

Three Cases From Oregon To Be Heard By Supreme Court

By Kristian Foden-Vencil

PORTLAND, OR (2006-10-02) The first Monday in October is the first day of the new U.S. Supreme Court term. Seventeen of the 38 cases the justices have so far agreed to consider involve business issues. That is an unusually high percentage, according to court watchers.

Three of those business cases originated in Oregon.

CREDIT SCORES FACTOR IN INSURANCE PREMIUMS

Back in 2000, some bright spark working for an insurance company figured out that insurers could use credit reports as a factor in setting premiums. The argument behind that was that someone who's got it together enough to maintain a high credit score is likely to be a safer driver.

Whether or not that's correct, it caused some consumers to question why they were paying higher premiums.

In 2001, Ajene Edo, a Geico customer from Oregon, filed a lawsuit saying the company denied him the best rates and didn't tell him why. Steve Larson is his attorney.

"We believe that (and the 9th Circuit agreed with us) that if Mr. Edo did not receive the most favorable rate, he should have been told that he had suffered an adverse action," Larson says.

"The Fair Credit Reporting Act is designed to let the consumer know when something bad has happened to them because of their credit, which will prompt them to go see if their consumer reports are accurate."

Geico argued that compared to the average consumer, Edo wasn't paying a higher premium and therefore it didn't have to inform him that his credit score had increased his rate.

Company attorneys also maintained that since Geico had never offered Edo a lower rate, it's not correct to say he was charged an increase.

SIGNIFICANT THAT OREGON ALLOWS USE OF CREDIT SCORES, LAWYER SAYS

Larson says he's handled about eight such class-action cases with five different insurance companies. Three of them have settled: Valley Insurance, Nationwide, and Hartford Insurance. But Geico and Safeco are taking the issue all the way to the U.S. Supreme Court.

Larson believes it's significant that this case started in Oregon.

"In California, they cannot use credit scores," Larson says. "A number of cases were filed here in Oregon. There are not a lot of these cases filed elsewhere."

PUNITIVE DAMAGES AWARDED IN SMOKING CASE

An even higher-profile Oregon case that will be argued in front of the Supreme Court this term involves the tobacco company Phillip Morris.

Portland janitor Jesse Williams smoked for 40 years, all the while insisting that a cigarette company wouldn't sell a dangerous product.

He relied on the company's own published statements about the benign nature of smoking to back up his claim. In 1999, a Multnomah County jury awarded the Williams family \$80 million in punitive damages.

The family's attorney Jim Coon believes it noteworthy that this is an Oregon case.

"Different states have different laws about punitive damages. Oregon is one of the states that allows punitive damages," Coon says. "There are states, for example, states like Washington, that don't allow punitive damages at all."

"There have been other punitive damages awards in California, Florida, New York, Massachusetts. So this case just happens to get to the court first."

JURY FINDS LOGGING COMPANY ABUSED MONOPOLY

One other Oregon case to reach the court this term involves the timber giant Weyerhaeuser.

In 2003, a Portland jury found the company had used market dominance to hoard alder logs and drive a small competitor out of business.

The Bush administration and several other large companies are appealing the decision. They say the lower court was unduly vague about determining when a company has a monopoly.

CASES COULD HAVE ORIGINATED ANYWHERE, ANALYST SAYS

Some court watchers believe it's significant that three of the 38 cases in front of the Supreme Court this term originated in Oregon. But political analyst Jim Moore isn't one of them.

He says this year's Oregon cases could have come from anywhere, unlike last year's assisted suicide case.

"That was an Oregon case. It had Oregon as the reason that it happened," Moore says. "It had our ballot measure system involved."

"People around the world paid attention to it and saw it as something where Oregon was the key player, as compared to this time, when we just happen to be a name at the bottom of the list."

The court did turn down at least one case that originated in the Beaver State. It arose out of a 2002 state decision that reduced payments to foster parents by 7.5% across the board. The Ninth Circuit Court of Appeals found that each foster family should have had an individual hearing to challenge the cuts.

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