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Competition Group Of The Year: Robins Kaplan

By **Allissa Wickham**

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Not only did Robins Kaplan LLP secure a green light for a landmark $7.25 billion deal in a credit card swipe fee price-fixing case, it also recently helped win approval for $590 million in settlements in a collusion case against private equity firms, landing the firm on Law360's list of Competition Practice Groups of the Year.

The firm's competition group started 2014 with a boost, when it won final approval in December 2013 for a massive, $7.25 antitrust deal over Visa Inc. and MasterCard Inc.'s alleged conspiracy to fix prices for credit card swipe fees, which is believed to be one of the largest antitrust settlements ever achieved.

Robins Kaplan's K. Craig Wildfang served as co-lead counsel for the class in that case, and told Law360 that everything about the long-running dispute was “big, difficult and complex.”

“One of my adversary defense counsel said it's like the Superbowl of antitrust litigation,” said Wildfang, who also co-chairs the firm's antitrust and trade regulation group. “We had something like 18 defendants, [and] we had a class that was 7 million merchants.”

When it came to locking down such a large settlement, Wildfang said the secret to the plaintiffs' success was devising a novel theory about Visa and Mastercard's initial public offerings, which separated the credit card companies from their bank owners in the 2000s. In a surprise move, the plaintiffs argued the IPOs were transactions that could be challenged under the merger section of the Clayton Act, catching the defendants off-guard, Wildfang said.

“That claim survived until the very end of the case, and that was really the tipping point,” he noted. “Ultimately, [it] was their fear that if we went to trial, those IPOs would either be unwound, or very punitive measures would be taken against them by the court if we prevailed on that claim.”

Another big victory for the firm came in November 2014, when a Massachusetts judge granted final approval to $590 million in settlements, as well as $200 million attorneys' fees, in a class action accusing Goldman Sachs Group Inc. and other private equity firms of teaming up to keep leveraged buyout prices low.

Wildfang, who also served as co-lead counsel for the plaintiffs in that case, said the proceedings began to pick up steam after the judge overseeing the litigation retried and was replaced by U.S. District Judge

William G. Young, who quickly set a trial date for November 2014.

“A trial date is what defendants get focused on,” Wildfang said, adding that once going to trial became a real possibility, the firms “began to get serious about settling.”

Along with its work on the credit card fee and private equity cases, Robins Kaplan also represents plaintiffs in a class action claiming that several airlines conspired to hike up air cargo rates. According to the firm, it nabbed roughly $400 million in settlements in that case in 2014, including $90 million from China Airlines Ltd. in May.

Additionally, the firm represents plaintiffs in a case over the alleged price-fixing of flexible polyurethane foam, which is widely used as cushioning in bedding and cars, as well as end-payor plaintiffs in a wide-ranging multidistrict litigation over auto parts price-fixing.

Hollis Salzman, who also chairs the firm's antitrust and trade practice, said that while it's in the early stages of the auto parts case, Robins Kaplan has already nabbed some significant wins.

“We haven't even taken our first deposition, and [we] already have over $100 million in settlements, just for the end-payor plaintiffs, which are consumers and businesses that purchase automobiles,” said Salzman, who represents the plaintiffs in the suit.

As for what's next for the firm's antitrust group, Salzman said that the auto parts case will likely take up a significant portion of 2015, and project that the air cargo case may end up going to trial this year.

Wildfang couldn't say for sure whether the group planned to hire more antitrust lawyers, but the group certainly has grown in recent years, with Salzman and six other attorneys joining Robins Kaplan from another firm just two years ago.

Robins Kaplan has 24 attorneys in its antitrust practice, many of whom are based in New York and Minneapolis, Salzman said. Wildfang noted that the deep antitrust experience of the firm's attorneys, along with the patience of Robins Kaplan's other partners regarding lengthy antitrust cases, contributed to the practice group's success.

“I think the other thing that sets us apart a little bit is the fact that our partners are willing to support us in cases that may take up to a decade to resolve,” Wildfang said.

He pointed to the the credit card case, which involved almost $7 million in out-of-pocket expenses, as a bet that many law firms wouldn't be willing to risk. Of course, in Robin Kaplan's case, it was a gamble that certainly paid off.

--Additional reporting by Kaitlyn Kiernan and David McAfee. Editing by Andrew Park.
