

JUSTICE REPORT

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2024 Trial Advocacy Seminar

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Past results are reported to provide the reader with an indication of the type of litigation in which we practice and does 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. This publication is not intended as, and should not be used by you as, legal advice, but rather as a touchstone for reflection and discussion with others about these important issues. Pursuant to requirements related to practice before the U. S. Internal Revenue Service, any tax advice contained in this communication is not intended to be used, and cannot be used, for purposes of (i) avoiding penalties imposed under the U. S. Internal Revenue Code or (ii) promoting, marketing or recommending to another person any tax-related matter.



ROBINS KAPLAN SECURES HISTORIC **\$12.2 MILLION** SETTLEMENT IN A SECTION 1983 JAIL DELIBERATE INDIFFERENCE CASE

Scott County Jail officials failed to report detained man's injuries and allowed video evidence to be deleted.

On October 3, 2023, Robins Kaplan LLP announced a \$12.2 million settlement on behalf of its client Terrance Dwayne Winborn, who suffered severe and permanent injuries, including the eventual amputation of his arms below the elbows, while he was incarcerated at Scott County Jail in Shakopee, Minnesota in 2020. The secured \$12.2 million settlement is believed to be the largest settlement amount of its kind in Minnesota to date.

The case alleged that Mr. Winborn's constitutional rights were violated due to the deliberate indifference of a registered nurse at the jail. The nurse, Mr. Winborn alleged, failed in the critical role of providing constitutionally required healthcare to inmates with obvious and serious medical needs. Despite this responsibility, the nurse allegedly failed to heed the many obvious warning signs of Mr. Winborn's deteriorating condition and chose not to provide vital medical care in the critical hours while he was at the Scott County Jail, nearly allowing him to die while in the care, custody, and control of the jail.

The complaint detailed the horrific consequences of this alleged indifference, which allowed a bacterial infection to fester within Mr. Winborn’s body, leading to a heart attack, purpuric lesions (skin hemorrhages), septic shock, gangrene, and ultimately, the bilateral transradial amputation, among a host of other devastating and permanent injuries.

Scott County Jail officials failed to report this matter to the Minnesota Department of Corrections within the 10-day time period required by law and allowed 39 hours of archived video evidence concerning Mr. Winborn to be deleted. Lawyers for Mr. Winborn made and argued a spoliation motion asking for one of two severe sanctions, default judgment on liability or a mandatory negative inference. The motion was argued on September 13, 2023. The case was settled before any ruling was issued.

“The failure to provide Mr. Winborn with constitutionally required care was, we maintain, inhumane and offensive on every level. To destroy the best evidence of the abhorrent conduct demonstrates the need for the asked-for sanctions and the size of this settlement,” said Katie Bennett, who represented Mr. Winborn. “While this settlement cannot undo the pain and suffering that Mr. Winborn endured, it serves as an important step toward justice and accountability and a message to correctional personnel and correctional medical providers not to engage in this kind of conduct in the future.”

Robins Kaplan attorneys Andy Noel, Greta Wiessner, Bob Bennett, and Marc Betinsky also actively represented Mr. Winborn in this case.



KATIE BENNETT

ANDY NOEL

GRETA WIESSNER

BOB BENNETT

MARC BETINSKY

“The failure to provide Mr. Winborn with constitutionally required care was, we maintain, inhumane and offensive on every level.”

- *Katie Bennett*

TONY SCHRANK:

ADVOCATING FOR JUSTICE BEYOND THE COURTROOM



In the legal arena, where the pursuit of justice for the injured and the grieving is paramount, Tony Schrank stands as a formidable advocate. As a partner at Robins Kaplan, Tony has dedicated his career to helping individuals who have been injured and families who have lost loved ones due to wrongful death. His recent triumph in securing a \$1.79 million verdict for a client who suffered a traumatic brain injury in a car crash is just one testament to the impact he makes on the lives of those he represents.

A JOURNEY ROOTED IN PASSION

Tony's journey into law began with a deep-rooted interest in the legal system. During his undergraduate years, he interned at a company that administered class action lawsuits. This early exposure ignited his passion for the law, leading him to law school, where he found his calling in personal injury law. Before joining Robins Kaplan in 2017, Tony spent three years running a private practice in Anoka, Minnesota. His solo practitioner days were marked by a diverse range of civil litigation cases. Although about half of his caseload was dedicated to personal injury, his interest in the work led him to explore his options for practicing exclusively in the field. He decided to transition to a larger firm that could provide the support and resources required for a more concentrated focus on personal injury and wrongful death.

Tony has dedicated his career to helping individuals who have been injured and families who have lost loved ones due to wrongful death.



