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Trial lawyer Bill Carmody, who runs Susman Godfrey's New York office, says taking high profile cases on contingency fee arrangements gives him "skin in the game."
Photo courtesy of Susman Godfrey

Lawyer to Ex-WeWork CEO Neumann Wins Big by Betting on Himself



Chris Opfer
Reporter/Editor



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- Trial lawyer Bill Carmody takes majority of cases on contingency basis
- WeWork's Neumann reportedly got \$50 million from SoftBank for legal fees

Bill Carmody, the New York trial lawyer who recently helped former WeWork CEO Adam Neumann secure a reported \$480 million settlement from SoftBank, considers himself a gambler.

"We want to bet on ourselves," Carmody says of the results-based fee deals he often strikes with clients in high stakes corporate litigation. "We want to have skin in the game."

Carmody won't say how much SoftBank is paying Neumann—the Wall Street Journal [reported](#) the figure in late February—to resolve the [dispute](#) between the WeWork cofounder and what was once his biggest backer. He also won't confirm or deny the Journal's report that Neumann is getting an extra \$50 million to pay Carmody and other lawyers.

What Carmody will say is that his clients, which have included General Electric, Uber Technologies Inc., and hedge fund investor Dan Loeb, rarely pay him his \$2,000 hourly rate. Instead, he prefers to do contingency deals in which what he takes home depends largely on whether he wins the case.

"It's the purest way to be a partner with your client," Carmody told Bloomberg Law.

Contingency fee arrangements are common in personal injury lawsuits, certain intellectual property disputes, and major class actions involving thousands of plaintiffs. They are increasingly rare in "bet the company" courtroom battles where hybrid arrangements and third party funding have made it easier for everyone to hedge their wagers.

The majority of Carmody's plaintiff-side cases are "pure" contingency fee arrangements in which the company he's representing covers certain costs up front but doesn't pay lawyers an hourly rate, he said. It also agrees to pay his firm, Susman Godfrey, a percentage of any money the company is awarded in court.

"One of the great things about them is they never fund anything," a Manhattan litigator at one of Susman Godfrey's rivals told Bloomberg Law. Like others, who also declined to be named, he said he'd like to see his own firm warm up to more contingency cases. "They invest the money themselves and they are willing to take on more risk than many others. They know historically that it's going to work."

Litigators at five major law firms told Bloomberg Law anywhere from 3% to more than 25% of their firms' plaintiff-side cases involve some form of contingency arrangement. The client or an outside litigation funder picks up the tab for expenses and at least some of their hourly rates in a large portion of those cases, however.

Friends and Influence

Carmody is something of a cross between "Mad Men's" Roger Sterling and Ben Matlock, the country lawyer portrayed Andy Griffith in the 80s and 90s, according to friends, colleagues, and opponents.

The 63-year-old is an outsize personality who revels in Hamptons dinner parties and reportedly paid nearly \$12 million for a [Miami Beach penthouse](#). He also has a preternatural ability to connect with both jurors and the corporate officials who decide which lawyers get the business of defending their companies when hauled into court.

Carmody was one of small number of lawyers who pitched their services to Neumann when the coworking guru turned [corporate pariah](#) became ensnared in a dispute with SoftBank. The Japanese company backed out of a deal to buy \$3 billion in WeWork stock, including a reported \$960 million in Neumann's shares.

He met with Neumann's family office team 36 hours after an initial call and already had a strong understanding of the arguments and evidence in the case, according to a team member who spoke on condition of anonymity. Neumann has largely avoided public appearances since resigning from WeWork in September 2019.

"He is very articulate and has a way of speaking that conveys authority and confidence that set him apart from others we spoke to," the family office source, who attended the meeting, told Bloomberg Law. Carmody's "command of the fine details" also stood out, according to the source.



Carmody (R) and Waymo attorney Charles Verhoeven (L) outside of a San Francisco courthouse on February 9, 2018.

Justin Sullivan/Getty Images

Carmody landed a leading role defending Uber in an existential battle with Google-backed autonomous vehicle company Waymo thanks to a former client, TPG Capital. The private equity firm has a seat on Uber's board of directors and used it to push the company to add Carmody to a roster of attorneys that already included lawyers from Boies Schiller Flexner and Morrison & Foerster.

