

Blank Rome Leaders Say Success Lies In Diversity, Teamwork

By **Shane Dilworth**

Law360 (January 14, 2022, 11:27 AM EST) -- Nearly six years ago, more than 100 attorneys from Dickstein Shapiro joined Blank Rome LLP's Washington, D.C., and New York offices, including members of a policyholder-only insurance recovery team that hit the ground running on the way to become a nationally recognized squad.

Law360 spoke with James R. "Jim" Murray, the insurance recovery team's leader — who has twice been named by Law360 as an MVP in insurance coverage — and Linda Kornfeld, the team's co-chair, about how the team's lateral hiring practices, diversity and overall teamwork have resulted in positive results for clients.



Linda Kornfeld

Let's start at the beginning. What's the story behind the formation of the team?

Jim: The whole idea of a policyholder-only practice started to emerge about 35 years ago, mostly in the asbestos and pollution area. Most of us thought that was only going to last five or 10 years. For a variety of reasons, it blossomed and along those three decades, very few firms were positioned to have a policyholder-only practice.



James Murray

I left my partnership at Covington to start my own firm in Seattle and returned to D.C. in 2007 to join Dickstein Shapiro. One of the Dickstein partners who interviewed me was Linda Kornfeld, and we worked together there until 2011. By 2015, there were a lot of combinations going on, and it was very clear to Dickstein Shapiro, which had an historical policyholder-only practice, that the insurance team as a whole had to find a new home. Unfortunately, even though our chairman happily told me that several firms were interested, we could not go to them due to conflicts with their insurer client relationships.

The plus was that we were interviewing as a group at other firms to the full knowledge and approval of Dickstein, including the approval to take the clients with us if we went to another firm. We were on the verge of splitting off from Dickstein when Blank Rome approached the chairperson and then the executive committee in December 2015. I was initially skeptical that in 2015, any large full-service firm of 600 lawyers truly had no insurance industry-related conflicts at that point that could be dealt with.

In early January 2016, Blank Rome's chairperson and managing partner got together with us and assured

us that they had been looking for the practice and that they didn't want to take just one or two people. We were assured that the firm had been largely neutral regarding insurance coverage matters over the years. So by February 2016, Dickstein Shapiro had 100 lawyers joining Blank Rome, including about 13 of us in the coverage group. We were assured that we would never be confronted with an insurance industry-related conflict of interest and Blank Rome's commitment in that regard has been religiously adhered to. This firm has been absolutely sacred in that commitment, and it's really been something for us.

What was the next step for the team after the firms combined?

Jim: The next most important thing was building laterally, which to us means going out and finding old friends and old acquaintances who are at different places now. My first goal when I came over was to meet with Linda and to recruit her back to our firm like she had done with me a decade earlier. That was successful, and we continued to build our practice.

Strategically, it was very important for us to hire some of the best women in the country. In addition to Linda, we've taken in 19 other attorneys into the group since we joined Blank Rome, 17 of those attorneys are women. We've been very happy with that. We also haven't taken in a partner among the 30 or so people we have in the group now that doesn't have at least one degree of Kevin Bacon connection with one of us.

Linda: I think an important point about this group is that we are old friends and former partners from different firms. This group is so cohesive, and we're all so close because we've all known and practiced law with each other for so many years. When you bring a group together like this, and aren't going into a marketplace and hiring strangers, it's like adding to a family. In many instances, we have known each other for most of our practicing years, so it's really special that we're not just work colleagues, we really are like family.

What do you think are the keys to the team's success?

Jim: You don't become successful solely because you are close friends. Everybody shares a passion and a desire to not only be insurance coverage litigators every day of the week, but to do it on a national and international scale, on a premier scale. Our attorneys want to be competitive, and that was and is our goal. All of our folks have a national perspective, and it was very important to us to have a national practice, which means having offices in at least L.A., D.C., New York and Chicago, which we happily have just done. We have a vision of a national practice, and that is more than just sticking a bunch of offices together. Our practice group coordinates entirely as a practice; the firm allows us to run it as a practice.

Linda: Over the years, we have had the opportunity to practice at different firms and be part of different groups. I think this group is so successful because we all have these real relationships with each other and because we're always talking to each other.

