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Titan of the Plaintiffs Bar: Elizabeth Cabraser

By Sindhu Sundar

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ELIZABETH CABRASER IS KNOWN TODAY for leading retirees, car owners and small businesses toward multimillion-dollar recoveries in public interest and consumer protection cases. But her career began with a modest handwritten index card spotted by Robert Lieff, who founded the firm that now bears her name.

The card, which the then-third year law student had posted at a law library in Santa Rosa, California, proffered her legal research services at the economical rate of \$5 an hour — “big bucks back then!” says Cabraser, now a name partner at Lieff Cabraser Heimann & Bernstein, LLP.

Lieff, then a veteran litigator in his 40s with an office in wine country in Sonoma County, saw the note and sought Cabraser's support in easing his caseload while he built up a possible second career as a gentleman farmer in a vineyard.

“That was 1977. It is now 2014, and we've still not accomplished that mission,” she says of their initial notions of shrinking the firm's caseload.

Cabraser gained name partner status within only three years of joining the firm, now among the leading plaintiffs outfits in the country, with roughly 60 attorneys in four offices.

“I didn't completely derail his plans. He still has a winery and vineyard,” Cabraser says.

Cabraser, who considers herself a generalist, has developed a practice that spans a range of areas as varied as securities,

antitrust, automotive and product liability law. She has sunk her imprint into some of the firm's highest-profile cases, including the Exxon Valdez litigation stemming from an 11 million-gallon oil spill in 1989 as well as the multistate-tobacco litigation in which the firm negotiated a \$42 billion settlement with the tobacco industry on behalf of state attorneys general over tobacco advertising.

Her reputation among defense attorneys is that of a formidable opponent who comes to cases thoroughly prepared and can win a judge's ear.

“Defense lawyers know Elizabeth and her firm for the amount of preparation they put in the substantive aspects of cases,” says Melvin Goldman of Morrison & Foerster LLP, who first met Cabraser on an investment fraud case in the 1980s. “You don't always see that in plaintiffs firms, because sometimes they have a lot of cases and may be spread too thin.”

Cabraser's litigation expertise was forged in the crucible of inflation-prone California in the 1970s, when rampant investment fraud left old retirees bereft of lifelong savings and desperate for legal recourse, she said.

One of her early major victories came in a case involving mortgage fraud, where she, Lieff and partner William Bernstein won a \$77 million recovery — all of the lost funds in that case — in the mid-1980s. Cabraser represented a group of investors who, like many of the firm's clients at the time, had been reeled in by claims of high-interest rate returns in the hopes of keeping up with soaring inflation.

“She was very forceful — someone you'd listen to, and be

“We were a very do-it-yourself family, so I always assumed that if anything was broke, you could fix it.”

—Elizabeth Cabraser

compelled by her demeanor and argument,” Goldman recalled. “She stood out among the lawyers as someone who could argue with such commanding conviction.”

Over the next two decades, Cabraser branched out from investor fraud cases to advertising and liability cases, notably chairing a plaintiffs steering committee in the product liability litigation over Pfizer Inc.’s anti-inflammatory drugs Celebrex and Bextra. The drugmaker had agreed in 2008 to pay \$894 million to resolve claims including consumer fraud, according to court documents.

In the BP oil spill litigation in federal court in Louisiana, Cabraser served on the plaintiffs steering committee, negotiating an uncapped settlement on behalf of small businesses facing economic losses from the Macondo well explosion in 2012. Billions of dollars have already been paid out in the settlement, and her firm is still working on receiving the rest of the payment, she said.

In the Toyota sudden-acceleration litigation in California, Cabraser is a co-lead counsel representing personal injury and death victims, and she is still negotiating a settlement. Her work in the GM MDL, where she is representing car owners claiming that the defective switches lowered the value of their cars and caused them to incur repair costs, could be historic if a bankruptcy court allows those claims to proceed.

There was little in her East Bay upbringing in Oakland, California, that necessarily foreshadowed a prolific legal career, but some of her major work — especially her roles as co-lead counsel in the Toyota unintended acceleration MDL and the GM ignition switch MDL — have echoes of her youth.

Led by her father, a mechanic, a teenage Cabraser nurtured a passion for automobiles by buying old vehicles including Volkswagen Squarebacks and Dodge vans for a few hundred dollars, fixing them up along with her father, and selling them for a small profit that she used to purchase better cars.

“It was California and everyone wanted a nice car,” she said. “But I was 16 or 17 and I didn’t have a lot of money. We were a very do-it-yourself family, so I always assumed that if anything was broke, you could fix it.”

Around the time she learned to repair transmissions and rebuild engines, Cabraser began pursuing an undergraduate degree in physics. She took a winding path through majors and classes ranging from the classics to criminology and statistics, ultimately graduating with a sociology degree from the University of California at Berkeley in 1975. Almost “in serendipity,” she submitted a \$15 application to its law school, she says.

“I loved learning for its own sake,” she says. “I always loved to learn something new in an area I didn’t know something about — and this is exactly what we do in litigation. We have to constantly become familiar with unfamiliar areas, and in science and technological developments.”

It was Lieff who pointed Cabraser in this direction by subverting her self-described “unambitious” plans to toil behind the scenes as a law librarian — she had worked at the Alameda County law library in a work study program while attending law school at UC-Berkeley. But Lieff had other plans for the young attorney, whose competence at research he believed would translate into a talent for litigation, with all the motion-practice and substantive argument-making it entails.

“Her work in the GM MDL, where she is representing car owners claiming that the defective switches lowered the value of their cars and caused them to incur repair costs, could be historic.

—Law360

“She wanted to be a law librarian, but she was extraordinary,” Lieff says.

He put her on the Sonoma County Superior Court’s law and motion calendar, where the court heard dozens of brief oral arguments. She learned the craft of arguing before a judge by observing the other attorneys who were often scheduled before her, she says.

“It was nothing that I had the ambition to do. I’m not a large person, and I don’t have a big voice,” she says. “But Bob [Lieff] said to me, ‘The state of California considers you an attorney, so go be an attorney.’” ■

