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Leading COMMERCIAL LITIGATORS 2023



Theane Evangelis

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LOS ANGELES

LITIGATION

Theane D. Evangelis had a very busy week in early November. On Nov. 8, she appeared before the 3rd U.S. Circuit Court of Appeals in Philadelphia to argue against Uber drivers' claims that they didn't have to

arbitrate disputes with the company because they fell under an exemption in the Federal Arbitration Act for transportation workers "engaged in foreign or interstate commerce."

On the ninth, she argued two cases raising the same issue before the 1st Circuit in Boston, one for Postmates and one for Grubhub. Fortunately, the court held its arguments over Zoom, she said, "so I was able to do them from my hotel room in Philadelphia."

When the 1st Circuit published one decision just a few weeks later, Evangelis had won. *Immediato v. Postmates Inc.*, 22-1015 (1st Cir. dec. Nov. 29, 2022).

A few days later, she won the second case in an unpublished opinion citing the first.

Those two victories extended her winning streak on the arbitration act's exemption clause to four. In 2021, the 9th Circuit ruled for her client Uber. *Capriole v. Uber Technologies Inc.*, 20-16030 (9th Cir. Aug. 2, 2021) Then last year, Massachusetts's highest court decided the same way for another client. *Archer v. Grubhub Inc.*, SJC-13228 (Mass. Supm. J'l. Ct., dec. July 27, 2022).

"I feel like I've been making my way across the country on Section One of ... the Federal Arbitration Act," said Evangelis, who co-chairs her firm's global litigation practice group.

She said that while a gig-economy driver working near a state border

might make an interstate trip now and then, the act's exemption language refers to classes of workers as a whole. "It's been a very important issue, a cutting-edge issue, that courts across the country, including the Supreme Court, are grappling with."

Evangelis had another very important appellate win last year when the 9th Circuit ruled that the Communications Decency Act's Section 230 shields interactive social media platforms from certain sex-trafficking claims, despite a 2018 amendment. *Doe v. Reddit Inc.*, 21-56293 (9th Cir., dec. Oct. 24, 2022).

"This was the first appellate decision in the country to interpret this exception to Section 230," she said.

The 9th Circuit has not gone Evangelis' way on another issue that is very important to her. In a pair of cases she argued, it severely limited cities' ability to control homeless encampments, initially in a case against the city of Boise, Idaho. Then in September, it allowed certification of a class action against an Oregon city. *Johnson v. City of Grants Pass*, 20-35752 (9th Cir., dec. Sept. 28, 2022).

Still, she said, "I love having the opportunity to work on novel issues of first impression ... that present new and interesting issues."

— DON DEBENEDICTIS