



From the desk of
ANTHONY A. FROIO

ROBINS  KAPLAN LLP

QUARTERLY

Tackling Tough Business Litigation Matters

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Q&A with Robins Kaplan's New Chair of the Executive Board and Managing Partner

Q | **Congratulations on your new role as Chair of the Executive Board and Managing Partner at Robins Kaplan. Can you share with us your journey to this position and what motivated you to take on this leadership role within the firm?**

I was first introduced to Robins Kaplan by my partner and mentor Chris Sullivan, who was recruited to the firm's Boston office in 1994 to bring a business litigation component to an outstanding group of lawyers concentrating their practice in insurance coverage and subrogation. As Chris predicted, I had never heard of Robins Kaplan, a Midwest-based law firm that was relatively unknown in Boston in the 90s. Fast forward 30 years and I'm happy to say we've established ourselves as one of the most reputable and excellent firms in the New England region.

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The latest and greatest at Robins Kaplan.

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REWRITING THE ODDS

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I was a partner for eight years before becoming Managing Partner of the Boston office, a position I held for nearly two decades. I've always been deeply committed to Robins Kaplan and its unique trial focus and impressive track record of success. After a year of thorough succession planning with our immediate past Chair Ronald Schutz, immediate past Managing Partner Steve Schumeister, and our Executive Board, I was humbled and honored to be elected Chair of the Executive Board and Managing Partner of the firm in March. Assuming this new dual role is both a great honor and a natural progression of my dedication to the firm's values, vision, and goals.



As you step into this new role, what are your top priorities for Robins Kaplan in the upcoming year?

As I transition into this new role, one of my primary goals is to build upon what my predecessors worked hard to implement in terms of communication across the firm. I believe that effective communication is essential for success, so I'm committed to ensuring that our business plan, vision, and objectives are transparent and understood at all levels of the firm. I'm also committed to ensuring the firm stays nimble in an evolving legal landscape so we can continue to provide our clients with world-class legal service, and continue to share risk with our clients.

Additionally, I'm dedicated to fostering a culture of diversity and inclusion within our organization. It's imperative to empower women and diverse attorneys at every stage of their careers, from associates to partners, and from managing partners to board members. Having personally benefited from incredible opportunities for leadership and advancement, I am eager to pay it forward by creating similar pathways for others within our firm.

I am also committed to maintaining our history and culture of giving back to each of the communities in which we practice, and remaining steadfast in our commitment to pro bono work at the highest levels.

Success is then measured by the opportunities seized, the challenges embraced, and the accomplishments achieved by our team. It's about seeing individuals take hold of these opportunities, run with them, and ultimately thrive. This, to me, is the true indicator of success at Robins Kaplan.

—ANTHONY FROIO

CHAIR OF THE EXECUTIVE BOARD AND MANAGING PARTNER



Diversity, equity, and inclusion have become increasingly important topics in the legal industry. What steps do you plan to take to further promote diversity and inclusion within Robins Kaplan?

Diversity, equity, and inclusion are not just buzzwords at Robins Kaplan; they are integral to our mission and values. My commitment to promoting diversity and inclusion goes beyond mere rhetoric – it’s about taking meaningful action.

One of my key initiatives is to facilitate open and inclusive discussions on diversity throughout the entire firm. This means engaging not only partners and associates but also our business professionals at all levels. Everyone deserves a voice in shaping our approach to diversity and inclusion.

We also understand that diversity isn’t just a moral imperative; it’s also a strategic advantage. Diverse teams perform better. Our clients recognize this, and so do we. That’s why we approach every matter and every pitch with diversity top of mind, seeking out talent with diverse backgrounds, experiences, and skills. This commitment isn’t just about winning pitches; it’s about delivering the best outcomes for our clients.



How do you define success in your new role?

I believe success transcends mere numerical metrics. While numbers provide a tangible measure of achievement, true success is defined by the quality within those numbers. It’s about more than just reaching targets; it’s about empowering individuals and fostering a culture of opportunity.

Throughout my 30-year journey with the firm, I’ve been fortunate to be presented with countless opportunities for growth and advancement. Now, it’s my central responsibility, along with all partners, to ensure that these opportunities are extended to everyone within our organization.

Success is then measured by the opportunities seized, the challenges embraced, and the accomplishments achieved by our team. It’s about seeing individuals take hold of these opportunities, run with them, and ultimately thrive. This, to me, is the true indicator of success at Robins Kaplan.



