

MVP: Covington & Burling's Jay Carey

By Daniel Wilson

Law360 (November 22, 2019, 2:59 PM EST) -- Covington & Burling LLP's Jay Carey helped UnitedHealth Group units successfully defend more than \$55 billion in high-profile state and federal contracts this year, earning him a spot as one of Law360's 2019 Government Contracts MVPs.

HIS BIGGEST ACHIEVEMENT OF THE YEAR:

Carey, who was also named a Law360 MVP in 2016, is regularly tasked with both pursuing and defending bid protests over high-stakes government contracts. In a notable recent victory, he and his Covington team helped client UnitedHealthcare and two other companies hold on to a Kansas Medicaid managed care services contract worth up to \$15 billion.

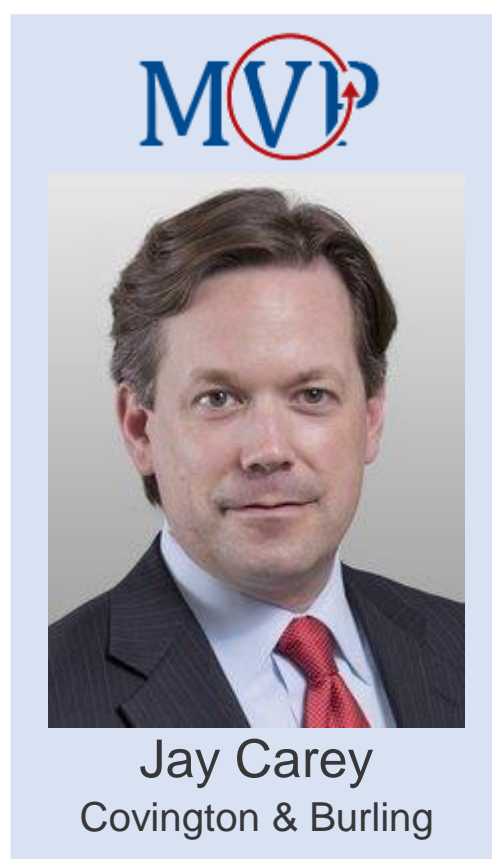
The deal was challenged by two disappointed bidders in litigation involving multiple parties, law firms and state agencies. Carey helped stave off a restraining order request, lead the multiparty defense team at a bench trial, and draft a lengthy set of proposed conclusions of law largely adopted by the court — all within a whirlwind two-month period. His efforts led to a successful verdict in October 2018.

While that short time frame is not uncommon for federal bid protests, the process for handling protests at a state level is not nearly as clearly defined, Carey noted.

"There simply aren't that many protests at the state level, period, so there is no set process, and you really have to figure it out as you go along because there isn't a large body of decisions or other authority that you can look to to figure out how it's all supposed to work," he told Law360.

OTHER NOTABLE CASES HE'S WORKED ON:

Carey also helped another UnitedHealth unit, Optum, defeat protests over two U.S. Department of Veterans Affairs community care network contracts awarded to the company, collectively worth nearly \$40 billion.



The procurements were complex and involved many issues specific to the health care industry, but once again Carey and his team were able to successfully push back against a range of arguments from the challengers — despite having to defend against two major U.S. Government Accountability Office protests at the same time — before prevailing in a subsequent protest at the Court of Federal Claims.

"Because we have such a strong team, we're capable of handling multiple protests at once. That said, it's rare for us to have two protests of that size that are on the exact same schedule, so that was certainly a challenge," Carey said.

And in a third major victory for UnitedHealth this year, Carey's team also defended Optum in a protest over an Alaska state pharmacy benefits management contract. Carey's work on that state court case helped the company retain the \$800 million deal.

WHY HE'S A GOVERNMENT CONTRACTS ATTORNEY:

Carey said he started out in general litigation and then stumbled into bid protest work by accident, after being asked by a partner early in his career to help handle a protest.

The protest went from start to finish in about 100 days, unlike litigation, which can often take years to resolve. The satisfaction of that quick result put Carey on the path he has pursued for nearly two decades now, involving "more [protests] than I can count," he said.

"When you're moving at that speed, there just isn't a whole lot of time for extraneous arguments," Carey said. "And so all of the people involved in a protest ... tend to stay pretty focused on what really matters. I just really enjoyed the process and sought out more of it."

WHAT MOTIVATES HIM:

Carey works with an accomplished team at Covington and the perk of being able to "do great work with them" is one factor that motivates him to come into work every day, he said.

The clients he gets to work with — not just institutionally, but individually — are another motivating factor, as is the trust they put in him, which Carey said makes him "want to do the best possible job that you can for them."

"It's meaningful that our clients come to us and trust us with their most important matters, and that's not just the \$15 billion case, or the \$40 billion case, that's the much smaller procurements for other clients that are just as important to their businesses," he said. "It's a great feeling to be entrusted with matters like that and to be able to pull through for the client."

HIS ADVICE FOR YOUNGER ATTORNEYS:

If an attorney loves writing, particularly advocacy writing, then a career in bid protests could be a good fit, as long as the individual can balance the need to work quickly with the need to properly cover the issues, Carey said.

"You can't trade speed for depth, and so for anyone who is getting involved in protests, I would emphasize the need — and it's a hard thing to do — to still take a deep dive into the issues, even when you're under some really tight deadlines."

— As told to Daniel Wilson

Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2019 MVP winners after reviewing nearly 900 submissions.

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