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Leading COMMERCIAL LITIGATORS 2023



Richard J. Doren

GIBSON, DUNN &
CRUTCHER LLP
LOS ANGELES
LITIGATION

Richard J. Doren is a partner in Gibson, Dunn & Crutcher LLP's Los Angeles office and a member of the executive committee. He's been with the firm since 1986 and is a veteran of successful cases involving antitrust, unfair competition, breach of contract, wrongful death, insurance coverage and health care fraud.

"I joined Gibson right out of law school," he said. "It's been a good fit — a collaborative environment with plenty of room to do your own thing."

Doren is currently awaiting a ruling from the 9th U.S. Circuit Court of Appeals over the massive win by the team he led for Apple Inc. following an antitrust challenge to its business model from Epic Games Inc. *Epic Games Inc. v. Apple Inc.*, 4:20-cv-05640 (N.D. Cal., filed Aug. 13, 2020).

At a 16-day bench trial, Doren cross-examined Epic Games' central witness, CEO Tim Sweeney, and the company's chief marketing executive and obtained key admissions that were prominently featured in the 185-page opinion by U.S. District Judge Yvonne Gonzalez Rogers of Oakland. It held that Apple was not a monopolist and rejected all nine of Epic's federal and state law antitrust claims.

The Washington Post called it the "biggest antitrust trial involving a technology giant in more than two decades."

Sweeney, said Doren, "was the face of the lawsuit and their primary storyteller, and thematically you want to cement your view of the case early in the judge's mind." Doren succeeded. "I think the judge was struck by how they'd taken steps to manufacture a crisis by violating rules of the App Store to prompt Apple to sue. It was a setup, and we showed that."

His questions to the Epic executives focused on contradictions. "We wrapped the CEO and the head of marketing around the axel with their own internal communications. The way they conducted themselves was the same as the things they complained about with Apple."

Doren and his team also educated the judge about the game. "We played it

live in court on the big video screen, and I believe that may have been a once-in-a-career moment. I stayed up late at night with associates in their twenties learning the game." They enlisted the gaming device of a 12-year-old son of a staff member. "He was delighted to be able to help the lawyers," Doren said.

His other recent major effort has been in high-stakes COVID-19 insurance coverage defense. In September 2022, Doren obtained a 6-3 ruling from the Oklahoma Supreme Court in favor of his insurer client, reversing a lower court decision and rejecting claims by a Native American tribe that it was due hundreds of millions of dollars for business interruption losses at its casinos. *Cherokee Nation v. Lexington Insurance Co.*, 2022 OK 71 (S.Ct. of Ok., op. filed Sept. 13, 2022).

"I spent part of the prior year traveling the county courthouses of Oklahoma litigating five separate cases that ended up at the Supreme Court," Doren said. "We think that's over now."

Earlier, a 9th Circuit panel affirmed dismissal of one of Doren's early COVID-19 cases. It was the first instance in which the court heard oral argument over pandemic-linked business interruption claims. *Mudpie Inc. v. Travelers Casualty Insurance Co. of America*, 20-16858 (9th Cir., op. filed Oct. 1, 2021).

Doren is enjoying himself. "I'm just back from an international arbitration in London," he said. "And I got to play a video game in court. The practice is interesting and entertaining. It's the professional definition of fun."

— JOHN ROEMER