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LAW FIRM BUSINESS

Earning His Sleep

Daniel Y. Zohar would lie awake at night when he first started his small firm that specializes in taking business cases on a contingency basis. Now that he's more confident and savvy, he rests easier.

By Susan McRae

Daily Journal Staff Writer

LOS ANGELES — Launching a small firm is hard enough. But doing it without a client base and without clients paying fees upfront is sure to bring some sleepless nights. But that's how Daniel Y. Zohar began.

He was just five years out of law school when he launched Zohar Law Firm PC — devoted almost exclusively to business litigation — on a contingency fee basis.

Thirteen years later, Zohar, 43, said he sleeps well most of the time.

“The hardest part of what I do is picking good cases,” he said, “because if you pick the wrong ones, you won't last very long.”

Zohar said he didn't have contingency in mind when he first struck out on his own. He just knew being in a situation he controlled was more compatible to his quick and efficient way of working than being under the thumb of a big firm model that emphasized hourly billing. In the end, he successfully modeled his firm on traditional consumer-side plaintiffs' firms.

A 1993 UCLA School of Law graduate, Zohar spent two years working for a law firm in Florida, then returned to Los Angeles and worked for three years at Paul Hastings LLP as a litigation associate.

After partnering with several lawyers at different times, Zohar now works with one of counsel and an assistant in a downtown Los Angeles sublease from SNR Denton. The setup suits him, he said, because he has full use of the firm's library and other resources.

As a young lawyer starting out, he said he did everything at first, including a lot of personal injury and employment cases, many of which he took on contingency. He said it didn't take him long to realize he could apply



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Daniel Y. Zohar, of Zohar Law Firm PC, specializes in contingency business litigation.

the same principle to business cases.

His first business contingency fee case came from the Century City office of McDermott Will & Emery, he said. The plaintiffs were real estate investors who'd bought property from a large national corporation. Under terms of the purchase agreement, he said the corporation was responsible for environmental cleanup of the land but had refused to pay for it. Although the investors weren't poor, he said they couldn't match the resources of the corporation.

So Zohar agreed to take the case on contingency. After two mediations, he said he succeeded in getting a “substantial” settlement for the investors.

“Presumably, [the corporation] didn't think the investors were going to spend the money to pursue their claim,” he said, “not realizing they were going to go out

and get somebody like me to take it on a contingency.

“After that, I was hooked. It was a way of litigating that made sense to me.”

Zohar is one of a handful of lawyers nationwide who handles business litigation on contingency. Personal injury firms, which are usually associated with contingency work, often lack expertise in business litigation, and big firms that possess the expertise are unwilling to take a chance because their high hourly rates build in a substantial profit margin that doesn't allow for risk.

As a result, Zohar said most of his referrals come from those types of firms.

He's also not averse to referring cases to other firms or associating with them if a case gets too complicated for him alone or is out of his area of expertise.

Michael Bidart of Shernoff Bidart Echeverria LLP in Claremont — whose firm

handles contingency work exclusively for consumers in a wide variety of insurance litigation and catastrophic personal injury cases — said he's received cases from Zohar and also worked with him on cases.

"He's the kind of lawyer who evaluates what's in the best interest of the client rather than in his personal interest," Bidart said.

"He's willing to work at risk to help these people and limit his recovery to what he recovers," he said. "It's a rare commodity. Most business litigators don't do that."

Zohar said that for him, the advantages of his type of practice far outweigh the risks.

He said clients know from the start that he's invested in the outcome of the case, so it becomes a partnership as opposed to an arms-length transaction in which a client hires a lawyer to achieve a goal.

It also gives him the freedom to develop his own strategy without clearing it with the client. For instance, if he needs to take a number of depositions, he said a paying client might question the expense. But he said since his clients know he won't get paid unless he wins, it's unlikely he'd suggest a strategy that wasn't in the best interests of the case.

"And in terms of pure economics," he said, "if I can figure out a way to get a case resolved quickly without having to spend a lot of time, the client certainly benefits from that, but then I do, as well."

One of lawyers that got Zohar thinking early on about doing contingency work and whom he considers a "great mentor" is Browne Greene of Los Angeles' Greene Broillet & Wheeler LLP. The two met during a skiing vacation in Aspen when Zohar was first going out on his own and since have become colleagues and friends.

Zohar said he's also appreciative of Greene on a personal level. Greene's wife ran a court reporting agency Zohar used on occasion, and she introduced him to her marketing director, Meredith, who became Zohar's future wife.

Greene, whose firm also does business litigation exclusively on contingency, but usually larger, more complex matters, has referred several cases to Zohar and said he does a "terrific job."

"I'm very proud of his effort and proud of his success," Greene said. "He makes me look good, too. He's a solid friend, a bright young guy with a glorious future."

A referral from Greene turned out to be one Zohar's greatest successes and disappointments rolled into one, illustrating the risks inherent in the practice.

The case involved David Calvert-Jones, the nephew of Rupert Murdoch, who'd been the CEO of a transportation and media business in Los Angeles. He claimed company officials verbally offered him stock options when he took the job. When the company fired Calvert-Jones, Zohar said his client said he asked for the stock options, and the company denied ever promising them.

Zohar presented the case to a jury in downtown Los Angeles at the height of the recent recession. After a two-week trial, the panel found unanimously for Calvert-Jones in the amount of \$1.91 million.

A nice present, he thought, especially in such economic hard times. But just as Zohar and his client were working out arrangements to have the judgment satisfied, the judge decided the jury had gotten it wrong and overturned the verdict.

"It was a tough pill to swallow," Zohar said, "but you pick yourself up and move on to the next case, as any trial lawyer would do."