

**IN THE CIRCUIT COURT OF THE 17th JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

ALBERTO CASARETTO and
IRENE CASARETTO,

Case No.: CACE-18-028502

Plaintiffs,

v.

JOHNSON & JOHNSON, INC., JOHNSON &
JOHNSON CONSUMER, INC. f/k/a JOHNSON
& JOHNSON CONSUMER COMPANIES, INC.,
PUBLIX SUPER MARKETS, INC., CVS
HEALTH CORP., and
ECKERD CORPORATION OF FLORIDA, INC.,

Defendants.

AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs Alberto Casaretto and Irene Casaretto bring this action for damages against Johnson & Johnson, Inc., Johnson & Johnson Consumer, Inc., Publix Super Markets, Inc., CVS Health Corporation, and Eckerd Corporation of Florida, Inc., and allege:

1. This is an action for damages in excess of fifteen thousand dollars (\$15,000.00), exclusive of interest and costs.
2. At all material times, Plaintiff Alberto Casaretto ("Plaintiff") was and is a resident of Broward County, Florida.
3. At all material times, Plaintiff Irene Casaretto was and is a resident of Broward County, Florida and the lawfully married spouse of Plaintiff Alberto Casaretto.
4. Plaintiff is a non-smoker pursuant to Section 774.203, Florida Statutes.

5. Pursuant to chapter 774.205, Florida Statutes and the applicable Orders of this Court pertaining to asbestos litigation, attached to this Complaint and incorporated herein by reference as “Exhibit A” is a true copy of Plaintiff’s Amended Sworn Information Form and Exposure Sheet, setting forth the information required by said Statute and Orders.

6. Plaintiff was exposed to asbestos, asbestiform fibers, asbestiform talc, and asbestiform particulates found in Johnson’s Baby Powder, Shower to Shower, or Johnson & Johnson talcum powder between the late 1960’s and 2018 at his home addresses. The specific locations at which Plaintiff was exposed to asbestos, asbestiform fibers, asbestiform talc, and asbestiform particulates found in Johnson’s Baby Powder or Johnson & Johnson talcum powder are listed to the best of the Plaintiff’s ability and recollection on the Plaintiff’s Amended Sworn Information Form and Exposure Sheet, attached hereto as “Exhibit A.”

7. As used in this Complaint, the term “asbestos” refers to any or all of the following: asbestos, asbestiform fibers, asbestiform particulates, asbestiform talc, and talc fibers (fibrous talc).

8. As used in this Complaint, the term “PRODUCTS” refers to Johnson’s Baby Powder, Shower to Shower, and Johnson & Johnson talcum powder, which are talcum powder products designed, manufactured, marketed, sold, distributed, packaged, tested, and/or labeled by Defendants herein and which contained or were contaminated with asbestos. The term “PRODUCTS” also includes any and all materials, ingredients, components, and/or manufactured goods designed, manufactured, marketed, sold, distributed, packaged, tested, and/or labeled by any of the Defendants herein which contained or were contaminated with asbestos.

9. Plaintiff Alberto Casaretto was diagnosed with pleural mesothelioma on October 30, 2017 as a direct and proximate result of his exposure to and inhalation of PRODUCTS

manufactured, sold, supplied, and/or distributed by the Defendants herein. Plaintiff's health condition is exigent.

10. Plaintiff's use of and exposure to the PRODUCTS occurred in the intended manner, without significant change in the PRODUCTS' condition and while Plaintiff was unaware of the dangerous properties of the PRODUCTS. Plaintiff relied upon the Defendants' instructions as to the hazards of the PRODUCTS and as to the proper handling of the PRODUCTS.

DEFENDANTS

11. Defendant, Johnson & Johnson, Inc. is a New Jersey corporation with its principal place of business at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933.

12. At all relevant times, Johnson & Johnson, Inc. was engaged in the business of designing, mining, manufacturing, formulating, marketing, packaging, labeling, testing, promoting, selling, and/or distributing the PRODUCTS, including in the State of Florida, where Plaintiff purchased, used, and was exposed to the PRODUCTS throughout his life, resulting in mesothelioma. At all relevant times, Johnson & Johnson, Inc. otherwise regularly transacted, solicited and conducted substantial business in the State of Florida, and maintained a registered agent in the State of Florida.

13. Defendant Johnson & Johnson Consumer Inc., f/k/a Johnson & Johnson Consumer Companies, Inc., is a New Jersey corporation with its principal place of business in the State of New Jersey. Johnson & Johnson Consumer Inc. may be served with process via its registered agent located at CT Corporation System, 1200 S. Pine Island Road, Plantation, FL 33324.

14. At all relevant times, upon information and belief, Johnson & Johnson Consumer Inc. was engaged in the business of mining, manufacturing, formulating, marketing, testing, packaging, labeling, promoting, selling, and/or distributing the PRODUCTS, including in the State

of Florida, where Plaintiff purchased, used, and was exposed to the PRODUCTS throughout his life, resulting in mesothelioma. At all relevant times, Johnson & Johnson Consumer Inc. otherwise regularly transacted, solicited, and conducted substantial business in the State of Florida.

15. At all relevant times, Defendants Johnson & Johnson, Inc. and Johnson & Johnson Consumer Inc. have engaged in the research, development, formulation, mining, manufacture, design, testing, licensing, sale, distribution, packaging, labeling, marketing, and/or introduction into the stream of commerce, either directly or indirectly through third parties or related entities, of the PRODUCTS.

16. Defendant Johnson & Johnson Consumer, Inc. is and has been at all relevant times a wholly-owned subsidiary of Defendant Johnson & Johnson, under the complete dominion of and control of Defendant Johnson & Johnson. Hereinafter, unless otherwise delineated, these two entities together shall be referred to as the “Johnson & Johnson Defendants.”

