

## MVP: Latham & Watkins' John Wilson & Brook Roberts

By Mike Curley

*Law360 (October 5, 2020, 4:57 PM EDT)* -- A victory at the California Supreme Court representing Montrose Chemical Corp. and an ongoing \$1 billion bad-faith suit against Zurich American Insurance Co. over lead exposure are two of the cases that placed Latham & Watkins LLP's John Wilson and Brook Roberts among Law360's 2020 Insurance MVPs.

### ***THEIR BIGGEST ACCOMPLISHMENT THIS YEAR:***

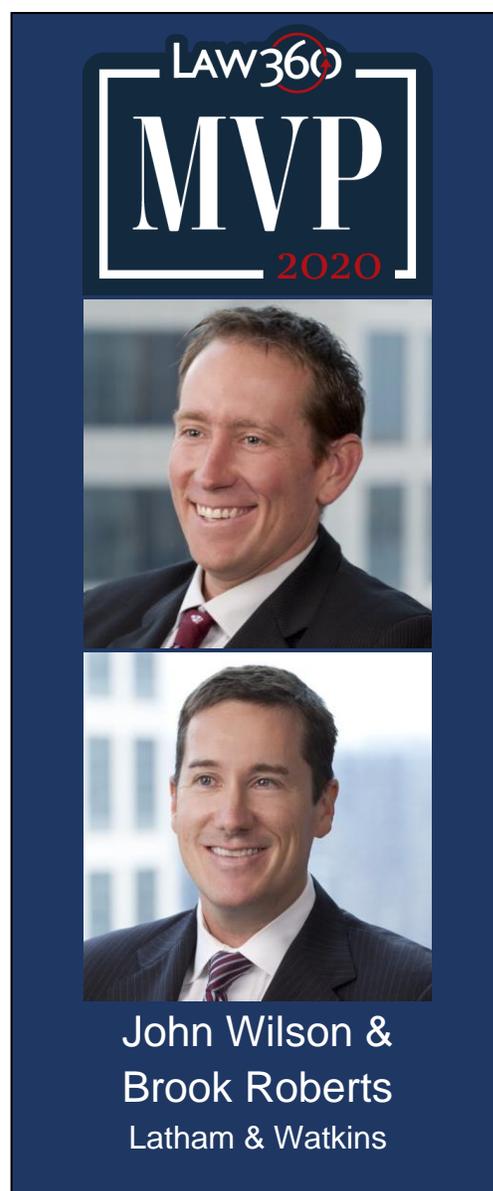
Wilson and Roberts told Law360 that their biggest case was the Montrose suit, where they secured a unanimous decision in the California Supreme Court over when a policyholder can access excess insurance policies.

While lower courts had found that a "horizontal exhaustion" mandate required that Montrose exhaust its first layer of excess coverage for each of the 30 years in its policies before moving up to the second layer, Wilson and Roberts said their expertise prompted the state's high court to adopt their arguments that only the policy language determined policy, and that the mandate didn't apply.

During the hearing, Justice Goodwin H. Liu even asked Wilson for his expertise on one of the issues, something Wilson called "exhilarating."

"It really did feel like a vindication of that yearslong process of building up our credibility before the court on these really difficult and complex issues, to the point where we've got one of the more well-respected members of the bar in California, and one of the most admired members of the Supreme Court, deferring to us as the experts on these issues," he said.

Wilson said it was the second time in four years that the court sided with them unanimously, and with California setting the trends for coverage, the decision will affect billions of dollars of coverage nationwide.



Roberts likewise called the decision "a jewel in a growing crown" of victories, saying the case was emblematic of the way Latham & Watkins operates, taking big, cutting-edge matters and applying a team-oriented approach.

"They're a long slog, sometimes you lose at the trial court, sometimes you even lose at the appellate court," he said. "But we never lose heart, and we never stop. And ultimately, in each case, we've won."

