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Appellate Group Of The Year: Gibson Dunn

By **Christopher Cole**

Law360 (February 6, 2025, 4:04 PM EST) -- Gibson Dunn & Crutcher LLP notched critical wins as the U.S. Supreme Court rejected an Eighth Amendment challenge to a city's public camping law and gave insurers a voice in mass tort bankruptcies, making it one of the 2024 Law360 Appellate Groups of the Year.

In a landmark decision, the justices decided 6-3 in favor of the city of Grants Pass, Oregon, in a case testing the bounds of city camping laws and whether their enforcement could amount to "cruel and unusual punishments" under the Constitution.

Gibson Dunn served as lead counsel to Grants Pass as the case wound its way to the Supreme Court, after Ninth Circuit decisions on the issue wreaked "havoc" on the country's most populous circuit, according to Los Angeles partner Julian Poon, co-chair of the firm's appellate and constitutional law practice group.

The high court's majority held in June that when the West Coast circuit upheld an injunction barring enforcement of the ordinances, it overstretched high court case law holding that criminalizing status amounts to a cruel and unusual punishment.

Although the court split on ideological lines, Gibson Dunn noted that its team pulled together broad political support for Grants Pass and that the case led to more than three dozen briefs representing hundreds of amici.

"The practical significance goes well beyond just the specific Eighth Amendment holding that it's not cruel and unusual punishment to prohibit encampments or camping in public or on public property," Poon said.

The Ninth Circuit rulings had "really shackled and hindered the ability of cities and municipalities and other governments throughout the West" to help homeless people who had been declining assistance because of mental health, substance abuse or other issues, he said. "And so it's tremendously significant."

Gibson Dunn scored another win in June with a unanimous high court ruling that turned back decades of precedent around the country that had denied insurers the right to be heard on their insureds' Chapter 11 reorganization plans.

The opinion favoring Truck Insurance Exchange was significant for insurers in mass tort bankruptcies to give them a voice in the process, said Allyson Ho, partner in Dallas and co-chair of the appellate practice group, who argued for the insurer.

"The case really showcased the Gibson Dunn appellate brand — just unparalleled subject-matter experts, like our bankruptcy colleagues, working hand-in-hand with us to take really complex issues and even arcane areas of law and distill them to their essence to persuade generalist judges," she said. "We were able to boil down a lot of legal doctrine and history to the idea that if insurers are going to be responsible for paying virtually every penny of claims against the bankruptcy estate, then they deserve a seat at the table."

Gibson Dunn also won big in the First Circuit with a September precedential decision favoring DraftKings in a trade secret and noncompete suit against a former executive who left for another sports-betting company. The appeals court unanimously affirmed a preliminary injunction in the case, saying that Massachusetts, rather than California, law applied to the dispute and allowing DraftKings to enforce a noncompete agreement.

Thomas Dupree, co-partner-in-charge of the Washington, D.C., office and practice co-chair, said the case turned on a choice of law question, calling the decision "remarkable" and establishing a "pretty significant, important and well-reasoned precedent."

Gibson Dunn also counts among its recent victories a Fifth Circuit ruling against a U.S. Securities and Exchange Commission rule that would have required private fund advisers to provide detailed disclosures to investors. In June 2024, the Fifth Circuit vacated the rule after Gibson Dunn partner Eugene Scalia argued the challenge by private fund trade groups.

"It really is an example of [us] doing what Gibson Dunn does best — challenge executive or administrative overreach. This was one in a long line of successful rulemaking challenges that we brought to SEC rulemakings," Dupree said.

"We persuaded the Fifth Circuit to hold that in issuing this rule, the commission had exceeded its statutory authority," he said. "This is an argument that we have made successfully to many courts in a variety of different contexts."

In the California Supreme Court, the practice group also won a major ruling on behalf of accounting firm PwC, also known as PricewaterhouseCoopers LLP, which had been sued by the city of Los Angeles for millions of dollars the city had paid in a class settlement related to work performed for the city's Department of Water and Power. PwC sought $2.5 million in sanctions for abuse of the discovery process throughout the legal battle, and in August, the state's top court agreed.

Poon said it was a significant ruling that courts can "impose monetary sanctions to deter general categories of discovery abuse, instead of limiting it to particular specific instances of violations defined in specific chapters of the Discovery Act."

"It was a hard-fought victory our clients are very happy with — as are we," Poon added.

--Additional reporting by Grace Dixon, Ganesh Setty, Hailey Konnath, Jessica Corso and Gina Kim. Editing by Michael Watanabe. All Content © 2003-2025, Portfolio Media, Inc.