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California's Top Labor & Employment Lawyers for 2016

EDITOR'S NOTE

PAGA remained omnipresent in employment law this year. A record number of new lawsuits invoked the Private Attorney General Act of 2004 as employees pushed for civil penalties and to escape employers' binding arbitration clauses.

In this special issue, we honor some of the California lawyers involved in these and other cutting-edge employment and labor cases. They are brilliant, strategic and, most of all, agile, as they navigate a fast-moving and ever-changing legal landscape. Compiling this list, we often marveled at the performances of these lawyers. As you read through this issue, we think you'll be impressed, too.

Catherine A. Conway

FIRM:	CITY	SPECIALTY
Gibson, Dunn & Crutcher LLP	Los Angeles	Employer defense litigation

Conway, who has defended employment cases for more than 25 years, says she gravitated toward employment law early in her career because she views herself primarily as a litigator and a large percentage of employment cases end up in trial.

"Both sides really care about these cases, and for our clients that goes right up to the board of directors and the CEO," she said.

Ironically, for a lawyer who loves litigation, one of Conway's fortes is to keep lawsuits from going to trial, through summary judgments, dismissals, settlements or decertifying class actions.

In 2014, for instance, Conway won a decision from the 9th Circuit Court of Appeals that lowered some of the hurdles employers face when trying to decertify class actions by their employees. That decision not only helped her client, Staples Inc., in its defense against a suit by 250 store managers but also provided a citable precedent for employers facing similar issues.

More recently, Conway and her team at Gibson Dunn won the dismissal of one suit and class decertification of a related suit centering on J.C. Penney Co.'s vacation policy for part-time workers.

When Gibson Dunn took the case in 2015,

it was four years after the original complaint was filed and the classes had already been certified. One of Conway's first tasks was to seek decertification, which "can be very challenging after a class has already been certified," she said.

She and her team did it by focusing on the particular claims of each named plaintiff as well as other complexities in the case.

"The plaintiffs were not representative of the proposed class," she said, adding that "individual distinctions between potential class members would have made the case unmanageable."

In the U.S. District Court in San Diego, Conway successfully argued that the claims for each individual worker were so different it would be too difficult to treat them as a class.

"Class actions are supposed to make things more efficient, but that's not what would have happened here," she said.

In March, Judge Jeffrey T. Miller not only decertified the class in the original suit but dismissed the second suit entirely and compelled arbitration, since all the named plaintiffs in that suit had previously signed arbitration agreements.

In April, a federal judge in Chicago, han-



dling a spinoff of the San Diego case involving JCPenney workers in Illinois, issued a very different ruling.

Judge Joan B. Gottschall certified the class and allowed the suit to go forward, after the plaintiffs' lawyers narrowed their definition of the class and focused the case solely on alleged violations of Illinois law. Gottschall also allowed workers covered by arbitration agreements to stay in the class — at least until JCPenney files a separate motion to compel arbitration, which would lead to additional hearings.

— Dean Calbreath