



KEKER & VAN NEST LLP

Small Firm, Big Agenda

California Law Business

May 18, 1992

Jessica Gwynn

From the moment John W. Kecker marched into a Washington D.C. courtroom to lead the charge in the prosecution of retired Lt. Col. Oliver North, the clash between the two ex-Marines captured the nation's imagination.

Mr. Kecker's forceful four-day cross-examination and his controversial summation - in which he likened the White House operative to Adolf Hitler - catapulted him to national prominence as a lawyer who faced down Mr. North in the legal equivalent of hand-to-hand combat.

Three years after Mr. Kecker's prosecution of Mr. North, headline cases and heavyweight clients are still lining up at the doors of the firm where he is a name partner; 24-attorney Kecker, Brockett & Van Nest - arguably California's premier litigation boutique.

Founded 14 years ago by Mr. Kecker, 48, and William A. Brockett, Jr., 51, the San Francisco criminal and civil litigation boutique has come a long way from its early days as a two-man criminal defense firm.



The former federal public defenders once drove along the streets of downtown San Francisco pointing to the banks their clients were accused of holding up, Mr. Brockett recalls.

"Today we've moved up from bank robbers to bank presidents," Mr. Brockett says, adding, "who are sometimes equally colorful."

From its sensational civil litigation practice to its still-flourishing criminal practice, Kecker Brockett is an all-around success story.

In addition to attracting big-league clients, it has drawn in some of the state's best litigators, including Robert A. Van Nest, 41, the firm's first associate, who recently became the firm's newest name partner.

Small in size alone, Kecker Brockett tackles bet-your-company cases around the country. In the last few years, the firm won an important summary judgment motion for General Electric Capital Corp. in a large federal securities action involving a 1980's leverage buyout; it represents Intel Corp., against ULSI System Technology Inc. in a patent infringement injunction in Oregon federal district court; and it is challenging in California Supreme Court the National Collegiate Athletic Association's policy of random drug testing.

High-profile criminal matters include representing Nancy Honig and her company, Quality Education Project, in her husband William Honig's indictment on conflict-of-interest charges. Her husband - state superintendent of schools - has come under fire because of allegations that public funds were misused in connection with his wife's private education program.

"We're proud of our trial work for people and for companies where there is a tremendous amount at stake," Mr. Keker says.

In return, Keker Brockett lawyers are well-compensated for their trial work; Top partners bill \$350 an hour for their services; profits per partner are in the \$300,000 range; and the firm posts annual revenues in the neighborhood of \$6 million.

Many people thought Keker Brockett couldn't make big business out of a small firm, Mr. Keker says. "They were wrong about that. Now we can take on anybody, anyplace, anytime."

Top-flight litigators in San Francisco are quick to concur.



"They are a competitor on any piece of litigation they choose to go after," says Stephen V. Bomse, a well-respected litigator with San Francisco's Heller, Ehrman, White & McAuliffe.

Indeed, Mr. Bomse has been a true believer in Keker Brockett for years.

While attending a meeting for summer associates in 1984, Susan J. Harriman, now an up-and-coming Keker Brockett partner, recalls a fellow summer associate asking "If you were in our shoes, would you come to work for Heller Ehrman?"

Mr. Bomse replied, "Frankly I would go to Keker & Brockett . . ."

"So I wrote down the name of the firm and started asking people, 'Who are these guys?'" Ms. Harriman remembers.

Eight years later, as Mr. Bomse hears this story for the first time, he says, "I am devastated," adding, "Don't tell any of my partners; they'll all sue me."

But Mr. Bomse hasn't changed his mind about Keker Brockett. "That would be the answer I would give today, and I certainly don't think I led Susan astray."

It was the Indian summer of 1978 when Mr. Keker made the rounds, telling San Francisco's best trial lawyers about his new white-and-blue collar criminal defense practice with Mr. Brockett.

David M. Balabanian, a top litigator with McCutchen, Doyle, Brown & Enersen, remembers the day Mr. Keker appeared at his door. "I tried to hire him," says Mr. Balabanian of the young, ambitious trial lawyer who stood before him. "At the time I never imagined that he would do what he has done."

For a couple of years Messrs. Kecker and Brockett — who met in law school — survived on their trial skills and on the good will and referrals that were handed down from the city’s largest firms, Mr. Brockett remembers.

