

McKool Smith Snags Kasowitz Benson Insurance Team

By **Brian Baxter and Christine Simmons**

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McKool Smith, a 175-lawyer firm not included in the Am Law 200 rankings because it generates more than 50 percent of its annual gross revenue from plaintiffs-side contingency work, is bringing on a team of lawyers from Kasowitz, Benson, Torres & Friedman in New York led by insurance recovery head Robin Cohen.

Cohen, a former head of Dickstein Shapiro's New York office, led a 13-lawyer team that decamped from that firm in January 2010 for Kasowitz Benson. McKool Smith is now poised to launch an insurance litigation recovery team after adding Cohen and fellow Kasowitz Benson partners Kenneth Frenchman, Burt Garson, Keith McKenna, Natasha Romagnoli, Elizabeth Sherwin and Adam Ziffer. All are based in New York and previously practiced with one another at Dickstein Shapiro, a firm currently dealing with its own partnership turmoil.

Cohen, reached by The Am Law Daily via cellphone late Tuesday, confirmed her team's departure for McKool Smith, the news of which was first reported by Bloomberg Big Law Business and The Wall Street Journal's Law Blog. Cohen, whose book of business has been estimated at \$20 million (two sources confirm that it remains in the low eight figures), declined to discuss the precise size of her practice or whether the services of a legal recruiter were procured in placing her team at a new firm. But she spoke



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candidly about her decision to leave Kasowitz Benson for McKool Smith.

"I like to have skin in the game," said Cohen of her decision to join McKool Smith, a firm founded in 1991 that has since grown into one of the nation's top trial firms and developed a reputation for taking cases on contingency. She credited a cold call to firm founder and chairman Michael McKool, a motorcycle-riding Dallas litigator named a Lifetime Achiever last year by sibling publication Texas Lawyer, with helping draw her to McKool Smith, along with fellow partner Samuel Baxter.

Litigation-centric shops such as McKool Smith—the firm is larger than the typical boutique—have been a hot landing spot for top litigators in 2016. Cohen joins McKool Smith three months after the death of partner

John “Jack” Cooney Jr., head of the firm’s white-collar litigation practice, in New York. (Cooney, who had lung cancer, joined McKool Smith in 2009 after retiring from the partnership at Davis Polk & Wardwell.)

Cohen said she did not set out to put her group on the market, but after speaking with McKool was attracted to the firm because of its reputation as a “trial powerhouse” that offered some freedoms that were increasingly hard to come by at Kasowitz Benson. A primary reason for her decision to leave the firm, Cohen said, was mounting client conflicts caused by its representation of a holding company that owns insurance companies. And in the U.S. insurance industry’s shakeout following the financial troubles that plagued AIG beginning in 2008, many companies have increasingly sought to require their outside legal advisers to choose between representing policyholders or insurers themselves, Cohen said.

“What you’re seeing is a lot of the policyholder work being consolidated at some firms, while others are jettisoning their policyholder practices,” added Cohen. “And in a lot of these large litigations suing insurance companies, you can’t now have side deals where you agree to sue some but not others for bad faith.”

An attorney familiar with Kasowitz Benson, who declined to be named when discussing firm matters, confirmed that Cohen’s move was tied to client conflicts. The lawyer said the firm couldn’t take on certain matters because of Cohen’s insurance practice, but added that some Kasowitz Benson attorneys will remain in the firm’s insurance recovery group in Los Angeles and San Francisco. Kasowitz Benson will analyze its options for the group going forward, the source said.

When asked whether other Kasowitz Benson insurance recovery lawyers might join her at McKool Smith—partners Linda Kornfeld and Jerold Oshinsky in Los Angeles are considered top-rated in their field—Cohen admitted that her group at the firm could grow to between 15 to 20 lawyers in the near future. (After Cohen joined Kasowitz Benson in 2010, the firm made additional hires to supplement her team.)

Cohen, who called herself the “second-highest originator” at Kasowitz Benson, is one of a select few women serving as lead trial counsel with significant business. She thinks that women are increasingly being drawn to more “entrepreneurial” firms in order to grow their practices. Cohen cited McKool Smith’s “transparent” financial system—Kasowitz Benson, closely controlled by its namesake Marc Kasowitz, has long been likened to a benevolent dictatorship—as giving her group the “flexibility” to represent the hedge funds and private equity firms that are generally more amenable to alternative fee arrangements. At the same time, she also praised her former firm for providing a strong platform for her practice over the past six years.

While Kasowitz Benson had one of its best years in 2014 thanks to contingency fee revenue, the firm’s profits and revenue in 2015 were lower, said the unnamed attorney familiar with firm affairs. Nonetheless, the firm considers last year to be a success since its normal hourly-based practice picked up as Kasowitz Benson grabbed roles on litigation matters related to the bankruptcies of Caesars Entertainment Operating Co. and LightSquared Inc. The firm is also advising AMC Networks Inc. in a dispute tied to “The Walking Dead” television series. Kasowitz Benson is now looking to hire associates, the lawyer said.

“The firm has enjoyed two of its most successful years in a challenging market environment while also strategically positioning itself for even greater success going forward,” said a statement by Kasowitz Benson, which a year ago trimmed its litigation ranks in response to a slowdown in high-stakes trial work. “This separation will further this positioning and allow us to pursue substantial future opportunities without any conflicts or impediments.”

Earlier this month, Kasowitz Benson hired a former Labaton Sucharow securities litigation partner in New York. In December, sibling publication The National Law Journal named three Kasowitz Benson partners, including Kasowitz himself, as white-collar litigation trailblazers.