

STATE OF SOUTH CAROLINA

COUNTY OF DARLINGTON

ANTOINE BOSTIC, Individually and as Personal Representative of the Estate of BERTILA DELORA BOYD-BOSTIC

Plaintiff(s)

vs.

3M COMPANY, et al.

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

(THIRD AMENDED COMPLAINT)

17- CP - 16-0400

(Please Print)

Submitted By: W. CHRISTOPHER SWETT

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint. This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules. This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules. This case is exempt from ADR (certificate attached).

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), Employment (120), General (130), Breach of Contract (140), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Notice/ File Med Mal (230), Other (299)
Torts - Personal Injury: Assault/Slander/Libel (300), Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanics Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Sexual Predator (510), Mandamus (520), Habeas Corpus (530), Other (599)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Other (799)
Administrative Law/Relief: Reinstate Driver's License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture (840), Other (899)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Administrative Law Judge (980), Public Service Commission (990), Employment Security Comm (991), Other (999)
Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650)

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Submitting Party Signature:

W. Christopher Swett

Date:

February 28, 2018

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY
Florence, Horry, Lexington, Richland, Greenville and Anderson

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)
)
COUNTY OF DARLINGTON)

IN THE COURT OF COMMON PLEAS
FOURTH JUDICIAL CIRCUIT

ANTOINE BOSTIC, Individually and as)
Personal Representative of the Estate of)
BERTILA DELORA BOYD-BOSTIC)

C/A No. 17-CP-16-0400

Plaintiffs,)

v.)

3M COMPANY)
A Minnesota Corporation)

(Wrongful Death, Consortium, Survival)
Mesothelioma

IMERYS TALC AMERICA, INC. f/k/a)
Luzenac America, Inc.)
A Delaware Corporation)

THIRD AMENDED SUMMONS

Plaintiffs Demand
A Jury Trial

JOHNSON & JOHNSON CONSUMER)
INC.)
A New Jersey Corporation)

JOHNSON & JOHNSON SERVICE, INC.)
A New Jersey Corporation)

NAVISTAR, INC. f/k/a International)
Harvester Company)
A Delaware Corporation)

RITE AID OF SOUTH CAROLINA,)
INC.)
A South Carolina Corporation)

DOLLAR TREE STORES, INC.)
A Virginia Corporation)

FAMILY DOLLAR STORES, INC.)
A South Carolina Corporation)

Defendants.)
_____)

SCOTT A. SUGGS
CLERK OF COURT
DARLINGTON COUNTY, S.C.

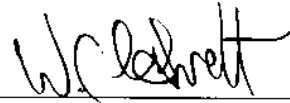
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FILED

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Third Amended Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to said Amended Complaint on the subscribed at their office at 28 Bridgeside Blvd., Mt. Pleasant, South Carolina, 29464, within thirty (30) days after the service hereof; exclusive of the day of such service; and if you fail to answer the Amended Complaint within the time aforesaid, plaintiff in this action will apply to the Court for the relief demanded in this Complaint.

MOTLEY RICE LLC



W. Christopher Swett
Plaintiffs' Attorney

Dated: February 28, 2018

STATE OF SOUTH CAROLINA)
)
COUNTY OF DARLINGTON)

IN THE COURT OF COMMON PLEAS
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THIRD AMENDED COMPLAINT

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Defendants.)
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SCOTT B. SUGGS
CLERK OF COURT/P.O.
DARLINGTON COUNTY, S.C.

FILED

Now comes Plaintiff Antoine Bostic, Individually and as Personal Representative of the Estate of Bertila Delora Boyd-Bostic, deceased, and sues the Defendants. Plaintiff amends his Complaint and alleges as follows:

PARTIES

1. Plaintiff is a citizen and resident of the State of South Carolina. BERTILA DELORA BOYD-BOSTIC was exposed to asbestos as a bystander and while using Johnson & Johnson Baby Powder (the "PRODUCTS") in her South Carolina home and other homes beginning in the 1980s. The dust and fibers from the asbestos-containing products permeated her person and clothes. As a direct and proximate result of her inhalation and ingestion of dust particles and fibers, she was diagnosed with Mesothelioma on or about July 8, 2016 which resulted in her death October 29, 2017.

