

## MVP: Covington's Kevin Poloncarz

By Juan Carlos Rodriguez

*Law360 (September 23, 2022, 2:02 PM EDT)* -- Covington & Burling LLP's environmental and energy practice group co-chair Kevin Poloncarz led the firm on several important and high-profile matters over the last year, including representing large utilities in a huge U.S. Supreme Court Clean Air Act case and helping shape the federal government's efforts to reduce the use of hydrofluorocarbons, earning him a spot among Law360's 2022 Environmental MVPs.

### ***HIS BIGGEST ACCOMPLISHMENT THIS YEAR:***

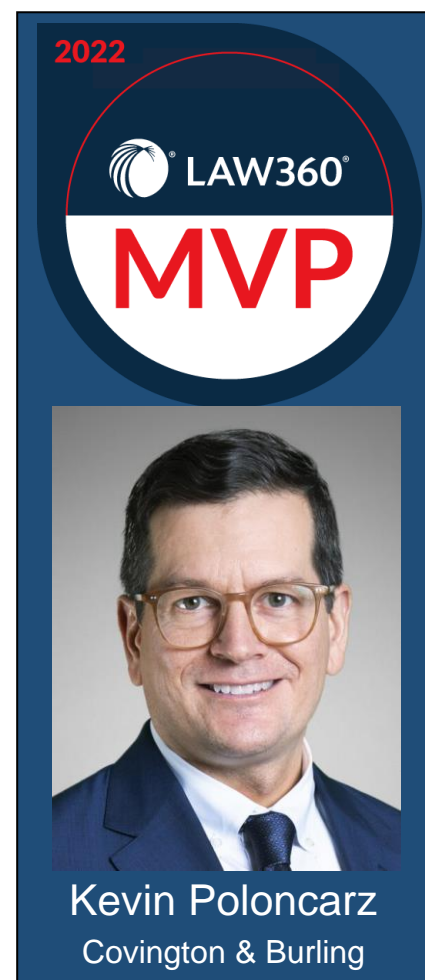
Poloncarz, who also co-chairs Covington's energy industry group and environmental, social, and governance practice, represented Consolidated Edison Inc. and other utilities in *West Virginia v. U.S. Environmental Protection Agency* at the high court. The coalition urged the justices to leave intact a D.C. Circuit opinion that took a broad view of the EPA's authority to regulate greenhouse gas emissions from existing power plants.

The justices overturned the ruling and issued a narrower interpretation. Poloncarz said the court could have gone farther but didn't.

"Trying to find that soft landing was the biggest challenge," he said. "Finding it and getting an opinion that preserved the role for emissions trading, that did not endorse the Trump EPA's interpretation on the limits of EPA's authority, that was very important to my clients."

"It's important to step back for a second and recognize the things that the decision does not do. It does not say that EPA doesn't have regulatory authority to regulate greenhouse gas emissions. It does not say that the states are the ones that get to establish the standards. And it does not adopt the Trump administration's views that the only permissible means of emission reduction are things you can do at and to an individual plant," he said.

### ***WHY HE'S AN ENVIRONMENTAL ATTORNEY:***



"I love engaging with these policy issues, and because there is no greater existential threat than climate change," Poloncarz said.

In addition to his work on *West Virginia v. EPA*, Poloncarz has been representing Honeywell International Inc. in state and national efforts to reduce the use of hydrofluorocarbons, including helping craft key provisions of the American Innovation and Manufacturing Act, which was passed as part of the omnibus coronavirus relief package at the end of 2020. Last year, he also helped to draft the company's comments to the EPA regarding the agency's proposed rule to implement the AIM Act.

"I've spent the last 15 years of my career committing myself to doing what I could as a lawyer for industry, for financial institutions, for technology companies, for energy companies to try to help address this global problem. There are lots of problems in the world, but climate change is a big one that rises to the top of most folks' list. And that's why I do what I do, that's what keeps me going."

#### ***WHAT KEEPS HIM MOTIVATED:***

Poloncarz said that over the past few years, with environmental regulations changing from the Obama to Trump to Biden administrations, there has been a lot to keep track of. And he said the divisiveness that has overwhelmed public discourse has been a challenge to navigate as part of that.

"We've had the Jan. 6 insurrection. We've had a lot of corrosive statements and divisiveness in our culture," he said. "I had the *West Virginia* case to turn to and really put my effort and energy into. And other cases, the ones concerning tailpipe standards, concerning the California Clean Air Act waiver, and bringing my clients along to stay in this fight for the long game was, for me, a labor of love, and something that kept me engaged and kept me hopeful at a time when, frankly, a lot of folks were feeling less than hopeful."

"It all kept me very much engaged as a believer in this American experiment, this democratic process," Poloncarz said. "Because this is how we air things. We go in front of a court and the court decides. And it is beyond politics. Yes, there can be criticisms of the court, and they're everywhere. But they decide issues, and presenting your best arguments to them and getting a decision from them has some virtue to it. And so these cases have really kept me engaged and motivated and hopeful and all of that."

#### ***HIS ADVICE FOR YOUNGER ATTORNEYS:***

Younger attorneys need to keep in mind that progress in the legal industry is incremental, Poloncarz said.

"If you're getting engaged in these fights and these policy discussions and debates, there can be long periods of time where you're not seeing things move forward, or you're seeing things move backwards," he said. "And if you want to remain in the game and feel like you're doing worthwhile work, you need to take a longer view and recognize that it's not about just your particular case, your particular piece of legislation. It's about this broader discourse of how we move forward and addressing environmental problems and particularly climate change."

"So you just need to keep at it and keep working on these issues and chip away at the problems. And then sometimes things happen that are pretty darn monumental, like the Inflation Reduction Act getting passed."

— *As told to Juan Carlos Rodriguez.*

*Law360's MVPs of the Year 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 2022 MVP winners after reviewing more than 900 submissions.*

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