“THE REST WAS HISTORY”

The decision to join Robins Kaplan was a natural progression for Tony. From his law school days, he admired the firm’s commitment to handling significant cases. His desire to practice law in the same impactful way brought him to the doors of the firm, and “the rest was history,” he said. Since joining Robins Kaplan, Tony has amassed an impressive track record of successful results. In one notable case, he represented a 72-year-old man injured in a ski lift incident in Michigan, securing a substantial \$2.25 million settlement. He obtained a \$1.25 million recovery on behalf of a minor who was electrocuted while climbing a tree after the Court granted a motion for punitive damages. He also secured a significant \$1.75 million settlement on behalf of a bicyclist who suffered a traumatic brain injury after being struck by a truck.

A VERDICT BEYOND MEDICAL BILLS

Tony’s recent success in obtaining a \$1.79 million jury verdict for a car crash victim not only marked a legal victory but allowed his client to embrace an improved way of life. What made this result truly exceptional is that the client had only \$9,000 in medical bills. The substantial award reflects the jury’s recognition of the profound impact on the client’s quality of life. The client, now with a “new brain” due to the crash, faced significant challenges, including a reduced ability to work and a complete shift in lifestyle. The client also had a brother with disabilities whom she intended to care for after her mother was no longer able to. Because the client’s income was reduced, she was no longer able to afford her “dream home” which had the necessary accommodations for her brother. With this verdict, she can now revisit purchasing a home like this again.

A DECADE OF IMPACTFUL CASES

With over a decade of experience and a history of achieving favorable outcomes in difficult cases, Tony attributes all his success to his wife, who has supported each step of his career, and his three children. When asked about the most impactful cases of his career, he does not point to the ones with the largest rewards or the most shocking details. Instead, he says that the most meaningful cases are the ones he is currently working on - because those are the lives he is focused on affecting right now, and in turn, they affect him. His dedication to his work is evident in his pursuit of justice for each new client he represents.



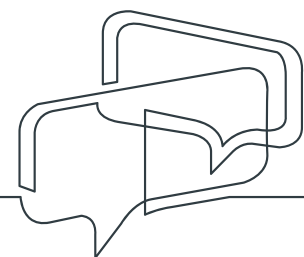


TEEN MENTAL HEALTH AND SOCIAL MEDIA

ROBINS KAPLAN INVESTIGATES

Over the past 10 years, teen depression and self-harm in the United States have skyrocketed. A growing body of scientific literature points to social media for the teen mental health crisis, including the United States surgeon general's 2023 advisory.

The surgeon general noted that social media use among teens can be excessive and result in addiction: "One-third or more of girls aged 11-15 say they feel 'addicted' to certain social media platforms and over half of teenagers report that it would be hard to give up social media." This addiction can cause numerous harms to youth, including depression, self-harm, and suicidal thoughts and acts.



To try and address this widespread problem, states, individuals, and school districts have brought claims against the country’s largest social media companies, alleging that the design of their social media products harm vulnerable teenage users.

Robins Kaplan is investigating these claims on behalf of Native American tribes. In 2020, 65.3% Native youth (age 15-24) were on social media 3-7 hours per day, “with 86% reporting their primary activity on social media as scrolling, followed by watching videos (75.1%).”¹ At the same time, there is a growing and alarming mental health crisis among American and indigenous adolescents. From 2007-2019, suicide among 10- to 24-year-olds increased by 57% and is now the age group’s second leading cause of death.² The CDC demographic data from 2011-2021 shows suicides increased by 70% among American Indian or Alaska Natives, nearly six times higher than for Whites.

SUICIDE DEATH RATES BY DEMOGRAPHICS AND LOCATION, 2011 TO 2021

Race/Ethnicity	2011 Suicide Death Rate/100,000 population	2021 Suicide Death Rate/100,000 population	Percentage Change from 2011 to 2021
White	15.5	17.4	12.3
Black	5.5	8.7	58.2
Hispanic	5.7	7.9	38.6
Asian or Pacific Islander	6.0	7.0	16.7
American Indian or Alaska Native	16.5	28.1	70.3

To pursue these claims on behalf of Native American tribes, Robins Kaplan is assembling the team that has successfully handled claims for the tribes in the National Prescription Opiate Litigation. In so doing, we reaffirm our commitment to leveling the playing field so that even the most vulnerable – in this case, young people suffering from mental health difficulties – have access to justice.

1. *Reed et al., Findings from the 2020 Native Youth Health Tech Survey Am Indian Alsk Native, Ment Health Res. (2022).*
 2. *Death Rates Due to Suicide and Homicide Among Persons Aged 10-24: United States, 2000-2017, NCHS Data Brief No. 352 (October 2019).*

MASS TORT INVESTIGATIONS

EXACTECH

Exactech has recalled approximately 160,000 hip, knee, and ankle total replacement devices due to accelerated wear from defective packaging. The defective devices have caused the need for a revision surgery due to osteolysis (bone loss), pain, and swelling. Robins Kaplan LLP partner Rayna Kessler serves as the MDL Liaison Counsel in the multi-district litigation *In re: Exactech Polyethylene Orthopedic Products Liability Litigation*, MDL No. 3044, 1:22-md-03044-MMH.

