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## Top Defense Verdicts

# Alameda County Relies on Keker For Support in Land-Use Case

SAN FRANCISCO — When a federal jury decided that Alameda County's denial of a building permit for a religious school did not burden the school's religious exercise, it became one of the first juries in the country to weigh in on a statute that protects religious land-use.

The Religious Land Use and Institutionalized Persons Act was signed by President Clinton in 2000 to "protect religious liberty and for other purposes."

In 1997, Redwood Christian Schools purchased 45-acres of land for a junior-senior high school. But Alameda County denied its conditional use permit to build the school.

In November 2001, Redwood sued the county under the Religious Land Use Act and other constitutional causes of action, seeking \$30 million in damages based on loss of tuition and construction delay. *Redwood Christian Schools v. County of Alameda*, C01-4282.

"These cases are difficult for defendants because there is not a lot of law out there," said Rachael E. Meny, of Keker & Van Nest, who represented Alameda County along with John Keker. "There are only a handful of RLUIPA cases out there — some that clearly go in support of the plaintiffs, some that go the government's way."

Meny said the case was one of the first in California and the country to deal with the act from the perspective of a religious school and not a church.

Attorneys for Redwood Christian Schools were unavailable for comment.

According to Redwood's trial brief, the permit denial "burdens and endangers" the school's religious education ministry of "Christ-centered education that equips students for both daily living and eternal life."

But Meny said the school's property was outside Alameda County's designated urban limit line and that the county denied

the school's proposal based on the size of the school it wanted to build (650 students).

She said the county had suggested the school reduce its size to obtain the permit.

"On cross examination of some of the Redwood witnesses, we got them to say they weren't willing to compromise," Meny said. "I think that was important for the jury."

After an 11-day trial in February 2007, the 10-person jury returned a unanimous verdict in favor of Alameda County.

Redwood Christian is appealing the verdict.

"RLUIPA is one of these statutes — the litigation is clearly headed to the U.S. Supreme Court," Meny said. "There are very important questions under constitutional law about how far RLUIPA goes."

— REBECCA BEYER

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