

C A N A D A

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

N<sup>o</sup> : 500-06-000787-164

S U P E R I O R C O U R T  
(Class Action)

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ROSEMARY KRAMAR

*Petitioner*

-vs-

JOHNSON & JOHNSON,

-and-

JOHNSON & JOHNSON CONSUMER INC.

-and-

JOHNSON & JOHNSON INC.

-and-

VALEANT PHARMACEUTICALS  
INTERNATIONAL, INC.

*Respondents*

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APPLICATION TO AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO  
ASCRIBE THE STATUS OF REPRESENTATIVE  
(Art. 574 C.C.P. and following)

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TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT OF  
QUEBEC, SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE PETITIONER  
STATES THE FOLLOWING:

TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT OF QUEBEC, SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE PETITIONER STATES THE FOLLOWING:

GENERAL PRESENTATION

1. The Petitioner wishes to institute a class action on behalf of the following group, of which she is a member, namely:

Persons in Quebec who have used Johnson's® Baby Powder and/or Shower to Shower® (the "Products") in their perineal area and have been diagnosed with ovarian cancer, and/or their family members, assigns and heirs (hereinafter, referred to as "Class Member(s)", "Group Member(s)", the "Group", the "Class", the "Member(s)").

2. The "Johnson & Johnson" group of companies (known herein as "Johnson & Johnson") are named individually herein as follows:
  - a) Johnson & Johnson as "J&J";
  - b) Johnson & Johnson Consumer Inc. as "JJCI"; and
  - c) Johnson & Johnson, Inc. as "J&J Canada";
3. Respondent Johnson & Johnson (hereinafter referred to as "J&J"), is a New Jersey corporation with its head office located at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933, United States, as it appears on a page from their website, <http://www.jnjcanada.com/explore-our-contacts>, communicated herein as exhibit P-1. At all pertinent times, J&J was engaged in the business of manufacturing, marketing, testing, promoting, selling, and/or distributing the Products;
4. Respondent Johnson & Johnson Consumer Inc., (hereinafter referred to as "JJCI"), is a New Jersey corporation with its head office located at 199 Grandview Rd, Skillman,

New Jersey 08558-1303, United States, as it appears on a press release from its official website, <http://www.investor.jnj.com/releasedetail.cfm?ReleaseID=933244>, communicated herein as exhibit P-2 and an entry on the Bloomberg website, <http://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=25262064>, communicated herein as exhibit P-3. At all pertinent times, JJCI was engaged in the business of manufacturing, marketing, testing, promoting, selling, and/or distributing the Products;

5. Respondent Johnson & Johnson, Inc. (hereinafter referred to as "J&J Canada"), is a federal corporation with its head office located at 8565 Autoroute Transcanadienne, Suite 300, Ville St.-Laurent, QC, H4S 1Z6, Canada, the whole as appears more fully from a copy of an extract from the Corporations Canada website (communicated herein as exhibit P-4). At all pertinent times, J&J Canada regularly transacted, solicited, and conducted business in Canada, including the province of Quebec. At all pertinent times, J&J Canada was engaged in the business of manufacturing, importing, marketing, testing, promoting, selling, and/or distributing the Products;
6. Respondents J&J, JJCI, and J&J Canada (hereinafter collectively referred to as "Johnson & Johnson") are all directly connected and operate as a global enterprise, carrying out business worldwide, including in Canada and in Quebec;
7. Respondent Valeant Pharmaceuticals International Inc. (hereinafter referred to as "Valeant"), is a company constituted under the British-Columbia Business Corporations Act with its head office located at 2150 boul. Saint-Elzéar O., Laval, Québec, H7L4A8, Canada. In October 2012, Valeant purchased the Shower to Shower brand from Johnson & Johnson (as appears more fully in Valeant Pharmaceuticals International Inc. Form 10-Q (Quarterly Report) Filed 08/07/13 for the Period Ending 06/30/13, communicated herein as exhibit P-5). From October 2012 onwards, Valeant was engaged in the business of manufacturing, importing, marketing, testing, promoting, selling, and/or distributing Shower to Shower® in Canada, including the province of Quebec.

