



Product Liability

2024



PROFILED:

FRANCES E. BIVENS

Davis Polk & Wardwell LLP



Davis Polk

Published by Financier Worldwide Ltd
©2024 Financier Worldwide Ltd. All rights reserved.
Permission to use this reprint has been granted by the publisher.



Product Liability



FRANCES E. BIVENS

Partner

Davis Polk & Wardwell LLP

New York, NY, US

T: +1 (212) 450 4935

E: frances.bivens@davispolk.com

PERSONAL BIOGRAPHY

Frances Bivens is a senior partner in Davis Polk's civil litigation practice with over 30 years of experience in product liability and mass torts. She represented Suzuki in Samurai roll-over litigation and has been lead counsel in matters involving Bridgestone tyres, Pyrex bakeware, brand-name tablets, PFAS exposure, asbestos and opioids. She has decades of experience as lead counsel for Con Edison in mass tort cases, regularly defeating class certification, and represented the manufacturer of the Deepwater Horizon. She is national counsel for General Dynamics in ACL asbestos cases. She has an electrical engineering degree and regularly handles litigation involving technical issues.

Davis Polk

REPRINT

**FRANCES E. BIVENS**

Davis Polk & Wardwell LLP



Q&A WITH FRANCES E. BIVENS

**Could you describe your approach to tackling complex legal challenges? What principles or philosophies guide your work?**

◆ As a mentor of mine used to say, “Simplify, simplify, simplify.” It is great advice whether you are in front of a jury, a state court judge or in federal court. If you cannot make your point clearly in five minutes or less you have lost your audience. Find real-world ways to explain technical ideas. And always have a story. Why do your points matter? Who is the hero in your story? What principle is at stake? You must make people care if you want to win.

What role do you play in your firm’s community outreach or pro bono initiatives? How has this involvement impacted you personally and professionally?

◆ Throughout my career, I have always found time for pro bono work. I have also served on numerous non-profit boards. As lawyers, we are blessed with professional skills that can solve problems and make change. I believe it is both our honour and our obligation to use our skills for the public good. I find it extremely rewarding, whether I am representing a mother using the Hague Convention to get custody of her children or working on a high-impact case, like one I am litigating now, challenging a law in Tennessee purporting to dictate how racial issues can be taught in the classroom. Pro bono cases also provide wonderful mentoring opportunities, and we often get a chance to see our younger lawyers shine on these cases. We can help them with their first court argument or teach them how to handle tough adversaries or prepare witnesses. It is a great chance to make a difference within the firm and out in the world.



FRANCES E. BIVENS

Davis Polk & Wardwell LLP



What qualities and values do you believe are essential for building strong, trusting relationships with clients?

◆ Honesty is essential. I pride myself on being forthright with my clients. I am not afraid to be direct and I find that my clients value that quality. Outside counsel is often uniquely situated to be able to provide a reality check and to deliver clear-eyed and sometimes difficult news. Many lawyers are afraid to upset their clients and instead tell their clients what the clients want to hear. They reinforce the corporate 'lore' – the story that can develop around a tough issue, especially if it is high stakes. That is an approach that may work in the short run, but it is not a good strategy for developing a meaningful long-term relationship with a client as their trusted adviser. ■



**“IF YOU CANNOT MAKE YOUR POINT CLEARLY IN FIVE MINUTES
OR LESS YOU HAVE LOST YOUR AUDIENCE. FIND REAL-WORLD
WAYS TO EXPLAIN TECHNICAL IDEAS.”**



FRANCES E. BIVENS

Davis Polk & Wardwell LLP



REPRESENTATIVE ENGAGEMENTS

- ◆ National counsel for General Dynamics in asbestos litigation filed across the country arising out of a former partial ownership interest in ACL.
- ◆ Lead counsel for Con Edison in mass tort litigation arising out of large-scale electrical outages, steam ruptures, gas explosions and extreme weather events, including gas explosions in a Queens church in 1996, East Harlem in 2014 and the East Village in 2016, blackouts in Washington Heights in 1999 and Long Island City in 2006, a steam rupture at 41st Street and Lexington Avenue in 2007, Superstorm Sandy in 2012 and Hurricane Isaias in 2020.
- ◆ Lead counsel for Corelle Brands in class action litigation alleging a product defect in Pyrex bakeware. Secured complete dismissal.
- ◆ Lead counsel for HHI, which built the Deepwater Horizon, in the Gulf Oil Spill MDL litigation.
- ◆ Provided product liability advice in numerous mass-tort restructuring matters including the Purdue bankruptcy (opioids).

