

Let's start from the beginning. For years, Johnson & Johnson denied that the talcum powder in its product known as baby powder contained asbestos. They denied it, but the company's internal documents tell a different story. They indicated that Johnson & Johnson was aware for decades that its products contained asbestos, but J&J kept those products on the market anyway, and consumers, who trusted the brand, kept using them.

In the years that followed, tens of thousands of these loyal customers were diagnosed with debilitating and in some cases terminal illnesses. Eventually, many of the same customers filed lawsuits against Johnson & Johnson, but before most of the claims against the company could be heard, Johnson & Johnson closed the doors to the courtroom. It used the so-called Texas two-step to transfer its legal liabilities to a shell company and then, step two, had the shell company declare bankruptcy.

Here is the important part: When the shell company declared bankruptcy, Johnson & Johnson asked the court to freeze all ongoing litigation. That maneuver effectively prevented the company's victims from proceeding with their cases. Instead, these victims have to get in line in bankruptcy court, along with many creditors, and wait for some small payment years ahead.

That was Johnson & Johnson's devious scheme, and it was all going according to plan until last month when the Third Circuit stepped in and stopped the music on Johnson & Johnson's Texas two-step. The Third Circuit ruled that Johnson & Johnson's shell company had not acted in good faith when it declared bankruptcy. They were right.

The Third Circuit's ruling is an important victory, but the tragic reality is, for some of Johnson & Johnson's baby powder victims who sought justice, it was too little too late.

One of those victims was Kimberly Naranjo. Throughout her life, Ms. Naranjo was a model of resilience. She grew up surrounded by addiction and abuse and spent her teenage years moving from one foster home to another. Ms. Naranjo also struggled with addiction herself, but at the age of 19, she had her first child, and she changed course in her life. She set herself on the path to recovery and resolved to provide her seven children the stability and love she never knew.

Eventually, Ms. Naranjo found her calling. She earned a degree in alcohol and drug counseling and landed her dream job supporting other people on their path to recovery. But then, 3 days into her new job, Ms. Naranjo felt a pain in her side. She went to the doctor, who diagnosed her with mesothelioma. Soon after her diagnosis, Ms. Naranjo determined the only way—the only way—she could have been exposed to asbestos was through that so-called safe baby powder she used on all of her children, Johnson & Johnson baby powder.

Last year, the Judiciary Committee, which I chair, held a hearing on corporate use of bankruptcy. We included Johnson & Johnson's use of the Texas two-step. We were joined by Ms. Naranjo, who shared her story. She told the committee:

When I learned that I could file a lawsuit against Johnson & Johnson and have it decided by a jury, I finally saw a path forward for my family.

She continued:

That hope was taken from me. I learned that Johnson & Johnson filed for bankruptcy and that I would not receive a court date.

Ms. Naranjo died from her illness last month, weeks before turning 50 and weeks before the Third Circuit's ruling against Johnson & Johnson. She never received the justice she deserved.

Make no mistake, as long as the world's biggest, wealthiest companies have the ability to game our legal system and escape liability, there will be more tragic stories like Ms. Naranjo's because Johnson & Johnson is not alone in abusing bankruptcy law to avoid accountability, and that is a fact. In fact, other very large, very solvent companies are getting in on the game.

One similar case is currently being considered by the Seventh Circuit Court of Appeals. This one concerns a familiar name—3M—and its subsidiary Aearo Technologies. Like Johnson & Johnson, 3M is trying to game the bankruptcy system to avoid accountability to its customers. And these are not your average consumers; in this case, we are talking about 230,000 military veterans.

So what happened? These veterans claim they suffered hearing loss because they wore defective earplugs while in service to our country. These earplugs were manufactured by 3M and that subsidiary I mentioned, Aearo Technologies.

When those veterans came forward with their allegations, 3M turned to the same get-out-of-jail-free card that Johnson & Johnson tried to use. Aearo declared bankruptcy, and then 3M, which is certainly not bankrupt, promptly asked the court to use the bankruptcy stay to freeze all ongoing earplug litigation from American veterans.

