

LEGAL & LITIGATION DEPARTMENTS OF THE YEAR



GIBBONS P.C.

MASS TORT SUCCESSES HIGHLIGHT YEAR FOR GIBBONS

BY CHARLES TOUTANT

With more than 30 attorneys and team of nurse professionals, case managers, paraprofessionals and medical records clerks, Gibbons' products liability team is prepared to take on a wide range of litigation, as well as preventative counseling.

Last year, that leadership was demonstrated in the numerous cases involving prosthetic medical devices and related components made by Stryker Corp. and Howmedica Osteonics Corp. Gibbons' Kim Catullo, chair of the firm's products liability department, directly assisted with negotiation with a \$1 billion settlement of suits on behalf of people who underwent surgery to remove failed artificial hip joints. Led by Catullo, the firm represented Howmedica in multicounty litigation in Bergen County and in related federal litigation consolidated in Minnesota involving users of the company's ABG II and Rejuvenate hip joints.

Gibbons, as lead settlement counsel, negotiated a global settlement after a successful early mediation program. After the settlement was reached in late 2014, Gibbons continued to supervise the ensuing settlement program, which reached the significant milestone of 95 percent enrollment of registered eligible patients in June 2015.

Gibbons also serves as lead counsel for Howmedica in a centralized management litigation in Atlantic County relating to the company's Trident hip implant. In recent years, the firm has served as lead national counsel for Stryker and Howmedica on the issue of federal pre-emption of their pre-market approved devices based on the U.S. Supreme Court's 2008 decision in *Riegel v. Medtronic, Inc.*, briefing and arguing dispositive motions in federal and state courts nationwide.

Gibbons has also represented Hoffmann-La Roche Inc. and Roche Laboratories Inc. since 2003 in Accutane multi-county litigation in New Jersey. The litigation consists of thousands of cases alleging gastrointestinal effects related to use of Accutane, a prescription drug for treatment of acne.

The firm has seen a steady string of victories in Accutane litigation. In Spring 2015, Michelle Bufano (who recently left the firm) and Randy Gray were part of a team that obtained dismissal of 2,076 suits by users who claimed the drug caused them to develop Crohn's Disease. The cases were dismissed after the court granted Roche's motion to bar testimony of certain of plaintiffs' experts regarding a link between Accutane and Crohn's disease.

In May and July 2015, Bufano and Evan Harris submitted motions for summary judgment alleging that post-2002 Accutane labels were adequate as a matter of law. Finding the warnings adequate, the court dismissed 532 cases on this basis.

Bufano and Natalie Mantell won reversal of a \$26 million jury verdict in *McCarrell v. Hoffmann-La Roche* in the Appellate Division based on a finding that the case was time-barred under Alabama law.

Divided into three teams—pharmaceutical and medical device, laboratory defense, and general products—Gibbons' products liability practice has a structure designed to allow attorneys on each team to access dedicated insight into the particular products or services they are called on to defend.

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Left to right: Natalie H. Mantell, Paul E. Asfendis, Kim M. Catullo (Chair), and Philip W. Crawford of the Gibbons Products Liability Department.

Gibbons also represents Honeywell International Inc. as preferred counsel for products liability in New Jersey, defending it in numerous actions involving automotive parts, roofing products and household appliances. The firm also handles all of Honeywell's asbestos litigation in New Jersey related to automotive friction products made by the Bendix Corp., a predecessor company. Gibbons, led by Catullo and Ethan Stein, is a member of Honeywell's Bendix national trial team.

The docket includes cases involving allegations of serious medical conditions such as mesothelioma and lung cancer. Their defense requires extensive expert review in areas such as pulmonology, oncology, pathology, epidemiology and industrial hygiene.

Most of the Honeywell cases handled by Gibbons in New Jersey involve

plaintiffs who worked as automobile or truck mechanics, but other matters represent "shade-tree" mechanics who worked on their own cars, or those who were subject to secondary exposure—either working near others who handled asbestos, or through exposure from laundering clothes of family members who did brake changes.

In the current late stage of asbestos litigation, some plaintiffs alleged mixed types of exposures due to asbestos, but—due to bankruptcies by former thermal insulation manufacturers—have instead sued the few remaining solvent defendants, even though the degree of product exposure from the remaining defendants may have been an insignificant portion of the overall exposure, according to the firm.

In addition, Gibbons, led by Philip Crawford, is counsel to Sherwin Williams Co. in numerous ongoing asbestos litiga-

tions, and serves as regional counsel in New Jersey, New York, Delaware, Pennsylvania and Connecticut. Two members of the firm serve on the company's national deposition team.

Mantell is president-elect of the New Jersey Defense Association for 2016-17 and is in line to become president of the group in 2017-18. She was also named chair of the organization's Appellate Practice Committee in 2015.

Bufano serves on the Legal Advisory Board of the New Jersey Lawsuit Reform Alliance, a group of businesses, organizations and individuals advocating for legal reform in the legislature and the courts. As a member of the Legal Advisory Board, Bufano is a resource for the NJLRA in its efforts on behalf of New Jersey employers and citizens who raise concerns about the impact of lawsuit abuse on the state and its economy. ■

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