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National Council of Negro Women,

Plaintiff,

v.

Johnson & Johnson, Johnson & Johnson Consumer Companies, Inc.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - ATLANTIC COUNTY

DOCKET NO: ATL-L-2648-15

CIVIL ACTION

TALCUM BASED POWDER PRODUCTS LITIGATION, CASE NO. 300

COMPLAINT & DEMAND FOR JURY TRIAL

COMPLAINT

COMES NOW Plaintiff National Council of Negro Women ("NCNW" or "Plaintiff"), on behalf of its members, against Defendants Johnson & Johnson and Johnson & Johnson Consumer, Inc. f/k/a Johnson & Johnson Consumer Companies, Inc. ("J&J" or "Defendants"), alleging the following upon information and belief, except those allegations that pertain to NCNW and its members, which are based on personal knowledge.

INTRODUCTION

This suit concerns the marketing and sale of J&J's "Powder Products"—namely Johnson's Baby Powder and Shower to Shower—to Black women in particular. For years, J&J marketed and sold these talc-based Products as safe for consumers and urged their daily use to control sweat and body odor and protect users' skin. Internal documents demonstrate that J&J targeted those advertisements to Black women, knowing that Black women were more likely to use the Powder Products and to use them regularly. These talc Powder Products were not safe, however: We now know what J&J knew long before it pulled its talc-based Powder Products from the market—that J&J's Powder Products can cause ovarian cancer.

To date, plaintiffs around the country have litigated several suits concerning the relationship between J&J's Powder Products and ovarian cancer. Those plaintiffs have obtained verdicts against J&J for the damages they suffered from using J&J's Powder Products. But those suits have not remedied the specific harm that J&J has caused to the Black community—and to Black women in particular—by targeting their advertisements for this dangerous product at them. That harm is continuing and will remain for as long as J&J fails to take affirmative, corrective action to inform the Black women who were previously targeted by J&J's targeted advertising campaign that what J&J previously said was a lie—and that these women ought to seek immediate medical attention. It is J&J's legal responsibility to do so. NCNW thus brings this action, on behalf of itself and its members, seeking injunctive relief that will require J&J to provide equally targeted corrective outreach to the Black community, fund outreach by others like NCNW, or otherwise affirmatively remedy the ongoing damage to Black women and their families caused by J&J's knowingly misleading advertising campaign that led to decades of exposure to J&J's talc-based Powder Products.

NCNW is perfectly suited to litigate this action. A large proportion of NCNW's members have used J&J's Powder Products, and many have developed ovarian cancer as a result. In addition, J&J heavily marketed their Powder Products to NCNW members without providing any warning that its Powder Products may cause ovarian cancer. NCNW knows what it will take for J&J to reach those members with corrective marketing, and thus potentially save their lives with early detection. Without such corrective communications, it is certain that many Black women will remain unaware of the harm that J&J and its Powder Products have caused them until it is too late. It is clearly appropriate for this Court to enter an injunction requiring J&J to provide such corrective marketing. J&J knew for years that its Powder Products caused ovarian cancer and yet continued to hide this information from the public and to claim that their Powder Products were safe to use, including on "problem areas to soothe skin that has been irritated from friction" and "after a bikini wax to help reduce irritation and discomfort." Having thus *intentionally* marketed J&J Powder Products to Black women for use on genital areas, J&J now has a duty to tell the communities that it targeted about the risk of ovarian cancer they face as a result. The is no other adequate remedy for this ongoing harm.

I. THE PARTIES

Plaintiff NCNW

1. The National Council of Negro Women (NCNW) is an "organization of organizations" (comprised of 300 campus and community-based sections and 32 national women's organizations) that enlightens, inspires, and connects more than 2,000,000 women and men. Its mission is to lead, advocate for, and empower women of African descent, their families, and their communities.

2. NCNW was founded in 1935 by Dr. Mary McLeod Bethune, an influential educator and activist, and was led for more than fifty years as president by the iconic Dr. Dorothy Height.

NCNW's programs are grounded on a foundation of critical concerns known as "Four the Future." NCNW promotes education with a special focus on science, technology, engineering and math; encourages entrepreneurship, financial literacy and economic stability; educates women about good health and HIV/AIDS; and promotes civic engagement while advocating for sound public policy and social justice.

3. NCNW's members include, among others, Black women located throughout the United States. Many of those members relied on J&J's advertising and marketing and used J&J's Powder Products believing they were safe but went on to develop ovarian cancer.

4. NCNW is a critical player in ensuring that the voices of its members are heard. The vast majority of NCNW members are Black women. NCNW's purpose is to (1) unite non-profit national organizations of women in a council of national organizations primarily concerned with the welfare of Negro women; (2) promote unity among women's national organizations and among all women and girls in matters affecting the educational, cultural, economic, social and spiritual life in America; (3) build a common fellowship of women devoted to the task of developing creative relations among people at home and aboard; and (4) serve as a clearinghouse for the dissemination of information concerning the activities of organized women.

5. As the foregoing indicates, NCNW is well suited to prosecute an action like this one. Its mission explicitly includes both educating its members about good health and advocating for justice, and as an umbrella organization, it has uniquely broad membership and reach to potentially affected Black women throughout the country.

Defendants

6. The Defendant, Johnson & Johnson, is a New Jersey corporation that is registered to do business and conducts substantial business in this State. Johnson & Johnson may be served

with process of this Court via service on its registered agent, Steven M. Rosenberg, located at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933.

7. The Defendant, Johnson & Johnson Consumer Companies, Inc., is a New Jersey corporation that is registered to do business and conducts substantial business in this State. Johnson & Johnson Consumer Companies, Inc. may be served with process of this Court via service on its registered agent, Johnson & Johnson, Office of the Corporate Secretary, One J&J Plaza, New Brunswick, New Jersey 08933.

II. ORGANIZATIONAL AND INDIVIDUAL STANDING

8. An association like NCNW has standing on behalf of its members when (a) its members would otherwise have standing to sue in their own right, (b) the interests it seeks to protect are germane to the organization's purpose, and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit. *See N. Haledon Fire Co. No. 1 v. Borough of N. Haledon*, 42 A.3d 901, 908 (NJ App. Div. 2012); *see also Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977). "New Jersey courts take a broad and liberal approach to standing," giving "due weight to the interests of individual justice, along with the public interest, always bearing in mind that throughout our law we have been sweepingly rejecting procedural frustrations in favor of just and expeditious determinations on the ultimate merits." *New Jersey Citizen Action v. Riviera Motel Corp.*, 686 A.2d 1265, 1272 (N.J. App. Div. 1997) (quotation marks omitted).

9. As to the first element, only one member need have standing to sue in his or her own right for the organization to have standing. *Id.* at 342. As to the third, "so long as the nature of the claim and of the relief sought does not make the individual participation of *each injured party indispensable* to proper resolution of the cause, the association may be an appropriate

representative of its members entitled to invoke the court's jurisdiction." *Hosp. Council of W. Pennsylvania v. City of Pittsburgh*, 949 F.2d 83, 89 (3d Cir. 1991) (Alito, J.) (quoting *Warth v. Seldin*, 422 U.S. 490, 511 (1975); alteration removed). Thus, "an association may assert a claim," even if it "requires participation by *some* members." *Ibid.* (association had standing even though "claims would likely require that member hospitals provide discovery, and trial testimony by officers and employees of member hospitals might be needed as well").

NCNW members have standing to sue in their own right

10. NCNW has thousands of members who have used J&J's Powder Products. Some of those members have already been injured through the development of ovarian cancer caused by J&J's Powder Products. Others have legitimate reasons to believe that they will develop symptoms and are thus suffering psychological harm while also requiring immediate medical monitoring. Both sets of members are suffering present injuries that separately and independently provide standing to those members to seek relief against J&J. Moreover, NCNW members who have used J&J's Powder Products and have not yet become sick may develop ovarian cancer in the future. That risk of future cancer is a present harm that is appropriate to remedy through corrective marketing that can reduce the likelihood that future disease will go undetected for too long, exacerbating the severity of any illness that may develop.

Interests protected by this suit are germane to NCNW's purpose

11. Protection of women like those injured by J&J's Powder Products is NCNW's core purpose. As explained above, NCNW's mission expressly encompasses both health messaging to members and social justice advocacy.

12. NCNW is also uniquely positioned to remedy the particular harm that J&J caused to the Black community by marketing its dangerous Powder Products to Black women in particular. NCNW plays a leading role in issues relating to discrimination against Black women,

and the protection of and advocacy for those members' interests in health-related issues. The issues this lawsuit will present are thus clearly within the scope of NCNW's work.

Individual members' participation is not necessary

13. The injunctive relief sought in this action is ordinarily sought on behalf of all similarly situated individuals, *see, e.g.*, Fed. R. Civ. P. 23(b)(2), and does not typically require the participation of individual members. In particular, an injunction from this Court requiring J&J to provide effective outreach to the Black community that offsets its misleading marketing of unsafe Powder Products to Black women will benefit all members of that community whether or not they participate in the suit. It is therefore unnecessary to secure the participation of individual members in order to adjudicate the issues presented in this particular action. Even if establishing the claim might require the participation of "*some* members," for example in providing "discovery" or "trial testimony," NCNW may still assert these claims on behalf of its members. *See Hosp. Council of W. Pennsylvania*, 949 F.2d at 89 (Alito, J.).

