

California Powerhouse: Gibson Dunn & Crutcher

By **Sophia Morris**

Law360 (August 28, 2018, 4:57 PM EDT) -- Gibson Dunn & Crutcher LLP's attorneys outdid themselves this past year on both the litigation and transactional fronts, securing a decisive win for Grubhub in a class action that threatened the company's operations and advising on complex deals such as HTC Corp.'s sale of part of its smartphone business to Google.

The firm represented tech giants such as Uber and up-and-coming players like Glassdoor on deals worth billions, saved Kimberly-Clark Corp. from millions in punitive damages, and worked with Chevron to ensure that several suits from cities and counties seeking damages for the cost of climate change were tossed, ensuring the firm a spot as one of Law360's 2018 California Powerhouses.

Since it was founded in Los Angeles in 1890, the firm has grown to encompass 423 attorneys in the state, and its offices have expanded to Century City, Orange County, San Francisco and Palo Alto. The firm has responded to the continued growth of the California economy, targeting the industries and innovators that choose to base themselves in the state, said Ken Doran, chairman and managing partner of the firm.

"California has always been an incubator for new ideas and innovation — with technology, e-commerce, media & entertainment, and new service industries replacing many of the traditional manufacturing companies and financial institutions," he said. "In recent years, we have seen many large companies move out of California to jurisdictions with lower taxes and more business-friendly regulatory environments, but at the same time California's economy and population have grown as innovation has created new companies and new industries."

From the firm's perspective, focusing on innovation means advising companies like Uber on the sale of its Southeast Asia business to Singapore-based Grab in exchange for a 27.5 percent stake in the company, and repping California-based job and recruiting website Glassdoor on its \$1.2 billion sale to Japanese company Recruit Holdings.

These deals, and the firm's work with HTC, utilized the global reach of the firm by drawing on its network of offices in Asia. The firm advised Taiwan-based HTC on the sale of the bulk of its smartphone business to Google, partner Stewart McDowell said.



The deal was unusual in that it involved a large group of HTC employees moving to Google, the sale of some assets and the licensing by HTC of some of its intellectual property to Google, “but no IP actually changed hands,” McDowell said.

“It was a big step for Google in terms of bringing some more of the hardware development in-house, and a great result for HTC in terms of monetizing some of the really avant-garde technology development that they had done over the years,” she said.

Gibson Dunn also found success in the courtroom, with its litigation partners securing wins on behalf of clients including Grubhub and Kimberly-Clark. The Grubhub case was a closely watched bellwether, as it was the first instance of a suit going to trial to determine whether so-called gig economy workers are employees or independent contractors.

Following a six-day bench trial, a California federal judge sided with Grubhub, finding that a former delivery driver was an independent contractor given that Grubhub exercised little control over the details of the driver’s work.

“It was a very strong presentation by our team,” said Theodore J. Boutrous Jr., a partner in the firm’s Los Angeles office and a global co-chair of the litigation group. “Michele Maryott and Theane Evangelis were really the two lead partners on the case. And that’s a really cutting-edge issue that many companies are addressing, and there are many class actions and other pieces of litigation in California and around the country involving those issues, so that was a very important case.”

The Kimberly-Clark case was an example of Gibson Dunn jumping to the rescue of the company after it was hit with a massive \$350 million in punitive damages by a jury that found it misled buyers about the impermeability of its MicroCool surgical gowns.

Gibson Dunn convinced a federal judge to slash Kimberly-Clark’s punitive damages award to about \$19.4 million after finding the initial award to be so high that it was unconstitutional. The firm is working to overturn the remainder of the verdict at the Ninth Circuit.

This success highlights the firm’s strength in both litigation and appellate practice, Boutrous said.

“Not too many have the combination in California or really anywhere, of our really terrific trial lawyers and then such a strong appellate group,” he said. “I think that really distinguishes us from other firms and we not only have this practice in California, but from California we have a national, indeed a global practice.”

Another example of the firm’s innovative approach can be seen in its representation of Chevron Corp. in suits brought by cities including San Francisco, New York City, Oakland, Santa Cruz and several counties that seek damages for climate change-related harm that they allege is linked to the company's production of fossil fuels.

In an unusual move, Boutrous and plaintiffs’ experts delivered a tutorial on the science of climate change in the court of U.S. District Judge William Alsup, in what the firm said was the first time climate science had been put before a court. The San Francisco and Oakland suits were dismissed in June.

“These are cutting-edge cases where the plaintiffs’ lawyers are trying out new theories which we argue

are legally baseless,” Boutrous said. “Our position is that global warming is a very important issue, it’s a policy issue, litigation is not the right way to deal with it.”

Boutrous, who is representing actress Ashley Judd in her defamation and sexual harassment suit against Harvey Weinstein, said the firm is often brought in on cases that have “broader ramifications for our society, our economy and public policy.”

“It requires a sensitivity to the pure legal issues, but also the bigger picture, and putting the case in the context of the broader issues at stake. We see that in our cases over and over again,” he said.

--Additional reporting by Bonnie Eslinger and Dani Kass. Editing by Orlando Lorenzo.