General Facts:

8. Talc is a magnesium trisilicate and is mined from the earth. Talc is an inorganic mineral, and is the main substance in talcum powders;
9. Johnson's Baby Powder® is made almost entirely out of talc;
10. Shower to Shower® is a made of a mixture of mostly talc and cornstarch;
11. Johnson & Johnson introduced Johnson's® Baby Powder around 1893;
12. Johnson & Johnson has been marketing baby powder to adults for about 100 years using the "Best for the Baby - Best for You" tagline ("The Red Cross Pharmacy". The Miami News, 1913-01-13); it is reported that by 1985, 70 percent of Johnson's Baby powder in the United States was used by adults (Deborah Blumenthal, "Babying Grown-Ups". The New York Times, 1985-05-19, communicated herewith as **exhibit P-6**);
13. A high number of studies, published since as early as 1971, have found that regular perineal use of talc is associated with a significantly higher risk of ovarian cancer;
14. At all material times, a feasible alternative to the Respondents' product has existed (i.e. cornstarch);
15. Cornstarch is an organic carbohydrate that is quickly broken down by the body. Cornstarch powders have been sold and marketed for the same uses as the Products with nearly the same effectiveness;
16. Historically, "Johnson's® Baby Powder" has been a symbol of freshness, cleanliness, and purity. During the time in question, the Respondents, Johnson &

Johnson, advertised and marketed Johnson's® Baby Powder 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" (as appears more fully in example of online advertisement communicated herewith as exhibit P-7);

17. Johnson & Johnson encouraged women through advertisements to dust themselves with this product to mask odours. Advertising of "Johnson's Baby Powder" specifically targets women by stating, "For you, use every day to help feel soft, fresh, and comfortable" (as appears more fully in a page from Johnson & Johnson's current website, communicated herewith as exhibit P-8);

18. During the time in question, Johnson & Johnson advertised and marketed the product "Shower to Shower®" as safe for use by women as evidenced in its slogan "A sprinkle a day keeps odor away", and through advertisements such as "Your body perspires in more places than just under your arms. Use Shower to Shower to feel dry, fresh, and comfortable throughout the day." And "Shower to Shower can be used all over your body" (as appears more fully in an example of online advertisement communicated herewith as exhibit P-9);

#### The Studies:

19. In 1971, the first study was conducted that suggested an association between talc and ovarian cancer. This study, entitled "Talc and Carcinoma of the Ovary and Cervix", was conducted by Dr. WJ Henderson and others in Cardiff, Wales (communicated herewith as exhibit P-10);

20. In 1982, the first epidemiologic study was performed on talc powder use in the female genital area. The study, entitled "Ovarian Cancer and talc. A case-control study" was conducted by Dr. Daniel Cramer and others. It found an increased risk in ovarian cancer with women who reported genital talc use (as

communicated herein as **exhibit P-11**). Shortly after this study was published, Johnson & Johnson contacted Dr. Cramer. Dr. Cramer advised the company to place a warning on its talcum powders about the ovarian cancer risks, but his advice went unheeded ("Johnson & Johnson ordered to pay \$72M to family in cancer-talcum powder case", CBC, Feb 24, 2016, <http://www.cbc.ca/news/business/talcum-powder-ovarian-cancer-1.3461632>, communicated herewith as **exhibit P-12**) ;

