

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)

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<p>In Re:   <b>LTL MANAGEMENT, LLC,<sup>1</sup></b>                   Debtor.</p>	<p>Chapter 11                   Case No.: 21-30589 (MBK)                   Honorable Michael B. Kaplan</p>
<p>In Re:   <b>LTL MANAGEMENT, LLC,</b>                   Plaintiff,   <b>THOSE PARTIES LISTED ON                  APPENDIX A TO COMPLAINT AND                  JOHN AND JANE DOES 1-1000,</b>                   Defendants.</p>	<p>Adv. Pro. No. 21-03032 (MBK)</p>

**REPLY IN FURTHER SUPPORT OF THE OFFICIAL COMMITTEE  
 OF TALC CLAIMANTS' STATEMENT REQUESTING  
 MODIFICATION OF THE PI ORDER**

The Official Committee of Talc Claimants (the “TCC”) in the above captioned case (the “Case”) and adversary proceeding (“Adversary Proceeding”), by and through its undersigned

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<sup>1</sup> The last four digits of the Debtor's taxpayer identification number are 6622. The Debtor's address is 501 George Street, New Brunswick, New Jersey 08933.

counsel, hereby respectfully submits this Reply in Further Support of Its Statement Requesting Modification of the PI Order (the “Reply”).<sup>2</sup> The Reply, first and foremost, responds directly to the remarks that the Court made on the record during the hearing on July 6, 2022. The Reply also rebuts various objections asserted by the Debtor in the Debtor’s Response to Statements and Objections Regarding Continuance of the Preliminary Injunction [Main Dkt. No. 2631] (the “Debtor’s Response”).

### **INTRODUCTION**

1. The TCC appreciates the Court’s sharing of its objectives for the upcoming hearing on July 26<sup>th</sup> (and beyond), and, lest there be any doubt, has fully understood all along the Court’s mandate to the parties following its denial of the TCC’s motion to dismiss and granting of stay protection to the Debtor’s affiliates and commercial partners: The Court would like to see, and facilitate, the parties’ development of a consensual plan of reorganization, and expects the discussion on the 26<sup>th</sup> to focus on “how and why modifying the injunction and stay would further this goal.” [7-6-22 Tr. 6:23-25.] For the reasons further discussed below, the TCC firmly believes that carving out a small segment of cases from the PI Order (not the full universe of 90 cases previously submitted by the TCC, but a small subset thereof), would – either alone or in conjunction with appointment of an F.R.E. 706 expert – advance the case toward a consensual plan.

2. The Debtor has openly (and repeatedly) identified the single largest sticking point to reaching consensus on a plan: On the one hand, any such plan would be designed to compensate the tort claimants who overwhelmingly comprise the creditors in the Case; on the other hand, the

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<sup>2</sup> Capitalized terms not defined herein have the meanings ascribed to them in the Statement of the Official Committee of Talc Claimants in Support of the Court’s Modifying Upon Revisiting of the PI Order [Main Dkt. No. 2566] (the “TCC’s Initial Statement”).

Debtor vehemently denies that it has *any* liability to such claimants entitling them to any compensation. The Debtor maintains that recent scientific studies and publications validate its position. Thus, the Debtor has been vociferous that *any* amount J&J might deign to contribute to fund a plan would be more than the claimants deserve – in effect, a payment of ransom, not due compensation. Conversely, the TCC rejects the Debtor’s position and believes, just as fervently, that J&J’s talcum powder products cause cancer and have harmed, fatally in many cases, tens of thousands of individuals. Accordingly, the TCC firmly believes that claimants are legally entitled to a substantial amount of just compensation. With such diametrically opposed positions, reaching consensus on a plan was bound, and has proven, to be extraordinarily challenging.

3. The best way to resolve this sticking point and help move the case to a consensual plan, the TCC respectfully submits, is to put *both* sides to a test of their convictions. The test would be limited, involving no more than 12 cases total (eight ovarian cancer cases and four mesothelioma cases) in venues across the country that are ready to be tried *now*. Most all of these cases could be tried to judgments before the end of this year, and would have *zero* impact on the Debtor’s assets and estate. The Debtor would not even be party to those cases, and its parent company, J&J, has ample product liability trial counsel unaffiliated with the lead bankruptcy attorneys representing the Debtor. Further, the Debtor could be insulated from any indemnification claims by an order providing that any execution of judgments against any of the defendants in the actions would be stayed pending further order of this Court.

4. Moreover, as the Court observed at the July 6<sup>th</sup> hearing, regardless of whether any plan eventually to be voted upon is consensual or not, the claimants who are eligible to vote are entitled to certain information regarding their claims. Fresh trial results – updated to incorporate

what the Debtor contends have been recent scientific studies and publications – will, either in lieu of or in tandem with the opinions of an F.R.E. 706 expert, provide, or add to, such information.

### ARGUMENT

#### **I. Modification of the PI Order Will Achieve the Court’s Goal of Progressing the Case**

5. While accepting all, or substantially all, of the Debtor’s arguments in finding its bankruptcy filing to be in good faith [Main Dkt. No. 1572] and in granting the Debtor’s request for a sweeping stay and injunction halting tens of thousands of lawsuits against hundreds of non-debtors [Dkt. No. 184], the Court’s expressed inclination nevertheless was to “tak[e] measures in smaller steps” to “ensure that the parties progress in good faith towards mediation and plan formation.” [*Id.*, at p. 54.] Thus, the Court expressly included an important caveat in the PI Opinion (absent from injunctions entered in other Two-Step cases) that the Court will “will revisit continuation of the automatic stay and preliminary injunction” every 120 days. [*Id.*] Three months later, after observing at the May 24<sup>th</sup> omnibus hearing that mediation was “not as far along as” the Court would have liked, the Court put the parties on notice that it would consider whether “there is a small segment of cases that should go forward” as a “creative” way of advancing negotiations. [5-24-22 Tr. 4:1-2, 22-25.]

6. While what has transpired in negotiations is, and will remain, confidential, the reasons for the lack of progress toward a consensual plan are not closeted. In fact, the Debtor has openly announced them. In the Debtor’s Statement on Proposed Next Steps in Chapter 11 Case [Main Dkt. No. 2473] (the “Debtor’s Status Report”) (filed, in part, in response to the Court’s observations on May 24), the Debtor stated that “*the* central issue in this case” is *not* the amount of the Debtor’s liabilities, but “the *extent* of the Debtor’s liability for current and future ovarian cancer and mesothelioma claims *allegedly* caused by exposure to talcum powder products.” [*Id.*, at p. 3 (emphasis added).]

7. Despite *Daubert* opinions from the MDL and State Courts that sufficient scientific evidence exists to allow juries to decide issues of liability, the Debtor has continued to make consistent, unrelenting and thunderous declarations throughout this Case that: J&J's talcum powder products are completely safe; J&J's talcum powder products have never harmed *any* of the claimants; the claimants are entitled to *nothing* from the Debtor (or J&J); and any claims to the contrary are based on "junk science" and outright manipulation by the plaintiffs' bar.

8. The Informational Brief filed by the Debtor on day one of the Case set the tone. Under headings such as "Decades of Studies and Testing Showing that J&J's/Old JJCI's Talcum Powder Products Are Safe," "The Plaintiff Bar's Attempt to Create a New Mass Tort in Talc," and "Prejudicial Tactics Employed by the Plaintiff Bar in Cosmetic Talc Litigation," the Debtor devoted over *100 pages* to a full-throated defense of its products' safety and to attacking the plaintiffs' bar (and by extension, the claimants themselves). [Main Dkt. No. 3, at pp. 8-116.]

9. The Debtor's tone since then has not modulated a bit. When asked during the trial on the motion to dismiss whether "Johnson & Johnson's view is that the talc claimant's claims are worth zero," the Debtor's representative, Mr. Kim, unequivocally answered: "yes . . . our position would be that the talc claimant's claims are worth zero." [2-16-22 a.m. Tr. 21:7-10.] In his closing on the motion to dismiss, the Debtor's counsel echoed the point, summing up: "And finally, what makes this circumstance and this litigation so unique is that Johnson & Johnson, JJCI, and LTL vehemently and consistently dispute causation. Your Honor, we believe this product is safe. We believe this product did not cause any of the harms that are claimed here." [2-18-22 Tr. 38:22-39:1.] The Debtor's Status Report also is dripping with the Debtor's denial of liability to the claimants, as just one example citing a bankruptcy case "estimating at zero [certain] claims because they failed 'as a matter of law.'" [Main Dkt. No. 2473, at p. 7, n. 2.] And the Debtor's

Memorandum on the Need for Estimation, filed days ago, follows the same refrain, denying any liability and deriding the cases brought to date. [See Main Dkt. No. 2726, at ¶¶ 17-30.]

10. Obviously, it would be a major obstacle in any bankruptcy case to achieve a consensual plan of reorganization under which the debtor is to make distributions to its creditors while the debtor vehemently denies the existence of all but a select few creditors. This Case is no exception.

11. The TCC respectfully submits that the best way to overcome this obstacle is to put *both sides'* convictions to a test (and *both sides* to their proof) in a small segment of cases to be tried around the country immediately.

12. Exhibit 1 hereto contains a subset of the cases previously identified in Exhibit A to the TCC's Initial Statement.<sup>3</sup> It consists of a total of 12 cases (eight ovarian cancer and four mesothelioma cases), from seven different states plus the federal MDL, that (with two exceptions<sup>4</sup>) are "fully worked up," *i.e.*, cases that are ready to be tried *now*. Moreover, based on information provided to it by claimants' counsel, the TCC believes that the cases on Exhibit 1, if carved out from the PI Order, would be placed on their respective courts' trial calendars promptly and would

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<sup>3</sup> Exhibit 1 also highlights the personal stories of the individual claimants, whose last wish in life was to have the illnesses that qualified these individuals to commence litigation against J&J.

<sup>4</sup> The first exception is the Tamara Newsome case, a bellwether case from the MDL. At the May 24<sup>th</sup> omnibus hearing, the Court expressed a particular interest in the MDL bellwether cases as one of the "options for the Court that I'm going to consider" and indicated that it would be contacting Judge Wolfson "to see where we left off." [5-24-22 Tr. 4:21-25.] At the time that the Debtor filed for bankruptcy protection on October 14, 2021, where the cases left off is that the MDL Court had identified six potential cases for a bellwether trial to begin in April 2022 (with plaintiffs to select the case). Defendants' expert reports were due shortly after October 14, when the Debtor notified the MDL Court of the bankruptcy filing and took the position that the MDL was stayed in its entirety. As a consequence, the MDL bellwether cases – unlike nearly all of the other cases on Exhibit 1 – are not yet fully worked up and do require certain additional pre-trial proceedings. It is for that reason that the TCC has included only one bellwether case, which the TCC believes, based on information provided to it by counsel in the MDL, reasonably could be ready for trial within a matter of five months and could be tried in January of next year. The second exception is the Deborah Schultz case, which falls within California's preference status statute due to her declining health and the substantial medical doubt she will survive beyond six months (CCP 36(d)(e)) and, thus, permitting the court set and commence the case (if it is carved out from the PI Order and a motion for preferential treatment is permitted to be filed) for trial to start within 120 days.

be tried to judgment within a matter of months thereafter, with all cases being tried to judgment before the end of this year (with the possible exception of the MDL bellwether case). Exhibit 2 hereto appends scheduling orders and/or other indicia of the trial readiness of certain of the cases at the time the bankruptcy was filed.

13. Below is a brief description of the nature and status each case:

- Estate of Shawn Blaes, Missouri State Court. Ms. Blaes was diagnosed with ovarian cancer (serous) at the age of 48 and later died at the age of 50. The Blaes case was mid-trial when the United States Supreme Court issued its decision regarding personal jurisdiction in *BMS v. Superior Court*, 137 S. Ct. 1773 (2017), and because of the change in the law, the court ordered a mistrial. The case is ready to be set for a new trial date.
- Estate of Diane Brower, State Court of Fulton County, Georgia. Ms. Brower was diagnosed with ovarian cancer (serous) at the age of 62 and later died at the age of 65. The previous trial resulted in a mistrial due to a hung jury (10 of 12 jurors voted in favor of plaintiffs and Georgia state law requires a unanimous jury). The case is ready to be set for a new trial date.
- Estate of Corinne Carrino, Missouri State Court. Ms. Carrino was diagnosed with ovarian cancer (serous) at the age of 51 and later died at the age of 57. An in extremis deposition was taken of the plaintiff, and depositions of treating physicians and experts have been completed. The case is prepared for trial.
- Gayle Emerson, Court of Common Pleas of Philadelphia County, First Judicial District of Pennsylvania, Civil Trial Division. Ms. Emerson was diagnosed with ovarian cancer (serous) at the age of 64 and later died at the age of 68. Depositions of the plaintiff and the treating physicians have been completed, and the case was trial ready on June 6, 2021, but was not set for trial due to the bankruptcy filing.
- Estate of Patricia Matthey, Circuit Court of the Twelfth Judicial Circuit, Sarasota County, Florida. Ms. Matthey was diagnosed with ovarian cancer (serous) at the age of 69 and later died at the age of 72. Fact and expert discovery in the case is complete and the case was scheduled for trial in March 2022.
- Estate of Bernadine Moore, Court of Common Pleas of Philadelphia County, First Judicial District of Pennsylvania, Civil Trial Division. Ms. Moore was diagnosed with ovarian cancer (serous) at the age of 66 and later died at the age of 68. Depositions of the plaintiff and the treating physicians have been completed and the case was trial ready on September 7, 2021, but was not set for trial due to the bankruptcy filing.



