

MVP: Crowell & Moring's Stephen J. McBrady

Law360 (December 4, 2018, 10:12 AM EST) -- Stephen J. McBrady of Crowell & Moring LLP secured several wins this past year, including in a high-profile case dealing with the issue of cost-sharing reduction payments owed by the federal government to insurers under the Affordable Care Act, earning him a spot as one of Law360's 2018 Government Contracts MVPs.

HIS BIGGEST ACCOMPLISHMENT THIS YEAR:

McBrady's biggest accomplishment over the past year was securing a win for his client Montana Health Co-op. A Court of Federal Claims judge found in September that the federal government owed the nonprofit health insurance cooperative \$5.3 million in Affordable Care Act cost-sharing reduction payments. This decision established that the payments at issue were mandatory under the ACA, even though Congress failed to appropriate specific funding.

It was the first ruling to be issued among the nearly two dozen ongoing lawsuits at the Court of Federal Claims and the Federal Circuit on which McBrady serves as lead counsel. The cases are related to both cost-sharing reduction payments and "risk corridor payments," and the claims are collectively worth over \$1 billion.

"In many ways, [these cases] touch on issues that have never been litigated and they relate to something that is really important and systemic not only in the health care industry, but in the economy," McBrady said. "It's been really interesting and rewarding to work on something that is high-profile both from an industry standpoint and from a substantive legal standpoint."

The logo consists of the letters 'MVP' in a bold, blue, sans-serif font. The letter 'V' is partially enclosed by a red circle with an upward-pointing arrow on its right side.

Stephen J. McBrady
Crowell & Moring

HIS BIGGEST CHALLENGE:

The ACA-related cases are also some of his most challenging, given the amount of money at stake for all of the parties involved and the significance the decisions will have, McBrady said.

“All things related to the Affordable Care Act are under the microscope,” he said. “And these provisions of the Affordable Care Act, from our clients' perspectives, our clients went into the exchanges and performed exactly as the law required and are now in court trying to enforce the government’s obligation to perform as the government was required. These are not easy cases, but they’re really important.”

WHY HE’S A GOVERNMENT CONTRACTS ATTORNEY:

McBrady started his career on the Hill, working for Sen. Susan Collins, R-Maine. Armed with a deep knowledge of Washington, D.C., McBrady is able to help his clients navigate the city.

“I’ve always been interested in the public policy dimensions, and that plays right into helping companies navigate Washington and navigate public policy as well as thorny contractual issues,” he said.

Given the customer or business partner relationships his clients have with the government, he tries to litigate in a way that ensures no bridges are burned.

“I tend not to litigate in a very acrimonious way, we try to disagree without being disagreeable,” he said.

WHAT MOTIVATES HIM:

McBrady is motivated by providing quality client service. He gives clients his cellphone number and tells them to call him at any time.

“At the end of the day, as lawyers we are service providers and we are always only as good as the service we provide to our clients,” he said. “Clients have a choice of law firms and a choice of lawyers, and I am driven by trying to provide the best possible client service.”

HIS ADVICE TO YOUNG ATTORNEYS:

McBrady benefited from mentors when he was starting out, and he sees himself playing that role now within his firm, where he works to develop young talent in the claims practice.

His advice is to not be "afraid to try new things," and to "put yourself out there, whether it's with clients or potential clients."

"Don't be afraid to take that opportunity to stand up and make an argument, or to take a deposition early in your career," He said. "It takes failure to make success, and it takes a lot of effort to put yourself in positions where you'll succeed."

— *As told to Sophia Morris*

Law360's MVPs 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 2018 MVP winners after reviewing nearly 1,000 submissions.