

ROBINS  KAPLAN LLP

# QUARTERLY

Tackling Tough Business Litigation Matters

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## IATL PRESIDENT'S LETTER ON JUDICIAL SECURITY

BY ROMAN SILBERFELD



My appointment as president of the International Academy of Trial Lawyers (IATL) in March of 2021 was the highlight of my long legal career. In pursuit of the IATL's mission of promoting excellence and integrity in the legal profession, I want to draw attention to an issue of importance to the bar — the increase of threats and attacks on judges in our country.

IATL, founded and continuously functioning for over 65 years as a protector of our judicial system, is deeply concerned about threats against and physical attacks on judges.

Statistics on the security of federal and state judges are alarming.

Last year, federal judges received 4,200 threats, up 400% from 5 years ago.<sup>1</sup> The U.S. Marshals Service (USMS) is charged with protecting federal judges, but a June 2021 USMS audit concluded that it did not have the resources to do so.<sup>2</sup>

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REWRITING THE ODDS

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**In August of 2020, the National Judicial College conducted a poll of its members, and 75% of respondents felt courts were not doing enough to keep them safe, and nearly 85% reported inadequate security for their families.<sup>3</sup>**

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The attack on Judge Esther Salas' family in her New Jersey home last July demonstrates that security at the courthouse is not enough. Further, the increased use of social media has amplified the threat beyond the disgruntled litigant, and there is even concern about the safety of jurors in high-profile matters. As officers of the court, we must act.

Judicial security is critical to a functioning democracy. Physical attacks on judges and their families obviously cause personal injury and death, but such attacks also threaten judicial independence, recruitment, and retention of good judges, and public confidence in

our judicial system. These assaults undermine the judicial system and upset the delicate balance between the three branches of government. Our democracy depends on respect for judicial judgments and those who make them.

We have an obligation to respond on behalf of judges, who are often limited in what they can say and do by judicial canons of ethics. What is appropriate depends, of course, on where you practice, but all of us are called upon to be mindful of how we speak of judges and judicial decisions and of how we react to others' speech. De-escalating and condemning the harmful rhetoric aimed at judges is essential. You may also want to speak out and support legislation that addresses judicial security.

Please join me in addressing the security of judges and the judicial process. The judges with whom we interact daily, the court systems where we practice, and our very democracy is at risk.

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**85%**  
**HAVE REPORTED  
INADEQUATE SECURITY  
FOR THEIR FAMILIES**

# The Chauvin Case:

## A LIFTING OF THE VEIL OR ONLY A PEEK BEHIND THE CURTAIN?



Thanks to a 17-year-old's cellphone video, worldwide protests, and a televised criminal trial, the Derek Chauvin trial exposed misconduct and malfeasance of the Minneapolis Police Department (MPD). The world was shocked, but not the Robins Kaplan Civil Rights Group; they have seen this all before.<sup>1</sup>

### **SIMILARITIES IN MPD MISCONDUCT CASES**

Robins Kaplan attorneys Bob Bennett, Andy Noel, and Katie Bennett lead the firm's Civil Rights Group and have many years of experience handling civil rights and police misconduct cases on behalf of victims. They cite grim similarities in these cases:

- Inadequate or inappropriate officer selection and training, leading to distrustful and overly reactive officers
- The "blue wall of silence" from fellow officers
- Whitewashed official statements and police reports
- Leadership's failure to address historic systemic failures and consistently discipline officers

The group reflected recently on their experience and whether the Chauvin murder conviction would spur needed change.

