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Front Page

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Pinning the blame for 9/11

Special Report

A Philadelphia law firm is waging an epic legal battle to win billions from Saudi Arabia.

First of two parts

By Chris Mondics

INQUIRER STAFF WRITER

Less than a mile from the mournful place in Lower Manhattan where the World Trade Center came crashing to the ground, in a hushed federal courthouse, a small band of Philadelphia lawyers is prying loose secrets of the Sept. 11, 2001, terror attacks.

It is here that the Cozen O'Connor law firm has filed an 812-page lawsuit on behalf of U.S. and global insurance companies alleging that Saudi Arabia and Saudi-backed Islamist charities nurtured and financed al-Qaeda, the author of those deadly attacks.

Led by its flinty chairman and founder, Stephen Cozen, the firm has invested thousands of hours and millions of dollars to scour the world for witnesses, documents and other evidence in its attempt to hold the oil-rich desert kingdom liable for more than \$5 billion in damages.

Among the companies represented in the lawsuit are Chubb, Ace, Allstate, One Beacon, and nearly three dozen other insurers.

"Our concern was whether there was a viable case to be made against the defendant," Cozen said, "and whether the defendant could pay."

Round 1 in this titanic legal battle went to the Saudis and their high-powered lawyers three years ago when a U.S. District Court judge removed the government and Saudi royals as defendants.

Defense lawyers have declined repeated requests for interviews, citing the pending litigation. But in court papers, they describe Cozen's allegations as "fabrications" and note that the 9/11 Commission found no evidence of official Saudi involvement. Moreover, they point out that Saudi Arabia itself has been an al-Qaeda target.

"The showing that the plaintiffs purport to make is complete and utter garbage," said Michael Kellogg, a top Washington appeals lawyer representing Saudi Arabia and members of the royal family, during an appeals



SPENCER PLATT / Getty Images

The towers burn. Although the attack was calamitous, the suit "is mundane in that we are not breaking new ground," Stephen Cozen says, adding: "The law has always recognized the liability of those who participate in a conspiracy."

argument in January. "It is a collection of newspaper articles, and reports and press releases that show at most the kingdom exercises some supervisory control over the charities."

But Cozen argued that the kingdom and its officials should be restored as defendants. A fiercely competitive lawyer who built a tiny practice into one of the world's leading law firms for insurers, Cozen, 67, contended that the defendants "knew and intended to support al-Qaeda through these charities."

With a ruling from the U.S. Court of Appeals for the Second Circuit imminent, Cozen and his partners have unearthed facts and made connections missed not only by the 9/11 Commission but also by Congress in its investigations.

At the heart of the suit, the biggest and most complex legal action ever undertaken by the law firm, are warnings from U.S. and European officials that the charities were serving as terror fronts.

Among the suit's key assertions:

- Senior Saudi officials and members of the royal family or their representatives served as executives or board members of the suspect charities when they were financing al-Qaeda operations. Overall, the Saudi government substantially controlled and financed the charities, the lawsuit alleges.

- The charities laundered millions of dollars, some from the Saudi government, into al-Qaeda and other terrorist groups and provided weapons, false travel and employment documents, and safe houses.

- Regional offices of the charities employed, in senior positions, al-Qaeda operatives who helped coordinate support for terror cells.

Although the lawsuit argues that the Saudi government "intended" the 9/11 attacks to happen, the public record supporting that allegation is thin, and lawyers suing the kingdom have yet to generate direct evidence that any senior Saudi official conspired with al-Qaeda to attack the United States.

Instead, the lawsuit compiles hundreds of incremental disclosures from U.S. gov-

ernment and other sources and weaves them together to form one basic assertion: Al-Qaeda's development from ragtag regional terrorists into a global threat was fueled by Saudi money, some of it from the government.

And the charities, the lawsuit contends, were the money's conduit.

With the help of charities affiliated with the Saudi government, the lawsuit contends, al-Qaeda spread to the vicious 1990s Balkans war, which pitted indigenous Muslims, their al-Qaeda allies, and other mujaheddin against Serbs and Croats.

The organization then leapfrogged to attack Western targets, including two U.S. embassies in East Africa, the U.S. destroyer Cole, and finally the World Trade Center and the Pentagon.

"In a lot of ways this case is very unique, and in a lot of ways it is very mundane," Cozen said in an interview. "It is unique in that it is grounded in one of the worst events in U.S. history. It is mundane in that we are not breaking new ground in tort [liability] law. The law has always recognized the liability of those who participate in a conspiracy and those who aid and abet."

Cozen is suing under the 1976 Foreign Sovereign Immunities Act, which protects foreign governments from being sued by U.S. citizens except in rare circumstances. While the standard is extremely high, federal courts have permitted lawsuits in cases where foreign countries engaged in criminal conduct, such as murder.

Even if Cozen loses the appeal and the Saudis retain immunity, U.S. District Judge Richard Conway Casey ruled that there is enough evidence to proceed against several Islamist charities, banks, and alleged terrorism financiers named in the lawsuit.

While Cozen was the first, a half-dozen other groups have sued the Saudis to hold them liable for supporting Islamist charities allegedly tied to al-Qaeda.

