

# Daily Journal

JULY 16, 2014

## LABOR & EMPLOYMENT

CALIFORNIA'S TOP LABOR AND EMPLOYMENT LAWYERS

### EDITORS' NOTE

As the U.S. Supreme Court continued to favor businesses by raising the bar for class actions, California lawyers looked to our state Supreme Court for cues on how it would follow the high court's lead. 2014 gave us some answers.

Three long-awaited rulings in *Iskanian*, *Duran* and *Ayala* are set to illuminate the playing field for employment class action and the enforceability of employment contracts requiring workers to arbitrate their grievances.

In *Iskanian*, the court ruled that an arbitration clause can prohibit a class action, handing defense lawyers a win they desperately wanted. But the decision also gave a significant victory to workers — it said they could sue on behalf of themselves and other workers as representatives of the state.

In *Duran*, the court said statistical sampling could be used in class actions — which many employers sought to avoid — but it set a high bar for the use of such sampling.

Finally, the court held in *Ayala* that in an employee misclassification action, a class should be certified if the employer has the right to

exercise control over its independent contractors, regardless of variations in how the employer exercises that right.

Together the rulings create a challenging body of law for our state's labor and employment lawyers, whose accomplishments continue to boost the California Supreme Court as the most influential in the nation.

In reviewing hundreds of nominations from law firms, alternative dispute resolution providers and others, we sought to recognize work that is having a broad impact on the legal community, the nation and society. We honor the best of them.

### Michele L. Maryott

GIBSON DUNN & CRUTCHER LLP  
IRVINE

**SPECIALTY:** class action defense

Defending companies against class action lawsuits can be a difficult task. There are numerous strategies and variables at play that only increase with the size and scope of a case. While she evaluates cases individually, Maryott believes it's often a wise strategy to attack individual plaintiffs' claims.



"I often find that those trying to bring a class action don't have strong claims. Every case is different, but I've had success convincing both courts and plaintiffs' counsel that individual claims aren't great."

In recent months, Maryott's seen success defending numerous large companies from various wage and hour and discrimination claims. She's done work for Walmart in a case that went all the way to the U.S. Supreme Court, Sur Le Table, Tenet Healthcare and Sunrise Senior Living Management.

In the Sunrise case, which remains active, Maryott has almost fully beaten back the vast majority of class claims. The case is very similar to a previous

matter she worked on for Sunrise — both of them in front of U.S. District Court Judge John A. Kronstadt — and involves a number of wage and hour related issues. Maryott said she was particularly excited with the results so far because she was able to change Kronstadt's view on a few issues in which he initially sided with the plaintiffs.

"The thing I'm most proud of was that [the Sunrise case] was more complex the second time around," she said. "But we were able to bring Judge Kronstadt around on a couple of commonality issues. It was an awesome team effort. I work with a lot of people that make things happen for the client."

— HENRY MEIER