

# A WINNING TRADITION

Harmonie law firms have a history of success in the one place it counts most – the courtroom.

Just a few of the cases that  
The Harmonie Group firms  
won in 2006. Details inside.

- *Flames doused in State Farm case*
- *Vehicular Lawsuit gets no traction*
- *AGFS "flipping" lawsuits sent packing*
- *Progressive Northern case quashed*
- *Defense verdict in Motorcycle Mix-up*
- *Car thief's Claim Dogged*
- *Caterpillar case bulldozed*
- *Casino owner Avoids Pay-out*
- *Doctor's negligence Lawsuit DOA*
- *Suit blocked for Basketball City*
- *Driver Steers Clear of damages*
- *Claim Squashed in trash compactor case*
- *U-haul case unloaded quickly*
- *Harsco/BSNF Case Derailed*
- *Physicians Avoid negligence suit*
- *Reverse race case Claimant Backs Off*
- *Jury finds in Favor of Ford*
- *Night club Defense Verdict Held on appeal*
- *Counsel Wins contest for counselors*



## A NETWORK OF SOME OF NORTH AMERICA'S MOST SUCCESSFUL LEGAL DEFENSE TEAMS.

The Harmonie Group legal defense firms understand that what matters most is obtaining the **best results possible** – no matter what the circumstances. That's why membership in our network is limited to firms whose track records offer solid proof of their ability to develop masterful defense strategies and achieve favorable results.

The cases reviewed here **offer proof** that Harmonie Group firms have a **tradition of success**. These are just a few examples of the many successes they achieved for clients in 2006. This **record speaks for itself** and makes a strong argument for letting a Harmonie Group defense firm help you **achieve favorable results** of your own in 2007.

## NEW: DIRECTORY OF 24 HOUR EMERGENCY AND ACCIDENT RESPONSE FIRMS



Through our website, **The Harmonie Group** offers instant access to legal services required to respond to issues arising from major emergencies and accidents. Firms listed there can provide legal services on a 24-hour basis that help companies navigate the complex landscape of post-accident investigations.

These **NEW Harmonie Group** directories can be accessed at [www.Harmonie.org/Directory](http://www.Harmonie.org/Directory).

## NEW: ENHANCED LAW FIRM DIRECTORY

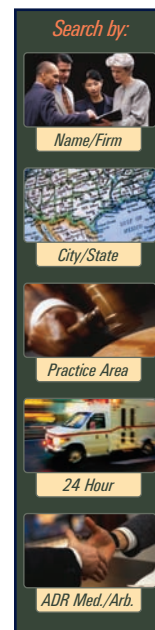
Finding the right law firm for your legal matters is now so much easier than ever before.

Our recently updated website offers an enhanced directory that allows users to **search by**:

- **Attorney Name**
- **Firm Name**
- **State**
- **Practice Area**

The directory also lists:

- **24 Hour Emergency/Accident Response Firms**
- **ADR Mediators and Arbitrators**
- **International Friends**



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# THE CHOICE OF SUCCESSFUL COMPANIES.

*The Harmonie Group firms rank among the best in America. Renown for their legal prowess, they are chosen by successful companies from coast to coast for their excellence in practice.*

## CATERPILLAR CASE GETS BULLDOZED

Caterpillar, Inc. designed and manufactured a D8L Track-type Tractor commonly known as a "dozer." In 2003, a worker was killed in a gravel pit while learning to operate the dozer.