2. Defendant JOHNSON & JOHNSON is a New Jersey corporation with its principal place of business in the State of New Jersey. At all pertinent times, JOHNSON & JOHNSON was engaged in the business of manufacturing, marketing, testing, promoting, selling, and/or distributing asbestos-containing TALC PRODUCTS to which BERTILA DELORA BOYD-BOSTIC was exposed. At all pertinent times, JOHNSON & JOHNSON regularly transacted, solicited, and conducted business in all States of the United States, including the State of South Carolina. JOHNSON & JOHNSON can be served via its agent for process: M.H. Ullman, Registered Agent, One Johnson & Johnson Plaza, New Brunswick, NJ 08933.

3. Defendant JOHNSON & JOHNSON CONSUMER COMPANIES, INC. is a New Jersey corporation with its principal place of business in the State of New Jersey. At all pertinent times, JOHNSON & JOHNSON CONSUMER COMPANIES, INC. was engaged in the business of manufacturing, marketing, testing, promoting, selling, and/or distributing asbestos-containing TALC PRODUCTS to which BERTILA DELORA BOYD-BOSTIC was exposed. At all pertinent times, JOHNSON & JOHNSON CONSUMER COMPANIES, INC. regularly transacted, solicited, and conducted business in all States of the United States, including the State of South Carolina. JOHNSON & JOHNSON CONSUMER COMPANIES, INC. can be served via its agent for process: Johnson & Johnson Registered Agent, One Johnson & Johnson Plaza, New Brunswick, NJ 08933.

4. Defendant IMERYYS TALC AMERICA, INC. f/k/a LUZENAC AMERICA, INC. is a Delaware corporation with its principal place of business in California. At all pertinent times, IMERYYS TALC AMERICA, INC. f/k/a LUZENAC AMERICA, INC. has been in the business of mining and distributing asbestos-containing talcum powder for use in talcum powder based products, including the asbestos-containing TALC PRODUCTS to which BERTILA DELORA BOYD-BOSTIC was exposed. IMERYYS TALC AMERICA, INC. is the successor or continuation of LUZENAC AMERICA, INC. and is legally responsible for all liabilities incurred when it was known as LUZENAC AMERICA, INC. IMERYYS TALC AMERICA, INC. f/k/a LUZENAC AMERICA, INC. can be served via its agent for process: CT Corporation, 120 South Clayton Avenue, St. Louis, MO 63105.

5. Defendants JOHNSON & JOHNSON, JOHNSON & JOHNSON CONSUMER COMPANIES, INC, and IMERYYS TALC AMERICA, INC are hereinafter referred to as the "Talc Defendants."

6. All other defendant corporations (hereinafter "Product Defendants") or their predecessors in interest, at all times relevant, engaged in one or more of the following activities involving asbestos fibers in their asbestos-containing products including, but not limited to, the mining, milling, manufacturing, designing, distributing, supplying, selling, specifying, using, recommending, and/or installing asbestos materials or other dangerous products. The application or use of asbestos or asbestos-containing products in conjunction with their products or the selling of said products was a foreseeable use.

7. At all times pertinent hereto, the defendant corporations acted through their duly authorized agents, servants and employees who were in all times acting within the course of their respective employment and in the course and scope of their duties in furtherance of the business of the defendant corporations and for their benefit.

JURISDICTION

8. The Defendants herein are corporations, some of which are South Carolina corporations or have their principal place of business in South Carolina. Other defendants are foreign corporations who are amenable to jurisdiction in the Courts of South Carolina by virtue of their respective contacts with the State of South Carolina and/or their respective conduct of substantial and/or systematic business in South Carolina which subjects them to the jurisdiction of the South Carolina Courts pursuant to the South Carolina Long Arm Statute.

9. At all pertinent times, Defendants were engaged in the research, development, mining, manufacturing, processing, designing, testing, supplying, selling, labeling, marketing, installing and/or removing of asbestos-containing products, and introduced such products into interstate commerce with knowledge and intent that such products be sold, distributed and/or used in South Carolina.

10. Defendants' design, manufacture, sale, supply, distribution, use, specification, disturbance, and/or removal of asbestos-containing products exposed the Decedent to asbestos personally and as a bystander and household member, resulting in asbestos-related cancer. Decedent was exposed to asbestos-containing products for which the Defendants are responsible in the State of South Carolina.