21. In 1993, the United States National Toxicology Program published a study, on the toxicity of non-asbestiform talc and found clear evidence of carcinogenic activity. In this study, talc was found to be a carcinogen, with or without the presence of asbestos-like fibers (communicated herewith as **exhibit P-13**);
22. In November 1994, a Citizen Petition seeking a cancer warning on cosmetic talc powder products was submitted to the US Food and Drug Administration ("FDA"), but was denied. On May 13, 2008 the Cancer Prevention Coalition, endorsed by leading national authorities, submitted a petition to the FDA, updating the scientific information detailed in the Citizen Petition. This Petition, based on 11 reports in leading national and international scientific journals, documents the increased risks of ovarian cancer, ranging from 30% to 60%, from genital dusting with talc powder. It further documents prior knowledge of the FDA and industry on the cancer risks of cosmetic talc. The whole as it appears in a copy of a press release from Dr. Samuel S. Epstein, Chairman of Cancer Prevention Coalition, May 19, 2008, communicated herewith as **exhibit P-14**;
23. In 1996, the condom industry stopped dusting condoms with talc due to the health concerns of ovarian cancer;
24. In February of 2006, the International Association for the Research of Cancer (IARC), part of the World Health Organization, published a paper whereby they classified perineal use of talc based body powder as a "Group 2B" human carcinogen. In this publication, entitled "IARC Monographs on the Evaluation of

Carcinogenic Risks to Humans, Volume 93: Carbon Black, Titanium Dioxide, and Talc”, IARC, which is universally accepted as the international authority on cancer issues, concluded “that studies from around the world consistently found an increased risk of ovarian cancer in women from perineal use of talc. IARC found that between 16-52% of women in the world were using talc to dust their perineum and found an increased risk of ovarian cancer in women talc users ranging from 30-60% (communicated herewith as exhibit P-15).

25. Overall, there have been dozens of studies providing data regarding the association of talc and ovarian cancer. Nearly all of these studies have reported an elevated risk for ovarian cancer associated with genital talc use in women (an average of 30% according to Cramer D., Vitonis A., Terry K. et al. The Association Between Talc Use and Ovarian Cancer A Retrospective Case–Control Study in Two US States, *Epidemiology* 2016;27: 334–346, communicated herewith as exhibit P-16)<sup>1</sup>;

26. The Canadian Cancer Society lists “using talc on the genitals” as a possible risk factor for ovarian cancer (as it appears on a page from their website entitled “Risk Factors for Ovarian Cancer”, <http://www.cancer.ca/en/cancer-information/cancer-type/ovarian/risks/?region=on> communicated herewith as exhibit P-17).

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<sup>1</sup> Among the larger studies referred to above are: Purdie D, Green A, Bain C, et al. Reproductive and other factors and risk of epithelial ovarian cancer: an Australian case-control study. *Survey of Women’s Health Study Group. Int J Cancer.* 1995; 62:678–684; Chang S, Risch HA. Perineal talc exposure and risk of ovarian carcinoma. *Cancer.* 1997;79:2396–2401; Cramer DW., Liberman RF., Titus-Ernstoff L., et al. Genital talc exposure and risk of ovarian cancer. *Int J Cancer.* 1999;81:351–356; Wong C, Hempling RE., Piver MS., Natarajan N., Mettlin CJ. Perineal talc exposure and subsequent epithelial ovarian cancer: a case-control study. *Obstet Gynecol.* 1999;93:372–376; Ness RB, Grisso JA, Cottreau C, et al. Factors related to inflammation of the ovarian epithelium and risk of ovarian cancer. *Epidemiology.* 2000;11:111–117; Mills PK, Riordan DG, Cress RD, Young HA. Perineal talc exposure and epithelial ovarian cancer risk in the Central Valley of California. *Int J Cancer.* 2004;112:458–464; Merritt MA, Green AC, Nagle CM, Webb PM Australian Cancer Study (Ovarian Cancer), Australian Ovarian Cancer Study Group. Talcum powder, chronic pelvic inflammation and NSAIDs in relation to risk of epithelial ovarian cancer. *Int J Cancer.* 2008;122:170–176; Wu AH, Pearce CL, Tseng CC, Templeman C, Pike MC. Markers of inflammation and risk of ovarian cancer in Los Angeles County. *Int J Cancer.* 2009;124:1409–1415; Rosenblatt KA, Weiss NS, Cushing-Haugen KL, Wicklund KG, Rossing MA. Genital powder exposure and the risk of epithelial ovarian cancer. *Cancer Causes Control.* 2011;22:737–742

