

# Breaking Through: Top Litigator Robin Cohen Shares Her Wisdom to Empower Female Attorneys

Article By:

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As a Principal at McKool Smith, Robin Cohen heads the firm's insurance recovery practice. She has the benefit of 30 years' experience as a trial lawyer; since her first case in the 1990s, Cohen has represented clients in significant insurance coverage cases nationwide, including matters involving asbestos, product liability, toxic tort, environmental, directors and officers, first party, employee dishonesty and employment coverage. To date, she has helped recover more than \$5 billion in insurance assets for her clients.

But it's not always easy to be a woman in the male-dominated field of litigation or complex insurance disputes. Drawing from her own experiences, Cohen offers pearls of wisdom to help other female attorneys follow her example and excel.

## Getting Started: Seize Opportunities

To succeed as a trial lawyer, Cohen believes that women need to be ready to take on new challenges. "Don't be timid," she says. "They don't come around all the time."

That starts early in your career. As a relatively young associate, one of the companies Cohen represented had a full-time senior staffer out on maternity leave. The company asked Cohen to come in and fill the gap.

"I jumped at the opportunity to work in-house and get to know the client," she says. "I worked in-house for three months, and I really learned a lot about what they were looking for from their outside counsel. When I left, they asked me to take over a very significant litigation." Cohen's decision to seize the moment not only cemented her relationship with the company, which remains a client to this day, but laid the foundation for the rest of her career

"I became lead counsel in a \$300 million lawsuit representing Philips against the insurance industry," she explains. "As a result of the success of that case, the general counsel and others in the industry were singing my praises, and I used that awareness to help me begin to build a book of business."

But looking for such opportunities to showcase your abilities isn't limited to the early years of your practice; it needs to become a career-long habit. Cohen says that women can be naturally hesitant to

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pitch aggressively for lead counsel, content to be team players. Men with similar skills and abilities, on the other hand, will vie for a more prominent role. Cohen urges women to realize what they bring to the table when given a chance to prove themselves at all levels of practice and career stages.

“Women need to do everything they can to actually manage and be the lead counsel on a particular litigation,” she says. For more junior attorneys, that may mean making clear to the senior partners that the juniors would like to argue motions or assume more responsibilities on smaller cases so they can prove themselves – or taking on pro bono matters where they can run their own cases. “Pro bono matters can provide lawyers with a significant amount of case management and trial experience that lawyers can leverage to seek leading roles on matters.”

For more senior female attorneys, it means not shying away from demanding a lead role in client pitches, taking key witnesses at trial and ultimately first-chair responsibility. She emphasizes that lawyers should not view themselves as simply “asking” for a greater role or more visibility, but “offering” the client a better opportunity to benefit from their skills.

## **Practice-Building: The Right Fit, Cross-Selling and Pitching For Business**

A key to developing a successful practice, Cohen notes, is finding the right fit. From her first policyholder-side insurance case, Cohen found that the practice suited her skills and personality perfectly, combining the role of a plaintiff’s attorney with the financial resources of a defendant’s firm.

“When I get a large coverage matter, I remember that I’m the plaintiff and not the defendant. I don’t mind being aggressive,” she says. “At the end of the day, the carrier’s holding the money, so I want to push toward a resolution. That means push toward a trial date, push toward summary judgment wins – because you’re either going to get a judgment or you’re going to get a very big settlement, which the clients are happy about.”

The same is true of finding the right area of law, Cohen says. Early on, she recognized that her natural strengths were best suited to courtroom work. “I’m quick on my feet,” she says, as an example. “I tend to be overly prepared. I am tenacious and strategic in my approach, and I tend to answer judges’ questions very directly. I focus on what the judge really wants.”

After finding that perfect fit, Cohen says she worked around the clock for a few years to expand her expertise. “I really got familiar with the practice, made a lot of friends within the firm, and we started bonding and really building the practice.” Cohen’s mentors encouraged her to remain assertive in creating and growing her network of contacts. “It’s critical to establish a network with your friends and colleagues from law school and be attentive in fostering those relationships as you advance in your career. Eventually, as your peers advance in their careers, they will have more influence in hiring outside counsel.”

However, building the network is only the start. “It’s important that you establish a connection where you can learn about opportunities and arrive at a point where you can say, ‘I know I can help you, and I’d like to come in and have my firm pitch for this matter.’”

“As a lawyer, your track record becomes one of the most important parts of your brand. Clients are looking for lawyers who have the ability to chair and win large litigations.”

Cohen believes that the art of pitching is a skill that, like any skill, is honed with practice. “The first

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time I pitched to a friend, I was somewhat apologetic in my approach,” Cohen says. “I basically said to one of my closest friends, ‘My partner is asking me to pitch you for business,’ and the friend arranged a meeting. Five days later, we had a major matter.”

The takeaway is that there is never harm in asking. “The worst that can happen is they can say ‘no’.”

