

Cohen Ziffer Chair Talks COVID Cases And Industry Changes

By Emma Cueto

Law360 (November 8, 2021, 10:30 AM EST) -- As insurance recovery boutique Cohen Ziffer Frenchman & McKenna closes in on its first year of operation, firm Chair Robin Cohen spoke to Law360 about the ways COVID-19 is changing the legal industry, law firm diversity, and why she wishes she had formed her own firm sooner.

Cohen Ziffer launched in January in New York City with a group of attorneys, including the four name partners who had practiced together at McKool Smith PC. Since then it has continued growing and has also won key rulings in insurance lawsuits on behalf of policyholders, defeating motions to dismiss COVID 19-related suits in Nevada and Illinois that Cohen says have distinguished the firm.

"We've had a couple of really big wins, and I think we're doing much better than our competitors in the COVID space," she said. "I think it's creating more exposure for the firm."

She spoke to Law360 about the work Cohen Ziffer has been doing and her take on both the legal and insurance industries. This interview has been edited for clarity and length.

Since you launched the firm in January, how has the first almost-year gone? What lessons or takeaways do you have?

I have to tell you, it is the best thing I have ever done professionally in 35 years. My only regret is that I didn't do it 10 years ago. It's interesting, because I really try to reflect on why our group didn't do this earlier, and I'm probably to blame; I felt that it was logistically daunting.

But someone said to me, someone who had started their own firm, "It's not rocket science. You get a COO and they take care of all the logistics and you can focus on the law and the strategy." I got a COO who is someone I worked with for 10 years at Dickstein Shapiro, and it's been incredibly smooth.

All of our clients came over with us, over 75 clients. We've been really busy. We've grown from 12 lawyers to 26 lawyers, and we're actively hiring. We'll hopefully be 30 lawyers in the next few months. The interesting thing is whether we stay as an insurance recovery firm representing Fortune 500 companies, or whether we branch out into other areas that are synergistic with us.

The group that we've gotten is more diverse, more interesting, very intense in a good way: folks who



Robin Cohen

really want to have a lot of responsibility and really want to do trials. Because not only do we do insurance recovery, but we want to be known as a trial firm. And we do have a few trials coming up.

The thing that is the most invigorating for me is, we are creating a culture that is really different than any other firm that I've been at. I'm really trying to create a culture where people feel invested in the places — not just the associates and the partners, but the paralegals and the legal assistants — and really create an environment where people feel a part of something and feel excited to come to work.

And I think we have that energy. I am by far the oldest person at the firm — which makes me feel pretty old! — but it's a young firm; it's a pretty energetic place.

We are also being approached by women partners at other firms who have significant books of business about coming over to our firm. I think that our energy is somewhat contagious and so I think women who have been unhappy and have been more reflective because of COVID are starting to second-guess whether they want to stay in the environments they've been in for a long time.

What types of cases has the firm been seeing?

Coverage for COVID losses is clearly front and center — I mean, it's all over Law360! We only take the cases we really think we can be successful on, so we've probably filed 15 or 20 cases across the country. We've gotten great rulings in Las Vegas, Illinois, Pennsylvania. And the issues are issues that are going to go up to the state supreme courts, so that is something that is percolating up through the court. But we have a couple of trials coming up next year on these cases where we defeated motions to dismiss. So that's been front and center for us.

Another area has been coverage for hacking and cybersecurity. We're seeing a lot of cases. And the other one we're doing a lot of work on is coverage for securities cases or fraudulent conveyance cases. We've been actively litigating those cases.

And between these hurricanes, these wildfires, and all these disasters, we're seeing a lot of that.

How do you see the insurance industry changing right now?

From the perspective of law firms, more and more firms, and I'm talking really good firms, are jettisoning their policyholder practice because it conflicts with their corporate practice. You're seeing a lot of general practice firms not being able to do the coverage work that we're doing, this kind of bet-the-company coverage work for policyholders. So our business model is very effective.

And a lot of these firms that are switching to the carrier side are recommending us. So staying nimble and small and focusing just on representing policyholders has turned out to be a very good business strategy.

From the industry side, what I'm seeing, and I tell my partners this has created incredible job security, is the AIGs of the world are getting more and more difficult and, in my words, egregious in some of their coverage positions. They're taking harsher positions with the policyholders, which is forcing the policyholders to bring lawsuits.

Because some of these cases are worth hundreds of millions of dollars. Therefore I'm seeing a lot of these large cases not only get filed but get litigated and tried and go up through the appellate process.

And as a result our business is growing significantly as a result of the positions the carriers are taking, which we say is just not consistent with the policy language.

How do you see the business of law or the way the legal industry operates shifting right now?

I see the small general and middle general firms getting squeezed. If you look at the profitability of the top 20 firms in 2020, they did great. But if you look at the firms below them and really focus on the middle-sized general firms, they're getting squeezed.

I think the top 20 firms are doing great and a lot of the boutique firms that specialize in certain areas are doing fabulously. If you look at [Kaplan Hecker & Fink LLP] or [Holwell Shuster & Goldberg LLP] or our firm, we specialize in particular litigation and as a result we become the expert in the field. So we're getting those Fortune 100 clients to come to us for those cases. The litigation boutiques that do it right have become extremely profitable.

And I think that's a long term trend, but I do think COVID had a lot to do with it. I think in particular a lot of producers who were unhappy at BigLaw realized, because with COVID they weren't in the office and had more time for self reflection, what would make them happy. I think you're seeing more of these producers make the leap and start their own boutiques.

I think you're going to see it more and more for women. You have to have the business base, but you're seeing a lot of women leave law firms.

When Cohen Ziffer launched, you made a point you'd like to focus on diversity, especially gender parity. How has the firm approached that in the last year?

I think it's easier by putting women in leadership positions, such as being the chair or head of the hiring committee. A lot of firms brag about how many women they have at the firm or how many women partners, but the real way to make a difference and create diversity that impacts your bottom line is you need women in leadership positions.

Having a lot of women attorneys or women partners at the bottom of the compensation chart is not how you're going to create a diverse environment. I think the way to do it is by putting women and diverse people into leadership positions.

And when I was looking at firms, you couldn't do Google searches or go on social media, but now a lot of these young associates or folks out of law school, they can do all sorts of searches and see how diverse a firm is or whether they have women in positions of leadership.

The candidates I'm getting now are better associates than I've ever had in my legal career, and they are seeking us out.

--Editing by Brian Baresch.