



Bowman and Brooke lawyers and the Jaguar XKE that two partners drove in the Copperstate 1000. Left to right: Prithviraj (Raj) Sivananthan, Paul Cereghini, Richard Bowman, Barry Toone and Mary Dolores Guerra (both standing), John Leshinski III and Negatu Molla (both seated).

# The Defense Never Rests

BY TIM EIGO  
PHOTO BY JOHN BECKETT

If you hear a loud roar, that may be Bowman and Brooke revving the engine of its trial practice.

Longtime Arizona practitioners may not know Minneapolis-based Bowman and Brooke LLP well, but the firm aims to change that, through growth, community involvement—and by burnishing



its reputation as a trial lawyers' firm.

Growth in the Phoenix office has been steady. Over the past year, its lawyer ranks have grown from 12 to more than 30 in late 2003. Nationwide, the firm has six offices and almost 130 lawyers.

That growth has outpaced national trends, among large and midsize firms. According to the *National Law Journal*, growth at the country's 250 largest law firms through 2002

was just 3.7 percent. And as clients seek to consolidate their legal work in fewer firms, midsize firms may see work move toward their larger rivals. Focus on a distinct practice area may be a way to forestall client migration, as research by consultant Hildebrandt International shows. That focus—on trial practice—is what Bowman does.

How Bowman grows may be as interesting as its numbers. ►

## Cars and Courts

Bowman and Brooke is primarily known for its defense work in the automotive industry. Though the firm has added some practice areas recently to assist clients, it still would not describe itself as a full-service firm. Its bread and butter work remains automotive products liability.

That practice stems from a love of all things wheeled, says firm managing partner Richard Bowman. "We're really car buffs," he says with a smile. But, when pressed, firm lawyers admit they love motorcycles, all-terrain vehicles and snow-mobles, too.

They are car buffs in practice, as well. "We do more work for General Motors than any firm in the country," Bowman says. "Ditto Honda, Toyota, Nissan, Mazda, Subaru. And we're one of two or three top providers of legal service to Ford Motor Company. So we're car buffs in the sense that we supply more product liability defense work to the auto industry worldwide than any firm anywhere. We love cars. And we spend our lives in court talking about cars."

Even in relaxed conversation, Bowman and Brooke lawyers focus on cars and courts. When Paul Cereghini, Phoenix office managing partner, speaks of a recent case in which he defended Honda Motor Co., his exuberance and pride are evident.

Cereghini's enthusiasm for the technicalities—and theatricalities—of trial is striking. As Dick Bowman relates what went into the creation of a crash test to replicate an accident, he and Cereghini beam at the memory.

"This is a very complex test to run," says Cereghini, "and obviously a very expensive one."

"About \$50,000 before you buy the cars," adds Bowman with a smile.

That test, conducted on a special track, measured the crash to determine the possibility of injury. They had to get it right the first time, and the result was powerful.

"The jury got to see how severe the accident was," recalls Cereghini, "to hear the cars crash, witness the glass breaking, the metal bending. So many things happen in 150 milliseconds that you can't see with the naked eye."

Experienced trial lawyer Bowman knows that the crash test was well worth the expense: "When you see the jury wince, jump or go 'Ooh,' when the crash test is played, you know that you're connecting with them in a way that is pretty persuasive."

As the crash is played in a law office months later, a viewer recoils at the impact—even when he knows what's coming. Made evident is Cereghini's point—that the victim would not have fared better even in a newer, heavier car.

## Jury-Friendly

Crash tests may aid a case, but trying your case to a jury is where a lawyer shows his skill, Bowman and Brooke attorneys believe.

"We love juries," says Bowman. "We will not willingly try a case except to a jury; we always demand a jury. We like juries because you get 12 people. Judges are human, too; every judge has a bias or several biases. You just don't know what they are. And you don't get to select your judges; you don't get to perform voir dire [on them]. But you can ask those questions of juries."

Though corporate defendants are often described as being wary of juries, Bowman says that thinking is topsy-turvy.

"I represent Ford Motor Company," he says. "Now, they have more money than God. [I ask jurors] 'Is that going to

make it hard for you to sit in this trial and decide whether or not Ford has legal responsibility here? If you start out thinking just because we have a lot of money that we ought to pay, then maybe you wouldn't be a good juror here. How do you feel about it?'"

