

## Government Contracts MVP: Gibson Dunn's Karen Manos

By Dietrich Knauth



Karen Manos

*Law360, New York (December 18, 2012)* -- Gibson Dunn & Crutcher LLP's Karen Manos earned a place among Law360's Government Contracts MVPs by winning a precedential \$59.2 million judgment for Raytheon Co. in its seven-year attempt to recover unpaid pension deficits from the U.S. government.

Manos leveraged her extensive experience with the Cost Accounting Standards to win the case, which had been closely watched by other contractors who faced similar questions about the government's obligation to pay pension deficits.

In the Raytheon case, the government had pursued an aggressive interpretation of the Cost Accounting Standard 413 under the Contract Disputes Act, which allows government contractors to "settle up" with the government when a company sells off a contract-holding business segment.

"They told us early on that we weren't getting a nickel out of this case," said Manos.

But thanks to the work of Manos and fellow Gibson Dunn attorneys John W.F. Chesley and Greta B. Williams, Raytheon recovered more than nickels, winning a \$59.2 million judgment in July.

The government's position, argued by a highly experienced U.S. Department of Justice team, would essentially allow the government to pursue a "heads I win, tails you lose" approach to settling pension costs, allowing the government to seek repayments for pension surpluses at the time of a sale without obligating the government to pay deficits for pensions that were jointly funded by the government and the contractor. The government pursued the same aggressive argument in several similar cases that are pending in the U.S. Court of Federal Claims.

"Despite the government being very aggressive in going after the surplus, they refused to pay any of the deficits," Manos told Law360. "They were not willing to settle any of these cases because they wanted some precedent. I think they just want to have an actual precedential holding that will apply to all these cases."

The Raytheon case, which the government has appealed to the Federal Circuit, raises all the government's defenses to similar contractor pension adjustment claims under CAS 413 — and the appeals could bring all of those defenses down, if the appeals court upholds Court of Federal Claims Judge Nancy Firestone's rulings, as it previously upheld her rulings related to pensions of Teledyne Technologies Inc. and DirecTV Inc.

"It has pretty broad ramifications for anybody who's got a defined benefit pension plan," Manos said. "It was a really significant case; it's going to be the new leading case on CAS 413."

Several other contractor pension cost cases are pending before Judge Firestone, and because of the related issues, attorneys working on the separate cases actively filed amicus briefs in the litigation to convince the judge. The Raytheon case was the first of those cases to get to a trial.

Raytheon pursued pension costs for four business units that it sold off between 2001 and 2002 after a corporate restructuring. During Raytheon's restructuring, it sold off nearly 10 business units, several of which were running surpluses at the time of sale, which Raytheon repaid to the government. But when the government refused to pay costs related to four business segments that were running deficits, the company filed suit in 2005.

After seven years of litigation and an 11-day trial, Judge Firestone ordered to government to pay Raytheon \$59.2 million, which the judge called the government's "fair share."

"They can't have their cake and eat it too," said Becky Ransom, vice president of litigation at Raytheon. Manos is one of only a small handful of attorneys that companies with CAS issues can turn to, and she was Raytheon's first choice for the case, Ransom said.

"She's one of the very top players in this area. She knows the law like the back of her hand and she's relentless in pursuing her client's interests," Ransom said. "She's very professional — I just have the highest confidence in her and her team and they do a superb job on anything we ask them to do."

Manos was drawn to Cost Accounting Standards cases — arcane even in the context of the complex regulations on government contracts — from the beginning of her legal career, when she worked for the Air Force and the Defense Contract Management Agency.

"I live and breathe cost accounting stuff," Manos said. "I like math, and its just something that not a lot of people do because it's very complicated. It's fun, and there's not that many new cases, so you get a chance to make case law."

CAS issues also tend to involve large dollar amounts, and can impact every aspect of contractors' businesses.

"You have a chance to help the development of the law, and cost accounting is something that has an impact on every aspect of contracting," Manos said. "It's central to the government contracting practice."

Manos also enjoys the exclusivity and camaraderie that comes with being a member of the exclusive club of CAS experts — including Judge Firestone, who Manos described as a "fantastic" judge. She also takes pride in mastering an area that even other government contracting attorneys shy away from.

"You do have to read it two or three times to figure out what they're trying to say," she said of CAS regulations. "But I think that's what makes it kind of fun, in a warped way. It's just more challenging and interesting."

--Editing by Katherine Rautenberg.

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