THE MARK O. HATFIELD
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A Summary of Topical Highlights from decisions of the
U.S. District Court for the District of Oregon
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Employment/ Sanctions

Shortly after being hired as a Hispanic Resource Specialist, plaintiff attended a meeting with a co-worker who yelled at her. Plaintiff claimed the co-worker told her to "shut up," and that she was "out of line, young lady." Plaintiff complained about the incident to her supervisor and then conducted her own investigation into the co-worker. Plaintiff claimed she discovered that numerous other women had also been "victimized" by the co-worker. Plaintiff prepared a written memorandum detailing her findings. Human resources investigated plaintiff's complaint and memo and determined that the co-worker had acted inappropriately, but that the conduct did not constitute discrimination or sexual harassment. The co-worker was counseled.

Immediately following her investigation into the co-worker, a new Director was appointed for plaintiff's department. Plaintiff claimed that she had heard rumours that the new Director liked to seek sexual favors from his subordinates. Plaintiff became apprehensive. Plaintiff claimed the new director asked her out on a date once, asked to meet with her alone to discuss work, gave her his cell phone number and ogled her at a meeting. This conduct took place over a two month period. A new director was named and that director immediately began documenting plaintiff's performance problems and counseling her. Testimony indicated that plaintiff had poor performance, including excessive absences, throughout her relatively short tenure. During the performance counseling, plaintiff filed BOLI complaints regarding the prior director's alleged sexual harassment. Plaintiff thereafter filed an action in federal court asserting claims under Title VII, O.R.S. 659 and common law wrongful discharge.

Judge Janice M. Stewart granted a defense motion for summary judgment. The court held that plaintiff's allegations fell short of the kind of severe and pervasive conditions necessary to sustain a claim for hostile work environment under either federal or state law. The court also found no evidence of a causal connection between plaintiff's formal complaints and any retaliatory action; the court noted that timing alone (i.e. termination following a BOLI charge) was insufficient.

Judge Stewart also granted a defense motion for sanctions of approximately $1900 in attorney fees. Plaintiff canceled a deposition at the last minute and failed to offer any explanation for the delay. The court held that plaintiff would have to pay the defendants' expenses in having to prepare for the deposition.

Jaurretta v. Portland Public Schools, CV 00-1238-ST (Findings and Recommendation, Dec. 14, 2001; Adopted by Order of Judge Anna J. Brown, Feb. 7, 2002).

Plaintiff's Counsel:
Glenn Solomon

Defense Counsel:
Jeffrey Austin

Water/ Native Americans

In a declaratory judgment action to determine the reserved water rights in the Klamath Basin of the Klamath Tribe, several disputes arose regarding the appropriate interpretation of the original treaties and the terms of a declaratory judgment. Judge Owen M. Panner held that the Tribe's water rights include the right to water necessary to support resources that the Tribe gathers, in addition to resources needed to hunt, fish and trap.

The court also held that the legal standard for measuring the Tribe's rights must focus on fulfilling the purpose of the Reservation. Judge Panner ordered that the Tribe is entitled to whatever water is necessary to achieve the result of supporting productive habitat. United States v. Adair, CV 75-914-PA (Opinion, Feb. 27, 2002).

Plaintiff's Counsel:
James Sutherland
Plaintiff Intervenor:
Carl Ullman
Defense Counsel:
Carol Dehaven Kerjanec
Defense Intervenor:
David Leith

Patents/ Contracts

Judge Ann Aiken granted in part and denied in part several motions to dismiss in an action asserting breach of contract and related state law claims relative to the parties' settlement of a patent infringement dispute. The court granted the defense motion to dismiss plaintiff's claim for attorney fees under 35 U.S.C. § 285. Judge Aiken held that plaintiff's claims were for breach of contract, not the underlying patent claims and thus, plaintiff could not rely upon federal patent law to support a claim for fees. MSM Investments, Co. LLC v. Carolwood Corp., CV 01-458-AA (Opinion, Feb. 2002).

Plaintiff's Counsel:
William Birdwell,
Michael J. Morris
Defense Counsel:
Jon Stride

Procedure/ Employment

Eleven millworkers filed an age discrimination action against their former employer. Defendant moved to sever or for separate trials arguing that joinder was improper under Fed. R. Civ. P. 20.

Judge Ann Aiken analyzed a number of recent cases on joinder in employment cases and found that plaintiffs' claims involved the same transaction and common questions of law and fact such that joinder was appropriate. The court noted that all of the termination decisions were made by a single supervisor in a single location and the challenged events took place over a relatively short (5 month) time span. Plaintiffs assured the court that the claims would not involve individual performance issues and that trial would focus upon the defendant's general negative attitude towards older workers, not on individualized decisions. Buss v. Weyerhaeuser Co., CV 00-6141-AA (Amended Order, March 6, 2002).

Plaintiffs' Counsel:
Lynn Reiko Nakamoto
Robert A. Miller
Defense Counsel:
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