14. Moreover, NCNW has standing in its own right to prosecute this action. *See Riviera Motel Corp.*, 686 A.2d at 1272 (associations have "standing to sue as the sole party plaintiff when it has a real stake in the outcome of the litigation"). NCNW has incurred costs because members and employees have developed ovarian cancer related to J&J's Powder Products. Such costs include the costs associated with treatment, with medical insurance for employees, with leave for employees to obtain treatment for themselves or for family members, and similar costs. NCNW likewise anticipates incurring additional costs of the same kind going forward. Accordingly, even if NCNW did not have standing to proceed on behalf of its members (and it clearly does), it would have standing to bring this suit for injunctive relief in its own right. *See, e.g., Havens Realty Corp.*

v. Coleman, 455 U.S. 363, 379 (1982) (organization had standing to challenge policy because it "had to devote significant resources to identify and counteract the defendant's" practices).

III. PERSONAL JURISDICTION AND VENUE

15. This is an action for damages against corporations formed in New Jersey, registered to do business in New Jersey and/or conducting substantial business in New Jersey, individually or in concert with other entities.

16. Venue in this action properly lies in New Jersey in that Defendants Johnson & Johnson and Defendant Johnson & Johnson Consumer Companies, Inc, are domestic corporations or have their principal place of business in New Jersey, and in Atlantic County pursuant to the N.J. Supreme Court's October 20, 2015, MCL designation order.

IV. FACTS

17. Talc is a magnesium trisilicate and is mined from the earth. Talc is an inorganic mineral.

18. Talc is the main substance in talcum powders. Defendants, Johnson & Johnson and Johnson & Johnson Consumer Companies, Inc., manufactured and marketed the Powder Products that are at issue in this case: "Johnson's Baby Powder"™ and "Shower to Shower,"™. These Powder Products are composed of almost entirely talc.

19. In 1893, Defendants developed Johnson's Baby Powder™ as a daily use powder intended to eliminate friction on the skin and to absorb unwanted excess moisture for both babies and women.

20. Johnson registered the term "Shower to Shower"™ as its trademark for talcum powder on March 28, 1966. After its first use of the "Shower to Shower" trademark, Johnson test-marketed its talcum powder in New Orleans and Indianapolis in late 1966. Marketing was

extended to New England, the middle and South Atlantic States and New York in May 1967. Since July 1967, distribution has been nationwide. *See Johnson & Johnson v. Colgate-Palmolive Co.,* 345 F. Supp 1216 (D. N.J. 1972).

21. At all relevant times, a feasible alternative to the Defendants' Powder Products have existed. For example, cornstarch is an organic carbohydrate that is quickly broken down by the body, and cornstarch powders have been sold and marketed for the same uses as talcum powders with nearly the same effectiveness.

22. Since Baby Powder's introduction, Defendants have consistently marketed it for use on women to maintain freshness and cleanliness. Historically, the Baby Powder label and advertising encouraged women to dust themselves with the powder daily to mask odors.

23. Traditionally, "Johnson's Baby Powder™" has been extensively marketed as a symbol of freshness, cleanliness, and purity. During the time in question, the Johnson & Johnson Defendants advertised and marketed its product as the beacon of "freshness" and "comfort," eliminating friction on the skin, absorbing "excess wetness," helping keep skin feeling dry and comfortable, and "clinically proven gentle and mild". The Defendants encouraged women through advertisements to dust themselves daily with its product to mask odors. The bottle of "Johnson's Baby Powder" specifically targets women by stating, "For you, use every day to help feel soft, fresh, and comfortable."

24. Although the label has changed over time, the message is the same: that the product is safe for use on woman as well as babies. The Baby Powder label currently states that "Johnson's Baby Powder is designed to gently absorb excess moisture helping skin feel comfortable. Our incredibly soft, hypoallergenic, dermatologist and allergy-tested formula glides over skin to leave it feeling delicately soft and dry while providing soothing relief." Defendants instruct consumers

on the product labeling to "Shake powder directly into your hand, away from the face, before smoothing on the skin."

25. Through other marketing, including on their website for Johnson's Baby Powder, Defendants similarly encouraged women to use the product daily. Defendants state that Johnson's Baby Powder helps eliminate friction while keeping skin cool and comfortable. Advertising copy states that it's "made of millions of tiny slippery plates that glide over each other to help reduce the irritation caused by friction." Under a heading "How to use," J&J instructs: "For that skin that feels soft, fresh and comfortable, apply Johnson's Baby Powder close to the body, away from the face. Shake the powder into your hand and smooth onto skin." Under a heading "When to use: Defendants recommend that consumers "use anytime you want skin to feel soft, fresh and comfortable. For baby, use after every bath and diaper change."

26. Defendants intentionally convey an image of the talc Powder Products as a safe and trusted family brand. For example, on their website for Johnson's Baby Powder, Defendants state the product is "Clinically proven to be safe, gentle and mild."

27. Defendants also have a website, *www.safetyandcarecommitment.com* devoted to "Our Safety & Care commitment." According to Defendants, "safety is our legacy" and "[y]ou have our commitment that every beauty and baby care product from the Johnson & Johnson Family of Consumer Companies is safe and effective when used as directed." "Defendants market a "Five-Level Safety Assurance Process," which they describe as follows: "for decades, ours has been one of the most thorough and rigorous product testing processes in our industry- to ensure safety and quality of every single product we make." Defendants' so-called "promise to Parents and their Babies" included that "[w]hen you bring our baby care Powder Products into your home, you can be assured of our commitment to the safety of your family and families around the world."

28. The website also touts the safety of talc stating that "[f]ew ingredients have demonstrated the same performance, mildness and safety profile as cosmetic talc". Nowhere do Defendants warn of the increased risk of ovarian cancer linked to the use of Johnson's Baby Powder and talc Powder Products.

29. On May 12, 2014, the Johnson & Johnson Defendants issued the following statement: "We have no higher responsibility than the health and safety of consumers who rely on our Powder Products. It is important for consumers to know that the safety of cosmetic talc is supported by decades of scientific evidence and independent peer-reviewed studies. "*See* Fox 32 Chicago, *Popular Baby Powder Allegedly Caused Cancer In Pro-Figure Skater* (May 12, 2014), available at: *http://www.myfoxchicago.com/story/25497847/popular-baby-powder-allegedly-caused-cancerin-po-figure-skater.*

30. During the time in question, Defendants also advertised and marketed its product "Shower to Shower"™ as safe for use by women as evidenced in its slogan, "A sprinkle a day keeps odor away", and through advertisements such as "Your body perspires in more places than just under your arms. Use SHOWER to SHOWER to feel, dry, fresh and comfortable throughout the day" and SHOWER to SHOWER can be used all over your body."

31. During the relevant period, NCNW's members used J&J"s Powder Products to dust their perineums for feminine hygiene purposes, believing the Powder Products were safe and intended for such use. Indeed, such use was fully consistent with how Defendants advertised, marketed, and labeled the Powder Products. Among other things, Defendants marketed the Powder Products for use by women all over their bodies, including "problem areas" where there may be odor or friction, and for use in reducing irritation after bikini waxes. Accordingly, Defendants knew and intended that their Powder Products would be used in this fashion.

32. Many of NCNW's members developed ovarian cancer and suffered adverse effects attendant thereto—including death—as a direct and proximate result of the unreasonably dangerous and defective nature of talcum powder and Defendants' wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing and sale of talcum powder. As a direct and proximate result of these injuries, many of NCNW's members incurred medical expenses, endured pain and suffering and loss of enjoyment of life, and ultimately died.

33. As detailed below, beginning in at least 1982, Defendants were aware of several studies that demonstrated that women who used talc-based baby powder in the genital area had a significant increased risk of ovarian cancer. In fact, since 1982, there have been 21 studies by doctors and scientists throughout the world (including 19 case-control studies, 1 cohort study, and 1 combined case-control and cohort study) that reported a significantly elevated risk for ovarian cancer with genital talc use. The majority of these studies show a statistically significant increased risk of ovarian cancer.

34. However, Defendants did not warn or inform consumers anywhere, including on the product labeling or in its marketing or advertising for the product, that use of their Powder Products may be harmful to health, including significantly increasing the risk of ovarian cancer. Even since removing their talc Powder Products from the shelves, J&J has not taken corrective action for its harmful marketing and in fact continues to deny that its talc Powder Products have harmed the Black women who were the subject of its targeted marketing campaign.

Relevant Studies

35. Research done as early as 1961 has shown that particles, similar to talc, can translocate from the exterior genital area to the ovaries in women. Ego GE, Newton M. "The

transport of carbon particles in the human female reproductive tract." *Fertility Sterility* 12:151-155, 1961.