17. Defendant Publix Super Markets, Inc., (“Publix”) is a Florida corporation with its principal place of business at 3300 Publix Corporate Pkwy, Lakeland FL 33811. At all relevant times, upon information and belief, Publix sold and/or distributed the PRODUCTS throughout the State of Florida. Publix may be served with process of this Court via its registered agent, John A. Attaway, Jr. 3300 Publix Corporate Pkwy, Lakeland FL 33811.

18. Defendant Eckerd Corporation of Florida, Inc. (“Eckerd”), is a Florida corporation organized and existing under the laws of the State of Florida. At all material times, upon information and belief, Eckerd sold and/or distributed the PRODUCTS throughout the State of Florida via its chain of retail drug stores. Eckerd may be served with process of this Court via its registered agent, CT Corporation System, 1200 S. Pine Island Road, Plantation, FL 33324.

19. Defendant CVS Health Corporation (“CVS”) is a Delaware Corporation headquartered in Woonsocket, Rhode Island. CVS is the ultimate successor in interest to Eckerd Corporation with respect to Eckerd Corporation’s Florida retail drug stores, which CVS purchased from J.C. Penney Co. in 2004. At all material times, upon information and belief, CVS or its predecessors in interest sold and/or distributed the PRODUCTS throughout the State of Florida.

20. Upon information and belief and at all material times, Defendant ECKERD did business as Eckerd Drug Stores and operated retail locations under this name throughout South Florida.

21. It is not presently known whether Defendant Eckerd or Defendant CVS has assumed the assets and liabilities of the specific retail drug stores at issue in this lawsuit. Accordingly, it is alleged in the alternative to the allegations of paragraph 19 herein that Defendant CVS did business as Eckerd Drug Stores and operated retail locations under this name throughout South Florida.

22. Hereinafter, unless otherwise delineated, Johnson & Johnson, Inc., Johnson and Johnson Consumer, Inc., Publix, Eckerd, and CVS shall collectively be referred to as “Defendants.”

JURISDICTION AND VENUE

23. Jurisdiction is proper in this Circuit Court pursuant to Fla. Stat. §§ 26.012(2)(a) and 34.01(1)(c), as the amount in controversy exceeds fifteen-thousand dollars (\$15,000), exclusive of interest, costs, and attorneys’ fees.

24. Venue is proper in Broward County pursuant to Fla. Stat. §§ 47.021 and 47.051.

FACTUAL ALLEGATIONS

25. Talc, an inorganic mineral, is a magnesium trisilicate that is mined from the earth.

26. Talc is used in a wide array of industrial, commercial and cosmetic products and applications. It is the main substance in talcum powders and talc-based body powders, including the PRODUCTS.

27. The PRODUCTS are composed almost entirely of talc but, because talc is mined, the PRODUCTS may and do also contain other mineral constituents, including asbestos.

28. Based upon information and belief, at all relevant times, the talc used in the PRODUCTS contained non-asbestiform talc, asbestiform talc, talc fibers (fibrous talc), asbestos, asbestiform fibers, and/or asbestiform particulates.

29. Talcum powder products are carcinogenic to humans, and talcum powder products containing asbestos, fibrous talc, or asbestiform particulates cause mesothelioma. In particular, the asbestos contained within the PRODUCTS, when inhaled, lodges in the pleura of the lungs, leading to cancerous changes. Greater exposure to the asbestos in the PRODUCTS creates a greater risk of developing mesothelioma.

30. Defendants knew or should have known that all asbestos, asbestiform talc, fibrous talc, asbestos, asbestiform fibers, and asbestiform particulates should be eliminated from cosmetic talcum powder products, including the PRODUCTS, and that the same should be asbestos-free.

31. At all relevant times, a feasible and safe alternative to talc has existed for talcum powder products. For example, cornstarch is an organic carbohydrate that is quickly broken down by the body with no known adverse health effects. Cornstarch powders have been sold and marketed for the same uses as the PRODUCTS with substantially the same effectiveness as talcum powders.

32. At all relevant times, the Johnson & Johnson Defendants advertised and marketed their “Johnson’s Baby Powder” PRODUCT as a symbol of “freshness” and “comfort,” eliminating friction on the skin, absorbing “excess wetness” to keep skin feeling dry and comfortable, and “clinically proven gentle and mild.”

33. Although the packaging and labels on the PRODUCTS have changed overtime, the core message has been the same: that people can safely use the PRODUCTS on their bodies.

34. At all relevant times, Defendants Publix, Eckerd, and CVS, at the direction of the Johnson & Johnson Defendants, shipped, distributed, and sold the PRODUCTS.

35. At all relevant times, the Defendants have known of the asbestos contamination of talc, including the asbestos contamination of the PRODUCTS.

- a. 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 probably 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.” L.J. Cralley et al., *Fibrous and Mineral Content of Cosmetic Talcum Product*, 29 *AM Industrial Hygiene Associ. J.* 350-354 (1968).
- b. 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." Arthur Rohl, et al., Consumer talcums and powders: mineral and chemical characterization. 2 *J Toxicol Environ Health* 255-284 (1976).

36. After 1976, Defendants' internal testing and published literature showed the presence of asbestos in the PRODUCTS. Further testing of talc used for the PRODUCTS has also shown the presence of asbestos.

37. Individually and collectively, Defendants represented to national and international regulatory bodies, the medical and scientific community and consumers that asbestos had been eliminated and removed from its PRODUCTS.

