



## REBECCA WEINSTEIN BACON

PARTNER

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Rebecca Weinstein Bacon tries and litigates complex cases for Fortune 500 clients. With over 20 years of experience, Rebecca has represented companies in some of their most important cases on a variety of claims: pharmaceutical products liability claims, antitrust cases, consumer class actions, and commercial disputes. She is an expert legal strategist with extensive trial experience, as well as the business sophistication and acumen to know when and how to obtain the best possible settlement for her clients.

Rebecca tried one of the only consumer class action cases to go to trial, which resulted in a defense verdict for Whirlpool. She also tried one of the only "pattern or practice" employment discrimination cases to go to trial. It was brought by the EEOC against Texas Roadhouse. She is currently leading the team defending FedEx Ground against sweeping claims by the EEOC relating to their treatment of deaf package handlers. She serves on trial teams for bellwether cases in pharmaceutical companies' most important mass torts. She has tried and is slated to try pelvic mesh trials for Johnson and Johnson in 2020.

Her representation of Bayer in the WeightSmart litigation led to one of the seminal class action decisions related to ascertainability. In this case, her leadership resulted in appellate review of the only certified state class which she argued before the Third Circuit. The Third Circuit reversed the class certification decision and denied plaintiffs' request for rehearing.

Rebecca is a nationally recognized attorney. She is Chambers ranked, named one of Crain's Most Influential Women Lawyers in Chicago, a Benchmark Litigation National and Local Litigation Star, one of the Top 250 Women in Litigation for many years, and on the Lawdragon 500. Rebecca served as an adjunct professor at Northwestern University School of Law for three years where she taught a class on trial advocacy, and she has published and presented on a wide range of topics related to high-stakes litigation.

Rebecca graduated from Columbia University School of Law as a Kent and Stone Scholar and earned her bachelor's degree from UCLA with honors.

### EDUCATION & HONORS

Columbia Law School, 1997, J.D.

James Kent Scholar

Harlan Fiske Stone Scholar

University of California at Los Angeles, B.A., *magna cum laude*

*Phi Beta Kappa*

Golden Key National Honor Society

*Pi Sigma Alpha*-National Political Science Honor Society

## **AWARDS & RECOGNITION**

Recognized as Top 50: Illinois Women Super Lawyers

Lawdragon 500 Leading Lawyers in America

Recognized in Benchmark Litigation:

Top 100 Trial Lawyer

National Practice Area Star

Top 250 Women in Litigation

Local Litigation Star

Recognized as one of Crain's Most Influential Women Lawyers in Chicago

Recognized as an Illinois Super Lawyer 2013-2020

Nominated to Who's Who Product Liability Defence

LMG Life Sciences Star

## **ADMISSIONS**

New York

Illinois

United States Court of Appeals for the Third Circuit

United States Court of Appeals for the Eleventh Circuit

United States District Court for the Southern District of Illinois

## REPRESENTATIVE MATTERS

### ***EEOC v. FedEx Ground*** (W.D. Pa.)

Lead trial counsel for FedEx Ground in an enforcement action brought by the EEOC under the Americans With Disabilities Act. EEOC filed claims on behalf of roughly 300 deaf FedEx Ground package handlers from dozens of facilities around the country, alleging that FedEx Ground failed to provide a variety of reasonable accommodations to these employees, such as ASL interpreters at meetings. Bartlit Beck was brought in to take over the matter after nearly a decade of investigation, conciliation, and litigation with EEOC. Along with a team of lawyers from three different firms, Bartlit Beck crafted a strategy that led to a favorable settlement in May 2020, prior to a single deposition being taken.

### ***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.

### ***Confidential Counseling***

Advised Fortune 100 company on potential litigation regarding allegations of nationwide gender discrimination.

### ***Pearson Family Foundation v. University of Chicago*** (N.D. Okla.)

Representing University of Chicago in dispute arising from \$100 million grant agreement.

