

## BIG WINS



Since our founding, Bartlit Beck has been a leader in the legal industry, innovating the business of law, amassing unparalleled talent and experience, and establishing an impressive record of winning significant cases.

Bartlit Beck's victories come in a wide variety of cases, including: Antitrust, Class Action, False Claims Act and Government Contracts, General Commercial Litigation, Hedge Fund, Private Equity, and Financial Institution Litigation, Intellectual Property, Product Liability, Accountants and Professional Liability Litigation, Securities and Financial Fraud, and Toxic Tort.

### ***United States v. United Technologies***

Represented United Technologies in 10-week bench trial of False Claims Act case brought by the Department of Justice. Government sought \$624 million, alleging price inflation on jet engine sales by UTC division Pratt & Whitney to the Air Force. Trial court's judgment rejected the government's \$624 million damages claim, held that the government suffered no actual damages, and imposed statutory penalties of \$7 million. UTC appealed after a subsequent remand ruling in which the district court reversed its trial ruling and awarded \$664 million. The Sixth Circuit reversed the damages award, held that the government had suffered no actual damages, and remanded to the trial court again. On the second remand, the government finally abandoned its \$600 million damages theory, and the trial court entered final judgment of \$1.2 million with interest of \$2.8 million (plus the \$7.1 million penalty).

### ***In re Whirlpool Corp. Front-Loading Washer Products Liability Litigation***

Represented Whirlpool in N.D. Ohio bellwether consumer class action trial of plaintiffs' claims of design defect and breach of implied warranty. After four-week jury trial, jury deliberated fewer than two hours before returning complete defense verdict.

### ***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.

### ***Vioxx® Litigation***

Represented Merck in product liability suits alleging that Merck's drug Vioxx® caused heart attacks and strokes. Merck lost its first handful of jury trials awarding hundreds of millions of dollars. In the federal MDL in New Orleans, Merck was facing five bellwether jury trials in less than twelve months. Merck retained us to try the federal cases. We tried all five cases, winning outright defense verdicts in four of five trials. These results were widely credited with making possible the eventual settlement of tens of thousands of claims.

### ***TicoFrut v. DuPont***

Represented DuPont in Miami state jury trial of product liability claims involving the fungicide Benlate®. TicoFrut, the main citrus grower and processor in Costa Rica, sued DuPont claiming that Benlate® hurt the production of orange trees in Costa Rica. TicoFrut sought \$172 million compensatory damages and an undisclosed amount of punitive damages. After six-week trial, jury deliberated five hours before returning a verdict for DuPont.

### ***U.S. Airways v. Sabre***

Represented Sabre in antitrust action in S.D.N.Y. relating to contract between U.S. Airways and Sabre concerning Sabre's Global Distribution System. Won motions to dismiss monopolization and declaratory judgment claims. Won summary judgment on claim for injunctive relief, and on damages representing a reduction of over 75% of plaintiff's damages claim. Won \$6 million costs/attorneys' fees award. Two-month jury trial resulting in defense verdict on one claim and damages of 1% of what plaintiff had sought on second claim. Also won denial of declaratory and injunctive relief. The Second Circuit subsequently vacated the jury's liability finding and remanded the case for a new trial.

### ***Rolls-Royce PLC v. United Technologies***

Represented United Technologies and its Pratt & Whitney division in a multi-billion-dollar patent case that Rolls-Royce brought in E.D. Virginia. Rolls-Royce sought almost \$4 billion (before trebling) in damages and an injunction preventing further sales of the accused engines. Court struck Rolls-Royce's damages theory and also granted summary judgment in United Technologies' favor finding that United Technologies' engine did not infringe the Rolls-Royce patent.

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

Represent 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, lead trial counsel and secured a complete defense verdict after a three-week jury trial in the Philadelphia Court of Common Pleas.

### ***Hewlett-Packard v. Oracle***

Represented Hewlett-Packard in litigation related to Oracle's decision to no longer develop new Oracle software products for HP's Itanium processor-based line of mission critical servers. The first phase, a bench trial in

Superior Court for Santa Clara County, California, resulted in a declaratory judgment in favor of HP and against Oracle on all matters before the court, and established a contractual obligation to continue developing software products for the Itanium line of servers. In the second phase the jury returned a \$3 billion verdict in favor of HP and rejected Oracle's counterclaims.

