



ATTORNEY OF THE YEAR FINALIST

THIS "MVP" AWARD GOES TO THE LAWYER WHO HAD THE MOST PROFOUND EFFECT ON THE LAW OR LEGAL COMMUNITY IN THE PAST YEAR OR DID THE MOST TO ADVANCE THE CAUSE OF JUSTICE.



BILL CARMODY

PARTNER, SUSMAN GODFREY

BY CHRISTINE SIMMONS

WHEN UBER Technologies Inc. retained Susman Godfrey partner Bill Carmody last year in its knock-down, drag-out fight against Waymo, trial was scheduled to start in just two months. Uber already had retained two large defense law firms from the start, but it was looking for a lead lawyer at trial.

While Uber's existing defense team had done a good job of working the case to trial, "We felt it was important to have someone in the leading position who was a pure trial lawyer—someone whose core skill was persuading a lay jury in a complex business case," said Bradford Berenson, general counsel at private equity firm TPG, which has a seat on Uber's board.

Carmody, who helped launch his firm's New York office more than a decade ago, immediately stepped in and scored favorable court rulings before trial that would later prove instrumental in Uber's momentous trade secrets litigation with Waymo, the business created from Google's self-driving car project. Waymo was seeking nearly \$2 billion against Uber in a case that ultimately led to a settlement that was worth a fraction of that.

Reflecting his significant leadership in courtrooms across the United States, Carmody has had a busy schedule the last two years, including the Uber trial and a series of high-profile victories and appointments in a variety of litigation, ranging from disputes over LIBOR manipulation to opioid liability.

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Just last year, Carmody, 60, secured a jury verdict in Manhattan federal court on behalf of GE Funding Capital Market Services, a unit of General Electric. The judgment in the breach of contract case has been valued at \$161 million, said Carmody.

In another New York case, Carmody, as co-lead class counsel, along with Michael Hausfeld, represents the city of Baltimore and Yale University in the only class that has been certified in the consolidated antitrust proceeding over the LIBOR manipulation scandal in the U.S. District Court for

the Southern District of New York. The court has declined to certify several other classes, Carmody said.

Even before class certification this year, they have reached settlements totaling more than \$590 million from large bank defendants, including two settlements approved by the court.

Meanwhile, Baltimore selected Carmody earlier this year for another engagement—to sue opioid manufacturers and distributors in Maryland state court, claiming negligence, public nuisance and false claims.

Carmody, who has taken the case on a contingency arrangement, was scheduled for oral arguments in September over the defendants' motion to dismiss. According to the city's claims, "companies know at the time they're making these drugs that they're not being used for their intended purpose and people are being hurt. But [the defendants] are doing it anyway because they're making money," Carmody said.

While numerous municipalities are suing drug manufacturers across the United States, Carmody said Baltimore's matter may be one of the first opioid cases to be tried, under the court's current scheduling plans. Trial is scheduled for early May 2019.

BUT PERHAPS THE MOST intense litigation experience for Carmody in recent years has been on the Uber trial. Waymo sued Uber in February 2017 alleging that the ride-hailing giant was ripping off its self-driving technology by hiring key employees from Waymo and stealing trade secrets that helped Uber get a head start on self-driving programs. Every court development was followed closely during an intense year for Uber, already under public scrutiny for reports of a toxic workplace culture.

Before Uber hired Carmody in its battle with Waymo, it was already represented in the case by Boies Schiller Flexner and Morrison & Foerster. In the summer of 2017, Carmody, while on vacation, got a call from representatives of Uber's board of directors who were considering bringing in new lead counsel. After an interview, Carmody was retained in August 2017 and began working right away with Boies Schiller and Morrison & Foerster lawyers. At that time, trial was scheduled in October. Ultimately, the trial was pushed back twice and started

in February 2018. "It's always a little overwhelming to be called in at the end right before trial," but "it's also the most exciting thing to do" and he often gets that type of call from clients, Carmody said.

It was high stakes for Uber because Waymo had asserted that it had stolen many trade secrets and there could have been other suits against Uber if Waymo was successful at trial, Carmody said.

But in the weeks and months before trial began, Carmody's team was successful in striking Waymo's damages expert and several opinions of their technical experts related to damages. Further, they obtained motion in limine rulings that severely limited the ability of fact witnesses to present any competent evidence of damage at trial.

After the defense knocked out Waymo's damages arguments, even if Waymo had prevailed, it may have been awarded nominal damages, Carmody said.

"The effect of these damages rulings was tying one of Waymo's hands before the fight began," he said.

As the lead defense lawyer at trial, Carmody gave opening statements and cross-examined some witnesses, including Waymo's CEO. After the fourth day of trial, the parties reached a settlement. According to the press reports, as part of the settlement, Waymo obtained a 0.34 stake in Uber—about \$244.8 million in stock based on a \$72 billion valuation—and included an agreement that none of Waymo's confidential information was being incorporated in Uber's technology. It was reported that Waymo demanded \$1 billion in settlement talks in 2017.

Berenson, the general counsel at TPG, an investor in Uber, said, "Ultimately the case was settled on acceptable terms in large part through important victories that he [Carmody] won on motions prior to trial and a strong performance during the trial."

He added that Carmody, a problem solver, "Has a terrific ability to integrate his sense of how things will play out in a courtroom with a broader, strategic sense" of a client's business, Berenson said. While there are always concerns about bringing in new counsel right before trial, Berenson said, when Carmody's team "parachutes into a case, it is full and intense immersion" and "it's astonishing how quickly they can get their arms around the full factual and legal issues."