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ROBERT BENNETT



KATIE BENNETT



ANDREW NOEL

## **POOR TRAINING LEADS TO AN 'US V. THEM' MENTALITY, NEEDLESSLY INJECTING DRAMA INTO CALLS AND CREATING TRAUMA WITHOUT CONSEQUENCES**

In 2017, Bob, Andy, and Katie pursued a civil rights case against MPD Officer Mohamed Noor, who shot and killed Justine Ruszczyk, an unarmed, innocent 911 caller.<sup>2</sup> The trial painted a picture of an inadequately selected and trained officer, spooked by a noise while patrolling a low-crime area. The Robins Kaplan team recognizes this breed of MPD officers, those worried more for their own safety than public safety. These officers often have an “us v. them” mentality, even with non-suspects. Case in point: The group is currently pursuing recovery for two of the many people injured by Minneapolis police in the days following the George Floyd murder.

The Robins Kaplan attorneys point out that the problem isn't just the training but also the trainer. In 2007, the group uncovered both issues while obtaining \$4.5 million for an undercover officer shot multiple times by his fellow officer.<sup>3</sup> The undercover officer explained that, often, jaded MPD officers serve as field trainers indoctrinating rookie cops with bad habits and the sanctity of the “blue wall of silence.” The group also saw the blue wall at work in the Noor case. Officers at the scene turned off their body cameras, and 35 other MPD officers refused to cooperate with prosecutors.

## **LEADERSHIP'S LACK OF TRANSPARENCY AND ACTION**

MPD leadership has not adequately addressed known issues. The very same restraint technique that killed George Floyd — kneeling on the neck and upper back of a subdued suspect — killed David Smith 10 years ago. In negotiating the Smith civil rights settlement, the Robins Kaplan team included a provision that the MPD would provide additional training on appropriate restraint. In an earlier incident, in 2017, Chauvin's beating, choking and prolonged kneeling on another Civil Rights Group client, then 14-year-old John Pope, was done with impunity.

Chauvin had a long history of use-of-force complaints, several of which were likely well-founded. In fact, on May 6 of this year, Chauvin was indicted by a federal grand jury on two counts of federal criminal civil rights violations with regard to his 2017 conduct toward Pope.

**(See United States of America v. Derek Michael Chauvin, File Number CR 21-109 WMW/HB).** Yet, inexplicably, the MPD never removed Chauvin, and he remained on the force to murder George Floyd and ignite the city.

Although MPD leadership testified against Chauvin, their actions belied their words. Leadership failed to address known problems and be candid with the public when they recurred. After the Floyd murder, the MPD's

Director of Public Information issued a statement that “Officers ... noted he (Floyd) appeared to be suffering medical distress ... called for an ambulance. He was transported to Hennepin County Medical Center by ambulance where he died a short time later.”<sup>4</sup> A gross understatement of what transpired.

The willingness of the city and police union to ignore problem officers only enables such activity and illuminates leadership’s shortcomings.

### **LOOKING AHEAD BY LOOKING BACK**

Perhaps Chauvin’s murder conviction is evidence of progress. If so, that progress is painfully slow. Bob Bennett has handled MPD misconduct cases for 40 years. The team points to a case nearly 20 years ago, where a federal jury found “a custom of deliberate indifference to complaints about excessive force in the department.”<sup>5</sup>

A quarter century later, at the Noor sentencing, the judge underscored the jury’s primary concern: “Will there be changes? Change is needed.” Clearly the Noor jurors hoped their conviction would send the requisite message, as did the Robins team after obtaining a \$20 million award for the victim’s family. Yet, here we are two years later. This time, Minneapolis has agreed to pay \$27 million to the family of George Floyd. What will it take to change?

In June, Minneapolis promised improvement in field officer training, after a damning report revealed a culture of aggressive policing.<sup>6</sup> Enough?

After the Chauvin verdict the U.S. Department of Justice announced an investigation into the MPD’s use of force. Will that bring change?

Those in a position to make lasting change — MPD leadership and politicians — have engaged in debate, but talk is cheap. Without action from both, the lifting of the veil at the MPD will be reduced to a mere peek behind the curtain.

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**Leadership failed to address known problems and be candid with the public when they recurred.**



# FRONT AND CENTER

## ROBINS KAPLAN NAMES NEW CHIEF OPERATING AND FINANCIAL, TALENT AND ADMINISTRATIVE OFFICERS

Robins Kaplan LLP announced that **Thomas Schwartz** has been named Chief Operating Officer and Chief Financial Officer and **Dr. Shelley Gilliss** has been named Chief Talent Officer and Chief Administrative Officer.

