

# High Court ruling may hurt claims of talc link to cancer

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A Supreme Court ruling this week could have a "chilling effect" on the many lawsuits filed in St. Louis claiming talcum powder causes a deadly form of cancer in women, including cases under appeal in which stricken women and their survivors have been awarded more than \$300 million, experts said Tuesday.

Justices ruled 8-1 Monday that hundreds of out-state-residents can't sue Bristol-Myers Squibb Co. in California state court over adverse reactions to the blood thinner Plavix. It followed a similar ruling in May related to out-of-state injury claims against BNSF Railway Co. Both were seen as wins for companies opposed to "venue shopping," in which those filing suit seek out favorable state courts.

Almost immediately after the Supreme Court ruling, St. Louis Circuit Judge Rex Burlison declared a mistrial in a Missouri state [court](#) case in which three plaintiffs, two from out-of-state, sued Johnson & Johnson, claiming its talcum powder caused [ovarian cancer](#).

More than 1,000 others have filed similar lawsuits in St. Louis against Johnson & Johnson, but most don't live in Missouri. Five trials have already taken place over the past 16 months. In four of those [cases](#), jurors awarded more than \$300 million combined.

Johnson & Johnson believes that the Supreme Court ruling "requires reversal of the talc cases that are currently under appeal in St. Louis," spokeswoman Carol Goodrich said in an email. She said the ruling

"makes it clear that Johnson & Johnson was wrongfully forced to defend itself in multiple trials in Missouri, a state with no connection to the plaintiffs."

Jim Onder, whose suburban St. Louis-based law firm is representing many women and survivors who filed suit, said Missouri is a proper venue because Johnson & Johnson, though based in New Jersey, uses a factory in Union, Missouri, to package and label talcum products.

"If we can establish specific jurisdiction, which we think we can, at that point we can hold the prior verdicts," Onder said.

Experts aren't so sure.

The Supreme Court ruling "makes it impossible for groups of plaintiffs in many states to sue a defendant in the forum of the defendant's choosing," said Howard Erichson, a professor specializing in civil litigation at Fordham University School of Law.

"The decision means that non-Missouri plaintiffs are going to have a very hard time keeping their cases against Johnson & Johnson," Erichson said.

Michael Duffy, a liability attorney with Duffy & Duffy in Uniondale, New York, said the Supreme Court ruling "really puts a horrific burden on the plaintiff," and likely means that the four cases involving multi-million-dollar awards in St. Louis will be re-tried.

Duffy criticized the Supreme Court decision as a "waste of judicial resources" that will require potentially thousands of similar cases to be heard across the country, and one that makes future consolidation of cases unlikely.

"The Supreme Court's decision has put a chilling effect on the ability to do that," Duffy said.

Talc is the softest of minerals, mined from deposits around the world, including the U.S. It is crushed into a white powder and has been widely used in cosmetics and other personal care products to absorb moisture since at least 1894, when Johnson & Johnson's baby powder was launched. Its main use is in a variety of other products, including paint and plastics.

Much research has found no link or a weak one between ovarian cancer and using baby powder for feminine hygiene, and most major health groups have declared talc harmless. But the International Agency for Research on Cancer classifies genital use of talc as "possibly carcinogenic."

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