### ***Equal Employment Opportunity Commission v. Texas Roadhouse*** (U.S. District Court, D. Mass.)

Trial counsel for landmark pattern or practice age discrimination claim brought by EEOC against national restaurant chain. After three-week jury trial in January 2017, case ended in a mistrial because jury was deadlocked after deliberating for one week. Case settled prior to retrial.

### ***In re: Whirlpool Corp. Front-Loading Washer Products Liability Litigation*** (U.S. District Court, N.D. Ohio)

Trial counsel, along with Phil Beck, in bellwether consumer class action trial of plaintiffs' claims of design defect and breach of implied warranty. After three and a half week jury trial, jury deliberated less than two hours before returning complete defense verdict.

### ***Ashton Woods L.L.C. v. USG Corp., et al.*** (E.D. Pa.)

Defending the leading U.S. drywall manufacturer against Sherman Act and state-law price fixing claims brought by twelve of the nation's largest homebuilders. Secured summary judgment on liability in favor of clients United States Gypsum Company and USG Corp. This decision came after the court denied summary judgment to multiple co-Defendants. The case against a distributor subsidiary, L&W Supply, remains pending.

### ***YAZ®/Yasmin® Litigation***

National counsel and trial counsel for Bayer in litigation alleging personal injuries caused by the oral contraceptives YAZ® and Yasmin®. Cases pending in federal and state courts. MDL in Illinois.

- ***Schuchert v. Bayer*** (S.D. Ill.): Selected as trial counsel to represented Bayer in the first stroke case set for trial in the YAZ®/Yasmin® federal multidistrict litigation. Case settled prior to trial.

- **Reagh v. Bayer** (Court of Common Pleas, Philadelphia County, Pennsylvania): Chosen to first chair second stroke case set for trial in coordinated proceedings pending in state court in Philadelphia. Case settled before trial.

### **Chicago Loop Parking vs. The City of Chicago (2012)**

Pro bono counsel for the City of Chicago in an arbitration that Chicago Loop Parking (Morgan Stanley) brought against the City in connection with the Millennium Park Garages. In 2006, Morgan Stanley paid the City \$563 million in exchange for a 99-year concession to operate the garages under Millennium Park and Grant Park on the City's lakeshore. Morgan Stanley filed a claim in arbitration for \$200 million related to the City's permitting the Aqua building (North of Millennium Park) to accept parkers whose destinations are outside of the Aqua building itself. Rebecca co-led the arbitration in October 2012 before a panel of three arbitrators. The panel rejected Morgan Stanley's claim for \$200 million, awarding only 25% of the amount sought.

### **In re: Trasyol Litigation**

National counsel for Bayer in products liability cases in state and federal court involving Trasyol, a drug used during coronary bypass surgery. Rebecca took and defended key depositions, including expert depositions that led to their *Daubert* exclusion.

### **WeightSmart® Litigation**

National counsel for Bayer in consumer fraud class action lawsuits relating to OneADay® vitamins. Successfully defeated nationwide class certification motion under New Jersey Consumer Fraud Act. The district court later certified a Florida-only class. The Third Circuit took the 23(f) appeal and reversed and remanded to the district court based on Bayer's argument that the class was not ascertainable. The plaintiffs petitioned rehearing *en banc*, but in a 9-4 opinion, the Third Circuit denied the request for rehearing.

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

National counsel for DuPont in more than twenty class action lawsuits related to Teflon®-coated cookware. Successfully defeated class certification motion. Court denied plaintiffs' leave for appeal. Cases voluntarily dismissed with prejudice.

### **Baycol® Litigation**

National counsel for Bayer in products liability litigation related to the anti-cholesterol drug Baycol®. Cases pending throughout the country were consolidated in federal court in Minnesota.

### **Haltom v. Bayer Corp.**

Trial counsel for Bayer in products liability case involving Baycol. Plaintiff sought \$560 million in actual and punitive damages. After a one-month jury trial in state court in Corpus Christi, Texas, the jury returned a verdict for Bayer on all issues.

