



## Anne M. Lockner

Partner; Chair, Privacy and Cybersecurity Litigation Group  
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### Practice Areas

- Antitrust and Trade Regulation
- Business Litigation
- Class Action Litigation
- Financial Markets Litigation
- Global Business and Technology Sourcing
- Government and Internal Investigations
- Health Care Litigation
- Privacy and Cybersecurity Litigation
- Retail

### Industries

- Food and Beverage
- Manufacturing
- Retail
- Technology

### Education

- Georgetown University Law Center, J.D., *cum laude* (1999)
- University of Minnesota, B.A., Political Science, *summa cum laude* (1996)
- Cybersecurity and Privacy Law Certificate, Mitchell Hamline School of Law (2017)

### Professional Associations

- Federal Bar Association

### Experience

#### Legal Experience—Solving Complex Business Problems

Ms. Lockner is a partner in the firm's business litigation department and has extensive experience in handling - and solving - a broad array of problems for her clients. She also chairs the firm's Privacy and Cybersecurity Practice Group. As a trial attorney, she has the skills and expertise to wield the threat of trial as a sword, but understands and appreciates her clients need to use it only as a weapon of last resort. Instead, Ms. Lockner focuses on understanding her clients' business objectives and risk tolerance to determine what constitutes a successful outcome and then implements a strategy to achieve that result.

Ms. Lockner has experience in numerous areas of complex litigation including healthcare litigation, class-action defense, internal and government investigations, privacy and data breach matters, incident response planning, bankruptcy, securities, tax, Telephone Consumer Protection Act, white-collar criminal defense, consumer fraud, real estate, securities, financial fraud, breach-of-fiduciary-duty claims, breach of contract, Minnesota Termination of Sales Representatives Act, product liability, antitrust, RICO, corporate structure, intellectual property, and insurance matters.

She also has experience in numerous industries: healthcare, retail, manufacturing, franchisor, financial, construction, food and beverage, technology, and logistics.

Ms. Lockner currently represents healthcare plans in multi-million-dollar litigation with providers involving claims for improper billing, breach of contract, and fraud. She recently led a team in a complex federal lawsuit against a provider that resulted in a \$32 million settlement for her client as well as other business terms.

#### Trial Experience

Ms. Lockner has extensive experience in first and second chairing trials in both state and federal courts. She successfully first chaired a jury trial in defense of a Fortune 50 publicly-traded company in a breach-of-contract case relating to registered securities. The jury found in favor of Ms. Lockner's client. Two months earlier, she second-chaired a two-week federal criminal conspiracy and tax-fraud case in the Federal District of Minnesota on behalf of a prominent, local businessperson, cross

- American Bar Association
- Minnesota State Bar Association
- Hennepin County Bar Association
- Minnesota Women Lawyers
- Women Business Leaders of the U.S. Healthcare Industry

## Bar Admissions

- Minnesota
- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Appeals, Sixth Circuit
- U.S. District Court, Colorado
- U.S. District Court, Minnesota
- U.S. District Court, Northern District of Illinois
- U.S. District Court, Northern District of Indiana
- U.S. District Court, Western District of Wisconsin
- U.S. Supreme Court



examining the special agent, the revenue agent, and the alleged victim, among others. The jury acquitted the client on 5 of 9 counts, including those with the most alleged financial losses. She has also handled arbitrations and adversary proceedings in bankruptcy court.

### Early Resolutions

While she loves trying cases, Ms. Lockner has also had great success in obtaining early and creative resolutions where it serves her clients' best interests. For instance, she negotiated an early nationwide class-action settlement before any discovery or advanced motion practice had occurred. The settlement ended up being 60 percent less than what other defendants in similar cases brought by the same plaintiff's counsel settled for after much more extensive discovery and motion practice, providing finality with minimal exposure to the client. She also resolved a class action case where no money was paid to the class and the fee award was less than half of plaintiff's counsel's lodestar.

### Cybersecurity, Privacy, and Data Breach

Ms. Lockner has also worked with companies in defending matters relating to privacy and data breaches. She recently counseled a large technology company in an investigation that was investigated by several Attorneys General and the Federal Trade Commission and was successful in persuading those investigatory bodies to close their investigation. In addition to handling litigation that may arise from these breaches, Ms. Lockner counsels clients on how to mitigate and prevent such breaches in the first place. This involves working with clients to develop and test data response plans in the event of a breach. If a cyber incident does occur, Ms. Lockner has experience in working with clients to respond to the incident, including working with forensic teams and law enforcement, and determining what notification requirements apply.

