiff states to the best of Plaintiff's knowledge, Debra Barnett never made a claim with the Social Security administration as a result of any injuries or disease. Additionally, Plaintiff states that discovery is ongoing, and Plaintiff reserves the right to supplement this answer should further responsive information comes to light.

INTERROGATORY NO. 17

If you have ever been involved in any other legal action, including criminal charges against you, provide the following information:

- (a) whether you were a plaintiff or defendant;
- (b) the nature of the claim made by or against you, including the nature of any criminal charge made against you;
- (c) the date and place each such action was filed, giving the name of the Court, the name of the other party or parties involved, the number of such action or actions and the names of the attorneys representing each party; and
- (d) the result of each such action, whether there was an appeal and the result of the appeal, and whether such case was reported, and the name, volume number and page citation of the report.

ANSWER:

Plaintiff objects that this request is overbroad, harassing, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections, to the best of Plaintiffs' knowledge, not applicable. Discovery is ongoing and Plaintiff reserves the right to supplement this answer should further responsive information comes to light.

INTERROGATORY NO. 18

Do you or your counsel have written reports from any physician or practitioner of the healing arts respecting any injuries or diseases which; you have identified in your response to these interrogatories? If so, please attach; a copy of said report or reports to your answers to these interrogatories.

ANSWER:

Plaintiff objects that this request is overly broad and unduly burdensome. Subject thereto and without waiving the same, please see Exhibit 1 production included with Plaintiff's Responses to the Exhibit 2 standing discovery requests, which includes the pathology report regarding Ms. Barnett's mesothelioma as well as fully executed authorizations unlimited in time or place on the body, to obtain further medical records and to update as needed. Plaintiff also directs the Defendants to Plaintiff's List of Plaintiff Medical Providers, included in Exhibit 1. Plaintiff states that discovery is ongoing, and Plaintiff reserves the right to supplement this answer should further responsive information comes to light.

INTERROGATORY NO. 19

As to any job or jobs on which you allege you were injuriously exposed to asbestos—containing materials, was there any company other than your employer installing or handling asbestos—containing materials at the same job site? If so, please identify each job, its location, and the approximate dates on which you worked on that job and the other company alleged to be installing or handling asbestos-containing materials at that site.

ANSWER:

Plaintiff objects to this interrogatory as overly broad, vague, and ambiguous. Moreover, information responsive to this request is equally, if not more so, available to Defendants in this case. Subject to and without waiving these objections, see all depositions to be taken in this case. Plaintiffs state that discovery is ongoing, and Plaintiffs reserves the right to supplement this answer should further responsive information comes to light.

INTERROGATORY NO. 20

Do you now, or have you ever, chewed, smoked, consumed, or otherwise used tobacco or tobacco products? If so, please state:

- (a) the type or types of products (i.e., cigarettes, cigars, etc.);
- (b) the brand name of each product listed above;
- (c) the inclusive dates of use of each product listed above: and
- (d) the frequency of use or amount of use (i.e., one pack a day, etc.).

ANSWER:

Plaintiff objects as this Request is not relevant nor reasonably calculated to lead to admissible evidence. Subject to and without waiving this objection, Ms. Barnett smoked Virginia Slims from approximately age 17-51.

Respectfully submitted,

s/ David C. Humen

David C. Humen (SC Bar No. 104536)

DEAN OMAR BRANHAM SHIRLEY, LLP

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Theile B. McVey (SC Bar No. 16682)

KASSEL MCVEY ATTORNEYS AT LAW

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Columbia, South Carolina 29202-1476

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F: 803-256-1952
tmcvey@kassellaw.com
Other email: emoultrie@kassellaw.com
ATTORNEYS FOR PLAINTIFF

April 20, 2026
Dallas, Texas.

CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2026, a true and correct copy of the above and foregoing instrument was served on counsel for all parties via Certified U.S. Mail Return Receipt, U.S. Mail Standard First Class, and/or electronic mail.

/s/Scott Pepin
Paralegal for Plaintiffs

EXHIBIT 3

1 STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS
2 COUNTY OF RICHLAND FOR THE FIFTH JUDICIAL CIRCUIT

3 - - -
4

5 DEBRA MCANDREW BARNETT, : C/A No.
6 Plaintiff, : 2026-CP-40-01257
7 vs. : In Re: Asbestos
8 JOHNSON & JOHNSON, et al., : Personal Injury
9 Defendants. : Litigation
: Coordinated
: Docket
:

12 VIDEOTAPED DEPOSITION OF

13 DEBRA McANDREW BARNETT

14 VOLUME 1 - Pages 1 - 171
15

16
17 DATE TAKEN: Thursday, May 14, 2026

18 TIME BEGAN: 10:04 a.m.

19 TIME ENDED: 2:45 p.m.

20 LOCATION: Hilton Garden Inn Gastonia
21 444 Cox Road
Gastonia, North Carolina 28054

22 REPORTED BY: Karen Kidwell, RMR, CRR
23
24

25 Job #632143

Transcript of Debra McAndrew Barnett
Conducted on May 14, 2026

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ELECTRONICALLY FILED - 2026 Sep 02 9:02 PM - RICHLAND - COMMON PLEAS - CASE#2023CP400611

1	A.	I'd have to rinse them off.	10:57:07
2	Q.	You mentioned reapplying it during the	10:57:10
3		day. How -- how many times on any given day would	10:57:12
4		you end up applying powder to yourself?	10:57:15
5	A.	Two or three minimum.	10:57:20
6	Q.	Okay. Was there a specific brand of	10:57:26
7		powder you were using on yourself?	10:57:28
8	A.	At some point during this time, while I	10:57:32
9		was working there, I believe, I would say in the	10:57:37
10		mid-'90s maybe, I discovered Gold Bond, and I started	10:57:40
11		favoring it.	10:57:48
12	Q.	So what were you using before Gold Bond	10:57:49
13		then?	10:57:51
14	A.	Johnson & Johnson.	10:57:52
15	Q.	Okay. So from basically late 30 when	10:57:53
16		you -- and what year would you say would have been	10:57:57
17		kind of your late 30s?	10:58:02
18	A.	'80 --	10:58:10
19	Q.	Late '80s?	10:58:11
20	A.	'89, '90, '91.	10:58:12
21	Q.	Late '80s, early '90s?	10:58:14
22	A.	Yes.	10:58:17
23	Q.	So from that point to the mid '90s, then	10:58:17
24		were you always using Johnson's Baby Powder?	10:58:20
25	A.	Yes.	10:58:24

Transcript of Debra McAndrew Barnett
Conducted on May 14, 2026

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ELECTRONICALLY FILED - 2026 Sep 02 9:02 PM - RICHLAND - COMMON PLEAS - CASE#2023CP400611

1	Q. And then you said you discovered Gold	10:58:25
2	Bond. Did you switch to Gold Bond at that point?	10:58:26
3	A. I did.	10:58:30
4	Q. Why?	10:58:30
5	A. Couple of reasons. One, it didn't have a	10:58:34
6	scent to it. So I felt like everything smelled	10:58:37
7	better with them because it didn't mix with another	10:58:44
8	smell. It was unscented and it felt better. I don't	10:58:49
9	know why, but it did.	10:58:52
10	Q. Okay. And so once you -- once you	10:58:53
11	switched to Gold Bond in the '90s, you pretty much	10:58:57
12	used that going forward?	10:59:00
13	A. Yes.	10:59:01
14	Q. The exact same way, feet and under your	10:59:02
15	arms?	10:59:04
16	A. Yes.	10:59:05
17	Q. Was there a point you stopped using powder	10:59:06
18	on yourself?	10:59:08
19	A. No. I mean, not --well, not like the	10:59:10
20	feet -- yes on the feet, but not . . .	10:59:12
21	Q. Okay. When did you stop using it on your	10:59:16
22	feet?	10:59:18
23	A. Early 2000, mid-2000s.	10:59:23
24	Q. Okay. And what about under your arms?	10:59:26
25	Was there ever a point you stopped using it under	10:59:29

Transcript of Debra McAndrew Barnett
Conducted on May 14, 2026

171

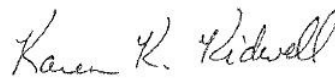
ELECTRONICALLY FILED - 2026 Sep 02 9:02 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4006111

1 STATE OF NORTH CAROLINA

2 COUNTY OF MECKLENBURG

3
4 I, Karen K. Kidwell, RMR, CRR, the officer
5 before whom the foregoing deposition was taken, do
6 hereby certify that the foregoing transcript is a true
7 and correct record of the testimony given; that said
8 testimony was taken by me stenographically and
9 thereafter reduced to typewriting under my direction;
10 that reading and signing was waived; and that I am
11 neither counsel for, related to, nor employed by any of
12 the parties to this case and have no interest,
13 financial or otherwise, in its outcome.

14
15 IN WITNESS WHEREOF, I have hereunto set my hand
16 this the 25th day of May, 2025.

17
18 

19 _____
20 Karen K. Kidwell, RMR, CRR

21 Notary Public #19971050142
22
23
24
25

EXHIBIT 4

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
ANDREW T. GERKEN, as Personal	)	
Representative of the Estate of ANNA	)	C/A NO. 2023-CP-40-06111
MARIE L. GERKEN, Deceased	)	
	)	<i>In Re:</i>
Plaintiff,	)	Asbestos Personal Injury Litigation
	)	Coordinated Docket
v.	)	
	)	
AVON PRODUCTS, INC., et al.	)	
	)	
Defendants.	)	

**PLAINTIFFS' SECOND AMENDED NOTICE OF THE 30(b)(6) DEPOSITION OF
DEFENDANT JOHNSON & JOHNSON AND SUBPOENA DUCES TECUM**

ALL DEFENDANTS AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Plaintiffs, pursuant to Rule 30 of the South Carolina Rules of Civil Procedure, will take the videotaped deposition of the designated representative of **Johnson & Johnson** on **September 10, 2025 at 8:00 a.m. ET** and will take place remotely via Zoom at which time you are notified to appear and take part as you see fit and proper in such examination. The deposition will take place before a certified court reporter and videographer. If necessary, the deposition shall continue day to day.

Meeting Link: <https://planet-depos.zoom.us/j/99041677037>

Meeting ID: 990 4167 7037

Passcode: 483593

Call in #: 301 715 8592

The deposition is to be taken for the purpose of discovery or for use at trial, or both. The topics to be covered at the deposition are listed in Exhibit "A" attached hereto. Pursuant to Rule 30(b)(5), Defendant is requested to produce documents responsive to the descriptions listed in Exhibit "B" also attached hereto. Pursuant to Rule 30(b)(5) the time for production of these

documents is governed by Rule 34, which holds all responsive documents were due produced to Plaintiff in 30 days from service.

Respectfully submitted,

/s/ David C. Humen

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DEAN OMAR BRANHAM SHIRLEY, LLP
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T: 214-722-5990
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Theile B. McVey (SC Bar No. 16682)
Jamie D. Rutkoski (SC Bar No. 103270)
KASSEL MCVEY ATTORNEYS AT LAW
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tmcvey@kassellaw.com
jrutkoski@kassellaw.com
Other email: emoultrie@kassellaw.com
ATTORNEYS FOR PLAINTIFF

September 4, 2025
Dallas, Texas

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was served on counsel for all parties via Certified U.S. Mail Return Receipt, U.S. Mail Standard First Class, and/or electronic mail this on September 4, 2025.

s/ David C. Humen
Attorney for Plaintiffs

EXHIBIT A

For purposes of these topics, the following words shall have the following meanings: Definitions: "RECORD" or "RECORDS" or "DOCUMENT" or "DOCUMENTS" means any and all written, printed, typed, recorded or graphic material, however produced, or reproduced, stored, known to exist, by way of example and not by limitation, invoices, contracts evidencing purchase or receipt, ledger cards, material requests, communications, writings, printings, records, worksheets, abstracts, summaries, statistics, notes, market data, journals, ledgers, expense reports, specifications, contracts, contract bids, purchase orders, bills of lading, shipping orders, dock receipts, cancelled checks, computer print-outs, microfilm, microfiche, which in any way pertain to the document request made herein.

The terms "YOU" and "YOUR" mean responding party and all of its divisions, predecessors- in-interest, successors-in-interest, subsidiaries, parent companies, sister companies, joint ventures, partners and divisions thereof, including all current and former owners, employees, managers, officers, directors, agents, attorneys and any other person(s) acting upon its behalf.

The term "ASBESTOS" shall be interpreted, not in a limited regulatory sense, but broadly and include non-regulated and non-commercial forms of asbestos, all forms of elongate mineral particles, fibrous minerals, fibrous talc, cleavage fragments of amphiboles, individual fibers, bundles, fibrils and transition/transitional fibers. "Asbestiform" shall also be interpreted broadly and without particular limitation regarding fiber size, length, dimension, ratio, presence of multiple fibers, or geologic origin or "habit." The foregoing notwithstanding, "asbestos" also includes talc, whether or not known or acknowledged by defendant(s) to contain asbestiform minerals or other elongate mineral particles. See, e.g., Egilman, et al., Health Effects of Censored Elongated Mineral Particles: A Critical Review, Detection Limits in Air Quality and Environmental Measurements (STP 1618, 2019; doi: 10.1520/STP161820180080); January 6, 2020, Executive Summary of Preliminary Recommendations on Testing Methods for Asbestos in Talc and Consumer Products Containing Talc (available at <https://www.fda.gov/media/134005/download>) ("The difficulty of identifying and quantifying individual asbestos or other mineral particles present at low concentrations in talc is compounded by the presence of non-asbestiform analogs with the same elemental composition and crystal structure, but different growth habit. Using TEM, differentiation of chrysotile from non-asbestiform serpentine analogs is relatively straightforward; however, each of the non-asbestiform amphiboles can disaggregate into particles resembling asbestiform fibers, giving rise to disputes between laboratories over whether elongate amphibole particles are truly asbestos, or are particles resulting from attrition of larger particles of a non-asbestiform analog. Because both types of elongate minerals are suspected of having biological activity with similar pathological outcomes, the distinction is irrelevant...").

The term "TALC" includes all grades of talc including but not limited to industrial, cosmetic, food, and/or pharma, unless specified otherwise.

The term "PERSON" and "PERSONS" means a natural person, firm, association, organization, partnership, business trust, limited liability company, corporation, or public entity.

Please provide a corporate representative to be deposed on the following subject matters:

1. YOUR corporate history, as well as the corporate history of any parent, successor, subsidiary, and/or predecessor company(s) as it pertains to the manufacture, marketing, sale, supply and/or distribution of talc and/or talcum powder products.
2. The relationship between YOU and all manufacturers, miners, millers, shippers, sales agents, retailers, suppliers, distributors and and/or marketers of talc.
3. The mines where the source talc used in J&J talc powder products originated, including but not limited to Johnson's Baby Powder and Shower to Shower.
4. YOUR policies, procedures and/or protocols for testing talc for asbestos.
5. Internal and external testing, analysis, and/or sampling of talc, talc powder, talc ore and/or talc products by YOU or on YOUR behalf, including but not limited to testing of any source talc and/or talc ore used in J&J talcum powder products, including but not limited to Johnson's Baby Powder and Shower to Shower.
6. YOUR knowledge of asbestos as well as the potential contamination of talc and/or talc products with asbestos, efforts taken to obtain that knowledge and when that knowledge was first obtained.
7. When YOU and/or any of your predecessor and/or subsidiary companies first became aware of a potential link between asbestos contaminated talc and adverse health effects, including but not limited to mesothelioma.
8. YOUR statements related to government regulations related to asbestos, including OSHA and/or State agency regulations, including but not limited to California state regulations related to asbestos.
9. YOUR efforts to warn employees, customers and consumers of the potential health hazards of asbestos as well as the potential contamination of talc and/or talc products with asbestos.
10. YOUR submissions, correspondence and/or testimony to and from any government regulatory agency regarding talc, talc powder, and/or talcum powder products, including but not limited to the FDA.
11. YOUR participation in professional, industrial, and trade organizations, including but not limited to the Cosmetic, Toiletry & Fragrance Association (CTFA); the Cosmetic,

Toiletry & Perfumery Association (CTPA); and the Personal Care Products Council (PCPC).

12. Any information relied on for YOUR responses to standard interrogatories, special interrogatories, form interrogatories, requests for admission and/or requests for production of documents served in this case and verified by the witness.
13. Any information on all writings reviewed by the witness.
14. Any information concerning the identity of the sources of information contained in YOUR responses to standard interrogatories, special interrogatories, form interrogatories, requests for admission and/or requests for production of documents served in this case.
15. All information regarding the IDENTITY of all PERSONS that provided any information reviewed or used by YOU in preparation for YOUR testimony in response to this Notice.
16. All information regarding all searches for DOCUMENTS conducted by YOU in this matter.
17. Advertisements and marketing of J&J as it relates to talcum powder products, including all advertisements, commercials and/or marketing related to Johnson's Baby Powder and Shower to Shower.
18. Descriptions of the containers of J&J talcum powder products sold in the United States, including but not limited to Johnson's Baby Powder and Shower to Shower; and if the containers varied by year descriptions of any and all changes to the containers.
19. The authenticity and business record status of YOUR documents.
20. YOUR knowledge regarding FDA assessments of the health risk of talc.
21. YOUR knowledge of existence of viable alternatives to talc.
22. YOUR knowledge relating to all efforts to ban talc.

23. YOUR knowledge regarding any funding, lobbying or activity related to efforts to ban talc, including YOUR own.
24. YOUR knowledge regarding the identity of entities that made and sold Johnson's Baby Powder with talc regardless of geography, at the time each entity went "talc-free."
25. All information related to each entity's conversion from talc to "talc free" baby powder, including the volume of sales, last date of sale and handling of existing inventory.
26. All information, including total payments made for litigation retention and testing, relating to all work done for YOU by YOUR retained experts and consultants including but not limited to:
 - a) University of Idaho;
 - b) Mickey Gunter;
 - c) Matthew Sanchez;
 - d) Bryan Bandli;
 - e) Drew Van Order;
 - f) RJ Lee Group;
 - g) University of Cardiff;
 - h) Fred Pooley;
 - i) McCrone;
 - j) Ian Stewart;
 - k) Exponent;
 - l) Forensic Analytical;
 - m) Mark Floyd;
 - n) Bureau Veritas;
 - o) Alan Seagrave;
 - p) Maxxam;
 - q) EMSL;
 - r) Robert Nolan;
 - s) Arthur Langer;
 - t) CardnoChemrisk;
 - u) J3;
 - v) Lee Poye;
 - w) Julie Pier;
 - x) Andreas Saldivar; and
 - y) AMA
 - z) Dr. Shu-Chun Su

27. All information relating to all communications between YOU and Dr. Shu-Chun Su, including dates, times, locations and methods of communication.
28. All information relating to all payments, including payment for consultation, testing, travel costs and reimbursements made by YOU to Dr. Shu-Chun Su, including dates and amounts.
29. All information relating to the 155 tests of YOUR talc conducted after the 2019 FDA testing.
30. Identify and produce any and all communications regarding YOUR document entitled "Johnson's Baby Talcum Powder: A Comprehensive Review," dated March 17, 2020.
31. Identify all persons responsible for drafting and contributing information for the document entitled "Johnson's Baby Talcum Powder: A Comprehensive Review," dated March 17, 2020.
32. Identify the location of the underlying documents relied upon to draft document the entitled "Johnson's Baby Talcum Powder: A Comprehensive Review," dated March 17, 2020.
33. Identify all communications wherein counsel was copied on discussions related to the document entitled "Johnson's Baby Talcum Powder: A Comprehensive Review," dated March 17, 2020.
34. Identify any and all communications regarding the underlying basis to support the conclusions in the document entitled "Johnson's Baby Talcum Powder: A Comprehensive Review" dated March 17, 2020.
35. Identify the persons responsible for gathering the studies, literature and/or articles referenced in the document entitled "Johnson's Baby Talcum Powder: A Comprehensive Review," dated March 17, 2020.
36. The decision to stop manufacturing and/or marketing and/or selling Johnson's Baby Powder containing talc anywhere in the world, including but not limited to:
 - a. The identity of each entity responsible for the making, marketing, and selling of talc-containing and cornstarch-containing Johnson's Baby Powder during this time frame;
 - b. The identity and roles of the individuals (including but not limited to employees of any Johnson & Johnson-related entity) involved in making this decision;
 - c. When this decision was made;

- d. When discussions regarding this issue began;
 - e. The reasons such a decision was made;
 - f. Internal communications relating to this decision;
 - g. The predicted and actual ramifications of this decision with respect to revenue, public relations, government or regulatory issues, consumer health and safety, or any other area; and
 - h. Any other communications or considerations related to this decision in any way.
37. All information relating to YOUR efforts and activities to finance, participate in, contract for, author, ghost-write, conceptualize, manage, influence, control, support, conduct, publicize, conceal, or share research (and your involvement with research) relating to talc and/or asbestos at any time and in any way, including but not limited to:
- a. Animal studies – this includes but is not limited to all information relating to the selection of scientists and laboratories to participate in such research, the methods to be used, the purposes of the research, the ability or power of the research to achieve its goals, and communications with such researchers;
 - b. Articles, commentaries, letters to the editor, and any other publications relating to the safety of talc, including but not limited to
 - i. "The Biology of Talc," Hildick-Smith, British Journal of Industrial Medicine, November 1976, and
 - ii. "Cosmetic Talc Powder," Lancet, 1977.
38. All information relating to YOUR involvement with Dr. Francis J. Roe, including but not limited to communications with or about Dr. Roe; work done by Dr. Roe or at his request or arrangement; money or other support provided to, through, or on behalf of Dr. Roe; and any assessment YOU made at any time regarding his credibility and potential biases.
39. All information relating to YOUR involvement with, knowledge regarding, and communications with or about the FDA's recent consideration of talc safety issues, including but not limited to:
- a. The Expert Panel discussion convened by the FDA on May 20, 2025;
 - b. Correspondence from "a wide group of scientists and medical doctors" to FDA following the Expert Panel discussion, including your relationship with and to the various signatories to that correspondence, the number of times that any J&J entity has retained them as an expert or consultant relating to talc either in litigation or other contexts, and the total amount of money that has been paid to them by or on behalf of any J&J entity; and
 - c. The FDA proposed rule regarding testing methods for asbestos in cosmetic talc products, and your involvement with or information regarding any public comments submitted regarding same.
40. All information relating to YOUR involvement with, knowledge regarding, and communications with or about any European health agency relating to its assessment of a potential ban on talc.

EXHIBIT B

For purposes of these requests, the following words shall have the following meanings:

The terms "RECORD" or "RECORDS" or "DOCUMENT" or "DOCUMENTS" means any and all written, printed, typed, recorded or graphic material, however produced, or reproduced, stored, known to exist, by way of example and not by limitation, invoices, contracts evidencing purchase or receipt, ledger cards, material requests, communications, writings, printings, records, worksheets, abstracts, summaries, statistics, notes, market data, journals, ledgers, expense reports, specifications, contracts, contract bids, purchase orders, bills of lading, shipping orders, dock receipts, cancelled checks, computer print-outs, microfilm, microfiche, which in any way pertain to the document request made herein.

The terms "YOU" and "YOUR" mean responding party and all of its divisions, predecessors- in-interest, successors-in-interest, subsidiaries, parent companies, sister companies, joint ventures, partners and divisions thereof, including all current and former owners, employees, managers, officers, directors, agents, attorneys and any other person(s) acting upon its behalf.

The term "ASBESTOS" shall be interpreted, not in a limited regulatory sense, but broadly and include non-regulated and non-commercial forms of asbestos, all forms of elongate mineral particles, fibrous minerals, fibrous talc, cleavage fragments of amphiboles, individual fibers, bundles, fibrils and transition/transitional fibers. "Asbestiform" shall also be interpreted broadly and without particular limitation regarding fiber size, length, dimension, ratio, presence of multiple fibers, or geologic origin or "habit." The foregoing notwithstanding, "asbestos" also includes talc, whether or not known or acknowledged by defendant(s) to contain asbestiform minerals or other elongate mineral particles. See, e.g., Egilman, et al., Health Effects of Censored Elongated Mineral Particles: A Critical Review, Detection Limits in Air Quality and Environmental Measurements (STP 1618, 2019; doi: 10.1520/STP161820180080); January 6, 2020, Executive Summary of Preliminary Recommendations on Testing Methods for Asbestos in Talc and Consumer Products Containing Talc (available at <https://www.fda.gov/media/134005/download>) ("The difficulty of identifying and quantifying individual asbestos or other mineral particles present at low concentrations in talc is compounded by the presence of non-asbestiform analogs with the same elemental composition and crystal structure, but different growth habit. Using TEM, differentiation of chrysotile from non-asbestiform serpentine analogs is relatively straightforward; however, each of the non-asbestiform amphiboles can disaggregate into particles resembling asbestiform fibers, giving rise to disputes between laboratories over whether elongate amphibole particles are truly asbestos, or are particles resulting from attrition of larger particles of a non-asbestiform analog. Because both types of elongate minerals are suspected of having biological activity with similar pathological outcomes, the distinction is irrelevant...").

The term "TALC" includes all grades of talc including but not limited to industrial, cosmetic, food, and/or pharma, unless specified otherwise.

The term "PERSON" and "PERSONS" means a natural person, firm, association, organization, partnership, business trust, limited liability company, corporation, or public entity.

1. All documents reviewed to make the witness knowledgeable about topics 1 through 40 above, and/or to prepare the witness to testify as to the above topics.
2. All documents used to refresh the recollection of the designated witness and/or prepare that person to testify as to areas of inquiry listed above.
3. All documents related to, or that form the foundation for, YOUR responses to Plaintiffs' discovery requests.
4. All documents regarding, arising from, pertaining to and/or discussing the corporate and/or business history of YOUR company.
5. All documents related to YOUR market share regarding talc sales/distribution in the United States for each year.
6. All J&J annual reports.
7. All correspondence, communications, memorandums, conference reports, submissions, exchanges, and other documents between YOU and industrial, professional and/or trade organizations/associations, including but not limited to CTFA, CTPA, AIHA, National Safety Council, PCPC.
8. All minutes, membership logs, digests, magazines, and printed materials received from all industrial, professional and/or trade associations/organizations YOU were a member of, including but not limited to CTFA, CTPA, AIHA, National Safety Council, PCPC.
9. All correspondence, communications, memorandums, conference reports, submissions, exchanges and other documents between YOU and government regulatory agencies including but not limited to the FDA, EPA, NIOSH, OSHA, NJDEP, MSHA and CalOSHA.
10. All correspondence in any form and of any type between YOU and any other company, person or entity regarding the subject of talc carcinogenicity, asbestos contamination, measurement techniques, analysis techniques or how asbestos contamination in consumer products should be characterized.
11. All documents, files or materials relating to warnings and/or cautions YOU received from any and all sources regarding the potential health hazards of asbestos.
12. All documents, files or materials relating to warnings and/or cautions YOU received from any and all sources regarding the potential health hazards of talc, including but not limited to the presence of asbestos in talc.

13. All documents, files or materials concerning YOUR attempts to comply with OSHA, MSHA, NIOSH or other federal and state governmental standards at YOUR manufacturing, development, storage, warehouse, processing, testing and research facilities.
14. All correspondence, communications, memorandums, conference reports, submission, exchanges, and other documents between J&J and trade organizations/association, including but not limited to the CTFA, CTPA and PCPC.
15. All documents that will be used to prove YOUR cross-claims, if any, against other tortfeasors in this lawsuit.
16. All documents, depositions, interrogatories, statements, certifications and/or affidavits that will be used to prove YOUR cross-claims or allegations against any bankrupt entities.
17. All documents, files and materials related to YOUR monitoring and/or observation of its customers' health and/or medical conditions.
18. All documents YOU intend to use at trial in this matter.
19. All exhibits previously prepared by YOU for trial in asbestos/talc litigation.
20. All documents YOUR experts will rely on at the time of trial.
21. The complete employment/personnel file for the designated corporate representative pursuant to this notice.
22. Any records relating to comments, complaints, suggestions or proposals made by your employees, by your customers, dealers, distributors, retailers or contractors or by YOU regarding the potential, alleged, disputed or actual health hazards associated with inhalation and/or ingestion of asbestos and/or talc; and/or the presence of asbestos in talc or talc-containing products.
23. Any documents related to asbestos contamination or potential asbestos contamination of talc from any specific mine, mill or geographic area.
24. Any documents relating to the 2000 National Toxicology Program ("NTP") nomination of talc for listing in the 10th Report on Carcinogens.
25. Any documents relating to the 2005 NTP nomination of talc for listing in the 12th report on Carcinogens.
26. Any documents relating to the International Agency for Research on Cancer's ("IARC") evaluations (and reevaluations) of talc.

27. Any documents relating to all talc-related FDA citizen petitions.
28. Any documents relating to consideration, development, approval, use, accuracy, inaccuracy, detection limit, limitations, promotion or disapproval of any other method for the analysis of talc for the presence of asbestos (other than the J4-1 method).
29. Any documents related to the 1993 FDA Talc Symposium.
30. Any documents regarding the CTFA's "Round Robin" testing (a/k/a CTFA Task Force on Round Robin Testing of Consumer Talcum Products for Asbestiform Amphibole Minerals) of talc for the potential contamination of asbestos.
31. Any documents related to the CTFA's Talc Interested Party Task Force, including funding for and research conducted by the Interested Party Task Force and its members and consultants.
32. Any documents relating to the testing of talc and talc-containing products performed by Professor Seymour Lewin, New York University, Mt. Sinai Hospital; Dr Arthur Langer, Dr. Arthur Rohl or Dr. Irving Selikoff.
33. Any documents regarding the availability, feasibility and/or cost of using corn starch (or any other material or substance) as a substitute for talc in any of defendant's talc containing products.
34. Any documents relating to communication, correspondence with and documents sent to the Interagency Working Group on Asbestos in Consumer Products (IWGACP) by YOU or on YOUR behalf.
35. Any documents relating to YOUR knowledge regarding FDA assessments of the health risk of talc.
36. Any documents relating to YOUR knowledge of existence of viable alternatives to talc.
37. Any documents relating to YOUR involvement and knowledge of the Expert Panel with the FDA on talc on May 20, 2025.
38. Any documents relating to all efforts to ban talc.
39. Any documents relating to YOUR knowledge regarding any funding, lobbying or activity related to efforts to ban talc, including YOUR own.
40. Any documents relating to YOUR communications related to Clark Cooper in any way.
41. Any documents relating to the identity of entities that made and sold Johnson's Baby Powder with talc, regardless of geography, at the time each entity went "talc-free."

42. All documents related to each entity's conversion from talc to "talc free" baby powder, including the volume of sales sales, last date of sale and handling of existing inventory.
43. Any documents relating to YOUR business purpose.
44. Any documents relating to the business purpose of the creation and/or restructuring of each of YOUR entities currently or previously involved in the sale, supply, distribution and/or marketing of any talc products, including but not limited to LTL Management LLC, LLT Management LLC, Pecos River Talc LLC.
45. All documents related to YOUR decision to stop the sale and/or manufacturing talc baby powder in United States.
46. All documents related to YOUR continued sale and/or manufacturing of talc baby powder in other countries after YOU discontinued sales and/or manufacturing in the United States.
47. All documents relating to YOUR involvement in and knowledge about the FDA evaluation of talc in food and pharmaceuticals including and not limited to the designation of GRAS (generally regarded as safe).
48. All documents relating to YOUR efforts and activates relating to communication and efforts related to the safety of talc in Europe when assessing a ban on talc. This includes efforts known to J&J involving Kenvue.
49. All documents relating to YOUR knowledge of the dangers of talc as relayed by the FDA.
50. All documents relating to the 155 tests of YOUR talc conducted after the 2019 FDA testing.
51. All documents relating to animal studies of YOUR talc in the 1970s, including but not limited to scientists/laboratories YOU considered to perform such studies, criteria you utilized in deciding which scientists/laboratories were suitable or unsuitable, the extent to which you controlled the methodology of the studies, the extent you controlled the ability to disseminate any aspect of the studies including their results, all versions of all contracts relating to the animal studies performed by Battelle, all versions of all contracts relating to any animal studies relating to talc that were proposed or finalized with any other scientist, laboratory, or institution.
52. All documents relating to YOUR relationship with Dr. Francis Roe including but not limited to all correspondence with Dr. Roe, the amounts you paid Dr. Roe, the identity of all experts or consultants that you paid through Dr. Roe, the content of all papers, letters, reviews, manuscripts, or other documents received from Dr. Roe (regardless of the author's identity).
53. All documents relating to the circumstances surrounding the authoring of the Biology of Talc paper published in the British Journal of Industrial Medicine, Vol. 33, No. 4 (1976), including the reasons that Dr. Hildick-Smith's affiliation with Johnson & Johnson was not

disclosed.

54. Produce all underlying communications regarding YOUR document entitled “Johnson’s Baby Talcum Powder: A Comprehensive Review,” dated March 17, 2020.
55. Produce all documents which identify all persons responsible for drafting the document entitled “Johnson’s Baby Talcum Powder: A Comprehensive Review,” dated March 17, 2020.
56. Produce all documents which identify the location of the underlying documents relied upon to draft document the entitled “Johnson’s Baby Talcum Powder: A Comprehensive Review,” dated March 17, 2020.
57. Produce any and all communications wherein counsel was copied on discussions related to the document entitled “Johnson’s Baby Talcum Powder: A Comprehensive Review,” dated March 17, 2020.
58. Produce any and all communications related to the underlying basis to support the conclusions in the document entitled “Johnson’s Baby Talcum Powder: A Comprehensive Review” dated March 17, 2020.
59. Produce all documents which identify the persons responsible for gathering the studies, literature and/or articles referenced in the document entitled “Johnson’s Baby Talcum Powder: A Comprehensive Review,” dated March 17, 2020.
60. Produce all documents relating to the underlying basis for Johnson & Johnson taking talc off the market.

EXHIBIT 5

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

DEBRA McANDREW BARNETT)

Plaintiff,)

v.)

JOHNSON & JOHNSON, et al.)

Defendants.)

C/A NO. 2026-CP-40-01257

In Re:

Asbestos Personal Injury Litigation

Coordinated Docket

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

ANDREW T. GERKEN, as Personal
Representative of the Estate of ANNA
MARIE L. GERKEN, Deceased)

Plaintiff,)

v.)

AVON PRODUCTS, INC., et al.)

Defendants.)

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

C/A NO. 2023-CP-40-06111

In Re:

Asbestos Personal Injury Litigation

Coordinated Docket

**PLAINTIFFS' FIRST AMENDED NOTICE OF THE 30(b)(6) DEPOSITION OF
DEFENDANT JOHNSON & JOHNSON AND SUBPOENA DUCES TECUM**

ALL DEFENDANTS AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Plaintiffs, pursuant to Rule 30 of the South Carolina Rules of Civil Procedure, will take the videotaped deposition of the designated representative of **Johnson & Johnson** on **September 16, 2026 at 9:30 a.m. ET** and will take place in person at **Kirkland & Ellis LLP 601 Lexington Avenue, New York, NY 10022** and via Zoom at which time you are

notified to appear and take part as you see fit and proper in such examination. The deposition will take place before a certified court reporter and videographer. If necessary, the deposition shall continue day to day.

Zoom Meeting Link: [CLICK HERE](#)

Zoom Meeting ID: 98487104193

Dial-In Phone #: 408 638 0968

The deposition is to be taken for the purpose of discovery or for use at trial, or both. The topics to be covered at the deposition are listed in Exhibit “A” attached hereto. Pursuant to Rule 30(b)(5), Defendant is requested to produce documents responsive to the descriptions listed in Exhibit “B” also attached hereto. Pursuant to Rule 30(b)(5) the time for production of these documents is governed by Rule 34, which holds all responsive documents were due produced to Plaintiff in 30 days from service. Plaintiffs reserve the right to use the deposition and exhibits thereto, including the deposition transcript, audio recording, and videorecording of the testimony, for any purpose, including at trial in this and in any subsequent matter, particularly as neither Deponent nor its Person(s) Most Qualified are residents of the state of California, and are therefore unavailable at trial as defined by California Evidence Code section 240. All parties given notice of this deposition are advised of Plaintiffs’ intent to use the transcript, audio recording, and videorecording of the testimony for the purpose of preserving the witness's testimony as a proxy for trial testimony which may be used in this and any subsequent matters. All parties are advised to take full and fair opportunity of their right to examine the witness in anticipation that the testimony, and/or portions thereof, is intended for use at trial.

Respectfully submitted,

/s/ David C. Humen

David C. Humen (SC Bar No. 104536)

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Theile B. McVey (SC Bar No. 16682)
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KASSEL MCVEY ATTORNEYS AT LAW
1330 Laurel Street
Post Office Box 1476
Columbia, SC 29202-1476
T: 803-256-4242
tmcvey@kassellaw.com
jrutkoski@kassellaw.com
Other email: emoultrie@kassellaw.com
ATTORNEYS FOR PLAINTIFF

September 2, 2026
Dallas, Texas

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was served on counsel for all parties via Certified U.S. Mail Return Receipt, U.S. Mail Standard First Class, and/or electronic mail this on September 2, 2026.

s/ David C. Humen
Attorney for Plaintiffs

EXHIBIT A

For purposes of these topics, the following words shall have the following meanings: Definitions: "RECORD" or "RECORDS" or "DOCUMENT" or "DOCUMENTS" means any and all written, printed, typed, recorded or graphic material, however produced, or reproduced, stored, known to exist, by way of example and not by limitation, invoices, contracts evidencing purchase or receipt, ledger cards, material requests, communications, writings, printings, records, worksheets, abstracts, summaries, statistics, notes, market data, journals, ledgers, expense reports, specifications, contracts, contract bids, purchase orders, bills of lading, shipping orders, dock receipts, cancelled checks, computer print-outs, microfilm, microfiche, which in any way pertain to the document request made herein.

The terms "YOU" and "YOUR" mean responding party and all of its divisions, predecessors- in-interest, successors-in-interest, subsidiaries, parent companies, sister companies, joint ventures, partners and divisions thereof, including all current and former owners, employees, managers, officers, directors, agents, attorneys and any other person(s) acting upon its behalf.

The term "ASBESTOS" shall be interpreted, not in a limited regulatory sense, but broadly and include non-regulated and non-commercial forms of asbestos, all forms of elongate mineral particles, fibrous minerals, fibrous talc, cleavage fragments of amphiboles, individual fibers, bundles, fibrils and transition/transitional fibers. "Asbestiform" shall also be interpreted broadly and without particular limitation regarding fiber size, length, dimension, ratio, presence of multiple fibers, or geologic origin or "habit." The foregoing notwithstanding, "asbestos" also includes talc, whether or not known or acknowledged by defendant(s) to contain asbestiform minerals or other elongate mineral particles. See, e.g., Egilman, et al., Health Effects of Censored Elongated Mineral Particles: A Critical Review, Detection Limits in Air Quality and Environmental Measurements (STP 1618, 2019; doi: 10.1520/STP161820180080); January 6, 2020, Executive Summary of Preliminary Recommendations on Testing Methods for Asbestos in Talc and Consumer Products Containing Talc (available at <https://www.fda.gov/media/134005/download>) ("The difficulty of identifying and quantifying individual asbestos or other mineral particles present at low concentrations in talc is compounded by the presence of non-asbestiform analogs with the same elemental composition and crystal structure, but different growth habit. Using TEM, differentiation of chrysotile from non-asbestiform serpentine analogs is relatively straightforward; however, each of the non-asbestiform amphiboles can disaggregate into particles resembling asbestiform fibers, giving rise to disputes between laboratories over whether elongate amphibole particles are truly asbestos, or are particles resulting from attrition of larger particles of a non-asbestiform analog. Because both types of elongate minerals are suspected of having biological activity with similar pathological outcomes, the distinction is irrelevant...").

The term "TALC" includes all grades of talc including but not limited to industrial, cosmetic, food, and/or pharma, unless specified otherwise.

The term "PERSON" and "PERSONS" means a natural person, firm, association, organization, partnership, business trust, limited liability company, corporation, or public entity.

Please provide a corporate representative to be deposed on the following subject matters:

1. Any and all communications between YOU and the Department of Health & Human Services (HHS), the Federal Drug Administration (FDA), and the Executive Branch of the U.S. Government regarding:
 - a. the Consolidated Appropriations Act of 2023 (H.R. 2617 and PL 117-328);
 - b. the Modernization of Cosmetics Regulation of 2022 (MoCRA);
 - c. FDA's Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products (proposal and withdrawal of 89 FR 105490); and
 - d. the May 20, 2025 Expert Panel with the FDA.
2. All trade organizations, trade associations, and any other groups with which YOU discussed the Consolidated Appropriations Act of 2023 (H.R. 2617 and PL 117-328), the Modernization of Cosmetics Regulation of 2022 (MoCRA), and FDA's Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products (proposal and withdrawal of 89 FR 105490).
3. Any and all internal communications YOU regarding to the Consolidated Appropriations Act of 2023 (H.R. 2617 and PL 117-328), the Modernization of Cosmetics Regulation of 2022 (MoCRA), and FDA's Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products (proposal and withdrawal of 89 FR 105490).
4. When and how YOU first learned that Dr. Andrey Korchevskiy intended to write the FDA regarding the Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products and/or the May 20, 2025 Expert Panel with the FDA.
5. YOUR involvement with the June 9, 2025 letter written by Dr. Andrey Korchevskiy to Dr. Martin Makary, including the selection of co-signatories, the drafting of the letter, and the development of its content.
6. YOUR knowledge of how the June 9, 2025 letter was drafted, including how feedback was provided to Dr. Korchevskiy and how drafts were exchanged between signatories.
7. When and how YOU first learned that the FDA intended to withdraw and did withdraw its proposed Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products (89 FR 105490).
8. A understanding of which entities historically made Johnson's Baby Powder or other cosmetic talc product at the time YOU spun off your cosmetic segment. The date that cornstarch was made available in each location. The discussions, efforts and actions taken to stop selling talc based cosmetic products. This is not limited to cosmetic talc products in the United States or Canada.
9. Listing of all individuals involved with the decision to stop selling talc in Johnson's Baby Powder and the steps involved to execute that decision. This includes efforts by YOU after the cosmetic segment sold.
10. An understanding of payments made by YOU to your experts in this case for any matter for the last five years including an understanding of the nature of the payment (consulting, testifying, regulatory issues, etc.).

11. An understanding of payments made by YOU directly or indirectly to Shu-Chun Su or Ann Wylie for any matter for the last five years including an understanding of the nature of the payment (consulting, testifying, regulatory issues, etc.).
12. Actions taken by YOU or at YOUR behalf to respond to the Lancet Retraction ([https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(26\)00552-0/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(26)00552-0/fulltext)). This includes understanding the actions taken, time spent, individuals involved and cost incurred.
13. Identify all individuals and organizations involved with “Johnson's Baby Talcum Powder: A Comprehensive Review.” Current as of March 17, 2020, starting with bates JNJ TALC 001540233. Identify all cost incurred in preparing for and writing the Comprehensive Review. Identify and discuss all efforts to update the alleged Comprehensive Review. Identify and discuss information known or knowable to the company that was not included or considered in the alleged Comprehensive Review. Identify and discuss the topics covered in the Comprehensive Review.
14. YOUR participation in professional, industrial, and trade organizations, including but not limited to the Cosmetic, Toiletry & Fragrance Association (CTFA); the Cosmetic, Toiletry & Perfumery Association (CTPA); and the Personal Care Products Council (PCPC). This includes an understanding of when membership began, cost of membership, donations or contributions related to talc issues.
15. All information related to each entity’s conversion from talc to “talc free” baby powder, including the volume of sales, last date of sale and handling of existing inventory.
16. All information relating to YOUR involvement with, knowledge regarding, and communications with or about any European health agency relating to its assessment of a potential ban on talc.
17. All documents produced by YOU and any opinions you intend to give at trial in this case.
18. What YOU did to prepare for this deposition (documents searched for, documents reviewed, people searched for, people interviewed, etc.)
19. Information regarding document searches YOU have performed in this particular case. (i.e., when the search occurred, where it occurred, terms queried, by whom, results, bates-stamp range applied to all documents produced, etc.).

EXHIBIT B

For purposes of these requests, the following words shall have the following meanings:

The terms "RECORD" or "RECORDS" or "DOCUMENT" or "DOCUMENTS" means any and all written, printed, typed, recorded or graphic material, however produced, or reproduced, stored, known to exist, by way of example and not by limitation, invoices, contracts evidencing purchase or receipt, ledger cards, material requests, communications, writings, printings, records, worksheets, abstracts, summaries, statistics, notes, market data, journals, ledgers, expense reports, specifications, contracts, contract bids, purchase orders, bills of lading, shipping orders, dock receipts, cancelled checks, computer print-outs, microfilm, microfiche, which in any way pertain to the document request made herein.

The terms "YOU" and "YOUR" mean responding party and all of its divisions, predecessors- in-interest, successors-in-interest, subsidiaries, parent companies, sister companies, joint ventures, partners and divisions thereof, including all current and former owners, employees, managers, officers, directors, agents, attorneys and any other person(s) acting upon its behalf.

The term "ASBESTOS" shall be interpreted, not in a limited regulatory sense, but broadly and include non-regulated and non-commercial forms of asbestos, all forms of elongate mineral particles, fibrous minerals, fibrous talc, cleavage fragments of amphiboles, individual fibers, bundles, fibrils and transition/transitional fibers. "Asbestiform" shall also be interpreted broadly and without particular limitation regarding fiber size, length, dimension, ratio, presence of multiple fibers, or geologic origin or "habit." The foregoing notwithstanding, "asbestos" also includes talc, whether or not known or acknowledged by defendant(s) to contain asbestiform minerals or other elongate mineral particles. See, e.g., Egilman, et al., Health Effects of Censored Elongated Mineral Particles: A Critical Review, Detection Limits in Air Quality and Environmental Measurements (STP 1618, 2019; doi: 10.1520/STP161820180080); January 6, 2020, Executive Summary of Preliminary Recommendations on Testing Methods for Asbestos in Talc and Consumer Products Containing Talc (available at <https://www.fda.gov/media/134005/download>) ("The difficulty of identifying and quantifying individual asbestos or other mineral particles present at low concentrations in talc is compounded by the presence of non-asbestiform analogs with the same elemental composition and crystal structure, but different growth habit. Using TEM, differentiation of chrysotile from non-asbestiform serpentine analogs is relatively straightforward; however, each of the non-asbestiform amphiboles can disaggregate into particles resembling asbestiform fibers, giving rise to disputes between laboratories over whether elongate amphibole particles are truly asbestos, or are particles resulting from attrition of larger particles of a non-asbestiform analog. Because both types of elongate minerals are suspected of having biological activity with similar pathological outcomes, the distinction is irrelevant...").

The term "TALC" includes all grades of talc including but not limited to industrial, cosmetic, food, and/or pharma, unless specified otherwise.

The term "PERSON" and "PERSONS" means a natural person, firm, association, organization, partnership, business trust, limited liability company, corporation, or public entity.

1. All communications between YOU and the Department of Health & Human Services (HHS), the Federal Drug Administration (FDA), and the White House regarding the Consolidated Appropriations Act of 2023 (H.R. 2617 and PL 117-328), the Modernization of Cosmetics Regulation of 2022 (MoCRA), and FDA's proposed Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products (89 FR 105490).
2. All communications between YOU and any identified trade organizations regarding the Consolidated Appropriations Act of 2023 (H.R. 2617 and PL 117-328), the Modernization of Cosmetics Regulation of 2022 (MoCRA), and FDA's proposed Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products (89 FR 105490).
3. All communications between YOU and Dr. Korchevskiy regarding the Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products and the May 20, 2025 Expert Panel with the FDA.
4. All records related to the June 9, 2025 letter to Dr. Martin Makary.
5. If YOU have withheld any document based on a claim of privilege, please produce a privilege log identifying each such document, its author, recipients, date of preparation, and the specific privilege or work product protection claimed.
6. All documents reviewed to make the witness knowledgeable about each topic above, and/or to prepare the witness to testify as to the above topics.
7. All documents used to refresh the recollection of the designated witness and/or prepare that person to testify as to areas of inquiry listed above.
8. All documents related to, or that form the foundation for, YOUR responses to discovery requests in talc litigation.
9. All documents that will be used to prove YOUR cross-claims, if any, against other alleged tortfeasors in this lawsuit.
10. All documents, depositions, interrogatories, statements, certifications and/or affidavits that will be used to evidence all potential exposure to Plaintiff other than the alleged exposures to YOUR products.
11. All documents YOU intend to use at trial in this matter.
12. Any documents relating to testing done by the FDA of talc products in 2009 and 2010.
13. Any documents relating to consideration, development, approval, use, accuracy, inaccuracy, detection limit, limitations, promotion or disapproval of any other method for the analysis of talc for the presence of asbestos (other than the J4-1 method).
14. Any documents related to the 1993 FDA Talc Symposium.
15. Any documents relating to YOUR involvement and knowledge of the Expert Panel with the FDA on talc on May 20, 2025.
16. Any documents relating to the identity of entities that made and sold Johnson's Baby Powder with talc, regardless of geography, at the time each entity went "talc-free."
17. All documents related to YOUR decision to stop the sale and/or manufacturing talc baby powder in United States.
18. All documents related to YOUR continued sale and/or manufacturing of talc baby powder in other countries after YOU discontinued sales and/or manufacturing in the United States.

19. All documents relating to YOUR efforts and activates relating to communication and efforts related to the safety of talc in Europe when assessing a ban on talc. This includes efforts known to J&J involving Kenvue.
20. All documents relating to YOUR knowledge of the dangers of talc as relayed by the FDA.

EXHIBIT 6

1
2 STATE OF SOUTH CAROLINA § IN THE COURT OF COMMON PLEAS
3 COUNTY OF RICHLAND §
4 § FOR THE FIFTH JUDICIAL
5 ANDREW T. GERKEN, as §
6 Personal Representative of the Estate of ANNA §
7 MARIE L. GERKEN, § C/A NO. 2023-CP-40-06111
8 Deceased, §
9 § In Re:
10 Plaintiff, § Asbestos Personal Injury
11 V. § Litigation Coordinated
12 § Docket
13 §
14 AVON PRODUCTS, INC., §
15 et al., §
16 §
17 Defendants. §

18 STATE OF SOUTH CAROLINA § IN THE COURT OF COMMON PLEAS
19 COUNTY OF RICHLAND §
20 § FOR THE FIFTH JUDICIAL
21 GREGORY S. JOHNSON and §
22 BARBARA J. JOHNSON, §
23 §
24 Plaintiffs, § C/A NO. 2023-CP-40-06819
25 §
26 V. § In Re:
27 § Asbestos Personal Injury
28 AMERICAN INTERNATIONAL § Litigation Coordinated
29 INDUSTRIES, et al., § Docket
30 §
31 Respondents. §

32 VIDEO-RECORDED ORAL DEPOSITION OF
33 DR. EDWIN KUFFNER
34 AS CORPORATE REPRESENTATIVE OF
35 JOHNSON & JOHNSON HOLDCO (NA) INC.
36 CONDUCTED VIA VIDEOCONFERENCE
37 September 10, 2025
38 VOLUME 1

1 Mr. White, I spoke with them specifically about,
2 it would be Topic 39, Question B, that my
3 understanding is that you wanted to talk to me
4 about and I wanted to get information from them
5 about that specific topic.

6 Q Okay. I'm trying to be careful with how I
7 answer -- how I ask these questions, because I'm
8 not asking for any privileged communications that
9 you had with counsel. But it sounds like you did
10 speak with certain counsel relating to facts that
11 you may be asked about today; is that generally
12 what you're saying?

13 A Yes.

14 Q Okay. And I look at the Topic 39, and
15 that relates to -- what's your understanding of
16 what Topic 39 is that you were asking them about?

17 A It's about the correspondence that was
18 coordinated by Dr. Korchevskiy in terms of a
19 letter that was sent -- sent to FDA.

20 Q Okay. And we'll talk about that later.

21 Did you speak with him about any other
22 topics relating to today's deposition? Again, not
23 asking for any privileged information.

24 A I spoke with Andrew White in general, but
25 not really to ask specific information, to help me

10:43:50

10:44:00

10:44:10

10:44:14

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10:45:51

10:45:56

10:46:02

1 answer a question, if that makes sense.

2 Q I think I understand what you're saying,
3 but could you describe more what you mean more
4 specifically?

5 A I wanted to get specific information for
6 39(b), to specifically answer that -- answer that
7 question in terms of what the lawyers' -- outside
8 counsel and/or J&J lawyers' -- involvement
9 potentially in that letter that went to FDA. So
10 it was very targeted and specific. I -- that's
11 the specific information. When it comes to Andrew
12 White, I had a general conversation with him that
13 didn't go into detail on how -- you know,
14 providing me information to answer a specific
15 question.

16 Q Okay.

17 All right. With respect to the decision
18 to stop selling talc-containing baby powder on a
19 global basis, that decision was announced in
20 August of 2022, if I remember correctly; is that
21 right?

22 A Yes, that's correct.

23 Q And as we've seen, the market research
24 from the Philippines, from India, and from Brazil
25 show that consumers there had strong preferences

10:46:11

10:46:13

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10:48:00

10:48:15

10:48:18

1 in favor of talc-based baby powder, correct? 10:48:24

2 MS. DIWAN: Objection to form. 10:48:26

3 A In the bases -- in the bases test in the 10:48:27
4 scenario that they provided them, I would say in 10:48:31
5 general, yes, the consumers in that study 10:48:33
6 preferred talc-based baby powder to 10:48:35
7 cornstarch-based baby powder. 10:48:40

8 BY MR. STUEMKE: 10:48:43

9 Q And in the other country that was studied, 10:48:44
10 the United Kingdom, it showed that that was, you 10:48:46
11 know, at parity between the two in the terms in 10:48:54
12 the study, correct? 10:48:57

13 A In some -- in some of the scenarios, yes. 10:48:58

14 Q How were those four countries identified 10:49:00
15 as ones where the market research would be 10:49:09
16 conducted in connection with Project Summer? 10:49:11

17 A I didn't specifically ask Ms. Decker about 10:49:22
18 that, but based upon some conversation that I had 10:49:24
19 with her, I think some of it was based upon 10:49:27
20 current countries that had a larger -- maybe 10:49:33
21 market share probably isn't the right word, and 10:49:40
22 I'm not a marketing person. But there was a 10:49:44
23 higher volume of Johnson's talc-based baby powder 10:49:48
24 being sold in some of -- some of those countries 10:49:54
25 and so I think that -- that was definitely one 10:49:57

1 factor that played into that. 10:50:00

2 Q Okay. 10:50:04

3 A And those countries would be, I recall she 10:50:05
4 and I talked about Philippines and India. 10:50:07

5 Q All right. And so Johnson & Johnson 10:50:11
6 expected that they would lose revenue as a result 10:50:16
7 of ceasing to offer talc-based baby powder at 10:50:24
8 least in those markets; fair? 10:50:28

9 MS. DIWAN: Object to form. 10:50:30

10 A We can go back and look at the CAR, 10:50:33
11 because the CAR outlines much of this, the Capital 10:50:36
12 Appropriation Request. But based upon -- again, 10:50:41
13 I'm not a financial person or a market research 10:50:43
14 person. My general understanding was that, yes, 10:50:46
15 based upon the overall transition, and they'd done 10:50:52
16 some analysis of if you completely stop selling 10:50:55
17 any baby powder compared to a potential 10:51:01
18 transition, what would that look like. And I 10:51:08
19 believe the CAR has those numbers in there. And 10:51:09
20 so I think they, yes, the company did understand 10:51:14
21 that this transition they likely would lose 10:51:18
22 some -- some form of net trade sales related to 10:51:24
23 it. 10:51:29

24 BY MR. STUEMKE: 10:51:37

25 Q And so what was the business case for 10:51:38

1 it's important for organizations to have
2 dissenting voices who will raise issues that may
3 be not fully aligned with the rest of the
4 organization. Is that a concept you're familiar
5 with?