11. During the time Decedent was exposed to asbestos fibers from products of various defendants, the products reached Decedent's locale without any substantial change in the condition of the product or products from the time they were sold or distributed by the defendants.

12. Mesothelioma is a progressive, insidious disease and, on information and belief, such exposure in South Carolina substantially contributed to Decedent's contraction of her

mesothelioma and ultimate death caused by breathing dust and fibers from defendants' asbestos-containing products.

13. Venue is proper in Darlington County pursuant to S.C. Code § 15-7-30, as Darlington County is the county in which the most substantial part of the alleged acts or omissions giving rise to the causes of action occurred.

ALLEGATIONS COMMON TO COUNTS AGAINST TALC DEFENDANTS

14. Talc was the main substance used in talcum and baby powders in the 1960s through the early 2000s.

15. Talc is a magnesium trisilicate and is mined from the earth. IMERYS TALC AMERICA, INC. f/k/a LUZENAC AMERICA, INC. mined the talc used in the TALC PRODUCTS.

16. The JOHNSON & JOHNSON defendants manufactured the TALC PRODUCTS.

17. The talc mined and incorporated into the TALC PRODUCTS by defendants and sold to BERTILA DELORA BOYD-BOSTIC contained up to 50% asbestos.

18. At all pertinent times, a feasible alternative to the TALC PRODUCTS has existed. Cornstarch is an organic carbohydrate that is quickly broken down by the body with no known health effects. Cornstarch powders have been sold and marketed for the same uses with nearly the same effectiveness.

19. IMERYS TALC AMERICA, INC.¹ has continually advertised and marketed talc as safe for human use.

20. IMERYS TALC AMERICA, INC. supplies customers, such as JOHNSON & JOHNSON, with material safety data sheets for talc. These material safety data sheets are supposed to convey adequate health and warning information to its customers.

21. Historically, JOHNSON & JOHNSON Baby Powder has been a symbol of freshness, cleanliness, and purity. During the time in question, the JOHNSON & JOHNSON defendants advertised and marketed this product as the beacon of "freshness" and "comfort", eliminating friction on the skin, absorbing "excess wetness" helping keep skin feeling dry and comfortable, and "clinically proven gentle and mild."

¹ All allegations regarding actions taken by Imerys Talc also include actions taken while that entity was known as Luzenac America, Inc.

COUNT ONE
Negligence as to All Defendants

22. Plaintiffs adopt and re-allege each prior paragraph, where relevant, as if set forth fully herein.

23. Defendants, at all times material hereto, acted through their respective officers, employees and agents, who in turn were acting within the scope of their authority and employment in furtherance of the business of Defendants.

24. Defendants were engaged, directly or indirectly, in the business of mining, milling, producing, processing, compounding, converting, designing, manufacturing, selling, merchandising, importing, supplying, distributing or retailing the PRODUCTS and placed them in the stream of commerce.

25. At all pertinent times, Defendants had a duty to exercise reasonable care to consumers, including decedent, in the design, development, manufacturing, testing, inspection, packaging, promotion, marketing, distribution, supplying, labeling and/or sale of the PRODUCTS.

26. Defendants, directly or indirectly, caused their asbestos-containing PRODUCTS to be sold to or used by Decedent.

27. Decedent neither misused nor materially altered the PRODUCTS, and they were in the same or substantially similar condition that they were in at the time that they left the hands of the Defendants.

28. At all relevant times, the PRODUCTS were used in an intended and foreseeable manner, and Decedent was exposed to and came in contact with Defendants' asbestos PRODUCTS and inhaled or ingested the asbestos dust and fibers emanating from said PRODCUTS.

29. During the time that Defendants were engaged, directly or indirectly, in the business of mining, milling, producing, processing, compounding, converting, designing, manufacturing, selling, merchandising, importing, supplying, distributing or retailing the PRODUCTS, Defendants knew or in the exercise of reasonable care should have known, that their asbestos PRODUCTS were defective, ultra-hazardous, dangerous and otherwise highly harmful to consumers such as Decedent.

30. Defendants knew, or the exercise of reasonable care should have known, that the use of their asbestos PRODUCTS would cause asbestos dust and fibers to be released into the air and would create dangerous and unreasonable risks of injury to the lungs, respiratory systems, and other bodily organs of users of their products and to others breathing that air and coming into contact with that dust.

