

TOP VERDICTS OF 2018

The largest and most significant verdicts and appellate reversals in California in 2018

TOP DEFENSE VERDICTS

In re: Korean Ramen Antitrust Litigation

Looming large over the federal trial claiming two Korean ramen noodle makers, Nongshim Co. Ltd. and Ottogi Co. Ltd., had coordinated a price-fixing scheme was the idea of foreignness: Foreign witnesses, foreign economics, foreign culture.

The key to the December jury victory, according to winning defense attorneys from Gibson, Dunn & Crutcher LLP and Squire Patton Boggs (US) LLP, was to weave an accessible narrative. *In re: Korean Ramen Antitrust Litigation*, 13-CV04115 (N.D. Cal., filed Sept. 5, 2013).

“It became about developing the narrative and the artistry of doing so at trial,” said Squire Patton partner Mark C. Dosker, who represented Nongshim. “The artistry is taking these difficult legal, regulatory and in this case, foreign concepts and getting to a point where the jurors say, ‘This makes total sense to us.’”

According to researchers at both defense firms, the case marked the first federal trial in which price-fixing claims brought by both direct and indirect purchasers have been tried to verdict before a single jury.

One original co-defendant, Samyang Foods Inc., settled for \$1.5 million in 2016. A top executive testified as a cooperating witness. But Nongshim and Ottogi refused to settle.

Over the course of five weeks, a jury heard testimony from a number of company executives, in person and through recorded depositions, as well as economic experts who testified about Korean corpo-



RACHEL BRASS



SCOTT EDELMAN

rate organizational structures and the fundamentals of price-fixing concepts.

Defense attorneys say they had two foreign languages to overcome: Korean and economics.

The latter, Dosker dismantled using household company names, telling jurors vendors such as his client are under such scrutiny that a conspicuous plot to defraud the government wasn't worth the risk.

“The government in Korea is watching these companies like a hawk because ramen is basically the diet of the working class,” Dosker said. “We translated that into a narrative saying there's a similar dynamic in America: It's Walmart and Costco. If you're a vendor there, you're looked at very hard and if you blow your credibility they won't sell your product anymore.”

Then there was the matter of Korean witnesses, testimony defense attorneys worried would not come off as credible because jurors would focus on the translator,

not the witness.

Gibson Dunn attorney Scott A. Edelman advised a key witness carefully.

“I told him, ‘Look the jury in the eye as you answer this question: Did you fabricate documents in an effort to deceive the [Korea Fair Trade Commission]?’ And he looked at them directly and, in Korean, he said he would never do anything like that,” Edelman recalled. “Despite the language barrier and the different culture, it felt like the jury understood.”

The decision to even go to trial was unique. Both Nongshim and Ottogi had been fined by the Korea Fair Trade Commission but vindicated in the South Korean Supreme Court.

Plaintiffs' attorneys did not respond to requests for comment.

Gibson Dunn partner Rachel S. Brass hopes the case sets a precedent for companies looking to clear their names.

“Just because you hire a great firm to defend you in a case like

CASE
INFO

Antitrust

Northern District

U. S. District Judge
William H. Orrick

Defense Lawyers:

Rachel S. Brass, Scott A. Edelman, Mary A. Perry, Minae Yu, Julian Wolfe Kleinbrodt, Joshua M. Wesneski, Soolean Choy, Gibson, Dunn & Crutcher LLP; Mark C. Dosker, John R. Gall, Mark C. Dosker, Joseph P. Grasser, Tania L. Rice, Squire Patton Boggs (US) LLP

Plaintiff's Lawyers:

Mark P. Kindall, Izard, Kindall & Raabe LLP; Daniel E. Birkhaeuser, Alan R. Plutzik, Bramson, Plutzik, Mahler & Birkhaeuser LLP; Christopher L. Lebsock, Bonny E. Sweeney, Stephanie Y. Cho, Hausfeld LLP; Kevin F. Ruf, Lee Albert, Gregory B. Linkh, Glancy Prongay & Murray LLP

this does not mean it's going to be a bust-the-budget matter,” Brass said. “We were a very small, nimble, cost-efficient team, but if you have the right team, you can vindicate important principles in a way that is worth the investment to your company.”

— Paula Lehman-Ewing