Among the other plaintiffs: the estate of an FBI agent killed in the 9/11 attacks on the World Trade Center, and the investment firm Cantor Fitzgerald, which lost 657 employees when American Airlines Flight 11 slammed into the north tower.

Outside the courtroom, the Cozen lawsuit has caused friction between the United States and Saudi Arabia, which, after Israel, is this nation's most important Mideast ally.

In a filing with the Second Circuit, Saudi Arabia said the lawsuit had undermined the nations' ability to work together to fight terrorism.

"This concern is felt in all circles of the Saudi government," said Nizar bin Obaid Madani, Saudi minister of foreign affairs.

The litigation, Madani said, "sends a confusing and mixed message about the relationship between the governments of the

United States and Saudi Arabia."

The question of whether elements of the Saudi government offered support to jihadists intent on attacking the West has fueled intense and even acrimonious debate at the highest levels of the U.S. government.

Former New Jersey Gov. Tom Kean, who chaired the 9/11 Commission, said he was uncertain. The royal family is so huge — there are thousands of members — that Kean said it was difficult to know how power was distributed and who had authority.

Former Republican Sen. Slade Gorton of Washington, a 9/11 Commission member, is less cautious.

"Clearly, the central moving figures in the 9/11 scandal were Saudi, and clearly that wasn't a coincidence," he said. "The fact that there is a particularly militant and extremely conservative form of Islam that is, in effect, the state religion of Saudi Arabia — well, there has always been tension between the United States and Saudi Arabia over that.

"Do we pull punches with the Saudis on the charities and other matters because they can help us counterbalance Iran, they can help us bring the Palestinians and the Israelis to the table, they can serve as a forward staging area for our military in the Middle East?" Gorton asked. "I don't think there is any question but that is the case."

David E. Long, former deputy director of the State Department's Office on Counterterrorism, who is fluent in Arabic and travels regularly to the Mideast, said he believed it was unreasonable of Americans to expect that before 9/11 the Saudis would have cracked down on terrorism financiers.

They didn't have the forensic skills or financial monitoring tools, said Long, a former lecturer on the Middle East at the University of Pennsylvania. Moreover, until then it was unthinkable to many Saudis that charitable organizations might promote violent international jihad.

One of the central principles of Islam, he said, is Zakat, the giving of alms to the poor, and once the money went out the door, Saudi donors assumed it would be used for charitable purposes.

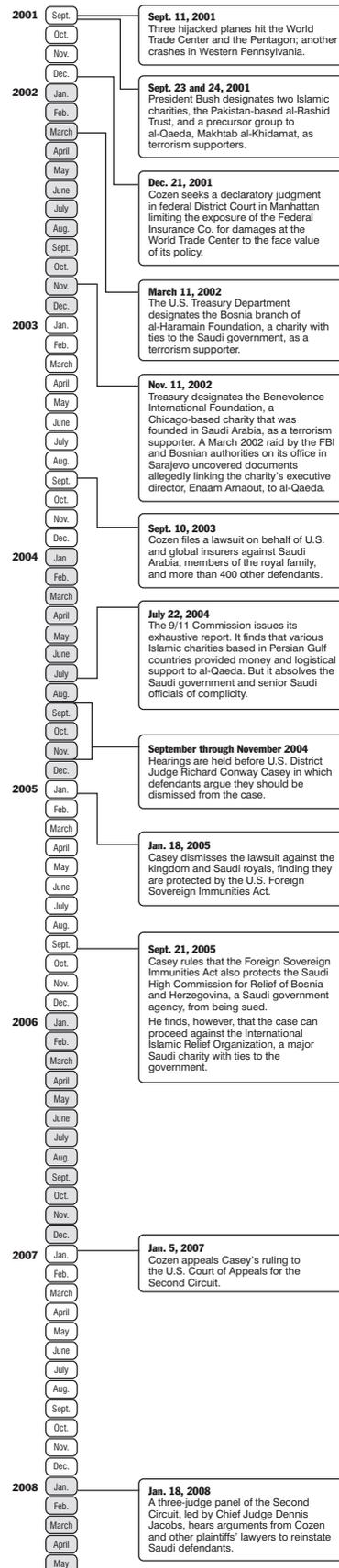
"Traditionally, there was little or no oversight throughout the economy, trust was highly personalized, and caveat emptor was the order of the day," Long said. "It is . . . my view that there is no basis for the claim that the Saudi government wittingly supports or has continued to turn a blind eye on foundations supporting terrorist operations."

Cozen's case is built on thousands of Treasury Department and law enforcement findings, declassified diplomatic cables, and military and intelligence reports.

The story that emerges details a saga linking the charities to money-laundering, police raids, and terrorist attacks. It spans

Evolution of the Lawsuit

The liability case Cozen O'Connor has brought against the Saudi government and other defendants on behalf of U.S. and global insurance companies is the biggest and most complex the firm has ever filed. It draws on events that arise from the 9/11 attacks.



the globe, from New York and Philadelphia to the Balkans, the Mideast and beyond. It begins in Saudi Arabia.

Riyadh, November 1994

French Interior Minister Charles Pasqua, in the capital to discuss security, delivered an urgent official message to his Saudi counterpart, Prince Naif, Cozen alleges.

Pasqua, gruff, confident and imposing, had oversight of French intelligence operations. He pulled Naif aside.

