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Four Partners Leaving Latham

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Four Latham & Watkins partners will be continuing their legal careers elsewhere in 2010, The Am Law Daily has learned.

A Latham spokesman confirmed that M&A partner David Schwartzbaum in New York, commercial and IP litigator Kenneth Fitzgerald in San Diego, and IP litigators Emmanuel Baud and Jean-Christophe Tristant in Paris have resigned from the firm's partnership.

Schwartzbaum is headed to Greenberg Traurig, Baud to Jones Day, Tristant to Allen & Overy, and Fitzgerald will become a name partner at San Diego litigation boutique Chapin Fitzgerald Sullivan (CFS). The quartet of lateral moves appears to be unrelated, as each of the four left to pursue their own career choices.

"I wanted to manage and run my own firm," says Fitzgerald, a 20-year Latham veteran who will effectively get that chance at CFS. "I had a great time at Latham, which I think is the Four Seasons of law firms. But given what I like to do and the kinds of clients that I like to work for, I thought [a boutique] would be a better environment."

What Fitzgerald wants to do is plaintiffs work, something that doesn't usually fit in an Am Law 100 environment. The bevy of Latham connections at CFS helped make the move much easier for Fitzgerald. Formerly known as Chapin Wheeler, the boutique was co-founded four years ago by former Latham partner Joseph "Jay" Wheeler, who Fitzgerald says retired from Latham because he also wanted to do plaintiffs work.

"Jay Wheeler was my mentor at Latham and we talked about me eventually coming over and practicing with him again," says Fitzgerald, noting that fellow CFS name partner Jill Sullivan and office manager Lisa Cox are also Latham alums. "The more I thought about it and spoke with them, the more convinced I became that I would be personally happier in this small environment."

Wheeler passed away suddenly in January 2008, three years after he'd founded his firm with fellow Army veteran and noted San Diego trial lawyer Edward Chapin. The opportunity to step in and fill his friend's shoes and work with another friend (Chapin) was one Fitzgerald couldn't turn down.

"I think like a lot of big-firm lawyers, I've always had thoughts about having my own shop," he says. "I got to a point in my career where I thought I had to do this while I was still relatively young and energetic, or stay at Latham and retire. And I just ended up deciding that the time and people were right here [at CFS]."

Fitzgerald, who withdrew from Latham's partnership at the end of 2009 and assumed counsel status before his transition to CFS, also says that the smaller shop should be more conducive to his practice. Several Am Law 200 partners who do IP litigation have decamped for smaller shops in recent months because of price pressures.

But Fitzgerald doesn't limit himself to IP work. He's a trial lawyer at heart, having handled bad-faith cases against insurance companies and ERISA litigation, as well as defending against consumer class actions and taking on breach-of-contract, copyright and trademark cases.

"I don't care what subject area gets me into the courtroom, I'm just happy to be there," he says. "And while I can certainly charge lower rates for different types of cases, Latham is worth every penny. But we have an opportunity to service smaller clients, individuals and plaintiffs, without worrying about conflicts inherent to a larger firm."

Fitzgerald, who once referred a case to his current firm while at Latham, recalls a conversation he had about conflicts with Wheeler several years back.

"I remember calling up Jay about the case and hearing him scream across the office to Ed [Chapin] about a conflicts check," says Fitzgerald, laughing. "And he [quickly] had his answer."

Conflicts and clearances are a constant worry for litigators at large firms, particularly a 2,100-lawyer shop like Latham. Fitzgerald's one interaction with his former partner, Schwartzbaum, was over a conflicts check.

Schwartzbaum, who wasn't immediately available for comment, will join Greenberg's New York office. The M&A lawyer is one of a stable of new partners recruited to Greenberg in recent months. Revenue growth at the 1,730-lawyer firm was flat in 2008 at \$1.2 billion, according to the latest Am Law 100 survey, while profits per partner increased slightly to \$1.3 million.

Schwartzbaum advised CV Therapeutics on its \$1.4 billion sale to Gilead Sciences in March, and in September was part of a Latham team advising New Jersey-based chemicals maker GenTek on its \$411 million acquisition by private equity group American Securities. He's also advised Axcan Pharma on its \$1.3 billion sale to TPG in 2007 and Merrill Lynch as financial adviser to U.S. military electronics company DRS Technologies on its \$5.2 billion acquisition by Italian arms manufacturer Finmeccanica in 2008.

Also leaving Latham are Emmanuel Baud, the IP and technology partner in Paris, who is bringing Latham associates Aurélie Verdier and Nathalie Marchand with him to Jones Day. The firm confirmed the new hires to The Am Law Daily.

Allen & Overy is picking up Baud's former Parisian partner Jean-Christophe Tristant, an IP licensing and litigation lawyer. Legal Week reports that A&O spent the day further strengthening its Paris office by raiding Magic Circle rival Clifford Chance for a six-lawyer team led by M&A partner Marcus Billam.

According to the latest Am Law 100 financial data, Latham's profits dropped 21 percent in 2008, with profits per partner falling from nearly \$2.3 million to \$1.8 million a year ago. The firm let go 90 associates and 250 staff members last February, but in recent months Latham has opened an office in Beijing and raised associate salaries that were frozen last year.

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