

Daily Journal

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TOP VERDICTS OF 2018

The largest and most significant verdicts and appellate reversals in California in 2018

TOP PLAINTIFFS' VERDICT BY IMPACT

Smith et al. v. Montebello Unified School District et al

case
INFO

Whistleblower retaliation

Los Angeles County

Superior Court Judge Michael P. Linfield

Plaintiff's Lawyers:

Wayne Gross, David M. Stein, Claire-Lise Kutlay, Greenberg Gross LLP; Matthew D. Umhofer, J. Anthony King, Spertus, Landes & Umhofer LLP

Defense Lawyers:

Daniel R. Shinoff, William B. Shinoff, Artiano Shinoff



DAVID STEIN

Following a seven-day jury trial in July, two fired school district executives were awarded damages for wrongful termination.

Susanna Contreras Smith, a former school superintendent, was awarded \$2.7 million. Colleague Cleve Pell, the district's chief financial officer and a former superintendent, won \$582,000.

Both alleged they were wrongfully fired for exposing the misconduct of the school district's chief business officer, Ruben Rojas, whom they learned had obtained his position by making false statements and omissions on his employment application and by providing false letters of recommendation.

They also informed the school board that Rojas had participated in a pay-to-play scheme, illegally steering lucrative district contracts to preferred vendors.

The case is in the post-trial motion stage. *Smith v. Montebello Unified School District*, BC666775 (L.A. Super. Ct., filed June 29, 2017).

"No, she's not been reinstated," said David M. Stein, Contreras Smith's lead lawyer. "Part of our story around the harms done to her was that she cannot find comparable work. There's the financial side of it, but more compelling was the human side. After being an educator for decades, to have it end like this was an emotional shock, and

the jury verdict reflected that."

Matthew D. Umhofer, representing Pell, said his client got less because he's 79 and could not make a lost future earnings argument.

"She's more than 20 years younger," he said of Contreras Smith. "The critical thing is for any organization to take allegations like this seriously, assess their merit and above all don't punish the whistleblower."

Los Angeles County Superior Court Judge Michael P. Linfield awarded \$5.3 million in attorney fees, collectively, in January.

"Los Angeles County has put a financial monitor in place, but we don't think the district has learned its lesson," Umhofer said.

Defense lawyer Daniel R. Shinoff did not respond to a request for comment except to note in an email, "An appeal will be filed." In court, he contended that the plaintiffs were terminated pursuant to the terms of their employment agreements and not for retaliatory reasons.

Stein said a key moment came when the plaintiffs showed jurors a document that had been altered by the defendants. "We got to wave it around," he said. "It supported the defendants' misconduct in black and white."

The outcome delivered a warning. "It was so great to send a loud message to school districts that they can't do these things," Stein said, "especially when you are dealing with education, which is so important to society. Hopefully, this will effect change and deter bad actors. The impact will extend well beyond the actual dollars."

— John Roemer