

Product Liability MVP: Shook Hardy's William Geraghty

By **Brandon Lowrey**

Law360, Los Angeles (December 3, 2015, 6:18 PM ET) -- William Geraghty, a managing partner at Shook Hardy & Bacon LLP, has been the firm's tobacco trial ace in Florida, successfully defending Philip Morris USA Inc. in four back-to-back Engle progeny trials in the space of a year and earning a spot on Law360's 2015 list of product liability MVPs.

Unlike many of the attorneys involved in the seemingly endless stream of Engle progeny cases, Geraghty actually cut his teeth on the original class action, *Engle v. Liggett Group Inc.*

Geraghty was an associate when he began working on *Engle v. Liggett*. He joined Shook Hardy in 1998, after the firm bought the boutique he joined out of law school. He jumped into the *Engle v. Liggett* litigation, which ended when the Florida Supreme Court decertified a massive class of smokers in 2006 and overturned a \$145 billion verdict.

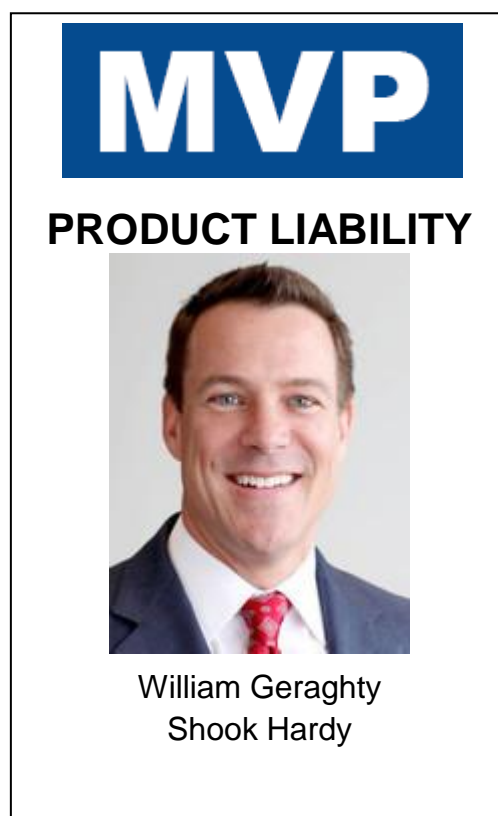
But the high court allowed up to 700,000 people who could have won judgments to rely on the jury's findings to file suits of their own. The resulting flood of cases has since been Geraghty's bread and butter.

"It was sort of like this crash course, if you will, on all things tobacco, and the history of tobacco," he said.

His familiarity with the issues has paid off. He has been lead counsel in 17 cases that went to trial over the past five years. Sometimes, he's assigned to try cases with just two to three months' notice.

Between October 2014 and October 2015, Geraghty won defense verdicts in four Engle progeny cases.

"For the defense lawyers, if you allow it to become a cookie cutter case, then you're in big trouble," he said. "That's a recipe for disaster when you're in my shoes. If you're going to win and you're going to win consistently from the defense side, you have to make each case different."



Geraghty's arguments in the cases focused on convincing jurors that even addicted smokers can quit, and that the smokers retain personal responsibility by deciding to smoke or continuing to smoke after knowing the risks. He also hones in on the hazy definition of addiction.

For instance, in *Collar v. R.J. Reynolds Tobacco Co. et al.*, Geraghty persuaded jurors that Fannie Collar, who lost a lung to cancer, wasn't a helpless victim of addiction, but actively chose to smoke.

"After all, look at Ms. Collar in 2006, when at the age of 72, after not smoking for 13 years, she begins [...] smoking cigarettes again," Geraghty told jurors during the trial. "She knew that she had lung cancer and COPD [chronic obstructive pulmonary disease] in 2006. But she chose to smoke anyway. And now she wants you to believe that she wouldn't have made that same decision back in the 1950s. The decision she makes in 2006 demonstrates that's not true."

In July, the jury returned a defense verdict in the \$15 million trial.

His recent wins also included two other Florida state court cases, including one involving a woman who died of a brain tumor and another involving a mother who died of COPD, along with a federal tobacco case.

Since 2009, he has won defense verdicts in 12 of 16 cases he brought to trial.

Geraghty said that he's fortunate to have the job he does, not to mention still slightly surprised.

He was an English major in college, and his worst subjects were math and science. And yet he now spends much of his time delving into medical reports and learning about different types of cancer and smoking-related diseases.

And as high-stakes trials become more rare, as most businesses tend to settle out of caution, product liability remains an area where trial lawyers can still shine.

It's all exciting, he says: The stress, the risk, the reward.

"To me, when I was a young lawyer, I was like, 'Hey, that's why I got into this,'" he said.

He added that Shook Hardy's acquisition of his former firm, which got him involved in the Engle class action, turned out to be his lucky break.

"Who knows how things would have turned out if that hadn't happened?" he said.

--Editing by Stephen Berg.