

Rising Star: Gibson Dunn's Theane Evangelis Kapur

By **Ama Sarfo**

Law360, New York (March 19, 2013) -- Gibson Dunn & Crutcher LLP's Theane Evangelis Kapur has some impressive appellate briefing chops, serving as one of the firm's principal drafters in the landmark Wal-Mart v. Dukes litigation and the constitutional challenge against California's Proposition 8, putting her on Law360's Rising Star list of five top young attorneys in appellate law.

Kapur, 36, became a partner with the firm in 2012, but her involvement in the firm's complex appellate litigation extends far beyond that time, as Kapur, who joined the firm's Los Angeles office in 2007, was entrusted with high stakes work from the start, according to Theodore Boutrous, co-chair of Gibson Dunn's Appellate and Constitutional Law Group .

"Theane is in all respects just fantastic, she is a superb writer, eloquent oral advocate, extremely calm under pressure, and when you're in a big case, she makes everyone on the team feel cool and confident," Boutrous said. "And she's helped expand our appellate group, really from the time she joined the firm."

A former law clerk to U.S. Supreme Court Justice Sandra Day O'Connor and Ninth Circuit Judge Alex Kozinski, Kapur says she was drawn to appellate law because she wanted to litigate the kind of precedent-setting and impactful litigation she read about in her law school classes.

"It's why I went to law school," Kapur said. "The law really shapes our society in so many ways, in terms of individual rights and democracy, and in my practice now, I'm able to be a part of that."

And in her nearly six years at Gibson Dunn, Kapur has packed her schedule with some of the firm's most important litigation.

Kapur was a principal drafter of the firm's petition for certiorari and merits briefing in the Wal-Mart v. Dukes litigation, where Gibson Dunn, on behalf of Wal-Mart, successfully persuaded the high court to decertify a class of as many as 1.5 million female employees who said they suffered gender discrimination in violation of Title VII of the Civil Rights Act.

Kapur and the Gibson Dunn team argued the plaintiffs' individualized, fact-intensive claims of discrimination were inappropriate for class certification, and in a unanimous decision, the Supreme Court agreed.

Kapur was also a lead brief writer in the constitutional challenge against California's Proposition 8 ban on same-sex marriage, *Perry v. Brown*, which will now be heard before the Supreme Court later this month, as *Hollingsworth v. Perry*.

And in February 2012, Kapur secured a win for Hewlett-Packard Co. before the Ninth Circuit when the appellate court refused to revive a proposed class action that accused the company of hiding faulty power jacks in its Pavilion Notebook computers that allegedly caused the computers to catch fire.

The plaintiffs argued HP had a duty to disclose the defect, but the appellate court found the plaintiffs had failed to claim that HP knew about the purported defect.

"The plaintiffs just had such a far reaching view of when liability should attach," Kapur said. "We have warranty laws, manufacturers have all sorts of obligations, and they strike the right balance. And so imposing liability for something unknown that could happen in the future doesn't strike the right balance."

Kapur attributes her success to remaining positive and finding mentors who helped her focus and develop her practice.

"Sometimes you won't win every motion or every appeal, but it's important to not be deterred when that happens," Kapur said. "You have to keep making arguments in the lower courts, and that's part of being a good appellate lawyer —developing arguments and pushing them one, two, or even three times. My most important mentor has been Ted Boutros, and that tenacity is something he has, and it's something I've tried to emulate in my approach."

--Additional reporting by Ryan Davis and Megan Stride. Editing by Sarah Golin.

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