

## Rising Star: Latham's John Wilson

By Bibeka Shrestha



**John Wilson**  
Latham & Watkins

*Law360, New York (March 28, 2013, 7:14 PM ET)* -- Latham & Watkins LLP partner John Wilson pushes creative legal theories to not only maximize coverage for clients like Fluor Corp. and Montrose Chemical Corp. but also to mold California case law in a way that benefits all policyholders facing steep bills from long-tail and other claims, earning the 35-year-old recognition from Law360 as one of five young insurance attorneys to watch.

Wilson landed on Law360's list of Rising Stars by scoring Fluor more than \$12 million in coverage for thousands of asbestos injury lawsuits and wins on two critical legal issues: the number of occurrences involved and whether Fluor could pick out which of the triggered policies would cover its claims.

In the same case, Wilson is now working on budging the California Supreme Court from its stance that companies can't freely transfer insurance rights to successors without permission from carriers.

The young Latham attorney has been a fierce advocate for policyholders, one who is at his best when stakes are highest, according to Brook Roberts, a fellow partner at Latham and, until recently, the global co-chair of the firm's insurance coverage practice.

"I have never seen someone who thrives under pressure like he does, especially when the case may turn on the argument he is making to the court or jury," Roberts said. "John brings more to our group than his exceptional legal skills. He is the consummate team player."

Wilson has impressed colleagues by constantly looking for ways to push the law in favor of policyholders, a tendency he said he picked up from Roberts and retired Latham partner David Mulliken, another mentor.

Early in his career, Wilson and Roberts worked together on a \$16 million legal fight between Fluor and its excess insurer stemming from an arbitration award for engineering-related defects at a Chile plant. The insurer insisted that coverage burden should fall on Fluor's captive insurer, Pinnacle Insurance Co., because Pinnacle should have settled the case before it reached the excess insurance layer.

Wilson vividly remembers a long brainstorming session with Roberts, when they agreed to press ahead with the risky claim that the excess carrier could only pursue arguments that Fluor itself could level against its captive insurer.

They told the court that Fluor would never be able to argue what excess carrier was claiming because Fluor — not Pinnacle — had called all the shots in the underlying litigation.

"It was a relatively novel theory," Wilson said. "We were taking a 1980 California case and pushing the limits."

The gambit paid off. The judge adopted the theory practically wholesale, Wilson said.

Since then, Wilson has taken a lead role in several important coverage cases, including Fluor's battle with its primary insurer over underlying asbestos claims and three multimillion-dollar insurance suits involving toxic tort and Comprehensive Environmental Response, Compensation and Liability Act claims against Montrose.

In the Fluor case, Wilson conducted a staggering amount of discovery and then pushed the envelope with the claim that Fluor could decide which policies should respond to the underlying asbestos suit.

His successful pursuit of that argument thwarted attempts by Hartford Accident & Indemnity Co. to use policies that would let it charge some of the legal costs back to Fluor in the form of retrospective premiums. Wilson expects the case to be helpful to other policyholders other than Fluor, since the issue is one that comes up often.

"If the court had come out the other way, it would have effectively allowed the insurer to shift its obligations to policyholders through the back door," Wilson said.

The Latham attorney is currently working with his colleagues to help Fluor overturn the California Supreme Court's ruling in *Henkel Corp. v. Hartford*, which established the unusual rule that policyholders can transfer insurance rights without an insurer's blessing only when the underlying loss has converted into a judgment or settlement.

Policyholders and insurers alike are anxiously awaiting the high court's take on Fluor's novel argument that an obscure state law from the 1870s justifies a reversal of *Henkel*, a minority rule that has thrown a wrench into mergers, acquisitions and corporate restructurings.

"The ruling that we are asking for from the court, I think, would provide much greater certainty in corporate transactions generally, that insurance assets intended to cover certain types of losses are going to be there to respond," Wilson said.

Wilson said the insurance practice area has no shortage of complex legal issues that are fun to litigate. Being on the plaintiffs' side while working at a large firm is another bonus, he said.

The attorney said he didn't come into Latham's office with an eye for insurance, but quickly developed a passion for the field in 2005, when he jumped at the chance to litigate a coverage case before a three-judge panel that included a former Second Circuit judge.

"The case ended up lasting another two years or so after I came on, and I found that I just really enjoyed

the insurance coverage practice and haven't really deviated much since then," Wilson said.

For younger attorneys looking to make their name in insurance law, Wilson says it's important to not get caught up on winning smaller battles here and there, but rather focus on being as strategic as they can.

"It's really important to try to look at the broader picture and win the war," Wilson said.

--Editing by Katherine Rautenberg.

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