

## Rising Star: Covington & Burling's Henry Liu

By Bryan Koenig

*Law360 (June 25, 2021, 3:02 PM EDT)* -- Henry Liu of Covington & Burling LLP has defended against massive antitrust class actions, including notching important wins for JPMorgan against sprawling accusations of aluminum price-fixing, earning him a spot among the top competition attorneys under 40 honored as Law360 Rising Stars.

### *HIS BIGGEST CASE:*

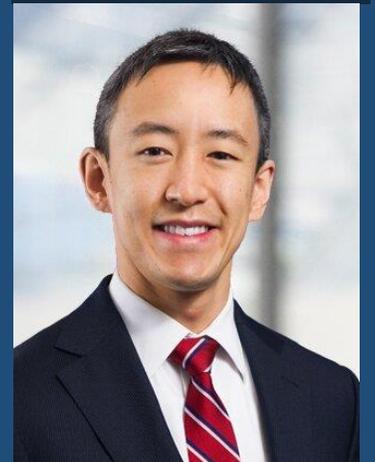
Liu played an important role on the Covington team that successfully represented JP Morgan in a case accusing multiple banks and metal warehouses of scheming to raise the price of aluminum. That case was thrown out on summary judgment in February, after a circuitous process that included a Second Circuit appeal that revived an earlier nixed version of the complaint and then a rejection of class certification last year. The case is now once again on appeal.

For Liu, a particularly challenging part of the case was the fight over class certification, which required a showing of generalized harm across the proposed class that, in this case, involved economic modeling of a so-called supply restraint model.

"It was a very highly technical battle among the experts," Liu said. "Ultimately, the court was convinced that the defendants were right, that the plaintiffs' model was highly flawed."

Shooting down that model, Liu said, required that he learn about the market and its economics and econometrics, a journey that began when he first took the case in 2013. And the most fascinating part of what he found — and what undergirded much of the strategy against the accusations — was that "the economics didn't make sense to any of the lawyers on the defense side," he said, noting allegations of a price increase following the Great Recession when there was a huge glut of aluminum on the market.

"One of the very first questions we asked ourselves — 'Why does this make any sense? How could there be some kind of conspiracy to



**Henry Liu**  
Covington & Burling

Age: 38  
 Home base: Washington, D.C.  
 Position: Partner  
 Law school: Yale Law School  
 First job after law school: Clerk for Sixth Circuit Judge R. Guy Cole Jr.

restrain aluminum supply during one of the greatest aluminum surpluses known to humanity?" Liu said. "Everything we did and learned and tried to digest from the case started from that pretty basic intuition or assumption."

#### ***HIS PROUDEST MOMENT:***

For all his work defending against antitrust class actions, Liu is proudest of what he has achieved through his pro bono work that focuses primarily on immigration, criminal defense and habeas appeals.

Liu pointed to a case in which he represented a man arrested in Prince George's County, Maryland, on a disturbing the peace charge. The six arresting officers, Liu said, broke the man's leg and charged him with assaulting them and resisting arrest. Prosecutors pushed for a guilty plea on a lesser charge rather than dropping the case — Liu thinks to try and avoid a lawsuit — but his client refused.

"We actually took it to trial. And I was a young associate at the time doing a jury trial in a criminal case, and we got a non-guilty verdict," he said.

Liu particularly remembers the trial judge who "was really kind" to him, a young lawyer who knew very little about trying criminal cases. The judge pulled him aside after the case to praise his manner with the jury.

"I'll take it as a pretty high compliment because there aren't very many Asian trial attorneys, and so the stereotype is that we don't connect all that great with juries," Liu said.

#### ***WHAT MOTIVATES HIM:***

Liu says he's driven by a competitive spirit.

"I love winning. I love winning for clients, and I love the appreciation that they show," he said.

It feels good, Liu added, to have his hard work recognized by the judge in a victory for his clients.

#### ***WHY HE'S AN ANTITRUST LAWYER:***

Liu takes great pleasure in playing a part in the evolution of antitrust law first established in the late 1800s, which has been heavily dependent on case law developments ever since and must adapt to the technology and markets of the day.

"It's just an interesting area to practice. And it's one that's going to evolve and adapt quite a bit over the next, I'd say, decade or two," he said.

— *As told to Bryan Koenig*

*Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2021 Rising Stars winners after reviewing more than 1,400 submissions. Attorneys had to be under 40 as of April 30, 2021, to be eligible for this year's award. This interview has been edited and condensed.*