



## Richard M. Barnes

### Partner

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### Related Practices

Intellectual Property  
Litigation

Product Liability

Pharmaceutical and  
Medical Device  
Litigation

Toxic Tort and  
Environmental Litigation

Class Action Litigation

Commercial and  
Business Tort Litigation

General Tort Liability  
Litigation

## Richard M. Barnes

Mr. Barnes is a founding partner of the firm. He represents clients in complex tort, commercial, and product liability litigation. He has been recognized as a leading practitioner in these fields and most recently was awarded 2015's Leadership in Law Award from *The Daily Record*. During his career, he has represented a variety of clients in disputes involving pharmaceuticals, medical devices, patents, trademarks and the Lanham Act, antitrust, breach of contract, unfair trade practices, aviation, commercial torts, covenants not to compete, and state procurement laws. He has defended companies in federal and state court class actions in Maryland, West Virginia, Alabama, Ohio, Pennsylvania, and California.

### Education

- Western Maryland College (B.A., *magna cum laude*, 1977) Honors: Omicron Delta Kappa, Pi Gamma Mu
- Georgetown University Law Center (J.D., *cum laude*, 1981) Editor, [American Criminal Law Review](#)

### Court Admissions

- District of Columbia
- Maryland
- United States District Court for the District of Columbia
- United States District Court for the District of Maryland
- 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 Supreme Court

### Professional Affiliations

- The Defense Research Institute
- American Bar Association
- Law Business Research: An International Who's Who of Product Liability Defense Lawyers
- Maryland Defense Counsel, Inc.
- Maryland State Bar Association (Committees on Budget & Finance and Pattern Jury Instructions, and Special Committee on Citizenship Law Related Education)
- Bar Association of Baltimore City
- District of Columbia Bar Association

## Representative Matters

In 2018, Mr. Barnes and Mr. Kohel prevailed in a product liability case for a Danaher subsidiary. After successfully excluding the plaintiff's expert during a Daubert hearing, the court granted defendant's motion for summary judgment. In May 2018, Mr. Barnes and Ms. Woolf obtained a verdict in the Northern District of Texas awarding their client multi-million dollars in damages in connection with the sale of pharmacy automation equipment. Mr. Barnes along with Ms Woolf and Mr Kohel prevailed in a commercial arbitration tried in Chicago on behalf of Dentsply Sirona in December 2017, successfully enforcing a covenant not to compete against a former consultant. The team also defeated a counterclaim for royalty payments in connection with a proprietary manufacturing process.

In June of 2017, Mr. Barnes and Ms. Woolf obtained a preliminary injunction on behalf of a medical device client that enjoined a consultant and former employer from competing. Also, in June 2017, he, Ms. Woolf, and Mr. Stikeleather successfully defeated plaintiffs' motion for class certification in a decade-long class action pending in the Eastern District of Pennsylvania.

In 2015, Mr. Barnes and Ms. Woolf defeated a multi-million dollar claim for patent royalties based on various endodontic patents and inventions. His client, Dentsply International, was also relieved of its obligation to pay future royalties on several of the disputed patents and inventions. In December of 2013, Mr. Barnes and Ms. Woolf successfully defended Dentsply International in a three-week California UCL class action trial in San Francisco Superior Court. The California Court of Appeals affirmed the win on appeal in January 2018. In 2013, he also successfully litigated a complex state procurement dispute before the Maryland Board of Contract Appeals on behalf of an institutional pharmacy. Mr. Barnes has also tried to verdict complicated multi-plaintiff product liability, pharmaceutical, and medical device cases. He has briefed or argued cases before the United States Supreme Court and various state and federal appellate courts. He is currently serving as national counsel in two pharmaceutical litigations involving over-the-counter medications.

Representative clients include Pfizer Inc, Wyeth, Telectronics Pacing Systems, Inc., Pacific Dunlop, Ltd., Dentsply Sirona, Danaher Corporation, Hill-Rom, Johnson & Johnson, DePuy Orthopedics, L. Perrigo Company, Nissan Motor Credit Corporation, Lafarge, ARINC, Vermont Talc, A.H. Robins Co., Gruss & Co., Correct Rx Pharmacy, and several local businesses.

