4 Tips On Expert Gatekeeping From J&J Talc Deal

By **Joseph Altieri and Sally Levin** (September 24, 2026)

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For more than 15 years, Johnson & Johnson has faced litigation alleging its talcum powder products were contaminated with asbestos and caused ovarian cancer. The litigation grew to encompass several thousand claims and resulted in multiple multimillion- and multibillion-dollar verdicts nationwide.

Despite the adverse verdicts, J&J managed to resolve approximately 70,000 claims in In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Products Liability Litigation on July 27. The company's argument for rigorous application of the reliability requirements of Rule 702 of the Federal Rules of Evidence, paired with a show-cause strategy modeled on a Lone Pine case management order, reshaped the risk calculation in this mass tort litigation.[1]

J&J asserted that the information provided by the pairing confirmed "that these claims lack scientific merit and were sustained only by unreliable expert opinions that could not survive rigorous judicial review."[2] That left plaintiffs in what J&J characterized as "an untenable position" in their ability to prove specific causation.[3]

After a mix of plaintiff and defense verdicts in prior trials, the company might have been able to prevail in further litigation. But a J&J executive said in a statement that the $5.5 billion settlement allows the company to "put the legal dispute behind it and 'remain focused on its mission to develop medicines and devices that save lives.'"[4]

Although much of the specific evidence relates only to J&J's litigation, there are strategic lessons and considerations that should be considered in other types of product liability litigation.

The Rule 702 Turning Point

In June, the plaintiffs withdrew their key causation experts, gynecologic oncologists Daniel Clarke-Pearson and Judith Wolf, from the multidistrict litigation bellwether proceedings in the U.S. District Court for the District of New Jersey after extensive Rule 702 hearings.[5]

Subsequently, J&J moved for entry of an order to show cause why all cases in the MDL should not be dismissed, arguing that any expert's methodology to determine specific causation for any plaintiff's ovarian cancer would be unreliable.[6] J&J argued that:

- Wolf and Clarke-Pearson treated each risk factor as co-equal causes without determining the strength of any specific risk factor;
- The plaintiffs' experts could not articulate any reliable method to distinguish between potential causes of ovarian cancer, thus reflecting an "immutable limitation of scientific knowledge";

- The plaintiffs' experts conceded that no expert can reliably identify the etiology of a particular woman's ovarian cancer; and

- The plaintiffs' experts contradicted themselves as to whether the risk factors worked synergistically or cumulatively.[7]

In its July 22 show-cause order, the MDL court identified critical evidentiary deficiencies with the plaintiffs' experts that raised uncertainty as to whether any plaintiff in the MDL could meet the burden on specific causation. The court rightfully acknowledged that specific causation must be established with evidence admissible under Rule 702, which requires that the expert's opinion be "the product of reliable principles and methods" and reflects "a reliable application of the principles and methods to the facts of the case."[8]

The order by U.S. Magistrate Judge Rukhsanah L. Singh expressed grave doubt that any plaintiff could offer such admissible evidence on specific causation.[9] For example, in assessing the experts' differential diagnosis methodologies, the court highlighted Wolf's testimony that she was unaware of any way to rule in or rule out particular risk factors for ovarian cancer for a given claimant. The court also highlighted Clarke-Pearson's acknowledgment that he could not rule out unknown or idiopathic causes.[10]

Neither expert could explain whether risk factors acted cumulatively, additively or synergistically, and neither could quantify relative contributions of each risk factor or compare risk factors to one another.[11] Experts who fail to consider each known risk factor independently, fail to quantify the relative contributions of each risk factor or fail to compare any risk factor to another are found to have unreliably employed a differential diagnosis.[12]

The court found these deficiencies may reflect a broader inability for any expert to apply a scientifically reliable methodology in assessing whether talc substantially contributed to any plaintiff's ovarian cancer, thus raising the fundamental question whether any plaintiff can establish through admissible evidence that talc use caused the alleged injury.

Considerations for Companies and Defense Counsel Addressing Mass Tort Litigation

1. Expert admissibility is a core component of case development and should be a focus from the beginning of litigation.

A rigorous, well-documented specific causation challenge that identifies specific flaws in an expert's methodology, rather than merely disputing the expert's conclusions, is more likely to withstand scrutiny on appeal in either direction.

What evidence is needed to do so will vary by case, but success with these challenges requires exposing the fundamental flaws in how an expert extrapolates from general scientific literature to individual causation. Supporting successful challenges often takes considerable time and, therefore, should be a focus point from the inception of the litigation.

