

Product Liability MVP: Bowman & Brooke's Joel Smith

By **Brandon Lowrey**

Law360, Los Angeles (November 19, 2015, 9:04 PM ET) -- Joel Smith, managing partner at **Bowman & Brooke LLP**, has been a central figure in two of the biggest product liability crises to hit the automotive industry in recent history, including Honda's handling of the massive recall over faulty Takata air bags, placing him among Law360's Product Liability MVPs.

Smith is working on behalf of Honda Motor Co. 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.

Smith appears before courts, regulators, legislators and company officials, and makes sure they and attorneys in every venue fully understand the facts and are on the same page.

"I've had the opportunity to work with some of the greatest minds in technical fields that you'd ever have the chance to work with," he told Law360 in a recent interview. "Some of the top crash scientists in the country. Some of the top propellant scientists in country. Some of the top software scientists."

He has to fully understand the product, how the product works, or how it doesn't. He has to delve into the product's history, and learn how it was built.

He likened the process to earning a post-graduate degree in a topic that would qualify him to teach a course on the crisis. And teach he does, to judges, company executives, company media-relations officials and others who face making decisions or statements pertaining to the crisis. He then works to develop strategies using the data.

His role is fairly unusual, in that it involves investigation, learning, teaching and storytelling on a large scale, he told Law360. In essence, it's Smith's job to become so well-versed in the most minute facts and science behind the crisis that he could answer virtually any question that could be asked in any venue.

MVP



Joel Smith
Bowman & Brooke

That information-gathering doesn't entail many shortcuts.

He interviews witnesses, visits experts, gathers documents and collects case materials. In 2015 alone, Smith has traveled more than 145,000 air miles on at least 149 different planes, including two trips to Japan, his firm told Law360.

And once he has the facts, he said he doesn't try to spin them. His goal is to drill down to the scientific truth underlying the crisis, both historically and in the field, so that decision-makers can respond effectively to protect customers.

Smith said more and more companies are turning to product liability litigators to get to the root of the issue when they're faced with a product crisis.

But he emphasized that he's just grease in the gears of a huge apparatus made up of many other talented attorneys and teams that make up an intricate crisis machine.

In the Takata crisis, National Highway Traffic Safety Administration officials said in October that the root cause of the air bags' defect remains unknown, but that it has identified the ammonium nitrate propellant as a potential factor.

In November, Honda vowed not to use air bag inflators made by Takata in new vehicles, saying in a statement that it reviewed millions of Takata internal documents and uncovered evidence that the Japanese parts maker "misrepresented and manipulated test data for certain airbag inflators."

Takata was hit in November with \$200 million in civil penalties, the largest imposed by the NHTSA. The manufacturer agreed to pay \$70 million as part of a settlement over a defect in its air bag inflator linked to eight deaths and the injuries to some 100 drivers and passengers.

As regulators and legislators delve into the issue, private parties have hit Takata and automakers including Honda with suits over the air bag parts.

Before taking on the Takata crisis, Smith was one of the lead attorneys defending Toyota in its unintended acceleration litigation over a four-year period.

"You've got to learn it well enough to teach it," he said. "That's the anxiety that builds inside you and makes you push for the detail you need," he said. "You know that one of these days you might be standing front of a jury, or in front of an MDL judge, or a client's regulator, [and] you've got to know it well enough to teach it to them."

"The last thing you want," he said, "is to have someone ask you a question that you can't answer."

--Additional reporting by Sindhu Sundar. Editing by Emily Kokoll.

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