

WINNING | A SPECIAL REPORT

"I just show up in court and wing it," said no Winning Litigator—ever. But the lawyers in our special report bring more to the table than just meticulous preparation. They find new applications for decades-old laws. They take mind-numbing details and condense them into tidy bits of information. They strike the right balance of likability and decorum with fact-finders. They regroup and evaluate every step of the way. And when it's all over but the bill-paying, they end up with some very happy clients.



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BILL LEE AND MICHAEL SUMMERSGILL PARTNERS

Bill Lee and Michael Summersgill stuck with an overarching theme in their winning defense of Ford Motor Co. against patent plaintiffs seeking hundreds of millions of dollars.

"They were a failed product company trying to rewrite history," Summersgill said.

Plaintiffs Eagle Harbor Holdings LLC and predecessor company MediusTech LLC claimed Ford stole ideas related to collision avoidance and multiprocessor technology. They were attempting to apply ideas from the aircraft industry to cars, said Lee. "When they were unsuccessful, they started suing people," he said.

Ford filed a counterclaim that the plaintiffs and their chief executive Dan Preston had in



fact misappropriated Ford's trade secrets. The claim stemmed from a smoking-gun document the defense unearthed during discovery, Lee said.

The document was an email in which Preston said that "rewriting history by claiming [patenting] priority is fortunate." In March, a federal jury in Washington state found that Ford had not infringed four of the plaintiffs' patents and



that two of the five patent claims were invalid. It ruled for Ford on the trade-secrets questions.

Careful witness selection was another key to Ford's win. The team called Ford's now-retired chief technology officer Paul Mascarenas along with Ford engineers and suppliers, Summersgill said.

"The strategy they pursued at trial was a clear strategy," said lead plaintiffs' lawyer Parker Folse,

TRIAL TIPS

- "Be simple clear and concise in everything you do," Bill Lee said.
- "Witness preparation is critical. You cannot spend too much time preparing your witnesses," Lee said.
- "Have the right witnesses, in particular the fact witnesses," Michael Summersgill said.
- "Frame the case in the context of an overall theme," Summersgill said. "These patent cases are technical and complicated, with a huge amount of complex information for a jury to try to understand in a very short period of time."

a Seattle partner at Houston's Susman Godfrey.

—Sheri Qualters



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