## **Success Breeds Success**

Cohen emphasizes that results sell, and a thriving trial practice is built on litigation. In other words, women must win cases if they want to continue growing and developing a track record worth selling to potential employers or companies – and they must be, and be seen as, a driving force in those victories.

“One of the common mistakes I see is that lawyers try to develop business without having anything to sell,” says Cohen. “As a lawyer, your track record becomes one of the most important parts of your brand. Clients are looking for lawyers who have the ability to chair and win large litigations. You have to hone your skills, gain experience and develop a winning record to establish a strong presence in your practice.”

When it comes to advancing your position in the firm, it is equally true that success breeds success. Cohen thus also urges women to market their achievements to their colleagues and superiors at the firm. “It’s important that members of the firm know about your capabilities and your successes. It’s important for establishing your brand, and it’s critical for effective cross-selling.” Cross-networking within your own law firm can also go a long way toward building a book of business, and forming relationships with senior attorneys in the firm is always an asset.

“You have to use the force of your personality and realize that it’s not all about the work. At the end of the day, relationships matter. Building and maintaining a healthy relationship with your firm partners is just as important as building healthy relationships with your clients,” Cohen says.

## **Gender in the Courtroom**

While much has been written about the disadvantages that female attorneys can face in the courtroom, Cohen believes that women should also recognize – and emphasize to clients– the gender “benefits” that women can bring to the negotiating table and the courtroom. Both male and female litigators can have strong egos, Cohen says, but women usually understand when to put ego aside and focus on substantive arguments – an approach that often leads to a more effective resolution. In her experience, women get to the bottom line more quickly and engage in less posturing than their male counterparts.

“Women tend to be much more self-aware of how they are doing in the courtroom, not only with the judge but with the jury,” says Cohen. “If I’m being beaten up by a witness, I’m pretty aware of what’s going on. That can have a significant impact on the success of the trial.”

Unfortunately, gender can still bias even the most experienced of jurists. Cohen stresses that women need to understand that the judge’s behavior and responses set the tone for what’s allowed in his or her courtroom – including behavior from the jury, witnesses, and opposition.

“When you’re handling hostile questions from the judge, you have to respond but also try to defuse

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the situation and remain persuasive,” says Cohen. “I’ve had a number of arguments here the judge was initially against our position, and my oral argument completely changed the judge’s opinion.”

Cohen emphasizes the importance of a diverse team in the courtroom.

“A few years ago, I was lead counsel in a case against 50 insurance companies, with few female lawyers on their team. The jury was predominantly composed of different working women,” she says. “There was no question in my mind that the jurors listened closely to me, and I felt an instant credibility with them.”

On the other hand, there are times – though thankfully few – when her gender has made her a target in the courtroom for opposing counsel. When this happens, the advantage of creating a deep and diverse team allow her to pivot to male colleagues “if I feel that the judge isn’t curtailing the behavior or that it’s having an impact on the jury.”

## **The Role of Mentoring**

Cohen credits her accomplishments and experience with being mentored early in her career – Cohen’s mentors provided her opportunities that weren’t available to most of her contemporaries at the early stages of their careers.

“Early on, I was able to argue in the Southern District of New York when most of my friends were doing document review.”

While the right mentors can make a critical difference and help create more opportunities within the firm, Cohen advises women to be discerning when choosing a mentor.

“Figure out who you connect with and pick someone who is powerful within the organization. The best mentors are also sponsors. You want someone who will give you credit for your work and will invest in you.” It’s also important to know who not to consider as a mentor. “If your mentor takes all of the credit for your efforts, they may not be the best person for you.”

Now, looking at mentoring from the other side of the looking glass, Cohen recognizes that female equity partners can change their firm’s culture by empowering fellow female associates. She takes that role to heart.

“I think it’s really important for senior women in law firms to mentor junior women. I think in a lot of these firms, there are subtleties that cause female attorneys to be at a disadvantage,” she says. “They may not get good assignments or active roles in court. I think it’s crucial that women have a voice within the organization.”

Cohen believes in an open-door mentoring approach, as well as giving junior attorneys the same kind of freedom that her mentors gave her.

“I include everyone in my practice group’s business development efforts,” she says. “From the first-year associate onward, they’re all invested in growing the team’s practice.” She also freely shares what would typically be “need-to-know” information with associates, such as how much revenue the team has brought in. “It contributes to the team’s cohesiveness. Everyone feels like they are part of and contribute to the bigger picture,” she says. “It’s all about empowerment.”

True to her expansive personality and win-win style, Cohen looks for every opportunity to bring women into the spotlight, even down to focusing – literally – on how to take a seat at the table.

“If you go into meetings, a lot of women sit at the side,” she says. “Men don’t typically do that. With my group, from the get-go, I was clear that everyone has a seat at the table – and women should never take a back seat.”

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