

Leading LAWYERS

Ten of the D.C. Area's Top Insurance Attorneys

Scott Gilbert

Gilbert Randolph LLP

Scott Gilbert says his career as an insurance lawyer started as a fluke. But he was well and truly hooked.

Two decades ago, he helped write the so-called Wellington Agreement, a mass settlement that resolved disputes among 35 policyholders and 15 insurers over asbestos claims.

Today his practice still focuses on mass-tort and other multiparty insurance disputes over such issues as asbestos and silica harms. Over the years, Gilbert, 53, has represented policyholders such as Armstrong World Industries, Celotex Corp., Federal-Mogul Corp., JM Family Enterprises, and Pfizer Inc.

As outside counsel for Dow Corning in the 1990s, Gilbert was deeply involved in its well-publicized bankruptcy case, which was driven by litigation over silicone breast implants. He developed the strategy for insurance recovery and negotiated most of the \$1.5 billion settlements with the company's insurers.

"It's as much art as science in terms of how to build an agreement where you have parties that are very adverse even as to the fundamental principles of coverage," says John Rigas, now general counsel of Armstrong World, who was counsel at Dow Corning when Gilbert worked for that company. "He was extremely persuasive in getting the settlements approved."

More recently, Gilbert represented a creditors committee of asbestos claimants in the bankruptcy proceeding of Babcock & Wilcox Co., an energy-products company. The result was a \$1 billion settlement assigning rights to insurance coverage to the claimants' trust.

But it all began in the early 1980s, when Gilbert, then an associate at Covington & Burling, spent three years devoted

almost exclusively to pulling together the multiparty Wellington Agreement. His firm was representing Armstrong World, which, like many of its fellow policyholders, had made products containing asbestos and was seeking help from its insurance company to cover a flood of claims. The deal was named after Harry Wellington, former dean of Yale Law School and another participant in the case.

Policyholders and insurers got together to find a way both to

resolve the coverage disputes and to handle plaintiffs' asbestos claims. As primary negotiator for the policyholders, Gilbert recalls spending 70 hours a week for three years on the project, drafting the deal and participating in hearings on Capitol Hill. Finally, in June 1985, policyholders and insurers came together to sign an agreement resolving coverage disputes with respect to bodily injuries. The agreement established a procedure by which asbestos claims would be submitted to a separate entity and provided for an alternative dispute resolution process.

"There have been a number of arbitrations, mediations, [and] negotiations under the Wellington Agreement," Gilbert says. It is now studied as part of the curriculum in negotiation at Harvard Law School and other institutions, he adds.

After working at Covington & Burling for 18 years and Dickstein Shapiro for nearly four years, Gilbert launched his own D.C.-based law firm in 2001. Recently the firm had some trouble when a judge ordered it to return about \$9.7 million in legal fees it earned representing Congoleum Corp. in asbestos bankruptcy proceedings. Gilbert says he expects a settlement resolving all issues to be approved this spring.

Meanwhile, the firm is very busy with its clients' work, says Gilbert. "If anything, we are stronger and more committed than ever."



GILBERT RANDOLPH
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