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## Titan Of The Plaintiffs Bar: Allan Kanner

By Juan Carlos Rodriguez

Law360, New York (October 14, 2014, 4:02 PM ET) -- Allan Kanner thought he was destined for a career in academia as a philosophy or law professor. But a series of discussions with a college mentor about the law's role in society convinced him he could make more of a difference in the courtroom than the classroom.

The New Orleans-based Kanner, through his firm Kanner & Whiteley LLC, has established himself as a thoroughly agile lawyer, as evidenced by his work in litigation stemming from the Three Mile Island nuclear disaster, his representation of farmers facing foreclosure, and most recently, his work for Louisiana in its quest to claim penalties and damages from the Deepwater Horizon disaster's responsible parties.

As befitting a man as intellectually curious as Kanner, who did graduate study in philosophy at Harvard University before obtaining his law degree there, his cases are big, challenging and often very different from one another.

"I have a broader array of case experiences than you typically see at the bar. I also have a penchant for novel cases. Many other lawyers, fine lawyers, find a niche and stick to it. I like to constantly push and challenge myself," Kanner said.

Kanner's curiosity in law was piqued through a series of meetings as an undergraduate with Lou Pollack, then dean at the University of Pennsylvania Law School — and later a federal judge — who had to sign off on his taking a jurisprudence course.

Pollack insisted on meeting with Kanner to monitor his progress. The meetings turned into mini-seminars on the role and function of law in society, Kanner said.

"He encouraged me to read Louis Brandeis, who was a progressive lawyer before becoming a Supreme Court justice. This opened my eyes to the power and practice of law outside the civil rights context," Kanner said.

While obtaining his master's in philosophy, Kanner studied with the moral philosopher John Rawls, who spoke highly of the legal profession and the difference lawyers could make. Even after deciding to study law, Kanner initially planned to teach, thinking an academic law career would not differ from an academic philosophy career.

He credits Rawls, other Harvard professors and the late Fifth Circuit Judge Robert Vance, for whom Kanner clerked, as having profound impacts on his approach to the law.

"Judge Vance wouldn't just talk about law as an abstraction or doctrine. He was very focused on the good and bad strategic choices that lawyers made. That was generally not something being taught in law schools. Legal strategy is fundamental to the practice of law at Kanner & Whiteley,"



Allan Kanner

Kanner said.

When he's implementing that strategy in the courtroom, Kanner's demeanor can be described in one word, according to attorneys who have worked with him: intense.

Kanner represented businessman Joseph C. Canizaro in a lawsuit against American Oil Co., which had allegedly sold Canizaro contaminated property and was refusing to make it right. During a hearing, Kanner's questioning of an Amoco executive began taking an extremely aggressive tone, according to Canizaro.

"That scared the hell out of me," Canizaro said. "We were moving toward a settlement."

After a successful resolution, Canizaro went out to lunch with the judge overseeing the case and asked him about Kanner's exchange with the witness.

"I thought he was going to throw both of us out of the courtroom," Canizaro said.

But the judge told Canizaro that Kanner was just letting the company know he would go to great lengths to make his case.

"The judge ended up telling me it was a clever move on his part," said Canizaro, who serves as chairman of New Orleans-based First Bank and Trust's holding company and founded commercial real estate development company Columbus Properties LP.

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Founder  
Kanner & Whiteley LLC

Arvin Maskin, a partner at Weil Gotshal & Manges LLP and chair of the firm's product liability and mass tort practice group, faced off against Kanner in two large class actions that ultimately ended in settlements: one involving Cooper Tire & Rubber Co.'s alleged cover-up of defective tires, and another about Toyobo Co. Ltd.'s alleged role in producing defective bulletproof vests.

"He and I have had years of very intense back and forth over litigations," Maskin said. "While he's a tenacious advocate, he's always practical, and at the end of the day, totally prepared."

He said Kanner "is a man of his word" when it comes time to do a deal, although it wasn't ever clear the Cooper and Toyobo cases were going to end up in a settlement. Maskin described fierce negotiations that saw either he or Kanner storming out to cool off with a walk in New York City's Central Park.

But he said they eventually came to an agreement, and when the deals were done, Maskin knew Kanner would more than hold up his end in advocating for approval of the class.

"While we fought on everything from causation to jurisdictional issues to you name it, ultimately, when we had a deal, I knew we had a partner on the other side who was committed to getting it done and getting it right," Maskin said.

Kanner said he most enjoys bringing that fighting spirit to cases in which he can help ordinary people fight injustice.

He said he has fond memories of a series of cases to protect elderly consumers from undisclosed rate increases on long-term care insurance. In one case, a plaintiff originally paid \$600, but as she aged and lost the ability to buy a different LTC policy, the premium went up to \$10,000.

"These cases led to a Senate hearing and action by the National Association of Insurance Commissioners. The courts were very complimentary of our work," he said.

Kanner and his firm also brought a suit on behalf of a national class of workers who allegedly lost

jobs during a hostile corporate raid. In another case, a union sued a company that allegedly fraudulently moved jobs from Elkhart, Indiana, to Puerto Rico to try to save tax dollars.

“Of course he knows more now and he’s evolved, but he’s still, on a day-to-day basis, litigating cases like he did when he was a young lawyer, with the same spirit. He doesn’t ever rest on his laurels.

— **Conlee S. Whiteley**  
Managing member  
Kanner & Whiteley LLC

“We won, and ultimately Congress closed that tax loophole,” Kanner said.

Kanner hasn’t slowed down in the slightest over the decades, said Kanner’s law partner Conlee S. Whiteley, who joined the firm out of law school.

In August, Kanner finished an eight-month trial for the New Jersey Department of Environmental Protection against ExxonMobil Corp. for natural resource damages allegedly

caused by the company’s past waste disposal practices, a case that’s still awaiting a decision. He currently represents Louisiana in the BP PLC Deepwater Horizon litigation.

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When he’s not immersed in casework, Kanner has another high-stakes hobby: flying. He said he flies various “warbirds” in his spare time.

“Flying, like trial work, requires extreme and protracted focus which crowds out almost every non-flying thought and concern,” Kanner said. “In addition to learning a whole new subject, trial work also requires a great deal of creativity. Sometimes the best insights and ideas come when you stop thinking about something for a while and focus on something else. Flying fits the bill.”

The difference between Kanner and other attorneys, Whiteley said, is that the others tend to rely much more on their associates or junior partners to do the work.

That means they haven’t internalized the facts of the case the way Kanner does, she said. That turns out to be an advantage for Kanner in the event a witness goes off script, or a judge starts asking questions.

“If you’ve got a judge who asks questions, or is really going to roll up their sleeves and manage the case in a way that you really want a judge to do, then Allan is always going to be more successful, because he’s going to be ready to meet the judge head-on with answers, satisfy everything the judge needs, [and] anticipate what the judge will want,” Whiteley said.

--Editing by Richard McVay.

*Correction: An earlier version of this article misstated Kanner's graduate study in philosophy at Harvard.*

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