

Beasley Allen Disqualified From NJ Talc Multicounty Litigation

By **George Woolston**

Law360 (February 6, 2026, 4:55 PM EST) -- A New Jersey state appeals court disqualified the Beasley Allen Law Firm from representing plaintiffs in multicounty litigation over Johnson & Johnson's talc-based baby powder, ruling Friday that a former Faegre Drinker Biddle & Reath LLP lawyer's collaborative efforts with the firm's attorneys violated ethics rules.

In a published **opinion**, a three-judge panel said that the association of James Conlan, who represented J&J as outside counsel in the talc litigation for two years, with Beasley Allen and firm attorney Andy Birchfield violated the state's rules of professional conduct around non-lawyers association with lawyers and a lawyer's duty to former clients.

The panel held that it is clear that Beasley Allen, Birchfield and Conlan violated Rules 1.9(a) and 5.3 of the Rules of Professional Conduct because they worked together over several months for the same common purpose — to resolve the talc claims — and that the settlement proposal is the same matter that Conlan worked on as outside counsel for J&J.

"Conlan's prolonged access to J&J's privileged information, followed by collaborative efforts with its most prominent adversary, leaves us with clear concern for the preservation of trust intrinsic to the attorney-client relationship," Judge Mark K. Chase wrote for the panel.

The panel reversed a lower court's ruling permitting Beasley Allen attorneys to **represent plaintiffs** in the multicounty litigation, and sent it back for an order disqualifying Beasley Allen.

Counsel for Birchfield and Beasley Allen said in a statement to Law360 on Friday that they will appeal to the New Jersey Supreme Court.

"We respectfully but vehemently disagree with the Appellate Division's opinion. This opinion not only intrudes upon and rejects the trial court's ruling on the facts in favor of Beasley Allen, but then proceeds to rewrite New Jersey's Rules of Professional Conduct. We will appeal to the Supreme Court of New Jersey, where we are confident that the trial court's ruling will be reinstated," said Jeffrey M. Pollock of Pollock Law LLC.

Erik Haas, worldwide vice president of litigation for J&J, said the panel's decision "appropriately emphasizes the seriousness of this violation and, if not redressed, the threat it poses to the integrity of the legal system."

"Today's precedential decision by the Superior Court Appellate Division confirms what was evident from the record: Beasley Allen's knowing and surreptitious collaboration with Johnson & Johnson's former lawyer was an egregious breach of the most fundamental ethical duties that govern our profession. 'Switching sides' against a former client does not present a close call — but rather a bright-line ethical prohibition recognized by every court, every ethics authority, and, frankly, every first-year law student," he said.

J&J has been pushing for Beasley Allen's disqualification from both the talc MCL and multidistrict litigation in New Jersey federal court since December 2023.

During a March 2024 plenary hearing on its disqualification motion, Haas testified that he was "utterly **shocked and appalled**" to learn the plaintiffs' counsel was working with Conlan. He had testified

that he worked closely with Conlan while he served as outside counsel for J&J from 2020 through March 2022, communicating with him directly to discuss the strategy for litigating the talc cases in New Jersey federal and state courts.

Conlan left Faegre Drinker in March 2022 to co-found Legacy Liability Solutions. Beasley Allen is among the leading firms representing plaintiffs in the New Jersey MCL and MDL accusing J&J of producing talc-based baby powder that caused ovarian cancer.

Beasley Allen and Birchfield have argued that J&J is blaming them for the company twice failing to address thousands of talc injury claims through a Chapter 11 filing, and that Conlan has never shared any confidential or privileged information to them.

Beasley Allen **asserted** last month that nothing in the record suggested he disclosed any confidential information. Under the 2011 New Jersey Supreme Court ruling in *O Builders and Associates v. Yuna Corp. of NJ* , a motion to disqualify must be based on evidence in the record, Pollock argued.

"Johnson & Johnson had a choice. If they want to demonstrate that Mr. Conlan had, in fact, shared information, they needed to prove it," he said during oral arguments before the panel.

Atlantic County Superior Court Judge John Porto sided with Beasley Allen in July 2024, holding that, without evidence showing Conlan shared confidential information, he cannot remove them from the case. While both parties did not dispute Conlan was privy to privileged and confidential information, he "is not a so-called side-switching attorney; he does not represent any MCL plaintiff and was never hired as an attorney at Beasley Allen," the judge said.

The appeals court disagreed. The panel held that because Conlan worked with Beasley Allen on the same matter, the focus should not have been on whether confidential information was revealed, but whether he would have violated RPC 1.9 had he been acting as a lawyer for purposes of RPC 5.3(c).

According to the opinion, Conlan acknowledged that had he been acting as an attorney, working with Beasley Allen would have been an ethics violation, and Birchfield testified that he could not have hired him as an attorney to work on the talc litigation.

"Therefore, it is acknowledged that had Conlan been acting as a lawyer, Conlan's conduct of collaborating in mediation and in developing a settlement of the talc claims with Beasley Allen against his former client J&J would have violated RPC 1.9(a)," the opinion said.

The panel further held that while Beasley Allen did not direct Conlan's conduct or seek to work with him, it ratified it by not stopping his actions.

"This was despite, as the trial court found, Beasley Allen having known since 2020 that Conlan represented J&J, its litigation adversary on the same issue, and previously negotiated on a settlement of these same talc claims with Conlan when he was outside counsel for J&J. That violation alone, were it the end of the inquiry, would result in the disqualification of Beasley Allen from the MCL," the opinion said.

J&J is also pursuing disqualification in federal court, asking U.S. Magistrate Judge Rukhsanah L. Singh to boot the firm from the MDL. In July, she **denied** J&J's request to remove the firm from the plaintiffs' steering committee, but directed the committee to select another firm to lead settlement discussions.

Judge Singh has yet to rule on the disqualification motion.

Birchfield and Beasley Allen are represented by Jeffrey M. Pollock of Pollock Law LLC.

J&J and LLT are represented by Peter G. Verniero of Sills Cummis & Gross PC, Stephen D. Brody of O'Melveny & Myers LLP, and Susan M. Sharko of Faegre Drinker Biddle & Reath LLP.

The case is In re: Talc-Based Powder Products Litigation, case number A-000215-24, in the Superior Court of the State of New Jersey, Appellate Division.

--Additional reporting by Emily Sawicki, Jack Karp, Carla Baranauckas, Carolina Bolado, Jake Maher and Rose Krebs. Editing by Adam LoBelia.

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