38. Asbestos, asbestiform talc, talc fibers (fibrous talc), asbestos, asbestiform fibers, and/or asbestiform particulates were not removed from the PRODUCTS manufactured, distributed, and sold by Defendants to consumers, including specifically ALBERTO CASARETTO, for decades.

PLAINTIFF ALBERTO CASARETTO'S USE OF THE PRODUCTS

39. Plaintiff began using the PRODUCTS on his body in the late 1960s and continued to use them on a consistent, daily basis until approximately April 2018. Plaintiff used the PRODUCTS, and accordingly was regularly exposed to asbestos via inhalation, at his residential addresses, including in Fort Lauderdale, Florida. *See* Exhibit A (Amended Sworn Information Form and Exposure Sheet).

40. Plaintiff purchased the PRODUCTS on a regular basis from Broward County, Florida retail stores owned and operated by Defendant Publix.

41. Plaintiff purchased the PRODUCTS on a regular basis from Broward County, Florida retail stores owned and operated by Defendant Eckerd.

42. Plaintiff purchased the PRODUCTS on a regular basis from Broward County, Florida retail stores owned and operated by Defendant CVS.

43. Plaintiff purchased and used Defendants' PRODUCTS in an intended and anticipated manner, while unaware of the dangerous properties of the PRODUCTS, including the dangerous properties of talc and the asbestos contamination of the PRODUCTS.

44. Plaintiff's use of the PRODUCTS consistently and over decades exposed him to non-asbestiform talc, fibrous talc, asbestos, asbestiform fibers, and/or asbestiform particulates via inhalation.

45. Plaintiff was diagnosed with malignant pleural mesothelioma on October 30, 2017.

46. Plaintiff had no knowledge of the cause in fact of his injury, nor did he have any evidence of wrongdoing on the part of Defendants, until April 2018.

COUNT I: STRICT LIABILITY
(Against the Johnson & Johnson Defendants)

47. Plaintiffs incorporate by reference paragraphs 1 through 46 above as if set forth fully herein.

48. At all relevant times, the Johnson & Johnson Defendants, their predecessors in interest and/or their alter egos are or were engaged in the business of selling, supplying, wholesaling, labeling, packaging, and/or distributing consumer Products containing talc, including the PRODUCTS, to the public.

49. The PRODUCTS were designed, manufactured, distributed, and/or sold by the Johnson & Johnson Defendants and were used by the Plaintiff repeatedly throughout his lifetime for their intended purposes and in a manner reasonably foreseeable to the Johnson & Johnson Defendants.

50. The Johnson & Johnson Defendants manufactured, supplied, sold, distributed, and/or otherwise placed or caused to be placed into the stream of commerce their asbestos-containing PRODUCTS.

51. Plaintiff used and was exposed to asbestos in the Johnson & Johnson Defendants' PRODUCTS when, in the ordinary, intended, anticipated and expected manner and course of such use, the asbestos within the Products was released into the air, causing the Plaintiff's exposure via inhalation and, in turn, causing his mesothelioma.

52. At the time the defendants herein designed, manufactured, distributed, supplied, and/or sold the PRODUCTS, the Products were expected to and did reach the Plaintiff without substantial change in their condition.

53. The PRODUCTS were defective and unreasonably dangerous at the time that they were manufactured and distributed and at the time Plaintiff was exposed to them. Said defects in the PRODUCTS include, but are not limited to:

- a. Contamination with asbestos, a known carcinogen;
- b. The presence in the PRODUCTS of asbestiform talc, asbestos, asbestiform fibers or other carcinogenic materials;
- c. The PRODUCTS were designed and manufactured in a manner which caused them to contain and subsequently release asbestos, asbestiform talc, and/or asbestiform fibers into the inhalable environment during ordinary and anticipated use;
- d. Lack of sufficient warnings to advise users of the hazards presented due to the presence therein of asbestos, asbestiform fibers, and asbestiform talc or due to the release of said carcinogens during ordinary use;

- e. The PRODUCTS failed to perform as safely as an ordinary consumer would expect when used as intended or in a manner reasonably foreseeable by the Johnson & Johnson Defendants;
- f. The risk of danger in the PRODUCTS' design outweighed the benefits obtained with the use of the Products and reasonable alternatives to contaminated talc were available, either immediately or through use of reasonable efforts;
- g. The PRODUCTS were in a condition different from their intended design, failed to perform as safely as the intended design would have performed, and reached the Plaintiff without substantial change affecting that condition;
- h. Safer designs were available for use as cosmetic body powder when Defendants' PRODUCTS were defectively manufactured due to contamination with asbestos, asbestiform talc, and/or asbestiform fibers.

54. As a direct and proximate result of the defects described above, the Plaintiff, Alberto Casaretto, developed pleural mesothelioma and was seriously and severely injured in and about the body and thereby rendered sick, sore, lame, and otherwise disabled or, in the alternative, the injuries aforesaid thereby caused or contributed to cause an aggravation of a previous existing defect or infirmity; and as a direct result thereof, the Plaintiff, Alberto Casaretto, has in the past suffered and will in the future suffer great pain and anguish of body and mind, and loss of capacity for the enjoyment of life, all of which conditions are permanent or continuing in nature.

55. As a further direct and proximate result of the defects described above, the Plaintiff, Alberto Casaretto, has in the past undergone and will in the future undergo medical care and treatment and has in the past incurred and will in the future incur medical bills and

expenses attendant to the injuries, as aforesaid.

56. As a further direct and proximate result of the defects described above, Plaintiff Irene Casaretto has been deprived of the affection, solace, care, comfort, companionship, conjugal life, fellowship, society, and assistance of her husband, Alberto Casaretto.

