

## Class Action Group Of The Year: Gibson Dunn

By **Gavin Broady**



*Law360, New York (January 26, 2015, 6:59 PM ET)* -- Gibson Dunn once again proved why it is a go-to firm for companies facing high-stakes class action lawsuits in 2014, securing big wins for clients like Wal-Mart Stores Inc., Hewlett-Packard Co. and PepsiCo and earning its fifth straight appearance among Law360's Class Action Groups of the Year.

The secret to Gibson Dunn's success stems from the firm's focus on building a story against class treatment in the early factual development stages, according to Christopher Chorba, who oversees the firm's 120 class action specialists alongside partners Gail Lees and Drew Tulumello.

"When we get involved in a case we try to learn the business and the practices being challenged, which lends itself to a lot of challenges at the pleading stage," Chorba says. "As a result, we have a really unparalleled track record for getting these sorts of cases dismissed early."

Chorba notes that Gibson Dunn has also built a reputation for stepping up to the plate when the rare class action does go to trial, which can pay significant dividends during settlement negotiations.

"It's rare that a class goes to a jury, but our firm hasn't been afraid to do it, and has a track record for presenting cases in front of a jury and winning," Chorba says. "That gives us a lot of credibility in dealing with opposing counsel when we tell them we're not afraid to take a case to trial."

Tulumello notes that the group's success in the class action field is also due in part to the ability to lean on the legal talent and veteran perspectives present throughout the firm.

"Another distinguishing feature for us is that we have a very talented group of appellate lawyers who have handled some of the most significant cases in appellate courts in recent years," Tulumello says. "These lawyers have thought deeply about the law of class certification and where the best arguments might be, and when you pair trial readiness with that deep knowledge of class action law, it's very formidable."

That approach was on display in the firm's handling of the Dukes "spinoff cases" pursued around the country following the Supreme Court's decertification of a nationwide class of approximately 1.5 million female employees who accused Wal-Mart of sex discrimination.

That case was argued by Gibson Dunn appellate star Theodore J. Boutros Jr. at the high court, and the nationwide class it dismantled gave rise to regional suits in Texas, Florida, Wisconsin and elsewhere.

In the original California action, Gibson Dunn's class action team successfully convinced a federal judge in August to deny class certification on the ground that the significantly smaller state class was little more than "a scaled-down version" of the earlier permutation

The firm also continued to break new ground in its handling of food and beverage labeling class action litigation against companies like client PepsiCo, most notably in its September victory in California's Northern District in a fight over the purported misbranding of Lipton tea products.

That case involved a joint venture between Pepsi and Unilever, and it saw Gibson Dunn attorneys not only ax nationwide claims at the motion to dismiss phase but also persuade the presiding judge that company websites could not be relied on as "labeling" for food and beverage consumer protection claims, according to the firm.

"It was really the first decision that we're aware of where a court ruled at the pleading stage that attempts to plead claims on a nationwide basis couldn't proceed, which carved up the case significantly," Chorba says. "It immediately took the case from one of very significant potential exposure for the company to a much smaller statewide class action."

Other big wins in 2014 include the firm's successful representation of Yelp in a Ninth Circuit case in which a class of business owners accused the website of extorting advertising money from businesses by fabricating reviews, and securing final approval — over strenuous objection — for a settlement in litigation over claims Hewlett-Packard Co. deceptively marketed printer ink.

--Editing by Jeremy Barker.

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