## Negligence

27. In light of the above-mentioned evidence, the Respondents knew or ought to have known about the hazards associated with the use of the Products;
28. The Respondents failed to inform its customers and end users of the Products of a known serious health hazard associated with the use of its products;
29. The Respondents were negligent in:
- a) Failing to properly and sufficiently test the Products, prior to and after their release, to ensure that they are safe for consumer use ;
  - b) Failing to properly test the Products to determine the increased risk of ovarian cancer during the normal and/or intended use of the Products;
  - c) Failing to warn the Petitioner and Group Members of the health risks associated with the use of the Products by women in the perineal area;
  - d) Failing to remove the Products from the market when the Respondents knew or ought to have known that the Products were dangerous;
30. As a direct and proximate result of the Respondents' negligence, Petitioner and Group Members purchased and used the Product in the perineal area, which caused them to develop ovarian cancer. As a result, Petitioner and Group Members incurred medical bills, lost wages, and endured pain and suffering;

## FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE PETITIONER

31. The Petitioner, Rosemary Kramar, born October 11 1962, is a resident of Montreal, Quebec;
32. The Petitioner used Johnson's® Baby Powder from approximately 1962 to 2013. Her parents used it on her when she was a baby after diaper changes and baths.



From teenage hood onwards, the Petitioner dusted her perineum regularly with the Products for feminine hygiene purposes, not knowing that such use leads to an increased risk of ovarian cancer. This was an intended and foreseeable use of the Products based on their advertising, marketing, and labelling;

33. From approximately April 2012, Ms. Kramar started feeling pain in her whole body and particularly in her lower abdomen. In August 2012, she was feeling much worse, feeling constant throbbing in the area of her ovaries. Pain medicine helped very little;
34. Due to the worsening of her pain, the Petitioner scheduled a consultation with her gynecologist in November 2012; during this consultation, her gynecologist ordered an ultrasound and CA125 test;
35. Upon reviewing the results of these tests, her gynecologist informed her that she had large cysts on both of her ovaries. He said that he suspected ovarian cancer and referred her to a specialist;
36. In late January 2013, weeks before her scheduled appointment with the specialist, the pain had continued to worsen so the Petitioner went to the Jewish General Hospital, where she was given pain medication and sent back home;
37. A week later, the pain had worsened again and she went to St-Mary's Hospital where a scan of her ovaries was taken;
38. The following day, on January 28<sup>th</sup>, 2013, she was informed that her ovarian cysts have grown much larger and that she required immediate surgery. She was admitted to the emergency room and the surgeons removed her ovaries, her uterus, fallopian tubes and cervix; during the surgery, doctors discovered that she had possible ovarian cancer;
39. In March 2013, testing confirmed that the Petitioner did indeed have ovarian cancer. She was immediately put on chemotherapy treatment until July 2013;

40. Since the end of chemotherapy, the Petitioner has been cancer free, but the chemotherapy has damaged some of the nerves in her body and she now has to take pain medication to alleviate the pain caused by the nerve damage;
41. Because of her ordeal, the Petitioner had to stop working completely from January 2013 to November 2014;
42. Since July 2013, and for the foreseeable future, the Petitioner must attend a cancer clinic every 6 months for cancer testing;
43. The Petitioner is in a constant state of anxiety, having to fear the results of the cancer test that await her every 6 months;
44. Ms. Kramar underwent BRCA genetic testing at the Montreal General Hospital in February 2014, which yielded negative results; therefore, heredity has been ruled out as a cause of her ovarian cancer;
45. In February 2016, the Petitioner read about the verdict in the cancer-talcum powder case in Missouri. Said verdict ordered Johnson & Johnson to pay 72 million \$US in damages to the family of Jacqueline Fox for failure to warn of the risk of ovarian cancer from perineal use of their talcum powder products (the initial claim is communicated herewith as exhibit P-18). The Petitioner thus realized that, in the absence of genetic factors, her regular use of baby powder throughout her life probably led to her developing ovarian cancer;
46. Had the Petitioner known of the dangers of using the Products on her perineum, she would not have purchased the Products let alone use them in that fashion
47. The damages suffered by the Petitioner are a direct and proximate result of the Respondents' conduct;

