

TOXIC TORT



Bartlit Beck has a long record of success representing defendants in toxic tort cases against both private and government litigants in state and federal courts throughout the U.S. Our work has included cases involving lead, asbestos, fossil fuels, fungicides, herbicides, and PFAS, alleging contamination of air, soil, water, and residential dwelling interiors. We have defended clients in cases arising under federal and state environmental laws, and under state tort and public nuisance theories, among others.

Our focus on and preparation for trial places clients in a position of strength – enabling us to try the case if necessary but also leverage our readiness to obtain a beneficial settlement.

EXPERIENCE

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.

Climate Change Litigation

Represent ConocoPhillips in multiple public nuisance cases filed by cities, counties, and the State of Rhode Island related to climate change. ConocoPhillips has successfully obtained dismissal of three such cases thus far and those rulings are on appeal.

Adinolfi, et al. v. Pratt & Whitney

Represent Pratt & Whitney in environmental tort cases in S.D. Florida 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 the summary judgment orders are being appealed in the Eleventh Circuit. Bartlit Beck is serving as appellate counsel.

PFOA-C8 Litigation

Represent DuPont on claims that its 2015 spin-off of The Chemours Company was a fraudulent transfer. Handle those claims in the Aqueous Film-Forming Foam MDL in the District of South Carolina as well as cases in California, Louisiana, New Hampshire, New Jersey, New York, Ohio, Tennessee, Texas, and Vermont.

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. Complete defense verdict for NL.

TicoFrut v. DuPont

Represented DuPont in Miami state jury trial 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. Jury Clears DuPont.

Wagner v. NL Industries

Represented NL Industries in class action 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. Jury verdict for NL on all issues following ten-week trial in Philadelphia Court of Common Pleas.

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.

Super Helechos, et al. v. DuPont

Represented DuPont in ten-week Miami jury trial 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.

Spring Branch Independent School District v. NL Industries, Inc., et al.

Represented NL in suits brought by several school districts in Texas seeking recovery of costs in replacing surfaces coated with lead-based paint. Won summary judgment. Affirmed on appeal. Remaining cases voluntarily dismissed.

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

Represented DuPont in three-week jury trial in Miami state court 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.

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.

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.

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.

West Virginia v. 3M

Represented 3M in a lawsuit brought by West Virginia's Attorney General seeking hundreds of millions of dollars in reimbursement of workers' compensation payments to thousands of coal miners and other West Virginia workers.

Perrine v. DuPont

Represented DuPont in seven-week state court jury trial of toxic tort claims brought by a class of West Virginia residents. Class claims related to alleged smelter emissions over a century-long period. Following jury verdict for plaintiffs, won appeal in West Virginia Supreme Court, which ordered retrial on statute of limitations defense and substantially reduced potential damages. Litigation favorably resolved.

In re Asbestos IV

Represented NL Industries in mass asbestos litigation in Kanawha County Circuit Court, West Virginia. Litigation favorably resolved during trial.

Agnes, et al. v. DuPont

Represented DuPont in toxic tort action brought by 500 plaintiffs in New Jersey. Litigation favorably resolved.

Imprelis® Litigation

Represented DuPont in litigation in D. Delaware and E.D. Pennsylvania in putative class actions comprised of more than 37,000 plaintiffs alleging widespread property damage caused by DuPont's Imprelis® herbicide. Defeated preliminary injunction sought by plaintiffs in D. Delaware. Litigation favorably resolved.