

# LAWDRAGON

## The Producers:

### BILL CARMODY OF SUSMAN GODFREY

By Katrina Dewey

Photo by Jennifer Pothheiser



*Lawdragon is presenting a series looking at lawyers who produce vast amounts of business for their firms, typically \$20M and up per year. Rare air. We had a chance to talk to Bill Carmody, who combined his outsider's hustle, brilliant out-of-the-box thinking, and infectious joie de vivre to become Susman Godfrey's main man in New York.*

It's December in Midtown Manhattan, and the place to be isn't Rockefeller Center or Radio City Music Hall. A few blocks over and a world away, an exclusive list of guests ascend the elevators at 6th Avenue and 52nd Street for the annual event that tops them all: [Susman Godfrey](#)'s famed NYC holiday party.

World-renowned chef Daniel Boulud has just flown in from Tokyo to cater the swinging affair. But the real impresario is Susman Godfrey's New York leader, and one of its most unlikely partners. To this over-the-top affair – and everything else in his life – [Bill Carmody](#) brings the skills of a world-class trial lawyer, the story of a legend, and the soul of a fixer.

Carmody has amassed a collection of trial wins and huge settlements as striking as the modern art splashed across the New York office interiors he designed. He recently recovered

record settlements of \$465M for the whistleblower in the *Novartis* qui tam litigation, and federal courts routinely appoint him as lead counsel in America's biggest antitrust class actions. While he made his bones as a big-dollar plaintiffs' lawyer, he has also become go-to defense counsel for hedge fund titans like Dan Loeb and Louis Bacon as well as *Fortune* 10 companies like General Electric. In fact, the New Jersey Court of Appeals just upheld a summary judgment that he and his team won for the activist hedge fund, Third Point, when it was sued for \$8 billion in the mammoth *Fairfax* litigation.

Those results make one rare enough, but it's Carmody's unconventional career path that makes him a legend. Virtually all of his peers at Susman Godfrey received elite educations and had prominent federal clerkships; Bill's launching pad to the top, meanwhile, was made of degrees from the U.S. Merchant Marine Academy and The University of Tulsa College of Law. In a profession that values conformity, this unabashed maverick in everything from his dress (jeans over suits) to his speech (folksy over refined) made it on hustle. After scrapping to win a hard-earned audience with Steve Susman, he secured his legendary status by earning a partnership at what is easily one

of America's top two or three trial firms. But for now, let's say top.

At every step, Carmody has flourished because of an uncanny ability, born of creativity and influence, to play the fixer. Whether it's clients with billions on the line who need a quick and quiet fix to rid them of dangerous exposure before it becomes front page news, or colleagues who need prime tables at the world's most sought-after restaurants, Bill gets the call. From three-star Michelin destinations like the French Laundry in Napa Valley to NOMA in Copenhagen to New York's hottest hole-in-the-wall of the moment, he can make it happen. And when Carmody makes it happen, the experience is always over-the-top.

It shouldn't be any surprise that this unconventional legal figure relishes the chance to gamble on his own performance. He has become the leading evangelist for Susman Godfrey's results-based fee deals. Or as the plain-spoken Carmody would put it, he likes to bet on himself. On the rare occasions he loses, he cries alongside his clients, and they flip to see who's buying the soup. But when Carmody wins, he wins big. Is it any surprise that New York is Susman Godfrey's fastest-growing and most-profitable office?

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**Lawdragon:** Bill, let's go back to the beginning. Where did you grow up and how did you start out in the Merchant Marine?

**Bill Carmody:** I was raised on Long Island and went to college there at the United States Merchant Marine Academy, where I studied marine engineering. It's a great school, but as much as anything else, I ended up there because the price was right. Like the other federal academies, it was free. After my graduation from Kings Point I sailed on tankers for Mobil Oil but soon realized that seafaring, while adventurous and fun, wasn't my long-term calling.

**LD:** Was engineering your first passion in terms of a profession?

**BC:** Well, it was pretty simple. It wasn't like I had a lifelong passion to be an engineer, but when I went to Kings Point there were only two majors, marine engineering and what was called nautical science. Cadets were trained either to be engineering or deck officers on commercial ships. I chose the former path because I was always good at math and science and thought that engineering would have a broader application when my sailing

days ended. There's not much of a demand for navigators on shore.

**LD:** That's funny. I bet you use some of that engineering knowhow on your cases.

**BC:** You're right. The real-time problem solving skills that I used as an engineer serve me every day as a trial lawyer.

**LD:** How long was it from when you ended your career as a Merchant Mariner until you enrolled in The University of Tulsa College of Law?

