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# Pro Bono Innovators 2024 Honoree Latham & Watkins

## SPECIAL REPORT

Lisa Helem, *Executive Editor*

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*In our 2024 edition of Pro Bono Innovators, Bloomberg Law honors Latham & Watkins for its key role in preserving as a National Park Service site the Chicago church where 14-year-old Emmett Till's open-casket funeral was held after his 1955 lynching. The event would galvanize the American Civil Rights Movement. The firm also successfully represented before the US Court of Appeals for the D.C. Circuit a combat veteran injured in the line of duty, who challenged a decision depriving him of his disability benefits.*

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**Your firm's key matters include advising the Emmett Till Interpretive Center to advocate for the federal protection of historic sites connected to Emmett Till and his mother, Mamie Till-Mobley, including the Roberts Temple Church of God in Christ in Chicago, where his funeral took place. You also successfully advocated for a Marine and Army veteran injured in combat who fought for disability benefits before the D.C. Circuit. How did your firm strategize on how to approach these matters?**

**Commemorating Emmett Till:** Achieving federal protection for these sites involved extensive legal and advocacy work. We knew that commemorating Emmett Till and his mother in the National Park System would require significant bipartisan support, so we drew on longstanding relationships with federal agencies and legislators.

We worked closely with the Emmett Till Interpretive Center, the National Trust for Historic Preservation, the National Parks Conservation Association, and members of the Till

family to introduce bipartisan legislation, engage with the US Department of the Interior, and support ETIC and its partners as they continued preserving places like the Tallahatchie County Courthouse in Sumner, Mississippi, where Till's killers were tried.

Today, the courthouse has been restored as a museum, which ETIC uses to educate visitors about Till and his mother, Mamie Till-Mobley — and civil rights history more broadly. Ensuring sites like the Tallahatchie County Courthouse are part of the National Park Service system is vital to preserving history and cultural memory. If sites disappear, so will the powerful stories they tell.

**Assisting injured veterans:** Our client, Sergeant Jason Sissel, was injured while deployed by the Army in support of Operation Iraqi Freedom. Subsequently, it was determined by the Army that he could no longer perform his duties due to his injuries, so Mr. Sissel was medically separated from the Army. However, despite Mr. Sissel's injuries being service-related, the Department of Defense disregarded his

**Assisting injured veterans:** Our client, Sergeant Jason Sissel, was injured while deployed by the Army in support of Operation Iraqi Freedom. Subsequently, it was determined by the Army that he could no longer perform his duties due to his injuries, so Mr. Sissel was medically separated from the Army. However, despite Mr. Sissel's injuries being service-related, the Department of Defense disregarded his VA disability rating and denied him a medical retirement.

After many years of litigation in which the regulations were consistently applied too rigidly, we realized that the only way for us to win this case was to change the law. Latham appealed the case to the US Court of Appeals for the D.C. Circuit to change how the Army was interpreting the governing regulations as they applied to provision of disability benefits.

During our appeal, we focused on the plain language of the governing regulation, paired with the purpose of the Wounded Warrior Act, to argue that our interpretation was correct. Moreover, given that changing the law would affect other veterans in addition to our client, we worked with a host of pro bono veterans' groups to provide amicus briefs in support of our appeal.

Ultimately, in siding with our client, the US Court of Appeals found the Army's method of rating veterans' injuries was contrary to the governing regulations, setting new precedent that will benefit veterans across the nation.

### **What were the most innovative aspects of two of your client matters in your view? And who took the lead on driving innovation with the work?**

**Commemorating Emmett Till:** Latham has been instrumental in efforts to preserve and protect sites associated with Emmett Till's legacy for many years. Our lawyers have advised the Emmett Till Interpretive Center as it organized its National Parks system campaign, including coordinating meetings with officials from the US Department of the Interior and the White House.

We also provided assistance with the campaign's work with US Senators Dick Durbin and Tammy Duckworth to introduce bipartisan legislation relating to the Till sites. Through this collaboration with our pro bono partners, we were able to make sure these sites received permanent protection as a National Park Historic Site and National Monument. Partner Nikki Buffa has been at the forefront of these efforts for federal recognition and permanent preservation of historic sites related to Till and his mother, Mamie.

**Assisting injured veterans:** We're proud of our partnership with the National Veterans Legal Services Program (NVLSP), and for the last 17 years we have had the privilege to take on some of their more complex matters. In the case of Mr. Sissel, his disability rating was contested for years, going up and down the system on procedural issues.

We worked with half a dozen pro bono organizations and veterans' organizations so when we put forth our appeal to the District Court, we had an army of supporters alongside us who agreed that our argument was the right decision, not just for Mr. Sissel, but for veterans across the nation. Partners Michael David and Gabriel Bell, and associate Bradley Hyde were instrumental in tirelessly pursuing victory for Mr. Sissel.

### **Tell us more about the impact of these two matters on the local, national, and/or global level.**

**Commemorating Emmett Till:** The Emmett Till and Mamie Till-Mobley National Monument's federal designation represents not just a legal or historical victory, but also a profound act of restorative justice. The monument acknowledges Till's suffering and his mother's courage while educating future generations about the ongoing struggle for civil rights.

As a result of our efforts and the efforts of our partners, in July of 2023, President Joe Biden designated a new national monument to commemorate Emmett Till and Mamie Till-Mobley. This will ensure that Till's legacy, and its painful lessons, live on.

As President Biden noted during the designation, this monument "tells the story of the events surrounding Emmett Till's murder, their significance in the Civil Rights Movement and American history, and the broader story of Black oppression, survival and bravery in America."

Restoring and protecting these sites is vital to preserving history and cultural memory. If sites disappear, so will the powerful stories they tell.

**Assisting injured veterans:** In Mr. Sissel's case, the D.C. Circuit's precedential decision found that the Army's approach to determining retirement benefits was "inconsistent with the applicable statute and regulations." It also clarified the standards that apply to all disability determinations, helping ensure that other veterans will be appropriately rated and compensated for injuries they receive while serving in the Armed Forces.

Importantly, the court rejected the federal government's request to review these types of military decisions under a heightened deferential standard. By doing so, the court set a significant precedent that will help veterans with disabilities more easily obtain benefits.

### **Why do you think your team ultimately achieved successful results in these two matters?**

**Commemorating Emmett Till:** When faced with the significance these sites held in ensuring that future generations remember and learn from this critical part of civil rights history, our team steadfastly worked with our pro bono partners to make sure these landmarks received federal recognition and protection.

**Assisting injured veterans:** Our team faced repeated losses at the district level due to overly deferential standards favoring military decisions, but we didn't back down. We conferred with our pro bono partner NVLSP on how best to move forward and decided to push forward to challenge the Army's interpretation of the law itself before the D.C. Circuit.

In addition to putting together compelling legal arguments in our appeal briefings, we were particularly successful at oral arguments because an associate on our team identified an obscure clause in the governing regulatory framework which significantly undermined the government's arguments. This resulted in a sweeping, hard-won victory that will benefit all veterans.

*Responses provided by Latham & Watkins Partner Nikki Buffa, Environment, Land & Resources practice, for the Commemorating Emmett Till matter.*

*Responses provided by Latham & Watkins Partner Michael David, International Trade Commission practice and Intellectual Property practice, for the assisting injured veterans matter.*