### Government and Internal Investigations

Ms. Lockner also has extensive experience handling internal and governmental investigations and has litigated against and negotiated with numerous Attorneys General throughout the country. She successfully obtained an outright voluntary dismissal of a case that the Ohio Attorney General brought after she obtained sanctions against the State for discovery abuses. She has led high-profile internal investigations and many that have remained confidential. In addition, Ms. Lockner has handled and participated in several internal and grand jury investigations and recognizes that there are not only legal, but also public relations and employee-morale ramifications that must be managed in these instances.

### Business Counseling

Ms. Lockner provides legal counsel to clients both inside and outside legal departments on various topics, including cybersecurity, privacy, data breach preparation, marketing, antitrust, e-discovery, and compliance counseling. For instance, Ms. Lockner was brought in by one large company to lead a cross-functional team in implementing a complex, high-profile project relating to the company's massive IT infrastructure that took into account how those changes could impact pending and future litigation. She has also worked with clients on ambitious

projects that seek to allow the business to operationalize business-generating ideas while proactively mitigating the potential for litigation risk. She also works with clients to prepare cybersecurity incident response plans and conducts both table-top and more robust simulations to test those plans.

#### Pro Bono and Community Service—Serving Those in Need

Ms. Lockner served as head of the firm's nationally-recognized Pro Bono Program from 2009 through 2014. Under her leadership, the firm regularly ranked in the top 10 of Am Law firms and was featured as one of five firms nationally whose ranks had increased the most over the previous five years. In 2011, the "Vault" survey named the firm as No. 1 in the nation for its pro bono program.

She has been fortunate to represent numerous inspiring clients who have faced debilitating challenges and have thrived despite them, including asylum seekers, foster children, battered women, and veterans. In one case, she began representing an Ethiopian woman seeking asylum two weeks after Ms. Lockner was sworn into the bar. After three trials, two trips to the Board of Immigration Appeals, and finally a trip to the Eighth Circuit where Ms. Lockner argued to overturn the immigration judge's decision, her client was finally awarded asylum status nearly nine years later. *See Hailemichael v. Gonzales*, 454 F.3d 878 (8th Cir. 2008). She recently represented and obtained asylum for two sisters and their young children who fled Honduras due to violence that had resulted in the assassinations of their brother and their cousin, an elected official.

Ms. Lockner also serves on the board of several organizations including The Advocates for Human Rights, The Fund for Legal Aid, and The Basilica Landmark. From 2010 to 2016, she served as one of two trustees to The Basilica of St. Mary where she also sat on the parish council and the finance committee. She also previously served six years on the board of Mid-Minnesota Legal Aid.

#### Litigation Philosophy and Objective

Ms. Lockner's litigation philosophy is to pick her battles well, guided primarily by her clients' needs and objectives. She has been described as having "a velvet glove in one hand and brass knuckles in the other," and she knows when one should be used over the other. She also took pride in the business client who told her: "I don't like needing you, but I sure do have fun working with you." In sum, Ms. Lockner's most basic objective is to make her client's life easier—whether it be the in-house legal counsel who has to meet a budget and apprise her board of litigation risks, a business client who wants to capitalize on an opportunity, or the pro bono client who needs our justice system to protect her.

#### **Selected Case Results\***

##### Successful Dismissals By Motion

*Nunez v. Best Buy Co.*, 315 F.R.D. 245, (D. Minn. 2016): Obtained dismissal of case alleging pricing misrepresentations on a Rule 12(b)(6) motion.

*Insulate SB, Inc. v. Advanced Finishing Sys.*, 2014 U.S. Dist. LEXIS 31188, 2014-1 Trade Cas. (CCH) P78,705 (D. Minn. Mar. 11, 2014): Counsel for fluid-handling equipment manufacturer Graco Inc. in putative nationwide antitrust class action alleging monopolization conspiracy. Successfully moved to dismiss all claims with prejudice. Further represented Graco in the appeal, where the judgment was affirmed. 797 F.3d 538 (8th Cir. Minn. 2015).

