

Denver  
1899 Wynkoop Street  
Suite 800  
Denver, CO 80202

## John S. Phillips

T: 303.592.3199  
F: 303.592.3140  
john.phillips@bartlit-beck.com

### PROFESSIONAL PRACTICE

Bartlit Beck Herman Palenchar & Scott, LLP, 1993-Present, Partner (since 1995)

KN Energy, Inc., 1996-1997, Assistant General Counsel

Kirkland & Ellis, 1989-1993, Associate, Litigation Department

### CASES TRIED OR OTHERWISE TAKEN TO JUDGMENT

#### ***Perrine v. DuPont*** (West Virginia, 2007-2011)

Retained shortly before trial to represent DuPont in class-action jury trial of toxic-tort claims. Class of 8,500 alleged community contamination by zinc smelter emissions over a century. Jury verdict for plaintiffs.

Represented company on appeal to West Virginia Supreme Court, which ordered re-trial on statute of limitations defense and substantially reduced potential damages. Case settled favorably.

#### ***Agnes, et al. v. DuPont*** (New Jersey, 2006-2007)

Lead trial counsel for DuPont in confidential five-month arbitration hearing involving personal injury claims of 96 plaintiffs and property damage claims of 165 plaintiffs in toxic tort action alleging environmental contamination by DuPont blasting cap plant over a 92-year period. Cross-examined 25 witnesses. Arbitration hearing took place November 2006 through March 2007. Obtained favorable outcome for client.

#### ***Naftali, et al. v. DuPont*** (New Jersey, 2004)

Lead trial counsel for DuPont in confidential three-month arbitration hearing involving personal injury claims of 164 plaintiffs in toxic tort action alleging environmental contamination by DuPont blasting cap plant over a 92-year period. Cross-examined over 50 witnesses; direct examination of DuPont's only witness (an expert toxicologist). Obtained favorable outcome for client.

### EDUCATION & HONORS

University of Michigan Law School, 1989, J.D.

Northwestern University, 1986, B.S., with Honors

### BAR ADMISSIONS

Colorado

Illinois

### PROFESSIONAL ACTIVITIES AND COMMUNITY SERVICE

Board Member, Denver Urban Debate League

Former President, Colorado Lawyers for the Arts

Volunteer, Big Brothers Program

**Confidential AAA Arbitration** (Washington D.C., June 2004)

Represented "Big 4" accounting firm in month-long arbitration hearing against venture capital firms in matter alleging accountants' negligence regarding due diligence and audit work in connection with large private acquisition. Case won at trial.

**Kofa v. CHSAA** (Denver, September 2003)

First-chaired first successful arbitration against the Colorado High School Activities Association (CHSAA). Represented inner city high school student in regaining athletic eligibility. Trial before retired U.S. District Judge (and former Colorado Supreme Court Justice) Jim Carrigan. Kofa went on to win the 145-pound Class 5A Title at the Colorado State Wrestling Championships in February 2004.

**Ige, Ahmed and Faki v. CHSAA** (Denver, April 2004)

First-chaired second successful arbitration against the Colorado High School Activities Association (CHSAA). Represented three inner city high school students in race/religious discrimination case. Athletic eligibility regained after three-day trial in April 2004 before former Chief Justice of the Colorado Supreme Court Luis D. Rovira. Boys went on to win several State Cross Country and Track Championships in 2004 and 2005.

**Naftali, et al. v. DuPont** (Superior Court, Passaic County, New Jersey, 2002)

Represented DuPont in state and federal mass toxic tort actions brought by over 2000 plaintiffs alleging environmental contamination (personal injury and property damage) by DuPont blasting cap plant over a 92-year period.

Ten-week jury trial in first phase of Naftali case in Spring-Summer of 2002; court dismissed punitive damages claims at close of evidence; jury awarded no damages to seven of ten plaintiffs; jury verdict for three plaintiffs (awarding damages totaling less than \$500,000). Cases settled.

**Ankmar Door v. Baan** (Denver District Court) (2002-2003)

Represented Baan, which makes enterprise resource planning software, in fraud and breach of contract action related to performance and functionality of Baan software. Case won on summary judgment in March 2003.

## OTHER REPRESENTATIVE CASES

**Crow Tribe v. Australian-American Energy Company** (2011)

Currently representing The Crow Tribe of Indians (Apsaalooke Nation) in dispute with Australian-American Energy Company with respect to the proposed development of a \$7 billion coal-to-liquids project on the Crow Reservation in southeastern Montana.

**First Reserve Corporation and AMCI v. Companhia Vale Do Rio Doce** (Supreme Court of Queensland, Queensland, Australia, 2008-2009)

Represented Sellers of coal company in post-sale disputes related to third party coal contracts. Cases filed by both sides in Supreme Court of Queensland in Brisbane Australia. Cases settled.

