

COURTHOUSE NEWS

A Summary of Topical Highlights from decisions of the
U.S. District Court for the District of Oregon
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Personal Jurisdiction

Plaintiff brought a Declaratory Judgment action seeking declarations related to patent infringement, misappropriation of trade secrets, and a licensing agreement. Defendants moved to dismiss for lack of personal jurisdiction. The Court determined defendant Spectrum was a necessary and indispensable party to the action and the Court lacked personal jurisdiction over Spectrum. The Court also determined even if it did not have to dismiss this matter because it lacked jurisdiction over Spectrum, the Court would have to dismiss this matter because it also lacked personal jurisdiction over GolfSwitch. Accordingly, the Court granted defendants' Motion to Dismiss.

Incuborn Solutions v. GolfSwitch 06-481-BR (Opinion, Oct. 23, 2006)
Plaintiff's Counsel: David Axelrod
Defense Counsel: Craig Bachman

Defamation

Judge Aiken granted defendant's motion to dismiss for failure to state a claim in a pro se plaintiff's suit against a fellow student for defamation. Judge Aiken also denied plaintiff's motion for injunctive relief against the Law School as a non-party who did not receive notice, and because a previous settlement agreement with the school was controlling.

Under Oregon law, absolute privilege attaches in judicial and quasi-judicial proceedings, even if defamatory matter is malicious or false. The court relied on Tate v. North Pacific College, 70 Or. 160 (1914), and Ramstead v. Morgan, 29 Or. 383 (1959), to determine whether the Honor Code Committee of Lewis and Clark Law School performed quasi-judicial functions. Similar to a private dental college (Tate) and the grievance committee of the Oregon State Bar (Ramstead), the Honor Code Committee performed duties of a quasi-judicial character in its determination of students' fitness and qualifications for law school.

Therefore, Judge Aiken dismissed the complaint for failure

to state a claim, because any statements made to the Honor Code Committee for purposes of reporting the alleged conduct or in furtherance of the process were absolutely privileged.

Singh v. Tong

CV 06-64-AA

(Opinion, October 25, 2006)

Plaintiff *pro se*: Bhawani P. Singh

Defense Counsel: David A. Ernst

Immigration

In 1993, plaintiff entered the United States as a Lawful Permanent Resident (LPR). In March 2005, plaintiff filed an Application for Naturalization with the United States Citizenship and Immigration Service (USCIS). In April 2005, the Department of Homeland Security (DHS) determined plaintiff was not admissible to the United States on the basis of his 1996 criminal convictions; denied plaintiff admission; and initiated removal proceedings against plaintiff in Immigration Court. In June 2005, plaintiff filed a motion to terminate removal proceedings

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in Immigration Court pursuant to 8 C.F.R. § 1239.2(f). Plaintiff's counsel requested the USCIS to issue a letter to the Immigration Court finding plaintiff *prima facie* eligible for naturalization so the Immigration Court could terminate removal proceedings and the USCIS could consider plaintiff's Application for Naturalization. Defendant William McNamee, USCIS Portland District Director, issued a decision denying plaintiff's Application for Naturalization on procedural grounds based on the "priority provision" of 8 U.S.C. § 1429. Plaintiff filed a Declaratory Judgment action in this court seeking (1) a declaration as to whether plaintiff is *prima facie* eligible for naturalization or, in the alternative, (2) a declaration that defendant has jurisdiction to make a determination of plaintiff's *prima facie* eligibility for naturalization. The Court concluded it lacks jurisdiction under 8 U.S.C. § 1421(c) to determine plaintiff's *prima facie* eligibility for naturalization, but defendant has jurisdiction to determine plaintiff's *prima facie* eligibility for naturalization when removal proceedings are pending. Accordingly, the Court granted defendant's Motion to Dismiss to the extent the Court concluded it lacked the authority to declare plaintiff's *prima facie* eligibility for naturalization and

denied defendant's Motion to the extent the Court concluded defendant has jurisdiction to determine plaintiff's *prima facie* eligibility for naturalization while removal proceedings are pending. Le v. McNamee
CV 06-49-BR
(Opinion, Oct. 20, 2006)
Plaintiff's Counsel: Tilman Hasche, Dagmar Butte
Defense Counsel: Ken Bauman

Bankruptcy

Judge King affirmed the decision of the United States Bankruptcy Court for the District of Oregon confirming Carolina Tobacco Company's Plan of Reorganization under Chapter 11. Thirty-four states and the District of Columbia appealed the bankruptcy court's order and opinion, and Carolina Tobacco Company filed a cross-appeal. Under legislation in the affected states, certain types of tobacco-manufacturing companies are required to make deposits into interest-bearing qualified escrow accounts based on the number of cigarettes sold in the state. A state may recover money in the escrow account if it obtains a judgment against the company based on that company's operations in the state. Judge King held that the escrow deposit obligations are "claims" under 11 U.S.C. § 101(5). As "claims," Carolina Tobacco Company can classify the obligations in its Plan, can pay the

obligations over time, and can discharge them in bankruptcy. In re Carolina Tobacco Company,
CV No. 06-1170-KI
(Opinion, Jan. 5, 2007)
Creditor States: Samuel R. Maizel
Carolina Tobacco Company:
Tara Schleicher

42 U.S.C. 1983

Plaintiff was arrested for reckless driving and his car impounded. He was in the process of moving and the car contained important documents, cash, jewelry, and belongings allegedly worth thousands of dollars. The officer searched the vehicle for drugs--none were found--but refused plaintiff's request to inventory the contents.

Plaintiff brought a pro se 42 U.S.C. § 1983 action. Judge Panner denied motions for summary judgment by the arresting officer, the tow lot owner and the City of Woodburn.

Flennory v. Lichte, et al.
CV 05-1447-PA
(Opinion, October 25, 2006)
Plaintiff pro se: Roy Flennory
Defense Counsel: Bruce Mowery

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