

## WINNING | A SPECIAL REPORT

The lawyers in our 2016 special report all have something in common—they score big wins in court. But how do these battle-tested litigators make their clients happy? As they detail, it's as much about the process as it is the outcome. They have learned that they must trust their own styles of trial practice, be credible, know the documents, and connect with and respect the jury. In cases ranging from products liability to patent law, they've mastered their craft. These are the stories of our winning litigators.

### BROOK ROBERTS & JOHN WILSON

#### LATHAM & WATKINS

Fluor Corp. has had trouble with asbestos litigation. The engineering and construction company never made products incorporating the cancer-causing mineral, but because it was involved in projects where it was present decades ago, it has been sued for millions by people suffering from its ill effects. Fluor entities were facing about 2,500 asbestos-related suits in the U.S. as of last year.

The company staved off the financial toll of the litigation through a general liability policy from its long-time insurer, Hartford Accident & Indemnity Co. That is, until 2009, when Hartford decided that it no longer wanted foot the bills and that the law was finally in its favor with a recent California Supreme Court ruling.

Enter Brook Roberts and John Wilson of Latham & Watkins' San Diego office, who with a tip from a colleague, uncovered a dusty statute in California's insurance code that they argued required insurers to



adhere to their policies even when policyholders restructure themselves. (Fluor had engaged in what's called a "reverse spinoff" in 2000, which Hartford said allowed it to terminate the policy.)

It was no easy road. Hartford wielded a 2003 California Supreme Court decision, *Henkel v. Hartford Accident & Indemnity*, that it said gave it every right to stop covering Fluor's legal bills.

The company rode success from the trial court up to appeal—right until Roberts and Wilson persuaded the state's high court to overrule itself. How did they do it? Carefully. "We had to go about trying to convince the Supreme Court that we were

### TRIAL TIPS

- Develop a clear, core theme that animates all of your arguments. The cases we deal with are necessarily complex. But the easier it is to digest the message, the more likely it is to resonate with the audience, whether that is a trial court, jury or appellate justices.
- Be prepared to articulate the policy rationale for why the rule you are advocating makes sense. Judges are duty-bound to apply the law, but are looking for ways to reconcile the words on the page with the real-life consequences of their decisions.

—BROOK ROBERTS AND JOHN WILSON

right and in fact this statute ... would have compelled a different result in a case that had gotten wide national attention," Roberts said. "That's a heavy lift."

—BEN HANCOCK