

Product Liability Group Of The Year: Bowman And Brooke

By **Greg Ryan**

Law360, New York (January 09, 2013, 8:47 PM ET) -- In the span of a month, Bowman and Brooke LLP delivered two verdicts for Nissan Motor Co. Ltd. in two states over completely different alleged defects, showcasing the impressive depth that makes it one of Law360's Product Liability Practice Groups of the Year.

One of Bowman's victories for Nissan came in September in Nevada state court, in the first trial involving the automaker to center on a lack of rollover-curtain air bags, according to the firm. The plaintiff contended Nissan should have included the curtains as standard equipment in a 2006 Frontier Crew Cab pickup truck.

Managing partner Thomas Klein and two partners led the automaker to an unanimous defense verdict, successfully refuting the plaintiff's argument that the company knew inclusion of the curtains would have prevented the type of partial ejection that killed a passenger in the vehicle.

"That was a significant victory for not just Nissan but for the auto manufacturing industry, because the jury had a chance to consider these new allegations made by some members of the plaintiffs bar, and those allegations were rejected," executive managing partner Paul Cereghini said. "It sends a message."

One month later, the firm won another verdict for Nissan in California state court. The suit claimed the crankshaft position sensor in a 2005 Altima was defective, leading one plaintiff to suffer severe burns and internal bleeding and another to suffer hip and femur fractures, among other injuries.

Executive managing partner Mark Berry and the rest of the Bowman team faced a tough task, as following the accident, Nissan recalled the model at issue over crankshaft sensor problems. A plaintiffs expert testified that the sensor in the vehicle involved in the accident demonstrated the same signal issue as sensors tested during a Nissan investigation.

Based in part on an electrical engineer's picking apart of the plaintiffs' testing of the sensor, Bowman was able to convince the jury that the sensor did not cause the accident.

The victories illustrate the strength of the stable at Bowman, a 200-attorney firm that specializes in product liability, according to Cereghini.

"It demonstrates our capacity to try multiple trials, it demonstrates our very deep bench of first-chair product liability trial lawyers, and it demonstrates that we can try cases throughout the country in multiple jurisdictions," Cereghini said.

The firm has nine offices, covering nearly every region of the country, in Richmond, Va.; Columbia, S.C.; Detroit; Minneapolis; Dallas; Austin, Texas; Phoenix; San Jose, Calif.; and Los Angeles. It has tried cases in 48 states, according to Cereghini, with the only two holdouts being New Hampshire and Delaware.

"We'd give quite a deal to any product manufacturer who would give us the opportunity to try a case in those two places," Cereghini said.

Bowman's work over the past year was not limited to just one car manufacturer, of course. Its representation of American Honda Motor Co. in a suit in Montana over an all-terrain vehicle accident resulted in a mistrial in November. Cereghini was able to deadlock the jury as to Honda's liability, even though he was prevented from presenting evidence the plaintiff, who allegedly suffered a traumatic brain injury, was not wearing a helmet.

The firm also secured a verdict for Ford Motor Co. in May in Virginia state court, in a suit over unintended acceleration. Managing partner Sandra Giannone Ezell successfully argued the black box data in a 2006 Mercury Montego proved that during the crash the plaintiff had her foot on the accelerator — not the brake, as she claimed — and that application of the brake would have prevented the crash. The jury found Ford was not negligent and did not breach any implied warranty of merchantability or express warranty.

Bowman's product liability attorneys will tackle the issue of unintended acceleration on a larger stage in February, when a bellwether personal injury trial is scheduled to take place in the multidistrict litigation in California against Toyota Motor Corp. The firm serves as lead counsel to Toyota for all personal injury and wrongful death suits in the litigation, a role whose importance has only grown in importance now that economic loss claims have settled.

Though it is best known for its automotive work, Bowman is continuing to expand into other types of products cases. The firm avoided an unfavorable judgment for client Breg Inc. in July when a federal judge in Washington state declared a mistrial in a suit claiming a pain pump caused injury.

It is currently representing helmet maker Riddell Inc. in the concussion multidistrict litigation in Pennsylvania brought by former NFL players, where the company's dismissal motion on the issue of preemption is likely to be decided in 2013.

--Editing by Katherine Rautenberg.

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