

FILED: December 31, 2008

IN THE SUPREME COURT OF THE STATE OF OREGON

DAVE WALDNER,
MICHELLE KASPER,
JACOB LAHMANN and MICHELLE KASPER,

As Guardian Ad Litem For
Joshua Bush and Hanna Waldner, Minors,

Petitioners on Review,

v.

STEPHEN STEPHENS,

Respondent on Review.

STEPHEN STEPHENS,

Third-Party Plaintiff,

v.

TRAN CO.,
an Oregon corporation,

Third-Party Defendant.

(CC 03C21165; CA A127595; SC S055351)

En Banc

On review from the Court of Appeals.*

Argued and submitted May 14, 2008.

Robert K. Udziela, Beaverton, argued the cause and filed the brief for petitioners on review.

Thomas W. Brown, of Cosgrave Vergeer Kester LLP, Portland, argued the cause and filed the brief for respondent on review. With him on the brief was Julie A. Smith.

Arthur C. Johnson, and Douglas G. Schaller, of Johnson, Clifton, Larson and Schaller, P.C., Eugene, filed the brief for *amicus curiae* Pamela J. Pearson.

GILLETTE, J.

The decision of the Court of Appeals is reversed. The judgment of the circuit court is

