

As Law Department Managers Emphasize Convergence, A Law Firm With A Proven Track Record Can Respond

The Editor interviews Robert D. Hays, Jr., Chairman, King & Spalding LLP. Mr. Hays was elected Chairman effective January 1, 2006.

Editor: Please tell us about your experience with the firm before being elected Chairman.

Hays: I was among a small group of attorneys who started our firm's product liability group [now the firm's 150-lawyer Tort & Environmental Litigation Group ("Tort Group")] 15 years ago. Except for a few limited areas like intellectual property and taxation, the notion of specialization within the broad area of litigation was just beginning to catch on. The product liability specialty within our litigation department was one of the first areas of specialization within the litigation practice of large firms like ours that traditionally served the broad needs of corporate clients. There has been a good bit of additional specialization since then.

I was drawn to the product liability area because it offered the best trial opportunities within a large firm context. When you are coming out of law school and want to be a trial lawyer, you have to decide whether to go to a large law firm and accept the likelihood that you will try fewer cases than you would in a smaller firm, or whether you will go to the government or a boutique firm to try more cases. I went to a large firm but was lucky to find within King & Spalding a niche where the lawyers actually tried lawsuits.

We branded our product liability practice as an approach that includes all aspects of defending a product liability suit. At the same time, we defend each case to meet our client's goals. We conduct efficient discovery, develop the science, solidify our case themes, engage our motions practice, and work through the entire panoply of activities associated with pre-trial litigation. In addition to doing that well, we offer the unique ability to handle the trial component, including skilled lawyers who actually try cases. We also handle the appellate work. We are able to offer a one-stop shop where we can help clients manage all aspects of litigation, including public relations and any governmental components. That approach has resonated well in the marketplace.

The Tort Group had the benefit of participating in a number of areas, including breast implant, tobacco, pharmaceutical, automotive and asbestos. It has been recognized as one of the top three product liability practices in the nation by *The American Lawyer*, and it was chosen as a national tier-one practice by *Chambers USA*. I was very much involved in our efforts, both as head of the Tort Group and as a trial lawyer representing such clients



Robert D. Hays, Jr.

as General Motors, UPS, Shell, 3M and numerous other companies.

The Tort Group not only litigates; it also plays a counseling role. It helps clients understand what exposure they may face as a result of threatened or potential litigation. It counsels companies that are contemplating M&A transactions about product liability or other tort exposures. We have seen so many cases, particularly in the breast implant or asbestos areas, where a company becomes exposed to liability as the result of the acquisition of another company.

Having been a founding member of the Tort Group (which had by that time become the largest practice group in the firm), I was named administrative head of the Group in 1995. In addition, from 1999 to 2005, I served two terms on the firm's Policy Committee, the managing body of the firm.

Editor: Tell us about the firm's emphasis on partnering relationships with its clients.

Hays: Product liability litigation is conducive to developing strong partnering relationships with satisfied clients. Given the repetitive nature of litigation, the firm anticipates the client's needs and knows how to successfully defend the client's products. The wheel does not need to be reinvented each time a new suit is filed.

Companies have a keen interest in working with firms to manage ongoing cases in ways which produce the best results in the most cost-effective manner. Both the client and the firm look for ways to strengthen the partnering relationship by generating mutual benefits which provide additional incentives to achieve the best possible results. As a result, clients have recognized that, by focusing more work in fewer firms, they can achieve better results. This process has become known as convergence.

Convergence occurred early on in the product liability area, and the positive results brought those clients to

other practice areas of the firm. Not surprisingly, such a partnering model has been successful in these broader relationships as well.

Convergence gives the clients more control as well as greater efficiencies, more effective counseling, and deeper commitment. Our lawyers better understand the client's needs, its industry and its people. It builds a stronger bond between the client and the lawyer. With greater knowledge of the client's business and needs, our lawyers are able to be more proactive in their counseling.

Editor: Corporate counsel feel that the expense and risks of product liability litigation can be contained through the adoption of legislation. Does your partnering commitment to clients include promoting civil justice reform even if it might reduce the fees generated by unmeritorious litigation?

Hays: Yes. It is in our best long term interests to serve our clients' interests in every way possible. One of the mutual benefits of the convergence process is that clients are attracted to firms which are dedicated to serving the client's broader interests. As we see it, even if the total volume of product liability litigation is reduced, more corporations will turn to firms, like ours, that seek in every way possible to mitigate the risk and cost to the client, including a thorough and vigorous support of civil justice reform.

Our partnering relationship in the area of tort reform includes active support for legislative and rule-making initiatives seeking civil justice reform at both the state and federal levels. Our Public Policy and Governmental Advocacy group in Washington, DC assists clients not only with respect to civil justice reform, but also with a variety of other issues as well. Former U.S. Senators Dan Coats (Indiana) and Connie Mack (Florida) are the co-chairs of that group. The principal civil justice reform initiatives in which our lawyers and lobbyists have been active include such issues as punitive damages, venue and jurisdiction, and class actions.

Editor: How do you determine what your clients want from the firm?

Hays: We ask them. We have discussions with them to find out what we can do to improve. We ask for reviews and grades. We seek their input and direction. Also, each client is assigned an engagement partner who is responsible for seeing that the firm provides the client with the best possible service. They, too, seek input from the client as to how we can improve.

Editor: What are your goals as chairman of King & Spalding?

Hays: When I first joined the firm, it was principally an Atlanta firm. It had over 100 lawyers. Since then it has grown to over 850 lawyers with offices nationally and overseas. The sophistication of the practice has continued to evolve and the amount of talent the firm has drawn to it has increased. We are now a national and international law firm. As a conceptual matter, my ultimate objective would be to continue the momentum we have, including that achieved through partnering with our clients, and to build upon it – so that five years from now, it will be bigger, in more places and active in those practice areas where our clients need our services.

We want to work on the most challenging legal matters so that we can continue to attract the most talented and stimulated lawyers to the firm. This is a competitive business, and we want to maintain a brand that attracts the kinds of people who will be most appealing to our clients.

Editor: Do you see pressure from clients to grow into new areas?

Hays: We do. Clients appreciate the people and culture of King & Spalding. It is very collegial here, and everyone gets along. The practice groups do not compete with each other. The offices work together seamlessly. Clients sense that, and they like working with us. Once they work with us in a couple of areas, they want to expand the relationship so that we are available to them in as many areas as they need. As I mentioned earlier, I have seen first hand how clients of the Tort Group have extended their partnering relationship to other practice groups within the firm – and I want to foster that process.

To the extent there is a good fit, we will continue to be responsive to client needs for new practice areas and specialized practices within our existing practice areas. For example, the Government Investigations Practice Group (originally created to respond to client needs by former U.S. Attorney General Griffin Bell) recently was bolstered with the arrival of Christopher Wray, former head of the Justice Department's Criminal Division, and expanded into our New York office with the addition of two former DOJ officials. Many other practice areas have evolved in the same fashion.

Editor: How would you sum up your agenda?

Hays: To continue to attract the most talented lawyers and respond to our clients' interests and needs – and to do that on an increasingly larger platform.

Please email the interviewee at rhays@kslaw.com with questions about this interview.