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LAW FIRM BUSINESS

## No Bluffing

Marlin & Saltzman LLP forged a reputation as a go-to defense firm in the 1980s and '90s, then made a switch to plaintiffs' work. A key to its success? Lawyers prepare to take a case to trial — no matter what.

By Andrew McIntyre  
Daily Journal Staff Writer

IRVINE — In the mid-1980s, Louis M. Marlin and Stanley D. Saltzman were lead defense attorneys in a massive psychological malpractice case brought by former patients of the Center for Feeling Therapy against the then-defunct Hollywood psychotherapy group.

Marlin was a sole practitioner and Saltzman was an insurance defense lawyer at Fonda & Garrard, but both were impressed by how the other had worked on the matter, which had been running for four years.

"We got to see the quality and level of work that each did, and we got to see each other in action on a regular basis," Marlin said. "It was really good to see that there was kind of a yin and yang about how we handled things and how we dealt with things."

One evening, the two got to talking about what they might do after the case.

"Stan and I met for dinner at Charlie Brown's in Long Beach, and we decided to form a partnership," Marlin said. "We agreed to split things 50-50. The firm will be Marlin & Saltzman. That's our partnership agreement, written on the back of a place mat."

Soon after the Center for Feeling Therapy case settled for more than \$6 million, the two made good on their promise, forming Marlin & Saltzman LLP in 1985. Today the firm has five partners and seven associates with two offices in Orange County and in Los Angeles.

Though Marlin & Saltzman opened its doors as a defense firm, the firm now represents plaintiffs in complex litigation matters. Among its current matters are pending suits against JB Hunt Transport Services Inc., Schneider National Inc. and Swift Transportation Co., three of the five largest trucking companies in the U.S. The firm has achieved more than \$750 million in combined plaintiff-side settlements, according to the founding partners.



Juliane Backmann / Daily Journal

Louis M. Marlin, right, and Stanley D. Saltzman of Marlin & Saltzman LLP.

"Staying alive" was the initial challenge after founding the firm, Saltzman said. In its early years, the firm did defense work on an hourly fee basis mainly for mid size insurance firms. They found clients mainly through word of mouth.

"You know someone who's an adjuster at an insurance company, and they recommend you to handle a case for an insurance company," Marlin said. "Right after we formed our partnership, we wound up working on a very large case in L.A. County."

That case dealt with the question of who could sue mortuaries for damages after mortuaries had mishandled the remains of relatives or close friends, and Marlin & Saltzman was lead counsel for the defendants, dozens of mortuaries. The state Supreme Court took up the case, and in its ruling limited the potential pool of plaintiffs who could sue for damages. *Christensen v. Superior Court*, 54 Cal.3d 868 (1991).

"That got us a lot of attention in the legal field, unfortunately or fortunately, in connection with dead body cases," Marlin said. The firm became known as the dead body firm, he added.

But the unfortunate epithet turned out to be a stroke of luck. The University of California was accused of problems

involving their Willful Body Program and called the firm. "The regents, having somehow seen or heard of our expertise in handling very complex ... litigation involving dead bodies, retained us to represent the University of California, and that's what started our relationship with the regents."

The firm worked throughout the 1990s on the defense side, and grew to a dozen lawyers. Later that decade, though, the founders decided to make a major change. While they had become experts on the defense side, they had come to realize that the plaintiffs' side appealed more to them. So in the late 1990s, they made a plan to transition entirely to plaintiffs work, and to switch from an hourly to a contingency firm.

"We just felt after doing all the defense work for many years, we were more morally comfortable on the plaintiffs side of cases," Saltzman said. "And we felt we could do more good, both for our clients and perhaps for ourselves."

In 2005, by then a full-fledged plaintiffs' firm, Marlin & Saltzman achieved two whopping class action settlements regarding misclassification of claims adjusters as employees being exempt from overtime pay: a \$135 million settlement with State Farm Mutual Automobile

Insurance Co. and a \$120 million settlement with Allstate Insurance Co. *Gutierrez v. State Farm Mutual Automobile Insurance Co.*, BC236552 (L.A. Super. Ct., 2005); *Sekly v. Allstate Insurance Co.*, BC240813 (L.A. Super. Ct., 2005).

While many law firms were hit hard during the recession, the downturn had little impact on the firm, which at the time, if anything, picked up some extra business.

"We were representing the little guys, the workers, involving claims against large corporations, who tend to be more dissatisfied and unhappy employees during a recession," Saltzman said. "They were willing to step forward and put their name on a lawsuit and sue their employer. If anything, it probably increased our workload."

The majority of the firm's work now is federal, and its biggest area of growth of late has been mass tort. The partners said they like the size of the firm and don't have plans for significant growth.

The firm prides itself on the fact that it encourages every attorney to prepare every case for trial. That, the partners say, has made an indelible mark on the firm.

"You prepare a case as if it's going to trial. You don't prepare it to settle. You don't prepare it to mediate. You prepare for trial," Marlin said. "And if you prepare for trial, if you go to trial, you're ready. And if you settle, you're going to settle for the best dollars available because the other side knows you're ready for trial. And that to me is really the key to our success."

Case in point is the Allstate \$120 million settlement. In that case, the firm had turned down an earlier \$80 million settlement offer, and during jury questionnaires, the firm's mediator called to ask if the firm was indeed really going to take the firm to trial.

The firm was ready. "That's when Allstate said, 'No mas,'" Marlin said. "That's why you have to be ready to try every case. Really ready. Not bluff ready. You need to truly be ready."