48. As a consequence of the foregoing, the Petitioner is justified in claiming damages;

**FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE GROUP**

49. Each Member used the Products on their perineum, unaware of the risks associated with such use;

50. Each Member of the Group is justified in claiming one or more of the following:

a) compensatory damages in an amount to be determined at trial for:

- (i) personal injury or death;
- (ii) pain and suffering;
- (iii) loss of income and earning capacity;
- (iv) loss of amenities and enjoyment of life;
- (v) loss of guidance, care and companionship;
- (vi) costs of future care and related expenses;

b) exemplary and punitive damages;

c) such further and other relief as counsel may advise and this Honourable Court may allow.

51. All of these damages to the Group Members are a direct and proximate result of the Respondents' negligence;

**CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION**

The composition of the group makes the application of Article 91 or 143 C.C.P. impractical or impossible for the reasons detailed below:

52. The number of persons included in the Group is unknown to the Petitioner, however, it can be estimated that hundreds of individuals can potentially be part of this Group. The Canadian Cancer Society estimates that in 2015, 2,800 Canadian women will be diagnosed with ovarian cancer, of which, based on Dr.

Cramer's study (Genital Talc Exposure and Risk of Ovarian Cancer, communicated herewith as exhibit P-19), 10% of all new ovarian cancer cases can be attributed to the use of talcum powder. Considering that the Products have been placed on the market for decades, it is reasonable to estimate that the group would include hundreds of individuals;

53. The names and addresses of all persons included in the Group are not known to the Petitioner and are private. Therefore, it is impossible for Petitioner to contact each Group Member to obtain mandates and join them in one action;

54. In addition, given the costs and risks inherent in an action before the Courts, many people will hesitate to institute an individual action against the Respondents. Even if the Group Members themselves could afford such individual litigation, the Court system could not as it would be overloaded. Furthermore, individual litigation of the factual, scientific, and legal issues raised by the conduct of Respondents would increase delay and expense to all parties and to the Court system;

55. In these circumstances, a class action is the only appropriate procedure for all of the Members of the Group to effectively pursue their respective rights and have access to justice;

**The questions of fact and law which are identical, similar, or related with respect to each of the Group Members:**

56. The recourses of the Group Members raise identical, similar or related questions of fact or law, namely:

- a) Do the Products, when used in the perineal area, cause, contribute to, or materially increase the risk of ovarian cancer?
- b) Did the Respondents fail to properly and sufficiently test their Products, prior to and after its release, to ensure that they are safe for consumer use?
- c) Did the Respondents fail to properly test the Products to determine the increased risk of ovarian cancer during the normal and/or intended use of the Products?

- d) Did the Respondents fail to warn the Petitioner and Group Members of the health risks associated with the use of the Products by women in the perineal area?
- e. Are the Respondents liable to pay compensatory damages to the Group Members?
- f. Are the Respondents liable to pay exemplary or punitive damages, and if so, what amount of punitive damages should be awarded?

57. The interests of justice favour that this Application be granted in accordance with its conclusions;

#### NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

58. The action that the Petitioner wishes to institute for the benefit of the members of the Group is an action in damages for product liability;

59. The conclusions that the Petitioner wishes to introduce by way of an Application to institute proceedings are:

**GRANT** Petitioner's action against Respondents;

**CONDEMN** Respondents to pay compensatory damages to the Group Members for the material damages, personal injuries, pain and suffering, anxiety and fear, and other moral damages;

**CONDEMN** Respondents to pay punitive and/or exemplary damages to the Group Members, to be determined by the Court;

**ORDER** the treatment of individual claims of each Member of the Group in accordance with articles 599 to 601 C.C.P.;

**RENDER** any other order that this Honourable Court shall determine and that is in the interest of the Members of the Group;

**THE WHOLE** with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs and expenses including expert's fees and publication fees to advise members;

**DECLARE** that all Members of the Group that have not requested their exclusion from the Group in the prescribed delay to be bound by any judgment to be

rendered on the class action to be instituted;

FIX the delay of exclusion at 30 days from the date of the publication of the notice to the Members;

ORDER the publication of a notice to the Members of the Group in accordance with Article 579 C.C.P.;

THE WHOLE with costs to follow.