**Trasylol Litigation** (Multiple Jurisdictions, 2007-Present)

National counsel for Bayer in products liability actions concerning Trasylol, an anti-fibrinolytic drug used to reduce perioperative blood loss and the need for blood transfusion in patients undergoing cardiopulmonary bypass in the course of coronary artery bypass graft surgery who are at increased risk of blood loss or blood transfusion.

**Headwaters MB** (2006-Present)

Currently represent investment bank in a variety of general counseling, contract, and litigation matters.

**Copano Energy, LLC** (2008-Present)

Currently represent midstream natural gas company in contract matters and other general counseling.

**DK Acquisition Partners, L.P. et al. v. J.P. Morgan Chase & Co. et al.** (Federal District Court, Southern District of Texas)

Represented holders of more than \$1.5 billion in Enron bank debt in their action against J.P. Morgan Chase & Co., Citigroup and affiliates, alleging fraud and other wrongdoing based on defendants' knowledge of and participation in scheme to conceal Enron's true financial condition. Case settled.

**In re Oak Mountain Energy** (U.S. Bankruptcy Court, N.D. Alabama) (2002-2005)

Lead counsel for Peter Kiewit Sons' and various indirect subsidiaries in adversary proceeding seeking damages based on alter ego and other theories. Case settled before trial.

**DuPont v. MacDermid Inc. et al.** (Federal District Court, New Jersey, 2006-2007)

Represented DuPont in patent infringement suit against MacDermid. Patents relate to thermally processed flexographic printing plates.

**Pioneer Hi-Bred International v. Mycogen et al.** (Federal District Court, Iowa, 2005)

Represented Pioneer in a dispute over use of genetic materials discovered during a 10-year research program aimed at identifying bacterial genes active against insects for insertion into transgenic crops.

**Gen-Probe Incorporated v. Bayer HealthCare LLC and Bayer Corporation** (Federal District Court, San Diego, 2006)

Represented Bayer in multiple patent infringement actions involving nucleic acid detection assays for HIV and hepatitis. Cases settled.

**IDT Corporation v. Telefonica, S.A., Terra, and Lycos** (U.S. District Court, New Jersey) (2001-2004)

Represented plaintiff IDT in securities fraud action relating to the termination of a joint venture between IDT and Terra Networks and Terra Network's acquisition of internet portal Lycos. Case settled before trial.

**FTI Consulting, Inc.** (1997-Present)

Represented nationwide litigation services company in a wide variety of general counseling, employment, and contract matters.

**KN Energy cases** (U.S. District Court, Denver, Washington, D.C., Houston, and various other jurisdictions) (1996-1998)

Represented KN Energy, Inc., Rocky Mountain Natural Gas Company, and various other related entities in a wide variety of litigation matters, including qui tam and other cases brought by Jack Grynberg, antitrust matters, contract matters, personal injury cases, employment matters, and the like.

**Phillips Petroleum Dealer Termination** (Denver District Court, 1995)

Represented Phillips Petroleum in antitrust/dealer termination and contract case concerning termination of exclusive dealer. Case settled before trial.

**Lead Paint Litigation** (Massachusetts, New York, and various other jurisdictions)

Represented NL Industries in various state and federal actions alleging personal injury and property damage arising from lead pigment and lead paint. Various cases won on summary judgment or motions to dismiss.

**Phillips Petroleum Explosion Cases** (Denver District Court, 1994-1995)

Represented Phillips Petroleum in personal injury cases arising out of pipeline rupture and explosion off I-70 near Denver. Cases settled before trial.

**William I. Koch v. Koch Industries, Inc.** (U.S. District Court, Kansas, 1992-1996)

Represented plaintiff William I. Koch in billion-dollar securities fraud, breach of contract and breach of fiduciary duty claims arising from sale of stock in nation's second largest privately held company. Worked primarily on claims related to heavy oil refinery. Jury verdict for Koch Industries; affirmed by Tenth Circuit; certiorari denied by United States Supreme Court.

**Sienna Imaging, Inc. v. LNSI** (AAA Arbitration)

Represented Sienna in its claims arising from a corporate asset purchase, based on a breach of Generally Accepted Accounting Standards and non-disclosure involving digital photographic processing systems. Case won at trial.

**Marriott Corporation v. AMR** (Texas State Court, Dallas)

Represented plaintiff Marriott against AMR in \$1 billion software development/joint venture dispute. Case settled on eve of trial.

**Long Beach v. Shell Oil** (U.S. District Court, California)

Represented Shell in multi-district antitrust litigation involving claimed price-fixing among six major oil companies on purchases of offshore heavy crude oil. Case settled on eve of trial.

***McLendon v. Continental Group*** (U.S. District Court, New Jersey)

Represented Peter Kiewit Sons, Inc. in damages phase of an ERISA class suit against Continental Can for firing of older workers about to vest for their pensions. The merits phase of case had already been lost by prior counsel. Plaintiffs sought damages exceeding \$1 billion plus RICO treble damages. Four damages trials occurred before a special master. Case settled during damage proceedings.

## NEWS

Bartlit Beck Attorneys Named Client Service All-Stars