31. Decedent did not know the nature and extent of the injuries that would result from contact with and exposure to Defendants' asbestos PRODUCTS or from the inhalation or ingestion of the asbestos dust and fibers.

32. Defendants knew, or in the exercise of reasonable care should have known, that consumers such as Decedent would come into contact with and be exposed to their asbestos PRODUCTS and would inhale or ingest asbestos dust and fibers as a result of the ordinary and foreseeable use of said PRODUCTS.

33. Despite the facts set forth above, Defendants were negligent, grossly negligent, willful, wanton, reckless and careless, and breached their respective duties of care in one or more of the following respects:

(a) In designing and placing into the stream of commerce PRODUCTS that were defective, ultra-hazardous, dangerous and otherwise highly harmful to consumers such as Decedent.

(b) In manufacturing and placing into the stream of commerce PRODUCTS that were defective, ultra-hazardous, dangerous and otherwise highly harmful to consumers such as Decedent.

(c) In selling and placing into the stream of commerce PRODUCTS that were defective, ultra-hazardous, dangerous and otherwise highly harmful to consumers such as Decedent.

(d) In failing to warn or provide sufficient warnings to ultimate users such as Decedent of the risks, dangers and harms associated with exposure to, contact with, and the use and handling of Defendants' asbestos PRODUCTS, including the inhalation or ingestion of the asbestos dust and fibers resulting from the ordinary and foreseeable use of the PRODUCTS;

(e) In failing to package their asbestos PRODUCTS in a manner that would assure that users such as Decedent would not come into contact with or be exposed to the asbestos dust and fibers resulting from the ordinary and foreseeable use of Defendants' asbestos PRODUCTS;

(f) In failing to properly test their PRODUCTS to determine adequacy and effectiveness or safety measures, if any, prior to releasing the PRODUCTS for consumer use and failing to test their PRODUCTS to determine the increased risk of cancer, including mesothelioma, resulting from the ordinary and foreseeable use of the PRODUCTS;

(g) In failing to inform the ultimate users such as Decedent as to the safe and proper methods of handling and using the products or of any safeguards or protective equipment necessary so that she would not inhale or ingest the asbestos dust and fibers resulting from the ordinary and foreseeable use of Defendants' asbestos PRODUCTS;

(h) In failing to instruct the ultimate users such as Decedent as to any methods available for reducing the type of exposure to the asbestos PRODUCTS which causes increased risk of cancer, including mesothelioma;

(i) In failing to remove the PRODUCTS from the market when Defendants knew or should have known the PRODUCTS were defective;

(j) In failing to develop alternate products or seek substitute materials in lieu of the use of asbestos in the PRODUCTS;

(k) In failing to use reasonable care in the specification, selection, and distribution of component parts for the PRODUCTS;

(l) In marketing and labeling the asbestos PRODUCTS as safe for all uses despite knowledge to the contrary;

(m) In ignoring and suppressing medical and scientific information, studies, tests, data and literature which Defendants acquired during the course of their normal business activities concerning the risk of asbestosis, scarred lungs, cancer, mesothelioma, respiratory disorders and other illnesses and diseases to people such as Decedent who were exposed to Defendants' asbestos PRODUCTS;

(n) In disregarding medical and scientific information, studies, tests, data and literature concerning the causal relationship between the inhalation or ingestion of asbestos dust and fibers, and such diseases as asbestosis, mesothelioma, scarred lungs, cancer, respiratory disorders and other illnesses and diseases; and

(o) In failing to act like a reasonably prudent company under similar circumstances.

34. Defendants otherwise acted negligently, recklessly and with intentional disregard for the welfare of Decedent in the mining, milling, producing, processing, compounding, converting, designing, manufacturing, selling, merchandising, importing, supplying, distributing, retailing, or otherwise placing in the stream of commerce their asbestos PRODUCTS.