60. Petitioner suggests that this class action be exercised before the Superior Court in the District of Montreal for the following reasons:
- a) Many Group Members are domiciled in the District of Montreal including the Petitioner;
  - b) The Respondents have a business establishment in the District of Montreal;
  - c) The Petitioner's counsel is domiciled in the District of Montreal;
61. The Petitioner, who is requesting to obtain the status of representative, will fairly and adequately protect and represent the interest of the Members of the Group, since Petitioner:
- a) Rosemary Kramar used the Products and suffered an adverse effect, namely ovarian cancer;
  - b) understands the nature of the action and has the capacity and interest to fairly and adequately protect and represent the interests of the Members of the Group;
  - c) is available to dedicate the time necessary for the present action before the Courts of Quebec and to collaborate with Group attorneys in this regard;
  - d) is ready and available to manage and direct the present action in the interest of the Group Members that the Petitioner wishes to represent, and is determined to lead the present file until a final resolution of the matter, the whole for the benefit of the Group;
  - e) does not have interests that are antagonistic to those of other members of the Group;
  - f) has given the mandate to the undersigned attorneys to obtain all relevant information to the present action and intend to keep informed of all developments;

g) is, with the assistance of the undersigned attorneys, ready and available to dedicate the time necessary for this action and to collaborate with other Members of the Group and to keep them informed;

62. The present application is well-founded in fact and in law;

**FOR THESE REASONS, MAY IT PLEASE THE COURT:**

**GRANT** the present Application;

**AUTHORIZE** the bringing of a class action in the form of an Application to institute proceedings in damages;

**ASCRIBE** the Petitioner the status of representative of the persons included in the Group herein described as:

Persons in Quebec who have used Johnson's® Baby Powder and/or Shower to Shower® (the "Products") in their perineal area and have been diagnosed with ovarian cancer, and/or their family members, assigns and heirs.

**IDENTIFY** the principle questions of fact and law to be treated collectively as the following:

- a) Do the Products, when used in the perineal area, cause, contribute to, or materially increase the risk of ovarian cancer?
- b) Did the Respondents fail to properly and sufficiently test their Products, prior to and after its release, to ensure that they are safe for consumer use?
- c) Did the Respondents fail to properly test the Products to determine the increased risk of ovarian cancer during the normal and/or intended use of the Products?
- d) Did the Respondents fail to warn the Petitioner and Group Members of the health risks associated with the use of the Products by women in the perineal area?
- e) Are the Respondents liable to pay compensatory damages to the Group Members?

- f) Are the Respondents liable to pay exemplary or punitive damages, and if so, what amount of punitive damages should be awarded?

IDENTIFY the conclusions sought by the class action to be instituted as being the following:

**GRANT** Petitioner's action against Respondents;

**CONDEMN** Respondents to pay compensatory damages to the Group Members for the material damages, personal injuries, pain and suffering, anxiety and fear, and other moral damages;

**CONDEMN** Respondents to pay punitive and/or exemplary damages to the Group Members, to be determined by the Court;

**ORDER** the treatment of individual claims of each Member of the Group in accordance with articles 599 to 601 C.C.P.;

**RENDER** any other order that this Honourable Court shall determine and that is in the interest of the Members of the Group;

**THE WHOLE** with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs and expenses including expert's fees and publication fees to advise members;

**DECLARE** that all Members of the Group that have not requested their exclusion from the Group in the prescribed delay to be bound by any judgment to be rendered on the class action to be instituted;

**FIX** the delay of exclusion at 30 days from the date of the publication of the notice to the Members;

**ORDER** the publication of a notice to the Members of the Group in accordance with Article 579 C.C.P.;

**THE WHOLE** with costs to follow.

MONTREAL, April 12, 2016

  
**MERCHANT LAW GROUP LLP**  
Attorneys for the Petitioner



## SUMMONS

(Articles 145 and following C.C.P.)