According to the plaintiff, the worker was practicing the operation of the dozer and, for some reason, left the dozer. The plaintiff alleged that, as the worker left the dozer, the dozer jumped into gear, which caused him to fall to the ground, where he was crushed under the dozer. The

plaintiff contended that the dozer was defective because it lacked a seat switch device that would have prohibited movement of the dozer when the operator left the seat. **Plaintiff sought damages in excess of \$5,000,000. After a seven-day trial, a defense verdict completely exonerated Caterpillar.**

**CASE :** PRODUCTS LIABILITY  
**NATIONAL COUNSEL :** TOM WOMBLE  
**FIRM :** WOMBLE, COTTELESSE, AND HOWELL - HOUSTON, TX  
**CO-COUNSEL :** JEFF CROASDELL  
**FIRM :** RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.  
**HEADQUARTERS :** ALBUQUERQUE, NM

## GAME OVER IN BASKETBALL CITY NEW YORK CASE

A young man, 22, suffered a heart attack and died while playing basketball in his employer's evening league at the defendant's facility, Basketball City New York, LLC. **His estate claimed that Basketball City was negligent** in failing to maintain emergency resuscitation equipment and staff trained in its use. **The Court dismissed the case**, agreeing with defense counsel that no part of the facility "caused" the decedent to suffer a heart attack and that the law did not then require such a facility to have CPR equipment.

**CASE :** DEATH ACTION/NEGLIGENCE  
**COUNSEL :** ALICE SPITZ, MARCY SONNEBORN  
**FIRM :** MOLOD SPITZ & DESANTIS, P.C.  
**HEADQUARTERS :** NEW YORK, NY

## HARSCO/BSNF CASE SUCCESSFULLY DERAILED

A Harsco switch grinder left the Raton yard headed for Trinidad, Colorado. The plaintiff was told that he had joint track and time with a welding team but he failed to tell the operator of the switch grinder that the welding team was sharing the track and failed to communicate with the welding team before the plaintiff piloted the grinder into the welder's working limits.

As a result, the grinder collided with the welding truck as it came down Raton Pass. **The plaintiff claimed that as a result of this accident he was 100% disabled, unable to work, and suffered extensive physical, emotional and financial damages.**

**The plaintiff also claimed that the brakes on the grinder were inadequate to stop the grinder on Raton Pass.** The defendants claimed that the plaintiff caused the accident and that his injuries, if any, were pre-existing and any aggravation was caused by the plaintiff's own actions in failing to tell the operator of the grinder the appropriate track and time, and in failing to communicate with the welding team before he entered their working limits.

The plaintiff's own expert determined that the brakes on the grinder were adequate and would have stopped the grinder if the plaintiff had done his job. **The Court granted a directed verdict in favor of Harsco Track Technologies on the plaintiff's claim of negligence, the FELA claims against BNSF went to the jury.**



**The plaintiff sought \$1,400,000 at trial.** The jury found in favor of the plaintiff, and awarded \$100,000 in non-economic damages, and \$0 in economic damages. **However, the jury also found the plaintiff was 83% responsible for the accident which reduced his award to \$17,000.** The plaintiff was also ordered to pay the statutory costs of BNSF and Harsco.

**CASE :** PERSONAL INJURY/NEGLIGENCE  
**COUNSEL :** LARRY S. MCCLUNG, WENDY J. LEWIS  
**FIRM :** COOPER & CLOUGH, P.C.  
**HEADQUARTERS :** DENVER, CO

## JURY FINDS IN FAVOR OF FORD



The plaintiff was driving a 1993 Ford Tempo with a passive belt system on a country road when he swerved to avoid a head-on collision with another car. The plaintiff, who was wearing his seat belt at the time, then overcorrected and hit another vehicle head-on. As a result of the accident, the plaintiff was rendered a quadriplegic. The plaintiff at 6'4" and 160 pounds alleged the seatbelt system was defectively designed and caused his injuries. Specifically, that the geometry of the system was inadequate for people of his size and that those inadequacies permitted him to rotate out of the seat belt and contact the vehicle's roof in the area of the sun visor. At trial, the plaintiff asked for \$10 million in damages. The defendant, Ford, countered the seatbelt system was appropriately designed for a wide range of occupants, and that the system worked perfectly in this accident. Ford also maintained that the plaintiff suffered a rare, but well-documented non-contact fracture of the cervical spine caused solely by the forces of the accident and the resulting inertia of the head. After a two-week trial, the jury deliberated two hours and fifty minutes in returning a verdict in favor of Ford.

