

ROBINS  KAPLAN LLP



JUSTICE REPORT

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\$60.5 MILLION

LARGEST SETTLEMENT PER CAPITA
OF ALL 48 STATES AND TERRITORIES
THAT HAVE SETTLED WITH JUUL

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Thank you!

Thank you to everyone who attended the Minnesota Association for Justice 2023 Medical Malpractice Conference.



We were proud to sponsor the Minnesota Association for Justice 2023 Medical Malpractice Conference, which took place at the firm on Thursday, April 13. Peter Schmit served as course co-chair of the program, which featured presentations by **Liz Fors** and **Casey Matthiesen**.

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.

MINNESOTA SETTLES LAWSUIT AGAINST JUUL AND ALTRIA FOR \$60.5 MILLION

On Wednesday, May 17, Minnesota Attorney General Keith Ellison announced the details of his Office's settlement with JUUL and Altria for deceptively marketing e-cigarettes, which includes \$60.5 million in combined payments by the two companies and public disclosure of JUUL and Altria internal documents. This announcement follows Minnesota's three-week trial against the companies in March and April 2023. Robins Kaplan and Zimmerman Reed were privileged to partner with the State of Minnesota on this litigation.

Under the terms of the Consent Judgment filed with the Hennepin County District Court, JUUL and Altria will together pay a total of \$60.5 million to the State of Minnesota over an eight-year period. This settlement is the largest per capita of all 48 states and territories that have settled with JUUL. The terms of the settlement require JUUL and Altria to publish their internal documents related to the litigation in a public document depository.

The trial began on March 28, 2023, with opening statements by Attorney General Ellison and lead trial counsel Tara Sutton of Robins Kaplan. The State presented 11 witnesses in support of its claims against JUUL and Altria before Attorney General Ellison rested the State's case on April 11. The settlement was announced on the eve of the case going to the jury for deliberation.

"We are proud to stand with Governor Walz, Attorney General Ellison, and Lieutenant Governor Peggy Flanagan today to close another chapter in the fight against the tobacco companies putting Minnesota youth at risk through deceptive marketing," said Tara Sutton, lead trial counsel from Robins Kaplan. "From the groundbreaking tobacco trial in 1998 to today, Robins Kaplan has been honored to play a role in protecting Minnesota's children."

"As the first state to go to trial against JUUL, Minnesota has proven once again, as it did 25 years ago, that it will hold tobacco companies accountable for their actions," said Munir Meghjee, lead trial co-counsel and Robins Kaplan partner. "Thank you to Attorney General Ellison and our co-counsel Zimmerman Reed for partnering with us in this hard-fought battle for the benefit of Minnesota youth."

TARA SUTTON

MUNIR MEGHJEE



\$8.875 MILLION

IN TOTAL SETTLEMENTS WITH CITY OF MINNEAPOLIS

On behalf of its clients John Pope and Zoya Code, Robins Kaplan announced two settlements, totaling \$8,875,000, with the City of Minneapolis on April 13, 2023. John Pope received \$7,500,000 and Zoya Code received \$1,375,000 of that settlement total.

In the plaintiffs' lawsuits against the City, former police officer Derek Chauvin, and several additional Minneapolis Police Department (MPD) officers, the complaints alleged police misconduct, use of excessive force, and racial discrimination from incidents dating back to 2017, three years before Chauvin murdered George Floyd.

In these incidents, body-worn camera recordings from Chauvin and the other named officers showed that Chauvin employed many of the same unchecked excessive force tactics he later used in his murder of George Floyd, for which he was sentenced to 22 ½ years in prison in 2021. Chauvin was never disciplined for these incidents by the MPD, which had possession of the video evidence of his misconduct. Nor were any of the other involved officers disciplined.

In 2017, John Pope was 14 years old when MPD was called to his house for a domestic disturbance. Chauvin entered Pope's bedroom, where he was lying quietly on the floor using his cell phone. As Pope explained what had happened, the officers became increasingly aggressive in their demands. Though Pope posed no threat to the officers or anyone else, Chauvin rushed Pope and struck him multiple times on the head with a large metal flashlight. He then choked Pope around his neck before pinning Pope to the floor with his knee—the same tactic he used on George Floyd—and held him in the prone position for 15 minutes while Pope repeatedly cried that he could not breathe. At least eight other MPD officers witnessed the scene, yet none stepped in to intervene, nor did any report the event as they were required to

do. Worse yet, the defendant Sergeant Lucas Peterson approved Chauvin's excessive force and tried to explain the approval to John while his wounds were being sutured at Hennepin County Medical Center.

In a strikingly similar 2017 incident, Chauvin used excessive force on Zoya Code despite her not posing a threat to MPD officers or anyone else. While she was in handcuffs and not resisting arrest, Chauvin repeatedly used excessive force, torquing her handcuffed wrists and arms upward and behind her head, all while she was face down. Chauvin also slammed Code's head on the ground and pinned his knee on the back of her neck, like in the Pope and Floyd incidents, and then placed her in a "hobble" restraint for no reason. Code remained in the hobbled, prone position with Chauvin pressing his knee and body weight on her neck for 4 minutes and 41 seconds. A second MPD officer on the scene failed to intervene, and the responding supervisory Sergeant approved the force. No discipline was levied on Chauvin.

