

THE
AM LAW LITIGATION DAILYLitigation Leaders: Terri Mascherin of Jenner & Block
on Advantages and Challenges of Being By Far the
Firm's Largest Practice**By Ross Todd**

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Welcome to another edition of our Litigation Leaders series, featuring the litigation practice leaders at some of the biggest and most innovative law firms in the country.

Meet **Terri Mascherin**, one of the four co-chairs of the litigation department at **Jenner & Block**, which accounts for more than 80% of the firm's revenues and headcount. Mascherin, who is based in Chicago, co-chairs the firm's education practice. She has been part of the Jenner team defending Dartmouth from claims the school was part of a price-fixing cartel that inflated the amount paid by undergraduate students receiving financial aid. Mascherin is also a fellow of the American College of Trial Lawyers.

Lit Daily: Tell us a little about yourself—perhaps even a thing or two your partners would be surprised to learn about you.

Terri Mascherin: My partners probably don't know that when I was in law school, I thought seriously about practicing criminal law. I fell in love with the constitutional issues that arise in criminal cases. I think I took just about every elective course I could take in criminal law—two courses in criminal procedure, criminal evidence, scientific evidence, white-collar crime, you name it. But when it came to figuring out what I would do after law school, I needed to earn money to pay off some pretty heavy student debt (my parents were both public school educators). My interest in criminal law is actually one of the main things that drew me to Jenner & Block. I knew that if I came here, I'd be able to do criminal pro bono defense work,



Courtesy photo

Terri Mascherin of Jenner & Block.

possibly at a very high level. And that turned out to be true—I tried a re-sentencing in a capital case when I was just a fourth-year associate, and since then I've done two more capital cases and a number of innocence cases. I also had the opportunity to defend former Governor Ryan's clemency orders clearing Illinois' death row when his orders were challenged in the Illinois Supreme Court. So, I've been able to feed that passion—just not the way I thought I might when I was in law school.

You are a Jenner & Block lifer and you're located in the firm's Chicago office, the same goes for your co-chair Michael Doornweerd. Meanwhile, the other two co-chairs, Lee Wolosky and Reid Schar, lateralled into the firm and sit elsewhere. Is that mix of Chicago and non-Chicago partners, and lifers and laterals among the litigation practice leadership by design?

Certainly, the geographic mix is by design, and so is the mix of practice areas. I'm not sure the mix of lifers and laterals is by design, but it works.

Mike and I came up as business litigators here in the Chicago office, and I think both of us would tell you we can try any kind of case. Reid is a lateral, but he's been here such a long time and is so deeply invested in the firm that I think of him almost as a lifer. Reid started in Chicago but moved to San Francisco to start our office there, which is going like gangbusters. Reid is a former federal prosecutor, so he brings a keen knowledge of how to deal with the federal government in many scenarios. Lee sits in New York and came to Jenner & Block with a strong background in crisis management, including from serving in several positions in federal government, as well as a real knack for plaintiffs' work, including in the human rights and antiterrorism areas. He has added another dimension to our litigation team.

Jenner & Block is the rare full-service Am Law 100 firm where the litigation department is considerably larger than the transactional side of the shop. How many litigators does the firm have and where are the majority located?

We have roughly 400 litigators spread out across all six—and soon to be seven—of our offices. The Chicago office is Jenner & Block's first and largest office, with the majority of our litigators located there.

What are the advantages and challenges of that unique structure?

There are certainly advantages to having what on the outside might be seen as an out-sized litigation department. Litigation has always been a strength for Jenner & Block, and the litigation department is one of our highest-performing practices. That gives us a tremendous advantage in attracting outstanding trial lawyers to the firm, and also in attracting lawyers in other practice areas who serve clients whose litigation needs perhaps aren't being well met at their current firms. In the last year alone, several high-profile laterals trial lawyers have joined us, including **Joanna Wright**, **Alex Romain**, **Rachael Trummel** and **Jennifer Lee**. We also started 2024 strong with the addition of **Stephanie Sebor** in Chicago and **Carolyn Small** in Los Angeles.

The size of our litigation practice also gives us an enormous bench, which is very helpful in pursuing engagements for large, high-stakes disputes. We

have seen this recently in our monitorship practice, where size can really matter.

A challenge of our structure is that, given its size, our litigation department must first and foremost be its own profit center, bringing in clients for litigation matters. We don't have the luxury of relying upon serving mostly clients of other practices of the firm—though that does represent a significant part of our litigation work. I have always seen this challenge as coming with its own silver lining—as a result of our structure I feel we have a greater variety of really interesting and challenging “bet the company” litigation matters, which makes practicing at Jenner & Block a lot of fun.

What do you see as hallmarks of Jenner litigators? What makes you different?