What do you believe sets Robins Kaplan apart from other law firms, and how do you plan to leverage these strengths to drive the firm’s success under your leadership?

Decade after decade, we have secured historic verdicts that underscore our talent, dedication, drive, and true sharing of the risk with our clients at all levels. Our success is not just about the outcomes we achieve; it’s about the relentless effort we pour into every case. We understand the importance of deploying sufficient resources to ensure success, whether it’s the manpower or the financial investment required.

What truly sets us apart is the track record of success in our unique business model. Unlike traditional pyramid firms, we have a history of thriving in contingent and alternative fee matters – and staffing our cases with exceptional talent at all levels. We’re not afraid to take calculated risks and invest our own resources for future gain. This approach speaks to our confidence in our abilities and our commitment to our clients as truly exceptional trial lawyers.

Under my leadership, we will continue to prioritize trial-focused representation, invest in our people, our clients, and our cases, and continue to embrace our unique business model.

Q | Collaboration and teamwork are essential in a law firm environment. How do you intend to foster a culture of collaboration and support among throughout the firm’s offices?

At our firm, we prioritize fostering a culture of support that extends beyond mere professionalism. We consider ourselves a tight-knit family and a cohesive team, where caring for one another is ingrained in our DNA.

We invest significant time and resources into nurturing our culture, bringing our people together, and providing comprehensive training opportunities. As we move forward, I am committed to preserving and strengthening this culture of collaboration and support. I will do everything in my power to ensure that every member of our firm feels valued and empowered to thrive. It’s this sense of belonging and unity that truly propels us toward continued excellence.

Q | What advice do you have for young attorneys aspiring to leadership roles within the legal industry, based on your own experiences and journey to leadership at Robins Kaplan?

First and foremost, learn to listen and listen well. Take the time to truly hear and understand the perspectives of those around you. The insights and feedback from colleagues, mentors, and clients are invaluable in shaping your growth as a leader.

Secondly, immerse yourself in your firm’s history, culture, and trajectory. Understanding where your firm has come from and where it aims to go is essential for effective leadership. Embrace the values and traditions that define your firm, while also seeking opportunities for innovation and progress.

Lastly, learn to be both comfortable and confident in your decision-making process, especially when it comes to saying no. Trust in your abilities and judgment, but remain open to feedback and continuous learning.



How Many Cases Have You Tried to a Verdict?

BY GABRIEL BERG AND LAUREN COPPOLA

GABRIEL BERG

Trying cases is exhilarating. For as long as the trial lasts, the mind is singularly focused, awake and asleep (mostly awake), on one thing: Winning the case. Trial counsel must carry the action—and never endure a dull moment in the courtroom. Win, lose or draw, the second the trial ends, there is a group of zealots who crave only one thing—the start of the next trial. These deranged people are not litigators. They are trial lawyers.

LAUREN COPPOLA

The difference between trial lawyers and litigators is well-known, but rarely practically applied in selecting counsel. When general counsel interviews firms, the ultimate question to a prospective lead counsel should not be: “How many cases have you litigated?” Most experienced lawyers will say hundreds, if not a thousand or more.

Rather, the most apt question is: “How many cases have you tried to a verdict?” A satisfactory answer to the question will increase the value of any plaintiff’s case and decrease the exposure in any defense matter. Most civil cases settle. This rightly is the norm. But the circumstances surrounding that settlement are bolstered, exponentially, by having a lawyer on the team who has expertise in trying cases, even if general counsel insists on a litigator acting as lead lawyer.

This is not to minimize those without trial experience. Trial work is difficult to come by these days, especially for young lawyers. As an aside, for those craving trial experience, there is no substitute for identifying a widely respected trial lawyer and going to the courthouse just to watch that lawyer in action. Taking on pro bono matters and participating in firm trial workshops or other trainings are excellent tools to gain trial experience as well.

Rather, the point is to highlight the tangible benefits a trial lawyer brings to any case. There are numerous identifiable advantages that reveal themselves during pretrial discovery when opposite a lawyer without trial experience. Unless general counsel is a former experienced trial lawyer, he or she may not know about these advantages.

If, for example, a lawyer lodges an objection to a cross-examination question as “leading,” the trial lawyer will tuck that little gem away. Cross-examination is where cases are most often won at trial—and the point is to lead the witness.

