

## Of Counsel Interview . . .

### **Bowman and Brooke's Tech-Savvy Cereghini Forges National Products Liability Practice**

Perhaps only airline pilots and truck drivers travel more than attorneys; that's no secret. But some lawyers rack up frequent flyer miles a lot more than others. Consider just some of the venues that Phoenix-based trial attorney Paul Cereghini of the law firm Bowman and Brooke will be litigating in this year: Virginia, Texas, Nevada, Mississippi, Alabama, and several cities in California.

Last year, Cereghini covered all four corners of the nation—Nome, Alaska; Providence, Rhode Island; Tampa Bay, Florida; and San Diego, California—not to mention many places in between. Unlike other attorneys who say that they have a national practice, Cereghini is not exaggerating when he says that he has one. And the thing is that he loves the travel. He says that he relishes the chance to meet and get to know the local people in communities across America, and given that the trials he litigates often span several weeks, he has plenty of time to get acquainted.

After more than 20 years as a products liability defense attorney for the automotive industry and others, particularly the makers of All-Terrain Vehicles, Cereghini has a reputation as one of the nation's best trial attorneys. Last year was a watershed year for him in terms of winning praise, as two prestigious institutions recognized him.

Chambers & Powers ranked him on its *Executive Counsel Short List* of top-rated products liability lawyers, and the *Legal 500 US 2008* honored both the Minneapolis-based Bowman and Brooke and Cereghini. They quoted clients calling him "just the best" with "a very commanding presence and a very charismatic demeanor" and simply "brilliant." He was one of only a few attorneys who made both lists last year.

*Of Counsel* recently talked with Cereghini about his career, his ability to understand complex

technology, B and B's national strategy, its structure, the current and future states of ATV litigation, and other topics. The following is that excerpted interview.

**Of Counsel:** When did you realize that you wanted to be an attorney, and why did you want to pursue this career, particularly in the litigation arena?

**Paul Cereghini:** That's an interesting question. I was never really burdened with any career-choice decision because, when I first started thinking of a profession as a little kid, I wanted to be an attorney. I wanted to be a trial lawyer because those were the only lawyers that I had any knowledge of. Then, much later when I went to undergraduate school, I studied accounting and economics with the intention of going on to law school. At that time, I was thinking that I'd go into some area of transactional law or a commercial practice.

Once I got out of law school and started my practice, I was fortunate enough to have exposure to a number of different areas of the law. I did a little work for some partners who had a transactional practices, others who had real property practices, and a trusts and estates practice, and with one partner who was doing securities work. Then I worked for trial lawyers, including Dick Bowman. This helped crystallize for me that what I really wanted to be was a trial lawyer. The thrill of being in the courtroom, picking a jury, representing the kind of clients we represent in high-stakes personal injury defense matters—all this really appealed to me. So that's the direction my career took.

**OC:** Where did you go right after you graduated from Arizona State University Law School?

**PC:** I went to the predecessor of Bowman and Brooke that Dick Bowman and Jeff Brooke were

with, a Minneapolis firm that opened a branch office in Phoenix: Gray, Plant, Moody, Moody & Bennett. It was exciting and growing.

## Integrity and Preparation

**OC:** You mentioned earlier that you had the opportunity to work with Dick Bowman. What was one of the most important things that you learned from Dick?

**PC:** Wow, there were a lot of things. Most importantly, I suppose, I learned the importance of integrity in how you deal with everyone—clients, the lawyer on the other side, the court, and the jury. You have to feel good about how you're conducting your affairs and your defense with everyone with whom you come in contact. Your reputation for integrity is key.

Watching Dick in trial, I also learned the value of always being prepared.

**OC:** Bowman and Brooke's strategy is multidimensional, and the Phoenix office has been around a long time. How does the Phoenix office fit into the firm's national strategy?

**PC:** Let me first explain a little about our structure. We have an executive committee that's responsible for the firm-wide management of Bowman and Brooke, and I am one of six executive committee members. Then in each local office we have a managing partner who's responsible for the day-to-day activities of that office. Then we have a co-managing partner to back up the local managing partner.

