

TOP LABOR & EMPLOYMENT LAWYERS 2019

Jesse A. Cripps

FIRM:

**Gibson, Dunn & Crutcher
LLP**

CITY:

Los Angeles

For client Glenair Inc., a Glendale-based maker of electronic connectors, Cripps faced employee wage-and-hour class actions filed by the same plaintiffs' firm. "We devised a divide-and-conquer strategy and took each on its merits," he said.

In one case, he obtained a precedent-setting opinion. "In a joint employer arrangement, can a class of workers bring a lawsuit against a staffing company, settle that lawsuit, and then bring identical claims against the company where they had been placed to work? We answer no," a 2nd District Court of Appeal panel held, following Cripps' oral argument last year. *Castillo v. Glenair Inc.*, 23 Cal.App.5th 262 (2018).

"With Castillo out of the picture, Rojas was what was left," Cripps said of the second case. There, a statute of limitations question appeared to be at the heart of the case, but Cripps and his colleagues saw a larger issue —

the multiple filing of boilerplate complaints in a slew of cases.

"Our strategy was to find all the complaints the plaintiff's firm had filed, and we didn't have to look far. Most were in Los Angeles. And we had a trial judge who was familiar with the fact that this firm files the same complaint all the time and he said as much, because he'd witnessed it firsthand."

Indeed, Los Angeles County Superior Court Judge John Shepard Wiley Jr. — who has since been elevated to the Court of Appeal — was blunt in his May 2018 dismissal order. "The vacuity of [the original] complaint makes it versatile," he observed. "By saying nothing particular to a case, this language becomes a form document to use in every wage-and-hour case."

"Discovery in a class action is not costless," the judge added. "This pleading technique raises the settlement value of meritless litigation." *Rojas v. Glenair Inc.*, BC505602 (L.A. Super. Ct., filed April 11, 2013.). Cripps is slated to argue the appeal.

Said Cripps, "This happens all the time with multiple firms. Take a stock complaint, file it and engage in



discovery until you find an issue to pursue. There's very little downside for them. It is unfortunately commonplace, and courts have generally allowed it to go on."

He's looking forward to pushing the issue before the appellate panel.

"We'll certainly highlight it," he said. "We want to point out why it's so disturbing to defendants and to courts. It is incredibly difficult to look for an early resolution of cases if the parties can't solidify what the issue is. We have a chance to have the plaintiff's bar sit up and take notice."

— John Roemer