

MVP: Covington's Nancy Kestenbaum

Law360 (December 7, 2018, 3:33 PM EST) -- Nancy Kestenbaum of Covington & Burling LLP co-leads the high-profile investigation into sexual abuse claims at CBS and has helped private schools in similar reviews while maintaining a traditional defense practice, putting her among Law360's 2018 White Collar MVPs.

ON INVESTIGATING SEXUAL ABUSE CLAIMS:

CBS Corp. hired Kestenbaum and her firm in August along with Mary Jo White of Debevoise & Plimpton LLP to conduct an independent investigation into allegations that the network's former Chairman and CEO Leslie Moonves had sexually harassed or assaulted multiple women.

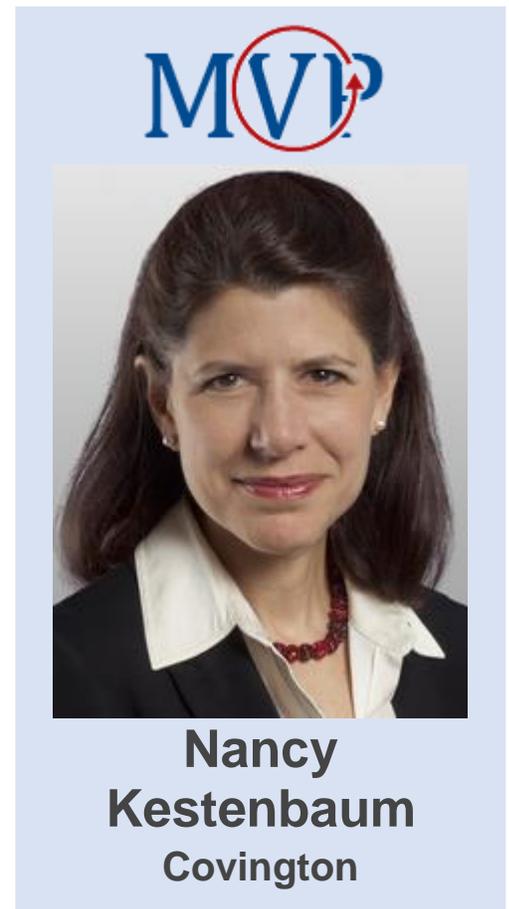
Kestenbaum also conducted an investigation into sexual misconduct for Connecticut prep school Choate Rosemary Hall that resulted in a 50-page public report issued last year. She undertook a similar probe for the Brearley School in New York City.

Kestenbaum said the investigations have required good judgment and a high level of sensitivity.

"I want to make sure that we conduct ourselves in a way that minimizes the chances that we re-traumatize survivors. We also want to make sure that we are fair to everyone involved and provide sufficient due process, including to people accused of misconduct or abuse," Kestenbaum said.

In the Choate report, Kestenbaum laid out her findings and explained her investigative methodology, making clear the aims of the investigation and explaining the criteria for certain decisions, such as when to include the names of the accused.

"Nothing was more important to me than getting it right, and being accurate. It can't be a rush to judgment. I work really hard in these investigations to hear all the allegations, but just as I do on other



white collar work, I focus on the actual evidence,” Kestenbaum said.

In a different kind of engagement on a similar subject, Kestenbaum and her firm represent the U.S. Olympic Committee in congressional investigations and lawsuits stemming from the sexual abuse of athletes by Larry Nassar, the former USA Gymnastics national team doctor who pled guilty to sexual abuse charges last year.

OTHER NOTABLE WORK THIS YEAR:

Alongside her work on high-profile investigations into sexual misconduct, Kestenbaum has also continued to represent clients in large white collar matters.

Bausch Health Cos. Inc., formerly known as Valeant Pharmaceuticals International Inc., has turned to Kestenbaum and her firm to represent the company in government investigations. In addition, Kestenbaum has represented Bausch in connection with the trial of its former executive, Gary Tanner.

Tanner was convicted in May after prosecutors brought evidence that he had taken a \$9.7 million kickback to lead Bausch to acquire the pharmacy at an inflated price. The CEO of the pharmacy was also convicted.

Kestenbaum represented company witnesses during the trial and is now working to recover the company’s losses in the form of restitution as a part of the defendants’ sentences.

“It involves traditional white collar defense of government investigations, but also protecting my client's interests and trying to recoup losses when they were victimized,” Kestenbaum said.

WHY WHITE COLLAR:

Kestenbaum gravitated toward a white collar practice during an internship at the U.S. Attorney’s Office in Connecticut while she was studying at Yale Law School. A couple of years after graduation, she landed a job as a federal prosecutor in Manhattan. She stayed there for about 10 years before bringing her experience to the defense side at Covington.

“My practice allows me to work with clients in their moments of greatest need. I try to obtain the best possible results for them, but I also try to make what can be a difficult and painful process as manageable as possible,” Kestenbaum said.

Some 15 years into her white collar defense practice, Kestenbaum still loves doing work that is important to her clients and the endless opportunities to learn new things about different industries, companies and the people at their heart.

“As a white collar lawyer, you need to become an expert in your client’s business to represent them successfully. But at bottom, white collar matters are always about human nature. And what could be more interesting than that?” Kestenbaum said.

HER ADVICE TO YOUNGER LAWYERS:

As a veteran attorney, Kestenbaum has a few pieces of advice for younger lawyers looking to distinguish themselves in the field.

“Doing a good job on a project is just the beginning,” she said.

Kestenbaum advises junior attorneys to master the facts and the law of the cases they are on, or to become experts on one aspect of their case. In doing so, junior lawyers can become indispensable sources of knowledge for the partners they work with.

“I would also advise junior lawyers to make sure that they are always thinking of themselves as the lawyer for the client,” Kestenbaum said. “I tell junior associates, hopefully this won’t happen, but, ‘If I were hit by a bus, what would you do to represent the client? And then you should do that, or suggest that we as a group do that.’ It’s really about taking ownership or initiative in that way.”

— *As told to Jody Godoy*

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.