Tom Schwartz, who will serve in a combined COO/CFO role, joined the firm in 2019 and brings 30 years of experience that spans a number of industries. He was recently named a “Notable Leader in Finance” by Twin Cities Business, in large part for his quick work in adapting Robins Kaplan’s finance and accounting systems to a remote-work model when the COVID-19 pandemic forced the closure of the firm’s offices. Schwartz’s extensive experience in the health care, technology, and business advisory sectors brings valuable insights to enhance the firm’s ability to deliver world-class service matched to clients’ business and financial goals.

Dr. Gilliss joined the firm in 2004 and most recently served as Chief Business Intelligence Officer. She holds a bachelor’s degree in chemical engineering and a Ph.D. in materials science and engineering, both from the University of Minnesota. She was recently named to the Minnesota 500 list, recognizing the most powerful and influential leaders in Minnesota.



**THOMAS SCHWARTZ**



**SHELLEY GILLISS**

## VICTORY IN THE 9TH CIRCUIT\*

A Robins Kaplan team led by **Lauren Coppola**, with assistance from Glenn Danas, Rob Callahan, Tim Wenger, and Jamie Stewart, won a major victory in the 9th Circuit for firm client, Wide Voice, LLC. They successfully appealed an adverse decision of the FCC that had invalidated millions of dollars of “streamlined tariffs” the company charged other long-distance carriers. The Ninth Circuit agreed with their argument that the FCC’s order impermissibly disregarded the “deemed lawful” status conferred on Wide Voice’s tariffs by statute. The Ninth Circuit’s opinion will have reverberations throughout the telecommunications industry for carriers with tariffs.

# ROBINS KAPLAN SECURES \$19.5M SETTLEMENT

## FOR INDIRECT BUYERS IN INTERIOR MOLDED DOORS ANTITRUST LITIGATION\*

Robins Kaplan LLP announced that a court has granted final approval of a \$19.5 million class settlement in a price-fixing litigation brought by indirect purchasers of interior molded doors against the industry's two leading manufacturers. The settlement fully resolves antitrust and consumer protection claims asserted by a class of consumers and businesses who purchased defendants' doors from home improvement stores and wholesalers between March 1, 2014, and September 4, 2020.

Robins Kaplan filed one of the first complaints in this litigation stemming from manufacturers Jeld-Wen and Masonite's alleged series of excessive and coordinated price hikes on interior molded doors.

Filed in late 2018, this action follows a successful competitor lawsuit against one of the defendants for alleged anticompetitive conduct stemming from the company's acquisition of a rival doorskins business. Doorskins are the primary input used to manufacture interior molded doors. In the competitor case, a jury awarded the private litigant damages and future lost profits and also ordered the defendant to divest one of its manufacturing plants — the first time a divestiture was ordered in a private action under Section 16 of the Clayton Act.

This litigation, *In re Interior Molded Doors Indirect Purchaser Antitrust Litigation*, case number 3:18-cv-00850, was filed in the U.S. District Court for the Eastern District of Virginia.

## BRANDON VAUGHN NAMED PRESIDENT OF THE HENNEPIN COUNTY BAR ASSOCIATION

Robins Kaplan is pleased to announce that Partner **Brandon Vaughn** has been appointed president of the Hennepin County Bar Association (HCBA).

Vaughn has been a member of the HCBA for 13 years, and for the past three years has served on the organization's Executive Board (Secretary 2018-2019, Treasurer 2019-2020, and President-Elect 2020-2021). Before serving on the Executive Board, Brandon began serving on the Board of Directors as a delegate for the Minnesota Association of Black Lawyers in 2014. He also served on the HCBA's Mentoring Task Force in 2016-2017 to evaluate how the HCBA could contribute to mentoring in the Hennepin County legal community.