The French, he said, had information that the Muslim World League, a sprawling charity that the Saudi government had created to promote Islam around the world, was funding terror cells in France.

The French were deeply worried, Pasqua said, and he needed the Saudis to address the situation.

Pasqua's warning was the first of several that Western intelligence agencies gave the Saudis before 9/11, the lawsuit asserts.

The government, the suit contends, did nothing.

Washington, 1998

Acting on information from sources overseas, U.S. intelligence reported to the Saudis that employees of a government-affiliated charity, al-Haramain Foundation, may have been involved in the bombings of U.S. embassies in Kenya and Tanzania.

Six years later, the 9/11 Commission concluded that the Saudis never acted on that information.

The Cozen suit also cites a conclusion by Sen. Robert Graham of Florida, chairman of the congressional joint inquiry into 9/11, that a Saudi government employee named Omar al-Bayoumi helped two of the hijackers find an apartment in Southern California and lent them money.

Although the 9/11 Commission and the FBI discounted Bayoumi's involvement,

Graham told The Inquirer that he was convinced Bayoumi was a Saudi intelligence agent and that his aiding of Nawaf al-Hazmi and Khalid al-Mihdhar signaled some degree of Saudi government participation.

During the inquiry, Graham said, the FBI repeatedly stonewalled efforts to subpoena a Muslim academic and FBI informant who had housed the hijackers.

"That is one of the major unanswered questions of 9/11: Why the administration tried to disguise the role of the Saudis," Graham said.

Washington, 1999

The East Africa embassy bombings focused U.S. officials on al-Qaeda. They needed to shut down its financing. Vice President Al Gore made a personal appeal to Saudi Crown Prince Abdullah at the White House: Help the U.S. disrupt al-Qaeda's flow of money.

Abdullah agreed to put U.S. officials in touch with their Saudi counterparts.

Following up on Gore's request, two delegations of senior U.S. officials traveled to Riyadh, one in 1999 and the second a year later.

On both trips, according to people familiar with the meetings, U.S. officials gave the Saudis lists of suspect charities, money exchanges, banks, and suspected terrorism financiers.

It was essential, the Americans said, that the Saudis crack down on these entities. If their financial support could be stopped, jihadist groups would have a harder time extending their reach.

"We gave them detailed and very specific intelligence," said William Wechsler, then a senior National Security Council official, who traveled to Riyadh with the U.S. delegation in 1999 and helped oversee the follow-up visit.

But the delegations did not have the desired effect.

Testifying before the Senate Governmental Affairs Committee in 2003, Jonathan Winer, former deputy assistant secretary of state for international law enforcement, said he had helped oversee the 1999 delegation and had been briefed after the diplomats returned.

"We didn't have as many facts as we should have," Winer said of the charities.

"But we went to the Saudis as a government, shared with them what we had, asked them for more information, warned them of what might take place, and ultimately nothing happened."

After 9/11, the U.S. Treasury Department designated as terrorism supporters many of the charities, banks and alleged financiers that U.S. officials listed on their trips to Riyadh.

The Philippines, 1990s

The International Islamic Relief Organization (IIRO), a major Islamist charity with ties to the Saudi government, opened branch offices in the Philippines, according to Treasury Department reports cited by the Cozen lawyers.

The director of the Philippine branches for a time was Mohammad Jamal Khalifa, Osama bin Laden's brother-in-law and a senior al-Qaeda member, according to the department.

Treasury designated the Philippine and Indonesian IIRO branches as terrorist financiers two years ago for funneling money to al-Qaeda and other radical groups.

At that time, the department also designated Abd Al Hamid Sulaiman al-Mujil, an IIRO official in Saudi Arabia who channeled money to those branches, as a terrorist financier.

Mujil, according to Cozen's lawsuit, traveled regularly to meet with bin Laden;

The Islamist Charities

Most of the Islamist charities named in the Cozen lawsuit are based in Saudi Arabia or trace their origins to the kingdom. Here are brief descriptions of six that are central to the case:

The Muslim World League was founded in 1962 in Saudi Arabia. It is closely tied to the government and is one of the world's largest Islamist charities.

The International Islamic Relief Organization was founded by royal decree in Mecca on Jan. 29, 1979. It says its purpose is to provide relief to victims of famine, floods, and other natural disasters. It describes itself as an arm of the Muslim World League. The U.S. Treasury Department has designated two IIRO offices, in Indonesia and the Philippines, as terrorism supporters.

The Saudi High Commission for Relief of Bosnia and Herzegovina was founded by the government in 1993 to provide relief to Muslims uprooted during the Balkans war. It describes itself as an instrument of Saudi government policy. In its detainee hearings, the Pentagon considers past employment by the commission a reason to keep someone in custody at Guantanamo Bay.

The Benevolence International Foundation was founded in Saudi Arabia by Saudi financier Adel Batterjee. It moved to Chicago in early 1992. It described its mission as providing humanitarian relief projects throughout the world. The Treasury Department has designated the BIF and Batterjee as terrorism supporters.

Al-Haramain Foundation, a sprawling Islamist relief organization, long enjoyed close ties to the Saudi government. Since 9/11, it has been under pressure from U.S. authorities, which designated more than a dozen of its overseas offices, including one in the United States, as terrorism supporters. The Saudi government joined the United States in making more than half those designations.

