

# Defense Victory!



**Christine Sargent, Littler Mendelson**  
Defense Victory! Editor

## Defense Verdict in School Supervision Case

On March 14, 2024, Elliot Field of Garrett Hemann Robertson obtained a defense verdict following a three-day jury trial in *Windy Barnes, as guardian ad litem for D.H., a minor v. Springfield School District 19* in Lane County Circuit Court Case No. 23CV00194. Kevin Brague represented plaintiff, and Judge Debra Velure presided over the trial.

Plaintiff asserted a claim of negligence against the school district alleging the district had failed to supervise its students, which resulted in one student being injured in an attack by another student. Plaintiff alleged physical injuries and non-economic damages seeking more than \$500,000. The defendant district denied the claim

and asserted no evidence existed that the district had responded negligently to the altercation but rather, the evidence showed the district had responded appropriately under the circumstances. A jury of 12 returned a verdict for the defendant district.

**Ashley L. Brown**  
Garrett Hemann Robertson

## Retailer's Termination Reason for Cash-Handling Error Checks Out

On March 26, 2024, Littler Mendelson obtained a complete defense verdict in *Karen Russell v. The Kroger Co., et al.*, Deschutes County Circuit Court Case No. 22CV17190. Krista Le Roux and Jennifer



Vitello of HKM Employment Attorneys represented plaintiff. Megan Crowhurst, Randi Ensley, Bren Thomas, and Christine Sargent represented defendants. Judge Alycia N. Sykora presided.

Plaintiff brought claims against Fred Meyer and three individual defendants arising out of her employment with Fred Meyer. Plaintiff worked at Fred Meyer's Bend store from 2017 to 2020, when she was terminated for a cash-handling error. Plaintiff alleged that her termination was retaliatory, discriminatory, and a wrongful discharge. Plaintiff also brought claims of hostile work environment based on her sex, and an intentional infliction of emotional distress claim against one individual defendant. After a five-day trial, the jurors returned their verdict on the same day as closing arguments. The jury found that Fred Meyer did not discriminate or retaliate against plaintiff, dismissing plaintiff's suit.

**Rachel Timmins**  
Tonkon Torp



## You Filed Here, So You Must Be Deposed Here

Earlier this year, Tabatha Schneider of Rosen & Schneider successfully argued that plaintiffs were required to sit for their depositions in Oregon in a case pending in the Eugene Division of the District Court of Oregon. Michael Silverman of Burno Law Firm in Chicago represented plaintiffs. Magistrate Judge Mustafa Kasubhai presided.

Plaintiffs filed a breach of contract claim on behalf of a putative class action in the Eugene Division for the District Court of Oregon. Upon noticing plaintiffs' depositions, plaintiffs' counsel promptly

sought a protective order pursuant to FRCP 26(c)(1) seeking to shield plaintiffs from having to sit for deposition in Oregon rather than in each of their respective states. Plaintiffs argued that they were not at the time—or ever—domiciled in Oregon; the contract at issue required the action to be brought in Oregon, negating plaintiffs' choice; and as an airplane manufacturer, defendant had the means to travel to where the plaintiffs were located to take their depositions. Defendants argued that since plaintiffs chose to file their action in Oregon, the general rule required them to sit for deposition in Oregon and that plaintiffs failed to provide any good cause or specific proof of undue burden caused by plaintiffs having to travel to the forum state for deposition.

The court found that parties' depositions are generally to be conducted in the forum state absent good cause. Here, plaintiffs had the burden of showing good cause for why the court should deviate from the general practice, something they failed to do. The court further stated that there was little to no evidence that plaintiffs would have filed suit in another district despite the contract requiring such, and no evidence suggesting plaintiffs were financially incapable of traveling to Oregon for depositions. Given this, the court denied plaintiffs' motion for protective order and required plaintiffs to sit for in-person depositions in the Portland, Oregon area.

**Tabatha Schneider**  
Rosen & Schneider