During discovery, knowing how evidence will be used at trial to impeach a witness who changes their testimony is another enormous strategic advantage. It leads to more precise questions and less wiggle room in an answer in a deposition.

Also, in depositions a lawyer who reads two sentences of a document and ignores the third sentence that undermines the first two sentences—and his point—has done himself no favors. In front of a jury, this tactic loses the lawyer all credibility and possibly the case.

If a lawyer decides that his witness is not doing well on cross-examination in a deposition and launches into a lengthy speech to assist that fledgling witness, be reminded that this tactic is included in almost every legal drama on television and in movies but is a death-knell during cross-examination

at trial. If a witness gives a horrible answer during discovery or at trial—and it has happened to all of us—play poker and simply make a note to fix it on redirect. The lawyers should not get excited, or worse, respond by attacking opposing counsel.

Unless the cross-examiner is being outrageous (it happens), an attack on opposing counsel while defending a deposition is the sure sign that the cross-examination is going beautifully, and the objecting lawyer does not have trial experience. Unfortunately, as a rule, most juries dislike lawyers. There is no reason to give the jury another reason to dislike a lawyer by going after opposing counsel. Most of all, attacking a lawyer who is clinically dissecting a witness on cross will make matters significantly worse.

At the same time, if a lawyer elicits a game-changing admission during a deposition or at trial, do not stop the examination to gloat. Generally, everyone in the room knows what just happened. General counsels, please always insist that your lead lawyer wait until after the case is won to even entertain celebrating. Anything can happen at trial.

A digression to allow for how hard it is not to react when an admission is elicited that actually wins the case. In an arbitration, I gave a client of mine who is a character (read, loud and obnoxious) a stern lecture about not reacting to testimony during the arbitration. “Watch the witness and when you want to react, grab your pen and take notes instead,” I demanded. During the hearing, on *direct* examination of a witness by our adversaries, a very honest witness told the absolute truth and admitted key facts that made it virtually impossible for us to lose. I grabbed my client’s forearm and squeezed it as the witness testified and just could not bring myself to let

**“Watch the witness and when you want to react,
grab your pen and take notes instead.”**



go, until it was time for my two-minute cross-examination to lock-in what we had just heard. The lawyers on the other side of the table turned sheet white. I honestly believe that I would have also had the exact same reaction and had sympathy for those lawyers. Briefly, of course.

A further digression to repeat: Please do not celebrate early. I am begging you. In a one-sided jury trial in 2014, where we represented the plaintiffs, the judge went so far as to tell the other side in chambers that they were getting beat—so badly that they should settle now. Defendants absolutely refused. The judge warned them again by stomping out of chambers and back to the bench. A very seasoned lawyer for defendants in that case read his two-hour closing argument to the jury from a script in a five-inch-thick binder. The judge fell asleep. The jurors quietly nudged one another and giggled. The jury then took an hour to return a complete defense verdict. While we got the verdict vacated and a new trial ordered on appeal and later settled the case, to this day I sometimes shoot out of bed in a cold sweat at 2 a.m. and wonder: ‘What happened?’ When I wake up, I target 2040 to get over this verdict once and for all. But that seems too soon.

Back to the ultimate point. To general counsels, in addition to asking the question about the number of cases tried to a verdict, a trial lawyer who is quick to tell interesting trial war stories is the first sign that you likely have hired the right trial lawyer to join the team.



Gabriel (Gabe) Berg is a partner at Robins Kaplan in the firm’s litigation practice. **Lauren Coppola** is deputy managing partner of the firm’s Boston office.

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FRONT AND CENTER

ROBINS KAPLAN SECURES \$42 MILLION JURY VERDICT IN PATENT INFRINGEMENT TRIAL

On January 17, 2024, a Robins Kaplan trial team led by Patrick Arenz obtained a \$42.4 million verdict in favor of client Willis Electric. The verdict affirmed Willis Electric's claims that its competitor, Polygroup, had willfully infringed on its patent related to artificial Christmas tree lights. This is believed to be the largest patent jury verdict in the District of Minnesota history.

In 2010, the General Manager of Willis Electric invented and patented the One Plug Tree, which allowed users to assemble and light up an artificial Christmas tree with one plug in less than one minute. The following year, executives at Polygroup—Willis Electric's biggest competitor and the world's largest manufacturer of artificial Christmas trees—studied the One Plug Tree and released its version called Quick Set.

