

COVINGTON HAS ARRIVED

A litigation team's path from regulatory specialist to MDL master.



GENERAL LITIGATION
DEPARTMENT OF THE
YEAR FINALIST

COVINGTON & BURLING

From left to right: Phyllis Jones, Paul Schmidt, John Hall, Marney Cheek, and David Sneed, partners with Covington & Burling

COVINGTON & BURLING DOESN'T HAVE A "Star" culture, according to global litigation chair John Hall. There are no origination credits and few high-profile lateral hires. The goal, says Hall, is to always bring in the best person for the job.

"We are not a firm who has one big litigator whose name is at the bottom of 50 big cases," Hall says. "We don't have a star system at Covington and I'm sure we never will."

And yet, the litigation department has nearly tripled in size since Hall and others made a conscious decision to grow the

practice about a dozen years ago. Not content to rest on the success of Covington's marquee regulatory practice, the firm had designs on taking a lead role in the biggest matters in the country—or even the world. Competitive pressures also forced the firm to find ways to get the types of assignments that would attract top-notch government lawyers, Hall says.

That effort paid off the last two years. Covington lifer Paul Schmidt led drug distributor McKesson's defense against more than 3,000 lawsuits accusing the company of contributing to the opioid crisis.

Dave Pinsky and Marney Cheek helped secure a \$5 billion verdict for Ukraine's state-owned oil and gas company Naftogaz against Russia for seizure of assets in Crimea.

Anna Engh led Covington's recent representation of Merck in a \$1.4 billion cyber insurance coverage dispute. Christopher Sipes won a trial court victory that protected AbbVie's cancer treatment from a generic competitor.

While those lawyers started at Covington before the deliberate expansion of the litigation department, Hall says the ranks of senior associates and junior partners supporting them are a result of the intentional internal growth.

"I think it's given us one of the strongest cohorts of young litigation partners in the country," Hall says.

FROM MDL MEGAMATTERS TO UKRAINE

Covington's work for McKesson illustrates the ascendance of the litigation practice. "A big part of it is bodies," Hall says. "At its peak I'm sure we had more than 100 timekeepers working on that case ... we wouldn't have had the lawyers to handle all of that if you went back 10 or 15 years ago."

For McKesson, partners Schmidt, Andrew Stanner and Laura Flahive Wu helped navigate a congressional investigation into its role in the opioid crisis, a multistate investigation, and more than 3,000 lawsuits.

In what the firm calls the largest mass tort litigation in U.S. history, Covington represented McKesson in a 40-day bench trial in a West Virginia federal court where plaintiffs sought \$2.5 billion from McKesson and two other distributors.

The court ruled in favor of the distributors, stating the plaintiffs did not cause the opioid crisis. After a six-month trial, the company settled a similar lawsuit filed by Washington state for \$518 million—less than 1% of what plaintiffs had sought.

In Georgia, McKesson faced the state's Drug Dealer Liability Act over claims of physical and emotional harm caused by family members' use of prescription opioids. With the possibility of plaintiffs in 17 other states with similar statutes bringing claims, Covington lawyers looked to stomp out the claims at trial. The jury delivered a defense verdict for McKesson, prompting the voluntary dismissal of a similar suit.

Covington litigators also secured two high-profile wins in Ukraine over the past two years. The Russian Federation seized the assets of Ukraine's Naftogaz when it invaded Crimea, prompting Naftogaz to sue Russia in 2016 for the unjust expropriation of the company's assets. In April, The Hague ordered Russia to repay \$5 billion.

Covington also worked pro bono for the government of Ukraine after Russia invaded in February 2022, bringing proceedings at the International Court of Justice. The World Court issued an order demanding Russia suspend military operations in Ukraine. Though ultimately symbolic, Ukrainian President Volodymyr Zelenskyy tweeted that he hoped the order would serve to further isolate Russia.

WINS IN INSURANCE, IP, WHITE COLLAR AND STATE AG

Court victories for a variety of specialties and industry groups

rounded out a successful year in litigation for Covington.

The firm secured a nonprosecution agreement for Uber that closed a criminal investigation into the company's handling of a 2016 data breach.

For Merck, Covington sued more than 30 insurance companies after they denied coverage to the pharmaceutical company following a 2017 Russian cyberattack that caused an estimated \$1.4 billion in losses. Covington defended AbbVie's \$8 billion-per-year cancer treatment from a generic competitor.

And in St. Louis, Covington scored a fifth consecutive defense verdict for Monsanto in a multiplaintiff Roundup case. While similar cases returned jury verdicts in favor of plaintiffs between \$80 million and \$2 billion, Covington secured a defense verdict in less than three hours of jury deliberations. ■