35. At all times relevant, it was feasible for Defendants to have warned Decedent, tested their asbestos PRODUCTS, designed safer PRODUCTS and/or substituted asbestos-free PRODUCTS;

36. Each Defendant's negligence was a substantial factor in causing Decedent's mesothelioma and death.

37. As a direct and proximate result of the Defendants' negligence and the breaches complained of herein, Decedent was exposed to and came in contact with Defendants' asbestos PRODUCTS and inhaled or ingested asbestos dust and fibers resulting from the ordinary and foreseeable use of said asbestos PRODUCTS.

38. Decedent developed mesothelioma, incurred medical bills, endured conscious pain and suffering, and died as a direct and proximate result of said exposure to asbestos PRODUCTS.

39. As a direct and proximate result of the Defendants' negligent and/or grossly negligent misconduct or omissions, Plaintiff has:

(a) incurred pecuniary loss;

- (b) suffered mental shock and emotional distress;
- (c) suffered wounded feelings;
- (d) incurred unnecessary medical expenses – past, present and future;
- (e) experienced loss of enjoyment of life and grief and sorrow;
- (f) has been injured and damaged on such other and further particulars as the evidence may show.

40. Wherefore, Plaintiff demands judgment against Defendants, jointly and severally, for all actual and compensatory damages together with interest, if applicable, and all costs of this action and for such other and further relief as this Honorable Court and/or jury may deem just and proper.

COUNT TWO
Strict Liability as to All Defendants

41. Plaintiffs adopt and re-allege each prior paragraph, where relevant, as if set forth fully herein.

42. Defendants were engaged, directly or indirectly, in the business of mining, milling, producing, processing, compounding, converting, designing, manufacturing, selling, merchandising, importing, supplying, distributing or retailing the PRODUCTS and placed them in the stream of commerce.

43. Defendants knew or had reason to know that Decedent and other persons similarly situated would be ultimate users or consumers of their asbestos PRODUCTS or would be exposed to their asbestos PRODUCTS.

44. Defendants sold or otherwise placed the asbestos PRODUCTS into the stream of commerce in a defective condition, unreasonably dangerous to Decedent and other persons similarly situated.

45. Throughout the many years that Decedent and other persons similarly situated were exposed to and used Defendants' asbestos PRODUCTS, said asbestos PRODUCTS reached the users and consumers without substantial change in the condition in which they were sold.

46. The ordinary and foreseeable use of Defendants' asbestos PRODUCTS constituted a dangerous and ultra-hazardous activity and created an unreasonable risk of injury to users and bystanders.

47. The Defendants' PRODUCTS posed potential risks that were known and/or should have been known by Defendants at the time of design, manufacture, distribution, and/or sale.

48. The Defendants' PRODUCTS presented a substantial danger during intended ordinary and reasonably foreseeable use not readily recognizable to the ordinary user.

49. The danger associated with the use of the Defendants' PRODUCTS as designed outweighed the utility.

50. Defendants' asbestos PRODUCTS were defective in that they were incapable of being made safe for their ordinary and intended use and purpose, and Defendants failed to give any warnings or instructions, or failed to give adequate or sufficient warnings or instructions about the risks, dangers and harms associated with the use of their asbestos PRODUCTS.

51. As a direct and proximate result of the defective condition of Defendants' asbestos PRODUCTS, decedent was exposed to and came in contact with Defendants' asbestos PRODUCTS and inhaled or ingested asbestos dust and fibers resulting from the ordinary and foreseeable use of said asbestos PRODUCTS.

52. Decedent developed mesothelioma, incurred medical bills, endured conscious pain and suffering, and died as a direct and proximate result of said exposure to asbestos PRODUCTS.

53. As such, Plaintiff has:

- (a) incurred pecuniary loss;
- (b) suffered mental shock and emotional distress;
- (c) suffered wounded feelings;
- (d) incurred unnecessary medical expenses – past, present and future;
- (e) experienced loss of enjoyment of life and grief and sorrow;
- (f) has been injured and damaged on such other and further particulars as the evidence may show.

54. Wherefore, Plaintiff demands judgment against Defendants, jointly and severally, for all actual and compensatory damages together with interest, if applicable, and all costs of this action and for such other and further relief as this Honorable Court and/or jury may deem just and proper.

COUNT THREE
Breach of Warranty as to All Defendants

55. Plaintiffs adopt and re-allege each prior paragraph, where relevant, as if set forth fully herein.

56. Defendants expressly or impliedly warranted that their asbestos PRODUCTS, which they mined, milled, produced, processed, compounded, converted, designed, manufactured, sold, imported, supplied, distributed, merchandised, or otherwise placed in the stream of commerce, were merchantable, reasonably fit for ordinary use, and safe for their intended purposes.

