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LEADING COMMERCIAL LITIGATORS 2025



MICHELE L. MARYOTT

GIBSON, DUNN & CRUTCHER

IRVINE

LITIGATION

Michele L. Maryott, who has been with Gibson, Dunn & Crutcher since 1998, is partner-in-charge of the firm's Orange County office and a prominent management-side employment litigator.

She's busy. "I'm currently in my seventh trial of the year," she said in late December. She's defending a lending company against employment claims by a former chief operating officer. *Richards v. LoanDepot Inc. et al.*, 30-2021-01222421 (O.C. Super. Ct., filed Sept. 21, 2021).

"We knocked out a bunch of claims, so we feel good about that," Maryott said. "Everything's been dismissed except harassment and constructive discharge."

A highlight of Maryott's intense year of litigation was an unusual win for a major client, Uber Technologies Inc., in federal court in Pennsylvania. The question was whether the rideshare company had misclassified workers as independent contractors instead of employees, a frequent gig economy controversy. *Razak et al. v. Uber Technologies Inc. et al.*, 2:16-cv-00573 (E.D. Pa., filed Sept. 13, 2017).

The plaintiff drivers, who had Uber-BLACK status because they possess commercial auto insurance, originally sued as a collective action in 2016 only to face a grant of summary judgment in Uber's favor. When that was reversed by the 3rd U.S. Circuit Court of Appeals, two trials followed, each ending in a hung jury favoring Uber.

So, in an aggressive move, Maryott sought dismissal, arguing that it would be prejudicial to deny Uber finality and subject it to another jury trial.

"He has the authority," Maryott said of U.S. District Judge Michael M. Baylson of Philadelphia. "What do you do when the jury can't decide? It's ex-

pensive and time-consuming to keep retrying the case."

Baylson asked the jury to complete special interrogatories, then granted Maryott's motion.

"In this court's humble view, providing plaintiffs with a proverbial third 'bite of the apple' would be futile," Baylson wrote. "The question presented, whether UberBLACK drivers are properly characterized as employees or independent contractors under the Fair Labor Standards Act and its Pennsylvania law counterparts, is an intractable one."

The judgment represents a landmark win for the gig economy and the first-ever trial win on the merits of FLSA claims for Uber, Maryott said. The plaintiffs have filed an appeal.

In December, Maryott was preparing for a 2025 trial on behalf of client LoanDepot Inc., a leading mortgage lender, in defense of wrongful termination claims by its former chief operating officer Tamara Richards. *Richards v. LoanDepot Inc.*, 30-2021-01222421-CU-WT-NJC (O.C. Super. Ct., filed Sept. 21, 2021).

"We fought off what we believe are frivolous claims, but the other side is dug in," Maryott said. "So off we go."