Uber eventually gave Waymo a stake in the company worth nearly \$245 million to [settle claims](#) that it poached Waymo employees to steal trade secrets. That was far less than the \$2 billion Waymo initially sought and a previous settlement offer in the neighborhood of \$500 million.

Risk Tolerance

"Bill is a guy that's a New York lawyer with a lot of Texas commonsense," said Tom Melsheimer, a veteran litigator at Winston & Strawn in Dallas. "He doesn't take himself too seriously up there, and I think he still relies on the scrappy roots he had in Texas."

Carmody's path to one of the country's elite trial law firms was a winding road not common in Big Law, where attorneys come from top schools and often after prestigious judicial clerkships. He grew up on Long Island in New York, graduated from the Merchant Marine Academy, and worked on an offshore rig and as a Miami bartender before landing at the University of Tulsa for law school.

Carmody later started his own firm in Dallas, taking a mix of personal injury and corporate cases. He convinced Susman Godfrey to take a flyer on him after making a name for himself as a creative marketer and accomplished lawyer, winning a \$61 million verdict against Chevron over unsafe work conditions at a refinery in 1996.

Neal Manne, a trial lawyer who leads the firm's Houston office, told Bloomberg Law that Carmody was a client before he was a partner. Manne represented Carmody in a fee dispute with another lawyer.

The firm was already known at that point for its appetite for contingency fee arrangements, thanks largely to cofounder Steve Susman. Like Susman, who died last year after contracting Covid-19 while recuperating from a bicycle accident in Houston, Carmody is big on betting on himself without outside funding from litigation financiers.

"If I like a case, I don't need to or want to involve a litigation funder because I want all the equity myself," Carmody said. "If I don't like it, I don't think the client should like it either, even if a funder is willing to throw money at it."

The firm prides itself on an intense case evaluation system, including a weekly meeting in which lawyers pitch particular cases. Each of Susman Godfrey's 140-plus attorneys gets a single vote and cases in which the firm is putting up its own money require a two-thirds majority.

Manne likened the meetings to defending a PhD dissertation or going before a massive appeals court.

"You don't just wander into the meeting and say, 'How 'bout this case?'"

'I Build Houses'

Carmody has also brought a version of results-based fee model to the defense side of the bar, offering companies being sued a fixed fee in exchange for certain "kickers," or a percentage of the money saved through a negotiated settlement or win in court.

"I think of myself like a general contractor who builds houses," he said. "I know how much it costs to build a house—or try a lawsuit—to a pretty good approximation."

Insurance company Legal & General hired Carmody, lawyer Tibor Nagy, and a Susman Godfrey team in June 2007 to serve as its new defense counsel just six days before a trial in a class action on behalf of some 25,000 policyholders alleging breach of contract.

The company agreed to pay the lawyers a \$325,000 fixed fee and 5% of anything less than \$60 million that Legal & General was ultimately required to pay as part of a jury verdict or settlement. The jury ruled in favor of the company after a seven-day trial, earning the Susman Godfrey team more than \$3.3 million.

"It made sense for us, given the short time frame," Bryan Newcombe, Legal & General's top in-house lawyer, said of the arrangement. "Other attorneys have not wanted to do that, in my experience."

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Titan Of The Plaintiffs Bar: Susman Godfrey's Bill Carmody

By Matthew Perlman

Law360 (May 16, 2018, 5:43 PM EDT) -- Bill Carmody of Susman Godfrey LLP helped investors in the sprawling multidistrict litigation over alleged manipulation of Libor land a \$130 million settlement with Citigroup last year, and also scored a judgment worth more than \$100 million for General Electric after a jury verdict in a contract dispute, landing him among Law360's 2018 **Titans of the Plaintiffs Bar**.

With roots as a Texas trial attorney, Carmody has helped run Susman Godfrey's New York office for more than a decade. His practice has expanded to include work on both sides of the bar and he's often called into a case shortly before trial — which was the case when he defended Uber in its trade secrets row with Waymo earlier in 2018.