WHEREFORE, Plaintiffs Alberto Casaretto and Irene Casaretto demand judgment against each of the Defendants, JOHNSON & JOHNSON, INC., and JOHNSON & JOHNSON CONSUMER, INC. f/k/a JOHNSON & JOHNSON CONSUMER COMPANIES, INC., in an amount in excess of fifteen thousand dollars (\$15,000.00), trial by jury of all issues so triable in this cause, and any other and further relief as the Court deems just and proper.

COUNT II – NEGLIGENCE

(Against the Johnson & Johnson Defendants)

57. Plaintiffs incorporate by reference paragraphs 1 through 46 above as if set forth fully herein.

58. At all material times, the Johnson & Johnson Defendants had a duty to design, manufacture, test, inspect, assemble, label, distribute, and sell the PRODUCTS in such a manner that the PRODUCTS would be safe and not pose an unreasonable risk of harm to the life or safety of the consuming public, including Plaintiff, when the PRODUCTS were used in a foreseeable manner.

59. At all material times, the Johnson & Johnson Defendants owed a duty of reasonable care to convey to consumers, including Plaintiff, fair and reasonable warning of the dangerous characteristics of the PRODUCTS so that users would have fair and adequate notice of the possible consequences of using the PRODUCTS.

60. At all material times, the Johnson & Johnson Defendants knew, or in the

exercise of ordinary care should have known, that their PRODUCTS contained or were contaminated with carcinogens, including asbestos.

61. At all material times, the Johnson & Johnson Defendants knew, or in the exercise of ordinary care should have known, that dust containing asbestos, asbestiform fibers, fibrous talc, and/or asbestiform talc produced by the PRODUCTS in levels invisible to the naked eye and inhaled during the course of ordinary and foreseeable use can and do cause terminal illnesses including malignant mesothelioma.

62. The Johnson & Johnson Defendants breached their duties by negligently designing, manufacturing, testing, inspecting, assembling, packaging, failing to warn, distributing, and selling the PRODUCTS, as follows:

- a. Defendants failed to test, manufacture, and supply the PRODUCTS in a manner which would ensure that the PRODUCTS were free of carcinogens, including asbestos;
- b. Defendants failed to adopt and employ a feasible and safer alternative design for the PRODUCTS, including by replacing talcum powder with cornstarch;
- c. Defendants failed to adequately warn Plaintiff that use of and exposure to the PRODUCTS could be injurious to his health and could cause mesothelioma;
- d. Defendants failed to provide Plaintiff with necessary information regarding how to protect himself from asbestos, asbestiform fibers, and/or asbestiform talc in connection with the ordinary use of the PRODUCTS, including safe handling and use, appropriate clothing and equipment, and other protective measures;
- e. Defendants failed to take reasonable steps to provide individuals with information regarding the danger of exposure to asbestos, asbestiform fibers,

and/or asbestiform talc in connection with the PRODUCTS when those Products were being used by others;

- f. Defendants failed to provide warnings to Plaintiff regarding the danger of past exposures to asbestos, asbestiform fibers, and/or asbestiform talc in connection with the use of the PRODUCTS as additional information regarding the dangers of asbestos became available to them;
- g. Defendants failed to exercise reasonable care to develop, publish, adopt and disseminate safe methods of handling or avoiding asbestos, asbestiform fibers, and/or asbestiform talc containing materials in connection with their PRODUCTS;
- h. Defendants failed to use reasonable care to ensure that their asbestos-, asbestiform fibers-, and/or asbestiform talc-contaminated PRODUCTS were only distributed to entities and individuals who had been sufficiently trained in their safe use;
- i. Defendants failed to provide to the Plaintiffs and the public the information that they provided to their own employees regarding the hazards of asbestos, asbestiform fibers, and asbestiform talc in the PRODUCTS;
- j. Defendants failed to adequately test the PRODUCTS and/or failed to disseminate the results of tests that they did conduct;

63. As a direct and proximate result of the negligence described above, the Plaintiff, Alberto Casaretto, developed pleural mesothelioma and was seriously and severely injured in and about the body and thereby rendered sick, sore, lame, and otherwise disabled or, in the alternative, the injuries aforesaid thereby caused or contributed to cause an aggravation

of a previous existing defect or infirmity; and as a direct result thereof, the Plaintiff, Alberto Casaretto, has in the past suffered and will in the future suffer great pain and anguish of body and mind, and loss of capacity for the enjoyment of life, all of which conditions are permanent or continuing in nature.

64. As a further direct and proximate result of the negligence described above, the Plaintiff, Alberto Casaretto, has in the past undergone and will in the future undergo medical care and treatment and has in the past incurred and will in the future incur medical bills and expenses attendant to the injuries, as aforesaid.

65. As a further direct and proximate result of the negligence described above, Plaintiff Irene Casaretto has been deprived of the affection, solace, care, comfort, companionship, conjugal life, fellowship, society, and assistance of her husband, Alberto Casaretto.

WHEREFORE, Plaintiffs Alberto Casaretto and Irene Casaretto demand judgment against each of the Defendants, JOHNSON & JOHNSON, INC., and JOHNSON & JOHNSON CONSUMER, INC. f/k/a JOHNSON & JOHNSON CONSUMER COMPANIES, INC., in an amount in excess of fifteen thousand dollars (\$15,000.00), trial by jury of all issues so triable in this cause, and any other and further relief as the Court deems just and proper.

COUNT III – NEGLIGENCE

(Against CVS HEALTH CORPORATION, PUBLIX SUPER MARKETS, INC., and ECKERD CORPORATION OF FLORIDA, INC.)