- Tamara Newsome, United States District Court, District of New Jersey (MDL). Ms. Newsome was diagnosed with ovarian cancer (endometrioid) at the age of 53. This is a case in the MDL bellwether pool. The plaintiff and treating physicians have been deposed and expert discovery was in process at the time of the bankruptcy filing.
- Deborah Schultz, Superior Court of the State of California, County of Los Angeles. Ms. Schultz was diagnosed with ovarian cancer (serous) at the age of 57. A preference motion under CCP 36(d)(e) is not yet filed due to the PI Order, but if the PI Order preventing its filing is modified, the motion and evidence demonstrating that the case qualifies for a preferential trial setting under CCP 36(d)(e) (*i.e.*, substantial medical doubt of plaintiff's survival beyond six months) will be filed immediately, which will permit the court to set and commence the trial within 120 days.
- Randy Derouen, Superior Court of New Jersey, Middlesex County. Mr. Derouen (a member of the TCC) was diagnosed with peritoneal mesothelioma at the age of 46. His trial date has been set/reset three times (October 25, 2021, January 10, 2021 and February 28, 2022) during the course of this Case.
- Estate of Daniel Doyle, Superior Court of the State of California, Santa Clara County. Mr. Doyle (whose widow is a member of the TCC) was diagnosed with biphasic malignant mesothelioma at the age of 47 and later died at the age of 48. All discovery has been completed, and the case has been set for trial on multiple occasions. The court is ready to assign the case to a trial judge.
- Theresa Garcia, Illinois State Court. Ms. Garcia was diagnosed with Stage 4 mesothelioma at the age of 53 and later died on July 27, 2020. Discovery has concluded and the trial was set to go forward in June 2022.
- Estate of Brandon Whetsel, Missouri State Court. Mr. Whetsel (whose mother is a member of the TCC) was 36 years old when he was diagnosed with peritoneal mesothelioma and later died at the age of 37. Mr. Whetsel, as well as other fact and expert witnesses, were deposed. This case has been scheduled for trial multiple times, including most recently on January 10, 2022.

14. Permitting the foregoing cases to be tried to judgment – especially with all interested parties watching – would advance stalled negotiations. While it is true that either side can discount or rationalize away any result it chooses (as the Debtor has done with every single adverse judgment against J&J to date), the reality is that a string of fresh new trial wins or losses (not just an isolated one or two cases, but a meaningful group) would provide inescapable new data points to be used in negotiations regarding, what the Debtor describes as, “*the central issue in*

this case,” namely “the *extent* of the Debtor’s liability.” [Main Dkt. No. 2473, at p. 3.] Indeed, with the intense spotlight that the media has shone on this Case, even the *risk* to both sides of multiple adverse judgments is bound to budge the parties from any rigid negotiating postures, long before the judgments are entered.

15. Moreover, a fresh set of trial results or settlements would *not* be mere surplusage. The Debtor recently has made that clear. In the Debtor’s Status Report, among the reasons proffered by the Debtor for bifurcated estimation proceedings beginning, in “Phase One,” with a focus on “medical and science evidence,” is that, since the MDL Court’s *Daubert* ruling, “there have been significant developments, including additional studies and publications by health agencies and experts, that further establish the absence of any link between talcum powder products and the development of ovarian cancer or mesothelioma.” [Main Dkt. No. 2473, at p. 10, n. 3.] That is, the Debtor’s position (heavily disputed by the TCC) is that past is *not* prologue – that there have been recent scientific studies and publications casting doubt on the value of any pre-petition judgments and settlements. The *only* appropriate forums in which to test the Debtor’s theory are, respectfully, non-bankruptcy trial courts, not this Court.

16. Even if the prospect of 12 new trials would not alter the negotiating stances of the parties, it would provide, or at least add to, information upon which claimants are entitled to base a vote for a plan. Fresh trial results or settlements – incorporating up-to-the-moment scientific developments – likely would assist voters in determining whether the compensation offered in a plan is preferable to the alternatives. The TCC does not suggest such trial results or settlements would be the *only* information on which claimants would, or should, base their votes. But recent trial success or failures, and/or settlements, would be relevant, and would add to the total mix of information available to voters.

17. Furthermore, the small segment of cases that the TCC requests be allowed to proceed to trial would not – to address, directly, a concern of the Court – unduly burden the trial courts that would be required to preside over such trials. During the July 6<sup>th</sup> omnibus hearing, the Court indicated it was “troubled by a release from the injunction” because “[t]hat would seem to place an undue strain and burden on the courts.” [7-6-22 Tr. 7:5-10.] The TCC respectfully submits that the Court’s concern is unwarranted. Courts overseeing mass tort cases are eagerly setting them down for trial to alleviate the backlog of trials on their dockets created by the pandemic. Indeed, in multiple instances, trial courts overseeing the talc litigations against J&J have inquired of counsel when those cases are ready to be tried, and, at least in one case, has already tentatively schedule a trial. *See, e.g.*, July 14, 2022 Hr’g Transcript in *Doyle v. Imerys Talc America, et al.*, Case No. 18cv3333609 (Sup. Ct. Santa Clara County), attached hereto as Exhibit 3 (indicating that the trial court was prepared to set a trial date for September or October 2022, subject to the lifting of the PI Order, and scheduling a further status conference for September 8, 2022). Additionally, the 12 cases identified on Exhibit 1 are pending in an array of jurisdictions and, thus, no single court would be overburdened by the trials.

18. Lastly, permitting a small segment of cases to proceed to trial does not have to be mutually exclusive from the Court’s retention of an expert under F.R.E. 706.<sup>5</sup> At the July 6<sup>th</sup> omnibus hearing, the Court indicated that it “is considering the appointment of an independent expert under Federal Rule of Evidence 706 to evaluate the respective party positions, and to offer an opinion taking into account a host of factors such as prior settlements, verdicts, liability risks,

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<sup>5</sup> The TCC reserves its right to be heard regarding the scope of any expert appointment the Court is considering pursuant to F.R.E. 706, and respectfully refers the Court to the TCC’s Statement in Opposition to Debtor’s Request for Estimation Under Section 502(c) of the Bankruptcy Code and Statement on Proposed Next Steps in Chapter 11 Case [Main Dkt. No. 2722 at ¶¶ 6, 106-107] for a discussion of the TCC’s views as to appropriate use of expert opinion.

causation and science, or any factors, or limited factors that the expert deems appropriate.” [7-6-22 Tr. 7:21-8:2.] Should the Court determine to do so, the trials to be carved out from the PI Order would proceed in parallel to any work by the expert, and the results would be available to inform (if the expert so chooses) the expert’s opinions. Additionally, fresh trial results or settlements would serve only to supplement, not replace, any expert’s opinions to be disclosed to claimants.

19. For all the foregoing reasons, the TCC respectfully submits that the Court’s instincts in this regard have been right all along: The PI Order should be taken in “smaller steps;” it should be revisited quarterly; in view of the stagnation in the parties’ efforts to develop a consensual plan, it should be modified to permit a “small segment of cases” to proceed; and carving out the cases in Exhibit 1 from the PI Order, so that such cases can be tried to judgment now, would further the Court’s goal of advancing the case to a consensual plan.

## **II. The Debtor’s Opposition to Modifying the PI Order Is Meritless**

20. The Debtor’s various objections to modifying the PI Order in the manner now requested by the TCC, as set forth in the Debtor’s Response, are meritless.

21. Many of the objections are off point altogether, premised on the mistaken belief that the TCC was proposing that all 90 cases previously identified move forward en masse to trial. That was not the case. To the contrary, the TCC explicitly stated in its introduction to the TCC’s Initial Statement that it was “looking forward to discussing with the Court at the [next] omnibus hearing exactly how many, and which, of these cases should proceed.” [TCC’s Initial Statement at p. 4.] Having listened carefully to the Court’s remarks during the July 6<sup>th</sup> omnibus hearing, and for the reasons discussed in Point I above, the TCC now believes that the 12 cases listed in Exhibit 1 reflects the right number and mix of cases to proceed to trial. As such, the Debtor’s objections that the requested modification of the PI Order is “unworkable,” would take “four years to

conclude,” and would pose “insurmountable challenges,” simply miss the mark. [Debtor’s Response ¶¶ 39-46.]

22. The Debtor’s other objections, addressed below, are factually and/or legally erroneous, and do not militate against modifying the PI Order in the manner now requested by the TCC.

**a. The Debtor’s Jurisdictional Objection Is Meritless**

23. The Debtor argues that the Court “lacks jurisdiction to modify the PI Order” in view of the pending appeal before the Third Circuit. [Debtor’s Response ¶¶ 53-59.] That simply is incorrect. The TCC’s instant request is not an attempt to relitigate issues that are now on appeal in the Third Circuit, but rather an effort to ensure that the PI Order is modified to reflect changed circumstances as the Court originally contemplated in expressly providing for revisiting the PI Order quarterly.

24. While it is true that the filing of a notice of appeal is “an event of jurisdictional significance” that “confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal,” *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982), even the Debtor recognizes that such rule is not absolute. [Debtor’s Response ¶¶ 54-55.] To the contrary, as the Debtor has conceded, even in the face of a pending appeal, “lower courts retain some authority to modify an injunction . . . ‘when there has been a change of circumstances’” and to “to preserve the status quo or ‘the integrity of the appeal.’” [Dkt No. 2429<sup>6</sup> ¶ 37 (quoting *Favia v. Ind. Univ. of Pa.*, 7 F.3d 332, 337 (3d Cir. 1993) and *Ortho Pharm. Corp. v. Amgen, Inc.*, 887 F.2d 460, 464 (3d Cir. 1989)).]

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<sup>6</sup> Debtor’s Omnibus Objection to Anthony Hernandez Valadez’s and Audra John’s Motions Seeking Relief from the Preliminary Injunction and Certain Related Relief.

25. Here, changes in circumstances since the Court entered the PI Order in March warrant – indeed, necessitate – that the Court modify the PI Order to allow a total of 12 cases (an infinitesimal fraction of all 38,000+ cases stayed by the PI Order) to proceed to trial. Those changed circumstances include that: The mediation and process of consensual plan formation, in aid of which the PI Order, at least in part, was entered has stalled; the Third Circuit has accepted direct appeal from both the PI Order and the MTD Order, and has granted expedition of each appeal (with oral argument, just yesterday, being tentatively scheduled for September 22, 2022); accordingly, in just a matter of a few months, the cases identified in Exhibit 1 likely would go to trial anyway *if* the Third Circuit were to reverse *either* order; and while negotiations over a consensual plan have stagnated, hundreds of claimants have died, and will continue to die, without being able to witness and participate in the prosecution of their claims that the Debtor (and J&J) vehemently dispute. Under such circumstances, modifying the PI Order to permit 12 cases to proceed to trial – while the more than 38,000+ other pending cases remain on hold and no new cases (save those the Court has lifted or may lift from the stay) are filed – could not possibly be seen as a reconsideration, or revisiting, of the PI Order or an interference with the Third Circuit’s appellate review of the PI Order.

26. The authorities cited by the Debtor are not to the contrary. *None* suggest, let alone hold, that the Court lacks jurisdiction to modify the PI Order in the narrow manner that the TCC requests. *See, e.g., Ortho Pharm. Corp.*, 887 F.2d at 463-64 (holding that a district court had jurisdiction to modify an injunction while it was on appeal and had the authority to impose new requirements to ensure that the original purposes of the injunction would be served); *Venen v. Sweet*, 758 F.2d 117, 120 n.2 (3d Cir. 1985) (affirming that “[a] district court, during the pendency of an appeal is not divested of jurisdiction . . . to modify, restore, or grant injunctions.”); *Sheet*

*Metal Workers' Intern. Ass'n Local 19 v. Herre Bros., Inc.*, 198 F.3d 391, 394 (3d Cir. 1999) (observing that “[e]xceptions to the rule in *Griggs* allow the district court to retain jurisdiction to issue orders staying, modifying, or granting injunctive relief”).<sup>7</sup>

27. In short, the pendency of the Third Circuit appeal presents no bar to the limited modification of the PI Order that the TCC now requests.

**b. The Debtor’s Diversion of Attention and Resources Argument Is Baseless**

28. Invoking the Court’s finding in the PI Opinion that the “the nondebtor Protected Parties and Debtor enjoy such an identity of interests that a lawsuit asserting talc-related claims against the Protected Parties is essentially a suit against Debtor,” the Debtor asserts that its “ability to negotiate a global resolution of all talc-related claims” would be impaired if the PI Order were modified – as if the Debtor were actually one of the defendants that would be sent to trial in the 12 cases. [Debtor’s Response ¶¶ 22-24.] That is not the case. No trial would proceed against the Debtor.

