

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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GERALD M. KALISZ, Individually and as Executor  
of the Estate of SHARON A. KALISZ,

Plaintiff,

Case # 17-CV-632-FPG

v.

DECISION AND ORDER

JOHNSON & JOHNSON, JOHNSON & JOHNSON  
CONSUMER COMPANIES, INC., and IMERYS  
TALC AMERICA, INC.,

Defendants.

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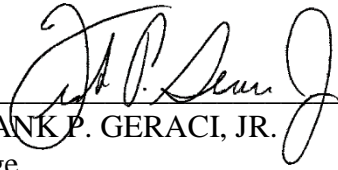
Plaintiff Gerald M. Kalisz initiated this action via Summons and Notice in the Supreme Court of the State of New York, County of Erie, alleging negligence, product liability, and wrongful death. ECF No. 1-1 at 2. On July 11, 2017, Defendants Johnson & Johnson and Johnson & Johnson Consumer Companies, Inc.,<sup>1</sup> (the “Johnson & Johnson Defendants”) removed the case to this Court. ECF No. 1. After Plaintiff failed to file a complaint and serve it on any of the Defendants within 90 days, the Court ordered Plaintiff to show cause, in writing and by November 21, 2017, why the case should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). ECF No. 8. The Court specifically noted that “[f]ailure to comply with [the Order to Show Cause] will result in the dismissal of this action.” *Id.* Plaintiff has not responded to the Order to Show Cause. Accordingly, the case is dismissed. *See Santos v. New York City*, 847 F. Supp. 2d 573, 578 (S.D.N.Y. 2012) (dismissing claims against defendant when plaintiff failed to serve a complaint on defendant within 90 days as required by Fed. R. Civ. P. 4(m)). The Clerk of Court is directed to close this case.

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<sup>1</sup> To date, counsel for Defendant Imerys Talc America, Inc., has not appeared.

IT IS SO ORDERED.

DATED: December 1, 2017  
Rochester, New York

A handwritten signature in black ink, appearing to read "F. P. Geraci, Jr.", written over a horizontal line.

HON. FRANK P. GERACI, JR.  
Chief Judge  
United States District Court