

Rising Star: Goldman Ismail's Shayna Cook

By **Andrew Scurria**



Law360, New York (April 30, 2014, 7:30 PM ET) -- Handling high-stakes trials for drug and device makers nationwide and directing traffic in the massive litigation surrounding Bayer Corp.'s Mirena intrauterine device are just a few of the accomplishments that have sprung Goldman Ismail Tomaselli Brennan & Baum LLP partner Shayna Cook onto Law360's list of the top product liability attorneys under 40.

Having been thrown into the world of high-stakes injury litigation via one of the most prominent pharmaceutical crises ever — Merck & Co.'s recall of the notorious arthritis drug Vioxx — during a stint at Bartlit Beck Herman Palenchar & Scott LLP, the 38-year old Rising Star made the bold move in January 2013 of rejoining several of her former Bartlit colleagues

who had decamped to form Goldman Ismail, a self-described upstart litigation boutique.

Less than two years later, Cook has parlayed her experience into a leading role in national multidistrict litigations and established herself as a key player in strategic decisions at the nine-partner firm, which was exactly what she was looking for in her new home, she told Law360.

"The real reason I made the move is that I wanted to be part of a smaller partnership where I really have a chance to impact the strategy and growth of the firm," Cook said. "I just wanted to join this small, smart creative group of lawyers and I knew that no matter what else happened, I would at least have a lot of fun practicing with them."

Cook jumped from law school at the University of Michigan to a clerkship with U.S. District Judge Sam Sparks in Texas before landing at Bartlit, where she handled intellectual property disputes, some commercial litigation, government contract disputes and, in what she calls the most challenging cases of her career, a series of back-to-back personal injury trials over Vioxx.

It was there that she formed bonds with some of the founders of Goldman Ismail, who started the firm in Chicago along with two former Fulbright & Jaworski LLP partners in Dallas.

"Having spent that much time together in hotel rooms .. that's how the partners got to get to know each other and got great trial experience in the trenches together, and part of how I knew I would be part of a great team when I got here," she said.

Cook cited the firm's flexibility in offering alternative fee contracts as one of its prime assets, saying that it allows her and the other partners to construct fee arrangements that fit into a client's business plan, especially when they build virtual law firms for a particular matter with Goldman Ismail and other firms.

"The alternative billing structures really give us the flexibility to work with our clients and figure out what they need in terms of what they see as success and what they see as failure — what kind of a team they are looking to put together," she said. "And for our new clients who have never used alternative billing structures before but are curious about them, we're able to educate them and bring them up to speed on what the options are."

She added that the firm's offices themselves are a draw not just for her but for clients. Goldman Ismail boasts a loft space in Chicago with open, windowless, doorless spaces designed to encourage collaboration with whiteboards for brainstorming ideas.

"In that sense, it's almost like being part of a startup that is also involved in high-stakes litigation," Cook said. "People are always astonished to walk into our offices because they can't believe a law firm looks like this."

One of Cook's recent litigation success stories came in a trial in South Dakota in which a woman alleged that talc in a feminine hygiene product called Shower to Shower manufactured by Johnson & Johnson caused her to develop ovarian cancer. The suit also claimed that the talc supplier, Imerys SA, engaged in a civil conspiracy with J&J.

By the time Imerys retained Cook as lead trial counsel, the defendants already had a dispositive motion pending, which the judge granted in part but not with respect to the conspiracy claim against Imerys.

"When I came here and got hired, the case was just a couple of months from trial. They were looking for a trial lawyer," she said.

Cook's team then took what a basketball coach might term a low-percentage shot: they filed a motion for reconsideration on the grounds that the only basis for the civil conspiracy claim against Imerys was its petitioning activity, which was protected by the First Amendment. The judge agreed.

"As a trial lawyer, we love to get trial experience, but we have to remember that the best-case scenario for any client is to not get a trial," she said.

A far bigger chunk of Cook's time is spent managing the consolidated multidistrict proceedings in New York federal court and New Jersey state court over Bayer's Mirena, a popular intrauterine device that also carries a small risk of uterine perforation. Cook noted that the cases are especially rewarding for her to defend since the medical community has begun criticizing plaintiffs' lawyers for scaring women away from what is a relatively safe and effective product with overly dramatic client solicitations.

"Over 50 percent [of pregnancies] in the U.S. today are still unintended, so I feel it's pretty compelling to have a relatively safe and very, very effective product available to women," she said. "And I would hope that jurors would find that compelling too."