Obtained dismissal of a RICO case against a Fortune 50 company. In addition, obtained a sanctions award against the plaintiff's counsel, a national law firm, for various discovery abuses and misrepresentations.

Successfully argued a motion to dismiss in Minnesota state court regarding claims of breach of contract and fraud claims. The Minnesota Court of Appeals affirmed.

Obtained dismissal on the pleadings of nationwide class action alleging breach of contract, violations of the Ohio & Kentucky Deceptive Business Trade Practices Act, and violations of the Ohio & Kentucky Consumer Protection Act. Successfully argued before the Sixth Circuit Court of Appeals which later affirmed.

Represented national retailer in nationwide consumer class action alleging breach of contract and unlawful merchandising practices. Defeated class certification, was granted summary judgment, and subsequently obtained affirmance from the Missouri Court of Appeals.

Obtained dismissal on the pleadings of a nationwide class action alleging claims of fraud, rescission, and restitution in the District of Colorado.

#### Defeating Class Certification

Defeated class certification in the Northern District of Illinois where plaintiff alleged claims under the Illinois Consumer Fraud and Deceptive Business Practices Act, for breach of the covenant of good faith and fair dealing, common law false advertising, unjust enrichment, and declaratory and injunctive relief. As a result, the plaintiff voluntarily dismissed the case.

Defeated class certification in the Central District of California where plaintiffs alleged claims under the California Consumers Legal Remedies Act (CLRA), Cal. Civ. Code § 1750; the Unfair Competition Law (UCL), Cal. Bus. & Prof. Code § 17200; the False Advertising Law (FAL), Cal. Bus. & Prof. Code § 17500; breach of the covenant of good faith and fair dealing; for common law false advertising; for unjust enrichment; and declaratory and injunctive relief.

Defeated class certification in a nationwide consumer class action in the Southern District of New York on behalf of a large national corporation. Plaintiff voluntarily dismissed and declined to appeal.

Defeated class certification in consumer class action brought in the Southern District of Florida alleging claims under the Florida Deceptive Uniform Trade Practices Act. Plaintiff voluntarily dismissed case with prejudice.

Represented national retailer in nationwide consumer class action alleging breach of contract and unlawful merchandising practices. Defeated class certification and subsequently obtained affirmance from the Missouri Court of Appeals.

Obtained class decertification from the Texas Supreme Court on behalf of large corporation in a statewide consumer class action alleging breach of contract and unjust enrichment.

#### Voluntary Dismissals, Settlements, Appeals, and Business Counseling (other than those mentioned above)

Negotiated a \$32 million settlement with a large health insurance company against a provider alleging fraud and violations of ERISA and deceptive trade practices acts as well as other legal theories.

Negotiated a class-action settlement on behalf of a large retailer in a Telephone Communication Protection Act in the Western District of Washington.

Resolved a matter on behalf of a supplier in a case alleging violations of the Minnesota Termination of Sales Representatives Act.

Negotiated a non-monetary settlement after a class had been certified in the Southern District of New York. Despite a certified class, plaintiff's counsel accepted just 30% of their lodestar to resolve the case before trial due to our strategic positioning of the case for trial.

Creatively obtained a temporary restraining order on behalf of an individual that enjoined her former employer from enforcing a non-compete provision. In its notice of appeal hoping to vacate the injunction, the defendants noted that they had "been unable to find a single appellate court decision in Minnesota in which an employee has sought, much less been granted, a TRO based on his or her declaratory judgment action." The parties settled on a confidential basis.

Obtained voluntary dismissal from the State of Ohio after obtaining sanctions against the State for discovery abuses.

Obtained voluntary dismissal from the State of Wisconsin against a large, nationwide corporation.

Obtained reversal from the Eighth Circuit of the lower courts' denials of asylum in a pro bono appeal entitled *Hailemichael v. Gonzales*, 454 F.3d 878 (8th Cir. 2008).

Member of post-remand trial team of *Eolas Technologies, Inc. and The Regents of the University of California v. Microsoft Corporation*. This case settled on confidential terms on the eve of trial.

Past results are reported to provide the reader with an indication of the type of litigation we practice. They do not and should not be construed to create an expectation of result in any other case, as all cases are dependent upon their own unique fact situation and applicable law.