29. Nor does the fact that the Court found an “identity of interest” between the Debtor and J&J, the legal standard which the Court applied, to extend the stay and grant preliminary

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<sup>7</sup> See also *A&M Records, Inc. v. Napster, Inc.*, 284 F.3d 1091, 1098-99 (9th Cir. 2002) (holding that the district court had jurisdiction to modify a preliminary injunction while an appeal was pending in order to ensure the defendant’s compliance therewith and “to continue supervision” of the case); *Meinhold v. United States Dep’t of Def.*, 34 F.3d 1469, 1480 n. 14 (9th Cir.1994) (holding that the district court’s modification of a preliminary injunction during the pendency of an appeal was proper to clarify the injunction and supervise compliance in light of new facts); *MZM Constr. Co., Inc. v. New Jersey Bldg. Laborers’ Statewide Benefit Funds*, 2019 WL 3812889, \*7 (D.N.J. Aug. 14, 2019) (“Relying on Fed. R. Civ. P. 62, the Third Circuit has noted that the district court retains some injunctive powers even during the pendency of an appeal from an injunction. . . . Such relief would seem particularly suited to the context of a preliminary injunction, as injunctions, though appealable, are always subject to modification based on changed circumstances.”) (citing *Ortho*); *New Jersey Sports Prods., Inc. v. Don King Prods., Inc.*, 15 F.Supp.2d 546, 549-50 (D.N.J. 1998) (“[T]he Court pauses to determine whether it retains jurisdiction to clarify the April Injunction in light of Mr. McCall’s appeal of that Order. This Court concludes that it has the authority to clarify its original Order in order to effectuate its purpose.”); *In re G-I Holdings, Inc.*, 568 B.R. 731 (Bankr. D.N.J. 2017) (not even involving a motion to modify an injunction); *In re Whispering Pines Estates, Inc.*, 369 B.R. 752 (B.A.P. 1st Cir. 2007) (not involving modification of injunctive relief to reflect changed circumstances); *In re 710 Long Ridge Rd. Operating Co., II, LLC*, 2014 WL 1648725 (Bankr. D.N.J. Apr. 24, 2014) (addressing “[a]ttempts to relitigate issues where they are on appeal,” not at issue here).

injunctive relief in favor of non-Debtor defendants in 38,000+ talc lawsuits now mean that the Court cannot, and should not, modify that relief to allow 12 of those cases to proceed to trial. As the Court has previously noted, it has the “inherent authority to revisit [its] prior orders.” [Main Dkt. No. 1212, at p. 9.]<sup>8</sup> Indeed, it is well settled in this Circuit that: “A court has the power to revisit prior decisions of its own . . . in any circumstance, although as a rule courts should be loathe to do so in the absence of extraordinary circumstances such as where the initial decision . . . would make a manifest injustice.” *In re Pharm. Benefit Managers Antitrust Litig.* 582 F.3d 432, 439 (3d Cir. 2009) (quoting *Christianson v. Colt Indus. Operating Corp.*, 486 U.S. 800, 816 (1988)). Here, for the reasons set forth in Point II.a, the change in circumstances since entry of the PI Order has been extraordinary, such that maintaining the current *status quo* is manifestly unfair: Claimants sick with ovarian cancer and mesothelioma are dying by the day without having their day in court and while progress on a consensual plan in the bankruptcy is stalled; the limited modification of the PI Order to allow just 12 of the 38,000+ stayed cases to proceed would both give claimants their day in court *and* spark negotiations toward a consensual plan.

30. Nevertheless, and even without regard to any identity of interest, the Debtor still contends that “authorizing the litigation of a claimant-selected segment of cases [against J&J] would only divert the Debtor’s attention and resources from a comprehensive resolution of all current and future talc claims.” [Debtor’s Response ¶ 39.] That is untrue. If the PI Order were modified as requested by the TCC, a total of 12 cases would go to trial, up to (but not beyond) the point of judgment, against J&J – *not* the Debtor. *None* of the Debtor’s seconded representatives (only one of whom, Mr. Kim, has had any prior experience with talc litigation) would be needed (either as witnesses or counsel) at, or to prepare for, the trials. Nor would any of the Debtor’s

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<sup>8</sup> Memorandum Opinion, entered January 20, 2022 regarding the formation of two committees.



funds be needed to defend the trials. Thus, the *only* impact of allowing the requested handful of trials to proceed would be on *non*-debtors; there would be *zero* impact on the Debtor.

31. Moreover, even if any diversion of attention or resources from J&J were within the purview of the Court (which, respectfully, it is not), it is clear – in light of J&J’s virtually endless resources – that any such “diversion” would be negligible. J&J has an army of personnel, in-house counsel and outside counsel, and a vault-full of funds, *both* to try the cases to judgment *and simultaneously* monitor, and participate, as needed, in, this bankruptcy case, in general, and any negotiations over a consensual plan, in particular. Indeed, the Debtor’s “ordinary course professional” filings – comprised of *J&J’s* expansive stable of outside law firms – reveal that J&J employs experienced trial counsel to defend products liability claims across the country. [Dkt. No. 12] Lest there be any doubt, J&J has many different trial counsel that it employs in its talcum products liability cases, *none* of which is either the Debtor’s bankruptcy counsel (Jones Day) or J&J’s bankruptcy counsel (White & Case) in this Case.<sup>9</sup>

32. It also bears noting, in weighing the Debtor’s attack on the fairness of modifying the PI Order, that J&J, by the Debtor’s own account, has saved over a hundred million dollars to date in trial costs as a result of the PI Order. According to the Debtor, “[i]n the months prior to the Petition Date, Old JJCI was paying anywhere from \$10 million to \$20 million in defense costs on a monthly basis.” First Day Declaration of John Kim [Main Case Dkt. No. 5, at ¶40]; *see also* Debtor’s Informational Brief [Main Case, Dkt. No. 3, at p. 6] (Debtor stating that the “deluge of cases has resulted in astronomical costs, with Old JJCI having incurred nearly \$1 billion in defense costs on account of cosmetic talc litigation, nearly all of which has been spent in only the last five

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<sup>9</sup> Such firms include, but are not limited to: Skadden, Arps, Slate, Meagher & Flom LLP; Sidley Austin LLP; Faegre Drinker Biddle & Reath LLP; Orrick, Herrington & Sutcliffe LLP; Proskauer Rose LLP; Blank Rome LLP; King & Spalding LLP; Patterson Belknap Webb & Tyler LLP; Shook, Hardy & Bacon, L.L.P.; and Butler Snow LLP.

years.”). Even if the 12 cases were allowed to proceed to trial, the cost to J&J is far less than the amount that it has saved to date as a result of the PI Order remaining in place for the past nine months.<sup>10</sup> Further, the cost of trying 12 cases pales in comparison to the amount of money that J&J has made while the PI Order has otherwise been in effect.

33. In sum, the Debtor’s objection that modifying the PI Order as the TCC requests would harm the Debtor’s reorganization efforts is utterly baseless.

**c. The Debtor’s Other Objections Should Be Rejected**

34. The Debtor’s other objections to the narrow modification of the PI Order requested by the TCC are no more persuasive:

- The Debtor complains that the cases put forward by the TCC for trial (referring to the original universe of 90 cases) are “cherry-picked.” [Debtor’s Response ¶ 47.] That criticism is empty. The only cherry-picking the TCC has engaged in by putting forward the 12 cases on Exhibit 1 to be carved out from the PI Order is selecting cases (with the exception of one MDL bellwether) that can proceed to trial *now*. Moreover, there is nothing inequitable about permitting the claimants to choose a small handful of cases to proceed to trial. J&J has reaped the benefit of the stay of 38,000+ cases to the detriment of the claimants. Allowing the claimants to choose a mere 12 of those cases to be carved out from the stay cannot be considered any injustice to J&J (or the Debtor). That is especially so when it is J&J, not the claimants, which needs to be convinced that its position is not infallible: The claimants understand any case can be lost; it is J&J that needs to be convinced that not every case can be won.
- The Debtor also suggests that the claimed change in circumstances – namely, the stalling of negotiations over a consensual plan while hundreds of claimants have died during the bankruptcy case – is somehow the fault of the TCC insofar as, according to the Debtor, “the Talc Committee refused to engage in mediation for five of those eight months.” [Debtor’s Response ¶¶ 26-27.] The charge is completely unfounded. The TCC has engaged in the mediation in good faith at all times. Further, its exercise of rights in seeking dismissal and opposing stay protection (considered to be important enough by the Third Circuit for direct appeal) can hardly be considered a bad faith unwillingness to mediate. Moreover, the Debtor’s charge misses the point. As the Debtor itself has declared, the “central issue” preventing consensus on a plan is the fundamental disagreement over J&J’s

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<sup>10</sup> The Debtor is now seeking to *further* expand the scope of the PI Order in favor of non-debtors, including J&J and Old JJCI, to enjoin actions brought by the State of New Mexico and the State of Mississippi. See Adv. Pro. No. 22-01231.

liability to the claimants. That major obstacle would have existed no matter when mediation had commenced, and, as the TCC argues in Point I above, will continue to remain until the current *status quo* is altered by allowing a small segment of cases to proceed to trial.

- The Debtor also complains that allowing *any* subset of the 38,000+ cases to go to trial is inherently unfair because it “would benefit only the claimants in those cases as opposed to [all] talc claimants.” [Debtor’s Response ¶ 30.] To avoid this claimed unfairness, it comes as no surprise, the Debtor asserts that *no* cases should go to trial. The Debtor’s concern for the purported unfairness to 38,000+ claimants whose cases the Debtor sought, and was granted, a stay of litigation is nothing more than crocodile tears. In all events, it is the TCC, not the Debtor, that is entrusted with representing the interests of all claimants. Further, no claimant has come forward to object to the limited modification of the PI Order requested by the TCC. The Debtor’s voicing of objections on claimants’ supposed behalf is transparently self-serving.
- Also self-serving is the Debtor’s complaint that any cases on Exhibit 1 that followed an earlier mistrial (for reasons such as a 12-2 hung jury) are unfair to claimants because it would “giv[e] the applicable claimants the unfair opportunity of a second trial.” [Debtor’s Response ¶ 47.] Again, the objection that no claimant should get a second bite at the apple before all claimants have gotten their first is being asserted by no one other than the Debtor, which does so self-servingly. The objection should be disregarded.

35. The bottom line is that the Debtor has not offered, and cannot offer, *any* valid reason not to modify the PI Order in the narrow and limited manner requested by the TCC.

**Conclusion**

36. For all the foregoing reasons, and those set forth in the TCC’s Initial Statement, the Court, respectfully, should modify the PI Order to permit the cases on Exhibit 1 to proceed to trial through, but not beyond, judgment.

Dated: July 19, 2022

Respectfully Submitted,

**THE OFFICIAL TALC CLAIMANTS  
COMMITTEE**

Respectfully submitted,

**GENOVA BURNS, LLC**

**/s/ Daniel M. Stolz**

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Committee*

**Exhibit 1**



# Victim Testimonials

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# Ovarian Cancer Plaintiffs



# Shawn Blaes



<b>Case Number</b>	<b>Valerie Swann, et al., v. Johnson &amp; Johnson, et al., 1422-CC09326-03</b>
<b>Diagnosis</b>	<b>Ovarian Cancer, Stage 4</b>
<b>Age of Diagnosis</b>	<b>48 (Died, 2 Years Later, at 50)</b>
<b>Family</b>	<b>Husband: Mike Blaes, Sons: Alex and Kyle Blaes</b>
<b>Profession</b>	<b>Figure Skating Coach and Business Owner</b>
<b>Hometown</b>	<b>St. Louis, Missouri</b>

*“Shawn was the love of my life. She loved me almost as much as her twin boys, maybe a bit more than her dogs. She loved animals and rescued dogs...and even small animals like squirrels. She trusted her doctors, authorities, and institutions to protect her from harm and keep her best interest in mind. I have learned that this is not always the case.”*

*- Michael Blaes, husband of Shawn Blaes*

## Overview

Shawn Blaes was an incredible figure skater. So great was her love and passion for skating that she ultimately opened a skating store so she could purchase skates and uniforms wholesale and pass the savings on to the less fortunate. Shawn married her high school sweetheart and had twin boys. Throughout her adult life, she continued with her passion for skating, teaching skating lessons, and coaching competitively.

Shawn regularly used Johnson & Johnson’s Baby Powder® to help keep herself dry and fresh during her figure skating practices and performances. She competed all over the country, ultimately falling just short of qualifying for the U.S. Olympic Team.

In September 2008, Shawn was told she had two large cysts in her abdomen and needed surgery as soon as possible. Ultimately, she was diagnosed with Stage 4 Ovarian Cancer. After many doctor’s visits, procedures, surgeries, hospital stays, and chemotherapy, Shawn passed away in her home on January 12, 2011, with her family by her side.

## Case-Specific Considerations

Shawn’s husband, Mike was determined to make a difference and spread the little-known fact that talcum powder causes Ovarian Cancer. Shawn’s case was the second talcum powder Ovarian Cancer lawsuit filed in the United States and was mid-trial when the United States Supreme Court issued its decision regarding personal jurisdiction in *BMS v. Superior Court*, 137 S. Ct. 1773 (2017), resulting in a mistrial. Her case has since gone up to the Missouri appellate courts on venue and jurisdiction, and now stands ready to be tried.

# Diane Brower



<b>Case Number</b>	<b>16-EV-005534, State Court of Fulton County, Georgia</b>
<b>Diagnosis</b>	<b>Serous Cancer, Stage 3</b>
<b>Age of Diagnosis</b>	<b>62 (Died, Three Years Later, at 65)</b>
<b>Family</b>	<b>Three Sons, Granddaughter: Anastasia</b>
<b>Profession</b>	<b>Marketing Executive</b>
<b>Hometown</b>	<b>Atlanta, Georgia</b>

*“Oh, she was amazing. She was so optimistic. She...just always felt like she was going to beat this disease. And the doctors several times have said don't you want to stop. She would say no, if there's a treatment out there, I want to take it because I want to live for Ana (adopted granddaughter).”*

*- Pamela Russel, Diane Brower's sister*

## Overview

Diane was born in Boston and grew up in a military family, spending her high school years in Germany. She earned a Bachelor's degree in Journalism from the University of Georgia. Diane was an extremely devoted mother and grandmother who spent the last years of her life caring for her granddaughter, Anastasia, whom she adopted. She was Anastasia's full-time caregiver before she lost her battle with Ovarian Cancer.

A longtime resident of Atlanta, Diane worked as a marketing executive until her diagnosis. Diane was the mother of three sons. She loved traveling and doing arts and crafts with Anastasia and was also very active in her church.