6 MS. DIWAN: Object to form. Scope.

7 A It is a -- it is a concept I am familiar
8 with. And it, you know, relates specifically to
9 what my job was within the company as the Chief
10 Medical Officer working in an independent safety
11 group. And so it was our job, you know,
12 irrespective of whatever anybody else thought
13 within the company, to evaluate the safety of the
14 product.

15 And when it goes to groupthink,
16 specifically that's one of the reasons why I
17 decided to also do the Comprehensive Review, to
18 make sure that on my watch there was a full
19 assessment done.

20 And so as the Chief Medical Officer
21 working in an independent safety group responsible
22 for the safety of patients and consumers, and
23 that's the first responsibility, yes, certainly
24 I'm familiar with the concept and I'm familiar
25 with a number of the ways within the company that

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I've worked in that we worked to, you know, prevent those type of things from happening.

BY MR. STUEMKE:

Q All right. And so specific to the Comprehensive Review that you brought up, which -- which is contained within the topic -- the topics identified for the Johnson & Johnson deposition, I wanted to ask you specifically what efforts you took as the leader of that undertaking of the Comprehensive Review to make sure to avoid groupthink in reaching the conclusion that you did that talc did not cause either mesothelioma or ovarian cancer.

A Sure. So I think the first thing that I would say is -- one is the culture that, you know, I created with our team in that the culture was one of putting the interest of patients and consumers first. And certainly that -- I want to say that carried on a tradition from, you know, other Chief Medical Officers, but certainly anyone who worked with me understood, and I reinforced that continually, that that was our role irrespective of profits or, you know, marketing efforts. Our job was always to put the interest of patients and consumers first. And I think

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1 people on our team understood that.

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2 They also understood that when -- when
3 issues may arise, that they always could come to
4 me, that we would take a science-based approach to
5 evaluate whatever the topic was, like we did with
6 talc.

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7 When I -- even before we put pen to paper
8 or even started the Comprehensive Review, I
9 explained to the team that it was clear to me that
10 I had understood that other reviews had been done
11 on this specific topic, but that we were going to
12 undertake our review as this team. And I
13 understood the conclusions of the -- the other
14 reviews, but if our team came to a different
15 conclusion, then so be it, that we were going to
16 follow the science and follow the facts as we
17 uncovered them and our understanding of the
18 science.

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19 And so I think anyone who worked with me,
20 the approach we took throughout, you know, the
21 Comprehensive Review clearly would understand that
22 the goal was to follow the science and that we
23 were going to rely on the experts who were working
24 on this topic on the different areas to draw their
25 scientific conclusions.

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1 Q Okay. Did you make an effort to bring in
2 any outside -- any experts from outside the
3 company who may serve as a dissenting voice to
4 prevent potential groupthink in reaching your
5 conclusions in the Comprehensive Review?

6 A There were people who were outside the
7 company who certainly worked on it if you want to
8 say from a scientific perspective, and so one of
9 them being Mary Jane Prior, who is a medical
10 writer and epidemiologist who worked with us on
11 it. She's a former employee of the company but
12 she was retired. I had worked with her previously
13 in the past. She's one of them that we brought
14 in.

15 When it came to some of the assessment of
16 the toxicology literature, we had ToxStrategies,
17 an outside company, come in and work with us on
18 that. Most of the epidemiologists were internal
19 epidemiologists who worked on the epidemiology
20 sections, but there were people who weren't
21 associated with the company.

22 And, you know, I personally wasn't
23 involved in, you know, the in-depth previous
24 reviews that the company had done and so I really
25 was asking, as the Chief Medical Officer, not

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1 having evaluated all of the data like we did in
2 the Comprehensive Review, I participated and was
3 asking the same question: What does the data tell
4 us?

5 And as I explained to the team, we're
6 going to follow the science. And I was fully
7 prepared if the science would lead us to --
8 whatever that conclusion was, if the science would
9 lead us down a path to say that talc was unsafe, I
10 was totally prepared to take whatever action that
11 I needed to. And I felt very comfortable doing
12 that because over time within the company when I
13 needed to take action and, if you want to say, go
14 against, to some degree, maybe what groupthink
15 was, certainly our safety team did that.

16 Q Okay. Now, you mentioned two outsiders
17 that you brought in when I asked you about
18 dissenting voices that you brought in to try to
19 prevent groupthink, one of those was a Johnson &
20 Johnson retiree, correct?

21 A Yes, epidemiologist and a medical writer.

22 Q All right. And the only one --

23 A That would have been involved in this type
24 of evaluation. It wasn't a product that she
25 had -- she had worked on while she was within the

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1 company. So she also was bringing a fresh view,
2 like I was.

3 Q The other outsider, for lack of a better
4 term, that you mentioned, was ToxStrategies. Do
5 you recall who the professionals were at
6 ToxStrategies that you worked with in connection
7 with the Comprehensive Review?

8 MS. DIWAN: I'm just going to object to
9 form very briefly. I appreciate that there are
10 noticed topics on identifying individuals in
11 connection with the Comprehensive Review. He has
12 been deposed on this at length, and I'm trying to
13 give you some leeway on this. And I believe
14 you-all narrowed the categories down to, you know,
15 37 to 40, or 36 to 40, and left these other topics
16 in here really just as sort of background in case
17 you needed a little leeway. I think we're sort of
18 reaching the end of that leeway.

19 I will let you answer the question.

20 A There were a number of people from
21 ToxStrategies who we worked with. Daniele Wikoff
22 is one of them. I think another person was Seneca
23 Fitch, who we worked with. There may have been
24 some other people in ToxStrategies who worked
25 behind the scenes with them. And there could have

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1 been other people who worked with us. Those are
2 two of the names. Again, you know, I didn't
3 specifically review this prior to this deposition,
4 but those are two of the names that I recall.

5 BY MR. STUEMKE:

6 Q All right.

7 Okay. Thank you for your patience. I've
8 got a lot of documents that I reviewed in the last
9 several days. I'm trying to make sure that I
10 cover the points that I need to.

11 A No worries.

12 Q So I happen to see -- and, candidly, I
13 have not read the entire transcript -- but I saw
14 that about a little bit over a month ago you were
15 asked some questions regarding some letters that
16 were sent by -- I want to make sure I get the name
17 right -- Black Women for Wellness to Alex Gorsky
18 at Johnson & Johnson relating to the fact that
19 Johnson & Johnson was continuing to market
20 talc-based baby powder on the global market,
21 although it had withdrawn it from the North
22 American market. Do you recall that series of
23 questions from, you know, Mr. Kraft?

24 MS. DIWAN: I'm just going to object to
25 the form and scope.

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1 impact did negative publicity surrounding Johnson
2 & Johnson's decision to continue selling talc
3 outside of North America play in its decision
4 ultimately to stop selling talc globally, on a
5 scale of zero to ten? If it's zero, that's fine.
6 But on that scale, how important was it?

7 MS. DIWAN: It's the same objection --
8 sorry, I don't know why we're...

9 Hopefully you can hear me without reverb
10 now.

11 It's the same objections. It's
12 argumentative. He's answered it numerous times
13 now. He does not have to answer it in the format
14 that you wish, for it to be responsive.

15 A I've answered the question.

16 BY MR. STUEMKE:

17 Q Okay. Well, in fairness, I don't think
18 that you have, so we can -- we can address that
19 with Justice Toal.

20 Part of the reason that the Comprehensive
21 Review that we've discussed a little bit today,
22 and certainly you've testified about many times,
23 was performed was so that it could be used to
24 influence government and regulatory agencies
25 around the world with respect to talc safety and

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1 that, can you tell me the facts that you sought to
2 learn from Mr. Hynes and what he conveyed to you
3 regarding those facts?

4 MS. DIWAN: Just to be clear, we're --
5 you're not seeking any sort of privileged
6 information.

7 Limited simply to the facts of what
8 Mr. Hynes relayed to you.

9 MR. STUEMKE: That is exactly what I'm
10 trying to do, without --

11 MS. DIWAN: Yeah.

12 MR. STUEMKE: -- inviting him to
13 accidentally share anything I'm not entitled to.

14 MS. DIWAN: No, no, I appreciate that.

15 A So I wanted to understand were any of the
16 signatories on the letter specifically paid to
17 write the letter, and I confirmed that they were
18 not.

19 I wanted to know whose idea it was to
20 write the letter, and learned that it was
21 Dr. Korchevskiy's idea to write the letter.

22 I wanted to learn how did Dr. Korchevskiy
23 assemble the -- or who determined who was going to
24 assemble that group, and it was Dr. Korchevskiy
25 who determined who I guess he would like to invite

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1 to participate in the letter.

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2 And then I wanted to know were -- was
3 there any -- did Kevin Hynes have any involvement
4 in the letter. And he said no. He said that
5 Dr. Korchevskiy had reached out to him to get some
6 contact information from a number of different
7 people and that he provided that contact
8 information to Dr. Korchevskiy.

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9 Q And you understand the contact information
10 being provided related to the individuals who
11 signed on to this letter?

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12 A I -- I didn't -- I probably should have
13 been more clear, maybe, in asking the question.
14 I -- I couldn't say that did he provide contact
15 information for someone who potentially didn't
16 sign the letter, I didn't ask that -- that
17 specific question, but it was my understanding
18 that he did provide some contact information for
19 people who may have signed the letter, if that --
20 if that distinction makes sense to you.

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21 Q I think so.

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22 Do you know if Mr. Hynes provided any
23 contact information for individuals who did not
24 ultimately sign on to the letter?

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04:52:23

25 A I did not ask that question, so I can't

04:52:26

1 CERTIFICATE OF SHORTHAND REPORTER

2
3 I, Linda Russell, the officer before whom
4 the foregoing deposition was taken, do hereby
5 certify that the foregoing transcript is a true
6 and correct record of the testimony given; that
7 said testimony was taken by me stenographically
8 and thereafter reduced to typewriting under my
9 direction; that reading and signing was requested;
10 and that I am neither counsel for, related to, nor
11 employed by any of the parties to this case and
12 have no interest, financial or otherwise, in its
13 outcome.
14

15 IN WITNESS WHEREOF, I have hereunto set my
16 hand this 13th day of September, 2025.
17

18 

19 Linda Russell, Texas CSR No. 2965
20 Expiration Date: 04/30/27

21 Planet Depos
22 451 Hungerford Drive, Suite 400
23 Rockville, MD 20850
24 888.433.3767
25 Firm Registration 686

EXHIBIT 7

1 STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON
2 COUNTY OF RICHLAND) PLEAS FOR THE FIFTH
3 ANDREW T. GERKEN, as) JUDICIAL CIRCUIT
4 Personal Representative)
5 of the Estate of ANNA) C/A NO. 2023-CP-40-06111
6 MARIE L. GERKEN,)
7 Deceased,)
8) In Re:
9 Plaintiff,) Asbestos Personal Injury
10 vs.) Litigation Coordinated
11) Docket
12)
13 AVON PRODUCTS, INC., et)
14 al.,)
15 Defendants.)
16)
17)
18)
19)

11 STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON
12 COUNTY OF RICHLAND) PLEAS FOR THE FIFTH
13 GREGORY S. JOHNSON and) JUDICIAL CIRCUIT C/A NO.
14 BARBARA J. JOHNSON,)
15) 2023-CP-40-06819
16 Plaintiffs,)
17 vs.) In Re:
18) Asbestos Personal Injury
19) Litigation Coordinated
20 AMERICAN INTERNATIONAL)
21 INDUSTRIES, et at.,) Docket
22)
23 Defendants.)
24)
25)

20 Videotaped Deposition of DR. EDWIN KUFFNER,
21 VOLUME 2, as Corporate Representative of Johnson &
22 Johnson Holdco (NA), Inc. Conducted via
23 Videoconference
24 Thursday, September 11, 2025
25 11:24 a.m. - 4:07 p.m. EST

Transcript of Corporate Designee of Johnson & Johnson Holdco (NA) Inc.
Conducted on September 11, 2025

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1 A. Yes, I do.

11:39:28

2 Q. Okay. So it states that, "It is
3 important you do not deviate from, add to, or
4 alter these materials as this language has been
5 approved by leadership and legal teams."

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6 Correct, sir?

11:39:39

7 A. Yes.

11:39:40

8 Q. All right. And you see on the third page
9 of the document, it talks about the fact that
10 there are some countries where Johnson & Johnson
11 is going to be leaving the baby powder market
12 entirely rather than introducing a
13 cornstarch-based product; is that right?

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14 A. Yes, that's -- that's my general
15 understanding that that was the plan. And I can't
16 tell you if that actually ended up being true.
17 And I think -- I think there was something I read
18 in this document at some point where they said
19 potentially even distributors may provide product
20 into some of those markets. So I -- I can't tell
21 you the cornstarch-based product wasn't available
22 in those markets, but this is what was generally
23 intended, and then I think they -- I did think
24 potentially distributors may be able to, on their
25 own, bring the cornstarch-based product into some

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1 of those markets is my understanding when I read
2 the document.

3 Q. Okay. Moving on to page 4 of the
4 document. There's a section called Global Claims
5 Guide.

6 And these are claims, as it indicates
7 here that, "Have been reviewed and approved for
8 use externally"; correct?

9 A. Yes.

10 Q. And states that, "These claims may not be
11 altered in any way. Importantly, teams may not
12 indicate or suggest that the cornstarch-based
13 product is better than or safer than the
14 talc-based offering as there are no head-to-head
15 studies allowing us to make such comparisons."

16 Did I read that correctly?

17 A. Yes, you did.

18 Q. Are the claims stated here under the
19 "Product Benefits" section accurate, sir?

20 MS. DIWAN: Objection to form. Beyond
21 the scope.

22 THE WITNESS: I -- I haven't gone back
23 and independently reviewed all of the claims
24 there. I would expect that people who put this
25 document together would have -- would have worked

Transcript of Corporate Designee of Johnson & Johnson Holdco (NA) Inc.
Conducted on September 11, 2025

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1 with the appropriate people within the company to 11:42:19
2 make sure that to the best of people's 11:42:21
3 understanding that these claims, yes, were 11:42:24
4 accurate. 11:42:26

5 BY MR. STUEMKE: 11:42:26

6 Q. Okay. And so as of -- and -- and we saw 11:42:26
7 earlier that this document had been approved by 11:42:29
8 the leadership team and by attorneys for Johnson & 11:42:32
9 Johnson; correct? As we saw here. 11:42:35

10 A. Yes. Yes. And in terms of when 11:42:41
11 documents like this are being put together, and 11:42:43
12 I've been involved in other situations where 11:42:45
13 documents like this were being put together, 11:42:47
14 that's very common that you have a 11:42:49
15 cross-functional approach to putting a document 11:42:51
16 together and certainly lawyers would be involved 11:42:54
17 as part of that cross-functional team. 11:42:56

18 Q. All right. As -- as of June of 2023, 11:42:58
19 Johnson & Johnson believed the following things 11:43:04
20 were true with respect to cornstarch-based baby 11:43:07
21 powder. First, that cornstarch-based baby powder 11:43:12
22 is two times more absorbent than talc-based baby 11:43:15
23 powder to keep skin dry and soft; correct? 11:43:21

24 MS. DIWAN: Object to form. Beyond the 11:43:25
25 scope. 11:43:26

1 THE WITNESS: I would say, yes, that's
2 one of the claims that's listed there.

3 BY MR. STUEMKE:

4 Q. And Johnson & Johnson believe that was
5 true as of June 2023; correct?

6 MS. DIWAN: Same objections.

7 You can answer.

8 THE WITNESS: Yes, if that's -- if that's
9 -- I forget the exact date on the document but if
10 that's the date on the document, I would agree.

11 BY MR. STUEMKE:

12 Q. Okay. Let's just scroll back to the top
13 real quick.

14 A. Perfect, yes. June of 2023. I agree.

15 Q. Okay. As of June of 2023, Johnson &
16 Johnson understood that cornstarch-based baby
17 powder has been shown to absorb two times more
18 moisture than talc-based powder; correct?

19 A. Yes.

20 MS. DIWAN: Objection

21 BY MR. STUEMKE:

22 Q. At that time Johnson & Johnson understood
23 that cornstarch-based baby powder has been shown
24 to absorb three times faster than talc-based
25 powder; correct?

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1 users/consumers around the safety of the product. 11:48:05

2 And that -- that was a reason why, I think, the 11:48:09

3 company believed at the time that it had 11:48:14

4 significantly decreased sales in the -- in North 11:48:18

5 America. And so certainly that was -- those -- 11:48:24

6 those, claims that misinformation, certainly 11:48:29

7 affected sales and certainly that what was related 11:48:31

8 to the discontinuation in North America. 11:48:35

9 Q. Right. But you agree that the reason 11:48:38

10 that Johnson & Johnson stopped selling talc-based 11:48:45

11 baby powder in North America was more of a legal 11:48:49

12 case than a business case; correct? 11:48:52

13 MS. DIWAN: Objection to form. 11:48:54

14 THE WITNESS: No, that's -- that's not 11:48:55

15 what I said. The -- the decision to discontinue 11:48:56

16 it in North America, as we talked about yesterday, 11:49:00

17 at the end of the day the product was 0.5 percent 11:49:05

18 of the consumer business. And the company had 11:49:10

19 followed the sales, and they saw continually 11:49:16

20 decreasing sales over time. And at the time of 11:49:23

21 the discontinuation, about 75 percent of the sales 11:49:25

22 in North America were cornstarch-based baby powder 11:49:29

23 compared to talc-based baby powder and so it was 11:49:34

24 clearly a business decision. 11:49:39

25 And when the company went back and tried 11:49:40

1 second? Okay. Thank you. 11:58:43

2 And if we can just get the documents as 11:58:44
3 you go through them on a break so we can review 11:58:47
4 them. 11:58:48

5 MR. STUEMKE: Okay. 11:58:49

6 MS. DIWAN: In the interest of speed, 11:58:50
7 we're not asking for them, we're looking at them 11:58:51
8 on Zoom. We are sort of looking at one page here, 11:58:53
9 one page there, but we'd like to see the full 11:58:54
10 documents. 11:58:57

11 MR. STUEMKE: Sure. So this is Exhibit 11:58:58
12 35. I'll stop sharing. 11:59:02

13 BY MR. STUEMKE: 11:59:16

14 Q. Okay. In the notice of deposition for 11:59:16
15 Johnson & Johnson, sir, the last topic relates to 11:59:17
16 "Any involvement with, knowledge regarding, and 11:59:24
17 communications with or about any European health 11:59:27
18 agency relating to its assessment of a potential 11:59:31
19 ban on talc." 11:59:37

20 What communications did Johnson & Johnson 11:59:40
21 have with any European health authority relating 11:59:41
22 to the possibility that talc would be banned in 11:59:46
23 Europe? 11:59:51

24 MS. DIWAN: Objection to the form to the 11:59:53
25 extent it deviates from the topic, but go ahead 11:59:54

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1 and answer.

2 THE WITNESS: I'm -- I'm not aware of
3 when it comes to conversations specifically
4 related to a ban, I'm not aware of interactions
5 that the company would have had related to a
6 ban.

7 BY MR. STUEMKE:

8 Q. Okay. The company is aware in the
9 European Union there is a ban forthcoming on the
10 use of talc; correct?

11 MS. DIWAN: Objection to form.
12 Mischaracterizes.

13 You can answer.

14 THE WITNESS: I'm not -- I'm not aware of
15 a specific ban and near action the company had
16 related to a ban.

17 MR. STUEMKE: Okay. I'll object to move
18 to strike that answer.

19 BY MR. STUEMKE:

20 Q. My question is a little bit different.

21 The company is aware that as of, I
22 believe it's 2027, the use of talc used in certain
23 products is going to be banned in Europe; correct?

24 MS. DIWAN: Objection to form. Beyond
25 the scope.

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1	You can answer if you can.	12:00:54
2	THE WITNESS: I'm not aware of that as	12:00:56
3	a -- a decision has been made to ban talc.	12:01:00
4	BY MR. STUEMKE:	12:01:05
5	Q. Okay. What did you do to prepare	12:01:05
6	yourself regarding that topic today, sir?	12:01:06
7	MS. DIWAN: Can you just identify the	12:01:11
8	topic, Jay?	12:01:12
9	MR. STUEMKE: Topic 40.	12:01:15
10	THE WITNESS: Yeah, I'm -- I looked but	12:01:15
11	I'm not aware of any final decisions that are --	12:01:20
12	that have been made to ban -- to ban talc. So	12:01:22
13	I -- I didn't do much. I mean, I looked to see,	12:01:26
14	but I don't -- I'm not aware of decisions made to	12:01:29
15	ban talc.	12:01:32
16	BY MR. STUEMKE:	12:01:34
17	Q. Okay. Is Johnson & Johnson still a	12:01:34
18	member of the CTPA?	12:01:40
19	A. Johnson -- Johnson & Johnson is not	12:01:49
20	currently, to the best of understanding, a member	12:01:53
21	of the CTPA.	12:01:56
22	Q. When did -- it was previously; correct?	12:01:58
23	It has been historically a member of that	12:02:01
24	organization; correct?	12:02:03
25	MS. DIWAN: Objection to form. Beyond	12:02:05

1 assessments it does not say in the assessment that
2 it's going to be banned.

3 BY MR. STUEMKE:

4 Q. Did Johnson & Johnson have any
5 communications with the European Chemicals Agency
6 relating to those safety assessments that you just
7 referenced?

8 A. To the best of my understanding, the
9 company didn't have direct engagement with ECHA or
10 the Risk Assessment Committee on that specific
11 topic.

12 Q. Okay. And I know you can predict my next
13 question is, what if any indirect involvement did
14 they have?

15 A. The company would have participated in
16 evaluations that -- or assessments that were
17 submitted on behalf of trade organizations.

18 Q. Which trade organizations was Johnson &
19 Johnson involved with that made submissions
20 relating to talc safety to the European Chemicals
21 Agency?

22 MS. DIWAN: Objection to form. Scope.

23 You can answer if you know.

24 THE WITNESS: I -- I don't recall the
25 specific names. And is -- our understanding is

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1 the manuscript to be submitted for publication in 15:03:59
2 a medical journal and how the format is to be 15:04:04
3 achieved." 15:04:06

4 Do you know -- now we saw that there were 15:04:08
5 presentations regarding a number of different 15:04:10
6 research products that were ultimately published 15:04:12
7 in the scientific literature; correct? 15:04:14

8 A. Yes. 15:04:17

9 Q. Do you know what particular manuscript is 15:04:17
10 being referred to here in paragraph 3? 15:04:21

11 A. That -- that I don't know specifically. 15:04:24

12 Q. Okay. 15:04:34

13 A. It's not something I researched for the 15:04:34
14 deposition. 15:04:36

15 Q. Number four: "In terms of suggestive 15:04:37
16 actions is to provide Dr. Roe with the proceedings 15:04:39
17 of the meeting, as well as Dr. Lord's manuscript, 15:04:41
18 and manuscripts developed by Dr. Hildick-Smith to 15:04:45
19 permit him to develop a position paper on talc. 15:04:49
20 Dr. Roe's manuscript will be reviewed by J&J prior 15:04:51
21 to the release for the TPF." 15:04:56

22 Did I read that correctly? 15:04:59

23 A. Yes. 15:05:01

24 Q. And do you recall in April, when you were 15:05:01
25 testifying in New Orleans, that we talked through 15:05:04

1 some of the documents relating to an editorial

15:05:07

2 that was published in the Lancet?

15:05:11

3 Do you recall that generally?

15:05:16

4 A. I -- I certainly recall the editorial in

15:05:17

5 Lancet. I know we discussed it. I don't recall

15:05:19

6 the specific documents we discussed, but I know we

15:05:21

7 discussed it.

15:05:24

8 Q. Yeah. And is it your understanding that

15:05:28

9 this manuscript that's being referred to here that

15:05:29

10 would be reviewed by J&J prior to being released

15:05:33

11 for the TPF, in fact, was the editorial that was

15:05:36

12 later published in the Lancet?

15:05:41

13 MS. DIWAN: Object to form.

15:05:43

14 THE WITNESS: I -- I don't know that

15:05:44

15 was -- those are specifically linked.

15:05:46

16 BY MR. STUEMKE:

15:05:54

17 Q. Okay. And number six states, "No more

15:05:54

18 studies on talc should be conducted at this time,

15:06:02

19 as the meeting failed to identify the need for any

15:06:05

20 further essential studies on talc."

15:06:08

21 Did I read that correctly?

15:06:11

22 A. Yes.

15:06:19

23 Q. And again, following this meeting in May

15:06:20

24 of 1976, you're not aware -- and you indicated

15:06:22

25 that you hadn't reviewed all the documents

15:06:30

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1 Q. And it talks about that Dr. Waggoner is 15:18:17
2 going to talk to FDA about the concept of 15:18:23
3 providing a data package which they could furnish 15:18:26
4 to inquirers upon request and that packet would 15:18:29
5 consist of published papers and articles; 15:18:33
6 correct? 15:18:35

7 A. Yes. 15:18:48

8 Q. Item eight is Johnson's Baby Powder baby 15:18:48
9 and adult exposure study. 15:18:52

10 Do you know specifically which study that 15:18:56
11 is referring to? 15:18:57

12 A. I don't know specifically which study. 15:18:58
13 It may refer to -- and I have to look at timing of 15:19:01
14 this and other information. It could refer to the 15:19:06
15 Russell study, but I can't tell you that 15:19:09
16 specifically. 15:19:14

17 Q. And then item nine is referring to the 15:19:15
18 Francis Roe editorial. It indicates that, 15:19:19
19 "Dr. Hildick-Smith discussed Dr. Francis Roe's 15:19:21
20 proposed talc editorial for the Lancet and 15:19:26
21 suggestions for amendments were to be presented 15:19:30
22 through Dr. Hildick-Smith." 15:19:33

23 Did I read that correctly? 15:19:35

24 A. Yes, you did. 15:19:36

25 (Exhibit 51 was marked.) 15:19:38

BY MR. STUEMKE:

Q. And we know that after -- well, strike that. I'll stop sharing.

The Lancet article. Let me share with you what we'll mark as Exhibit 51.

Do you see on your screen a letter from Dr. Roe to Dr. Hildick-Smith dated June 14, 1977?

A. Yes.

Q. And you see he's transmitting to Dr. Hildick-Smith a copy of what he has sent to the Lancet and thanking Dr. Hildick-Smith for his help?

A. Yes.

(Exhibit 52 was marked.)

BY MR. STUEMKE:

Q. And let me stop sharing real quick. Sorry. I thought I had saved the editorial itself in here and it's somewhere else. So give me just a moment.

All right. I've marked as Exhibit 52, a copy of the Lancet editorial.

Are you able to see that on your screen, sir?

A. Yes.

Q. Okay. And I'll zoom in.

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1 You see this is published in the Lancet,
2 June 25, 1977?

3 A. Yes.

4 Q. And this is an editorial entitled
5 "Cosmetic Talc Powder."

6 Do you see that?

7 A. Yes. I'm not sure it's an editorial. I
8 mean, it's in the journal. I don't know that it's
9 specifically an editorial.

10 Q. Okay. You see there's -- there's no
11 author identified; correct?

12 A. What -- what you're showing me here is
13 the bottom of the -- the previous document. And,
14 yes, there's no author identified on the bottom of
15 the previous document unrelated to cosmetic talc
16 but no -- there's no author on that one.

17 Q. Okay. At the beginning of this
18 section -- of the paper or editorial or article on
19 cosmetic talc powder, at the beginning of that
20 section there is no author identified; fair?

21 A. There -- there isn't. It doesn't appear
22 that there's -- and most times the names will come
23 at the end. So I'm not sure if -- it seems like
24 in -- for whatever reason in this you'll see here
25 as well, it's not in the beginning or the end.

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1 So in this section of the Lancet for
2 whatever reason, not just for this cosmetic talc
3 topic, but for Haemophilus and whoever the topic
4 was before, for whatever reason, this part of the
5 Lancet they don't put authors, you know, either at
6 the beginning or the end of the different topics.
7 So this is no different than the other topics that
8 are in this part of the Lancet.

9 Q. And there's nothing to indicate that
10 Johnson & Johnson was involved in the drafting,
11 review, or editing of this article that appears in
12 the Lancet; correct?

13 A. There's no information for -- you know,
14 on who the -- who the authors were for this or the
15 other parts of this part of the Lancet.

16 Q. And if we look at Exhibit 51, which is
17 that correspondence from Roe to Hildick-Smith, you
18 see that there's a version of the same article;
19 correct?

20 A. Or -- or similar it looks like. Again, I
21 haven't compared it. I mean, he said he had to
22 shorten it so --

23 Q. Right.

24 A. -- I'm not sure if this is exactly what
25 went in.

1 A. Yes. It looks like Dr. Wenninger from
2 the FDA had requested that he provide Dr. Roe's
3 contact -- contact information. So this is at the
4 request of the FDA.

5 Q. Right. Right. Did Johnson & Johnson
6 tell the FDA that Dr. Roe worked for Johnson &
7 Johnson?

8 MS. DIWAN: Object to form.

9 THE WITNESS: In terms of what
10 conversation that they had with Dr. Wenninger, I'm
11 not aware of that, just based upon this. But
12 certainly Dr. Wenninger was aware that Johnson &
13 Johnson was in contact with Dr. Roe because
14 they're providing his contact information.

15 What the discussions were between George
16 Lee and Dr. Wenninger that -- that I -- I don't
17 know if there's any other documentation of that,
18 but I'm not aware of what those specific
19 discussions were.

20 BY MR. STUEMKE:

21 Q. Did Johnson & Johnson tell FDA that
22 Johnson & Johnson, in fact, had edited and
23 reviewed the Lancet editorial before it was
24 published?

25 MS. DIWAN: Object to form.

1 Mischaracterizes evidence. 15:44:54

2 THE WITNESS: As -- as I said, I don't 15:44:56
3 know -- based upon this document, I think it's 15:44:57
4 clear that there was a conversation between George 15:44:59
5 Lee and Dr. Wenninger. It became clear in that 15:45:01
6 conversation that the company had contact 15:45:05
7 information for Dr. Roe. 15:45:11

8 Also, I think it became clear that the 15:45:15
9 company knew that Dr. Roe had put together the 15:45:17
10 commentary in the -- in the Lancet. And so 15:45:21
11 Dr. Wenninger from the FDA was specifically asking 15:45:24
12 the company for the contact information of 15:45:29
13 Dr. Roe. 15:45:31

14 I think based on what I see here -- I 15:45:32
15 don't know what the conversations were, but I 15:45:34
16 think it was clear that based on this the FDA, 15:45:35
17 Dr. Wenninger, would know there was some 15:45:40
18 relationship between Dr. Roe and the company. 15:45:42

19 BY MR. STUEMKE: 15:45:51

20 Q. Did Johnson & Johnson -- is there a 15:45:51
21 record that you've seen that shows Johnson & 15:45:53
22 Johnson told the FDA that Johnson & Johnson's 15:45:56
23 director of medical affairs actually reviewed and 15:45:58
24 edited that Lancet editorial before it was 15:46:02
25 published? 15:46:05

Q. And, Dr. Kuffner, you were asked a series of questions about the decision to discontinue cosmetic talc.

Do you recall those questions?

A. Yes.

Q. And he asked you a series of questions about the financial impacts in connection with the decision to discontinue.

Do you recall that?

A. Yes.

Q. In your role here today as a representative on behalf of Johnson & Johnson and the Holdco, was your investigation into those issues time limited in some way?

A. Yes, it was.

Q. Why is that?

A. Because I'm here on behalf of Johnson & Johnson and -- and Holdco. And in the middle of 2023, Kenvue became a separate company, completely separate from Johnson & Johnson and/or Holdco. And so when it comes to those financial records closing out the business year 2023 and beyond, all of that would be kept by Kenvue and not by Johnson & Johnson or Holdco.

Q. Thank you, Dr. Kuffner.

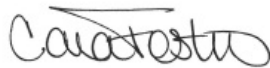
CERTIFICATE OF STENOGRAPHIC REPORTER

I, CARA M. FOSTER, a Stenographic
Certified Shorthand Reporter and Registered
Professional Reporter, hereby certify that the
witness in the foregoing videotaped deposition:

That DR. EDWIN KUFFNER, the witness whose
videotaped deposition is hereinbefore set forth,
was duly sworn by me before the commencement of
such videotaped deposition and that such
videotaped deposition was taken before me on
Thursday, September 11, 2025, commencing at 11:24
a.m. - 4:07 p.m. EST, and is a true record of the
testimony given by such witness.

I further certify that I am not related
to any of the parties to this action by blood or
marriage, I am not employed by or an attorney to
any of the parties to this action, and that I am
in no way interested, financially or otherwise, in
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand
this 15th day of September, 2025.



Cara M. Foster
Registered Professional Reporter No. 47135
Certified Shorthand Reporter No. 11973
Certified Shorthand Reporter No. 23006866

EXHIBIT 8

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
Debra McAndrew Barnett,	)	Civil Action No. 2026-CP-40-01257
	)	
Plaintiff,	)	<i>In Re: Asbestos Personal Injury Litigation</i>
	)	<i>Coordinated Docket</i>
v.	)	
	)	
	)	
Johnson & Johnson, et al.,	)	
	)	
Defendants.	)	
	)	
	)	

Johnson & Johnson; Pecos River Talc, LLC; Johnson & Johnson Holdco (NA), Inc.; and Kenvue, Inc.’s Expert and Fact Witness Disclosure

Defendants Johnson & Johnson, Inc.; Pecos River Talc, LLC f/k/a LLT Management, LLC f/k/a LTL Management, LLC; Janssen Pharmaceuticals, Inc.; Johnson & Johnson Holdco (NA) Inc.; and Kenvue Inc.¹ (collectively the “J&J Defendants”), by and through their undersigned counsel, hereby submit the following amended list of individuals whom the J&J Defendants may call as expert, and fact witnesses at trial in this matter (the “Disclosure”).

RESERVATION OF RIGHTS

The words and language used in this Disclosure are the words and language of counsel who prepared the statements, and not of the witnesses identified herein. The terms “Plaintiff” and/or “Plaintiffs” as used in this Disclosure are intended to refer to the person(s) claiming injury from alleged asbestos exposure, as well as any party Plaintiffs. This Disclosure is not intended to

¹ These disclosures are made in accordance with the deadlines of applicable asbestos scheduling order and subject to the arguments raised in Defendants Johnson & Johnson Holdco (NA) Inc. (“Holdco”) and Kenvue, Inc. (“Kenvue”) motion to dismiss. As that motion details, these entities are not proper parties and should be dismissed, and the J&J Defendants are in no way waiving those arguments by making these disclosures. The J&J Defendants refer Plaintiffs to, and incorporate herein by reference, the Motion to Dismiss and all accompanying papers and evidence.

limit the opinions of the experts identified herein.

This Disclosure is not exhaustive. In addition to the experts identified herein and in the initial disclosure, the J&J Defendants reserve the right to call such rebuttal or impeachment experts and any experts designated by any other party in these cases. The J&J Defendants also reserve the right to call or use the testimony of any witness (expert or otherwise) designated by any other party; any rebuttal witness(es); and any witness whose testimony becomes necessary because of unexpected circumstances; and any physician or healthcare professional who has examined and/or treated Plaintiffs, including those physicians who have been identified during the course of discovery in this case.

The J&J Defendants reserve the right to amend, supplement, and/or modify this Disclosure for any reason, including but not limited to the right to substitute other individuals for those designated in the event that schedule conflicts or other reasons prevent the experts identified in this Disclosure from being deposed and/or testifying at trial, and the right to amend or supplement this Disclosure depending upon any future witness lists and/or expert reports provided by Plaintiffs or any other party to this case.

In addition to the foregoing, the J&J Defendants expressly reserve all rights and remedies afforded them by the SCRCF and/or any other applicable law, statute, or Court rule.

DISCLOSURES

**1 Kathleen M. Sutcliffe, Ph. D.
100 International Drive
Baltimore, MD 21202**

Dr. Sutcliffe has decades of experience and expertise in organization theory and organizational behavior, with a special focus on reliability and safety, as well as in community health and health administration. Dr. Sutcliffe obtained her Ph.D. in Organization Theory and

Organizational Behavior from the University of Texas in 1991. Dr. Sutcliffe is currently a Bloomberg Distinguished Professor of Business and Medicine at Johns Hopkins University with seats in both the School of Business and School of Medicine, as well as appointments in the Schools of Nursing and Public Health. She has published dozens of books and book chapters on organizational decision-making, as well as hundreds of papers and numerous peer-reviewed articles on organizations, healthcare, public health, and patient safety, among other topics. Dr. Sutcliffe has consulted to federal, state, and international government agencies, including the U.S. Department of the Interior, U.S. Department of Homeland Security, the U.S. Navy, and the U.S. Air Force, among others. She also provides training to leaders across the public and private sectors on creating and maintaining high-reliability organizations. Dr. Sutcliffe has received numerous awards and grants for her work studying organizations, including her selection as an Elected Fellow to the Academy of Management and Researcher of the Year at the University of Michigan Ross School of Business. Prior to her Ph.D., Dr. Sutcliffe obtained her Masters in Nursing from the University of Washington and worked as Director of Health and Social Services for the Aleutian Pribilof Islands Association.

Dr. Sutcliffe will testify regarding how organizations manage risks, make decisions under uncertainty, process external and internal information, make sense of ambiguity, create and maintain a culture of safety, as well as the effects of organizational culture on safety and sensemaking, and how the way an organization responds to disruptive events can indicate organizational priorities. Dr. Sutcliffe may testify regarding the use of established frameworks for analyzing organizational behavior and decision-making in specific industries, including in healthcare, consumer products, and various high hazard industries. Dr. Sutcliffe will testify as to the scientifically rigorous methodology she applied in analyzing publicly available information

and internal company documents to understand what Defendants knew and when about the alleged presence of asbestos in their cosmetic talc products and the extent to which Defendants' actions were consistent with an organizational commitment to the safety and wellbeing of consumers.

Dr. Sutcliffe may testify as to the initial development of Defendants' talc-containing products. She may testify as to Defendants' investigation of potential talc sources at various points in time and how Defendants processed and acted upon the information received regarding the quality of various talc sources. She may testify as to Defendants' understanding of the purity of the talc sources ultimately qualified for use in Defendants' talc-based cosmetics, including Johnson's Baby Powder and Shower to Shower. She may testify as to the historical specifications Defendants used for the talc used in their talc-based cosmetics, and the effects such specifications had on the acceptance or rejection of the raw material used in Defendants' products. She may testify as to the organizational processes and considerations related to updating Defendants' specifications from time to time. She may testify as to whether those efforts were consistent with an organization prioritizing the safety and wellbeing of consumers. She may also testify about Defendants' organizational commitment to the safety of cosmetic talc, including their policies, procedures, commitment of resources, and their credo, relating to the same.

Dr. Sutcliffe may also testify as to the efforts Defendants made in seeking to understand and resolve disruptive ambiguities, such as allegations of asbestos in talc, which historically arose in relation to talc safety. She may testify as to the external sources for such ambiguities, including confusion relating to the testing of cosmetic talc for the presence of asbestos and imprecise terminology surrounding asbestos. She may testify about the various regulatory

definitions of asbestos. She may testify about the way available information and public activity regarding asbestos and the health effects of exposure to asbestos and/or talc evolved over time. She may testify as to the FDA's involvement in addressing concerns related to asbestos and talc. She may testify about the efforts Defendants made to engage the scientific community and others to understand such disruptive events of asbestos allegedly being found in talc, including testing conducted in response to the same, and what actions Defendants took based on the information gathered. She may testify about Defendants' knowledge and understanding of the effects of different incentives and levels of knowledge and capability related to identifying asbestos in talc among industry, regulators, scientists, and the media. She may testify as to independent investigations into allegations of asbestos in talc, including the Special Investigation Report to the Board of Directors. She may testify as to Defendants' understanding of whether such disruptive events revealed the presence of asbestos contamination in Defendants' products and how Defendants acted on that understanding. She may testify as to whether those efforts were consistent with an organization prioritizing the safety and wellbeing of consumers.

Dr. Sutcliffe may also testify as to Defendants' knowledge regarding the available methods for testing cosmetic talc for the presence of asbestos, and the efforts Defendants made to investigate, expand, and disseminate methods for routinely testing cosmetic talc for the presence of asbestos. She may testify as to how Defendants acted on their understanding of the available methods for testing cosmetic talc for the presence of asbestos, including the adoption of routine testing programs and propagation of industry-wide standards for testing cosmetic talc, as well as the rejection of methods considered unsuitable for testing cosmetic talc. She may testify about Defendants' routine testing programs. She may also testify about Defendants' role in various industry organizations, such as the CTFA, and their efforts to improve industry-wide talc

quality. She may testify about the consensus reached by regulators, scientists, and industry including Defendants regarding allegations of asbestos in talc and consensus regarding the acceptability of various methods for testing cosmetic talc for the presence of asbestos. She may testify as to whether those efforts were consistent with an organization prioritizing the safety and wellbeing of consumers.

Dr. Sutcliffe's testimony may involve the summary, explanation and analysis of scientific and medical literature and other documents and material which discuss talc, asbestos, or certain other minerals and the knowledge of Defendants regarding such literature. She may testify as to what Defendants knew about the safety of talc at various points in time. She may testify about Defendants' knowledge of the dangers of asbestos and of the difference between asbestiform and non-asbestiform minerals. She may testify about the steps Defendants took to find, research, obtain, support, collect, and process new information regarding the safety of talc. She may testify as to how Defendants found, supported, processed, and acted on information provided by animal, cell, and epidemiological studies of talc safety. She may testify as to how Defendants analyzed the lack of risk associated with allegations of asbestos exposure and how Defendants acted on that understanding. She may testify as to Defendants' understanding of the amount, kinds, and levels of exposure to asbestos which might hypothetically occur if historical allegations of contamination were correct. She may testify as to whether those efforts were consistent with an organization prioritizing the safety and wellbeing of consumers.

Dr. Sutcliffe may also testify as to the efforts Defendants made in sharing, validating, and updating the information they had regarding talc safety both internally and externally, including with consumers, consumer organizations, other industry members and various regulatory authorities such as the Food and Drug Administration. She may testify regarding Defendants

historical and ongoing interactions with the FDA concerning the safety of talc. She may testify about Defendants' policies regarding the dissemination of scientific information and cooperation with various regulatory authorities. She may testify as to whether those efforts were consistent with an organization prioritizing the safety and wellbeing of consumers.

Dr. Sutcliffe's testimony will be based on her training, experience, education, and publications and her review of company documents and statements, documents used in prior litigation at trial, academic and scientific literature, publicly available articles, published regulatory materials, interviews with current and former employees, and depositions and testimony given in prior litigation. She may also be asked to respond to evidence presented by any witness on behalf of plaintiff, including experts.

Dr. Sutcliffe has agreed to testify, if necessary, at trial; Dr. Sutcliffe will be sufficiently familiar with the case to provide meaningful testimony. Dr. Sutcliffe's fee for deposition testimony is \$1,100 per hour. Others at Analysis Group, Inc. working under Dr. Sutcliffe's supervision and direction have assisted her in this matter. Her curriculum vitae will be provided to any party hereto upon request.

**2 Laura Fuchs Dolan
Dolan Xitco Consulting Group
31831 Camino Capistrano, Suite 102
San Juan Capistrano, CA 92675**

Laura Fuchs Dolan is an economist with more than 20 years of experience in evaluating economic loss claims. She may testify regarding economic damages, losses and other related matters as alleged by Plaintiff.

Ms. Dolan's opinions are based upon her education, training, experience, and review of case-specific materials. She may be asked to respond to the testimony and documents of certain

witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

Ms. Dolan has agreed to testify at trial (live or by video) and will be sufficiently familiar with the case to provide meaningful deposition testimony regarding her opinions and their bases. Ms. Dolan's fee for providing deposition testimony and for consulting is \$500 per hour. Her curriculum vitae will be provided to any party hereto upon request.

**3 Dominik D. Alexander, Ph.D., M.S.P.H.
MetaMethod
16769 Bernardo Center Ct., k1-144
San Diego, CA 92127**

Dr. Alexander is President and Principal Epidemiologist at MetaMethod. Dr. Alexander received his B.A.S. degree in Community Public Health from the University of Minnesota in 1997, his Master of Science in Public Health in Epidemiology and Biostatistics from the University of South Florida College of Public Health in 2001 and his Ph.D. in Epidemiology from the University of Alabama-Birmingham School of Public Health in 2004. He is a member of a number of professional societies in the field of epidemiology and public health, including the American College of Epidemiology, the Society for Epidemiologic Research, and the American Society of Nutrition. He also serves as a reviewer of scientific papers for a number of journals, including the American Journal of Epidemiology. His qualifications are set out in greater detail in his curriculum vitae, a copy of which is available upon request.

Dr. Alexander may discuss the science of epidemiology, the methodology, design and conduct of epidemiological studies, issues of validity and reliability, and the differences between case reports and systematic epidemiological studies. He may explain the uses of meta-analysis, cohort studies, case-control studies, and the interpretation of measures of association in epidemiology. He may discuss how causal inferences are made in epidemiology, the synthesis of

results from a body of scientific literature, and the recommendations made by Sir Austin Bradford-Hill.

Dr. Alexander is expected to opine that there is no reliable scientific evidence that exposure to cosmetic talc increases the risk of mesothelioma or lung cancer. He may discuss the epidemiological literature relating to exposure to cosmetic talc and the risk of mesothelioma. Dr. Alexander may testify about the design, results, and interpretation of epidemiological cohort studies evaluating the risk of mesothelioma among cosmetic talc miners and millers. He may testify about the design, results, and interpretation of epidemiological studies of other populations potentially exposed to cosmetic talc, such as barbers, beauticians, cosmetologists, and hairdressers, cosmetic talc end users, and talc pleurodesis patients. Dr. Alexander may discuss other risk factors for mesothelioma, including, but not limited to, exposure to erionite and radiation therapy. He may discuss the state of medical knowledge with respect to the causation of mesothelioma. Dr. Alexander may discuss other factors for lung cancer, including, but not limited to, tobacco use.

Dr. Alexander may also discuss household asbestos exposures and risk of mesothelioma, including the review of epidemiological data contained in Goswami E, Craven V, Dahlstrom DL, Alexander DD, Mowat F., “Domestic asbestos exposure: a review of epidemiologic and exposure data,” Int J Environ Res Public Health, 10: 5629-5670 (2013).

Dr. Alexander may opine in the area of statistics. He may rebut or respond to Plaintiffs’ experts’ opinions on calculations and/or assumptions regarding the underlying probability that Defendant’s talcum powder products allegedly contained asbestos. Dr. Alexander may testify about observational epidemiological studies and their critical importance for establishing causal links between various environmental risk factors and human disease. He may further testify

about the purpose and use of standardized mortality ratios (SMRs) as a measure of relative risk in occupational epidemiological studies. Dr. Alexander may testify that the design of studies that yield SMRs is a well-established method in epidemiology. Specifically, he may rebut or respond to Plaintiffs' experts' opinions on the design and results of various talc epidemiological studies. Dr. Alexander may also testify about the impact, if any, of the healthy-worker effect in these studies. He may further testify about statistical power calculations with respect to epidemiological studies, including occupational epidemiological studies. Dr. Alexander may respond to or rebut Plaintiffs' experts' opinions on statistical power calculations for epidemiological studies.

Dr. Alexander may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in depositions, including, but not limited to, testimony of witnesses offered by the Plaintiff.

Dr. Alexander's testimony will be based on his training, expertise, education, review of the medical and scientific literature, as well as case specific materials, if any. Dr. Alexander's fee for providing testimony and for consulting is \$500 per hour. His curriculum vitae will be provided to any party hereto upon request.

**4 Gregory B. Diette, MD, MHS
Johns Hopkins Hospital
Baltimore, Maryland**

Dr. Diette is an epidemiologist and pulmonologist. He is board certified in pulmonary medicine and internal medicine. Dr. Diette is an attending physician at the Johns Hopkins Hospital and the Johns Hopkins Bayview Medical Center, which includes outpatient and inpatient care. He is Professor in the Division of Pulmonary & Critical Care Medicine at the Johns Hopkins University School of Medicine and Professor of Epidemiology and

Environmental Health and Engineering in the Bloomberg School of Public Health at Johns Hopkins. Dr. Diette obtained his undergraduate degree in 1986 from the University of Pennsylvania Wharton School, his medical degree in 1990 from Temple University School of Medicine, and his Masters in Epidemiology in 1997 from Johns Hopkins University, School of Hygiene and Public Health. His residency in internal medicine was at the Hospital of the University of Pennsylvania and his Pulmonary Critical Care Fellowship was at Johns Hopkins Hospital.

Dr. Diette's research is focused on environmental causes of human diseases. He has published over 230 articles in the peer reviewed literature and six book chapters. He has received grants for his research from the National Institutes of Health, the National Institute of Environmental Health Sciences, the Environmental Protection Agency, among others. He is on the editorial board of the *Clinical Respiratory Journal* and the *Journal of Pollution Effects and Control* and is a peer reviewer on multiple journals including, *Chest*, *Epidemiology*, *Cancer Epidemiology, Biomarkers & Prevention*, *Journal of Respiratory Diseases*, and *Thorax*. He is a fellow of the American College of Chest Physicians and a member of the American Thoracic Society, the International Society of Environmental Epidemiology, among others. Dr. Diette has testified before Congress and been requested to consult with the United States Government on issues related to health and the environment. Dr. Diette's *curriculum vitae* is available upon request.

Dr. Diette may testify regarding the diagnosis of any purportedly asbestos-related disease or condition alleged by the Plaintiff and respond to testimony by any of Plaintiff's experts regarding the same. He may testify to the standards for diagnosing thoracic and other malignancies, as well non-malignant pulmonary disease, including but not limited to discussion

of chest imaging, pulmonary function tests, and clinical techniques. He may also discuss the literature relative to diagnosis of asbestos-related diseases and the techniques and literature discussing the diagnosis of other asbestos-related diseases, including those allegedly suffered by Plaintiff. Dr. Diette may also review the pertinent medical records and evidence, including but not limited to medical records from health care providers, chest x-rays, pulmonary tests, and other types of evidence, and offer his opinions on any diagnoses and medical condition based on his review. His testimony may include a medical presentation of lung diseases including but not limited to those caused by tobacco smoke, other inhaled agents, heritable mutations, or environmental exposures. He may discuss the anatomy and function of the respiratory, cardiopulmonary, and circulatory systems, and the diagnosis and treatment of diseases affecting such systems. Dr. Diette may also offer his opinion on other coexisting medical conditions. He may also discuss the prognosis, risk of cancer of various forms, risk of progression, including, but not limited to, discussion of risk of cancer from asbestos versus tobacco, risk of cancer from inherited gene mutations and the environment, and risk of death or impairment from other causes.

Dr. Diette may testify about the science of epidemiology, the methodology, design and conduct of epidemiological studies, issues of validity and reliability, and the differences between case reports and systematic epidemiological studies. He may explain the uses of meta-analysis, cohort studies, case-control studies, and the interpretation of measures of association in epidemiology. Dr. Diette may discuss how causal inferences are made in epidemiology, the synthesis of results from a body of scientific literature, and the recommendations made by Sir Austin Bradford-Hill.

Dr. Diette may testify that there is no reliable scientific evidence that exposure to cosmetic talc increases the risk of mesothelioma. He may discuss the epidemiological literature relating to exposure to cosmetic talc and the risk of mesothelioma. Dr. Diette may testify about the design, results, and interpretation of epidemiological cohort studies evaluating the risk of mesothelioma among cosmetic talc miners and millers. He may testify about the design, results, and interpretation of epidemiological studies of other populations potentially exposed to cosmetic talc, such as talc pleurodesis patients.

Dr. Diette may testify about the relationship of asbestos exposure and/or cosmetic talc exposure, if any, to the incidence of conditions alleged by the Plaintiff, including, but not limited to, pleural plaques and mesothelioma. He may testify generally regarding the role that the size, structure, and chemical composition of different types of asbestos fibers play in their ability, or lack thereof, to cause the conditions alleged by Plaintiff. Dr. Diette may testify regarding the relationship between dose and mesothelioma arising at different anatomic locations, including the pleura and peritoneum and generally regarding the role of dose in determining whether certain types of fibers can cause or contribute to conditions alleged by Plaintiff. He may also testify regarding other probable or possible causes of any disease or condition alleged by the Plaintiff, including, but not limited to, smoking, where relevant.

Dr. Diette will review the available materials in this case and may provide testimony and opinions regarding his review of the medical and scientific literature and Plaintiff and/or decedent's medical condition and their alleged exposure to various minerals and issues of alternative causation. Dr. Diette may testify that a significant portion of mesotheliomas are naturally occurring or spontaneous and have no association with asbestos exposure. He may also testify about other potential causes of or risk factors for mesothelioma, including non-asbestos

minerals, prior radiation, chronic inflammation, and specific genetic changes. He may testify in relation to the role of genetics in mesothelioma and cancer, including the science of genetic cancer predisposition syndrome.

Dr. Diette may also provide an analysis of Plaintiff's work environment, work history, and occupational history, including, but not limited to, discussion of the significance, intensity, and disease-causing potential arising from exposure to particular products versus other types of exposure. He may testify that the relevant scientific literature has consistently demonstrated no association between cosmetic talc exposure and the development of asbestos-related disease, including mesothelioma. Dr. Diette may also discuss the literature relative to the carcinogenicity (or lack thereof) of cosmetic talc or other minerals in their various habits. Dr. Diette may offer testimony of medical and scientific knowledge regarding any association of disease with work with or around asbestos-containing products and the lack of any such association with work around or the use of cosmetic talc. Dr. Diette may discuss the latency of possible effects of exposure to asbestos and other potential agents to diseases. He may also testify about the existence of a dose-response relationship between exposure to asbestos and asbestos-related diseases.

Dr. Diette's opinions are based upon his education, training, and experience, knowledge and review of the relevant scientific literature, analysis and testing, and review of case-specific materials. He may also be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff. Dr. Diette's fee for providing testimony is \$925 per hour with a four-hour minimum and for consulting is \$725 per hour. His curriculum vitae will be provided to any party upon request.

5 Venkataramana Sidhaye, M.D.
1340 Smith Ave
Suite 200
Baltimore, MD 21209

Dr. Sidhaye is an attending physician at the Johns Hopkins Hospital and the Johns Hopkins Bayview Medical Center. She is Board Certified in Pulmonary Medicine and Critical Care Medicine. Dr. Sidhaye received her undergraduate degree in Biomedical Engineering from Northwestern University and her medical degree from Northwestern University. She was a resident in internal medicine and subsequently served as Chief Resident at Northwestern McGaw Medical Center, then transferred to Johns Hopkins Hospital for her Pulmonary Critical Care Fellowship. Dr. Sidhaye is an Associate Professor in the Division of Pulmonary & Critical Care Medicine at the Johns Hopkins University School of Medicine and an Associate Professor of Environmental Health Sciences and Engineering in the Bloomberg School of Public Health at Johns Hopkins. Her research is focused on environmental effects on lung cell and molecular function that may lead to human disease, with a concentration on tobacco-related effects. Dr. Sidhaye is a member of the American Thoracic Society and serves as a peer-reviewer for multiple journals, including the American Journal of Respiratory and Critical Care Medicine, the European Respiratory Society Journal and the American Journal of Respiratory Cell and Molecular Biology. Her qualifications are set out in greater detail in her *curriculum vitae*, a copy of which is available upon request.

