

## Q&A With Robbins Geller's Paul Geller

Law360, New York (June 20, 2011) -- Paul J. Geller is a founding partner and head of the Boca Raton office of Robbins Geller Rudman & Dowd LLP. He has served as lead or co-lead counsel in a majority of the securities class actions that have been filed in the Southeast in the past several years. Geller is also heavily involved in corporate governance litigation and has successfully represented consumers in class action litigation.

### **Q. What is the most challenging lawsuit you have worked on and why?**

A: Securities class action litigation is the bread and butter of my practice. However, I enjoy taking on new and different types of class actions as well, and I always have a handful of non-securities cases at any given time. We recently brought a series of class actions on behalf of Florida-based emergency room doctors against several of the nation's largest insurance companies.

The claims were based on the timing and amount of payments for emergency medical services performed by the doctors. The lynchpin of our case was a Florida statute that had never been the basis of a civil lawsuit and that, arguably, did not even recognize a private right of action. The defendants, represented by multiple white-shoe megafirms, argued that the statute did not allow private lawsuits but rather contemplated only administrative appeals to the insurance companies. The trial judge agreed and threw us out of court.

We appealed, and, rather than have one of my appellate partners handle the appeal, I decided to take the argument myself. My appellant adversary, Miguel Estrada [of Gibson Dunn & Crutcher LLP], had been widely reported as a possible Supreme Court nominee during the Bush presidency. So, besides the challenge of advocating for a new statutory cause of action, I enjoyed the additional challenge of arguing an appeal against such a well-known appellate specialist.

We won the appeal, settled the case, and established that Florida doctors do, in fact, have the right to sue under the statute. The case was *Merkle v. Aetna*, 940 So. 2d 1190 (Fla. 4th DCA 2006), and it significantly improved the way Florida's emergency service physicians are paid.

**Q: Describe your trial preparation routine.**

A: Preparation is of course the key to success. There are so many variables that I cannot control — but one thing I can control is my own preparation. So my goal is to go into court knowing that I'm the most prepared lawyer in the courthouse. I may not be the smartest or best dressed (well, then again, maybe ...), but I can be the most prepared.

The other key that comes with being ultra prepared is that it allows me to stay relaxed in court. I may be stressed in the weeks or days leading up, but in court, I always try to be calm, cool and collected. Outside of my law practice, I am an active martial artist and Brazilian Jiu-Jitsu competitor. A fight is like a court hearing or trial in that stress and the rush of adrenaline come into play. Knowing how to control that anxiety and having the confidence that I am prepared and ready for battle allow me to breathe, relax and think clearly, which really makes a big difference.

**Q: Name a judge who keeps you on your toes and explain how.**

A: Every judge I've ever appeared before has kept me on my toes — but none as much as those who sit in Delaware Chancery. Most of my cases are litigated in federal courts throughout the country, where the judges handle all sorts of cases — drugs, white collar crime, securities, immigration, wage and hour. Thus, I usually have the quiet confidence— or at least blissful belief — that, as smart and prepared as the judge may be, I really know the subject matter better than anyone in court on a securities case.

Delaware Chancery Court is a different animal. The chancellor and vice chancellors are incredibly well versed in Delaware corporate law. Former Vice Chancellor Stephen Lamb was probably more knowledgeable on Delaware corporate law than any lawyer who ever appeared before him. And he wasn't afraid to let the lawyers know that.

**Q: Name a litigator you fear going up against in Court and explain why.**

A: I don't fear anyone. I hate to lose, but I'm not afraid to lose. Truth is, if you've never lost a case, you haven't handled enough cases. As long as I know that at the end of the day I'm going home to my wife and kids, I have nothing to fear. That said, I respect and admire some defense lawyers more than others — and I actually prefer litigating against the top-notch defense lawyers whom I admire because I know that, as smart and crafty as they are, they will keep the ball in bounds and play by the rules.

Stan Wakshlag from Kenny Nachwalter and Scott Musoff from Skadden are just brilliant defense lawyers whom I have the fortune, and sometimes misfortune, of facing fairly often. Jeff Rudman from Wilmer Hale also has to be one of my toughest adversaries. He leaves no stone unturned. If I'm up against any of these three, I'm not fearful, but I know I'm in for a tough fight.

**Q: Tell us about a mistake you made early in your career and what you learned from it.**

A: I graduated law school with a lot of student loan debt, and, like many students who graduate near the top of the class, I was seduced by the lucrative salaries that the large defense firms offered. I believed that these large defense firms were the “better” choice for those of us who were fortunate enough to get offers from them. Big mistake. The first few years of my practice were just miserable — I worked seven days a week defending companies accused of doing bad things. And you know what? Most of the companies weren’t just accused. They did it! I hated defending them.

Being on the plaintiffs’ side fits my personality so much better — I much prefer representing David to Goliath. Now, I truly believe in my heart of hearts that I’m on the right side of the “v.” The work is every bit as challenging and sophisticated as the defense work I did. And those who complain about plaintiffs’ counsel fee awards really ought to take a look at defense firm hourly rates and billing practices!

Even though it was a “mistake” to spend all that time defending cases rather than prosecuting them, that defense work was my introduction to the class action field and many class action litigators. Indeed, in 1994 or 1995, I defended a shareholder class action against a Florida-based coffee retailer brought by a lawyer named Darren Robbins. Fast-forward 16 years, and Darren is my law partner and one of my dearest friends. So I think the lesson there is that we can learn things and gain things even from our mistakes.

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