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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.

Michele L. Maryott

FIRM:
Gibson, Dunn & Crutcher LLP

CITY
Irvine

SPECIALTY
Employer defense
class action litigation

Maryott focuses on high-stakes employment litigation, including wage and hour class actions involving meal period and rest break claims; the alleged misclassification of exempt employees and independent contractors; and novel claims involving termination pay. She has also litigated a substantial number of retaliation, sexual harassment, wrongful termination and whistleblower cases in state and federal court and in administrative proceedings.

For client Sunrise Senior Living Management Inc., which operates more than 300 assisted living facilities in the U.S., Canada and the U.K., Maryott currently leads a team representing the company in several California wage and hour class actions.

"I like to patronize my clients, and if I ever need assisted living, they have very beautiful communities, but I'm not there yet," Maryott laughed. When plaintiffs in one potential class action alleged that Sunrise had a common practice of failing to provide meal and rest breaks as required by the California Labor Code, she conducted an investigation to see for herself.

"In pre-certification discovery, we talked to unrepresented workers. We let peo-

ple know there's a lawsuit pending and that they are potential class members. Many were more than happy to talk to us," she said. What she found helped persuade U.S. District Judge John A. Kronstadt of Los Angeles to deny class certification of seven of nine subclasses. "Just based on the company's record keeping, it did look like some workers had missed some meals," Maryott said. "But we found there were reasons. One told me she really wanted to play the violin for the residents during her meal break because she and the residents both really enjoyed it. Another told me she waited and went to lunch at a different time because she wanted to eat with a friend."

Maryott and her team drafted declarations for those workers and dozens of others to sign. "The anecdotes made clear that there were good reasons for the missed meal periods," she said. "This worked to undercut the plaintiffs' theory that it was common practice to force workers to miss meals."

She combined the workers' stories with expert testimony from an economist who conducted a statistical study of time card data. "We whittled away at the claims," she said. "Judge Kronstadt concluded that individualized inquiries or mini-trials would



be required. That diminished the possibility of dealing with a class action." *Shiferaw v. Sunrise Senior Living Management Inc.*, 2:13-cv-02171 (C.D. Cal., filed March 18, 2013)

The plaintiffs are now pursuing Private Attorney General Act claims stemming from the failed class allegations. "We think it is still not manageable as a representative action," Maryott said. She most recently obtained Kronstadt's ruling that the plaintiffs must submit a trial plan regarding how they intend to try the remaining cases.

— John Roemer