

## California Powerhouse: Gibson Dunn

By **Jeff Sistrunk**

*Law360, Los Angeles (July 10, 2014, 3:30 PM ET)* -- Gibson Dunn's California attorneys have been major players in the state's legal landscape since the firm's inception 124 years ago as a small practice in Los Angeles, and they continue to consistently secure precedent-setting trial victories and seal multibillion-dollar transactions.

The international juggernaut's 466 Golden State lawyers have recently tackled litigation, regulatory and transactional matters for a diverse roster of marquee clients including Wal-Mart Stores Inc., Dole Food Co. Inc., Chevron Corp., UBS AG, Allergan Inc. and Hewlett-Packard Co., while also notching wins in landmark civil rights cases, landing Gibson Dunn a spot among Law360's California Powerhouses.

The work done by Gibson Dunn's five California offices — Los Angeles, Century City, Orange County, Palo Alto and San Francisco — has had local, national and global impacts.

"We work hard to stay close with our clients and anticipate their needs in order to make sure that we have the right expertise to properly serve them," Gibson Dunn's chairman and managing partner Ken Doran told Law360. "Sometimes our California-based lawyers work with clients on purely California matters, but it is very common for them to work on matters, problems or opportunities that present themselves around the world."

The firm's foundations were laid in Los Angeles in 1890, when corporate attorney John Bicknell, whose clients included Southern Pacific Railroad, joined forces with litigator Walter Trask to create a law firm that would provide both litigation and transaction-related services. Judge James Gibson joined the firm in 1897, and six years later, the trio merged their practice with that of former Los Angeles City Attorney William Dunn and former Assistant City Attorney Albert Crutcher.

Gibson Dunn gradually expanded beyond its early work with railroad, utility and land companies, adding four offices in California as well as outposts in Washington, D.C.; New York City; Denver; Europe; Asia; and the Middle East.

Today, California is a litigation and transaction center for Gibson Dunn, and the firm's attorneys in the state command deep expertise across the full gamut of practice areas, including litigation, antitrust, securities, intellectual property, mergers and acquisitions, real estate, capital markets and white collar, Doran said.

"Our story is inextricably intertwined with the development of Los Angeles and Southern California, and

California remains a very important market for us," he said.

On the litigation side, Gibson Dunn's recent efforts have frequently shaped case law.

In the past decade, California has seen an explosion in employment class actions, many of which have dealt with cutting-edge issues in class action procedure, said Theodore Boutrous, a partner in the firm's Los Angeles office and co-chair of its appellate and constitutional law and transnational litigation practice groups.

"In some of these class actions, plaintiffs have advanced creative theories which, if they succeeded, would sweep across the country," Boutrous said. "We aim to ensure that baseless theories don't take hold. That has been part of our practice historically — getting involved in big, cutting-edge matters at the outset to determine if theories will become a significant part of the law. If a theory isn't supported by law, we try to nip it in the bud."

A multiple-office Gibson Dunn team led by Boutrous engineered Wal-Mart's 2011 victory at the U.S. Supreme Court in *Wal-Mart v. Dukes*, which decertified the largest employment discrimination class action in history and raised the bar for class certification. In November, the Ninth Circuit handed Wal-Mart another win when it rejected the plaintiffs' petition for permission to appeal a lower court order denying their bid to certify a narrowed class of workers.

The firm followed up its success in *Dukes* with a unanimous Supreme Court ruling in favor of client Standard Fire Insurance Co. in March 2013, establishing that plaintiffs bringing class actions cannot escape federal jurisdiction by promising to seek less than \$5 million in damages.

Boutrous said class actions, particularly those intersecting with antitrust law, will continue to be a source of work for Gibson Dunn going forward.

"In class actions relating to antitrust cases, the plaintiffs' bar is trying to advance new arguments to circumvent recent class action precedent," Boutrous said. "Different courts will be sorting these issues out."

Gibson Dunn's work on civil rights issues in California has also seized headlines. The firm helped lead the charge against Proposition 8, persuading a trial court and then the Ninth Circuit to recognize same-sex couples' right to marry in the state. The Supreme Court in June 2013 left the injunction against the enforcement of Proposition 8 intact, ruling that the proponents of the initiative lacked standing to defend it.

And last month, a state judge in Los Angeles sided with nine public school students represented by a Gibson Dunn team. The judge tentatively ruled that the state's teacher tenure system is unconstitutional and struck down five state laws governing teacher hiring, firing and tenure on the grounds that they saddle low-income and minority students with ineffective teachers.

