

Transportation Group Of The Year: Dykema Gossett

By **Linda Chiem**

Law360 (February 18, 2022, 2:02 PM EST) -- Dykema Gossett PLLC has built a top-tier practice representing global automakers and parts suppliers in high-stakes product liability litigation and advising leading developers of autonomous vehicle technology, earning the firm a spot among Law360's 2021 Transportation Groups of the Year.

With more than 100 attorneys across 12 offices in California, Illinois, Michigan, Minnesota, Texas and Washington, D.C., Dykema's automotive industry group represents major automotive companies and parts suppliers navigating consumer class actions, product liability litigation and an evolving regulatory landscape.

In one of the group's biggest trial wins of 2021, Dykema successfully defended Kia Motors America Inc. against allegations that faulty seat belts in a Kia Forte caused a passenger's traumatic injuries following a rollover accident. With more than \$100 million in damages at stake in the California Superior Court case, a Dykema team led by litigation partners Dommond Lonnie and Jim Feeney deftly navigated a two-month jury trial in Orange County amid strict COVID-19 pandemic protocols, highly technical evidence and a number of experts and witnesses who testified remotely from out of state or overseas.

The family of Kamiya Perry, a 23-year-old aspiring singer who had just released an album when she and her family were involved in a serious crash on April 21, 2019, alleged that Kia knew about a purported defect in the vehicle's passenger-side seat belt system. The family's attorneys argued in court that Kia designed the 2015 Forte model in such a way that the seat belt pre-tensioner on the "far side" of a side impact would not fire, resulting in Perry being slammed against the roof and causing her injuries.

Dykema asserted that the restraint systems complied with all applicable federal safety standards and that the system's design was not defective. Ultimately, the jury came back with a unanimous verdict clearing Kia Motors of liability in July. The jury answered no to three questions on Kia's liability: whether the seat belt design's risks outweighed its benefits, whether the Forte failed to perform as safely as an ordinary consumer would expect under foreseeable use and whether Kia negligently failed to recall the car.

Lonnie told Law360 that the plaintiff's theories of defect changed throughout the case, so "making sure you can think on your feet and think on the fly and really manage the issue" was crucial for the trial



team. Another challenge was explaining Kia's theory of what caused Perry's injuries in a manner a jury would understand.

"There was a lot of technical literature because this was a very unique defect claim that I don't believe has ever been brought before, certainly not in the state of California," he said. "The uniqueness of the claim is something that's a first impression, frankly. What would a jury expect because we had to deal with a consumer expectation test? And what would a jury actually expect the seatbelt to perform?"

Laura Baucus, director of the firm's automotive industry group, said that Dykema has these types of trial successes year after year.

"They're not one-offs. We have attorneys that have been in-house at [original equipment manufacturers] and Tier-1 [suppliers]. ... They literally know every aspect of the business, every expert, every engineer," she said. "And the results of that deep dive throughout their careers really shows for the current trial leads, as well as the next generation."

Beyond its robust trial and litigation work, Dykema has helped automotive industry clients weather supply-chain challenges and contend with newer issues tied to electric vehicle development or cybersecurity and data privacy.

Dykema has also been a major force in the fast-moving development of autonomous vehicle technology, representing just about every "pure-play autonomous vehicle provider" in the U.S. and negotiating first-of-their-kind deals and transactions between automakers, technology developers and suppliers, according to Mark Malven, the co-leader of Dykema's technology and outsourcing transactions practice team, as well as the firm's electric and autonomous vehicles and advanced mobility team.

"We had to bring in our product liability experts to come up with some creative ways to figure out how to manage and how to allocate risks and how to manage when there will be a claim," Malven said. "The parties need to work together because if they didn't, that would be disadvantageous to them. It took a lot of creative thought and negotiation to come up with a framework and plan to deal with that."

Malven added that Dykema has been extremely well-prepared for the growth of autonomous vehicle technology.

"We had both of the ingredients, 10 years ago or more, when Silicon Valley and the automotive world started to converge. We were set better than anybody with an incredibly substantial auto practice and technology practice," Malven said. "So my colleagues and I stand at the apex of that."

--Editing by Steven Edelstone.