

# LITIGATION DEPARTMENTS OF THE YEAR

IN-HOUSE IMPACT AWARDS

GAME CHANGERS

GIANT SLAYERS

GROUND BREAKERS

WEEK OF APRIL 27, 2015

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## PRODUCT LIABILITY



Steven Boranian



Michael Brown



David Stanley



Sonja Weissman



Thomas Yoo

## Reed Smith

**W**hen medical device and drug companies hit crisis mode—and we're talking nationwide class actions with thousands of plaintiffs—they call on Reed Smith.

Reed Smith's product liability department beat back three

major class or mass actions.

Partners Thomas Yoo and Melissa Geist in January 2014 resolved nearly 4,000 claims that Merck & Co.'s contraceptive product NuvaRing caused fatal blood clots, putting an end to more than four years of litigation. The company settled for \$100 million—far less than

other companies have doled out in similar suits over birth-control products. Bayer AG has paid \$1.6 billion to resolve similar suits over oral contraceptives Yaz and Yasmin.

The Reed Smith lawyers got that favorable settlement, Yoo said, because they refused to take things lying down.

## PRODUCT LIABILITY



“We took an accept-nothing-without-a-fight approach,” said Yoo. The defense team tried a set of 11 bellwether cases and racked up an 11-0 record.

“We did not want to play the game that is often played in mass tort litigation, which is the \$100 bill wrapped around 100 singles,” Yoo explained. “Plaintiffs go before the court and say, ‘we have so many lawsuits, and so there must be some merit to our allegations.’”

Yoo said his team proved with the bellwether cases that the plaintiffs’ inventory of claims in fact had little value.

The firm’s product liability team also defeated a class action against C.R. Bard Inc. seeking damages for medical monitoring in connection with the company’s inferior vena cava filters. Though some patients using the filters had reported injuries, the 13,000 plaintiffs who brought the case had not. Instead, their lawyers wanted Bard to pay for monitoring expenses

including regular imaging scans. A Los Angeles County Superior Court judge denied class certification.

More was at stake than just the scans for 13,000 people.

Had the judge certified the class, it could have opened the door to similar preemptive class actions against any manner of medical devices and drugs, said Michael Brown, co-leader of the firm’s product liability practice, who handled the case with partners Steven Boranian and James Martin. It also might have had consequences for other mass torts that Reed Smith is handling for Bard, including the Avaulta and Hernia Mesh multi-district litigations.

“It’s really important to not let that cat out of the bag, to start allowing rulings like that,” Brown said. “If you think about it, it could be applied to every implanted device. Or frankly, every prescription medication.”

Reed Smith also serves as national counsel to Glaxo-

SmithKline in an ongoing multi-plaintiff litigation in the Eastern District of Pennsylvania. The litigation sought compensation for 52 plaintiffs who suffered birth defects and were born to women who allegedly ingested the company’s morning sickness medications containing thalidomide while pregnant in the late 1950s and early 1960s.

Reed Smith partner Sonja Weissman said she couldn’t comment because some of the matters are pending. But her team won dismissal with prejudice in the first case it challenged on summary judgment last July, and since then has won summary judgment or forced the dismissal of about 20 of the matters. Weissman’s four-partner team includes Brown, Boranian and Kevin Lohman.

—Patience Haggin