36. Because of the potential for transmission, researchers remained concerned about the carcinogenic nature of talc and the effects of talc use. In 1968, a study concluded that "[a]ll of the 22 talcum Products analyzed have a … fiber content … averaging 19%. The fibrous material was predominantly talc but contained minor amounts of tremolite, anthophyllite, and chrysotile [asbestos-like fibers] as these are often present in fibrous talc mineral deposits … Unknown significant amounts of such materials in Products that may be used without precautions may create an unsuspected problem". Cralley LJ, Key M, Groth DH, Lainhart WS, Ligo, RM. "Fibrous and mineral content of cosmetic talcum Products." *Am Industrial Hygiene Assoc J. 29:350-354, 1968.* A 1976 follow up study concluded that "[t]he presence in these Products of asbestiform anthophyllite and tremolite, chrysotile, and quartz indicates the need for a regulatory standard for cosmetic talc …. We also recommend that evaluation be made to determine the possible health hazards associated with the use of these Products." Rohl AN, et al, "Consumer talcums and powders: mineral and chemical characterization." *J Toxicol Environ Health 2:255-284, 1976.*

37. In 1971, the first study was conducted that suggested an association between talc and ovarian cancer. This study was conducted by WJ Henderson and others in Cardiff, Wales. That study found talc particles "deeply embedded" in 10 of 13 ovarian tumors, 12 of 21 cervical tumors, one primary carcinoma of the endometrium and 5 of 12 "normal" ovaries from women with breast cancer. Henderson, W.J, et al. "Talc and carcinoma of the ovary and cervix", 78 (3) J. Obstet, Gynaecol. Br. Commonw, 266-272, 1971.

38. The scientific evidence linking talc use and ovarian cancer continued to build. In 1982, the first epidemiologic study was performed by Dr. Daniel Cramer, et al., on talc powder

use in the female genital area. This National Institutes of Health (NIH) funded case-control study found a statistically significant 92% increased risk in ovarian cancer with women who reported genital talc use. Additionally, it found that talc application directly to the genital area around the time of ovulation might lead to talc particles becoming deeply imbedded in the substance of the ovary and perhaps causing foreign body reaction capable of causing growth of epithelial ovarian tissue. This study proved an epidemiologic association between the use of cosmetic talc in genital hygiene and ovarian cancer. Cramer OW, Welch WR, Scully RE, Wojciechowski CA. "Ovarian cancer and talc" a case control study." *Cancer* 50:372-376, 1982.

39. In 1983, Patricia Hartage and Robert Hoover of the National Cancer Institute and Linda Lester and Larry McGowan of the George Washington University Medical Center, performed a case-control interview study regarding ovarian cancer. Although no association was proven due to the small sample size, the study found an "excess relative risk" of 2.5 (95% CI-0.7 to 10.0) of ovarian cancer." Letter JAMA 250: 1844, 1983.

40. In 1988, a case control study of 188 women diagnosed with epithelial ovarian cancer and 539 control women found that 52% of the cancer patients habitually used talcum powder on the perineum before their cancer diagnosis. The study showed that women using talc daily had a positive dose-response relationship. *See* Whittenmore A.S., et.al., "Personal and environmental characteristics related to epithelial ovarian cancer. II. Exposures talcum powder, tobacco, alcohol, and coffee." *Am J Epidemiol* 1128:1228-1240, 1988. In other words, this study suggested that a greater degree of genital use of talc created a greater risk of ovarian cancer based on the "dose" of exposure.

41. A case control study conducted in 1989 found similar results. The study looked at 235 women diagnosed with epithelial ovarian cancer and 451 controls and found an increased risk

in ovarian cancer with women who reported genital talcum powder use more than once per week. Booth, M. et. al., "Risk factors for ovarian cancer: a case-control study," *Br.J. Cancer, 592-598,* 1989.

42. Another case control study conducted in 1989 by Bernard Harlow, et al., of Harvard Medical School at Brigham and Women's Hospital, found an increased risk of ovarian cancer generally from genital talc use after bathing and found a statistically significant increased risk of ovarian cancer from women who used talc-containing powders in combination with deodorizing powders on their perineum. This study also found a positive dose-response relationship. Harlow, B.L. & Weiss, N.S., "A case-control study of borderline ovarian tumors: the influence of perineal exposure to talc", Am. J. Epidemiol, 390-394 (1989).

43. A 1992 study, also by Dr. Harlow, found that frequent and long-term talc use directly on the genital area during ovulation increased a woman's risk of ovarian cancer threefold. The study also found "[t]he most frequent method of talc exposure was use as a dusting powder directly to the perineum (genitals). Brand or generic 'baby powder' was used most frequently and was the category associated with a statistically significant risk for ovarian cancer." This study looked at 235 ovarian cancer cases and compared them to 239 controls. This study concluded that "given the poor prognosis for ovarian cancer, any potentially harmful exposures should be avoided, particularly those with limited benefits. For this reason, we discourage the use of talc in genital hygiene, particularly as a daily habit." Harlow BL, Cramer DW, bell DA, Welch WR. "Perineal exposure to talc and ovarian cancer risk." *Obstet Gynecol 80:19-26, 1992.*

44. Also in 1992, a case-control study was conducted by Karin Rosenblatt, et al., from the Department of Epidemiology of the John's Hopkins School of Hygiene and Public Health. This study showed that the development of ovarian cancer may be associated with genital fiber

exposure (especially talc on sanitary napkins), finding a relative risk of 4.8 for talc use on sanitary napkins. Rosenblatt KA, Szklo M, Rosenheim NB. "Mineral fiber exposure and the development of ovarian cancer." *Gynecol Oncol* 45:30-25, 1992.

45. Additionally, another 1992 case-control study conducted by Yong Chen, et al., of 112 diagnosed epithelial ovarian cancer cases and 223 age-matched community controls, found an elevated risk for ovarian cancer for women who applied talc-containing dusting powder to the lower abdomen and perineum for longer than 3 months. Yong Chen et al., "Risk Factors for Epithelial Ovarian Cancer in Beijing, China", Int. J. Epidemiol., 23-29 (1992).

46. In 1993, the United Stated National Toxicology Program published a study on the toxicity of non-asbestiform talc and found clear evidence of carcinogenic activity. The study found "some evidence of carcinogenic activity in male rats" and "clear evidence of carcinogenic activity in female rats." Talc was found to be a carcinogen, with or without the presence of asbestos-like fibers. National Toxicology Program. "Toxicology and carcinogenesis studies of talc (CAS No 14807-96-6), in F344N rats and B6C3F1 mice (inhalation studies)." *Technical Report Series No 421,* September 1993.

47. In 1995, a case control study was conducted in Australia by David Purdie, et al., involving over 1600 women. This was the largest study of its kind to date. This study found a statistically significant 27% increased risk in ovarian cancer for women who regularly use talc in the region of the abdomen or perineum. Purdie, D., et al., "Reproductive and other factors and risk of epithelial ovarian cancer: an Australian case-control study. Survey of Women's Health Study Group", 62(6) Int. J. Cancer 678-684 (1995).

48. In 1996, a case-control study similarly found a statistically significant increased risk of ovarian cancer in women who used talc-based powders in their genital area. *See* Shushan,

A., et al., "Human menopausal gonadotropin and the risk of epithelial ovarian cancer", 65 (1) Fertil. Steril. 13-18 (1995).

49. In 1996, the condom industry stopped dusting condoms with talc due to the health concerns of ovarian cancer. "Concern about talc as an ovarian carcinogen goes back 50 years in the medical literature. By the 1970s, evidence was mounting that talc particles might migrate into a woman's fallopian tubes where they could cause scarring and irritation in the ovaries. Scientists believed in some cases that the scarring led to infertility or cancer. "McCullough, Marie, "Women's health concerns prompt condom makers to stop using talc", Knight Ridder, Tribune New Service, January 10, 1996.

50. In 1997, a case-control study of 313 women with ovarian cancer and 422 without this disease found that the women with cancer were more likely to have applied talcum powder to their external genitalia area. Women using these Products had a statistically significant 50% to 90% higher risk of developing ovarian cancer. Cook L. S,, Kamb M.L., Weiss N.S., "Perineal powder exposure and the risk of ovarian cancer". *Am J. Epidemiol, 145:459-465 (1997).*

51. In 1997, a case-control study was conducted by Stella Chang and Harvey Risch from the Department of Epidemiology and Public Health of the Yale University School of Medicine which included over 1,000 women. The study found a statistically significant increased risk for ovarian cancer for women who applied talc via sanitary napkins to their perineum. The study indicated that "commercial talc substitutes often replace talc with cornstarch. Furthermore, women may choose to powder or dust with cornstarch instead of talc. When cornstarch was assessed in relation to risk of ovarian carcinoma, no associations were found." The study concluded, "the results of this study appear to support the contention that talc exposure increases risk of ovarian carcinoma. Dusting with talcum powder is not an unusual practice for women, and,

given the heterogeneity of the etiology and course of ovarian carcinoma, any possible harmful practices, particularly those with little benefit, should be deliberated." Chang, S. & Risch, H.A., Perineal talc exposure and risk of ovarian carcinoma", 79 (12) Cancer 2396-2401 (1997).

52. In a 1998 case-control study conducted in Canada by Beatrice Godard, et al., an increased risk of ovarian cancer was found in women who used talc-based powders on their perineum. Godard, B., et al., "Risk factors for familial and sporadic ovarian cancer among French Canadians: a case-control study", 179(2) Am.J.Obstet. Gynecol. 403-210 (1998).