The Rabita Trust says it was founded to assist struggling refugees in Bangladesh. It is based in Islamabad, Pakistan, and is headed by Wa'el Julaidan, a financier whom Treasury has designated a terrorism supporter. The Rabita Trust also has been designated.

Khalid Sheikh Mohammed, the planner of the 9/11 attacks; and al-Qaeda financiers.

Mujil also "provided donor funds directly to al-Qaeda," Treasury said.

The Cozen lawsuit also cites a 1996 CIA report that said the IIRO had financed six militant training camps in Afghanistan in the 1990s.

Since filing their lawsuit in 2003, the Cozen lawyers obtained a declassified memo by Matthew Levitt, a former deputy assistant secretary for the Office of Intelligence and Analysis in the Treasury Department, concluding that the IIRO supported terrorists from the early 1990s through the first half of 2006.

Before the lawsuit was filed, it might have been plausible to argue, as the Saudi Embassy in Washington once did, that the IIRO had no affiliation with the government.

But since then, investigators have found an IIRO report showing that members of the royal family play a supervisory role in connection with some of the local offices of the IIRO in Saudi Arabia.

Making much the same point, albeit for different reasons, the IIRO has argued that it cannot be sued because it is an agency of the Saudi government and thus enjoys immunity.

Sarajevo, October 2001

Three weeks after the 9/11 attacks, NATO forces hunting for jihadists raided the offices of an obscure Islamist charity. What they found had little to do with charitable works.

At the Saudi High Commission for Relief of Bosnia and Herzegovina, they seized computer hard drives with before-and-after pictures of the twin towers; pictures of the bombed U.S. embassies in East Africa; photos of the Cole after a bomb ripped a four-story gash in the destroyer's side, killing 17 U.S. sailors; materials for forging State Department identification badges; and files on pesticides and crop-duster aircraft — potential weapons.

An organization founded and chaired by Saudi Prince Salman, which had represented itself as a humanitarian mission to aid refugees and orphans, seemed instead to be a haven for extremists.

Five months later, during a March 2002 raid in Sarajevo on another Islamist charity founded in Saudi Arabia, the Benevolence International Foundation (BIF), the FBI and Bosnian police uncovered what one prosecutor called "the one and only al-Qaeda archive."

That archive is now part of the Cozen lawsuit.

Seized was a huge cache of computer-stored information on BIF executive director Enaam Arnaout's early ties to bin Laden. It allegedly included published photographs of the two men touring a camp in Afghan-

istan, a list of al-Qaeda financiers called the "Golden Chain," and bin Laden's plans to use Islamist charities for his jihad.

There were minutes of al-Qaeda's founding in Afghanistan in 1988 and copies of an al-Qaeda loyalty oath and criteria for membership, including, prosecutors said, a need to be "listening and obedient" and to have "good manners."

Chicago, 2002

Based on evidence from the Sarajevo raid, U.S. authorities indicted Arnaout in Chicago, where the BIF had begun fundraising a decade earlier.

He was charged with illegally diverting charitable funding to al-Qaeda operatives in the Balkans and elsewhere.

The government also shut down the organization, then the third-largest Islamist charity in the United States.

The Chicago-based BIF traced its origins to Saudi Arabia in the 1980s, when Saudi businessman Adel Batterjee founded it to raise money for Arab fighters battling to eject Soviets from Afghanistan, according to the Cozen suit.

The FBI had been investigating the charity for years. While the BIF had no apparent institutional links with the Saudi government, the Cozen lawsuit contends that the Sarajevo files and Arnaout's criminal investigation show that the BIF was part of a conspiracy that included Islamist charities openly tied to the Saudi government.

The lawsuit cites criminal evidence that bin Laden planned to use the BIF and other charities, including the Muslim World League, to fund his jihad beyond Afghanistan.

And it contends that BIF officials were al-Qaeda insiders who worked for other relief organizations with links to the Saudi government.

One day before his 2003 trial, Arnaout pleaded guilty to reduced charges that he fraudulently diverted charitable funds to rebel fighters in Bosnia and Chechnya for the purchase of boots, telecommunications equipment, blankets and other supplies.

Arnaout's lawyers and the trial judge said the government had failed to prove that Arnaout had used BIF money to support al-Qaeda.

He was sentenced to 11 years and three months in federal prison, later reduced to 10 years, for sending BIF money to Islamist fighters while telling donors it was used for humanitarian purposes.

Treasury still lists the BIF as a supporter of bin Laden. And designating the BIF as a terrorist supporter, which the charity challenged, was upheld by a federal judge.

Riyadh, May 12, 2003

On a clear, hot evening, what had been to

many Saudis a nightmarish possibility became a grisly reality.

Car bombs exploded in three Western housing compounds, while gunmen fired on buildings. Al-Qaeda, which for a decade or more had been hitting targets outside Saudi Arabia, had struck inside the country.

When the smoke cleared, 35 people were dead, including nine Americans, and the kingdom seemed far less secure.

Within months, the Saudis arrested or killed more than a dozen alleged al-Qaeda figures involved in the bombings. The government pledged to redouble strikes at homegrown operatives, a resolve U.S. officials lauded.

In the litigation over the 9/11 attacks, the Saudis cite those attacks in their defense: How could the government promote a movement that had vowed to destroy it?

