

Bankruptcy Group Of The Year: Jenner & Block

By **Daniel Tay**

Law360 (February 7, 2023, 2:02 PM EST) -- Jenner & Block LLP guided a USA Gymnastics bankruptcy resolution that received unanimous support from the survivors of sexual abuse and secured a settlement in Puerto Rico's bankruptcy protecting \$50 billion in pension benefits for 167,000 government retirees, cementing its spot as one of Law360's 2022 Bankruptcy Groups of the Year.

Jenner & Block's bankruptcy group has been around since the 1970s and has long been a prime focus of the firm, group co-chair Catherine Steege told Law360 in an interview along with fellow co-chairs Melissa Root and Robert Gordon.

Root told Law360 that 2022 was a "terrific year of practice," highlighting the firm's participation in several committees, and said that the team was "frankly relentless in those cases in trying to extract and find value for our constituencies."

There are 12 attorneys dedicated to restructuring and bankruptcy, along with more than 15 corporate and litigation attorneys skilled in workouts, bankruptcy litigation, distressed finance and 363 sales, a firm spokesperson said.

The co-chairs noted that the bankruptcies the firm handled in 2022 were often in "discrete" areas triggered by events independent of economic forces.

One notable example of a bankruptcy that Jenner & Block handled that was not driven by any economic event was USA Gymnastics' Chapter 11 case, which aimed to resolve the hundreds of claims by survivors of the sexual abuse by former doctor Larry Nassar and others. Jenner & Block negotiated with the survivors and the organization's insurers to create a \$380 million trust for the survivors. The plan was confirmed by the Bankruptcy Court in December 2021, resolving the organization's three-year bankruptcy and eliminating future litigation.

More important, the co-chairs said, the bankruptcy plan negotiated by the firm included wide commitments to athlete safety and wellness and changes to rules governing interactions with gymnasts to prevent situations where abusers could take advantage of them. A particularly rewarding aspect of the case was the unanimous support of survivors who voted on the plan, Steege said.

USA Gymnastics "really needed the breathing room of bankruptcy to be able to fix the issues that had



led to somebody like Larry Nassar getting away with what he had gotten away with for so long," Steege said.

Another case the co-chairs highlighted as rewarding was Jenner & Block's representation of the Official Committee of Retirees for the Commonwealth of Puerto Rico in the commonwealth's bankruptcy. The plan of adjustment, approved in January 2022, ended the largest public sector restructuring in U.S. history and protected \$50 billion in pensions for more than 167,000 retired government employees.

Gordon told Law360 the protection of the pensions was a significant achievement for Jenner & Block, given that the pension systems "had virtually no money" when the commonwealth filed for bankruptcy and that the oversight board appointed to oversee the commonwealth's restructuring had threatened to severely reduce pensions.

"There was a significant human element to it," Gordon added, saying that many of the pensioners' families were dependent on those pensions, given the high unemployment rate at the time in Puerto Rico.

The Puerto Rico case also highlighted how Jenner & Block's reputation as a litigation powerhouse bolsters the bankruptcy group's position in negotiations, the co-chairs said.

In the bankruptcy, holders of bonds issued by the Puerto Rico Government Employees Retirement System asserted numerous claims on assets, including streams of commonwealth revenue that could have hampered the government's ability to fund the bankruptcy plan. The Jenner & Block team made its presence felt in discovery, mediation and oral arguments at all court levels, however, Gordon said, prevailing on "all key issues."

"The wide recognition by various parties in a restructuring that Jenner is comfortable and adept both at the deal table and in the courtroom, I think often facilitates the dealmaking," Gordon said. "That was very much on display in Puerto Rico, a case that placed a real premium on our ability to simultaneously negotiate and litigate."

Jenner & Block also scored a victory in July for an unsecured creditors committee in the bankruptcy proceeding of the generic pharmaceutical company Teligent. The firm was able to negotiate a settlement with a buyer of Teligent's Canadian business over the amount of assumed debt and secured a recovery for the committee that was much more substantial than what was initially proposed, Root said.

When representing committees, Jenner & Block has refused to accept unfavorable terms and has "looked for creative ways to unlock value, for litigation that hasn't been pursued," in order to reach the best result for constituents, Root added.

The co-chairs told Law360 they expect a broader range of distress across industries going into 2023, brought about by headwinds such as rising interest rates and other broader economic forces. Gordon said that as the COVID-19 pandemic winds down, governmental financial assistance will also slow.

"Combined with softening consumer demand that's projected in 2023, we're thinking it's going to lead to broader, more systemic challenges across industries," Gordon said.

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