

Daily Journal

AUGUST 7, 2024



TOP Labor & Employment Lawyers 2024



Michele L. Maryott

Gibson, Dunn & Crutcher
Irvine

Michele L. Maryott is the partner in charge of Gibson, Dunn & Crutcher LLP's Orange County office. She is a member of the firm's labor and employment and class action practice groups. She focuses on business and employment litigation.

She's been with Gibson Dunn since 1998. She is a member of the Board of Advisors of Pepperdine University School of Law, where she got her JD.

"It's been busy," Maryott said in mid-July of her recent schedule. "Mostly

because I've been involved in a string of cases that didn't get resolved before trial. I've done two arbitrations and three trials since November."

A major client, Uber Technologies, Inc., faced trial in Massachusetts after the state's attorney general accused it and Lyft, Inc. of misclassifying drivers. "It was a three-week bench trial, and we took it all the way to the night before closing arguments. Then they settled," Maryott said. *Campbell v. Uber Technologies Inc. et al.*, 2084CV01519-BLS1 (Suffolk Super. Ct., filed July 14, 2020).

The deal, which includes wage guarantees, was struck on June 27. "We had a number of drivers who were happy to come forward for the defense," Maryott said. "They testified that they enjoyed the autonomy, flexibility and freedom of working for Uber. They made the app work for them in their lives."

In an arbitration win of a bellwether case that foreclosed others against client Lowe's Home Centers, Maryott demonstrated that the claimant's account of uncompensated time she spent "donning and doffing" her company vest could not be believed. *Alvarado v. Lowe's Home Centers LLC*, 01-22-0005-1428 (Signature Resolution, filed Nov. 2, 2018).

The arbitration order concluded that the claimant did not suffer a single wage and hour violation. It will preclude her, a lead plaintiff in a series of coordinated PAGA actions, from pursuing any PAGA claim in state court on behalf of other allegedly aggrieved employees.

Maryott won the case in her cross-examination of the claimant. "Her lawyers put her on," she said. "She admitted to me that others clocked in before putting their vests on. She was inconsistent and appeared incapable of telling a straight story."

At one point, the woman claimed that after the store closed and the doors were locked, she had to wait up to 20 minutes "dozens of times" off the clock before security guards unlocked the doors for late-leaving workers to depart. But Maryott's investigation showed only two times during the course of her employment that the claimant's workday ended that late.

"She was inconsistent, she struggled and she got upset" on the witness stand, Maryott said.

The judge called Maryott's cross-examination "so corrosive" to the claimants' credibility that she came to question whether any violation occurred.

—JOHN ROEMER