Robins Kaplan partner Bob Bennett, who represented Pope and Code, issued the following statement:

"Beware the ease of blaming Chauvin alone. While he is a blunt instrument of police brutality and racism, he could never flourish in a police agency that lived up to its mission statement. Focus instead on the MPD rank and file who supported Chauvin with their unquestioning obedience, failure to intervene to stop his heinous acts, and their failure to report them per policy and human conscience. Focus instead on the command and control of the MPD who, while possessing all the damning evidence, allowed Chauvin to field train and indoctrinate dozens of young MPD officers to his ways without fear of discipline or negative sanction and to continue his predatory ways for years."

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—PARTNER BOB BENNETT

KEEPING HUMANITY AND COMPASSION CLOSE

For Raoul Shah, the decision to become a lawyer was always about helping people. His passion stems from validating victims' experiences and helping them hold their wrongdoers accountable.

Before joining Robins Kaplan in early 2023, Raoul spent two-and-a-half years as a Hennepin County prosecutor, focused on violent adult crimes. He worked on everything from DWI to murder cases, spending most of his time on the team that prosecuted adults who committed crimes against children. Before that, he was a child protection attorney for two years, representing child protective services.

“ Seeking justice and accountability on behalf of children has always been very important to me... It was crucial for me to give children a voice in the court process. ”



“Seeking justice and accountability on behalf of children has always been very important to me,” he said. “I tried several child sexual assault cases where almost no one believed the child. It was crucial for me to give children a voice in the court process.”

During his two years in the child protection division, Raoul tried eight court trials. Those cases often involved multiple years of history, staying on top of documents, and being very familiar with files. On the criminal side, he tried approximately 15 trials in his two-and-a-half years as a prosecutor. Each case has had a lasting impact on him.

“Every conversation I’ve had with someone who’s been personally harmed or lost someone close to them—especially when it involves children—has stuck with me. Some have reminded me of the importance of being a voice for those who otherwise wouldn’t have one in the system. Some have been, and continue to be, humbling reminders to do better—to not let the system fail those who have already been harmed,” he said.

From his extensive trial experience, Raoul has learned to think on his feet and react quickly to the unexpected. He found that being ready to pivot at a moment’s notice is just as important as being familiar with the case and prepared for trial.

“Trials are very dynamic and the worst thing you can do is go into it expecting everything to go your way or exactly as planned,” he said.

Raoul has also learned the importance of building rapport and credibility with juries. This has been especially imperative in his role as a prosecutor over the past few years, when there

has been a lot of criticism of the criminal justice system, law enforcement, and prosecutors.

“I had to be even more sure that I was credibly and effectively portraying the facts to the jury,” he said. “I’m not someone who will put on a mask or a face when talking to a client, a judge, opposing counsel, or the jury. Everyone will get the same Raoul Shah throughout the entirety of the case, because authenticity and humanity are extremely important as a trial attorney.”

Now, as an associate in the firm’s Personal Injury and Medical Malpractice Group, Raoul looks forward to continuing to grow his trial experience in his new role as a plaintiff’s attorney.

“My goal has always been to validate the experiences of those harmed, and as a plaintiff’s attorney now, that translates perfectly,” he said. “I get to help share the client’s experience with the court, with opposing parties, and with the jury to make them see that the client’s experience mattered, and to seek accountability and compensation for the harm.”

While the work may be slightly different, Raoul still approaches it with the same mission in mind: helping people.

“We see people on their worst days, and we must try to make things better,” he said.

“One of the things that has always been important to me is keeping humanity and compassion close. It’s something that can easily get lost in the legal profession. I keep these things close to my heart as I work with clients who have experienced a significant injury or loss and continue to live with that every day.”

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.

CHEMICAL HAIR STRAIGHTENER

Robins Kaplan is investigating the potential association between use of chemical hair straighteners and an increased risk of uterine cancer. If you have been diagnosed with uterine cancer and have regularly used chemical hair straighteners, feel free to contact us.

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>.

TOTAL OPIOID SETTLEMENTS NOW TOTAL OVER \$1.5 BILLION

Most recently, five additional settlements have been reached to resolve the opioid cases brought by federally recognized Tribes against Teva, Allergan, Walmart, Walgreens, and CVS. These settlements total over \$603 million to be used for prevention and abatement of the opioid epidemic across Native American communities, bringing the total tribal opioid settlements and proposed bankruptcy court payments to Tribes to over \$1.5 billion.

BRANDON
VAUGHN

\$7.5 MILLION DOLLAR VERDICT FOLLOWING HALF-DAY BENCH TRIAL

Brandon Vaughn represented the family of Doug Lewis, who was shot multiple times and killed by Anthony Trifiletti after a minor fender bender (about 3.5 weeks before George Floyd's murder). After a Bench Trial, the Court entered an Order granting \$5 million in pecuniary damages, \$2.5 million in punitive damages, and \$62,500 in medical and funeral expenses.

