



Lowenstein Bankruptcy Lowdown Video 29 – J&J Bankruptcy Filing Dismissed: The Third Time's Not A Charm

By [Colleen M. Restel](#) and [Eric James Seltzer](#)

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Colleen M. Restel:

Welcome to today's [Lowenstein Bankruptcy Lowdown](#), where we'll be breaking down the recent dismissal of Johnson & Johnson's third attempt to resolve talc-related claims through bankruptcy.

The J&J decision, handed down by Bankruptcy Judge Lopez in the Southern District of Texas, marks a significant development in mass tort bankruptcy law.

Eric James Seltzer:

That's right, Colleen. J&J had filed a third Chapter 11 case through its subsidiary, Red River Talc, aiming to resolve around 90,000 talc claims. J&J proposed the \$9 billion contribution to settle those claims and sought to release not just itself, but hundreds of related entities, including retailers, from liability.

Unfortunately for J&J, the third time was not a charm.

Colleen M. Restel:

In his decision, Judge Lopez set forth several reasons for dismissing the case that set it apart from the previous two dismissals in New Jersey.

First, under Section 524(g), at least 75 percent of affected creditors needed to accept the plan. Initially, only 70 percent of creditors accepted it, but that number jumped to 83 percent after lawyers who purported to vote on behalf of their clients changed the votes of 11,000 claimants from "reject" to "accept."

Eric James Seltzer:

However, Judge Lopez found significant problems with this process. He determined that at least half of the 90,000 votes couldn't be counted due to pre-petition voting irregularities and solicitation issues.

Specifically, many law firms didn't have the proper authority to vote on behalf of their clients who, in some cases, were given just two business days and a weekend to respond—an unreasonably short time frame under Rule 3018(b).

- Colleen M. Restel:** As a result, Judge Lopez ruled the entire vote couldn't be certified, and the plan therefore failed to meet the 75percent support threshold required for confirmation. That wasn't the only issue.
- Eric James Seltzer:** Judge Lopez also addressed whether the plan's nonconsensual third-party releases could be allowed under Section 524(g), finding that the claims against retailers were not derivative of claims against the debtor, and thus they didn't qualify for the releases.
- Colleen M. Restel:** Ultimately, Judge Lopez concluded that J&J's entire approach needed to be rethought in light of the current legal landscape. He found that it was in the best interest of both the debtor and creditors to dismiss the case, emphasizing the rushed solicitation process and the improper handling of votes.
- J&J has since indicated that it will return to the tort system to litigate the talc claims, rather than pursue an appeal.
- Eric James Seltzer:** The J&J decision underscores the importance of proper creditor engagement and compliance with legal standards and sends a clear message to future debtors that any attempt to resolve mass tort liabilities through bankruptcy must meet the highest standards of fairness and transparency.
- Colleen M. Restel:** Thanks so much for watching, and stay tuned for more Lowenstein Bankruptcy Lowdown videos.