

ACCOUNTANTS AND PROFESSIONAL LIABILITY LITIGATION



Bartlit Beck has successfully represented a number of the world's largest accounting and other professional service firms in some of their most complex cases. In addition to traditional malpractice and professional negligence claims we represent clients in a wide variety of actions brought against professionals and professional service firms.

Bartlit Beck has handled cases through discovery, motion practice, arbitration, and trial involving allegations of accountant malpractice, failed due diligence, securities fraud, and other claims. Our experience covers a wide range of industries, including banking, real estate, consumer products, transportation, education, media, and private equity and other financial transactions. We have represented firms in cases brought by their former clients, bankruptcy trustees, regulators, shareholders, creditors, investors, insurers, and others.

From our extensive work in the field, we understand the auditing process. We have considerable experience with Generally Accepted Auditing Standards (GAAS) and Generally Accepted Accounting Principles (GAAP), the interpretation and application of financial reporting standards, and the issues underlying the adequacy of financial statement disclosures. This experience enables us to work closely and seamlessly with the audit team, and with inside and outside accounting experts, to present our client's best possible defense.

Our deep understanding of the field and extensive trial experience has driven an outstanding record of success, including many trial and arbitration wins, as well as favorable pre-trial resolutions and creative settlements.

EXPERIENCE

Metropolitan Mortgage & Securities Litigation

Represented Ernst & Young in federal securities class action suit and related arbitrations surrounding the collapse and bankruptcy of Metropolitan Mortgage & Securities Co., a \$2 billion investment, real estate and insurance conglomerate. Plaintiffs alleged accountants' negligence relating to audit work. Won back-to-back complete defense verdicts in separate trials involving claims for hundreds of millions in investment losses brought by Metropolitan's insurance subsidiary and the bankrupt estate. Class action case settled favorably shortly before trial.

Deutsche Bank v. Deloitte & Touche

Represented Deloitte & Touche in multibillion-dollar accounting malpractice case in circuit court in Miami concerning the failure of Taylor Bean & Whitaker, formerly one of the largest mortgage origination companies in

the nation. Case settled before summary judgment argument.

FDIC & Colonial BancGroup v. PwC

Represented PwC against Colonial Bank and the FDIC in a suit filed in M.D. Alabama after the collapse of PwC's audit client Colonial Bank. Colonial Bank sought several hundred million dollars in damages. FDIC sought over \$2 billion in actual damages, plus unspecified punitive damages. Following a bench trial on liability, Court ruled for PwC on the entirety of Colonial Bank's claim. Court ruled against PwC on some of FDIC's claims and in favor of PwC on others. Court also ruled in favor of PwC on FDIC's request for punitive damages. Following a bench trial on damages, Court awarded FDIC \$625 million. Before judgment was entered, and while post-trial motions were pending, the parties settled the case for \$335 million.

McCourt v. Bingham McCutchen

Represented Frank McCourt, the former owner of the Los Angeles Dodgers, in connection with his legal malpractice claims in Massachusetts state court against Bingham McCutchen arising out of Bingham's negligent preparation of Mr. McCourt's postnuptial agreement, allowing his former wife to claim ownership of 50% of the Dodgers franchise, which sold for \$2.15 billion. Obtained dismissal of declaratory judgment action brought against Mr. McCourt by Bingham, seeking a determination that the firm did not commit malpractice and did not proximately cause Mr. McCourt's damages. Reached confidential settlement.

Confidential AAA Arbitration

Represented a "Big Four" accounting firm in AAA arbitration against venture capital firms claiming \$100 million in damages. Plaintiffs alleged accountants' negligence regarding due diligence and audit work in connection with large private acquisition. Complete defense verdict in client's favor.

Yukos v. Feldman

Represent plaintiff trustee affiliated with charitable trusts formed to compensate stockholders of the former Yukos Oil Company (which was improperly nationalized by the Russian Federation) in a jury trial in S.D. New York involving claims for breach of fiduciary duty against the former trustee. Secured a jury finding that the defendant breached his fiduciary duties. Case on appeal to the Second Circuit.

Charter Communications v. Irell & Manella

Represented Charter Communications in C.D. California in \$150 million legal malpractice action against well-known national law firm arising out of negligent documentation of substantial corporate acquisition. Reached confidential settlement.