53. In 1999, Dr. Cramer conducted a funded case control study of 563 women newly diagnosed with epithelial ovarian cancer and 523 control women. The study found a statistically significant 60 % increased risk of ovarian cancer in women who used talc-based body powders on their perineum. "We conclude that there is a significant association between the use of talc in genital hygiene and risk of epithelial ovarian cancer that, when viewed in perspective of published data on this association, warrants more formal public health warnings." The study was funded by a grant from the National Cancer Institute (NCI) Cramer, D.W., et al., "Genital talc exposure and risk of ovarian cancer", 81(3) Int.J. Cancer 351-356 (1999).

54. In 2000, Roberta Ness, et al., from University of Pennsylvania, produced a case control study of over 2,000 women. This study found a statistically significant 50% increased risk of ovarian cancer from genital talc use in women. The study also found that talc causes inflammation and that inflammation contributes to cancer cell development. Ness, R.B., et al., "Factors related to inflammation of the ovarian epithelium and risk of ovarian cancer", 11 (2) *Epidemiology,* 111-117 (2000).

55. Also in 2000, a prospective cohort study, considered to be the most informative study to date, found a 40% increase in invasive serious cancers from women who applied talcum

powder to their perineum G. D.M.,et al., Prospective study of talc use and ovarian cancer, *J Natl Cancer Inst*; 2000:92:249-252.

56. In 2003, a meta-analysis was conducted which re-analyzed data from 16 studies published prior to 2003 and found a 33% increase in ovarian cancer risk among talc users. Huncharek, M., et al., "Perineal application of cosmetic talc and risk of invasive epithelial ovarian cancer: a meta-analysis of 11,933 subjects from sixteen observational studies". *Anticancer Res., 23: 1955-60(2003).*

57. In 2004, a case-control study of nearly 1400 women from 22 counties was performed in Central California. This study found a statistically significant 37% increased risk of epithelial ovarian cancer from women's genital talc use. The study also found a 77% increased risk of serious invasive ovarian cancer from women's genital talc use. The study looked at women's use of cornstarch powders and found no increased risk in ovarian cancer in women who used these types of powders on the perineum as "Cornstarch is also not thought to exert the same toxicological reaction in human tissue as does talc." This study concluded by stating that "users should exercise prudence in reducing or eliminating use. In this instance, the precautionary principle should be invoked, especially given that this is a serious form of cancer, usually associated with a poor prognosis, with no current effective screening tool steady incidence rates during the last quarter century and no prospect for successful therapy. Unlike other forms of environmental exposures, talcum powder use is easily avoidable." Mills, P.K., et al., "Perineal - talc exposure and epithelial ovarian cancer risk in the Central Valley of California", 112 *Int. J. Cancer 458-64 (2004).*

58. Interestingly, this study also found a 54% increased risk in ovarian cancer from talc use in women who had not undergone a tubal ligation, whereas the study found no impact on

women who had their tubes tied. Because it had been found in previous studies that talc particles migrate up the fallopian tubes in women, this finding provided strong evidence to support the idea that talc is a carcinogen.

59. In 2008, Margaret Gates performed a combined study of over 3,000 women from a New England- based case control study and a prospective Nurses' Health Study with additional cases and years of follow up from these studies (The "Gates Study"). This study was funded by the National Cancer Institute (NCI), and found a general 36% statistically significant increased risk of epithelial ovarian cancer from genital talc use. A 60% increased risk of the serious invasive subtype was also found. Dr. Gates found a strong and positive dose-response relationship whereby increased risk was seen with higher talc usage in women. Dr. Gates stated that these latest results "provide additional support for a main effect of genital talc exposure on epithelial ovarian cancer" She also stated that "the finding of highly significant trends between increasing frequency of use and risk strengthens the evidence of an association, because most previous studies have not observed a dose response." It was concluded that, "We believe that women should be advised not to use talcum powder in the genital area, based on our results and previous evidence supporting an association between genital talc use and ovarian cancer risk. Physicians should ask the patient about talc use history and should advise the patient to discontinue using talc in the genital area if the patient has not already stopped." Dr. Gates further stated that "An alternative to talc is cornstarch powder, which has not been shown to increase ovarian cancer risk, or to forgo genital powder use altogether." Gates, M.A., et al., "Talc Use, Variants of the GSTM1, GST1, and NAT2 Genes, and Risk of Epithelial Ovarian Cancer", 17 (9) *Cancer Epidemiology, Biomarkers & Prev. 2436-2444 (2008).*

60. In October of 2008, Michael Thun, Vice-President of Epidemiology and surveillance Research at the American Cancer Society, commented on the Gates Study. He stated the dose-response relationship between talc and ovarian cancer had finally been satisfied by this study. Dr. Thun said, "there are very few modifiable risk factors for ovarian cancer. Others include tubal ligation, hysterectomy, and parity. Then there are factors that 'probably' increase the risk for ovarian cancer, and this is where talc fits in, alongside asbestos, postmenopausal hormone therapy, and radiation." Chustecka, Zosia & Lie, Desiree, "Talc Use in Genital area Linked to Increased Risk for Ovarian Cancer", *Medscape Medical News* (2008).

61. In 2008, Melissa Merritt, from the Australian Cancer Study (Ovarian Cancer) and Australian Ovarian Cancer Study Group, conducted a case–control study of over 3,000 women where a statistically significant increased risk of ovarian cancer for women who used talc on their perineum was confirmed. This study also confirmed a statistically significant increased risk of ovarian cancer of a serious subtype in women who used talc on their perineum. Merritt, M.A., et al., "Talcum powder, chronic pelvic inflammation and NSAIDs in relation to risk of epithelial ovarian cancer", 122(1) *Int.J. Cancer* 170-176 (2008).

62. In 2009, a case- control study of over 1,200 women found the risk of ovarian cancer increased significantly with increasing frequency and duration of talc use. The study found an overall statistically significant 53% increased risk of ovarian cancer from genital talc use. The study also found a 100% statistically significant increased risk of ovarian cancer in women with the longest duration and most frequent talc use. The study concluded by stating "that risk of ovarian cancer is significantly associated with talc use and with a history of endometriosis, as has been found in recent studies. "Wu, A.H., et al., "Markers of inflammation and risk of ovarian cancer in Los Angeles County", 124(6) Int. J. Cancer 1409-1414 (2009).

63. Additionally, various meta-analyses have been conducted that found positive associations between the use of talcum powder in the genital area and ovarian cancer. Harlow, B.K. et al., *Perineal exposure to talc and ovarian cancer risk,* Obstet. *Gynecol*, 19-26 (1992); Gross, A.J. & Berg, P.H., "A meta-analytical approach examining the potential relationship between talc exposure and ovarian cancer", *5(2) J. Expo. Anal. Environ Epidemiol. 181-195 (1995).* Huncharek, M., et al., "Perineal application of cosmetic talc and risk of invasive epithelial ovarian cancer: a meta-analysis of 11,933 subjects from sixteen observational studies", 23 *Anticancer Res*. 1955-60(2003).

64. On November 17, 1994, the Cancer Prevention Coalition joined by Chair and National Advisor Cancer Early Detection and Prevention Foundation along with members of the Ovarian Cancer Early Detection and Prevention Foundation ("OCEDPF") filed a "Citizen Petition Seeking Carcinogenic Labeling on All Cosmetic Talc Products" stating that research dating back to 1961 had shown that cosmetic grade talc could translocate to the ovaries in women and increase the risk of developing ovarian cancer. This petition was submitted to the Commissioner of the Food and Drug Administration under the Federal Food, Drug and Cosmetic Act. The agency action requested was that the FDA take the following action: "(1) Immediately require cosmetic talcum powder Products to bear labels with a warning such as "Talcum powder causes cancer in laboratory animals. Frequent talc application in the female genital area increases the risk of ovarian cancer.""

65. In February of 2006, the International Association for the Research of Cancer (IARC) part of the World Health Organization published a paper whereby they classified perineal use of talc-based body powder as a "Group 2B" human carcinogen. IARC, which is universally accepted as the international authority on cancer issues, concluded that studies from around the

world consistently found an increased risk of ovarian cancer in women talc users ranging from 30%-60%. IARC concluded with this "Overall evaluation: Perineal use of talc-based body powder is possibly carcinogenic to humans (Group 2B)."

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

67. In May 2008, the CPC, joined by its chairman and numerous other physicians and chairs of public health and medical associations, submitted a citizen's petition "seeking a cancer warning on cosmetic talc Products." ***The petition sought to require all cosmetic talc Products to bear labels with warnings*** such as "frequent application of talcum powder in the female genital area substantially increases the risk of ovarian cancer" or "Frequent talc application in the female genital area ***is responsible*** for major risks of ovarian cancer." (emphasis added). The petition cited numerous studies and publications and sought a hearing to present scientific evidence.

68. As of today, both the National Cancer Institute and American Cancer Society list genital talc use as a "risk factor" for ovarian cancer.

69. Upon information and belief, shortly after Dr. Cramer's 1982 study was published, Dr. Bruce Semple of Johnson & Johnson contacted and visited Dr. Cramer about his study. Dr. Cramer advised Dr. Semple that Johnson & Johnson should place a warning on its talcum powders about the ovarian cancer risks so that women can make an informed decision about their health.

70. The Johnson & Johnson Defendants publicly recognized the studies linking the use of its product to ovarian cancer. On August 12, 1982, in a New York Times article titled "Talcum Company Calls Study on Cancer Link Inconclusive," the Defendants admitted being aware of the

1982 Cramer et al. article that concluded women were three (3) times more likely to contract ovarian cancer after daily use of their talcum powder in the genital area.