We deal with really complicated issues on a regular basis, and we're always brainstorming about issues, talking about the issues and helping each other think through strategy and approach. And this includes our junior attorneys. They learn that we have this collaborative and communicative culture early in their journey at the firm, and embrace it as they advance within the group. So I think having these relationships causes us to be completely comfortable just reaching out on any given day to say, hey, you know, this is an important issue, I want to talk about it. We have great success in our cases, I think, in part because we talk to each other.

What's the team's philosophy? How do you approach a case?

Jim: That's a great question. Blank Rome probably is more defense-oriented overall, but our group's approach, if you will, is like a little plaintiff's boutique practice within a larger firm. That means we are aggressive in the sense that we want an early trial date, we want limited discovery, and we want things to move. We don't want a lot of discovery battles over privilege.

Give up the little things and keep your eye on the ball. So, to that extent, we think like a small boutique does. You don't want the overhead, and you don't want the problems that go with just running the case for the sake of running the case, you want to get to the merits. Often that produces a settlement.

Linda: Substantively, the insurance recovery practice area is ever-evolving. We are dealing with new and not-yet-charted issues all the time. Our perspective and approach includes talking to each other when new issues come up, and figuring out who the right person is to respond and formulate a strategy for the client, as opposed to living in silos where the person who responds is always only the person who got the phone call. We all have such varied backgrounds and when we're presented with a unique coverage issue we think about which of our many brains should be put together to figure out the best strategy to respond.

What do you think have been the team's top three accomplishments?

Jim: I think the immediate entry into the top three or four firms in this area, within six months of coming to Blank Rome was one of those accomplishments. And that was strategic, and it was a lot of careful work. There's a lot of high-quality stuff that went into it. D.C. is a very competitive market, and I think it was in the first year that we got the D.C. Firm of the Year from National Law Journal, so that's number one. Number two, is keeping and building top-tier clients in a very short period of time. I also think it is a big accomplishment that in five years we have litigated in every state in the country, Guam, Puerto Rico and England.

Linda: In the world of coverage, if you say the name, "Blank Rome," everyone says it's a top-tier coverage practice. I think that's a huge accomplishment in a short period of time. Another major accomplishment that we are very proud of, and certainly this was important for me when I joined the firm, was for us to create the premier "diverse" insurance recovery practice group.

As Jim mentioned, 17 of our 19 lateral hires added to the group have been women. I mean, that's huge. Our group has more Chambers USA-ranked women partners than any coverage group at any other firm. Three of the five insurance recovery women who are ranked nationally by Chambers are at Blank Rome. I'm a co-chair of such a pre-eminent group, and I'm both a woman and LGBT. I think from a diversity perspective, we outrank the coverage groups that are out there at competitive firms. That's really significant, and we put a lot of effort into that because it's great for our firm and our clients.

How important is diversity and inclusion in the legal industry, and how can it make for a more successful team of litigators?

Jim: Diversity is critical, and it's not a slogan; I mean it. The theme of the firm — and of the group, as well — is that people be encouraged to bring their whole selves to work in every aspect. I think back to when I started in the early '90s, diversity was not only not advertising it, it was hidden. To underscore Linda's point, it's going to be hard to find a group that's more naturally diverse.

Linda: I am so proud that this firm has been so accepting and excited to have the talented lawyers and professionals that it has. Whoever comes in the door and has talent is embraced, regardless of their background. I feel extremely embraced in this firm and obviously, in this group. The clients benefit if the lawyers feel comfortable, and bring their whole self to the conversation and to the work. The clients get the benefit of diverse perspectives. There's a lot more creativity that comes out of diverse thought, from diverse people, and we have it here in spades.

What are the biggest challenges that team has faced, and what did do you to overcome them?

Linda: Well, it's interesting, because the pandemic happened, and suddenly, you're not in an office, sitting with people daily, interacting, and having professional engagement. Obviously, it could be a huge challenge, but I actually think that it's been great for our group.

Some of us were not excited about videoconferencing back in March 2020, and that word "Zoom" wasn't really, at least in my vernacular. But we became familiar with all the kinds of ways to see each other without being in the same room with each other. But we took that challenge, and I think the group is even closer, because we are seeing, you just hit a button, and you're in a meeting and seeing each other.

