



## Richard M. Barnes

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Goodell, DeVries, Leech & Dann, LLP

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## PROFILE

Mr. Barnes represents clients in complex tort and commercial litigation. A significant percentage of his practice involves the defense of product liability cases. He currently serves on the national trial teams representing Warner-Lambert and Pfizer Inc in connection with the Neurontin and Rezulin drug product liability litigations. In February 2002, he and Mr. Goodell obtained a defense verdict in a five-week jury trial in the Circuit Court for Montgomery County, Maryland. See Andrea Shaw, et al. v. Warner-Lambert Company, CA No. 209074. Mr. Barnes also serves as co-liaison counsel for Rezulin cases consolidated before the West Virginia Mass Litigation Panel. He also represents Pfizer and its affiliates in the Hormone Replacement, Celebrex, and Mirapex Litigations.

In the past, Mr. Barnes has served as trial counsel to Pfizer and its subsidiaries for claims and disputes arising from the manufacture and sale of the Duracon Unicompartmental Knee Litigation. Mr. Barnes also has represented Pfizer Inc in cases involving various drug and medical device products, including tetracycline, penile prostheses, orthopedic devices, and mechanical heart valves. He was a member of the national trial team for Shiley heart valve cases and was responsible for the defense and presentation of engineering, metallurgical, and regulatory witnesses. In addition, he obtained a temporary restraining order and permanent injunction against the owner of a pornographic web site in Maryland for the infringement and dilution of Pfizer's "Viagra" trademark. In other Pfizer litigation, Mr. Barnes obtained a summary judgment ruling, which established the precedent that Maryland law precludes recovery based on future harm unless the harm is more likely than not to occur.

Mr. Barnes and other members of the firm represented Wyeth in the Diet Drug Litigation in cases filed in Maryland. He served as trial counsel for various cases filed in Texas, Arizona, and Pennsylvania. He represented Wyeth in the Philadelphia County Court of Common Pleas, including multiple trial settings in 2004. In this role, he conducted extensive discovery and motions practice and participated in a consolidated Fen-Phen trial involving four plaintiffs who sought damages for valvular heart disease resulting from their use of Fen-Phen. The consolidated trial ended successfully with one defense verdict following post-trial motions and new trials granted in the remaining cases.

Mr. Barnes currently represents L. Perrigo Company and Wal-Mart in a case alleging that a six year old developed Reyes Syndrome resulting from ingesting children's aspirin to treat a fever.

Mr. Barnes serves as counsel for DENTSPLY International in putative state and federal court class actions alleging various commercial torts and contractual damages on behalf of dentists who purchased an ultrasonic scaler. In the past, Mr. Barnes successfully defended DENTSPLY in a state court class action in Alabama alleging year 2000 compliance problems with dental practice management software. His representation has included defending claims brought by licensees of dental practice management software and advising the client about commercial disputes with independent value added resellers of this software. With another partner at Goodell, DeVries, Mr. Barnes successfully represented DENTSPLY in connection with a prosecution of a breach of license agreement to sell sterilants in the dental market.

Mr. Barnes also represented Boston Scientific in connection with various medical device cases.

Mr. Barnes served on the firm's national counsel team representing Telectronics Pacing Systems, Inc. in connection with hundreds of claims arising out of the alleged failure of pacemaker leads. See In Re Telectronics Pacing Systems, Inc., Accufix Atrial "J" Leads Litigation, MDL-1057. The firm was responsible for defending state and federal class actions, which involved claims for personal injury and medical monitoring. Mr. Barnes was primarily responsible for the development and presentation of scientific, engineering, and clinical evidence on behalf of the company. He defended depositions of principal company witnesses, including the 30(b)(6) witnesses in the multi-district litigation, and conducted the depositions of all adverse expert witnesses regarding statistical, design, and engineering issues. Mr. Barnes presented a significant portion of the defense's case in a five-day summary jury trial held before The Honorable S. Arthur Spiegel in the United States District Court for the Southern District of Ohio. He currently advises the company on a variety of regulatory and litigation issues.