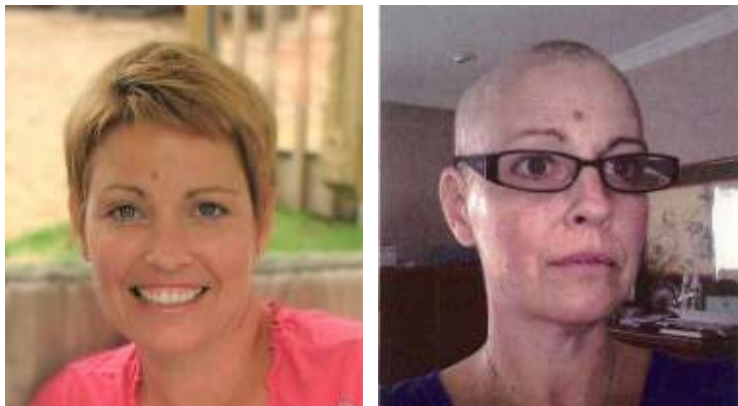
Diane began using Johnson & Johnson's Baby Powder® products as a teenager in the 1960s. She continued using the products daily for the next 20 years. Diane's mother also used Johnson & Johnson's Baby Powder® on her as a baby.

Diane was diagnosed with Stage 3 Ovarian Cancer in September 2013. She underwent extensive surgeries and chemotherapy treatments, during which time she had horrible reactions to the drugs. Diane endured this incredibly painful process for three long years before succumbing to the disease in December of 2016 at the age of 65.

## Case-Specific Considerations

The first trial of Ms. Brower's case resulted in a mistrial due to a hung jury. The case is ready to be set for a new trial.

# Corinne Carrino



*“Even with this cancer . . . I move forward and I work very hard to have a good balanced life.”*

*- Corinne Carrino*

<b>Case Number</b>	1522-CC00419, Missouri State Court
<b>Diagnosis</b>	High-Grade Serous Ovarian Cancer, Stage 3
<b>Age of Diagnosis</b>	47 (Died, 9 Years Later, at 54)
<b>Family</b>	Husband: Joseph Carrino, Son: Christopher Carrino, Stepson: JJ Carrino
<b>Profession</b>	Speech Pathologist
<b>Hometown</b>	Toms River, New Jersey

## Overview

Corinne Carrino grew up in Tinton Falls, New Jersey, and graduated from Montclair State University with both her Bachelor's and Master's Degrees in Speech Pathology. She went on to practice as a Speech Pathologist for over 30 years, dedicating her professional career to providing young children with speech therapy and early intervention services. Corinne's faith played a large role in her life. She shared her exceptional spirituality with her family, friends, and those she served in unending support and positivity.

Corinne used Johnson & Johnson's Baby Powder® every day for 33 years as a part of her daily feminine hygiene routine. After decades of use, Corinne was diagnosed with Ovarian Cancer in November 2013 at the age of 47. Corinne underwent surgery, chemotherapy, and immunotherapy. She battled cancer for nine years, enduring five recurrences.

Corinne lost her battle with cancer and passed away on December 13, 2020, leaving behind her husband, son, stepson, siblings, and countless family members and friends with whom she shared many years of happiness. She cherished spending time with her son, Chris, her husband, Joseph, and their dog, Lacey. She loved reading, taking day outings to unique locations, watching sunrises, and spending time in her quiet backyard by the stream.

## Case-Specific Considerations

This case should be considered for the stay to be lifted because her case is ready for trial. Depositions have been taken of Corinne and two of her treating physicians. Expert reports have been submitted, experts have been deposed, and all pretrial motions have been briefed.

# Gayle Emerson



*"I'm not giving up, but I'm really scared if I'm going to pull through it this time. Cancer is a scary word... I'm very scared what's going to happen. And I'm very concerned about how my kids are going to handle it."*

*- Gayle Emerson*

<b>Case Number</b>	<b>190509334, Court of Common Pleas of Philadelphia County, First Judicial District of Pennsylvania - Civil Trial Division</b>
<b>Diagnosis</b>	<b>High-Grade Serous Ovarian Cancer, Stage 3</b>
<b>Age of Diagnosis</b>	<b>64 (Died, 4 Years Later, at 68)</b>
<b>Family</b>	<b>Children: Aaron Henry, Isaac Emerson, Jr., and Wendy Keiser, Five Grandchildren</b>
<b>Profession</b>	<b>Office Manager, H&amp;R Block</b>
<b>Hometown</b>	<b>York, Pennsylvania</b>

## Overview

Gayle Emerson was a dedicated mother to her daughter and two sons. She was also a devoted grandmother, raising and homeschooling two of her grandsons. She enjoyed making afghans and baking for her family. After her diagnosis, she participated in Relay for Life and other cancer fundraisers. Gayle had a bucket list, which included seeing the Grand Canyon. Her son, Aaron, took her to see it before she died.

Gayle used Johnson & Johnson's Baby Powder® for approximately 48 years. Gayle began using the product the year her daughter was born. She regularly used it on her daughter and liked how it smelled, so she started using the product on herself.

After experiencing persistent abdominal pain for several months, Gayle was seen by a general surgeon. A CT scan showed a pelvic mass. Ultimately, she was diagnosed with Stage 3 Ovarian Cancer at the age of 64. She had a complete hysterectomy, omentectomy, pelvic peritoneal stripping, and right hemi-diaphragm peritonectomy. She underwent multiple rounds of chemotherapy until she went into remission in 2016. In February 2019, she had a recurrence. She received additional chemotherapy, but after further evaluation, her physicians transitioned her to palliative chemotherapy in late October 2019. Gayle passed away a few weeks later, on November 9, 2019.

## Case-Specific Considerations

This case should be considered for the stay to be lifted as it was considered trial ready in October of 2021. In addition, plaintiff and treating physician depositions have been taken, and expert disclosures have been completed, positioning the case to be set for trial immediately.

*Beasley Allen Law Firm/Eisenberg  
Rothweiler Winkler Eisenberg & Jeck*

# Patricia Matthey



<b>Case Number</b>	<b>2018-CA004809, Circuit Court of the Twelfth Judicial Circuit, Sarasota County, Florida</b>
<b>Diagnosis</b>	<b>Serous Ovarian Cancer, Stage 4</b>
<b>Age of Diagnosis</b>	<b>69 (Died, Three Years Later, at 72)</b>
<b>Family</b>	<b>Husband: Bernard, Two Children, and Two Grandchildren</b>
<b>Profession</b>	<b>Small Business Owner, Aerobics Instructor</b>
<b>Hometown</b>	<b>Sarasota, Florida</b>

*"I was sold a product that I believed to be not only healthy but safe, and that was not true. I believe corporations need to be held accountable for what they do, the advertising they do, and that if there's any perceived or suspected danger, they have a responsibility to the public so that people can make informed decisions."*

*- Patricia Matthey*

## Overview

Patricia Matthey was born in New York City but moved to Sarasota, Florida, in the late 1970s. Pat was a successful entrepreneur and built a successful jazz aerobics workout studio where she shared her love for jazz and dancing with her community. Pat was married to Bernard, with whom she shared two children and two grandchildren. She was vivacious, fun-loving, and devoted to her friends and family.

Pat was a lifelong user of Johnson & Johnson's Baby Powder®. She began using the product daily when she was approximately 18 years old.

In August 2016, an exploratory laparotomy for bowel obstruction and ileal resection revealed Stage 4 Ovarian Cancer, serous subtype. In February 2017, Pat underwent a total abdominal hysterectomy, bilateral salpingo-oophorectomy, abdominal cavity debulking, omentectomy, right bowel and ileal resection, and manual construction of an isoperistaltic side-to-side ascending ileocolic anastomosis. In August 2017, the treatments continued with a subtotal colectomy with Hartmann's pouch and terminal ileostomy for bowel obstruction caused by recurrent Ovarian Cancer. Pat lived with an ostomy bag for the remainder of her life. After multiple rounds of chemotherapy and countless surgeries, Pat sadly succumbed to the disease in November 2019.

## Case-Specific Considerations

This case should be considered for the stay to be lifted for multiple reasons. First, this case is trial ready. Prior to the bankruptcy stay, this case was set for trial in March 2022, just months after the LTL bankruptcy filing. Second, prior to her death, Pat sat for both a discovery deposition and trial preservation deposition. Third, all expert discovery has been completed and *Daubert* and dispositive motions are under submission.

# Bernadine Moore



<b>Case Number</b>	170104504, Court of Common Pleas of Philadelphia County, First Judicial District of Pennsylvania - Civil Trial Division
<b>Diagnosis</b>	High-Grade Serous Papillary Carcinoma, Stage 3C
<b>Age of Diagnosis</b>	66 (Died, 2 Years Later, at 68)
<b>Family</b>	5 Children
<b>Profession</b>	Homemaker
<b>Hometown</b>	Philadelphia, Pennsylvania

*“My mom cared for everyone. She was committed to her family, friends, and her church. When we found out that she had been diagnosed with Ovarian Cancer, we were heartbroken. Even through her years’ long struggle with the cancer, she was always looking out for others.”*

*- Ethan Moore, son of Bernadine Moore*

## Overview

Born and raised in Philadelphia, Pennsylvania, Bernadine Moore had a busy and productive life. She volunteered in her community, served in critical roles at her church, and was constantly surrounded by her friends and family. Bernadine was married with five children and many grandchildren. Most days, she could be seen going from house to house preaching the gospel and helping her neighbors.

Bernadine never left the house without applying Johnson & Johnson’s Baby Powder® or Shower to Shower®. She used the products daily and sometimes twice a day as a part of her feminine hygiene routine for over 50 years.

In January 2016, Bernadine started experiencing extreme abdominal pain and shortness of breath. She underwent an exploratory laparotomy, which yielded an 18 cm tumor in her pelvis with metastases throughout her abdomen. She was diagnosed with Stage 3C Ovarian Cancer at 66 years old. Bernadine’s expert pathologist Dr. Sandra McDonald found “a significant amount of talc is present” within the tissue samples taken from her ovarian tumor. During her brave fight against Ovarian Cancer, Bernadine underwent several surgeries and rounds of chemotherapy. Unfortunately, Bernadine never recovered and passed away on March 23, 2018, from complications of Ovarian Cancer. Bernadine left behind a large grieving family that relied on her as the matriarch. Her knowledge, wisdom, and sage advice cannot be replaced.

## Case-Specific Considerations

This case should be considered for the stay to be lifted as all fact discovery has been completed and expert reports were disclosed. During the week in which the bankruptcy was declared, the state court had scheduled a hearing to set a trial date. This case was filed in February 2017. Days after it was filed, the defendants improperly removed the case to federal court, which in turn transferred the case to the MDL. The case was remanded from the MDL, but before the case could go to trial, Imerys Talc America declared bankruptcy, and the case was again removed to federal court. The case was subsequently remanded, and all fact discovery was completed.

# Tamara Newsome



<b>Case Number</b>	<b>3:18-cv-17146 – MDL, U.S. District Court, District of New Jersey, MDL No. 2738</b>
<b>Diagnosis</b>	<b>Ovarian Cancer, Stage 2</b>
<b>Age of Diagnosis</b>	<b>53</b>
<b>Family</b>	<b>Husband: Daniel Francois, Jr., Son: Daniel Francois, III, Daughter: Tae'lor Francois</b>
<b>Profession</b>	<b>Medical Sonographer</b>
<b>Hometown</b>	<b>Lanham, Maryland</b>

*"I wanted to show [my children] that no matter what happens, you have to put up a fight and just keep pushing to live your life the best you can."*

*- Tamara Newsome*

## Overview

A resident of Lanham, Maryland, Tamara Newsome is a beloved wife and mother. After being together for 23 years, Tamara and Daniel Francois, Jr. married in 2005. To this day, he describes her as his best friend. They have two children, Daniel, III and Tae'lor.

Tamara used Johnson & Johnson's Baby Powder® and Shower to Shower® for approximately 40 years. It was part of her daily routine, as central as brushing her teeth. Tamara described Johnson & Johnson's Baby Powder® as a staple in her household, both as a child and an adult.

In March 2015, at age 53, Tamara was diagnosed with Ovarian Cancer after an emergency room visit for stomach pain. Following examination, the physician sent her for an ultrasound. As a medical sonographer of 30 years, Tamara immediately knew what the image on the ultrasound screen meant: Ovarian Cancer. Tamara underwent surgery and six months of chemotherapy. Unfortunately, she had an allergic reaction to two different chemotherapy drugs, which both resulted in anaphylactic shock. She was also hospitalized with neutropenia as a result of chemotherapy. Through it all, Tamara has stayed strong for her family, although she lives with the constant fear that her cancer will return.

## Case-Specific Considerations

Tamara's case is an MDL bellwether case. Discovery of Plaintiffs' experts is complete. LTL filed bankruptcy one week before Johnson & Johnson's expert reports were due.

# Deborah Schultz



*Deborah Schultz is a loving mother, wife, and health care provider. She is defined by her love and service to her patients as a Registered Nurse and her family. She is a beacon of hope for others even when faced with very little hope for herself. She will never give up.*

<b>Case Number</b>	Superior Court of the State of California, County of Los Angeles, JCCP No. 4872
<b>Diagnosis</b>	Ovarian Cancer, Stage 4, Metastasized Into Lymph Nodes
<b>Age of Diagnosis</b>	57
<b>Family</b>	Husband: Albert L. Schultz, Sons: Spencer and Zachary Schultz, Grandson: Henry Schultz
<b>Profession</b>	Registered Nurse
<b>Hometown</b>	Woodland Hills, California and Los Angeles, California

## Overview

A life-long resident of Los Angeles, Deborah attended and worked at LAC/USC Nursing School, where she became a Registered Nurse. There, she met her husband, Albert "Al," a medical student at the time, now a practicing E.R. physician. At LAC/USC Medical Center, Deborah worked as a Neurosurgical ICU nurse and later as an ICU nurse at Sierra Vista Hospital. The Schultzes have dedicated their lives to the healing arts and are loved by patients and everyone they meet.