Now I'm seeing everyone, you know, wherever their camera, wherever their computer is, on a given day, you know whether it's in their living room or somewhere in their house. You get to know people better when you're having conversations with them when they're sitting at their kitchen table. And so, I feel like what could have been a huge challenge for us and separating us and keeping us apart, really brought us together and made us even closer.

Jim: I think what Linda just said is so true. We are a national group, and before the pandemic, we would have monthly meetings. With the pandemic, we actually bumped them up to weekly meetings. We wanted everybody to attend and feel connected, so we would pick one issue to talk about and give a quick report. All of a sudden, there are 30 little cameras instead of four or five.

What do you think is currently the biggest trend in insurance litigation?

Jim: There's no doubt that the biggest trend is directly related to the COVID pandemic. It goes without saying that given the billions of dollars at issue for the insurance industry, it is a very contentious area that is being aggressively litigated on both sides.

There are a number of issues, but so does every case we've ever worked. I mean, we all grew up on pollution where there was a qualified pollution exclusion that said "sudden and accidental" leaks would be covered. All of us argued for more than 10 years that the word "sudden" did not have an exclusively temporal connotation; it also meant unexpected. So, we're not afraid of those battles, including COVID and coverage for COVID related business interruption.

We are litigating a number of these COVID coverage cases. Starting in March 2020, we read hundreds of policies and then carefully picked the two or three policy forms that we were going to bet on and the right carriers. We picked and are litigating about 10 big cases, one that includes the Philadelphia Eagles, where we thought we could make inroads for our clients. We're heavily occupied in that area, and remain confident that policyholders with the right policy forms and facts will ultimately win these cases, I do stress that we're just as occupied these days in other, non-COVID areas.

What are some other areas of coverage litigation that are going to become more prevalent in the years to come?

Jim: I would say sexual abuse. It was kind of a cottage industry in the rare cases here and there, and it didn't really become a big area until it started really growing after 2002, when numerous claims of sexual abuse were revealed against the Boston Catholic Diocese. The thing about it is it's the same policies in the same years, literally, as the asbestos and the pollution policies. It's general liability policies, the bodily injury line of coverage that is triggered in the year when the abuse occurred. So when the statute of limitations get lifted on those policies, all of a sudden we now have a third area of historical insurance battles, and it's just continued to mushroom now that various windows have opened such as occurred in New York in 2019. And, we may soon see the same thing happen in other states.

We've also been seeing more about cyber over many, many years. I think cyber is going to be around in a big way for a long time. When the cyber era came up, we were all writing law review articles about and kept trying to pigeonhole it into general liability coverage, where we'd say that the cyber damage was property damage. We'd begin to lose those issues, but then the industry started writing cyber-specific policies. What's become clear in the last two or three years is that cyber is here for the long haul with globalization, with digitization, with Bitcoin and with everything that everybody does. Huge and different liabilities are going to start occurring as we continue to progress into a cyber world. It's an area that's going to be with us for a while.

Linda: I agree that cyber is going to continue to grow and become a bigger deal. Our tangible world is daily becoming more intangible, including, critically, our currency and how we conduct business. There's no question that the cyber issues are going to continue to evolve as the criminals get more sophisticated.

We're going to have more and more issues where the question is whether there's insurance to pay for things we can think of today, and things we'll never even imagine until a year from now. So, we are regularly working with our clients when they are purchasing cyber coverage to help them purchase coverage that will pay not only for the types of risks we understand exist today, but that the policies are flexible enough to address exposures that have not yet been created. That's the challenge of dealing with cyber, but also what makes it interesting.

Jim: One nuance on that chain that I think shows our creativity in what we do as counsel. A lot of the old policies are all manuscript, and not their standard forms. The cyber world is changing so quickly, that almost on an annual basis there are proposed wording changes by the carriers.

Negotiating the coverage is mostly the insurance brokers' job, and we get along well and work with them. We're quick to say that we don't do what brokers do, we don't price products, and that we're not experts in those areas. In terms of the forms and the state forms, the brokers are the experts. So, what we add is how 50 different jurisdictions – judges and sometimes, juries -- have interpreted the words of these policies in other context and work with the client and the broker to try to solve that problem in advance.

--Editing by Vincent Sherry.