Dr. Sidhaye may testify regarding the diagnosis of any purportedly asbestos-related disease or condition alleged by the Plaintiff and respond to testimony by any of Plaintiff's experts regarding the same. She may discuss the literature relative to diagnosis of asbestos-related diseases and the techniques and literature on the diagnosis of other diseases purportedly suffered by Plaintiff or which are likely to be present in the Plaintiff. She may testify to the

standards of diagnosing asbestos-related disease, including but not limited to, discussion of chest radiologic imaging, pulmonary function, and clinical techniques. Dr. Sidhaye may also review the pertinent medical records and evidence, including but not limited to medical records from health care providers, chest x-rays, pulmonary tests, and other types of evidence, and offer her opinions on any diagnoses and medical condition based on her review, including any coexisting medical conditions. Her testimony may include a medical presentation of lung diseases including but not limited to those caused by tobacco abuse, other inhaled agents, heritable mutations, and/or environmental exposures. She may also provide statistical data on the background incidence rates of mesothelioma and/or cancer and opine that a significant proportion of mesotheliomas are spontaneous or naturally occurring.

Dr. Sidhaye may testify regarding the epidemiology of cosmetic talc exposure, epidemiologic and biological data from individuals undergoing talc pleurodosis and animal studies regarding talc and/or asbestos fibers. She may testify that the relevant scientific research has consistently demonstrated no association between cosmetic talc and the development of asbestos related disease, including mesothelioma. These opinions will be based on her experience and review of epidemiologic and other scientific literature, which consists of numerous studies conducted by different investigators at various times. Dr. Sidhaye may discuss the literature relative to the carcinogenicity (or lack thereof) of talc or other minerals in their various habits. Dr. Sidhaye may opine that short asbestos fibers, cleavage fragments and talc particles historically have produced neither adverse pathogenic effect nor mesotheliomas experimentally. She may also discuss the prognosis, risk of cancer of various forms, risk of progression, including but not limited to discussion of risk of cancer (or lack thereof) from various minerals in different habits. She may also testify about the existence of a dose-response

relationship between exposure to asbestos and asbestos-related diseases and talc and talc-related diseases. Dr. Sidhaye may discuss the epidemiology of lung diseases, asbestos-related disease and other diseases that Plaintiff may allege and/or may have suffered from, including but not limited to an analysis of Plaintiffs' alleged exposure to different minerals and potential agents, a discussion of the latency of exposure to asbestos and other potential agents, a discussion of the contribution of any alleged use of cosmetic talc to the alleged illnesses of Plaintiff, a discussion of various models of risk versus time, duration, and extent of exposure and other related topics.

Dr. Sidhaye's opinions are based upon her education, training, and experience, knowledge and review of the relevant scientific literature, analysis and testing, and review of case-specific materials. She may also be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff and Plaintiff's experts. Dr. Sidhaye's fee for providing testimony is \$750 per hour with a four-hour minimum and for consulting is \$540 per hour.

**6 Gabor Mezei, M.D., Ph.D.
Exponent, Inc.
149 Commonwealth Drive
Menlo Park, CA 94025**

Dr. Mezei is a physician and epidemiologist with over 25 years of experience in research of clinical outcomes and environmental and occupational health issues. He designed, conducted, and evaluated epidemiologic investigations and directed multidisciplinary research programs related to children's health, adult cancers, neurodegenerative diseases, reproductive health outcomes, occupational injuries, and ergonomics. He has been involved in studies of various occupational and environmental exposures, including electromagnetic fields (EMF), mineral fibers, air pollutants and metals. Dr. Mezei has expertise and experience in quantitatively and

qualitatively aggregating epidemiologic evidence (via literature reviews, meta-analyses, and pooled analyses) for environmental and occupational risk assessments. Dr. Mezei appeared as an expert in hearings at several state (US) and provincial (Canada) public utility commissions and a parliamentary committee in Ireland. Dr. Mezei has also been retained as an expert in asbestos litigation cases.

Prior to joining Exponent, Dr. Mezei directed a multidisciplinary scientific research program at the Electric Power Research Institute designated to address potential human and animal health effects associated with residential and occupational exposure to power frequency and radiofrequency EMF. He also directed occupational health and safety research focusing on injury surveillance, ergonomics evaluations, and occupational exposure assessments. Earlier, at the Toronto Western Hospital, University of Toronto, he conducted research to identify clinical factors affecting hospital stay, adverse clinical and surgical outcomes and hospital readmissions following ambulatory surgery. He was a practicing physician at the National Institute for Dermatology in Budapest, Hungary.

Dr. Mezei trained as a physician (M.D.) at the Semmelweis University of Medicine in Budapest, Hungary, and as an epidemiologist (Ph.D.) at the School of Public Health of the University of California in Los Angeles (UCLA). He was the recipient of Fogarty and Fulbright Fellowships. He served as an affiliate associate professor in the Department of Environmental and Occupational Health Sciences of the University of Washington in Seattle, Washington, as a visiting scientist at the Hungarian National Research Institute for Radiobiology and Radiohygiene in Budapest, Hungary, and as an associate editor at the Journal of Exposure Science and Environmental Epidemiology. Dr. Mezei lectured at Stanford University, the UCLA School of Public Health, and the Electrotechnical Committee of the Hungarian Academy

of Sciences. Dr. Mezei is an author or co-author of over 60 scientific publications and book chapters on topics related to the epidemiology of environmental and occupational exposures and chronic diseases (such as cancer and neurodegenerative diseases), adverse clinical outcomes, and environmental exposure assessment.

Dr. Mezei may testify about the relationship between exposure to asbestos and asbestos-related diseases and the relationship between exposure to cosmetic talc and talc-related diseases. He may testify about Plaintiff's alleged exposure to products manufactured and/or sold by Johnson & Johnson and whether these products contributed to the causation of conditions alleged by Plaintiff. Dr. Mezei may testify about how exposure, apart from alleged exposure to Johnson & Johnson products, may have caused Plaintiff's injury. He may testify about the spontaneous development of mesothelioma.

Dr. Mezei will discuss the basics of the science of epidemiology and the differences between case reports and the various types of epidemiological studies. He will discuss how epidemiological studies are evaluated and interpreted, and how the scientific literature is evaluated for causality, including a discussion of the Bradford Hill criteria. Dr. Mezei will also testify regarding the scientific literature with respect to the causes of mesothelioma. Dr. Mezei will also testify regarding his review of the medical records and deposition transcripts in this case and the likelihood of the alleged exposures at issue to have caused or contributed to Plaintiff's illness based on his review of the available literature.

Dr. Mezei's opinions are based upon his education, training, and experience, knowledge and review of the relevant scientific literature, analysis and testing, and review of case-specific materials. He also may be asked to respond to the testimony and documents of certain witnesses

offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

Dr. Mezei has agreed to testify at trial (live or by video) and will be sufficiently familiar with the case to provide meaningful deposition testimony regarding his opinions and their bases. Dr. Mezei's fee for providing testimony and for consulting is \$480 per hour. His curriculum vitae will be provided to any party upon request.

7 Suresh Moolgavkar, M.B.B.S., Ph.D.
Exponent
15375 S. 30th Place, Suite 250
Bellevue, WA 98007

Dr. Moolgavkar has extensive experience in the fields of epidemiology, biostatistics, and quantitative risk assessment. He has been a Full Member of the Fred Hutchinson Cancer Research Center. He continues to be an Affiliate Investigator at the FHCRC, and Professor of Epidemiology and Adjunct Professor of Applied Mathematics at the University of Washington.

Since 2004, he has also been Adjunct Professor of Applied Mathematics. Dr. Moolgavkar has served on the faculties of Johns Hopkins University, Indiana University, the University of Pennsylvania, and the Fox Chase Cancer Center. He has been a visiting scientist at the Radiation Effects Research Foundation in Hiroshima, the International Agency for Research on Cancer in Lyon, and the German Cancer Research in Heidelberg. Dr. Moolgavkar has served on numerous review panels and as a consultant to the National Cancer Institute, Environmental Protection Agency, Health and Welfare, Canada, and The International Agency for Research on Cancer, among others. Dr. Moolgavkar is the author or co-author of approximately 150 papers in the areas of epidemiology, biostatistics, and quantitative risk assessment, and has edited 3 books in these areas. He is an elected member of the American Epidemiological Society and has served as an editor and/or on editorial boards for related publications.

Dr. Moolgavkar may testify regarding the following subjects: the biological process of carcinogenesis and the impact of environmental agents on the process; risk factors for developing cancer, including mesothelioma; what exposures can increase the risk of developing mesothelioma; spontaneous mesothelioma; and that exposure to cosmetic talc does not increase the risk of developing mesothelioma. Dr. Moolgavkar may also testify about the existence of a dose-response relationship between exposure to asbestos and asbestos-related diseases and talc and talc-related diseases. He may testify regarding epidemiological studies related to talc, asbestos, and disease, including but not limited to epidemiological studies analyzing Italian talc miners and millers. He may testify that Plaintiff's alleged exposure to Johnson & Johnson talc products did not increase her risk of developing mesothelioma. Dr. Moolgavkar may further testify about government evaluations of talc and also about evaluations of talc performed by scientific and regulatory bodies.

Dr. Moolgavkar may discuss the science and basic principles of epidemiology, including the differences between case reports and the various types of epidemiological studies, the strengths and weaknesses of analytical and descriptive epidemiological studies, and the interpretation and trustworthiness of epidemiological studies. Dr. Moolgavkar may also testify regarding the state of medical knowledge with respect to the causation of mesothelioma and other types of cancer.

Dr. Moolgavkar may also testify regarding his review of the medical records and deposition transcripts in this case and the likelihood (or lack thereof) of the alleged exposures at issue to have caused or contributed to Plaintiff's illness based on his review of the available literature. He may testify about other exposures of Plaintiff and whether such exposures created

an increased risk of developing mesothelioma. Dr. Moolgavkar may also testify as to the anatomy and associated pathology of organs and their interaction, if any, with asbestos fibers.

The observations and opinions offered by Dr. Moolgavkar are based upon his education, training, and experience, knowledge and review of the relevant scientific and medical literature, and review of case-specific materials. Dr. Moolgavkar may also review and offer comment or criticism in response to the opinions of other witnesses in this case, including in response to any statistical analyses performed by Plaintiff's experts. Dr. Moolgavkar's fee for providing testimony and for consulting is \$825 per hour. His curriculum vitae will be provided to any party upon request.

**8 Herman Gibb, Ph.D., M.P.H.
Gibb Epidemiology Consulting LLC
3033 Wilson Boulevard, Suite 700
Arlington, VA 22201**

Dr. Gibb is President of Gibb Epidemiology Consulting LLC and a Professional Lecturer at the George Washington University School of Public Health and Health Services. He attended the Johns Hopkins University Milken Institute where he received his Ph.D. in Epidemiology in 1989, and the University of Pittsburgh where he received his M.P.H. in Environmental Health in 1974. From January 2004 until April 2014, he was president of Tetra Tech Sciences/Sciences International. Dr. Gibb has more than 30 years of experience in health and environmental sciences and held positions as the Associate Director for Health and Assistant Center Director at the National Center for Environmental Assessment. As the Associate Director for Health, Dr. Gibb was responsible for EPA's Integrated Risk Information System (IRIS), and on-line system of EPA's risk assessments. Dr. Gibb was the Project Officer for EPA's cooperative agreements with the World Health Organization. Dr. Gibb was the recipient of the EPA's Scientific and Technological Achievement Award for his study of lung cancer mortality and clinical irritation

among chromate production workers and the recipient of EPA's Gold Medal for Exceptional Service for his work on the drinking water standard for arsenic. In 2011, Dr. Gibb received the Practitioner of the Year award from the Society for Risk Analysis and in 2019, he received the University of Pittsburgh Public Health Distinguished Alumni Award in recognition of "contributions to environmental and occupational risk assessment." He has been an invited peer reviewer of health risk assessment documents prepared by the U.S. Environmental Protection Agency, the U.S. Food and Drug Administration, the National Institute of Occupational Safety and Health, Health Canada, and the World Health Organization. A copy of Dr. Gibb's *curriculum vitae* is available upon request.

Dr. Gibb may testify that the relevant scientific research has consistently demonstrated that there is no association between cosmetic talc and the development of asbestos related disease, including mesothelioma. These opinions will be based on his experience and review of epidemiologic and other scientific literature, which consists of numerous studies conducted by different authors at various times. He may also testify about the existence of a dose-response relationship between exposure to asbestos and asbestos-related diseases and talc and talc-related diseases. He may testify regarding epidemiological studies related to talc, asbestos, and disease, including but not limited to epidemiological studies analyzing Italian talc miners and millers. He may testify that Plaintiff's alleged exposure to Johnson & Johnson talc products did not increase Plaintiff's risk of developing mesothelioma. Dr. Gibb may further testify about government evaluations of talc and also about evaluations of talc performed by scientific and regulatory bodies. He may opine on the relationship between rates of use of talc and/or asbestos and mesothelioma and may use literature and data, including, but not limited to, government data and

relevant public databases like USGS, NOMS, and SEER to support these opinions. He may also provide statistical data on the background incidence rates of mesothelioma and/or cancer.

Dr. Gibb may further testify about the difference between scientific studies and policy. Dr. Gibb may comment on the risks of disease associated with exposure to asbestos in other occupational or avocational settings. Dr. Gibb may discuss the science and basic principles of epidemiology, including the differences between case reports and the various types of epidemiological studies, the strengths and weaknesses of analytical and descriptive epidemiological studies, and the interpretation of epidemiological studies.

Dr. Gibb may testify that mesothelioma is a rare disease that is associated with certain occupations, including insulators and other heating trades. These occupations have documented associations to significant exposures to commercial amphibole asbestos. He may testify that differences in the potential of asbestos to cause mesothelioma are widely believed to be related to type and fiber dimensions.

Dr. Gibb may opine regarding the causal role of radiation, and/or other risk factors for mesothelioma. Dr. Gibb may also address his own research regarding the link between radiation exposure and mesothelioma, including Gibb J, Fulcher K, Nagarajan S, McCord S, Fallahian NA, Hoffman HJ, Haver C, Tolmachev S. 2013. Analyses of Radiation and Mesothelioma in the US Transuranium and Uranium Registries. *Am J Public Health* 103(4):710-716. He may discuss generally the carcinogenicity of radiation and the occurrence of malignant neoplasms following occupational radiation therapy and occupational radiation exposure. Dr. Gibb may testify regarding Plaintiff's exposures to radiation and any risk attributable thereto.

Dr. Gibb's impressions, opinions, and testimony will be based upon his education, experience, training, knowledge of relevant scientific literature, and his review of case-specific

materials. Dr. Gibb's fee for providing testimony and for consulting is \$525 per hour. Dr. Gibb reserves the right to supplement his disclosure upon receipt of additional information and/or records.

**9 Bryan Bandli, Ph.D.
 RJ Lee Group
 350 Hochberg Road
 Monroeville, PA 15146**

Dr. Bandli is a mineralogist and microscopist with over a decade of practical experience performing microanalytical investigations of a wide variety of materials. He has worked extensively on the characterization of asbestos and mineral fibers using scanning electron microscopy, exploring the application of electron backscatter diffraction (EBSD) techniques to the identification of particulate matter and asbestos. Dr. Bandli received his Ph.D. and M.S. in Geology from the University of Idaho, and his B.S. in Earth Science from North Dakota State University. He currently works as Principal Investigator for RJ Lee Group, Inc., and previously managed an analytical laboratory at the University of Minnesota, Duluth, where he was involved in numerous high-level research projects on a wide range of subjects from biology, ecology, medicine, geology, engineering, and failure analysis. In addition to his laboratory work, he taught courses on microscopy and mineralogy to graduate and undergraduate students and served as a graduate faculty member in the Department of Geological Sciences. Dr. Bandli has produced several peer-reviewed publications and presentations at international conferences.

Dr. Bandli may testify regarding the following subjects: methodologies for testing for the presence of asbestos, as well as for identification, characterization, and quantification of asbestos; the historical development, state of the art and general acceptance of those methods and techniques; the testing of products including Johnson & Johnson talc products for asbestos; his own testing of products and talc samples for asbestos, including his testing of any products or

samples tested by other experts in this case; the testing of talc products for asbestos by AMA Analytical Services, Inc. for the FDA; the FDA's proposed regulation and testing methodology of talc for the presence of asbestos, as well as other governmental and industrial standards; the types, uses and properties of talc and asbestos; studies concerning talc and other related research; the constituents of Johnson & Johnson products; and the misidentification of "asbestos" in talc historically.

Dr. Bandli may also testify about Johnson & Johnson's historical testing protocol and the state-of-the-art methods in material science and testing, as well as product testing that has been performed on Johnson & Johnson talc products to determine whether they were contaminated with asbestos.

Dr. Bandli may also testify regarding geology, including: the geological formation of talc and asbestos, the mineralogical content and geological formation of talc source mines, geologic talc ore testing; the likelihood of contamination during the mining process; geological differences in location for various fiber and mineral types and the significance of such differences; the scientific distinctions between various types of naturally occurring minerals relevant to Plaintiff's alleged exposure, as well as the chemical structure of such fibers; and the mineralogy of specific mineral deposits and the nature of minerals which make up different products, including Johnson & Johnson talc products. He may also testify regarding his colleague Dr. Mathew Sanchez's site visit to the Val Germanasca talc mines and testing of talc from those mines.

Dr. Bandli's opinions are based upon his education, training, and experience, knowledge and review of the relevant scientific literature, analysis and testing conducted by Dr. Bandli and others of talc ore, talc, and/or talc products, and review of case-specific materials. Dr. Bandli

also may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

Dr. Bandli has agreed to testify at trial (live or by video) and will be sufficiently familiar with the case to provide meaningful testimony regarding his opinions and their bases. Dr. Bandli's fee for providing testimony and for consulting is \$450 per hour. His curriculum vitae will be provided to any party upon request.

**10 Matthew Sanchez, Ph.D.
 350 Hochberg Road
 Monroeville, PA 15146**

Dr. Sanchez is a geologist, microscopist and mineralogist who earned his B.S., M.S., and Ph.D. in Geology from the University of Idaho. He currently works as Principal Investigator for RJ Lee Group, Inc., and previously worked as Technical Manager of Technical Consulting Services and of Optical, TEM, and XRD Services for RJ Lee Group, Inc. Dr. Sanchez is a member of the Mineralogical Society of America, Mineralogical Association of Canada, and Geological Society of America. He is the author of over 30 publications and presentations, including on the identification, characterization, and quantification of asbestos. He specializes in the optical characterization of minerals and materials, the determination of asbestos minerals in bulk materials samples, and the characterization of amphibole minerals.

Dr. Sanchez may testify regarding the following subjects: methodologies for testing for the presence of asbestos, as well as for identification, characterization, and quantification of asbestos; the historical development, state of the art and general acceptance of those methods and techniques; the testing of products including Johnson & Johnson talc products for asbestos; his own testing of products and talc samples for asbestos, including his testing of any products or

samples tested by other experts in this case; the testing of talc products for asbestos by AMA Analytical Services, Inc. for the FDA; the FDA's proposed regulation and testing methodology of talc for the presence of asbestos, as well as other governmental and industrial standards; the types, uses and properties of talc and asbestos; studies concerning talc and other related research; the constituents of Johnson & Johnson products; and the misidentification of "asbestos" in talc historically.

Dr. Sanchez may also testify about Johnson & Johnson's historical testing protocol and the state-of-the-art methods in material science and testing, as well as product testing that has been performed on Johnson & Johnson talc products to determine whether they were contaminated with asbestos. He may testify regarding his testing of any products or samples tested by any experts designated by Plaintiff.

Dr. Sanchez may also testify regarding geology, including: the geological formation of talc and asbestos, the mineralogical content and geological formation of talc source mines, geologic talc ore testing; the likelihood of contamination during the mining process; geological differences in location for various fiber and mineral types and the significance of such differences; the scientific distinctions between various types of naturally occurring minerals relevant to Plaintiff's alleged exposure, as well as the chemical structure of such fibers; and the mineralogy of specific mineral deposits and the nature of minerals which make up different products, including Johnson & Johnson talc products. He may also testify regarding his site visit to the Val Germanasca talc mines and testing of talc from those mines.

Dr. Sanchez may also testify regarding identification of asbestos minerals in human tissue and any unique issues presented in analyzing mineral particles in a tissue matrix, rather than in a bulk sample, including the effect of human tissue or chemicals on the mineral stability,

such as the effects on the structural and elemental integrity of the mineral in question. Dr. Sanchez may testify to his review of scanning electron microscopy analyses of minerals in human tissue done by medical pathologists for the Plaintiff and/or Defense and his review and/or independent completion of transmission electron microscopy analyses of minerals in human tissue done by medical pathologists for the Plaintiff and/or Defense.

The observations and opinions offered by Dr. Sanchez are based upon his education, training, and experience, knowledge and review of the relevant scientific literature, analysis and testing conducted by Dr. Sanchez and others of talc ore, talc, and/or talc products, and review of case-specific materials. Dr. Sanchez also may be asked to respond to the testimony and documents of certain witnesses offered at trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

Dr. Sanchez has agreed to testify at trial (live or by video) and will be sufficiently familiar with the case to provide meaningful deposition testimony regarding his opinions and their bases. Dr. Sanchez's fee for providing deposition testimony and for consulting is \$750 per hour. His curriculum vitae will be provided to any party upon request.

**11 Alan M. Segrave, P.G.
 Maxxam Analytics
 3380 Chastain Meadows Parkway, Suite 300
 Kennesaw, GA 30144**

Mr. Segrave is a Registered Professional Geologist who earned his B.S. in Geology from the University of Louisiana at Lafayette. He has been a certified Professional Geologist in the State of Georgia since 1994 and has 30 years of experience in environmental laboratory management and consulting. He currently serves as the Division Manager of Laboratory Services at Maxxam Analytics, a Bureau Veritas Company (BVNA), a worldwide leader in testing, inspection, and certifications since 1828. One of BVNA's eight business lines is commodities,

which involves mineral testing for mining of natural resources, including gold, talc, coal, oil, and gas. At BVNA, Mr. Segrave oversees laboratory protocols and quality assurance programs based on guidelines of the National Voluntary Laboratory Accreditation Program (NVLAP), International Standards Organization (ISO), American Industrial Hygiene Association (AIHA), and American Society for Testing and Minerals (ASTM).

Since 1992, Mr. Segrave has been an active member of the ASTM, and currently serves as the Vice Chairman of D22.07, Sampling and Analytical Committee for Asbestos. Since 2015, Mr. Segrave was appointed to serve as an Expert Panel Member for the U.S. Pharmacopeia where his committee is actively studying testing protocols for the presence of asbestos in pharmaceutical grade talc. Mr. Segrave has published peer-reviewed papers and presented technical papers worldwide on asbestos and nanomaterials topics.

Mr. Segrave is an expert in mineral identification in air, dust, water, and bulk materials, including talc. He specializes in the optical characterization of minerals and materials, the determination of asbestos minerals in bulk materials samples, and the characterization of amphibole minerals. Mr. Segrave may testify regarding the following subjects: methodologies for testing for the presence of asbestos, as well as for identification, characterization, and quantification of asbestos; the historical development, state of the art and general acceptance of those methods and techniques; the testing of products including Johnson & Johnson talc products for asbestos; his own testing of products and talc samples for asbestos, including his testing of any products or samples tested by other experts in this case; the types, uses and properties of talc and asbestos; studies concerning talc and other related research; and the constituents of Johnson & Johnson products. He may testify regarding his testing of any products or samples tested by any experts designated by Plaintiff. He may testify as to the applicability of the OSHA,

Environmental Protection Agency's, FDA, and/or USP and/or other regulatory or industry guidelines as they relate to various types of products or materials.

Mr. Segrave may also testify regarding geology, including: the geological formation of talc and asbestos, the mineralogical content and geological formation of talc source mines, geologic talc ore testing; the likelihood of contamination during the mining process; geological differences in location for various fiber and mineral types and the significance of such differences; the scientific distinctions between various types of naturally occurring minerals relevant to Plaintiff's alleged exposure, as well as the chemical structure of such fibers; and the mineralogy of specific mineral deposits and the nature of minerals which make up different products, including Johnson & Johnson talc products. He may also testify about his actual visits to those talc source mines and/or representative mines.

The observations and opinions offered by Mr. Segrave are based upon his education, training, and experience, knowledge and review of the relevant scientific literature, analysis and testing conducted by Mr. Segrave and others of talc ore, talc, and/or talc products, and review of case-specific materials. Mr. Segrave also may be asked to respond to the testimony and documents of certain witnesses offered at trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

This disclosure is based on the information available to Mr. Segrave at this time. Should additional information become available, he reserves the right to determine the impact, if any, of the new information on his opinions and conclusions, and to revise his opinions and conclusions if necessary. Mr. Segrave has agreed to testify at trial (live or by video) and will be sufficiently familiar with the case to provide meaningful deposition testimony regarding his opinions and

their bases. Mr. Segrave's fee for providing deposition testimony is \$750 per hour and for consulting is \$ 550 per hour. His curriculum vitae will be provided to any party upon request.

**12 Kelly Scribner Tuttle, Ph.D., CIH, DABT
J.S. Held LLC
15601 Dallas Parkway, Suite 1050
Addison, TX 75001**

Dr. Tuttle is a Certified Industrial Hygienist (CIH) and Senior Toxicologist with training and professional experience in the fields of chemical emergency response, human and environmental toxicology, cell biology, systems biology, physiology, cancer research, occupational toxicology, industrial hygiene, exposure, and human health risk assessment. Her primary training and areas of expertise include industrial hygiene, toxicology, exposure assessment, and human health risk assessment. She has been involved in researching, measuring exposure, reconstructing dose, and exposure, and assessing risk to consumers and workers exposed to a variety of compounds including asbestos, benzene, styrene, mercury, chromium, and other VOCs and metals. She also has experience in evaluating occupational hazards to airborne chemicals in the workplace using historical industrial hygiene and exposure simulation data. Additionally, Dr. Tuttle's experience includes investigating exposures and health effects resulting from non-occupational exposure to indoor air pollutants. Dr. Tuttle completed her PhD in Toxicology at Texas A&M University.

Dr. Tuttle may testify regarding the scientific methodology employed by industrial hygienists and toxicologists in connection with the potential hazards associated with talc. She may testify as to the state of the art with respect to the evolution of knowledge in the field of industrial hygiene regarding the identification, evaluation, and control of the hazards of asbestos.

Dr. Tuttle's testimony may be used to establish the nature of Plaintiff's alleged asbestos and/or heavy metal exposure. She may testify on his assessment of causation (or lack thereof)

between exposure to cosmetic talc and various health outcomes, including, without limitation, his assessment informed by the toxicology and epidemiology literature that has evaluated the carcinogenic potential of cosmetic talc. She may also testify about the differences in health implications of asbestiform and non-asbestiform minerals, including cleavage fragments. She may provide testimony regarding occupational and environmental exposure limits for talc and asbestos, including ACGIH threshold limit values (TLVs) and OSHA Permissible Exposure Limits (PELs). She may testify about regulatory and public health agency views regarding the potential risk of disease associated with exposure to talc. Dr. Tuttle may discuss scientific studies relevant to Plaintiff's alleged exposure to cosmetic talc, such as cosmetic talc mining or milling cohorts. She may provide testimony regarding bulk testing of talc from various sources, as well as monitoring and specifications for cosmetic talc.

Dr. Tuttle may provide an estimate of potential cumulative exposure to talcum powder that may have been experienced by Plaintiff and compare that estimate to a "no-observed-adverse-effect-level (NOAEL)" and a "lowest-observed-adverse-effect-level (LOAEL)" for asbestiform tremolite-related neoplasms or malignancies or to cumulative lifetime exposures to ambient asbestos. She may also testify about airborne asbestos or talc concentrations related to bystander and secondary take-home exposure and the minimal risk associated with such exposure. She may discuss ambient air concentrations of asbestos and the sources of exposure in ambient air, and opine that these exposures, if any, are not harmful or hazardous.

Dr. Tuttle's opinions are based upon her education, training, and experience, knowledge and review of the relevant scientific literature, analysis and testing, and review of case-specific materials. Dr. Tuttle also may be asked to respond to the testimony and documents of certain

witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

Dr. Tuttle has agreed to testify at trial (live or by video) and will be sufficiently familiar with the case to provide meaningful testimony regarding her opinions and their bases. Dr. Tuttle's fee for providing testimony and for consulting is \$375 per hour. Her curriculum vitae will be provided to any party upon request.

**12 Paul Nony, Ph.D., CIH, CSP
CTEH, LLC
5120 Northshore Drive
North Little Rock, AR 72118**

Dr. Nony is a Senior Toxicologist and Certified Industrial Hygienist (CIH) with over twenty years of training and professional experience in the fields of chemical emergency response, human and environmental toxicology and risk assessment, cancer research, occupational toxicology, industrial hygiene, human health exposure and risk assessment. He has been involved in researching, measuring exposure, reconstructing dose, and exposure, and assessing risk to consumers and workers exposed to a variety of compounds including asbestos, benzene, styrene vinyl chloride, and other volatile organic chemicals and metals. He also has experience in evaluating occupational hazards to airborne chemicals in the workplace using historical industrial hygiene and exposure simulation data. Additionally, Dr. Nony's experience includes investigating exposures and health effects resulting from non-occupational exposure to indoor air pollutants. Dr. Nony received his PhD in Interdisciplinary Toxicology from the University of Arkansas for Medical Sciences and spent two years in a postdoctoral fellowship at the National Institute of Environmental Health Sciences.

Dr. Nony may testify regarding the scientific methodology employed by toxicologists and industrial hygienists in connection with the potential hazards associated with talc. He may

testify as to the state of the art with respect to the evolution of knowledge in the fields of toxicology and industrial hygiene regarding the identification, evaluation, and control of the hazards of asbestos.

Dr. Nony's testimony may be used to establish the nature of Plaintiff's alleged asbestos and/or heavy metal exposure. He may testify on his assessment of causation (or lack thereof) between exposure to cosmetic talc and various health outcomes, including, without limitation, his assessment informed by the toxicology and epidemiology literature that has evaluated the carcinogenic potential of cosmetic talc. He may also testify about the differences in health implications of asbestiform and non-asbestiform minerals, including cleavage fragments. He may provide testimony regarding occupational and environmental exposure limits for talc and asbestos, including ACGIH threshold limit values (TLVs) and OSHA Permissible Exposure Limits (PELs). He may testify about regulatory and public health agency views regarding the potential risk of disease associated with exposure to talc. Dr. Nony may discuss scientific studies relevant to Plaintiff's alleged exposure to cosmetic talc, such as animal studies and cosmetic talc mining or milling cohorts. He may provide testimony regarding bulk testing of talc from various sources, as well as monitoring and specifications for cosmetic talc.

Dr. Nony may provide an estimate of potential cumulative exposure to talcum powder that may have been experienced by Plaintiff and compare that estimate to cumulative lifetime exposures to ambient asbestos. He may also testify about airborne asbestos or talc concentrations related to bystander and secondary take-home exposure and the minimal risk associated with such exposure. He may discuss ambient air concentrations of asbestos and the sources of exposure in ambient air, and opine that these exposures, if any, are not harmful or hazardous.

Dr. Nony's opinions are based upon his education, training, and experience, knowledge and review of the relevant scientific literature, analysis and testing, and review of case-specific materials. Dr. Nony also may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

Dr. Nony has agreed to testify at trial (live or by video) and will be sufficiently familiar with the case to provide meaningful testimony regarding his opinions and their bases. Dr. Nony's fee for providing testimony and for consulting is \$525 per hour. His curriculum vitae will be provided to any party upon request.

**13 Brian P. Daly, C.I.H., PE
Hygiene Technologies International, Inc.
3625 Del Amo Boulevard, Suite 180
Torrance, CA, 90503-1643**

Mr. Daly is a certified industrial hygienist and professional engineer with almost 40 years of professional experience in human health risk assessment. His primary education, training, and areas of expertise include industrial hygiene, exposure assessment, human health risk assessment and the design of engineering, administrative, and personal protective controls that reduce the potential for exposures and the associated health risks. He has been involved in researching, measuring exposure, developing exposure and dose reconstruction models, and assessing risk to consumers, the general population, and workers that are exposed to a variety of chemicals including asbestos, beryllium and other metals, benzene and other volatile organic compounds, diacetyl and phthalates, acids and caustics, and particulates that are known to cause pneumoconiosis and/or allergy responses. He also has experience in evaluating occupational hazards associated with airborne or surface-borne chemicals in the workplace using historical industrial hygiene and exposure simulation data—often used to establish cumulative dose data to

evaluate risk of disease. Mr. Daly's experience also includes investigating exposures and health effects resulting from non-occupational exposures to indoor air pollutants, such as carbon monoxide, hydrocarbon vapor, mold spores and other potential allergens, and asbestos fibers and other respirable particulate. Mr. Daly obtained a Master of Science degree in the field of environmental and occupational health after he completed his undergraduate work in the same discipline.

Mr. Daly may testify regarding the scientific methodology employed by industrial hygienists in connection with the potential hazards associated with talc. He may testify as to the state of the art with respect to the evolution of knowledge in the field of industrial hygiene regarding the anticipation, identification, evaluation, and control of the hazards of asbestos.

Mr. Daly's testimony may be used to establish the nature of Plaintiff's alleged asbestos and/or other chemical exposure. He may testify on his assessment of causation (or lack thereof) between exposure to cosmetic talc and various health outcomes, including, without limitation, his assessment informed by the toxicology, epidemiology, medical, and industrial hygiene literature that has evaluated the carcinogenic potential of cosmetic talc. He may also testify about the differences in health implications of asbestiform and non-asbestiform minerals, the latter of which includes cleavage fragments and other non-fibrous particles. He may provide testimony regarding occupational and environmental exposure limits for talc and asbestos, including ACGIH threshold limit values and the OSHA permissible exposure limits. He may testify about regulatory and public health agency views regarding the potential risk of disease associated with exposure to talc. Mr. Daly may discuss scientific studies relevant to Plaintiff's alleged exposure to cosmetic talc, such as cosmetic talc mining or milling cohorts and/or other occupational cohorts involved in the industrial use or the handling of varying grades of talc. He

may provide testimony regarding bulk testing of talc from various sources, as well as exposure monitoring and bulk sampling and analytical technique specifications for cosmetic talc.

Mr. Daly may provide an estimate of the theoretical worst-case cumulative dose to talcum powder or to an alleged contaminant that may have been claimed to have been in that talcum powder to which the Plaintiff claims exposure, and he may then compare that estimate to a “no observable adverse effect level” for chrysotile and/or asbestiform tremolite-related neoplasms or malignancies or to cumulative lifetime exposures to ambient fibrous serpentine and amphiboles. He may also testify about airborne asbestos or talc concentrations related to bystander and secondary take-home (or para-occupational) exposures and/or typical indoor environmental exposures and the risk associated with such exposures. He may discuss the typical urban, suburban, and rural outdoor ambient air exposures to asbestos—along with the sources of such environmental asbestos exposures—and opine that those exposures are not known to lead to a measurable increased risk of asbestos-related disease in humans.

Mr. Daly’s opinions are based upon his education, training, and experience, knowledge and review of the relevant scientific literature, historic sampling and analytical testing results, and his review of case-specific materials. Mr. Daly also may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff or experts that offer testimony in support of the Plaintiff.

Mr. Daly has agreed to testify at trial (live or by video) and will be sufficiently familiar with the case to provide meaningful testimony regarding her opinions and their bases. Mr. Daly’s fee for providing testimony is \$650 per hour and for consulting is \$575.00 per hour. His curriculum vitae will be provided to any party upon request.

**14 Tony Watson, MSPH, CIH, CSP
Workplace Hygiene, Inc.
420-B Gallimore Dairy Road
Greensboro, NC 27409**

Mr. Watson is a certified industrial hygienist. He received his B.S. in Environmental Health with a Concentration in Industrial Hygiene from East Carolina University and his Master of Science in Public Health in Industrial Hygiene from Tulane University School of Public Health and Tropical Medicine. He is a member of the Academy of Industrial Hygiene, American Industrial Hygiene Association, American Conference of Governmental Industrial Hygienists, American Society of Safety Professionals, Past President of the Carolinas Section of the American Industrial Hygiene Association, and a diplomat to the American Board of Industrial Hygiene. Mr. Watson is currently the President of Workplace Hygiene, Inc.

Mr. Watson may testify regarding the scientific methodology employed by industrial hygienists in connection with the potential hazards associated with cosmetic talc. Mr. Watson may discuss general industrial hygiene principles and the role of the industrial hygienist in proper occupational airborne sampling. He is expected to testify as to the way experts can use industrial hygiene data and how the data should be interpreted in specific cases.

Mr. Watson may provide testimony regarding occupational and environmental exposure limits for talc and asbestos, including ACGIH threshold limit values (TLVs) and OSHA Permissible Exposure Limits (PELs). He may testify about regulatory and public health agency views regarding the potential risk of disease associated with exposure to talc. Mr. Watson may discuss scientific studies relevant to Plaintiff's alleged exposure to cosmetic talc, such as cosmetic talc mining or milling cohorts. He may provide testimony regarding bulk testing of talc from various sources, as well as monitoring and specifications for cosmetic talc. He may testify, based on the circumstances of a plaintiff's exposure, as to that plaintiff's cumulative asbestos

exposure and how that exposure compares to historic and current permissible exposure limits and to various threshold limit values as well as to ambient exposures.

Mr. Watson may assess the risk of asbestos-related disease from an industrial hygiene perspective, including testing regarding fiber type, exposure dose, fiber dimensions and latency. He may testify on his assessment of the risk factors associated with exposure to cosmetic talc and various health outcomes, including, without limitation, his assessment informed by the toxicology and epidemiology literature that has evaluated the carcinogenic potential of cosmetic talc. Mr. Watson may also testify about the differences in health implications of asbestiform and non-asbestiform minerals, including cleavage fragments.

Mr. Watson may perform a retrospective exposure assessment, analyze plaintiff's alleged asbestos and/or talcum powder exposure history, and calculate a range of plaintiff's alleged cumulative dose of asbestos as a result of the use of cosmetic talcum powder and other exposures. Mr. Watson may provide compare that assessment to a "no-observed-adverse-effect-level (NOAEL)" and a "lowest-observed-adverse-effect-level (LOAEL)" for asbestos-related neoplasms or malignancies or to cumulative lifetime exposures to ambient asbestos. He may offer opinions based on his review of the relevant published literature concerning the range of likely background dose of asbestos for an individual and offer opinions about plaintiff's exposure in comparison. He may also testify about airborne asbestos or talc concentrations related to bystander and secondary take-home exposure and the minimal risk associated with such exposure. He may discuss ambient air concentrations of asbestos and the sources of exposure in ambient air, and opine that these exposures, if any, are not harmful or hazardous.

Mr. Watson may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of

witnesses offered by the plaintiffs. His testimony will be based on his education, training, professional experience, review of the relevant medical and scientific literature, as well as his review, to the extent available, of plaintiff's work history, employment records, relevant worksite materials and other pertinent discovery documents. Mr. Watson's fee for providing testimony and for consulting is \$400 per hour. His curriculum vitae will be provided to any party upon request.

**15 Clancy B. Cornwall
 McCaffery & Associates, Inc.
 107 South West Street, #709
 Alexandria, Virginia 22314**

Clancy B. Cornwall is Chief Operations Officer and Senior Researcher for McCaffery & Associates, Inc., which engages in the analysis of U.S. Navy ship design, development, construction, and maintenance. He is an expert in the identification and analysis of U.S. Navy and merchant ship design, development, construction, maintenance and repair records, plans, and photographs. In addition to this primary research, he also researches U.S. Navy personnel records and Navy/military specifications, qualified product lists and related records. This extensive research expertise, combined with 15 years of related experience, training and education, has provided him with a unique grasp of the naval and maritime practices and policies from the 1940s through the 1970s.

Mr. Cornwall received his B.S. from the U.S. Merchant Marine Academy and MBA from Loyola University Maryland. He earned a U.S. Coast Guard license as Second Assistant Engineer-Motor, Unlimited Horsepower and Third Assistant Engineer-Steam, Unlimited Horsepower, and served as a licensed officer aboard ship in the U.S. Merchant Marine. He served aboard a liquid products carrier and a vehicle cargo ship operated by the Maritime

Administration for the Military Sealift Command's Ready Reserve Force as well as aboard various towing vessels. He is a former U.S. Naval Reserve lieutenant.

Mr. Cornwall is expected to offer testimony regarding U.S. Navy and merchant ship designs, development, construction, maintenance, repair records, plans, and photographs. Mr. Cornwall is also expected to offer testimony regarding U.S. Navy and military specifications for the use of asbestos containing products aboard ship in a variety of applications in marine engineering, including, without limitation, boilers, steam lines, insulation, main propulsion, and auxiliary systems. He is further expected to testify regarding research, development, design, engineering, and procurement practices of the U.S. Navy regarding asbestos containing materials, including, without limitation, amosite asbestos on specific U.S. Navy and merchant ships.

Mr. Cornwall may further testify regarding how these documents are created, maintained, and archived, as well as their significance. He may also testify for the purpose of authenticating documents relevant to the issues in this lawsuit. Mr. Cornwall may also testify about Plaintiff's opportunities for exposure to asbestos containing material from military and merchant vessels, including but not limited to materials used and the vessels themselves, as well as shipyards generally. Mr. Cornwall may provide testimony on his research of qualified product lists with respect to the products used aboard various ships, as well as his research regarding documents relating to Navy, Coast Guard and/or U.S. merchant ships.

Mr. Cornwall may also offer testimony regarding the job duties, responsibilities, and skill sets of many marine and naval occupations including those of shipyard craft and trade workers, enlisted U.S. Navy Sailors, and commissioned officers, and both licensed and unlicensed merchant mariners.

Mr. Cornwall's opinions are based upon, among other things, his education, training, and experience, knowledge, review of Navy records and review of case-specific materials. He also may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

Mr. Cornwall has agreed to testify at trial (live or by video) and will be sufficiently familiar with the case to provide meaningful testimony regarding his opinions and their bases. Mr. Cornwall's fee for providing testimony is \$450 per hour and for all other work is \$245 per hour. His curriculum vitae will be provided to any party upon request.

**16 Christopher P. Herfel
McCaffery & Associates, Inc.
107 South West Street, #709
Alexandria, Virginia 22314**

Christopher P. Herfel is CEO and Senior Researcher for McCaffery & Associates, Inc., which engages in the analysis of U.S. Navy ship design, development, construction, and maintenance. He is an expert in the identification and analysis of U.S. Navy and merchant ship design, development, construction, maintenance and repair records, plans, and photographs. In addition to this primary research, he also researches U.S. Navy personnel records and Navy/military specifications, qualified product lists and related records. This extensive research expertise, combined with 15 years of related experience, training and education, has provided him with a unique grasp of the naval and maritime practices and policies from the 1940s through the 1970s.

Mr. Herfel received his B.S. from the U.S. Merchant Marine Academy and MBA from Loyola University Maryland. He earned a U.S. Coast Guard license as Third Assistant Engineer- Steam & Diesel Propulsion, Unlimited Horsepower, and served as a licensed officer aboard ship

in the U.S. Merchant Marine. Mr. Herfel has participated in the new construction of oil barges and the overhaul of more than a hundred merchant and naval vessels.

Mr. Herfel also participated in the prototype Joint Modular Lighterage System (JMLS) design and construction program where he worked directly with the Department of Defense on a multi-million-dollar government contract. From 1999 to 2003, Mr. Herfel was involved in the early stages of the Naval Shipbreaking Program and has overseen the successful scrapping of nine former U.S. Navy vessels built during the 1950s and 1960s which required the identification and abatement of friable and non-friable asbestos-containing materials throughout each ship. Mr. Herfel has also personally worked with U.S. Navy Supervisor of Shipbuilding and Construction (SupShip) representatives involved with overseeing the repair of U.S. Navy ships. He is a former U.S. Naval Reserve lieutenant.

Mr. Herfel is expected to offer testimony regarding U.S. Navy and merchant ship designs, development, construction, maintenance, repair records, plans, and photographs. Mr. Herfel is also expected to offer testimony regarding U.S. Navy and military specifications for the use of asbestos containing products aboard ship in a variety of applications in marine engineering including, without limitation, boilers, steam lines, insulation, main propulsion, and auxiliary systems. He is further expected to testify regarding research, development, design, engineering, and procurement practices of the U.S. Navy regarding asbestos containing materials including, without limitation, amosite asbestos on specific U.S. merchant and Navy ships.

He may further testify regarding how these documents are created, maintained, and archived, as well as their significance. Mr. Herfel may also testify about Plaintiff's opportunities for exposure to asbestos containing material from military and merchant vessels, including but not limited to materials used and the vessels themselves, as well as shipyards generally. Mr.

Herfel may provide testimony on his research of qualified product lists with respect to the products used aboard various ships, as well as his research regarding documents relating to Navy, Coast Guard and/or U.S. merchant ships.

Mr. Herfel may also offer testimony regarding the job duties, responsibilities and skill sets for many maritime and naval occupations including those of shipyard craft and trade workers, enlisted U.S. Navy Sailors, and commissioned officers, and both licensed and unlicensed merchant mariners.

Mr. Herfel's opinions are based upon, among other things, his education, training, and experience, knowledge, review of Navy records and review of case-specific materials. He also may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

Mr. Herfel has agreed to testify at trial (live or by video) and will be sufficiently familiar with the case to provide meaningful testimony regarding his opinions and their bases. Mr. Herfel's fee for providing testimony is \$450 per hour and for all other work is \$245 per hour. His curriculum vitae will be provided to any party upon request.

**17 Richard Luther Attanoos, B.Sc., MB BS, F.R.C.Path.
Consultant Histopathologist at Cardiff and Vale University Health Board
University Hospital of Wales
Heath Park, Cardiff, United Kingdom**

Professor Attanoos is a medical doctor specializing in pathology, with an interest in thoracic pathology, occupational lung disease, mesothelioma, and mineral fibers. He is a Consultant Pathologist employed by the British Government Department of Health at Cardiff & Vale University Health Board at the University of Wales in Cardiff. He is also Professor at Cardiff University, School of Medicine. In 1984, he received his Biochemistry and Immunology degree and in 1987, he received his MB BS (physician's degree) from Charing Cross and

Westminster Medical School/Imperial Medical School at London University. In Postgraduate Pathology, Professor Attanoos was awarded Membership of the Royal College of Pathologists in Histopathology in 1994 and by invitation promoted to Fellow of the College in 2002. Professor Attanoos is an invited member of the International Mesothelioma Panel, U.S.-Canadian Mesothelioma Panel, and the Asbestosis Committee of the College of American Pathologists/Pulmonary Pathology Society and an Elected International Fellow of the College of American Pathologists. In 2008, Professor Attanoos was enlisted as a medical advisor to the All-Party Parliamentary Committee of the British government on the Health Effects of Asbestos and since 2013, he has served as medical advisor to the Cross-Party Parliamentary Group on Asbestos, Welsh Assembly Government. He is also an invited member of the All Wales Thoracic Genomics Committee, which oversees the implementation of medical genetics into thoracic cancers across Wales. He is the past chair of the European Society of Pathology-Pulmonary Working group and has also served as chair of the Pulmonary Pathology Society Research Award Committee. Professor Attanoos has been invited by the W.H.O. to serve as Task force member on the Health Effects of Bentonite and Clay Minerals. Professor Attanoos has been actively involved in the research of malignant mesothelioma and mineral particles since 1991. He has published approximately 180 papers in the peer-reviewed medical and scientific literature, many of which are in the fields of occupational lung disease, asbestos, and mesothelioma. In 2015, he was a contributing author to Chapter 2 of the Fourth Edition of the World Health Organization Classification of Tumours of the Lung, Pleura, Mediastinum and Heart.

Professor Attanoos may testify as to the role and the function of a pathologist in medicine, in cancer and in the diagnosis and causation of disease, including mesothelioma. He

may testify about the various techniques utilized by pathologist, including light and electron microscopy, histochemistry, immunohistochemistry, and molecular biology/genetics. He may testify as to the general medical aspects of the diagnosis and treatment of mesothelioma and the pathological effects of asbestos and talc on the body, including the lung. Professor Attanoos may also testify about pathological biomarkers of asbestos and talc exposure. He may testify as to the relationship of asbestos and talc exposure and the incidence of the conditions alleged by Plaintiff, including mesothelioma. Professor Attanoos may also testify regarding the relationship of asbestos fiber type and dose with mesothelioma arising at different anatomic locations, including the pleura, peritoneum, pericardium, and gonadal sites. Professor Attanoos may testify generally regarding the role that the size, structure, and chemical composition of different types of asbestos fibers plays in their ability, or lack thereof, to cause conditions alleged by Plaintiff. He may testify regarding the differing potential of various forms of asbestos to cause conditions alleged by Plaintiff, including pleural plaques and mesothelioma. Professor Attanoos may testify generally regarding the role of dose in determining whether certain types of asbestos fibers can cause or contribute to conditions alleged by Plaintiff. Professor Attanoos may testify generally regarding the latency periods associated with asbestos-related conditions alleged by the Plaintiff.

Professor Attanoos may also testify regarding the diagnosis of any purportedly asbestos-related disease or condition alleged by Plaintiff and may respond to testimony by any of Plaintiff's experts regarding the same. Professor Attanoos may also testify regarding other probable or possible causes of any disease or condition alleged by Plaintiff, including but not limited to smoking where relevant. Professor Attanoos may discuss generally accepted and reliable methodologies for causal attribution and may address the notion that every exposure to

an asbestos-containing product above ambient levels was a contributing cause of Plaintiff's disease.

Professor Attanoos may testify that a significant portion of mesotheliomas are naturally occurring or spontaneous and have no association with asbestos exposure. He may also testify about other potential causes of mesothelioma, including non-asbestos minerals (such as erionite, Libby 'amphibole,' fluoro-edenite and balangeroite), prior radiation, chronic inflammation, and specific genetic changes. He may testify that there is evidence of a number of pathogenic constitutional/germline mutations (including, but not limited to, BAP-1) which can induce cancers (in conjunction with intrinsic naturally occurring age-related acquired mutations), including mesothelioma not related to asbestos. Professor Attanoos may testify regarding the role of aging and somatic and/or germline mutations in the development of cancer, including mesothelioma. He may testify in relation to the role of genetics in mesothelioma and cancer, including the science of genetic cancer predisposition syndrome.

Professor Attanoos may also testify that cosmetic talc does not increase the risk of developing mesothelioma based on the epidemiology, mineralogical evidence, clinical studies, and animal toxicological studies. He may testify about the biological significance of mineral habit and asbestiform versus non-asbestiform cleavage fragments.

Professor Attanoos may testify about the different methods of fiber burden analyses used in biological samples and their reliability in determining the type(s) of fibers to which a person was exposed in the past and which of those fibers can be implicated as the cause of disease. Where applicable, Professor Attanoos will testify concerning the results of any available fiber burden analysis done on Plaintiff specifically, and what those results show about the cause(s) of Plaintiff's disease or condition.

Professor Attanoos' testimony will be based on his training, experience, education, and publications and his review of available bankruptcy trust documents; the medical, governmental, and scientific literature; various air sampling studies, work facility inspections and documents; industrial hygiene reports and exposure reconstructions; and medical records, including without limitation reports of fiber burden studies, and all available pathology materials. Professor Attanoos may review Plaintiff's deposition testimony and any testimony given by other exposure witnesses and rely upon that testimony as a basis for his opinions. He may review other claim related documents submitted by Plaintiff in relationship to his/her alleged asbestos-related diagnosis as a basis for his opinions. He also may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

Professor Attanoos has agreed to testify at trial (live or by video) and will be sufficiently familiar with the case to provide meaningful testimony regarding his opinions and their bases. His curriculum vitae will be provided to any party upon request. Dr. Attanoos' fee for providing testimony and for consulting is \$750 per hour. His curriculum vitae will be provided to any party upon request.

18 Lucian Radu Chirieac, M.D.
Department of Pathology
Brigham and Women's Hospital
75 Francis Street
Boston, MA 02115

Dr. Chirieac received his medical degree from the Carol Davila University of Medicine and Pharmacy in 1991. He was a Postdoctoral Fellow and Resident in pathology at Strong Memorial Hospital at the University of Rochester and a Fellow and Postdoctoral Fellow of pathology at the University of Texas M.D. Anderson Cancer Center. He is Professor of

Pathology at Harvard Medical School and since 2004 has served as a Pathologist at Brigham and Women's Hospital and a Consultant Pathologist at Dana-Farber/Harvard Cancer Center in the Lung Cancer Program. He has been involved in the training and supervision of many medical students and physicians, particularly in the specialty of pulmonary oncologic pathology. Dr. Chirieac has received numerous extramural research grants, from multiple governmental agencies including Department of Defense, National Institute of Health, and National Cancer Institute. His ongoing research includes providing diagnostic expertise in pulmonary pathology, assessment of mesothelial tumors, and correlative analyses in cancer patients with the goal to uncover novel molecular pathways and potential therapeutic targets in patients with thoracic malignancies, including pleural and peritoneal mesothelioma. His research has led to clinical innovations, including the identification of clinical, genetic, and pathological characteristics of categories of unique etiologies or unique subtypes of mesothelioma. (See, e.g., Wolf AS...Chirieac LR, et al. Characteristics of malignant pleural mesothelioma in women. *Ann Thorac Surg.* 2010 Sep;90: 949-956; Chirieac LR, et al., The immunohistochemical characterization of sarcomatoid malignant mesothelioma of the pleura. *Am J Cancer Res.* 2011;1(1):14-24; Chirieac LR, et al. Clinicopathologic Characteristics of Malignant Mesotheliomas Arising in Patients with a History of Radiation for Hodgkin and Non-Hodgkin Lymphoma. *J Clin Oncol.* 2013 Dec 20;31: 4544-4549; Vivero M...Chirieac LR, et al. Clinicopathologic and genetic characteristics of young patients with pleural diffuse malignant mesothelioma. *Mod Pathol.* 2018 Jan;31: 122-131; Hung YP, Chirieac LR, et al. Identification of ALK rearrangements in malignant peritoneal mesothelioma. *JAMA Oncology.* 2018 Feb;4: 235-238; Hung YP...Chirieac LR, et al. Molecular characterization of localized pleural mesothelioma. *Mod Pathol.* 2020 Feb;33: 271-280; Hung YP...Chirieac LR, et al. Molecular

characterization of diffuse malignant peritoneal mesothelioma. *Mod Pathol.* 2020 Nov;33(11):2269-2279; De Rienzo A, Chirieac LR, et al. Large-scale analysis of BAP1 expression reveals novel associations with clinical and molecular features of malignant pleural mesothelioma. *J Pathol.* 2021 Jan; 253(1):68-79).

Dr. Chirieac is an invited member to the International Mesothelioma Panel and the U.S.-Canadian Mesothelioma Reference Panel. He is on the Pathology Committee for the Alliance for Clinical Trials in Oncology, which is supported by the National Cancer Institute, is a permanent member on the Non-Small Cell Lung Cancer Panel of the National Comprehensive Cancer Network and is a committee expert on the International Committee on Cancer Reporting. He is a member of multiple professional societies including, the United States and Canadian Academy of Pathology, Pulmonary Pathology Society, American Association for Cancer Research, International Association for the Study of Lung Cancer, and American Society of Clinical Oncology. He is a fellow of the American Society of Clinical Pathologists and the College of American Pathologists. Dr. Chirieac has received many honors and awards and participates in high-profile national and international scientific meetings. Dr. Chirieac was invited to moderate, chair, and present at highly reputable meetings like the United States and Canadian Academy of Pathology (USCAP), International Association for the Study of Lung Cancer (IASLC), Pulmonary Pathology Society (PPS), World Conference on Lung Cancer, Romanian Academy of Sciences, and International Academy of Pathology (IAP). He routinely lectures on aspects of malignant mesothelioma and lung cancer at conferences, seminars and meetings throughout United States, Europe, Australia, Asia, and Middle East.