Mr. Barnes was also on the team that defeated certification of the personal injury and medical monitoring class in Zinser v. Accufix Research Institute, Inc., 253 F.3d 1180 (9th Cir. 2001), request for rehearing and rehearing en banc, denied, 273 F.3d 1266 (9th Cir. 2001). Currently, Mr. Barnes is the principal advisor to the company for ongoing regulatory and medical/scientific legal issues. In addition, Mr. Barnes is currently responsible for the defense of the client in all non-pacemaker lead litigation in the United States and responsible for advising the company concerning regulatory matters and foreign claims.

Mr. Barnes represents Nissan Motor Credit Corporation in various commercial disputes and administrative matters in Maryland, the District of Columbia, and Northern Virginia. Mr. Barnes served as a preferred provider of legal services to Shell Oil Company in Maryland, the District of Columbia, and Virginia. This representation includes the defense of cases brought on behalf of franchisees as well as the defense in dealer disputes, product contamination cases, toxic tort claims, and environmental matters. Similarly, for Equiva Services LLC, Mr. Barnes represented Shell, Texaco, and Star Enterprise affiliates in various civil litigations in Maryland and Virginia.

Mr. Barnes successfully represented Johnson & Johnson in obtaining the dismissal of a state court class action seeking medical monitoring for Maryland residents who were treated with Propulsid. He has also participated in the defense of products liability claims involving pharmaceutical and medical devices manufactured and distributed by Johnson & Johnson. He currently represents Johnson & Johnson in Maryland in cases alleging neurologic damage to children from the maternal use of RhoGam, an immune globulin.

For Vermont Talc, Mr. Barnes participated in defending 3500 products liability suits alleging injury from exposure to occupational dusts, including commercial talc. His responsibilities included preparing expert and medical evidence concerning medical causation and industrial hygiene, deposing expert and fact witnesses, and preparing pleadings and various motions. Mr. Barnes participated in the development and implementation of the national defense strategy.

For A.H. Robins Co., Mr. Barnes served on the trial team, which defended the client in products liability suits alleging serious personal injuries arising out of the use of the Dalkon Shield intrauterine device. With two current partners of Goodell, DeVries, Mr. Barnes was responsible for an active docket of 450 individual cases in Maryland and Washington, D.C. He developed expert witnesses, handled all phases of pre-trial discovery, drafted legal memoranda, argued motions, and second chaired the trials of cases in Maryland and in other jurisdictions. For the Dalkon Shield Claimants Trust, Mr. Barnes represented the client in the southeastern United States in dozens of matters alleging injury and damages from the Dalkon Shield. His responsibilities included the preparation and argument of all substantive pre-trial motions and the preparation of all aspects of pre-trial discovery. He also participated in the trial and/or arbitration of the claims through the appellate process.

In addition to his products liability practice, Mr. Barnes maintains an active practice in the area of commercial and business litigation. For Union Carbide, Mr. Barnes and another partner at Goodell, DeVries obtained directed verdicts on federal and state antitrust claims of monopolization of petroleum catalysis technology, and successfully prosecuted a counterclaim for theft of proprietary technology by a former employee.

Mr. Barnes defended two nationally based mortgage companies in the Circuit Court for Baltimore City regarding allegations of fraudulent/negligent mortgage lending practices. He has also provided advice to offshore mining companies regarding their potential liability for occupational exposures to various minerals.

## EDUCATION

Georgetown University (J.D., cum laude, 1981) (Editor, American Criminal Law Review)

Western Maryland College (B.A., magna cum laude, 1977) (Honors: Omicron Delta Kappa, Pi Gamma Mu)

## COURT ADMISSIONS

- United States Supreme Court
- Court of Appeals of Maryland
- District of Columbia Court of Appeals
- United States Court of Appeals for the Fourth Circuit
- United States Court of Appeals for the Sixth Circuit
- United States Court of Appeals for the Ninth Circuit
- United States Court of Appeals for the Eleventh Circuit
- United States District Court for the District of Maryland
- United States District Court for the District of Columbia

