

## Illinois Powerhouse: King & Spalding

By **Celeste Bott**

*Law360 (September 17, 2024, 12:21 PM EDT)* -- Chicago attorneys at King & Spalding LLP have, over the last year, successfully defended drug manufacturer Boehringer Ingelheim in the first trial over Zantac heartburn medication, and also helped secure the dismissal of a defamation case against a Chicago-based investment adviser.

King & Spalding, one of Law360's 2024 Illinois Powerhouses, only opened its Chicago office in 2017. But since then, firm leadership has focused on steady but undeniable growth, patiently chipping away at the market share to compete, according to managing partner Zachary Fardon.

"We've been busy from the outset, and we're as busy now as we've ever been. And I think it's because we've been careful and smart in growing this business," Fardon told Law360. "I didn't want to get too fat, too fast, and risk compromising on quality."

Fardon was approached about helping King & Spalding plant a flag in Chicago after he resigned as the U.S. attorney for the Northern District of Illinois in the early days of former President Donald Trump's administration. He said he jumped at the challenge of building an office from the ground up.

"It's been seven years. It really was just me on day one," Fardon said. "I couldn't be more proud of who we are and what we've done."

There are about 50 attorneys working in King & Spalding's Windy City location now, with new associates and lateral recruits coming in the fall, but Chicago partner Julia Zousmer calls it "the unicorn of law firms." That's because the office itself is small with a great culture and collaborative dynamic, but it has the ability to tap into global law firm resources and work on high-profile, cutting-edge cases and issues, she said.

Patrick Otlewski, a former federal prosecutor turned King & Spalding partner, said the Chicago office is full of high-energy attorneys able to operate at the highest level without losing their humanity.

"The culture here is very much team-based. Some firms are large, nameless places where associates come and go," he said. "I know every lawyer here by name. I know all our support staff by name."



Fardon says one of his top priorities in building out the Chicago team was targeting growth and expansion in areas where the firm was already strong nationally and globally. Fields of expertise for the Chicago office include white collar and government investigations, large consumer and product liability class actions, big business disputes, leveraged finance, mergers and acquisitions, and regulatory work, he said.

The office has seen more Chicago-generated legal matters year over year, and the local legal market is strong right now, according to Fardon.

Among King & Spalding's major clients is Boehringer Ingelheim, and the firm is leading the drug company's defense against claims that its widely-used heartburn medication Zantac causes cancer.

Zousmer, a key member of the team serving as national counsel for Boehringer Ingelheim in all Zantac litigation in state and federal court, said King & Spalding is able to rise to the challenge of managing hundreds of lawsuits in different venues throughout the country due to the firm's "deep bench" of experienced litigators.

"We've really been able to effectively leverage all those practitioners to work together efficiently and achieve great success for Boehringer across jurisdictions," Zousmer said.

That includes getting roughly 100 cases in consolidated Illinois state court litigation dismissed at the discovery phase, as well as a decisive victory this year in the first of hundreds of Zantac cases to go to trial. A Chicago jury found in May that Zantac heartburn medication and its generic counterparts sold by GlaxoSmithKline and Boehringer were not responsible for plaintiff Angela Valadez's colon cancer and her subsequent, debilitating symptoms.

"That was a really exciting win," Zousmer said, and the "right result."

"It was gratifying that the jury reached that verdict in a case that the plaintiffs put out in front. Cook County is thought of to be a plaintiff-friendly jurisdiction. So it was a tough place to face our first trial nationwide," she added.

Zousmer noted that the jury did conclude that the plaintiff had taken medication manufactured by the companies, but still found no liability for the drugmakers.

The office's expertise also proved essential in limiting damages for Cal-Maine Foods, the largest shell egg producer in the United States, in a closely watched price-fixing case. Cal-Maine was among several defendants found liable for unlawfully rigging the egg market in November, and in a subsequent trial focusing only on damages, Kraft, Kellogg, Nestle and General Mills were awarded \$17.7 million.

While the jury's liability verdict is being appealed, King & Spalding — which represented Cal-Maine — was able to mitigate the damages award by arguing that the conspiracy the jury found was not the same one initially alleged by the plaintiffs, according to Otlewski.

"The way we presented it to the jury was, 'Are what these plaintiffs asking for fairly traceable to what the defendants did?'" he said. "[The plaintiffs'] expert had painted with a very broad brush and attributed to the four defendants at trial price increases that were attributable to egg producers all over the country, who weren't alleged to be part of the conspiracy."

Otlewski also points to the Cal-Maine case as an example of the Chicago office's team-based approach, and said that the defense team was largely staffed by Windy City associates who got the chance to both meaningfully participate and also understand how those at the partner-level think and operate.

"Every day after trial we sat in the conference room and talked through how that day went, and tried to build small wins along the way," he said.

Otlewski is on a team representing Chicago-based investment firm ExWorks Capital in both a U.S. Securities and Exchange Commission investigation and litigation the SEC filed against the company's former CEO, chief credit officer and managing director, who are accused of financial mismanagement and theft of a Paycheck Protection Program business launched by ExWorks.

King & Spalding was able to obtain dismissal of two of the three claims alleged in a reactive defamation lawsuit filed by two of those ex-executives. The final claim was voluntarily dismissed ahead of a planned August trial, according to Otlewski.

That was "a very positive development" that Otlewski attributes to the firm's good factual work in discovery, which put "the writing on the wall" that the plaintiffs did not have a case, he said.

Seven years after he was the Chicago office's first and only employee, Fardon told Law360 that he expects the firm will continue to grow at a steady, strategic pace going forward. But he never loses sight of the ultimate, long-term goal: being second-to-none among Chicago law firms.

"I'm so profoundly respectful of our competition. There's amazing talent in this market," he said. "So it's a lofty goal, but it's what we've been building toward. If we just keep doing what we're doing and doing it patiently, the next seven years will get us closer."

--Editing by Law360 staff.