

## Top Female Trial Attorney: Reed Smith's Barbara Binis

By **Max Stendahl**

*Law360, New York (May 07, 2012, 9:03 PM ET)* -- Over two decades as a pharmaceutical product liability attorney for Reed Smith LLP, Barbara Binis has earned impromptu cheers from jurors, flummoxed expert witnesses and caused plaintiffs' attorneys to squirm in their seats, making her one of Law360's Top Female Trial Attorneys.

Binis, one of 15 attorneys named to the list, has won 17 of her 19 trials as a partner in Reed Smith's life sciences health industry group in Philadelphia. She has served as first chair in 16 trials and second chair in three trials.

She represented Wyeth Pharmaceuticals Inc. as lead trial counsel in high-profile Pennsylvania litigation over the hormone replacement therapy Prempro from 2006 to 2010, and in litigation over "fen-phen" weight loss treatment from 1997 through 2008. Binis co-chaired pre-trial management of Wyeth's 20,000 Pennsylvania-based fen-phen cases, staffed up to four multiple-plaintiff trials each month in 2005 and 2006, and won a slew of complete defense verdicts.

In one fen-phen case in the Pennsylvania Court of Common Pleas in 2002, the judge gave the plaintiff only a meager award after Binis "eviscerated" an expert witness, according to Tracey Carpenter, a trial consultant who worked with Binis on the case.

After the ruling, the judge allowed Binis to speak to the jurors. When she walked into the room, the jurors broke into a round of applause, Carpenter said. One juror even approached Binis to say that she had always been skeptical of drug companies, but that Binis' representation of Wyeth had changed her mind, according to Carpenter.

"That's something I've never seen, ever," she said.

For Binis, it was an unusual moment in an unusual career.

The oldest of five siblings, Binis grew up in a blue-collar neighborhood in Buffalo, N.Y., in a family where "only the boys went to college, not the girls," she said. Still, she "cobbled together" an undergraduate degree at three different colleges in three different cities, eventually earning her law degree from Georgetown University.

Binis noted that her career path was different from that of most female attorneys in her generation, in that she went to law school after having children. As a first-year associate at Reed Smith in 1991, Binis said she was one of only two women at the firm with children, forcing her to balance the demands of work and full-time parenting.

Now, Binis says her background helps her to connect with juries.

"My voice is a different voice," she said. "I come from a different world than I'm in right now."

Michael King, a former colleague of Binis' at Reed Smith and now a senior litigation attorney at Novo Nordisk A/S, said Binis' courtroom style was often gentle. Carpenter used the word "maternal" to describe the Reed Smith star's demeanor in front of a jury.

But witnesses, King and Carpenter said, tend to get a rougher treatment.

In one diet drug case, Binis cross-examined a witness who brought a library cart full of medical texts into the courtroom. Binis got the witness to acknowledge that the books were authoritative texts, but that none of them supported his testimony.

At one point, she held up one large book and slammed it onto the table for effect. At the end of the cross-examination — at 5 p.m. on a Friday afternoon, no less — Binis finally asked the question she had been saving for the right moment: "Isn't it true you were fired from your last hospital?"

"The damage was done," Binis said. "It was a great cross. It was slow, it was methodical, it was disciplined, but boy, it built up very nicely."

In another trial, Binis cross-examined a witness about his diagnosis of the plaintiff's heart valve regurgitation. Doctors often trace such regurgitation over a sonogram of the heart, called an echocardiogram.

The expert had previously testified in about 35 similar case, putting him on "autopilot," Binis said. But she threw him off by using a new line of attack, pressing him to admit that the tracings on one echocardiogram differed from those in several others he produced.

"He was totally flummoxed," Binis said. "The plaintiff's lawyers were squirming, because they knew what I was doing all along, but they couldn't do anything about it."

To drive the point home for jurors, Binis said she highlighted the expert's inaccurate tracing on the echocardiogram. "You learned everything you need to know about this case in kindergarten," she recalled telling the jury.

Binis won the case — and many of the jurors later said her withering cross-examination was a deciding factor.

The years of success as a trial attorney have not gotten to Binis' head, according to Larry Stein, the former general counsel of Wyeth. He recalled one diet drug case in which she agreed to base her opening statement on the approach taken by another outside Wyeth attorney in a previous suit.

"We were pushing, 'let's do it like this,' Stein said. "She tried it, and took something that was not initially hers and made the best of it."

"Trial lawyers can be big egos," he continued. "But she was very effective in the courtroom and client-focused."

One reason for Binis' success is her mastery of the often complex science behind pharmaceutical cases, according to King.

"She really has the ability to understand and effectively present the medical and scientific issues that we have to deal with," he said. "Some people aren't able to do that, which can lead to awkward presentations in the courtroom."

Binis has also shown a willingness to work closely with colleagues, according to King, who took advantage of Binis' open-door policy while working on diet drug cases as a new associate. On one occasion, he and Binis were in Reed Smith's office on a weekend preparing for a cross-examination at a trial set to take place the next month, he said.

"There was a desk with wheels, and for the rest of that month, I was wheeling that cart back and forth from my office to hers," he said. "As far as learning experiences go, that kind of interaction and mentoring is something that's unmatched, and one of the best learning experiences of my career."

Binis first decided to get involved in pharmaceutical product liability litigation as an associate at Reed Smith. She won a case that claimed a drug company's lithium treatment caused a schizophrenia patient to suffer kidney damage, with the judge finding the company had given the patient an adequate warning about side effects.

"The whole case was an extremely impressive case," she said. "I was impressed by all of the dilemmas that everybody faces every day, and it made me want to do more."

Since then, Binis has sought to go the extra mile for her clients. In one fen-phen case against Wyeth, she won the dismissal of the plaintiff's claim on the basis that it fell outside the statute of limitations, using the novel argument that there is no cross-jurisdictional equitable tolling in Pennsylvania. It marked the first of many times that a diet drug case was dismissed on those grounds, she said.

Another major win came in a hormone therapy case, when a Pennsylvania Court of Common Pleas judge reduced a \$28 million punitive damages award to just \$1 million. That case has since been appealed to the Pennsylvania Supreme Court.

Now, Binis is playing a pivotal role in two major product liability litigations. In February 2011, she was selected by Sunoco Inc. as co-lead counsel in all of the company's benzene and asbestos product liability cases in the U.S. The litigation includes hundreds of claims involving allegations of acute and chronic myelogenous leukemia, mesothelioma and other diseases.

Binis was also recently selected as national lead counsel for American Medical Systems Inc., a subsidiary of Endo Pharmaceuticals Inc., in the company's defense of its vaginal mesh and bladder sling products, which allegedly caused patients severe damage and pain.

Jennifer Dubas, Endo's senior counsel for litigation and risk, called Binis "an extremely talented attorney who has provided us with solid, reliable legal advice and counsel."

If past success is any indication, Binis is likely to rack up more impressive victories for Endo and other clients. She has all the qualities of a top trial attorney, according to Carpenter: the ability to win a jury's affection and put a witness on the hot seat.

"As a person who is focused on persuasion of the jury, one of my favorite qualities in any attorney is bravery," Carpenter said. "It's rare that lawyers accidentally have big moments in court."

"A big moment," she added, referring to Binis, "usually happens because an attorney is brave enough to take it."

--Editing by John Quinn.

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