

## SEAN W. GALLAGHER

PARTNER

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Sean Gallagher is an accomplished trial lawyer with experience across a broad range of complex commercial litigation matters. The majority of Sean's representations have been for major U.S. and international companies in cases involving intellectual property (including patent infringement and Lanham Act claims), trade secret misappropriation, product liability, accountant liability, toxic tort, and breach of contract. Sean has also worked on a variety of other matters ranging from *Gore v. Bush*, where Sean was part of the Bartlit Beck team that represented President Bush at the trial court level, to *Newsome v. McCabe*, where Sean helped obtain compensation for a man wrongfully convicted of murder.

Sean's accomplishments have been recognized by a number of legal publications, including *Benchmark Litigation* which recognized him as a "Litigation Star."

Sean joined the firm in 1996 directly from a clerkship for Justice Sandra Day O'Connor of the Supreme Court of the United States, before which he served as law clerk to Judge Alex Kozinski of the United States Court of Appeals for the Ninth Circuit.

### EDUCATION & HONORS

University of Michigan Law School, 1994, J.D., *magna cum laude*

Articles Editor, *Michigan Law Review*

University of Michigan, 1990, B.A., with Highest Distinction

### CLERKSHIPS

Honorable Sandra Day O'Connor, Associate Justice, United States Supreme Court, 1995-1996

Honorable Alex Kozinski, United States Court of Appeals for the Ninth Circuit, 1994-1995

### AWARDS & RECOGNITION

Recognized as a "National Litigation Star" (*Benchmark Litigation: The Definitive Guide to America's Leading Firms & Attorneys*)

Named to the "BTI Client Service All-Stars 2020," a selective guide to "attorneys delivering the absolute best client service."

*American Lawyer*, recognized in article "Litigation Boutique of the Year, Winner: Bartlit Beck" (January 1, 2009)

## ADMISSIONS

Illinois

## REPRESENTATIVE MATTERS

### ***Pelvic Mesh Product Liability Litigation***

Trial counsel for Ethicon/Johnson & Johnson in defense of lawsuits alleging personal injuries caused by pelvic mesh medical devices. Designated trial counsel in a number of matters set for trial, both in state court and in federal cases remanded by the MDL court for trials around the country. In this capacity, served as lead trial counsel and secured a complete defense verdict after a three-week jury trial in the Philadelphia Court of Common Pleas.

### ***Trinity ET Plus Litigation*** (Texas, Missouri, various other states)

Lead trial counsel for defendants, Trinity Industries and Trinity Highway Products, in various cases alleging personal injuries from Trinity's ET Plus guardrail end terminal system. The cases included products liability cases pending in multiple state and federal jurisdictions, class actions, and state *qui tam* actions.

### ***Adinolfi et al v. Pratt & Whitney*** (S.D. Fla.)

Lead trial counsel for Pratt & Whitney in environmental tort cases involving more than \$1 billion in alleged property damage and personal injury claims arising out of the declaration of a "cancer cluster" in a neighborhood near Pratt & Whitney's West Palm Beach facility. Defeated class certification (and excluded plaintiffs' main expert) after a five-day evidentiary hearing. Won summary judgment for two of the twenty-one related personal injury cases. The others have been stayed while one of the summary judgment orders is being appealed in the Eleventh Circuit. Bartlit Beck is serving as appellate counsel.

### ***Confidential Arbitration*** (Chicago, New York)

Acted as lead trial counsel for an accounting firm. Obtained a complete defense verdict following a two-week arbitration.

### ***Las Vegas Hepatitis C Litigation*** (District Court, Clark County Nevada, 2013-2014)

Lead counsel and trial counsel for defendants. Provided overall strategic direction and coordinated trial teams in litigation encompassing over forty individual cases, pending before approximately twenty different judges in state court in Las Vegas. 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.

- ***Martin v. Pacificare of Nevada***

Trial counsel for PacifiCare of Nevada on claims for negligence and punitive damages. Tried case to a jury verdict. The jury found compensatory damages substantially below the amount awarded in previous trials arising out of the same events, and denied plaintiffs' claim for punitive damages.

- ***Lynam v. Health Plan of Nevada***

Lead trial counsel for Health Plan of Nevada on claims of negligence and punitive damages. Case settled shortly before trial.

- ***Paul v. Health Plan of Nevada***

Trial counsel for Health Plan of Nevada on claims for negligence and punitive damages. Case settled during trial.

***Confidential AAA Arbitration*** (Dallas, Tex. 2011-2012; New York, N.Y. 2012-2013)

Trial counsel for "Big Four" accounting firm in AAA arbitrations 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 on confidential terms.

***In re Teflon® Product Liability Litigation***

Counsel for DuPont in more than twenty alleged intrastate class actions brought on behalf of consumers who purchased Teflon®-coated cookware. The cases were consolidated for pretrial proceedings pursuant to an order of the panel on multidistrict litigation. The cases were dismissed after the district court denied class certification.