66. Plaintiffs incorporate by reference paragraphs 1 through 46 above as if set forth fully herein.

67. At all material times, CVS, Eckerd, and Publix owed a duty to supply, test,

inspect, label, distribute, and sell the PRODUCTS in such a manner that the PRODUCTS would be safe and not pose an unreasonable risk of harm to the life or safety of the consuming public, including Plaintiff, when the PRODUCTS were used in a foreseeable manner.

68. At all material times, CVS, Eckerd, and Publix owed a duty of reasonable care to convey to consumers, including Plaintiff, fair and reasonable warning of the dangerous characteristics of the PRODUCTS so that users would have fair and adequate notice of the possible consequences of using the PRODUCTS.

69. At all material times, CVS, Eckerd, and Publix knew, or in the exercise of ordinary care should have known, that the PRODUCTS contained or were contaminated with carcinogens, including asbestos, fibrous talc, asbestiform fibers and/or asbestiform particulates.

70. At all material times, CVS, Eckerd, and Publix knew, or in the exercise of ordinary care should have known, that the PRODUCTS were unreasonably dangerous and that the PRODUCTS could and would reach consumers without substantial change in their condition.

71. At all material times, CVS, Eckerd, and Publix knew, or in the exercise of ordinary care should have known, that dust containing asbestos, asbestiform fibers, fibrous talc, and/or asbestiform talc produced by the PRODUCTS in levels invisible to the naked eye and inhaled during ordinary and foreseeable use can and do cause terminal illnesses, including malignant mesothelioma.

72. At all material times, CVS, Eckerd, and Publix knew or should have known that use of the asbestos-, asbestiform fiber-, and asbestiform talc-contaminated PRODUCTS was hazardous to the health of individuals such as Plaintiff Alberto Casaretto.

73. Plaintiff Alberto Casaretto relied upon the skill and knowledge of the

Defendants, each of whom owed a duty to advise users of the PRODUCTS of the hazards associated with such use, including the risk of developing mesothelioma.

74. CVS, Eckerd, and Publix breached their duties by negligently supplying, inspecting, packaging, failing to warn, distributing, and selling the PRODUCTS when the PRODUCTS were not in a reasonably safe condition for foreseeable use, as follows:

- a. By failing to adequately warn the public, including Plaintiff Alberto Casaretto, that use of and exposure to the PRODUCTS could be injurious to his health and could cause mesothelioma;
- b. By failing to provide Plaintiff with necessary information regarding how to protect himself from asbestos, asbestiform fibers, and/or asbestiform talc in connection with the PRODUCTS, including safe handling and use, appropriate clothing and equipment, and other protective measures;
- c. By failing to take reasonable steps to provide individuals with information regarding the danger of exposure to asbestos, asbestiform fibers, and/or asbestiform talc in connection with the PRODUCTS when the PRODUCTS were being used by others;
- d. By failing to provide warnings to Plaintiff regarding the danger of past exposures to asbestos, asbestiform fibers, and/or asbestiform talc in connection with the use of their PRODUCTS as additional information regarding the dangers of asbestos became available to them;
- e. By failing to exercise reasonable care to develop, publish, adopt and disseminate to consumers safe methods of handling asbestos, asbestiform fibers, and/or asbestiform talc containing materials in connection with the PRODUCTS;

- f. By failing to use reasonable care to ensure that the PRODUCTS were only distributed and sold to entities and individuals who had been sufficiently trained in their safe use and warned of their dangerous propensity;
- g. By failing to provide accurate information to the Plaintiff and other members of the public regarding the dangers of asbestos, asbestiform fibers, and/or asbestiform talc in their PRODUCTS by advertising, labeling and otherwise ensuring that the PRODUCTS manufactured, sold, or distributed were safe in their ordinary and foreseeable usage;
- h. By failing to adequately test the Products at any time, including after these Defendants knew or should have known that the PRODUCTS and/or failing to disseminate the results of tests that they did conduct;
- i. By failing to recall the PRODUCTS from the stream of commerce and the marketplace upon learning that PRODUCTS would cause various asbestos-related diseases or to provide any reasonably available alternative means of warning the public;
- j. By continuing to sell the PRODUCTS to consumers, including Plaintiff Alberto Casaretto, after CVS, Eckerd, and Publix knew or should have known that the PRODUCTS posed an unreasonable risk of foreseeable harm to users, including mesothelioma.

75. As a direct and proximate result of the negligence described above, the Plaintiff, Alberto Casaretto, developed pleural mesothelioma and was seriously and severely injured in and about the body and thereby rendered sick, sore, lame, and otherwise disabled or, in the alternative, the injuries aforesaid thereby caused or contributed to cause an aggravation

of a previous existing defect or infirmity; and as a direct result thereof, the Plaintiff, Alberto Casaretto, has in the past suffered and will in the future suffer great pain and anguish of body and mind, and loss of capacity for the enjoyment of life, all of which conditions are permanent or continuing in nature.

76. As a further direct and proximate result of the negligence described above, the Plaintiff, Alberto Casaretto, has in the past undergone and will in the future undergo medical care and treatment and has in the past incurred and will in the future incur medical bills and expenses attendant to the injuries, as aforesaid.

77. As a further direct and proximate result of the negligence described above, Plaintiff Irene Casaretto has been deprived of the affection, solace, care, comfort, companionship, conjugal life, fellowship, society, and assistance of her husband, Alberto Casaretto.

WHEREFORE, Plaintiffs Alberto Casaretto and Irene Casaretto demand judgment against CVS HEALTH CORPORATION, PUBLIX SUPER MARKETS, INC., and ECKERD CORPORATION OF FLORIDA, INC., and each of them, in an amount in excess of fifteen thousand dollars (\$15,000.00), trial by jury of all issues so triable in this cause, and any other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand trial by jury on all issues so triable.