PHIL SIEFF

\$5 MILLION SETTLEMENT IN SEMI V SUV COLLISION

Phil Sieff and Katie Bennett represented a 71-year-old man injured in a semi v. SUV collision in northwestern Minnesota, resulting in a \$5 million dollar settlement.

KATIE BENNETT

\$2.9 MILLION SETTLEMENT FOLLOWING THE SUICIDE OF A MINOR

Bob Bennett, Katie Bennett, Marc Betinsky, Greta Wiessner, and Andy Noel settled a civil rights lawsuit against a North Dakota organization following the suicide of a minor for \$2.9 million.

BOB BENNETT

\$2.25 MILLION SETTLEMENT FOLLOWING SKI LIFT INCIDENT

Phil Sieff and Tony Schrank represented a 72-year-old man injured in a ski lift incident in Michigan. The claim resulted in a \$2.25 million settlement.

MARC BETINSKY

\$650,000 SETTLEMENT THROUGH MEDIATION

Peter Schmit and Raoul Shah confidentially settled a wrongful death case through mediation for \$650,000.

\$599,000 SETTLEMENT FOR DELAY IN DIAGNOSING MELANOMA

Liz Fors secured a \$599,000 confidential settlement after a 34-month delay in diagnosing melanoma.

\$360,000 SETTLEMENT FOR MEDICATION ERROR THAT RESULTED IN CHILD’S BRAIN INJURY

Mark Hallberg and Casey Matthiesen represented the parents of a now 13-year-old girl in a confidential settlement arising from a medication error that resulted in a moderate brain injury at time of birth.

GRETA WIESSNER

ANDY NOEL

TONY SCHRANK

PETER SCHMIT

RAOUL SHAH

LIZ FORS

MARK HALLBERG

CASEY MATTHIESEN

AWARDS AND RECOGNITION



Minnesota Lawyer award recipients, L to R: Benjamin Linden, David Prange, Patrick Arenz, Chris Larus, Tara Sutton, Michael Collyard, Tim Purdon, Peter Schmit

MINNESOTA LAWYER HONORS 11 ROBINS KAPLAN ATTORNEYS AS ATTORNEYS OF THE YEAR

Peter Schmit, Tara Sutton, Holly Dolejsi, and Tim Purdon were amongst 11 Robins Kaplan attorneys named 2022 Attorneys of the Year by *Minnesota Lawyer*. Peter Schmit was recognized for his leadership skills and overall impact in the legal community. Tara Sutton, Holly Dolejsi, and Tim Purdon were recognized for their pivotal role representing 28 Tribes in the national opioid litigation.

HOLLY DOLEJSI

RONALD SCHUTZ, TARA SUTTON NAMED TO LAWDRAGON “500 LEADING LAWYERS IN AMERICA” LIST

Ronald Schutz and Tara Sutton were once again recognized on *Lawdragon’s* “500 Leading Lawyers in America” list. According to *Lawdragon*, the list is the leading guide to the nation’s best lawyers and judges. Those named to the list represent less than one-half of one percent of the legal profession, placing them among the most elite group of legal professionals.

BRANDON VAUGHN NAMED TO MINNEAPOLIS/ST. PAUL BUSINESS JOURNAL’S BLACK LEADERS LIST

Brandon Vaughn was selected for inclusion on the *Minneapolis/St. Paul Business Journal’s* Black Leaders List, honoring local leaders who are making an impact and driving growth in the Twin Cities and beyond.

15 PARTNERS SELECTED TO LAWDRAGON “500 LEADING PLAINTIFF CONSUMER LAWYERS” LIST

Katie Bennett, Bob Bennett, Holly Dolejsi, Kate Jaycox, Brendan Johnson, Rayna Kessler, Teresa Fariss McClain, Munir Meghjee, Andy Noel, Tim Purdon, Peter Schmit, Phil Sieff, Roman Silberfeld, Tara Sutton, and Brandon Vaughn were selected to the *Lawdragon* “500 Leading Plaintiff Consumer Lawyers in America” guide.

ROBINS KAPLAN_{LLP}

800 LASALLE AVENUE
SUITE 2800
MINNEAPOLIS MN 55402

BISMARCK

1207 West Divide Avenue
Suite 200
Bismarck, ND 58501
701 255 3000 TEL

BOSTON

800 Boylston Street
Suite 2500
Boston, MA 02199
617 267 2300 TEL

LOS ANGELES

2121 Avenue of the Stars
Suite 2800
Los Angeles, CA 90067
310 552 0130 TEL

MINNEAPOLIS

800 LaSalle Avenue
Suite 2800
Minneapolis, MN 55402
612 349 8500 TEL

NEW YORK

1325 Avenue of the Americas
Suite 2601
New York, NY 10019
212 980 7400 TEL

SILICON VALLEY

555 Twin Dolphin Drive
Suite 310
Redwood City, CA 94065
650 784 4040 TEL

SIOUX FALLS

140 North Phillips Avenue
Suite 307
Sioux Falls, SD 57104
605 335 1300 TEL