"The national and international attention received by that ruling was amazing," said Boutrous, who tried the case along with Los Angeles partner Marcellus McRae. "The impact of the decision will spread beyond California's borders, and I think you will see lawsuits that rely on [the case] as a template. Efforts to protect the rights of students are another area that will be a hotbed of litigation in California and around the country."

California-based members of Gibson Dunn's antitrust practice have also notched major victories on behalf of clients as the globalization of the economy has led to more investigations and litigation.

In 2013, the firm, led by San Francisco partner and former U.S. Department of Justice cartel expert Gary Spratling, guided UBS through an extensive investigation and ultimately to an immunity deal with European Union antitrust regulators over the firm's alleged involvement in Libor manipulation. That settlement allowed UBS to escape one of the largest potential fines in antitrust history, worth close to \$3 billion.

Another Gibson Dunn team from San Francisco successfully defended Chunghwa Picture Tubes Ltd. in massive cartel investigations over alleged price-fixing of liquid crystal displays and related civil cases. In 2012, Gibson Dunn secured full immunity for Chunghwa in a European antitrust probe of the cartel, freeing the company from having to pay any of a combined €1.47 billion in fines the European Commission issued against LCD makers.

A common focus in all of Gibson Dunn's California offices is the state's robust technology sector, both in the Bay Area and statewide, according to Doran. In recent years, the firm's clients have included Silicon Valley tech titans HP and Intel Corp.

"The strength and vibrancy of our California offices, in part, reflects the California economy, so it's not a surprise that we're heavily invested in the tech industry in Silicon Valley and around the state," Doran said.

In one case, a Gibson Dunn team including Orange County partner Jeffrey T. Thomas and Los Angeles partner Samuel Liversidge led HP to a win in a \$4 billion contract battle with Oracle Corp. A California judge ruled in August 2012 that an agreement resolving Oracle's alleged poaching of former HP executive Mark Hurd required Oracle to continue running its software on HP servers. A state appellate court denied Oracle's bid to reverse that ruling, and the case remains pending.

Within the transaction realm, Gibson Dunn's California lawyers handle a lot of cross-border M&A deals and have become increasingly active in the private equity space, according to Los Angeles partner Peter Wardle, the co-chair of the firm's capital markets practice group.

Wardle and Century City-based partner Jonathan Layne represented Dole in its \$446 million IPO in 2009 and CEO David Murdock's subsequent unsolicited bid in 2013 to take the company private for about \$1.6 billion. Also in 2013, the team represented Dole in its agreement **to sell** its global packaged foods and Asia fresh produce businesses to Tokyo-based trading company Itochu Corp. for more than \$1.68 billion in cash, a deal that Wardle said presented several challenges.

"Part of the issue, in addition to the cross-border element, was that Dole's businesses were all over the world, spread among many different entities," Wardle said. "We worked with Gibson Dunn lawyers all over the world and local counsel to get everything in the right entities to sell to Itochu."

In another cross-border transaction, Gibson Dunn advised French telecommunications giant Vivendi SA in the \$8.2 billion sale of its majority stake in video game developer Activision Blizzard Inc. to Activision and a consortium of executives and investors. The deal was initially enjoined by a Delaware court after a challenge from investors, but Gibson Dunn litigators succeeded in getting the Delaware Supreme Court to overturn the injunction.

"Many public transactions are attacked, and we work seamlessly with our litigation colleagues from the very beginning," Wardle said. "Our transaction teams include litigators who look over our shoulders and provide insight to the client."

Wardle said Gibson Dunn's work with California private equity clients similarly spans practice areas. For instance, the firm performs litigation, real estate and fund formation work for Los Angeles-based Aurora Capital Group, he said. Last year, Wardle and Century City partner Ari Lanin, the co-chair of the firm's private equity group, guided Aurora in its \$1.1 billion sale of beverage carbonator NuCO2 Inc. to industrial gas supplier Praxair Inc.

"Our approach with private equity clients is to provide them with the highest level of expertise across the board," Wardle said.

Regardless of the matter at hand, Doran said, something Gibson Dunn does exceptionally well "is to assemble the right team of lawyers from our global network to maximize efficiency and provide seamless client service."

--Editing by Kat Laskowski and Patricia K. Cole.

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