### ***Baycol® Litigation***

Represented Bayer in product liability suits alleging that Bayer's drug Baycol® caused a rare muscle disorder. Bayer faced tens of thousands of claims in a federal MDL and in individual state cases. Won a critical defense verdict in the first bellwether case where plaintiff sought \$560 million.

### ***Gadeco v. Grynberg***

Represented shareholders and board members of privately held oil and gas companies in jury trial in district court in Arapahoe County, Colorado involving claims for breach of contract and breach of fiduciary duty brought by the founder following his removal as President and Chairman. Plaintiff sought injunctive relief and \$800 million in damages. After two-week jury trial, won a complete defense verdict for our clients. Then represented defendants in bench trial involving remaining equitable claims for unjust enrichment and quantum meruit. Plaintiff sought \$400 million. Won defense verdict again. Both verdicts were affirmed in their entirety by the Colorado Court of Appeals.

### ***Meso Scale Diagnostics v. Roche Diagnostics***

Represented Meso Scale, the maker of medical diagnostic equipment, in a patent infringement case in D. Delaware. After a six-day trial and fewer than two hours of deliberation, jury returned verdict of \$137 million, finding that Roche willfully infringed all of the asserted Meso Scale patents.

### ***Sikorsky Aircraft Corporation v. United States***

Represented Sikorsky in two related actions by the Department of Justice in which the government asserted claims of more than \$100 million. Government alleged that Sikorsky overcharged for military aircraft and parts in violation of government contracts and Cost Accounting Standards. Won first trial and affirmed on appeal. In the follow-on related action, won motion for judgment on the pleadings, dismissing government's claims and awarding Sikorsky costs.

### ***Trasylol® Litigation***

Represented Bayer in defense of lawsuits claiming personal injuries caused by Trasylol®, a drug used to reduce bleeding during open-heart surgery. The litigation involved an MDL in Florida as well as cases in several state courts. Significant victories in the litigation included: prevailing on a *Daubert* challenge that effectively precluded plaintiffs' regulatory expert from testifying at trial; excluding any evidence regarding plaintiffs' claim that Bayer withheld from the FDA results from a study regarding the safety of Trasylol®; and winning summary judgment in two bellwether cases (one of which plaintiffs hand-picked as one of their top cases) and defending these judgments on appeal to the 11th Circuit.

### ***Massachusetts Mutual Life Ins. Co. Residential Mortgage-Backed Securities Litigation***

Represented MassMutual in actions in D. Massachusetts under the Massachusetts Uniform Securities Act, against underwriters Credit Suisse and Goldman Sachs, arising from their sales of residential mortgage-backed securities to MassMutual. Credit Suisse settled after four weeks of trial, taking an additional \$79.5 million

charge to earnings because of the settlement payment. Goldman Sachs settled shortly thereafter.

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

Represented DuPont in an MDL in S.D. Iowa comprised of 23 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. Class certification denied in all matters. Affirmed on appeal. Cases voluntarily dismissed with prejudice.

### ***Ortho Diagnostics, Inc. v. Miles, Inc.***

Represented Miles in a patent action concerning blood testing devices. The four-week S.D.N.Y. jury trial resulted in a verdict in our client's favor, including a judgment of both non-infringement and invalidity for all patents in suit. This case was identified as a *The National Law Journal* Top Defense Verdict.

### ***DuPont v. Unifrax***

Represented DuPont in a patent infringement matter in D. Delaware relating to DuPont's patent covering thermal acoustic blankets for use in commercial aircraft. Won jury verdict of validity and infringement. Won damages and a permanent injunction preventing Unifrax from selling its infringing product. Affirmed on appeal.

### ***Gillette v. ShaveLogic***

Represented ShaveLogic and individually-named defendants in Massachusetts state court, who were accused of misappropriating trade secrets and confidential information from Gillette. ShaveLogic counterclaimed for tortious interference. Won summary judgment, dismissing all Gillette's claims with prejudice. Won denial of Gillette's motion for summary judgment on ShaveLogic's counterclaims. Case settled thereafter.

