

## BRIAN S. PRESTES

PARTNER

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Brian Prestes specializes in leading and coordinating multi-firm defense teams in mass litigations, including products liability, mass tort, and complex commercial actions. Brian has nearly two decades of experience in many of the nation's most significant MDLs and mass litigations, including: Trinity highway safety products; Roundup® herbicides; the Las Vegas hepatitis C outbreak; lead paint; Teflon® nonstick coatings; and prescription drugs including Yaz®, Yasmin®, Vioxx®, Seroquel®, and Adderall®. Brian has been lead or national coordinating counsel in matters that have involved tens, hundreds, and thousands of individual personal injury cases, as well as state and federal False Claims Act cases, government investigations, and class actions.

Brian's experience and skill in directing multi-firm defense teams and crafting both litigation and resolution strategies, combined with Brian's advocacy skills, have contributed to some of our clients' most successful results.

Brian presently serves as national coordinating counsel for Trinity Highway Products in highway-safety products litigation. When Trinity retained Bartlit Beck in 2016, it faced nearly seventy personal injury cases in state and federal courts around the country, four class actions, over a dozen state False Claims Act cases, and a nearly \$700 million federal False Claims Act judgment. Working closely with Trinity and its existing outside counsel, Brian coordinated the defense team across all cases and jurisdictions and led the development and execution of Trinity's defense. Since retaining Brian and Bartlit Beck, Trinity has significantly reduced the number of personal injury cases without a single adverse jury verdict, obtained dismissals of the U.S.-based class actions for zero dollars with only one remaining, obtained dismissals of eleven of the fifteen state False Claims Act cases, and won a complete victory in the federal False Claims Act case.

Brian previously served as coordinating and strategy counsel for UnitedHealthcare in the Las Vegas hepatitis C litigation brought by plaintiffs claiming to have contracted hepatitis C during procedures performed at clinics that were in defendants' networks of healthcare providers. Brian provided strategic direction, coordinated six trial teams, and spent thirty days on trial in litigation encompassing over forty individual cases, pending before twenty different state-court judges. Bartlit Beck tried one case, resulting in a favorable jury verdict and subsequent settlement of half of the pending cases, and began trying a second case, which settled one month into trial, along with the other remaining cases.

Brian's clients have described Bartlit Beck as "unrivaled—as counselors, strategists, and trial lawyers," and as "a firm filled with lawyers with the intellect of Supreme Court clerks, the mentality of trial lawyers, and the work ethic of investment bankers." *The American Lawyer* has frequently showcased Brian's successes for the firm's clients, including NL Industries in the lead-paint litigation.

## EDUCATION & HONORS

The University of Chicago Law School, 2001, J.D., with High Honors

Executive Editor, *The University of Chicago Law Review*

Member, *Chicago Journal of International Law*

Wake Forest University, 1997, B.A., *magna cum laude*, with Honors

National Intercollegiate Debate Champion

Senior Award for Distinguished Achievement in Communication

## CLERKSHIPS

Honorable Sandra L. Lynch, United States Court of Appeals for the First Circuit, 2001-2002

## GOVERNMENT SERVICE

Attorney-Advisor, Office of Legal Counsel, United States Department of Justice, 2004-2006

## ADMISSIONS

Illinois

Massachusetts

District of Columbia

## PRODUCTS LIABILITY, MASS TORT, AND OTHER MASS ACTIONS

### ***ET Plus Litigation***

Serves as national coordinating counsel for defendants, Trinity Industries and Trinity Highway Products, in litigation alleging personal injuries from Trinity's ET Plus guardrail end terminal system. In this role, Brian has coordinated the defense of products liability cases pending in multiple state and federal jurisdictions, class actions, state and federal *qui tam* actions, and other related litigation.

### ***Roundup® Litigation***

Serves as counsel for Monsanto and Bayer defending the Roundup® products liability litigation. Plaintiffs allege personal injuries, including non-Hodgkin's lymphoma, caused by Roundup® herbicide. The MDL is pending in the Northern District of California, with state-court proceedings pending in Missouri, California, and other states.

## ***Las Vegas Hepatitis C Litigation*** (District Court, Clark County, Nevada)

Provided strategic direction, coordinated six trial teams, and spent thirty days on trial for UnitedHealthcare in litigation encompassing over forty individual cases, pending before twenty different state-court judges. Plaintiffs were individuals who claimed to have contracted hepatitis C during procedures performed at clinics that were in defendants' networks. Bartlit Beck tried one case (*Martin v. PacifiCare of Nevada*), resulting in a favorable jury verdict and subsequent settlement of half of the pending cases. Bartlit Beck began trying a second case (*Paul v. Health Plan of Nevada*), which settled one month into trial, along with the other remaining cases

## ***Yaz®/Yasmin® Birth Control Litigation*** (S.D. Ill.)

One of Bayer's trial counsel in the first case set for trial and part of the small national-counsel team directing Bayer's overall defense of the Yaz® and Yasmin® birth-control litigation. Plaintiffs alleged personal injuries, including blood clots and gallbladder injuries, caused by the oral contraceptives Yaz® and Yasmin®. MDL in the Southern District of Illinois and large, coordinated state-court proceedings in California, New Jersey, and Pennsylvania. No adverse judgments among approximately 20,000 lawsuits and claims resolved by voluntary dismissals, judgments in favor of Bayer, and settlements.

