

# Illinois Powerhouse: Kirkland & Ellis

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Kirkland & Ellis LLP’s Chicago office overturned hundreds of millions of dollars’ worth of verdicts for AbbVie Inc. and brought home a \$16 million win for Dyson Inc. in the past year, while guiding some of Illinois’ biggest businesses through major deals like Boeing’s \$4 billion grab of an airplane parts provider and servicer.

Kirkland, one of *Law360*’s 2018 Illinois Powerhouses, began to spread its roots in Chicago when it established its flagship office there more than 100 years ago, in 1909. The firm has since blossomed into one of the world’s largest and most profitable and touts talent such as corporate partner Brendan Head, who used to co-lead DLA Piper’s Chicago office, and Stephen Napolitano, who used to co-chair DLA’s U.S. private equity practice.

Kirkland’s Windy City office boasts 645 lawyers, though the firm’s mission is to represent clients as seamlessly as possible across all of its 14 locations.

“Most importantly, as a law firm we want to be one law firm,” Kirkland corporate partner Ryan Harris said. “We want to deliver one best-in-class product.”

Kirkland uses its dominance in Chicago’s legal market and beyond as leverage when selecting its newest hires either from law

school or through lateral hiring. Kirkland’s stature also allows it to set market standards in terms of compensation, which Zeughauser Group legal consultant Kent Zimmermann said has caused many of its peer firms to re-examine their own pay structures in order to remain competitive.

“When Kirkland wants to poach a high-performing lawyer from another firm, it’s not unusual that they will pay them materially more,” he said. “When they do that, especially in markets that aren’t accustomed to that kind of aggression, that can change the competitive landscape. Kirkland, the largest and most profitable firm, has not only assumed the leadership here, but they’ve also assumed a leadership more broadly and their effects are worldwide.”

Kirkland’s attorneys have worked this year to deliver that market-setting product to several Illinois-based clients, achieving results that include several favorable outcomes for AbbVie Inc. in multidistrict litigation over allegedly harmful testosterone products, a \$16 million jury verdict awarded to Dyson Inc. over false advertising by rival SharkNinja Operating LLC, and several large transactions that allowed Chicago companies like Boeing and GrubHub Inc. to expand their corporate footprints with major acquisitions.

AbbVie recruited Kirkland to help represent it in the MDL over testosterone replacement products about three months ahead of its third bellwether trial over claims that it hid serious and sometimes fatal health effects of its product AndroGel.

Before Kirkland joined the trial team, the company had previously been slapped with massive verdicts of \$150 million and \$140 million respectively. But the Kirkland trial team behind AbbVie worked to turn those prospects around, securing a defense verdict for the company in its third bellwether trial in January.

The Illinois federal judge overseeing that MDL ordered a redo on the \$150 million verdict against AbbVie about a month later, agreeing with Kirkland’s attorneys that the jurors were inconsistent in finding for AbbVie on strict liability and negligence but awarding punitive damages against the company on the plaintiff’s fraudulent misrepresentation claim. The judge also tossed the \$140 million verdict for similar reasons a few months after nixing the first verdict, and a retrial in the first case resulted in a jury awarding a significantly lower \$3 million to the plaintiff in March.

Kirkland also helped Apex Tool Group LLC convince a different Illinois federal judge in December to toss a \$6 million verdict that

Apex and Sears Holding Corps. had been hit with several months earlier over patent infringement claims lobbed by an Illinois competitor of Apex.

And in June, Kirkland's trial lawyers were on the other side of the aisle when jurors awarded their client Dyson \$16 million over claims that vacuum-making competitor SharkNinja aired commercials falsely touting its Rotator Powered Lift-Away as a better product than Dyson's best-performing machine at the time. The advertisement at issue cited tests that SharkNinja claimed had independently proved its product's market dominance, but part of Kirkland's task at trial included convincing the jury that those tests were conducted neither independently nor according to industry standards.

"Clients often come to us for their biggest, most intractable problems, their most difficult cases," firm litigation partner James Hurst said. "They expect us to immerse ourselves, change the landscape, and figure out ways to turn difficult cases into winning cases."

But the firm has changed more than just the trial landscape for its clients. It has also helped change the corporate landscape, fielding teams that have helped some of its largest business clients get even bigger through significant merger and acquisition deals.

Kirkland's lawyers are guiding Boeing in the airplane- and rocket-maker's \$4.2 billion acquisition of KLX Inc., a provider of aviation parts and services. Under the deal,

"... Kirkland is uniquely built to ... deliver an extraordinary work product in a short period of time."

which was announced in May, Boeing will pay \$63 per share for the company and assume \$1 billion in company debt.

The transaction's closure is predicated on the divestment and separation of KLX Energy Services, which offers products and services for the oil and gas exploration and production industry. But once the deal is completed, Boeing has said, KLX will join Boeing arm Boeing Global Services, where it will be merged with existing aircraft parts and supply company Aviall Inc.

Kirkland is also guiding Chicago-based private equity firm GTCR LLC through seven publicly announced transactions this year, including the company's March-announced \$1.1 billion take-private deal with Sycamore Partners of New York-based retail and commerce solutions provider CommerceHub and its £1 billion (\$1.4 billion) cash deal to sell United Kingdom-based Callcredit Information Group Ltd. to TransUnion LLC.

And in the realm of mobile food service, Kirkland advised GrubHub on its \$200 million sale of common stock to restaurant

company Yum! Brands Inc. in a deal that closed in April and created a partnership to boost KFC and Taco Bell sales with online ordering for pickup and delivery. GrubHub also tapped Kirkland's counsel in its \$287.5 million acquisition of Yelp's online food-ordering business, Eat24, in a deal that closed in October.

And while the transactions at play this year may on the surface seem like nothing more than large companies expanding their footprints, the current state of mergers and acquisitions "isn't the trend; it's the story," Harris said.

"The M&A markets are growing and expanding along with the economy as a whole. It's a hot sector," he said. "The M&A markets are very hot, and there's more and more capital available to private equity funds and family offices to invest and to use to acquire companies. Transactions happen at a faster and faster pace than they ever have, and Kirkland is uniquely built to handle the speed of those transactions, to deliver an extraordinary work product in a short period of time."



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