The reason being: Our management comprises lawyers who are in the prime of their practices; we're trying cases and on the road a lot. We have a lot of responsibilities for our clients. We recognize that sometimes these lawyers are going to be out-of-pocket and in trial for long periods of time; hence, our managerial structure. Also, we're always training younger partners and creating opportunities for them to serve in management.

Now, regarding how Phoenix fits into the national practice of Bowman and Brooke, we have very consistent practices for all of our offices. We're a trial firm, and we have a very heavy involvement in automotive product liability

defense. So the Phoenix practice mirrors the national practice with a couple of distinctions. We're one of the larger offices here in Phoenix, with about 40 lawyers. Some of our partners in Phoenix have a local presence in mediation practices and nursing home practices, but we're still recognized in this market as a product liability defense firm, with a focus on the automotive industry. Most of the plaintiffs in Arizona who are thinking of suing an auto manufacturer realize that they'll be dealing with us at some point.

**OC:** Obviously, your office has been successful in the Phoenix market in competing with some of the larger firms, Snell & Wilmer, Lewis & Roca, and recently you've seen some national firms enter the Arizona market. What is it like competing with the bigger firms, especially the huge national partnerships?

**PC:** Well Steve, let me address the question this way: My practice is national in scope. So I've been competing with these large national firms, as have my colleagues at Bowman and Brooke, on the national stage for the more than 20-year existence of our firm. I find that our clients hire lawyers more than they hire law firms, particularly when they hire trial lawyers. No one is going to stand up in court and say, "Hi, I'm a representative of Bowman and Brooke and I'm defending the ABC Auto Manufacturing Company." You say, in my case, "Hi, I'm Paul Cereghini and I represent my client, the ABC Auto Manufacturing Company." So in retaining lawyers, clients look at the individual and see what his or her background is and whether this person is the attorney they want to represent them.

Now of course you have to have the firm behind you that supplies all the resources and support that you need to effectively try major cases. Bowman and Brooke has that. We've been identified as a firm that has those resources for more than two decades. When other firms open offices in the markets that we're in, it really doesn't have an impact on us. Maybe I should be looking over my shoulder at the competition more, but I haven't seen a need for me to do that, nor have I seen a need for Bowman and Brooke to do that.

**OC:** You mention that clients look at attorneys' backgrounds, and I see from the bio on

your firm's Web site that you're proficient at dealing with technological issues and handling witnesses who are engineers and other experts in high-tech industries. You studied economics in undergraduate school, but how did you get the tech training that you needed to understand such complexities and talk the tech language?

**PC:** Math and science were two passions of mine. As a young lawyer, I had the chance to work for our automotive manufacturing clients, and since then I've been defending cases involving motorcycles, ATVs, helmets, and automobiles of all types. I've worked with these brilliant engineers who have designed, developed, and tested these products that I love. I'm an off-road motorcycle enthusiast. I ride ATVs and have always liked cars. So I've always had the interest and then began getting the education from many brilliant engineers. Over the course of two decades, you just learn the things that you need to know to defend automotive products.

This may go beyond your question, but as trial lawyer I want the jury to identify me as, first, the representative of my client, and they do. And, I also like the jury to see me as a true expert on all the important issues that are going to be addressed in the case. So when I pick a jury and present my opening statement and call witnesses and cross-examine witnesses, it's critically important that the jury trusts what I'm saying and truly knows the substantive areas that we're dealing with in the trial, whether that's vehicle handling and stability, or a design of a roof, or the bio-mechanical issues of how a neck injury or brain injury occurred, or knowledge of how the product's used in the market [or many other issues]. I want the jury to see me as someone who has done his homework and knows everything that I'm talking about.

### **Larger Percentage of Smaller Pool**

**OC:** How would you characterize the landscape of ATV litigation today? Because, while it's no asbestos-litigation phenomenon, it's been very active for many years. What's it like now?

**PC:** You know the ATV industry has done a remarkable job of defending its product. The ATV manufacturers have defended ATV cases very aggressively. They've sent a strong message

that there would be no easy money. They have tried cases to a verdict and have been quite successful in the results that they've obtained. Consequently, we've seen the number of ATV cases go down steadily. At the same time, the use of ATVs has gone up dramatically. Like with many products, as use increases so does the number of associated accidents.

