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Lawyers Vie for Lead Roles in Toyota Suits

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By DIONNE SEARCEY

Lawyers across the U.S. are jockeying for key roles in the litigation against Toyota Motor Corp., hoping to emerge as leaders from the scrum of those who have filed dozens of lawsuits.

The suits accuse Toyota of everything from fraud for not being public enough about its sudden-acceleration problems to having used allegedly shoddy electronics that caused fatalities. The volume is so large that a panel of judges will likely consolidate the claims into a handful of cases, legal experts say.



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Associated Press

Mark Lanier, known for Vioxx suits, is seeking a role in the Toyota cases.

Among the rewards of taking the lead in the suits: influence over the debate about Toyota's role in why some of its vehicles seem to accelerate on their own, a turn in the national spotlight and a potentially big payday from clients.

The first hearing by the body that will oversee the case consolidation, the U.S. Judicial Panel on Multidistrict Litigation, is set for March 25 in San Diego federal court.

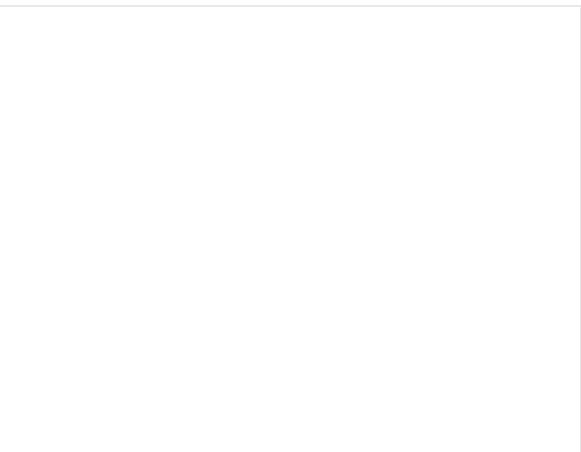
The hundreds of lawyers in the running have been forming cliques and building alliances through dinners, meetings and seminars. All the positioning has the air of a high-school election, according to several attorneys involved.

"If not a high-school election then it's at least like being voted most popular," said Mark Lanier, a Houston attorney whose firm has filed numerous suits against Toyota.

Mr. Lanier, who led litigation against Vioxx-maker Merck & Co. Inc. after some users of the pain medicine died of heart attacks, isn't shy about his desire to play a lead role in the Toyota suits. "Pick me, pick me," he said. "Vote for me for class president, please."

Toyota also seeks to have the cases combined into as few suits as possible, according to people familiar with the company's thinking. A company spokeswoman, Cindy Knight, declined to comment.

Juries have approved hundreds of millions of dollars in liability awards through the years for products ranging from tobacco to painkillers to cars. Judges or appellate courts sometimes



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reduce such awards, but corporations also can offer big settlements before cases reach a jury.

It is likely that more than 100 attorneys will descend on San Diego for the hearing next week, where only a few will be allotted no more than five minutes to make their pitch for the venue where they want their cases to be heard, according to attorneys who plan to attend.

Once a judge has been assigned, the attorneys will offer in a formal filing their experience handling similar suits and other reasons the judge should select them to lead the cases.

The attorneys who don't make the cut must pay fees into a common fund that will go to pay the key lawyers for representing the cases of those relegated to the sidelines.

Richard McCune, a Redlands, Calif., attorney, said he deserves a lead role because he has handled auto-defects litigation, some against Toyota, for the past 15 years.

"This is an important case that affects a lot of people," Mr. McCune said. "Anybody would be fooling with you if they said the financial equation doesn't play into it at all."

Louisiana personal-injury attorney Richard Arsenault is organizing a "Toyota Symposium" on the eve of the San Diego hearing with sessions led by attorneys for auto insurers, personal-injury attorneys, defense attorneys and others. Topics of sessions include "Liability issues: The Mechanical vs. Electronic Debate (From Ford to Toyota: Lessons Learned)."

Mr. Arsenault, who himself would like a key role in the suits, said several attorneys have called him to ask if they could appear on the agenda.

Two weeks ago, about 80 lawyers gathered at a Chicago hotel to talk about strategies for their suits, said Tim Howard, who is coordinating several dozen Toyota claims filed in 35 states.

Mr. Howard, a law professor at Northeastern University, said lawyers sometimes get sharp elbows when vying for a top spot in class-action suits. But he said the Chicago meeting was largely cordial. "We're creating our own Toyota plaintiff nation—a civil society," he said.

The suits include nearly 80 that seek class-action status, which mostly involve plaintiffs who say their Toyota cars and trucks have lost value in the wake of the company's recalls of more than eight million vehicles world-wide. They also involve personal-injury and wrongful-death suits.

The legal strategies by the attorneys are varied. Don Slavik, a one-time nuclear engineer who has sued Toyota over a fatal accident, is digging into the electrical system of the vehicles, alleging it is responsible for sudden unintended acceleration.

Toyota has maintained there is nothing wrong with its vehicles' electronics and has said that sticky accelerators or misplaced floor mats are to blame for sudden-acceleration reports.

Edgar Heiskell and Eric Snyder, representing the estate of Guadalupe Alberto, who was killed when her Camry accelerated out of control, obtained a key deposition from Christopher Santucci, Toyota's liaison to federal regulators that was cited repeatedly in congressional hearings and highlighted the close relationship between the company and regulators. The two lawyers are waiting for a judge to rule on whether they also can depose Toyota's two top executives in the U.S.

Other lawyers are focused on the words of Akio Toyoda, the head of Toyota, when he testified last month before a congressional committee. "As the CEO of the company, I will make sure

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that we will never, ever blame the customers going forward," Mr. Toyoda told lawmakers.

Todd Tracy, who filed several suits tied to sudden acceleration against Toyota, said he planned to refer to that remark in court if the company's lawyers try to blame his clients for their accidents.

"Here is the No. 1 person in Toyota telling Congress they won't do that," he said, adding that when he heard the remark he "almost fell over in my chair."

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