Dated: March 18th, 2019

KELLEY/UUSTAL, PLC

By: /s Catherine C. Darlson
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**Pro hac vice admission pending.*

**IN THE CIRCUIT COURT OF THE 17th JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

ALBERTO CASARETTO and IRENE
CASARETTO,

Plaintiffs,

Case No.: CACE-18-028502

v.

JOHNSON & JOHNSON, INC., JOHNSON
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JOHNSON & JOHNSON CONSUMER
COMPANIES, INC., PUBLIX SUPER
MARKETS, INC., CVS HEALTH CORP., and
ECKERD CORPORATION OF FLORIDA, INC.,

Defendants.

PLAINTIFF'S AMENDED SWORN INFORMATION FORM AND EXPOSURE SHEET

Plaintiff, ALBERTO CASARETTO hereby files the following Sworn Information Form:

1. Pursuant to Florida Statute 774.205(3)(a):

Claimant's Name: **Alberto Casaretto**

Address: **1600 SE 8th St, Ft. Lauderdale, FL 33316**

Date of Birth: **12-31-1943**

Marital Status: **Married**

2. Pursuant to Section 774.205(3)(b), Florida Statutes: Plaintiff Alberto Casaretto will testify to his exposure to products that contained asbestos. Plaintiff Irene Casaretto, who resides at 1600 SE 8th Street, Fort Lauderdale, Florida 33316, is also expected to testify as to Plaintiff Alberto Casaretto's exposure. Non-parties Alberto Casaretto, Jr. who resides at 1600 SE 8th Street, Fort Lauderdale, Florida 33316, and Angela Hernandez, who resides at 231 NW 54th Court, Oakland Park, Florida 33309, are also expected to testify to Plaintiff's exposure.
3. Plaintiff is a non-smoker pursuant to Section 775.203, Florida Statutes.

4. Although Plaintiff anticipates that the exposure(s) alleged herein may change based upon discovery, in an effort to comply with the requirements of Florida Statute 774.205(3)(c), Plaintiff states that to the best of his knowledge and recollection, he may have used Johnson's Baby Powder and accordingly been exposed at the following locations, which are described to the best of Plaintiff's recollection:

- a. Fall River, Massachusetts;
- b. Allen Park, Michigan;
- c. Brookline, Massachusetts;
- d. Mercer Island, Washington;
- e. University Tower, Salt Lake City, Utah;
- f. Seattle, Washington;
- g. 1425 SE 14th Street, Fort Lauderdale, Florida;
- h. 616 Isle of Palms, Fort Lauderdale, Florida;
- i. 1600 SE 8th Street, Fort Lauderdale, Florida;
- j. 186 San Joaquin Road, Mountain Village, Colorado.

5. Although Plaintiff anticipates that the exposure(s) alleged herein may change based upon discovery, in an effort to comply with the requirements of Florida Statute 774.205(3)(d), Plaintiff states that he may have been exposed during the following approximate periods of time to asbestos from each of the following products at the following locations:

a. Fall River, Massachusetts:

Plaintiff was exposed on a daily basis to asbestos, asbestiform fibers, asbestiform talc, and asbestiform particulates found in Johnson's Baby Powder, Shower to Shower, or

Johnson & Johnson talcum powder at this location from approximately August 1, 1969 until September 30, 1969.

b. Allen Park, Michigan:

Plaintiff was exposed on a daily basis to asbestos, asbestiform fibers, asbestiform talc, and asbestiform particulates found in Johnson's Baby Powder, Shower to Shower, or Johnson & Johnson talcum powder at this location from approximately October 1, 1969 until June 30, 1970.

c. Brookline, Massachusetts:

Plaintiff was exposed on a daily basis to asbestos, asbestiform fibers, asbestiform talc, and asbestiform particulates found in Johnson's Baby Powder, Shower to Shower, or Johnson & Johnson talcum powder at this location from approximately July 1, 1970 until June 30, 1971

d. Mercer Island, Washington:

Plaintiff was exposed on a daily basis to asbestos, asbestiform fibers, asbestiform talc, and asbestiform particulates found in Johnson's Baby Powder, Shower to Shower, or Johnson & Johnson talcum powder at this location from approximately July 1, 1971 until December 31, 1972.

e. University Tower, Salt Lake City, Utah:

Plaintiff was exposed on a daily basis to asbestos, asbestiform fibers, asbestiform talc, and asbestiform particulates found in Johnson's Baby Powder, Shower to Shower, or Johnson & Johnson talcum powder at this location from approximately January 1, 1973 until March 31, 1973.

f. Seattle, Washington:

Plaintiff was exposed on a daily basis to asbestos, asbestiform fibers, asbestiform talc, and asbestiform particulates found in Johnson's Baby Powder, Shower to Shower, or Johnson & Johnson talcum powder at this location from approximately April 1, 1973 until June 30, 1974.

g. 1425 SE 14th Street, Fort Lauderdale, Florida:

Plaintiff was exposed on a daily basis to asbestos, asbestiform fibers, asbestiform talc, and asbestiform particulates found in Johnson's Baby Powder, Shower to Shower, or Johnson & Johnson talcum powder at this location from approximately July 1, 1974 to September 30, 1975.

h. 616 Isle of Palms, Fort Lauderdale, Florida:

Plaintiff was exposed on a daily basis to asbestos, asbestiform fibers, asbestiform talc, and asbestiform particulates found in Johnson's Baby Powder or Johnson & Johnson talcum powder at this location from approximately October 1, 1975 to June 1, 2002.

i. 1600 SE 8th Street, Fort Lauderdale, Florida:

Plaintiff was exposed on a daily basis to asbestos, asbestiform fibers, asbestiform talc, and asbestiform particulates found in Johnson's Baby Powder or Johnson & Johnson talcum powder at this location from approximately September 1, 2002 to April 5, 2018.

j. 186 San Joaquin Road, Mountain Village, Colorado:

Plaintiff was exposed on a daily basis to asbestos, asbestiform fibers, asbestiform talc, and asbestiform particulates found in Johnson's Baby Powder, Shower to Shower, or Johnson & Johnson talcum powder at this location from approximately December 2,

1999 to January 31, 2007 (approximately 4-6 months of each year were spent at this address).

