

Daily Journal

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Top Verdicts of 2014

The Largest and most significant verdicts and appellate reversals handed down in California in 2014

TOP DEFENSE RESULTS

Luko v. Ticketmaster

case INFO

Consumer Class Action

Los Angeles County

Superior Court Judge Amy D. Hogue

Defense Attorneys: Willenken Wilson Loh & Delgado LLP,
William A. Delgado, Eileen M. Ahern

Plaintiffs' Attorneys: The Law Offices of Schreiber & Schreiber, Inc., Edwin C. Schreiber, Eric A. Schreiber, Ean Schreiber



WILLIAM A. DELGADO

It took more than two years for William A. Delgado and Eileen M. Ahern, partners at Willenken Wilson Loh and Delgado LLP, to defeat a class action against their client, Live Nation Entertainment Inc. subsidiary, Ticketmaster, but persistence paid off.

The case revolved around the issue of whether a law created to protect consumers' privacy still applies to online transactions when the goods are delivered physically, as opposed to being electronically downloaded. *Luko v. Ticketmaster*, BC462492 (Los Angeles Super. Ct., filed

May 27, 2011).

The latter was at issue when the state Supreme Court held in 2013 that the Song-Beverly Credit Card Act does not apply to online transactions involving an electronic download of goods.

The ruling left open the question of whether the law applied to other online

transactions.

Attorneys for the plaintiffs maintained that the state high court intentionally issued a narrow ruling because it wanted the act to apply to other types of online transactions.

Delgado disputed that argument. "From my perspective, the Supreme Court issued a ruling on the issue that was before it and did not opine about other, potentially different types of claims (as Supreme Courts often do)," he wrote in an email.

"Nevertheless, when one views the reasoning in *Apple* holistically, it becomes apparent that the [act] cannot apply to online transactions, even where goods are physically shipped (instead of downloaded)," he added.

Delgado failed in his first attempts to quash the case, but kept trying.

After deciding the *Apple* case, the state Supreme Court sent *Luko* to the appellate court for further review, but the panel denied another bid to kill the lawsuit.

So, after years of litigation, the defense was back where it started: in front of the trial court at the pleading stage, albeit with much better law in their favor. They won a motion for judgment on the pleadings.

The case was ultimately dismissed. No appeal has been filed.

— Deirdre Newman