

COURTHOUSE NEWS

A Summary of Topical Highlights from decisions of the
U.S. District Court for the District of Oregon
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SOCIAL SECURITY CASE VOLUNTARY SETTLEMENT PROCEDURES

In an effort to resolve this case, the parties may engage in good faith settlement negotiations according to the following schedule:

1. Within 28 days after service of the administrative record, plaintiff may prepare a written statement succinctly setting forth the relevant issues and reasons supporting his/her Complaint without citation to legal authorities or reference to attorney fees. This statement should not exceed three single-spaced pages. It shall be marked "confidential," NOT filed with the Court, and delivered to the Office of General Counsel **either** by email to:

Lucille.meis@ssa.gov; and
Rebecca.halvorsen@ssa.gov

or in writing addressed to:

Office of General Counsel
701 5th Ave., Suite 2900
Mail Stop 901
Seattle, WA 98104-7075

Attention: Lucille Gonzales
Meis, Regional Chief Counsel,
and Rebecca Halvorsen

and with a copy delivered to the

Assistant United States Attorney
("AUSA") by email to:

Craig.casey@usdoj.gov; and
Deanne.hoffer@usdoj.gov

or in writing addressed to:

United States Attorney's
Office

District of Oregon
600 U.S. Courthouse
1000 S.W. Third Ave.

Portland, OR 97204-2902
Attention: Craig Casey,
AUSA, and Deanne Hoffer

2. Within 28 days after receipt of plaintiff's statement, defendant shall evaluate the merits of plaintiff's position and serve a brief response on plaintiff. The response shall be marked "confidential" and NOT filed with the Court.

3. In the event the parties stipulate to a remand, dismissal, or other resolution of the case, then the stipulation shall be filed with the Court within 14 days after service of defendant's response on plaintiff.

4. In the event the parties do **not** stipulate to a remand, dismissal, or other resolution of the case, then plaintiff shall file

and serve an opening brief, **together with a certification of compliance with these procedures**, within 28 days after service of defendant's response. The remaining briefs shall be due in accordance with the Court's Initial Procedural Order.

5. In the event that defendant concedes error, but seeks a remand rather than an award of benefits, then defendant shall file a motion to remand within 28 days after service of defendant's response. The remaining briefs shall be due in accordance with the Court's Initial Procedural Order.

The Voluntary Settlement Procedures are being instituted on an experimental basis and will be in effect until further order from the Court. Please direct any comments and suggestions regarding these procedures to Magistrate Judge Janice M. Stewart.

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Environmental

Judge Aiken granted plaintiff environmental groups motion for a permanent injunction and judgment on the merits enjoining defendant Elaine Brong, the State Director of the Bureau of Land Management and intervenors, American Forest Resource Council, Swanson Group, and Timber Products Company, from proceeding with the Flaming Rock and Smoked Gobbler timber salvage sales on the Medford Bureau of Land Management District.

Judge Aiken initially presided over a hearing for a temporary restraining order on June 10, 2004. The TRO was entered to halt the logging and preserve the status quo. On September 28, 2004, the court presided over a trial on the merits resulting in the permanent injunction.

Judge Aiken considered plaintiffs' allegations of defendants' violations of both the Federal Land Policy and Management Act and the National Environmental Policy Act, including a cumulative impacts assessment, a direct and indirect impact assessment on the soils in the planning area, and an examination of the scientific tool, DecAid, utilized by the defendant to analyze impacts of the proposed timber harvests. ONRC v. Brong et al., CV 04-693-AA (Opinion, November 10, 2004)

Plaintiffs' Counsel: Susan Brown
Defense Counsel: Thomas Sansonetti
Defendant-Intervenor Counsel: Scott Horngren

Employment Discrimination

Plaintiff brought an action against defendant Oak Valley Auto Sales and Leasing alleging unlawful retaliation pursuant to 42 U.S.C. § 2000e-3 based on plaintiff's national origin and religion. Plaintiff also brought state law claims alleging national origin and religious discrimination, ORS 659A.030(b), intentional infliction of emotional distress, reckless infliction of emotional distress, and wrongful discharge.

Judge Aiken granted in part and denied in part defendant's motion for summary judgment. The court denied defendant's motion as to plaintiff's failure to accommodate religious beliefs claim, and granted defendant's motion as to all other claims. Ovchinikov v. Oak Valley Auto Sales & Leasing, Inc., CV 03-905-AA (Opinion, December 14, 2004)
Plaintiff's Counsel: Kevin Lafky
Defense Counsel: Stephen Rickles

Breach of Contract

Plaintiff Qwest Corporation filed a breach of contract and unjust enrichment action against defendant Universal Telecom, Inc. Universal brought a counter claim against Qwest also alleging breach of contract and unjust enrichment. Both parties alleged to have performed services for the other and further allege that the other failed to pay for such services as required by their contract. The parties cross-moved for summary judgment.

Judge Aiken granted in part and denied in part both parties' motions for summary judgment.

Qwest Corporation v. Universal Telecom, Inc.,
CV 04-6047-AA
(Opinion, December 16, 2004)
Plaintiff's Counsel: Erin Lagesen, Ted Smith
Defense Counsel: Joel DeVore, John Dodge

**** See the Flyer and Registration Form for the 2005 O'Connell Conference for the Bench and Bar**

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