

Rising Star: Covington's Sean Akins

By Alex M. Parker

Law360 (July 6, 2020, 12:58 PM EDT) -- Sean Akins of Covington & Burling LLP has represented Amazon.com Inc., homebuilder Shea Homes and the Boston Bruins in high-profile tax controversies that have changed practices across the entire tax system, earning him a spot among the tax practitioners under 40 honored by Law360 as Rising Stars.

HOW HE ENTERED TAX:

Akins didn't set out to become a tax attorney.

As a recent college grad looking to do paralegal work before heading off to law school, he went for an interview for what he didn't realize was a tax position.

"And the very first question from the interviewer was, 'What do you know about tax controversy?'" he said. "I think my answer was, 'Not a lot but it sounds like people have some controversies over tax? You tell me.'"

Nevertheless he got the job, and found himself absorbed in the work.

"It's challenging. I think if it wasn't as challenging as it is, I'd get bored," Akins said. "But at Covington, we get to deal with a lot of really difficult issues, challenging issues, that don't have necessarily clear answers."

THE BIGGEST CASE OF HIS CAREER:

Representing Portland-based homebuilder Shea Homes in a case against the Internal Revenue Service, Akins overturned years of precedent to fundamentally change how housing developments are taxed.

Builders can defer recognition of income until a contract has been "substantially completed" — which the IRS considered to be the completion of a house and the transfer of the title. Shea took the position that the home is not truly complete until the entire development has been constructed, which could be years into the future.


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STAR

2020



Sean Akins
Covington & Burling

Age: 39
 Home base: Washington, D.C.
 Position: Partner
 Law school: Cornell Law School
 First job after law school: Associate, Latham & Watkins LLP

Shea won not only at the U.S. Tax Court but also at the Ninth Circuit Court of Appeals in 2017.

Akins said to support the position, he analyzed close to 70 housing developments to present a comprehensive, coherent case.

"It was a weeklong trial of presenting how, when people were buying these homes in these developments, it wasn't just that they were buying the four walls and a kitchen," he said. "They were buying the whole community. They wanted the pool, and the clubhouses, and the trails, and all of the other amenities and community aspects that came with it."

HIS MOST INTERESTING RECENT CASE:

Akin represented Amazon.com Inc. in one of the many cases that followed the U.S. Supreme Court decision in *South Dakota v. Wayfair*, which allowed states to collect sales tax from online marketplaces. South Carolina sued Amazon, claiming it was the online retailer and marketplace's responsibility to collect sales tax, even when it was not the seller.

In the case, Akins helped Amazon craft its position that the responsibility should fall on the third-party sellers.

"They set the price, they decide what to sell, how much to sell, and how to describe it, and when they do that, they're the ones responsible, they're the sellers," he said. "And therefore they're responsible for the collection and remittance of the sales tax, not the service provider that's allowing them to list a product on their platform."

The case is currently before the South Carolina Court of Appeals.

WHAT HE SEES ON THE HORIZON FOR TAXES:

As recent cases have brought the U.S. Treasury Department more directly under the Administrative Procedure Act, Akins sees a future in which tax issues are increasingly reviewed from a regulatory perspective.

"I think that the tax community is increasingly beginning to grapple with the implications of the APA as it applies to the IRS," he said. "It's becoming more and more often that we're looking to that secondary body of law."

— *As told to Alex M. Parker*

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2020 Rising Stars winners after reviewing more than 1,300 submissions. Attorneys had to be under 40 as of April 30, 2020, to be eligible for this year's award. This interview has been edited and condensed.