

# COURTHOUSE NEWS

A Summary of Topical Highlights from decisions of the  
U.S. District Court for the District of Oregon  
A Court Publication Supported by the Attorney Admissions Fund  
Vol. XV, No. 7, July 22, 2009

## Employment

Plaintiff brings an employment action against his County employer and supervising asserting civil rights violations pursuant to 42 U.S.C. 1983 and violation of Oregon state law, 659A.203 (unlawful retaliation). Plaintiff alleges defendants retaliated against him in violation of his First Amendment rights and whistleblower protections provided under Oregon state law. Defendants moved for summary judgment on all claims. Judge Aiken denied defendants' motion finding genuine issues of disputed fact.

### Prebe v. Yamhill County

CV 08-603-AA  
(Opinion, July 9, 2009)

Plaintiff's Counsel:

Shelley Russell

Defense Counsel: Karen O'Kasey

## Patent Jury Trial

A 7-day jury trial was held in this patent-infringement case beginning 2/24/09. The patent at issue addresses the interaction between a nose sprocket and a saw chain around the far end of the guide bar of a chain saw.

Plaintiffs alleged several of defendants' saw-chain products infringed their patent for saw chains directly and indirectly. Plaintiffs requested a reasonable royalty and price-erosion damages. Defendants asserted their products did not infringe and that plaintiffs' patent was invalid.

The jury found all of defendants' products infringed plaintiffs' patent literally and under the doctrine of equivalents, but that defendants had not indirectly infringed the patent either by inducement of infringement or contributory infringement. The jury also found plaintiffs' patent was not invalid as anticipated by prior art.

Subsequently, the Court entered its own Verdict finding defendants had failed to prove by clear and convincing evidence that plaintiffs' patent was invalid as obvious. The Court also denied defendants' post-trial Motion for Mistrial based on misconduct of plaintiffs' trial counsel. Although the Court criticized that conduct, the Court concluded it was insufficient to warrant a mistrial.

The jury awarded plaintiffs a reasonable royalty in the amount of

\$403,530, and price-erosion damages in the amount of \$1,532,649.

### Blount, Inc. v. TriLink Saw Chain CV-06-767-BR

(Verdict, March 5, 2009)

Plaintiffs' Counsel: Paul H.

Beattie and Christopher Lewis

Defense Counsel: Elizabeth Ann

Morgan and Susan Pitchford

## ERISA

The parties filed cross-motions for summary judgment in this action. After oral argument, Judge Aiken denied plaintiff's motion for summary judgment and granted defendant's motion for summary judgment. The court found that the Plan Administrators did not abuse their discretion in denying plaintiff long-term disability benefits.

### Slackman v. Life Ins. Co.

CV 08-342-AA

(Opinion, July 17, 2009)

Plaintiff's Counsel: Ivan Karmel

Defense Counsel: William Patton

## 2 The Courthouse News

### Jury Trials

#### Sonsteng v. Spokas, CV 06-476-SU

Judge Sullivan presided over this 4- day diversity, personal injury, medical malpractice jury trial in Pendleton, Oregon. The jury returned a verdict for the defendant.

(Verdict, June 22, 2009)

Plaintiff's Counsel: Bernard Jolles  
Defense Counsel: Tim O'Hanlon

#### Ashby v. Farmers Ins. Co., CV 01-1446-BR

Judge Brown presided over this 6- day Fair Credit Reporting Act jury trial. The jury returned a verdict for defendants.

(Verdict, June 22, 2009)

Plaintiff's Counsel: Steve Larson,  
David Rees  
Defense Counsel: Tim Snider,  
Barnes Ellis

#### Ashley v. Sutton, CV 06-63-MO

Judge Mosman presided over this 2- day 1983 Civil Rights Act jury trial. The jury returned a verdict for the defendant.

(Verdict, June 9, 2009)

Plaintiff's Counsel: Michelle Burrows  
Defense Counsel: Gerald Warren

#### Orme v. Burlington Coat Factory, CV 07-859-MO

Judge Mosman presided over this 2- day Race Discrimination jury trial.

The jury returned a verdict for the plaintiff awarding \$33,500 in non-economic damages and \$375,000 in punitive damages.

(Verdict, June 17, 2009)

Plaintiff's Counsel: Ben Rosenthal  
Defense Counsel: Clarence Belnavis

#### Jordan v. City of Eugene, CV 05-6164-TC

Judge Coffin presided over this 2- day 1983 Civil Rights Act jury trial in Eugene, Oregon. The jury returned a verdict for the defendants.

(Verdict, June 24, 2009)

Plaintiff's Counsel: Kevin Lafky  
Defense Counsel: Jeffrey Matthews

### OREGON ASIAN PACIFIC AMERICAN BAR ASSOCIATION CELEBRATES FORMATION

On June 16, 2009, over 100 attorneys, judges, students and legal professionals helped launch Oregon's newest bar organization, Oregon Asian Pacific American Bar Association (OAPABA). All three Portland-area Asian Pacific American (APA) judges, Hon. Jim Fun of Washington County, and Hon. Michael Loy and Hon. Youlee You of Multnomah County; Secretary of State Kate Brown; representatives of the offices of Rep. David Wu and Sen. Ron

Wyden; and other judges and dignitaries attended as well.

Inspired by attending the 20th anniversary conference of the National Asian Pacific American Bar Association (NAPABA) in November 2008, about 15 Portland attorneys worked over the months to form this organization and plan the launch event. OAPABA is an affiliate of NAPABA, which represents the interests of over 40,000 attorneys and 58 local APA bar associations.

### Mark Your Calendars!

August 16, 2009: United States District Court of Oregon Historical Society Annual Picnic. 1:00 p.m. until sundown at the Leavy Farm located at 22675 Butte Ville Road, N.E., in Aurora, Oregon. This year the picnic will honor the tribal representatives and lawyers who have been involved in Native American issues in the federal courts in Oregon. Please RSVP to 503-326-8150 or [mary\\_ellis@ca9.uscourts.gov](mailto:mary_ellis@ca9.uscourts.gov)

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### 3 The Courthouse News

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