71. On November 10, 1994, the Cancer Prevention Coalition ("CPC") mailed a letter to then J&J's CEO, Ralph Larson, informing Defendants that studies as far back as 1960's "show conclusively that the frequent use of talcum powder in the genital area poses a serious risk of ovarian cancer." The letter cited a study by Dr. Bernard Harlow from Harvard Medical School confirming this fact and quoted a portion of the study where Dr. Harlow and his colleagues discouraged the use of talc in the female genital area. The letter further stated that 14,000 women per year die from ovarian cancer and that this type of cancer is very difficult to detect and has a low survival rate. The letter concluded by requesting that Defendants withdraw talc Products from the market because of the alternative of cornstarch powders, or at a minimum, place warning information on its talc-based body powders about the ovarian cancer risk they pose.

72. On September 17, 1997, Alfred Wehner, a toxicology consultant retained by Defendants, wrote a letter to Michael Chudowski, manager of Pre-Clinical Toxicology at Johnson & Johnson Consumer Products, Inc., stating that on three separate occasions the Talc Interested Party Task Force (TIPTF) of the Cosmetic, Toiletry, and Fragrance Association (CTFA), which included the Johnson & Johnson Defendants and Luzenac, had released false information to the public about the safety of talc. Specifically addressing a November 17, 1994, statement released by the CTFA, Dr. Wehner said the following:

> The response statement dated November 17, 1994, is just as bad. The second sentence in the third paragraph reads: "The workshop concluded that, although some of these studies suggested a weak association might exist, when taken together the results of the studies are insufficient to demonstrate any real association." This statement is also inaccurate, to phrase it euphemistically. At that time there had been about 9 studies (more by now) published in the open literature that did show a statistically significant association between hygienic talc use and ovarian cancer.

> Anybody who denies this risks that the talc industry will be perceived by the public like it perceives the cigarette industry: denying the obvious in the face of all evidence to the contrary.
>
> The workshop did not conclude that "the results of the studies are insufficient to demonstrate any real association." As pointed out above, a "real" statistically significant association has been undeniably established independently by several investigators, which without doubt will be readily attested to by a number of reputable scientists/clinicians, including Bernard Harlow, Debra Novotoy, Candace Sue Kasper, Debra Heller, and others.

73. In 2002, E. Edward Kavanaugh, The President of the Cosmetic, Toiletry, and Fragrance Association (CTFA), wrote a letter to Dr. Kenneth Olden, Director of the National Toxicology Program (NTP) and National Institute of Environmental Health Sciences, U.S. Department of Health and Human Services, in an attempt to stop the NTP from listing cosmetic talc for this classification. Upon information and belief, in this letter the CTFA admitted that talc was "toxic", that "some talc particles … can reach the human ovaries" and acknowledged and agreed that prior epidemiologic studies have concluded that talc increases the risk of ovarian cancer in women.

74. In 2006, Imerys began placing an ovarian cancer warning on its Material Safety Data Sheets (MSDS), which it provides to its talc customers, including Defendants. These MSDS not only provided the warning information about the IARC classification but also included warning information regarding "States Rights to Know" and warning information about the Canadian Government's 2A classification of talc as well. At the very least, the Johnson & Johnson Defendants would have received these MSDS. None of the Defendants passed this warning information on to consumers. On September 26, 2012, the corporate representative of Imerys testified in open court that his company exclusively supplied the Johnson & Johnson Defendants

with talc used for its Baby Powder product and that ovarian cancer is a potential hazard associated with a women's perineal use of talc-based body powders, like Defendants' Baby Powder.

75. On October 19, 2012, Johnson & Johnson Defendants' former in-house toxicologist and current consulting toxicologist, Dr. John Hopkins, testified on Defendants' behalf that Defendants "are and were aware of … all publications related to talc use and ovarian cancer."

The Failure To Warn

76. The Defendants had a duty to know and warn about the hazards associated with the use of its Powder Products.

77. Despite the mounting scientific and medical evidence regarding talc use and ovarian cancer that has developed over the past several decades, none of Defendants' warnings on the product label or in other marketing informed Plaintiff's members that use of the product in the genital area, as was encouraged by Defendants, could lead to an increased risk of ovarian cancer. For example, the only warning on the Baby Powder label are to "Keep powder away from child's face to avoid inhalation, which can cause breathing problems," and to "avoid contact with eyes." The label also states: "SAFETY TIP: Keep out of reach of children. Do not use if quality seal is broken." Defendants provide similar warnings on their website: "For external use only. Keep out of reach of children. Close tightly after use. Do not use on broken skin. Avoid contact with eyes. Keep power away from child's face to avoid inhalation, which can cause breathing problems."

78. The Defendants represented on the labeling and other marketing that Johnson's® Baby Powder has "clinically proven mildness," is "clinically proven to be safe, gentle and mild," and that "the safety of cosmetic talc is supported by decades of scientific evidence and independent peer reviewed studies."

79. The Defendants failed to inform customers and end users of its Powder Products of a known catastrophic health hazard associated with the use of its Powder Products.

80. As a result of the Defendants calculated and reprehensible conduct, NCNW members were injured because they developed ovarian cancer and/or currently live with an increased risk of developing ovarian cancer.

81. Defendants had the ability to and did spend enormous amounts of money in furtherance of their purpose of marketing and promoting a profitable consumer product for personal hygiene directly to the public, including NCNW members, notwithstanding the known or reasonably known risks. Individual users could not have afforded to and could not have possibly conducted studies to determine the nature, extent and identity of related health risks, and were forced to rely on Defendants' representations.

82. Defendants have not taken any action to correct this knowingly deceptive advertising campaign, and these harms are thus ongoing.

Targeted Marketing To Black Women

83. As noted above and further alleged below, J&J's Baby Powder and Shower to Shower Powder ("Powder Products") have long been marketed to Black women in particular as an entirely safe hygiene product for use on a daily basis, including in the genital area.

84. On April 9, 2019, a special report by Chris Kirkham and Lisa Girion for Reuters reported that "Amid talc safety worries, J&J aimed ads at minority, overweight women." This report notes that, at the very same time that talc was designated as "possibly carcinogenic" and J&J's talc supplier began including that warning on its own shipments, J&J was aggressively targeting its advertising for the Powder Products at Black women.

85. For example, an internal J&J marketing presentation from 2006 explained that the "right place" for J&J to focus its advertising was on "under developed geographical areas with hot weather, and higher AA population."

86. In this document and others from J&J, "AA" refers to African-Americans.

87. In the following years, J&J executed on this plan by, *inter alia*, distributing samples "through churches and beauty salons in African-American and Hispanic neighborhoods" and launching a major campaign aimed at "curvy Southern Women 18-49 skewing African American."

88. The Reuters report notes that "these are only some of the more recent examples of J&J's decades-long efforts to offset declining Baby Powder sales amid rising concern about the effects of talc."

89. In response to this reporting, J&J obliquely and euphemistically acknowledged its targeted marketing of the Black community, noting that it had directed campaigns at many demographics and groups over the years and was a "proud pioneer[] of the practice of multicultural marketing."

90. Bloomberg News, the New York Times, and the Post and Courier of Charleston South Carolina have also reported on J&J's targeted marketing to Black women. But the Reuters report from 2019 helped to lay bare "the full timeline and scale of the marketing efforts, particularly those aimed at teenage girls, in minority communities and through organizations such as Weight Watchers."

91. Mississippi Attorney General Jim Hood has publicly highlighted J&J's "racially targeted strategy" for selling the Powder Products even after J&J became aware of health concerns surrounding them.

92. In 1992, an internal J&J memo notes the "high usage" of 52% for baby powder among Black women, and highlights that this usage rate is higher than the in the general population. This memo suggests investigating "ethnic (African American/Hispanic) opportunities to grow the franchise" while also referring to "negative publicity from the health community on talc."

93. In a 2004 memo about marketing for Shower to Shower, the company noted that "African American consumers in particular would be good to target with more of an emotional feeling and talk about reunions among friends, etc." The memo suggests "team[ing] up with Ebony magazine to promote this idea," "promotions at African American concerts and jazz festivals," and "African American promotions in churches, beauty salons, and barber shops." It also notes that "African Americans need a reminder of the STS [Shower to Shower] brand."

94. By 2006, amid stagnating sales, a J&J internal presentation urged a "new business model" for Powder Products that involved "strategically and efficiently target[ing] high propensity consumers." Those consumers included Black women, 60% of whom were using baby powder by this time, as compared with 30% for the overall population.

95. A 2008 presentation on baby powder noted among its "Key Issues/Learnings" on its very first slide that "African Americans have high affinity for the category and ***tend to be heavy users***." This same presentation dictates that J&J should focus on marketing to Black women first and foremost, saying that its "Powder Marking Objectives" should include: "Target African Americans and several other key target audiences: Overweight women, women who exercise, women in warm climates." This presentation demonstrates J&J's clear intentional marketing to Black women, and its knowledge that Black women are and have been particularly "heavy users" of its talc-based Powder Products.