Board of Trustees of City Colleges v. Arthur Andersen

Represented Arthur Andersen in litigation in circuit court of Cook County relating to derivative securities trading investment made by public treasurer. Won partial summary judgment as to most of plaintiff's damages claim. Case settled thereafter.

In Re Parmalat Securities Litigation

Represented Deloitte Touche Tohmatsu at trial in S.D. New York in securities class action. Plaintiffs had sought to hold DTT, a Swiss entity, liable for the alleged misconduct of Deloitte member firms in connection with Parmalat's downfall. Case settled favorably after Bartlit Beck appeared and requested an early trial date.

Confidential AAA Arbitrations

Represented a "Big Four" accounting firm in AAA arbitrations in Texas and New York against principals of multibillion-dollar investment firm and former executives of Fortune 100 company. Plaintiffs alleged our client's tax shelter advice led to hundreds of millions of dollars in damages. Cases resolved by arbitral awards for a fraction of the claimed damages.

Swift Transportation Co. v. Ernst & Young

Represented Ernst & Young in accounting malpractice action in Superior Court in Arizona stemming from merger between Swift Transportation Company and M.S. Carriers, Inc. Case settled shortly before trial.

Confidential AAA Arbitration

Represented a "Big Four" accounting firm in AAA arbitration against hotel developer. Plaintiff alleged accountants' negligence in advising on ESOP and other tax issues. Case settled favorably during trial after cross-examination of plaintiffs' witnesses.

Smith v. Arthur Andersen

Represented Arthur Andersen in action by Boston Chicken bankruptcy trustee in D. Arizona alleging accounting malpractice, breach of contract, negligent misrepresentation, and aiding and abetting breach of fiduciary duty. Case settled favorably shortly before trial.

Adelphia Communications Corp. v. Deloitte & Touche

Represented Deloitte in multibillion-dollar accounting malpractice case brought by Adelphia in S.D. New York, with third-party claims against the Rigas family. Case resolved on confidential terms.

In re National Century Financial Enterprises

Represented Deloitte in multibillion-dollar lawsuits brought by bondholders relating to the collapse of Deloitte audit client. The majority of claims against Deloitte settled.

Competition Law Group v. EnjoyLife

Represented Competition Law Group at jury trial of breach of contract claim and malpractice counterclaim arising from EnjoyLife's refusal to pay attorneys' fees. Jury returned a complete verdict for Competition Law Group.

Coleman Holdings v. Arthur Andersen

Represented Arthur Andersen in negligence and fraud action in circuit court in Palm Beach, Florida in connection with Andersen's audit of Sunbeam. Case settled.

Sompo Japan Insurance v. Deloitte & Touche

Represented Deloitte against claims filed in N. Carolina Superior Court of accounting errors in reinsurance pool. Case resolved on confidential terms.

Adelphia Communications v. Deloitte & Touche v. John Rigas, et al.

Represented Deloitte & Touche in multibillion-dollar accounting malpractice case brought by Adelphia, with third-party claims against the Rigas family. Case resolved on confidential terms.

Keely v. Janus

Represented former Janus portfolio manager in D. Colorado action for fraud, breach of employment contract, and related claims against mutual fund company. Won \$4.8 million jury verdict, which was later increased to over \$7 million due to statutory enhancements, interest, and attorneys' fees.

Las Vegas Hepatitis C Litigation

Represented UnitedHealthcare in litigation in Clark County, Nevada encompassing over forty individual cases, pending before twenty different judges. Plaintiffs were individuals who claimed to have contracted Hepatitis C during endoscopy procedures performed at clinics that were on defendants' networks of approved healthcare providers. Defendants were health plans and other entities affiliated with UnitedHealthcare. Tried one case (*Martin v. PacifiCare of Nevada, et al.*), resulting in a favorable jury verdict and subsequent settlement of half of the pending cases. Began trying a second case (*Paul v. Health Plan of Nevada, et al.*), which settled one month into trial, along with the other remaining cases.

Confidential Legal Malpractice Representation

Represented family in Chicago, Illinois seeking resolution of malpractice claims against national law firm in connection with negligent estate planning resulting in hundreds of millions of dollars in unanticipated tax liabilities. Provided representation and advice in connection with confidential settlement negotiations.

Confidential Legal Malpractice Representation

Represented major data storage company in Los Angeles, California seeking resolution of malpractice claims against national law firm for negligent representation resulting in significant litigation sanction. Provided representation and advice in connection with confidential mediation.