The Connecticut Law Tribune Announces

Litigation Department of the Year

Ury & Moskow, LLC
Ury & Moskow has taken on some of the toughest names in the pharmaceutical and medical device industry — and recovered more than $100 million over the past 12 years in verdicts and settlements for its clients.

In 2012, it was part of a team that won $4 million in a federal court case in Connecticut for a client who claimed the hormone replacement drug Prempro, made by pharmaceutical giant Wyeth Inc., caused her breast cancer. That lawsuit involved three dozen lawyers from various firms. The team approach offers a good example of how the Fairfield-based firm has thrived despite having only eight attorneys.

In recognition of that success, Ury & Moskow has won the Law Tribune’s Litigation Department of the Year Award in the Product Liability/Mass Tort category.

“A typical [mass tort] case melds concepts from personal injury, products liability, medical malpractice, misrepresentation and even fraud,” said partner Neal Moskow, who heads the firm’s products liability and mass torts practice area. “The idea behind a mass tort is that there are a large number of people injured by a single cause, like a pharmaceutical product.”

Another key member of the Ury & Moskow team is Edward J. “Ted” Parr, who is based in Washington, D.C., and is a former associate general counsel of the U.S. Food & Drug Administration. The combination of Moskow’s years of trial experience and Parr’s regulatory background means the firm is often invited to participate in national mass torts litigation.

Name partner Fred Ury said Moskow and Parr have “helped many hundreds of clients recover compensation for harms caused by defective pharmaceutical and medical products. In so doing, they have established a national reputation for Ury & Moskow’s hard work and expertise in the mass tort arena. I tease Neal that
he deals with more lawyers in places like Pennsylvania, Texas, Florida and Illinois than in Connecticut — but it’s true. Not bad for a small Connecticut and Washington, D.C.-based firm!”

Ury is a part-time member of the mass torts team, along with attorneys Deborah Garskof and Patricia Welch. Moskow also cites paralegals Heather Cullen and Beth Allaire as key members. “Some mass tort litigations take years, and our paralegals’ rapport with our clients is crucial to maintaining good relationships,” he said.

**Individual Touch**

Like a class action suit, mass tort actions involve large numbers of claims resulting from a single product or accident. They have some commonality that allows them to be consolidated, and this saves on resources, ranging from expert testimony costs to discovery production. However, unlike a class action, each plaintiff is treated as an individual with respect to the degree of their damages. “Each and every client is entitled to his day in court,” Moskow said.

Over the years, Ury & Moskow has been involved in litigation involving a range of prescription drugs including Fen-Phen, Baycol, Vioxx, Ephedra, Trasylol, Actos and Pradaxa.

In the Trasylol case, Bayer Corp. marketed the drug that is used during open-heart bypass surgery to limit blood loss. The case centered on the drug’s alleged side-effects of causing kidney damage, kidney failure and death.

“There are [a number of] individual plaintiffs who had their own medical conditions, their own pre-existing conditions . . . but they all claimed the drug caused their kidney injuries,” Moskow said. Ury & Moskow appeared as counsel of record in nearly 300 Trasylol cases, more than any other firm in the country.

Mass tort litigation is generally too massive for one firm to handle. And so Ury & Moskow may be responsible for one part of the case in discovery — like product marketing or regulatory affairs — and review documents and depose witnesses on those limited issues. At the same time, 20 or 30 other law firms involved focus on liability, causation experts and and other parts of the case.

Despite the scope of these litigations, Moskow says it’s important to not lose the personal touch. He tries to go the extra mile to learn about clients’ medical histories, their struggles and their families. In March 2010, in preparation for the first scheduled trial in the Trasylol litigation, Moskow traveled to California to meet with a client who was on a kidney transplant list.

“I spent three days with her. I went to dialysis with her. I spent time with her family. I resolved to help her manage her settlement,” Moskow said. “That separates us from a lot of firms — we do have that personal contact with our clients.”

In the Prempro litigation, Moskow said they had eight cases “and we knew each of our clients personally. We tried two cases and resolved the others.”

Moskow said settlements are the norm in mass tort cases, as the pharmaceutical company defendants often agree to take the product off the market and make a monetary payment “while accepting some degree of liability.” Using Prempro as an example, he said, about 10,000 women claimed their breast cancer was caused by the drug, but only 23 cases have gone to trial.

**Being Selective**

Moskow is one of roughly 12 lawyers specializing in mass tort product liability nationwide. He has learned over the years to be highly selective in choosing cases; Moskow said he has seen cases his firm rejected later dismissed in court.

In determining whether a case is “trial worthy,” he makes sure the potential clients have documented exposure to the medication or medical device, and evidence that the medication or de-
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vice caused an injury serious enough to warrant the immense investment of resources to advance the case to trial.

Despite the firm’s success, Moskow is concerned about the future of such litigation.

“This is a scary time to be a mass tort lawyer,” Moscow said. “The U.S. Supreme Court has issued a series of rulings that have carefully circumscribed what types of cases can and cannot be advanced. The high court is currently considering the Bartlett case, which has the potential to clarify, complicate or drastically change the law governing pharmaceutical product liability claims.”

Asked how he feels about his legal niche, Moskow replied: “I love it.”

“First, it’s litigating at an extraordinarily high level — the stakes are high for everyone. And it weeds out lawyers who are dabbling. The lawyers who do this are gifted, talented and they’re civil — it’s more collegial.”

He enjoys the opportunity to work with lawyers from all over the country. “It’s a big world out there and you have people who have very different views,” he said. “Those views make us better lawyers. In a mass tort, you have lawyers from all over the country and they bring together different styles and experiences. It creates a better product than any firm could do on its own.”