For example, in the J&J litigation, after nearly a decade of MDL proceedings, the court determined in November 2025 that changes in Rule 702 warranted resubmission of motions concerning the admissibility of parties' experts, for which the court appointed a special master.[13] The special master then held two sets of multiday hearings on general and specific causation.[14]

This is one example of the need for persistent advocacy focused on building a record demonstrating the deficiencies exhibited in the methodology of the plaintiffs' specific causation experts. Here, it led to the show-cause order and acted as a catalyst for ending a large portion of the litigation.[15]

2. Specific causation is subject to the same reliability requirements as general causation.

While general causation, such as whether a substance can cause a disease, often dominates early litigation, the talc MDL illustrates that specific causation, such as whether the substance caused a particular plaintiff's disease, also should be an early focus in any Rule 702 strategy.

Specific causation analyses are subject to equally rigorous and stringent admissibility requirements under Rule 702. The 2023 amendments to Rule 702 explicitly require that expert testimony be "the product of reliable principles and methods" and that "the expert's opinion reflects a reliable application of the principles and methods to the facts of the case."[16] Where plaintiffs cannot explain how their methodology reliably connects exposure to outcome in individual cases, exclusion is appropriate.[17]

Therefore, defense counsel should be prepared to argue that specific causation is common enough to warrant early case management attention and identify a process for early discovery of these issues. Here, the court found grave doubt about whether any plaintiff could proffer admissible specific causation testimony where the record suggested experts could not reliably rule in, rule out, separate or individually analyze ovarian cancer risk factors.

The J&J court recognized that a show-cause process was appropriate because the central question was whether the plaintiffs could establish, through admissible evidence and available scientific support, that alleged talcum powder use caused any plaintiff's ovarian cancer. That reasoning supports the fact that specific causation is not a plaintiff-by-plaintiff issue deferred to trial; it can be and should be decided early, in coordinated proceedings.

3. Build an early record that tests expert methodology.

J&J's use of early cases to test the reliability of the plaintiffs' expert testimony helped clarify the evidentiary posture of the broader MDL. When the plaintiffs withdrew their experts from those proceedings, it affected thousands of related claims relying on the same causation theories.

District courts managing MDLs often prioritize common causation questions through consolidated Rule 702 proceedings, since resolving threshold evidentiary issues potentially can narrow the docket. These proceedings may shape how courts and opposing counsel evaluate similar claims across the litigation, and it is therefore crucial that specific causation analyses be included at this stage.

Here, that record proved decisive. Rather than resolving specific causation plaintiff-by-plaintiff through summary judgment motions, the court used an order to show cause as an equitable case management device, reasoning that the special master's hearings supplied the "significant evidence calling into question the plaintiffs' ability to bring forward necessary medical causation" sufficient to support a Lone Pine-type order.[18]

4. Inconsistent trial outcomes underscore, rather than substitute, the need for and importance of gatekeeping.

As has occurred in other mass tort litigations, the J&J settlement came against the backdrop of a mixed trial record. For example, a Los Angeles County Superior Court jury in December 2025 awarded $40 million to two plaintiffs who alleged talc exposure caused their ovarian cancer.[19] In June, the jury in another Los Angeles bellwether trial reached a defense verdict and found J&J not liable for claims involving three ovarian cancer deaths after hearing substantially similar arguments regarding causation.[20]

Juries reaching opposite conclusions on substantially similar evidence illustrates why Rule 702 assigns courts, not juries, the threshold task of assessing expert reliability before competing causation theories reach a jury. A split verdict record is evidence that unreliable methodology can produce unpredictable results, which is the very harm that Rule 702's gatekeeping mandate is designed to prevent.

Rule 702 practice, trial preparation and resolution strategies are complementary, not alternative. A favorable verdict should not be treated as validation of admissibility, and an adverse one should not be treated as proof of reliability; the two inquiries are legally distinct. Companies should address inconsistent prior verdicts within this framework, and defense counsel should be prepared to address these outcomes in arguing the need for proper application of Rule 702 in future trials.

Conclusion

J&J's resolution illustrates that in modern mass tort litigation, rulings on expert admissibility can be consequential to case value. Particularly in toxic tort and pharmaceutical matters where causation theories offered by plaintiffs often rest on contested extrapolations from population-level data to individual plaintiffs, excluding unreliable expert testimony remains an important tool for testing the sufficiency of the plaintiffs' purported proof.