### ***Foreign Trade Corp. v. Otter Products***

Represented OtterBox in D. Colorado cases brought by former distributors alleging antitrust, trade secret misappropriation, and Lanham Act violations. Plaintiffs sought approximately \$100 million in damages. Won motion to dismiss all antitrust claims. Favorable settlement of remaining claims immediately before trial.

### ***EEOC v. Texas Roadhouse***

Represented Texas Roadhouse in landmark pattern or practice age discrimination claim brought by EEOC. After three-week jury trial in the D. Massachusetts, case ended in a mistrial because jury was deadlocked after deliberating for one week. Case settled prior to retrial.

### ***Confidential Arbitration***

Represented a Fortune 100 client in arbitration of a multi-billion-dollar contract dispute. The confidential, two-week arbitration hearing in Phoenix included testimony from numerous senior executives and expert witnesses. Panel rendered complete victory for our client.

### ***Milo & Gabby v. Amazon.com***

Represented Amazon in patent and copyright infringement case in W.D. Washington. Case concerned whether Amazon was liable for infringement when third-party sellers offer and sell infringing products on Amazon.com. Won summary judgment on copyright infringement. Won jury verdict on patent infringement. Affirmed on appeal.

### ***Gordon, et al. v. Sabre***

Represented Sabre in S.D.N.Y. case brought as putative antitrust class action by purchasers of airline tickets. Plaintiffs claimed Sabre conspired with its competitor "global distribution services" operators, Amadeus and Travelport, to require certain terms in their contracts with airlines, which allegedly caused plaintiffs to overpay for their airline tickets. Won a motion to dismiss 100% of plaintiffs' claimed damages. Defeated class certification. Achieved individual settlements with the handful of former class representatives.

### ***Applied Medical Resources Corp. v. United States Surgical***

Represented U.S. Surgical in C.D. California in patent infringement suit. Applied Medical alleged that U.S. Surgical infringed a medical device patent and sought up to \$300 million in damages and an injunction. Won non-infringement jury verdict after five-week trial.

### ***Lexmark v. Static Control***

Represented Static Control in E.D. Kentucky case alleging false advertising under the Lanham Act. District court had held that Static Control lacked standing. Sixth Circuit reversed. Won unanimous favorable decision before the U.S. Supreme Court, which ruled that Static Control adequately pleaded a viable false advertising claim against Lexmark. Supreme Court adopted Static Control's suggested zone-of-interests approach and clarified the law with regard to standing and proximate cause for all federal statutes.

### ***City of Milwaukee v. NL Industries***

Represented NL in Milwaukee circuit court suit seeking a declaration that lead paint throughout Milwaukee was a public nuisance and seeking to hold NL liable for costs of the city's lead poisoning program. Won complete defense verdict for NL.

### ***Honeywell v. Hamilton Sundstrand***

Represented Hamilton Sundstrand in two patent infringement suits in D. Delaware relating to technology used in auxiliary power units ("APUs") used on large commercial airplanes. In the first case, won complete defense judgment and reversal of prior \$46.5 million jury verdict. Affirmed on appeal. In second case, Honeywell claimed \$135 million in damages relating to alleged infringement of APU patents. Won complete defense verdict of non-infringement and invalidity.

### ***Rago, et al. v. Federal Signal***

Represented Federal Signal in five-week jury trial in circuit court in Chicago of product liability claims brought by 27 Chicago firefighters. Plaintiffs alleged that Federal Signal sirens caused permanent hearing loss. Jury verdict for Federal Signal on all claims of all plaintiffs.

### ***Bayer v. Schein Pharmaceutical, et al.; Bayer v. Carlsbad Technology***

Defended Bayer's patent on the antibiotic Cipro against attacks by generic pharmaceutical manufacturers. In D. New Jersey, won summary judgment defeating attempt to invalidate the patent for failure to disclose the best mode. Affirmed on appeal. In S.D. California, won bench trial defeating attempt to invalidate the patent on obviousness grounds.

### ***State of Rhode Island v. Lead Industries Association***

Represented NL and seven other companies sued by Attorney General of Rhode Island in state court in Rhode Island. AG sought to declare past sale of lead paint a "public nuisance" throughout the State of Rhode Island.



