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Top Verdicts of 2014

The Largest and most significant verdicts and appellate reversals handed down in California in 2014

TOP APPELLATE REVERSALS

Rea et al. v. Michaels Stores Inc.

In a big win for its client, Gibson, Dunn & Crutcher LLP attorneys reversed a district judge's decision denying the removal of a class action by Michaels Stores Inc. managers in February 2014. That victory led to a decision by a federal judge to decertify the class a few months later.

Michaels was hit with a putative class action by a group of its store managers, who alleged their employer improperly classified them as exempt from overtime.

Attorneys for the arts and crafts retail chain removed the case to federal court on three separate occasions under the Class Action Fairness Act, or CAFA, but each time U.S. District Judge George H. Wu remanded it back to state court.

The Central District judge rejected one of Michaels' removals, which it filed following a U.S. Supreme Court decision, finding that the removal didn't meet the act's 30-day time limit. Wu also ruled the case didn't meet the act's \$5 million threshold.

The 9th Circuit reversed Wu's decision, finding that Michaels properly removed the case to district court under CAFA. *Rea et al. v. Michaels Stores Inc.*, 14-55008 (9th Cir. Ct. of Appeals, filed Feb. 18, 2014).

The appeals court panel held removal is timely if it's within 30 days following a change in case law that makes it clear the case falls under federal jurisdiction.

case INFO

Wage and hour - class action certification

9th Circuit Court of Appeals

Judges Andrew J. Kleinfeld, Barry G. Silverman and Andrew D. Hurwitz

Attorneys for appellant: Gibson, Dunn & Crutcher LLP, Jesse A. Cripps, Cathy A. Conway, Justin T. Goodwin

Attorneys for appellee: Law Offices of David J. Gallo, David J. Gallo

It further determined that it was sufficient for Michaels to prove the expected hours its managers worked, rather than the actual hours, to show potential damages could exceed the act's jurisdictional threshold.

The panel rejected plaintiffs' contention that the appeal was moot because the state court had since certified the class of nearly 250 members. The case was remanded to Wu, who decertified the class less than three months later, Cripps said. Some class



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members then pursued individual claims.

Plaintiff's attorney David J. Gallo said in an email that the appeals court's "determination that a newly-issued decision can initiate a new removal period was contrary to the great majority of precedent." He added that the brief period the appellate panel had to consider the case "may have affected the decision."

— Kylie Reynolds