## Recognition\*\*

- Named one of the "Top 250 Women in Litigation," *Benchmark Litigation* (2013-2014)
- Named a "Minnesota Super Lawyer," *Super Lawyers* (2013-2018)
- Recipient of the "Women in Business Award," *Minneapolis/St. Paul Business Journal* (2013)
- Named a "North Star Lawyer," *Minnesota State Bar Association* for providing at least 50 hours of pro bono legal services (2013-2016)
- Featured in "11th Annual Women Worth Watching," *Profiles in Diversity Journal* (2013)
- Named a "Litigation Star," *Benchmark Litigation* (2013-2017, 2019 editions)
- Listed in *The Best Lawyers in America* (2013-2019 editions)
- Named a "Future Star," *Benchmark Litigation* (2011 and 2012 editions)
- Awarded "2009 Volunteer Award," *The Advocates for Human Rights*
- Named a "Minnesota Rising Star," *Super Lawyers* (2004-2009, 2011-2012)
- Named an "Up and Coming Attorney," *Minnesota Lawyer* (2004)

\*\*Being named to the list or receiving the award is not intended and should not be viewed as comparative to other lawyers or to create an expectation about results that might be achieved in a future matter.

## Community Service

- Children's Theatre Company, Board of Directors
- The Advocates for Human Rights, Board of Directors
- The Fund for Legal Aid, Board of Directors
- The Basilica Landmark, Board of Directors
- Georgetown Law Alumni Board
- Legal Aid Society of Minneapolis, Board of Directors (2009-2015, term completed)
- Basilica of St. Mary, Trustee (2010-2016, term completed)

## Resources

### Articles

- The Healthcare Industry's Shift from Fee-for-Service to Value-Based Reimbursement  
*Bloomberg Law* (September 26, 2018)
- Insurance Class Actions: Avoiding Pitfalls and Mitigating Risks  
*The Robins Kaplan Insurance Insight* (January 19, 2017)

- Being Aggressive vs. Being Strategic  
*InsideCounsel (January 11, 2017)*
- Retail Fraud – Don't Make the Cure Worse than the Disease  
*Attorney at Law Magazine (December 2016)*
- Accelerator Focus On Retail  
*(July 26, 2016)*
- How to Create Your Cyber-Incident Response Plan  
*InsideCounsel (July 25, 2016)*
- Internal Investigations 101: Part 2  
*InsideCounsel (July 14, 2016)*
- Internal Investigations 101: Part 1  
*InsideCounsel (July, 12, 2016)*
- “But I Only Wore It Once!”: The Rising Cost of Return Fraud  
*Robins Kaplan LLP (April 19, 2016)*
- What's Hot: Advertising Disclosures on Social Media  
*Robins Kaplan LLP (April 7, 2016)*
- Delivery Drones: Fantasy, or the Future of Online Retail?  
*(December 11, 2015)*
- Made in the USA? Or not?  
*(October 30, 2015)*
- Legislature bolsters sales rep termination act  
*Minnesota Lawyer (March 2, 2015)*
- Avoiding Litigation: What Every Growing Company Should Know Now Before it is Too Late  
*The Bakken (March 24, 2014)*
- When Worlds Collide: Litigation Insights for M&A Attorneys and Tax Advisers  
*Bloomberg BNA (October 2, 2013)*
- How To Avoid Litigation Before It Begins  
*InsideCounsel.com (April 5, 2013)*
- What Business People Need To Know About Litigation  
*InsideCounsel (February 22, 2013)*
- What Every Business Person Needs To Know About Being Deposed  
*InsideCounsel (January 28, 2013)*
- Ten Tips for a Successful Pro Bono Program: Building a Program that Benefits Your Community, Your Attorneys, and Your Organizations  
*Bloomberg Law (February 9, 2012)*
- The Fifth Amendment, Vicarious Liability, and the Attorney Client Privilege; How Cooperation and Waiver Can Leave Your Corporation Exposed  
*Emergency Envelopes, Volume 1, Issue 1 (November 2005)*