**CASE :** PRODUCT LIABILITY-SEAT BELT DESIGN  
**CO-COUNSEL :** ERIC A. RIEGNER, KAREN M.R. WEBER, AND TODD A. CROFTCHIK  
**FIRM :** LOCKE REYNOLDS LLP  
**HEADQUARTERS :** INDIANAPOLIS, IN

## FLAMES DOUSED IN STATE FARM CASE

A plaintiff sued State Farm Insurance Company for \$1 million in structural damages, personal property loss, and bad faith penalties arising out of a fire at her residence. Seventeen witnesses, including two private experts and seven firefighters, testified at the trial concerning the nature of the fire. After a nine day trial the jury returned a verdict for the defense within two hours specifically finding the Plaintiff caused the fire to her house for the purpose of collecting insurance proceeds.

**CASE :** INSURANCE COVERAGE/CIVIL ARSON  
**COUNSEL :** GEORGE T. "BUCK" LEWIS  
**FIRM :** BAKER, DONELSON, BEARMAN & CALDWELL, PC  
**HEADQUARTERS :** MEMPHIS, TN

## PROGRESSIVE NORTHERN CASE COVERED

In a case for Progressive Northern Insurance Company, the Pennsylvania Superior Court ruled that Universal Underwriters Insurance Company was required to share in liability and property damage coverage with the carrier who issued an insurance policy to a car dealership to cover a customer who drove a dealership vehicle with permission while having their vehicle repaired. The Universal policy covered anyone "required by law to be an insured while using" a covered auto. Universal asserted that the dealer's policy did not afford liability or property damage coverage, relying on a 1997 Supreme Court decision which held that Universal was not required to cover a similar situation. In that case, however, the Court construed the 1984 Pennsylvania Motor Vehicle Financial Responsibility Law, and noted that its decision did not apply to cases governed by the 1990 MVFRL. The Court agreed that the newer statute directly addresses the current issue, and requires financial responsibility when any driver operates the owner's vehicle with permission and that primary coverage follows ownership. Summarily, the Court rejected Universal's argument and ruled that both carriers had to provide liability and physical damage coverage.



**CASE :** INSURANCE COVERAGE  
**COUNSEL :** JEFFREY A. RAMALEY, JOSEPH F. BUTCHER  
**FIRM :** ZIMMER KUNZ PLLC  
**HEADQUARTERS :** PITTSBURGH, PA

## VEHICLE LAWSUIT FINDS NO TRACTION

The plaintiff, a Union Pacific Railroad employee was injured in a multi-vehicle accident while riding in a commercial van used to transport railroad employees. He filed suit against all of the drivers of the vehicles involved in the accident, and against their employers. While the jury found the plaintiff suffered \$1.2 million in damages, it apportioned 0% of the fault to Hirst Applegate's defendants, the driver and owners of a semi tractor and trailer that collided with the plaintiff's vehicle from the rear.

**CASE :** PERSONAL INJURY/NEGLIGENCE  
**COUNSEL :** RICHARD A. MINCER AND ROBERT C. JAROSH  
**FIRM :** HIRST APPELGATE, P.C.  
**HEADQUARTERS :** CHEYENNE, WY

# PUT THE ODDS IN YOUR FAVOR.

*The Harmonie Group defense firms focus on increasing their clients' chances for success.*

*It's what we call National Access to Excellence. It is each member firm's goal.*



