

insights

TYPES NOT MAPPED YET November 18, 2021 | TTR not mapped yet | David A. Warfield

David Warfield talks to Axios about Johnson & Johnson's 'Texas Two Step' strategy for talc claims

[David Warfield](#), the co-chair of Thompson Coburn's Financial Restructuring and Bankruptcy practice, appeared on an Axios podcast to discuss Johnson & Johnson's recent strategies to handle escalating legal claims over its opioid and talc products.

David was the guest on the [November 12 episode of the Axios Re:Cap podcast](#), hosted by journalist Felix Salmon, the chief financial correspondent at Axios.

The pair first discussed Johnson & Johnson's efforts to secure a global settlement in state and local actions brought over the marketing of its opioid products. "We'll see if they can get all 50 states to agree," David said. "It's to be determined whether it will buy complete peace with all the governmental units or whether J&J will accept something less than complete peace in exchange for resolving the vast majority of those types of claims."

Next, David explained the company's recent corporate and legal maneuvering to address the 38,000 lawsuits brought by individuals who used Johnson & Johnson's talc products and claim they caused cancer. In a strategy known as the "Texas Two Step," Johnson & Johnson created a new limited liability corporation under Texas law, and then divided itself into two new companies: one that holds talc-related liabilities and another that holds non-talc assets and liabilities. The new company with the talc-related liabilities then filed for Chapter 11 protection in North Carolina.

"Johnson & Johnson has admitted in court that the whole purpose was to isolate the liabilities in this new company that was formed and do their best to keep the rest of J&J free of those liabilities," he said.

"Chapter 11 has been used to settle many of these types of mass tort claims," David said, noting examples such as asbestos claims and abuse claims brought against the Boy Scouts of America and USA Gymnastics. "J&J is accessing the advantages of bankruptcy in solving problems with you have a massive number of claims."

David previously wrote about the Texas Two Step maneuver in a blog post for the Credit Report Blog: [Johnson & Johnson: The Texas two-step and talc-related liabilities](#).

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