Jury voted 4-2 for the defense when it deadlocked after a two-month trial. Retrial resulted initially in a deadlock (4-2 for defense) and ultimately a verdict for the State. Supreme Court of Rhode Island unanimously reversed the trial verdict, requiring complete dismissal of the State's lawsuit.

### ***SuperHelechos, et al. v. DuPont***

Represented DuPont in ten-week Miami jury trial of product liability claims involving Benlate fungicide. Plaintiffs, twenty-seven Costa Rican farms, claimed \$396 million in damages. Trial court entered directed verdicts for DuPont on all claims of the largest plaintiffs (constituting 60% of plaintiffs' total claimed damages). Jury awarded other plaintiffs a small fraction of amounts sought. Florida Court of Appeals (1) affirmed directed verdicts for DuPont on claims of the largest plaintiffs, and (2) reversed all jury verdicts for other plaintiffs due to numerous trial court errors.

### ***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.

### ***State Compensation Insurance Fund v. Khan et al.***

Represented defendants in C.D. California RICO action seeking over \$100 million in damages arising out of alleged medical billing fraud. Won summary judgment.

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

Represented RealNetworks in antitrust suit in N.D. California concerning digital media and operating system markets. Resulted in \$761 million settlement for RealNetworks.

### ***Treasurer of the State of Conn. v. Forstmann Little, et al.***

Represented Forstmann Little in litigation brought by the State of Connecticut, alleging breach of fiduciary duty, breach of contract, and violations of securities laws. Connecticut sought approximately \$1 billion in damages. After five-week trial in the Superior Court in Connecticut, the jury rendered a complete defense verdict.

### ***Naftali, et al. v. DuPont***

Represented DuPont in New Jersey state court lawsuit brought by 1,600 plaintiffs alleging community-wide environmental contamination by DuPont blasting cap plant. After ten-week trial on ten plaintiffs' claims, court dismissed punitive damages claims, and jury awarded no damages to seven of ten plaintiffs. Jury verdict for three plaintiffs of damages totaling less than \$500,000.

### ***Residential Funding (GMAC) v. DeGeorge Financial***

Represented Residential Funding in D. Connecticut jury trial of lender liability case involving purchases of home construction loans. DeGeorge sought \$390 million plus punitive damages. Residential Funding sought \$96 million by counterclaim. Jury verdict for Residential Funding on all issues. Jury awarded Residential Funding \$96 million in damages.

***In re Factor VIII or IX Concentrate Blood Products***

Represented Alpha Therapeutic in wrongful death and personal injury suits throughout the country claiming that hemophiliac plaintiffs contracted HIV virus through use of Alpha's blood clotting medicine. Alpha Therapeutics asked Bartlit Beck to try three of the bellwether cases in this litigation. Won all three cases—two of them following jury verdicts in favor of Alpha Therapeutics on all claims, and one following successful motion for summary judgment. These victories enabled negotiation of global resolution of remaining claims.

***SK Handtools v. Dresser Industries***

Represented Dresser in Chicago Cook County fraud case in which a different law firm lost \$4 million in compensatory and \$50 million in punitive damages. Won appeal, reversing damages verdict and remanding for new trial. After three-week retrial, jury awarded \$1 in nominal damages.

***Murphy v. United Technologies***

Represented United Technologies in state court in West Palm Beach, Florida in a fraud and breach of contract case involving the sale of a business. Won jury verdict for United Technologies.

***Chromalloy Gas Turbine v. United Technologies & Pratt & Whitney***

Represented Pratt & Whitney in suit brought by world's largest independent engine-repair company for alleged monopolization. Chromalloy sought \$600 million in trebled damages. After a four-month jury trial in district court of Bexar County in Texas, the jury returned a verdict for Pratt & Whitney of no damages. Affirmed on appeal.

***Wagner v. NL Industries***

Represented NL Industries in class action in Philadelphia Court of Common Pleas on behalf of 7,500 neighborhood residents seeking several hundred million dollars in personal injury and property damages due to emissions of lead from factory over a thirty-five-year period. Won jury verdict on all issues following ten-week trial. Affirmed on appeal.