So instead of facing the lawsuits these veterans brought, 3M is trying to use chapter 11 bankruptcy to lock the doors to the courtroom. How about that?

Fortunately, in this case, a judge refused to let 3M get away with it. Last August, a bankruptcy court ruled against the company's cynical legal scheme. But instead of changing course on this shady strategy, Aearo Technologies of 3M fame appealed the case to the Seventh Circuit.

Earlier this month, I led a number of my colleagues in the Senate and House in submitting an amicus brief to the Seventh Circuit. In it, we wrote that the Congress did not intend for the bankruptcy system to serve as a get-

out-jail-free card for wealthy corporations facing litigation, especially from American veterans.

I hope the Seventh Circuit joins the Third Circuit in ruling against these schemes to deny Americans and veterans their day in court. But the truth is, these companies are trying to game the system that we in Congress created. As lawmakers, we write the laws and the rules for declaring chapter 11 bankruptcy. So, really, we have the responsibility to step up and confront these corporate abusers of bankruptcy. We must work together to keep the doors of our justice system open to every American seeking their day in court.

I believe the Senate is capable of doing things, even hard things. I believe we can bring America closer to our central aspiration of justice, and I believe we can instill more faith in this Nation of laws by ending these corporate abuses of bankruptcy once and for all.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

HONORING THE MEMORIES OF THE VICTIMS OF THE SENSELESS ATTACK AT MARJORY STONEMAN DOUGLAS HIGH SCHOOL ON FEBRUARY 14, 2018

Mr. SCOTT of Florida. Mr. President, it is hard to believe that it has been 5 years since February 14, 2018—the tragic day that the world witnessed a senseless attack and the loss of 17 innocent lives at Marjory Stoneman Douglas High School in Parkland, FL.

Today, I again come before the Senate to introduce this resolution to honor the 17 beautiful lives that were stolen from us that day. I think of them often. I talk to their families. They were sons and daughters, parents and partners. Some were educators, athletes, musicians; many of them, just kids with a life full of promise ahead of them. My heart breaks knowing they never got the chance to pursue their dreams and that their families will forever have a piece of their heart missing.

While we can't bring back the lives lost on that tragic day 5 years ago, I will always work to honor them and do everything in my power to protect our students and educators and ensure they have a safe environment to learn and succeed.

As in legislative session, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 60, which is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 60) honoring the memories of the victims of the senseless attack at Marjory Stoneman Douglas High School on February 14, 2018.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SCOTT of Florida. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and that the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 60) was agreed to.

The preamble was agreed to. (The resolution, with its preamble, is printed in today's RECORD under "Submitted Resolutions.")

Mr. SCOTT of Florida. Mr. President, I yield the floor.

NOT VOTING—1
Casey

The nomination was confirmed. The PRESIDING OFFICER (Mr. MARKEY). Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 15, Adrienne C. Nelson, of Oregon, to be United States District Judge for the District of Oregon.

Richard J. Durbin, Sheldon Whitehouse, Martin Heinrich, Tim Kaine, Tammy Baldwin, Ben Ray Lujan, Tammy Duckworth, John W. Hickenlooper, Amy Klobuchar, Jack Reed, Jeanne Shaheen, Brian Schatz, Edward J. Markey, Benjamin L. Cardin, Alex Padilla, Margaret Wood Hassan, Catherine Cortez Masto.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Adrienne C. Nelson, of Oregon, to be United States District Judge for the District of Oregon, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from Pennsylvania (Mr. CASEY) is necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Utah (Mr. LEE) and the Senator from North Carolina (Mr. TILLIS).

Further, if present and voting, the Senator from Utah (Mr. LEE) would have voted "nay" and the Senator from North Carolina (Mr. TILLIS) would have voted "nay."

The yeas and nays resulted—yeas 53, nays 44, as follows:

[Rollcall Vote No. 16 Ex.]