Mr. Barnes' significant representations include trials for Pfizer Inc and/or Wyeth relating to the Bjork Shiley Mechanical Heart Valve (1985-1999), Rezulin (2000-2004), the Howmedica Unicompartmental Knee (2001-2004), Diet Drugs (2003-2005), and Neurontin (2007-2011). Mr. Barnes has represented Pfizer in the hormone therapy litigation in cases in several jurisdictions including Maryland, Pennsylvania, Minnesota, West Virginia, and Virginia. He also had significant responsibilities for preparing and presenting scientific evidence in the Celebrex, Bextra, and Chantix Litigations. He has briefed and argued several Daubert motions in pharmaceutical cases. Mr. Barnes served as national counsel to Pfizer Inc and its subsidiaries for claims and disputes arising from the manufacture and sale of the Duracon Unicompartmental Knee and over-the-counter pain relievers. 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.

Mr. Barnes served on the firm's national counsel team representing Telectronics Pacing Systems, Inc. in connection with thousands of claims arising out of the alleged failure of pacemaker leads. In this role, he was responsible for defending two national class actions, coordination of the litigation in Canada, Australia, and France, and the presentation of scientific, engineering, and regulatory evidence in various hearings for a class summary jury trial.

Mr. Barnes represents L. Perrigo Company in cases in California, Maryland, Virginia, Pennsylvania, Indiana, New Jersey, and the District of Columbia involving over-the-counter medications including aspirin (Reyes Syndrome), acetaminophen, and ibuprofen.

Mr. Barnes also represented ARINC, a provider of Advanced Information Management, for a rail control center in the matter of the Fort Totten Metrorail Accident Cases in the United States District Court for the District of Columbia. He was primarily responsible for preparing and presenting technical and scientific evidence pertaining to software design, train tracking algorithms, alarm management, and accident reconstruction.

## Reported Cases

### *Class Action case*

Center City Periodontists, P.C. v. Dentsply International, Inc., --- F.R.D. ----, 2017 WL 3142119 (E.D. Pa. July 24, 2017) Mr. Barnes was part of the Goodell team that, in 2017, successfully defeated a motion for class certification filed against the same dental device manufacturer in a decade-long class action in Pennsylvania federal court. The 36-page memorandum opinion, which followed six days of hearings on the motion to certify, denied class certification on a multitude of bases. The district court judge found that the plaintiffs failed to meet three of the four requirements under Rule 23(a): typicality, adequacy, and numerosity and Rule 23(b)(3)'s requirements that common questions of law or fact predominate over individual questions and that a class action is superior to other available methods for adjudicating the dispute. The court further agreed with Goodell's argument that the proposed class and subclasses were not objectively ascertainable and granted the *Daubert* motions to exclude the plaintiffs' economic damages and FDA regulatory experts. In 2013, the team had obtained dismissal of claims for negligence and alleged violations of the New Jersey Consumer Fraud Act. That opinion, 2013 WL 3956284, is believed to be the first to hold that the NJCFA does not apply to the sale of prescription medical devices, which are not "merchandise" available to the public under the Act.

### *United States Supreme Court case*

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

### *Federal Appellate Court cases*

- Quillin v. C.B. Fleet Holding Co. 328 Fed. Appx. 195 (4th Cir. 2009)
- Zinser v. Accufix Research Inst., Inc., 253 F.3d 1180 (9th Cir. 2001); 273 F.3d 1266 (9th Cir. 2001)
- In re Telectronics Pacing Systems, Inc., 221 F.3d 870 (6th Cir. 2000); 148 F. Supp. 2d 936 (S.D. Ohio 2001); 137 F. Supp. 2d 985 (S.D. Ohio 2001); 137 F. Supp. 2d 1029 (S.D. Ohio 2001); 186 F.R.D. 459 (S.D. Ohio 1999); 172 F.R.D. 271 (S.D. Ohio 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*

- Brodsky v. Ka Vo Dental Technologies, LLC and Henry Schein, Inc. (D. Md. 2015)
- Brodsky v. KaVo Dental Technologies, LLC, 2018 WL 620453 (D,Md. Jan. 30, 2018)

