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2019

THE GUIDE TO SPECIALIST INTERNATIONAL
ARBITRATION PRACTICES

FULLY REVISED AND UPDATED 12TH ANNUAL EDITION

King & Spalding

People in <i>Who's Who Legal</i>	13
People in <i>Future Leaders</i>	12
Pending cases as counsel	157
Value of pending counsel work	US\$128.4 billion
Treaty cases	45
Third-party funded cases	11
Current arbitrator appointments	78 (35 as chair or sole)
Lawyers sitting as arbitrator	20

In a glittering year, the firm secured a US\$2 billion ICSID award against Egypt, a US\$1.7 billion defence win for Reliance Industries and a landmark ruling for Chevron against Ecuador

In 1995, King & Spalding – one of Atlanta's oldest law firms – decided to open in Houston. The step paved the way for one of the success stories of the modern arbitration era.

Things got properly moving in 2000 with the hire of Doak Bishop (who joined with a single arbitration case). Bishop hired young lawyer Craig Miles – now a well-known partner in his own right – and from that acorn has grown one of the largest and most active practices operating today.

A series of wins in BIT matters against Argentina (relating to its 2001–2002 financial crisis) brought the team to wider attention and fuelled its expansion.

The practice's gravity pulled in partners from the firm's other offices. From 2004, Ed Kehoe from the New York office began to participate regularly, as did partners in Atlanta (Kehoe is today a co-chair of the practice).

Lateral hires broadened its reach further in Europe, the US, Asia and the Middle East. A Paris group formed around a pair of hires from Dewey & LeBoeuf – former ICC Court secretary general Eric Schwartz (now retired) and James Castello.

It opened a new office in Singapore in 2010 with the hire of John Savage from Shearman & Sterling, arguably the region's best-known arbitration practitioner, and made other impressive hires from the likes of Weil, Gotshal & Manges, Salans and Crowell & Moring, strengthening its investment treaty practice. Following Savage's move to London, Wade Coriell took over the Asia disputes practice after relocating from Houston to Singapore.

The London practice has grown considerably in recent years and is headed by Australian Thomas Sprange QC, who joined from Steptoe & Johnson in 2011 and was one of only five solicitor-advocates to take silk in 2015.

More recently the firm has expanded in Paris, hiring Marc-Olivier Langlois, the former co-chair of the construction disputes practice at Hughes Hubbard & Reed, in 2018; and Laurent Jaeger, former worldwide co-head of arbitration at Orrick, a year later.

Doak Bishop, meanwhile, has emerged as an authority on international oil and gas law – thanks to a treatise analysing the most important major oil and gas arbitrations and their results.

Nineteen years on, the one-person practice has become a 100-strong enterprise across 15 offices that is now regularly found in the top tier of arbitration rankings.

Network

The most important offices for arbitration are Houston, New York, London, Paris and Singapore; however, the group also has a presence

in Frankfurt, Moscow, Dubai, Abu Dhabi, Tokyo, Atlanta, Austin, San Francisco and Washington, DC.

Who uses it?

International corporations, particularly in the energy sector. Examples include Chevron (in its long-running dispute with Ecuador over liability for environmental pollution in the Amazon), ConocoPhillips, Dow Chemical, El Paso, ExxonMobil, Exterran, Salini Impregilo, Air Canada, AT&T, KBR, Murphy Oil, Sempra Energy, Spain's Marsans Group, the US's Renco Group, India's Reliance Industries, Malaysian media group Astro, French waste management group Veolia and Russian oligarch Oleg Deripaska's En+ Group.

As the practice has evolved, the client list has become more diverse, now even including the occasional government. Turkey's state-owned oil and gas company has been a client.

Track record

King & Spalding built its name on results. Between 2003 and 2011 it had a series of wins against Argentina at ICSID (US\$185 million for Azurix; US\$175 million for Sempra; US\$106 million for the creditors of Enron; and US\$43 million for El Paso Corporation). It also won US\$133 million for a hotel investor against Egypt.

And things haven't slowed. The firm has obtained US\$8 billion for Anadarko, Maersk and Eni in a dispute with Algeria; and US\$2 billion for Dow Chemicals from a Kuwaiti state-owned petrochemicals company (on that case, it teamed up with Shearman & Sterling).

More recently it secured a US\$320 million ICSID award against Argentina for Spanish travel group Marsans (third-party funder Burford made a US\$94 million profit when it sold its interest in the award).

It has helped US oil companies win good results against Ecuador. The state agreed to pay US\$112 million to Chevron in 2016 to honour a five-year-old investment treaty award that King & Spalding obtained. A separate dispute between Chevron and Ecuador relating to environmental pollution also reached a climax in 2018 (see "Recent events").

Pairing with Freshfields, the firm helped ConocoPhillips settle a dispute with Ecuador over the imposition of a 99% levy on windfall profits. Ecuador agreed in 2017 to pay Conoco US\$337 million to satisfy an ICSID award.

In 2013, the firm won a US\$500 million award against Kazakhstan for Moldovan investors Anatolie and Gabriel Stati – among the largest ever issued under the Energy Charter Treaty. More recently, efforts to enforce the award have made headlines around the world.