57. Defendants breached said warranties in that their asbestos PRODUCTS were defective; ultra-hazardous; dangerous; unfit for use; not merchantable; not safe for their intended, ordinary and foreseeable use and purpose; and certain harmful, poisonous and deleterious matter was given off into the atmosphere when Decedent used the asbestos PRODUCTS.

58. As a direct and proximate result of Defendants' breach of warranties, Decedent was exposed to and came in contact with Defendants' asbestos PRODUCTS and inhaled or ingested asbestos dust and fibers resulting from the ordinary and foreseeable use of said asbestos PRODUCTS.

59. Decedent developed mesothelioma, incurred medical bills, endured conscious pain and suffering, and died as a direct and proximate result of said exposure to asbestos PRODUCTS.

60. As a direct and proximate result of the Defendants' breach of warranties, Plaintiff has:

- (a) incurred pecuniary loss;
- (b) suffered mental shock and emotional distress;
- (c) suffered wounded feelings;
- (d) incurred unnecessary medical expenses – past, present and future;
- (e) experienced loss of enjoyment of life and grief and sorrow;
- (f) has been injured and damaged on such other and further particulars as the evidence may show.

61. Wherefore, Plaintiff demands judgment against Defendants, jointly and severally, for all actual and compensatory damages together with interest, if applicable, and all costs of this action and for such other and further relief as this Honorable Court and/or jury may deem just and proper.

COUNT FOUR

Fraud and Misrepresentation as to All Defendants

62. Plaintiffs adopt and re-allege each prior paragraph, where relevant, as if set forth fully herein.

63. Defendants failed to disclose and intentionally and negligently misrepresented to Decedent and other persons similarly situated the health risks created by the ordinary and foreseeable use of Defendants' asbestos PRODUCTS.

64. Defendants knew that their misrepresentations were false and acted with a reckless disregard for the truth with the intent that their misrepresentations be relied upon by consumers, such as Decedent.

65. Decedent was ignorant of the falsity of Defendants' misrepresentations, which were material to her use of the PRODUCTS.

66. Decedent relied upon said misrepresentations, and her reliance was foreseeable to Defendants.

67. As a result of Defendants' conduct, omissions and misrepresentations, Decedent was exposed to and came in contact with Defendants' asbestos PRODUCTS and inhaled or ingested asbestos dust and fibers resulting from the ordinary and foreseeable use of said asbestos PRODUCTS.

68. Decedent developed mesothelioma as a direct and proximate result of said exposure to asbestos PRODUCTS.

69. As a direct and proximate result of the Defendants' misrepresentations, Decedent developed mesothelioma, incurred medical bills, endured conscious pain and suffering, and died.

70. As such, Plaintiff has:

- (a) incurred pecuniary loss;
- (b) suffered mental shock and emotional distress;
- (c) suffered wounded feelings;
- (d) incurred unnecessary medical expenses – past, present and future;
- (e) experienced loss of enjoyment of life and grief and sorrow;
- (f) has been injured and damaged on such other and further particulars as the evidence may show.

71. Wherefore, Plaintiff demands judgment against Defendants, jointly and severally, for all actual and compensatory damages together with interest, if applicable, and all costs of this action and for such other and further relief as this Honorable Court and/or jury may deem just and proper.

COUNT FIVE

Violation of the South Carolina Unfair Trade Practices Act as to All Defendants

72. Plaintiffs adopt and re-allege each prior paragraph, where relevant, as if set forth fully herein.

73. Defendants' misrepresentations, actions and omissions described above and hereafter constitute unfair and deceptive acts and practices in the conduct of trade and commerce in violation of South Carolina Code section 39-5-20.

74. Defendants' misrepresentations, actions and omissions are capable of repetition and adversely affect the public interest.

75. Defendants' use of unfair and deceptive methods and practices was, and is, a willful and knowing violation of South Carolina Code section 39-5-20.

76. Decedent has been injured and damaged as set forth above as a result of Defendants' unfair and deceptive trade practices and acts.

