

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

**In the Matter of the Liquidation of
The Home Insurance Company**

Docket No. 217-2003-EQ-00106

**AFFIDAVIT OF THOMAS W. LADD IN SUPPORT OF JOHNSON & JOHNSON'S
OPPOSITION TO LIQUIDATOR'S MOTION TO STRIKE OBJECTION**

I, Thomas W. Ladd, hereby depose and state as follows:

1. I am an attorney-at-law of the State of New Jersey, and am a partner with the firm of McCarter & English, LLP, attorneys for Johnson & Johnson ("J&J"). I have represented J&J for approximately twenty years on various insurance coverage issues, including issues related to coverage for claims arising out of the use of J&J's talc products. I make this affidavit in support of J&J's Objection to the Liquidator's Motion for Approval of Claim Amendment Deadline ("Objection"). I am fully familiar with the facts set forth herein.

2. During the period from 1973 through 1981, The Home Insurance Company and its former subsidiary City Insurance Company (referred to collectively in this affidavit as "Home") sold umbrella/excess insurance coverage to J&J totaling nearly \$120 million in annual limits. A substantial amount of this coverage is first layer excess and low-level excess coverage, often attaching at \$3.5 million or \$4.1 million.

3. J&J currently faces more than 15,000 underlying lawsuits alleging injury arising from or relating to the use of products containing talc, over the course of decades (the "Talc Claims").

4. Underlying claimants allege principally that they suffer from ovarian cancer and mesothelioma premised on the purported failure by J&J to warn consumers of the risks associated with its talc products.

5. J&J denies the allegations in each of the underlying complaints. Its strategy is to defend the claims vigorously and, if necessary, appeal any adverse verdicts.

6. The Talc Claims as a mass tort remain in the preliminary stages of litigation. New complaints are filed every week. Only a small number have gone to trial, and a smaller number have settled. Juries returned verdicts for J&J in some cases, and for the claimants in others. However, no jury verdict in a talc case against J&J has been upheld on appeal.

7. J&J's cost of defending the Talc Claims has been substantial, continues to grow, and at this time is not being fully paid by solvent insurers.

8. While J&J continues to evaluate the proper allocation of its losses, it is likely that Home's policies are, or may soon be, implicated.

9. J&J submitted proofs of claim, dated June 10, 2019, relating to policies sold by Home. Those proofs of claim included my contact information as J&J's counsel.

10. On June 26, 2019, a representative of the Liquidator sent me a letter via email and U.S. Mail, "acknowledg[ing] receipt of the subject Proofs of Claim submitted on behalf of Johnson & Johnson," and requesting more information about the claims.

11. I responded to the Liquidator's representative via email on July 29, 2019, providing additional information. In this communication, I explained that J&J could not have filed proofs of claim prior to the June 13, 2004 filing deadline, as the Talc Claims did

not exist until many years later. Even then, because all of the Home and City insurance policies at issues are excess policies, and because J&J's losses must be allocated across a decades-long coverage map, J&J could not have known until recently that its liabilities and costs related to the Talc Claims would reach a magnitude to implicate the Home policies.

12. Since submitting its proofs of claim, J&J, through our office, has provided voluminous documentation related to the Talc Claims, particularly those that have approached trial. This has included pleadings, motions, expert materials, and transcripts. J&J has also apprised the Liquidator of its activities with respect to the bankruptcy of one of its co-defendants. J&J stands willing to voluntarily resolve its proofs of claim.

13. I have no personal knowledge of the Liquidator's notice and mailing procedures. However, I received no notice from the Liquidator of its Motion for Approval of Claim Amendment Deadline. Upon learning of the Motion and prior to submitting J&J's Objection, I reviewed my files and found no materials from the Liquidator concerning the Motion. I reviewed my files again in response to the Liquidator's pending Motion to Strike, and again found no materials from the Liquidator concerning the Motion.

14. I was informed of the Motion by a third party after the November 18, 2019 deadline to object had already passed. Specifically, that third party's in-house counsel informed me of a Liquidator motion via phone on November 19, 2019 and referred me to the third party's outside counsel for more information. On November 20, 2019, I spoke with the outside counsel, who advised me of the nature of the Liquidator's Motion and sent me the Motion and related papers. Neither that third party (including its counsel), nor any other third party, solicited, requested, or otherwise encouraged J&J to make an objection.

15. In the ensuing weeks, we, with our client, evaluated whether to submit an objection. The matter was the topic of frequent discussion and attention during that time period, culminating in the Objection dated December 23, 2019. Again, J&J took the decision to make the Objection of its own accord. No third party solicited, requested, or otherwise encouraged J&J – or McCarter & English as J&J’s counsel – to do so.

I DECLARE UNDER THE PAINS AND PENALTIES OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

EXECUTED ON JANUARY 16, 2020


Thomas W. Ladd