

## MVP: O'Melveny's Nancy Mitchell

By Ryan Boysen

*Law360 (December 3, 2019, 5:39 PM EST)* -- Over the past year, O'Melveny & Myers LLP's Nancy Mitchell has helped Puerto Rico's power utility strike an \$8 billion restructuring plan and has served on the "strike force" that California Gov. Gavin Newsom created to shape the path of PG&E's \$35 billion bankruptcy, securing her spot as one of Law360's 2019 Bankruptcy MVPs.

### HER BIGGEST ACCOMPLISHMENT THIS YEAR:

Mitchell is on the O'Melveny team that's representing Puerto Rico's ailing power utility, known as PREPA, as it seeks to cut down on debt and privatize itself as part of the island's gargantuan \$125 billion restructuring. Mitchell and her team scored a major victory in that fight over the spring when PREPA reached a yet-to-be-approved deal with some of its creditors to restructure \$8 billion worth of bonds.

Any other year, Mitchell said, that deal would likely be the highlight, but in July something unusual happened: Gov. Newsom signed into law a bill that she'd partially written.

"That was an awesome day," Mitchell said. "I was sick as a dog, but it was still great."

Mitchell is a key figure on the "strike force" Newsom convened in February, just a few weeks after Pacific Gas and Electric — the nation's largest power utility — filed for bankruptcy to shield itself from more than \$30 billion in liabilities racked up by two wildfires that charred vast swaths of the Golden State and killed roughly 130 people. Both blazes were started by PG&E's equipment.

Mitchell and the strike force helped draft a report to guide Newsom's decisions, and then helped him draft A.B. 1054, a bill that was signed into law over the summer that establishes a \$21 billion fund to help PG&E and two other Californian power utilities resolve wildfire liabilities and get back on track.

The passage of A.B. 1054 also gave PG&E a June 2020 deadline to emerge from bankruptcy if it wants to



take advantage of the fund, something Newsom has alternatively used as a carrot and a stick while he attempts to cajole PG&E into making the changes he thinks are necessary for the utility to best serve the people of California.

Currently unhappy with the competing proposals PG&E and its creditors have set forth to emerge from Chapter 11, Newsom has also recently publicly threatened to take over the utility, another complicated problem Mitchell and the strike force will have to solve if he ultimately goes that route.

"It's been one of the most fascinating things I've ever done, because what I'm being asked to do is driven by public policy concerns as much as financial outcome, and obviously that's not usually the case when representing a debtor," Mitchell said. "You're being asked to evaluate policy choices, allow the governor to choose one, and then you have to use the traditional tools of bankruptcy to effectuate that."

#### **HER BIGGEST CHALLENGE THIS YEAR:**

Mitchell said trying to figure out how best to use the tools of bankruptcy to serve the goals of Newsom's public policy — and how to use the tools of public policy to guide the outcome of a bankruptcy — is undoubtedly the hardest problem she's had to grapple with this year.

"I had to go back to my liberal arts education," Mitchell said. "I've never been in a position where I'm trying to use legislative tools to try and create a bankruptcy outcome, and vice versa.

"No one's ever said to me before, 'Okay, I get what the parties in the bankruptcy care about, but what do the stakeholders in California care about? And how do we achieve that?'" Mitchell continued. "If you're doing a big bankruptcy in Delaware and working for the debtors, most of the conversation is strictly focused on the parties involved in the case.

"For better or for worse bankruptcy is not traditionally inclined to serve public policy goals, it's designed to rework a capital structure," she added. "So when you start trying to use those tools to get a public policy outcome, you're really playing three-dimensional chess."

#### **WHY SHE'S A BANKRUPTCY ATTORNEY:**

Mitchell said she never set out to be a bankruptcy attorney. She always thought she'd spend her career doing M&A or finance work, and when she started off that's exactly what she was doing. But her career took a sharp turn early on, thanks to whom she was doing it for: Chicago's Continental Bank.

Continental Bank had imploded in 1984 in the largest bank failure in U.S. history at the time, and when Mitchell graduated from law school in 1987, she was immediately assigned to help the still-ailing financial institution pick up the pieces, putting her in close contact with the restructuring process for the first time.

"I found that I really liked it," Mitchell said. "I have a short attention span — I always say I was a terrible associate because I couldn't stay focused on the research.

"So with bankruptcy, you have to operate with extreme speed and make decisions daily," she continued. "The fact that every day is different really resonates with me.

"Some of the partners I work with who are litigators, they'll spend years preparing one case and taking it to trial," Mitchell added. "I just can't do that. For me it needs to keep changing in order for it to be interesting."

Mitchell, who's lived in New York for the past 14 years, likened the bankruptcy bar to her adopted hometown.

"It's like when people say they can't live anywhere but New York because they get used to the speed and the rhythm," she said with a laugh. "Bankruptcy is my New York."

#### **HER ADVICE TO YOUNGER ATTORNEYS:**

Mitchell said she has some regrets when it comes to her career — not about how it turned out, but about the lack of control she had in getting it there. She said she wishes she could take credit for planning it all out, but that really "my career just kind of happened around me."

One thing she's confident about though are her instincts: Always spring for the more interesting and exciting opportunity, and don't worry so much about the rest of it.

"I didn't necessarily make smart choices in the traditional sense, but one thing I did always do was to take an opportunity if it felt right, regardless of if it seemed tough or made me uncomfortable," Mitchell said. "I resolved early on not to let fear rule me and dictate my choices."

"Obviously in the legal profession it's easy to get caught up with how much money you're making, how prestigious your firm is, what your title is, all of that, but none of it means anything if you don't make decisions you think are brave and that keep things challenging and exciting," she continued. "So I would say to younger attorneys, just make sure you keep making decisions based on what's interesting and exciting to you personally."

— As told to Ryan Boysen

*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.*