In fact, Saudi officials insist they had been pushing hard against bin Laden for years.

When in the early 1990s it became clear that bin Laden was emerging as a threat, the Saudis revoked his passport.

After bin Laden moved from Sudan to Afghanistan, the Saudis point out, Prince Turki, then head of Saudi intelligence, traveled twice to Kandahar in 1998 to persuade the Taliban to turn him over.

When the Taliban leader, Mullah Omar, refused, the Saudis broke off diplomatic relations with Afghanistan.

In his own defense to Cozen's lawsuit, Prince Turki said Saudi intelligence had formed a security committee with the United States to share information regarding bin Laden's activities.

"I was deeply shocked and remain profoundly saddened by the tragic events of Sept. 11, 2001," Turki said. "The victims of the terrorist attacks and plane crashes and their families have my deepest sympathy. I share their resolve to bring to justice the perpetrators of these terrible crimes. My own father, King Faisal, was killed in a terrorist attack on March 25, 1975."

As to why Saudi Arabia would finance a movement that has attacked the kingdom, Cozen contends the Saudi royal family was trying to mollify radical clerics and buy peace.

"As best we can tell, the kingdom was between a rock and a hard place," Cozen said. "They had radicals and extreme imams within Saudi Arabia who wanted to see worldwide jihad; they wanted to see Wahabism [a conservative form of Islam] spread and succeed, and if the kingdom did not support them, they would become their victims. It was peace within the nation at almost any cost."

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How Cozen took on a kingdom for 9/11 liability

The Story So Far

The Philadelphia law firm Cozen O'Connor sued Saudi Arabia and several Islamist charities in 2003, seeking to hold them financially liable for the 9/11 terror attacks.

Although the Saudis' attorneys won Round 1 when a judge removed the kingdom and Saudi royals as defendants, Cozen has appealed.

Whichever way the appellate court rules, the story behind the suit is a case study in tort law with foreign-policy implications — and billions of dollars at stake.

Second of two parts

By Chris Mondics

INQUIRER STAFF WRITER

On the morning of Sept. 11, 2001, Stephen Cozen huddled with expert witnesses in a seventh-floor conference room of his Center City law firm preparing for what promised to be a bare-knuckle trial over a string of soured movie deals.

Hundreds of millions of dollars were at stake in a dispute over proceeds from Hollywood films including *The Truman Show*, *Runaway Bride*, and *The General's Daughter*. But Cozen's attention was soon diverted by a call from his wife, Sandy.

The World Trade Center had been attacked. Cozen and his associates switched on a TV and with astonishment watched the towers burning and then collapsing.

Like Americans everywhere, Cozen, 67, a hyperactive trial lawyer and onetime college basketball player, was torn between anger at the perpetrators and compassion for the victims.

But there was little time for reflection.

Within hours, Cozen O'Connor was swamped with calls from the insurance companies it represents in handling claims from high-rise office fires, hurricanes and ice storms.

Now the clients were possibly on the hook



MICHAEL S. WIRTZ / Inquirer Staff Photographer

One Meridian Plaza burned in February 1991. The Cozen firm recovered more than \$110 million for the owner and manager.

for far more money than ever before, billions of dollars in property losses at ground zero, business disruptions, and workers' compensation claims.

"They were saying not only are we going to have to pay out billions . . . but they wanted to know whether there was anyone they could recover from," Cozen recalled in an interview. "We tried to get as many facts as we could."

From that flurry of phone calls in the hours and days after the attacks would emerge an ambitious lawsuit: an 812-page complaint that would seek to hold America's closest ally in the Arab world financially liable for the 9/11 attacks.

Just as surely, it would commit Cozen O'Connor to the biggest battle in the firm's history.

The firm's early days

When Cozen, a freshly minted University of Pennsylvania law school grad, joined his uncle's law practice in 1964, the firm was a two-person shop focusing on small insurance-coverage disputes that other firms shunned.

It was a sleepy corner of the legal world where a lawyer could earn a good — but not spectacular — income.

Yet it gave Cozen the chance to practice law right away, rather than serve as a glorified apprentice at a larger, more illustrious firm.

In the 1970s and early 1980s, after Cozen's uncle had died and Cozen had taken over, the firm handled a series of cases that would set it on a path of explosive growth and lay the groundwork for its lawsuit against Saudi Arabia.

It represented insurers in coverage disputes over arson fires, many of them mob-related, at diners and restaurants throughout the Philadelphia region. At the time, such cases often settled quietly, but Cozen took a different tack.

The firm would deconstruct the diner's books looking for signs of a financial motive. It would bring in arson experts and forensic accountants. It would grill mobster owners.

In one case, the firm deposed a senior member of the Gambino crime family suspected of torching his Cherry Hill restaurant. Much to the delight of Cozen's insurance-industry client, the case was settled on the courthouse steps for a fraction of the \$1 million claim.

The firm's chief innovation was to bring in experienced trial lawyers who had worked as local or federal prosecutors and have them pursue cases with investigative zeal.

The strategy was to challenge every sus-

picious insurance claim all the way to trial. Cozen lawyers did this even when prosecutors declined to file charges or investigate a case.

Over a decade or more, the firm tried 120 such cases, according to Cozen, winning them all.

