

# Daily Journal

February 9, 2022

## Top Verdicts

The largest and most significant verdicts and appellate reversals in California in 2021

### TOP APPELLATE REVERSALS

## Magadia v. Wal-Mart Associates Inc. et al.

### Case Info

**CASE NAME:** MAGADIA V. WAL-MART ASSOCIATES INC. ET AL.

**TYPE OF CASE:** MEAL BREAK CLASS ACTION

**COURT:** 9TH CIRCUIT

**JUDGE(S):** JUDGE PATRICK J. BUMATAY

#### APPELLANTS'

**ATTORNEYS:** Gibson, Dunn & Crutcher LLP, Theane Evangelis, Julian W. Poon, Bradley J. Hamburger, Kelsey J. Helland, Shaun A. Mathur, Matthew T. Sessions, Andrew M. Kasabian, Warren S. Loegering

#### APPELLEE'S

**ATTORNEYS:** Gupta Wessler PLLC, Deepak Gupta, Jonathan E. Taylor, Gregory A. Beck, Daniel Wilf-Townsend; Diversity Law Group PC, Larry W. Lee, Kwanporn Tulyathan, Max W. Gavron; Hyun Legal APC, Dennis S. Hyun; Polaris Law Group LLP, William L. Marder

Gibson, Dunn & Crutcher LLP partner Theane Evangelis persuaded a 9th U.S. Circuit Court of Appeals panel to reverse a \$102 million class action.

Evangelis won a reversal of a San Jose district judge's ruling by persuading a panel that lead plaintiff Roderick Magadia, a former Walmart Inc. employee, lacked Article III standing to bring a claim under the California Private Attorney General Act.



THEANE EVANGELIS

Former employee Roderick Magadia, represented by Gupta Wessler PLLC and other firms, alleged three violations of the California Labor Code's wage statement and meal break requirements. The class won a \$102 award in a case before then-U.S. District Judge Lucy H. Koh of San Jose.

But a 9th Circuit panel, in a decision written by Judge Patrick J. Bumatay — an appointee of President Donald Trump — reversed the award in *Magadia v. Wal-Mart Associates Inc. et al.*, 19-16184 (9th Circ., filed June 11, 2019).

"The case resulted in vacatur of the largest Labor Code section 226 statutory penalties and largest court-awarded PAGA penalty ever," Evangelis said.

"It is important because of the Article III and statutory interpretation precedent it set for California employers who provide quarterly bonuses," she said.

"Magadia was the first appellate decision to hold that PAGA plaintiffs must prove that they have Article III standing to bring a claim, and that a PAGA plaintiff



JULIAN W. POON

who has not suffered the particular violation cannot bring a PAGA claim for that violation," Evangelis added.

The case was remanded to Koh with instructions to send the remaining PAGA claim for an alleged meal break violation to Santa Clara County Superior Court.

"For our appeal strategy, we challenged each claim on a jurisdictional ground, on the merits, and as awarding unconstitutional damages and penalties," Evangelis said.

"On the meal period claim, we focused on our jurisdictional challenge — namely, that the plaintiff himself had not been subjected to the claimed violation," she said.

"We recognized the long-term value of a decision that declares that plaintiffs can only bring PAGA claims if they suffered that particular Labor Code violation," she added.

Gibson Dunn relied on multiple unpublished appellate decisions, adopting a similar interpretation. The 9th Circuit panel agreed and published the first appellate decision to interpret this provision.



BRADLEY J. HAMBURGER

"We believe this straightforward explanation resulted in the panel adopting Walmart's common-sense arguments on appeal," Evangelis said.

Moving forward, PAGA actions in federal court will be limited to violations to which the named plaintiff was actually subjected, and a named plaintiff will have to prove that they suffered financially as a result of the violation.

Attorneys with Gupta Wessler PLLC could not be reached for comment.

Jonathan E. Taylor, a Gupta Wessler principal, sought a 9th Circuit en banc rehearing following the panel decision.

"The panel's opinion mints a new rule for Article III standing that is in direct conflict with Supreme Court precedent and that, if left intact, will cause considerable uncertainty for litigation under California's Private Attorneys General Act," Taylor wrote.

In October, the three-judge panel rejected the motion for rehearing and no judge on the 9th Circuit voted to hear the case en banc.

— FEDERICO LO GIUDICE