

Miller Canfield Automotive Attorneys Warn Suppliers at SAE World Congress

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Automotive suppliers should pay close attention to the newly promulgated regulations under the TREAD Act, which take effect on June 30, 2002. According to Brian Westenberg, automotive legal expert of the law firm **Miller, Canfield, Paddock, and Stone P.L.C.**, automotive suppliers could face criminal and civil liability if they fail to timely comply with the proposed "early warning" reporting requirements sought by NHTSA under the authority of the TREAD Act.

"It could have been worse for automotive suppliers," Westenberg reported at a presentation given at the SAE World Congress last week. "Originally, NHTSA was leaning toward imposing reporting requirements on suppliers that could have been extremely onerous. At the urging of manufacturers, it appears that NHTSA will ease-up on the suppliers. Nevertheless, the anticipated regulations could still burden suppliers with some significant monitoring and reporting requirements relating to component defects."

The TREAD Act was adopted by Congress in January, 2000, largely in response to the tire tread separation problems with the Bridgestone-Firestone tires on Ford SUVs. Under the TREAD Act, auto manufacturers are required to notify NHTSA within five days of a foreign safety recall and "customer satisfaction" program. Information relating to allegations of defect, including lawsuits, claims and warranty data must be maintained and, in some instances, reported to NHTSA on a quarterly basis. Companies who knowingly engage in "under-reporting" of defect allegations to NHTSA that involve death or injury may subject executives to prison sentences of up to fifteen years.

Westenberg also explained that, to assist the firm's automotive supplier clients, Miller Canfield's Automotive Industry Group is advising suppliers on their obligations under the TREAD Act's "early warning" requirements, the implications of such reporting on product liability litigation and how all of this impacts supplier relationships with OEMs.

Westenberg, who spoke on "Product Liability Associated with Automotive Embedded Software," was one of several lawyers from Miller Canfield's Automotive Industry group making featured presentations at the SAE World Congress. Other speakers included **Joseph Gustavus**, chairman of legal affairs for the SAE Embedded Systems and Software Group, who spoke on "Protecting Your Rights in Software Technology through Copyright Law." **Robert Roth**, a specialist in patent law, spoke on "Protecting Your Rights in Software Technology." Automotive industry experts **Rocque Lipford**, and **Stephen Ott** combined for a presentation on the "Legal Issues Surrounding the Roll Out of Drive by Wire Technology in the Automotive Industry."

Miller Canfield was the first major law firm to bring together its attorneys specializing in automotive clients and issues into a coordinated Automotive Industry Group. The Automotive Industry Group is comprised of 30 lawyers of various disciplines (e.g., product liability, environmental, international, etc.), each of whom specializes in representing automotive clients.

The Automotive Industry Group's ability to provide additional services was recently enhanced by a merger with the Windsor, Ontario, Canada law firm of Wilson Walker Hochberg Slopen LLP. Ontario has diverse manufacturing industries, and many American manufacturing companies, particularly auto suppliers, opened facilities in Canada when trade restrictions were lessened by the passing of the North American Free Trade Agreement in December 1992. Regional Detroit is the number one exporter of goods to NAFTA countries and the automotive industry represents over U.S. \$300

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million of trade every day.

Miller Canfield was recently named one of the best corporate law firms in the Detroit metropolitan area in a special 2001 issue of *Corporate Board Member* magazine.

The 300-attorney law firm of Miller, Canfield, Paddock and Stone, P.L.C. , established in Detroit, Michigan in 1852, has offices in Ann Arbor, Detroit, Grand Rapids, Howell, Kalamazoo, Lansing, Monroe, Troy, Washington, D.C., New York City, Pensacola, Florida, Windsor, Ontario, Canada, and in Gdynia, Katowice, and Warsaw, Poland. The internet address is www.millercanfield.com.