

## Transportation Group Of The Year: Mayer Brown

By **Linda Chiem**

*Law360 (February 13, 2023, 2:02 PM EST)* -- Mayer Brown LLP helped General Motors LLC defeat a product defect action, notched a win for Alphabet Inc.'s autonomous vehicle unit Waymo LLC in a trade secrets battle and blocked a discriminatory truck-tolling program in Rhode Island, landing the firm a spot among Law360's Transportation Groups of the Year.

Amid ongoing pandemic recovery efforts, supply chain challenges and inflationary pressures, Mayer Brown's litigation, appellate, regulatory and transactional practice groups had a stellar year overseeing several major deals and notable courtroom victories for clients in aviation, trucking, rail, transit and other sectors.

Additionally, the approximately 100 lawyers on Mayer Brown's projects and infrastructure industry team negotiated unique public-private partnership deals and leveraged increased federal, state and local investment in highway, transit and other infrastructure projects.

Mayer Brown in September helped the commercial trucking industry triumph in a yearslong legal battle against a first-of-its-kind state truck tolling program in Rhode Island. Representing the American Trucking Associations and trucking companies Cumberland Farms Inc. and M&M Transport Services Inc., Mayer Brown successfully argued for a court order barring the state Department of Transportation from collecting tolls as part of its RhodeWorks program.

After a weekslong trial, U.S. District Judge William E. Smith agreed that the program violated the U.S. Constitution's commerce clause by only assessing tolls on large heavy-duty commercial trucks — most coming from out of state — at certain bridges along major corridors.

"It was relatively fact-intensive in terms of demonstrating proof that the tolling system was both designed to and had the effect of discriminating against out-of-state truckers," said Reginald Goeke, co-leader of Mayer Brown's litigation and dispute resolution, and commercial litigation practices. "That was pretty much a landmark decision for the industry because this was the first time that a state has tried to toll only trucks. And were they successful in the way that they structured it, it would likely have been replicated across the country and trucks would've ended up bearing the burden of most infrastructure. From the industry's perspective, it was a really critical win."

The firm also helped General Motors defeat a putative nationwide class action alleging that model year



2010 and 2011 Chevrolet Camaros had a malfunctioning passenger airbag indicator light that prevented the airbag from deploying in a crash.

A Minnesota federal judge in February 2022 granted GM's motion to dismiss the case, concluding that the plaintiffs failed to allege that GM had any presale knowledge of purported safety implications related to the alleged defect. According to Mayer Brown, it was a significant win, because plaintiffs attorneys across the country have sought to capitalize on various court rulings in highly publicized product liability cases involving the Takata airbags.

"The claim was that there was a passenger airbag indicator light malfunction, but then the plaintiffs never could say that it manifested in the decade or so that the defects supposedly existed in any actual vehicle," said John Nadolenco, litigator and managing partner of the firm's Los Angeles office.

In the GM case, Mayer Brown used similar arguments that the firm successfully raised in the U.S. Supreme Court's *Spokeo Inc. v. Robins*, the landmark 2016 ruling in which the justices held that class action plaintiffs must allege real-world injuries, rather than speculative ones.

"We made similar arguments [in *Spokeo*] where if it's been a decade and they can't actually allege a problem here, then this probably shouldn't be a federal case," Nadolenco said.

Also in early 2022, the firm helped Alphabet Inc.'s autonomous vehicle subsidiary Waymo LLC obtain a Sacramento County Superior Court ruling that prevented the California Department of Motor Vehicles from publicizing the company's safety data while a state court considered whether such information should be permanently withheld from public disclosures.

The judge granted Waymo's request for a preliminary injunction, which the California DMV did not oppose, to keep under wraps its "sensitive trade secret information and records." Mayer Brown successfully argued that the state's Public Records Act allows a company to shield trade secret information that, if revealed, would put it at a competitive disadvantage.

The firm has also maintained a robust practice of advising project financiers that are eager to kickstart major transportation and infrastructure modernization projects.

"There are a lot of things that are weighing on transactions, but I think what these and other transactions do is demonstrate the resilience of the market and the surging demand for transportation infrastructure and logistics," said Mitch Holzrichter, a Chicago-based partner in the firm's projects and infrastructure practice group. "Many of these projects are years in the making, but they're also benefiting from a real increase in the demand for the services that they provide to users and to the economy as a whole."

"We're seeing a convergence of both federal support, but also more enterprising investment figuring out how to make these deals — which are very capital intensive — affordable and pay off both for the investors and for the users," Holzrichter added.

In one notable example, Mayer Brown negotiated the financing for East Interchange Builders LLC, the selected developer of Georgia Department of Transportation's I-285/I-20 East Interchange Project in Dekalb County. The firm structured a design-build-finance deal for the project and got the deal closed ahead of schedule by summer 2022. The overall project calls for reconstructing ramps, adding so-called collector-distributor lanes and auxiliary lanes to improve traffic flow, speed and safety, also allowing for

including express lanes in the future.

"The state of Georgia has a very ambitious development plan for its highway system in the Atlanta area. This is one piece of that puzzle, but it's a critical piece," Holzrichter said. "What this project demonstrates is both the speed and efficiency that these projects can come to market, get to closing and get to construction."

--Editing by Steven Edelstone.

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