96. In 2008, J&J sought proposals for an "African American agency" to develop marketing campaigns for the baby Powder Products line. The solicitation explained that "Johnson's Baby Oil and Baby Powder Products, while traditionally used only on babies, are today ***primarily consumed by adult AA women for use on themselves***." J&J thus sought help "speaking to AA consumers with a more relevant message with the most effective media vehicles."

97. Consistent with this effort, J&J looked into signing Patti LaBelle or Aretha Franklin as a spokesperson.

98. That same year, J&J contracted with Segmented Marketing Services, Inc., which specializes in targeted promotions to "ethnic consumers." This firm hands out samples "through national networks of more than 10,000 African-American and Hispanic churches, and tens of thousands of 'beauty salons, barber shops, entertainment venues, and healthcare networks.'" Under this contract, Segmented Marketing distributed 100,000 gift bags containing the Powder Products to Black and Hispanic neighborhoods in Chicago on J&J's behalf.

99. A 2009 business plan document from J&J indicates its awareness that "Powder usage is much higher among African-American women than Caucasian women," that "incidences among African-American women are highest ages 18-44" and that "this is the age group we are currently trying to target in Gen Mkt." The relevant slide indicates that 63% of African-American women age 25-44 reported using Baby or Body Powder within the past 4 weeks, as compared with 32% of Caucasian women in the same age range.

100. This business plan document expressly confirms that marketing and sales to Black women were at the heart of the Powder Products business model for J&J over that past two decades. It notes that the "multicultural consumer [is] highly important to business – ***need to***

maintain," and expressed concern that it was becoming "difficult to efficiently retain ***core aa consumer.***"

101. In 2010, J&J launched a radio campaign in southern states targeting "curvy southern women 18-49 skewing African American." This campaign focused on "urban adult contemporary" radio stations in Southern markets. Some of the presentation slides for the campaign also picture "plus-size African American women holding Baby Powder samples at 'targeted station events.'"

102. In both 2008 and 2010, nearly half of J&J's spending on Baby Powder promotions was "directed at overweight and minority women."

103. These advertisements generally urged and/or intended that the Black women who were targeted by them would use the Powder Products regularly, including in the genital area. For example, J&J advertised its Shower-to-Shower Powder Products as safe for daily use as evidenced in its slogan, "A sprinkle a day keeps odor away," and through advertisement copy including: "Your body perspires in more places that just under your arms. Use Shower to Shower to feel dry, fresh, and comfortable throughout the day," and "Shower to Shower can be used all over your body".

104. J&J's website included the suggested use of the product "Shower to Shower" in the genital area with the following: "Soothe Your Skin: Sprinkle on problem areas to soothe skin that has been irritated from friction. Apply after a bikini wax to help reduce irritation and discomfort."

105. The foregoing clearly demonstrates that J&J saw marketing their Powder Products to Black Women as a critical part of their business model, and both knew and intended that a large proportion of Black women would use its Powder Products daily, including on their genital areas. Even though it was aware of the health concerns associated with talc throughout this time, and

ultimately pulled talc Powder Products from shelves in 2020, it at no time warned these targeted consumers about the dangers. Many Black women have used J&J's Powder Products and developed ovarian cancer as a result.

106. Although J&J has now removed its talc Powder Products from the stream of commerce, it has not taken any corrective action with respect to its knowingly misleading advertising campaign targeting Black women in particular. Thus, those harms are ongoing, and only and affirmative counter-campaign can ameliorate this ongoing harm.

V. CLAIMS

COUNT I
STRICT LIABILITY (DESIGN DEFECT)
(N.J. Products Liability Act – N.J.S.A 2A:58C-1 et seq.)

107. NCNW incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully stated herein.

108. NCNW brings this strict liability claim against Defendants for defective design.

109. At all pertinent times, the Defendants were responsible for designing, developing, manufacturing, marketing, testing, packaging, promotion, marketing, labeling, selling and/or distributing the Powder Products in the regular course of business.

110. The Powder Products are defective and unreasonably dangerous to consumers as the utility of the Powder Products do not outweigh the danger of developing ovarian cancer.

111. The Powder Products are defective in their design or formulation in that they are not reasonably fit, suitable, or safe for their intended purpose (including for use in the genital area or on the perineum) and their foreseeable risks including ovarian cancer exceed the benefits associated with their design and formulation.

112. At all pertinent times, Plaintiff's members used the Powder Products to powder their perineal areas and/or sanitary napkins, which is a reasonably foreseeable use in a manner normally intended by the Defendants.

113. At all pertinent times, all Defendants in this action knew or should have known that the use of talcum powder-based Products in the perineal area significantly increases the risk of ovarian cancer based upon scientific knowledge dating back to the 1960s.

114. At all pertinent times, all Defendants in this action knew or should have known that the use of talcum powder-based Products in the perineal area significantly increases the risk of ovarian cancer based upon scientific knowledge dating back to the 1960s.

115. At all pertinent times, the Powder Products were expected to reach, and did reach consumers including Plaintiff, without substantial change in the condition in which it was sold. Indeed, J&J specifically intended that the Powder Products reach Black women like NCNW members and designed their business plan around this goal.

116. At all times material to this action, the Powder Products were designed, developed, manufactured, tested, packaged, promoted, marketed, distributed, labeled and/or sold by Defendants in a defective and unreasonably dangerous condition at the time it was placed in the stream of commerce in ways which include but are not limited to the following:

a. When placed in the stream of commerce, the Powder Products contained unreasonably dangerous design defects and were not reasonably safe as intended to be used including dusting the perineum, subjecting Plaintiff's members to risks that exceeded the benefits of the subject product.

b. When placed in the stream of commerce, the Powder Products were defective in design and formulation, specifically that the Powder Products contained Talc, making the use of the Powder Products more dangerous than an ordinary consumer would expect, and more dangerous than other risks associated with the other non-talc options on the market.

c. The subject product's design defects existed before it left the control of the Defendants.

d. The Powder Products were insufficiently tested.

e. The Powder Products caused harmful side effects including ovarian cancer that outweighed any potential utility of deodorizing, preventing chaffing or other possible benefits; and

f. The Powder Products were not accompanied by adequate instructions and/or warnings to fully apprise consumers, including Plaintiff's members herein, of their full nature and extent of the risks and side effects associated with its use, thereby rendering Defendants liable to Plaintiffs.

117. As a result, the defect or defects were a producing cause of injuries and damages to NCNW members. Therefore, the Defendants are liable under the doctrine of strict liability in tort.

118. The Defendants, marketed advertised, and expressly represented to the general public, including Plaintiff's members, that it is safe for women to use their product regardless of application. Defendants continued with these marketing and advertising campaigns despite having scientific knowledge that dates back to the late 1960s that their Powder Products increase the risk of ovarian cancer in women when used in the perineal area. Defendants have never engaged in any marketing or targeted marketing that would correct the impression it created or warn the NCNW members it targeted with this advertising about the risk of ovarian cancer they face from using the product as intended.

119. In addition, at the time the subject product left the control of the Defendants, there were practical and feasible alternative designs, including cornstarch based-powders, that would have prevented and/or significantly reduced the risk of Plaintiffs injuries without impairing the reasonably anticipated or intended function of the product. These safer alternative designs were economically and technologically feasible and would have prevented or significantly reduced the risk of Plaintiff's members' injuries without substantially impairing the product's utility.

120. As a direct and proximate result of the Powder Products' defective design, both NCNW members and NCNW itself suffered foreseeable personal and economic harm.

WHEREFORE, Plaintiff prays for a judgment against Defendants declaring Defendants liable for the harms they created and enjoining the Defendants to provide the Black women they targeted with advertising with equally targeted corrective communications that identify the risks they face. Plaintiff further seeks injunctive relief requiring Defendants to establish a program for providing medical monitoring and early detection services to the same community that it targeted with particularity in advertising the relevant Powder Products. Plaintiff further seeks the costs of this suit, attorneys' fees, and such further and other relief as the Court deems just and appropriate.

COUNT II
STRICT LIABILITY (FAILURE TO WARN)

121. NCNW incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully stated herein.

122. At all pertinent times, the Defendants were manufacturing, marketing, testing, promotion, selling and/or distributing the Powder Products in the regular course of business.

123. At all pertinent times, Plaintiff's members used the Powder Products to powder their perineal area or sanitary napkins, which is a reasonably foreseeable use in a manner normally intended by the Defendants.

124. At all pertinent times, all Defendants in this action knew or should have known that the use of talcum powder-based Products in the perineal area significantly increases the risk of ovarian cancer based upon scientific knowledge dating back to the 1960's.

125. At all pertinent times, including the time of sale and consumption, the Powder Products, when put to the aforementioned, reasonably foreseeable use, were in an unreasonably

dangerous and defective condition because they failed to contain adequate and proper warnings and/or instructions regarding the increased risk of ovarian cancer associated with the use of the Powder Products by women to powder their perineal area. Defendants themselves failed to properly and adequately warn and instruct NCNW members as to the risks and benefits of the Powder Products, given their need for this information—even as Defendants expressly targeted their advertising at this population. Had NCNW members received an equally targeted warning that the use of the Powder Products in the genital area or on sanitary napkins would have significantly increased the risk of ovarian cancer, they would not have used the Powder Products in that manner, and such use was a substantial factor in the development of members' ovarian cancer. As a proximate result of Defendants' design, manufacture, marketing, sale and distribution of the Powder Products, NCNW members have thus been injured catastrophically, through severe pain, suffering, disability, impairment, loss of enjoyment of life, loss of care, comfort and economic damages.

