

PRODUCT LIABILITY



Bartlit Beck's product liability practice—both general product liability and pharmaceutical product liability—is extensive, involving nationwide representation of clients in many industries in courts throughout the U.S. The combination of extensive trial experience and a deep understanding of complex procedural issues gives us an advantage over many of our opponents. We have an extraordinary record of success, winning cases on motion, at trial, and on appeal, and crafting favorable settlements.

Bartlit Beck's product liability practice is widely recognized as one of the top in the United States. We have served as national counsel and lead trial counsel in a wide range of matters, including individual personal-injury litigation, federal multidistrict litigation (MDL) and coordinated state-court proceedings involving thousands of plaintiffs, class actions (including those based on alleged consumer fraud), and third-party payor and other actions based on alleged economic injuries.

As national counsel, our firm directs all aspects of mass-tort litigation, including planning the substantive defense, formulating MDL and class action strategy, and designing complex settlement and dispute resolution programs. As trial counsel, we have tried and won some of the most significant product liability cases in the last two decades. We often serve as both national counsel and trial counsel in the same litigation, and our experience gives us the ability to deliver efficient and effective results in either or both roles.

Our involvement in a particular litigation is calibrated to our clients' specific needs and goals. In all cases, our clients receive the benefit of a team that views litigation strategy from the perspective of a trial firm, and trials from the perspective of a firm adept at creating a comprehensive litigation strategy. We also are experienced at, and affirmatively embrace, partnering with lawyers from other law firms where doing so provides our clients with the most effective representation to address the problem at hand.

EXPERIENCE

General Product Liability

Roundup® Litigation

Represent 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 N.D. California, with state-court proceedings pending in Missouri, California, and other states.

Behrens, et al. v. Arconic Inc.

Represent Arconic Inc. in wrongful death and products liability mass action brought in E.D. Pennsylvania by 247 plaintiffs and their estates seeking damages arising out of the 2017 Grenfell Tower fire in London. Plaintiffs allege cladding panels made by Arconic's French subsidiary contributed to the rapid spread of the fire. Successfully removed the case to federal court.

Trinity ET Plus Litigation

Represent Trinity Industries and Trinity Highway Products in various cases alleging personal injuries from Trinity's ET Plus guardrail end terminal system. The matters include products liability cases pending in multiple state and federal jurisdictions, class actions, and state *qui tam* actions.

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. [Click here](#) and [here](#) to learn more about the case.

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.

In re Teflon® Product Liability Litigation

Represented DuPont in an MDL in S.D. Iowa 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. 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.

Rago, et al. v. Federal Signal Corporation

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

TicoFrut, S.A., v. E.I. du Pont de Nemours and Company

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 in compensatory damages and an undisclosed amount of punitive damages. After six-week trial, jury deliberated five hours before returning a verdict for DuPont.

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.

In re Genetically Modified Rice Litigation

Represented Bayer CropScience in multi-district litigation concerning alleged presence of genetically engineered LLRice 601 and LLRice 604 in commercial rice. Tried four multi-week jury trials in E.D. Missouri. Litigation settled following a series of bellwether trials in federal and state court.

Tanner v. International Isocyanate Institute, et al.

Represented Bayer as defendant in class action products liability action in N.D. Alabama concerning Methylene Diphenyl Diisocyanate (MDI)-containing products used in underground coal mining applications. Litigation settled.

Thomas v. Atlantic Richfield, NL Industries, et al.

Represented NL, and acted as lead counsel for all defendants on issues of history and science, in jury trial in Circuit Court in Milwaukee seeking damages for alleged brain damage. Plaintiff alleged negligent failure to warn of lead paint hazards throughout the period 1900-1970. Complete defense verdict for NL and co-defendants.

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 in August-October 2002. Retrial from October 2005 until February 2006 resulted initially in a deadlock (4-2 for defense) and ultimately a verdict for the State. In July 2008, the Supreme Court of Rhode Island unanimously reversed the trial verdict, requiring complete dismissal of the State's lawsuit.

Super Helechos, 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.

Wagner v. NL Industries

Represented NL Industries in ten-week class action jury trial in Philadelphia Court of Common Pleas of claims of 7,500 residents seeking several hundred million dollars in personal injury and property damages due to lead emissions from factory over 35 years. Jury verdict for NL on all issues. Argued summary judgment and jurisdictional issues on appeal to Pennsylvania Superior Court. Affirmed on appeal.

PFOA-C8 Litigation

Represent DuPont on fraudulent transfer allegations in Aqueous Film-Forming Foam products liability litigation MDL and in other state PFOA cases. MDL in South Carolina; state cases in New Hampshire, New Jersey, Ohio, and Vermont.

Administradora v. E.I. DuPont de Nemours & Co., Inc.

Represented DuPont in three-week jury trial in Miami state court of product liability action involving Benlate® fungicide. Plaintiff, a large Costa Rican citrus producer, claimed \$42 million in damages. Jury found plaintiff 60% contributorily negligent and awarded substantially reduced damages, resulting in an award of a small fraction of plaintiff's claim. Case settled on favorable terms.

Tyrone Parker v. NL Industries, Inc., et al.

Represented NL in jury trial in circuit court of Baltimore for products liability resulting from sale of lead paint products in 1950s. Plaintiff alleged that his epilepsy resulted from latent injuries caused when he ingested lead paint in the 1950s. Complete defense verdict.

Pharmaceutical Product Liability

Opioids Litigation

Represent Walgreens in nationwide litigation relating to the distribution and sale of prescription opioid medications, including over 1,000 cases brought by states, cities, counties, tribes, and private parties seeking recovery in connection with the opioid abuse crisis. MDL in the N.D. Ohio and a large number of related state-court cases. Serve as liaison counsel for all chain pharmacy defendants in the MDL.

Xarelto®

Represent Bayer against allegations that it failed to adequately warn doctors and patients about the bleeding risks associated with the anticoagulant Xarelto®. More than 20,000 claims were filed in an MDL proceeding, coordinated state court litigation, and in other jurisdictions.

YAZ®/Yasmin®

Represented Bayer in defense of lawsuits claiming personal injuries caused by the oral contraceptives YAZ® and Yasmin®. The litigation involved an MDL in S.D. Illinois as well as coordinated and individual proceedings in several state courts.

Trasylol®

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.

Vioxx®

Represented Merck in defense of lawsuits claiming personal injuries caused by Vioxx®. 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.

Seroquel®

Represented AstraZeneca in defense of tens of thousands of lawsuits claiming personal injuries caused by the antipsychotic medication Seroquel®. We represented AstraZeneca in a series of cases, several of which plaintiffs selected for early trials, to be tried in state court in Delaware. In every case, the court granted summary judgment for AstraZeneca before trial.

Baycol®

Represented Bayer in product liability suits alleging that Baycol® caused a rare muscle disorder. Bayer faced tens of thousands of claims in a federal MDL in Minneapolis and in coordinated cases in state courts in Philadelphia and Houston, as well as individual cases in state courts around the country. Our team tried the first case, which was a case plaintiffs selected to be tried in the plaintiffs' chosen venue of Corpus Christi, Texas. Plaintiff sought over \$550 million. Won a complete defense verdict. This victory helped lead to a global resolution of these cases.

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.