6. Pursuant to Florida Statute 774.205(3)(e). Plaintiff was employed by:

a. Not applicable.

7. Pursuant to Florida Statute 774.205(3)(f): **Mesothelioma.**

8. Pursuant to Florida Statute 774.205(3)(g): **See attached Exhibit A (pathology reports).**

9. Pursuant to Florida Statute 774.207(2), Plaintiff states that, as of the filing of his Complaint, he has not received nor is pending to receive collateral source payments and/or settlements pursuant to his asbestos-related claims. **See attached Exhibit B (collateral source report).**

I, ALBERTO CASARETTO, swear or affirm that the foregoing information is true and correct based on my personal knowledge and information made available to me.

SIGNATURE: _____

PRINTED NAME: _____

ALBERTO CASARETTO MD

State of Florida)

: SS

County of Broward)

BEFORE ME, the undersigned authority, personally appeared ALBERTO CASARETTO, being personally known to me or who produced drivers license as identification, who after being duly sworn, executed the foregoing Plaintiff's Amended Sworn Information Form and Exposure Sheet, and acknowledge before me that he executed same for the purposed therein expressed.

I have hereunto set my hand and affixed my official seal this 8 day of March, 2018.



Madison Wheeler
Commission # GG201446
Expires: March 28, 2022
Bonded thru Aaron Notary

Madison Wheeler
Notary Public Signature

Madison Wheeler
Notary Public Printed Name

My commission expires: March 28, 2022



EXHIBIT A

Casaretto, Alberto
MRN: 6-279-090
DOB: 12/31/1943, Sex: M

Documents, Notes & Images

Dates Searched 12/31/1943 to 12/7/2018



Pathology Review Outside Material

APCC

PATIENT NAME CASARETTO, ALBERTO A				CASE NUMBER CR-17-60684	ORDER NUMBER C125037420
PATIENT ID 6279090	DATE OF BIRTH 12/31/1943	AGE 73 Y	SEX Male	REQUESTED BY WILLIAM PAUL HOLLAND	
COLLECTED 10/25/2017, 14:16	RECEIVED 10/25/2017, 14:16	REPORTED 10/26/2017, 16:57			
The collected, received, and reported dates and times on the report are in the time zone of the performing location.					
GO05S GONDA - DESK 5 SOUTH		SUBMITTED BY Broward Health Medical Center 1600 South Andrews Avenue			
Rochester MN 55905		Fort Lauderdale FL 33316- US			

INTERPRETATION

FINAL DIAGNOSIS

- A. Pleural fluid, cytology and cell block (BC-12-0000819, 6/11/2012): Negative for malignancy.
- B. Lymph node, lung and pleura, biopsies (BS-12-0005699, 6/14/2012):
- A. Aortopulmonary window lymph node--Benign lymph node with anthracosis, negative for tumor.
 - B. Left upper lobe wedge (slides B1 and B3)--Benign lung parenchyma with chronic bronchiolitis.
 - C. Lung, posterior upper lobe wedge--Benign lung parenchyma with chronic bronchiolitis.
 - D. Pleura, left, decortication--Atypical mesothelial proliferation, associated with pleural plaque. See Comment.

Seen in consultation with Dr. Marie-Christine Aubry.

COMMENT

Sections of the left pleural decortication predominantly show hyalinized pleural plaques. However, there are rare foci of atypical mesothelial proliferation, where the mesothelial cells increase in number with depth, show focal architectural complexity, and approach the underlying chest wall fat. However, frankly invasive growth or tumefactive nodules are not appreciated based on H&E examination of this sample.

- A. Outside slide(s) reviewed.
- B. Outside slide(s) reviewed.

REPORT ELECTRONICALLY SIGNED BY

Jennifer M. Boland Froemming, M.D. 3-5781

I verify that I have examined all relevant slides/materials for the specimen (s) and rendered or confirmed the diagnosis.

Seen in consultation with:
Marie Christine-Aubry, M.D. 5-3911

PATIENT NAME CASARETTO, ALBERTO A

CR-17-60684

Page 1 of 2



Casaretto, Alberto
MRN: 6-279-090
DOB: 12/31/1943, Sex: M

Documents, Notes & Images

Dates Searched 12/31/1943 to 12/7/2018

PATIENT NAME	CASARETTO, ALBERTO A	CASE NUMBER	CR-17-60684
PATIENT ID	6279090	ORDER NUMBER	C125037420

MATERIAL RECEIVED

- A, BC-12-0000819: Left pleural fluid
2 stained slides
B, BS-12-0005699: Aortopulmonary node, left and right lung, left pleura
8 stained slides

CODE	LABORATORY	ADDRESS
MCR	Mayo Clinic Laboratories - Rochester Main Campus	200 First Street SW Rochester, MN 55905

Report times for Laboratory Name performed tests are CST/CDT.
The collected, received, and reported dates and times on the report are in the time zone of the performing location.

