

## Product Liability MVP: Bowman And Brooke's Vincent Galvin

By **Allison Grande**

*Law360, New York (November 18, 2013, 10:28 PM ET)* -- Bowman and Brooke LLP executive managing partner Vincent Galvin leveraged his ability to turn complicated automotive jargon into an aggressive and effective defense strategy, to help steer Toyota Motor Corp. to victory in the first bellwether trial in unintended-acceleration litigation against the company, earning him a spot among Law360's Product Liability MVPs.

As first-chair trial counsel, Galvin took the lead in guiding the Japanese automaker through the first of approximately 85 personal injury cases slated to be heard in California federal court, related to allegations that its cars and trucks experienced sudden unintended acceleration. The bellwether case, which was brought by the family of a 66-year-old woman who died in a multivehicle accident while driving a Camry, sought \$20 million in damages from Toyota.

Following two months of testimony and 4 1/2 days of deliberations, the jury on Oct. 10 returned a 9-3 verdict in favor of Toyota that rejected claims the 2006 Camry that Noriko Uno was driving was defective because it lacked a brake override system — an outcome that Galvin attributed to the strategy he and his team developed heading into the pivotal trial.

“The strategy going in is to be able to tell the story and make sure that the story and the facts are understandable and clear so that the jury can understand what happened or didn't happen,” Galvin told Law360. “In this case, we felt that we had to show with testing that the plaintiffs' story didn't make sense, that there was no problem with the vehicle and that the case was essentially made up, and that the concepts that she could get her foot stuck and the override system would stop the vehicle were not true.”

Bowman and Brooke executive managing partner and vice chairman Mark Berry — who served as second chair on the case and has worked with Galvin since they both arrived at the firm in 1991 — observed that it was not only the strategy developed by the team but also the fearless way that Galvin presented it that resulted in the favorable result for their client.

“He always focuses on what's the best strategy for a given case, even if it may be unconventional,” Berry said. “The Toyota case was the ultimate demonstration of his skill to be able to guide a case to a defense verdict in a very difficult jurisdiction, against very difficult plaintiffs counsel, in a case that presented a very sympathetic set of facts.”

Galvin and his team turned their full attention to the state court trial after another case they were

working on concerning an alleged unintended-acceleration defect involved in a single-car accident in Utah — which was slated to be the first suit to go to trial in the federal multidistrict unintended-acceleration litigation against Toyota — settled in February.

In the state court case tried in August, Toyota ran up against claims that the fatal crash occurred because driver Noriko Uno had gotten her foot stuck between the brake and gas pedals after being hit by another vehicle, causing the Camry to accelerate to speeds of over 80 mph and hit a tree, and that her life would have been saved if the car had been equipped with a brake override system that forces a vehicle engine into idle if the gas and brake pedals are pressed simultaneously.

But Galvin and his team countered that Uno's death was a case of pedal misapplication caused by "simple driver's error" and intensified by her pre-existing health conditions, and that testing showed that having a brake override system — which the manufacturer was not installing in any cars sold in the U.S. at the time of the 2009 accident — would not have stopped the car and that her foot could not have gotten stuck as her family described.

"One of the things that Vince did that demonstrated his willingness to go with an unconventional strategy was that from the jury selection through closing arguments, he was constantly on the attack against the plaintiffs' case, using the very simple repetitive theme that basically this is a made-up case," Berry said. "Some people might feel afraid to repetitively attack a very sympathetic scenario like this, but it was the right strategy for the case."

The approach resulted in the jury returning a verdict finding no design defects caused the Camry to suddenly accelerate. Instead, the jury awarded \$10 million in noneconomic damages to Uno's husband and son based on the negligence of the driver of the other car involved in the accident.

Transforming complicated concepts such as how a brake override system works into simple and understandable defenses that best fit the matter at hand has served Galvin well during the more than 30 product liability trials he has worked on since graduating from Santa Clara University School of Law in 1982.

Berry specifically recalled a successful trial that Galvin handled for General Motors Co. over allegedly defective airbags a decade ago, where Galvin rested after the plaintiffs' case without mounting a defense "because he thought he won during the plaintiffs' case." He also recalled advice that Galvin gave to him during one case they worked on together where Berry was attempting to explain the concept of kinetic energy to a jury in a very technical way.

"After I sat down, Vince said to me, 'Don't ever do that again. Explaining engineering formulas to a jury like that, you just lose them,'" Berry said.

And his knack for developing tailored litigation strategies will likely fair his clients, including Toyota, well in the future, as he and his team move on to the next trials in California as well as the federal MDL, in which there are still 150 cases pending.

"It's hard to speculate what impact the Uno case will have on the future of the remaining cases," Galvin said. "But having won it, it puts us in a position of understanding that we can take the case to trial and get our side of the case out there, and the jury will listen to it."

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