

No Soup for You!

June 10, 2019

An 11-year-old boy required to eat his homemade, gluten-free chicken sandwich outside a restaurant on a school field trip will get to take his case to trial. The boy sued the owner of the Shields Tavern in Colonial Williamsburg for violating the Americans with Disabilities Act and Virginia law. The tavern offered to make the boy a gluten-free meal, but the boy and his father declined. The boy suffers from a serious gluten allergy, and had gotten ill from cross contamination at other restaurants. The tavern then asked the family to eat outside, citing a public health concern. In a divided decision, the Fourth Circuit allowed the case to proceed to trial. The court found factual issues remained about whether the boy's gluten allergy created a disability, and whether his request to eat his own food was necessary, reasonable, and would fundamentally alter the nature of the restaurant, which tries to create a historic colonial experience for visitors. Judge J. Harvie Wilkinson III wrote a blistering dissent, accusing the court of establishing an "almost per se rule" that forces restaurants "to give up control over their most valuable asset: the food they serve." Read the opinion here: [J.D. v. Colonial Williamsburg Found.](#), No. 18-1725 (4th Cir. May 31, 2019).

Authored By



David A. Karp

Related Practices

[Appellate & Trial Support](#)

link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.