

Litigator of the Week: Shooting the Moon for SpaceX

By Ross Todd

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Orrick, Herrington & Sutcliffe's Lynne Hermle, an employment law trial specialist if there ever was one, has developed something of a sub-specialty recently. For the second time in the past eight months, Hermle this week convinced a Los Angeles jury to side with Elon Musk-led SpaceX in a lawsuit brought by a disgruntled former employee.

Back in October, Hermle fought off a sexual harassment lawsuit brought by a female welder at the Hawthorne, California-based aerospace company. On Wednesday, after a two-week trial before Judge William F. Fahey in Los Angeles Superior Court, Hermle and her team beat back wrongful termination claims brought by Jason Blasdell, a technician who claimed he was fired for blowing the whistle about safety practices at the company.

In both cases, Hermle raised defenses related the plaintiffs exhibiting signs of mental illness. In the welder's case, Hermle argued that the plaintiff's borderline personality disorder led her to see the world in black and white and tell false stories in order to maintain that perception. In Blasdell's case, Hermle argued that the plaintiff was displaying psychotic tendencies and paranoia in part due



Jason Dohy / The Recorder

Lynne Hermle, Orrick partner

to prescription amphetamines he was taking to treat attention deficit disorder.

In an email responding to a reporter's questions about the case, Hermle conceded that "defenses with mental illness issues are tough." She pointed out that nearly one in five Americans suffers from some form of serious mental illness such as depression or bipolar disorder. That, she said, virtually guarantees that any jury will contain members who either have been affected by some form of mental illness themselves or through family members.

“I try to be sure my presentation is not an attack or a judgment,” Hermle said. In Balsdell’s case, she pointed out, it was the plaintiffs own expert who first administered the test which revealed the underlying illness. “I tried to explain in my closing argument how the symptoms, exaggerated by prescribed medication, likely influenced events,” Hermle said.

Hermle’s approach worked. After less than an hour-and-a-half of deliberations, jurors returned a 9-3 verdict in favor of SpaceX, finding that Blasdell’s suspicions of wrongdoing at the company weren’t a substantial motivating factor in his dismissal.

Cooley’s Summer Wynn and Amanda Main were co-counsel.

Hermle says she was unable to speak to jurors after trial, but that it was her “strong impression” that testimony from SpaceX’s test technicians and lead employees in its avionics lab carried weight with the jury. She said that even opposing counsel at Shegerian & Associates referred to SpaceX president Gwynne Shotwell as a “nice woman.”

“Those aren’t the words I would use to describe an impressive force like Gwynne, but it means, in my view, that they recognized how a jury would likely react to her,” Hermle says.

Hermle added that she was proud that the case was handled by a group she refers to as the

“AGTT—our badass all girl trial team.” Hermle was joined at trial by partner Julia Riechert, associate Raija Horstman, paralegal Mystic Rosa, trial technician Trudy Harris, and graphics expert Denise Montiel.

“Working with this high powered, organized, but completely relaxed team is an unbelievable experience,” she said. In a jab at the make-up of the plaintiffs’ team, Hermle added, “It’s even more fun when the other side is all male.”

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