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No Benches, No Depth Charts: How Wilkinson Stekloff Set Out to Grow Trial Lawyers and Become a Litigation Institution

By Ross Todd
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This is the second story in a two-part series about Wilkinson Stekloff. The first installment can be found here.

In the run-up to joining the firm now known as **Wilkinson Stekloff** a little less than a decade ago, **Kosta Stojilkovic** remembers having dinner with every partner at the firm, as well as their spouses.

Stojilkovic said that recruiting approach wasn't "just to be fancy." It was more of a signal that the firm he was about to join was "a small group."

"It's a close-knit group. It's not an arm's-length relationship," said Stojilkovic of his colleagues.

Case in point: Stojilkovic says the first day he came to the firm, Wilkinson told him they were getting on a plane to pitch for trial work from Facebook. They landed the assignment, with Wilkinson as first chair and him as second chair. Shortly thereafter, Wilkinson was recommending him to first chair a trial for another major client—the NCAA—and he got the assignment.

"If I went somewhere bigger, I'd be somewhere on the depth chart … having to kind of claw my way to those opportunities," Stojilkovic said.

Courtesy photos

(l-r) Beth Wilkinson, Brian Stekloff, Moira Penza, and Kosta Stojilkovic, with Wilkinson Stekloff.

"I felt like if I came here, I would get the chance," he added. "I may succeed. I may not, but it wouldn't be for being left on the bench somewhere. And I much prefer to go to a place where maybe, at the peak times, I'm working 120% of what I would be at even a very high-paced, larger practice, but I don't have the second job of having to politic a larger office."

Wilkinson and Brian Stekloff have been clear in their desire to focus on high-stakes trial work for major corporate clients while also training up a

next generation of lawyers capable of handling that work. Now, a little over a decade since its founding, the elite trial boutique has grown to nearly 50 lawyers, including 14 partners, with more than 30 staff. That's still a fraction of the size of many firms working on litigation with similar stakes. And when things get busy, they get busy for pretty much everyone at the firm.

"We have to handle everything that comes up," Stojilkovic said. "When we get 20% busier, there's nowhere to spread it."

But those demands, he added, come with opportunity.

"Everyone knows who I am. Everyone knows what I do. We all have visibility," Stojilkovic said. "To me, I just get a lot out of that."

Wilkinson, for her part, said that the firm tends to attract people who are passionate about trial work. People don't come to the firm for a couple of years to pay off their student loans, she said. "People work very hard at our firm, and there's nowhere to hide. But that creates that teamwork," said Wilkinson. "You're all in the foxhole together."

Hitting the Ground Running

Partner **Moira Penza** joined the firm in 2019 after a stint as a federal prosecutor in the Eastern District of New York, the same office where Wilkinson served earlier in her career. Penza previously practiced as an associate at **Paul, Weiss, Rifkind, Wharton & Garrison** alongside Wilkinson and Stekloff. She recalled her first experience working on a case with Wilkinson when she was a first-year associate at Paul Weiss, drafting a memo over a Fourth of July weekend. Penza, who was based in New York, said she was unexpectedly called into a conference room the next week by Wilkinson, who was visiting from the firm's Washington, D.C. office.

"She essentially cross-examined me on this memo. And I guess I did well enough, because here I am today," Penza said. "From the get-go, it was clear that she had the highest expectations. But she also was very interested in what I, even at that stage in my career, was bringing to the case and my insights."

Penza said that Wilkinson's interest in her continued when she moved to the federal prosecutor's office. Penza recalled getting coffee with Wilkinson while working on the high-profile NXIVM sex-trafficking prosecution and getting advice about editing her trial presentation.

"She really reminded me and encouraged me to make sure I was making the decisions that were best for the case, not falling in love with certain facts and certain witnesses, but really keeping that focus on, 'What do I need to prove to the jury?'" Penza said. "Backwards planning is not just our motto. It really is the way we operate: that kind of laser focus on 'What do I need the jury to understand at the end of the day to win my case?' is something that we employ in every one of our cases, and I was using when I was at the government."

Penza said that during her first week at the firm she joined a trial team, helping with witness preparation and generally lending a hand. She said the firm's financial model—where lawyers don't track time or bill by the hour—allowed her the opportunity to build relationships with the client and colleagues.

"I think the best moments for us and for our clients [are when] everybody [is] together in a conference room, batting ideas around, talking about our themes, talking about 'What are we going to do with a certain witness?'" she said. "Putting new lawyers in positions where they can succeed is something that I've seen Beth and

Brian do over and over again and it's something that's really important to us as we're continuing to train the next generation."

Coming In Earlier

The firm's name parters say there's been a shift in recent years for clients to bring the firm into cases earlier, rather than right before trial, as was often the case in the firm's early days. Penza and Stojilkovic say that shift has had benefits both for the client and the firm.

For one, they say approaching a case with an eye toward trial from the beginning tends to make a big difference. Stojilkovic said the firm has come into some cases where the approach of prior defense counsel has been to have the clients' witnesses admit the least they can. "What kind of affirmative case can you build out of four years of people just trying to admit the least?" he said. Penza added that the number of firms where lawyers are preparing witnesses "to just get through a deposition is really staggering."

"I think that's that, to me, is one of the number-one things we see when we get brought in late," she said. "Once that factual record is set, there's only so much you can do."

Stojilkovic added that being more affirmative in discovery—trying to establish a factual record that has building blocks for potential trial themes—can help signal to the more narrative-minded plaintiffs counsel that they're going to be facing a counter-narrative.

"It's not that we're resigned that the case is going to go to trial," he said. "It just feels very different to develop it, understanding at all times that that's where it could go."

What's Next?

Stojilkovic noted that Wilkinson and Stekloff were early in the movement of litigators leaving larger firms to practice in a smaller setting. He said the boutique model doesn't present the conflict issues you might find at a firm with a large corporate or private equity practice. "I think a boutique can be a common enterprise in a way that's not true of a large law firm," he said. He said that over the firm's first decade, he thinks Wilkinson Stekloff has developed "an institutional performance and an institutional reputation" among its own clients. The goal for the next decade, he said, is to make sure that reputation extends to the broader legal community.

Penza added that having a team completely focused on trial work has helped plot the firm's course. "We love doing what we do, and I think that goes a long way for the success of our firm and the success that our clients see when we represent them."

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