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‘Meeting the moment’: O’Melveny resuscitates hospitals

By **Steven Crighton**
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When every hospital bed counts, the work being done by O’Melveny & Myers LLP’s restructuring team could potentially save lives.

As state governments scrambled last month to shore up their healthcare capacities in preparation for the full force of COVID-19, Gov. Gavin Newsom turned to O’Melveny lawyers to help reopen St. Vincent Medical Center, a shut-down hospital in Los Angeles. He also asked for their help with the restoration of the Bay Area’s Seton Medical Center in Daly City.

That call came on March 13, said Los Angeles partner Steven Warren, and nearly a dozen O’Melveny lawyers working with a state team were faced with the unprecedented task of building the legal framework to bring the bankrupted hospitals back online.

Just a week later, they’d succeeded. The deal crafted and negotiated by an O’Melveny team was approved by a Los Angeles County Superior Court bankruptcy judge at a March 20 emergency hearing.

“We had a very receptive counter-party,” said Warren. “And from the state’s perspective, it was interested in putting together a transaction that was commercially reasonable and got the hospitals online quickly.”

In other words, everyone involved was getting a deal done and done fast. Warren said the week preceding the final approval of the deal was full of late-night and early-morning calls between the concerned parties.

“To use a phrase I learned from Governor Newsom, O’Melveny ‘met the moment,’” said firm partner Nancy Mitchell.

A New York partner advising debtors, acquirers and creditors on complex restructuring workouts and Chapter 11 proceedings, Mitchell said the rapid turnaround on the deal was the result of efforts made by O’Melveny’s entire interdisciplinary team. She also gave a nod to the unusualness of the times, acknowledging the threat posed by the coronavirus



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seemed to make all involved eager to reach terms promptly.

“That’s one of the things that’s interesting about this transaction. Usually, with something like that, you ask, ‘Okay. Are we going to have to fight to get this done?’” Mitchell said.

While the firm’s attorneys are no strangers to legal fisticuffs, Mitchell said they found it wasn’t necessary. The restoration of the formerly bankrupt hospitals operated by California non-profit Verity Health System gives California an additional 500 hospital beds to be used to treat critically ill patients in a time of desperate need.

“From the debtors to the creditors to the governor’s office and the health facilities, there was a commonality to achieve this,” Mitchell said. “I’m not sure that I’ve ever seen that in a transaction before. That was really heartening in a way. We had a really clear objective, and there wasn’t a commercial party involved that didn’t recognize the importance of that.”

O’Melveny’s interdisciplinary effort isn’t limited to resuscitating hospitals, and the restructuring team is working in tandem with other practices within the firm, including its health care group, to help state agencies and private companies get answers and close deals. Mitchell said attorneys have also been working to answer questions and resolve issues related to payment patient formulas and the legalities of medical set-up and staffing.

“Addressing health care issues of this

magnitude can typically take months, but our O’Melveny team worked with the state’s team around the clock to find solutions in a matter of days,” said David Deaton, chair of the firm’s Health Care Practice.

With many other clients already concerned about the longterm, Mitchell said much of her focus has turned towards contingency planning. With no lack of uncertainty and no clear end in sight, that’s meant finding the best shields to guard clients in the short term.

“There’s not an immediate plug, so it’s about finding the dikes. It’s really interesting, and difficult, when we’re dealing with contingency plans for about ten different scenarios,” Mitchell said.

Warren said while most signs indicate a decent shift back towards normalcy within months, the impact created by large swaths of businesses throughout the economy generating zero revenue will be felt for years to come.

“That’s never happened before, I don’t think. I’ve certainly never seen it,” Warren said.

Offering counsel amidst so much uncertainty isn’t easy, Warren said. But as an attorney well versed in bankruptcies, he said it’s not hard to picture a scenario where business comes back stronger and smarter than ever.

“I think the impact over the next few years will accelerate trends in our society, trends that are going to change business,” Warren said.

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