

Rising Star: Gibson Dunn's Lindsey Schmidt

By Emma Whitford

Law360 (July 28, 2020, 3:09 PM EDT) -- Gibson Dunn & Crutcher LLP associate Lindsey Schmidt unearthed pivotal tweets showing state-owned gas company Petroleos de Venezuela is the country's so-called alter ego, helping win a \$1.2 billion award for Crystallex International Corp. and landing her a spot among the international arbitration attorneys honored as Law360 Rising Stars.

THE BIGGEST CASE OF HER CAREER:

Schmidt told Law360 the biggest case of her career also happened to get the most publicity — but that's not the only reason it stands out. From 2014 to 2020, the Gibson Dunn associate served as a senior associate member of the team representing Canadian gold mining company Crystallex as it sought to enforce a \$1.2 billion arbitral award against Venezuela.

While working on the case, Schmidt said she and her team had to adapt to shifting dynamics in Venezuela, including the recent power struggle between opposition leader Juan Guaido and President Nicolas Maduro. "It's a combination of how complex it was and how on our toes we had to stay the entire time that we were working on that case that made it super challenging," Schmidt recalled.

A highlight for Schmidt was a discovery she and her team made while they were building the case that Petroleos de Venezuela was Venezuela's alter ego and could be held liable for the award.

"We had to comb through whatever we could find," she recalled. "I remember being up super late one night going through PDVSA's Twitter page, and we came across that PDVSA had tweeted ... 'PDVSA es Venezuela,' over and over again. And we were like, 'Well, should we put this in our papers?'"

They did, and Schmidt said U.S. District Judge Leonard P. Stark ended up quoting the tweets in an August 2018 opinion granting



Lindsey Schmidt
Gibson Dunn

Age: 36
 Home base: New York
 Position: Associate
 Law school: Fordham University
 School of Law
 First job after law
 school: Associate at
 Fensterstock & Partners LLP

Crystallex's request to seize shares of Citgo Petroleum Corp., which is owned by PDVSA.

WHY SHE'S AN INTERNATIONAL ARBITRATION ATTORNEY:

As a young girl, Schmidt said, she knew she wanted to practice international law. "I remember writing a fiction story when I was 10 years old about a girl that lives in New York City that was an international lawyer," she recalled. "So I really had it in my head always."

Her affinity for the practice became clear after law school, when Schmidt moved to London with her husband. "I was there for a few years and so I was practicing English law and Cayman law, and by the time I got back to New York as a third- or a fourth-year [attorney] ... it was a natural fit for me to fall into international arbitration," Schmidt explained.

Today, Schmidt relishes working in an evolving field.

"Because there's very little international law out there, it is constantly evolving and changing. The standards are really flexible," Schmidt said. "So it allows you to do things like go on Twitter and go on social media. We have investigators on the ground in really tricky spots all over the world to help you and really dig into it."

WHAT MOTIVATES HER:

For Schmidt, the high-stakes nature of her practice is motivating. In 2019, Schmidt was the senior associate in charge of case strategy in Ipek Investment Limited v. Turkey, helping represent Ipek Investment as it sought a \$5 billion investment treaty claim against the country.

That year, an International Centre for Settlement of Investment Disputes tribunal ordered Turkey to stop extradition and criminal proceedings against businessman Akin Ipek and his family members — a rare move for an arbitral panel.

"That's extremely rare in international arbitration for that to happen because what you're saying is a country has to stop its own sovereign right to bring criminal proceedings," Schmidt said. "But we ended up convincing the tribunal that what they were doing was severe enough and appeared to be retaliatory for bringing the arbitration."

The scene that followed was "like a movie," according to Schmidt. "The client's crying, our legal team's crying, I'm crying, and at the end of the day, what sometimes gets lost is the impact that what we do has on people's families, on their lives, on their businesses."

HOW SHE SEES THE LEGAL INDUSTRY CHANGING:

In the coming years, Schmidt expects to see more clients opt for third-party funding for arbitration. Traditionally, she said, the space has been dominated by a few large funders, such as Burford Capital. But now smaller funders have picked up on the possibility of high returns, opting to cover claimants' costs upfront.

"You're seeing a number of other smaller niche litigation funders pop up, and the space is really changing very quickly," Schmidt said. "And tribunals are rightly paying attention to it because a lot of times the third-party funder will fund but then they won't be on the hook for costs."

This can become a problem for respondents in arbitration matters, and Schmidt said tribunals are starting to implement new rules around the practice.

"ICSID is changing their rules to require at least the fact that there is funding to be disclosed, and then other jurisdictions are going further to say, 'OK, we need to know what those funding arrangements are,'" she explained. "I think that's really something that has the potential to shape our practice because it really impacts if you can bring claims, and how they're brought and whether they can be brought at all."

— *As told to Emma Whitford*

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2020 Rising Stars winners after reviewing more than 1,300 submissions. Attorneys had to be under 40 as of April 30, 2020, to be eligible for this year's award. This interview has been edited and condensed.