***Gore v. Bush, et al.***

Represented President George W. Bush in election contest filed by former Vice President Al Gore in Leon County, Florida, contesting the results of the 2000 Presidential election in Florida. Trial judge held that no recount should take place. Florida Supreme Court reversed and ordered recount. The United States Supreme Court stayed the recount, ruling that it was unconstitutional. Members of the Bush and Gore legal teams were named "Lawyers of the Year" by *The National Law Journal*.

***Schindler Elevator v. Otis Elevator***

Lead trial counsel for Otis in patent infringement lawsuit concerning elevator controls. Adverse result in jury trial, reversed on appeal. Judgment in favor of client.

***Friel v. Federal Signal***

Trial counsel representing Federal Signal at trial of product liability claims made by firefighters who allege that they have noise-induced hearing loss from exposure to sirens. Obtained jury verdict in favor of Federal Signal.

***Competition Law Group v. EnjoyLife***

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

***Confidential v. Novartis***

Lead trial counsel for Novartis in an arbitration involving claims that Novartis breached a contract for the development of a drug compound licensed from a third party. Case resolved on confidential terms.

## ***Rago v. Federal Signal***

Co-lead trial counsel representing Federal Signal at trial of product liability claims made by firefighters who allege that they have noise-induced hearing loss from exposure to sirens. Jury verdict for plaintiffs.

## ***Perrine v. DuPont***

Represented DuPont in seven-week state court jury trial of toxic tort claims brought by class of West Virginia residents. Class claims related to alleged smelter emissions over a century-long period. Jury verdict for plaintiffs; settled before retrial after appeal.

## **CASES TRIED OR OTHERWISE TAKEN TO JUDGMENT**

### ***CytoLogix v. Ventana Medical Systems***

Defended Ventana Medical Systems at trial against claims of patent infringement and trade secret misappropriation relating to technology for automating "slide staining" procedures used in pathology laboratories for the diagnosis of disease.

### ***Lectrolarm v. Sensormatic, et al.***

Lead counsel for Sensormatic in patent infringement case involving patents in the design of electronic video surveillance equipment. Secured summary judgment of invalidity that was affirmed on appeal.

### ***Newsome v. McCabe***

Trial counsel in this civil rights case for James Newsome. Mr. Newsome claimed that two Chicago police detectives framed him for murder, forcing him to spend fifteen years in state prison for a crime that he did not commit. Obtained a jury verdict of \$15 million for Newsome.

### ***Perry v. Bodman***

Lead trial counsel serving pro bono for individual plaintiff in age and gender discrimination jury trial against the Department of Energy. Defense verdict.

### ***Avery Dennison v. FLEXcon Company***

Defended FLEXcon, a leading manufacturer of converted plastic roll and sheet products, against claims of patent infringement brought by Avery Dennison relating to methods of making multilayer plastic film facestocks for pressure sensitive applications. Won summary judgment of non-infringement, which was affirmed on appeal.

## **OTHER REPRESENTATIVE CASES**

### ***RealNetworks, Inc. v. Microsoft***

Represented RealNetworks in an antitrust suit against Microsoft that resulted in RealNetwork's obtaining a \$761 million settlement after two years of litigation. Relevant experience included presenting RealNetworks' claims to representatives of the Fair Trade Commission of South Korea.

### ***Seroquel® Litigation***

Represented AstraZeneca Pharmaceuticals in mass tort litigation regarding Seroquel® (atypical antipsychotic). Prepared several cases for trial that were dismissed on the eve of trial after rulings excluding expert testimony.

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

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

***Edge Capture v. Citadel***

Counsel for Citadel defending against claims for patent infringement on patent related to automated trading technologies. Case settled.

***CardioNet v. LifeWatch***

Counsel for LifeWatch defending against claims for misappropriation of trade secrets. Case settled.

***U.S. Pipeline v. Horizon Gas Pipeline Co.***

Lead counsel for Horizon in action for breach of contract relating to cost overruns in U.S. Pipeline's construction of a gas pipeline for Horizon in Illinois. Case settled.

***Kimberly-Clark v. Paragon Trade Brands, Tyco Healthcare Retail Group et al.***

Lead counsel for Tyco in an arbitration with Kimberly-Clark over Paragon's license to Kimberly Clark's "Enloe" patents relating to the design of diapers. Case settled.

***Field Hybrids v. Toyota***

Represented Field Hybrids in patent infringement suit brought against Toyota relating to the design of the hybrid electric drive train in the Toyota Prius. Case settled.

***Ventana Medical Systems v. Abbott Laboratories***

Represented Ventana in its dispute with Abbott Laboratories over Abbott's infringement of Ventana patents relating to BCR-ABL and dual and tri-color probe technology. Case settled.

***A&E Products Group LP v. Spotless Enterprises Inc.***

Represented A&E Products in patent infringement action relating to the design of garment hangers. Case settled.

***A&E Products Group LP v. Mainetti***

Represented A&E Products in patent infringement action relating to the design of garment hangers. Case settled.