Today we have more ATVs in use than ever before. Because of misuse by a relatively small number of people, we have a higher number of ATV-associated injuries than before, and yet ATV litigation has diminished.

With my own practice, I've been just as busy defending ATV cases as I was 10, 15 years ago. The reason is that, as the number of cases has decreased significantly, my geographic areas of responsibilities and the percentage of those cases that I'm defending have gone up. That is, I'm defending a much higher percentage of a much smaller pool of cases these days.

**OC:** What's the future for ATV litigation?

**PC:** Well, ATVs are now very widely accepted and understood products. Like automobiles, there will be accidents when the product's not used properly, and if someone's not wearing the proper safety gear, there will be injuries. I'd like to think that we have sent a strong and enduring message that these are good, strong products that can be well-defended in courts and that we represent an industry that will defend its products.

Now, as new products enter the market, they'll be tested by the plaintiffs' bar with lawsuits. The new entrants into the off-road market will have to defend their products from the initial onslaught of litigation the way that ATVs were defended. Through vigorous defense, however, these new off-road products will be able to attain the same results in court that we did for the ATV industry.

**OC:** I want to ask you a difficult question. You talked about ATV accidents, but it's not always an operator error that causes death or serious injury. Sometimes it is the manufacturer's fault. So my question is broad but in that vein: What do you say to people who ask you, "How can you do what you do and defend a corporation that might be at fault against an individual who's life

is ruined or a family who had a loved one killed?” That must come up, perhaps at a cocktail party when you tell someone what you do for a living. How do you respond when it does come up?

**PC:** Steve, that’s a good question, and it’s an area that I feel very strongly about. I feel tremendous empathy for the plaintiffs in the cases that I defend. I think that it’s important and the jury feels empathy as well. The circumstances of many of the accidents in the cases that I’ve taken to verdict are unfortunate. I do find that in these cases there are almost always human elements and decision-making that resulted in the accident. But nevertheless, the consequences are tragic in many instances. It’s important to realize that.

But we all benefit from the products that are out there that we use, particularly automobiles, motorcycles, ATVs. So if someone gets on one of these products, they use it improperly, they have an accident, and there’s an injury, I do understand the human side of that. I also understand the societal and the manufacturer’s viewpoint that these are very beneficial products that we want and need in the market. Obviously, our economy depends on the transportation industry and motor vehicles.

The recreational vehicle industry is very important, too. In some families, ATV riding is their principal recreational activity, and it might be the strongest tie in the relationships between parents and their children. These products can be driven safely with the proper training, operation and judgment.

At the end of the day, as an off-road vehicle enthusiast, I see that side of things that leads you to ask that question, and I want the jury to know that I’m empathetic. But my clients and I understand that with motor vehicles there is a shared responsibility that exists for the safety of the people riding in them or on them. The manufacturer can do only so much in providing a safe vehicle

and providing good instruction and warnings for the use of that vehicle.

More succinctly, let me say this: It’s important to be empathetic because the cases that I defend involve tragic circumstances. That said, I’ve always felt that I’m defending products that are well-made, safe, and defect-free.

## Cost-Efficiency for Detroit

**OC:** OK, thanks for your response. The US auto industry is in dire straits. No doubt, you’ve been following what’s been going on in Washington and Detroit. What is it like to be so closely associated with the auto industry during these very difficult times for the Big Three?

**PC:** They are difficult times. We like to think that we’ve always been cost-effective at Bowman and Brooke. Our clients have always tried to approach the litigation that they’re defending in the most cost-effective way. During these kind of economic times, our firm, and I’m sure our competitors and certainly our clients, looks at ways in which we can do things and achieve the same results that we’ve come to expect in an even more cost-effective way. So that process is on-going. But that would be occurring anyway because that is part of the business of defending litigation.

One of the effects for some of our clients has been reduced in-house staffing. Obviously, litigation can take on a life of its own, and it can create the same demands regardless of what the economic circumstances or the staffing of our clients might be. So certainly, as in-house resources are stretched thin by the current circumstances, there have been in some instances more demands placed on outside counsel to get the job done efficiently. We work hard to do that. ■

—Steven T. Taylor

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