Dr. Chirieac is on the Editorial Board for the *Journal of Thoracic Disease*, currently serves as Assistant Editor to multiple journals, including the *Journal of Clinical and Molecular*

Medicine, Archives of Pathology and Laboratory Medicine, American Journal of Translational Research, American Journal of Cancer Research, and International Journal of Clinical and Experimental Pathology, and as Ad Hoc Reviewer to multiple journals, including Cancer, Cancer Epidemiology, Biomarkers & Prevention, Chest, Journal of Pathology, Nature Cancer, and Nature Medicine. He has reviewed important articles for the most prestigious peer-reviewed journals, and he has editorial responsibilities at pathology journals. Dr. Chirieac has more than 263 publications in the peer-reviewed literature, many relating to mesothelioma. Dr. Chirieac contributed to Chapter 2 in the 2015 World Health Organization Classification of Tumors and 16 book chapters in prestigious textbooks related to thoracic pathology and cancer. In 2018 and 2019 Dr. Chirieac was recognized for two consecutive years as one of the most influential researchers in science. He received the Highly Cited Researcher Award by Web of Science Group for "exceptional influence and research performance demonstrated by production of multiple highly cited papers that rank in the top 1% by citations for field and year in Web of Science". His qualifications are set out in greater detail in his curriculum vitae, which is available upon request.

Dr. Chirieac may testify as to the general medical aspects of the diagnosis of asbestos-related disease and the pathological effects of asbestos and talc on the body, including the lungs. Dr. Chirieac may testify as to the role and the function of a pathologist in medicine, in cancer, and in the diagnosis and causation of disease, including mesothelioma. He may testify about the various techniques utilized by pathologist, including light and electron microscopy, histochemistry, immunohistochemistry, and molecular biology/genetics. He may also testify about pathological biomarkers of asbestos and talc exposure. Dr. Chirieac may also testify regarding the diagnosis of any purportedly asbestos-related disease or condition alleged by

plaintiff and may respond to testimony by any of plaintiff's experts regarding the same. He may testify as to the relationship of asbestos and talc exposure and the incidence of the conditions alleged by Plaintiff, including pleural plaques, lung cancer, asbestosis, and mesothelioma. Dr. Chirieac may testify that plaintiff's exposure to talc, if any, did not cause the conditions alleged by the plaintiff.

Dr. Chirieac may testify regarding the differing potential of various forms of asbestos to cause conditions alleged by Plaintiff, including but not limited to pleural plaques and mesothelioma. He may testify generally regarding the role that the size, structure, and chemical composition of different types of asbestos fibers plays in their ability, or lack thereof, to cause conditions alleged by Plaintiff. Dr. Chirieac may testify generally regarding the role of dose in determining whether certain types of asbestos fibers can cause or contribute to conditions alleged by the plaintiff. He may testify generally regarding the latency periods associated with asbestos-related conditions alleged by the plaintiff. Dr. Chirieac may discuss generally accepted and reliable methodologies for causal attribution and may address the notion that every exposure to asbestos above ambient levels was a contributing cause of plaintiff's disease. Dr. Chirieac may also testify that cosmetic talc does not increase the risk of developing mesothelioma based on the epidemiology, mineralogical evidence, clinical studies, and animal toxicological studies.

Dr. Chirieac may also testify regarding other probable or possible causes of any disease or condition alleged by plaintiff, including but not limited to smoking where relevant. He may also testify about other potential causes of mesothelioma, including non-asbestos minerals (such as erionite, Libby 'amphibole,' fluoro-edenite and balangeroite), prior radiation, chronic inflammation, and specific genetic changes. He may testify in relation to the role of genetics in mesothelioma and cancer, including the science of genetic cancer predisposition syndrome. Dr.

Chirieac may testify regarding the role of aging and somatic and/or germline mutations in the development of cancer, including mesothelioma. Dr. Chirieac may testify that a significant percentage of mesotheliomas are idiopathic, or spontaneous, and have no association with asbestos exposure.

Dr. Chirieac may further testify about fiber burden analysis and its reliability in determining the type(s) of fibers to which a person was exposed in the past and which of those fibers can be implicated as the cause of disease. Where applicable, Dr. Chirieac will testify concerning the results of any available fiber burden analysis done on plaintiff specifically, and what those results show about the cause(s) of plaintiff's disease or condition.

Dr. Chirieac's testimony will be based on his training, experience, education, and publications and his review of available bankruptcy trust documents; the medical, governmental, and scientific literature; industrial hygiene reports; and medical records, including without limitation chest films, reports of fiber burden studies, and all pathology materials. Dr. Chirieac may review plaintiff's deposition testimony and any testimony given by other exposure witnesses and rely upon that testimony as a basis for his opinions. He may also be asked to respond to evidence presented by any witness on behalf of plaintiff, including experts. Dr. Chirieac's fee for providing testimony and for consulting is \$750 per hour. His curriculum vitae will be provided to any party upon request.

19 Sanja Dacic, M.D., Mc.S., Ph.D.
Department of Pathology
University of Pittsburgh School of Medicine
200 Lothrop Street, PUH C608
Pittsburgh, PA 15213

Dr. Dacic is a thoracic surgical pathologist, with diagnostic expertise in neoplastic and non-neoplastic diseases of the lung and mediastinum and lung transplantation. Dr. Dacic

received her Medical Degree and Post Doctorate Degree from the University of Zagreb School of Medicine in Zagreb, Croatia. Currently she is a Professor of Pathology and the Director of the FISH and Developmental laboratory at the University of Pittsburgh Medical Center. Her qualifications are set forth in greater detail in her curriculum vitae, which will be furnished upon request.

Dr. Dacic is a member of the pathology committee for the International Association for Study of Lung Cancer and a member of International Mesothelioma Panel. She serves as a Deputy Chief Editor of the Archives of Pathology and Laboratory Medicine and is a recipient of Arthur Purdy Stout Prize in 2011 for her research contributions related to diagnostic pathology. Dr. Dacic has published numerous articles in the peer-reviewed literature, including articles related to molecular profiling of lung carcinoma and mesotheliomas and detection of biomarkers that have potential to be used clinically for diagnosis, prognostication and treatment of lung carcinoma and mesotheliomas.

Dr. Dacic is expected to testify generally regarding the scientific and medical methods and criteria for evaluating pathology and making a pathological diagnosis of mesothelioma, as well as the strengths and limitations of such scientific and medical methods. She also may testify regarding the histological diagnosis of any purported asbestos-related disease or condition alleged by Plaintiff and is expected to respond to testimony by any of Plaintiff's experts on that topic. Dr. Dacic's opinions are based on her training, experience, education, and research publications, as well as her review of Plaintiff's pathological materials and medical records.

**20 Stanley Geyer M.D.
Geyer Pathology Services LLC
3 Willow Farms Lane
Pittsburgh, PA 15238**

Dr. Geyer is a specialist in pathology and earned his Medical Degree from Jefferson Medical College, in Philadelphia, Pennsylvania. He is expected to testify about the pathology of asbestos in general and with particular reference to the Plaintiff to include any or all of the following areas: the history of the evolution of knowledge of asbestos-related diseases; the development of medical and scientific community knowledge of asbestos; the anatomy and physiology of the respiratory system; occupational and non-occupational/environmental exposure to asbestos; lung cancer to include clinical presentation, epidemiology, incidence, dose response, the relationship to cigarette smoking, the synergistic effect between cigarette smoking and asbestos exposure, asbestos fiber type, asbestos fiber size, relationship between asbestosis and lung cancer risk, types of lung cancer, clinical, and pathologic features and prognosis and other malignancies allegedly related to asbestos exposure to include epidemiology, clinical and pathologic features and whether asbestos exposure is causative; the nature and extent of medical and scientific knowledge regarding whether there is an association of obstructive pulmonary disease with asbestos fiber exposure; the effect of exposure to substances other than asbestos on the development and manifestation of obstructive and restrictive condition and diseases of the respiratory system and other causes of obstructive and restrictive disease or defects of the respiratory system; and methods of diagnosis of various diseases, particularly means of establishing the differential diagnosis of alleged asbestos-related diseases with other non-asbestos related diseases.

Dr. Geyer may also testify about fiber burden analysis and its reliability in determining the type(s) of fibers to which a person was exposed in the past and those which can be implicated

as the cause of disease. Where applicable, Dr. Geyer will explain the results of any available fiber burden analysis done on Plaintiff specifically, what those results show about the cause(s) of Plaintiff's disease or condition and will assess the reliability of those results. Dr. Geyer also may provide testimony regarding whether Plaintiff's alleged exposure to talc, of any, is a substantial factor in causing Plaintiff's alleged disease and Plaintiff's prognosis.

Dr. Geyer's testimony will be based on his training, experience, education, and publications and his review of available bankruptcy trust documents; the medical, governmental, and scientific literature; various air sampling studies, work facility inspections and documents; industrial hygiene reports and exposure reconstructions; and medical records, including without limitation chest films, reports of fiber burden studies, and all pathology materials. Dr. Geyer may review Plaintiff's deposition testimony and any testimony given by other exposure witnesses and rely upon that testimony as a basis for his opinions. He also may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

Dr. Geyer has agreed to testify at trial (live or by video) and will be sufficiently familiar with the case to provide meaningful deposition testimony regarding his opinions and their bases. Dr. Geyer's fee for providing deposition testimony and for consulting is \$800 per hour and his consulting fee for reviewing documents and pathology materials is \$700 per hour. His curriculum vitae will be provided to any party upon request.

**21 Victor Roggli, M.D.
Duke University Medical Center
Department of Pathology
P.O. Box 3712
Durham, NC 27710**

Dr. Roggli received his medical degree from Baylor College of Medicine in 1976. He is a Board-certified pathologist. He is a member of the International Association of Pathologists, the College of American Pathologists, the American College of Chest Physicians, and the American Thoracic Society. Since 1994, Dr. Roggli has been a Professor in the Department of Pathology at Duke University Medical Center. He is a member of the U.S.-Canadian Mesothelioma Panel and the International Mesothelioma Panel. He has published extensively in the peer-reviewed medical and scientific literature on the issues of asbestos-related disease and causation issues and may testify regarding the same. He is the editor of the textbook titled, The Pathology of Asbestos-Associated Diseases (first, second and third editions). His qualifications are set out in greater detail in his curriculum vitae, a copy of which is available upon request.

Dr. Roggli may testify as to the role and the function of a pathologist in the diagnosis of disease, as well as the various techniques utilized by pathologists to diagnose diseases, including mesothelioma. He may testify regarding the diagnosis of any purportedly asbestos-related disease or condition alleged by Plaintiff and may respond to testimony by any of Plaintiff's experts regarding the same. Dr. Roggli may further testify as to the general medical aspects of the diagnosis and treatment of mesothelioma and the pathological effects of asbestos on the lung. He may also testify as to the relationship of asbestos exposure and the incidence of the conditions alleged by Plaintiff, including mesothelioma. Dr. Roggli may discuss generally accepted and reliable methodologies for causal attribution and may address the notion that every exposure to an asbestos-containing product above ambient levels was a contributing cause of

Plaintiff's disease. He may discuss the epidemiology of talc exposed populations, published reviews of subjects undergoing talc pleurodesis and/or toxicologic studies of animals and talc. Dr. Roggli may testify that exposures to cosmetic talc do not cause or contribute to the development of asbestos-related diseases, including mesothelioma. Dr. Roggli may also testify regarding other probable or possible causes of any disease or condition alleged by the plaintiff, including, but not limited to, smoking, where relevant.

Dr. Roggli may testify generally regarding the role that the size, structure, and chemical composition of different types of asbestos fibers plays in their ability, or lack thereof, to cause conditions alleged by Plaintiff. He may testify generally regarding the role of dose in determining whether certain types of asbestos fibers can cause or contribute to conditions alleged by Plaintiff. Dr. Roggli may testify generally regarding the latency periods associated with asbestos-related conditions alleged by the plaintiff.

Dr. Roggli may further testify about fiber burden analysis and its reliability in determining the type(s) of fibers to which a person was exposed in the past and which of those fibers can be implicated as the cause of disease. Where applicable, Dr. Roggli will testify concerning the results of any available fiber burden analysis done on Plaintiff specifically, and what those results show about the cause(s) of Plaintiff's disease or condition. Dr. Roggli may perform a fiber burden study and offer testimony concerning his findings.

Dr. Roggli's testimony will be based on his training, experience, education, and publications and his review of available bankruptcy trust documents; the medical, governmental, and scientific literature; various air sampling studies, work facility inspections and documents; industrial hygiene reports and exposure reconstructions; and medical records, including without limitation to reports of fiber burden studies and all available pathology materials. Dr. Roggli

may review Plaintiff's deposition testimony and any testimony given by other exposure witnesses and rely upon that testimony as a basis for his opinions. He also may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff. Dr. Roggli's fee for providing testimony and for consulting is \$800 per hour.

**23 Michael Alan Graham, M.D.
Division of Forensic and Environmental Pathology
St. Louis University School of Medicine
Caroline Street
St. Louis, Missouri 63104**

Dr. Graham is a pathologist. He received his M.D. from and served as a fellow in forensic pathology at the St. Louis University School of Medicine.

Dr. Graham may testify as to the general medical aspects of the diagnosis and treatment of asbestos-related disease and the pathological effects of asbestos on the lung. He may also testify as to the relationship of asbestos exposure and the incidence of conditions alleged by the plaintiff, including pleural plaques, asbestosis, lung cancer and mesothelioma. Dr. Graham may testify that "asbestos" is a generic term for a group of naturally occurring fibrous minerals. Dr. Graham may testify that there are two major groups of asbestos – serpentine and amphiboles – which have different physical forms and clearance rates after deposition in human lungs. Dr. Graham may testify that the serpentine group contains one form of asbestos – chrysotile – and that the amphibole group contains several forms of asbestos – including crocidolite, amosite, tremolite, actinolite, and anthophyllite. Dr. Graham may testify regarding the differing potential of these various forms of asbestos to cause conditions alleged by Plaintiff, including pleural plaques, asbestosis, lung cancer and mesothelioma. Dr. Graham may testify generally regarding the role that the size, structure, and chemical composition of different types of asbestos fibers

plays in their ability, or lack thereof, to cause conditions alleged by Plaintiff. Dr. Graham may testify generally regarding the role of dose in determining whether certain types of asbestos fibers can cause or contribute to conditions alleged by Plaintiff. Dr. Graham may testify generally regarding the latency periods associated with asbestos-related conditions alleged by Plaintiff.

Dr. Graham may also testify regarding the diagnosis of any purportedly asbestos-related disease or condition alleged by Plaintiff and respond to testimony by any of Plaintiff's experts regarding the same. Dr. Graham may also testify regarding other probable or possible causes of any disease or condition alleged by Plaintiff, including but not limited to, smoking where relevant.

Dr. Graham may also testify that cosmetic talc does not increase the risk of developing mesothelioma based on the epidemiology, mineralogical evidence, clinical studies, and animal toxicological studies.

Dr. Graham's testimony will be based on his training, experience, education, and publications and his review of available bankruptcy trust documents; the medical, governmental, and scientific literature; various air sampling studies, work facility inspections and documents; industrial hygiene reports and exposure reconstructions; and medical records, including without limitation chest films, reports of fiber burden studies, and all pathology materials. Dr. Graham may review Plaintiff's deposition testimony and any testimony given by other exposure witnesses and rely upon that testimony as a basis for his opinions. He also may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff. His curriculum vitae will be provided to any party upon request.

24 Tim Oury, M.D.
University of Pittsburgh
S-785 Scaife Hall
3550 Terrance St.
Pittsburgh, PA 15261

Dr. Tim Oury is a board-certified pathologist. He received his Bachelor of Science in Biochemistry from Purdue University. He received both his Ph.D. and M.D. from Duke University. He is currently a Professor in the Department of Pathology at the University of Pittsburgh. He has published several papers related to mesothelioma.

Dr. Oury may testify regarding the role and function of a pathologist in the diagnosis of disease as well as the various techniques utilized by pathologists in the diagnosis of disease. He also may testify regarding the pathological aspects of asbestos-related diseases. Dr. Oury may testify concerning his review of medical records, pathology materials and other diagnostic studies in this case. His testimony may include information about his own analysis of the pathology materials in this case, including fiber burden analysis, if any. Dr. Oury may also testify concerning alternative risk factors for developing mesothelioma and issues of alternative causation.

Dr. Oury may also testify that cosmetic talc does not increase the risk of developing mesothelioma based on the epidemiology, mineralogical evidence, clinical studies, and animal toxicological studies.

The observations and opinions offered by Dr. Oury are based upon his education, training, and experience, knowledge and review of the relevant scientific literature, and review of case-specific materials, including but not limited to Plaintiff's medical records and pathology materials. Dr. Oury may review Plaintiff's deposition testimony and any testimony given by other exposure witnesses and rely upon that testimony as a basis for his opinions. He also may

be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

Dr. Oury's fee for providing testimony and consulting is \$700 per hour. His curriculum vitae will be provided to any party upon request.

25 Mary Beth Beasley, M.D.
Department of Pathology
Mt. Sinai Medical Center
One Gustave L. Levy Place
New York, NY 10029

Dr. Beasley is currently a pathologist at Mt. Sinai Medical Center in New York, New York and is Board certified in pathology, anatomical and clinical pathology. She is a member of the U.S.-Canadian Mesothelioma Panel and of the International Mesothelioma Panel. Dr. Beasley is a former member and chair of the Surgical Pathology Committee of the College of American Pathologists and former president of the Pulmonary Pathology Society. Previously, Dr. Beasley served as a staff pathologist at the Armed Forces Institute of Pathology, where she reviewed over 1000 mesothelioma cases. From 2000 until 2003, Dr. Beasley was Assistant Clinical Professor of Pathology at Tulane University Medical Center. She has published extensively on pulmonary pathology including mesothelioma. Her *curriculum vitae* is incorporated herein by reference and is available upon request.

Dr. Beasley may testify regarding general medical aspects of the diagnosis and treatment of asbestos-related disease and the pathological effects of asbestos on the lung. Dr. Beasley may testify as to the role and the function of a pathologist in the diagnosis of disease, as well as the various techniques utilized by pathologists to diagnose diseases, including mesothelioma. She may also testify about the relationship of asbestos exposure to the incidence of conditions alleged by the plaintiff, including pleural plaques, asbestosis, lung cancer and mesothelioma. Dr.

Beasley may also testify regarding other probable or possible causes of any disease or condition alleged by the plaintiff, including, but not limited to, smoking, where relevant.

Dr. Beasley may testify that asbestos is a generic term for a group of naturally occurring fibrous minerals. She may testify generally regarding the role that the size, structure, and chemical composition of different types of asbestos fibers plays in their ability, or lack thereof, to cause conditions alleged by Plaintiff.

Dr. Beasley is expected to testify that the presence of pleural plaques have been more closely linked to commercial amphibole exposure. Dr. Beasley may testify generally regarding the latency periods associated with asbestos-related conditions alleged by plaintiff.

Dr. Beasley may testify that dose plays an important role in determining whether certain types of asbestos fibers can cause or contribute to the development of mesothelioma. Dr. Beasley may testify generally regarding the role of dose in determining whether certain types of asbestos fibers can cause or contribute to conditions alleged by plaintiff. She may opine that commercial amphibole asbestos has been demonstrated to cause mesothelioma as a result of low levels of exposure.

Dr. Beasley is expected to testify that there is a range of background level or ambient level of asbestos to which the general population is exposed. She may testify that there is no evidence that exposures to asbestos in the ambient air among the general population in the United States who have not otherwise been exposed to asbestos are at an increased risk of malignant mesothelioma. Dr. Beasley may testify that it is generally agreed in the medical and scientific community that exposures to background levels of asbestos do not cause mesothelioma. She may opine that there is a background level of asbestos that accumulates in

the lungs of people in the general population and that there is no evidence that these levels are sufficient to cause mesothelioma.

Dr. Beasley may discuss generally accepted and reliable methodologies for causal attribution. She may discuss the epidemiology of talc exposed populations, published reviews of subjects undergoing talc pleurodesis and/or toxicologic studies of animals and talc. Dr. Beasley may testify that exposures to cosmetic talc do not cause or contribute to the development of asbestos-related diseases, including mesothelioma.

Dr. Beasley may testify concerning the cause(s) of plaintiff's medical condition based on her review of the plaintiff's medical records, pathology, work history and other available documents. She may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition including, but not limited to, the testimony of witnesses offered by the plaintiff.

Dr. Beasley's testimony will be based on her training, experience, education, and publications; her review of the medical, governmental, and scientific literature; her review of various air sampling studies, work facility inspections and documents; industrial hygiene exposure reconstructions, where applicable; and her review of medical records, reports of fiber burden studies, where applicable, and all available pathology materials. Dr. Beasley has reviewed deposition testimony given by exposure witnesses and relies upon them as a basis for her opinions. She may also be asked to respond to evidence presented by any witness on behalf of plaintiff, including experts. Dr. Beasley's fee for providing testimony and for consulting is \$600 per hour. Her curriculum vitae will be provided to any party upon request.

26 Brooke Mossman, Ph.D.
University of Vermont College of Medicine
Department of Pathology
139 Beaumont Avenue, Given Bldg.
Burlington, VT 05405

Dr. Mossman is a Professor of Pathology with Emeritus status at the University of Vermont College of Medicine. She is an expert in the fields of experimental pathology and cell and molecular biology of asbestos-induced mesotheliomas, lung cancer, and pulmonary fibrosis. For approximately 40 years, she has studied these fields through grant support from the National Institute of Health (NIH), EPA, and American Cancer Society. In recent years, she was awarded one of ten University Distinguished Professor Awards in recognition of her contributors to understanding these diseases. She also received both Medical Scholar and Alumni Achievement Awards for “outstanding achievements in research, education public service and humanitarianism.” She received numerous national and international meeting invitations to present her research, as well as awards for her research accomplishments that include the prestigious Wagner Award for “historic contributions to mesothelioma research” from the International Mesothelioma Interest Group (iMig), a Career Achievement Recognition Award for Scientific Accomplishments from the American Thoracic Society, appointment to the Board of Councilors of the National Cancer Institute and election to the Plutocrat Society of the University Associates in Pathology. She was the first woman to chair the advisory board of the Lung Institute at the National Heart Lung and Blood Institute (NHLBI) of NIH. She also has served on numerous advisory boards at other Universities, as well as on scientific advisory boards and study sections of the NHLBI, American Cancer Society, National Cancer Institute (NCI), American Cancer Society, National Institute of Environmental Health Science (NIEHS) and EPA. She organized and chaired international and national conferences and workshops,

featuring other experts in the fields of asbestos and mesothelioma research. Dr. Mossman reviewed and chaired many related grant proposals and reviews including those for the Cancer Etiology study section for NIH, for the Board of Councilors of NCI and for the Mesothelioma Applied Research Foundation (MARF) where she served voluntarily on the Scientific Advisory Board. She also served voluntarily on the funding board of the Center for Asbestos-Related Diseases (CARD) in Libby, Montana where she was awarded a Focus Award for her dedication and contribution.

Dr. Mossman may opine that short asbestos fibers, cleavage fragments and talc particles historically have produced neither adverse pathogenic effect nor mesotheliomas experimentally. She may provide testimony regarding: asbestos-induced carcinogenesis; environmental toxicology; the anatomy of lungs and functioning of the human respiratory system; characteristics, nature, and properties, including toxicity of certain amphibole particles relevant to cancer development; definitions of key terminology; lack of carcinogenicity of non-asbestos cleavage fragments; ability of particles to enter the human body, translocate to the pleura and peritoneum, and cause disease; cosmetic/industrial asbestiform-free talc as a not significant factor in mesothelioma development; and contrasting cellular and animal effects of commercial amphiboles, such as crocidolite, as compared to the effects of talc – including both platy and fibrous talc particles and transitional particles – and non-asbestos amphibole cleavage fragments.

Dr. Mossman may additionally opine that: the chemistry, geometry, and biological reactivity of talc particles in cosmetic or industrial talcs – including fibrous talc and/or fibers composed of both talc and amphibole intergrown on a submicrometer scale – are different from pathogenic amphibole asbestos fiber types; cosmetic/industrial talc particles are unlikely to be retained at sites of development of pleural or peritoneal mesotheliomas unlike long needle-like

crocidolite fibers; non-asbestos cleavage fragments are not reactive and are distinctly and functionally different from asbestos or asbestiform fibers; thus, they do not have the potential to cause abnormal pathology or cell responses integral to the development of cancers; the very small trace amounts of cleavage fragments or other minerals that may be present in some industrial talcs have little or no chemical or biological reactivity and do not play a role in critical cellular and molecular pathways leading to the development of mesotheliomas; the results of numerous epidemiologic and experimental studies assessing carcinogenic and fibrogenic potential of short asbestos fibers (<5-10 microns in length) support the concept that cleavage fragments, even of respirable dimensions, do not play a role in the induction of mesotheliomas; experimental studies demonstrate no observed adverse effect levels from exposure to certain levels of asbestos, indicating the existence of a threshold for disease causation; and genotoxicity and gene profiling studies show that human mesothelial cells exhibit dose and time related changes in response to pathogenic amphibole asbestos fibers but exhibit no alterations in response to talc.

The observations and opinions offered by Dr. Mossman are based upon her education, training, and experience, knowledge and review of the relevant scientific, governmental, and medical literature, review of case-specific materials, and her research concerning talc, asbestos exposure, and risk assessment. Dr. Mossman may review industrial hygiene reports, Plaintiff's medical records, including without limitation chest films, reports of fiber burden studies, and all pathology materials, Plaintiff's deposition testimony and any testimony given by other exposure witnesses and rely upon that testimony as a basis for her opinions. She may also be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

Dr. Mossman has agreed to testify at trial (live or by video) and will be sufficiently familiar with the case to provide meaningful deposition testimony regarding her opinions and their bases. Dr. Mossman's fee for providing deposition testimony and for consulting is \$550 per hour. Her curriculum vitae will be provided to any party upon request.

27 Rachel Damico, M.D., Ph.D.
2206 Old Emmorton Road
Suite 270
Bel Air, MD 21015

Dr. Damico is a physician and a scientist with a medical degree and a doctoral degree in cell and molecular biology. Dr. Damico is board certified in Internal Medicine, Pulmonary Medicine, and Critical Care Medicine. She received her medical and doctoral degrees from the University of Pennsylvania School of Medicine, with post graduate training at Johns Hopkins School of Medicine with a Residency in Internal Medicine and a Fellowship in Pulmonary and Critical Care Medicine. Her doctoral degree is in cell and molecular biology, and she has expertise in the molecular mechanisms of disease. Since joining the staff at Johns Hopkins in 2007, she has cared for patients at the Johns Hopkins and the Johns Hopkins Bayview Hospitals, both in the outpatient and inpatient settings, where she has been the attending physician in the Medical Intensive Care Units, Oncology Intensive Care Units, General Pulmonary Services and Clinics, and Advanced Lung Disease Services and Clinics. Her clinical expertise includes the diagnosis and management of patients with cardiopulmonary diseases, which include occupational lung diseases and cancers.

Dr. Damico is an Associate Professor of Medicine at Johns Hopkins School of Medicine and an Adjunct Professor at the Bloomberg School of Public Health. She is an award-winning educator involved in the training of graduate students, medical students, medical residents, and Pulmonary and Critical Care Fellows. She teaches about the pathobiology of pulmonary diseases

and the diagnosis and management of lung and pleural disease, which involves the interpretation of chest imaging (x-rays and CT scans) and pulmonary function studies. She is the Associate Program Director for the Johns Hopkins Physician Scientist Training Program within the Osler Medical Training Program, and is responsible for recruitment, professional development, and retention of physician scientists within the Department of Medicine at Johns Hopkins.

Dr. Damico has published multiple articles in the peer-reviewed literature, including the journals of the National Academy of Science, the American Thoracic Society, the American College of Chest Physicians, the American Heart Association, and the European Respiratory Society. She has been a reviewer for numerous journals, including Science, the Proceedings of the National Academy of Science, and the Journals of the American Thoracic and European Respiratory Societies. Dr. Damico has served on multiple grant study sections and has been and currently is the principal investigator and co-investigator on multiple National Institute of Health (NIH)-sponsored grants. Her research includes the cellular, molecular, and genetic mechanisms of lung disease, preclinical animal models of disease, molecular and cellular studies, including cytotoxic assays using primary cells derived from human lungs, molecular epidemiology, and environmental exposure studies in animal models of pulmonary disease. Dr. Damico is actively involved in clinical trials and translational studies, which includes studies of genetics, genomics, blood markers, advanced physiology, and imaging in order to improve diagnosis, prognostication, and treatment of patients with lung disease and to define novel molecular pathways in disease development and progression. Her research has been recognized with awards from the National Institute of Health and the American Thoracic Society. Dr. Damico's curriculum vitae is available upon request.

Dr. Damico may testify to the standards for diagnosing non-malignant pulmonary disease, as well as thoracic and other malignancies, including but not limited to discussion of chest imaging, pulmonary function tests, pathological and clinical techniques. She may also discuss the literature relative to diagnosis of asbestos-related diseases and the techniques and literature discussing the diagnosis of other asbestos-related diseases, including those allegedly suffered by Plaintiff. Dr. Damico may also review the pertinent medical records and evidence, including but not limited to medical records from health care providers, chest x-rays, pulmonary tests, and other types of evidence, and offer her opinions on any diagnoses and medical condition based on her review. Her testimony may include a medical presentation of lung diseases including but not limited to those caused by tobacco abuse, other inhaled agents, heritable mutations, or environmental exposures. She may discuss the anatomy and function of the respiratory, cardiopulmonary, and circulatory systems, and the diagnosis and treatment of diseases affecting such symptoms. Dr. Damico may also offer her opinion on other coexisting medical conditions.

Dr. Damico may testify generally regarding the principles of epidemiology, as well as the available epidemiology of both pleural and peritoneal mesothelioma. Dr. Damico may be asked to identify and explain the known causes of malignant mesothelioma, including commercial amphibole asbestos, erionite, fluoro-edenite, and therapeutic radiation. Dr. Damico may provide testimony and opinions regarding her review of the medical and scientific literature and plaintiff and/or decedent's medical condition and the alleged exposure to various minerals and issues of alternative causation. Dr. Damico may also discuss the scientific evidence for a background rate of naturally occurring mesotheliomas unrelated to asbestos exposure caused by genetic mutations which accumulate over time because of internal errors in cell division and/or inherited genetic

mutations, including but not limited to BAP-1. Dr. Damico may testify that, as for any cancer, mesotheliomas may occur because of the inevitable accumulation of spontaneous mutations as observed in numerous other animal species. She may testify that a significant portion of mesotheliomas are naturally occurring.

Dr. Damico may testify that exposure to cosmetic talc does not increase the risk of or cause mesothelioma. She may testify regarding the epidemiology of cosmetic talc exposure, both in the occupational and domestic context, epidemiologic and biological data from individuals undergoing talc pleurodesis, molecular biology and epidemiology of cancer and mesothelioma and animal studies regarding cosmetic talc and/or asbestos fibers. Dr. Damico may also discuss the literature relative to the carcinogenicity (or lack thereof) of cosmetic talc or other minerals in their various habits. Dr. Damico may offer testimony of medical and scientific knowledge regarding any association of disease with work with or around asbestos-containing products and the lack of any such association with work around or the use of cosmetic talc. She may also discuss the prognosis, risk of cancer of various forms, risk of progression, including but not limited to discussion of risk of cancer (or lack thereof) from various minerals in different habits. Dr. Damico may opine that short asbestos fibers, cleavage fragments, and cosmetic talc particles historically have produced neither adverse pathogenic effect nor mesotheliomas experimentally.

Dr. Damico may be asked to respond to the testimony and documents of certain expert witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by the Plaintiff. Dr. Damico may also review and offer comment or criticism in response to the opinions of other witnesses in this case. Dr. Damico's fee for providing testimony is \$860 per hour and for consulting is \$620 per hour. Charged deposition time

minimum is three hours and charged trial time minimum is eight hours. Her curriculum vitae will be provided to any party upon request.

28 Anil Vachani, M.D., M.S.
University of Pennsylvania School of Medicine
Pulmonary, Allergy and Critical Care Division
Suite 216, Edward J. Stemmler Hall
3450 Hamilton Walk
Philadelphia, Pennsylvania 19104

Dr. Vachani is Associate Professor of Medicine at the University of Pennsylvania School of Medicine and an attending physician at the Philadelphia VA Medical Center, which is associated with the University of Pennsylvania. He is Director of Clinical Research for the Section of Interventional Pulmonology and Thoracic Oncology, Director of the Lung Nodule Program and a Faculty-Fellow in the Department of Clinical Epidemiology and Biostatistics. Dr. Vachani conducts research regarding lung cancer and mesothelioma and maintains a clinical practice that includes primary pulmonary medicine. He received his medical degree from the University of California, San Francisco and completed a Fellowship in pulmonary and critical care medicine at the Hospital of the University of Pennsylvania. He received his master's degree from University of Pennsylvania, Perelman School of Medicine in Clinical Epidemiology. He is board certified in pulmonary medicine and critical care medicine. Dr. Vachani is Associate Editor of the *American Journal of Respiratory and Critical Care Medicine* and is a Member of the American College of Chest Physicians, the American Thoracic Society, and the International Association for the Study of Lung Cancer, among others. His qualifications are set out in greater detail in his curriculum vitae, a copy of which is available upon request.

Dr. Vachani may testify regarding the diagnosis of any purportedly asbestos-related disease or condition alleged by the Plaintiff and respond to testimony by any of Plaintiff's experts regarding the same. Dr. Vachani may testify to the standards of diagnosing asbestos-

related disease, including but not limited to, discussion of chest x-ray, pulmonary function, pathological and clinical techniques. He may also discuss the literature relative to diagnosis of asbestos-related diseases and the techniques and literature on the diagnosis of other diseases purportedly suffered by Plaintiff. Dr. Vachani may testify concerning the cause(s) of Plaintiff's medical condition based on his review of the Plaintiff's medical records, pathology, chest x-rays, pulmonary tests, blood gas studies, work history and other types of evidence, and offer his opinions on the medical conditions of the Plaintiff based on such review. He may also conduct an independent medical examination of Plaintiff and testify regarding the same.

Dr. Vachani's testimony may also include a medical presentation of lung diseases, including, but not limited to, those caused by tobacco abuse, other inhaled agents, genetics, or the environment. He may also provide an analysis of Plaintiff's work environment, work history, and occupational history, including, but not limited to, discussion of the significance, intensity, and disease-causing potential arising from exposure to particular products versus other types of exposure. He may also discuss the prognosis, risk of cancer of various forms, risk of progression, including, but not limited to, discussion of risk of cancer from asbestos versus tobacco, risk of cancer from inherited gene mutations and the environment and risk of death or impairment from other causes. Dr. Vachani may opine on the relationship between rates of use of talc and/or asbestos and mesothelioma and may use literature and data, including, but not limited to, government data and relevant public databases like NOMS and SEER to support these opinions.

He may also testify about the relationship of asbestos exposure to the incidence of conditions alleged by the Plaintiff, including, but not limited to, pleural plaques, asbestosis, lung cancer, mesothelioma, and other neoplasms. Dr. Vachani may also testify regarding other

probable or possible causes of any disease or condition alleged by the Plaintiff, including, but not limited to, smoking, where relevant.

Dr. Vachani may discuss the epidemiology of cosmetic talc exposure, both in the occupational and domestic context, lung diseases, asbestos-related disease and other diseases which Plaintiff may allege and/or may have suffered from, including but not limited to analysis of Plaintiff's alleged exposure to different minerals, and potential agents, discussion of the latency of exposure to asbestos and other potential agents, discussion of the latency of asbestos and other diseases, discussion of the contribution of any alleged use of or exposure to Johnson & Johnson products, if any, to the alleged illnesses of Plaintiff, discussion of various models of risk versus time, duration, and extent of exposure, and other related topics.

Dr. Vachani may provide testimony and opinions regarding his review of the medical and scientific literature and Plaintiff and/or decedent's medical condition and their alleged exposure to various minerals and issues of alternative causation. He may discuss the anatomy and function of the respiratory, cardiopulmonary, and circulatory systems, and the diagnosis and treatment of diseases affecting such systems. He may offer testimony of medical and scientific knowledge regarding any association of disease with work with or around asbestos-containing products and the lack of any such association with work around or the use of talc.

Dr. Vachani's opinions are based upon his education, training, and experience, knowledge and review of the relevant scientific literature, analysis and testing, and review of case-specific materials. He may also be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff. His curriculum vitae will be provided to any party upon request. His fee for providing testimony is \$780 per hour and for review is \$600 per hour.

29 David Weill, M.D.
8616 Oak Street, Suite 101
New Orleans, LA 70118

Dr. Weill is a physician with his Board Certification in Pulmonary Disease Medicine. He received his medical degree from Tulane University Medical School in 1990 and completed his residency in Internal Medicine at Parkland Hospital, University of Texas-Southwestern in 1993. Dr. Weill completed his fellowship in Pulmonary and Critical Care Medicine and Lung Transplantation at the University of Colorado Health Sciences Center in 1996. He has served as the Medical Director or Associate Director Lung Transplant Programs at numerous hospitals, including the Medical City Hospital in Dallas, Texas, the University of Alabama – Birmingham, the University of Colorado Health Sciences Center, and Stanford University School of Medicine. He is currently a Professor of Medicine at Tulane University Medical School and has held academic appointments at Morsani College of Medicine at the University of South Florida Health, Stanford University School of Medicine, University of Colorado Health Sciences Center, and the University of Alabama – Birmingham. Dr. Weill served as the Managing Guest Editor for the Toxicology and Applied Pharmacology journal and as a peer reviewer for multiple journals, including The New England Journal of Medicine, the American Journal of Respiratory and Critical Care Medicine, Chest, and Thorax. He has testified regarding various aspects of asbestos-related diseases before the United States Senate and the Texas State Legislature. Dr. Weill's qualifications are set out in greater detail in his *curriculum vitae*, a copy of which is available upon request.

Dr. Weill may testify regarding the diagnosis of any purportedly asbestos-related disease or condition alleged by the Plaintiff and respond to testimony by any of Plaintiff's experts regarding the same. He may discuss the literature relative to diagnosis of asbestos-related

diseases and the techniques and literature on the diagnosis of other diseases purportedly suffered by Plaintiff or which are likely to be present in the Plaintiff. He may testify to the standards of diagnosing asbestos-related disease, including but not limited to, discussion of chest radiologic imaging, pulmonary function, and clinical techniques. Dr. Weill may testify concerning the cause(s) of the Plaintiff's medical condition based on his review of the Plaintiff's medical records, chest imaging, pulmonary tests, blood gas studies, work history and other types of evidence, and offer his opinions on any diagnoses and medical condition based on his review, including any coexisting medical conditions. He may discuss the anatomy and function of the respiratory, cardiopulmonary, and circulatory systems, and the diagnosis and treatment of diseases affecting such systems. Dr. Weill's testimony may also include a medical presentation of lung diseases, including, but not limited to, those caused by tobacco abuse, other inhaled agents, genetics, or the environment. He may also discuss the prognosis, risk of cancer of various forms, risk of progression, including, but not limited to, discussion of risk of cancer from asbestos versus tobacco, risk of cancer from inherited gene mutations and the environment, and risk of death or impairment from other causes. He will review the available materials in this case and may provide testimony and opinions regarding his review of the medical and scientific literature and the Plaintiff and/or decedent's medical condition and their alleged exposure to various minerals and issues of alternative causation.

Dr. Weill may testify about the relationship of asbestos exposure and/or cosmetic talc exposure, if any, to the incidence of conditions alleged by the Plaintiff, including, but not limited to, pleural plaques and mesothelioma. He may testify that the relevant scientific literature has consistently demonstrated no association between cosmetic talc exposure and the development of asbestos-related disease, including mesothelioma. Dr. Weill may also discuss the literature

relative to the carcinogenicity (or lack thereof) of cosmetic talc or other minerals in their various habits, including, but not limited to, the literature related to cosmetic talc millers and miners, individuals undergoing talc pleurodesis, and animal studies regarding talc and/or asbestos fibers. He may testify generally regarding the role that the size, structure, and chemical composition of different types of asbestos fibers plays in their ability, or lack thereof, to cause conditions alleged by the Plaintiff. Dr. Weill may opine that short asbestos fibers, cleavage fragments, and talc particles historically have produced neither adverse pathogenic effect nor mesotheliomas experimentally. Dr. Weill may testify regarding the relationship between dose and mesothelioma arising at different anatomic locations, including the pleura and peritoneum and generally regarding the role of dose in determining whether certain types of fibers can cause or contribute to conditions alleged by the Plaintiff. Dr. Weill may provide an analysis of the Plaintiff's work environment, work history, and occupational history, including, but not limited to, discussion of the significance, intensity, and disease-causing potential arising from exposure to particular products versus other types of exposure. Dr. Weill may offer testimony of medical and scientific knowledge regarding any association of disease with work with or around asbestos-containing products and the lack of any such association with the use of cosmetic talc. He may discuss the latency of possible effects of exposure to asbestos and other potential agents to diseases, including mesothelioma. He may also testify regarding other probable or possible causes of any disease or condition alleged by the Plaintiff, including, but not limited to, smoking, where relevant.

Dr. Weill may testify about the background incidence rates of mesothelioma and opine that a significant proportion of mesotheliomas are spontaneous or naturally occurring and have no association with asbestos exposure. He may also testify about other potential causes of

mesothelioma, including non-asbestos minerals, prior radiation, and specific genetic changes. Dr. Weill may testify in relation to the role of genetics in mesothelioma and cancer, including the science of genetic cancer predisposition syndrome.

Dr. Weill's opinions are based upon his education, training, and experience, knowledge and review of the relevant scientific literature, analysis and testing, and review of case-specific materials. He may also be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by the Plaintiff.

Dr. Weill's fee for providing deposition testimony and for consulting is \$725 per hour.

**30 Philip Goodman, M.D.
Duke University Medical Center
Department of Radiology
Room 1519B Duke North
Durham, NC 27710**

Dr. Goodman is a Professor of Radiology and an Associate Dean for Medical Education at Duke University Medical Center and Duke University School of Medicine. He is board-certified in Radiology, initially received his B-Reader certification in 1985 and has recertified every four years since then. He received his Bachelor of Science degree and Doctor of Medicine degree from the University of California, Los Angeles. He completed his residency in radiology at University of California, Irvine and University of California, San Francisco. Dr. Goodman has taught various topics concerning thoracic imaging at the University of California, San Francisco and Duke University Medical Center, including in the pathophysiology of disease and pathology courses in the Duke University School of Medicine, and within the Department of Medicine and Department of Radiology. He has been a reviewer for Chest, Radiology, American Review of Respiratory and Critical Care Medicine, and American Journal of Medicine. Dr. Goodman is a

founding member of the Society of Thoracic Radiology and currently a member of the Radiology Society of North America. He has presented numerous lectures nationally and internationally and has published over 130 articles in the peer-reviewed scientific literature.

Dr. Goodman is an expert in thoracic imaging, the interpretation of x-rays, CT scans and radiographic abnormalities consistent with the diagnosis of lung diseases, including but not limited to asbestosis, interstitial lung disease, asbestos-related pleural changes, lung cancer, mesothelioma, chronic obstructive pulmonary disease, and emphysema. Dr. Goodman is expected to testify about the radiological assessment of Plaintiff's alleged exposure to asbestos. He may testify regarding his review of chest x-rays and his B-reading of the same. Dr. Goodman is also expected to provide testimony with respect to radiology as a diagnostic aid in asbestos-related diseases and other lung diseases.

Dr. Goodman may render opinions based on his review of Plaintiff's chest x-rays, CT scans and other radiographic modalities. Dr. Goodman may review Plaintiff's deposition testimony and any testimony given by other exposure witnesses and rely upon that testimony as a basis for his opinions. He may also be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff. Dr. Goodman's rates per hour are: \$125 for chest film review; \$250 for CT review; \$600 for medical records review and deposition testimony; and \$700 for trial testimony (\$3500 per half day). His curriculum vitae will be provided to any party upon request.

31 Lisa Weissfeld, Ph.D.
Statistics Collaborative, Inc.
1625 Massachusetts Ave.
Suite 600
Washington, D.C. 20036

Dr. Weissfeld is a Senior Investigator at Statistics Collaborative, Inc. (SCI) specializing in statistics and biostatistics. Dr. Weissfeld received her doctorate in statistics from the University of Pittsburgh and was a Professor in the Department of Biostatistics at the University of Pittsburgh, Graduate School of Public Health, from 1990-2014. She is a Fellow of the American Statistical Association and has served on committees for The American Statistical Association and the Eastern North American Region of the Biometric Society. Dr. Weissfeld has published in both the biostatistical and biomedical literature on topics such as statistical methods to analyze censored biomarker data subject to an upper and/or lower limit of detection. Dr. Weissfeld has contributed to research in a variety of disease and discipline areas, including cardiovascular disease, nursing, health services research and community-acquired pneumonia.

Dr. Weissfeld may be called to testify at trial regarding the proper statistical analysis, statistical modeling, and calculations regarding probabilities of asbestos content in cosmetic talcum powder, including but not limited to, Johnson's Baby Powder. Dr. Weissfeld also is expected to counter and rebut the opinions of plaintiff's expert witnesses on statistical analysis and biostatistics and the conclusions they draw from such interpretations, including, but not limited to, any opinions by plaintiff's expert witnesses regarding the statistical analysis and probabilities of asbestos content in talcum powder products such as Johnson's Baby Powder, and related issues pertaining to liability and damages. Therefore, in this respect, the substance of her testimony may be determined at least in part by the testimony and evidence presented by plaintiff and his/her expert witnesses.

All of Dr. Weissfeld's opinions and testimony will be given to a reasonable degree of scientific and statistical certainty or a reasonable degree of certainty in her field of expertise. Her opinions will be based upon her education and her background, training and professional experience in the statistics and biostatistics fields; her review of the pleadings in this case, discovery responses, records and documents produced, expert reports furnished by other parties and transcripts and exhibits from depositions taken in this case; and all other materials she deems necessary.

Dr. Weissfeld has agreed to testify at the trial of this matter if called as a witness on behalf of Defendant. Dr. Weissfeld will be sufficiently familiar with the action to submit a meaningful deposition concerning her opinions. Dr. Weissfeld's fee for deposition and trial testimony is \$525 per hour. Her curriculum vitae will be provided on request.

**32 Brent Finley, PhD, DABT
Cardno ChemRisk
231 Front Street, Suite 212
Brooklyn, NY 11201**

Dr. Brent Finley is a board-certified toxicologist (Diplomate of the American Board of Toxicology) with 25 years of experience and expertise in occupational health, risk assessment, toxicology, and exposure reconstruction. In 1986, Dr. Finley obtained his doctorate in Toxicology and Pharmacology from Washington State University. He is currently a Principal Health Scientist and Vice President of Cardno ChemRisk, a consulting firm focused on human health risk assessment. Dr. Finley has been involved in the preparation of more than 400 risk assessments, has published over 20 papers in the last five years, and has been an invited speaker at numerous technical seminars. Dr. Finley has studied and published articles regarding the health effects of exposure to asbestos and has presented on the topic of potential exposures associated with talc-containing products.

Dr. Finley may testify regarding the following subjects: exposure to cosmetic talc poses no increased risk of developing mesothelioma; Johnson & Johnson has never used asbestos as an ingredient in its talc products; Johnson & Johnson took steps to ensure that the cosmetic-grade talc used in its talc products was free of asbestos; and use of cosmetic talc, and specifically Johnson & Johnson's talc products, did not increase Plaintiff's risk of developing mesothelioma.

Dr. Finley may also provide testimony concerning the relationship between exposure to asbestos and asbestos-related diseases; the lack of any relationship between exposure to talc and asbestos-related disease; current and historical information regarding air and dust sampling methods for asbestos; governmental regulations affecting maximum allowable concentrations of asbestos exposure in an occupational setting; threshold exposures; ambient exposures; background disease rates; the risk of asbestos-related disease associated with various types of exposures, including those alleged by Plaintiff; apportionment of risk among exposure sources; alternative risk factors for developing mesothelioma; and alternative causation. Dr. Finley may testify regarding alleged asbestos exposures of Plaintiff and whether such exposures created an increased risk of developing an asbestos-related disease. Dr. Finley may also testify Plaintiff's alternative exposures to asbestos, chemicals, products, radiation, or other substances that may have resulted in Plaintiff's development of mesothelioma.

The observations and opinions offered by Dr. Finley are based upon his education, training, and experience, knowledge and review of the relevant scientific, governmental, and medical literature, review of case-specific materials, and his research concerning talc, asbestos exposure, and risk assessment. Dr. Finley may review industrial hygiene reports, Plaintiff's medical records, including without limitation chest films, reports of fiber burden studies, and all pathology materials, Plaintiff's deposition testimony and any testimony given by other exposure

witnesses and rely upon that testimony as a basis for her opinions. He may also be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

Dr. Finley has agreed to testify at trial and will be sufficiently familiar with the case to provide meaningful deposition testimony regarding his opinions and their bases. Dr. Finley's fee for providing deposition testimony and for consulting is \$575 per hour. His curriculum vitae will be provided to any party upon request.

**33 Michael Peterson, MEM, DABT
Gradient
600 Stewart Street Suite 1900
Seattle, WA 98101**

Mr. Peterson is a board-certified toxicologist with 20 years of experience specializing in human health risk assessment, critical analysis of human and animal toxicology and epidemiology studies, and multimedia assessment of exposure to chemicals. Mr. Peterson has a Bachelor of Science in Chemistry and Environmental Sciences from Bradley University and a Masters of Environmental Management from Duke University, with a specialization in Risk Assessment and Environmental Toxicology. He is a member of the Society of Toxicology and is currently serving an appointed term to the Education Committee. He is also the chairperson of the organizing committee for Agricultural Safety Day in Washington State and has presented at many conferences on topics related to toxicology and chemical exposure evaluation. He has been awarded several grants by the Society of Toxicology to perform educational outreach at undergraduate colleges in both the United States and abroad. He has co-authored numerous articles related to toxicology and risk assessment, including a weight-of-evidence evaluation of the risks of mesothelioma and lung cancer related to asbestos exposure. He is a principal

scientist at Gradient and has extensive experience evaluating the toxicity of inhaled fibers, particles, and gases.

Mr. Peterson is expected to testify in areas that include causation evaluation, toxicology, human health risk assessment, and epidemiology. Mr. Peterson's testimony may be used to establish the nature of Plaintiff's alleged asbestos exposure, if any, and the significance of fiber type or mineral habit to Plaintiff's alleged exposure. He may relate the exposure information, if any, to relevant epidemiological literature pertaining to talc and asbestos exposure demonstrating risk factors for various asbestos-related diseases.

The observations and opinions offered by Mr. Peterson are based upon his education, training, and experience, knowledge and review of the relevant scientific, governmental, and medical literature, review of case-specific materials, and his research concerning talc, asbestos exposure, and risk assessment. Mr. Peterson may review industrial hygiene reports, Plaintiff's medical records, including without limitation chest films, reports of fiber burden studies, and all pathology materials, Plaintiff's deposition testimony and any testimony given by other exposure witnesses and rely upon that testimony as a basis for his opinions. He may also be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff. Mr. Peterson's fee for providing deposition testimony and for consulting is \$450 per hour. His curriculum vitae will be provided to any party upon request.

34 Christy A. Barlow, Ph.D.
4430 Arapahoe Avenue, Suite 220
Boulder, CO 80303

Dr. Barlow is an inhalation toxicologist with over 15 years of experience in the sampling and analysis, toxicology, exposure, and risk assessment of airborne chemicals and fibers. She

received her Bachelor's Degree in Biology from Eckerd College and a Ph.D. in Cell and Molecular Biology from the University of Vermont. She completed her doctoral work as a National Institute of Environmental Health Sciences (NIEHS) predoctoral fellow in Dr. Mossman's laboratory at the University of Vermont. She was involved in several research projects aimed at understanding the role of oxidative stress-mediated signaling pathways and their relationship to the development of asbestos induced apoptosis. As part of this research, she performed both in vitro and in vivo studies employing advanced biochemical, molecular, and cellular biology techniques. After completing her dissertation work, she was awarded a National Institute of Health (NIH) postdoctoral fellowship at the University of Wisconsin-Madison.

Dr. Barlow is currently the Managing Principal at Aetia Scientific Collaborative LLC. Her areas of specialization include toxicology, human health risk assessment, and quantitative exposure reconstruction for occupational and environmental hazards, as well as historical state-of-the-knowledge regarding occupational and human health issues. Her experience encompasses investigating the health effects of exposure to carcinogenic and non-carcinogenic chemicals, fibers, and particles. Dr. Barlow's qualifications are more fully set forth in her curriculum vitae, which is available upon request.

Dr. Barlow will offer opinions based on her education, training, experience, and review of the scientific and medical literature concerning general principles of toxicology and fiber toxicology as it relates to asbestos exposures and cosmetic talc. She will discuss the potential effects of asbestos fibers on the body, including the lung and the pleura. Dr. Barlow will also discuss the distinction between the types of asbestos fibers and cosmetic talc and their effect on producing disease, as well as the body's mechanisms for clearing these fibers from the lungs.

Dr. Barlow may testify in areas that include toxicology, human health risk assessment, and epidemiology. Her testimony may be used to establish the nature of Plaintiff's alleged cosmetic talc and/or asbestos exposure, if any, and the significance of fiber type or mineral habit to Plaintiff's alleged exposure. She may relate the exposure information, if any, to relevant epidemiological literature pertaining to cosmetic talc and asbestos exposure demonstrating risk factors for various asbestos-related diseases. Dr. Barlow may opine on the relationship between rates of use of cosmetic talc and/or asbestos and mesothelioma and may use literature and data, including, but not limited to, government data and relevant public databases like USGS and SEER to support these opinions. She may further discuss the analysis and methodology outlined in her article Burns, A.M., C.A. Barlow, et al., "Potential Airborne Asbestos Exposure and Risk Associated with the Historical Use of Cosmetic Talcum Powder Products," Risk Analysis, 39 (10): 2272-2294 (2019).

Dr. Barlow will discuss carcinogenesis as a multi-stage process by which cancer is formed. She will discuss the process of carcinogenesis as characterized by numerous, stepwise changes at the cellular, genetic, and epigenetic levels, as well as abnormal cell division. She will discuss that such mutations may arise spontaneously, including as a result of inherited or acquired changes. Dr. Barlow may also discuss the body's defense mechanisms that can prevent such changes from ultimately developing into a malignancy. She will discuss that such mutations may arise spontaneously, including because of inherited or acquired changes. Dr. Barlow may also discuss the origins and history of the linear no threshold ("LNT") regulatory model of carcinogenesis and how scientific advancements over time have rendered it scientifically obsolete. She may further discuss the toxicological principle that the dose makes

the poison and that there are likely practical thresholds for both actual and potential carcinogens, including asbestos.

Dr. Barlow will discuss the utility of sub-chronic inhalation studies that assess biomarkers for lung injury (e.g., persistent inflammation, cell proliferation, and fibrosis), and whether they can be considered to be predictive of carcinogenicity.

Dr. Barlow may discuss dose, dimension, and durability as three characteristics that are mechanistically important in the potential toxicity and tumorigenicity of any particle or mineral. She will testify that the likelihood and magnitude of a biologically relevant response is related to the dose of the substance to which one is exposed. In addition to the importance of dose, Dr. Barlow will also address the importance of the toxicological properties of different particle dimensions in determining the carcinogenic potential. She may further testify that there is a general consensus among those in the scientific and regulatory communities that there exists a minimum length and maximum width below and above which particles and/or fibers do not increase the risk of cancer and rely on her article, Barlow, C.A., et al., "Asbestos fiber length and its relation to disease risk." *Inhal Toxicol*, 29(12-14): 541-54 (2017). She will define respirability and the determinants of the subsequent deposition of a particle in the lung and a description of what particle sizes are most likely associated with the induction of lung cancer and mesothelioma. She will opine that, in general, long thin fibers are more toxic than short, thick particles and/or fibers and that recent experimental animal studies have shown that long fibers are cleared from the deep regions of the lung less effectively than short particles. Dr. Barlow will further testify that short particles and fibers have been demonstrated to pass through the stomata (pores that drain fluid from the pleural space into the lymph nodes) and accumulate in

the lymph nodes and that the pathways for clearance of small particles and fibers include clearance through the lymphatics as well as macrophage phagocytosis and mucociliary clearance.

