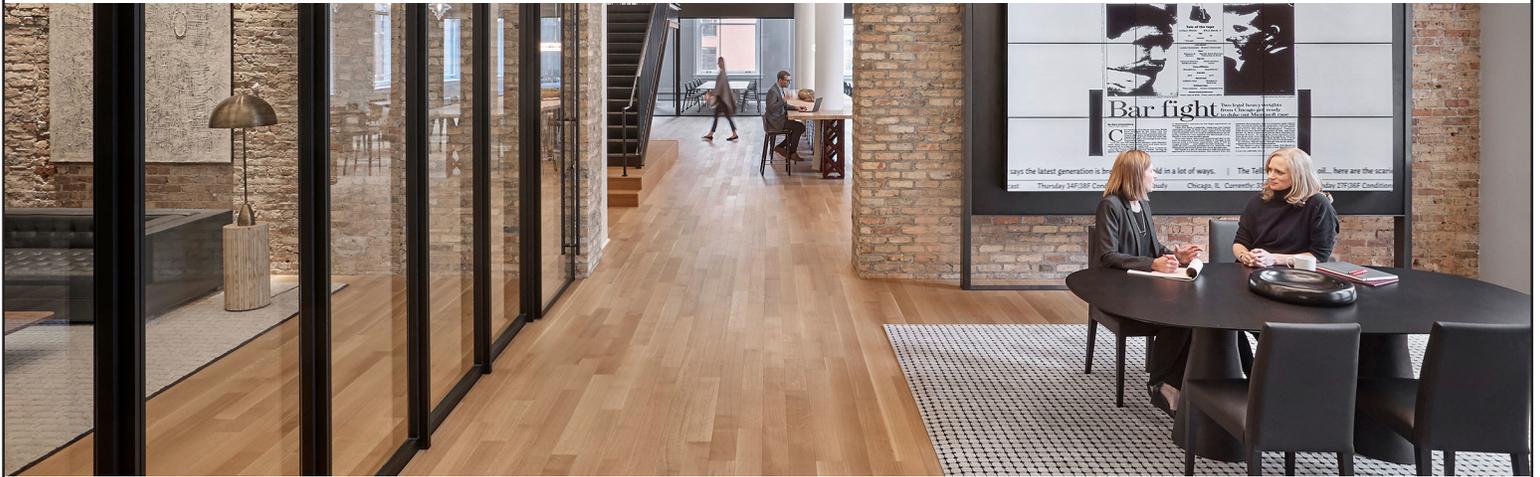


## A HIRED GUN WITH A PROVEN RECORD



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OTTAWA – One wonders what Fred Bartlit and the lawyers at the federal Department of Justice made of each other when they started working together, months ago, on the government's blockbuster \$1-billion lawsuit against the tobacco industry. On one side of the table, a battalion of government lawyers, quietly competent, low-key by nature and breeding, dry as sawdust.

Facing them: Fred Bartlit, the grey lion of Bartlit Beck, a West Point grad and former Army Ranger who went on to become what the National Law Journal calls "one of the most successful corporate defence litigators ever, with a long history of big wins."

A barrel-chested Chicago trial lawyer with the sort of winning record the Bulls used to rack up on the basketball court: of 44 cases tried between 1971 and 1998, he won 32, settled seven, and lost only four. One resulted in a mixed verdict. He admitted yesterday he's never tried a tobacco case. It would be folly to count that against him.

Bartlit Beck's specialty is complex litigation cases. Mr. Bartlit himself has tried cases involving oil and gas exploration, satellite design, data processing, environmental impact, price-fixing and consumer fraud, for plaintiffs as well as defendants. He's the guy you go to for "bet-the-company" cases, renowned as much for meticulous preparation as for his bulldog effectiveness in front of a jury. He likes to videotape his opening statements and test them on the cafeteria staff in the office building where he works.

He is a late-blooming computer nerd whose firm's Denver office employs as many tech assistants as partners. He requires everyone at the firm, from the top down, to be as literate in the language of spreadsheets, databases and presentation software as he is. "I personally believe we have 60% too many lawyers today when you consider what can be done with technology," he once told an interviewer. "I have instant hands-on access to all facts in the case. I feel that the worst thing in court is where you cannot have control because knowledge of

the case is spread over 15 associates."

That smaller-is-better attitude led Mr. Bartlit, then 61, to quit Chicago's 400-lawyer flagship firm Kirkland & Ellis, along with eight friends, in 1993. It seemed a crazy move at the time for a man who'd already climbed to a pinnacle of traditional law practice. The son of a neighbourhood lawyer, he quit the army after four years to earn the highest marks in the history of the University of Illinois law school. Kirkland & Ellis is the kind of firm that attracts stars like that. But before long, Mr. Bartlit became tired of the big-ticket firm's Titanic-like sluggishness.

At Bartlit Beck, he has been able to innovate, not only in his use of information technology, but in billing. The firm doesn't charge by the hour, preferring to set flat rates with bonuses in case of success. The strategy sometimes means the firm finds itself charging less for complex cases than they cost to litigate; but, on balance, little Bartlit Beck is far more profitable than the big old prestige firms. Mr. Bartlit refused yesterday to discuss details of his compensation arrangement with the federal government, saying only that "this isn't a Texas deal"—a reference to the multi-billion-dollar cut several Texas lawyers received when they won a tobacco suit on behalf of that state's government. Federal lawyers also offered no details about Mr. Bartlit's compensation, offering only vague assurances that his fee is "fair and reasonable." Lowell Sachnoff, a Chicago lawyer who has faced Mr. Bartlit in court, said in a telephone interview that Mr. Bartlit's second career at Bartlit Beck has rejuvenated him. "He can be more of a character. He can wear cowboy boots. You haven't seen his office? It has a basketball hoop. It's not designed to impress anyone. It's much more like a Silicon Valley deal." To be precise, it's the Chicago office that has a basketball hoop. The Denver office has a rock-climbing wall.

Mr. Bartlit, still ram-rod straight at 67, is usually up by 4 a.m. to work out in a gym before he gets to the office. The physical preparation, along with the videotaping and the well-stocked laptop computer, is aimed at making sure Mr. Bartlit performs at the top of his form in a courtroom. Unlike the big firms, which send bottom-heavy teams of 15 or 20 associates to try big cases, Bartlit Beck sends only one or two senior litigators. As a result, Mr. Bartlit spends more time actually pleading cases in court than almost any other high-profile lawyer in the U.S.—30 weeks in one recent year.

"Fred is the consummate advocate," Mr. Sachnoff said. "His courtroom experience really distinguishes him from hundreds and hundreds of lawyers, thousands of lawyers, who claim to be trial lawyers but don't have the courtroom experience to back it up." So formidable an opponent is Mr. Bartlit that the mere prospect of facing him in front of a jury is a powerful inducement to settle out of court, Mr. Sachnoff said. At the Ottawa news conference where the government's lawsuit was announced yesterday, Mr. Bartlit said he has no knowledge of any attempt to settle. "I'm a trial lawyer," he said. "I try cases."