

King & Spalding Doubles Down on Litigation, Aiming for the Stratosphere

Recent hires such as Randy Mastro and Mark Kirsch in New York are part of a larger plan to elevate the firm's presence in New York, "the most important and competitive legal market in the world," according to its chairman.

By Dan Packel & Jacob Polacheck

What You Need to Know

- The firm has made a series of high-profile hires from Boies Schiller Flexner, Gibson, Dunn & Crutcher and Hogan Lovells.

- Leaders are looking to build on international arbitration, financial services litigation and mass tort defense.

One after another, King & Spalding's litigation hires in New York have caught legal industry attention.

After hiring Boies Schiller Flexner partner Damien Marshall in 2020, the firm brought on Craig Carpenito, the former U.S. attorney in New Jersey, the following year. Then, former Hogan Lovells Middle East practice leader Samaa Haridi joined in February. And

in the last two months, a trio of high-profile Gibson, Dunn & Crutcher litigators moved in succession: Matthew Biben, Randy Mastro and Mark Kirsch.

Hire by hire, King & Spalding said its strategy is building a global litigation team that seeks to rival any other elite firm, especially in New York, and take on any dispute from start through trial. To that end, the Atlanta-based firm is looking to gain a larger foothold by focusing on practices it has already established elsewhere, namely international arbitration, financial services litigation and mass tort defense. Thanks in part to these three areas and more than 550 lawyers in the trial and disputes groups, litigation accounted for more than half of the firm's record \$1.83 billion in 2021 revenues.

And King & Spalding says it isn't done growing, even as



Robert Hays, left, and Randy Mastro, right.

Photos: John Disney/Carmen Natale/ALM

it encounters traditional challenges of expanding in New York. Chairman Robert Hays said his firm exerts a particular draw for certain high-powered lateral candidates that goes beyond glowing financials.

"We want people who are world-class lawyers at what they do and people who fit very tightly into the culture of the firm, believing in collaboration and teamwork and wanting the firm to be greater in the future than it is today," he said. "Getting people who do both of these

things—who are high performing and also very collaborative in what they do—is not easy. It’s a tight filter, but we work hard to find that.”

For Mastro, who is helping King & Spalding expand its litigation department by finding new talent, the method behind building out an elite litigation team in New York hasn’t changed even as law firm revenues and lawyer mobility have both skyrocketed since he joined Gibson Dunn in 1998.

“The fundamentals remain the same,” he said, noting that the firm’s 200 lawyers in New York and robust presence in other major markets around the globe give it a healthy platform from which to build. “You build it through the community. You build it out through your tireless commitment to quality in terms of personnel and legal work and commitment to client service.”

When he was at Gibson Dunn, he said, King & Spalding’s litigation growth strategy resonated with him. Mastro himself, during two-plus decades at Gibson Dunn, gained firsthand experience with the challenging task of propelling an out-of-market firm into New York’s stratosphere.

“I looked on with envy with what King & Spalding was doing,” he said in a recent

interview, noting that he had unsuccessfully tried to lure Marshall as well as Carpenito to Gibson Dunn.

Hays does deem it a challenge to build in the Big Apple though, acknowledging that New York is “the most important and also most competitive legal market in the world.”

“You have to have very good reasons for being there,” he said. “And you have to get everybody, not just there, but in the firm, on the same page.”

According to Hays, one point of distinction for King & Spalding, particularly in litigation, is the firm’s ability to try lawsuits as a big firm from the beginning of the matter to the end.

The firm recently won a commercial trial in Miami on behalf of a Brazilian airline and secured an \$85 million antitrust verdict for BASF in Delaware federal court. On the mass tort front, the firm currently serves as national coordinating and trial counsel for Union Carbide Corp. in asbestos litigation and for Boehringer Ingelheim in the sprawling Zantac litigation, while also serving as counsel to Janssen Pharmaceuticals in the Elmiron multidistrict litigation.

“There are a number of boutiques in the country that try lawsuits, but they’re not that big to necessarily handle all phases

of the matters,” he said. “There are other firms that are huge in litigation, but they actually don’t have many first-trial lawyers, people who actually go to trial in front of juries and try cases. We decided we wanted to differentiate ourselves by having both of those worlds and to be able to service clients in their most important litigation matters.”

But there’s also an awareness among insiders and outsiders that King & Spalding’s corporate group in New York needs to grow to put the firm fully in the same league as local firms such as Simpson Thacher & Bartlett and Sullivan & Cromwell and successful outsiders such as Kirkland & Ellis and Latham & Watkins.

The firm made a splash in the late 2010s, hiring dealmaker Jim Woolery, a veteran of Cravath, Swaine & Moore and Cadwalader, Wickersham & Taft in 2017, followed by a private equity team led by Jonathan Melmed of Morrison & Foerster in 2018. Woolery announced his departure in 2020. Melmed and his group remain at the firm and continue to be highly productive, according to a law firm recruiter who believes the firm has fully arrived.

However, another law firm recruiter, Matthew Bersani of

Cliff Group, said the firm doesn't yet have the critical mass to handle transactional work to be competitive with the top firms.

"They certainly have the money," he said of its recruiting efforts. "They have made progress, but [corporate] is probably the area that needs more attention if they are going to play with the big boys."

Hays is hopeful that the latest thrust in litigation will help elevate the firm's transactional practices as well.

"The growth in the corporate group has very much helped the growth in litigation, and I'm also sure the growth in the litigation group helps corporate," he said. "I love that the parties in both those groups understand that."

A Countercyclical Push

The success of the international arbitration practice, which complements the firm's disputes work in the courts, offers a potential road map for the wider litigation practice. Former from Hogan Lovells arbitration specialist Haridi, who joined in February, watched King & Spalding evolve from a relative unknown to join Freshfields Bruckhaus Deringer, Debevoise & Plimpton and White & Case at the top of the rankings.

"Clients come to us not because we're strong in New

York or a certain office, but we're the best brand in the world," she said, noting the firm's January move into Miami, a growing home for these proceedings. "We're a decentralized operation, which is not as true at other successful arbitration practices. They operate in their respective geographies."

With the global economy sputtering, Hays and the other new arrivals are counting on the litigation practice to buoy the firm, even if corporate work dries up.

"The reality of the last few years, with the economic boom, is that for some law firms, litigation has fallen out of favor," Hays said. "It's not as cool for some firms as it used to be. That's certainly not the case here."

And if the COVID-19-induced court closures of 2020 made the most recent recession an extreme anomaly, the expectation is that if interest rate hikes do serve to tip the U.S. economy into a downturn, the firm's recent expansion, combined with its established base, will stand it in good stead.

"The great litigation firms are always going to do well no matter what the cycle," Mastro said, pointing specifically to the firm's international arbitration,

mass torts and health care strengths as areas that thrive in good times and bad.

Marshall is starting to see filings rise, courts opening up and cases more actively litigated. As financial markets tighten, he's expecting to see some fallout from the transactional surge of the past several years, manifesting itself in busted-deal litigation and court fights over special purpose acquisition companies that failed to pan out as promised.

"It's increasing demand at the highest level," Marshall said. "It's demand for a higher level, larger dispute type of work."

Yet to materialize are several staples of the 2008 recession: suits over reverse mortgage-backed securities and structured finance. But litigation over environmental, social and governance disclosures in the financial services space is looming. Marshall believes the firm is positioned to take advantage of all this work in the event it arrives.

"A really strong, broad-based litigation practice is a great hedge when the economy slows down, but a broad-based litigation practice also, when the economy is going strong, provides significant revenue," he said.