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Trials Group Of The Year: Gibson Dunn

Accolades | February 13, 2025

Law360

Gibson Dunn & Crutcher LLP's achievements last year included securing a $175 million deal on the eve of closing arguments after a nearly monthlong trial in which Massachusetts' attorney general accused Uber and Lyft of misclassifying drivers as independent contractors, earning the firm a spot among the 2024 *Law360* Trials Groups of the Year.

Gibson Dunn, which was representing Uber Technologies Inc. during the bench trial, dueled with Massachusetts' attorney general over whether the drivers were employees under the state's ABC test: a three-pronged test that presumes individuals are employees unless proven otherwise.

Under the test, a hiring entity's personnel are employees unless it can show they are free from its control, engaged in a line of work separate from its own and established as an independent firm.

During the bench trial in May and June, Gibson Dunn was able to highlight the drivers' experience and the flexibility they were able to maintain, firm partner Michele L. Maryott recently told *Law360*.

Maryott said that achieving the settlement, which ordered Uber to shell out $148 million and set a $32.50 minimum wage for drivers, right before the parties could make their closing arguments was a team effort.

"We worked very well with our co-counsel, and we were fortunate enough to have the opportunity to let some of our junior lawyers have on-their-feet experience, which is something that the other partners and I were really happy about because we are always looking for those opportunities," Maryott said.

The team included three female junior attorneys who were able to have their first "stand up" experience in court, she noted.

Besides the team involved in the suit, Maryott said that what stood out about the trial was the judge assigned to the case, who was "very curious" and would always ask further questions even when the parties were ready to move on from a specific document.

Maryott said that she hadn't seen many judges using that approach, adding that he had a "real desire to understand how things worked."

"We always assume that we are bringing out all of the facts that the fact-finder needs. That's our goal: to make sure we impart the information they need," Maryott said. "But he had a lot of questions."

Maryott was also on the firm's team that in July achieved a judgment as a matter of law in Pennsylvania federal court in another suit accusing Uber of misclassifying workers as independent contractors after two jury deadlocks and a trip to the Third Circuit. The drivers filed another appeal, which is pending in the Third Circuit.

Related People

Michele L. Maryott

Marcellus McRae

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That case is interesting, Maryott said, because "you see cases that come out different ways. ... We had two juries who couldn't reach a unanimous verdict, which, of course, means that plaintiff couldn't meet the burden of proof."

But Gibson Dunn's results didn't stop in the employment law universe.

In December 2023, the firm clinched a jury verdict in a case in which a former Abbott Laboratories Inc. sales director accused the company of terminating him because he was over 50 years old. After a quick, one-hour deliberation, the jury concluded that the worker didn't support his claims he was let go from the company because of his age after more than 20 years of service.

Gibson Dunn partner Marcellus McRae, who represented Abbot, recently told *Law360* that what he found to be the most successful approach during trials is "to distill the entire case in a way that is hopefully making complex things understandable" and present it in a streamlined way without losing people's attention.

McRae said that the next step is to "somehow [create] a lens through which the person can view the case in order to be able to understand the real issues that are at stake and why you should prevail."

The individual factors of each discrimination claim are what could make or break the case, McRae continued, adding that it is key in scenarios like these to understand what the other side is saying and how to challenge that at trial.

The firm's trial practice also secured a complete defense verdict in July for Nike Inc. after a jury trial in Oregon state court, where NFL wide receiver Odell Beckham Jr. claimed the sports apparel company changed the contract's extension term and improperly lowered the sales of his royalty-bearing products.

Then, in September, a jury in Idaho federal court sided with Gibson Dunn-represented J.R. Simplot Co., finding that McCain Foods USA Inc. willfully infringed its frozen french fry rival J.R. Simplot's design patent.

Both Maryott and McRae said the firm's trial practice success could be attributed to the trial training academy Gibson Dunn launched in 2024, during which the firm's trial attorneys break down the different aspects of trying a case.

"You have to look at every case like it's going to go to trial. That's what I tell the folks I work with: 'Assume every case is going to go to trial and start planning for it now,'" Maryott said. "And that's the beauty of a program like ours where we are encouraging people to think about that" and decide whether they want to become trial attorneys.

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Trials

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