# ***Henderson v. Johnson & Johnson et al; 2025 LA JURY VERDICTS & SETT.***

22-1079

May 7, 2025

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**Topic:** Products Liability - The plaintiff linked mesothelioma (she died three years after her diagnosis) to a lifelong use of Johnson & Johnson baby powder that contained talc.

**Result:** Verdict: $ 3,005,206 for plaintiff assessed 47% to the defendants.

**Award:** 3005206

**Practice Area:** Environmental Law; Torts

**State:** Louisiana

**Court:** Orleans

**Judge:** Kern A. Reese

**Plaintiff Counsel**

Jay Steumke and Darren P. McDonald, Dean Omar Branham Shirley, Dallas, TX and Philip C. Hoffman, Philip Hoffman, LLC, New Orleans.

**Defendant Counsel**

Will Stute, Miami, FL and Melvin "Mel" D. Bailey and Cori Steinmann, both of Dallas, TX and all of King & Spalding.

**Case Summary**

Jeannine Henderson was a lifelong user of Johnson & Johnson baby powder and that of a related company, Pecos River Talc. For purposes of this report, Johnson & Johnson and Pecos River Talc are separate defendants. The product contained talcum powder with ***asbestos***.

Henderson, age 68, was diagnosed with mesothelioma in November of 2021. The only cause of mesothelioma is an ***asbestos*** exposure. Following Henderson's diagnosis, she filed this lawsuit in 2022 against a laundry list of defendants who could have been responsible for her ***asbestos*** exposure. As the litigation progressed, the case proceeded to trial against just two defendants, Johnson & Johnson and Pecos River.

It was Henderson's theory that the defendants' baby powder products contained talcum powder with ***asbestos*** and that this exposure was a substantial factor in her disease process. As the case went to the jury, the plaintiff had five separate theories, (1) negligence, (2) strict liability per se, (3) strict liability by composition, (4) defective design and (5) failure to warn. The experts for the plaintiff included Dr. Steven Huber, Respiratory Medicine, Houston, TX, Dr. Arnold Brody, Pathology, Raleigh, NC, David Madigan, Statistics/Probability, Boston, MA and William Longo, Materials Analyst, Suwanee, GA.

If the plaintiff prevailed at trial, the claimed damages on the survival claim were first her medical bills of $ 2,570,206 as stipulated. The jury could also award sums for Henderson's loss of enjoyment, mental anguish and pain and suffering. Her two adult sons (Joshua and Justin) sought wrongful death damages for their grief, anxiety and loss of affection.

This case first came to trial against the defendants in January of 2024. Henderson (then age 71) succumbed to her disease during the trial. That trial was then called off and rescheduled for a year later.

The second trial began in March of 2025 and was tried for eight weeks. The record is interesting and very unusual as the proposed final judgment indicates the defense attorneys at trial were Stute, Bailey and Steinmann as listed above from King & Spalding. However those lawyers are never listed on the pleadings as counsel. The off-record attorneys for Johnson & Johnson (throughout the litigation including in the post-trial period) were from Irwin Fritchie Urquhart Moore & Daniels, New Orleans and included Kim E. Moore, John W. Stinnett, Kelly J. Rookard, Claire A. Noonan and Gabriel Winsberg.

Whomever represented Johnson & Johnson at trial, they raised several arguments. The first was to contest causation that its baby powder products had caused Henderson's mesothelioma. The defense noted that Henderson worked 30 years at Bell South and her office was plagued by ***asbestos***. She also had exposure to other beauty products including those manufactured by Avon. Thus the jury could apportion fault to those non-parties who also had not settled including Avon and Johns-Manville. The theme was that whatever the baby powder exposure, it was not a substantial factor in causing Henderson's mesothelioma.

Johnson & Johnson also raised a state of the art defense. It was framed that at the time the product left Johnson & Johnson and in light of then-existing reasonably available scientific knowledge, the company could not have known of the danger. This defense was incorporated into the instructions. While "state of the art" was a defense to the negligence claim, it was not applicable to the strict liability claims.

Johnson & Johnson relied on several experts. They included: Matthew Sanchez, Geology/Minerals, Monroeville, PA, Dr. Richard Attanoos, Pathology, Cardiff, UK, Gregory Deitte, Epidemiology, Baltimore, MD, Christy Barlow, Inhalation Toxicology, Boulder, CO and Dr. Victor Roggli, Pathology Duke.

The second trial concluded the first week of May this year. The jury returned a mixed verdict. It first found for the plaintiff that she had a "significant exposure" to the defendants' products that was a substantial factor in causing her mesothelioma. The plaintiff also prevailed on four of five counts, negligence, both strict liability claims and failure to warn. The jury rejected defective design.

The jury also answered for Johnson & Johnson on the state of the art defense. As the instructions were constructed, this was a naked charge of sorts. The jury was asked to consider it but regardless of the answer (yes or no), the jury would still reach damages if the plaintiff had prevailed on any of the five counts. As explained above, apparently the state of the art defense would only act as a defense to negligence. Ironically in this case while the state of the art defense was proven, Johnson & Johnson had already prevailed on negligence.

The jury moved to comparative fault. It assessed that fault 45% to Johnson & Johnson and 2% to Pecos River which was thus 47% against the defendants at trial. The remaining fault to the non-parties was 45% to Johns-Manville and 8% to Avon.

Then turning to damages the medical bills of $ 2,570,206 as stipulated were already filled in on the verdict form. Henderson was awarded $ 90,000 for each of her three categories of non-economic damages, loss of enjoyment of life, mental anguish and pain and suffering. The survival damages totaled $ 2,825,206. Each of three sons were awarded $ 90,000 for their wrongful death damages. The combined verdict for the plaintiff was $ 3,005,206.

At the time of this report, no final judgment has been entered. The plaintiff suggested a verdict of $ 2,825,206 (the full sum on survival damages) assessed equally to Johnson & Johnson and Pecos River as a virile share. This was because, (1) the plaintiff's exposure preceded Louisiana's comparative fault law, and (2) there was not a settlement against any of the other defendants.

Johnson & Johnson has viewed the entry of the judgment differently. It has argued that Louisiana's comparative fault law was enacted 40 years before Henderson sued and thus it applies. It has suggested the verdict should be consistent with its principles and be assessed $ 1,352,342 to Johnson & Johnson and $ 60,104 to Pecos River. At the time of this report the issue was pending before Judge Reese.

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