126. The development of ovarian cancer by NCNW members was the direct and proximate result of the unreasonably dangerous and defective condition of the Powder Products at the time of sale and use, including their lack of warnings; Plaintiff's members have suffered injuries and damages including but not limited to conscious pain and suffering and medical expenses.

127. The Defendants' Powder Products were defective because they failed to contain warnings and/or instructions and breached express warranties and/or failed to conform to express factual representations upon which NCNW members justifiably relied in electing to use the Powder Products. The defect or defects made the Powder Products unreasonably dangerous to those persons, who could reasonably be expected to use and rely upon such Powder Products.

Once again, NCNW members were among a key target audience for Defendants' advertising, and particular harm to the Black female community was a foreseeable result of Defendants' conduct, but Defendants did not warn these women about the defect in the product that endangered their lives. The defect or defects about which these women were not warned was thus a producing cause of their injuries and damages.

128. Defendants' Powder Products failed to contain, and continue to this day not to contain, adequate warnings and/or instructions regarding the increased risk of ovarian cancer with the use of their Powder Products by women. The Powder Products also have never carried a warning advising that women avoid powder in the genital/perineum area or that it is unsafe to use the powders on sanitary napkins or feminine Powder Products. Instead, the Defendants continue to expressly represent to the general public that talcum powders were safe for women to use regardless of application area, and thus have not corrected the misconception they created—particularly among the Black women they targeted for advertising—that women who used the Powder Products as intended have not significantly increased their risk for, or already suffered, ovarian cancer as a result of such use.

129. Defendants had a duty to warn NCNW members of the dangers associated with the Powder Products at the time they began using them and/or each time they purchased them. But while J&J specifically targeted NCNW members with advertisements encouraging them to begin and continue such use, they never provided such warnings.

130. Alternatively, Defendants had and still have a post-sale duty to warn the NCNW members they targeted with their advertising about what the company now knows regarding the relevant science and the danger of ovarian cancer from use of talc Powder Products.

WHEREFORE, Plaintiff prays for a judgment against Defendants declaring Defendants liable for the harms they created and enjoining the Defendants to provide the Black women they targeted with advertising with equally targeted corrective communications that identify the risks they face. Plaintiff further seeks injunctive relief requiring Defendants to establish a program for providing medical monitoring and early detection services to the same community that it targeted with particularity in advertising the relevant Powder Products. Plaintiff further seeks the costs of this suit, attorneys' fees, and such further and other relief as the Court deems just and appropriate.

COUNT III
NEGLIGENCE

131. NCNW incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully stated herein.

132. The Johnson & Johnson Defendants were negligent in marketing, designing, manufacturing, packaging, labeling, supplying, inspecting, testing, selling and/or distributing the Powder Products in the following ways, each of which was a proximate cause of injuries and damages to NCNW members:

a. In failing to warn Plaintiff's members of the hazards associated with the use of their product, including the risk of ovarian cancer when the product is used in the genital area, in the perineal area or on sanitary napkins.

b. In failing to properly test their Powder Products to determine adequacy and effectiveness or safety measures, if any, prior to releasing these Powder Products for consumer use;

c. In failing to properly test their Powder Products to determine the increased risk of ovarian cancer during the normal and/or intended use of the Powder Products;

d. In failing to remove their Powder Products from the market or adding proper warnings when the Defendants knew or should have known their Powder Products were defective;

e. In failing to instruct the ultimate users, such as the Plaintiff's members, as to the methods for reducing the type of exposure to the Defendants' Powder Products which caused increased risk in ovarian cancer.

f. In failing to inform the public in general and the Plaintiff's members in particular of the known dangers of using the Defendants' Powder Products for dusting the perineum;

g. In failing to advise users how to prevent or reduce exposure that caused increase risk for ovarian cancer.

h. Marketing and labeling their product as safe for all users despite knowledge to the contrary;

i. In failing to act like a reasonably prudent company under similar circumstances.

133. Each and all of these acts and omissions, taken singularly or in combination, were a proximate cause of the injuries and damages to NCNW members.

134. As a direct and proximate result of Defendants' negligence, NCNW members purchased and used the Powder Products that caused them to develop ovarian cancer or to be at a higher present risk of ovarian cancer.

WHEREFORE, Plaintiff prays for a judgment against Defendants declaring Defendants liable for the harms they created and enjoining the Defendants to provide the Black women they targeted with advertising with equally targeted corrective communications that identify the risks they face. Plaintiff further seeks injunctive relief requiring Defendants to establish a program for providing medical monitoring and early detection services to the same community that it targeted with particularity in advertising the relevant Powder Products. Plaintiff further seeks the costs of this suit, attorneys' fees, and such further and other relief as the Court deems just and appropriate.

COUNT IV
BREACH OF EXPRESS WARRANTY
(N.J.S.A. 12A: 2-13 et seq.)

126. NCNW incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully stated herein.

127. The Johnson & Johnson Defendants, expressly warranted through direct-to-consumer marketing, advertisements, and labels, that the Powder Products were safe and effective for reasonably anticipated users, including use by women in the perineal area and on sanitary napkins. Those advertisements and marketing initiatives were particularly targeted at Black women like NCNW members.

128. NCNW members saw these advertisements and believed these Powder Products were safe and effective for use in the perineal area.

129. The Powder Products did not conform to these express representations because they cause serious injury when used by women in the perineal area in the form of ovarian cancer and were not fit for the ordinary purpose for which the Powder Products were sold.

130. As a direct and proximate result of Defendants' breach of warranty, NCNW members purchased and used, as aforesaid, the Powder Products that directly and proximately caused them to develop ovarian cancer or to be at a higher current risk of ovarian cancer.

WHEREFORE, Plaintiff prays for a judgment against Defendants declaring Defendants liable for the harms they created and enjoining the Defendants to provide the Black women they targeted with advertising with equally targeted corrective communications that identify the risks they face. Plaintiff further seeks injunctive relief requiring Defendants to establish a program for providing medical monitoring and early detection services to the same community that it targeted

with particularity in advertising the relevant Powder Products. Plaintiff further seeks the costs of this suit, attorneys' fees, and such further and other relief as the Court deems just and appropriate.

COUNT V
BREACH OF IMPLIED WARRANTY
(N.J.S.A. 12A: 2-13 et seq.)

131. NCNW incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully stated herein.

132. At the time the Johnson & Johnson Defendants designed, manufactured, assembled, fabricated, labeled, packaged, sold and/or distributed the Powder Products, the Defendants knew of the uses for which the Powder Products were intended, including use by women in the perineal area—and especially the Black women like NCNW members who represented their "core" customers—and impliedly warranted the Powder Products to be of merchantable quality and safe for such use to such customers.

133. The Defendants, as sellers were merchants with respect to the Powder Products which they sold.

134. Defendants sold these Powder Products in a defective condition and therefore breached an implied warranty of fitness and an implied warranty of merchantability. Additionally, Defendants breached their implied warranties of the Powder Products sold to Plaintiff's members because the Powder Products were not fit for their common, ordinary and intended uses, including use in women in the perineal area.

135. Therefore, the Defendants have breached the implied warranty of merchantability as well as the implied warranty of fitness for a particular purpose. Such breach by the Defendants was a proximate cause of injuries and damages to NCNW members.

136. As a direct and proximate result of Defendants' breach of implied warranty, NCNW members purchased and used the Powder Products that caused them to develop ovarian cancer or to be at a higher risk of developing ovarian cancer.

WHEREFORE, Plaintiff prays for a judgment against Defendants declaring Defendants liable for the harms they created and enjoining the Defendants to provide the Black women they targeted with advertising with equally targeted corrective communications that identify the risks they face. Plaintiff further seeks injunctive relief requiring Defendants to establish a program for providing medical monitoring and early detection services to the same community that it targeted with particularity in advertising the relevant Powder Products. Plaintiff further seeks the costs of this suit, attorneys' fees, and such further and other relief as the Court deems just and appropriate.

COUNT VI
GROSS NEGLIGENCE

137. NCNW incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully stated herein.

138. The Defendants' conduct was in conscious disregard for the rights, safety and welfare of the Black women they simultaneously targeted with highly specific advertising campaigns. The Defendants thus acted with willful and wanton disregard for the safety of NCNW members. The Defendants' conduct constitutes gross negligence. Defendants' gross negligence was a proximate cause of injuries to NCNW members.

139. The Johnson and Johnson Defendants have a pattern and practice of this type of conduct. Specifically, these Defendants built their company on the credo, "We believe our first responsibility is to the doctors, nurses, and patients, to mothers and fathers and all others who use our Powder Products and services." Over the past decades, however, Defendants have sharply deviated from that credo, and instituted a corporate pattern and practice of

placing profits over the health and well-being of its customers as evidenced in the Propulsid™ litigation, Ortho Evra™ litigation, 2006 Pennsylvania Tylenol™ litigation, 2006 TMAO investigation, and 2007 violation of the Foreign Corrupt Practices Act.

