

## Most Feared Plaintiffs Firm: Susman Godfrey

By **Vin Gurrieri**

*Law360, New York (November 18, 2014, 5:36 PM ET)* -- Susman Godfrey LLP enhanced its already sterling reputation as a top-tier plaintiffs firm this year by helping consumers secure approval of a landmark billion-dollar settlement with Toyota Motor Corp. over unintended acceleration problems in vehicles.

In addition to the Toyota settlement, Susman Godfrey also helped LyondellBasell Industries NV investigate and recover more than \$75 million following a former employee's international kickback scheme involving oil shipping contracts, and it guided both New York city tour bus customers and Korean Airlines Co. Ltd. consumers to settlements in cases alleging inflated pricing of services, helping earn it a spot for the second consecutive year as one of Law360's Most Feared Plaintiffs Firms.

Firm founder Stephen D. Susman, himself just recently named one of Law360's Titans of the Plaintiffs Bar, says the firm's consistent success is due to the extensive trial experience and high quality of its attorneys.

"We have a firm with a strong and very deep bench of trial lawyers," Susman said. "Whoever [is] working on a case will be really good and experienced at working on trials."

The landmark Toyota deal, which U.S. District Judge James Selna approved July 19, 2013, was estimated by the plaintiffs to be \$1.6 billion — one of the largest monetary settlements ever involving automotive defect claims.

Although Toyota estimated the value of the settlement at \$1.1 billion, the plaintiffs' team had said the deal, which was reached on behalf of a class of approximately 22 million Toyota vehicle owners, included \$757 million in cash, \$875 million in nonmonetary benefits and \$30 million in education grants.

In approving the deal, Judge Selna called the settlement "extraordinary because every single dollar in the cash fund will go to claimants."

Susman Godfrey partner Marc Seltzer, a 2013 Law360 Class Action MVP who served as co-lead counsel for the consumer plaintiffs, said he was "very proud of the result achieved."

"The case was exceptionally complex, challenging and hard fought," Seltzer said. "The settlement was truly remarkable in many respects and was the result of a team effort by the co-lead counsel for

plaintiffs.”

Another big victory for the firm this year was its work representing LyondellBasell and one of its subsidiaries to investigate and ultimately recover losses that resulted from a kickback scheme perpetrated by a former employee.

LyondellBasell had hired the firm several years ago to conduct an internal investigation, which uncovered the scheme involving oil shipping contracts by former employee Jonathan Barnes.

The firm took a wide-ranging approach to the matter — filing civil claims against certain defendants, asserting presuit civil claims against other potential defendants, handling an associated insurance dispute on behalf of the company, and turning over relevant information of criminal conduct to the U.S. attorney's office, which later issued indictments.

In 2011, the U.S. Department of Justice reached a plea deal with Barnes, a former marine charter manager for LyondellBasell subsidiary Houston Refining LP, to plead guilty to numerous money laundering and fraud charges and pay \$82 million in restitution and forfeit more than \$8 million. Barnes was later sentenced by a Texas federal judge to seven years in prison.

The U.S. attorney's office was also able to obtain guilty pleas from two oil traders involved in the scheme, Bernard Langley and Clyde Meltzer. They were subsequently sentenced to four and five years in prison, respectively, and ordered to pay \$57 million in restitution as a result of their involvement.

After the sentences were handed down, the Susman Godfrey team working the case also brought civil claims in two cases against Barnes and several companies that allegedly paid kickbacks to him in exchange for having shipping contracts steered their way.

Within the past year, the cases were settled, and Susman Godfrey's work in the matter helped LyondellBasell ultimately recover just under \$76 million from all sources, including litigation settlements, insurance recovery and government seizures.

Led by Susman Godfrey partner Geoffrey L. Harrison, the team that worked the case also included partners Shawn L. Raymond and J. Hoke Peacock and associate Brian M. Gillett.