### **DuPont v. Cardinal Healthcare 200, Inc.**

Represented DuPont in breach of contract and promissory estoppel case relating to DuPont's business that makes fabric for surgical drapes and gowns. Case settled favorably just before trial.

***Hoover v. BISSELL Inc.***

Represented BISSELL Inc. in patent infringement and trade dress suit brought by Hoover involving a nozzle configuration for vacuums. Case settled favorably.

***B.J. Services v. Halliburton Energy Services***

Represented Halliburton in patent infringement case related to methods for fracturing subterranean formations to stimulate oil and gas recovery. Hired to try case ninety days before trial. After month-long jury trial, jury found for B.J. Services and awarded less than 25% of damages sought.

***Guidant Corp. v. Boston Scientific Corp.***

Represented Guidant in contract dispute involving drug-eluting coronary stent technology.

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

Represented Residential Funding in jury trial in lender liability case involving an agreement to purchase home construction loans. Jury returned a verdict for Residential Funding on all issues and awarded Residential Funding \$96 million in damages. Case listed as one of the Top Plaintiffs' Verdicts for 2001 by *The National Law Journal*.

***Twentieth Century Fox Film Corp., et al. v. Scour, Inc.***

Defended Scour against copyright infringement suit brought by members of The Recording Industry of America, the Motion Picture Association of America, and the National Music Publishers Association.

***Precor, Inc. v. Life Fitness***

Represented Brunswick Corp. subsidiary in jury trial relating to exercise treadmill patent and unfair competition dispute. Jury verdict for Precor. Federal Circuit affirmed in part and reversed in part.

***BISSELL v. Oreck***

Represented BISSELL in multiple patent and trade dress infringement and unfair competition actions. Cases settled favorably.

***Hubbell Steel v. Dun & Bradstreet; Gibraltar Steel v. Dun & Bradstreet***

Represented Dun & Bradstreet in actions for tort and breach of contract relating to Dun & Bradstreet's reporting services. Case settled favorably.

***University of Chicago v. Chou***

Defended University of Chicago in suit claiming that a researcher was wrongfully denied credit as co-inventor of herpes vaccine. Case dismissed by federal district court in Chicago. Briefed and argued appeal to Federal Circuit. Case reversed in part and remanded in part. Case settled favorably.

## **PROFESSIONAL ACTIVITIES AND COMMUNITY SERVICE**

Member, The Chicago Network (nominated 2014)

Member, International Association of Defense Counsel (IADC) (2011-present)

Association of Trial Lawyers of America

Adjunct Professor, Northwestern University School of Law, High Tech Trial Techniques

The Balanced Mind Foundation, Board of Directors (2011-2013)

Young Women's City Council of the Jewish United Fund (2012-present)

Legal Aid Society Board for Metropolitan Family Services (2013-present)

## **ACKNOWLEDGEMENTS, PRESENTATIONS, AND PUBLICATIONS**

Be the Expert Series: Gearing up for Trial-ABA Webinar Section of Antitrust Law, Civil Practice and Procedure and Trial Practice Committees (March 1, 2018)

Plaintiffs Playbook Reprised: How to Best Deal with Past Transgressions and Other Accusations-DRI Drug & Medical Device Conference (May 2017)

Global Women's Leadership Roundtable on Confidence-Tiara Coaching (May 2016)

Trying the class action: Opportunities and challenges for plaintiffs and defendants: Should strategies between class certification briefings and trial be different?-LSI Twelfth Annual Conference on Class Actions (Seattle, WA May 2016)

Current State of the Law on Ascertainability and Standing-Consumer Class Action Conference (Orange County, CA Jan. 2016)

Client Expectations and How To Assess Value-IADC/FDCC Joint Law Firm Management Conference (Chicago, IL May 2013)

Spinning a Yarn: Trial Theme, Selection, and Persuasion in Jury Trials-DRI Products Liability Conference (National Harbor, MD April 2013)

