MVP: Gibson Dunn's Theane Evangelis

By **Anne Cullen**

Law360 (September 16, 2021, 4:34 PM EDT) -- Over the past year, Gibson Dunn & Crutcher LLP's Theane Evangelis spearheaded the legal team that convinced the Ninth Circuit to roll back a record-breaking $102 million judgment against Walmart over alleged pay stub violations, earning her a spot among Law360's 2021 Class Action MVPs.

HER BIGGEST CASE:

After Gibson Dunn client Walmart was smacked with a judgment upwards of $100 million for allegedly giving thousands of workers incomplete wage statements, Evangelis brought the battle up to the Ninth Circuit where she was able to get the award thrown out.

Evangelis spearheaded the appellate effort and told Law360 that it was crucial for her to ensure the panel understood that no one was ever paid incorrectly.

"What was most important to us was highlighting that there was never any allegation that a single associate was not paid appropriately," she said. "These were only hyper technical allegations about pay stubs."
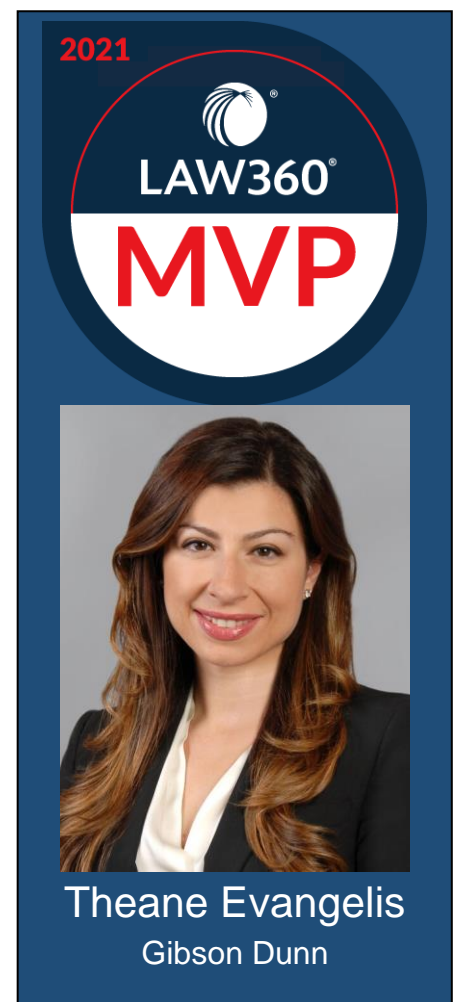
A trial court judge had determined in 2018 that Walmart violated the California Labor Code by not including start and end dates on a final wage statement or hourly rate information for a subset of overtime wages. However, the Ninth Circuit ruled in May of this year that Walmart hadn't committed any pay stub violations.

"The Ninth Circuit's ruling vindicated Walmart's position that its pay stub complies with California law," Evangelis said.

HER PROUDEST MOMENT:

Evangelis said she's been virtually arguing in appellate courts all over the country throughout the pandemic, including one hectic week in November in which she was making arguments before the Ninth Circuit two days in a row in a pair of different, high-profile cases.

One Wednesday morning last fall, Evangelis urged the Ninth Circuit to block A.B. 5, a California law

making it harder for workers to be classified as independent contractors, on behalf of Uber, Postmates and a pair of drivers.

The following morning, the class action guru called on the same court to toss the $102 million judgment Walmart had received for allegedly providing deficient pay stubs and other labor violations.

She said the fact that she was able to successfully prepare and deliver her arguments in both closely watched lawsuits back-to-back was a major win for her.

"My proudest moment is that I was able to handle all of that while juggling everything else that we've been grappling with over the course of the pandemic," Evangelis said. "It was a very busy week."

WHY SHE'S A CLASS ACTION ATTORNEY:
When she was a senior associate at Gibson Dunn, Evangelis had already worked on some class action cases at the firm, but she said her involvement in the landmark Walmart v. Dukes case solidified her interest in the field.

"That was one of the greatest experiences of my career and I remember it fondly," Evangelis said. "It was one of my first class actions."

Gibson Dunn represented Walmart in the legal battle, which was brought by female workers who alleged systemic discrimination at the retail giant. The case went all the way up to the Supreme Court, where the justices unwound a class of approximately 1.5 million women and changed the rules for class actions.

"It was perhaps one of the most extreme examples of a class action that should never have been certified, and the Supreme Court agreed," Evangelis said.

Evangelis said she was the lead associate on the case, helping out with the petition for Supreme Court review and the briefs in the case. "It was a wonderful experience to be there, at the Supreme Court at the counsel table," she said.

WHAT MOTIVATES HER:
Evangelis said she loves the challenge of defending class actions.

"These are usually very important, high-stakes, bet-the-company cases," she said. "The stakes are very high, and the issues are complex and interesting."

"It's the perfect recipe for career satisfaction," she said.

On top of her partiality toward her field, Evangelis said the opportunity to win a case for a client drives her forward.

"I love winning," she said. "In the end, I'm driven to win."

OTHER NOTABLE CASES:
Evangelis navigated a lot of the new developments in the gig economy this past year, representing Uber in a series of legal battles over the classification of independent contractors.

Aside from guiding the rideshare giant in its legal challenge to A.B. 5, Evangelis also snagged a win for Uber in October when a California state judge refused to block the company's messaging campaign on an upcoming ballot initiative.

Uber had circulated messages on the app its drivers use to generate support for Proposition 22, which would exempt Uber and other gig employers from California's A.B. 5. San Francisco Superior Court Judge Richard B. Ulmer sided with Uber, ruling that blocking Uber's messaging campaign would cut into free speech.

Evangelis said it's been exciting to work in this rapidly changing area of the law.

"Being able to be at the forefront of those legal developments, advising clients and litigating these cases has been a huge part of the past year for me," Evangelis said.

— As told to Anne Cullen

Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2021 MVP winners after reviewing nearly 900 submissions.