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J&J, Backed by Battalion of Lawyers, Opens 5th Talcum Powder Trial

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On the heels of a game-changing [defense verdict](#) last month, Johnson & Johnson came out swinging on Tuesday in the fifth trial over the safety of its talcum powder, with the company's lead defense attorney telling a Missouri jury to prepare for a showdown.

"This is going to be a fight, and it's going to be a fight because it's a serious thing being accused of a product that causes ovarian cancer," Orlando Richmond of Butler Snow's Jackson, Mississippi, office told the jury in opening statements, which were made available on [Courtroom View Network](#). He criticized the "unfounded" and "unfair" allegations that had been "carefully crafted" in a case made of "bubble gum and tape."

A former U.S. Marine Corps judge advocate, Richmond is backed up by some formidable legal muscle.

Butler Snow serves as Johnson & Johnson's national coordinating counsel, along with Shook, Hardy & Bacon. The firms are working in this trial with Covington & Burling partners Phyllis Jones and Paul Schmidt. The [Washington, D.C.-based Covington team](#) has won three trials in [products liability cases over antidepressant Cymbalta](#) and are leads in defending mass tort litigation over blood thinner Pradaxa and [acne drug Accutane](#).

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In his opening statement, plaintiffs attorney Allen Smith of The Smith Law Firm stuck to the same refrain as in prior trials: Johnson & Johnson and co-defendant Imerys Talc America Inc. failed to tell the public about a known scientific link between talcum powder use and ovarian cancer despite 30 years of studies and evidence hidden in its own internal documents.

"This case is about corporate profit and maintaining a corporate image over human life," said Smith, who is lead in the Missouri talc cases with Ted Meadows of Beasley, Allen, Crow, Methvin, Portis & Miles in Montgomery, Alabama. "That's what this case is about. And your verdict could prevent potentially hundreds of thousands of women from contracting one of the most deadly forms

of cancer.”

That story has resonated with other Missouri juries, who last year came out with verdicts of [\\$55 million](#), [\\$70 million](#) and [\\$72 million](#).

The talc litigation now consists of nearly two dozen cases in Missouri state court, where more than 1,000 claims are pending. Another 200 individual suits are currently pending in a federal multidistrict litigation proceeding in New Jersey, and about 350 lawsuits have been filed in state courts in California, New Jersey and Delaware.

Plaintiffs lawyers rely on at least nine epidemiological studies since 1982 that have found an increased risk of ovarian cancer after prolonged use of talcum powder. They also cite the International Agency for Research on Cancer's classification in 2006 of talcum powder, which in its natural state contains asbestos, as a possible carcinogen.

Johnson & Johnson has relied on the conclusions of several regulatory agencies, such as the U.S. Food and Drug Administration, the National Cancer Institute and the Centers of Disease Control and Prevention, as well as other studies, that found no link. Although cosmetic talc has contained asbestos, which is a known carcinogen, most consumer products since the 1970s have used talcum powder that is asbestos-free.

Imerys, which supplies talc to Johnson & Johnson, is represented by national trial counsel Gordon Rees Scully Mansukhani and products liability litigator Jane Bockus, a partner at Dykema Gossett in San Antonio.

Lois Slemp, 61, was diagnosed with ovarian cancer in 2012 after four decades of using Johnson & Johnson's baby powder and Shower to Shower products. Referencing what could be a powerful piece of evidence, Smith said that asbestos—not just talcum powder—was found in Slemp's ovarian tissue.

In court, Richmond attacked the asbestos claim, calling it another example of “bubble gum and tape” being used to craft the case.

Borrowing a play from the [defense team in last month's trial](#), Richmond took command of the daunting reams of scientific research on both sides that have dominated the talcum powder trials. Bart Williams and Manuel Cachán of Proskauer Rose in Los Angeles, who gave Johnson & Johnson its [first win in the talcum powder litigation](#), told a jury in the same courtroom that the plaintiffs' studies merely showed a correlation between talc and ovarian cancer, not a causal relationship. Williams and Cachán aren't involved in this month's trial.

Richmond, who grew up on a farm in Mississippi, gave the science his own spin, using roosters as an example. The sound of roosters crowing has always been associated with sunrise, he said, but one doesn't cause the other. “Does a rooster's crow cause the sunrise? Of course not.” Nor does the sun cause the rooster to crow, he said.

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