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11 **SUPERIOR COURT OF ARIZONA**
12 **IN MARICOPA COUNTY**

13
14 STATE OF ARIZONA, *ex rel.* KRISTIN K.
15 MAYES, Attorney General,

16 Plaintiff,

17 v.

18 JOHNSON & JOHNSON,

19 Defendant.
20

Case No.

COMPLAINT

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22 Plaintiff, State of Arizona, *ex rel.* Kristin K. Mayes, Attorney General (the “State”),
23 brings this action complaining of Defendant Johnson & Johnson (“J&J”) for violating the
24 Arizona Consumer Fraud Act (“CFA”) as follows:

25 **I. JURISDICTION AND STATUTORY AUTHORITY**

26 1. The State brings this action pursuant to the CFA, Arizona Revised Statutes
27 (“A.R.S.”) §§ 44-1521 to -1534, to obtain injunctive relief to permanently enjoin and prevent
28 the unlawful acts and practices alleged in this Complaint, and to obtain other relief, including

1 restitution, disgorgement of profits, gains, gross receipts, or other benefits, civil penalties, and
2 costs and attorneys' fees.

3 2. This Court has subject-matter jurisdiction.

4 3. This Court may issue appropriate orders both prior to and following a
5 determination of liability pursuant to A.R.S. § 44-1528.

6 4. Defendant caused events to occur in this state out of which the claims which are
7 the subject of this Complaint arose.

8 **II. VENUE**

9 5. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(17).

10 **III. PARTIES**

11 6. Plaintiff is the State of Arizona, *ex rel.* Kristin K. Mayes, the Attorney General
12 of Arizona, who is authorized to bring this action under the CFA.

13 7. Defendant Johnson & Johnson is a New Jersey company and its principal place
14 of business and executive offices are located at One Johnson & Johnson Plaza, New
15 Brunswick, NJ, 08933. J&J transacts business in Arizona and nationwide by manufacturing,
16 marketing, promoting, advertising, offering for sale, and selling, Johnson's® Baby Powder®
17 and Shower to Shower®.

18 **IV. ACTS OF AGENTS**

19 8. Whenever this Complaint alleges that Defendant did any act, it means that
20 Defendant:

21 a. Performed or participated in the act; or

22 b. Its subsidiaries, officers, successors in interest, agents, partners, trustees, or
23 employees performed or participated in the act on behalf of and under the authority of
24 Defendant.

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9. J&J and its agents have, at all times described below, engaged in the sale and/or advertisement of merchandise in the State of Arizona as defined in A.R.S. § 44-1521.

VI. FACTUAL ALLEGATIONS

10. Since the 1890s, J&J and various subsidiaries have manufactured, marketed, and sold talc body powder products such as Johnson's® Baby Powder and Shower to Shower® (collectively, "Talc Powder Products"). J&J marketed these products as safe for daily use by consumers all over their bodies, including female genitals. The products were marketed and intended to be used to maintain a fresh, dry, and clean feeling; to eliminate friction on the skin; and to absorb excess moisture. J&J's talc powder products were advertised as "clinically proven gentle and mild."

11. In advertisements, J&J at times encouraged primarily women and teenage girls to use Talc Powder Products to mask and avoid odors. Bottles of Johnson's® Baby Powder specifically stated, "for use every day to help feel soft, fresh and comfortable." Shower to Shower's® advertisements stated "Your body perspires in more places than just under your arms. Use SHOWER to SHOWER to feel dry, fresh and comfortable throughout the day." In short, J&J knew and intended that women would use the Talc Powder Products on and in their genitals.

12. Since the 1980s, J&J knew of studies and other support information demonstrating that Talc Powder Products were sometimes tainted with carcinogenic asbestos and that women who used talc-based powders in the genital area had an increased risk of ovarian cancer compared to those women who do not. At all pertinent times during these periods, feasible and safe alternatives to the Talc Products existed (*e.g.*, cornstarch powders). Despite this knowledge, J&J continued marketing of Talc Powder Products as safe, pure, and gentle, and as suitable for use in and on female genitals.