- Center City Periodontists, P.C. v. Dentsply International, Inc., 321 F.R.D. 193 (E.D. Pa. 2017)
- Johnson v. Dentsply Sirona Inc., 2017 WL 4295420 (N.D. Okla. Sept. 27, 2017)
- Dentsply Sirona Inc. v. L I K Supply, Corp., 2017 WL 4357462 (N.D. N.Y. Sep. 29, 2017)
- In re Prempro Products Liability Litigation, 900 F.Supp. 2d 926 (E.D. Ark. 2014)
- Dentsply International, Inc. v. Lewis and Roca, LLP, 2013 WL 12246644 (D.N.M. Sep. 19, 2013)
- Introsan Dental Products, Inc. v. Dentsply Tulsa Dental, LLC, 2012 WL 3011830 (D.Md. July 20, 2012)
- Keffer v. Wyeth, 791 F.Supp. 2d 539 (S.D. W.Va. 2011)
- King v. Pfizer Pharmaceutical Co., Inc., 2011 WL 3157305 (D.Md. July 25, 2011)
- Hines v. Wyeth, 2011 WL 2792436 (S.D. W.Va. July 14, 2011); 2011 WL 2680834 (S.D. W.Va. July 8, 2011); 2011 WL 2680814 (S.D. W.Va. July 8, 2011), 2011 WL 2680842 (S.D. W.Va. July 8, 2011)
- In re Neurontin Marketing, Sales Practices and Products Liability Litigation, 618 F. Supp. 2d 96 (D. Mass. 2009)
- Quillin v. C.B. Fleet Holding Co., 2007 WL 3103903 (D. Md. Oct. 11, 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 (D.Md. 2000)
- Chertkov v. TPLC, Inc., 916 F. Supp. 608 (N.D. Tex. 1996)
- In re Telectronics Pacing Systems, Accufix Atrial "J" Lead Litig., 168 F.R.D. 203 (S.D. Ohio 1996); 164 F.R.D. 222 (S.D. Ohio 1995)
- Kemp v. Pfizer Inc, 851 F. Supp. 269 (E.D. Mich. 1994); 152 F.R.D. 556 (E.D. Mich. 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 (D.Md. 1983)

#### State Appellate Court cases

- Patricia A. Murray Dental Corp. v. Dentsply International, Inc., 19 Cal. App. 5th 258 (Cal. Ct. App. 2018)
- Volkman v. Hanover Investments, Inc., 225 Md. App. 602 (2015)
- 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. App. 1985)
- Furr v. Spring Grove State Hosp., 454 A.2d 414 (Md. App. 1983)

#### Publications

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

### Honors and Awards

- Best Lawyers in Baltimore, 2017 "Lawyer of the Year" for Mass Tort Litigation / Class Actions
- Leadership in Law Award 2015, *The Daily Record*
- Best Lawyers in America, Mass Tort Litigation/Class Actions - Defendants (2011 - Present)
- Best Lawyers in America, Product Liability Litigation - Defendants (2011 - Present)
- Best Lawyers in America, Commercial Litigation (2011 - Present)

### Community Activities

- Elder, Central Presbyterian Church (2001 - Present)
- Board of Directors, Charlestown Retirement Community (2009 - 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)

### Honors and Recognitions

- The Best Lawyers in America® Names 15 Goodell DeVries Attorneys to 2019 List
- Best Lawyers Recognizes Goodell DeVries in 2018 Edition
- Five of Goodell DeVries' Attorneys Identified as Being Among the World's Leading Product Liability Practitioners by *Who's Who Legal: Life Sciences 2017*
- 13 Goodell DeVries Partners Recognized by Best Lawyers 2016
- Richard M. Barnes Receives 2015's Leadership in Law Award from *The Daily Record*
- Goodell DeVries is Proud to Announce the 12 Attorneys Named to 2015 *Best Lawyers in America* List
- 12 Goodell DeVries Attorneys Named to 2014 *Best Lawyers in America* List
- Twelve Goodell DeVries Attorneys Selected for *Best Lawyers* 2013

### Speaking Engagements

- Richard M. Barnes Speaks at ABA Pharmaceutical/Medical Device Regional Workshop

### Recent Case Results

- Medical Devices Manufacturer Successfully Defended Against Product Liability Claim
- Successful Enforcement of Noncompete and Defense Against Counterclaim
- Medical Device Manufacturer Prevails in Unfair Competition Class Action in California Court of Appeal
- Goodell DeVries Prevails in Manufacturer's Ten-Year Class-Certification Battle with Purchasers of Prescription Medical Device
- Goodell DeVries Attorneys Obtain Injunctive Relief in a Trademark Infringement Action Involving Counterfeit Medical Devices

- Goodell DeVries' Client Prevails on Key Issues in Complex Commercial Arbitration
- Partial Summary Judgment Obtained In Complex Commercial Arbitration
- DENTSPLY International Inc. Prevails in UCL Class Action Trial in San Francisco Superior Court