



And The Defense Wins

Published 05-19-10 by DRI



DRI members [Stan Graham](#) and [John Park](#) of the Nashville office of **Waller Lansden Dortch and Davis** teamed with a colleague recently to score a jury win for the defendant in a retaliatory discharge trial in U.S. District Court in the Northern District of Alabama. The plaintiff was a temporary worker whose assignment was terminated because her supervisor believed she had failed to call in daily while she was serving on a criminal court jury. She sued under Alabama's jury duty retaliation statute, claiming that her discharge while sitting on a jury was conclusive evidence of a violation of the statute.

The jury thought differently, agreeing with the defense that the plaintiff had not taken steps to ensure the voicemail that she says she left was actually heard prior to the decision to end her assignment. The 12-person jury returned a complete defense verdict following just 35 minutes of deliberations. The verdict came after the 11th Circuit had reversed summary judgment for the defense and ordered a jury trial. It is believed that this is the first defense victory in a jury trial under Alabama's jury duty retaliation statute. The Honorable Inge Johnson presided. *Rebecca Boutwell v. Federal-Mogul Powertrain* (N.D. Ala. 2010).

To learn more about DRI, an international membership organization of attorneys defending the interests of business and individuals in civil litigation, visit www.dri.org.