Dr. Barlow may opine that short asbestos particles, cleavage fragments and talc particles historically are less pathogenic and carcinogenic than long amphibole asbestos fibers. She may additionally opine that: the chemistry, geometry, and biological reactivity of talc particles—including fibers composed of both talc and amphibole intergrown on a submicrometer scale – are different from pathogenic amphibole asbestos fiber types; talc particles are less likely to be retained at sites of development of pleural or peritoneal mesotheliomas unlike long needle-like crocidolite fibers; non-asbestos cleavage fragments are not reactive and are distinctly and functionally different from asbestos or asbestiform fibers; the very small trace amounts of cleavage fragments or other minerals that may be present in some cosmetic talcs have little or no chemical or biological reactivity and do not play a role in critical cellular and molecular pathways leading to the development of mesotheliomas; the results of numerous epidemiologic and experimental studies assessing carcinogenic and fibrogenic potential of short asbestos fibers (<5-10 microns in length) support the concept that cleavage fragments, even of respirable dimensions, do not play a role in the induction of mesotheliomas; and genotoxicity and gene profiling studies show that human mesothelial cells exhibit dose and time related changes in response to pathogenic amphibole asbestos fibers but exhibit no alterations in response to talc.

Dr. Barlow will also testify how the physical and chemical characteristics of a mineral influences its durability, and consequently its biopersistence (ability of fibers to remain in the lung once deposited there) and disease potency. She will also describe those particles whose chemical structure renders them wholly or partially soluble, once deposited in the lung, are likely to either dissolve completely or dissolve until they are sufficiently structurally weakened to

undergo breakage into smaller particles. Dr. Barlow will further testify that the resulting shortened particles can then be removed from the lung through macrophage phagocytosis and mucociliary clearance.

Dr. Barlow may provide an analysis of the plaintiff's work environment, work history, and occupational history, including, but not limited to, discussion of the significance, intensity, and disease-causing potential arising from exposure to various asbestos-containing products.

Dr. Barlow may also provide an historical state of the art overview of asbestos health risks and exposure studies, as well as industrial guidelines and regulatory standards.

Dr. Barlow may be asked to respond to testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by the plaintiffs. Dr. Barlow's fee for providing testimony and for consulting is \$500 per hour. Her curriculum vitae will be provided to any party upon request.

**35 John E. Bailey, Jr., Ph.D.
4910 N. 34 St.
Arlington, VA 22207**

Dr. Bailey is an expert on the United States Food and Drug Administration's ("FDA") regulation of consumer products, including cosmetics, and consumer products industries. Dr. Bailey's experience with the regulation of consumer products and accompanying industries spans four decades, including over 30 years at the FDA and nearly a decade at the Cosmetics, Toiletries and Fragrance Association ("CTFA"), now known as the Personal Care Products Council ("PCPC"). At present, Dr. Bailey is the Expert Advisor for Colors and Cosmetics at EAS Consulting Group, LLC.

Dr. Bailey obtained his Ph.D. in Chemistry from George Washington University in 1982. He previously was: Executive Vice President for Science, PCPC, Director of Cosmetic

Chemistry at CTFA; Director of the Office of Applied Research and Safety Assessment, Office of Science HFS-6, Center for Food Safety and Applied Nutrition; Director of the Office of Cosmetics and Colors, HFS-100, Center for Food Safety and Applied Nutrition; Acting Director of the Division of Colors and Cosmetics, HFF-430, Center for Food Safety and Applied Nutrition; Program Manager, Cosmetics and Color Technology Program; Deputy Director of the Division of Colors and Cosmetics; FDA Project Manager: Internal Control Review of the Color Certification Program (October 1989); Associate Director for Colors of the Division of Colors and Cosmetics; Chief of the Color Technology and Evaluation Branch, Division of Colors and Cosmetics; Senior Research Chemist, Color Technology and Evaluation branch, Division of Color Technology; Chemist, Division of Color Technology; and Chemist, Division of Colors and Cosmetics.

Dr. Bailey may be asked to describe his background, training, education, publications, presentations, and experience. This includes, without limitation, the role of the CTFA/PCPC in the cosmetics industry and the setting of industry standards. Dr. Bailey may further testify regarding the FDA's authority, policies, and procedures generally, including as it relates to the regulation of the cosmetics industry and of consumer products generally, and of talc and cosmetic talc specifically.

Dr. Bailey may discuss the FDA's surveillance, industry monitoring and risk assessment work regarding cosmetic talcum powder, as well as the import behind those activities. Dr. Bailey may also testify about the FDA's classification of various substances in terms of those substances' safety with respect to consumers, as well as the methods the FDA uses to make such classifications. Dr. Bailey may discuss the FDA's powers and protocols for regulations, its proposed regulations for talc in the 1970s, and the decision to withdraw that draft regulation and

subsequent endorsement of an industry-developed standard for assessing the presence of asbestos in talc, a method originally proposed by the CTFA/PCPC. Dr. Bailey may testify about the role of the CTFA/PCPC in the cosmetics industry, including with respect to the setting of industry standards.

Dr. Bailey may also testify about the FDA's regulatory actions, responses to citizens' petitions and official actions regarding cosmetic talc, as well as the information, policies, protocols and meaning behind the FDA's actions. Dr. Bailey may further testify regarding the work that has gone into the FDA's consistent conclusion that talc was never a public health concern warranting action by the FDA, including the FDA's testing and review of relevant research.

The observations and opinions offered by Dr. Bailey are based upon his education, training, and experience, knowledge and review of the relevant scientific, governmental, and medical literature, review of case-specific materials, and his research concerning talc, asbestos exposure, and risk assessment. Dr. Bailey also may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

Dr. Bailey has agreed to testify at trial (live or by video) and will be sufficiently familiar with the case to provide meaningful deposition testimony regarding his opinions and their bases. Dr. Bailey's employer, EAS Consulting Group, LLC, charges \$730 per hour for providing deposition testimony. His curriculum vitae will be provided to any party upon request.

**36 Philip I. Harber, M.D., M.P.H.
6336 N. Oracle Rd., No. 326-314
Tucson, AZ 85704**

Dr. Harber is a Professor of Public Health at the University of Arizona, as well as a Professor Emeritus at University of California, Los Angeles (“UCLA”). Additionally, he is a scientist at the Arizona Respiratory Center/Asthma and Airway Disease Research Center and is a Principal at Dr. Philip Harber, PLLC. He received his medical degree from the University of Pennsylvania School of Medicine in 1972 and a Masters of Public Health degree in environmental health sciences from Johns Hopkins School of Public Health in 1980. From 1978 to 1980, Dr. Harber was a fellow in Pulmonary Diseases and Occupational Medicine at Johns Hopkins University. He is board certified in internal medicine, pulmonary medicine and occupational medicine and previously was certified as a “B reader” by the National Institute of Occupational Safety and Health from 1982 to 2001. Previously, Dr. Harber was a Professor of Internal (pulmonary) Medicine and Occupational Medicine and served as the Chief of the Occupational Medicine Branch and Division of Occupational and Environmental Medicine, as well as the Director of the Occupational Health Clinical Center at UCLA. He is a fellow of the American College of Chest Physicians, the American College of Occupational Medicine and the American Thoracic Society and has served on several committees for the National Institute for Occupational Safety and Health, including as the chair of the research study section. Dr. Harber has published over 300 studies and abstracts dealing with occupational-environmental disorders, particularly those related to the lung. A copy of Dr. Harber’s *curriculum vitae* is available upon request.

Dr. Harber’s testimony may also include a medical presentation of lung diseases, including, but not limited to, those caused by tobacco abuse, other inhaled agents, genetics, or

the environment. He may also provide an analysis of Plaintiff's work environment, work history, and occupational history, including, but not limited to, discussion of the significance, intensity, and disease-causing potential arising from exposure to particular products versus other types of exposure. He may also discuss the prognosis, risk of cancer of various forms, risk of progression, including, but not limited to, discussion of risk of cancer from asbestos versus tobacco, risk of cancer from inherited gene mutations and the environment and risk of death or impairment from other causes.

Dr. Harber may testify regarding the diagnosis of any purportedly asbestos-related disease or condition alleged by the Plaintiff and respond to testimony by any of Plaintiff's experts regarding the same. He may testify to the standards of diagnosing asbestos-related disease, including but not limited to, discussion of chest radiologic imaging, pulmonary function, pathological and clinical techniques. Dr. Harber may also discuss the literature relative to diagnosis of asbestos-related diseases and the techniques and literature on the diagnosis of other diseases purportedly suffered by Plaintiff or which are likely to be present in the Plaintiff. He may testify concerning the cause(s) of Plaintiff's medical condition based on his review of the Plaintiff's medical records, pathology, chest imaging, pulmonary tests, blood gas studies, work history and other types of evidence, and offer his opinions on the medical conditions of the Plaintiff based on such review. He may also conduct an independent medical examination of Plaintiff and testify regarding the same.

Dr. Harber may also testify about the relationship of asbestos exposure to the incidence of conditions alleged by the Plaintiff, including, but not limited to, pleural plaques, asbestosis, lung cancer, mesothelioma, and other neoplasms. Dr. Harber may also testify regarding other

probable or possible causes of any disease or condition alleged by the Plaintiff, including, but not limited to, smoking, where relevant.

Dr. Harber may provide testimony and opinions regarding his review of the medical and scientific literature and Plaintiff and/or decedent's medical condition and their alleged exposure to various minerals and issues of alternative causation. He may discuss the anatomy and function of the respiratory, cardiopulmonary, and circulatory systems, and the diagnosis and treatment of diseases affecting such systems. Dr. Harber may also discuss applicable scientific methodology standards in epidemiology and decision processes. He may offer testimony of medical and scientific knowledge regarding any association of disease with work with or around asbestos-containing products and the lack of any such association with work around or the use of talc.

Dr. Harber may discuss the epidemiology of talc exposure, both in the occupational and domestic context, lung diseases, asbestos-related disease and other diseases which Plaintiff may allege and/or may have suffered from, including but not limited to analysis of Plaintiff's alleged exposure to different minerals, and potential agents, discussion of the latency of possible effects of exposure to asbestos and other potential agents, discussion of the latency of asbestos and other diseases, discussion of the contribution of any alleged use of or exposure to Johnson & Johnson products, if any, to the alleged illnesses of Plaintiff, discussion of various models of risk versus time, duration, and extent of exposure, and other related topics. He may testify regarding epidemiological studies related to talc, asbestos, and disease, including but not limited to epidemiological studies analyzing Italian talc miners and millers. Dr. Harber may testify that the relevant scientific research has consistently demonstrated no association between cosmetic talc and the development of asbestos related disease, including mesothelioma. These opinions will

be based on his experience and review of epidemiologic and other scientific literature, which consists of numerous studies conducted by different investigators at various times. He may also testify about the existence of a dose-response relationship between exposure to asbestos and asbestos-related diseases and talc and talc-related diseases. He may opine on the relationship between rates of use of talc and/or asbestos and mesothelioma and may use literature and data, including, but not limited to, government data and relevant public databases like USGS, NOMS, and SEER to support these opinions. He may also provide statistical data on the background incidence rates of mesothelioma and/or cancer.

Dr. Harber's opinions are based upon his education, training, and experience, knowledge and review of the relevant scientific literature, analysis and testing, and review of case-specific materials. He may also be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

**37 Heather H. Xitco, MBA, CPA, CFF
Dolan Xitco Consulting Group
501 West Broadway, Suite 710
San Diego, CA 92101**

Heather Xitco is an economist with more than 15 years of experience in evaluating economic loss claims. She may testify regarding economic damages, losses and other related matters as alleged by Plaintiff.

Ms. Xitco's opinions are based upon her education, training, experience, and review of case-specific materials. She may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by Plaintiff.

Ms. Xitco has agreed to testify at trial (live or by video) and will be sufficiently familiar with the case to provide meaningful deposition testimony regarding her opinions and their bases. Ms. Xitco's fee for providing deposition testimony and for consulting is \$500 per hour. Her curriculum vitae will be provided to any party hereto upon request.

**38 James Finigan, M.D.
National Jewish Hospital
Denver, Colorado**

Dr. Finigan is a physician with board certification in pulmonary disease and critical care medicine. He graduated medical school from the University of Rochester in 1999, completed a residency in Internal Medicine at Case Western Reserve University in 2002 and was chosen as a Chief Resident in Internal Medicine for 2002-2003. In 2007, Dr. Finigan completed a fellowship in Pulmonary and Critical Care Medicine at Johns Hopkins University. From 2007 to 2010, he was an Assistant Professor and Associate Director of the Medical Intensive Care Unit at Case Western Reserve University/University Hospitals of Cleveland. Currently, Dr. Finigan is a faculty member and Professor in the divisions of Oncology (primary appointment) and Pulmonary and Critical Care Medicine at National Jewish Health. He also serves as the Medical Director of the Lung Cancer Screening Program and oversees the Lung Nodule Program, predominantly seeing patients with cancers of chest, including smoking-related lung diseases.

Dr. Finigan has basic, translational, and clinical research experience and has run a basic science laboratory studying lung endothelial and epithelial biology, lung cancer and mechanisms of cancer development and lung injury. He conducts clinical research in lung cancer and lung injury, as well as maintaining his basic science laboratory. He has received research funding from the National Institutes of Health, as well as a variety of foundation and industry sponsors and has presented his research on lung cancer and mechanism of cancer development at national

and international meetings, including at the Internal Meeting of the American Thoracic Society, Keystone Conference, and the World Conference on Lung Cancer. He is a peer reviewer for numerous journals and for research grant funding agencies, including the National Institutes of Health. Dr. Finigan has testified to the United States House of Representatives as an expert on research, translational studies, and clinical trial design and implementation. Dr. Finigan's curriculum vitae is available upon request.

Dr. Finigan may testify regarding the diagnosis of any purportedly asbestos-related disease or condition alleged by the Plaintiff and respond to testimony by any of Plaintiff's experts regarding the same. He may testify to the standards of diagnosing asbestos-related disease, including but not limited to, discussion of chest radiologic imaging, pulmonary function, pathological, and clinical techniques. Dr. Finigan may discuss the literature relative to diagnosis of asbestos-related diseases and the techniques and literature on the diagnosis of other diseases purportedly suffered by the Plaintiff or which are likely to be present in the Plaintiff. He may testify concerning the cause(s) of the Plaintiff's medical condition based on his review of the Plaintiff's medical records, pathology, chest imaging, pulmonary tests, blood gas studies, work history and other types of evidence, and offer his opinions on the medical conditions of the Plaintiff based on such review. He may discuss the anatomy and function of the respiratory, cardiopulmonary, and circulatory systems, and the diagnosis and treatment of diseases affecting such systems. Dr. Finigan's testimony may also include a medical presentation of lung diseases, including, but not limited to, those caused by tobacco abuse, other inhaled agents, genetics, or the environment. He may also discuss the prognosis, risk of cancer of various forms, risk of progression, including, but not limited to, discussion of risk of cancer from asbestos versus

tobacco, risk of cancer from inherited gene mutations and the environment, and risk of death or impairment from other causes.

Dr. Finigan may testify about the relationship of asbestos exposure and/or cosmetic talc exposure, if any, to the incidence of conditions alleged by the Plaintiff, including, but not limited to, pleural plaques and mesothelioma. He may testify generally regarding the role that the size, structure, and chemical composition of different types of asbestos fibers plays in their ability, or lack thereof, to cause conditions alleged by the Plaintiff. Dr. Finigan may testify regarding the relationship between dose and mesothelioma arising at different anatomic locations, including the pleura and peritoneum and generally regarding the role of dose in determining whether certain types of fibers can cause or contribute to conditions alleged by the Plaintiff. Dr. Finigan may provide an analysis of the Plaintiff's work environment, work history, and occupational history, including, but not limited to, discussion of the significance, intensity, and disease-causing potential arising from exposure to particular products versus other types of exposure.

Dr. Finigan will review the available materials in this case and may provide testimony and opinions regarding his review of the medical and scientific literature and the Plaintiff and/or decedent's medical condition and their alleged exposure to various minerals and issues of alternative causation. He may testify that the relevant scientific literature has consistently demonstrated no association between cosmetic talc exposure and the development of asbestos-related disease, including mesothelioma. Dr. Finigan may offer testimony of medical and scientific knowledge regarding any association of disease with work with or around asbestos-containing products and the lack of any such association with work around or the use of cosmetic talc. Dr. Finigan may also discuss the literature relative to the carcinogenicity (or lack thereof) of cosmetic talc or other minerals in their various habits, including, but not limited to, the literature

related to cosmetic talc millers and miners and pleurodesis patients. Dr. Finigan may discuss the epidemiology of cosmetic talc exposure, both in the occupational and domestic context, lung diseases, asbestos-related diseases, and other diseases which Plaintiff may allege and/or may have suffered from, including but not limited to an analysis of Plaintiff's alleged exposure to different minerals. He may discuss the latency of possible effects of exposure to asbestos and other potential agents to diseases, including mesothelioma. He may also testify about the existence of a dose-response relationship between exposure to asbestos and asbestos-related diseases and cosmetic talc and cosmetic talc-related diseases. He may also testify regarding other probable or possible causes of any disease or condition alleged by the Plaintiff, including, but not limited to, smoking, where relevant.

Dr. Finigan may testify that a significant portion of mesotheliomas are naturally occurring or spontaneous and have no association with asbestos exposure. He may also testify about other potential causes of mesothelioma, including non-asbestos minerals, prior radiation, chronic inflammation, and specific genetic changes. He may testify in relation to the role of genetics in mesothelioma and cancer, including the science of genetic cancer predisposition syndrome.

Dr. Finigan's opinions are based upon his education, training, and experience, knowledge and review of the relevant scientific literature, analysis and testing, and review of case-specific materials. He may also be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by the Plaintiff. Dr. Finigan's fee for providing testimony is \$900 per hour and for consulting is \$605 per hour. His curriculum vitae will be provided to any party upon request.

39 M. Laurentis Marais, Ph.D., M.S.
Compass Lexecon
332 S Michigan Avenue, Suite 1300
Chicago, IL 60604

Dr. Marais is an executive vice president at Compass Lexecon. Dr. Marais graduated from Stellenbosch University with his Bachelor of Science in Mathematics, Applied Mathematics, and Computer Science. He also received two graduate degrees in Mathematics and Statistics and his doctorate in Business Administration and Mathematics from Stanford University.

Dr. Marais may be called to testify at trial regarding the proper statistical analysis, statistical modeling, sampling protocols, and calculations regarding probabilities of asbestos content in cosmetic talcum powder, including but not limited to, Johnson's Baby Powder or Shower to Shower based on the testing conducted by Johnson & Johnson, the FDA, other third-party institutions, or any of the testing experts in litigation. Dr. Marais also is expected to counter and rebut the opinions of plaintiff's expert witnesses on statistical analysis and biostatistics and the conclusions they draw from such interpretations, including, but not limited to, any opinions by plaintiff's expert witnesses regarding the statistical analysis and probabilities of asbestos content in talcum powder products such as Johnson's Baby Powder or Shower to Shower, and related issues pertaining to liability and damages. Therefore, in this respect, the substance of his testimony may be determined at least in part by the testimony and evidence presented by plaintiff and his/her expert witnesses.

All of Dr. Marais's opinions and testimony will be given to a reasonable degree of scientific and statistical certainty or a reasonable degree of certainty in his field of expertise. His opinions will be based upon his education and his background, training and professional experience in the statistics and biostatistics fields; his review of the pleadings in this case,

discovery responses, records and documents produced, expert reports furnished by other parties and transcripts and exhibits from depositions taken in this case; and all other materials he deems necessary.

Dr. Marais has agreed to testify at the trial of this matter if called as a witness on behalf of Defendant. Dr. Marais will be sufficiently familiar with the action to submit a meaningful deposition concerning his opinions. Dr. Marais's fee for deposition and trial testimony is \$1,135 per hour. His curriculum vitae will be provided on request.

**40 Christopher Ryan Kelsey, M.D.
30 Duke Medicine Circle, Room 05125A
Durham, North Carolina 27710**

Dr. Kelsey is board certified in radiation oncology. He received his Bachelor of Science Degree from Brigham Young University and his Medical Degree from the University of Colorado School of Medicine. He completed his internship in internal medicine at HealthOne Alliance/PSL and his residency in Radiation Oncology at Duke University Medical Center. Currently, he is a Professor of Radiation Oncology and serves as the Director of Thoracic Radiation Oncology at Duke University Medical Center. Dr. Kelsey is a member of the American Society of Therapeutic Radiology and Oncology and has published 14 book chapters and over 70 articles. He has served as the senior editor of *Practical Radiation Oncology* and is an ad hoc reviewer of multiple journals, including *Cancer* and *Lancet Oncology*. His qualifications are set out in greater detail in his *curriculum vitae*, a copy of which is available upon request.

Dr. Kelsey may testify regarding the general practice of Radiation Oncology and the protocols and principles behind the use of therapeutic radiation in the treatment of cancer and other diseases. He may testify of his review of the published, scientific literature on therapeutic

radiation as a cause of mesothelioma in humans. He may testify as to the nature and extent of the radiation administered to the plaintiff, the risks, and consequences therefrom and his opinions regarding the likely cause of the plaintiff's disease. He may discuss the carcinogenicity of radiation and the occurrence of second malignant neoplasms after radiation therapy. Dr. Kelsey may also discuss generally the late effects of radiation therapy.

Dr. Kelsey is expected to offer opinions based on his education, training, experience, review of the relevant published medical and scientific literature, and his analysis of plaintiff's medical records, diagnostic materials, imaging and/or plaintiff's relevant testimony. He may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by the plaintiff. Dr. Kelsey's hourly rate is \$600.

**41. Jason Lester, MB BS, MSCRP, FRCR
Consultant Clinical Oncologist
West Wales Cancer Centre**

Dr. Lester is a consultant oncologist in the United Kingdom, specializing in the non-surgical management of thoracic cancers, including mesothelioma. His practice is based in South Wales, and he has had a professional interest in mesothelioma for over 20 years. In 2004, Dr. Lester helped establish the first mesothelioma multidisciplinary team (MDT) in Wales. This brought together healthcare professionals with an interest in mesothelioma with the aim of providing world class care to patients with this condition. Dr. Lester has played significant role in establishing a UK portfolio of clinical trials for patients with mesothelioma, and he has been intimately involved in the conception, design, and management of the VIM, SKOPOS, and CONFIRM studies. Dr. Lester is a member of the UK Mesothelioma Research Network, which

aims to progress and promote research in this area. Dr. Lester's qualifications are set forth in his curriculum vitae, which is available upon request.

Dr. Lester is expected to offer testimony regarding the fundamental principles of carcinogenesis. He is expected to testify that cancers arise as a natural consequence of mutations occurring in a small subset of genes that results in unregulated division of the cells harboring these mutations. The accumulation of DNA damage/mutations is central to carcinogenesis. The source of these mutations does not necessarily require exposure to a carcinogen. Dr. Lester may discuss the role of random replication errors and genetic predisposition in the development cancer, including mesothelioma. He may testify about the role of inherited genetic mutations. He may opine that cancer, including mesothelioma, can and does occur in the absence of an environmental exposure to a mutagen due to the slow and steady accumulation of somatic mutations arising often from the normal process of cell division and tissue maintenance. Dr. Lester may discuss the differences between pleural and peritoneal mesothelioma, including the role of asbestos exposure, genetic differences, etiology, and treatment.

Dr. Lester's testimony will be based on his training, experience, education, and review of the medical and scientific literature concerning carcinogenesis and asbestos-related disease. He may also review case-specific materials.

Dr. Lester may be asked to respond to the testimony and documents of certain witnesses offered at the time of trial or in deposition, including, but not limited to, testimony of witnesses offered by the Plaintiff. Dr. Lester's hourly rate for consulting and testimony is \$575.

CORPORATE WITNESSES

Defendants may call some or all of the following corporate witnesses at the trial of this action:

**42 John Hopkins
c/o Blake Williams
Nelson Mullins
1320 Main Street, 17th Floor
Columbia, SC 29201**

Dr. John Hopkins is a toxicologist and chartered biologist who is anticipated to be called by prior testimony only, as a corporate representative of Johnson & Johnson. He holds a Bachelor of Science degree with Honors in Chemistry and Biochemistry from the University of St. Andrews, Scotland. He also holds a Ph.D. degree in Toxicology from the University of Dundee, Scotland. Dr. Hopkins will explain J&J's talc history, including talc sourcing, audits of talc mines, and sampling of talc. Dr. Hopkins may also offer testimony with regard to the presence, and lack thereof, of asbestos minerals in talc deposits. Dr. Hopkins may also discuss the various testing methods that have been used and are being used to test talc for asbestos contamination.

**43 Ed Kuffner, M.D.
Chief Medical Officer, Consumer Health Products
Johnson & Johnson Services Inc.
One Johnson & Johnson Plaza
New Brunswick, NJ 08933**

Dr. Ed Kuffner is the Chief Medical Officer ("CMO") for Consumer Health Products at Johnson & Johnson Services Inc. In this role, he is responsible for monitoring, reviewing, assessing, and conveying the history and scientific background of Johnson & Johnson's legacy consumer products, including Johnson's Baby Powder and Shower to Shower. Previously, Dr. Kuffner served as CMO of Johnson & Johnson Consumer Inc. ("JJCI"), where he led a team of safety professionals who provided medical and safety oversight of the company's consumer

products globally. Prior to serving as CMO of JJCI, Dr. Kuffner was Vice President, Global Medical Affairs & Clinical Research at JJCI.

Dr. Kuffner may testify about his role and responsibilities as CMO, including any conclusions he reached as CMO, what he and others at Johnson & Johnson did to reach those conclusions, any information he relied on to make decisions as CMO, and his actions as CMO. Dr. Kuffner may testify that in order to reach informed decisions regarding the safety of Johnson's Baby Powder, he needed to draw on knowledge regarding the historical actions and conclusions of Johnson & Johnson and the FDA. Dr. Kuffner may testify that to gain that knowledge, he reviewed post-marketing safety data, medical literature related to talc, and historical records in Johnson & Johnson's files regarding talc quality and safety.

Dr. Kuffner may testify regarding the Johnson & Johnson Defendants' communications with regulatory authorities and health organizations concerning talc powders, including but not limited to testing for the presence of asbestos. Moreover, he may address the Johnson & Johnson Defendants' corporate and safety practices and procedures. He may also testify regarding the Johnson & Johnson Defendants' assessment of talc safety and analysis of whether exposure to cosmetic talc (including exposure via perineal application and inhalation) causes any health effects, including but not limited to gynecological cancers and mesothelioma.

Dr. Kuffner may also testify regarding the history of the Johnson & Johnson Defendants' use of talc, including talc sourcing, audits of talc mines, testing, specifications, and sampling of talc to ensure talc safety. Dr. Kuffner may also testify regarding the alleged presence, and lack thereof, of certain constituents in talc, including alleged asbestos minerals in talc deposits, raw talc, and refined talc powders. Additionally, Dr. Kuffner may discuss the various historical testing methods that have been used, as well as those that are currently being used to test talc for

the potential presence of certain constituents, including asbestos minerals. Finally, Dr. Kuffner may testify regarding the commercial decision to discontinue the sale of talc-based Johnson's Baby Powder in North America, announced in May 2020, and globally, announced in August 2022.

Notably, Dr. Kuffner was involved in a comprehensive review of talc safety for which he reviewed the epidemiological literature on talc and ovarian cancer, mesothelioma, and lung effects. Dr. Kuffner also reviewed data and materials relating to the use and safety of talc, the sourcing and quality of Johnson & Johnson talc, global regulatory and public health agency positions on talc, the effects of various particles (including talc) in tissue, and toxicology, including but not limited to the relevant animal studies, cell studies and human studies, as well as Johnson & Johnson's post-marketing safety data and other relevant information. Furthermore, Dr. Kuffner conferred with individuals at Johnson & Johnson with extensive knowledge of historical issues concerning talc safety and testing, and reviewed the Johnson & Johnson Defendants' internal documents concerning those issues. This comprehensive review culminated in the preparation of a document titled Johnson's Baby Talcum Powder: A Comprehensive Review, dated March 17, 2020, which reviewed and discussed the relevant medical, scientific, regulatory, sourcing and quality data on talcum powder safety, and which set out the epidemiological studies reviewed and cited by Dr. Kuffner and his team. Dr. Kuffner may offer testimony regarding this report—Johnson's Baby Talcum Powder: A Comprehensive Review—including any conclusions regarding the safety of talc reached by the Johnson & Johnson Defendants based on their review.

Additionally, on October 16, 2019, while Dr. Kuffner was in his role as CMO of JJCI, the FDA notified JJCI that testing by AMA Analytical Services, Inc. ("AMA") had reported finding

sub-trace levels of chrysotile contamination in samples from a single bottle of Johnson's Baby Powder. To address the accuracy and implications of these reported findings, Dr. Kuffner oversaw and participated in drafting a Health Hazard Evaluation ("HHE"), for which Dr. Kuffner reviewed scientific literature relating to modeling hypothetical exposure estimates, regulatory agencies' positions on asbestos-containing products and the health effects of same, historical and contemporaneous testing of Johnson's Baby Powder, and other relevant information. Moreover, Dr. Kuffner was involved in Johnson & Johnson's decision to voluntarily recall a single production lot of Johnson's Baby Powder (lot no. 22318RB) out of an abundance of caution on October 18, 2019. Dr. Kuffner supported this decision despite the HHE's conclusion that the reported contamination, even if accurate, was unlikely to result in adverse health consequences for consumers. Finally, Dr. Kuffner was actively involved in the company's rigorous investigation of AMA's reported findings, which explored the entire mining, manufacturing and testing process for lot no. 22318RB, and which ultimately concluded that Johnson's Baby Powder did not contain asbestos. A report memorializing the company's investigation was submitted to the FDA on or about December 5, 2019. Dr. Kuffner may testify regarding the October 2019 voluntary recall of Johnson's Baby Powder lot no. 22318RB and subsequent investigation of the findings reported by AMA Analytical Services, Inc., including any conclusions reached and actions taken by the Johnson & Johnson Defendants regarding the safety of Johnson's Baby Powder lot no. 22318RB.

Consistent with the subject matter described above, Dr. Kuffner may also provide the following specific testimony:

- Dr. Kuffner may testify regarding historical findings of the FDA, including its testing of cosmetic talc products in the 1970s, its denial of a citizen petition in 1986 and the rationale for that decision, the exposure assessment conducted as

part of the 1986 citizen petition, and conclusions reached at the 1994 talc symposium.

- Dr. Kuffner may offer testimony about his knowledge of the FDA's 1994 talc symposium and statements made in connection with the symposium that talc had proven to be among the safest of all consumer products.
- Dr. Kuffner may testify regarding the results of FDA's 2009 and 2010 testing showing no asbestos in Johnson's Baby Powder and how that informed his conclusion that Johnson's Baby Powder did not contain asbestos and was safe for consumer use.
- Dr. Kuffner may testify about the 2019 Health Hazard Evaluation that he helped to write, signed, and approved, which contains a variety of information, including but not limited to an exposure assessment concluding that allowable occupational exposures were at least 2 million times higher than the potential consumer exposure reported at 0.00002 percent asbestos fibers.
- Kuffner may testify about the conclusion of the HHE: 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 may testify about how and why he came to that conclusion as the CMO and why that was Johnson & Johnson's conclusion in 2019.
- Dr. Kuffner may testify that the amount of asbestos the FDA reported finding in 2019 was 5,000 times lower than the FDA's worst case estimate.
- He may testify regarding the basis for Johnson & Johnson's current belief that the finding of chrysotile was likely the result of contamination.
- Dr. Kuffner may testify about the type of recall that occurred in October 2019 and his understanding of why the FDA chose not to require a Class I recall. Dr. Kuffner may testify about his personal understanding as CMO of the different classes of recall and explain why the class that was selected in 2019 reflects FDA's determination that the alleged chrysotile finding would not have serious adverse health consequences.

- Dr. Kuffner may testify about discussions during the QRB meeting and the FDA's acknowledgment to Johnson & Johnson that alternate sources of chrysotile could have impacted the positive test results.
- Dr. Kuffner may testify regarding the Johnson & Johnson Defendants' investigation into whether the FDA's alleged finding of asbestos in or about October 2019 could be confirmed as a true finding of asbestos, including the extensive testing of Johnson's baby powder lot no. 22318RB and related talc at Defendants' direction, and the conclusions that could be drawn from that testing.
- Dr. Kuffner may testify regarding his understanding, as CMO, of Johnson & Johnson's press releases in October–December 2019 regarding the FDA's alleged findings of asbestos, including the extent to which he contributed to them.
- Dr. Kuffner may testify about Johnson & Johnson's press release on May 19, 2020, concerning the commercial decision to discontinue talc-based Johnson's baby powder in North America. Dr. Kuffner may testify in his capacity as CMO that the company had decided to discontinue various products, including Johnson's baby powder with talc, to promote social distancing in distribution centers during the COVID-19 pandemic. Dr. Kuffner may also testify in his capacity as CMO that the basis for the discontinuation was that demand for talc-based Johnson's baby powder in North America had been declining due in large part to changes in consumer habits fueled by misinformation around the safety of the product and the constant barrage of litigation advertising.
- Dr. Kuffner may testify regarding his understanding that the decisions to discontinue Johnson's baby powder in North America—announced in May 2020—and globally—announced in August 2022—were not health and safety decisions.

Additional information on the subject matter of Dr. Kuffner's testimony is contained in Dr. Kuffner's deposition testimony from March 11, 12, and 14, 2024, in *Jerry B. Newton v. Johnson & Johnson et. al.*, Dr. Kuffner's trial testimony from February 1, 2024, in *Jeannine Henderson v. Taylor-Seidenbach, Inc. et al.*, and Dr. Kuffner's trial testimony from December 9-

12, 2024, in *Michelle F. Felton, Executrix of the Estate of Michael Lee, deceased, v. Acme Markets, Inc., et al.*, which concerned the same evidence sought to be introduced in this trial.

J&J Defendants reserve their right to call as witnesses any other witness on behalf of the Johnson & Johnson Defendants with knowledge of this subject matter, including their current or former employees and/or management personnel to testify in the areas described above.

FACT WITNESSES

Defendant may call some or all of the following fact witnesses at the trial of this action:

44 Alice Blount

By deposition dated April 13, 2018 taken in *Ingham v. Johnson & Johnson, et al.*

**45 Prof. Frederick D. Pooley
Advanced Mineral Technology LTD
Holmacre
Druidstone Road
Old St. Mellons
Cardiff CF3 6XD
UNITED KINGDOM**

Dr. Frederick Pooley is a mineralogist and a retired professor from Cardiff University in Cardiff, Wales. Dr. Pooley holds a Ph.D. in Mineral Engineering from Cardiff University. A copy of Dr. Pooley's curriculum vitae is available upon request.

Dr. Pooley will describe his examination and testing of J&J's talc and the talc from its source mines. Dr. Pooley has also published several papers on talc, and his testimony may include explaining those studies and papers, including "An Animal Model for Inhalation Exposure to Talc," published in *Dusts and Diseases* in 1979.

Dr. Pooley is anticipated to testify by video prior to or at trial.

46 Employees of Johnson & Johnson

Those with knowledge relevant to this litigation, including the presence or absence of asbestos minerals in talc deposits, the various testing methods that have been used and are being used to test talc for asbestos contamination, witnesses with personal knowledge as to events described or mentioned in any relevant documents produced in this litigation.

47 Third Party Witnesses

Those from testing facilities or laboratories with knowledge relevant to this litigation, including the presence or absence of asbestos minerals in talc deposits, the various testing methods that have been used and are being used to test talc for asbestos contamination, witnesses with personal knowledge as to events described or mentioned in any relevant documents produced in this litigation.

RESERVATIONS – ADDITIONAL WITNESSES

In addition, the J&J Defendants reserve the right to call all witnesses named by any other party in this action, even if the party naming that witness is no longer a party to this lawsuit at the time of trial.

The J&J Defendants reserve the right to withdraw any witness identified herein or in their initial disclosures.

The J&J Defendants reserve the right to use any affidavit, deposition, answers to interrogatories, and/or answers to requests for admissions made by any party to this action.

The J&J Defendants further reserve the right to call as witnesses any individuals necessary to authenticate documents, including corporate documents, social security records, tax records, military records, union records, personnel records, or medical records, including depositions of records custodians.

The J&J Defendants reserve the right to call the following additional witnesses:

1. All witnesses previously identified by plaintiff in this case whether or not listed by plaintiff in his disclosures and/or called by plaintiff at trial.
2. All representatives of medical facilities and physicians at said medical facilities who have treated the Plaintiff.

3. All of Ms. Riley's treating and/or examining physicians, nurses, technicians, lab assistants, and/or physician assistants, including, but not limited to, those identified in any witness list, deposition transcript, or in the medical records of any other health care provider, whether live or by deposition.
4. The custodians of records from all hospitals, physicians' offices, and/or clinics and other health care institutions where Ms. Riley was treated or was evaluated.
5. All witnesses necessary to provide rebuttal or impeachment evidence.
6. The J&J Defendants reserve their rights to call live or by deposition or other transcript any of the witnesses listed above and in their initial disclosures.
7. All parties identified in any Complaint, disclosure, Answer to Interrogatory, or other pleading or discovery response, including all amendments thereto, filed by or on behalf of any other party to this suit, and all parties identified in any deposition, whether such party is present at trial or not.
8. Any of Ms. Riley or her household members' family members.
9. Any other person with knowledge of relevant facts subject to further evidence or information that is disclosed to Plaintiff prior to trial.
10. Any witness called by Plaintiff, or any other Defendant, any witness called for the purpose of laying predicate as to the admissibility of a particular matter, and any witness who may be used for rebuttal whose presence cannot reasonably be anticipated by Defendant at the time of the filing of its Expert and Fact Witness List.
11. Corporate designee or any other representative of any other Defendants in this case. Employees, officers, directors, agents, servants, or employees of any of the named Defendants in this case.
12. Any fact witness necessary for rebuttal or impeachment.
13. Any person whose testimony is necessary to authenticate or to lay any evidentiary foundation required for the admission of any exhibits in J&J Defendants' exhibit list.
14. Corporate representative(s) and/or former employee(s) and/or records custodian of any other party, regardless of whether that party settles or has already settled with Plaintiff or is otherwise dismissed, or of any other entity that has ever been a party in an asbestos-related lawsuit, regardless of whether that entity was ever a party to this suit.
15. All witnesses listed in Answers to Interrogatories.

The J&J Defendants hereby reserve the right to supplement this Witness List when and if additional witnesses become known to J&J Defendants.

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and Kenvue, Inc.*

Columbia, South Carolina

May 15, 2026

EXHIBIT 9

September 2, 2025

Andrew T. Gerken, individually and as Personal Representative of the Estate of Anna Marie L. Gerken, deceased, Plaintiff vs. Avon Products, Inc., et al., Defendants

My formal education and work experience include a Bachelor of Science degree from the U.S. Merchant Marine Academy, Kings Point, New York, in Marine Engineering, with a minor in Shipyard Engineering Management, and a Master of Business Administration (MBA) from Loyola University Maryland. I served eight years as a commissioned officer in the U.S. Naval Reserve and I also currently hold a Third Assistant Engineer's License, Steam & Diesel Propulsion, Unlimited Horsepower, issued by the U.S. Coast Guard.

I was previously employed as a Ship Superintendent by Baltimore Marine Industries (BMI), a full-service (ship construction and ship repair) shipyard located at Sparrows Point, Maryland, where I managed the repair and overhaul of numerous types of military and commercial ships. During my shipyard employment, I personally managed and supervised various shipyard crafts and trades, including Machinists, Pipefitters, Electricians, Welders, Painters, Riggers, Carpenters, and Sheetmetal Workers. I was also involved in the initial stages of managing the Naval Shipbreaking Program and have overseen the successful scrapping of former U.S. Navy vessels built during the 1950s and 1960s. To safely scrap these vessels, I needed to have an intimate knowledge of shipbuilding material. This included identifying and abating all toxic materials on board these vessels, mainly asbestos, lead, and polychlorinated biphenyls (PCB's), before the scrapping could commence. In addition, as a Ship Superintendent, I was responsible for knowing, interpreting, implementing and enforcing applicable local, state and federal rules, regulations and laws relating to safety at the shipyard.

After graduating from the U.S. Merchant Marine Academy, I served as an Officer in the U.S. Naval Reserve for eight years, obtaining the rank of Lieutenant. I was designated as a Marine Engineer (1675 designator) and was assigned to the U.S. Naval Reserve, Merchant Marine Ready Reserve (USNR MMR). During my U.S. Naval Reserve career, I gained valuable experience and expertise in maintenance, upkeep, activation, and deactivation of U.S. Navy and merchant ships located in Ready Reserve Fleet. I also gained valuable firsthand experience with the U.S. Navy/Federal Supply System. Additionally, while assigned to Active Duty Training, I successfully completed the National Sealift Training Program for Engineers training course. During this training, students received advanced training about shipboard systems and typical problems that occur while activating and maintaining Reserve Operating Status (ROS) 4 and ROS 5 ships as well as Ready Reserve Fleet (RRF) 10, 20 and 30 ships. During Active Duty Training, I also successfully completed several U.S. Navy correspondence training courses which focused on ship maintenance and repairs, marine engineering economics, and management of time and cost in shipbuilding projects.

The past twenty-two years have been spent researching, amongst other subjects, Department of Defense, including the U.S. Navy, policy, practices, doctrine and

procedures regarding the various types of materials used to construct, maintain and repair military ships, buildings, facilities, and other Department of Defense structures. Through my education, training and work experience, I have developed expertise regarding the design, development, construction, maintenance, and repair of U.S. military ships and other equipment, and Department of Defense facilities. I have also acquired an expertise in the requirements and use of U.S. Military specifications; the level of control and supervision exercised by the Department of Defense over the design, manufacture, and installation of materials at Department of Defense facilities; and various publications distributed by the U.S. government, the Department of Defense concerning asbestos hazards. It should also be noted that I have researched and reviewed documents regarding these subjects at several National Archives and Records Administration facilities, and other libraries and document repositories.

For this case I have specifically researched available records relating to the use of asbestos-containing materials on the various U.S. Navy vessels overhauled, repaired, and maintained at Charleston Naval Shipyard, as well as the various types of asbestos-containing materials used in the construction and maintenance of the buildings at the shipyard. In addition, I have researched the use of asbestos-containing materials by the Department of Defense; including the U.S. Navy, U.S. Army, and U.S. Air Force.

The records used in this research were the original business records, instructions, technical manuals, training manuals, specifications, standards, plans, photographs, daily correspondence, and other publications of the U.S. government. Each document was created on the dates indicated in References A through HQ. These records were created in the regular conduct of the U.S. government's daily operations pursuant to the relevant laws, regulations and instructions governing the applicable departments. As such, they were required to be, at the time they were created, factual and reliable for use in the regular conduct of that department's daily operations. They are stored and located at U.S. government document repositories including, but not limited to, the National Archives and Records Administration, the Library of Congress and the Naval History and Heritage Command. As historical records they are preserved by these repositories for the reasons stated by the National Archives and Records Administration in its mission statement:

“Our Mission is to provide public access to Federal Government records in our custody and control. Public access to government records strengthens democracy by allowing Americans to claim their rights of citizenship, hold their government accountable, and understand their history so they can participate more effectively in their government.”

Additionally, I reviewed the following materials provided to me regarding Mrs. Gerken's alleged exposure to asbestos:

First Amended Complaint
Plaintiff's Responses to Defendants' Master Set of Interrogatories and Request for Production of Documents

Plaintiff's Answers to Defendants' Standard Interrogatories
 Official Personnel Folder (OPF) for Anna Gerken
 Official Personnel Folder (OPF) for Andrew Gerken
 Social Security Administration Itemized Statement of Earnings for Anna Gerken
 "Comprehensive Report" from Accurint for Legal Professionals, LexisNexis
 "Pleadings List" from LexisNexis
 Report from Bloomberg Law
 Report from Caseportal - By Courthouse News Service
 Report from Sled Catch - Citizens Access to Criminal Histories
 Obituaries
 Letter to the Editor from Anna Gerken
 Deposition testimony of Andrew Gerken
 Deposition testimony of Barbara Rhoad

My *curriculum vitae* and resume of trial and deposition testimony are attached to this report. My billing rate for this research is \$255/hour. Deposition or trial testimony is billed at \$475/hour. The billing rates for other researchers and staff range from \$255/hour to \$125/hour; I have not authored any publications on this subject in the past 10 years.

As noted above, I did receive a copy of the Official Personnel Folder (OPF) for both Mrs. Gerken and her husband, Mr. Andrew Gerken for their employment with the U.S. government, including the Department of Navy while employed at Charleston Naval Shipyard. However, I did not receive a copy of their Employee Medical File (EMF) for Mrs. and Mr. Gerken's employment with the U.S. government. Although the Official Personnel Folders generally appear complete and provide me with sufficient information to support my opinions, I would still reserve my right to supplement this report upon receiving a more complete copy of their Official Personnel Folder (OPF), should one exist. I would also reserve my right to supplement this report upon receipt of the Employee Medical File (EMF) for Mrs. and Mr. Gerken. I also received, as noted above, the deposition testimony of both Mr. Gerken, and Mrs. Gerken's sister, Mrs. Barbara Rhoad. Therefore, I would also reserve my right to supplement this report if any additional family member or co-worker depositions become available, or if any additional documents become available, or if further research is required.

According to the Standard Form 171 "Personal Qualifications Statement" found in Mrs. Gerken's Official Personnel Folder, she held the following positions with the U.S. government prior to her employment with the Department of the Navy at Charleston Naval Shipyard, Charleston, South Carolina:

Dates of Employment	Position	Organization or Agency/ Location
November 27, 1961 - August 30, 1963	Clerk-Typist	Federal Bureau of Investigation, Washington, D.C.

Dates of Employment	Position	Organization or Agency/ Location
September 3, 1963 - September 17, 1966	Clerk-Typist/ Administrative Clerk	Internal Revenue Service, Washington, D.C.
September 18 - October 29, 1966	Clerical Assistant- Typing	U.S. Air Force, Bolling Air Force Base, Washington, D.C.
October 30, 1966 - April 29, 1967	Secretary-Typing/ Administrative Clerk	Internal Revenue Service, Washington, D.C.
June 19, 1967 - March 9, 1968	Clerk-Dictating Machine Transcriber	U.S. Civil Service Commission, Pittsburgh, Pennsylvania

On March 10, 1968, Mrs. Gerken transferred from her clerk-dictating machine transcriber (GS-3) position, with the Civil Service Commission, Investigative Division, Pittsburgh Duty Station, to a clerk-typist (GS-3) position, with the Planning Department, Nuclear Power Division, Fluid Systems and Mechanical Branch, Charleston Naval Shipyard, Charleston, South Carolina. Based on my review of Mrs. Gerken's Official Personnel Folder (OPF), the following is a summary of her employment with the Department of the Navy at Charleston Naval Shipyard, and later at the Naval Regional Medical Center, Charleston, South Carolina:

Date	Action
March 11, 1968	First day at Charleston Naval Shipyard
July 28, 1968	Reassignment from Planning Department, Nuclear Power Division, Fluid Systems and Mechanical Branch to Planning Department, Combat Systems Division, Technical Administrative Branch
August 25, 1969	By reason of marriage on August 9, 1969, name changed from Anna M. Leitgeb to Mrs. Anna L. Gerken
March 8, 1970	Promoted to Clerk-Dictating Machine Transcriber
September 20, 1970	Reassignment from Planning Department, Combat Systems Division, Technical Administrative Branch to Planning Department, Combat Systems Division, Surface Missile Systems Engineering Branch
June 11, 1972	Reassignment from Surface Missile Systems Engineering Division, Combat Systems Office to Systems Engineering Division, Combat Systems Office
July 28, 1972	Resigned

Date	Action
February 10, 1975	Reinstated Career Appointment, Clerk-Dictating Machine Transcriber, Naval Regional Medical Center, Occupational Health Service/Medical Branch, Charleston Naval Station, Charleston, South Carolina
September 14, 1975	Reassignment to Clerk-Typist
January 4, 1976	Resigned

Mrs. Gerken was employed at Charleston Naval Shipyard, Charleston, South Carolina, as a clerk-typist and clerk-dictating machine transcriber from March 11, 1968 - July 28, 1972. She was also employed at the Naval Regional Medical Center, Charleston Naval Station from February 10, 1975 - January 4, 1976. As noted above, on August 25, 1969 the former Miss Anna M. Leitgeb was married to Mr. Andrew T. Gerken. At the time of their marriage, Mr. Gerken was employed at Charleston Naval Shipyard as a nuclear engineer. He would be continue to be employed at the shipyard as a nuclear engineer, and later as a supervisory nuclear engineer, until his retirement and the closing of Charleston Naval Shipyard on April 1, 1996.

Mrs. Gerken began her employment at Charleston Naval Shipyard on March 11, 1968, as a clerk-typist with the Planning Department, Nuclear Power Division, Fluid Systems and Mechanical Branch. Charleston Naval Shipyard was established in August 1901, and prior to the shipyard's closure on April 1, 1996, repaired, overhauled, and converted U.S. Naval surface ships and both diesel- and nuclear-powered submarines (References W through AO). A March 1968 document titled "Engineered Long Range Modernization Program for the U.S. Naval Shipyards, Phase II Report, Volume 6 - Charleston Naval Shipyard," provided the following about the shipyard (Reference Z):

"III. DESCRIPTION AND MISSION OF SHIPYARD

A. GENERAL

1. Role

"Charleston Naval Shipyard's primary role is the repair, overhaul and conversion of subsurface and the smaller types of surface ships. Charleston has the capability for overhauling, refueling and conversion of nuclear submarines (both the SSN and SSBN classes) and, additionally, has acquired the capability to support Terrier, Tartar and Talos missile systems. The shipyard's facilities are a major element in the total Polaris missile support complex.

2. Historical Background

The Charleston Naval Shipyard was established in 1901 when the need for a naval shipyard in the southeastern sector of the United States became evident. In 1909 the key facilities were completed, among which were a drydock, a pier, five shop buildings, and a powerhouse . . .

Between World Wars I and II the facilities were further developed, and the shipyard was assigned destroyer and service craft new construction in addition to its repair workload. During 1940 nearly \$20,000,000 was spent in developing Charleston as a repair and supply base.

The shipyard was greatly expanded during World War II; 195 ships were constructed and employment reached 26,000 . . . After the war, the south yards piers and branch shops were inactivated and the employment level was stabilized at about 7,000.

In 1948 the shipyard was designated as a submarine repair and overhaul yard, and during the period of 1953 to 1955 a new Electric-Electronic Shop building was constructed. In 1958 the 'Nuclear-Polaris' era at the shipyard began with preparation for overhauls of SSN/SSBN submarines. The shipyard's first major assignments in this area was accomplished in 1959 with the conversion of the USS Proteus, the Navy's first tender for Polaris submarines. In 1960 the shipyard was assigned the task of furnishing supply support to Polaris submarines throughout the world, and in 1961 was designated as the planning yard for nuclear-powered submarines, SSBN 598 and 608 classes. The construction of the shipyard's largest graving dock, Drydock 5, and its first nuclear submarine overhaul were both completed during 1964.

3. Location

The Charleston Naval Shipyard is sited in the center of the US Naval Base, Charleston, South Carolina. It is located on the west bank of the Cooper River about five miles north of the city of Charleston . . ." (pp. III-1 to III-2)

"7. Statistics

Authorized employment at the Charleston Naval Shipyard during March 1967 was between 7,500 employees and 8,000 employees. The number of civilian personnel actually employed as of March 15, 1967, was 7,865, with approximately two thirds employed in the Production Department and the remainder distributed to other departments and offices."

B. MISSION, TASKS AND FUNCTIONS . . .

1. Mission

To provide logistic support for assigned ships and service craft; to perform authorized work in connection with construction, conversion, overhaul, repair, alteration, drydocking and outfitting of ships and craft, as assigned; to perform research, development and test work, as assigned; and to provide services and material to other activities and units, as directed by competent authority.” (p. III-3)

A document titled “Interim RCRA Facility Assessment of USN Charleston Naval Shipyard, Charleston, South Carolina,” and dated August 1987, added the following about the shipyard (Reference AC):

“In 1948, NSY was designated a submarine repair and overhaul yard including by 1958, radiological decontamination. A research, development, and testing function was also added at that time. In addition, NSY became the east coast center for mine warfare ship support. In 1961, NSY was given design support responsibilities for the Polaris submarines. Since that time, shops at NSY have been expanded to include a drydock designed to service the Fleet Ballistic Missile (FBM) submarines and other nuclear-powered ships.

Today, NSY is highly industrialized installation providing logistical support and performing work in conversion, overhaul, repair, alteration, dry docking and outfitting of ships, submarines and service crafts. The shipyard is responsible for the maintenance of shore facilities and for the operation and maintenance of all utility systems on the Charleston Naval Base Complex. The NSY has a current work force of approximately 8,500 civilian and 60 military personnel.” (p. 2-1)

According to the testimony of Mr. Gerken, both he and Mrs. Gerken worked in Building 79 at Charleston Naval Shipyard (Gerken, April 9, 2025, pp. 45-46, 122-123, 157).¹ My research finds that Building 79 was built in 1943 and was known as the Repair Shop and Quality Assurance Office building (References AH through AM and AO). A May 2003 document titled “RFI Report Addendum and CMS Work Plan SWMU 102 and AOC 590, Zone E,” provided the following about Building 79 (Reference AM):

“Building 79 is a single-story concrete block structure with a concrete slab foundation that was constructed in 1943. The building previously housed the Ordnance Shop and then served as a dental clinic from 1966 until 1976. Currently, Building 79 is being used by the Neal Brothers Co. as a storage facility. This area is zoned for marine industrial use (M-2).” (p. 2)

¹According to the testimony of plaintiff’s sister Mrs. Barbara Rhoad, she also worked in the same building at Charleston Naval Shipyard, however, she did not specifically identify Building 79 in her testimony (Rhoad, April 10, 2025, pp. 82-83).

The document titled "Engineered Long Range Modernization Program for the U.S. Naval Shipyards, Phase II Report, Volume 6 - Charleston Naval Shipyard," referenced previously, noted the following about the various shops that occupied space in Building 79 (Reference Z):

"Shop 31 - Inside Machine Shop

a. Existing Conditions

The major functions of the Inside Machine Shop are the machining, testing and repair of pumps, valves, propellers, shafts, winches, forgings and castings. Shop functions also include turbine repair, propeller and pump impeller balancing and the babbitting of bearings. In general the shop performs all machine shop functions related to ship overhaul, conversion and repair."

The Inside Machine Shop presently occupies the following space:

<u>BLDG</u>	<u>SQ FT</u>
3	138,300
6	4,500
43	11,300
79	3,500
1169	<u>5,300</u>
Total 162,900" (p. V- 25)	

"5. Shop 38 - Ordnance

a. Existing Conditions

The primary mission of the Ordnance Shop is to remove, overhaul, repair, test and install guns, gun mounts, torpedo tubes, launchers and other weapons equipment.

