

COURTHOUSE NEWS

A Summary of Topical Highlights from decisions of the
U.S. District Court for the District of Oregon
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Attorney Fees

Judge Janice Stewart denied a petition for attorney fees filed on behalf of a lawyer who filed a Freedom of Information Act claim against the Social Security Administration. The court found that while the plaintiff had "substantially prevailed" and was eligible to recover fees, applying four criteria, the court held that none favored the plaintiff's petition. Lowry v. SSA, CV 00-1616-ST (Feb. 8, 2002).

Plaintiff's Counsel:

Robert Larson

Defense Counsel:

Craig Casey (Local)

Personal Jurisdiction

Plaintiff filed a patent infringement action against a Hong Kong investment company with several Chinese subsidiaries. Plaintiff acknowledged that there was no "traditional" personal jurisdiction over two of the defendants, but argued that there should be because the two companies are alter egos of a

company over which the court did have jurisdiction.

Alternatively, plaintiff argued that general jurisdiction existed.

Judge Anna J. Brown examined the inter-relatedness of the corporations. She held that there was no general jurisdiction based upon California contracts. The court further held that there were no specific or unusual circumstances to justify disregarding the corporations' separate identities. Seiko Epson Corp. v. Print-Rite Holdings, Ltd., CV 01-500-BR (Amended/Redacted Opinion, April, 2002).

Plaintiff's Counsel:

David Axelrod (Local)

Defense Counsel:

Randolph C. Foster (Local)

Civil Rights

Several Spanish speaking residents filed a civil rights action against the administrator of a federally funded unemployment insurance program claiming that the program has a disparate impact on race and national origin in violation of Title VI and its

implementing regulations.

Specifically, plaintiffs claimed that the program failed to provide Spanish language forms.

Judge Donald Ashmanskas held that there is no private right of action under the regulations adopted under §602 of Title VI of the Civil Rights Act of 1964. Accordingly, the action was dismissed. Lechuga v. Crosley, CV 01-450-AS (Findings & Recommendation; Adopted by Judge Robert E. Jones, Jan. 10, 2002).

Plaintiffs' Counsel:

Janice Morgan

Defense Counsel:

Elizabeth Morley Large

7 A community college art student filed an action against the college claiming violation of his due process and first amendment rights. The student complained about a teacher and a fellow student and, thereafter, was suspended from attending art classes for the following year. On the due process claims, Judge Dennis J. Hubel examined Oregon statutes on enrollment at community colleges and

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determined that plaintiff had "a more than a unilateral expectation of attendance and more than a de minimis property right. The fact that the statutes provide for "open admission" to the community college system for all high school graduates is enough to sustain a federally protected property interest." However, when the court examined the process that was afforded plaintiff, it concluded that the college's procedures were sufficient as a matter of law. Judge Hubel noted that the fact that plaintiff merely audited classes and was not on a degree track limited his interests.

On the First Amendment claims, there was no dispute that defendant took disciplinary action against the plaintiff because of his speech: the college determined that plaintiff was disrupting class. However, genuine factual issues remained as to exactly what statements were made and whether plaintiff's speech was defamatory or protected under the First Amendment. Eaton v. Clatsop Community College, CV 01-999-HU (Opinion, May 15, 2002).

Plaintiff's Counsel:

D. Richard Fischer

Defense Counsel:

Thomas S. Moore

Employment

Plaintiff filed an action under Title VII and the Equal Pay Act claiming wage discrimination. Judge Ann Aiken found that plaintiff established a prima face case by demonstrating that she was paid less than comparable male employees. However, the court granted the defense motion for summary judgment finding that the employer established two affirmative defenses as a matter of law. The employer demonstrated that the wage differential was due to a factor other than sex and that pay scales were based upon a valid merit system. Plaintiff failed to show that any of the defense's proffered explanations were pretextual. Wachter-Young v. Ohio Casualty Group, CV 01-3011-AA (Opinion, May, 2002). Plaintiff's Counsel:

Evelyn M. Conroy

Defense Counsel:

M. Robert F. Smith (Local)

Contracts

Judge Robert E. Jones issued findings and conclusions in an action seeking declaratory relief. Plaintiff sought to clarify a lease termination. The court found the contract clear, negotiated between highly experienced counsel and, based upon these and several other factors, declined the invitation to vary the

terms of the contract under the parol evidence rule. Hall St. Assoc. LLC, v. Mattel, Inc., CV 00-355-JO (Opinion, May, 2002).

Plaintiff's Counsel:

James Finn

Defense Counsel:

Marc Blackman

ADA

Parents of autistic children filed an action against a school district claiming that the Americans with Disability Act was violated when their autism specialists were denied equal access to special education classrooms. Judge Robert E. Jones granted a defense motion to dismiss. The court held that the parents lacked associational standing under Article III of the Constitution because they failed to allege a specific, direct and separate injury. Glass v. Hillsboro School Dist., II, CV 00-1058-JO (Opinion, April 13, 2001).

Plaintiff's Counsel:

Dennis Steinman

Defense Counsel:

Andrea Hungerford