Another triumph came in 2012 in a long-running ICSID case against Romania. Once again teaming with Shearman, King & Spalding helped Swedish businessmen Ioan and Viorel Micula win around €178 million in a claim over Romania's withdrawal of economic incentives.

US engineering firm KBR relied on the firm for an enforcement battle with Mexico's state oil company Pemex. King & Spalding persuaded a New York district court to recognise a US\$465 million award even though it had been set aside by the courts in Mexico – upending more than a decade of US case law that has given primacy to the courts at the seat of the arbitration. The Second Circuit affirmed the decision in 2016 and Pemex paid US\$435 million to settle the dispute in the following year.

Recent events

The firm's long-running work for Chevron saw it finally prevail in a denial of justice claim against Ecuador. The high-profile dispute relates

to a US\$9.5 billion Ecuadorean court judgment that found Chevron liable for environmental contamination in the Amazon.

In a 500-page award, an UNCITRAL tribunal in The Hague concluded that the Ecuadorean judgment was procured through fraud, having been corruptly ghostwritten by one or more of the representatives of the Ecuadorean plaintiffs in the litigation. It found Ecuador would be liable to make reparation for any injury to Chevron caused by enforcement of the US\$9.5 billion judgment within or outside the country.

There was an impressive win for Spanish energy company Unión Fenosa Gas (a joint venture between Spain's Naturgy and Italy's Eni) in an ICSID claim against Egypt. The state was ordered to pay US\$2.2 billion for curtailing gas supplies to a liquefied natural gas plant at the port of Damietta, after an ICSID tribunal rejected Egypt's allegations of corruption against the claimants. King & Spalding has also advised UFG in two related commercial arbitrations.

King & Spalding helped Indian energy company Reliance Industries defeat a US\$1.7 billion claim by the Indian government over an offshore gas block. The company had been accused of profiting from gas that allegedly migrated from adjacent state-owned fields. The firm is acting in two further UNCITRAL cases for Reliance with a combined value of US\$4 billion.

The firm has been acting for a number of investors affected by reforms to the renewable energy subsidy regimes in Italy and Spain. It won €48 million for Denmark's Athena Investments (formerly known as Greentech) and its partners in a claim against Spain in 2018. In the following year, it won a further €7.4 million in damages in a similar claim by Athena against Italy.

It won US\$30 million for Canada's Bear Creek Mining after an ICSID tribunal held Peru liable for the expropriation of a silver mining concession and ordered it to repay the investor's sunk costs in the project.

There was a €20 million win for Cypriot client Olin Holdings against Libya over an investment in a dairy and juice factory, which was decided by an ICC tribunal; and a US\$75 million award for Korean client Doosan Heavy Industries in a claim against Egyptian and Kuwaiti parties over the sale of heavy machinery for a failed port development project.

Thirteen Kuwaiti investors have instructed the firm for a multibillion-dollar claim against Egypt concerning a cancelled project to build a new city south of Cairo. It is bringing an ECT case for a Maltese renewable energy company against Bulgaria; and a US\$1.5 billion investment treaty claim for Shell against the Philippines. There are also pending cases for investors against Uruguay, Algeria and Peru.

The firm is also acting in US enforcement proceedings for Canadian miner Rusoro as it tries to enforce a US\$1.2 billion award against Venezuela.

Egishe Dzhazoyan in the London office has been coordinating the Statis' efforts to collect on their ECT award against Kazakhstan in various jurisdictions. The dispute garnered unprecedented attention after the Statis for a time succeeded in freezing US\$22.6 billion in Kazakh assets held by the Bank of New York Mellon.

Though that freeze is now mostly lifted, the Statis still have attachments against US\$530 million in cash and a US\$5.2 billion stake in a Caspian Sea oilfield, among other assets. They have also obtained recognition of the award in Sweden, the US and Italy, despite Kazakhstan's allegations that the award was procured through fraud.

Margrete Stevens, a former ICSID senior counsel who had served as a consultant at the firm for 11 years, retired from the practice.

Viren Mascarenhas and David Weiss were promoted to partner in New York and Houston respectively. Charlene Sun was promoted to counsel in New York.

Giorgio Mandelli joined as a partner in London from Volterra Fietta in 2019. John Templeman in New York and Chip Rosenberg in Washington, DC joined as counsel from White & Case. The firm also hired counsel Douglass Cassel in New York and Jun Bautista in Singapore from Herbert Smith Freehills.

Client comment

Union Fenosa Gas's secretary-general Javier Gerbolés de Gáldiz describes partners Doak Bishop and James Castello as "the very best the company has ever worked with."

Athena Investments's CEO Alessandro Reitelli says King & Spalding's lawyers are "committed and highly skilled" while also "very pragmatic". He says the firm has "the 'guts' to stick to a strategy." He compliments the "amazing" Ken Fleuriet and Reggie Smith, who always knew what to do next over the three years of the case, as well as Amy Roebuck Frey and Kevin Mohr who conducted a cross-examination phase "brilliantly"

Another client using the firm in three arbitrations in the past five years says it "is the very best arbitration law firm we have ever worked with". He saves special praise for Doak Bishop's "really impressive" management of hearings and James Castello's "reliable and subtle advice", and also lauds partner David Weiss, counsel Isabel Fernandez de la Cuesta and senior associate Rami Chahine.