Harrison told Law360 that it was “fascinating” to help guide the company’s response to what he called an “intricate international kickback scheme.”

“It was enormously gratifying to help the company recovery nearly 100 percent of its losses and help the government put the bad guys behind bars,” Harrison said.

“We developed some mighty compelling liability evidence through depositions and through unconventional discovery techniques,” he added. “I’m confident the various groups of defendants chose to settle with us in large part because they sensed — and perhaps feared — our fervent desire to try this case and present to the jury a riveting story of high-stakes kickbacks, deception and greed.”

Jeffrey Kaplan, LyondellBasell's deputy general counsel, lauded both the work done by the Susman Godfrey litigation team on the company's behalf and the ability of the firm's attorneys.

“They thrived and enjoyed the multifaceted nature of the engagement; it didn't thwart them at all or

slow them down,” Kaplan said. “They relished looking at this from a 360 degree perspective.”

Kaplan also extolled the team's problem-solving abilities and its quest to make sure that the company's interests were protected in light of the how the criminal aspect of the case played out, adding that Harrison in particular was a “fabulous trial lawyer.”

In addition to those cases, Susman Godfrey in May also helped customers of a New York City tour bus joint venture of Coach USA Inc. and City Sights LLC obtain a \$19 million settlement, which put an end to the plaintiffs' antitrust claims that the collaboration between the bus competitors artificially inflated prices.

The joint venture, known as Twin America LLC, purportedly hiked fares in the tour bus market by 10 percent. A preliminary settlement in the consolidated class action was announced in May, with U.S. District Judge Andrew L. Carter issuing final approval for the deal about a month later. Judge Carter subsequently gave the settlement a final stamp of approval in October.

The firm's successes didn't stop there. It acted as co-lead counsel in helping airline passengers secure preliminary approval of a \$65 million settlement with Korean Airlines that included \$39 million in cash and \$26 million in travel coupons to end claims that the airline along with Asiana Airlines Inc. conspired to fix the price of air travel between the U.S. and Korea over an approximately seven-year period.

U.S. District Judge S. James Otero gave final approval to the settlement with Korean Air Lines in December. Asiana had already agreed to settle the lawsuit for \$21 million several years earlier.

Seltzer, who also led the Susman Godfrey team in this case, said the matter “presented difficult factual issues regarding proof of classwide impact and damages.”

“It was also necessary to overcome the inherent difficulties in litigating a case where most of the evidence was in a foreign language,” he said. “We ultimately obtained settlements which will provide very substantial benefits for the class.”

Further, the firm in August 2013 also helped score a favorable settlement for MicroUnity Systems Engineering Inc. with Apple Inc. and Samsung Electronics Co. Ltd. in a patent infringement suit alleging mobile devices made by the companies flouted patents covering media processor technology.

On the eve of trial, Apple and Samsung agreed to license the patents.

Susman, who worked on the case, said that about a third of the firm's cases on the plaintiffs side now involve patent infringement matters, an area in which the firm has grown.

After founding the firm in 1980, Susman was joined two years later by Lee Godfrey. In the ensuing decades, the firm has grown to include about 100 attorneys practicing across five offices in Houston, Dallas, New York, Seattle and Los Angeles.

The boutique firm has hung its hat on its specialization in handling only high-stakes litigation.

In working on such cases, the firm, according to Susman, believes in a philosophy of staffing cases leanly and “looking for the things that make a difference in the outcome of a case” without wasting time on inconsequential aspects.

Susman also said the firm only hires only attorneys who have clerked for federal judges or U.S. Supreme Court justices. Such an approach, according to Susman, gives the firm a deep roster of intelligent attorneys who possess an ability to carefully evaluate cases on the front end and see potential legal obstacles from the outset.

“When you hire the best, you attract others of like kind ... [and] by having better lawyers you make better decisions,” Susman said. “When someone [on the opposing side] sees us, they say, 'This is not going to be a pushover.'”

--Editing by Jeremy Barker and Chris Yates.

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