

Litigator Of The Week: Rowan Wilson of Cravath, Swaine & Moore

By Andrew Longstreth

During oral argument last year at the U.S. Court of Appeals for the Second Circuit in an Alien Tort Statute case, Rowan Wilson was asked about his view of corporate liability under international law. Wilson, a partner at Cravath, Swaine & Moore, was representing Royal Dutch Shell, which had been sued for aiding the Nigerian government in suppressing protests against oil drilling in the Niger Delta.

"I think it's completely unsettled," said Wilson.

Well, thanks to arguments made by Wilson that day, it's a bit more settled now. As we reported last Friday, a Second Circuit panel ruled 2-1 that corporations cannot be held liable under the Alien Tort Statute.

Wilson told us on Thursday that the Second Circuit argument was the most difficult he's ever had to prepare for. (Read the transcript of his argument here.) In a typical argument, Rowan explained to us, he reads up on the relevant domestic law, which is mostly confined to one circuit. But in the case over the 221-year-old (that's right) Alien Tort Statute, Rowan had to engage in far flung research, which included academic scholarship, decisions and charters from international tribunals, and a great deal of history. Wilson said he wanted to know all he

could about what concerns the United States had when it enacted the ATS. In typical Cravath fashion, he didn't leave any original source un-perused.



"I read every letter from President [George] Washington's first cabinet," said Wilson.

Wilson presented several arguments to the Second Circuit, but the one adopted by the majority panel appears to be the most helpful to other companies facing similar suits. The panel concluded that under the ATS, courts must look to norms established by international law to determine who can be held liable. And since there's no precedent for holding corporations liable, they're off the hook.

Wilson's work may not be over. A lawyer for the plaintiffs told The Wall Street Journal that they will ask the Second Circuit to reconsider its opinion. If that day comes, we suspect Wilson will be well prepared.

CRAVATH, SWAINE & MOORE LLP