But Carmody also has spent years handling long-running, complex class actions for plaintiffs, like litigation that stretches back to 2011 over claims that some of the world's biggest banks manipulated the London Interbank Offered Rate, a key benchmark used to price trillions of dollars worth of securities worldwide.

He describes the theory in that case as simple — that the banks colluded to manipulate the Libor rate in the midst of the financial crisis as a way to stay afloat — but said progress in the litigation has been sluggish because of the enormous number of people and entities that invested in instruments tied to Libor.

“At its core, it's not a complicated case, but it's just been procedurally unwieldy because of a ton of parties involved, and all the purported classes,” Carmody said. “It's just a monster, monster case. The court has just been inundated.”

“He's a storyteller. Whether it's sitting together over drinks or at dinner, or before a jury, he's someone that you want to be around and that juries want to relate to. He has a way of just connecting with people that I really haven't seen, among either the plaintiff or defense bar.”

In that suit, Carmody serves as co-lead counsel for a recently certified class of over-the-counter investors — who purchased instruments tied to Libor directly from the big banks accused of manipulating the benchmark — alongside Michael D. Hausfeld of Hausfeld LLP. After a trip to the Second Circuit, the OTC investors reached an ice-breaker deal with Barclays PLC in late 2016 for \$120 million, followed by a \$130 million deal in August last year with Citigroup Inc.

The most recent settlements with HSBC Bank and Deutsche Bank AG earlier this year totaled \$340 million and the class is now preparing to move the litigation ahead against the remaining banks.

Law360
TITANS
OF THE
Plaintiffs Bar

Brent Wisner
Baum Hedlund

Mark Lebovitch
Bernstein Litowitz

Steve Toll
Cohen Milstein

Steve Berman
Hagens Berman

David Sanford
Sanford Heisler

Elizabeth Cabraser
Lieff Cabraser

Jeremy Lieberman
Pomerantz

Christopher Seeger
Seeger Weiss

Bill Carmody
Susman Godfrey

Mark Lanier
The Lanier Law Firm

In addition to managing complex, longstanding matters, Carmody also has a knack for simplifying complicated concepts in a way that makes it easy for juries to understand, according to Shawn J. Rabin, a Susman Godfrey partner who has worked with Carmody since 2004.

“He’s a storyteller. Whether it’s sitting together over drinks or at dinner, or before a jury, he’s someone that you want to be around and that juries want to relate to,” Rabin said. “He has a way of just connecting with people that I really haven’t seen, among either the plaintiff or defense bar.”

Rabin worked with Carmody last year on a case brought by General Electric over a contract dispute with the Nebraska Investment Finance Authority.

The suit involved what are known as guaranteed investment contracts, which were financial instruments popular in the 1990s that were bought with the proceeds of municipal bond offerings. NIFA claimed it was entitled to continue receiving interest payments on the contracts even though the underlying bonds had been redeemed. GE sought a declaratory judgment finding that the contracts had terminated as well as other relief.

A jury sided with GE in November, and the company was awarded \$28 million in damages and \$11 million in interest. The result also wiped out around \$100 million in future interest payments that NIFA had claimed it was owed.

During opening arguments, Rabin said Carmody was able to break down the complicated issue in a way that was easy for the jury to digest, centering on a refrain that got their client’s point across with memorable clarity: “When the bonds go, the contracts go.”

“It was just one of those things, where everyone remembered it,” Rabin said. “We talked to the jury afterwards, and they said they were on our side since opening, that Bill got them right from the start.”

Carmody said he repeated the refrain several times, “like a rock-n-roll song,” during openings and also employed a visual aid that resembled a stop sign and included the same simple words to help drive it home. The difficulty in the case, he said, was breaking down a dry and esoteric issue in a way that would get the jury intrigued enough to want to learn about it — and then convince them that there was a simple answer.

“I find myself almost like a translator at times,” Carmody said. “But our job is to try to get to the essence of it, what it’s really about.”

And, he said, he often finds himself impressed by the jury’s eagerness to learn what he’s trying to teach.

“It’s truly amazing the level of attention they pay, the notes they take, the interest they have, to really do justice,” Carmody said. “To honor their roles as citizens, to really do the right thing.”

--Editing by Melissa Lipman and Kelly Duncan.

Carmody on Juries:

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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.

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.

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."