



Washington State (/)
Office of the Attorney General
Attorney General Bob Ferguson

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(<https://www.atg.wa.gov>)

FOR IMMEDIATE RELEASE:

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OLYMPIA — Attorney General Bob Ferguson today issued the following statement after a King County Superior Court commissioner granted Ferguson's motion for a nationwide temporary restraining order (https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/Mtn_TRO.pdf) blocking Albertson's \$4 billion dividend payment.

The order is available here (https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/TRO%20granted.pdf).

"Huge victory! Putting the brakes on this \$4 billion payment is the right thing for Americans shopping at their local grocery store. Thanks to my team for their usual excellent job holding powerful interests accountable."

Case background

Ferguson filed a lawsuit on Nov. 1 (https://www.atg.wa.gov/news/news-releases/ag-ferguson-files-lawsuit-block-albertsons-paying-4-billion-shareholders-merger?fbclid=IwAR3SAn6_z9PVDh0uQpj43nN80qqJfplSHYJlwuoAcX4ulj7fbM41iOeNdKk) to block Albertson Companies Inc. from enriching its shareholders with a \$4 billion payout before a proposed merger with The Kroger Co. can be reviewed by state and federal antitrust enforcers. The "special dividend" payment, Ferguson argues, risks severely undercutting the grocery giant's ability to compete during the lengthy time period government regulators — including Washington — will be scrutinizing the merger.

According to Securities & Exchange Commission filings, this \$4 billion dividend exceeds Albertson's cash on hand. Albertson's revealed in a recent filing that it will pay for the dividend with \$2.5 billion in cash on hand and borrow the rest. Albertson's plans to pay out the dividends on Nov. 7.

The temporary restraining order will block Albertson's from making the dividend payment while Ferguson's lawsuit is ongoing.

The two grocery giants own other companies with stores in Washington. Albertson's owns Safeway and Haggen, while Kroger owns QFC and Fred Meyer. Albertson's and Kroger account for the vast majority of grocery stores in Washington, with 216 Safeway and Albertson's stores in the state and 114 Kroger-owned Fred Meyer and QFC stores.

After the merger announcement, *The Seattle Times*, citing numbers from Nielsen, reported that more than half of households in the Seattle metro area alone most frequently shop at a store owned by one of the companies (<https://www.seattletimes.com/seattle-news/data/grocery-chain-merger-would-affect-majority-of-seattle-area-households/>).

Nationwide, Kroger and Albertson's have nearly 800,000 employees in nearly 5,000 stores across 48 states and the District of Columbia.

On Oct. 26, Ferguson partnered with a bipartisan group of six attorneys general from around the country to urge Albertson's to delay paying the special dividends (https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/Letter%20to%20Albertsons%20Kroger%2010-26-22%20FINAL.pdf) until the states complete their review of the proposed merger. In the letter, the attorney generals cite that the \$4 billion payout represents about a third of Albertson's total stock value. In its response, Albertson's declined to delay paying the special dividend. The lawsuit accuses Kroger and Albertson's of violating state antitrust laws and the Consumer Protection Act. Due to severely reducing its cash on hand, the payout could diminish Albertson's ability to keep up on inventory orders, forcing customers to go to other grocery stores when shelves are not stocked with the products they seek. Less inventory to stock could also impact employee hours.

Ferguson's lawsuit seeks to block the payout to Albertson's shareholders.

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Washington's Attorney General serves the people and the state of Washington. As the state's largest law firm, the Attorney General's Office provides legal representation to every state agency, board, and commission in Washington. Additionally, the Office serves the people directly by enforcing consumer protection, civil rights, and environmental protection laws. The Office also prosecutes elder abuse, Medicaid fraud, and handles sexually violent predator cases in 38 of Washington's 39 counties. Visit www.atg.wa.gov (<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.atg.wa.gov%2F&data=04%7C01%7Cbrionna.aho%40atg.wa.gov%7Cca1de901495e4dbe44e808d938325a7e%7C2cc5baaf3b9742c9bcb8392cad>) to learn more.

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