YEAS—53

[Rollcall Vote No. 15 Ex.]
YEAS—53
Baldwin Heinrich Reed
Bennet Hickenlooper Rosen
Blumenthal Hirono Sanders
Booker Kaine Schatz
Brown Kelly Schumer
Cantwell King Shaheen
Cardin Klobuchar Sinema
Carper Lujan Smith
Collins Manchin Stabenow
Coons Markey Tester
Cortez Masto Menendez Van Hollen
Duckworth Merkley Warner
Durbin Murkowski Warnock
Feinstein Murphy Warren
Fetterman Murray Welch
Graham Padilla Whitehouse
Hassan Peters Wyden

NAYS—46

Barrasso Grassley Risch
Blackburn Hagerty Romney
Boozman Hawley Rounds
Braun Hoeven Rubio
Britt Hyde-Smith Schmitt
Budd Johnson Scott (FL)
Capito Kennedy Scott (SC)
Cassidy Lankford Sullivan
Cornyn Lee Thune
Cotton Lummis Thune
Cramer Marshall Tuberville
Crapo McConnell Vance
Cruz Moran Wicker
Daines Mullin Young
Ernst Paul
Fischer Ricketts

Baldwin Graham Murray
Bennet Hassan Ossoff
Blumenthal Heinrich Padilla
Booker Hickenlooper Peters
Brown Hirono Reed
Cantwell Kaine Rosen
Cardin Kelly Sanders
Carper King Schatz
Collins Klobuchar Schumer
Coons Lujan Shaheen
Cortez Masto Manchin Sinema
Duckworth Markey Smith
Durbin Menendez Stabenow
Feinstein Merkley Tester
Fetterman Murkowski Van Hollen
Gillibrand Murphy

Warner
Warnock
Warren
Welch
Whitehouse
Wyden

NAYS—44

Barrasso Fischer Ricketts
Blackburn Grassley Risch
Boozman Hagerty Romney
Braun Hawley Rounds
Britt Hoeven Rubio
Budd Hyde-Smith Schmitt
Capito Johnson Scott (FL)
Cassidy Kennedy Scott (SC)
Cornyn Lankford Sullivan
Cotton Lummis Thune
Cramer Marshall Tuberville
Crapo McConnell Vance
Cruz Moran Wicker
Daines Mullin
Ernst Paul Young

NOT VOTING—3

Casey Lee Tillis

The PRESIDING OFFICER (Mr. WARNOCK). On this vote, the yeas are 53, the nays are 44.

The motion is agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Adrienne C. Nelson, of Oregon, to be United States District Judge for the District of Oregon.

The PRESIDING OFFICER. The Senator from Rhode Island.

U.S. SUPREME COURT

Mr. WHITEHOUSE. Mr. President, I am back today now for the 20th time to shed a little light on the dark money scheme to capture and control our Supreme Court.

Part of what allows that scheme to flourish is the ethics-free zone around the Supreme Court. It is quite unique. So let's look at it.

The last time I gave this speech, No. 19, I walked through the various problems with how the Supreme Court handles allegations of misconduct by the Justices.

The short answer is that it doesn't.

The U.S. Supreme Court is the only court in the country not covered by an ethics code. And worse than that, it is the only part of the Federal Government that has no process for ethics investigation and enforcement—none.

Now, any meaningful ethics regime contains three things: first, a process for receiving complaints; second, a process for investigating those complaints once they are received; and, third, a process for reporting the result and holding powerful people accountable should those complaints turn out to be merited.

The House and the Senate, for instance, we have our Ethics Committees. The executive branch has inspector generals and the attorney general. The Federal courts, except the Supreme Court, have their own investigative procedures. It is just the Supreme Court that has none. The closest you get is probably a motion to recuse.

Let's start with the difficulty of raising ethics complaints with the Supreme Court. People who are concerned about ethics violations over at the Court have to get pretty creative because the Court has no place to submit