#### ***THEIR BIGGEST CHALLENGE THIS YEAR:***

The pair agreed that the COVID-19 pandemic has proven to be the biggest challenge of the year, delaying the Zurich American suit, in which they're representing Fluor Corp., while also setting off a deluge of business interruption coverage cases that nobody in the industry was anticipating.

"There's some great opportunity there, but there's also just a ton of uncertainty," Wilson said. "We're trying to develop an entirely new area of the law at the same time that every law firm with a substantial policyholder practice, and every major business with property insurance that covers business interruption losses are all doing the same thing in courts across the country."

Wilson said it's created an odd balance where the business interruption cases are escalating, while others slow down, as the ability to hold in-person hearings and travel to other jurisdictions has been seriously curtailed.

"We've got, potentially, the biggest insurance dispute in the history of insurance," he said.

And the shutdown and resulting business interruption suits cover the whole gamut of industries, Roberts said, calling it a "transformative event."

He added he's averaged about 320 hours a month of work, including weekends during some months, as businesses across the country went through shutdowns and layoffs.

"That was difficult, it was challenging to work through those, and that's why we got the calls," Roberts said. "Literally, their business in some cases were on the line, and they needed good counsel."

#### ***THEIR PROUDEST MOMENT OF THE YEAR:***

Wilson and Roberts both took pride in their victory for Montrose, saying it was a result of their expertise in the industry that they tackled with confidence and the ability to navigate the landscape of the state's supreme court.

Having their team behind them also made it a proud moment, Wilson said, as the case was livestreamed, allowing a "cheering section" of associates who helped on the case to watch.

"Even though I couldn't bring all those people to sit in the hearing room with me in San Francisco, knowing that they were all watching on the livestream and giving me that kind of support, just like my family was, that entire experience was a very proud moment for me," Wilson said.

Roberts, too, was proud of their team, saying the opinion was elegant and well-reasoned and reflected the work of a team that he said rose to the occasion in the midst of the monthslong fire drill resulting from COVID-19 and all the business interruption cases.

"With each line of that opinion, I can remember and relate to each team member's contributions along the way to developing those arguments and fashioning them in a persuasive way," Roberts said. "You don't get that many of those opportunities in your career."

#### ***WHY THEY'RE INSURANCE ATTORNEYS:***

Wilson told Law360 that he "sort of fell into" insurance law, saying he came to the firm intending to litigate, and his first case working alongside Roberts was an insurance arbitration. That case gave him great opportunities as a young lawyer as he flew around the country, taking depositions from subject-matter experts and "true giants in their field," he said.

Taking on that case, he said, brought him quickly to the realization that insurance law is fun, and he enjoys working on the policyholder side, saying he feels that he's vindicating the rights of the aggrieved.

"Everybody has their experience with the insurance industry and, oftentimes, you feel like you've gotten the short end of the stick," Wilson said. "I get to be the one that helps to rectify that, and hold the insurance company to their bargain."

Roberts said he's attracted by the challenging work, and being "on the offensive" as a plaintiffs attorney, where he's able to dictate the pace of the case and take the fight to the insurers.

He added he started early, in his second or third year as an associate, and the work at Latham & Watkins intrigued him.

"Once I tried it, I just loved it, and haven't been back since," he said.

#### ***THEIR ADVICE FOR JUNIOR ATTORNEYS:***

Both Wilson and Roberts said they advise new attorneys to throw themselves into their cases and take advantage of the opportunities they're presented with.

"Take ownership of them," Wilson said. "Take ownership and become the expert on the issues, because what I learned early on in my career is, that's incredibly valuable."

Partners know when they have an associate they can turn to for expertise in a subject, he told Law360, saying it opens up more opportunities.

Once a junior attorney gets those opportunities, Roberts said the key is what they make of those opportunities, and that pursuing excellence is going to take a new attorney a long way.

"If you want to maximize those opportunities and to stand out, distinguish yourself not only among your teammates but also to your clients and your supervisors, then you have to make it personal," Roberts said. "It has to mean something more to you than a job."

— *As told to Mike Curley*

*Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2020 MVP winners after reviewing more than 900 submissions.*