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S.C. SUPREME COURT

EXHIBIT 1

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF RICHLAND

DEBRA McANDREW BARNETT,

Plaintiff(s),

vs. CIVIL ACTION NO.
2026-CP-40-01257

JOHNSON & JOHNSON, et al.,

Defendant(s).

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF RICHLAND

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

Plaintiff(s),

vs. CIVIL ACTION NO.
2023-CP-40-06111

AVON PRODUCTS, et al.,

Defendant(s).

VIDEOCONFERENCE
DEPOSITION OF: ERIK HAAS, ESQUIRE 30(b)(6)

DATE: Wednesday, October 28, 2026

TIME: 10:15 a.m. through 2:39 p.m.

TAKEN BY: Attorneys for the Plaintiff(s)

COURT REPORTER: MADONNA M. FARRELL
Registered Professional Reporter
CaseViewNet Realtime Reporter

NOTE: This transcript was not produced by artificial intelligence.

conference with the OMB and FDA.

MR. BRANHAM: Object to nonresponsive, everything after "sure."

BY MR. BRANHAM:

Q. Mr. Haas, let me show you -- can you see that on my screen?

A. Yes, I can. It's a January 26, 2024 correspondence from King & Spalding which I had just referred to.

Q. Yeah.

MS. BROWN: Do you have a Bates -- yeah, thank you. I'm going to try and get the hard copy for Mr. Haas --

MR. BRANHAM: Okay.

MS. BROWN: -- through (indiscernible).

MR. BRANHAM: Do you want me to wait?

MS. BROWN: That would be great.

MR. BRANHAM: Sure.

MS. BROWN: Thanks very much. He has the hard copy now.

THE DEPONENT: Thanks for your help.

BY MR. BRANHAM:

Q. So this is a letter written in January of 2024, right?

A. Yes, if you just give me a minute to look at

it.

Q. I'm sorry. Of course. (Reviewing.)

A. Yes, it's a letter from January 26, 2024. And it's exactly the letter that I referenced in my last answer.

Q. Yep.

And this was sent to the Office of Information and Regulatory Affairs and the Office of Management and Budget, correct?

A. Yes, that's the -- the acronym is OIRA, and that's the agency I referenced in my prior answer.

Q. Do you know why this wasn't addressed to the FDA?

A. Because the OMB and the FDA share the authority with respect to the issuance of regulations and, in particular, the proposed rule, and to my recollection, and I think this letter actually addresses it, the Office of Information and Regulatory Affairs had invited inquiries with respect to the proposed rule and invited input from constituents to the extent they sought to provide it.

Q. And one of the things that's referenced in this letter is that there is concern regarding the Interagency Working Group on Asbestos in Consumer

my questions.
BY MR. BRANHAM:
Q. Well, we'll agree to disagree on that.
But the -- you and I both understand that lawyers take notes, right?
MS. BROWN: Object to the form.
THE DEPONENT: I disagree with that proposition. It is way too overbroad. It's a hypothetical. It lacks foundation. I just don't understand the context.
BY MR. BRANHAM:
Q. You -- you know who Ms. Fournier is, correct?
A. I do.
Q. In your experience does she take notes?
MS. BROWN: Objection. Form.
THE DEPONENT: Again, same answer.
BY MR. BRANHAM:
Q. That that's too overbroad?
A. It's way overbroad.
Q. Okay. Can you answer my question?
A. I think it's too overbroad to answer and it also lacks foundation and I do not --
COURT REPORTER: I'm sorry. I can't hear you.

THE DEPONENT: I do not sit next to Kristen Fournier as she engaged in the practice of law. I do not know what she does in the regular course. I can't answer the question. It's overbroad.

BY MR. BRANHAM:

Q. Okay.

A. Lacks foundation. Hypothetical.

Q. Okay. When was the last time you saw Ms. Fournier? Let's go down the firm.

A. Last time I saw her. Three weeks -- at least weeks ago. Maybe -- yeah, at least weeks ago.

Q. Okay. Without telling me what it was, have you ever been in a room with her when you were discussing legal strategies?

MS. BROWN: I object to the form of the question.

