

LITIGATION NOTE: Crowell & Moring Wins in English High Court for Dana UK Axle in Long-Running Breach of Contract Case

London – June 30, 2021: Crowell & Moring secured a win on behalf of Dana UK Axle in a High Court judgment that culminates more than three years of intense litigation and seven years of engagement between Dana UK Axle and Freudenberg Sealing Technologies. On June 28, London’s Technology and Construction Court issued its judgment finding fully in Dana’s favor and awarding all of the £11,243,026 claimed and an indemnity for future losses. The court will award the client interest on this judgment as well, which will be a substantial additional sum. Freudenberg will be ordered to pay Dana’s legal fees and expenses, the majority of which will be on an “indemnity” basis, and a £75,000 penalty for failing to accept an earlier Part 36 offer, which operates much like an offer of judgment in the U.S.

The original claim arose out of the premature failure of rear pinion seals for certain Jaguar Land Rover vehicles, which German-based Freudenberg supplied to Dana. Dana began incorporating the pinion seals into rear axles for various luxury JLR vehicles in 2003. Then, seals manufactured as of late 2013 started failing at extremely high rates. Between late 2013 and early 2016, Dana reimbursed JLR for the cost of replacing 30,000 prematurely failing pinion seals. Freudenberg denied liability and the Crowell & Moring team commenced High Court proceedings, asserting Freudenberg’s breach of contract for the supply of defective rear pinion seals. The trial began on May 4, during which the Crowell & Moring team raised the concern that Freudenberg’s experts may not have offered the independent expert opinions UK courts require. The team asked the court to exclude all three of Freudenberg’s technical experts, and in a ground-breaking decision, the court granted this request.

Following a three-week trial, the court issued a 65-page judgment overwhelmingly in Dana’s favor. The court found that Freudenberg had supplied defective pinion seals that caused Dana’s losses, and under the contract Dana advanced, owed Dana the full amount of that loss.

The Crowell & Moring team included UK partners [Nicola Phillips](#) and [Robert Weekes](#), counsel [Gordon McAllister](#), associate [David Russell](#), and U.S. partner [Rebecca Chaney](#).

The case is *Dana UK Axle Ltd. v Freudenberg FST GmbH* HT-2018-000046.

Contact: **An Pham**
Senior Communications Manager
+1 202.508.8740
apham@crowell.com