Deborah used Johnson & Johnson's Baby Powder® and Shower to Shower® for over 50 years. It was a part of her daily feminine hygiene routine. Deborah was working with the Santa Barbara Public Health Department when she was forced to retire after being diagnosed with Stage 4 Ovarian Cancer. This devastating news came without warning to a family with no history of cancer. Her relentless battle with Ovarian Cancer is ongoing and has included surgeries, chemotherapy, and immunotherapy. Despite her grim prognosis, she continues to keep up the fight against this disease for her loving husband of 37 years, their two sons, and their beautiful new grandson. She inspires hope and encouragement.

## Case-Specific Considerations

Deborah's case falls within California's preference status statute due to her declining health and the substantial medical doubt she will survive beyond six months. A preference motion under CCP 36(d)(e) is not yet filed due to the PI order, but if the PI Order preventing its filing is modified, the motion and evidence demonstrating that the case qualifies for a preferential trial setting under CCP 36(d)(e) will be filed, permitting the court to set and commence a trial within 120 days.





# Mesothelioma Plaintiffs

# Randy Derouen



*Randy Derouen was forced to retire at 48 from his dream job as a manager at a sports betting company due to the severity of his illness.*

<b>Case Number</b>	<b>MID-L-005122-20, Superior Court of New Jersey, Middlesex County Court Of NJ - Middlesex County</b>
<b>Diagnosis</b>	<b>Peritoneal Mesothelioma</b>
<b>Age of Diagnosis</b>	46
<b>Family</b>	<b>Mother: Betty, Father: Rodney, Brothers: Rodney, Ricky, and Rusty</b>
<b>Profession</b>	<b>General Manager at FanDuel</b>
<b>Hometown</b>	<b>Biloxi, Mississippi</b>

## Overview

Randy was born on July 5, 1973, in Biloxi, Mississippi. Throughout his life, Randy worked in the hospitality industry. Just before his diagnosis, he relocated to Indiana to accept his dream job as a general manager of Sportsbook at FanDuel, a sports betting company. Unfortunately, Randy had to retire early and move back to Mississippi to live with his parents because he needs their assistance and support while fighting his cancer.

Randy's mother, Betty, applied Johnson & Johnson's Baby Powder® to Randy as a child following diaper changes and baths. Randy began applying Johnson & Johnson's Baby Powder® on himself when he was about five years old. He used the product when participating in sports, such as baseball and other extracurricular activities. For nearly 30 years, Randy regularly used Johnson & Johnson's Baby Powder after showers and occasionally used Shower to Shower® until he was diagnosed with Peritoneal Mesothelioma in 2020.

Randy started experiencing abdominal pain during the summer of 2019. He sought medical attention after noticing weight loss and an increase in the size of his stomach. After being diagnosed with Peritoneal Mesothelioma in June 2020, Randy underwent a laparoscopy with hyperthermic intraperitoneal chemotherapy and systematic chemotherapy.

## Case-Specific Considerations

Randy is living with Mesothelioma and is an active member of the Talc Creditors Committee. He had three trial dates scheduled for October 25, 2021, January 10, 2022, and February 28, 2022, that have been postponed due to the bankruptcy.

# Daniel Doyle



<b>Case Number</b>	<b>18cv333609, Santa Clara County</b>
<b>Diagnosis</b>	<b>Biphasic Malignant Mesothelioma</b>
<b>Age of Diagnosis</b>	<b>47 (Died, 6 Months Later, at 48)</b>
<b>Family</b>	<b>Spouse: Kristie and Son: Ethan Doyle</b>
<b>Profession</b>	<b>Human Resource Analyst</b>
<b>Hometown</b>	<b>Grove City, Ohio</b>

*“How much it tore us apart, how much hurt it brought us that it took away my only father.”*

*– Ethan Doyle when asked how Johnson & Johnson's Baby Powder® impacted his father and the family's lives.*

## Overview

Dan was an active member of his community and a devoted coach of his son's sports teams, including baseball, basketball, and football. With a passion for youth sports, Dan helped create a local youth basketball league. He was a lifelong fan of The Ohio State University, the Cincinnati Reds, and the Miami Dolphins. Dan was an outgoing individual beloved by his community, so much so that he even garnered a record 15 percent of the vote as a write-in candidate for mayor of Grove City, Ohio.

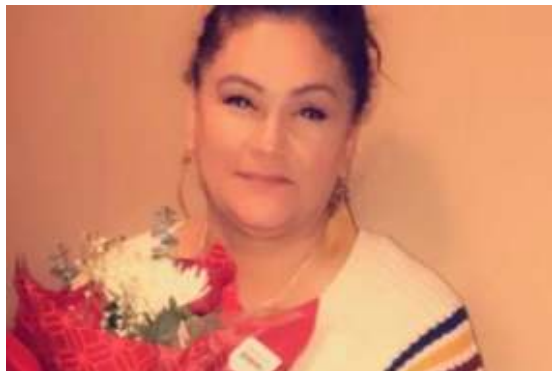
Dan was a lifelong user of Johnson & Johnson's Baby Powder®. The product was a trusted part of his daily hygiene routine. He was only 47 years old when he was diagnosed with aggressive Biphasic Mesothelioma.

On June 22, 2018, Dan underwent surgery because his left lung had a large amount of fluid and nearly collapsed. Dan's cancer was high grade and remained aggressive, despite chemotherapy. As each day passed, Dan's condition worsened, and he became emotionally distant from friends and family. Finally, three days before Christmas in 2018, Dan died at the age of 48 in his family home with loved ones by his side. He is survived by his wife of over 18 years, Kristie, and his now 17-year-old son Ethan. Kristie is an active member of the Talc Claimant Committee.

## Case-Specific Considerations

This case is completely worked up and ready for trial. Discovery has been concluded, all pre-trial motions have been briefed, the case has been set for trial on multiple occasions, and the trial court is ready to assign this case to a trial judge.

# Theresa Garcia



<b>Case Number</b>	<b>2020L004505, Illinois</b>
<b>Diagnosis</b>	<b>Mesothelioma, Stage 4</b>
<b>Age of Diagnosis</b>	<b>53</b>
<b>Family</b>	<b>Fiancé: Carlos, Daughters: Vanessa and Caressa Garcia, Stephani Salcedo, Jazmine and Anyssa Cerda, Son: Edward Cerda, Mother, Grandchildren</b>
<b>Profession</b>	<b>Homemaker</b>
<b>Hometown</b>	<b>Chicago, Illinois</b>

*“There are no words to explain the amount of pain I feel knowing that you’re gone, but I pray your soul is now at peace and that you will forever look down on us. You were the best mother I could have ever asked for and an even better grandmother! “*

*– Stephanie Salcedo, Theresa’s daughter*

## Overview

Theresa Garcia was a beloved mother and grandmother living in Chicago, Illinois. After a brutal battle with Mesothelioma, Theresa died in hospice surrounded by her family. She left behind her fiancé Carlos, six children, and 13 grandchildren.

In addition to using Johnson & Johnson's Baby Powder® on herself, Theresa also used it on her younger sibling, children, and grandchildren. Johnson & Johnson's Baby Powder® was a trusted product in the Garcia family.

Theresa passed away on July 27, 2020, before she or her family could seek their owed justice in court. Her pain and suffering were exceptional. The sarcomatoid cancer formed a dagger that hit every nerve ending outside her lungs and insidiously grew up her spine to her brain. Unable to say her last words to her children on her deathbed, she chose to hum the lullaby that she sang to them as little girls.

Theresa’s lost earnings totaled over \$500,000. The cancer and treatment took a devastating toll on the family, causing them to seek financial support from the community for Theresa’s funeral costs.

## Case-Specific Considerations

This case is completely worked up and ready for trial. Discovery has been concluded, all pre-trial motions have been briefed, and the case’s trial was set to go forward June 2022. The stay kept her from having her set trial date against J&J and JJCI. She used other talc products, but the use was limited in time. Those parties resolved but the family has not had a chance to get any recovery from the company that is responsible for the product she used the most. The family cannot get closure. This case was set for trial on multiple occasions, and the trial court is ready to assign this case to a trial judge.

# Brandon Whetsel



*“We continue to be overwhelmed by the number of people who truly care about Brandon.... We got a card from a Teva patient in California who used to talk to Brandon on the phone when he was a PCCR. Brandon touched so many lives, both near and far.”*

*– Brandon’s family*

**Case Number** 1816-CV14915, 16th Judicial Circuit, Jackson County, Missouri

**Diagnosis** Peritoneal Mesothelioma

**Age of Diagnosis** 36 (Died, 18 Months Later, at 37)

**Family** Wife: Kristen Whetsel, Daughter: Avery (6), Stepdaughter: Kayleigh (18)

**Profession** Teva Pharmaceuticals (Program Tester)

**Hometown** Kansas City, Missouri

Brandon was an avid sports fan and enjoyed watching the Kansas City Chiefs, Royals, and University of Missouri Tigers. Brandon met his wife Kristen in 2014. Right away, he became a father figure to Kristen’s then 10-year-old daughter Kayleigh. The couple later had a second daughter named Avery. The family enjoyed spending the holidays together, particularly Christmas and Halloween. People were drawn to Brandon’s fun-loving personality and bright smile.

Brandon’s exposure to Johnson & Johnson's Baby Powder® began as an infant when his mother would use the product following diaper changes. As a child and into adulthood, he continued to use Johnson & Johnson's Baby Powder® before playing sports. At age 36, Brandon was diagnosed with Mesothelioma, one year after his wedding to Kristen. He was referred to the MD Anderson Cancer Center for specialized care. Unfortunately, after enduring chemotherapy, surgeries, and severe treatment side effects, Brandon passed away just 18 months after his diagnosis.

Brandon’s family supported him throughout his diagnosis, treatment, and end-of-life care, but navigating the complex and fragmented health care and insurance coverage systems created additional financial and emotional strain. His family and friends had to seek community resources to pay for his care. His last few months of life were spent among his family and friends in at-home hospice care.

### Case-Specific Considerations

This case should be considered for the stay to be lifted as Brandon’s young family is in financial need as Brandon was their main financial support. Additionally, this case had a long history of trial dates, including its most recent trial date of January 10, 2022 (less than 3 months after J&J filed bankruptcy). However, Brandon’s case had previously been set for trial on January 13, 2020 and then reset for January 11, 2021, and again reset for June 7, 2021. These delays were due to J&J wrongfully removing this case to Federal Court in May 2019 (as they did with 1000s of cases across the county)....this case was remanded back to state court on July 30, 2019. This case’s trial date was also delayed due to Covid in 2020 and 2021.

Brandon Whetsel was deposed. Tonya Whetsel (Brandon’s mother) was deposed. J&J has also deposed 8 experts in this case including (Dr. Jacqueline Moline, Dr. Murray Finklestein, Dr. David Zhang, Dr. Barry Castleman, Martin Wells PhD, Mark Rigler PhD, Steven Compton PhD, and Dr. Lawrence Spizman)

**Exhibit 2**



IN THE COURT OF COMMON PLEAS OF PHILADELPHIA  
COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION – CIVIL

*EMERSON*

*VS*

*JOHNSON & JOHNSON ETAL*

*May Term 2019*

*No. 09334*

*CASE MANAGEMENT ORDER  
COMPLEX TRACK*

DOCKETED  
TRIAL DIVISION - CIVIL  
03-SEP-2019

**B. LAWLOR**

AND NOW, 03-SEP-2019, it is Ordered that:

1. The case management and time standards adopted for complex track cases shall be applicable to this case and are hereby incorporated into this Order.
2. All *discovery* on the above matter shall be completed not later than *07-DEC-2020*.
3. *Plaintiff* shall identify and submit *curriculum vitae and expert reports* of all expert witnesses intended to testify at trial to all other parties not later than *04-JAN-2021*.
4. *Defendant and any additional defendants* shall identify and submit curriculum vitae and expert reports of all expert witnesses intended to testify at trial not later than *01-FEB-2021*.
5. All *pre-trial motions* shall be filed not later than *01-FEB-2021*.
6. A *settlement conference* may be scheduled at any time after *01-MAR-2021*. Prior to the settlement conference all counsel shall serve all opposing counsel and file a settlement memorandum containing the following:
  - (a). A concise summary of the nature of the case if plaintiff or of the defense if defendant or additional defendant;
  - (b). A statement by the plaintiff or all damages accumulated, including an itemization of injuries and all special damages claimed by categories and amount;
  - (c). Defendant shall identify all applicable insurance carriers, together with applicable limits of liability.
7. A *pre-trial conference* will be scheduled any time after *03-MAY-2021*. Fifteen days prior to pre-trial conference, all counsel shall serve all opposing counsel and file a pre-trial memorandum containing the following:

- (a). A concise summary of the nature of the case if plaintiff or the defense if defendant or additional defendant;
  - (b). A list of all witnesses who may be called to testify at trial by name and address. Counsel should expect witnesses not listed to be precluded from testifying at trial;
  - (c). A list of all exhibits the party intends to offer into evidence. All exhibits shall be pre-numbered and shall be exchanged among counsel prior to the conference. Counsel should expect any exhibit not listed to be precluded at trial;
  - (d). Plaintiff shall list an itemization of injuries or damages sustained together with all special damages claimed by category and amount. This list shall include as appropriate, computations of all past lost earnings and future lost earning capacity or medical expenses together with any other unliquidated damages claimed; and
  - (e). Defendant shall state its position regarding damages and shall identify all applicable insurance carriers, together with applicable limits of liability;
  - (f). Each counsel shall provide an estimate of the anticipated length of trial.
8. *It is expected that the case will be ready for trial 07-JUN-2021*, and counsel should anticipate trial to begin expeditiously thereafter.
9. All counsel are under a continuing obligation and are hereby ordered to serve a copy of this order upon all unrepresented parties and upon all counsel entering an appearance subsequent to the entry of this Order.

