

COURTHOUSE NEWS

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

Defendants filed motions to dismiss in three separate cases filed pursuant to the Endangered Species Act, 16 U.S.C. § 1536. Defendants argued the cases were moot due to the Ninth Circuit's opinion in Oregon Natural Resources Council v. Allen, 476 F.3d 1031 (9th Cir. 2007), where the court found defendants' Incidental Take Statement invalid. Based on that finding, the Fish and Wildlife Service informed the U.S. Forest Service and Bureau of Land Management that the 2003 biological opinion, regarding owls and their critical habitat, was withdrawn.

The court held based on that withdrawal, the cases were now moot as there was no "case or controversy" pending before it and any

judgment entered by the court, including a declaratory judgment, would be in the nature of an advisory opinion. Northwest Environmental Defense Center v. Allen et al., CV 05-1270-AA (Opinion, 6/14/07)
Plaintiff's Counsel: Stephanie Parent
Defense Counsel: Matthew McKeown

1983 Civil Rights Employment Discrimination

The court retried this 1983 whistleblower case. The first jury panel awarded plaintiff \$360,000 in non-economic damages, plus an undisputed sum of economic damages. Judge Panner offered plaintiff a remittur to \$60,000 in non-economic damages (plus plaintiff's economic damages). Plaintiff declined, so the court retried the case. The second jury panel found for plaintiff and

awarded \$44,853.30 in non-economic damages plus the stipulated economic damages. Plaintiff has appealed this verdict to the Ninth Circuit. Longfellow v. Jackson Co., CV 06-3043-PA (Judgment 5/15/07)
Plaintiff's Counsel: Thad Guyer
Defense Counsel: Michael Jewett

Declaratory Relief and Breach of Contract

In cross-motions for summary judgment, Judge Aiken granted plaintiff's motion finding the Settlement Agreement between the parties valid and enforceable, that defendant breached the Settlement Agreement, and that plaintiff is entitled to specific performance, or in the alternative, an

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award of damages.

Judge Aiken rejected defendant's affirmative defense of patent misuse finding no evidence the defense is applicable under the facts of the case.

Finally, the court granted plaintiff's motion to file an amended complaint alleging a claim for fraud in the inducement.

Blount v. Peterson,
CV 06-398-AA

(Opinion, 6/13/07)

Plaintiff's Counsel:

David Axelrod

Defense Counsel: Ken
Dobson

Personal Jurisdiction

Plaintiff brought this action seeking a declaratory judgment in a breach of contract suit, relying on the court's diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)(2).

Defendant moved to dismiss based on lack of personal jurisdiction, or alternatively to transfer the case to Arizona.

The court denied defendant's motion to dismiss as well as

defendant's alternative motion to transfer.

The court found sufficient grounds to exercise specific jurisdiction over the defendant.

Glenn Walters Nursery
v. Kenly Farms, Inc.,

CV 07-74-AA

(Opinion, 3/15/07)

Plaintiff's Counsel:

Michael Merchant

Defense Counsel:

Lawrence Wagner

Environmental Challenge

Plaintiff filed suit alleging that defendants violated federal environmental laws in a number of respects regarding their adoption of the Andrews-Steen Resource Management Plan.

The parties filed cross-motions for summary judgment. The court granted plaintiff's motion for summary judgment as to claim 6, however, denied the motion on all other claims. The court granted plaintiff intervenor Center for Trial Water Advocacy's motion for summary judgment with respect to its Steens Act claim, and denied it in all other respects. Finally, the court

denied defendant's cross-motion for summary judgment with respect to CTWA's motion, and plaintiff's claim 6, however, granted the motion as to the remaining claims.

Oregon Natural Desert
Assoc. v. Shuford,

CV 06-242-AA

(Opinion, 6/8/07)

Plaintiff's Counsel:

Peter Lacy, Stephanie
Parent

Defense Counsel:

Steve Odell,

Brad Grenham

Plaintiff-Intervenor

Center for Tribal

Water Advocacy:

Harold Shepherd

Amicus Curiae Harney

County: Ronald Yockim

Amicus Curiae Steens

Mountain Landowner

Group: Elizabeth

Howard

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