

Rising Litigation Costs Pressure Bayer and J&J to Settle Xarelto Lawsuits

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In late March, Bayer and Johnson & Johnson settled more than [25,000](#) lawsuits surrounding Xarelto, a blood thinner medication jointly developed by both companies. This \$750 million settlement was in response to thousands of [allegations](#) that Xarelto causes uncontrollable bleeding leading to severe bodily injury and death. In addition to winning all [six cases](#) that went to trial, both companies continue to deny any and all responsibility associated with the alleged harmful side effects of Xarelto. So, why did both companies decide to settle?

While all pending cases were settled for a total of [\\$750 million](#), Bayer and J&J are equally footing the bill. Therefore, both are responsible for less than \$390 million. Moreover, Bayer's product liability insurance will [offset](#) this figure substantially. Thus, on its face, the burden this settlement will have on both Bayer and J&J appears minimal.

In 2018, J&J's Xarelto sales encompassed \$2.5 billion of its total revenue. However, this figure is dwarfed by the company's total [\\$78.7 billion](#) revenue in 2018. As for Bayer, Xarelto contributed \$4.07 billion to their revenue streams last year. Moreover, as compared to similar lawsuits, this settlement is quite low. For example, amidst comparable allegations to those made within the complaints against J&J and Bayer, Boehringer Ingelheim recently settled 4,000 cases for nearly \$650 million. In comparison, J&J and Bayer's financial exposure is substantially less.

With that said, this recent settlement follows a significant increase in total litigation exposure for both companies. In March, Bayer announced that the Xarelto settlement allows both companies to move forward unencumbered by future costly and time-consuming litigation. For instance, J&J spent \$1.72 billion on litigation last year alone. This figure is nearly double the amount spent in 2016. As for Bayer, after recently [acquiring](#) Monsanto Co., the company has been subject to many toxic tort claims. For example, after losing two cases involving Monsanto's popular weed-killer, Roundup, Bayer's stock took a hit in late March of this year. Thus, while the settlement amount encompasses a small portion of Bayer and J&J's revenue in 2018, the litigation expenses associated with the Xarelto lawsuits were substantial. This suggests that settlements of this kind will remain crucial tools for large companies to avoid incurring excessive litigation costs, evade liability, and, ultimately, continue keeping investors happy.

