

Here's the Strategy Behind Miami Lawyers' \$9 Million Win Against Johnson & Johnson

by Raychel Lean

Marc P. Kunen and Jose L. Becerra of The Ferraro Law Firm in Miami have secured a \$9 million jury verdict for an 82-year-old woman suffering from terminal cancer, which she claimed stemmed from exposure to asbestos in Johnson & Johnson's cosmetic talcum powder.

The case is one in a string of similar lawsuits across the U.S. and resulted in the second loss of



Marc P. Kunen and Jose L. Becerra, The Ferraro Law Firm. Photo: J. Albert Diaz/ALM.

Case: Blanca Moure-Cabrera v. Johnson & Johnson Consumer and Johnson & Johnson

Case No.: 19-000727-CA42

Description: Products liability

Filing date: Jan. 9, 2019

Verdict date: Feb. 27, 2020

Judge: Miami-Dade Circuit Judge Jose Rodriguez

Plaintiffs attorneys: Marc Kunen and Jose Becerra, The Ferraro Law Firm, Miami

Defense attorneys: Ryan Cobbs, Carlton Fields, West Palm Beach; Melvin Bailey and Ursula Henninger, King & Spalding, Austin and Charlotte

Verdict amount: \$9 million

2020 for the New Jersey-based pharmaceutical giant.

Kunen's client Blanca Moure-Cabrera had regularly used the defendant's baby powder since age 21, when she moved to South Florida from Cuba in 1959. And she was still using it in August 2018 when she was diagnosed with peritoneal mesothelioma—a cancer that forms in the lining around the abdomen. The disease is terminal and linked to the digestion of toxic asbestos fibers.

Moure-Cabrera sued in January 2019, alleging she inhaled those toxic fibers through the baby

powder, which is commonly used to help prevent diaper rash on babies, and used by some adults to prevent odors, sweating or chafing.

"For over half a century she was using baby powder on herself, and she has two kids she used it on them, so it was a lot of use over the years," Kunen said.

Moure-Cabrera's lawsuit accused Johnson & Johnson of negligence and strict liability.

Johnson & Johnson has denied any links between its products and cancer, claiming there is no asbestos in its products. The defendant's website points to at

Defense attorneys Ryan Cobbs of Carlton Fields in West Palm Beach and Melvin Bailey and Ursula Henninger of King and Spalding's Austin and Charlotte offices did not respond to requests for comment by deadline.

In an Engle progeny-esque twist, the plaintiffs team were able to use internal documents to demonstrate that, since the 1970s, executives at Johnson & Johnson knew that there were trace amounts of asbestos in talc obtained from Italy and Vermont but didn't tell customers. The documents also revealed different testing methods the company used.

The biggest challenge for the plaintiff was deciding how much information on asbestos and mesothelioma was too much for jurors.

IN THE CIRCUIT COURT OF THE 11th
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

BLANCA MOURE-CABRERA,

Plaintiff,

Case No. 19-000727

v.

Johnson & Johnson Consumer Inc. and
Johnson and Johnson

Defendants.

VERDICT

We, the Jury, return the following Verdict:

1. Was there asbestos in Johnson's Baby Powder used by Blanca Moure-Cabrera?

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‘Her hero’

“She deals with pain on a daily basis. She’s taking pain medication every day and has lost a lot of weight,” Kunen said. “What she was describing on the stand is she’s unrecognizable from how she used to look, so it’s affected her mentally.”

“He helps bathe her from time to time, gets her dressed. Whatever she needs, he gets it,” Kunen said. “He’s been at every single doctor’s appointment, so he’s been her hero.”

Although the verdict is a win for the plaintiff, Kunen said the inescapable truth is that Moure-Cabrera will die of her illness.

Raychel Lean reports on South Florida litigation for the Daily Business Review. Send an email to rlean@alm.com, or follow her on Twitter via @raychellelean.