140. The above listed evidence indicates a pattern and practice of Johnson & Johnson Defendants to place corporate profits over health and well-being of is customers. Such a pattern and practice has been followed by the Defendants regarding "Johnson's Baby Powder" and "Shower to Shower".

WHEREFORE, Plaintiff prays for a judgment against Defendants declaring Defendants liable for the harms they created and enjoining the Defendants to provide the Black women they targeted with advertising with equally targeted corrective communications that identify the risks they face. Plaintiff further seeks injunctive relief requiring Defendants to establish a program for providing medical monitoring and early detection services to the same community that it targeted with particularity in advertising the relevant Powder Products. Plaintiff further seeks the costs of this suit, attorneys' fees, and such further and other relief as the Court deems just and appropriate.

COUNT VII
NEGLIGENT MISREPRESENTATIONS

141. NCNW incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully stated herein.

142. Defendants had a duty to accurately and truthfully represent to the medical and healthcare community, NCNW members, and the public at large that the Powder Products had been tested and found to be safe and effective for use in the perineal area. The representations made by Defendants were in fact false. And as noted above, those representations were particularly targeted at Black women, including NCNW members.

143. Defendants failed to exercise ordinary care in the representations concerning the Powder Products while they were involved in their manufacture, sale, testing, quality assurance, quality control, and distribution in interstate commerce, because Defendants negligently misrepresented the Powder Products high risk of unreasonable, dangerous, adverse side effects, including the risk of ovarian cancer.

144. Defendants breached their duty in representing that the Powder Products have no serious side effects.

145. As a foreseeable, direct and proximate result of the negligent misrepresentation of Defendants as set forth herein, Defendants knew, and had reason to know, that the Powder Products had been insufficiently tested, or had not been tested at all, and that they lacked adequate and accurate warning, and that it created a high risk, and/or higher than acceptable risk, and/or higher than reported and represented risk, of adverse side effects.

146. As a direct and proximate result of Defendants' conduct, NCNW members have been injured.

WHEREFORE, Plaintiff prays for a judgment against Defendants declaring Defendants liable for the harms they created and enjoining the Defendants to provide the Black women they targeted with advertising with equally targeted corrective communications that identify the risks they face. Plaintiff further seeks injunctive relief requiring Defendants to establish a program for providing medical monitoring and early detection services to the same community that it targeted with particularity in advertising the relevant Powder Products. Plaintiff further seeks the costs of this suit, attorneys' fees, and such further and other relief as the Court deems just and appropriate.

COUNT VIII
CONSUMER FRAUD
(N.J.S.A. 56:8-1 et seq.)

147. NCNW incorporates by reference each and every allegation set forth in the preceding paragraphs as if fully stated herein.

148. Defendants engaged in unconscionable commercial practices, deception, fraud, false promise, misrepresentation and/or the knowing concealment suppression or omission of material facts with the intent that others rely upon such concealment suppression or omission.

149. As a direct and proximate result of one or more of these wrongful acts or omissions of the Defendants upon which NCNW members relied, such members suffered profound injuries that required and will require medical treatment and hospitalization; have become or will become liable for medical and hospital expenses; have lost or will lose financial gains; and all of these damages will continue in the future.

154. Plaintiff suffered an ascertainable loss of money or property as a result of Defendants' use or employment of unconscionable commercial practices as set forth above.

WHEREFORE, Plaintiff prays for a judgment against Defendants declaring Defendants liable for the harms they created and enjoining the Defendants to provide the Black women they targeted with advertising with equally targeted corrective communications that identify the risks they face. Plaintiff further seeks injunctive relief requiring Defendants to establish a program for providing medical monitoring and early detection services to the same community that it targeted with particularity in advertising the relevant Powder Products. Plaintiff further seeks the costs of this suit, attorneys' fees, and such further and other relief as the Court deems just and appropriate.

JURY DEMAND

155. NCNW hereby demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

156. NCNW incorporates by reference every other paragraph of this Complaint as if each were set forth fully and completely herein.

157. For the foregoing reasons, NCNW respectfully requests a judgment declaring Defendants liable for their illegal marketing and sale of the Powder Products to Black women (including NCNW members) in particular, the harm of which is ongoing, and further requests the following specific forms of injunctive or other relief necessary to remedy that continuing harm:

a. That the Court require Defendants to fashion a program of targeted communications—aimed particularly at the Black, female community—designed to correct the misimpressions created by Defendant's own targeted advertising campaigns and to inform that community that they may have developed ovarian cancer or be at higher risk of developing ovarian cancer in the future because they used Defendants' Powder Products in the very way Defendants hoped they would and told them they should. Such program should be at least as targeted toward Black females as the initial and wrongful marketing of the relevant Powder Products.

b. That the Court require Defendants to fashion a program designed to supply Black women in particular with medical monitoring or other early detection mechanisms that will help to partially ameliorate the risk that they will ultimately develop catastrophic cancer and potentially die as a result of the targeted marketing campaign Defendants aimed at them and their use of Defendants' Powder Products in their intended fashion. The benefits of such program should be at least as targeted at the Black female

community as Defendants' initial and wrongful marketing of the relevant Powder Products.

c. Additionally, or in the alternative, that the Court require Defendants to fund outreach efforts by NCNW, targeted at its members and the members of affiliated organizations, designed to warn such members of the possibility that they have developed or will develop life-threatening ovarian cancer as a result of their use of Defendants' Powder Products in the way that Defendants expressly marketed them to the same community.

d. That the Court require Defendants to include in any existing advertising targeted at Black women a warning regarding prior use of talc-based Powder Products that will correct the misimpression created by similar targeted advertising at the same community.

e. Reasonable and necessary attorney fees and costs.

f. Any other relief the Court may deem just and proper.

DEMAND FOR JURY TRIAL

The Plaintiff hereby demand a trial by jury on all counts and as to all issues.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Shayna E. Sacks, is hereby designated as trial counsel in this matter.

CERTIFICATION

Plaintiff certifies that the foregoing action is not the subject of any other action pending in any other court or arbitration proceeding and that no other action or arbitration proceeding is

contemplated at this time. Plaintiff further certifies that no other persons are known to them who should be joined as parties at this time. Plaintiff is aware that if the statements contained within this certification are knowingly false, that they may be subject to punishment.

Dated: July 27, 2021

Respectfully submitted,

/s/ Shayna E. Sacks
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Civil Case Information Statement
(CIS)

Use for initial Law Division
Civil Part pleadings (not motions) under *Rule* 4:5-1
Pleading will be rejected for filing, under *Rule* 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed

For Use by Clerk's Office Only
Payment type: ☐ ck ☐ cg ☐ ca
Chg/Ck Number:
Amount:
Overpayment:
Batch Number:

Attorney/Pro Se Name	Telephone Number	County of Venue

Firm Name (if applicable)	Docket Number (when available)

Office Address	Document Type
	Jury Demand ☐ Yes ☐ No

Name of Party (e.g., John Doe, Plaintiff)	Caption

Case Type Number (See reverse side for listing)	Are sexual abuse claims alleged? ☐ Yes ☐ No	Is this a professional malpractice case? ☐ Yes ☐ No If you have checked "Yes," see *N.J.S.A.* 2A:53A-27 and applicable case law regarding your obligation to file an affidavit of merit.

Related Cases Pending? ☐ Yes ☐ No	If "Yes," list docket numbers

Do you anticipate adding any parties (arising out of same transaction or occurrence)? ☐ Yes ☐ No	Name of defendant's primary insurance company (if known) ☐ None ☐ Unknown

The Information Provided on This Form Cannot be Introduced into Evidence.

Case Characteristics for Purposes of Determining if Case is Appropriate for Mediation

Do parties have a current, past or recurrent relationship? ☐ Yes ☐ No	If "Yes," is that relationship: ☐ Employer/Employee ☐ Friend/Neighbor ☐ Other (explain) ☐ Familial ☐ Business

Does the statute governing this case provide for payment of fees by the losing party? ☐ Yes ☐ No

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition

Do you or your client need any disability accommodations? ☐ Yes ☐ No	If yes, please identify the requested accommodation:
Will an interpreter be needed? ☐ Yes ☐ No	If yes, for what language?

I certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b).

Attorney Signature: /s/ Shayna E. Sacks

Civil Case Information Statement

Case Details: ATLANTIC | Civil Part Docket# L-002324-21

Case Caption: NATIONAL COUNSIL OF NEGRO WOM VS JOHNSON & JOHN
Case Initiation Date: 07/27/2021
Attorney Name: SHAYNA E SACKS
Firm Name: NAPOLI SHKOLNIK PLLC
Address: 360 LEXINGTON AVE 11TH FL
NEW YORK NY 10017
Phone: 2123971000
Name of Party: PLAINTIFF : National Counsil of Negro Wome
Name of Defendant's Primary Insurance Company (if known): Unknown

Case Type: TALC-BASED BODY POWDERS
Document Type: Complaint with Jury Demand
Jury Demand: YES - 12 JURORS
Is this a professional malpractice case? NO
Related cases pending: YES
If yes, list docket numbers: ATL-L-2648-15
Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged by: National Counsil of Negro Wome? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO
If yes, please identify the requested accommodation:

Will an interpreter be needed? NO
If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** YES

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

07/27/2021
Dated

/s/ SHAYNA E SACKS
Signed