

DAILY BUSINESS REVIEW

PROFILES IN LAW

Litigator Abbey Kaplan on How Finding Common Ground Has Built His Career

by Celia Ampel

Miami attorney Abbey Kaplan believes the “Real Housewives” series is “complete lunacy” — but he’s seen plenty of episodes.

Kaplan carved out time to watch the show when his pop-culture-loving daughter was a teenager so he would have an easier time connecting with her.

“When I used to travel, as an example, I would always buy a People magazine so that when I came back, there would be things that I’d be able to have in com-



J. ALBERT DIAZ

Kluger, Kaplan, Silverman, Katzen & Levine partner Abbey Kaplan goes to great lengths to make meaningful connections with people, whether it’s opposing counsel, young lawyers, jurors or his own family.

ABBEY KAPLAN

Born: 1950, Brooklyn, New York

Spouse: Alyne

Children: Justin, Alexis

Education: American University, B.A. in business, 1971; University of Miami School of Law, J.D., 1975

Experience: Associate, Robles & Haber, 1975-1977; Partner, Haber & Kaplan, 1977-1980; Partner, Kaplan, Hodin & Rapaport, 1980-1985; Partner, Law Offices of Abbey L. Kaplan, 1985-1987; Partner, Kluger Peretz Kaplan and Berlin, 1987-2009; Partner, Kluger, Kaplan, Silverman, Katzen and Levine, 2009-present

mon with her and could talk to her about,” Kaplan said.

The business litigator’s belief in finding common ground has helped him win over juries, forge relationships with opposing counsel and grow his 30-lawyer firm, Kluger, Kaplan, Silverman, Katzen & Levine.

Kaplan did not always know he would be an attorney. Like many kids, he wanted to be a professional baseball player, like his idol Mickey Mantle. But at age 13, he

was hit in the face with a tennis ball and became blind in his right eye. His dreams dashed, he realized he needed to start on a path toward a different career.

He worked his way through college and law school as a women’s shoe salesman, chatting up people from all different walks of life — including his future wife, attorney Alyne Wrubel Kaplan. Those years taught him the importance of being able to connect with any type of person.

“You have the size fives and you have the size tens,” he said. “You have the women who want to spend a lot of money and the women who can’t spend a lot of money.”

It’s not always easy to meet people on their level, Kaplan said, particularly when you represent business clients who jurors might struggle to relate with. In 1991, Kaplan felt stuck as he prepared to ask for punitive damages in a trademark infringement case.

“I was really struggling with how do you reach common ground with a jury on punitive damages?” he said. “How do you explain to them what it means to punish somebody in the business sense?”

He consulted with his law partner, Alan Kluger, who suggested quoting Exodus 22:1: “If a man steals an ox ... and slaughters it or sells it, he shall pay five oxen.”

It worked. The jury awarded \$10 million, including \$4 million in punitive damages. Although the verdict was later overturned, the moment stuck with Kaplan as a lesson on how to connect with a jury.

Of course, Kaplan’s goal is often to resolve disputes without the expense of going to trial, something he achieves by trying to be cooperative with opposing counsel and by avoiding getting wrapped up in small issues.

He learned the strategy during his first few years as an

attorney. He was deposing witnesses in New York, and opposing counsel had several years of experience on him.

“I really didn’t know what I was doing,” Kaplan said. “I just didn’t. But these two lawyers were so nice and so gracious and so helpful. ... They said to me, ‘Why don’t you do it this way? Why don’t you ask these questions?’ They kind of guided me.”

The experience stuck with Kaplan his whole career, showing him you can get your client a desirable result without being aggressive toward a colleague.

“It taught me the whole importance of civility in the practice and how you need to work with opposing counsel to resolve the problems that you’re both faced with, rather than fighting every single time on every single issue,” he said.

Now he tries to pay it forward by mentoring young lawyers. When the Kluger Kaplan business litigation firm was founded in 2009 after the dissolution of Kluger Peretz Kaplan & Berlin, it had eight partners and eight associates, Kaplan said.

Kaplan knew he had to build the firm by hiring and training young attorneys. So once again, he started researching — not by watching TV, but by reading up on millennials and their different work styles.

Now the firm has about 30 attorneys, and Kaplan feels proud that he helped coach them — as well as his own son and Kluger’s

two children — on their way to becoming great attorneys.

Even his partnership with Kluger was born of an opportunity to seek common ground. When Kaplan had his own firm in the mid-1980s, he got a call from his accountant, who also had Kluger as a client.

“The accountant said, ‘Listen, you really can’t continue along this way,’” Kaplan said. “‘You’ve maxed out. You can’t work any harder. You can’t generate any more business.’”

The accountant suggested Kluger as a law partner, to which Kaplan responded: “What, are you kidding me?” The two men couldn’t be more different: Kluger is fast-paced and hard-charging, whereas Kaplan is cautious and conservative.

“I’m a quiet surgeon with a scalpel,” Kaplan said. “He’s a bull in a china closet. At the end of the day, it works.”

The pair made a handshake deal over lunch one day in 1987 and have been in business together ever since. Their firm is partially a testament to Kaplan’s ability to find common ground with people who are different from him — even when it means sitting through another episode of “Real Housewives.”

“Real men watch Bravo,” Kaplan said.

Celia Ampel covers South Florida litigation. Contact her at campel@alm.com or on Twitter at @CeliaAmpel.