

Product Liability MVP: Jones Day's Stephanie Parker

By Juan Carlos Rodriguez



Stephanie Parker

Law360, New York (December 13, 2012, 3:39 PM ET) -- Jones Day partner Stephanie Parker's success in defending R.J. Reynolds Tobacco Co. in the first of nearly 4,500 federal cases that have sprung from the Florida Supreme Court's Engle decision has earned her a spot on Law360's list of Product Liability MVPs.

Parker said about 9,000 cases, about half in state courts and half in federal courts, were filed after the Florida Supreme Court overturned a \$145 billion verdict and decertified a class in *Engle v. Liggett Group Inc.* in 2006. In addition to being picked to lead the defense team in the first state cases, this year she got the nod to fill the same role at the federal level, winning the first case and obtaining an extremely low punitive damages award in another.

In *Gollihue v. R.J. Reynolds Tobacco Co.*, the first of the federal cases to make it to trial, Parker got a win for her client after presenting a medical defense based on the Engle jury finding that smoking cigarettes containing nicotine does not cause a specific form of lung cancer known as bronchioloalveolar carcinoma.

She shared credit for the victory with her team, saying the preparation for the case and discovery was top-notch.

"I have a great team who did a lot of depositions and worked with the experts. Right out of the chute, the prep we had done was at the highest level. So we went in there in very good shape, I thought," Parker said.

Another factor in getting the successful outcome was that the jury appeared to be sympathetic to the defense team's trial themes.

"Our primary case theme was that this particular smoker was well aware of the health risks of smoking, but made the decision as part of his lifestyle, that he wanted to smoke. And I thought that really resonated with the jury," said Parker, who majored in philosophy and religion.

Parker said her lack of a scientific background actually works in her clients' favor in cases like Gollihue where the outcome hinged on medical testimony.

“Once I understand what the doctors are saying, I can turn around and explain it in plain English in a way that is understandable to the jury, because they don’t have a scientific background, either,” she said.

In her second positive result for R.J. Reynolds this year, in James Smith v. R. J. Reynolds Tobacco Co., Parker wrangled a much lower punitive damages award than had been requested by the plaintiffs, who had asked for \$10 million in damages, plus punitive damages. The jury instead awarded \$330,000 and only \$20,000 punitively.

For Engle progeny cases where the jury awarded punitive damages, this was the smallest award, Parker said.

“That’s important because it’s an example of how to defend a punitive damages claim and how to get a good result when you have a punitive damages claim that goes to the jury,” she said.

She said her approach was to be very reasonable with the jury in terms of not making outlandish claims or getting too heated.

“I think we gained credibility with them. We were polite and respectful to the jury about their first verdict, the compensatory damages part. We thanked them and didn’t complain about it. We made sure to make clear it was a new ballgame. And I think that paid off in that there were no hard feelings that carried over,” she said.

Parker said her interest in product liability work was established in the earliest days of her career, when the judge she clerked for when she got out of law school gave her an opportunity to spend a lot of time in court observing proceedings.

“I really liked the products liability stuff,” she said. “It seemed like products liability litigation led to more trials than commercial litigation, where there are a lot of settlements, particularly last-minute settlements. And that’s what I really, really like, the jury work.”

After the clerkship ended in 1986, she began working in the area right away, she said.

Parker said much of her success is due to the time she spends working with younger lawyers and developing a great team to work with.

“My paralegal has been with me for 15 years. One of the lawyers that works with me has been with me about the same amount of time. So I have a lot of support,” she said.

She said she is aware of her strengths and weaknesses, but said that nothing takes the place of hard work.

“I always try to be the person in the courtroom who knows more about the case than anybody else. I know more about the facts than anybody else, I know more about the law than anybody else, no one is going to go to court and say, ‘What about this, or what about that,’ and I don’t know about it,” she said. “I work a lot of weekends, a lot of long hours. But I do that because it pays off.”

--Editing by Rebecca Flanagan.

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