## ***Vioxx® Litigation***

Represented Merck in litigation alleging personal and economic injuries caused by the anti-inflammatory medication Vioxx®. Represented Merck as one of its trial counsel in *Plubell v. Merck*, a consumer class action brought in the Circuit Court of Jackson County on behalf of Missouri consumers alleging economic losses relating to purchases of Vioxx®, as well as in *International Union of Operating Engineers Local No. 68 v. Merck*, a class action, and later individual actions, brought in Atlantic County, New Jersey, Superior Court, by payors of prescription benefits alleging economic losses relating to purchases of Vioxx®. Both cases settled; *Engineers* after the New Jersey Supreme Court reversed class certification.

## ***Seroquel® Litigation***

Represented AstraZeneca as one of its trial counsel in mass tort litigation filed by plaintiffs alleging personal injuries caused by the antipsychotic medication Seroquel®. Represented AstraZeneca in *Hopkins*, *Scaife*, and *Jones* – the first several Seroquel® cases selected to be tried in state court in Delaware, all of which were resolved shortly before trial on summary judgment in AstraZeneca's favor.

## ***City of Milwaukee v. NL Industries, Inc.*** (Circuit Court, Milwaukee County, Wisconsin)

Briefed and argued NL's motion for summary judgment on plaintiff's claim for \$108 million in alleged future damages for lead-paint abatement. Victory for NL. Court dismissed with prejudice 100% of plaintiff's future damages claim. Featured in *The American Lawyer*.

## ***In Re Teflon® Products Liability Litigation*** (S.D. Iowa)

Represented DuPont in an MDL comprised of twenty-three alleged class actions brought on behalf of consumers who claimed to have purchased cookware coated with Teflon® and other non-stick coatings manufactured by DuPont. MDL in Southern District of Iowa. Class certification denied in all matters. Petition for appeal rejected by the United States Court of Appeals for the Eighth Circuit. Cases voluntarily dismissed with prejudice.

***Perrine v. DuPont*** (West Virginia)

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 retrial on statute of limitations defense and substantially reduced potential damages. Case settled favorably.

***Ehlis v. Shire Richwood, Inc.*** (U.S. Court of Appeals 8th Cir.)

Represented Pharmaceutical Research and Manufacturers of America ("PhRMA") as amicus in support of Shire in products liability case involving "failure to warn" claims relating to the prescription drug Adderall®. Shire prevailed.

## **OTHER REPRESENTATIVE CASES**

***Sunrise Hospital System v. Sierra Health Services***

Trial counsel for UnitedHealthcare's affiliate, Sierra, in an arbitration initiated by HCA Healthcare's affiliate, Sunrise, alleging underpayments for medical services. Case resolved on confidential terms.

***Bayer Pharma v. Watson & Lupin Ltd.*** (D. Del.)

Represented Bayer in Hatch-Waxman litigation against challengers seeking to market a generic version of the oral contraceptive Natazia®. Complete trial victory for Bayer.

***Adelphia Communications Corp. v. Deloitte & Touche, LLP*** (Court of Common Pleas, Philadelphia County, Pennsylvania)

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.

***Northern Illinois Gas Company v. Commonwealth Edison Company*** (CPR Arbitration)

Represented Nicor Gas Company in thirty-eight separate cost allocation arbitrations with Commonwealth Edison. Nicor sought to allocate remediation costs for environmental cleanup the parties jointly undertook at former manufactured gas plant sites in Illinois. Parties agreed to final cost allocation and received approval for the allocation from the Illinois Commerce Commission.

***Nicor Gas Co. v. J.F. Edwards Construction Co.*** (Circuit Court, Cook County, Illinois)

Lead trial counsel representing Nicor Gas seeking to recover damages to Nicor's underground gas line. First-chaired two-day jury trial. Victory for Nicor. Jury awarded Nicor damages and court costs, and completely denied defendant's counterclaim.

***Nicor Home Services, LLC v. Holzkamp*** (Circuit Court, Lake County, Illinois)

Lead trial counsel representing Nicor Home Services seeking to recover damages arising out of a car accident. First-chaired two-day jury trial. Total victory for Nicor Home Services. Jury awarded Nicor Home Services 100% of its claimed damages, plus court costs.

***Kerr-McGee Chemical LLC v. Kemira*** (London Court of International Arbitration)

Represented Kerr-McGee, alleging breach of contract, in London Court of International Arbitration proceeding.

***Nike v. Kasky*** (U.S. Supreme Court)

Represented ExxonMobil Corp., Bank of America, Microsoft, Monsanto, Morgan Stanley, GlaxoSmithKline, and Pfizer as amici in support of Nike.

***Locke, Governor of Washington v. Davey*** (U.S. Supreme Court)

Represented National School Boards Association, numerous state school boards associations, and others as amici in support of the State of Washington in First Amendment Free Exercise Clause case. Washington prevailed.

## **NEWS**

Bartlit Beck Earns Top Rankings by Benchmark Litigation

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