

THOUGHT LEADERSHIP

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Husch Blackwell Scores Victory for Nebraska Cottage Food Industry

In partnership with Institute for Justice, a nonprofit public interest law firm, Husch Blackwell successfully represented a Nebraska-based baker whose home-based business was imperiled by certain permitting and inspection requirements implemented by the City of Lincoln, Nebraska.

The Nebraska Legislature adopted in 2019 a state law reforming the state's regulations in connection with the home-based sale of shelf-stable foods. The new law exempted cottage food producers from certain permitting and inspection requirements that apply to commercial restaurants, as long as they register with the state and pass a food safety course.

Soon after, however, the City of Lincoln sought to impose a set of permitting and inspection requirements that went far beyond state law, prompting a local baker to file suit in state court in order to have the city's ordinance declared preempted by LB 304. The city filed a motion to dismiss the suit, but Husch Blackwell and Institute for Justice fought back and crafted a litigation strategy that ultimately led to a state trial court denying the motion on the merits.

In response to the court's decision, Lincoln's City Council voted unanimously to bring its regulations in line with state law, thus handing the client a complete victory leading to the voluntarily dismissal of the lawsuit.

The Husch Blackwell litigation team included Dave Lopez and Marnie Jensen.