Cozen gradually moved into insurance subrogation, an obscure but incredibly lucrative practice in which lawyers go after a third party, usually a business, deemed responsible for a fire or other loss. The idea is to recover damages for insurers to help offset what they pay out in claims.

Such was the case in 1993 when the firm represented insurance-industry clients in the first World Trade Center bombing. A truck bomb in the garage beneath the twin towers had killed six people and injured more than 1,000.

Cozen sued the Port Authority of New York and New Jersey, then owner of the towers, showing that the agency had been warned the trade center was vulnerable to just such an attack. Cozen collected \$19 million for its client, Chubb.

As it had in disputes over diner and restaurant coverage, Cozen went to trial in liability disputes, forcing much larger payouts in cases that typically settled for as little as 10 cents on the dollar.

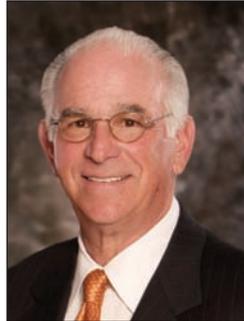
Those successes fueled enormous growth. From a handful of lawyers in the late 1960s, Cozen has come to dominate the specialty of insurance subrogation. It has grown to 547 lawyers with 23 offices in the United States, London and Toronto, and has moved well beyond its insurance work with venture capital, white-collar crime and general litiga-

Cozen specializes in fighting suspicious insurance claims with unusually aggressive methods.

tion and other new practice groups. It is the fourth-largest firm, in number of lawyers, in Philadelphia and among the top 100 in the nation.

Among its best-known cases were the 1980 fire at the MGM Grand Hotel in Las Vegas; the 1981 skywalk collapse at the Hyatt Regency in Kansas City, Mo.; and the 1991 fire at One Meridian Plaza, a 38-story Center City tower that burned for 19 hours, killing three firefighters.

In the One Meridian fire alone, the firm recovered more than \$110 million for the owner, ER Associates, and the manager, Richard I. Rubin & Co., from an alarm company, contractors, and others held responsible.



Stephen Cozen leads a Phila. firm of more than 500 lawyers

For all of that, the firm sometimes struggles for respect. Insurance work can be looked down upon by lawyers at other high-end firms who think it lacks the cachet of huge corporate deals.

Origins of the Saudi case

Stephen Cozen's father, Samuel, was a basketball legend in Philadelphia, coaching Wilt Chamberlain at Overbrook High School before a successful career as varsity coach at what is now Drexel University. There he compiled a 213-94 record.

There is something of the father in the son.

In the Saudi lawsuit, Cozen displays his father's sideline intensity, pushing his lawyers hard to produce facts and legal interpretations that could move the case forward.

He pushes himself hard as well.

He won two varsity letters as a basketball player at Penn. And his tuition to law school there was paid by Baltimore Colts owner Carroll Rosenbloom in gratitude for work Cozen did in the summer and fall after his college graduation, unraveling a disputed insurance claim involving Rosenbloom's Shore home in Margate, N.J. It was Cozen's first insurance win.

Cozen has long been a major fund-raiser for Israeli causes. He serves on the board of Steven Spielberg's Shoah Foundation Institute in Los Angeles, whose purpose is to collect and preserve memories of the Holocaust.

Behind the desk in Cozen's office hang two castings of stones from the Western Wall in Jerusalem. Family photos adorn the office as well.

As the firm weighed whether to sue Saudi Arabia, Cozen turned to contacts in Israel, including Gen. Yoram "Ya Ya" Yair, once a top Israeli military commander, who pointed him toward former military and intelligence officials with expertise in Islamist extremism.

Cozen says his support for Israel had nothing to do with the decision to sue Saudi Arabia, a longtime antagonist of Israel.

"We made a decision based on whether there was a good, viable case of civil liability," Cozen said. "We did not look at any moral or political issue. That was not our concern. . . . There were no moral judgments, no vendettas."

The lawsuit takes shape

To recover 9/11 damages for its insurance-company clients, the firm had to confront the question of who was responsible, for either causing the attacks or failing to protect the people who were harmed.

Once those responsible were identified, could they be taken to court?

The team quickly ruled out going after the airlines, reasoning that they had no role

in providing security. Even if they had, it would have been difficult to prove the airlines could have foreseen that their planes would be used as weapons.

Hijacked, yes. But crashed into buildings? Likely not.

What about the security companies that screened the 19 hijackers? Cozen said there seemed to be no evidence that the airport screeners had deviated in any way from government procedures.

Even though the hijackers were armed with box cutters, the screening companies had done nothing wrong by waving them through. Box cutters at the time could be legally carried onto a plane.

Someone wondered whether Afghanistan could be sued, since the Taliban rulers had hosted Osama bin Laden since 1996.

That seemed possible until lawyers came back with a quick answer: Afghanistan's only internationally recognized government was in exile in Rome and thus had no assets.

But a lawsuit against Saudi Arabia? That might work.

Zeroing in on Riyadh

To build the case and handle the flood of client queries, Cozen partner Richard Glazer set up a task force of lawyers.

That group included Elliott Feldman, the head of the firm's subrogation practice, and Sean Carter, who directed much of the strategy. Carter, known for his capacity to master prodigious amounts of information, quarterbacked the case for the firm.

