McCarter and Marquardt Address Unique Risk Profile of Electric Vehicles

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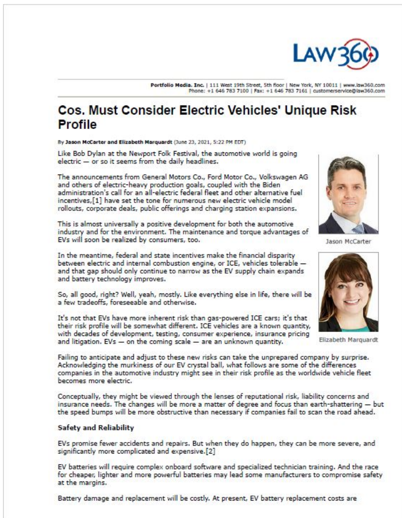
In their article published by *Law360*, Miller & Martin attorneys Jason McCarter and Elizabeth Marquardt cover some of the challenges and risks electric vehicle (EV) manufacturers, dealers and remarketers should consider in terms of reputation, liability and insurance as they travel down the novel road of alternatively-fueled vehicles and investments. The article sets out several risk-related tradeoffs that may be significant speedbumps to broad EV adoption and how players in the EV space can prepare to deal with these new threats including: safety and reliability, fires; battery life and disposal; environmental impact; supply chain gaps; cyber threats; insurance and liability; and litigation.



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Cos. Must Consider Electric Vehicles' Unique Risk Profile

By **Jason McCarter and Elizabeth Marquardt** (June 23, 2021, 5:22 PM EDT)

Like Bob Dylan at the Newport Folk Festival, the automotive world is going electric — or so it seems from the daily headlines.

The announcements from General Motors Co., Ford Motor Co., Volkswagen AG and others of electric-heavy production goals, coupled with the Biden administration's call for an all-electric federal fleet and other alternative fuel incentives,[1] have set the tone for numerous new electric vehicle model rollouts, corporate deals, public offerings and charging station expansions.

Jason McCarter

This is almost universally a positive development for both the automotive industry and for the environment. The maintenance and torque advantages of EVs will soon be realized by consumers, too.

In the meantime, federal and state incentives make the financial disparity between electric and internal combustion engine, or ICE, vehicles tolerable — and that gap should only continue to narrow as the EV supply chain expands and battery technology improves.

So, all good, right? Well, yeah, mostly. Like everything else in life, there will be a few tradeoffs, foreseeable and otherwise.

It's not that EVs have more inherent risk than gas-powered ICE cars; it's that their risk profile will be somewhat different. ICE vehicles are a known quantity, with decades of development, testing, consumer experience, insurance pricing and litigation. EVs — on the coming scale — are an unknown quantity.

Elizabeth Marquardt

Failing to anticipate and adjust to these new risks can take the unprepared company by surprise. Acknowledging the murkiness of our EV crystal ball, what follows are some of the differences companies in the automotive industry might see in their risk profile as the worldwide vehicle fleet becomes more electric.

Conceptually, they might be viewed through the lenses of reputational risk, liability concerns and insurance needs. The changes will be more a matter of degree and focus than earth-shattering — but the speed bumps will be more obstructive than necessary if companies fail to scan the road ahead.

Safety and Reliability

EVs promise fewer accidents and repairs. But when they do happen, they can be more severe, and significantly more complicated and expensive.[2]

EV batteries will require complex onboard software and specialized technician training. And the race for cheaper, lighter and more powerful batteries may lead some manufacturers to compromise safety at the margins.

Battery damage and replacement will be costly. At present, EV battery replacement costs are

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