

THE
AMERICAN LAWYERHow Kirkland & Ellis Litigators Became a
National Brand in Oil and Gas

By Ross Todd

March 21, 2024

This is a story about taking advantage of opportunities—and being patient.

Early in his career at **Kirkland & Ellis**, **Dan Donovan**, a veteran litigator based in Washington, D.C., got pulled into a case in state court in Oklahoma for client BP—a breach of contract dispute over the royalties to be paid out under an oil and gas lease.

“This whole space in litigation used to be kind of Wild West,” Donovan said. “This case went on forever, but I got a real education.”

Donovan said the financial issues piqued his interest. (His undergraduate degree is in accounting.) He found the underlying science—the geology of what’s going on under the earth’s surface—fascinating as well as the business and human dynamics between the producers he represented and the large landowners they tend to partner with to get oil and gas out of the ground.

Donovan also made a valuable connection with one of the local defense lawyers on the case, **Mike Harris**. Harris later went on to become the head of litigation at Chesapeake Energy. After the case concluded, Donovan went back to D.C., and called Harris regularly to see if he had a similar case to work on. But since hiring Donovan came with paying Kirkland rates, it took a while for the right case to come along.

Eventually, as the fracking boom brought the industry into geographies where the jurisprudence



Courtesy photos

L-R: **Dan Donovan**, **Ragan Naresh** and **Anna Rotman** of Kirkland & Ellis

was less battle-tested, Harris had one of his lawyers dial Donovan.

“A class action they had in Virginia in oil and gas—and that really kicked it off,” Donovan said. “Mike gave what was then a relatively young lawyer a chance. And then that kind of litigation really started blossoming.”

If you’re the type of reader who keeps a close eye on The Litigator of the Week Runners-Up and Shout Outs, you probably noticed that Donovan and his partners **Ragan Naresh** in D.C. and **Anna Rotman** in Houston have become regulars in that space handling royalty disputes—especially ones styled as class actions. The trio got runners-up honors twice in the past year alone. Last year, they fended off a class certification bid by landowner

plaintiffs in Ohio in a case involving clients EQT—represented by Naresh and Rotman—and Gulfport—represented by Donovan. Then, earlier this month, after a two-week trial, a federal jury in Ohio sided with their clients on claims brought on behalf of landowners who were seeking \$100 million in mineral trespass claims.

The Litigation Daily sat down with Donovan, Naresh and Rotman recently and spoke with three of their clients on background to see what lessons other litigators might take away from how Kirkland became a national energy litigation player, and more specifically, the go-to firm for these sorts of high-stakes royalty disputes.

Think Strategically

Naresh, whose practice focuses on class action defense broadly, said that as the oil and gas industry branched out from its traditional strongholds into Appalachia, there was a chance for Kirkland to pitch the value of shaping the law in venues such as Ohio, Pennsylvania, West Virginia and Virginia, where disputes of this sort had been largely dormant for more than a century.

“There wasn’t a lot of law in the East,” he said. “Texas and Louisiana ... people have been producing oil and gas in those states for 200 years.” Although Pennsylvania and Ohio were the land of John D. Rockefeller and Standard Oil, Naresh said Kirkland and clients soon realized the cases they were looking to as precedent in those venues were 100- to 150-years old. “So there was an enormous opportunity to take what comes to be a high-risk series of cases,” he said. “For better or worse, there is no law that informs how these leases are going to be interpreted. And so there was an opportunity for our clients—and for us as practicing lawyers who love the challenge of taking on an area of law that has no real guardrails.”

Practice as Part of a Virtual Law Firm

Rotman has been at Kirkland for eight years after joining from Houston litigation boutique **Yetter Coleman** where she focused on disputes

in Texas state and federal court. Since making the move her practice has expanded nationally.

“Clients wouldn’t think of us necessarily for their everyday issue. They’re thinking of us for their big issue, wherever it is,” Rotman said.

Donovan said clients and Kirkland both know the firm isn’t going to take every case. He and the team have developed working relationships with clients’ local counsel around the country. “I also like knowing the lawyers that are in Scranton, Pennsylvania, in North Dakota, in Texas, in Oklahoma—really good lawyers,” he said. “It’s part of that relationship that you say, ‘Hey, client, you should use this firm. We’re here to help you ... but use them.’”

“Then obviously with the big stuff we want to try to do those cases,” he said.

Really Learn the Business

All three of the in-house litigators who spoke with me about Kirkland litigators mentioned their oil and gas business savvy. Donovan and the team have benefited from working alongside Kirkland’s bankruptcy lawyers on restructuring issues for oil and gas clients including Gulfport and Chesapeake. Donovan said that bankruptcy lawyers, by the nature of their work, have to learn their clients’ “whole business.”

“I’m trying to pick that up and transfer it here,” he said. “When you understand your client’s business, you can offer them really much better service because you understand their goals. It’s not just one litigation.”

Donovan said that he can see that approach deepening the team’s ties to clients and the industry. In the latest trial, he noted that Naresh put EQT CEO Toby Rice on the stand. “They just really hit it off. Ragan understands that business. He understands what Toby’s goals are,” Donovan said. “It’s really important not just to become a technically good trial lawyer, it’s important to understand our clients’ business,” he said. “It’s important that they feel that we understand what their job is because their job isn’t just to win the case. They have bigger goals.”