

# Jim Onder's \$72 million baby powder win



## \$72 MILLION FOR BABY POWDER

### St. Louis lawyer mines niches for riches

BY GREG EDWARDS

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For generations, Johnson & Johnson talcum powder has been widely viewed as a benign, even beloved product, used to dust millions of baby bottoms.

St. Louis lawyer Jim Onder had always thought so, too. "Like most people, I thought talcum powder was the gentlest product, and Johnson & Johnson was a name everyone trusted."

But last month the Onder Law Firm won a \$72 million verdict in St. Louis Circuit Court on a claim by the family of the late Jacqueline Fox of Birmingham, Alabama, that her longtime use of Johnson & Johnson talcum powder for personal hygiene contributed to the ovarian cancer that killed her.

It was the first jury to award damages in a case connecting talcum and cancer, and it prompted headlines around the world. Onder has gotten calls from reporters as far away as China.

In addition, his pipeline of talcum cases is overflowing, with 1,000 additional plaintiffs in St. Louis and 200 in New Jersey, as one of the lead law firms in mass tort cases. Onder works primarily with two other lawyers and their firms, Allen Smith of Jackson, Mississippi, and Ted Meadows of Montgomery, Alabama.

Johnson & Johnson is expected to appeal the verdict, which ordered the company to pay \$10 million in actual damages and \$62 million in punitive damages, with \$31 million of that going to the Missouri Crime Victims' Compensation Fund. "We have no higher responsibility than the health and safety of consumers, and we are disappointed with the outcome of the trial," the company said in a statement. "We sympathize with the plaintiff's family but firmly believe the safety of cosmetic talc is supported by decades of scientific evidence."

The company has annual revenue of \$70 billion; its scores of products include Band-Aid, Listerine, Mylanta, Nicoderm and Rogaine.

Onder said he and the Fox family agreed to negotiate his firm's fee after the case has been appealed and concluded. While law firms often receive as much as a third of awards, keep in mind that the total is reduced by the \$31 million to the state victims' fund.

Onder spent 15 years as a partner at Wuestling & James before starting his own firm 12 years ago. The firm, which has 50 employees, including 14 lawyers, is a jack-of-all-trades in personal injury law and has been involved in verdicts and settlement totaling \$3.1 billion, including millions for birth control pills, auto collisions, medical malpractice, power line and construction accidents, faulty seat belt design and tire explosions. Each of the firm's lawyers has specialties.

The firm also has developed expertise and won millions in unusual legal niches, such as baby deaths from window cord strangulation and from the use of gels that contain benzacaine and relieve teething pain. "Most parents don't know, but if you use too much, the benzacaine can impair a body's ability to absorb oxygen," Onder said. "The baby turns blue and dies." As for window cords, "I owned apartments with window cords, and little did I know there was a hazard," Onder said. "A baby dies at least once a month on window cords. We are the foremost international authority."

Onder, 52, said he has always been a bit of a cru-

sader and drawn to cases that involve medicine. His brother, Missouri State Sen. Bob Onder, is a physician (he also has a law degree and a Ph.D.), and his sister, Sandra Onder Sieck, and her husband are physicians. His best friend and next-door neighbor, Scott Williams, is an obstetrician and gynecologist. "I called him and asked if this (talc) connection was real," Onder said. "He said, 'Absolutely, we learned about it in medical school 25 years ago.'"

Onder's interest in the legal industry came about at a young age.

"I take on causes," Onder said. Maybe it goes back to his childhood, growing up in St. Louis. Both of his grandmothers worked in the garment district, one in a coat factory, after their husbands died young. "We would buy our coats there for the winter," he said. "I remember as a kid seeing them in the sweat shop with 100-plus-degree heat. I saw the sweat shop first hand."

Onder took his first talcum case about three years ago. A man whose otherwise healthy wife died of ovarian cancer read about a possible connection to talc. "She had no risk factors. She was young, an exerciser, and in good health," Onder said. "When she was younger, she was a figure skater in the competition for the Olympic team." That case, *Blaes v. Johnson & Johnson*, is scheduled for trial July 6 in federal court in St. Louis. The cases can go to federal court if the parties are "diverse" in citizenship, generally meaning from different states.

