

Daily Journal

JULY 30, 2025



MICHELE L. MARYOTT

GIBSON, DUNN &
CRUTCHER LLP

IRVINE

Michele L. Maryott's practice focuses on management-side business litigation with an emphasis on employment law. She is partner-in-charge of Gibson, Dunn & Crutcher LLP's Irvine office, co-chair of its trials practice group, and a member of the labor and employment, class actions, and litigation practice groups. She joined the firm in 1998.

"I've been so focused on trials," she said of her crowded calendar. "I did six-and-a-half trials in 2024 and two arbitrations in January this year."

PAGA cases continue to flow despite last year's reform legislation designed to reduce

and streamline the process, she said. "We just took on a new one, another typical kitchen sink approach to claims." The reforms simply caused the plaintiff bar to devise new tactics, she added. "I heard one judge call PAGA 'the rug that is too big for the room.'"

In early February, an Orange County jury unanimously ruled for Maryott's client, LoanDepot Inc., after an eight-week trial in which a former COO demanded \$90 million on claims of gender harassment, whistleblower retaliation and constructive termination.

Tamara Richards, who served as COO through 2020, was demoted after months of poor performance. She took a leave of absence, then resigned. She sued LoanDepot in September 2021. *Richards v. LoanDepot, Inc. et al.*, 30-2021-01222421-CU-WT-NJC (O.C. Super. Ct., filed Sept. 21, 2021).

"To make sure the trial focused on core issues only, we filed 17 motions in limine — even though the plaintiff tried to piggyback her claims on issues from the past," Maryott said. Those motions led to dismissal of the whistleblower retaliation and constructive termination claims. Following the defense team's motion for summary adjudication, half the plaintiff's remaining claims were eliminated.

Much of the plaintiff's planned testimony was forestalled when she made proce-

dural errors in identifying herself as a non-retained expert witness. "She didn't follow the rules, so we moved to exclude her, and that gutted her case," said Maryott, who missed part of the trial due to two arbitration hearings but continued to provide input from behind the scenes.

"I was pleased that the jury saw plaintiff's story was not credible." The jury took only 15 minutes to vote in favor of Maryott's client.

In a significant win for the trucking industry, Maryott persuaded a federal judge that trainee drivers are not legally employees. *Nyachira v. New Prime Inc.*, 6:21-cv-03211 (W.D. Mo., filed Aug. 12, 2021).

The four-day bench trial involved claims from a Fair Labor Standards Act class of more than 6,000 participants in a trucking company's student driver program who alleged they were employees entitled to minimum wage. Many millions of dollars in potential damages were at stake.

After Maryott examined nearly a dozen witnesses and her team prepared a crucial chart showing parallels to an earlier case, the judge concluded that training program participants are not employees under the FLSA or Missouri's minimum wage law.

The outcome sets a precedent for other long-haul carriers facing similar challenges, Maryott said.