

Rising Star: Latham & Watkins' Art Foerster

By Sean McLernon



Art Foerster

Law360, New York (March 11, 2013, 1:51 PM ET) -- Devising creative solutions and getting the most out of expert witnesses, Latham & Watkins LLP partner Art Foerster has helped companies like Chevron Corp. and Montrose Chemical Corp. secure major recent successes, landing him a spot among Law360's five rising stars in product liability law.

In addition to delivering pivotal results for clients, Foerster has developed a niche for himself working with technical experts, helping them effectively communicate critical information in ways that judges and juries can understand. The 38-year-old attorney has also become a trusted problem solver that his fellow Latham partners will frequently seek out to tackle vexing legal issues.

Foerster will often get called when his co-workers start to doubt the quality of their legal argument. When they think there is a good chance they will lose the motion, Foerster comes up with new legal theories that will be convincing in court, according to Cary R. Perlman, chair of Latham's Chicago environment, land and resources department.

"Art has an uncanny ability to jump into an emergency situation at the last minute, figure it out and get a good result," Perlman said.

Foerster was brought in late in the process when Chevron was facing claims from more than 1,000 plaintiffs alleging they had developed cancer and other health problems from being exposed to hydrocarbons and other toxic substances from oil wells near Beverly Hills High School.

Chevron needed help with medical causation issues, and Foerster worked closely with the experts and teamed with other Latham attorneys in crafting a strategy that led to summary judgment for the company shortly before trial.

Foerster also helped Montrose battle claims from 1,900 plaintiffs living near or working at a pesticide factory in Mission, Texas, seeking damages for health problems and loss of property value. The facility had been out of operation for years, but Foerster came up with a creative way to persuade the jury that Montrose was not responsible for their injuries.

Working with a civil engineer, Foerster put together a detailed digital representation of the long-defunct chemical plant to show exactly what took place in the factory.

“We wanted to put together a good story for the jury, so we used animation to recreate every process inside the plant so they would know how the machines look, where they put the chemicals and what everything looked like,” Foerster said.

The case settled before Montrose was able to present the animation to the jury, but putting the representation together helped the Latham team effectively cross-examine the plaintiffs' experts and helped Montrose secure a favorable agreement. It was clear, Foerster said, that the plaintiffs had not put in the hours of work that the Latham team had to figure out what had happened and when it had happened.

That diligence and attention to detail has allowed Foerster to thrive in his work with experts, even without any scientific background himself.

“I always try to make sure I am the most knowledgeable person in the courtroom, even on my team,” Foerster said. “Having an intimate knowledge of all the issues involved allows you to be ready for absolutely anything that could come up.”

Following his success in the Montrose case, Foerster was tapped to work with experts on additional major actions. In a pending suit brought by Navistar Inc. subsidiary Workhorse Custom Chassis against Robert Bosch LLC for allegedly supplying the manufacturer with defective brake materials, Foerster was called on to work with an expert who was knowledgeable about the issues but had never before testified in court.

“He was the right guy substantively, but he needed to be guided through the process,” Perlman said. “We put Art in charge of that, and he talked him through the process and prepared him well.”

Perlman said Foerster's work allowed the firm to create a great record on the expert issue leading into a trial that is set to start next month.

Foerster's writing ability has also been a critical part of his success, helping him make a name for himself as an associate back in 2006, when he helped Ford win the dismissal of more than 250 plaintiffs' toxic tort claims alleging personal injuries and property damage from contaminated drinking water near a Ford subsidiary's manufacturing facility. The young attorney penned almost all of the briefs in that case.

“He is not just an excellent writer — he has a unique writing style that is well-organized, persuasive and easy to read,” Perlman said. “His briefs read like stories. You get drawn into his narrative and you tend to forget that you are reading a brief.”

Along with rigorous preparation and convincing writing, Foerster said he tries hard to make sure that he is an attorney with whom both friends and foes feel comfortable working.

“It's OK to be a litigator and still be a pleasant person,” Foerster said. “I say it jokingly, but you want people to be able to work with you — on your team, in your office, even with opposing counsel. It makes things so much easier. You don't have to be a jerk to be a good litigator.”

--Editing by Andrew Park.

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