***BY THE COURT:***

---

***ARNOLD NEW, J.  
TEAM LEADER***





IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION – CIVIL

EMERSON

May Term 2019

VS

No. 09334

JOHNSON & JOHNSON ETAL

**REVISED CASE MANAGEMENT ORDER**

Be advised that the Case Management Order issued for the above-captioned action has been revised as follows:

1. All discovery shall be completed not later than 07-JUN-2021.
2. Plaintiff shall submit expert reports not later than 06-JUL-2021.
3. Defendant shall submit expert reports not later than 02-AUG-2021.
4. All pre-trial motions other than motions in limine shall be filed not later than 02-AUG-2021.
5. A settlement conference will be scheduled any time after 02-AUG-2021.
6. A pre-trial conference will be scheduled at any time after 07-SEP-2021.
7. It is expected that this case shall be ready for trial by 04-OCT-2021.

All other terms and conditions on the original Case Management Order will remain in full force and effect.

**BY THE COURT:**

\_\_\_\_\_  
**LINDA CARPENTER, J.**  
**TEAM LEADER**

05-APR-2021

Emerson Vs Johnson & Jo-RVCMO

FJSD-883;REV 3/21/15



19050933400062



IN THE COURT OF COMMON PLEAS OF PHILADELPHIA  
COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION – CIVIL

*MOORE ETAL*

VS

*JOHNSON & JOHNSON ETAL*

*January Term 2017*

*No. 04504*

**CASE MANAGEMENT ORDER  
COMPLEX TRACK**

DOCKETED  
TRIAL DIVISION - CIVIL  
04-FEB-2019

**B. LAWLOR**

AND NOW, 04-FEB-2019, it is Ordered that:

1. The case management and time standards adopted for complex track cases shall be applicable to this case and are hereby incorporated into this Order.
2. All *discovery* on the above matter shall be completed not later than **06-JUL-2020**.
3. *Plaintiff* shall identify and submit *curriculum vitae and expert reports* of all expert witnesses intended to testify at trial to all other parties not later than **03-AUG-2020**.
4. *Defendant and any additional defendants* shall identify and submit curriculum vitae and expert reports of all expert witnesses intended to testify at trial not later than **07-SEP-2020**.
5. All *pre-trial motions* shall be filed not later than **07-SEP-2020**.
6. A *settlement conference* may be scheduled at any time after **05-OCT-2020**. Prior to the settlement conference all counsel shall serve all opposing counsel and file a settlement memorandum containing the following:
  - (a). A concise summary of the nature of the case if plaintiff or of the defense if defendant or additional defendant;
  - (b). A statement by the plaintiff or all damages accumulated, including an itemization of injuries and all special damages claimed by categories and amount;
  - (c). Defendant shall identify all applicable insurance carriers, together with applicable limits of liability.
7. A *pre-trial conference* will be scheduled any time after **07-DEC-2020**. Fifteen days prior to pre-trial conference, all counsel shall serve all opposing counsel and file a pre-trial memorandum containing the following:

- (a). A concise summary of the nature of the case if plaintiff or the defense if defendant or additional defendant;
  - (b). A list of all witnesses who may be called to testify at trial by name and address. Counsel should expect witnesses not listed to be precluded from testifying at trial;
  - (c). A list of all exhibits the party intends to offer into evidence. All exhibits shall be pre-numbered and shall be exchanged among counsel prior to the conference. Counsel should expect any exhibit not listed to be precluded at trial;
  - (d). Plaintiff shall list an itemization of injuries or damages sustained together with all special damages claimed by category and amount. This list shall include as appropriate, computations of all past lost earnings and future lost earning capacity or medical expenses together with any other unliquidated damages claimed; and
  - (e). Defendant shall state its position regarding damages and shall identify all applicable insurance carriers, together with applicable limits of liability;
  - (f). Each counsel shall provide an estimate of the anticipated length of trial.
8. *It is expected that the case will be ready for trial 04-JAN-2021*, and counsel should anticipate trial to begin expeditiously thereafter.
9. All counsel are under a continuing obligation and are hereby ordered to serve a copy of this order upon all unrepresented parties and upon all counsel entering an appearance subsequent to the entry of this Order.

***BY THE COURT:***

***SHELLEY ROBINS-NEW, J.***  
***TEAM LEADER***

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION – CIVIL



MOORE ETAL

January Term 2017

VS

No. 04504

JOHNSON & JOHNSON ETAL

**REVISED CASE MANAGEMENT ORDER**

Be advised that the Case Management Order issued for the above-captioned action has been revised as follows:

1. All discovery shall be completed not later than 01-FEB-2021.
2. Plaintiff shall submit expert reports not later than 05-APR-2021.
3. Defendant shall submit expert reports not later than 03-MAY-2021.
4. All pre-trial motions other than motions in limine shall be filed not later than 03-MAY-2021.
5. A settlement conference will be scheduled any time after 07-JUN-2021.
6. A pre-trial conference will be scheduled at any time after 02-AUG-2021.
7. It is expected that this case shall be ready for trial by 07-SEP-2021.

All other terms and conditions on the original Case Management Order will remain in full force and effect.

**BY THE COURT:**

\_\_\_\_\_  
**SHELLEY ROBINS-NEW, J.**  
**TEAM LEADER**

16-MAR-2020

Moore Etal Vs Johnson &-RVCMO

..492095/RLV, 5/11/18



17010450400080

CASE: Derouen, Randy Exhibit 2 Page 8 of 18 DATE: 4/21/21 FIRM: LCVY

**DISCOVERY**

CMO IV

- \_\_\_\_\_ 2021 Plaintiff shall serve answers to standard interrogatories by this date.
- \_\_\_\_\_ 2021 Defendants shall serve answers to standard interrogatories by this date.
- \_\_\_\_\_ 2021 Plaintiff shall propound supplemental discovery by this date.
- \_\_\_\_\_ 2021 Defendants shall serve answers to supplemental discovery by this date.
- \_\_\_\_\_ 2021 Defendants shall propound supplemental discovery by this date.
- \_\_\_\_\_ 2021 Plaintiff shall serve answers to supplemental discovery by this date.
- \_\_\_\_\_ 2021 Plaintiff depositions shall be conducted by this date.
- 5/14 2021 Fact discovery shall be completed by this date.
- \_\_\_\_\_ 2021 Depositions of corporate representatives shall be completed by this date.

**EARLY SETTLEMENT**

5/28 2021 Settlement demands shall be served on all counsel and the Special Master by this date.

**MEDICAL EXPERT REPORT**

- \_\_\_\_\_ 2021 Plaintiff shall serve executed medical authorizations by this date.
- 5/28 2021 Plaintiff shall serve medical expert reports and transfer pathology by this date.
- 7/14 2021 Defendants shall serve medical reports by this date.

**LIABILITY and ECONOMIST EXPERT REPORTS**

- 5/28 2021 Plaintiff shall serve liability and economist expert reports by this date.
- 7/14 2021 Defendants shall serve liability and economist expert reports by this date.

**SUMMARY JUDGMENT MOTION PRACTICE**

7/30 2021 Summary judgment filing deadline. Return date: 8/27 2021

**EXPERT DEPOSITIONS**

9/30 2021 Expert depositions shall be completed by this date.

**PRE-TRIAL AND TRIAL**

TBS 2021 @ \_\_\_\_\_ Settlement conference. Trial date: 10/25 2021

IT IS hereby ORDERED on this date.

*/s/ Ana C. Viscomi*  
ANA C. VISCOMI, J.S.C.

DISCOVERY

CMO ✓

- \_\_\_\_\_ 2021 Plaintiff shall serve answers to standard interrogatories by this date.
- \_\_\_\_\_ 2021 Defendants shall serve answers to standard interrogatories by this date.
- \_\_\_\_\_ 2021 Plaintiff shall propound supplemental discovery by this date.
- \_\_\_\_\_ 2021 Defendants shall serve answers to supplemental discovery by this date.
- \_\_\_\_\_ 2021 Defendants shall propound supplemental discovery by this date.
- \_\_\_\_\_ 2021 Plaintiff shall serve answers to supplemental discovery by this date.
- \_\_\_\_\_ 2021 Plaintiff depositions shall be conducted by this date.
- \_\_\_\_\_ 2021 Fact discovery shall be completed by this date.
- \_\_\_\_\_ 2021 Depositions of corporate representatives shall be completed by this date.

**FILED**  
JUL 20 2021  
ANA C. VISCOMI, J.S.C.

EARLY SETTLEMENT

8/4 2021 Settlement demands shall be served on all counsel and the Special Master by this date.

MEDICAL EXPERT REPORT

- \_\_\_\_\_ 2021 Plaintiff shall serve executed medical authorizations by this date.
- 8/6 2021 Plaintiff shall serve medical expert reports and transfer pathology by this date.
- 9/30 2021 Defendants shall serve medical reports by this date.

LIABILITY and ECONOMIST EXPERT REPORTS

- 8/6 2021 Plaintiff shall serve liability and economist expert reports by this date.
- 9/30 2021 Defendants shall serve liability and economist expert reports by this date.

SUMMARY JUDGMENT MOTION PRACTICE

10/8 2021 Summary judgment filing deadline. Return date: 11/5 2021

EXPERT DEPOSITIONS

12/3 2021 Expert depositions shall be completed by this date.

PRE-TRIAL AND TRIAL

TDS 2021 @ \_\_\_\_\_ Settlement conference. Trial date: 1/10 <sup>2022</sup>/<sub>2021</sub>

IT IS hereby ORDERED on this date.

/s/ Ana C. Viscomi  
ANA C. VISCOMI, J.S.C.

CASE: DeGruen, Randy Exhibit 2-5 Page 10 of 18 DATE: 9/22/21 FIRM: WNY

DISCOVERY

CMO VJ

- \_\_\_\_\_ 2021 Plaintiff shall serve answers to standard interrogatories by this date.
- \_\_\_\_\_ 2021 Defendants shall serve answers to standard interrogatories by this date.
- \_\_\_\_\_ 2021 Plaintiff shall propound supplemental discovery by this date.
- \_\_\_\_\_ 2021 Defendants shall serve answers to supplemental discovery by this date.
- \_\_\_\_\_ 2021 Defendants shall propound supplemental discovery by this date.
- \_\_\_\_\_ 2021 Plaintiff shall serve answers to supplemental discovery by this date.
- \_\_\_\_\_ 2021 Plaintiff depositions shall be conducted by this date.
- \_\_\_\_\_ 2021 Fact discovery shall be completed by this date.
- \_\_\_\_\_ 2021 Depositions of corporate representatives shall be completed by this date.

**FILED**  
SEP 22 ...  
ANA C. VISCOMI, J.S.C.

EARLY SETTLEMENT

12/13 2021 Settlement demands shall be served on all counsel and the Special Master by this date.

MEDICAL EXPERT REPORT

- \_\_\_\_\_ 2021 Plaintiff shall serve executed medical authorizations by this date.
- \_\_\_\_\_ 2021 Plaintiff shall serve medical expert reports and transfer pathology by this date.
- 11/30 ~~2021~~ <sup>2021</sup> Defendants shall serve medical reports by this date.

LIABILITY and ECONOMIST EXPERT REPORTS

- \_\_\_\_\_ 2021 Plaintiff shall serve liability and economist expert reports by this date.
- 11/30 2021 Defendants shall serve liability and economist expert reports by this date.

SUMMARY JUDGMENT MOTION PRACTICE

12/10 2021 Summary judgment filing deadline. Return date: 1/7 ~~2021~~ <sup>2022</sup>

EXPERT DEPOSITIONS

1/31 ~~2021~~ <sup>2022</sup> Expert depositions shall be completed by this date.

PRE-TRIAL AND TRIAL

TOS 2021 @ \_\_\_\_\_ Settlement conference. Trial date: 2/20 ~~2021~~ <sup>2022</sup>

IT IS hereby ORDERED on this date.

*/s/ Ana C. Viscomi*  
ANA C. VISCOMI, J.S.C.



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

STEPHANIE SALCEDO, Individually, and  
as Administrator of the Estate of  
THERESA M. GARCIA, Deceased,

Plaintiff,

v.

AVON PRODUCTS, INC., et al.,  
Defendants.

IN RE: ASBESTOS LITIGATION

Case No. 2020 L 004505

Calendar: J1

4329

AGREED ORDER

(effective nunc pro tunc as of February 7, 2022)

THIS MATTER coming before the Court by agreement of the Parties, due notice having  
been given and the Court being fully advised in the premises:

IT IS HEREBY ORDERED that:

1. All pending motions for summary judgement are hereby stricken, entered, and continued generally until the trial date; 4246
2. This matter is hereby set for status on the pending bankruptcies involving Defendants, Johnson & Johnson and Johnson & Johnson Consumer, Inc. and Defendant, Walgreen Co., on Wednesday, March 23, 2022, at 10:00 a.m.; 4315
3. Parties are to mutually exchange all motions in limine on or by June 13, 2022. Oppositions are due on or before June 20, 2022; and 4231
4. The February 8, 2022, trial date is hereby stricken and continued to June 20, 2022, in Room 2310 at 10:00 a.m. 4304 4305

Nathaniel J. Wallace  
Joseph P. Trunk  
Attorney for Plaintiff  
Vogelzang Law, P.C. – Firm No. 60075  
401 N. Michigan Ave., Suite 350  
Chicago, IL 60611  
Tel: (312) 466-1669 / Fax: (312) 254-2071  
[filings@vogelzanglaw.com](mailto:filings@vogelzanglaw.com)

ENTERED:

ENTERED  
Judge Clare Elizabeth McWilliams-1889  
FEB 22 2022  
IRIS Y. MARTINEZ  
CLERK OF THE CIRCUIT COURT  
OF COOK COUNTY, IL

JUDGE CLARE E. MCWILLIAMS OR  
PRESIDING JUDGE

-and-

DEAN OMAR BRANHAM SHIRLEY, LLP  
Mark J. Buha (IL 6307691)  
302 N. Market Street, Suite 300  
Dallas, TX 75202  
T: (214) 722-5990  
F: (214) 722-5991  
Attorney for Plaintiff



**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT INDEPENDENCE**

**BRANDON WHETSEL, ET AL.** )

**Plaintiffs,** )

**vs.** )

**ARKEMA, INC., ET AL.** )

**Defendants.** )

**CASE NO. 1816-CV14915**

**DIVISION 17**

**NOTICE OF TRIAL**

A **Jury Trial** is set for **January 13, 2020** at **9:30 am** in Division 17 of the Jackson County Circuit Court – Independence at 308 W. Kansas, 2<sup>nd</sup> floor, Independence, Missouri 64050.