Also on the team were Scott Tarbutton, a young associate who handled many research and legal tasks, and Adam Bonin, who is married to author Jennifer Weiner (*In Her Shoes*) and has an elegant writing style of his own.

For advice on the appeals, the firm turned to Stephen Burbank, a Harvard-trained law professor at Penn and a leading authority on the Foreign Sovereign Immunities Act, which governs circumstances under which U.S. citizens can sue foreign governments.

What clinched the decision was an avalanche of information from the U.S. Treasury Department naming dozens of suspect Islamist charities, banks, and alleged terrorism financiers as al-Qaeda allies.

Many were based in Saudi Arabia or had prominent Saudis in leadership roles.

Cozen lawyers also had to be sure that such a defendant made financial sense, for the firm and its clients. A lawsuit of this magnitude would cost many millions of dollars. Moreover, the law governing such cases was evolving and uncertain.

And because any lawsuit against such an important American ally would inevitably raise national-security issues, the U.S. government might step in and halt legal action.

Cozen lawyers tallied what the investigation and legal work would cost, what the case might bring in, and what its chances were of succeeding.

Such a calculation followed no formula. It was more an art, a way of knowing from years before juries, what might work in a courtroom.

Saudi Arabia was by far the biggest potential target, politically and financially.

There was also economic and legal logic in naming more obscure players, such as Sudan, which hosted bin Laden from 1991 through 1996.

Sudan held about \$81 million in U.S. financial institutions, money the U.S. Office of Foreign Assets Control froze after the 9/11 attacks. A favorable judgment could shift some of that money to Cozen and its clients.

Even al-Qaeda had \$8 million in frozen assets that plaintiffs could seize if they won.

In the end, Cozen said, it was the legal simplicity of the case that seemed most persuasive — and a huge payout if they succeeded.

Although the question of who financed the movement that carried out the 9/11 attacks involved complex fact patterns and difficult investigative hurdles, the legal theory behind the case wasn't terribly different from the subrogation work the firm had made a specialty: Look for people or businesses responsible for a loss and make them pay.

Seeking damages from Saudi Arabia was, in its essence, no different from going after any business, contractor or third party for liability.

"It was our very strong recommendation to our clients," Cozen said, "that the case be pursued."

Then came the hard part.

Funding the lawsuit

To offset costs, Cozen said, the firm found a way to convert some of its findings into cash.

Through their own investigation, Cozen lawyers learned that a major money-center bank (one that participates in national and international money markets) in the United States, which Cozen declined to identify, was planning to purchase a smaller bank. Evidence suggested that the smaller bank had served as a conduit for financial transactions of extremist groups.

With that information in hand, Cozen lawyers approached the money-center bank. To avoid being named as a defendant, it settled for millions of dollars, money that

was used to offset some of the costs of preparing the lawsuit.

The firm filed its lawsuit on Sept. 10, 2003, naming more than 400 defendants and seeking to recover about \$5 billion. Yet that amount far understated what was at stake financially. Because Cozen and other law firms sued under laws that permit plaintiffs to collect treble and punitive damages along

with attorneys' fees, the actual award could easily reach the tens of billions of dollars.

Hearing the case was U.S. District Judge Richard Conway Casey, a former prosecutor and a graduate of Holy Cross College and the Georgetown University Law Center.

It was in his Manhattan courtroom that the two sides met for a series of arguments between September and November 2004, when each laid out its position.

Cozen lawyers argued that the Saudis not only had funded and controlled the charities, but had been warned that the

charities helped launder money into al-Qaeda. The defense insisted that there was no evidence that the Saudi government had supported acts of terrorism, and that the kingdom itself had been a victim of extremist groups, including al-Qaeda.

In one particularly intense hearing, Casey pushed back hard against Saudi arguments. For a while, Cozen lawyers thought they had been able to convince him.

But only a few weeks later, in January, and then in September, Casey issued two hard-hitting and emphatic rulings. He found the Saudi government immune from being sued because its oversight and financial support for the charities constituted normal government activities.

And he discounted information that the Saudis had been warned about the charities' money-laundering, and cited a 9/11 Commission finding that it had "no evidence that the Saudi government as an institution or senior Saudi officials individually funded" al-Qaeda.

Cozen and associates were outraged. They believed their investigation had gone considerably beyond the work of the 9/11 Commission, by showing that the Saudis had substantial control over the charities, had been warned repeatedly that the charities posed a problem, yet had had taken no actions.

Casey, Cozen felt, had profoundly misconstrued the case by failing to recognize Saudi responsibility.

Cozen lawyers began mapping their appeal.

The charities named as defendants were



U.S. District Judge Richard Conway Casey

granted immunity to the Saudis in 2005

so tightly interwoven with the Saudi government that an appeal of Casey's ruling had a good chance of success, they believed. Their own investigation had uncovered facts missed by Congress and the 9/11 Commission, they thought.

Absent financial support from the charities, some of it Saudi government money, they argued, bin Laden would never have been able to pull off 9/11.

At the same time, they pushed forward on their investigation, combing through files and querying defendants. One of those was a major al-Qaeda operative, founder and financier named Wa'el Julaidan. The U.S. Treasury Department designated Julaidan a terrorism financier in 2002.

But Julaidan, responding to Cozen questioning, said the government of Saudi Arabia had subjected him to no penalties or sanctions.

