

MVP: Covington's Anna Engh

By Ben Zigterman

Law360 (September 12, 2022, 2:02 PM EDT) -- Anna P. Engh of Covington & Burling LLP led a team that successfully defended pharma giant Merck & Co. in insurance coverage litigation of its \$1.4 billion loss from a 2017 cyberattack, earning her a spot as one of Law360's 2022 Insurance MVPs.

HER BIGGEST ACCOMPLISHMENT IN THE PAST YEAR:

Engh's team secured a high-profile victory in December 2021 when a New Jersey state judge said Merck's insurers could not assert a war exclusion to avoid coverage of its \$1.4 billion loss from the 2017 NotPetya cyberattack. Merck had first filed suit against 32 insurers in 2018 over the cyberattack.

Engh said Merck's property insurance policies "specifically covers cyber."

"The insurers argued, nevertheless, that it was excluded under a war exclusion, which traditionally, historically, has always been applied to more conventional war, and it has never once been applied, before NotPetya, to a cyber loss," she said. "Our view is that this [exclusion] was never intended for this."

After settling with the others, "we're now down to about seven" insurers, Engh said.

New Jersey State Superior Court Judge Thomas J. Walsh granted Merck's bid for partial summary judgment, finding the war exclusion precludes only a physical act of warfare instead of a malware hack. The seven insurers remaining have appealed the decision, Engh said.

The case was challenging logistically, Engh said, with a group of about 10 lawyers handling more than 100 depositions, disruptions from COVID-19 and a flurry of motions to keep track of.

"It took a village of litigators," she said. "The accomplishment for me, really, was a lot of pride in a team of everyone from junior associates all the way up to more senior lawyers working together on a case that presented really formidable case management challenges."



WHY SHE'S AN INSURANCE ATTORNEY:

Engh didn't plan to become an insurance attorney, but was drawn to it after being hired at Covington, she said.

"I don't think I had an insurance course in law school," she said. "For many decades, over the years, Covington has had really the foremost policyholder-side insurance coverage practice."

When she was starting out, Engh realized it wasn't common for a BigLaw firm to be on the plaintiffs' side.

"Certainly, there are a number of firms that do it, but it's not a standard type of practice for BigLaw," she said. "Also, insurance litigation is a really good way to get a lot of litigation experience."

Over the years, she's come to appreciate practicing insurance law.

"It wasn't something that I had on the radar, at law school or clerkship or anything of the sort, but it's something that I really enjoyed once I came to Covington and understood what the dynamic was."

WHAT MOTIVATES HER:

Engh said she's driven by a desire to help clients recover their losses, whether through litigation or other dispute resolution mechanisms.

"I love working with clients to help them recover what is due on major losses under insurance policies for which they paid a premium," she said. "What motivates me is helping clients navigate what can often be a daunting journey to collect proceeds under insurance policies they have purchased."

Engh said doing so requires tenacity, but she said she tries to foster good working relationships with opposing counsel.

"It's not always on the litigation front. I do a lot of work where I get these matters resolved using creative approaches for dispute resolution," she said. "I take some pride in developing constructive relationships with opposing counsel where possible so that these matters can be resolved."

She said she helped a corporate policyholder reach a successful resolution in July 2021 in its litigation seeking coverage under its crime policy, as well as a policyholder seeking coverage under an aviation policy.

Engh also represented the University of Michigan's captive insurer in litigation with its reinsurer, Munich Re.

Munich Re sued Veritas Insurance Corp. in September 2021 to avoid coverage of a \$9.2 million settlement the university had reached with eight women who had accused a former faculty member of sexual misconduct. After Veritas filed counterclaims and a motion for partial judgment on the pleadings, the case was resolved in April.

Veritas "got a very favorable result there," Engh said.

"The other notable things I've done over the last year are reaching some nice settlement resolutions," Engh said, though she wasn't able to disclose names or other details.

"I love to litigate," she added, "but I think what I really enjoy doing as well for clients is trying to get these cases worked out and resolved more on a business basis with insurance companies."

HER PROUDEST MOMENT IN THE PAST YEAR:

When the Merck case's summary judgment motions were argued over two days last year, Engh said she took great pride in seeing a Covington associate handle arguments for one of the motions.

"I think the proudest moment last year for me was seeing one of our highly talented associates argue one of these summary judgment motions," Engh said. "She was the only associate over two days with multiple law firms presenting arguments."

HER ADVICE FOR JUNIOR ATTORNEYS:

Engh, who graduated from William & Mary Law School in 1989, said she still remembers the advice she received as a law student there from former dean William Spong.

Spong had told her to "take an interest not only in your client matters, but take an interest in the institution where you work," according to Engh.

"It's far easier to complain about a workplace than to engage with others to make it a better place, and I really took that to heart," she said.

She encourages junior attorneys to get involved with hiring or mentoring younger lawyers or law students, she said, adding that seeing younger attorneys she mentored "brings me the most happiness."

— *As told to Ben Zigterman.*

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.