

Product Liability Group of the Year: Bowman & Brooke

By Jeff Sistrunk

Law360, Los Angeles (January 21, 2016, 11:34 AM ET) -- Bowman & Brooke LLP helped Yamaha beat a nearly \$17 million claim regarding alleged defects in its Rhino off-road vehicle while also convincing a judge to reject class claims against Honda in litigation accusing the automaker of selling cars with defective power windows, landing the firm among Law360's Product Liability Groups of the Year.



Since its inception more than three decades ago as a two-office firm, Bowman & Brooke has grown into a national operation with 10 locations focusing solely on product liability defense for automakers, pharmaceutical companies, medical device companies and manufacturers in many other industries.

"Bowman and Brooke earned its reputation as a preeminent product liability trial firm through three decades of diligent work and success in defending product manufacturers," said firm Chairman Paul Cereghini. "We have deep experience defending high-visibility consolidated products litigation."

In one high-value case, Bowman & Brooke represented Yamaha in a coordinated proceeding in California involving its Rhino off-road vehicle. A state jury in March found in favor of Yamaha on a woman's \$16.7 million claim that defects in a Rhino in which she was a passenger caused an accident that resulted in the amputation of her right leg.

After a six-week trial, the jury delivered a unanimous verdict for Yamaha in the case brought by Elizabeth Ault-Smietana and her husband, Jayson Smietana, who alleged that the 2010 crash of their 2007 model year Rhino 660 SE vehicle was caused by stability problems inherent in the vehicle.

The verdict concluded the 11th and final case to go to trial in the mass tort over purported defects in the Rhino.

"We tried both the first and the last of the Yamaha-Rhino cases in the California [Judicial Council Coordinated Proceedings] consolidated litigation," Cereghini said. "It was very gratifying to do that,

personally and for our firm, and to achieve complete and unanimous defense verdicts for Yamaha in those cases."

A month after the Rhino verdict, a Bowman & Brooke team composed of Cereghini, Robert Wise, Ryan Nilsen and Marion Mauch convinced a California federal judge to shut down class claims against American Honda Motor Co. Inc. based on allegedly defective power windows in Honda vehicles. Honda faced significant potential liability because the claims involved eight different models spanning from 2000 to 2011.

U.S. District Judge Stephen V. Wilson found that plaintiffs' expert Stephen Batzer's testimony that the class vehicles share a common defect must be excluded because he did not conduct a scientifically valid study in order to reach that conclusion, and the plaintiffs failed to offer any other evidence to adequately support their theory of commonality. It was the second time class certification had been denied in the suit.

Bowman & Brooke is also serving as Honda's lead and national counsel as the automaker navigates a massive recall of Takata air bags, with managing partner Joel Smith playing a central role.

Smith is working on behalf of Honda to coordinate the Takata air bag recall, investigation and litigation. The air bags have been recalled worldwide because of a defect that car buyers claim is linked to the use of inexpensive but volatile ammonium nitrate that causes them to explode, particularly in humid conditions, sometimes spewing chemicals or spraying shrapnel at passengers.

While Bowman & Brooke's roots run deep in the automotive industry, the firm's success in product defense cases "has led to a very well-diversified products practice," Cereghini said. The firm has tried more than 800 cases in 48 states, Puerto Rico, Canada and the U.S. Virgin Islands, and boasts two dozen partners with trial experience in high-exposure matters.

"We handle cases involving on-road and off-road vehicles, pharmaceuticals, chemicals, medical devices, industrial equipment, consumer products and others," he said. "As far as the types of cases we handle, it runs the spectrum from individual personal injury and consumer cases to product-related class actions and consolidated litigation."

The diversity of Bowman & Brooke's practice is evidenced by its representation of helmet maker Riddell Inc. in multidistrict litigation over concussions.

In March, an Indiana federal judge struck class allegations in a suit claiming Riddell sold football helmets to colleges and universities that failed to protect NCAA athletes from head injuries, finding the class definition was overbroad.

U.S. District Judge Sarah Evans Barker agreed with Riddell that the class sought by two former college football players contained too many individualized questions relating to differing state laws and medical issues that would make identifying members difficult under the current definition.

Cereghini attributed Bowman & Brooke's successes in large part to the firm's hands-on approach to representing product manufacturers. More often than not, the firm's attorneys will use the products at issue themselves to become intimately familiar with their inner workings, he said.

"We learn everything there is to learn, so when we go to court, no one will understand the product, its

safety performance and benefits better than we do," Cereghini said. "We excel in explaining technical product-related issues to juries. Products have become more complex, and we've kept pace with our ability to effectively explain these complexities."

Bowman & Brooke puts a great deal of effort into developing its next generation of trial attorneys by focusing on what Cereghini called "core competencies" — strategy development, law and motion matters, investigation, discovery, case preparation, litigation coordination, every aspect of trial, and post-trial motions and appeals.

"We invest very heavily in developing the next generation of lawyers so they will be able to carry on our product defense practice at the highest level long into the future," Cereghini said.

--Additional reporting by Sindhu Sundar, Aebra Coe and Joe Van Acker. Editing by Rebecca Flanagan.

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