BAUSCH & LOMB AREDS 2 PRESERVISION EYE VITAMINS

Robins Kaplan LLP is investigating a potential link between the use of this nonprescription product and serious injury. Bausch & Lomb AREDS 2 Preservision Eye Vitamins are typically used for eye health – specifically macular degeneration. However, the high levels of zinc in the product can result in copper deficiency. We are investigating a potential connection between copper deficiency and serious injury, including myelopathy and neuropathy.

ELMIRON

The painful bladder syndrome drug Elmiron updated its labeling to warn that pigmentary changes in the retina have been identified with long-term use of the drug,¹ nearly two years after the journal of the American Academy of Ophthalmology published an article linking Elmiron to pigmentary maculopathy² (which may cause permanent vision changes, such as difficulty reading, slow adjustment to changes in lighting, and blurred vision).

PHILIPS CPAP AND BILEVEL PAP RECALL

In June 2021, Philips Respironics recalled certain CPAP, BiPAP, and mechanical ventilator devices after disclosing that the sound abatement foam used in the devices was degrading, causing small particles from the foam to break loose and come through the air hose. The possible risks resulting from the particulate and chemical exposure from the recalled devices include toxic and carcinogenic effects to the liver, kidneys, and other organs.

CAMP LEJEUNE

Robins Kaplan LLP attorneys are working on behalf of victims who were exposed to water contamination at Camp Lejeune in Jacksonville, North Carolina. If you or a loved one lived or worked at (USMC) Base Camp Lejeune in Jacksonville from 1953 to 1987, you may be entitled to a claim and additional compensation for your pain and suffering.

YOUTH INTERNET GAMING ADDICTION

Recent studies have shown that as many as one in 10 adolescents or young adults met the criteria for “internet gaming disorder.” The fifth edition of the Diagnostic and Statistical Manual of Mental Disorder (DSM-5) defines internet gaming disorder as the persistent and recurrent use of the internet to engage in games, often with other players, “leading to clinical significant impairment or distress...”³ Recent lawsuits have alleged that the manufacturers of popular internet games have designed them to purposefully induce addiction.⁴ Robins Kaplan is investigating possible claims on behalf of children, adolescents, and young adults.



NEW INVESTIGATION

SYNOVO TOTAL HIP RESURFACING SYSTEM

Robins Kaplan LLP is investigating potential injuries related to the Synovo Total Hip Resurfacing System. The FDA issued a Safety Communication on January 3, 2024, advising against using the system due to significant modifications that lacked safety and effectiveness. Individuals who received implants after 2019 were urged to contact their healthcare providers if experiencing symptoms such as pain, loosening, or grinding.

1. U.S. Food and Drug Administration, June 16, 2020 Supplemental Elmiron Package Insert. DRUGS@FDA, available at https://www.accessdata.fda.gov/drugsatfda_docs/label/2020/020193s014lbl.pdf.
2. William A. Pearce et al., Pigmentary Maculopathy Associated with Chronic Exposure to Pentosan Polysulfate Sodium. OPTHALMOLOGY. E. Pub. May 22, 2018, available at <https://doi.org/10.1016/j.ophtha.2018.04.026>.
3. Yuan-Xia Gao et al., The Prevalence and Possible Risk Factors of Internet Gaming Disorder Among Adolescents and Young Adults: Systematic Reviews and Meta-Analyses. JOURNAL OF PSYCHIATRIC RESEARCH. E. Pub. October 2022, available at <https://www.sciencedirect.com/science/article/abs/pii/S0022395622003557>.
4. ABC News, November 30, 2023, Mom Claims Video Game Companies are Intentionally Addicting Kids, available at <https://abcnews.go.com/GMA/Family/mom-claims-video-game-companies-intentionally-addicting-kids/story?id=105268244>.

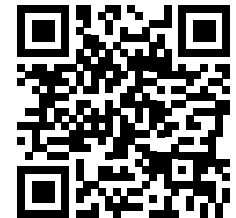
CASE RESULTS

HISTORIC SETTLEMENT OFFERS COMPENSATION FOR CARD-ACCEPTING BUSINESSES

On March 15, 2023, the United States Court of Appeals affirmed a \$5.5 billion settlement in an antitrust case brought by Robins Kaplan LLP and its co-lead counsel against Visa, Mastercard, and their large, card-issuing banks. The case alleged that the “interchange fees” that merchants pay to card-issuing banks were the result of unlawful collusion. The settlement is believed to be the largest class-action settlement in the 130-year history of the Sherman Act. The court’s decision means that merchants that accepted Visa and/or Mastercard credit or debit cards between January 1, 2004 and January 25, 2019 will be able to claim their share of the historic settlement. The claims administrator began sending out claim forms on December 1, 2023. Many claim forms will be pre-filled with merchants’ information and can often be completed online in as little as five minutes. Merchants who do not file claims will not be eligible to recover.