## PROFESSIONAL AND CIVIC ORGANIZATIONS

- American Bar Association
- Maryland Association of Defense Trial Counsel
- Maryland State Bar Association (Committees on Budget & Finance; Pattern Jury Instructions; and Special Committee on Citizenship Law Related Education)
- District of Columbia Bar Association
- Baltimore City Bar Association
- Defense Research Institute
- Law Business Research: An International Who's Who of Product Liability Defense Lawyers
- Elder, Central Presbyterian Church (2001 - present)
- Board of Trustees: Rodgers Forge United Methodist Church (1986 – 1998)
- Treasurer, Dumbarton Middle School PTSA (1999 – 2000)
- Towson Recreation Council: Girls Softball and Soccer Coach (1989 – 2004)

## SIGNIFICANT REPORTED CASES

*United States Supreme Court cases*

Morrison-Knudsen Constr. Co. v. United States Dep't of Labor, 461 U.S. 624, 103 S. Ct. 2045 (1983)

*Federal Appellate cases*

Quillin v. C.B. Fleet Holding Co., 2009 WL 1336719 (4th Cir. May 14, 2009) (No. 08-1814)

Zinser v. Accufix Research Inst., Inc., 253 F.3d 1180 (9th Cir. 2001); 273 F.3d 1266 (9th Cir. 2001)

In re Teletronics Pacing Systems, Inc., 221 F.3d 870 (6th Cir. 2000); 148 F. Supp. 2d 936 (2001); 137 F. Supp. 2d 985 (2001); 137 F. Supp. 2d 1029 (2001); 186 F.R.D. 459 (1999); 172 F.R.D. 271 (1997)

Bullard v. Dalkon Shield Claimants Trust, 74 F.3d 531 (4th Cir. 1996); 845 F. Supp. 328 (D. Md. 1994)

Hagepanos v. Shiley, Inc., 846 F.2d 71 (4th Cir. 1988)  
Bonstingl v. Maryland Bank, N.A., 841 F.2d 1122 (4th Cir. 1988); 662 F. Supp. 882 (D. Md. 1987)  
Kontoulas v. A.H. Robins Co., Inc., 745 F.2d 312 (4th Cir. 1984)

*Federal District Court cases*

Quillin v. C.B. Fleet Holding Co., (Civil Action No. CCB-07-503) (D. Md. July 18, 2008)  
Moore v. Wyeth-Ayerst Laboratories, 236 F. Supp. 2d 509 (D. Md. 2002)  
Ramada Franchise Systems, Inc. v. Capitol View II Ltd. P'ship Venture, 132 F. Supp. 2d 358 (D. Md. 2001)  
L.M.P. Service, Inc. v. Shell Oil Co., 128 F. Supp. 2d 287 (D. Md. 2000); 116 F. Supp. 2d 645 (2000)  
Chertkov v. TPLC, Inc., 916 F. Supp. 608 (N.D. Tex. 1996)  
In re Teletronics Pacing Systems, Accufix Atrial "J" Lead Litig., 168 F.R.D. 203 (S.D. Ohio 1996); 164 F.R.D. 222 (1995)  
Kemp v. Pfizer, Inc., 851 F. Supp. 269 (E.D. Mich. 1994); 152 F.R.D. 556 (1993)  
Pfizer Inc v. FDA, 753 F. Supp. 171 (D. Md. 1990)  
EKA AB, Conteka B.V. v. Union Carbide Corp., 699 F. Supp. 77 (D. Md. 1988)  
Pottratz v. Davis, 588 F. Supp. 949 (D. Md. 1984)  
In re Dalkon Shield Litig., 599 F. Supp. 1351 (D. Md. 1984); 581 F. Supp. 135 (1983)

*State appellate court cases*

In re: West Virginia Rezulin Litig., 585 S.E.2d 52 (W. Va. 2003)  
Moore v. Nissan Motor Acceptance Corp., 831 A.2d 12 (Md. 2003)  
Sterry v. Bethlehem Steel Corp., 494 A.2d 748 (Md. Ct. Spec. App. 1985)  
Furr v. Spring Grove State Hosp., 454 A.2d 414 (Md. Ct. Spec. App. 1983)

## PUBLICATIONS

Co-author of book chapter on "Impact Of Insurance Policies On Product Litigation," in Current Law, Strategies and Best Practices in Product Litigation (Pract. Law Inst., anticipated publication 2009).