

MVP: Covington & Burling's Marney Cheek

By **Sophia Morris**

Law360 (December 19, 2019, 12:00 PM EST) -- Covington & Burling's Marney Cheek was part of a team that secured major victories for Ukraine in complex disputes with Russia including the release of captured sailors, and a win for Naftogaz that could see the energy company rake in billions in damages, earning her a spot among Law360's International Arbitration MVPs.

HER BIGGEST ACCOMPLISHMENT OF THE YEAR:

Cheek said her work for Ukraine was a highlight of the past year, with her team representing the government in a series of cases. One of these cases relates to Russia's unlawful detention of Ukrainian sailors and their naval vessels, and in May, Cheek and her team secured a victory when an International Tribunal for the Law of the Sea ordered the immediate release of the sailors and their vessels.

"With that case, an international tribunal voted 19-1 that Russia had to immediately release these Ukrainian sailors that it had unlawfully detained," Cheek said. The victory was akin to a preliminary injunction order, and led to the sailors being returned home in September.

"We had an important victory on the legal principle," Cheek said. "But there were sailors detained in Russia who wanted to get home to their families in Ukraine, and our legal victory contributed to the Ukrainian government's efforts to ultimately secure their release and bring them home. That was one of my most satisfying accomplishments, personally."

OTHER NOTABLE CASES THIS YEAR:

Cheek was part of the team representing Ukraine's Naftogaz in proceedings brought against Russia over the country's confiscation of the energy company's assets following the occupation of Crimea in 2014.



The energy company's assets are valued at \$5 billion, and in February, a Permanent Court of Arbitration tribunal held Russia accountable for expropriating Naftogaz's assets in violation of the Russia-Ukraine bilateral investment treaty.

The tribunal has yet to issue a ruling on the amount of damages Russia owes, but Naftogaz is seeking \$5.2 billion.

HER BIGGEST CHALLENGE OF THE YEAR:

In the Naftogaz case, Russia objected to the jurisdiction of the tribunal and then refused to participate. Cheek said this did not stop the case from proceeding, and Russia was afforded opportunities to weigh in at every stage.

"Moving forward in a proceeding where one party is refusing to participate is a challenge, because the tribunal really takes it upon themselves to make sure they're testing your evidence," Cheek said. "It's an odd situation where one party just refuses to show up ... and in international arbitration, there's no default judgment, so we still have to move forward and prove our case, and the burden remains on us to prove our case even though we don't have an adversary there directly challenging us."

WHAT MOTIVATES HER:

Through her work, Cheek has witnessed the power international treaties can have when enforced through arbitration. One example of this is her representation of Ukraine at the International Court of Justice in a case brought against Russia related to the downing of Malaysia Airlines flight MH17. The claims have been brought under the International Convention for the Suppression of the Financing of Terrorism and the International Convention of the Elimination of All Forms of Racial Discrimination. A decision in the case is pending, but in November the tribunal found it had jurisdiction over the claims, which allowed the case to move forward on the merits.

"The peaceful settlement of disputes is really a cornerstone of our global system, whether that's the peaceful settlement of disputes between two companies that are across borders or the peaceful settlement of disputes between two countries," Cheek said. "Being able to appear before neutral tribunals and have these disputes decided on in a court of law I think is very important, and it motivates me day to day that in some small way, by working on these cases, we're contributing to a global system that still relies on the rule of law."

— *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 2019 MVP winners after reviewing nearly 900 submissions.