## AGFS FLIPPING LAWSUITS SENT PACKING

In 1998, Butler Snow began defending 98 consumer finance “flipping and packing” suits as well as numerous arbitrations involving nearly 3400 plaintiffs – most of which were “mass-actions” filed against **American General Financial Services, Inc.** The suits asserted sales practice claims involving the sale of credit insurance and the refinancing of consumer loans. AGFS investigated, determined the allegations were meritless and directed Butler Snow to undertake an aggressive defense despite the fact that the Mississippi courts where the cases were assigned are considered some of the most difficult in the nation. **By 2006, Butler Snow had defeated every plaintiff’s claim – short of trial – through a combination of successful judgments on the merits, voluntary dismissals without settlements and/or compelled arbitrations, which the claimants then abandoned.**

**CASE :** CONSUMER FINANCE “FLIPPING AND PACKING”  
**MASS-TORT LITIGATION**  
**COUNSEL :** E. BARNEY ROBINSON III  
**FIRM :** BUTLER SNOW O’MARA STEVENS & CANNADA, PLLC.  
**HEADQUARTERS :** JACKSON, MS

## DEFENSE VERDICT IN MOTORCYCLE MIX-UP

The defendant Lafarge, a cement mixing operation, had a driver who was exiting a driveway when a semi truck attempting to pull into the driveway stopped and waved him out. Simultaneously, a motorcyclist behind the semi claimed he saw the wave and assumed it was for him. He passed the semi where the driver of the LaFarge cement mixer could not see him, then lost control and slid into the cement mixer. The injuries were catastrophic and included spine fracture, paralysis, severe brain injury, partial blindness, and more. **The plaintiff sued both Lafarge and the owner of the semi truck claiming motor vehicle negligence, and filed a separate cause of action against Lafarge only, alleging that Lafarge improperly designed and maintained the driveway since it was not wide enough for the semi as the cement mixer pulled out. The owner of the semi settled with plaintiff on the eve of trial. The second claim was dismissed by summary judgment prior to trial. After a lengthy trial on the first claim, the plaintiff asked the jury to award him \$40,000,000. The jury found that the defendant was not negligent and returned a defense verdict.**

**CASE :** CATASTROPHIC PERSONAL INJURY  
**COUNSEL :** HARRY MOONEY AND DONNA BURDEN  
**FIRM :** HURWITZ & FINE, P.C.  
**HEADQUARTERS :** BUFFALO, NY

## VERDICT IN CAR THEIF’S CLAIM GOES TO THE DOGS

Deputies responding to an auto theft found the plaintiff inside the stolen vehicle. The plaintiff then ran on foot and hid under a van. Deputies gave multiple warnings to the plaintiff then deployed a police dog to apprehend him. **The plaintiff contended that deputies violated their K9 policy along with his civil rights alleging excessive force while he was apprehended due to bites from the police dog.** The plaintiff claimed he made \$60,000 per year operating a car restoration business that he had to close as a result of his injury. The defendant contended the business never existed. The plaintiff’s injuries included canine bites to lower left arm and left biceps area. Plaintiff claimed weakness and nerve damage. **Plaintiff demanded \$1,400,000 to settle then lowered this amount to \$300,000 before trial. The defendant did not make a settlement offer. After a six-day trial within five hours the jury returned a unanimous verdict for the defendant.**



**CASE :** CIVIL RIGHTS  
**COUNSEL :** EUGENE RAMIREZ AND TIMOTHY KRAL  
**FIRM :** MANNING & MARDER, KASS, ELLROD, RAMIREZ LLP  
**HEADQUARTERS :** LOS ANGELES, CA

## CASINO OWNER AVOIDS UNFAIR PAY OUT

**A plaintiff was attacked in the parking lot of a defendant’s Turn of the Century Casino by three individuals whom plaintiff claimed exited the casino. The plaintiff claimed that the assailants had come from inside the bar and were highly intoxicated. He further claimed that the defendant had inadequate security for failure to have bouncers and doormen. The defendant claimed that there was a prior relationship between the plaintiff and his attackers, denied any negligence, and contended that the attacker’s intentional conduct relieved the casino of liability even if it was negligent. The plaintiff suffered severe facial and head trauma, multiple surgeries to repair his jaw and alleged future medicals in excess of \$250,000. The plaintiff requested a minimum verdict of \$350,000. Following a three-day trial, the Jury deliberated less than 30 minutes returning a verdict in favor of the defendant.**