“It was an existential life because we never knew from year to year where our client base was,” Mr. Brockett says. “We just had to grow on the faith that because we were good lawyers, clients would come. And they did.”

In the late 1970’s, Kecker Brockett took on major criminal cases, defending such figures as former Black Panther leader Eldridge Cleaver against state parole authorities, a Lutheran minister who blocked traffic in a 1982 anti-nuclear protest at Livermore Laboratories, a religious leader tied to a get-rich-quick scheme and a banker reportedly connected with an international money laundering operation.



Kecker Brockett began expanding in the early 1980s into civil litigation that was closely tied to its criminal work, such as fraud, conspiracy and securities matters.

By 1982 when Mr. Kecker headed a Hitachi defense team in a suit brought by IBM in federal court in San Jose - one of two cases that set the boundaries for U.S.-Japan competition in high-tech electronics - half of Kecker Brockett’s caseload was made up of civil matters.

“Cases like that built our reputation,” Mr. Van Nest says. “Other lawyers and corporate counsel began to ask us to take on bigger and bigger assignments.”

Within three years, criminal matters made up only 25 percent of the firm’s work, and that trend has continued over the last seven years.

By 1987, Kecker Brockett was defending George Lucas and his film company in a highly publicized litigation in which it was alleged that Mr. Lucas stole the idea for creatures that appeared in “The Empire Strikes Back.”

It was in the same year that Mr. Kecker landed a seat on Lawrence E. Walsh’s 26-member Iran Contra prosecution team. Kecker Brockett lawyers say they anticipated a surge in business but no one expected the flood of interest that would come on the heels of the North trial.

“People who could have gone anywhere were coming to us,” Ms. Harriman recalls.

As Mr. Kecker, Kecker Brockett’s top business-getter, engaged Mr. North on the front lines in the nation’s capital, his partners at home in San Francisco brought up the rear.

“The rest of the partners in the firm had to step up the pace and fill the void created by his absence,” Ms. Harriman explains.

Mr. Brockett, who recently won a \$19.6 million jury verdict for local attorney Frank Wang in a partnership dispute, continued to be a driving force at Kecker Brockett. He defended a former investigator for the district attorney’s office in Alameda County, and brought in a series of major matters stemming from his

defense in 1977 of a former U.S. attorney embroiled in a vice scandal involving the Alaska pipeline.

Younger partners like David J. Meadows and Jeffrey R. Chanin also began to bring in significant work, and more junior partners such as Gary Cohen and Ms. Harriman began to take on increasing responsibility for big matters.

Although Mr. Brocket brought the Chubb group of insurers to Keker Brockett as a client, Mr. Meadows, the second associate the firm hired, handles all of the company's legal work.

In his first case for Chubb in San Francisco Superior Court in 1988, for example, Mr. Meadows, with the help of Mr. Cohen and Ms. Harriman, defended Federal Insurance Co., a member of the Chubb group of insurance companies, one of four defendants, in a \$34 million action.

Keker Brockett's younger partners were growing up professionally, but it was Mr. Van Nest who really bloomed, becoming - almost overnight - a highly accomplished rainmaker well-known in San Francisco legal and business circles.

Intel Corp., Nestle Beverage Co., The Clorox Co., General Electric Capital Corp., Founders Title Co. and Hellman & Friedman number among his clients; in recognition of his contributions his name was added to the firm's shingle earlier this year.

"The firm didn't shrivel up while John was away" on-an-off for 18 months, Mr. Cohen says. "We still had clients coming to us. John came back and he had that platform from which he could appeal to general counsel of national corporations...There wasn't a piece of litigation that we couldn't handle."

The barrage of attention turned the small firm into a litigation powerhouse. The Keker Brockett motto was no longer "cases, not clients"; it had become "cases and clients."

As Fortune 500 and other major companies such as McKesson Corp., Chevron Corp., First Nationwide Bank, MCI and NBC brought Keker Brockett some of their major litigation, the firm switched from representing mostly individuals to counseling some of the state's - and even the nation's - largest corporations.

"Now we had become enough of a household name that we had clients who were [our] clients," Mr. Brockett says. "They stayed with us, they gave us all - or much - of their litigation."

Today, he says, "we know where our next dollar is coming from."

With more and bigger cases streaming through Keker Brockett's doors, the firm either had to grow or turn cases away.

