

COURTHOUSE NEWS

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

Plaintiff/appellant Greater Albany School District appealed the Administrative Law Judge's (ALJ) decision pursuant to Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1415(I)(2). The ALJ held that defendant/appellee N.P.'s individualized education program (IEP) failed to offer her a free and appropriate public education in compliance with the requirements of IDEA. N.P. asked the court to affirm the ALJ's ruling that the School District shall continue N.P.'s placement at the residential facility under the original May 2007 IEP until such time as a different IEP providing an appropriate education is offered.

Judge Aiken relied, in part, on the ALJ's 47 findings of fact contained in his Order to find for N.P. and uphold the ALJ's ruling.

Greater Albany School Dist, v. N.P.,
CV 08-6003-AA
(Opinion, March 11, 2009)
Plaintiff's Counsel: Nancy Hungerford
Defense Counsel: Mary

Broadhurst

Employment and Judgment as a Matter of Law

After plaintiff presented her case-in-chief, Judge Panner granted defendants motions for judgment as a matter of law on all claims and did not submit the matter to the jury. Fed. R. Civ. P. 50(a). Plaintiff alleged claims pursuant to 42 U.S.C. 1983 (First Amendment), state law whistleblowing, and intentional interference with economic relationship. Judge Panner subsequently denied plaintiff's motion for new trial. The case is currently on appeal to the Ninth Circuit Court of Appeals. Maniates v. Lake County Oregon and Kenneth Kestner, CV 08-3038-PA (Opinion, Feb. 12, 2009)
Plaintiff's Counsel: William Stark
Defense Counsel: Robert Franz

Employment

Plaintiff brought the following three claims against defendants: (1) 42 U.S.C. 1983 against two State of Oregon agencies; (2) retaliation (initiating civil or criminal proceedings and

participating in legislative matters), Or. Rev. Stat. 659A; and (3) wrongful discharged based upon plaintiff's alleged whistleblowing activities.

Defendants filed a motion for summary judgment asserting that they are entitled to judgment as a matter of law on plaintiff's claims. Judge Aiken found that defendants were not "persons" for purposes of 42 U.S.C. 1983; and declined to exercise supplemental jurisdiction over plaintiff's remaining state law claims. Therefore, the court granted defendant's motion for summary judgment and dismissed the case. Patterson v. State of Oregon School for the Blind, CV 07-6252-AA (Opinion, Dec. 17, 2008)
Plaintiff's Counsel: John Michael Unfred
Defense Counsel: Stephen Dingle

Inverse Condemnation, Takings

In these consolidated cases, plaintiff filed a lawsuit concerning the site of an old gold mine in Jacksonville, Oregon, which the plaintiff sought to use as a rock quarry. Judge Panner

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agreed with defendant that plaintiff's federal Takings Claim was not yet ripe. The court further dismissed plaintiff's substantive due process claims without prejudice, and declined to exercise supplemental jurisdiction over the claim in 08-3122 for violation of the Oregon Constitution.

Hardin v. Jackson County,
CV 08-3082-PA and 08-3122-PA
(Opinion, March 31, 2009)
Plaintiff's Counsel: Ross Day
Defense Counsel: Allie O'Connor

Of Interest:

Judge Leavy with the Ninth Circuit Court of Appeals will speak at the Federal Bar Association's monthly lunch scheduled today, Thursday, April 16, 2009.

Registration to Ann Fallihee,
afallihee@barran.com, or
you may simply show up!

**Oregon Federal Bar
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Practice Handbook - 2009
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The Federal Bar
Association, Oregon

Chapter, is pleased to announce the publication of the 2009 Supplement to the Federal Practice Handbook. This Handbook contains each judge's unique views and preferences on every aspect of procedure, from Rule 16 discovery planning conferences to the verdict form, and everything in between. The 2009 Supplement adds chapters for Judges Sullivan, Papak, Acosta, and Clarke. The Supplement is available either on its own in pdf format or order the Handbook + Supplement three-ring binder. Complete the order form and send your order and check made payable to the FBA to Todd Hanchett, with Barran Liebman, 601 SW Second Avenue, Suite 2300, Portland, Oregon 97204-3159. Order form available at

<http://www.vangelisti.com/fbaoregon.htm#handbook>.

Mark your calendar: The

Federal Bar Association's Annual Dinner is scheduled on Thursday, May 28, 2009, beginning at 5:30 p.m. The Dinner will be held in a new venue this year - the U.S. District Courthouse. The program will include the unveiling of the Magistrate Judge portraits, and the Fifth Annual Ancer L. Haggerty Civil Rights Essay Contest Award, as well as the Hon. James Burns Memorial Award..

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