***Florists' Transworld Delivery, Inc. v. American Floral Services & Teleflora***

Represented FTD in arbitration of contract dispute with American Floral Services and Teleflora over failure to pay minimum order fees under their agreements for access to FTD's Mercury Network.

***Commonwealth Edison v. Midwest Generation***

Represented Midwest Generation in disputes with Commonwealth Edison and its parent company Exelon over outages at power generation facilities and other matters.

***FTD.com v. IBM Network Services***

Represented FTD.com in contract dispute with IBM Network Services over design of website.

***Bayer Corp. v. Schein Pharmaceutical, et al.***

Represented Bayer in its suit for patent infringement to enjoin generic drug manufacturers from obtaining FDA approval to market and sell a generic version of Bayer's antibiotic Cipro®.

***Real3D, Inc. (Intel) v. ATI Technologies, Inc.***

Represented ATI Technologies, Inc., a leading maker of graphics accelerator chips and products for personal computers, in dispute with Real3D over patents on algorithms for computer image generation.

***Real3D, Inc. (Intel) v. 3Dfx Interactive, Inc.***

Represented 3Dfx Interactive, a leading maker of graphics accelerator boards for personal computers, in dispute with Real3D over patents on algorithms for computer image generation.

***Barr Laboratories v. DuPont Pharmaceuticals***

Defended DuPont in an antitrust case brought by generic drug manufacturer in New York Federal Court for alleged monopolization of the market for blood thinning medicine.

***Lockheed Martin Corp. v. Silicon Graphics, Inc.***

Defended Silicon Graphics, a leading producer of computer graphics equipment, against claims of patent infringement relating to various methods for computer generation of video images in three dimensional space.

***Fred Meyer Inc. v. Hurley State Bank***

Defended Sears Payment Systems in breach of contract litigation concerning proprietary credit card processing.

***Wolens v. American Airlines***

Represented objector in contested hearing on class action settlement involving changes to American Airlines' Aadvantage program.

***E-Victor v. Bio Technologies for Horticulture, Inc.***

Represented Bio Technologies for Horticulture, Inc. in an international arbitration involving an alleged breach of a development and distribution agreement. Case settled during mediation.

***Hoover Co. v. BISSELL, Inc.***

Represented BISSELL in patent infringement and trade dress matter involving Hoover patents on upright deep cleaning extractors, commonly referred to as steam cleaners. BISSELL brought an antitrust counterclaim. Hoover settled during trial after BISSELL rested its case.

***Bankers Trust v. FTD, Inc.***

Represented FTD in breach of fiduciary duty case filed by FTD against Bankers Trust arising out of acquisition financing provided by Bankers Trust.

## **PROFESSIONAL ACTIVITIES AND COMMUNITY SERVICE**

Adjunct Professor, Northwestern University School of Law: Taught "High-Tech Trial Techniques" class on the use of technology in the practice of law at trial and in preparation for trial

## **BIG WINS**

Bartlit Beck Defeats Class Certification In Large Environmental Tort Case

Swanson and Gallagher Win Major Trial Victory for Clark

Bartlit Beck Defeats \$5 Billion Class Action Claim

Bartlit Beck Wins \$15 Million for Wrongly Convicted Man

## **NEWS**

Sean Gallagher and Jeff Hall named BTI Client Service All-Stars

01.12.2021

Bartlit Beck Earns Top Rankings by Benchmark Litigation

10.01.2020

Bartlit Beck Sues Allianz and Aon Over Collapse of Structured Alpha Hedge Funds

09.22.2020

Bartlit Beck Files a Lawsuit Against KKR, Shamrock Capital, and Former Members of FanDuel Board of Directors

02.25.2020

Bartlit Beck Teams Win Important Cases for Johnson & Johnson Subsidiary Ethicon and DuPont

04.19.2019

Sean Gallagher and Wesley Morrisette Win Seventh Circuit Appeal for BankDirect

01.15.2019

Bartlit Beck Partners Achieve New Kind of Record

09.2014

Bartlit Beck Wins Hearing Loss Suit For Federal Signal

06.2010

Bartlit Beck Secures End of Consumer Fraud MDL for DuPont

Adam Hoeflich and others secure dismissal of Teflon MDL consumer fraud cases

05.2009

Court Denies Class Certification in Teflon MDL

03.2009

Bartlit Beck Aids RealNetworks in Securing \$761 Million Settlement With Microsoft  
10.2005

Bartlit Beck Files Antitrust Suit Against Microsoft for Real Networks  
12.2003

Bartlit and Beck Named Lead Lawyers in Election Contest  
12.2000

## **PUBLICATIONS**

*Death: The Ultimate Run-On Sentence*  
46 Case W. Res. L. Rev. 1, 1995, (with Alex Kozinski)

*For an Honest Death Penalty*  
N.Y. Times, Mar. 8, 1995, at A1, (with Alex Kozinski)

*The Public Policy Exclusion and Insurance for Intentional Employment Discrimination*  
92 Mich. L. Rev. 1256, 1994