13. J&J's knowledge of the potential presences of asbestos in its Talc Powder Products dates to at least the 1950s, when J&J discovered that the chief source mine for talc

1 in the U.S. market contained tremolite. Tremolite is one of the six different minerals that take
2 the form of crystalline fibers known as asbestos. Through the 1960s, J&J searched for “clean”
3 talc deposits but kept finding tremolite fibers in the deposits. As early as 1969, J&J expressed
4 internal concern in a memo that the tremolite fibers in its talc posed a safety risk, and that J&J
5 would not be able to assure that its powders were safe to use if tremolite in more than
6 “unavoidable trace amounts” were present.

7 14. In the 1970s, there was growing public awareness of the dangers of asbestos with
8 the federal Food and Drug Administration (“FDA”) recognition of asbestos as the primary
9 cause of mesothelioma. During this time, J&J repeatedly met with the FDA and shared
10 “evidence that their talc contains less than 1%, if any, asbestos.”

11 15. Meanwhile, J&J’s own scientists were conducting studies showing that J&J’s
12 talc contained trace amounts of asbestos fibers. J&J’s research director warned that J&J should
13 “protect our powder franchise” by eliminating as many tiny fibers that can be inhaled in
14 airborne talc dust as possible, but that “no final product will ever be made which will be totally
15 free from respirable particles.”

16 16. Moreover, a 1973 J&J memo made clear that the company was “confident” that
17 asbestiform minerals could be located even at a mine the company considered “very clean,”
18 and that talc used in J&J’s baby powder at times contained identifiable amounts of tremolite
19 and actinolite, two types of asbestos fibers.

20 17. J&J knew, from the results of funded studies, that asbestos was present in talc.
21 However, citing costs and fear of public reaction, they failed to disclose this knowledge to the
22 government, media, or the public. Instead, the lobbying organization Cosmetic Toiletry and
23 Fragrance Association (hereinafter “CTFA”), which J&J was a part of, stated, “there is no
24 basis to Petitioner’s request that cosmetic talc products should bear warning labels to the effect
25 that talcum powder causes cancer in laboratory animals or the ‘frequent talc application in the
26 female genital area increases the risk of ovarian cancer’.”

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1 18. J&J also engaged in an effort to influence research on talc safety. J&J
2 commissioned a 1974 mortality study of Italian talc miners, which found no mesothelioma
3 among the subject population. The study was then repeatedly published along with other J&J-
4 commissioned studies, including one testing baby powder on a doll to show that powdering
5 provided low exposure, touting the safety of talc without disclosing J&J's connections. J&J
6 reported on the success of its efforts to influence in a 1977 internal report on J&J's "Defense
7 of Talc Safety" strategy, noting that independent authorities had been "enjoy[ing] confirming
8 reassurance" that cosmetic talc products were "free of hazard," in part due to the effective
9 dissemination of "favorable data from the various J&J sponsored studies" to the scientific and
10 medical communities in the United States and Britain.

11 19. Meanwhile, a 1982 Harvard study found that the use of talc increased a women's
12 risk of ovarian cancer by 92%. The authors of that study advised J&J to place a warning on its
13 talc products. It did not.

14 20. Since 1982, multiple studies found an increased risk of ovarian cancer caused
15 by the use of talc products for feminine hygiene.

16 21. J&J took part in efforts to neutralize the effects of the studies. For instance, the
17 United States National Toxicology Program published a study in 1993 on the toxicity of non-
18 asbestiform talc that found clear evidence of carcinogenic activity. In response, CTFA's Talc
19 Interested Party Task Force TIPTF, a group of which J&J was a member, issued statements
20 claiming these studies were insufficient to link between hygienic talc use and ovarian cancer.

21 22. Despite knowledge of the dangers associated with the use of its Talc Powder
22 Products, J&J failed to warn consumers and continued to market Talc Powder Products for use
23 in the manner most likely to increase the risk of ovarian cancer.

24 23. In the 1990s, J&J specifically targeted African American and Hispanic women
25 in its marketing campaigns in order to reverse declines in sales of its baby powders. J&J's
26 internal memo describing this marketing strategy acknowledged that baby powder had
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1 problems such as “negative publicity from the health community on talc (inhalation, dust,
2 negative doctor endorsement, cancer linkage).”