12/7/2018

Date

*Jessica N. Foxx*

Jessica N. Foxx, Law Clerk

**Certificate of Service**

This is to certify that a copy of the foregoing was hand delivered/faxed/mailed/mailed and/or sent through the eFiling system to the attorneys of record on 12/7/2018.

*Jessica N. Foxx*

Law Clerk



IN THE 16th JUDICIAL CIRCUIT COURT, JACKSON COUNTY, MISSOURI

Judge or Division: 17	Case Number: 1816-CV14915
BRANDON WHETSEL, et al.	
v.	
ARKEMA, INC., et al.	

ORDER

SCHEDULING:

- This Case is set for a Jury Trial on January 11, 2021. ✓
- Motions for leave to amend the pleadings shall be filed no later than 45 days from the date of the first scheduling order entered in this case unless leave is granted for good cause shown.
- Motions for leave to add additional parties shall be filed no later than 45 days from the date of the first scheduling order entered in this case unless leave is granted for good cause shown.
- All discovery shall be commenced or served to be completed by November 9, 2020. ✓
- Designation and deposition or experts:
  - Plaintiffs shall designate their retained and non-retained testifying experts by no later than 7/6/20. ✓
  - Plaintiffs shall make their retained expert witnesses available for deposition by no later than 8/3/20. ✓
  - Defendants shall designate their retained and non-retained testifying experts by no later than 9/7/20. ✓
  - Defendants shall make their retained expert witnesses available for deposition by no later than 10/5/20. ✓

The parties are free to stipulate in writing to amend the schedule of expert designations and depositions so long as any stipulated change does not interfere with the trial date Any such stipulation need not be filed with the Court.

- All potentially dispositive motions shall be filed no later than November 9, 2020. No extensions shall cause the final sur-reply to be filed less than twenty days prior to trial.
- Not later than fourteen calendar days before trial, the parties shall serve and file with the Court a designation, by page and line, of any deposition testimony that the offering part intends to read at trial. Not later than seven calendar days before trial, each party shall serve and file with the Court any objections to the other party's deposition designations and shall provide any counter-designations. Not later than three calendar days before trial, the parties shall serve and file with the Court any objections to the other parties' counter-designations. *12-28-20 ✓*
- Motions in limine and supporting briefs shall be filed not later than ten calendar days before the date of trial. Brief in opposition to motions in limine shall be filed not later than three calendar days before trial. *1-4-21 ✓*
- Proposed jury instructions shall be filed by the parties not later than 10 days preceding the trial. *1-8-21 ✓*
- Any request for a hearing on discovery issues or dispositive motions shall be in writing.
- Continuance requests shall conform to local rule 34.1. The parties are encouraged to approach the Court as soon as timelines in the scheduling order are not met.
- Mediation shall be completed 30 days prior to trial. ✓
- Other: \_\_\_\_\_
- Other: \_\_\_\_\_

NOTES:

- Expected Length of Trial: 3 weeks. Jurors Requested: 65.
- Status of Discovery: \_\_\_\_\_
  - Written: \_\_\_\_\_
  - Depositions: \_\_\_\_\_
- Special Notes: \_\_\_\_\_

IT IS SO ORDERED.

January 10, 2020

Date



Judge CORY LEE ATKINS



Judge or Division: 17	Case Number: 1816-CV14915
BRANDON WHETSEL, et al. v. ARKEMA, INC., et al	

**ORDER**

**SCHEDULING:**

- This Case is set for a **Jury Trial on June 7, 2021.**
- Motions for leave to amend the pleadings shall be filed no later than 45 days from the date of the first scheduling order entered in this case unless leave is granted for good cause shown.
- Motions for leave to add additional parties shall be filed no later than 45 days from the date of the first scheduling order entered in this case unless leave is granted for good cause shown.
- All discovery shall be commenced or served to be completed by **April 1, 2021.**
- Designation and deposition of experts:
  - Plaintiffs shall designate their retained and non-retained testifying experts by no later than **12/1/20.**
  - Plaintiffs shall make their retained expert witnesses available for deposition by no later than **1/4/21.**
  - Defendants shall designate their retained and non-retained testifying experts by no later than **2/1/21.**
  - Defendants shall make their retained expert witnesses available for deposition by no later than **3/1/21.**

**The parties are free to stipulate in writing to amend the schedule of expert designations and depositions so long as any stipulated change does not interfere with the trial date. Any such stipulation need not be filed with the Court.**

- All potentially dispositive motions shall be filed no later than **April 1, 2021.** No extensions shall cause the final sur-reply to be filed less than twenty days prior to trial.
- Not later than fourteen calendar days before trial, the parties shall serve and file with the Court a designation, by page and line, of any deposition testimony that the offering part intends to read at trial. Not later than seven calendar days before trial, each party shall serve and file with the Court any objections to the other party's deposition designations and shall provide any counter-designations. Not later than three calendar days before trial, the parties shall serve and file with the Court any objections to the other parties' counter-designations.
- Motions in limine and supporting briefs shall be filed not later than ten calendar days before the date of trial. Brief in opposition to motions in limine shall be filed not later than three calendar days before trial.
- Proposed jury instructions shall be filed by the parties not later than 10 days preceding the trial.
- Any request for a hearing on discovery issues or dispositive motions shall be in writing.
- Continuance requests shall conform to local rule 34.1. The parties are encouraged to approach the Court as soon as timelines in the scheduling order are not met.
- Mediation shall be completed 30 days prior to trial.
- Other: **Pre-Trial conference on April 2, 2021.**
- Other: \_\_\_\_\_

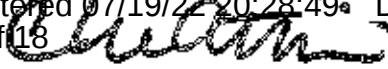
**NOTES:**

- Expected Length of Trial: **3 weeks.** Jurors Requested: **70.**
- Status of Discovery: \_\_\_\_\_
  - Written: \_\_\_\_\_
  - Depositions: \_\_\_\_\_
- Special Notes: \_\_\_\_\_

**IT IS SO ORDERED.**

November 9, 2020

Exhibit Exhibit 2 Page 16 of 18



Date

Judge CORY LEE ATKINS



Judge or Division: 17	Case Number: 1816-CV14915
BRANDON WHEISEL, et al.	
v.	
ARKEMA, INC., et al.	

**ORDER**

**SCHEDULING:**

- This Case is set for a Jury Trial on January 10, 2022.
- Motions for leave to amend the pleadings shall be filed no later than 45 days from the date of the first scheduling order entered in this case unless leave is granted for good cause shown.
- Motions for leave to add additional parties shall be filed no later than 45 days from the date of the first scheduling order entered in this case unless leave is granted for good cause shown.
- All discovery shall be commenced or served to be completed by November 1, 2021.
- Designation and deposition of experts:
  - Plaintiffs shall designate their retained and non-retained testifying experts by no later than 7/1/21.
  - Plaintiffs shall make their retained expert witnesses available for deposition by no later than 8/2/21.
  - Defendants shall designate their retained and non-retained testifying experts by no later than 9/1/21.
  - Defendants shall make their retained expert witnesses available for deposition by no later than 10/1/21.
- The parties are free to stipulate in writing to amend the schedule of expert designations and depositions so long as any stipulated change does not interfere with the trial date Any such stipulation need not be filed with the Court.
- All potentially dispositive motions shall be filed no later than November 1, 2021. No extensions shall cause the final sur-reply to be filed less than twenty days prior to trial.
- Not later than fourteen calendar days before trial, the parties shall serve and file with the Court a designation, by page and line, of any deposition testimony that the offering part intends to read at trial. Not later than seven calendar days before trial, each party shall serve and file with the Court any objections to the other party's deposition designations and shall provide any counter-designations. Not later than three calendar days before trial, the parties shall serve and file with the Court any objections to the other parties' counter-designations.
- Motions in limine and supporting briefs shall be filed not later than ten calendar days before the date of trial. Brief in opposition to motions in limine shall be filed not later than three calendar days before trial.
- Proposed jury instructions shall be filed by the parties not later than 10 days preceding the trial.
- Any request for a hearing on discovery issues or dispositive motions shall be in writing.
- Continuance requests shall conform to local rule 34.1. The parties are encouraged to approach the Court as soon as timelines in the scheduling order are not met.
- Mediation shall be completed 30 days prior to trial.
- Other: \_\_\_\_\_
- Other: \_\_\_\_\_

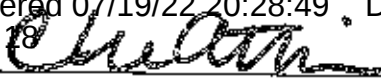
**NOTES:**

- Expected Length of Trial: 2 weeks. Jurors Requested: 70.
- Status of Discovery: \_\_\_\_\_
  - Written: \_\_\_\_\_
  - Depositions: \_\_\_\_\_
- Special Notes: \_\_\_\_\_

**IT IS SO ORDERED.**

March 26, 2021

Exhibit Exhibit 2 Page 18 of 18



Date

Judge CORY LEE ATKINS

**Exhibit 3**



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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA  
HON. ROBERTA HAYASHI, JUDGE

KRISTIE LYNN DOYLE, et al.,  
Plaintiffs,

vs.

Case No. 18CV333609

IMERYS TALC AMERICA, et al.,  
Defendants.

-----/

Reporter's Transcript of Remote Proceedings  
Thursday, July 14, 2022

Reported By: Sheila Pham, CSR No. 13293

1	<p>1 APPEARANCES OF COUNSEL</p> <p>2</p> <p>3 For Plaintiffs:</p> <p>4 KAZAN, MCCLAIN, SATTERLEY &amp; GREENWOOD</p> <p>5 BY: IAN RIVAMONTE, ESQ.</p> <p>6 55 Harrison Street, Suite 400</p> <p>7 Oakland, CA 94607</p> <p>8 (510) 302-1000</p> <p>9 irivamonte@kazanlaw.com</p> <p>10</p> <p>11 For Defendants Johnson &amp; Johnson and Johnson &amp; Johnson</p> <p>12 Consumer, Inc.:</p> <p>13</p> <p>14 ORRICK, HERRINGTON &amp; SUTCLIFFE</p> <p>15 BY: C. ANNE MALIK, ESQ.</p> <p>16 1152 15th Street, N.W.</p> <p>17 Washington, DC 20005</p> <p>18 (202) 339-8400</p> <p>19 amalik@orrick.com</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	3
2	<p>1 Thursday, July 14, 2022</p> <p>2 10:34 a.m. - 10:45 a.m.</p> <p>3</p> <p>4 THE COURT: Let's go to Line 15, please, Doyle</p> <p>5 versus Imerys Talc America, Inc.</p> <p>6 MS. MALIK: Good morning, Your Honor. This is</p> <p>7 Anne Malik --</p> <p>8 (Simultaneous speaking.)</p> <p>9 MS. MALIK: -- on behalf of Johnson &amp; Johnson</p> <p>10 and Johnson &amp; Johnson Consumer, Inc.</p> <p>11 THE COURT: I'm sorry, hold on just a moment.</p> <p>12 I had a couple of people speaking at the same time. My</p> <p>13 apologies. This is a case in which there's a lot of</p> <p>14 attorneys. So hold on one moment. Let me get the list</p> <p>15 of who's appearing today.</p> <p>16 Okay. This is Line 15 on the calendar. It</p> <p>17 originally had some different number, but it's Case</p> <p>18 Number 18CV333609.</p> <p>19 Let me ask first who is appearing for</p> <p>20 plaintiffs, please.</p> <p>21 MR. RIVAMONTE: Good morning, Your Honor.</p> <p>22 Ian Rivamonte for the plaintiffs, Kristie Doyle and</p> <p>23 Ethan Doyle.</p> <p>24 THE COURT: Okay. Are there other appearances</p> <p>25 for the plaintiffs?</p>	4
1	<p>1 MR. RIVAMONTE: No, Your Honor.</p> <p>2 THE COURT: Okay. Thank you.</p> <p>3 Are there any appearances for any of the</p> <p>4 defendants?</p> <p>5 MS. MALIK: Yes, Your Honor. This is</p> <p>6 Anne Malik on behalf of Johnson &amp; Johnson and Johnson &amp;</p> <p>7 Johnson Consumer, Inc.</p> <p>8 THE COURT: And, Ms. Malik, could you just</p> <p>9 please spell your last name for us.</p> <p>10 MS. MALIK: Yes, M-A-L-I-K.</p> <p>11 THE CLERK: And, Your Honor, did we receive a</p> <p>12 reporter stip?</p> <p>13 THE COURT: Is there a court reporter on this</p> <p>14 matter?</p> <p>15 THE REPORTER: Yes. Good morning, Your Honor.</p> <p>16 This is Sheila Pham, court reporter.</p> <p>17 THE COURT: All right. So we did receive a</p> <p>18 stipulation for appointment of a reporter?</p> <p>19 MR. RIVAMONTE: One was filed yesterday.</p> <p>20 THE COURT: Oh, okay. We'll track that down.</p> <p>21 It hasn't shown up yet in the file, but we will track</p> <p>22 that down and sign it. Thank you.</p> <p>23 So are there any other appearances for the</p> <p>24 record on Doyle versus Imerys?</p> <p>25 (No response.)</p>	3