By insisting on rigorous, good faith application of Rule 702 at each stage, counsel can develop an evidentiary record and secure favorable rulings that ultimately lead to the resolution of many claims while preserving its position that the underlying science does not support the claims against it.

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[1] A Lone Pine order is a case management device that requires plaintiffs to produce prima facie evidence of their injury, exposure, and causation, including materials such as expert reports and medical records. Lore v. Lone Pine Corp., No. L-33606-85, 1986 WL 637507 (N.J. Super. Ct. Law Div. Nov. 18, 1986).

[2] Lauren Berg, J&J, Ovarian Cancer Talc Claimants Unveil $5.5B Global Deal, Law360 (July 27, 2026) https://www.law360.com/articles/2506437/j-j-ovarian-cancer-talc-claimants-unveil-5-5b-global-deal.

[3] Id.

[4] Id.

[5] Defendants' Supplemental Brief in Support of Defendants' Motions to Exclude Plaintiffs' Specific Causation Experts, In re: J&J Talcum Powder Prods. Mktg. (D.N.J. May 29, 2026), Dkt. No. 45151.

[6] Motion for an Order to Show Cause, In re: J&J Talcum Powder Prods. Mktg. (D.N.J. June 11, 2026), Dkt. No. 45314.

[7] Order on Motion for the Entry of an Order to Show Cause ("Show Cause Order") at 4, In Re: J&J Talcum Powder Prods. Mktg. (D.N.J. July 22, 2026), Dkt. No. 45694.

[8] Id. at 14, Dkt. No. 45694 (quoting Rule 702 and citing In re: Valsartan, Losartan and Irbesartan Prods. Liab. Litig., MDL No. 19-2875, 2025 WL 3141002, at *5-6 (D.N.J. Nov. 10, 2025)).

[9] Id.

[10] Id.

[11] Id. at 18.

[12] Id. at 15 (citing, inter alia, In re: Valsartan, 2025 WL 3141002, at *17-21; In re: Lipitor (Atorvastatin Calcium) Mktg., Sales Practs. and Prods. Liab. Litig., 892 F.3d 624, 644 (4th Cir. 2018)).

[13] Id. at 2.

[14] Id. at 3.

[15] Other defendants have found similar success with a strategy. For example, in In re: Accutane, defendant Hoffman-La Roche, after a decade of litigation, prevailed at the trial court level in excluding two of the plaintiffs' general causation experts. The New Jersey Supreme Court ultimately affirmed the exclusion in an opinion adopting Daubert reliability factors, which eliminated causation proof for thousands of claims in coordinated proceedings. See In re: Accutane Litig., 234 N.J. 340 (N.J. 2018).

[16] Fed. R. Evid. 702.

[17] Gen. Elec. v. Joiner, 522 U.S. 136 (1997); In re: Valsartan, 2025 WL 3141002.

[18] See In re: Paraquat Prods. Liab. Litig., 730 F. Supp. 3d 793, 850 (S.D. Ill. 2024) (finding that without testimony concerning "(i) a positive association between occupational paraquat exposure and Parkinson's disease, and (ii) a causal relationship between occupational paraquat exposure and Parkinson's disease, there is no testimony for [the expert] to give as it pertains to the four trial selection Plaintiffs").

[19] Kent v. Johnson & Johnson, No. 17CV318672 (Cal. Super. Ct. L.A. Cnty. Dec. 12, 2025) and Schultz v. Johnson & Johnson, No. 20CV0476 (Cal. Super. Ct. L.A. Cnty. Dec. 12, 2025); see also Dave Trumbore, J&J Hit With $40M Verdict In Bellwether Talc Trial In LA,

Law360 (Dec. 12, 2025) https://www.law360.com/articles/2421730/j-j-hit-with-40m-verdict-in-bellwether-talc-trial-in-la.

[20] Owens v. Johnson & Johnson, No. CIVDS1618507 (Cal. Super. Ct. L.A. Cnty. June 5, 2026), Tienken v. Johnson & Johnson, No. 18CECG01553 (Cal. Super. Ct. L.A. Cnty. June 5, 2026), and Williams v. Johnson & Johnson, No. CIVDS180737 (Cal. Super. Ct. L.A. Cnty. June 5, 2026); see also Craig Clough, J&J Cleared Of Talc Liability In LA Bellwether Trial, Law360 (June 5, 2026) https://www.law360.com/articles/2486498/j-j-cleared-of-talc-liability-in-la-bellwether-trial.