

Rising Star: Crowell & Moring's Rebecca Baden Chaney

By Linda Chiem

Law360 (July 12, 2021, 3:02 PM EDT) -- Crowell & Moring LLP's Rebecca Baden Chaney secured a big win for auto parts supplier Dana Inc. in a high-stakes product defect trial conducted remotely before a London court, earning her a spot among the top transportation law practitioners under age 40 honored by Law360 as Rising Stars.

THE BIGGEST CASE OF HER CAREER, AND ITS CHALLENGES:

Chaney is a proven litigator and regulatory adviser who co-chairs Crowell & Moring's transportation practice, representing an array of clients in automotive, autonomous and electric vehicle and micromobility product development. In one of the biggest cases of her career, she served as lead counsel for U.S.-based Dana Inc., a Tier 1 auto parts supplier, in a high-stakes warranty and product defect dispute with German parts manufacturer Freudenberg Group.

More than a decade after Dana started supplying Jaguar Land Rover with rear axles for some of its luxury vehicles in 2003, the pinion seals made by Freudenberg that were installed on Dana's axles began to leak prematurely, according to Crowell & Moring. The pinion seal is designed to hold in oil, and prevent dirt and debris from entering the axle, to protect the vehicle's differential. From late 2013 to early 2016, Dana reimbursed Jaguar Land Rover for the cost of replacing 30,000 prematurely failing pinion seals. Dana was faced with massively high warranty obligations to Jaguar Land Rover topping \$15 million, and sued Freudenberg to recoup its warranty and contract losses as a result of the leaky pinion seals.

Three years of intense litigation culminated in a three-week trial in May before London's Technology and Construction Court that was held remotely via videoconference, with witnesses testifying from Shanghai, Germany, the U.K. and the U.S. On June 28, the London court ruled in Dana's favor, finding that Freudenberg had supplied defective pinion seals that caused Dana's losses and owed Dana the full amount of that loss under their contract. Dana was awarded £11,243,026 — or approximately \$15.6 million — in claimed losses and indemnity for future



**Rebecca Baden
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Age: 37
 Home base: Washington
 Position: Partner
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losses, according to Crowell & Moring.

"Many of these unique elements are what made it challenging even beyond the substance starting with a product defect dispute," Chaney told Law360. "It's not a suit amongst strangers. It's a lawsuit between commercial trading partners, so it necessarily involves commercial sensitivities surrounding that relationship."

"As a manufacturer that is committed to the highest-quality standards for its products, when these rear pinion seals began to fail at unacceptable rates, Dana stepped up to compensate its customer," Chaney continued. "Dana worked very hard and in good faith to try to investigate the problem with Freudenberg, and genuinely believed its part was not at fault for this concern. This is precisely what Dana has now proved. It is always a last resort to sue a supplier. Dana is very pleased with the high court's judgment."

THE BIGGEST OR MOST INTERESTING CASE SHE'S WORKED ON LATELY:

Chaney was also part of the Crowell & Moring team that successfully defended General Motors LLC in what was the first proposed nationwide class action against automakers over purportedly hackable cars.

The plaintiffs sued GM, Toyota Motor Corp. and Ford Motor Co., claiming that their cars' computers were vulnerable to hackers who could hypothetically wrest control of essential functions such as brakes and steering or invade drivers' personal privacy.

But in November 2015, the U.S. District Court for the Northern District of California shot down the claims in *Cahen v. Toyota Motor Corp.*, finding that the drivers had no standing to sue when they had no actual injuries and no credible risk of their cars being hacked. In December 2017, the Ninth Circuit affirmed the dismissal, saying the "plaintiffs do not allege that any of their vehicles have actually been hacked [and] more importantly, they do not allege that they are aware of any vehicles that have been hacked outside of controlled environments."

"There was no allegation that any plaintiff's car had been hacked, just a fear of speculative future harm that their cars could conceivably be hacked and therefore put these drivers at risk, which is on shaky legal ground, and the court agreed," Chaney explained.

"I think it sets an important precedent for these types of cases and to do so right at the outset," Chaney continued. "You can't say, 'I have a car, it's theoretically possible that some sophisticated bad actor could know how to hack that type of car and might happen to hack my car, and might happen to do that for some nefarious purpose and then use that to cause me harm.'"

HER PROUDEST MOMENT AS AN ATTORNEY:

Chaney told Law360 that she's particularly proud of her and her colleagues' work on a public interest case that Crowell & Moring oversaw in the Sixth Circuit and on remand before a Michigan district court involving the Hague Convention on the Civil Aspects of International Child Abduction, which is meant to protect children from the harmful effects of international abduction by a parent.

Chaney and the firm represented Julie Ann Neumann, an American mother who had been living in Mexico with her husband, Steven Michael Neumann, and their three children, but fled to the U.S. with her children after a traumatic domestic dispute in December 2014, according to court documents.

The U.S. District Court for the Eastern District of Michigan initially granted Steven Neumann's petition

to return the children to Mexico, on grounds that taking them across international borders had violated his custodial rights, but Crowell & Moring moved to have the Sixth Circuit stay that order pending an appeal. While it was pending, Steven Neumann's employer relocated him back to Michigan, and the Sixth Circuit remanded the case to the district court to consider his "material change of circumstance." The district court ultimately concluded that "in addition to proving by a preponderance of the evidence that the children genuinely object to return, Julie has proven by clear and convincing evidence that ordering return would expose the children to a grave risk of physical or psychological harm."

"I recall the argument was Dec. 1, 2016, and I was working straight through Thanksgiving preparing for the argument, which was just after my daughter turned 1 and so it hit so close to home trying to help this mother," Chaney said. "That made me so proud and it was so rewarding to be able to help a mother and her children to stay together and continue on a path to healing. By the time the case made its way through the courts, they'd been in Michigan for a couple of years and were rebuilding their lives there."

HOW HER PRACTICE OR THE LEGAL INDUSTRY WILL CHANGE IN THE NEXT 10 YEARS:

As transportation companies increasingly embrace emerging technology and the industry forges ahead in developing electric, self-driving or autonomous vehicles, or advanced mobility services, there will be plenty for practitioners like Chaney to grapple with as they help clients navigate the new landscape.

"There are elements of the transportation industry that will never change. Vehicles will always need to be safe and regulated, for example, and people will always need to get from Point A to Point B, but the ways in which people are getting from Point A to Point B are what's evolving," she said. "These developing technologies, as well enhanced accessibility of all modes of transportation, are going to reshape this industry over the next 10 years."

"One of the elements of my practice that I like is helping my clients to advance their businesses through legal strategies," she added. "There's more opportunity to be able to help them to do that when we're talking about the emerging technologies. ... To be able to work closely with clients who are facilitating that and who are at the forefront of developing them in the first instance and then making them more widely available, to me is really special."

— *As told to Linda Chiem*

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2021 Rising Stars winners after reviewing more than 1,400 submissions. Attorneys had to be under 40 as of April 30, 2021, to be eligible for this year's award. This interview has been edited and condensed.