The Ordnance Shop presently occupies 30,600 sq ft of space in Bldg 79, which will become a nuclear facility. The present space allocation is inadequate to meet the projected workload." (p. V- 35)

A document from April 1996 titled "Naval Nuclear Propulsion Program (NNPP) Radiological Final Report for the Decommissioning of Charleston Naval Shipyard - Volume II, Section A," added the following about the history of Building 79 (Reference AJ):

“1.0 Building 79/79A

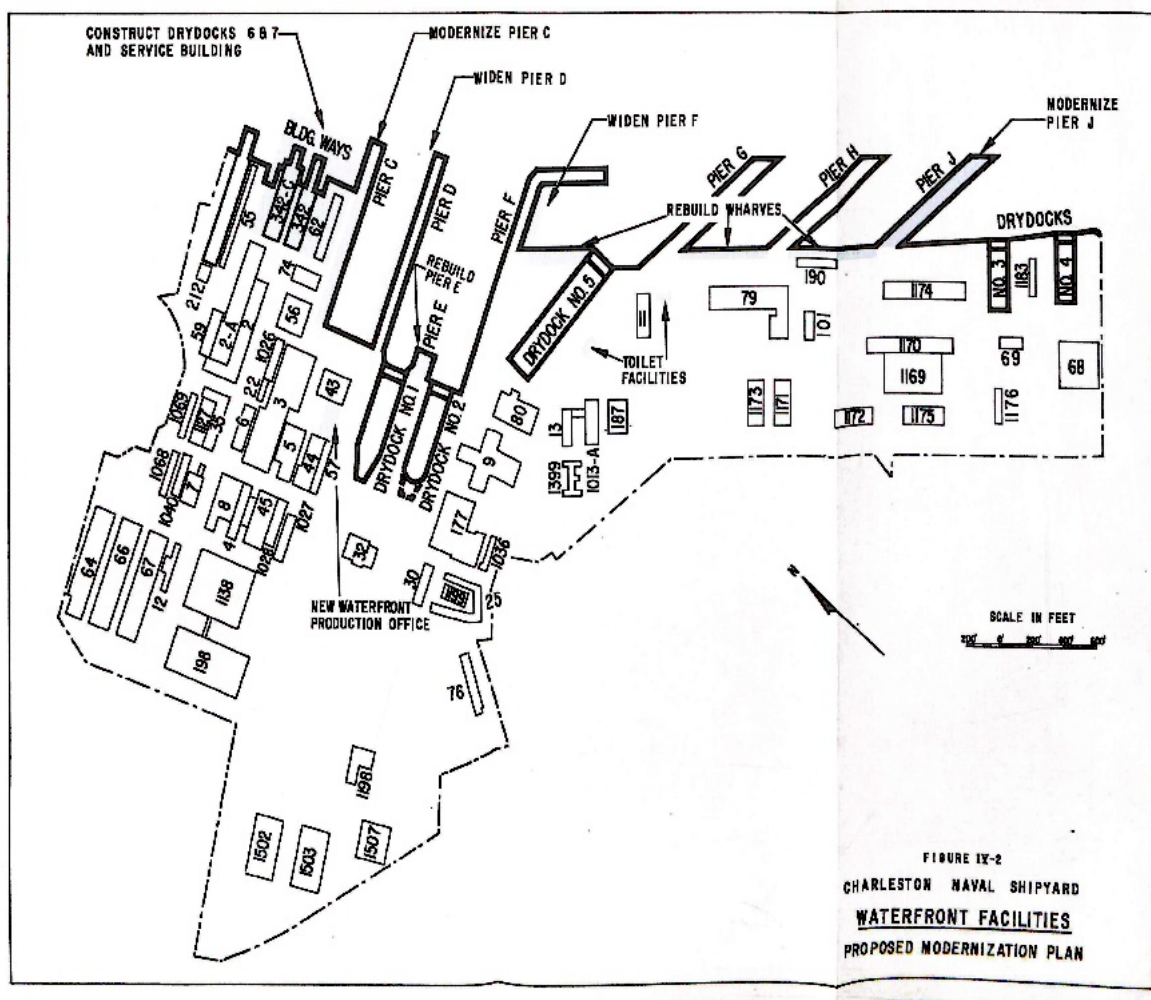
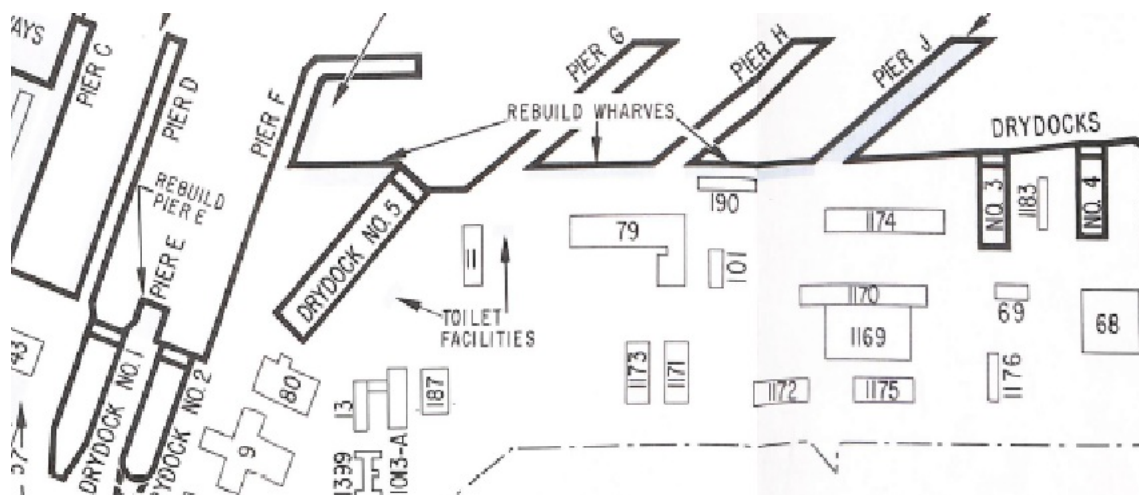
(a) Introduction:

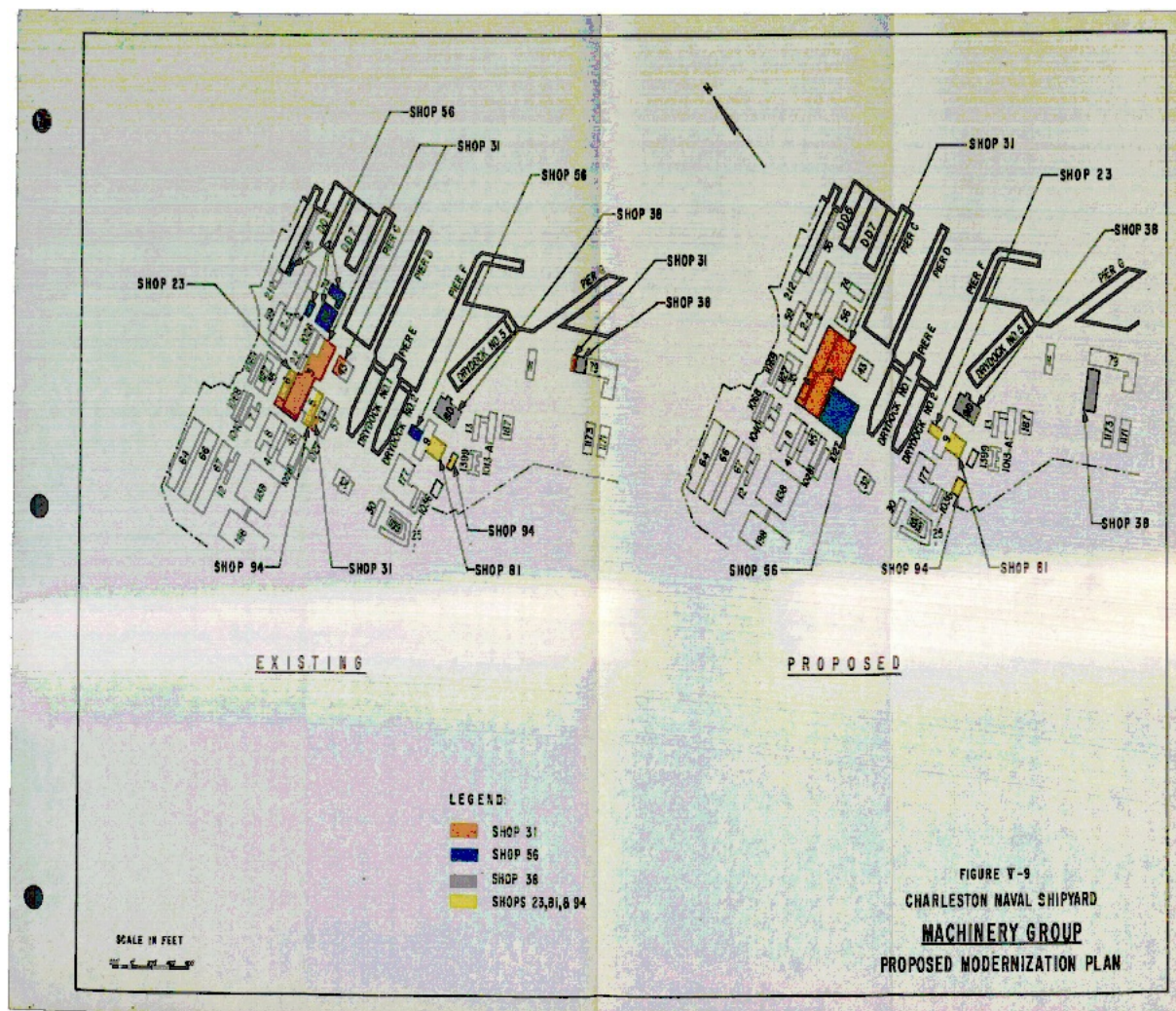
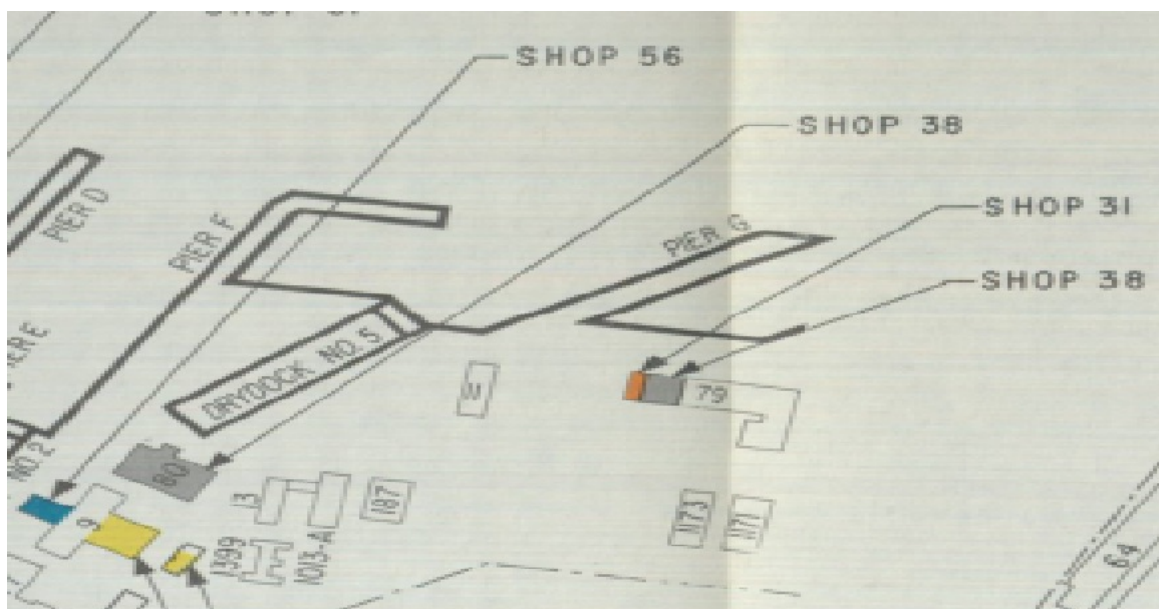
Building 79/79A was divided into five individual areas. These areas are Bldg. 79, Bldg. 79A Transition Areas, Bldg. 79A Bay Areas, Bldg. 79A Miscellaneous Areas, and Bldg. 79A Trenches. Buildings 79 and 79A are located in grid 0-8 of the Charleston Naval Shipyard map (Figure 10). Bldg. 79 is approximately 550' long by 125' wide. Bldg. 79A has two parts with the first being 40' by 60' two-story office spaces and change area. The second is a radiological facility approximately 115' by 120'. Miscellaneous areas consist of two fenced areas. The first, outside and north of the North Bay, is approximately 125' by 125'. The second, outside and west of the High and Low Bays, is approximately 250' by 150'.

(b) Use:

Portions of Bldg. 79 were used for laundering anticontamination clothing and for storage of radioactive material (RAM), waste, and sources until the completion of Bldg. 79A. Building 79A Radiological Refueling and Repair Facility began initial operations in 1966 to support overhaul and refueling of nuclear powered ships. Work in this facility included reactor plant equipment refurbishment, refueling training, refueling equipment repair, radioactive liquid processing, waste packing, portable radioactive liquid waste (RLW) tank maintenance and decontamination, and decontamination of reactor plant components. From 1966 to 1983 the three bay areas, High, Low, and North, were controlled surface contamination areas (CSCAs). Since 1983 the bay areas were controlled as radiologically controlled areas (RCAs).” (p. 1)

On the following page are maps of Charleston Naval Shipyard and enlargements of these same maps which highlight the location of Building 79. The second map also provides the locations of Shops 38 and 31 within Building 79. Both of these shipyard maps were published in “Engineered Long Range Modernization Program for the U.S. Naval Shipyards, Phase II Report, Volume 6 - Charleston Naval Shipyard,” referenced elsewhere in this report (Reference Z):





Mr. Gerken offered the following testimony about Building 79 at Charleston Naval Shipyard:

Gerken, April 9, 2025, pp. 45-46

Q. I can't remember if you said, though -- did -- did your building have a specific number designation?

A. 79.

Q. 79. Okay. And how big -- about how big was that building?

A. Well, the part we were in was -- they put up walls or whatever, but it was a big -- I guess it might have been a storage building or something before that. And they put in just like these drop ceilings. They put those in, one thing or another, to make it -- to create office space in something that was probably a big warehouse at one time, tile the floors.

Q. So was it -- was it one story or was it multiple stories?

A. One story.

Gerken, April 9, 2025, pp. 46-47

Q. Was any type of ship or equipment maintenance being performed in that building?

A. Not in the part we were in, no.

Q. Okay. And you say not in the part you were in. Was there any going on in the building, period?

A. There was another part that was -- we never really accessed. It was a little small machine shop. Now, we had bigger machine shops all over the yard, so...

Q. Do you know what kind of work was getting -- was being performed in that machine shop?

A. A particular machine, no.

Q. Just all bare metal?

A. Yeah.

Gerken, April 9, 2025, pp. 122-123

Q. Very good. When we left, we were talking about the shops in the shipyard. And you talked about with your lawyer earlier -- I'm trying to find it in my notes, to be honest -- that you live -- that you -- you all were in Building 79?

A. Right.

Q. Right?

A. Yes.

Q. And Building 79 was, you think, previously a -- a storage facility, like a warehouse originally?

A. I don't know that for certain but it kind of looked like that's the way it was built. Big, open bay, long.

Q. And then it -- it appeared to you that they had put up walls or partitions within the larger space --

A. They did. They built the office space.

Q. -- to divide it up?

A. Right.

- Q. Did the -- did the walls go all the way to the ceiling or not?
- A. Yeah.
- Q. They did?
- A. Yeah.
- Q. Okay. And then within rooms, they -- they would -- they broke it up further by cubicles, true?
- A. Yeah. We had a bunch of metal partitions.

Gerken, April 9, 2025, p. 17

- Q. Okay. How -- I guess you said you worked pretty close in the same building, but how -- how did you, I guess, initially meet her?
- A. I said -- I walked. I saw her in the -- it -- we had cubicles. Now, this -- this was an old building. And it wasn't the individual offices except for the managers. And I went by and I saw her. "Hi, how are you doing?" And, you know, we met and got to know each other.

Gerken, April 9, 2025, pp. 48-49

- Q. Would you be able to estimate for me about how far the dry docks and all the maintenance shops were from the building you and Ann worked in?
- A. Oh, probably a good maybe quarter of a mile. It was a pretty good walk in the summertime.
- Q. Okay. When Ann got to work in the morning, do you know where she parked?
- A. Yeah. We parked not too far from where our office space was.

On Mrs. Gerken's Standard Form 171 - "Personal Qualifications Statement," located within her Official Personnel Folder (OPF), she provided the following about her employment at Charleston Naval Shipyard for the period March 11, 1968 - July 28, 1968, as a clerk-typist in the Fluid Systems and Mechanical Branch, Nuclear Power Division:

"Acted as Secretary to the Branch Head and also to the engineers within the Branch (18 in all). Was required to do their typing including memorandums, reports, telecons, rough drafts, etc., Was responsible for the keeping of their time cards and overtime cards. This was in the Nuclear Power Division, and this was restricted area so also had responsibility of permitting only authorized people into the building, plus handled all incoming telephone calls into the Branch. Also, handled confidential correspondence and filing of plus filing of other material in correct manuals. Typed 52's (personnel actions) for new employees into the Branch."

Mrs. Gerken was reassigned from the Planning Department, Nuclear Power Division, Fluid Systems and Mechanical Branch to the Planning Department, Combat Systems Division, Technical Administrative Branch at the shipyard on July 28, 1968. On her "Personal Qualifications Statement," for the period July 28, 1968 - September 20, 1970, Mrs. Gerken noted the following about her responsibilities in the Combat Systems

Division at Charleston Naval Shipyard during this time period:

"In typing pool and is required to type all types of correspondence submitted from six Branches in the Combat Systems Division. There are two other girls in the pool also. Besides typing memorandums, reports, etc, there is filing of material too. Also types, messages, speedletters, some of which are in tabular form. I am responsible for determining the proper format, correct punctuation, grammar capitalization, spelling and paragraphing [sic] of material I type. One [sic] in awhile I am required to answer the phone. Also, when Division Secretary is on leave, I sit in for her and do the mail, typing etc. that she performs as a GS-5. Answering the phone, set up meetings and help personnel of the Division who come into the office."

In addition, an "Award Recommendation for Superior Accomplishment," dated July 12, 1971, found in Mrs. Gerken's Official Personnel Folder (OPF), noted the following about her responsibilities during this time period:

"On 1 June 1970, Mrs. Gerken was requested to temporarily assume the duties of the secretary to the senior SMS Systems Engineer due to a resignation of the regular secretary. Permanent assignment was effective on 20 September 1970. As secretary for the SMS/ASW Branch, Mrs. Gerken has repeatedly demonstrated her outstanding ability to use her time effectively and efficiently, to work at top speed day after day and to quickly produce the requirements of her job. Mrs. Gerken has numerous tasks which require quick response and attention to detail. In the SMS areas, she is responsible for the timely typing and reproduction of such items as the SMS Task Group Minutes, the SMS Daily Status and Work Scheduling Minutes and SMS Test Packages. Her efforts were a substantial contribution toward the successful recent overhauls of USS SELLERS (DDG 11), USS MACDONOUGH (DLG 8), USS SEMMES (DDG 18), USS TATTNALL (DDG 19) and USS C.F. ADAMS (DDG 2). In the ASW area, Mrs. Gerken is responsible for the timely typing and reproduction of correspondence such as the ASWTRO Test packages and ASW weekly updating minutes for recent overhaul of USS HADDO (SSN 604) present overhaul of USS GEORGE WASHINGTON (SSBN 598), discrepancy lists for submarine Consolidated Operability Tests (COT), test packages for Basic Point Defense Surface Missile System (BPDSMS) on USS BLAKELY (DE 1072) and aircraft request messages required for the majority of the ships undergoing shipyard sea trials."

On June 11, 1972, Mrs. Gerken was reassigned from the Surface Missile Systems Engineering Division, Combat Systems Office to the Systems Engineering Division, Combat Systems Office. Mrs. Gerken's "Personal Qualifications Statement," provided the following about her responsibilities for the period September 20, 1970 - July 28, 1972, as a clerk-typist/clerk-dictating machine transcriber in the Combat Systems

Office, Engineering Division at Charleston Naval Shipyard:

"The primary purpose was to provide clerical & typing duties to the Technical Assistant to the Combat Systems Office and Systems Engineers. Transcribe from dictaphone discs included letters, memoranda, messages, speedletters pertaining to testing and other engineering work. Typing of a general nature & filing & keeping up with office main. Answer telephone & receive visit. Also performed timekeeping duties & other miscellaneous duties." (pdf. p. 24)

Mr. Gerken offered the following testimony regarding Mrs. Gerken's work, as well as his own, at Charleston Naval Shipyard:

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- Q. But kind of taking a step back, how did you first meet Ann?
- A. She was the administrative assistant at the next group over from mine. We worked -- we both worked in the -- it was originally nuclear power division, later the nuclear engineering department. And I worked in the next -- well, it was -- it was arranged in codes, they called it. That's just for pay purposes. It was actually individual groups. And she was the administrative assistant for one group, which was fluid mechanical systems. I worked in reactor engineering.
- Q. Okay. And that was at the shipyard, you already said?
- A. Shipyard.
- Q. And what shipyard is that?
- A. Charleston Naval Shipyard.

Gerken, April 9, 2025, pp. 44-45

- Q. And you kind of mentioned it a little bit already, but what was Ann's job at the shipyard?
- A. She was -- like secretarial work. She was an administrative assistant.
- Q. And was she doing that the entire time she was at the shipyard?
- A. Yeah.
- Q. What was your job?
- A. I worked in nuclear engineering and radiological controls, and I wasn't a wrench-turner or pick up a hammer or beat on any iron, as they used to say, but a -- a -- a lot of office work, that -- that type of work is done by written, step-by-step, technical work procedures. You sit down and you say, "Okay, you turn this so many turns," that sort of thing. I did a lot of document preparation because that's -- that sort of thing, do it at night. I did spend a little time, going down to the ships, doing observation work. And when I worked --

Gerken, April 9, 2025, pp. 50-52

- Q. Okay. And you kind of talk--- mentioned it a minute ago, but, as part of your job, there was occasions you had to go onboard the ships?
- A. Yes.
- Q. Explain that for me a little bit, please.

- A. Well, we would go and do oversight of work, stuff like that. And when I worked in -- when I first went there, I worked in the division called Reactor Engineering. We were actually the refuelling guys. So we were specially trained and qualified to oversee the refuelling operations.
- Q. And so were there specific parts of the ship that you were -- you were performing oversight for the -- as --
- A. Yeah. Now, you have got to remember, a submarine, you have got to cut big holes in it to get to anything inside there. Okay? And, like, the refuelling -- and I showed you the pictures. And if anybody wants to know what it kind of looks like, you can go to -- Google U.S. Naval Nuclear Submarine Disposal, and you can see pictures of a lot of stuff about, you know, what it looked like and how -- there are some pictures in there about how work was done. And most of that dismantling was done at Puget Sound Naval Shipyard in Bremerton, Washington. But we did some inactivation defuelling and cutting out the missile section to beat the SALT agreements on a few ships up here at the shipyard.
- Q. And so when you were going onboard these ships, though, was there a -- a specific area or compartment that you were going to?
- A. Typically reactor compartment.
- Q. Okay. And how would you get to the reactor compartment? Did you have to go through other engine spaces or how did -- what did you do?
- A. That would be very rare. Most of the time, it was prepared for refuelling -- we had -- it was all part of a radiological enclosed area. Had a house mounted on the ship. Okay? Had it sealed down around the reactor itself, down through the hull cut, and it was just like walking down a passageway and opening a regular door to go into the thing. But it was kept absolutely hospital clean. Okay? Any foreign material inside the reactor is absolutely a no-no.
- Q. All right.
- A. That's no.

Mrs. Gerken would resign from Charleston Naval Shipyard on July 28, 1972.

About two and ½ years later on February 10, 1975, Mrs. Gerken was Reinstated-Career Appointment (rehired) as a clerk-dictating machine transcriber at the Naval Regional Medical Center, Occupational Health Service/Medical Branch, Charleston, South Carolina. On September 14, 1975, she was reassigned as a clerk-typist. Less than four months later on January 4, 1976, Mrs. Gerken resigned from the Naval Regional Medical Center.

Asbestos-Containing Materials Present in Mrs. Gerken's, and Her Husband, Mr. Gerken's, Work Environment While They Were Employed at Charleston Naval Shipyard

As will be outlined in this section of the report, Mrs. Gerken and her husband were in the presence of various types of asbestos-containing materials in their working environments at Charleston Naval Shipyard.

A. The Use of Asbestos-Containing Materials on U.S. Navy ships and submarines

As noted in the previous section of this report, while Mrs. Gerken and her husband, Mr. Gerken were employed at Charleston Naval Shipyard, various classes of U.S. Navy ships and submarines were overhauled, repaired, and maintained at the shipyard including USS Allen M. Sumner (DD 692)/USS Gearing (DD 710), USS Forrest Sherman (DD 931), USS Farragut (DLG 6), USS Belknap (DLG 26) and USS Charles F. Adams (DDG 2) class destroyers; USS Knox (DE 1052) class destroyer escorts; USS Fulton (AS 11) class submarine tenders; USS George Washington (SSBN 598), USS Ethan Allen (SSBN 608) and USS Lafayette (SSBN 616) class nuclear-powered fleet ballistic missile submarines;² and USS Thresher (SSN 593) and USS Sturgeon (SSN 637) class nuclear-powered attack submarines (Reference W).

The steam, auxiliary steam, and diesel engine exhaust lines on board U.S. Navy ships and submarines were insulated and lagged with asbestos-containing thermal insulation to provide heat reduction and protection for the ship's crew. The cold water lines on board many classes of U.S. Navy ships were also insulated with high amosite-content asbestos "anti-sweat" insulation to prevent condensation, or sweat, from forming on the piping. According to U.S. Navy insulation correspondence, insulation and lagging plans, and ship construction specifications (References AW through BP); insulation policy documents, including the General Specifications for Ships of the U.S. Navy, Military Standard 769, and the Bureau of Ships Technical Manual (References A through H); and previous research, the following asbestos-containing thermal and anti-sweat insulation was used in the construction, maintenance, and repair of U.S. Navy vessels including those being overhauled at Charleston Naval Shipyard:

Insulating Material	U.S. Military/Federal Specification	U.S. Navy Specification
Sectional Pipe Covering	MIL-I-2781	32P3/6/8
Insulating Block	MIL-I-2819	32I3

²It should be noted that USS Lafayette (SSBN 616) class, consisting of 31 submarines, is often further broken down into USS James Madison (SSBN 627) class (SSBN 627-636), and USS Benjamin Franklin (SSBN 640) class (SSBN 640-645, 654-659) (References AP through AR). Although all three classes were identical in length, width and displacement, USS James Madison class submarines were equipped with Polaris A-3 missiles as opposed to the Polaris A-2 missiles initially installed on board the USS Lafayette class submarines (References AS and AT). USS Benjamin Franklin class submarines are often considered as being a separate class because these submarines were the first to be constructed under the U.S. Navy SUBSAFE guidelines that were created in June 1963 and first implemented in December 1963 after the sinking of USS Thresher (SSN 593) during sea trials on April 10, 1963. (References AU and AV).

Insulating Material	U.S. Military/Federal Specification	U.S. Navy Specification
Amosite Asbestos Felt	MIL-I-15091	32F3
Thermal Insulating Tape	MIL-T-15349	32T1
Insulating Cement	MIL-C-2861	32C14
Asbestos Cloth and Thread	SS-C-466	32C11

The same or similar materials to those listed above were used aboard all U.S. Navy ships and submarines during their construction, conversion, modernization, overhaul, repair, and general upkeep through the mid-1970s.

The amosite asbestos content of thermal and anti-sweat insulation materials ranged from roughly 10 percent in 85% Magnesia to more than 90 percent in amosite felt. For example, the molded amosite-containing pipe covering, also known as standard sectional fibrous pipe covering, contained about 60 percent amosite asbestos, and was known under the trade name "Unibestos" (Reference U). The Union Asbestos and Rubber Company (later Pittsburgh-Corning) was the sole manufacturer of "Unibestos" (Reference D).

U.S. Navy ships built between 1942 and 1970 commonly used amosite felt as anti-sweat insulation to prevent condensation from forming on the ship's cold water piping systems (Reference V). The cold water pipe covering grade of amosite felt was required, by specification, to contain not less than 90 percent amosite asbestos and was used to insulate fresh water to the showers, sinks, laundry and their drains. The same product was used to insulate the salt water piping for sanitary, fire fighting, flushing and machinery cooling. These systems ran throughout the non-engineering spaces aboard the ship. By 1951, the only approved amosite felt, known under the trade name "Insubestos," was manufactured by the Union Asbestos and Rubber Company (later Pittsburgh-Corning) (Reference F).

Additionally, the thermal insulation grade of amosite asbestos felt used to insulate hot machinery, like turbines, was required by specification to contain at least 95 percent amosite asbestos (Reference F). Loose amosite felt was also used to stuff void spaces underneath removable tailored insulation pads.

It should also be noted that on October 15, 1942, the U.S. Navy banned the use of hair felt or wool felt as an anti-sweat insulation on the cold water piping aboard all U.S. Navy ships and amosite felt was specified as the replacement for hair felt on cold water piping systems thereafter (References BQ and BR).

Further, a letter dated December 17, 1975, to the Senior Medical Officer from the Head, Industrial Hygiene Branch, Oakland Regional Medical Center, regarding a compensation claim for a pipe coverer and insulator who worked at Mare Island Naval

Shipyard, the West Coast equivalent to Charleston Naval Shipyard, provided the following about the types of thermal insulation that were being used by the U.S. Navy into the early 1970s (Reference BS):

“b. The types of materials used initially included asbestos-containing pipe insulation and covering such as Unibestos, Thermobestos, Amosite, asbestos cloth, cement and magnesia or calcium silicates.”

As discussed in the previous section of this report, an “Award Recommendation for Superior Accomplishment,” dated July 12, 1971, found in Mrs. Gerken’s Official Personnel Folder (OPF), indicated that USS Charles F. Adams (DDG 2), USS Sellers (DDG 11), USS Semmes (DDG 18), and USS Tatnall (DDG 19), all USS Charles F. Adams class guided missile destroyers, were overhauled at Charleston Naval Shipyard while she was employed there. My review of the “List of Material” section found on the insulation and lagging plans for this class of U.S. Navy guided missile destroyers finds that various types and quantities of asbestos-containing materials were specified to be installed on board these ships (Reference BG). The following table summarizes some of those materials and amounts:

Name or Description	Quantity	Material	Spec Ordering Data	Remarks
Thermal Insulating Tape 4" wide x 3/8" Thick	2,585 linear feet	Woven Asbestos Fibre	MIL-I-15349, Type II	For 1/4" hot piping temp 125-338°F
Thermal Insulating Tape 5 1/4" wide x 3/8" Thick	1,210 linear feet	Woven Asbestos Fibre	MIL-I-15349, Type II	For 3/8" hot piping temp 125-338°F
Asbestos Felt 3/4" thick	9,725 square feet	Asbestos Felt	MIL-I-15091, Type A	For hot fresh water tanks, flange covers and blankets for valves, fittings, exp joints, flex tubing, etc.
Asbestos Felt 1" thick	3,680 square feet	Asbestos Felt	MIL-I-15091, Type A	For hot fresh water tanks, flange covers and blankets for valves, fittings, exp joints, flex tubing, etc.
Asbestos Cloth	3820	Asbestos	SS-C-466,	For 1/2" to 1-1/2"

Name or Description	Quantity	Material	Spec Ordering Data	Remarks
	square yards	Cloth	Type 1, Gr "A", CL 5	IPS hot piping 300°F and above hot piping 2 IPS and above for hot fresh water tanks
Asbestos Cloth	425 square yards	Asbestos Cloth	SS-C-466, Type 1, Gr "B", CL 1	Outside lagging for blankets and flange covers - temp under 500°F
Asbestos Cloth	913 square yards	Asbestos Cloth	SS-C-466, Type 1, Gr "C", CL 1	Inside lagging for blankets and flange covers - temp under 850°F
Asbestos Cloth	925 square yards	Asbestos Cloth	SS-C-466, Type 1, Gr "D", CL 1	Outside lagging for blankets and flange covers - temp 500°F and above
Asbestos Yarn (Monel Wire-Inserted)	350 (1lb balls)	Asbestos Yarn	SS-C-466, Type II	For quilting and sewing removable blankets, asbestos cloth and brattice cloth lagging
Insulating Cement	2,500 lbs	Insulating Cement	MIL-C-2861, Type B	For hot fresh water tanks and valves and fittings on hot piping and hot pipe insulation

Further, the "General Notes" section found on the these plans provided the following instructions:

“1. Hot Piping Insulation:

Hot piping shall be insulated with sectional pipe covering applied directly to the pipe . . .

Valves & fittings, where not practicable to insulate with sectional pipe covering, shall be insulated with blankets of asbestos felt. One blanket may be used to cover a combination of valves & fittings. Blankets for temp 850°F & above shall consist of an inner layer of fiber glass felt & an outer layer of asbestos felt, covered on the inside with inconel wire mesh & on the outside with asbestos cloth, grade “D”. Blankets for temp 500° F to 849°F shall consist of layers of asbestos felt covered on the inside with asbestos cloth, grade “C” & on the outside with asbestos cloth, grade “D”. Blankets for temp 125°F to 499°F shall consist of layers of asbestos felt covered on the inside with asbestos cloth grade “C” & on the outside with asbestos cloth, grade “B”. Lagging for blankets shall be sewn on with asbestos yarn Type II, using not less than three stitches to the inch. Thickness of blankets shall be the same as that of adjacent pipe insulation . . .”

“11. All insulation & lagging must meet the requirements of the General Specifications for Ships, Sub-Section S39-2, dated 1 July 1954 . . .”

The “Award Recommendation for Superior Accomplishment,” dated July 12, 1971, found in Mrs. Gerken’s Official Personnel Folder (OPF), also noted that USS Macdonough (DLG 8), a USS Farragut (DLG 6) class guided missile destroyer, was overhauled at Charleston Naval Shipyard during her employment at the shipyard. My review of the “List of Material” section found on the insulation and lagging plans for this class of U.S. Navy guided missile destroyers finds that various types and quantities of asbestos-containing materials were specified to be installed on board these ships (Reference BB). The following table summarizes some of those materials and amounts:

Name of Piece	Amount	Specification
Thermal Sectional Insulation - various thicknesses from 1" to 5"	16,185 linear feet	MIL-I-2781
Thermal Insulating Blocks - various sizes and thicknesses	3,775 block	MIL-I-2819
Asbestos Cloth - 60" wide - various grades and classes	8,585 linear yards	SS-C-466
Sewing Twine	30 - 1lb balls	SS-C-466

Name of Piece	Amount	Specification
Asbestos Felt - 60" wide - 1" thick	40 rolls	MIL-I-15091
Hi-Temp Cement	25 - 75lb bags	MIL-C-2861

Further, the "General Notes" section found on these plans provided the following instructions:

"1. All pipe lines ½" I.P.S. & above, which normally have a temperature of 125°F or more, are required to be insulated with thermal sectional insulation in accordance with Gen Spec S39-2 dated 1 July 1954"

"41. Lagging for piping & equipment where internal temperatures do not exceed 500°F shall be glass and asbestos cloth . . .

42. Lagging for piping and equipment where internal temperatures exceed 500°F will be in accordance with Gen Spec S39-2 dated 1 July 1954"

The "General Notes" section also included the following Note 57:

PC NO.	MATERIAL SPEC	DLG-6-7-8 QUALIFIED PRODUCT	PC NO.	MATERIAL SPEC	DLG-6-7-8 QUALIFIED PRODUCT
A	MIL-I-2781- GRADE III CLASS B TYPE I	"KAYLO"- SECTIONAL CALCIUM SILICATE	F	MIL-P-876 CLASS B	SECTIONAL CORK UNTREATED HEAVY DUTY THICKNESS
* B	SS-C- 466 GRADE A CLASS B	GLASBESTOS CLOTH	G	MIL-P-876 CLASS I	SECTIONAL CORK UNTREATED LIGHT DUTY THICKNESS
C	MIL-I-15091 TYPE B	FELTED ASBESTOS- WATER REPELLENT	H	MIL-I-2819	"KAYLO"- THERMAL BLOCKS
D	SS-C- 466 GRADE D CLASS I	ASBESTOS CLOTH	J	HH-I-552 TYPE I CLASS B	MOLDED FIBRE GLASS
E	MIL-I-2781- GRADE II CLASS C	"KAYLO"- SECTIONAL CALCIUM SILICATE	K		

According to the same "Award Recommendation for Superior Accomplishment," while Mrs. Gerken was employed at Charleston Naval Shipyard, USS Blakely (DE 1072), a USS Knox (DE 1052) class destroyer escort was also overhauled at the shipyard. Based on the overall size and displacement of this class of ships and the fact that they were also steam-powered, I conclude that similar amounts of asbestos-containing thermal and anti-sweat insulation, as outlined above for USS Charles F. Adams USS Farragut class destroyers, would have also been installed on USS Knox class destroyer escorts, including USS Blakely. In addition, the construction specification for USS Knox class ships provides the following regarding insulation materials to be installed on board (Reference BH):

"Hot surface insulation.—All components having hot external surfaces shall be insulated in accordance with the following criteria:

Surfaces which can attain a temperature of 125 degrees F. or

higher during any service condition shall be insulated wherever necessary to protect personnel, prevent undesirable transfer of heat to the surroundings, or prevent transfer of heat from the component wherever such transfer would be detrimental to operation of the component or system.”

“Antisweat insulation.—All components, except those in refrigerant applications, handling fluids in the temperature range of 28 degrees F. to 95 degrees F. shall be insulated in accordance with the following criteria:

To limit absorption of heat from any external source which would be detrimental to the system such as a chilled water system.

To prevent the formation of condensation on surfaces of components which would be objectionable:

A habitability standpoint, such as condensation dripping on personnel.

A danger standpoint, such as condensation dripping on electrical and electronic equipment.

A damage standpoint, such as condensation dripping on stores or supplies.

A maintenance standpoint, such as condensation dripping on machinery, equipment, or painted surfaces of bulkheads or decks which are normally kept in ship shape condition.” (p. 303)

“Materials and minimum acceptable thickness shall comply with Mil. Std. MIL-STD-769 [as modified].”

“Fabrication and installation of re-usable covers shall comply with Mil. Std. MIL-STD-769 [as modified].”

“Machinery and pipe covering shall be installed in accordance with requirements herein and those specified in Mil. Std. MIL-STD-769 [as modified]”. (p. 304)

The “Award Recommendation for Superior Accomplishment,” also noted that USS George Washington (SSBN 598), the lead submarine in this class of U.S. Navy nuclear-powered fleet ballistic missile submarines, was overhauled during Mrs. Gerken’s employment at Charleston Naval Shipyard. My research finds that large quantities of asbestos-containing materials were installed on board U.S. Navy nuclear-powered submarines (References BI through BP and BT). For example, the U.S. Navy estimated that the weight of thermal insulation installed on board their nuclear-powered fast attack submarines (SSNs) was over 30 tons (62,000 pounds) (Reference BT). It should be noted that this estimate includes insulation not only for hot piping, but also for hot machinery, such as the steam generators, main propulsion turbines, turbogenerators, nuclear reactor components, and for removable tailored insulation pads.

My research finds that the U.S. Navy's preference for the use of amosite felt on board U.S. Navy submarines is well documented. For example, beginning in the 1960s the U.S. Navy was experimenting with an alternative to the amosite asbestos felt product mentioned previously in this report. However, in June 1964, the U.S. Navy requested that Mare Island Naval Shipyard, the U.S. Navy's primary west coast submarine shipyard, provide a usage survey of fibrous glass felt insulation, MIL-I-16411, in lieu of asbestos felt insulation, MIL-I-15091. On December 15, 1964, the Commander of Mare Island Naval Shipyard provided the following response to the request (Reference BI):

“The delay in reply to reference (a) is regretted, but information has not been available as we have never used the fibrous glass felt insulation.”

My research has found numerous other documents that detail the U.S. Navy's use of asbestos-containing insulating materials aboard nuclear-powered submarines. For example, of particular note is a document dated January 27, 1960, that required the use of three 1-inch layers of asbestos felt, in accordance with Military Specification MIL-I-15091, to be installed around the primary and secondary cooling loop pipes (Reference BI).

Evidence of the U.S. Navy's preference for Unibestos aboard U.S. Navy submarines is found in trade industry publications which point out that Unibestos was used in nearly every nuclear-powered submarine in the U.S. Navy's fleet (Reference BJ). In addition, amosite asbestos-containing insulation was used throughout the reactor compartments to insulate the reactor vessel, reactor components and piping systems on board U.S. Navy nuclear-powered vessels (Reference BK and BN).

Further evidence of the U.S. Navy's use of Unibestos and other amosite containing-thermal insulation materials in nuclear-powered submarines is found in a letter dated April 11, 1977, from the Shipyard Safety Director at Mare Island Naval Shipyard to the shipyard's Senior Medical Officer. The letter, regarding asbestos sampling at the shipyard, noted that asbestos-containing materials were being removed from various U.S. Navy nuclear-powered submarines (Reference BL). The following table summarizes those findings:

Date	Ship	Location	Material Removed
3-7-76	SSBN 595	Engine Room	Amosite, block
3-7-76	SSBN 595	Maneuvering Room	Amosite, block
3-4-76	SSBN 598	Crew's quarters	Asbestos, cloth covered rubber
2-23-76	SSBN 601	Upper level AMR-2	Asbestos, cloth, rubber

Date	Ship	Location	Material Removed
7-24-74	SSBN 618	Engine Room	Asbestos cloth, molded block
8-11-72	SSBN 602	Reactor Compartment	Calcium silica, Unibestos
11-18-71	SSN 575	Engine Room	Unibestos block
11-18-71	SSN 575	Engine Room	Unibestos
11-18-71	SSN 575	Engine Room	Asbestos cloth and Unibestos

My research also finds that asbestos millboard was used as an inside liner in the cool air supply ventilation trunks of several USS Lafayette (SSBN 616) class submarines. In a "Liaison Action Request" dated March 1, 1965, specific points of concern raised by Mare Island Naval Shipyard to General Dynamics Electric Boat (GD/EB) about asbestos millboard in the structural ventilation trunks were (Reference BI):

- "a. Asbestos millboard will not stand shock. Instead it will disintegrate and jeopardize operation of navigational equipment.
- b. Asbestos fibers are a possible health hazard when taken into the human respiratory system.
- c. Specifications do not allow the use of this type of insulation."

The response from Electric Boat was as follows:

"1. GD/EB has had no problems with the asbestos millboard since using the treatment as specified (i.e. asbestos cement MIL-C-2908 to seal edges and seams and two coats of Navy Sealer MIL-P-876A over entire exposed area of asbestos millboard)..."

"2. GD/EB chemical R & D Sect. states that the health hazard from breathing asbestos is no greater than from breathing fiberglass and both are not harmful in the quantities that would be present on a submarine."

Also, a letter dated April 1, 1965, from Mare Island Naval Shipyard to the Bureau of Ships included the following (Reference BI):

"The investigation of a deficiency on the SSBN 642 disclosed that pieces of the fibrous adhesive and asbestos fibers were peeling off and depositing in the ventilation trunks. This deficiency was noted to a lesser degree on the SSBN 619, 624 and 634, but was not considered a serious problem at the time . . ."

The U.S. Navy eventually lined the exposed asbestos millboard with a heavy duty aluminum foil to prevent the entrainment of asbestos fibers in the air moving through the ventilation trunks.

Prior to and during Mrs. Gerken's and her husband Mr. Gerken's employment at Charleston Naval Shipyard, the selection, procurement, and installation of approved thermal insulation materials were governed by the Bureau of Ships General Specifications for Machinery, Section S39-2, (hereinafter "General Specifications") which covers the shipboard use and application of thermal insulation pipe covering, along with Chapter 9390/S39 "Thermal Insulation," of the Naval Ships Technical Manual and, beginning in 1962, Military Standard 769, "Thermal Insulation Requirements for Machinery and Piping." Each of these documents specify the materials and minimum acceptable thicknesses for all thermal insulation products that may be used in the construction, maintenance, repair, and conversion of ships for the U.S. Navy. These documents also identify the product specifications which may be used on piping, valves, fittings, flange joints and machinery at indicated temperature ranges (References A through C). During the construction, maintenance, upkeep, and repair of U.S. Navy vessels, there were only two products approved for use on piping whose temperature exceeded 370°F. These are "Insulation, Pipe, Thermal," Military Specification MIL-I-2781, and "Insulation Tape, Thermal," Military Specification MIL-T-15349. The latter product was only approved for temperatures up to 750°F on piping up to 3/4" in diameter. Both products contained amosite asbestos.

In addition, Military Specification MIL-I-2781 provides for three different grades of product, identified by temperature range. The maximum temperatures are, by Grade, 600°F, 750°F and 1200°F, respectively. Grades II and III each had two classes of product identified as "Fibrous" and "Compounded." The specification was amended on March 1, 1971, to delete the "Fibrous" classes of Grade II (class c) and Grade III (class f). On January 9, 1973, this specification was further amended to require that the products manufactured under this specification be asbestos and silica free. Finally, on July 15, 1974, the U.S. Navy, through Military Standard 769, prohibited the installation of new asbestos containing insulation or lagging materials on its vessels.

Also, Paragraph 3 of Military Specification MIL-I-2781 requires that any product furnished under this specification must be one of those which has been tested, approved for use by the U.S. Navy and included on the Qualified Products List for this specification. Qualified Products Lists for this specification, and its predecessor specification, Navy Department Specification 32P8, are available since 1946. All of the products included on these lists contained amosite asbestos. The first non-asbestos containing product approved under this specification was not available until May 27, 1969. Another non-asbestos containing product became available under this specification on August 1, 1972. The first Qualified Product List with no asbestos-containing products was issued on May 3, 1973. Accordingly, the only products that a public or private shipyard could have used to insulate pipes whose normal operating temperature exceeded 370°F on board U.S. Navy vessels through mid-1969 contained amosite asbestos. It should also be noted that my research finds that U.S. Navy

ships and submarines built before 1974 continued to have asbestos-containing insulation materials installed on board until a need arose to remove them (Reference BT).

Thus, while Mrs. Gerken's and her husband Mr. Gerken's were employed at Charleston Naval Shipyard, the various U.S. Navy ships and submarines being overhauled at the shipyard were constructed with several tons of asbestos-containing thermal and anti-sweat insulation installed on board the vessels.

Photographs obtained from the National Archives that were taken on board the various classes of U.S. Navy ships and submarines overhauled at Charleston Naval Shipyard during Mrs. Gerken's and or Mr. Gerken's employment at the shipyard, demonstrate that "hotel service" piping systems, including steam, hot and cold water, salt water and drains, were insulated with thermal and anti-sweat insulation. The photographs also demonstrate that these piping systems ran throughout these ships (References BU through CA). In the course of my research, I have viewed multiple photographs of vessels and of insulation in every space on board every type of vessel. My research and personal experience finds that these photographs are reasonable portrayals of thermal insulation aboard ship and demonstrate its presence, appearance, and locations.

Mr. Gerken offered the following testimony about insulation materials installed on board U.S. Navy vessels:

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- Q. Let's back up and ask a better question. All of these ships had to have insulation all over them, right?
- A. Oh, of course.
- Q. Right. Well -- and why -- why was that?
- A. Well, understand, a submarine, it -- you know, it's a nuclear power plant and everybody gets freaked out, but, hey, it's a steamship.
- Q. Right.
- A. Right?
- Q. Stuff's hot.
- A. The reactor heats water, and it goes to produce steam that pushes the ship through the water and then also provides electrical power, right? So, yeah.
- Q. So everything is hot because it's steam, right?
- A. Yeah, sure.
- Q. So all of the pipes that are running throughout the -- the sub or the ship have to be insulated, true?
- A. Not all of them.
- Q. Okay. The vast majority; is that fair?
- A. Not necessarily.
- Q. Okay.
- A. You have got all kind of pipes. You have got air systems. You have got water systems. You -- you know, you have got sea water systems --

- Q. Right.
- A. -- and stuff like that.
- Q. Right. So -- so you're saying air and ambient water, those wouldn't have to be insulated?
- A. Well, you get stuff, you know...
- Q. But -- but if we're talking about the steam pipes or --
- A. Oh, yeah.
- Q. -- or we're talking about hot water, those would be insulated?
- A. Sure.
- Q. Okay. And then the equipment that is associated with those steam and hot water systems, that would be insulated, too, correct?
- A. Right.

My research and personal experience as a ship superintendent finds that the most significant shipboard evolution in which large quantities of asbestos dust were created was during the rip out or removal of thermal insulation incident to repairs on insulated piping and machinery. The installation of new thermal insulation also created asbestos-containing dust. Although asbestos-containing insulation could be damaged in a variety of ways aboard ship, and the removal of thermal insulation for repairs could occur at any time; the most frequent occasion for the removal of thermal insulation was during ship construction and shipyard repairs (References I through T).

For example, a Mare Island Naval Shipyard memorandum dated April 25, 1969, noted the following about the rip out of asbestos containing materials (Reference CH):

"2. Dust is controlled during boiler ripout by wetting down the area . . . Asbestos installation in boilers is done dry, using magnesia blocks which contain 85% magnesia and 15% asbestos. These are cut with a hand saw at the job site. This work cannot be done wet."

"4. Ladders cannot wet down insulation before ripout. The ripout is often done by pipefitters or ships' crews. Considerable dust results because discarded material is left on the decks where it is kicked around and pulverized. Since the ripout of insulation is the principal exposure to ladders, it is important for them to use respiratory protection."

As discussed elsewhere in this report, an "Award Recommendation for Superior Accomplishment," dated July 12, 1971, found in Mrs. Gerken's Official Personnel Folder (OPF), indicated that USS Charles F. Adams (DDG 2), USS Sellers (DDG 11), USS Semmes (DDG 18), USS Tatnall (DDG 19), USS McDonough (DLG 8), USS Blakely (DE 1072) and USS George Washington (SSBN 598) were overhauled at Charleston Naval Shipyard while she was employed there. The 1970 Command History for Charleston Naval Shipyard provided the following about the overhauls of these ships (Reference W):

"c. The Shipyard's fourth SSBN overhaul, USS GEORGE WASHINGTON (SSBN 598) began a scheduled 13-month availability on 15 July 1970 (as compared to the third at 16 ½ months and the second at 20 months). The Anti-Submarine Warfare Test Requirements Outline (ASWTRO) Test Program was introduced for the first time in the Charleston Naval Shipyard on this vessel. Work on this vessel represents 120,030 mandays and at the end of the year, the overhaul has reached approximately the 50 percent mark." (p. 8)

"1. Seven guided missile ships underwent regular overhauls during 1970, two of which were carryovers from 1960. Highlights of these are: . . .

"(3) USS SELLERS (DDG 11). Highlights of work on this 5 ½-month overhaul were a large boiler package; work on shafting and bearings; a considerable number of shipalts; work on computers in the Radar Room. There was also a large TRAM job and communications modifications. A major delay occurred in the missile magazine area because of material problems, and it was necessary to manufacture a number of items that were not immediately available."

(4) USS MCDONOUGH (DLG 8). The originally planned work in this availability included overhaul of radars; TRAM sonars and a large boiler package with forced draft blowers. Because of manpower shortage in the Marine Machine Shop, a crew of ten men and a supervisor, all specially skilled in forced draft blower work, was borrowed from the Boston Naval Shipyard to complete this work. Considerable growth in the already large boiler package made this one of the largest boiler jobs of any ship overhauled in this shipyard. Delays were incurred because of the complicated work on boilers and forced draft blowers and the overhaul did not complete until 29 December 1970 vice the scheduled date of 16 November 1970.

(5) USS SEMMES (DDG 18). The overhaul of this ship included Class B overhaul of missile radars and complete change out of Fire Control Radars. Problems have arisen in the 5-inch gun mount installations which include cracks in the welds of No. 1 mount. There has been considerable growth of work above the original production estimate . . .

(6) USS TATTNALL (DDG 19). Work on this overhaul began on 30 September 1970. Originally planned work included a large boiler package for all four boilers; auxiliary machinery shipalts, similar to DLG 28, and communications work. After drydocking the ship, the necessity for extensive hull work was found; also, some delay is expected due to shortage of manpower in Machinery Group work.

(7) USS ADAMS (DDG 2). This overhaul began on schedule 23 November 1970 and includes a large repair package. The planning estimate at the start of availability was slightly in excess of 30,000 mandays. Some highlights are Missile Radars (51B); computers and communications modifications. The ship was drydocked on 30 December 1970. Because of the low relative priority accorded this ship maximum effort will be required to meet the scheduled completion date of 24 May 1971." (pp. 12-13)

"1. The Commissioning and Fitting Out Availabilities of four DEs were completed in 1970, namely, USS W.S. SIMS (DE 1059); USS PATTERSON (DE 1061); USS VREELAND (DE 1068); and USS BLAKELY (DE 1072) . . ." (P. 15)

1971 Command History for Charleston Naval Shipyard added the following about the overhauls of several of these ships (Reference W):

"(2) USS GEORGE WASHINGTON (SSBN 598). Highlights of this availability were shown in the 1970 supplement, and at the beginning of 1971 all major non-nuclear accesses were closed, testing of non-nuclear systems were in progress and completion assigned availability 13 August 1971 appeared feasible. However, delays to the authorization of additional nuclear work, propulsion plant testing and other major downstream events necessitated the request for an extension. The overhaul, which marked the fourth SSBN overhaul completed for CNSYD, was completed on 1 November 1971, after having expended 208,000 productive mandays, 86,000 of which were completed in 1971 . . ." (pp. 8-9)

"e. Three Guided Missile Ships completed regular overhauls in 1971. All three were carry-overs from 1970. Highlights of the work and the status of time appears below:

(1) USS SEMMES (DDG 18). This overhaul began on 24 August 1970 and highlights of work-included Class B Overhaul of Missile Radars and complete change out of Fire Control Radars. Problems came up in the 5-inch gun mount installation which included cracks in the welds of the No. 1 Mount. There was considerable growth of work above the original

production estimate and the overhaul completed 16 March 1971 in lieu of the scheduled date 26 February 1971.

(2) USS TATTNALL (DDG 19). Overhaul work started on 30 September 1970. Originally planned work included large boiler package for all four boilers; auxiliary machinery shipalts, similar to DLG 28 and communications work. After dry-docking the ship the necessity for

extensive hull work was found; also some delay was encountered due to shortage of manpower in Machinery Group work. The overhaul completed on 20 April 1971 vice the schedule date 30 March 1971.

(3) USS ADAMS (DDG 2). Overhaul began on 23 November 1970 and included a large repair package. The planning estimate at the start of the availability was slightly in excess of 30,000 mandays. Some highlights were Missile Radars (51B); computers and communications modifications. A 13 day extension was required to enable completion of SMS Testing and soot blower repairs. The overhaul completed 6 June 1971." (pp. 10-11)

"h. This shipyard continued in 1971 a program of fitting out and installing planned alterations on newly constructed destroyer escorts that began in 1969. The program further entails conducting Post Shakedown Availabilities at the proper time on these same vessels . . . Highlights of these availabilities follows: . . .

