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Behemoth Battles

LA firm Balaban and Spielberger specializes in bet-the-farm cases against opposing Goliaths.

By Eli Wolfe
Daily Journal Staff Writer

LOS ANGELES — Andrew Spielberger has been saddled with an 840-pound problem. A Los Angeles County Superior Court judge declared that his clients are the lawful owners of the Bahia Emerald — one of the largest known emeralds in the world. But he's currently battling the country of Brazil, where the emerald originated, which claims the gem was illegally mined and exported.

"I'm in a battle with Brazil — not some company, some insurance firm, some guy — it's Balaban and Spielberger versus the nation of Brazil," Spielberger said.

This in a nutshell describes the practice of the Los Angeles-based plaintiffs' firm Balaban & Spielberger LLP, which has built a practice around litigating daunting cases that other attorneys don't want to touch.

"We made a reputation, certainly at the beginning of our practice, to take cases that had been passed around town maybe once, twice, three times by other lawyers, and winning them," said co-founding partner Daniel Balaban. He and his partner usually take on bet-the-farm matters against well-funded corporate and government defendants, he said.

Since the firm opened in 2009, it has focused on personal injury matters involving pharmaceutical companies, medical devices, car manufacturers, toxic torts, dangerous road conditions, and sports. In November 2016, the firm secured a settlement from a loan broker in Pasadena who was facing a \$30.5 million judgment from a plaintiff homeowner.

"I think that's going to have a major ripple effect in the lending world," Balaban commented.

While the Bahia Emerald case made headlines in National Geo-



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From left, Andrew Spielberger and Daniel Balaban, who founded their Los Angeles plaintiffs' firm in 2009.

graphic and other international publications, the firm has handled several other high-profile cases with far-reaching consequences, including a medical negligence matter in 2014 that wound up in the California Supreme Court, which ruled that damages awarded after a trial cannot be reduced to conform with the \$250,000 cap set in place by the Medical Injury Compensation Reform Act, even if the pre-trial settlement exceeds the cap.

Robert Reback, a senior partner with Reback, McAndrews, Kjar, Warford & Stockalper LLP who faced Balaban & Spielberger in this case, didn't mince words about his frustration with the Supreme Court ruling, which made it easier for plaintiffs to gain larger damage awards under the act. But he also expressed admiration for Balaban's performance as a litigator during the trial and referred to him as a worthy adversary.

"He's very astute with and adroit about using audiovisual presentations," Reback said. "All of his key depositions are videotaped, and he uses snippets of [them] for actual presentations."

Browne Greene, a partner at Greene, Broillet & Wheeler LLP who has worked closely with both attorneys since before the inception of their firm, characterized Balaban and Spielberger as strategic risk-takers. He noted that his own firm sometimes refers them cases that are simply too difficult to handle.

"These are challenging cases that most lawyers are not going to take the risk on, and it's amazing what they've done," Greene said.

According to Balaban, the firm sometimes receives referrals that have been passed over several times by other attorneys because they promise paltry rewards. He cited the example of a medical malpractice matter involving a young boy whose penis was amputated during a circumcision. The referral lawyer was trying to acquire a settlement of \$29,999 — the maximum amount a doctor can pay without having to report the claim.

"We look at it, Andy and I, and figure out that it's more like a products liability case against the device that was used," Balaban commented. "The case came in as a medical malpractice issue where the

lawyer couldn't get 30 grand, and we end up getting the child about \$5 million [dollars] under a products liability fee."

In a separate matter, the firm represented a trucker whose rig had flown off a mountain pass and inflicted serious injuries on his legs. According to Balaban, the case appeared to be a dud: The truck's brakes were fine and there were no flaws in the road design of the mountain. But after a thorough investigation, the attorneys discovered that the truck's load of more than 20,000 pounds of flour was unsecured during the ride, which had shifted the weight of the truck and caused the driver to lose control.

Attorney Kenneth C. Ward, a partner at Archer Norris PLC who represented the flour mill involved in the trucking case, observed that Balaban was a formidable opponent in court.

"Dan is probably everything you'd want in a plaintiff attorney," Ward said. "He's smart, he's tenacious, he's a good cross-examiner, he's a good direct examiner. He knows how to try a case."

"At the same time, he's a nice person," Ward added, stressing the fact that unlike some litigators, Balaban was willing to accommodate the defense when small issues cropped up in trial. "He was a perfect gentleman and didn't take any cheap shots. He's the kind of lawyer that I like to try cases with."

Several attorneys boiled down their opinion of the duo to one word: integrity. Greene elaborated on this, observing that Balaban and Spielberger never skimp on services for their clients.

"They don't take shortcuts because it would be against the interest of the client," Greene said. "That's what the law requires and the State Bar talks about. It doesn't really happen that much, but they do it."