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'BROADER THAN GRINDING OUT LITIGATION:' ATTORNEY OF THE YEAR FINALIST JEROEN VAN KWAWEGEN INVESTS TIME IN THOUGHT LEADERSHIP



Jeroen van Kwawegen was into an “enjoyable” legal career in his native Netherlands when he left for New York City at age 27 to be with a girlfriend and enroll at Columbia Law School.

After the relationship flamed out, the now 52-year-old partner in Bernstein Litowitz Berger & Grossman opted to stay in the U.S., and has since carved out a highly successful career in the shareholder rights and securities class-action space.

He says BLB&G has much to be proud of, especially of late.

The litigator co-led a team that took Elon Musk to trial—and won—in a challenge to his \$55 billion executive pay package at Tesla, a landmark nullification that shook public markets.

More broadly, BLB&G, which also has offices in corporate capital of Delaware and Los Angeles, Chicago and New Orleans, has “professionalized the shareholder bar in the governance space,” said van Kwawegen, a member of the firm’s executive team.

It started taking cases to trial when most other litigation would result in settlements, said van Kwawegen, who also heads its corporate governance department.

“That changed the dynamic in a lot of these cases,” he said. “We’ve had six or seven trials the last five years, and sometimes you win, sometimes you lose. We started winning some, including Musk, and the defense bar went completely nuts and changed the law because they felt we were winning too much.”

The litigator suggests the pendulum has now swung toward an “anti-shareholder” climate in Delaware, though

he said the environment isn’t as bad as in Texas or Nevada, as the debate rages on.

He said his firm’s governance group doesn’t take the daily approach of simply burying itself in litigation, as it’s actively involved in thought leadership.

Along those lines, van Kwawegen is a member of the advisory board at both the Millstein Center at Columbia Law School and the Institute for Law & Economics at the University of Pennsylvania’s Penn Carey Law School.

He frequently speaks at bar association and industry events on shareholder litigation and corporate governance, and regularly publishes pieces on topics of interest to institutional investors.

“We’re very much part of that ecosystem, in part out of need, because the defense bar has always been part of that ecosystem and nobody was really hearing from the shareholder bar, talking about what the interest of institutional investors are,” van Kwawegen said.

“In some ways, we see our role and I see my role as broader than just grinding day-to-day litigation, although I really enjoy that,” van Kwawegen said.

Although his practice areas concern wealth, van Kwawegen says he did not grow up wealthy, and was the first in his family to attend college.

ATTORNEY OF THE YEAR FINALIST

"I never thought I'd become this hot-shot lawyer doing arguments all over the country, or taking Tesla to trial," van Kwawegen said.

A 1998 University of Amsterdam School of Law grad, he spent 16 months at the Dutch firm Schut & Grosheide before coming to the U.S. and graduating from Columbia Law in 2003.

He then spent six years at Latham & Watkins before joining his current firm in 2009.

Mentoring attorneys, in the same way senior colleagues embraced him, remains a priority, van Kwawegen said.

The litigator reflected about how a partner in Schut & Grosheide took interest in him as a young associate. He was given "enormous freedom" while being allowed to argue national arbitration cases.

He remembered representing a sesame seed grower from Ethiopia who wasn't getting paid for the seeds he delivered to a Dutch buyer.

Mostly he remembered becoming an honorary member of the partner's family.

"I would go to his house, sit in his garden and we'd review my notes for the next day's arguments. I would have dinner with his family, and then he would kick me out of his house because he still needed to work and I needed to work."

After van Kwawegen's breakup, the Dutch partner thought his protege would return to the Netherlands, but he was told, "'No, I kind of like it here.' So I stayed and built career here."

It's quite the understatement.

He also prosecuted a stockholder derivative action against the board of directors of FirstEnergy Corp., resulting in a \$180 million settlement and unprecedented corporate governance improvements. It's the largest derivative action recovery ever affirmed by the Sixth Circuit Court of Appeals.

He also led the BLB&G trial team that achieved a partial settlement of \$79 million for claims against Columbia Pipeline's chief executive and financial officers, respectively.

TransCanada, the acquirer in the Columbia Pipeline merger, was found liable for aiding and abetting breaches of fiduciary duties by Columbia's management, in a 2023

Delaware Court of Chancery ruling reversed by the Delaware Supreme Court earlier this month.

His securities class actions including litigation against Meta Platforms, NVIDIA, and Silicon Valley Bank, as well as breach of fiduciary duty actions involving Santander, Warner Brothers, Continental Resources, Sirius XM, among others.

His team recently settled a derivative class action against the board and senior executives at Credit Suisse, after filing litigation alleging inadequate risk management procedures. The claim resulted in the closure of Credit Suisse's prime brokerage in New York. Ultimately the firm merged into UBS.

He intends to continue litigating, but says his "real goal is to have that next generation of people who are now in their mid-30s to mid-40s" achieve their own successes at trial.

"And look—it's scary because you can also lose," he said. "But if it wasn't scary, you wouldn't have half the fun."

A member of the military police before attending law school in the Netherlands, van Kwawegen said he adheres to the doctrine of putting as much responsibility and ownership for a particular task as low as possible in the chain of command.

"You find people—motivated, smart—tell them what the objective is, and provide them with means, support, and training to do it, then you let them do it," he said of his approach with litigation teams.

Also been outspoken about ongoing attacks on the rule of law, van Kwawegen said: "It doesn't matter whether it's Republicans or Democrats—but if you don't have the rule of law when you're not the dominant political faction, your rights are going to be curtailed in a way that will make it more difficult and less free for you."

"If there's no space for people to be different from the norm, whatever that norm in that situation is, I think all of us, including people who are on that particular issue, are poorer for it. Because it allows less freedom of thought, creativity and being different. And the truth is, one of the reasons why I stayed and did not go back to the Netherlands is I felt that freedom here."