

Plaintiffs Counsel, Schedule Set For Takata Air Bag MDL

By **Alex Wolf**

Law360, New York -- A Florida federal judge presiding over the [Takata Corp.](#) air bag multidistrict litigation ordered Tuesday that amended complaints be filed under a two-track structure — personal injury and economic damages — led by attorneys from [Podhurst Orseck PA](#), [Colson Hicks Eidson](#), [Boies Schiller & Flexner LLP](#) and [Power Rogers & Smith PC](#).

U.S. District Judge Federico A. Moreno had to select from a pool of attorneys from several high-profile firms that had **all sought a lead counsel position**, ultimately choosing Peter Prieto of Podhurst Orseck as chair lead counsel. Prieto will work alongside Curtis Miner of Colson Hicks, appointed lead counsel for the personal injury track, and Todd A. Smith of Power Rogers and David Boies of Boies Schiller, appointed co-lead counsels for the economic damages track.

The personal injury track will handle all actions brought by individual plaintiffs claiming injuries as a result of the defective air bags, and the economic damages track will include actions where economic damages without personal injuries are claimed, the order said.

Prieto, whose firm was the first to file a suit against Takata in the state of Florida, told Law360 on Tuesday, "I'm honored to have been chosen with the other experienced and very talented lawyers."

Prieto and the other members of the lead counsel will consult with and determine the particular pretrial duties of appointed members of a steering committee, who will serve both tracks as liaison counsel with federal agencies and with the numerous state courts handling air bag litigation.

For the steering committee, the judge selected James Cecchi from [Carella Byrne Cecchi Olstein Brody & Agnello PC](#), Elizabeth Cabraser of [Lieff Cabraser Heimann & Bernstein LLP](#) and Roland Tellis of [Baron & Budd PC](#).

The judge said more attorneys might be appointed to the steering committee if lead counsel determines there is a need, allowing Prieto to propose up to three additional members for approval from the court.

Smith told Law360 on Tuesday he was happy to be appointed and believes the team of attorneys chosen to lead the case are highly competent, calling it a substantial matter because Takata air bags have been installed in several million automobiles being recalled.

"I think it's wonderful that the judge saw fit to include our firm," Smith said. "It's an enormous undertaking, but I feel very comfortable that the firms appointed to positions of leadership are more than capable of handling this."

Lead counsels from both tracks have until April 30 to file amended complaints, each under one case name and number of any of the current pending federal cases against Takata in Florida.

Discovery on the underlying product liability cases for both tracks are ordered to be coordinated, but discovery on the personal injury damages that are unrelated to the product liability cases are to proceed with each individual attorney representing individual plaintiffs without delay, the judge said. He added that at the end of the discovery process, barring summary judgment, those who allege personal injury should be severed and proceed to separate trials.

“Upon the filing of the two amended complaints in both tracks, 11 other cases shall be placed in 'civil suspense' and provisionally closed, with leave to reopen after all pre-trial proceedings have concluded,” the order said.

The judge said he expects the cases in both tracks to be tried in his district in early 2016, barring any appeal on class certification.

More than 17 million vehicles with Takata air bags have been recalled worldwide because of a defect that causes the bags to explode in humid conditions, with most of those recalls coming just in the past year, according to court papers. The plaintiffs allege that the automakers knew of the defect as early as 2008 but chose not to address it.

The defect in the air bags dates back to at least April 2000, and Takata became aware of it as early as 2001, but plaintiffs say the defect wasn't disclosed to federal regulators until 2008.

In early February, the U.S. Judicial Panel on Multidistrict Litigation [centralized five proposed class actions](#) in Florida federal court and appointed Judge Moreno to oversee the litigation.

Plaintiffs in the MDL are represented by Peter Prieto of Podhurst Orseck PA, Curtis Miner of Colson Hicks Eidson, David Boies of Boies Schiller & Flexner LLP, Todd A. Smith of Power Rogers & Smith PC as lead counsels and James Cecchi of Carella Byrne Cecchi Olstein Brody & Agnello PC, Elizabeth Cabraser of Lieff Cabraser Heimann & Bernstein LLP and Roland Tellis of Baron & Budd PC.

The case is In re: Takata Airbag Litigation, case number 2599, before the U.S. Judicial Panel on Multidistrict Litigation.

--Additional reporting by Kat Greene and Emily Field. Editing by Brian Baresch.