"People have become vulnerable in the presence of others about their feelings. And so when deliberations start, if somebody says, 'Y'know, Ford has more damn money than God, why don't we just find against them,' somebody can say, 'Wait a minute, you told counsel you were going to set that feeling aside, and don't we have to do that here?'"

Cereghini agrees. "Going to trial is a good time. It's what some of us exist to do. That's the pinnacle of this profession—to take your case to court, pick a jury and try it to a verdict."

Bowman, who helped found the firm, is dressed in a tailored suit capped by a vibrant tie and collar that make you sit up and take notice. A juror in one of Bowman's cases might be able to avoid looking at him—but only by a force of will. It's easy to believe Bowman when he says, "I'd rather cross-examine than eat. Hell, going to trial puts skip in our step."

## Transforming Discovery

But cases may be won or lost long before a jury is seated, and that understanding is what led the firm to hire partner Prithviraj (Raj) Sivanathan. To hear him speak of it, discovery is an art form rarely practiced with the skill and insight it deserves.

"Information is the strength of the practice," says Sivanathan. "Putting all the information together, figuring out who the players are, making it all come together so that you have a coherent and consistent way of defending the corporation in a man-

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ner that the corporation has a face to it. These are the people, this is what they do, this is how they design and manufacture their vehicles, this is how they are committed to excellence.”

In contrast, he says, the traditional approach to discovery responses does nothing to advance a case.

“[You want to] present to a judge the positive, affirmative story about what you did to make sure that your vehicle is safe and tested and well designed. Here’s your opportunity to do that, rather than ‘Objection, irrelevant. Objection, vague and ambiguous.’ Affirmatively use it as an opportunity to tell your story. Use it to be able to put your best foot forward.”

Bowman and Brooke’s approach is embodied in what Sivanathan calls his specialty, the design and implementation of international discovery programs. That specialty helps make more effective a case early assessment program. The program began in the mid-1990s, at the request of client General Motors. Dick Bowman describes it as simplicity itself.

“We will in 90 days find out 90 percent of everything that will be found out about this case. We will call the plaintiff’s lawyer, we will tell him about our program, we will tell them that we will evaluate this case in 90 days whether you participate or not. We would like you to cooperate. We would like to have a moratorium on formal discovery.

If you want something from us, we will send it to you, and you get stuff for us. Let us talk to your client informally, off the record. We will submit to our client anything that you want to give to us to cause them to think we should settle this case.”

“At the end of 90 days, we will set aside 30 days to exhaust a settlement dialogue. If the case doesn’t settle in those 30 days, we go off and do what we have to do. But we’ll at least have exhausted the likelihood that we can settle this case.”

Sivanathan develops and maintains the heart of the cases: information, gathered, databased and available. With that massive task accomplished, lawyers can advise the client about whether they have “a sick chicken or a fine product,” as Bowman puts it.

And, Sivanathan says, discovery provides more concrete benefits.

“It’s a very aggressive position. If you do discovery right, you put yourself in the most aggressive position that you honestly can. Because you can fight with a clean slate. At that point, the power is in your hands.”

The approach also alters the lawyer-client relationship, he says. Client and lawyer spend more time figuring out a common solution to the problem they face. “Most of what I do is consensus building.”

This approach also may contribute to professionalism with opposing counsel.

When asked if that’s the case, he says, “You betcha. This is exactly what every civilized practice of law should be striving toward. No more trial by ambush; let’s be civilized, professional lawyers. Let the better team win, but with all the information accessible.”

At least one plaintiffs’ attorney agrees. Adam Studnicki practices at Studnicki, Jaffe & Woods in Scottsdale. He represents injured plaintiffs in product liability and medical malpractice cases, and he has practiced opposite lawyers who now work at Bowman and Brooke. He says that those lawyers contribute to the firm’s already good reputation.

“It’s really a breath of fresh air,” says Studnicki, “to deal with people who fight hard for their clients but, at the end of the day, realize that there’s a bigger picture involved. You have to be nice to other people.”

## Lawyers and the Jury Pool

Winning cases and thriving as a firm take even more, says founder Bowman. Diversity, coupled with excellent trial lawyers, is vital when you take cases to jury.

“We need our trial teams to look like our juries,” says Bowman. “We recently counted noses, and over 22 percent of our law firm are persons of color. Indeed, we also are growing an ever-larger population of female trial lawyers. That’s as it should be.”

“Aside from being the right thing to do, it turns out to be professionally important for us to do.