(4) USS BLAKELY (DE 1072). The PSA started on schedule 22 February 1971. Highlights of work were BPD SMS Installation, work package growth in weapon work Asroc Launcher, SQS-26 Sonar, MK-47 computer, MK-51 gun mount, boiler work, (90) butt welds repaired, (150) H.P. steam valves repaired in addition to extensive work on H.P. steam piping and auxiliary equipment. Due to inability to obtain full power during sea trials an extension was necessary. The availability completed 27 July 1971 vice 9 July 1971." (p. 16)

In addition Mr. Gerken provided the following testimony regarding the various types of U.S. Navy vessels that were being overhauled at Charleston Naval Shipyard in the late 1960s - early 1970s:

Gerken, April 9, 2025, pp. 105-107

- Q. Did that tender ever come to the shipyard and get worked on, to your memory?
- A. We worked on tenders.
- Q. Okay.
- A. We did overhauls on tenders. There was a separate tender at the naval weapons station, and that was attached to -- the squadron of ballistic missile submarines was attached to that.
- Q. Interesting. All right. And then, just moving on to destroyers, can you estimate how many destroyers would be in the shipyard getting worked on in the '60s and '70s period on -- at any given time? Is -- is that two or three also?
- A. Maybe a couple. Two or three, maybe, yeah.
- Q. How about the cruisers?
- A. Same. They're kind of interchangeable. You know, somebody that didn't know wouldn't -- cruiser maybe just a little bit bigger, but it's basically -- same basic thing as the destroyer.

- Q. Okay. So, when you said two to three destroyers and we talk about cruisers, are those --
- A. That's --
- Q. -- part of your two or three?
- A. -- all lumped together, yeah.
- Q. Okay.
- A. And there was another tender that was a ED -- a destroyer tender that had a squadron of surface ships, destroyers and cruisers, also down at the naval base.
- Q. Okay. As you sit here, can you remember the names or hull numbers of any of the submarines during this period of time?
- A. Yeah. Oh, I can remember most of the ones we worked on.
- Q. Can -- can you give me some examples?
- A. 610, which was the Edison.
- Q. Uh-huh.
- A. 622, I think, was the Monroe; 625, the Henry Clay; 653, the Ray; 637, the Sturgeon.
- Q. Uh-huh.
- A. 603, the Pollack.
- Q. Uh-huh.
- A. 609, the Houston. I worked on 646. I forget which one that one was, the name of it.
- Q. We can look it up.
- A. We -- we pretty much did them by numbers. Okay? 660.
- Q. Do you remember that one, the name?
- A. One of those was Sand Lance, I think.
- Q. Sand Lance?
- A. Sand Lance.

Mr. Gerken also provided the following testimony regarding his work aboard various U.S. Navy nuclear-powered submarines while employed as a nuclear engineer at Charleston Naval Shipyard, including his work alongside other trades at the shipyard:

Gerken, April 9, 2025, pp. 152-154

- Q. Got it. But my question was just, are you able to estimate how often you would go down to a submarine that was in dry dock to do the examination work that you have testified about? Is that a --
- A. Well --
- Q. Is that a weekly thing or a monthly thing or do you know?
- A. Well, it varied quite a bit.
- Q. Okay.
- A. Understand, when we were doing refuelling operations, I would be -- might be assigned. I would spend the day every day down there.
- Q. Uh-huh.
- A. Okay? But that would be inside the metal building on top that's sealed off, and we were only looking at the top of the reactor.
- Q. And how -- if you're -- if you're in that situation, how long -- you said you would

- spend the day, but would it be multiple days in a row you would be doing that?
- A. It would be weeks.
- Q. Weeks. Got it. On the same sub?
- A. Yeah.
- Q. Got it.
- A. That -- that is a big-time operation. That's orchestrated. The shop people were specially trained and qualified to do that work. We had realistic mockups. We used the actual refuelling equipment on it. It was a orchestrated job, done step-by-step, turn this a half a turn. I mean --
- Q. Yeah.
- A. -- we had inspectors overseeing it, tech- -- me, technical control.
- Q. And who is actually doing the work that you're overseeing?
- A. Typically --
- Q. Who is actually doing the quarter turn?
- A. -- machinist.
- Q. Uh-huh.
- A. Outside machinist is the -- of course, we had riggers involved with getting the equipment in and out. Had radiological control technicians doing surveys and stuff like that. It was, you know -- it was -- the -- the training experience -- when they closed the yard, they gave away years and years of training experience.

Gerken, April 9, 2025, p. 155

- Q. Right. And aside from what you're talking about, what would the outside or marine machinists -- what other types of equipment would they work on, or do you know?
- A. Work on stuff throughout the ship.

Gerken, April 9, 2025, pp. 168-170

- Q. Did you ever go onboard a ship when it was in for an overhaul -- a major overhaul like that?
- A. Oh, of course.
- Q. Okay. And that would have been after the ladders had done their job, right?
- A. You have to remember that this is not all done -- I mean, the ship doesn't come in and you drag everything off of it.
- Q. Right.
- A. There are evolutions that go on continuously at different times and different spaces --
- Q. Right.
- A. -- during the time the ship is in for an overhaul. So I was pretty much focused on what -- as far as refuelling we had to do.
- Q. Uh-huh.
- A. That window, okay? But I can tell you that there were schedules that would wrap around this room.
- Q. So you're talking -- when you're talking about schedules, you're talking about this crew comes in during this window and then another crew --
- A. No.

Q. -- maybe overlaps --

A. This evolution has to be prerequisite to this one, to this one. This comes out then, this, this.

Q. So there's -- there is a lot of overlap between the various crews that have to do the -- those jobs?

A. Yeah.

Q. Got it. Would you have overlapped with some of the pipefitters, like been on the ship at the same time they were doing their work?

A. They might have been doing it on another part of the ship.

Q. Okay. How about the ladders?

A. They could have been working in another part of the ship, but I wouldn't have been in there.

Gerken, April 9, 2025, p. 165

Q. There were also some gasket -- or some applications that the Navy specified as gasket -- asbestos gaskets, true?

A. Okay. First of all, I didn't work on the valves in (inaudible) -- I didn't have any -- that was the fluid mechanical systems guys. Okay? I can talk a little bit about -- we did have some temporary piping systems, okay, when we were doing our work. It was part of the equipment or one thing or another. And I know we did at one time -- I remember having a valve with the -- the -- the asbestos. We sort of -- I think we did a purge on that stuff after a period of time. We also found -- some of that stuff had Teflon in it and that is an absolute no-no in a reactor plant. So we had to get rid of that stuff.

Gerken, April 9, 2025, p. 168

Q. Obviously, you would agree that, even when that happened, the existing insulation that would still be on the ship would still contain asbestos?

A. I would say that's definitely likely.

Q. Right. And even when you put a ship through a multiyear overhaul, you're not taking every piece of insulation off the ship --

A. Oh, no.

Q. -- for an overhaul like that, right?

A. No.

Gerken, April 9, 2025, p. 110

Q. And so the way I have thought about it is -- and I -- I'm -- I apologize for -- for probably misspeaking or overstating it, but when you're overhauling, that's when you can take stuff off the ship. When you're doing rou- -- routine maintenance, most of the stuff probably stays on the ship and you're doing it in the space. Is -- is that a better way to describe it?

A. Yeah. But, again, I -- I think you might think that we took more equipment off than we actually did.

Q. Okay.

- A. Okay? The idea was to minimize what you have to take out because, to get it out, you had to cut the hull, you know. The -- the idea was to make minimal hull cuts. That was -- you know, you're talking about steel. You're talking about full penetration wells. It is not something you want to do if you can avoid cutting a hole in the hull.

It should be noted that based on my personnel experience and research, the removal of machinery and other components through the "accessing" or "cutting" of a vessel's decks would have actually required the cutting of those decks and the removal of all interferences including any insulated piping. This level of repair would have necessitated the removal and re-installation of significant amounts of asbestos-containing thermal and anti-sweat insulation and lagging in those affected areas of the ship or submarine.

Although the U.S. Navy was performing studies and evaluations regarding the effects of asbestos in the 1960s (References CI and CJ), it was not until the late 1960s when the U.S. Navy associated cancer with asbestos. Beginning in 1969, about one year after Mrs. Gerken began her employment at Charleston Naval Shipyard, significant changes in U.S. Navy policy concerning exposure to asbestos-containing dust were beginning to be implemented. For example, in March 1969, the Chief of Naval Operations (CNO) identified asbestos as a possible carcinogen (Reference CK). This is the first time that a U.S. Navy policy level document identified asbestos as a cancer causing agent. The U.S. Navy's response was to begin a process of progressively eliminating asbestos within thermal insulation materials and to implement policies and procedures for the safe handling of asbestos-containing materials (References A through H, BT, CG, and CL through CT).

With that being said, although the U.S. Navy became focused on limiting the release of asbestos-containing dust in the late 1960s and early 1970s, my research finds that these practices and procedures were not fully and completely implemented throughout the U.S. Navy until the late 1970s and early 1980s. It should also be noted that these practices and procedures continued to be revised and improved upon into the 1980s and beyond (References CU and CV). For example, my research finds that an "Asbestos Elimination Facility," was constructed at Charleston Naval Shipyard, however, it was not completed until 1983 (References W and AN). The Command History for Charleston Naval Shipyard from 1983 noted the following about the facility (Reference W):

"d. The Asbestos Elimination Facility, MYCON Project P-191, costing approximately \$2.3 million, was also completed. This OSH project is designed to provide asbestos workers a safe environment in which to conduct their ripout operations." (p. 20)

In addition, although the U.S. Navy prohibited the use of asbestos-containing products in thermal insulation aboard its ships and submarines on July 15, 1974, it should be pointed out that asbestos-containing products continued to be utilized by the U.S. Navy

in other applications and specifications beyond this date, including but not limited to gaskets, packing, deck tile, and certain electrical components (References BT, CP, and CW through DC). Further, my research and personal experience as a ship superintendent finds that even with controls in place at U.S. Naval facilities, or on board U.S. Navy vessels, accidental release of asbestos dust occurred either through human error or insufficient implementation of controls (References DD through DG).

In the mid-to-late 1970s, the hazards associated with exposure to asbestos became more widely understood (Reference S). As a result, the U.S. Navy did retrospective studies regarding the health of U.S. Navy Sailors who served aboard ship and its civilian workforce (References DH and DI). In June 1977 the U.S. Navy's Bureau of Medicine and Surgery published a study entitled "Asbestos exposure by nature of job, rating or occupation." This study found that physical science engineers, industrial engineers, safety management and quality assurance personnel, as well as shipping and supply clerks, all had "possible minimum exposure." This study also determined that civilian pipe coverer/insulators and pipefitters all had "probable occupational exposure to asbestos," while marine machinists had "possible minimum exposure." These are three trades that Mr. Gerken worked in close proximity to aboard U.S. Navy nuclear-powered submarines (Reference DH).

The second study, conducted in 1978, identified and ranked 20 U.S. Navy ratings with the highest risk of developing asbestos-related diseases. Machinist's Mates (MM), Boilermen (BT), and Hull Maintenance Technicians (HT), which also incorporates U.S. Navy Pipefitters (SFP), the three U.S. Navy ratings that were trained to perform the same work as that of a civilian pipe coverer and insulator, were ranked as the second, fourth, and sixth, the most likely group of Sailors, respectively, to develop asbestos-related diseases (Reference DI).

Further, a letter dated February 4, 1983, from the Commander, Mare Island Naval Shipyard, the U.S. Navy's West Coast equivalent to Charleston Naval Shipyard, regarding approval of "Occupational Exposure Estimates for Workers' Compensation" noted that pipe coverers and insulators had primary asbestos exposure and contained a table that measured airborne fiber concentrations that a pipe coverer and insulator at a U.S. Naval Shipyard, like those Mr. Gerken worked in close proximity to aboard U.S. Navy nuclear-powered submarines during his employment at Charleston Naval Shipyard, would experience while working with asbestos-containing materials on board ships and in the shop (Reference DJ). The following was noted about the table:

"Fiber concentrations shown are a compilation of data obtained from surveys conducted during the period 1971 through 1980; however, no installation of asbestos material has been performed since 1974. These data represent peak airborne concentrations found in the work space immediately adjacent to the point of fiber generation and release. However, the fiber concentrations actually inhaled by personnel at these locations is greatly reduced (10-2000 times) by the use of required respiratory protection.

The average 8 Hour Time Weighted Average range is based on an asbestos exposure for 6 hours per 8 hour work day. The airborne fiber concentrations represent the minimum and maximum fiber concentrations measured for the stated operation.”

“Table II - Measured Airborne Fiber Concentrations for Pipecoverers and Insulators During Material Installation and Removal” is summarized as follows:

Operation and Material	Airborne Fiber Concentration (Fibers per cubic centimeter)	Airborne Fiber Concentration (Fibers per cubic centimeter)
	Measured	Range 8Hr TWA
<u>Fabrication</u>		
Cutting wet asbestos cloth	0.1-0.4	0.07-0.3
Machine sewing wet asbestos cloth	0.2	0.15
Hand sewing wet asbestos cloth	0.6	0.45
Sewing wet asbestos cloth over fiberglass	0.4-0.8	0.3-0.6
<u>Installation</u>		
Installing Unibestos pipe sections	0.7-7.0	0.5-5.5
Cutting and installing Thermobestos and other types	9.7-35.5	7.3-26.6
Installing calcium silicate block	0.3-1.7	0.2-1.3
Cutting calcium silicate block	2.0-3.4	1.5-2.6
Mixing cement	2.1-26.8	1.6-20.1
Applying cement	0.4-31.6	0.3-23.7
<u>Insulation Removal</u>		
Cutting and removing pipecovers and equipment	0.1-93	0.07-69.7
Removing loose material	0.3-15	0.2-11.3
Removing material by vacuuming	0.2-2.1	0.15-1.6

Additionally, the letter found that civilian pipefitters and machinists working on board ships, including those Mr. Gerken would have worked in close proximity to while employed at Charleston Naval Shipyard, had primary asbestos exposure and noted that when doing rip out work had exposure similar to that of pipe covers and insulators. The following was also noted about trades, in this example pipefitters, who worked in close

proximity to insulators that were installing or removing asbestos-containing materials:

“Trade supervisors indicate that prior to 1973, pipefitters removed asbestos-containing lagging from piping systems to get to the locations which they were required to work on. Such activities may have required up to five percent (5%) of a given employee’s time and individual removal jobs may have lasted 15 minutes. Airborne fiber generation for these small ‘rip-outs’ would be similar to that of a Pipecoverer and Insulator during rip-out with fiber levels ranging from 0.1 to 93 fibers/cc of air (8 Hr TWA .005-4.65 fibers/cc based on 5% daily asbestos exposure). They also could have worked in a compartment or space while asbestos installation and removal operations were being conducted by Insulators or by other trades which would have caused exposures which ranged from 0.05 to 40 fibers/cc with a mean of 0.45 fibers/cc.

The letter also identified numerous other shipyard occupations that had either primary or secondary asbestos exposure.³ The following table summarizes those findings:

Job Title	Asbestos Exposure
Armature Winder	Secondary
Boilermaker	Primary
Burner	Secondary
Caulker Chipper PTO	Secondary
Cleaner (Component, Industrial)	Secondary
Coppersmith	Primary
Electrician (Shipboard)	Secondary
Machinist (Marine)	Primary
Mechanic (Ship Maintenance, Equipment, Toolroom)	Secondary
Ordinance Technician	Secondary
Pipecoverer and Insulator	Primary
Pipefitter	Primary
Pneumatic Tool Operator	Secondary
Rigger	Secondary

³It should be noted that the letter also identified another roughly 50 trades that had “Intermittent” asbestos exposure.

Job Title	Asbestos Exposure
Sheetmetal Worker (Shipboard)	Secondary
Shipfitter	Secondary
Tile Setter	Secondary
Welder	Secondary
Welder, Electric	Secondary

In 2013, the Department of Veterans Affairs, Office of Public Health, War Related Illness and Injury Study Center reissued guidance about exposure to asbestos as a resource for veterans, service members, and their families. This guidance contains the following statements (Reference DK):

“Service members at risk for asbestos exposure include: . . .

Navy Veterans who served on ships whose keels were laid before 1983.

Navy Veterans who worked in ship yards from the 1930s through the 1990s, as asbestos was widely used in ship building and construction materials during that time frame.

Navy personnel who worked below deck before the early 1990s since asbestos was often used below deck and ventilation was often poor.”

Mr. Gerken’s civilian employment as a nuclear engineer at Charleston Naval Shipyard appears to meet these U.S. Navy criteria.

B. The Use of Asbestos-Containing Materials in U.S. Government Facilities

I have conducted extensive research over the past 22 years into the use of asbestos-containing materials in buildings at U.S. military and U.S. government facilities including those where Mrs. Gerken and her husband worked. My research finds that these buildings were all constructed in accordance with applicable U.S. government specifications and standards which often required the use of asbestos-containing materials. At U.S. military and U.S. government facilities, asbestos-containing thermal insulation materials were commonly installed on hot piping systems in buildings constructed and maintained through the 1970s. In addition, various other types of asbestos-containing materials were used during the construction and maintenance of these buildings into the 1970s and beyond. My research has also found that asbestos-containing materials were used in thousands of military buildings, public buildings, commercial buildings, and schools throughout the United States and abroad

(References DL through FU).⁴

For example, a May 1980 report titled “Characterization of Asbestos Construction Products at Naval Shore Facilities,” prepared by the Civil Engineering Laboratory (CEL), Naval Construction Battalion Center, Port Hueneme, California, for the Naval Facilities Engineering Command, outlined the various uses of asbestos-containing materials at U.S. Navy facilities. The “Abstract” for the report provided the following (Reference DL):

“The potential health hazards to personnel from exposure to airborne asbestos fiber and the wide variety of asbestos-containing products at Navy facilities prompted the Naval Facilities Engineering Command to task the Civil Engineering Laboratory to develop an inventory of and characterize asbestos-containing materials. Two categories of asbestos-containing construction materials have been identified as potential asbestos fiber releasing threats: (1) friable insulating products and woven products and (2) nonfriable matrix-bonded composite products . . .”

The following table summarizes the report’s findings:

Typical Use	Generic Name	Asbestos (%)	Dates of Use
Applied Friable Insulating Products	spray-applied insulation	5-9	1940-1970
Preformed Thermal Insulating Products	batts, blocks and pipe coverings	5-95	1940-1970
	85% magnesia	15	1926-1949
	calcium silicate	6-8	1949-1971
Textiles	cloth:		
	blue stripe	>80	1920-present
	red stripe	>90	1920-present
	green stripe	>95	1920-present
	sheet	50-95	1920-present
	cord/rope/yarn	80-100	1920-present
	tubing	80-85	1920-present
	tape/strip	90	1920-present
	curtains (theatre)	60-65	1945-present
	blankets	100	1910-present
	felts	90-95	1920-present
Cementitious Products	extrusions	8	1965-1977
	panels:		

⁴Although not specifically researched for this report, this would also include any federal facilities and buildings that Mrs. Gerken worked in while employed with the Internal Revenue Service, Washington, D.C., Bolling Air Force Base, Washington, D.C., and the U.S. Civil Service Commission, Pittsburgh, Pennsylvania.

Typical Use	Generic Name	Asbestos (%)	Dates of Use
	corrugated flat flexible flexible (perforated) laminated (outer surface) roof tiles clapboard and shingles: clapboard siding shingles roofing shingles pipe	20-45 40-50 30-50 30-50 35-50 20-30 12-25 12-14 20-32 15-20	1930-present 1930-present 1930-present 1930-present 1930-present 1930-present 1944-1945 not listed-present not listed-present 1935-present
Paper Products	corrugated: high temperature moderate temperature indented millboard	>90 >35-70 >98 80-85	1935-present 1910-present 1935-present 1925-present
Roofing Felts	smooth surface mineral surface shingles pipeline	10-15 10-15 1 10	1910-present 1910-present 1971-1974 1920-present
Asbestos-Containing Compounds	caulking putties adhesive (cold applied) joint compound roofing asphalt mastics asphalt tile cement roof putty plaster/stucco spackles sealants fire/water cement insulation cement finishing cement magnesia	30 5-25 not listed <5 5-25 13-25 10-25 2-10 3-5 50-55 20-100 55 15	1930-present 1945-present 1945-1975 1920-present 1920-present 1959-present not listed-present not listed-present 1930-1975 1935-present 1900-1973 1920-1973 1926-1950
Asbestos Ebony Products		50	1930-present

Typical Use	Generic Name	Asbestos (%)	Dates of Use
Flooring Tile and Sheet Goods	vinyl/asbestos tile	21	1950-present
	asphalt/asbestos tile	26-33	1920-present
	sheet goods/resilient sheet	30	1950-present
Wallcovering	vinyl wallpaper	6-8	not listed-present

The use of asbestos-containing materials by the U.S. Army and U.S. Air Force is also well documented (References DM through ED). For example, U.S. Army Circular 40-83-4, titled "Medical Services - Policy and Guidelines for Asbestos Management," dated December 15, 1983, provided the following (Reference DM):

"a. Major uses of asbestos are cement products, floor tiles, fireproofing, high temperature insulation, asbestos cloth, brake lining, clutch facings, various gasket materials, and other miscellaneous products.

b. Typical work tasks involving asbestos include—

- (1) Fabrication, installation, repair, or removal of asbestos insulation such as pipe coverings and sprayed-on materials.
- (2) Power sawing or sanding of fire retardant building materials.
- (3) Replacement or removal of brake drums/pads and clutch linings.
- (4) Demolition or renovation of buildings.

c. Other forms of asbestos encountered are the woven fiber type which also must be used with caution. These include —

- (1) Hot mitts and gloves.
- (2) Fireblankets
- (3) Firefighter's thermal protective coats.
- (4) Lab hot plates.
- (5) Asbestos wire gauze.
- (6) Electrical heating materials.
- (7) Welding screens." (pp. 1-2)

My research has also found that the use of asbestos-containing materials in government buildings and facilities, public and private schools, homes, and commercial buildings throughout the United States and abroad is well documented (References FP through FU). For example, a June 1985 U.S. Environment Protection Agency publication titled "Guidance for Controlling Asbestos-Containing Materials in Buildings," noted the following about the various uses of asbestos-containing materials in the United States, including its use in building materials for school, public, and commercial buildings (Reference FP):

“ACM in Buildings: Three forms of asbestos are typically found in buildings: (1) sprayed-or troweled-on surfacing materials; (2) insulation on pipes, boilers, and ducts; and (3) miscellaneous forms, such as wallboard, ceiling tiles, and floor tiles. EPA surveys estimate that 31,000 schools and 733,000 public and commercial buildings contain friable (easily crumbled) ACM. Friable ACM and ACM disturbed during maintenance, repair or renovation are of greatest concern from an exposure perspective.” (p. 1-1)

A report prepared by the U.S. Environmental Protection Agency in February 1988 titled “EPA Study of Asbestos-Containing Materials in Public Buildings - A Report to Congress,” provided the following (Reference FQ):

“Information on the location of ACM was collected in the 1984 national survey . . .

An estimated 13 percent (462,000) of public and commercial buildings have friable ACM in fan and boiler rooms. These areas are frequented primarily by service and maintenance personnel. Ten percent (360,000) of buildings have some damaged materials and 8 percent (282,000) have at least some significantly damaged material in these areas.

An estimated 13 percent (454,000) of public and commercial buildings have friable ACM in public areas. Eight percent of buildings (272,000) have some damaged material in public areas, and 2 percent (85,000) have at least some significantly damaged material, primarily TSI [thermal systems insulation], in public areas . . .

Significantly damaged material is commonly thermal system insulation (TSI), often found in nonpublic building areas, such as boiler and machinery rooms. Because these are limited access areas for the general public or building occupants, asbestos exposures in these areas would be limited primarily to a relatively small number of service and maintenance workers.” (pp. 12-13)

A December 1990 U.S. Environment Protection Agency publication titled “The Asbestos Informer,” provided the following (Reference FR):

“Asbestos was first used in the United States in the early 1900's, to insulate steam engines. But until the early 1940's, asbestos was not used extensively. However, after World War II, and for the next thirty years, people who constructed and renovated schools and other public buildings used asbestos and asbestos -containing materials (ACM) extensively. They used ACM primarily to fireproof, insulate, soundproof, and decorate. The Environmental Protection Agency (EPA) estimates that there are

asbestos containing materials in most of the nation's approximately 107,000 primary and secondary schools and 733,000 public and commercial buildings." (p. 2)

"It is estimated that between 1940 and 1980, 27 million Americans had significant occupational exposure to asbestos." (p.3)

"Damaged ACM is more likely to release fibers than non-damaged ACM. In a 1984 survey, EPA found that approximately 66 percent of those buildings that contained asbestos contained damaged ACM." (p.4)

A report prepared by the U.S. General Accounting Office titled "Asbestos in Federal Buildings - Federal Efforts to Protect Employees from Potential Exposure," United States General Accounting Office, Report to the Chairman, Committee on Governmental Affairs, U.S. Senate, October 1992," provided the following about asbestos-containing materials in federal buildings (Reference FS):

"The full extent and condition of asbestos materials in buildings owned or leased by the federal government is unknown. No single agency is responsible for maintaining this information on a government wide basis, and the agencies GAO reviewed did not have complete and accurate inventories of the buildings containing asbestos. The most comprehensive data available, from a 1984 survey by EPA, estimated that 39 percent of facilities owned or operated by federal civilian agencies contained friable asbestos materials, that is, materials that can be crumbled, pulverized, or reduced to powder by hand pressure. The survey also found that about 36 percent of those facilities with asbestos had some damaged materials. Asbestos materials were present at all 14 federal worksites GAO visited, and at 11 of these sites some of the materials were damaged or deteriorated.

The worksites GAO visited were not fully implementing OSHA's requirements and EPA's recommendations for managing asbestos. Four had not inspected to determine if asbestos materials were present, and only 6 of the 14 had implemented asbestos maintenance programs. In addition, these programs did not fulfill all of OSHA's basic requirements. For instance, the worksites generally did not regularly monitor the condition of asbestos materials. In the absence of comprehensive programs, GAO identified asbestos materials at most of the worksites that needed to be repaired or replaced." (p. 3)

"EPA estimated that about 14,000 of 35,000 facilities included in its 1984 survey contained friable asbestos materials. EPA also estimated that about 5,000 of these facilities had damaged materials. EPA focused on friable materials, such as sprayed-on materials, as the greatest and most immediate concern because fibers can be more easily released from such

materials. According to EPA, nonfriable materials, such as asbestos-containing floor tile, are also a concern because cutting, drilling, sanding, or breaking the materials can release fibers.

All 14 worksites that GAO visited had asbestos materials, and damage to or deterioration of some of these materials was observed at 11 of the worksites. For example, one worksite had over 275 locations of damage. Moreover, some of the damage or deterioration at seven worksites was severe. In a few cases, GAO found asbestos-containing debris or dust lying on the floor or on machinery . . .

Not all of the worksites GAO visited had identified the location of asbestos materials. Of the 14 worksites, only 7 had completed a comprehensive inspection for asbestos. Four worksites had not performed inspections; two others were performing comprehensive inspections for the first time. The remaining worksite's inventory covered only damaged asbestos materials.

Eight worksites had not established programs to minimize the potential for asbestos fibers to be released. In addition, the programs of the other six worksites did not include all of the elements required by OSHA or recommended by EPA. For example, the worksites were not always monitoring the condition of all asbestos materials and updating their inventories for the changes noted. Furthermore, the worksites had not fully implemented procedures to minimize the potential for damage to asbestos materials. For example, warning labels were not consistently posted on all asbestos materials so that maintenance personnel and other employees would know not to disturb the materials without taking special precautions." (pp. 4-5)

"Concerned about the likely presence of asbestos materials in their buildings, two of the five agencies that we reviewed—GSA and EPA—inspected for asbestos and developed agencywide inventories of these materials in the mid-1980s. GSA's survey determined that 70 percent of the 1,639 buildings then owned by the agency contained asbestos materials. EPA's survey showed that approximately 25 percent of its 269 buildings at the time contained friable asbestos . . ." (pp. 14-15)

A January 2014 Occupational Safety and Health Administration (OSHA) publication titled "OSHA Fact Sheet - Asbestos," noted the following (Reference FT):

"Asbestos is a naturally occurring mineral fiber. It was used in numerous building materials and vehicle products for its strength and ability to resist heat and corrosion before its dangerous health effects were discovered.

"Some materials are presumed to contain asbestos if installed before

1981. Examples of these materials, as well as other presumed asbestos-containing materials are:

- Thermal system insulation
- Roofing and siding shingles
- Vinyl floor tiles
- Plaster, cement, putties and caulk
- Ceiling tiles and spray-on coatings
- Industrial pipe wrapping
- Heat-resistant textiles
- Automobile brake linings and clutch pads”

A 2013 document titled “A Consumer’s Guide To Asbestos,” prepared by the California Contractors State License Board (CSLB), included the following (Reference FU):



My research has found that asbestos was also used in over 3,000 commercial and household products (References CW and FU through GA). For example, an article titled “Asbestos - The Insulation That Lingers,” found in the December 1979 edition of the U.S. Navy publication *All Hands*, noted the following (Reference CW):

“Today . . . 800,000 tons of the asbestos fiber are used each year in over 3,000 commercial products, including everything from cigarette filters and floor tiles to insulation in the shipbuilding industry.” (p. 6)

The Summer 1988 edition of the *Navy Civil Engineer* included an article titled “The asbestos nightmare: From ‘magic mineral’ to invisible killer,” which offered the following (Reference FV):

“They [Johns-Manville Company] revolutionized the construction industry in the early 1930s by making asbestos a primary building material for all types of construction. Asbestos was used in insulation, sheetrock, ceiling and floor tiles, caulk, spackling, motor casings, etc.

The company sponsored contests to develop new and creative ways to use asbestos and published a magazine call [sic] *Asbestos* to promote and advertise these new uses. Household uses such as draperies, convertible car tops, table covers, placemats, liners in washing machines,

ovens, and toasters became popular. Powdered asbestos was sold as artificial snow for home use or in schoolyards as filler for sandboxes . . .” (p. 22)

An article titled “How to avoid Christmas fires,” found in the December 11, 1975 edition of the *Guantanamo Gazette*, provided the following (Reference FW):

“Here are a number of fire-safety hints from the professionals at the National Fire Protection Association for your use. Follow them completely and help make this the safest Christmas holiday season on record . . .

- - For decorations, use noncombustible materials (glass, asbestos, etc.) if possible, or those which are flame-retardant. Untreated flock, cotton and tissue papers ignite quite easily.” (p. 3)

From the “Dateline . . .” section found in the *Guantanamo Gazette* edition of May 18, 1979 (Reference FY):

“WASHINGTON (AP) - - The Consumer Product Safety Commission has voted unanimously to accept a proposal by eleven manufacturers to either modify or replace millions of hair dryers containing asbestos.

The offer involves those hair dryers that the panel considered a cancer risk. It could involve an estimated 12.5 million hand-held dryers.” (p. 1)

“A Consumer’s Guide To Asbestos,” referenced above, prepared by the California Contractors State License Board (CSLB) in 2013, also included the following (Reference FU):

“Some appliances are, or have been, manufactured with asbestos-containing parts or components. The Consumer Product Safety Commission tries to identify household appliances that could release asbestos fibers during use. The commission has reviewed information on the use of asbestos-containing parts in toasters, popcorn poppers, boilers, slow cookers, dishwashers, refrigerators, ovens, ranges, clothes dryers, and electric blankets. There has been a general decline in the use of asbestos in these appliances in recent years. When asbestos is used, it is in parts that probably will not result in the release of asbestos fibers during use. It is unlikely that asbestos components in these appliances present a significant health risk from release of asbestos fibers.

“Hair dryers with asbestos-containing heat shields are one notable exception. Manufacturers voluntarily recalled such hair dryers in 1979. Laboratory tests of most hair dryers showed that asbestos fibers were released during use. Current production hair dryer models do not contain asbestos heat shields.” (p. 10)

B1. U.S. Naval Shipyard, Charleston, South Carolina

As was discussed in the previous section of this report, Mrs. Gerken was employed at Charleston Naval Shipyard between 1968-1972,⁵ and her husband Mr. Andrew Gerken was also employed at Charleston Naval Shipyard at the time of their marriage on August 9, 1969 until April 1, 1966 when the shipyard closed and he retired. My research finds that asbestos-containing materials were used in the construction, maintenance and repair of the facilities at Charleston Naval Shipyard, including Building Number 79, and that numerous other hazards substances were also identified as being present at the shipyard (References AA, AC, AD, AG through AJ, AL through AN and HQ). For example, in the late 1960s, Building 79 was converted to a Production Nuclear Repair Facility (References W and AO). The building alteration plans for this project note the use of cement-asbestos board and vinyl asbestos floor tiles (Reference AO).

In addition, a March 1994 report titled "Naval Base Charleston - Draft Brac Cleanup Plan," provided the following about asbestos-containing materials identified at Charleston Naval Shipyard (Reference AG):

"3.2.5 Asbestos

In the past, a series of asbestos surveys have been conducted to inventory the presence of friable asbestos-containing building materials (ACBMs). These surveys have primarily concentrated on thermal system insulation, sprayed-on/troweled-on fireproofing, and acoustical insulation . . .

In addition, a PWC Norfolk contracted Asbestos Survey is underway for housing areas, including those affected by the Base Closure action. The lists of buildings surveyed and the identification of those containing accessible friable asbestos are contained in Table 3-11 . .

"Naval Shipyard, Public Works Department has completed a number of asbestos abatement actions through a series of contracts. Buildings associated with this effort are listed in Table 3-12, Under a separate award, a contractor is currently removing the asbestos in Building 32. In addition to these efforts, Naval Shipyard personnel have completed other asbestos abatement projects throughout the Naval Base. These are listed

⁵Although not the focus of this report, according to her Official Personnel Folder (OPF), Mrs. Gerken was employed as a clerk-dictating machine transcriber, and later as a clerk-typist, at the U.S. Naval Regional Medical Center, North Charleston, South Carolina from February 10, 1975 - January 4, 1976. Based on my research in this and previous matters and due to the fact that this U.S. Naval hospital was constructed in the early 1970s various types of asbestos-containing materials would have been installed during the construction of this facility. It is also worth noting that my research finds asbestos-containing materials were commonly installed and used at the U.S. Naval Station, Charleston, South Carolina (References AB, AE, AF through AH, and AK). Further, my research finds that asbestos-containing materials were manufactured in Charleston as noted in a February 1993 report titled "Installation Restoration Program - Community Relations Plan, Naval Base, Charleston, South Carolina" (Reference AF):

"Products manufactured in Charleston include wood pulp and paper, chemicals and chemical fertilizer, cigars, asbestos, and rubber." (p. 4-1)

in Table 3-12. These projects have not included asbestos-free certifications, but have significantly reduced the amount of friable asbestos in close contact with workers throughout the Naval Base. The effort underway at this time is to abate friable asbestos which is in close proximity to working personnel, or that has a high potential of causing adverse affects on human health.” (p. 3-67)

The following table is a summary of those buildings at the Charleston Naval Shipyard, including Building 79, that were identified in Table 3-11 as containing friable asbestos-containing materials:⁶

Building Number/Name	Contains Friable Asbestos
NH 62/Heating Plan	Yes
NS 2/Shipfitter Shop, Sail Loft	Yes
2/Shipfitter Shop, Structural Admin	Yes
3/Machine Shop	Yes
4/AFGE Office	Yes
5/Woodworking Shop	Yes
6/Forge Shop & Machine Shop	Suspect
7/Info. Systems Resources Division & Comptroller Department	Suspect
X8/Transportation Shop & Garage	Suspect
9/Foundry, Central Tool Shop	Yes
10/Nuclear Engineering Dept	Yes
11/Miscellaneous Shops & Test Equipment Storage	Yes
13/Quality Assurance Office	Yes
21/Storage (Shop 99)	Yes
25/Transportation Shop & Garage	Suspect
30/Public Works- Trades & Offices	Yes
31/Storage for Power Plant	Yes

⁶The complete versions of Tables 3-11 and 3-12 may be found in Reference AG.

Building Number/Name	Contains Friable Asbestos
35/Welding, Engineering & School	Yes
42/Recreational Storage	Suspect
43/Central Tool Shop & Service Group Administration	Yes
44/Plating Shop and Shop Stores	Yes
NS 44/Heating Plant	Yes
46/Compressor & Saltwater Pumphouse	Yes
56/Structural Group Shops	Yes
57/Rigger Shop	Yes
58/Dispensary, Industrial Medicine & Radiation Health	Yes
58A/Production Field Office	Suspect
59/Sheetmetal & Boiler Shops	Suspect
62/Tech. Support & Test Coordination Division	Yes
63/Yard Cafeteria & Canteen #1	Yes
68/Battery Shop (Electric Shop)	Yes
69/Storehouse, Receiving & Shipping	Suspect
NS 69/Boiler House	Yes
74/Storehouse	Yes
76/IRO & SUPSHIP CHASN	Yes
77/Substation, Restroom, Ship Superintendent Office	Yes
79/Repair Shop, OSHA & Quality Assurance Office	Yes
80/Machine Shop	Yes
88A/Supply Department, Telephone, Navy Audit Office	Yes
97/Air Compressor House	Suspect
122/Transportation (Dispatcher)	Suspect
123/Boilerhouse	Yes
177/Electronics Shops and Metrology Lab	Yes

Building Number/Name	Contains Friable Asbestos
187/Module Maintenance Facility	Yes
188/Module Maintenance Facility	Yes
190/RADCON Training & Offices	Suspect
195/Rigger Shop Service, NRRO & BRMO Field Office	Yes
197/Pumpwell - Drydock #5	Suspect
199/Training Building (Cochrane Hall)	Yes
209/Design Division - Code 244	Suspect
216/Elec. Shop Cable Warehouse	Suspect
218/Missile Systems Building (Shop 38)	Yes
222/Repair Facility	Suspect
223/Paint Shop	Yes
226/Plating Shop, Pump, Valve & Hydraulics Shop	Yes
227/Employee Service Association	Suspect
228/Pipe Insulation Facility	Suspect
234/Engineering Management	Yes
236/Pipe Shop	Suspect
237/Waterfront Support & Nuclear Engineering Department	Suspect
239/Respirator Care Facility	Suspect
241/Crane Maintenance	Suspect
246/Hazardous Waste Storage & Transit Facility	Suspect
247/Waterfront Service Support	Suspect
248/Administrative Building	Suspect
314/Industrial Pier	Yes
317B/Repair Wharf	Suspect
317F/Industrial Pier	Yes
317E/Industrial Pier	Suspect

Building Number/Name	Contains Friable Asbestos
333/Industrial Pier	Suspect
342/Substation	Suspect
352/Repair Wharf	Suspect
380/Hose House	Suspect
381/Storage/Administration/Pest Control	Suspect
391/Storage	Suspect
457/Substation/Production Offices	Yes
458/Switchgear & Substation	Yes
590A/Radiological Control Office	Yes
1024/Shop 06 Work Area	Yes
1028/Public Work Maintenance Office	Yes
1069/Storage	Suspect
1119/Production Offices	Yes
1141/Shipyard Security Office	Suspect
1171/Material & Equipment Storage	Yes
1173/Storage/Office	Suspect
1174/Offices/Storage/Ships Work Area	Yes
1175/Storage	Suspect
1178/Storage	Suspect
1190/Compressor House	Suspect
1193/Office	Suspect
1199/Transportation Shop & Shop Stores	Suspect
1241/Storage	Suspect
1245/Woodworking Shop	Suspect
1269/Storage (Shop 03)	Suspect
1278/Submarine Battery Salvage Slab	Suspect

Building Number/Name	Contains Friable Asbestos
1388/Dredge Office	Suspect
1433/Portable Field Office	Suspect
1435/Portable Field Office	Suspect
1435/Portable Field Office	Suspect
1440/Time Clock #5	Suspect
1469/Transportation Field Office	Suspect
1712/Storage	Suspect
1713/Portable Field Office	Yes
1717/Flushing Equipment Storage	Suspect
1723/Boiler Tube Storage	Yes
1736/Restroom	Yes
1737/Restroom	Yes
1855/Canteen #4	Suspect
2508/Maintenance Shop	Yes
4000/Shipboard Electronics Evaluation Facility	Suspect

Further, "Appendix D - Building Inventory" found in an October 1994 report titled "Draft Environmental Impact Statement for Disposal and Reuse of the Charleston Naval Base, North Charleston, South Carolina," identified Building 79 - Repair Shop and Quality Assurance Office and noted that "ACM [was] present . . . [However,] [t]ype of ACM not identified in report" (Reference AH, p. D-3).

As discussed earlier in this report, Shop 38 - Ordnance Shop was also located in Building 79. According to the report titled "Engineered Long Range Modernization Program for the U.S. Naval Shipyards, Phase II Report, Volume 6 - Charleston Naval Shipyard," referenced previously, the Ordnance Shop occupied over 30,000 square feet of Building 79 and the shop's primary mission was "to remove, overhaul, repair, test and install guns, gun mounts, torpedo tubes, launchers and other weapons equipment" (Reference Z).

My research in previous matters has found that asbestos-containing materials were used in a variety of weapons, munitions, target identification and practice bombs, missiles and rockets and could also be used in the shipping of various types of ammunition and other components. Asbestos-containing materials were also used in

the construction of munitions storage areas and asbestos-containing components could be shipped to, stored at, or buried in munitions storage or disposal areas (References GB through HP). For example, a 1992 U.S. Department of Energy newsletter regarding the "Waste Component Recycle, Treatment, and Disposal Integrated Demonstration (WeDid)" program, discussed the various types of materials found in weapons components including those that were asbestos-containing (Reference GL):

"Weapons components contain hazardous materials (e.g., heavy metals, PCBs, self-contained explosives, radioactive material, gas-filled tubs, asbestos, etc. . . ."

The newsletter also included the following tables (Reference GL):

<p>Table 1 Examples of Weapon Component Types</p>	
<u>Component Type</u>	<u>Ease of Disposal</u>
<ul style="list-style-type: none"> • Complex Electronics • Neutron Generators • Thermal Batteries • Internal Explosives • Electro-mechanical • Explosives • Mechanical • Passive Electrical • Cables • Parachutes • Plastics and Foams • Cases, Metal Parts, etc. • O-Rings, Seals, Fasteners, etc. 	<p>Difficult</p> <p>—</p> <p>Straight Forward</p>

Table 2
Examples of Materials Found in Weapon Components

Type of Material

- Heavy Metals
- PCBs
- Asbestos
- Mercury
- Radioactive
- Gas-Filled Tubes
- Explosives
- Foams

Similar to U.S. Navy vessels, my research finds that in buildings, the most significant evolution in which large quantities of asbestos dust were created was during construction and renovations. I have found numerous examples of renovations at Building 79 at Charleston Naval Shipyard during Mrs. Gerken and or Mr. Gerken's employment at the shipyard (References W and AO). For example, The Command Histories for Charleston Naval Shipyard provided the following (Reference W):

"a. A contract was awarded for preparation of plans for conversion of Building 79 to a Production Nuclear Repair Facility. Construction authorized for FY 1969." (1968, pp. 17-18)

"(4) Completion of a \$461,077 project for alterations to Building 79 in September 1971 provides centralization of material and equipment storage and issue functions, pipe fabrications, and office space for engineers and technicians in close proximity of existing contaminated component repair facilities." (1971, p. 23)

"(8) Roof of Building 79 was repaired in July at a cost of \$23,673. This structure houses the Nuclear Machine Shop. Repair work was limited to raised clerestory section at high point of roof. Lower section of roof was sound and did not need replacement." (1973, p. 13)

"a. The following Major Non-Recurring Maintenance and Repair projects were completed during 1980.

<u>Proj. No.</u>	<u>Title</u>	<u>Cost</u>	<u>Comp.</u> <u>Date . . .</u>
R27-78	Repair H.V.A.C. System, Bldg. 79	\$200,800	Apr 80" (1980, p. 11)

“b. The following major non-recurring maintenance and repair projects were completed during calendar year 1982:

<u>Proj. No.</u>	<u>Title</u>	<u>Cost</u>	<u>Comp. Date . . .</u>
R27-79	Repairs to Valves and Pumps, DD2 Machine Shop, Bldg. 79	\$200,800	Jul 82” (1982, p. 21)

Historic U.S. Navy documents also show that building renovations including piping and insulation repairs were common during Mrs. Gerken’s and Mr. Gerken’s employment at Charleston Naval Shipyard (Reference W and Z). For example, the report titled “Engineered Long Range Modernization Program for the U.S. Naval Shipyards, Phase II Report, Volume 6 - Charleston Naval Shipyard,” referenced elsewhere in this report provided the following (Reference Z):

“C. STEAM AND ELECTRICAL POWER SUPPLY AND STEAM DISTRIBUTION

1. Existing Conditions

The central power plant, Bldg. 32, is located in the center of the industrial area. The five 60,000 lb/hr boilers supply steam to all piers and drydocks within the shipyard’s boundary and to all its industrial shops as well as to certain facilities which are under the jurisdiction of the Naval Station and Naval Supply Center. The boilers also supply steam to the 10,500 kw power generators which supply the yard’s 2.4 kv electrical distribution system . . .

Steam is distributed throughout the yard through an underground system consisting of 9,000 LF of pipelines in trenches.

The following deficiencies exist in the system . . .

- The five coal-fired boilers are 26 years old and require major repair, overhaul, and modification to accept more economical fuels . . .
- The insulation of the steam distribution lines in the trenches has deteriorated causing excessive and costly heat losses.” (p. VI- 9)

The above recommendations were formulated as parts of MCONs [Military Construction Projects] P-606 and P-617. These MCONs include the following recommendations . . .

- Reinsulate and repair 6,100 LF of steam line . . .
- Install 3,600 LF of overhead steam lines connecting the new heating plant to the existing lines. These new steam lines would replace 2,000 LF of underground steam lines . . .” (p. VI- 12)

The Command Histories for Charleston Naval Shipyard also noted the following construction projects at the shipyard (Reference W):

“(19) A material assembly area has been prepared in Building 80 to serve Shops 38 and 56. Material will be received and assembled in job order lots for SSBN/SSN overhauls.” (1969, p. 24)

“(4) The contract covering the construction of the New Training Building 199 and the Demolition of old Training Building 1147 was completed 30 November 1970 at a cost of \$804,889. Building 1147 was a 20 year old temporary type frame construction and was incapable of accommodating the expanded training programs. The New Training Building provides an additional 24,153 square feet of floor space and was dedicated in August.”

“Construction of two concrete masonry buildings - - one south of Drydock No. 5 and the other south of Building 11 equipped with washrooms, locker rooms, toilet facilities and sufficient steam, water, sewer and electrical services were provided.”

“(3) Repair of Built-up Roof to Sheetmetal Shop, Building 44, was completed 6 July 1970 at a cost of \$8,315. The entire roof had deteriorated due to age and weather causing leakage, loss in production and machinery.

(4) Repair of Built-up Roof to Boiler Shop, Building 9, was completed 6 July 1970 at a cost of \$13,200. The roof had deteriorated due to weather exposure. Replacement of roofing and flashing repair were necessary to weathertight shop facility.” (1970, pp. 20-23)

“(1) Repairs to the Steam Distribution System, Pier C, were completed in March 1971 at a cost of \$17,982 providing essential steam service to this fitting-out pier .” (1971, pp. 23-24)

“The underground steam line from Boiler Plant No. 2 to Building 20 and NS-16 was repaired by replacing with an overhead system at a cost of \$15,750. The overhead system will eliminate underground system problems relative to high ground water table and unstable sub-surface conditions present in the area.”

"The replacement of the deteriorated insulation on the steam line from 4th Street to Drydock No. 5 was completed at a cost of \$19,400."

"The replacement of the steam distribution system for Pier 314 was completed at a cost of \$62,030. Pier 314 provides industrial and hotel service steam for vessels."

"One of the four boilers in Building 123 was repaired by rebricking at a cost of \$26,905. Boilers in Building 123 furnish steam to the Naval Station and supported activities."

"Repairs to Steam Line on Pier 329 (QUEBEC) were completed at a cost of \$23,284. This Steam Line provides hotel steam service to ships berthed at Pier 329 . . ." (1972, pp. 3-6)

"(6) In July, repairs to steam lines, Piers N, Q, S, T, and U, were completed at a cost of \$55,810, paint of structural steel, Building 79, was completed at a cost of \$36,825; repair of air conditioning system, Building 79, was completed for \$31,000 . . ."

"b. Major alterations were completed to Buildings 2 and 59 and the Boiler Shop (Shop 41) completed their move into these buildings on 14 November 1975. Included in the alterations were a Refractory Storage area, Asbestos Work area, and Template Development Room."

"e. Another facility completed during [sic] 1975 for the Boiler Shop was the relocation of Building 1723 to the north side of Building 79 to be used as a boiler tube storage area. This work was contracted for \$23,464." (1975, pp. 9-10)

"e. Also, completion of the new pipe insulating work facility, Building 228, was a milestone eagerly awaited by the Shop 56 insulators. This new facility is equipped with all the necessary conveniences (central heating and air conditioning) and an exhaust system for the removal of dust particles from work tables and saw rooms. New sewing machines and band saws have been installed, and the morale factor among the mechanics, as well as the supervisors, has increased. This was completed in June for \$421,000." (1976, p. 10)

"Asbestos repairs for the central power plant, Buildings 32 and NH-53." (1989, p. 16)

"Hurricane Hugo hit with full force on 21 September 1989 and devastated Charleston Naval Shipyard."

"Recovery operations began with extensive repairs being made to buildings, utilities, and shop facilities. Normal work resumed within 3 days. These Hugo volunteers were truly heroes." (1989, pp. 34-35)

"The Facilities Support Contract Management Division (Code 415) contracted and directed the removal of 2750 truckloads (33,000 cubic yards) of storm debris from the base. This division also contracted and directed \$450,000 worth of emergency roofing repairs to critical shipyard buildings." (1989, pp. 34-36)

"Renovation of Shop 38, Building 80 office and work spaces damaged by hurricane 'Hugo' are ongoing and will be completed early next year."

"PWD Engineering Division reported the total Hurricane Hugo damage estimate for CNSY as of January 1990 was \$33,112,852." (1990, p. 36)

The campus of Charleston Naval Shipyard had an onsite landfill where asbestos-containing debris was disposed of until the early 1970s (Reference AA, AB, and AC). For example, a study titled, "Assessment of Potential Oil and Hazardous-Waste Contamination of Soil and Ground Water, Naval Shipyard, Charleston, South Carolina," noted the following (Reference AA):

"Landfill Area

From the 1930's until 1973, solid wastes generated at the shipyard were disposed of at the shipyard landfill, which has increased to the size shown in Figure 2. These wastes included sanitary wastes, asbestos, acids, PCBs, oils, solvents, paints, paint sludges, mercury, metal sludges, acid-neutralization sludges, and various inorganic and organic chemicals."

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The Department of the Navy, Facilities Engineering Command's May 1983 report titled, "Initial Assessment Study of Naval Base, Charleston, South Carolina," noted the following (Reference AB):

"Waste materials generated on the base that were reportedly landfilled in its southwestern portion included: asbestos, acids, PCBs, waste oils, waste solvents, waste paints, paint sludges, mercury, metal sludge, acid neutralization sludge, various inorganic and organ chemicals, and sanitary wastes. The quantities of these wastes disposed of are unknown, but are believed to be large, based on current generation rates."

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"6.1.1.4 Boiler Shop

Boilers onboard ships are repaired by Boiler Shop personnel. For the last

6 years, the Boiler Shop has been located in Bldg. 59; during the preceding 50 years, however, it was located in Bldg. 9. In the past, when boilers were relined with asbestos, hazardous wastes were generated during “rip-out” operations in which the firebrick and asbestos lining was chipped away with air hammers. A substitute material is now being used in Navy boilers, and only about 1,000 pounds of asbestos is contract hauled annually from NSY . . . Past quantities of asbestos disposed of in the base sanitary landfill (site 1) were significantly greater than 1,000 pounds per year because of the past lack of substitute materials.” p. 6-4

It should be noted that according to the Command Histories for Charleston Naval Shipyard, in 1979 the shipyard began processing asbestos-related claims of shipyard workers (Reference W):

“(3) Twenty-five asbestosis claims were received . . .” (1979, p. 19)

“(3) Twenty-five asbestosis claims were received . . .” (1980, p. 18)

“Seven asbestosis claims were received; none were allowed, four were disallowed, and three are pending.” (1983, p. 31)

“Twenty-two asbestos claims were received; 10 were allowed and 13 were disallowed.” (1986, p. 29)

“The shipyard also received 10 new asbestos claims; 7 allowed and 5 disallowed.” (1987, p. 38)

“Seven asbestos claims were allowed and two disallowed during 1989. There were eight new asbestos claims received during the year.” (1989, p. 41)

It may also be worth discussing that in 1969 a significant mercury spill was discovered in Building 79 (References AI, AL, and AM). For example, a June 1995 report titled “Final Zone E RFI Work Plan,” noted the following about the spill (Reference AI):

“2.15 SWMU 102, Mercury Spill, Building 79

SWMU 102 is a mercury spill under the central portion of Building 79. This site has been designated for a CSI. Table 2.29 describes the site.

2.15.1 Previous Investigations

No environmental media data have been found for this site. However, several incidents involving hazardous material spills, as well as cleanup activities, have been documented since 1976. The most noteworthy was the discovery of a mercury pool under the floor inside the central portion of the building. Mercury was reported to have been spilled and it seeped under the floor, forming an approximately 10-foot diameter pool. The mercury release occurred in 1969. The level of cleanup conducted is not

known.”

A July 2002, report titled “Sampling and Analysis Plan - Area of Concern 590 and SWMU 102, Zone E,” added the following about the mercury spill and other materials of concern at Building 79 (Reference AL):

“2.1.2 SWMU 102 - Mercury Spill, Building 79

Several incidents involving hazardous material spills, as well as cleanup activities, have been documented since 1976. The most noteworthy was the discovery of a pool of mercury under the floor inside the central portion of the building. Mercury was reported to have been spilled and had seeped under the floor, forming an approximately 10-foot diameter pool. The mercury release was reportedly discovered in 1969. According to the

<p align="center">Table 2.29 SWMU 102 Site Information and Description</p>			
Number	Description	Materials Generated or Stored	Potential Pathways²
SWMU 102 Mercury Spill	Building 79 housed an ordnance shop from 1943 to 1966. Currently it houses administrative offices (northeast), a ship storage area (center). ¹	Metals Mercury Petroleum Hydrocarbons (VOCs, SVOCs, Metals) ³	Soil Soil Gas Groundwater Air Surface Runoff
<p>Notes: ¹ Described in the Draft-Final RCRA Facility Assessment, Volume II, November 22, 1994 ² Pathways scheduled for sampling are bold. ³ Analyte groups associated with materials generated or stored.</p>			

1970 Incident Report #CNS-12-70, five pounds of mercury was recovered by vacuum cleaner and disposed of properly. The exposed area was scrubbed with HgX to remove any traces of remaining mercury, and the floor was replaced. The mercury was reported as having been used in gyroscopes before World War II. This area is zoned for industrial use (M-2).

As identified in RFA documentation, the materials of concern for SWMU 102 include metals, mercury, silver, VOCs, and petroleum hydrocarbons.” (p. 2-1)

In conclusion, based on my research, while Mrs. Gerken and her husband, Mr. Gerken were employed at Charleston Naval Shipyard, they were in the presence of various types of asbestos-containing materials and other hazards substances.

All of my opinions in my report are based on my education, background, training,

experience, and review of historical materials. All of my opinions were held to a reasonable degree of professional and engineering certainty.

A handwritten signature in cursive script, reading "C. P. Herfel". The signature is written in black ink and is positioned above the printed name.