Vaughn will serve a one-year term and is working on an agenda focused on maximizing member value as the legal profession navigates the return to a post-COVID new "normal."



BRANDON VAUGHN

### IATL PRESIDENT'S LETTER ON JUDICIAL SECURITY

1. <https://www.cbsnews.com/news/federal-judge-threats-attack-60-minutes-2021-05-30/>
2. <https://www.courthousenews.com/wp-content/uploads/2021/06/oig-marshals.pdf>
3. <https://www.judges.org/news-and-info/the-verdict-is-in-on-judicial-security-judges-dont-feel-protected/>

### THE CHAUVIN CASE: A LIFTING OF THE VEIL OR ONLY A PEEK BEHIND THE CURTAIN?

1. <https://minnesota.cbslocal.com/2021/06/14/the-costs-of-alleged-police-misconduct-in-minneapolis/>
2. <https://www.mprnews.org/story/2019/05/03/police-trial-shooting-justine-damond-ruszczuk-australia-family-settle>
3. <https://www.startribune.com/five-years-after-shooting-cop-he-still-feels-in-the-line-of-fire/16436361/>;  
<https://www.mprnews.org/story/2010/06/07/ngo-suicide>
4. <https://www.businessinsider.com/police-initially-said-george-floyd-death-was-a-medical-incident-2021-4>
5. <https://minnesotareformer.com/2020/12/15/the-bad-cops-how-minneapolis-protects-its-worst-police-officers-until-its-too-late/>
6. <https://www.startribune.com/minneapolis-promises-greater-accountability-in-police-training-program/600072926/>

\* 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.

# EVENTS



## 19TH ANNUAL GOLF TOURNAMENT FOR THE BENEFIT OF SPECIAL OLYMPICS MASSACHUSETTS

SEPTEMBER 23, 2021

Robins Kaplan LLP welcomes you to join us for our 19th annual golf tournament for the benefit of Special Olympics Massachusetts. Online registration and sponsorship opportunities are available at [www.robinskaplan.com/somagolf](http://www.robinskaplan.com/somagolf).



# LEADERSHIP AWARD CREATED IN MEMORY OF HOLLIS SALZMAN

Robins Kaplan LLP is pleased to announce the establishment of the Hollis Salzman Memorial Leadership Award, created by the American Antitrust Institute (AAI) and the Committee to Support Antitrust Laws (COSAL). The award is in recognition of the life of our partner, colleague, and friend, Hollis Salzman, who passed away last year. This award will honor Hollis's legacy by recognizing leading women and attorneys from underrepresented groups who demonstrate the following: integrity and collegiality, commitment to mentoring and advancing opportunities for women and individuals from underrepresented groups in the bar, and leadership in the plaintiffs' antitrust bar. More information on Hollis's life and legacy, as well as eligibility criteria for the award, can be found at [www.antitrustinstitute.org/hollis-salzman-memorial-leadership-award](http://www.antitrustinstitute.org/hollis-salzman-memorial-leadership-award).