### Filing of a Judicial Application

Take notice that the Applicant has filed this Application to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative in the office of the Superior Court of Quebec in the judicial district of Montreal.

### Respondents' Answer

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montreal situated at 1 Rue Notre-Dame Street Est, Montréal, Québec, H2Y 1B6, within 15 days of service of the Application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the Applicant's lawyer or, if the Applicant is not represented, to the Applicant.

### Failure to Answer

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgement may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

### Content of Answer

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code, cooperate with the Applicant in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of the summons or, in family matters or if you have no domicile, residence or establishment in Québec, within 3 months after service;
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

### **Change of judicial district**

You may ask the court to refer the originating Application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the Applicant.

If the application pertains to an employment contract, consumer contract or insurance contract, or to the exercise of a hypothecary right on an immovable serving as your main residence, and if you are the employee, consumer, insured person, beneficiary of the insurance contract or hypothecary debtor, you may ask for a referral to the district of your domicile or residence or the district where the immovable is situated or the loss occurred. The request must be filed with the special clerk of the district of territorial jurisdiction after it has been notified to the other parties and to the office of the court already seized of the originating application.

### **Transfer of Application to Small Claims Division**

If you qualify to act as a plaintiff under the rules governing the recovery of small claims, you may also contact the clerk of the court to request that the Application be processed according to those rules. If you make this request, the plaintiff's legal costs will not exceed those prescribed for the recovery of small claims.

### **Calling to a case management conference**

Within 20 days after the case protocol mentioned above is filed, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing this, the protocol is presumed to be accepted.

### **Exhibits supporting the application**

In support of the Application to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative, the Applicant intends to use the following exhibits:

EXHIBIT P-1: Contact page from the website of Johnson & Johnson Canada,  
<http://www.jnjcanada.com/explore-our-contacts>

EXHIBIT P-2: Press release by Johnson & Johnson Consumer Inc.,  
<http://www.investor.jnj.com/releasedetail.cfm?ReleaseID=933244>

**EXHIBIT P-3:** Johnson & Johnson Consumer Inc. entry on Bloomberg website,  
<http://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=25262064>

**EXHIBIT P-4:** J&J Canada entry in the Corporation Canada website.

**EXHIBIT P-5:** Valeant Pharmaceuticals International Inc. Form 10-Q, Quarterly Report, Period ending 06/30/13.

**EXHIBIT P-6:** Deborah Blumenthal, "Babying Grown-ups". The New York Times, 1985-05-19.

**EXHIBIT P-7:** Example of online advertisement – Johnson's® Baby Powder

**EXHIBIT P-8:** Page from Johnson & Johnson's current website - Johnson's® Baby Powder

**EXHIBIT P-9:** Example of online advertisement – Shower to Shower®

**EXHIBIT P-10:** Henderson W.J., Joslin C.A., Turnbull A.C., Griffiths K. "Talc and Carcinoma of the ovary and cervix". J. Obstet Gynaecol Br Commonw. 1971 Mar; 78(3):266-72.

**EXHIBIT P-11:** Cramer D.W., Welch W.R., Scully R.E., Wojciechowski C.A. "Ovarian Cancer and Talc. A Case Control Study". Cancer. 1982 Jul 15;50(2):372-6.