MR. BRANHAM: He started it.

THE DEPONENT: No, I did not.

(Indiscernible crosstalk.)

MS. BROWN: We have so many problems with this. One, you're getting dangerously close to attorney-client communications, and, two, this has nothing to do with the

noticed topics.

MR. BRANHAM: Well, it has everything to do with laying a foundation for him to be able to answer the question.

MS. BROWN: Yeah, but let's be real careful here because we're asking about the practices of outside counsel and I'm becoming increasingly uncomfortable with the questions on privileged grounds.

MR. BRANHAM: Well, look, I think that by putting him up, you guys have waived a lot of stuff.

(Indiscernible crosstalk.)

MR. BRANHAM: Again, Alli, I'm really trying not to interrupt you, so please don't do it to me.

MS. BROWN: Please, please, please.

MR. BRANHAM: So, you know, and we'll fight that issue out -- out later. But he's the one who objected to the foundation of my question, and I'm attempting to establish the foundation. And so -- without certainly agreeing to it, but, you know.

THE DEPONENT: But it was predicated on an overly broad question, so, in fact, you

asbestos?

A. Because the -- well, when you say "better," you have to compare it to something else.

The proposed rule that was adopted and for which the plaintiffs' bar had input into, does not adequately distinguish between asbestos and nonasbestos minerals in multiple -- in multiple respects, first with respect to the definition of asbestos which is overbroad, and when encompassed within the definition of asbestos, nonasbestos materials and including talc.

Secondly, the proposed rule utilizes or contemplates a testing methodology that is insufficient and not sufficiently particular results that would be derived and would result in false positives for asbestos where no asbestos was present. And as we discussed, that would have significant adverse consequences for patients, for consumers, and for U.S. businesses.

Q. One of the things that J&J advocated for reporting was this definition -- or sorry.

One of the things that J&J advocated for was a reporting requirement only for particles exceeding .5 micrometers in length, correct?

A. I think that is -- again, the document

BY MR. BRANHAM:

Q. So if there is an amphibole fiber that is found in a talc product that has a length of .49 micrometers but otherwise meets this definition, under J&J's rule it would not be reported, true?

MS. BROWN: Objection to the form.

THE DEPONENT: Again, there is no J&J rule. This is what was being proposed as a proposed rule for the purposes of discussions with the agency.

So let's just be absolutely clear what we're talking about because you're asking these questions but you're not sure exactly where you're going. But the document speaks for itself with respect to what is being proposed as the testing rule out as -- of this -- as of this time, in conversations with the FDA and OMB.

BY MR. BRANHAM:

Q. And J&J's proposed rule, the one that it is advocating to the FDA, if adopted, would not report a fiber of amphibole that is found that is .49 micrometers in length that otherwise meets the definition.

True?

asbestiform as defined by the 2022 IWGACP white paper."

Did I read that correctly?

A. You read it correctly.

Q. And that's what, in March of 2024, Johnson & Johnson was advocating to the FDA, correct?

A. With all the same qualifications as previously stated, this is what is in the proposal that was provided to the FDA and OMB at this timeframe.

Q. At the meeting in March of '24, Mr. Kuffner was there, right?

A. He was.

Q. And at the meeting in March of '24, do you have a recollection of whether Mr. Kuffner talked with the OMB or FDA about the reporting requirements being proposed by J&J?

MS. BROWN: And just to correct, it's obviously, Dr. Kuffner.

BY MR. BRANHAM:

Q. Do you want me to re-ask it?

MS. BROWN: Sure.

BY MR. BRANHAM:

Q. Sure.

At the meeting in which Dr. Kuffner attended

Q. Okay. And -- because I'm trying to figure out where to go look for this information.

So the information that resulted in this two-pager with a dollar amount on it came from work or a collaboration between internal J&J folks and Bates Whites. Anybody else?

A. No. Again, so the premise of your statement, I take issue with. This, again, was not the level of a detailed economic analysis, so I just want to be clear that that is not the premise of your proposition. Again, I've already testified to this, but this was an attempt to identify categories of harm and that are recited in the PowerPoint presentation and attach a dollar figure to it.

