

## PHARMACEUTICAL PRODUCT LIABILITY CASES



Bartlit Beck's pharmaceutical products liability practice is one of the most widely recognized 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
- Third-party payor and other actions based on alleged economic injuries

As national counsel, our firm has directed mass-tort litigation, planning the 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 pharmaceutical products liability cases that have gone to verdict. 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 role.

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.

Our lawyers have achieved major victories for clients such as Merck, Bayer, AstraZeneca, and Alpha Therapeutic Corporation. Representative examples of our work in the Pharmaceutical Product Liability area are listed below.

## EXPERIENCE

### ***Xarelto®***

Plaintiffs claim that Bayer failed to adequately warn doctors and patients about the bleeding risks associated with the anticoagulant Xarelto®. Xarelto remains approved in the United States and around the world as part of a new generation of anticoagulants that prevent dangerous blood clots, including those that cause strokes. More than 20,000 claims have been filed in an MDL proceeding, coordinated state court litigation, and in other jurisdictions. Plaintiffs seek both compensatory and punitive damages.

Our firm is playing a pivotal role implementing a litigation strategy that has resulted in five wins at bellwether trials. We have worked on every aspect of the litigation, including: preparing company witnesses for cross examination; working with experts to present the company's scientific case; cross examining plaintiffs' most important experts at depositions; drafting key *Daubert* motions; consulting on trial strategy; and working up bellwether cases that have been selected for trial.

### ***YAZ®/Yasmin®***

Plaintiffs allege blood clots—including deep-vein thrombosis, pulmonary embolism, heart attacks, and strokes—as well as other injuries they claim are caused by the oral contraceptives YAZ® and Yasmin®. The litigation involves an MDL in Illinois as well as coordinated proceedings in Pennsylvania, New Jersey, and California, and cases pending in several other state courts. Bayer retained Bartlit Beck to serve as national counsel and lead trial counsel. We identified and implemented a national strategy that has resulted in no adverse verdicts or judgments against Bayer.

### ***Trasyolol®***

Plaintiffs claimed personal injuries, including kidney failure and death, from their use of Trasyolol®, 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. Bayer retained Bartlit Beck as national counsel and lead trial counsel. We identified and implemented a national strategy that resulted in no adverse verdicts or judgments against Bayer. 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 Trasyolol®; 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®***

Plaintiffs claimed that Merck's anti-inflammatory drug Vioxx® caused heart attacks and strokes. Merck suffered setbacks early in the litigation in state courts in Texas and New Jersey. In the federal MDL in New Orleans, Merck was facing five bellwether jury trials in less than twelve months. Merck retained Bartlit Beck to be its lead trial lawyers in 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. At the settlement stage, we participated in the design and negotiation of the Vioxx

personal injury settlement. We subsequently represented Merck in consumer class action litigation, and third-party payor litigation, which the company also successfully resolved.

## ***Seroquel®***

Plaintiffs filed tens of thousands of cases alleging diabetes caused by the antipsychotic medication Seroquel®. AstraZeneca retained Bartlit Beck as one of its trial counsel, and to provide strategic direction, in this mass tort litigation. We represented AstraZeneca in a series of trial 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. AstraZeneca was ultimately able to resolve the litigation, on favorable terms, after trying and winning a single case.

## ***Baycol®***

Plaintiffs claimed that Bayer's drug Baycol® caused a rare muscle disorder called rhabdomyolysis. Baycol® was withdrawn by the FDA and Bayer faced tens of thousands of claims in a federal MDL in Minneapolis, coordinated cases in state courts in Philadelphia and Houston, and individual cases in state courts around the country. Bayer retained Bartlit Beck as its national and lead trial lawyers. Our team tried the first case, which was a case plaintiffs selected to be tried in the plaintiffs' chosen venue of Corpus Christi, Texas. The plaintiff in this case sought over \$550 million. The case was closely watched for its effect on the thousands of other Baycol® cases pending throughout the country. We won a complete defense verdict. This immediately sent Bayer's stock price up 39 percent, and marked the beginning of the end of the Baycol® litigation.

## ***Hemophilia HIV/AIDS***

In the early 1980s, HIV had infected the nation's blood and plasma supplies before scientists knew that AIDS existed. Factor concentrate, the medicine used to control bleeding in people with hemophilia, is derived from human plasma and was itself contaminated. Thousands of hemophilia patients were infected with HIV and sued the manufacturers of the medicine. Alpha Therapeutics asked Bartlit Beck to try three of the bellwether cases in this litigation. Our team won all three cases—two of them following jury verdicts in favor of Alpha Therapeutics on all claims, and one of them following our team's successful motion for summary judgment. These victories enabled us to negotiate a successful global resolution of the remaining claims.

We'd be happy to put you in touch with client references to discuss their perspectives on our approach to litigation and the quality of our work. Links to the resumes of some of our lawyers who specialize in this area are below. Please contact any one of them for more information about our practice.

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