**BC:** About five years. After a short stint sailing for Mobil, I was laid off. Once my sailing days ended, I was having way too much fun living in Miami running a nightclub and thankfully realized it was time to get serious and go to law school. I had planned on going to Georgetown but didn't account for the fact that I would meet a girl who lived in Tulsa – and I was going wherever she was. It turned out there was no lasting love connection between her and me, but there was between me and Tulsa. I love TU, still have great friends in Tulsa and always enjoy returning there.

**LD:** While you were in law school, did you just focus on school

or did you have other interests as well?

**BC:** I was always doing things outside of law school. I really got to know Tulsa because, to support myself, I began tending bar at a local restaurant. Then, in the summer between my first and second year, and no longer dating the girl who took me to Tulsa, I considered transferring to a more prominent law school. But, making what was probably my smartest move, I decided to stay. I realized I was getting a fine education in a place that I had come to love. I got rid of the chip on my shoulder and convinced the then-owners of the restaurant to change the concept to a nightclub. We called it the Sunset Grill, and it became the hottest place around. So, in the last two years of law school, I had fun, made money and, during daylight hours, I interned for the Federal Magistrate and later the Chief Judge for the Northern District of Oklahoma.

**LD:** What was your game plan coming out of law school?

**BC:** Had the economy been better in Tulsa I might have stayed, because I really enjoyed it there. But, I looked around and Texas, which was still doing fine, became the logical choice.

I went with Fulbright & Jaworski which was then the largest firm in Texas. It had great broad-based training for litigation associates. But, ultimately I felt confined by the big-firm environment. So after about three-and-a-half years, I left with another bright-eyed Fulbright associate, Tim Robinson, to start our own trial firm in Dallas, Robinson Carmody.

**LD:** Didn't Robinson Carmody have some pretty big success?

**BC:** Yeah, we were lucky. When we started in '92, it was before tort reform decimated plaintiffs' work in Texas. So, we were able to get some quick hits. We handled personal injury cases as well as business litigation – the same type of work we did at Fulbright. Frankly, we were trying to model ourselves after Susman Godfrey. After a few years, though, it became clear that Tim was more interested in the personal injury side, and I was more interested in business litigation. So, we parted as friends and headed in different directions.

**LD:** Tell me about your first big win?

**BC:** In '96, I hit Chevron for \$61 million dollars, which that year was the second-biggest jury verdict in Texas.

Chevron viewed it as a simple million-dollar contract case after it stiffed my contractor client for that amount. His small company had done some work at a Chevron refinery and Chevron claimed the work wasn't up to snuff. What really happened is my client had refused to allow his workers to keep working inside crude towers at the refinery after they had suffered rashes and respiratory problems from sulfur-dioxide exposure. My client insisted that OSHA come in and give the towers a clean bill of health before he was going to let his workers go back in. So, Chevron locked out my client's workers and brought in another company to finish the job.

The key to winning big was changing the focus of the trial from the quality of my client's work to Chevron's disregard for worker safety. I surprised them by not trying a straight contract case, but instead a tort case – one where Chevron misrepresented the working conditions inside the towers, and one where my client was a hero trying to protect his workers.

Normally my client wouldn't have had any legal standing to complain of his workers' injuries, but a light bulb went off in my mind. I realized that the same injuries that the workers suffered also caused my client to incur damages in the form of increased workers' comp premiums. That got us past a standing barrier. Even better, it let us try a not-so-interesting contract case within the backdrop of the more riveting workers' personal injury cases.

To drive the point home, I had a huge model section of the crude tower erected inside the courtroom to illustrate the unsafe working conditions. By doing that, the jurors could see how Chevron's conduct hurt both my client and his workers, and we were able to get a big verdict.

But, as frequently happens at Susman Godfrey, former adversaries become our clients. In fact, Chevron is now one of our firm's most-valued clients.

**LD:** Tell me how you met Steve Susman and your path to joining Susman Godfrey. They almost never hire laterals and are strict about only hiring those with the very best pedigrees.

**BC:** I certainly didn't have the pedigree to get into Susman Godfrey out of law school, but I was somehow lucky enough to sneak in the backdoor years later. In the early '90s, when Tim and I had our own trial firm, we had to figure out how to market it. And we had the grand idea of sending out law firm brochures to every lawyer in Texas, all 70,000 of them.

I remember returning from lunch one day to see one of those pink call slips – if you remember those relics from before the computer age. One of the missed calls was from the legendary Steve Susman. He had obviously received one of our glossy brochures. I almost ran into my office to return his call, but when I reached him it was classic Susman: his aloof persona where he acted confused as to who I was and why he had called me. Then he dismissively passed me off to his secretary. But I was like a hungry dog who had just latched onto a big bone. I wasn't going to let this potentially life changing intro get away.