As to where to look for it, again, not that I sitting here today can identify anything else, but my recollection is the analysis of what those categories would contain was something that was discussed with ourselves and Bates White.

Q. I understand.

But when you tell the federal government that there's going to be an overwhelming impact and a risk across multiple in- -- unsuspecting industries, one of the things we want to do is make

sure that that's accurate, right?

MS. BROWN: Objection to the form.

THE DEPONENT: Again, the record speaks for itself. I pointed to you exactly what we said and exactly what we did.

BY MR. BRANHAM:

Q. It's important to be truthful when you're talking to the federal government, right?

A. It's always been important to be truthful in everything you do.

Q. Okay.

A. But that doesn't mean that, therefore, that leads to the conclusion which you're seeking to draw from that. I testified --

(Indiscernible crosstalk.)

COURT REPORTER: I need y'all to speak one at --

THE DEPONENT: I testified as to my recollection as to what was done at the time.

BY MR. BRANHAM:

Q. Okay. And your recollection is, is that whatever that economic impact that you were telling the -- the federal government was going to occur was a process of evaluation conducted internally at

whether or not Ms. Adams made or has any notes about the May 28th meeting with Susie Wiles?

A. Aside from what I've already testified, no, I have no further testimony to add to what I've already testified.

Q. The same would be true of Mr. Duato, correct?

A. I'm sure Mr. Duato has no other --

COURT REPORTER: I'm sorry, I didn't understand you.

THE DEPONENT: I am positive Mr. Duato has no notes.

BY MR. BRANHAM:

Q. And you said you spoke to him about it. When was that?

A. It was some time ago.

Q. So --

A. Right about the time this -- right about the time that this subpoena came in.

Q. Okay. And so when you talked to Mr. Duato, did you ask him specifically if he had any notes regarding this meeting?

A. I did.

Q. And he said what?

A. No.

Q. And did you discuss the meeting with him and learn any information that you were testifying to today?

A. I am not going to reveal any attorney-client privileged discussions that I had with my client.

Q. Okay. So I just want to make sure that you're refusing to answer the question?

MS. BROWN: Well, I'm going to instruct him not to answer the question because you're implicating his role as in-house counsel and his client and a discussion with his client which implicates the privilege, and I'll instruct him not to answer.

THE DEPONENT: And as litigation counsel in these very cases.

MR. BRANHAM: You guys put him up. I don't think you can use the privilege as both a sword and shield. We'll deal with it later.

MS. BROWN: Okay.

(Indiscernible crosstalk.)

MR. BRANHAM: Hang on a second. I just want to make sure -- because -- because the instruction not to answer triggers a whole bunch of things that has to be done in South

Carolina, and so I want to make sure that you're instructing him not to answer my question.

MS. BROWN: Okay. The question that you asked about notes, about the factual issue of whether or not there were notes, he answered. You are now asking for substantive discussions about this meeting that would have taken place between a lawyer and a client, and that is attorney-client communication and that is privileged, including under South Carolina law. And the rule that you're referring to means that I have to be prepared to file a motion in five days, and we would fail a motion to protect the privilege between a lawyer and his client.

So I believe you have gotten the substantive factual answer you were entitled to, that there were no notes.

My understanding of your question goes to the substance of attorney-client communication. We will instruct, Mr. Haas will not answer that question, and if we have to, we will file a motion.

CERTIFICATE OF REPORTER

I, Madonna M. Farrell, Registered Professional Reporter and Notary Public in and for the State of South Carolina, do hereby certify that the deponent was duly sworn by me to testify to the truth, and that the above deposition was recorded stenographically by me and transcribed through computer-aided transcription by me to the best of my ability.

I FURTHER CERTIFY that the foregoing transcript is a true and correct transcript of the testimony given by the said witness at the time and place specified.

I FURTHER CERTIFY that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this deposition is taken, or financially interested in this action.

IN WITNESS THEREOF, I have set my hand and seal this 28th of October, 2026.

Madonna M. Farrell
Registered Professional Reporter
Notary Public
My commission expires
August 28, 2035

NOTE: This transcript was not produced by artificial intelligence.