3 24. By the 2000s, other manufacturers began placing warnings on their talc products
4 about the risk of developing ovarian cancer as a result of genital talc use. The safety documents
5 provided to J&J by its current talc supplier included a statement that the International Agency
6 for Research on Cancer “has concluded that perineal use of talc-based body powder is possibly
7 carcinogenic to humans.” Despite knowing for over 30 years of studies linking the use of Talc
8 Products in the genital area with increased risk of ovarian cancer, J&J continued to refuse to
9 include any warning or information in its marketing of the Talc Products. Instead, J&J
10 continued to market the products as safe for daily use on all areas of the body. For example,
11 contemporaneous Shower to Shower® advertisements suggested that “a sprinkle a day keeps
12 odors away” that the product “can be used all over your body.”

13 25. In 2012, J&J sold Shower to Shower to Valeant Pharmaceuticals North America,
14 LLC, a wholly-owned subsidiary of Valeant International. Valeant International. In July 2018,
15 Valent International changed its name to Bausch Health Companies, Inc (“Bausch”). In 2018,
16 Bausch reformulated Shower to Shower by replacing talc with corn starch.

17 26. In October 2019, J&J issued a recall of Johnson’s Baby Powder after the United
18 States Food and Drug Administration discovered asbestos in a bottle. J&J finally discontinued
19 the manufacturing, sale, and distribution of talc-based Johnson’s Baby Powder in May 2020
20 in the United States.

21 **VII. VIOLATION OF THE ARIZONA CONSUMER FRAUD ACT**

22 27. Plaintiff realleges and incorporates by reference herein each and every allegation
23 contained in the preceding paragraphs 1 through 26.

24 28. The conduct described in the preceding paragraphs of this Complaint constitutes
25 deception, deceptive or unfair acts or practices, fraud, false pretenses, false promises,
26 misrepresentations, or concealment, suppression or omission of material facts with the intent
27 that others rely on such concealment, suppression or omission, in connection with the sale or
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1 advertisement of merchandise in violation of A.R.S. §§ 44-1521 to -1534, including, but not
2 limited to:

- 3 a. Defendant engaged in deceptive and unfair acts and practices by:
 - 4 i. Misrepresenting the sponsorship, approval, characteristics, benefits or qualities
 - 5 of its talc powder products; and
 - 6 ii. Misrepresenting the safety of its talc powder products.

7 29. While engaging in the acts and practices alleged in this Complaint, Defendant
8 knew or should have known that its conduct was of the nature prohibited by A.R.S. § 44-1522,
9 subjecting itself to enforcement and penalties as provided in A.R.S. § 44-1531(A).

10 30. With respect to the unfair acts and practices described above, these acts and
11 practices caused or were likely to cause substantial injuries to consumers that were not
12 reasonably avoidable by consumers and were not outweighed by countervailing benefits to
13 consumers or to competition.

14 **VIII. PRAYER FOR RELIEF**

15 31. WHEREFORE, the State respectfully request that:

16 a. Pursuant to A.R.S. § 44-1528(A)(1) and in accordance with Ariz. R. Civ. P.
17 56(d)(1), the Court permanently enjoin and restrain Defendants, their agents, employees, and
18 all other persons and entities, corporate or otherwise, in active concert or participation with
19 any of them, from engaging in deceptive, misleading, or unfair acts or practices, or
20 concealments, suppressions, or omissions, that violate the CFA, A.R.S. § 44-1522(A), in
21 connection with the advertising, marketing, promotion, selling, and distributing of their Talc
22 Powder Products;

23 b. Pursuant to A.R.S. § 44-1531, the Court order the Defendant to pay the State of
24 Arizona a civil penalty of \$10,000 for each willful violation by Defendant of A.R.S. § 44-
25 1522, in the total amount of \$15,466,308.21;

1 c. Pursuant to A.R.S. § 44-1534, the Court order Defendants to reimburse the State
2 for its costs and attorneys' fees incurred in the investigation and prosecution of Defendant's
3 activities alleged in this Complaint; and

4 32. Plaintiff further requests that this Court grant all other relief to which the
5 Plaintiff is entitled.

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7 DATED this 11th day of June, 2024.

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9 KRISTIN K. MAYES
10 Attorney General

11 By:

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13 _____
14 Stephen J. Emedi
15 Jane Fallon
16 Assistant Attorneys General
17 *Attorneys for the State of Arizona*
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