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1 Now, for Johnson & Johnson, it's a bit of a  
 2 different story. Johnson & Johnson remains a solvent  
 3 and viable corporation. However, the bankruptcy court  
 4 issued a preliminary injunction that precludes  
 5 plaintiffs here and others like them from continuing to  
 6 prosecute or try their claims in state court against  
 7 Johnson & Johnson. That preliminary injunction  
 8 basically precludes plaintiffs from doing anything in  
 9 this case for a period of 120 days.  
 10 That time has now expired. However, Johnson &  
 11 Johnson is requesting that the bankruptcy court continue  
 12 that preliminary injunction for another 120 days or  
 13 maybe even longer. Now, the hearing on that particular  
 14 request is set for July 26th in New Jersey.  
 15 With all that said, the bankruptcy judge has  
 16 informed the parties involved in the bankruptcy that he  
 17 may be inclined to allow certain cases to go forward in  
 18 state court, and Doyle could be one of them. Now, there  
 19 is no guarantee that's going to happen, but, you know,  
 20 given that this case is completely worked up and I think  
 21 the parties are essentially ready for trial, that may be  
 22 one of the considerations that Judge Kaplan may take  
 23 into account.  
 24 With that said, Your Honor, because there is a  
 25 probability that the bankruptcy judge may lift the stay

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1 as to Doyle, and it's still a probability. It's not  
 2 certain -- one of the questions that the judge may ask  
 3 during that hearing is: How soon can this case be set  
 4 for a trial assignment?  
 5 You know, if Your Honor can shed some light on  
 6 that, that'd be great. Otherwise, I think we should  
 7 have another status conference in 30 days, definitely  
 8 after the July 26th hearing, to see where we are.  
 9 THE COURT: Okay. September 13th?  
 10 MR. RIVAMONTE: Is that the trial date,  
 11 Your Honor?  
 12 THE COURT: Yes.  
 13 MR. RIVAMONTE: Okay. So it may be set for  
 14 trial on September 13th.  
 15 THE COURT: September 13th, September 20th.  
 16 Frankly, your odds are probably better September 20th or  
 17 September 27th.  
 18 MR. RIVAMONTE: Okay.  
 19 THE COURT: But we could set you on  
 20 September 13th.  
 21 Now, that may change if I don't set you today.  
 22 And if I set you -- I mean -- let me put it this way:  
 23 Like all the other courts, trial resources are in short  
 24 supply. You've been through the trial setting  
 25 assignment here at this court the last go-around in

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1 April. The situation since April has not improved, and  
 2 in fact, it's gotten worse because right now, one of the  
 3 civil trial judges is doing rotations in criminal court  
 4 because of the criminal court backlog.  
 5 But as an example, every case that we had that  
 6 was set for trial this week went out. Every case that  
 7 we had set for trial last week went out. And we're  
 8 hoping that by September, we'll be back at full strength  
 9 on the civil jury side. So --  
 10 MS. MALIK: Your Honor, this is --  
 11 THE COURT: Yes.  
 12 MS. MALIK: I'm sorry, Your Honor. This is  
 13 Anne Malik for the defendants.  
 14 If we do come back then a month after the  
 15 hearing in the bankruptcy court and were to get assigned  
 16 a trial date then, would it be sort of just pushed out a  
 17 month maybe, like, October? Is that what we're  
 18 thinking?  
 19 THE COURT: That's quite likely.  
 20 MS. MALIK: Okay. Thank you very much,  
 21 Your Honor.  
 22 MR. RIVAMONTE: I have a question, Your Honor.  
 23 THE COURT: Yes.  
 24 MR. RIVAMONTE: So regardless of -- you know,  
 25 plaintiffs are not asking that the Court set a trial


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1 yet. I just want to make the record clear. I don't  
 2 want to run afoul with any of the bankruptcy court's  
 3 orders.  
 4 But the September dates or possibly even the  
 5 October date you just mentioned, is that when we're  
 6 going to be on trial call, or is there going to be an  
 7 actual department that we're going to be assigned the  
 8 trial?  
 9 THE COURT: As you know from the last time that  
 10 you were here, that the assignment of a trial department  
 11 doesn't happen until the Thursday before your trial  
 12 date. And, of course, it depends on, you know, what  
 13 else is set and is going out and whether any of those  
 14 cases have priority.  
 15 You do have priority because you've been reset  
 16 from a prior setting in April, but you also, I believe,  
 17 have a fairly long estimate of time, and you don't --  
 18 unless there's a statutory priority, you know, such as  
 19 -- and I don't know if you're approaching the five-year  
 20 statute or where you stand on that, there may be reasons  
 21 why it could go out -- well, let me look at your case  
 22 number. You're a 2018 case, so you're getting close in  
 23 terms of priority.  
 24 MR. RIVAMONTE: Thank you, Your Honor.  
 25 THE COURT: Okay. So what we'll do then is,

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1 we'll continue today's date to --  
 2 Do we have anything earlier than -- you know,  
 3 than September? Can we do anything in August?  
 4 THE CLERK: August? I think the earliest we  
 5 have is September 8th.  
 6 THE COURT: September 8th is the earliest date  
 7 we have.  
 8 MR. RIVAMONTE: For a further status  
 9 conference?  
 10 THE COURT: Yes, for a further status  
 11 conference, September 8th.  
 12 September 8th is the earliest date we can set  
 13 it. It's even earlier than on the trial setting  
 14 conference calendar. So I'm going to keep you on this  
 15 calendar September 8th, 10:00 a.m., this department.  
 16 MS. MALIK: Thank you, Your Honor.  
 17 MR. RIVAMONTE: Thank you, Your Honor.  
 18 THE COURT: Thank you.  
 19 (Proceedings concluded at 10:45 a.m.)  
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10

1 REPORTER'S CERTIFICATION  
 2  
 3 I, Sheila Pham, a Certified Shorthand Reporter, do  
 4 hereby certify:  
 5 That the foregoing proceedings were taken before me  
 6 at the time and place therein set forth, that the  
 7 proceedings were reported stenographically by me and  
 8 were thereafter transcribed under my direction and  
 9 supervision, and that the foregoing pages contain a  
 10 full, true and accurate record of all proceedings and  
 11 testimony to the best of my skill and ability.  
 12 In witness whereof, I have subscribed my name.  
 13  
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 15 Dated: 0715/2022  
 16  
 17  
 18  
 19   
 20 Sheila Pham  
 CSR No. 13293  
 21  
 22  
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<p style="text-align: center;"><b>A</b></p> <p><b>a.m</b> 2:2,2 9:15,19  <b>ability</b> 10:11  <b>account</b> 5:23  <b>accurate</b> 10:10  <b>actual</b> 8:7  <b>afoul</b> 8:2  <b>ahead</b> 4:9  <b>al</b> 1:5,8  <b>allow</b> 5:17  <b>amalik@orrick.com</b>  1:12  <b>America</b> 1:8 2:5  <b>Anne</b> 1:10 2:7 3:6  7:13  <b>apologies</b> 2:13  <b>apologize</b> 4:13  <b>appeal</b> 4:5  <b>appearances</b> 1:1 2:24  3:3,23  <b>appearing</b> 2:15,19  <b>appointment</b> 3:18  <b>approaching</b> 8:19  <b>April</b> 4:3 7:1,1 8:16  <b>asking</b> 7:25  <b>assigned</b> 7:15 8:7  <b>assignment</b> 6:4,25  8:10  <b>attorneys</b> 2:14  <b>August</b> 9:3,4  <b>automatically</b> 4:22</p> <hr/> <p style="text-align: center;"><b>B</b></p> <p><b>back</b> 7:8,14  <b>backlog</b> 7:4  <b>bankruptcy</b> 4:5,23,24  5:3,11,15,16,25 7:15  8:2  <b>basically</b> 5:8  <b>behalf</b> 2:9 3:6  <b>believe</b> 8:16  <b>best</b> 10:11  <b>better</b> 6:16  <b>bit</b> 5:1  <b>briefly</b> 4:15</p> <hr/> <p style="text-align: center;"><b>C</b></p>	<p><b>C</b> 1:10  <b>CA</b> 1:5  <b>calendar</b> 2:16 9:14,15  <b>CALIFORNIA</b> 1:1  <b>call</b> 8:6  <b>canceled</b> 4:4  <b>case</b> 1:7 2:13,17 4:2  4:16,19 5:9,20 6:3  7:5,6 8:21,22  <b>cases</b> 5:17 8:14  <b>certain</b> 5:17 6:2  <b>CERTIFICATION</b>  10:1  <b>Certified</b> 10:3  <b>certify</b> 10:4  <b>change</b> 6:21  <b>civil</b> 7:3,9  <b>claims</b> 4:21 5:6  <b>CLARA</b> 1:2  <b>clear</b> 8:1  <b>CLERK</b> 3:11 9:4  <b>close</b> 8:22  <b>come</b> 7:14  <b>completely</b> 5:20  <b>concluded</b> 9:19  <b>conference</b> 6:7 9:9,11  9:14  <b>considerations</b> 5:22  <b>Consumer</b> 1:8 2:10  3:7 4:20,21  <b>contain</b> 10:9  <b>continue</b> 5:11 9:1  <b>continuing</b> 5:5  <b>corporation</b> 5:3  <b>counsel</b> 1:1 4:16  <b>COUNTY</b> 1:2  <b>couple</b> 2:12  <b>course</b> 8:12  <b>court</b> 1:1 2:4,11,24  3:2,8,13,13,16,17,20  4:1,9,15,17 5:3,6,11  5:18 6:9,12,15,19,25  7:3,4,11,15,19,23,25  8:9,25 9:6,10,18  <b>court's</b> 8:2  <b>courts</b> 6:23  <b>criminal</b> 7:3,4</p>	<p><b>CSR</b> 1:23 10:20  <b>currently</b> 4:24</p> <hr/> <p style="text-align: center;"><b>D</b></p> <p><b>date</b> 6:10 7:16 8:5,12  9:1,6,12  <b>Dated</b> 10:15  <b>dates</b> 8:4  <b>days</b> 5:9,12 6:7  <b>DC</b> 1:11  <b>defendants</b> 1:9,8 3:4  4:19 7:13  <b>definitely</b> 6:7  <b>department</b> 8:7,10  9:15  <b>depends</b> 8:12  <b>different</b> 2:17 5:2  <b>direction</b> 10:8  <b>doing</b> 5:8 7:3  <b>Doyle</b> 1:5 2:4,22,23  3:24 5:18 6:1  <b>due</b> 4:4</p> <hr/> <p style="text-align: center;"><b>E</b></p> <p><b>earlier</b> 9:2,13  <b>earliest</b> 9:4,6,12  <b>entity</b> 4:22,24  <b>ESQ</b> 1:4,10  <b>essentially</b> 5:21  <b>estimate</b> 8:17  <b>et</b> 1:5,8  <b>Ethan</b> 2:23  <b>example</b> 7:5  <b>expired</b> 5:10</p> <hr/> <p style="text-align: center;"><b>F</b></p> <p><b>fact</b> 7:2  <b>fairly</b> 8:17  <b>file</b> 3:21  <b>filed</b> 3:19  <b>filing</b> 4:23  <b>first</b> 2:19  <b>five-year</b> 8:19  <b>foregoing</b> 10:5,9  <b>forth</b> 10:6  <b>forward</b> 5:17  <b>Frankly</b> 6:16</p>	<p><b>full</b> 7:8 10:10  <b>further</b> 9:8,10</p> <hr/> <p style="text-align: center;"><b>G</b></p> <p><b>getting</b> 8:22  <b>given</b> 5:20  <b>go</b> 2:4 4:9 5:17 8:21  <b>go-around</b> 6:25  <b>going</b> 5:19 8:6,6,7,13  9:14  <b>Good</b> 2:6,21 3:15  <b>gotten</b> 7:2  <b>great</b> 6:6  <b>GREENWOOD</b> 1:4  <b>guarantee</b> 5:19</p> <hr/> <p style="text-align: center;"><b>H</b></p> <p><b>happen</b> 5:19 8:11  <b>Harrison</b> 1:5  <b>HAYASHI</b> 1:3  <b>hearing</b> 4:1 5:13 6:3,8  7:15  <b>HERRINGTON</b> 1:9  <b>hold</b> 2:11,14  <b>HON</b> 1:3  <b>Honor</b> 2:6,21 3:1,5,11  3:15 4:10,13,18 5:24  6:5,11 7:10,12,21,22  8:24 9:16,17  <b>hoping</b> 7:8</p> <hr/> <p style="text-align: center;"><b>I</b></p> <p><b>Ian</b> 1:4 2:22 4:10,14  <b>Imerys</b> 1:8 2:5 3:24  <b>improved</b> 7:1  <b>inclined</b> 5:17  <b>informed</b> 5:16  <b>injunction</b> 5:4,7,12  <b>involved</b> 5:16  <b>irivamonte@kazanl...</b>  1:6  <b>issued</b> 5:4</p> <hr/> <p style="text-align: center;"><b>J</b></p> <p><b>Jersey</b> 5:14  <b>Johnson</b> 1:8,8,8,8 2:9  2:9,10,10 3:6,6,6,7</p>
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