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J&J Brings Big Law Firepower for Talc Trials

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To combat its [growing talcum powder problem](#), Johnson & Johnson has expanded its team of lawyers to fight a two-front battle.

On the heels of last month's [\\$110 million jury verdict](#), jury selection began on Monday in the sixth talcum powder trial in Missouri. A separate trial is [set to begin in Los Angeles](#) in early July.

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In Missouri, Johnson & Johnson is leaning on two attorneys, Debra Pole of Sidley Austin and James T. Smith at Blank Rome, in addition to longtime lead counsel Mark Hegarty of Shook, Hardy & Bacon.

They're facing off against Ted Meadows, principal at Beasley, Allen, Crow, Methvin, Portis & Miles in Montgomery, Alabama, and R. Allen Smith of The Smith Law Firm in Ridgeland, Mississippi—a plaintiffs' team that so far has secured jury verdicts in Missouri totaling roughly \$300 million in cases alleging that prolonged use of its baby powder and Shower to Shower products caused women to get ovarian cancer.

There's more at stake than ever for J&J. Unlike the previous trials, which each focused on a single woman, this month's trial involves the deaths of three women. That's triple the potential exposure of prior cases.

It's Blank Rome's first foray into the talcum powder litigation. Smith, a Philadelphia partner and former head of the firm's litigation department, has 30 years of experience in a broad range of commercial litigation, according to [his firm bio](#).

Pole, who leads Sidley Austin's products liability and mass torts practice in Los Angeles, has served in lead defense roles in cases involving [silicone breast implants](#) and hormone replacement therapy. Her colleague Kimberly Dunne, another partner in Los Angeles, was part of the talcum powder defense team led by Proskauer Rose's [Bart Williams and Manuel Cachán](#) that notched the

only trial win for Johnson & Johnson in Missouri.

Williams, Cachán and Dunne will step up to bat for Johnson & Johnson again on July 10 in Los Angeles—the first talc trial outside Missouri. Spearheading the plaintiffs team is Mark Robinson, senior partner at Robinson Calcagnie Inc. in Newport Beach, California, whose previous trials have involved Vioxx and automobile defects, including one that landed a \$4.9 billion award against General Motors.

Here's a look at each of the trials:

► *Missouri*

Opening statements are scheduled to start Friday in Missouri, where Johnson & Johnson faces the bulk of the suits over talcum powder on behalf of roughly 1,700 women.

The trial centers on the deaths of Dawn Hershman, 46; Eron Evans, 41; and Shawn Blaes, 50.

In an emailed statement, Meadows said similarities in the personal and medical histories of the three women justified the consolidated approach.

“This may also provide a rationale for the legal teams and the court to consider similar multi-plaintiff trials in the future, and in our view more effectively gain justice for the thousands of women and their families who have suffered with this tragic and preventable diagnosis,” Meadows said.

Johnson & Johnson has opposed trials with more than one plaintiff and [argued in its appeal](#) of the first verdict that most of the women have improperly sued in Missouri. In a last-minute fight before the U.S. Court of Appeals for the Eighth Circuit, Johnson & Johnson is hoping to toss one of the plaintiffs from the trial on jurisdictional ground.

That plaintiff, Michael Blaes, a Missouri resident whose wife died in 2010, originally filed his case in Missouri state court. But after Johnson & Johnson removed it to federal court, Blaes voluntarily dismissed it in 2016. He then refiled his complaint in Missouri state court, where it was consolidated into another case. Calling it “blatant forum shopping,” Johnson & Johnson appealed the federal judge’s order allowing Blaes to dismiss of his own case.

On May 26, the panel upheld the dismissal [with a 2-1 ruling](#). But in a dissent, Eighth Circuit Judge Raymond Gruender (whose name President Donald Trump once [floated as a U.S. Supreme Court nominee](#)) wrote that U.S. District Judge Ronnie White of the Eastern District of Missouri should have addressed the potential forum-shopping.

“The motion failed to include any justification as to why dismissal was appropriate,” he wrote, noting that Blaes dismissed his case soon after the [first talcum powder verdict](#) of \$72 million.

Quoting from that dissent, Johnson & Johnson [has petitioned the Eighth Circuit](#) to rehear the case en banc and has [renewed an emergency motion](#) to prevent Blaes from going to trial. As of Wednesday, the Eighth Circuit hadn’t ruled on the matter.

► *Los Angeles*

The Los Angeles case was brought by Eva Echeverria, who alleges she developed ovarian cancer at age 52 from using Johnson & Johnson's baby powder throughout her life.

Johnson & Johnson moved on May 26 to exclude the plaintiffs' experts, citing their "made-for-litigation opinions." It's a strategy that last year knocked out two planned trials in New Jersey state court on summary judgment but has failed to work in Missouri, where the rules on expert evidence are different.

"The fact that plaintiff's experts have been forced to contradict themselves and each other in an effort to manufacture causation opinions highlights a fundamental problem with this case: there is simply no valid basis to conclude that Ms. Echeverria's use of talc is the reason for her cancer," wrote Johnson & Johnson's lawyers in a summary judgment motion. They also have brought motions in limine to strike the experts from trial.

One expert, Daniel Cramer, was ousted on Sept. 2 from two trials slated for New Jersey state court. Those cases were tossed after Atlantic County Superior Court Judge Nelson Johnson, in a [summary judgment ruling](#), criticized the plaintiffs' experts' "made-for-litigation" scientific methods.

A hearing is set for June 26.

"I'm working on the opposition right now," said Robinson, who has teamed with Helen Zukin of Kiesel Law in Beverly Hills, California, on the trial. "And we hope we can win."

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