

Daily Journal

JULY 17, 2013

Top 75 Labor & Employment Attorneys

California will see important developments in employment law soon, as the state Supreme Court considers three cases that will impact class action waivers and arbitration agreements. Our state's labor and employment lawyers have always led the nation in the development of the issues of the day and the creation of law, and they're some of the most experienced practitioners in the country. To pick the Daily Journal's annual list of top 75 employment litigators, public labor negotiators and corporate and regulatory specialists in California, we reviewed hundreds of nominations from law firms, alternative dispute resolution providers and nonprofits. We sought to recognize work that is having a broad impact on the legal community, the nation and society.

The Editors

LABOR & EMPLOYMENT



Catherine A. Conway

Gibson, Dunn & Crutcher LLP

Los Angeles

Specialties: employment class action defense

put the brakes on many kinds of multi-plaintiff employment lawsuits.

"California has unique case law and legislation, and we have a very vibrant plaintiffs' bar," Conway said. "So every time we get a case such as *Dukes*, the plaintiffs' bar comes up with arguments that either can narrow, they feel, to the requirements of the *Dukes* decision, or they come up with new theory."

Conway focuses almost entirely on employment class actions, and this year defended Wal-Mart Stores Inc. against claims that the retailer denied its cashiers statutorily required seats at their workstations.

Many defense attorneys thought *Dukes* would make cases that propose to certify a sweeping class, but theories like the suitable seating cases propose large classes of employees, Conway said.

"We're still seeing statewide cases," she said. "The plaintiffs are moving to

cut down the class when and if they're confronted with a potential decision that would mean no class at all."

But a source of hope for Conway is the U.S. Supreme Court's recent decision that upheld a business's use of class action waivers, even when individual arbitration would cost more than the plaintiff could win in damages.

She said that while the case considered a lawsuit brought under consumer statutes and not employment law, it was still a good sign for employers.

Employment class actions can have a much higher value than cases brought by a group of consumers, she said, and so businesses feel it's even more important that they should be allowed to address allegations on an individual basis.

"It's an even stronger argument for the fundamental fairness of enforcing the arbitration agreement," she said.

— Laura Hautala

Conway's class action defense practice has shown no signs of slowing down, despite a spate of appellate decisions that many expected to