**CASE :** DRAM SHOP INSURANCE DEFENSE  
**COUNSEL :** G. PATRICK HAGESTAD, PERRY SCHNEIDER  
**FIRM :** MILODRAGOVICH, DALE, STEINBRENNER & NYGREN, P.C.  
**HEADQUARTERS :** MISSOULA, MT

## DOCTOR'S NEGLIGENCE SUIT WINDS UP DOA

The estate of a deceased 27-year-old off duty police officer brought a medical negligence action against a general surgeon. The decedent police officer was involved in a high-speed single car accident and was brought to the local hospital for emergency care. A CT scan evaluation determined that the decedent had suffered an injury to the spleen. Following x-rays of the spine to check for spinal cord injury, the police officer suffered cardiopulmonary failure and died. **The plaintiff alleged the defendant physician failed to timely treat the spleen injury. The physician was successfully defended** on the grounds that his evaluation, examination and plan were within all appropriate standards of care and that it was critically important to evaluate the spinal cord before taking the patient to surgery to preclude paralytic injury during surgery.

**CASE :** MEDICAL NEGLIGENCE  
**COUNSEL :** PETER A. MEYER  
**FIRM :** SULLOWAY & HOLLIS, PLLC  
**HEADQUARTERS :** CONCORD, NH

## REVERSE RACE CASE CLAIMANT BACKS OFF

The plaintiff, a caucasian female, alleged that during the defendant-employer's reduction in-force, she should not have been laid off, but rather an African American female, with less seniority, should have lost her job even though the latter had a completely different job than the plaintiff. The EEOC issued a cause determination unfavorable to the defendant. Because the employer is a municipality, the matter was automatically sent to the US Department of Justice. The defendant submitted a formal position statement and conducted extensive conferences with the DOJ. Ultimately, the DOJ declined to pursue the matter on behalf of the plaintiff. Subsequently, the plaintiff filed suit in federal court. The plaintiff admittedly did not comply with the Federal Rules of Civil Procedure, and the defendant-employer moved for sanctions. **Rather than facing the inevitable imposition of sanctions, the plaintiff moved to dismiss and the Court dismissed with prejudice.**

**CASE :** REVERSE-RACE DISCRIMINATION  
**COUNSEL :** PATRICIA HOLLAND AND RACHEL ESPOSITO  
**FIRM :** CRANFILL, SUMNER & HARTZOG, L.L.P.  
**HEADQUARTERS :** RALEIGH, NC

## NIGHT CLUB DEFENSE VERDICT HOLDS UP ON APPEAL

A plaintiff sued a defendant's restaurant/nightclub, after being assaulted by two of its patrons. The Court granted judgment as a matter of law to the defendant upon a finding of no negligence. **On appeal, the Court of Special Appeals held that the lower court did not err in granting judgment** as a matter of law to the defendant who was accused of negligence in connection with an assault by two of its patrons.



**CASE :** PREMISES LIABILITY/ASSAULT  
**COUNSEL :** JENNIFER KLEEMAN  
**FIRM :** HODES, ULMAN, PESSIN AND KATZ, PA  
**HEADQUARTERS :** BALTIMORE, MD

## COUNSEL WINS CONTEST FOR COUNSELORS

A couple had a tumultuous personal relationship spanning several years. The woman sought help from North Coast Counseling Center for her problems. The man broke up with her but soon became despondent. He also sought help from North Coast for anger management and coincidentally ended up with the same counselor as the woman. The counselor never made the connection. In between appointments, **the man abducted and killed the woman and then shot himself.**

The woman's estate sued North Coast and the counselors for failure to warn her about the violent propensities of the man. He had disclosed to his counselor that he owned guns and explosives, that he was afraid of "going off on someone," and wished he were dead. **Her estate sought \$11 million in damages. North Coast and the counselors filed a motion for summary judgment based upon a new and untested statute** that provided immunity to healthcare providers under certain explicit circumstances.