Showdown: Products Masters Demonstrate Their Closing Styles (Jury Consultant and Mock Jurors Evaluated Ms. Bacon and two other attorneys perform closing arguments)-DRI Products Liability Conference (National Harbor, MD April 2013)

Analyzing Products Liability Trends Outside the U.S.-Coordinating Litigation Efforts Across International Jurisdictions-17th Annual DRI Drug and Medical Device Litigation Conference (December 2012)

Class Certification Trends and Motions to Dismiss Class Allegations-Second Annual LSI Conference on Litigating Class Actions (Chicago, IL December 2012)

International Discovery: Understanding and Dealing with Foreign Discovery Requirements-ALI ABA Webinar (November 2012)

Tech Savvy Jurors in a High Tech World: Strategies for Addressing Juror Misconduct-20th Annual IADC Meeting (Asheville, NC July 2012)

How the Explosion of Social Media, Cloud Computing and New Forms of DTC Marketing are Changing the Products Liability Playing Field-15th Anniversary Drug and Medical Device Litigation Conference (December 2011)

Featured in "Facing The Alternative: How Does A Flat Fee System Really Work?"-ABA Journal (March 1, 2011)

Social Media: The Impact on Pharma-Drug and Medical Device Litigation Conference of the American Conference Institute (New York, NY December 2010)

Handling Trial Themes in Difficult Cases-Women in Products Liability Conference (Chicago, IL 2009)

Disappearing Act: When a dot-com fails, creditors may find they have few legal protections if insiders try to loot the company's virtual assets-The Daily Deal (June 6, 2000)

Personal Jurisdiction and the Internet-New York Law Journal (July 20, 1998) (with Dale M. Cendali)

Business on the Web: Personal Jurisdiction and the Internet, The Multimedia and Web Strategist (July and August, 1998) (with Dale M. Cendali)

## **NEWS**

Bartlit Beck Partners Rebecca Weinstein Bacon and Phil Beck Recognized Among Top 100 Trial Lawyers  
10.26.2021

Bartlit Beck Earns Top Rankings by Benchmark Litigation  
10.01.2021

Bartlit Beck Recognized By Chambers USA 2021  
05.24.2021

Rebecca Weinstein Bacon and Phil Beck named 2021 Top Illinois Super Lawyers  
01.29.2021

Bartlit Beck Partners Rebecca Weinstein Bacon and Phil Beck Recognized by Benchmark Litigation  
10.08.2020

Bartlit Beck Earns Top Rankings by Benchmark Litigation  
10.01.2020

Bartlit Beck again recognized as a leading law firm in the 2020 edition of Chambers USA  
04.23.2020

Bartlit Beck Partner Rebecca Weinstein Bacon Recognized by Benchmark Litigation  
08.21.2019

Bartlit Beck Recognized By Chambers USA 2019  
05.01.2019

Bartlit Beck Scores A Trio Of Patent Trial Verdicts  
07.05.2017

Bartlit Beck team successfully deadlocks jury in landmark age discrimination case brought by the EEOC  
02.07.2017

Rebecca Weinstein Bacon Quoted in BNA on Class Action Post-Verdict Decertification  
07.19.2016

Benchmark Litigation Names Rebecca Weinstein Bacon Among Top 250 Women in Litigation 2016  
07.06.2016

Bartlit Beck Attorneys Receive High Praise  
07.2015

Bayer Settles Carrera Class Action Case That Made Key Ascertainability Law  
04.2015

Phil Beck and Rebecca Bacon Obtain Defense Jury Verdict for Whirlpool  
10.2014

Law 360 Interviews Female Powerbroker Rebecca Weinstein Bacon  
12.2013

Alternative Fee Discussion featuring Rebecca Weinstein Bacon from the ABA Journal  
03.2012

Bartlit Beck Defeats Nationwide Class in WeightSmart Litigation  
07.2011

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

2001 Top Plaintiffs' Verdicts  
*The National Law Journal*, 02.2002

Bartlit Beck Secures \$96MM Jury Verdict for GMAC Against Susman, Godfrey



10.2001