So, I began thinking of how I could meet and impress him. Knowing I could get access to Warren Moon's personal tickets at the Astrodome, I asked his secretary if Steve liked the Houston Oilers. After a long pause she suggested, "Maybe the Harvard/Yale game is more his speed." Having some friendships with former Dallas Cowboys, I was able to get the great Dallas Cowboy and Yale alum, Calvin Hill's tickets to the Yale Bowl.

We were all set to go to, but on the eve of the game, Steve called to blow me off. Undeterred, I refused to let go of that bone, and a few months later we were set to watch the Super Bowl together. Just before that happened, Steve cancelled yet again. Finally – and surely out of pity – he called me up and said, "Hey, Carmody, I'm heading up to Dallas so let's get together over dinner."

When we actually met, it was epic. I mean, great hustlers like Steve love to be hustled, so I pulled out all the stops. I took him to the hottest place in Dallas where I had the chef call the iconic Tony's in Houston to replicate Steve's "Tuna Tartar Susman," Steve's namesake appetizer on the menu there.

Over way too much food and wine we became fast friends. That led to really getting to know Steve and other Susman lawyers and working cases together. Through our friendship and joint venturing cases with Susman Godfrey, I was somehow able to establish my bona fides, overcome my unconventional pedigree and ultimately get my chance to join the firm.

**LD:** When did you guys make it official?

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**BC:** I joined Susman Godfrey in late 2000.

**LD:** How do you differ from other lawyers in your approach to working cases?

**BC:** I try to avoid getting bogged down by all the peripheral facts and issues that seem to predominate pre-trial discovery these days. So many lawyers run down every last rabbit hole, relevant or not, and depositions unnecessarily drone on for hours and hours. Instead, I focus on identifying and developing the very few issues that are going to move the needle with the jury.

I fancy myself as a good movie director who, on the front end, envisions what the end product needs to look like – sees where the win is. Once real film makers know the movie in their head, they don’t have to do 20 takes of the same scene. Directors like Clint Eastwood get the actors set up to do a scene in one take and then move on to the next scene. Likewise, real trial lawyers don’t waste expensive and unnecessary hours in trial depositions. They elicit the key testimony in short order knowing that their video depo clips are ready for prime time.

**LD:** Can you give me an example of how this approach played out in an actual case?

**BC:** Sure. The essence of this approach rang loud and clear in a big defense win we had a few years back. The result in that case confirmed how very little of what happens before trial actually makes a difference in the jury’s verdict.

It was a bet-the-company class action where we defended a small insurance company. The case had gone on for about five years, and I stepped in just six days before trial. I remember getting the call on a Friday night with jury selection beginning the following Thursday. I knew that with less than a week to get ready, there was no way my team and I could master the voluminous record. So we did what any great film maker would do, we envisioned what the winning movie needed to be. We focused only on the most important aspects of the case – the few issues that would really matter to the jury. And we presented those key facts to tell a simple and persuasive story. It obviously worked, because after eight days of trial, the jury returned in 35 minutes with a total defense verdict.

**LD:** That’s a great way of explaining the art of trial lawyering. Let’s talk about your success as a mega producer of business. How do you do it? What role does your use of alternative fee agreements play in that?

**BC:** It’s no secret that the very best way to get new business is to win cases. Our track record at Susman Godfrey and reputation for winning always puts us on a short list for would-be clients with significant litigation.

But I think what separates us from our competitors is our desire to bet on ourselves. You used the term “alternative fee arrangements,” but that’s not how I refer to our fee deals. That’s because sophisticated buyers of legal services know “alternative fee arrangements” has really become code for non-standard hourly billing. For example, reduced and blended hourly rates or hourly rates that have been capped at some point. But those aren’t fee deals where the law firm’s success is actually tied to the client’s success.

Our result-based fee deals are as varied as our clients and cases, but there’s one thing common to all of them. Regardless of what side of the docket we’re on, we want to make sure our fee deals align our interests with those of our clients. That’s been a big selling point for us, because while other firms may pay lip service to this approach, when push comes to shove, very few actually want to bet on themselves.

So, at the start of an engagement we have a candid talk with our potential client about what winning means in their particular case. Then we craft a fee deal where we’re actually partnering with the client by betting on the results we get for them. If we get a big win, we’re going to get paid a whole lot more than our hourly rates. But, if we lose, we’re going to get much less than our hourly rates or nothing at all.

**LD:** Your clients must be thrilled with those arrangements. It makes Susman one of the few firms that doesn’t really need to market. You must have more clients than you can possibly represent.

**BC:** Yes and no. The truth is we’re not for every client or for every type of case. I mean, we don’t handle big corporate investigations or do any white-collar criminal work. On the other hand, we excel in one-off, bet-the-company cases. The sort of cases that even the biggest companies don’t have many of. We’re like brain surgeons, we either fix them or kill them. So, we’re always looking for new case calls directly from potential clients as well as referrals from other law firms when they have significant cases that warrant our help.