Christopher P. Herfel

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- FP) Extracts from "Guidance for Controlling Asbestos-Containing Materials in Buildings," U.S. Environmental Protection Agency, EPA 560/5-85-0241, June 1985
- FQ) "EPA Study of Asbestos-Containing Materials in Public Buildings - A Report to Congress," U.S. Environmental Protection Agency, February 1988
- FR) Extracts from "The Asbestos Informer," U.S. Environmental Protection Agency, EPA 340/1-90-020, December 1990
- FS) Extracts from "Asbestos in Federal Buildings - Federal Efforts to Protect Employees from Potential Exposure," U.S. General Accounting Office, Report to the Chairman, Committee on Governmental Affairs, U.S. Senate, October 1992," U.S. General Accounting Office, 1992
- FT) Extracts from "OSHA Fact Sheet - Asbestos," Occupational Safety and Health Administration, DEP FS-3507, January 2014
- FU) Extracts from "A Consumer's Guide To Asbestos," California Contractors State License Board (CSLB), California Department of Consumer Affairs, 2013

- FV) Extracts from "The asbestos nightmare: From 'magic mineral' to invisible killer," *Navy Civil Engineer*, Volume XXVIII, Number 1, Summer 1988
- FW) Extracts from "How to avoid Christmas fires," *Guantanamo Gazette*, Volume 30, Number 212, December 11, 1975
- FX) Extracts from "Fire-safety hints for Yuletide season," *Guantanamo Gazette*, Volume 31, Number 236, December 10, 1976
- FY) Extracts from "Dateline . . .," *Guantanamo Gazette*, Volume 34, Number 95, May 18, 1979
- FZ) Extracts from "Asbestos found at TK playground," *Daily Gazette*, Volume 42, Number 159, August 20, 1986
- GA) Extracts from "Asbestos to Be Banned by 1997," *Navy Civil Engineer*, Volume XXIX, Number 1, Fall 1989/Winter 1990
- GB) Extracts from "Advanced Fuze & Explosive Ordnance (AFEO) Bulletin No. 9," October 1, 1944
- GC) Extracts from "U.S. Explosive Ordnance," Ordnance Pamphlet OP 1664, Department of the Navy, Bureau of Ordnance, Vol. 1, May 1947; Vol. 2, May 1947
- GD) Extracts from "Demolition Materials," NAVWEPS OP 2212, Bureau of Naval Weapons, February 1962
- GE) Extracts from "Development of Flexible Polymers as Thermal Insulation in Solid-Propellant Rocket Motors," Second Annual Summary Report, Rock Island Arsenal, Rock Island, Illinois, Atlantic Research Corporation, July 1962
- GF) Extracts from "Toxic Hazards Associated with Pyrotechnic Items," NAVWEPS OP 2793, Bureau of Naval Weapons, November 1, 1963
- GG) Extracts from "Minerals Yearbook 1963 - Volume I of Four Volumes - Metals and Minerals (Except Fuels)," U.S. Department of the Interior, Bureau of Mines, 1964
- GH) Extracts from "Airmunitions General," Technical Manual T.O. 11A-1-20, Secretary of the Air Force, February 1, 1966, with Change 2, February 1968
- GI) Extracts from "Asbestos Fibers Studied for Aircraft Structures," *Defense Industry Bulletin*, Vol. 5, No. 8, August 1969
- GJ) Extracts from "ASRM Case Insulation Design and Development," by Matthew S. Bell and William F.S. Tam, Gencorp Aerojet, October 30, 1992
- GK) Extracts from "A Two-Stage Intercontinental Ballistic Missile (ICBM) - Design Optimization Study and Life Cycle Cost Analysis," by David P. Blanks, M.B.A., B.S., Captain, USAF, et al., December 1992
- GL) Extracts from "The Waste Component Recycle, Treatment, and Disposal Integrated Demonstration (WeDID)," U.S. Department of Energy, Environmental Restoration and Waste Management Division, Office of Technology Development, 1992
- GM) Extracts from "Dismantling the Bomb and Managing the Nuclear Materials," OTA-0-572, U.S. Congress, Office of Technology Assessment, September 1993
- GN) Extracts from "Restrictions on Discontinued Uses of Asbestos," Environmental Protection Agency, *Federal Register*, Vol. 84, No. 80, April 25, 2019
- GO) Extracts from "Asbestos Free Insulation Development for the Space Shuttle Solid Propellant Rocket Motor (RSRM)," by Larry D. Allred and Norman F. Eddy,

- Thiokol Propulsion, 2000
- GP) Extracts from "British Explosive Ordnance," NAVORD OP 1665, Naval Ordnance Systems Command, Department of the Navy, June 1946, with Change 3, April 1970
 - GQ) Extracts from "Defence Unexploded Ordnance Website - Ordnance Information Sheet," Australian Government, Department of Defense, Revision 01, March 2015
 - GR) Extracts from "Life Cycle of Asbestos in Commercial and Industrial Use Including Estimates of Releases to Air, Water and Land," U.S. Environmental Protection Agency, Contract No. 68-02-3168, report prepared by GCA Corporation, GCA/Technology Division, February 1982
 - GS) Extracts from "Ammunition, General," Technical Manual TM 9-1900, War Department, July 1942
 - GT) Extract from "Management of Material Potentially Presenting an Explosive Hazard," DOD Manual 4140.72, Department of Defense, Office of the Under Secretary of Defense for Acquisition and Sustainment, May 2021
 - GU) Extracts from "Components, Molded, Asphalt-Asbestos Filled (for Use in Ammunition Shipping Containers)," Military Specification MIL-C-13212B (MU), November 1968
 - GV) Extracts from "Preparation of Hazardous Materials for Military Air Shipment," Air Force Regulation AFR 71-4, March 1976
 - GW) Extracts from "Basewide Environmental Baseline Survey," Lowry Air Force Base, Colorado, December 1993
 - GX) Extracts from "Stationwide Environmental Baseline Survey and Related Environmental Factors," Ontario Air National Guard Station, California, November 1996
 - GY) Extracts from "Realignment Environmental Baseline Survey," Kelly Air Force Base, Texas, report prepared by CH2M Hill, December 1996
 - GZ) Extracts from "Environmental Assessment - Weapons and Munitions Maintenance and Storage Complex," Malmstrom Air Force Base, Montana, 341st Space Wing, April 2001
 - HA) Extracts from "Army Ammunition and Explosives Storage During the Cold War (1946-1989)," report prepared for the U.S. Army Environmental Command, Aberdeen Proving Ground, Maryland, May 2009
 - HB) Extracts from "Supplemental Environmental Baseline Survey for Parcel G," former Mather Air Force Base, revised draft, July 2010
 - HC) Extracts from "Demolition of Munitions Storage Area Facilities 'Right Size' Project 10-0192C Environmental Assessment Fairchild Air Force Base, Washington," prepared by Inland Northwest Resources, LLC, July 2011
 - HD) Extracts from "Aircraft Bombs, Fuzes, and Associated Components," NAVWEPS OP 2216 (Volume 1), The Chief of the Bureau of Naval Weapons, August 1960
 - HE) Extracts from "Development of the BDU-17/B Practice Bombs," by Albert Kokalari, Lt. USAF, Development Directorate, Air Force Special Weapons Center, Kirkland Air Force Base, New Mexico, April 1963
 - HF) Extracts from "Naval Airborne Ordnance," NAVPERS 10826-B, Bureau of Naval Personnel, 1965

- HG) Extracts from "Bombs and Bomb Components," Department of the Air Force Technical Order TO 11-1-28, Department of the Army Technical Manual TM 9-1325-200, Departments of the Army, the Navy, and the Air Force, April 1966
- HH) Extracts from "Signal, Miniature Practice Bomb, MK 4 MOD 3 and MOD 4, Military Specification MIL-S-18538 (Nord), May 1955
- HI) Extracts from "Bomb, Practice, Profile, Type MD-6," Military Specification MIL-B-25256A (USAF), June 1957; Amendment 3, June 1964; Notice 1 (Cancellation) January 1968
- HJ) Extracts from "Bomb, Practice, Profile BDU-3/B," Military Specification MIL-B-25809 (USAF), November 1958; Notice 1 (Cancellation) January 1968
- HK) Extracts from "Final Work Plan - Comprehensive Site Evaluation Phase II," Tyndall Air Force Base, report prepared by U.S. Army Corps of Engineers, Omaha District and URS Group, Inc., January 2011
- HL) Extracts from "Site-Specific Removal Report - Eaker Air Force Base, Arkansas," Volume 1, Chapters 1-5, Appendices A&B, prepared by CMS Environmental, Inc., July 1996
- HM) Extracts from "Basewide Environmental Baseline Survey and Related Environmental Factors," K.I. Sawyer Air Force Base, Michigan, August 1994
- HN) Extracts from "Site Investigation Report - Site 28 - Crooked Island," Tyndall Air Force Base, Florida, report prepared by Rust Environment & Infrastructure, May 1994
- HO) Extracts from "RCRA Closure Report for OB/OD Unit No. 7 - Lackland AFB, Texas," U.S. Air Force Installation Restoration Program, report prepared by CH2MHILL, May 1998
- HP) Extracts from "Final Report - Comprehensive Site Evaluation Phase I," Seymour Johnson Air Force Base, North Carolina, report prepared by URS Group, Inc., August 2007
- HQ) Alteration Plans, Building 13 - Quality Assurance Facility, Charleston Naval Shipyard, Charleston, South Carolina

EXHIBIT 10

1 STATE OF SOUTH CAROLINA § IN THE COURT OF COMMON PLEAS
2 COUNTY OF RICHLAND §
3 § FOR THE FIFTH JUDICIAL CIRCUIT
4 ANDREW T. GERKEN, as §
5 Personal Representative §
6 of the Estate of ANNA § C/A NO. 2023-CP-40-06111
7 MARIE L. GERKEN, §
8 Deceased, § In Re:
9 § Asbestos Personal Injury
10 Plaintiff, § Litigation Coordinated Docket
11 V. §
12 AVON PRODUCTS, INC., §
13 et al., §
14 Defendants. §

15
16 PAUL NONY, PH.D.
17

18 CONDUCTED VIA VIDEOCONFERENCE
19

20 August 21, 2025

21 10:08 a.m. CST
22

23 Job No.: 594330

24 Pages: 1 - 41

25 Reported By: Linda Russell

1 know how much?

2 MR. ASHBY: Objection.

3 A I don't.

4 BY MR. HOLDER:

5 Q And understand this is my only chance to
6 explore any bias you may have, so I'm just trying
7 to figure out, like, any disclosure type
8 information, you know, how much someone has been
9 paid. That's the only reason I'm asking this.

10 Do you know for any year, like 2023 or
11 2024, how much you were paid by Johnson & Johnson?

12 A I don't, off the top of my head. I can --
13 I can tell you, though, it -- say I had one case a
14 month -- well, let's say ten cases in a year,
15 they're probably, like this invoice, 15- to
16 20,000. So you can kind of just do the math on
17 that.

18 Q In your estimation, in the past five years
19 Johnson & Johnson defendants or their counsel on
20 their behalf have paid approximately 150,000 to
21 200,000 dollars a year for your expert services;
22 is that your best guess?

23 A Yes. And that's -- that's for all what
24 you see on the invoice. It's not just me, it's
25 the other people that help me out in these cases.

CERTIFICATE OF SHORTHAND REPORTER

I, Linda Russell, the officer before whom
the foregoing deposition was taken, do hereby
certify that the foregoing transcript is a true
and correct record of the testimony given; that
said testimony was taken by me stenographically
and thereafter reduced to typewriting under my
direction; that reading and signing was not
discussed; and that I am neither counsel for,
related to, nor employed by any of the parties to
this case and have no interest, financial or
otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my
hand this 25th day of August, 2025.



Linda Russell, Texas CSR No. 2965
Expiration Date: 04/30/27

Planet Depos
451 Hungerford Drive, Suite 400
Rockville, MD 20850
888.433.3767
Firm Registration 686

EXHIBIT 11

STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND FOR THE FIFTH JUDICIAL CIRCUIT

ANDREW T. GERKEN, AS	)	
PERSONAL REPRESENTATIVE OF)		
THE ESTATE OF ANNA MARIE	)	
L. GERKEN, Deceased	)	C/A NO. 2023-CP-40-06111
	)	In Re:
Plaintiff	)	Asbestos Personal Injury
	)	Litigation Coordinated
	)	Docket
	)	
VS.	)	
	)	
AVON PRODUCTS, INC.,	)	
ET AL.	)	
	)	
Defendants	)	

ORAL DEPOSITION OF
CHRISTOPHER HERFEL
SEPTEMBER 11, 2025

ORAL DEPOSITION of CHRISTOPHER HERFEL, produced
as a witness at the instance of Plaintiff, and duly
sworn, was taken in the above-styled and numbered cause
on the 11th day of September, 2025, from 9:05 a.m. to
10:22 a.m. before Karen G. Kolohe, CSR in and for the
State of Texas, recorded by machine shorthand, via Zoom
Videoconference pursuant to the Texas Rules of Civil
Procedure and the provisions stated on the record or
attached hereto.

1 additional work on this case?

2 A. Only if requested by the retaining defendants.

3 Q. At this time, have you been requested to do any
4 additional work?

5 A. No, sir.

6 Q. Okay. Your research rate is 255 an hour and
7 testimony is 475 an hour?

8 A. That's correct.

9 Q. And you mentioned an invoice in your notes I
10 don't think I was provided. Can you just tell me what
11 the amount was for the invoice?

12 A. It was \$4,795.80.

13 Q. And when does that invoice go through?

14 A. It was issued on July 8th, 2025.

15 Q. Do you know approximately how much work you've
16 done since July 8th on this case?

17 A. I haven't seen an invoice for -- I can only give,
18 like, a ballpark rough estimate.

19 Q. And that's fine. Yeah. Just a rough estimate of
20 about how much time you have spent since July 8th.

21 A. Since July 8th, I personally have spent about 70
22 hours of effort on this project.

23 Q. Okay. One thing I realized I didn't do, I just
24 need to mark your report as Exhibit 6.

25 (Exhibit No. 6 marked)

1 That the amount of time used by each party
2 at the deposition is as follows:

3 Mr. Humen - 1 HRS:05 MIN

4 That pursuant to information given to the
5 deposition officer at the time said testimony was taken,
6 the following includes counsel for all parties of
7 record:

8 Mr. Humen, ATTORNEY FOR PLAINTIFF
9 Ms. Blake, ATTORNEY FOR DEFENDANT
10 Mr. Rainsford, ATTORNEY FOR DEFENDANT
11 Mr. Williams, ATTORNEY FOR DEFENDANT

12 I further certify that I am neither counsel for,
13 related to, nor employed by any of the parties or
14 attorneys in the action in which this proceeding was
15 taken, and further that I am not financially or
16 otherwise interested in the outcome of the action.

17 Further certification requirements pursuant to
18 Rule 203 of TRCP will be certified to after they have
19 occurred.

20 Certified to by me this 14th day of September,
21 2025.



22 Karen G. Kolohe, TEXAS CSR NO. 8776
23 Expiration Date: 11-30-25
24 Planet Depos
25 451 Hungerford Drive, Suite 400
Rockville, Maryland 20850
Phone: 888.433.3767
www.planetdepos.com

Transcript of Christopher Herfel
Conducted on September 11, 2025

59

FURTHER CERTIFICATION UNDER RULE 203 TRCP

The original deposition was/was not returned to the deposition officer on _____, 2025.

If returned, the attached Changes and Signature page contains any changes and the reasons therefor;

If returned, the original deposition was delivered to _____, Custodial Attorney;

That \$_____ is the deposition officer's charges to the Plaintiff for preparing the original deposition transcript and any copies of exhibits;

That the deposition was delivered in accordance with Rule 203.3, and that a copy of this certificate was served on all parties shown herein on and filed with the Clerk.

Certified to by me this 14th day of September, 2025.


Karen G. Koloshe, TEXAS CSR NO. 8776
Expiration Date: 11-30-25
Planet Depos
451 Hungerford Drive, Suite 400
Rockville, Maryland 20850
Phone: 888.433.3767
www.planetdepos.com

EXHIBIT 12

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA
CASE NO. RG 17882401

TERESA ELIZABETH LEAVITT and)
DEAN J. McELROY,)
)
Plaintiffs,) VIDEOTAPE
) DEPOSITION OF:
-VS-)
) JAMES PETER
JOHNSON & JOHNSON, et. al.,) MITTENTHAL
)
Defendants.)
)
_____)
)

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT
JCCP CASE NO. 4674

PUI FONG and THAI WONG,)
)
Plaintiffs,)
)
-VS-)
)
IMERYS TALC AMERICA, INC.,)
et. al.,)
)
Defendants.)
)
_____)
)

1 11 items there. Do you see those items,
2 those -- those topics?

3 A. Yes, I do.

4 Q. Okay. And is it correct that you
5 have -- you are appearing as a corporate
6 representative to answer questions on all of those
7 topics?

8 A. Yes.

9 Q. Okay. And that specifically includes
10 record retention policies. Right?

11 A. Yes.

12 Q. Indexes or databases for documents,
13 search terms, parameters for searching documents,
14 efforts made to locate documents, the genuineness or
15 authenticity of documents produced, whether documents
16 produced are business records, whether they were --
17 documents were produced in the regular,
18 ordinary -- as they were kept in the usual course of
19 business, chain of custody of documents produced,
20 litigation holds defendant put on documents.
21 Defendant's efforts to preserve documents related to
22 marketing, sale, and testing Johnson's Baby Powder
23 and its efforts to preserve evidence of testing.

24 So those are all the topics you
25 were -- you understood that you're here as a

1 representative on all those topics. Correct?

2 MR. COX: Object to the form.

3 A. Yes.

4 Q. Okay. And then if you look at the Fong
5 notice, Exhibit Number 17, you are produced as
6 the -- you are the corporate representative for
7 Johnson & Johnson and Johnson & Johnson Consumer,
8 Inc., on those first eight topics listed. Is that
9 correct, under, "Matters To Be Examined"?

10 A. Yes.

11 Q. Okay.

12 Okay. You mentioned that there were
13 vendors that you interviewed. Is that correct?

14 A. Yes.

15 Q. And did you interview vendors specific
16 to the production done in the Leavitt case?

17 A. I had interviewed the vendors on general
18 topics; and with respect to Leavitt and Fong, I had
19 some follow-up.

20 Q. And who were the vendors that you spoke
21 to in the follow-up with Leavitt and Fong?

22 A. The follow-up vendor was the company
23 Triality, Pam Downs.

24 Q. And what does Triality do?

25 A. They assist companies in identifying and

CERTIFICATE

I, LINDA M. JORRITSMA, a Notary Public and Certified Court Reporter and Registered Professional Reporter, do hereby certify that prior to the commencement of the examination, JAMES PETER MITTENTHAL was duly sworn to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

Linda M. Jorritsma

Notary Public

Dated: September 26, 2018

EXHIBIT 13

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

LAOSD ASBESTOS CASES

JCCP 4674

MARGARITA COLEMENERO,

Case No. 23STCV11921

Plaintiff,

vs.

AVON PRODUCTS, INC., et al.,

Defendants.

CERTIFIED COPY

VIDEOTAPED VIDEOCONFERENCE OF

JAMES MITTENTHAL

PERSON MOST KNOWLEDGEABLE AND CUSTODIAN OF RECORDS

FOR JOHNSON & JOHNSON

MONDAY, DECEMBER 18, 2023

Reported By: Shirley Koch, RPR No. 822364
California CSR No. 10849

1 Q. Are you reasonably prepared today on the
2 noticed topics?

3 A. Yes.

4 Q. I'm going to go ahead and ask questions in
5 the nine cases where I'm counsel of record that I've
6 identified. But at the end of that, we're going to
7 have folks just follow up any other cases to see if
8 your answers would differ at all; okay?

9 A. Okay.

10 Q. In addition to being the person who Johnson
11 & Johnson chose to -- to speak for it as a corporate
12 representative or a person most knowledgeable,
13 you're aware, at least in some of those notices,
14 that we also sought the same from LTL?

15 A. Yes.

16 Q. And you're the person in that capacity as
17 well; correct?

18 A. Yes.

19 Q. And then we also sought to talk to a
20 custodian of records in order to talk to someone who
21 understood Johnson & Johnson's recordkeeping system
22 and could help us understand where the documents
23 came from. You're here in that capacity as well;
24 correct?

25 A. Yes.

DEPOSITION OFFICER'S CERTIFICATE

I, SHIRLEY KOCH, Registered Professional
Reporter No. 822364, do hereby certify:

That prior to being examined, the witness in the
foregoing proceedings were by me duly sworn to
testify to the truth, the whole truth, and nothing
but the truth;

That this transcript is a true record of the
testimony given by the witness, as stenographically
reported by me at the time and place therein stated
and thereafter transcribed into typewriting, by
computer, under my direction and supervision;

I further certify that I am neither financially
interested in the action nor a relative or employee
of any attorney or any of the parties.

The dismantling, unsealing, or unbinding of the
original transcript will render the Deposition
Officer's Certificate null and void.

Dated: December 31, 2023.



SHIRLEY L. KOCH, RPR No. 822364
California CSR No. 10849

EXHIBIT 14

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF NEW JERSEY
3 - - -
4

5 IN RE: JOHNSON & :
6 JOHNSON TALCUM POWDER :
7 PRODUCTS MARKETING, :
8 SALES PRACTICES, AND : NO. 16-2738
9 PRODUCTS LIABILITY : (FLW) (LHG)
10 LITIGATION :
11 :
12 :
13 THIS DOCUMENT RELATES :
14 TO ALL CASES :
15

16 VOLUME III
17 - - -
18

19 October 17, 2018
20 - - -
21

22 Continued videotaped
23 deposition of JOHN HOPKINS, Ph.D., taken
24 pursuant to notice, was held at the law
 offices of Orrick, LLP, 51 West 52nd
 Street, New York, New York, beginning at
 9:19 a.m., on the above date, before
 Michelle L. Gray, a Registered
 Professional Reporter, Certified
 Shorthand Reporter, Certified Realtime
 Reporter, and Notary Public.

25 - - -
26 GOLKOW LITIGATION SERVICES
27 877.370.3377 ph | 917.591.5672 fax
28 deps@golkow.com
29
30

1 BY MR. BICKS:

2 Q. And in the chart that was --
3 we've put together here, it's commented
4 that tremolite and tremolite-actinolite
5 are not asbestos. You've told us that,
6 right?

7 MR. PLACITELLA: Objection.
8 Competence. Beyond the scope.

9 BY MR. BICKS:

10 Q. And you explained about XRD,
11 that it can't distinguish between
12 asbestos and non-asbestos amphiboles,
13 right?

14 A. That is correct, yes.

15 Q. And is that --

16 MR. PLACITELLA: Objection.
17 Let me put my objections on the
18 record.

19 Beyond the scope, beyond his
20 competency.

21 BY MR. BICKS:

22 Q. And is that one of the
23 reasons that Johnson & Johnson did more
24 when it tested talc or had it tested by

1 others, than just use XRD?

2 MR. PLACITELLA: Objection
3 leading.

4 THE WITNESS: Yes. When the
5 methods were being developed
6 between the talc supplying
7 companies and the FDA, methods
8 were developed, which started out
9 with x-ray diffraction, followed
10 by other methods to get more
11 information and more detail.

12 BY MR. BICKS:

13 Q. And there's reference here
14 that other testing of Vermont talc
15 confirms that it does not contain
16 asbestiform amphiboles.

17 Do you see that?

18 A. I do yes.

19 Q. And can you explain that to
20 us?

21 A. Well, as part of the ongoing
22 program, you go to the next stage which
23 is to use polarized light microscopy.
24 And as far as Johnson & Johnson were

1 concerned, to use transmission electron
2 microscopy, which then allows you to
3 determine whether or not your material is
4 asbestos or not asbestos.

5 Q. Plaintiff's counsel showed
6 you Exhibit 256, which was a Colorado
7 School of Mines Research Institute
8 document. And I'll give you that.

9 Do you have that?

10 A. Yes.

11 Q. And then on the chart for
12 256. It says that, "5 of 6 show
13 tremolite-actinolite, no other forms of
14 non-talc minerals approaching asbestos
15 types were identified."

16 Do you see that?

17 A. I do. That is what the
18 author at Colorado School of Mines wrote.

19 Q. And by the way -- and the
20 response here, it's indicated that XRD
21 cannot distinguish between asbestos and
22 non-asbestos amphiboles, right?

23 A. That is correct.

24 MR. PLACITELLA: Objection.

1 Q. Right. And I want to show
2 you a document on this question.

3 (Document marked for
4 identification as Exhibit
5 D-11.)

6 BY MR. BICKS:

7 Q. We'll use it as Defendants'
8 Exhibit 11. Was the concentration method
9 something that these scientists were
10 considering at the time as possibly one
11 way to determine and test talc?

12 A. Yes. It was looked at --
13 J&J sponsored work with Colorado School
14 of Mines and were in contact with
15 Professor Pooley. He was looking at
16 concentration techniques.

17 Q. Yeah. And if you -- this
18 document that we've got in front of you,
19 you see that this is excerpts of a report
20 done by Dr. Pooley, right?

21 A. It is, yes.

22 Q. Yeah.

23 MR. PLACITELLA: Objection.

24 Leading.

1 BY MR. BICKS:

2 Q. And he talks in this report
3 about the concentration method.

4 Do you see this? And I have
5 it up on the screen.

6 A. He does, yes.

7 Q. And he says that -- well,
8 why don't you tell us about what he
9 reports here on whether or not the
10 concentration method, you know, had
11 issues with it?

12 A. Okay. He says obviously,
13 he's looked at it. Tests have been run
14 on deliberate -- contaminated, but that
15 was deliberately contaminated, using the
16 specification for the density separation,
17 given in the attached sheets. That was a
18 density separation technique.

19 Tests have proven to be
20 unsatisfactory and a comparison of the
21 two procedures is likely to show that
22 heavy liquid separation is a very
23 inaccurate and unsuitable technique to
24 adopt.

1 Q. And by the way, did the FDA
2 itself also evaluate the concentration
3 technique?

4 A. They did. They set up an
5 internal project over a period of many
6 months to see if they could come up with
7 a suitable technique.

8 Q. And what did they conclude?

9 A. Again, they concluded very
10 similarly that it did not offer any --
11 any advantage over current methods such
12 as transmission microscopy.

13 Q. And this is actually in an
14 FDA document, right?

15 MR. PLACITELLA: Objection.
16 Leading.

17 THE WITNESS: Yes, the
18 report is the one that I was
19 talking about --

20 (Document marked for
21 identification as Exhibit
22 D-12.)

23 BY MR. BICKS:

24 Q. This is Defendants'

1 BY MR. BICKS:

2 Q. And so what does this tell
3 you about, at least from the perspective
4 of the FDA about whether or not the
5 concentration method is a good method for
6 testing talc?

7 MR. PLACITELLA: Objection.
8 Beyond the scope. Beyond his
9 competence.

10 THE WITNESS: FDA -- the
11 document speaks to itself. FDA
12 looked at this test method of
13 concentration by flotation and
14 their conclusion was that it did
15 not offer any -- any value.

16 BY MR. BICKS:

17 Q. You were also asked about
18 the Colorado School of Mines, remember,
19 and the reference to the concentration
20 method. This was exhibit -- I think was
21 exhibit -- I think 263.

22 Do you remember this?

23 A. Yes, I do.

24 Q. And this talks about the

1 concentration method. You remember you
2 were asked questions about that?

3 A. I was, yes.

4 Q. I want to point out -- ask
5 you about this because it talks about
6 a -- the detection level for this method.
7 And I want to ask you about that.

8 I'm at the summary and
9 conclusion, where it says, "This
10 procedure is capable of detecting fibers
11 present at a level of approximately ten
12 parts per million or less."

13 Do you see that?

14 A. That is what was stated,
15 yes.

16 Q. And how did this compare to
17 the actual detection limits and levels
18 that Johnson & Johnson actually employed
19 when testing its talc?

20 MR. PLACITELLA: Objection.
21 Beyond his competency.

22 THE WITNESS: At that time
23 in 1973 Johnson & Johnson had
24 already started to use

1 transmission electron microscopy,
2 TEM. And that would achieve a
3 higher level of detectability than
4 the method that Colorado School of
5 Mines was working on.

6 BY MR. BICKS:

7 Q. Yeah, and if Colorado --

8 MR. PLACITELLA: Could you
9 mark that for me, please.

10 MR. BICKS: It's already
11 marked.

12 MR. PLACITELLA: No, I want
13 her to mark it in the transcript
14 for me.

15 BY MR. BICKS:

16 Q. Did Colorado School of Mines
17 actually test Johnson & Johnson's talc
18 using the concentration method?

19 A. They were commissioned by
20 Johnson & Johnson to do work.

21 Q. So let me show you what
22 we'll mark as the next Defendants'
23 exhibit.

24 (Document marked for

CERTIFICATE

I HEREBY CERTIFY that the witness was duly sworn by me and that the deposition is a true record of the testimony given by the witness.

It was requested before completion of the deposition that the witness, JOHN HOPKINS, Ph.D., have the opportunity to read and sign the deposition transcript.

MICHELLE L. GRAY,
A Registered Professional
Reporter, Certified Shorthand
Reporter, Certified Realtime
Reporter and Notary Public
Dated: October 19, 2018

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)

EXHIBIT 15

FILED
San Francisco County Superior Court

FEB 06 2024

CLERK OF THE COURT
BY: Chadla Green
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
DEPARTMENT 304

COORDINATION PROCEEDING
SPECIAL TITLE [RULE 3.550]

Case No. CJC-21-005188
JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 5188

IN RE UBER RIDESHARE CASES

ORDER ON PLAINTIFFS' MOTION FOR
ORDER COMPELLING MARKETING &
LOBBYING DOCUMENTS

Plaintiffs' Motion for Order Compelling Marketing & Lobbying Documents came on regularly for hearing on February 2, 2024. Having considered the pleadings and papers on file in the action, and the arguments of counsel presented at the hearing, the Court hereby grants the motion in part and denies it in part.

BACKGROUND

On March 7, 2023, Plaintiffs filed a Master Long-Form Complaint against Defendants Uber Technologies, Inc. and Rasier, LLC (together, "Uber"). Plaintiffs alleged sixteen causes of action: (1) general negligence; (2) common carrier negligence; (3) negligent misrepresentation; (4) intentional

misrepresentation; (5) negligent infliction of emotional distress (“NIED”); (6) intentional infliction of emotional distress (“IIED”); (7) vicarious liability/liability for the torts of Uber drivers; (8) vicarious liability for sexual assault; (9) vicarious liability for sexual battery; (10) vicarious liability for false imprisonment; (11) negligence by misfeasance; (12) negligence by nonfeasance; (13) intentional concealment; (14) strict product liability – design defect; (15) strict product liability – failure to warn; and (16) fraud. (Compl. ¶¶ 164-348.) On June 22, 2023, the Court sustained Uber’s Demurrer to Plaintiffs’ Master Long-Form Complaint. (June 22, 2023 Order, 1, 19.) In particular, the Court sustained Uber’s demurrer as to Plaintiffs’ vicarious liability, fraud, misrepresentation, and strict products liability claims without leave to amend. (*Id.* at 1, 12, 15, 19.) The Court sustained Uber’s demurrer as to the negligent infliction of emotional distress claim with leave to amend. (*Id.* at 1, 16, 19.) On July 24, 2023, Plaintiffs filed a First Amended Master Long Form Complaint (“FAC”) alleging causes of action for general negligence, common carrier negligence, negligence by misfeasance, and negligence by nonfeasance. Plaintiffs allege as follows.

Plaintiffs “are individuals who were raped, sexually assaulted, sexually battered, sexually harassed, falsely imprisoned, kidnapped, physically assaulted, and/or otherwise assaulted and/or harassed by their Uber driver.” (FAC ¶ 6.) Uber is a transportation company that uses its app (“Uber App”) to “connect riders looking for transportation to independent transportation providers...looking for riders.” (*Id.* ¶¶ 1, 21-22.) Uber “drivers are largely nonprofessional, untrained individuals who use their own vehicles.” (*Id.* ¶ 44.)

As early as 2014, Uber became aware that its drivers were engaging in sexual misconduct or sexual assault against its passengers. (*Id.* ¶ 3; see *id.* ¶ 27.) Uber has “publicly acknowledged this sexual assault crisis.” (*Id.* ¶ 4; see *id.* ¶¶ 29, 121, 147, 149; see, e.g., *id.* ¶¶ 121-122 [approximately 250 reported sexual assaults per month in 2017 and 2018].) However, Uber “has actively chosen not to report instances of sexual assault that occur on the UBER App to the authorities” or other ridesharing companies. (*Id.* ¶¶ 84-86, 88, 134.) In addition, Uber does not proactively cooperate with law enforcement investigating cases passenger victims report to the police or participate in transportation network company (“TNC”) safety hearings. (*Id.* ¶¶ 89-94, 116-120.) Moreover, after a victim reports a

sexual assault, Uber often erases the victim's complaint and disables the victim's account, which precludes the victim from accessing pertinent information such as the driver's name, driver's photo, make and model of the vehicle, ride time, ride distance, and route. (*Id.* ¶¶ 94-95, 100, 102.)

Despite marketing itself as a safe and better alternative to other transportation methods, Uber continues to hire drivers without conducting adequate background checks and screening procedures, allows culpable drivers to keep driving for Uber, and fails to adopt and implement reasonable monitoring and investigation procedures to protect passengers. (*Id.* ¶¶ 4, 24-25, 28, 30-31, 112-114, 131-133, 160-161, 164-168, 170-172, 189-190, 192, 209, 214-215, 218; see, e.g., *id.* ¶¶ 34-43, 66-69, 73-83, 130 [Uber Safe Rides Fee was a revenue source rather than a fund for implementing background checks, vehicle checks, driver safety education, development of safety features, and insurance]; but see *id.* ¶ 111 [the Uber App now includes an emergency button that allows a passenger to call 911].) Due to Uber's failure to implement changes, passengers continue to be victims of sexual assaults. (*Id.* ¶¶ 28, 127.)

On September 19, 2023, Plaintiffs served Requests for Production of Documents ("RFPs"), Set One on Uber. (Cubberly Decl. ¶ 6.) On October 23, 2023, Uber served responses and objections. (*Id.* ¶ 7.) Plaintiffs now move for an order compelling the production of documents related to Uber's marketing and lobbying. (Opening Brief, 1.) In particular, RFPs Nos. 54, 56-71, 73, 94-95, 103, 106, 182-186, 193, 195, 250, 260-262, 294, and 299. (*Id.* at 2-4.) Uber opposes the motion.

LEGAL STANDARD

"Unless otherwise limited by order of the court . . . any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action . . . if the matter itself is either admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." (Code Civ. Proc., § 2017.010.) "The admissibility of a document bears on its discoverability in the sense that if the document is admissible, it necessarily is discoverable. But the inverse is not necessarily true: the fact that evidence is not admissible does not mean that it is also not discoverable." (*Volkswagen of America, Inc. v. Superior Court* (2006) 139 Cal.App.4th 1481, 1490 (cleaned up).) For discovery purposes, information should be regarded as relevant to the subject matter if it "might reasonably assist a party in evaluating a case, preparing for trial, or facilitating settlement

thereof.” (*City of Los Angeles v. Superior Court* (2017) 9 Cal.App.5th 272, 288, quoting *People v. Superior Court (Cheek)* (2001) 94 Cal.App.4th 980, 989.)

A propounding party may file a motion to compel a further response to a request for production of documents when a “representation of inability to comply is inadequate, incomplete, or evasive” or “[a]n objection in the response is without merit or too general.” (Code Civ. Proc. § 2031.310(a)(2)-(3).) “A motion to compel further response to a request for production of documents must “set forth specific facts showing good cause justifying the discovery sought by the demand.” (*Id.* § 2031.310(b)(1).)

DISCUSSION

I. Marketing

Plaintiffs seek to compel responses to RFPs Nos. 54, 56-71, 73, 94, 106, 182, and 260-262 related to marketing. (Opening Brief, 2-4.) Plaintiffs argue their allegations regarding negligence “are replete with references to Uber’s marketing.” (*Id.* at 7.) In particular, Plaintiffs allege that because Uber marketed itself as safe, documents related to marketing are relevant. (*Id.*; see Reply, 1-2.) Plaintiffs also argue that Uber’s marketing is relevant to “Uber’s status as a common carrier.” (Opening Brief, 8; see, e.g., Reply, 1 [“The relationship between a common carrier and its passengers is [] a special relationship. Because Uber is a common carrier – and because Plaintiffs have pleaded that Uber’s failure to warn constitutes common-carrier negligence – Uber’s” marketing is “relevant to whether Uber fulfilled its duty to warn its passengers of the risk of sexual assault.”].) Plaintiffs further argue that Uber’s marketing is relevant to their punitive damages claims because “[c]onversations among executives about whether to accurately market Uber’s risks to its passengers go to whether Uber acted in conscious disregard of the safety of its passengers.” (Opening Brief, 8; see Reply, 2.) Uber disagrees, arguing that its marketing documents are not relevant and would impose undue burden because Plaintiffs’ RFPs seek documents relating to the fraud and misrepresentation claims that were dismissed by the Court. (Opposition, 5, 8-11.) Uber also contends that although public statements may be relevant to a common carrier claim, such information is publicly available and does not support broad requests for its marketing documents. (*Id.* at 11-12.)

In the FAC, Plaintiffs allege that Uber was negligent by, amongst other conduct, representing or

1 advertising and marketing itself as a safe form of transportation. (FAC ¶¶ 173, 203 [“safe alternative to
2 driving and encouraging women to take UBER rides . . .”]; see also *id.* ¶¶ 2, 24-25, 66-69, 82, 145.)
3 Although the Court sustained Uber’s Demurrer to the Master Long Form Complaint as to the fraud and
4 misrepresentation claims, the FAC continues to place Uber’s marketing at issue.

5 However, Plaintiffs’ allegations concerning advertising and marketing that Uber is safe do not
6 open the door to unfettered discovery as to Uber’s marketing. Plaintiffs seek to compel further response
7 to twenty-five RFPs, none of which are geographically limited and seven of which are not temporally
8 limited (RFP Nos. 70, 94-95, 106, and 260-262). Moreover, RFPs related to marketing to potential
9 drivers (RFP Nos. 54 and 56), marketing to women generally (RFP Nos. 58 and 95), all marketing plans
10 (RFP No. 57), all general ledger entries for Uber’s marketing expenses (RFP No. 182), general marketing
11 intended for or targeted at college or university students and campuses (RFP Nos. 260 and 261), and
12 general marketing that Uber provides a form of transportation for those consuming alcohol (RFP No. 262)
13 are overbroad in that they are not tailored to the subject matter involved in this proceeding. Furthermore
14 RFP No. 63 is duplicative of RFP No. 61. Other RFPs readily capture the subject matter involved:
15 safety. (See, e.g., RFP Nos. 59, 61-71, 73, 94, 106.)

16 Plaintiffs argue that the RFPs listed above are reasonably calculated to lead to the discovery of
17 admissible evidence because Uber’s marketing purportedly was tailored to the asserted vulnerability and
18 other characteristics of consumers, including the twenty individual bellwether plaintiffs. For example,
19 Plaintiffs contend it is appropriate to compel the disclosure of documents relating to marketing to women
20 because all of the bellwether plaintiffs are women; that documents relating to marketing to those who
21 consume alcohol are similarly relevant because many of the bellwether plaintiffs consumed alcohol; that
22 two of the bellwether plaintiffs were college students; etc. Plaintiffs argue that these documents could
23 establish that Uber “lured” or misled passengers into taking rides that placed them in danger. As Uber
24 points out, however, these allegations essentially sound in fraud or negligent misrepresentation, yet the
25 Court dismissed those claims in the master long-form complaint with prejudice, finding that Plaintiffs had
26 not adequately pled reliance or false statements with particularity. No individual bellwether plaintiff filed
27 a short-form complaint following that ruling asserting that they were aware of or relied upon any
28

marketing or advertising representations regarding Uber's safety or the tailoring of its platform to female riders, those consuming alcohol, college students, etc.¹ RFPs focusing on Uber's marketing that sound in fraud are not reasonably calculated to lead to the discovery of admissible evidence. Nor are they reasonably calculated to lead to the discovery of admissible evidence regarding Plaintiffs' other claims, such as their negligence and common carrier claims. To be sure, a common carrier has a special relationship with its passengers that gives rise to a duty to protect them from foreseeable harm. (E.g., *Lopez v. Southern Cal. Rapid Transit Dist.* (1985) 40 Cal.3d 780, 785-791 [common carrier owes a duty to protect passengers aboard its buses from assaults from fellow passengers].) However, that duty exists regardless of how or whether the common carrier markets its services. In any event, to the extent that Plaintiffs seek to justify their discovery into Uber's marketing by arguing that Uber had a duty to warn its passengers of the risks of sexual assault by its drivers, their requests are vastly overbroad and are not tailored to that topic.

Therefore, Plaintiffs' motion is granted as to RFP Nos. 59, 61-62, 64-69, 70 [from 2009 to present], 71, 73, and 94 [from 2009 to present], and is otherwise denied.² Uber's responses to these RFPs shall be geographically limited to California as Plaintiffs have not made a showing of good cause to justify a national scope for discovery into Uber's marketing regarding safety.

II. Lobbying

Plaintiffs seek to compel responses to RFPs Nos. 103, 183-186, 193, 195, 250, 294, and 299

¹ At the hearing, Plaintiffs belatedly asserted that such claims are in fact made by three of the bellwether plaintiffs, referred to as Jane Doe LSA 78, 82, and 49. However, the Court's demurrer ruling explicitly stated that if any individual plaintiff wished to plead claims for fraud or negligent misrepresentation, they were granted 30 days leave to amend the short-form complaints with the particularity required by California law. (June 22, 2023 Order, 15.) The Court's review of the docket confirms that no amended short-form complaints were filed following the Court's demurrer order. While one of the bellwether plaintiffs in question filed a brief amended short-form complaint *before* that order, it merely adopted the long-form complaint. (See Amended Short-Form Complaint for Damages of Jane Doe LSA 49 (CGC-21-592321, filed May 12, 2023).) All three individual plaintiffs' original complaints contain boilerplate fraud allegations substantially identical to those the Court found insufficient in its demurrer ruling. (See Compl. of Jane Doe LSA 49 (CGC-21-592321, filed June 17, 2021) ¶¶ 149-170; Compl. of Jane Doe LSA 82 (CGC-21-592430, filed June 22, 2021) ¶¶ 149-170; Compl. of Jane Doe LSA 49 (CGC-21-592321, filed June 17, 2021) ¶¶ 149-170; compare June 22, 2023 Order, 12-15.)

² At the hearing, Plaintiffs withdrew their motion as to RFP No. 106 [documents about incidents of sexual assault or sexual misconduct created by, sent by, or received by specified categories of Uber officers and employees] in light of the parties' agreement regarding custodial searches.

related to Uber's lobbying activities. (Opening Brief, 4-5.) Plaintiffs contend that Uber's lobbying activities are relevant to their negligence claims because Plaintiffs allege Uber spent millions of dollars lobbying against regulations, which resulted in self-enforced hiring standards for drivers. (*Id.* at 8-9.) Plaintiffs argue that they anticipate "that part of Uber's defense will be that Uber has followed the law regarding the screening measures used to hire drivers and safety features present during Uber rides." (*Id.* at 9; see Reply, 3.) Uber opposes on the ground that Plaintiffs' broad RFPs regarding Uber's lobbying activities are not relevant to any form of tort liability. (Opposition, 5.) Uber argues that there is no authority to support discovery of its involvement for advocating for a statute or regulation, none of which are specified by Plaintiffs, because it seeks to show it was in compliance. (*Id.* at 12-15.) Uber further argues that RFPs Nos. 184, 195, and 294 "seek lobbying documents related to the independent contractor status of drivers using the Uber App." (*Id.* at 15.) However, Uber's vicarious liability claims are no longer at issue.

In the FAC, Plaintiffs allege that Uber has "spent millions of dollars lobbying against local regulations requiring" fingerprint-based biometric checks. (FAC ¶ 78.) Plaintiffs also allege that Uber "lobbies state and local governments to limit what is required of Uber with respect to driver background checks" [and] "lobbies local government entities to continue allowing Uber to perform its own background checks of its driver applicants, rather than municipalities performing the more stringent screening they do for traditional taxi drivers." (*Id.* ¶ 79.) Indeed, Plaintiffs allege that Uber "has successfully persuaded lawmakers in several states to keep background check requirements for its drivers limited." (*Id.* ¶ 80.) Plaintiffs allege that as a result of Uber's "lobbying efforts, those entities largely self-enforce hiring standards for their drivers." (*Id.* ¶ 81.)

The Court is unpersuaded that Plaintiffs' allegations regarding Uber's lobbying activities regarding background checks or sexual assault render their requests for lobbying documents relevant to the issues or reasonably likely to lead to the discovery of admissible evidence. Under the *Noerr-Pennington* doctrine, those who petition the government are generally immune from liability. (*People ex rel. Gallegos v. Pacific Lumber Co.* (2008) 158 Cal.App.4th 950, 964.) Although the doctrine was first developed in antitrust law, "the principle applies to virtually any tort, including unfair competition and

interference with contract.” (*Ludwig v. Superior Court* (1995) 37 Cal.App.4th 8, 21 fn. 17.) “The principle unquestionably applies to commercial speech and competitive activity—even *anticompetitive* activity.” (*Id.* at 23.)³

California courts have applied the *Noerr-Pennington* doctrine in a wide variety of procedural contexts and to a wide range of types of claims. (See, e.g., *Blank v. Kirwan* (1985) 39 Cal.3d 311, 322-323 [doctrine applied squarely to plaintiffs’ allegations that defendants successfully conspired to legalize and monopolize the operation of poker clubs in city in violation of the Cartwright Act]; *Neurelis, Inc. v. Aquestive Therapeutics, Inc.* (2021) 71 Cal.App.5th 769, 792-793, 795-797 [petition filed by pharmaceutical manufacturer’s competitor requesting FDA to stay approval of manufacturer’s epilepsy drug until additional clinical studies could be conducted was protected by *Noerr-Pennington* doctrine]; *Premier Medical Management Systems, Inc. v. California Ins. Guarantee Assn.* (2006) 136 Cal.App.4th 464, 478-479 [*Noerr-Pennington* doctrine barred medical provider’s action against workers’ compensation insurers disputing bills].) “The *Noerr-Pennington* doctrine has been extended to preclude virtually all civil liability for a defendant’s petitioning activities before not just courts, but also before administrative and other governmental agencies.” (*People ex rel. Gallegos*, 158 Cal.App.4th at 954.) Thus, Uber’s lobbying activities, whether before the state Legislature, cities and counties, or the California Public Utilities Commission, cannot give rise to liability. (*Blank*, 39 Cal.3d at 322 [“defendants’ efforts, according to the very allegations of the pleading, were directly at influencing government action and as such are squarely within the protection of the *Noerr-Pennington* doctrine.”].)

Plaintiffs fail to offer any persuasive argument as to how discovery regarding Uber’s lobbying activities may be relevant to the issues properly in the case or reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs contend they are seeking discovery on lobbying “(1) to learn what Uber told regulators and politicians about its safety; (2) to understand the aims of those statements; and (3) to attack Uber’s potential defense that it did not act unreasonably because it followed rules and

³ Although there is a “sham” exception to the doctrine, Plaintiffs do not allege that it applies. Nor could they. (See *Blank*, 39 Cal.3d at 325 [“not only were defendants’ efforts genuine, they were also successful—and as such incapable of being deemed a mere sham.”].)

1 regulations.” (Reply, 3.) Those arguments are entirely unconvincing.⁴ Whatever Uber may or may not
 2 have told regulators and politicians about its safety record or practices has no legitimate bearing on
 3 Plaintiffs’ remaining negligence-related claims. It cannot be a violation of a party’s duty of care to lobby
 4 for laws and regulations, which is absolutely protected by the First Amendment.

5 *Mercury Casualty Co. v. Scottsdale Indemnity Co.* (2007) 156 Cal.App.4th 1212, cited by Uber,
 6 closely on point. There, a primary automobile liability insurer settled an underlying action against its
 7 insured arising from an automobile accident, and then sought a declaratory judgment that the defendant
 8 excess insurer was required by statute to reimburse it for its share of defense costs. Similar to Plaintiffs’
 9 requests here, the excess insurer served the plaintiff insurer was “a barrage of discovery demands, all
 10 designed to ferret out the extent of [its] involvement in the passage” of the statute; the insurer “declined
 11 provide the bulk of this discovery, contending it was not reasonably calculated to lead to the discovery of
 12 admissible evidence.” (*Id.* at 1216.) In particular, the excess insurer asked the primary insurer to identify
 13 every person involved in the passage of the bill, provide the date of every meeting or consultation within
 14 the Legislature regarding the bill, and produce all documents submitted by plaintiff to the Legislature in
 15 favor of the proposed legislation, and asked it to admit that it had made various arguments to the
 16 Legislature as to why the statute would provide benefits to the public. (*Id.* at 1216-1217 fns. 1, 2.) After
 17 the trial court entered summary judgment in favor of the primary insurer, the excess insurer appealed,
 18 contending the court erred in refusing to allow it to take discovery relating to the passage of the Insurance
 19 Code provision at issue and defendant’s involvement in that process.

20 The Court of Appeal rejected the argument and affirmed, concluding that the fact that a party
 21 “may not have been entirely selfless in its lobbying efforts” has no impact on the validity of the
 22 legislation. (*Id.* at 1215.) As the court observed, “If the mixed motives of a legislative proponent,
 23

24 ⁴ Plaintiffs’ reliance on *Hernandez v. Amcord, Inc.* (2013) 215 Cal.App.4th 659 is misplaced. That case
 25 held that “the *Noerr-Pennington* doctrine shields defendants from liability for their actions in petitioning
 26 government officials. It does not provide a basis for exclusion of evidence of lobbying activities that
 27 might be relevant to show a defendant’s knowledge of the dangerous nature of its product or a failure to
 28 exercise ordinary care.” (*Id.* at 680.) Thus, the court held, the trial court in an asbestos exposure case had
 abused its discretion by relying on the *Noerr-Pennington* doctrine to exclude evidence that the defendant
 had successfully lobbied for an exemption to an amendment to the Health & Safety Code banning
 asbestos spray construction products, which it argued was relevant and admissible to show negligence.
 Plaintiffs do not point to any such evidence here.

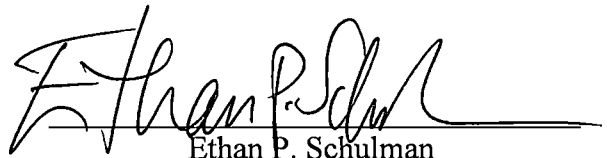
standing alone, were a basis for overturning legislation, we would have very few laws so it should come as no surprise that we find no authority for this kind of review.” (*Id.*) Indeed, the court stated,

We cannot accept [defendant’s] implicit assertion that there would be anything suspicious, let alone sinister, in the fact that [plaintiff] promoted the legislation, or even had a hand in its drafting. “Special interests” have been affecting the context of our laws for as long as our Legislatures have been them, and while reasonable minds can (and do) disagree about whether that effect is too significant to serve the common good, no one contends that our constitutional right to petition the government should be abolished. . . . [Plaintiff] was clearly entitled to petition the Legislature in support of any proposed legislation it chose to favor.

(*Id.* at 1221.) Even if defendant was “the driving force behind passage of the legislation,” the court concluded, such involvement is “proper, however, and [defendant’s] attempt to spin it into something sinister has never risen above the level of rank speculation and innuendo.” (*Id.* at 1226.) The trial court therefore correctly denied the defendant’s request for discovery and granted summary judgment. (*Id.*) The same authority conclusively undermines Plaintiffs’ novel theory that evidence that Uber advocated for a law or regulation concerning background checks, for example, would enable Plaintiffs to “attack” any defense that Uber complied with it. Moreover, as Uber persuasively argues, allowing discovery into such activities (not to mention admitting evidence of such activities at trial) presents a host of serious practical obstacles to which Plaintiffs offer no solution. (Opposition, 13-14.) In short, Plaintiffs’ lobbying theories go nowhere, and no legitimate purpose would be served by allowing discovery on this topic.⁵

IT IS SO ORDERED.

Dated: February 6, 2024


Ethan P. Schulman
Judge of the Superior Court

⁵ Moreover, many of Plaintiffs’ RFPs related to other lobbying activities are vastly overbroad and irrelevant. (See, e.g., RFP Nos. 184 [driver or employee agent status], 195 [employment status of drivers], 294 [California Proposition 22].) Plaintiffs’ argument that “[i]f Uber was telling regulators and politicians that its drivers should be classified as independent contractors and this would do no harm because its drivers were safe” (Reply, 3), is unduly speculative as Plaintiffs do not establish any connection between a driver’s employment status with Uber and the instant proceeding. Plaintiffs do not show that independent contractors are vetted any differently than employees.

CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.260(g))

I, Felicia Green, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On February 6, 2024, I electronically served ORDER ON PLAINTIFF'S MOTION FOR ORDER COMPELLING MARKETING AND LOBBYING DOCUMENTS via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: FEB 06 2024

Brandon E. Riley, Court Executive Officer

By: 
Felicia Green, Deputy Clerk

EXHIBIT 16

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
DEBRA McANDREW BARNETT,)
Plaintiff,)
v.)
JOHNSON & JOHNSON, et al.,)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No.: 2026-CP-40-01257

In Re:
Asbestos Personal Injury Litigation
Coordinated Docket

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
ANDREW T. GERKEN, as Personal)
Representative of the Estate of ANNA)
MARIE L. GERKEN, Deceased,)
Plaintiff,)
v.)
AVON PRODUCTS, INC.; et al.,)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No.: 2023-CP-40-06111

In Re:
Asbestos Personal Injury Litigation
Coordinated Docket

**DECLARATION OF KRISTEN FOURNIER IN SUPPORT OF JOHNSON & JOHNSON
AND KENVUE, INC.'S MOTION FOR A PROTECTIVE ORDER**

1. My name is Kristen Fournier. I am a Partner at the law firm Kirkland & Ellis LLP, which represents Johnson & Johnson and Kenvue, Inc. (collectively, “the J&J Defendants”) in the above-captioned matters.

2. I am a person of the full age of majority and am of sound mind and competent to testify.

3. I have personal knowledge of the facts set forth herein, and if called as a witness, I could and would testify competently thereto.

4. I estimate that the J&J Defendants have retained and disclosed experts in approximately 300-400 cases involving cosmetic talc products in state and federal courts around the country over the last 5 years. The exact number of such cases is not known.

5. I estimate that the J&J Defendants have retained over 50 individuals as testifying experts in talc cases over the last 5 years. Again, the exact number is not known.

6. The designated experts in the *Gerken* case—Dr. Matthew Sanchez, Mr. Christopher Herfel, Dr. Victor Roggli, Dr. Paul Nony, Dr. Dominik Alexander and Dr. James Finigan—and the 41 potential experts disclosed in the *Barnett* case have likely testified in hundreds of cases.

7. The exact number of cases in which each expert designated by the J&J Defendants has testified and submitted an invoice over the last 5 years is unknown, and unascertainable, because, among other reasons, the J&J Defendants do not maintain a centralized, historical database that identifies its litigation experts, let alone which experts were designated in which cases during this timeframe.

8. The exact number of cases in which each expert designated by the J&J Defendants has testified and submitted an invoice over the last 5 years is also unknown, and unascertainable, because, among other reasons, many different law firms have retained experts on the J&J Defendants' behalf.

9. The J&J Defendants' talc litigation experts are typically engaged directly by the J&J Defendants' outside counsel, not the J&J Defendants themselves. Invoices from these experts are sent to and processed by the J&J Defendants' outside counsel. Many different law firms have represented the J&J Defendants in talc litigation over the past 5 years, acting in various capacities, including local counsel, trial counsel, national coordinating counsel, or other specialized roles. Though many of these firms still represent the J&J Defendants, some do not. In addition, some lawyers have retired, while others have moved firms.

10. Making things more complicated, some expert invoices are sent in the name of the expert's institution and not in the name of the expert herself. For these invoices, identifying which of the institution's invoices actually relate to a particular expert's work may involve manual review.

11. As such, collecting invoices for the experts in Plaintiffs' cases would be extremely time-consuming and tedious, and there would be no way to confirm that the productions are complete.

12. I declare that the foregoing statements are true and correct to the best of my knowledge, information, and belief, under penalty of perjury.

Dated: September 1, 2026

/s/ Kristen Fournier
Kristen Fournier