The trial court found that although the man had destructive traits, a personality disorder, and a history of violence, there was no evidence that he communicated to anyone at North Coast any explicit threats to harm the woman.

The trial court granted summary judgment based upon the immunity statute to all Defendants on all claims. The Court of Appeals unanimously affirmed the summary judgment on all grounds. The trial court and appellate rulings represent the first definitive analysis of the immunity statute by any Ohio courts.

**CASE :** FAILURE TO WARN  
**COUNSEL :** GEORGE S. COAKLEY/JOSEPH BORCHELT  
**FIRM :** REMINGER & REMINGER, CO., L.P.A.  
**HEADQUARTERS :** CLEVELAND, OH

## CLAIM SQUASHED IN TRASH COMPACTOR CASE

Royal-Pak Systems, Inc. manufactured and installed a commercial grade trash compactor in a residential building in New York. The plaintiff, a building superintendent, claimed she was attempting to clean the machine when a defect in the safety system allowed the machine to cycle unexpectedly, causing the amputation of several fingers. The suit alleged strict liability, failure to warn, negligent installation, and violation of applicable ANSI standards. **The plaintiff's lowest demand was \$750,000.** The defendant's highest offer was \$200,000. At close, and prior to jury deliberation, the Court directed a verdict on the manufacturing defect and failure to warn claims and held that the ANSI standards did not apply in this case. Thus the jury was given the case solely on the strict liability claim. **After only seven minutes of deliberations, the jury returned a verdict in favor of the defendant,** finding that the trash compactor was not unreasonably safe.

**CASE :** PRODUCT LIABILITY/TRAUMATIC AMPUTATION OF FINGERS  
**COUNSEL :** STEVEN DISIERVI  
**FIRM :** ABRAMS, GORELICK, FRIEDMAN & JACOBSON, PC.  
**HEADQUARTERS :** NEW YORK, NY



## JURY QUICKLY UNLOADS U-HAUL CASE

The EEOC brought an action against U-Haul International, Inc. and U-Haul of Illinois for racial discrimination and retaliatory discharge. The plaintiff, a supervisory employee at a U-Haul location in Illinois, claimed he was demoted then later fired in retaliation for his complaints of racial discrimination to management. **The EEOC sought damages of \$60,000 in back pay, unspecified front pay, mental anguish, and punitive damages.** The defense counsel contended that the plaintiff was demoted and terminated due to legitimate business reasons for his failure to properly account for inventory and for negligently causing damage to equipment. **In less than two hours, jurors returned a unanimous verdict for the defense.** Jurors in the case had a unique opportunity to be part of a 7th Circuit Jury Project whereby they were allowed to take notes and tender individual questions to the court to be asked of witnesses.



**CASE :** EMPLOYMENT DISCRIMINATION/RACIAL DISCRIMINATION AND RETALIATORY DISCHARGE  
**COUNSEL :** MANUEL "MANNY" SANCHEZ AND JOHN S. HUNTLEY  
**FIRM :** SANCHEZ DANIELS & HOFFMAN LLP  
**HEADQUARTERS :** CHICAGO, IL

# ABOUT THE GROUP

The Harmonie Group is a network of independent law firms whose member firms provide legal services to corporations, insurance carriers and third party claim administrators. Membership is by invitation only and limited to highly-qualified firms with the experience and success in handling the type of complex and difficult high-stakes litigation that has earned Harmonie firms the reputation and respect they have among their peers, the courts and their clients. Our network spans all fifty states, affording clients efficient, reliable and consistent services across jurisdictions. Access to defense firms in Canada is also available through the Canadian Litigation Counsel.

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