“A lot of people worked tirelessly on this case for 19 years. Now that the settlement is final, we just want merchants to know that this is real, that there is no ‘catch,’ and there is real money waiting for them if they simply complete the process of filing their claim online,” noted Ryan Marth, one of Robins Kaplan’s lead lawyers on the case.

Merchants or their counsel who have questions about the settlement can contact Robins Kaplan LLP at (800) 553-9910 or visit the official Payment Card Settlement website at paymentcardsettlement.com.



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



FIFTEEN ROBINS KAPLAN ATTORNEYS NAMED 2023 ATTORNEYS OF THE YEAR BY MINNESOTA LAWYER

Robins Kaplan is pleased to announce that fifteen attorneys, including eleven attorneys in our Mass Tort and Civil Rights Groups, have been named 2023 Attorneys of the Year by *Minnesota Lawyer*. This annual award recognizes recipients' leadership skills, involvement in noteworthy cases, and commitment to public service.

Katie Bennett, Marc Betinsky, Andy Noel, and Greta Wiessner were recognized for their groundbreaking civil rights work in 2023. In April, they secured two key settlements totaling \$8,875,000 with the City of Minneapolis on behalf of clients John Pope and Zoya Code. The lawsuits, involving former officer Derek Chauvin and other Minneapolis Police Department officers, alleged instances of police misconduct, excessive force, and racial discrimination dating back to 2017. In October, the group secured a historic \$12.2 million settlement for client Terrance Dwayne Winborn, marking the largest settlement of its kind in Minnesota. Winborn suffered severe injuries, including a heart attack, septic shock, and the amputation of both arms, due to the alleged deliberate indifference of county personnel while he was detained at Scott County Jail.

Tara Sutton, Munir Meghjee, Holly Dolejsi, Steve Safranski, Eric Lindenfeld, Julie Reynolds, Greta Wiessner, and Gary Wilson, a recently retired partner at the firm, were honored for achieving a groundbreaking outcome in *State of Minnesota v. Juul Labs, Inc. et al.* The lawsuit accused e-cigarette manufacturer JUUL and cigarette manufacturer Altria of deceptive marketing practices and intentionally targeting Minnesota's youth. This landmark case, the first of its kind in the nation to go to trial, resulted in a significant settlement on the eve of jury deliberations. JUUL and Altria will pay a combined total of \$60.5 million to the State of Minnesota over eight years. This is the largest per capita settlement among the 48 states and territories that have settled with JUUL.

BEST LAWYERS RANKS ROBINS KAPLAN NATIONAL TIER 1 IN MASS TORT LITIGATION

Robins Kaplan was recently ranked as a National Tier 1 firm in Mass Tort Litigation / Class Actions – Plaintiffs in the 2024 “Best Law Firms” list, which was compiled by *Best Lawyers*. According to *Best Lawyers*, law firm rankings “are based on a rigorous evaluation process that includes the collection of client and lawyer evaluations, peer review from leading attorneys in their field, and review of additional information provided by law firms as part of the formal submission process.”

TRIAL ADVOCACY SEMINAR

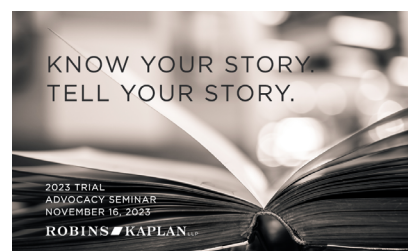
Thank you to everyone who joined us to explore the art of persuasive storytelling at our annual Trial Advocacy Seminar, ‘Know Your Story. Tell Your Story.’ From captivating juries to influencing decisions, our distinguished speakers explored the power of narrative in shaping legal outcomes. A special thanks to the Honorable Kathryn L. Quaintance, the Honorable Reynaldo A. Aligada, Jr., and Attorney General Keith Ellison for sharing valuable perspectives with our attendees.

WOMEN TRIAL LAWYERS CONFERENCE

Over 65 attorneys across the state gathered for the Minnesota Association of Justice 2023 Women Trial Lawyers Conference. Partners Holly Dolejsi and Elizabeth Fors served as course chairs for this conference, which was packed with engaging activities, learning opportunities, and networking moments. We were honored to sponsor this event and support the advancement of women in the legal profession.

SMRLS APPRECIATION LUNCHEON

Southern Minnesota Regional Legal Services (SMRLS) recently hosted its annual Fall Appreciation Luncheon. Robins Kaplan is a proud, long-time sponsor of this event, which supports SMRLS' mission to provide free, high-quality legal help to low-income people in critical civil matters.



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