**LD:** How did you decide to move to New York?

**BC:** It was a really easy decision. I was in our Dallas office when Steve called and made me an offer I couldn’t refuse.

Initially, he had decided he was going to open the New York office and stay here. But, at some point he realized he didn't want to be a full-time New Yorker. He was looking for a partner to move here and lead the young office. I remember that call vividly. I made a split-second decision and remember calling Neal Manne just to make sure my head was screwed on right. He said, "Yeah, I think it's a fabulous decision." I arrived in New York on January 4th, 2007 and have never looked back.

**LD:** You're the senior partner of SGNY which has been a hugely successful office. How have you been able to achieve so much success here in such a short time?

**BC:** Well, I've certainly pushed and prodded to make our NY office a success, but by no means can our success be credited to any single person. Aside from Steve's unstoppable vision and drive, it's been a remarkable team effort by so many lawyers, the most senior of whom are Steve, Jacob Buchdahl and me. We've been fortunate to assemble an elite group of the best-trained and most competitive trial lawyers who, like the Navy Seals, can parachute in on short notice to try a client's most important case. Our group now has a 10-year track record of outstanding results.

**LD:** You've been extremely successful in trying cases from coast to coast. What is it about your style of lawyering that consistently appeals to so many different types of clients?

**BC:** I think the appeal I have to clients probably comes from my straight talk with them. No matter who the client is, I'm always brutally candid in giving advice, even when it's not what they want to hear. That's because I'm always focused on the long game. My philosophy is to act in our client's long-term business interest even if it's going to cost us some easy, short-term fees.

I frequently turn away questionable plaintiffs' cases. Even when I have clients who want to pay big money to prosecute those cases, I know that in the long run those clients are going to be disappointed by a losing result and then be disappointed in me. On the defense side I often dissuade clients from protracted and expensive litigation when the smarter course is to quickly and quietly make their exposure disappear.

As much as I love to try lawsuits, I've learned the only certainty in the trial process is uncertainty. So no matter what side of the docket my client is on, it's always about figuring out where the win is and how to get there quickly.

**LD:** Is there a lesson you've learned in defeat that you've put into practice?

**BC:** Well, back in '99, I tried a significant case that the National Law Journal called the case of the year. Which all sounds good, except that I had the dubious distinction of being on the losing side. After that loss, I spoke with the jurors who revealed my plaintiffs just weren't likable.

It was a real wake-up call. My clients' likability – or lack thereof – stemmed from abuses they suffered as adolescents while they were captive patients in the defendants' psychiatric hospitals. They had been through a lot and were rough around the edges. And the truth is, by the time of trial, I didn't like my clients much either. Perhaps because I was ashamed of my own feelings, I failed to address with the jury why my clients might not be so likeable.

My lesson from that case was learning how to get comfortable with myself and to embrace and reframe any potential problem, whatever it may be. Now in a do-over, I would have conducted the jury selection process very differently and would have openly addressed my clients' likability problems. I would have had a frank discussion of why my clients were the way they were. That way, I might have been able to take the sting out of that issue early on and not let it be one that was left for the jurors to consider, without my guidance, for the first time in deliberations.

**LD:** That's a great lesson. That's so like you to delve deeper into the humanity of a case. And speaking of humanity, will you talk about your wide array of interests, from your family to your friendships with world famous chefs?

**BC:** Absolutely. My credo has always been one of working hard and playing hard. Playing hard for me revolves around spending time with my wife, Catherine and our extended families. We love travel of all kinds as well as just holing up in our summer house where we all chill. As you mentioned, a big part of playing hard for me is dining. That includes dining around the globe, from high-end places to obscure local holes-in-the-wall.

Catherine and I recently returned from San Sebastian, Spain, where we had so much fun exploring the pintxos, the local tapas bars. What matters most to us is not the style of dining, but the restaurant's authenticity. And because I'm such a foodie, I've come to know some world-class chefs and the wonderful people in the business who help make dining out one of my favorite pastimes. Since that's no secret, I find myself regularly making a fair amount of restaurant reservations for friends, and friends of friends, and friends of friends of friends. If I ever wash out as a trial lawyer, I'm certain I could find employment as a slightly argumentative concierge.

**LD:** That sounds like a great back-up plan. If you were to have one last meal, what would it be?

**BC:** Probably something really simple. I love eating all things, but to me there's still nothing better than good old comfort food. So, I'd have a great cheeseburger cooked rare and an ice-cold draft beer. And if it were really my last supper, I'd channel back to my childhood refrigerator and finish with a sleeve of Thin Mint Girl Scout cookies and a tall glass of milk.