

## Rising Star: King & Spalding's Thomas Ahlering

By Grace Elletson

*Law360 (June 21, 2023, 1:03 PM EDT)* -- Thomas Ahlering of King & Spalding LLP has led many employers to legal victories in biometric privacy disputes and helped architect a novel, winning legal theory in a privacy case against United Airlines at the Seventh Circuit, earning him a spot among the employment law practitioners under age 40 honored by Law360 as Rising Stars.

### ***HIS BIGGEST CASE:***

When Ahlering secured a victory for United Airlines in a biometric privacy class action at the Seventh Circuit in 2019, he said there weren't yet many established avenues to defeat these types of suits brought under the Illinois Biometric Information Privacy Act. The law, created in 2008, requires that biometric data be stored under certain restrictions and requirements.

A group of airline employees alleged that United improperly captured their fingerprints in a timekeeping system, but Ahlering said he and his team successfully convinced the appellate panel to reverse a lower court's order in the case after arguing a novel theory that the Railway Labor Act preempted the workers' claims under their collective bargaining agreement. He said it was an untested theory that ultimately paid off when the biometric privacy claims were tossed, especially at a time when biometric privacy rulings hadn't typically favored employers.

"At the time, it was kind of a very unexpected and creative way to get rid of these claims," Ahlering said. "So it was a very exciting victory."

### ***HIS PROUDEST MOMENT:***

Ahlering pointed to a victory he obtained for national sandwich chain Jimmy John's in a class and collective action alleging the corporate entity was liable for wage and hour infractions committed by its franchisees.

The case was a threat to Jimmy John's business model, Ahlering said,

2023



**Thomas Ahlering**  
King & Spalding

**Age:** 40

**Home base:** Chicago

**Position:** Partner

**Law school:** The John Marshall Law School, now the University of Illinois Chicago School of Law

**First job after law school:** Associate at Meckler Bulger Tilson Marick & Pearson LLP

which relied on a separation between its corporate employees and its franchisee employees. He said two years of extensive discovery helped his team clinch the win when the court ultimately found that Jimmy John's could not be held liable as a joint employer in the case.

"It was probably the proudest I've been because it was such a team effort, and there were so many different lawyers involved," Ahlering said. "It was such a long road and we were all very excited afterward when we got the ruling."

#### **WHAT MOTIVATES HIM:**

There's often varying fact patterns in privacy-related employment disputes, Ahlering said, which requires a great deal of problem-solving when constructing legal arguments to secure his clients' successful outcomes. The creativity and innovation required to deliver these kinds of results in big cases, such as the wins he achieved for United Airlines and Jimmy John's, keeps Ahlering invested in his work, he said.

"Starting with the problem and then helping a client get from A to B on that is really what drives me," Ahlering said.

#### **WHY HE'S AN EMPLOYMENT ATTORNEY:**

Ahlering said he was drawn to employment law because of how personal work is in connection to employees' daily lives. When issues arise in the employment context, there's always a unique aspect to the dispute at hand, he said.

"There's a human element to it," Ahlering said.

He said he's also driven by the emerging questions arising out of employers' continued adaptations of technology to manage their workforces. Of the questions that have Ahlering's attention — What are employers allowed to know about their workers? What kind of data are employers allowed to collect? How can employers monitor employees? — he said he wants to help his clients navigate this new ground.

"There's no federal laws regulating employee privacy, but it's something that employees are very much wise to," Ahlering said. "It's got their attention. It's got legislators' attention, you know, enacting new laws and bills focused on electronic monitoring or artificial intelligence."

#### **ON THE FUTURE OF EMPLOYMENT LAW:**

Technology is continuing to innovate and grow, Ahlering said, and employers are continuing to utilize these developing tools that will inevitably raise novel legal disputes. He said there's currently a patchwork of employee privacy legislation on the state level, but the field is largely unregulated.

Ahlering said employees will need to prepare for further regulation surrounding employee rights to privacy and, if they're operating on a national level, be wary of different privacy standards that may arise in different states.

"I think this is going to be the biggest challenge facing employers and, frankly, firms like ours moving forward," Ahlering said.

— *As told to Grace Elletson*

*Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2023 Rising Stars winners after reviewing more than 1,350 submissions. Attorneys had to be under 40 as of May 1, 2023, to be eligible for this year's award. This interview has been edited and condensed.*

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