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Most Feared Plaintiffs Firm: Robins Kaplan

By **Aaron Vehling**

Law360, New York (November 17, 2014, 5:28 PM ET) -- When Robins Kaplan Miller & Ciresi LLP in December as co-lead counsel secured court approval for a $7.25 billion settlement with Visa, MasterCard and major card-issuing banks in the sprawling payment card antitrust multidistrict litigation, that outcome helped push the firm's recovery for a diverse set of plaintiffs to more than $11 billion in 12 months.

That outcome not only scored compensation for about 7 million U.S. merchants, but it also forced Visa and MasterCard to overhaul their interchange fee policies. A small but nimble legal team worked the case for nearly a decade, representing the firm's tried and true formula of grit and economy while taking on some of the largest firms and the biggest companies in the world — helping it land a position among Law360's Most Feared Plaintiffs Firms of 2014.

"We're not afraid to take on cases that have a long fuse," name partner Mike Ciresi told Law360, adding that the firm applies a "core team" principle in which attorneys efficiently stick to a case for its duration.

"We have very few people on a case, but they know all aspects" of it, he said.

Robins Kaplan, a firm composed of about 220 lawyers in six offices across the country, has occupied a co-lead counsel role in some of the largest MDLs and class actions in the past year in several fields of law — including the payment card litigation, the air cargo shipping services price-fixing MDL, the automotive parts price-fixing MDL and a leveraged buyout class action against Bain Capital Partners and others — in addition to representing companies such as Mondelez International Inc. in complex business disputes.

Mondelez Executive Vice President and General Counsel Gerd Pleuhs can attest to the effectiveness of Robins Kaplan's core team ethos. The company, which encompasses the former Kraft snacks, food and beverage business, retained the firm to challenge Starbucks Corp. after the coffee purveyor unilaterally terminated an agreement in which Kraft was granted exclusive rights to sell, market and distribute Starbucks' bagged coffee in grocery and retail outlets.

Pleuhs had tried another firm for what would become a three-year arbitration, but found that it didn't fit the model Mondelez needed. He said Robins Kaplan offered him a dedicated team of five people who "lived and breathed the case."

"The whole thing dramatically changed once Robins Kaplan took over," he said.

The firm's efficiency and command were on display in the way they prepared witnesses and allocated and distributed work, Pleuhs said.

In November the core team, which Ciresi led, secured a $2.7 billion award for what would become Mondelez. Pleuhs said that Starbucks CEO Howard Schultz was so impressed with Ciresi that after his deposition he asked Ciresi for his business card.

The firm might be known now as an advocate that generates billions in recovery for a variety of clients in the realm of antitrust, personal injury, intellectual property and mass torts — including its notable turn as the vanguard firm in the first successful battle with Big Tobacco — but its origins in Minneapolis rest in two men who simply had to advocate for the right to practice law at all.

Minneapolis in the 1930s was a hotbed for anti-Semitism. Jews weren't allowed to live in certain parts of town, and Solly Robins and Julius Davis were finding it impossible to get hired at any of the city's law firms. They decided in 1938 to form their own firm, vowing to represent all segments of society in all matters.

Even as the firm grew and became more successful, it retained that multifaceted philosophy — representing clients in a buffet of legal disciplines — and did not lose touch with Robins and Davis' vow to give voice to those, who like them, were shut out of the dialogue. During its 76 years, the firm has often taken on cases that other firms have deemed insurmountable or impractical.

In the 1980s, Robins Kaplan represented the government of India in its suit against Union Carbide Corp. over the disaster in the city of Bhopal. In 1984 a Union Carbide pesticide plant accidentally released methyl isocyanate gas, killing nearly 4,000 people and permanently injuring another 40,000. By 1989 the firm helped India reach a $470 million settlement with Union Carbide.

The firm picked up more prominence stateside in a case that even some of the firm's own partners deemed as unwinnable and an adventure that could end in the firm's bankruptcy: the states' lawsuit against major cigarette companies over marketing of tobacco.

In 1998 Robins Kaplan reached a combined $6.5 billion settlement with cigarette makers such as Philip Morris USA Inc. and R.J. Reynolds Tobacco Co. on behalf of the state of Minnesota and the Blue Cross Blue Shield Association. Other states had also sued the companies, but Robins Kaplan led the way building the case, and today its discovery is still used in suits against the industry.

Ciresi has been with the firm since the 1970s, but the Minnesota tobacco litigation remains the one for which he is most renowned. He said that case was an excellent example of the firm's core team philosophy — his team only had a group of eight attorneys, whereas one of the defense firms had 300 lawyers working to represent two defendants.

Ciresi said the firm applies contingent case-handling principles to per-diem clients, thereby mining an economical drive that makes the team adept in the face of even gargantuan foes like the tobacco industry. The industry had never lost a lawsuit in 40 years, but the firm's partners took on the tobacco companies on anyway, going through 33 million documents and internalizing all aspects of the case.

After a 15-week trial, the companies reached a settlement with Minnesota and BCBS. The companies also ended up settling with the 45 other states that sued, reaching an agreement that stretches in perpetuity and will exceed $200 billion over 25 years.

This past year, among the largest wins for Robins Kaplan, aside from the payment card litigation and Mondelez arbitration, was a long-running class action brought against the nation's largest private equity funds over allegations they were conspiring for years to drive down the prices of takeovers of publicly traded companies. The settlements reached north of $475 million by July.

Antitrust attorney Craig Wildfang headed up the firm’s co-lead counsel efforts on behalf of plaintiffs such as the Police & Fire Retirement System of the City of Detroit in a suit that ensnared companies such as Bain Capital LLC, Goldman Sachs & Co., Silver Lake Technology Management LLC and others. He said the case, which was brought in 2007, went beyond a typical bid-rigging scheme because it involved securities, which under federal government regulation appeared to have an "implied immunity."

Wildfang, who joined Robins Kaplan in 2000, said he expected to get hit with that immunity argument right out of the box, and the defense did not surprise him. However, he surprised them when he beat back their motion to dismiss on the pleadings, clearing a hurdle that could have clipped the plaintiffs' wings very early in the case.

"At least we didn't die a quick death," he said.

Getting those settlements was not easy, though. He said Wall Street players hire great lawyers, rarely lose in litigation and "really don't like to pay out any money."

"Part of the achievement is testing yourself against some of the best lawyers in the world and being able to prevail," he said.

Wildfang also headed up the firm's work in the payment card litigation, which he says was "in every way possible the most complex or difficult case I've ever worked on."

The Minneapolis-based attorney logged many nights at the New York Marriott at the Brooklyn Bridge and fought hard in a crowded Brooklyn federal court against the fortress of defense put up by MasterCard Inc. and Visa Inc., which each spun off into independent companies amid the antitrust proceedings after the banks divested ownership.

Even though Wildfang was 1,200 miles away and 76 years removed from Robins and Davis' original office, he was putting into practice that bold, lean and patient ethic the once-shunned duo infused into the firm.

"We feel we can practice law ethically and vigorously and with unyielding fearlessness," Ciresi said. "It's just a DNA thing for us."

--Editing by Jeremy Barker and Katherine Rautenberg.
