Crossing Enemy Lines for the Best Counsel

BY DAVID RUBENSTEIN

THOMAS A. DEMETRIO, partner at Corboy & Demetrio in Chicago and victims' advocate who has won tens of millions of dollars for plaintiffs in airplane crash, automobile and work accident cases, is talking like one of "them."

"I think corporate America is terrific," he says. "Think of all the wonderful things society enjoys because of corporate America."

And, like a growing number of traditional personal injury attorneys, Demetrio says he has no problem representing a corporation "on the right case." Currently, he is in the midst of one: Chevron Chemical Co. v. General Electric Co., filed in federal district court in Chicago late last year.

Demetrio was retained by Chevron Chemical's assistant general counsel, J. Thomas Deal, who oversees litigation for the company. After the case had been brewing for some time, it became clear to Deal that if it went to trial it would involve a lot of documents and witnesses.

"So I started thinking plaintiffs' lawyer," he says, "because although I fight with plaintiffs' lawyers 99 percent of the time, I don't have anything against them, of course. They are just doing their job."

Chevron Chemical Co. is based in San Ramon, Calif., but the case involves Plexvent, a product made by the company's Plexco pipe division, which is headquartered in Bensenville, Ill., near Chicago. If the case does go to trial, company witnesses will be important, and for that reason, according to Deal, the decision was made to file in Chicago. Deal began looking for a Chicago-based PI attorney, and Demetrio's name kept coming up.

"So I called him, introduced myself, said that there were a number of people out there who recommended him highly, and asked him if he was interested in representing a major corporation rather than the usual underdog that he represents."

"It was a phone call out of the blue," says Demetrio, who at first responded as if he was not the one sitting in this chair, this case would have gone to a defense firm in Chicago."

"People around here look at me sort of skeptically," says J. Thomas Deal, assistant general counsel at Chevron Chemical Co. "If I were not the one sitting in this chair, this case would have gone to a defense firm in Chicago."
Chevron Chemical

more information so he could determine if the case was worth taking. After reviewing the material, he decided he was interested, and he and Deal worked out the details. At Demetrio's suggestion, Peter C. John, an experienced corporate litigator with Chicago-based Hedlund Hanley & John, was brought in as co-counsel.

A CORROSIVE ENVIRONMENT

Chevron Chemical is seeking damages in excess of $20 million in a case alleging fraud, deceptive business practices and breach of warranty. The matter could get a lot of attention because it touches on a burgeoning consumer issue: the potential for carbon monoxide in some northern climes is being raised. Fear of carbon monoxide in some northern climes is approaching hysteria, with $50 detectors provided a toll-free information number

The company then alerted distributors, provided a toll-free information number to distributors and consumers, and filed a report with the U.S. Consumer Products Safety Commission. Plexvent was banned in Canada, and in Ontario the government directed owners of heating systems with Plexvent exhaust systems to remove them. Chevron Chemical alleges its markets in Canada and the United States were destroyed, its reputation sullied and its warehouses choked with unsold product. Appliance manufacturers have withdrawn their approvals of Plexvent piping for their products, according to the complaint. Demetrio says Chevron Chemical may have to replace Plexco installations in Canada at a cost that could run as high as $85 million. The $20 million in damages specified in the complaint are "a floor," he says.

"Discovery is lawyer time," says Thomas A. Demetrio, partner with Corboy & Demetrio, "and lawyer time is not an expense."

"I'm not a rocket scientist, but I think I understand litigation fairly well," Deal says. "I understand the drivers in it, and I understand how defense firms treat plaintiffs' work. This is not the first time that Deal has retained a plaintiffs' lawyer. A few years ago, Deal hired an attorney who specialized in individual consumer actions against insurance companies to handle the company's bad-faith claim against one of its carriers. "They handled it, we got what we wanted, they got their 40 percent commission, and everybody went home," Deal says. But Deal now says his thinking has changed fundamentally, and that for any plaintiffs' work, he would look first to a plaintiffs' firm. "A plaintiffs' lawyer," he says, "knows in on what he needs to prove and how he is going to go about it, because that is how he makes his living."

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