

Automotive Group Of The Year: Bowman And Brooke

By **Dean Seal**

Law360 (February 22, 2019, 4:05 PM EST) -- Bowman and Brooke LLP guided Honda through issues related to the Takata airbag litigation on multiple fronts and scored a variety of defense victories in individual cases against automakers, earning the firm a spot among Law360's 2018 Automotive Groups of the Year.

According to executive managing partner Joel H. Smith, Bowman and Brooke, which served as Honda's lead product liability and technical counsel in 2018, has been working with the automaker for more than 30 years. Bowman is currently defending Honda in litigation over vehicles equipped with dangerously defective Takata Corp. airbags — which can explode and have caused at least 11 deaths in Honda vehicles. The automaker has recalled almost 12 million Honda and Acura models over the airbags.

Bowman and Brooke has been called on to manage issues arising for Honda in Takata's bankruptcy proceedings, suits from state attorneys general and consumer class actions at the state and federal level, requiring the efforts of at least 20 of the firm's attorneys, according to Smith.

"It's been a very time-intensive effort," Smith said. "Probably over 10 percent of the law firm has been involved in this process."

In 2018, the firm secured a channeling injunction in Takata's bankruptcy proceedings as part of the Takata Airbag Tort Compensation Trust Fund, which was established as part of Takata's Chapter 11 reorganization plan to compensate victims who suffered a personal injury or wrongful death because of the defective airbags.

The injunction extinguishes Honda's liability for Takata airbag-related tort claims, which are directed to the trust. But Bowman and Brooke continues to represent Honda in three pending actions filed by attorney generals in New Mexico, Hawaii and Puerto Rico over alleged violations of each state's unfair trade practices statutes.

Bowman and Brooke is well known for its work in tackling product crisis situations, which have given it a prowess for handling a case like Honda's where there are "a number of theaters of battle," Smith said,



referring to litigation in multiple venues, inquiries from regulators and attention from the media and the public.

Every major automaker has looked to Bowman and Brooke for representation at some point, many of whom sought their counsel last year in facing an escalating cavalcade of lemon law actions. By the firm's count, more than 8,000 vehicle warranty claims were filed in California in 2018, nearly half of which came from Los Angeles County.

That's a dramatic uptick from when partner Brian Takahashi started doing this type of work in 1999.

"In the beginning I hardly had any cases and now every manufacturer is being sued hundreds of times," he said.

As California's Song-Beverly Consumer Warranty Act does not require claimants to go through arbitration, unlike lemon laws in every other state save for Massachusetts, vehicle warranty claims are inundating the Golden State's courts, Takahashi said, taking up resources and inviting a degree of gamesmanship from plaintiffs.

Until reform is enacted to quell the number of vehicle warranty claims, Bowman and Brooke has taken an aggressive strategy by evaluating cases quickly, serving either a Rule 68 offer in federal court or a CCP 998 offer in state court, and if the offer isn't taken, taking the case as far as it needs to go.

"If you roll over on everything, [plaintiffs] just keep filing lawsuits," Takahashi said. "There's got to be some credible deterrent; you have to be a credible threat and let the other side know you'll actually try the case if you have to — that's kind of our philosophy."

The firm's three offices in California took on nearly 1,500 of the warranty claims in 2018 on behalf of Aston Martin, BMW, Ferrari, Honda, Hyundai, Jaguar Land Rover, Kia, Nissan, Tesla and Volvo, with 16 defense victories across 20 total cases taken to trial.

Bowman and Brooke owes its leading position in the automotive practice area to the passion its associates have for "rolling up our sleeves and understanding the technical parts of cars," according to Takahashi, who himself has a degree in materials science.

In understanding what happened and why, Bowman and Brooke attorneys can break things down for fact finders through a more grounded lens of continuous improvement, rather than the "sky is falling" tenor usually adopted by plaintiff counsel, he added.

"We've always had the capacity, the interest and the know-how to simplify things for jurors," Takahashi said. "We have to understand it and we have to explain it to jurors, and I think we've done a good job doing that."

--Editing by Alyssa Miller.