

Insurance Group Of The Year: Latham

By **Brandon Lowrey**

Law360, Los Angeles (January 7, 2016, 9:45 PM ET) -- Latham & Watkins LLP's dramatic, fit-for-television victory that caused the California Supreme Court to overturn its own recent precedent based on an arcane provision in the state's insurance code, plus successes in other high-profile and complicated cases, have landed the firm among Law360's Insurance Groups of the Year.



The firm's high court win in August on behalf of Fluor Corp. in a row over asbestos coverage trumped the same court's 2003 landmark ruling in *Henkel Corp. v. Hartford*, which all but secured an insurer's right to enforce anti-assignment policy provisions and created a barrier to transferring insurance rights to a successor during mergers, acquisitions and restructuring.

The unlikely victory came after Latham partner Andrew Lundberg, who wasn't working on the case, spotted an obscure, late-1800s statute in the California Insurance Code that seemed to contradict the *Henkel* ruling. He shot an email to the rest of the insurance team pointing it out and asking if it would be of use to anyone.

Turns out it was.

"This issue hadn't really come up until the *Henkel* case," said Latham partner Brook Roberts. "No one had thought to look at the code. That's what we do at Latham. We take big cases that are tough and involve complex issues and we try to make them law in California."

The ruling is likely to have a sweeping effect on the state's insurance landscape in its protection of a policyholder's right to transfer coverage during corporate restructurings, eliminating what Latham insurance partner John Wilson called a "trap door" that otherwise might force policyholders to forfeit coverage, unbeknownst to them, because of routine corporate transactions that have nothing to do with the insurance coverage of their historic liabilities.

Latham is also involved in other high-profile insurance cases.

Wilson and his team, on behalf of Montrose Chemical Corp., are handling a dispute involving dozens of the company's excess policy insurers, regarding well over \$100 million worth of liability coverage for environmental contamination surrounding the company's former DDT manufacturing plant in Southern California.

Wilson said the dispute, and ultimately its resolution, will focus on the hot-button insurance question of horizontal versus vertical exhaustion, in which Montrose's carriers contend that in order for the company to access any excess policy coverage, it first has to exhaust its coverage from every underlying insurer in every policy year for every year that Montrose had coverage.

Wilson, who is also involved in the Fluor case, told Law360 that the key to Latham's success is collaboration and cooperation.

“One of the ways the teamwork approach has been exemplified [is that] it has really been a multifaceted effort to ensure that the positions that Montrose have taken are vindicated,” he said.

This includes amicus briefing in California Supreme Court cases that involve issues that could impact Montrose. In one case, he said, the high court adopted some of the amicus brief’s recommendations.

Wilson pointed to the national scope of the practice as an asset. An attorney based in Washington, D.C., for instance, tracks how law is developing in other states and tries to keep everyone in the loop.

“That’s the nice thing about our practice group,” said Peter K. Rosen, Latham’s global insurance chair. “We are in many offices around the country. We all work together. We collaborate and everyone takes advantage of their skills and skillsets. Each one of us tends to specialize. ... We play to our strengths.”

Rosen said that the insurance group meets regularly with attorneys from other practice areas, and that the firm strives to keep everyone as informed as possible so the big firm can respond quickly and creatively to problems.

Among other insurance cases Latham is handling is automotive supplier Meritor Inc.’s quest for coverage for tens of thousands of asbestos injury claims, arising out of its acquisition of the Rockwell International automotive products business. A state court victory in one aspect of the case in 2015 set the stage for tens of millions of dollars of recovery, the firm said. Trial is set for June.

The chance email in the Fluor case that changed the course of California insurance law may have been a stroke of luck as much as it was a stroke of genius. But chance favors the prepared mind — or firm, in this case.

“I probably send out a similar email at least once every couple of weeks,” Roberts said. “We do that all the time, which is how we draw upon really creative approaches to help our clients. I think some people in different firms are more territorial. We’re not.”

--Additional reporting by Jeff Sistrunk and Steven Trader. Editing by Kelly Duncan.



Andrew Lundberg



Brook Roberts



Peter Rosen



John Wilson