

Cases of Note

INSURANCE LAW: In *Parks v. Farmers Ins. Co.* (December 24, 2009), the Oregon Supreme Court held that telephone conversations with the insurer's agent regarding a homeowner's claim qualified as "proof of loss" for starting the six-month period for claiming attorney fees under ORS 742.061. (www.publications.ojd.state.or.us/S055403.htm)

STATUTORY INTERPRETATION: In *Schmidt v. Mt. Angel Abbey* (December 24, 2009), the Oregon Supreme Court majority and concurring opinions both discuss the application of the principle of *ejusdem generis* in the context of a statute that precedes specific examples with the phrase "including but not limited to." The majority decided it was not necessarily constrained by the rule in that situation but would apply it if it provided useful guidance in interpreting a statutory term. (www.publications.ojd.state.or.us/S056261.htm)

PERSONAL INJURY: In *White v. Jubitz* (October 15, 2009), the Oregon Supreme Court held that recovery of awarded economic damages constitutes the total cost of medical bills and is not limited by payments from Medicare or to the amount paid on behalf of an eligible Medicare beneficiary. The majority opinion discussed the legislative history of Oregon's collateral source statute, ORS 31.580, and

concluded that it supported the court's holding. (www.publications.ojd.state.or.us/S056015.htm)

CIVIL PROCEDURE: In *Interstate Roofing, Inc. v. Springville Corp.* (September 30, 2009), the Oregon Supreme Court held that (1) for a limited judgment to be appealable, it need not expressly state the trial court's determination of no just reason for delay as long as the document is titled as a limited judgment; (2) for a limited judgment to conclusively decide a claim, it need not use particular words of adjudication as long as the document is titled a limited judgment and the text expresses a concluding decision on the claim; and (3) this determination must be based only on the limited judgment itself, without resort to the record. (www.publications.ojd.state.or.us/S056441.htm)

CIVIL PROCEDURE: In *State v. Ainsworth* (July 23, 2009), the Oregon Supreme Court held that the trial court had authority to vacate a contempt judgment and reenter the judgment to correct a "prejudgment procedural irregularity." The court affirmed the *Far West* principle that a trial court has no authority to set aside one judgment and enter another solely to extend the time for appeal. (www.publications.ojd.state.or.us/S055558.htm)

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