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Squeezing Lemons

Life after BigLaw leads attorney to lucrative, auto-oriented practice

By DOUGLAS S. MALAN

You know the saying, “When life hands you lemons...”

Stamford lawyer Sergei Lemberg wouldn't mind tagging that phrase with a solicitation to call his office.

That's because Lemberg, a 34-year-old BigLaw expatriate, is two years into a solo practice that thrives on standing toe-to-toe with Big Auto's lawyers and demanding justice for clients who have been stuck with subpar cars.

There are few Connecticut lawyers who handle loads of Lemon Law cases, but the practice area is becoming highly competitive on a national scale, Lemberg said. And it's a niche he never imagined filling when he practiced bankruptcy and corporate law in the shiny law offices of big-name firms in Stamford and New York.

He has since expanded with offices in New Jersey and Maryland, while hiring a lawyer to handle Lemon Law cases in Pennsylvania and the District of Columbia. Lemberg himself takes on cases from Connecticut, New York and Massachusetts, and his firm includes four lawyers and two paralegals.

“I felt cramped in the big firms. I wanted to practice law and make my own decisions,” Lemberg said of his years with Day Pitney and Mintz Levin. “Somewhere along the way, [young lawyers] lose faith in themselves and their ability to practice law, get results and do things their way. I felt the same way when I was with a firm.”

He sought out a specialty area on which to build a solo practice. He learned from a friend about an Atlanta attorney who carved out a good practice based on lemon laws, and Lemberg figured his interest in



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breach of warranty cases would provide a perfect match.

He started from scratch with no client base and found that his patience and empathy fit in well with his clients' plights.

"People who come to me are very desperate," Lemberg said, because they've often invested in a pricy vehicle that's just not working.

Mechanical Problems

In Connecticut, consumer protection comes from the state's Lemon Law, which was the first such legislation in the country when it was passed in 1982. It covers purchased and leased vehicles for the first two years after delivery or 24,000 miles.

A lemon is defined as a car, truck, van or motorcycle that has had the same mechanical problem repaired four times or has been out of service for repair at the dealership for a total of 30 days or more for any number of unrelated problems.

There also are federal and state warranty laws that protect consumers whose vehicles have exceeded the 2 years/24,000-mile threshold, Lemberg said.

Connecticut's Lemon Law protecting used car purchases, adopted in 1987, is based on the sales price. For example, if the vehicle sold for more than \$5,000, the dealer's warranty must last 60 days or 3,000 miles and must provide coverage for all parts and labor. The law does not apply to vehicles seven or more years old or vehicles with a cash purchase price of less than \$3,000.

Remedies include a replacement vehicle, refund of the contract price and reimbursement of any repair costs.

Lemberg's pay day comes courtesy of the federal Magnuson-Moss Warranty Act, enacted in 1975, which allows for the recovery of attorneys' fees, meaning he never has to charge his clients as long as his case selection process is true.

But it takes effort to collect on Lemon Law claims, Lemberg said, because auto manufacturers are loath to give in to the consumer.

"Most car manufacturers will not negotiate with consumers," Lemberg said.

Here's how the process tends to work, he said. Each car company has a resolution



center set up to handle complaints. The centers field thousands of calls, assign each one a reference number, do some research on the matter and then tell the consumer to go back to the dealership for a repair.

According to Lemberg, the auto manufacturers "know only a certain percentage of those callers are going to take it a step further."

And that's where the lawyer steps in. Anecdotally, Lemberg said only about 1 or 2 percent of the nation's car-buying public gets involved in a Lemon Law claim. Such cases, Lemberg estimated, generally take four months to resolve. Half of his cases end in a cash settlement to cover repair costs because the consumer has gotten the car fixed by the time the case has settled.

Twenty percent of Lemberg's cases involve clients getting replacement vehicles from the same car maker. The remaining 30 percent end with the manufacturer repurchasing the vehicle at the price the consumer paid originally. "[Auto manufacturers] don't like doing that," Lemberg said, "but we make them."

He added that certain companies tend to drag out claims negotiations. "Mercedes-Benz fights every case tooth and nail," he said, "and Volkswagen fights most cases."

Litigate Or Arbitrate?

Consumers unhappy with their cars can

go through an arbitration process run by the Department of Consumer Protection. But Lemberg advises clients against that route, and not only because he has a decreased chance of being awarded attorneys' fees by an arbitrator.

Consumers do not need a lawyer to arbitrate their cases and a majority of consumers do not retain one, according to the DCP. But the auto manufacturer will send counsel and expert witnesses to dispute the claim, Lemberg said. For a consumer, it can be an intimidating environment.

"One of my clients first decided he'd go to arbitration on his own," Lemberg recounted. "Then he saw the amount of papers filed by the other side and he got scared."

Lemberg prefers to file a lawsuit, which comes with full rights of discovery and the ability to depose the other side.

Last year, Lemberg handled 300 cases with half of them involving New York's Lemon Law and the remainder split between

Connecticut and Massachusetts.

For clients in Fairfield County and New York, he makes a point of personally meeting with them; otherwise, he maintains attorney-client relations via e-mail and telephone.

Many of his clients find him through a state-specific Lemon Law search online, which leads them to one of his web sites, www.lemonjustice.com. His four-person IT staff is updating the site to include Lemon Law information for all 50 states as Lemberg eyes a more national practice.

Countering the legal teams of billion-dollar auto manufacturers can be an intimidating challenge for a solo. He often has negotiated with Campbell, Campbell, Edwards & Conroy, which has offices throughout the Northeast, including Hartford, and serves as Ford Motor Co.'s product liability and Lemon Law counsel. He also has locked horns with the Rose Law Firm of Albany, N.Y., which has served as Chrysler's North American counsel.

But with his experience in upper echelon firms, Lemberg isn't rattled. Most of the opposition's legal work is done by mid-level and senior associates, lawyers just like him, he figures.

Still, it's a good feeling to go against the heavyweights as a solo, Lemberg said, and "it's an even better feeling to make them settle with you." ■

