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Top WOMEN LAWYERS 2020

Theane D. Evangelis

Evangelis is co-chair of Gibson Dunn’s class actions practice group. She has played a leading role in a range of appellate, constitutional, class action and crisis management matters, including groundbreaking litigation over gig economy issues.

Longtime client Uber Technologies Inc. has employed her services in challenges to its independent contractor model, a thorny arena in which the Legislature’s AB 5 statute intersects with the upcoming vote on the Proposition 22 ballot initiative and the state Supreme Court’s pending decision on whether its ABC rule is retroactive.

“The bottom line is that workers shouldn’t have to give up the flexibility and independence of gig work,” Evangelis said, pointing to Prop 22 as a potential win-win-win for app-based workers, consumers and her client. The measure defines rideshare and delivery drivers as independent contractors, not employees, overriding AB 5 but adding worker protections including health care subsidies and minimum wage guarantees. Uber, Lyft Inc. and DoorDash Inc. have backed and funded Prop. 22.

“I focus on the legal work, not the campaign,” Evangelis said. But she noted that 80 percent of app-based drivers have said in surveys that they support the measure. “Drivers four to one want to remain independent,” she said. Alongside the independent contractor model and the push to

make the drivers employees, “Prop. 22 creates a third way.”

She added that independent groups are in Prop. 22’s corner, including Mothers Against Drunk Drivers. “MADD says having ridesharing available reduces drunk driving by 60 percent. It’s great for everyone,” Evangelis said.

Even so, litigation over the question rolls on. Evangelis successfully petitioned to hold up an August ruling by a San Francisco Superior Court judge that Uber and Lyft violated AB 5 and misclassified their workers. A state appellate panel stayed a preliminary injunction issued by the judge and planned to hear Evangelis’ appeal in late October. *People v. Uber Technologies Inc.*, CGC20584402 (S.F. Super. Ct., filed May 5, 2020).

Separately, she defeated two preliminary injunctions in a potential federal class action in Massachusetts filed by plaintiffs claiming that Uber misclassified drivers. Evangelis removed the case to California and successfully moved to compel arbitration. *Capriole v. Uber Technologies Inc.*, 3:20-cv-02211 (N.D. Cal., filed April 1, 2020).

“Capriole is an important case for the gig economy, especially now when millions find themselves unable to secure traditional employment and the public is relying on on-demand services that governments have deemed essential,” Evangelis said.

The cases underscore the importance of Prop. 22, she emphasized.



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Practice Type:
Litigation, appeals

“It would change the law,” Evangelis said. It would also likely end much of the litigation against her client. “There would be no basis for the prospective relief being sought.”

— John Roemer