

Transportation Group Of The Year: Crowell & Moring

By Linda Chiem

Law360 (December 18, 2020, 5:54 PM EST) -- Crowell & Moring LLP helped airlines, railroads and shipping giants navigate the impacts of the coronavirus pandemic and advised automotive and other manufacturers that repurposed their factories to produce ventilators and other medical equipment, landing the firm among Law360's 2020 Transportation Groups of the Year.

The more than 75 attorneys in Crowell & Moring's transportation group have maintained the firm's dominance defending transportation companies in consumer class actions and antitrust and product liability litigation, while also grappling with an evolving regulatory landscape and a global health crisis that upended business operations for many clients.

Crowell & Moring was established more than 40 years ago as a transportation and government contracts law firm with a leading-edge aerospace and aviation practice, according to Scott L. Winkelman, head of the firm's transportation group. And the firm has leveraged that deep experience to help a number of clients — including General Motors, United Airlines, Honeywell, Dana Inc., CSX Transportation and others — confront the challenges of 2020 head on, in what Winkelman aptly described as the "year of the pivot."

"Fast-forward decades, [and] transportation really across the board is still very much in our DNA," Scott L. Winkelman, head of the firm's transportation group, told Law360. "In a world of COVID, in a world of digital, our clients are morphing on a regular basis, and they come to us because of four decades or so of experience with transportation and because we've pivoted with them before."

Crowell & Moring served as lead counsel to Honeywell, the aerospace and industrial equipment manufacturing giant, which ramped up production of N95 face masks, building filtration systems and ultraviolet cleaning technology in response to the COVID-19 pandemic. The firm advised Honeywell on evolving government contracting requirements with federal and state governments, and worked with the U.S. Food & Drug Administration and the Environmental Protection Agency to ensure the company's products were safe, effective and compliant for more widespread distribution.

"We partnered with them very early on when they were quickly trying to pivot, [and] we were working with them round the clock because the need and landscape of regulatory requirements were constantly



evolving and changing," Gail Zirkelbach, a partner in Crowell & Moring's government contracts and investigations groups, told Law360.

And thanks to the multidisciplinary working group of attorneys and advisers that the firm set up earlier this year — its coronavirus response team — the firm has bolstered its government contracting work. That trend will likely continue through 2021, Zirkelbach said.

"Because of what happened with COVID and what will continue to happen post-COVID ... you're finding more companies becoming government contractors in some way, shape or form and this includes traditional transportation companies," she said.

The firm also advised General Motors in the auto giant's collaboration with medical device maker Ventec Life Systems to manufacture thousands of ventilators — breathing machines for patients with respiratory problems — as overrun hospitals scrambled to combat the spread of COVID-19 during the early months of the U.S. outbreak. While GM and Ventec were getting ready to implement their plans, the Trump administration invoked the Defense Production Act in March to force General Motors to manufacture the breathing machines.

GM steadfastly worked through the various moving parts associated with the partnership, which involved leveraging GM's manufacturing supply-chain prowess to scale up production on Ventec's ventilators, the firm said.

"The GM team showed what it means to pivot this year and to serve their clients and country with professionalism and innovation and we're very proud to have worked with them on that," said April Ross, vice-chair of Crowell & Moring's mass tort, product, and consumer litigation group.

United Airlines, another firm client, also boosted its cleaning and disinfection procedures and went the extra step of producing its own hand sanitizer, which required securing FDA approval.

"As United was considering whether to make its own sanitizer in-house because of the sanitizer shortage, we provided United with guidance on applicable FDA approvals necessary," said Chahira Solh, head of Crowell & Moring's Orange County office and a partner in the firm's antitrust & competition group. "We were able to use our regulatory experience to help United come up with a solution, and help United implement yet another way that it could keep passengers safe along every step of their travels."

"The United Airlines in-house team demonstrated what it takes to navigate a crisis like this," Solh added. "They mounted a herculean effort to respond to a wide range of new challenges, and they were clear with us about what they expected of the firms that were going to be with them along the way. That communication helped us adapt to their needs even as things were changing so rapidly."

Crowell & Moring has also helped transportation companies go digital and has planted itself at the forefront of emerging technology such as self-driving or autonomous vehicles, unmanned aircraft systems or drones, electric scooters and other advanced mobility services. The firm advises on liability, risk management and other complex issues that can shift as safety regulators continue to fine-tune rules and guidance to keep up with fast-evolving transportation technologies.

"We're fortunate to have an array of terrific clients who are deeply embedded in the industry or who are startups," Winkelman said. "We have the great pleasure of both keeping them out of courts by making safe products and well-performing products, but also [working with] the relevant agencies to make sure

how they are building their engines, how they are labeling their products, conforms with rather old-fashioned regulations."

The adoption of new technologies will also drive new trends in litigation, and the firm has worked to bridge the gap between manufacturers' and consumers' understanding of how such technology fits into a highly regulated industry like transportation, Ross explained.

"What we're seeing is this pivoting to new technology focuses, but the core of our litigation practice still really remains the same, which is focused on consumer class actions on behalf of companies in the auto, rail and airlines industries," Ross said. "But it has also moved from what used to be personal injury type cases to more of the consumer protection, fraud or breach-of-warranty type cases."

--Editing by Peter Rozovsky.