

CORNELL LAW FORUM

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PROFILES

MARC E. KASOWITZ '77

He dodged the calls from the reporter at the *American Lawyer* twice, but the third time the reporter got his interview—after Marc E. Kasowitz discovered the reporter had already spoken to twenty-five of Kasowitz's closest friends. The March 1997 story portrays Kasowitz as a real hustler, as the toughest of the tough guys, and simply as the right-time, right-place, right lawyer.

Kasowitz grew up in New Haven, Connecticut, with his fraternal twin, Stephen, and younger sister, Susan. Their father's scrap metal business provided well for the family. Kasowitz and his siblings attended the private Hopkins Grammar School during their high school years, and Kasowitz went on to study American history at Yale, graduating in 1974.

Was law school an easy choice for Kasowitz to make? "When I was very young, I was interested in law, and I expected to go to law school," recalls Kasowitz. "The why is harder. Where I grew up, lawyers who were well regarded in the community were the people to whom lots of people would go for advice and to help solve problems. For want of a better phrase, they were the wise men in the community. That was attractive to me. That you could help people whether they were clients or friends. And that's how it's turned out."

As a law student, Kasowitz focused on litigation and the practical aspects of the cases he studied. He benefited from the emphasis Cornell's curriculum placed on legal writing. "My professors were generally practical, straightforward, and unpretentious. Cornell probably prepared my classmates and me for the challenges of practicing better than other schools that tended to be less practical."

As a student, Kasowitz was social and outgoing, he says, admitting that perhaps his classes weren't uppermost in his mind compared with his extracurricular pursuits. But after twenty years of practicing law in New York City, Kasowitz believes the significant change in his personality is that now he is more focused on his profession. He's also married, not the single guy he was in law school. "And I'm more focused on my relationships with my colleagues and friends. When I was younger, I tended to be self-involved and self-concerned. As I got over that, I developed a much better perspective on other people's positions and relationships. Friends I've run into from law school have commented on that as well."

After his second year Kasowitz worked as a summer associate at Rosenman and Colin in New York City. After graduating in 1977, he accepted the firm's offer of a permanent position and headed for Manhattan.

Kasowitz started out working on antitrust cases involving claims of price fixing in violation of the Sherman Antitrust Act. His big break at Rosenman and Colin came in less than three years, when he started working with the client known as Celanese Corporation.

Kasowitz's first Celanese case involved a large commercial real estate dispute. Celanese owned and occupied the Celanese building on Sixth Avenue in New York City, and the company wanted to exercise an option in its lease to take over an additional floor of the building. The option had been entered in 1970, when the market was much lower. The Celanese option price would be \$12 per square foot, and it could lease out the space for \$40 per square foot. The tenant of the floor, an



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accounting firm, didn't want to give it up, given the escalation in real estate prices. The accounting firm claimed Celanese could exercise its option only if it took the space for its own use; Celanese could not sublease the space.

"The accounting firm brought an action for an injunction," says Kasowitz. "We moved for summary judgment, and we won. We had our summary judgment upheld and their motion for an injunction denied all the way up to the Court of Appeals, and I was the main attorney working on that in the early eighties. The client profited enormously. Celanese made \$30 million on it.

"As a result, when Celanese began getting sued in formaldehyde-exposure litigation, it brought the case to Rosenman and asked that I be permitted to work on the cases. Which I did."

Kasowitz soon led the team representing the client in the formaldehyde-

exposure cases. "We did well defending them," remembers Kasowitz. "We had most of them dismissed for no money at all and some for just negligible money. So Celanese gave me more work. When I left Rosenman and Colin in 1988, Celanese came with me as a large client."

Joining the New York office of the Chicago firm Mayer, Brown, and Platt as a partner, Kasowitz kept working for Celanese subsidiaries after the large German chemical firm Hoechst bought the corporation. His clients, in addition to Hoechst-Celanese, included Bristol-Myers, Clairol, and the Jack Parker Corporation, a real estate company that owns hotels primarily in the Northeast, including the Parker-Meridien in New York City.

The majority of his work was products liability litigation. That included several cases known as the plumbing litigation. Celanese had manufactured a compound used in the fittings for plastic plumbing pipes. The pipes leaked, and consumers were asking for compensation for their flooded homes. Kasowitz and his team took the reins from H. Lee Godfrey of Houston's Susman Godfrey. Kasowitz's strategy was to prove that codefendant Shell Oil Company (the other producer of compounds used in the pipes), as the primary marketer of the pipes and pipe fittings, including the Celanese product, was the true culpable party. Before Kasowitz, juries were hitting Celanese with far higher damages than they were Shell; not so after Kasowitz and company honed their cases.

But in late June 1993, after deciding that a firm of his own could be run in a more streamlined, efficient manner than could a large firm, Kasowitz again took his client Hoechst-Celanese and, with three partners and sixteen associates from Mayer, Brown, and Platt, opened the door of what became Kasowitz, Benson, Torres, and Friedman, at 875 Third Avenue in midtown Manhattan.

Beginning with a mere twenty attorneys, the firm quickly grew to the current number, eighty, of which twenty are partners. Clients today include the ubiquitous Hoechst-Celanese, with cases involving products liability, toxic

tort, and commercial litigation; NFL Properties, the marketing arm of the National Football League; Best Foods, makers of Hellmann's mayonnaise, Mazola corn oil, and Skippy peanut butter; and the brokerage firm Smith Barney.

But the client with the most notoriety is the North Carolina-based Liggett Group, a cigarette manufacturer. On March 12, 1996, the tobacco industry settled its first case in a smoking-related products liability suit known as *Castano v. American Tobacco Company*. The defendant's old "fight it to the death" approach was expensive, and losing was an ever-present possibility. The new strategy to settle was conceived and executed by Kasowitz and his partner Dan Benson.

"It was the first time a tobacco company had settled any litigation," says Kasowitz. "Many people believe it was something that really protected the client. It was a creative thing to do, and it had never been done before. In the last six years we've done extremely well in having clients dismissed out of various cases.

"I'm proudest of the fact that we've been able to gain a reputation for being creative and aggressive and for helping our clients get dismissed from litigation as quickly as possible. The idea of resolving litigation effectively and efficiently has been a large part of why the firm continues to grow.

"Obviously we represent clients in litigations that are highly adversarial. They are companies or people that need advice and representation in important cases. We've come to the point where we get calls from people concerning a variety of issues, and they value our input. There's a good feeling in that."

Whereas he's a hard hitter on the playing field, Kasowitz most definitely has a soft spot when it comes to his wife, Lori, and the new baby they're expecting early this summer. He married Lori in 1992. The two met while she managed the nonlegal personnel at Mayer, Brown, and Platt. After their wedding Lori devoted herself full-time to the 92nd Street YM-YWHA, until 1993, when she came back to help Kasowitz set up the administration of his new firm.

"One of the greatest satisfactions I've gotten out of starting a firm," notes Kasowitz, "is providing a platform and opportunity for younger lawyers to develop their own practices and get their lives together. It's a pleasure to see them putting down roots—getting married, having families, and buying homes."

In 1996 Kasowitz chose to do something about the debt he felt toward the Cornell Law School. He and Lori started the Marc E. and Lori A. Kasowitz Prize for excellence in legal writing and oral advocacy. Each year they donate \$25,000 to help students at Cornell pay for their education. Marc, Lori, and Stephen Kasowitz also established a scholarship at Hopkins Grammar in New Haven, to be given each year at the discretion of the dean.

"Those two scholarships are very gratifying to us," Kasowitz says. "I'm hoping that we're helping people get the benefit of the things we had."

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