His response mirrored statements by U.S. officials, most recently Stuart Levey, Treasury undersecretary for international terrorism, who said last year that he was unaware of any Saudi sanctions imposed on terrorism financiers living in Saudi Arabia.

During this period, Cozen also learned that at least two Guantanamo Bay detainees had been employees of the Saudi High Commission for Relief of Bosnia and Herzegovina, a Saudi government charity founded and run by Saudi Prince Salman.

In its hearings on whether detainees should be released, the Pentagon considers past employment by the commission and other charities to be a reason for keeping a prisoner in custody.

Cozen also fought a rear-guard action against the U.S. government, seeking to force it to open more investigative files on the charities.

In April 2006, the firm sued the Treasury Department in federal District Court in Philadelphia, alleging it had improperly redacted or withheld thousands of internal documents on the government of Saudi Arabia, the charities, and al-Qaeda that Cozen was seeking.

Cozen appealed Casey's dismissal of the Saudis as defendants on Jan. 5, 2007, attempting to keep them and their resources in the suit. The suit and its ambitions rested on a decision by a three-judge panel of the U.S. Court of Appeals for the Second Circuit in Manhattan.

Cozen's brief argued that the Foreign Sovereign Immunities Act did not protect governments that failed to act when informed that their own agencies promoted terror.

Over the ensuing months, Cozen lawyers continued their investigation and honed their legal arguments. They pursued discovery against defendants who remained in the case, querying them on their business interests and affiliations while jockeying with defense attorneys over the terms of discovery.

A year later, on Jan. 18, the Second Circuit heard arguments.

Stephen Cozen himself was the lead lawyer for the plaintiffs. Flanked by members of his legal team, he stood to make their case.

The Saudi government and members of the royal family, he said, engaged in conduct that breached the standards of nor-

mal government activities when they supported Islamist charities that funded extremist groups. In acting outside those standards, they made themselves liable under the law.

Defense lawyer Michael Kellogg answered the allegation. U.S. law afforded the Saudi government substantial protection from litigation, he told the judges. Moreover, there was no evidence that the kingdom had anything to do with the 9/11 attacks, and such evidence was necessary to restore the government and royal family as defendants.

On the surface, at least, the Second Circuit's judges appeared sympathetic to aspects of Cozen's case.

When Kellogg described the close relationship between the kingdom and the United States, the appellate court's chief judge, Dennis Jacobs, cut him short.

"It's neither here nor there," Jacobs said.

The judges posed no question to Cozen, who had been ready for this moment for weeks.

"The kingdom and its officials knew and intended to support al-Qaeda through these charities," Cozen said, gesturing as if conducting an orchestra. "The resources to build [al-Qaeda's] infrastructure were provided by donors and channeled through a network of Islamic charities. It is the misconduct of the charities and government officials that forms the [basis] of our complaint."

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A former al-Qaeda fighter accuses a Saudi charity

By Chris Mondics

INQUIRER STAFF WRITER

DOBOJ, Bosnia — For years, Saudi Arabia flatly denied it had provided money and logistical support for Islamist militant groups that attacked Western targets.

But that assertion is disputed by a former al-Qaeda commander who testified in a United Nations war-crimes trial that his unit was funded by the Saudi High Commission for Relief of Bosnia and Herzegovina.

Ali Ahmed Ali Hamad, the former al-Qaeda fighter, gave the same account to *The Inquirer* in an interview in this struggling city in the central Balkans.

"Because it was the biggest

charity, [the commission] helped the mujaheddin the most," Hamad said, adding that it had provided "everything a person needed to exist."

Hamad, 37, is expected to be called as a witness in a lawsuit filed by Cozen O'Connor alleging that Saudi Arabia and affiliated charities financed al-Qaeda and other groups as they geared up for the 9/11 attacks.

As a convicted terrorist, Hamad is an imperfect witness.

During the Balkans war, from 1992 to 1995, jihadists from North Africa and the Middle East were accused of atrocities against indigenous Serbs and Croats.

Hamad admits having done "bad things" as an al-Qaeda fighter, and he is serving a 10-year

sentence in a Bosnian jail for his role in a 1997 Mostar bombing.

Yet Hamad's account of his time in the Balkans went largely uncontroverted during the U.N. trial, where he was a prosecution witness.

He contends that the Saudi High Commission, an agency of the Saudi government, and other Islamist charities supported al-Qaeda-led units that committed atrocities. Mujaheddin units, he said, recruited fighters, prepared for battle, and financed their operations in the Balkans.

He said the Saudi High Commission had poured tens of millions of dollars into mujaheddin units led by al-Qaeda operatives who fought with Osama bin Laden in Afghanistan.

Money intended for humani-

tarian relief bought weapons and other military supplies.

The charities also provided false identification, employment papers, diplomatic plates and vehicles that permitted Islamist fighters to enter the country and pass easily through military checkpoints, Hamad said.

Several charity offices, including those of the Saudi High Commission, were led by former mujaheddin or al-Qaeda members, at least one of whom trained with Hamad in an al-Qaeda camp in Afghanistan, he said.

Like other al-Qaeda fighters, Hamad said, he was an employee of the Saudi High Commission for a time and traveled through the war zone in commission vehicles with diplomatic plates.