"Can a good small firm stay small?" queries Mr. Brockett, shaking his head.

Keker Brockett was changing course, reevaluating its strategy and the obstacles that lay ahead.

"It really hasn't become a mundane business at all" as some feared, Mr. Cohen says. "We really have the opportunity to do a lot of interesting work for terrific clients."

"We hate to say no to people who come to us and want us to handle their cases, and for the last year or so that has driven the tremendous growth of the firm."

But although Keker Brockett began to represent major corporations, the firm did not abandon many of its

smaller clients, such as the Daphne family, which owns the Bay Area's largest mortuary. "They helped us open our doors," Mr. Brockett explains.

Escalating demands from new and old clients and accelerated hiring - 10 new lawyers in three years - has made recruiting more important than ever.

To keep their pure-litigation boutique on track, Keker Brockett attorneys are now looking for what Messrs. Keker and Brockett looked for in their first associates: gutsy, impassioned trial lawyers.

"We always said we wanted to hire the kind of associate that could steal our client, leave the firm, walk down the street and open their own law firm," Mr. Brockett says. "So far [our associates have] stolen our clients but kept them here at the firm."

Keker Brockett is at the top of many serious minded young litigators' lists of dream firms, so whisking away top-notch associates from clerkships or lateral associates from big-name firms has so far been easy.

It's a tradition that goes back to the firms' beginning: Some of the firm's first associates - Mr. Van Nest and partner R. Elaine Leitner - were making opening arguments and presenting evidence within two months of their arrival at the firm.

In 1989, in federal court in Los Angeles, with Mr. Keker at the helm, Mr. Cohen worked on a case for the International Trading Group, a commodities option broker in San Mateo, which was sued for \$400 million by the Commodities Futures Trading Commission in the largest case the commission had ever brought. Messrs. Keker and Cohen also defended the company in class-action suits investors.

It was a mere four years after Mr. Cohen had joined Keker Brockett.

"I was the one who did most of the work on putting that settlement together," Mr. Cohen says. "It took about a year between the time I first reached an agreement to the time settlement finally happened. It took a lot of cajoling and stamping of the feet to make it happen."

The training often proves so successful that more junior partners like Mr. Cohen find they are soon in need of second or third chairs on cases.

The 10 partners and 14 associates are also encouraged to take on pro bono work ranging from big-impact litigation such as a voting rights case on behalf of the students at University of California, Santa Cruz to immigration work for Haitian refugees.

"You write your own book here," Mr. Brockett explains. "if you don't like the news, go out and make some of your own." And the younger lawyers do.

It was not long ago that Keker Brockett vowed to stay small. Today it's as big as litigation departments at major firms - and its showing no signs of slowing down.

But with the joy of growing, Keker Brockett also has begun to experience some of its first growing pains.

In a red-brick courtyard in the midst of the quaint Jackson Square district of San Francisco where the Keker Brockett shingle hangs, the firm is very nearly bursting at the seams.

Keker Brockett already has outgrown the office space it moved into nearly three years ago - after signing a 10-year lease - and soon may spill over into office space that could be several office space that could be

several blocks away.

It's a strange predicament for a firm that once said it would confine its ranks to the number - 12 - that could fit comfortably around a large dining table.

The question that lingers in its hallways is how long Keker Brockett can maintain a small-firm community and still continue to get big.

"We can go for days without seeing each other," Mr. Brockett says. "I still know everybody's names but I don't know all of their problems the way I did when the firm was smaller."

It's a whole different ballgame, Mr. Meadows agrees, who has been with Keker Brockett for 11 years. "We used to yell out our doors to each other; now we have email."

But Mr. Van Nest is confident that growing big will not mean growing apart.

"I think that a firm that is well-managed can keep the lawyers in touch with each other far beyond 25 lawyers," he says.

The attraction of even-bigger litigation overshadows reservations about growth, Keker Brockett attorneys insist.

"To get the kind of business that we want to get these days, it makes people nervous if you are too small," Mr. Keker says.

And Mr. Brockett says although he'll miss the close-knit camaraderie of a small firm, he wants Keker Brockett to grow as big as it can.

"When we started our motto was we were going to be a mouse among elephants," he muses. "Now we're a lion among elephants. Maybe someday we will be an elephant among elephants."