Among some excellent recent additions, Bowman says, is Negatu Molla. A lawyer who is originally from the highlands of Ethiopia, Molla began his career with the United States Attorney’s Office in Milwaukee. While there, he tried more than 120 jury trials. That experience grew

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when he moved to law firms in Tucson. Over time, he saw he needed more support and resources. He joined Bowman and Brooke in 2003 because he “liked their trial record.”

Molla was impressed by the firm’s commitment to trial lawyering, but he is personally impressed by Dick Bowman’s commitment to diversity. He recalls Bowman’s efforts to introduce young lawyers to high-level automotive clients in the depths of a Detroit winter.

“I have never met anyone like Dick Bowman, at his level, who really goes out of his way to make it happen. I know for a fact that this is not going to affect his bottom line. He’s not doing it for himself; he’s at the pinnacle of his career. His income is in no way going to be affected by what one young black associate from one of the offices gets from [meeting] the manufacturers. For him to spend three or four days of his life dedicated to this, that impressed the hell out of me.”

Molla acknowledges that he is the only African American lawyer in the Phoenix office, but he is encouraged by the firm’s efforts and results. In comparison with Phoenix generally, Molla says, Bowman’s record is excellent. “It’s terrible how Arizona is doing [on diversity]. We’re looking, and we’re going to make it happen. But Arizona is just totally pathetic.”

## Knowing Your Town

Dick Bowman also knows that building ties to local communities is necessary to ensure that foundations run deep. So when they hire a lawyer with those connections, he says, they want the lawyer to keep nurturing them.

This year, associate John Leshinski III served as vice chair of the Copperstate 1000, a road rally through Arizona in vintage cars. The rally is sponsored by the Men’s Arts Council, a volunteer organiza-

tion of the Phoenix Art Museum. Leshinski’s own love of cars led to his involvement in the event (in 2004, Leshinski will be the event chair). And the firm, taken with the connection to cars and the ability to put down community roots, jumped at the opportunity to play a role.

So Paul Cereghini and Dick Bowman drove the rally in a black 1967 Jaguar XKE. The car was loaned to them courtesy of Leshinski’s father. In return, the firm made a donation to the charity of the owner’s choice—the local Girl Scout council. “This year,” says Leshinski, “the Jaguar is the poster car for the event.”

Community-building occurred in the office, too. Each firm employee received a pit crew jacket emblazoned with the firm name and the words “The Defense Never Rests.”

Associate Mary Dolores Guerra knows community action can affect neighborhoods. She started as a Bowman and Brooke associate in 2002. And she says the firm told her “We will do whatever it takes for you to maintain those ties in the community.” She is a board member with Chicanos Por La Causa, and she has been active with the State Bar Committee on Minorities and Women in the Law.

Guerra graduated as an older student; she has children and a grandchild. As such, she says, she looked for a place she could become a trial lawyer but also be part of a group she enjoyed.

When she interviewed with the firm, a partner asked her, “Are you choosing a place because of the people, or because of the work that you’ll be doing?”

“I thought that was a really cool question to ask,” she recalls, “because for me it is about the people.”

## Quality of Life

The people were also the draw for Barry

Toone, who came to Bowman and Brooke last May. There, he continues to do trial work for Ford.

When he looked at Bowman and Brooke, Toone says, he liked the prevalence of “first-chair quality” lawyers, which he says is rare. For Toone, not being in a full-service firm “has been a real plus.”

And he saw something else: “I looked across the pond, and quite frankly they had a younger group.”

“For me, [the question] was, ‘What kind of team will I be with 10 years from now?’” He said he thinks the firm’s future is “extraordinarily bright.”

Dick Bowman likes to describe his firm as one of “real trial lawyers.” Those are the people, he says, who get the best results, even when settling.

“Most people in most law firms don’t take cases to verdict, don’t know what our juries look like, and would be scared to death [to do so].”

“Ninety-five or 97 percent of all cases settle,” he says. “The only question is, On what terms? If you’re dealing with a lawyer that you know hasn’t been inside a courtroom since Fido was a pup, what are you gonna charge this guy for peace? It’s going to be more.”

But if you know it’s a trial lawyer, he says, “and he’d just as soon kick your hind end as look at you, and he doesn’t want to settle the case, because he likes to try cases, he actually thinks that’s good fun, you’re going to settle cheaper.”

But it’s more than good business for Bowman and others at the firm. As he describes his joy at driving on a manufacturer’s test track, his words serve equally well to describe his love of trial: “What we get to do is about as much fun as you can have with your clothes on.” ■