77. Wherefore, Plaintiff is informed and believes that he is entitled to recover actual damages, attorneys' fees, and treble the actual damages pursuant to South Carolina Code section 39-5-140 from Defendants, jointly and severally, for unfair and deceptive trade practices and acts and prays for such relief.

COUNT SIX

Wrongful Death as to All Defendants

78. Plaintiffs adopt and re-allege each prior paragraph, where relevant, as if set forth fully herein.

79. As a result of the development of mesothelioma caused by breathing defendant's asbestos-containing PRODUCTS, Decedent suffered and sustained very serious injuries to her person requiring medical treatment, conscious pain and suffering, and ultimately death.

80. Plaintiff alleges that as a result of the aforesaid wrongful death of Decedent, Decedent's beneficiaries have and will suffer pecuniary loss, mental shock and suffering, wounded feelings, grief and sorrow, loss of companionship, deprivation of use and comfort of Decedent's society, all both past and future, and funeral expenses, all to the beneficiaries actual and punitive damages in an amount to be determined by the trier of fact.

81. Wherefore, Plaintiff prays judgment, joint and several, against the Defendants for compensatory and punitive damages in amounts to be determined by the trier of fact, and the costs of this action.

COUNT SEVEN

Loss of Consortium as to All Defendants

82. Plaintiffs adopt and re-allege each prior paragraph, where relevant, as if set forth fully herein.

83. The Defendants' combined and respective actions and inactions were each a direct and proximate cause of decedent's injuries and a tortious violation of ANTOINE BOSTIC's right to the companionship, aid, society and services of his spouse.

84. As a direct and proximate result of the conduct and misconduct of the Defendants, ANTOINE BOSTIC has suffered and continues to suffer the loss of consortium, household services, aid, society, support, and companionship.

85. Wherefore, ANTOINE BOSTIC demands judgment against all Defendants, jointly and severally, for the loss of consortium, household services, aid, society, support, and companionship to which he is entitled with his spouse.

Punitive Damages as to All Defendants

86. Plaintiffs adopt and re-allege each prior paragraph, where relevant, as if set forth fully herein.

87. The actions and inactions of Defendants were of such a character as to constitute a pattern or practice of willful, wanton and reckless misconduct causing substantial harm and resulting in damages to Plaintiffs.

88. More specifically, Defendants acted with a conscious and flagrant disregard for the rights and safety of Decedent, and/or deliberately engaged in willful, wanton and reckless disregard for the life and safety of Decedent.

89. Examples of Defendants' willful, wanton and reckless misconduct include, but are not limited to:

- a. Purposefully not warning consumers about the hazards of their asbestos PRODUCTS despite knowing that ordinary and foreseeable use created an unreasonable risk of lung disease and cancer, including mesothelioma, to ultimate users;
- b. The intentional inadequacy and delay of safe use instructions on their asbestos PRODUCTS;
- c. Never issuing recall-type letters or notices to ultimate and prior users;
- d. Frustrating the publication of articles on the asbestos health hazards in the literature;

e. Top management officials of Defendants rejected advice of medical and other corporate officials to warn of the hazards of their asbestos PRODUCTS; such rejection by top management officials being motivated by the possibility of adverse effects on profits;

f. Refusing to advise consumers of medical findings known to Defendants concerning the dangers of asbestos exposure; and

g. Suppressing the dissemination of information to consumers, including Decedent, concerning the hazards of asbestos exposure.

90. By reason of the foregoing, Defendants are liable for punitive and exemplary damages.

91. Wherefore, Plaintiff demands judgment against Defendants, jointly and severally, for punitive and exemplary damages, plus interest, costs and attorneys' fees for having to bring this action, and such other and further relief as this Honorable Court or jury may deem just and proper.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray as follows:

92. For a trial by jury and judgment against the Defendants, jointly and severally, for such sums as actual and other compensatory damages in an amount as a jury may determine;

93. For exemplary and punitive damages against Defendants in an amount as a jury may determine to halt and deter such conduct;

94. For the costs of this suit, including attorney's fees, expenses, and interest; and

95. For such other and further relief to which they may be entitled and as this Honorable Court may deem just and proper.

BY:

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February 28, 2018
Mt. Pleasant, SC

ATTORNEY FOR PLAINTIFFS