**EXHIBIT P-12:** "Johnson & Johnson ordered to pay \$72M to family in cancer-talcum powder case". CBC, Feb 24, 2016,  
<http://www.cbc.ca/news/business/talcum-powder-ovarian-cancer-1.3461632>

**EXHIBIT P-13:** National Toxicology Program, "Toxicology and Carcinogenesis studies of talc (Cas No. 14807-96-6) in F344/N Rats and B6C3F1 Mice (Inhalation Studies), Technical Report Series NO.421, U.S. Department of health and human services, Research Triangle Park, North Carolina, Sept. 1993.

**EXHIBIT P-14:** Copy of a press release from Dr. Samuel S. Epstein, Chairman of Cancer Prevention Coalition, May 19, 2008.

**EXHIBIT P-15:** World Health Organization – International Agency for Research on Cancer "IARC Monographs on the Evaluation of Carcinogenic Risks to Humans, Volume 93: Carbon Black, Titanium Dioxide, and Talc", Lyon, France, 2010.

**EXHIBIT P-16:** Cramer D., Vitonis A., Terry K. et. al. "The Association between Talc Use and Ovarian Cancer: a Retrospective Case-Control Study in Two US States", *Epidemiology* 2016; 27: 334–346.

**EXHIBIT P-17:** Canadian Cancer Society, "Risk Factors for Ovarian Cancer", <http://www.cancer.ca/en/cancer-information/cancer-type/ovarian/risks/?region=on>

**EXHIBIT P-18:** Copy of mass tort claim filed June 23, 2014 in Fox v. Johnson & Johnson, Cause No. 1422-CC09012-01, Division 10, Missouri Circuit Court, 22nd Judicial District (St. Louis).

**EXHIBIT P-19:** Cramer DW., Liberman RF., Titus-Ernstoff L., et al. "Genital talc exposure and risk of ovarian cancer". *Int J Cancer*. 1999; 81:351–356.

These Exhibits are available upon request.

## Notice of presentation of an application

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in family matters mentioned in article 409, or VI of the Code, the establishment of a case protocol is not required; however, the application must be accompanied by a notice stating the date and time it is to be presented.

Montreal, May 5, 2016

*Merchant Law Group LLP*

**Merchant Law Group LLP**  
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**Attorneys for the Applicant**

**NOTICE OF PRESENTATION**  
**(Articles 146 and 574 al.2 C.P.C.)**

TO: **JOHNSON & JOHNSON**  
One Johnson & Johnson Plaza  
New Brunswick, New Jersey 08933  
United States

-and-

**JOHNSON & JOHNSON CONSUMER INC.**  
199 Grandview Rd  
Skillman, New Jersey 08558-1303  
United States

-and-

**JOHNSON & JOHNSON INC.,**  
8565 Autoroute Transcanadienne, Suite 300  
Ville St.-Laurent, Quebec  
H4S 1Z6  
Canada

-and-

**VALEANT PHARMACEUTICALS INTERNATIONAL, INC.,**  
2150 boul. Saint-Elzéar O.,  
Laval, Québec, H7L4A8  
Canada

TAKE NOTICE that the present Application to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative will be presented before one of the Honourable Judges of the Superior Court of Québec, at the Montreal courthouse, located at 1, rue Notre-Dame Est, in the city and District of Montréal, on the date set by the coordinator of the class actions chamber.

PLEASE ACT ACCORDINGLY.

Montreal, May 5, 2016



**Merchant Law Group LLP**  
Attorneys for the Applicant

No.: 500-06-000787-164

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SUPERIOR COURT  
DISTRICT OF MONTREAL

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ROSEMARY KRAMAR

Petitioner

VS

JOHNSON & JOHNSON

And

JOHNSON & JOHNSON CONSUMER INC.

And

JOHNSON & JOHNSON INC. ✓

And

VALEANT PHARMACEUTICALS INTERNATIONAL, ✓  
INC.

Respondents

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APPLICATION TO AUTHORIZE THE BRINGING OF  
A CLASS ACTION AND TO ASCRIBE THE STATUS  
OF REPRESENTATIVE  
(Art. 574 C.C.P. and following)

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2-EB

ORIGINAL

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