Willis Electric filed a lawsuit against Polygroup in federal court in the District of Minnesota in August 2015. "After eight years of litigation, Willis Electric is thrilled that the jury vindicated its patented invention and held Polygroup accountable for its willful patent infringement," Arenz said.

Willis Electric will now move forward with its request for enhanced damages, prejudgment interest, and an award of attorney's fees.

The trial team included Emily Niles, Jessica Gutierrez, Brenda Joly, and Prateek Viswanathan.

PATRICK ARENZ

EMILY NILES

JESSICA GUTIERREZ

BRENDA JOLY

PRATEEK VISWANATHAN

ROBINS KAPLAN NAMED MINNESOTA FIRM OF THE YEAR BY *BENCHMARK LITIGATION*

Robins Kaplan has been named Minnesota Law Firm of the Year by *Benchmark Litigation* in its 2024 U.S. Awards. These awards recognize the country's most distinguished litigators and their firms for their exemplary work from the research period spanning April 2022 to April 2023.

RONALD SCHUTZ, BRENDAN JOHNSON NAMED TO *FORBES* TOP 200 LAWYERS IN THE UNITED STATES

RONALD SCHUTZ

Ronald Schutz and Brendan Johnson have been recognized by *Forbes* in its inaugural list of the Top 200 Lawyers in the United States. According to *Forbes*, the list identifies “the finest in the profession: lawyers with impressive track records in their specialties, those who have broken barriers to emerge as leaders in their fields, and attorneys most respected by peers and clients.”

BRENDAN JOHNSON

TARA SUTTON NAMED 2024 *LAWDRAGON* LEGEND

Tara Sutton, chair of the firm's Mass Tort Group, has been named a 2024 “Lawdragon Legend” by *Lawdragon*. This exclusive list recognizes highly acclaimed attorneys who have been chosen 10 times for *Lawdragon*'s “500 Leading Lawyers in America” list. This year, Sutton is one of just 33 attorneys nationwide to receive this recognition.

TARA SUTTON

CHRISTOPHER LARUS ADMITTED TO AMERICAN COLLEGE OF TRIAL LAWYERS

Christopher Larus, chair of the firm's National IP and Technology Litigation Group, has become a Fellow of the American College of Trial Lawyers, one of the premier legal associations in North America. The induction ceremony took place during the recent 2024 Spring Meeting of the College in Phoenix, Arizona.

CHRISTOPHER LARUS



ROBINS KAPLAN ACHIEVES LANDMARK SETTLEMENT IN LGBTQ DISCRIMINATION LAWSUIT AGAINST SOUTH DAKOTA

In February 2024, Robins Kaplan announced a key victory secured on behalf of the Transformation Project, a nonprofit organization providing suicide prevention and healthcare support for transgender individuals across South Dakota, following the state's abrupt cancellation of the organization's contract for a community health worker.

As part of the settlement, the state of South Dakota will pay \$300,000 and issue a public apology.

The Transformation Project received approximately \$136,000 in federal funds to hire and train a community health worker to connect LGBTQ community members to healthcare. However, the Deputy Health Secretary issued a cancellation letter in December, citing alleged contract violations, after the position had already been filled. The group, which only received about \$39,000 of contract funds, disputed these claims and asserted they had complied with contract terms. Shortly after, Robins Kaplan stepped in to represent the organization, filing a federal lawsuit alleging the contract termination was unconstitutional and discriminatory.

"This settlement marks a significant milestone in our ongoing commitment to civil rights advocacy," said Brendan Johnson, lead attorney representing the Transformation Project. "We commend the resiliency of the LGBTQ community and remain committed to vigorously upholding their rights."

Robins Kaplan attorneys Erica Ramsey, Timothy Billion, Thad Titze, and Jordan Rice also represented the Transformation Project in this case.

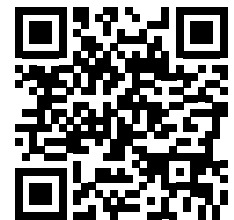


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QUARTERLY

PAYMENT CARD SETTLEMENT FOR U.S. MERCHANTS

If your business accepted Visa and/or Mastercard credit or debit cards at any time between January 1, 2004, and January 25, 2019, you are likely eligible for a share of the recent \$5.5 billion payment card settlement. The claims period is now open and closes on May 31, 2024.



**SUBMITTING YOUR CLAIM IS QUICK
AND EASY. GET STARTED HERE.**



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