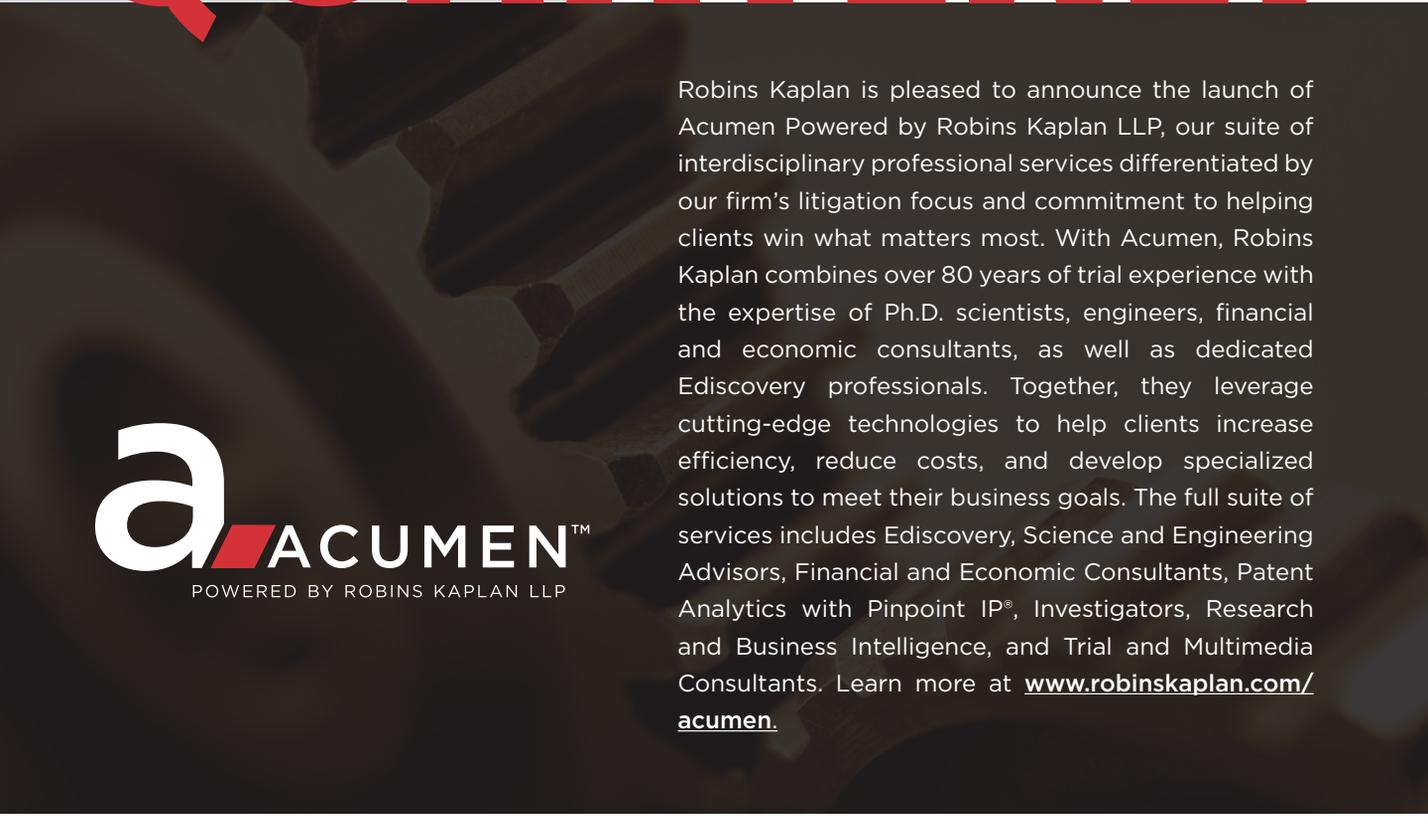
**The award will be presented at AAI's Antitrust Enforcement Awards on November 10, 2021, in Washington, D.C.**



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# QUARTERLY



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Robins Kaplan is pleased to announce the launch of Acumen Powered by Robins Kaplan LLP, our suite of interdisciplinary professional services differentiated by our firm's litigation focus and commitment to helping clients win what matters most. With Acumen, Robins Kaplan combines over 80 years of trial experience with the expertise of Ph.D. scientists, engineers, financial and economic consultants, as well as dedicated Ediscovery professionals. Together, they leverage cutting-edge technologies to help clients increase efficiency, reduce costs, and develop specialized solutions to meet their business goals. The full suite of services includes Ediscovery, Science and Engineering Advisors, Financial and Economic Consultants, Patent Analytics with Pinpoint IP®, Investigators, Research and Business Intelligence, and Trial and Multimedia Consultants. Learn more at [www.robinskaplan.com/acumen](http://www.robinskaplan.com/acumen).

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