Our trial lawyers are some of the most creative lawyers in the profession. We're known for bringing a distinctive blend of experience, vision and bold action to deliver results that exceed our clients' expectations in challenging and high-stakes disputes. We have a skill set to provide a steady and experienced hand in messy situations, in conflict with the government, other companies, and individuals. Our trial lawyers come from a wide range of backgrounds, from general counsel to former prosecutors and agency lawyers to dyed-in-the-wool commercial trial lawyers. We draw from that breadth of perspectives to understand our clients' business models and most pressing challenges. We partner with our clients, share their goals, and put their interests and objectives first. Clients trust us to apply our unique approach to solve their most contentious and intractable disputes.

In what three areas of litigation do you have the deepest bench? (I know it's hard, but please name just three.)

We have a long bench of distinguished trial lawyers and top talent at every level of the firm. Our ranks include 11 Fellows of the prestigious American College of Trial Lawyers, a former United States attorney, 11 former assistant United States attorneys, a former associate attorney general of the United States, many lawyers ranked by Chambers USA, and numerous leaders of national, state, and local bar associations. Our experience spans state and federal courts, the English courts, and global arbitration tribunals. But you said I should limit myself to three areas, so here goes:

(1) We have an industry-leading energy practice. Our lawyers have a long history of successfully representing energy clients in a broad range of policymaking and regulatory proceedings, as well as in litigation arising from such proceedings. We represent energy companies before federal and state regulatory bodies and at every level of the federal and state court systems, including before the U.S. Supreme Court. Our team includes a former FERC Commissioner, two former US Supreme Court clerks, two former general counsel of major electric utility companies, and several experienced trial lawyers.

(2) Our nationally recognized Appellate and Supreme Court practice also has a deep bench. Since October 2021, we have been counsel of record in six cases heard by the Supreme Court addressing issues of voting rights, tribal sovereignty, death penalty procedures, social security, and the tax code. In June 2023, our lawyers won landmark victories in *Haaland v. Brackeen* and *Moore v. Harper*.

(3) Our business litigation team has always been the beating heart of our litigation practice and sports a distinguished history of landmark victories. We handle high-stakes and sensitive matters of consequence. We combine skillful advocacy, top-tier legal analysis, courtroom acumen and creative strategies to achieve our clients' litigation and business goals.

What were two or three of the firm's biggest in-court wins in the past year, and can you cite tactics that exemplify your firm's approach to success?

Last June, our appellate and Supreme Court team won a landmark victory upholding the constitutionality of the Indian Child Welfare Act before the Supreme Court in *Haaland v. Brackeen*. Partner **Ian Heath Gershengorn**, who argued the case before the Court in November 2022, said "The ruling in *Brackeen v. Haaland* reaffirmed both the importance of the rule of law and the core constitutional principles surrounding relationships between Congress and tribal nations. Decisions like these, and the continuing efforts of the Tribal Supreme Court project, will hopefully help to parry the seemingly never-ending efforts to undermine tribal rights and tribal sovereignty."

In late November, after a five-week trial, our lawyers secured a jury verdict in Chicago holding the U.S.'s

largest egg producers and industry groups liable for conspiring to inflate egg prices from the late 1990s through at least 2008. Our clients sued the defendants in 2011 for their antitrust violations and this verdict is the first holding these businesses and trade associations liable for their actions. In earlier trials, two other sets of egg buyer plaintiffs failed to convince juries that the producers fixed the price of their eggs. The jury awarded our clients \$17.7 million for damages, an amount that will be trebled under the Sherman Act.

In February, co-managing partner **Katya Jestin** helped secure the first-ever release of a high-value detainee from the Guantánamo Bay Detention Camp, and she continues to advocate for Guantánamo's closure. Her client, Majid Khan, had been tortured in a CIA black site and Katya's advocacy over more than 10 years included testifying to the U.S. Senate Judiciary Committee about the closing of Guantánamo.

These victories aren't cookie-cutter wins. We don't have a 'type' of case that we handle at Jenner & Block. What we do have are tremendously skilled trial lawyers, a willingness to invest resources into a case—regardless of whether it's a paid or a pro bono matter—and sheer tenacity to pursue justice. Lawyers come to Jenner & Block not just because we're known as a litigation powerhouse, but because of our values: we embrace our role in shaping a brighter future for our people, our clients, and our communities.

What does the firm's coming trial docket look like?

We are looking forward to another busy year. Our appellate and Supreme Court practice is counsel of record in *Fikre vs. FBI* and *Becerra vs. Northern Arapaho Tribe*, which are set to be heard by the Supreme Court this term. Trial lawyers in our renowned professional responsibility practice are preparing to try the *Miao/Chen v. Paul Hastings* case in the San Diego Superior Court. Lawyers in our hospitality practice are defending Hyatt in a lawsuit brought by Texas Attorney General Ken Paxton. The suit claims Hyatt violates the state's consumer protection laws by charging resort fees in addition to publicly advertised rates. Finally, we are also representing Amtrak in significant federal condemnation litigation to acquire the entire leasehold interest in Washington Union Station. There are more, but this gives you a taste of the variety of cases on our docket this year.