

COURTHOUSE NEWS

A Summary of Topical Highlights from decisions of the
U.S. District Court for the District of Oregon
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Motion to Interview Jurors

Judge Aiken granted petitioner's motion for an evidentiary hearing in this habeas petition pursuant to section 2254. Petitioner then filed a motion to interview jurors arguing that, because the claims at the evidentiary hearing center around "issues with the jury, including questions as to the jury's racial composition and the impact of extensive pretrial publicity," petitioner should be allowed to interview both the jurors who were seated in his case and the persons who were excused due to cause or peremptory challenges. Petitioner argued that he "cannot develop essential facts" without these interviews because voir dire was not transcribed and all record of the process has been destroyed. Petitioner argued that juror interviews were "essential" to develop evidence supporting petitioner's claim of actual prejudice due to pretrial publicity, and that petitioner has shown good cause for additional discovery on his venue claim. Judge Aiken granted the motion although stated she was "not prepared to issue a blank discovery check" to

petitioner." Therefore the court ordered petitioner to submit a proposed discovery plan with respect to juror interviews.

Williams v. Hall

CV 01-812-AA

(Opinion, August 18, 2009)

Petitioner's Counsel: Kristina Hellman

Respondent's Counsel: Lester Huntsinger

TRUTH-IN-LEASING REGULATIONS UNDER THE MOTOR CARRIER ACT

Plaintiffs, owners and operators of semitrailer trucks, filed an action for money damages, in part alleging that the defendant, an interstate motor carrier, violated Truth-in-Leasing regulations, 49 C.F.R. § 376.12, in several particulars. The defendants moved to dismiss the action on the ground that the regulations did not confer a private cause of action. Judge Papak concluded that prior Ninth Circuit case law squarely addressed the issue and concluded that private parties can bring an action for damages for violations of the regulations. The plaintiffs filed a motion for partial summary

judgment on the issue of the defendant's liability for violating the regulations. Judge Papak concluded that a plaintiff may establish a Truth-in-Leasing violation when a defendant has failed to fully comply with a regulatory provision but cannot establish liability without proof that the violation caused injury. Although the plaintiff presented evidence that the defendant violated several regulatory provisions, the judge denied the motion because the plaintiff did not present any evidence that those violations led to any harm.

Cunningham et al v. Lund Trucking Co., Inc.
CV 08-535-PK
(Opinion, 8/25/09)
Plaintiffs' Counsel: Tyson L. Calvert
Defense Counsel: John M. Silk

Employment Discrimination

Plaintiff alleged discrimination based on gender against his employer pursuant to Title VII as well as several state claims. Judge Aiken granted defendant's motion for summary judgment

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and dismissed the case.

Dawson v. Entek International

CV 08-6151-AA

(August 26, 2009)

Plaintiff's Counsel: James Davis

Defense Counsel: Dennis Westlind

Jury Trials:

Tinn v. EMM Labs, Inc.,

CV 07-963-AC, Aug. 3, 2009

Judge Acosta presided over this 5-day breach of contract (diversity) jury trial. The jury returned a verdict for the defendant.

Plaintiff's Counsel: Bruce Rubin

Defense Counsel: Frank Weiss

Roe v. Providence Health

System, CV 06-1680-KI, Aug. 20, 2009

Judge King presided over this 6-day jury trial where plaintiffs alleged disability discrimination in a place of public accommodation. The jury returned a defense verdict. The court entered an injunction against plaintiffs and ordered that defendants should recover costs from plaintiffs.

Plaintiffs' Counsel: Craig Crispin

Defense Counsel: Drake Hood

Ilias v. Johnson, et al.,

CV 07-513-MO, Aug. 19, 2009

Judge Mosman presided over this 3-day jury trial where plaintiff alleged a 1983 Civil Rights Act (Fourth Amendment) violation against defendants. The jury returned a verdict for defendants.

Plaintiff's Counsel: Deborah

Weston, Spencer Neal

Defense Counsel: Karen Vickers,

Peter Mersereau, James Rice

Shultz v. Multnomah County and
Cecilia Johnson,

CV 08-886-BR, Aug. 24, 2009

Judge Brown presided over this 3-day jury trial. Initially plaintiff alleged various employment claims against defendants, however, the Court granted summary judgment on several motions, so the only claim remaining for trial was plaintiff's common law wrongful termination claim. The jury returned a verdict for defendants.

Plaintiff's Counsel: Richard
Busse

Defendants' Counsel: Jenny
Morf

Of Interest:

Chief Judge Ann Aiken will introduce former Oregon Supreme Court Justice, Susan Leeson, who will speak at the monthly Federal Bar Association Luncheon on the

District Court's emerging ADR program. The luncheon is scheduled to begin at Noon on Thursday, September 17, 2009 at the University Club, 1225 SW 6th Avenue, Portland. Please email your registration to Ann Fallihee, afallihee@barran.com

Proposed Changes to Local Rules - Comments Accepted Until October 9, 2009

The United States District Court of Oregon Local Rules Advisory Committee has asked that practitioners be made aware that proposed changes to the Court's Local Rules have recently been promulgated. Proposed changes can be accessed on the Court's website at <http://ord.uscourts.gov>

The Court is accepting comments on these proposed changes until close of business on Friday, October 9, 2009. Comments or recommendations may be sent via email to: info@ord.uscourts.gov, Subject line: Comments to Proposed Local Rule Changes. The changes are scheduled to go into effect on December 1, 2009. The new Local Rules will be posted to the Court's website at <http://ord.uscourts.gov>.

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