PATIENT NAME	CASARETTO, ALBERTO A	CR-17-60684
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Page 2 of 2



Casaretto, Alberto
MRN: 6-279-090
DOB: 12/31/1943, Sex: M

Documents, Notes & Images

Dates Searched 12/31/1943 to 12/7/2018



Cytology Fine Needle Aspiration

CTFNA

PATIENT NAME CASARETTO, ALBERTO A				CASE NUMBER NR-17-53268	ORDER NUMBER C127017129
PATIENT ID 6279090	DATE OF BIRTH 12/31/1943	AGE 73 Y	SEX Male	REQUESTED BY WILLIAM PAUL HOLLAND	
COLLECTED 10/27/2017, 09:53	RECEIVED 10/27/2017, 10:27	REPORTED 10/30/2017, 17:26			
The collected, received, and reported dates and times on the report are in the time zone of the performing location.					
CH02 CHARLTON - DESK 2					
Rochester MN 55905					

INTERPRETATION

A. Soft Tissue, Left chest wall mass, ultrasound guided fine needle aspiration (smears/core biopsy): Positive for malignancy. Malignant mesothelioma, epithelioid type.

Immunoperoxidase studies were performed on paraffin sections of the block A1 using antibodies directed against the following antigens: WT1, D2-40, MOC31, TTF1 (SPT24), calretinin, BerEP4, and BAP1. Cells of interest are immunoreactive for WT1, D2-40, MOC31, calretinin, and BerEP4 and non-reactive for TTF1 (SPT24) and BAP1 (loss of expression), supporting the above diagnosis.

PARTICIPATED IN THE INTERPRETATION

Hee Eun Lee, M.D., Ph.D.-Pathology Resident

REPORT ELECTRONICALLY SIGNED BY

Amy C. Clayton, M.D. 4-6342

I verify that I have examined all relevant slides/materials for the specimen (s) and rendered or confirmed the diagnosis.

Seen in consultation with: Marie-Christine Aubry, M.D. 5-3911

GROSS DESCRIPTION

Received 3 alcohol-fixed smears and tissue.

Additionally, received in formalin labeled with the patient's name and medical record number "6279090" and labeled as "Left chest wall mass-chest soft tissue guided biopsy (US)" are three pale tan-pink soft tissue cores, ranging from 1.1-1.5 cm in length. Specimens are submitted en toto in cassette A1. Grossed by AJG.

SOURCE

A. Soft Tissue, Left chest wall mass, ultrasound guided fine needle aspiration

DISCLAIMER

This test was developed and its performance characteristics determined by Mayo Clinic in a manner consistent with CLIA requirements. This test has not been cleared or approved by the U.S. Food and Drug Administration.

PATIENT NAME CASARETTO, ALBERTO A

NR-17-53268

Page 1 of 2



Casaretto, Alberto
MRN: 6-279-090
DOB: 12/31/1943, Sex: M

Documents, Notes & Images

Dates Searched 12/31/1943 to 12/7/2018

PATIENT NAME	CASARETTO, ALBERTO A	CASE NUMBER	NR-17-53268
PATIENT ID	6279090	ORDER NUMBER	C127017129

CODE	LABORATORY	ADDRESS
MCR	Mayo Clinic Laboratories - Rochester Main Campus	200 First Street SW Rochester , MN 55905

Report times for Laboratory Name performed tests are CST/CDT.

The collected, received, and reported dates and times on the report are in the time zone of the performing location.

PATIENT NAME	CASARETTO, ALBERTO A	NR-17-53268
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Page 2 of 2

**IN THE CIRCUIT COURT OF THE 17th JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

ALBERTO CASARETTO and IRENE
CASARETTO, his wife,

Plaintiffs,

v.

JOHNSON & JOHNSON, INC., JOHNSON
& JOHNSON CONSUMER, INC. f/k/a
JOHNSON & JOHNSON CONSUMER
COMPANIES, INC., IMERY'S TALC
AMERICA, INC. f/k/a LUZENAC
AMERICA, INC., PUBLIX SUPER
MARKETS, INC., CVS HEALTH
CORPORATION as successor in interest to
ECKERD DRUGS OF FLORIDA.

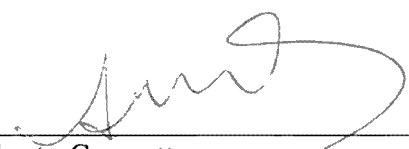
Defendants.

Case No.:

JURY TRIAL DEMANDED

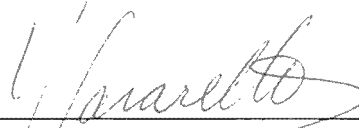
COLLATERAL SOURCE REPORT PURSUANT TO FL STAT. § 744.207(2)

I, Alberto Casaretto, have not received any payments from collateral sources based on this claim.



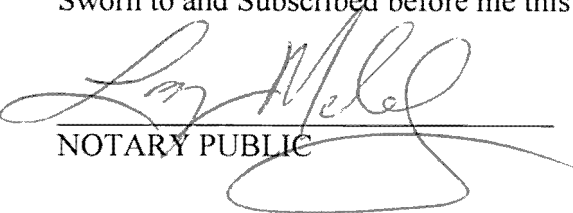
Alberto Casaretto
1600 SE 8th St, Ft. Lauderdale, FL 33316

I, Irene Casaretto, have not received any payments from collateral sources based on this claim.



Irene Casaretto
1600 SE 8th St, Ft. Lauderdale, FL 33316

Sworn to and Subscribed before me this 12 day of Dec., 2018



NOTARY PUBLIC

