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DAILY BUSINESS REVIEW

**LEGAL & LITIGATION
DEPARTMENTS
OF THE YEAR**



2016



Shook, Hardy & Bacon
PRODUCTS LIABILITY

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Shook, Hardy & Bacon attorneys based in Miami have been extremely busy over the past year, notably handling high-profile products liability cases.

Shook, which defends Philip Morris, the country's largest cigarette manufacturer, has first chaired more of the company's Engle progeny trials than any other law firm since the first in 2009. Engle cases can be difficult to defend because the jury is instructed that cigarettes are defective and the tobacco industry was negligent and concealed material information about the dangers of cigarettes.

In 2015, Shook attorneys represented Philip Morris in 14 Engle progeny trials that reached verdicts in seven different federal or state courts in all parts of Florida.

Shook won verdicts for Philip Morris in five of those trials. Juries awarded punitive damages in five of Shook's losses, but the average amount of those final judgments was only about a third of the average judgment against other cigarette makers, Shook reported. The average punitive award against Philip Morris when a Shook attorney was first chair was \$2.9 million compared with \$7.3 million against the other companies.

Four of Shook's first-chair partners in Engle cases are based in Florida: Miami managing partner Bill Geraghty, Miami partners Ken Reilly and Frank Cruz-Alvarez, and



David Johnson, Hildy Sastre and William Geraghty

J. ALBERT DIAZ

Tampa managing partner Daniel Molony.

Shook attorneys also notched victories in cases brought against one of the nation's largest makers of pelvic mesh, which is used to treat urinary incontinence and pelvic organ prolapse. Boston Scientific Corp. faces more than 30,000 claims in state and federal courts and engaged Shook to lead its defense nationwide.

Shook won recent jury verdicts in cases brought in Missouri and North Carolina. The firm secured other defense judgments based on plaintiffs' failure to meet the statute of limitations and successfully represented Boston Scientific on appeal.

Shook also defended Stryker Corp. of Kalamazoo, Michigan, a pharmaceutical company and maker of medical devices. Shook won summary judgments in two cases where plaintiffs claimed failures of Stryker products — a prosthetic knee and a screw inserted during back surgery. And Shook attorneys won dismissal of another complaint against a Stryker-produced knee system after a surgeon called to testify rebutted the plaintiff's claims.

In a Florida case that did not involve product liability, Shook attorneys defended another large pharmaceutical company, Pfizer Inc. Pharmacist Peter Del

Toro and his compounding pharmacy, Treasure Coast Specialty Pharmacy of Jensen Beach, sued Pfizer for over \$3 billion in compensatory and punitive damages. Del Toro had been the target a state and federal effort to combat illegal distribution of prescription drugs, including steroids, hormones and oxycodone. His inventory was seized. Del Toro claimed Pfizer, in an effort to stifle competition, had provoked the shutdown of his business.

Shook attorneys persuaded Del Toro to dismiss the case with prejudice in exchange for Pfizer agreeing not to seek fees and costs.

SHOOK
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