

California Powerhouse: Lief Cabraser

By **Hannah Albarazi**

Law360 (September 5, 2019, 3:34 PM EDT) -- Driven by a strong sense of social responsibility, Lief Cabraser Heimann & Bernstein LLP reached policy-changing, big-dollar settlements with Fiat Chrysler over diesel emissions fraud, with Anthem over a massive medical data breach and with the University of Southern California over a gynecologist's sexual abuse of students.

The firm won't take on cases that it doesn't believe in, so while it is among the smallest firms on Law360's 2019 California Powerhouses list with just 67 attorneys in the Golden State, the cases the firm tackles seek justice for the abused, the broken and the deceived.

"We think that the courts matter and that the courts exist to do justice," founding partner Elizabeth Cabraser told Law360.

The San Francisco-based plaintiffs firm, unlike most law firms, is buoyed by an executive committee that carefully evaluates each case, weighing whether it will move the social justice needle forward.

"There is a strong social justice angle, there is a strong public policy angle, there's a restorative justice angle," Cabraser said of the firm's social utility test for prospective cases.

Lief Cabraser's big wins over the past year earned it a spot on Law360's list of California Powerhouse firms.

The firm won final approval in August 2018 of a \$115 million class action settlement with Anthem Inc., the country's second-largest health insurer, over privacy claims stemming from a massive 2015 data breach that put 79 million consumers' information at risk. Consumers alleged that Anthem failed to protect their personal information — including highly confidential health records — and violated its duty to timely disclose the breach of its customer database by hackers.

Under the deal, Anthem will provide the victims of the data breach with two years of credit monitoring, cover customers' out-of-pocket expenses stemming from the breach, and pay cash compensation to customers who've already gotten their own credit monitoring.

In May, Lief Cabraser led a team of attorneys who won final approval of a \$307 million deal with Fiat Chrysler and auto parts maker Robert Bosch GmbH to end allegations they illegally outfitted diesel vehicles with emissions-cheating devices. The firm has become something of an auto industry legal

specialist since helping to reel in over \$15 billion in settlements as lead counsel in the historic 2016 multidistrict litigation over software that facilitated illegal excess emissions in Volkswagen, Audi and Porsche vehicles.

The Fiat Chrysler settlement will allow drivers to get their vehicles fixed so they stop emitting such high levels of emissions into the air.

Also in May, Lief Cabraser scored preliminary approval of a \$320 million settlement with Wells Fargo Bank over its creation of millions of fake accounts for customers without their consent. The deal, which is the largest-ever insurer-funded cash settlement of a shareholder derivative action, settles allegations that the bank's board and executive management either knew about the illicit scheme carried out by employees since at least 2011 or consciously disregarded it.

The Wells Fargo settlement — which includes \$240 million in cash payments — also requires corporate governance reforms, and compensation forfeitures and reductions on the part of executives, which are worth about \$80 million.

In June, Lief Cabraser received preliminary approval of a \$215 million settlement fund for women who as students were abused, harassed and molested by former University of Southern California gynecologist George Tyndall.

The USC settlement, which includes an automatic \$2,500 for all women who saw Tyndell for a health visit, aims to compensate women who were put at risk by the university, which allowed Tyndell to continue to see patients long after university officials knew he was acting inappropriately. Women who submit written claims and are able to be interviewed will receive up to \$250,000 under the settlement.

Perhaps most importantly, the settlement requires USC to implement procedures to identify, prevent and report abuse and misconduct going forward.

Lief Cabraser's managing partner, Steve Fineman, said that in the last three years, the firm has expanded its practice to include sexual assault and harassment cases, and the demand for its services in that area is significant.

"Unfortunately, I think there's been no shortage of cases," said Fineman, who also serves on the firm's executive committee.

Cabraser said that every time the firm brings a case, it is competing for scarce judicial resources and works hard to ensure its cases are seen as worthwhile to the courts.

"We are looking for cases where it is in the realm of practicality for a private firm to bring a case that can increase the level of justice and can compensate or provide benefits to our clients consistent with social policy," Cabraser said.

Fineman told Law360 that while the firm chooses its cases based on their merits, it also "wouldn't be in our interest to have all high-risk cases."

Nonetheless, Cabraser said that since the firm's inception in 1972 as a two-attorney firm, she and co-founding partner Robert Lief would always ask themselves and each other whether the cases they were considering were important and weigh their potential impact on society.

The firm made a name for itself representing victims of the Exxon Valdez oil spill in Alaska, taking on the tobacco industry, leading litigation over silicone breast implants, and taking on Halliburton and British Petroleum following the Deepwater Horizon oil rig explosion and spill in the Gulf of Mexico.

Cabraser said right now, her focus is on opioid litigation. She and her firm are representing governmental entities and Native American tribes who say the makers of prescription opioid pain medication overstated the drugs' benefits and downplayed their risks while marketing them to physicians, and thus fanned the flames of the U.S. opioid epidemic.

The ambitious cases Lieff Cabraser takes on — which are frequently followed by major successes — have earned the firm a reputation that keeps demand for its counsel high. Since its founding, the firm has grown slowly to over 90 attorneys today, significantly expanded its practice areas and established offices in New York and Nashville.

"It's a luxury to work on the plaintiffs side today," Cabraser said, acknowledging that her generation didn't have to face the crushing student loan debt that now burdens so many law students and that causes many of them to flock to big defense firms to pay off those debts.

Cabraser said that for most young attorneys, it doesn't make financial sense right now to join the plaintiffs side or the public sector. But with greater public subsidies for higher education, the legal landscape in the U.S. could be drastically altered to better serve the public, she said.

"It would allow more women and people of color to follow their hearts and work on the plaintiffs side," Cabraser said.

--Additional reporting by Kat Greene, Dorothy Atkins, Jon Hill and Jeff Overley. Editing by Aaron Pelc.