#### **Legal Updates**

- The Robins Kaplan Insurance Insight - Vol. 1, No. 1  
*(Winter 2017)*

#### **News**

- Robins Kaplan Receives High Rankings by Benchmark Litigation 2019
- Robins Kaplan Attorneys Recognized as 2018 Minnesota “Super Lawyers” and “Rising Stars”
- Robins Kaplan LLP Announces 2018 Executive Board
- Robins Kaplan Receives High Rankings by Benchmark Litigation 2018
- Robins Kaplan to Serve as Co-Counsel in Lawsuit against City of Chicago Seeking Police Reform
- Robins Kaplan Attorneys Named to 2018 Best Lawyers in America List; Three Receive “Lawyer of the Year” Designation
- Robins Kaplan Minnesota Attorneys Recognized as 2017 “Super Lawyers” and “Rising Stars”
- Robins Kaplan LLP Named a “Top Ten Plaintiffs Firm” by Benchmark Litigation 2017
- Robins Kaplan LLP Attorneys Named to 2017 Best Lawyers in America List, Two Named “Lawyers of the Year”
- Robins Kaplan Minnesota Attorneys Recognized as 2016 “Super Lawyers” and “Rising Stars”
- Thirty-Eight Robins Kaplan Attorneys Recognized as Best Lawyers in America© 2016
- The American Lawyer: Pro Bono Success Stories
- Firm Receives National Law Journal's 2011 Pro Bono Award
- Vault Survey Ranks Robins, Kaplan, Miller & Ciresi L.L.P. #1 for Pro Bono
- Robins, Kaplan, Miller & Ciresi L.L.P. Named 2011 NLADA Beacon of Justice Award Winner for Pro Bono Work
- Ten Tips for a Successful Pro Bono Program
- Anne Lockner Receives “Women in Business” Award
- Robins, Kaplan, Miller & Ciresi L.L.P. Ranked 7th Nationally for Pro Bono Work
- Graco Escapes Antitrust Class Action Over Rival Buys

## **Speeches**

- Cyber Incident Response Planning, A Webinar Series on Creating a Cyber Incident Response Plan, Part 3: Testing and Refining Your Incident Response Plan  
*Webinar, Robins Kaplan LLP and the National Information Solutions Cooperative (May 9, 2018)*
- Cyber Incident Response Planning, A Webinar Series on Creating a Cyber Incident Response Plan, Part 2: External Focus  
*Webinar, Robins Kaplan LLP and the National Information Solutions Cooperative (April 11, 2018)*
- Cyber Incident Response Planning, A Webinar Series on Creating a Cyber Incident Response Plan, Part 1: Internal Focus  
*Webinar, Robins Kaplan LLP and the National Information Solutions (March 21, 2018)*

- Mitigating Risks That Come With Using Advanced Technologies  
*PRSM Association (September 14, 2017)*
- Mitigating Risk for Startups  
*Sprosty Network: RetailXelerator, Webinar (March 6, 2017)*
- The “Inevitable” Data Breach: How to Plan Ahead to Mitigate Risk  
*Minnesota CLE, Minneapolis, Minnesota (October 24, 2016)*
- Mitigating Risk for Startups  
*Sprosty Network: RetailXelerator, Webinar (July 6, 2016)*
- Antitrust Basics  
*Sprosty Network: RetailXelerator, Webinar (May 9, 2016)*
- Tools, Tips, and Trends: Data Privacy and Cybersecurity  
*National Association of Women Lawyers (September 30, 2015)*
- Effective and Efficient Litigation Case Management  
*Minnesota CLE, Webcast (August 17, 2011)*
- Ediscovery and Experts  
*2005 Ediscovery Best Practices for Litigation & Document Management, Mendota Heights, Minnesota (April 12, 2005)*

## **Webinars**

- Minnesota Legislature Bolsters Sales Rep Termination Act  
*Join Anne Lockner and Thomas Berndt of Robins Kaplan LLP for an overview of the Minnesota Termination of Sales Representatives Act (MTSRA) and a discussion regarding possible strategies for manufacturers and suppliers wishing to avoid its statutory penalties.*  
*(June 2, 2015, 1:00 P.M. CST)*
- 5 Ways Retailers (and Others) Can Minimize Privacy and Data Breach Litigation  
*Retailers have valuable customer information that allows them to provide better service to their customers, but also creates potential litigation landmines. How can companies continue to gain the benefits of that data while mitigating the risk that comes with that data? Join Anne Lockner and Michael Reif to learn what steps your company can take today to lessen your risk tomorrow.*  
*(May 19, 2015, 1:00 P.M. CST)*