

## Products Liability Law Daily Wrap Up, TOP STORY—JURY VERDICTS—Mo. Cir.: Johnson & Johnson must pay \$72 million after jury finds talc-containing products linked to consumer’s ovarian cancer, (Feb. 24, 2016)

By Susan Lasser, J.D.

A St. Louis jury has awarded the family of a consumer who was injured as a result of using talc-containing products manufactured by Johnson & Johnson \$72 million after finding that the products contributed to the consumer’s death. The consumer was diagnosed in 2013 with ovarian cancer after using the products for many years, and died shortly before the trial began, in October 2015, at age 62, according to a [news release](#) issued by [Beasley Allen](#), the law firm representing her family. The jury determined that the manufacturer failed to warn of the link between its talc products and ovarian cancer (*Fox v. Johnson & Johnson*, February 22, 2016 (verdict), Burlison, R.).

The [complaint](#) in the case, filed on behalf of over 60 plaintiffs, including the consumer, related that for about 60 years—from approximately September 1953 to January 2013—the consumer purchased and applied talcum powder in her home state of Alabama, as well as in Georgia. The consumer and the other plaintiffs used the manufacturer’s products, Johnson’s Baby Powder and Shower to Shower, to dust their perineum for feminine hygiene purposes. It was asserted in the case that this was an intended and foreseeable use of these products based on the manufacturer’s advertising, marketing, and labeling of them. It was alleged that her development of ovarian cancer was directly and proximately caused by the unreasonably dangerous and defective talc products and the manufacturer’s “wrongful and negligent conduct in the research, development, testing, manufacture, production, promotion, distribution, marketing, and sale of talcum powder.” According to the plaintiffs’ [timeline](#), Johnson & Johnson knew in 1971 about a study’s suggestion that there was a possible link between ovarian cancer and talc.

**Jury findings.** The jury found Johnson & Johnson and Johnson & Johnson Consumer Companies, Inc. liable on the consumer’s claims for product liability failure to warn, negligence, and conspiracy. However, Imerys Talc America, Inc., which has been in the business of mining and distributing talcum powder for use in talcum powder-based products, including the products at issue, not liable on all claims.

After agreeing that the products contributed to the consumer’s development of ovarian cancer, the jury rendered a \$72 million verdict for the consumer’s family. The verdict included \$10 million in actual damages and \$62 million in punitive damages (\$22 million against Johnson & Johnson; and \$40 million against Johnson & Johnson Consumer Companies, Inc.).

**Statistics.** According to the law firm’s release, approximately 20,000 women are diagnosed each year with ovarian cancer. While about one in 70 women develop the disease, studies have shown that women who use talc-containing products on their genitals have a one in 50 chance of developing the cancer. An expert at trial testified that at least 45,000 women have died due to ovarian cancer that could be attributed to talcum powder use on their genitals.

The case is No. 1422-CC09012-01.

Attorneys: Jere L. Beasley, Ted G. Meadows, David P. Dearing and Danielle Ward Mason (Beasley Allen), Stephanie Rados, James G. Onder, Michael J. Quillin and W. Wylie Blair (Onder, Shelton, O’Leary & Peterson LLC), R. Allen Smith, Jr. (The Smith Law Firm) and Timothy W. Porter, Patrick C. Malouf and John T. Givens (Porter & Malouf PA) for plaintiffs. Mark Clarence Hegarty, Iain Kennedy and Hunter K. Ahern (Shook, Hardy & Bacon LLP) and David Bays (HeplerBroom LLC) for Johnson and Johnson Co. and Johnson and Johnson Consumer Companies Inc. Mary Anne Mellow (Sandberg, Phoenix & von Gontard PC) and Nancy M. Erfle (Gordon Rees Scully Mansukhani, LLP) for Imerys Talc America Inc.

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