

GCs Name Favorite Product Liability Attorneys

By **Joe Van Acker**

Law360, New York (February 7, 2016, 3:30 PM ET) -- The world of product liability has become more and more complex for companies due to truly globalized supply chains and customers' shifting needs, but seven standout attorneys have stepped up to the challenge, earning recognition in a recent report based on opinions from general counsel.

Following BTI Consulting Group's release of its 2016 BTI Client Service All-Stars report, founder and President Michael B. Rynowecer told Law360 that companies are selling their products in more markets than ever, exposing them to greater risk and greater expense. He said that makes having a solid strategy — and excellent counsel — more important than ever.

“Whenever you have something increasing in importance and increasing in exposure, you automatically need more strategy and more counsel, because the bigger the risk, the more brain power you want to throw at it,” he said.

According to general counsel polled by BTI, these product liability pros embodied that brain power better than anyone else in the business:

Shook Hardy & Bacon LLP's William P. Geraghty and Kenneth J. Reilly



William P. Geraghty



Kenneth J. Reilly

Shook Hardy landed not one, but two partners on BTI's list of product liability all-stars, a unique feat for the 2016 report.

Operating out of their firm's Miami office, Geraghty and Reilly focus much of their practice on Engle progeny cases against Philip Morris USA Inc., which Geraghty successfully defended in four consecutive trials last year, netting an MVP designation from Law360 in the process.

Geraghty said in an interview that the results of those suits can be particularly difficult to predict, and added that his clients can often start off at a disadvantage despite having more resources available, since companies want to avoid lawsuits, meaning plaintiffs attorneys often have more experience.

"There's a culture today where people are suspicious of big companies and their motives, so plaintiffs lawyers don't need a whole lot of evidence to convince people that a company was negligent," he said. "So you've got to get ahead of that and figure out what's the visceral thing that's going to resonate with a jury."

Miles & Stockbridge PC's Timothy L. Mullin Jr.

Mullin primarily represents manufacturers in cases involving fires, burns and electrocutions, and spends a significant amount of his time advising clients about complying with regulations handed down by the U.S. Consumer Product Safety Commission.

He said that the agency has become increasingly aggressive, but isn't as transparent about its standards as it should be, making it extremely important for his clients — including Stanley Black & Decker Inc. in litigation over its coffee makers — to develop compliance programs before problems emerge.

"Product safety issues that might lead to a recall are true business emergencies," he said. "When you discover a business emergency, that's the wrong time to try and figure out how you're going to deal with it. You need to have a plan in advance for dealing with a business emergency."

Lavin O'Neil Cedrone & DiSipio's Wayne A. Graver

Graver was able to earn not only an all-star recognition by BTI for the third consecutive year, but also a coveted MVP designation, which only 20 percent of recognized attorneys are able to achieve two years in a row, according to the organization.

He told Law360 that 2015 was mostly about settlements for his practice, including a "modest," confidential deal he reached on behalf of a Japanese manufacturer facing claims in the wake of an explosion at a zinc-processing plant in Pennsylvania.

Graver said that one of the keys to his success has been reaching out to plaintiffs to consider a settlement early on in litigation, which provides a lot of value for his clients whether or not the discussions are successful.

"We have recommended that in many of our cases, and a lot of clients have bought into that process because they see it as a means to try to cut through the nonsense and a lot of the expenditures that often go with litigation," Graver said.

DLA Piper LLP's James M. Brogan

Brogan handles commercial disputes, toxic torts and catastrophic-injury claims against domestic and European clients, and co-chairs the firm's U.S. litigation group.

Like others on BTI's list, he too recognizes the importance of a proactive approach to reduce risk, but told Law360 that he also advises his clients to prepare for discovery, which he said can be an extremely costly distraction for companies that are unprepared.

Perhaps more important, though, is his commitment to understanding the science surrounding his clients' various products, primarily consisting of auto parts and outdoor power equipment.

"The bottom line is working with the client to completely understand the product and the science behind the product gives you the ability to effectively prepare for the theories of liability that plaintiffs come up with," Brogan said. "I've found that sometimes, lawyers are afraid to really dig into the nuts and bolts and the science of a product."

Frost Brown Todd LLC's Nicholas C. Pappas

The chair of his firm's product liability practice group, Pappas has helped a mining company escape product-defect allegations related to an amputated leg and rescued Rolls Royce Corp. from a wrongful death case, racking up successful defense verdicts in Alabama, Iowa, Kentucky, South Dakota, Wisconsin and Indiana, where he is based.

He currently represents Toyota Motor Corp. in multidistrict litigation over alleged defects resulting in unintended acceleration and CNH Industrial America LLC in a farm's suit claiming the company's combine sparked a large fire.

Pappas told Law360 that he was honored to be on BTI's list, and said that his recent representation of a mining products manufacturer was a great example of why he has worked on product liability cases for more than 25 years.

"We defended the design of a high wall mining system used to mine coal at a surface coal mine," Pappas explained. "As I reflected on the case after winning a defense verdict, it reminded me how much I enjoy working with the talented engineers who design the products we defend, and how much fun it is learning the intricacies of how the products we defend work."

Quinn Emanuel Urquhart & Sullivan LLP's Faith E. Gay

Though product liability and mass torts are just one of several practice areas in which Gay works, she has represented many leaders in their respective industries in those cases, including Colgate-Palmolive Co., Coca-Cola Co. and Cisco Systems Inc.

In October, she and a team of other attorneys defending Novartis AG reached a \$390 million settlement in a whistleblower's suit accusing the company of paying kickbacks to pharmacies to boost sales of several drugs, avoiding a potential payout of \$3.35 billion to the U.S. Department of Justice and others.

Reinhart Boerner Van Deuren SC's Allen C. Schlinsog Jr.

Schlinsog chairs not only Reinhart Boerner's litigation practice in Chicago, but also its product liability and safety practice groups, and focuses primarily on the mining and pharmaceutical medical device industries.

His firm says that Schlinsog's clients rely on him to guide them through catastrophic injury, class action

and mass tort cases, including cases attributing fatalities to defects in forklifts and aircraft, and claims that a truck manufacturer made vehicles that produced toxic diesel exhaust.

--Additional reporting by Sindhu Sundar, Brandon Lowrey, Steven Trader and Jeff Overley. Editing by Philip Shea.

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