A juror in the unanimous Fox verdict, Jerome Kendrick, said in an interview with Reuters that jurors were swayed by testimony from plaintiffs'

#### ► THE JIM ONDER FILE

**Age:** 52

**Born:** St. Louis, grew up in Affton

**High school:** St. Louis University High School, class of 1982

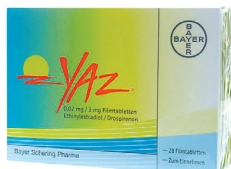
**College:** Washington University, bachelor's degree in accounting, 1985

**Law school:** Saint Louis University, 1988

### WINNING BIG CASES

In its 12 years, the Onder Law Firm has been involved as one of the lead law firms in cases that reaped more than \$3.1 billion in verdicts and settlements, including:

- **\$2 billion** paid in cases involving health problems for users of Yaz and Yasmin birth control pills.



- **\$650 million** in Pradaxa settlements.



- **\$71.1 million** in class actions claiming false advertising involving iTunes gift cards and Domino's Pizza delivery charges.

- **\$22.5 million** for an auto collision and subsequent medical malpractice.

- **\$20.5 million** for cases involving power line accidents.
- **\$11.4 million** for three construction site accidents.



- **\$9.9 million** for deaths and injuries resulting from tractor-trailer collisions.
- **\$9.1 million** for forklift and line worker injuries.

- **\$9 million** for child deaths and injuries resulting from strangulations involving mini-blind cords.



- **\$8.3 million** for faulty roadway design.



- **\$4.1 million** for faulty SUV back seat design.
- **\$2.4 million** for defective seat belt design.
- **\$2.3 million** for tire explosions.



## COVER STORY

medical experts and documents showing Johnson & Johnson employees discussing talcum powder's possible cancer risk. "It really looked like instead of trying to investigate, they started talking about how to combat what would eventually be a court case," Kendrick said.

Dr. Daniel Cramer, a Harvard epidemiologist who was an expert in the preparation of the Fox case, wrote about a potential link in 1982. Since then, 23 studies have shown a positive association, Onder said.

But the facts are different in every case, the scientific evidence is not conclusive, and jurors in a federal case in South Dakota, the only other talc case to go to trial, found in 2013 that Johnson & Johnson had been negligent but declined to award damages. And Onder doesn't take all comers. "Each case costs \$5,000 to medically screen," he said.

Experts say it is possible that talc reaches the ovaries by traveling up the vagina, through the uterus and fallopian tubes and into the ovaries, causing inflammation. Dr. Adetunji Toriola, a Washington University epidemiologist at Siteman Cancer Center, told Reuters: "We know that inflammation increases ovarian cancer risk. We know that talcum powder causes inflammation. The question is, does talc cause cancer by causing inflammation in the ovaries?"

In 2016, an estimated 22,280 women will receive a new diagnosis of ovarian cancer, and about 14,240 will die from it, according to the American Cancer Society. Ovarian cancer ranks fifth in cancer deaths among women, and a woman's risk of getting it is about 1 in 75.

## PERSONALLY SPEAKING ...

**What is your favorite restaurant?** We have no creativity. There are three we go to all the time: Kreis' on Lindbergh, the Tenderloin Room at the Chase and Cafe Napoli in Clayton.

**What are you reading?** I joke that I don't read anything that doesn't make me money, so mostly legal publications.

**What do you like to do to relax?** My hobby is real estate. My hobby is making money. I bought my first rental property on a credit card two weeks after law school. I love working.

**Do you like to travel?** A couple of times a year, usually to an ocean destination in Florida or California. I get invited to speak at a lot of great places, so that's nice.

**What do you drive:** A Maserati is my daily car, a Lamborghini is my fun car.

**Tell us about your family.** My wife, Maureen, and I will have been married 25 years this year. We have five kids. Our son, Jim, is a sophomore at the University of Texas business school. Michelle is a freshman at Cornell University. Maggie is a freshman at MICDS. Jack is a sixth grader at Chaminade, and Tommy is in second grade at Villa Oak Hill.

## WHAT TO LOOK FOR IN TALC CASES

- ▶ Four years of continuous talcum powder use.
- ▶ Diagnosed with cancer at 65 or younger.
- ▶ Must be ovarian or fallopian tube cancer, not cervical, uterine or other cancers.
- ▶ Must be BRCA positive, a form of genetic testing.

SOURCE: THE ONDER LAW FIRM

